

BEFORE THE MARLBOROUGH DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the proposed Marlborough Environment Plan

Evidence of Rebecca Beals, RMA Team Leader

Submitter: KiwiRail Holdings Ltd.

Introduction

1. My name is Rebecca Beals and I am the Resource Management Act ("RMA") Team Leader for KiwiRail Holdings Limited ("KiwiRail"). I have over 15 years RMA and planning experience. I hold a Bachelor of Laws, a Bachelor of Science (Geography) and a Masters in Resource and Environmental Planning. I am a full member of the New Zealand Planning Institute and also a member of the Resource Management Law Association.
2. This statement has been prepared to supplement the brief of evidence I appeared before the Panel in relation to on behalf of KiwiRail in connection with its function as a transport network utility operator in the Marlborough region and relates to the matters raised in Hearing Block 5.
3. At the hearing, the Panel asked questions in relation to the definition of 'rail corridor' and what other District Plans had included in relation to this. Following on from my response to this, there was some confusion around a definition included in the Hurunui District Plan. The following is an attempt to resolve that for the Panel and provide wording used in relation to the boundary setback rule in the District Plans identified at the hearing.

Hurunui District Plan

4. The Hurunui District Council has confirmed that all appeals on the Proposed District Plan are now resolved, and that over May and June the Plan will become operative.
5. The Decisions Version of the District Plan includes an updated definition of 'Railway' to reference the Railways Act 2005. There is no definition of 'rail corridor'. The definition of 'Railway' is included as Attachment A. A copy of Section 4 of the Railways Act is included as Attachment B.
6. The Rural Zone at Rule 3.4.3 (a)(b)(v) requires buildings containing sensitive activities to be setback '*4m from a boundary of any rail corridor*'. A copy of this rule is included as Attachment C.
7. The Residential Zone at Rule 4.6.3 (a) requires '*yards adjoining the rail corridor – 4.0m*'. A copy of this rule is included as Attachment D.

8. The Business Zone at Rule 4.12(1) requires '*yards adjoining the rail corridor – 4.0m*'. A copy of this rule is included as Attached E.

Palmerston North City Plan

9. The Palmerston North City Plan does not contain a definition of 'railway' or 'rail corridor' or 'railway track'. A copy of the definitions page where such a definition would be located is included as Attachment F.
10. Rule 10.7.1.5(e)(ii) of the Whakarongo Residential Area requires '*Provided that no such building is to be located within 25m of the nearest edge of the Palmerston North – Gisborne railway track.*' A copy of the rule is included as Attachment G.
11. Rule 9.11.3(l) of the Rural Zone was agreed through Environment Court Appeal in 2017 to include '*Provided that no such building is to be located within 30 metres of the nearest edge of a railway track.*' A copy of the consent order in relation to this is included in Attachment H.

Christchurch City Plan

12. The only rail related definition in this Plan is for '*Rail siding*', a copy of which is included as Attachment I.
13. Rule 14.4.2.7(a)(vi) in the Residential Suburban Zone requires '*Buildings, balconies and decks on sites adjacent to or abutting a designated rail corridor*' to be set back '*4 metres from the rail corridor boundary*'. A copy of this rule is included as Attachment J. This rule appears in the other residential zones within the Plan.
14. Rule 16.4.2.2 in the Industrial General Zone requires '*Buildings, balconies and decks on sites adjacent to or abutting railway lines*' to be setback '*4 metres from the rail corridor boundary*'. A copy of this is included as Attachment K.



Rebecca Beals
RMA Team Leader
2 May 2018

Overlay Rule	means a rule in the Landscapes, Coastal Environment, Heritage or Natural Hazards sections of this Plan.
Papakainga housing	means residential occupancy on any ancestral land owned by Maori.
Permitted activity	<i>if an activity is described in this Act (RMA), regulations (including any national environmental standard), a plan or a proposed plan as a permitted activity, a resource consent is not required for the activity if it complies with the requirements, conditions, and permissions, if any, specified in the Act, regulations, plan, or proposed plan.</i>
Plant community	means a group of plants living in association with each other and the wider environment and affecting the local environment by its modification of soils and moisture storage conditions.
Potable water	means water which meets the Drinking Water Standards for New Zealand, Department of Health, 2005, but does not include rainwater collected from roofs.
Potentially contaminated land	means land on which an activity or industry that is described in the current Hazardous Activities and Industries List (published by the Ministry for the Environment) is being, has been or is more likely than not to have been undertaken. This definition does not include land for which a detailed site investigation demonstrates that any contaminants present are at, or below, background concentrations.
Preliminary site investigation	means an investigation that: is done by a suitable qualified and experienced practitioner; and is reported on in accordance with the current <i>Contaminated Land Management Guidelines No. 1-Reporting on Contaminated Sites in New Zealand</i> (published by the Ministry for the Environment); and results in a report that is certified by the practitioner.
Primary production activities	means activities that involve the production of primary products such as those from intensive farming, agricultural, horticultural, floricultural, arboricultural, or forestry activities but does not include mineral extraction or mineral processing.
Principal building	means the building in which the main activity on the site occurs. It includes industrial or trade premises, but excludes residential dwellings, and accessory buildings (such as sheds, garages, and farm barns), and utility buildings of less than 50 m ² in gross floor area.
Production land	<p>(a) <i>means any land and auxiliary buildings used for the production (but not processing) of primary products (including agricultural, pastoral, horticultural, and forestry products);</i></p> <p>(b) <i>does not include land or auxiliary buildings used or associated with prospecting, exploration, or mining for minerals, and "production" has a corresponding meaning.</i></p>
Prohibited activity	<p><i>If an activity is described in this Act (RMA), regulations (including a national environmental standard), or a plan as a prohibited activity, -</i></p> <p>(a) <i>no application for a resource consent may be made for the activity; and</i></p> <p>(b) <i>the consent authority must not grant a consent for it.</i></p>
Radiation	refers to the propagation of energy away from a source and does not include naturally occurring radiation nor electric and magnetic fields.
Railway	has the same meaning as under Section 4 of the Railways Act 2005.
Radiocommunication facility	means any transmission or reception of signs, signals, writing, images, sounds or intelligence by radio waves and includes aerials, dishes, antennas, cables, lines, wires, and associated equipment apparatus, as well as support structures such as towers, masts and poles, and ancillary buildings.



- (f) a network controller:
- (g) a maintenance provider:
- (h) a railway premises manager:
- (i) any other class of person prescribed as a rail participant by regulations

rail personnel, in relation to a rail participant, means an individual engaged by the rail participant or by an agent or contractor of the rail participant, whether as an employee, agent, contractor, or volunteer, for the purposes of carrying out, or assisting in carrying out, rail activities of the rail participant

rail traffic control equipment means train control and signal equipment and systems

rail vehicle—

- (a) means any vehicle that runs on, or uses, a railway line; and
- (b) includes—
 - (i) a locomotive, rail carriage, rail wagon, railcar, light rail vehicle, rail maintenance vehicle (whether or not self-propelled), and any other vehicle prescribed as a rail vehicle by regulations; and
 - (ii) a vehicle designed to operate both on rails and off rails, but only when that vehicle is running on rails

rail vehicle owner means a person who owns, or leases for a period of 7 years or more, a rail vehicle, whether or not that person engages rail personnel to exercise or to assist in exercising the rights and duties of ownership on its behalf; but does not include those rail personnel

railway means the railway infrastructure, rail vehicles, and other property (other than railway premises), including property specified by regulations made under section 59(j) and vehicles prescribed under section 59(k), that together are being used for the purpose of transporting people or goods by rail; but excludes—

- (a) a railway used as an amusement device:
- (b) a railway that operates on a set of rails with a gauge of less than 550 mm between them, unless that set of rails is designated as a railway line under section 59(l):
- (c) a railway that operates on a railway line excluded by regulations made under section 59(m):
- (d) a private cable car

railway infrastructure means—

- (a) railway lines:
- (b) rail traffic control equipment:
- (c) communications equipment:

- (e) Fire control equipment and works
- (f) Soil and water conservation works
- (g) Maintenance of the existing public vehicle track between Lake Taylor and Loch Katrine
- (h) Signs and earthworks ancillary to permitted activities
- (i) Temporary activities
- (j) Buildings and structures ancillary to permitted activities
- (k) Roads
- (l) The establishment of new shelterbelts or erosion control planting.

3.4.3 Standards for permitted activities

1. Building setback requirements

- (a) Dwellings and principal buildings must be located more than 100 m from dwellings and principal buildings on a separate lot under different ownership;
- (b) Setbacks for all buildings that contain sensitive activities:
 - (i) 80 m from a boundary with a strategic arterial road, a district arterial road or a collector road;
 - (ii) 25 m from a boundary of any other public road that is not sealed;
 - (iii) 10 m from a boundary of any other public road that is sealed;
 - (iv) 25 m from all other boundaries where the building has any wall or ridgeline that exceeds 30 m in length; and
 - (v) 4 m from a boundary of any rail corridor.

Note 1: There is no setback from unformed legal roads.

- (c) Setbacks for all buildings that do not contain sensitive activities:

- (i) 25 m from a boundary with a strategic arterial road, a district arterial road or a collector road;
- (ii) 10 m from a boundary of any other public road;
- (iii) 25 m from all other boundaries where the building has any wall or ridgeline that exceeds 30 m in length; and
- (iv) 4 m from a boundary of any rail corridor

Note 1: There is no setback from unformed legal roads.

- (d) Despite Rule 3.4.3.1(a) and (b), where an existing lot is less than 2500 m² in area and contains an existing dwelling, the building setbacks for alterations, extensions and rebuilding of the dwelling and addition or alteration of accessory buildings must comply with the yard requirements of Rule 4.6.3, provided alterations, extensions and rebuilding of the dwelling do not further exceed any existing breach of the front yard requirements of Rule 3.4.3.1(b).

- (e) Rule 3.4.3.1(b) and (c) does not apply to:

- (i) accessory buildings up to but not exceeding 2.5 m in height and 10 m² of floor area;
- (ii) stock underpasses;
- (iii) signs;
- (iv) retaining walls; and
- (v) fences, water troughs and pipes.

- (f) Where any building or structure is required to be setback from a boundary or other feature:

- (i) Except as otherwise permitted by this Plan, no building may be erected in any setback area, and all such areas must be left unoccupied and unobstructed by any structure from ground level upwards; and
- (ii) Where a new road or road widening is proposed under this Plan, any road setback requirement will be measured as though the proposed road boundary is the actual boundary.

Residential Zone continued.

2. Coverage

The maximum coverage of the site by buildings is:

Residential 1, 1A and 1H	35%
Residential 2	40%
Residential 3	20%

Note: For the purposes of this rule, "site" excludes any land area in common ownership or used for access to another site or dwelling.

3. Yards

(a) Minimum yard requirements are:

Front yard – 4.5 m

Yards adjoining the rail corridor – 4.0m

In the Woodbank (South) Density Area 2, yards that adjoin existing residential lots on Hanmer Springs Road – 5m

All other yards – 1.0 m

(b) In Residential 1A, 1H, 2 and 3 Zones, any accessory building or container shall not be sited closer to the road frontage than the dwelling. This rule does not apply to garages which are attached to and form part of the dwelling; and

(c) In Residential 1, 1A, 1H, 2 and 3 Zones, any container shall not be visible from any public road; and

(d) In the Terrace Edge Residential Area, dwellings shall be exempt from the requirement for a front yard.

(e) Where any building or structure is required to be set back from a boundary or other specified feature, the following controls shall apply:

(i) No building shall be erected in any yard or setback area; and

(ii) Where a new road or road widening is proposed under this Plan, any front yard requirement shall be measured as though the proposed road boundary were the front boundary.

4. Height

The maximum height of any building or structure shall be 8 m from the natural ground level.

5. Access to Sunlight

(a) Any new buildings shall not project beyond a building envelope constructed by recession planes from points 2.3 m above all boundaries except for boundaries adjoining road boundaries in accordance with Appendix 4.1.

(b) Where an internal boundary of a site immediately adjoins an access or part of an access, the recession plane shall be constructed from a point 2.3 m above the far side of the access.

(c) The following structures are exempt from Rule 4.6.5(a):

(i) Flagpoles;

(ii) Wires;

(iii) Television and radio antennas;

(iv) Chimneys;

(v) Solar heating devices, ventilation, lift and stair shafts (provided that the maximum horizontal dimension above the recession plane does not exceed 3 m);

(vi) Lightning rods.

6. Light Spill

Light emissions from a site shall not exceed a measurement of 8 lux (lumens per square metre) measured 1.5 m above the ground at the boundary.

Business Zone Rules

4.11 Permitted activities

1. Business 1, 1A, 1H and Queen Mary Hospital Heritage Zones
Any activity not listed as a restricted discretionary, discretionary or non-complying activity in the Business 1, 1A, Business 1H or Queen Mary Hospital Heritage Zone is a permitted activity, provided it complies with the standards for permitted activities in Rule 4.12.
2. Business 2 Zone
Any activity listed below is a permitted activity in the Business 2 Zone, provided it complies with the standards for permitted activities in Rule 4.12:
 - (a) Retail activities (including supermarkets, bars and restaurants);
 - (b) Entertainment facilities;
 - (c) Healthcare facilities;
 - (d) Offices;
 - (e) Visitor Accommodation;
 - (f) Community amenity facilities;
 - (g) Community services;
 - (h) Reserves and recreational facilities managed under an operative reserve management plan;
 - (i) Temporary activities; and
 - (j) Buildings and structures and signs and earthworks ancillary to permitted activities.

Note: The relocation of any building has the same activity status and is subject to the same requirements as any new building.

4.12 Standards for permitted activities

1. Yards
Yards adjoining the rail corridor – 4.0m.
Within 20 m of a Residential Zone:
 - (a) The maximum gross floor area of any principal building shall not exceed 400 m²;
 - (b) The gross floor area of any principal building and accessory buildings shall not exceed 450 m²;
 - (c) The maximum length of any building or roof ridgeline shall be 20 m; and
 - (d) The maximum height of any fencing shall be 2 m.
 - (e) In the Queen Mary Hospital Heritage Zone, there shall be no minimum area requirement for dwelling units contained within buildings existing on the site at 4 May 2013.
2. Height
The maximum height of any building or structure is 9 m.
3. Access to sunlight
 - (a) Any new building shall not project beyond a building envelope constructed by recession planes from points 2.3 m above a shared boundary with a Residential or Open Space Zone in accordance with Appendix 4.1; and
 - (b) The following structures are exempt from Rule 4.12.3(a):
 - (i) Flagpoles;
 - (ii) Wires;
 - (iii) Television and radio antennas;
 - (iv) Chimneys;
 - (v) Solar heating devices, ventilation, lift and stair shafts (provided that the maximum horizontal dimension above the recession plane does not exceed 3m); and
 - (vi) Lightning rods.

F

	radiocommunication.
Radiofrequency Transmitting Equipment	means equipment which is capable of transmitting or emitting electromagnetic energy for communication purposes with frequencies in the range of 3KHz to 300GHz but excluding (1) common residential based radiofrequency devices such as baby monitors, radio controlled toys, electronic door openers, cell phones, and mobile phones; and (2) hand held amateur radio transceivers operating on the amateur UHF and VHF bands.
Restaurant	means a business primarily engaged in the preparation and serving of food and beverages for consumption on the premises and without limiting the generality of this term includes: <ul style="list-style-type: none"> • catering establishments; • coffee bars and tearooms; • food courts; and • fully licensed, BYO licensed and unlicensed restaurants and/or cafés.
Residential Centre	means land and/or buildings where long term accommodation is provided for more than five people. This includes hostels associated with tertiary and secondary educational institutions.
Restructuring of Land	means the reshaping or remodelling of the existing land, but excludes siteworks associated with building on an existing site.
Retail Activity	means a business primarily engaged in selling or hiring displayed or offered goods to the general public and unless provided otherwise in this Plan, does not include: <ul style="list-style-type: none"> • commercial service activities; • prepared food & beverage outlets; or • trade suppliers. <div style="border: 1px dashed black; padding: 10px; margin-top: 10px;"> <p><i>NOTE TO PLAN USERS</i> This definition is only applicable to the assessment of activities within the Fringe Business Zone.</p> </div>
Retirement Village	means a comprehensive development which may include housing, recreational, welfare, and medical facilities which is intended principally or solely for retired persons or people with disabilities.
Risk	means within the hazardous substances section of the Plan, the likelihood of occurrence of an adverse effect from a substance combined with the magnitude of the consequence of that adverse effect.
Roadside Stalls	means the use of a site, building or part of a building for the purposes of selling direct to the public, farm produce (including that associated with nurseries), provided that all goods for sale are produced on the site. This shall include rural packing sheds from which sales are made direct to the public.
Routine Maintenance	means the minor repair of buildings where minor repair means the repair of materials by patching, piecing-in, splicing, and consolidating existing materials and including minor replacement of minor components such as individual bricks, cut-stone, timber



R10.7.1.5 Dwellings & Accessory Buildings in the Whakarongo Residential Area

Any dwelling and/or Accessory Building in the Whakarongo Residential Area is a Permitted Activity provided it complies with the Performance Standards detailed in Clauses (a) – (h).

Performance Standards

a) Access and Parking

Compliance with Rule 10.7.1.1 (g) (Access and Parking).

b) Maximum Building Height, Height Recession Planes and Overlooking

Compliance with Rule 10.7.1.1 (a) and (b).

c) Separation Distances

- i. Compliance with Rule 10.7.1.1(c).
- ii. Any accessory buildings in the Whakarongo Residential Area shall be located a minimum of:
 - 4m from the road boundary;
 - 1m from all other boundaries.

(d) Site Area and Coverage

- i. Site Area
 - a) A maximum net site area of 1000m² for each dwelling unit, provided that the areas shall be exclusive of the acoustic setbacks required by the provisions of Rules 10.7.1.5(e)(i) and (ii).
- ii. Site Coverage
 - a) Compliance with Rule 10.7.1.1(d)(ii).

(e) Acoustic Insulation and Setbacks

- i. Any building (other than accessory buildings) containing a noise sensitive activity constructed within 80 metres of the nearest carriageway edge of State Highway 3 shall be designed, constructed and maintained in accordance with a design report prepared by a suitably qualified and experienced acoustical engineer stating that the design as proposed will achieve compliance with an internal noise level of 40dB $L_{Aeq(24hr)}$ in habitable rooms.

Provided that no such building is to be located within 40 metres of the nearest carriageway edge of State Highway 3.

- ii. Any building (other than an accessory building) containing a noise sensitive activity constructed within 70 metres of the nearest edge of the railway track shall be designed, constructed and maintained in accordance with a design report prepared by a suitably qualified and experienced acoustical engineer stating that the design as proposed will achieve compliance with an internal noise level of 40dB $L_{Aeq(1hr)}$ in living rooms and 35dB $L_{Aeq(1hr)}$ in bedrooms.

Provided that no such building is to be located within 25m of the nearest edge of the

Palmerston North – Gisborne railway track.

- iii. Where bedrooms with openable windows are proposed in buildings requiring acoustic insulation, a positive supplementary source of fresh air ducted from outside is required at the time of fit-out. For the purposes of this requirement, a bedroom is any room intended to be used for sleeping. The supplementary source of air is to achieve a minimum of 7.5 litres per second per person.
- iv. For all other developments, compliance shall be achieved with the satisfactory design guidelines given in AS/NZS 2107:2000: *Acoustics – recommended design sound level and reverberation times for building interiors*.

(f) On-site Amenity

- i. Every dwelling shall be provided with an outdoor amenity area which can meet the following requirements:
 - A minimum open area of 36m² free of driveways, parking spaces, buildings (other than decks, verandahs and shade sails) and manoeuvring area.
 - Is able to accommodate a circle of 4.5 metres in diameter.
 - Has direct contact with the main living area for a length of not less than 2 metres.
 - Is orientated to the west, north or east of the dwelling.
- ii. Any accessory building or garage, whether freestanding or adjoining a dwelling, shall be recessed by a minimum of 1m behind the front façade of a dwelling.

(g) Fencing

- i. Where a fence is erected on the road frontage, a maximum height of 0.9m applies.

(h) Flood hazards

Any new occupied structure or activity, or an increase in the scale of any existing occupied structure or activity, must comply with the following Performance Standards:

- i. Occupied structures are to have a finished floor or ground level, which includes reasonable freeboard, above the 0.5% AEP (1 in 200 year) flood level.
- ii. The access between occupied structures and an identified safe area, where safe evacuation may be carried out must not be inundated greater than 0.5m above finished ground level with a maximum velocity of 1.0 m/s, in a 0.5% AEP (1 in 200 year) flood.

NOTES TO PLAN USERS

1. Any subdivision and development that is located on any object or site of Cultural Heritage Value, as listed in Chapter 17 of the District Plan, must also comply with Rule 17.9.1.
2. Any development within the Whakarongo Residential Area must supply a geotechnical report as part of the subdivision process. This report should be checked to confirm any mitigation measures required to be carried out on site prior to building a dwelling.
3. Any development must comply with the National Environmental Standard for Assessing and Managing Contaminants in Soil.
4. Any new occupied structure under performance standard (h) above will be referred to Horizons Regional Council for further clarification on 'reasonable freeboard' and safe areas for 'safe evacuation'.

H

BEFORE THE ENVIRONMENT COURT

IN THE MATTER of the Resource Management Act 1991
AND of an appeal under cl 14 of the First
Schedule to the Act
BETWEEN KIWIRAIL HOLDINGS LIMITED
(ENV-2016-WLG-000051)
Appellant
AND PALMERSTON NORTH CITY COUNCIL
Respondent

Environment Judge B P Dwyer sitting alone pursuant to s 279 of the Act

In Chambers at Wellington

CONSENT ORDER

- [A] Under s 279(1)(b) of the Act, the Environment Court, by consent, orders that:
- (1) The Palmerston North District Plan is amended as set out in the **Schedule**.
 - (2) The appeal is otherwise dismissed.
- [B] Under s 285 of the Act, there is no order as to costs.



REASONS**Introduction**

[1] The Court has now read and considered the consent memorandum of the parties dated 31 August 2017 which proposes to resolve the appeal.

Other relevant matters

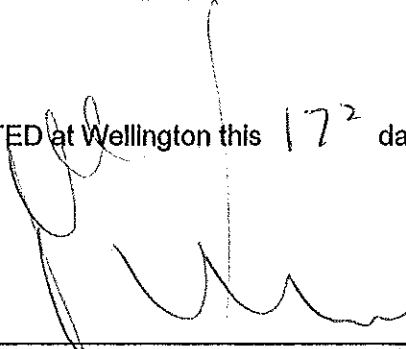
[2] Federated Farmers of New Zealand Manawatu-Rangitikei Province, Mercury NZ Limited and New Zealand Transport Agency gave notice of an intention to become parties under s 274 of the Act and have signed the memorandum setting out the relief sought.

Orders

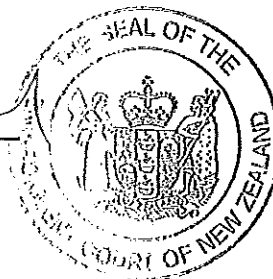
[3] The Court is making this order under s 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297. The Court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum (unless stated otherwise for specific reasons) requesting this order;
- (b) all parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

DATED at Wellington this 17th day of October 2017



B P Dwyer
Environment Judge



SCHEDULE

CHAPTER 4

Habitable Room

means any room in a dwelling which is used or which can be used as a sitting room, a living room, a bedroom, a dining room, or a family room.

Habitable Room

for the purposes of Rule 10.7.1.1(h) Air Noise Controls, Rule 11.6.6.1(a) and (b), Rule 11.9.7.1(a), and (b) Noise Insulation, and Rule 12.11.1(b), Rule 9.11.2 and Rule 9.11.3, means a room used for activities normally associated with domestic living, but excludes any bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, hallway, lobby, clothes drying room or other space of a specialised nature occupied neither frequently nor for extended periods.

CHAPTER 7

Policies

3.1 To enable the subdivision of rural land into allotments of 20 hectares or more, where the following matters have been recognised and provided for:

1. The land proposed to be subdivided must be appropriate for subdivision, taking into account:

(a) efficient and effective on-site servicing;

(b) earthquake fault lines;

(c) the potential for erosion, subsidence, slippage, flooding or inundation from any source;

(d) the stability of the land and its suitability to provide a foundation for the erection of buildings, vehicle access and parking areas (if necessary, and the reconstruction of the land for that purpose);

(e) flood hazard avoidance within Flood Prone Areas or mitigation to protect against a 0.5% AEP flood event;

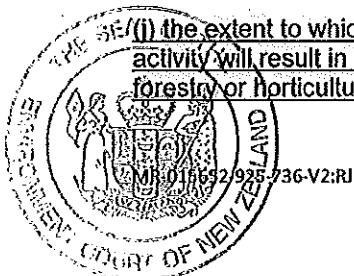
(f) any other natural hazard;

(g) safety, health and amenity;

(h) setbacks from high voltage electricity transmission lines;

(i) setbacks from existing or consented wind turbine sites for subdivision for new residential dwellings;

(j) the extent to which the subdivision and subsequent development involving any noise sensitive activity will result in significant adverse effects on the operation and viability of any adjoining farm, forestry or horticultural activity or other lawfully established land-based activity.



CHAPTER 9

Rule 9.11.3 Noise Insulation: Rail Noise

(i) Any:

- (a) new habitable room (including any addition of a new habitable room to an existing building) in a building used by a noise sensitive activity; and
- (b) habitable room in a relocated building used by a noise sensitive activity; and
- (c) new room or room in a relocated building used by Early Childhood Facilities, Accommodation Motels, Motel Conference Centres, or Community Facilities, excluding any bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, hallway, lobby, clothes drying room, or other space of a specialised nature occupied neither frequently nor for extended periods;

constructed within 100 metres of the nearest edge of a railway track shall be designed, constructed and maintained in accordance with a design report prepared by a suitably qualified and experienced acoustical engineer stating that the design as proposed will achieve compliance with an internal noise level of 40dB_{Aeq(1 hr)} (except for bedrooms, where the design as proposed will achieve compliance with an internal noise level of 35dB_{Aeq(1 hr)}).

Provided that no such building is to be located within 30 metres of the nearest edge of a railway track.

- (ii) Where bedrooms with openable windows are proposed in buildings requiring acoustic insulation, a positive supplementary source of fresh air ducted from outside is required at the time of fit-out. For the purposes of this requirement, a bedroom is any room intended to be used for sleeping. The supplementary source of air is to achieve a minimum of 7.5 litres per second per person.

Explanation

In some cases there is no line of sight to the rail line from the noise sensitive activity, for example, because of the topographical elements of the land or an acoustic wall. This may protect the noise sensitive activity from noise effects to the standard stated in Rule 9.11.3 and in that case the requirements of the Plan are considered to have been met. For the avoidance of doubt, a design report in accordance with Rule 9.11.3 will still be required.

Chapter 20

Rule 20.3.9.1 Access Standards

...

- (e) Vehicle Crossings In Proximity to a Rail Level Crossing

All new vehicle crossings shall be set back a minimum of 30m from a level crossing.



Rule 20.3.10 Permitted Activities

MR 018652-925-736-V2:R1

The establishment, operation, maintenance and minor upgrade of any rail lines, premises or infrastructure are Permitted Activities throughout the City provided these comply with the performance standards identified under R 23.7.2. For the avoidance of doubt, this rule enables activities which include, but are not limited to, the following:

- Re-sleepering, re-railing, re-ballasting;
- Grouting or repairs to rock faces;
- Laying of new communications cables;
- Replacement of existing structures such as signal boxes;
- Installation of safety related signage and signals;
- Installation of bells and lights and/or half arm barriers at level crossings; and
- The re-arrangement of the depot facility in Palmerston North, including the CT site.

Chapter 23

Rule 23.7.2 Permitted Activities

The establishment, operation, maintenance, minor upgrade and removal of any of the following (excluding the establishment of rail lines and the operation, maintenance, upgrading, relocation, or removal of existing transmission lines specified in regulation 4 of the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009, and covered by that NES and the maintenance and minor upgrading of existing electricity sub-transmission and distribution lines in accordance with Rule R23.7.4) are Permitted Activities throughout the City provided these comply with the relevant performance standards listed herein.

...

- (xii) Rail lines and associated infrastructure.



R

Radiocommunications

means any transmission or reception of signs, signals, writing, images, sounds or intelligence of any nature by radio waves.

Rail siding

means a (generally short) section of rail, off a main rail line, that provides access to and from a site, yard or development (including industrial activities, quarries and wharves) and which is used to store stationary rolling stock whilst it is loaded or unloaded.

Rear site

means a site which is situated generally to the rear of another site, both sites having access to the same road or private road. The rear site shall have access to such road or private road by means of an access strip.

Reconstruction

in relation to a heritage item or heritage setting, means to rebuild part of a building, structure or feature which has been lost or damaged, as closely as possible to a documented earlier form and using mainly new materials. It includes:

- a. deconstruction for the purposes of reconstruction; and
- b. Building Code upgrades which may be needed to meet relevant standards as part of the reconstruction.

Recreation activity

means the use of land, water bodies and/or buildings for the purpose of the active or passive enjoyment of sports, recreation or leisure, whether competitive or non-competitive, casual or organised, and whether a charge is made for admission or not.

Recreation facility

means land and/or buildings used for recreation activities.

Relocatable building

means a building easily capable of and intended for relocation, either in part or whole, to another site.

Relocation of a building

means the removal and re-siting of any building from any site to a new permanent site, but excludes new (i.e. immediately habitable) buildings constructed elsewhere specifically for, and subsequently relocated permanently onto, another site.

Relocation of a heritage item

in relation to a heritage item or heritage setting, means permanently moving part or all of a structure either within or beyond the heritage setting. It excludes:

- a. temporary lifting and/or temporary moving of a heritage item off its foundations; or
- b. permanent realignment of foundations of a heritage item where this is required for heritage upgrade works.

Renewable electricity generation



14.4.2.7 Minimum building setbacks from internal boundaries and railway lines

a. The minimum building setback from internal boundaries shall be as follows:

	Activity / area	Standard
i.	All <u>buildings</u> not listed in table below	1 metre
ii.	<u>Accessory buildings</u> where the total length of walls or parts of the <u>accessory buildings</u> within 1 metre of each <u>internal boundary</u> does not exceed 10.1 metres in length	Nil
iii.	Decks and terraces at or below ground floor level to a maximum height of 300mm above <u>ground level</u> within 1m of the <u>boundary</u> .	Nil
iv.	<u>Buildings</u> that share a common wall along an <u>internal boundary</u>	Nil
v.	All other <u>buildings</u> where the <u>internal boundary</u> of the <u>site</u> adjoins an <u>access</u> or part of an <u>access</u>	1 metre
vi.	<u>Buildings, balconies</u> and decks on <u>sites</u> adjacent to or abutting a designated rail corridor.	4 metres from the rail corridor boundary
vii.	Except where 14.4.2.7 viii applies, all two storey <u>buildings</u> where the <u>internal boundary</u> of the <u>site</u> adjoins the Avonhead Cemetery (<u>Council landscape buffer</u>)	5 metres
viii.	For two storey <u>buildings</u> <u>adjoining</u> the Avonhead Cemetery (<u>Council landscape buffer</u>) that have high-set <u>windows</u> on the second floor facing the cemetery	3 metres

b. For the purposes of this rule this excludes guttering up to 200mm in width from the wall of a building.

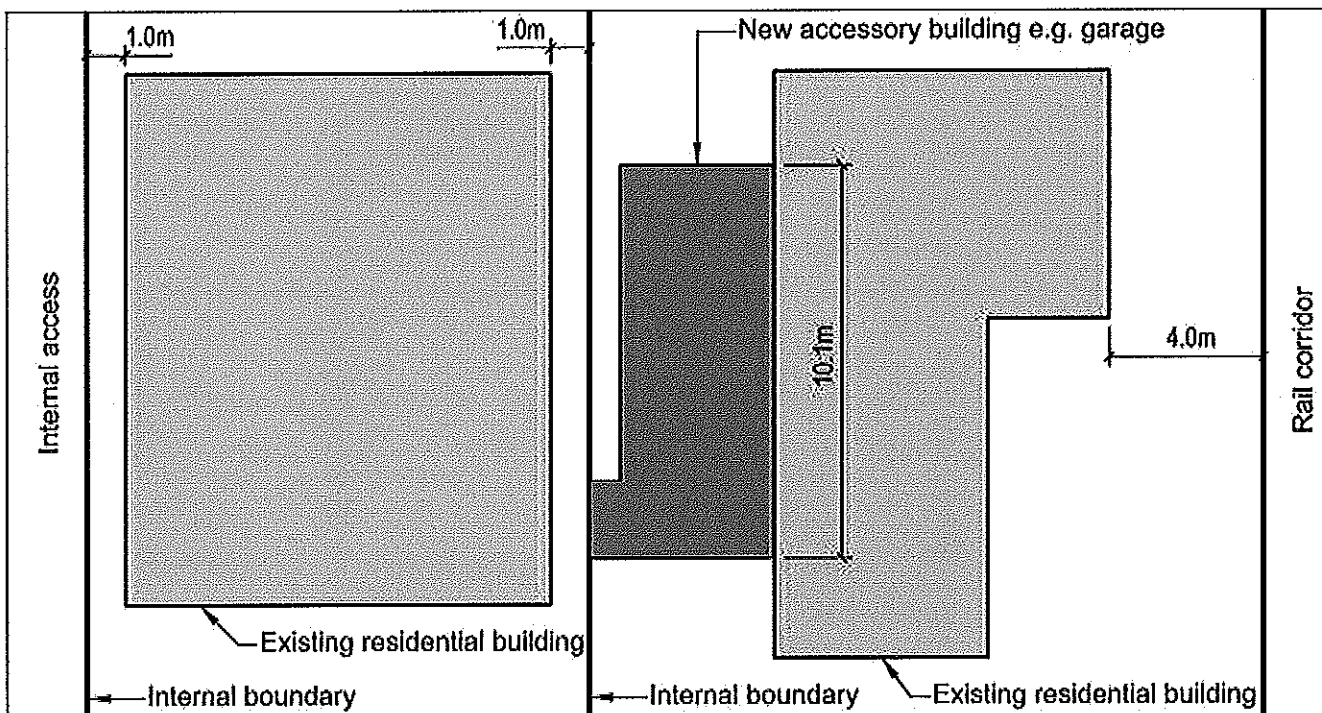
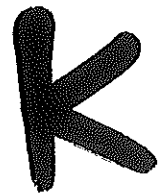


Figure 2: Separation from neighbours



16.4.2.2 Minimum building setback from road boundaries/ railway corridor

a. The minimum building setback from a road boundary and a rail corridor boundary shall be as follows:

	Applicable to	Standard
i.	Any activity unless specified below	1.5 metres
ii.	Any activity fronting on to an <u>arterial road</u> or opposite a residential zone unless specified in (iii)	3 metres
iii.	<u>Buildings, balconies</u> and decks on <u>sites</u> adjacent to or abutting railway lines.	4 metres from the rail corridor boundary

- b. Any application arising from this rule (other than clause iii.) shall not be limited or publicly notified.
- c. Any application arising from clause iii. of this rule shall not be publicly notified and shall be limited notified only to KiwiRail (absent its written approval).