

**IN THE MATTER OF** the Resource Management Act 1991

**AND**

**IN THE MATTER OF** A Notice of Requirement by KiwiRail  
for an alteration to Designation 6302 -  
Island Main Trunk line

**DIRECTION 2 OF THE HEARING PANEL**  
**16 July 2021**

1. The Auckland Council (**Council**) has appointed independent hearing commissioners, Peter Reaburn, David Wren and Nigel Mark-Brown to the Hearing Panel (**Panel**) to hear and make recommendations to the requiring authority on the above NoR. The delegation to the Panel to hear and make recommendations is in terms of section 34A of the Resource Management Act 1991 (**RMA**).
2. The hearing of evidence commenced on Tuesday 13 July 2021 and proceeded through to Wednesday 14 July. During the hearing it became clear to the Panel that there were issues raised that could not be fully considered without further information.
3. At least some of these issues were acknowledged by the KiwiRail representatives themselves. KiwiRail's counsel, Ms Rapley, addressed the Panel at the commencement of the adjourned hearing on Wednesday 14 July and requested that, at the conclusion of the hearing on that day, the hearing should be adjourned to allow further (and focussed) discussion between the parties, and in particular representatives of the Counties Manukau District Health Board ("DHB"). Subject to what further material may be presented in the hearing that day, Ms Rapley suggested a range of topics that should be addressed in the adjournment, and what parties should be involved.
4. We consider KiwiRail's request to be sensible, and indeed essential. The Panel does not currently have sufficient information or confidence in the material before it to conclude what recommendations should be made to the requiring authority.
5. Our understanding from the submitter parties, including the DHB, was that they were prepared to partake in further discussions. We appreciate the willingness of KiwiRail and the submitter parties to assist in this process.
6. After hearing all of the evidence the Panel verbally indicated the list it had compiled of matters that needed to be addressed through the provision of further information. The purpose of this Direction is to formally record those matters.
7. The Panel directs, under section 41C of the RMA, the following:

Noise and Vibration

- (a) KiwiRail is requested to compile information on construction and operational vibration and noise effects in the following areas:
  - 12 Wyllie Road (see Jacobs Plan DR-NIMT-CV-HS-00170).
  - 5 and 9 Station Road (see Jacobs Plan DR-NIMT-CV-HS-00171).

- The residential area adjoining the proposed designation in the vicinity of the Puhinui station (see Jacobs Plan DR-NIMT-CV-HS-00177).

It is expected the information provided will include an assessment of the current environment and the expected future environment after the third line is introduced, the latter being based on a reasonable expectation of the type and frequency of movements within the rail corridor. In the case of the Puhinui Station land this should include the effects of any new functions within the new permanent designation area.

- (b) The Panel desires information on what construction and operational vibration and noise standards could be included in designation conditions, should it find that recommendations should be made accordingly. The Panel requests that the noise and vibration experts representing KiwiRail, the DHB and Auckland Council provide an expert statement giving their views on construction and operational vibration and noise standards that are appropriate in respect of the Middlemore Hospital receiving environment (east and west sides of the rail corridor) and the receiving environment of the properties referred to in (a) above.
- (c) For the avoidance of doubt, the Panel's requests in (a) and (b) above are based on the noise and vibration environment relating to the rail corridor as a whole, and not just activities within the altered designation. The Panel acknowledges that KiwiRail may not agree this is the appropriate legal basis on which to assess effects, however that is a matter that can be further addressed in submissions if KiwiRail so wishes.

#### Middlemore Station Area

- (d) KiwiRail is requested to provide information on how any works, for mitigation purposes or otherwise, will be legally achieved, where it is proposed that those works lie outside the permanent designation footprint. The information should include details of any resource consents that would be required. The Panel appreciates that the current plan (DR-NIMT-XD-GA-02500) may change as a result of further discussions with the DHB. The information provided should be based on any revised plan.
- (e) KiwiRail is requested to provide a revised assessment of adverse effects, and mitigation of those effects, based on the information provided in (d) above. That assessment is to include (but is not necessarily confined to) noise, vibration, vehicle access, parking and manoeuvring, pedestrian access (DHB and public) and any amenity or safety effects arising from proposed mitigation measures, including acoustic walls.
- (f) In respect of parking in particular, KiwiRail is requested to provide a further assessment of parking losses / gains, illustrated on a clearly legible plan based on the current parking situation.
- (g) In respect of access to the DHB site through 64 Rosella Road, KiwiRail is requested to provide information on how the management of traffic (pedestrian and vehicular) can be controlled, and whether a suitable control mechanism (for instance, barriers) can be physically accommodated in the area available. KiwiRail is further requested to provide information on how legal access will be secured for DHB usage of this access, and explain what resource consent requirements, if any, there would be for that DHB use.

- (h) The Panel expects that the above information will be compiled in consultation with the DHB and (should they wish to be involved) representatives of Auckland Council and Auckland Transport. The Panel acknowledges that the DHB may wish to consult with the Accident Compensation Corporation in providing its views. Where an agreed position on the information cannot be reached each of these parties may detail their own views on the information.

#### Temporary Designation

- (i) The Temporary Designation is described as being “Temporary Occupation for Contractors (During Construction)”. The Panel has interpreted this as meaning construction of the third main line, and that the designation will be drawn back (to the permanent designation line) once that construction is completed. KiwiRail is requested to provide confirmation that this is the case and what its intentions are in respect of when the temporary designations will be drawn back, pursuant to section 182 of the RMA. Should the Panel ultimately find that a designation condition is appropriate relating to that matter, KiwiRail is requested to suggest a wording of such condition.

#### 12 Wyllie Road

- (j) KiwiRail is requested to provide further information relating to the need for and intended use of the 12 Wyllie Road Temporary Designation area.
- (k) KiwiRail is requested to provide cross-sections, at relevant points, of the intended works to be conducted within the proposed permanent designation relating to 12 Wyllie Road, and to provide an explanation as to the necessity of the position of the designation boundary as currently shown on Jacobs Plan DR-NIMT-CV-HS-00170.
- (l) The Panel expects that the above information will be compiled in consultation with the representatives of the owner of 12 Wyllie Road, Brujen Holdings Limited.

#### Puhinui Station

- (m) KiwiRail is requested to provide further information relating to the need for and intended use of the permanent and temporary designation areas as shown on Jacobs Plan DR-NIMT-CV-HS-00177.

8. We adopt Ms Rapley’s suggestion in relation to a timeline for the provision of information and direct that the parties shall provide the requested information to the Hearings Advisor, Mr Donovan by **12 noon on Friday 27 August 2021**. The information may be provided via email, to [bevan.donovan@aucklandcouncil.govt.nz](mailto:bevan.donovan@aucklandcouncil.govt.nz)
9. Mr Donovan shall then provide all of the information to all submitters by **4.30pm on Friday 27 August 2021**.
10. Ms Rapley further suggested that the hearing be resumed in the week beginning 30 August 2021. The Panel is (currently) able to convene in that week, however in order to have confidence regarding all arrangements that will need to be made a confirmed date will be communicated by Mr Donovan at a later date.

11. This Direction is to be circulated to all the parties to the hearing by Mr Donovan. That may be by email if that is most convenient.
12. Any correspondence relating to this Direction and related matters should be sent through Mr Donovan.



Peter Reaburn  
(Chair)  
for the Hearing Panel  
16 July 2021