

BEFORE THE WAITAKO DISTRICT COUNCIL HEARINGS PANEL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Waikato District Plan

Evidence of Pam Butler Senior RMA Adviser

Submitter: KiwiRail Holdings Ltd, submitter 986

HEARING 3 – STRATEGIC OBJECTIVES

Introduction

1. My name is Pam Butler and I am the Senior Resource Management Act Advisor for KiwiRail Holdings Limited ("KiwiRail"). I have over 30 years RMA and planning experience. I hold a Bachelor of Arts and a Diploma in Town Planning. I am a full member of the New Zealand Planning Institute.
2. This evidence has been prepared on behalf of KiwiRail in connection with its function as a transport network utility operator in the Waikato District and relates to the matters raised in Hearing 3 – Strategic Objectives on the Proposed Waikato District Plan ("**Plan**"). This includes Strategic Directions, Strategic Objectives and other objectives directly related to the identified Strategic Objectives in the following chapters:
 - Section 1.12 – Strategic directions and objectives for the district;
 - Chapter 4 – Urban Environment;
 - Chapter 5 – Rural Environment; and
 - Chapter 6 – Infrastructure.
3. As I will not be attending the hearing in person, I request that the Hearings Panel accept this evidence as tabled. Should the Panel have any questions, I am happy to provide further information regarding the matters addressed in my evidence.



Submission points

4. KiwiRail's submission raises a number of issues that arise from the drafting of the Plan as notified.
5. The section 42A report ("S42A Report") on Hearing 3 recommends that the following of KiwiRail's submission points be accepted (referenced below by submitter number, then submission point):
 - 986.4 Section 1.12.8 Strategic objectives;
 - 986.11 Objective 4.1.1(a) Strategic;
 - 986.12 Objective 4.1.2 Urban growth;
 - 986.14 Policy 4.1.10 Tuakau;
 - 986.15 Policy 4.1.11 Pokeno;
 - 986.16 Policy 4.1.12 Te Kauwhata;
 - 986.17 Policy 4.1.13 Huntly;
 - 986.18 Policy 4.1.14 Taupiri;
 - 986.19 Policy 4.1.15 Ngaruawahia;
 - 986.20 Policy 4.1.16 Horotiu; and
 - 986.24 Policy 4.7.11 Reverse sensitivity.
6. KiwiRail supports the Council officer's recommendation in relation to these provisions. The reporting planner has recommended declining KiwiRail's submission (986.13) in relation to Policy 4.1.8, which sought the introduction of an overarching clause to manage reverse sensitivity effects on regionally significant infrastructure as an alternate relief to the location-specific changes sought in the settlement specific submissions above. On the basis that the reporting planner has accepted the alternative relief sought in KiwiRail's submission, the recommendation in relation to this submission point is accepted.

Terminology used in settlement policies

7. KiwiRail lodged a number of submissions¹ seeking amendments to various policies to more appropriately provide for the management of reverse sensitivity effects on the transport network. The New Zealand Transport Agency ("Agency") lodged submissions seeking similar relief, but also sought to remove the reference to 'strategic transport infrastructure networks' and replace it with '*National Routes and "Regional Arterials in accordance with Table 14.12.5.6"*'²
8. If accepted, the amendment sought by the Agency would mean that these policies would no longer apply to the railway. The relief sought also does not reflect the Agency's submission seeking to add a definition for 'regionally significant infrastructure' (742.78), as defined in the Waikato Regional Policy Statement (RPS), to the Plan and remove references to the undefined term 'strategic transport infrastructure networks'.

¹ Submissions 986.14-20.

² NZTA has submitted asking that the Pokeno, Huntley and Taupiri reverse sensitivity policies be amended in this way.

9. KiwiRail has conferred with the Agency on the Hearing 3 matters and understands that the Agency is now seeking that the relevant policies be amended to refer to regionally significant infrastructure. KiwiRail concurs with the Agency's submission and evidence on this matter and agrees that the term 'regionally significant infrastructure' should be applied consistently to the policies subject to Hearing 3. This approach will ensure that these policies give effect to the RPS and appropriately provide for rail infrastructure.

Reverse sensitivity effects on regionally significant infrastructure

10. KiwiRail supports the consolidation of urban activities in existing settlements and encouraging intensification around existing or new transport nodes. However, this comes with a requirement to consider the location and operation of regionally significant infrastructure in spatial planning policy and in subsequent Plan provisions. This is critical to ensure that there is infrastructure available to meet new community needs and to avoid inappropriate urban development or intensification occurring in locations that could compromise the ongoing operation of established infrastructure (through reverse sensitivity).
11. KiwiRail's submissions on the settlement policies seek to ensure that the Plan addresses the potential reverse sensitivity effects of future urban development on roads and railways in new development locations. As notified, these policies can be read as defining reverse sensitivity effects as effects on new activities that are caused by established activities (e.g. infrastructure). KiwiRail's proposed amendments are necessary to ensure that these provisions appropriately capture the concept of reverse sensitivity. Reverse sensitivity refers to the potential for the operation of an existing lawfully established activity to be compromised, constrained, or curtailed by the more recent establishment or alteration of another activity which may be sensitive to the actual, potential or perceived adverse environmental effects that are lawfully generated by the existing activity. In other words, reverse sensitivity effects are effects on lawfully established activities that may arise from the location of incompatible sensitive activities nearby, not vice versa.
12. The settlement areas slated for growth have long accommodated regionally significant road and rail infrastructure, which has become intertwined with the existing urban form. The Urban Environment's overarching objective is for '*Liveable, thriving and connected communities that are sustainable, efficient and co-ordinated*'. This objective supports the management of incompatible activities/land uses when creating new urban environments.
13. It would be inappropriate and unreasonable for regionally significant infrastructure providers (like KiwiRail or the Agency) to be required to avoid or minimise effects that are not caused by their activities. The intention of these policies should be to protect such infrastructure from reverse sensitivity effects, which have the potential to arise as a result of the establishment of new urban development in inappropriate locations.

Plan objectives and policies

14. There are inconsistencies throughout the policy framework in the Urban Environment chapter relating to reverse sensitivity, both for infrastructure and other rural activities, which could be improved/realigned. In my opinion, greater alignment with the Plan's strategic objectives would be achieved by accepting the amendments sought in KiwiRail's submissions. This would protect key infrastructure while enabling new growth in appropriate locations (i.e. where reverse sensitivity effects can be appropriately avoided or minimised).

Section 32 report and RPS

15. The amendments sought by KiwiRail are also necessary and appropriate to implement the RMA strategy included in the Plan's section 32 reports and the RPS;

3.12 Built environment

[...]

- (c) *integrating land use and infrastructure planning, including by ensuring that development of the built environment does not compromise the safe, efficient and effective operation of infrastructure corridors;*

[...]

- (e) *recognising and protecting the value and long-term benefits of regionally significant infrastructure*

16. The RPS supports KiwiRail's submissions that the Plan should incorporate supportive policies protecting key transport infrastructure from reverse sensitivity and other adverse effects. The section 32 report on 'strategic direction and management of growth' (pp21-22) notes that '*all of the matters listed in Objective 3.12 should guide the management of growth and the identification of any new areas for urban development*'.
17. The Infrastructure Chapter section 32 report anticipates the need to address the full range of issues relating to infrastructure including both the protection of regionally significant infrastructure and the managing the effects of that infrastructure on the environment, including community health, safety and amenity. Section 6 (Infrastructure and Energy) sets out a balanced range of infrastructure objectives and policies, which are generally supported by KiwiRail (with some amendments).

Part 2

18. While recourse to Part 2 is not necessary, in my opinion KiwiRail's submissions align with the purpose and principles of the RMA. The purpose of the RMA includes managing the use, development and protection of natural and physical resources in a way which enables people and communities to provide for their social, economic and cultural well-being and their health and safety.
19. I consider that the S42A Report recommendations on KiwiRail's submissions relating to the (above listed) settlement areas are consistent with Part 2 of the RMA. That is because the Plan will adequately protect the physical resource that is the rail corridor in a manner that enables people and communities to provide for their health and safety when undertaking subdivision and development and achieve the sustainable management purpose of the RMA.

Conclusion

20. In conclusion I support the reporting planner's recommendations on KiwiRail's submissions listed in paragraphs 5 and 16 of this evidence and consider that changes sought are required to meet both the purpose of the RMA and give effect to the RPS in Plan.

Pam Butler

18 October 2019