

BEFORE THE INDEPENDENT COMMISSIONERS

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

AND

IN THE MATTER of a submission by KiwiRail Holdings
Limited (submitter 408) on Hearing
Stream 9 (Infrastructure and Risks) of
the Wellington City Proposed District
Plan ("**District Plan**")

STATEMENT OF EVIDENCE OF MICHELLE GRINLINTON-HANCOCK ON BEHALF OF KIWIRAIL HOLDINGS LIMITED

1. INTRODUCTION

- 1.1 My name is Michelle Grinlinton-Hancock and I am the Manager of the RMA team for KiwiRail. I have over 20 years of RMA and planning experience and am a full member of the New Zealand Planning Institute. I have a Bachelor of Resource and Environmental Planning (Hons) from Massey University.
- 1.2 I began my career in planning and resource management in 2000 and have over the course of my career worked as a planner in Council processing applications, as well as a consultant where I prepared consent applications and submitted on district and regional plan provisions on behalf of clients.
- 1.3 Prior to working at KiwiRail, I was the programme manager for the Ministry for the Environment Making Good Decisions Programme while I was employed at WSP. I am also a certified Commissioner under the Ministry for the Environment Making Good Decisions Programme.
- 1.4 I have worked at KiwiRail as a Senior RMA Advisor, Team Leader and now Manager of the RMA team for over four years.

1.5 This statement has been prepared on behalf of KiwiRail and relates to the matters which KiwiRail submitted on that are contained in Hearing Stream 9 (Infrastructure and Risks) of the District Plan.

1.6 KiwiRail has previously given evidence in Hearing Stream 7 (Rural and Open Space Zones)¹ and Hearing Stream 8 (Natural and Coastal Environment)² of the District Plan. I refer to that earlier evidence which sets out KiwiRail's operations within the Wellington region and the importance of rail to the safe and efficient movement of people and goods throughout New Zealand.

2. SUMMARY

2.1 KiwiRail generally supports the Council Officers' (Mr Wharton and Mr Anderson) recommendations in the Section 42A Reports in relation to its submission points. In summary:

(a) KiwiRail generally accepts Mr Wharton's position on the Transport Chapter provisions, subject to a minor amendment to the definition of "transport network"³ and the retention of public notification in various rules (TR-R1, TR-R2 and TR-R7);⁴ and

(b) KiwiRail generally supports Mr Anderson's position on the Infrastructure Chapter provisions, subject to minor amendments to protect infrastructure located in identified hilltops or ridgelines and natural hazard areas. However, KiwiRail continues to support the relief sought by Waka Kotahi and Wellington International Airport Limited ("**WIAL**") to introduce new provisions to the Infrastructure Chapter to specifically provide for the operation, maintenance, repair and upgrade of infrastructure in the District Plan.

2.2 KiwiRail's submission points which the Council Officers have accepted are not discussed further in this evidence. KiwiRail's submission points which the Council Officers have rejected or accepted only in part are discussed below.

1 Statement of Evidence of Michael Brown dated 5 March 2024; Statement of Evidence of Cath Heppelthwaite dated 5 March 2024.

2 Statement of Evidence of Michael Brown dated 12 April 2024.

3 Submission point 408.17.

4 Further submission point 72.44.

3. TRANSPORT CHAPTER

- 3.1 KiwiRail strongly supports the recognition in the District Plan of the need for uptake of a range of alternative transport modes other than private vehicles, such as passenger rail services.⁵ This is critical to ensuring New Zealand creates a more sustainable transport network.
- 3.2 The Transport Chapter appropriately recognises that some activities generate high volumes of traffic which may have adverse effects on the transport network. KiwiRail generally supports the objective of the Transport Chapter to ensure the safety and effectiveness of the transport network is not compromised by high vehicle trip-generating activities, and that a range of transport modes are provided for.⁶
- 3.3 In respect of KiwiRail's submission points that Mr Wharton has recommended be rejected or accepted only in part in the Transport Chapter of the District Plan, I have set out KiwiRail's position in the following table:

Submission number	Provision	Comments on Council Officer's recommendations
S408.17	<i>Transport network</i>	<p>KiwiRail sought a minor amendment to the definition of "transport network" as follows: "means all public-rail, public roads, public pedestrian, cycle and micromobility facilities, public transport and associated infrastructure. [...]" Mr Wharton recommended rejecting this relief because rail infrastructure that is not accessible or used by the public (such as the infrastructure in KiwiRail's rail depots and storage areas) is not part of the transport network as referred to in the District Plan.⁷</p> <p>The proposed definition excludes rail freight services and the supporting infrastructure for rail freight like depots and storage areas (which can also be used for storing electric</p>

⁵ Introduction Text to the Transport Chapter.

⁶ Objective TR-O1.

⁷ Wellington City Proposed District Plan – Hearing Stream 9 (Transport) – Section 42A Report at pg 28.

Submission number	Provision	Comments on Council Officer's recommendations
		<p>metro units outside of peak time services), which are not used by members of the public. KiwiRail maintains that it is important for the definition to encompass both freight and passenger movements on the rail network by deleting the term "public" from this definition. The relief sought by KiwiRail is a more encompassing definition and accurately reflects the role of rail in the wider transport network in terms of supplying both freight and passenger services.</p> <p>For completeness, the Council Officer noted that KiwiRail supported as notified the definition of "transport network" in the Porirua Proposed District Plan ("Porirua PDP") which states "means all public rail...".⁸ The Porirua PDP was notified on 28 August 2020 nearly two years prior to this District Plan, and KiwiRail is continuously refining its position on planning provisions. Further, the Porirua PDP's definition of "transport network" referred to associated public infrastructure which was specifically linked to the definition of "infrastructure" in that plan (which has the same meaning as in section 2 of the RMA and includes "structures for transport on land by cycleways, rail, roads, walkways, or any other means").⁹ The Porirua PDP's definition of "transport network" therefore captured all structures for transport on land via rail. There is no similar link in this District Plan's definition of "transport network", which limits the scope of its application. KiwiRail therefore seeks the</p>

⁸ Hearing Stream 9 (Transport) – Section 42A Report at pg 28.

⁹ Porirua Proposed District Plan – Part 1: Introduction and General Provisions – Interpretation – Definitions dated 7 December 2023 at pg 12.

Submission number	Provision	Comments on Council Officer's recommendations
		deletion of "public" from "public rail" to ensure the definition does not exclude services such as rail freight services and supporting infrastructure.
FS72.44	General	<p>KiwiRail opposed Kāinga Ora's submission on the District Plan which sought to preclude public and limited notification of Restricted Discretionary Activities from all Transport Chapter rules.¹⁰</p> <p>Mr Wharton has recommended precluding public notification from TR-R1, TR-R2 and TR-R7 (formerly INF-R24) as all the other Transport Chapter rules already have preclusions from public notification.¹¹ TR-R1, TR-R2 and TR-R7 govern all land use activities (except for site access, on-site cycling and micromobility paths, and on-site vehicle parking and manoeuvring), trip generation and connections to roads in the Transport Chapter. KiwiRail does not consider it necessary to expressly exclude public notification from these rules. In KiwiRail's experience, reliance on being considered an "affected person" under section 95B of the RMA and being limited notified of applications comes with significant risk. It has to be highly vigilant of applications for activities adjoining the rail corridor in order to ensure it is notified of activities which may impact its operations. For this reason, KiwiRail considers it is not appropriate to preclude public notification from these rules.</p>

¹⁰ Submission 391.135 by Kāinga Ora - Homes and Communities.
¹¹ Hearing Stream 9 (Transport) – Section 42A Report at pg 6.

Submission number	Provision	Comments on Council Officer's recommendations
		<p>Mr Wharton has otherwise rejected Kāinga Ora's relief by retaining provision for limited notification in all Transport Chapter rules.¹² KiwiRail supports this position. KiwiRail needs to be notified of all activities adjacent to the rail corridor to ensure it can participate in the planning assessment process for such activities, and to ensure those activities do not compromise the ongoing operation and development of the rail network. Provided that applications for resource consent under all Transport Chapter rules are not precluded from being limited notified in accordance with section 95B of the RMA, KiwiRail accepts Mr Wharton's position on this submission point.</p>
FS72.45 – FS72.54	New TR	<p>Kāinga Ora's submission sought that all transport-related provisions in the Infrastructure Chapter of the District Plan be reviewed, amended and moved to the Transport Chapter.¹³ KiwiRail has a neutral position on Kāinga Ora's relief given that district plans across the country typically separate transport and infrastructure provisions into separate chapters. However, if Kāinga Ora's relief were to be approved, KiwiRail sought that the introduction text, objectives, policies and methods of the Transport Chapter to be updated to keep the suite of provisions relating to the transport network together for accurate plan interpretation and implementation.</p> <p>Mr Wharton has recommended rejecting Kāinga Ora's relief by retaining the transport-</p>

¹²

Hearing Stream 9 (Transport) – Section 42A Report at pg 6.

¹³

Submissions 391.136-391.145 by Kāinga Ora - Homes and Communities.

Submission number	Provision	Comments on Council Officer's recommendations
		<p>related infrastructure provisions in the Infrastructure Chapter (except for the "Connections to roads" provisions in INF-P11, INF-R24, INF-S16 and INF-S17) on the basis that it would be inconsistent to deal with transport infrastructure items separately from other forms of public infrastructure.¹⁴</p> <p>Given that relocating the "Connections to roads" provisions will not result in any substantive changes to the Transport Chapter of the District Plan as notified, KiwiRail maintains a neutral position on this submission point.</p>

4. INFRASTRUCTURE CHAPTER

4.1 KiwiRail generally supports the intent of the Infrastructure Chapter to recognise the benefits of infrastructure, and provide for the operation, maintenance, repair and renewal, upgrading and development of infrastructure within the Wellington region.¹⁵ The rail network is an infrastructure asset of regional and national importance. KiwiRail's assets in the Wellington region form a key part of the national rail network and KiwiRail seeks to protect its ability to operate, maintain and upgrade these assets into the future.

4.2 In respect of KiwiRail's submission points that Mr Anderson has recommended be rejected or accepted only in part in the Infrastructure Chapter of the District Plan, I have set out KiwiRail's position in the following table:

Submission number	Provision	Comments on Council Officer's recommendations
S408.47	INF-R26	KiwiRail sought to amend the title of INF-R26 as follows: " Structures near <u>Sightlines at</u> railway level crossings". Mr Anderson

¹⁴ Hearing Stream 9 (Transport) – Section 42A Report at pg 76-77.

¹⁵ Introduction Text to the Infrastructure Chapter.

Submission number	Provision	Comments on Council Officer's recommendations
		<p>considers that KiwiRail's proposed amendment does not assist in clarifying that this rule applies to all potential visual obstructions at railway level crossings (not just structures) and recommended the following amendment: "<u>Structures and vegetation</u> near railway level crossings".¹⁶</p> <p>KiwiRail accepts Mr Anderson's position that vegetation is the only other potential visual obstruction to railway level crossings that is not included in the definition of "structures" in the District Plan,¹⁷ which means "any building, equipment, device, or other facility, made by people and which is fixed to land; and includes any raft". Subject to this definition being retained as notified, KiwiRail supports Mr Anderson's position.</p>
S408.76 S408.77	INF-NFL-R49 INF-NFL-R52	<p>KiwiRail sought an amendment to include the word "rail" in INF-NFL-R49 and INF-NFL-R52 in relation to the upgrading of existing infrastructure within special amenity landscapes or identified ridgelines and hilltops, to ensure it applies to upgrading the Radio Station at Te Kopahao, Hawkins Hill. Mr Anderson recommended rejecting this relief on the basis that he has reviewed KiwiRail's designation (KRH2) and there is no overlap against the special amenity landscapes / identified ridgelines and hilltops in the District Plan.¹⁸</p>

¹⁶ Wellington City Proposed District Plan – Hearing Stream 9 (Infrastructure Part 1) – Section 42A Report at pg 57.

¹⁷ Hearing Stream 9 (Infrastructure Part 1) – Section 42A Report at pg 57.

¹⁸ Wellington City Proposed District Plan – Hearing Stream 9 (Infrastructure Part 2) – Section 42A Report at pg 37-39.

Submission number	Provision	Comments on Council Officer's recommendations
		<p>KiwiRail accepts that the Radio Station at Te Kopahao, Hawkins Hill is not identified as a special amenity landscape in Schedule 11 of the District Plan. However, as illustrated in Appendix 1 to my evidence, Designation KRH2 is located within the planning maps overlay for identified ridgelines and hilltops. KiwiRail continues to seek an amendment to INF-NFL-R49 to expressly reference infrastructure that is located within an existing rail reserve in order to protect its ability to carry out upgrades to the Radio Station under Designation KRH2.</p>
S408.82	INF-OL-P62	<p>KiwiRail supported the retention of INF-OL-P62 as notified. Mr Anderson has recommended a minor amendment in response to Transpower New Zealand's submission as follows: "Where the avoidance of adverse effects under clause a. is not possible-practicable, the appropriateness of the substantial upgrades to, or the development of, new infrastructure will be determined by having regard to the matters listed in INF-P6".¹⁹</p> <p>KiwiRail supports Mr Anderson's recommendation, which recognises the use of the term "practicable" in this policy sets a lower bar than "possible", is more widely understood and has been agreed by consent order in the Greater Wellington Regional Council Proposed Natural Resource Plan.²⁰</p>

¹⁹ Hearing Stream 9 (Infrastructure Part 2) – Section 42A Report at pg 49-50.

²⁰ Wellington City Proposed District Plan – Hearing Stream 9 (Infrastructure) – Appendix B Recommended Responses to Submissions and Further Submissions, pg 320-321.

Submission number	Provision	Comments on Council Officer's recommendations
S408.83 S408.84	INF-OL-R61 INF-OL-R62	<p>KiwiRail supported the retention of INF-OL-R61 and INF-OL-R62 as notified. Mr Anderson has recommended various additional amendments to these rules in response to submissions²¹ (including a cross-reference to TREE-S4 in INF-OL-R61 for works within the protected root zone of a notable tree, and clarifying the application of INF-OL-R62 in circumstances where ground has previously been disturbed).²²</p> <p>Mr Anderson's recommended amendments to address formed legal roads, the protected root zones of notable trees and customer connections do not affect KiwiRail's ability to maintain or upgrade existing underground infrastructure as a permitted activity, or install new underground infrastructure as a Restricted Discretionary Activity, in Other Overlays. KiwiRail therefore accepts Mr Anderson's recommendations with respect to INF-OL-R61 and INF-OL-R62.</p>
FS72.43	INF-NH-P61	<p>KiwiRail supported the amendment to INF-NH-P61 proposed by Wellington International Airport Limited ("WIAL") to recognise that in some instances, there is an operational or functional need for new infrastructure and associated structures to locate within Natural Hazard or Coastal Hazard Overlays.²³</p> <p>Mr Anderson recommended rejecting WIAL's relief on the basis that infrastructure providers would only place their assets in</p>

²¹ Submission 127.38 by Powerco Limited, supported by WELL FS27.15 and Telco 99.59.
²² Hearing Stream 9 (Infrastructure Part 2) – Section 42A Report at pg 51-53.
²³ Submission 406.152 by Wellington International Airport Limited.

Submission number	Provision	Comments on Council Officer's recommendations
		<p>natural hazard areas where there is a need to do so and will do what they can to ensure their assets are resilient.²⁴ KiwiRail is a responsible infrastructure operator and would seek to locate any infrastructure outside of natural hazard areas where practicable. However, there could be instances where it is necessary to install new rail infrastructure in natural hazard areas for various functional or operational reasons. KiwiRail also seeks to protect its ability to carry out upgrades and add new structures / operational equipment to the existing rail network which is located within the Natural Hazard Overlays mapped in the District Plan.</p> <p>KiwiRail therefore continues to support the relief sought by WIAL to provide a clear pathway for infrastructure providers with a functional or operational need to locate new infrastructure and associated structures in Natural Hazard or Coastal Hazard Overlays.</p>
<p>FS72.20 FS72.21</p>	<p>New INF</p>	<p>KiwiRail supported the relief sought by Waka Kotahi to add two new rules to the Infrastructure Chapter of the District Plan to specifically provide for the operation, maintenance, repair and upgrading of the transport network.²⁵ Mr Anderson does not consider that operation, maintenance, repairs and upgrades need to be provided for as a permitted activity because the Road Controlling Authority obligations already provide for these activities on existing roads, and has recommended rejecting this relief.²⁶</p>

²⁴ Hearing Stream 9 (Infrastructure Part 2) – Section 42A Report at pg 44-45.

²⁵ Submissions 370.72 and 370.73 by Waka Kotahi NZ Transport Agency.

²⁶ Hearing Stream 9 (Infrastructure Part 1) – Section 42A Report at pg 74.

Submission number	Provision	Comments on Council Officer's recommendations
		<p>KiwiRail relies on Waka Kotahi's submission that INF-O5 specifically recognises the benefits of infrastructure (including the benefits from upgrades) and INF-P9 specifically enables the upgrading of the transport network, but there is no specific corresponding rule for these provisions.²⁷ Mr Anderson's rationale only relates to Road Controlling Authorities. However, as rail is included in the definition of "transport network" in the District Plan, KiwiRail continues to support the relief sought by Waka Kotahi to strengthen the provision for upgrades to KiwiRail's network within the existing planning framework.</p>
<p>FS72.22 FS72.23</p>	<p>New INF</p>	<p>KiwiRail supported the relief sought by WIAL to add a new objective and policy to the Infrastructure Chapter of the District Plan to recognise the establishment of new infrastructure and the ongoing operation and maintenance of existing infrastructure, and to protect infrastructure from incompatible land uses.²⁸ Mr Anderson does not consider the inclusion of any new provisions in the Infrastructure Chapter as notified is necessary and has recommended rejecting this relief.²⁹</p> <p>KiwiRail considers the new objective sought by WIAL (INF-O7) will ensure there is a clear objective that gives effect to Policy INF-P1 (which recognises the benefits of infrastructure by enabling the safe, resilient,</p>

²⁷ Submission by Waka Kotahi NZ Transport Agency at pg 17.

²⁸ Submissions 406.86 and 406.87 by Wellington International Airport Limited.

²⁹ Hearing Stream 9 (Infrastructure) – Appendix B Recommended Responses to Submissions and Further Submissions, pg 41-48.

Submission number	Provision	Comments on Council Officer's recommendations
		<p>effective and efficient operation, maintenance, repair, minor upgrade or removal of existing infrastructure, and providing for significant upgrades to and the development of new infrastructure). KiwiRail also considers the new policy sought by WIAL (INF-P14) is imperative to protect rail infrastructure from reverse sensitivity effects arising from incompatible land uses, given the proposed INF-P7 regarding reverse sensitivity generally relates to the National Grid and gas transmission pipelines and does not explicitly mention the rail network.</p> <p>KiwiRail therefore continues to support the relief sought by WIAL to strengthen the recognition of regionally and nationally significant infrastructure and to ensure the District Plan appropriately protects all infrastructure from reverse sensitivity effects.</p>

5. CONCLUSION

- 5.1 For the reasons set out above, the relief sought by KiwiRail is appropriate and necessary for the safe and efficient operation of the railway network in the Wellington region.

Michelle Grinlinton-Hancock

27 May 2024

APPENDIX 1 – Location of Designation KRH2 in an Identified Ridgeline / Hilltop on the Planning Maps

