

Before the Hearings Commissioners

Under the Resource Management Act 1991 (the **RMA**)

In the matter of a submission by KiwiRail Holdings Limited (submitter 408 and FS72) on the Hearing Stream 4

and in the matter of Wellington City Proposed District Plan

**Rebuttal statement of evidence of Catherine Lynda Heppelthwaite for
KiwiRail Holdings Limited**

Dated 16 June 2023

1 INTRODUCTION

- 1.0 My Primary Statement sets out my qualifications, commitment to comply with the Environment Court's Code of Conduct for Expert Witnesses (2023).
- 1.1 My Primary Statement describes KiwiRail's relief which includes submissions supporting a building setback from the rail designation boundary to enable building maintenance to be completed within the site boundaries.
- 1.2 I also rely on my Primary Statement to address the statutory and higher order planning framework and the details of KiwiRail's submissions and further submissions.
- 1.3 This statement addresses the evidence of Mr Joe Jeffries¹ regarding proposed standard MCZ-SX providing for a boundary setback from the rail corridor.

2 MCZ-SX BOUNDARY SETBACK

- 2.0 Mr Jeffries's evidence proposes deleting² the building setback standard MCZ-SX (proposed at 1.5m by Council and 5m from the rail corridor in my Primary Evidence) for the following reasons³:
 - a. KiwiRail has existing powers to control access to its own rail corridors outside of the district plan to ensure safety;
 - b. KiwiRail can designate additional land required as needed to allow for operational safety; and
 - c. a lack of definition of *rail corridor* so MCZ-SX may mean that there is a large separation between active 'tracks' and the rail designation boundary. I surmise, from his example (Johnsonville⁴), that Mr Jeffries' concern is less with the definition and more with a situation where the designation is wide and the tracks already well separated from the rail designation boundary thus no MCZ-SX setback would be necessary.

¹ Statement of Evidence dated 12 June 2023 for Stride Investment Management Ltd and Investore Property Ltd.

² Statement of Evidence dated 12 June 2023 for Stride Investment Management Ltd and Investore Property Ltd, paragraphs 6.71 and 6.74

³ Statement of Evidence dated 12 June 2023 for Stride Investment Management Ltd and Investore Property Ltd, paragraph 6.73.

⁴ Statement of Evidence dated 12 June 2023 for Stride Investment Management Ltd and Investore Property Ltd, paragraph 6.73.

2.1 I will address each of these points in turn.

Rights of access

2.2 I agree with Mr Jeffries that private property owners do not have a right of access to the rail corridor and KiwiRail has existing powers and processes to address requests for access. The purpose of the standard is not however to manage access to the rail corridor, it is to ensure that private owners have the ability to undertake necessary maintenance within their own sites and not need access from adjoining sites.

Designation

2.3 Widening of the KiwiRail designation has been considered in the s32AA assessment attached to my Primary Evidence (Attachment B). I have discarded this as the most efficient and effective option as applying a wider designation means land will simply not be available for use (ie sterilised). By comparison, MCZ-SX offers flexibility (through the resource consent process) which may enable a reduction in the 5m yard (ie use of land) if, for example,

- a. if there was a sufficiently wide designation, substantial separation from tracks and limited plans for change; or
- b. it could be shown that building maintenance, materials or construction meant that 5m was not necessary.

2.4 Further, the matter of discretion proposed to accompany MCZ-SX provide a degree of certainty as what would be assessed.

Separation from 'Active Tracks'

2.5 I agree with Mr Jeffries that *rail corridor* is not sufficiently defined and in my Primary Evidence⁵ (Attachment A) I proposed a change to refer to *rail designation boundary* for clarity.

2.6 I also agree with Mr Jeffries that, in some locations, the rail designation may be wide and 'active' tracks will be some distance from the boundaries. This does not however account for operational changes which KiwiRail may make (ie. new or relocated tracks which may be closer to a designation boundary). As noted in paragraphs 2.3 and 2.4, I consider the use of a standard which

⁵ Paragraph 8.1.

allows for a setback will enable maintenance, and consideration of a smaller set back can be undertaken on a case-by-case basis through the plan change process. This would enable site specific characteristics such as a wide rail corridor with well separated tracks to be taken into account.

Cath Heppelthwaite
16 June 2023