

Before the Hearings Commissioners

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

In the matter of a submission by KiwiRail Holdings Limited (submitter 416 and further submitter 299)

and in the matter of Far North Proposed District Plan (**Proposed Plan**)

**Primary statement of evidence of Catherine Lynda Heppelthwaite
regarding Hearing 11 of the Proposed Plan**

Dated 14 April 2025

1 INTRODUCTION, QUALIFICATIONS AND EXPERIENCE

- 1.0 My full name is Catherine Lynda Heppelthwaite. I am a principal planner for Eclipse Group Limited. I am presenting this planning evidence on behalf of KiwiRail Holdings Limited (**KiwiRail**).
- 1.1 I hold a Bachelor Degree in Resource Studies obtained from Lincoln University in 1993. I am a full member of the New Zealand Planning Institute, a member of the Resource Management Law Association and the Acoustical Society of New Zealand. I have more than 25 years' experience within the planning and resource management field, which has included work for local authorities, central government agencies, private companies and private individuals. Currently, I am practicing as an independent consultant planner and have done so for the past 18 years.
- 1.2 I have extensive experience with preparing submissions and assessing district plans provisions in relation to noise and vibration, most recently in relation to the New Plymouth, Christchurch, Porirua and Whangarei District Plans where I assisted KiwiRail and/or Waka Kotahi by providing specialist planning evidence on similar issues (noise and vibration) and building setbacks.

2 CODE OF CONDUCT

- 2.0 I have read the Environment Court's Code of Conduct for Expert Witnesses (2023) and I agree to comply with it. My qualifications as an expert are set out above. I confirm that the issues addressed in this brief of evidence are within my areas of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

3 SCOPE OF EVIDENCE

- 3.0 My evidence will address the following:
- a. the statutory and higher order planning framework;
 - b. KiwiRail's submissions in relation to the Infrastructure and Transport chapters of the Proposed Plan;
 - c. Council's s42A recommendations; and
 - d. further amendments required to the plan provisions.

- 3.1 In preparing my evidence, I have considered the Section 42A Reports for Infrastructure prepared by Mr Wyeth and for Transport prepared by Ms Pearson¹. I have also reviewed the transportation memorandum prepared by Mr Collins of Abley², relied on by Mr Wyeth, as it relates to KiwiRail's submissions.
- 3.2 I also attended the pre-hearing meetings and discussions³ on the Infrastructure chapter coordinated by Mr Wyeth.

4 STATUTORY AND HIGHER ORDER PLANNING FRAMEWORK

- 4.0 In preparing this evidence, I have specifically considered the following:
- a. the purpose and principles of the RMA (sections 5-8);
 - b. provisions of the RMA relevant to plan-making and consenting; and
 - c. the Northland Regional Policy Statement (**NRPS**).
- 4.1 In addition, Mr Wyeth has described the relevant statutory documents in a way with which I generally agree or accept and will not repeat here.⁴
- 4.2 The relevant provision of the NRPS⁵ is Objective 3.7 and its explanation:

*Objective 3.7 Regionally significant infrastructure
Recognise and promote the benefits of regionally significant infrastructure, (a physical resource), which through its use of natural and physical resources can significantly enhance Northland's economic, cultural, environmental and social wellbeing.*

*Explanation
Northland needs to provide for regionally significant infrastructure. Quality regionally significant infrastructure can attract business and investment to the region, making Northland better able to compete in the national economy, as well as helping to protect health and safety and provide other important social and community functions. [...]*

¹ Dated 27 and 31 March 2025 respectively.

² Appendix 3 to Section 42A report, Transport, dated 24 March 2025, particularly *Section 2.8 New provisions for level rail crossings*.

³ Described in Section 42A report, Infrastructure, section 4.3.

⁴ S42A Report Infrastructure, section 4.1.

⁵ Included in full as Attachment A to my evidence.

5 KIWIRAIL'S SUBMISSIONS

5.0 KiwiRail made a primary submission on the Proposed Plan seeking the following relief:

Transport

- a. Retain TRAN-O1⁶, TRAN-O3⁷ and TRAN-P1⁸ as notified;
- b. Request that *and railway lines* is added to the end of TRAN-P3⁹ clause (a), otherwise support for TRAN-P3 in part especially clauses (f) and (g);
- c. Add¹⁰ a new rule, matters of discretion and direction on notification in all zones to manage the location of accessways in relation to level crossings;
- d. Add¹¹ a new permitted standard, restricted discretionary activity rule, matters of discretion and direction on notification in the Transport chapter to protect sightlines around railway level crossings for public safety;

Infrastructure

- e. Retain I-O1¹², I-O2¹³, I-P2¹⁴, I-P3¹⁵, I-P4¹⁶, I-P8¹⁷, I-P12¹⁸ as notified;
- f. Amend I-O3¹⁹ and I-P1²⁰ to include reference to *repair*;
- g. Amend I-P7²¹ to include additional clauses to manage noise and vibration sensitive activities adjacent to railway networks. KiwiRail also further submitted²² in opposition to Horticulture New Zealand's submission²³ which sought changes which would reduce protection of regionally significant infrastructure from the effects of incompatible subdivision including reverse sensitivity effects;

⁶ S416.024.

⁷ S416.025.

⁸ S416.026.

⁹ S416.027.

¹⁰ S416.028.

¹¹ S416.029.

¹² S416.011.

¹³ S416.012.

¹⁴ S416.015.

¹⁵ S416.016.

¹⁶ S416.017.

¹⁷ S416.019.

¹⁸ S416.020.

¹⁹ S416.013.

²⁰ S416.014.

²¹ S416.018.

²² S299.1.

²³ S159.032.

- h. Retain I-R1²⁴ and I-R3²⁵ as notified; and

Definitions

- i. Retain definitions of *infrastructure*²⁶ and *network utility operator*²⁷ as notified.

- 5.1 KiwiRail also submitted on the Designations chapter of the Proposed Plan; the Reporting Officer's recommendations on that chapter are addressed in the evidence of Mr Paetz.

6 COUNCIL ASSESSMENT AND RECOMMENDATIONS

- 6.0 Ms Pearson and Mr Wyeth make the following recommendations with which I agreed with (or do not address further if no changes to the notified provisions are proposed).

Transport – Ms Pearson

- a. Minor amendments are recommended to TRAN-O1²⁸ to include the State Highways and cycleways of strategic significance within the transport network (rather than as a separate feature).
- b. Restructure the wording of TRAN-O3;²⁹ I support the proposed changes as they will better align transport and land use planning.
- c. TRAN-P1³⁰ is recommended to be retained as notified; I do not address this further.
- d. Amendments to include reference to *railway lines* to the end of TRAN-P3(a) are supported thus resolving KiwiRail's submission. I agree³¹ that this amendment is necessary to ensure there is policy support for the proposed new rules (addressed below) on rail level crossings and crossing sightlines. Clauses (f) and (g) of TRAN-P3 are recommended to be retained as notified which addresses KiwiRail's relief.
- e. A new rule to manage vehicle crossings near rail level crossings (TRAN-RX *Vehicle crossings near railway level crossing*) including a restricted

²⁴ S416.021 and S416.022.

²⁵ S416.023.

²⁶ S416.001.

²⁷ S416.004.

²⁸ S42A Report Transport, paragraph 232.

²⁹ S42A Report Transport, paragraph 234

³⁰ S42A Report Transport, paragraph 238.

³¹ S42A Report Transport, paragraph 248.

discretionary activity status for non-compliance, matters of discretion and direction on notification³² is recommended to be added to the Proposed Plan³³. KiwiRail's submission wording is largely adopted in TRAN-RX (with minor changes to reflect the Proposed Plan structure³⁴). I support the changes recommended by Ms Pearson (in reliance on Mr Collins' views in the Abley Report) as a method to protect the health and safety of communities.

- f. A new rule (TRAN-RY *New buildings, structures and trees near railway level crossings*) and standard (TRAN-SX *Railway level crossing sight triangles*) to manage driver sightlines at rail level crossings (along with TRAN-Figure X Restart Sightlines and TRAN-Figure Y – Approach Sightlines) are recommended with a corresponding restricted discretionary activity rule (for non-compliance with the permitted activity rule), matters of discretion and direction on notification³⁵. Ms Pearson recommends the inclusion of an explanatory note in TRAN-SX that "TRAN-SX applies at railway level crossings with Stop or Give Way signs but does not apply to railway level crossings controlled by barrier arms". Mr Paetz's evidence addresses this further, and I understand that KiwiRail seeks that TRAN-SX (new TRAN-S6) also apply to level crossings where there are barrier arms.³⁶
- g. An additional explanatory note is also recommended in TRAN-RY to clarify for plan users that this rule applies in addition to other rules in the Proposed Plan, specifically in relation to new buildings, structures and trees. As with TRAN-RX, I support these changes as a method to protect the health and safety of communities.

Infrastructure – Mr Wyeth

- h. I-O1³⁷ is proposed to be retained as notified; I do not address this further.

³² TRAN-RX states "Notification: Application for resource consent under this rule will be decided without public notification. KiwiRail is likely to be the only affected person determined in accordance with section 95B of the Resource Management Act 1991.

³³ S42A Report Transport, paragraph 276 and 277.

³⁴ As set out on page 22 of the Abley Report, these minor wording changes include: new Rule TRAN-R2A PER-1 references the "edge of the vehicle crossing" rather than the "edge of seal on the proposed vehicle access point"; new Rule TRAN-R2B matters of discretion references ""The outcome of any consultation with KiwiRail" rather than "Any implications arising from advice from KiwiRail"; and new Standard TRAN-S6 adds a note clarifying that the restart and approach sightlines only apply to level crossings that are not controlled by barrier arms.

³⁵ S42A Report Transport, paragraph 276 and 277.

³⁶ Statement of Evidence of Matthew Paetz dated 14 April 2025 at [3.6].

³⁷ S42A Report Infrastructure, section 5.2.4.

- i. I-O2 is proposed to be amended;³⁸ I consider the amendments improve the structure of the objective but retain its purpose (to recognise the benefits of infrastructure) which is consistent with NRPS Objective 3.7.
- j. I-P2 is proposed to be substantially altered to now apply in all environments and to more broadly recognise and provide for infrastructure when considering managing effects on the environment. Concurrently, I-P3 is proposed to be deleted as Mr Wyeth considers the matters in that notified policy are now addressed in I-P2 (and other parts of the Proposed Plan). I agree with Mr Wyeth that leaving the more detailed application of various policy requirements (eg. NZ Coastal Policy Statement and NPS Indigenous Biodiversity) to other chapters in the plan addressing these topics will reduce the potential for inconsistency.
- j. A minor change to I-P4 (removal of *significant* from the start of clause (a)) is proposed;³⁹ this allows for all benefits (regardless of scale) to be considered in the application of this policy and I consider it is a helpful modification.
- k. No changes to I-P8 or I-P12 are recommended; I do not comment on these further.
- l. Mr Wyeth proposes to amend both I-O3⁴⁰ and I-P1⁴¹ to include reference to *repair*, as sought by KiwiRail; I consider this is a sensible addition to provide a more fulsome description of the types of activities anticipated.
- m. Amendments to clauses (a) and (c) of I-P7⁴² are proposed to ensure railways are appropriately recognised and protected from the adverse effects of sensitive activities locating adjacent rail designations and to recognise the *Rail Alert Overlay*. While the wording proposed does not completely align with KiwiRail's submission, I supported these changes during the pre-hearing discussions⁴³ and therefore continue to consider they are appropriate.
- a. I-R1 is proposed to be retained as notified; I do not address this further.

³⁸ S42A Report Infrastructure, paragraph 107.

³⁹ S42A Report Infrastructure, paragraphs 192-193.

⁴⁰ S42A Report Infrastructure, paragraph 108.

⁴¹ S42A Report Infrastructure, paragraph 186.

⁴² S42A Report Infrastructure, paragraph 198.

⁴³ Memo - Far North PDP Infrastructure – Pre-Hearing Meetings prepared by Mr Wyeth, refer to Item 4.

https://www.fndc.govt.nz/data/assets/pdf_file/0020/38405/Infrastructure-Pre-Hearing-Meetings-Summary.pdf

- b. I-R3 is proposed to be changed from a discretionary to a restricted discretionary activity (except for PER-13) with new matters of discretion introduced. While the majority of I-R3 relates to electrical and telecommunication infrastructure, PER-10 more generally addresses *other network utility structure or buildings* and is of relevance to KiwiRail. I consider a restricted discretionary activity status is appropriate as the range of effects from PER-10 can be readily identified as matters of discretion.

Definitions

- c. No changes to the definitions of *infrastructure* and *network utility operator* are proposed; I do not address these further.

7 CONCLUSION

7.0 In conclusion:

- a. The RPS directs a range of outcomes including to:
 - i. recognise and promote the benefits of regionally significant infrastructure including helping to protect health and safety and provide other important social and community functions; and
 - ii. protect infrastructure and its efficient use and development from incompatible activities through district and regional plans.
- b. Participation in the pre-hearing discussions on Infrastructure has greatly assisted in reaching a position where, for the reasons noted above, I support the recommendations of Mr Wyeth on the Infrastructure chapter.
- c. I also agree with the recommendations of Ms Pearson on the Transport chapter.
- d. I do not propose further amendments to the Proposed Plan.

Cath Heppelthwaite

14 April 2025

Attachment A: NRPS Provisions

Objective 3.7 Regionally significant infrastructure

Recognise and promote the benefits of regionally significant infrastructure, (a physical resource), which through its use of natural and physical resources can significantly enhance Northland's economic, cultural, environmental and social wellbeing.

Explanation

Northland needs to provide for regionally significant infrastructure. Quality regionally significant infrastructure can attract business and investment to the region, making Northland better able to compete in the national economy, as well as helping to protect health and safety and provide other important social and community functions. [...]

Objective 3.8 Efficient and effective infrastructure

Manage resource use to:

- (a) Optimise the use of existing infrastructure;*
- (b) [...]*

5.1.1 Policy – Planned and coordinated development

Subdivision, use and development should be located, designed and built in a planned and co-ordinated manner which:

- (a) [...]*
- (e) Should not result in incompatible land uses in close proximity and avoids the potential for reverse sensitivity;*
- (f) [...]*

5.1.3 Policy – Avoiding the adverse effects of new use(s) and development

Avoid the adverse effects, including reverse sensitivity effects of new subdivision, use and development, particularly residential development on the following:

- (a) [...];*
- (c) The operation, maintenance or upgrading of existing or planned regionally significant infrastructure; and [...]*

