

**Before the Independent Hearings Panel
at Wellington City Council**

Under Schedule 1 of the Resource Management Act 1991

In the matter of Hearing submissions and further submissions on the
Proposed Wellington City District Plan – Hearing
Stream 10 (Designations)

**Statement of Supplementary Planning Evidence of
James (Jamie) Grant Sirl on behalf of Wellington City Council**

Date: 8 July 2024

INTRODUCTION

- 1 My full name is James (Jamie) Grant Sirl. I am employed as Senior Advisor in the District Planning Team at Wellington City Council (the Council).
- 2 I have read the further evidence and statements provided by submitters relevant to the Section 42A Report – Designations (s42A Report).
- 3 I have prepared this statement of supplementary planning evidence in response to evidence submitted in response to the Section 42A Report (dated 27 March 2024), including the associated appendices, which can be found here: s42A report.
- 4 Specifically, I respond to the following submitters:

Statements of Evidence

Wellington International Airport Limited (WIAL) [406 and FS36]

- a. Jo Lester (Corporate)
- b. J Kyle (Planning)
- c. Natalie Hampson (Urban Economics)
- d. John Thurston (Airport Operations)

Tabled Statements

Ara Poutama Aotearoa the Department of Corrections (Ara Poutama) [240]

- a. Sean Grace (Planning)

KiwiRail Holdings Limited [408 and FS72]

- a. Michelle Grinlinton-Hancock (Planning)

5 I have not addressed points where the submitter has agreed with the recommendations in the s42A report. Where submitter evidence speaks to matters already addressed in this report, I rely on the recommendations and reasoning in this report and only provide additional assessment where necessary.

6 Where, in response to the evidence of submitters, I recommend amendments to plan provisions in addition to those contained in the s42A Report, I identify these in Appendix A to this supplementary evidence.

QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT

7 Section 1.2 of the s42A Report sets out my qualifications and experience as an expert in planning.

8 I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023, as applicable to this Independent Panel hearing.

SCOPE OF EVIDENCE

9 My statement of evidence addresses:

- a. The expert evidence of the submitters listed above; and
- b. The tabled statements from submitters listed above.

RESPONSES TO EXPERT EVIDENCE

KiwiRail Holdings Limited [408 and FS72]

- 10 Ms Grinlinton-Hancock has provided a tabled statement¹ on behalf of KiwiRail. Ms Grinlinton-Hancock has addressed the matters raised in the s42A Report as they relate to the KiwiRail submission points, in particular concerns relating to a small area of Burma Road land sought to be included in the designation.
- 11 Although I agree with Ms Grinlinton-Hancock that the matter of extending the mapped designation area of KRH1 to include the small area of Burma Road is relatively minor given it is a small area of legal road, the wider issue of whether designation KRH1 applies to the land above existing tunnels (or under bridges), and how the designation should be mapped, has not been addressed.
- 12 Ms Grinlinton-Hancock references the designation as it relates to Tunnel 7 in Johnsonville, which indicates that the position of KiwiRail is that the existing tunnels and the land above the tunnels are included in the existing ODP designation. It would be helpful for KiwiRail to provide evidence of any requests received along with copies of building proposals from landowners above tunnels, and any subsequent s176 approvals provided.
- 13 I have considered this matter further and have also discussed the matter with KiwiRail representatives.
- 14 For the benefit of the Panel, I have summarised the roll-over process in relation to KRH1 along with the amendments requested by KiwiRail in response to the notice issued by Council in accordance with clause 4 of Schedule 1 of the RMA:

¹ Tabled Statement on behalf of KiwiRail Holdings Limited. Prepared by Michelle Grinlinton-Hancock. Dated 1 July 2024.

- a. Prior to preparation of the Draft District Plan (2020) KiwiRail advised GHD Consultants (on behalf of Council) that their intention was for the ODP designations to be rolled over without modification. However, KiwiRail sought an update to the mapping of the designation areas to reflect the comment 'includes tunnels and bridges' as included in each of the relevant designations (R1 and R5 as shown in Appendix A to this Reply) in the ODP.
- b. In response to the formal consultation notice from Council in accordance with Clause 4 of Schedule 1 of the RMA, KiwiRail sought that the designations *include rail bridges, tunnels and level crossings in the railway designation to accurately reflect the text in the Designations Chapter²*, as a minor correction.
- c. The revised mapping of the Designations was provided by KiwiRail and included in the notified PDP.

15 No submissions were received from property owners. WCC [266.38, opposed by Panorama Property Limited FS11.32; and supported by KiwiRail FS72.93] sought amendments to the KRH designations as displayed on the ePlan maps to differentiate underground and above ground features. I consider that this submission highlights the key unresolved issue which is whether these designations historically applied to the land above the tunnels as well as the tunnels themselves, or if they only apply to the tunnels.

16 In considering the ODP schedule, I note that the "Legal description and Gazette" column within the KiwiRail designation schedule in the ODP (Figure 1) states "Railway land pursuant to various proclamations, gazettes and statutory ownership." This does not take matters any further as it is not

² Record of Consultation with Requiring Authorities report, GHD. 2022. Appendix C KiwiRail Holdings Limited

clear from the ODP designation whether the land above the tunnels is “railway land”.

- 17 Consequently, my recommendation to the Panel as outlined in paragraph 117 of the S42A Report still stands until such time that KiwiRail as the requiring authority can provide evidence that the land above the tunnels is included within the KRH designations in the ODP.

Wellington International Airport Limited (WIAL) [406 and FS36]

- 18 As confirmed in the evidence of Jo Lester³, the WIAL 1 OLS Designation is now more restrictive than the G2 designation in the ODP. The justification for this from a Civil Aviation safety and regulatory perspective is addressed in the evidence of Mr Lachlan Thurston⁴. Mr Thurston also provides helpful cross-sections that illustrate the change in heights of the OLS between G2 and WIAL1. It appears from these cross-sections that the PDP OLS is in general much lower (Inner Horizontal Surface), which in a broad sense would result in development penetrating the PDP OLS at much lower heights than the ODP OLS. I note that Mr Thurston’s evidence does not discuss the 8 m allowance, nor does it address the safety concerns that would result from an 11 m allowance sought by submitters. It would be helpful to hear from Mr Thurston on this matter.

- 19 Ms Lester explains the relevance of *shielding* in her evidence. In my opinion, it would be ideal if terrain shielding was incorporated into the OLS tool to provide a greater level of certainty where approval would be provided. However, it seems that this is not possible and requires a case-by-case assessment to be undertaken by WIAL.

³ Statement of Evidence by Jo Lester. Hearing Stream 10, dated 1 July 2024.

⁴ Statement of Evidence by Lachlan Thurston. Hearing Stream 10, dated 1 July 2024.

20 I note that the designation conditions incorporate and provide for the existence of shielding by an existing immovable object as a reason that consent under s176 would not be withheld. Ms Lester in her evidence states [emphasis added]:

*Shielding occurs when there is an existing immovable object (such as an existing permanent building or the natural terrain) that already penetrates the OLS that essentially dominates or shields the surrounding area thereby providing cover or protection to a new object. If this is the case, the new object **may be acceptable** (and therefore given WIAL's consent), even though it penetrates the OLS and exceeds the height limit.*

21 It may be beneficial for the Panel to confirm with Ms Lester, noting the wording of the conditions (1.b, 2.b, 3.b, 4.b, 5.b, and 6.b), under what, if any, circumstances a proposed building that penetrates the OLS and exceeds the height allowance but is adequately shielded, would be declined approval under s176.

22 Regardless, if s176 approval was not provided, and this was appealed, the onus would be on the requiring authority to demonstrate that adequate shielding was not present.

23 The evidence of Natalie Hampson addresses the potential impact of the OLS on development capacity for Wellington City⁵.

24 In summary, Ms Hampson illustrates that an '8 m + 30 m height limitation OLS' (8m scenario) has the potential to reduce theoretical, or plan enabled, development capacity by 29,000 residential dwellings, whereas a '11 m + 30

⁵ Statement of Evidence by Natalie Hampson. Hearing Stream 10, dated 1 July 2024.

m height limitation OLS' (11 m scenario) has the potential to reduce theoretical development capacity by 19,000 dwellings. The OLS under the 8 m scenario impacts approximately 20,000 parcels (20% of total parcels), whereas under the 11 m scenario approximately 1,900 parcels (2% of total parcels) are impacted. The 8 m scenario impacts approximately an additional 17,000 parcels in the MRZ and 1,000 parcels in the HRZ compared to the 11 m scenario⁶.

25 The potential impact of the OLS on theoretical development capacity is predominantly on development in the MRZ, HRZ and CCZ for both scenarios. Unsurprisingly, the big difference between the scenarios is the potential impact on theoretical dwelling numbers in the MRZ.

26 Under either scenario, there is a reduction in feasible development capacity (approximately 3,500 or 5% of total feasible) and realisable development capacity (approximately 1,200 or 3%). The reduced feasible and realisable capacity under both scenarios relates to the CCZ and HRZ.

27 My concern with this approach is that focusing on feasible and realisable capacity has the potential to understate the potential impact of the OLS on development capacity over the long term, as feasibility will likely increase as market conditions improve. There is also the potential impact on individual properties that is not captured in the citywide-scale development capacity approach.

28 However, I acknowledge that Ms Hampson's analysis is a 'worst-case scenario' on the basis that approval is not provided by WIAL, and that based on the evidence of Ms Lester it is likely that the majority of minor penetrations of the OLS that involve a building height of between 8-11 m will be approved by the requiring authority. It is less clear whether penetrations of a greater extent, e.g. whether those that could occur in HRZ

⁶ Statement of Evidence by Natalie Hampson. Hearing Stream 10, dated 1 July 2024. Table 2.

or CCZ (as highlighted by Ms Hampson's evidence) would obtain approval from the requiring authority.

29 Mr Kyle's evidence⁷ sets out the justification for the WIAL OLS designation – WIAL1, which I generally agree with. Whilst I agree with the need for the OLS from an aeronautical operational and safety perspective, due to the uncertainty with respect to s176 approval, there remains a degree of uncertainty in terms of the actual adverse effects on development capacity as a result of the designation.

30 In my opinion, the collective suite of evidence provided on behalf of WIAL goes a long way to address the concerns raised in the s42A Report with respect to the impact of the modification to G2 in the form of WIAL1.

31 Consequently, in lieu of any evidence that is contrary to, and relying on the expert evidence presented on behalf of WIAL, I agree with the amendments proposed by Mr Kyle, including the more substantive changes as follows:

- a. *The Overview section, paragraph 3 incorrectly refers to CAR 139-7 and has been deleted.*
- b. *The Takeoff and Approach Surface referred to in clause 1 should refer to a gradient of 2% rather than 1.2% and has been amended;*
- c. *The Visual Segment Surface referred to in clause 2 has been deleted;*
- d. *text changes to the Take-off and Approach Surfaces condition 1 (b) i and ii should be carried through to the conditions for the Transitional Surfaces, Inner Horizontal Surface, Conical Surface and Outer Horizontal Surface*

32 I have not provided the Panel with a revised version of the WIAL designation conditions at this stage and rely on the amendments provided by Mr Kyle in Appendix B of his evidence.

⁷ Statement of Evidence by John Kyle. Hearing Stream 10, dated 1 July 2024.

Ara Poutama Aotearoa the Department of Corrections (Ara Poutama) [240]

- 33 I agree with the minor amendment to include reference to Pt Lot 4 Block XII DP 858 – RT 46B/923 in the schedule for MCOR1 as outlined in the tabled statement provided on behalf of Ara Poutama.

Jamie Sirl

Senior Planning Advisor

Wellington City Council

Appendix A: KiwiRail (formerly Tranz Rail Limited) Designations in the Wellington City Council Operative District Plan 2000

Tranz Rail Limited (R)

Desig No.	Map Ref	Designation Title	Location of Site	Legal Description and Gazette	Comments/Conditions
R1	15, 21 & 23	Railway Purposes	Johnsonville Branch Railway Starting at Thorndon Quay, proceeding on the South side of Ngaio gorge, through Ngaio, Khandallah to Johnsonville Station	Railway land pursuant to various proclamations, gazettes, & statutory ownership	Includes tunnels and bridges
R2	15	Railway Purposes	Wellington Rail Ferry Terminal	Railway land pursuant to various proclamations, gazettes, & statutory ownership	
R3	2	Railway Purposes - Radio Station	Te Kopahao, Hawkins Hill	Land within gazette 1972, p733	
R4	17 & 18	Railway Purposes	Wellington Railway Station	Part Lot DP 10 550	For conditions refer to Appendix P
R5	15, 18, 21, 22, 24, 26, 30 & 31	Railway Purposes	North Island Main Trunk Railway. Starting at the Wellington Railway Station, through Kaiwharawhara, through number 1 & 2 tunnels emerging at Glenside, Tawa and Northwards and including the Waiarapa line from Kaiwharawhara to the city boundary at Horokiwi.	Railway land pursuant to various proclamations, gazettes, & statutory ownership	Includes tunnels and bridges