

## **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 Hearing Stream 4

and in the matter of Wellington City Proposed District Plan

**Supplementary statement of evidence of Catherine Lynda Heppelthwaite for KiwiRail Holdings Limited regarding Wellington City Proposed District Plan Hearing Stream 4**

Dated 17 July 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 a 5m setback standard and matter of discretion for buildings and structures adjacent to the rail corridor in the CCZ, MCZ, LCZ, MUZ and GIZ zones.
- 1.2 The Panel has issued Minute 26 which includes direction<sup>1</sup> that KiwiRail provide information on the policy support in the PDP for the 5m building setback from the rail corridor.
- 1.3 I rely on my Primary Statement to address the statutory and higher order planning framework and the details of KiwiRail's submissions and further submissions.

## 2 POLICY BASIS OF SETBACK PROVISIONS

- 2.0 I have undertaken an analysis of the Proposed District Plan objective and policy framework in the context of KiwiRail's proposed building setback controls<sup>2</sup> for the CCZ, MCZ, LCZ, MUZ and GIZ.

### City Centre Zone

- 2.1 The CCZ objectives require positive contribution to accommodate growth and create a high quality, well-functioning urban environment (CCZ-O2, CCZ-O5). This is supported by a policy framework that enables activities that support enhancement of the vibrancy and amenity of the CCZ including its public transport activities (CCZ-P1) and CCZ-P9 which requires quality design outcomes that ensure development responds to the site context. Other policies (CCZ-P12) require recognition of the evolving, higher density development context anticipated in the CCZ while managing any associated adverse effects including the impacts of related construction activity on the transport network. For example:

#### *CCZ-O2 Accommodating growth*

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<sup>1</sup> Minute 26: Stream 4, 10 July 2023, Paragraph 4.

<sup>2</sup> Proposed inclusion of a 5m setback from the rail designation boundary within CCZ-SX, MCZ-SX, LCZ-SX, MUZ-SX and GIZ-S7.

*The City Centre Zone plays a significant role in accommodating residential, business and supporting community service growth, and has sufficient serviced development capacity and additional infrastructure to meet its short, medium and long term residential and business growth needs, including:*

- 1. A choice [...]*
- 2. Convenient access [...]*
- 3. Efficient, **well integrated and strategic use** of available development sites; and*
- 4. Convenient [...]*

*CCZ-O5 Amenity and design*

*Development in the City Centre Zone positively contributes to creating a high quality, well-functioning urban environment,*

*CCZ-P1 Enabled activities:*

*Enable a range and diversity of activities that support the purpose and ongoing viability of the City Centre Zone and enhances its vibrancy and amenity, including:*

*...*

- 9. Public transport activities*

*CCZ-P9 Quality design outcomes*

*Require new development, and alterations and additions to existing development, at a site scale to positively contribute to the sense of place and distinctive form, quality and amenity of the City Centre Zone by:*

*...*

- 2. Ensuring that development, where relevant:*
  - a. Responds to the site context,*

*CCZ-P12 Managing adverse effects*

*Recognise the evolving, higher density development context anticipated in the City Centre Zone, while managing any associated adverse effects including:*

*...*

- 4. The impacts of related construction activity on the transport network*

- 2.2 While this framework provides some basis for setbacks in the CCZ, a modification to CCZ-O7 would provide more specific support.

*CCZ-O7 Managing adverse effects*

*Adverse effects of activities and development in the City Centre Zone are managed effectively both:*

- 1. Within the City Centre Zone; and*
- 2. At interfaces with:*
  - a. [...]*
  - f. Open Space and Recreation Zoned areas; and*
  - g. The Waterfront Zone; and*
  - h. regionally significant transport infrastructure.*

Metropolitan Centre Zone and Local Centre Zone

- 2.3 The MCZ and LUC objective and policy framework are similar. They include objectives that provide for design that achieves a positive contribution to creating a high quality, well-functioning urban environment (MCZ-O3 and LCZ-O3). This is supported by policies requiring the management of the location and scale of commercial activities that could result in cumulative adverse effects on the function of the transport network (MCZ-P3 and LCZ-P3) and for development to positively contribute to the sense of place, quality and amenity of the LCZ and MCZ by ensuring that development responds to site context (MCZ-P7(3)(d) and LCZ-P7). MCZ-P9 and LCZ-P9 also recognise that adverse effects of construction on the transport network need to be managed. For example:

*LCZ-O3 Amenity and design*

*Medium density mixed-use development is achieved that positively contributes to creating a high quality, well-functioning urban environment that reflects the changing urban form and amenity values of the Local Centres and their surrounding residential areas.*

*LCZ-P3 Managed activities*

*Manage the location and scale of commercial activities which could result in cumulative adverse effects on the viability and vibrancy of*

centres, the retention and establishment of a mix of activities within the Local Centre Zone, and the function of the transport network.

*LCZ-P7 Quality design – neighbourhood and townscape outcomes*

*Require new development, and alterations and additions to existing development at a site scale, to **positively contribute to the sense of place, quality and amenity** of the Local Centre Zone by*

**1. Recognising the benefits of well-designed, comprehensive development**, including the extent to which the development:

a. [...]

**2. Ensuring that the development, where relevant:**

a. **Responds to the site context**, particularly where it is located adjacent to:

i. A scheduled site of significance to tangata whenua or other Māori;

ii. Heritage buildings, heritage structures and heritage areas;

iii. An identified character precinct;

iv. Residential zoned areas;

v. Open space zoned areas;

b. [...]

c. [...]

**d. Integrates with existing and planned active and public transport movement networks, including planned rapid transit stops; and**

e. [...]

**[bold added]**

*LCZ-P9 Managing adverse effects*

*Recognise the evolving, higher density development context enabled in the Local Centres Zone, while managing any associated adverse effects including:*

1. Shading, privacy, bulk and dominance effects on adjacent sites; and

**2. The impact of construction on the transport network**

- 2.4 As with the CCZ, while the policy framework for the MCZ and LCZ is adequate, an addition to LCZ-P7 and MCZ-P7 to reflect regionally significant transport infrastructure would be of benefit.

*LCZ-P7 Quality design – neighbourhood and townscape outcomes  
Require new development, and alterations and additions to existing development at a site scale, to positively contribute to the sense of place, quality and amenity of the Local Centre Zone by*

1. [...]
2. *Ensuring that the development, where relevant:*
  - a. *Responds to the site context, particularly where it is located adjacent to:*
    - i. *A scheduled site of significance to tangata whenua or other Māori;*
    - ii. *Heritage buildings, heritage structures and heritage areas;*
    - iii. *An identified character precinct;*
    - iv. *Residential zoned areas;*
    - v. *Open space zoned areas;*
    - vi. regionally significant transport infrastructure.

*MCZ-P7 Quality design outcomes*

*Require new development, and alterations and additions to existing development at a site scale, to positively contribute to the sense of place, quality and amenity of the Metropolitan Centre Zone by:*

1. [...]
2. [...]
3. *Ensuring that the development, where relevant:*
  - a. *Responds to the site context, particularly where it is located adjacent to:*
    - i. [...]
    - iv. *Open space zoned areas;*
    - v. regionally significant transport infrastructure;

#### Mixed Use Zone and General Industrial Zone

- 2.5 The objective and policy framework for the MUZ and GIZ includes an amenity and design objective requiring a positive contribution to a well-functioning urban environment (GIZ-O4 and MUZ-O4) and for adverse effects from use

and development within the zones to be managed (GIZ-O5 and MUZ-O5). This is supported by policy GIZ-P5 and MUZ-P6 encouraging the design of new development to enhance local context and amenity in the GIZ and encouraging a high standard of built form and amenity in the MUZ.

*GIZ-O4 Amenity and design*

*The scale, form and design of new development in the General Industrial Zone positively contributes to creating a well-functioning urban environment, and responds to any functional needs or operational needs.*

*GIZ-O5 Managing effects*

*Adverse effects from use and development of the General Industrial Zone are compatible with the local neighbourhood and managed effectively, particularly in relation to any sensitive activities in neighbouring zones.*

*GIZ-P5 Design of new development*

*Encourage enhancements to local context and amenity, while enabling innovation and choice in the design of new built development and recognising the functional needs and operational needs of industrial activities*

*MUZ-O4 Amenity and design*

*Development in the Mixed Use Zone positively contributes to creating a well-functioning urban environment and a diverse local context.*

*MUZ-O5 Managing adverse effects*

***Adverse effects from use and development of the Mixed Use Zone are managed effectively, particularly on more sensitive environments in neighbouring zones [bold added]***

*MUZ-P6 Design of new development*

*Encourage a high standard of built form and amenity, while enabling innovation and choice in the design of new built development to reflect the diverse neighbourhood context of the Mixed Use Zone*

- 2.6 In my opinion, a better reflection of a the potentially effects on regionally significant transport infrastructure would be beneficial both in the MUZ and GIZ. I would support the following amendments:

*MUZ-P6 Design of new development*

*Encourage a high standard of built form and amenity while,;*

*a. Enabling innovation and choice in the design of new built development to reflect the diverse neighbourhood context of the Mixed Use Zone.; and*

*b. Meeting the intentions of the Centres and Mixed Use Design Guide as relevant; and*

*c. Manage effects on adjacent regionally significant transport infrastructure.*

*GIZ-P5 Design of new development*

*Encourage enhancements to local context and amenity, while enabling innovation and choice in the design of new built development and recognising the functional needs and operational needs of industrial activities and adjacent regionally significant transport infrastructure.*

#### Other relevant Objectives and Policies

- 2.7 Other relevant objectives and policies that support the proposed setback as providing for the safe and efficient operation of the rail network include:

*SCA-O5: The adverse effects of infrastructure are managed having regard to the economic, social, environmental and cultural benefits, and the technical and operational needs of infrastructure.*

*SCA-O6: Infrastructure operates efficiently and safely and is protected from incompatible development and activities that may create reverse sensitivity effects.*

*INF-O3: Adverse effects on infrastructure*



*Manage the adverse effects, including reverse sensitivity effects or subdivision use and development on the function and operation of infrastructure.*

*INF-O4 Infrastructure availability*

*Safe, effective and resilient infrastructure is available for, and integrated with, existing and planned subdivision, use and development.*

*INF-P1 Recognising and providing for infrastructure*

*Recognise the benefits of infrastructure by:*

*Enabling the safe, resilient, effective and efficient operation, maintenance, repair, minor upgrade or removal of existing infrastructure;*

...

*INF-P7 Reverse sensitivity*

*Manage the establishment or alteration of sensitive activities near existing lawfully established infrastructure, including by:*

...

*4. Managing the activities of others through set-backs and design controls where it is necessary to achieve appropriate protection of infrastructure.*

- 2.8 Overall, I consider the policy framework, while adequate in some zones, could be improved to reflect KiwiRail's proposed building setback provisions. I have provided policy wording (Attachment A) which could be included. The changes I propose support the direction of those broader policies listed in my paragraph 2.7 and provide for zone specific direction.

Cath Heppelthwaite

17 July 2023

## Attachment A: Policy Amendments

### *CCZ-O7 Managing adverse effects*

*Adverse effects of activities and development in the City Centre Zone are managed effectively both:*

- 1. Within the City Centre Zone; and*
- 2. At interfaces with:*
  - a. [...]*
  - f. Open Space and Recreation Zoned areas; and*
  - g. The Waterfront Zone; and*
  - h. regionally significant transport infrastructure.*

### *LCZ-P7 Quality design – neighbourhood and townscape outcomes*

*Require new development, and alterations and additions to existing development at a site scale, to positively contribute to the sense of place, quality and amenity of the Local Centre Zone by*

- 1. [...]*
- 2. Ensuring that the development, where relevant:*
  - a. Responds to the site context, particularly where it is located adjacent to:*
    - i. A scheduled site of significance to tangata whenua or other Māori;*
    - ii. Heritage buildings, heritage structures and heritage areas;*
    - iii. An identified character precinct;*
    - iv. Residential zoned areas;*
    - v. Open space zoned areas;*
    - vi. regionally significant transport infrastructure.*

### *MCZ-P7 Quality design outcomes*

*Require new development, and alterations and additions to existing development at a site scale, to positively contribute to the sense of place, quality and amenity of the Metropolitan Centre Zone by:*

- 1. [...]*
- 2. [...]*
- 3. Ensuring that the development, where relevant:*
  - a. Responds to the site context, particularly where it is located adjacent to:*
    - i. [...]*

*iv. Open space zoned areas;*

*v. regionally significant transport infrastructure;*

*MUZ-P6 Design of new development*

*Encourage a high standard of built form and amenity while,;*

*a. Enabling innovation and choice in the design of new built development to reflect the diverse neighbourhood context of the Mixed Use Zone.; and*

*b. Meeting the intentions of the Centres and Mixed Use Design Guide as relevant; and*

*c. Manage effects on adjacent regionally significant transport infrastructure.*

*GIZ-P5 Design of new development*

*Encourage enhancements to local context and amenity, while enabling innovation and choice in the design of new built development and recognising the functional needs and operational needs of industrial activities and adjacent regionally significant transport infrastructure.*