

13 July 2023

Buller, Grey and Westland District Councils,

Email – info@tppp.nz

To the Te Tai Poutini Plan team,

Proposed Te Tai Poutini Plan – Further Submission

Please find enclosed the further submission by the Director-General of Conservation Tumuaki Ahurei in respect of the proposed Te Tai Poutini Plan for the Buller, Grey and Westland Districts, which was notified for further submission on 28 April 2023.

The attached further submission provides detail of the relief sought in relation to specific submission points and sets out the reasons for each. The relief sought seeks to ensure that the Te Tai Poutini Plan promotes the sustainable management purpose of the Resource Management Act 1991 (the Act), provides for the matters of national importance, has appropriate regard to the other matters in Part 2 of the Act, and gives effect to the New Zealand Coastal Policy Statement.

I also give notice that I wish to formally withdraw submission point S602.099 regarding the Public Access Chapter of the Plan.

If you have any questions or would like to discuss this submission, please contact Geoff Deavoll on 027 536 7020 or gdeavoll@doc.govt.nz.

Ngā mihi,



Kirsty Prior
Director of Operations - Hokitika
Te Papa Atawhai - Department of Conservation

Pursuant to clause 6 of the First Schedule of the Resource Management Act 1991

To: Buller, Grey and Westland District Councils (**the Council**)

Name of submitter: Penny Nelson, Director-General of Conservation Tumuaki Ahurei
(**the Director-General**)

1. This is a further submission on Te Tai Poutini Plan for the Buller, Grey and Westland Districts.
2. I cannot gain an advantage in trade competition through this submission.
3. The specific provisions of the proposal that my further submission relates, and the detailed decisions sought to are set out in Attachment 1 to this further submission.
4. I represent a public interest in conservation and have an interest in the proposal greater than the general public due to my statutory responsibilities for conservation.
5. I wish to be heard in support of my submission, and if others make a similar submission, I will consider presenting a joint case with them at the hearing.



Kirsty Prior
Acting Director Operations
Western South Island Region
Te Papa Atawhai - Department of Conservation

Acting pursuant to delegated authority on behalf of Penny Nelson, Director-General of Conservation Tumuaki Ahurei

Date: 13 July 2023

Note: A copy of the Instrument of Delegation may be inspected at the Director-General's office at Conservation House Whare Kaupapa Atawhai, 18/32 Manners Street, Wellington 6011

Address for service:
Attn: Geoff Deavoll, Team Lead RMA
gdeovoll@doc.govt.nz
Ph: 027 536 7020
Department of Conservation Te Papa Atawhai

Attachment 1:

**PROPOSED TE TAI POUTINI PLAN
FURTHER SUBMISSION BY THE DIRECTOR-GENERAL OF CONSERVATION**

Submitter	Sub point	Section	Provision	Position	Submission Point and Relief Sought	D-G Stance on submission	Reason	Decision Sought
Bathurst Resources Limited and BT Mining Limited (S491)	S491.055	Whole Plan	Whole plan	Amend	Ensure that Bathurst's operations enable society to meet its present needs without compromising the ability of future generations to meet their needs. Ensure plan provides for continuity of coal supply.	Oppose	The purpose of a District Plan is not to ensure the continuity of coal supply, but to manage and protect natural and physical resources in accordance with District Council duties and functions under the RMA.	Reject
Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird) (S560)	S560.030	Whole Plan	Whole plan	Amend	Where non-biodiversity offsetting or compensation is referred to in the Plan, provide policy direction, explanation, and potentially new definitions, clearly setting out what is required or envisaged. Alternatively delete the provisions referring to non- biodiversity offsetting.	Support, with opportunity to review any new offsetting and compensation provisions.	Support new policy direction, explanation, and potentially new definitions where offsetting or compensation is applied outside the realm of biodiversity.	Accept in part
Federated Farmers of New Zealand (S524)	S524.005	Interpretation	Conservation Activities	Support in part	Conservation activities includes weed and pest control and this should be specifically included as part of conservation	Support	Pest control is an important conservation activity.	Accept

					<p>activities. It is important to farmers that such weed and pest control is undertaken.</p> <p>Amend the second sentence of the definition of Conservation Activity: It includes ancillary activities which assist to enhance the public's appreciation and recreational enjoyment of the resource, including weed and pest control.</p>			
Federated Farmers of New Zealand (S524)	S524.011	Interpretation	Indigenous Vegetation Clearance	Support in part	<p>As drafted, the definition does not provide for grazing as it includes 'clearing or removal of indigenous vegetation by any means'.</p> <p>Farmers graze in and around areas of indigenous vegetation or indigenous vegetation may be scattered amongst pasture which may result in some of the indigenous vegetation being "cleared" pursuant to the current proposed definition. Indigenous vegetation and grazing can co-exist and is often considered good management practice in terms of fire protection</p>	Oppose	In instances where pasture is interspersed with indigenous vegetation, grazing of pasture can result in indigenous vegetation loss which can adversely affect indigenous biodiversity. This exclusion within the definition would not give effect to the Section 6(c) matter of national importance regarding the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna, or enable the maintenance of indigenous biodiversity in accordance with the Council's duties under Section 31 of the Act.	Reject

					<p>and assist with regeneration. Add additional clarification on improved pasture. Means the clearing or removal of indigenous vegetation by any means, including cutting, crushing, cultivation, irrigation, chemical application, drainage, stop-banking, overplanting, or burning. It does not include the grazing of pasture or improved pasture species in that area of indigenous vegetation.</p>			
Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird) (S560)	S560.065	Interpretation	Indigenous Vegetation Clearance	Amend	<p>The Plan needs to protect the significant habitats of indigenous fauna, where that is found outside indigenous vegetation. As such, the definition should not be limited to indigenous clearance. We have submitted below that most of the ECO rules should only apply to indigenous vegetation clearance, except within Significant Natural Areas, where the rules should regulate all vegetation clearance. Destruction and smothering are also</p>	Support	Support the inclusion of 'destruction' and 'smothering' as forms of Indigenous vegetation clearance in the definition as these are also forms of clearance.	Accept

					forms of vegetation clearance that should be added to the definition. Amend Indigenous vegetation clearance: means the clearing or removal or destruction of indigenous vegetation by any means, including cutting, crushing, smothering , cultivation, irrigation, chemical application, drainage, stopbanking, overplanting, or burning...			
Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird) (S560)	S560.003	Strategic Direction	Strategic Direction	Amend	Under the Resource Management Act 1991 (RMA), local government is required to consider the effects of climate change on communities as a matter of importance, through s6(h) the management of significant risks from natural hazards; Amend the Plan to include a strategic objective for climate mitigation and adaptation.	Support	A strategic objective for climate mitigation and adaptation is important for the resilience of communities to climate change.	Accept
WMS Group (HQ) Limited and WMS Land Co. Limited (S599)	S493.024 S599.028 S603.020 S604.020 S606.021	Strategic Direction	POU - P10	Amend	Should seek consideration of the values and significance and management of potential adverse effects.	Oppose	The proposed changes are inconsistent with Section 6(e) and (f) of the Act regarding the the relationship of Maori and their culture and	Reject

BRM Developments Limited (S603) Birchfield Ross Mining Limited (S604) Phoenix Minerals Limited (S606) Whyte Gold Limited (S607) TiGa Minerals and Metals Limited (S493)	S607.020				Amend POU - P10 as follows: Protect Manage adverse effects on Poutini Ngāi Tahu taonga and cultural sites, including sites and areas of significance to Māori identified in Schedule Three while ensuring Poutini Ngāi Tahu's key role in decision making around their management.		traditions with their ancestral lands, water, sites, waahi tapu, and other taonga, and the protection of historic heritage from inappropriate subdivision, use, and development.	
Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird) (S560)	S560.457	Energy	ENG - P8	Amend	Needs to be amended to give effect to the policy 11 requirements to avoid/ avoid significant effects. Amend c i. to refer to all areas with important values, including those identified in schedules and areas meeting significance criteria but not yet identified. ii. delete seek to iii. include a new subpara that requires avoidance of adverse effects on policy 11(a) NZCPS biodiversity.	Support	The amendments will make the policy more directive and reduce ambiguity and give effect to the NZCPS.	Accept
Fuel Companies (S613)	S613.008	Contaminated Land	CL - P2	Amend	Changes are sought to the relevant objectives and policies to focus solely on human health effects.	Oppose	The consideration of adverse effects of contaminated land on the environment should not be removed as a policy consideration as adverse	Reject

					Amend Policy CL-P2 as follows: Ensure that when contaminated land is used, subdivided and/or developed, the land is managed or remediated in a way that avoids or mitigates adverse effects on the environment and manages the risk to human health to a level that is appropriate for the intended use.		effects on the environment are important considerations where assessing the adverse effects of contaminated land.	
Rocky Mining Limited (S474)	S474.005	Natural Environment Values	Natural Environment Values	Amend	RML seek the retention and further recognition of mineral extraction's functional and operational need in all overlay chapters. Include a restricted discretionary rule in the overlay chapters for mineral extraction, or at minimum activities with a functional and operational need - discretion should be restricted to the values of the particular overlay.	Oppose	A restricted discretionary rule in the overlay chapters for mineral extraction has the potential to result in adverse effects on the values that the overlay seeks to protect.	Reject
Papahaua Resources Limited (S500)	S500.029	Natural Environment Values	Natural Environment Values	Amend	Seek that overlay chapters contain a restricted discretionary rule for mining, with discretion restricted to	Oppose	A restricted discretionary rule in the overlay chapters for mineral extraction has the potential to result in adverse effects on the values that the overlay seeks to protect.	Reject

					effects on the specific overlay or overlay values			
WMS Group (HQ) Limited and WMS Land Co. Limited (S599) Birchfield Coal Mines Ltd (S601) BRM Developments Limited (S603) Birchfield Ross Mining Limited (S604) Whyte Gold Limited (S607)	S599.049 S601.032 S603.021 S604.026 S607.021	Ecosystems and Indigenous Biodiversity	Ecosystems and Indigenous Biodiversity	Amend	Recognises that vast tracts of land are afforded a greater degree of protection by virtue of being in public conservation land. Include an additional objective into Ecosystems and Indigenous Biodiversity as follows: When considering resource consent applications which have effects on ecosystems and indigenous biodiversity, have regard to the protection afforded to other similar ecosystems and indigenous biodiversity within public conservation land.	Oppose	It is not appropriate to include an additional objective to have regard to the protection afforded to other similar ecosystems and indigenous biodiversity within public conservation land when resource consent applications adversely affect indigenous biodiversity as this would not achieve Section 6(c) of the RMA.	Reject
New Zealand Agricultural Aviation Association (S166)	S166.015	Ecosystems and Indigenous Biodiversity	ECO - R1	Amend	NZAAA submits that limiting native vegetation clearance in improved pastures would adversely affect the viability of rural production land. Delete ECO--R1 5 (i) and (ii) and replace them with: 5. Within the Buller and Westland Districts: Indigenous vegetation	Oppose	In instances where pasture is interspersed with indigenous vegetation, grazing of pasture can result in indigenous vegetation loss which can adversely affect indigenous biodiversity.	Reject

					clearance where it is within an area of improved pasture			
Manawa Energy Limited (Manawa Energy) (S438)	S438.081	Ecosystems and Indigenous Biodiversity	ECO - R1	Support in part	<p>To ensure consistency with other comments, Manawa requests that this rule makes provision for existing renewable electricity generation activities and temporary energy activities. It also seeks that the policy clearly indicates that the various sub clauses of clause (iii) are exclusive.</p> <p>Amend ECO - R1 (3)(ii) and (iii) as follows: The maintenance, operation, upgrading and repair of lawfully established tracks, fences, structures, buildings, regionally significant critical infrastructure, network utilities, renewable electricity generation activities or natural hazard mitigation activities, or For the installation of temporary electricity generation activities or network activities following a regional or local state of emergency declaration.</p>	Oppose	There may be instances where indigenous vegetation clearance for the upgrading of infrastructure is not appropriate.	Reject

Horticulture New Zealand (S486)	S486.030	Ecosystems and Indigenous Biodiversity	ECO - R1	Support in part	<p>HortNZ seeks that there is provision to clear vegetation for biosecurity purposes, such as an incursion of an unwanted organism under the Biosecurity Act 1993.</p> <p>Amend ECO-R1 by adding to 3) xiii) removal of vegetation for biosecurity purposes when required under the Biosecurity Act 1993. Amend 5) i) to provide for clearance of manuka, kanuka or bracken for food production with no site size limitation.</p>	Oppose in part	The unlimited clearance of manuka, kanuka or bracken is not supported. The removal of indigenous vegetation for biosecurity purposes when required under the Biosecurity Act 1993 may be appropriate where the adverse effects can be appropriately managed, however if a permitted activity rule were considered, this requires rework so that this is limited to necessary incidental clearance only.	Reject
Bathurst Resources Limited and BT Mining Limited (S491)	S491.018	Ecosystems and Indigenous Biodiversity	ECO - R1	Amend	<p>To acknowledge the lawfully established activities.</p> <p>Amend: 1. ... 3. It is necessary for one of the following purposes:i. It is an anticipated activity within the following zones, BCZ or MINZ; or ...</p>	Oppose	This proposed amendment is overly permissive and could result in unnecessary indigenous vegetation loss, and it is not necessary to acknowledge existing lawfully established in the Plan.	Reject
Bathurst Resources Limited and BT Mining Limited (S491)	S491.019	Ecosystems and Indigenous Biodiversity	ECO - R1	Amend	<p>where there is a functional or operational need for an activity to occur there.</p> <p>1. ... 3. It is necessary for one of the following purposes: i. ... ii. There is a functional or</p>	Oppose	This proposed amendment is overly permissive and ambiguous, and could result in unnecessary indigenous biodiversity loss.	Reject

					operational need ; or iii.			
Federated Farmers of New Zealand (S524)	S524.066	Ecosystems and Indigenous Biodiversity	ECO - R2	Support in part	Provides for farm tracks and fences provided other conditions are met. There should also be provision for water lines, drains and pasture maintenance. Amend ECO-R2 1 i) Walking / cycling tracks, roads, farm tracks, fences, water lines, drains and pasture maintenance.	Oppose	This proposed amendment is overly permissive and could result in unnecessary indigenous biodiversity loss.	Reject
Westpower Limited (S547)	S547.411	Coastal Environment	Coastal Environment Policies	Amend	The RPS contains specific policy provision for renewable energy generation. Add a new Policy: Provide for new and existing renewable electricity generation activities in the coastal environment, including having particular regard to:a) The need to locate where the renewable energy resource is available;b) The technical, functional or operational needs of renewable electricity generation activities	Oppose	The district wide policies for energy already recognise functional and operation need and the proposed amendment is inconsistent with the policy direction in the NZCPS.	Reject

WMS Group (HQ) Limited and WMS Land Co. Limited (S599) Birchfield Coal Mines Ltd (S601) Birchfield Ross Mining Limited (S604)	S599.076 S601.056 S604.051	Coastal Environment	CE - P3	Amend	<p>Various reasons in submissions.</p> <p>Amend CE - P3 as follows: Only allow new subdivision, use and development within areas of outstanding and high coastal natural character, outstanding coastal natural landscapes and outstanding coastal natural features where: a. ... d. It is for a Poutini Ngāi Tahu cultural purpose; or e. It is National Grid infrastructure an activity that has a functional and operational need to locate in these areas.</p>	Oppose	The amendments to this policy would not appropriately protect outstanding and high coastal natural character, outstanding coastal natural landscapes and outstanding coastal natural features in accordance with Section 6(a) and (b) of the Act.	Reject
Transpower New Zealand Limited (S299)	S299.069	Coastal Environment	Coastal Environment Rules	Oppose	Transpower notes that it is unclear which rules apply to Energy Activities, and which are excluded. Some of the rules specifically note that they do not apply to energy activities, but most rules are silent. The plan should clearly state that none of the rules in this chapter apply to Energy Activities, and that only the Energy Chapter applies - this	Oppose	The proposed amendments to the coastal environment provisions would not appropriately protect the coastal environment in a manner consistent with the NZCPS.	Reject

					<p>may require shifting or drafting of new rules in the Energy Chapter. Alternatively, it should be very clear which rules apply to the National Grid and whether these apply in addition to the Energy Chapter rules.</p> <p>Amend the rules section to state that none of the rules in this chapter apply to Energy Activities, and that only the Energy Chapter applies - this may require shifting or drafting of new rules in the Energy Chapter. Alternatively, it should be very clear which rules apply to the National Grid and whether the rules in this Chapter apply in addition to the Energy Chapter rules. Note that ENG-P8 takes precedence for the National Grid over any policies in this chapter.</p>			
Westpower Limited (S547)	S547.429	Coastal Environment	CE - R1	Amend	<p>Should provide for operation, minor upgrade and upgrade and energy activities and critical infrastructure.</p> <p>Amend heading to read: Operation, maintenance, repair, minor upgrade</p>	Oppose	Providing for any upgrade of energy or critical infrastructure in the coastal environment as a permitted activity would not appropriately protect the coastal environment in a manner consistent with the NZCPS.	Reject

					and upgrade of lawfully established structures, network utilities, renewable energy generation, energy activities and critical infrastructure , fence lines and tracks within the Coastal Environment.			
New Zealand Agricultural Aviation Association (S166)	S166.034	Rural Zones	RURZ - P28	Support	RURZ-P28 is supported as it provides for agricultural aviation activities. But NZAAA seeks that the policy refer to agricultural aviation activities (which is sought to be defined) which provide for rural production and conservation activities in the rural zone. Amend RURZ-P28: Enable aircraft movements within the rural area for agricultural aviation activities ancillary to rural production and conservation activities on a seasonal and short-term basis.	Support	It is important that the use of the rural area for aircraft for conservation activities is recognised.	Accept
West Coast Regional Council (S488)	S488.029	Open Space and Recreation Zones	Open Space and Recreation Zones	Amend	The Proposed TPPP needs to more clearly provide for aerial biosecurity and biodiversity activities in the West Coast. Aerial operations for biosecurity and	Support	Aerial helicopter operations associated with biodiversity and biosecurity work for conservation purposes should be provided for as a Permitted Activity.	Accept, subject to rule drafting to ensure that the permitted activity is drafted in a way that does not inadvertently

				<p>biodiversity work; this is increasing, and will continue, in order to achieve the Government's Predator Free 2050 goal. Widespread plant pest incursions are also controlled by aerial spraying of agrichemicals. Aerial biosecurity and biodiversity activities use mainly helicopters over a short timeframe, at various locations around the Region, which are identified as needed. Such operations need a window of good weather for flying, which can be infrequent at certain times of the year on the West Coast. When an aerial operation is undertaken, multiple flights occur to make the most of the limited time available. This can involve between 24-42 helicopter landing and departing movements per hour. The number of movements can be more or less than these figures, depending on multiple...</p> <p>Provide for aerial helicopter operations</p>			<p>result in a situation where indigenous vegetation clearance and biodiversity loss occurs.</p>
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					associated with biodiversity and biosecurity work as a Permitted Activity.			
Bathurst Resources Limited and BT Mining Limited (S491)	S491.035	Open Space and Recreation Zones	OSRZ - O2	Amend	To take into account the wide variety of uses both historic and current on the Buller Plateau. Amend c. The OSZ - Open Space Zone with a very wide range of values including passive and active recreation, mineral extraction , local purposes and pastoral farming.	Oppose	The purpose of open space is not for mineral extraction.	Reject
Manawa Energy Limited (Manawa Energy) (S438)	S438.130	Open Space and Recreation Zones	OSRZ - P2	Support in part	Amend OSRZ - P2 as follows: Open space may accommodate regionally significant infrastructure activities , recreational, cultural, natural, heritage, access and amenity values and functions and ancillary activities to support these, where this fits with the purpose of the open space and its classification under any relevant Act or has a functional or operational need for such a location.	Oppose	Although there may be instances where a resource consent may be granted for regionally significant infrastructure within an open space zone due to functional and operational need where adverse effects are appropriately managed, the purpose of open space is not for regionally significant infrastructure.	Reject
Manawa Energy Limited (Manawa Energy) (S438)	S438.132	Open Space and Recreation Zones	OSRZ - P9	Support in part	Amend OSRZ - P9 as follows: Provide for the range of purposes where compatible with the open space values	Oppose	Although it is acknowledged that there may be instances where a resource consent may be granted for regionally significant infrastructure	Reject

					including: The ongoing operation and appropriate management of cemeteries; Camping opportunities at rivers, lakes and coastal areas where this is compatible with the values of the open space ; Gravel and shingle extraction for roading networks and other local purposes; Quarries for rock; Pastoral farming including grazing as a management tool; Mineral extraction of resources where these are limited in their location; and Establishment and operation of regionally significant infrastructure; and Water supply and drainage networks where this supports local community needs.		within an open space zone, the purpose of open space is not to provide for regionally significant infrastructure.	
WMS Group (HQ) Limited and WMS Land Co. Limited (S599) Birchfield Coal Mines Ltd (S601) Birchfield Ross Mining Limited (S604)	S599.100 S601.078 S604.069 S606.055 S607.053	Open Space and Recreation Zones	OSRZ - P9	Amend	Various reasons in submissions. Amend OSRZ - P9 as follows: Provide for the range of purposes where compatible with the open space values including: a. ...; f. Mineral extraction, exploration and prospecting of	Oppose	The purpose of open space is not to provide for mineral exploration and prospecting.	Reject

Phoenix Minerals Limited (S606) Whyte Gold Limited (S607)					resources where there is a functional or operational need to locate there these are limited in their location; and g. Water supply and drainage networks where this supports local community needs.			
Manawa Energy Limited (Manawa Energy) (S438)	S438.133	Open Space and Recreation Zones	OSRZ - P13	Support in part	Amend OSRZ - P13 as follows: Provide for activities that are ancillary to the functions of the OSZ - Open Space Zone including: Retail activities; Residential activities, including for caretaker purposes; and Agricultural, horticultural or pastoral activities; and Establishment and operation of regionally significant infrastructure	Oppose	Although it is acknowledged that there may be instances where a resource consent may be granted for regionally significant infrastructure within an open space zone, regionally significant infrastructure is not an activity that is ancillary to the functions of open space zones.	Reject