

**Before the Environment Court  
At Wellington  
ENV-2016-WLG-000058**

**Under** the Resource Management Act 1991

**In the matter of** the direct referral of applications for resource consents by Wellington International Airport Limited to enable the construction, operation and maintenance of an extension to the takeoff runway at Wellington International Airport and associated works (in the CMA at Lyall Bay)

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**Memorandum of Counsel for Wellington City Council and Wellington  
Regional Council**

**Date:** 6 April 2018

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## **MAY IT PLEASE THE COURT**

1           The purpose of this memorandum is to respond to the matters raised in the Eighteenth Minute of the Environment Court, dated 19 March 2018.

2           A judicial conference has been set for Wednesday 18 April, and parties who wish to be heard at that conference are required to give notice. The Wellington City Council (**WCC**) and Wellington Regional Council (**WRC**) (the Councils) do not wish to be heard at the judicial conference.

3           However, the Councils are conscious of the requirement to provide reasonable assistance to the Environment Court in relation to the matters raised in their respective section 87F reports (section 87F(6) of the Resource Management Act 1991 (**RMA**)). Accordingly, the Councils will appear at the judicial conference, should the Court consider that it would be of assistance.

4           The Councils will abide the decision of the Court in relation to WIAL's request for adjournment, and they do not object to the extension sought by WIAL (as indicated in the memorandum of counsel filed on 12 March 2018 on behalf of the Councils).

5           Should WIAL's request be granted, the Councils submit that careful consideration of whether any amendments that may be made to the proposal are within scope of the present application will be required at the time of the further reporting date.

### **Potential for future notification**

6           The Eighteenth Minute of the Environment Court indicates a concern regarding the potential for changes in the identity of persons affected by

the proposal. This issue was raised by WCC, as well as Guardians of the Bay.

7 WCC has identified the issue because by 28 September 2018, two years and three months will have passed since the application was publicly notified (2 July 2016). Should WIAL obtain the approval of the Director General of Civil Aviation, and the consideration of the current application proceeds after 28 September 2018, there may be a number of persons who have become affected by the proposal since it was first notified.

8 WCC suggested that the Court may wish to consider, at that time, whether there is a need for additional notification, to allow persons who did not originally submit on the application to lodge a submission and join proceedings. This would ensure that there is no prejudice caused by the delay.

9 WCC submits that the Court has the power (should it consider it to be desirable and appropriate) to make an appropriate order in the course of proceedings and to waive the time limits to enable additional 274 parties to become party to the appeal.

10 This could be done in particular by:

10.1 allowing persons who were not originally submitters on the application to lodge a submission (within a certain time frame) in the course of the proceedings under section 279(1)(a) of the RMA, and

10.2 waiving the time within which section 274 notices were required to be filed under section 281 of the RMA (so that those persons could join the present proceedings). Such a

waiver would need to be applied for (which could be done by WCC), and the tests in section 281(2)-(3) of the RMA met.

- 11 WCC considers that this issue could be addressed in more detail at the future reporting date, should WIAL obtain the approval of the Director General of Civil Aviation and if amendments made to the proposal (if any) are within scope.

**Date:** 6 April 2018



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Wellington Regional Council