

1. INTRODUCTION

- 1.1 My full name is Michael Robert Campbell. I am a director of Campbell Brown Planning Limited (Campbell Brown).
- 1.2 I have outlined my qualifications and experience in my primary statement of evidence dated 4 July 2023, in relation to the first hearing for Variation 3.
- 1.3 I reconfirm that I have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note 2023. I have complied with the Code of Conduct in preparing this rebuttal evidence and agree to comply with it while giving evidence.
- 1.4 This rebuttal statement of evidence relates specifically to the evidence of Pam Butler on behalf of Kiwi Rail Holdings Limited ("KiwiRail"). It addresses the recommended amendments by Ms Butler to Policy MRZ2-P11.
- 1.5 For the reasons outlined in my evidence in chief ("EIC"), I consider such amendments will introduce ambiguity around the purpose of the MRZ-S15¹ setback standard, as it relates to building setbacks from the rail corridor for *access and safety purposes*.
- 1.6 I note that this rebuttal statement was prepared on the basis of the primary evidence exchanged by all parties. Rebuttal was filed for Council yesterday which proposed a substantially different approach (agreed with KiwiRail) to the policy support for MRZ2-S15. I have not had an opportunity to consider this in any detail due to the timing of rebuttal exchange, but have a number of issues with the approach put forward by the Council and KiwiRail. I propose to address this at the hearing, but will endeavour to discuss the changes with Ms Lepoutre prior to the hearing to see if the areas of disagreement can be narrowed.

¹ MRZ-S15(A) under my recommended amendments at para. 3.8 of my EIC.

2. SETBACK FROM THE DESIGNATED BOUNDARY OF THE RAILWAY CORRIDOR (MRZ2-S15)

2.1 Section 4 of Ms Butler's evidence outlines the reasons why a setback standard is appropriate, to ensure access to buildings for maintenance without the need to obtain right for entry to the rail corridor from KiwiRail. It also outlines why such a setback is also beneficial for safety reasons.

2.2 The evidence of Ms Butler and myself are aligned on this matter (in accordance with the agreed position reached between KiwiRail and Kāinga Ora), and I agree with her recommended amendments which would result in a separate standard for building setbacks from the rail corridor as per my EIC.

2.3 Where I respectfully disagree, is the proposed corresponding amendments to Policy MRZ2-P11 outlined in section 5 of Ms Butler's evidence. The following is noted:

KiwiRail, Waikato District Council, Waka Kotahi, and Kāinga Ora have agreed noise and vibration provisions which will act to minimise the potential for reverse sensitivity effects and risks to public health and safety. KiwiRail seeks that MRZ2-P11 Reverse sensitivity is amended to reflect the agreed provisions. The policy wording currently only refers to setback distances and should be amended to include reference to building design measures. I set out below suggested amendments to the policy that reflect the purpose of the controls (changes shown in red):

Maintain appropriate setback distances between new **sensitive (and altered)** land uses and existing lawfully established activities and require buildings to be designed with acoustic insulation to minimise the potential **that may result in for reverse sensitivity effects and risks to public health and amenity.**

2.4 I have concerns that the proposed amendments to MRZ2-P11(1) above, conflates safety setback and reverse sensitivity matters. As outlined in my EIC, the purpose of the KiwiRail setback control introduced

through V3 is to address safety concerns and access for building maintenance, not reverse sensitivity.

- 2.5 The changes to the policy and reasoning provided by Ms Butler, suggest that the rail setback is also for reverse sensitivity, public health and amenity reasons. This delves into issues of acoustic mitigation which are being addressed through appeals to the Proposed Waikato District Plan and is outside the ambit of V3. Any necessary policy changes should occur through that process, and in any event I understand that amendments to the relevant infrastructure policies have been agreed in that context meaning there is no need to introduce a zone specific policy. It is not necessary to also change MRZ2-P11 - which relates specifically to MRZ2-S15 and reverse sensitivity issues.
- 2.6 I am also concerned that the amendments expand the concept of reverse sensitivity to encompass any new or 'altered' land use, not just a sensitive land uses. The removal of reference to 'sensitive' land uses may result in the wide application of setback and acoustic attenuation requirements to *all* land uses - not just 'sensitive' receivers. I question the appropriateness of such an outcome.
- 2.7 In my opinion, there is no need to amend MRZ2-P11. The current wording proposed by Council² is efficient, effective and addresses those matters covered by MRZ2-S15 as proposed to be amended through the Council's 42A report.

3. CONCLUSIONS

- 3.1 In my opinion, the amended provisions as set out in my evidence will be efficient and effective in achieving the purpose of the RMA, will ensure consistency with those appeals currently against the PWDP, and will provide a clear rule framework that gives effect to the objectives and policies of the PWDP as amended by Variation 3.

² See tracked amendments attached to the s42A report, dated 15 September 2023.



Michael Robert Campbell

15 November 2023