

15 September 2022

To: Kapiti Coast District Council (**Council**)

Subject: Submission on Proposed Plan Change 2 – Intensification to the Kapiti Coast District Plan (**Plan Change 2**)

Scope and nature of submission

1. KiwiRail welcomes the opportunity to provide feedback on Plan Change 2 to the Kapiti Coast District Plan to enable intensification of housing in urban areas as required under the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (**Amendment Act**).
2. This submission relates to the following zones of Plan Change 2 which adjoin the railway corridor:
 - (a) General Residential Zone (**GRZ**);
 - (b) Metropolitan Centre Zone (**MCZ**);
 - (c) Town Centre Zone (**TCZ**); and
 - (d) Local Centre Zone (**LCZ**).
3. KiwiRail seeks that rail be identified as a qualifying matter pursuant to s771(e) and s770(e) of the Resource Management Act 1991 (**RMA**) and seeks that:
 - (a) the medium density residential standards in the GRZ be amended to increase the minimum setback from the rail corridor from 1m to 5m; and
 - (b) a 5m setback be introduced as a permitted activity standard for all buildings and structures in the MCZ, TCZ, LCZ any zones adjoining the rail corridor.
4. KiwiRail could not gain an advantage in trade competition through this submission.
5. KiwiRail wishes to be heard in support of this submission.

KiwiRail's operations

6. KiwiRail is the State-Owned Enterprise responsible for the construction, maintenance and operation of New Zealand's rail network. KiwiRail is also a Requiring Authority that holds railway purpose designations in District Plans throughout New Zealand.
7. KiwiRail's national railway network (which comprises of 3,700km of track, over 200 locomotives, 18,100 hectares of land and 1,350 modern and heritage buildings)¹ is a

¹ Half Year Annual Report 2022 and Unaudited Financial Statements for the Six Months Ended 31 December 2021 (KiwiRail, 2022) at page 5.



nationally and regionally significant infrastructure asset. The rail network is critical to the safe and efficient movement of freight and passengers throughout New Zealand, and forms an essential part of the national transportation network and the wider supply chain. New Zealanders have invested significantly in the rail network and it is a critical public asset.

8. The benefits of rail to the New Zealand economy were estimated in 2019 to be in the order of \$1.7 – 2.1 billion.² The economic significance of rail and the critical role it plays in reducing New Zealand's carbon emissions has been recognised by the Government through its continued investment in rail infrastructure. Transport modal shifts to more climate-friendly modes of transport, like rail, are critical to reduce carbon emissions. As a result, rail is experiencing a renaissance as evidenced by the significant investment being made by the Government to reinvigorate the railway network, demonstrating a strong and continued confidence in rail's current and future potential.
9. In the most recent budget, the Government allocated \$349 million to replace and modernise New Zealand rail assets,³ which has gone towards a number of major projects nationwide, including the rejuvenation of the Northland railway lines, the reopening of the Napier to Wairoa line, establishing a multi-million dollar regional freight hub in Palmerston North, and significant upgrades to the Auckland, Wellington and Hamilton metro networks.
10. The designated corridor of the North Island Main Trunk (**NIMT**) passes through the Kapiti Coast District carrying both freight and commuter services and is a key part of the KiwiRail network nationally. KiwiRail seeks to protect its ability to operate, maintain and upgrade this line into the future.

Urban Development around the Rail Corridor

11. The fundamental driver of the Amendment Act and Plan Change 2 is to enable intensification of housing in urban areas. KiwiRail supports urban development, including around transport nodes, and recognises the benefits of co-locating housing near transport corridors.
12. However, it is critical that Plan Change 2 provides for adequate management of the interface between urban development and lawfully established, critical infrastructure, such as the railway network. This is necessary to ensure our communities are built in healthy living environments, and the railway network can operate and develop in the future without constraint. An integrated and proactive approach to planning is critical to support the overall vision of our urban environments, and to ensure that our transport network can support the increasing growth and housing intensification.
13. The nature of railway operations means KiwiRail cannot fully internalise all its effects within the railway corridor boundaries. Environmental legislation and caselaw recognises the lawful emission of such effects. Increasing development around railway corridors consequentially means the introduction of more sensitive receivers to adverse effects of existing and lawful railway activities. With a proposed increase in sensitive activities in proximity to the railway corridor as a result of the increased density enabled by Plan Change 2, KiwiRail is concerned that without appropriate planning measures in place at a territorial

² The Value of Rail in New Zealand – Report for the Ministry of Transport (EY, Wellington, 2021) at page 8.

³ Wellbeing Budget 2022 – A Secure Future (New Zealand Government, Wellington, 2022) at page 82.



level, the risk of adverse health and amenity effects impacting people locating in proximity to the railway corridor, and reverse sensitivity effects constraining our operations is significantly elevated.

14. The two primary ways which KiwiRail seeks to manage this interface at a national level is through the inclusion of the following controls in district plans:
- (a) **Noise and vibration controls** – requiring acoustic insulation and ventilation to be installed in new (or altered) sensitive uses within 100m of the railway corridor. Within 60m of the railway corridor, controls are sought that buildings containing new (or altered) sensitive uses are constructed to manage the impacts of vibration. These controls are important to ensure new development is undertaken in a way that achieves a healthy living environment for people locating within proximity to the railway corridor, minimising the potential for complaints about the effects of the railway network; and
 - (b) **Boundary setbacks** – requiring a "no-build" setback within 5m of the railway corridor for new buildings or structures on sites adjoining the railway corridor. This is to ensure that people can use and maintain their land and buildings safely without needing to extend out into the railway corridor, minimising the risks of physical interference on railway operations and health and safety hazards on these residents.

Kapiti Coast District Plan and Plan Change 2

Noise and vibration controls

15. In the Operative Kapiti Coast District there are acoustic insulation standards for new or altered habitable rooms within a building that houses a noise sensitive activity within 40m of the rail corridor.⁴ However, there are no vibration controls to ensure that buildings containing new (or altered) sensitive uses are constructed to manage the impacts of vibration. KiwiRail:
- (a) supports the retention of acoustic standards but seeks that the distance over which these controls apply be increased from 40m to 100m; and
 - (b) seeks that a vibration standard be inserted for buildings within 60m of the rail corridor to ensure that vibration effects are appropriately addressed.
16. Acoustic and vibration standards are important controls to ensure the ongoing health and wellbeing of the occupants of the higher density living areas 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. The acoustic and vibration standards do not affect the density of development near the rail corridor, but rather seek to ensure that where urban development co-locates near the rail corridor, the health and amenity of residents is not adversely affected, and the rail corridor is protected from reverse sensitivity effects. KiwiRail considers it is appropriate that these controls apply on a district-wide basis as related provisions that are necessary to ensure intensification in and around

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NOISE-R14 and associated standard 1 attached to the rule.



the rail corridor is appropriately managed (particularly in the context of the additional intensification proposed through Plan Change 2).

Setbacks

17. In respect of Plan Change 2, the MDRS mandate a 1m setback from side and rear yards, and a 1.5m setback from front yards. However, the Amendment Act enables the Council to amend the MDRS and intensification requirements where a "qualifying matter" applies. The qualifying matters expressly include:⁵
- (a) the need to give effect to a designation (but only in relation to the land that is subject to that designation); and
 - (b) matters "required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure". The rail network is nationally significant infrastructure for the purposes of the Amendment Act.
18. The Council has not recognised the rail corridor as a qualifying matter in Plan Change 2, despite the importance of the rail network and potential for reverse sensitivity effects is recognised in the section 32 report for Plan Change 2. In particular, the section 32 report notes:
- (a) The Wellington Regional Land Transport Plan is seeking prioritised capacity improvements to existing rail services and improved accessibility around Paraparaumu rail station.⁶ The Regional Public Transport plan notes that:

In the Kāpiti district, the RPTP describes the Kāpiti Line rail service as a "core rail" service that provides high capacity, long-distance, time-competitive commuter services connecting key urban areas across the region. The stops that are serviced by the Kāpiti Line within the district are Paekākāriki Station, Paraparaumu Station and Waikanae Station. While the RPTP does not identify Ōtaki station as being located within the core rail network, policy 6.4b identifies that the extension of the Kāpiti line to Ōtaki will be considered in the future.
 - (b) Development in the Kapiti Coast has developed as a series of centres that are based on transport routes and the railway line in particular.⁷
 - (c) While the capacity of the public transport network in Kapiti is not necessarily an issue, the frequency and reach of services is an issue that is leading to ongoing reliance of private vehicle usage. A key issue for the public transport network is that commuter rail does not extend to Otaki.⁸
 - (d) In relation to reverse sensitivity effects on infrastructure, increased levels of development in urban environments may lead to increased reverse sensitivity effects on infrastructure (for example the state highway network, the railway

⁵ RMA, Sections 77I(e) and (g); 77O(e) and (g)

⁶ Page 52 of the Kapiti Coast District Plan Proposed Plan Change 2 – Section 32 Evaluation Report

⁷ Page 62 of the Kapiti Coast District Plan Proposed Plan Change 2 – Section 32 Evaluation Report

⁸ Page 66 of the Kapiti Coast District Plan Proposed Plan Change 2 – Section 32 Evaluation Report



network and the airport), where this is located within the urban environment. However, the report notes that existing provisions within the Noise chapter of the District Plan will continue to apply to new development and these will contribute to managing reverse sensitivity effects on infrastructure.⁹ Although the retention of the noise provisions will address the potential reverse sensitivity effects in relation to noise, this will not address the effects in terms of the safe and efficient running of the rail network.

19. KiwiRail seeks that the rail network be identified as a qualifying matter and increased setbacks included in all relevant zones affected by Plan Change 2 adjoining the rail corridor. The 1m setback enabled by the MRDS is insufficient to manage potential safety effects and KiwiRail seeks a 5m setback for buildings on sites adjoining the rail corridor. The need for a greater setback is particularly important given the increased building height, reduced height to boundary controls and greater densities of people living adjacent to the rail corridor enabled under the MDRS. The intensification of land adjacent to the rail corridor increases the risk of potential interference with the rail corridor by building maintenance and other activities being undertaken on sites adjoining the rail corridor. This risk needs to be managed.
20. The setback as drafted in the Plan Change 2 for some areas also does not apply to eaves up to a maximum of 600mm¹⁰. This effectively makes the 1m setback as proposed 400mm in reality. The 1m setback requirement (from rear boundaries) provides a very limited area between the rail corridor and structures within which people can use to maintain their buildings without encroaching at all into the rail corridor. KiwiRail does not consider this distance meets the Council's stated goal in GRZ-P10 of "*yards will be provided to achieve appropriate building setbacks from neighbouring areas*". If the Council is committed to leveraging the existing rail corridor infrastructure to deliver more affordable housing choices then it needs to ensure suitable setbacks to ensure that the rail infrastructure can operate efficiently and safely.
21. KiwiRail therefore seeks a 5m setback be introduced as a permitted activity standard for all buildings and structures in the MCZ, TCZ, LCZ and any other zones adjoining the rail corridor.

General reasons for the submission

22. The identification of the rail corridor as a qualifying matter and setbacks from the rail corridor will:
 - (a) promote sustainable management of resources, achieve the purpose of the RMA, and are not contrary to Part 2 and other provisions of the RMA;
 - (b) meet the reasonably foreseeable needs of future generations;
 - (c) enable the social, economic and cultural wellbeing of the community in the Kapiti Coast district;

⁹ Page 211 of the Kapiti Coast District Plan Proposed Plan Change 2 – Section 32 Evaluation Report
¹⁰ GRZ-R6 standard 10(a)(ii)



- (d) provide and promote the greatest health, safety and amenity outcomes and preserve operational and developmental capacity and efficiency for nationally significant infrastructure;
- (e) be, in terms of section 32 of the RMA, the most appropriate way to give effect to the purpose of the RMA and the objectives of the Proposed Plan.

Relief Sought

23. KiwiRail seeks:

- (a) identification of a setback from the rail corridor as a qualifying matter;
- (b) amendment of setback standards in the GRZ to increase the setback from the rail corridor to 5m;
- (c) introduction of a 5m setback standard for the MCZ, TCZ, LCZ and any other zone adjoining the rail corridor ; and
- (d) amendment of the district wide noise standard to apply to noise sensitive activities within 100m of the railway corridor;
- (e) introduction of vibration controls which apply to sensitive uses within 60m of the railway corridor; and
- (f) all related and consequential amendments as required to achieve the relief sought.

Rule	Relief sought	Amendment (Plan Change 2 text in black underline and strikethrough and KiwiRail's proposed changes shown in red underline and strikethrough)										
GRZ-Rx1	KiwiRail seeks a new permitted activity standard requiring buildings and structures to be setback 5m from a boundary with a rail corridor.	<p><u>New buildings and structures, and any minor works, additions or alterations to any building or structure.</u></p> <p><u>4. Buildings and structures must be setback from the relevant boundary by the minimum depth listed in the yards table below:</u></p> <table border="1" data-bbox="871 1570 1358 1823"> <thead> <tr> <th colspan="2" data-bbox="871 1570 1358 1615">GRZ-Table x1 – Yard Setbacks</th> </tr> <tr> <th data-bbox="871 1615 1114 1659">Yard</th> <th data-bbox="1114 1615 1358 1659">Minimum depth</th> </tr> </thead> <tbody> <tr> <td data-bbox="871 1659 1114 1704">Front</td> <td data-bbox="1114 1659 1358 1704">1.5 metres</td> </tr> <tr> <td data-bbox="871 1704 1114 1749">Side</td> <td data-bbox="1114 1704 1358 1749">1 metre</td> </tr> <tr> <td data-bbox="871 1749 1114 1823">Rear</td> <td data-bbox="1114 1749 1358 1823">1m (excluded on corner sites)</td> </tr> </tbody> </table> <p><u>This standard does not apply to site boundaries where there is an existing wall between 2</u></p>	GRZ-Table x1 – Yard Setbacks		Yard	Minimum depth	Front	1.5 metres	Side	1 metre	Rear	1m (excluded on corner sites)
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Yard	Minimum depth											
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Rule	Relief sought	Amendment (Plan Change 2 text in black underline and strikethrough and KiwiRail's proposed changes shown in red underline and strikethrough)
		<p><u>buildings on adjacent sites or where a common wall is proposed.</u></p> <p><u>x. Buildings and structures must not be located within a 5m setback from a boundary with a rail corridor.</u></p>
Restricted discretionary activity rules in the GRZ	KiwiRail seek a new matter of discretion for activities that do not comply with the new permitted activity standard requiring buildings and structures to be setback at least 5m from the rail corridor.	<p><u>Matters of discretion</u></p> <p>[...]</p> <p><u>x. The location and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor.</u></p>
MCZ, TCZ, LCZ	<p>Parts of the KiwiRail network adjoin the MCZ (Paraparaumu), TCZ (Ōtaki, Waikanae, Paraparaumu Beach and Raumati Beach) and LCZ (Waikanae Beach, Kena Kena, Mazengarb Road, Meadows, Raumati South and Paekākāriki). These zone chapters do not currently include provision for boundary setbacks for buildings or structures from the rail corridor. Consistent with the amendment to the MDRS in the GRZ, KiwiRail seek a boundary setback of 5m from the rail corridor for all buildings and structures in the MCZ, TCZ and LCZ to ensure the intensification changes appropriate manage potential safety impacts on the rail corridor.</p>	<p>New permitted activity performance standard:</p> <p><u>x. Buildings and structures must not be located within a 5m setback from a boundary with a rail corridor.</u></p>
	KiwiRail seeks a new matter of discretion directing consideration of impacts on the safety and efficiency of the rail corridor is appropriate in situations where the 5m setback standard is not complied with in all zones adjacent to the railway corridor.	<p><u>Matters of discretion</u></p> <p>[...]</p> <p><u>x. The location and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor.</u></p>



Rule	Relief sought	Amendment (Plan Change 2 text in black underline and strikethrough and KiwiRail's proposed changes shown in red underline and strikethrough)
NOISE-R14 – Permitted activity	KiwiRail seeks that noise controls requiring acoustic insulation apply to new and altered sensitive uses within 100m of the railway corridor.	<p>1. Any new or altered <i>habitable room</i> within a <i>building</i> that houses any <i>noise sensitive activity</i> (including rooms used for hospital recovery; but excluding rooms used for <i>visitor accommodation</i>, which is not <i>temporary residential rental accommodation</i>, outside of <i>residential zones</i>) on a <i>subject site</i> within any of the following: [...]</p> <p>e. within 40m <u>100m</u> of the boundary of a <i>designation</i> for rail corridor purposes; and</p>
NOISE- RX – Permitted activity	<p>KiwiRail seek that vibration controls be included to apply to sensitive uses within 60m of the legal boundary of any railway boundary.</p> <p>KiwiRail seek that non compliance with the permitted standards be assessed as a restricted discretionary activity with appropriate matters of discretion.</p>	<p><u>Indoor railway vibration</u></p> <p><u>1. Any new buildings or alterations to existing buildings containing a noise sensitive activity, within 60 metres of the boundary of any railway network, must be protected from vibration arising from the nearby rail corridor.</u></p> <p><u>2. Compliance with standard 1 above shall be achieved by a report submitted to the council demonstrating compliance with the following matters:</u></p> <p><u>(a) the new building or alteration or an existing building is designed, constructed and maintained to achieve rail vibration levels not exceeding 0.3 mm/s vv.95 or</u></p> <p><u>(b) the new building or alteration to an existing building is a single-storey framed residential building with:</u></p> <p><u>i. a constant level floor slab on a full-surface vibration isolation bearing with natural frequency not exceeding 10 Hz, installed in accordance with the supplier's instructions and recommendations; and</u></p> <p><u>ii. vibration isolation separating the sides of the floor slab from the ground; and</u></p> <p><u>iii. no rigid connections between the building and the ground.</u></p> <p><u>Matters of discretion</u></p> <p><u>(a) location of the building;</u></p>



Rule	Relief sought	Amendment (Plan Change 2 text in black underline and strikethrough and KiwiRail's proposed changes shown in red underline and strikethrough)
		<p><u>(b) the effects of any non-compliance with the activity specific standards;</u></p> <p><u>(c) special topographical, building features or ground conditions which will mitigate vibration impacts;</u></p> <p><u>(c) the outcome of any consultation with KiwiRail.</u></p>

Yours faithfully



Michelle Grinlinton-Hancock
RMA Team Leader



From: [Michelle Grinlinton-Hancock](mailto:michelle.grinlinton-hancock@kiwirail.co.nz) michelle.grinlinton-hancock@kiwirail.co.nz
To: [Mailbox - District Planning](#)
Subject: Proposed Plan Change 2
Date: Thursday, 15 September 2022 1:03:00 pm
Attachments: [image001.png](#)
[Submission - Kapiti Plan Change 2 final.pdf](#)

To whom it may concern

Please find attached the submission of KiwiRail to Proposed Plan Change 2.

Kind regards

Michelle

Michelle Grinlinton-Hancock | **RMA Team Leader**

MOB: +64 027 246 4427

Bunny Street, Wellington 6011 | PO Box 593, Wellington 6140, New Zealand

KiwiRail 

www.kiwirail.co.nz

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