

**BEFORE INDEPENDENT HEARING COMMISSIONERS  
FOR WELLINGTON CITY COUNCIL**

**IN THE MATTER** of the Resource Management Act 1991 (RMA)  
**AND**  
**IN THE MATTER** of the hearing of submissions in relation to the  
Proposed Wellington City District Plan

**HEARING TOPIC:** Hearing Stream 10: Designations

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**MEMORANDUM FOR KĀINGA ORA – HOMES AND COMMUNITIES  
(SUBMITTER #391 AND FURTHER SUBMITTER #89) WITH RESPECT TO  
FILING CORPORATE STATEMENT**

**27 JUNE 2024**

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**MAY IT PLEASE THE COMMISSIONERS:**

- 1.1 This memorandum is filed by Kāinga Ora - Homes and Communities (**Kāinga Ora**) in respect to Hearing Stream 10 to support the submission and further submissions made by Kāinga Ora (submitter #391 and further submitter #89). This memorandum is in lieu of an appearance from Kāinga Ora at the hearing.
- 1.2 Kāinga Ora made a submission (391.763 and 391.764) in relation to Designation WIAL1 – Wellington Airport Obstacle Limitation Surfaces, which sought amendments to condition 1 of Designation WIAL 1 to provide greater clarity, information, and diagrams to assist with calculating the Obstacle Limitation Surfaces and to better clarify the maximum building height restrictions.
- 1.3 Kāinga Ora also made a further submission in relation to:
- (a) The Airways Corporation of NZ (“**ACNZ**”) submission point (100.1), which sought a new 'Air Traffic Control' overlay with a 500m radius around the radar designation ACNZ3 (Radar & Communications site Hawkins Hill - Section 5 SO24952, Hawkins Hill, off Karepa Street, Brooklyn).
  - (b) The Wellington City Council (“**WCC**”) submission point (266.168), which sought the following amendments to condition 1 of Designation WIAL1 – Wellington Airport Obstacle Limitation Surfaces:

1. Take-off and Approach Surfaces

a. Specifications

(...)

b. Conditions

i. With the exception of the properties identified in Figure 1 below, new objects or extensions of objects that penetrate the Take-off and Approach Surfaces and shall not exceed a height of 11m ~~8m~~ above existing ground level, ~~shall be prohibited~~ except where the new object or extension is shielded by an existing immovable object, or the penetration is a temporary short term penetration (e.g. construction machinery or equipment) and that penetration has been approved by Wellington International Airport Limited.

ii. With respect to the properties shown in Figure 1 below, new objects or extensions of objects that penetrate the take-off and approach surfaces and exceed the height limits specified in Figure 1 ~~shall be prohibited~~, shall not exceed 11m, except where the new object or extension is shielded by an existing immovable object or the penetration is a temporary short term penetration (e.g. construction machinery or equipment) of these surfaces and that penetration has been approved by Wellington International Airport Limited.

- 1.4 The Kāinga Ora submission and further submission points allocated to Hearing Stream 10 – Designations are attached at **Appendix 1**.
- 1.5 Kāinga Ora has sought to ensure that the Wellington City - 2024 District Plan (“**District Plan 2024**”) provisions generally align with national planning directions to provide for residential intensification and well-functioning urban environments that meet the needs of current and future generations.
- 1.6 Kāinga Ora has sought amendments to the District Plan 2024 to ensure that development opportunities are generally consistent with the Medium Density Residential Standards (“**MDRS**”), the National Policy Statement on Urban Development (“**NPS: UD**”), as well as the proposed Medium and High-Density Residential zones and planned character set out under the District Plan 2024.
- 1.7 While Kāinga Ora has sought to maximise development opportunities where possible and practical, Kāinga Ora recognises that such opportunities need to be assessed in the context of Objective 1 of the NPS: UD in providing for a well-functioning urban environment that enables people and communities to provide for their social, economic, and cultural wellbeing, as well as their health and safety. As part of this, Kāinga Ora recognises the role and importance of infrastructure and ensuring it is available, safe, and efficient to be able to effectively serve the community.
- 1.8 In accordance with section 77I (e) and (j) of the RMA, nationally significant infrastructure and ensuring its safe or efficient operation is a qualifying matter. This formed part of the considerations in Hearing Stream 1 – Strategic Direction with respect to the application of the MDRS, the extent of rezoning and the subsequent permitted building heights and density requirements under policy 3 of the NPS: UD.
- 1.9 Kāinga Ora understands that the maximum 8m height limit set out in condition 1 of Designation WIAL1 – Wellington Airport Obstacle Limitation Surfaces aligns with the former height limit permitted in the Outer Residential zone under the 2000 District Plan. Kāinga Ora understands that this zone covered most of the land around the Wellington International Airport. Kāinga Ora therefore seeks that the Panel:
- (a) Considers setting the height limit in condition 1 of Designation WIAL1 – Wellington Airport Obstacle Limitation Surfaces to 11m at a minimum; and

- (b) Seeks further evidence from the Wellington International Airport Ltd to explain why a height limit lower than 11m is necessary to ensuring the safe, effective, and efficient functioning of the Airport.

## **2. SECTION 42A REPORT AND KĀINGA ORA POSITION**

- 2.1 The Section 42A report for Hearing Stream 10 – Designations<sup>1</sup>, prepared by Jamie Sirl has recommended accepting some but not all the changes requested by Kāinga Ora.
- 2.2 Kāinga Ora generally accepts the position now adopted by the author of the Section 42A report and recommends the panel adopt their proposed changes, except for the recommendation to reject amendments to the maximum 8m height limit set out in condition 1 of Designation WIAL1 – Wellington Airport Obstacle Limitation Surfaces.
- 2.3 Kāinga Ora maintains support of the original submission made by WCC (266.168) and considers that:

- (a) The maximum 8m height limit set out in condition 1 of Designation WIAL1 – Wellington Airport Obstacle Limitation Surfaces. Kāinga Ora understands that the height limit set out in condition 1 of Designation WIAL1 – Wellington Airport Obstacle Limitation Surfaces aligns with the former maximum 8m height limit set out for the Outer Residential zone under Standard 5.6.2.5.1, Table 6 of the 2000 District Plan.

As much of the residential land formerly zoned Outer Residential around the Wellington International Airport has been rezoned Medium Density Residential with a height control of 11m as part of the 2024 District Plan, it is considered appropriate for the maximum height and trigger for a s176 approval set out in condition 1 of Designation WIAL1 to be reevaluated in the context of the planned urban environment.

- (b) This is to ensure that the expectations of the Designation corresponds with the permitted maximum building heights of the surrounding Medium and High-Density Residential zones to avoid limiting development opportunities at a height that Kāinga Ora considers is unlikely to have an effect on the safe and efficient operation of the airport and responds to the anticipated built form outcomes of the ODP.

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<sup>1</sup> Section 42A Report – Hearing Stream 10 – Designations, prepared by Jamie Sirl, dated 14 June 2024. See: [Section 42A Report - Designations \(wellington.govt.nz\)](https://www.wellington.govt.nz/section-42a-report-designations)

- (c) In certain locations where buildings below 11m are demonstrated to present an actual risk or may present a greater risk to the safe and efficient operation of the Wellington Airport than built form in the general Wellington urban environment. Kāinga Ora considers that specific demonstration of this risk should be undertaken for all locations where the Designation conditions seek to reduce building heights below that provided for in the underlying zone.
- (d) Kāinga Ora maintains that additional diagrams and detail should be included in condition 1 of Designation WIAL 1 to provide more detail and clarity on the potential height restriction.
- (e) Kainga Ora considers that if approval and potential limitation of height below 11m is proposed under Condition 1, then an assessment under s77J / s77K<sup>2</sup> of the RMA would be appropriate to understand the potential impacts of development capacity. This will also address any potential natural justice issues so that affected parties can better understand the implications of the Obstacle Surface Limitation, why it should and how it may restrict development potential.

### **3. CONCLUSION**

- 3.1 Having reviewed the Section 42A report,<sup>3</sup> Kāinga Ora generally support recommendations by the reporting planner Jamie Sirl on those Kāinga Ora submission and further submission points addressed through this hearing but recommend further consideration around the maximum 8m height limit set out in condition 1 of Designation WIAL1.
- 3.2 This recommendation is made to avoid a mismatch between the expectations of this condition versus the planned residential environment, where a maximum 11m height limit is permitted in the Medium and High Density Residential Zones. It is considered that the terms of Designation WIAL1 should respond to the changing permitted heights in the Medium and High-Density Residential Zones, just as it did under the former 2000 District Plan.
- 3.3 Kāinga Ora therefore seeks that:

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<sup>2</sup> Dependent on the extent of changes to the WIAL Designation.

<sup>3</sup> Section 42A Report – Hearing Stream 10 – Designations, prepared by Jamie Sirl, dated 14 June 2024. See: [Section 42A Report - Designations \(wellington.govt.nz\)](https://www.wellington.govt.nz/section-42a-report-designations)

- (a) The Panel considers setting the maximum height limit in condition 1 of Designation WIAL1 to 11m at a minimum; and
- (b) The Panel requests further evidence from the Wellington International Airport Ltd to justify any maximum height limit below 11m as Kāinga Ora understands that the 8m height limit under condition 1 aligned with the former maximum permitted height limit for the Outer Residential zone, which no longer applies.

Brendon Liggett  
**Manager – Development Planning**  
Dated 27 June 2024

### Appendix 1: Kāinga Ora Further Submission Points for Hearing Stream 10 - Designations (Proposed District Plan Submission)

Provision	Submitter and submission point	Position	Submitter reasoning and relief sought	Kāinga Ora further submission response and position	Kāinga Ora relief sought in further submission	S42A Officer recommendation
General / Mapping / All Overlays / Overlays / General	Airways Corporation of NZ ('ACNZ')  100.1	Amend	Add a new 'Air Traffic Control Information Overlay' with a 500m radius around the radar designation ACNZ4 (Radar & Communications site Hawkins Hill - Section 1 & 2 SO31242, Section 4 on SO24952, Hawkins Hill, off Karepa Street, Brooklyn).  This is specifically sought to require plan users to consult with ACNZ before undertaking any activity within the overlay. The purpose of this would be to provide specific restrictions and/or consultation requirements for development and infrastructure within the overlay and provide ACNZ with the opportunity to adjust its technology in advance of the activity occurring if required, to prevent plans being displaced.	FS89.43 - Kāinga Ora opposes the proposed 'air traffic control' overlay as insufficient information has been provided to understand the potential impacts on urban development.  The overlay also has the potential to constrain urban development and result in delays to development as a result of the requirement to consult with ACNZ.	Oppose - Disallow	S100.1 and 100.2 - Rejected, with recommendation that ACNZ lodge a new or variation to their existing designation to extend the area and impose conditions to require stipulate development proposals to notify ACNZ.  FS89.43 – Accepted
Designation WIAL1 – Wellington Airport Obstacle Limitation Surfaces – Condition 1	Wellington City Council ('WCC')  266.168	Amend	WCC considers that this condition prohibits development over 8m, which is inconsistent with the MDRS height of 11m. The height limit should be increased to 11m.  WCC considers that the use of the word 'prohibited' should be removed, given the RMA meaning of this.  <b>Relief sought:</b> Amend Condition 1 of the WIAL-1 Designation as follows: 1. Take-off and Approach Surfaces a. Specifications (...) b. Conditions i. With the exception of the properties identified in Figure 1 below, new objects or extensions of objects that penetrate the Take-off and Approach Surfaces and <del>shall not exceed a height of 11m-8m above existing ground level, shall be prohibited</del> except where the new object or extension is shielded by an existing immovable object, or the penetration is a temporary short term penetration (e.g. construction machinery or equipment) and that penetration has been approved by Wellington International Airport Limited. ii. With respect to the properties shown in Figure 1 below, new objects or extensions of objects that penetrate the take-off and approach surfaces and exceed the height limits specified in Figure 1 <del>shall be prohibited, shall not exceed 11m,</del> except where the new	FS89.108 - Kāinga Ora supports the amendments as the changes will enable greater opportunities for residential intensification.	Support - Allow	266.168 – Accept in part, use of the word prohibited recommended for removal but not the amendments to the maximum height limit from 8m to 11m.  FS89.108 – Accept in part.

			object or extension is shielded by an existing immovable object or the penetration is a temporary short term penetration (e.g. construction machinery or equipment) of these surfaces and that penetration has been approved by Wellington International Airport Limited.			
Designation WIAL1 – Wellington Airport Obstacle Limitation Surfaces	Kāinga Ora 391.763 and 391.764	Support in part	<p>Kāinga Ora seek amendments to condition 1 of Designation WIAL 1 in order to provide greater clarity and information to assist with calculating OLS and associated maximum building heights. The lack of clarity and certainty around height restrictions within Designation WIAL 1 place unnecessary cost and uncertainty on landowners and may inhibit full development potential on a site.</p> <p><b>Relief sought:</b> Additional diagrams and detail should be included in condition 1 of Designation WIAL 1 to provide more detail and clarity on height restrictions.</p>	N/A	N/A	391.763 and 391.764 – Accepted