

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

of a Board of Inquiry appointed under section 149J of the Resource Management Act 1991 to consider a notice of requirement by KiwiRail for the realignment of a section of the North Island Main Trunk Line through the Ōtaki township

**STATEMENT OF EVIDENCE OF PAMELA MARIE BUTLER
FOR KIWIRAIL HOLDINGS LIMITED**

12 JULY 2013

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**STATEMENT OF EVIDENCE OF PAMELA MARIE BUTLER
ON BEHALF OF KIWI RAIL HOLDINGS LIMITED ("KiwiRail")**

1. INTRODUCTION

Qualifications and experience

- 1.1 My full name is Pamela Marie Butler.
- 1.2 I am currently the Senior RMA Advisor for KiwiRail Holdings Limited, and am authorised to present this evidence on behalf of KiwiRail.
- 1.3 I hold a Bachelor of Arts from Victoria University of Wellington and a Diploma of Town and Planning from Auckland University. I am a Full Member of the New Zealand Planning Institute.
- 1.4 I have over 30 years' experience in town planning, with my more recent experience being planning for railway infrastructure. Prior to my appointment as Senior RMA Advisor at KiwiRail in May 2010, I worked as a Senior Town Planner at Network Rail (Infrastructure) Limited, in London, where I was responsible for obtaining town planning approvals for large railway projects in the South East of England. Prior to that, I held several other positions including as Regional Planner with the Ministry of Education in Auckland.

Scope of evidence

- 1.5 The purpose of my evidence is to provide information to the Board on:
- (a) who KiwiRail is;
 - (b) the background to the North Island Main Trunk Line ("**NIMT**");
 - (c) the need to realign a portion of the NIMT through Ōtaki, the notice of requirement for that realignment and KiwiRail's objectives for the project;
 - (d) KiwiRail's relationship with the New Zealand Transport Agency ("**NZTA**") and the agreements KiwiRail and NZTA have reached that give KiwiRail comfort that the impacts of the Peka Peka to North Ōtaki Project ("**Project**" or "**PP20**") on its NIMT will be appropriately mitigated; and

(e) the benefits of the Project.

1.6 I have been involved with the Project and issues associated with the NIMT since 2010. I have been involved in the majority of the discussions with NZTA regarding the impacts of the Project on KiwiRail. Finalisation of the formal "**Project Agreement**" with NZTA is being progressed. I understand that agreement in principle has been reached and the Project Agreement formalising this will be completed prior to the commencement of the Board of Inquiry hearing. KiwiRail's position on the Project anticipates this occurring and is proceeding on that basis.

2. EXECUTIVE SUMMARY

2.1 KiwiRail Holdings Limited is the operator of and has financial responsibility for the national rail network in New Zealand.

2.2 The NIMT is of strategic significance to KiwiRail as it forms the backbone of its Auckland to Christchurch rail line.

2.3 The NIMT basically follows the alignment of SH1 through and around the Ōtaki township. As a result of the expressway project proposed by the NZTA, part of the existing operational NIMT (1.2km) needs to be realigned to accommodate that project.

2.4 KiwiRail has worked alongside the NZTA in preparing the application material for this project and has lodged its own notice of requirement in respect of the portion of the NIMT that is proposed to be realigned.

2.5 Throughout the process, NZTA and KiwiRail have worked together to ensure that impacts on KiwiRail's current operations are minimised. In fact the KiwiRail notice of requirement and wider NZTA project will ultimately see significant benefits to the operation of the NIMT. For example:

(a) the realignment of the NIMT through Ōtaki will see the easing of the curve of the railway line; and

(b) the wider project results in the closure of five level crossings which will reduce safety risks along the wider NIMT line and reduce the noise associated with the rails operation in terms of reduced usage of horns and bells through those areas.

3. BACKGROUND TO RAILWAYS IN NEW ZEALAND

3.1 Historically, the Government was the owner and operator of virtually all of New Zealand's rail infrastructure, passenger and freight operations. In 1993 the rail *network* and *freight* operations were sold to Tranz Rail Holdings Limited, which was later (in 2003) renamed Toll NZ. The Government, however, retained ownership of rail *land*, on which the rail assets were situated. It leased that land to Tranz Rail / Toll NZ.

Government repurchase

3.2 In 2008, the Government repurchased the rail network and operations which had previously been sold, so the rail industry in New Zealand became essentially one single vertically integrated entity operating as the "KiwiRail Group". The primary legal entity within that Group was the New Zealand Railways Corporation ("**NZRC**"),¹ which is a statutory corporation and State Owned Enterprise.² NZRC was also the entity within the KiwiRail Group holding requiring authority status under the Resource Management Act 1991 ("**RMA**").

KiwiRail Holdings Limited

3.3 In 2012, NZRC went through a restructure process. A new entity was created and incorporated. That entity, KiwiRail Holdings Limited ("**KHL**" or "**KiwiRail**"), took over the KiwiRail Group business on 31 December 2012 that was previously operated by the NZRC. KHL became the operator of the rail network, took over financial responsibility for the railway line and took over the designations previously held by NZRC. KHL became a requiring authority in respect of the network utility operation of its railway line.³

3.4 The result is that the KiwiRail business is now operated by KHL. That is, KHL has essentially been substituted into the same position as NZRC was as the parent entity operating the KiwiRail business and owning subsidiary companies.

3.5 Given KiwiRail is the owner of the rail infrastructure and is a licenced access provider under the Railways Act, as well being a requiring authority responsible for the relevant designations, it is important that KiwiRail is

¹ It was established by the New Zealand Railways Corporation Act 1981 ("**NZRC Act**").

² Refer the State Owned Enterprises Act 1986.

³ The Resource Management (Approval of KiwiRail Holdings Limited as Requiring Authority) Notice 2013, 14 March 2013, p942.

satisfied that the NZTA Expressway will not unduly hinder the future use of the NIMT line and that the realignment is reasonably necessary in terms of achieving its objectives.⁴

Present rail policy

- 3.6 Following the repurchase of the rail assets by the Government, increased focus has been given to the provision of rail services. For example, the National Rail Strategy to 2015 was published in May 2005. The key results sought under that strategy are:
- (a) more freight carried by rail;
 - (b) more passengers carried on urban rail services; and
 - (c) an improved level of rail safety.
- 3.7 One of the current Government's objectives is to promote and strengthen infrastructure to contribute to the sustainable growth rate of the New Zealand economy. Contributing to this objective, in March 2010, the Government released the National Infrastructure Plan, which summarises the current status of infrastructure, forecasts potential growth and demand for infrastructure, and seeks to identify priorities for infrastructure investment.
- 3.8 As stated in the National Infrastructure Plan, the Government intends KiwiRail to move towards commercial independence and long term financial viability over time. The National Infrastructure Plan outlines that financial support from the Government will focus on helping KiwiRail to catch up on deferred capital expenditure in those parts of the rail network where rail offers the greatest comparative advantage to other transport modes.
- 3.9 KiwiRail and the Crown have also entered into a "Turnaround Plan" which is designed to enable the rail freight business to become sustainable within the next decade. The 2013 Budget allocated \$94 million for the fourth year of KiwiRail's turnaround plan; which represents the final payment from the \$750 million it undertook to fund to assist the company to achieve financial sustainability.

⁴ RMA, s 168.

4. RELATIONSHIP WITH NZTA

- 4.1 As set out below, when discussing the NIMT and the KiwiRail notice of requirement, KiwiRail's NIMT is operational and has been for at least 100 years. But for the NZTA Expressway project, KiwiRail would not need to realign its NIMT.
- 4.2 Following consideration of the alternative route layouts by NZTA, it was determined that the preferable Expressway alignment required occupation of land that is currently utilised by the NIMT.
- 4.3 Since that point in time, NZTA and KiwiRail have engaged in discussions to reach an agreement as to how to proceed. That agreement, as mentioned above, ensures that KiwiRail is in no worse a position than it was prior to the Project and provides for the realignment of the NIMT pending approval of the notices of requirement.
- 4.4 As part of the process it was determined that KiwiRail and the NZTA would lodge separate notices of requirement for their respective interests, but that the notices of requirement would be pursued on an integrated holistic basis particularly in respect of the preparation of the supporting application material and evidence.
- 4.5 If the Board of Inquiry is minded to grant the notices of requirement and the applications for resource consent, this integrated holistic approach is to continue through to the detailed design and construction process. As a result, a common set of construction conditions has been proposed for each of the designations. This is explained further in the evidence of Ms Rebecca Beals.
- 4.6 As this is an NZTA run project, NZTA has undertaken to construct the project including those aspects relating to the realigned railway. This is why NZTA has applied for all the resource consents, even those that relate or include works relating to the realigned railway. In respect of its designation, KiwiRail will ultimately be responsible throughout the construction phase for ensuring that any construction conditions attaching to the designation are complied with regardless of who undertakes the work. KiwiRail will also be responsible once construction is complete for those ongoing monitoring and other operational conditions that attach to its designation and any relevant resource consents, or parts of consents, which may be transferred to it in the future following the construction phase.

- 4.7 The intention is for the realigned NIMT to be constructed prior to the construction of the Expressway. This means that the realigned section of the NIMT will be connected to the existing NIMT prior to taking and using by NZTA of that portion of the NIMT that is to be realigned.
- 4.8 This ensures that impacts on KiwiRail's business will be minimised.
- 4.9 This relationship is discussed further in KiwiRail's submission on the NZTA notice of requirement dated 17 June 2013.

5. BACKGROUND TO THE NORTH ISLAND MAIN TRUNK LINE

- 5.1 Opened more than 100 years ago, the NIMT remains a critical part of KiwiRail's freight network, forming the 'backbone' which runs from Auckland to Christchurch. The line through Ōtaki carries a good amount of NZ's rail freight as per the table below:

Table 1: Net Tonnages through Ōtaki 2011/12

| | |
|---|------------|
| NIMT net tonnes southbound through Ōtaki for 2011/12 | 1,047,500 |
| NIMT net tonnes northbound through Ōtaki for 2011/12 | 615,300 |
| NIMT net tonnes through Ōtaki for 2011/12 | 1,662,800 |
| KiwiRail's total net tonnes for 2011/12 (from Annual Report) | 17,455,000 |
| Net tonnage through Ōtaki in 2011/12 as proportion of KiwiRail's total net tonnes | 9.5% |

- 5.2 While the NIMT is mainly used to transport freight, a passenger service currently operates on the railway line twice a day to Palmerston North and the Northern Explorer passes through each day (but doesn't stop at Ōtaki). It is possible that this may increase in the future.
- 5.3 From Peka Peka to Ōtaki, the NIMT generally follows the alignment of SH 1. As explained above, as part of the Expressway Project, NZTA requires a portion of the existing NIMT route to accommodate its Expressway.
- 5.4 A period of consultation by NZTA and its preference for a central expressway route near an existing transport corridor led to discussions between NZTA and KiwiRail commencing on this project.

6. NOTICE OF REQUIREMENT FOR REALIGNMENT OF NIMT

- 6.1 KiwiRail has applied to the EPA for a notice of requirement for the realignment of a 1.2km section of the NIMT. The notice of requirement does not relate to any other portion of the existing NIMT (although works are necessary in respect of integrating the realigned portion with the existing NIMT infrastructure and are also contained within the proposed designation).
- 6.2 The 1.2km section will replace the current NIMT through the Ōtaki township.
- 6.3 The realignment is required to accommodate the NZTA Expressway as the preferred alignment for the Expressway requires the use of a portion of the existing NIMT. It is that portion that KiwiRail intends to realign. While the realignment is not required but for the Expressway, it will benefit KiwiRail in terms of providing a gentler curve gradient through Ōtaki. In addition, the Expressway will allow five existing level crossings to be closed improving the safety of the NIMT as a whole. Those level crossing closures are dealt with through the NZTA designation and are outside the scope of KiwiRail's designation, although can be considered a broader benefit of the overall proposal.
- 6.4 KiwiRail's overarching objective in respect of this project is to ensure continued operation of its NIMT. This is in light of KiwiRail's direction to operate, maintain, renew and upgrade the rail network, while improving safety on the network and contributing to sustainability through providing an alternative to road transport.
- 6.5 In terms of this specific project, as set out at 2.6 of the Assessment of Environment Effects, KiwiRail's specific objectives are:
- (a) Support NZTA, and its objectives, and facilitate the development of the Expressway;
 - (b) Continue to establish and maintain safe and efficient rail freight and passenger transport services within the region by providing a functional and connected rail network infrastructure and services;
 - (c) Encourage economic development and provide for the development of safe public transport services;
 - (d) Allow for stations that are easily accessible and serve the needs for existing and future communities;

- (e) Future proof for potential double tracking and other rail network improvements in the future; and
- (f) Achieve a connected and integrated transport network.

6.6 The Project, through the removal of level crossings (and the associated safety and noise effects that has), the easing in curve gradient through Ōtaki and what that means in terms of the ability to increase speed through that section achieves this purpose. In addition, the Project has been designed in such a way to ensure that the future operations, double tracking and potential increase and capacity have been future proofed for.

7. ASSESSMENT OF ALTERNATIVES AND NIMT DESIGN

7.1 From a very early stage it was considered that KiwiRail had little reason not to support the NZTA project. We are shared agencies working to achieve sensible transport outcomes, and we cooperate on our respective proposals where we can. As the accommodation to be made was between two relatively close fixed points, and the Ōtaki Station function needed to be retained, there were very few alignment options available within these parameters. Some small alignment options were considered within the outer bounds of these constraints; ie what to do at Ōtaki Station, at-grade or grade separation at some points; including the alignment of Waerenga Road.

7.2 A Rail Basis of Design document was developed by KiwiRail in conjunction with NZTA to ensure that the design of any realigned NIMT was acceptable to KiwiRail in terms of its operational requirements and objectives. That document is included in Volume 3 as Technical Report 2 and informed the preliminary design development required for this project. Those requirements provided restrictions on the options that could be pursued for the project.

7.3 The key considerations which influenced the form of the Project include:

- (a) Provision of space for future double-tracking, and replication of the existing station passing loop at Ōtaki;
- (b) Re-orientation of the Ōtaki Railway Station and platform;
- (c) Ensuring that space is provided for a possible future second platform and potential stabling facilities to the south of the Ōtaki Station;

- (d) Closure of 5 out of 8 level crossings through the Project area by providing alternative, grade-separated, access; and
- (e) Allowing for possible future curve easing at Mary Crest.

7.4 Mr Coulman, in his statement of evidence, discusses the alternatives considered in respect of the realignment of the NIMT. As he states, the realignment is required due to the location of NZTA's preferred alignment. I do not address the alternatives assessment undertaken in respect of NZTA's notice of requirement.

7.5 As the portion of the NIMT to be realigned is only 1.2km in length, the required curve radii, double track future-proofing, and the significant environmental and technical constraints through Ōtaki limited the rail alternatives.

7.6 Mr Coulman in his evidence confirms that a key influence on the rail design is the need to maintain the Ōtaki Railway Station in its context to the NIMT, safeguard the "front of station" parking area, and provide for a potential second platform in the future.

7.7 Mr Coulman also sets out that the following design variants were considered:

- (a) The original 2002 scheme design included an expressway alignment that required a significant relocation of the historically significant Ōtaki Railway Station and platform. This would have significantly altered the relationship of the historic building with its surroundings and would have required a large part of the existing station car park, significantly affecting its parking capacity.
- (b) The current preliminary design has sought to retain the Ōtaki Railway Station at its existing location and has achieved this with a re-orientation and slight shift to the east, away from the car park, thus improving the outcome over the earlier scheme. To achieve this, the expressway and NIMT alignment were pulled closer together which also then aided improvements to the grades and height of the Rahui Road local road bridge.
- (c) Alternative options for the Ōtaki Railway Station were considered and included retaining the building in its current location while building out the platform, or retaining the station and canopy context

to the railway by re-orientating the building. Given the former option left a significant space between the canopy and platform edge (circa 9m minimum), the latter option was adopted following consultation and heritage assessment feedback.

- (d) The current design, by keeping the Expressway and the realigned NIMT close together, has also reduced residual land parcels sitting between the two transport corridors.

8. NOISE AND VIBRATION

- 8.1 The main concern for KiwiRail in respect of the realigned portion of the NIMT is the change in noise and vibration effects.
- 8.2 As outlined in the evidence of Dr Stephen Chiles, the realignment will see increased noise levels at two properties: 230 Main Highway and the Ōtaki Motel. Mitigation measures are, however, proposed at those locations to reduce the adverse effects to an acceptable level.
- 8.3 I observe that the conditions on the NZTA and KiwiRail notices of requirement in respect of noise mitigation differ slightly. This is a matter of form, not substance, and results from differences in the nature of the existing environment and the scale of the works in respect of both the NIMT realignment and the Expressway construction. Both conditions, or sets of conditions, ensure that any adverse effects on affected parties are appropriately mitigated without placing unnecessary constraints on KiwiRail and the NZTA going forward.

9. LAND OWNERSHIP

- 9.1 It has come to light in the course of this project that a (0.02ha) parcel of land occupied by the existing NIMT (which is to be occupied by the Expressway if this Project is approved) is Customary Maori Land (although records suggest that it is subject to an occupation lease or licence for railways purposes). KiwiRail has commissioned a report into the identification of the parties who may hold an interest in that parcel of land and have been consulting with iwi and hapū in the area on a non-exclusive basis (as it acknowledges that there may be other people who have an interest in the land).

- 9.2 The property right component will need to be resolved in the future, but it is not necessary to have complete certainty as to the owners and how the property rights will be addressed for the purpose of considering the environmental effects of the Project through this hearing process. KiwiRail and NZTA have been proactive in identifying and consulting with all relevant interested parties and will continue to do so through the other stages of the project.

10. CONDITIONS

- 10.1 KiwiRail has acted responsibly throughout the process, advancing its component of the project in the most integrated way possible, in terms of the NIMT and Expressway components.
- 10.2 A clear example of this integration is found in the construction conditions proposed for both the notices of requirement, which are closely aligned.
- 10.3 Whilst this has been KiwiRail's approach, KiwiRail has also ensured that its interests are sufficiently protected in a manner that is acceptable to KiwiRail.
- 10.4 On this basis, KiwiRail supports the inclusion the conditions proposed to attach to the designation as set out in the evidence of Ms Rebecca Beals.
- 10.5 Whilst NZTA is to physically undertake the relevant construction works for the realigned NIMT, KiwiRail ultimately remains responsible for ensuring that the notice of requirement conditions are complied with.

11. KEY ISSUES REPORTS

- 11.1 The Key Issues report prepared by Kapiti Coast District Council ("KCDC") dated 17 May 2013 raised two issues in respect of the KiwiRail notice of requirement:
- (a) *Safety issues at the level crossing at Mary Crest.* Under the heading "Transportation and Traffic" on page 15 of the Key Issues Report, the run-off at Mary Crest is noted as being "currently very dangerous"; and
 - (b) *The appropriateness and justification of the NIMT route.* Under the heading "Alternatives" on page 7 of the Key Issues report, a key issue is recorded as relating to "the appropriateness and justification

of the proposed Expressway route and NIMT in comparison with alternative route options".

- 11.2 I am aware of the existing safety concerns in respect of the Mary Crest run-off and it is an issue that KiwiRail is seeking to resolve through other means. The crossing itself is not and has never been authorised by KiwiRail even though KCDC has granted, and continues to grant, subdivision and development consents to activities relying on that crossing.
- 11.3 The KiwiRail notice of requirement does not relate to that part of the NIMT that is crossed by the Mary Crest crossing. The pre-existing run off condition at Mary Crest will both be aided and exacerbated slightly by the Expressway project. This is long standing issue which is currently being worked through by the affected parties in order to find a solution. On that basis, I understand that the Mary Crest issues are outside the scope of the project.
- 11.4 In respect of the issues raised as to the alternatives assessment, this is discussed above and in the evidence of Tony Coulman.
- 11.5 The Key Issues report prepared by GWRC does not raise any issues in respect of the KiwiRail notice of requirement.

12. RESPONSE TO SUBMISSIONS

- 12.1 KCDC has raised several issues relevant to the KiwiRail notice of requirement and the NIMT in its submission on the project.
- 12.2 Those issues relate to operational/future proofing matters as well as noise and vibration assessments.
- 12.3 The matters relating to noise and vibration are technical in nature and have been addressed in the evidence of Dr Stephen Chiles at paragraphs 97-100. I do not discuss this any further.
- 12.4 In respect of the operational/future proofing matters outlined in section 8 of its submission, KCDC seeks that conditions are placed on the PP2O proposal requiring that the construction and operation of the proposed expressway does not preclude:
- (a) retention of freight handling (railhead) capacity, plus capacity for expansion;

- (b) future double tracking through the project area;
- (c) future provision of a second platform at Ōtaki station as part of double tracking;
- (d) future provision of additional stabling associated with upgrades from the Ōtaki Station;
- (e) future provision for a station platform at Te Horo; and
- (f) future rail curve easing at Mary Crest.

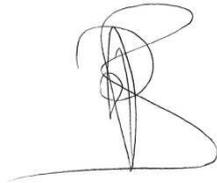
12.5 These matters relate to issues both within the KiwiRail notice of requirement and outside its scope (although within the scope of the existing NIMT designation for railway purposes) and the interrelationship those designations and activities have with the proposed NZTA designation. As a matter of fact, the NZTA notice of requirement as proposed does not impact on the above (should KiwiRail wish to undertake the listed improvements). Accordingly, there is no need for conditions recording (or requiring further detail) on these issues. For clarity however, I will state that the freight handling capacity at Ōtaki will not be affected by the Expressway proposal. Further, both double tracking and station platform works at Te Horo and Ōtaki are not additionally limited. Future curve easing at Mary Crest (south) is accommodated, as is double tracking to the north under the overbridge. There is an opportunity for possible stabling to the south of the station – but this, and any decisions about platform works, will be largely dependent upon Greater Wellington's Public Transport funding decisions.

12.6 In addition to KCDC, several submitters (the Ōtaki Community Board and Peter Gibson) record concerns around the future capacity of the Ōtaki Railway Station.

12.7 As outlined above, a key influence on the rail design was the need to maintain the Ōtaki Railway Station in its context to the NIMT, safeguard the "front of station" parking area, and provide for a potential second platform in the future. This illustrates that the concerns raised have already been addressed in the preliminary design stage of the Project.

13. CONCLUSIONS

- 13.1 The Project as proposed will achieve KiwiRail's general objectives in terms of operating, maintaining, renewing and upgrading the rail network, while improving safety on the network and contributing to sustainability through providing an alternative to road transport as well as its project specific objectives outlined above.
- 13.2 The Project will not adversely impact on KiwiRail's current or future operations. In addition, KiwiRail will benefit from this Project in a number of ways, including:
- (a) the removal of five public level crossings in the Project area will see improvements to safety as well as a reduction in noise effects; and
 - (b) the realignment of the NIMT through Ōtaki will see the easing of the curve of the railway line.



Pamela Marie Butler

12 July 2013