

**BEFORE THE INDEPENDENT HEARINGS PANELS APPOINTED TO HEAR AND MAKE
RECOMMENDATIONS ON SUBMISSIONS AND FURTHER SUBMISSIONS ON PROPOSED CHANGE 1 TO
THE REGIONAL POLICY STATEMENT FOR THE WELLINGTON REGION**

UNDER Schedule 1 of the Resource Management Act
1991 (the Act)

IN THE MATTER OF Hearing Submissions and Further
Submissions on Proposed Change 1 to the
Regional Policy Statement for the Wellington
Region

**STATEMENT OF REBUTTAL EVIDENCE OF SHANNON JOHN
WATSON**

ON BEHALF OF WELLINGTON REGIONAL COUNCIL

**HEARING STREAM 7 – DEFINITIONS (NATIONAL GRID,
REGIONALLY SIGNIFICANT INFRASTRUCTURE AND STRATEGIC
TRANSPORT NETWORK)**

8 APRIL 2024

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INTRODUCTION

- 1 My full name is Shannon John Watson. I am a Technical Lead Planning at GHD Limited.
- 2 I have reviewed the evidence of:
 - 2.1 Transpower New Zealand Ltd - Statement of Evidence Rebecca Eng [Submitter 10]
 - 2.2 Director General Department of Conservation – Statement of Evidence Murray Brass [Submitter 32]
 - 2.3 Upper Hutt City Council – Statement of Evidence Suzanne Rushmere [Submitter 34]
 - 2.4 Chorus NZ, Spark NZ and One NZ – Statement of Evidence Tom Anderson [Submitter 49]
 - 2.5 Waka Kotahi New Zealand Transport Agency – Statement of Evidence Catherine Heppelthwaite [Submitter 129]
 - 2.6 Powerco – Statement of Evidence Miles Rowe [Submitter 134]
 - 2.7 Wellington International Airport Limited [Submitter 148], including:
 - 2.7.1 Statement of Evidence Claire Hunter (Planning)
 - 2.7.2 Statement of Evidence Amanda Dewar (Legal)
 - 2.7.3 Statement of Evidence Jo Lester (Corporate)
 - 2.8 The Fuel Companies – Statement of Evidence Miles Rowe [Submitter 157]
 - 2.9 Winstones Aggregates – Memorandum of Counsel [Submitter 162]
 - 2.10 Rangitāne o Wairarapa - Statement of Evidence Maggie Burns [Submitter 168]
 - 2.11 Rangitāne o Wairarapa - Statement of Evidence Amber Craig [Submitter 168]
- 3 In preparing this rebuttal evidence, I have also reviewed the evidence, including section 42A reports, rebuttal evidence, submitter evidence and right of reply statements for Hearing Streams 3 (Climate Change) and 6 (Indigenous Biodiversity) which have been referenced, or are relevant to the consideration of, the evidence provided by Wellington International

Airport Limited (WIAL). Where I draw on or have relied on evidence from these hearing streams I have made specific reference to it in the following sections.

QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT

- 4 My qualifications and experience are set out in paragraphs 13 – 15 of my Section 42A Report. I repeat the confirmation given in that report that I have read and agree to comply with the Code of Conduct for Expert Witnesses.

RESPONSES TO SUBMITTER EVIDENCE

- 5 This section responds to submitter evidence in relation to the provisions in this topic. I have not addressed points where the submitter has agreed with, or reserved their position on, recommendations in my section 42A report. The scope of this rebuttal evidence is therefore limited to addressing matters raised by WIAL and Upper Hutt City Council (UHCC).
- 6 Appendix 1 sets out all the amendments sought by submitters through their evidence. Appendix 2 sets out my recommended amendments in response to submitter evidence. Within Appendix 2, my Section 42A report recommended amendments are shown in red underlined or ~~strike through~~ and further amendments recommended in this rebuttal evidence are shown in blue underline or ~~strike through~~

DEFINITION OF STRATEGIC TRANSPORT NETWORK AND METHOD 16

Upper Hutt City Council [Submitter S34]

- 7 Ms Rushmere on behalf of UHCC has filed evidence regarding changes to Method 16 as it relates to the Strategic Public Transport Network being out of scope of the plan change.
- 8 Ms Rushmere¹ considers the definition of strategic public transport network has been amended through Change 1 (the word “public” has been removed) and considers a consequential amendment to Method 16 is therefore appropriate.

Analysis and Recommendations

- 9 UHCC’s original submission noted an inconsistency in the definition of Strategic Transport Network as it does not appear to be linked to any provision (other than the Regionally Significant Infrastructure definition) on the basis Method 16 refers to the strategic **public**

¹ HS7 Suzanne Rushmere Statement of Evidence (Planning) paragraphs 28-32 <https://www.gw.govt.nz/assets/Documents/2024/03/HS7-S34-Upper-Hutt-Council-Statement-of-Evidence-Suzanne-Rushmere-280324.pdf>

(emphasis added) transport network. UHCC considered an amendment may be required for consistency but did not provide any suggested wording. In my section 42A report I recommended rejecting the submission point on the basis that Method 16 was not part of Change 1 and any changes to it were therefore out of scope of the plan change.²

10 I have discussed the potential for any unintended consequences related to Method 16 referring to strategic transport network (rather than strategic *public* transport network) with GWRC officers and I am satisfied there will be no implications of this change. On this basis, I agree with Ms Rushmere’s suggestion that it is appropriate to make a consequential change to Method 16 and therefore I recommend the method be amended as follows:

Method 16: Information about locations with good access to the strategic ~~public~~ transport network

Prepare and disseminate information to support the identification of locations with good access to the strategic ~~public~~ transport network.

DEFINITION OF REGIONALLY SIGNIFICANT INFRASTRUCTURE

Wellington International Airport Limited [Submitter 148]

11 Ms Hunter has provided planning evidence on behalf of WIAL and considers that the seawalls should be afforded a pathway for consideration under the RSI provisions of the RPS and raises concerns with the consistency in the scope of activities contained within the RSI definition, suggesting an alternative definition for Wellington International Airport.

12 Ms Lester has filed corporate evidence about the relationship of the seawalls to the operational integrity and functionality of the airport and their role in protecting three waters infrastructure, with a summary of future seawall consenting requirements.

13 Through a legal submission Ms Dewar disagrees that seawalls do not meet the definition of Infrastructure and submits that a seawall(s) is consistent with the definition of ‘building’ and therefore is consistent with the definition of airport in the Aviation Authorities Act 1966 and alongside Ms Hunter struggles to understand the consistency in the scope of the activities contained within the definition.

Analysis and Recommendations

² HS7 Section 42A report – Definitions paragraph 119 [HS7 - S42A Report - RSI - CLEAN.docx \(gw.govt.nz\)](#)

- 14 I acknowledge Ms Hunter's concerns there is ambiguity in the current drafting of the definition of Regionally Significant Infrastructure (RSI) about whether associated/ancillary infrastructure/structures are considered part of Wellington International Airport. Ms Hunter also raises a concern about drafting inconsistency in the definition - i.e., other activities (such as the port and the strategic transport network) have more detailed descriptions than the Airport³.
- 15 I understand⁴ the original starting point for RSI in the Operative RPS was the definition of 'Infrastructure' in the Resource Management Act 1991 (RMA). In other words, to meet the RPS definition of RSI an activity needed to be recognised in the definition of Infrastructure in the RMA. As noted in my section 42A report, the starting point for the amendments to the definition in Change 1 was the RSI definition in the NRP⁵. I understand from GWRC officers and from reviewing the decisions version of the NRP⁶ that increases to the scope of activities within the definition (i.e. inclusion of associated/ancillary/supporting infrastructure) largely arose through the mediation process and therefore the merits of the changes to those activities were not able to be fully tested during the hearing process.
- 16 Aside from the request from the Fuel Companies to remove Lambton Harbour Area from the definition related to the Commercial Port Area and its associated activities, there have been no submissions in relation to Change 1 to the RPS expressing concern about those activities and how they are described. In addition, no material changes to the definitions of those activities highlighted by Ms Hunter in her evidence⁷ as being inconsistent with the scope of the Airport's definition have been recommended as part of Change 1.
- 17 I also understand from GWRC officers that there were no requests from WIAL related to inclusion of the seawalls or navigational infrastructure (or any other supporting infrastructure) as part of the RSI definition during the NRP process. Referring to Ms Hunter's evidence for Hearing Stream 6⁸, I understand there is habitat and fauna which

³ HS7 Claire Hunter Statement of Evidence Paragraphs 8 and 9
<https://www.gw.govt.nz/assets/Documents/2024/03/HS7-S148-Wellington-International-Airport-Ltd-Statement-of-Evidence-Claire-Hunter-280324.pdf>

⁴ From reading s42A reports and evidence considered as part of the original Regional Policy Statement (RPS) and the more recent Natural Resources Plan (NRP) process

⁵ HS7 Section 42A report – Definitions, Paragraph 82,

⁶ Decisions Version of the Natural Resources Plan is no longer available online but can be provided upon request

⁷ HS7 Claire Hunter Statement of Evidence Paragraph 8

⁸ HS6 Claire Hunter Statement of Evidence Paragraph 7
<https://www.gw.govt.nz/assets/Documents/2024/01/HS6-S148-Wellington-International-Airport-Ltd-Statement-of-Evidence-Claire-Hunter-310124.pdf>

will meet Policy 11 of the NZCPS criteria and will require avoidance and management in accordance with indigenous biodiversity provisions in the RPS (including Change 1) and NRP, which both give effect to the NZCPS. The request from WIAL to have the seawalls specifically identified in the definition is to allow consideration of the benefits of the seawalls as RSI to be considered during any future consent(s) related to the seawalls⁹. I assume this is to 'balance' the avoidance policies that will be triggered by works to maintain and upgrade the seawalls with more enabling or supportive provisions requiring recognition of the benefits of RSI.

18 At the time of writing my section 42A report, I did not appreciate the nuance of WIAL's submission point [S148.056] requesting 'supporting infrastructure such as...' as being examples of the types of activities they sought to include. I interpreted the examples WIAL provided, navigational infrastructure and seawalls, as being exclusive. The intent of the amendment to the definition I recommended in my s42A report, as it relates to Wellington International Airport, was to capture navigational infrastructure that might not be on or adjacent to airport land (and therefore not captured under the definition of airport in section 2 of the Airport Authorities Act 1966 (AAA)) that is critical for the safe operation of the airport. My opinion at the time was that this amendment was appropriate as navigational infrastructure was specifically included in the definition of Infrastructure in the RMA¹⁰.

19 In my opinion, to fall within the ambit of 'infrastructure' and be appropriate for inclusion in the RSI definition, the seawalls need to be captured within the definition of 'airport' in Section 2 of the AAA¹¹, defined as:

***airport** means any defined area of land or water intended or designed to be used either wholly or partly for the landing, departure, movement, or servicing of aircraft; and includes any other area declared by the Minister to be part of the airport; and also includes any buildings, installations, and equipment on or adjacent to any such area used in connection with the airport or its administration*

⁹ HS7 Claire Hunter Statement of Evidence Paragraph 7

¹⁰ Section 2 RMA: Infrastructure, clause (j)

<https://legislation.govt.nz/act/public/1991/0069/latest/DLM230272.html>

¹¹ Section 2 Airport Authorities Act 1966

<https://legislation.govt.nz/act/public/1966/0051/latest/DLM379829.html#DLM379829>

20 The submissions of Ms Dewar¹² rely on the Building Act 2004 definition of 'building' to suggest the seawalls are part of the definition of 'airport' referred to above. Ms Dewar states that given its size and scale, a seawall is clearly a building. I do not agree that this definition is the appropriate one to apply when interpreting provisions of the RPS, a document made under the RMA. The Building Act definition relates to a different purpose - it is deliberately intended to be as broad as possible to capture a wide variety of buildings and structures (such as traditional buildings, as well as fences and retaining walls) to ensure there are requirements around their construction and integrity so that human safety is not compromised. It is not context specific to RMA related matters, such as the RPS. I also note there is no reference to seawalls in the Building Act.

21 In my view there are more RMA centric or planning focused definitions of 'building' which are more relevant to this situation. These include the definition of building in the Wellington City Operative District Plan (ODP) and Proposed District Plan (PDP), which is consistent with definition of building in the National Planning Standards¹³, as shown below, which prescribe a building must be enclosed (in the case of the ODP) and partially or fully roofed (in the case of both the ODP and PDP).

WCC ODP

BUILDING: means an enclosed structure built with a roof and walls¹⁴.

WCC PDP

Building: means a temporary or permanent movable or immovable physical construction that is:

- a. partially or fully roofed; and*
- b. is fixed or located on or in land;*

¹² HS7 Amanda Dewar Statement of Evidence para 1.14
<https://www.gw.govt.nz/assets/Documents/2024/03/HS7-S148-Wellington-International-Airport-Ltd-Legal-Submission-280324.pdf>

¹³ National Planning Standards section 14, page 55 [national-planning-standards-november-2019-updated-2022.pdf](https://www.environment.govt.nz/national-planning-standards-november-2019-updated-2022.pdf) ([environment.govt.nz](https://www.environment.govt.nz))

¹⁴ Wellington City Operative District Plan Volume 1: Objectives, Policies & Rules
General District Plan General Provisions Section 3.10 Definitions
<https://eplan.wellington.govt.nz/eplan/rules/0/6/0/3190/0/141>

but excludes any motorised vehicle or other mode of transport that could be moved under its own power¹⁵.

- 22 A seawall, including those in this situation, is not enclosed and has no roof; therefore, it is not consistent with either of these definitions and, in my view, should not be considered a building.
- 23 In my view, it is unclear whether the seawalls meet the first part of the AAA definition of airport; i.e. are part of the defined area of land or water intended or designed to be used either wholly or partly for the landing, departure, movement, or servicing of aircraft for the airport under the AAA or have been declared part of the airport by the Minister. Notably, as outlined in Ms Lester's evidence, the land on which the seawalls are located is owned by WCC and labelled as Local Purpose Reserve and zoned Natural Open Space¹⁶, it is not owned by WIAL or recognised as airport land or land for airport purposes. The seawalls are also not included in WIAL's designation under the WCC Operative or Proposed District Plans. In terms of the second part of the AAA definition, based on the legal submissions provided on behalf of Council, I understand there is an argument that the seawalls *could* be considered an 'installation'. Therefore, the seawalls *could* be consistent with 'infrastructure', if they are part of the defined area of land or water intended or designed to be used either wholly or partly for the landing, departure, movement, or servicing of aircraft (which in my view has not been shown yet), have been declared by the Minister to be part of the airport, or an 'installation' used in connection with the Airport or its administration.
- 24 However, I consider it is more appropriate for the RPS to provide a general definition of the Airport infrastructure and the specifics of what is captured be assessed at the time any resource consent is required. This is appropriate as that is when all of the detail about the infrastructure, its purpose and its importance to the operation and administration of the airport will be better understood.
- 25 I acknowledge the evidence of Ms Lester and the importance of the seawalls to the operation of the Airport now and into the future and also their function of protecting three waters infrastructure. I have no particular concern with the seawalls being

¹⁵ Wellington City Proposed District Plan Part 1 – Introduction And General Provisions Interpretation – Definitions <https://eplan.wellington.govt.nz/proposed/rules/0/142/0/0/0/33>

¹⁶ HS7 Statement of Evidence Jo Lester paragraphs 3.2 and 3.3 <https://www.gw.govt.nz/assets/Documents/2024/03/HS7-S148-Wellington-International-Airport-Ltd-Statement-of-Evidence-Jo-Lester-280324.pdf>

considered as part of the wider Airport activity, should the Panels (or a decision maker in the future) decide this is appropriate. The concern lies in a seawall(s) being specifically referenced in the definition because in my opinion this is inconsistent with the RMA definition of 'infrastructure' and may lend itself to 'planning or scope creep' in the definition whereby the line between infrastructure and activities required to protect infrastructure is blurred.

- 26 In my opinion, a seawall is not 'infrastructure', and I am concerned about the inconsistency that would be created within the RSI definition if specific reference to the seawalls were to be included. That is, there are other examples of RSI providers who have seawalls which are either required to protect their activities from natural hazards or even form part of the land in which their activities are undertaken who do not have seawall(s) specifically recognised in the definition. I also consider there is a risk in listing only specific items or activities in the definition, in that all relevant matters cannot be included and it is more appropriate for it to remain general.
- 27 Ms Dewar suggests that seawalls are included in the RSI definition as it relates to the Port and Strategic Transport Network¹⁷. However, as noted above there is no reference or specific mention of seawalls in the current definition for those activities. The Port and operators of the Strategic Transport Network would need to convince a decision maker that a seawall was infrastructure related to Port activities or land used in association with the movement of cargo and passengers (in the case of the Port) or an ancillary structure required to operate, maintain, upgrade or develop the network (in the case of the Strategic Transport Network) to fall within the ambit of the relevant definition. In my opinion, the same case by case consideration of what activities are (and are not) RSI should apply to the Airport.
- 28 Ms Hunter proposes an amendment to the definition of RSI as it relates to the Airport¹⁸. I am not supportive of this definition. I consider it is too broad and may lead to activities and structures that are inconsistent with the definition of 'infrastructure' being included and potentially afforded an easier consenting pathway or a consenting pathway which might not otherwise exist. Given the high level strategic focus of the RPS and complexities and uncertainty around the types and location of infrastructure necessary for the Airport to operate safely now and into the future, I consider the decision as to what activities

¹⁷ HS7 Statement of Evidence Amanda Dewar para 1.16

¹⁸ HS7 Statement of Evidence Claire Hunter para 13

should (or should not) fall within the ambit of being RSI in the context of Wellington International Airport is best left for consideration on a case by case basis as part of a plan making or consent process.

29 For these reasons, I recommend rejecting the amendments to the definition sought by Ms Hunter.

30 However, I do recommend an amendment to the definition to recognise the Airport's ancillary activities as RSI and to be consistent with how other listed activities are described in the RSI definition, where they can be considered infrastructure. I also recommend the inclusion of a note to make it clear that this includes infrastructure, buildings, installations and equipment not located on airport land. I therefore recommend the following amendment:

Wellington International Airport including all supporting navigational infrastructure including its infrastructure and any buildings, installations, and equipment on or adjacent to any such area used in connection with the airport or its administration
This includes infrastructure, buildings, installations and equipment not located on airport land.

31 The recommended inclusion of installations and the supporting note reflect the intent of the recommended amendment in my s42A report which acknowledged navigational infrastructure not located on airport land still met the definition because navigational installations as defined in the Civil Aviation Act 1990 were consistent with the RMA definition of Infrastructure¹⁹. Therefore, in my view specific reference to navigational infrastructure is no longer required.

32 This amendment is consistent with the key principle of the RSI definition (that an activity must be Infrastructure) and provides clarity that other activities could fall within the definition if they are consistent with the AAA definition of airport²⁰ (which as described above meets the RMA definition of Infrastructure).

¹⁹ HS7 Section 42A report – Definitions, Paragraph 89,

²⁰ The AAA is in the process of being repealed and replaced with the Civil Aviation Act 2023 that inserts this definition into the RMA. This changes the definition of airport in the RMA definition of Infrastructure to “aerodrome” which has a slightly revised definition as set out in the GW legal submission. This does not have any material impact in regards to my position on recommended changes.

33 This amendment also provides WIAL the opportunity to demonstrate that an activity in question is consistent with this definition and should be considered RSI. Decision-makers can also consider this on a case-by-case basis as part of a plan making or consent process.

Section 32AA Evaluation

34 In accordance with Section 32AA, I consider the amendments I am recommending to the definitions to Method 16 and the definition of Regionally Significant Infrastructure are appropriate as they improve the interpretation and implementation of the RPS (but do not actually change its meaning), and in doing so will enhance the effectiveness and efficiency of the provisions they relate to.

DATE:

8 APRIL 2024

SHANNON WATSON

TECHNICAL LEAD PLANNING, GHD