

8 April 2014

Wanganui District Council
PO Box 637
Wanganui 4540

Attn: James Witham / Jonathan Barrett

By email to: James.Witham@wanganui.govt.nz

**SUBMISSION ON PUBLICLY NOTIFIED PROPOSAL FOR PLAN, CHANGE OR
VARIATION (FORM 5)
Wanganui District Plan – Proposed Plan Change 33: Flooding Hazard**

NAME OF SUBMITTER: KiwiRail Holdings Limited (KiwiRail)

ADDRESS FOR SERVICE: Level 1
Wellington Railway Station
PO Box 593
WELLINGTON 6140
Attention: Rebecca Beals

SUBMISSION:

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 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.

KiwiRail note that feedback on the draft Plan Change 33 provisions was supplied on 18 November 2013. This submission is consistent with the feedback already provided in relation to the technical changes sought to be included within the Plan Change provisions.

The comments KiwiRail have on the specific draft provisions are provided below. Text proposed to be inserted is shown as bold and underlined (**insert**), and that to be deleted is shown as bold and struck out (**~~delete~~**).

1. KiwiRail note that there are numerous instances of inconsistent wording between the provisions identified and discussed in the Section 32 Report and the changes identified in Appendix One, the Marked Up District Plan Text. This causes confusion as to which provisions are actually being proposed. KiwiRail therefore seek that Council clarify whether it is the provisions in the Section 32 Assessment or Appendix One that are being sought to be inserted. If it is the provisions in Appendix One, KiwiRail seek confirmation

that the Section 32 assessment around these provisions has occurred. Given the uncertainty, some of the submission points below have addressed both wording options.

2. KiwiRail is the operator of the rail corridor in Wanganui (Designation D204). Railways are defined as 'Critical Infrastructure' in the Proposed Plan Change 33 definitions and in the Glossary of the Horizons One Plan. KiwiRail supports this definition.
3. KiwiRail undertake maintenance and upgrade works on its assets as required. Therefore KiwiRail seek to have rail upgrades specifically included in the definition of 'Upgrades' in the Plan Change, to ensure rail upgrades are clearly provided for as a permitted activity under proposed rule RX1. The definition as currently worded appears to relate to electricity and telecommunication facilities, however KiwiRail believes the definition intent is unclear when provision (vii) *the widening of existing roads* is read as to whether that relates to all roads or roads connected with electricity and telecommunication facilities. If the latter, when the definition is read in conjunction with RX1.c, there is uncertainty as to whether the permitted activity upgrades only relate to electricity and telecommunication critical infrastructure or all infrastructure defined as critical infrastructure. KiwiRail seek clarity around the definition and suggest as a minimum that a new point (viii) is added to the existing list of activities included under the definition of 'Upgrades', to read:

(viii) Improvements to existing rail lines and yards.

4. Policy PX5 "Critical Infrastructure in floodable areas" under 3.4 Proposed Policies in the Section 32 report, page 20, reads:
Avoid the establishment of new or upgrade of existing critical infrastructure within a flood risk overlay unless;
 - a. *There is a function requirement to do so AND;*
 - b. *The infrastructure is constructed or upgraded in a manner that increases the resilience of the infrastructure in the event of a 1 in 200 year flood event.*

However in Appendix One, under 8.3 Policies, page 36, PX5 reads:

- Avoid the establishment of new critical infrastructure within a flood risk overlay unless there is satisfactory evidence to show that critical infrastructure;*
- a. *Will not be adversely affected by a 1 in 200 year flood event*
 - b. *Will not cause any adverse effects on the environment in the event of a flood*
 - c. *Is unlikely to cause a significant increase in the scale or intensity in the event of a flood*
 - d. *Cannot be reasonably located in an alternative location.*

KiwiRail are uncertain as to which provision is proposed. In the feedback provided in November, KiwiRail sought changes to the wording contained on page 20 of the Section 32 report, namely the 'AND' be replaced by 'OR', and this appears not to have been adopted by Council. Should this be the wording proposed, KiwiRail seek the change be made.

However if the wording on page 36 is what is now proposed, KiwiRail seek that 'OR' be placed at the end of point 'a', and 'AND' after each of points 'b' and 'c'. KiwiRail would

then support that wording. As rail is defined as critical infrastructure, any upgrade or new rail infrastructure would require consent under the proposed provisions, where the designation is not able to be relied upon. As advised in November, KiwiRail structural engineers have advised that if KiwiRail's infrastructure was upgraded to this design standard (0.5% AEP), there would be no material difference in effect on KiwiRail or any adjoining properties compared to the existing infrastructure design. Adopting the amended wording on page 36 would enable KiwiRail, in the event that the designation cannot be relied upon, to undertake development or works and remain consistent with the policy.

5. KiwiRail note that the proposed rule RX1 as identified in 3.5 of the Section 32 report, page 22, states "... c. *Minor upgrades to critical infrastructure* ...". However in Appendix One, at 8.8 Performance Standard – Flood Hazard, page 37, RX1 states "... c. *Upgrades to critical infrastructure*...". KiwiRail support the wording under 8.8, page 37 and seek clarity as to which wording Council propose to adopt. The implication of the different wording effects definitions included through the Plan Change and how these rules are then able to be relied on. KiwiRail note there is no definition proposed for 'Minor Upgrades', however there is a definition proposed for 'Upgrades'. If the rule is to refer to 'Minor Upgrades' a definition is required, and KiwiRail seek that rail activities are included within that definition.
6. The installation of new critical infrastructure and works not provided for as permitted or restricted discretionary activities, are identified in Plan Change 33 as discretionary activities. KiwiRail submit that new critical infrastructure should be provided for as a restricted discretionary activity. This is submitted as reflecting that the infrastructure is critical and provides a level of public service greater than other infrastructure, however would still provide Council with the ability to assess the application in detail. This is also submitted to be consistent with the intention in PX5 as worded on page 36, where critical infrastructure can be established where certain evidence is provided as to effects. The location of critical infrastructure is often reliant on patterns of existing development and infrastructure locations. As the focus of the Plan Change is on flood hazards and in particular avoiding or mitigating those where appropriate, restricting discretion to matters consistent with those identified in PX5 (as proposed on page 36), will still provide Council with certainty that the new critical infrastructure proposed can be consented. To achieve this, KiwiRail seek the Restricted Discretionary Activity Rule RX2, be amended as follows:

RX2 Restricted Discretionary Activities

1. *The following are restricted discretionary activities provided they comply with the performance standards...*

2. ***New critical infrastructure and works to critical infrastructure not provided for as Permitted or Restricted Discretionary Activities.***

Council has restricted its discretion to the following matters:

a. Anticipated effect from 1 in 200 year flood event on the infrastructure;

b. Environmental effect from the infrastructure in the event of a flood, including any increase in scale or intensity of the flood event; and

c. Feasibility of alternative locations.

As a consequence of the change above, RX3 is also required to be changed:

RX3 Discretionary Activities

The following are discretionary activities:

~~a. New or upgraded critical infrastructure~~

b. *Earthworks that do not comply with performance standard RX5(2)*

7. KiwiRail wishes to see Flood Risk Areas A and B clearly identified on the planning maps. Flood Risk Areas A and B are the terms referred to in the draft Plan Change provisions. The maps available online as part of the Plan Change documentation (http://www.wanganui.govt.nz/Shaping/docs/Phase5/PlanChange33_200YearFlood_Map_s.pdf), have identified on the Legend, page 22, "Flood Level 100 Year Event" and "Flood Level 200 Year Event", however there are no Flood Risk Areas A or B identified. Parts of the rail corridor are within the 100 and 200 year flood event lines as detailed on the District Plan maps, namely areas located at either end of the Aramaho Bridge, the Wanganui Rail Yard at Taupo Quay, and the majority of the Castlecliff line. KiwiRail therefore submit that it is left to the reader to make their own assessment as to what constitutes which flood risk area, and therefore seek that Council alter the Legend on the Planning Maps for consistency with the terms used in the Proposed Plan Change text.

KiwiRail could not gain an advantage in trade competition through this submission.

KiwiRail wishes to speak to our submission and will consider presenting a joint case at the hearing with other parties who have a similar submission.

If you have any queries or would like to discuss any of the submission points above please do not hesitate to contact me.

Regards



Rebecca Beals
Senior RMA Advisor
KiwiRail

Ph: 04 498 3389

Fax: 04 473 1460

Email: Rebecca.Beals@kiwirail.co.nz