

**BEFORE THE INDEPENDENT HEARINGS COMMISSIONER
APPOINTED BY THE INVERCARGILL CITY COUNCIL**

UNDER the Resource Management Act 1991

IN THE MATTER of Part 8 of the Act

BY **SPACE OPERATIONS NEW ZEALAND
LIMITED**

Requestor

STATEMENT OF EVIDENCE OF JOHN KYLE

Dated: 28 September 2026

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Summary Statement of evidence of John Kyle

Introduction

- [1] My name is John Kyle. I provided a short supporting statement of evidence dated 15 September 2026 in relation to Space Operations New Zealand Limited's Notice of Requirement (NoR). That statement supported the various conclusions reached by Mr Dunn, the principal planning witness for the requiring authority.
- [2] I have since reviewed the evidence filed for Stewart Family Assets Limited (SFAL) by Ms Christine McMillan (planning), Mr John Ballingall (economics), Mr Craig Morley (engineering and electromagnetic interference) and Mr Huw Jones (commercial), all dated 21 September 2026. Like Mr Dunn, I have also reviewed the lodged Awarua Wind Farm resource consent application (RMA/2026/26) and the supporting material available, including the proposed wind farm AEE, ecology and wetland assessments, shadow flicker and noise assessments, electrical services plans, and the June 2026 response to Council's request for further information.
- [3] I have also considered the Commissioner's Minutes 3 and 4. I have had regard to both Minutes in preparing this short summary.
- [4] I have also reviewed the summary statement of Mr Dunn. He has focused on the matters of agreement and disagreement that remain, based on his review of the SFAL evidence. I agree with the opinions and conclusions reached by Mr Dunn in this summary evidence. I also have some brief comments of my own regarding some of the matters set out in the SFAL planning evidence in particular, where Mr Dunn has not addressed a particular matter, or where I am able to draw on additional matters of relevance based on my experience.

Industrial 4 (Awarua) Zone

- [5] Ms McMillan describes the purpose of the Industrial 4 Zone commencing at paragraph 17. In essence, she concludes that the zone is highly enabling of industrial, including heavy industrial, land uses and she considers *that in terms of the structure of the zone framework, the*

*permitted activity status for heavy industrial and energy generation activities creates an anticipation for these types of activities in the Zone*¹. She then cites several examples of heavy industries in the region and notes that many of these existing activities have built form that incorporates large and sometimes very tall structures. The maximum height limit for the Industrial 4 Zone is 35m. For a building or structure to exceed this limit, consent is required as a restricted discretionary activity. The matters of restriction for a height exceedance are cited by Ms McMillan at paragraph 20. Despite the need for some consents in relation to height in particular, Ms McMillan appears quite confident that large scale, heavy industrial activities are readily enabled within the zone. I note that this confidence informs Mr Ballingall's brief as he ascribes economic benefit to the "likely" developed outcome within the zone.

- [6] In evaluating the effect of the proposed designation over the SFAL land holding, Ms McMillan concludes² that it *would unnecessarily constrain activities that are enabled, anticipated and provided for within the planning framework*.
- [7] Subject to what Mr Dunn says about the influence of the development constraints that apply both within the zone (relating to site coverage, the need to conform with a structure plan) and to the land itself (the distribution of wetlands (39 identified) which has significance due to the impact caused by the NPS-FM and the NES-F), I agree that the zone purpose is otherwise enabling of industrial activities from a **land use** perspective. However, I do not agree that the "planning framework" is necessarily so enabling, because that planning framework includes National Standards, National Policy Statements, the Regional Policy Statement and Regional Plans.
- [8] I have extensive experience in consenting large scale industrial facilities across numerous parts of New Zealand. My firm has been asked to assist Fonterra, Silver Fern Farms, Alliance Group, Sanford, Oji Fibre, Ravensdown, Fortesque Future Industries and a number of other

¹ Paragraph 21.

² Paragraph 63.

significant industrial developers and operators over the last several decades with the consenting of large-scale industrial processing facilities. I have also been personally involved in consenting windfarms in Southland and elsewhere. In my experience, consenting (and reconsenting) these developments, even in zones that are highly enabling, is challenging particularly because for the most part such activities require a range of consents in terms of sections 13, 14 and 15 of the Act. Consents necessary to abstract, use and discharge water including process water, discharge contaminants to air and water and to modify or alter water bodies can be complex and often present issues that can be difficult to resolve. When I have been asked to conduct due diligence or advise on consenting risk for large scale industrial operations, the heaviest area of risk invariably emanates from this area, rather than deriving from the zoning provisions in a district plan.

- [9] As such it is my opinion that significant caution should be applied to a conclusion that a broad range of industrial activities are *enabled, anticipated and provided for within the planning framework* that applies to the SFAL land. That planning framework is much broader than the zoning for the land in question.

The True Effect of the Designation

- [10] For a range of reasons variously canvassed in her evidence Ms McMillan concludes that *“the proposed designation would materially affect the ability of the Site to accommodate heavy industrial development, renewable energy generation and other activities anticipated by the Industrial 4 Zone”*³.
- [11] Mr Dunn includes a useful analysis of the extent of the SFAL land actually affected by the proposed designation commencing at paragraph 25 of his summary statement. Moreover, he describes from paragraph 29 the practical application of condition 2 of the proposed designation. Ms McMillan’s conclusion⁴ that *“the resulting constraints are inconsistent with the purpose of the Zone and create a reverse sensitivity effect whereby development opportunities on adjoining industrial land are*

³ Paragraph 64.

⁴ Also at paragraph 64.

curtailed in order to protect the operation of a facility that established with knowledge of the surrounding planning environment" considerably overstates the situation in my opinion. The designation does not curtail development opportunities. Rather the effect of the designation is limited as to its areal extent and conditions of the designation require a case by case assessment of structures that penetrate the designated airspace where it does apply to determine the impact of the SpaceOp's operation. Some activities may be foreclosed or need to be adapted to be compatible with the SpaceOps operations, but wholesale curtailment appears to me to be a significant overstatement of the true effect both in spatial and assessment terms.

- [12] Mr Dunn appropriately sets out the scale of constraint on the Industrial 4 zoned land. In my opinion, those constraints are reasonable taking into account the objective of the requiring authority to continue providing for reliable services to the space industry. The proposed constraint does not unduly constrain all or even part of the Industrial 4 land. Rather, it reasonably guards against unconstrained uses of part of the zone in the airspace above the Horizon Mask.

The EMI Limitation

- [13] The EMI limitation element of the designation reflects the existing RSM protection framework applying to terrestrial services within the Awarua protection area. The proposed designation is intended to provide greater planning visibility and certainty for landowners. I understand that the proposed designation in this regard reflects the existing RSM protections without adding any additional or lesser constraint. I note that for this reason Ms McMillan concludes that the EMI designation to be redundant and unnecessary⁵.
- [14] Mr Dunn addresses this matter commencing at paragraph 61 of his summary statement. He says that the *practical change brought about by the designation is therefore principally that those protections would become readily visible through the public facing District Plan and not hidden away in little known regulations*⁶. In my opinion this is very

⁵ Paragraph 52.

⁶ Paragraph 56.

important. The approach mirrors that taken by most significant airport operators in New Zealand with respect to obstacle limitation surfaces (OLS). OLS controls find their provenance in New Zealand within Part 139 of the Civil Aviation Rules and are binding and enforceable under those rules.⁷ Notwithstanding this, all significant airport operators have mirrored these requirements within airspace designations around airfields to ensure that this information is readily available and visible to the users of surrounding land. The district plan is public facing, whereas the Civil Aviation Rules are much less so.

The Proposed Designation is Reasonably Necessary to Meet the Objectives of the Requiring Authority

[15] At paragraph 61 Ms McMillan states that *“Mr Dunn considers that the key issue in regard to the designation being considered reasonably necessary is its application over the Zone. Mr Dunn then states that he does not consider it reasonably necessary to demonstrate that every penetration of the 5 degree plane would necessarily cause a material operation effect. I disagree with this and as a planner would take a different approach and look to be satisfied that there was robust evidence that the Horizon Mask was necessary to be imposed over the SFAL site.”*

[16] I am slightly puzzled by this paragraph and in particular, the final sentence. Section 171(1)(c) requires a decision maker to be satisfied that a designation is reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought. Those objectives are set out in the notice of requirement. In my experience with notices of requirement, I understand that this evaluation is limited to whether the designation is a reasonably necessary way to **achieve those specific objectives**. In practice this limitation means that it is not necessary for a requiring authority to demonstrate that the designation is the best option or to show that it is reasonably necessary when evaluated against adjacent zoning provisions.

⁷ Under the Civil Aviation Act 2023

[17] Ms McMillan has not mentioned the actual objectives of the requiring authority in her evidence, and I sense that she may have improperly applied section 171(1)(c) in her evaluation as a result.

Dated: 25th September 2026

A handwritten signature in dark ink, appearing to read 'John Kyle', is positioned above a dotted line.

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John Kyle