



Te Tai o Poutini PLAN

A combined district plan for the West Coast

Prepared for: Te Tai o Poutini Plan Committee

Prepared by: Lois Easton, Principal Planner

Date: 12 August 2022

Subject: **Te Tai o Poutini Plan – Minor Amendments to the Proposed Plan and Sites and Areas of Significance to Māori**

SUMMARY

This report outlines some issues in relation to the Sites and Areas of Significance to Māori provisions on the proposed Te Tai o Poutini Plan (TTPP) including:

- Mapping errors in the E-plan maps;
- Mapping errors where the shape in the TTPP maps is incorrect

It proposes that where possible the mapping errors be amended through the use of the Minor Amendment process under Schedule 1, Section 16 of the RMA and seeks delegation of the decision to undertake further Minor Amendments should they arise.

RECOMMENDATIONS

1. That the Committee receive the report.
2. That corrections to address the mapping errors for Sites and Areas of Significance to Māori in the planning maps as identified in this report be made under the Minor Amendment provisions in Schedule 1, Section 16 of the Resource Management Act.
3. That the Committee delegate to the Te Tai o Poutini Plan Project Manager the authority to undertake any further identified Minor Amendments to the proposed Te Tai o Poutini Plan as provided for in Schedule 1, Section 16 of the Resource Management Act.

Lois Easton

Principal Planner

INTRODUCTION

1. The development of TTPP provided TTPP Committee and Poutini Ngāi Tahu the opportunity to review the approach to sites and areas of significance to Māori. Through an analysis of the operative plan provisions, discussions with staff and a comparison to best practice, it was determined that the operative plans provisions are wholly inadequate for this topic and a substantial exercise to develop appropriate provisions and identify all significant sites has been undertaken.
2. The framework and provisions for Sites and Areas of Significance to Māori were developed over the 2020-2021 period. However, given the Committee's decision to reduce the plan development timeframe, at that time the Schedule of sites that the provisions will apply to had not been completed.
3. Unfortunately, timeframes meant that the sites were still being identified during the draft TTPP consultation process, and while the objectives, policies and rules were included in the draft TTPP for feedback, the Schedule and maps of sites were unavailable.
4. The mapping and Schedule work was only completed in time for the 17 May 2022 meeting, and for inclusion in the proposed TTPP.
5. As they were not able to be informed of the identification during the draft TTPP consultation, and because as a historic heritage matter most of the rules had legal effect at the time of notification of the proposed Plan, letters were sent to all landowners with a SASM identified on their property to make them aware of this.
6. Informal feedback has been received on this, though as yet there are few submissions that have been received on the proposed Plan provisions in relation to any matter including this topic.
7. The policy basis for including SASM in TTPP can be summarised as:
 - This is a Matter of National Importance under the RMA (Section 6 e)'
 - TTPP is required to include provisions that identify and protect these areas under Section 6e of the RMA;
 - The Environment Court has made it clear that Rules are required in order for protection to be achieved;
 - The West Coast Regional Policy Statement also specifically states that these areas will be identified and protected (policies 3.2 and 8.2);
 - TTPP is required to give effect (i.e. implement) the West Coast Regional Policy Statement; and
 - The West Coast Regional Council has a Manawhakohono ā Rohe agreement in place with Te Rūnanga o Ngāi Tahu and Poutini Ngāi Tahu. Schedule 1A of the RMA also requires that this be complied with.

ERRORS IDENTIFIED IN E-PLAN MAPS

8. When the Proposed TTPP was notified and staff started receiving enquiries in relation to the sites and rules that are now in legal effect it became apparent that there are some errors in the mapping of the sites.
 - a) All of the sites are included within the Schedule, however there are 23 sites that are only mapped on the printed and pdf copy of the maps, and due to a coding error are not shown on the e-plan maps.
 - b) In addition, due to the differences in GIS systems used between Ngāi Tahu and the TTPP GIS, it has been identified that there are 39 SASMs where the wrong shape (an ellipse instead of a circle) has appeared on the planning maps. In terms of effect on landowners, correcting these shapes would have the following impact:
 - 37 shapes could be corrected with a neutral effect on landowners (the same landowners are still affected);
 - 6 shapes if corrected would reduce the number of landowners affected by an SASM.
9. Legal advice has been taken on this matter and it has been identified that the Schedule 1 Section 16 Minor Amendment provisions of the RMA could apply in this instance and the maps be corrected.
10. Staff consider that these minor amendments could include correcting the shapes where the number of landowners affected would reduce – and note that any prejudice would be very limited as there is still some 6 weeks until submissions close on the proposed Plan.
11. Currently staff do not have delegated authority to undertake minor amendments under Schedule 1, Section 16 of the RMA.

12. During the course of time, some other minor errors have been identified (e.g. a mismatch between the historic heritage schedule numbers and the map numbers) – and more are likely to be identified over the next few months.
13. Therefore this report recommends that staff be delegated the authority to correct the planning maps and fix any other errors that meet the criteria of Minor Amendments under Schedule 1, Section 16 of the RMA.
14. The legal advice on this matter is contained in Appendix One.

NEXT STEPS

15. The minor amendments to the plan could be undertaken before the end of August, with letters sent out to affected landowners advising them if they are no longer affected by the provisions.
16. Submissions on the proposed TTPP close on 30 September 2022. The Committee will be considering its own submission on the proposed TTPP at its meeting on 8 September 2022.

Appendix One: Legal Opinion on Minor Amendments to the Proposed TTPP

Urgent TTPP query [WW-ACTIVE.FID518038]

Hi Jo,

Thanks for sending through your question. The RMA contains a mechanism to amend a proposed plan to “alter any information”, provided that such an alteration is of minor effect, or may correct any minor errors (RMA, Schedule 1, cl 16(2)).

The test for whether an amendment has “minor effect” is whether the amendment affects the rights of some members of the public (prejudicially or beneficially), or whether it is merely neutral. Only neutral amendments can be made under clause 16. Whether it affects the rights of the public is necessary to be considered in the wider context of the plan (*Mawhinney v Auckland Council* [2011] NZEnvC 33).

An error is a mistake or inaccuracy that has crept into a plan. The Environment Court has considered that obvious examples of such errors that could be corrected through clause 16 are spelling mistakes or reference to a wrong paragraph number where there can be no doubt what number is intended. An error is minor if its correction will not cause prejudice to any person or give rise to misunderstanding.

In this case, both of the hard copy and online versions of the TTPP need to match, as they are both valid copies of the same planning document. A correction of the online version of the maps to match both what was originally intended and the hard copy version, such as to include the additional SASM that are not mapped in the online version, would be the correction of a minor error and within the scope of the power under cl 16(2) to make changes to the TTPP.

Whether the mapping that is a little bit out including around waterways will fall within the same power depends on the substance of the amendment. If this is a similar situation, where the hard copy maps are correct and the online version just needs correcting to reflect the same mapping, then we consider this is within clause 16(2). If the mapping in the hard copy version needs to be corrected as well, then the Committee (or delegate) will need to consider whether the amendment to the mapping affects the rights of anyone, or whether it is neutral. In most circumstances, and given the early stage of the TTPP only just being open for submissions, we anticipate that minor amendments to mapping (for example to line up with waterway borders) will likely be considered to be of minor effect, or the correction of a minor error (where it is clear that the mapping should have followed the bed of a river, for example). Any prejudice would likely be limited, given that the public will still have a right to submit on the plan post-amendments.

We hope that this helps. Give me a call if there are any specific examples you would like to discuss.

Kind regards,


Alice





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