

**BEFORE INDEPENDENT COMMISSIONERS  
AT PALMERSTON NORTH**

**UNDER THE** Resource Management Act 1991 ("**Act**")

**AND**

**IN THE MATTER** of an application by KiwiRail Holdings Limited ("**KiwiRail**") under section 168 of the Act for a Notice of Requirement for the Palmerston North Regional Freight Hub

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**JOINT MEMORANDUM OF COUNSEL ON BEHALF OF KIWIRAIL HOLDINGS  
LIMITED AND PALMERSTON NORTH CITY COUNCIL REPORTING OFFICERS**

**7 MAY 2021**

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**Russell  
McLeagh**

A A Arthur-Young / L J Eaton  
P +64 9 367 8000  
F +64 9 367 8163  
PO Box 8  
DX CX10085  
Auckland

**MAY IT PLEASE THE PANEL:****Introduction**

1. KiwiRail has submitted a Notice of Requirement ("**NoR**") for a new designation in the Palmerston North City Council District Plan, to enable the construction and operation of a new intermodal rail and freight hub on land between Palmerston North and Bunnythorpe ("**Freight Hub**").
2. The NoR was lodged on 23 October 2020 and formally received by Palmerston North City Council ("**Council**") on 27 October 2020. KiwiRail requested that the Council publicly notify the NoR. The NoR was publicly notified on 26 February 2021 and submissions closed on 26 March 2021. A total of 96 submissions were received. Two of those submissions were received after the closing date for submissions.
3. The purpose of this joint memorandum is to seek directions from the Panel on the hearing of this matter and a timetable for pre-circulation of expert evidence.

**Pre-circulation of expert evidence**

4. The Panel has the ability to issue directions requiring KiwiRail and submitters who intend to call expert evidence to pre-circulate evidence in advance of the hearing.<sup>1</sup> In order to ensure an efficient and fair hearing process, KiwiRail and the Council consider that it is appropriate for the Panel to issue such directions.
5. Due to the scale and complexity of the Freight Hub, KiwiRail and the Council do not consider that the standard timeframes under the Act are sufficient to enable adequate time for submitters to consider and respond to KiwiRail's evidence or for the Panel to pre-read the evidence in advance of the commencement of the hearing (which we anticipate the Panel will wish to do).
6. KiwiRail also considers that it is appropriate that KiwiRail is afforded the opportunity to prepare rebuttal evidence to respond to any evidence from submitters and for this evidence to also be pre-circulated. The Council is neutral on this.

**Hearing**

7. KiwiRail and the Council conservatively estimate that two weeks is required for the hearing of the NoR. The Council has confirmed that the Panel has

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<sup>1</sup> Resource Management Act 1991, section 41B.

availability to hear the NoR from 9 August 2021 to 20 August 2021, and that a venue has been reserved accordingly.

8. In circumstances where the NoR is notified and the Panel issues directions requiring the pre-circulation of evidence (as requested above), the hearing date must take place within 40 working days after the closing date for submissions on the NoR.<sup>2</sup> A hearing commencing on 9 August 2021 would be 92 working days after submissions on the NoR closed.
9. KiwiRail and the Council respectfully request that the timeframe for commencement of the hearing be extended pursuant to section 37 of the Act, noting (for the avoidance of doubt) that KiwiRail consents to the timeframe exceeding twice the maximum time period under the Act.<sup>3</sup>
10. KiwiRail and the Council consider that such an extension is in the interests of submitters and the wider community and will appropriately allow for an adequate assessment of the effects of the NoR.<sup>4</sup>

#### **Directions**

11. KiwiRail and the Council respectfully request the Panel issues the following directions:
  - (a) the Council to file its Section 42A report by 5pm on **18 June 2021**;
  - (b) KiwiRail to file all evidence with the Council by 5pm on **9 July 2021**;
  - (c) any submitters that wish to call expert witnesses are to file any expert evidence by 5pm on **23 July 2021**, and all other submitters who wish to prepare evidence are strongly encouraged to file any evidence at the same time;
  - (d) KiwiRail to file any rebuttal evidence (if any) by 5pm on **4 August 2021**;
  - (e) legal submissions on behalf of KiwiRail to be filed by 5pm on **6 August 2021**;
  - (f) legal submissions on behalf of the Council to be filed at the hearing; and

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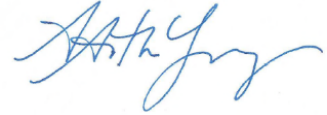
<sup>2</sup> Resource Management Act 1991, section 169(3)(b).

<sup>3</sup> Resource Management Act 1991, section 37A(2)(b).

<sup>4</sup> Resource Management Act 1991, section 37A(1).

- (g) a hearing be set down for two weeks from **9 August to 20 August 2021**.

**DATE:** 7 May 2021



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**A A Arthur Young / L J Eaton  
Counsel for KiwiRail Holdings Limited**



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**N Jessen  
Counsel for Palmerston North City Council**