

IN THE MATTER
of the Resource Management Act 1991

AND

IN THE MATTER
of Hearing of Submissions and Further Submissions
on the Wellington City Proposed District Plan –
Hearing Stream 12 Wrap Up

JOINT STATEMENT OF PLANNING EXPERTS (JWS)

20 November
2024

INTRODUCTION

1. This joint witness statement relates to expert conferencing on the following topics as requested by the Hearings Panel in Paragraphs 9 and 12 of Minute 61:
 - a. Scope for s42A officer recommended amendments to the definition of Regionally Significant Infrastructure.
 - b. Proposed definition of Bird Strike Risk Activities
2. Participants in the conferencing were:
 - Kirsty O’Sullivan expert planning witness for Wellington International Airport Limited.
 - Jamie Sirl expert planning witness for Wellington City Council.
3. The conferencing was held on-line (Microsoft Teams).
4. We confirm that we have read the Environment Court’s Code of Conduct set out in the Environment Court’s Practice Note 2023. We have complied with the Code of Conduct in preparing this joint statement. Except where we state that we are relying on the evidence of another person, this evidence is within our area of expertise. We have not omitted to consider material facts known to us that might alter or detract from the opinions expressed in this evidence.
5. The primary data on which the opinions are based is:
 - The Wellington City Proposed District Plan (PDP);
 - The Section 42A report for the Wrap Up hearing (dated 9th October 2024), and Statement of Supplementary Evidence of Jamie Sirl (dated 31st October 2024) and associated appendix;
 - WIAL Memorandum (17th September 2024)
 - The statement of evidence and the summary statement of evidence of Ms

Kirsty O’Sullivan (dated 23rd October 2024 and 8th November 2024 respectively)

- Ms O’Sullivan’s updated proposed drafting of INF-R25 (provided by email to the Panel 11th November 2024)

MATTERS COVERED BY THIS STATEMENT

ISSUE 1:	Definition of Regionally Significant Infrastructure
FACTS / ASSUMPTIONS	<ol style="list-style-type: none"> 1. The Panel have sought that Ms O’Sullivan and Mr Sirl conference on the matter of scope for the amendments to the definition of Regionally Significant Infrastructure recommended by Mr Sirl as s42A officer, in his Supplementary Statement of Evidence. 2. In her evidence Ms O’Sullivan sought that the definition of ‘Regional Significant Infrastructure’ be amended to align with the RPS PC1 decision on the RSI definition. In his Supplementary Statement of Evidence, Mr Sirl agreed and recommended this amendment to the Panel. 3. During the course of the hearing, the Panel questioned the scope for this amendment. 4. WIAL’s submission on the definition of RSI sought to retain the definition as notified. 5. In conferencing, Mr Sirl advised that he had sought a legal opinion on the matter of scope as it relates to this issue which concluded that the proposed amendments are beyond the scope of the relief sought by WIAL. 6. Having both considered the general scope provided by all submissions on the PDP, we agree that there is no scope to amend the definition of Regionally Significant Infrastructure as recommended. We agree that alignment with the RPS is best addressed by Council through a future plan change.
AGREED POSITION	<ol style="list-style-type: none"> 7. That there is no scope for the amendments to the definition of Regionally Significant Infrastructure contained in Ms O’Sullivan’s statement of evidence.

ISSUE 2:	Definition of Bird Strike Risk Activities
FACTS / ASSUMPTIONS	<p>8. The Panel have queried whether the following proposed bird strike risk activities require further qualification to ensure that the associated proposed rule is not applied in an unintended way to small-scale or temporary activities.</p> <ul style="list-style-type: none"> a. <i>marine food processing activity with external food storage or waste areas accessible to birds</i> b. <i>landfill, waste management facility or composting facility (excluding cleanfill)</i> <p>9. In conferencing, we considered a range of potential qualifiers.</p> <p>10. We considered whether limiting each activity to those that are ‘commercial’ in nature would sufficiently qualify the scale of the activities. We both agree that while it may have some merit with respect to marine food processing activities, it is more difficult for landfills due to such activities often being municipal rather than commercial landfills.</p> <p>11. In considering the potential need for a qualification of size or scale for landfills, waste management facilities or composting facilities, this led us to consider the application of the Landfill and Heavy Industrial Activities rules more broadly. We observed that the plan does not provide any qualification for when such activities transition from a small backyard activity to a larger scale facility that requires greater management. If the Panel is of the view that the lack of qualification is an issue, we therefore consider it is a broader, district wide issue rather than one that is unique to the management of bird strike risk.</p> <p>12. We both agree that the rule should not apply to temporary activities, or small-scale activities (such as offal pits or backyard composting).</p> <p>13. We also considered an option of qualifying the scale of landfills, waste management and composting facilities through the relationship with the plan’s definition of Heavy Industrial Activity. That is, if the activity was of a scale that was deemed a heavy industrial activity, then it would also be captured by the bird strike risk activities list. While this approach would not necessarily result in an easily measurable point at which an activity becomes a landfill of a scale that necessitates the management of bird strike risk, it would rule out small-scale activities such as a farm offal pit being caught by the proposed rule. We both had difficulties with the circular nature of qualifying an activity using a definition, which includes the activity that you are trying to qualify.</p> <p>14. We also considered the option of an advisory note to the rule, that clarified that the rule does not apply to temporary activities, or small-scale activities (such as offal pits), which could have the potential to fall within the plan definition of landfill or backyard composting. Whilst we highlight this as an option the Panel may wish to take up, we also acknowledge that there can be unintended consequences with respect to interpretation of other rules that do not have a similar advisory note outlining exclusions.</p>

	<p>15. Alternatively, we considered whether simply referring to a marine food processing <i>facility</i> as opposed to <i>activity</i>, and landfill <i>facility</i> would provide adequate additional clarity. We consider that in lieu of a better alternative, it does, and that this would be consistent with the use of the terms waste management <i>facility</i> and composting <i>facility</i>.</p>
<p>AGREED POSITION</p>	<p>16. That no further qualification of marine food processing activity or landfill is necessary, and that pragmatism in rule interpretation and application is relied upon consistent with the wider plan approach, such as determining whether an activity is deemed a landfill and consequently a Heavy Industrial Activity.</p> <p>17. That should the Panel be of the view that some form of qualification is required, that of the options we considered, use of the term 'facility' is our preferred option.</p>

PARTICIPANTS TO JOINT WITNESS STATEMENT

We confirm that we agree that the outcome(s) of the expert conferencing are as recorded in this statement.

20 November 2024



Kirsty O'Sullivan
for Wellington
International Airport
Limited



Jamie Sirl
for Wellington City Council