

22 July 2024

Independent Hearings Panel  
Far North Proposed District Plan  
Far North District Council  
Private Bag 752  
Kaikohe 0440

By email to: [tammy.wooster@fndc.govt.nz](mailto:tammy.wooster@fndc.govt.nz)

Dear Commissioners,

**Far North Proposed District Plan – Hearing 4 (Natural Environment Values and Coastal 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 Far North Proposed District Plan (Proposed Plan) on 21 October 2022. Four of KiwiRail's submission points on the Proposed Plan have been allocated to Hearing 4.

KiwiRail generally supports the intent of the Natural Character chapter to manage the natural character of wetland, lake and river margins, and the intent of the Ecosystems and Indigenous Biodiversity chapters to protect, maintenance and enhance indigenous biodiversity. However, it is critical that the Proposed Plan adequately recognises and provides for the rail network as regionally and nationally significant infrastructure. The designated rail corridor of the North Auckland Line (NAL) passes through the Far North District and is a key part of the national rail network. Through the Proposed Plan, KiwiRail seeks to protect its ability to operate, maintain and upgrade the NAL and associated rail infrastructure in the district.



KiwiRail accepts the Council Officer's recommendations contained in "Section 42A Report – Ecosystems and Indigenous Biodiversity" in relation to its submission points. However, KiwiRail seeks that Rule NATC-R2 of the Proposed Plan be redrafted in light of the Council Officer's recommendation contained in "Section 42A Report – Natural Character". I have set out KiwiRail's position on each of these submission points in the table in Appendix 1 to this letter.

At this stage, KiwiRail does not wish to be heard at the hearing and respectfully requests this letter is tabled as a record of KiwiRail's position on Hearing 4 of the Proposed Plan. 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 black ink, appearing to be 'Pam Butler', with a stylized flourish at the end.

Senior RMA Advisor

Kiwirail Holdings Limited

[Pam.butler@kiwirail.co.nz](mailto:Pam.butler@kiwirail.co.nz)

## Appendix 1 – KiwiRail's position on Hearing 4 submission points

Provision	Relief sought in KiwiRail's submission	Provision recommended by the Council Officer	Comments on the Council Officer's recommendation
IB-P4	Retain as proposed. <sup>1</sup>	<p><del>If adverse effects on indigenous species, habitats and ecosystems located outside of the coastal environment cannot be avoided, remedied or mitigated in accordance with IB-P3, consider whether it is appropriate to apply the following steps as an effects management hierarchy:</del></p> <p><del>a. biodiversity offsetting to address more than minor residual adverse effects to achieve a no net loss and preferably net gain in indigenous biodiversity; and</del></p> <p><del>b. environmental biodiversity compensation to address more than minor residual adverse effects where it is not practicable to achieve biodiversity offsetting.</del></p> <p><u>Where there are significant adverse effects on indigenous biodiversity that are not otherwise avoided, remedied, mitigated, offset or compensated under IB-P2 and IB-P3 as applicable, these must be managed by applying the effects management hierarchy.<sup>2</sup></u></p>	<p>The Council Officer has recommended amending IB-P4 to apply to other significant adverse effects that are not already addressed by IB-P2 and IB-P3, and to give effect to Clause 3.16(1) of the National Policy Statement for Indigenous Biodiversity (NPS-IB).<sup>3</sup> Clause 3.16(1) requires that significant adverse effects on indigenous biodiversity outside of SNAs must be managed by applying the effects management hierarchy.<sup>4</sup> KiwiRail supports the inclusion of policy direction setting out the effects management hierarchy and therefore accepts the Council Officer's position.</p>

<sup>1</sup> Submission point 416.031.

<sup>2</sup> Section 42A Report – Ecosystems and Indigenous Biodiversity dated 10 July 2024 at [163].

<sup>3</sup> Section 42A Report – Ecosystems and Indigenous Biodiversity dated 10 July 2024 at [156] and [160].

<sup>4</sup> We note the Council Officer recommends including an associated definition of "effects management hierarchy" in the Proposed Plan based on the NPS-IB definition.

IB-P5	Retain as proposed. <sup>5</sup>	<p>Ensure the management of land use and subdivision to protect <del>Significant Natural Areas</del> <u>areas of significant indigenous vegetation and significant habitat of indigenous fauna</u> and maintain indigenous biodiversity is done in a way that:</p> <p>[...]</p> <p>b. recognises the operational need and functional need of <del>some activities, including</del> regionally significant infrastructure, to be located within <u>areas of significant indigenous vegetation and significant habitat of indigenous fauna</u> <del>Significant Natural Areas</del> in some circumstances;</p> <p>c. allow for maintenance, use and operation of existing structures, <del>including infrastructure</del> <u>and the upgrading of regionally significant infrastructure; [...]</u>"</p>	<p>The Council Officer recommends amending the notified reference to "some activities" in IB-P5(b) to "regionally significant infrastructure" for consistency with higher order documents including the National Planning Standards and the NPS-IB (which both recognise the operational and functional needs of infrastructure).<sup>6</sup> The Council Officer also recommends an amendment to IB-P5(c) to provide for the upgrading of regionally significant infrastructure to reflect the policy direction in the Northland Regional Policy Statement.<sup>7</sup> KiwiRail supports the Council Officer's position.</p>
IB-R1-PER-1(13)	Retain as proposed. <sup>8</sup>	<p>Activity status: Permitted</p> <p>Where:</p> <p>PER-1</p> <p>It is <u>the minimum necessary</u> for any of the following:</p> <p>[...]</p>	<p>The Council Officer recommends retaining item (13) of IB-R1-PER-1 as notified [now item (14)], subject to minor amendments to ensure the wording of the list of permitted activities is consistent with</p>

<sup>5</sup> Submission point 416.032.

<sup>6</sup> Clause 3.11(1)(b) of the NPS-IB; Section 42A Report – Ecosystems and Indigenous Biodiversity dated 10 July 2024 at [180].

<sup>7</sup> Policy 4.4.1 of the Northland Regional Policy Statement; Section 42A Report – Ecosystems and Indigenous Biodiversity dated 10 July 2024 at [181].

<sup>8</sup> Submission point 416.033.

		<p><u>13. The upgrade of lawfully established existing infrastructure; or</u></p> <p><u>14. It is for t</u>The operation, repair and maintenance of the following activities where they have been lawfully established:</p> <ul style="list-style-type: none"> <li>i. fences;</li> <li>ii. infrastructure;</li> <li>iii. buildings;</li> <li>iv. driveways and access;</li> <li>v. walking tracks;</li> <li>vi. cycling tracks; or</li> <li>vii. farming tracks.</li> </ul>	<p>recommendations in other chapters of the Proposed Plan subject to Hearing 4.<sup>9</sup> The Council Officer also recommends including new item (13) regarding the upgrade of regionally significant infrastructure. KiwiRail agrees with the section 32AA evaluation that these amendments are consistent with the intent of the rule to enable indigenous vegetation clearance associated with essential activities, and that new item (13) will have efficiency benefits.<sup>10</sup></p> <p>The Council Officer also recommends an amendment to IB-R1 to refer to indigenous vegetation clearance being "the minimum necessary" to provide for the listed activities. KiwiRail accepts this amendment will reduce the risk of landowners undertaking excessive clearance.<sup>11</sup></p>
NATC-R2	Retain as proposed. <sup>12</sup>	Delete NATC-R2 from the Natural Character chapter. <sup>13</sup>	The Council Officer recommends deleting NATC-R2 as it does not achieve the presumed intent of the rule and is not necessary to achieve the objectives and policies of the Natural Character chapter. <sup>14</sup> NATC-R2 was intended to provide some leniency for repair and maintenance of the listed structures (which KiwiRail

<sup>9</sup> Section 42A Report – Ecosystems and Indigenous Biodiversity dated 10 July 2024 at [277].

<sup>10</sup> Section 42A Report – Ecosystems and Indigenous Biodiversity dated 10 July 2024 at [279].

<sup>11</sup> Section 42A Report – Ecosystems and Indigenous Biodiversity dated 10 July 2024 at [275].

<sup>12</sup> Submission point 416.034.

<sup>13</sup> Section 42A Report – Natural Character dated 8 July 2024 at [273].

<sup>14</sup> Section 42A Report – Natural Character dated 8 July 2024 at [269].

			<p>supported to ensure network utilities can perform effectively). However, the Council Officer considers the reference to "the following activities" means that the repair and maintenance of other buildings and structures that are <u>not</u> listed in the rule would be a permitted activity where they do not meet the requirements of having to be lawfully established and be like for like regarding the size, scale and materials used.<sup>15</sup></p> <p>KiwiRail accepts that NATC-R2 as currently drafted could have perverse outcomes by permitting repair or maintenance of some buildings / structures within wetland, lake and river margins with no constraints. However, KiwiRail seeks that the rule be redrafted to achieve the intended outcome (rather than deleted from the Proposed Plan) given there are no other rules in the Natural Character chapter which afford protection to network utilities that are located within wetland, lake and river margins.</p>
--	--	--	---

<sup>15</sup> Section 42A Report – Natural Character dated 8 July 2024 at [263] – [266].