

5 June 2024

Independent Hearing Panel
Proposed Te Tai o Poutini Plan
PO Box 66
Greymouth 7840

By email to: doug.bray@wcrc.govt.nz

Dear Commissioners,

Proposed Te Tai o Poutini Plan – Topic 17 (Open Space and Recreation Zones)

KiwiRail Holdings Limited (**KiwiRail**) is the State-Owned Enterprise responsible for the management and operation of the national railway network. This includes managing railway infrastructure and land, as well as rail freight and passenger services within New Zealand. KiwiRail is also the Requiring Authority for land designated "Railway Purposes" in District Plans throughout New Zealand.

KiwiRail made a submission on the Proposed Te Tai o Poutini Plan (**TTPP**) on 27 October 2022. KiwiRail's submission sought a 5 metre setback for buildings and structures from the rail corridor boundary in all zones adjacent to the rail corridor and an associated matter of discretion.¹ KiwiRail filed corporate and planning evidence for Topic 1 (Introduction and General Provisions) of the TTPP on 2 October 2023, which addressed the need for safety setbacks from the rail corridor. KiwiRail also provided legal submissions and presented at the hearing for Topic 1 on 30 October 2023.

Although none of KiwiRail's submission points on the TTPP have been specifically allocated to Topic 17, nor is there specific discussion of KiwiRail's relief in the Section 42A Officer's Report,² the relief sought by KiwiRail is relevant to Topic 17 as KiwiRail is seeking a 5 metre setback in *all zones* of the TTPP, save for the Commercial Zone, Natural Open Space Zone and Open Space Zone where KiwiRail has accepted a 4.5 metre setback.

The Section 42A Report does not include a 4.5 metre setback from the rail corridor in the Natural Open Space Zone, Open Space Zone, or Sport and Active Recreation Zone (**Open Space and Recreation Zones**) of the TTPP.³ There are currently only *road* setbacks included in these rules.⁴ In my evidence for Topic 1, I confirmed that KiwiRail would accept a 4.5 metre setback in the Natural Open Space Zone and Open Space Zone to be consistent with road setback provisions already included in the TTPP.⁵

I refer to my earlier evidence and the evidence presented by Ms Heppelthwaite for Topic 1 which sets out the importance of providing an adequate plan-based setback adjacent to the rail corridor across all zones in the West Coast region, including the Open Space and Recreation Zones. A safety setback is critically important to enable landowners to safely access their properties, avoid significant safety risks, and protect the rail corridor from interference.⁶ Fundamentally, KiwiRail seeks setback controls to

¹ Submission 442 of KiwiRail Holdings Limited dated 27 October 2022 at pg 14.

² Te Tai o Poutini Plan – Section 42A Officer's Report Open Space and Recreation Zones dated 21 May 2024.

³ Section 42A Officer's Report at pg 55, 72 and 81.

⁴ Rules NOSZ-R1, OSZ-R1 and SARZ-R1.

⁵ Statement of Evidence of Michelle Grinlinton-Hancock dated 2 October 2023 at [4.17].

⁶ Statement of Evidence of Michelle Grinlinton-Hancock dated 2 October 2023 at [4.2].

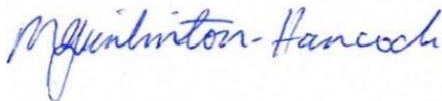
appropriately manage the health and safety of communities and ensure the ongoing operation of KiwiRail's network as nationally and regionally significant infrastructure.⁷

I have set out KiwiRail's proposed amendments to the TTPP provisions included in Topic 17 in **Appendix A** to this letter. In summary, KiwiRail seeks the following:

- a) inclusion of a 4.5 metre setback from the rail designation boundary in the Open Space and Recreation Zones through a minor amendment to the rules⁸ as follows: "4.5m from the road and rail designation boundaries". The rail designation boundary is clearly identified on the planning maps;
- b) an amendment to Rules SARZ-R1 and SARZ-R10 to change the activity status from controlled to restricted discretionary where the setback is not complied with. This is consistent with the corresponding rules in the Natural Open Space Zone and Open Space Zone; and
- c) inclusion of two matters of discretion relating to impacts on the safe and efficient operation of the rail network when there is non-compliance with the setback rules in all zones. This will ensure the Council (and KiwiRail as a potentially affected party) has an opportunity to assess whether or not safety concerns can be adequately managed where the setback is not complied with (ie where a building or structure is located within 4.5 metres of the rail designation boundary).

At this stage, KiwiRail does not wish to be heard at the hearing for Topic 17 and respectfully requests this letter is tabled as a record of KiwiRail's position on the need for safety setbacks from the rail corridor in the Open Space and Recreation Zones provisions of the TTPP. I am available to answer any questions from the Hearing Panel either in writing or via videoconference if required.

Yours faithfully,

A handwritten signature in blue ink that reads "Michelle Grinlinton-Hancock".

Michelle Grinlinton-Hancock

Manager RMA Team

KiwiRail Holdings Limited

⁷ Statement of Evidence of Michelle Grinlinton-Hancock dated 2 October 2023 at [2.2].

⁸ Rules NOSZ-R1, OSZ-R1 and SARZ-R1.



Appendix A: Proposed amendments to the TTPP

The proposed additions are shown in underline and deletions in ~~striketrough~~. Those recommended in the s42A Officer's Report are shown in black and those proposed by KiwiRail are shown in red for clarity.

Natural Open Space Zone

NOSZ-R1	Park Facilities and Park Furniture	
<p>Activity Status Permitted Where:</p> <ol style="list-style-type: none"> 1. The maximum building height above ground level is 5m; 2. Masts, poles, aerials and pou whenua must not exceed 7m in height; 3. The maximum gross floor area is 100m²; 4. Buildings <u>or structures</u> are setback a minimum 4.5m from road <u>and rail designation</u> boundaries; and 5. No building shall project beyond a building envelope defined by a recession plane as outlined in Appendix Two to commence 2.5m above any RESZ - Residential Zone or SETZ - Settlement Zone boundary except where the neighbouring property owner's written approval is provided to the Council at least 10 working days prior to the works commencing. This standard does not apply to: <ol style="list-style-type: none"> i. Road boundaries; ii. Buildings on adjoining sites that have a common wall along the boundary; iii. Boundaries abutting an access lot or right of way in which case the furthest boundary of the access lot or right of way may be used for assessing compliance with this standard; iv. Antennas, aerials, satellite dishes (less than 1m in diameter), chimneys, flues and architectural features (e.g. finials, spires) provided these do not exceed the recession plane by more than 3m vertically; and v. Solar panels and solar water heaters provided these do not exceed the height in relation to boundary plane by more than 0.25m vertically. <p>Advice Note: <u>Where boundary setbacks are infringed, the Deemed Permitted Activity Boundaries process will apply where the neighbouring property owner's written approval is provided to the relevant district council.</u></p>		<p>Activity status where compliance not achieved: Restricted Discretionary</p>
NOSZ-R7	Community Facilities	
<p>Activity Status Restricted Discretionary</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> a. Design, position and location of the building; b. Landscape treatment; 		<p>Activity status where compliance not achieved: N/A</p>

	<p>c. Vehicle access and parking design and location; and</p> <p>d. Management of effects on natural character, landscape, historical <u>values, Poutini Ngāi Tahu</u> and cultural values and biodiversity values-;</p> <p>e. <u>The location and design of the building or structure as it relates to the ability to safely use, access and maintain buildings or structures without requiring access on, above or over the rail corridor; and</u></p> <p>f. <u>The safe and efficient operation of the rail network.</u></p>	
NOSZ-R9	Recreational Activities, Conservation Activities, Educational Facilities and Research Facilities, Poutini Ngāi Tahu Activities, Parks Facilities and Parks Furniture not meeting Permitted Activity Standards	
<p>Activity Status Restricted Discretionary</p> <p>Discretion is restricted to:</p> <p>a. Design, position and location of the building;</p> <p>b. Landscape measures;</p> <p>c. Vehicle access and parking design and location; and</p> <p>d. Management of effects on natural character, landscape, historical <u>values, Poutini Ngāi Tahu</u> and cultural values and biodiversity values-;</p> <p>e. <u>The location and design of the building or structure as it relates to the ability to safely use, access and maintain buildings or structures without requiring access on, above or over the rail corridor; and</u></p> <p>f. <u>The safe and efficient operation of the rail network.</u></p>		<p>Activity status where compliance not achieved: N/A</p>

Open Space Zone

OSZ - R1	Park Facilities and Park Furniture	
<p>Activity Status Permitted</p> <p>Where:</p> <ol style="list-style-type: none"> 1. The maximum building height above ground level is 7m; 2. The maximum gross floor area is 100m² per building; 3. Buildings <u>or structures</u> are setback: <ol style="list-style-type: none"> i. 4.5m from the road <u>and rail designation</u> boundaries; and ii. 3m from any RESZ - Residential Zone or SETZ - Settlement Zone boundary. 4. External storage is screened by a 1.8m fence or landscaping so that it is not visible from any adjoining residential zone boundary; 5. Fences, walls and retaining walls are a maximum 2m height above ground level; 6. No building shall project beyond a building envelope defined by a recession plane as outlined in Appendix Two to commence 2.5m above any RESZ - Residential Zone or SETZ - Settlement Zone boundary except where the neighbouring property owner's written approval is provided to the Council at least 10 working days prior to the works commencing. This standard does not apply to: 		<p>Activity status where compliance not achieved: Controlled Restricted Discretionary</p>

<ul style="list-style-type: none"> i. Road boundaries; ii. Buildings on adjoining sites that have a common wall along the boundary; iii. Boundaries abutting an access lot or right of way in which case the furthest boundary of the access lot or right of way may be used for assessing compliance with this standard; iv. Antennas, aerials, satellite dishes (less than 1m in diameter), chimneys, flues and architectural features (e.g. finials, spires) provided these do not exceed the recession plane by more than 3m vertically; and v. Solar panels and solar water heaters provided these do not exceed the height in relation to boundary plane by more than 0.25m vertically. <p>7. <u>No Parks Facilities or Parks Furniture are established in the Rifle Range Protection Area except that which is reasonably necessary for the operation of the Rifle Range</u></p> <p>Advice Note: <u>Where boundary setbacks are infringed, the Deemed Permitted Activity Boundaries process will apply where the neighbouring property owner's written approval is provided to the relevant district council.</u></p>	
OSZ - R13	Park Facilities and Park Furniture not meeting Rule OSZ - R1
<p>Activity Status Controlled Restricted Discretionary</p> <p>Matters of control are: Discretion is Restricted to:</p> <ul style="list-style-type: none"> a. Design, position and location of any buildings; b. Landscape measures; c. Vehicle access and parking design and location; and d. Management of effects on natural character, landscape, historical values, Poutini Ngāi Tahu and cultural values, ecological and biodiversity values; e. <u>The location and design of the building or structure as it relates to the ability to safely use, access and maintain buildings or structures without requiring access on, above or over the rail corridor; and</u> f. <u>The safe and efficient operation of the rail network.</u> <p>Notification</p> <p>1. <u>When making notification decisions in relation to this rule, the Council will be informed by Radio New Zealand in terms of the safety risks of electromagnetic coupling that could arise with the construction of structures greater than 18m in height within 1000m of the Cape Foulwind radio transmission site.</u></p>	<p>Activity status where compliance not achieved: N/A</p>
OSZ - R14	Recreational Activities, Conservation Activities, Educational facilities and Research Activities, Community Facilities and Clubrooms, Poutini Ngāi Tahu Activities and Camping Grounds and Accessory Buildings not meeting Permitted Activity Standards
<p>Activity Status Restricted Discretionary</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. Design, position and location of any buildings; 	<p>Activity status where compliance not achieved: N/A</p>

<p>b. Landscape measures;</p> <p>c. Hours of Operation;</p> <p>d. Vehicle access and parking design and location;</p> <p>e. Management of wastewater, stormwater and water supply; and</p> <p>f. Management of effects on natural character, landscape, historical values, Poutini Ngāi Tahu and cultural values, ecological and biodiversity values;</p> <p>g. <u>The location and design of the building or structure as it relates to the ability to safely use, access and maintain buildings or structures without requiring access on, above or over the rail corridor; and</u></p> <p>h. <u>The safe and efficient operation of the rail network.</u></p> <p>Notification When making notification decisions in relation to this rule, the Council will be informed by Radio New Zealand in terms of the safety risks of electromagnetic coupling that could arise with the construction of structures greater than 18m in height within 1000m of the Cape Foulwind radio transmission site.</p>	
OSZ-R15	Residential Activities not meeting Permitted Activity Standards
<p>Activity Status Restricted Discretionary Where:</p> <p>1. This is ancillary to a conservation or recreation activity or to provide a caretaker unit for a camping ground.</p> <p>Discretion is restricted to:</p> <p>a. Design, position and location of any buildings;</p> <p>b. Landscape measures;</p> <p>c. Management of effects on conservation or recreation activities;</p> <p>d. Vehicle access and parking design and location;</p> <p>e. Management of wastewater, stormwater and water supply; and</p> <p>f. Management of effects on natural character, landscape, historical values, Poutini Ngāi Tahu and cultural values, ecological and biodiversity values;</p> <p>g. <u>The location and design of the building or structure as it relates to the ability to safely use, access and maintain buildings or structures without requiring access on, above or over the rail corridor; and</u></p> <p>h. <u>The safe and efficient operation of the rail network.</u></p>	<p>Activity status where compliance not achieved: Discretionary Non-complying</p>
OSZ - R16	Retail Activities not meeting Permitted Activity Standards
<p>Activity Status Restricted Discretionary Where:</p> <p>1. This is ancillary to a conservation or recreation activity.</p> <p>Discretion is restricted to:</p> <p>a. Design, position and location of any buildings;</p> <p>b. Landscape measures;</p> <p>c. Hours of operation</p>	<p>Activity status where compliance not achieved: Non-complying</p>

<p>d. Management of effects on conservation or recreation activities;</p> <p>e. Vehicle access and parking design and location; and</p> <p>f. Management of effects on natural character, landscape, historical values, Poutini Ngāi Tahu and cultural values, ecological and biodiversity values;;</p> <p>g. <u>The location and design of the building or structure as it relates to the ability to safely use, access and maintain buildings or structures without requiring access on, above or over the rail corridor; and</u></p> <p>h. <u>The safe and efficient operation of the rail network.</u></p>	
OSZ - R20	Agricultural, Horticultural and Pastoral Activities not meeting Permitted Activity Standards
<p>Activity Status Restricted Discretionary Where:</p> <p>1. This is ancillary to a conservation, recreation, research or education activity.</p> <p>Discretion is restricted to:</p> <p>a. Design, position and location of any buildings;</p> <p>b. Landscape measures;</p> <p>c. Management of effects on conservation or recreation activities;</p> <p>d. Vehicle access and parking design and location; and</p> <p>e. Management of effects on natural character, landscape, historical values, Poutini Ngāi Tahu and cultural, ecological and biodiversity values;;</p> <p>f. <u>The location and design of the building or structure as it relates to the ability to safely use, access and maintain buildings or structures without requiring access on, above or over the rail corridor; and</u></p> <p>g. <u>The safe and efficient operation of the rail network.</u></p>	<p>Activity status where compliance not achieved: Discretionary</p>

Sport and Active Recreation Zone

SARZ - R1	Park Facilities and Park Furniture
<p>Activity Status Permitted Where:</p> <p>1. The maximum building height above ground level is 10m;</p> <p>2. Masts, poles, aerials and pou whenua must not exceed 7m in height;</p> <p>3. The maximum gross floor area is 200 m²;</p> <p>4. Buildings <u>or structures</u> are setback:</p> <p>i. 4.5m from the road <u>and rail designation</u> boundaries; and</p> <p>ii. 3m from any Residential Zone or Settlement Zone boundary.</p> <p>5. External storage is screened by a 1.8m fence or landscaping so that it is not visible from any adjoining residential zone boundary;</p>	<p>Activity status where compliance not achieved: <u>Controlled Restricted Discretionary</u></p>

<p>6. Fences, walls and retaining walls are a maximum 2m height above ground level;</p> <p>7. No building shall project beyond a building envelope defined by a recession plane as outlined in Appendix Two to commence 2.5m above any RESZ - Residential Zone or SETZ - Settlement Zone boundary except where the neighbouring property owner's written approval is provided to the Council at least 10 working days prior to the works commencing. This standard does not apply to:</p> <ol style="list-style-type: none"> i. Road boundaries; ii. Buildings on adjoining sites that have a common wall along the boundary; iii. Boundaries abutting an access lot or right of way in which case the furthest boundary of the access lot or right of way may be used for assessing compliance with this standard; iv. Antennas, aerials, satellite dishes (less than 1m in diameter), chimneys, flues and architectural features (e.g. finials, spires) provided these do not exceed the recession plane by more than 3m vertically; and v. Solar panels and solar water heaters provided these do not exceed the height in relation to boundary plane by more than 0.25m vertically. <p>Advice Note: <u>Where boundary setbacks are infringed, the Deemed Permitted Activity Boundaries process will apply where the neighbouring property owner's written approval is provided to the relevant district council.</u></p>	
SARZ - R10	Park Facilities and Park Furniture not meeting Permitted Activity Standards
<p>Activity Status Controlled Restricted Discretionary</p> <p>Matters of control are Discretion is restricted to:</p> <ol style="list-style-type: none"> a. Design, position and location of any buildings; b. Landscape measures; c. Vehicle access and parking design and location; and d. Management of effects on natural character, landscape, historical values, Poutini Ngāi Tahu and cultural values and biodiversity values;; e. <u>The location and design of the building or structure as it relates to the ability to safely use, access and maintain buildings or structures without requiring access on, above or over the rail corridor; and</u> f. <u>The safe and efficient operation of the rail network.</u> 	<p>Activity status where compliance not achieved: N/A</p>
SARZ - R11	Recreational Activities, Conservation Activities, Community Facilities, Educational Facilities and Research Activities, Clubrooms, Grandstands and Poutini Ngāi Tahu Activities not meeting Permitted Activity rules
<p>Activity Status Restricted Discretionary</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> a. Design, position and location of any buildings; b. Landscape measures; 	<p>Activity status where compliance not achieved: N/A</p>

<ul style="list-style-type: none"> c. Hours of Operation; d. Vehicle access and parking design and location; and g. Management of effects on natural character, landscape, historical values, Poutini Ngāi Tahu and cultural values and biodiversity values; h. <u>The location and design of the building or structure as it relates to the ability to safely use, access and maintain buildings or structures without requiring access on, above or over the rail corridor; and</u> e. <u>The safe and efficient operation of the rail network.</u> 	
SARZ - R12 Residential Activities not meeting Permitted Activity Standards	
<p>Activity Status Restricted Discretionary</p> <p>Where:</p> <ol style="list-style-type: none"> 1. This is ancillary to a conservation or recreation activity or to provide a caretaker unit for a camping ground. <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. Design, position and location of any buildings; b. Landscape measures; c. Hours of Operation; d. Management of effects on conservation or recreation activities; e. Vehicle access and parking design and location; and f. Management of effects on natural character, landscape, historical values, Poutini Ngāi Tahu and cultural values and biodiversity values; g. <u>The location and design of the building or structure as it relates to the ability to safely use, access and maintain buildings or structures without requiring access on, above or over the rail corridor; and</u> h. <u>The safe and efficient operation of the rail network.</u> 	<p>Activity status where compliance not achieved: Non-complying</p>
SARZ - R13 Retail Activities not meeting Permitted Activity Standards	
<p>Activity Status Restricted Discretionary</p> <p>Where:</p> <ol style="list-style-type: none"> 1. This is ancillary to a conservation or recreation activity. <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. Design, position and location of any buildings; b. Landscape measures; c. Hours of Operation; d. Management of effects on conservation or recreation activities; e. Vehicle access and parking design and location; and i. Management of effects on natural character, landscape, historical values, Poutini Ngāi Tahu and cultural values and biodiversity values; j. <u>The location and design of the building or structure as it relates to the ability to safely use, access and maintain buildings or structures without requiring access on, above or over the rail corridor; and</u> f. <u>The safe and efficient operation of the rail network.</u> 	<p>Activity status where compliance not achieved: Non-complying</p>

