

2 September 2024

Independent Hearing Panel
Waimakariri Proposed District Plan
PO Box 1005
Rangiora 7440

By email to: audrey.benbrook@wmk.govt.nz

Dear Commissioners,

Waimakariri Proposed District Plan – Hearing Stream 7A (Residential (not rezoning), Large Lot Residential (not rezoning), and Ecosystems and Indigenous Biodiversity)

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 Waimakariri Proposed District Plan (**Proposed Plan**) on 26 November 2021.

Residential and Large Lot Residential (not rezoning)

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 Hearing Stream 6 (Rural and Open Space Zones) of the Proposed Plan on 25 September 2023, which addressed the need for safety setbacks from the rail corridor. KiwiRail also provided legal submissions for Hearing Stream 6 on 2 October 2023.

I refer to my earlier evidence and the evidence presented by Ms Heppelthwaite for Hearing Stream 6 which sets out the importance of providing an adequate plan-based setback adjacent to the rail corridor across all zones in the Waimakariri District, including in the Medium Density Residential Zone (**MDRZ**), General Residential Zone (**GRZ**), Large Lot Residential Zone (**LLRZ**) and Settlement Zone (**SETZ**) 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

The Council Officer reporting for the MDRZ (Mr Wilson) recommends amending the existing setback⁴ from 4 metres to 5 metres, as sought by KiwiRail.⁵ KiwiRail strongly supports Mr Wilson's recommendation. The Council Officer reporting for the Residential Zones (Mr Maclennan) recommends

¹ Submission points 373.80 – 373.83.

² Statement of Evidence of Michelle Grinlinton-Hancock dated 25 September 2023 at [4.15].

³ Statement of Evidence of Michelle Grinlinton-Hancock dated 25 September 2023 at [4.12].

⁴ MRS-BFS5.

⁵ Section 42A Officer's Report: Medium Density Residential Submissions dated 19 August 2024 at [191].



retaining the existing 4 metre setback⁶ in the GRZ, LLRZ and SETZ.⁷ Although KiwiRail generally seeks a 5 metre setback, KiwiRail is willing to accept a 4 metre setback for these zones consistent with the setback distance it has accepted in previous hearing streams of the Proposed Plan.⁸ KiwiRail therefore supports Mr MacLennan's recommendation.

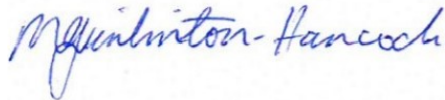
Ecosystems and Indigenous Biodiversity

KiwiRail generally supports the purpose of the Ecosystems and Biodiversity chapter of the Proposed Plan to protect areas of significant indigenous vegetation and significant habitat of indigenous fauna, and maintain indigenous biodiversity.⁹ 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 Milosavljevic) makes recommendations on four of KiwiRail's submission points that were not wholly accepted or were rejected. I have provided responses to Ms Milosavljevic'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 Stream 7A, and respectfully requests this letter is tabled as a record of KiwiRail's position. 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

⁶ GRZ-BFS5, SETZ-BFS5 and LLRZ-BFS6.

⁷ Section 42A Officer's Report: Whaitua Nohonoho – Residential and Large Lot Residential Zones dated 16 August 2024 at [58].

⁸ KiwiRail accepted a 4 metre setback adjacent to the rail corridor for the Rural and Open Space Zones in Hearing Stream 6; Commercial and Mixed Use Zones in Hearing Stream 9; and Industrial Zones in Hearing Stream 9A.

⁹ Section 42A Officer's Report: Pūnaha hauropi me te rerenga rauropi taketake – Ecosystems and Indigenous Biodiversity Chapter at [29].



Appendix A – Response to Council Officer's recommendations for the Ecosystems and Indigenous Biodiversity chapter

| Submission number | Provision | Recommendation | Comments on Council Officer's recommendation |
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| 373.55 | ECO-P4 | Accept in part | KiwiRail sought to retain ECO-P4 as notified, however the Council Officer has recommended amendments via other submissions. ¹⁰ KiwiRail accepts this position and will not pursue this relief further. |
| 373.56 | ECO-P5 | Accept in part | KiwiRail sought to retain ECO-P5 as notified, however the Council Officer has recommended amendments via other submissions. ¹¹ KiwiRail accepts this position and will not pursue this relief further. |
| FS99 | ECO-P4(2)(a) | Reject | KiwiRail supported Fulton Hogan Ltd's relief which sought an amendment to ECO-P4(2)(a) to require site-specific assessments to determine whether vegetation clearance is a controlled activity. ¹² The Council Officer has recommended deleting ECO-P4(2)(a) (which sought to restrict any remaining indigenous vegetation clearance in the Lower Plains and High Plains Ecological Districts given it has been destroyed, fragmented and degraded by land use and pests) to qualify that indigenous vegetation clearance should be managed if it is not reasonably practicable to restrict it. ¹³ The relief sought by Fulton Hogan in respect of this policy was therefore rejected. ¹⁴ ECO-P4(2) now refers to "minimising indigenous vegetation clearance or modification of habitat |

¹⁰ Section 42A Officer's Report: Pūnaha hauropi me te rerenga rauropi taketake – Ecosystems and Indigenous Biodiversity Chapter, pg 25 Appendix B.

¹¹ Section 42A Officer's Report: Pūnaha hauropi me te rerenga rauropi taketake – Ecosystems and Indigenous Biodiversity Chapter, pg 28 Appendix B.

¹² Submission point 41.23.

¹³ Section 42A Officer's Report: Pūnaha hauropi me te rerenga rauropi taketake – Ecosystems and Indigenous Biodiversity Chapter at [514] and [526] in response to submissions from Waimakariri Irrigation Ltd (S210.20) and Dairy Holdings Ltd (420.7).

¹⁴ Section 42A Officer's Report: Pūnaha hauropi me te rerenga rauropi taketake – Ecosystems and Indigenous Biodiversity Chapter at [513].



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| | | | of indigenous fauna" outside of Significant Natural Areas (without reference to specific Ecological Districts). ¹⁵ Given the reference to "minimising" is less restrictive than "restricting", and that ECO-P4 links to a permitted / restricted discretionary activity rule framework which provides for specific vegetation clearance activities (eg where required for the maintenance, repair, upgrade and replacement of critical infrastructure), KiwiRail accepts the Council Officer's position and will not pursue this relief further. |
| FS99 | ECO-MD1 | Accept in part | KiwiRail supported the relief sought by Chorus New Zealand, Spark New Zealand Trading Ltd and Vodafone New Zealand Ltd to include an additional assessment matter in ECO-MD1 as follows: " <u>x. In respect of infrastructure, the extent to which the proposed infrastructure has a functional need or operational need for its location, and whether alternative locations or layout/methodology would be suitable.</u> " ¹⁶ The Council Officer agrees there should be an additional matter relating to the operational and functional need of infrastructure, as follows: " <u>The extent of the functional need or operational need for the activity, and consideration of any alternatives.</u> " ¹⁷ KiwiRail supports the inclusion of this matter in ECO-MD1. |
| FS99 | ECO-MD1 | Accept in part | KiwiRail supported the relief sought by Transpower New Zealand Ltd to include two additional matters of discretion in ECO-MD1 which consider (a) "the benefits of, and rationale for, the activity requiring vegetation clearance" and (b) "the functional need and operational need of the activity requiring |

¹⁵ Section 42A Officer's Report: Pūnaha hauropi me te rerenga rauropi taketake – Ecosystems and Indigenous Biodiversity Chapter at [526].

¹⁶ Submission point 62.46.

¹⁷ Section 42A Officer's Report: Pūnaha hauropi me te rerenga rauropi taketake – Ecosystems and Indigenous Biodiversity Chapter at [778].



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| | | | <p>vegetation clearance". The Council Officer does not consider the additional matter relating to the benefits and rationale for vegetation clearance is necessary because this is covered by operational and functional need in ECO-MD1(2),¹⁸ but has recommended the new matter outlined above. Provided the additional matter recommended in response to Chorus New Zealand, Spark New Zealand Trading Ltd and Vodafone New Zealand Ltd's relief is retained in the Proposed Plan, KiwiRail accepts this position and will not pursue this relief further.</p> |
| FS99 | New ECO policies | Reject | <p>KiwiRail supported the relief sought by MainPower New Zealand Ltd to include two new policies in the ECO chapter of the Proposed Plan which recognise the operational and functional need of infrastructure to locate in certain areas.¹⁹ The Council Officer does not consider two additional policies relating to infrastructure are necessary given that EI-P5 (and ECO-P2(1) at a high level) address these matters and would apply to such activities.²⁰ KiwiRail accepts that EI-P5 addresses the operational and functional needs of infrastructure and will not pursue this relief further.</p> |

¹⁸ Section 42A Officer's Report: Pūnaha hauropi me te rerenga rauropi taketake – Ecosystems and Indigenous Biodiversity Chapter at [778].

¹⁹ Submission point 249.37.

²⁰ Section 42A Officer's Report: Pūnaha hauropi me te rerenga rauropi taketake – Ecosystems and Indigenous Biodiversity Chapter at [308].

