

**Before an Independent Hearing Panel and Freshwater Hearing
Panel of Greater Wellington Regional Council**

Under the Resource Management Act 1991

In the matter of Proposed Plan Change 1 to the Wellington Regional Policy Statement

SUBMISSIONS ON BEHALF OF WELLINGTON INTERNATIONAL AIRPORT LIMITED

Hearing Stream 2

30 June 2023

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MAY IT PLEASE THE PANELS

1. INTRODUCTION

1.1 These submissions are filed on behalf of Wellington International Airport Limited (**WIAL**), a submitter on the Greater Wellington City Council (**Council**) Plan Change 1 (**PC1**) in relation to Hearing Stream 2.

1.2 The Panels will recall that WIAL provided legal submissions for Hearing Stream 1 regarding the question about allocation of provisions between the Freshwater Planning Process (**FPP**) and the usual Part 1 Schedule 1 process. This remains an issue for WIAL's submissions in relation to this Hearing Stream, which are highlighted below and discussed in the evidence of Claire Hunter, WIAL's consultant planner.

2. Region Wide Issues for Regionally Significant Infrastructure

2.1 In relation to WIAL's submission on the Overview of Issues provisions in Chapter 3, WIAL sought that the Council:¹

Add or amend the issues statement to recognise that key infrastructure assets within the region are vulnerable to the effects of climate change and that such facilities need to be given sufficient flexibility to accommodate new technology, respond and adapt to climate related issues.

2.2 WIAL's reasoning in its submission is that:²

...infrastructure providers, particularly those which are nationally and regionally significant must be given sufficient flexibility to accommodate changes in technology as we move toward meeting our nation's net carbon zero 2050 commitment. Maintaining the functionality, integrity and adaptability of infrastructure will also be key to achieving community resilience to the challenges of climate change and this needs to be adequately recognised.

1 Page 1 of Annexure A of Wellington International Airport Limited's Submission dated 14 October 2022.

2 As above.

- 2.3** As set out in the submission made by WIAL and the Statement of Evidence prepared by Claire Hunter dated 30 June 2023, WIAL’s position is that this infrastructure issue should be recognised in the overarching resource management issues section of the RPS.
- 2.4** RMI1 recognises that inappropriate and poorly managed use and development is impacting on the natural environment, and that this type of development is leaving communities and nature exposed to the impacts of climate change. Infrastructure assets are also vulnerable to the effects of climate change, but given functional and locational needs, flexibility needs to be provided to allow those assets to continue to be operated and maintained.
- 2.5** WIAL submits that there needs to be greater recognition of this issue for key infrastructure providers, including nationally and regionally significant providers, in the overarching issues section of the RPS.
- 2.6** Having reviewed the section 42A report, the position advanced for GWRC is that there is no need for specific reference to regionally significant infrastructure in RMI1 or 2, due to Objective 10 already recognising the importance of such infrastructure. WIAL disagrees.
- 2.7** Ms Hunter has recommended an amendment to RMI1, to capture infrastructure (including regionally significant infrastructure) as an activity that is also subject to exposure, and impacts, from climate change. It is submitted that this would be a sensible change, and recognise the importance and value of infrastructure to communities.
- 2.8** Ms Hunter has also recommended a new issue be added to address WIAL’s submission that provides as follows:

Overarching Resource Management Issue 4

Flexible planning frameworks are needed to support key infrastructure providers to manage the impacts of climate change on infrastructure, including regionally significant infrastructure. In the absence of suitable planning frameworks, the impacts of climate

change on infrastructure may adversely affect the well-being of the region's people and communities and the functioning of the region.

2.9 It is submitted that these changes (or similar) will ensure that the Council is changing the RPS in accordance with its section 30 functions, by providing for the strategic integration of infrastructure with land use through objectives, policies, and methods and achieving integrated management.

3. Policy IM.2: Equity and Inclusiveness

3.1 As set out in WIAL's submission, the key concerns with Policy IM.2 are that it does not implement its corresponding Objective (Objective A) and does not fit comfortably with the purpose of the RMA, as set out in Part 2. As a result, it does not fulfil a proper resource management purpose and WIAL seeks that it be deleted.

3.2 Section 59 of the RMA states that the purpose of an RPS is to achieve the purpose of the RMA, by providing an overview of regional issues and policies and methods to achieve integrated management for the natural and physical resources of the region.

3.3 Similarly, section 63 of the RMA states that the purpose of regional plans is to assist regional councils to fulfil their functions to achieve the purpose of the RMA. Those functions (in section 30) include giving effect to the RMA and a range of resource management considerations, including management of environmental effects, control of discharges and the use of land and water and providing for development capacity for housing and business.

3.4 Neither the statutory functions conferred on regional councils, nor the purpose for both RPSs and regional plans, refer to equity or inclusiveness. It follows that these proposed policy outcomes, while admirable, appear to sit outside of the purpose of the RMA.

3.5 The ambiguity and questionable legal basis for IM.2 has been acknowledged by the section 42A author, who has proposed two options for dealing with IM.2: deletion, or substantial amendment. The recommendation made has been to amend, and these submissions address those proposed amendments.

3.6 The amendments are set out in paragraph 181 of the section 42A report, and are not repeated here.

3.7 Without addressing the amendments in their entirety, WIAL submits that the following issues arise:

(a) The amendments do not change that this Policy does not help decision-makers implement the objectives and policies of the RPS to achieve the purpose of the Act. Equity is not a stated purpose of the RMA and therefore applying objectives and policies in an equitable manner, as would be required by Policy IM.2, does not achieve the purpose of the RMA as set out in Part 2. The amendments do not ameliorate this issue;

(b) The recommended introductory wording for the amended IM.2 does not accord with the requirements of sections 67(3)(c) or 75(3)(c) of the RMA, both of which require regional and district plans to “give effect to” an RPS. The recommended amendments direct councils to “seek to achieve... in an equitable way” the RPS objectives and policies, which is inconsistent with the statutory framework and could lead to uncertainty;

(c) The final wording which reads “particularly when”, could be taken to suggest that there is no uniform requirement to “seek to achieve” RPS objectives, and that any requirement is only triggered if criteria (a) through (c) are engaged. This is giving precedence to three outcomes in (a) through (c)) over all other objectives in the RPS, without any apparent rationale for doing so, and in a way that fails to accord with the relevant statutory requirements for regional and district plan making;³

(d) There is also no clear logic to requiring that the outcomes in (a) through (c) are assessed through an equitable lens. Each of the outcomes are important in their own right, as environmental / social objectives, and the RPS could

³ The relevant statutory considerations for plan making are as set out in paragraph [17] of *Colonial Vineyard Ltd v Marlborough District Council* [2014] NZEnvC 55

include similarly framed policies as standalone provisions, rather than pulling them together in an overarching policy that is concerned with 'equity'.

- 3.8** Given these concerns, and the potential for inconsistent application of the reframed policy, it is strongly submitted that Policy IM.2 should be deleted in its entirety. If GWRC wants to continue to advance the inclusion of the listed outcomes (a) to (c) without the equitable lens, then it should do so through separate provisions in the RPS.
- 3.9** In our submission, Policy IM.2 is outside of the functions of regional councils under section 30, does not accord with the requirements in sections 67(3)(c) or 75(3)(c) and does not seek to give effect to the purpose of the RMA as set out in Part 2.
- 3.10** Finally, we submit that Policy IM.2 has been incorrectly allocated to the FPP as it only tangentially, if at all, relates to freshwater. This is supported by Claire Hunter in her Statement of Evidence, who notes that any remote connection arising from a sub-clause is proposed to be removed by the section 42A report.

DATED at Wellington this 30th day of June 2023



Amanda Dewar / Madeline Ash

Counsel for WIAL