

The Treasury

Annual Letters of Expectations 2022/23 Information Release

September 2022

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- [23] 9(2)(a) - to protect the privacy of natural persons, including deceased people
- [35] 9(2)(g)(ii) - to maintain the effective conduct of public affairs through protecting ministers, members of government organisations, officers and employees from improper pressure or harassment;
- [38] 9(2)(j) - to enable the Crown to negotiate without disadvantage or prejudice
- [39] 9(2)(k) - to prevent the disclosure of official information for improper gain or improper advantage

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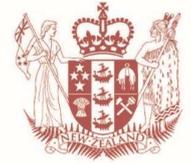
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Hon Dr David Clark

MP for Dunedin

Minister of Commerce and Consumer Affairs
Minister for the Digital Economy and Communications
Minister for State Owned Enterprises
Minister of Statistics
Minister Responsible for the Earthquake Commission



10.1.2022

David McLean
Chair
KiwiRail Holdings Limited
[23]

Dear David

2022/23 OWNER EXPECTATIONS FOR KIWIRAIL HOLDINGS LTD

I am writing to outline the matters that we expect your board to address in the current business planning round to shape your work programme.

Government priorities and the response to COVID-19

The Government has three goals for its term: to keep New Zealanders safe from COVID-19, to accelerate the recovery and rebuild; and to tackle foundational challenges.

The response to COVID-19 remains of central importance in the coming year. Investing in critical infrastructure and public services will be important to our economic recovery, along with a focus on renewable energy, waste reduction, sustainability and pursuing carbon neutrality.

Crown-owned companies and entities through their operations play an important role in supporting the response to COVID-19 and the social and economic recovery. Responsible management of assets and finances, including careful control of debt, capex and investments are part of the contribution KiwiRail makes to the Government's goals.

We wish you every success with your endeavours in the coming year and thank you for your contribution to laying the foundations for a more sustainable and equitable future.

This letter contains the following information:

- Ministers' specific expectations for KiwiRail Holdings Limited;
- general governance expectations (**Annex 1**);
- timeline for the 2022/23 business planning process and governance information (**Annex 2**).

Entity-specific expectations

KiwiRail is in a critical phase as it gives effect to, among other matters, decisions arising from the 'Future of Rail' review. Shareholding Ministers have high expectations that the outcomes sought from that process will be realised. Accordingly, there is significant focus on your progress to above-rail commercial viability, the efficiency and effectiveness of

the Crown's significant investment in KiwiRail and realising the benefits of that investment – in terms of KiwiRail's commercial performance and for wider public benefit.

We expect you to regularly provide clear and quantitative information on progress made with respect to realising the benefits of the Crown's investment to us and the Treasury.

Transition to above-rail commercial viability

Your ten-year financial plans project that KiwiRail will achieve above-rail commercial self-sufficiency in FY25. This is within the planning horizon of the 2023-2025 Statement of Corporate Intent (SCI). Accordingly, we look forward to the SCI demonstrating the transition to above-rail self-sufficiency in its three-year projections. However, we are aware that there are risks in achieving this objective. We expect, therefore, that KiwiRail will actively manage its plans under a range of scenarios, with consideration of how downside scenarios can be mitigated, and will engage with the Treasury on the development and continual refining of these scenarios.

Effective and efficient use of shareholder funding

Shareholder investment in KiwiRail is significant over the planning horizon. The company's effective and efficient use of Crown funding is critical. Given its SOE status, Crown equity funding should be viewed as funding that the company itself is unable to generate from its operations. [38]

While we are aware of cost escalation challenges, we expect reporting on project delivery against this benchmark for those projects reliant on Crown equity funding. This includes Project iReX, and we reiterate our expectation that you keep shareholding Ministers and the Minister of Transport closely updated on material developments, particularly as contracts for landside infrastructure are finalised.

Transparent and effective delivery of public benefits

The Crown's investment in KiwiRail is, in part, in anticipation of public benefit outcomes. The pathway to realising benefits, including those sought through the New Zealand Rail Plan, should be reflected in KiwiRail's SCI measures and broader strategic objectives.

We recognise the long-term journey required to restore the rail network to a resilient and reliable condition through the Rail Network Investment Plan, but even in the short-term we expect to see improved asset condition ratings and evidence of improved asset management maturity and practices that in turn results in improved financial performance.

Given their significance, it is expected that KiwiRail demonstrate the relationship between investments and their subsequent impacts. We look forward to comprehensive, quantitative information on the benefits delivered by prior Crown investment and the relationship between currently planned investments and future benefits. In the latter case, we would expect KiwiRail to be continually re-assessing its investment programme to ensure that it remains the most effective and efficient way to achieve outcomes sought.

Engagement with the wider transport sector, stakeholders and users

KiwiRail is a pivotal player in the transport sector. The government has ambitious plans to transform the transport sector to support emission reduction objectives and contribute to broader well-being objectives. It is important that KiwiRail, as a Crown-owned business, exhibits positive organisational behaviours and engages constructively with

the sector and stakeholders in a way that facilitates the achievement of government objectives. This includes using its influence positively across the supply chain, in supporting growth in public transport and responding to stakeholders in a courteous and timely manner.

We expect you will continue to work closely with metropolitan rail network stakeholders to ensure that investments are successfully delivered to support growth and productivity in our largest cities. The significant investment in the network will disrupt day-to-day services at a time many people return to regular commuting. Reducing congestion and emissions requires an attractive public transport system, so it is vital that you work closely with operators to manage disruption consistently through well aligned, timely, public communications.

Health and safety

We acknowledge that KiwiRail has a strong focus on health and safety. Rail includes many high-risk activities and we appreciate KiwiRail's strong focus on this aspect. However, we also note that the key TRIFR metric did not improve as projected in FY21. We expect you to continue your focus on reducing injury rates amongst your workforce and for this to be reflected in your SCI targets and actual outcomes.

Good employer obligations

The general governance expectations that are attached to this letter set out the expectations of State-owned enterprises and Crown companies with respect to workforce issues. I want to particularly draw this, and the importance of being a good employer, to your attention. It is essential that KiwiRail maintains its social licence, and is seen to be an inclusive and engaged place to work.

General governance expectations

We regard strong board governance as critical to the performance and success of the Crown's companies and entities. The Treasury's [Owner's Expectations document](#) sets out Ministers' expectations on matters for board oversight such as information-sharing and engagement with the Treasury, board evaluations, thresholds for consultation or approvals for significant investments, commercial valuations, capital structure and dividends, and timeframes for reporting and business planning documents.

We reiterate the importance of compliance with the 'no surprises' policy, which includes the expectation that Ministers are informed well in advance of any material or significant events, transactions, and other issues that may be contentious or could attract positive or negative public interest. Shareholding Ministers were disappointed in the manner in which the recent Board decision to make Short-Term Incentive payments to KiwiRail executives was disclosed. Early engagement on such matters is a core expectation.

Further general expectations you are asked to consider are set out in **Annex 1**.

New Zealand Railways Corporation

In your role as the Chair of NZRC, we advise that we do not intend to write separately regarding NZRC as there are no entity-specific expectations to raise, nor do we expect to receive a separate Strategic Issues Letter from NZRC.

Further information

Your Treasury relationship managers will be in contact shortly after you receive this letter to discuss Ministers' expectations in more detail. If you have any questions, please contact Michael Moore ([35]). Alternatively, you can contact Maureena van der Lem, Manager, Commercial Performance ([39]).

Yours sincerely

A handwritten signature in blue ink, appearing to be 'David Clark', written in a cursive style.

Hon Dr David Clark
Minister for State Owned Enterprises
on behalf of shareholding Ministers

cc Todd Moyle, Acting Chief Executive, KiwiRail Holdings Ltd, [23]

Annex 1

General Governance Expectations

Enduring letter of expectations

Ministers expect all boards to be cognisant of the Government's 2019 [Enduring letter of expectations](#) to all statutory Crown entities, which asks that boards and their agencies

- Support a unified value-based government for all New Zealanders;
- Support future-focussed Māori Crown relations; and
- Contribute to improving wellbeing.

Work force Policy Statement and Public Service Pay Gap Action Plan

The [Government Workforce Policy Statement](#) (Workforce Policy) sets out the Government's expectations about public sector agencies management of employment relations, including of statutory entities and Crown entity companies. This policy also emphasises the importance of pay restraint in the COVID-19 environment and the fiscal context of the Government.

Consistent with the Government's support for diversity, gender balance and wider ethnicity on boards, boards are encouraged to support diversity and inclusion in the workplace and in leadership teams. On 15 November 2021, the Government launched The [Public Service Pay Gap Action Plan](#) (Action Plan), which aims to help close pay gaps and create fairer workplaces for all employees.

You and your board are encouraged to consider the relevance of the Workforce Policy and the *Public Service Pay Gap Action Plan* for KiwiRail.

Wellbeing approach and Carbon Neutral Government Programme

The Government's wellbeing approach is based on the [Treasury's Living Standards Framework](#), which considers a broad range of impacts over 12 domains for our individual and collective wellbeing, our institutions and governance, and the wealth of Aotearoa New Zealand, now and into the future. Boards should consider and reflect the broader impact of their decisions and initiatives in planning and performance reporting.

In pursuit of our carbon reduction ambitions, the Carbon Neutral Government Programme (CNGP) has been set up to accelerate the reduction of emissions within the public sector. We would like to see KiwiRail continuing to play its part in achieving the Government's goal of moving to a net zero carbon transport system by 2050. Your ambitions for freight mode shift from road to rail will make a valuable contribution to this, and we expect KiwiRail will continue to seek opportunities to reduce emissions wherever possible.

Board evaluations and strengthening the director pipeline

Board evaluations help boards to improve performance and should take place annually (subject to the exceptions in the Treasury's [Owner's Expectations document](#)) and ideally be conducted by an independent evaluator.

Along with skills matrices, evaluations contribute to the Treasury's advice to Ministers on board composition and so should be shared with the Treasury.

In addition, we have a general expectation that you will engage a 'Future Director' as an observer of the board, where possible, to grow the pipeline of new and diverse director talent.

Senior Executive Remuneration

Within the overall context of public sector pay restraint, Ministers expect that boards will ensure that senior management remuneration is appropriately linked to performance and set at a level sufficient to attract and retain the necessary skills within the executive to enable Crown companies and entities to operate successfully.

Boards of SOEs, and Schedule 4A and Crown entity companies have separately received Ministers' April 2021 expectation that disclosure in annual reports meets the NZX Corporate Governance Code, most notably recommendation 5.3. If disclosure to this standard is not possible, the annual report is expected to explain why this is the case.

Annex 2

Timetable for the Business Planning Process for 2022/23

Table 1: Summary timetable for the Business Planning Process

Due by	Key Action
January / February	The Treasury to discuss the Letter of Expectations with the Chair
28 February	Board sends Strategic Issues letter to Ministers
25 February	Board provides Post Investment Reviews to the Treasury (<i>if required</i>)
29 April	Board submits draft Statement of Corporate Intent (SCI) and business plan
27 May	Board provides advice on: (<i>if required</i>) <ul style="list-style-type: none">• whether special fees are sought for 2022/23;• the professional development spends in 2021/22 and the proposed professional development budget for 2022/23; and• whether an evaluation of its performance in the past 12 months has taken place, what process was used and the outcomes of the evaluation.
30 June	Board delivers final SCI to shareholding Ministers
As soon as practicable after delivery of the final SCI to Ministers	Company to publish SCI on its website

All entities are expected to provide shareholding Ministers with a **Strategic Issues letter**, by **28 February 2022** in response to the Letter of Expectations. Should your company wish to engage with shareholding Ministers to seek clarification around their expectations, we would ask that you advise the Treasury as early as possible of such intentions.

Entities are expected to provide shareholding Ministers with a draft SCI and Business Plan, consistent with the expectations as detailed in this letter, by no later than **29 April 2022**.

The final SCI should be delivered to shareholding Ministers on or before **30 June 2022**.

Shareholding Ministers should be alerted as soon as possible if any of these deadlines cannot be met.

Further information is available in the Treasury's [Owner's Expectations document](#).