

BEFORE THE HUTT CITY COUNCIL

Proposed District Plan Hearings Panel – Stream 6 – Infrastructure

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Lower Hutt District Plan

JOINT WITNESS STATEMENT

Planning

9 October 2026

1.0 INTRODUCTION

- 1.1 This joint witness statement relates to definitions for ‘repair’ and ‘maintenance’, particularly in the context of the Infrastructure and Renewable Electricity Generation chapters of the Proposed Lower Hutt District Plan (‘Proposed Plan’ or ‘PDP’). This statement responds to directions from the Hearing Panel contained in items 22 to 24 of Minute #18 dated 30 September 2026.
- 1.2 The expert conferencing was held online on 7 October 2026. The sessions were self-facilitated.
- 1.3 The expert attendees at the conference were:
 - 1.3.1 Catherine Heppelthwaite for KiwiRail Holdings Limited (442)
 - 1.3.2 Timothy Blackman for Tiaki Wai (422, F36)
 - 1.3.3 Cristal Bennett (reporting officer for Renewable Electricity Generation)
 - 1.3.4 Peter McDonald for Hutt City Council (reporting officer for Infrastructure)

2.0 CODE OF CONDUCT

- 2.1 This joint witness statement is prepared in accordance with sections 9.4 to 9.6 of the Environment Court Practice Note 2023.
- 2.2 We confirm that we have read the Environment Court Practice Note 2023 and agree to abide by it. The experts confirm that the issues addressed in this joint witness statement are within our area of expertise, unless stated otherwise.

3.0 PURPOSE AND SCOPE OF CONFERENCING

- 3.1 Minute #18 issued by the Hearing Panel directs the conferencing parties to:

...conference on the definitions for 'repair' and 'maintenance' in an attempt to resolve the outstanding differences in opinion between the Council's s42A planning experts and the submitters' planning experts

- 3.2 In considering the above, Minute #18 directs that the effects of designations be considered by the conferencing parties.

4.0 PRIMARY DATA RELIED ON

- 4.1 The primary data on which the opinions are based is:

- The Proposed Lower Hutt District Plan (PDP);
- The Section 42A report for Infrastructure (dated 24 August 2026) and Rebuttal Evidence (dated 15 September 2026) of Peter McDonald;
- The Section 42A report for Renewable Electricity Generation (dated 24 August) of Cristal Bennett;
- KiwiRail Holdings submission (PDP/442);
- Tiaki Wai / Wellington Water submission (PDP/422);
- Statement of Evidence (dated 7 September 2026) and hearing speaking notes of Catherine Heppelthwaite; and
- Statement of Evidence (dated 7 September 2026) and hearing speaking notes of Timothy Blackman.

5.0 FACTS AND ASSUMPTIONS

- 5.1 The notified PDP did not include a definition for 'maintenance or repair' or for similar terms.
- 5.2 The Section 42A report recommended the inclusion of definition for 'maintenance and repair' as follows:

Maintenance and repair

For infrastructure and renewable electricity generation activities

means any work or activity necessary to continue the operation or functioning of existing infrastructure or renewable electricity generation activities. It does not include upgrading, but does include replacement of an existing structure with a new structure of identical dimensions.

5.3 With regards to usage of the term or similar words within the PDP, in the context of infrastructure or renewable electricity generation:

- The Infrastructure chapter variably uses the words “maintenance, repair” or “maintenance and repair”.
- The Renewable Electricity Generation chapter is consistent in the usage of “maintenance and repair”.
- The Notable Trees chapter refers to “maintenance of existing network utilities”.
- The Earthworks chapter refers to “...repair, and maintenance of public walking and cycling tracks”.

6.0 MATTERS DISCUSSED

Term and usage in plan

- 6.1 All parties agree that the inclusion of defined term(s) for maintenance and repair will assist in the interpretation of and implementation of provisions for infrastructure and renewable electricity generation.
- 6.2 All parties agree that ‘maintenance and repair’ is appropriate as a defined term, and that it is appropriate that the definition wording is restricted in applying to infrastructure and renewable electricity generation activities only.
- 6.3 Consequential amendments are appropriate where the PDP uses the words “maintenance” and “repair” in the context of infrastructure

and renewable electricity generation activities, to align the terminology with the defined term.

- 6.4 Recommended consequential amendments are detailed in Attachment A of this joint witness statement, and are agreed to by all parties.
- 6.5 The general approach has been to recommend a consequential amendment where both words “maintenance” and “repair” are used (but not the exact phrase “maintenance and repair”), in the context of infrastructure or renewable electricity generation activities.
- 6.6 Where the word “maintenance” but not “repair”, is used, then a consequential amendment is not recommended, as such a change would expand the meaning of the original drafting. For example, a change is not recommended to rule TREE-R1.1(a)¹.
- 6.7 An exception to this, is the consequential amendment recommended to the definition of ‘renewable electricity generation activities’. This definition includes “maintenance of structures associated with renewable electricity generation”, without reference to “repair”. However, the provisions in the REG chapter consistently provide for “maintenance and repair” in relation to ‘renewable electricity generation activities’. Therefore, the recommended consequential amendment to the definition ‘renewable electricity generation’ will not expand the extent to which repair of renewable electricity generation structures are provided for by the PDP.

Relationship between ‘maintenance and repair’ and ‘upgrading’

- 6.8 The conferencing parties considered the potential overlap between the notified definition of ‘upgrading’ and ‘maintenance and repair’ (as defined in the recommendation of the Section 42A report). This was with particular regard to provision in each of the respective definitions for the *replacement* of infrastructure.

¹ Rule TREE-R1.1 permits the trimming of notable trees where “The trimming is undertaken by Hutt City Council for the health of the tree or to safeguard life or property, including for the maintenance of existing network utilities.”

- 6.9 The definition for ‘maintenance and repair’, as recommended in the Section 42A report, provides for replacement to a limited extent, that is:

... replacement of an existing structure with a new structure of identical dimensions

- 6.10 The notified definition of ‘upgrading’² broadly provides for replacement of infrastructure, however includes the suffix “but excludes maintenance and repair”.
- 6.11 Therefore, ‘maintenance and repair’ encompasses the replacement of infrastructure in the limited circumstances which are expressed in the definition. ‘Upgrading’ encompasses the replacement of infrastructure in all other circumstances.
- 6.12 On the basis of this framing of the respective definitions, all parties agree that ‘maintenance and repair’ and ‘upgrading’ do not overlap in their provision for the replacement of infrastructure.

Replacement of existing structures with “reduced” or “similar” dimensions

- 6.13 All parties agreed that it is appropriate to modify the recommended definition of ‘maintenance and repair’ to provide for replacement of existing structures with structures of *reduced* dimensions. A recommended amendment to ‘maintenance and repair’ is included in Attachment A.
- 6.14 All parties agree or accept that it is not necessary to modify the recommended definition of ‘maintenance and repair’ to provide for replacement of existing structure with structures of *similar* dimensions.

² In the PDP ‘upgrading’ is defined as follows:

as it applies to infrastructure, means the improvement, relocation, replacement, or increase in carrying capacity, operational efficiency, size, pressure, security or safety of existing infrastructure, but excludes maintenance and repair.

Other matters – removal of infrastructure

- 6.15 The conferencing parties considered whether ‘maintenance and repair’, or other definitions or provisions for infrastructure, suitably provide for the removal of structures.
- 6.16 The Infrastructure chapter provisions and introductory text refer to the “decommissioning” of infrastructure. “Decommissioning” is not a defined term in the PDP.
- 6.17 The conferencing parties generally agree that the ordinary meaning of “decommissioning” encompasses the removal of infrastructure. Mr McDonald confirms this to be the intention behind the drafting of the Infrastructure chapter.
- 6.18 However, it may not be plain to plan users that decommissioning of infrastructure includes removal. The conferencing parties agree that this can be adequately addressed by a small amendment to the introductory text to the rules of the Infrastructure chapter. This amendment is included in Attachment A of this statement.

Effect of designations

- 6.19 In considering the above matters, the conferencing parties have considered the effect of designations with respect to the applicability of district plan provisions under s176 of the RMA, and information required to be submitted as part of an outline plan under s176A.

7.0 AGREED POSITION

- 7.1 That a defined term for ‘maintenance and repair’ be included in the PDP.
- 7.2 That the definition for ‘maintenance and repair’ recommended in the Section 42A is further modified to include the replacement of existing structures with structures of *reduced* dimensions.

7.3 That consequential amendments are made to the PDP to align terminology used in the plan, where appropriate, to the defined term 'maintenance and repair'.

7.4 That an amendment is made to the introductory text preceding the rules of the Infrastructure chapter, which specifies decommissioning of infrastructure includes the removal of infrastructure.

7.5 Attachment A records the agreed amendments to the PDP using the following format:

7.5.1 Section 42A Report recommendations: in red underlined or ~~strike through~~

7.5.2 Further amendments agreed in this conferencing are shown in blue underline or ~~strike through~~.

8.0 SECTION 32AA EVALUATION

8.1 The further recommend amendment to the definition 'maintenance and repair' will ensure that there is appropriate provision within the definition and the PDP for replacement structures of reduced dimensions.

8.2 The consequential amendments to align terminology used in the plan to the defined term will support plan interpretation and implementation.

Date: 9 October 2026



Catherine Heppelthwaite



Timothy Blackman



Cristal Bennett



Peter McDonald

ATTACHMENT A: AGREED AMENDMENTS TO PROVISIONS

Definitions

...

Term	Definition
<u>maintenance and repair</u>	<u>For infrastructure and renewable electricity generation activities</u> <u>means any work or activity necessary to continue the operation or functioning of existing infrastructure or renewable electricity generation activities. It does not include upgrading, but does include replacement of an existing structure with a new structure of reduced or identical dimensions.</u>
renewable electricity generation activities	means the construction, operation and maintenance <u>and repair</u> of structures associated with renewable electricity generation. This includes small and community-scale distributed renewable generation activities and the system of electricity conveyance required to convey electricity to the distribution network and/or the national grid and electricity storage technologies associated with renewable electricity.

INF – Infrastructure

...

The successful functioning of the city depends on infrastructure. It is important that construction, maintenance, upgrade and operation of these services be provided for, that technical and geographical constraints on the operation of networks are acknowledged, and that the benefits derived from them are recognised. However, infrastructure can also have adverse effects on the environment resulting from their construction, operation or associated maintenance and repair activities.

....

INF-P2	Provide for infrastructure
Provide for infrastructure by: 1. Enabling safe, resilient, effective, and efficient operation, <u>maintenance, repair, maintenance and repair</u> , minor upgrade, or decommissioning of infrastructure,	

2. Providing for other upgrades to, and the development of new infrastructure, and
3. Enabling investigation and monitoring activities associated with infrastructure operations.

...

Rules

The rules of this chapter address the operation, ~~maintenance, repair,~~ ~~maintenance and repair~~ ~~removal~~, upgrading, ~~and~~ development ~~and~~ ~~decommissioning (which includes removal)~~ of infrastructure ~~undertaken by network utility operators.~~

...

Operating, ~~maintaining, repairing,~~ ~~maintenance and repair~~, upgrading, developing and decommissioning of infrastructure is excluded from all ~~provisions~~ ~~rules~~ in area-specific and other district-wide chapter, except for:

....

INF-R2	Operation, maintenance, repair, maintenance and repair , and decommissioning of infrastructure (not regulated by the NESENA or NESTF)
All zones	1. Activity status: Permitted Where: a. Compliance is achieved with: i. INF-S3: Underground infrastructure; ii. INF-S16: Earthworks — Slope, height, depth and location; iii. INF-S17: Earthworks — Area limit, including trenching; and iv. INF-S18: Earthworks — reinstatement.
All zones	2. Activity status: Restricted discretionary Where: a. Compliance is not achieved with INF-R2.1. Matters of discretion are restricted to: 1. The matters in INF-P1 to INF-P6. 2. The degree of non-compliance and matters of discretion of any infringed standard. 3. The functional needs, operational needs, and technical requirements of the infrastructure. 4. Any positive effects that can only be achieved through non-compliance with a rule or standard.

	5. For transport network infrastructure, the matters in INF-P7. 6. For National Grid infrastructure, the matters in INF-P8. 7. For infrastructure (other than National Grid infrastructure) located within the Active Street Frontage Overlay, effects on pedestrian amenity, comfort, and safety, and visual amenity. 8. For infrastructure located within a High Natural Hazard Overlay, the change to risks from natural hazards as a result of the activity being undertaken
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REG – Renewable Electricity Generation

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Potential adverse effects from renewable electricity generation can include effects on amenity, landscape, ecology, cultural and historic heritage values. These effects can be a result of a renewable electricity generation activity itself or as part of the construction, ~~maintenance or repair~~ maintenance and repair of structures.

...

EW – Earthworks

...

EW-P3	Earthworks for Public Walking and Cycling Tracks
Recognise the benefits of, and enable earthworks required for, the development, repair, and maintenance <u>and repair</u> , of public walking and cycling tracks.	