

1 July 2024

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

By email to: [doug.bray@wrc.govt.nz](mailto:doug.bray@wrc.govt.nz)

Dear Commissioners,

### **Proposed Te Tai o Poutini Plan – Topic 17 (Rural Zones) and Topic 20 (Settlement Zone)**

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.<sup>1</sup> 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 Topics 17 or 20, nor is there specific discussion of KiwiRail's relief in the Section 42A Officer's Reports,<sup>2</sup> the relief sought by KiwiRail is relevant to Topics 17 and 20 as KiwiRail is seeking a 5 metre setback in *all zones adjacent to the rail corridor*, excluding the Commercial Zone, Natural Open Space Zone and Open Space Zone where a 4.5 metre setback is sought.

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 Rural and Settlement 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.<sup>3</sup> Fundamentally, KiwiRail seeks setback controls to appropriately manage the health and safety of communities and ensure the ongoing operation of KiwiRail's network as nationally and regionally significant infrastructure.<sup>4</sup>

#### **Topic 17 (Rural Zones)**

The Section 42A Report does not explicitly refer to *rail* setbacks in the General Rural Zone or Rural Lifestyle Zone (**Rural Zones**) provisions of the TTPP. However, the permitted activity rules in the Rural

<sup>1</sup> Submission 442 of KiwiRail Holdings Limited dated 27 October 2022 at pg 14.

<sup>2</sup> Te Tai o Poutini Plan – Section 42A Officer's Report Rural Zones dated 17 June 2024. Te Tai o Poutini Plan – Section 42A Officer's Report Settlement Zone dated 17 June 2024.

<sup>3</sup> Statement of Evidence of Michelle Grinlinton-Hancock dated 2 October 2023 at [4.2].

<sup>4</sup> Statement of Evidence of Michelle Grinlinton-Hancock dated 2 October 2023 at [2.2].

Zones currently include standards providing for 10 metre setbacks from road boundaries, 20 metre setbacks from State Highways, and 3 or 5 metre setbacks from internal boundaries. KiwiRail considers that these standards provide a sufficient setback from the rail corridor, except for the 3 metre setback from internal boundaries in the Rural Lifestyle Zone (which is proposed to be amended below).

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) retention of the permitted activity rules in the Rural Zones which provide for varying road and internal boundary setbacks (subject to the amendment to Rule RLZ-R1 outlined in subparagraph (b) below);<sup>5</sup>
- b) inclusion of a 5 metre setback from the rail designation boundary in the Rural Lifestyle Zone through a minor amendment to Rule RLZ-R1 as follows: "Buildings or structures are set back a minimum of 10m from the road boundary, 5m from any rail designation boundary, 20m from the State Highway Boundary and 3m from all internal boundaries". The rail designation boundary is clearly identified on the planning maps;
- c) reference to "structures" (in addition to buildings) in the setback rules for the Rural Zones;<sup>6</sup>
- d) an amendment to Rule GRUZ-R13 to require permitted community halls to comply with the setback rule for the General Rural Zone.<sup>7</sup> This is consistent with the other permitted activity rules in the General Rural Zone;
- e) an amendment to Rule GRUZ-R9 to change the activity status for home businesses from restricted discretionary to discretionary where the setback is not complied with (given there is no corresponding restricted discretionary rule or matters of discretion). This is consistent with the corresponding rule for home businesses in the Rural Lifestyle Zone,<sup>8</sup> and
- f) 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 the Rural Zones. This will ensure the Council (and KiwiRail as a potentially affected party) have 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 5 metres of the rail designation boundary).

## Topic 20 (Settlement Zone)

The Section 42A Report does not include a 5 metre setback from the rail corridor in the Settlement Zone provisions of the TTPP.

I have set out KiwiRail's proposed amendments to the TTPP provisions included in Topic 20 in **Appendix B** to this letter. In summary, KiwiRail seeks the following:

- a) inclusion of a 5 metre setback from the rail designation boundary in the permitted activity standard of the Settlement Zone;<sup>9</sup>
- b) reference to "structures" (in addition to buildings) in Rule SETZ-R2; and

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<sup>5</sup> Rules GRUZ-R1 and RLZ-R1.

<sup>6</sup> Rules GRUZ-R1 and RLZ-R1.

<sup>7</sup> Rule GRUZ-R1.

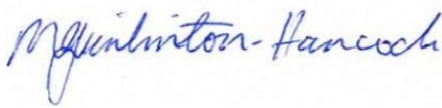
<sup>8</sup> Rule RLZ-R8.

<sup>9</sup> Rule SETZ-R2.

- 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 the Settlement Zone (for the same reasons set out above).

At this stage, KiwiRail does not wish to be heard at the hearing for Topics 17 or 20, 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 Rural and Settlement Zones of the TTPP. I am available to answer any questions from the Hearing Panel either in writing or via video conference if required.

Yours faithfully,

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

Michelle Grinlinton-Hancock

**Manager RMA Team**

**KiwiRail Holdings Limited**



# 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.

## General Rural Zone

GRUZ - R1	Agricultural, Pastoral or Horticultural Activities and Buildings	
<p><b>Activity Status Permitted</b> Where:</p> <ol style="list-style-type: none"> <li>1. Maximum building height above ground level is:               <ol style="list-style-type: none"> <li>i. 10m; except that</li> <li>ii. No building, structure or tree shall protrude into the Airport Approach Path of any airport or aerodrome identified on the planning maps and as described in Appendix Nine;</li> </ol> </li> <li>2. Buildings <u>or structures</u> are setback a minimum of 10m from the road boundary, 20m from the State Highway Boundary, and <del>40m</del> <u>5m</u> from internal boundaries;</li> <li>3. The minimum separation distance between buildings housing more than 10 animals or commercial livestock and a residential/settlement/rural lifestyle zone boundary shall be 30m and from any residential building on another site 50m, and from any other boundary 20m;</li> <li>4. Woodlots are not established within:               <ol style="list-style-type: none"> <li>i. 10m of the boundary of an adjoining property unless that property is within plantation forest; and</li> <li>ii. 40m of a dwelling.</li> </ol> </li> <li>5. Within the Rifle Range Protection Areas only buildings that are reasonably necessary for the operation of the Rifle Range or to carry out Agricultural, Pastoral or Horticultural Activities are established; <del>and</del></li> <li>6. Performance standards for beekeeping in the Westland District apply as follows:               <ol style="list-style-type: none"> <li>i. No bees may be kept on a property less than 600m<sup>2</sup> net site area; and</li> <li>ii. Beehives must be placed with an obstruction in front of them or be elevated to enable bees to be 2.5m above ground level prior to crossing the site boundary.</li> </ol> </li> <li>7. <u>The maximum ground floor area of any single building is 1000m<sup>2</sup> or 500m<sup>2</sup> for any residential building;</u></li> <li>8. <u>Vehicle crossing standards in Rule TRN – R1 are met; and</u></li> <li>9. <u>No building housing sensitive activities shall be located within 150m of a Designated community wastewater treatment facility site boundary.</u></li> </ol> <p>Advice Note:</p>	<p><b>Activity status where compliance not achieved:</b> Discretionary</p>	

<ol style="list-style-type: none"> <li>1. If land is used for disposal of effluent or solid waste then there may be rules in the Regional Air Plan and Regional Land and Water Plan administered by West Coast Regional Council.</li> <li>2. Quarrying activity within the Pounamu and Aotea Overlays is subject to Rule SASM - R7.</li> </ol>	
<b>GRUZ - R9</b>	<b>Home Business</b>
<p><b>Activity Status Permitted</b></p> <p>Where:</p> <ol style="list-style-type: none"> <li>1. This is ancillary to a residential activity;</li> <li>2. All performance standards for Rules GRUZ - R1, NOISE - R1, - R2 and -R5, LIGHT - R1 and -R3 and SIGN - R15 are complied with;</li> <li>3. <u>There are no more than two full-time equivalent persons engaged in the home business that reside off-site;</u></li> <li>4. A maximum of 10 heavy vehicle movements occurs per day, <del>and whichever is the greater of 30 light vehicle movements per day or</del> <u>and 210 light vehicle movements per week;</u> and</li> <li>5. No external generation of dust, odour or smoke occurs as part of the activity.</li> </ol>	<p><b>Activity status where compliance not achieved:</b></p> <p><del>Restricted</del> Discretionary</p>
<b>GRUZ - R13</b>	<b>Community Halls</b>
<p><b>Activity Status Permitted</b></p> <p><b>Where:</b></p> <ol style="list-style-type: none"> <li>1. No restriction on hours is in place for up to 12 days per calendar year;</li> <li>2. No restriction on hours is in place where the hall is in use for Civil Defence Emergency Management purposes;</li> <li>3. For circumstances other than outlined in 2. and 3. above, hours of operation are limited to: <ol style="list-style-type: none"> <li>i. 7am to 10pm Sunday - Thursday;</li> <li>ii. 7am to 12pm midnight Friday and Saturdays</li> </ol> </li> <li>4. <u>Performance standard 2 of GRUZ-R1, relating to building and structure setbacks from roads, State Highways and internal boundaries is complied with.</u></li> </ol>	<p><b>Activity status where compliance not achieved:</b></p> <p>Restricted Discretionary</p>
<b>GRUZ - R23</b>	<b>Papakāinga Developments not meeting Permitted Activity Standards</b>
<p><b>Activity Status Restricted Discretionary</b></p> <p>Where</p> <ol style="list-style-type: none"> <li>1. These are not established within any Rifle Range Protection Area.</li> </ol> <p><b>Discretion is restricted to:</b></p> <ol style="list-style-type: none"> <li>a. Design and location of structures;</li> <li>b. Requirements for wastewater, water supply or stormwater servicing;</li> <li>c. Any requirement for noise insulation where these are located by a State Highway or within an Airport Noise Overlay;</li> </ol>	<p><b>Activity status where compliance not achieved:</b> Non-complying</p>

<p>d. Any requirement for financial contributions; <b>and</b></p> <p>e. Landscape measures; <b>and</b></p> <p>f. <u>Management of access and parking;</u></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>	
<b>GRUZ - R26</b>	<b>Community Facilities, Educational Facilities and Emergency Service Facilities not Meeting Permitted Activity Standards</b>
<p><b>Activity Status Restricted Discretionary</b></p> <p><b>Discretion is restricted to:</b></p> <p>a. Management of access, parking and traffic generation;</p> <p>b. Hours of operation;</p> <p>c. Noise management and lighting;</p> <p>d. Landscape measures;</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><b>Activity status where compliance not achieved: N/A</b></p>

### Rural Lifestyle Zone

<b>RLZ - R1</b>	<b>Agricultural, Pastoral or Horticultural Activities and Buildings</b>
<p><b>Activity Status Permitted</b></p> <p>Where:</p> <ol style="list-style-type: none"> <li>1. The activity does not include: <ol style="list-style-type: none"> <li>i. Intensive indoor primary production;</li> <li>ii. The storage and disposal of solid or liquid animal waste other than that generated on the site;</li> <li>iii. Stock sale yards; or</li> <li>iv. Farm quarries;</li> </ol> </li> <li>2. The maximum gross ground floor area of a single building is 350m<sup>2</sup>;</li> <li>3. The maximum height above ground level is: <ol style="list-style-type: none"> <li>i. 10m for residential buildings <u>and emergency service facilities;</u> and</li> <li>ii. 7m for non-residential buildings; except</li> <li>iii. No building, structure or tree shall protrude into the Airport Approach Path of any airport or aerodrome identified on the planning maps and as described in Appendix Nine;</li> </ol> </li> <li>4. Buildings <u>or structures</u> are set back a minimum of 10m from the road boundary, <u>5m from any rail designation boundary,</u> 20m from the State Highway Boundary and 40m from all internal boundaries;</li> </ol>	<p><b>Activity status where compliance not achieved:</b></p> <p>Discretionary</p>

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| <p>5. Site coverage is a maximum of 30%; and</p> <p><del>6. Performance standards for poultry farming and pig keeping apply as follows:</del></p> <ul style="list-style-type: none"> <li><del>i. For poultry setbacks of 10m from any residential building on another site and 2m from the site boundary;</del></li> <li><del>ii. For pig keeping setbacks of 50m from any residential building on another site and 100m for any shelter holding 4 or more pigs;</del></li> </ul> <p><u>Shelters and buildings used to house or feed poultry or pigs must be setback at least 30m from any boundary;</u></p> <p>7. Performance standards for beekeeping in the Westland District apply as follows:</p> <ul style="list-style-type: none"> <li>i. No bees may be kept on a property less than 600m<sup>2</sup> net site area; and</li> <li>ii. Beehives must be placed with an obstruction in front of them or be elevated to ensure all bees are able to be 2.5m above ground level prior to crossing the site boundary; and</li> </ul> <p>8. <u>Vehicle crossing standards in Rule TRN-R1 are met.</u></p> |  |
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**Advice Note:**

If land is used for disposal of effluent or solid waste then there may be rules in the Regional Air Plan and Regional Land and Water Plan administered by West Coast Regional Council.

# Appendix B: 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.

## Settlement Zone

SETZ - R2	Buildings and Sites - Design	
<p><b>Activity Status Permitted</b> Where:</p> <ol style="list-style-type: none"> <li>1. The maximum height above ground level for buildings is:               <ol style="list-style-type: none"> <li>i. 10m for residential buildings and Emergency Service Facilities and 7m for accessory buildings; except</li> <li>ii. No building, structure or tree shall protrude into the Airport Approach Path of any airport or aerodrome identified on the planning maps and as described in Appendix Nine;</li> <li>iii. 7m for buildings in the SETZ - PREC3 - Coastal Settlement Precinct; and</li> <li>iv. 12m for buildings in the SETZ - PREC2 - Settlement Centre Precinct <u>in the Grey and Westland Districts and 10m in the Buller District;</u></li> </ol> </li> <li>2. The maximum site coverage is:               <ol style="list-style-type: none"> <li>i. 40%; except</li> <li>ii. Maximum site coverage is 60% in the SETZ - PREC2 - Settlement Centre Precinct</li> </ol> </li> <li>3. The maximum gross ground floor area of any one building               <ol style="list-style-type: none"> <li>i. Is 350m<sup>2</sup>; except</li> <li>ii. In the SETZ - PREC3 - Coastal Settlement Precinct the gross ground floor area is a maximum of 200m<sup>2</sup> total for all buildings on the site.</li> </ol> </li> <li>4. Buildings <u>or structures</u> are setback from boundaries as follows:               <ol style="list-style-type: none"> <li>i. 5m from the road <u>or rail designation boundary</u> and any GRUZ - General Rural or INZ Industrial Zone boundary and 1m from internal boundaries; except</li> <li>ii. In the SETZ - PREC4 - Rural Residential Precinct all buildings are setback 10m from road boundaries, residential buildings <u>and accessory buildings</u> are setback 10m from the internal boundaries and non-residential buildings are setback 5m from internal boundaries;</li> <li>iii. In the SETZ - PREC2 - Settlement Centre Precinct no setback from the road boundary is required where there is a verandah provided over an adjacent footpath; <u>and</u></li> <li>iv. <u>No building housing sensitive activates shall be located within 150m of a Designated community wastewater treatment facility site boundary.</u></li> </ol> </li> <li>5. In the Kumara Junction Developments area:</li> </ol>	<p><b>Activity status where compliance not achieved:</b></p> <p>Discretionary where standards 1-4 are not complied with.</p> <p>Restricted Discretionary where standards <del>5-6</del>7 are not complied with.</p>	



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| <ul style="list-style-type: none"> <li>i. A minimum 5m wide buffer strip of indigenous vegetation is to be retained on all boundaries. Native species will be retained or planted to ensure that, at maturity, buildings will be screened from the road and neighbouring allotments;</li> <li>ii. A maximum of 2000m<sup>2</sup> indigenous vegetation in total is allowed to be cleared from each site; and</li> <li>iii. Development will be in accordance with the Outline Plan set out in the Development Areas section of the Plan;</li> </ul> <p>6. No building shall project beyond a building envelope defined by a recession plane as defined in Appendix Two to commence 2.5m above any site boundary <del>except where neighbouring property owner's written approval is provided to the Council at least 10 working days prior to the works commencing</del>. This standard does not apply to:</p> <ul style="list-style-type: none"> <li>i. Road boundaries;</li> <li>ii. Buildings on adjoining sites that have a common wall along the boundary;</li> <li>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;</li> <li>iv. Boundaries adjoining any site in a CMUZ - Commercial and Mixed Use, INZ - Industrial or GRUZ General Rural Zone;</li> <li>v. 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; or</li> <li>vi. Solar panels and solar water heaters provided these do not exceed the height in relation to boundary plane by more than 0.25m vertically</li> </ul> <p>7. <u>Vehicle crossing standards in Rule TRN-R1 are met.</u></p> |  |
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**Advice Notes:**

- 1. In relation to indigenous vegetation clearance in Kumara Junction developments and Standard 5. it should be noted that indigenous vegetation clearance provisions in the Ecosystems and Biodiversity Chapter also apply;
- 2. Where a residential building or noise sensitive activity is located within:
  - i. 80m of a State Highway with a speed limit of 70kph or greater; or
  - ii. 40m of a State Highway with a speed limit of less than 70kph; or
  - iii. 40m of a Railway Line; or
  - iv. The 50 dBA Noise Contour boundary of Franz Josef Heliport; or
  - v. The 55 dBA Noise Contour boundary of the Westport or Hokitika Airports or Greymouth or Karamea Aerodrome.
 Then the acoustic insulation requirements set out in Rule NOISE - R3 will apply.
- 3. Where boundary setbacks are infringed, the Deemed Permitted Activity Boundaries process will apply where the

<u>neighbouring property owner's written approval is provided to the relevant district council.</u>	
<b>SETZ - R212</b>	<b>SETZ - R21 Community Facilities, Educational Facilities, Emergency Service Facilities and Retirement Homes not meeting Permitted Activity Standards</b>
<p><b>Activity Status Restricted Discretionary</b></p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> <li>a. Design and location of buildings;</li> <li>b. Size and height of buildings;</li> <li>c. Vehicle movements and access;</li> <li>d. Design and location of parking and access;</li> <li>e. Landscape measures;</li> <li>f. Any requirement for financial contributions;</li> <li>g. Methods of water supply, wastewater and stormwater treatment and disposal;</li> <li>h. Hours of operation; <b>and</b></li> <li>i. Acoustic and noise management requirements;</li> <li>j. <u>Loss of privacy to adjoining sites; <b>and</b></u></li> <li>k. <u>Character and amenity of the surrounding area;</u></li> <li>l. <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></li> <li>m. <u>The safe and efficient operation of the rail network.</u></li> </ul> <p>Notification:</p> <p>Applications for community facilities will always be limited notified to adjacent neighbours and may be publicly notified.</p>	<p><b>Activity status where compliance not achieved: N/A</b></p>