



8 May 2015

John McLaren  
Manager,  
Regulation Branch  
Commerce Commission  
[Regulation.branch@comcom.govt.nz](mailto:Regulation.branch@comcom.govt.nz)

Dear John,

**Feedback on Commerce Commission analysis of Wellington Airport's third price setting event**

In this letter BARNZ responds to the Commerce Commission's invitation of 17 April for interested parties to provide feedback on the Commission's review of Wellington Airport's third price setting event. BARNZ has previously provided comment to the Commission by letter dated 2 March 2015 on the key matters which BARNZ members saw as being of remaining concern. The matters raised in that letter are incorporated into this letter.

BARNZ participated in the pricing consultation undertaken by WIAL as the representative of Virgin Australia Airlines authorised under s2A of the Airport Authorities Act.

At the outset I wish to repeat the acknowledgement previously made by BARNZ, that BARNZ members are pleased that WIAL moved in this third price setting event to apply the Commerce Commission's input methodologies for asset valuations (MVAU for land and the indexed approach for specialised assets) rather than its previous approaches (MVEU for land and a new ODRC valuation of specialised assets) as well as also being pleased that the airport moved to adopt the Commission's WACC parameters, which it calculated resulted in a WACC of 8.36% at the 75th percentile, rather than its own targeted WACC which was previously 9.51%. These were significant adjustments in approach by the airport, which are recognised by BARNZ.

These changes brought WIAL's proposal and the BARNZ Assessment of what revenue is reasonably required under the Commerce Commission information disclosure and input methodology framework much closer together than in 2012. For the terminal cost centre the only remaining significant difference was the appropriate WACC percentile – that is whether the mid-point WACC estimate, the 75<sup>th</sup> percentile, or something in-between should be used to determine appropriate revenue requirements. However, for the airfield cost centre, significant differences still remained over aspects of the application of the MVAU land valuation methodology and the question of appropriate forecast revaluation rates for land.

In its pricing disclosures Wellington Airport described the remaining differences as *reflect[ing] the natural situation where the different organisations are seeking their own commercial objectives*. The airport is suggesting that these differences are inevitable. BARNZ disagrees. In our view, they arise from a situation of natural monopoly where there are still material issues which information disclosure has, to date, proved insufficient to address and where WIAL is misusing its market power to impose on airlines an outcome which does not reflect likely outcomes in workably competitive markets. WIAL's valuation, for example, still reflects matters of concern raised during the earlier s56G review process by the Commission's independent valuer.

### ***Comment on Commission's profitability analysis***

The IRR analysis undertaken by the Commission indicated that WIAL set prices targeting an 8.4% return, which was above the Commission's 7.4% assessment of a normal return, but at the upper limit of the acceptable range identified by the Commission of 7.4% to 8.4%.

BARNZ has not identified any issues with the Commission's modelling work, however, we do hold concerns over several of the inputs used by the Commission in its modelling, which act to understate the outcome, in particular, use of WIAL's MVAU land valuation without first having this independently reviewed, and use of an end of year cash-flow when the Commission's preference for mid-year cash-flows, and its intention to move to using mid-year cash-flows, has been well-signalled. These concerns over the inputs, or analytical issues as the Commission terms them, are discussed in the next section.

Putting aside those analytical inputs, BARNZ's most significant concern with the Commission's profitability analysis is with regard to the Commission's conclusion at para 30 that *'the announcement of price changes suggests that information disclosure regulation has been effective at limiting Wellington Airport in its ability to earn excessive profits from specified airport services'*.

While BARNZ acknowledges that Wellington Airport has significantly changed its approach to be more reflective of the input methodologies set by the Commission, and that this change has reduced the level of expected revenue in FY15, FY16 and FY17 by more than \$30m, BARNZ strongly disagrees with both the assumption that this change was as a result of information disclosure regulation and with the conclusion that it indicates that information disclosure has been effective at limiting Wellington Airport in its ability to earn excessive profits from specified airport services.

Instead, the change in approach by Wellington Airport arose directly out of the adverse findings by the Commission during its review under s56G of the Commerce Act into the effectiveness of information disclosure at promoting the purpose of Part 4. That s56G review was a one-off transitional provision contained in sub-part 11 of Part 4 of the Commerce Act. It is not part of information disclosure regulation. It is not contained in sub-part 4 which contains the provisions relating to information disclosure regulation. It is not specified in s53B which sets out the effect of a supplier being subject to information disclosure regulation. It is not even an on-going part of airport regulation under subpart 11, being transitional in nature only. It was inserted in order to review the effectiveness of information disclosure regulation – but does not itself form part of information disclosure regulation.

Changes in approach which have come about as a result of learnings from, or conclusions reached in, the s56G reviews, are not changes that can be said to have come about from information disclosure. Indeed, the fact that the s56G review process indicated excess profits were being targeted by Wellington Airport demonstrates how ineffective information disclosure, by itself, was in limiting the ability of airports to target excessive returns.

In BARNZ's view, it would seem to only be valid for the Commission to conclude that *'the announcement of price changes suggests that the holding of a thorough review by the Commission after the setting of prices (such as occurred under s56G) has proven to be effective at limiting Wellington Airport in its ability to earn excessive profits from specified airport services'*.

However, as such a review is not an ongoing part of the regulatory framework for airports, this constraining factor will not be present when Wellington Airport next sets its charges.

BARNZ considers that the Commission's draft conclusion that *'information disclosure regulation has been effective at limiting Wellington Airport in its ability to earn excessive profits from specified airport services'* (emphasis added) is not valid and needs to be reworded to reflect that it was the s56G review process which resulted in the Airport's current change in approach.

### ***Comment on analytical issues***

While BARNZ's review of the Commission's modelling of profitability has indicated that its structure and logic is appropriate, there are several areas where we consider that the inputs are not appropriate, and result in an understatement of the returns being targeted by WIAL. These are discussed below.

#### *Where in the WACC range returns should be targeted?*

WIAL continued to target the 75<sup>th</sup> percentile estimate of the cost of capital when it reset its prices even though the High Court had expressed scepticism over the appropriateness of targeting returns above the mid-point in the merits review decision, and, at the time consultation over pricing was occurring, the Commission had already commenced re-examining the appropriate WACC percentile estimate. Subsequent to WIAL having reset its prices the Commission released its decision that the 67<sup>th</sup> percentile represented an appropriate percentile estimate to apply in customised and default pricing paths for electricity line businesses and gas pipeline businesses.

The Commission has concluded that because it has not yet reviewed the appropriate WACC range for airports, the range of the mid-point to the 75<sup>th</sup> percentile remains the most appropriate to use.

The difference between the mid-point WACC estimate and the 75<sup>th</sup> percentile is very significant. It amounts to approximately \$26m of required revenue over the pricing period. If the 67<sup>th</sup> percentile had been used, the required revenue would have been approximately \$8m to \$9m less over the pricing period. The Commission's approach is therefore significantly favourable to the airport.

BARNZ notes that the issue of the most appropriate WACC for airports will be addressed in the forthcoming input methodology review process, however, we consider that this is an instance where

the timing of this work has adversely affected the interests of consumers, and has resulted in an outcome which favours the supplier.

#### *Cash flow timing assumptions*

The Commission has undertaken its modelling using both mid-year and end of year cash flows. It describes the end of year cash flows as the '*most conservative assumption*'. An IRR based on mid-year cash flows produces an outcome approximately 0.5% above the outcome under an end of year approach. Despite undertaking its modelling on both scenarios, the Commission has used the more conservative end of year approach as the basis for reaching its conclusions regarding the appropriateness of the returns being targeted by WIAL.

BARNZ does not consider this to be appropriate. Again, it is an assumption which is noticeably favourable to the airport.

The use of end of year cash flows significantly under-states the returns being targeted by the airport because it does not reflect the time value of money in relation to the revenues being received throughout the year. While the Commission used end of year cash flows as its base scenario in the s56G reviews undertaken in 2013, it noted that this was only because that was the approach it used at the time airports set prices for PSE2. Subsequently, the Commission has moved to using a mid-year approach for information disclosure for EDBs and GDBs and it signalled in its s56G reports that it intended making the same change for information disclosure requirements for airports (see for example page 96 of the s56G report relating to Auckland Airport).

The change in approach regarding the appropriate point at which to model cash flow timing assumptions has been well signalled by the Commerce Commission. BARNZ does not consider that it is appropriate for the Commission to continue with its previous end of year cash flow practice for airports when it has already moved to a mid-year approach for other regulated businesses and when it has clearly signalled it intends to make the same change for airports.

The Commission's approach is effectively penalising consumers of airport services for the lack of review to date of airport information disclosure requirements.

#### ***MVAU land valuation***

WIAL amended its valuation methodology to apply the MVAU methodology specified by the Commission, rather than the MVEU methodology previously used by the airport. This is a shift that is welcomed by BARNZ. However, significant differences of view continue to remain between WIAL's valuation and the independent valuation advice BARNZ received as to the proper application of the Commission's valuation guidelines in Schedule A of the information Disclosure Determination.

The valuation advice received by BARNZ (which we are providing to the Commission with this letter) is that WIAL's MVAU land valuation is \$41m over-stated, due to:

- Insufficient allowance being provided for the time necessary to obtain the required planning changes from its current airport zone to the zones which would enable the envisaged mixed

use subdivision. WIAL have allowed nine months, whereas the advice received by BARNZ is that it would take two to three years.

- No allowance being made in the costs for ongoing seawall maintenance, which will either need to be funded through a mechanism such as a capitalised maintenance contribution to the Council or additional reserve contributions to set off the future liability assumed by the Council.
- The land use mix containing a town centre 7.7 ha larger than justifiable, and insufficient land for reserves.

In its draft analysis of WIAL's price setting, the Commission has expressed the view that WIAL's approach to land valuation *'does not appear to be inconsistent with the input methodologies for asset valuation'*. However, the Commission does not seem to have commissioned any independent review of the appropriateness of WIAL's land valuation or its compliance with the input methodology valuation requirements. This can be contrasted with the Commission's approach under s56G where an independent review was commissioned from Darroch, which concluded that WIAL's 2009 and 2011 valuations did not comply with the requirements of Schedule A. Given the significance of the land valuation to the measurement of the IRR, BARNZ considers that the Commission needs to have Darroch update its work with regard to the new valuation before any view can be expressed or conclusions reached regarding the appropriateness – or not – of WIAL's valuation in relation to the Schedule A requirements.

The Commission appears to characterise the differences between WIAL's valuer and the advice received by BARNZ as reflecting *'judgments required by professional valuers'*, noting that *'there is likely to be a range of valuations consistent with the input methodologies'*.

While BARNZ would agree that the issue of the appropriate land use mix is one where a range of uses can be consistent with the input methodologies, and professional judgments will vary, this is not the case with the most significant difference in valuation approaches – namely the question of the time allowed for obtaining appropriate planning changes.

Moreover, BARNZ notes that the concerns its valuer has raised were echoed by the Commission's valuation expert, Darroch, in the expert reports that Darroch prepared for the Commission on WIAL's 2009 and 2011 MVAU land valuations in the course of the s56G review process. Darroch concluded that WIAL's 2009 and 2011 valuations did not comply with the requirements of Schedule A. In particular, Darroch:<sup>1</sup>

- Noted *'concern over the number of hectares proposed for uses such as the town centre and business park and ... wonder[ed] whether these areas are greater than required in this locality'*. Darroch *'wonder[ed] whether all proposed uses would readily be permitted'* and later posed the question *'would a town centre of this size even be permitted given the other competing centres (such as the Kilbirnie town centre) nearby?'* Darroch concluded that the 2009 and 2011 valuations did not comply with the requirements of Schedule A with respect to determining the highest and best use and preparation of a land use development plan appropriately reflecting this highest and best use. (pages 5 and 6)

---

<sup>1</sup> Darroch, Review of Land Valuation Methodology Wellington International Airport Ltd, 1 February 2013.

- Noted there was *'no consideration given to the costs of any zoning changes'* or *'discussion around the likelihood of a zone change'* and that the valuation report did not comply with the requirements of Schedule A with respect to taking into account zoning requirements. (pages 2 and 4)
- In relation to the seven year development period then being used by Telfer Young (which has now been increased to eight years), Darroch expressed *'real doubt'* over the sufficiency of that time *'given the time that will likely be required to receive all necessary consents and approvals'*. Darroch stated that *'it is more likely that a development period of at least ten years (and possibly longer) may be required.'* Thus Darroch would have increased the development period by three years to provide time for all necessary consents and approvals to be received. Darroch concluded the 2009 and 2011 valuations did not comply with the requirements of Schedule A with respect to determining market demand. (pages 6 and 7)
- In relation to the (then) 9.6 ha of reserves being proposed by Boffa Miskell (now 10.0 ha), Darroch stated that *'there has been very little mention of the reserve requirements for the development and I doubt that these are sufficient'*. This contributed to Darroch's view that the land use plan was not an appropriate reflection of the likely highest and best alternative use (page 6).

The concerns with WIAL's most recent valuation raised by the experts engaged by BARNZ were therefore virtually all confirmed by the valuation expert engaged by the Commission in the s56G review. These same shortcomings still exist in the 2014 MVAU undertaken by WIAL. Therefore BARNZ considers that the Commission needs to request an updated independent review of WIAL's land valuation before it is in a position to reach any conclusions regarding whether or not WIAL's most recent land valuation is consistent with the input methodologies.

The most significant difference in valuation approaches is the question of the time allowed for obtaining appropriate planning changes. BARNZ considers that the airport's approach is at odds with the clear direction in Schedule A of the Airport Services Input Methodologies Determination 2010 for account to be taken of any zoning changes required. The airport's approach is also contrary to the view expressed by the Commission's valuation expert, Darroch, that Schedule A requires any likely zoning or plan changes and associated costs to be taken into account and that WIAL's 2009 and 2011 valuations were not compliant with Schedule A due to consideration not being given to the likelihood or costs of any zoning changes. This is discussed at some detail in section 3.2 of BARNZ's submission during the pricing consultation with WIAL on key issues, which I have attached as an annexure at the end of this letter.

This issue is not one that can be characterised as a difference of professional judgment. It is an issue which goes to the heart of the directions contained in the valuation guidelines – and it is one where the previous independent valuation advice received by the Commission was to the effect that the valuation report did not comply with the requirements of Schedule A with respect to taking into account zoning requirements.

BARNZ therefore considers that the Commerce Commission should commission an updated independent review of WIAL's land valuation as part of its review of WIAL's third price setting event, before it can express any views on the compliance of WIAL's valuation with the input methodology requirements, and before using that valuation as the basis for assessing the IRR being targeted by the Airport.

### **Forecasting land valuation movements**

WIAL has forecast land revaluation movements using forecast CPI, which the Commission has indicated seems reasonable as it is consistent with the input methodologies. However, the Commission has noted that *'to the extent that the value of land changes at a different rate to this forecast, careful scrutiny will be required on the way in which those revaluations are treated at future price setting events'*.

BARNZ takes some limited degree of comfort in the fact the Commission recognises that careful scrutiny will be required of the treatment of any differences in actual valuation movements from this forecast.

The question of the appropriate treatment of unforecast revaluations is a long-standing key difference which BARNZ has had with WIAL. BARNZ considers that both the Commerce Commission and the High Court have clearly articulated that where a nominal WACC is being used to determine prices, then all revaluations must be treated as income for the purpose of determining prices. WIAL accepted this principle in November 2013 during consultation with airlines, setting out its approach going forward as being that any actual revaluations above or below the revaluations forecast during PSE3, would be treated as a credit (or debit) when charges were reset for PSE4. However, the airport subsequently recanted in March 2014, in favour of remaining silent, and leaving the issue of the treatment of unforecast revaluations undetermined until consultation begins at the end of PSE3 for new prices to be set for PSE4 (beginning 1 April 2019).

With WIAL not committing to treat any difference between actual and forecast revaluations as income at the end of PSE3, it became important to ensure that land revaluations are forecast at an appropriate level; one no more likely to be too low as too high. BARNZ sought advice from Property Advisory Ltd on likely movements in land values. Property Advisory Ltd advised that forecast increases of 4.5% pa to overall land values in the Wellington area are more plausible than the 2.1% CPI based forecast of no real increases to land values adopted by WIAL.

This issue directly affects the charges which were reset in 2014. The reasonableness of the forecast revaluation rate for land incorporated in the pricing calculations needs to be reviewed in the light of the fact there is no committed wash-up to reflect actual land valuation movements at the end of the pricing period. BARNZ members can only take comfort in the fact that the Commission has recognised that *'careful scrutiny will be required on the way in which [actual] revaluations are treated at future price setting events'*.

### **Conclusion**

While BARNZ considers that the Commission's IRR modelling framework has been appropriately carried out, BARNZ has concerns that several aspects of the approach used by the Commission are favourable to the airport and are resulting in an understated assessment of the level of return being targeted by the airport. In particular, BARNZ considers that —

- The use of end of year cash flows, when the move to mid-year cash flows has been clearly signalled; and

- The failure to independently review WIAL's land valuation despite previous independent advice commissioned by the Commission showing that WIAL's previous valuations did not comply with the Schedule A requirements –

have resulted in an understatement of the returns the airport is targeting.

Moreover, the Commission's continued use of the 75<sup>th</sup> percentile of its WACC range as the basis for drawing its primary conclusions favours the airport, and results in consumers paying prices in excess of that required for a normal return.

Finally, BARNZ is particularly concerned over the Commission's conclusion that 'information disclosure regulation has been effective at limiting Wellington Airport in its ability to earn excessive profits from specified airport services' (emphasis added).

The changes in approach by Wellington Airport arose directly out of the adverse findings by the Commission during its one-off review under s56G of the Commerce Act into the effectiveness of information disclosure at promoting the purpose of Part 4. This review was not part of information disclosure regulation or even an on-going part of airport regulation under subpart 11. It was inserted in order to review the effectiveness of information disclosure regulation – but does not itself form part of information disclosure regulation. Changes in approach which have come about as a result of learnings from, or conclusions reached in, the s56G reviews, are not changes that can be said to have come about from information disclosure.

Indeed, the fact that the s56G review process indicated excess profits were being targeted by Wellington Airport demonstrates how ineffective information disclosure, by itself, was in limiting the ability of airports to target excessive returns.

It would only seem valid for the Commission to conclude that '*the announcement of price changes suggests that the holding of a thorough review by the Commission after the setting of prices (such as occurred under s56G) has proven to be effective at limiting Wellington Airport in its ability to earn excessive profits from specified airport services*'.

If you have any queries or require any further information, please do not hesitate to contact me.

Yours sincerely

John Beckett  
Executive Director



## ANNEXURE

### EXTRACT FROM BARNZ RESPONSE TO WIAL'S KEY ISSUES DOCUMENT, 29 MAY 2014

#### 3.2 Whether the MVAU land valuation is over-stated?

##### *Summary of further advice sought by BARNZ*

BARNZ has obtained advice on the appropriateness of WIAL's MVAU land valuation from the experts listed below:

- Market Economics - economists specialising in assessing demand for various land uses, on the demand for the proposed land uses;
- Zomac Planning Solutions – on the appropriateness and feasibility of the proposed masterplan for the hypothetical alternative use;
- Gillian Chappell – barrister specialising in resource management law on the likely timeframe to obtain planning consent for the proposed masterplan; and
- Property Advisory Ltd – on the reasonableness of the valuation adopted by WIAL and the impact of any issues.

This advice was initially obtained in December 2013, supplemented by additional comment in April 2014 and, in the case of Property Advisory Ltd, further comment in May 2014. All reports are attached.

This work has disclosed that the land valuation adopted by WIAL is approximately \$41m over-stated due to:

- Insufficient allowance being provided for the time necessary to obtain the required planning changes from its current airport zone to the zones necessary to enable the envisaged mixed use subdivision. WIAL have allowed nine months whereas the advice received by BARNZ is that it would take two to three years.
- No allowance being made in the costs for ongoing seawall maintenance, which will need to be funded through a mechanism such as a capitalised maintenance contribution to the Council.
- The land use mix containing a town centre 7.7ha larger than justifiable and insufficient land for reserves.

##### *These concerns were echoed by the Commission's land valuation expert*

BARNZ notes that the concerns expressed in their reports by Market Economics, Zomac Planning and Property Advisory over the likelihood of obtaining planning consent and time required to obtain it and the over-statement of the size of a supportable town-centre are concerns which were also held with regard to the airport's two earlier MVAU valuations.

These concerns were echoed and repeated by the Commission's valuation expert, Darroch, in its expert reports to the Commission on WIAL's 2009 and 2011 MVAU land valuations in the course of the s56G review process.

In those reports Darroch:<sup>2</sup>

- Noted *'concern over the number of hectares proposed for uses such as the town centre and business park and ... wonder[ed] whether these areas are greater than required in this locality'*. Darroch *'wonder[ed] whether all proposed uses would readily be permitted'* and later posed the question *'would a town centre of this size even be permitted given the other competing centres (such as the Kilbirnie town centre) nearby?'* Darroch concluded that the 2009 and 2011 valuations did not comply with the requirements of Schedule A with respect to determining the highest and best use and preparation of a land use development plan appropriately reflecting this highest and best use. (pages 5 and 6)
- Noted there was *'no consideration given to the costs of any zoning changes'* or *'discussion around the likelihood of a zone change'* and that the valuation report did not comply with the requirements of Schedule A with respect to taking into account zoning requirements. (pages 2 and 4)
- In relation to the seven year development period then being used by Telfer Young (which has now been increased to eight years), Darroch expressed *'real doubt'* over the sufficiency of that time *'given the time that will likely be required to receive all necessary consents and approvals'*. Darroch stated that *'it is more likely that a development period of at least ten years (and possibly longer) may be required.'* Thus Darroch would have increased the development period by three years to provide time for all necessary consents and approvals to be received. Darroch concluded the 2009 and 2011 valuations did not comply with the requirements of Schedule A with respect to determining market demand. (pages 6 and 7)
- In relation to the (then) 9.6 ha of reserves being proposed by Boffa Miskell (now 10.0 ha), Darroch stated that *'there has been very little mention of the reserve requirements for the development and I doubt that these are sufficient'*. This contributed to Darroch's view that the land use plan was not an appropriate reflection of the likely highest and best alternative use (page 6).

The concerns with WIAL's valuation raised by the experts engaged by BARNZ were therefore virtually all confirmed by the valuation expert engaged by the Commission. These same shortcomings still exist in the 2014 MVAU undertaken by WIAL.

### ***Most significant difference is time allowed to obtain planning consent***

The most significant contributing factor to the \$41m overstatement in land valuation is the question of allowance for obtaining planning changes.

As noted above, WIAL's valuers have only allowed nine months for this process. This is surprising because Property Economics, which provided WIAL with advice on market demand for the various land uses, described the proposed alternative land use as one which *'would provide a 'game changing' proposition that would force the entire planning of Southern Wellington to be reviewed'*. Property Economics considered that the alternative land use scenario and land holding *'encompass such an extensive and significant piece of land in the context of Wellington that the District Plan would have to change ...'*

---

<sup>2</sup> Darroch, Review of Land Valuation Methodology Wellington International Airport Ltd, 1 February 2013.

From BARNZ's experience with a number of plan changes over the last fifteen years it seems fanciful to suggest that a review of the entire planning of Southern Wellington could be achieved within nine months.

The advice received from Zomac Planning Solutions is that a 9 month allowance for obtaining planning changes is woefully inadequate with a more realistic timeframe being in the vicinity of two to three years.

Advice from Gillian Chappell, an independent barrister specialising in resource management law, is also that the time reasonably required to obtain planning consent will be somewhere between two to three years. This is irrespective of whether a plan change process is followed (as put forward by WIAL's market demand advisers) or whether the call-in process under the Resource Management Act is opted for (as put forward by WIAL's valuers, Telfer Young). Gillian Chappell noted that a call-in process would not realistically be able to be completed within 9 months (the time-frame adopted by Telfer Young in its valuation for WIAL). Rather the statutory process would typically take 12 to 16 months plus appropriate preparation time prior to lodgement (conservatively estimated at 9 to 12 months). She advised that any lack of time invested in the preparation phase would inevitably result in delays during the call-in process.

PAL uses the lower two year end of this estimate to quantify the impact of this one factor on the valuation as being \$30m.

As an alternative to adopting a shortened period for obtaining planning consent, WIAL has also put forward the argument that *an available interpretation of the input methodologies is that consents are already in place for the alternative use and hence no planning costs or time period are required.*

No reasoning or support has been provided by WIAL for this opinion. The assertion that no allowance for planning costs or the likely time to obtain consent is required is surprising. It is contrary to accepted valuation practice that all likely development costs need to be taken into account by a valuer when preparing a valuation. Moreover, it is at odds with the clear direction in Schedule A of the Airport Services Input Methodologies Determination 2010 for account to be taken of zoning changes required. It is also contrary to the approach taken by the Commission's valuation expert, Darroch, that Schedule A requires any likely zoning or plan changes and associated costs to be taken into account and that WIAL's 2009 and 2011 valuations were not compliant with Schedule A due to consideration not being given to the likelihood or costs of any zoning changes.

#### *The requirements in the valuation input methodology*

Sections A9 and A10 of Schedule A of the Airport Services Input Methodologies Determination 2010 set out the detailed practical valuation requirements and steps.

Section A9 contains the practical valuation requirements. Under the heading *Designation, zoning, district plan and other legal requirements* Schedule A states:

- (4) The land is likely to be designated or zoned for the various aeronautical activities of the airport owner. In addition to considering the likely alternative uses for the land, the valuer should also consider the likelihood of the designation being uplifted or the land rezoned, and costs (if any) likely to be involved in this. (Emphasis added)

Later in section A9, paragraph 13 makes express reference to including the costs of resource consents relating to the alternative use in the MVAU valuation calculations (as opposed to the costs

of resource consents relating to airport development which are directed to be excluded from the valuation).

Section A10 of Schedule A sets out valuation steps which must be completed by a valuer when undertaking an MVAU valuation. Specifically relevant to the question of planning consents for the alternative use, Section A10 provides that the valuer must:

- ‘determine the existing or underlying zoning of the land or designations, and the likely zoning of the land for the highest and best alternative use, including the likelihood of zoning change or uplifting of designations’;
- ‘consider and determine the highest and best alternative use, which must be ... legally permissible’;
- ‘consider resource management (including reserve) requirements’; and
- determine the direct and indirect costs of developing the land.

It is thus clear that both the need for any zoning change, and any related costs, must be taken into account in determining the MVAU valuation. The valuation input methodology is clear on this as it directs that the valuer must take into account *‘the likelihood of the designation being uplifted or the land rezoned, and costs (if any) likely to be involved in this’*. This is consistent with the subsequent direction that the highest and best alternative use must be one which is ‘legally permissible’ – in other words, one for which the developer has worked through the process to obtain any necessary planning consents. These are not instant or cost-less processes and will logically need to be taken into account when determining the direct and indirect costs of developing the land.

Contrary to WIAL’s assertion that the IMs require the valuer to assume that *consents are already in place for the alternative use and hence no planning costs or time period are required*, there is no directive anywhere in the Commission’s land valuation methodology that the valuer should assume that alternative land use consents are in place. This can be contrasted with the Commission’s treatment of potential remediation and demolition costs, where Schedule A expressly directs the valuer to ‘assume that the site is vacant and unencumbered by airport-related improvements’. There is a substantial list of remediation or demolition costs which should not be included within the valuation.

By contrast, planning costs and the time required for planning changes and consents to be obtained are not listed as costs to be excluded. There is no direction to assume that the site has the necessary consents in place for the selected alternative uses. Rather, as noted above, the valuer is instead expressly directed in sections A9 and A10 to specifically consider the need for any planning changes and the likelihood of obtaining such changes, and any likely costs of doing so.

BARNZ considers that the airport’s argument that the IM’s should be read as assuming that *consents are already in place for the alternative use and hence no planning costs or time period are required* is baseless and without merit. The time and cost of obtaining any necessary planning changes to enable the alternative use are clearly identified within the IMs as a cost needing to be taken into account in determining the MVAU of the airport land.