

6 September 2022

To: Bay of Plenty Regional Council (**Council**)

Subject: Submission on Proposed Change 6 (National Policy Statement for Urban Development) (**PC 6**) to the Bay of Plenty Regional Policy Statement (**RPS**)

Scope and nature of submission

1. KiwiRail Holdings Limited (**KiwiRail**) welcomes the opportunity to provide feedback on PC 6.
2. KiwiRail generally supports the intent of PC 6 but considers further amendments are required to ensure urban development around transport corridors occurs in an appropriate and integrated way. The specific provisions to which this submission relates and KiwiRail's reasons for its submission are identified in **Annexure A**.
3. KiwiRail could not gain an advantage in trade competition through this submission.

KiwiRail's operations

4. KiwiRail is the State-Owned Enterprise responsible for the construction, maintenance and operation of New Zealand's rail network. KiwiRail is also a Requiring Authority that holds railway purpose designations in District Plans throughout New Zealand.
5. The railway network is a nationally and regionally significant infrastructure asset that is critical to the safe and efficient movement of freight and passengers throughout New Zealand, and forms an essential part of the national transportation network and the wider supply chain.
6. Transport modal shift to more climate-friendly modes of transport, like rail, are critical to reduce carbon emissions. As a result, rail is experiencing a renaissance as evidenced by the significant investment being made by the Government to reinvigorate the railway network, demonstrating a strong and continued confidence in the current and future potential of rail.
7. The ongoing safe and efficient functioning of the rail network is important to the Bay of Plenty region's transport system and its connectivity to the upper and central North Island. KiwiRail has both operational railway lines and unused lines held for future rail use in the Bay of Plenty region. The East Coast Main Trunk (**ECMT**), and the Mount Maunganui Branch lines are of regional and national importance as the main line to the Port of Tauranga, and through to Kawerau. From Kawerau, the Murupara Branch serves the busy logging hub of Murupara. The Rotorua Branch and Taneatua Branch (to Awakeri) are currently un-used but are being retained as strategic rail corridors for potential future use.
8. The ECMT Line is part of the busiest freight linkage in New Zealand, connecting the key sea ports of Auckland and Tauranga via Hamilton.



Urban Development around the Rail Corridor

9. The primary driver of PC 6 is for the RPS to give effect to the requirements of the National Policy Statement on Urban Development (**NPS-UD**) and 'be responsive to plan changes that add significantly to development capacity and contribute to well-functioning urban environments'. KiwiRail supports urban development around transport nodes, and recognises the benefits of co-locating housing near transport corridors. An integrated approach to planning is critical to support well-functioning urban environments, as well as to ensure that our transport network can support increasing urban development.
10. It is critical that PC 6 adequately manages the interface between urban development and critical infrastructure, such as the railway network. Such management is necessary to ensure communities are built with healthy living environments, and the railway network can operate and continue to develop in the future without constraint.
11. The nature of railway operations means KiwiRail cannot fully internalise all its effects within the railway corridor boundaries. Increasing development around railway corridors consequentially means the introduction of more sensitive receivers to adverse effects of existing and lawful railway activities. With an increase in sensitive activities there is an increased risk of reverse sensitivity effects.
12. Reverse sensitivity is a well-established planning principle that refers to the susceptibility of established effects-generating activities to complaints or objections arising from new sensitive activities locating in close proximity to these activities. Such complaints can potentially constrain KiwiRail's ongoing operations, as well as future development.
13. While the RPS recognises and includes provisions relating to reverse sensitivity, these are limited in application to rural areas. Given the railway corridor intersects with urban areas in the Bay of Plenty, there is the potential for reverse sensitivity effects to arise from the operation of the railway corridor and this needs to be recognised in the RPS.
14. For this reason, it is essential that PC 6 appropriately manages urban development in proximity to the railway corridor.

General reasons for the submission

15. For the provisions of PC 6 that KiwiRail supports in **Annexure A**, those provisions will:
 - (a) promote sustainable management of resources, achieve the purpose of the RMA, and are not contrary to Part 2 and other provisions of the RMA;
 - (b) provide and promote the greatest health and amenity outcomes and preserve operational and developmental capacity for nationally significant infrastructure;
 - (c) enable the social, economic and cultural wellbeing of the communities in the Bay of Plenty region; and
 - (d) meet the reasonably foreseeable needs of future generations.



16. For those provisions of PC 6 that require amendment as sought by KiwiRail in **Annexure A**, those provisions will not (without the amendments proposed by KiwiRail):
- (a) promote or enable efficient use and development of railway infrastructure and the operation of the railway corridor;
 - (b) adequately protect and provide for KiwiRail's current and future operations in the Bay of Plenty;
 - (c) promote sustainable management of resources or achieve the purpose of the RMA, and are contrary to Part 2 and other provisions of the RMA;
 - (d) promote or enable the social and economic wellbeing of the community in the Bay of Plenty or reasonably need the needs of future generations; and
 - (e) provide positive health and amenity outcomes for people locating in proximity to the railway corridor.

Relief Sought

17. KiwiRail seeks the following amendments:
- (a) that the proposed provisions be retained, deleted, or amended as set out in this submission (set out above and in **Annexure A**); and
 - (b) such further or other consequential relief as may be necessary to fully give effect to the relief sought in this submission and **Annexure A**.
18. KiwiRail wishes to be heard in support of this submission. If other parties make similar submissions, KiwiRail would consider presenting a joint case with those parties at the hearing.

Yours faithfully



Mike Brown
Group Manager Planning and Land Use
KiwiRail Holdings Limited



ANNEXURE A

PROVISION	SUPPORT/ OPPOSE	REASONS FOR KIWI RAIL'S SUBMISSION	RELIEF SOUGHT (OR WORDING TO SIMILAR EFFECT)
2.8.1 Regionally significant urban and rural growth management issues	Support in part	KiwiRail supports the description of Issue 2.8.1, but considers amendments are required to Issues 2 and 9 to recognise urban development and land use changes can result in reverse sensitivity effects, and that the interfaces between conflicting land uses must be appropriately managed. KiwiRail also considers that the reference to low density patterns of land use as being inefficient should be removed as there may be circumstances where lower density is more efficient.	<p>Proposed changes as notified shown as <u>underline</u>, and deleted text shown as strikethrough</p> <p>Further changes proposed in this submission shown as <u>underline</u>, and deleted text shown as strikethrough</p> <p>Amend Issue 2.8.1, as follows:</p> <p>2. Land supply and inefficient patterns of land use</p> <p>An imbalance of land supply, demand, and uptake can have adverse economic and social effects, yet it is very difficult to plan and predict. Inefficient and low density patterns of land use and ad hoc development, are difficult and costly to service and maintain, <u>and contribute to increasing greenhouse gas emissions. A shortage of appropriate developable land and housing supply reduces housing choices and leads to increases in prices.</u> Unplanned growth and inefficient land use also have the potential to <u>create land use conflicts and reverse sensitivity effects.</u> adversely affect rural production activities and to reduce the ability of versatile land to be used for a range of productive purposes.</p> <p>[...]</p> <p>9. Intensive urban development</p> <p>More intensive urban development is necessary to accommodate growth but has the potential to:</p> <ul style="list-style-type: none"> Adversely impact on the residential character and amenity values of existing urban areas. Create unforeseen social, economic and cultural effects. Increase road congestion leading to restricted movement of goods and services to, from, and within the region. <u>and</u> e<u>C</u>ompromising the <u>safe and</u> efficient operation of the transport network, <u>where the interface between conflicting land uses is not</u>



PROVISION	SUPPORT/ OPPOSE	REASONS FOR KIWI RAIL'S SUBMISSION	RELIEF SOUGHT (OR WORDING TO SIMILAR EFFECT)
			<p>Proposed changes as notified shown as <u>underline</u>, and deleted text shown as strikethrough</p> <p>Further changes proposed in this submission shown as <u>underline</u>, and deleted text shown as strikethrough</p> <p>appropriately managed if not undertaken in conjunction with well-planned transport improvements.</p>
Objective 25	Support in part	KiwiRail supports the objective as notified, subject to further amendments to appropriately recognise and provide for growth plans of network utility operators, such as KiwiRail.	<p>Amend Objective 25 as follows:</p> <p>Objective 25</p> <p><u>Urban</u> subdivision use and development in the western Bay of Plenty is located and staged in a way that integrates with the long term planning and funding mechanisms of local authorities, central government agencies and network utility providers and operators whilst <u>also being responsive having regard</u> to the growth plans of relevant industry sector groups, network utility providers and operators, <u>and other development entities.</u></p>
Policy UG 6A	Support	KiwiRail supports the policy as notified, subject to the proposed amendments to Policy UG 10B outlined below.	Support subject to changes to Policy UG 10B.
Policy UG 7A	Support in part	<p>KiwiRail supports the intent of Policy UG 7A but considers that express recognition is needed for the consideration of reverse sensitivity effects which must be carefully managed when providing for out-of-sequence urban growth.</p> <p>The direction of the RPS in respect of reverse sensitivity largely relates to rural areas but reverse sensitivity effects can equally occur with urban environments, including at the interface between residential land uses and transport corridors.</p> <p>Nothing in Policy 8 or Clause 3.8 of the NPS-UD precludes the inclusion of a criteria seeking to avoid or minimise the potential for reverse sensitivity effects on lawfully established activities.</p>	<p>Amend Policy UG 7A, as follows:</p> <p><u>Policy UG 7A: Providing for unanticipated or out-of-sequence urban growth – urban environments</u></p> <p><u>Private plan changes, submissions on plan changes, or submissions on plan reviews providing for development of urban environments and urban growth that forms part of an urban environment, that is unanticipated or out-of-sequence, will add significantly to development capacity based on the extent to which the proposed development satisfies the following criteria:</u></p> <p>(a) <u>The development is of large enough scale to contribute to meeting demand for additional urban land identified through the HBA for the area, including meeting housing bottom lines or meeting needs for</u></p>

PROVISION	SUPPORT/ OPPOSE	REASONS FOR KIWIRAIL'S SUBMISSION	RELIEF SOUGHT (OR WORDING TO SIMILAR EFFECT) Proposed changes as notified shown as <u>underline</u> , and deleted text shown as strikethrough Further changes proposed in this submission shown as <u>underline</u> , and deleted text shown as strikethrough
		<p>KiwiRail considers express recognition of reverse sensitivity effects is necessary to ensure development near transport corridors can co-exist in an appropriate way. The Resource Management (Enabling Housing Supply) Amendment Act also expressly recognises and provides a nuanced approach to development where qualifying matters apply (including for example the provision of nationally or regionally significant infrastructure).</p>	<p><u>specific housing typologies or price points, or business types. Where there is no HBA, there is evidence that there is a need for additional urban land, and</u></p> <p><u>(b) For Tauranga City and Western Bay of Plenty District urban environments, the development is large scale (5 hectares or more), and sufficient to support multi modal transport options, and</u></p> <p><u>(c) For all other urban environments, the development is at a scale commensurate with the size of the urban environment and includes a structure plan for the land use change that meets the requirements of Method 18, and</u></p> <p><u>(d) The development is located with good accessibility between housing, employment, community and other services and open space, and</u></p> <p><u>(e) The development is likely to be completed earlier than the anticipated urban development and/or land release sequence, and</u></p> <p><u>(f) Required development infrastructure can be provided efficiently, including the delivery, funding and financing of infrastructure without materially reducing the benefits of other existing or planned development infrastructure, or undermining committed development infrastructure investment, and</u></p> <p><u>(g) The development avoids the potential for reverse sensitivity effects on the safe and efficient operation of transport corridors.</u></p> <p>And such consequential amendments as are necessary to the explanation of Policy UG 14B.</p>

PROVISION	SUPPORT/ OPPOSE	REASONS FOR KIWI RAIL'S SUBMISSION	RELIEF SOUGHT (OR WORDING TO SIMILAR EFFECT) Proposed changes as notified shown as <u>underline</u> , and deleted text shown as strikethrough Further changes proposed in this submission shown as <u>underline</u> , and deleted text shown as strikethrough
Policy UG 7Ax	Support in part	KiwiRail broadly supports the intent of Policy UG 7Ax to enable increased density in urban environments, but this needs to be carefully managed to ensure that any effects at the interface of conflicting land uses, including reverse sensitivity effects, are appropriately managed. This is critical to recognise and provide for well-functioning urban environments in accordance with the direction in the NPS-UD.	Amend Policy UG 7Ax as follows: Policy UG 7Ax: Enable increased-density urban development – urban environments Provide for and enable increased-density urban development in urban environments that: (a) Contributes to a well-functioning urban environment, (b) Encourages increased density in areas of identified demand, and (c) Is well served by existing or planned development infrastructure and public transport, and <u>(d) minimising land use conflicts as far as practicable, including avoiding the potential for reverse sensitivity effects.</u> And such consequential amendments as are necessary to the explanation of Policy UG 14B.
Policy UG 10B	Support in part	KiwiRail broadly supports Policy UG 10B but considers that a range of other cost considerations beyond the efficient use of local authority and central government financial resources should appropriately be considered when providing for urban development of land, including costs associated with protecting the safe and efficient operation of transport corridors. For that reason subsection (d) should be removed to avoid an unduly narrow consideration of local and central government financial resources in decision making.	Amend Policy UG 10B as follows: [...] (c) Sustainable provision and funding of existing and future infrastructure, and, (d) Efficient use of local authority and central government financial resources, including prudent local authority debt management.



PROVISION	SUPPORT/ OPPOSE	REASONS FOR KIWI RAIL'S SUBMISSION	RELIEF SOUGHT (OR WORDING TO SIMILAR EFFECT)
Policy UG 13B	Support in part	<p>KiwiRail broadly supports Policy UG 13B as notified, but considers that further amendments are required to ensure consistency with the NPS-UD and the Resource Management (Enabling Housing Supply) Amendment Act 2021.</p> <p>Where urban development is enabled in new areas and at a higher density near lawfully established activities, like transport corridors, there is a need to ensure reverse sensitivity effects do not constrain the safe and efficient operation of transport networks. The Resource Management (Enabling Housing Supply) Amendment Act 2021 recognises a nuanced approach to urban development where a qualifying matter applies. Amendments are also necessary to recognise qualifying matters at the RPS level to ensure the district planning framework appropriately gives effect to the higher order planning documents.</p>	<p>Proposed changes as notified shown as <u>underline</u>, and deleted text shown as strikethrough</p> <p>Further changes proposed in this submission shown as <u>underline</u>, and deleted text shown as strikethrough</p> <p>Amend Policy UG 13B as follows:</p> <p>[...]</p> <p>(d)(f) Existing and future transport corridors <u>are</u> defined and protected <u>to ensure their safe and efficient operation, and</u></p> <p>(e)(g) Integrated transport packages for funding are developed1.</p> <p><u>(h) The interface between land use and transport activities, including potential reverse sensitivity effects on transport corridors, and</u></p> <p><u>(i) Any appropriate reductions in building height and/or density of urban form to provide for qualifying matters.</u></p>
Policy UG 14B	Support in part	<p>KiwiRail supports the intent of Policy UG 14B to provide a framework that manages urban activities outside of urban environments in accordance with sound resource management principles. A further amendment is proposed to expressly recognise and provide for the avoidance of reverse sensitivity effects as one of those principles, as this is a critical resource management issue that must be managed when providing for growth of urban activities near lawfully established transport corridors.</p>	<p>Amend Policy UG 14B as follows:</p> <p>Policy UG 14B: Restricting urban activities outside <u>urban environments</u> the urban limits— western Bay of Plenty sub-region</p> <p>Except as provided for in Policy 7A urban activities shall not be developed outside the urban limits shown on Maps 5 to 15 (Appendix E).</p> <p><u>Restrict</u> the growth of urban <u>activities</u> located outside <u>urban environments unless it can be demonstrated that</u> sound resource management principles <u>are achieved</u>, including:</p> <p>(a) The efficient development and use of the finite land resource, and</p>

PROVISION	SUPPORT/ OPPOSE	REASONS FOR KIWI RAIL'S SUBMISSION	RELIEF SOUGHT (OR WORDING TO SIMILAR EFFECT) Proposed changes as notified shown as <u>underline</u> , and deleted text shown as strikethrough Further changes proposed in this submission shown as <u>underline</u> , and deleted text shown as strikethrough
			(b) Providing for the efficient, planned and co-ordinated use and development of infrastructure, and (c) <u>The avoidance of reverse sensitivity effects.</u> And such consequential amendments as are necessary to the explanation of Policy UG 14B.
Policy UG 20B	Support	KiwiRail supports Policy UG 20B as notified and considers that the amendments outlined by KiwiRail in this submission align with the changes proposed to this policy.	Retain Policy UG 20B as notified.
3.2 – Methods to implement policies	Support	KiwiRail supports the directive methods under 3.2.1 as notified and in particular, that structure plans show proposed infrastructure corridors (vii) and show how efficient infrastructure servicing detailed in Policy UG 6A will be achieved.	Retain directive methods under 3.2.1 as notified.
Appendix A – Definitions	Support in part	KiwiRail seeks the inclusion of a definition for "well-functioning urban environments" which is consistent with the NPS-UD.	Amend Appendix A – Definitions as follows [...] <u>Well-functioning urban environment has the meaning in Policy 1 of the National Policy Statement on Urban Development 2020.</u>