BEFORE THE INDEPENDENT COMMISSIONERS

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER a submission by KiwiRail Holdings Ltd (**"KiwiRail"**) (submitter 408 and FS72) on Hearing Stream 4 to the Wellington City Proposed District Plan ("**Proposed District Plan**")

STATEMENT OF EVIDENCE OF MICHAEL BROWN
ON BEHALF OF KIWIRAIL HOLDINGS LIMITED

CORPORATE

1. INTRODUCTION

1.1 My full name is Michael James Brown and I am the Group Manager Planning and Land Use for KiwiRail. I have the qualifications of a BSc (Hons) and a LLB from the University of Otago.

1.2 I am a qualified lawyer and have over 20 years of experience in property, planning, environmental law and the management of large infrastructure projects.

1.3 Prior to working at KiwiRail, I was the Head of Planning at Wellington International Airport which involved advising on planning, feasibility studies, property management, development, contract management, environmental compliance and customer service.

1.4 I have also worked at the Energy Efficiency and Conservation Authority where I oversaw all procurement and property functions for the business, involving management of external advisers, providing internal legal advice and leading future focused discussions.

2. SCOPE OF EVIDENCE

2.1 I have prepared this statement for KiwiRail as the Group Manager of Planning and Land Use for the North Island Main Trunk line ("**NIMT**") that passes through Wellington City.

2.2 My evidence will outline:

(a) KiwiRail's infrastructure and activities within the Wellington City; and

(b) the need for a setback of 5 metres.

3. KIWIRAIL IN THE WELLINGTON REGION

3.1 KiwiRail is a State-Owned Enterprise responsible for the management and operation of the national railway network. The rail network is an asset of national and regional importance. Rail is fundamental to the safe and efficient movement of people and goods throughout New Zealand. Recognising the importance of rail network, the Government has invested and continues to invest in the maintenance and expansion of the rail network to meet future growth demands and improve transport network efficiency.

3.2 In the most recent budget, the Government allocated $569.2 million to replace and modernise New Zealand rail assets,[1] which has gone towards a number of major projects nationwide, including the rejuvenation of the Northland railway lines, the reopening of the Napier to Wairoa line, establishing a multi-million dollar regional freight hub in Palmerston North, and significant upgrades to the Auckland, Wellington and Hamilton metro networks.

3.3 To assist with New Zealand's move towards a low-carbon economy and to meet the needs of New Zealand's growing population, rail services will grow. Recognising that rail produces at least 70 percent less carbon emissions per tonne of freight carried compared with heavy road freight, plans to accommodate more freight on rail such as NIMT are underway, with the new (delivery from 2025) Cook Strait ferries able to accommodate 4 times the present rail freight capacity of the route being supported by the Central North Island Freight Hub at Bunnythorpe.[2]

3.4 Key rail freight movements in the Wellington region include import / export traffic from CentrePort; freight services to and from the South Island via the Interislander ferry service; domestic freight traffic entering / exiting Wellington to destinations such as Palmerston North and Christchurch; and other repositioning shunts within the Wellington Metro Area.

3.5 The designated Wellington Railway Station and yard, and designated corridor for the Johnsonville Line, NIMT and Wairarapa Line all extend through Wellington City. KiwiRail and Greater Wellington Regional Council (including through Metlink) both have an important role in providing safe, reliable, and efficient passenger rail services within the Wellington Metro Area,

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1 Wellbeing Budget 2023 – Support for Today. Building for Tomorrow (New Zealand Government, Wellington, 2023) at page **[ ]**.

2 The Bunnythorpe Freight Hub (the Hub) is a proposed 176-hectare freight facility designed to support the transit of rail freight through the lower North Island, in particular to and from the Cook Strait Ferries. The Hub is presently at appeals stage under the Environment Court, with an expected opening date of 2030.

and to ensure the network can cater for growth. One current project that KiwiRail and GWRC / Metlink are currently working on is the Wellington Metro Upgrade Programme which involves:

(a) Installing new and modern power systems for the overhead lines and signals.

(b) Renewing track across the network, including in tunnels, and refurbishing bridges.

(c) Building additional track, passing loops and platforms so more passenger and freight trains can run.

(d) Making level crossings safer through upgrade.

3.6 Wellington is also a key hub for the KiwiRail Scenic Journeys that offer long distance scenic train experiences in New Zealand. The Northern Explorer operates six journeys a week between Wellington and Auckland. Additionally, the KiwiRail Scenic Journeys operates the Capital Connection outer-urban commuter service that operates a return service each weekday between Palmerston North and Wellington.

3.7 Finally, KiwiRail owns and operates the Interislander ferry service across Te-Moana-o-Raukawa Cook Strait. The Interislander ferry service is essentially an extension of State Highway 1 ("**SH1**") and the Main Trunk Railway Line across Cook Strait, linking road and rail networks between the North and South Islands. It is also a popular tourism service and one of KiwiRail's 'Great Journeys of New Zealand'.

3.8 These assets form a key part of the KiwiRail network nationally and KiwiRail seeks to protect its ability to operate, maintain and upgrade these assets into the future. These assets are of regional and national importance, supporting the movement of freight and passengers through the country via rail.

4. SETBACKS

4.1 The rail corridor is an important physical resource and strategic transport infrastructure. As part of its operations and obligations to its customers, KiwiRail requires the ability to operate trains as required to meet demand. This can result in changes to the timing, frequency, or length of trains passing along the route. This can also result in upgrades to the network that can provide passing opportunities for trains, or other associated rail improvements.

4.2 As an asset of national significance, it is important the rail corridor can operate safely and efficiently without interference. Any interference with the railway corridor can be incredibly disruptive to rail services creating unnecessary delays to passengers and freight. For development on land adjoining the corridor, an efficient and effective means of ensuring that the risk of interference is mitigated is through a physical building setback from the boundary of the rail corridor.

4.3 Through its submission, KiwiRail sought the introduction of a 5-metre setback from the rail corridor. This relief was accepted in part by the Section 42A author who recommended a setback of 1.5 metres.[3] This was on the basis that 1.5 metres is considered to be acceptable and to provide sufficient space to access and maintain buildings safely. The report also states that KiwiRail has not provided compelling evidence of why 5 metres is required.[4]

4.4 These controls are regularly sought by KiwiRail and setbacks from the rail corridor have been included in district plans throughout the country.[5]

4.5 A 5 metre setback is sought by KiwiRail to ensure the provision of a safe and efficient rail network. This is particularly necessary where the Proposed District Plan enables three storey buildings as of right in the applicable zones along the rail corridor. When buildings are taller, they become more difficult to maintain and require additional equipment like scaffolding or cherry picker cranes for maintenance. Due to the nature of this equipment, there is a risk that elements could inadvertently enter the rail corridor.

4.6 I have reviewed the WorkSafe Guidelines on Scaffolding in New Zealand.[6] These Guidelines include the following configurations and guidelines for scaffolding design for tower and mobile scaffolds:

(a) Over 2 metres high - the height of the top working platform is no more than three times the minimum base dimension. For a 3 storey building of around 12 metres in height this would require a minimum of 4 metres at the base of the scaffolding.

(b) No overhead power lines or other obstructions to be within 4 metres of the line of travel.

(c) If portable ladders are used to access the scaffolding then these should be pitched at an angle between 1:4 and 1:6 horizontal to vertical and should be clear of the supporting structure at the base.

4.7 I note the WorkSafe Guidelines make no recommendation for the area (setback) needed to set up and construct the scaffold, only the final scaffold dimensions.

4.8 While providing room for scaffolding is a key basis for the setbacks sought, it is not the only basis KiwiRail seeks these provisions. Other matters for which the 5 metre setback allows

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3 Section 42A report – Hearing Stream 4 (Overview and General Matters) at [224]; Section 42A report – Hearing Stream 4 (Metropolitan Centre Zone) at [378]; Section 42A report – Hearing Stream 4 (Local Centre Zone) at [482]; Section 42A report – Hearing Stream 4 (General Industrial Zone) at [200] and [201] and Section 42A report – Hearing Stream 4 (Mixed Use Zone) at [305].

4 Section 42A report – Hearing Stream 4 (Overview and General Matters) at [224].

5 For example, in the Drury Centre and Waihoehoe Precincts in the Auckland Unitary Plan, Marlborough Environment Plan, Christchurch City Plan.

6 https://www.worksafe.govt.nz/topic-and-industry/working-at-height/scaffolding-in-new-zealand/#lf-doc-20051

sufficient space without encroachment into the rail corridor include use of mechanical access equipment required for maintenance of buildings or land uses, for example:

(a) Equipment required for drainage works, such as operation of diggers (which require at least 3 - 5 metres for operation).

(b) Mobile height access equipment such as scissor lifts or cherry pickers. These include support structures which extend out from the main equipment to provide further stability in areas of unstable ground, or include moving booms which can swing out from the equipment. A small crane can be nearly 2.5 metres wide (without any outrigger support) and up to 18 metres in height.

4.9 KiwiRail has also taken into account appropriate support structures for higher scaffolding (such as outriggers) and the necessary space required around scaffolding equipment or machinery. It is not enough to just ensure the equipment itself does not encroach into the rail corridor. KiwiRail is also seeking to ensure persons operating any equipment do not encroach into the rail corridor, given the safety implications.

4.10 To assist the Panel, I have had prepared a diagram that illustrates the points outlined above (attached as **Appendix A**).

4.11 A building setback is also necessary to minimise the risks of activities that may not otherwise be seen as creating safety risks (such as water blasting and using equipment like ladders) from interfering with the rail corridor. It is particularly important to manage these activities where the rail line is electrified, as activities such as spray drift from water blasters could have significant consequences if it interferes with the electrified lines or impedes visibility for train drivers.

4.12 The rail lines are electrified in Wellington City which creates a potential risk of electrocution if an object comes into contact with the wires. A setback of 5 metres is necessary to mitigate the risk of an object from a neighbouring property coming into contact with the wires, like scaffolding, cherry picker cranes or building maintenance crew abseiling down the side of buildings.

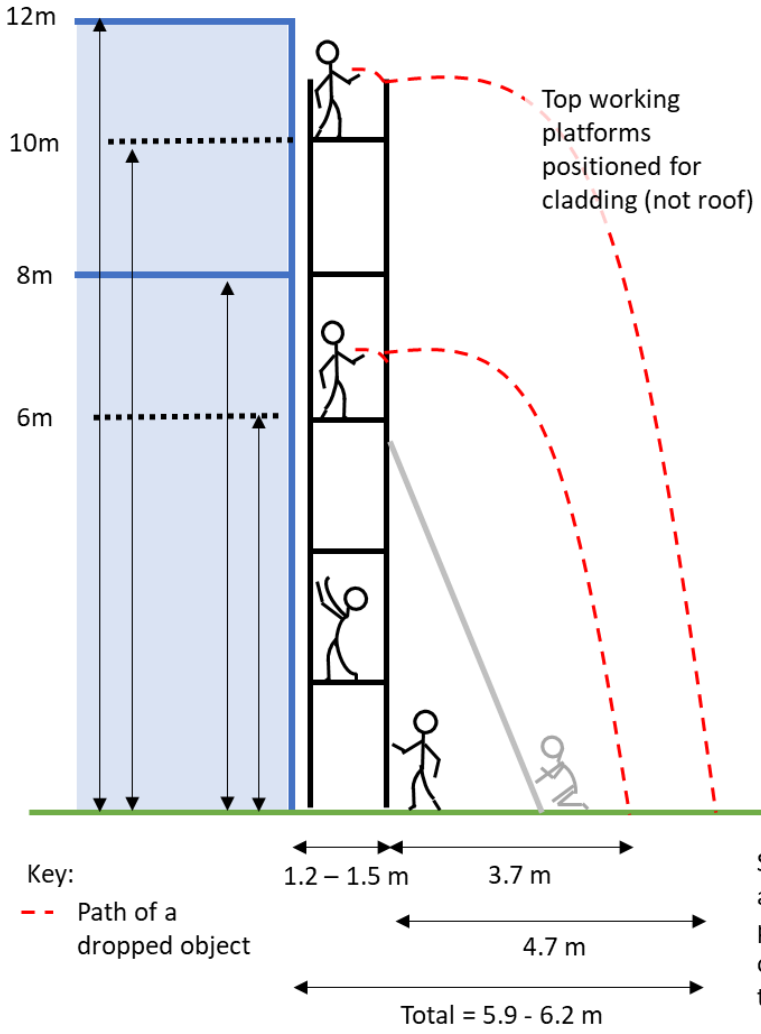
5. CONCLUSION

5.1 For the reasons set out in the evidence of Ms Heppelthwaite and above, the setbacks controls sought by KiwiRail are appropriate and necessary for the safe and efficient operation of the rail network.

Mike Brown
12 June

Appendix A

Example of an Independent, Multi-Bay Scaffold



Setbacks also need to accommodate motion of people e.g. walking at base of structure and attending to outrigger

Example of a Tower Scaffold with Outrigger