

BEFORE INDEPENDENT COMMISSIONERS

IN THE MATTER of the Resource Management Act
1991

AND

IN THE MATTER a submission by KiwiRail Holdings Ltd
("KiwiRail") (submitter 408) on
Hearing Stream 7 - Rural and Open
Space, District Wide Matters, Special
Purpose Zones to the Wellington City
Proposed District Plan ("**Proposed
District Plan**")

**STATEMENT OF EVIDENCE OF MICHAEL BROWN
ON BEHALF OF KIWI RAIL HOLDINGS LIMITED**

CORPORATE

1. INTRODUCTION

- 1.1 My full name is Michael James Brown and I am the Group Manager Planning and Land Use for KiwiRail. I am a qualified lawyer and have over 20 years of experience in property, planning, environmental law and the management of large infrastructure projects. I have a Bachelor of Science (Hons) and a Bachelor of Laws from the University of Otago.
- 1.2 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.
- 1.3 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 KiwiRail.

2.2 My evidence will:

- (a) outline KiwiRail's infrastructure and activities within Wellington City; and
- (b) comment on the need for a wider setback of 5 metres and address comments from the Reporting Planner.

2.3 KiwiRail is seeking a 5 metre setback for buildings and structures from the rail corridor boundary in all zones adjacent to the rail corridor, with an associated matter of discretion. This setback is critical to ensure the health and safety of occupants of those properties, and also to ensure the safe and efficient operation of the rail network, which is recognised as nationally and regionally significant infrastructure.

3. KIWI RAIL IN THE WELLINGTON REGION

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. There continues to be ongoing critical investment in the maintenance and expansion of the rail network to meet future growth demands and improve transport network efficiency.

3.2 To assist with New Zealand's move towards a low-carbon economy and to meet the needs of New Zealand's growing population, rail services 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 rail such as North Island Main Trunk Line (**NIMT**) are underway, with the present rail freight capacity of the route being supported by the Central North Island Freight Hub at Bunnythorpe.¹

¹ 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.

- 3.3 Key rail freight movements in the Wellington region include import / export traffic from CentrePort; freight services to and from the South Island via the Interislander ferry service; domestic freight traffic entering / exiting Wellington to destinations such as Palmerston North and Christchurch; and other repositioning shunts within the Wellington Metro Area.
- 3.4 The designated Wellington Railway Station and yard, and designated corridor for the Johnsonville Line, NIMT and Wairarapa Line all extend through Wellington City. KiwiRail and Greater Wellington Regional Council (including through Metlink) both have an important role in providing safe, reliable and efficient passenger rail services within the Wellington Metro Area, and to ensure the network can cater for growth. One current project that KiwiRail and GWRC / Metlink are currently working on is the Wellington Metro Upgrade Programme which involves:
- (a) installing new and modern power systems for the overhead lines and signals;
 - (b) renewing track across the network, including in tunnels and refurbishing bridges;
 - (c) building additional track, passing loops and platforms so more passenger and freight trains can run; and
 - (d) making level crossings safer through upgrade.
- 3.5 Wellington is also a key hub for the KiwiRail Scenic Journeys that offer long distance scenic train experiences in New Zealand. The Northern Explorer operates six journeys a week between Wellington and Auckland. Additionally, the KiwiRail Scenic Journeys operates the Capital Connection outer-urban commuter service that operates a return service each weekday between Palmerston North and Wellington. Finally, KiwiRail owns and operates the Interislander ferry service across Te-Moana-o-Raukawa Cook Strait. The Interislander ferry service is essentially an extension of State Highway 1 (SH1) and the Main Trunk Railway Line across Cook Strait, linking road and rail networks between the North and South Islands. It is also a popular tourism service and one of KiwiRail's Great Journeys of New Zealand.
- 3.6 These assets form a key part of the KiwiRail network nationally and KiwiRail seeks to protect its ability to operate, maintain and upgrade these assets into the future. These assets are of regional and national importance, supporting the movement of freight and passengers through the country via rail.

4. SETBACKS

4.1 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.

4.2 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. KiwiRail therefore seeks building setback controls from the rail corridor boundary for development on land adjoining the corridor, which is an efficient and effective means of ensuring that the risk of interference is mitigated.

Need for safety setbacks

4.3 A setback is important to provide enough space within a site adjoining the rail corridor for the landowner or occupant of that building to maintain and access their own house or building safely – without accessing the rail corridor to do so, or getting too close to trains. Buildings constructed close to the rail corridor do not leave enough space on site for essential maintenance activities. The lack of space means it is highly likely that these activities can only happen by accessing the rail corridor, which can impact operations.

4.4 Buildings right up on the boundary (or which are subject to a minimal setback from the boundary) also significantly increase the risk of inadvertent incursion from the rail corridor from objects falling from open windows or being dropped from scaffolding / platforms that are used for maintenance.

4.5 Any object within the rail corridor 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 both trains and the electrified line.

4.6 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.

- 4.7 It is frequently suggested by developers that adjoining landowners should simply ask KiwiRail for permission to access the rail corridor to undertake maintenance and other activities. With respect, this is not the answer. This would be disruptive to the network and onerous for landowners / occupiers to have to use each time they wish to undertake maintenance. Enabling third parties (like neighbours) to access the rail corridor can require on-site safety personnel or the temporary closure of a block of the track. Closing the track, even temporarily, requires around six months to plan, as rail operation demands are required to be factored in and alternatives found.
- 4.8 In my opinion, it would be a poor planning outcome if the options for landowners who need to access their own buildings for maintenance are either to: (a) seek permission from KiwiRail to encroach into the rail corridor (resulting in delay, costs and safety issues); or (b) not obtain permission and trespass on the rail corridor. The better planning outcome is to provide an adequate safety setback within a landowner's own property for that landowner to access their building safely.

Setback distance

- 4.9 The width of the setback area needs to be sufficient for maintenance activities and access requirements. This includes scaffolding, ladders and other mechanical access equipment required for the maintenance of buildings or land uses, for example equipment required for drainage works, such as the operation of diggers (which require approximately 3 to 5 metres for operation).
- 4.10 Setback distance should also take into account appropriate support structures for scaffolding (such as outriggers) and the necessary manoeuvring 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 that persons operating any equipment do not encroach into the rail corridor, given the safety implications.
- 4.11 To assist the Panel, I have had prepared a diagram that illustrates the effects that KiwiRail is concerned about (attached as **Appendix A**).
- 4.12 The Reporting Planner considers a setback of 1.5 metres sufficient.² However, there is simply not enough space within a 1.5 metre setback to enable the

² Section 42A report – Hearing Stream 7 (Open Space, Natural Open Space, Sports and Active, and Wellington Town Belt zones) at [199]. Standard OSZ-S5.

residents of the district to be able to use and maintain buildings, while also protecting rail operations from interference.

- 4.13 A building setback is also necessary to minimise the risks of activities that may not otherwise be seen as creating safety risks (such as water blasting and using equipment like ladders) from interfering with the rail corridor. It is particularly important to manage these activities where the rail line is electrified (which is the case throughout Wellington City), as activities such as spray drift from water blasters could have significant consequences if it interferes with the electrified lines or impedes visibility for train drivers.
- 4.14 The rail lines are electrified in Wellington City which creates the potential risk of electrocution if an object comes into contact with the wires. A setback of 5 metres is necessary to mitigate the risk of an object from a neighbouring property come into contact with the wires.

5. CONCLUSION

- 5.1 For the reasons set out in the evidence of Ms Heppelthwaite and above, the setback controls sought by KiwiRail are appropriate and necessary for the safe and efficient operation of the railway network.

Mike Brown
5 March 2024

APPENDIX A

Assumes: 0.2 m gap from face i.e. the cladding, scaffold width approx. 1.2 – 1.5 m from cladding, height to top working platform is 2 m less than height to top of cladding, guard rail is 1 m above top working platform, object hits guardrail and falls to ground, outrigger to stabilise lowest scaffold, buttress bay for taller two buildings.

