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Te Tai o Poutini Plan Submissions,
PO Box 66,
GREYMOUTH 7840

Sent via email to: info@tpp.nz.nz

11 November 2022

**PLANNING
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**BASELINE GROUP
MARLBOROUGH**

T 03 578 7299
E marlborough@blg.nz
A Unit 7, 68 Seymour Street
Blenheim

www.blg.nz

SUBMISSION TO PROPOSED TE TAI O POUTINI PLAN – Version 2

The following is a submission to the proposed Te Tai O Poutini Plan (TTPP) on the West Coast. This submission is made on behalf of Mr. Frank O’Toole and relates to the specific provisions listed throughout this submission.

Submitter Details:

Frank O’Toole, Director of Jennian Homes West Coast
PO Box 395, Westport 7866

Agent:

Anna Bensemman, Baseline Group Marlborough
PO Box 950, Blenheim 7240
Email: anna@blg.nz
Ph: 027 946 0445

Trade Competition Declaration:

We **could not** gain an advantage in trade competition through this submission.

Hearing Options:

We **do** wish to be heard in support of our submission.

Submission Details:

Westport Hazard Overlay

A special Westport Hazard Overlay is proposed, which covers much of the township of Westport. This overlay seeks to manage the effects of new and extended buildings in the overlay within and south of Westport. This overlay is managed by rules NH – R52 and NH – R53 which seek to control new buildings, additions and alterations to existing buildings in the overlay area. Those developments within a specified new Westport Flood and Coastal Erosion Protection Scheme that meet specific criteria, are provided for as permitted, while activities outside of the scheme, or developed prior to the

scheme being put in place, are considered as a discretionary activity. The objective and policy framework around this principally rests on NH - P13 which requires mitigation to either be achieved or applications are likely to be declined.

It is the submitters view the plan has set the flood protection requirements too high, given it requires a whole 1 m of sea level change to be considered on top of the predicted 1 in 100 year ARI coastal event, combined with a 1%AEP flood event, and an additional 500 mm (0.5 m) freeboard . Given the historical location of the town, and the lack of investment by Reginal and District Council over the last 20 - 30 years to implement solutions to the flood risk, it seems unreasonable to put the requirement to mitigate flooding on individual landowners. It is understood the newly extended hospital in central Westport has been constructed to a level that achieves a freeboard on the combined flood levels without including additional 1 m for sea level rise¹, suggesting, at the time it was developed the floor levels for this critical infrastructure were considered appropriate. It is the submitters view if it is acceptable for the hospital to be built to this level, private dwellings and households should not be held to a higher account. The effect of this will be an urban landscape across Westport with multiple building heights and window heights affecting shading and privacy effects between neighbours. This has the potential to unnecessarily make some land redundant and uneconomic to develop. Furthermore, Buller District Council have been issuing building consents for new dwellings in Westport that achieve floor levels of the predicted 1 in 100 year ARI coastal event, combined with a 1%AEP flood event, without the additional climate change consideration².

It is not clear from the rules framework what happens if the Regional Council and Government decide to create a flood protection system that does not achieve the full cover anticipated by proposed Rule NH - R52 (1), for example if they choose to protect to a level that is lower than anticipated by the rule. There is no certainty, given funding, design and construction has not occurred, the future flood protection scheme will achieve the outcome anticipated by the rules (i.e. 1 in 100 year ARI with 1 m climate change and 1%AEP flood event). Creating a rule for which there is no certainty of being able to be achieved is confusing and unhelpful. It is also unclear the extent of any flood protection proposed, given the community agreed through a Regional Council 2021 Long Term Plan consultation process to stop banks included almost all of the identified flood hazard areas, but yet a different version was supplied to Government when seeking funding. It is the submitters view this rule should not be included in the plan in its current form, until it is clear the anticipated level of flood protection will be achieved. The following is two excerpts from the Long Term Plan 2021/2031 highlighting the expected levels of service for Rivers Drainage and Coastal Protection work.

Page 37 - Rivers Drainage and Coastal Protection work – Long Term Plan 2021/2031

Levels of Service for Rating Districts

The flood protection schemes described below offer different levels of protection from flood events. Several schemes are associated with aggrading riverbeds, and flood protection levels can alter as riverbeds rise. Generally, Council staff recommend to affected communities that they adopt a minimum level of protection against a 2% annual probability flood – protection against a 1 in 50-year flood event.

Some of the Council's schemes do not provide this level of protection, despite Council recommending it to the ratepayers. Sometimes such protection is not affordable for affected ratepayers. Council considers that each community of ratepayers is entitled to choose the level of risk that they feel is appropriate for their circumstances.

¹ Confirmation is being sought from Buller District Council building consent records, not available at the time of lodging this submission.

² Experience of Jennian Homes West Coast.

Page 40 – Rivers Drainage and Coastal Protection work – Long Term Plan 2021/2031

Westport

Overwhelming support from submitters for the construction of extensive floodwalls and stopbanks was received from ratepayers within the Westport Rating District through consultation on the 2021-31 Long-Term Plan. Survey and design work will commence in the 2021-22 financial year. This will include a flood modelling review to ensure that the floodwall design meets the recommended level of service for the 1% annual exceedance probability. Feedback on the other mitigation options submitted during the consultation will be reviewed and presented to the Joint Committee once this has been formed. The Joint Committee will recommend to the Regional Council any additional works for consideration in year 2 of the Long-Term Plan.

Council does not seem to be supporting the proposed NH – R52 Rule with guidance as to the anticipated floor levels arising from this rule. Rather applicants will be required to undertake individual site assessments prepared by technical experts (at the applicants' expense) to demonstrate the most appropriate flood level. A serious lack of guidance as to the application of the rule makes it costly, confusing and difficult for everyday people to comply with.

The result of the NH – R52 Rule framework is properties are being filled to create elevated platforms to achieve compliance with floor levels necessary to comply with this rule. In some cases, this means elevated floor levels of 1 – 2 m in height above neighbouring properties. This will result in different properties heights across the township as some sites are redeveloped and others remain unchanged. For, properties where sites are built-up to achieve floor level compliance, there is no recognition of the effect on recession plane limits, making developing within newly built up sites more difficult, and often triggering the need for land use. There is the opportunity to obtain a neighbour approval to avoid the need for resource consent in accordance with GRZ – R1(9). However, where a neighbour chooses to not give approval a resource consent is required which may result in a hearing. This illustrates the tension between the proposed Flood Risk mitigation and residential amenity values.

Relief Sought:

1. Reconsider the need to provide flood protection to the levels set out in NH – R52, taking into account the effect it will have on the town.
2. Rules NH – R52 (2 – 5) are amended to allow for finished floor levels for buildings for sensitive activities to be built to the 1 in 100 year ARI coastal event (without sea level rise) and the 1%AEP flood event until the Flood Protection Scheme is in place to avoid creating a landscape of elevated new development in the short term. This is consistent with the current practice in Westport in Mr O'Tooles experience.
3. Ensure the flood protection scheme provides protection for all land contained with the Westport Hazard Overlay by including objectives and policies which set out the District Council's role in ensuring this occurs.
4. Amend the wording of the NH – R52 (1) to allow for new development to occur once an **appropriate scheme** is in place, rather than specifying the level of protection the scheme must achieve. This will provide for an enabling rule even if a scheme which achieves a lower level of protection is deemed to be acceptable.
5. Amend the residential zone rules to allow and exception for recession plane intrusions caused by elevated floor levels arising from compliance with the NH – R52. This could be achieved in a similar manner to rules contained in the Christchurch City District Plan.
6. Introduce a Council operated tool that generates the minimum floor levels required across the overlay when a protection scheme is not in place, to ensure landowners do not have to engage expensive consultants to know how to achieve compliance.

Zoning – Rural Lifestyle Zone provisions

The proposed rural zones provide for a range of rural activities to occur and are characterized by open vistas and natural features as set out in RURZ – Objectives and Policies of the TTPP. The Rural zone provides for a range of allotment sizes including larger 10 ha sites in areas of identified highly productive soils³, 4 ha sites in the proposed General Rural Zone and 1 ha sites in the proposed Rural Lifestyle Zone. Additionally, there are Settlement Zones with Rural Precinct Overlays with a minimum of allotment size of 4,000 m² proposed.

The submitter (Mr. O'Toole) is seeking greater intensification of the proposed Rural Lifestyle Zone to allow for 4,000 m² section sizes. This is consistent with the historical one-acre section. Historical division of land was undertaken in acres rather than hectares, and the remnants of this are apparent with half acre and quarter acre sections prevalent across the rural and urban landscapes. Enabling a one acre or 4,000 m² Rural Lifestyle Zone minimum allotment size will increase the ability of existing landholdings to provide for semi-rural living expectations. This also avoids creating 1 ha allotments too large for landowners who work elsewhere full time to manage and effectively too small to be managed for meaningful rural production value. Greater use of 4,000 m² semi-rural living environments will provide for the anticipated level of semi-rural amenity desired, without creating allotments that are too large to manage. Examples of functional smaller allotments providing semi-rural character and amenity include land holdings on Utopia Road.

Rural lifestyle properties are often serviced by onsite-wastewater systems, the discharge from which is managed by the West Coast Regional Council through the Land and Water Plan permitted activity Rule 79. This rule does not limit the size of an allotment to achieve compliance, but rather relies on the design of the system proposed to manage potential adverse effects.

Relief Sought:

7. Acknowledge the rural living characteristics including appropriate levels of rural amenity can be achieved on allotments of 4,000 m² throughout the TTPP, including in policies and explanation information as required.
8. Amend objectives and policies relating to the Rural Lifestyle Zone to allow for minimum allotment size of 4,000 m², including but not limited to recognition within policy RURZ – P4 that 4,000 m² can provide for large lots anticipated by the policy.
9. Amend standard SUB – S1 Minimum Lot Sizes for Each Allotment Standard 1(g) to provide for the minimum allotment size of the Rural Lifestyle zone of 4,000 m².
10. Amend Rule RLZ – R3 – 2 to allow for a “residential unit density of no more than one unit per **4,000 m²** net site area on physically contiguous land”.

Zoning – Nine Mile Road, Westport

Mr. O'Toole owns a site along Nine Mile Road between the urban extent of Westport at Stafford Street and the intersection of Nine Mile Road with Harneys and Victoria Roads. This section of Nine Mile Road contains allotments ranging in size between approximately 8 ha and 4,000 m² and provides for a range of living styles and types, but with a predominant use for semi-rural lifestyle living and small-scale sheep or horse grazing. Properties are bound by the Buller River to the west and the railway corridor to the east. Views across open paddocks are interspersed with residential curtilages and associated trees and garden planting, small sheds associated with dwellings and views across the river to the hills to the

³ This may not be the Highly Productive Soils required by the NPS on Highly Productive Soils of October 2022

southeast. The area is identified within the General Rural Zone and contained within the Westport Hazard Overlay. This stretch of Nine Mile Road extends a distance 1.6 km south of Stafford Street, and contains land held in 22 separate records of title. There are also two parcels owned within a record of title held across the railway. Of these, four titles are less than 1 ha, and 13 are held in titles less than 4 ha in area.

Properties on Nine Mile Road are serviced with Council water supply and overhead power supply from within the road reserve area.

Work is being undertaken on mitigating flood risk effects arising from a combined break out from the Buller River and high storm surges from the coastal environment, along with anticipated sea level rise. This includes regional and district council seeking funding from central government to design and construct flood protection devices around much of the town. While outside of this submission process, the submitter considers this portion of Nine Mile Road, which already reflects rural lifestyle living, ought to be included within the flood defences offer by this solution. Original designs of flood protection stopbanks included this area, however Mr. O'Toole notes more recent iterations of potential future stopbanks appear to exclude much of this area. It is the submitters view this land needs to be included in any future flood protection works to reflect the already developed nature of this area.

This area is close to the urban centre of Westport, contains a range of smaller land holdings which do not generate significant rural production activities, and are visibly smaller than landholdings to the south and east. This existing environment already undermines the intent of the proposed General Rural Zone as anticipated by the notified TTPP and is not consistent with the outcomes anticipated for this zone.

Given the existing level of intensification in this area, including over half the titles (17 out of 22) within the proposed General Rural Zone limits, this area represents an appropriate location to allow for additional proposed Rural Lifestyle Zoned land. This would provide for smaller landholdings and to alleviate any pressure for larger landholdings in the wider proposed General Rural Zone to create undersized allotments to cater for those seeking a semi-rural lifestyle.

Relief sought:

11. The portion of Nine Mile Road from Stafford Street to the Nine Mile, Victoria and Harneys Roads intersection, extending from the railway corridor to the banks of the Buller River be rezoned from General Rural Zone to Rural Lifestyle Zone.
12. That Mr. O'Toole's property be fully included within the limits of future stop bank protection designed to service Westport.

Zoning – Utopia Road, Westport

Mr. O'Toole also owns a property at 211 Utopia Road which is a rear section located within the proposed General Rural Zone, but adjoining properties within the proposed Rural Lifestyle Zone. The site contains an existing dwelling and fronts onto the Orowaiti River where it dog legs right along the coastline before exiting around the sand spit. This sand spit has accreting in this area as a result of repeated extensions of the rock walls of the Buller River mouth to the west some since the 1880's with accretion identified for over 50 years⁴. The accretions have resulted in additional protection from coastal hazard risk to those properties fronting the river along Utopia Road, including 211 Utopia Road from coastal hazards. An

⁴ As calculated based on the information contained in the attached 1996 report for a previous subdivision of this site (see Appendix 1 for the report).

OCEL report undertaken in 2004 confirms that while the sand spit is not further accreting, it does appear to be more stable and building up in the current location.



Figure 1: Aerial Image of Mr. O'Tooles site at Utopia Road

Utopia Road is approximately 4 km long from its turn off at Fairdown Road on the eastern side of the Orowaiti River. This road is a dead end road and is sealed for most of its formation. This road serves only the residents of the road and contains multiple blocks of land in varying sizes from, including 40 less than 4 ha but 1 ha or more allotments, 22 which are less than 1 ha but 4,000 m² or more, and at least four which are less than 4,000 m² in area.

The proposed zoning under the TTPP is a mix of Rural Lifestyle Zone and Rural General Zone. The area on the southern side of Utopia Road proposed to be fully zoned as Rural Lifestyle Zone through to the State Highway to the south. However, on the northern side of Utopia Road it appears if only those smaller allotments with road frontage to Utopia Road are included, creating an ad hoc zone boundary between the proposed General Rural Zone, and the proposed Rural Lifestyle Zone. This creates a non-uniform boundary separating the two zones reflecting property boundaries rather than acknowledging actual features.

It appears the reason for the change in zoning in this area is a mitigation measure for the Coastal Severe natural hazard risk overlay imposed along the frontage of the Orowaiti River, despite the protection offered by the accreting sand spit as identified in the attached reports. The Coastal Severe Natural Hazard Overlay is identified in the Hazards and Risks Chapter of the TTPP under the introduction to the Natural Hazards - Ngā Mōreareatanga Aotūroa section of the plan, as being where risk from coastal erosion and inundation have been modelled and mapped.

This appears to have been undertaken through the technical report WCRC_CHA_Report_1.1_Final on the TTPP website, which discusses as section 4. 2 the Orowaiti River mouth, with an acknowledgement that the sand spit has accreted northwards as a result of the Buller River mouth works over time, and there is build-up of sand on the northern side of the spit which will eventually continue to migrate northwards. The, the report also sets out that erosion areas north east of the spit are eroding.

These findings are consistent with the site specific attached reports, which clearly identify Mr. O'Tooles site as within an area not severely affected by the erosion to the east. The applicant is concerned that the Coastal Severe Overlay has been extended too far westwards to incorporate his property, and this may create an overlay on his land which is not required for coastal hazard protection. Any overlays mapped and imposed in the district plan will remain as a restriction to potential development despite any evidence that identifies the overlay is incorrect. The only way to remove such an overlay once imposed is by way of a plan change, ether privately initiated, or council initiated. In reality, once imposed, such map based controls are rarely altered, regardless of the effect it has on the land over which it is imposed. Furthermore, the mapping below in Figure 2 does not appear to reflect the actual extent of the sand spit as shown in the aerial imagery in Figure 1 above, making it appear as if Mr. O'Toole' is exposed to the open coastline, when in reality it is extremely sheltered.

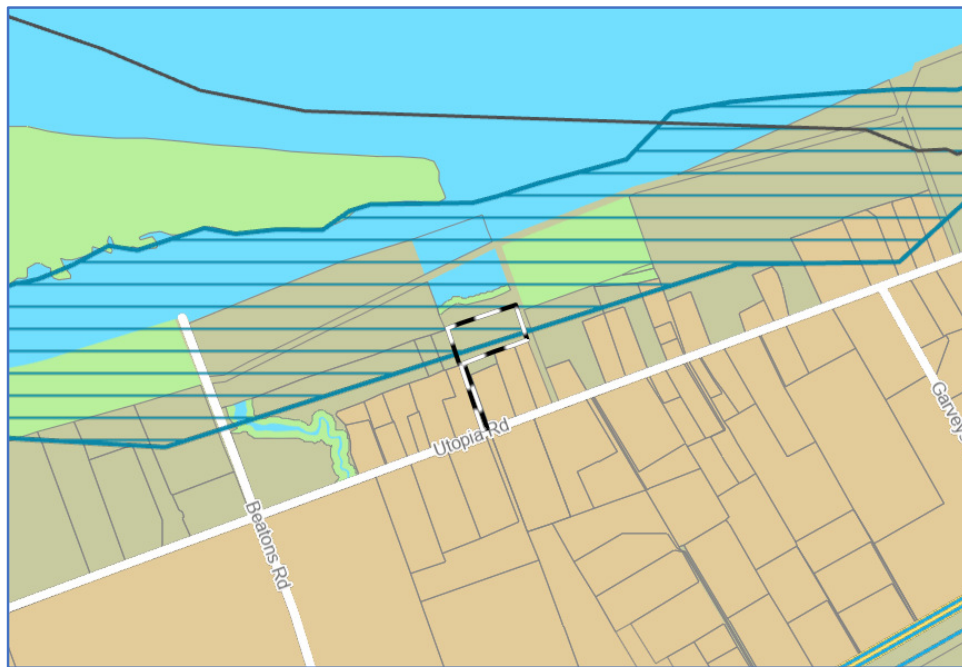


Figure 2: TTPP planning maps showing extent of Coastal Severe Overlay across Mr. O'Tooles site

Relief Sought:

13. The applicant requests the coastal severe overlay be removed from his property within the planning maps, to take into consideration the reduced risk from coastal effects due to accreting sand spit, and take into consideration the attached site specific reports in considering the actual location of the Coastal Severe Overlay.
14. The applicant requests his land along with other land in the immediate vicinity be rezoned as Rural Lifestyle Zone to reflect its current use, and potential future consistent with other smaller property sizes.

Subdivision

Subdivision objectives and policies seek to guide appropriate subdivision across the region and make clear recognition of risks associated with natural hazards in the framework. These provisions do not appear to recognise appropriate mitigation measures to reduce or avoid risks from natural hazards, which has the potential to restrict any future development of large parts of the district. Given how technology and engineering solutions have advanced and given the

potential for future investment in hazard protection infrastructure across the region, objectives and policies need to provide flexibility to enable growth where it can be demonstrated adverse effects are avoided and or mitigated. Policies SUB – P1, SUB – P4 include provisions which seek to minimise natural hazard risk, and to manage significant risks from natural hazards. This reflects the flexibility needed to adapt to new technologies and reflect changes regional scale natural hazard mitigation, or localised mitigation measures. However, this is not reflected in Objective SUB – 02 or Policy SUB – P6, which both include requirements to avoid subdivision in areas of significant risk, without recognition in changes to actual effects in mapped areas that might occur over time. Given this, amendments to these provisions to better reflect the wording of policies SUB – P1 and P4.

Subdivision Rule SUB – R13 identifies subdivisions to create allotments in particular natural hazard overlay areas as restricted discretionary activities where they comply with all subdivision standards (SUB – R13(3)). However, subdivision standard SUB – S(2)(c) requires for sites of less than 4 ha in size to have a building platform outside of any area identified in a natural hazard overlay – which include the listed natural hazard overlays subject of SUB – R13. These two provisions are at odds with each other, as any proposal for sites wholly contained within natural hazard overlays cannot provide a building platform outside of natural hazard overlays. No application is likely to be able to be made under SUB – R13 unless a site was only partially located within the natural hazards overlay. Rather any subdivision proposal, whereby appropriate flood protection mitigation was proposed and a hazard assessment by a suitably qualified person demonstrated this mitigation was suitable, would automatically default to SUB – R23 as a discretionary activity. This seems to pervert the intent of SUB – R13 which seeks to allow subdivision in certain natural hazard overlays where mitigation is demonstrated.

Relief sought:

15. SUB – 02 is amended as follows:

Subdivision occurs in locations and at a rate that:

- a. Is supported by the capacity of existing infrastructure networks, or provides for infrastructure facilities and networks that are sufficient to accommodate growth and development that meets the standards required by the Council and the Plan;*
- b. Facilitates the operation of critical infrastructure;*
- c. Enables access and connectivity;*
- d. Provide for the health, wellbeing and safety of the West Coast/Te Tai o Poutini community;*
- e. Provides for growth and expansion of West Coast/Te Tai o Poutini settlements and businesses; and*
- f. **Avoids Sufficiently mitigates risks from** significant natural hazards and are built to be resilient to natural hazards.*

16. SUB – P6 is amended as follows:

Avoid subdivision:

- a. In the RURZ - Rural Zones that could result in the creation of an unplanned new settlement;*
- b. In the Earthquake Hazard Overlay that could result in the creation of new allotments;*
- c. Where detached minor residential units in RURZ - Rural Zones become legally separated from the main residential unit thereby creating cumulative effects on rural character and productivity;*
- d. Where this could create significant reverse sensitivity issues in relation to the MINZ - Mineral Extraction Zone or Energy Activities;*
- e. In the Coastal environment outside of areas that are already modified unless adverse effects on the natural character of the coastal environment can be avoided or mitigated; and*
- f. **In areas of that does not manage** significant risk of natural hazards, where this is for the purposes of accommodating and/or servicing people and communities.*

17. SUB – R13(3) is amended to allow relief from the building platform standard SUB – S2(2)(c) to reconcile the inconsistency in the rule framework, or some other similar relief that allows for SUB – R13 to function as intended.

Fences – All Zones

Each zone includes a series of rules relating to fencing heights, including the following residential zones GRZ – R3, LLRZ – R3, MRZ – R3. These rules set out that any fencing in excess of 2 m in height equates to a discretionary activity. It is not clear from policies why this rule is required, however experience in other districts suggests it is to avoid creating fences that act like structures and impinge on amenity values such as shading and built form dominance. The default if a fence exceeds 2 m is to a full discretionary activity. There are no exceptions in Westport to acknowledge that some sites will need to be elevated to achieve flood protection resulting in retaining walls along boundary fences resulting in efforts to comply with flood protection rules creating a non-compliance with fencing rules. Given the issue of oversized fencing is such a discrete activity and is clearly designed to mitigate specific amenity-based effects, it would be more appropriate for any non-compliance to be considered as a restricted discretionary activity, with the discretion restricted to amenity related aspects of the fence.

Relief sought:

18. Remove fences walls and retaining structures from the following discretionary activity rules:

GRZ – R19, LLRZ – R15, MZR – R3, GRUZ – R28, RLZ – R19, SETZ – R25

19. Include new Restricted Discretionary activities for Fences Walls and Retaining Structures as follows:

Insert new rules beneath rules GRZ – R18, LLRZ – R14, MZR – R14, GRUZ – R26, RLZ – R15, SETZ – R23

[zone reference i.e. GRZ] – R[XX] Fences, Walls and Retaining Structures:

Activity Status Restricted Discretionary

Discretion is restricted to:

- a. **Design and location of structures**
- b. **Height of structure's**
- c. **Shading and dominance effects on adjoining sites**

20. Amend corresponding permitted activity rules to allow the activity status where compliance is not achieved to be restricted discretionary.

Further relief sought:

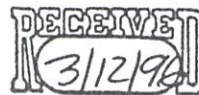
21. This submission seeks any consequential amendments to give effect to the relief sought above.

Singed

A handwritten signature in black ink, appearing to read 'AB', is centered on a light gray rectangular background.

Anna Bensemann on behalf of Frank O'Toole

Appendix 1: Reports from previous subdivision of the site



RC94/44

OCEL CONSULTANTS LIMITED

1884/127-00

OCEL House
276 Antigua Street
PO Box 877
Christchurch
New Zealand
Tele (03) 3790444
Fax (03) 3790333
EMail:
ocel@chch.planet.org.nz

COPY

20 November 1996

Mr G R Millar
C/- Chris J Coll
PO Box 204
WESTPORT

- O'Toole & Tremaine
05/0019

Dear Sir

STABILITY OF UTOPIA ROAD PROPERTY

On the evening of Monday 22 July 1966 we inspected the shoreline of your property in Utopia Road, Westport. The property in question is Lot 1, DP 17546 Sections 145-148, Square 141, and Part Section 69, Block IV, Kawatiri Survey District. We understand that you have had a subdivision plan prepared for this property and have applied for a Resource Consent and that a requirement for unconditional consent for development is a satisfactory assessment of the erosion potential and mitigation proposals of your shoreline boundary. The inspection was carried out over the full 800 m of the boundary to see first hand the present condition of the shoreline to assist in the determination of the probable cause of the boundary having retreated between 100 m in the west and 250 m in the east since the 1880's, in making an assessment of the current erosion risk and to propose mitigation measures should they be necessary at some future date. Previously, in November 1992 we inspected the shoreline from your eastern boundary to Deadmans Creek on behalf of Mr Jack Garvey.

Your property was subdivided in the mid 1800's as a beach front block about 5 km east of the Buller River, 2.5 km east of the Orowaiti River mouth and 2 km west of Deadmans Creek. Major engineering works, commencing in the 1880's to develop Westport Harbour, included breakwaters over 1 km long. Such is the littoral drift on this coastline that it took only a few years for the bar to reform and the breakwaters were extended in sections up to 1916 to try and overcome this. Between 1966 and 1968 the last breakwater extensions were carried out such that the tips are now some 2 km from the original coastline. These latest extensions soon became outflanked by the drift and it now requires a reasonable dredging effort to keep the bar bound river mouth deep enough for cement ships and coal barges, the major users of the harbour. Further breakwater extension is highly unlikely.

The West Coast is an extremely dynamic coastline, being continually attacked by west to southwesterly Tasman Sea waves and swell. One estimate of the annual sediment budget on this part of the coast is in excess of 2 million cubic metres with drift predominantly to the north. At no time in the past could this beach have been considered stable in the long term and any change in the sediment supply, sea state, or coastal features is likely to have had some effect. There is now also the perceived problem of rising sea levels.

The major man made features in the area are the harbour breakwaters stretching more than 2 km from the historic coastline. These have caused the formation of Carters Beach to the west and it is probable that they have been a major contributor to changes to the east, including the erosion of your property, and changes to the mouth of the Orowaiti River.

Since records were first established in the 1880's and the construction of the first harbour breakwaters in the 1890's, the shoreline from the Buller to a point about 300 m east of your property has accreted beyond the 1880's beach. From Deadmans Creek eastwards the shore was in an erosion phase until the 1950's but in the last 30 years this section too has shown accretion although not yet as far as the 1880's beach. The only stretch where the coast is stable or eroding is in the 1.5 km in between, including the eastern 200 m of your property. Accretion east of the Buller River has also caused the mouth of the Orowaiti River to migrate 2.5 km to the east so it now enters the sea 500-600 m to the east of your eastern boundary and it is possible that the presence of this river mouth has been a major contributor to the erosion as the river mouth tracked eastwards. The river mouth allows high tide storm waves to come right to the foot of the land scarp with very damaging effects.

As well as the site inspection we have studied documents made available to us by Mr Coll. These include:

1. Plan Showing Sea Encroachment (Along Frontages Garvey, Plumridge and Sadler Bassett) Scale 1:10,000 showing mean sea level boundaries in 1885, 1888, 1905, 1914, 1954 and 1985.
2. Lot 1 Being Proposed Subdivision of Pt Sec 15 Blk IV, Kawatiri SD for J F Garvey and P M Maich.
3. Lots 1-11 Being Proposed Subdivision of Secs 145-148, SQ141 and SEC69 Blk IV Kawatiri SD for G Millar.
4. West Coast Regional Council, Deadmans Creek - River Training, J F Garvey.
5. 1988 Aerial Photographs. 1:10,000.
6. West Coast Regional Council letter to C J Coll dated 4 March 1992 regarding the Proposed Subdivision of Pt Sections 145-148 SQ141 and Section 69 Block IV, Kawatiri SD.

7. Personal statement regarding Erosion Problems at Utopia Beach by J F Garvey.
8. Correspondence regarding Resource Consent application RC 1994/0044 G Millar as follows:
 - Buller District Council (BDC) to Chris J Coll (CJC) dated 14 December 1994 with the Council decision on the application
 - CJC to BDC dated 2 February 1995
 - BDC to CJC dated 8 June 1995
 - CJC to Hunter Ralfe dated 24 April 1996
 - Hunter Ralfe to CJC dated 1 May 1996
 - CJC to BDC dated 23 May 1996
 - BDC to CJC dated 30 May and 10 June 1996

We also have in our possession a copy of NZMS 260 K29 - Westport and the Westport marine chart as well as many documents and reports for Westport Harbour going back to the turn of the century.

From the inspection and these reference we can make the following observations:

- i) The eastern boundary of your property is approximately 300 m west of the point at which the recent coastline changes from accretion in the west to erosion in the east. The erosional section of the coast only extends eastwards to Deadmans Creek and further east from here there is evidence of accretion in the last 30 years. In this context coastline means the sea beach and not the high water boundary in the Orowaiti Estuary. For the whole length of your property boundary land may have been eroded but the coast has accreted.
- ii) At the present time land can be directly threatened by the sea over a length of about 2 km from a point about 200 m west of your eastern boundary to Deadmans Creek, this being the area of the river mouth and where the beach dune shows evidence of being low enough to be overtopped on a very high tide. The area of your land most at risk at the present time is the eastern 200 m.
- iii) There are two long term risks: that the coastline in front of your property reverts to the erosional state; and the mouth of the Orowaiti moves westwards. As stated previously a dynamic coastline such as this can never be considered as stable but a complete change of habit will probably only be driven by construction works such as harbour breakwaters. This is unlikely to occur. We cannot say what conditions would cause the Orowaiti mouth to form westwards of its present location but are inclined to the view that if it did it would be caused by a single event such as a major flood with over flow from the Buller River and that it would not be permanent.

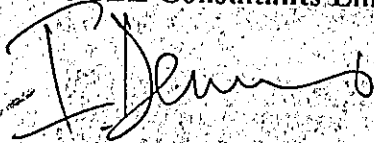
The letter from the Buller District Council to Chris J Coll dated 10 June 1996 requests three pieces of information: the rate of erosion of the property shoreline, the reason for Lot 6 width and how it will remedy or mitigate natural hazards, and the length of time Lot 6 will be effective in remedying or mitigating effects.

Regarding the rate of erosion all that can be said is that the shoreline has retreated up to 200 m since 1880 most of which has probably occurred as a response to breakwater construction. This ceased 30 years ago. The coastline has now accreted up to 400 m beyond the 1880 shoreline so the property boundary is now part of the Orowaiti estuary and has been stable for at least 15 years and possibly as long as 30. Currently there is no erosion and therefore no erosion rate and the questions of Lot 6 protection times cannot be answered in this context.

Should the Orowaiti River mouth become established opposite your boundary there is the very real risk of rapid erosion particularly on very high tides and during storms. Should this happen the Lot 6 buffer zone will not last very long. Your shoreline can be given protection in these circumstances by the construction of low rock groynes with a spacing of 3 times the groyne length and with the rock placed from 1 m below high water to 1 m above. These structures are easy to build and reasonably cheap. While it is not necessary to install them before the event means may have to be implemented to ensure future owners are aware of this possibility and accept responsibility for their construction. An alternative is a revetment but these are much more expensive and take longer to construct. As we have said on previous occasions, it is possible for a willing property owner to make provision for the protection of their, or future owners, property but if those on either side are not willing or under no obligation your works may be outflanked. Erosion control, in the unlikely event that it is required within an estuary or in the equally unlikely event that the whole coast reverts to an erosion state, is a regional problem and should not be left to the discretion of individuals.

Yours faithfully

OCEL Consultants Limited



F E Dennis

OCEL CONSULTANTS NZ LIMITED

OCEL House
276 Antigua Street
PO Box 877
Christchurch
New Zealand
Tele (03) 3790444
Fax (03) 3790333
EMail:mail@ocel.co.nz

14 December 2004

Mr Frank O'Toole

WESTPORT

Dear Sir

**PROPOSED FURTHER SUBDIVISION OF LOT 1 PART SECTION 69, BLOCK IV,
KAWATIRI SURVEY DISTRICT, UTOPIA ROAD, WESTPORT**

In accordance with your instruction we have reviewed the exposure of this Lot to coastal processes and inundation as required to apply for resource consent to subdivide.

We note that this present Lot was granted consent (RC1994/0044) in November 1997 following an extended period of investigations, reporting, peer review, and a hearing. The reports submitted and conclusions reached as a result of that process remain relevant and should be referred to in relation to your application to further subdivide. In general terms it was found that inundation was unlikely to be an issue for Lot 1, and that while a small risk of exposure to coastal erosion effects exists in relation to a possible significant westward movement of the Orowaiti River entrance, it was considered that Lot 1 "is unlikely to be subject to material damage from erosion". In granting the consent conditions, restrictions on building were imposed which effectively excluded building within 100 m of the erosion scarp at the time of subdivision. We note that there remains 50 to 75 m of neighbouring property between this Lot's boundary and the Orowaiti River bank.

In assessing the situation in relation to your present proposal to further subdivide we have carried out a site inspection including a GPS survey of the present erosion scarp position, reviewed recent historical information including aerial photographs, and observed the continuing development of vegetation on the sand spit opposite the site. Our conclusions are that within the accuracy that it is possible to establish the line of the erosion scarp from aerial photographs, there has been no change in position of the Orowaiti shoreline adjacent to this Lot since 1988. These positions are plotted on the enclosed drawings DR-041202-001 and 002. General observation also indicates that vegetation on the sand spit has become more dense and substantial over the last few years. This is likely to be enhancing sand buildup and hence stability of the spit, reducing the likelihood of the river mouth breaching or moving back as far to the west as this Lot. This is not to say that such an event will not happen. Relatively recent (1986) movement of the mouth caused significant erosion loss 350 m to the east as it allowed wave action to enter the estuary and attack the inner bank.

In conclusion, we confirm that in terms of exposure to coastal processes there has been no change with regard to this property in terms of physical loss or degree of exposure since the last subdivision consent was issued. On this basis we believe that the findings of that time remain relevant to your current proposal.

Yours faithfully
OCEL Consultants NZ Limited

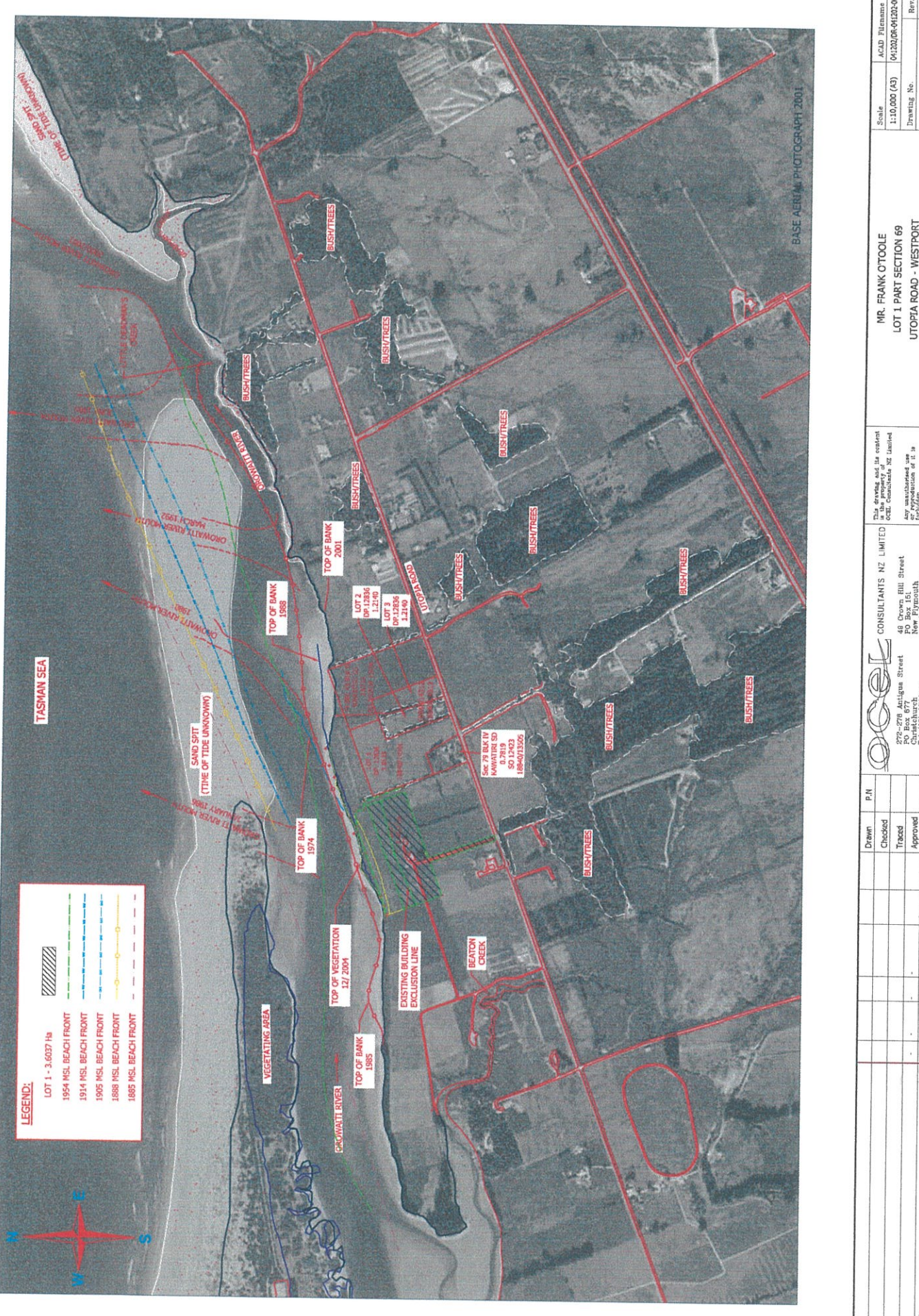
I W Goss



LEGEND:

[Hatched Box]	LOT 1 - 3.6037 Ha
[Green Dashed Line]	1954 MSL BEACH FRONT
[Blue Dashed Line]	1914 MSL BEACH FRONT
[Red Dashed Line]	1905 MSL BEACH FRONT
[Yellow Dashed Line]	1888 MSL BEACH FRONT
[Black Dashed Line]	1885 MSL BEACH FRONT

ACID Titlemate 01121210-01210-002		Scale 1:400 (A3)	Scale	ACID Titlemate 01121210-01210-002
MR. FRANK OTTOOLE LOT 1 PART SECTION 69 UTOPIA ROAD - WESTPORT DETAIL PLAN SHOWING SHORELINES CHANGES		Drawing No. DR-041202 -002	Drawing No.	DR-041202 -002
CONSULTANTS LIMITED 276-278 Ashiqua Street PO Box 151 Christchurch New Zealand Tel: (03) 3790333 Fax: (03) 3790335		This drawing and its content are unconditionally limited by the conditions of the conditions of use attached		
Drawn	Checked	Treed	Approved	Date
-	-	-	-	12/04
Revised	Date	Issued for	Checked	Approved
-	-	-	-	-



Amendments	Rev'n	Date	Drawn	Issued for	Checked	Approved	Date	P.M	CONSULTANTS NZ LIMITED 40 Crown Hill Street New Plymouth Tel: (097) 618310 Fax: (097) 618310	The client's consent is in effect in the property as indicated on the plan. No consent is required unless otherwise stated.	MR. FRANK OTOOLE LOT 1 PART SECTION 69 UTOPIA ROAD - WESTPORT PLAN SHOWING SHORELINES CHANGES	Scale	ACAD Filename
	-	-	-	-	-	-	-	-				1:10,000 (A3)	01:102:06-01:102:001
								Drawing No.	DR-041202-001				

COWAN & HOLMES LTD

LAND SURVEYORS, RESOURCE MANAGERS

P. O. Box 156
1st Floor Duncan Hardie Building
37 Mackay Street
Greymouth

Telephone: (03) 768 6299
Fax: (03) 768 5017
Freephone: 0800 4 A SURVEY (0800 42 7878)
Email: admin.ch@xtra.co.nz

Ref: 5233

24 May 2005

District Planner
Buller District Council
P.O. Box 21
Westport
Attention: Helen Montgomery

BULLER DISTRICT COUNCIL

25 MAY 2005

Per

Chief Executive		
Mgr Operation		
Mgr Regulatory Services	✓	
Mgr Corporate Services		
Mgr Community Services		

Dear Helen

Resource consent application RC05/19 – F O’Toole & H Tremaine, Utopia Road, Westport

As earlier discussed with you, we have undertaken further work to clarify the location of the line 150m from MHWS on the above property, in relation to the subdivision sought in RC05/19. Please find enclosed a site plan which shows the approximate line of 150m from MHWS, on the proposed lots. As you will note, the line as shown leaves little room for proposed dwellings and associated activities to be fully contained in the area outside 150m of MHWS.

Therefore the applicants seek a minor change to the width of the proposed right of way on Lot 2, in order to maximise the area available for building on allotment (refer below).

They also wish to ensure that provision is made for some minor encroachment of residential activity within 150m of MHWS, on Lots 1 & 2. While the majority of the residential activity on the allotments will be undertaken outside the 150m line, a land use consent is required in order to allow for minor encroachment in to this area.

This is sought in order that the applicants can have some flexibility in seeking building designs that may extend within 150m of MHWS, or for siting of associated activities such as water tanks or sewage treatment and disposal systems in this area. A land use consent will provide certainty for the applicants and any subsequent purchasers, if the allotments are sold. As shown, any encroachment will be minor (for example, any part of a building would not extend further than 10m in to this area).

Amendments to the consent application are therefore as follows:

1. A reduction in the width of the proposed Right of Way easement, as shown on this attached Plan, from 6m as sought in the original application, to 4m. This would still comply with the minimum requirements of the Council, and no parties are affected by this change.

2. The building sites have been amended to specifically show minor encroachment in to the 150m area from MHWS. As noted above and shown on the attached plan, the majority of the residential activity will occur outside this 150m, but some residential activity may encroach in to this area. The amended sites shown are still well within the property's boundaries and the slight amendment is less than minor. The proposal will still comply with all other requirements for residential activities in the rural zone.

In all other respects the application is unchanged. I understand there are no issues associated with the above amendments, and you will now proceed to consider and decide the application.

Please call me if you consider the above raises any potential issues or if you have any queries. Otherwise we will wait to hear from you as to a decision on the application. Thank you very much for your time.

Yours faithfully,



Toni Morrison
Cowan & Holmes

Cc F O'Toole