

24 October 2024

Independent Hearings Panel
Timaru Proposed District Plan
Timaru District Council
PO Box 522
Timaru 7940

By email to: pdp@timdc.govt.nz

Dear Commissioners,

Timaru Proposed District Plan – Hearing D (Open Space Zones, Hazards & Risks (excluding Natural Hazards) and Natural Environment)

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 Timaru Proposed District Plan (**Proposed Plan**) on 15 December 2022.

Open Space Zones

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 associated matters of discretion.¹ KiwiRail filed corporate and planning evidence for Hearing B1 (Rural Zones) and Hearing B2 (Urban Zones) of the Proposed Plan on 5 July 2024, which addressed the need for safety setbacks from the rail corridor. KiwiRail also provided legal submissions on 12 July 2024 and presented at the hearing for Hearing B1 and Hearing B2 on 24 July 2024.

Although the Council Officer (Mr Boyes) does not specifically discuss KiwiRail's relief in the Section 42A Report, nor recommend a specific setback from the rail corridor boundary, the relief sought by KiwiRail is relevant to Hearing D as KiwiRail is seeking a 5 metre setback in *all zones adjacent to the rail corridor*, including the Natural Open Space Zone (**NOSZ**), Open Space Zone (**OSZ**) and Sport and Active Recreation Zone (**SARZ**). However, Mr Boyes does recommend amendments to the Proposed Plan in Appendix 1 to the Section 42A Report. As a result of these amendments, buildings and structures will be required to be set back either 5 or 10 metres from a boundary (including the rail corridor boundary) in all circumstances *except* where they are located in the OSZ adjoining a boundary that is not a road boundary or a boundary adjoining any Residential or Rural Zones.

KiwiRail considers it is also appropriate to include a setback for buildings and structures in that circumstance, and therefore seeks the following amendment to Standard OSZ-S4 in the Proposed Plan (amendment shown in ~~strike through~~ and underline):

Building or structure must not be located within:

1. 5m of a road boundary.
2. 5m from all other site boundaries that adjoin any Residential Zones.

¹ Submission by KiwiRail Holdings Limited dated 15 December 2022 at page 15.



3. 10m from all other site boundaries that adjoin any Rural Zones.
4. ~~4.5m~~ 5m from all other site boundaries.

I refer to my earlier evidence and the evidence presented by Mr Gifford for Hearing B1 and Hearing B2 which sets out the importance of providing an adequate plan-based setback adjacent to the rail corridor across all zones in the Timaru District, including in the NOSZ, OSZ and SARZ which are the subject of this hearing stream. A safety setback enables landowners to safely access their properties, avoid significant safety risks, and protect the rail corridor from interference.² 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.³

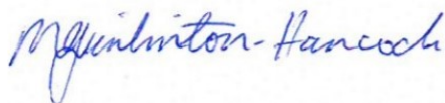
Natural Environment

KiwiRail generally supports the purposes of the following chapters: Ecosystems and Indigenous Biodiversity (**ECO**) to maintain indigenous biodiversity;⁴ Natural Character (**NATC**) to recognise and provide for the preservation of the natural character of the coastal environment, wetlands, and lakes and rivers and their margins;⁵ and Natural Features and Landscapes (**NFL**) to protect outstanding natural features and landscapes from inappropriate subdivision, use and development.⁶ However, it is critical that the Proposed Plan adequately recognises and provides for the rail network as regionally and nationally significant infrastructure. Through the Proposed Plan, KiwiRail seeks to protect its ability to operate, maintain and upgrade the rail infrastructure in the district.

The Council Officer (Ms White) makes recommendations on seven of KiwiRail's submission points in relation to the ECO and NATC chapters that were not wholly accepted. I have provided responses to Ms White's recommendations in the table included at **Appendix A** to this letter.

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

Yours faithfully,



Michelle Grinlinton-Hancock

Manager RMA Team

KiwiRail Holdings Limited

² Evidence of Michelle Grinlinton-Hancock dated 5 July 2024 at [4.17].

³ Evidence of Michelle Grinlinton-Hancock dated 5 July 2024 at [2.2].

⁴ Appendix 1 – Recommended Changes to ECO; NATC; NFL Chapters at page 1.

⁵ Appendix 1 – Recommended Changes to ECO; NATC; NFL Chapters at page 16.

⁶ Appendix 1 – Recommended Changes to ECO; NATC; NFL Chapters at page 25.

Appendix A – KiwiRail's position on the Council Officer's recommendations for the ECO and NATC chapters of the Proposed Plan

Submission number	Provision	Recommendation	Comments on Council Officer's recommendation
187.54	ECO-P2	Accepted	KiwiRail sought to amend ECO-P2 as follows: "[...] for the operation, maintenance and repair of the National Grid, <u>rail network</u> and public roads." Ms White agrees KiwiRail's relief is consistent with the intent of ECO-P2 to enable vegetation clearance within Significant Natural Areas (SNAs) where they extend into the rail corridor because clearance in these instances is necessary for health and wellbeing reasons (being the ongoing safe, efficient and effective operation of existing infrastructure which is important to the Timaru District's wellbeing). ⁷ KiwiRail supports Ms White's recommendation.
187.55	ECO-P5	Accepted in part	KiwiRail sought to retain ECO-P5 as notified. Ms White has recommended an amendment to reference ECO-P2 within this policy as follows: " <u>Except as provided for in ECO-P2, Avoid</u> the clearance of indigenous vegetation and earthworks within SNAs, unless these activities: [...]". ⁸ This is on the basis that vegetation clearance within SNAs is either subject to ECO-P2 or ECO-P5 but not both. ⁹ KiwiRail accepts Ms White's recommendation, provided that ECO-P5.2 is retained in the Proposed Plan (which permits vegetation clearance within SNAs when it is for regionally significant infrastructure).
187.56	ECO-R1.1	Accepted	KiwiRail sought to include a new clause in ECO-R1.1 to permit vegetation clearance where " <u>the vegetation clearance is carried out to maintain the safe and efficient operation of the rail network.</u> " Ms White agrees that clearance activities associated with the rail network should be enabled through the Proposed Plan rule framework on a similar basis as the road network and be limited to 5m ² within a single SNA. ¹⁰ KiwiRail supports Ms White's recommendation.

⁷ Section 42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Natural Features and Landscapes authored by Liz White dated 9 October 2024 at [7.7.11].

⁸ Section 42A Report at [7.8.21].

⁹ Section 42A Report at [7.8.12].

¹⁰ Section 42A Report at [7.13.23].



187.57	ECO-R5	Accepted in part	<p>KiwiRail sought to retain ECO-R5 as notified. Ms White has corrected an error in the drafting of this rule by stating that non-compliance with the restricted discretionary rule is a discretionary activity (previously stated as being restricted discretionary).¹¹ KiwiRail accepts this position.</p>
187.58	NATC-P5.5	Accepted in part	<p>KiwiRail sought to amend NATC-P5.5 as follows: "[...] earthworks that are for the purpose of maintenance and repair of existing fences, tracks, <u>the rail network</u>, roads or for limited new fencing and tracks." Ms White considers it is reasonable to provide for the ongoing maintenance and repair of assets which are already located in the identified riparian areas as anticipated activities in riparian margins.¹² However, Ms White has included reference to "railways" rather than "the rail network" in her recommended amended wording for NATC-P5.5.¹³ KiwiRail seeks the use of the term "railways" in NATC-P5.5 be changed to "rail network". The term "rail network" is more appropriate as it captures all the interlinking and ancillary activities (including sidings, storage racks, tracks, loading and maintenance yards, and mechanical facilities which help to service the network) that are necessary to ensure the safe and efficient operation of the rail network.</p>
187.59	NATC-R1	Accepted in part	<p>KiwiRail sought to include a new clause in NATC-R3 to permit earthworks where they are <u>"required for the operation, maintenance or repair of the rail network."</u> Ms White has not included a new clause in NATC-R1, but recommends a consequential amendment to NATC-R3.1 as follows: "the earthworks are required for the maintenance and repair of existing fences, tracks, roads, <u>railways, stock water systems, irrigation systems</u> or natural hazard mitigation works."¹⁴ Ms White considers the potential adverse effects arising from operation, maintenance and repair activities are unlikely to affect the values of the identified riparian margins given</p>

¹¹ Section 42A Report at [7.16.10].

¹² Section 42A Report at [8.6.14].

¹³ Section 42A Report at [8.6.21].

¹⁴ Section 42A Report at [8.11.26].



			the infrastructure already exists in the environment, and this amendment would also be consistent with the recommended amended wording for NATC-P5.5. ¹⁵ For the same reasons set out above, KiwiRail seeks the use of the term "railways" in NATC-R1 be changed to "rail network".
187.60	NATC-R3	Accepted in part	KiwiRail sought to include a new clause in NATC-R1 to permit vegetation clearance where it is " <u>for the operation, maintenance or repair of the rail network.</u> " Ms White the Council Officer has not included a new clause, but recommends a consequential amendment to NATC-R1.2 as follows: "The clearance is within 2m, and for the purpose, of maintenance, repair or replacement of existing lawfully established fences, vehicle tracks, roads, <u>the rail network, stock water or irrigation systems, [...]</u> ". ¹⁶ KiwiRail supports Ms White's recommendation, in particular the use of the term "rail network" in NATC-R3.

¹⁵ Section 42A Report at [8.9.12].

¹⁶ Section 42A Report at [8.11.21].

