BEFORE INDEPENDENT COMMISSIONERS

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER a submission by KiwiRail Holdings Ltd (**"KiwiRail"**) (submitter s094) on Proposed Plan Change 2 (**"PC2"**) to the Operative Kāpiti Coast District Plan (**"ODP"**)

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 Kāpiti Coast District.

2.2 My evidence will:

(a) outline KiwiRail's infrastructure and activities within the Kāpiti Coast District;

(b) comment on the need for noise and vibration controls; and

(c) comment on the need for a wider setback than 5 metres and address comments from the Reporting Planner.

3. KIWIRAIL IN THE KĀPITI 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 Kāpiti Coast 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 In Financial Year 2022[1] KiwiRail operated over 32,000 freight trains pulling nearly 90,000 wagons carrying just under 1.6 million tonnes of freight through the Kāpiti Coast. This equates to approximately 75 freight trains per week.

3.4 Further, being on the Kāpiti Line within the Wellington Metro commuter rail network, an additional 600 trains traverse the district from the southern boundary to Waikanae.

3.5 The Capital Express passenger train (10 per week, with additional services coming on line in mid 2023) and the Northern Explorer (6 per week) contribute to make the NIMT through Kāpiti Coast District one of the busiest lines in the country.

3.6 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 with specific reference to the Kapiti Coast are underway, with the new (delivery from 2025) Cook Strait ferries able to

[1] July 1 2021 to 30 June 2022.

accommodate 4 times the present rail freight capacity of the route being supported by a the Central North Island Freight Hub at Bunnythorpe.[2]

3.7 While actual freight volumes on the NIMT and through Kāpiti have not been forecast, the expectation is that as freight customers demand lower carbon alternatives, rail freight demand will grow.

3.8 With this anticipated growth and forecast population growth in the Kāpiti Coast District, KiwiRail is already undertaking a range of specific rail upgrades and projects to support the growing commuter demand in the Kāpiti Coast District, including various upgrades to station facilities, improved signalling, and the installation of a modern overhead power system, alongside other initiatives in the Greater Wellington Region.

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. For the reasons set out in the evidence of Dr Chiles and Ms Heppelthwaite, KiwiRail is seeking that the current noise controls be extended to 100 metres and that vibration controls be included.

4.2 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.

4.3 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.

4.4 KiwiRail seeks that vibration controls as described by Dr Chiles are included in the ODP. 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 a layer in Kāpiti.

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2 The Bunnythorpe Freight Hub (the Hub) is a proposed 176-hectare freight facility designed to support the transit of rail freight through the lower North Island, in particular to and from the Cook Strait Ferries. The Hub is presently at appeals stage under the Environment Court, with an expected opening date of 2030.

5. SETBACKS AND CORRIDOR ACCESS REQUESTS

5.1 The Reporting Planner does not consider it is clear why a setback from the rail corridor is necessary to prevent the extension of building maintenance activities into the rail corridor when this outcome could be achieved by KiwiRail refusing access to the rail corridor for this purpose, and indicates that the rail corridor is like any other property where building owners or occupiers would need to seek permission from adjacent landowners.[3]

Nature of the rail corridor

5.2 The rail corridor is very different from property used for residential or other uses, which would be the typical "neighbouring property". Entry onto the rail corridor poses a very different and high consequence risk compared to entering almost all other sites. In the event that an owner or occupier encroaches into their next door neighbour's property this is a trespass, and may result in damage to that neighbour's garden, fence etc, but it is not likely to be dangerous to both the person undertaking the maintenance activity, and / or the activity that is occurring on the neighbouring land.

5.3 If a person or object encroaches onto the rail corridor there is a risk of electrocution where there are electrified lines and / or risk of injury or worse from rail activities. The corollary of this is that the rail activities (and those who use them) are at risk from the unauthorised obstruction onto the rail corridor. At a minimum, even agreed encroachments can require suspension of services with consequences for both passengers, commercial freight and timetabling of rail services.

5.4 I am also surprised that the Reporting Planner has suggested that the solution to building maintenance requirements is to seek permission to use the rail corridor. In my opinion, it would be a poor planning outcome if the options for landowners who need to access their buildings for maintenance to be either that the landowner needs to seek permission to encroach onto the rail corridor, or they do not obtain permission and therefore trespass on the rail corridor. It is a much better planning outcome to provide an adequate setback **within** a landowner's own property for the building to be able to be accessed for maintenance.

Corridor access requests

5.5 The Reporting Planner has suggested that KiwiRail can refuse access for this purpose. KiwiRail operates a system regulating requests for access to its rail corridor. The large majority of these requests come from utility operators who wish to access the utilities located within the rail corridor, for example, telecommunications, electricity, water / wastewater etc. It is uncommon for private landowners to request access to the corridor.

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3 Section 42A Report at [299].

5.6 In KiwiRail's experience, adjacent landowners do not contact KiwiRail for permission before undertaking building maintenance activities. KiwiRail is not aware whether this is because landowners do not perceive their encroachment into the rail corridor to be a concern of they may be are unaware that they should be seeking permission or whether there is a possible concern about process and costs. To the extent access is requested, declining access (as suggested by the Reporting Planner) does not provide a solution – maintenance still needs to be carried out. In the event there was a genuine request to access the rail corridor, and this required KiwiRail to alter or suspend its services, this would be a cost for the landowner and also for KiwiRail in terms of the impacts on its services. Allowing for building maintenance so that encroachment is not required is a much more appropriate, and safer, method of addressing this issue.

5.7 It is also important to underline that it is not only the potential for physical encroachment by ladders / scaffolding etc into the rail corridor that the setback seeks to avoid. An appropriate setback distance also minimises the potential for items from adjoining landowners to inadvertently encroach into the rail corridor, such as items dropped from scaffolding, ladders or windows, or spray drift from water blasting which can be a risk to electrified lines.

Setback width

5.8 A 5 metre setback is sought by KiwiRail to ensure the provision of a safe and efficient rail network. PC2 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.[4] 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.

4 https://www.worksafe.govt.nz/topic-and-industry/working-at-height/scaffolding-in-new-zealand/#lf-doc-20051

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:

(a) Use of mechanical access equipment required for maintenance of buildings or land uses, for example:

(i) Equipment required for drainage works, such as operation of diggers (which require at least 3 - 5 metres for operation).

(ii) 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.

(b) 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.

5.12 As the rail corridor through Kapiti is electrified[5], 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
10 March 2023

5 The NIMT through Kāpiti is electrified from the southern boundary to Waikanae. There are discussions regarding extending this electrification through to Ōtaki, but this has not been confirmed.