

Long list assessment (Workshop 2)

The Stantec project team developed 9 options for initial assessment as listed in Table 5-1. The areas that were assessed are set out in the table below and shown in Figure 5-1.

- The areas are located along NIMT and outside 'developed' urban PNCC. For the purpose of the MCA, KiwiRail had also developed a potential concept and layout. The concept involved an area of around 120ha with provision for 1,500m long back shunts at each end of the Freight Hub connecting to
- The concept was used to establish an approximate area of land that could be needed. However, in the first phase of identifying areas along the NIMT rail corridor no specific concept layout was able to be applied to a location because a concept layout had not been confirmed at that time.

Therefore areas 1-9 selected were larger than the expected concept footprint. The exception was the existing site at Palmerston North which is approx. 403,000 m² excluding the main line. Some specialists assessed the existing site as it currently stands, while others assessed what the existing site could be with a Table 5-1 Area and Descriptions

Option 1	Description
Option 2	Bunnythorpe 1: West Side
Option 3	Bunnythorpe 2: East Side
Option 4	Bunnythorpe 3: West Side (Airport)
Option 5	Bunnythorpe 4: East Side
Option 6	Longburn 5: North Side
Option 7	Longburn 6: North West Side
Option 8	Longburn 7: West Side (River)
Option 9	Longburn 8: South East Side
The same of the sa	Existing KiwiRail Freight Yard in Tremaine Avenue



Figure 5-1 Long List areas

Pre-workshop specialist assessments 5.1

Specialists and assessment criteria

At the end of Workshop 1 each of the criterion leaders were identified, and specialists were asked to consider and identify what additional information would they need in terms of the assessment of the 'long

In preparation for Workshop 2, the specialists listed in Table 5-2 below carried out desk top constraints and comparative assessments of each of the area options in terms of the criterion they were responsible for.

As KiwiRail had agreed that a separate engagement process would be undertaken with the three iwi a Tangata Whenua Values criterion was not included for assessment.

Table 5-2: Specialists and criteria

Specialist	Griletion
Gonçalo Sintra – support by Simone Hadley	Rail
Jamie Povall - supported by Tom Kerr (stormwater); llze Rautenbach (contaminated land); Andy Mott (Geotech)	Engineering degree of difficulty
Simon Beale	Natural environment
Michael Smith	Noise and vibration
Daniel Parker	Heritage and archaeology
Lisa Rimmer	Visual and landscape
Dale Philip	Property degree of difficulty
Andy Mott - supported by Tom Kerr (flooding)	Resilience
Richard Paling	Economic
Dhimantha Ranatunga	Connectivity
Paula Hunter	Strategic fit
April Peckham	Community cohesion

5.1.2 Information provided to specialists

A summary of the information that was provided to the specialists in advance of the workshop to assist them in assessing the options is contained in Appendix 1.

5.1.3 Approach to assessments and scoring

For the assessment of the long list of area options a scoring system with a numerical scale of 1-5 was adopted. The approach adopted by the specialists to assessing the area options involved both qualitative and quantitative assessments. Each specialist developed their own methodology for determining their scores and this reflected the nature of the criteria they were applying and their area of expertise. Where criteria comprised a number of elements (sub criteria) and the specialist considered that some elements were more important than others they developed a weighting process as part of the assessment. All specialists were required to provide an overall score for each option.

Each long list criteria to be assessed has been categorised under either Benefits, Impact or Difficulty. Table 5-3 below provides guidance on the categorising and scoring of each criterion.

Table 5-3: Approach to scoring of criteria

Score		Criferia	Criteria					
	Benefils	Impact	Difficulty					
	Rail Economic	 Natural environment Noise and vibration Heritage and archaeology Visual and landscape Resilience Connectivity Strategic fit Community cohesion 	Engineering degree of difficulty Property degree of difficulty					
1	High Benefits	Low Impact	Low Difficulty					
2	Medium High	Medium Low	Medium Low					
3	Medium	Medium	Medium					
4	Medium Low	Medium High						
5	Low Benefits	High Impact	Medium High High Difficulty					

Table 5-20: Sensitivity testing rankings

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Ared Option	Morkshop Weighting	PIAA Part 2	OBL: Sacial	GBL. Natural	OBL: Economic	Rall Objective Facus	No Weighting	Difficulty	Benein	іпросі		AVERAGE RANK	
Option 1	4	4	2	3	4	5	3	3	A MATERIAL STATE OF THE STATE O	A 2 2 2 2 2 2		-1/C P 1-1-1	RANK
Option 2	2	2	6		3	2	4	4	3	2		3.3	3
Option 3	6	3	2	5	6	4		5		2		2.8	1
Option 4			5	2	A STATE FOR LINE		6	7	1	5		4.5	6
Option 5	5	5	en man		5	3	5	7	3	è.		3.3	3
Option 6	DESCRIPTION OF THE PARTY OF THE	Seasons.	2	4	2	6		2	6	4	W. Calif	3.7	5
	3	6	1	-6	4.1	1	1	1	5	6		3.1	
Option 7	8	8	7	8	7	8	8	4	8	ale tari		Carrier of the Carrie	2
Option 8	9	9	9	9	9	9	9	9		8		7,4	8
Option 9	7	7	8	7	8	7		Medical St	9	9 245(5)		9.0	9
A roculto for		and the					7	6	7	7		7.1	7

The results from the sensitivity testing set out above indicated that there are two distinct groupings of the

- Area options 1 to 6 with little difference between them with a ranking range from 3.1 to 4.5; and
- Area options 7 to 9 with a ranking range from 7.1 to 9.0.
- The results from the sensitivity testing which rank area options 7, 8 and 9 as the numerical highest (worse) are consistent with the decision by participants in Workshop 2 to fatally flaw these three area

5.6.4 Further refinement of area options

The workshop exercise highlighted the presence of several constraints / sensitive sites that the specialists considered should be avoided, where possible. These included important social and physical infrastructure such as Fielding airfield, water bores, schools, reserves, community hall and cemetery, and other sensitive land and activities such as Maori freehold land, areas of ecological values (remnant forest) and the presence of existing noise sensitive receivers.

While the fatal flaws consideration had eliminated area options 7, 8 and 9, the specialists identified that in relation to area options 5 and 6 there were constraints on the edges of these options such as the remnant forest at the eastern end of area option 5 and SH 56 and the Longburn Community Hall at the southern end of area option 6. Rather than eliminate both these southern options the unconstrained portions of area options 5 and 6 were combined into a revised area option 5.

In relation to the other remaining areas (options 1 to 4) as identified at the workshop, the project team considered that a Freight Hub could potentially fit around the identified constraints as they were generally located in discrete locations either at the corners or edges of the areas.

The workshop participants agreed that there would be benefit in mapping the constraints and then applying the likely master plan layout in the most feasible location from a rail operations perspective while avoiding where possible the constraints. The specialists were asked to provide updated information on the location of constraints following the workshop. The important social and physical infrastructure and remnant forest and a noise buffer associated with the presence of existing noise sensitive receiver constraints were mapped. Figure 5-3 below shows the constraints. The area in blue hatching is the area where constraints related to noise levels received by sensitive residential receivers were identified.

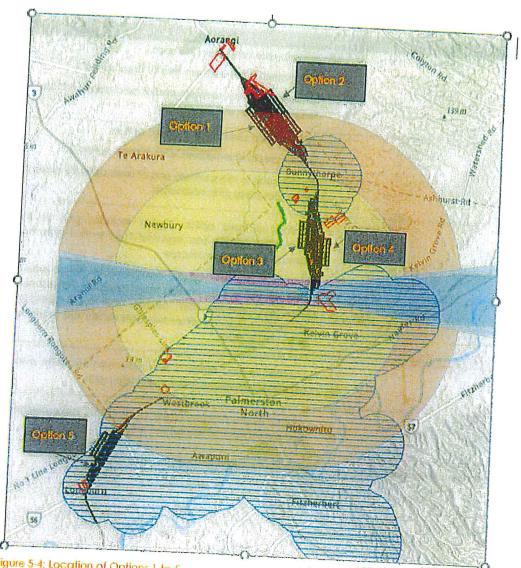


Figure 5-4: Location of Options 1 to 5

Specialist assessment and scoring of refined options

Following the refinement of the area options each of the specialists were asked to assess and score the

The following provides a summary of the assessments and scores of each specialist. The specialist assessments have been recorded in the addendums to their Workshop 2 assessment reports. These addendums have been prepared in conjunction with the preparation of this report to ensure the process that has been followed and the assessments and opinions of the specialists have been recorded. The addendums are contained in a separate document that is a support document to this report.

As described above three layout options were originally developed by the Stantec and KiwiRail project team for option area 3 (options 3a, 3b and 3c). The project team then decided not to take Options 3a and 3b forward for assessment because they did not meet the project objectives and were sub optimal from a rail operational perspective. However, some specialists had already assessed all three of the layout options, which is why some of the specialist assessments in the addendums include options 3a, 3b and 3c while other assessments only relate to layout option 3(c).

THE RESERVE OF THE PROPERTY OF	n and layout descriptions Retined area option and layout description
option Option 1	Two layouts were assessed in this area: 1a - located in the northern end of area option 1 1b - located to the southern end of area option 1 closer to residential areas of Bunnythorpe
Option 2	Two layouts were assessed in this area option: 2a - located in the northern end of area option 2. 2b - located to the southern end of area option 2 closer to residential areas of Bunnythorpe
Option 3	 Located in area option 3 and includes part of the undeveloped North East Industrial Zone to the south and extends north to Bunnythorpe. Three layouts were originally developed for option area 3, however only one layout was taken forward for assessment because it was the most optimal from a rail operation perspective and the other two options did not meet the project objectives.
Option 4	 Located in area option 4 and moved to the north awa from the Palmerston North airport flight path
Option 5	 Combination of options area 5 and 6 that have avoide key constraints in these option areas.

The location of the five options in relation to the mapped constraints is shown below in Figure 5-4.

6.2.3 Site 4

Site 4 is located on the eastern side of Railway Road to the south of Bunnythorpe and is shown in Figure 6-3 below. The Hub extends from south of Parrs Road, across Tutaki Road and across Roberts Line. Railway Road is largely unaffected. The northern back shunt will run through Bunnythorpe past the Kairanga-Bunnythorpe Road /Dixons Line intersection. The southern back shunt will run as far as Settlers Line to the south. The southern end of the site is located under the approach paths to Palmerston North Airport and

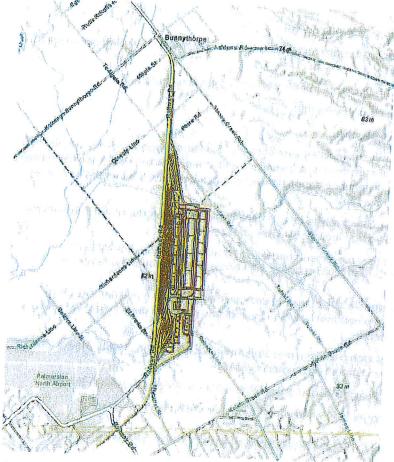


Figure 6-3: Location of Site 4

Description of the master plan 6.3

The master plan layout that was used by the specialists to assess the three short listed options in this phase was based on an area of land of approximately 120ha that is able to accommodate all the elements required for a fully integrated, multimodal Freight Hub operating 7 days per week / 24 hours a day.

The operational requirements provided for include the following specific components and activities:

- 8 arrival and departure tracks and at least 10 marshalling tracks of different lengths to accommodate both unit trains (trains carrying a single commodity) and manifest trains (trains carrying a mix of
- The tracks allow for trains of different lengths up to 1,500m long to be accommodated and improve capacity and efficiency in high peak periods and allow the Hub to operate seven days a week.
- Tracks are included to cater for storage of up to 100 wagons.

Container Terminal in an island configuration to enable simultaneous loading and unloading on separate tracks and the ability to arrive and depart short (900m) unit trains directly. Storage area for 200 – 40-foot containers stacked three high (including refrigeration and temperature-controlled HACCP plug in capability) is also provided. The facility has inland port capability for import/ export containers and allow a truck to container service with the ability for truck traffic to drive directly onto

These facilities have been sized and located to incorporate the following planned changes to KiwiRail's network:

- More efficient and higher horsepower locomotives
- Marshalling a new fleet of wagons capable of higher loads more capacity, with stronger couplers and axles
- Ability for longer trains up to 1,500m to operate on the North Island Main Trunk Line
- Optimising locomotive power requirements (HPT)
- Balancing traffic/power in two directions.

The master plan includes facilities for the maintenance of the current fleet of wagons, diesel, electric and battery powered locomotives and equipment in a common maintenance building and a network services maintenance depot with track maintenance depot, hardware, and machinery. The facilities have been sized to cater for the forecasted changes.

In addition, master plan includes connectivity to an adjacent freight forwarders depot with road service and log loading yard, and liquid storage facilities with direct rail service.

To optimise equipment and personnel movements and safe operations and promote efficiencies in management and operations and team building within the various working groups the master plan

- Vehicular access from the opposite side of the Hub from the mainline and a perimeter roadway provides for: network along three sides of the Hub (not including the mainline side) with security gates at multiple access locations to control access.
- Grouping of services/facilities such as offices, and Staff Amenities (lunchroom, toilets, showers, lockers), staff and visitor parking and equipment and materials storage.
- Security such as fencing, CCTV, lighting, and gates with controlled access to KiwiRail's facilities.
- The specialists applied the master plan when undertaking their site option assessments.

Purpose of the short list assessment workshop (Workshop 3)

The purpose of Workshop 3 was to identify from the short list, a preferred site location to recommend to KiwiRail to be taken forward through the Notice of Requirement (NoR) process.

Workshop 3 took place in Palmerston North on 20 November 2019.

In addition to the specialists listed in Table 5-1 above other workshop participants included key KiwiRail personnel and representatives from the NZ Transport Agency, PNCC, Manawatu District Council, Horizons Regional Council, the Central Economic Development Agency (CEDA), Ngāti Kauwhata and Rangitane O Manawatu.

No ref to

A.1 Description of Freight Hub concept

The Freight Hub concept is sized to accommodate a forecasted 50% increase in tonnage / business from volumes passing through the existing Palmerston North KiwiRail Freight Yard that would be delivered over a 30-year horizon (based on a 10-year development stage and 20 years of operation).

The Freight Hub was expected to be able to be a fully integrated, multimodal facility that will run a 7 day per week / 24 hour a day operation to receive and depart trains. The associated operational requirements needing to be incorporated in the Hub site location, included:

- Marshalling yard, including arrival / departure and back shunt tracks, one at each end of the Freight Yard, to allow shunting to take place clear of the main line as a means of accommodating simultaneous yard assignments to improve capacity and efficiency in high peak periods. These tracks will be based on 1,500m trains.
- Container terminal.

As well as having the number / size to accommodate the forecasted growth, the Freight Hub's yards, tracks, and container terminal needed to be sized and located to incorporate future efficiencies planned across KiwiRail's network.

The Hub also needed to provide for other existing KiwiRail facilities to be relocated from the existing KiwiRail Freight Yard. These are KiwiRail's maintenance facilities for wagons, diesel and electric locomotives and the network services depot. The Freight Hub was also expected to provide for new partnership opportunities with land to accommodate freight forwarders, commodity storage and log handling with direct access to rail.

The layout of the Hub needed to ensure that the environmental impacts could be managed. The location and layout of service roads needed to consider security and safety, provide for future automation and the delivery of a cohesive working environment.

A.2 Other information

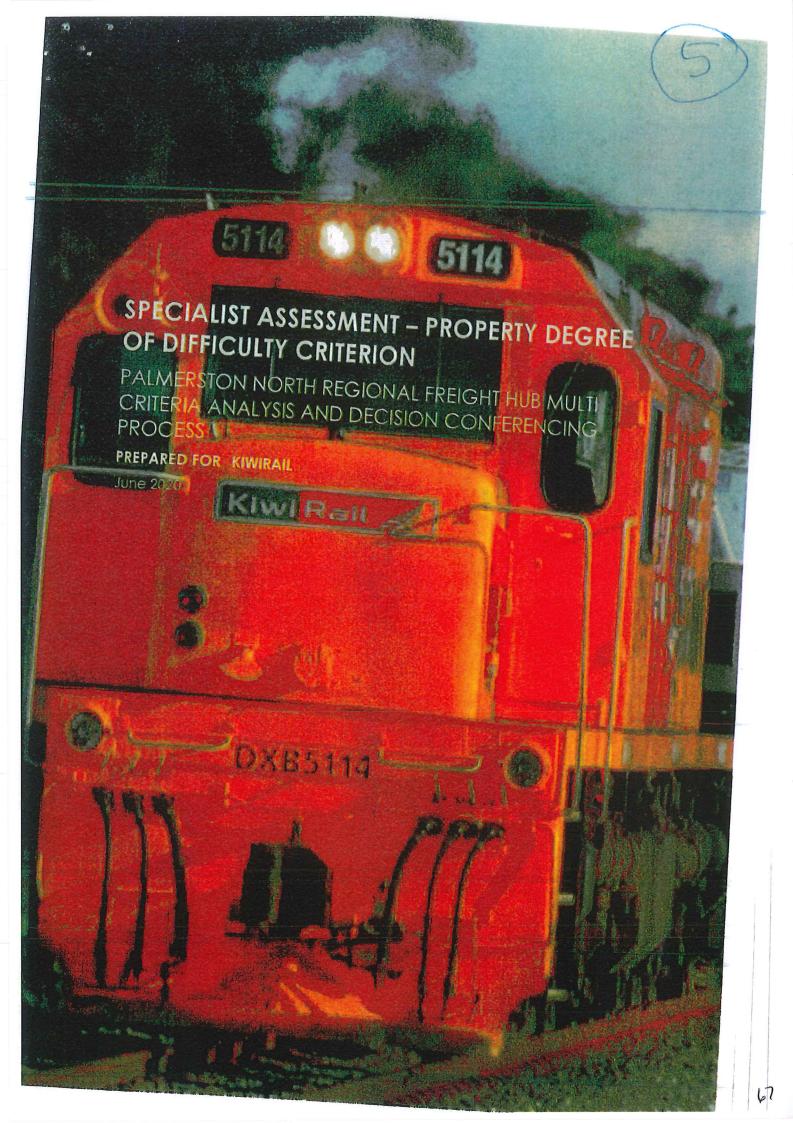
To assist the specialists in the review of the sites, data was uploaded into ArcGIS (provided through Esril¹⁵) which comprised of a variety of spatial and geographical data provided in a series of layers. The layers included the latest aerials, streams and rivers, contours, roads, site boundaries, utility lines, district plan zones and flood information. The information was obtained from a range of sources including, Horizons Regional Council; Palmerston North City Council; Manawatu District Council.

The maps were able to be shown as a "layer" as shown in the image (Figure A-1) below. The area option locations were applied as layers. Each layer was able to be turned on and off and was able to be used by the specialists to assess each area option relative to the layer. Users were able to measure distances on the maps.

Prior to Workshop 2, each of the specialists who did not already have access to the Esri platform was provided with a licence by Stantec to visit the project's spatial data and to utilise it in their assessments.

¹⁵ Esri is an international supplier of geographic information system software, web GIS and geodatabase management applications

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Weight	Justification for Weight		The state of the s
4	The number of different property owners affected by a project increases the difficulty and complexity of a sum of the difficulty and complexity of the difficulty and complexi	AND DESCRIPTIONS	b Criteria
		a)	Number of Property Owners Affected
	time and funding being required, and so this has been given a high weighting.		
4	Maori Freehold Land can complicate and extend negotiations and		
	therefore has been given a high weighting	b)	Identification of Maori Freehold Land
2	The indicative cost of a site has been given a medium weighting. High		
	value land will affect the site selection; however it is possible to secure additional funding or place the proposed Freight Hub on the lower value land within a site. Because the variance of land values within a site are not that significant only a medium weighting is applied.	c) I	Indicative Land Value
1	Special Purpose properties could be relocated or avoided, so has been	1) 6	
1	given a low weighting.	d) S	Special Purpose Land

Table 3: List of Property sub criteria, attributed weight and justification

ASSUMPTIONS

Land Area

The 8 sites were found to have different total land areas that ranged from 492 hectares to 874 hectares. This difference in site size represents a 78% increase from the smallest to the largest site. So that all the sites could be considered on the same basis without the difference in land size influencing the results, an average site size was used (being 643 hectares). The average site size was used when considering the 'Number of Owners per Site' and the 'Total Rating Value per Site'. Each of these sub criteria were simplified down to a per hectare rate for each site and then multiplied by the average site size so that the results could be more accurately compared.

Titles

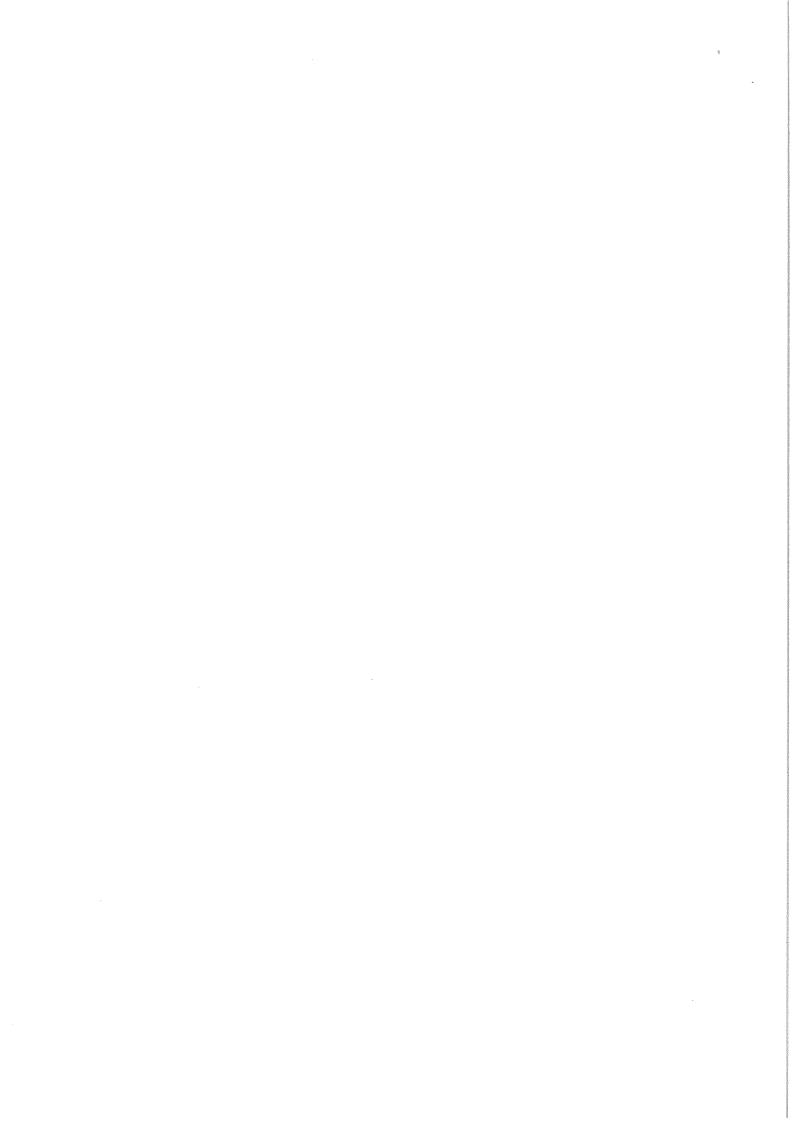
For simplicity, it has been assumed that if only part of a title is within a site, then the whole of that title has been considered as being required. As per the 'Land Area' assumption (above), because the sites are analysed on a per hectare basis and then applied to the average site size, the inclusion of this additional land is not considered to impact the overall assessment.

Cost

This analysis has used the rating values for each of the properties to give an indicative total value of each site. Where the rating value has included other titles outside a site, the rating value has been scaled based on the square metre rate to exclude these additional land areas. The review did not consider which land contained any improvements, and so the improvement value was split over the total land area.

The rating valuation dates for Palmerston North City Council are September 2018 and August 2016 for Manawatu District Council. Quotable Value information shows that in 2017 land values in the Manawatu District (excluding Palmerston North) rose 15.4% and in 2018 rose 11.5%. This gives a total 2-year adjustment of 27%, which has been applied to all of the Manawatu Rating Valuation figures.

The cost assessment also only considers the rating values for each site and excludes any acquisition, relocation or business loss costs which would be payable under the Public Works Act. This cost assessment should only be used to compare each of the sites and should not be used for funding purposes.



(Approval of KiwiRail Holdings

The Resource Management

Limited as Requiring Author-

ity) Notice 2013

Notice Number 2013-go1447 Page Number Issue Number

View PDF

See page 942

Principal Edition, 14 March 2013. PDF (301kb)

Pursuant to section 167 of the Resource Management Act 1991, the Minister 1. Title and commencement-(1) This notice may be cited as the Resource for the Environment gives the following notice.

Management (Approval of KiwiRail Holdings Limited as a Requiring Authority) Notice 2013.

(2) This notice shall come into force on the 7th day after its publication in the New Zealand Gazette.

agement Act 1991, for its network utility operation being the construction, operation, maintenance, replacement, upgrading, improvement and exten-2. Approval as a requiring authority-KiwiRail Holdings Limited is hereby approved as a requiring authority under section 167 of the Resource Mansion of its railway line.

3. Revocation–This notice revokes the Resource Management (Approval of the New Zealand Railways Corporation as Requiring Authority) Notice 2004 (dated

New Zealand Gazette, 23 September 2004, No. 124, page 3070). the 16th day of September 2004 and published in the

HON AMY ADAMS, Minister for the Environment. Dated at Wellington this 4th day of March 2013.

Departmental

The Resource Management (Approval of the

New Zealand Railways Corporation as Requiring Authority) Notice 2004

SEP 2004

Pursuant to section 167 of the Resource Management Act 1991, the Minister

for the Environment hereby gives the following notice.

Notice Number Page Number 2004-go6361 Issue Number

(2) This notice shall come into force on the 7th day after its publication in

View PDF

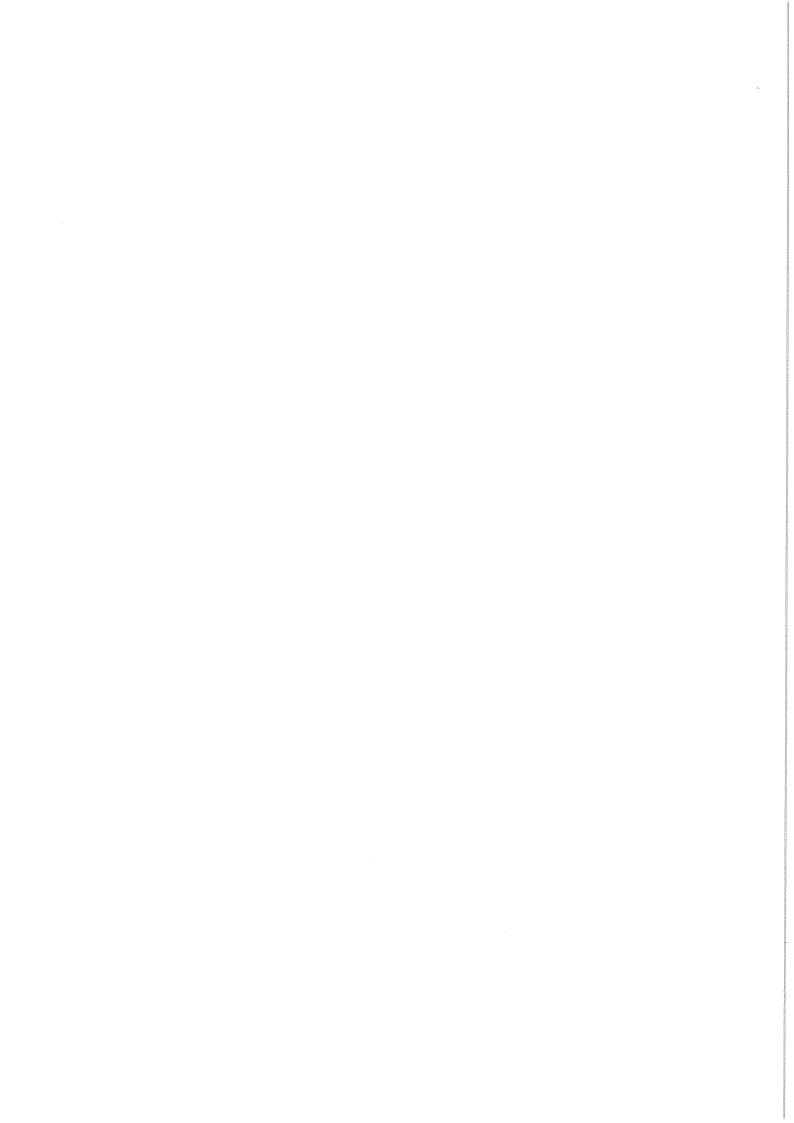
Management (Approval of the New Zealand Railways Corporation as Re-1. Title and commencement-(‡) This notice may be cited as the Resource quiring Authority) Notice 2004.

tion is hereby approved as a requiring authority under section 167 of the Re-2. Approval as a requiring authority-The New Zealand Railways Corporasource Management Act 1991, for its network utility operation being the Dated at Wellington this 16th day of September 2004. construction and operation of its railway line. the New Zealand Gazette.

MARIAN L. HOBBS, Minister for the Environment.

Principal Edition, 23 September 2004. PDF (514kb)

See page 3070





Document 22

RA-MF-01-18

04-B-0341

10 September 2004

Minister for the Environment

REQUIRING AUTHORITY APPLICATION - NEW ZEALAND RAILWAYS CORPORATION

Purpose

This paper briefs you on an application by the New Zealand Railways Corporation (NZRC) under section 167 of the Resource Management Act 1991 (RMA) for requiring authority status for its reliway line.) Ou are required to construction and operation of its railway line. You are required to consider and approve or decline applications seeking requiring authority status.

NZRC has applied for requiring authority status.

We consider NZRC meets the statutory requirements for requiring authority status.

We recommend you approve this application.

If you approve NZRC's application we recommend it take effect 7 days after it is published in the Gazette.

Deadline

NZRC are eager for approval by 17 September 2004 if possible.

MfE
Contact

Eleanor Jamieson, Phone: 917 7402

Seen / Approved	/ Declined / Referred

Date:	,	
Date.	 /	/

Minister's office comments

Purpose

- You are required to consider and approve or decline applications seeking requiring authority status. The New Zealand Railways Corporation (NZRC) has applied for requiring authority status. A copy of the application is attached as Appendix B.
- You must be satisfied that NZRC meets certain statutory requirements in the Resource Management Act 1991 (the "RMA") before you approve its application for requiring authority status. We consider that it does meet the statutory requirements.

Background

Powers of a Requiring Authority

- If approved as a requiring authority, network utility operators are able to make use of a number of powers including:
 - The ability to apply to a territorial authority for a designation. A designation gives
 planning approval and can restrict the landowner's use of the land. The designation
 goes through a public process of submissions, hearings, and possible appeals to the
 Environment Court;
 - The ability to apply to the Minister of Lands to use the compulsory acquisition powers in the Public Works Act 1981; and
 - The ability to undertake works in an emergency.

Management / Operation of the Raif Network

- 4. NZRC was established on 1 April 1982 under the New Zealand Railways Corporation Act 1981. From 1982 until 1990 it conducted the rail, bus and ferry activities that had previously been operated by the New Zealand Railways Department. In October 1990 NZRC's rail and ferry assets were transferred to a new Crown owned company, New Zealand Rail Limited, under the terms of the New Zealand Railways Corporation Restructuring Act 1990 and the New Zealand Rail Limited Vesting Order 1990. New Zealand Railways subsequently sold by the Crown, renamed Tranz Rail and is now Toll NZ. NZRO remained the statutory body responsible for railways and as administrator of the lease of the rail corridor to Tranz Rail.
- 5. On 30 June 2004 the Crown entered into a Sale and Purchase Agreement with Toll Rail, that involves the split of Toll Rail into an operating company ("OpCo") and a rail intestructure business ("TrackCo"), with the Crown acquiring TrackCo. TrackCo is responsible for managing the rail network, including the Auckland rail assets.
 - On 31 August 2004 the Crown transferred the TrackCo assets to NZRC and the Corporation became the Crown-owned owner and manager of New Zealand's rail track infrastructure.
- NZRC is now responsible for the operation, construction, maintenance, improvement, replacement and extension of the existing railway system. NZRC is also responsible for future construction of a new rail route from Southdown to Avondale.
- 8. As owner and manager of New Zealand's rail infrastructure the Government has indicated that new legislation will be promulgated to govern NZRC into the future. NZRC advises that it is expected that the legislation will re-establish it as a crown entity. Its statutory objective will be to operate an efficient and effective rail network in a way that



contributes to an integrated, safe, responsive, and sustainable land transport system. NZRC's functions will include:

- Management and development of the national rail network infrastructure
- b. Controlling operations on the network (eg signalling and train control)
- c. Controlling access to the network and managing interoperability arrangements between rail operators
- d. Maintenance planning and contracting
- Complying with any rail safety legislation necessary for it to undertake its functions.

Requiring Authority Status

9. Following enactment of the Resource Management Act 1991, NZ Rail Limited applied for, and was granted, requiring authority status (Resource Management (Approval of New Zealand Rail as Requiring Authority) Order 1992). In 1996 Tranz Rail applied for, Rail Limited as Requiring authority status (Resource Management (Approval of Tranz Was required as the company sought a change to the description of activities to which its

Analysis - Statutory Requirements

- Applicants for requiring authority status must meet statutory requirements set out in s.167 of the RMA. These are:
 - a. Applicants must be a network utility operator; and
 - You must be satisfied that approving the applicant is appropriate for the purposes
 of carrying on the project, work or network utility operation; and
 - c. You must be satisfied that the applicant is likely to satisfactorily carry out all the responsibilities (including financial responsibilities) of a requiring authority and will give proper regard to the interests of those affected and to the environment.

Network Utility Operator

- 11. The definition of a network utility operator under s.166 of the RMA includes a person who: "(f) Constructs, operates, or proposes to construct or operate, a road or railway definition of a network utility operator.
 - The precise wording of the approval NZRC seeks is for "the construction and operation (including the maintenance, improvement, enhancement, expansion, realignment and alteration) of its railway system (my emphasis)". Two particular issues about this wording require consideration.
- 13. First, NZRC seeks approval for the term "railway system" rather than railway line because the term railway line is defined in the New Zealand Railways Corporation Act 1981 to mean "a set of rails; and includes the area within 3 metres of a line drawn midway between those rails". NZRC advises that significant parts of the railway operation for which they seek requiring authority status are physically outside the area defined as a railway line in that legislation.



- 14. The Ministry is of the view that approval should not be given for a "railway system" but rather for a "railway line" in accordance with s166(f) of the RMA. The Ministry notes that the term "railway line" is not defined in the RMA. "Railway line" is also consistent with the wording of the 1996 Tranz Rail approval as a requiring authority and the Ministry is not aware of any problems about the scope of approval arising since 1996. NZRC has advised that it can accept approval for a "railway line" but will seek to revisit this issue in the future should problems arise.
- 15. Second, it is the Ministry's view that the wording of any approval given to NZRC should reflect precisely the wording of s156(f) of the RMA and thus that the phrase "(including the maintenance, improvement, enhancement, expansion, realignment and alteration)" should not be included. NZRC argues that this wording they seek is identical to the approval given to Tranz Rail in 1996. However, NZRC does agree to the Ministry's proposed wording noting that it considers that the words "construct and operate" are sufficiently broad to cover the maintenance, improvement, enhancement, expansion, realignment and alteration of the railway line.
- 16. Thus, it is recommended that any approval given to NZRC be for its retwork utility operation being the construction and operation of its railway line.

Approving the applicant is appropriate for carrying on the project, work or network utility operation

- 17. You must be satisfied that "the approval of the applicant as a requiring authority is appropriate for the purposes of carrying on the project, work, or network utility operation" (s167(4)(a)). The focus of this test of "appropriateness" is on the suitability of the applicant.
- 18. We consider it is appropriate for NZRC to be a requiring authority for its network utility operation being the construction and operation of its railway line for the following reasons.

Public Benefit

- The rail network is an essential part of New Zealand's transport infrastructure. For example, NZRC advises that:
 - a. approximately 10 million passenger trips per annum occur on rail;
 - b. 15 million tennes of freight are carried over NZRC's rail network. This represents approximately 20% of inter regional freight; and
 - c. rail is the prime mover of bulk commodities in New Zealand.
- 20. The Government has stated that improving New Zealand's transport infrastructure, including the rail network, is a key component of its strategy for improving New Zealand's economic and social infrastructure. The New Zealand Transport Strategy 2002, developed by the Ministry of Transport, has the following vision:

"By 2010 New Zealand will have an affordable, integrated, safe, responsive, and sustainable transport system."

Beneath this Strategy sits the National Rail Strategy which is currently being drafted by the Ministry of Transport. It will set out the Government's rail policy objectives and priorities, and outline key initiatives intended to achieve the outcomes sought.

Scale of activity / network

 We consider requiring authority status is appropriate for a network of this scale. The Corporation will manage around 48 rail corridors covering the length of New Zealand.

There are approximately 4100km of mainline track. The network covers around 65 different local authority areas.

Benefits to NZRC of gaining requiring authority status

- 22. You are not required to be satisfied that requiring authority status is "necessary" for an applicant. However, it may be a relevant supporting factor for an application. NZRC has identified the following potential benefits of it gaining requiring authority status. They relate to the procedural flexibility requiring authority status provides, including the ability to:
 - a. Undertake works enhancing the rail network (such as increasing capacity by double tracking the Auckland corridors and crossing loop extensions to enhance coal operations in the South Island) by relying on designations in district plans rather than by seeking individual consents for different parts of the project as may be required by the relevant district plans.
 - Allow NZRC access to powers for emergency works and powers to take preventive or remedial action without first applying for any equired resource
- 23. To assist your decision, the alternatives to requiring authority status for NZRC may also be relevant. The resource consent process is a key alternative but potentially could be:
 - Time consuming if dealing with a number of territorial authorities, as in NZRC's situation.
 - b. Result in resource consent conditions which are not compatible with the rail network operation.
 - c. Require numerous resource consent applications to allow the ongoing operation of the network, if such works are not provided for as permitted activities in district plans.

The Applicant is likely to satisfactorily carry out all the responsibilities of a requiring authority

- 24. You must be satisfied that the "applicant is likely to carry out all the responsibilities (including financial responsibilities) of a requiring authority" and "will give proper regard to the interests of those affected and to the interest of the environment" (s.167(4)(b)).
- 25. We consider NZRC is likely to carry out all the responsibilities of a requiring authority and will give proper regard to the interests of those affected and to the environment.

Financial responsibilities

26 ou are required to be satisfied that NZRC is likely to fulfil its financial responsibilities as a requiring authority. "Likely" has been interpreted by the High Court as meaning a "distinct or significant possibility". The financial responsibilities of a requiring authority include having sufficient financial resources to purchase land or negotiate easements if

The High Court decision The Trustees of the New Zealand Hibernian Australasian Catholic Benefit Society v Minister for the Environment CP 167/93 (regarding Erskine College) noted that the Minister is only required to be satisfied that an applicant is "likely" to satisfy responsibilities. In that case (which involved the heritage protection authority provisions), "likely" was taken to mean a "distinct or significant possibility". On this basis the then Minister for the Environment was justified in deciding that, although the applicant did not have a firm financial footing at the time, it was likely that adequate funding and contributions would be raised once the project was clearly defined and under way (taking into account such matters as the value of the convent and the classification of the chapel as "A" with the New Zealand Historic Places Trust).

- required, for any continued maintenance, or further development and to defend any legal actions that may be taken against it. We consider it is likely that NZRC will have sufficient funds to exercise its responsibilities as a requiring authority.
- 27. NZRC has provided its half-year financial statements to December 2003 and annual financial statements for the year ended June 2003. However, this information relates to NZRC's previous responsibilities which have not included responsibility for the rail infrastructure business. The financial statements do show that NZRC has undertaken its responsibilities to date in a financially responsible manner.
- 28. NZRC advises that it expects it will fund any capital expenditure it undertakes from one or more of four sources:
 - a. funds appropriated by the Crown (including, but not limited to, the \$20 million that the Crown has already committed to investing in the rail network over the next 4 years);
 - b. access fee for commuter rail in Auckland;
 - c. revenue from commercial rail users (principally Toll Rail), and funding secured against such contracted revenue streams; and
 - d. any cash reserves and financial facilities that it may have available to it.

Environmental and consultation responsibilities

- 29. You are required to be satisfied that NZRC will give proper regard to the interests of those affected and to the environment. The application states that in its role as manager of the Crown's interests in railway land, NZRC complies with its statutory and Treaty obligations in respect of rail land.
- 30. Under section 30 of the New Zealand Raffways Corporation Act 1981, the NZRC has the same powers and duties conferred and imposed on the Minister of Lands under any provision of the Public Works Act 1981, other than the powers with respect to compulsory acquisition. NZRC has agreed to follow the LINZ Standards and Guidelines when exercising these powers to ensure that the interests of any party affected by the acquisition of any land are protected.
- 31. As part of the transfer the Crown has acquired all of the assets, including policies and procedures required to operate the rail network from Toll Rail. NZRC has advised that it will adopt Toll Rail's environmental policies and procedures to ensure that its environmental routies are met.
- 32. NZRC's draft Environmental Policy and Procedures are attached as part of Appendix B. The principles identified in the draft Environmental Policy are:

NZRC believes that it must continually examine all aspects of its operation and take a pro-active stance to ensure that in all its activities, any adverse effect on the environment is minimised.

It is a prime responsibility of all staff and contractors to ensure that NZRC activities are performed with minimal practical harm to the environment.

Staff are responsible for environmental protection measures in the activities they control.

This environmental management philosophy is an integral part of NZRC's business operation and culture, and forms part of its strategic and business planning process."

33. NZRC has advised that it intends to review and modify these policies and procedures, where appropriate, to ensure they are appropriate for a Crown entity.

Commencement Date

- 34. By convention regulations have a delayed commencement of 28 days, although this can be reduced by Cabinet. The convention reflects the principle that the law should be available and capable of being understood before it comes into force.
- 35. A Gazette notice is not a regulation but we have adopted a practice that Gazette notices approving requiring authorities do not come into force for 28 days.
- 36. You have full discretion to shorten or waive the practice of a 28 day stand down period. Your discretion is not constrained by the Resource Management Act 1991. Your decision may, however, be guided by matters that guide decisions to waive the 28 day stand down for regulations. For example where:
 - a. a regulation has little or no effect on the public, or confers only be public;
 - b. the regulations are made in response to an emergency;
 - c. early commencement is necessary to comply with statuton or international obligations;
 - d. early commencement is necessary to avoid unfair commercial advantage being taken, or the defeat of the purpose of the regulations; or
 - e. irregularities need to be validated.
- 37. A number of recent requiring authority approvals have come into effect after 7 days.
- 38. NZRC has advised they require requiring authority status as soon as possible. The transfer of the rail network to NZRC was completed on 31 August 2004. NZRC is currently involved in a number of developments where the consent of the requiring authority is critical. Given that these developments will require substantial oversight by NZRC it is important that NZRC is the requiring authority at the outset to prevent confusion amongst local authorities and the market place.
- 39. The Ministry agrees that a reduction in the practice of a 28 day stand down period to a 7 day stand down period is reasonable and consistent with the treatment of other requiring authorities.

Summary

- 40. We consider that the requirements of section 167 are met. We consider that NZRC is a network utility operator and that it is appropriate for NZRC to be granted requiring authority status. The applicant understands its responsibilities under the RMA and is likely to satisfactorily carry out those responsibilities. This includes consulting with the community, and an awareness of, and desire to address, their concerns. We consider that NZRC has presented sufficient evidence to show that it is likely to have proper regard to the interests of the environment.
- A copy of a Gazette Notice giving approval to the applicant is attached to this Briefing Note.

Recommendations

I recommend that you:

- (a) Approve the New Zealand Railways Corporation as a requiring authority under section 167 of the RMA for its network utility operation being the construction and operation of its railway line.
- (b) Approve the reduction of the stand down period to 7 days (if you agree to the New Zealand Railways Corporation being a requiring authority)
- (c) Sign the attached Gazette notice giving approval to the applicant Appendix A).

Martyn Pinckard Acting General Manager, Working with Local Government

Marilyn Bramley Chief Legal Advisor

APPENDICIES

Copy of notice for the Gazette approving The New Zealand Railways Corporation as a requiring authority.

- A. Copy of NZRC's application to become a requiring authority, including:
 - Further information provided by NZRC
 - New Zealand Railways Corporation Financial Statements Year Ended 30 June 2003
 - New Zealand Railways Corporation Financial Statements Six Months Ended 31 December 2003
 - New Zealand Railways Corporation Rail Corridors (Location of Rail Corridors, Maps of Corridors, Network Design)
 - New Zealand Railways Corporation Environmental Policy and Procedures

APPENDIX A

Notice for Gazette Approving the New

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The Resource Management (The New Zealand Railways Corporation as Requiring Authority) Notice 2004

Pursuant to section 167 of the Resource Management Act 1991, the Minister for the Environment hereby gives the following notice:

Notice

- Title and commencement (1) This notice may be cited as the Resource
 Management (Approval of The New Zealand Railways Corporation a
 Requiring Authority) Notice 2004.
 - (2) This notice shall come into force on the 7th day after its publication in the New Zealand Gazette.
- 2. Approval as a requiring authority The New Zealand Railways Corporation is hereby approved as a requiring authority under section 167 of the Resource Management Act 1991, for its network utility operation being the construction and operation of its railway line.

Dated at Wellington this day of September 2004

Hon Marian L Hobbs

Minister for the Environment

APPENDIX B

NZRC's application to become a requiring

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