

**SECTION 77J ASSESSMENT – WELLINGTON INTERNATIONAL AIRPORT LIMITED – OBSTACLE LIMITATION SURFACES DESIGNATION (OLS)**

This assessment has been prepared on behalf of Wellington International Airport to address a request made by the Wellington City Council District Proposed District Plan Hearings Panel to undertake a section 77J and 77K assessment of the Proposed OLS Designation (WIAL1) at Wellington International Airport<sup>1</sup>.

Tables 1 to 3 address section 77J(3) of the Act, in part by referencing and summarising material from the Hearing Stream 10 (“**HS10**”) Wellington City Council District Plan that relate to this matter.

**Table 1** addresses the matters required to be assessed under s77J(3)(a). These are:

*The evaluation report must, in relation to the proposed amendment to accommodate a qualifying matter,—*

*(a) demonstrate why the territorial authority considers—*

- (i) that the area is subject to a qualifying matter; and*
- (ii) that the qualifying matter is incompatible with the level of development permitted by the MDRS (as specified in Schedule 3A) or as provided for by policy 3 for that area*

**Table 1: Section 77J(3)(a) demonstrate (i) that the area is subject to a qualifying matter; and (ii) that the qualifying matter is incompatible with the MDRS.**

Document	Reference	Summary
<b>Section 77J(3)(a)(i)</b>		
National Policy Statement for Urban Development (“ <b>NPS-UD</b> ”)	1.4 Interpretation	Wellington International Airport (“ <b>the Airport</b> ”) is nationally significant infrastructure as defined by the NPS-UD.
NPS-UD	3.32 Qualifying matters	Qualifying matters are defined in section 3.32 of the NPS-UD.  <i>(1) In this National Policy Statement, qualifying matter means any of the following:</i>  ... <i>(c) any matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure.</i>  ... <i>(e) an area subject to a designation or heritage order, but only relation to the land is subject to the designation or heritage order.</i>

<sup>1</sup> Refer Minute 53 Issued by the Hearings Panel on 19 July – paragraph 2(b)(i)

**Table 1: Section 77J(3)(a) demonstrate (i) that the area is subject to a qualifying matter; and (ii) that the qualifying matter is incompatible with the MDRS.**

Document	Reference	Summary
Overall evaluation of s77J(3)(a)(i)		<p>Designation G2 (Airspace in the vicinity of Wellington International Airport) currently places height restrictions on land affected by the OLS around Wellington International Airport.</p> <p>The proposed OLS height restrictions are necessary and required at the airport to continue to ensure the airport’s safe and efficient operation. Wellington International Airport is nationally significant infrastructure. The updated OLS are the subject of a designation (as modified), that has the effect of limiting development capacity and in particular building height such that development capacity is reduced in certain circumstances.</p>
<b>Section 77J(3)(a)(ii)</b>		
<a href="#">Statement of Evidence of L Thurston for Wellington International Airport Limited (“WIAL”), HS10, 1 July 2024</a>	Pages 6 – 7, 9 para 5.1 – 5.4, 6.6	<p>The OLS are necessary to ensure that aircraft can maintain a satisfactory level of safety whilst manoeuvring at a low altitude in the vicinity of an airport through the avoidance of obstacles.</p> <p>OLS provide for aircraft to safely approach and depart the airport under both normal circumstances, and also when the flight performance of the aircraft is impaired, such as when an engine is inoperative.</p> <p>As such, OLS must be regarded as integral parts of the airport environment. The degree of freedom from obstacles in these areas is as important to the safe and efficient use of the airport as are the physical attributes like the runway. OLS are a required feature of an airport with scheduled aircraft traffic under the requirements of the New Zealand Civil Aviation Rules and New Zealand international obligations under ICAO.</p> <p>The OLS are the subject of a designation that has the effect of limiting development capacity and in particular building height such that development capacity is reduced in certain circumstances.</p>
<a href="#">HS10 Designations – Section 42a Report</a>	Page 47, para 314	The proposed modifications to Designation WIAL1 have the potential to constrain the development capacity of individual properties, even where proposed development complies with

**Table 1: Section 77J(3)(a) demonstrate (i) that the area is subject to a qualifying matter; and (ii) that the qualifying matter is incompatible with the MDRS.**

Document	Reference	Summary
		permitted heights of the respective zone because the designation requires approval of the requiring authority under s176 of the RMA which may not be given if a proposal is not shielded and will adversely safety or impact flight operations/ procedures.
Overall evaluation of s77J(3)(a)(ii)		The OLS has the effect of limiting development capacity and in particular building height such that development capacity is reduced. As such, it is incompatible with the level of development permitted by the MDRS.

**Table 2** addresses the matters required to be assessed under s77J(3)(b), which are:

*The evaluation report must, in relation to the proposed amendment to accommodate a qualifying matter,—*

[...]

*(b) assess the impact that limiting development capacity, building height, or density (as relevant) will have on the provision of development capacity.*

**Table 2: s77J(3)(b) Impacts of limiting development capacity on the provision of development capacity.**

Document	Reference	Summary
<a href="#">Statement of Evidence of N Hampson for HS10, 1 July 2024</a>	Page 9, Table 2	<p>Table 2 identifies the number of properties where the height restrictions imposed by the OLS designation (8m + 30m) are below the maximum enabled building heights allowed by the Decisions version of the Proposed District Plan (“PDP”).</p> <p>It shows that under the OLS height restriction, in a ‘worst case’ scenario (i.e. where terrain shielding does not apply and if WIAL did not grant development approval) approximately 20,200 (20%) of properties have the potential to be affected across Wellington City.</p>
	Page 11, para 31	<p>Not all opportunities to develop residential dwellings to Plan enabled heights will be commercially feasible within the next 30 years or reasonably expected to be realised.</p> <p>The predicted impact of the OLS designation building height restrictions (in either scenario) is therefore less than the Plan enabled dwelling capacity on potentially impacted parcels described in Table 2.</p>
	Page 11 – 13, para 32 – 37	<p>The OLS designation has a minor reduction on Plan enabled housing capacity at the district level. Over the long term (under a worst-case scenario with no shielding exceptions) realisable capacity is only reduced by 3%.</p>
	Page 13 – 15, para 42 –46, Table 4	<p>Table 4 shows that the PDP provides at least sufficient capacity in the short and medium-term. It demonstrates that sufficiency is also met if the OLS height limits are applied as proposed by WIAL.</p> <p>The key finding is that the OLS designation height restrictions of 8m+30m would not impact on Wellington</p>

**Table 2: s77J(3)(b) Impacts of limiting development capacity on the provision of development capacity.**

Document	Reference	Summary
		City Councils ability to provide at least sufficient capacity in the short, medium or long-term (once greenfield capacity is accounted for).
Overall evaluation of s77J(3)(b)		The economic assessment determined that the effects of the OLS designation height limits on the provision of development capacity will be insignificant. There will be no significant impact on Wellington City Councils ability to provide at least sufficient capacity in the short, medium or long-term

**Table 3** addresses the matters required to be assessed under s77J(3)(c). These are:

*The evaluation report must, in relation to the proposed amendment to accommodate a qualifying matter,—*

*[...] (c) assess the costs and broader impacts of imposing those limits.*

**Table 3: s77J(3)(c): Costs and broader impacts of imposing limits to development capacity.**

Document	Reference	Summary
<a href="#">Statement of Evidence of L Thurston for WIAL, HS10, 1 July 2024</a>	Page 11, para 7.6	Due to the Civil Aviation Authority increasingly emphasising adherence to international standards, WIAL risks facing restrictions on its operations if it does not address non-compliances with ICAO Guidelines and Civil Aviation Rules regarding OLS.
<a href="#">Statement of Evidence of N Hampson for HS10, 1 July 2024</a>	Page 16 – 17, para 54 – 59	Based on the assessment of economic costs and benefits: <ul style="list-style-type: none"> <li>Any reductions in the potential opportunity for development are minor and are unlikely to affect the ability of the Council to meet the needs of the NPS-UD over the long-term.</li> <li>Additional transaction / compliance costs for owners to go through the WIAL notification / approval process as a result of the conditions proposed on the OLS designation are unlikely to be material in the context of the overall cost of a proposed development. The permissible height intrusions have the effect of reducing the number of owners who have to seek approval from WIAL.</li> </ul>

**Table 3: s77J(3)(c): Costs and broader impacts of imposing limits to development capacity.**

Document	Reference	Summary
		<ul style="list-style-type: none"> <li>• The Airport makes a significant contribution to the economic and social wellbeing of Wellington City and New Zealand.</li> <li>• The proposed height limits associated with the OLS designation are the most efficient option due to increased safety benefits and ability for WIAL to adhere to relevant ICAO Guidelines and Civil Aviation Rules.</li> </ul>
Overall evaluation of s77J(3)(c)		The cost of imposing limits on development capacity are assessed to be minor and are outweighed by the safety risks and the risk of not addressing non-compliances with ICAO Guidelines and Civil Aviation Rules.

**The matters required to be assessed under s77J(4)(a) and s77J(4)(b) are:**

*The evaluation report must include, in relation to the provisions implementing the MDRS,—*

*(a) a description of how the provisions of the district plan allow the same or a greater level of development than the MDRS:*

*(b) a description of how modifications to the MDRS as applied to the relevant residential zones are limited to only those modifications necessary to accommodate qualifying matters and, in particular, how they apply to any spatial layers relating to overlays, precincts, specific controls, and development areas, including—*

*(i) any operative district plan spatial layers; and*

*(ii) any new spatial layers proposed for the district plan.*

**Evaluation of s77J(4)(a) and s77J(4)(b)**

The MDRS are already operative as Medium Density Residential Zones in the IPI. No modifications are proposed to the provisions of the PDP. The OLS designation as modified has interim effect in terms of s178 of the Act and thus already affects the MDRS.

The proposed approach is the best way to achieve the purpose of the Act. It effectively balances health, safety, and economic wellbeing (including in relation to the Airport's safe and efficient operation) with the social wellbeing of the community. Importantly, it does not significantly hinder the provision of housing to meet project short, medium and long term needs.

## SECTION 77K ASSESSMENT

### The matters required to be assessed under s77K(1)(a) are:

*A specified territorial authority may, when considering existing qualifying matters, instead of undertaking the evaluation process described in [section 77J](#), do all the following things:*

- (a) *identify by location (for example, by mapping) where an existing qualifying matter applies:*

### Evaluation of s77K(1)(a)

The location of the Airport Height Restriction designation (G2 Airspace in the vicinity of Wellington International Airport) is depicted in maps 36, 37, and 38 in the Operative Wellington City Council District Plan 2000.

The proposed extent of the proposed modified OLS designation is also depicted on the Planning Maps via a bespoke GIS based tool and is shown on Figures 1 – 3 of the notice to rollover the Designation with modifications.

### The matters required to be assessed under s77K(1)(b) are:

*A specified territorial authority may, when considering existing qualifying matters, instead of undertaking the evaluation process described in [section 77J](#), do all the following things:*

[...]

- (b) *specify the alternative density standards proposed for those areas identified under paragraph (a):*

### Evaluation of s77K(1)(b)

The following table summarises the relevant Discretionary (Restricted) Height Rules for residential, suburban and rural zones affected by the airspace height restrictions in the Operative Plan.<sup>2</sup>

	<b>Permitted Height</b>	<b>Discretionary Height (extension)</b>	<b>Total height</b>
<b>Outer Residential</b>	8.0m	+1.6m	9.6m
<b>Suburban Centre</b>	12.0m	+6.0m	18m
<b>Rural</b>	8.0m	+1.6m	9.6m

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<sup>2</sup> Adapted from Appendix F: Wellington International Airport Airspace Designation (Wellington International Airport Limited – G2): Conditions, Operative Wellington City Council District Plan 2000.

**The matters required to be assessed under s77K(1)(c) are:**

*A specified territorial authority may, when considering existing qualifying matters, instead of undertaking the evaluation process described in [section 77J](#), do all the following things:*

[...]

- (c) identify in the report prepared under [section 32](#) why the territorial authority considers that 1 or more existing qualifying matters apply to those areas identified under paragraph (a):*

**Evaluation of s77K(1)(c)**

The qualifying matter applies to the area for the following reasons:

The Airport is nationally significant infrastructure as defined by the NPS-UD.

Qualifying matters are defined in section 3.32 of the NPS-UD as:

- (c) any matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure.*

...

- (e) an area subject to a designation or heritage order, but only relation to the land is subject to the designation or heritage order.*

As nationally significant infrastructure and as an area subject to a designation, the Airport Height Restrictions meet the definition of a qualifying matter.

**The matters required to be assessed under s77K(1)(d) are:**

*A specified territorial authority may, when considering existing qualifying matters, instead of undertaking the evaluation process described in [section 77J](#), do all the following things:*

[...]

- (d) describe in general terms for a typical site in those areas identified under paragraph (a) the level of development that would be prevented by accommodating the qualifying matter, in comparison with the level of development that would have been permitted by the MDRS and policy 3:*

**Evaluation of s77K(1)(d)**

The economic assessment undertaken by N Hampson has demonstrated that the new OLS would only have a minor effect on development capacity and any reductions in the potential opportunity for development of additional capacity are minor and are unlikely to affect the ability of the Council to meet the needs of the NPS-UD over the long-term. As such the existing designation which has Airport Height Restrictions on a lesser area than WIAL1 will have even less effects on development capacity.