

BEFORE THE WELLINGTON CITY COUNCIL

IN THE MATTER OF of the Resource Management Act 1991

AND

IN THE MATTER OF the Wellington City Proposed District Plan

STATEMENT OF EVIDENCE BY JOHN KYLE

HEARING STREAM 1 - 7 FEBRUARY 2023

EXECUTIVE SUMMARY

- 1 My name is John Kyle. I have been engaged in the field of resource and environmental management for more than 35 years.
- 2 This statement of evidence relates to the hearing on submissions with respect to Part 1 – Introductions and General Provisions and the Strategic Directions set out in Part 2 – District Wide Matters of the Wellington City Proposed District Plan.
- 3 As set out in my statement of evidence, I generally support a number of the recommendations contained in the section 42A report with respect to the drafting of the following provisions:
 - a. The definition of reverse sensitivity, overlay and qualifying matter;
 - b. Objective CEKP-O1, O3 and O4;
 - c. SCA-O1, O4, O5 and O6;
 - d. SRCC-O1; and
 - e. UFD-O2, O3 and O7.
- 4 There are only a few areas where I hold a different view to the section 42A report, notably:
 - a. NE-O1 and O3; and
 - b. SRCC-O2;
- 5 With respect to all of the above, I provide my rationale for my support or opposition to the recommendations within the section 42A report in the subsequent sections. The basis for my reasons are as follows:
 - a. The relief sought by Wellington International Airport Limited (“**WIAL**”) in the City Economy, Knowledge and Prosperity and the Urban Form and Development sections is generally captured by other provisions within the Proposed Plan;

- b. The provisions set out in Strategic Assets and Infrastructure section are consistent with the outcomes sought in the Greater Wellington Regional Council Regional Policy Statement (“**RPS**”), recognise the benefits accrued by regionally significant infrastructure and provide the foundation for the Energy, Infrastructure and Transport section of the Proposed Plan;
 - c. The drafting of NE-O1 and O3, as amended by the section 42A report, conflates section 6 and 7 matters and establishes a policy framework that is potentially too rigid, inappropriately elevating the resource management response for areas which do not reflect the qualities recognised in sections 6 and 7 of the Act; and,
 - d. The absolute language used within SRCC-O2 could lead to perverse outcomes in relation to structures and buildings that have a functional or operational need to locate in high hazard environments.
- 6 I also understand that the panel is interested in hearing from planning witnesses about the impact of the Intensification Streamlined Planning Process (“**ISPP**”) on the Plan review process. This matter is covered extensively in legal submissions and my comments about this matter are confined to how the ISPP might affect the administration of the Proposed Plan in a practical sense.

INTRODUCTION

QUALIFICATIONS AND EXPERIENCE

- 7 My name is John Kyle. I am a founding director of the firm Mitchell Daysh Limited. I hold an honours degree in Regional Planning from Massey University, obtained in 1987. I am based in the firm’s Dunedin office although my work has a national focus.
- 8 I have been engaged in the field of resource and environmental management for more than 35 years. My experience includes a mix of local authority and consultancy resource management work. For the past 28 years, this experience has retained a particular emphasis on providing consultancy advice with respect to regional and district plans, designations,

resource consents, environmental management, and environmental effects assessment. This includes extensive experience with large-scale, and often nationally significant projects involving inputs from a multidisciplinary team. My work regularly takes me all over New Zealand.

- 9 An outline of the projects in which I have been called upon to provide resource management planning advice in recent times is included in **Appendix A**. My experience includes advising a number of airport companies around New Zealand with respect to airport planning issues, including District Plan reviews, private plan changes, notice of requirements and designations.
- 10 I have assisted WIAL with planning matters for more than a decade. I am therefore familiar with and have visited the Airport and the areas surrounding the Airport on numerous occasions.

CODE OF CONDUCT STATEMENT

- 11 While this is not an Environment Court hearing, I nonetheless confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023. I agree to comply with the Code and I am satisfied that the matters which I address in my evidence are within my field of expertise. I am not aware of any material facts that I have omitted which might alter or detract from the opinions I express in my evidence.

SCOPE OF EVIDENCE

- 12 In this brief of evidence, I will:
- a. Provide a brief overview of the planning context for Wellington Airport;
 - b. Provide some discussion around the planning implications of splitting the hearing of provisions between the ISPP and the Schedule 1 process; and
 - c. Discuss WIAL's submissions relevant to Hearing Stream 1, which relates specifically to Part 1 – Introductions and General Provisions and Part 2 – Strategic Directions of the Wellington City Proposed District Plan ("**the Proposed Plan**").

- 13 I note that I do not address every submission point raised in WIAL's submission or further submission in relating to Hearing Stream 1 matters. My evidence instead focuses on those key matters which will have the greatest bearing on WIAL's existing and future operations and therefore warrant further discussion. An absence of discussion with respect to a particular submission point should not be taken as agreement (tacit or otherwise) with the recommendations set out in the section 42A evaluation.
- 14 In preparing this statement of evidence, I confirm that I have read the following documents:
- a. WIAL's submission and further submission;
 - b. Part 1 – Introductions and General Provisions and Part 2 - Strategic Directions of the Proposed Plan, insofar is relevant to WIAL's submission and further submission;
 - c. The Wellington City Proposed District Plan Overview Report, prepared under section 42A of the Resource Management Act 1991 ("**the Overview section 42A report**");
 - d. The Wellington City Proposed District Plan Hearing Stream 1 – Part 1, plan wide matters and strategic direction report, prepared under section 42A of the Resource Management Act 1991 ("**the section 42A report**") and its associated appendices;
 - e. The statement evidence of Kidan Ross Lees (dated 18th January 2023), Orla Hammond (dated 19th January 2023) and Philip Osborne (dated 20th January 2023) and,
 - f. The Section 32 Evaluation Report - Part 1 - Context to Evaluation and Strategic Objectives - Section 9 ("**the section 32 evaluation**")

WELLINGTON AIRPORT – PLANNING CONTEXT

- 15 WIAL operates the regionally and nationally significant Wellington International Airport ("**the Airport**"). Ms Raeburn, the General Manager of Corporate Affairs at Wellington Airport, has provided some background

context about WIAL and its important role in supporting the social, economic and cultural wellbeing of the city, region and country. I do not intend to repeat or elaborate on that evidence here.

- 16 WIAL is a network utility operator and a requiring authority under section 166 of the Resource Management Act 1991 (“**the RMA**” or “**the Act**”).
- 17 Wellington Airport is the subject of five designations in the operative Wellington City District Plan (“**Operative Plan**”). As set out in WIAL’s primary submission, this includes:
 1. Designation G2 – Airspace in the vicinity of Wellington International Airport – the purpose of this designation is to limit any structure including any building, aerial, antennae or other objects from protruding into set obstacle limitation surfaces which may inhibit the safe and efficient operation of Wellington International Airport;
 2. Designation G3 – Runway End Safety Area Extension (RESA) – Southern End – this designation provided for the construction (and provides) for the operation of the runway end safety area (RESA) at the southern extent of the airport runway;
 3. Designation G4 – Airport Purposes – Miramar South Area – this designation covers land that was formerly the Miramar South School site and is for airport purposes, including flight catering, rental car storage, maintenance and grooming, freight reception, storage and transfer, ground service equipment, and associated carparking, signage, service infrastructure and landscaping;
 4. Designation G5 – Airport Purposes – Wellington Airport Main Site Area. This designation covers the majority of the airport’s landholdings (including the main operational area) situated between Lyall Bay and Evans Bay with an area of approximately 105 hectares; and
 5. Designation G6 – Airport Purposes – Wellington Airport East Side Area. This designation covers land to the east of the Main Site Area Designation, the majority of which comprises the southern portion of

the Miramar Golf Course with an area of approximately 15.5 hectares. The purpose of this designation is to provide for the future provision of aircraft stands and aprons, as well as interim construction and parking activities.

- 18 Designations G2 and G4 are proposed to be “rolled over” into the Proposed Wellington City District Plan (“**the Proposed Plan**”) in accordance with clause 4 of Schedule 1 of the RMA. Designation G3 has been subsumed by Designation G5. I understand that pursuant to section 182 of the RMA, WIAL intends to request that this designation be removed in due course.
- 19 Designations G5 and G6 were both recently confirmed by the Environment Court (*Guardians of the Bay v Wellington International Airport [2022] NZEnvC 106*), pursuant to Part 8 of the RMA. Accordingly, under section 175 of the RMA, these two designations are not subject to the Proposed Plan’s submissions and decisions processes under Schedule 1 of the RMA.
- 20 Maps depicting the extent of aforementioned designations are attached as **Appendix B**.
- 21 The Airport is also subject to a specific “Airport and Golf Course Precinct” within the Operative Plan. This zone provides a bespoke framework for enabling airport activities (and managing their effects) within all of WIAL’s landholdings at the Airport. A similar zone is provided for the Proposed Plan.

THE USE OF THE ISPP AND SCHEDULE 1 PROCESS

- 22 As notified, the Proposed Plan has sought to utilise a combination of the ISPP and the more conventional Schedule 1 process for undertaking the plan change. I understand that WIAL has expressed some concerns to the Panel with respect to the vires of the approach taken to the Proposed Plan and the extent to which various Proposed Plan provisions have been included as part of the ISPP. These concerns are covered in legal submissions prepared on behalf of WIAL.
- 23 From a planning perspective, there are a number of challenges that arise from the Council’s approach to incorporating the Intensification Planning Instrument (“**IPI**”) provisions into the Proposed Plan. Firstly, it appears to me

that many of the provisions noted as being ISPP provisions are not strictly related to achieving the purpose of the IPI. For example, the Natural Hazards chapter has district wide effect yet has been nominated as being a topic to be dealt with in the ISPP. In my opinion, some of the provisions within this chapter do not have an association with the mandatory outcomes that prescribe what an IPI can be used for, and they have a very broad effect on development rights. Given that there are no appeal rights for provisions progressed through the ISPP, it is my view that plan provisions promulgated via this track should be clearly associated with achieving the IPI purpose. It appears to me that the drafters of the Proposed Plan have not been sufficiently discerning in this regard.

- 24 To demonstrate this point, the natural hazard provisions are engaged by third party operators establishing at Wellington Airport, or by WIAL themselves if they are undertaking activities that are not consistent with or are located beyond the extent of their designations. The nature of WIAL's activities and the manner in which it would be engaging with the natural hazard provisions of the Proposed Plan do not relate to the provision of housing. Another (non- airport related) example relates to Rule EW-R1, which has been noted as progressing through the ISPP in the Proposed Plan. This rule applies to *Earthworks for the purposes of piling, trenching, maintaining sports fields, undertaking geotechnical investigations and grave digging, the replacement or removal of underground petroleum storage systems associated with service stations*. In my view, there are elements of this rule that are clearly not housing related, suggesting that in this scenario, the boundary has been improperly drawn between what should be addressed via the ISPP and what should be addressed via a Schedule 1 process.
- 25 Secondly, it appears from my assessment of the Proposed Plan that activities that are not related to the ISPP will be inadvertently subject to a complex consenting framework. As I understand it, decisions on the IPI must be issued in November 2023. Decisions on the Schedule 1 matters will not be issued until mid-2024 at the earliest. In the intervening period, a complex period of plan administration will persist until the Schedule 1 decisions are beyond appeal.

- 26 Thirdly, the allocation of provisions across the two processes will give rise to mechanical plan promulgation issues. In my view, it is improper planning practice to settle policies and methods under the ISPP while the objective that they are seeking to give effect to is still being remedied via a Schedule 1 process. To demonstrate this point, I note that a number of policies and methods¹ relating to the Aircraft Noise Overlay have been allocated to the ISPP process as part of Hearing Stream 5, while others,² including the objectives that the Hearing Stream 5 provisions are trying to give effect to, will be heard as part of Hearing Stream 7.³ I understand this hearing will commence after decisions have been issued on the ISPP.
- 27 I appreciate that the timing of the ISPP process is not of the Council's making and I have a considerable degree of sympathy for the Council Officers trying to implement the directives set out in the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 and the National Policy Statement for Urban Development ("**NPS-UD**"), at the same time as undertaking a full District Plan review. In my view however, the challenges raised above demonstrate that considerable care needs to be taken when allocating provisions to each process. In my view, the approach taken to date has not been discerning enough and could result in further challenges for the Council later in the hearing process.

PART 1 INTRODUCTION AND GENERAL PROVISIONS

HOW THE PLAN WORKS

Te Anga Whānui – General Approach

- 28 With respect to the General Approach chapter, WIAL filed a reasonably discrete submission that sought to include additional explanatory text relating to the effect of designations.⁴ Specifically, WIAL's submission sought

¹ Policy Noise P6, Rule Noise R3 and Standard Noise – S4.

² Objectives Noise – O1 and O2 and Policy Noise P4. It is unclear at which hearing stream WIAL or the Council will be called to provide evidence in support of the Air Noise Overlays, as depicted on the planning maps.

³ Objectives Noise – O1 and O2 and Policy Noise P4. It is unclear at which hearing stream WIAL or the Council will be called to provide evidence in support of the Air Noise Overlays, as depicted on the planning maps.

⁴ Refer to the first substantive row of Annexure A of WIAL's primary submission.

to bring to plan users' attention the need to obtain requiring authority approval prior to undertaking an activity on land to which a designation relates where that activity would prevent or hinder the project or work to which the designation relates.

- 29 The section 42A report does not appear to address this matter, nor does this submission point appear in Appendix B of that report.
- 30 In my experience, it is not uncommon for the requirements of section 176 of the RMA to be poorly understood by resource consent applicants and in some instances, processing planners and decision makers. The inclusion of explanatory text of the nature sought by WIAL will assist this understanding and improve the interpretation of the plan provisions with respect to designations. In this way the proposed amendment will assist efficiency and the effectiveness of this part of the Proposed Plan.
- 31 The proposed amendment will not result in any additional costs as the requirement to obtain a requiring authority's approval in the circumstances set out above is mandatory under section 176 and the provision suggested by WIAL is simply intended to make this clear for Plan users.

INTERPRETATION

Definitions

Reverse Sensitivity

- 32 WIAL, along with a number of other infrastructure providers, submitted in support of the notified definition of reverse sensitivity.⁵ KiwiRail also submitted in support, however sought some further amendments to the definition.
- 33 In my experience, reverse sensitivity issues are highly prevalent at many of New Zealand's major airports. As such, I can see why WIAL has a keen interest in the way the Proposed Plan defines this concept. I note that the RPS includes a definition of this term. This definition states that "*Reverse sensitivity means the vulnerability of an existing lawfully established activity*

⁵ Submission 406.42.

to other activities in the vicinity which are sensitive to adverse environmental effects that may be generated by such existing activity, thereby creating the potential for the operation of such existing activity to be constrained”.

- 34 The proposed definition included within the Proposed Plan differs from that contained in the RPS, however it is not inconsistent with it. I therefore support the proposed definition, including the recommended amendments proposed by the section 42A report.⁶

Overlays

- 35 WIAL filed a further submission⁷ in support of Heritage New Zealand⁸ who sought to include a definition of “overlays” in the Proposed Plan. WIAL’s further submission noted concerns however, that the proposed definition only identified Schedules in the Proposed Plan and not other features that effectively serve as an “overlay” and have the effect of imposing specific development controls (such as the Air Noise Overlay).
- 36 The section 42A report recommends rejecting the submission and clarifies that overlays relate to the spatial application of Part 2, rather than the effect of Schedules.⁹ Furthermore, the concept is further defined in the “Relationships Between Spatial Layers” chapter. Having reviewed these comments and the related Proposed Plan provisions, I agree with the recommendation of the section 42A report that a new definition is not required.

Qualifying Matter

- 37 WIAL further submitted¹⁰ in further in support of Transpower’s submission¹¹ that a definition of “Qualifying Matter” and “Qualifying Matter Area” be added to the plan to increase clarity for plan users. The section 42A report has recommended that a new definition of qualifying matter, as set out in

⁶ Paragraph 663 of the section 42A report.

⁷ Further Submission 36.7-8.

⁸ Submission 70.3-4.

⁹ Paragraphs 708 -710 of the section 42A report.

¹⁰ Further submission 36.10.

¹¹ Submission 315.14-15.

section 2 of the RMA, be included in the Proposed Plan. No specific recommendation has been made with respect to “Qualifying Matter Area”.

- 38 I understand that the medium density residential zone identifies a list of qualifying matters that potentially constrain what would otherwise be permitted development under the NPS-UD. This list appropriately includes the Air Noise Overlay, which has the effect of reducing the density of development within its boundaries. It does not include WIAL’s obstacle limitation surface designation, which if confirmed, will also have the effect of reducing the extent to which development density can occur within some areas of the city.
- 39 While it would be my preference for “Qualifying Matter Areas” to be defined, as per the list in the medium density zone and other relevant matters (as per section 77I and 77O or the RMA), I appreciate the challenges raised in the overview section 42A report with respect to the transitional matters. Given that the Air Noise Overlay has been identified as a qualifying matter in the medium density residential zone, and given that WIAL’s obstacle limitation surface designation has interim effect under section 178 of the RMA in any event, I hold the view that there are sufficient “controls” in place to protect against development occurring in a way that cuts against the grain of these important airport land use controls which arise from the Air Noise Overlay and the obstacle limitation surface designation.

PART 2 DISTRICT WIDE MATTERS – STRATEGIC DIRECTION

- 40 WIAL filed a number of submissions and further submissions with respect to the Strategic Direction section of the Proposed Plan. The details are briefly set out as follows.

E OHAOHA, MŌHIOTANGA ME TE TAURIKURA Ā-TĀONE – CITY ECONOMY, KNOWLEDGE AND PROSPERITY

- 41 As notified (my paraphrasing):
- a. Objective CEKP-O1 seeks to provide for a range of commercial and mixed use environments in appropriate locations across the city;

- b. Objective CEKP-O3 seeks to ensure mixed use, industrial and commercial zones outside of Centres complement the hierarchy of centres, provide for activities that are incompatible with other centres based activities and support large scale industrial and service based activities; and,
- c. Objective CEKP-O4 seeks to ensure land within the City Centre, Centres, Mixed Use and General Industrial Zones is protected from activities that are incompatible with the purpose of the zone or have the potential to undermine the City's hierarchy of centres.

42 WIAL filed a submission in support of CEKP-O1 as notified. WIAL also filed submissions in supporting in part / opposing in part Objectives CEKP-O3 and O4 as WIAL considered both objectives require reference to the Airport Zone to ensure their applicability to the zone is clarified.

43 The section 42A report has recommended retaining CEKP-O1 as notified, however has expressly noted with respect to WIAL's submission that "...CEKP-O1 is not intended to apply to the airport".¹² The section 42A report goes on to later express that Objectives CEKP-O3 and O4 are not intended to apply to the Airport Zone and consider that the zones role and purpose is to service the needs of passengers and airport businesses, not compete with centres.¹³

44 Based on my review of the notified objectives within the City Economy, Knowledge and Prosperity section of the Proposed Plan and the provisions contained within the Strategic City Assets and Infrastructure section, it appears the latter provides the strategic framework for establishing regionally significant infrastructure and the Airport Zone. This includes, for example, provisions that recognise and provide for the social, economic and cultural benefits that accrue as a result of regionally significant infrastructure.¹⁴ I therefore agree with the section 42A report that no further amendments are required to CEKP-O3 and O4 in order to address the matters raised by WIAL's submission. In short, these provisions relate to

¹² Paragraph 870 of the section 42A report.

¹³ Paragraphs 877 and 879 of the section 42A report.

¹⁴ For example, SCA-O1 and O4.

setting a commercial centres hierarchy (the airport is not considered to be one of these) whilst the relevant infrastructure related provisions within the Proposed Plan properly recognise the importance of the airports function.

TE TAIAO MĀORI - NATURAL ENVIRONMENT

- 45 At a broad strategic level, I understand the Natural Environment section of the Proposed Plan establishes the framework for managing natural character, landscapes and features, ecosystems, water bodies and mana whenua relationships with these resources.
- 46 WIAL filed a further submission opposing the Royal Forest and Bird Protection Society's ("**Forest and Bird**") submission which sought amendments to objectives NE-O1 and NE-O3.¹⁵ Specifically, Forest and Bird sought further protection of indigenous biodiversity and wetlands. WIAL's further submission opposed these amendments, citing that the proposed changes conflate the matters described in section 6 and 7 of the RMA.¹⁶
- 47 The section 42A report has recommended accepting in part Forest and Bird's submission with respect to both NE-O1¹⁷ and NE-O3.¹⁸ In my view, the amendments made in the section 42A report to address this, and other submitters' concerns, further exacerbate the issue raised by WIAL's submission – that the provision conflate section 6 and section 7 matters.
- 48 With respect to NE-O1, the objective appears to be addressing section 6(a), (b) and (c) matters, however the associated verbs and qualifiers are inconsistent with section 6. Specifically:
- a. Reference to natural character is not coupled with the direction to preserve such character from inappropriate subdivision, use and development, as per the focus of section 6 (a) of the RMA (insofar as is relevant to this objective);

¹⁵ Submission 345.22 and 345.24 respectively.

¹⁶ Further submission 36.26 and 36.27 respectively.

¹⁷ Paragraph 941 of the section 42A report.

¹⁸ Paragraph 951 of the section 42A report.

- b. It is not clear whether reference to natural landscapes and features within this objective is to those of “outstanding” value, as per section 6(b) or other values which is more aptly captured by section 7(c) and (e). The “direction” within section 6 is to protect outstanding natural features and landscapes from inappropriate subdivision, use and development, compared to the section 7 direction to maintain and enhance amenity values and quality of the environment (as opposed to protection); and,
- c. Refence to “indigenous biodiversity and ecosystems” is not qualified by its significance, as per section 6(c).

49 In my view, it is important that that there is a clear distinction that strategic objectives, such as NE-O1, clearly distinguish between the outcomes sought for those environments that are likely to exude qualities recognised by sections 6 and 7 of the Act. Broad brush drafting that does to not properly discern between section 6 and 7 matters and also excludes the qualifiers included within section 6 for example risks “closing the door” on future development proposals that could potentially provide for significant district, regional or national benefits because the policy framework is too rigid and applies where and when it probably need not.

50 To illustrate the point, Objective SCA-O5 seeks to ensure the adverse effects of infrastructure are managed while having regard the functional and operational needs of such infrastructure. In those circumstances where an infrastructure operator, such as WIAL has an operational or functional need to occupy a particular location and that location includes indigenous biodiversity that in some way contributes to the City’s identity (irrespective of its significance), the engagement of NE-O1 as drafted may result in the unnecessary limitation or preclusion of the infrastructure activity because the language used within NE-O1 is so broad.

51 In my view, the objective would more appropriately achieve the purpose of the Act (and specifically, those directions in sections 6 and 7) if it were separated into three component parts as follows:

~~The natural character and outstanding natural landscapes and features, and ecosystems that contribute to the City's identity, including those that ~~and~~ have significance for mana whenua as kaitiaki are identified, recognised, protected from inappropriate subdivision use and development; and, where possible, enhanced.~~

~~The natural character, landscapes and features, areas of significant indigenous biodiversity and ecosystems that contribute to the City's identity, including those that ~~and~~ have significance for mana whenua as kaitiaki are identified, recognised, protected, and, where possible, enhanced.~~

~~The special amenity landscapes, ridgelines and hilltops that contribute to the City's identity, including those that have significance for manawhenua as kaitiaki are recognised and the values maintained or enhanced.~~

NGĀ RAWA ME TE TŪĀHANGA Ā-RAUTAKI O TE TĀONE - STRATEGIC CITY ASSETS AND INFRASTRUCTURE

- 52 The strategic level framework for infrastructure such as Wellington Airport is set out in the Strategic City Assets and Infrastructure section of the Proposed Plan.
- 53 WIAL filed a number of submissions in support of this section as notified, including support of Objectives SCA-O1, O4, O5 and O6. WIAL also filed a number of further submissions with respect to these provisions.
- 54 The RPS provides a clear higher order framework for the management of regionally significant infrastructure throughout the Wellington region. Specifically, the RPS:
- a. Recognises the benefits of renewable energy and regionally significant infrastructure in regional and district plans;¹⁹
 - b. Protects regionally significant infrastructure from incompatible subdivision, use and development;²⁰ and,

¹⁹ Policy 7 of the RPS.

²⁰ Policy 8 of the RPS.

- c. Sets out the matters to which particular regard shall be given when considering the effects of a district plan change, variation or review on regionally significant infrastructure.²¹

55 In my view, Strategic Objectives SCA-O1, O4, O5 and O6 generally give effect to the RPS directives noted above. The objectives also appropriately seek to manage the adverse effects of such activities, without repeating the detail that is contained within other sections of the Proposed Plan. I note that Forest and Bird²² filed a submission that sought to introduce clauses into these objectives regarding the protection of indigenous biodiversity and the avoidance of adverse effects. In my view, such changes would simply duplicate content or concepts addressed elsewhere in the Proposed Plan. I therefore agree with WIAL's further submission ²³ in opposition to the changes sought by Forest and Bird.

56 At a more strategic level, it is critically important for district plans to recognise the benefits accrued by regionally significant infrastructure. Such infrastructure generally supports the social, economic and cultural wellbeing of the community and their health and safety. Many regionally significant infrastructure providers, such as WIAL, also fulfil lifeline utility functions under the Civil Defence Emergency Management Act 2002.

57 In addition to the above, an entire section of the Proposed Plan is dedicated to energy, infrastructure and transport. The strategic objectives therefore provide the important policy foundations for this section of the plan.

58 With respect to Strategic Objective SCA-O1, WIAL filed a further submission²⁴ in opposition to Meridian Energy Limited²⁵ which sought to amend the objective to include recognition of the need for infrastructure to contribute towards the transition away from dependence on fossil fuels. WIAL also filed

²¹ Policy 39 of the RPS.

²² Submission 345.26-27 and 31-32.

²³ Further Submission 36.26, 32, 38 and 40.

²⁴ Further submission 36.31.

²⁵ Submission 228.17.

a further submission²⁶ in opposition to Waka Kotahi,²⁷ which sought amendments to the objective with a similar overall intent.

59 As noted by Ms Raeburn, WIAL is committed to playing its part in helping New Zealand to achieve the national target of net zero emissions by 2050. It is also anticipated that as technology advances are made, incremental changes will be made to the operations at the Airport to ensure it is working towards this overall outcome. The section 42A report, in responding to the concerns of Meridian Energy Limited, has amended the objective as follows:

Infrastructure is established, operated, maintained, and upgraded in Wellington City so that:

1. *The social, economic, cultural, and environmental benefits of this infrastructure are recognised;*
2. *The City is able to function safely, efficiently and effectively;*
3. *The infrastructure network is resilient in the long term;*
4. *It contributes to meeting the city's zero carbon capital (net zero emissions) goal; and*
5. *Future growth and development is enabled and can be sufficiently serviced.*

60 By focusing the action within subparagraph 4 on ensuring that infrastructure contributes towards the goal of achieving net zero emissions “as is practicable”, in my view, would sufficiently nuance the objective. WIAL will therefore be able to make incremental changes that contribute towards this goal as technology evolves and allows and be aligned with the objective. I therefore agree with the amendment proposed within the section 42A report, subject to the following further amendment (red underline shows my addition):

It contributes as is practicable to meeting the city's zero carbon capital (net zero emissions) goal; and

²⁶ Further submission 36.33.

²⁷ Submission 370.56.

**TE WHAKAUKATANGA, TE MANAWAROA ME TE ĀHUARANGI HURIHURI -
SUSTAINABILITY, RESILIENCE AND CLIMATE CHANGE**

- 61 As notified, Objective SRCC-O1 seeks to ensure the City's built environment supports:
- a. A net reduction in the City's carbon emissions by 2050;
 - b. More energy efficient buildings;
 - c. An increase in the use of renewable energy sources; and
 - d. Healthy functioning of native ecosystems and natural processes.
- 62 WIAL filed a submission supporting the retention of this objective as notified, particularly with respect to its focus on renewable energy sources. WIAL filed a number of further submissions opposing suggested changes to this objective which sought to amend the objective to bring it into alignment with Plan Change 1 of the RPS. Plan Change 1 relates to housing intensification, protecting waterways and responding to the global climate.
- 63 WIAL has filed submissions with respect to proposed Plan Change 1 to the RPS, citing that it would be premature to adopt the targets set in the Plan Change 1 given it is early in the plan promulgation process. I understand that hearings have yet to be held for this proposed plan change. I consider that it would be premature for the Proposed Plan to adopt the targets contained in Plan Change 1 at this stage of the hearing process. I would anticipate that submitters would be provided with an opportunity to provide legal submissions for further evidence with respect to this objective should Plan Change 1 become operative during the course of this year.
- 64 Notwithstanding, the above, the overall goal of net zero carbon emissions is consistent with Wellington City Council's Te Atakura First to Zero Plan. I understand that WIAL was part of the steering group that helped shape the first iteration of this document. It would therefore seem reasonable to focus SCA-O1(4) and SRCC-O1 on this outcome, with other statutory and non-statutory documents (such as Regional Land Transport Plans) used to inform how this element of the objective would be achieved.

- 65 Objective SRCC-O2 seeks to manage natural hazard risks. WIAL filed a submission seeking the objective recognise the operational and functional requirements of some activities to locate in environments that may be subject to hazard.²⁸ This submission was also concerned with the subjectiveness of the requirement to “avoid” intolerable natural hazard risks.
- 66 The section 42A report does not recommend accepting WIAL’s submission.²⁹ The section 42A report considers that the amendments that have been made with respect to other submissions aligns with the framework established in the Coastal Environmental chapter with respect to natural hazard risk in the Airport Zone. WIAL has filed a submission with respect to those provisions which will be heard as part of a later hearing stream. The section 42A report notes that there is suite of objectives in the Strategic Assets and Infrastructure chapter which recognise the operational and functional needs of infrastructure.
- 67 The proposed amendments to Objective SRCC-O2 appear to, in my view, exacerbate the issue raised by WIAL. Limb (3) of the objective is an “avoid” policy which I understand to mean, the activity is most likely to be effectively prohibited and cannot be undertaken.
- 68 Some activities have an inherent need to locate in areas of natural hazard risk. For example, the seawall that currently protects the southern and western ends of the airport runway (along with a number of Council owned assets such as roading and three waters infrastructure) is considered a structure under the Proposed Plan. Due to the operational and functional requirements of the seawall, it has to be located within an area identified as being subject to high coastal hazard risk.
- 69 The absolute language used within Objective SRCC-O2, could lead to the perverse outcome that structures that are constructed, used and maintained to defend against coastal hazard for example, are subject to a very difficult and potentially fatal consenting pathway. I note the comments in the section 42A report that the functional need provisions within the Strategic Assets

²⁸ Submission 406.71.

²⁹ Paragraph 1090 of the section 42A report.

and Infrastructure section would apply. However, my experience is that the objectives that are expressed in a directive way to avoid a certain outcome often have a “trumping” effect over more enabling provisions contained in other sections of the Proposed Plan. This is problematic for WIAL, as the seawall is subject to ongoing maintenance, with full replacement of parts of the seawall (that have been severely damaged by years of exposure to southerly storms) currently being considered.

- 70 A potential solution is for SRCC-O2 subsection 3 to be refined to refer to “habitable” buildings rather than all buildings.

TE ĀHUA TĀONE ME TE WHANAKETANGA - URBAN FORM AND DEVELOPMENT

- 71 The strategic framework for the future growth and development of urban areas is set out in the Urban Form and Development section of the Proposed Plan.

- 72 WIAL filed submissions opposing strategic objectives UFD-O2, O3, O7,³⁰ citing concerns around the potential for future development to result in reverse sensitivity effects that could potentially constrain or curtail operations at Wellington Airport. To address this issue, WIAL’s submission sought the inclusion of a new subparagraph into each of these objectives, which requires consideration of the effects of development on regionally significant infrastructure (or more specifically, the Airport).

- 73 The section 42A report recommends rejecting WIAL’s submissions citing:³¹
- a. The city’s greenfield areas have already been master planned to be compatible with surrounding regionally significant infrastructure and is unlikely to have any impacts on the operation of the airport given its location;.
 - b. The objective is focused on the enablers of growth, consistent with Policy 1 of the NPS-UD;

³⁰ Submission 406.73 to 80.

³¹ Paragraphs 1171, 1175 and 1188.

- c. The Airport Noise Overlay is a qualifying matter. The profile of this matter is also proposed to be raised as a result of a supporting note recommended by the section 42A report in response to qualifying matters;
- d. WIAL has significant abilities under its designation (WIAL1) to approve or not approve development that will have effects on the operation of the airport; and
- e. The issue is well addressed in the Strategic Assets and Infrastructure section of the Proposed Plan.

74 With respect to the section 42A report recommendation, I agree that the Strategic Assets and Infrastructure section of the Proposed Plan and more notably, SCA-O6, provides clear direction that infrastructure is to be protected from incompatible development, activities that may create reverse sensitivity effects, and activities that may compromise its efficient and safe operation. It is therefore not necessary to repeat such concepts within each of these objectives.

75 However, it is also important in my view to temper medium and high density residential development expectations within areas that are subject to qualifying matter in a very clear way. The Air Noise Overlay is one such area. Transpower New Zealand Limited³² has suggested the inclusion of a suitable supporting note in this respect (which is supported by the section 42A report³³ and WIAL³⁴). I think that this will go some way to addressing this matter.

76 I remain concerned however, given my comments in paragraphs 30 to 33 relating to the obstacle limitation surface, that this designation could constrain the height of development proposals in various part of the city. Materially, the effects of this designation are likely to be greatest felt in existing urban areas. I therefore consider there would be some merit in highlighting the limitations created by some designations or more

³² Submission 315.46-47.

³³ Paragraph 1172 of the section 42A report.

³⁴ Further Submission 36.49.

specifically, the obstacle limitation surface designation, within this section of the Proposed Plan. This could be through the inclusion of new sentence, similar to that sought within paragraphs 30 to 33 of my statement of evidence, within the introductory section of this chapter. In my view, this change is efficient and effective and will potentially reduce the costs associated with future consent application, as it will encourage plan users to consider the effects of the designation early in the development phase of their proposals.

CONCLUSION

- 77 As set out in my statement of evidence, I generally support the recommendations contained in the section 42A report with respect to the drafting of following provisions:
- a. The definition of reverse sensitivity, overlay and qualifying matter;
 - b. Objective CEKP-O1, O3 and O4;
 - c. SCA-O1, O4, O5 and O6;
 - d. SRCC-O1; and
 - e. UFD-O2, O3 and O7.
- 78 There are only a few areas where I hold a different view to the section 42A report, notably:
- a. NE-O1 and O3; and
 - b. SRCC-O2.
- 79 In my view, the aforementioned provisions (in paragraph 78) will present some potentially significant consenting challenges for WIAL into the future, the costs of which have not been adequately addressed in terms of section 32 of the RMA. The changes I have recommended with respect to these objectives will ensure the Proposed Plan appropriately gives effect to Part 2 of the RMA and represent a more appropriate way of achieving the desired outcomes than those put forward by the section 42A reports.

John Kyle

7 February 2023

APPENDIX A

Summary of Recent Experience of John Kyle

- Wellington International Airport Limited – notice of requirement to designate airport site and Miramar Golf Course site – Wellington City.
- Wellington International Airport Limited – Wellington City District Plan review – managing airport noise effects – Wellington.
- Wellington International Airport – notice of requirement to designate former Miramar School site for airport purposes – Wellington City.
- Fortescue Future Industries – Green Hydrogen Plant – Environmental investigations – Southland.
- Ministry of Business, Innovation and Employment – Environmental evaluation panel – Lake Onslow Pumped Hydro Scheme – Central Otago.
- Silver Fern Farms – wastewater discharge consent Finegand Meat Processing Plant – Clutha District.
- Silver Fern Farms – stormwater management and consenting – Hawera Plant – Hawera.
- Silver Fern Farms – coastal defences work – Pareora Meat Processing Plant – Timaru.
- OceanaGold (New Zealand Limited) – Waihi North gold mine project - Hauraki District.
- Federation Mining – Snowy River Gold mine consenting – Buller District.
- OceanaGold (New Zealand Limited) – Deep Dell mine expansion – Macraes Mine – Waitaki District.
- Queenstown Airport Corporation – Proposed plan change to manage the effects of aircraft noise – Queenstown Lakes District.
- Alliance Group Limited – renewal of all discharge and land use consents Matura Meat Processing Works, Matura - Southland Region.
- Simcox Construction (then Isaac Construction) – Quarry operation consent renewal, Marlborough District.
- Fulton Hogan Limited – Canterbury Regional Quarry Project – Templeton – Selwyn District.
- Pernod Ricard NZ Limited – District Plan review – Marlborough Environment Plan submissions – Marlborough District.
- Alliance Group Limited – renewal of all discharge and land use consents Lorneville Meat Processing Works, Lorneville - Southland Region.
- Alliance Group Limited – Air Discharge Consents – Pukeuri Meat Processing Works, Pukeuri - Otago Region.

- Queenstown Lakes District Council – preparation of a Plan Change to expand Queenstown town centre, including to accommodate a convention centre.
- Wellington International Airport Limited – strategic and resource management advice with respect to a proposed runway extension – Wellington City.
- OceanaGold (New Zealand) Limited – Project Martha Gold Mine Expansion, Waihi – Hauraki District.
- Ryman Healthcare – resource consent applications for new retirement villages – New Zealand wide role.
- Environmental Protection Authority – advisor to the Minister appointed Board of Inquiry regarding a Plan Change by Tainui Group Holdings and Chedworth Properties for the Ruakura Inland Port Development, Hamilton.
- Environmental Protection Authority – advisor to the Minister appointed Board of Inquiry regarding a Notice of Requirement and resource consent applications by the New Zealand Transport Agency with respect to the Expressway between Peka Peka and North Otaki on the Kapiti Coast.
- Environmental Protection Authority – advisor to the Minister appointed Board of Inquiry regarding a Notice of Requirement and resource consent applications by the New Zealand Transport Agency with respect to the Expressway between MacKays Crossing and Peka Peka on the Kapiti Coast.
- Environmental Protection Authority – advisor to the Minister appointed Board of Inquiry regarding resource consent applications and designations by the New Zealand Transport Agency with respect to the proposed Transmission Gully Project – Wellington Region.
- Queenstown Lakes District Council – member of the review team commissioned to undertake a review of Council consenting and resource management policy operations.
- Environmental Protection Authority – advisor to the Minister appointed Board of Inquiry regarding a plan change application to the Wellington Regional Water plan to assist with the proposed Transmission Gully Project – Wellington Region.
- Queenstown Airport Corporation – lead consultant - Notice of Requirement for land adjacent to QAC in order provide for the future expansion of airport operations, Queenstown Lakes District.
- Genesis Power Limited – due diligence Slopedown Wind Farm, Southland District and Southland Region.
- TrustPower Limited – proposed Kaiwera Downs Wind Farm, Gore District and Southland Region.
- TrustPower Limited – proposed alteration to the Rakaia Water Conservation Order – Lake Coleridge Hydro Electric Power Scheme – Canterbury Region.
- Meridian Energy Limited – Proposed Mokihinui Hydro Electric Power Scheme, damming, water and land use related consents, Buller District and West Coast Region.
- TrustPower Limited – Wairau Hydro Electric Power Scheme, water and land use related consents, Marlborough District.

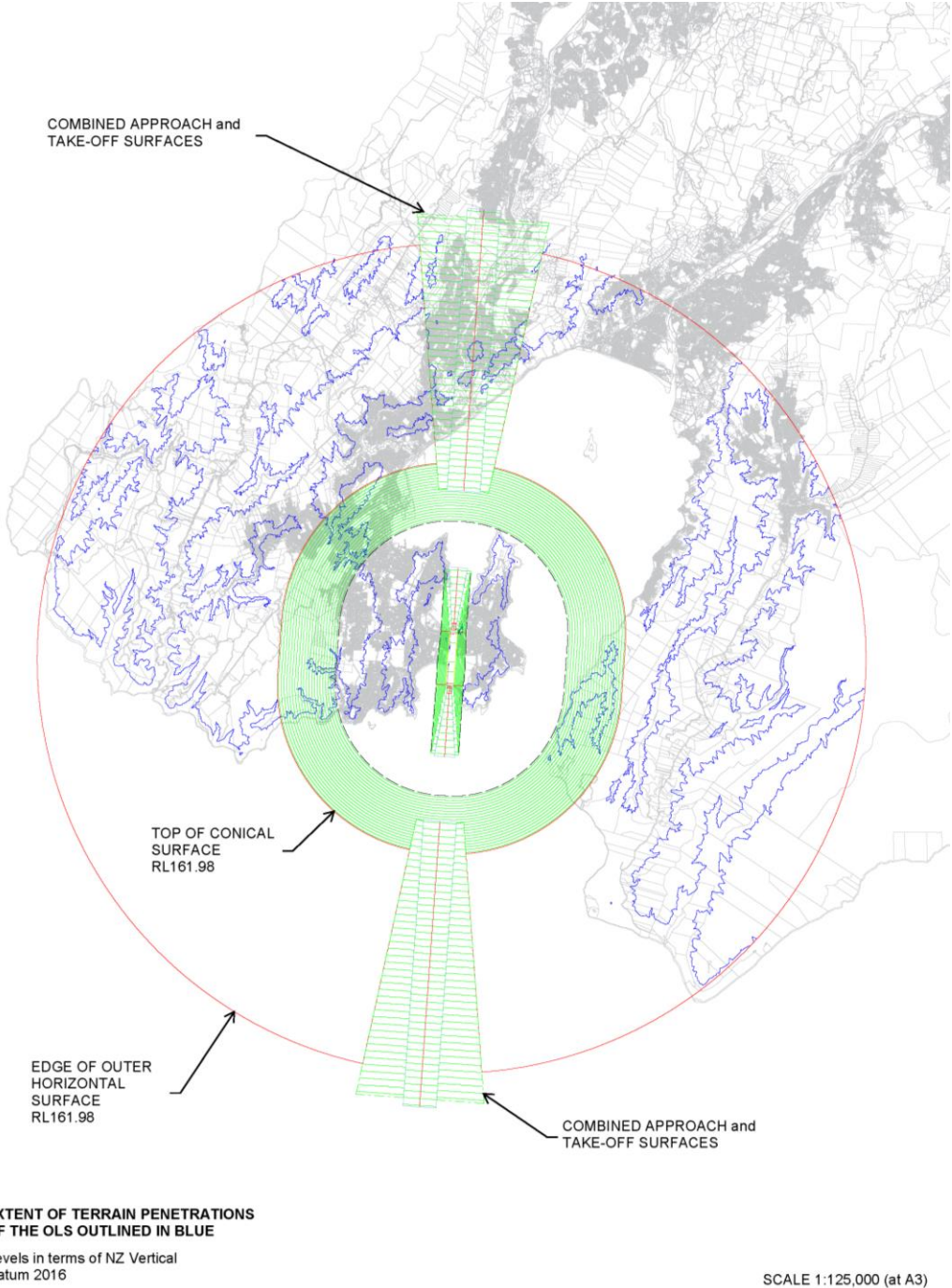
- Southern Health – Plan Change Invercargill Hospital Development - Invercargill City.
- Sanford Limited, various marine farm proposals Marlborough Sounds, Marlborough District.
- Port Marlborough Limited – Plan Change proposal to alter the marina zone within the Marlborough Sounds Resource Management Plan to provide for consolidation of marina development in Waikawa Bay, Marlborough District.
- Port Marlborough Limited – Resource consent application for occupation of coastal space – Shakespeare Bay port facilities – Marlborough District.
- Meridian Energy Limited – proposed Wind Farm, Lammermoor Range, Central Otago District and Otago Region.
- Queenstown Airport Corporation – Runway End Safety Area, designation and construction related consents, Queenstown Lakes District and Otago Region.
- Riverstone Holdings Limited – Proposed Monorail Link – Lake Wakatipu to Fiordland, Department of Conservation Concession Application – Southland Conservancy.
- Otago Regional Council – Consents required for controlling the Shotover River to mitigate flood risk – Queenstown Lakes District and Otago Region.
- Queenstown Airport Corporation – aircraft noise controls and flight fan controls – Plan Change and Designations, Queenstown Lakes District.
- Todd Property Pegasus Town Limited – Pegasus Town, North Canterbury – Waimakariri District, Canterbury Region.
- Willowridge Developments – 3 Parks Plan Change to create new commercial, large format retail, service, tourist and residential land use zones, Wanaka, Queenstown Lakes District.
- Gibbston Valley Station – Land use and regional consents, Viticulture and Golf Resort, Gibbston – Queenstown Lakes District and Otago Region.
- Marlborough District Council – Business Park Plan Change, Blenheim - Marlborough District.
- Ravensdown Fertiliser Limited – Coastal and Air Discharge Consent Renewal, Dunedin – Otago Region.
- Irmo Properties Limited – Resource consent application for retail complex, Green Island – Dunedin City.
- Infinity Investment Group and JIT Investments – Hillend Station Farm Park development, Wanaka – Queenstown Lakes District.
- Infinity Investment Group – Peninsula Bay Plan Change, Wanaka – Queenstown Lakes District.
- Genesis Power Limited – Tongariro Power Development, Water Related Consents, Central North Island – Environment Waikato and Horizons MW.
- Genesis Power Limited – Waikato District Plan review and provision for the Huntly Power Station, Waikato District.
- Department of Corrections –New Corrections Facility, Milton - Clutha District and Otago Region.

- Department of Child Youth and Family – Youth Justice Facility, Rolleston – Selwyn District and Canterbury region.
- Kuku Mara Partnerships – Large Scale Marine Farms, Marlborough Sounds – Marlborough District.
- Marine Farming Industry – Plan Appeals, Tasman Aquaculture Inquiry, Tasman and Golden Bays – Tasman District.

APPENDIX B

Maps

Designation G2



**WELLINGTON INTERNATIONAL AIRPORT
OBSTACLE LIMITATION SURFACE**

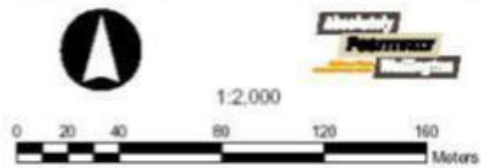
Fig 1

Designation G3



Legend

-  Temporary Designation Area
-  Permanent Designation Area
-  Parcel Boundaries



Designation G4



Designation G5



Airport Purposes Designation Boundary

MITCHELL
DAYSH

Designation G6



East Side Area Designation Boundary