IN THE MATTER OF	Proposed Te Tai o Poutini Plan (pTTPP)
AND	
IN THE MATTER OF	A hearing into the above pursuant to the Resource Management Act 1991
DATE OF HEARING	5 September 2024

RESPONSE TO MINUTE 59 – NOISE HEARING RELATED TO FURTHER SUBMISSIONS ON SUBMISSIONS TO THE PROPOSED TE TAI O POUTINI PLAN

TOPIC:

NOISE – R3

Martin & Lisa Kennedy

Minute 59 – Noise Hearing

1.0 The hearing panel through Minute 59 has provided an opportunity to submitters who made submission points on the relevant provisions covered in the s42A Addendum Report #2 to respond.

1.1 We made further submissions FS221.001 and FS221.004 which in essence related to proposed rule R3. We thank the panel for the opportunity to comment further.

Response

2.0 Our further submissions were essentially in relation to the proposed setbacks from the State Highway and Rail line, and justification for proposed rules and overlays.

State Highway

2.1 As we understood it the proposed noise setback from the State Highway did not originally encroach on to our property, however we note that this is to be amended to refer to a "*Road Noise Overlay shown on the planning maps*". There is no plan available on the TTPP web site for the hearing showing the extent of this overlay, nor is there a plan in either of the s42A Addendum reports. We are not in a position to comment further in that regard as there is no way of knowing whether we have now become impacted by the overlay. We would be opposed if such were the case.

Railway Line

2.2 The focus of further submission FS221.004 was related to outcomes sought by Kiwi Rail to increase the distance from lines over which proposed Rule R3 would apply. We opposed such increase in distance on the basis that it was not justified for a range of reasons, particularly the level of rail traffic on the Hokitika line.

2.3 We were pleased to see the Kiwi Rail evidence to the hearing was that, given the low volume of rail traffic, a rule is not required for the Hokitika line. We agree with that as it aligns with our observations and experience. As far as we can tell this is also accepted in the s42A Addendum #2 and the accompanying appendices. If that is the case we agree that a rule is not appropriate in this regard and would remove an unjustified regulatory impact.

2.4 Whilst accepting that a rule is not required we understand the potential for an alert overlay remains a live issue and the s42A Officer has reserved a position in that regard. We cannot therefore comment on the proposals of that Officer. We would be

concerned with the imposition of such a layer given it is universally agreed that regulation through R3 is not required. We note that the potential alert overlay plans on the TTPP website are general and could be misinterpreted, and essentially do no more than alerting a landowner to the fact that the line exists. We are further concerned that such an overlay may become an issue should any land-use or subdivision consent be required within the alert overlay area, and may have an unintended impact simply through being a layer in the plan. At the least we would expect there to be clear advice notes with regard to any overlay stating that it was for information purposes only, was not a matter for consideration through any resource consent process, and none of the objectives, policies, rules or other provisions in the plan applied to it. Ultimately if the intent is to inform landowners that the line exists we think there are better methods than such an overlay, and are of the view that an alert overlay should not be applied.

2.5 For completeness, while reiterating our view from above that an alert overlay should not be imposed, the remaining issue is in relation to where any area is measured from. We made comments to the draft plan directly on this issue and the intent was clearly from the edge of the tracks. We think that should remain the point of measurement.

F2.6 Finally we note the discussion regarding scope for the 100m setback. Having read the commentary in this regard we think the issue has been misinterpreted. We made comment in our submission, and at the hearing, regarding the fact that the outcomes sought in the submission of Kiwi Rail were summarised as a general submission to the noise rules and not in specific relation to proposed R3. In our view this created a situation where potentially impacted parties could miss the outcome sought if their interest was in R3 and they reviewed submissions summarised as being related to it. We further noted at the hearing that our further submission, and the Kiwi Rail submission to which it related, was inadvertently located within the summary of submissions for proposed R2 in the s42A Report. There was strong interest in proposed R3 and many parties, including those potentially impacted by an increased setback from 40m to 100m may not have known that such was being sought. We did advise at the hearing that we were fortunate as we knew to look elsewhere but not all potentially impacted parties would have had the knowledge or experience to understand that. We do remain of the view that there are fairness and natural justice issues in this regard.