

**IN THE ENVIRONMENT COURT
WELLINGTON REGISTRY**

UNDER section 274 of the Resource Management Act 1991
("Act")

IN THE MATTER OF a Notice of Motion under section 87G requesting
the granting of resource consents to
**WELLINGTON INTERNATIONAL AIRPORT
LIMITED** for the Wellington International Airport
Extension of Runway: Construction, Operation and
Maintenance

BETWEEN **GUARDIANS OF THE BAYS** and **HUE TE TAKA**

Applicants for strike out / section 274 parties

AND **WELLINGTON INTERNATIONAL AIRPORT
LIMITED**

Respondent to strike out / applicant for consents

**MEMORANDUM OF COUNSEL ACOMPANYING
NOTICE OF APPLICATION TO STRIKE OUT**

9 NOVEMBER 2018

Counsel instructed:

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WELLINGTON

MAY IT PLEASE THE COURT:

1. Guardians of the Bays Incorporated (“**GotB**”) and Hue tē Taka (“**HtT**”) have made a formal application to strike out the direct referred proceedings made by Wellington International Airport Limited (“**WIAL**”).
2. It is not a decision GotB and HtT have taken lightly. They considered making such an application at the time of WIAL’s last request for an adjournment, but ultimately decided against it. Effectively, they thought WIAL should have one last chance to get its house in order and advance its application without having to start over.
3. However, despite a six month adjournment, WIAL has once again, and quite predictably, failed to make progress. While the process for obtaining approval of the Director General of Civil Aviation (“**DG**”) is not entirely within WIAL’s control, it does not seem to have advanced its application with urgency. For example, it’s initial lodgment of the application with the DG was well after when WIAL said it was intending to lodge. Its reporting has been scant, but WIAL has provided no evidence that it responded to the DG’s information requests with any urgency. It seems to be in no hurry.
4. The pattern of WIAL’s past behavior is now such that if the Court grants a further adjournment, the likely outcome is that WIAL will again fail to deliver. In addition, the potential for a judicial review of DG’s decision cannot be discounted, so even if the DG has made a decision by “mid-April” 2019, the direct referral process might not move forward then for that reason.
5. At some point, enough must be enough.
6. GotB and HtT are preparing affidavits in support of its application, and respectfully request until **16 November 2018** to file them. In the context of the adjournment sought by WIAL, no prejudice can arise from that delay.
7. In the meantime, GotB and HtT urge WIAL to urgently consider withdrawing its application, to avoid the costs to GotB and HtT of advancing their application to strike out; and no doubt putting other parties to the cost of supporting the application, and potentially having to appear before the Court for that application to be heard.

DATED 9 November 2018



J D K Gardner-Hopkins
Counsel for the GotB and HtT