

Te Tai o Poutini Plan  
Section 42A Officer's Report  
General District Wide Matters:  
Light – Ngā Rama  
Earthworks - Te Huke Whenua  
Temporary Activities – Ngā Mahi Taupua



**Te Tai o Poutini**  
PLAN

*A combined district plan for the West Coast*

## Contents

Executive Summary.....	4
List of Submitters and Further Submitters addressed in this report .....	5
Abbreviations.....	8
1.0 Introduction.....	9
1.1 Author qualifications and experience.....	9
1.2 Code of Conduct .....	9
1.3 Conflict of Interest .....	9
1.4 Expert Advice .....	9
2.0 Scope of Report and Topic Overview.....	9
2.1 Scope of Report.....	9
2.2 Topic Overview.....	10
2.2.1 Earthworks .....	10
2.2.2 Light .....	10
2.2.3 Temporary Activities .....	11
3.0 Statutory Requirements. ....	11
3.1 Statutory Documents.....	12
3.1.1 Resource Management Act 1991.....	12
3.1.2 Any Other Relevant National Direction.....	13
3.1.3 Iwi Management Plans.....	14
3.1.4 West Coast Regional Policy Statement 2020 (RPS) and West Coast Regional Land and Water Plan (RLWP) .....	15
3.1.5 Other Relevant Legislation .....	15
3.2 Section 32AA Evaluation .....	15
3.3 Procedural Matters.....	15
4.0 Consideration of Submissions Received .....	16
4.1 Structure of this report .....	16
5. Submissions on Earthworks .....	16
5.1 Overview of Earthworks Submissions Received .....	16
5.2 Key Issue 1: EARTH General.....	17
5.3 Key Issue 2: EARTH Overview .....	20
5.4 Key Issue 3: EARTH Objectives.....	24
6.6 Key Issue 4: EARTH Policies .....	26
6.7 Key Issue 5: EARTH Rules .....	33
6. Submissions on Light .....	67
6.1 Overview of Light Submissions Received .....	67
6.2 Key Issue 1: General Submissions .....	67
6.3 Key Issue 2: LIGHT Overview .....	69

6.4	Key Issue 3: Light Objectives.....	70
6.6	Key Issue 4: Policies .....	74
6.7	Key Issue 5: Light Rules.....	82
7.	Submissions on Temporary Activities.....	94
7.1	Overview of Temporary Activities Submissions Received.....	94
7.2	Key Issue 1: TEMP General.....	94
7.3	Key Issue 2: TEMP Overview .....	97
7.4	Key Issue 3: Temporary Activities Objectives .....	97
7.5	Key Issue 4: Temporary Activities Policies.....	98
	Key Issue 5: Temporary Activities Rules .....	100
8.0	Other Submissions .....	109
9.0	Conclusion.....	110

## Executive Summary

The Proposed Te Tai o Poutini Plan (pTTPP) was publicly notified on the 14<sup>th</sup> July 2022. Earthworks, Light and Temporary Activities chapters are located in the General District Wide section and are 3 of 7 chapters located in the General District Wide Section.

In line with the National Planning Standards the pTTPP has introduced General District Wide Chapters for Earthworks, Light and Temporary Activities. Key components of the Earthworks, Light and Temporary Activities chapters are:

- Objectives and policies and rules that reflect sections 6 and 7 under the Resource Management Act (RMA), and national and regional policy direction.

A total of 106 submissions (648 submission points) and 85 further submissions were received on the Earthworks, Light and Temporary Activity chapters. Submissions have been grouped by provision.

Submissions were received from a range of submitters including organisations, network utility operators, private individuals and landowners.

This report has been prepared in accordance with Section 42A of the RMA and outlines recommendations in response to the issues that have emerged from submissions. The report is intended to assist the Hearings Panel to make decisions on the submissions and further submissions on the pTTPP, and to provide submitters with an opportunity to see how their submissions have been evaluated and the recommendations made, prior to the hearing.

The key changes to the pTTPP recommended in this report relate to improving clarity, efficiency and effectiveness of provisions.

## List of Submitters and Further Submitters addressed in this report

### **EARTHWORKS**

Bathurst Resources Limited and BT Mining Limited (S491)  
Birchfield Coal Mines Ltd (S601)  
Birchfield Ross Mining Limited (S604)  
BRM Developments Limited (S603)  
Buller Conservation Group (S552)  
Buller District Council (S538)  
Catherine Smart-Simpson (S564)  
Chorus NZ Ltd, Spark NZ Trading Ltd, Vodafone NZ Ltd (S663)  
Chris & Jan Coll (S558)  
Chris J Coll Surveying Limited (S566)  
Claire & John West (S506)  
Department of Conservation (S602)  
Federated Farmers of New Zealand (S524)  
Frida Inta (S553)  
Fuel Companies (S613)  
G.E. and C.J. Coates on behalf of Nikau Deer Farm Limited (S415)  
Geoff Volckman (S563)  
Grey District Council (S608)  
Heritage New Zealand Pouhere Taonga (S140)  
Horticulture New Zealand (S486)  
Inger Perkins (S462)  
Joel and Jennifer Watkins (S565)  
Karamea Lime Company (S614)  
KiwiRail Holdings Limited (S442)  
Koiterangi Lime Co LTD (S577)  
Laura Coll McLaughlin (S574)  
Lauren Nyhan Anthony Phillips (S533)  
Manawa Energy Limited (Manawa Energy) (S438)  
Margaret Montgomery (S446)  
Martin & Lisa Kennedy (S545)  
New Zealand Coal & Carbon Limited (S472)  
New Zealand Defence Force (S519)  
Nick Pupich Sandy Jefferies (S546)  
Papahaua Resources Limited (S500)  
Peter Langford (S615)

Phoenix Minerals Limited (S606)  
Rocky Mining Limited (S474)  
Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird) (S560)  
Russell and Joanne Smith (S477)  
Silver Fern Farms Limited by its authorised agents Mitchell Daysh Limited (S441)  
Snodgrass Road submitters (S619)  
Steve Croasdale (S516)  
Stewart & Catherine Nimmo (S559)  
Straterra (S536)  
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora (S190)  
Te Runanga o Ngāi Tahu, Te Runanga o Ngāti Waewae, Te Runanga o Makaawhio (S620)  
Te Tumu Paeroa - The office of the Māori Trustee (S440)  
TiGa Minerals and Metals Limited (S493)  
Tim and Phaedra Robins (S579)  
Tim Macfarlane (S482)  
Tim Macfarlane (S482)  
Transpower New Zealand Limited (S299)  
Waka Kotahi NZ Transport Agency (S450)  
Westland District Council (S181)  
Westpower Limited (S547)  
Whyte Gold Limited (S607)  
William McLaughlin (S567)  
WMS Group (HQ) Limited and WMS Land Co. Limited (S599)

## **LIGHT**

Birchfield Coal Mines Ltd (S601)  
Birchfield Ross Mining Limited (S604)  
BRM Developments Limited (S603)  
Buller Conservation Group (S552)  
Buller District Council (S538)  
Catherine Smart-Simpson (S564)  
Chris & Jan Coll (S558)  
Chris J Coll Surveying Limited (S566)  
Department of Conservation (S602)  
Federated Farmers of New Zealand (S524)  
Frida Inta (S553)  
Geoff Volckman (S563)  
Grey District Council (S608)

Horticulture New Zealand (S486)  
John Brazil (S360)  
Karamea Lime Company (S614)  
Koiterangi Lime Co LTD (S577)  
Laura Coll McLaughlin (S574)  
Margaret Montgomery (S446)  
Papahaua Resources Limited (S500)  
Peter Langford (S615)  
Phoenix Minerals Limited (S606)  
Rocky Mining Limited (S474)  
Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird) (S560)  
Silver Fern Farms Limited by its authorised agents Mitchell Daysh Limited (S441)  
Steve Croasdale (S516)  
Suzanne Hills (S443)  
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora (S190)  
TiGa Minerals and Metals Limited (S493)  
Waka Kotahi NZ Transport Agency (S450)  
West Coast Penguin Trust (S275)  
Westland District Council (S181)  
Westpower Limited (S547)  
Whyte Gold Limited (S607)  
William McLaughlin (S567)  
WMS Group (HQ) Limited and WMS Land Co. Limited (S599)

### **TEMPORARY ACTIVITIES**

Buller Conservation Group (S552)  
Buller District Council (S538)  
Frida Inta (S553)  
Grey District Council (S608)  
Jet Boating New Zealand (S161)  
KiwiRail Holdings Limited (S442)  
Lynda Richmond (S423)  
Neville Higgs (S329)  
New Zealand Defence Force (S519)  
New Zealand Motor Caravan Association (S490)  
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora (S190)  
Te Runanga o Ngāi Tahu, Te Runanga o Ngāti Waewae, Te Runanga o Makaawhio (S620)  
Waka Kotahi NZ Transport Agency (S450)

Westland District Council (S181)

Westpower Limited (S547)

## Abbreviations

<b>Abbreviation</b>	<b>Meaning</b>
pTTPP	Proposed Te Tai o Poutini Plan
RMA	Resource Management Act
Forest & Bird	Royal Forest and Bird Protection Society of New Zealand Inc
Ngāi Tahu	Te Runanga o Ngai Tahu, Te Runanga o Ngati Waewae, Te Runanga o Makaawhio



## 1.0 Introduction

### 1.1 Author qualifications and experience.

1. My full name is Briar Alayne Belgrave, and I am Partner at Barker & Associates planning and urban design consultancy. I am a qualified planner and a Masters in Resource and Environmental Planning with Honours from Massey University. I am also a full member of the New Zealand Planning Institute.
2. I have over 10 years' experience in planning and resource management. During this time, I have been employed in various planning positions in central government, local government and private companies. My predominant experience has been in policy planning and resource consent planning across New Zealand including, Wellington, Auckland, Whangarei, Far North, Gisborne, Waitaki and in Australia. This experience includes preparing assessments of environmental effects, processing and reporting on resource consent applications, Resource Management Act reforms, preparation of national policy (National Environmental Standards and National Policy Statements), district plan formulation and policy advice for councils, the consideration of submissions and writing Section 32 and 42A reports.

### 1.2 Code of Conduct

3. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
4. I am authorized to give this evidence on behalf of the Te Tai o Poutini Plan Committee to the pTTPP hearings commissioners (Hearings Panel).

### 1.3 Conflict of Interest

5. To the best of my knowledge, I have no real or perceived conflict of interest.

### 1.4 Expert Advice

6. In preparing this report I rely on expert advice from Paul Wilson in relation to the Lighting chapter. This evidence is contained in Appendix 3 to this report.

## 2.0 Scope of Report and Topic Overview

### 2.1 Scope of Report

7. This report has been prepared in accordance with Section 42A of the RMA to:
  - assist the Hearings Panel in making their decisions on the submissions and further submissions on the pTTPP; and
  - provide submitters with an opportunity to see how their submissions have been evaluated and the recommendations being made by officers, prior to the hearing.
8. This report responds to submissions and further submissions that were received in relation to Earthworks - Te Huke Whenua, Light – Ngā Rama, and Temporary Activities – Ngā Mahi Taupua Chapters of the pTTPP.
9. Recommendations are made to either retain provisions without amendment, delete, add to or amend the provisions. All recommended amendments are shown by way of ~~strikeout~~ and underlining.
10. Footnoted references to a submitter number, submission point and the abbreviation for their title provide the scope for each recommended change. Where it is considered that an amendment may be appropriate, but it would be beneficial to hear further evidence before making a final recommendation, this is made clear within the report. Where no

amendments are recommended to a provision, submission points that sought the retention of the provision without amendment are not footnoted.

11. Clause 16(2) of the RMA allows a local authority to make an amendment to a proposed plan without using a Schedule 1 process, where such an alteration is of minor effect, or may correct any minor errors. A number of alterations have already been made to the pTTPP using cl.16(2) and these are documented on the pTTPP website. Where a submitter has requested the same or similar changes to the pTTPP that fall within the ambit of cl.16(2), then such amendments will continue to be made and documented as cl.16(2) amendments in this s42A report.
12. The assessment of submissions generally follows the following format:
  - Submission Information
  - Analysis
  - Recommendation and Amendments
13. Where appropriate definitions unique to Earthworks, Light and Temporary Activities have been considered in this s42A report.

## **2.2 Topic Overview**

### **2.2.1 Earthworks**

14. Earthworks are the physical works that modify land for development so that it can be used for living, business, and recreation purposes, farming and forestry and the construction and maintenance of infrastructure. The scope and scale of earthworks range from large bulk earthworks, which can alter the landform and its topography, to small and discrete areas of works most often associated with minor development. Earthworks can adversely affect amenity values (visual, dust nuisance, noise and traffic) and result in changes to natural landforms. Earthworks can cause changes to the appearance and character of the neighbourhoods they are located in and can impact on people's experience of their environment.
15. The proposed Earthworks Chapter seeks to manage effect of earthworks including:
  - A single objective recognizing the need for earthworks to facilitate development whilst ensuring that the adverse amenity effects are minimised.
  - Policies that enable temporary, small-scale and subdivision related earthworks, and that manage adverse effects on amenity, cultural and ecological values.
  - Rules that: permit earthworks activities subject to complying with standards that reflect the nature of the zone and the location, purpose and timeframes associated with the earthworks activities; and provide for earthworks as restricted discretionary activities where the permitted activity standards are not complied with.

### **2.2.2 Light**

16. Artificial lighting is required to enable operations and activities to occur after dark, particularly associated within industrial activities, ports, airports, carparks and sports facilities, contributing to the economic vitality and vibrancy of activities on the West Coast. Lighting is also beneficial in improving health and safety, especially in public areas such as parks, car parks and walkways. However, the location, character (brightness, colour and intensity) and direction of lighting can result in light overspill onto adjoining properties and roads which, in turn, can have a significant impact on amenity values, their use and enjoyment and in terms of roads, public safety. Excessive light spill or glare resulting from artificial lighting can detract from the character and amenity values associated with the local environment, particularly in urban areas where it affects a significant portion of the population. Lighting conflicts tend to more frequently arise in

areas where light 'sensitive' activities are located in close proximity to land use with high light emittance.

17. The Light provisions of the pTTPP seek to manage the potential effect of light spill, glare and sky glow effects through Te Tai o Poutini Plan. The proposed Light Chapter includes:
  - Objectives which support appropriate use of artificial outdoor lighting and seek that it is located, designed and operated so that it does not create adverse effects on health and safety, views of the night sky and nocturnal native fauna.
  - Policies which provide for artificial outdoor lighting where this is appropriate and enable it where it is associated with temporary activities, emergency response or to support public health and safety, and support the management of the intensity, location and direction of artificial outdoor lighting where it may have adverse effects.
  - Rules that: set maximum lux level limits specific to zones in accordance with AS/NZ 4282:2019, require lighting to be directed away from adjacent properties and roads to manage glare, control artificial outdoor lighting for the purpose of reducing impacts on native wildlife, outstanding coastal natural character, upward waste light and minimising sky glow.

### **2.2.3 Temporary Activities**

18. Temporary activities are important for allowing local communities to provide for their health and wellbeing, as well as promoting a positive sense of place. The nature, scale, location and duration of these activities differ greatly, ranging from community, cultural, recreational, entertainment, and agricultural events. Whilst these activities are infrequent or occur for a short duration, they can have adverse effects on the amenity of those areas in which they are located. These adverse effects can include noise, light spill and glare, visual amenity, traffic generation and parking, loss of access to public open spaces and waste generation.
19. Cultural, heritage and ecological values can also be affected if temporary activities occur within sensitive environments. The positive effects of temporary activities and their limited duration, to some extent, offsets their adverse effects. Amenity effects, such as noise, traffic and parking, can often be tolerated to a greater extent than if associated with a permanent activity. These activities therefore need to be managed according to their risk and persistence of effects. This will allow for the positive community outcomes associated with temporary activities to be realised without the burden of additional regulation and its associated costs.
20. The Temporary Activities Chapter includes:
  - An objective that recognises the benefits of temporary activities and their contribution to community wellbeing.
  - Policies that enable temporary activities with minor and transitory effects and manage adverse effects on amenity and the environment.
  - Rules that permit: temporary military training activities, temporary buildings ancillary to construction and demolition, temporary motorsport activities, temporary residential buildings following an emergency declaration, freedom camping on land adjacent to the state highway network and a range of other temporary activities such as events and community markets.

## **3.0 Statutory Requirements.**

21. Sections 6.2, 15.2 and 21.2 of the General District Wide Matters Section 32 report provides a detailed record of the relevant statutory considerations applicable to Earthworks, Light and Temporary Activities. It also sets out the relationship between sections of the RMA and higher order documents, i.e., relevant iwi management plans,

other relevant plans, and strategies.

22. I do not consider it necessary to repeat the detail of the full suite of higher order documents here. However, I do consider it necessary to repeat information about the RMA and other relevant national direction because these pieces of legislation/regulations inform the content of some of the submissions received and my analysis on these submissions. Also, many further submitters who were not initial submitters may not be aware of the Section 32 report and the statutory context. I have also outlined the requirements in the West Coast Regional Policy Statement.

### 3.1 Statutory Documents

#### 3.1.1 Resource Management Act 1991

23. The RMA evaluation provided in Section 1.2.1 of the General District Wide Matters Section 32 report has been adopted as follows. Part 2 of the RMA contains the purpose and principles of the legislation.
24. Section 5 sets out the purpose of the RMA, which is to promote the sustainable management of natural and physical resources. Sustainable management includes managing the use, development, and protection of natural and physical resources to enable people and communities to provide for their social, economic and cultural wellbeing and for their health and safety.
25. In achieving this purpose, authorities need also to recognise and provide for the matters of national importance identified in Section 6, have particular regard to other matters referred to in Section 7 and take into account the principles of the Treaty of Waitangi referred to in Section 8.
26. Section 6 matters of national importance relevant to the proposed light, earthworks and temporary activity provisions are:
- (a) *the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development.*
  - (b) *the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development.*
  - (c) *the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.*
  - (e) *the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.*
  - (f) *the protection of historic heritage from inappropriate subdivision, use, and development.*
27. Section 7 of the RMA requires particular regard to be taken into relation to the following matters of relevance to the proposed provisions:
- Lighting:
- (c) *the maintenance and enhancement of amenity values*
  - (f) *maintenance and enhancement of the quality of the environment*
- Earthworks:
- (a) *kaitiakitanga*
  - (aa) *the ethic of stewardship*
  - (b) *the efficient use and development of natural and physical resources*
  - (c) *the maintenance and enhancement of amenity values*
  - (f) *maintenance and enhancement of the quality of the environment*

Temporary Activities:

*(b) the efficient use and development of natural and physical resources*

*(c) the maintenance and enhancement of amenity values*

*(f) maintenance and enhancement of the quality of the environment*

28. All of the above matters are relevant when enabling lighting, earthworks and temporary activities while also managing their adverse effects.
29. Section 8 requires the Council to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). Consistent with the practice followed in the development of the pTTPP, the Section 8 principle of most relevance to these topics is the duty to make informed decisions through consultation. Poutini Ngāi Tahu through the Rūnanga kaiwhakahaere have been involved in the governance and development of pTTPP and their planners have collaborated in the development of the pTTPP provisions. Alongside this, Poutini Ngāi Tahu been consulted as part of the review process and the obligation to make informed decisions based on that consultation is noted.
30. All of the above matters are relevant when considering development involving earthworks, lighting, and temporary activities, and ensuring that these activities are appropriately provided for while managing adverse effects on the environment and the health, safety, and wellbeing of the community.

#### **Local Government Reorganisation Scheme (West Coast Region) Order 2019**

31. This Order transfers the statutory District Plan under section 31 of the RMA making powers from the Buller, Grey and Westland District Councils to the West Coast Regional Council. It requires the West Coast Regional Council to then delegate all those powers to Tai Poutini Plan Committee. The Order sets out the requirements for the Tai Poutini Committee to prepare a Combined District Plan for the three districts.

#### **3.1.2 Any Other Relevant National Direction**

32. When considering light, earthworks and temporary activities the following National Policy Statements and National Environmental Standards are relevant.

#### **New Zealand Coastal Policy Statement 2010 (NZCPS)**

33. The NZCPS outlines the policies for achieving the purpose of the RMA in relation to the coastal environment. pTTPP must give effect to (i.e. implement) the NZCPS, the NZCPS seeks to protect and enhance the coastal environment, including: safeguarding the integrity, form, functioning and resilience of the coastal environment, preserving the natural character and protecting natural features and landscapes values of the coastal environment and managing coastal hazard risks. The NZCPS does not explicitly provide direction with respect to lighting, earthworks and temporary activities, however policies afford direction with respect to development in the coastal environment. Of particular relevance are:
  - Policy 6 Activities in the coastal environment
  - Policy 11 Indigenous biological diversity
  - Policy 13 Preservation of natural character
  - Policy 15 Natural features and natural landscapes
  - Policy 17 Historic heritage identification and protection
34. pTTPP earthworks, light and temporary activity provisions must give effect to the NZCPS whilst ensuring consistency with other pTTPP District Wide Matters, Natural Environment Values and coastal environment.

#### **National Policy Statement for Freshwater Management (NPS-FM)**

35. The NPS-FM outlines the policies for achieving the purpose of the RMA in relation to

Freshwater. pTTPP must give effect to (i.e. implement) the NPS-FM, the NPS-FM seeks to prioritise first, the health and well-being of water-bodies and freshwater ecosystems, second, health needs of people and third the ability of people and communities to provide for their social, economic and cultural wellbeing when managing natural and physical resources. Policy 3.5 requires the adoption of an integrated management approach to the management of land use effects and development on freshwater.

36. pTTPP light, earthworks and temporary activity provisions must give effect to the NPS-FM whilst ensuring consistency with other pTTPP District Wide Matters, Natural Environment Values. Earthworks and temporary activity provisions in particular must also be consistent with the Resource Management (National Environmental Standards for Freshwater) Regulations 2020.

#### **National Policy Statement for Indigenous Biodiversity (NPS-IB)**

37. The NPS-IB outlines the policies for achieving the purpose of the RMA in relation to Biodiversity. pTTPP must give effect to (i.e. implement) the NPS-IB, which seeks to maintain indigenous biodiversity across Aotearoa New Zealand so that there is no overall loss in indigenous biodiversity. Policy 3 requires a precautionary approach to be adopted when considering adverse effects on indigenous biodiversity.
38. The pTTPP Natural Environment Values provisions will afford protection of indigenous biodiversity, it is important that earthworks and temporary activity chapters give effect to the NPS-IB by establishing consistency across the pTTPP.

#### **National Policy Statement for Highly Productive Land (NPS-HPL)**

39. The NPS-HPL seeks to protect highly productive land for use in land-based primary production, both for now and for future generations. Policy 8 requires the pTTPP to protect highly productive land from inappropriate use or development. This policy direction must be given effect to in the Temporary Activity provisions of the pTTPP.

#### **National Environmental Standards for Electrical Transmission Activities 2009 (NESETA)**

40. The NESETA establishes a regulatory framework for earthworks activities associated with existing transmission lines, including providing for such earthworks as permitted activities, provided they do not breach regional rules. Earthwork provisions must not duplicate and remain consistent with NESETA.

#### **National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (NESCS)**

41. The NESCS is directly relevant to the earthworks provisions of the proposed pTTPP as it establishes a regulatory framework for the sampling of and disturbance (i.e., earthworks) of contaminated soils. Earthwork provisions must not duplicate and remain consistent with NESETA.

#### **National Environmental Standards for Telecommunication Facilities 2016 (NESTF)**

42. The NESTF predominantly applies regional rules to control earthworks related matters. However, it is noted the NESTF specifies that district plan natural hazard rules need not be taken into account when installing, removing or maintaining a telecommunication facility which must include earthworks within natural hazard areas.

### **3.1.3 Iwi Management Plans**

43. The RMA requires that when preparing a District Plan, the territorial authority must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district (section 74(2A)). There are three iwi management plans on the West Coast – the Te Rūnanga o Makaawhio Pounamu Management Plan, the Ngāti Waewae Pounamu Management Plan and the Lake Māhinapua Management



Plan. While these documents focus on specific issues, they also contain wider information about the overall approach to sustainability and kaitiakitanga of resources and Poutini Ngāi Tahu values. Natural landscapes may have cultural values such as pā, kāinga, ara tawhito (traditional trails), pounamu, mahinga kai, and wāhi ingoa (place names). The traditions of Ngāi Tahu tūpuna (ancestors) are embedded in the landscape.

44. Other relevant plans, policies, and strategies include the of Ngāi Tahu Freshwater Policy Statement 1999. This Policy Statement sets out objectives and policies in relation to the management of freshwater resources, including through collaborative management initiatives. The provisions within the Ngāi Tahu Freshwater Policy Statement 1999 are relevant to the management of earthworks and sediment runoff into waterbodies within the West Coast.

### **3.1.4 West Coast Regional Policy Statement 2020 (RPS) and West Coast Regional Land and Water Plan (RLWP)**

45. The RMA requires a District Plan to give effect to an operative Regional Policy Statement and be consistent with an operative Regional Plan. Sections 6.2.3, 15.2.4, 21.2.4 of the District Wide Matters Section 32 Report evaluates the relevant provisions of the RPS and RLWP. The light, earthworks and temporary activity provisions will give effect to the RPS and be consistent with the RLWP.

### **3.1.5 Other Relevant Legislation**

#### **New Zealand Standards**

46. New Zealand Standards provide technical prescription and guidance for the measurement of lighting and earthworks, the pTTPP references AS/NZS 4282:2019 Control of the obtrusive effects of outdoor lighting.
47. Other New Zealand standards, such as AS/NZS1158.1.2:2010 Lighting for roads and public spaces and AS/NZS1680.4:2017 Interior and workplace lighting, provide standards relevant to the lighting requirements of particular activities, but do not specifically consider the effects of that lighting on other sites, apart from providing some general guidance.

### **3.2 Section 32AA Evaluation**

48. This report uses 'key issues' to group, consider and provide reasons for the recommended decisions on similar matters raised in submissions. Where applicable, the recommended decisions have been evaluated using Section 32AA of the RMA.
49. The Section 32AA further evaluation for each key issue considers:
  - Whether the amended objectives are the best way to achieve the purpose of the RMA;
  - The reasonably practicable options for achieving those objectives;
  - The environmental, social, economic and cultural benefits and costs of the amended provisions;
  - The efficiency and effectiveness of the provisions for achieving the objectives; and
  - The risk of acting or not acting where there is uncertain or insufficient information about the provisions.
50. The Section 32AA further evaluation contains a level of detail that corresponds to the scale and significance of the anticipated effects of the changes that have been made. Recommendations on editorial, minor and consequential changes that improve the effectiveness of provisions without changing the policy approach are not re-evaluated.

### **3.3 Procedural Matters**

51. Due to the clarity of submissions, no other correspondence or formal pre-hearing

meetings with submitters needed to be undertaken.

## **4.0 Consideration of Submissions Received**

### **4.1 Structure of this report**

52. Given the number, nature and extent of the submissions and further submissions received, this Section 42A Report addressed the key themes and issues raised generally, in accordance with Clause 10(2), as opposed to making specific recommendations on each submission point. This Report has been structured based on chapter, followed by section as they appear in the pTTPP.
53. The submissions will be assessed in the order set out below:
  - Earthworks
    - Key Issue 1: EARTH General
    - Key Issue 2: EARTH Overview
    - Key Issues 3: EARTH Objectives
    - Key Issues 4: EARTH Policies
    - Key Issues 5: EARTH Rules
  - Light
    - Key Issue 1: LIGHT General
    - Key Issue 2: LIGHT Overview
    - Key Issues 3: LIGHT Objectives
    - Key Issues 4: LIGHT Policies
    - Key Issues 5: LIGHT Rules
  - Temporary Activities
    - Key Issue 1: TEMP General
    - Key Issue 2: TEMP Overview
    - Key Issues 3: TEMP Objectives
    - Key Issues 4: TEMP Policies
    - Key Issues 5: TEMP Rules
54. Recommended amendments are contained in the following appendices:
  - Appendix 1: Recommended Amendments to EARTH, LIGHT and TEMP provisions.
55. Submissions received that are in support or neutral in relation to the notified provisions are noted and are not necessarily addressed in this report. In addition, only key further submissions are identified in relation to the decision requested by submitters. A full list of submissions and further submissions is contained in Appendix 2: Submissions and Further Submissions on EARTH, LIGHT and TEMP.
56. Additional information can be obtained from the:
  - Section 32 report on the Overview and Strategic Directions; and
  - Overlays and maps on the ePlan.

## **5. Submissions on Earthworks**

### **5.1 Overview of Earthworks Submissions Received**

57. A total of 55 submissions (380 submission points) and 9 further submissions (43



submission points) were received on the Earthworks chapter, and relevant definitions.

58. This part of the report groups similar submission points together under key issues. This thematic response assists in providing a concise response to, and recommended decision on, submission points.
59. The topics which are identified by key issue in this report are set out below:
- Key Issue 1: EARTH General
  - Key Issue 2: EARTH Overview
  - Key Issues 3: EARTH Objectives
  - Key Issues 4: EARTH Policies
  - Key Issues 5: EARTH Rules

## 5.2 Key Issue 1: EARTH General

Provision(s)	Officer Recommendation(s)
Overview paragraph 3	<p><b><i>Other relevant Te Tai o Poutini Plan provisions</i></b>  <i>In addition to the provisions in this chapter, earthworks and land disturbance are also subject to additional provisions in some zone chapters and a number of Part 2: District-Wide Matters chapters, including:</i></p> <ul style="list-style-type: none"> <li>• <b><i>Overlay Chapters</i></b> - the Overlay Chapters have <a href="#">earthworks</a> provisions in relation to Historic Heritage; Notable Trees; Sites and Areas of Significance to Māori; Ecosystems and Indigenous Biodiversity; Natural Features and Landscapes; Natural Character and Margins of Waterbodies ; Natural Hazards; and the Coastal Environment. <del>Where earthworks are located within an overlay area (as identified in the planning maps) then the relevant overlay chapter provisions apply.</del></li> <li>• <b><i>Earthworks Associated with Mineral Extraction</i></b> – the <a href="#">rules that apply to mineral extraction activities are located in the Zone Chapters</a> <del>have provisions in relation to mineral extraction and its ancillary activities including earthworks.</del></li> </ul>

### Analysis of Submissions on Key Issue 1 – EARTH General

Submitter	Submission Point & Point Number	Position	Decision Requested
G.E. and C.J.Coates on behalf of Nikau Deer Farm Limited	S415.009	Oppose in part	Remove any overlays.
Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu	FS41.79 - 107	Oppose in part	The rules are appropriate in order to consider the effects on the values of the overlays on a case-by-case basis.
Department of Conservation	S602.173	Neutral	NA.
Grey District Council	S608.083	Amend	Remove all references to "Site or Area of Significance to Māori" in the Chapter
Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu	FS41.22	Oppose in part	Cross referencing within the Plan is important for clarity.

Transpower New Zealand Limited	S299.057	Amend	Provide all relevant earthwork rules within the Earthworks Chapter
Inger Perkins	S462.036	Amend	Ensure earthworks provisions enable the development of natural burial sites.
Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	S560.314	Support in part	Amend in line with decisions sought in Key Issues above, with respect to referring to other chapters in the Plan and the use of the term 'overlay chapters'.
Westpower Limited	FS222.0312	Oppose	Submission provides no specific wording to understand implications of the requested change.
Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	S560.315	Amend	Amend to include much more detail about when a consent from the regional council may be needed, including a very clear statement setting out the circumstances in which earthworks near a wetland may require consent.
Rocky Mining Limited	S474.048	Amend	Clarification that, as standalone activities in the rural, open space and mineral extraction zones, additional earthworks rules do not apply to mineral extraction.
Papahaua Resources Limited	S500.032	Amend	Clarification that, as standalone activities in the rural, open space and mineral extraction zones, additional earthworks rules do not apply to mineral extraction.
Snodgrass Road submitters	S619.050	Amend	Retain Rules EW-R1 to EW-R8 subject to the changes sought to EW-R1 and EW-R2 below.  The earthworks rules are supported insofar as they apply to the Snodgrass Road submitters' properties subject to the changes sought to EW-R1 and EW-R2.
Birchfield Ross Mining Limited	S604.005	Amend	The definition for earthworks would capture minerals extraction, exploration and prospecting.
William McLaughlin	S567.005	Amend	
TiGa Minerals and Metals Limited	S493.006	Amend	
Birchfield Coal Mines Ltd	S601.005	Amend	
BRM Developments Limited	S603.005	Amend	
Whyte Gold Limited	S607.005	Amend	
New Zealand Coal & Carbon Limited	S472.004	Oppose	
Straterra	S536.039	Amend	
Phoenix Minerals Limited	S606.005	Oppose	
Straterra	S536.016	Amend	

Straterra	S536.030		There are some definitions that seem incorrectly cross referenced to the Resource Management Act (RMA),
-----------	----------	--	---

### Analysis

60. Numerous submitters seek to have all earthworks provisions located within the EARTH chapter, and to remove all referencing within EARTH to sites of significance to Māori. The National Planning Standards mandatory direction 7.30, 7.32 and 7.37 require that provisions relating to Earthworks, Light and Temporary Activities must be located in chapters within the General District Wide Matters section of the plan. The National Planning Standards under mandatory direction 7 also requires other district wide provisions such as Energy and Natural Environmental Values to be contained within relevant District Wide topic chapters. The National Planning Standards do not provide any direction with respect to cross referencing or how to manage overlaps. The pTTPP has been structured so that all overlay provisions are located within their respective District Wide topic chapters, whilst generic district wide matters are contained within the General District Wide Matters section, therefore, I do not support the relief sought by Transpower NZ Ltd (S299.057). Cross referencing within the EARTH overview provides clarity for the plan user.
61. Inger Perkins (S462.036) seeks to ensure that the provisions provide for natural burials. It is noted that EW-R2 provides for earthworks that are for interments in a cemetery or urupā which may include natural burials. No further response is necessary.
62. Forest and Bird (S560.314) seek to amend the EARTH chapter to align with cross-referencing of Overlay chapters. Stating that:
- "The Overview statements in many chapters refer to the relevance of Overlay chapters, however this is limited to where an activity is located within an overlay area as identified on the Planning maps (e.g., TRN chapter approach). Some Plan provisions continue this approach. For example, Earthworks rules 3 – 5 include a permitted activity standards that 'where earthworks are undertaken within an Overlay Chapter area these earthworks meet the Permitted Activity Standards for the relevant Overlay area.'*
- This means that Overlay chapter provisions which apply beyond areas mapped as overlays are not considered relevant and in many cases are not able to be considered in consent processes due to this approach. For example, the Ecosystems and Indigenous Biodiversity and Natural Character and Margins of Waterbodies contain provisions which apply beyond areas mapped as "overlays"."*
63. I agree with Forest and Bird that EARTH Overview could lead to misinterpretation of overlay chapters which apply rules outside of mapped areas. I support amendments to EARTH Overview to improve clarity.
64. Forest and Bird seek amendments to include more detail with respect to when a consent may be needed from regional council and a clear statement about earthworks near a wetland which may require a consent. In my opinion no amendment is necessary as the Regional Plan is a separate policy document which the District Plan must not repeat and must remain consistent with in accordance with section 75 of the RMA. Furthermore, earthworks within or within proximity to wetlands is managed under the Resource Management (National Environmental Standards for Freshwater) Regulations 2020, which are clearly detailed in EARTH Overview and the How the Plan Works, General Approach section of the pTTPP.
65. Rocky Mining Limited (S474.048) and Papahaua Resources Limited (S500.032) seek clarification to ensure that earthwork rules do not apply to mineral extraction. The EARTH Overview, states:

***"Other relevant Te Tai o Poutini Plan provisions***

*In addition to the provisions in this chapter, earthworks and land disturbance are also subject to additional provisions in some zone chapters and a number of Part 2: District-Wide Matters chapters, including:*

- ...
- ***Earthworks Associated with Mineral Extraction*** - the Zone Chapters have provisions in relation to mineral extraction and its ancillary activities including earthworks."

66. I support minor amendments to the Overview to provide improved clarity with respect to earthworks associated with mineral extraction. I also note that the advice notes under EW-R6 will provide further direction. In my opinion, these provisions will provide sufficient clarity to plan users on the relationship between the Earthworks chapter and mineral extraction activities.
67. A number of submitters seek to amend the definition of 'earthworks' on the basis that the proposed definition would capture minerals extraction, exploration and prospecting. I do not support further amendments to this definition as the proposed definition is in keeping with the National Planning Standards. I consider that the number of amendments recommended to the EARTH Overview, EW-R1, and EW-R2 which will provide sufficient clarification on the relationship between the EARTH chapter and other activities, including activities associated with mineral extraction.

### Recommendations

68. That EARTH Overview be amended as follows:

***Other relevant Te Tai o Poutini Plan provisions***

*In addition to the provisions in this chapter, earthworks and land disturbance are also subject to additional provisions in some zone chapters and a number of Part 2: District-Wide Matters chapters, including:*

- ***Overlay Chapters*** - the Overlay Chapters have [earthworks](#) provisions in relation to Historic Heritage; Notable Trees; Sites and Areas of Significance to Māori; Ecosystems and Indigenous Biodiversity; Natural Features and Landscapes; Natural Character and Margins of Waterbodies ; Natural Hazards; and the Coastal Environment. ~~Where earthworks are located within an overlay area (as identified in the planning maps) then the relevant overlay chapter provisions apply.~~
- ***Earthworks Associated with Mineral Extraction*** - the [rules that apply to mineral extraction activities are located in the Zone Chapters](#) ~~have provisions in relation to mineral extraction and its ancillary activities including earthworks.~~

## 5.3 Key Issue 2: EARTH Overview

### Overview

Provision(s)	Officer Recommendation(s)
Overview paragraph 2	<i>Earthworks can adversely affect amenity values (visual, dust nuisance, noise and traffic), <a href="#">natural environment values (such as indigenous biodiversity, habitat, environmental quality and landscape)</a> and result in changes to natural landforms. Earthworks can cause changes to the appearance and character of the neighbourhoods they are located in and can impact on people's experience of their environment.</i>
Overview paragraph 3	<p><b><i>Other relevant Te Tai o Poutini Plan provisions</i></b></p> <p><i>In addition to the provisions in this chapter, earthworks and land disturbance are also subject to additional provisions in some zone chapters and a number of Part 2: District-Wide Matters chapters, including:</i></p> <ul style="list-style-type: none"> <li>• <a href="#">District Wide Chapters – Energy, Infrastructure and Natural Hazards Chapters</a> have provisions in relation to earthworks.</li> </ul>

	<ul style="list-style-type: none"> <li>• <b>Overlay Chapters</b> - the Overlay Chapters have provisions in relation to Historic Heritage; Notable Trees; Sites and Areas of Significance to Māori; Ecosystems and Indigenous Biodiversity; Natural Features and Landscapes; Natural Character and Margins of Waterbodies ; Natural Hazards; and the Coastal Environment. Where earthworks are located within an overlay area (as identified in the planning maps) then the relevant overlay chapter provisions apply.</li> <li>• <b>Earthworks Associated with Mineral Extraction</b> – the <a href="#">rules that apply to mineral extraction are located in the Zone Chapters</a> <del>have provisions in relation to mineral extraction and its ancillary activities including earthworks.</del></li> </ul>
Overview paragraph 4	<p><b>Other relevant regulations</b></p> <p>A number of other regulatory and non-regulatory methods also manage the effects of earthworks. For instance, certain earthworks carried out as part of building work are subject to the New Zealand Building Code and may require a building consent under the Building Act 2004, <a href="#">and earthworks in the vicinity of electrical infrastructure are regulated under the New Zealand Code of Practice for Electrical Safe Distances (NZCEP 34:2001).</a></p>

## Analysis of Submissions on Key Issue 2 – EARTH Overview

Submitter	Submission Point & Point Number	Position	Decision Requested
Heritage New Zealand Pouhere Taonga	S140.042	Oppose in Part	HNZPT requests the wording be amended: 'Works and land disturbance affecting archaeological sites may also require authorisation under the Heritage New Zealand Pouhere Taonga Act 2014. The Heritage New Zealand Pouhere Taonga Act 2014 makes it unlawful for any person to modify or destroy, or cause to be modified or destroyed, the whole or any part of an archaeological site without the prior authority of Heritage New Zealand. <a href="#">This is regardless of whether the site is scheduled in Te Tai o Poutini Plan or not, and is in addition to any resource consent obtained.</a> '
Buller Conservation Group	S552.137	Amend	<i>The scope and scale of earthworks range from large bulk earthworks, which can alter the landform, <del>and its</del> topography, <a href="#">and drainage hydraulics</a>, to small and discrete areas of works most often associated with minor development</i>
Westpower Limited	FS222.029	Oppose	Seeks to add matters managed under regional plan provisions and rule.
Buller Conservation Group	S552.138	Amend	<i>A number of other regulatory and non-regulatory methods also manage the effects of earthworks, <a href="#">particularly addressed in the Regional Land and Water Plan.</a></i>

Frida Inta	S553.138	Amend	<i>A number of other regulatory and non-regulatory methods also manage the effects of earthworks, particularly addressed in the <a href="#">Regional Land and Water Plan</a>.</i>
Westpower Limited	S547.455	Amend	<i>Earthworks can adversely affect amenity values ... noise and traffic), <a href="#">energy activities, including critical infrastructure</a>, and result in changes to the ...</i>
Westpower Limited	S547.456	Amend	Insert new point under Other Relevant Te Tai o Poutini Plan provisions: <a href="#">Energy Activities - this Chapter contains provisions for activities in the vicinity of energy activities and infrastructure.</a>
Westpower Limited	S547.457	Amend	Add under Other relevant regulations: <a href="#">Earthworks in the vicinity of electrical infrastructure are also regulated under the New Zealand Code of Practice for Electrical Safe Distances (NZCEP 34:2001)</a>
Westpower Limited	S547.458	Amend	Insert section on Strategic Objectives and Policies as per previous chapters.
Department of Conservation	S602.167	Amend	Amend paragraph 2: <i>Earthworks can adversely affect amenity values (visual, dust nuisance, noise and traffic), <a href="#">natural environment values (such as indigenous biodiversity, habitat, environmental quality and landscape)</a> and result in changes to natural landforms. Earthworks can cause changes to the appearance and character of the neighbourhoods they are located in and can impact on people's experience of their environment.</i>
Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	S560.313	Amend	Include in the overview clarification of the relationship between EW and vegetation clearance: <a href="#">"Vegetation will often cover the area to be affected by earthworks. Where that is the case, the earthworks must also comply with the vegetation clearance rules and other provisions in the ECO chapter. This EW chapter does not manage the effects on vegetation, so the Eco chapter must also apply."</a>
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.501	Support	Retain as notified
Frida Inta	S553.137	Amend	<i>The scope and scale of earthworks range from large bulk earthworks, which can alter the landform, <del>and its</del> topography, <a href="#">and drainage hydraulics</a>, to small and discrete areas of works most often associated with minor development</i>

## Analysis

69. Heritage New Zealand Pouhere Taonga (S140.042) requests the wording of the 5<sup>th</sup> EARTH Overview paragraph be amended to include a statement that the Heritage New Zealand Pouhere Taonga Act 2014 applies whether or not the site is scheduled under the pTTPP. I do not support the relief sought; in my opinion the paragraph clearly refers to "archaeological sites" which is a defined term under the Definitions chapter.
70. Buller Conservation Group (S552.137) and Frida Inta (S553.137) seek to amend EARTH Overview paragraph 1 to include reference to drainage hydraulics. Westpower Limited (FS222.029) has opposed this relief sought on the basis that this is a regional council function. I agree with Westpower Limited and do not support the relief sought.
71. Buller Conservation Group (S552.138) and Frida Inta (S553.138) seek to amend paragraph 4 of EARTH Overview to include "particularly addressed in Regional Land and Water Plan". I do not support the relief sought, paragraph 4 applies to other relevant regulations, the Regional Land and Water Plan is a policy document established under the RMA and is appropriately referenced within paragraph 6 of the EARTH Overview.
72. Westpower Limited seek to include an additional point within EARTH Overview paragraph 3 to include cross reference to Energy Chapter. I agree with this relief sought to ensure consistency of cross referencing.
73. Westpower Limited (S547.457) seek to amend EARTH Overview paragraph 4 to include reference to the New Zealand Code of Practice for Electrical Safe Distances. I agree that this code of practice is a relevant regulation and I accept the relief sought.
74. Department of Conservation (S602.167) seek to amend EARTH Overview paragraph 2 to refer to natural environmental values (such as indigenous biodiversity, habitat, environmental quality and landscape). In my opinion environmental values can potentially be adversely affected, therefore I agree with the relief sought by this submitter.
75. Forest and Bird (S560.313) seek to amend EARTH Overview to provide clarification between earthworks and vegetation clearance. In my opinion this change is not necessary as the Ecosystems and Indigenous Biodiversity chapter is clearly cross referenced within paragraph 3 of the EARTH Overview.

## Recommendations

76. That the EARTH Overview be amended as follows:

*Earthworks can adversely affect amenity values (visual, dust nuisance, noise and traffic), [natural environment values \(such as indigenous biodiversity, habitat, environmental quality and landscape\)](#) and result in changes to natural landforms. Earthworks can cause changes to the appearance and character of the neighbourhoods they are located in and can impact on people's experience of their environment.*

### **Other relevant Te Tai o Poutini Plan provisions**

*In addition to the provisions in this chapter, earthworks and land disturbance are also subject to additional provisions in some zone chapters and a number of Part 2: District-Wide Matters chapters, including:*

- [District Wide Chapters – Energy, Infrastructure and Natural Hazards Chapters](#) *have provisions in relation to earthworks.*
- **Overlay Chapters** - *the Overlay Chapters have provisions in relation to Historic Heritage; Notable Trees; Sites and Areas of Significance to Māori; Ecosystems and Indigenous Biodiversity; Natural Features and Landscapes; Natural Character and Margins of Waterbodies ; Natural Hazards; and the Coastal Environment. Where earthworks are located within an overlay area (as identified in the planning maps) then the relevant overlay chapter provisions apply.*
- **Earthworks Associated with Mineral Extraction** – *the [rules that apply to mineral extraction activities are located in the Zone Chapters](#) ~~have provisions in relation to mineral extraction and its ancillary activities~~ including earthworks.*



### **Other relevant regulations**

A number of other regulatory and non-regulatory methods also manage the effects of earthworks. For instance, certain earthworks carried out as part of building work are subject to the New Zealand Building Code and may require a building consent under the Building Act 2004, [and earthworks in the vicinity of electrical infrastructure are regulated under the New Zealand Code of Practice for Electrical Safe Distances \(NZCEP 34:2001\).](#)

## **5.4 Key Issue 3: EARTH Objectives**

### **Overview – Earthworks Objectives**

<b>Provision(s)</b>	<b>Officer Recommendation(s)</b>
EW-01	<i>To provide for earthworks to facilitate subdivision, use and development of the West Coast/Te Tai o Poutini's land resource, while ensuring that their adverse effects on the surrounding environment are avoided, <a href="#">remedied</a> or mitigated.</i>

### **Analysis of Submissions on Key Issue 3 – EW-01**

<b>Submitter</b>	<b>Submission Point &amp; Point Number</b>	<b>Position</b>	<b>Decision Requested</b>
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.502	Support	Retain objective.
Te Tumu Paeroa - The office of the Māori Trustee	S440.041		
Silver Fern Farms Limited by its authorised agents Mitchell Daysh Limited	S441.026	Support in part	Silver Fern Farms seeks that the following change is made. Amend as follows: <i>EW - 01 To provide for earthworks to facilitate subdivision, use and development of the West Coast/Te Tai o Poutini's land resource, while ensuring that their adverse effects on the surrounding environment are avoided, <a href="#">remedied</a>, or mitigated.</i>
Waka Kotahi NZ Transport Agency	S450.146	Support	Retain as proposed.
TiGa Minerals and Metals Limited	S493.075		
Steve Croasdale	S516.086		
Federated Farmers of New Zealand	S524.092		
Westpower Limited	S547.459	Amend	Amend: <i>To provide for earthworks ... on the surrounding <a href="#">natural and physical</a> environment are avoided, <a href="#">remedied</a> or mitigated."</i>
Buller Conservation Group	S552.139	Oppose	Separate into 2 objectives, the first for protection of the natural environment, the second for exploitation of that environment.



Westpower Limited	FS222.030	Oppose	Submission does not specify wording sought in proposed change. Objective provides for these.
Frida Inta	S553.139	Oppose	Separate into 2 objectives, the first for protection of the natural environment, the second for exploitation of that environment.
Westpower Limited	FS222.0141	Oppose	Submission does not specify wording sought in proposed change. Objective provides for these.
Chris & Jan Coll	S558.303	Support	Retain
Geoff Volckman	S563.077		
Catherine Smart-Simpson	S564.088		
Chris J Coll Surveying Limited	S566.303		
William McLaughlin	S567.366		
Laura Coll McLaughlin	S574.303		
Koiterangi Lime Co LTD	S577.067		
WMS Group (HQ) Limited and WMS Land Co. Limited	S599.080		
Birchfield Coal Mines Ltd	S601.061		
Department of Conservation	S602.168	Amend	Amend Objective EW-01: <i>To provide for earthworks to facilitate subdivision, use and development of the West Coast/Te Tai o Poutini's land resource, while ensuring that their adverse effects on the <del>surrounding</del> environment are avoided, <u>remedied</u> or mitigated.</i>
BRM Developments Limited	S603.039	Support	Retain as notified.
Birchfield Ross Mining Limited	S604.054		
Birchfield Ross Mining Limited	S604.119	Amend	Consequential amendment
Phoenix Minerals Limited	S606.040	Support	Retain as notified.
Whyte Gold Limited	S607.038		
Grey District Council	S608.084	Amend	Amend wording by replacing " <del>avoided</del> " & " <del>limited</del> " with " <u>mitigated</u> " Rule to read: <i>"To provide for earthworks to facilitate subdivision, use and development of the West Coast/Te Tai o Poutini's land resource, while ensuring that their adverse effects on the surrounding environment are <u>mitigated</u>."</i>
Karamea Lime Company	S614.109	Support	Retain
Peter Langford	S615.109	Support	Retain
Buller District Council	S538.313	Support	Retain as notified

Bathurst Resources Limited and BT Mining Limited	FS89.0010	Support	Support this position as it is consistent with the intent of BRL's submission.
Buller District Council	S538.312	Support	Retain as notified
Bathurst Resources Limited and BT Mining Limited	FS89.009	Support	Support this position as it is consistent with the intent of BRL's submission.
Snodgrass Road submitters	S619.048	Support	Retain as notified
Fuel Companies	S613.009	Support	Retain as notified.
Westland District Council	S181.028	Support	Retain

### Analysis

77. Silver Fern Farms Limited (S441.026) seek to amend EW-O1 to include "remedied". Westpower Limited (S547.459) seek to include reference to "remedied" but also seek to amend the objective to include reference to "natural and physical". Department of Conservation (S602.168) also seek to include reference to "remedied" but seek to delete reference to surrounding. Grey District Council seek to delete reference to "avoided" and "limited" and replace with "mitigated".
78. These submitters have all sought amendments to the objective within the same variation of themes. I agree with those submitters seeking to include "remedied", I consider that this amendment is consistent with the purpose of the RMA. The definition of Environment under the RMA includes "natural and physical resources":
- environment includes—*
- (a) ecosystems and their constituent parts, including people and communities; and*
- (b) all natural and physical resources; and*
- (c) amenity values; and*
- (d) the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters*
79. Therefore, I do not support the relief sought by Westpower Limited. I do not support the relief sought by Department of Conservation to delete reference to surrounding, as in my opinion this alters the intent of the objective.
80. Buller Conservation Group (S552.139) and Frida Inta (S553.139) seek to separate the objective into two, one for protection and one for exploitation of that environment. In my opinion it is not necessary to separate the objective which clearly includes the management of potential effects.

### Recommendations

81. That EW-O1 be amended as follows:

*To provide for earthworks to facilitate subdivision, use and development of the West Coast/Te Tai o Poutini's land resource, while ensuring that their adverse effects on the surrounding environment are avoided, remedied or mitigated.*

## 6.6 Key Issue 4: EARTH Policies

### Overview – EARTH Policies

Provision(s)	Officer Recommendation(s)
--------------	---------------------------

EW-P1	<i>Enable temporary and small-scale earthworks for the subdivision, use and development of land, the provision of <b>infrastructure utilities</b>, and hazard mitigation, while managing those with the potential to create significant adverse effects.</i>
EW-P2	<i>Retain as notified.</i>
EW-P3	<i>Require the use of accidental discovery protocols to mitigate the potential risk <del>to</del> of earthworks to archaeological sites and sites and areas of significance to Māori and archaeological sites that are not scheduled in the Plan.</i>
EW-P4	<i>Retain as notified.</i>

### Analysis of Submissions on Key Issue 4 – EW-P1

Submitter	Submission Point & Point Number	Position	Decision Requested
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.503	Support	Retain policy.
Waka Kotahi NZ Transport Agency	S450.147	Support	Retain as proposed.
TiGa Minerals and Metals Limited	S493.076	Amend	Amend: <i>Enable <del>temporary and small scale</del> earthworks... .</i>
Federated Farmers of New Zealand	S524.093	Support	Retain as notified
Kāinga Ora – Homes and Communities	FS58.072 FS58.0130	Support	Kāinga Ora considers that the proposed rule is appropriate.
Westpower Limited	S547.460	Amend	Amend: <i>Enable temporary and small scale ... land, the provision of utilities, <b>including energy activities and critical infrastructure</b>, and hazard ...".</i>
Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	S560.316	Oppose in part	Replace 'significant' with 'more than minor'.
WMS Group (HQ) Limited and WMS Land Co. Limited	S599.081	Amend	Amend EW - P1 as follows: <i>Enable <del>temporary and small scale</del> earthworks for the subdivision, use and development of land, the provision of utilities, and hazard mitigation, while managing those with the potential to create significant adverse effects."</i>
Birchfield Coal Mines Ltd	S601.062		
BRM Developments Limited	S603.040		
Birchfield Ross Mining Limited	S604.055		
Phoenix Minerals Limited	S606.041		
Whyte Gold Limited	S607.039		
Karamea Lime Company	S614.110	Support	Retain as notified
Peter Langford	S615.110		
Te Tumu Paeroa - The office of the Māori Trustee	S440.042		

Steve Croasdale	S516.087		
Buller District Council	S538.313		
Chris & Jan Coll	S558.304		
Geoff Volckman	S563.078		
Catherine Smart-Simpson	S564.089		
Chris J Coll Surveying Limited	S566.304		
William McLaughlin	S567.367		
Laura Coll McLaughlin	S574.304		
Koiterangi Lime Co LTD	S577.068		
Snodgrass Road submitters	S619.049		
Buller Conservation Group	S552.140	Amend	<b>P-2 2</b> Manage the effects of earthworks to minimise impacts on landscape character, amenity, natural features, water quality, biodiversity, cultural and heritage sites and the quality of the environment.
Frida Inta	S553.140		<b>P-2 1</b> Enable temporary and small scale earthworks for the subdivision, use and development of land, the provision of utilities, and hazard mitigation, while managing those with the potential to create significant adverse effects.
Fuel Companies	S613.009	Support	Retain as notified.
Westland District Council	S181.028		

### Analysis

82. Numerous submitters seek to amend EW-P1 to delete reference to “temporary and small scale”. The amendment sought will result in the policy effectively being at odds with EW-P2 which seeks to manage the effects of earthworks. EW-P1 seeks to enable a range of earthworks which would have limited adverse effects on the environment. I do not support the relief sought.
83. Westpower Limited (S547.460) seek to amend EW-P1 to refer to “including energy activities and critical infrastructure”. I do not support the specific relief sought, noting that “utilities” is not a defined term in the pTTPP or the RMA, as such I recommended that EW-P1 be amended to refer to “infrastructure” being a term defined by the RMA which includes electricity infrastructure”.
84. Buller Conservation Group (S553.140) and Frida Inta (S553.140) seek to change the policy order between EW-P1 and EW-P2. I do not support the relief sought, policies have no hierarchical order and must all be given effect to.
85. Forest & Bird (S560.316) seek to replace ‘significant’ with ‘more than minor’. In my opinion, this amendment is not necessary and ‘significant’ is more appropriate within the policy framework. I note EW-P1 is effective in giving effect to recommended EW-O1, which seeks for effects to be avoided, remedied or mitigated.

### Recommendations

86. That EW-P1 be amended as follows:

*Enable temporary and small scale earthworks for the subdivision, use and development*

of land, the provision of *infrastructure utilities*, and hazard mitigation, while managing those with the potential to create significant adverse effects.

#### Analysis of Submissions on Key Issue 4 – EW-P2

Submitter	Submission Point & Point Number	Position	Decision Requested
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.504	Support	Retain policy.
Federated Farmers of New Zealand	S524.128		
Westpower Limited	S547.461	Amend	Avoid duplication of compliance by removing reference to "water quality" from the policy where already provided for in regulations administered by regional plans.
Westpower Limited	S547.462	Amend	(1) Avoid duplication of compliance by removing reference to "water quality" from the policy where already provided for in regulations administered by regional plans. (2) Amend the Policy: <i>Manage the effects of earthworks to <u>avoid, remedy or mitigate adverse effects</u> on landscape character, amenity, natural features, biodiversity ....</i>
Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	S560.317	Support in part	Replace 'minimise' with 'avoid, remedy or mitigate.'
Karamea Lime Company	S614.111	Amend	Retain
Peter Langford	S615.111		
Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	S560.0588	Amend	Add an amendment to make it clear that effects on biodiversity at least are managed in accordance with the ECO provisions. Consider amendments to ensure that this chapter does not apply a lesser standard of effects management than other chapters in the Plan, e.g., NFL.
Westpower Limited	FS222.0313	Oppose	Submission provides no specific amendment wording to the policy to understand the implications of the requested change.
Te Tumu Paeroa - The office of the Māori Trustee	S440.042	Support	Retain as notified
Steve Croasdale	S516.087		
Buller District Council	S538.313		
Chris & Jan Coll	S558.304		

Geoff Volckman	S563.078		
Catherine Smart-Simpson	S564.089		
Chris J Coll Surveying Limited	S566.304		
William McLaughlin	S567.367		
Laura Coll McLaughlin	S574.304		
Koiterangi Lime Co LTD	S577.068		
Snodgrass Road submitters	S619.049		
Buller Conservation Group	S552.140	Amend	<p><del>P-1</del> <u>2</u> Manage the effects of earthworks to minimise impacts on landscape character, amenity, natural features, water quality, biodiversity, cultural and heritage sites and the quality of the environment.</p> <p><del>P-2</del> <u>1</u> Enable temporary and small-scale earthworks for the subdivision, use and development of land, the provision of utilities, and hazard mitigation, while managing those with the potential to create significant adverse effects.</p>
Frida Inta	S553.140		
Fuel Companies	S613.009	Support	Retain as notified.
Westland District Council	S181.028	Support	Retain

### Analysis

87. Westpower Limited (S547.461 and S547.462) seek to avoid duplication of compliance by removing reference to “water quality” and to insert “avoid, remedy or mitigate”. I agree with the submitter that water quality is a regional council function and EW-P2 should not duplicate policy direction. I do not support the inclusion of “avoid, remedy or mitigate”, because the policy seeks to “manage” effects. Manage includes all three of these actions which do not need to be repeated within the policy.
88. Buller Conservation Group (S553.140) and Frida Inta (S553.140) seek to change the policy order between EW-P1 and EW-P2. I do not support the relief sought, policies have no hierarchical order and must all be given effect to.
89. Forest & Bird (S560.317) seek to replace “minimise” with “avoid, remedy or mitigate”. I do not support this amendment, in my opinion this will weaken the strength of the policy, as proposed management which includes avoid, remedy or mitigate must be undertaken in order to minimise potential effects. Forest & Bird (S560.0588) also seek to amend the policy to ensure that effects on biodiversity are managed in accordance with the Ecosystems and Indigenous Biodiversity Chapter. I do not support the relief sought; I consider that EARTH Overview provides sufficient cross referencing.

### Recommendations

90. That EW-P2 be amended as follows:

*Manage the effects of earthworks to minimise impacts on landscape character, amenity, natural features, ~~water quality~~, biodiversity, cultural and heritage sites and the quality of the environment.*

### Analysis of Submissions on Key Issue 4 – EW-P3

Submitter	Submission Point & Point Number	Position	Decision Requested
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.505	Support	Retain policy.
Silver Fern Farms Limited by its authorised agents Mitchell Daysh Limited	S441.027	Support in part	Amend as follows: EW - P3 <i>Require the use of accidental discovery protocols to mitigate the potential risk <del>to</del> of earthworks to archaeological sites and sites and areas of significance to Māori and archaeological sites that are not scheduled in the Plan.</i>
Federated Farmers of New Zealand	S524.129	Support	Retain as notified
Westpower Limited	S547.463		
Department of Conservation	S602.169	Amend	Amend: <i>Require the use of accidental discovery protocols to mitigate the potential risk <del>to</del> of earthworks to archaeological sites and sites and areas of significance to Māori and archaeological sites that are not scheduled in the Plan.</i>
Karamea Lime Company	S614.112	Support	Retain as notified
Peter Langford	S615.112		
Te Runanga o Ngāi Tahu, Te Runanga o Ngāti Waewae, Te Runanga o Makaawhio	S620.208		
Te Tumu Paeroa - The office of the Māori Trustee	S440.042		
Steve Croasdale	S516.087		
Buller District Council	S538.313		
Chris & Jan Coll	S558.304		
Geoff Volckman	S563.078		
Catherine Smart-Simpson	S564.089		
Chris J Coll Surveying Limited	S566.304		
William McLaughlin	S567.367		
Laura Coll McLaughlin	S574.304		
Koiterangi Lime Co LTD	S577.068		
Snodgrass Road submitters	S619.049		
Fuel Companies	S613.009		
Westland District Council	S181.028		

### Analysis

91. Silver Fern Farms Limited (S441.027) and Department of Conservation seek to amend EW-P3 to amend a typographical error replacing 'to' with 'of'. I agree with submitters that this amendment will improve readability of this policy.

## Recommendations

92. That EW-P3 be amended as follows:

*Require the use of accidental discovery protocols to mitigate the potential risk ~~to~~ of earthworks to archaeological sites and sites and areas of significance to Māori and archaeological sites that are not scheduled in the Plan.*

### Analysis of Submissions on Key Issue 4 – EW-P4

Submitter	Submission Point & Point Number	Position	Decision Requested
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.506	Support	Retain policy.
Transpower New Zealand Limited	S299.058		
KiwiRail Holdings Limited	S442.081		
Waka Kotahi NZ Transport Agency	S450.148		
Horticulture New Zealand	S486.046	Oppose in part	Amend EW-P4: <i>Protect Ensure that critical infrastructure and natural hazard defences are not compromised by the <del>from the</del> adverse effects of earthworks.</i>
Federated Farmers of New Zealand	S524.094	Oppose in part	Amend EW-P4: <i>Protect Ensure that critical infrastructure and natural hazard defences are not compromised by the <del>from the</del> adverse effects of earthworks.</i>
Westpower Limited	FS222.0164	Oppose	Submission does not give effect to the West Coast RPS regarding "protection" of critical infrastructure
Federated Farmers of New Zealand	S524.130	Support	Retain as notified
Westpower Limited	S547.464	Amend	Amend: <i>Protect critical infrastructure, including energy activities and infrastructure, and natural hazard ...</i>
Karamea Lime Company	S614.113	Support	Retain
Peter Langford	S615.113		
Te Tumu Paeroa - The office of the Māori Trustee	S440.042		
Steve Croasdale	S516.087		
Buller District Council	S538.313		
Chris & Jan Coll	S558.304		
Geoff Volckman	S563.078		
Catherine Smart-Simpson	S564.089		
Chris J Coll Surveying	S566.304		



Limited			
William McLaughlin	S567.367		
Laura Coll McLaughlin	S574.304		
Koiterangi Lime Co LTD	S577.068		
Snodgrass Road submitters	S619.049		
Fuel Companies	S613.009		
Westland District Council	S181.028		

### Analysis

93. Horticulture New Zealand (S486.046) and Federated Farmers of New Zealand (S524.094) seek to amend EW-P4 to delete "protect" and replace with "ensure that", and delete "from the" and replace with "are not compromised by the". Westpower Limited (FS222.0164) have opposed this relief sought as it will not give effect to the West Coast RPS. I agree in part with Westpower Limited, that the relief sought will not give effect to policy 6.4 of the West Coast Regional Policy Statement 2020) which states:

*"Recognise that RSI [Regionally Significant Infrastructure] important to the West Coast's wellbeing needs to be protected from the reverse sensitivity effects arising from incompatible new subdivision, use and development, and the adverse effects of other activities, which would compromise the effective operation, maintenance, upgrading, or development of the infrastructure.*

94. Westpower Limited (S547.464) seek to amend EW-P4 to include reference to "energy activities and infrastructure". I do not support this amendment as critical infrastructure is defined by the pTTPP, which includes energy activities and infrastructure, and therefore no change is required.

### Recommendations

95. That EW-P4 be retained as notified.

## 6.7 Key Issue 5: EARTH Rules

### Overview – EARTH Rules

Provision(s)	Officer Recommendation(s)
EW - R1	<p><i>EW - R1</i> <del>Earthworks</del> <u>Land Disturbance</u> General Standards</p> <p><i>All Permitted activities must comply with the following relevant standards.</i></p> <p><i>1. Earthworks must not exceed a maximum depth or height above ground level of 1.5m measured vertically within 1.5m of a boundary except where these are undertaken by a network utility operator for the purpose of:</i></p> <ol style="list-style-type: none"> <li><i>a. Pole foundations;</i></li> <li><i>b. Backfilled trenches; or</i></li> <li><i>c. Installation of services by trenchless methods such as directional drilling;</i></li> <li><i>d. <u>Installation of underground equipment as part of the electricity supply or distribution network.</u></i></li> <li><i>e. <u>Achieving safe separation between conductors and the ground.</u></i></li> <li><i>f. <u>Stockpiles required for network utility or critical infrastructure maintenance, operation, repair,</u></i></li> </ol>

	<p style="text-align: center;"><u>upgrade, or installation of new network utilities.</u></p> <ol style="list-style-type: none"> <li>2. All <u>imported</u> fill must consist of cleanfill material;</li> <li>3. Erosion and sediment control measures must <del>be put in place</del> <u>designed, installed and maintained for the duration of earthworks</u> to avoid sediment run-off from earthworks activities entering a Council reticulated network or into waterbodies.</li> </ol> <p style="text-align: center;">...</p>
EW - R2	<p><i>EW - R2 <del>Earthworks</del> <u>Land Disturbance</u> - All Zones</i></p> <p><i>Activity Status Permitted</i></p> <p><i>Where:</i></p> <ol style="list-style-type: none"> <li>1. All standards in Rule EW - R1 are complied with; and</li> <li>2. These earthworks <del>are:</del> <ol style="list-style-type: none"> <li>a. <del>Are</del> <u>Associated</u> with the construction of an approved building platform and access; or</li> <li>b. <del>These are earthworks</del> <u>Are</u> associated with an approved subdivision consent; or</li> <li>c. <del>These are earthworks</del> <u>Are</u> associated with an approved well or bore; or</li> <li>d. <del>These are earthworks including</del> <u>Are</u> stockpiles required for <u>repair, maintenance, operation, upgrading and establishment of network utility or <del>critical regionally significant</del> infrastructure <del>maintenance, operation, repair, upgrade, or installation of new network utilities including public roads;</del></u></li> <li>e. <del>These a</del> <u>Are</u> earthworks associated with installation of swimming pools; or</li> <li>f. <del>The earthworks a</del> <u>Are</u> for interments in a cemetery or urupā;</li> <li>g. <del>The earthworks a</del> <u>Are</u> for natural hazard mitigation structures constructed by a statutory agency or their authorised contractor; or</li> <li>h. <del>The earthworks a</del> <u>Are</u> test pits for geotechnical or contaminated land assessment where the land is reinstated within 48 hours; or</li> <li>i. <del>They are earthworks</del> <u>Are</u> within the National Grid Yard where: <ol style="list-style-type: none"> <li>i. Any earthworks must not exceed a depth or fill from original ground level of 300mm, except for: <ol style="list-style-type: none"> <li>A. Earthworks for a network utility or as part of a renewable electricity generation activity; and</li> <li>B. Earthworks undertaken as part of agricultural or domestic cultivation, or repair, sealing or resealing of a road, footpath, driveway or farm track.</li> </ol> </li> </ol> </li> </ol> </li> </ol> <p><i>Advice Notes:</i></p> <ol style="list-style-type: none"> <li>1. Rules in relation to earthworks in overlay areas can be found in the Overlay Chapters of this Plan.</li> <li>2. Earthworks undertaken in areas of contaminated land are subject to the Rules in the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health.</li> </ol> <p><i>Activity status where compliance not achieved:</i></p> <p><i>Restricted Discretionary</i></p> <p><i>Refer Overlay Chapters for Earthworks Rules in relation to these overlay areas.</i></p>
EW - R3	<p><i>EW - R3 Earthworks in the GRUZ - General Rural Zone, RLZ - Rural Lifestyle Zone, any INZ - Industrial Zone, FUZ - Future Urban Zone, AIRPZ - Airport Zone, any OSRZ - Open Space and Recreation Zone and the MPZ - Māori Purpose Zone</i></p> <p><i>Activity Status Permitted</i></p>

	<p>Where:</p> <ol style="list-style-type: none"> <li>1. All standards in Rule EW - R1 are complied with; and</li> <li>2. These are ancillary earthworks for: <ol style="list-style-type: none"> <li>i. A Permitted Activity, except that in the: <ol style="list-style-type: none"> <li>a. Rural Lifestyle Zone a maximum of 500m<sup>2</sup>/site of land is disturbed in any 12 month period; or</li> <li>b. Natural Open Space Zone a maximum of 250m<sup>2</sup>/site of land is disturbed in any 12 month period and a maximum of 200m<sup>3</sup> of material is transported off site in any 12 month period, and there is a maximum 1m change of existing ground level; and</li> </ol> </li> <li>ii. An Energy Activity, Network Utility Operation or Transport Activity.</li> </ol> </li> <li>3. Where the earthworks are undertaken within an Overlay Chapter area these earthworks meet the Permitted Activity standards for the relevant Overlay chapter.</li> </ol> <p>Activity status where compliance not achieved:</p> <p>Restricted Discretionary where standard 1 and 2 are not complied with.</p> <p>Refer to the relevant Overlay Chapter where standard 3 is not complied with.</p>
EW – R4	Retain EW-R4 as notified.
EW – R5	Retain EW-R5 as notified.
EW - R6	Retain EW-R6 as notified.
EW – R7	<p><del>EW – R7 – Earthworks within the National Grid Yard Not Meeting Rule EW – R2</del></p> <p><del>Activity Status Restricted Discretionary</del></p> <p><del>Discretion is restricted to:</del></p> <ol style="list-style-type: none"> <li>a. <del>Effects on the operation, maintenance, upgrading and development of the National Grid;</del></li> <li>b. <del>The risk to the structural integrity of the National Grid support structure (s);</del></li> <li>c. <del>Any impact on the ability to access the National Grid;</del></li> <li>d. <del>Management of stormwater and overland flow;</del></li> <li>e. <del>Any adverse effects on landscape, amenity, natural features, water quality, cultural and heritage sites, biodiversity and habitat of indigenous flora and fauna, and the quality of the environment;</del></li> <li>f. <del>The risk of electrical hazards affecting public or individual safety and the risk of property damage; and</del></li> <li>g. <del>The outcome of any consultation with the owner and operator of the National Grid.</del></li> </ol> <p><del>Activity status where compliance not achieved: N/A</del></p>
EW – R8	<p>EW - R8 Earthworks in any Zone not meeting Permitted Activity standards</p> <p>Activity Status Restricted Discretionary</p>

	<p><i>Discretion is restricted to:</i></p> <ul style="list-style-type: none"> <li>a. <i>The impact of <u>earthworks</u> on visual amenity, landscape <u>and natural</u> character, outlook and privacy;</i></li> <li>b. <i>Potential dust nuisance, sedimentation, land instability, contamination and erosion effects <u>on surrounding land uses</u>;</i></li> <li>c. <i>...</i></li> </ul>
EW-RX (New)	<p><u><i>EW-RX Earthworks and vertical holes within the National Grid Yard</i></u></p> <p><u><i>Activity Status: Permitted</i></u></p> <p><u><i>Where:</i></u></p> <ul style="list-style-type: none"> <li>1. <u><i>Earthworks and vertical holes do not:</i></u> <ul style="list-style-type: none"> <li>a. <u><i>Exceed 300mm in depth within 6m of the outer visible edge of a National Grid support structure;</i></u></li> <li>b. <u><i>Exceed 3m in depth between 6m and 12m of the outer visible edge of a National Grid support structure;</i></u></li> <li>c. <u><i>Result in a reduction of the ground to conductor clearance distances as required in Table 4 of the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001;</i></u></li> <li>d. <u><i>Compromise the stability of any National Grid support structures; and</i></u></li> <li>e. <u><i>Result in the loss of vehicular access to a National Grid support structure.</i></u></li> </ul> </li> <li>2. <u><i>Earthworks and vertical holes for the following activities are exempt from compliance with EW-RX.1(a) and (b):</i></u> <ul style="list-style-type: none"> <li>a. <u><i>Earthworks or vertical holes, excluding mining and quarrying, that are undertaken by a network utility operator as defined by the Resource Management Act 1991;</i></u></li> <li>b. <u><i>Agricultural or domestic cultivation;</i></u></li> <li>c. <u><i>The repair, sealing or resealing of a vehicle access or farm track;</i></u></li> <li>d. <u><i>Vertical holes not exceeding 500mm in diameter that are more than 1.5m from the outer edge of a National Grid pole or stay wire, or are a post hole for a farm fence or horticulture structure more than 6m from the visible outer edge of a National Grid tower foundation; and</i></u></li> <li>e. <u><i>Any other earthwork or land disturbance activities subject to a dispensation from Transpower under New Zealand NZECP 34:2001.</i></u></li> </ul> </li> </ul> <p><u><i>Activity status: Restricted Discretionary</i></u></p> <p><u><i>Notification</i></u></p> <ul style="list-style-type: none"> <li>1. <u><i>An application under this rule is precluded from being publicly notified in accordance with section 95A of the RMA.</i></u></li> <li>2. <u><i>When deciding whether any person is affected in relation to this rule for the purposes of section 95E of the RMA, the Council will give specific consideration to any adverse effects on Transpower New Zealand Limited.</i></u></li> </ul>

## Analysis of Submissions on Key Issue 5 – EW-R1

Submitter	Submission Point & Point Number	Position	Decision Requested
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.507	Support	Retain rule
Kāinga Ora – Homes and Communities	FS58.073 FS58.0131	Support	Kāinga Ora considers that the proposed rule is appropriate.
KiwiRail Holdings Limited	S442.082	Support	Retain rule
Margaret Montgomery	S446.076	Oppose in part	Amend Standard 1 to provide an exemption for piles, amend the standard requiring clean fill material to provide for redistribution of material, amend the standard for the exception of vertical alteration to include a maximum area or volume.
Waka Kotahi NZ Transport Agency	S450.149	Support	Retain as proposed.
Russell and Joanne Smith	S477.019	Support	Remove 1.5m cut height or alternatively provide a more generous cut height which enables residential development as intended in existing subdivisions.
Tim Macfarlane	S482.019		
Lauren Nyhan Anthony Phillips	S533.019		
Stewart & Catherine Nimmo	S559.019		
Tim and Phaedra Robins	S579.028		
Horticulture New Zealand	S486.047	Support	Retain EW-R1 as notified.
Bathurst Resources Limited and BT Mining Limited	S491.032	Amend	Amend Advice Notes: <a href="#"><u>1. Clause 2 does not apply to mining activities in the BCZ, MINZ, General Rural Zones or Open Space Zone where a Mineral Extraction Plan is prepared in accordance with Appendix Seven.</u></a> 2. ....
TiGa Minerals and Metals Limited	S493.077	Amend	Amend EW - R1 as follows: <i>All Permitted activities must comply with the following relevant standards.; All fill must consist of cleanfill material <a href="#"><u>except for any vegetative matter which is being used as fill on the same site;</u></a></i>
Claire & John West	S506.019	Support	Remove 1.5m cut height or alternatively provide a more generous cut height which enables residential development as intended in existing subdivisions.
Steve Croasdale	S516.088	Amend	Amend to provide more clarity.
Buller District Council	S538.314	Support	Retain as notified.
Westpower Limited	S547.465	Amend	Amend 1. <i>Earthworks must not exceed a maximum depth <a href="#"><u>of 1.5m</u></a></i>

			<i>or height above ground of 2m measured vertically within 1.5m of a boundary except ...</i>
Westpower Limited	S547.466	Amend	Add <i>d. Installation of underground equipment for as part of the electricity supply or distribution network.</i>
Westpower Limited	S547.467	Amend	Add <i>e. achieving safe separation between conductors and the ground.</i>
Westpower Limited	S547.468	Amend	Avoid duplication of compliance by removing items 3. and 4. Where these matters are already provided for in regulations administered by regional plans in regard to earthworks.
Chris & Jan Coll	S558.305	Support	Retain
Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	S560.318	Amend	Add the following standard: <i>8. Any vegetation clearance that is caused by the earthworks, or by the associated works (e.g., smothering by the excavated materials) must meet the Permitted Activity Standards of the ECO chapter.</i>
Westpower Limited	FS222.0314	Oppose	Submission seeks duplication of regulation and is not appropriate. Vegetation matters are provided for in appropriate chapters.
Bathurst Resources Limited and BT Mining Limited	FS89.078	Oppose	Changes intent of rule.
Joel and Jennifer Watkins	S565.031	Amend	Remove 1.5 metre cut height.
Joel and Jennifer Watkins	S565.032	Amend	Alternative relief: provide a more generous cut height which enables residential development as intended in existing subdivisions.
Chris J Coll Surveying Limited	S566.305	Support	Retain
William McLaughlin	S567.368		
Laura Coll McLaughlin	S574.305		
WMS Group (HQ) Limited and WMS Land Co. Limited	S599.082	Amend	Amend EW - R1 as follows: <i>...Installation of services by trenchless methods such as directional drilling; All fill must consist of cleanfill material <u>except for any vegetative matter which is being used as fill on the same site;</u> "</i>
Birchfield Coal Mines Ltd	S601.063		
BRM Developments Limited	S603.041		
Birchfield Ross Mining Limited	S604.056		
Phoenix Minerals Limited	S606.042		
Whyte Gold Limited	S607.040		
Grey District Council	S608.085	Amend	Amend Condition 1 to read: <i>1. ... c. Installation of services by trenchless methods such as directional drilling; <u>or Earthworks that are or will be subject to a</u></i>

			<a href="#"><i>building consent and occur within 2m of the outer edge of the exterior wall of the building</i></a>
Westpower Limited	FS222.0154	Oppose in part	Whilst earthworks related to buildings consents are understood the Building Act provides for certain buildings to be undertaken without consent provided. Ensure activities undertaken in accordance with the building Act and Code are provided for and not just those with a specific building consent.
Grey District Council	S608.667	Support in part	As per below, clarification around application of the rules to typical Council infrastructure activities is needed. Amend R1.1 to include " <a href="#"><i>d. These are earthworks including stockpiles required for network utility or critical infrastructure maintenance, operation, repair, upgrade, or installation of new network utilities including public roads</i></a>
Fuel Companies	S613.010	Amend	Amend Rule EW-R1 as follows: All Permitted activities must comply with the following relevant standards.  <i>1. Earthworks must not exceed a maximum depth or height above ground level of 1.5m measured vertically within 1.5m of a boundary except where these <a href="#"><i>are for the maintenance, removal or replacement of an underground petroleum storage tank or are undertaken by a network utility operator for the purpose of:</i></a> a. Pole foundations; b. Backfilled trenches; or c. Installation of services by trenchless methods such as directional drilling; 2. All <a href="#"><i>imported</i></a> fill must consist of cleanfill material; Erosion and sediment control measures must <del>be put in place</del> <a href="#"><i>designed, installed and maintained for the duration of earthworks to avoid minimise sediment run-off from earthworks activities entering a Council reticulated network or into waterbodies.</i></a></i>
Snodgrass Road submitters	S619.051	Amend	Exempt earthworks for flood hazard protection works from needing to comply with Rule EW- R1(4).
Te Runanga o Ngāi Tahu, Te Runanga o Ngāti Waewae, Te	S620.209	Support	Retain (7) as notified



Runanga o Makaawhio			
Te Tumu Paeroa - The office of the Māori Trustee	S440.043	Support	N/A
Westland District Council	S181.028	Support	Retain

### Analysis

96. Margaret Montgomery (S446.076) seeks to amend standard 1 to provide an exemption for piles. I do not support the relief sought as proposed rule EW-R2.2(a) provides an appropriate exemption.
97. Numerous submitters seek to remove and/or increase the 1.5m cut height limit. No evidence has been provided to support the deletion or increase of the proposed 1.5m height limit. In the absence of any further justification I do not support the relief sought.
98. Bathurst Resources Limited and BT Mining Limited (S491.032) seek to include an additional advice note to state that the provision does not apply to mining activities. In my opinion this advice note is not required as the EARTH Overview provides clear cross reference to Mineral Extraction within Zone Chapters.
99. TiGa Minerals and Metals Limited (S493.077) seek to amend the cleanfill material clause to include exemption for vegetative matter which is being used within the same site. The pTTPP definition of clean fill does not include reference to vegetative matter:
- means virgin excavated natural materials including clay, gravel, sand, soil and rock that are free of:*
- a. *combustible, putrescible, degradable or leachable components;*
  - b. *hazardous substances and materials;*
  - c. *products and materials derived from hazardous waste treatment, stabilisation or disposal practices;*
  - d. *medical and veterinary wastes, asbestos, and radioactive substances;*
  - e. *contaminated soil and other contaminated materials; and*
  - f. *liquid wastes.*
100. Therefore, it is my opinion that the relief sought is not necessary.
101. Westpower Limited (S547.466, S547.467 and S547.468) seek amendments to EW-R1 to include two additional clauses:
- [d. Installation of underground equipment for as part of the electricity supply or distribution network.](#)
- [e. achieving safe separation between conductors and the ground.](#)
102. The submitter also seeks the deletion of clauses 3 and 4 to avoid duplication with regulations administered by regional plans. I agree with the submitter that the proposed additional clauses provide further direction and enable the provision of infrastructure in accordance with the RPS. I disagree with the relief sought by the submitter to delete clauses 3 and 4, I consider that these clauses do not duplicate the Regional Land and Water Plan because rules 18.1.1 Permitted Activities on Land apply to earthworks of a larger scale or within identified erosion prone areas and riparian margins. Furthermore, I consider that clauses 3 and 4 give effect to the NPS-FM.
103. Forest & Bird (S560.318) seek to amend the rule to add an additional standard to ensure that effects on biodiversity must comply with the permitted activity rules in accordance with the Ecosystems and Indigenous Biodiversity Chapter. I do not support the relief sought; I consider that EARTH Overview provide sufficient cross referencing.
104. Grey District Council (S608.085 and S608.667) seek to amend clause c. to include "Earthworks that are or will be subject to a building consent and occur within 2m of the outer edge of the exterior wall of the building". It is unclear as to why this amendment would be necessary for a network utility operator, I therefore do not support the relief



sought. Council also seeks to include an additional clause to provide for stockpiles, including for the installation of new network utilities including public roads. I agree that the rule should be clarified with respect to stockpiling and support in part the relief sought, however in my opinion the definition of network utility operator clearly includes road construction and no further emphasis is necessary within EW-R1.

105. Fuel Companies (S613.010) seek to amend EW-R1 to provide an exemption for maintenance, removal or replacement of underground petroleum storage tanks. I note that the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 applies to such activities and provides for excavation of up to 30m<sup>3</sup> of volume of earth to be excavated per tank in a system as a permitted activity. However, the submitter has not provided any further evidence to support their relief sought, and in the absence of further evidence I am unable to support relief sought. Fuel Companies also seek to amend clause 2 to include "imported" and to amend clause 3 as follows:

*Erosion and sediment control measures must ~~be put in place~~ designed, installed and maintained for the duration of earthworks to ~~avoid~~ minimise sediment run-off from earthworks activities entering a Council reticulated network or into waterbodies.*

106. I agree with a number of the amendments sought by Fuel Companies to clauses 2 and 3 and consider they will improve clarify, efficiency and effectiveness of the rules. However, I consider that it is appropriate to require the permitted activity standard to 'avoid' sediment run-off from earthworks activities. In my opinion, this is effective in managing the potential effects of earthworks and giving effect to EW-O1. I do not support the requested amendment from 'avoid' to 'minimise'.
107. Snodgrass Road Submitters (S619.051) seek to exempt earthworks for flood hazard protection works from needing to comply with Rule EW- R1(4). Whilst I understand the intent of the submitter, I do not support the relief sought and note that EW-R2.g provides for natural hazard mitigation structures as a permitted activity.

### *Recommendations*

108. That EW-R1 be amended as follows:

*EW - R1 Earthworks General Standards*

*All Permitted activities must comply with the following relevant standards.*

1. *Earthworks must not exceed a maximum depth or height above ground level of 1.5m measured vertically within 1.5m of a boundary except where these are undertaken by a network utility operator for the purpose of:*
  - a. *Pole foundations;*
  - b. *Backfilled trenches; or*
  - c. *Installation of services by trenchless methods such as directional drilling;*
  - d. *Installation of underground equipment as part of the electricity supply or distribution network.*
  - e. *Achieving safe separation between conductors and the ground.*
  - f. *Stockpiles required for network utility or critical infrastructure maintenance, operation, repair, upgrade, or installation of new network utilities.*
2. *All imported fill must consist of cleanfill material;*
3. *Erosion and sediment control measures must ~~be put in place~~ designed, installed and maintained for the duration of earthworks to avoid sediment run-off from earthworks activities entering a Council reticulated network or into waterbodies.*
4. *No diversion of stormwater and overland flow shall occur beyond the site boundary and water must not be diverted to adjacent properties or the road;*
5. *Any earthworks within the vicinity of overhead electric lines must comply with the New Zealand Electrical Code of Practice for Electrical Safety Distances (NZECP 34:2001);*
6. *No earthworks are to be undertaken on or within 10m of any public natural hazard mitigation structure unless under the written approval has been obtained*

- from the relevant local government agency; and
7. In the event of discovery of any sensitive or archaeological material that the Accidental Discovery Protocol outlined in Appendix Four must be followed.

*Advice Notes:*

1. Earthworks are also regulated by the West Coast Regional Land and Water Plan and the NES - Freshwater 2020 administered by the West Coast Regional Council.
2. Earthworks undertaken in areas of contaminated land are subject to the Rules in the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health.

## Analysis of Submissions on Key Issue 5 – EW-R2

Submitter	Submission Point & Point Number	Position	Decision Requested
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.508	Support	Retain rule
Kāinga Ora – Homes and Communities	FS58.074 FS58.132	Support	Kāinga Ora considers that the proposed rule is appropriate.
Manawa Energy Limited (Manawa Energy)	S438.121	Not Stated	Amend EW - R2(d) as follows: d) <i>These are earthworks including stockpiles required for <u>repair, maintenance, operation, upgrading and establishment of network utility or critical regionally significant infrastructure</u> <del>maintenance, operation, repair, upgrade, or installation of new network utilities including public roads;</del> or</i> e)
KiwiRail Holdings Limited	S442.083	Support	Retain as proposed
Margaret Montgomery	S446.077	Amend	Ensure graves and swimming pools are exempt from standards.
Horticulture New Zealand	S486.048	Support	Retain EW-R2 2) i)
Transpower NZ Limited	FS110.042	Oppose	In its submission, Transpower sought a new National Grid specific earthworks rule. Cultivation is excluded from the definition of earthworks and permitted within the proposed earthworks rule. Where it becomes earthworks, it is permitted in the rule provided access to and stability of support structures are not lost/compromised. Given cultivation is excluded from the definition of earthworks (and therefore not subject to the rule), Transpower would support removal of the term from the rule.
Waka Kotahi NZ Transport Agency	S450.150	Support	Provide a definition of a statutory agency.
TiGa Minerals and Metals Limited	S493.078	Amend	Amend: <i>EW - R2 Earthworks <u>excluding minerals extraction, exploration and prospecting activities</u> - All Zones</i>

Steve Croasdale	S516.089	Amend	Amend to be more enabling of development.
New Zealand Defence Force	S519.034	Oppose	Review the general permitted activity earthworks rules to ensure that all activities that comply with the relevant standards can proceed on a permitted activity basis i.e. not just the activities that are specifically identified. Delete Rule EW - R2 and include the standards in Rule EW - R2 in the other earthworks rules as appropriate.
Westpower Limited	FS222.0199	Oppose	Submission has the potential to impact the ability for energy and critical infrastructure activities to be undertaken on a permitted basis. This will affect the ability to supply electricity to the community.
Straterra	S536.050	Amend	Add, <i>j</i> " <a href="#">"mineral extraction and associated activities"</a> "
Buller District Council	S538.315	Oppose in part	Give consideration to including an earthworks threshold table that sets out limits for the respective zones and overlays.
Silver Ferns Farms Limited	FS101.011	Support	Agree that the earthworks rules spread throughout the Plan should be consolidated into the Earthworks (EW) chapter.
Grey District Council	FS1.427	Support	Will assist all plan users when applying the rules.
Martin & Lisa Kennedy	S545.010	Amend	Replace the rules with those developed in the operative Grey District Plan with regard to National Grid matters.
Transpower NZ Limited	FS110.043	Oppose	In its submission, Transpower sought a new National Grid specific earthworks rule. While Transpower understands the intent behind the submission to replace the rules with those in the operative Grey District Plan, there are some discrete differences in the rules sought in the Transpower submission and those in the Grey Plan (including activity status). The wording sought reflects and is consistent with the approach sought across New Zealand.
Nick Pupich Sandy Jefferies	S546.010	Amend	Replace the rules with those developed in the operative Grey District Plan with regard to National Grid matters
Westpower Limited	S547.469	Amend	Amend <i>d</i> . <i>These are earthworks including stockpiles required for network utility, <a href="#">including energy activities and infrastructure</a>, or critical infrastructure ... of new network utilities, <a href="#">including energy activities and infrastructure</a>, and public roads.</i>
Chris & Jan Coll	S558.306	Amend	Amend to be more enabling of development and provide more clarity.
Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	S560.319	Amend	Clarify the meaning of: "approved subdivision" "approved access" "approved well or bore".

Geoff Volckman	S563.079	Amend	Amend to provide more clarity.
Geoff Volckman	S563.082	Amend	Amend to be more enabling of development.
Catherine Smart-Simpson	S564.090	Amend	Amend to provide more clarity.
Catherine Smart-Simpson	S564.093	Amend	Amend to be more enabling of development
Chris J Coll Surveying Limited	S566.306	Amend	Amend to be more enabling of development and provide more clarity.
William McLaughlin	S567.369	Amend	Amend to be more enabling of development and provide more clarity.
Laura Coll McLaughlin	S574.306	Amend	Amend to be more enabling of development and provide more clarity.
Koiterangi Lime Co LTD	S577.069	Amend	Amend to be more enabling of development and provide more clarity.
WMS Group (HQ) Limited and WMS Land Co. Limited	S599.083	Amend	Amend EW - R2 as follows: EW - R2 <i>Earthworks excluding minerals extraction, exploration and prospecting activities - All Zones</i>
Birchfield Coal Mines Ltd	S601.064		
BRM Developments Limited	S603.042		
Birchfield Ross Mining Limited	S604.057		
Phoenix Minerals Limited	S606.043		
Whyte Gold Limited	S607.041		
Grey District Council	S608.668	Support	As per below, clarification around application of the rules to typical Council infrastructure activities is needed.
Fuel Companies	S613.011	Amend	<i>j. These are earthworks associated with the removal, upgrade or replacement of an underground petroleum storage tank.</i>
Karamea Lime Company	S614.114	Amend	Amend to provide more clarity.
Karamea Lime Company	S614.116	Amend	Amend to be more enabling of development
Peter Langford	S615.114	Amend	Amend to provide more clarity.
Peter Langford	S615.116	Amend	Amend to be more enabling of development
Snodgrass Road submitters	S619.052	Amend	Remove the requirement in Rule EW-R2(g) for natural hazard mitigation structures to be constructed by a statutory agency or authorized contractor.
Te Tumu Paeroa - The office of the Māori Trustee	S440.043	Support	N/A
Transpower New Zealand Limited	S299.059	Amend	Amend Rule EW-R2 to exclude earthworks within the National Grid and to provide a stand-alone earthworks rule:
Royal Forest & Bird Protection Society of NZ Inc. (Forest & Bird)	FS34.032	Oppose in part	Forest & Bird is concerned that the amendments sought by Transpower could result in the amendments Forest & Bird seek not being captured with respect to

			earthworks for Energy activities
Department of Conservation	S602.170	Amend	Amend:  1. All standards in Rule EW - R1 are complied with; and 2. These earthworks are: Associated with the construction of an approved building platform and access; or <del>These are earthworks</del> associated with an approved subdivision consent; or <del>These are earthworks</del> associated with an approved well or bore; or <del>These are earthworks</del> including stockpiles required for network utility or critical infrastructure maintenance, operation, repair, upgrade, or installation of new network utilities including public roads; or <del>These are earthworks</del> associated with installation of swimming pools; or The earthworks are for interments in a cemetery or urupā; The earthworks are for natural hazard mitigation structures constructed by a statutory agency or their authorised contractor; or The earthworks are test pits for geotechnical or contaminated land assessment where the land is reinstated within 48 hours; or ...
Buller District Council	FS149.0139	Support	Council supports the amendment.
Westpower Limited	FS222.0106	Oppose	Whilst it is accepted that the submission seeks to simplify the rule the removal of wording may result in a different interpretation of the rule. This is particularly relevant to item (d) which provides for earthworks, including stockpiles, rather than just stockpiles.
Westland District Council	S181.028	Support	Retain

### Analysis

109. Numerous submitters seek to amend EW-R2 to be more enabling of development or to improve clarity. These submitters have not provided specific relief sought, and in the absence of further evidence or information I am unable to support the relief sought.
110. Manawa Energy Limited (S438.121) seek to amend EW-R2(d) as follows:  
*These are earthworks including stockpiles required for repair, maintenance, operation, upgrading and establishment of network utility or ~~critical regionally significant~~ infrastructure ~~maintenance, operation, repair, upgrade, or installation of new network utilities including public roads~~; or*
111. I agree with the submitter that reconfiguring the clause will improve efficiency and effectiveness and aid in easier interpretation. I also support amendments to replace the term 'critical infrastructure' with 'regionally significant infrastructure'. This will achieve

consistency with Chapter 6 – Regionally Significant Infrastructure of the RPS. I note that ‘regionally significant infrastructure’ is defined within the RPS, which will provide sufficient direction to plan users on the interpretation of this term.

112. Margaret Montgomery (S446.077) seeks to ensure that graves and swimming pools are exempt from standards. I note that clause (e) provides for earthworks associated with the installation of swimming pools and clause (f) provides for interments in a cemetery or ururpā as permitted activities. Therefore, no further response is necessary.
113. Horticulture New Zealand (S486.048) seeks to retain EW-R2.2(i). Transpower NZ Limited (FS110.042) oppose this relief seeking to remove “cultivation” from the rule, because cultivation is excluded from the definition of earthworks (and therefore not subject to the rule). I consider that the effectiveness of EW-2.2 is compromised by the interchanging use of definitions, furthermore, that it is appropriate to enable cultivation where potential effect on the National Grid is managed.
114. Earthworks is defined in the pTTPP as:

*“means the alteration or disturbance of land, including by moving, removing, placing, blading, cutting, contouring, filling or excavation of earth (or any matter constituting the land including soil, clay, sand and rock); but excludes gardening, cultivation, and disturbance of land for the installation of fence posts.”*
115. Cultivation is defined in the pTTPP as:

*“means the alteration or disturbance of land (or any matter constituting the land including soil, clay, sand and rock) for the purpose of sowing, growing or harvesting of pasture or crops.”*
116. Both definitions are National Planning Standard definitions and cannot be changed. The National Planning Standards provide no direction with respect to how cultivation must be addressed in a District Plan, nor does it specify that cultivation cannot be included in the Earthworks Chapter. “Earthworks” and “Cultivation” definitions both refer to land disturbance which is defined by the National Planning Standards as:

*“means the alteration or disturbance of land (or any matter constituting the land including soil, clay, sand and rock) that does not permanently alter the profile, contour or height of the land.”*
117. To resolve interpretation issues and improve effectiveness of the provisions, I recommend that the title of EW-R1 and EW-R2 be amended to refer to “land disturbance”.
118. Numerous submitters seek to amend EW-R2 to exclude mineral extraction, exploration and prospecting activities in all zones. Straterra (S536.050) also seek to add mineral extraction and associated activities as a separate clause j. I do not support the relief sought by these submitters as mineral extraction is excluded from the Earthworks Chapter as detailed in EARTH Overview. As discussed above, amendments are proposed to the Overview to improve clarity on the relationship between the Earthworks Chapter and mineral extraction activities.
119. New Zealand Defence Force (S519.0 34) seek to delete EW-R2 and include the standards in other earthworks rules to ensure that all activities that comply with relevant standards can proceed on a permitted activity basis. Westpower Limited (FS222.0199) oppose the relief sought in this submission. In my opinion the provisions as proposed enable permitted activities, rules EW-R3, EW-R4, EW-R5 and EW-R6 all cross-reference EW-R1 for general compliance and provide appropriate permitted activity standards for earthworks. However I do agree that there is duplication between rules, which should be removed to improve effectiveness of provisions, refer to recommendations for rules EW-R3 to EW-R6.
120. Buller District Council (S538.315) request that an earthworks threshold table that sets out limits for respective zones and overlays be included. Silver Ferns Farms Limited



(FS101.011) and Grey District Council (FS1.427) support this relief sought. As three rules in EARTH refer to earthwork thresholds, I do not consider it efficient or user friendly to include a threshold table that is inconsistent with the pTTPP format.

121. Martin & Lisa Kennedy (S545.010) and Nick Pupich Sandy Jefferies (S546.101) seek to replace the National Grid rules with those developed in the Operative Grey District Plan. Transpower NZ Limited (FS110.043) has opposed this relief sought, stating Transpower sought a new National Grid specific earthworks rule. While Transpower understands the intent behind the submission to replace the rules with those in the operative Grey District Plan, there are some discrete differences in the rules sought in the Transpower NZ Limited (S229.059) original submission and those in the Grey Plan (including activity status). The wording sought reflects and is consistent with the approach sought across New Zealand. I note that the Transpower NZ Limited (S229.059) submission is addressed separately, I do not support relief sought by these submitters.
122. Westpower Limited (S547.469) seek to amend EW-R2.2(d) to include reference to "energy activities and infrastructure". I do not support this amendment as critical infrastructure as defined by the pTTPP includes energy activities and infrastructure.
123. Fuel Companies (S613.011) seek to amend EW-R2.2 to include provision for earthworks associated with removal, upgrade or replacement of underground petroleum storage tanks. I note that the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 applies to such activities and provides for excavation of up to 30m<sup>3</sup> of volume of earth to be excavated per tank in a system as a permitted activity. However, the submitter has not provided any further evidence to support their relief sought, in the absence of further evidence I am unable to support relief sought.
124. Snodgrass Road Submitters (S619.052) seek to remove the requirement in EW-R2.2(g) for natural hazard mitigation structures to be constructed by a statutory agency or authorised contractor. I do not support the relief sought, it is important that natural hazard mitigation is carefully designed and constructed to manage risk. The requirement for construction by a statutory agency or authorised contractor will ensure that structures are appropriately designed and engineered. Providing for the construction natural hazard mitigation structures by third parties as a permitted activity is not considered to be appropriate due to the potential to result in ad-hoc structures that exacerbate the hazard risk elsewhere within the surrounding environment or to adjacent properties.
125. Waka Kotahi (S450.150) seek to include a definition for 'statutory agency'. In my opinion, the plain and common meaning of the terms 'statutory agency or authorised contractor' is appropriate. This is because it will provide sufficient clarity, and is effective and efficient as it will enable a range of agencies to respond to respond. I note the inclusion of a definition may create unintended exclusions. As such, I do not support the relief sought.
126. Department of Conservation (S602.170) seek to amend EW-R2.2 as follows:
  1. *All standards in Rule EW - R1 are complied with; and*
  2. *These earthworks are:*
    - a. *Associated with the construction of an approved building platform and access; or*
    - b. ~~*These are earthworks*~~ *associated with an approved subdivision consent; or*
    - c. ~~*These are earthworks*~~ *associated with an approved well or bore; or* ~~*These are earthworks*~~ *including stockpiles required for network utility or critical infrastructure maintenance, operation, repair, upgrade, or installation of new network utilities including public roads; or*
    - d. ~~*These are earthworks*~~ *associated with installation of swimming pools; or* *The earthworks are for interments in a cemetery or urupā;*
    - e. *The earthworks are for natural hazard mitigation structures constructed by a statutory agency or their authorised contractor; or*
    - f. *The earthworks are test pits for geotechnical or contaminated land*

*assessment where the land is reinstated within 48 hours; or ...*

127. Westpower Limited (FS222.0106) opposes this relief sought. I agree with the relief sought by the Department of Conservation, as drafted EW-R2.2 is repetitive and I support amendment of the rule to remove duplication.
128. Forest & Bird seek to include definitions for a number of terms. In my opinion, this is unnecessary as the plain and common meaning of the terms are sufficient to inform interpretation of EW-R2 for plan users.

### *Recommendations*

129. That EW-R1 be amended as follows:

*EW - R1 ~~Earthworks~~ Land Disturbance General Standards  
All Permitted activities must comply with the following relevant standards.*

130. That EW-R2 be amended as follows:

*EW - R2 ~~Earthworks~~ Land Disturbance - All Zones*

*Activity Status Permitted*

*Where:*

- 1. All standards in Rule EW - R1 are complied with; and*
- 2. These earthworks ~~are~~:*
  - a. ~~Are~~ Associated with the construction of an approved building platform and access; or*
  - b. ~~These are earthworks~~ Are associated with an approved subdivision consent; or*
  - c. ~~These are earthworks~~ Are associated with an approved well or bore; or*
  - d. ~~These are earthworks~~ including Are stockpiles required for repair, maintenance, operation, upgrading and establishment of network utility or critical regionally significant infrastructure ~~maintenance, operation, repair, upgrade, or installation of new network utilities including public roads;~~*
  - e. ~~These a~~ Are earthworks associated with installation of swimming pools; or*
  - f. ~~The earthworks a~~ Are for interments in a cemetery or urupā;*
  - g. ~~The earthworks a~~ Are for natural hazard mitigation structures constructed by a statutory agency or their authorised contractor; or*
  - h. ~~The earthworks a~~ Are test pits for geotechnical or contaminated land assessment where the land is reinstated within 48 hours; or*
  - i. ~~They are earthworks~~ Are within the National Grid Yard where:*
    - ii. Any earthworks must not exceed a depth or fill from original ground level of 300mm, except for:*
      - A. Earthworks for a network utility or as part of a renewable electricity generation activity; and*
      - B. Earthworks undertaken as part of agricultural or domestic cultivation, or repair, sealing or resealing of a road, footpath, driveway or farm track.*

*Advice Notes:*

- 3. Rules in relation to earthworks in overlay areas can be found in the Overlay Chapters of this Plan.*
- 4. Earthworks undertaken in areas of contaminated land are subject to the Rules in the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health.*

*Activity status where compliance not achieved:*



*Restricted Discretionary*

*Refer Overlay Chapters for Earthworks Rules in relation to these overlay areas.*

**Analysis of Submissions on Key Issue 5 – EW-R3**

<b>Submitter</b>	<b>Submission Point &amp; Point Number</b>	<b>Position</b>	<b>Decision Requested</b>
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.509	Support	Retain rule.
Manawa Energy Limited (Manawa Energy)	S438.122	Oppose	Amend EW - R3 as follows: 2. <i>These are ancillary earthworks for:</i> i. <i>A Permitted Activity, except that in the Rural Lifestyle Zone a maximum of 500m<sup>2</sup>/site of land is disturbed in any 12 month period; or</i> ii. <i>An Energy <a href="#">Renewable Electricity Generation Activity</a>, <a href="#">Regionally Significant Infrastructure</a>, Network Utility Operation or Transport Activity,</i> 3. <i>Where the earthworks (<a href="#">other than those provided for in clause 2 above</a>) are undertaken within an Overlay Chapter area these earthworks meet the Permitted Activity standards for the relevant Overlay chapter.</i>
Waka Kotahi NZ Transport Agency	S450.151	Support	Retain as proposed.
Silver Fern Farms Limited	FS101.013	Support	Silver Fern Farms agrees with the retention of this rule as notified.
Russell and Joanne Smith	S477.020	Oppose	Remove 500m <sup>2</sup> limit on earthworks in the RLZ. Alternatively, provide a more generous earthworks limit such as 2000m <sup>2</sup>
Tim Macfarlane	S482.020	Oppose	Remove 500m <sup>2</sup> limit on earthworks in the RLZ. Alternatively, provide a more generous earthworks limit such as 2000m <sup>2</sup>
Horticulture New Zealand	S486.049	Support	Retain EW-R3 as notified.
Bathurst Resources Limited and BT Mining Limited	S491.033	Amend	Amend: Where: <i>1 .... 2. <a href="#">The activity is associated with a lawfully established activity</a>, <a href="#">or</a> ...</i>
Claire & John West	S506.020	Oppose	Remove 500m <sup>2</sup> limit on earthworks in the RLZ. Alternatively, provide a more generous earthworks limit such as 2000m <sup>2</sup>
Steve Croasdale	S516.090	Amend	Amend to provide more clarity.
Steve Croasdale	S516.091	Amend	Amend to be more enabling of development.
Federated Farmers of New Zealand	S524.095	Support	Retain as notified

Lauren Nyhan Anthony Phillips	S533.020	Oppose	Remove 500m2 limit on earthworks in the RLZ. Alternatively, provide a more generous earthworks limit such as 2000m2
Buller District Council	S538.316	Oppose in part	Amend Rule 3 as follows: <i>2. These are ancillary earthworks for: (i) A Permitted Activity, except that in the Rural Lifestyle Zone a maximum of <del>500</del> 2500m<sup>2</sup>/site of land is disturbed in any 12 month period; or</i>
Grey District Council	FS1.428	Support	Given the vast scope of 'Earthworks' this amendment is supported.
Westpower Limited	S547.470	Amend	Amend item 2.ii.,ii. <i>An Energy Activity, <u>Infrastructure Activity</u> or <u>Transport Activity</u>.</i>
Chris & Jan Coll	S558.308	Support	Amend to be more enabling of development and provide more clarity.
Stewart & Catherine Nimmo	S559.020	Oppose	Remove 500m2 limit on earthworks in the RLZ. Alternatively, provide a more generous earthworks limit such as 2000m2
Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	S560.320	Oppose	Add to Rule EW - R3 the following conditions: " <i>4. <u>Where the earthworks are in the NOSZ they are: A maximum of 250m<sup>2</sup>/site of land is disturbed in any 12- month period; A maximum of 200m<sup>3</sup> of material is transported off site in any 12- month period; and c. There is a maximum 1m change of existing ground level.</u></i> "
Westpower Limited	FS222.0315	Oppose	Submission seeks to impose additional regulation on energy activities and the servicing of the community. Does not consider the impact of the proposal and is inappropriate
Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	S560.321	Amend	Replace term 'Overlay', or otherwise clarify in line with Key Issue above.
Westpower Limited	FS222.0316	Oppose	Submission provides no specific amendment wording to understand the implications of the proposed change. Seems to seek to broaden the scope of the rules and is inappropriate.
Geoff Volckman	S563.080	Amend	Amend to provide more clarity.
	S563.081	Amend	Amend to be more enabling of development.
Catherine Smart-Simpson	S564.091	Amend	Amend to be more enabling of development
Catherine Smart-Simpson	S564.092	Amend	Amend to provide more clarity.
Joel and Jennifer Watkins	S565.033	Amend	Remove 500m2 limit on earthworks in the RLZ.
Joel and Jennifer Watkins	S565.034	Amend	Alternative relief: provide a more generous earthworks limit such as 2000m2
Chris J Coll Surveying Limited	S566.308	Support	Amend to be more enabling of development and provide more clarity.

William McLaughlin	S567.370	Support	Amend to be more enabling of development and provide more clarity.
Laura Coll McLaughlin	S574.308	Support	Amend to be more enabling of development and provide more clarity.
Koiterangi Lime Co LTD	S577.070	Amend	Amend to be more enabling of development and provide more clarity.
Tim and Phaedra Robins	S579.029	Oppose	Remove 500m2 limit on earthworks in the RLZ.
Tim and Phaedra Robins	S579.030	Amend	Alternative relief, amend to provide a more generous earthwork limit such as 2000m2
Department of Conservation	S602.171	Neutral	DOC is neutral with regards to: EW - R3 Earthworks in the GRUZ - General Rural Zone, RLZ - Rural Lifestyle Zone, any INZ - Industrial Zone, FUZ - Future Urban Zone, AIRPZ Airport Zone, any OSRZ - Open Space and Recreation Zone and the MPZ - Māori Purpose Zone EW - R6 Earthworks in the BCZ - Buller Coalfield Zone and MINZ - Mineral Extraction Zone
Karamea Lime Company	S614.115	Amend	Amend to provide more clarity.
Karamea Lime Company	S614.117	Amend	Amend to be more enabling of development
Peter Langford	S615.115	Amend	Amend to provide more clarity.
Peter Langford	S615.117	Amend	Amend to be more enabling of development
Te Tumu Paeroa - The office of the Māori Trustee	S440.043	Support	N/A
Buller Conservation Group	S552.141	Amend	R3 <i>per site or 10% whichever is the greater</i>
Frida Inta	S553.141		
Westland District Council	S181.028	Support	Retain

### Analysis

131. Numerous submitters seek to amend EW-R3 to be more enabling of development or to improve clarity. These submitters have not provided specific relief sought, and in the absence of further evidence or information I am unable to support the relief sought.
132. Manawa Energy Limited (S438.122) seek to amend EW-R3 to include references to Renewable Electricity Generation and Regionally Significant Infrastructure. I do not support the relief sought to include reference to Renewable Electricity Generation because the pTTPP definition of Energy Activity includes "Renewable Electricity Generation":
- "means the use of land, buildings and structures for the purpose of energy investigation, generation, transmission and distribution. This includes all types of renewable electricity generation."*
133. I also do not support the inclusion of Regionally Significant Infrastructure as this will result in a duplication of permitted activity EW-R2.2(d). I also recommend amendments to the rule to ensure consistency across EW-R3 to EW-R6.

134. Numerous submitters have requested that the 500m<sup>2</sup> area of earthworks permitted activity limit be removed to apply a more generous limit. No evidence has been provided to support the increase of the proposed limit. I consider that the limit is appropriate given the purpose of the RLZ is to provide for rural lifestyle whilst allowing rural activities to occur, also noting that the rule does not limit cultivation.

*"The role of the RLZ - Rural Lifestyle Zone is to provide for a residential lifestyle within a rural environment on lots smaller than those of the GRUZ - General Rural Zone, while still allowing rural activities to occur. Providing for the RLZ - Rural Lifestyle Zone enables the GRUZ - General Rural Zone to continue to function as a productive working zone that is not compromised by ad hoc or sporadic subdivision and/or rural lifestyle living activities."*

135. In the absence of any further justification, I do not support the relief sought.
136. Bathurst Resources Limited and BT Mining Limited (S491.033) seek to amend EW-R3 to include provision for earthworks associated with a lawfully established activity. I do not support this relief sought. Earthworks associated with any activity may have adverse environmental effects which must be managed.
137. Westpower Limited (S547.470) seek to include reference to infrastructure activity, in my opinion this inclusion is not necessary as infrastructure activities are sufficiently provided for within EW-R2 as a permitted activity.
138. Forest & Bird (S560.320) seek to include limits for earthworks within the Natural Open Space Zone as follows:

*4. Where the earthworks are in the NOSZ they are: A maximum of 250m<sup>2</sup>/site of land is disturbed in any 12- month period; A maximum of 200m<sup>3</sup> of material is transported off site in any 12- month period; and c. There is a maximum 1m change of existing ground level."*

139. Westpower Limited (FS222.0315) have opposed this submission as it will impose additional regulation on energy activities servicing the community. I agree with Forest and Bird that earthworks have the potential to result in adverse environmental effects within Open Space and Recreation Zones, particularly the NOSZ which should be managed by an appropriate permitted activity limit. It is considered that the proposed provision is consistent with EW-R4 and sets an effective and efficient trigger.
140. Forest & Bird (S560.321) seek to amend EW-R3.3 to provide clarification on the provisions which apply to overlays, included mapped and unmapped areas. I note that the EARTH overview and advice notes included at EW-R2 provide clarification on the overlap between the EARTH chapter and overlay provisions. As this matter also relates to drafting across the pTTPP, further evidence from the submitter, including preferred provisions, would assist me to form a view.

### *Recommendations*

141. That EW-R3 is amended as follows:

*EW - R3 Earthworks in the GRUZ - General Rural Zone, RLZ - Rural Lifestyle Zone, any INZ - Industrial Zone, FUZ - Future Urban Zone, AIRPZ - Airport Zone, any OSRZ - Open Space and Recreation Zone and the MPZ - Māori Purpose Zone  
Activity Status Permitted*

*Where:*

- 1. All standards in Rule EW - R1 are complied with; and*
- 2. These are ancillary earthworks for:*
  - i. A Permitted Activity, except that in the:*
    - a. Rural Lifestyle Zone a maximum of 500m<sup>2</sup>/site of land is disturbed in any 12 month period; or*
    - b. Natural Open Space Zone a maximum of 250m<sup>2</sup>/site of land is disturbed*

in any 12 month period and a maximum of 200m<sup>3</sup> of material is transported off site in any 12 month period, and there is a maximum 1m change of existing ground level; and

- ii. An Energy Activity, Network Utility Operation or Transport Activity.
3. Where the earthworks are undertaken within an Overlay Chapter area these earthworks meet the Permitted Activity standards for the relevant Overlay chapter.

Activity status where compliance not achieved:

Restricted Discretionary where standard 1 and 2 are not complied with.

Refer to the relevant Overlay Chapter where standard 3 is not complied with.

### Analysis of Submissions on Key Issue 5 – EW-R4

Submitter	Submission Point & Point Number	Position	Decision Requested
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.510	Support	Retain rule.
Kāinga Ora – Homes and Communities	FS58.075 FS58.0133	Support	Kāinga Ora considers that the proposed rule is appropriate.
Margaret Montgomery	S446.078	Amend	Clarify how compliance is assessed for standard 4. Make 4c consistent with EW - R1. Retain escalation to Restricted Discretionary
Waka Kotahi NZ Transport Agency	S450.152	Support	Retain as proposed.
TiGa Minerals and Metals Limited	S493.079	Amend	Amend: <i>Earthworks <u>excluding minerals extraction, exploration and prospecting activities</u> in the GRUZ - General Rural Zone, RLZ - Rural Lifestyle Zone, any INZ - Industrial Zone, FUZ - Future Urban Zone, AIRPZ - Airport Zone, any OSRZ - Open Space and Recreation Zone and the MPZ - Māori Purpose Zone</i>
Buller District Council	S538.317	Oppose in part	Amend Rule 4 as follows:  <i>4. Where earthworks are undertaken for any other activity:  a. A maximum of <del>250</del> 2500m<sup>2</sup>/site of land is disturbed in any 12 month period;</i>
Grey District Council	FS1.429	Support in part	An increase in earthworks limit is supported. But not necessarily the amount proposed.
Westpower Limited	S547.471	Amend	Amend 3. <i>An Energy Activity, <u>Infrastructure Activity</u> or Transport Activity.</i>
Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	S560.322	Amend	Replace term 'Overlay', or otherwise clarify in line with Key Issue above.
Westpower Limited	FS222.0137	Oppose	Submission provides no specific amendment wording

			to understand the implications of the proposed change. Seems to seek to broaden the scope of the rules and is inappropriate
WMS Group (HQ) Limited and WMS Land Co. Limited	S599.084	Amend	Amend EW - R4 as follows: <i>Earthworks <u>excluding minerals extraction, exploration and prospecting activities</u> in the GRUZ - General Rural Zone, RLZ - Rural Lifestyle Zone, any INZ - Industrial Zone, FUZ - Future Urban Zone, AIRPZ - Airport Zone, any OSRZ - Open Space and Recreation Zone and the MPZ - Māori Purpose Zone</i>
Birchfield Coal Mines Ltd	S601.065		
BRM Developments Limited	S603.043		
Birchfield Ross Mining Limited	S604.058		
Phoenix Minerals Limited	S606.044		
Whyte Gold Limited	S607.042	Amend	Amend EW - R4 as follows: <i>Earthworks <u>excluding minerals extraction, exploration and prospecting activities</u> in the GRUZ - General Rural Zone ...</i>
Grey District Council	S608.086	Amend	Amend Condition 4(a) changing 250m <sup>2</sup> to 350m <sup>2</sup> . Condition 4(a) to read: "A maximum of 350m <sup>2</sup> /site of land is disturbed in any 12 month period"
Te Tumu Paeroa - The office of the Māori Trustee	S440.043	Support	N/A
Buller Conservation Group	S552.141	Amend	R4 per site <i>or 10% whichever is the greater</i>
Frida Inta	S553.141		
Westland District Council	S181.028	Support	Retain

### Analysis

142. Margaret Montgomery (S446.078) seek to amend EW-R4.4(c) to be consistent with EW-R1. In my opinion no change is necessary as clause EW-R4.1 already ensures compliance with EW-R1.
143. Numerous submitters seek to amend EW-R4 to exclude mineral extraction, exploration and prospecting activities in all zones. I do not support the relief sought by these submitters as mineral extraction is excluded from the Earthworks Chapter as detailed in EARTH Overview.
144. Buller District Council (S538.317), Grey District Council (S608.086 and FS1.429), Buller Conservation Group (S552.141) and Frida Inta (S553.141) seek to amend EW-R4 to increase the maximum earthworks volume. No evidence has been provided to support the increase of the proposed limit. I consider that the limit is appropriate given the purpose of the Residential, Neighbourhood Centre and Settlement Zones and their proposed minimum lot size.
145. Westpower Limited (S547.471) seek to include reference to infrastructure activity, in my opinion this inclusion is not necessary as infrastructure activities are sufficiently provided for within EW-R2 as a permitted activity.

### Recommendations

146. That EW-R4 be retained as notified.

### Analysis of Submissions on Key Issue 5 – EW-R5

Submitter	Submission	Position	Decision Requested
-----------	------------	----------	--------------------

	<b>Point &amp; Point Number</b>		
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.511	Support	Retain rule.
Waka Kotahi NZ Transport Agency	S450.153	Support	Retain as proposed.
Buller District Council	S538.318	Oppose in part	Amend Rule 5 as follows:  <i>4. Where earthworks are undertaken for any other activity a maximum of <del>1000</del>2500m<sup>2</sup>/site <del>or</del> of land is disturbed in any 12 month period.</i>
Westpower Limited	S547.472	Amend	Amend 3. <i>An Energy Activity, <u>Infrastructure Activity</u> or Transport Activity.</i>
Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	S560.323	Amend	Replace term 'Overlay', or otherwise clarify in line with Key Issue above.
Westpower Limited	FS222.0318	Oppose	Submission provides no specific amendment wording to understand the implications of the proposed change. Seems to seek to broaden the scope of the rules and is inappropriate
Westland District Council	S181.028	Support	Retain

### Analysis

147. Buller District Council (S538.318) seek to amend EW-R5 to increase the maximum earthworks volume. No evidence has been provided to support the increase of the proposed limit and in the absence of further information and justification I am unable to support the relief sought.
148. Westpower Limited (S547.472) seek to include reference to infrastructure activity, in my opinion this inclusion is not necessary as infrastructure activities are sufficiently provided for within EW-R2 as a permitted activity.

### Recommendations

149. That EW-R5 be retained as notified.

### Analysis of Submissions on Key Issue 5 – EW-R6

<b>Submitter</b>	<b>Submission Point &amp; Point Number</b>	<b>Position</b>	<b>Decision Requested</b>
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.512	Support	Retain rule.
TiGa Minerals and Metals Limited	S493.080	Oppose	Delete EW - R6
Steve Croasdale	S516.092	Support	Retain

Buller District Council	S538.319		
Westpower Limited	S547.473		
Chris & Jan Coll	S558.309		
Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	S560.324	Oppose	Delete EW - R6
Geoff Volckman	S563.083	Support	Retain
Catherine Smart-Simpson	S564.094		
Chris J Coll Surveying Limited	S566.309		
William McLaughlin	S567.371		
Laura Coll McLaughlin	S574.309		
Koiterangi Lime Co LTD	S577.071		
WMS Group (HQ) Limited and WMS Land Co. Limited	S599.085	Oppose	Delete EW - R6
Birchfield Coal Mines Ltd	S601.066	Oppose	Delete EW - R6
Department of Conservation	S602.172	Neutral	DOC is neutral with regards to: EW - R3 Earthworks in the GRUZ - General Rural Zone, RLZ - Rural Lifestyle Zone, any INZ - Industrial Zone, FUZ - Future Urban Zone, AIRPZ Airport Zone, any OSRZ - Open Space and Recreation Zone and the MPZ - Māori Purpose Zone EW - R6 Earthworks in the BCZ – Buller Coalfield Zone and MINZ - Mineral Extraction Zone
BRM Developments Limited	S603.044	Oppose	Delete EW - R6
Birchfield Ross Mining Limited	S604.059		
Phoenix Minerals Limited	S606.045		
Whyte Gold Limited	S607.043		
Karamea Lime Company	S614.118	Support	Retain
Peter Langford	S615.118		
Te Tumu Paeroa - The office of the Māori Trustee	S440.043		
Westland District Council	S181.028		

### Analysis

150. Submitters have either sought to retain EW-R6 as drafted or delete in its entirety because the zone provisions adequately provide for the activities. In my opinion the Buller Coalfield Zone and Mineral Extraction Zone rules do not include provisions for earthworks which is a different activity to mineral extraction, therefore rule EW-R6 is appropriate.

### Recommendations

151. That EW-R6 be retained as notified.



## Analysis of Submissions on Key Issue 5 – EW-R7

Submitter	Submission Point & Point Number	Position	Decision Requested
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.513	Support	Retain rule.
Horticulture New Zealand	S486.050	Support	Retain rule.
Transpower NZ Ltd	FS110.044	Oppose	<p>In its submission, Transpower sought a new permitted earthworks rule. Where compliance is not achieved, consent is required for a non-complying activity. For the reasons outlined in its original submission, Transpower seeks a non-complying activity status. A non-complying activity status is considered the most effective means of giving effect to the NPSET's objective of managing the adverse effects of the network and managing the adverse effects of other activities on the network. In particular, a non-complying activity status:</p> <p>(a) Most appropriately recognises and provides for the effective operation, maintenance, upgrading and development of the network, as required by NPSET Policy 2;</p> <p>(b) Is the best method to manage other activities to ensure the operation, maintenance, upgrading, and development of the network is not compromised, as required by Policy 10. The NPSET provides a strong direction that cannot be achieved by use of the restricted discretionary activity status. Such policy direction can only be achieved by way of a non-complying activity status.</p>
Buller District Council	S538.320	Support	Retain rule.
Westpower Limited	S547.474	Amend	Delete e.
Westpower Limited	S547.475	Amend	Add <i>h. Any technical, locational, functional or operational constraints or requirements of the proposed activity.</i>
Transpower NZ Ltd	FS110.046	Oppose	While Transpower understands the intent of the relief sought, it does not consider the sought wording and matter fits within the context of the matters of discretion relating to effects on the National Grid.
Westpower Limited	S547.476	Amend	Add <i>i. The benefits arising from the</i>

			<i>proposed new activity.</i>
Transpower NZ Ltd	FS110.045	Oppose	While Transpower understands the intent of the relief sought, Transpower has sought a new rule for earthworks within the National Grid Yard. The relief sought by the submitter would not fit within the context of the Transpower sought rule.
Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	S560.325	Amend	Make it clear in these two rules, by way of a condition, that: <i>any vegetation clearance that is caused by the earthworks, or by the associated works (e.g., smothering by the excavated materials) must comply with the provisions of the ECO chapter.</i>
Transpower NZ Ltd	FS110.047	Oppose	While Transpower does not oppose the intent of the relief sought, it is not considered necessary given the Overview to the Earthworks Chapter which provides "Other relevant Te Tai o Poutini Plan provisions In addition to the provisions in this chapter, earthworks and land disturbance are also subject to additional provisions in some zone chapters and a number of Part 2: District-Wide Matters chapters, including: - Overlay Chapters - the Overlay Chapters have provisions in relation to Historic Heritage; Notable Trees; Sites and Areas of Significance to Māori; Ecosystems and Indigenous Biodiversity; Natural Features and Landscapes; Natural Character and Margins of Waterbodies; Natural Hazards; and the Coastal Environment. Where earthworks are located within an overlay area (as identified in the planning maps) then the relevant overlay chapter provisions apply.
Westpower Limited	FS222.0319	Oppose	Submission seeks duplication of regulation and is not appropriate. Vegetation matters are provided for in appropriate chapters.
Bathurst Resources Limited and BT Mining Limited	FS89.079	Oppose	Changes the intent of the rule.
Catherine Smart-Simpson	S564.095	Support	Retain
Koiterangi Lime Co LTD	S577.072		
Karamea Lime Company	S614.119		
Peter Langford	S615.119		
Royal Forest and Bird Protection Society of New Zealand Inc.	S560.0562		

(Forest & Bird)			
Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	S560.0563	Support	The advice note at the bottom of R8 should be amended in line with Key Issue above.
Steve Croasdale	S516.093	Support	Retain
Geoff Volckman	S563.084		
William McLaughlin	S567.372		
Te Runanga o Ngāi Tahu, Te Runanga o Ngāti Waewae, Te Runanga o Makaawhio	S620.210	Amend	Amend to include the following wording as a matter of discretion for both EW -R7 and EW- R8: <a href="#"><u>e) any adverse effects on landscape, amenity, Poutini Ngāi Tahu Values, water quality, cultural and heritage sites.....</u></a>
Te Tumu Paeroa - The office of the Māori Trustee	S440.043	Support	N/A
Transpower New Zealand Limited	S299.059	Amend	Amend Rule EW-R7 to exclude earthworks within the National Grid and to provide a stand-alone earthworks rule:
Royal Forest & Bird Protection Society of NZ Inc. (Forest & Bird)	FS34.032	Oppose	Forest & Bird is concerned that the amendments sought by Transpower could result in the amendments Forest & Bird seek not being captured with respect to earthworks for Energy activities
Westland District Council	S181.028	Support	Retain
Chris & Jan Coll	S558.310		
Chris J Coll Surveying Limited	S566.310		
Laura Coll McLaughlin	S574.310		

### Analysis

152. Numerous submitters have sought to retain rule EW-R7 as notified. Transpower NZ Limited (S299.059 and FS110.044) sought to amend EW-R2 and EW-R7 to exclude earthworks within the National Grid and have sought a new permitted earthworks rule. For the additional rule sought by Transpower, Transpower propose that where compliance is not achieved, consent is required for a non-complying activity. Transpower consider a non-complying activity status is the most effective means of giving effect to the NPSET's objective of managing the adverse effects of the network and managing the adverse effects of other activities on the network. In particular, in Transpower's submission, a non-complying activity status:

*(a) Most appropriately recognises and provides for the effective operation, maintenance, upgrading and development of the network, as required by NPSET Policy 2;*

*(b) Is the best method to manage other activities to ensure the operation, maintenance, upgrading, and development of the network is not compromised, as required by Policy 10.*

153. Transpower consider that the NPSET provides a strong direction that cannot be achieved by use of the restricted discretionary activity status. Such policy direction can only be achieved by way of a non-complying activity status. Transpower seek that rules EW-R2 and EW-R7 exclude earthworks associated within the National Grid and the following rule be included:

*EW-RX.1 Earthworks and vertical holes within the National Grid Yard*

*Activity Status: Permitted*

*Where:*

- a. *Earthworks and vertical holes do not:*
- i. *Exceed 300mm in depth within 6m of the outer visible edge of a National Grid support structure;*
  - ii. *Exceed 3m in depth between 6m and 12m of the outer visible edge of a National Grid support structure;*
  - iii. *Result in a reduction of the ground to conductor clearance distances as required in Table 4 of the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001;*
  - iv. *Compromise the stability of any National Grid support structures; and*
  - v. *Result in the loss of vehicular access to a National Grid support structure.*

*Earthworks and vertical holes for the following activities are exempt from compliance with EW-Rx-1.a (i) and (ii):*

- *Earthworks or vertical holes, excluding mining and quarrying, that are undertaken by a network utility operator as defined by the Resource Management Act 1991;*
- *Agricultural or domestic cultivation;*
- *The repair, sealing or resealing of a vehicle access or farm track;*
- *Vertical holes not exceeding 500mm in diameter that are more than 1.5m from the outer edge of a National Grid pole or stay wire, or are a post hole for a farm fence or horticulture structure more than 6m from the visible outer edge of a National Grid tower foundation; and*
- *Any other earthwork or land disturbance activities subject to a dispensation from Transpower under New Zealand NZECP 34:2001.*

*Activity status: Non-complying*

*Where:*

*Compliance is not achieved with EW-Rx-1.a.*

*Notification*

- *An application under this rule is precluded from being publicly notified in accordance with section 95A of the RMA.*
- *When deciding whether any person is affected in relation to this rule for the purposes of section 95E of the RMA, the Council will give specific consideration to any adverse effects on Transpower New Zealand Limited.*

154. I agree with Transpower NZ Limited, that a stand-alone rule will be easier for plan implementation and plan users with respect to earthworks and the National Grid. As proposed the rule accurately reflects the requirements NPSET and NZECP 34:2001. However, Transpower have requested a non-complying activity status for any non-compliance with the permitted activity standards. Transpower consider that NPSET provides strong direction for this approach. I note that Objective 1 of the NPSET requires the recognition and facilitation of electricity transmission whilst managing adverse effects on the network (my emphasis added):

*To **recognise** the national significance of the electricity transmission network by **facilitating** the operation, maintenance and upgrade of the existing transmission network and the establishment of new transmission resources to meet the needs of present and future generations, while:*

- *managing the adverse environmental effects of the network; and*

- **managing** the adverse effects of other activities on the network. [emphasis added]

155. In my view the directive to 'manage' adverse effects does not automatically equate to a non-complying activity status. There is also no direction in the earthworks objectives or policies that supports a non-complying activity status.
156. Furthermore policies 10 and 11 of the NPS-ET set policy direction with respect to managing adverse effects of third parties on the transmission network (my emphasis added):

*POLICY 10*

*In achieving the purpose of the Act, decision-makers must to the **extent reasonably possible manage activities to avoid** reverse sensitivity effects on the electricity transmission network and **to ensure** that operation, maintenance, upgrading, and development of the electricity transmission network **is not compromised**. [emphasis added]*

*POLICY 11*

*Local authorities must consult with the operator of the national grid, to identify an appropriate buffer corridor within which **it can be expected** that sensitive activities will **generally not be provided for** in plans and/or given resource consent. To assist local authorities to identify these corridors, they may request the operator of the national grid to provide local authorities with its medium to long-term plans for the alteration or upgrading of each affected section of the national grid (so as to facilitate the long-term strategic planning of the grid). [emphasis added]*

157. In my opinion the non-complying activity status requested is disproportionate to the policy direction to manage effects to the extent reasonably possible to avoid and to generally not provide for activities within the National Grid buffer corridor. Therefore, I do not support the non-complying activity status sought.
158. Westpower Limited (S547.474 and S547.475) seeks to delete clause e. and add a new clause which provides for any technical, locational, functional or operational constraints or requirements of the proposed activity and a new clause which recognises the benefits arising from the proposed new activity. Transpower NZ Ltd (FS110.046) have opposed this relief sought.
159. Forest & Bird (S560.325) seek to amend EW-R7 to include a condition with respect to vegetation clearance. Transpower NZ Limited (FS110.047), Westpower Limited (FS222.0319) and Bathurst Resources Limited and BT Mining Limited (FS89.079) have opposed this relief sought as these matters are addressed in the District Wide Chapters and Overlay Chapters referenced in the EARTH Overview. I agree with the further submitters that the EARTH Overview provides appropriate cross referencing.
160. Te Runanga o Ngāi Tahu, Te Runanga o Ngāti Waewae, Te Runanga o Makaawhio (S620.210) seek to amend EW-R7 to include an additional matter of discretion:
- e) any adverse effects on landscape, amenity, [Poutini Ngāi Tahu Values](#), water quality, cultural and heritage sites.....*
161. Whilst the sentiment proposed by the submitter is acknowledged, a rule must be clear, measurable and enforceable. Therefore, it is considered that more clarity with respect to what Poutini Ngāi Tahu Values are when considering a restricted discretionary application under EW-R8 is required in order to support the relief sought. The submitter is invited to provide further information and evidence to provide clarity, including further drafting.

**Recommendations**

162. That EW-R7 be deleted.
163. That a new rule be inserted as follows:

[EW-RX Earthworks and vertical holes within the National Grid Yard](#)

Activity Status: Permitted

Where:

1. Earthworks and vertical holes do not:
  - a. Exceed 300mm in depth within 6m of the outer visible edge of a National Grid support structure;
  - b. Exceed 3m in depth between 6m and 12m of the outer visible edge of a National Grid support structure;
  - c. Result in a reduction of the ground to conductor clearance distances as required in Table 4 of the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001;
  - d. Compromise the stability of any National Grid support structures; and
  - e. Result in the loss of vehicular access to a National Grid support structure.
2. Earthworks and vertical holes for the following activities are exempt from compliance with EW-RX.1(a) and (b):
  - a. Earthworks or vertical holes, excluding mining and quarrying, that are undertaken by a network utility operator as defined by the Resource Management Act 1991;
  - b. Agricultural or domestic cultivation;
  - c. The repair, sealing or resealing of a vehicle access or farm track;
  - d. Vertical holes not exceeding 500mm in diameter that are more than 1.5m from the outer edge of a National Grid pole or stay wire, or are a post hole for a farm fence or horticulture structure more than 6m from the visible outer edge of a National Grid tower foundation; and
  - e. Any other earthwork or land disturbance activities subject to a dispensation from Transpower under New Zealand NZECP 34:2001.

Activity status: Restricted Discretionary

Notification

1. An application under this rule is precluded from being publicly notified in accordance with section 95A of the RMA.  
When deciding whether any person is affected in relation to this rule for the purposes of section 95E of the RMA, the Council will give specific consideration to any adverse effects on Transpower New Zealand Limited.

## **Analysis of Submissions on Key Issue 5 – EW-R8**

<b>Submitter</b>	<b>Submission Point &amp; Point Number</b>	<b>Position</b>	<b>Decision Requested</b>
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.514	Support	Retain rule.
Kāinga Ora – Homes and Communities	FS58.076 FS58.0134	Support	Kāinga Ora considers that the proposed rule is appropriate.
Manawa Energy Limited (Manawa Energy)	S438.123	Not Stated	Amend EW - R8 as follows: Discretion is restricted to: a. <u>The impact of the earthworks on visual amenity,</u>

			<p>landscape character, outlook and privacy;</p> <p>b. Potential dust nuisance, sedimentation, land instability, contamination and erosion effects <u>on surrounding land uses</u>;</p> <p>...</p> <p>e. The impact of earthworks on <del>critical</del> <u>regionally significant</u> infrastructure;</p>
Waka Kotahi NZ Transport Agency	S450.154	Support	Retain as proposed.
New Zealand Coal & Carbon Limited	S472.023	Support in part	Retain the Restricted Discretionary activity status of EW-R8.
TiGa Minerals and Metals Limited	S493.081	Amend	Amend EW - R8 as follows: <i>EW - R8 Earthworks <u>excluding minerals extraction, exploration and prospecting activities</u> in any Zone not meeting Permitted Activity standards</i>
Buller District Council	S538.321	Support	Retain as notified.
Westpower Limited	S547.477	Amend	Amend <i>d. The effectiveness of proposed management or mitigation measures <del>to minimise any potential</del> for adverse effects beyond the property boundary of the activity.</i>
Westpower Limited	S547.478	Amend	Amend <i>g. The impact of <u>earthworks on energy activities and infrastructure</u>, including critical infrastructure.</i>
Buller Conservation Group	S552.142	Amend	<p><i>a The impact on visual amenity, landscape <u>and natural</u> character, outlook and privacy;</i></p> <p><i>d The effectiveness of proposed management or mitigation measures to <u>avoid minimise</u> any potential <u>or actual</u> adverse...</i></p>
Westpower Limited	FS222.031	Oppose	Intent is to require consents in any zone to manage the effects of earthworks under the relevant circumstances. The submission seeks to negate that approach and is inappropriate
Frida Inta	S553.142	Amend	<p><i>a The impact on visual amenity, landscape <u>and natural</u> character, outlook and privacy;</i></p> <p><i>d The effectiveness of proposed management or mitigation measures to <u>avoid minimise</u> any potential <u>or actual</u> adverse effects beyond the property boundary of the activity;</i></p> <p><i>e Any changes to the patterns of surface drainage or subsoil drains that could result in a higher risk of drainage problems, inundation run-off, flooding, or raise <u>or lower</u> the</i></p>

			<i>water table;</i>
Westpower Limited	FS222.0142	Oppose	Intent is to require consents in any zone to manage the effects of earthworks under the relevant circumstances. The submission seeks to negate that approach and is inappropriate
Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	S560.326	Amend	Make it clear in these two rules, by way of a condition, that: <a href="#">any vegetation clearance that is caused by the earthworks, or by the associated works (e.g., smothering by the excavated materials) must comply with the provisions of the ECO chapter.</a> Retain matters of discretion. The advice note at the bottom of R8 should be amended in line with Key Issue above.
Westpower Limited	FS222.0320	Oppose	Submission seeks duplication of regulation and is not appropriate. Vegetation matters are provided for in appropriate chapters.
Catherine Smart-Simpson	S564.096	Support	Retain
Koiterangi Lime Co LTD	S577.073		
WMS Group (HQ) Limited and WMS Land Co. Limited	S599.086	Amend	Amend EW - R8 as follows: <a href="#">EW - R8 Earthworks excluding minerals extraction, exploration and prospecting activities in any Zone not meeting Permitted Activity standards</a>
Birchfield Coal Mines Ltd	S601.067		
BRM Developments Limited	S603.045		
Birchfield Ross Mining Limited	S604.060		
Phoenix Minerals Limited	S606.046		
Whyte Gold Limited	S607.044		
Karamea Lime Company	S614.120		
Peter Langford	S615.120		
Steve Croasdale	S516.093		
Geoff Volckman	S563.084		
William McLaughlin	S567.372		
Te Runanga o Ngāi Tahu, Te Runanga o Ngāti Waewae, Te Runanga o Makaawhio	S620.210	Amend	Amend to include the following wording as a matter of discretion for both EW -R7 and EW- R8: <a href="#">e) any adverse effects on landscape, amenity, Poutini Ngāi Tahu Values, water quality, cultural and heritage sites.....</a>
Te Tumu Paeroa - The office of the Māori Trustee	S440.043	Support	Retain
Westland District Council	S181.028		
Chris & Jan Coll	S558.310		



Chris J Coll Surveying Limited	S566.310		
Laura Coll McLaughlin	S574.310		

### Analysis

164. Manawa Energy Limited (S438.123) seek to amend EW-R8 clause c as follows:
- a. The impact of the earthworks on visual amenity, landscape character, outlook and privacy;
  - b. Potential dust nuisance, sedimentation, land instability, contamination and erosion effects on surrounding land uses;
  - ...
  - f. The impact of earthworks on critical regionally significant infrastructure;
165. I agree with the amendments to clauses a and b proposed by Manawa Energy Limited it is considered that these amendments afford clarity to the assessment criteria improving effectiveness. As discussed above, I support amendments to replace the term 'critical infrastructure' with 'regionally significant infrastructure' to achieve consistency with the RPS.
166. Westpower Limited (S547.477, S547.478) seek to amend the following clauses:
- d. The effectiveness of proposed management or mitigation measures ~~to minimise any potential~~ for adverse effects beyond the property boundary of the activity.
  - g. The impact of earthworks on energy activities and infrastructure, including critical infrastructure.
167. I do not support the relief sought by Westpower Limited. Amendments sought to clause d. will change the intent and reduce the clear direction and ultimately result in lack of effectiveness of the clause. With respect to the amendments sought to clause g, it is considered that critical infrastructure includes energy activities and infrastructure therefore no amendments are necessary.
168. Forest & Bird (S560.326) seek to amend EW-R8 to include a condition with respect to vegetation clearance. Westpower Limited (FS222.0320) have opposed this relief sought on the basis that these matters are addressed in the District Wide Chapters and Overlay Chapters referenced in the EARTH Overview. I agree with further submitters that the EARTH Overview provides appropriate cross referencing.
169. Te Runanga o Ngāi Tahu, Te Runanga o Ngāti Waewae, Te Runanga o Makaawhio (S620.210) seek to amend EW-R7 to include an additional matter of discretion:
- e) any adverse effects on landscape, amenity, Poutini Ngāi Tahu Values, water quality, cultural and heritage sites.....
170. Whilst the sentiment proposed by the submitter is supported, a rule must be clear, measurable and enforceable. Therefore it is considered that more clarity with respect to what Poutini Ngāi Tahu Values are when considering a restricted discretionary application under EW-R8 is required in order to support the relief sought. The submitter is invited to provide further information and evidence to provide clarity.
171. Buller Conservation Group (S552.142) seek amendments to the following clauses:
- a The impact on visual amenity, landscape and natural character, outlook and privacy;
  - d The effectiveness of proposed management or mitigation measures to avoid minimise any potential or actual adverse...
172. Westpower Limited (FS222.031) have opposed this relief sought. I agree with Buller Conservation Group that adding "natural" to character will more correctly reflect the policy direction and intent, clarifying the rule and improving effectiveness. I do not support the amendments to clause d, it is considered that "avoid" will be inconsistent with EW-P1 and EW-P2.

173. Frida Inta (S553.142) seek amendments to the following clauses:

*a The impact on visual amenity, landscape and natural character, outlook and privacy;*

*d The effectiveness of proposed management or mitigation measures to avoid ~~minimise~~ any potential or actual adverse effects beyond the property boundary of the activity;*

*e Any changes to the patterns of surface drainage or subsoil drains that could result in a higher risk of drainage problems, inundation run-off, flooding, or raise or lower the water table;*

174. Westpower Limited (FS222.0142) have opposed this relief sought. I agree with Frida Inta that adding "natural" to character will more correctly reflect the policy direction and intent, clarifying the rule and improving effectiveness. I do not support the amendments to clauses d and e, it is considered that "avoid" will be inconsistent with EW-P1 and EW-P2.

175. Numerous submitters seek to amend EW-R8 to exclude mineral extraction, exploration and prospecting activities in all zones. I do not support the relief sought by these submitters as mineral extraction is excluded from the Earthworks Chapter as detailed in EARTH Overview.

176.

### *Recommendations*

177. That EW-R8 is amended as follows:

*EW - R8 Earthworks in any Zone not meeting Permitted Activity standards*

*Activity Status Restricted Discretionary*

*Discretion is restricted to:*

- a. The impact of earthworks on visual amenity, landscape and natural character, outlook and privacy;*
- b. Potential dust nuisance, sedimentation, land instability, contamination and erosion effects on surrounding land uses;*
- c. Effects that result from the stockpiling in terms of visual amenity, landscape context and character, views, outlook, overlooking and privacy;*
- d. The effectiveness of proposed management or mitigation measures to minimise any potential adverse effects beyond the property boundary of the activity;*
- e. Any changes to the patterns of surface drainage or subsoil drains that could result in a higher risk of drainage problems, inundation run-off, flooding, or raise the water table;*
- f. The impact of earthworks on critical infrastructure;*
- g. The impact on the road network, of heavy vehicle and other vehicular traffic generated as a result of earthworks;*
- h. Any adverse effects on landscape, amenity, natural features, water quality, cultural and heritage sites, biodiversity and habitat of indigenous flora and fauna, and the quality of the environment;*
- i. The impact on stormwater infrastructure and any overland flow paths; and*
- j. The impact on any natural hazards infrastructure and the effectiveness of its operation.*

*Advice Note:*

*Rules in relation to earthworks in overlay areas can be found in the Overlay Chapters.*

*Activity status where compliance not achieved: N/A*

## 6. Submissions on Light

### 6.1 Overview of Light Submissions Received

178. 184 submission points and 31 further submission points are addressed in this report. This part of the report groups similar submission points together under key issues. This thematic response assists in providing a concise response to, and recommended decision on, submission points.

179. The topics which are identified by key issue in this report are set out below:

- **Key Issue 1: LIGHT General**
- **Key Issue 2: LIGHT Overview**
- **Key Issue 3: LIGHT Objectives**
- **Key Issue 4: LIGHT Policies**
- **Key Issue 5: LIGHT Rules**

### 6.2 Key Issue 1: General Submissions

#### Analysis of Submissions on Key Issue 1 – General Submissions

Submitter	Submission Point & Point Number	Position	Decision Requested
West Coast Penguin Trust	S275.016 S275.009	Amend	Provide greater protection for West Coast dark skies and provide for the requirements of the Dark Skies Park Designation in specific areas for new builds and replacement work.  Amend the provisions to support Dark Sky Park designation in the Punakaiki/Barrytown Flats area
Westland District Council	FS79.4	Support in part	Allow in Part - Amend to include Dark Sky provisions at Punakaiki and Okārito
Westpower Limited	FS222.0364 FS222.0365	Oppose	Whilst there may be benefits in regard to the matter raised the submission does not specify what amendments are proposed and to which areas they apply. Without knowing the details it is not possible to consider the implications and impacts and be appropriately involved in the process. Such proposals should be considered through a separate plan change process.
Suzanne Hills	S443.034	Amend	Consider incorporating International Dark Skies park criteria for Barrytown Flats/Punakaiki.
Royal Forest and Bird Protection Society of New Zealand Inc (Forest & Bird)	S560.327	Amend	Amend provisions of the chapter to protect indigenous biodiversity more appropriately.
TiGa Minerals and Metals Limited	FS104.052	Neutral	Supports the protection of the Westland Petrel, but notes that in relation to mining activities the

			proposed TTPP contains adequate protection for indigenous biodiversity, particularly within the coastal environment, without having to further restrict lighting in particular areas.
Westpower Limited	FS222.0321	Oppose	Whilst there may be benefits in regard to the matter raised the submission does not specify what amendments are proposed and to which areas they apply. Without knowing the details it is not possible to consider the implications and impacts and be appropriately involved in the process. Such proposals should be considered through a separate plan change process.
Westland District Council	S181.029	Support	Retain the objectives, policies and rules.
William McLaughlin	S567.045	Amend	Amend the provisions to include a definition for 'artificial outdoor lighting'
Chris & Jan Col	S558.395	Amend	
Chris J Coll Surveying Limited	S566.395	Amend	
Laura Coll McLaughlin	S574.395	Amend	
Federated Farmers of New Zealand	S524.098	Support in part	
Buller District Council	S538.002 S538.328	Amend	Add definition for 'Artificial Outdoor Lighting' as follows:  <i><a href="#">Any non-residential exterior lighting that emits directly into the outdoor environment and includes signs.</a></i>

### Analysis

180. West Coast Penguin Trust (S275.016 and S275.009), Suzanne Hills (S443.034) and Forest & Bird (S560.327) seek amendments to the light provisions to afford greater protection for indigenous biodiversity and the West Coast dark skies. Ms Hills requests rules aligning with the requirements of the dark skies park by International Dark Skies, for the Punakaiki/Barrytown Flats area for April to December, most importantly during the Westland petrel/Taiko fledging season of Oct-Jan.
181. Support from Westland District Council is noted.
182. These submitters have not provided specific relief sought, identified mapped areas to be protected or technical evidence to confirm that the proposed provisions will appropriately limit and manage the potential effect of artificial light spill. I do not support any amendments to the provisions in response to these submission points. Notwithstanding, I note that, as set out at paragraphs 12-21 within the expert evidence of Mr Wilson, the identification of Dark Sky places within DarkSky International's program is progressed through a certification process separate to the District Plan. Mr Wilson considers that the proposed lighting provisions within the pTTPP are in accordance with best practice and will support certification of Dark Sky places should this be advanced in the future.
183. Buller District Council (S538.002) seek to include a definition for 'artificial outdoor lighting' to refer to non-residential exterior lighting that emits into the outdoor environment. A number of other submitters also seek to include a definition for 'artificial outdoor lighting'. In my opinion, the plain and common meaning of the term will include a range of scenarios where development includes artificial lighting within an outdoor environment, such that a

definition is not necessary.

### Recommendations

184. That no amendments be made to the LIGHT chapter in response to these submission points.

## 6.3 Key Issue 2: LIGHT Overview

### Overview

Provision(s)	Officer Recommendation(s)
Overview	Amend paragraph 1 as follows:  <i>...it may adversely affect the amenity of <u>the immediate area</u>, neighbouring properties and light sensitive areas; result in a <u>reduction or loss</u> <del>loss-or</del> <del>reduction</del> of views of the night sky, and potentially disturb wildlife</i>

### Analysis of Submissions on Key Issue 2 – LIGHT Overview

Submitter	Submission Point & Point Number	Position	Decision Sought
Westpower Limited	S547.479	Support	Retain as notified
Buller Conservation	S552.144	Amend	Amend the overview as follows:  <i>...it may adversely affect the amenity of <u>neighbourhoods</u>, neighbouring properties and light sensitive areas; result in a <u>reduction or loss</u> <del>loss-or</del> <del>reduction</del> of views of the night sky, <u>cloud form and landscape views</u>; and <del>potentially</del> disturb wildlife</i>

### Analysis

185. Westpower Limited (S547.479) support the overview as notified.

186. Buller Conservation (S552.144) seek the following amendments to the overview:

*...it may adversely affect the amenity of neighbourhoods, neighbouring properties and light sensitive areas; result in a reduction or loss ~~loss-or~~ ~~reduction~~ of views of the night sky, cloud form and landscape views; and ~~potentially~~ disturb wildlife*

187. Stating the following reasons:

- There are issues with the increase in number of street lights, their individual intensities and recent LED rollout and the adverse effects they are having on values of darkness.
- Grammar/syntax logic.
- Even on the darkest of nights landforms and clouds can still be visible if there is no light pollution.
- Undoubtedly wildlife will be disturbed if subjected to light pollution.

188. I recommend minor amendments to the overview to improve grammar and syntax. In my opinion the term 'neighbourhoods' evokes the connotation of specific mapped areas, rather I would recommend the term 'immediate area' which is more generalised whilst recognising the submitters concern that the scope has been limited. I do not support the inclusion of cloud form and landscape views.

## Recommendations

189. That LIGHT overview paragraph 1 be amended as follows:

*...it may adversely affect the amenity of the immediate area, neighbouring properties and light sensitive areas; result in a reduction or loss ~~loss or reduction~~ of views of the night sky, and potentially disturb wildlife*

## 6.4 Key Issue 3: Light Objectives

### Overview – Light Objectives

Provision(s)	Officer Recommendation(s)
LIGHT-O1	<i>Artificial outdoor lighting enables night-time work, rural <del>productive</del> <u>production</u> activities, recreation activities, sport, entertainment activities, transportation, <u>energy activities</u> and public health and safety.</i>
LIGHT-O2	<i>Artificial outdoor lighting is located, designed and operated to:</i> <u>(a) m</u> Maintain the character and amenity values within zones, <u>(b) so that it does n</u> ot adversely affect the health and safety of people, the safe operation of the transport network, <u>(c) protects</u> <u>Recognise the values and qualities</u> <del>views</del> of the night sky, <u>(d) Protect</u> the habitats and ecosystems of <del>nocturnal</del> <u>indigenous</u> <u>vegetation and</u> fauna and the species themselves.

### Analysis of Submissions on Key Issue 3 – LIGHT-O1

Submitter	Submission Point & Point Number	Position	Decision Sought
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.516	Support	Retain as notified
Silver Fern Farms Limited by its authorised agents Mitchell Daysh Limited	S441.028		
Waka Kotahi NZ Transport Agency	S450.155		
Horticulture New Zealand	S486.051		
Steve Croasdale	S516.094		
Federated Farmers of New Zealand	S524.096	Amend	Recognition of the need for artificial lighting for rural productive activities is supported. Amend LIGHT-O1 as follows: Change 'rural productive activities' to 'rural production activities'.
Buller District Council	S538.323	Support	Retain as notified
Westpower Limited	S547.480	Amend	Amend: Artificial outdoor lighting enables ... <i>entertainment activities, transport, <u>energy activities</u> and public health and safety.</i>

Buller Conservation Group	S552.145	Amend	Amend: <i>Artificial outdoor lighting enables night-time work, rural productive activities, recreation activities, sport, entertainment activities, transportation and public health and safety, <u>and maintains other amenity values within zones.</u></i>
Westpower Limited	FS222.032	Oppose	Submission seeks to change the intent of the objective and is not appropriate in the context of the objectives.
Frida Inta	S553.145	Amend	Amend: <i>Artificial outdoor lighting enables night-time work, rural productive activities, recreation activities, sport, entertainment activities, transportation and public health and safety, <u>and maintains other amenity values within zones.</u></i>
Westpower Limited	FS222.0143	Oppose	Submission seeks to change the intent of the objective and is not appropriate in the context of the objectives.
Chris & Jan Coll	S558.311	Support	Retain as notified
Geoff Volckman	S563.085		
Catherine Smart-Simpson	S564.097		
Chris J Coll Surveying Limited	S567.373		
William McLaughlin	S567.373		
Laura Coll McLaughlin	S574.311		
Koiterangi Lime Co LTD	S577.074		
Grey District Council	S608.669		
Karamea Lime Company	S614.121		
Peter Langford	S615.121		

### Analysis

190. The majority of submitters seek to retain LIGHT-O1 as notified.
191. Westpower Limited (S547.480) seek to amend LIGHT-O1 to refer to energy activities. I support the inclusion of "energy activities", as it will give effect to Section 7(j) of the RMA. As LIGHT-O1 provides a specific list of activities likely to operate in night-time, it is logical to include energy activities which can be 24hr operations resulting in a level of light.
192. Buller Conservation Group (S552.145) and Frida Inta (S553.145) seek to amend the objective to include pros and cons. Westpower Limited has opposed both original submissions (FS222.032 and FS222.0143). I do not support amendments to LIGHT-O1 to include reference to maintaining amenity values within zones as this aspect is addressed in LIGHT-O2.
193. I agree with Federated Farmers of New Zealand (S524.096) that consistent use of terminology in the plan improves efficiency and effectiveness.

## Recommendations

194. That LIGHT-O1 be amended as below:

*Artificial outdoor lighting enables night-time work, rural ~~productive~~ production activities, recreation activities, sport, entertainment activities, transportation, energy activities and public health and safety.*

### Analysis of Submissions on Key Issue 3 – LIGHT-O2

Submitter	Submission Point & Point Number	Position	Decision Requested
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.517	Support	Retain as notified
West Coast Penguin Trust	FS45.41	Support	A greater understanding of the harmful effects of blue light is needed urgently and then better management of outdoor lighting can follow to reduce the risk of harm for humans and for plants and wildlife. <a href="https://www.royalsociety.org.nz/assets/Uploads/Blue-light-Aotearoa-evidence-summary.pdf">https://www.royalsociety.org.nz/assets/Uploads/Blue-light-Aotearoa-evidence-summary.pdf</a>
Silver Fern Farms Limited by its authorised agents Mitchell Daysh Limited	S441.029	Amend	Amend LIGHT-O2 to ensure that the protection of the night sky is limited to specifically identified areas, excluding industrial zones, or is only applied to areas specifically identified as 'intrinsically dark landscapes'.
Waka Kotahi NZ Transport Agency	S450.156	Support	Retain as notified
TiGa Minerals and Metals Limited	S493.082	Amend	Amend LIGHT-O1 as it is not always possible to achieve protection whilst providing for operational lighting requirements:  <i>..., the safe operation of the transport network, <del>protects views of the night sky</del>, the habitats and ecosystems of nocturnal native fauna and the species themselves.</i>
WMS Group (HQ) Limited and WMS Land Co. Limited	S599.087		
Birchfield Coal Mines Limited	S601.174 S601.068		
BRM Developments Limited	S603.046		
Birchfield Ross Mining Limited	S604.061		
Phoenix Minerals Limited	S606.047		
Whyte Gold Limited	S607.045		
Buller District Council	S538.323		
Westpower Limited	S547.481	Amend	Amend LIGHT-O2 to manage effects:



			<i>...is located, operated and designed to <del>maintain</del> ensure that potential adverse effects on the character and amenity values within zones, the health and safety of people, the safe operation of the transport network, <del>protects</del> views of the night sky, the habitats and ecosystems of nocturnal native fauna and the species themselves are avoided, remedied or mitigated.</i>
Buller Conservation Group	S552.146	Amend	Consider that character is more likely to be adversely affected by night lighting rather than enhanced:  <i>Artificial outdoor lighting is located, designed and operated to maintain and protect the character and amenity values within zones and will <del>so that it does not</del> adversely affect the health and safety of people, or the safe operation of the transport network, it will <del>protects</del> views of the night sky and landscapes, the habitats, and species within habitats, and ecosystems of nocturnal native fauna and the species themselves.</i>
Frida Inta	S553.146		
Royal Forest and Bird Protection Society of New Zealand Inc (Forest & Bird)	S560.328	Support	Retain as notified
Department of Conservation	S602.174	Amend	Amend LIGHT-O2 so that light does not adversely affect the habitats and ecosystems of all native flora fauna and not just nocturnal species:  <i>...the habitats and ecosystems of <del>nocturnal</del> native indigenous vegetation and habitats of indigenous fauna and the species themselves.</i>
West Coast Penguin Trust	FS45.40	Support	Useful clarity. Indigenous species that are active at night and would benefit from managing artificial light so as to avoid potential adverse effects are also active during the day and not nocturnal, for example seabirds active on land at night and at sea during daylight hours.

### Analysis

195. A number of submitters seek to retain LIGHT-O2 as notified.
196. Silver Fern Farms (S441.029) seek to amend LIGHT-O2 to ensure that the protection of the night sky is limited to specifically identified areas, excluding Industrial Zones, or is only applied to areas specifically identified as 'intrinsically dark landscapes'.
197. Numerous other submitters seek to amend LIGHT-O2 as it is not always possible to achieve the protection of the night sky whilst providing for operational lighting requirements. It is considered that "protecting" the night sky within the policy framework with no qualification or limitation is unachievable and unenforceable in my opinion, and recommendations are proposed to LIGHT-O2 to recognise the values and qualities of the night sky. I consider that this amendment will improve the effectiveness and efficiency of this objectives, as well as improve alignment with LIGHT-P3 and the proposed rules.
198. Section 7(c) of the RMA requires the "maintenance and enhancement of amenity values" therefore I do not support amendments sought by Buller Conservation Group (S552.146) and Frida Inta (S553.146) to "protect" amenity values.

199. Department of Conservation (S602.174) seek to amend LIGHT-O2 so that potential effects are not limited to nocturnal. West Coast Penguin Trust (FS45.40) support this relief sought. I agree that light effects have the potential to impact on all indigenous species not just nocturnal.
200. Westpower Limited (S547.481) seek to amend LIGHT-O2 to include “avoid, remedy or mitigate”, in my opinion this amendment does not afford sufficient policy direction.

### Recommendations

201. That LIGHT-O2 be amended as below:

*Artificial outdoor lighting is located, designed and operated to:*

*(a) Maintain potential adverse effects on the character and amenity values within zones,*

*(b) ~~so that it does not~~ adversely affect the health and safety of people, the safe operation of the transport network,*

*(c) ~~protects~~ Recognise the values and qualities ~~views~~ of the night sky,*

*(d) Protect the habitats and ecosystems of ~~nocturnal~~ indigenous vegetation and fauna and the species themselves.*

## 6.6 Key Issue 4: Policies

### Overview – Light Policies

Provision(s)	Officer Recommendation(s)
LIGHT-P1	<p><i>Provide for the use of artificial outdoor lighting that:</i></p> <ul style="list-style-type: none"> <li><i>a. Allows people and communities to enjoy and use sites and facilities during night time hours and contributes to the security and safety of private and public spaces;</i></li> <li><i>b. Maintains the character and amenity values of the zone <del>and surrounding area</del>;</i></li> <li><i>c. Supports the social, cultural, and economic wellbeing or health and safety of people and communities, including <u>road</u> safety;</i></li> <li><i>d. Minimises sky glow and light spill; and</i></li> <li><i>e. <del>Protects</del> <u>Minimises the adverse effects on</u> the health and well-being of people</i></li> <li><i>f. <u>Protects</u> ecosystems.</i></li> </ul>
LIGHT-P2	<i>Retain as notified</i>
LIGHT-P3	<p><i>Control the intensity, location and direction of any artificial outdoor lighting to:</i></p> <ul style="list-style-type: none"> <li><i>a. Ensure that any artificial outdoor lighting avoids conflict with existing light sensitive areas and uses;</i></li> <li><i>b. Internalise light spill within the site where the outdoor lighting is located;</i></li> <li><i>c. Minimises adverse effects on views of the night sky and intrinsically dark landscapes including in areas of outstanding coastal natural character, <u>while recognising the functional or operational needs of the area or activity</u>;</i></li> <li><i>d. Minimises adverse effects on the significant habitats of light sensitive native fauna and the species themselves; and</i></li> <li><i>e. Minimises adverse effects on the health and safety of people and communities in the surrounding area.</i></li> </ul>

## Analysis of Submissions on Key Issue 4 – LIGHT-P1

Submitter	Submission Point & Point Number	Position	Decision Requested
Buller Conservation Group	S552.147	Amend	Amend: <i>b</i> Maintains the <del>character and</del> amenity values of the zone <i>e</i> Protects the health and well-being of <del>people and</del> ecosystems
Frida Inta	S553.147		
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.518	Support	Retain
Silver Fern Farms Limited by its authorised agents Mitchell Daysh Limited	S441.030	Amend	Retain policy as notified subject to the following amendment to sub-paragraph (b) <i>b. Maintains the character and amenity values of the zone <del>and</del> surrounding area;</i>
Waka Kotahi NZ Transport Agency	S450.157	Support	Retain as notified
Steve Croasdale	S516.095		
Horticulture New Zealand	S486.052	Amend	Amend LIGHT-P1 by adding: <i>f) Enables rural production activities.</i>
Federated Farmers of New Zealand	S524.097		
TiGa Minerals and Metals Limited	S493.083		LIGHT-P1 to ensure consistent with the corresponding objective as follows:  <i>e. <del>Protects</del> Minimises the adverse effects on the health and well-being of people and ecosystems.</i>
Buller District Council	S4552.147	Support	Retain as notified
Westpower Limited	S547.482	Amend	Consider that the policy does not provide for locations throughout the region, seeking the following amendments:  <i>"Provide for the use of ... a. ...b. <del>avoids, remedies or mitigates</del> adverse</i> <i>e. <del>avoids, remedies or mitigates</del> adverse effects on the health and wellbeing ...</i> <i>f. recognises the technical, location, functional or operation constraints or requirements of activities.</i>
TiGa Minerals and Metals Limited	FS104.053	Support	TIGA particularly supports including recognition of the technical, locational, functional or operational constraints or requirements of activities
WMS Group (HQ) Limited and WMS Land Co. Limited	FS231.055	Support	WMS particularly supports including recognition of the technical, locational, functional or operational constraints or requirements of activities.

Royal Forest and Bird Protection Society of New Zealand Inc (Forest & Bird)	S560.329	Amend	Amendment to broaden paragraph e. <i>e. Protects the health and well-being of people and ecosystems <u>and avoids adverse effects on indigenous biodiversity.</u></i>
Westpower Limited	FS222.0322	Oppose	Policy relates to providing for activities whilst management of potential adverse effects and not just avoidance or prohibition of activities
West Coast Penguin Trust	FS45.42	Support	Clarifies and strengthens LIGHT - P1e for indigenous species.
Chris & Jan Coll	S558.312	Support	Retain as notified
Geoff Volckman	S563.086		
Catherine Smart-Simpson	S564.098		
Chris J Coll Surveying Limited	S566.312		
William McLaughlin	S567.374		
Laura Coll McLaughlin	S574.312		
Koiterangi Lime Co LTD	S577.075		
WMS Group (HQ) Limited and WMS Land Co. Limited	S599.088		
Birchfield Coal Mines Limited	S601.069		
BRM Developments Limited	S603.047		
Birchfield Ross Mining Limited	S604.062		
Phoenix Minerals Limited	S606.048		
Whyte Gold Limited	S607.046		
Grey District Council	S608.670		
Karamea Lime Company	S614.122		
Peter Langford	S615.122		

### Analysis

202. Buller Conservation Group (S552.147) and Frida Inta (S553.147) seek amendments to LIGHT-P1 to remove repetition. I do not consider that there is repetition in LIGHT-P1 and in my opinion no change is necessary.
203. Silver Ferns Farms Limited (S441.030) oppose the requirement for outdoor lighting to maintain character and amenity values of “surrounding areas”. I do not support the amendment sought, as it is necessary to consider potential effects beyond and cross zone boundaries.
204. Federated Farmers of New Zealand (S486.052) and Horticulture New Zealand (S524.097) seek to include artificial lighting for rural production activities. It is considered that LIGHT-P1(a) and (c) sufficiently provide for specific activities (such as rural production activities) to use artificial outdoor lighting and specific activity references is not efficient plan drafting.

205. Westpower Limited (S547.482) consider that the policy does not provide for locations throughout the region and seek amendments to include "avoid, remedy or mitigate". In my opinion this amendment will not result in a targeted policy outcome and will fail to give effect to sections 6 and 7 of the RMA. Westpower Limited also seek to include recognition of technical, locational, functional or operational constraints or requirements or activities. In my opinion this amendment is not necessary as clause a. and c. sufficiently provide for the use of artificial lighting.
206. Forest & Bird (S560.329) seek amendment to broaden clause e to avoid "adverse effects on indigenous biodiversity". Westpower Limited (FS222.0322) has opposed this submission point, whilst West Coast Penguin Trust (FS45.42) supports the relief sought. In my opinion this amendment is inconsistent with Section 6 (c) of the RMA.
207. Numerous submitters seek amendment to LIGHT-P1 to delete "protect" and replace with "minimises the adverse effects on" to ensure it is consistent with the corresponding objective. I agree with the submitter that protect is inconsistent with the recommended amendments to LIGHT-O2, however it is recommended that LIGHT-P1(e) be separated to ensure references to "protect" and "minimise" are consistent with LIGHT-O2.

### Recommendations

208. That LIGHT-P1 be amended as below:

*Provide for the use of artificial outdoor lighting that:*

- a. *Allows people and communities to enjoy and use sites and facilities during night time hours and contributes to the security and safety of private and public spaces;*
- b. *Maintains the character and amenity values of the zone ~~and surrounding area~~;*
- c. *Supports the social, cultural, and economic wellbeing or health and safety of people and communities, including road safety;*
- d. *Minimises sky glow and light spill; and*
- e. *~~Protects~~ Minimises the adverse effects on the health and well-being of people*
- f. *Protects ecosystems.*

### Analysis of Submissions on Key Issue 4 – LIGHT-P2

Submitter	Submission Point & Point Number	Position	Decision Requested
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.519	Support	Retain as notified
Waka Kotahi NZ Transport Agency	S450.158	Support	Retain as notified
Horticulture New Zealand	S486.053	Amend	<i>a) Of short duration outside daylight hours associated with temporary activities <u>or rural production activities.</u></i>
Royal Forest and Bird Protection Society of New Zealand Inc (Forest & Bird)	S560.330	Amend	Delete a.
Steve Croasdale	S516.096	Amend	Amend to include the enabling of artificial outdoor lighting that allows safe commercial and industrial activities.
Chris & Jan Coll	S558.313		
Geoff Volckman	S563.087		
Catherine Smart-Simpson	S564.099		

Chris J Coll Surveying Limited	S566.313		
Chris J Coll Surveying Limited	S567.375		
William McLaughlin	S567.375		
Laura Coll McLaughlin	S574.313		
Koiterangi Lime Co LTD	S577.076		
Karamea Lime Company	S614.123		
Peter Langford	S615.123		
Isaac Construction Ltd	FS106.002	Support	Artificial outdoor lighting is critical to the safe operation of industrial activities that require operating during hours of darkness.

### Analysis

209. Proposed LIGHT-P2 enables the use of artificial outdoor lighting for temporary activities and in emergency response or for public health and safety. These potential uses are limited in duration and potential effect. Activities which may seek to use artificial outdoor lighting such as rural production activities or commercial and industrial activities, which may result in a wider extent of potential effect are in my opinion sufficiently provided for within the scope of LIGHT-P1.
210. Forest & Bird (S560.330) seek to delete clause a, because lighting associated with temporary activities should not be enabled in all circumstances. In my opinion the potential effects associated with temporary activities will be appropriately limited by the temporary activities' rules of the pTTPP and the amendment sought will not enable people and community social, cultural and economic wellbeing being overly restrictive.
211. It is considered that the LIGHT policies sufficiently provide for specific activities (such as rural production activities or commercial and industrial activities) to use artificial outdoor lighting and specific activity references is not efficient plan drafting.

### Recommendations

212. That LIGHT-P2 be retained as notified.

### Analysis of Submissions on Key Issue 4 – LIGHT-P3

Submitter	Submission Point & Point Number	Position	Decision Requested
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.520	Support	Retain as notified
Silver Fern Farms Limited by its authorised agents Mitchell Daysh Limited	S441.031	Amend	Sub-clause (c) and sub-clause (e) could unduly restrict numerous Artificial lighting is important for important industrial activities and industrial zones, particularly where industrial zones border the proposed rezoning of rural land to general residential zone. Amend: <i>c. Minimises adverse effects on views of the night sky and intrinsically dark</i>

			<p><i>landscapes <u>except in industrial zones</u>; [...]</i></p> <p><i>Minimises adverse effects on the health and safety of people and communities in the <u>surrounding-area zone</u>. <u>Ensure that during the establishment of any new light sensitive areas or uses that conflict is avoided with existing activities that require artificial light for health and safety purposes.</u></i></p> <p>Silver Fern Farms also recommends that 'intrinsically dark landscapes' be mapped in the District Plan maps.</p>
Buller Conservation Group	S552.148	Amend	<p>Badly placed streetlights can impact severely on people's enjoyment of light after dark:</p> <p><i>e. Minimizes adverse effects on <u>amenity values</u>, the health <del>and</del>, safety <u>and enjoyment</u> of people and communities in the surrounding area.</i></p> <p><i><u>f. Minimizes light blindness caused by badly-directed light.</u></i></p>
Westpower Limited	FS222.034	Oppose	Policy provides for the appropriate matters.
Firda Inta	S553.148	Amend	<p>Badly placed streetlights can impact severely on people's enjoyment of light after dark:</p> <p><i>e. Minimizes adverse effects on <u>amenity values</u>, the health <del>and</del>, safety <u>and enjoyment</u> of people and communities in the surrounding area.</i></p> <p><i><u>f. Minimizes light blindness caused by badly-directed light.</u></i></p>
Westpower Limited	FS222.0145	Oppose	Policy provides for the appropriate matters.
Department of Conservation	S602.175	Amend	<p>Amend Policy LIGHT-P3 so that light is managed so that it does not adversely affect the habitats and ecosystems of all native flora fauna.</p> <p><i>Minimises adverse effects <del>on the significant habitats</del> of light sensitive <del>native indigenous vegetation and habitats of indigenous fauna and the species themselves</del>; and</i></p>
Westpower Limited	FS222.0107	Oppose	Policy provides for the appropriate matters.
Federated Farmers of New Zealand	S524.127	Amend	<p>Primary sector activities require the use of artificial light for day-to-day operations. Amend:</p> <p><i><u>f. Enables rural production activities.</u></i></p>
Royal Forest and Bird Protection Society of New	S560.0559	Amend	<p>Amend:</p> <p><i>b. Artificial outdoor lighting for the purpose of emergency response or public health</i></p>

Zealand Inc (Forest & Bird)			<i>and safety, <u>which complies with P2 as much as possible.</u></i>
Westpower Limited	FS222.0323	Oppose	Seeks to limit the use of lighting for emergency response or public health and safety and is inappropriate.
West Coast Penguin Trust	FS45.43	Support in part	Support in full assuming the reference to P2 should be to P1, i.e. P2 b needs to be extended and clarified so that artificial outdoor lighting for emergency response or public health and safety will still meet the requirements of P1 (amended to include indigenous species at P1 e).
Westpower Limited	S547.0510	Amend	<p>(1) The policy should be amended to reflect that.</p> <p>(2) To provide for the managed approach intended in the rule items "c.-e." should provide for management measures.</p> <p>The policy should also recognise the constraints and requirements of activities needing to be sited in a range of locations throughout the region. Amend:</p> <p><i>a. Ensure that <u>adverse effects</u> of any artificial outdoor lighting ...</i></p> <p><i>b. ...</i></p> <p><i>c. <u>avoid, remedy or mitigate</u> adverse effects on views ...</i></p> <p><i>d. <u>avoid, remedy or mitigate</u> adverse effects on the significant habitats ...</i></p> <p><i>e. <u>avoid, remedy or mitigate</u> adverse effects on the health and safety ...</i></p> <p><i>f. <u>recognises the technical, location, functional or operation constraints or requirements of activities.</u></i></p>
TiGa Minerals and Metals Limited	S493.084	Amend	<p>It is not always necessary to protect sky views and doing so could affect operational requirements. Amend:</p> <p><i>c. Minimises adverse effects on views of the night sky and intrinsically dark landscapes <del>including</del> in areas of outstanding coastal natural character</i></p>
WMS Group (HQ) Limited and WMS Land Co. Limited	S599.089		
Birchfield Coal Mines Limited	S601.070		
BRM Developments Limited	S603.048		
Birchfield Ross Mining Limited	S604.063		
Phoenix Minerals Limited	S606.049		
Whyte Gold Limited	S607.047		
Marie Elder	FS77.27	Oppose	I seek a different amendment, so that this control of artificial lighting applies in ALL areas of outstanding natural character - otherwise our dark skies will be lost forever



## *Analysis*

213. Silver Fern Farms Limited (S441.031) seek to amend LIGHT-P3 to provide for artificial lighting associated with industrial activities within the Industrial Zone. I agree with this submitter, the purpose of the Industrial Zone is to enable and provide for industrial activities and provision for artificial lighting is essential for the operation of many industrial activities. In my opinion, it is appropriate to recognise the functional or operational need of specific activities that occur within an appropriate zone. This amendment will also address the relief sought from numerous submitters to delete 'including' from LIGHT-P3.
214. However, I do not support amendments to exempt the Industrial Zone. Mr Wilson addresses the exclusion of the Industrial Zone from LIGHT-P3 at paragraphs 22-27 of his evidence. I agree with this analysis, in particular, where operational lighting requirements cannot fully comply, it is appropriate to address the relevant effects through the resource consent process.
215. In addition, I note Mr Wilson's recommendation at paragraph 65 that the post-curfew lux limit within the Industrial Zone may be increased from 5 Lux to 10 lux. I support this amendment and agree that an increased lux limit will provide greater flexibility that recognises the nature of operations that may occur in the Industrial Zone and give effect to LIGHT-O1, LIGHT-O2, and LIGHT-P3.
216. I consider that no further amendment to LIGHT-P3 is necessary to address proposed light sensitive areas, particularly as clause a only provides for avoidance of conflict with "existing light sensitive areas and uses".
217. Buller Conservation Group (S552.148) and Firda Inta (S553.148) seek to amend LIGHT-P3 to widen the scope of clause a to include people's enjoyment and amenity values and minimises blindness. It is considered that this amendment would result in duplication of LIGHT-P1. In my opinion proposed clauses a. and b. will sufficiently manage potential effects of light spill in a manner that is measurable and enforceable.
218. Department of Conservation (S602.175) seek to amend LIGHT-P3 so that light is managed so that it does not adversely affect the habitats and ecosystems of all native flora and fauna. In my opinion this amendment is onerous and reaches beyond the requirements of Section 6(c) of the RMA which requires the protection of area of significant indigenous vegetation and significant habitats of indigenous fauna.
219. Federated Farmers (S524.127) seek to amend LIGHT-P3 to provide for rural production activities. It is considered that the LIGHT policies sufficiently provide for specific activities (such as rural production activities) to use artificial outdoor lighting and specific activity references is not efficient plan drafting.
220. Royal Forest and Bird (S560.0559) seek to amend LIGHT-P3 to require compliance with P2. In my opinion this cross reference is not required as all LIGHT policies must be adhered to.
221. In my opinion amending LIGHT-P3 to include 'avoid, remedy or mitigate' to provide for a managed approach as requested by Westpower Limited (S547.0510) will not result in a targeted policy outcome and will fail to give effect to sections 6 and 7 of the RMA. Westpower Limited also seek to include recognition of technical, locational, functional or operational constraints or requirements or activities. In my opinion this amendment is inconsistent with the purpose of LIGHT-P3 which is to control artificial lighting, and is appropriately provided for within LIGHT-P1.
222. Numerous submitters have requested an amendment to LIGHT-P3(c) to delete the word "including", it is considered that this amendment will limit assessment to areas of outstanding coastal natural character. The submitters have not provided any evidence to confirm that intrinsically dark landscapes are limited to locations of outstanding coastal natural character, as such I do not support such a refinement.

### Recommendations

223. That LIGHT-P3 be amended as follows:

- Control the intensity, location and direction of any artificial outdoor lighting to:*
- Ensure that any artificial outdoor lighting avoids conflict with existing light sensitive areas and uses;*
  - Internalise light spill within the site where the outdoor lighting is located;*
  - Minimises adverse effects on views of the night sky and intrinsically dark landscapes including in areas of outstanding coastal natural character, [while recognising the functional or operational needs of the area or activity](#);*
  - Minimises adverse effects on the significant habitats of light sensitive native fauna and the species themselves; and*
  - Minimises adverse effects on the health and safety of people and communities in the surrounding area.*

### Analysis of Submissions on Key Issue 4 – LIGHT New Policies

Submitter	Submission Point & Point Number	Position	Decision Requested
Buller Conservation Group	S552.143	Amend	Hard-standing or paved areas need to be considered as being of high reflectivity.  <a href="#">All fixed exterior lighting shall, as far as practicable, be aimed, adjusted and/or screened to direct lighting away from the windows of habitable spaces of sensitive activities, other than residential units located in industrial zones, so that the obtrusive effects of glare on occupants are minimised.</a>
Frida Inta	S553.143		

### Analysis

224. Buller Conservation Group (S552.143) and Frida Inta (S553.143) seek to include a new policy to manage effects from paved areas. Mr Wilson addresses this matter at paragraph 29 of this his evidence. I agree with his analysis that LIGHT-P3 affords sufficient policy direction with respect to minimising adverse effects, furthermore I consider that monitoring and on-going enforceability of such a provision will be difficult as such the policy is ineffective.

### Recommendations

225. That no amendment be made to LIGHT chapter in response to these submissions.

## 6.7 Key Issue 5: Light Rules

### Overview – Light Rules

Provision(s)	Officer Recommendation(s)
LIGHT-R1	<a href="#">All activities must comply with the following relevant standards</a> <del>Where Activity Status is Permitted</del> <del>All artificial outdoor lighting must:</del> <del>1. Be directed so that light is emitted away from any adjoining and adjacent properties;</del> <del>2. Be directed so that light is emitted away from any state highway or arterial or principal roads, or any oncoming traffic; and</del> <del>3. Where an activity is located on a site which adjoins or is separated by a road from a different zone, the activity on the site must meet the relevant zone standards for light for the adjoining</del>

	<p><del>zone at the zone boundary:</del>  <del>Advice Notes:</del></p> <p>1. Lighting limits must be measured and assessed in accordance with AS/NZS 4282 Control of the Obtrusive Effects of Outdoor Lighting.</p> <p>2. For measurement of light levels in NOSZ - Natural Open Space Zone, SETZ - PREC 2 - Settlement Zone - Coastal Settlement Precinct, and in All Zones where the site falls within the Outstanding Coastal Natural Character Overlay, the calculation plane shall be taken at the property boundary</p> <p>3. Where conformance with the limits set out in the Rules in this chapter is to be determined by calculation, the calculation must be undertaken by a person who is professionally qualified and competent in the discipline of illuminating engineering.</p> <p><del>3. Any calculation for the purposes of these Rules must be based on a maintenance factor of 1.0 (i.e. no depreciation shall be taken into account for reduction in light levels over time).</del></p> <p>4. All exterior lighting shall be directed towards the area within the site that is intended to be illuminated.</p>
LIGHT-R2	<p>Where:</p> <p>1. Outdoor artificial lighting must not exceed the following vertical or horizontal light levels:</p> <p>a. 7.00am – 10.00pm: 25 Lux;</p> <p>b. 10.00pm – 7.00am: 10 Lux in the PORTZ - Port Zone <u>and all INZ - Industrial Zones</u>; and</p> <p>c. 10.00pm - 7am: 5 Lux in the TCZ - Town Centre, MUZ - Mixed Use, COMZ - Commercial, HOSZ - Hospital, STADZ - Stadium, AIRPZ - Airport <u>and all INZ – Industrial Zones</u>;</p> <p><del>d. The above standards a-c shall be measured 2m inside the boundary of any adjoining site or the closest window in the adjoining property, whichever is the closest to the light source.</del></p>
LIGHT-R3	<p>Amend LIGHT-R3 2 as follows:</p> <p>2. Where the artificial outdoor lighting is located within the Outstanding Coastal Natural Character Overlay it must:</p> <p>a. Be fully shielded <u>and mounted in a horizontal position</u> <del>or use a controlled optic</del>;</p>
LIGHT-R4	<p>Where:</p> <p>1. Outdoor artificial lighting must not exceed the following vertical or horizontal light levels:</p> <p>a. 7.00am – 10.00pm: 10 Lux; and</p> <p>b. 10.00pm – 7.00am: 2 Lux;</p> <p><del>c. The above standards a-b shall be measured 2m inside the boundary of any adjoining site or the closest window in the adjoining property, whichever is the closest to the light source.</del></p>
LIGHT-R5	<p>Amend to add an additional matter of discretion:</p> <p><u>i. The technical, locational, functional or operational constraints and/or requirements of the activity.</u></p>
LIGHT-R6	<p>Retain as notified.</p>

### Analysis of Submissions on Key Issue 5 – LIGHT Rules General

Submitter	Submission Point & Point Number	Position	Decision Requested
Westland District Council	S181.050	Amend	Council on behalf of Hokitika Airport would like to raise concerns with laser

			light use within the Hokitika aircraft flight path. Introduce laser light displays reaching more than 50m, to be considered a permitted activity, but introduce a permitted standard stating that Council shall be provided proof of Airport management approval no less than 10 days in advance of the display.
Margaret Montgomery	S446.079	Support	Retain as notified
Waka Kotahi NZ Transport Agency (S450)	S450.159	Amend	Amend the rule to provide clarification on how street lighting is intended to work with this rule.
Frida Inta	S553.149	Amend	
Buller Conservation Group	S446.079	Amend	
Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird) (S560)	S560.0557 S560.0558 S560.331	Amend	<p>It is not clear that the rules adequately provide for the significant habitats of fauna.</p> <p>Amend permitted activities to exclude any light sources that are in or near habitat of indigenous fauna, in particular the Westland Black Petrel. No overnight lighting in these areas should be permitted (see next submission point). These activities should require at least a discretionary consent.</p> <p>Include new rules, or amend existing, to ensure that areas of significant biodiversity (including ones that aren't on Schedule Four), wherever they occur, are protected by the rules. Any artificial light at night in these areas should require consent.</p>
West Coast Penguin Trust	FS45.44 FS45.45	Support	Essential to avoid the adverse effects of light on Westland petrels / taiko. This is increasingly understood and managed for this species and must continue to improve, supported through TTPP rules.
Rocky Mining Limited	S474.049	Amend	Amend so that appropriate Lux limits are applied in the Mineral Extraction, Open Space and Rural zones
Papahaua Resources Limited	S500.033		
Steve Croasdale	S516.097	Amend	Amend significantly to reduce complexity and be more enabling of development.
Chris & Jan Coll	S558.317		
Geoff Volckman	S563.088		
Catherine Smart-Simpson	S564.100		
William McLaughlin	S567.376		
Laura Coll McLaughlin	S574.314 S574.317		
Koiterangi Lime Co	S577.077		

LTD (S577)	S577.078 S577.079 S577.080		
Karamea Lime Company (S614)	S614.124 S614.125 S614.126 S614.127		
Peter Langford (S615)	S615.124 S615.125 S615.126 S615.127		
Buller District Council	S538.324 S538.325 S538.326 S538.327 S538.328	Oppose	<p>Delete Rules 1 to 5 and insert the following:  <u>LIGHT - R1: Artificial Outdoor Lighting Associated with Roads and Pedestrian/Cycle Pathways</u>  <u>Activity Status Permitted</u>  <u>LIGHT - R2: Activities with Artificial Outdoor Lighting Activity Status Permitted Where:</u>  <u>1. The level of light overspill when measured at the notional boundary of any dwelling or building accommodating sensitive activities located within the General Rural Zone or Rural Lifestyle Zone does not exceed 10 lux (in both the horizontal and vertical planes); The level of light overspill when measured at a distance of 2m or greater from the boundary of any receiving site must not exceed: 20 lux (in both the horizontal and vertical planes) within the Mixed Use Zone, Port Zone and General Industrial Zone; and for all other zones 10 lux (in both the horizontal and vertical planes).</u>  <u>Advice Note Lighting limits must be measured and assessed in accordance with Standard AS/NZS 4282- Control of the Obtrusive Effects of Outdoor Lighting.</u></p> <p>Consequential amendment to Rule 6 as follows:  <u>Artificial Outdoor Lighting <del>within the Outstanding Coastal Natural Character Overlay and not meeting the Permitted Activity Standards.</del></u></p>
Westpower Limited	FS222.058 FS222.059 FS222.060 FS222.061	Oppose in part	<p>It is recognised that this submission seeks a fundamental change to the proposed lighting rules but a more simplified approach with respect to rules 2-4 is supported. It is considered that existing pTTPP Rule 1 provides benefit in terms of management and should remain. The request to remove the restricted discretionary rule, R5, is not supported and if a change were needed Rule 6 could be</p>

			incorporated in to Rule 5. Allow the submission point with respect to a new Rule 2 (as per the submission) to replace pTTPP rules 2-4. Retain pTTPP Rule 1 and Rule 5 with the amendments submitted by Westpower.
Frida Inta	FS223.027	Oppose	BDC needs to be more sensitive in the way it distributes its streetlighting
Buller Conservation Group	FS224.027		

### Analysis

226. Westland District Council (S181.050) seek amendments to the LIGHT rules to manage laser light use within the Hokitika aircraft flight path. This has been assessed by Mr Wilson in his evidence at paragraphs 31-32 and I agree with his analysis. In particular, laser light use is managed under separate legislation (Summary Offences Act 1981), such that duplication is not required under the District Plan. Furthermore, I note that the spatial extent of the Hokitika aircraft flight plan is limited, and agree that alternative means such as a Bylaw or code of conduct for operators may also be appropriate.
227. Forest & Bird (S560.0557, S560.0558 and S560.331) consider that the provisions do not adequately provide for significant habitats of fauna seeking amendments to exclude light sources near habitat. In my opinion this relief sought is onerous and unenforceable, potentially increasing development costs significantly having to obtain ecological assessments to determine habitats and potential light effects. I consider that LIGHT rules afford appropriate management of lighting effects.
228. A number of submitters seek amendments to include or provide clarification on how street lighting is intended to work with this rule. I note that street lighting is managed under AS/NZS 1158.3.1:2020 separately to the District Plan. In my opinion, provision for street lighting within the LIGHT chapter is not necessary as they will be located within publicly vested roads and operated and maintained by the Councils. No amendments are recommended in response to these submissions.
229. Rocky Mining Limited (S474.049) and Papahaua Resources Limited (S500.033) seek amendments to rules so that appropriate Lux limits are applied to Mineral Extraction, Open Space and Rural Zones. I address these submissions below.
230. Numerous submitters state that the rules are complicated and restrictive and should be amended.
231. Buller District Council (S538.324 and S538.328) consider that the rules are too prescriptive for low level development and seek lower level standards, seek a simpler rule framework and consider that rules are not required in Outstanding Natural Character Areas. Westpower Limited (FS222.058) opposed in part the relief sought, but agree that simplified rules would be of assistance.
232. In response to these submissions, I support a number of amendments as identified in the statement of evidence of Mr Wilson and detailed below to delete duplication within the rules and achieve consistency with AS/NZS 4282, while acknowledging that lighting provisions are technical in nature and as such it is challenging to establish simple provisions.
233. In relation to the prescriptiveness of the lighting standards, Mr Wilson's evidence includes analysis of the proposed lux levels at paragraphs 59-63. Mr Wilson considers that the proposed pre-curfew levels in the pTTPP are high when compared to other comparable territorial areas in New Zealand, and that the curfew levels are appropriate. On this basis, I do not support amendments to the provisions to be more enabling of development.

### Recommendations

234. That minor amendments are made to the LIGHT rules to delete duplication and achieve consistency with AS/NZS 4282.

### Analysis of Submissions on Key Issue 5 – LIGHT-R1

Submitter	Submission Point & Point Number	Position	Decision Requested
Department of Conservation	S602.176	Amend	Amend Rule LIGHT-R1 to include a standard to require that light is directed away from any adjoining and adjacent overlay areas. This will protect the significant values of these areas from light spill.  <i><u>Be directed so that light is emitted away from any adjoining and adjacent overlay areas;</u></i>
Silver Fern Farms Limited	S602.176	Oppose	The proposed additional wording is unnecessary. The relief sought by DoC is inherent in Rule LIGHT-R1(1) which requires artificial lighting to be aimed away from neighbouring land.
Buller District Council	FS149.0140	Oppose	Council opposes insertion of the additional standard as the policy framework already addresses consideration of natural character and biodiversity values when assessing light emissions.
Silver Fern Farms Limited by its authorised agents Mitchell Daysh Limited	S441.032	Amend	Sub- clause 3 does not recognise the existing essential operations which occur at the Plant (including artificial outdoor lighting) and submits that it cannot be realistically achieved at the boundary with the proposed adjoining zones GRUZ and surrounding GRZ.  <i>3. Where an activity is located on a site which adjoins or is separated by a road from a different zone, the activity on the site must meet the relevant zone standards for light for the adjoining zone at the zone boundary, <u>except for the GIZ located at no. 140 Kumara Junction Highway, Hokitika.</u></i>
TiGa Minerals and Metals Limited	S493.085	Oppose	This rule requires the discretion of the relevant territorial authority to assess compliance, and is unnecessary  Delete LIGHT-R1
WMS Group (HQ) Limited and WMS Land Co. Limited	S599.090		
Birchfield Coal Mines Limited	S601.071		
BRM Developments Limited	S603.049		
Birchfield Ross Mining Limited	S604.064		



Phoenix Minerals Limited	S606.050		
Whyte Gold Limited	S607.048		

### Analysis

235. Department of Conservation (S602.176) seek to amend LIGHT-R1 to include a standard to require that light is directed away from any adjoining and adjacent overlay areas. This will protect the significant values of these areas from light spill. Silver Fern Farms Limited (FS101.015) and Buller District Council (FS149.0140) has opposed this submission point.
236. Numerous submitters have sought to delete LIGHT-R1 as they consider the rule requires the discretion of the relevant territorial authority to assess compliance, and is unnecessary.
237. The direction of light is addressed by Mr Wilson at paragraphs 34-41 of his statement of Evidence. Mr Wilson notes that the aiming of light is one of the most significant influences of light pollution, disability glare, and light trespass. Furthermore, the management of the direction of light seeks to address lighting that has the potential to cause nuisance or disability glare to drivers when directed beyond a subject site. It is noted that lighting that is directed at an adjoining property but otherwise designed to comply with the proposed lux levels has the potential to generate significant adverse effects. Mr Wilson recommends amendments to LIGHT-R1 to require all exterior lighting to be directed towards the area within the site that is intended to be illuminated. I support this amendment and consider that it will be effective and efficient by simplifying the existing framework under LIGHT-R1, while incorporating the necessary permitted activity standards to address the potential effects of lighting. I also note that the nature and wording of the standard will require limited technical input, and is therefore unlikely to incur unnecessary costs to applicants.
238. LIGHT-R1 includes other standards which set out the measurement and assessment of lighting, and requirements for calculations to be undertaken by a suitably qualified professional. In my opinion, these general standards are necessary to ensure the technical nature of lighting emissions are accurately identified and assessed. I recommend amendments to LIGHT-R1 to improve clarity by including the proposed advice notes as general standards. I note the inclusion of these measures is common within district plans, including the New Plymouth District Plan Appeals Version, Auckland Unitary Plan (Operative in Part), and the Porirua City Proposed District Plan.

### Recommendations

239. That LIGHT-R1 be amended to as follows:

*All activities must comply with the following relevant standards ~~Where Activity Status is Permitted~~*

*All artificial outdoor lighting must:*

- ~~1. Be directed so that light is emitted away from any adjoining and adjacent properties;~~*
- ~~2. Be directed so that light is emitted away from any state highway or arterial or principal roads, or any oncoming traffic; and~~*
- ~~3. Where an activity is located on a site which adjoins or is separated by a road from a different zone, the activity on the site must meet the relevant zone standards for light for the adjoining zone at the zone boundary.~~*

*Advice Notes:*

- 1. Lighting limits must be measured and assessed in accordance with AS/NZS 4282 Control of the Obtrusive Effects of Outdoor Lighting.*
- 2. For measurement of light levels in NOSZ - Natural Open Space Zone, SETZ - PREC 2 - Settlement Zone - Coastal Settlement Precinct, and in All Zones where the site falls within the Outstanding Coastal Natural Character Overlay, the calculation plane shall be taken at the property boundary*
- 3. Where conformance with the limits set out in the Rules in this chapter is to be determined by calculation, the calculation must be undertaken by a person who is*



professionally qualified and competent in the discipline of illuminating engineering.

*3. Any calculation for the purposes of these Rules must be based on a maintenance factor of 1.0 (i.e. no depreciation shall be taken into account for reduction in light levels over time).*

*4. All exterior lighting shall be directed towards the area within the site that is intended to be illuminated.*

## Analysis of Submissions on Key Issue 5 – LIGHT-R2

Submitter	Submission Point & Point Number	Position	Decision Requested
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.522	Support	Retain as notified
Silver Fern Farms Limited by its authorised agents Mitchell Daysh Limited	S441.033	Amend	Clause d. is overly restrictive in regards to where any potential effect needs to be managed.  Amend Clause d. as follows. <del>The above standards a-c shall be measured 2m inside the boundary of any adjoining site or the closest window in the adjoining property, whichever is the closest to the light source.</del> <u>The maximum level of light spill from any site shall meet the above standards measured at the notional boundary of any dwelling or building accommodating a sensitive activity.</u>
Waka Kotahi NZ Transport Agency	S450.160	Support	Retain as notified.
TiGa Minerals and Metals Limited	S493.135	Amend	Amend LIGHT - R2 as follows: <i>Where: 1. Outdoor artificial lighting must not exceed the following vertical or horizontal light levels: a. 7.00am - 10.00pm: 25 Lux; b. 10.00pm -7.00am: 10 Lux in the PORTZ - Port Zone, and MINZ - Mineral Extraction Zone; and c. 10.00pm - 7am: 5 Lux in the TCZ - Town Centre, MUZ - Mixed Use, COMZ - Commercial, HOSZ - Hospital, STADZ - Stadium, AIRPZ - Airport and all INZ - Industrial Zones;</i>
WMS Group (HQ) Limited and WMS Land Co. Limited	S599.091		
Birchfield Coal Mines Ltd	S601.072		
BRM Developments Limited	S603.050		
Birchfield Ross Mining Limited	S604.065		
Phoenix Minerals Limited	S606.051		
Whyte Gold Limited	S607.049		

### Analysis

240. Silver Fern Farms Limited (S441.033) seek to amend LIGHT-R2 clause d because it is overly restrictive and seek amendments to apply at a notional boundary. Mr Wilson addresses the assessment method for lighting at paragraphs 44-50 in his statement of evidence, and recommends a number of amendments to LIGHT-R1 to align the methodology for measuring lighting limits with AS/NZS 4282. I agree that consistency with AS/NSZ4282 will improve the effectiveness and efficiency of the provisions and support these amendments. Consequential amendments are recommended to LIGHT-R2 to remove duplication.

241. Numerous submitters have requested the ability for mineral activities to have 10 lux of light spill 24 hours. Mr Wilson addresses this matter within his evidence. In relation to mineral activities, Mr Wilson considers that the provisions in the pTTPP are appropriate to manage light spill at the boundary of mineral extraction sites. The Mineral Extraction Zone is likely to be located in intrinsically dark environments, such that the effects of artificial lighting will be more pronounced than in brighter urban settings. Further, the pTTPP provisions do not preclude lighting emissions within a site, as may be necessary to support the operational needs of mineral extraction. Based on Mr Wilson's analysis, I consider that increased lux within the Mineral Extraction Zone has the potential to generate adverse light spill effects to adjacent properties. I therefore do not recommend amendments to LIGHT-R2 to include the Mineral Extraction Zone.

### Recommendations

242. That LIGHT-R2 be amended as follows:

*Where:*

*1. Outdoor artificial lighting must not exceed the following vertical or horizontal light levels:*

*a. 7.00am – 10.00pm: 25 Lux;*

*b. 10.00pm – 7.00am: 10 Lux in the PORTZ - Port Zone and all INZ - Industrial Zones; and*

*c. 10.00pm - 7am: 5 Lux in the TCZ - Town Centre, MUZ - Mixed Use, COMZ - Commercial, HOSZ - Hospital, STADZ - Stadium, AIRPZ - Airport ~~and all INZ - Industrial Zones~~;*

*d. ~~The above standards a-c shall be measured 2m inside the boundary of any adjoining site or the closest window in the adjoining property, whichever is the closest to the light source.~~*

### Analysis of Submissions on Key Issue 5 – LIGHT-R3

Submitter	Submission Point & Point Number	Position	Decision Requested
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.523	Support	Retain as notified
Waka Kotahi NZ Transport Agency	S450.161		
Buller Conservation Group	S552.150	Amend	2200K lighting is a standard that should be adhered to in light-sensitive areas.
Frida Inta	S553.150		<i>2 b. Have a colour corrected temperature of no greater than <u>2200K</u> <del>3000K</del> (warm white);</i>
WMS Group (HQ) Limited and WMS Land Co. Limited	S599.092	Amend	This rule requires adherence to a very restrictive lux limit when a site is within the Outstanding Coastal Natural Character overlay.  Amend LIGHT - R3 as follows: <i>Artificial Outdoor Lighting in the NOSZ - Natural Open Space Zone, SETZ - PREC 2 - Settlement Zone - Coastal Settlement Precinct, and in All Zones where the <del>site</del> <u>falls lighting is located</u> within the Outstanding Coastal Natural Character Overlay"</i>
Department of Conservation	S602.177		Amend: <i>LIGHT - R3 Artificial Outdoor Lighting in the NOSZ - Natural Open Space</i>

			<i>Zone, SETZ - PREC 2 - Settlement Zone - Coastal Settlement Precinct, and in All Zones where the site falls within the Outstanding Coastal Natural Character Overlay, <a href="#">Outstanding Natural Landscapes Overlay</a> and <a href="#">Outstanding Natural Features Overlay</a>, excluding conservation activities undertaken by the Department of Conservation.</i>
--	--	--	--

### Analysis

243. Buller Conservation Group (S552.150) and Frida Inta (S553.150) seek amendments to LIGHT-R3 to ensure that a 2200K lighting standard is adhered to in light sensitive areas. Mr Wilson addresses this matter in his evidence, and considers that a lighting standard of 2200K is not specified within accepted lighting standards within Australia and New Zealand and is not necessary when having regard to DarkSky international recommendations for best practice in light sensitive areas. Mr Wilson supports Light-R3 as notified and considers that the provisions are appropriate to manage lighting effects in light sensitive areas. Based on the expert evidence from Mr Wilson, I do not support amendments to LIGHT-R3 as requested by the submitters.
244. WMS Group (HQ) Limited and WMS Land Co. Limited (S599.092) seek amendment to LIGHT-R3 to apply limits to lights located within the Outstanding Coastal Natural Character Overlay. I disagree with this amendment, in my opinion it is difficult and unenforceable to establish location of individual lights, while a site is readily identifiable.
245. Department of Conservation (S602.177) seek amendment to LIGHT-R3 to apply to "Outstanding Natural Landscapes Overlay and Outstanding Natural Features Overlay, excluding conservation activities undertaken by the Department of Conservation". I agree with the submitter that LIGHT-R3 should apply to ONL and ONF to give effect to Section 6 (b) of the RMA. However, I do not support an exemption for DOC activities, in my opinion there are potential lighting effects which should be managed.
246. As discussed above, in response to a number of submissions in relation to the measurement of light, Mr Wilson recommends amendments to align the methodology for measuring lighting limits with AS/NZS 4282, as set out at paragraphs 44-50 in his statement of evidence. Consequential amendments are recommended to LIGHT-R3.

### Recommendations

247. That LIGHT-R3 be amended as follows:

*2. Where the artificial outdoor lighting is located within the Outstanding Coastal Natural Character Overlay it must:*

*a. Be fully shielded [and mounted in a horizontal position](#) ~~or use a controlled optic~~;*

### Analysis of Submissions on Key Issue 5 – LIGHT-R4

Submitter	Submission Point & Point Number	Position	Decision Requested
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.524	Support	Retain as notified
Waka Kotahi NZ Transport Agency	S450.162		
John Brazil	S360.057	Amend	Amend to be more enabling of development
Horticulture New	S486.054	Amend	Outdoor lighting in the GRUZ is managed

Zealand			by LIGHT-R4. This sets standard of 10lux 7am - 10pm and 2 lux 10pm - 7am. This could limit night time harvesting activities and night loading of produce.
Federated Farmers of New Zealand	S524.099		Amend LIGHT-R4 1b) to 5 lux
Horticulture New Zealand	FS55.41	Support	
TiGa Minerals and Metals Limited (	S493.087	Amend	A limit which is consistent with the current plans generally is sought.
WMS Group (HQ) Limited and WMS Land Co. Limited	S599.093		Amend LIGHT – R4 as follows: <i>Where: 1. Outdoor artificial lighting must not exceed the following vertical or horizontal light levels: a. <del>7.00am – 10.00pm: 10 Lux;</del> and b. <del>10.00pm – 7.00am: 2 Lux;</del></i>
Birchfield Coal Mines Ltd	S601.073		
BRM Developments Limited	S603.051		
Birchfield Ross Mining Limited	S604.066		
Phoenix Minerals Limited	S606.052		
Whyte Gold Limited	S607.050		
Buller Conservation Group	S552.151	Amend	The intensity should be measured at the boundary, not inside the boundary.
Frida Inta	S553.151		<i>c. The above standards a-b shall be measured <del>at 2m inside the</del> boundary</i>
Department of Conservation	S602.178	Amend	Amend: <i>LIGHT - R4 Artificial Outdoor Lighting in locations, <u>zones, and overlays</u> not provided for in Rule LIGHT - R2 or LIGHT - R3 Activity Status Permitted...</i>

### Analysis

248. Horticulture New Zealand (S486.054) and Federated Farmers of New Zealand (S524.099) seek to increase lux to enable night time harvesting activities in the GRUZ. Mr Wilson has considered these submissions in his statement of evidence. Similar to the Mineral Extraction Zone, rural production activities, including night time harvesting, are likely to occur in intrinsically dark environments where the effects of artificial lighting, including to adjoining properties, have the potential to be more pronounced. The proposed lux within the pTTPP are therefore considered to be appropriate. Based on Mr Wilson’s analysis, I do not support amendments to LIGHT-R4 in response to this submission. As noted above, the pTTPP provisions do not limit lighting within the site that is necessary to carry out rural production activities.
249. Numerous submitters have requested the ability for mineral activities to have 10 lux of light spill 24 hours. As discussed above, I do not support amendments in relation to mineral activities.
250. Buller Conservation Group (S552.151) and Frida Inta (S553.151) seek to amend LIGHT-R4 clause c to measure light at the boundary. As discussed above, Mr Wilson addresses the assessment method for lighting at paragraphs 44-50 in his statement of evidence, and recommends a number of amendments to LIGHT-R1 to align the methodology for measuring lighting limits with AS/NZS 4282. I support the amendments recommended by Mr Wilson and recommend consequential amendments to LIGHT-R4 to remove duplication.

251. Department of Conservation (S602.177) seek amendment to LIGHT-R4 to apply to locations, zones and overlays. I do not consider this amendment is necessary to improve the efficiency and effectiveness of the plan.

**Recommendations**

252. That LIGHT-R4 is amended as follows:

*Where:*

*1. Outdoor artificial lighting must not exceed the following vertical or horizontal light levels:*

*a. 7.00am – 10.00pm: 10 Lux; and*

*b. 10.00pm – 7.00am: 2 Lux;*

*~~c. The above standards a-b shall be measured 2m inside the boundary of any adjoining site or the closest window in the adjoining property, whichever is the closest to the light source.~~*

**Analysis of Submissions on Key Issue 5 – LIGHT-R5**

Submitter	Submission Point & Point Number	Position	Decision Requested
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.525	Support	Retain as notified
Waka Kotahi NZ Transport Agency	S450.163		
Westpower Limited	S547.484	Amend	Add <u><i>i. The technical, locational, functional or operational constraints and/or requirements of the activity.</i></u>
Buller Conservation Group	S552.152	Amend	<i>c Effects on visual amenity; <u>people and neighbourhoods.</u></i>
Frida Inta	S553.152		
Chris & Jan Coll	S558.315	Support	Retain as notified
Chris J Coll Surveying Limited	S566.315		
William McLaughlin	S567.377		
Laura Coll McLaughlin	S574.315		
Grey District Council	S608.672		

**Analysis**

253. Buller Conservation Group (S552.152) and Frida Inta (S553.152) seek to amend LIGHT-R5 clause c to include people and neighbourhoods. In my opinion the matter of discretion is sufficient to include potential effects on people and neighbourhoods without refining as requested.

254. Westpower Limited (S547.484) request a matter of discretion to provide assessment of technical, locational, functional or operational requirements of an activity. I agree with Westpower Limited, that the proposed matters of discretion do not include potential requirements of an activity as clause e is focused on existing uses.

**Recommendations**

255. That LIGHT-R5 be amended to include an additional matter of discretion as follows:

*i. The functional or operational constraints and/or requirements of the activity.*

## Analysis of Submissions on Key Issue 5 – LIGHT-R6

Submitter	Submission Point & Point Number	Position	Decision Requested
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.526	Support	Retain as notified
Chris & Jan Coll	S558.316	Support	Retain as notified
Chris J Coll Surveying Limited	S566.316 S566.317	Amend	Amend to be more enabling when in relation to existing users.
William McLaughlin	S567.378 S567.379		
Laura Coll McLaughlin	S574.316 S574.316		

### Analysis

256. Submitters have requested that LIGHT-R6 be amended to be more enabling. In the absence of specific changes and or technical evidence I am unable to support any amendments to LIGHT-R6.

### Recommendations

257. That LIGHT-R6 be retained as notified.

## 7. Submissions on Temporary Activities

### 7.1 Overview of Temporary Activities Submissions Received

258. A total of 84 submission points and 11 further submissions were received on the **Temporary Activities** chapter, and relevant definitions. This part of the report groups similar submission points together under key issues. This thematic response assists in providing a concise response to, and recommended decision on, submission points.

259. The topics which are identified by key issue in this report are set out below:

- **Key Issue 1: TEMP General**
- **Key Issue 2: TEMP Overview**
- **Key Issues 3: TEMP Objectives**
- **Key Issues 4: TEMP Policies**
- **Key Issues 5: TEMP Rules**

### 7.2 Key Issue 1: TEMP General

#### Analysis of Submissions on Key Issue 1 - General

Submitter	Submission Point & Point Number	Position	Decision Requested
-----------	---------------------------------	----------	--------------------

Grey District Council	S608.090	Amend	Remove all references to "Site or Area of Significance to Māori" in the Chapter
Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu	FS41.024	Oppose	Cross referencing within the plan is important for clarity
New Zealand Motor Caravan Association	S490.001 S490.003	Amend	Include objectives, policies and rules for camping in the Plan. Delete the rules relating to Freedom Camping
Grey District Council	FS1.163	Support in part	Leave Freedom Camping regulation to national legislation and local bylaws.
Buller District Council	S538.011	Oppose	Delete the definition of 'freedom camping'.
Buller Conservation Group	S552.158	Amend	add to rules <a href="#"><i>environmental values are not degraded and that wildlife is not disturbed – e.g. temporary light could severely disturb long-tailed bat foraging; motorsports' noise and air pollution could severely disturb nesting birds, as could the noise of military training camps.</i></a> <i>Restricted discretionary matters consider effects on wildlife</i>
New Zealand Defence Force	FS31.001	Oppose	Temporary Military Training Activities (TMTA) are subject to bespoke noise standards set out in Rule R4. The majority of TMTA are not typically "noisy activities". In any case TMTA are defined separately from temporary activities so the inclusion of 'military training camps' is not appropriate, nor is it consistent with the National Planning Standards definition of TMTA.
Westpower Limited	FS222.037	Oppose	Proposed rules provide for the management of effects to the degree appropriate for temporary activities.
Frida Inta	S553.158	Amend	add to rules <a href="#"><i>environmental values are not degraded and that wildlife is not disturbed – e.g. temporary light could severely disturb long-tailed bat foraging; motorsports' noise and air pollution could severely disturb nesting birds, as could the noise of military training camps.</i></a> <i>Restricted discretionary matters consider effects on wildlife</i>
Westpower Limited	FS222.0148	Oppose	Proposed rules provide for the management of effects to the degree appropriate for temporary activities.
New Zealand Defence Force	S519.016	Support	It is appropriate to provide for TMTA as a permitted activity in the District-wide Matters Chapter, which applies across all zones in the Plan. Retain permitted activity rule status as notified.
New Zealand Agricultural Aviation	S166.010	Amend	Amend the definition of 'temporary activity' to exclude agricultural



Association			aviation activities.
Westpower Limited	S547.042	Amend	Amend the definition of 'temporary activity' to include reference to buildings and structures
Fire and Emergency New Zealand	S573.007	Support in part	Amend the definition of 'temporary activity' to include reference to temporary emergency service training activities.
Royal Forest and Bird Protection Society of New Zealand Inc	S560.078	Amend	Amend to address the definition creating uncertainty for the application of rules. If an activity does not meet a zone standard consent processes should apply.
Te Runanga o Ngai Tahu, Te Runanga o Ngati Waewae, Te Runanga o Makaawhio	S620.030	Amend	Amend the definition of 'freedom camping' to exclude sites set out in Appendix 6.

### Analysis

260. Grey District Council (608.090) seek to remove all references to "Site or Area of Significance to Māori". The chapter overview lists other relevant plan provisions, including "*Sites and Areas of Significance to Māori*". While there are specific rules in relation to temporary events in the Site and Areas of significance to Māori chapter, I note that there is no reference to temporary activities. I therefore consider that it is appropriate to retain the reference within the TEMP chapter.
261. New Zealand Motor Caravan Association (S490.001) seek to include provisions for camping in the pTTPP and to delete all rules relating to freedom camping. Other submitters seek amendments to or the deletion of the definition of 'freedom camping'.
262. In my opinion, camping is sufficiently managed as a temporary event under TEMP-P3 such that further amendments are not necessary.
263. The TEMP chapter seeks to manage freedom camping activities undertaken in the State Highway road corridor as land in that location is not subject to the relevant Freedom Camping Bylaws. I therefore do not support the relief sought as the notified provisions are necessary to address activities occurring on this land, which have the potential to create safety and amenity effects. Furthermore, I consider that the TEMP overview, TEMP-P4, and TEMP-R5 provide sufficient clarity that the management of freedom camping activities under District Plan are limited to those located adjacent to the State Highway network.
264. New Zealand Agricultural Aviation Association (S166.010) and Fire and Emergency New Zealand (S573.007) seek amendments to the definition of 'temporary activities' to identify inclusions and exclusions for certain activities. In my opinion, the proposed definition is clear where inclusions and exclusions are to apply in relation to the activities that would usually occur on a site. As such, the relief sought is not considered to be necessary.
265. Westpower Limited (S547.042) seek amendments to the definition of 'temporary activities' to include reference to buildings and structures at (e). In my opinion, the definition includes references to activities and their ancillary buildings and structures, such that the relief sought is not necessary to improve clarity.
266. Royal Forest and Bird (S560.078) seek amendments to the definition of 'temporary activities' to address potential uncertainties. In my opinion, further amendments are not necessary as the purpose of the TEMP chapter is to provide for activities that are temporary in nature. I note that all permitted activity rules include standards to limit duration. In my opinion, this will ensure that the potential effects are appropriately managed. As such, no amendments are recommended in response to this submission.



### Recommendations

267. That no amendments be made to the TEMP chapter in response to these submission points.

## 7.3 Key Issue 2: TEMP Overview

### Analysis of Submissions on Key Issue 2 – Overview

Submitter	Submission Point & Point Number	Position	Decision Requested
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.579	Support	Retain as notified

### Analysis

268. Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora support is acknowledged.

### Recommendations

269. That Temporary Activities Overview is retained as notified.

## 7.4 Key Issue 3: Temporary Activities Objectives

### Overview – Temporary Activities Objectives

Provision(s)	Officer Recommendation(s)
TEMP-O1	<i>To provide for temporary activities where they contribute to social, economic and cultural wellbeing of the West Coast <u>while minimising adverse effects.</u></i>

### Analysis of Submissions on Key Issue 2 – TEMP-O1

Submitter	Submission Point & Point Number	Position	Decision Requested
Jet Boating New Zealand	S161.006	Support	Retain the Objective as proposed.
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.580	Support	Retain policy.
Waka Kotahi NZ Transport Agency	S450.185	Support in part	Amend the objective as follows <i>To provide for temporary activities where they contribute to social, economic and cultural wellbeing of the West Coast <u>while minimising adverse effects.</u></i>
New Zealand Defence Force	S519.014	Support	Retain Policy as notified or wording to similar effect.
Buller District Council	S538.368	Oppose in part	Retain as notified.
Wetland District Council	S181.032	Support	Retain.

### Analysis

270. Waka Kotahi (S450.185) seek to amend TEMP-O1 to refer to *minimising adverse effects*. I support this amendment, and consider that it is consistent with Sections 6 and 7 of the RMA and that the proposed policies and provisions give effect this amendment.

### Recommendations

271. That TEMP-O1 is amended as follows:

*To provide for temporary activities where they contribute to social, economic and cultural wellbeing of the West Coast while minimising adverse effects.*

## 7.5 Key Issue 4: Temporary Activities Policies

### Overview – Temporary Activities Policies

Provision(s)	Officer Recommendation(s)
TEMP-P1	Retain as notified.
TEMP-P2	Retain as notified.
TEMP-P3	<i>Enable a wide range of temporary events on the West Coast recognising their positive contribution to community wellbeing in locations where these do not adversely affect natural or cultural values, <u>or transport safety.</u></i>
TEMP-P4	<i>Ensure that freedom camping activities undertaken <del>in</del> <u>adjacent to</u> the State Highway road corridor are managed in a manner consistent with freedom camping in other parts of the relevant district.</i>

### Analysis of Submissions on Key Issue 4 – TEMP-P1

Submitter	Submission Point & Point Number	Position	Decision Requested
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.581	Support	Retain as notified.
Waka Kotahi NZ Transport Agency	S450.186		
Buller District Council	S538.369	Oppose in part	
Wetland District Council	S181.032	Support	

### Analysis

272. Submitter support for TEMP-P1 is acknowledged.

### Recommendations

273. That TEMP-P1 is retained as notified.

### Analysis of Submissions on Key Issue 4 – TEMP-P2

Submitter	Submission Point & Point Number	Position	Decision Requested
-----------	---------------------------------	----------	--------------------

Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.582	Support	Retain as notified.
New Zealand Defence Force	S519.015		
Wetland District Council	S181.032		
Buller District Council	S538.370	Oppose in part	

### Analysis

274. Submitter support for TEMP-P2 is acknowledged.

### Recommendations

275. That TEMP-P2 is retained as notified.

## Analysis of Submissions on Key Issue 4 – TEMP-P3

Submitter	Submission Point & Point Number	Position	Decision Requested
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.583	Support	Retain policy.
Jet Boating New Zealand	S161.007		
Waka Kotahi NZ Transport Agency	S450.187	Support in part	Amend the policy as follows: <i>Enable a wide range of temporary events on the West Coast recognising their positive contribution to community wellbeing in locations where these do not adversely affect natural or cultural values, <a href="#">or transport safety.</a></i>
Wetland District Council	S181.032	Support	Retain as notified.
Buller District Council	S538.371	Oppose in part	

### Analysis

276. Waka Kotahi (S450.187) seek to amend TEMP-P3 to include reference to transport safety. Temporary activities as defined include fairs, festivals, sporting events. Activities of this type and nature have the potential to result in temporary effects on the transport network, as such I support the amendment.

### Recommendations

277. That TEMP-P3 is amended as follows:

*Enable a wide range of temporary events on the West Coast recognising their positive contribution to community wellbeing in locations where these do not adversely affect natural or cultural values, [or transport safety.](#)*

## Analysis of Submissions on Key Issue 4 – TEMP-P4

Submitter	Submission Point & Point Number	Position	Decision Requested
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.584	Support	Retain policy.
Waka Kotahi NZ Transport Agency	S450.188	Oppose	Amend the policy as follows: <i>Ensure that freedom camping activities <u>are</u> undertaken in <u>a designated Responsible Camping Site or Freedom Camping Site and not within the state highway road corridor.</u> <del>are managed in a manner consistent with freedom camping in other parts of the relevant district.</del></i>
Wetland District Council	S181.032	Support	Retain as notified.
Buller District Council	S538.372	Oppose in part	Council supports the objectives and policies for Temporary Activities with the exception of Policy 4 that seeks to manage freedom camping within the state highway road corridor. Council does not consider its role extends to managing activities within the state highway corridor, which is a function of Waka Kotahi and requests that Policy 4 is deleted.

### Analysis

278. Waka Kotahi (S450.188) and Buller District Council (S538.372) seek to amend TEMP-P4 to ensure that management of freedom camping is not within the state highway corridor which is outside of Council's role. I agree that TEMP-P4 as drafted is unclear, and recommend 'in' is amended to 'adjacent to'. I note that TEMP-P4 is necessary to address land adjacent to the state highway network not otherwise managed under the relevant freedom camping bylaw.

### Recommendations

279. That TEMP-P4 is amended as follows:

*Ensure that freedom camping activities undertaken ~~in~~ adjacent to the State Highway road corridor are managed in a manner consistent with freedom camping in other parts of the relevant district.*

#### 7.3.5 Key Issue 5: Temporary Activities Rules

## Key Issue 5: Temporary Activities Rules

### Overview – Temporary Activities Rules

Provision(s)	Officer Recommendation(s)
TEMP – R1	<i>TEMP - R1 Temporary and Military Training Activities and Emergency Management Training Activity Status Permitted</i>  <i>Where:</i>

	<ol style="list-style-type: none"> <li>1. These are for a maximum of 31 <u>consecutive</u> days per year (<u>excluding set up and pack down activities</u>);</li> <li>2. No permanent structures are erected unless they are lawfully established in accordance with relevant zone and overlay chapter rules in this Plan;</li> <li>3. No earthworks are undertaken except where they are in accordance with relevant Earthworks and overlay chapter rules (or resource consent is obtained for the earthworks); and</li> <li>4. These do not occur on a Site or Area of Significance to Māori identified in Schedule Three.</li> </ol> <p>Activity status where compliance not achieved: Controlled</p>
TEMP – R2	<p>TEMP - R2</p> <p>Temporary Buildings and Structures Ancillary to Construction and Demolition Activity</p> <p>Activity Status Permitted</p> <p>Where:</p> <ol style="list-style-type: none"> <li>1. These are removed within 1 month of the activity ceasing and the site reinstated to the original or better condition;</li> <li>2. The building or structure is located on the same site as the construction or demolition activity;</li> <li>3. Relevant zone Setback standards are met where the activity adjoins any Residential or Settlement Zone;</li> <li><del>4. The building or structure is on the same site as the construction or demolition activity;</del></li> <li>5. Any temporary building is no more than 50m<sup>2</sup> in gross floor area where this adjoins a residential zone.</li> </ol> <p>Activity status where compliance not achieved:</p> <p>Restricted Discretionary</p>
TEMP – R3	Retain TEMP-R3 as notified
TEMP – R4	Retain TEMP-R4 as notified
TEMP – R5	<p>TEMP-R5</p> <p>Activity Status Permitted</p> <p>Where:</p> <ol style="list-style-type: none"> <li>1. This activity is in locations identified and signposted by <del>Waka Kotahi – New Zealand Transport Authority</del> or the relevant District Council as a designated Responsible Camping Site or Freedom Camping Site;</li> </ol> <p>...</p>
TEMP – R6	Retain TEMP-R6 as notified
TEMP – R7	Retain TEMP-R7 as notified
TEMP – R8	Retain TEMP-R8 as notified
TEMP – R9	Retain TEMP-R9 as notified

## Analysis of Submissions on Key Issue 5 – TEMP-R1

Submitter	Submission Point & Point Number	Position	Decision Requested
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.585	Support	Retain rule
New Zealand Defence Force	S519.017 S519.018 S519.019 S519.020	Amend	Amend Standard TEMP - R1 Standard (1) to state: <i>These are for a maximum of 31 <u>consecutive</u> days per year; (<u>excluding set up and pack down activities</u>);</i>  Retain Standard as notified or wording to similar effect.  Amend Standard (4) to state: <i>These do not occur on a Site or Area of Significance to Māori identified in Schedule Three <u>unless written approval from the relevant Poutini Ngāi Tahu rūnanga is provided to the relevant District Council at least 10 working days prior to the activities commencing.</u></i>
Frida Inta	FS223.026	Oppose	Destroys intent of the rule. '31 consecutive days' - If NZDA wants further permission it needs to apply for a resource consent.
Buller Conservation Group	FS224.026		
Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu	FS41.56	Oppose	Rūnanga are able to consider if each Military activity/operation will affect the relevant SASM.
Buller District Council	S538.373	Support	Retain as notified
Wetland District Council	S181.032	Support	

### Analysis

280. New Zealand Defence Force seek to amend standard 1 to improve the clarity and enforceability of TEMP-R1, I agree with the relief sought. New Zealand Defence Force seek to provide for written approval in standard 4. I do not support this amendment as it creates a third party approval and not that TEMP-R1 as notified does not preclude engagement and consultation with the relevant Poutini Ngāi Tahu rūnanga.

### Recommendations

281. That TEMP-R1 be amended as follows:

#### TEMP - R1

*Temporary and Military Training Activities and Emergency Management Training Activity Status Permitted*

*Where:*

1. *These are for a maximum of 31 consecutive days per year (excluding set up and pack down activities);*
2. *No permanent structures are erected unless they are lawfully established in accordance with relevant zone and overlay chapter rules in this Plan;*
3. *No earthworks are undertaken except where they are in accordance with*

relevant Earthworks and overlay chapter rules (or resource consent is obtained for the earthworks); and

4. These do not occur on a Site or Area of Significance to Māori identified in Schedule Three.

Activity status where compliance not achieved: Controlled

## Analysis of Submissions on Key Issue 5 – TEMP-R2

Submitter	Submission Point & Point Number	Position	Decision Requested
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.586	Support	Retain rule
Waka Kotahi NZ Transport Agency	S450.189		
Buller District Council	S538.374	Support in part	Amend Rule 2 as follows:  <del>4. The building or structure is on the same site as the construction or demolition activity;</del>
Westpower Limited	S547.495 S547.496	Amend	Amend: 2. <i>The building or structure is located on the same site as the construction or demolition activity, <u>or on a site in the vicinity where there will be no greater effect arising to any other landowner</u></i>  Review items 2. and 4. for duplication of provisions and delete item 4 if required.
Grey District Council	S608.091	Amend	Remove Condition 4.
Wetland District Council	S181.032	Support	Retain.
KiwiRail Holdings Limited	S442.092	Amend	Amend as follows: Activity Status Permitted Where: <i>These are removed within 1 month of the activity ceasing and the site reinstated to the original or better condition; The building or structure is located on the same site <u>or an adjacent site</u> as the construction or demolition activity; Relevant zone Setback standards are met where the activity adjoins any Residential or Settlement Zone; The building or structure is on the same site <u>or adjacent site</u> as the construction or demolition activity; Any temporary building is no more than 50m<sup>2</sup> in gross floor area where this adjoins a residential zone.</i>

### Analysis

282. Submitters seek to remove duplication in TEMP-R2, I agree that clause 2 and 4 are duplicated. Westpower Limited (S547.495) and KiwiRail Holdings Limited (S442.092) seek to amend the rule to provide for the activity on adjacent or sites in vicinity of the demolition. In my opinion this amendment could result in implementation complications, with potential for adverse effects to spread beyond a single site, therefore I do not support the relief sought.

### Recommendations

283. That TEMP-R2 be amended as follows:

*TEMP - R2*

*Temporary Buildings and Structures Ancillary to Construction and Demolition Activity*

*Activity Status Permitted*

*Where:*

1. *These are removed within 1 month of the activity ceasing and the site reinstated to the original or better condition;*
2. *The building or structure is located on the same site as the construction or demolition activity;*
3. *Relevant zone Setback standards are met where the activity adjoins any Residential or Settlement Zone;*
4. ~~*The building or structure is on the same site as the construction or demolition activity;*~~
5. *Any temporary building is no more than 50m<sup>2</sup> in gross floor area where this adjoins a residential zone.*

*Activity status where compliance not achieved:*

*Restricted Discretionary*

### Analysis of Submissions on Key Issue 5 – TEMP-R3

Submitter	Submission Point & Point Number	Position	Decision Requested
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.587	Support	Retain rule
Waka Kotahi NZ Transport Agency	S450.190		
Buller District Council	S538.375		
Grey District Council	S608.092	Amend	Amend Rule 3.1 to read: " <a href="#"><i>Ancillary buildings or structures are allowed on a temporary basis. They can be moved on site no more than 3 days prior to the activity and must be removed from site within 24hrs after the completion of the activity.</i></a> "
Wetland District Council	S181.032	Support	Retain.

### Analysis

284. Grey District Council seek to provide for ancillary buildings or structures on a temporary basis. The definition of building includes "temporary or permanent", as such the relevant



zone rules will apply to any ancillary buildings, therefore I do not support the amendment requested.

### Recommendations

285. That TEMP-R3 be retained as notified.

### Analysis of Submissions on Key Issue 5 – TEMP-R4

Submitter	Submission Point & Point Number	Position	Decision Requested
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.588	Support	Retain rule
Buller District Council	S538.376	Oppose in part	Amend the heading and body of Rule 4 as follows:  <i>Temporary Residential Buildings Following an <u>Natural Hazard Event</u> <del>Emergency Declaration</del> Activity Status Permitted Where:</i> <i>1. <del>These are established following a Local, Regional or National State of Emergency declaration;</del> <u>The temporary residential building is placed on the same site or adjoining site to the residential building damaged by the natural hazard event.</u></i> ... <i>4. <del>A single temporary residential building is located on any property less than 500m<sup>2</sup> in size;</del></i> <i>5. Any new access provided meets the requirements of Rule TRN-R1;</i> <i>6. <del>Where multiple emergency residential buildings are located on the same site, then relevant zone setback standards are met where the activity adjoins any Residential or Settlement Zone.</del></i>
Wetland District Council	S181.032	Support	Retain.

### Analysis

286. Buller District Council (S538.376) seek to clarify TEMP-R4 to limit the establishment of temporary buildings within the same location and to clarify that this may occur after a natural hazard event. In my opinion the amendments requested are not necessary as they do not improve the clarity, efficiency or effectiveness of the rule.

### Recommendations

287. That TEMP-R4 be retained as notified.

### Analysis of Submissions on Key Issue 5 – TEMP-R5

Submitter	Submission Point & Point Number	Position	Decision Requested
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.589	Support	Retain rule
Neville Higgs	S329.003	Oppose	Delete section 1 of this provision
Grey District Council	S329.003	Support in part	Leave Freedom Camping regulation to bylaws.
Lynda Richmond	S423.003	Oppose	Not stated
Waka Kotahi NZ Transport Agency	S450.191	Support in part	Amend rule as follows: <i>Freedom Camping <del>Activities-on-land adjacent to the state highway network</del> Activity Status Permitted</i> <i>Where:</i> <i>1. This activity is in locations identified and signposted by <del>Waka Kotahi—New Zealand Transport Authority</del> or the relevant District Council as a designated responsible camping site or freedom camping site;</i>
Buller District Council	S538.377	Oppose	Delete Rule 5.
Grey District Council	FS1.432	Support	For reasons given this submission point is supported.
Grey District Council	S608.093	Oppose	Remove rule
Wetland District Council	S181.032	Support	Retain.

### Analysis

288. Waka Kotahi (S450.191) seek to amend TEMP-R5 to ensure that management of freedom camping is not within the state highway corridor. I agree with the amendments sought as they will provide improved clarity that freedom camping activities should not occur within the state highway network itself and reference to signage by Waka Kotahi may create confusion. I consider that the TEMP-R5 rule as notified provides clarity to plan users between the different areas managed under the District Plan and relevant bylaw, and therefore do not support the amendments sought by Waka Kotahi.
289. Several submitters seek to delete the rule. As discussed at paragraph 261 above, I consider TEMP-R5 is necessary to address freedom camping on land that is not otherwise managed under the relevant bylaw, and therefore recommend that this rule is retained.

### Recommendations

290. That TEMP-R5 be amended as follows:

*Activity Status Permitted*

*Where:*

- 1. This activity is in locations identified and signposted by ~~Waka Kotahi—New Zealand Transport Authority~~ or the relevant District Council as a designated Responsible Camping Site or Freedom Camping Site;*

### Analysis of Submissions on Key Issue 5 – TEMP-R6

Submitter	Submission Point & Point	Position	Decision Requested
-----------	--------------------------	----------	--------------------

	Number		
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.590	Support	Retain as notified.
Jet Boating New Zealand	S161.008		
Waka Kotahi NZ Transport Agency	S450.192		
Buller District Council	S538.378		
Frida Inta	S553.159	Amend	Amend 3. to provide explanation as to what 'other temporary activities' are, including such as spatial size, expected number of people.
Westpower Limited	FS222.0149	Oppose	Submission provides no detail to assess or comment on the impact of the requested amendments
Te Runanga o Ngāi Tahu, Te Runanga o Ngāti Waewae, Te Runanga o Makaawhio	S620.212	Support	<a href="#">d. The activity is a Māori Purpose Activity within a Māori Purpose Zone.</a>
Tony Michelle	FS30.3	Support	NZAAA supports the use of aircraft and helicopters
New Zealand Helicopter Association	FS83.17	Support	NZHA supports this submission.
Wetland District Council	S181.032	Support	Retain.

### Analysis

291. Te Runanga o Ngāi Tahu, Te Runanga o Ngāti Waewae, Te Runanga o Makaawhio (S620.212) seek to enable temporary activities that are a Māori Purpose Activity, within the Māori Purpose Zone. I do not consider this clarification is necessary, as temporary activities and Māori Purpose Activities are separately defined terms provided for within the plan.
292. In my opinion, further amendments to detail 'other temporary activities' are not necessary as this term is defined within the District Plan.

### Recommendations

293. That TEMP-R6 be retained as notified.

### Analysis of Submissions on Key Issue 5 – TEMP-R7

Submitter	Submission Point & Point Number	Position	Decision Requested
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.591	Support	Retain rule
New Zealand Defence Force	S519.021 S519.022	Support	Retain Rule and controlled activity status as notified.  Delete the matters of control as notified.
Te Rūnanga o Ngāti Waewae, Te Rūnanga o	FS41.52	Oppose	When Military Activities do not comply with the permitted standards

Makaawhio and Te Rūnanga o Ngāi Tahu			(particularly in regard to SASM and written approvals) their activities need to be assessed the same as any other temporary activity through the resource consent process. Otherwise there would be no reason for them to comply with any provisions.
Buller District Council	S538.379	Support	Retain Rule.
Wetland District Council	S181.032	Support	

### Analysis

294. Submitters support for the rule is noted.

### Recommendations

295. That TEMP-R7 be retained as notified.

## Analysis of Submissions on Key Issue 5 – TEMP-R8

Submitter	Submission Point & Point Number	Position	Decision Requested
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.592	Support	Retain rule
Buller District Council	S538.380	Support	
Westpower Limited	S547.497 S547.498	Amend	Add <a href="#"><i>c. The technical, locational, functional or operational constraints and/or requirements of the activity.</i></a>  Add <a href="#"><i>d. Benefits from the work being undertaken and energy activities and infrastructure developed.</i></a>
Wetland District Council	S181.032	Support	Retain.
Frida Inta	S553.225	Amend	Restricted discretionary matters consider effects on wildlife.

### Analysis

296. Westpower Limited (S547.497 and S547.498) seek to add matters of discretion to include consideration of locational, functional or operational needs and consideration of benefits associated with energy activities. Infrastructure is provided for in the Electricity, Infrastructure and Transport chapter, as such I do not support amendments requested as it may result in duplication.

297. In my opinion, matters of discretion in relation to potential effects on wildlife are not necessary due to the temporary nature of activities managed under TEMP-R8.

### Recommendations

298. That TEMP-R8 be retained as notified.

## Analysis of Submissions on Key Issue 5 – TEMP-R9

Submitter	Submission Point & Point	Position	Decision Requested
-----------	--------------------------	----------	--------------------

	Number		
Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora	S190.593	Support	Retain as notified
Waka Kotahi NZ Transport Agency	S450.193		
Buller District Council	S538.381		
Westpower Limited	S547.499 S547.500	Amend	Add <a href="#"><i>g. The technical, locational, functional or operational constraints and/or requirements of the activity.</i></a>  Add <a href="#"><i>h. Benefits from the work being undertaken and energy activities and infrastructure developed.</i></a>
Wetland District Council	S181.032	Support	Retain.

### Analysis

288. Westpower Limited (S547.499 and S547.500) seek to add matters of discretion to include consideration of locational, functional or operational needs and consideration of benefits associated with energy activities. Infrastructure is provided for in the Electricity, Infrastructure and Transport chapter, as such I do not support amendments requested as it may result in duplication.

### Recommendations

289. That TEMP-R9 be retained as notified.

## 8.0 Other Submissions

290. Three submissions were received in relation to the General District Wide Chapters generally. These submission points are addressed below.

### Analysis of Other Submissions

Submitter	Submission Point & Point Number	Position	Decision Requested
Buller Conservation Group	S552.001	Amend	Concerns with genetic modification at a district level.
Frida Inta	S553.001	Amend	Concerns with genetic modification at a district level.
Margaret Montgomery	S446.083	Amend	The general rules are confusing, over worded and partially confounding, particularly when the rules are pretty consistent with the existing or national standards, yet the formatting of information and display make the plan difficult to understand.

### Analysis

291. Buller Conservation Group (S552.001) and Frida Inta (S553.001) raise concerns in relation to genetic modification at a district level and seek for this matter to be addressed under the District Plan. I understand this matter is addressed within the District Plan elsewhere, for example Auckland, Far North, and Whangarei, however, in the absence of detailed planning evaluation or Section 32AA evaluation within the local context, I do not support amendments to the pTTPP to manage genetic modification.

292. Margaret Montgomery (S446.083) submits that the General District Wide rules are confusing and create duplication with the national planning standards. In the absence of specific relief sought, I do not recommend amendments in response to this submission. Furthermore, I note that the format of the General District Wide rules is consistent with the National Planning Standards.

### *Recommendations*

293. That no amendments are made to the General District Wide Chapters in response to these submissions.

## **9.0 Conclusion**

290. This report has provided an assessment of submissions received in relation to the **Earthworks, Light and Temporary Activities** Chapters. The primary amendments that I have recommended are detailed in **Appendix 1**.
291. Sections 5, 6 and 7 considers and provides recommendations on the decisions requested in submissions. I consider that the submissions on the **Earthworks, Light and Temporary Activities** Chapters should be accepted, accepted in part, rejected or rejected in part, as set out in my recommendations of this report and contained in **Appendix 1** of this report.
292. I recommend that provisions for the **Earthworks, Light and Temporary Activities** be amended for the reasons set out in this report and as contained in **Appendix 2** of this report.
293. I consider that the amended provisions will be efficient and effective in achieving the purpose of the RMA (especially for changes to objectives), the relevant objectives of this plan and other relevant statutory documents. I consider the small scale of amendments proposed to the provisions within the Earthworks, Light, and Temporary Activities chapters does not necessitate a Section 32AA evaluation.