

**Before the Independent Hearings Panel  
at Wellington City Council**

**Under** Schedule 1 of the Resource Management Act 1991

**In the matter of** Hearing submissions and further submissions on the  
Proposed Wellington City District Plan – Part 1 Sch 1  
Wrap up hearing

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**Statement of Supplementary Planning Evidence of  
James (Jamie) Grant Sirl on behalf of Wellington City Council**

**Date: 31 October 2024**

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## INTRODUCTION

- 1 My full name is James (Jamie) Grant Sirl. I am employed as Senior Advisor in the District Planning Team at Wellington City Council (the Council).
- 2 I have read the further evidence and statements provided by submitters relevant to the section 42A Report – Part 1 Sch 1 Wrap up hearing, dated 9 October 2024 (s42A Report).
- 3 I have prepared this statement of supplementary planning evidence in response to evidence submitted in response to the s42A Report, including the associated appendices, which can be found on the Wellington City Council's [Wrap Up webpage](#).
- 4 Specifically, I respond to the following submitters:

**Transpower New Zealand Limited [315 and FS29]**

- a. P Whitney (Planning)

**Wellington International Airport Limited (WIAL) [406 and FS36]**

- a. Kirsty O'Sullivan (Planning)
- b. Dr Michael Anderson (Ecology)
- c. Jack Howarth (Bird Hazard Management)

**Envirowaste (now known as ENVIRO NZ) [373]**

- a. Kaaren Rosser (Planning)

- 5 I have not addressed points where the submitter has agreed with the recommendations in the s42A Report. Where submitter evidence speaks to matters already addressed in this report, I rely on the recommendations and

reasoning in this report and only provide additional assessment where necessary.

- 6 Where, in response to the evidence of submitters, I recommend amendments to plan provisions in addition to those contained in the s42A Report, I identify these in Appendix A to this supplementary statement of evidence.

#### **QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT**

- 7 Section 1.2 of the s42A report sets out my qualifications and experience as an expert in planning.
- 8 I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023, as applicable to this Independent Panel hearing.

#### **SCOPE OF EVIDENCE**

- 9 My statement of evidence addresses the expert evidence of the submitters listed above, and the statement of evidence of Dr Rachel McClellan, Ecologist, engaged by council to provide expert advice on bird strike.

#### **RESPONSES TO EXPERT EVIDENCE**

##### **Transpower New Zealand Limited [315 and FS29]**

- 10 Ms Whitney provides support for the majority of the recommended amendments outlined in the s42A Report for Hearing Stream 12, but has queried why reference to SNAs is not recommended to be included in INF-NG-R61.

- 11 In my opinion, INF-NG-R61 does not need to apply to SNA, as INF-NG-R65 adequately provides for upgrading of existing National Grid infrastructure in SNA both within, and outside of, the coastal environment.
- 12 Ms Whitney has also correctly identified an error in the Infrastructure chapter that forms part of the Appendix A to the Wrap Up s42A Report. With respect to INF-R7, the review undertaken as part of preparation for the Wrap Up hearing identified that the rule should be rewritten to improve clarity of which standards apply and where. The intent was never to introduce any substantive amendments in addition to those recommended by the HS9 Officer. However, I note that consequential amendments were not carried through to INF-R7.2a which is rectified in Appendix A to this supplementary statement of evidence.
- 13 The confusion is likely a result of the approach I took to tracking the changes due to the complexity of tracking changes between versions. The proposed Wrap Up amendments to INF-R7 show the notified INF-R7.1a. – d. as struck out, with the reworded and reordered alternative (Wrap Up INF-R7.1a. – f.) only highlighting the HS9 Officer recommendations in red text. While I acknowledge that confusion has arisen due to my approach to tracking changes, I also note that Ms Whitney’s evidence (specifically, Figure 1) has not included the proposed INF-R7.1e. and f. that results from the proposed rewrite of this rule.
- 14 To clarify, a summary of the Wrap Up amendments to INF-R7 is as follows:
- a. The rule title has been simplified following the Hearing Stream 9 recommendation to delete ‘including’ meaning the activities 1-7 are the only activities managed by INF-R7. This made the phrase “not otherwise managed by specific rules in this chapter” superfluous. It can be deleted without affecting the meaning of the rule title.
  - b. The Hearing Stream 9 version of INF-R7.1 had two sets of maximum

heights and areas for these structures in road reserves and rail corridors, which required the more restrictive and specific heights in the road reserve and rail corridors to be separated out.

- c. INF-S7 is given its own line as it relates to riparian setbacks and is unrelated to the road/rail reserve.
- d. Notified 1.a is also separated into two lines to be clear that INF-S6 does not apply to rural and industrial zones.
- e. The reference to INF-S16 was a duplication of what is now INF-S14 as it had changed numbers many times.

15 The amendments above have no changes to the real-world application of INF-R7 and its standards – the amendments are just to improve clarity.

16 It goes without saying, but if the Panel prefers the wording included in the HS9 Officer Reply, then it is simply a matter of disregarding the changes to INF-R7 that I have proposed.

#### **Wellington International Airport Limited (WIAL) [406 and FS36]**

##### Bird strike risk activities

17 The expert evidence lodged in support of the bird strike risk to the Airport provisions sought by WIAL helpfully provides detailed information on the matter for the Wellington context, and the current non-statutory methods undertaken by WIAL to manage the hazard.

18 Dr Rachel McClellan has been engaged by Council to assist with this matter, and accordingly, in addition to the evidence presented by WIAL, I rely on Dr McClellan’s advice contained within her Statement of Evidence<sup>1</sup> in forming my opinion on the appropriateness of the proposed plan provisions.

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<sup>1</sup> Statement of evidence of Rachel Katherine McClellan on behalf of Wellington City Council (bird strike) 31 October 2024

- 19 In summary, Dr McClellan considers that:
- a. Contrary to Ms O’Sullivan’s evidence, the management areas do not reflect the range of the key bird species for the Wellington context;
  - b. The proposed 8km and 13km management areas do not have an evidential basis that justifies application in the Wellington context;
  - c. There is evidential justification for District Plan controls to manage bird strike risk from landfills or any waste management facility, including human sewage facilities across the Wellington District; and
  - d. Putting aside the likelihood of new freezing works and fish processing activities establishing within a 3km distance from the Airport, it is appropriate to require resource consent and obtain bird strike management plans for these activities in close proximity to the airport in lieu of a better evidence-based alternative.
- 20 I do not dispute the risk that bird strike poses to aircraft safety, but note that mechanically the proposed provisions will only manage risk from *future* bird attracting activities. They will not manage or reduce the risk associated with *existing* lawfully established activities. For existing activities, the non-district plan methods WIAL already apply as discussed by Mr Howarth will continue to be the main way in which the risk of bird strike is mitigated.
- 21 On the basis of current land use and zoning (operative and proposed), I consider the likelihood of most of the proposed Bird Strike Risk Activities establishing within an 8km distance from the airport to be low.
- 22 Within 3km of the airport I consider the likelihood to be even lower due to the smaller area, and given that the current and proposed land uses and zoning do not readily enable the activities within the proposed bird strike risk activities definition.
- 23 I also note that any bird strike risk plan provisions are unlikely to apply to

any future extension to the Southern Landfill as an extension is highly likely to be undertaken within the current designation. As highlighted by Ms O’Sullivan and Mr Howarth with respect to the Southern Landfill extension, bird strike risk would potentially be a matter for consideration under a regional consenting process.

24 However, I consider that the suite of evidence, including that of Dr McClellan, supports some form of land use management to manage the potential adverse effects from new, or future extensions, to activities that have high potential to attract birds that pose a significant threat to the airport and aircraft safety, and have a reasonable likelihood of occurring in Wellington City.

25 Turning to WIAL’s proposed provisions, I suggest that there are essentially three interrelated components;

- a. the specific activities that require management;
- b. the location where management of the specific activities is required;  
and
- c. the specific policies, rules and assessment needed for the effective and efficient management of the issue.

#### Bird Strike Risk Activities

26 The initial memorandum lodged on behalf of WIAL<sup>2</sup> states that *the provisions focus on those specific bird strike risk activities that are more likely to establish within a 3km, 8km and 13km radius of Wellington International Airport.*

27 WIAL’s proposed new definition is as follows:

***Bird Strike Risk Activity*** means a new or extension to an existing:

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<sup>2</sup> [Mitchell Daysh Limited memorandum dated 17 September 2024](#)

- a. permanent artificial water body resulting in a surface area exceeding 1000 m<sup>2</sup>;*
- b. marine food processing activity with external food storage or waste areas accessible to birds;*
- c. sewage treatment and disposal facility;*
- d. abattoir or freezing works; and*
- e. landfill, waste management facility or composting facility.*

28 Ms O’Sullivan explains in her evidence that WIAL have developed the proposed list of Bird Strike Risk Activities based on the CAA list of activities and the likelihood that they consider these activities would establish within a 3km, 8km and 13km radius.

29 She also notes that that WIAL use a risk assessment matrix to assess hazard risk associated with various bird species, and this process identifies a risk classification for each bird species. Dr Anderson has identified the key attractants for each priority species, which Ms O’Sullivan advises generally correlate with the activities included in the proposed definition for Bird Strike Risk Activities. Dr McClellan highlights her concerns that WIAL’s approach overstates the risk attributed to species other than the Southern Black-Backed Gull.

30 The evidence lodged on behalf of WIAL indicates to me that beyond breeding, roosting and nesting habitat, *landfills* and less so *schools* and *parks* were highlighted as land uses highly attractive to birds. Notably, the existing Taylor Preston abattoir in the Ngauranga Gorge is not identified as a highly attractive site to birds in WIAL’s evidence, despite Dr Anderson’s evidence showing that birds will fly well further than this location in search of food sources.

31 Accordingly, I am unclear how the specified activities have been determined to be more likely to establish in the 8km and 13km management areas.



Based on the evidence provided it appears existing schools or parks are just as likely to attract birds as other activities, but these activities are not proposed to be managed by the provisions put forward by WIAL.

32 Unlike other Airports where surrounding land use may be more enabling of rural activities that might attract birds, it appears to me that many of the proposed Bird Strike Risk Activities are unlikely to establish in close proximity to Wellington International Airport given its physical context.

33 With respect to the specific activities proposed by WIAL to be treated as a Bird Strike Risk Activity, I consider that:

- a. These are mostly associated with rural or industrial activities, and are unlikely to establish in the urban areas surrounding the Airport;
- b. Given the small extent of General Industrial Zone and lack of a dedicated fishing port and associated infrastructure in Wellington where marine food processing activities could occur, it is considered unlikely that an activity of this nature will be established;
- c. It is not intended that *marine food processing activities with external food storage or waste areas accessible to birds* capture activities such as a fish and chip shops with outdoor waste bins;
- d. Reference should only be to landfills and waste disposal or composting facilities, not cleanfill; and
- e. Dr McClellan's evidence concludes that there is no need to manage new artificial waterbodies.

#### Management areas

34 With respect to the area proposed for management of Bird Strike Risk Activities my view is that:

- As outlined in the evidence of Dr McClellan, the management area distances are of limited applicability to Wellington, and Bird Strike Risk Activity rules and the area where provisions apply should be

more bespoke and tailored to the Wellington context;

- Controls on specific Bird Strike Risk Activities within a 3 km management area surrounding the Airport would adequately manage bird strike risk from new activities (with the exception of landfills) given the relatively close proximity to the Airport; and
- Experts agree that landfills are a significant bird attracting activity, and on this basis it seems appropriate that landfills are managed citywide, with rules not limited to only apply within 13 km of the airport.

Proposed objectives, policies, rules

35 As noted by Ms O’Sullivan most of the proposed Bird Strike Risk Activities already require resource consent so an additional consideration of bird management is not overly onerous, and considered in light of the benefits is considered an efficient and effective option to manage risk. I generally agree with Ms O’Sullivan that a form of land use management is appropriate, but in a form that is more reflective of the Wellington context to that proposed by Ms O’Sullivan.

36 I agree with Ms O’Sullivan that INF-O3 and INF-P7 recommended by the s42A reporting officer in Hearing Stream 9 provide appropriate policy direction for the recommended rule. I also agree with Ms O’Sullivan that a rules-based approach is more effective and clearer for plan users than relying on policies and assessment matters.

37 I also prefer Ms O’Sullivan’s revised rule structure. While no longer providing a permitted activity pathway, it does provide for an option that does not need a bird management plan if the scale of the proposed activity and incorporation of design measures negate the need for one.

38 I agree with Ms O’Sullivan’s opinion that a restricted discretionary rule is therefore more effective and easily implementable than the earlier

permitted conditions approach.

- 39 I disagree that a discretionary activity status is necessary for managing bird strike risk in relation to extensions to existing or new landfills and consider that a restricted discretionary activity is adequate. The potential adverse effects and assessment criteria are well defined, and as such full discretion is not required.
- 40 In response to Ms O’Sullivan’s statement that it is ‘unclear to her how these processes demonstrate how the management approach proposed by WIAL may be inappropriate in the New Zealand context’, my intention was simply to highlight that these other examples appeared to illustrate that the starting point of the CAA listed activities of 3km, 8km and 13km management areas were not necessarily applicable to the Wellington context more so than the New Zealand context. Nevertheless, I maintain that based on the initial WIAL memorandum and other District Plan examples there was an apparent need for the proposed provisions to be more nuanced for the Wellington context. I consider that the expert ecological evidence confirms this.
- 41 The subsequent evidence lodged on behalf of WIAL provides the missing local context on bird presence and risk, noting Dr McClellan’s position on risk. However, no further refinement to the mapping or plan provisions is suggested by Ms O’Sullivan to reflect the local context.

#### Conclusion - Bird Strike Risk

- 42 Having considered Ms O’Sullivan’s evidence, in the context of the evidence of Mr Howarth, Dr Anderson and Dr McClellan:
- a. I agree that bird strike risk provisions have merit, but consider that the provisions suggested by Ms O’Sullivan should be amended to better reflect the Wellington bird population and associated bird strike risk. The most significant departure being the refined list of

bird strike risk activities and areas that the rules will apply. I consider that my recommended approach reflects a precautionary approach that is commensurate with the level of bird strike risk.

- b. Having considered the matter further, I generally agree with Ms O’Sullivan that no further definition of the specific activities is necessary. The only exception being with respect to marine food processing where it is unclear whether this is intended to include a fish shop where fish is processed on site for sale and has outdoor waste storage. I also consider that based on Dr McClellan’s evidence cleanfills do not need to be included with landfills and waste disposal facilities.
- c. I recommend that a mapped area comprising a 3 km radius from the Wellington International Airport is included in the e-plan mapping to illustrate where the Bird Strike Risk Activity rule INF-R25 applies. I note that the result of this mapping will be that this overlay will show up on all individual properties in the e-plan property search results (and as a consequence on all LIMs for these properties). As the recommendation is to apply the Bird Strike Risk Activity rule related to landfills to the entire Wellington District, I do not consider it necessary to map the application of this rule in the same way.

43 **WUP2-Rebuttal-Rec1:** That a definition of “Bird Strike Risk Activity”, associated plan provisions are included in the District Plan as set out below and included in Appendix A to this report:

<b>BIRD STRIKE RISK ACTIVITY</b>	means a new or extension to an existing: <ul style="list-style-type: none"> <li>a. marine food processing activity with external food storage or waste areas accessible to birds;</li> <li>b. sewage treatment and disposal facility;</li> <li>c. abattoir or freezing works;</li> <li>d. landfill or waste management facility or composting facility (excluding cleanfill).</li> </ul>
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INF-R25	Bird strike risk to the Wellington Airport
All Zones	<p>1. Activity status: <b>Restricted Discretionary</b></p> <p>Where:</p> <ul style="list-style-type: none"> <li>a. Any Bird Strike Risk Activity that is a marine food processing activity with external food storage or waste areas accessible to birds, or abattoir or freezing works, and is proposed within a 3 km radius of the thresholds of the runways at Wellington International Airport (as shown on the planning maps – 3km Bird Strike Risk Activity management area); or</li> <li>b. Any Bird Strike Risk Activity is a landfill, waste management facility or composting facility (excluding cleanfill), or</li> <li>c. Any Bird Strike Risk Activity is a sewage treatment and disposal facility.</li> </ul> <p>The matters of discretion are:</p> <ul style="list-style-type: none"> <li>1. The extent to which the proposed activity will be designed, operated and managed to avoid attracting bird species which constitute a hazard to aircraft;</li> <li>2. Whether a bird management plan has been prepared by a suitably qualified ornithologist that describes how the activities will be managed on site to minimise potential bird strike risk at Wellington International Airport, and whether consultation has been undertaken with the Airport Authority and feedback integrated into the bird management plan; and</li> <li>3. The matter set out in INF-P7.</li> </ul>

- 44 **WUP2-Rebuttal-Rec2:** That a mapped area comprising a 3 km radius from the Wellington International Airport is included in the e-plan mapping to illustrate where the Bird Strike Risk Activity rule INF-RX applies.

Moa Point Seawalls

- 45 Ms O’Sullivan maintains that seawall specific provisions that were recommended to be included in the Natural Open Space Zone as part of Hearing Stream 7 are required to provide policy support for the planned

replacement of the existing seawalls that protect the airport.

- 46 While I agree with Ms O’Sullivan that where resource consent is required for activities with a discretionary activity status, the wider objectives and policies of the plan provide guidance on matters to consider as part of the assessment, this is only to the extent policies are relevant and a single policy should not be considered in isolation.
- 47 The Infrastructure chapter and sub-chapters incorporate and address the need to manage effects on specific values, e.g. ecological or natural character, and are also nuanced by zone where necessary.
- 48 When referencing the standalone nature of the Infrastructure chapter and sub-chapters as justification for my recommendation that the Moa Point Seawall provisions are unnecessary, specifically this is because the INF-CE sub-chapter (as amended through HS9 ROR/Wrap Up) provides the relevant policy direction and rules with respect to infrastructure. I have reviewed the zone chapters of the plan and, beyond the special purpose zones, have found no other example of specific provisions that support the provision of infrastructure more generally, or for a single infrastructure asset.
- 49 There is other existing infrastructure located within the NOSZ (e.g. roads and associated retaining structure in NOSZ) and in the specific area relevant to the Moa Point Seawalls, with no specific policy support provided in the NOSZ.
- 50 Consequently, I remain unconvinced that specific policy direction for the Moa Point Seawalls is necessary in the NOSZ, however I also see no major issue with their retention should the Panel be minded to agree with Ms O’Sullivan.

Definition of upgrading

- 51 I agree with Ms O’Sullivan that due to the PDP definition of upgrading specifically excluding renewal, the result is that renewals that involve the complete replacement of infrastructure would seemingly be treated the same as new infrastructure. In my opinion this is unnecessary as there is no need to assess any adverse effects related to existing infrastructure, and it is only the adverse effects in relation to the upgrade or replacement beyond the existing infrastructure that needs to be considered.
- 52 On that basis, I agree with Ms O’Sullivan that an amendment to the definition of upgrading to delete the exclusion of renewals is appropriate.
- 53 I note provisions in the plan that explicitly manage ‘renewals’ are limited. INF-S4 is an example of a standard that applies to the upgrading of above ground infrastructure, which specifically provides for the replacement of certain infrastructure. I see no difference between renewal and replacement.
- 54 I have reviewed the ROR version of HS9 and consider that this amendment to the definition of upgrading has no consequential implication for the suite of Infrastructure chapter and sub-chapter, and Renewable Energy Generation provisions.

**Summary of recommendations**

- 55 **WUP2-Rebuttal-Rec3:** That the definition of Upgrading is amended as set out below and included in Appendix A to this report:

<b>UPGRADING</b>	as it applies to infrastructure, means the improvement or increase in carrying capacity <u>or output</u> , operational efficiency, security or safety of existing infrastructure, but excludes maintenance, <u>and</u> repair <del>and renewal</del> .  <u>Upgrade and upgrades have the corresponding meaning.</u>
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Definition of Regionally Significant Infrastructure

- 56 Ms O’Sullivan seeks that the PDP definition of RSI, insofar as it relates to WIAL, should replicate the RPS Change 1 decisions version definition of RSI.
- 57 I agree with Ms O’Sullivan that this amendment to the PDP definition of RSI is appropriate to maintain consistency with higher order planning instruments, and consider that the description appropriately describes the infrastructure relevant to the Airport.

**Summary of recommendations**

- 58 **WUP2-Rebuttal-Rec4:** That the definition of Regionally Significant Infrastructure is amended as set out below and included in Appendix A to this report:

<b>REGIONALLY SIGNIFICANT INFRASTRUCTURE</b>	means regionally significant infrastructure including: <ul style="list-style-type: none"><li>a. pipelines for the distribution or transmission of natural or manufactured gas or petroleum, <u>including any associated fittings, appurtenances, fixtures or equipment;</u></li><li>b. facilities and structures necessary for the operation of telecommunications and radiocommunications networks operated by network utility operators;</li><li>c. the National Grid;</li><li>d. facilities for the generation and/or transmission of electricity where it is supplied to the National Grid and/or the local distribution network;</li><li>e. <u>facilities for the electricity distribution network, where it is 11kV and above. This excludes private connections to the local distribution network;</u></li><li>f. the local authority water supply network and water treatment plants;</li><li>g. the local authority wastewater and stormwater networks, systems and wastewater treatment plants;</li><li>h. the Strategic Transport Network, as identified in the operative Wellington Regional Land Transport Plan;</li><li>i. Wellington City bus terminal and Wellington Railway Station terminus;</li></ul>
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	<ul style="list-style-type: none"> <li>j. <u>Wellington International Airport including infrastructure and any buildings, installations, and equipment required to operate, maintain, upgrade and develop the airport located on, or adjacent to, land and water used in connection with the airport. This includes infrastructure, buildings, installations and equipment not located on airport land; and</u></li> <li>k. Commercial Port Areas within Wellington Harbour and adjacent land used in association with the movement of cargo and passengers and including bulk fuel supply infrastructure, and storage tanks for bulk liquids, and associated wharflines; <u>and</u></li> <li>l. <u>Southern Landfill.</u></li> </ul>
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**Envirowaste (now known as ENVIRO NZ) [373]**

59 To clarify, the Envirowaste submission points [373.4 and 373.5] were not specifically addressed in the Infrastructure Hearing Stream s42A Report and associated appendix of recommendations on submissions. For that reason these submission points have been included in the Wrap Up hearing for completeness. The general matter of how the PDP provides for waste processing and disposal facilities has been adequately addressed in Hearing Stream 9.

60 My recommendation to reject the sought inclusion of waste processing and disposal facilities within the PDP definition of Infrastructure, but to include the existing Southern Landfill in the definition of Regionally Significant Infrastructure (RSI) (on the basis of achieving consistency with the similar definition within the RPS Change 1 decisions and NRP), in my opinion, does not necessitate revisiting this matter in full.

61 Ms Rosser considers that the primary benefit of the recommended inclusion

of the Southern Landfill within the definition of RSI is the applicability of the reverse sensitivity provisions that relate to RSI. I note that in reality only INF-O3 and INF-P7 are relevant.

62 Having considered the evidence of Ms Rosser, I remain of the opinion that the PDP definition of Infrastructure should not be amended to include 'district or regional resource recovery or waste disposal facilities' on the basis that this would be inconsistent with the definition of Infrastructure contained in the RMA, and that is relied on in the RPS and NRP. I consider that, in a general sense, the plan provides an appropriate consenting pathway for new landfill activities and as such there is no 'gap' that needs to be addressed through amendments to the Infrastructure definition.

63 I note that Ms Rosser considers it would be inappropriate for the Infrastructure chapter and sub-chapter rules to apply to district or regional resource recovery or waste disposal facilities. I agree, and consider this illustrates that there would be limited value from a plan implementation perspective in the amendments sought to the PDP definition of Infrastructure.

**Jamie Sirl**  
**Senior Planning Advisor**  
**Wellington City Council**

**31 October 2024**

**Appendix A: P1Sch1 Wrap Up Hearing - Officer rebuttal recommended amendments**

- a. Definitions**
- b. Infrastructure Chapter**