

BEFORE THE WAIKATO DISTRICT COUNCIL HEARINGS PANEL

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

AND

IN THE MATTER of the Proposed Waikato District Plan
("Proposed Plan")

Evidence of Pam Butler Senior RMA Adviser

Submitter: KiwiRail Holdings Ltd, submitter 986

HEARING 6 – VILLAGE ZONE

1. INTRODUCTION

- 1.1 My name is Pam Butler and I am the Senior RMA 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.
- 1.2 This evidence has been prepared on behalf of KiwiRail in relation to Hearing 6 – Village Zone (notified chapter 24 of the Proposed Plan).

KiwiRail in the Waikato District

- 1.3 KiwiRail is the State-Owned Enterprise responsible for the management and operation of the national railway network. This includes managing railway infrastructure and land, as well as rail freight and passenger services within New Zealand. KiwiRail is also the Requiring Authority for land designated "Railway Purposes" (or similar) in District Plans throughout New Zealand.
- 1.4 The North Island Main Trunk Line and the East Coast Main Trunk pass through the Waikato district. The Hautapu and Rotowaro Branch Lines also run within the Waikato district. The railway network plays a critical role in supporting the social and economic well-being of the district and the wider Waikato region.

2. POINTS OF AGREEMENT

- 2.1 KiwiRail's submissions on the Village Zone raise a number of issues that arise from the drafting of the Proposed Plan as notified. I have reviewed the Council officer's section 42A reports in relation to Hearing 6 and agree with a number of the recommendations in those reports.
- 2.2 In particular, KiwiRail supports the Council officer's recommendations on the following submission points:
- (a) 986.22 – Policy 4.4.2 Noise;

- (b) 986.56 – Rules 24.3.6.1 and 24.3.6.2 Building setbacks (with the exception of the recommendation in relation to the matters of discretion which I discuss below at paragraphs 4.11 – 4.13);
- (c) 986.72 – Policy 4.3.5 Building setbacks;
- (d) 986.89 – Rule 24.4.1 Subdivision – General;
- (e) 986.99 – Rule 24.2.4.1 Earthworks – General; and
- (f) 986.114 – Rule 24.2.4.1 Earthworks – General.

2.3 KiwiRail disagrees with the Council officer's recommendations in relation to:

- (a) 986.23 – Policy 4.4.7 Managing the adverse effects of signs;
- (b) 986.121 – Rule 24.2.7.2 Signs – Effects on traffic; and
- (c) 986.69 – Rule 24.3.6.1 Building setbacks – matters of discretion.

2.4 I have summarised KiwiRail's position on the Council officer's recommendations in **Appendix A** to this statement of evidence. In the following sections of my evidence, I expand on the points of disagreement with the Council officer's recommendations summarised at paragraph 2.3 above.

3. SIGNAGE

Adverse effects of signs on the land transport network

3.1 In its submission, KiwiRail sought to amend Policy 4.4.7 and Rule 24.2.7.2(P1) which relate to managing the adverse effects of signs.¹ In the notified version of the Proposed Plan, these provisions only seek to manage the adverse effects of signs on "motorists, pedestrians and other road users".

3.2 KiwiRail's submission seeks to amend these provisions to include reference to users of the "land transport" system rather than only "road" users.² In my opinion, it is appropriate to ensure that signs erected in the Waikato district do not adversely affect the safe and efficient functioning of the land transport network, including railways, and the health and safety of all users of the transport network. With the anticipated growth on the railway network within the district, minimising driver distraction is critical to ensure the safe operation of the rail network.

3.3 The Council officer rejected KiwiRail's submission to replace "road users" with "land transport users" in both Policy 4.4.7 and Rule 24.2.7.2(P1).³ The Council officer stated that:⁴

I disagree with the term 'land transport', as this may not encapsulate all road 'users' (e.g. pedestrians, scooter riders and suchlike).

3.4 KiwiRail agrees that the kinds of users of the transport network noted by the Council officer should be captured. However, KiwiRail's submission was not seeking to limit the users, but

¹ Submission points 986.23 and 986.121.

² Submission points 986.23 and 986.121.

³ Section 42A report (land use) at [184] and [391].

⁴ Section 42A report (land use) at [184].

rather to ensure it includes rail as well as road users. In my opinion, "land transport" incorporates more users than "road".

- 3.5 Without the amendments sought by KiwiRail, there is a risk that the provisions will not adequately prevent confusing, distracting or obstructing signage near the rail corridor. Replacing "road users" with "land transport users" will not exclude pedestrians (expressly mentioned within the policy), scooter riders and other road users noted by the Council officer.
- 3.6 The Council officer's reasons for rejecting KiwiRail's submission focus on the "user" aspect and provide no explanation of why "road" is more encapsulating than "land transport". For the reasons outlined above, KiwiRail disagrees with the Council officer's recommendation and analysis, and seeks that "land transport" should replace "road" in Policy 4.4.7 and Rule 24.2.7.2(P1)(a). I consider that the policy and rule can be drafted in a way that captures the kinds of users the Council officer is concerned about, as well as users of the rail network.

Sight lines at a level crossing

- 3.7 KiwiRail also sought to amend Rule 24.2.7.2(P1)(a)(iii) so that any sign directed at land transport users does not obstruct sight lines of drivers at a level crossing. It is important to restrict the placement of signs within required sight lines required for rail crossings to ensure the safe and efficient operation of the railway network.
- 3.8 The Council officer has recommended that this amendment be accepted. The Council officer agrees with KiwiRail that this amendment is appropriate as there is potential that a driver distracted by a sign may fail to see warning signals or a train at a level crossing. However, the Council officer considers that it would be more appropriate if the rule referred to a level "rail" crossing. I agree with the Council Officer's recommendations in this regard.

4. SETBACK FOR BUILDINGS ADJACENT TO THE RAIL CORRIDOR

The importance of setbacks

- 4.1 Setbacks are critical to manage the interface between operations within the railway corridor and the activities near the boundary adjoining activities. Increasing pressure on this interface will occur in the future, as services in the rail corridor increase and adjacent land use activities are intensified.
- 4.2 KiwiRail's submissions on the Proposed Plan seek to include a new rule in the Village Zone (amongst other zones) to ensure a 5m setback is maintained along the rail corridor for any new or altered buildings. The proposed 5m setback rule is not intended to address mitigation for noise and vibration effects associated with rail activities. Rather, the setback rule is concerned with avoiding or minimising the potential adverse effects on the safety of the rail corridor (and people) that may arise from the development of any type of building (sensitive or not) adjacent to the rail corridor. The proposed setback rule does not prevent the establishment of new buildings within 5m of the railway boundary altogether. Resource consent can be sought as a restricted discretionary activity where the 5m setback is not achieved.
- 4.3 KiwiRail needs to protect the ability of the railway corridor to operate safely now and into the future. It needs to ensure that it can utilise the existing designated rail corridor without undue restrictions from adjacent land-uses over which KiwiRail presently has no ability to control. Where the rail corridor adjoins a site that is owned or occupied by a third party, maintenance of that site (eg cleaning, painting, vegetation clearance) can give rise to significant safety

issues for KiwiRail. Trains travel at speed and are unable to stop quickly, with freight trains often taking one kilometre to come to a complete stop. Any person or equipment, such as poles and ladders, can all potentially be hit by an oncoming train if they encroach into the rail corridor.

- 4.4 While the probability might be low, the consequence from a collision with a train is very significant. Therefore, KiwiRail has a dedicated "Permit to Enter" system for all access to the rail corridor, which must be followed prior to access being granted. This can include the requirement for on-site safety personnel, or the temporary closure of the track (known as a block of line) for a set period to manage safety while activities occur. A block of line requires around six months to plan, as freight and passenger demands are required to be factored in and alternatives found. This process applies equally when KiwiRail needs to undertake work on its assets, as it does for third parties.
- 4.5 Reducing the need for access over or onto the rail corridor is one way KiwiRail endeavours to mitigate health and safety risks. However, it is not a complete solution, and KiwiRail relies on the planning framework to ensure adverse effects on the safety of the rail network are managed.
- 4.6 In the instance of land adjoining the corridor, the most efficient and effective means of ensuring mitigation is through the location of structures being setback from the boundary of the rail corridor. Designing in a physical setback reduces the adjoining landowners' likelihood of innocently accessing the rail corridor, mitigates against future behaviour / activities and reduces the risk of impact by train or the need to follow the permit to enter process. There are many activities that may not otherwise be seen as creating safety risk, such as water blasting and using equipment to maintain buildings, but do so by bringing people into contact with lines and/or trains, which clearly pose a significant risk from a health and safety perspective.
- 4.7 The amendments sought by KiwiRail are therefore necessary to ensure that the risk of incidents occurring as a result of encroachment into the rail corridor is appropriately managed and avoided throughout the Waikato District.

Section 42A report

- 4.8 The Council officer has recommended that KiwiRail's submission seeking that all new buildings, and alterations to existing buildings be set back 5m from the rail corridor be accepted. The Council officer has acknowledged that:⁵

The concerns raised by these submitters [KiwiRail, Counties Power Ltd and First Gas] include both the ability to access and maintain this infrastructure, and the potential for reverse sensitivity and/or public safety effects to arise. These issues are considered to be legitimate matters that decision-makers should have the ability or discretion to consider when assessing subdivision applications. Existing network infrastructure plays a strategic role in the well-being of the District's communities and represents significant existing sunk investment.

- 4.9 The Council officer agrees with KiwiRail that "a 5m setback from all buildings would account for safety, building maintenance, vehicle maintenance and the like".⁶ The Council officer has raised the possibility of achieving the relief sought by KiwiRail by incorporating a rule to this effect into Chapter 14 (infrastructure and energy).⁷ KiwiRail strongly supports the Council

⁵ Section 42A report (subdivision) at [70].

⁶ Section 42A report (land use) at [520].

⁷ Section 42A report (land use) at [519].

officer's recommendation, and agrees that the 5m setback rule should apply district wide and would not be opposed to the inclusion of the rule within that chapter.⁸

- 4.10 However, if this is not accepted, then the Council officer considers that the rule should be included in Rule 24.3.6.1(P1)(a) which applies to all buildings from all boundaries. As the setback is not a sensitive use control, it is appropriate that it applies to all new and altered buildings adjacent to the rail corridor. Therefore, I consider that the amendment recommended by the Council officer is appropriate and gives effect to the relief sought by KiwiRail.
- 4.11 As set out above, if the setback is not complied with, resource consent is required as a restricted discretionary consent. KiwiRail sought the inclusion of additional matters of discretion relating to non-compliance with the 5m setback. The Council officer agrees that the matters of discretion sought by KiwiRail should be included,⁹ except for "The outcome of any consultation with KiwiRail". The Council Officer considers that this should be excluded on the basis that "consultation with KiwiRail through the consents process is not mandatory and it is up to the decision of the processing planner".¹⁰
- 4.12 KiwiRail maintains that this point should be included as a matter of discretion. It is appropriate, in my view, that KiwiRail is consulted when the 5m setback rule is not complied with. As the operator of the rail corridor, KiwiRail understands the operational needs of the rail network and will be able to assess and provide guidance to an applicant on whether a proposal will affect the rail corridor. This is a workable planning provision and has been included in the notified version of the Proposed New Plymouth District Plan.¹¹
- 4.13 KiwiRail continues to seek a consultation requirement as a matter of discretion for new or altered buildings not complying with the 5m setback from the rail corridor.

5. CONCLUSIONS

- 5.1 I support the Council officer's recommendations on all of KiwiRail's submission points, with the exception of the recommendations relating to signs and "road users", and the rejection of consultation with KiwiRail as a matter of discretion for activities that do not comply with the 5m setback rules.
- 5.2 I consider that the changes sought by KiwiRail's submissions are consistent with the purposes of the RMA and appropriately give effect to the objectives and policies of the Waikato Regional Policy Statement and the Proposed Plan.

Pam Butler

25 November 2019

⁸ KiwiRail sought that this setback apply across various zones, including the Village Zone.

⁹ These are "The size, nature and location of the buildings on the site"; "The extent to which the safety and efficiency of rail and road operations will be adversely affected"; and "Any characteristics of the proposed use that will make compliance unnecessary".

¹⁰ Section 42A report (land use) at [520].

¹¹ See, for example, New Plymouth Proposed District Plan TRAN-R7 (erection of structures on or adjacent to a railway corridor) and TRAN-R10 (vehicle access points over a railway level crossing).

APPENDIX A
Summary of KiwiRail's position on Hearing 6

SUBMISSION POINT	DECISION REQUESTED BY KIWRAIL	REASONS FOR KWIRAIL'S SUBMISSION	S42A REPORT RECOMMENDATION	REASONS FOR SECTION 42A RECOMMENDATION	KIWRAIL'S POSITION IN EVIDENCE
986.22 – land use	<p>Retain Policy 4.4.2 Noise, particularly clauses (iii)-(v) as amended below AND Amend Policy 4.4.2(a) Noise as follows (or similar amendments to achieve the requested relief): (iii) Maintaining appropriate setback distances between high noise environments and sensitive land uses <u>noise-sensitive activities</u>; (iv) Managing the location of sensitive land uses <u>and noise-sensitive activities</u>, particularly in relation to lawfully-established high noise generating activities; and (v) Requiring acoustic insulation where <u>noise-sensitive activities</u> are located within high noise environments. AND Any consequential amendments to link and/or accommodate the requested changes.</p>	<ul style="list-style-type: none"> - KiwiRail supports the policy, particularly clauses (iii)-(v). These clauses support noise sensitive activities managing reverse sensitivity effects on the railway corridor including through both setbacks and acoustic design. - The terminology used in the policy is 'sensitive land uses'. The policy should be expanded to include 'noise' sensitive activities (as this is also defined in the Proposed Plan). A separate KiwiRail submission seeks that the definitions of 'noise sensitive' and 'sensitive' land uses be clarified or combined. 	<p>Accept in part and amend as follows:</p> <p>4.4.2 Policy – Noise (a) The adverse effects of noise on residential amenity are minimised by: (i) Ensuring that the maximum sound levels are compatible with the surrounding residential environment; (ii) Limiting the timing and duration of noise-generating activities, including construction and demolition activities; (iii) Maintaining appropriate setback distances between high noise environments and sensitive land uses <u>and noise-sensitive activities</u>; (iv) Managing the location of sensitive land uses <u>and noise-sensitive activities</u>, particularly in relation to lawfully-established high noise generating activities; and (v) Requiring acoustic insulation where sensitive <u>land uses activities and noise-sensitive activities</u> are located within high noise environments.</p>	<p>I am generally supportive of the proposed amendments by KiwiRail [986.22], but in my opinion, minor changes are required to reflect the separation recommended in the Hearings report for Topic 5 and with respect to 4.4.2 (a)(v), changing 'sensitive activities' to 'sensitive land uses' to be consistent with the terminology used in 4.4.2(a)(v).</p>	<p>KiwiRail accepts the Council officer's recommendation as it adequately addresses the relief sought in KiwiRail's submission.</p>
986.23 – land use	<p>Retain Policy 4.4.7 Managing the adverse effects of signs except for the amendments sought below AND Amend Policy 4.4.7(a) Managing the adverse effects of signs as follows (or similar amendments to achieve the requested relief): (a) The location, colour, content, and appearance of signs directed at traffic is controlled to ensure signs do not distract, confuse or obstruct motorists, pedestrians and other road <u>land transport</u> users; AND Any consequential amendments to link and/or accommodate the requested changes.</p>	<ul style="list-style-type: none"> - KiwiRail supports the policy as it provides for the assessment of the effects of signs on land transport safety. This is reflected in the minor amendment sought. 	<p>Reject and amend as follows:</p> <p>4.4.7 Policy – Managing the adverse effects of signs (a) The location, colour, content, and appearance of signs directed at <u>or visible to road users</u> traffic is controlled to ensure signs do not distract, confuse or obstruct motorists, pedestrians and other road users; (b) Discourage signs that generate adverse effects from illumination, light spill, flashing, <u>moving</u> or reflection.</p>	<p>With respect to the amendments sought by submission point KiwiRail Holdings Limited (KiwiRail) [986.23], I disagree with the term 'land transport', as this may not encapsulate all road 'users' (e.g. pedestrians, scooter riders and suchlike).</p>	<p>KiwiRail does not agree with the Council officer's recommendations for the reasons set out in this statement of evidence.</p>

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986.56 – land use	<p>Amend Rule 24.3.6.2 Building setback - sensitive land use as follows (or similar amendments to achieve the requested relief): Building setback – Sensitive land use P1 Sensitive land use (a) Any new building or alteration to an existing building for a sensitive land use must be set back a minimum of: (i) 5m from the designated boundary of the railway corridor ... P2 Railway corridor <u>Any new buildings or alterations to an existing building must be setback 5 metres from any designated railway corridor boundary</u> OR, if the primary relief above is not granted: Retain Rule 24.3.6.2 P1 (a)(i) Building setback sensitive land use AND Any consequential amendments to link and/or accommodate the requested changes.</p>	<ul style="list-style-type: none"> - KiwiRail seeks that a 5 metre setback apply to all new building development adjacent to operational railway corridor boundaries (i.e. not just sensitive land uses). Ensuring all new structures in all zones are set back from the rail corridor allows access and maintenance to occur without the landowner or occupier needing to gain access to the rail corridor- potentially compromising their own safety. - Setting back buildings from the rail corridor boundary is a means of ensuring people's health and wellbeing through good design. - Construction of buildings in close proximity to the rail corridor has significant safety risk if it is not managed appropriately in accordance with relevant standards. - A 5m setback is not an acoustic setback. It allows for vehicular access to the backs of buildings (e.g. a cherry picker) and would also allow scaffolding to be erected safely. This in turn fosters visual amenity as lineside properties can then be regularly maintained. - A setback is the most efficient method of ensuring intensification does not result in additional safety issues for activities adjacent to the rail corridor, whilst not restricting the ongoing operation and growth of activity within the rail corridor. - The proposed provisions would require any development within the setback to obtain consent with matters of discretion relating to: (i) location, design and use of the proposed building or structure as it relates to the rail network; (ii) impacts on the safe operation, maintenance and development of the rail network; and (iii) construction and maintenance management. - The relief provides for the rejection of the primary relief. This setback applies only to sensitive land use buildings which does not achieve the safety and amenity. 	<p>Accept in part and amend as follows:</p> <p>24.3.6.1 Building setbacks – all boundaries P1(a) Any building must be setback a minimum of:</p> <ul style="list-style-type: none"> (i) 3m from a road boundary; (ii) 13m from <u>the centreline</u> of an indicative road; (iii) 1.5m from every boundary other than a road boundary; and (iv) 1.5m from every vehicle access to another site. <u>(v) any new buildings or alterations to an existing building must be setback 5 metres from any designated railway corridor boundary</u> <p><u>(b) Despite Rule 24.3.6.1(a)(ii), this rule shall not apply where the indicative road has been formed, is open to the public and has been vested to Council.</u></p> <p>24.3.6.2 Building setback – sensitive land use P1(a) Any new building or alteration to an existing building for a sensitive land use must be set back a minimum of:</p> <ul style="list-style-type: none"> (i) 5m from the designated boundary of the railway corridor; (ii) 15m from the boundary of a national route or regional arterial; (iii) 25m from the designated boundary of the Waikato Expressway; (iv) 300m from the edge of oxidation ponds that are part of a municipal wastewater treatment facility on another site; and (v) 30m from a municipal wastewater treatment facility where the treatment process is fully enclosed. <u>(vi) 300m from the boundary of another site containing an intensive farming activity</u> 	<p>In my opinion, the relief sought by submission point KiwiRail [986.56] would be better achieved if it were a rule contained within Chapter 14, however this may be out of scope of the submission. If it is out of scope, then I have provided for following assessment:</p> <p>KiwiRail [986.56] seeks a 5m setback to be applied to all new buildings/alterations from the designated boundary of a railway corridor. This requirement is only applicable in Rule 24.3.6.2 for sensitive land use in the notified version. The submitter notes that a 5m setback from all buildings would account for safety, building maintenance, vehicle maintenance and the like. I agree with the reasons provided by the submitter. It is my opinion though that the 5m setback would be better placed within Rule 24.3.6.1 [...] I note that Chorus New Zealand Limited [FS1031.9], Vodafone New Zealand Limited [FS1032.9] and Spark New Zealand Trading Limited [FS1033.9] all oppose in part, but this does not change my opinion here.</p>	<p>KiwiRail accepts the Council officer's recommendation as it adequately addresses the relief sought in KiwiRail's submission.</p> <p>The rationale for the 5m setback rule is further outlined in this statement of evidence.</p>
986.69 – land use	Add new matters of discretion relating to non-compliance with the	- KiwiRail accepts that there will be at times situations where the proposed 5 metre	Accept in part and amend as follows:	It is my opinion though that the 5m setback would be better placed within Rule 24.3.6.1 and the	KiwiRail accepts the Council officer's recommendation to

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	<p>5m Building setback - railway corridor (sought elsewhere in other submission points) in Rule 24.1 Land Use Activities as follows (or similar amendments to achieve the requested relief):</p> <p><u>1. The size, nature and location of the buildings on the site.</u></p> <p><u>2. The extent to which the safety and efficiency of rail and road operations will be adversely affected.</u></p> <p><u>3. The outcome of any consultation with KiwiRail.</u></p> <p><u>4. Any characteristics of the proposed use that will make compliance unnecessary.</u></p> <p>AND</p> <p>Any consequential amendments to link and/or accommodate the requested changes.</p>	<p>building setback - railway corridor rule cannot be met, or it is inappropriate to require compliance.</p> <ul style="list-style-type: none"> - It is noted that some zones have restricted discretionary activity categories and some do not. It has been KiwiRail's policy to seek restricted discretionary activity status for non-compliance with its noise and vibration performance standards. The criteria allow for a bespoke consideration of site specific effects. - Application for resource consent under this rule can be decided without public notification. KiwiRail are likely to be the only affected person determined in accordance with section 95B of the Resource Management Act 1991. 	<p>24.3.6.1 Building setbacks – all boundaries</p> <p>RD1(a) A building that does not comply with Rules 24.3.6.1 P1, P2 or P3.</p> <p>RD1(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) Road network safety and efficiency; (ii) Reverse sensitivity effects; (iii) Adverse effects on amenity; (iv) Streetscape; (v) Potential to mitigate adverse effects; (vi) Daylight admission to any adjoining site; and (vii) Effects on privacy at any adjoining site. (viii) <u>The size, nature and location of the buildings on the site.</u> (ix) <u>The extent to which the safety and efficiency of rail and road operations will be adversely affected.</u> (x) <u>Any characteristics of the proposed use that will make compliance unnecessary.</u> 	<p>matters of restricted discretion (RD1)(b) be amended to include those suggested in the KiwiRail submission point [986.69], with the exception of 'The outcome of any consultation with KiwiRail', as consultation with KiwiRail through the consents process is not mandatory and it is up to the decision of the processing planner. I note that Chorus New Zealand Limited [FS1031.9], Vodafone New Zealand Limited [FS1032.9] and Spark New Zealand Trading Limited [FS1033.9] all oppose in part, but this does not change my opinion here.</p>	<p>include the matters of discretion in Rule 24.3.6.1 and to include subsections (viii), (ix) and (x).</p> <p>KiwiRail does not agree with the Council officer's recommendations to reject KiwiRail's inclusion of "The outcome of any consultation with KiwiRail" for the reasons set out in this statement of evidence.</p>
<p>986.72 – land use</p>	<p>Add a new clause (b) to Policy 4.3.5 Building setbacks as follows (or similar amendments to achieve the requested relief):</p> <p>(a) Maintain existing and promote new vistas and views between buildings in the Village Zone when viewed from a road.</p> <p><u>(b) Manage Reverse sensitivity by providing sufficient setbacks buildings to provide for residents' safety and amenity</u></p> <p>AND</p> <p>Any consequential amendments to link and/or accommodate the requested changes.</p>	<ul style="list-style-type: none"> - The policies applying to each zone requiring setbacks from the railway corridor should include reference to the purpose of the setback. - Existing and sought changes to the Proposed Plan's objectives lend sufficient support for the need for setbacks for amenity and safety, and the efficient integration of development and infrastructure. - Adding an additional item to these plan sections will also facilitate assessment of situations where the proposed 5 metre Building setback - railway corridor rule cannot be met, or it is inappropriate to require compliance. 	<p>Reject</p>	<p>KiwiRail [986.72] requests amended wording to Policy 4.3.5, with a new clause regarding reverse sensitivity. It is my opinion that notified objective 6.1.6 and policy 6.1.7 sufficiently address reverse sensitivity around infrastructure and the amendment sought is not required.</p>	<p>KiwiRail accepts the Council officer's recommendation. Having reviewed objective 6.1.6 and policy 6.1.7, KiwiRail accepts that this adequately addresses the relief sought in its submission.</p>
<p>986.89 – subdivisions</p>	<p>Add a new matter of discretion to Rule 24.4.1 RD1 Subdivision – General as follows (or similar amendments to achieve the requested relief):</p>	<ul style="list-style-type: none"> - The design, location and service arrangements for new development carried out in the subdivision process cannot be separated from the future use of the subdivided sites. New buildings, including 	<p>Accept and amend as follows:</p> <p>Rule 24.4.1 Subdivision – General (outside Te Kowhai and Tuakau)</p> <p>[...]</p>	<p>KiwiRail Holdings Ltd [986.89] and Counties Power Ltd [405.81] lodged similar submissions that both seek additional matters of discretion to enable Council to consider the effects that subdivision applications might have on the</p>	<p>KiwiRail accepts the Council officer's recommendation to include subsection (ix) in Rule 24.4.1 as it adequately addresses</p>

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	<p><u>Reverse sensitivity effects, including on land transport networks</u> AND Any consequential amendments to link and/or accommodate the requested changes.</p>	<p>those containing sensitive or noise sensitive activities, their location and the design and location of access ways may all have an influence on the ultimate impact development has on existing and planned infrastructure. The potential for reverse sensitivity effects is therefore a relevant consideration at this point in the development process.</p> <ul style="list-style-type: none"> - KiwiRail seeks the addition of matters of discretion relating to reverse sensitivity effects on land transport networks to the subdivision consent criteria in the listed zones. 	<p>(c) Council's discretion is restricted to the following matters: [...] <u>(viii) The provision of water supply for firefighting where practicable;</u> <u>and</u> <u>(ix) The subdivision layout and design in regard to how this may impact on the operation, maintenance, upgrading and development of regionally significant infrastructure assets, or give rise to reverse sensitivity effects on existing land transport networks.</u></p>	<p>ongoing operation of existing network infrastructure. First Gas Ltd [945.28] likewise lodged a submission seeking additional provisions to control the subdivision of sites containing reticulated gas pipelines. The concerns raised by these submitters include both the ability to access and maintain this infrastructure, and the potential for reverse sensitivity and/or public safety effects to arise. These issues are considered to be legitimate matters that decision-makers should have the ability or discretion to consider when assessing subdivision applications. Existing network infrastructure plays a strategic role in the well-being of the District's communities and represents significant existing sunk investment. It is noted that no further submissions were received opposing the relief sought. It is therefore recommended that an additional matter of discretion be added to enable consideration of these matters, grouped as 'effects on regionally significant infrastructure' rather than addressing each type of network utility separately. The term 'regionally significant infrastructure' is defined in the Waikato Regional Policy Statement with supporting policies regarding its use and development. As a phrase that may occur across chapters (and hearings) it is noted that the Panel may need to arrive at a definition that sits in the district plan, albeit that the final content of that definition will be dependent on how the phrase is used across other policies, rules, and contexts.</p>	<p>the relief sought in KiwiRail's submission.</p>
<p>986.99 – land use</p>	<p>Amend Rule 24.2.4.1 P1 (a) Earthworks-General as follows (or similar amendments to achieve the requested relief): (i) Be located more than 1.5 m horizontally from any <u>infrastructure, including a waterway, open drain or overland flow path;</u> AND Any consequential amendments to link and/or accommodate the requested changes.</p>	<p>KiwiRail supports that earthworks are required to be setback from services and network systems. The rail track itself is most susceptible from adverse effects if adjacent earthworks are not adequately set back. KiwiRail seeks that rule relating to setbacks in certain zones should be amended to reflect that there should be an earthworks setback of 1.5m from infrastructure, to ensure that the efficient and effective operation of the existing network is maintained.</p>	<p>Reject</p>	<p>KiwiRail [986.99] also seek an amendment to Rule 24.2.4.1 P1 (a)(i) so that the 1.5m setback is also from infrastructure. The submitter notes that the rail track itself is most susceptible from adverse effects if adjacent earthworks are not adequately set back. Rule 24.2.4.1 P1 (a)(vi) already requires a setback from boundaries of 1.5m and as such, there is no need for the same setback from railway infrastructure. In addition, the railways are covered by designations where any activity within said designation corridor would require the approval of the requiring authority, being KiwiRail. Furthermore, with instances where Village-zoned land adjoins the railway (such as Lumsden Road – shown in the aerial image below), the outer portion of the rail track itself is approximately 7m away from the nearest portion of Village-zoned land. Other areas such as</p>	<p>KiwiRail accepts the Council officer's recommendation. Having reviewed Rule 24.2.4.1 P1(a)(vi), KiwiRail is comfortable that it adequately addresses the relief sought in its submission.</p>

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				<p>Pokeno are closer, at approximately 3m from the outer edge of the track. As such, a 1.5m setback would achieve no additional protection. I note that Watercare [FS1176.312] support the original submission in principle, however this does not alter my recommendation.</p>	
<p>986.114 – land use</p>	<p>Amend Rule 24.2.4.1 P1(a)(vii) Earthworks general as follows (or similar amendments to achieve the requested relief): (iv) Areas exposed by the earthworks are <u>stabilized to avoid runoff within 1 month of the cessation</u> revegetated to achieve 80% ground cover 6 months of the commencement of the earthworks AND Any consequential amendments to link and/or accommodate the requested changes.</p>	<p>KiwiRail also seeks that the rule relating to revegetation in certain zones be amended to include other available methods to stabilise the ground to prevent runoff, including building or hard cover development. As notified, these rules are ambiguous.</p>	<p>Reject</p>	<p>KiwiRail [986.114] seek to amend the wording of Rule 24.2.4.1 P1 (a)(iv). It appears to be an inadvertent error that the submission refers to P1, rather than P2. The relief is sought to include other methods of stabilisation, including building or hard cover development. I acknowledge that the requirement does not address situations where a building is placed on the earthworks area and therefore technically that requirement could never be met. Despite this, it is my opinion that it is common sense that the earthworks area underneath a building would not be subject to the requirement for re-vegetation, but there could be value in specifically excluding said areas from being subject to revegetation requirements. That would, however, fall outside the scope of the KiwiRail submission [986.114].</p> <p>It is my opinion that the 80% ground cover requirement is not just for stability/runoff, but also for amenity purposes, and this would not be covered or addressed by the amendment sought by KiwiRail. I also understand that the 80% requirement is reflective of best practice. I also note that there are very limited instances where the KiwiRail designation extends into Village-zoned land itself and typically the railway line itself has no zone.</p>	<p>KiwiRail accepts the Council officer's recommendation given the limited application of the rule to KiwiRail's operations.</p>
<p>986.121 – land use</p>	<p>Amend Rule 24.2.7.2 P1 Signs – Effects on traffic as follows (or similar amendments to achieve the requested relief): (a) Any sign directed at road <u>land transport</u> users must: ... (iii) Not obstruct sight lines of drivers turning into or out of a site entrance and intersections <u>or at a level crossing</u>; AND Any consequential amendments to link and/or accommodate the requested changes.</p>	<ul style="list-style-type: none"> - Signs erected in the City should not have an adverse effect on the safe and efficient functioning of the land transport network, including railways, and the health and safety of road users. Traffic on the railway network will grow, and with more trains the issue of minimising driver distraction is important to ensure the efficient running of the land transport network. - Further, signs should be restricted where they breach the level crossing sightline areas developed from the NZTA Traffic Control Devices Manual 2008, Part 9 Level 	<p>Accept in part and amend as follows:</p> <p>24.2.7.2 Signs - Effects on Traffic P1 (a) Any sign directed at road users must <u>comply with the following conditions</u>:</p> <ul style="list-style-type: none"> (i) Not imitate the content, colour or appearance of any traffic control sign; (ii) Be located at least 60m from controlled intersections, pedestrian crossings and any other sign; (iii) Not obstruct sight lines of drivers turning into or out of a site entrance 	<p>With respect to the KiwiRail submission point [986.121], I agree with the submitter's reasoning, in particular, that;</p> <ul style="list-style-type: none"> - It is appropriate to restrict and prevent the placement of signs within required sight lines for vehicles access and intersections, and within the sight lines required for rail crossings. - There is potential that a distracted driver (looking at a sign) may fail to then see warning signals or a train at a level crossing. In my opinion however, the wording would be better if it read '...or at a level rail crossing'. 	<p>KiwiRail accepts the Council officer's recommendation to amend Rule 24.2.7.2 P1(a)(iii) as it adequately the relief sought in its submission.</p> <p>KiwiRail does not agree with the Council officer's recommendations not to replace "road" with "land transport" for the reasons set out in this statement of evidence.</p>

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		<p>Crossings as sought in KiwiRail submission 67.</p> <p>It is appropriate to restrict and prevent the placement of signs within required sight lines for vehicles access and intersections, and within the sight lines required for rail crossings.</p>	<p>and intersections <u>or at a level rail crossing</u>;</p> <p>(iv) Be able to be viewed by drivers for at least 130m;</p> <p>(v) Contain a no more than 40 characters and no more than 6 symbols;</p> <p>(vi) Have lettering that is at least 150mm high;</p> <p>(vii) Be located at least 130m from a site entrance, where the sign directs traffic to the entrance.</p> <p>D1 Any sign that does not comply with Rule 24.2.7.2 P1.</p>	<p>- I disagree with the term 'land transport', as this may not encapsulate all road 'users' (e.g. pedestrians, scooter riders and the like).</p>	