

Before the Hearings Commissioners

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

In the matter of

a submission by KiwiRail Holdings Limited (submitter 373 and further submitter 99) on Hearing Stream 6 – Open Space, Recreation and Rural Zones

and in the matter of

Proposed Waimakariri District Plan ("**Proposed Plan**")

Supplementary statement of evidence of Catherine Lynda Heppelthwaite for KiwiRail Holdings Limited regarding Hearing Stream 6 – Open Space, Recreation and Rural Zones

Dated 12 October 2023

1 INTRODUCTION, QUALIFICATIONS AND EXPERIENCE

- 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 seeking new noise provisions in relation to the railway corridor.
- 1.2 This statement responds to two questions from the Panel during the hearing:
- a. linkages between the proposed setback and objectives and policies in the Proposed Plan; and
 - b. how fences would be addressed by the proposed setback.

2 PROPOSED PLAN OBJECTIVE AND POLICY FRAMEWORK

Strategic Direction

- 2.0 Objective SD-O3 is considered particularly relevant in regard to supporting a building setback (noting that it applies across the District). It sets the framework for the remainder of the Proposed Plan provisions.

SD-O3 Energy and infrastructure

Across the District:

*1. improved accessibility and multi-modal connectivity is provided through a **safe and efficient transport network** that is able to respond to technology changes and **contributes to the well-being and liveability of people and communities**;*

*2. infrastructure, including strategic infrastructure, critical infrastructure and **regionally significant infrastructure**:*

*a. **is able to operate efficiently and effectively**; and*

b. is enabled, while:

i. managing adverse effects on the surrounding environment, having regard to the social, cultural and economic benefit, functional need and operational need of the infrastructure; and

*ii. **managing the adverse effects of other activities on infrastructure**, including managing reverse sensitivity; (bold added)*

Energy, Infrastructure and Transport

TRAN-O4

Effects of activities on the transport system

Adverse effects on the District's transport system from activities, including reverse sensitivity are avoided, remedied or mitigated.

TRAN-P15

Effects of activities on the transport system

Ensure, to the extent considered reasonably practicable, that other activities do not compromise the safe and efficient operation, maintenance, repair, upgrading or development of the transport system, including through:

- 1. managing access to the road corridor, and activities and development adjacent to road/rail level crossings, particularly where it is necessary to achieve protection of the safe and efficient functioning of the transport system, including those parts of the transport system that form part of critical infrastructure, strategic infrastructure and regionally significant infrastructure;***
- 2. avoiding, remedying or mitigating adverse reverse sensitivity effects on the transport system; and***
- 3. providing for ease of access for service and emergency service vehicles.***

(bold added)

- 2.1 By enabling a building setback, the maintenance of buildings on RLZ, NOSZ and OSZ will avoid (as far as possible) effects on the safe and efficient functioning of the District's transport system.

Rural Zone

- 2.2 General objectives and policies are provided for all Rural Zones, as well as specific objectives and policies for the Rural Lifestyle Zone. The focus of the objectives and policies in both of these zones is based on land uses (eg RURZ-P3 and RURZ-P4; RLZ-O1) and amenity (RURZ-P1; RLZ-P2) rather than directly supporting built form standards (which is where the building setback provision would sit).
- 2.3 Accordingly, the Rural Zones (as notified) has limited direct support for (any) standards, objectives and policies, and instead focus on activities. The policy basis for the setbacks can be found in SD-O3, TRAN-045 and TRAN-P15. In addition, KiwiRail made a further submission in support of Mainpower's proposal to insert a new objective in a range of zones¹ (including RLZ):

Objective: The operation and security of critical infrastructure, strategic infrastructure and regionally significant infrastructure is not compromised by other activities.

¹ Mainpower submission 249.114 – 139 (submission number 249.120 relating to the General Rural Zone).

- 2.4 Such an objective would provide good support for the building setback standard.
- 2.5 KiwiRail's further submission also supported the associated policy suggested by Mainpower which reads:

Policy - Separation of incompatible activities Protect critical infrastructure, strategic infrastructure and regionally significant infrastructure by avoiding adverse effects, including reverse sensitivity effects, from incompatible activities by avoiding buildings, structures and any sensitive activities that may compromise the operation of Electricity Distribution Lines within an identified buffer corridor.

- 2.6 Although the Policy refers to the Electricity Distribution Lines, KiwiRail's support was provided on the basis that it would avoid adverse effects on infrastructure.

Open Space

- 2.7 OSRZ general objectives and policies provide for all Open Space Zones and these include:

OSRZ-P2

Ensure activities and structures are compatible with the scale, layout, design and intended use of open space and recreation land, and adverse effects on amenity values and the wider community are avoided, remedied or mitigated, including by:

1. ***providing separation distances and minimising the number, type, bulk and location of structures;***
 2. *[...]*
 3. *[...]*
 4. ***designing open space and recreation land and the structures within to be as safe as practicable, taking into account the principles of CPTED;***
 5. *[...]*
- (bold added)

- 2.8 Policy NOSZ-P1 and Policy OSZ-P1 require that activities are managed in a manner consistent with OSRZ-P2. This cascade of provisions provides zone-based support for the building setback.

3 FENCES

- 3.0 KiwiRail's relief sought:

All buildings shall be set back a minimum of 5m from any site boundary with the rail corridor.
(bold added)

- 3.1 The proposed standard therefore applies to buildings (as compared with, for example, structures). The Proposed Plan adopts the National Planning Standard definition of building, which requires a building to be partially or fully roofed. A fence is not (usually) roofed, therefore it would be excluded from the proposed building setback provision.

4 CONCLUSION

4.0 In conclusion:

- a. Fences would not be captured by the proposed 5m building setback due to the definition of building.
- b. The (general and zone specific) Open Space objectives and policies provide direct zone-based support for the setback. For the Rural Lifestyle Zone, reliance is made on higher order objectives and policies.

Cath Heppelthwaite
12 October 2023