

BEFORE THE HEARING PANEL APPOINTED BY NAPIER CITY COUNCIL

**IN THE MATTER OF** of the Resource Management Act 1991

**AND**

**IN THE MATTER OF** the Napier City Proposed District Plan

**HEARING TOPIC** Hearing Stream 2 – Coastal Environment, Earthworks,  
Light, Natural Features and Landscapes, Signs, and  
Subdivision

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**STATEMENT OF EVIDENCE BY ELLEN ROBOTHAM**

**HAWKE'S BAY AIRPORT LIMITED – SUBMITTER 198**

18 NOVEMBER 2024

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## **1. EXECUTIVE SUMMARY**

- 1.1 Hawke’s Bay Airport Limited (“**HBAL**” or “**the Airport**”) made submissions and further submissions on the Napier City Proposed District Plan (“**Proposed Plan**”).
- 1.2 This brief of evidence covers a range of Proposed Plan chapters for Hearing Stream 2, including the Coastal Environment, Earthworks, Light, Natural Features and Landscape (“**NFL**”), Signs, and Subdivision. Napier City Council (“**NCC**”) have prepared separate Section 42A Reports (“**S42A Report**”) for each chapter.
- 1.3 I generally support the recommendations of the S42A Reports with regard to the following provisions/chapters (insofar as they relate to HBAL’s submissions or further submissions):
  - 1.3.1 Inclusion of a per site limit for earthworks in the Te Whanganui a Orotu (Ahuriri Estuary) Stormwater and Ecology Zone (EW-R1A);
  - 1.3.2 The amendments to the Light Chapter;
  - 1.3.3 The amendments to the Signs Chapter;
  - 1.3.4 The amendments to the Subdivision Chapter;
  - 1.3.5 The intent of amendments to EW-S6.
- 1.4 In contrast, I do not support the recommendations in the S42A report with respect to the following matters:
  - 1.4.1 Mapping of the Coastal Environment along the Airport’s eastern boundary; and
  - 1.4.2 The introductory text of the NFL Chapter.

1.5 With respect to the above, I provide rationale for my support or opposition to the recommendations within the S42A Report in the subsequent sections. At a high level however, the basis for my reasons are as follows:

1.5.1 The Proposed Plan provides an opportunity for the Coastal Environment mapping to be updated and refined in a way that better reflects the reality on the ground, rather than following historical property boundaries; and

1.5.2 It is important to recognise the operational and functional constraints of the Airport (including those set out under Civil Aviation regulations), despite its location within the Special Character Landscape Overlay.

1.6 A summary of my recommended wording amendments is also included as **Appendix A.**

## **2. INTRODUCTION**

2.1 My name is Ellen Robotham. I am a Senior Planner at the resource management and environmental consultancy Mitchell Daysh Limited.

2.2 I have appeared before the Hearings Panel with respect to Hearing Stream 1 of the Proposed Plan on behalf of HBAL. Within my brief of evidence for Hearing Stream 1, I set out my qualifications and experience as an expert planning witness. I do not repeat that here.

## **3. EXPERT WITNESS CODE OF CONDUCT**

3.1 I confirm I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Notes 2014 and 2023. My evidence has been prepared in compliance with that Code and I agree to follow it when presenting evidence to the Hearing Panel.

3.2 I confirm that my evidence is also within my area of expertise except where I state that I am relying upon the specified evidence of another person and I

have not omitted to consider material facts known to me that might alter or detract from my expressed opinions.

#### **4. SCOPE OF EVIDENCE**

4.1 In this brief of evidence, I will discuss HBAL’s submissions relevant to Hearing Stream 2, which relate specifically to the following Part 2 – District-Wide Matters chapters of the Proposed Plan:

4.1.1 General District-Wide Matters: Coastal Environment;

4.1.2 General District-Wide Matters: Earthworks;

4.1.3 General District-Wide Matters: Light;

4.1.4 Natural Environment Values: Natural Features and Landscape (“NFL”);

4.1.5 General District-Wide Matters: Signs; and

4.1.6 General District-Wide Matters: Subdivision.

4.2 I do not address every submission point raised in HBAL’s submission or further submission in relation to Hearing Stream 2 matters. My evidence instead focuses on those key matters which will have the greatest bearing on HBAL’s existing and future operations and therefore warrant further discussion. An absence of discussion with respect to a particular submission point should not be taken as agreement (tacit or otherwise) with the recommendations set out in S42A Report.

4.3 In preparing this statement of evidence, I confirm that I have read the following documents:

4.3.1 HBAL’s submission and further submission;

4.3.2 S42A Report: Hearing Stream 2 - Part 3 – Coastal Environment, insofar as it is relevant to HBAL’s submission and further submission;

- 4.3.3 S42A Report: Hearing Stream 2 - Earthworks, insofar as it is relevant to HBAL's submission and further submission;
- 4.3.4 S42A Report: Hearing Stream 2 - Light, insofar as it is relevant to HBAL's submission and further submission;
- 4.3.5 S42A Report: Hearing Stream 2 - Part 2 – Natural Features and Landscapes, insofar as it is relevant to HBAL's submission and further submission;
- 4.3.6 S42A Report: Hearing Stream 2 - Signs, insofar as it is relevant to HBAL's submission and further submission; and
- 4.3.7 S42A Report: Hearing Stream 2 - Part 2 – Subdivision, insofar as it is relevant to HBAL's submission and further submission.

4.4 In the following sections, wording amendments proposed by the S42A Report to the notified version of the Proposed Plan are shown as red underline for additions and ~~red strikethrough~~ for deletions. My recommended additions are shown against the proposed version as blue underline and deletions as ~~blue strikethrough~~.

## **5. COASTAL ENVIRONMENT**

5.1 HBAL's submission sought to amend the map of the Coastal Environment to align with updated property boundaries and the proposed Special Character Feature 9: Ahuriri Estuary, as shown in Figure 1. The rationale for this relief is that the triangle area captured within the Coastal Environment is indistinguishable from adjacent areas which are not within the Coastal Environment, and the area is subject to a land swap with the Department of Conservation ("**DoC**") (refer Figure 2).



**Figure 1: Area of Coastal Environment (blue hatch) to be amended to match special character feature (green).**

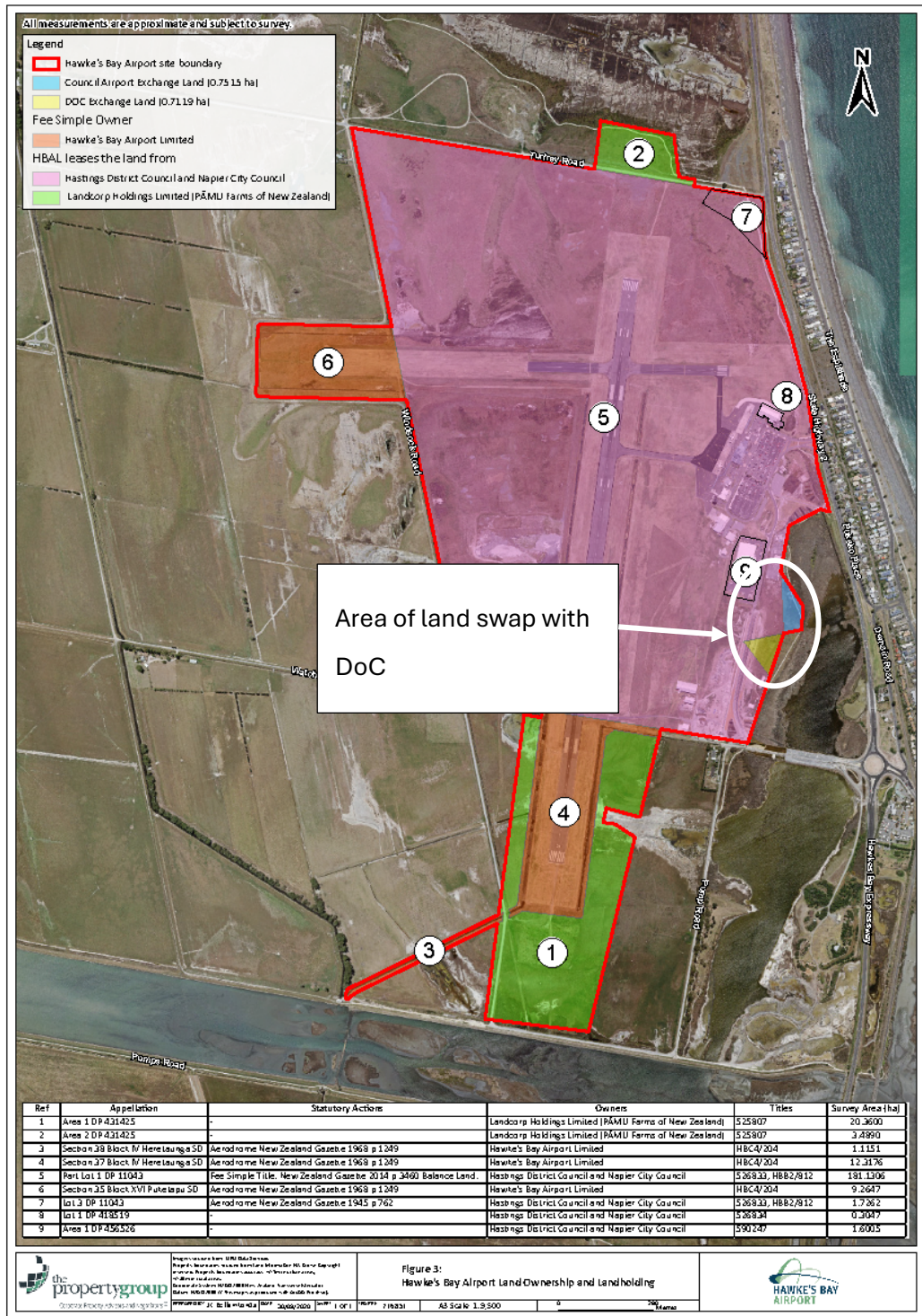


Figure 2: Land owned or leased by HBAL, showing area of land swap with DDC.

- 5.2 The S42A Report recommends rejecting this relief on the basis that the proposed map of the Coastal Environment aligns with the Hawke’s Bay Regional Coastal Environment Plan.
- 5.3 While I recognise that District Plans must not be inconsistent with a regional plan,<sup>1</sup> this requirement does not require errors to be perpetuated. I consider the difference in mapping is an administrative issue and the District Plan Review process is an appropriate way to ensure planning maps reflect reality because:
- 5.3.1 The area in question is indistinguishable from surrounding Airport land which is not identified as Coastal Environment, being predominantly mown grass in the Airport Zone;
- 5.3.2 The new boundary requested by HBAL aligns with proposed Special Character Feature 9: Ahuriri Estuary.
- 5.3.3 The proposed Coastal Environment boundary therefore appears to follow a historic boundary line rather than any distinguishable feature or landmark;
- 5.3.4 Property boundaries have changed since the Regional Coastal Environment Plan was made operative in 2014. As described above, the area is subject to a land swap with DoC, so the Coastal Environment boundary should be altered to reflect the new land ownership and use; and
- 5.3.5 The District Plan Review process precedes review of the Regional Coastal Environment Plan and provides a 1-in-10-year opportunity to update district planning maps.
- 5.4 By way of s32AA evaluation, the change to mapping I recommend is not considered a significant departure from the Proposed Plan in that it does

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<sup>1</sup> Section 75(4) of the RMA.



not amend the provisions of the Coastal Environment Chapter, but only seeks to update the Coastal Environment boundary to accurately reflect the site. Given the proposed Coastal Environment boundary follows a now outdated property boundary rather than distinguishable features, the Proposed Plan is an efficient and effective method to correct this mapping anomaly.

- 5.5 Retaining the mapping as proposed is inefficient and ineffective because it would require HBAL to undertake additional assessment against Coastal Environment provisions for development in this location, despite the effects being the same or similar as those on other land owned by HBAL immediately north, south and west of the area.

## **6. NATURAL FEATURES AND LANDSCAPES**

- 6.1 As notified, the Natural Features Landscapes (“**NFL**”) Chapter does not apply within the Airport Zone. Landscape values in the Airport Zone are managed through provisions of the Airport Zone Chapter. Notably, the Proposed Plan proposes a new ‘View Shafts Control Area’ which transects the Airport Zone (as well as the Natural Open Space Zone, General Residential Zone, Ahuriri Estuary Stormwater and Ecology Zone, Open Space Zone, and Rural Production Zone), and the ‘Landscape Sensitive Control Area’.
- 6.2 By way of summary, HBAL’s submission on landscape and amenity matters sought to clarify that the NFL Chapter does not apply to the Airport Zone, and sought to remove duplication and provide for activities of appropriate scale as permitted activities. In particular, HBAL sought the deletion of the proposed View Shaft Control Areas and the Landscape Sensitive Control Area because landscape and amenity effects are already appropriately managed through the inclusion of permitted standards, such as AIRPZ-S1, AIRPZ-S2, and AIRPZ-S7, and a separate rule framework is not necessary, effective or efficient.

6.3 In addition, HBAL suggested alternative view shafts which would be more open and allow for more dynamic, sequential views that allow the viewer more time to distinguish and appreciate the special landscape features the Proposed Plan intends to protect.<sup>2</sup> The landscape assessment undertaken by Wayfinder recommending alternative view shafts is attached as **Appendix B**. I note that submission points regarding the alternate viewshafts have been logged under the Airport Zone Chapter and have not been assessed as part of the NFL Chapter S42A Report.

6.4 HBAL sought amendments to the introduction of the NFL Chapter to clarify the relationship between the two chapters in a manner consistent with their relief on the Airport Zone Chapter, as follows.

*~~The provisions that relate to Special Character Landscapes do not apply within the Special Purpose Airport Zone. The Airport Zone is located within a Special Landscape Character Overlay, however the provisions of the Natural Features and Landscape chapter do not apply within the Airport Zone. The Special Purpose Airport Zone: protects the natural and cultural values of these landscapes and features while recognising the operational and functional requirements of the Airport by identifying View Shafts Control Areas and Landscape Sensitive Control Areas.~~*

6.5 The S42A Report generally recommends supporting HBAL's submission, including the need to recognise the operational requirements of the Airport. I note however, that the draft put forward in Appendix A of the S42A Report does not reflect the Airport's operational requirements. For ease of reference, I have included the S42A Report recommended text below:

*~~The provisions that relate to Special Character Landscapes do not apply within the Special Purpose Airport Zone. The Special Purpose Airport Zone: protects the natural and cultural values of these landscapes and features by identifying View Shafts Control Areas and Landscape Sensitive Control Areas.~~*

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<sup>2</sup> Refer submission points 198.85, .86, .95, .98, .102, .105, and .106.

*The Special Purpose Airport Zone is located within a Special Character Landscape Character Overlay however, the provisions relating to Special Character Landscapes do not apply within the Airport Zone. The protection of natural and cultural landscape values is achieved through View Shafts Control Areas and Landscape Sensitive Control Areas in the Airport Zone.*

- 6.6 I understand that it is HBAL’s intention to provide more specific evidence on the “View Shaft Control Areas and Landscape Sensitive Control Areas” at the Airport Zone hearing, given their substantive submissions on these matters relate to the Airport Zone. While I do not wish to presume the outcome of the future Airport Zone hearing, I note that if the Panel prefers the evidence of HBAL at that hearing stream and agrees that the “View Shaft Control Areas and Landscape Sensitive Control Areas” are not required within the Airport Zone, this introductory text will need to be revisited.
- 6.7 I also support both HBAL’s submission and the S42A Report position that it is important to recognise the operational and functional constraints of the Airport, despite its location within the Special Character Landscape Overlay. That is, the operational and functional requirements of the Airport (including those set out under Civil Aviation regulations) significantly influence the form and siting of Airport infrastructure. In some instances, there may therefore be little that HBAL can practically do to manage its effects on the landscape characteristics.
- 6.8 The recognition of operational and functional requirements within the introduction will also align with HBAL’s submission and evidence on Strategic Directions – Transport and Infrastructure provisions which seek to protect the operational and functional requirements of the Airport.
- 6.9 I therefore recommend the Panel adopt drafting amendments put forward by HBAL in their original submissions because it appropriately recognises HBAL’s operational and functional requirements in a manner consistent with their wider relief sought.

6.10 With regard to s32AA evaluation, I adopt the approach set out in paragraph 34 of the S42A Report for the NFL Chapter insofar as this is not a significant departure from the notified provisions but rather a clarification of the relationship between chapters, therefore a full s32AA evaluation is not necessary.

## **7. EARTHWORKS**

7.1 HBAL's further submission (FS.353.196.78) opposed rule EW-R1A which would allow 2000m<sup>3</sup> per hectare of earthworks in the Te Whanganui a Orotu (Ahuriri Estuary) Stormwater and Ecology Zone as a permitted activity. Given the Te Whanganui a Orotu (Ahuriri Estuary) Stormwater and Ecology Zone appears to comprise a single title some 289 ha in size, this limit would allow approximately 578,000m<sup>3</sup> of earthworks to be undertaken on the land south of the Airport without consent.

7.2 The S42A Report proposes to amend EW-R1A to reduce the extent of permitted earthworks for building activities to 2,000m<sup>3</sup> per site (rather than per hectare). In my opinion, this volume is much more appropriate for a permitted activity, and I support the recommendation of the Reporting Officer in this regard.

7.3 HBAL also submitted on earthworks provisions regarding the effective management and prompt remediation of earthworks. These submissions seek to manage the risk of poorly managed earthworks increasing risk of bird strike. In particular, HBAL proposed amendments to EW-S6 to ensure that standing pools of water are remediated (198.48).

*As soon as practicable, but no later than six months from the commencement of earthworks:*

- a. *The earthworks area shall be stabilised, filled and/or recontoured in a manner consistent with the surrounding land [and to remediate any standing pools of water](#);...*

7.4 The S42A Report considers this amendment appropriate but recommends slightly different wording than that originally submitted by HBAL. While there are minor grammatical differences between the HBAL submission and the S42A report, the intent is generally the same.

7.5 As will be heard during a later hearing stream, standing pools of water can act as a bird attractant both in terms of a food source and a resting place. I therefore support the intent of this standard, however consider it would be appropriate to consider this standard in a more fulsome way when HBAL's wider birdstrike management submissions are heard.

## **8. LIGHT**

8.1 HBAL requested specific changes to the light chapter to ensure that aircraft safety is not adversely affected by artificial lighting. HBAL also questioned the relevance of policies and rules enabling vehicle, train and aircraft lights.

8.2 In response to HBAL's submissions, the S42A Report recommends:

8.2.1 Including a new objective addressing the impact of artificial light on the transport network;

8.2.2 Amendments to LIGHT-P2 to specify that the transport network includes air transport;

8.2.3 Amendments to LIGHT-P3 and LIGHT R2 (as requested by HBAL) to remove reference to lights from vehicles, trains and aircraft which are regulated by other legislation.

8.3 For the same reasons specified in the S42A report (including the associated S32AA evaluation), I support the position reached with respect to the aforementioned provisions.

## **9. SIGNS**

9.1 HBAL's submission on the Signs Chapter raised concerns that the provisions place an unduly onerous restriction on signage within the Airport Zone, with signage defaulting to a discretionary or non-complying activity status.

9.2 The S42A Report proposes a number of changes in response to this relief. Most notably the S42A Report recommends:

9.2.1 Amending SIGN-R14 to control signs fronting or facing a State highway, rather than all signs within 50m of a State highway;

9.2.2 Deleting SIGN-R26, which was a catch-all rule with a non-complying activity status;

9.2.3 Inserting a new catch-all rule which provides a permitted or restricted discretionary activity status;

9.2.4 Amending SIGN-S3 to apply the same standard to the Airport Zone as all industrial zones and precincts. The effect of this change is that there will be no maximum area limit on signs in the Airport Zone.

9.3 I agree with the position reached in the s42A Report with respect to the provisions listed above for the reasons set out in the S42A Report. I therefore do not elaborate on these provisions further.

## **10. SUBDIVISION**

10.1 As subdivision is often a precursor to land use development (such as residential intensification), HBAL's submission on this chapter sought to ensure that subdivision does not enable new residential activities to establish or intensify in the Airport noise overlays. HBAL did not seek specific wording changes to this chapter but sought an approach consistent with the recommendations of the New Zealand Standard for Airport Noise Management and Land Use Planning, NZS6805:1992

(NZS6805), which is to avoid new incompatible activities within the outer control boundary where practicable.<sup>3</sup>

- 10.2 The S42A Report generally recommends retaining the notified minimum allotment sizes (now referred to as net site area) and does not appear to enable more intensive subdivision than that already provided for by the Operative District Plan. In my opinion this approach appropriately aligns with NZS6805. I agree with the position reached in the S42A Report insofar as it maintains the status quo for subdivision for the reasons set out in the S42A Report. I therefore do not elaborate on these provisions further.

## **11. CONCLUSION**

- 11.1 I generally support the recommendations of the S42A Report with regard to the following matters (insofar as they relate to HBAL's submissions or further submissions):

11.1.1 Inclusion of a per site limit for earthworks in the Te Whanganui a Orotu (Ahuriri Estuary) Stormwater and Ecology Zone;

11.1.2 The amendments to the Light Chapter;

11.1.3 The amendments to the Signs Chapter;

11.1.4 The amendments to the Subdivision Chapter; and

11.1.5 The intent of amendments to EW-S6.

- 11.2 There are a few provisions where I hold a different view to the S42A Report:

11.2.1 Mapping of the Coastal Environment along the Airport's eastern boundary;

11.2.2 The introductory text of the NFL Chapter.

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<sup>3</sup> Refer to 1.4.2 of the NZS 6805:1992.

- 11.3 In my view, the Proposed Plan provides a 1-in-10-year opportunity for mapping to be updated to ensure the Coastal Environment boundary aligns with surrounding land rather than historic boundary lines.
- 11.4 With regard to the Introduction of the NFL Chapter, I recommend including reference to the Airport's operational and functional requirements. It is important to recognise the operational and functional constraints of the Airport (including those set out under Civil Aviation regulations), despite its location within the Special Character Landscape Overlay.
- 11.5 I acknowledge however, that this matter may need to be revisited as a consequential amendment in light of evidence presented with respect to the Airport Zone at a later hearing stream.