

Before the Hearings Commissioners

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

In the matter of a submission by KiwiRail Holdings Limited (Submitter
30 and Further Submission FS30) on Plan Change 92

and in the matter of Western Bay of Plenty District Plan

**Supplementary statement of evidence of Catherine Lynda
Heppelthwaite for KiwiRail Holdings Limited**

Dated 15 September 2023

1 INTRODUCTION

- 1.0 My Primary Statement sets out my qualifications, and commitment to comply with the Environment Court's Code of Conduct for Expert Witnesses (2023).
- 1.1 My Primary Statement describes KiwiRail's relief which includes seeking new noise provisions in relation to rail.
- 1.2 The rebuttal evidence of Ms Price for the Council (dated 6 September 2023) included a suggested noise rule for rail noise (Rule 4C.1.3.2(c)(iii)) (**Proposed Rail Noise Rule**), which Dr Chiles and I provided commentary on during the hearing. This statement confirms the detail of that hearing presentation on the Proposed Rail Noise Rule.

2 NEW RULE 4C.1.3.2(C)(III)

- 2.0 Paragraph 10.10 of my primary evidence sets out a range of matters which would need to be addressed in a noise provision and summarises technical matters from Dr Chiles' evidence.
- 2.1 Although the Proposed Rail Noise Rule is an improvement on the existing noise rule contained in the District Plan¹, certain of the issues identified in my primary evidence and in Dr Chiles' evidence remain. I provide an overview of the outstanding matters below with suggested amendments set out in paragraph 2.2 below.
 - a. The use of defined term "places of assembly" (which includes clubrooms, taverns, restaurants, art galleries, theatres, sports fields, facilities for recreation activities and tourist facilities) is likely to lead to some unusual outcomes, for example, the definition includes both noise sensitive activities and noise generating activities. This could be resolved by using the terms place of worship or marae to capture the actual noise sensitive activity within the wider definition.²
 - b. The Proposed Rail Noise Rule sets internal noise limits without specifying the basis for external noise exposure to be used in the design. This should be resolved by specifying an external rail noise parameter.

¹ Rule 4C.1.3.2(c).

² Amendments to the definition of noise sensitive activity proposed in KiwiRail's submission and evidence, adapted for inclusion in Ms Price's proposed wording.

- c. The ventilation provision included in the Proposed Rail Noise Rule at (iii)(b) does not include air change or temperature parameters specified beyond Building Code minima. If there is insufficient ventilation, people are forced to open their windows and are then exposed to the noise from the rail corridor. Additional provisions for ventilation should be included.
- d. The Proposed Rail Noise Rule should apply over a distance of 100m from the rail corridor boundary, not 50m. As set out in Dr Chiles' evidence, adverse effects extend to 100m and beyond. I have also proposed some other minor changes to improve the clarity of chapeau clause (iii) of the Proposed Rail Noise Rule.

2.2 I suggest the following amendments (red underline/~~strikethrough~~):

- iii. In Ōmokoroa and Te Puke, any new building or addition to an existing building located within 100m ~~50m~~ of the ~~centreline of a~~ railway designation boundary—track, which contains a dwelling, accommodation facility, education facility, place of worship or marae assembly, or medical or scientific facility shall meet the following requirements:

- (a) The building is to be designed, constructed and maintained to achieve an internal design level of 35 dBLAeq(1h) for bedrooms and 40 dBL Aeq(1h) for all other habitable rooms. Written certification of such compliance from a suitably qualified and experienced acoustic engineer shall be submitted with the building consent application for the building concerned. The design certificate shall assume railway noise to be 70 LAeq(1h) at a distance of 12 metres from the track, and must be deemed to reduce at a rate of 3 dB per doubling of distance up to 40 metres and 6 dB per doubling of distance beyond 40 metres.

~~(b) Where the windows of the building are required to be closed to achieve compliance with the aforementioned noise limits, alternative means of ventilation shall be provided in compliance with clause G4 of the New Zealand Building Code or any subsequent equivalent clause.~~

(b) For habitable rooms for a residential activity, achieves the following requirements:

- i. provides mechanical ventilation to satisfy clause G4 of the New Zealand Building Code and that provides at least 1 air change per hour, with relief for equivalent volumes of spill air;

- ii. provides cooling and heating that is controllable by the occupant and can maintain the inside temperature between 18°C and 25°C; and
 - iii. does not generate more than 35 dB LAeq(30s) when measured 1 metre away from any grille or diffuser. The noise level must be measured after the system has cooled the rooms to the temperatures in (ii), or after a period of 30 minutes from the commencement of cooling (whichever is the lesser).
- (c) For other spaces, a specification as determined by a suitably qualified and experienced person.
- (d) A commissioning report must be submitted to the Council prior to occupation of the building demonstrating compliance with all of the mechanical ventilation system performance requirements in subclause (b).

Cath Heppelthwaite
15 September 2023