

**In the Matter of the Resource Management Act 1991  
AND**

**In the Matter of Hearings into the Provisions of the  
Proposed Natural Resources Plan for the Wellington  
Region**

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**Hearing Stream 1 Plan Framework, Beneficial Use and Development & Areas and sites with  
significant mana whenua values**

**STATEMENT OF EVIDENCE OF LINDSAY DAYSH FOR KIWIRAIL HOLDINGS LTD.**

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**Introduction**

1. My name is Lindsay John Daysh. I hold a Bachelor of Regional Planning Degree from Massey University and a graduate qualification in Transport Systems Engineering from the University of South Australia. I am a member of the New Zealand Planning Institute and the Resource Management Law Association.
2. I have 30 years' experience in town planning and resource management in New Zealand and in Britain. This includes extensive experience in central government agencies, local authorities and since 2004 as a consultant carrying out a broad range of planning matters including strategic planning, policy development and project development particularly for infrastructure providers. I am also an experienced independent commissioner with a chairmanship endorsement.
3. My current position is as a Director of Incite, a resource management and environmental consultancy and I am based in Wellington.
4. Prior to my move to Incite in November 2010, I was New Zealand Planning Manager with GHD Ltd, where I held national responsibility for all planning matters. Preceding this I was Regional Planning Manager at Transit New Zealand for Wellington, Nelson/ Tasman and Marlborough, had two periods of employment at Wellington City Council, worked for the London Borough of Hillingdon and the former Ministry of Works and Development.
5. I am very familiar with the planning framework in Wellington having worked on a number of planning tasks in the city and the region at strategic and project consenting levels for the majority of my career. I also have strong familiarity with the practical application of a number of regional plans and in particular, the PNRP and the operative regional plans for the Wellington region.
6. In relation to infrastructure, the majority of my experience has been with highways, other roads, rail infrastructure, ports and airports, three waters and telecommunications. In relation to KiwiRail operations, I have authored or reviewed numerous consent applications for the rail network nationally for matters such as bridge replacement, stream diversions, the installation

or removal of culverts and weirs as well as stormwater management. In addition, I assisted Interislander at the King Salmon Board of Inquiry with particular regard to navigational safety through Tory Channel and Queen Charlotte Sound.

7. I was also the author of the KiwiRail PNRP submission but I am also familiar with the contents of the NZTA submission in particular as there are many similarities with the regional plan framework that applies to both highways and rail. I am currently involved with other NZTA led Projects including the Wellington to Hutt Valley Walking and Cycling Project which also contains both rail modifications and a potential coastal reclamation.
8. It should also be noted that I am also representing CentrePort and CentrePort Properties. I have prepared a separate statement of evidence with regard to both submissions.
9. I have read and am familiar with the Code of Conduct for Expert Witnesses in the current Environment Court Practice Note (2014), have complied with it, and will follow the Code when presenting evidence. I also confirm that the matters addressed in this Statement of Evidence are within my area of expertise, except where relying on the opinion or evidence of other witnesses. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

### **Scope of Evidence**

10. I have been requested by KiwiRail to provide evidence on some of the higher level PNRP Objectives and Policies that are under consideration at Hearing Stream 1. This is particularly as they relate to both rail and ferry operations and development in the Wellington region.
11. As such, I will concentrate my evidence on what are the key issues to be considered. These are:
  - KiwiRail's contribution to the region having regard to the statement of Ms Beals;
  - The direction given by the NZCPS and the Regional Policy Statement;
  - Respond to the s42A reports author's recommendations on KiwiRail's submission points.
  - Outline the other issues that are to be considered in forthcoming hearings.

### **KiwiRail's role**

12. As Ms Beals has outlined the rail network in the region:-
  - Provides for rail freight movement to and from the Wellington region to the rest of the North Island via either the North Island Main Trunk or the Wairarapa Line.
  - Provides track infrastructure for the commuter rail network with lines to Waikanae, Upper Hutt, Masterton and Johnsonville. It also carries longer distance passenger trains.

- Is an operator of Interisland Ferries and is the largest mover of people and freight by sea between the North and South Islands.
13. As linear infrastructure, the rail network traverses through the region in a variety of terrain. Maintaining, operating and upgrading of that network is a significant task with the necessity to carry out activities in and around the beds of lakes and rivers, carry out discharges and in two places directly interfacing with the coastal environment.
  14. KiwiRail therefore seeks to have certainty that the PNRP appropriately recognises and provides for anticipated activities in maintaining, operating and developing the key rail and ferry assets.

### **New Zealand Coastal Policy Statement**

15. In considering the PNRP, it is important to consider the direction of the higher order planning documents. In the case of KiwiRail operations and the related PNRP provisions for beneficial use and development, the other National Policy Statements or National Environmental Standards such as the NPS Freshwater are not overly applicable.
16. The NZCPS is applicable to the ferry operations and as stated the rail network directly abuts the coast in two locations being the western edge of Wellington Harbour and the Onepoto Arm of Porirua Harbour. Particular matters of direction are given in relation to appropriate activities in the coastal environment including regionally significant infrastructure through Policy 6. Ports are enabled through Policy 9. Additional direction is also given on reclamations and de-reclamation at Policy 10. The NZCPS is also particularly significant in respect of the matters covered in Hearing Stream 6 on coastal matters.
17. At an objectives level for Beneficial Use and Development the PNRP must give effect to the NZCPS. In my view, it largely does this in respect of regionally significant infrastructure with a few exceptions that I will address later in this evidence.

### **Regional Policy Statement 2013**

18. As the Wellington Regional Policy Statement was made operative in 2013, it was based on the direction provided by the NZCPS in relation to coastal matters. However, it is a much broader document as it also provides direction to regional and district plans on the air, land and the freshwater resource in the region. There is one objective and three specific policies of relevance to the context of Rail and Ferry operations and infrastructure.

#### **RPS Objective 10: Benefits of Regionally Significant Infrastructure are recognised and protected.**

19. Objective 10 states

*The social, economic, cultural and environmental, benefits of regionally significant infrastructure are recognised and protected.*

20. This objective applies to all regionally significant infrastructure and recognises that society cannot operate and sustainably develop without the recognition of the benefits of regionally significant infrastructure. The objective also applies to protecting the benefits that Regionally Significant Infrastructure provides. Of relevance under this objective are three applicable policies.

**Policy 7: Recognise benefits of Regionally Significant Infrastructure.**

*Policy 7: Recognising the benefits from renewable energy and regionally significant infrastructure – regional and district plans*

*District and regional plans shall include policies and/or methods that recognise:*

*(a) the social, economic, cultural and environmental benefits of regionally significant infrastructure including:*

*(i) people and goods can travel to, from and around the region efficiently and safely;*

*(ii) public health and safety is maintained through the provision of essential services:*

*- supply of potable water, the collection and transfer of sewage and stormwater, and the provision of emergency services;*

*(iii) people have access to energy so as to meet their needs; and*

*(iv) people have access to telecommunication services.*

**Policy 8: Protect Regionally Significant Infrastructure.**

*Policy 8: Protecting regionally significant infrastructure – regional and district plans*

*District and regional plans shall include policies and rules that protect regionally significant infrastructure from incompatible new subdivision, use and development occurring under, over, or adjacent to the infrastructure.*

**Policy 39: Recognise benefits of Regionally Significant Infrastructure.**

*Policy 39: Recognising the benefits from renewable energy and regionally significant infrastructure – consideration*

*When considering an application for a resource consent, notice of requirement or a change, variation or review of a district or regional plan, particular regard shall be given to:*

*(a) the social, economic, cultural and environmental benefits of energy generated from renewable energy resources and/or regionally significant infrastructure; and*

*(b) protecting regionally significant infrastructure from incompatible subdivision, use and development occurring under, over, or adjacent to the infrastructure; and*

*(c) the need for renewable electricity generation facilities to locate where the renewable energy resources exist; and*

*(d) significant wind and marine renewable energy resources within the region.*

21. Policy 7 simply directs that regional and district plans shall include policies and/or methods that recognise the benefits of renewable energy and regionally significant infrastructure. Policy 8 seeks that those benefits are protected. Policy 39 makes the recognition of the benefits of Regionally Significant Infrastructure a consideration for resource consent, notice of requirement or a change, variation or review of a district or regional plan.
22. As with the NZCPS, I am the view that the RPS is strongly supportive of recognising and protecting regionally significant infrastructure.
23. In my view, the whole structure of the Plan going from the top down objectives through to the policies to give effect to the objectives with rules and other method being the mechanism at the real project level is appropriate. In other words if you get the objectives right, then that will flow down to getting the supporting policies and methods including rules right as well.
24. There are though a number of matters of a minor or resolvable nature, with the wording of the PNRP that we will work through at this hearing and in the hearings to come.

### **Benefits and protection of regionally significant infrastructure**

25. The first matter is with four important definitions the first three of which were in support.

#### **Offset**

26. KiwiRail supported the definition of the term and its inclusion in the PNRP as offsetting is important for linear infrastructure providers, such as the KiwiRail, where functional and locational constraints are often present. This definition confirms that offsetting and its application to projects does form part of the RMA framework, and furthermore that the term is not exclusive to biodiversity values e.g. this could include a financial offset. This was recommended for acceptance by the s42A Author.

#### **Definition of Regionally Significant Infrastructure**

27. This includes the rail network and activities operating from CentrePort so KiwiRail interests are provided for. I am however aware of other infrastructure providers who have some issues in respect of this definition. Subject to certainty that rail continues to be provided for, as well as activities such as the ferry operations that KiwiRail undertakes from the wider CentrePort area, changes to the wider wording of the definition could be acceptable. I understand from Ms Beals that KiwiRail are open to discussions on this.

#### **Definition of Reverse sensitivity**

28. KiwiRail supported the definition of Reverse Sensitivity in the PNRP on the basis that it is appropriate to recognise the vulnerability of existing lawfully established activities such as the rail network to other activities in the vicinity, which may be sensitive to adverse environmental effects. I note no changes to that definition are proposed through the s42A report.

## Definition of Strategic Transport Network

29. The first issue raised in the KiwiRail submission that the s42A officer has recommended to reject was in respect of the definition of the Strategic Transport Network.
30. Kiwi Rail supported the definition in principle but queried whether it is appropriate that the definition has its origins in the Regional Land Transport Plan 2015. This document will be subject to change over the life of the Natural Resources Plan. Every time there is a change to the RLTP it would necessitate a consequential change to the NRP, therefore wording changes are suggested to ensure that the most recent version of the RLTP can be considered.
31. KiwiRail's suggested improvements were as follows.

*The **Strategic Transport Network** comprises the following parts of the Wellington Region's transport network:*

- (a) *All railway corridors and 'core' bus routes as part of the region's public transport network identified in the Regional Land Transport Plan 2015 **or any subsequent versions**, and*
- (b) *All strategic roads that are classified as a National High Volume Road, National Road, or Regional Road as part of the region's strategic road network identified in the Regional Land Transport Plan 2015 **or any subsequent versions**, and*
- (c) *Any other road classified as a high productivity motor vehicle (HPMV) route identified in the Regional Land Transport Plan 2015 **or any subsequent versions**, and*
- (d) *All sections of the regional cycling network classified as having a combined utility and recreational focus identified in the Regional Land Transport Plan 2015 **or any subsequent versions**.*

*The **Strategic Transport Network** is mapped in the Regional Land Transport Plan 2015 **and if subsequently altered the latest map shall take precedence**.*

32. The officers view is:-

*I do not envisage an issue with the definition of strategic transport network residing in another document. The process that led the development of the strategic transport network has been fully consulted on by the regional community therefore the term has meaning and relevance. There is a downside however in that the definition may change in an updated version of the Regional Land Transport Plan and mean a subsequent change in the proposed Plan. This however is no different to other words and terms used in this definition.*

33. As I see it, the biggest problem is administrative and it is not good planning practice. A solution could be to state that it is the Regional Land Transport Plan in place at the time rather than date referencing it. It would certainly make it a cleaner process. I know from my experience with Plan drafting the process of updating external references to remain accurate can be problematical. In any event, if there were some clarification on this it would assist at least accuracy down the line.

### Objective O9 Recreational Values

34. The first of the Objectives that was subject to a submission by KiwiRail was Objective 9 where KiwiRail sought the addition of the words “where appropriate” so that the Objective would read.

*The recreational values of the coastal marine area, rivers and lakes and their margins and natural wetlands are maintained and enhanced **where appropriate**.*

35. Other submitters also sought a similar qualification including NZTA CentrePort (S121/021), CentrePort Properties Limited (S141/013), Carter family (S295/036), Wellington International Airport Limited (S282/006) and Land Matters Limited (S285/036, 080).
36. The officer view was:

*The decisions requested by submitters in terms of qualifying Objective O9 would reduce the certainty and effectiveness of the objective, which is to ensure the recreational values in the relevant areas are not diminished and are instead maintained or improved over the life of the proposed Plan.*

37. I recognise that there are also opportunities for enhancement of recreational opportunities in the development of regionally significant infrastructure. When preparing this submission I was also contemplating a real scenario whereby there may need to be further restrictions by the Port or from KiwiRail on recreation i.e. walking, fishing or boating if Port, ferry or rail operations require it for safety purposes, or if either are to contemplate otherwise appropriate development. For starters, rail corridors themselves are inherently dangerous places as are operational ports. Safety, security and at times biosecurity, are reasons potentially to diminish recreational values where it adjoins the CMA or crosses the beds of rivers lakes or margins.
38. Therefore, the wording in this scenario is paramount. If recreational values cannot be maintained or enhanced and indeed are diminished for otherwise good reasons (such as safety through stopping pedestrians utilising a bridge) there may be a policy impediment. The words where appropriate at least give a proponent an opportunity to state their case and provide the Council an opportunity to consider the merits of it.

### Objective O10 Public Access

39. In a similar manner, the same argument applies to Objective 10 on public access. Recognising that this is also a s6 (d) matter, the KiwiRail submission and others sought a similar qualification to the Objective 10 as to Objective 9 to read:-

*Public access to and along the coastal marine area and rivers and lakes is maintained and enhanced **where appropriate**.*

40. The officers view<sup>1</sup> is

*The maintenance and enhancement of public access to and along rivers, lakes and rivers, and the CMA is a matter of national importance under RMA s6(d). The approach in the NZCPS is that public access is generally appropriate and the RPS recognises*

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<sup>1</sup> At paras 227 and 228

*recreational values of lakes and rivers. I do not support the approach in the submissions; the provisions in the proposed Plan protect public access to water bodies, unless it is necessary to restrict that access, and through Method M22, will improve public access with iwi and other agencies.*

*The proposed Plan deals with the issue of public access to and along the CMA, and rivers, lakes and wetlands with an Objective that focuses on maintaining and enhancing public access, and a policy that gives guidance to decision makers where there may be circumstances where such access is not appropriate, and mitigate or offsetting may be used to address those adverse effects.*

41. For KiwiRail it does recognise the desirability of maintaining or enhancing public access. Indeed, for the NZTA led but multi-party supported cycling and walking project from Ngauranga to Petone, that also has a potential coastal reclamation, there are good opportunities for enhancement of public access and recreation.
42. For KiwiRail rail corridors and terminal facilities, due to safety and security imperatives public access is not generally available. Adding a qualification would recognise that not all public access all parts of the coastal areas or beds of lakes and rivers and their margins can be provided.
43. The officer's view is that methods could be used to look at mitigating or offsetting any diminution of public access but for KiwiRail the land that it operates on is almost exclusively finite so it may not always have ready access to areas to provide for equivalent mitigation or offset. Therefore, consideration of what is appropriate was proposed as a recognition of physical and practicable constraints.

#### **Objective O12 Benefits of Regionally Significant Infrastructure/ O13 Protecting Regionally Significant Infrastructure**

44. KiwiRail supported both Objective O12 Benefits of Regionally Significant Infrastructure and Objective O13 Protecting Regionally Significant Infrastructure.
45. For Objective 12 this support was on the basis that the social, economic, cultural and environmental benefits of regionally significant infrastructure and renewable energy generation activities are recognised.
46. For Objective 13 KiwiRail's support was for the reason that the use and ongoing operation of regionally significant infrastructure and renewable energy generation activities in the coastal marine area are protected from new incompatible use and development occurring under, over, or adjacent to the infrastructure or activity.

#### **Policy 7 Uses of land and water**

47. KiwiRail submitted that even though there is a specific policy (Policy P12) recognising the benefits of regionally significant infrastructure KiwiRail considers that the cultural, social and

economic benefits of regionally significant infrastructure **using land and water** should be added to this comprehensive list.

48. The entire policy reads;

*Policy P7: Uses of land and water*



**The cultural, social and economic benefits of using land and water for:**

- (a) aquaculture, and
- (b) treatment, dilution and disposal of **wastewater** and **stormwater**, and
- (c) industrial processes and commercial uses associated with the potable water supply network, and
- (d) community and domestic water supply, and
- (e) electricity generation, and
- (f) food production and harvesting, and
- (g) gravel extraction from rivers for flood protection and control purposes, and
- (h) irrigation and stock water, and
- (i) firefighting, and
- (j) contact recreation and **Māori customary use**, and
- (k) transport along, and access to, water bodies

**shall be recognised.**

49. The officer considers no change is necessary. I am of the view that it does not really matter if regionally significant infrastructure is included as Policy 12 covers it. I do observe that **treatment, dilution and disposal of wastewater and stormwater, community and domestic water supply**, and **electricity generation** all of which form part of regionally significant infrastructure are listed. On the basis that these categories are also covered, they should also be removed or at least the regionally significant infrastructure component of these matters.

**Policy P9: Public Access to and along the coastal marine area and the beds of lakes and rivers**

50. This is the accompanying policy to Objective 10. KiwiRail sought two changes to the text of *Policy 9*.

*Reduction in the extent or quality of public access to and along the coastal marine area and the beds of lakes and rivers shall be avoided except where it is necessary to:*

- (a) protect the values of estuaries, sites with significant mana whenua values identified in Schedule C (mana whenua), sites with significant historic heritage value identified in Schedule E (historic heritage) and sites with significant indigenous biodiversity value identified in Schedule F (indigenous biodiversity), or
- (b) protect public health, safety **and security**, or

- (c) *provide for a temporary activity such as construction, a recreation or cultural event or stock movement, and where the temporary restrictions shall be for no longer than reasonably necessary before access is fully reinstated, and*

*with respect to (a), (b) and (c), where it is necessary to permanently restrict or remove existing public access, and **where practicable and achievable and considering the nature of the activity**, the loss of public access shall be mitigated ~~or offset~~ by providing enhanced public access at a similar or nearby location **or offset**.*

51. The officer view<sup>2</sup> on this and other proposed changes is as that some suggested changes are necessary but others are not. The following changes to the policy are recommended by the officer.

*Policy P9: Public access to and along the coastal marine area and the beds of lakes and rivers*

*Maintain and enhance ~~Reduction in~~ the extent or quality of public access to and along the coastal marine area and the beds of lakes and rivers ~~shall be avoided~~ except where it is necessary to:*

- a. protect the values of estuaries, sites with significant mana whenua values identified in Schedule C (mana whenua), sites with significant historic heritage value identified in Schedule E (historic heritage) and sites with significant indigenous biodiversity value identified in Schedule F (indigenous biodiversity), or*
- b. protect public health and safety, or*
- c. provide for a temporary activity such as construction, a recreation or cultural event or stock movement, and where the temporary restrictions shall be for no longer than reasonably necessary before access is fully reinstated, and with respect to (a) and, (b) ~~and (c)~~, where it is necessary to permanently restrict or remove existing public access, the loss of public access shall be mitigated or **offset** by providing enhanced public access at a similar or nearby location.*

52. The officer's alterations to the policy significantly improve the workability. I am pleased to see the words *shall be avoided* removed and replaced with *maintain and enhance*. While there is no reference to biosecurity I am satisfied that this is covered elsewhere and can broadly fall under the category of "safety".

**Policy P12 Benefits of regionally significant infrastructure and renewable electricity generation facilities.**

53. Kiwi Rail submitted that the it supported KiwiRail supports the intent of the policy but it will be improved by recognising that some regionally significant infrastructure including the rail

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<sup>2</sup> Paras 241-243

network has a functional need to be located over, under or within and adjacent to the beds of lakes and rivers. The following changes were sought.

Policy P12: Benefits of regionally significant infrastructure and renewable electricity generation facilities

COASTAL

**The benefits of regionally significant infrastructure and renewable energy generation activities are recognised by having regard to:**

- (a) the strategic integration of infrastructure and land use, and
- (b) the location of existing infrastructure and structures, and
- (c) the need for **renewable energy generation activities** to locate where the renewable energy resources exist, and
- (d) the **functional need** for port activities to be located within the coastal marine area, and
- (e) **operational requirements** associated with developing, operating, maintaining and upgrading **regionally significant infrastructure** and **renewable energy generation activities**.
- f) **the functional need for regionally significant infrastructure to be located over, under, within and adjacent to the beds of rivers and lakes**

54. The officer considered recommended no changes to Policy 9. While I see the officer's point of view I see no problem with also including functional need for regionally significant infrastructure to be also included taking into account that feasibly not all infrastructure will be existing. By its very nature linear infrastructure needs to get from Point A to Point B often crossing the beds of lakes and rivers and the functional need to do so should be provided for.
55. At a practical level, linear infrastructure has no option but to cross beds of lakes and rivers. Further, in relation to rail, as provided in the evidence of Ms Beals, trains are unable to always use alternative routes due to topography and geometry constraints. Including the change as proposed provides certainty about this recognition.

**Policy P14: Incompatible activities adjacent to regionally significant infrastructure and renewable electricity generation activities**

56. Finally, KiwiRail supports the policy as it recognises the reverse sensitivity effects of new incompatible use and development upon Regionally Significant Infrastructure.

### **Future Hearings**

57. In going forward KiwiRail submissions at forthcoming hearings are focused on a number of matters concerning the effective, maintenance, upgrading or development of either the rail or the ferry infrastructure. Evidence will be presented on these as appropriate following a review of the s42A report recommendations on the KiwiRail submission points. These include:-
  - Hearing Stream 3 – Natural Character Form and Function
  - Hearing Stream 4 - Stormwater

- Hearing Stream 5 – Beds of Lakes and Rivers, Contaminated Land and Hazardous Substances
- Hearing Stream 6 – Coast and Natural Hazards.

A handwritten signature in black ink, appearing to read 'Lindsay Daysh', with a long horizontal flourish extending to the right.

**Lindsay Daysh**

**Incite**

**5 May 2017**