10 October 2019

National Policy Statement on Urban Development Consultation
Ministry for the Environment
PO Box 10362
WELLINGTON 6143

By email to: npsurbandevelopment@mfe.govt.nz

KiwiRail Feedback on Planning for successful cities - a proposed National Policy Statement on Urban Development

KiwiRail Holdings Limited (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 some passenger services within New Zealand. KiwiRail Holdings Limited is also the Requiring Authority for land designated “Railway Purposes” (or similar) in District Plans throughout New Zealand.

As a mode of transport, rail produces 66% less emissions than trucks to move the same volume of freight across the transport network. The natural advantage of rail as an energy efficient, and low carbon mode of transport provides significant opportunity for New Zealand in the transition to a low emissions future. Providing for efficient and effective public transport is also vital to planning for successful cities and passenger rail transport is a vital element of this. KiwiRail seeks to protect its ability to operate, maintain, and upgrade the rail network to ensure that this network can keep pace with, and grow to cater for, future rail demand.

To achieve this, KiwiRail encourages land uses near the railway corridor that does not compromise the short or long-term ability to operate a safe and efficient rail network, both day and night. Where sensitive activities are proposed on land near the railway corridors, appropriate controls should be imposed to ensure their long-term amenity. Associated with that is the risk of objections and complaints leading to constraints on the operation, maintenance and enhancement of the rail corridor. While we acknowledge the need for population intensification to occur adjacent to transport nodes, this needs to be planned for in a way which does not inhibit the ability of those transport networks to function. Safety is also a key concern for KiwiRail so ensuring sightlines and level crossings are protected and that there is sufficient separation between active networks (and electrified networks in particular) and the public, is also paramount.
KiwiRail’s feedback on the applicable questions provided on the National Policy Statement on Urban Development (NPS-UD) is set out in the following table. Some of the questions within the consultation document are on areas that have no specific relevance to KiwiRail in seeking to operate, maintain and enhance the rail network, therefore we have remained silent on those aspects and excluded the questions from the table, for example establishing the demand and rate of take up / prioritisation.

KiwiRail is available to meet with the Ministry to discuss any elements of the feedback provided within this table, and to provide any clarification that may assist in decisions on the changes requested.

Regards,

KiwiRail
Questions

1. Do you support a National Policy Statement on Urban Development that aims to deliver quality urban environments and make room for growth? Why/Why not?

   Yes, KiwiRail supports the approach to provide national direction in relation to urban development and that this seeks to ensure a quality urban environment. Integration of urban environments and the land transport network is important, recognising the inter-relationship between these two land uses. Accommodating growth needs to take into account not only “up and out” provision for population growth but also enabling network infrastructure to meet that demand.

   Specific recognition of one of the key factors in how cities generate prosperity as being a transport system that allows for the effective and efficient movement of people and goods, is supported.

   – Are there other tools under the RMA, other legislation or non-statutory tools that would be more effective in achieving a quality urban environment and making room for growth?

   Work in parallel could be undertaken on the National Planning Standards to provide substantive content seeking to ensure a consistent application and consideration of urban development issues, rather than providing policy direction which is able to be interpreted and applied subjectively by each territorial authority.

2. Do you support the proposed changes to future development strategies (FDSs) overall? If not, what would you suggest doing differently?

   KiwiRail support the requirement to ensure long term planning occurs, looking to ensure development is integrated with infrastructure. The two have the potential to complement each other if development is planned for on a long term horizon and with appropriate management of effects. O1(a) within the NPS-UD seeking the integration of land use with infrastructure, needs to remain as a focus. Integration is important for efficient development and to ensure infrastructure continues to operate safely and efficiently. KiwiRail note the policies supporting this objective appear to require the FDS to merely show infrastructure locations and to identify future corridors, however has no requirement to provide for integration of land use with infrastructure.
Policy P1E requires engagement in relation to the FDS, however there is no requirement to engage with infrastructure providers, particularly where infrastructure is not provided by central or local government agencies. In the centres where commuter rail services are provided, engagement with KiwiRail before anticipating increasing urban growth may be appropriate to ensure that the service anticipated can be safely provided, and that the future development does not compromise safety in relation to rail.

In addition, given the reasoning in *EDS v King Salmon* that “subject to Part 2” does not give a specific direction to apply Part 2 in all cases as planning documents give substance to the principles in Part 2, it is important that in high level planning documents such as the National Policy Statement, which anticipate a balancing of competing needs specific consideration is given to, and provision made for, a weighting of Part 2 factors.

<table>
<thead>
<tr>
<th>4 Do you support the proposed approach of the NPS-UD providing national level direction about the features of a quality urban environment? Why/why not?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, the opportunity to generate national consistency, including in relation to managing reverse sensitivity effects, is of benefit to KiwiRail which operates a national rail network, passing through 70 of the 78 regional and territorial authorities.</td>
</tr>
</tbody>
</table>

**– Do you support the features of a quality urban environment stated in draft objective O2? Why/why not?**

Clause (c) of O2 relates to the use of land, energy and infrastructure efficiently. While that is important, KiwiRail also considers that integration with infrastructure which enables the continued safe and efficient operation of that infrastructure, should be provided for. This allows for land use to consider how access to infrastructure is provided, however also enables consideration of reverse sensitivity effects to be had and recognises that intensification around infrastructure needs to be planned and implemented in a way that doesn’t constrain the operation and capacity of that infrastructure. Infrastructure is not always able to be readily relocated, therefore integration and a two-way consideration would be more beneficial than only consideration of efficient use of infrastructure by the development.

**– What impacts do you think the draft objectives O2–O3 and policies P2A–P2B will have on your decision-making?**

These policy provisions appear to only require consideration of positive effects, even though O3 requires a balanced consideration of effects. Positive effects are important considerations and KiwiRail agree that often the decision-making process does not take these into account, however such effects do need to be balanced with adverse effects. These provisions could be amended to ensure the decision-making process considers all effects – positive and negative, rather than only focusing on positive effects.

<table>
<thead>
<tr>
<th>5 Do you support the inclusion of proposals to clarify that amenity values are diverse and change over time? Why/why not?</th>
</tr>
</thead>
<tbody>
<tr>
<td>KiwiRail support this specific clarification. While amenity is inherently subjective, although measured in an objective way, the clarification that this changes over time is supported. The issue of reverse sensitivity as a concept, and the consideration of these effects in recent years is an example of this changing amenity, whereby increasing development in proximity to existing activities has resulted in a change of acceptance of these effects from the community.</td>
</tr>
</tbody>
</table>
Do you think these proposals will help to address the use of amenity to protect the status quo?

KiwiRail would support specific consideration of changing amenity, and agree that the specific Objective O4, achieves this.

Can you identify any negative consequences that might result from the proposed objective and policies on amenity?

The potential provisions are very open and could provide little certainty to change behaviours if the issue is creating an open consideration of amenity effects. It would therefore fall to parties like KiwiRail to justify that reverse sensitivity effects are real, and that Council’s are required to consider that a changing amenity value has occurred such that mitigation of the effect of development near the rail corridor is required. Guidance as to how to implement such provisions could address this potential consequence.

Can you suggest alternative ways to address urban amenity through a national policy statement?

Greater strength in considering changing amenity would be supported – i.e. rather than recognising this change as per P3A, the requirement that this is assessed and actively addressed through plan making and consent decisions would be supported.

6 Do you support the addition of direction to provide development capacity that is both feasible and likely to be taken up? Will this result in development opportunities that more accurately reflect demand? Why/why not?

Direction relating to the feasible ability to have the urban development delivered is supported. Enabling development in places that cannot be integrated with the land transport network. i.e. on sites that cannot be accessed apart from crossing the rail corridor, may not represent delivering urban development potential. The rail network is not publicly accessible and level crossings may require upgrading to service an increase in vehicle movements. This upgrade could take time to be designed and could also have significant costs. The cost for this may fall to the first development, thereby benefitting subsequent landowners developing; or may be a barrier to development occurring in the first instance. Being clear through policy direction around effects from urban development and where the responsibility for mitigation of that lies, will assist with identifying feasible development potential. Only P4A of the Policies proposed however seems to include consideration of feasibility, with the balance appearing to focus on opportunities to be taken up.

Policy P4C relates to infrastructure, and that this be available or likely to be available. This should include that the local authority is satisfied that the development can be integrated with existing infrastructure. There is a common interpretation of infrastructure in relation to urban development, as being limited to three-waters and roads – however existing infrastructure networks such as the rail corridor, and other networks not provided by the Council, are also required to be included in such considerations.

7 Do you support proposals requiring objectives, policies, rules, and assessment criteria to enable the development anticipated by the zone description? Why/why not?

Yes. To ensure that implementation occurs consistent with the NPS-UD, clarity around policies, rules and assessment criteria is supported. This will ensure that aspects such as integration with the land transport network, and mitigation of potential reverse sensitivity effects can be implemented.
Do you think requiring zone descriptions in district plans will be useful in planning documents for articulating what outcomes communities can expect for their urban environment? Why/why not?

Ensuring that zone descriptions are provided for is important, and consistent use of such zones and interpretations across territorial authorities is also important, therefore a zone description is supported. Consideration of whether the NPS-UD is the most appropriate place for this to be provided nationally, given the focus of the NPS-UD on urban development, is important. This description could be more appropriately located within the National Planning Standards, along with descriptions of the other zones that are not included within the Urban Development scope.

Do you think that amenity values should be articulated in this zone description? Why/why not?

In recognition with earlier provisions that amenity changes with communities and time, this becomes an important consideration for all plan making and consent decisions. Further, that s7 of the RMA continues to require authorities have particular regard to the maintenance and enhancement of amenity values, supports that amenity is included within zone descriptions.

PSD(a) requiring a clear articulation of the resource management matters being managed is supported, this includes amenity, however also includes aspects such as reverse sensitivity which is of particular interest to KiwiRail. This effect is able to be managed by quality development, it is not a barrier to development for sites adjacent to the rail corridor however it does require active consideration.

Do you support inclusion of a policy providing for plan changes for out-of-sequence greenfield development and/or greenfield development in locations not currently identified for development?

Recognition of reverse sensitivities as per clause (d) of the example policy is supported in the event that out of sequence development provisions are included.

How could the example policy better enable quality urban development in greenfield areas?

In addition to providing for higher-density residential activities within a catchment area accessible by active transport modes (P6C) provision could be made for that zoning to be supported by the provision of appropriate transport corridors and the mitigation of any reverse sensitivity effects associated with those corridors (for example via set back).

Do you think that central government should consider more directive intervention in local authority plans?

The use of National Planning Standards to provide substantive content, including provisions around bulk and location for structures, would be supported by KiwiRail. Particularly to ensure that safe setbacks from the rail corridor are able to be achieved, noting that the rail corridor is not publicly accessible and that in places it is an electrified network, national consistency in this approach would be supported. Currently KiwiRail have to seek this from each Council and the determination is subject to each Council’s general acceptance of a safety and reverse sensitivity effect that adjacent development generates. This has led to an inconsistent approach nationally when the issue trying to be mitigated is the same. The use of the National Planning Standards for this content would be supported as the issue arises nationally, would then have all content in one set of standards, and would be able to apply to all zones rather than only in relation to urban development within the scope of the NPS-UD.
14 Do you support amendments to existing NPS-UDC 2016 policies to include working with providers of development and other infrastructure, and local authorities cooperating to work with iwi/hapū? Why/why not?

KiwiRail support direction to have co-ordinated and aligned decisions in relation to infrastructure providers other than local authorities. Particularly in areas where there is commuter rail services, or growth in freight movements are anticipated, integration with urban planning can ensure positive outcomes for both the rail network and the adjoining development. These benefits are anticipated to occur in relation to other infrastructure where a co-ordinated approach can be achieved. Objective O10 and P10B, clause (a) in particular, are supported by KiwiRail.

Questions from Appendix 3
A1. Do you support the changes to the HBA policies overall? Are there specific proposals you do or do not support? What changes would you suggest?

KiwiRail support the requirement in AP17 for local authorities, when carrying out the HBA, to seek and use input from requiring authorities and infrastructure providers.