

SUBMISSION TO THE MINISTRY FOR THE ENVIRONMENT ON THE PROPOSED NATIONAL POLICY STATEMENT ON URBAN DEVELOPMENT CAPACITY

1. EXECUTIVE SUMMARY

1.1 KiwiRail Holdings Limited ("**KiwiRail**") welcomes the opportunity to comment on the Proposed National Policy Statement on Urban Development Capacity ("**NPS**").

1.2 KiwiRail's network, the backbone of its business, runs through numerous established and developing urban areas, including Auckland, Hamilton, Tauranga, Wellington, Christchurch and Dunedin.

1.3 KiwiRail is broadly supportive of the objectives of the NPS to provide sufficient residential and business development capacity in New Zealand's urban areas for the short, medium and long terms. However, KiwiRail is concerned that the NPS as proposed does not appropriately address reverse sensitivity effects, particularly on key national infrastructure such as the railway corridor.

1.4 The Consultation Document on the NPS states that:¹

The topic of reverse sensitivity is very complex. The focus of the proposed NPS is to further enable development capacity, and addressing reverse sensitivity would require significantly more analysis than has been possible.

1.5 In our experience, the topic of reverse sensitivity is straightforward and well understood by councils and decision makers. . KiwiRail has presented to Independent Hearings Panels (recently in Auckland and Christchurch) on the effects of reverse sensitivity on its network, and KiwiRail's experience is that those issues were well understood by the Panel members. There is also precedent in other national policy statements, such as the explicit provision for management of reverse sensitivity effects in the National Policy Statement on Electricity Transmission.²

1.6 In KiwiRail's view, an NPS which seeks to enable development capacity must clearly address reverse sensitivity effects. It is critical that reverse sensitivity issues are recognised and provided for in the NPS, so that urban growth near the railway corridor can be appropriately managed, in a manner that:

- (a) Provides for the safety, amenity and wellbeing of people living and/or working on land adjacent to the rail corridor; and
- (b) Maintains the safe and efficient operation, maintenance, and development of the railway corridor, both now and into the future

2. KIWI RAIL'S CORE BUSINESS

2.1 KiwiRail is responsible for the operation of the rail network, and the financial management of rail infrastructure in New Zealand. It is a requiring authority under the

¹ National Policy Statement on Urban Development Capacity Consultation Document, page 24.

² National Policy Statement on Electricity Transmission, Policy 10.

Resource Management Act 1991 ("**RMA**") and can designate land for rail purposes.³ One of the key elements of KiwiRail's business is the movement of internal freight within New Zealand. KiwiRail's freight trains move more than 30 percent of New Zealand's exports, and its 4,000 kilometre long network has links to all major import and export ports. On average, KiwiRail operates 1000 freight services around the country each week, and when combined with goods carried by ferry, KiwiRail's freight business earns up to 70 percent of its total operating revenue each year.

Passenger services in urban metropolitan areas

- 2.2 In addition to its role as a key provider of freight capacity, KiwiRail is also experiencing a period of significant growth in the use of rail for passenger services.
- 2.3 Taking the recent growth in Auckland as an example, KiwiRail has recently completed a four year project introducing electric trains to Auckland's passenger rail service in co-operation with Auckland Transport. That project involved over 34,000 construction hours to install 3,500 foundations and masts, carrying 560km of overhead lines across 175km of railway tracks within the Auckland region. Patronage in Auckland has increased by over 45% in the two years to February 2016 to over 15.8 million trips.

3. REVERSE SENSITIVITY EFFECTS

What is reverse sensitivity?

- 3.1 Reverse sensitivity arises when an established use causes adverse environmental impact to nearby land, and a new, sensitive activity is proposed for the land. As a result, the lawfully established use may be required to restrict its operations or mitigate its effects so as to not adversely affect the new activity.
- 3.2 The adverse effects from rail activities on sensitive activities near the railway corridor can include both safety and amenity effects (eg noise, dust, light spill, electrical safety hazards, and vibration) which are either difficult (or impossible) to fully internalise within the rail corridor itself. Acoustic insulation and other mitigation measures are not sufficient in themselves to address potential effects on residents. For example, protection from noise generated by the rail corridor (through insulation and ventilation) is only effective when occupants do not expose themselves to those effects through opening windows and doors. Similarly, adverse effects from the operation of electrified rail networks on adjacent properties can only be managed if properties are designed to mitigate or avoid those effects (by providing for windows which do not open and/or avoiding the use of balconies on facades which face the corridor).
- 3.3 It is also difficult (if not impossible) to adequately avoid or mitigate adverse effects from the operation of the rail corridor on external areas. Noise or other rail related complaints from activities adjacent to the rail corridor have the potential to limit rail operations (and thereby generate reverse sensitivity effects).

Who bears the cost of reverse sensitivity?

- 3.4 Reverse sensitivity effects are a potentially significant limiting factor to KiwiRail's ability to operate, maintain, and develop its railway corridor. The railway corridor is a well-established linear network connecting (and often running directly through) major urban

³ "Resource Management (Approval of KiwiRail Holdings Limited as Requiring Authority) Notice 2013" (4 March 2013) 31 *New Zealand Gazette* 942.

metropolitan areas. As a direct result of the need for the railway corridor to locate and develop within its existing footprint, the increasing development of sensitive activities near the railway corridor poses the potential to materially constrain the efficiency of its network, and the ability for KiwiRail to maximise the current and future use of the railway corridor.

- 3.5 KiwiRail already engages in a number of programmes designed to mitigate the adverse effects of the operation of its network on adjacent landowners, including through changes to the network and rolling stock and consistent track maintenance
- 3.6 The costs incurred by KiwiRail in monitoring, recording and responding to reverse sensitivity issues are significant, disruptive and often difficult to address. In order to protect its core business, KiwiRail is currently required to participate in plan-making, designation, and resource consenting processes across the country to ensure adequate protection from reverse sensitivity effects, to provide for appropriate future development of the railway corridor, and to ensure that local authorities are focused on the tensions between intensified land use and the protection of the existing and future use of the railway corridor (eg through projects such as the City Rail Link).

How are reverse sensitivity effects on the rail corridor currently managed?

- 3.7 Around New Zealand, reverse sensitivity effects on the rail corridor are managed in a piecemeal, and often inconsistent, manner through district planning provisions which provide for land use controls (such as setbacks, noise attenuation / insulation requirements, vibration controls, and building design requirements) on land and properties adjacent to (or within a specified distance of) the railway corridor.
- 3.8 KiwiRail has invested significantly in recent planning processes, including in Auckland and Christchurch, in order to develop a consistent set of controls which apply across districts, as local authorities move towards new-generation planning documents (such as the recent plan reviews in Dunedin and the Kāpiti Coast, and the upcoming review in Marlborough). However there is still more work to do, and we often have to explain the issues to key stakeholders, developers and council staff who look to intensify land near the rail corridor.
- 3.9 In KiwiRail's view, the NPS provides an opportunity for a clear requirement on local authorities to make the management of reverse sensitivity effects an 'everyday' result of resource management processes in the same way as other adverse effects are dealt with.

4. PROPOSED AMENDMENTS

Managing reverse sensitivity effects

- 4.1 KiwiRail proposes the following amendments to give effect to the policy objectives and concerns outlined above:
 - (a) including within the definition of "development capacity":

the need to manage reverse sensitivity effects on significant infrastructure.
 - (b) amending policy PA3 as follows:

- Provide sufficient development capacity, whilst maximising the positive effects of development, and minimising the adverse effects of development, including potential reverse sensitivity effects on significant infrastructure.

Responsive planning

- 4.2 KiwiRail is also concerned with the "responsive planning" options promoted in policy PD2, requiring local authorities to consider all options available to it under the RMA to enable sufficient development capacity to meet residential and business demand, including changes to notification provisions and existing overlays.
- 4.3 Changes to notification provisions of district plans and regional policy statements in order to enable sufficient development capacity, pursuant to policy PD2, may result in situations where parties who are affected by a proposal lose out on the opportunity to participate. This is important for KiwiRail, which relies on notification of resource consent applications to highlight proposed changes which may impact on its ability to operate, maintain and develop the railway corridor. It would be inappropriate for others to purport they know the intricacies of KiwiRail's operation better than the rail operator.
- 4.4 KiwiRail is also seeing growth in the use of overlays by local authorities to manage reverse sensitivity effects. As part of the recent Auckland Unitary Plan hearings, KiwiRail agreed to a "High Land Transport Noise Overlay" with the New Zealand Transport Agency and Auckland Council, which provided a number of land use controls to manage the effects of reverse sensitivity on transport infrastructure in the Auckland area. Directing amendments to any existing overlays, or presenting the possibility for conflict with other "development"-focused overlays, would detract from the ability to manage reverse sensitivity effects in a clear and obvious way.
- 4.5 As such, KiwiRail proposes that the reference to "provisions about the notification of applications for resource consent" and "existing overlays, or the introduction of overlays which enable development" should be deleted from policy PD2.

5. CONCLUSION

- 5.1 KiwiRail remains supportive of the intentions and objectives of the NPS to provide sufficient residential and business development capacity in New Zealand's urban areas for the short, medium and long terms. KiwiRail's recent submissions to the Auckland Unitary Plan Independent Hearings Panel highlighted that point, understanding the need for that planning document to provide for greater levels of intensification (particularly near public transport infrastructure) to create functioning, modern cities.
- 5.2 However, the need to manage the conflict between its existing uses and more intense land use in urban areas is a significant concern for KiwiRail. The proposed amendments above would go some way to achieving a national policy directive which takes that conflict into account to generate positive planning outcomes in all districts.
- 5.3 KiwiRail strongly supports the creation of a cross-sector working group, including rail representation (as nationally significant infrastructure), to assist in implementing the NPS.
- 5.4 We would welcome any opportunity to speak to the Ministry about this submission in further detail.

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