



1 February 2013

Simon Copland
Chief Adviser Regulation Branch
Commerce Commission
PO Box 2351
Wellington 6140

Dear Simon

REQUEST FOR ADVICE WIAL LAND VALUATION ISSUES

This letter responds to the following queries:

- a) For each of the areas of non-compliance raised in your draft review of Wellington Airport's MVAU Land Valuations for 2009 and 2011, comment on the likely materiality of the area of non-compliance with respect to the valuation figure arrived at in that valuation, and what further information would be needed to resolve (where possible) the area of non-compliance.

Where relevant, in commenting on the likely materiality of the non-compliant area could you make reference to the expectation of the value range implied by other valuation related material available (eg alternative valuations and advice commissioned by BARNZ) and any external guidance that you are aware of (eg case law or professional standards).

- b) Comment on the feasibility and desirability of the refinements to Schedule A suggested by BARNZ in the attached document and referred to in our e-mail below. We have also attached BARNZ's suggested mark-ups to Schedule A for this purpose.
- c) In December 2012, we were provided with additional documentation, namely, a WIAL letter to the Commission re the Darroch MVAU valuation review, the TY review of land valuation methodology and response to Darroch and additional WIAL Consultation Documents. Any changes to this letter from that originally provided, reflects the additional information provided in those documents.

Both the 2009 and 2011 valuations were considered to be non-compliant in the following three areas - our response re likely materiality follows each item:

1. There appears to be no consideration given to the costs of any zoning changes. See Schedule A, Clause A10 (c).
 - 1.1 We note that in the Property Advisory opinion of value of WIAL as at 1 July 2011, that Zomac Planning Solutions (ZPS) suggest that it would take between 18 and 24 months to obtain the necessary approvals to a plan change from the Airport



Precinct zone to zones that would allow mixed density residential development to occur on the land. ZPS also advise that the cost to obtain these zoning change approvals would be approximately \$2,000,000 - in addition to delaying the development and sell down periods.

Allowing for the costs that will be incurred to change existing zonings, will be material.

2. There is insufficient information in the report to confirm that the proposed development is physically possible, appropriately justified, legally permissible and financially feasible. See Schedule A, Clause A 10 (d).

2.1 As with the following point 4, this is the area of greatest concern with regard to the valuations arrived at. We note the valuation of the WIAL land undertaken by TelferYoung as at 31 March 2011 was \$141,000,000 and as at 3 March 2009, \$140,000,000. The valuation produced by Property Advisory as at 1 July 2011 was significantly different being \$98,000,000. This is a variation of some 43%.

Interestingly case law would generally suggest that while some differences in value may be acceptable, such a wide disparity as that shown here would not be.

In the English case *Singer and Friedlander (bank) v J D Woods and Co (valuer)* 1977, the Court found that a valuer is not liable merely because he over values or under values a property. There is a permissible margin of error within which his valuation must fall if he is to escape liability. Two able and experienced valuers confronted with the same valuation task might come to different conclusions without anyone being justified in saying that either of them had lacked competence and reasonable care.

The case established a margin of 10% in normal circumstances to 15% or higher in exceptional circumstances e.g. fast changing market.

The case established some "norms" expected of a valuer:

- A. Inspect the property
- B. In depth analysis and sober weighing of the facts
- C. The duty of full disclosure of the facts of which the valuer is aware.

Even if one uses the higher 15% threshold and applies that to both valuations the differences seems unable to be rationalised and in my view are unacceptable. The differences are as a result of different views by the valuers and their advisors on the form of the master plan for the land, the timeframes allowed for planning, development and realisation, along with differing views on the perceived demands for the suggested alternatives uses.

It would seem that some tightening up of this part of Schedule A of the Commerce Act (Specified Airport Services Input Methodologies) Determination 2010; is necessary. To improve on this area for the two WIAL valuations performed by TelferYoung, we would suggest that WIAL should appoint an independent planner and economist to verify the master plan and demand projections put forward and that discussions should be held with Council to ensure all such projections are valid.



3. There is insufficient information in the report to explain rationale for large areas of intensive residential and commercial development. See Schedule A, Clause A 10 (f)(i).

3.1 See 3.1 above. Again independent verification of the TelferYoung master plan would seem to be appropriate. We note that BARNZ have made the comment that there was a significant shift in land use in the 2011 valuations than in earlier valuations which resulted in a significant increase in the gross realisation. At the same time, the development period was shortened from 10 years in 2006 to 7 years in 2011. Both changes would appear unrealistic from an economic perspective over those 5 years.

In addition the 2009 report had one additional area of non-compliance, namely:

4. The assessment of market demand is not supported by the research shown in the report. See Schedule A, Clause A 10 (f)(ii).

4.1 This is considered to be material. TelferYoung comment in their report that over a 10 year period, sales of vacant sections in the Wellington region averaged approximately 400 sections per annum. This contradicts their own evidence – where they identify an average of 244 sections per annum over the two years prior to the date of valuation. As such their absorption estimates would appear inaccurate and this would increase the development period with a commensurate reduction in value.

BARNZ have proposed a number of refinements to Schedule A and I have been provided with a marked up version of the schedule showing these proposed changes. All changes have been suggested in an attempt to reduce or limit the likelihood or scope of the differences in alternative land uses and resulting valuations. The main changes focus on:

A requirement to undertake independent demand based analysis for potential alternative uses, split the existing cl. A10(f)(ii) into two distinct requirements:

- Determination of market demand for the proposed development plan (in light of the independent economic analysis of demand); and
- Determination of the time period for the sale or realisation of the developed land;

Addition of the principle of the development being credible.

We believe these proposed changes will be beneficial and would recommend their adoption. We note that in addition to this, valuation standards referred to in Schedule A, may have changed and this should also be reviewed.

Yours faithfully
Darroch Corporate Advisory

A handwritten signature in blue ink, appearing to read "Kerry Stewart".

Kerry Stewart FNZIV FPNZ
Registered Valuer