

Under the Resource Management Act 1991

In the matter of hearings of submissions and further submissions on the Proposed Wellington City District Plan

By **Wellington's Character Charitable Trust Inc**
Submitter

LEGAL SUBMISSIONS BY WELLINGTON'S CHARACTER CHARITABLE TRUST
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Introduction

1. These legal submissions are filed in advance of the Hearing Stream 1 hearings due to commence on 21 February 2023.
2. Wellington's Character Charitable Trust (the Trust) has made submissions on two topics being addressed in Hearing Stream 1:
 - (a) the classification of the Johnsonville train line as a rapid transit service; and
 - (b) the size of the walkable catchments around the city centre, metropolitan centre zones, and rapid transit stops.

Summary of position

3. The Panel needs to assess the characteristics of the Johnsonville line (JVL) against the four criteria in the National Policy Statement on Urban Development 2020 (NPS-UD): to be a rapid transit service it must be frequent, quick, reliable and high-capacity. No existing planning documents have undertaken the required assessment, so the Panel will need to consider the expert evidence.
4. The Panel's assessment must be based on the current features of the JVL. There are no improvements that have been planned and budgeted in a manner that the Panel is able to take into account.
5. The Trust submits that the expert evidence clearly shows that JVL has significant constraints on its frequency, capacity and speed. These constraints prevent it from being a rapid transit service and mean that it is not capable of supporting expected population growth within a walkable catchment.
6. Classifying JVL as a rapid transit service when it does not have the required characteristics will lead to adverse outcomes that are inconsistent with the objectives of the NPS-UD.
7. On the second issue, the Trust submits that any changes to the walkable catchment distances needs to be considered in light of the purpose and nature of the entire walk. For walkable catchments around the edge of the city centre zone, the Panel needs to take account that a walk to the edge of

the city centre zone will not be the end of the journey, because the pedestrian's ultimate destination will be somewhere within the city centre zone. Similarly, a walk to a rapid transit stop will be the first of at least three phases on a journey.

8. These considerations support walkable catchment sizes of 10 minutes around the city centre zone, and 5 minutes around rapid transit stops.

Rapid transit services and the Johnsonville line

9. Policy 3 of the NPS-UD requires the district plan to enable "building heights of at least 6 storeys within at least a walkable catchment of ... existing and planned rapid transit stops".
10. A key dispute in Hearing Stream 1 is whether the stops on the Johnsonville train line are rapid transit stops for the purposes of this policy. This in turn requires an assessment of whether JVL is a rapid transit service.
11. The Trust's position is that the classification of JVL requires expert assessment, interpreted in light of the definitions and objectives of the NPS-UD.

Expert evidence

12. The Trust has lodged expert evidence from Mr Donald Wignall and Dr Timothy Helm. A brief summary of their expert opinion follows.
13. Mr Wignall is an experienced transport planner and has provided assistance on a number of rail projects in Wellington and elsewhere.¹ His view is that JVL is an outlier among other Wellington metropolitan rail services in terms of limitations on its frequency, travel time, reliability and capacity. It therefore does not meet contemporary standards for what is expected of a rapid transit service, and there is no realistic prospect of it being improved.
14. Dr Helm is an economist with expertise in transport and housing economics.² His evidence is that there are no existing policy documents that settle whether JVL is a rapid transit service, and accordingly that the characteristics of the line must be assessed. He has considered JVL against a range of

¹ Statement of evidence of Donald Wignall.

² Statement of evidence of Timothy Helm.

frequency, speed and capacity benchmarks and guidance materials, and concluded that it does meet the relevant benchmarks.

15. Dr Helm goes on to assess the consequences of classifying JVL as rapid transit. His view is that this classification will reduce citywide housing density, reduce active and public transport mode share, increase car dependency, and worsen the performance of the transport network. It will not however improve housing affordability. These outcomes are not consistent with the NPS-UD's objectives.
16. The contrary evidence is primarily contained in the officers' s 42A report by Andrew Wharton for the Council. Mr Wignall and Dr Helm respond to Mr Wharton's evidence in their statements, and will provide further response to his rebuttal at the hearing.
17. As the Panel considers the expert evidence on JVL, there are a number of legal issues that it will likely need to consider. I set out the Trust's submissions on these issues here.

First issue: what is the relevance of the Regional Land Transport Plan?

18. Mr Wharton's s 42A report says that the Regional Land Transport Plan 2021 (RLTP) is a helpful factor to consider in the overall assessment.³
19. The Trust submits that the RLTP's classification of the Johnsonville line should be given minimal weight, if any.
20. The RLTP in Appendix A.3.2 says that the rapid transit network and services for the Wellington Region includes the Johnsonville rail line.⁴ This was said to "correspond with the classification of Class PT1 in Waka Kotahi's One Network Framework ..." which "provides a common language for the transport system, land use and urban planning". A letter from Greater Wellington Regional Council confirms that the RLTP is based on the definitions in the One Network Framework.⁵
21. A draft version of the One Network Framework in circulation at around the time of the RLTP classified all metro rail lines as PT1 "irrespective of headway,

³ Section 42A report at [148]–[149].

⁴ Regional Land Transport Plan 2021 (RLTP) at page 129.

⁵ Section 32 evaluation, part 1, at page 50.

availability and or volume of people movement".⁶ The RLTP itself includes a table from the One Network Framework that indicates all metro rail corridors are PT1 by definition, without any minimum service frequency requirement.⁷ These early iterations of the One Network Framework therefore suggest that all metro rail corridors (including JVL) are PT1 without having assessed the frequency, capacity, reliability or quickness of the services on those corridors.

22. The statement in the draft One Network Framework, which formed the basis of the RLTP, cannot be relied upon for NPS-UD purposes because it did not assess the key characteristics that the NPS-UD requires for a rapid transit service. For the purposes of the One Network Framework, it was considered at a draft stage that all metro rail was PT1 irrespective of its characteristics. Whatever the purpose was behind that draft comment, it is clearly not suitable for the purposes of the NPS-UD.
23. A separate point about the RLTP in Mr Wharton's report is that because the RLTP is used to identify planned services and stops, it should also be given considerable weight in classifying existing rapid transit for district plan purposes.⁸
24. The Trust disagrees.
25. The obvious reason why the RLTP is the reference point for whether a form of transport is "planned" is the RLTP is the relevant financial planning and funding document for transport in the region. The RLTP is therefore able to inform decisions on urban development in a manner that is integrated with infrastructure planning and funding decisions.⁹
26. But it does not follow that the RLTP tells you what existing transport services meet the rapid transit criteria. If that had been the intention, then the NPS-UD would have included a definition of "existing" or "rapid transit service" that referred to the RLTP. The NPS-UD does not do that.

⁶ Waka Kotahi [One Network Framework: Movement and Place Classification: Network Classification Factors and Measures](#), p10 (undated, accessed from Waka Kotahi's website in June 2021). This version states it is a Discussion Document.

⁷ RLTP at page 130, Table 37.

⁸ Section 42A report for Hearing Stream 1 at [148]–[150].

⁹ NPS-UD, objective 6.

27. The correct position, accepted in Mr Wharton's report, is that the classification of rapid transit services is a decision for the territorial authority.¹⁰

Second issue: what is the relevance of other transport planning documents?

28. Mr Wharton's report relies on various other planning or guidance documents to inform his proposed classification of JVL. I discuss here the Regional Public Transport Plan, the Wellington Regional Growth Framework, and the One Network Framework.
29. The Regional Public Transport Plan 2021 defers to the Regional Land Transport Plan for its definition of the rapid transit services in Wellington.¹¹ It is therefore of minimal relevance to the present assessment for the same reasons that the RLTP is of minimal relevance.
30. The Wellington Regional Growth Framework 2021 includes a map (Map 6) that suggests the Johnsonville line and other Wellington rail lines are a rapid transit network. Mr Wharton includes that map in his s 42A report.¹² However, it is important to read Map 6 with the associated commentary, which states:¹³

Map 6 identifies frequent bus services, the passenger rail network and the parts of the rail network that **could** be considered rapid transit (**when higher-frequency services are introduced around 2025, generally increasing service frequency to 10–15 minutes**).

(Emphasis added).

31. This document is therefore ambiguous about whether the Johnsonville line is rapid transit. The Wellington metro rail services could be considered rapid transit, but that is said to depend on introducing higher frequency services. The expert evidence however is that no increases in frequency are planned for JVL for 2025 or any other time.¹⁴

¹⁰ Section 42A report for Hearing Stream 1 at [147].

¹¹ Section 42A report for Hearing Stream 1 at [151].

¹² Section 42A report for Hearing Stream 1 at [152].

¹³ Wellington Regional Growth Framework July 2021 at page 44.

¹⁴ Section 42A report for Hearing Stream 1 at [178]; Wignall at [35(e)].

32. The final document said by the officers' report to be relevant is the One Network Framework. As noted above, an early version said that all metro rail services were classed as PT1 and rapid transit. Mr Wharton's officers' report relies on the statement from that draft.
33. However, as Mr Wignall and Dr Helm have explained, the latest version of the One Network Framework issued in November 2022 no longer classifies all metro rail as rapid transit. Instead, it says that the Johnsonville line is PT4, because it does not have four or more services per hour.¹⁵ JVL is distinguished from the Hutt and Kāpiti lines, which have around four trains per hour across the day and are therefore PT1 Dedicated. The category that JVL falls into, PT4, is described as a "Secondary" public transport service, which provides "basic access and coverage".¹⁶
34. Overall, none of the planning documents referred to are decisive or of any real relevance or assistance to the classification of JVL. In order to assess whether the NPS-UD criteria are met, the Panel will need to engage with the expert evidence on the characteristics of the line.

Third issue: Are the characteristics of a rapid transit service to be assessed separately or globally?

35. The NPS-UD defines a rapid transit service as "any existing or planned frequent, quick, reliable and high-capacity public transport service that operates on a permanent route (road or rail) that is largely separated from other traffic".
36. Central to the dispute before the Panel are whether JVL meets the four criteria outlined above: frequent, quick, reliable, and high-capacity.
37. Mr Wharton's officer's report says that if one of the four descriptors does not apply to a portion of the service, that is not necessarily a fatal flaw that rules out the whole service from being classified as a rapid transit service.¹⁷

¹⁵ One Network Framework [Classification Guidance](#), 17 November 2022 at page 20.

¹⁶ Waka Kotahi [One Network Framework Detailed Design](#), 17 November 2022 at pages 45–46.

¹⁷ Section 42A report for Hearing Stream 1 at [174].

38. If Mr Wharton is saying that the Johnsonville line could be a rapid transit service despite not meeting one or more of the criteria, then the Trust disagrees.
39. The NPS-UD definition uses the word “and” to link up the four descriptors or criteria. This makes it clear that each must be met for the service to be a rapid transit service. There may be some relationship between the four criteria — for example increasing service frequency will (all other things being equal) increase the capacity. But the Panel needs to consider each criterion and decide whether it is met.
40. However, if Mr Wharton is saying that it is not necessarily the case that each and every stop on a rapid transit service is a rapid transit stop, then the Trust agrees that this is in theory a possible outcome. A hypothetical public transport service could have reduced speed, capacity, reliability or frequency from some stops along its course. This may mean that persons entering the service from those stops are not entering a rapid transit service, even if people entering from another point on the line are.
41. The Trust's primary position is that the Johnsonville line in its entirety does not meet the four required criteria to be a rapid transit service. The expert evidence supports that position.
42. Its alternative fallback position is that only some of the stops on the Johnsonville line are rapid transit stops. Mr Wharton's evidence accepts that the service is not “quick” from the Khandallah, Johnsonville and Raroa Stations.¹⁸ Accordingly, people cannot enter or exit a rapid transit service from those stops (at a minimum), and they are not rapid transit stops for the purposes of Policy 3(c) of the NPS-UD.

Fourth issue: what future improvements to a rapid transit service can be considered when assessing the Johnsonville line?

43. One of the objectives of the NPS-UD is for urban development decisions affecting urban environments to be integrated with infrastructure planning and funding decisions.¹⁹

¹⁸ Section 42A report for Hearing Stream 1 at [183].

¹⁹ NPS-UD, objective 6(a).

44. Integration with infrastructure plans and budgets is achieved through the definitions of “rapid transit service” and “rapid transit stop”, which use the concept of “planned”. For a rapid transit stop or service to be planned, it must be planned in the RLTP that has been prepared and approved under the Land Transport Management Act 2003.
45. Therefore any improvements to the Johnsonville line's characteristics can only be taken into account if they are planned in the RLTP. If there are no planned improvements then the transport service should be assessed in its existing state.
46. The RLTP in its discussion of the regional programme says that the following is happening with the Wellington region's rail network generally:²⁰

To meet future demand, a detailed business case is underway to resolve issues with life-expired long-distance rolling stock, while increasing service frequency and capacity, and improve community connectivity across the lower North Island (Wairarapa and Kāpiti – Manawatū lines). An indicative business case is also in progress to address increasing safety expectations, network capacity and resolving obsolescence issues with the rail network's signalling systems. The longer-term 30-year pathway for rail investment will be set out in the programme business case currently being prepared.

47. The RLTP also describes in its list of committed activities an anticipated expenditure of \$69.40m from 2018–2023 on “unlocking capacity and improving resilience infrastructure”. The detail of this work is that it involves “Infrastructure network capacity improvements on the Wellington metro railway network (over the next four years) to remove key network constraints and to improve peak service frequency and capacity and provide a higher quality passenger rail service”.²¹
48. None of these improvements in the RLTP appear to relate to JVL.

²⁰ RLTP at page 52.

²¹ RLTP at page 55.

49. Mr Wignall's evidence confirms that there are no material improvements to JVL in the RLTP or the Wellington Rail Programme Business case out to 2051.²²
50. The Panel therefore needs to assess whether JVL is a rapid transit service based on its current characteristics. The possibility of future improvements — such as lengthening platforms to accommodate two extra cars per service in peak times, or adding a passing bay at Simla Crescent — are irrelevant because these have not been planned in the RLTP or elsewhere.²³

Summary of position

51. For the reasons given above, the Panel needs to assess the characteristics of JVL against the four criteria in the NPS-UD. Each criterion must be met before the service can be described as rapid transit.
52. This assessment must be undertaken on the current conditions of JVL, as no relevant improvements have been planned and budgeted in the RLTP. The RLTP and other planning documents are not of great significance to the assessment.
53. The Trust submits that the expert evidence demonstrates that JVL has significant constraints on its frequency, capacity and speed. These prevent it from being a rapid transit service or capable of providing sufficient support for population growth within a walkable catchment of the train stops.
54. There is therefore no sufficient basis to classify JVL as a rapid transit service, or the stops along it as rapid transit stops.
55. The outcomes of classifying JVL as rapid transit when it does not have the required characteristics to support population growth include:²⁴
 - (a) a reduction in citywide housing density;
 - (b) a reduction in active and public transport mode share;

²² Wignall at [43]. The Wellington Rail Business Case is helpfully summarised in Greater Wellington Regional Council "[Greater Wellington endorses bold investment vision for regional rail services](#)" (1 July 2022).

²³ Section 42A report for Hearing Stream 1 at [176]–[178]. See also appendix C, which describes these possible improvements.

²⁴ Helm at [17]–[18] and [120]–[137].

- (c) an increase in car dependency;
- (d) worse performance of the transport network; and
- (e) no increase in overall housing supply or improvement in housing affordability.

56. Those outcomes are not consistent with the objectives of the NPS-UD.

Walkable catchments

57. Another key issue for the Panel is what the size of the walkable catchments should be for the purposes of Policy 3(c) of the NPS-UD.

58. Policy 3(c) contemplates three different types of walkable catchment:

- (a) around an existing or planned rapid transit stop;
- (b) around the edge of city centre zones; and
- (c) around the edge of metropolitan centre zones.

59. Each type of walkable catchment should be considered separately, because the nature and purpose of the walk that it contemplates is different.

60. For the City Centre Zone walkable catchment, the Trust supports the Council resolution to use a 10-minute walkable catchment in the notified plan.

61. However, the section 42A officer report recommends a 15-minute walkable catchment around the City Centre Zone.²⁵

62. It is important to appreciate that any walkable catchment around the city centre zone only relates to the walk from the starting point "home" to the edge of the city centre. For most walkers, the ultimate destination will be somewhere within the city centre zone. That could easily be a further 10 to 20-minute walk.

63. Any decision on the size of a walkable catchment ought to be informed by what is reasonable and practicable for a typical person to walk. The Panel therefore needs to take account of the walking radius of the city centre and

²⁵ Section 42A report for Hearing Stream 1 at [360].

the total effective walking time or distance for a typical pedestrian for a typical journey on foot.

64. With this consideration taken into account, the Trust submits that the 10-minute baseline is appropriate for the walkable catchment around the city centre zone.
65. The walkable catchments around rapid transit stops should be assessed separately. This is because the walk to a rapid transit stop will typically be the first of at least three phases in a journey from start to finish.
66. The Panel ought to take account of the anticipated travel time on the rapid transit service, and the likely walking distance from where the person gets off the rapid transit service.
67. This supports the 5-minute walkable catchment size around JVL stops (if the Panel forms the view that JVL is a rapid transit service).



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