

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 Adviser

Submitter: KiwiRail Holdings Ltd, submitter 986

HEARING 22 – Infrastructure

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 22 – Infrastructure (notified Chapters 6 and 14 of the Proposed Plan).

2. KIWIRAIL IN THE WAIKATO DISTRICT

2.1 KiwiRail is the State-Owned Enterprise responsible for the management and operation of the national railway network. This includes managing railway infrastructure and land, as well as rail freight and passenger services within New Zealand. KiwiRail is also the Requiring Authority for land designated "Railway Purposes" (or similar) in District Plans throughout New Zealand.

2.2 The North Island Main Trunk Line and the East Coast Main Trunk pass through the Waikato District. The Hautapu and Rotowaro Branch Lines also run within the District. The railway network plays a critical role in supporting the social and economic well-being of the District and the wider Waikato Region.

3. SCOPE OF EVIDENCE

3.1 I have reviewed the Council officer's section 42A report in relation to Hearing 22 and agree with a number of the recommendations made in relation to KiwiRail's submissions. In particular, KiwiRail agrees with the majority of the Council officer's recommendations to accept KiwiRail's relief, either wholly or in part, where these recommendations achieve the

aim of KiwiRail's submission and address KiwiRail's concerns. Those recommendations that are accepted by KiwiRail are set out in **Appendix A** to my evidence.

3.2 My evidence will focus on the Council officer's recommendations on the following matters:

- (a) **Rail noise and vibration** – KiwiRail supports the Council officer's recommendation to amend the provisions of the Residential, Rural, Country Living and Rural Zones to require new buildings or alterations to existing buildings for a sensitive land use within 100m of the railway corridor boundary or state highway to comply with the requirements of new Section 7 of Appendix 1 – Acoustic Insulation.¹ However, KiwiRail disagrees that no changes are required to the provisions of the Business and Business Town Centre Zones. I also consider that the Council officer's recommended amendments to Appendix 1 should be refined to provide greater clarity and improve their drafting in parts.
- (b) **Reverse sensitivity policy** – While the Council officer has recommended that KiwiRail's submission on Policy 6.1.7 be rejected, I consider that the other recommended amendments sufficiently address KiwiRail's concerns.
- (c) **Earthworks for regionally significant infrastructure** – KiwiRail does not support the Council officer's recommendations to reject KiwiRail's submissions seeking to amend the permitted activity standards for earthworks associated with infrastructure to ensure that the Proposed Plan appropriately provides for works that are critical to the ongoing operation, maintenance, repair and upgrading of the railway corridor.²

3.3 I expand on these points in the following sections of my evidence.

4. RAIL NOISE AND VIBRATION

Overview

4.1 KiwiRail seeks to ensure that the development envisaged by various elements of the Proposed Plan does not give rise to adverse effects on the safe and efficient operation of the railway corridor, as regionally significant infrastructure. A particular concern for KiwiRail is the potential for reverse sensitivity effects to arise where sensitive land uses (eg dwellings) are allowed to locate in proximity to the railway corridor, which can lead to constraints on KiwiRail's activities. The location of sensitive land uses near the railway corridor can also give rise to adverse effects on the health and amenity of affected landowners and occupiers.

4.2 Trains are large, travel at speed and are, in the main, powered by diesel locomotives. As such, they create noise and vibration in and around the rail corridor. As part of its operations,

¹ Section 42A Report Hearing 22 – Infrastructure – D0 Infrastructure and Energy Overall at [291(a)].

² Submission 986.82 – Rule 14.3.1.3(3). See Section 42A Report Hearing 22 – Infrastructure – D3 14.3 General Infrastructure at [103]-[106].

it is critical that KiwiRail is able to operate trains as required to meet demand. This can require changes to the timing, frequency or length of trains passing along the route. Upgrades to the network may also be required to facilitate passing opportunities for trains, or other associated rail improvements. While KiwiRail is mindful of its neighbours and is aware of its RMA obligations in relation to environmental effects and noise, it is not possible to internalise these effects in all cases. The public expectation is often that such effects are KiwiRail's responsibility to mitigate, resulting in additional costs to KiwiRail and / or constraints on KiwiRail's operations.

4.3 An example of the effects of vibration relates to those experienced by Heathcote residents during remedial works on the rail corridor as a result of the 2011 earthquakes. While fixing earthquake-damaged rail infrastructure on the Main South Line, KiwiRail introduced a temporary speed restriction (40km/hr) through Heathcote. This was extended for some time in recognition of the sensitivity of local residents to noise and vibration effects, before the Line returned to full operation (with a corresponding increase in the level of effect). Similar issues arose around commercially zoned properties on Moorhouse Ave adjacent to the rail corridor. These examples demonstrate the need to ensure that new development assesses and addresses the effects of rail noise and vibration, through appropriate use of acoustic mitigation and other suitable measures.

4.4 KiwiRail's noise complaints database for the last three years shows that there is a correlation between urban development near the rail corridor and the number of noise complaints received. Figure One shows reported incidences, including a number of complaints in and around the Waikato District. Redevelopment and intensification near the rail corridor and increasing urbanisation has the potential to result in an increase in noise complaints. Figure Two provides information about the activities generating the complaints and shows that core operations are the main source.

Figure One:

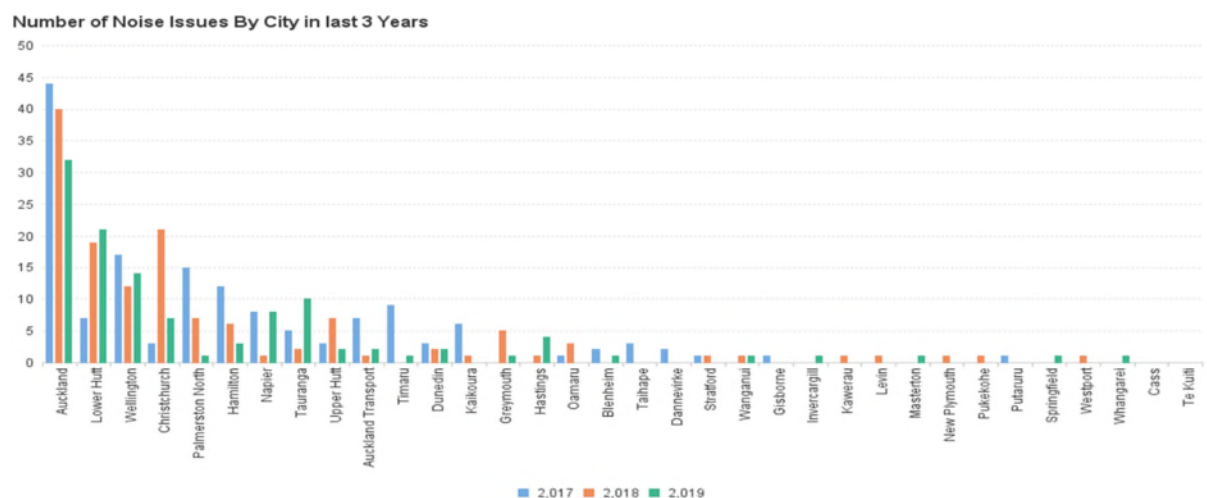
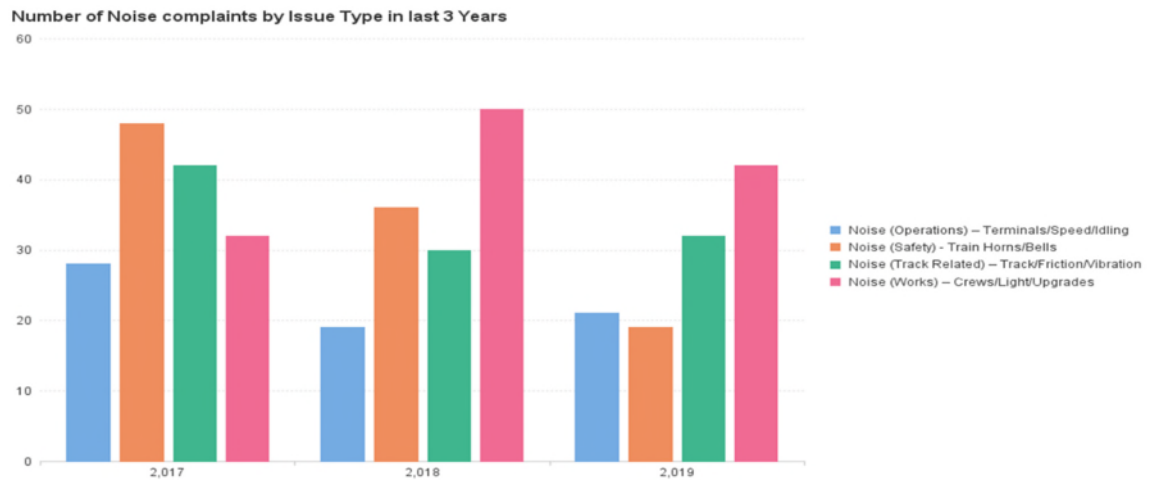


Figure Two:



4.5 While KiwiRail continues to work with adjacent landowners to mitigate effects on them (eg through repair and maintenance of track and associated structures), it is critical that the Proposed Plan provisions recognise, provide for and appropriately address these issues. As all noise and vibration from train movements cannot reasonably be internalised, the rail corridor cannot be protected from potential reverse sensitivity effects unless there are appropriate land use controls in place requiring new or altered sensitive activities near the railway corridor to be mitigated against the effects of rail noise and vibration.

Relief sought

4.6 In its submission, KiwiRail sought that new permitted activity standards be inserted into the Proposed Plan to require all new buildings, and alterations to existing buildings, containing sensitive activities located within 100m of the rail corridor to be appropriately mitigated in relation to rail noise and vibration.³ Where a proposed activity does not comply with these standards (ie where it is not practicable to comply, or the landowner does not wish to comply), resource consent can be sought for a restricted discretionary activity.⁴

4.7 In my view, the provisions sought by KiwiRail strike the appropriate balance between the onus on existing lawful emitters like the railway network to manage their effects and the onus on new sensitive activities to protect themselves against such effects. The controls sought by KiwiRail do not impose an unreasonable or unnecessarily stringent control on persons seeking to develop near the railway corridor. Rather, a requirement to acoustically insulate against rail noise and vibration seeks to ensure that any new sensitive land uses are not exposed to the adverse effects of rail noise and vibration, and that KiwiRail's activities are protected from potential reverse sensitivity effects. Such controls reflect an integrated approach to planning that seeks to allow development to occur near the railway corridor, but in a way that appropriately manages the effects of, and effects on, the ongoing use and

³ Submission 986.51.

⁴ Submission 986.52.

operation of the corridor. Without such controls, the safe and efficient operation of the rail corridor may be compromised by undue constraints on KiwiRail's activities, arising because of complaints from nearby sensitive land uses.

- 4.8 KiwiRail sought that these provisions apply district-wide, by amending the Infrastructure and Energy chapter of the Proposed Plan to include these provisions or, alternatively, amending the provisions of the relevant zone chapters (ie those where the railway network is located) to include the provisions.
- 4.9 The noise and vibration provisions sought by KiwiRail have been developed collaboratively with Waka Kotahi NZ Transport Agency ("**Waka Kotahi**"). Waka Kotahi's submission seeks the introduction of a similar set of provisions relating to noise and vibration from the state highway network as well as the rail corridor.
- 4.10 Both KiwiRail and Waka Kotahi seek the same internal noise standards for spaces occupied by sensitive activities, in order to achieve reasonable mitigation of noise and vibration generated by transport corridors inside those buildings. Under these rules, all bedrooms in new buildings, or alterations to existing buildings, within 100m of the railway corridor would be required to achieve an internal noise level of 35dB L_{Aeq} , with a 40dB A_{eq} limit for all other habitable rooms. If windows are required to be closed to achieve the prescribed internal noise levels, then an alternative ventilation system would be required to be installed to ensure an adequate supply of fresh air. The standards also include provision for variable topography to be considered where this blocks line of sight or exposure.
- 4.11 In my view, the provisions sought by KiwiRail are necessary and appropriate to ensure the ongoing safe and efficient operation of the railway network is not compromised by reverse sensitivity effects, and that sensitive land uses are protected from the effects of rail noise and vibration in terms of health and amenity.

Response to Section 42A report

- 4.12 The Council officer has recommended that KiwiRail's submission be accepted in part, with provisions similar to those sought by KiwiRail proposed to be added to the Residential, Rural, Country Living and Village Zones.⁵
- 4.13 The Council officer has not recommended that the provisions be added to the other zones addressed in KiwiRail's submission. According to the Council officer, the new provisions do not need to be added to these other zones, because:⁶

Other zones, such as Industrial and Industrial Heavy and Reserve, make sensitive land uses non-complying except where provided for by a Reserve Management Plan. The Business and Business Town Centre Zones make

⁵ Section 42A Report Hearing 22 – Infrastructure – D0 Infrastructure and Energy Overall at [290] and [291(a)].

⁶ Section 42A Report Hearing 22 – Infrastructure – D0 Infrastructure and Energy Overall at [286].

provision for sensitive activities such as dwellings and multi-unit developments to meet internal noise levels in accordance with Appendix 1 Acoustic Insulation requirements. If the new rules are to be included, then in my opinion they need only apply to the Residential, Rural, Country Living and Village Zones, as the other zones will be capable of managing the noise and vibration and their reverse sensitivity effects as discretionary or non-complying activities.

- 4.14 KiwiRail agrees with the Council officer's view in relation to the Industrial, Industrial Heavy and Reserve Zones. As set out in the evidence of Dr Chiles, the non-complying activity status for sensitive land uses within these zones means that additional acoustic controls are not strictly necessary to ensure that potential reverse sensitivity effects will be appropriately addressed.⁷ I agree with Dr Chiles' view in this regard.
- 4.15 However, KiwiRail does not support the Council officer's conclusions regarding the Business and Business Town Centre Zones, where residential (located above ground floor level) and health care facilities are permitted activities.⁸ As Dr Chiles explains in his evidence, the requirement for any dwellings developed within this zone to comply with the acoustic standards in Section 6 of Appendix 1 is not sufficient to manage the adverse effects associated with rail noise and vibration (in terms of both potential reverse sensitivity effects and effects on the health and amenity of sensitive users). I agree with Dr Chiles' view that the internal sound level provided in Table 14 is ambiguous.⁹ Section 6 of Appendix 1 provides no direction as to how compliance with the 40dB LAeq limit is to be achieved, there is no requirement for ventilation mechanisms should windows need to be closed, and there are no controls relating to vibration. The current drafting of Rule 18.3.8 D1 also does not refer to Rule 18.3.8 P1(b)(iii) in listing which activities require resource consent as a discretionary activity for noncompliance with permitted activity standards. This means that there is currently no default activity status for dwellings in these zones that do not comply with the internal design levels specified in Table 14.
- 4.16 In addition to the gaps in Table 14 or Rule 18.3.8, more broadly I do not consider it is appropriate to rely solely on a general noise standard to manage the effects of rail noise and vibration. The acoustic standards sought by KiwiRail and Waka Kotahi have been specifically designed and developed to ensure that noise and vibration effects associated with transport corridors are appropriately managed. The Council officer has agreed that provisions specific to noise and vibration generated by the road and rail networks are appropriate in other zones, recognising that both networks "are nationally significant infrastructure and require protection against reverse sensitivity effects."¹⁰ The Proposed Plan also contains a number of objectives and policies that specifically require the avoidance of any effects of subdivision,

⁷ Evidence of Dr Stephen Chiles on behalf of Waka Kotahi NZ Transport Agency and KiwiRail Holdings Limited – Noise and Vibration (29 October 2020) at [6.3].

⁸ Rules 17.1.2 P4 and P10, and Rules 18.1.2 P2 and P7. Education facilities and child care facilities are also permitted in the Business Zone – see Rules 17.1.2 P5 and P6.

⁹ Evidence of Dr Stephen Chiles on behalf of Waka Kotahi NZ Transport Agency and KiwiRail Holdings Limited – Noise and Vibration (29 October 2020) at [6.4].

¹⁰ Section 42A Report Hearing 22 – Infrastructure – D0 Infrastructure and Energy Overall at [289].

use and development that would compromise the safety and efficiency of the land transport network.¹¹

4.17 In my opinion, there is no justification for relying on other more general noise provisions in the Business and Business Town Centre Zones when more specific provisions have been accepted in other zones. Even if such an approach was warranted, which I do not consider it is, the provisions included in the Proposed Plan are inadequate to effectively manage the effects of rail noise and vibration. I remain of the view that the acoustic controls sought by KiwiRail and Waka Kotahi should also apply in the Business and Business Town Centre zones. KiwiRail therefore seeks the following amendments to the Proposed Plan (changes shown against section 42A report version):

17.3.4.X Building setbacks – Sensitive land use

P1	<u>(a) Any new building or alteration to an existing building for a sensitive land use within 100m of a state highway or legal boundary of a rail corridor must comply with Section 7 of Appendix 1 – Acoustic Insulation.</u>
RD1	<p><u>Any new building or alteration to an existing building for a sensitive land use within 100m of a state highway or legal boundary of a rail corridor that does not comply with the condition of Rule 17.3.4.X P1.</u></p> <p><u>Matters of discretion:</u> <u>Discretion is restricted to</u> <u>(a) Location of the building;</u> <u>(b) The effects of any non-compliance with the standards in Section 7 of Appendix 1;</u> <u>(c) Topographical, ground conditions or building design features that will minimise vibration effects;</u> <u>(d) The outcome of any consultation with NZTA or KiwiRail.</u></p>

18.3.X Building setbacks – Sensitive land use

P1	<u>(a) Any new building or alteration to an existing building for a sensitive land use within 100m of a state highway or legal boundary of a rail corridor must comply with Section 7 of Appendix 1 – Acoustic Insulation.</u>
RD1	<p><u>Any new building or alteration to an existing building for a sensitive land use within 100m of a state highway or legal boundary of a rail corridor that does not comply with the condition of Rule 18.3.X P1.</u></p> <p><u>Matters of discretion:</u> <u>Discretion is restricted to</u> <u>(a) Location of the building;</u> <u>(b) The effects of any non-compliance with the standards in Section 7 of Appendix 1;</u> <u>(c) Topographical, ground conditions or building design features that will minimise vibration effects;</u> <u>(d) The outcome of any consultation with NZTA or KiwiRail.</u></p>

¹¹

Policy 6.4.4.

4.18 KiwiRail supports the addition of new Section 7 to Appendix 1 of the Proposed Plan. I agree with Dr Chiles that the recommended provisions should be amended to ensure that they appropriately provide for noise and vibration associated with both the railway and state highway networks.

5. REVERSE SENSITIVITY POLICY

Relief sought by KiwiRail

5.1 In its submission, KiwiRail sought that Policy 6.1.7 be amended to reflect its application to planned as well as existing infrastructure as follows:¹²

6.1.7 Policy - Reverse sensitivity

- (a) Avoid reverse sensitivity effects on **existing and planned** infrastructure from subdivision, use and development as far as reasonably practicable, so that the ongoing and efficient operation of infrastructure is not compromised.

Response to Section 42A report

5.2 The Council officer has recommended that KiwiRail's submission be rejected, on the basis that while the focus of Policy 6.1.7 is protecting existing infrastructure, it also applies to future infrastructure, "whether planned or not."¹³ KiwiRail accepts the Council officer's recommendation in relation to this submission point, as the section 42A report also includes a number of recommended amendments to Policy 6.1.7 that, while not specifically sought by KiwiRail, strengthen and broaden its application. These are as follows:¹⁴

6.1.7 Policy - ~~Reverse sensitivity~~ **Adverse Effects on and infrastructure**

- (a) Avoid reverse sensitivity effects on infrastructure from subdivision, use and development as far as reasonably practicable, and ensure so that the its construction, operation, maintenance, repair, replacement and upgrading ~~the ongoing and efficient operation of~~ infrastructure is not compromised.

5.3 With these amendments, KiwiRail is satisfied that Policy 6.1.7 will protect its ability operate, maintain, repair, replace and upgrade its existing infrastructure from potential adverse reverse sensitivity effects, and ensure that the construction of any future rail infrastructure is not compromised by such effects.

¹² Submission 986.35.

¹³ Section 42A Report Hearing 22 – Infrastructure – D13 Chapter 6 at [219].

¹⁴ Section 42A Report Hearing 22 – Infrastructure – D13 Chapter 6 at [246].

6. EARTHWORKS ASSOCIATED WITH REGIONALLY SIGNIFICANT INFRASTRUCTURE

Relief sought by KiwiRail

- 6.1 KiwiRail's submission seeks amendments to some of the permitted activity standards that apply to earthworks associated with infrastructure within Landscape and Natural Character Areas, Significant Amenity Landscapes, High or Outstanding Natural Character Areas of the coastal environment, Outstanding Natural Features or Outstanding Natural Landscapes ("**Landscape and Natural Character Areas**"). These changes are intended to ensure that these standards appropriately enable KiwiRail to undertake critical operation, maintenance, repair and upgrading works on those parts of the railway corridor located within these areas.¹⁵

Response to Section 42A Report

- 6.2 The Council officer has recommended that KiwiRail's submission be rejected,¹⁶ on the basis that the permitted activity standards are appropriate and are designed to facilitate activities with no or minimal adverse effects.¹⁷ I disagree with the Council officer's conclusion.
- 6.3 KiwiRail supports the objective of the Proposed Plan's provisions relating to Landscape and Natural Character Areas, 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, these controls are proposed in areas where existing regionally significant infrastructure, such as the railway network, is already located. It is critical that any land use controls designed to protect these features, landscapes or character areas appropriately provide for necessary works associated with the operation, maintenance, repair or upgrading of this infrastructure.
- 6.4 As notified, some of these provisions will restrict KiwiRail's ability to carry out these works, which are essential to ensuring the ongoing safe and efficient operation of the railway network:
- (a) **Rule 14.3.1.3(3)(b)**¹⁸ – Works associated with regionally significant infrastructure often require the use of clean fill, but the relevant controls in the Proposed Plan do not currently provide for this. Where infrastructure is located within a Landscape and Natural Character Area, the use of clean fill within such areas is unavoidable. KiwiRail therefore seeks that Rule 14.3.1.3(3)(b) be amended to provide for the use of clean fill in addition to aggregate or metal on any access track or associated with laying underground infrastructure.

¹⁵ Submissions 986.82 – Rule 14.3.1.3(3).

¹⁶ See Section 42A Report Hearing 22 – Infrastructure – D3 14.3 General Infrastructure at [117(h)].

¹⁷ See Section 42A Report Hearing 22 – Infrastructure – D3 14.3 General Infrastructure at [103]-[106].

¹⁸ The numbering of Rule 14.3.1.3 is different in the section 42A report version of the Proposed Plan to that set out in the notified version. Under the section 42A version, the relevant provisions are Rule 14.3.1.3(j) and (l).

- (b) **Rule 14.3.1.3(3)(c)-(e)**¹⁹– Under the current rules, the earthworks limits which would apply to any works undertaken within Outstanding Natural Features ("**ONFs**") or Outstanding Natural Landscapes ("**ONLs**") would create significant difficulties for KiwiRail in carrying out works that are essential to the operation, maintenance or upgrading of the railway corridor. For example, work sites may need to be set up, only a small amount of works completed, and then the site would need to be broken down and works ceased until another "activity" period. This is neither practical nor appropriate for works within a linear corridor like the railway network. KiwiRail seeks that works associated with regionally significant infrastructure are either exempted from the limits for works within ONFs and ONLs, or the limits applying to general earthworks associated with infrastructure under Rule 14.3.1.3(1)(a) and (b)²⁰ are extended to also apply to works within ONFs and ONLs, where such works are associated with regionally significant infrastructure.

6.5 In order to ensure the ongoing safe and efficient operation of the railway corridor, which contributes to the wellbeing of the Waikato District, I consider that it is appropriate that the Proposed Plan includes provisions that enable KiwiRail to carry out essential works within Landscape and Natural Character Areas.

7. WAIKATO REGIONAL POLICY STATEMENT

7.1 Under the RMA, in reviewing its district plan the Council is required to give effect to Waikato Regional Policy Statement ("**WRPS**").²¹ The WRPS contains a number of objectives and policies that seek to protect infrastructure from adverse effects associated with inappropriate land use and development, including:

- (a) Policy 6.1(a), which provides that subdivision, use and development of the built environment is to occur in a planned and co-ordinated manner that has regard to the principles in Section 6A. Section 6A sets out principles for new development, and specifically directs that new development should not result in incompatible adjacent land uses (including those which may result in reverse sensitivity effects).
- (b) Implementation method 6.1.2, which requires the Council, when preparing or reviewing their district plan, to have particular regard to the potential for reverse sensitivity effects. In particular, the Council is required to consider discouraging new sensitive activities locating near existing and planned effects-generating activities that could affect the health of people and / or amenity values in the surrounding area.

¹⁹ The numbering of Rule 14.3.1.3 is different in the section 42A report version of the Proposed Plan to that set out in the notified version. Under the section 42A version, the relevant provisions are Rule 14.3.1.3(j), (m)-(o).

²⁰ The numbering of Rule 14.3.1.3 is different in the section 42A report version of the Proposed Plan to that set out in the notified version. Under the section 42A version, the relevant provisions are Rule 14.3.1.3(a) and (b).

²¹ Section 75(3).

- (c) Policy 6.3(a), which requires management of the built environment so that the nature, timing and sequencing of new development maintains or enhances the operational effectiveness, viability and safety of existing and planned infrastructure, and protects investment in existing infrastructure. Policy 6.3(b) also directs that the built environment be managed to ensure that the efficient and effective functioning of infrastructure, including transport corridors is maintained, and the ability to maintain and upgrade that infrastructure is retained.

7.2 The railway network is also recognised as regionally significant infrastructure in the WRPS, such that the Proposed Plan must also give effect to the following provisions when seeking to manage land use and development in proximity to the railway corridor:

- (a) Policy 6.6, which provides that, in managing the built environment, particular regard must be had to protecting the effectiveness and efficiency of existing and planned regionally significant infrastructure.
- (b) Implementation method 6.6.1(f), which expressly requires district plans to include provisions that give effect to Policy 6.6, and in particular that provide for infrastructure in a way that recognises that infrastructure can adversely affect people and communities, and does not result in land uses that adversely affect the effective and efficient operation of existing and planned regionally significant infrastructure.

7.3 In my view, the provisions sought by KiwiRail are necessary to ensure that the Proposed Plan gives effect to the WRPS.

8. PART 2

8.1 Although I do not consider that reference to Part 2 is required in assessing the appropriateness of the Proposed Plan, for completeness, I consider that without the amendments sought by KiwiRail the recommendations in the section 42A report will result in an outcome that is not consistent with the sustainable management purpose of the RMA.

9. CONCLUSION

9.1 I support the Council officer's recommendations on KiwiRail's submission points outlined in **Appendix A**, as well as the recommendation in relation to submission 986.35.

9.2 In relation to the submission points where KiwiRail does not accept the Council officer's recommendations, I request that the provisions of the Proposed Plan be amended to:

- (a) insert the Council officer's recommended provisions to manage the noise and vibration effects associated with the railway corridor into the Business and Business Town Centre Zones; and

- (b) amend the permitted activity standards for earthworks to exempt works associated with regionally significant infrastructure and provide for the use of clean fill for such works.

9.3 I consider that the changes sought by KiwiRail's submissions are consistent with the purposes of the RMA and appropriately give effect to the objectives and policies of the WRPS and the Proposed Plan.

Pam Butler

29 September 2020

APPENDIX A

APPENDIX A

SUBMISSION	RELIEF SOUGHT	S42A REPORT RECOMMENDATION	KIWIRAIL POSITION
986.30	Amend Objective 6.1.1 as follows; <i>Infrastructure is developed, operated and maintained to benefit the social, economic, cultural and environmental well-being of the district.</i>	Accept – D13 (page 21, para 80)	Support
986.31	Retain Policy 6.1.2 as notified	Accept in part – D13 (page 27, para 109(a)). 6.1.2 Policy - Development, operation and maintenance (a) Provide for the development, operation, maintenance, repair, replacement, upgrading and removal of infrastructure throughout the district by recognising: (i) Functional and operational needs; (ii) Location, route and design needs and constraints; (iii) Locational constraints related to the need to access suitable resources or sites; (iv) The benefits of infrastructure to people and communities; (v) The need to quickly restore disrupted services; and (vi) Its role in servicing existing consented and planned development. <u>(vii) the need to access infrastructure.</u>	Support. Although KiwiRail sought that this policy be retained as notified, the recommended amendment is considered appropriate and consistent with the intent of the policy.
986.32	Retain Policy 6.1.3 as notified	Accept in part – D13 (page 32, para 130(a)). 6.1.3 Policy - Technological advances (a) Provide flexibility for infrastructure operators to to use new technological advances <u>adopt new technologies</u> that: (i) Improve access to, and enable the efficient use of, networks and services <u>or development of infrastructure;</u> (ii) Allow for the reuse of redundant services infrastructure and structures where appropriate; and (iii) Result in positive environmental and community outcomes <u>Increase resilience, safety or reliability of networks and services;</u> <u>(iv) Result in environmental benefits and enhancements; or</u> <u>(v) Promote environmentally sustainable outcomes including green infrastructure and the increased utilisation of renewable resources.</u>	Support. Although KiwiRail sought that this policy be retained as notified, KiwiRail considers that the amendments do not detract from the intent of the policy, and are consistent with its desired relief.
986.33	Retain Policy 6.1.4 as notified	Accept in part – D13 (page 36, para 151(a)). No amendments recommended.	Support
986.34	Retain Objective 6.1.6 as notified	Accept in part – D13 (page 45, para 195(a)). 6.1.6 Objective - Reverse sensitivity Adverse Effects on Infrastructure Infrastructure (including the National Grid) is protected from reverse sensitivity effects, and infrastructure (including the National Grid) its construction, operation, maintenance repair, replacement and upgrading is not compromised.	Support. KiwiRail supports the amendment of this objective to refer expressly to the construction, operation, maintenance, repair, replacement and upgrading of infrastructure.
986.36	Retain Objective 6.1.8 as notified	Accept – D13 (page 58, para 266(a)).	Support
986.37	Retain Policy 6.1.9 as notified	Accept – D13 (page 61, para 278(a)).	Support

APPENDIX A

SUBMISSION	RELIEF SOUGHT	S42A REPORT RECOMMENDATION	KIWIRAIL POSITION
986.38	<p>Amend Policy 6.4.4. as follows;</p> <ol style="list-style-type: none"> Alter Policy 6.4.4 heading to read 6.4.4 Policy – Road and rail: <u>Land Transport Network</u> Alter Policy 6.4.4(a) to read: Discourage Avoid subdivision use and development that would compromise: Alter 6.4.4 (a) (ii) as follows; (ii)The safety and efficiency; <u>including the maintenance, upgrading, development and operation of the reading land transport network.</u> Add a new Policy 6.4.4 (b) <u>(b) Avoid reverse sensitivity effects on the land transport network through setbacks and design controls for new residential and other noise sensitive activities established in proximity to existing or planned transport corridors.</u> 	<p>Accept in part – D13 (page 135, para 650(a)).</p> <p>6.4.4 Policy - Road and rail <u>Land transport network</u> (a) Discourage Avoid effects of subdivision, use and development that would compromise: (i) The road function, as specified in the road hierarchy, or the safety and efficiency of the reading network; and (ii) <u>The access by emergency services and their vehicles; and</u> (iii) <u>The safety and efficiency, including the maintenance, upgrading, development and operation of the railway land transport network.</u> (b) <u>Avoid reverse sensitivity effects on the land transport network through setbacks and design controls for new residential and other noise sensitive activities established in proximity to existing or planned transport corridors.</u></p>	<p>Support. The recommended amendments to the policy are largely consistent to KiwiRail's relief, and KiwiRail agrees that the reference to "effects" in paragraph (a) is appropriate.</p>
986.39	<p>Amend Objective 6.5.1 as follows:</p> <p><i>(a)An integrated land transport network where: (i)All transport modes are accessible, safe and efficient; and (ii)Adverse effects from the construction, maintenance, <u>upgrading</u> and operation of the transport network are managed</i></p>	<p>Accept – D13 (page 159, para 778(b)).</p>	<p>Support</p>
986.40	<p>Amend Policy 6.5.2 (viii) as follows:</p> <p><u>(viii)Discouraging the installation of new at grade road and pedestrian rail level crossings:</u> <u>(viii) Controlling the location of buildings and other visual obstructions within the sightline areas of rail level crossings</u> <u>(ix) Railway crossing design in accordance with the requirements of the rail operator.</u></p>	<p>Accept – D13 (page 165, para 811(b)).</p>	<p>Support</p>
986.41	<p>Amend Policy 6.5.5 as follows:</p> <p>6.5.5 Policy – Road <u>Land transport</u> safety</p> <p>(a)Ensure that structures, <u>vehicle access</u>, lighting, signage and vegetation are located and designed so as to not compromise the safe and efficient operation of the land transport network, or obscure RAPID numbers.</p>	<p>Accept – D13 (page 173, para 857(d)).</p>	<p>Support</p>

APPENDIX A

SUBMISSION	RELIEF SOUGHT	S42A REPORT RECOMMENDATION	KIWI RAIL POSITION
986.42	Retain Policy 6.5.7 as notified	Accept in part – D13 (page 176, para 881(a)). (a) Control the location of new vehicle accesses to sites adjacent relative to other accesses, intersections and rail level crossings to <u>maintain and</u> improve the safety and efficiency of the land transport network.	Support. The recommended amendments are consistent with the intent of the policy, and do not detract from the relief sought by KiwiRail.
986.44	Retain definition of "Infrastructure" as notified	Accept – D0 (page 53, para 204(a)).	Support
986.45	Retain definition of "Network Utility Operator" as notified	Accept – D0 (page 47, para 180(a)).	Support
986.47	Alter the 'road network activities' definition to include the railway corridor as follows: Land transport <i>Road network activities</i> And; Means road or rail infrastructure and transport services provided within a land transport network corridor, including; And; Add additional item to list (p) railway tracks, bridges, tunnels, signaling, access tracks and facilities	Accept in part – D0 (page 61, para 237(a)) Road network activities Means road infrastructure and transport services provided within the road, including: ... <u>Rail activities, as defined in the Land Transport Management Act 2003, within the rail corridor shall have the same meaning and activity status as road network activities within the road.</u>	Neutral. While KiwiRail does not oppose the recommended amendment to this definition, given the Council officer has recommended a new definition of "Land transport network" that includes rail, this addition to "road network activities" may not be necessary.
986.77	Retain Rule 14.2.1 P1 Permitted activities as notified. Retain Rule 14.2.1 P2 Permitted activities as notified.	Accept in part – D2 (page 6, para 24(b)).	Support. A number of changes are recommended in response to other submissions, but these do not detract from the intent of the policy so are consistent with KiwiRail's submission. The amendments recommended in relation to level crossings are addressed below (and are supported).
986.78	Retain Rule 14.3.1 P1 Permitted activities as notified.	Accept – D3 (page 6, para 25(a)).	Support
986.79	Retain Rule 14.3.1 P2 Permitted activities as notified.	Accept in part – D3 (page 15, para 68(a)). <u>(7) The conditions in Rule 14.3.1.1(1) do not apply to road network activities or other lineal transport networks.</u>	Support. The amendment is consistent with the intent of KiwiRail's submission, which was to ensure that the minor upgrading of existing rail infrastructure is appropriately provided for in the Proposed Plan.

APPENDIX A

SUBMISSION	RELIEF SOUGHT	S42A REPORT RECOMMENDATION	KIWIRAIL POSITION
986.81	<p>Amend Activity specific conditions 14.3.1.3(1)(a) and (b) relating to P4 Permitted activities as follows (or similar amendments to achieve the requested relief):</p> <p>(1) Any earthworks associated with infrastructure must comply with all of the following conditions:</p> <p>(a) Do not exceed a volume of more than 2,500m³ for any single activity (with the exception of works associated with Regionally Significant Infrastructure);</p> <p>(b) Do not exceed an area of more than 2,500m² for any single activity (with the exception of works associated with Regionally Significant Infrastructure);</p> <p>AND Any consequential amendments to link and/or accommodate the requested changes.</p>	<p>Reject – D3 (page 27, para 117(i))</p>	<p>Support. KiwiRail is comfortable with these limits for general earthworks associated with infrastructure, provided its submission in relation to the limits for earthworks with Landscape and Amenity Areas is accepted.</p>
986.83	<p>Delete Activity specific condition 14.3.1.3(1)(c) relating to P4 Permitted activities (or similar amendments to achieve the requested relief)</p> <p>OR Amend Activity specific condition 14.3.1.3(1)(c) relating to P4 Permitted activities as follows (or similar amendments to achieve the requested relief):</p> <p>(1) Any earthworks associated with infrastructure must comply with all of the following conditions: ... (c) Within 10m of a watercourse or 20m of mean high water springs do not exceed a volume of more than 5m³ and an area of more than 5m² for any single activity (excluding existing rail infrastructure); AND Any consequential amendments to link and/or accommodate the requested changes.</p>	<p>Accept – D3 (page 27, para 117(g))</p>	<p>Support.</p>
986.84	<p>Amend Rule 14.12.1 P5 Permitted Activities as follows (or similar amendments to achieve the requested relief):</p> <p>Operation, maintenance and minor upgrading of existing public roads, State Highways, rail corridors, and associated transport road network activities</p> <p>AND Amend the Activity specific conditions 14.12.1.5 relating to P5 Permitted activities as follows (or similar amendments to achieve the requested relief):</p> <p>(1) Operation, maintenance and minor upgrading of existing public roads, State Highways, railways and associated road network activities must comply with the following conditions:</p> <p>(a) The works occur within the road or unformed road or railway corridor;</p> <p>(b) Works within the road or railway corridor must be:</p> <p>(i) Incidental to, and serve a supportive function for, the existing public road or railway corridor; or ...</p>	<p>Accept in part – D12 (page 47, para 208(c))</p> <p>14.12.1.5</p> <p>(1) Operation, maintenance and minor upgrading of existing public roads, State Highways, <u>rail corridors</u> and associated <u>rail network and road network activities</u> must comply with the following conditions:</p> <p>(a) The works occur within the road reserve or unformed road <u>or railway corridor</u>;</p> <p>(b) Works within the road <u>or railway corridor</u> must be for the purpose of:</p> <p>(i) <u>Maintaining or improving effectiveness or efficiency consistent with the incidental to, and serve a supportive function of</u> for, the existing public road <u>or railway corridor</u>; or</p> <p>(ii) <u>Maintaining or improving safety for road users or adjacent properties</u> Required for the safety of road users; or</p> <p>iii. Required for the safety of adjacent landowners or occupiers;</p>	<p>Support. The recommended amendments to this rule achieve the same outcome as that sought by KiwiRail's submission and are sufficient to address KiwiRail's concerns.</p>

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SUBMISSION	RELIEF SOUGHT	S42A REPORT RECOMMENDATION	KIWIRAIL POSITION
	AND Any consequential amendments to link and/or accommodate the requested changes.		
986.85	Retain Activity specific condition 14.12.1.1(g) relating to P1 Permitted activities as notified.	Accept – D12 (page 18, para 81(e)).	Support
986.86	<p>Add a new matter of discretion to Rule 14.12.2 RD1 Restricted Discretionary Activities as follows (or similar amendments to achieve the requested relief):</p> <p><u>(a)The extent to which the safety and efficiency of rail and road operations will be adversely affected, including:</u> <u>(b)The outcome of any consultation with KiwiRail.</u> <u>(c)Any characteristics of the proposed use that will make compliance unnecessary.</u></p> <p>AND Any consequential amendments to link and/or accommodate the requested changes.</p>	Accept – D12 (page 62, para 290(b)).	Support
986.87	<p>Add a new Activity specific condition to Rule 14.12.1.1 relating to P1 Permitted activities as follows (or similar amendments to achieve the requested relief):</p> <p>(1) All activities must comply with the following vehicle access conditions: ... <u>(h) All existing and new accesses and roads that cross an operational rail network via a level crossing must be maintained in accordance with the sight line triangles provided in 14.12.5 Railway Level Crossing Sight Triangles and Explanations</u></p> <p>AND Add new Railway Level Crossing Sight Triangles and Explanations to Rule 14.12.5 Transportation tables and figures.</p> <p>AND Add a new activity RD10 to Rule 14.12.2 Restricted Discretionary activities as follows (or similar amendments to achieve the requested relief): <u>RD10 Buildings and structures within a road/rail level crossing sight triangle Discretion is restricted to:</u> <u>1. The extent to which the safety and efficiency of rail and road operations will be adversely affected</u> <u>2. The outcome of any consultation with KiwiRail</u> <u>3. Any characteristics of the proposed use that will make compliance unnecessary</u></p> <p>AND Any consequential amendments to link and/or accommodate the requested changes.</p>	Accept – D12 (page 7, para 33(g)).	Support