

## BEFORE INDEPENDENT COMMISSIONERS

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** a submission by KiwiRail Holdings Ltd ("**KiwiRail**") (submitter 54) on Proposed Plan Change 26 ("**PC26**") to the Operative Waipa District Plan ("**Proposed District Plan**")

### STATEMENT OF EVIDENCE OF MICHAEL BROWN ON BEHALF OF KIWIRAIL HOLDINGS LIMITED

#### CORPORATE

#### 1. INTRODUCTION

- 1.1 My full name of Michael James Brown and I am the Group Manager Planning and Land Use for KiwiRail Holdings Limited ("**KiwiRail**"). I have the qualifications of a BSc (Hons) and a LLB from the University of Otago.
- 1.2 I am a qualified lawyer and have over 20-years' experience in property, planning, environmental law and the management of large infrastructure projects.
- 1.3 Prior to working at KiwiRail, I was the Head of Planning at Wellington International Airport which involved advising on planning, feasibility studies, property management, development, contract management, environmental compliance and customer service.
- 1.4 I have also worked at the Energy Efficiency and Conservation Authority where I oversaw all procurement and property functions for the business, involving management of external advisers, providing internal legal advice and leading future focused discussions.

#### 2. SCOPE OF EVIDENCE

- 2.1 I have prepared this statement for KiwiRail as the Group Manager of Planning and Land Use for the North Island Main Trunk line ("**NIMT**") that passes through the Waipa District.

2.2 PC26 as notified does not include setbacks for the Medium Density Residential Zone or the General Residential Zone. KiwiRail seeks to include a 5 metre setback for buildings and structures in these zones. Additionally, KiwiRail seeks amendments to the acoustic standards to include a vibration standard within 60m of the rail corridor and increase noise control standards from 40m to 100m, or alternative options outlined in Dr Chiles' evidence to achieve such controls.

2.3 My evidence will outline:

- (a) KiwiRail's infrastructure and activities within the Waipa District;
- (b) the need for noise and vibration controls; and
- (c) the need for a setback of 5 metres.

### **3. KIWI RAIL IN THE WAIPA COAST DISTRICT**

3.1 KiwiRail is a State-Owned Enterprise responsible for the management and operation of the national railway network. The rail network is an asset of national and regional importance. Rail is fundamental to the safe and efficient movement of people and goods throughout New Zealand. Recognising the importance of rail network, the Government has invested and continues to invest in the maintenance and expansion of the rail network to meet future growth demands and improve transport network efficiency.

3.2 The designated corridor of the NIMT passes through the Waipa District carrying both freight and commuter services. The NIMT is of regional and national importance, supporting the movement of freight and passengers through the country via rail.

3.3 A small portion (3.5km) of the Hautapu line also enters the north of the Waipa District. This line specifically serves inbound and outbound milk products to the Fonterra dairy factory at Hautapu.

3.4 To assist with New Zealand's move towards a low-carbon economy and to meet the needs of New Zealand's growing population, services on the NIMT will grow. Recognising that rail produces at least 70 percent less carbon emissions per tonne of freight carried compared with heavy road freight, plans to accommodate more freight on the NIMT are underway, with the new (delivery from 2025) Cook Strait ferries able to accommodate 4 times the present rail freight capacity of the route being supported by the Central North Island Freight Hub at Palmerston North.<sup>1</sup>

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<sup>1</sup> The Freight Hub is a proposed 177-hectare freight facility designed to support the transit of rail freight through the lower North Island. The Hub is presently at appeals stage under the Environment Court, with an expected opening date of 2030.

- 3.5 While actual freight volumes on the NIMT and through Waipa have not been forecast, the expectation is that as freight customers demand lower carbon alternatives, rail freight demand will grow.
- 3.6 Recognising the benefits of rail, KiwiRail now receives funding to specifically maintain and where appropriate upgrade the rail corridor to ensure future reliability of rail services. The resulting Rail Network Improvement Plan ("**RNIP**"), is a \$1.2 billion dollar programme work that identifies a series of interventions throughout the country, but including Waipa District, aimed at improving this service reliability to support greater train frequency.

#### **4. NOISE AND VIBRATION**

- 4.1 Acoustic and vibration standards are important controls to ensure the ongoing health and wellbeing of people and are instrumental in ensuring that reverse sensitivity effects on rail are minimised particularly where intensive residential development is proposed adjacent to the rail corridor.
- 4.2 KiwiRail sought in its primary submission an amendment to the acoustic standards to include a new vibration standard for activities within 60 metre of the rail corridor and to increase the area in which the noise control applies from 40 metres to 100 metres.
- 4.3 These controls are regularly sought by KiwiRail and have been included in district plans around the country (including recently in Marlborough and Whangārei). KiwiRail undertook specific noise modelling as part of the Whangārei District Plan processes in relation to that rail corridor, which confirmed that 100 metres was justified for noise controls, and was subject to a consent order agreed between the parties to resolve KiwiRail's appeal.
- 4.4 In terms of vibration, Dr Chiles' evidence demonstrates that there is a very real effect on neighbours (with the potential to result in reverse sensitivity effects on KiwiRail) that requires mitigation. These effects will only increase with the proposed intensification adjacent to the railway corridor.
- 4.5 KiwiRail seeks that vibration controls as described by Dr Chiles are included in the Proposed District Plan. In some circumstances KiwiRail has agreed to a vibration "alert layer" (which places properties adjacent to the rail corridor on notice of the potential vibration effects) as an absolute minimum requirement. Such a layer has been included in the Whangārei District Plan and in the Precinct provisions relating to the Drury area in the Auckland Unitary Plan. KiwiRail would be open to a discussion with Council about the use of such a layer in Waipa.

## 5. SETBACKS

- 5.1 The rail corridor is an important physical resource and strategic transport infrastructure. As part of its operations and obligations to its customers, KiwiRail requires the ability to operate trains as required to meet demand. This can result in changes to the timing, frequency, or length of trains passing along the route. This can also result in upgrades to the network that can provide passing opportunities for trains, or other associated rail improvements.
- 5.2 As an asset of national significance, it is important the rail corridor can operate safely and efficiently without interference. Any interference with the railway corridor can be incredibly disruptive to rail services creating unnecessary delays to passengers and freight. For development on land adjoining the corridor, an efficient and effective means of ensuring that the risk of interference is mitigated is through a physical building setback from the boundary of the rail corridor.
- 5.3 Through its submission, KiwiRail sought the introduction of a 5-metre setback from the rail corridor. This relief was rejected by the Section 42A author, with no reasons provided.
- 5.4 These controls are regularly sought by KiwiRail and setbacks from the rail corridor have been included in district plans throughout the country.<sup>2</sup>
- 5.5 A setback is important to provide enough space within the adjoining site for maintenance and cleaning of buildings and preventing unintentional incursion into the corridor. Buildings right up on the boundary (or too close to the boundary) would not have enough space on site for these ancillary activities. Accessing the rail corridor intentionally or inadvertently for cleaning and maintenance is a safety issue. This is particularly the case in areas where buildings are taller, as buildings become more difficult to maintain and require additional equipment like scaffolding for maintenance, which often inadvertently enter the railway corridor.
- 5.6 The closer a building is to the railway, the more likely it is that objects from open windows are inadvertently thrown onto the track and become obstructions. This becomes a safety issue for rail employees who need to remove the obstruction, not to mention train drivers and passengers on trains if the obstruction is not removed in time. It also becomes a safety issue for residents who seek to retrieve the item from the track, due to danger from trains.
- 5.7 A physical setback manages adverse effects on safety of the adjacent occupiers and operation of the railway corridor, while also providing a level of amenity in terms of safe enjoyment of land use activities adjacent to the corridor.

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<sup>2</sup> For example, in the Drury Centre and Waihoehoe Precincts in the Auckland Unitary Plan, Marlborough Environment Plan, Christchurch City Plan.

- 5.8 A 5-metre setback is sought by KiwiRail to ensure the provision of a safe and efficient rail network. This is particularly necessary where the Proposed District Plan enables three storey buildings as of right in the applicable zones along the rail corridor. When buildings are taller, they become more difficult to maintain and require additional equipment like scaffolding or cherry picker cranes for maintenance. Due to the nature of this equipment, there is a risk that elements could inadvertently enter the rail corridor.
- 5.9 I have reviewed the WorkSafe Guidelines on Scaffolding in New Zealand.<sup>3</sup> These Guidelines include the following configurations and guidelines for scaffolding design for tower and mobile scaffolds:
- (a) Over 2 metres high - the height of the top working platform is no more than three times the minimum base dimension. For a 3-storey building of around 12 metres in height this would require a minimum of 4 metres at the base of the scaffolding.
  - (b) No overhead power lines or other obstructions to be within 4 metres of the line of travel.
  - (c) If portable ladders are used to access the scaffolding then these should be pitched at an angle between 1:4 and 1:6 horizontal to vertical and should be clear of the supporting structure at the base.
- 5.10 I note the WorkSafe Guidelines make no recommendation for the area (setback) needed to set up and construct the scaffold, only the final scaffold dimensions.
- 5.11 While providing room for scaffolding is a key basis for the setbacks sought, it is not the only basis KiwiRail seeks these provisions. Other matters for which the 5-metre setback allows sufficient space without encroachment into the rail corridor include use of mechanical access equipment required for maintenance of buildings or land uses, for example:
- (a) Equipment required for drainage works, such as operation of diggers (which require at least 3 - 5 metres for operation).
  - (b) Mobile height access equipment such as scissor lifts or cherry pickers. These include support structures which extend out from the main equipment to provide further stability in areas of unstable ground, or include moving booms which can swing out from the equipment. A small crane can be nearly 2.5 metres wide (without any outrigger support) and up to 18 metres in height. This is particularly important in the event of a fire where there needs to be enough room to accommodate a ladder for access.

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<sup>3</sup> <https://www.worksafe.govt.nz/topic-and-industry/working-at-height/scaffolding-in-new-zealand/#f-doc-20051>

- 5.12 KiwiRail has also taken into account appropriate support structures for higher scaffolding (such as outriggers) and the necessary space required around scaffolding equipment or machinery. It is not enough to just ensure the equipment itself does not encroach into the rail corridor. KiwiRail is also seeking to ensure persons operating any equipment do not encroach into the rail corridor, given the safety implications.
- 5.13 As the NIMT rail lines are electrified through the Waipa District, this increases the risk of electrocution, should an object from a neighbouring property come into contact with the wires, like scaffolding, cherry picker cranes or building maintenance crew abseiling down the side of buildings.

## **6. CONCLUSION**

- 6.1 For the reasons set out in the evidence of Dr Chiles, Ms Heppelthwaite and above, the setbacks and noise and vibration controls sought by KiwiRail are appropriate and necessary for the safe and efficient operation of the rail network.

**Mike Brown**  
**6 April 2023**