

**IN THE MATTER**

of the Resource  
Management Act 1991

**AND**

**IN THE MATTER**

of Submissions and Further  
Submissions on the  
Proposed Wellington City  
District Plan

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**Minute 61**

**Wrap-Up Hearing Follow-Up**

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## Minute 61 – Wrap-Up Hearing Follow-Up

1. Following the conclusion of the wrap-up hearing on Friday 8 November, we have reviewed our notes of the hearing to identify further actions to be undertaken by the Reporting Officer and/or other parties.
2. As regards the latter, we note our request that Wellington International Airport Limited (**WIAL**) supply two items of information:
  - (a) Revised wording for Ms O’Sullivan’s proposed ‘bird-strike’ rule to capture the points that she made verbally;
  - (b) Advice from Dr Anderson or Mr Howarth, as appropriate, as to the probabilities represented by each categorisation in the matrix Dr Anderson produced as Figure 1. For example, what probability would cause the probability/likelihood of an incident per year shifting from very unlikely to unlikely?
3. Ms O’Sullivan advised in response to our questions that she had undertaken an analysis of existing plan provisions governing the identified bird-strike activities, and offered to supply it to us. We confirm that we will take her up on that offer.
4. Ms O’Sullivan advised that she would be able to provide the revised wording later on 8 November, but we subsequently received a message that she had had IT problems en route home. We extend the time for provision of that wording to close of business on 11 November. The timeframe for supplying the probability information and Ms O’Sullivan’s plan analysis is close of business on Friday 15 November.
5. During the course of the hearing, we had an extensive discussion with the Reporting Officer, Mr Sirl, about certain terms that he had recommended. In particular, the proposed definition of ‘Bird-strike risk activity’. That term is currently recommended to include:

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  - (a) *marine food processing activity with external food storage or waste areas accessible to birds;*
  - (b) *Sewage treatment and disposal facilities;*

(c) *Abattoir or freezing works;*

(d) *Landfill or waste management facility or composting facility (excluding cleanfill)."*

6. It seems to us that (a) and (d) would merit further consideration.
7. In particular, while Mr Sirl's suggested addition (compared to the original wording proffered by Ms O'Sullivan) would seem to exclude the neighbourhood fish and chip shop, it seems to us that it would still include very small and/or temporary operations that we suspect are unlikely to pose a material bird-strike risk. We have in mind the example of the back of boat fish filleting operation that operated at the Sunday market next to Te Papa pre-Covid. While that particular operation would not be an issue now, because it occurred within the CMA, it illustrates the nature and scale of facilities that we consider should be excluded. As discussed at the hearing, each of "*landfill*" and "*waste management facility*" and "*composting facility*" would also merit clarification to exclude, for instance, on-farm offal pits and backyard compost bins.
8. We discussed at the hearing the potential to incorporate concepts of permanence, and/or availability at the facility to multiple third parties as potential qualifying matters, but the issues need to be reviewed.
9. The two parties with an interest in this matter are the Council and WIAL. We direct that Mr Sirl and Ms O'Sullivan conference on the matter and provide us with a Joint Witness Statement recommending appropriate wording.
10. The definition of "*upgrade*" (and its inter-relationship with renewals) was also the subject of consideration at the hearing. We asked Mr Sirl to consider whether further amendments were warranted to exclude significant extensions to linear networks (a second Mount Victoria tunnel is a currently apposite example) and actions that fall within the currently recommended definition, but do not involve material physical changes to infrastructure (the example we discussed was increased speed limits on state highways). We are also interested in Mr Sirl's view as to whether the definition should exclude renewals not qualifying as 'maintenance and repair'.
11. Again, these are issues on which both Council and WIAL have an interest, and we direct that Ms O'Sullivan and Mr Sirl conference on this issue also. We foresee that Meridian and Transpower might also have an interest. We

therefore give leave for Ms Foster and Ms Whitney to participate in conferencing on the point if they wish.

12. Lastly, in relation to definitions, we discussed with Mr Sirl whether there was scope to amend the definition of 'Regionally Significant Infrastructure to align with the Regional Council's decisions on RPS Change 1. Again, we direct Ms O'Sullivan and Mr Sirl to conference on that matter, with the option open to Ms Foster and Ms Whitney to participate if they wish.
13. During the hearing, we discussed also with Mr Sirl the proposed wording of the Introduction to the INF-NG Sub-Chapter. Specifically, we queried whether the reference to activities "*outside*" specific overlays required clarification. That wording implies a spatial connotation that we suspect is not intended. If our understanding is correct, rewording is required to explain exactly what is meant. This is a matter that directly involves Transpower, as well as the Council. We direct that Ms Whitney and Mr Sirl conference on the point and provide feedback on the issue and amended wording, as appropriate.
14. All Joint Witness Statements should be with the Hearing Administrator by close of 20 November.
15. Turning to issues that we request be addressed in the Council's Reply we note:
  - (a) Can Mr Sirl please provide a map showing the three potential areas to be referenced in a bird-strike rule, being the area 3km, 8km and 13km respectively from the threshold of the Wellington Airport runway;
  - (b) Can Mr Sirl please confirm his view as to the scope to extend the ambit of a bird-strike rule beyond 13 kilometres from the runway;
  - (c) In relation to the REG and Infrastructure Chapters, and the Infrastructure Sub-Chapters:
    - (i) Can Mr Sirl please provide wording to better express the advised intention that the REG and Infrastructure Chapters are stand-alone and no other objectives and policies throughout the balance of the Plan other than the strategic objectives are relevant to the activities they address;

- (ii) Can Mr Sirl please recommend appropriate wording in the INF Sub-Chapters other than the INF-NG Sub-Chapter to address how potential overlaps between those sub-chapters should be resolved;
- (iii) Do the INF Sub-Chapters need to make it clear that both objectives and policies in the Infrastructure Chapter are relevant to their exercise?
- (iv) Is the statement on the first page of the Introduction to the Infrastructure Chapter to the effect that rules in Zone Chapters or specified Overlays do not apply to infrastructure “*unless specifically stated in an infrastructure rule or standard*” need to be qualified to reference the exceptions discussed on the second page of the Introduction (REG, Airport and Airport Related Activities within the Airport Zone, and Port and Operational Port Activities within the Port Zone)?
- (d) Can Mr Sirl please comment on whether there is scope and merit in amending the reference in the definition of “*maintenance and repair*”, as it applies to infrastructure and REG, to provide that it includes replacement of an existing structure with a smaller structure;
- (e) Can Mr Sirl please confirm which iwi groups the Council is consulting with in relation to the Te Ao Māori Plan Change and how the Council intends to work in partnership with Mana whenua to determine the relevant issues and scope of the plan change.;
- (f) On the assumption that recommended references to the Moa Point Seawall Area remains in the Coastal Environment Chapter, can Mr Sirl please consider wording advising that those references do not imply that the chapter manages infrastructure within that area.;
- (g) Can Mr Sirl please provide commentary on whether the Panel has jurisdiction to recommend amendments to the General Approach Chapter given that that chapter was the subject of the IPI process, and Council decisions thereon, and is now operative.
- (h) Mr Sirl advised, at paragraph 188 of his Section 42A Report, that (now) INF-NFL-R44 referenced the wrong policies as matters of discretion, but that there was no submission providing scope to correct the error, and it fell outside Clause 16 of the First Schedule. As discussed, the change in

Appendix A to the Section 42A Report showing that correction should presumably be reversed. Commissioner Lutz also asked about the scope to change policies recommended to be referred to in INF-CE-R31.3 and REG-R2.3.3. Can Mr Sirl please check the policies referenced in other rules in the REG Chapter and in the Infrastructure Chapter or Sub-Chapters, and advise if there are any other situations where the notified rules referenced the wrong policies or where he considers that additional policies should be referenced (as opposed to situations where subsequent renumbering of policies has required consequential changes to rules) and there is no scope to correct the error.

16. As previously, the Council is of course free to address any issues arising from the hearing in reply that it wishes.
17. Lastly, we note that if Mr Sirl considers that he would be assisted on any of the matters we have listed in paragraph 14 above (or anything else for that matter) by conferring with planning witnesses for other parties, the Panel would have no issue with him doing so.



**Trevor Robinson**  
Chair  
For the Wellington City Proposed District Plan Hearings Panel  
**Dated 11 November 2024**