



Appendix 1

Appendix 1

***Commissioner's
Recommendation
Proposed District
Plan Change 57***

**Provision for non-airport activities
In the Airport and Golf Course
Recreation Precinct**

Absolutely

POSITIVELY

Mc HALE CONSULTANTS Wellington

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**COMMISSIONER'S
RECOMMENDATION:** **FOR WELLINGTON CITY COUNCIL**

SUBJECT: **DISTRICT PLAN CHANGE No. 57 –
PROVISION FOR NON-AIRPORT
ACTIVITIES IN THE AIRPORT AND GOLF
COURSE RECREATION PRECINCT**

DATE OF HEARING: **29 JANUARY 2007**

1 RECOMMENDATION

As Hearing Commissioner with delegated authority to hear submissions and recommend a decision on Proposed Plan Change 57, pursuant to clause 10 of Part 1 of the First Schedule to the Resource Management Act 1991, I gave careful consideration to all the issues and points made by the submitters and Council officers, and I recommend that Council:

1. *Receive the information.*
2. *Approve District Plan Change 57 with amendments resulting from submissions, as detailed in this report and the annotated version of the Plan Change document (attached as Appendix 2).*
3. *Accept or reject all submissions and further submissions to the extent that they accord with the above recommendation.*

2 PROPOSED DISTRICT PLAN CHANGE 57

2.1 Background – Establishment of District Plan ‘Airport and Golf Course Recreation Precinct’

Prior to the Resource Management Act (Act), the operations of Wellington International Airport were controlled by a complex regime, including:

- a *bylaw* which sought to mitigate aircraft noise
- a *designation* held by Wellington International Airport Ltd (WIAL) which authorised the airport operation; and
- the *underlying zoning in the District Scheme* which applied to anything that was not authorised by the airport designation.

When the Council notified its new District Plan in July 1994, it proposed a new precinct for the Airport called the ‘Airport and Golf Course Recreation Precinct’. This Precinct contained objectives, policies and rules which replaced the former controls applying to the airport and Miramar Golf Course. The airport designation remained in place for some time, and was

uplifted by WIAL once the rules were settled through the plan preparation and appeals process. The District Plan was adopted and made operative in July 2000.

A similar approach was taken for the Hospital, and Massey and Victoria Universities through the provision of Institutional Precincts around these sites/campuses.

The Airport Area provisions of the Precinct enable the ongoing use and development of the Airport as a critical part of the city and region's transport infrastructure and economic wellbeing. A set of relatively flexible rules enables the Airport to respond to worldwide trends in the development of airports, and, for example, provide for the new terminal building and carpark building. The rules also enable a wide range of ancillary uses at the airport such as retailing in the terminal, vehicle hire and other commercial services typically associated with airports.

The rules also seek to protect the amenity values of surrounding areas through controls on building setbacks, aircraft noise controls, screening, and lighting.

This approach is consistent with the strategic role of the Airport that is reflected in the Wellington Regional Strategy and the Urban Development Strategy.

2.2 Management of Non-Airport Developments

In recent years, a variety of non-airport related activities have been established within the Precinct, including numerous billboard signs and a bulk retailing development known as the West Side or Rongotai Retail Park. However, the operative Precinct provisions contain some ambiguities that have led to different interpretations about the activity status of such non-airport activities.

In 2005 WIAL applied for a number of certificates of compliance (COC) to confirm that a range of non-airport activities are permitted, with the proposals including a childcare centre, office complex, supermarket, gym, bar and other retailing activities. There are concerns that aspects of these proposals and other potential activities have the potential to challenge some of the wider policies of the District Plan, and at the very least create significant public 'interest'. For example, a large amount of additional retailing space could adversely affect the viability of local suburban centres. Local residents have also expressed concern about the billboards, particularly the large one established at the end of Cobham Drive.

As a consequence, the Council decided that the operative Precinct provisions needed to be amended to reflect the intent of the Precinct and remove any ambiguities.

2.3 Proposed Plan Change 42

Proposed Plan Change 42 (PPC 42) was notified in December 2005 to address the above issues, and involved:

- clarifying that activities and buildings/structures relating to the primary function of the airport are permitted activities (subject to meeting specified conditions);
- making all new non-airport activities and buildings a discretionary activity (unrestricted); and

- clarifying that all buildings for airport-related activities outside the terminal area and not used for aircraft maintenance purposes is a permitted activity up to 12m in height (consistent with the maximum building height in Suburban Centres).

At the time, it was noted that Plan Change 42 did not preclude the need, in due course, to review in full the Precinct chapter as part of the ongoing review of the District Plan as required under the Act. Proposed Plan Change 42 was simply to clarify the intent of the *existing* rules, and was regarded as an interim measure to clarify that non-airport activities within the Precinct require resource consent, pending a more comprehensive review being undertaken of all the objectives policies and methods (including rules). Once that review was undertaken, Proposed Plan Change 57 was prepared, and was publicly notified on 21 June 2007, with Proposed Plan Change 42 being withdrawn concurrently.

2.4 Purpose of Plan Change 57

Proposed District Plan Change 57 (DPC 57) was introduced to provide greater clarity regarding the management of non-airport related activities within the Airport and Golf Course Recreation Precinct. Key features of the plan change include:

- Definitions for 'Primary Function of the Airport Area' and 'Non-Airport Activity'
- The creation of five geographical sub-areas within the Airport Area
- New objectives and policies relating to the management of activities within the Airport Area
- A new rule structure, providing for:
 - ▶ Airport related activities as a Permitted Activity in the whole of the Airport Area;
 - ▶ Non-airport related activities within the Terminal Area as a Controlled Activity; and
 - ▶ Non-airport related activities outside the Terminal Area as a Discretionary Activity (Restricted)
- All non-airport related retail activities outside the Terminal Area are required to submit a Centre Impact Assessment to gauge their potential impact on the vitality and vibrancy of the Kilbirnie and Miramar town centres

The primary purpose of the Airport area of the Airport and Golf Course Recreation Precinct is to provide for the ongoing operation and development of the Airport. It also recognises that some non-airport activities are appropriate within the Precinct provided they do not compromise airport operations or adversely impact on surrounding areas.

Proposed Plan Change 57 includes definitions for 'Primary function of the airport area' and 'Non-airport activity'. The plan change provides for non-airport activities as discretionary activities (restricted), with provision for buildings and structures associated with non-airport activities up to 12 metres in height. By way of comparison, DPC 42 made all non-airport buildings and activities a discretionary activity (unrestricted).

New policy guidance, standards and terms, and assessment criteria were introduced through Proposed Plan Change 57 to allow a full consideration of the likely effects of development on the environment, and to enable more consistent and defensible positions to be taken when assessing resource consent applications for non-airport activities.

In many ways, the Airport and Golf Course Recreation Precinct is managed like a Suburban Centre, but with specific provisions to allow airport-related activities to be undertaken in a streamlined planning framework. This approach is consistent with the management regime that is applied to other strategic transport facilities such as the Port of Wellington.

3 SUBMITTERS

3.1 Submissions Received

A total of nine submissions and five further submissions were received on Proposed Plan Change 57. All five of the further submissions were lodged by Wellington International Airport Ltd (WIAL).

Submission No.	Submitter
1	Wellington City Council
2	Leonie Gill
3	Patricia Thompson
4	Colin Thompson
5	Miramar/Maupuia Progressive Association
6	A.D. Gibson
7	Armstrong Jones Management (PTY) Ltd
8	Geoffrey Kiddle
9	Greater Wellington Regional Council

Further Submission No.	Further Submitter
FS 1(a-e)	Wellington International Airport Ltd

There was a large measure of support for the Plan Change among submitters, with none received in opposition to the Plan Change in its entirety. Submitters were generally concerned with specific aspects of its provisions. Accordingly, the scope of my deliberations and recommendations are confined to the matters raised by submitters, which I address below.

3.2 Submitters Heard

At the hearing on Proposed Plan Change 57 held on 29 January 2008, the following submitters attended to speak to their submissions:

- Wellington International Airport Ltd (WIAL) – represented by Chris Dillon, Airport Planner, and Morgan Slyfield (legal counsel)
- Miramar/Maupuia Progressive Association, represented by Robin Boldarin (Chairperson);
- David Gibson, representing himself

At the commencement of the hearing, a statement of evidence was tabled from Matthew Norwell, a planning consultant for one of the submitters, Armstrong Jones Management (PTY) Limited, in which he expressed support for the recommended changes in the Policy Adviser's report in regard to issues raised in his client's submission.

In addition, the Council's reporting Planner, Jeremy Blake, Senior Policy Adviser, City Planning team, attended the hearing to speak to his report and to respond to matters as they arose during the hearing. Luke Troy, Manager of City Planning Unit, also attended part of the hearing to provide information on retail floor area consent thresholds. Jason Jones from the City Planning team provided support for the hearing.

The points raised by submitters during the course of the hearing, including responses to questions, are considered in my evaluation of issues below.

4 STATUTORY REQUIREMENTS

Under section 34A of the Act, the Council cannot delegate its function of approving plan changes. In addressing the issues raised by submitters, I can therefore only make recommendations to the Council.

In making a decision on the proposed plan change, the requirements of section 74 of the Act apply, including the following matters of relevance:

- The extent to which the plan change achieves the purpose and principles of the Act, that is Part II and is within the functions of the Council as set out in Section 31;
- The extent to which the plan change is necessary in terms of Section 32 and is the most effective and efficient means of achieving the desired outcome;
- The extent to which the proposed plan change is consistent with the Regional Policy Statement and any Regional Plans;
- The extent to which the plan change is consistent with the District Plan;
- The submissions and further submissions received; and
- How the plan change deals with any adverse effects on the environment.

Section 31 sets out the functions of the City Council under the Resource Management Act, those relevant being:

- (a) *The establishment, implementation, and review of objectives, policies and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district;*
- (b) *The control of any actual or potential effects of the use, development, or protection of land, including for the purpose of avoidance or mitigation of natural hazards and the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances;*
- (c) *The control of subdivision of land.*

Regard must be given to whether the Plan Change meets the purpose and principles of the Act under Part II, including section 5, the promotion of the sustainable management of the natural and physical resources of the City. Matters listed in section 7 of most relevance to this plan change are:

- ...(b) *The efficient use and development of natural and physical resources;*
- (c) *The maintenance and enhancement of amenity values; ...*
- (f) *Maintenance and enhancement of the quality of the environment; ...*

In regard to section 32, “Duty to consider alternatives, assess benefits and costs etc.”, the Council prepared a Section 32 assessment prior to the notification of the proposed plan change in accordance with the requirements of s32(1). This report should be regarded as the further evaluation required under s32(2), focused on how to most effectively address matters raised by submitters.

5 ISSUES AND DELIBERATIONS

I have addressed the issues raised by submitters in the same groupings provided by the reporting Council Policy Adviser in his report. As far as possible the issues and submissions are listed in order to match the format of the Plan Change document (i.e., Definitions, Objectives and Policies, Rules, Appendices etc.)

This report contains selected text from the Plan Change documents, either when changes have been requested by a submitter or where a change was recommended by Council officers. Where new text is included in this report the following protocols have been followed:

- Text introduced by way of DPC 57 is shown as underlined: i.e. abcdefghijkl
- Text requested to be deleted by submission is underlined and struck-out: i.e. ~~abcdefghijkl~~
- Text requested to be inserted by submitter is bold underlined: i.e. **abcdefghijkl**
- Text recommended by the Council officer is highlighted: i.e. **abcdefghijkl**

The full text of Proposed Plan Change 57 as would be amended by the recommendations in this report is contained in Appendix 1.

5.1 DPC 57 - General

Relief Sought

In terms of general support or opposition to Proposed Plan Change 57, submitters sought either that:

- The Council adopt proposed District Plan Change 57 as notified (submissions 3, 4, 5, and 8); or

- The Council adopt proposed District Plan Change 57 with some amendments (submissions 2, 6, 7, and 9)

Discussion

There were no submissions received in opposition to proposed Plan Change 57: all of the submissions received either supported the plan change in full, or supported it in principle subject to certain amendments.

Given the absence of opposition, these submissions should be accepted insofar as it is recommended that DPC 57 be approved, subject to the recommended amendments resulting from submissions.

Recommendation

- **Accept** submissions 2, 3, 4, 5, 6, 7, 8 and 9 insofar as they support DPC 57, subject to those amendments made in response to submissions.

5.2 Definitions - Chapter 3

Relief Sought

In regard to definitions, one submitter, David Gibson (submission 6), sought to:

- Amend the definitions of 'non-airport activity'; 'primary function of the airport area'; and 'retail activity (for the purpose of the Airport and Golf Course Recreation Precinct)'

This was opposed in the further submission by WIAL.

Discussion

Mr Gibson requested that the definition of 'Non-Airport Activity' be amended as follows:

NON-AIRPORT ACTIVITY: means an activity within the Airport and Golf Course Recreation Precinct which is not related to the primary function of the Airport area and is not related to activities and services ancillary to that directly support this primary function.

He also requested that the definition of 'Primary Function of the Airport Area' be amended as follows:

PRIMARY FUNCTION OF THE AIRPORT AREA: means the transport of people and cargo by aircraft and includes ~~activities and ancillary activities associated with that directly support this primary function.~~ This includes, but is not limited to, aircraft operations, airport operational activities (such as runways, traffic control structures and terminal buildings), cargo warehouses and other storage facilities, airport travellers' accommodation and services within the Terminal Area, vehicle parking and servicing, aircraft catering and servicing, retail and commercial

services within the Terminal Area that support airport activities, internal roading, access and service ways.

The submitter considered that the amended definitions more clearly articulate the difference between airport and non-airport activities. He also considered that, if the changes sought were adopted, the definition of Retail Activity could be deleted as it is no longer required. This definition currently reads:

RETAIL ACTIVITY (FOR THE PURPOSE OF THE AIRPORT AND GOLF COURSE AND RECREATION PRECINCT): *means any activity or activities within a building involving the sale of goods, merchandise, equipment or services to the public, but excludes:*

- service stations and motor vehicle service premises
- takeaway food bars, restaurants, cafes or other eating places

WIAL opposed these changes, for the reasons that:

- The word 'ancillary' has the same meaning as 'directly support', and that the Oxford Dictionary defines 'ancillary' as 'providing essential support to a central service or industry';
- Any restriction of some airport activities to the Terminal Area would be a major constraint on airport operations, and would negatively impact on its long term viability; and
- It is not within the scope of the Plan Change to initiate significant changes to the management of the effects of airport-related activities.

The Council's reporting Planner, Jeremy Blake, recommended the definition of Retail Activity be retained on the basis that it is required to allow Rule 11.3.3 to function as intended: i.e. to require a 'Centre Impact Report' to be submitted for any non-airport related retail activity located outside the Terminal Area, to assess the potential impact on the Kilbirnie and Miramar town centres.

In regard to the definition of the 'primary function of the airport area', Mr Blake considered that the question of whether to use the term '*ancillary to*' or '*directly support*' is important as it could have a significant bearing on how DPC 57 is interpreted. He contended that the whole rule regime for the Airport and Golf Course Recreation Precinct pivots on whether an activity (and associated buildings and structures) is ancillary to the airport or essential to its primary function. Mr Blake noted that, in practical terms, there was also merit in retaining the term 'ancillary' because it is repeated numerous times throughout the plan change document, as well as being used in other chapters of the District Plan. However, he observed that the Oxford English Dictionary also defines ancillary as 'subserving' or 'subordinate' which could result in quite different interpretations in terms of the planning framework for the precinct. As it is important to use terms that are as unambiguous as possible, Mr Blake considered that the plain English phrase of 'directly support' had some merit.

Mr Blake recommended that, for the avoidance of doubt, a definition be included in the District Plan for 'ancillary activity' based on the phrase from the Oxford English Dictionary, 'providing essential support to a central service or industry', as this is consistent with the thinking behind the Plan Change.

The submission from Mr Gibson also requested to refine the definition of 'primary function of the airport area' so that it only provides for airport traveller's accommodation and services, and retail and commercial services if they are both ancillary to the function of the airport, and located within the Terminal Area. The effect of this change would be that airport traveller's accommodation and services, and retail and commercial services that were located outside the Terminal Area would be managed as a Discretionary Activity (Restricted) under Rule 11.3.3, rather than as a Permitted Activity under Rule 11.1.1.

WIAL opposed the suggested restriction of these airport activities to the Terminal Area, contending that it would unduly constrain the operation, and the long term viability of the airport.

In his report, the Council's reporting Planner stated that retail activities would only be considered ancillary to the primary function of the airport if the retail activity principally targets aircraft passengers and that any retail activity located outside the Terminal Area would have difficulty arguing that it was intended primarily to serve aircraft passengers. Accordingly, he contended, any airport-related retail activity ought to be located in or around the terminal hub where the core of airport passenger movement takes place. He therefore recommended that the definition of 'Primary Function of the Airport' be amended to limit airport-related retail activities to those that are located within the Terminal Area. However, Mr Blake considered that traveller's accommodation facilities are not so intrinsically linked to the terminal area, and that it is feasible that a hotel intended to provide accommodation for aircraft travellers could locate anywhere within the Airport Area. Accordingly, he recommended that no change be made to the definition of 'Primary Function of the Airport' in relation to traveller's accommodation.

The submission from Mr Gibson also sought to add the word 'cargo' before the word 'warehouses' in the definition of 'Primary Function of the Airport Area'. This amendment was supported by the Council's reporting Policy Adviser for the sake of clarity. It was not opposed by WIAL.

In sum, the following changes to the definitions (highlighted) were recommended by Mr Blake:

NON-AIRPORT ACTIVITY: *means an activity within the Airport and Golf Course Recreation Precinct which is not related to the primary function of the Airport area and is not related to activities and services ancillary to this primary function. For the purpose of this definition ancillary means any activity or service that provides essential support to the primary function of the Airport Area.*

PRIMARY FUNCTION OF THE AIRPORT AREA: *means the transport of people and cargo by aircraft and includes activities and ancillary activities associated with this primary function. This includes, but is not limited to, aircraft operations, airport operational activities (such as runways, traffic control structures and terminal buildings), cargo warehouses and other storage facilities, airport travellers' accommodation and services, vehicle parking and servicing, aircraft catering and servicing, retail and commercial services (located within the Terminal Area) that support airport activities, internal roading, access and service ways. For the purpose of this definition ancillary means any activity or service that provides essential support to the primary function of the Airport Area.*

At the hearing, Mr Gibson stated that he largely agreed with the recommendations of the Planner, although he did state that a 'belt and braces' approach is not necessarily bad.

These definitions are a critical part of Proposed Plan Change 57 as they provide the delineation between essential airport-related activities and those other types of activities for which the Plan

Change is focused. It is important therefore that there is as little ambiguity as possible. However, many of the alternative (and usually additional) wordings do not in my opinion assist in achieving clarity – indeed, they could obfuscate the meaning.

In my opinion, having considered the relative merits and disadvantages, I consider that the critical element is to clearly define the “primary function of the airport”, from which any other activity can be readily distinguished as ‘non-airport related’. To this end, I agree with the legal submissions for WIAL on this matter. However, I agree that the meaning of ‘ancillary’ could be clarified to avoid other potential meanings, and consider this can be achieved by a slight change to the current definition rather than adding an entire additional sentence.

I also concur with WIAL’s legal counsel who sought to amend the use of the phrase “(located within the Terminal Area)” to make it clear that this reference was in relation to retail and commercial activities only, and not to any of the other activities listed.

In regard to the deletion of the definition of ‘retail activity’ sought by Mr Gibson, at the hearing he stated that he agreed with the reporting Planner to retain the definition. On this matter, during the hearing in reference to the introduction of floor area thresholds (see section 5.13), WIAL sought to have the definition of retail activity amended to also exclude ‘yard based suppliers’ for the reason that this would be consistent with Proposed Plan Change 52 and that such activities are unlikely to generate adverse consequential effects on town centres. While I observed that this might raise interpretation issues, given that many of the modern large format retail activities have a yard based component but are standard retail activities in many other aspects, it is preferable to have Proposed Plan Change 57 be consistent with the District Plan treatment of Suburban Centres. I would anticipate that this matter would be reconsidered as part of the review of the Suburban Centres now underway.

Recommendation:

Amend the definitions of ‘non-airport activity’ and ‘primary function of the Airport Area’ and ‘retail activity’ to read as follows:

NON-AIRPORT ACTIVITY: means an activity within the Airport and Golf Course Recreation Precinct which is not related to the primary function of the Airport area.

PRIMARY FUNCTION OF THE AIRPORT AREA: means the transport of people and cargo by aircraft and any ancillary activity or service that provides essential support to that function. This includes, but is not limited to, aircraft operations, airport operational activities (such as runways, traffic control structures and terminal buildings), cargo warehouses and other storage facilities, airport travellers' accommodation and services, vehicle parking and servicing, aircraft catering and servicing, retail and commercial services (provided that such retail and commercial services are located within the Terminal Area), internal roading, access and service ways.

RETAIL ACTIVITY (FOR THE PURPOSE OF THE AIRPORT AND GOLF COURSE AND RECREATION PRECINCT): means any activity or activities within a building involving the sale of goods, merchandise, equipment or services to the public, but excludes:

- service stations and motor vehicle service premises
- takeaway food bars, restaurants, cafes or other eating places

- *yard based suppliers*

Accordingly, it is recommended to:

- **Accept in part** submission 6 insofar as it requests amendments to the definitions of 'Non-Airport Activity' and 'Primary Function of the Airport Area'
- **Reject** submission 6 insofar as it requests that the definition of 'Retail Activity' be deleted.
- **Accept in part** further submission 1(c) insofar as it opposes submission 6 and the proposed amendments to the definitions of "Non-Airport Related Activity" and 'Primary Function of the Airport Area'

5.3 Objective 10.2.3 – Provision for Non-airport Activities

Relief Sought

The submission from Armstrong Jones Management (No.7) sought to:

- Amend wording of Objective 10.2.3

This submission was opposed by WIAL.

Discussion

Submission 7 requested that Objective 10.2.3 be amended to read as follows:

10.2.3 To provide for a limited amount of non-airport activities and developments within the Airport area of the Precinct

In his report, the Council's reporting Planner stated that the purpose in managing non-airport related activities within the Airport and Golf Course Recreation Precinct is not to achieve a certain level of non-airport activity or to limit the total amount of non-airport activity located in the airport area. Rather, he stated, it is Council's objective to provide for non-airport activities whilst ensuring that any actual or potential adverse effects resulting from non-airport activities are able to be avoided, remedied or mitigated as appropriate in each individual case. He considered that the proposed rewording would not accurately convey this purpose, and therefore recommended that it be rejected. This was accepted by the submitter's planning consultant, Mr Norwell in his tabled evidence.

In this regard, I concur with Mr Blake, and consider the additional wording does not assist in defining the purpose of Proposed Plan Change 57.

Recommendation

Retain Objective 10.2.3 as presently worded. Accordingly, it is recommended to:

- **Reject** submission 7 insofar as it requests amendments to the wording of Objective 10.2.3.
- **Accept** further submission 1(d) insofar as it opposes submission 7

5.4 Policies 10.2.3.1 to 10.2.3.4 – Effects of Non-airport activities

Relief Sought

In regard to these policies, the following relief was sought:

- Support the requirement to submit a 'Centre Impact Report' for any non-airport activity (submission 2)
- Replace the current 12 metre height threshold for Discretionary Activities (Unrestricted), with an area-based threshold (submission 7)

Discussion

Submission 2, Leonie Gill, supported the requirement to submit a 'centre impact report' for any non-airport activity. This was not opposed by any submitter and therefore should be accepted.

Submission 7, Armstrong Jones Management Limited, questioned the use of a height-based threshold to determine whether a non-airport activity should be dealt with as a Discretionary Activity (Restricted) or a Discretionary Activity (Unrestricted). The submitter noted that the requirement to submit a city-wide Centre Impact Report (rather than an assessment restricted to the impact on Kilbirnie and Miramar town-centres), for non-airport retail activities, is triggered by building height in excess of 12 metres.

The submitter considered that the total floor area of any non-airport retail development would be a more appropriate assessment measure when considering the impact on the economic vitality and viability of the rest of the city. The submitter requested that the reference to building height be removed and replaced with a threshold based on the gross floor area of a tenancy, similar to that introduced by District Plan Change 52, which uses a threshold of 500m².

This submission was opposed by WIAL on the basis that the proposed deletion would unreasonably constrain the Airport's ability to make efficient use of its finite land resource and would not promote the sustainable management of the natural and physical resources in the Airport Area.

The reporting Planner agreed that total building height is likely to be a weak indicator of the potential economic impact of non-airport related retail activities. This was accepted by WIAL at the hearing.

The reporting Planner recommended that a threshold based on gross floor area be implemented

(through amendments to the proposed rules), and that the explanatory text for Policies 10.2.3.1 – 10.2.3.4 will need to be amended accordingly. This was accepted by WIAL at the hearing.

I concur fully with the submitter and reporting planner that the height of a building is a poor indicator of the potential economic impact of a non-airport related retail activity, and that floor area threshold is a more effective trigger, commonly used and accepted throughout New Zealand.

Recommendation

Retain the requirement for a centre impact report for non-airport related retail activity, and amend the explanatory text for Policies 10.2.3.1 to 10.2.3.4 as follows:

For non-airport related retail development, applicants will be required (among other things) to submit a Centre Impact Report involving an assessment of:

- *the extent to which the retail activity impacts on the overall vitality and viability of the Kilbirnie and Miramar town centres. Any application for resource consent that contains a retail tenancy in excess of 2500m² gross floor area, or a combined total gross floor area of all retail tenancies in excess of 4000m² must also address the extent to which the retail activity impacts on the overall vitality and viability of other nearby town centres including the CBD and Central Area.*

Accordingly, it is recommended to:

- **Accept** submission 2 insofar as it supports the requirement to submit a Centre Impact Report
- **Accept** submission 7 insofar as it requests that the current building height threshold be replaced with a floor area threshold
- **Reject** further submission 1(d) insofar as it opposes submission 7

5.5 Policy 10.2.4.3 – Development on Rongotai Ridge

Relief Sought

The relief sought on this provision was to:

- Amend the explanatory text associated with Policy 10.2.4.3 (submission 9)

This was supported by WIAL.

Discussion

Submission 9, Greater Wellington Regional Council, requested that the explanatory text for Policy 10.2.4.3 be amended as follows to include a reference to cycling:

(3) The land shall be developed in a manner which:

- generally avoids large scale earthworks and cut faces (except as referred to in Policy 10.2.4.3 above)
- uses soft landscaping (plantings) and other measures to integrate development into the landscape;
- provides for enhanced pedestrian, cycling and vehicular connections to the existing roading and public transport network and with adjacent residential areas;

This submission was supported by WIAL, and by the Council's reporting Planner. Accordingly, I recommend that Policy 10.2.4.3 be amended as requested on the grounds that revised wording provides for a more complete range of transport options.

Recommendation

Amend the explanatory text for Policy 10.2.4.3 to read as follows:

(3) *The land shall be developed in a manner which:*

- *generally avoids large scale earthworks and cut faces (except as referred to in Policy 10.2.4.3 above)*
- *uses soft landscaping (plantings) and other measures to integrate development into the landscape;*
- *provides for enhanced pedestrian, cycling and vehicular connections to the existing roading and public transport network and with adjacent residential areas;*

Accordingly, it is recommended to:

- **Accept** submission 9 insofar as it requests amendments to the explanatory text for Policy 10.2.4.3.
- **Accept** further submission 1(e) insofar as it supports submission 9

5.6 Policy 10.2.4.6 – Non-airport Activities in the West Side Area

Relief Sought

Relief sought by submitters in respect of this Policy include:

- Support for Policy 10.2.6.4, particularly paragraph (2) in the explanation to the Policy (submission 2)
- Amend the explanatory text to Policy 10.2.6.4 to make provision for cycling infrastructure (submission 9)

The second point was supported by WIAL

Discussion

I concur with the Council's reporting Planner that the support of submission 2, Leonie Gill, should be accepted.

Submission 9, Greater Wellington Regional Council, requested that the explanatory text for Policy 10.2.4.6 be amended as follows to include a reference to cycling infrastructure:

(1) Buildings, carparks, accessways and access points and other associated developments should be designed in a way that improves the overall standard of visual amenity in the locality, and which makes it an attractive location for the public and workers. Consideration will be given to:

- *the creation of active frontages to pedestrian and vehicular areas;*
- *the screening of large carpark areas and the use of soft (plantings) and hard landscaping;*
- *the provision of sheltered and secure cycle parking and/or storage;*
- *clear and well defined free standing signs and signage on buildings;*

There was no opposition to this relief sought, and the Council's reporting Planner recommended that Policy 10.2.4.6 be amended as requested on the grounds that revised wording provides for a more complete range of transport options. I concur with this recommendation.

Recommendation

Amend Policy 10.2.6.4 to read as follows:

(1) Buildings, carparks, accessways and access points and other associated developments should be designed in a way that improves the overall standard of visual amenity in the locality, and which makes it an attractive location for the public and workers. Consideration will be given to:

- *the creation of active frontages to pedestrian and vehicular areas;*
- *the screening of large carpark areas and the use of soft (plantings) and hard landscaping;*
- *the provision of sheltered and secure cycle parking and/or storage;*
- *clear and well defined free standing signs and signage on buildings;*

Accordingly, it is recommended to:

- **Accept** submission 2 insofar as it supports policy 10.2.4.6.
- **Accept** submission 9 insofar as requests amendment to the explanatory text to Policy 10.2.4.6
- **Accept** further submission 1(e) insofar as it supports submission 9

5.7 Policy 10.2.7.6 – Contaminated Sites

Relief Sought

The submission from Greater Wellington Regional Council (No.9) sought to:

- Amend the explanatory text associated with Policy 10.2.7.6 to remove the reference to a contaminated sites register

This was supported by WIAL

Discussion

Submission 9, Greater Wellington Regional Council, requested that the explanatory text for Policy 10.2.7.6 be amended as follows to remove an incorrect reference to a contaminated sites register:

The whole of the Airport is identified on the Greater Wellington Regional Councils contaminated sites register as being a potentially contaminated site. Site specific investigations have been undertaken at the airport to identify locations where contamination from the past may have occurred this contamination may occur. These locations are shown on a plan of the airport attached as Appendix 5 to the rules.

This was supported by both WIAL and the Council's reporting planner.

I agree that the explanatory text to Policy 10.2.7.6 should be amended as requested on the grounds that the revised text more accurately reflects the research and knowledge used to define the areas of possible contamination shown in the Appendix 5 map.

Recommendation

Amend the explanatory text for Policy 10.2.7.6 to read as follows:

Site specific investigations have been undertaken at the airport to identify locations where contamination from the past may have occurred. These locations are shown on a plan of the airport attached as Appendix 5 to the rules.

Accordingly, it is recommended to:

- **Accept** submission 9 insofar as it requests amendments to the explanatory text to Policy 10.2.7.6.
- **Accept** further submission 1(e) insofar as it supports submission 9

5.8 Rule 11.1.1 – Permitted Activity, Airport Related Activities

Relief Sought

In regard to Rule 11.1.1, Submission 6, David Gibson, sought to:

- Amend the vehicle parking standards

This was opposed by WIAL.

Discussion

Rule 11.1.1 permits activities that are related to the primary function of the airport, subject to compliance with the specified conditions. Submission 6, David Gibson, considered that the vehicle parking conditions contained in Rule 11.1.1 should be amended to be consistent with the revised definitions also sought by the submitter (discussed in section 5.2 above). The submitter considered that this would help to avoid debate and confusion over what activities are related to the primary function of the airport. Specifically, the submitter requested that the vehicle parking standards listed under Rule 11.1.1.4.1 be amended as follows:

11.1.1.4.1 Parking must be provided at the following rates:

Recreation activities (within the terminal area) *1:4 people that the facility is designed to accommodate*

Other activities (within the terminal area)

Retail 1: 50m² g.f.a.

Hotel 1: 15 people the building is designed to accommodate

Restaurant 1: per 3 seats

WIAL opposed the proposed amendment on the basis that it considered the change would imply that the parking requirement applies to the Terminal Area only.

The Council's reporting Planner considered that the changes requested by the submitter would do little to clarify whether an activity is airport-related or not. He considered that the wording of Rule 11.1.1 makes it clear that it applies only to activities related to the primary function of the airport. The application of the rule hinges on the definition of 'Primary Function of the Airport Area', not on the wording of the conditions attached to Rule 11.1.1. He recommended the vehicle parking standards be retained as notified.

At the hearing, the submitter proposed what he considered to be an improved change to the format of the parking standards by changing the subheading of 'Other Activities' to 'Ancillary Activities'. However, I concur with the Council's reporting Planner that the amendments would not assist in clarifying the application of the parking standards.

Recommendation

Retain the wording of the parking standard under Rule 11.1.1.4, and accordingly:

- **Reject** submission 6 insofar as it requests amendments to the vehicle parking standards in Rule 11.1.1.4
- **Accept** further submission 1(c) insofar as it opposes submission 6

5.9 Rule 11.1.5 – Permitted Activity, Signs

Relief Sought

In regard to Rule 11.1.5, David Gibson, sought the following relief:

- Amend the permitted signage standard 11.1.5.1.1

This was opposed by WIAL.

Discussion

David Gibson (Submission 6) requested that the standard for permitting signs under Rule 11.1.5.1.1 be amended as follows:

- *within the Western Apron area, the total maximum area of signage permitted on each elevation of a tenancy is 20m² for tenancies over 500m² gfa.*
- *within the Western Apron area, the total maximum area of signage permitted on each elevation of a tenancy is 10m² for tenancies under 500 m² gfa.*

The submitter considered that the signage standards as amended would better distinguish between smaller and larger tenancies, and would ensure that signage is more in scale with the premises on which it is located. This was opposed in the further submission by WIAL, which cited that the tenancies on the Western Apron area would likely be larger in scale and able to accommodate the permitted level of signage.

As noted by the Council's reporting Planner, there is no limit on the number of 10m² signs that may be erected on a building in a Suburban Centre, whereas the proposed 20m² limit applying to the Western Apron sets a maximum total area of signage permitted per elevation.

In my opinion, the link between floor area and the effects of external signs would not be a direct one; rather, the effects are related to the number and size of signs, and the area of external façade used for signs. I therefore do not recommend using gross floor area as a method for managing the effects of external signage. I would also note that the requested differential thresholds may have the opposite effect, in that a single large building containing numerous retail tenancies could have numerous 10m² sized signs, where a single large retail tenant could have single sign as a permitted activity.

In terms of the requested differential of sign sizes, in my opinion, the retailing area in the Western Apron should be managed on a consistent basis with other commercial areas of the City, in which a maximum of 20m² of signage is an established threshold (allowing a standard billboard sized sign of 18m²). Accordingly, I would recommend the retention of the permitted standards for signage as proposed.

Recommendation

Retain the wording of the signage standard under Rule 11.1.5.1.1, and accordingly:

- **Reject** submission 6 insofar as it requests that the signage provisions for the Western Apron area be amended to relate to tenancy size.
- **Accept** further submission 1(c) insofar as it opposes submission 6

5.10 Rule 11.2.3 – Controlled Activity, Non-Airport Activities in Terminal Area

Relief Sought

In relation to Rule 11.2.3, Submission 6, David Gibson, sought the following relief:

- Amend the standards and terms that apply to vehicle parking associated with non-airport related activities located in the Terminal Area
- Apply a maximum height of 12 metres to non-airport related buildings and structures located in the Terminal Area

WIAL opposed the relief sought.

Discussion

Rule 11.2.3 provides for non-airport related activities in the Terminal Area of the Airport and Golf Course Recreation Precinct as a controlled activity, as well as for buildings and structures for non-airport related activities.

David Gibson (Submission 6) requested that the standards and terms for Rule 11.2.3 be amended as follows:

All activities and buildings must meet the permitted conditions specified under rules for 11.1.1.1.8 (noise), 11.1.1.2 to 11.1.1.10, 11.1.2.2 and 11.1.2.3, except 11.1.1.4 which does not apply.

The maximum height for buildings shall not exceed 12 metres

A traffic report must be supplied, which addresses:

- *details of the parking to be provided on the site and its use (whether it is intended for staff or customers)*
- *site access*
- *provision for servicing*

- ~~• internal traffic circulation, to the extent that it is relevant to the movement of vehicular traffic to and from the site~~
- ~~• what effect the extra traffic will have on local streets and the surrounding road network~~

Mr Gibson considered that non-airport activities should be subject to the same vehicle parking standards that apply to airport activities (contained in Rule 11.1.1.4), and that any activity that cannot comply with the standard should become a Discretionary Activity (Restricted).

The further submission from WIAL opposed this submission, expressing concern that such amendment would imply that some airport-related activities, such as hotels, are non-airport related. WIAL also considered that a traffic report would allow for the full assessment of the traffic impacts of a non-airport related development.

Proposed Plan Change 57 as notified does not impose parking requirements for non-airport related activities, but instead uses the controlled activity consent process to determine the appropriate number and form of parking for each activity, based on a traffic assessment that must be submitted with the resource consent application.

However, as noted by the Council's reporting Planner, while this approach provides a high degree of flexibility (as every proposal can be assessed on its merits), there is little direction for applicants (or other parties) as to the amount of parking that Council may require. Furthermore, as a controlled activity, applications for resource consent cannot be declined, and while conditions may be attached to a consent for a controlled activity, the conditions cannot be so onerous as to effectively decline the proposal for which consent is being sought. This position could potentially create difficulties if the traffic report identifies significant adverse effects relating to vehicle parking that cannot be adequately resolved through the imposition of conditions. For this reason, the Council's reporting Planner considered that having standards for vehicle parking triggering the activity status to Discretionary (Restricted) if the standards are not met, is likely to result in a more robust consent process. Accordingly, he recommended that the parking standards contained in 11.1.1.4 be applied to non-airport related activities within the airport area. This was accepted by WIAL. I do note that the application of parking standards to non-airport related activities would require consequential changes to rule 11.3.3, to ensure that it is consistent with rule 11.2.3.

In regard to WIAL's concerns about the implications of this change, I concur with the Council's reporting Planner that the application of parking standards would have no bearing on whether an activity is considered to be airport-related. Rather, the test as to whether an activity is airport-related or not is made according to the definitions for 'Primary Function of the Airport Area' and 'Non-airport Activity'.

Submission 6 also requested that Rule 11.2.3 be amended to clarify that the building height limit for non-airport related activities within the Terminal Area is 12 metres. Proposed Plan Change 57 as notified does not contain a height for non-airport related buildings within the Terminal Area. The Council's reporting Planner considered the suggested height of 12 metres as appropriate as it is consistent with the height for non-airport related buildings and structures outside the Terminal Area. It is also the height limit that applies to land zoned Suburban Centre.

A maximum height limit of 12m was accepted by WIAL in terms of achieving consistency with the Suburban Centre zone.

Recommendation

Amend Rule 11.2.3 to read as follows:

All activities must meet the conditions specified under Rules 11.1.1 and 11.1.2

The maximum height for buildings shall not exceed 12 metres.

Amend Rule 11.3.3 to read as follows:

Standards and Terms

The maximum height of buildings shall not exceed 12 metres.

All conditions specified for Rule 11.1.1, and conditions 11.1.2.2 and 11.1.2.3 must be met.

Accordingly, it is recommended to:

- **Accept** submission 6 insofar as it requests that the parking standards in Rule 11.1.1.4 be applied to non-airport related activities
- **Reject** further submission 1(c) insofar as it opposes submission 6 and the application of parking standards to non-airport related activities
- **Accept** submission 6 insofar as it requests that a maximum height of 12 metres be applied to buildings and structures for non-airport related activities within the Terminal Area.

5.11 Rule 11.2.5 – Controlled Activity, Contaminated Sites

Relief Sought

In relation to Rule 11.2.5, Submission 6, David Gibson, sought the following relief:

- Amend the wording of Rule 11.2.5

Discussion

David Gibson (Submission 6) considered that Rule 11.2.5 is flawed in that he asserted it would allow buildings and structures relating to non-airport activities to be constructed as a controlled activity (for which consent must be granted) if they are located on a contaminated site.

The Council's reporting Planner agreed that Rule 11.2.5 should be amended to clarify that the rule only deals with issues relating to site contamination, and that other rules also apply as appropriate. He considered that this can best be done through insertion of a margin note beside the rule, as follows:

Rule 11.2.5 deals with issues of site contamination. Any activity considered under this rule will also be subject under Rules 11.2.3, 11.3.1 to 11.3.5, and 11.4.2 as appropriate.

At the hearing, this recommendation was supported by WIAL as it relates to the clarification purposes.

At the hearing, Mr Gibson stated that the rule was more concerned with the effects of earthworks in a contaminated site, rather than the buildings or activities. He suggested amending the rule to read:

Any earthworks ~~activity that includes the erection of buildings and structures that disturbs or alters the ground of a contaminated site....~~

This suggestion was endorsed by WIAL.

I concur that this would be an appropriate amendment to address this matter, and would make the suggested margin note unnecessary.

It is also noted that Rule 11.2.5 was incorrectly numbered, as there is no Rule 11.2.4 contained in Proposed Plan Change 57. To rectify this error, it is recommended that Rule 11.2.5 be re-numbered as 11.2.4 as a minor correction under Clause 16 of the First Schedule of the RMA.

Recommendation

Amend Rule 11.2.5 by correcting the numbering, and to amend it to read as follows:

Any earthworks that disturb or alter the ground of a contaminated site within the Airport Area in the locations identified in Appendix 5 is a Controlled Activity in respect of....

Accordingly, it is recommended to:

- **Accept** submission 6 insofar as it requests amendments to the wording of Rule 11.2.5

5.12 Rule 11.3.2 – Discretionary Activity (Restricted), Airport-related Buildings

Relief Sought

In relation to Rule 11.3.2, Submission 6, David Gibson, sought the following relief:

- Amend the standards and terms relating to over height buildings

This was opposed by WIAL

Discussion

The submission from David Gibson (No.6) expressed concerns regarding the standards and terms for discretionary height increases contained in Rule 11.3.2. In particular, the submitter was concerned that the standards and terms place no upper limit on the height of airport related buildings within the Terminal Area, and provide for up to 25 metres in the rest of the Airport Area. The submitter requested that the standards and terms be amended as follows:

Standards and Terms

- rule 11.1.2.1, maximum height of buildings related to the primary function of the Airport within the Terminal Area must not exceed 30 metres, and buildings outside the Terminal Area must not exceed ~~25~~ 14.1 metres.
- rule 11.1.2.2, height control adjoining Residential Areas must not be exceeded by more than 20 percent.
- rule 11.1.2.3, height control adjoining Golf Course recreation area must not be exceeded by more than 20 percent.

In its further submission, WIAL opposed amending the height limit to 14.1 metres for buildings outside the Terminal Area, on the basis that it would significantly impact on the airport company's operations and its ability to retain development flexibility.

This matter was discussed at some length during the hearing. The Council's reporting Planner agreed with the submitter that there should be some height thresholds contained in Rule 11.3.2, and that there is merit in making the thresholds consistent with those that already apply in the Suburban Centre, which has a maximum building height of 12 metres with scope to consider increases of up to 50% (18 metres in height) as a Discretionary Activity (Restricted). He considered that it would be appropriate to apply the same provisions to developments within the Airport Area that are located outside the Terminal Area. This was accepted by both the submitter and WIAL.

However, WIAL rejected the request to impose a maximum height limit for airport related buildings within the Terminal Area that exceed the permitted height limit of 25m, on the basis that the effects of any proposed building would be potentially lesser than buildings in the periphery areas because of the buffering distance from sensitive land uses. It was also asserted that such buildings would sit within the context of other surrounding development which is substantial and necessarily utilitarian. WIAL also indicated that the designated Obstacle Limitation Surface (which sets limits on 'obstacles' such as buildings near a runway for aviation safety purposes) would impose an overall height limit on buildings in the Terminal Area – upon questions, the hearing was informed the OLS limit was about 65m at the eastern edge of the Terminal Area.

The Council's reporting Planner commented that while the Terminal Area is buffered to a degree, and that the current building is low slung and not obtrusive, a building up to 65m in height (equivalent to over 21 storeys) would be a different matter, and could have significant effects on the wider urban environment. I agree with Mr Blake on this point, and that a tall building within the Terminal Area would be a prominent and potentially obtrusive feature in the area.

In regard to this concern, I note that the only matter of discretion under Rule 11.3.2.7 (proposals exceeding maximum height) is:

Whether additional height would have a material effect upon sunlight access to residential buildings in Residential Areas or public space.

Such a criterion would not provide for a wider assessment of effects arising from a large prominent structure.

During the hearing, WIAL suggested a possible threshold of 37.5m, or 50% above the base height limit of 25m, in line with approach used in the Suburban Centre zone (where the restricted discretionary upper height limit is 18m or 50% more than the 12m permitted height limit). While this suggestion would provide a consistent approach, I was not convinced that the effects of a structure of an equivalent of between 8 to 12 storeys would be satisfactorily confined to just sunlight access, and that wider environmental issues may be relevant and therefore need to be assessed satisfactorily.

Accordingly, I accept the recommendation of the Council's reporting Planner to accept Submission 6 on this matter, and recommend introducing a maximum building height of 30m for buildings or structures related to the Primary Function of the Airport within the Terminal Area as a restricted discretionary activity under Rule 11.3.2.

There was also discussion about the size of building required to accommodate a plane for maintenance purposes. Under Rule 11.1.2.1 as notified, the maximum permitted height for aircraft maintenance buildings inside the Terminal Area is 25m, or 15m outside the Terminal Area. WIAL informed the hearing that changes in aircraft technology and route demand mean that, within the life of the Plan provisions, it is more likely that aircraft maintenance buildings will be required for 737-900-sized aircraft (rather than a 767-sized aircraft), for which the total height of a hangar would be 25m. WIAL suggested amending the rules for permitted building height to provide a 25m maximum height for aircraft maintenance buildings outside the Terminal Area that are used to accommodate aircraft.

Unfortunately, while there was general agreement over this request, I find that there is no scope to make such a change as there was no submission made on Rule 11.1.2.1. I would note, however, that I was not convinced that there is a need to make specific provision for this matter, as the permitted height limit inside the Terminal Area is already 25m, and is up to 25m as a restricted discretionary activity for buildings outside the Terminal Area. If the Council is convinced that it should make provision for a 25m permitted height limit for aircraft accommodation purposes outside the Terminal Area, then perhaps this matter should be included in a future plan change for various miscellaneous matters, which I understand is the intention of the Council.

Recommendation

In regard to Rule 11.3.2, amend the first part of the Standards and Terms to read as follows:

Standards and Terms

- *rule 11.1.2.1, maximum height of buildings related to the primary function of the Airport within the Terminal Area must not exceed 30 metres, and buildings outside the Terminal Area must not exceed 18 metres.*

Accordingly, it is recommended to:

- **Accept in part** submission 6 insofar as it requests amendments to the standards and terms for building height
- **Reject in part** further submission 1(c) insofar as it opposes submission 6 and the amendments to the standards and terms for buildings outside the Terminal Area

5.13 Rule 11.3.3 - Discretionary Activity (Restricted), Non-Airport Activities & Buildings

Relief Sought

In relation to Rule 11.3.3, two submitters sought the following relief:

- Amend Rule 11.3.3 to distinguish between buildings related to non-airport activities that are located within the Terminal Area, and those located elsewhere within the Airport Area (submission 6)
- Amend Rule 11.3.3 so that non-airport related activities are subject to the vehicle parking standards contained in rule 11.1.1.4 (submission 6)
- Remove the non-notification clause from Rule 11.3.3 (submission 7)
- Amend the standards and terms for Rule 11.3.3, to acknowledge that the impact of new non-airport retail developments on surrounding town centres is more likely to be influenced by the total floor area of the development, rather than by maximum building height (submission 7)

Discussion

The submission from David Gibson (Submission 6) requested Rule 11.3.3 be amended so that it becomes two rules: one for non-airport activities and buildings outside the Terminal Area, and a second for those non-airport activities and buildings within the Terminal Area that do not meet the conditions for Controlled Activity under Rule 11.2.3.

In its further submission, WIAL opposed splitting Rule 11.3.3 into two parts on the basis that it would increase complication.

Rule 11.3.3 is somewhat different to the general approach taken in the District Plan to manage the effects of activities separately from the effects of buildings and structures: this rule addresses both non-airport related activities and non-airport related buildings together. However, in considering the advantages and disadvantages of splitting the rule, I have concluded that existing Rule 11.3.3 should be retained as proposed, as it provides sufficient scope to consider all relevant matters raised by the development of non-airport related activities and buildings within the Airport Area.

The submitter accepted this recommendation at the hearing.

Mr Gibson also sought to amend Rule 11.3.3 so that non-airport related activities are subject to the vehicle parking standards contained in Rule 11.1.1.4. This was also opposed by WIAL, on the basis that it would imply that some airport-related uses are in fact non-airport related.

The issue of whether the vehicle parking standards contained in Rule 11.1.1.4 should apply to non-airport activities is discussed in more detail in section 5.10 above, in which I recommended that the standards be applied to non-airport related activities within the Terminal Area that are considered under Rule 11.2.3. On this matter, I concur with the Council's reporting Planner that, for consistency, it is considered that the standards should also be applied to non-airport related activities located elsewhere in the Airport Area that are considered under Rule 11.3.3.

In regard to the matter of whether applications under this Rule should be fully notified, Armstrong Jones (Submission 7) requested that the non-notification statement be deleted. The submitter expressed concern that applications that are required to submit a Centre Impact Report could be assessed as having a significant impact on Kilbirnie and Miramar, but that the wider public would have no opportunity to comment on such a proposal because of the non-notification clause.

WIAL opposed removal of the non-notification statement on the grounds that the consent process would not be assisted by notification, and the proposed non-notification statement is consistent with the approach taken by Council in proposed District Plan Change 52 (in relation to Suburban Centres).

The non-notification statement in Rule 11.3.3 applies to all of the matters over which Council has reserved discretion, including 'the effect of a retail activity on the vitality and viability of the Kilbirnie and Miramar Town Centres'. The Council's reporting Planner considered that submission 7 raised a valid concern that the non-notification statement will mean that people living in Miramar and Kilbirnie will not be able to comment on resource consent applications even if those town centres may be adversely affected.

The RMA contains a presumption that resource consent applications will be notified unless the applicant can demonstrate that the effects generated by a proposal will be no more than minor. The Act does, however, provide scope for Council to specify that a Restricted (Discretionary) Activity does not require public notification or notice to be served on affected parties, even if the effects are potentially more than minor.

I was informed that, in general, the Council applies these non-notification (or non-service) statements in situations where a 'public good' assessment is being undertaken that does not impact on specific individuals, or when Council is undertaking a specialist, expert assessment that is unlikely to have a direct impact on any individual. I was also informed that it is considered that non-notification statements are generally more appropriate when Council is considering an aspect of an activity that is considered to be generally appropriate for the location, rather than when Council is undertaking a more fundamental assessment as to whether the activity itself is appropriate for the location, which is the case for non-airport related retail activities in the Airport Area.

The Council's reporting Planner considered that, if the adverse effects of any particular proposal on the Kilbirnie or Miramar town centres were more than minor, the general public ought to be able to make submissions through the notified resource consent process. As Mr Blake observed, however, a potential difficulty with notification is that the process can be open to misuse, where trade competitors use the consent process to cause delays, thereby increasing the time and cost for all parties.

The absence of a non-notification clause does not mean that application would automatically be publicly notified. If the Centre Impact Report that accompanied a resource consent application under this rule indicated that the proposed retail activity would have no more than minor effect on existing town centres then a resource consent application may well be able to be processed on a non-notified basis. This is a plausible scenario if the proposal was for a retail activity that would not usually be located within an existing town centre, such as hire equipment suppliers, vehicle sales, building supply centres, and garden centres.

In its further submission, WIAL noted that the inclusion of a non-notification statement is consistent with the approach adopted by Council in Plan Change 52 for considering the potential impact of large format retail activities located within the Suburban Centre zone, but

outside an existing town centre. The Council's decision on Proposed Plan Change 52 was to retain the non-notification statement for resource consents requiring an assessment of economic impact on existing town centres.

The Council's reporting Planner informed the hearing that the Suburban Centre chapters of the District Plan are currently being reviewed, with a plan change due for public notification at the end of 2008. This will be a full review, and will consider all aspects of the current Suburban Centre zone, including the current approach of using a single 'zone' to cover town centres, local centres, commercial and industrial areas. In the longer term, he stated that the contents of the Suburban Centre review are likely to supersede Proposed Plan Change 52, so it is not considered vital that Proposed Plan Changes 57 and 52 be aligned completely.

WIAL's legal counsel, however, pointed out that the nature of the Suburban Centre Review and the exact details it may contain are still unknown and in the future.

In considering this matter, it is my opinion that public involvement in the process should outweigh the inconvenience and cost should a trade competitor participate in the consent process. Accordingly, there should be scope for public involvement in the resource consent process if a proposal for a non-airport related retail activity is found to have more than minor effect on the viability and vitality of the Kilbirnie and Miramar town centres. This could be achieved by refining the existing non-notification statement so that it does not include Rule 11.3.3.5, as recommended by the Council's reporting Planner. This was accepted by the submitter, and by WIAL.

Submission 7 also requested that the standards and terms for Rule 11.3.3 be amended to include a maximum floor area for non-airport retail activities that can be dealt with as a Discretionary Activity (Restricted). Under the wording of Rule 11.3.3 as notified, the key trigger to whether a non-airport retail activity is a Discretionary Activity (Restricted) or (Unrestricted) is whether the proposed building height exceeds 12 metres.

The submitter sought a maximum gross floor area of 500m² to be consistent with the threshold introduced for sites zoned Suburban Centre under Proposed Plan Change 52. The submitter requested that the standard and terms for Rule 11.3.3 be amended as follows:

An application for resource consent for a retail activity not exceeding a maximum of 500m² per site must supply a Centre Impact Report addressing the matters referred to in Policy 10.2.3.3.

The further submission from WIAL opposed the requested amendments, and requested that building height be retained as the trigger for activity status. However, at the hearing, WIAL accepted that a floor area requirement was more appropriate.

In response, the Council's reporting Planner noted that the intent of the proposed rule structure was to ensure that larger, more significant retail developments are required to undertake a more wide ranging Centre Impact Report. Given that retail is primarily a ground floor activity, he accepted that building height would seem to have very little bearing on the potential economic impact of a new retail development.

I agree with the submitter and Council's reporting Planner that building height provides a weak link to assess the consequential effects of large-scale retail activities, and a floor area threshold is more appropriate. At the hearing, it was accepted by all parties that the use of a total gross floor area would be a more appropriate means of determining the significance of future retail activities.

This form of threshold would be consistent with the approach adopted by Council in Proposed Plan Change 52, which sought to better manage the effects of out-of-centre retail activities throughout the City. That Plan Change used a gross floor area of 500m² as the threshold to require resource consent for retail activities seeking to locate outside the established town centres. However, the Council's reporting Planner considered that the 500m² threshold used in Proposed Plan Change 52 is less relevant to the Airport Area situation as all non-airport retail activities are required to supply a Centre Impact Report. This report would need to take into consideration the cumulative effect of several retail activities of different sizes establishing on airport land.

The submitter, Armstrong Jones, also requested that an area-based threshold be installed to trigger non-airport related retail activities over a certain size to the status of Discretionary (Unrestricted) Activity. This was not supported by the Council's reporting Planner, who did not consider that it is necessary to trigger the activity status to Discretionary (Unrestricted) in order to undertake a wider centre impact assessment. He provided an alternative approach by amending Rule 11.3.3 to include a size threshold that determines the extent of the Centre Impact Report required to be submitted with a consent application.

The Council's reporting Planner recommended including two different thresholds for triggering the requirement for an applicant to prepare a Centres Impact Assessment, as highlighted below:

An application for resource consent for a retail activity must supply a Centre Impact Report which addresses:

- the extent to which the retail activity impacts on the overall vitality and viability of the Kilbirnie and Miramar town centres. Any application for resource consent that contains a retail tenancy in excess of 2500m² gross floor area, or a combined total gross floor area of all retail tenancies in excess of 4000m² must address the extent to which the retail activity impacts on the overall vitality and viability of other nearby town centres including the CBD and Central Area.
- the extent to which the activity promotes the efficient use of resources and a compact urban form
- the extent to which the activity affects existing public investment and minimises the need for additional public investment in infrastructure and public spaces
- how the activity promotes accessibility, enables sustainable transport choices (including public transport), and minimises trip generation through the co-location of similar activities.

Luke Troy from the Planning Team explained to the hearing the rationale for using two different total gross floor area thresholds. In his opinion, a retail activity, or group thereof, would need to be of significant size before it would begin to impact on the vitality and viability of the Central Area. He proposed two possible scenarios:

- A single very large retail operation, with a gross floor area in excess of 2500m²; or
- A mall or mega centre type operation comprising multiple smaller tenancies, with a gross floor area in excess of 4000m².

He recommended that if either of these scenarios were proposed it would be appropriate that the Centre Impact Report consider the possible economic impacts on the CBD and Central Area., as well as the local suburban centres.

While the thresholds suggested above are to some degree arbitrary, I would consider them to be appropriate for the purpose of determining when a wider Centre Impact Report is required.

Recommendation

Amend Rule 11.3.3 to read as follows:

11.3.3.5 the effect of any retail activity on the vitality and viability of surrounding Town Centres (particularly Kilbirnie and Miramar) and the Central Area.

Non-notification

In respect of rule 11.3.3 applications do not need to be publicly notified and do not need to be served on affected persons in respect of items 11.3.3.1, 11.3.3.2, 11.3.3.3 and 11.3.3.4

Standards and Terms

An application for resource consent for a retail activity must supply a Centre Impact Report which addresses:

- the extent to which the retail activity impacts on the overall vitality and viability of the Kilbirnie and Miramar town centres. Any application for resource consent that contains a retail tenancy in excess of 2500m² gross floor area, or a combined total gross floor area of all retail tenancies in excess of 4000m² must address the extent to which the retail activity impacts on the overall vitality and viability of other nearby town centres including the CBD and Central Area.*
- the extent to which the activity promotes the efficient use of resources and a compact urban form*
- the extent to which the activity affects existing public investment and minimises the need for additional public investment in infrastructure and public spaces*
- how the activity promotes accessibility, enables sustainable transport choices (including public transport), and minimises trip generation through the co-location of similar activities.*

Accordingly, it is recommended to:

- Reject** submission 6 insofar as it requests that rule 11.3.3 be split into two rules
- Accept** further submission 1(c) insofar as it opposes submission 6 and the separation of rule 11.3.3
- Accept** submission 6 insofar as it requests that the parking standards contained in rule 11.1.1.4 be applied to non-airport activities outside the Terminal Area
- Reject** further submission 1(c) insofar as it opposes submission 6 and the proposed amendments to the vehicle parking provisions

- **Accept** submission 7 insofar as it requests that the non-notification statement be removed from rule 11.3.3
- **Reject** further submission 1(d) insofar as it opposes submission 7 and the deletion of the non-notification statement
- **Accept in part** submission 7 insofar as it requests that a maximum floor area for non-airport retail activities be added to the standards and terms for rule 11.3.3
- **Reject in part** further submission 1(d) insofar as it opposes submission 7 and the introduction of a floor area threshold for non-airport related retail activities

5.14 Rule 11.3.4 - Discretionary Activity (Restricted), Signs

Relief Sought

In relation to Rule 11.3.4, Submission 6, David Gibson, sought the following relief:

- Amend the standards and terms applying to Rule 11.3.4

This was opposed by WIAL.

Discussion

David Gibson expressed concern that the Standards and Terms for signs contained in Rule 11.3.4 place no upper limit on the maximum area of signage. The submitter requested an additional standard be included, as follows:

Standards and Terms

Rule 11.1.5.1.3, the maximum height of any free standing sign must not exceed 9m.

Rules 11.1.5.1.1 and 11.1.5.1.3, the maximum area must not be exceeded by more than 50%

All applications must be accompanied by certification from WIAL confirming the proposal will not adversely impact the safety of airport operations.

WIAL opposed the requested additional standard and term for signage on the basis that triggering application for over-sized signage to Discretionary (Unrestricted) status would have little impact on how the application was processed. WIAL also noted that processing all applications for over-sized signage as a Discretionary Activity (Restricted) was consistent with the approach contained in the Central Area Review (District Plan Change 48).

Given that the effects generated by oversized signage are relatively narrow in scope, I concur with the Council's reporting Planner that all large signs, irrespective of size, can be adequately dealt with as a Discretionary Activity (Restricted). Furthermore, as noted by WIAL, managing all over-sized signage as a Discretionary Activity (Restricted) is also consistent with the approach adopted in the review of the Central Area chapters of the District Plan (Proposed Plan Change 48).

As highlighted by the Council's reporting Planner, a new objective and concomitant policies have been included in Chapter 10 to guide the assessment of applications for over-sized signage, which would apply to any application, irrespective of whether it is processed as discretionary restricted or discretionary unrestricted.

Recommendation

Retain the wording of Rule 11.3.4, and accordingly:

- **Reject** submission 6 insofar as it requests that an upper limit be placed on the amount of signage that can be considered as a Discretionary Activity (Restricted)
- **Accept** further submission 1(c) insofar as it opposes submission 6

5.15 Appendix 5 Map

Relief Sought

In relation to Appendix 5, two submitters sought the following relief:

- The inclusion of a plan of contaminated sites within the Airport Area (as Appendix 5) to provide for the proper implementation Rule 11.2.5 (submission 1)
- Proposed District Plan Change 57 should be re-notified as the Appendix 5 map was not included in the plan change at the time of notification (submission 6)

WIAL supported the first request, but opposed the second.

Discussion

The Wellington City Council (Submission 1) requested that a map showing contaminated sites within the Airport Area be inserted as Appendix 5, for the reason that the inclusion of this map would allow Rule 11.2.5 to be properly implemented. WIAL supported the inclusion of the Appendix 5 map in the Plan Change, but requested that the title of the map be amended to read 'Potentially Contaminated sites within the Airport Area'. This was accepted by the Wellington City Council.

David Gibson (Submission 6) requested that Plan Change 57 be re-notified as the Appendix 5 map was not included in the original plan change as notified. This was opposed by WIAL for the reason that the contents of the Appendix 5 map apply only to the Airport area and do not affect any third parties.

I agree that the map, which was accidentally omitted from Proposed Plan Change 57 as notified, should be included in the District Plan, with the revised titled requested by WIAL. The inclusion of the map will allow Rule 11.2.5 to operate as anticipated.

I also agree with WIAL that the Proposed Plan Change 57 does not need to be re-notified with the map. The only party potentially affected by its omission from the notified plan change was the Airport, which was fully aware of the existence of the map and its intended use in the plan

change. Furthermore, the content of the map is the result of expert analysis of possible contamination at the Airport, and would be unlikely to alter as a result of submission. Overall, it is not considered that the interests of any party will be unduly compromised by adoption of the Appendix 5 map.

Recommendation

Include the Map into Appendix 5, entitled 'Potentially Contaminated sites within the Airport Area', and accordingly:

- **Accept** submission 1 insofar as it requests that the Appendix 5 map be included as part of DPC 57.
- **Accept** further submission 1(a) insofar as it requests that the title of the Appendix 5 map be amended.
- **Reject** submission 6 insofar as it requests that DPC 57 be re-notified to allow inclusion of the Appendix 5 map
- **Accept** further submission 1(c) insofar as it opposes re-notification of DPC 57.

5.16 Naming of Rongotai Ridge

Relief Sought

In regard to the Map of the different areas within the Airport and Golf Course Recreation Precinct, the following relief was sought:

- Amend the name of the land north of Wexford Road (submission 2)

Discussion

The submission from Leonie Gill opposed the naming of the land to the north of Wexford Road as 'Rongotai Ridge'. The submitter considered that the suburb of Rongotai covers the area to the west of the Airport, and is concerned that applying the name Rongotai to a landform situated to the east of the airport is likely to cause confusion.

The Council's reporting Planner noted that the Wellington City Council recognises the boundary of Rongotai suburb as running along the eastern edge of the Airport runway, and therefore that there is some validity in the submitter's concern in that the landscape feature referred to in Proposed Plan Change 57 as 'Rongotai Ridge' would not be located within the suburb of Rongotai.

However, the Council's reporting Planner stated that the name 'Rongotai Ridge' came from the book *The Great Harbour of Tara; Traditional Maori Place-names and Sites of Wellington Harbour and Environs* by G. Leslie Adkin (1959). Given that historically the landform in question has been referred to as Rongotai Ridge, he therefore recommended the name be retained for the purpose of the Plan Change.

Given the limited use of the term in the Plan Change, which is unlikely to have a wide public profile, and that the area is clearly defined on a map, I recommend that this name be retained in Proposed Plan Change 57.

Recommendation

To retain the use of the name 'Rongotai Ridge' in the Plan Change, and accordingly, it is recommended to:

- **Reject** submission 2 insofar as it requests a new name for the area referred to as Rongotai Ridge

5.17 Existing Sign Adjacent to SH1

Relief Sought

The submission from the Miramar/Maupuia Progressive Association sought to:

- Remove the sign on the land immediate to the east of the Cobham Drive / Calabar Road roundabout (submission 5)

This submission was opposed by WIAL.

Discussion

As explained by Robin Boldarin at the hearing, the Progressive Association opposes the large billboard sign located on airport land to the east of the Cobham Drive / Calabar Road roundabout, and sought through its submission to have the sign removed. This was opposed by WIAL for the reason that the sign was legitimately erected.

Ms Boldarin explained at the hearing the concerns that the Association had with the presence of the sign, which consists of four containers used to support a long billboard on the flat grassed area below the escarpment facing Cobham Drive. She also produced copies of letters to the newspaper from people expressing opposition to the sign to demonstrate the level of concern within the community.

On this matter, I concur with the Council's reporting Planner that, irrespective of the status of the sign at the Cobham Drive / Calabar Road roundabout, the plan change process is not the appropriate mechanism to seek its removal. The plan change process is limited to updating the District Plan provisions that apply to activities within the Airport Area. Enforcement matters fall outside the scope of this process. I would highlight however, that, under the provisions of Proposed Plan Change 57, such a sign could not now be erected without resource consent.

Recommendation

The relief sought cannot be achieved through the plan change, and accordingly, it is recommended to:

- **Reject** submission 5 insofar as it requests removal of the large billboard sign located on airport land to the east of the Cobham Drive / Calabar Road roundabout.

- **Accept** further submission 1(b) insofar as it opposes removal of the sign located to the east of the Cobham Drive / Calabar Road roundabout.

6 SECTION 32 REQUIREMENTS

Section 32 of the Resource Management Act 1991 requires that the Council, before adopting a plan change to its District Plan, shall examine:

- The extent to which each objective is the most appropriate way to achieve the purpose of the Act;
- Whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.

A full analysis in accordance with section 32 was prepared and reported on prior to the notification of Proposed Plan Change 17 in accordance with s32(1) and (5) of the Act. I have reviewed this analysis, and accept both its methodology and findings. Furthermore, there were no points raised during the course of the hearing that would alter the conclusions of that analysis.

Under section 32(2) of the Act, a further evaluation must also be made by a local authority before making a decision to approve a plan change in accordance with clause 10 of Schedule 1 of the Act.

Having regard to the above matters, I am satisfied that the objectives proposed by the plan change are the most appropriate way to achieve the purpose of the Act in terms of promoting the sustainable management of Wellington Airport. I am also satisfied that the policies, rules and other methods under Proposed Plan Change 57 are the most appropriate means of achieving the objectives having regard to their efficiency and effectiveness relative to other means.

The principal reasons for my conclusion are as follows:

1. The objectives of the Precinct are appropriate to achieving the purpose of the Act in that they:
 - (a) Seek to promote the ongoing safe, effective and efficient operation of the Airport, while recognising that provision for non-airport related activities will enable the Airport to develop other opportunities for the efficient use of its assets to contribute towards the evolution of the Airport area into a major engine of regional growth;
 - (b) Recognise the need to protect the character and amenities of areas within the Airport Precinct from inappropriate non-airport activities, with due acknowledgement of the different character, contexts and opportunities within each area;
 - (c) Recognise the need to protect the amenities of areas surrounding the Precinct and adjoining land uses, including the importance of managing signage so not to detract from the character of the area, or to create a traffic hazard; and
 - (d) Seek to prevent or mitigate any adverse effects arising from hazardous substances.
2. The proposed policies and the rules, subject to some minor amendments, appear to address the key issues in relation to the management of the effects of the Airport and its

ongoing development, particularly in relation to the effects of non-airport related activities.

3. The proposed policies and rules provide flexibility for the future use and development of the Airport, while providing a management framework that addresses the key potential adverse effects arising from such use and development.
4. The proposed provisions of the Airport and Golf Course Recreation Precinct relating to the Airport area have been the subject of stakeholder consultation, and are subject to a large level of support, including from WIAL.

7 CONCLUSION

Plan Change 57 was introduced to provide greater clarity regarding the management of non-airport related activities within the Airport and Golf Course Recreation Precinct. While no submissions opposed the plan change, a variety of amendments were requested. A number of these amendments improved the clarity and workability of the proposed plan change in providing for the ongoing operation and development of Wellington's international airport, and should therefore be accepted by the Council.

The key recommendations in respect of these amendments are:

- Amendments to the definitions of 'Primary Function of the Airport Area', 'Non-airport Activity' and 'Retail Activity'
- Minor amendments to the explanatory text to policies
- The application of parking standards to non-airport related activities
- Amendments to the height provisions that apply in the Airport Area
- Amendments to the non-notification statement that applies to non-airport related retail activities
- Inclusion of a threshold to trigger the requirement for a wider Centre Impact Report for non-airport related retail activities over a certain size
- Inclusion of a map showing potentially contaminated sites within the Airport Area

Overall it is recommended that Council approve Plan Change 57, subject to the amendments put forward in this report.

Appendix 1 shows Proposed Plan Change 57 as amended by the recommendations in this report.

Independent Hearings Commissioner:



Robert Schofield
7 March 2008