

BEFORE THE WAIKATO DISTRICT COUNCIL HEARINGS PANEL

IN THE MATTER of the Resource Management Act 1991
("RMA")

AND

IN THE MATTER of the Proposed Waikato District Plan
("Proposed Plan")

Evidence of Pam Butler Senior RMA Advisor

Submitter: KiwiRail Holdings Ltd, submitter 835 and 986

HEARING 21B – LANDSCAPES

1. INTRODUCTION

1.1 My name is Pam Butler and I am the Senior RMA Advisor for KiwiRail Holdings Limited ("KiwiRail"). I have over 30 years' RMA and planning experience. I hold a Bachelor of Arts and a Diploma in Town Planning. I am a full member of the New Zealand Planning Institute.

1.2 This evidence has been prepared on behalf of KiwiRail in relation to Hearing 21B – Landscapes (notified Chapter 3 – Natural Environment and Planning Maps of the Proposed Plan).

North Island Main Trunk Line

1.3 KiwiRail is the requiring authority for land designated for railway purposes in the Proposed Plan, including Designation L1 – North Island Main Trunk Railway, which runs through the Waikato District.

1.4 The North Island Main Trunk Railway ("NIMT") is a transport corridor of regional and national significance, enabling the movement of people and freight through the District and beyond via rail, which contributes significantly to the economic and social wellbeing of the people and communities of Waikato.

2. KIWIRAIL'S SUBMISSION ON LANDSCAPES

2.1 KiwiRail's submissions on Chapter 3 and the Planning Maps raise a number of issues that arise from the drafting of the Proposed Plan as notified.

2.2 I have reviewed the Council Officer's section 42A report in relation to Hearing 21B. KiwiRail agrees with the recommendations provided for the following submissions:

- (a) 835.3 – Planning Maps (Outstanding Natural Character);
- (b) 835.4 – Planning Maps (Outstanding Natural Landscape); and

(c) 986.9 – Policy 3.3.2 Recognising values and quantities.

2.3 KiwiRail disagrees with the recommendations provided for in submission point 835.2 – Planning Maps (Outstanding Natural Feature).

2.4 In the following sections of my evidence, I expand on KiwiRail's position regarding the Council Officer's recommendations in relation to these submission points.

3. AMENDMENTS TO PLANNING MAPS

Relief sought by KiwiRail

3.1 In its submission, KiwiRail sought that the Planning Maps for the Proposed Plan be amended to remove the Outstanding Natural Features ("**ONF**"), Outstanding Natural Landscapes ("**ONL**") and Outstanding Natural Character ("**ONC**") overlays (together, "**Overlays**"), from KiwiRail's designations (as listed under "L KiwiRail Holdings Limited" in Section E Designations).¹

3.2 KiwiRail supports the objective of the Overlays, being to ensure that the relevant feature, landscape or character and their attributes are recognised and protected from inappropriate subdivision, use and development. However, in some cases, the Overlays are proposed in areas where existing regionally significant infrastructure is already located. KiwiRail seeks that, when identifying these Overlays, the location of such infrastructure, like the rail corridor, is adequately considered.

Response to section 42A hearing report

ONLs

3.3 The Council Officer found that the Planning Maps do not show any ONL overlays affecting KiwiRail's designated land.² KiwiRail therefore agrees with the Council Officer's recommendation to reject KiwiRail's submission in this respect.³

ONCs

3.4 Similarly, the Council Officer found that the ONC overlay is only mapped in the coastal environment and does not contain any transport routes.⁴ Through discussions with the Council Officer, KiwiRail confirmed that no part of the designated rail corridor is impacted by the ONC overlay.⁵ KiwiRail supports the Council Officer's recommendation accordingly.⁶

¹ Submission points 835.2 – 835.4.

² Section 42A report at [465].

³ Section 42A report at [465], relating to submission point 835.4.

⁴ Section 42A report at [524].

⁵ Section 42A report at [524].

⁶ Section 42A report at [525], relating to submission point 835.3.

ONFs – Whangamarino Wetland

- 3.5 The section 42A report correctly records that the only ONF that applies to the KiwiRail designation is the ONF for Whangamarino Wetland.⁷ In discussing KiwiRail's submission, the Council Officer states:⁸

KiwiRail states that the objective of identifying ONF needs to recognise the functional need for infrastructure to be located within these areas and that designated land transport corridors are generally highly modified areas. While I agree that transport infrastructure is important, this does not mean that new infrastructure should be developed at the expense of this ONF which also has national and international importance. In this case, the rail corridor is historic and it has co-existed alongside the Whangamarino Wetland for a considerable period of time.

If KiwiRail were to propose any new works within the rail corridor, any adverse effects on this ONF would need to be considered as a section 6(b) RMA matter and an assessment as to whether the development would be inappropriate given the modifications that have already occurred as a result of the existing rail corridor. In my opinion, it would be highly unlikely for any future works within the designated rail corridor to require any further physical change to this ONF but I invite KiwiRail to comment on this at the hearing. Nevertheless, the fact that land is designated is not a reason to remove any ONF.

- 3.6 KiwiRail does not agree with the Council Officer's recommendation to reject this submission.⁹ KiwiRail is not seeking to delete the ONF Overlay for the Whangamarino Wetland simply because it overlaps with its designation, or to enable new works to be undertaken without due consideration of any potential adverse effects on the values protected by the Overlay. Rather, KiwiRail is seeking that the areas to which this Overlay applies accurately reflects the values and attributes of the relevant land, taking into account the location of existing regionally significant infrastructure, such as the NIMT. The NIMT has regional and national significance, and it is important that the Proposed Plan provides for its ongoing safe and efficient operation, in order to ensure the economic and social wellbeing of local and regional communities.
- 3.7 By their nature, designated land transport corridors are generally highly modified areas, such that the values or attributes any ONF Overlays are intended to protect may have already been compromised. This has been recognised by the Council Officer in the s42A report, which recommends that Policy 3.5.4 be amended to recognise that:¹⁰

Where man-made influences are dominant, it may be appropriate that activities result in further adverse effects on natural character, though opportunities to remedy or mitigate should still be considered.

- 3.8 As noted by the Council Officer, this addition to Policy 3.5.4 reflects, and gives effect to, Policy 12.2(c) of the Waikato Regional Policy Statement ("**WRPS**").¹¹ The WRPS also directs that, in ensuring that activities within wetlands are appropriate in relation to the level of natural character, regard is given to "the functional necessity of activities being located in or near ... wetlands ... where no reasonably practicable alternative locations exist."¹²
- 3.9 It is both necessary and appropriate for existing modifications to the natural features, landscape or character associated with established infrastructure, as well as the operational

⁷ Section 42A at [342].

⁸ Section 42A report at [344]-[345].

⁹ Section 42A report at [350], relating to submission point 835.2.

¹⁰ Section 42A report at 5.3.5 and [229] to [230].

¹¹ Section 42A report at [230]

¹² WRPS, Policy 12.2(d).

and functional need for existing infrastructure to be located within these areas, to be recognised in rule framework for ONFs in the Proposed Plan. This is critical so that KiwiRail continues to be able to carry out necessary maintenance, repair and upgrade works to ensure the ongoing safe and efficient operation of the railway network.

- 3.10 The management of vegetation, corridor drainage, track signalling and communications are required on an ongoing basis. While future maintenance and repair works will be undertaken on the existing operational corridor, it is possible that upgrade works would extend beyond the current alignment, for example the provision of a passing loop or double tracking, in the event this was required. KiwiRail's designation signals that the full corridor is intended to be used for railway purposes. KiwiRail is concerned that existing uses within the rail corridor, and any associated maintenance or improvements to these uses, may not align with the characteristics and values of the ONF Overlay.
- 3.11 Protection is a high threshold, and may not allow for rail associated works that are necessary for the safe operation of the network to be undertaken. In my view, it is more appropriate for any potential effects of these works on the physical wetland and its characteristics, including those relating to sedimentation and disturbance, changes in hydraulic effects and natural character, to be managed through the relevant regional rules under the Waikato Regional Plan, as well as the outline plan of works process under section 176A.

4. RECOGNITION OF EXISTING INFRASTRUCTURE IN POLICY FRAMEWORK

Relief sought by KiwiRail

- 4.1 In its submission, KiwiRail sought that Policy 3.3.2(b) be amended as follows:¹³

3.3.2 Policy – Recognising values and qualities

(b) Recognise the attributes of the Waikato River delta and wetlands, Whangamarino Wetland and Lake Whangape identified as Outstanding Natural Features, including:

[...]

(vii) existing infrastructure, including land transport networks.

- 4.2 The Council Officer provisionally rejected KiwiRail's submission because it was unclear "what land transport infrastructure already exists in respect to the Waikato River delta and wetlands, Whangamarino Wetland and Lake Whangape".¹⁴ The Council Officer invited KiwiRail to confirm this information at the hearing.¹⁵
- 4.3 The NIMT is located within Designation L1 and is an operational rail corridor moving people and freight, extending from Wellington to Auckland. The relevant section of the NIMT had more than 9,200 trains pass along it in FY20. This averages to 25 trains per day, every day of the year. The average train length over this time was 28 wagons. This route is therefore heavily used by rail, and its continued ability to support the movement of people and freight in a safe and efficient manner is fundamental to the social and economic wellbeing of the Waikato District.

¹³ Submission point 986.9.

¹⁴ Section 42A report at [152]-[153].

¹⁵ Section 42A report at [153].

- 4.4 As discussed above, in the Proposed Plan parts of the existing operational rail corridor and KiwiRail's designation are included in the Whangamarino Wetland ONF Overlay. KiwiRail now considers that its concerns regarding the application of this Overlay to the rail corridor can be resolved by removing the corridor from the ONF Overlay, as sought in KiwiRail's submission.
- 4.5 However, should the Panel determine that the rail corridor is to remain within the ONF Overlay, it is critical that there is appropriate recognition for existing infrastructure, such as the NIMT, as a consideration in the policy framework for ONFs. This could be achieved by the amendment sought by KiwiRail to Policy 3.3.2(b) and / or through the changes recommended to Policy 3.5.4 in the s42A report. Subject to the resolution of KiwiRail's submission on the mapping of the Whangamarino Wetland ONF Overlay over its designation, KiwiRail is comfortable with the Council Officer's recommendation to reject its submission on Policy 3.3.2(b).¹⁶

5. CONCLUSION

- 5.1 I support the Council Officer's recommendations on KiwiRail's submission points 853.3, 853.4, and support the recommendation in relation to submission point 986.9, subject to the resolution of submission point 853.2. I disagree with the Council Officer's recommendation to reject submission point 853.2, for the reasons outlined in this statement of evidence.

Pam Butler

20 August 2020

¹⁶ Section 42A report at [165], relating to submission point 986.9.