

PLANNING EVIDENCE

IN THE MATTER OF Proposed Te Tai o Poutini Plan (pTTPP)

AND

IN THE MATTER OF A hearing into the above pursuant to the Resource Management Act 1991

DATE OF HEARING 14 November 2023

**REVIEW OF RESOURCE MANAGEMENT AND PLANNING MATTERS
RELATED TO SUBMISSIONS AND FURTHER SUBMISSIONS OF
WESTPOWER LTD TO THE PROPOSED TE TAI O POUTINI PLAN**

TOPICS:

General District Wide Matters:

Earthworks

Lights

Temporary Activities

Evidence of Martin Kennedy

1.0 INTRODUCTION

1.1 My name is Martin Kennedy and I am the Sole Director of West Coast Planning Limited, a Resource Management and Planning Consultancy based in Greymouth.

1.2 I have been engaged by Westpower Limited to provide planning evidence in regard to resource management issues related to the Proposed Te Tai o Poutini Plan (*pTTPP*), and more particularly recommendations and amendments arising from the Section 42A Report (*the s42A Report*) relating to submissions and further submissions made by Westpower.

1.3 My role in this hearing process is to provide evidence on relevant resource management issues to assist the Commissioners in considering the matter.

1.4 This evidence specifically relates to the three topics:

- Earthworks
- Lighting
- Temporary Activities

2.0 SUBMITTER

2.1 The submitter is: Westpower Limited (*Westpower*)

2.2 Westpower is a community owned company undertaking activities related to the generation and supply/distribution of electricity to the community. Westpower undertakes activities in all districts in the region. Westpower's ability to undertake its activities for the community is impacted by the provisions of the plan. When assessing the proposed plan activities have been considered under three broad categories (although all are interrelated);

- the existing electricity network;
- potential additions and extension to the network;
- electricity generation activities.

3.0 WITNESS

3.1 As above I have been requested by the submitter to present evidence on the resource management issues relating to certain matters which were the subject of submissions and further submissions to the pTTPP.

- 3.2 I am the Sole Director of West Coast Planning Limited, a Resource Management and Planning Consultancy based in Greymouth. Prior to that, I was Manager of the Environmental Services Department of the Grey District Council based in Greymouth. Before that I was District Planner at the same Council. I have 32 years Resource Management and Planning experience. I have experience in all aspects of implementation of the Resource Management Act (from a consent authority, applicant and submitter perspective) including: Resource Consent Applications (processing, development and submissions), environmental effects assessments; notification and processing decisions; and District Plan development, implementation and associated processes. I also assist submitters with submissions and involvement in National, Regional and District Policy and Plan development processes under the Resource Management Act.
- 3.3 I have had specific experience with the development, implementation and interpretation of the Policies and Plans on the West Coast as a consultant to Councils, applicants and submitters.
- 3.3 I have a BSc (Physical Geography) and a Masters Degree in Regional and Resource Planning (MRRP).
- 3.4 I am a current full member of the New Zealand Planning Institute.
- 3.5 I have read and understood the Code of Conduct for Expert Witnesses contained in the Environment Court's Consolidated Practice Note 2023 and agree to comply with it. The report presented is within my area of planning expertise and I confirm that I have not omitted to consider material facts that might alter or detract from the opinions given in this evidence.

4.0 SCOPE OF EVIDENCE

- 4.1 Westpower Ltd made submissions to a number of provisions throughout the pTTPP, and later in the process further submissions. There have been no pre-hearing processes since the lodging of submissions and further submissions.

- 4.2 For the purpose of this evidence the current pTTPP document is used as the base for assessment and opinions, with reference to the s42A Report and associated appendices.
- 4.3 Westpower Ltd, whilst retaining its submissions and further submissions, is in general agreement with those recommendations of the s42A Report where they result in the outcomes/decisions sought by Westpower. Westpower has sought my advice for the purposes of the hearing into the pTTPP and the matters arising which have not been accepted through the s42A Report.
- 4.4 It is not proposed to repeat all of the matters on which submissions were made by Westpower Ltd as they are before the Commissioners in the form of the original submission and further submissions, and the s42A Report. It is agreed that the report generally represents the matters raised in those submissions and further submissions, and those points of submission remain.
- 4.5 There appear to have been some submission and further submission points missed in the s42A Report and it is therefore not possible to comment on those matters until it is known what the recommended outcome is, including the associated reasons. This is because it was found that some recommendations in the Appendix 2 summary were different to those in the s42A Report discussion as noted in Section 8 below. These are;

Earthworks

S547.455 (Key Issue 2 – EARTH Overview) - This submission is noted in the analysis of submissions but there is no commentary in relation to it in order to consider and comment further at this point.

Lighting

FS222.033 and FS222.0144 (Key Issue 4 – LIGHT New Policies) - These are not included in the analysis of submissions or associated discussion but are referenced in the Appendix 2 summary of recommendations.

S547.483 (LIGHT-R4) - I note that the recommendation in Appendix 2 is to accept the submission in part however there is no reference in the s42A Report.

FS222.062 (LIGHT-R5) - This further submission is not referred to in the s42A Report but Rule 5 is proposed to be retained. Presumably the reference is

meant to be included with the other 4 matters; FS222.058, FS222.059, FS222.060 and FS222.061. However the intent is unclear at the time of writing this evidence.

Temporary Activities

FS222.037 (Key Issue 1 – TEMP General) - There is no discussion of this further submission point in the assessment of submissions in this section. It is also not included in the Appendix 2 summary of recommendations. It is not possible to comment further at this time.

FS222.0148 (Key Issue 1 – TEMP General) – This further submission is listed in the analysis however there is no discussion of the submissions points it relates to. The outcome is not listed in the Appendix 2 summary. Presumably the proposed outcome is the same as for FS222.037 above, but it is not possible to comment further at this time.

4.6 On reviewing the summary of recommendations it became apparent that a number were incorrect when compared with the commentary in the s42A Report. Where these matters have been able to be identified they are discussed in Section 8 below in relation to the subject heading used in the s42A Report.

4.7 This evidence is therefore submitted for two purposes;

- To provide advice in regard to the recommended outcomes, in their current form, in the s42A Report in relation to the submissions and further submissions made by Westpower Ltd.
- To provide further evidence in relation to matters arising from the s42A Report which require clarification and/or amendment. In terms of this hearing the topics covered are;
 - Earthworks
 - Lighting
 - Temporary Activities

4.7 This evidence covers these three topic areas and focuses on those recommendations where the s42A Report does not support the submissions and further submissions of Westpower Ltd, including where it was able to be identified that the summary of recommendations did not match the s42A commentary.

5.0 CONCLUSION

- 5.1 Whilst there is some agreement on the outcomes arising from a range of submissions and further submissions there are a number of points that in my opinion require further consideration and inclusion in the TTPP.
- 5.2 Rather than summarise the broad range of matters here Sections 7 and 8 below discuss each of those matters where submission points have been either accepted or rejected by the s42A Report and my opinions on each.

6.0 STRUCTURE OF EVIDENCE

- 6.1 To assist with this evidence the following sections are provided;
- a. Recommendations on Submissions and Further Submissions (Section 7.0)
supported
 - b. Amendments Required (Section 8.0)
 - c. Part II of the Resource Management Act 1991 (Section 9.0)
- 6.2 To assist with this evidence, summaries of the s42A Report recommendations are attached as Appendix 1 (Earthworks), Appendix 2 (Lighting) and Appendix 3 (Temporary Activities). These appendices will be referred to where required for ease of cross reference rather than repetition of information.

7.0 RECOMMENDATIONS ON SUBMISSIONS AND FURTHER SUBMISSIONS

- 7.1 Having reviewed the s42A Report and appendices, which are understood to reflect the recommendations of that report, Westpower have advised that those recommendations accepting its submissions and further submissions are supported. This is with the exception of the matters discussed below, in Section 8 of this evidence, where it appears that the summary is at odds with the discussion in the s42A Report for any particular matters.
- 7.2 I have reviewed those matters and support the recommendations to accept those submission points made by Westpower and provide no further evidence in regard to those matters at this stage. This is with the exception of those matters where it appears there is an incorrect summary of the recommendation in Appendix 2 to the s42A Report. In order to assist in progressing matters and focus on the matters in contention I do not comment here on my position

regarding the reasons for the recommendations set out the s42A Report to accept certain submissions and further submissions from Westpower. I do recognise that there are some matters where there is overlap between recommendations, either to accept or reject an outcome sought, however this evidence focuses on the overall outcome when considering how these matters/recommendations have been split in the report and my evidence. I will be available to answer any questions should those matters recommended to be accepted in the s42A Report remain in contention at the hearing.

7.3 For clarity I have attached Appendices 1 - Earthworks (pages 1 - 7), 2 - Lighting (pages 1 - 9) and 3 – Temporary Activities (pages 1 - 2) with the main focus being on those matters that have been recommended to be rejected by the s42A Report and which are the main focus of this evidence. I consider those to be important matters in development and implementation of the plan and require robust consideration. These matters are canvassed in the following Section 8.

7.4 A point I do note in discussing these matters, and which is a theme in points of submission made by Westpower to the pTTPP, relates to the requirement to give effect to the RPS and discussion will be on that basis when related to the matters arising. The RPS was developed following an extensive process. The RPS adopted by the region is a very detailed and directive document and requires careful consideration to ensure it is given effect in the TTPP.

8.0 AMENDMENTS REQUIRED

8.1 There are matters which require further amendment in regard to the current pTTPP document and as raised in the s42A Reports. For the purpose of this evidence and the hearing topics these matters are split between the three topics. these being;

- Earthworks submissions and further submissions (see Appendix 1)
- Lighting submissions and further submissions (see Appendix 2)
- Temporary Activities (see Appendix 3)

8.2 For the purpose of cross reference to the s42A Reports the headings used in that report are repeated here when discussing specific submission points.

Earthworks

5.2 Key Issue 1: EARTH General (pages 17-20 – s42A Report)

FS222.0312 (Appendix 1, page 3)

8.3 The s42A Report recommends accepting this further submission but on reviewing the commentary regarding the original submission (S560314) it appears that the recommendation would be to reject it, at least in part. It is difficult to respond to this issue without knowing the reasoning. The intent of the further submission was to ensure the outcome did not extend regulatory controls beyond that intended in the proposed plan. Provided the outcome is solely the amendment in paragraph 68, page 20, of the s42A Report I accept the proposed wording amendment. Having said that, this matter does highlight the complex nature of regulation in the plan with potentially many layers of rules for the same type of activity applying. Westpower has submitted on the grouping of rules for energy activities together for consistency of interpretation and administration so these matters will arise when that section of the plan is heard. By default those matters will relate to the wide range of rules in this chapter. I note in this case that the amendment to the wording now clearly indicates that the rules for earthworks can be located solely within other chapters rather than the earthworks chapter.

5.3 Key Issue 2: EARTH Overview (pages 20-24 – s42A Report)

S547.456 (Appendix 1, page 1)

8.4 The s42A Report recommends accepting this submission at paragraph 72 (although the submission point is not referenced) but the amendment proposed in the recommendation changes the outcome sought in the Westpower submission. The intent of the submission was to ensure it was clear that there were earthworks provisions for activities in the vicinity of energy activities and infrastructure in the energy activities chapter. As discussed above given the complex and multiple layers of rules in different locations in the plan this matter needs to be clear or the rules may be overlooked. I note in submissions to the energy activities chapter by Westpower it has been suggested that these rules should be located within the zone chapters to assist plan users to understand requirements. In my opinion the wording sought by Westpower should be included in the amendment accepted by the s42A Reporting Officer.

S547.458 (Appendix 1, page 5)

8.5 The s42A Report provides no discussion regarding this submission point but I note in the summary of recommendations it suggests that the matter be rejected. It is not clear what the reasons for this are so it is difficult to provide comment. The submission was to include a reference in the Overview section to the Strategic Objectives and Policies section. This was intended to assist with interpreting the plan as a whole. I am unclear why this would not be included when other amendments are being made to provide cross-references and assist with understanding the plan. As I understand the plan the strategic objectives and policies apply across all provisions and are therefore relevant to plan administration. Given the complex nature of the plan I see no reason why assisting users would not be a worthwhile approach. I may be able to comment further once it is clear what the reasoning for the recommendation was.

5.4 Key Issue 3: EARTH Objectives – EW-O1 (pages 24-26 – s42A Report)

S547.459 (Appendix 1, page 6)

8.6 The s42A Report lists the recommendation as being rejected in the summary but with reference to paragraphs 77-79 it would appear that it has been accepted in part. The area of disagreement relates to “natural and physical” aspects of the environment and I accept the s42A Reports comments that these are provided for in the definition of environment. Provided the addition of “remedied” is made to EW-O1 as recommended I agree with this outcome. Given the ambiguity of the recommendation summary I request the right to comment further if I have misinterpreted the intent of the s42A Report.

6.6 Key Issue 4: EARTH Policies

Key Issue 4 – EW-P1 (pages 27-29 – s42A Report)

S547.460 (Appendix 1, page 1)

8.7 The s42A Report recommends that the submission be accepted in part and the word “utilities” changed to “infrastructure”. Whilst I accept that the recommendation goes some way toward the matter this is an issue raised through the Westpower submission throughout the plan. I understand this is also a matter to be canvassed at the hearing for energy activities. The intent of the submission was to recognise the separately identified activity chapters and the multiple definitions related to electricity matters. In my opinion if “infrastructure” is to be inserted in this provision then at the least “energy

activities” should be as well. In my opinion the reference to “critical infrastructure” is appropriate because the wording regarding electricity matters is slightly different for all three definitions. I note there is also the issue of “Regionally Significant Infrastructure” to be determined and the outcome of consideration of these matters as a whole may inform the outcome required for this provision.

Key Issue 4 – EW-P2 (pages 29-30 – s42A Report)

S547.462 (Appendix 1, page 1)

8.8 The s42A Report recommends that the submission be accepted in part and the duplication with regional requirements be removed. I agree with that recommendation and proposed amendment. The s42A Report recommends that a change to the policy to refer to a requirement to “avoid, remedy or mitigate” is not required as the intent is to manage, which includes those matters. Whilst I agree that they are means of management the change sought in the submission was the replacement of “minimise” with those terms as they are different and provide for a range of outcomes depending on the circumstances, and in line with consideration of resource management matters. In my opinion the wording sought in the submission uses the correct terms for managing these matters. There is no reasoning provided as to why “minimisation” is required in every instance. I also note that the wording sought will be consistent with recommended changes to EW-O1, ie “... avoided, remedied or mitigated”.

Key Issue 4 – EW-P4 (pages 32-33 – s42A Report)

S547.464 (Appendix 1, page 1)

8.9 The s42A Report provides in the summary of recommendations that this submission has been accepted however in review the report, paragraph 94, it appears to have been rejected. This is an issue discussed above in terms of the use of terms. Westpower has sought an approach that recognizes the split of activities and ensure a consistent understanding of terms used as they relate to the chapters. Given the discussion of matters arising in the Strategic Directions section of the hearing it is not clear to me that without the appropriate wording all relevant matters will be provided for. A consistent and understandable approach is sought that includes all of the activities undertaken by Westpower. As above I note that there is to be consideration of these matters, including terms and the issue of “Regionally Significant Infrastructure”, at a later hearing

which may inform the outcomes of this submission point further. In the interim my opinion is that the outcome sought by Westpower is appropriate.

6.7 Key Issue 5: EARTH Rules

Key Issue 5 – EW-R1 (pages 37-42 – s42A Report)

S547.465 (Appendix 1, page 6)

8.10 The s42A Report recommends that this submission be rejected on the grounds that there has been no evidence to support an increase in height to 2m as sought by Westpower. The Westpower submission sought the increase to 2m in height to provide for the use of earth bunds as part of landscaping and screening of activities as a means to manage potential effects should that be required. This, in part, arose from proposed provisions to permit certain energy activities where screening, landscaping and fencing was provided. Westpower has made submissions to the energy activities chapter seeking amongst other matters clarification that such measures can include the use of earth bunds, which are common practice as screening measures. The height of 2m was sought as that is the permitted height for fences and walls on the boundary. It is unclear why an earth bund cannot be the same height as a fence or a wall as the purpose is essentially the same. There are other standards in the rule which control the potential effects of the development of earth bunds. In my opinion it is appropriate to provide for the increase in height to 2m as set out in the submission as it is consistent with other permitted activities in the plan.

S547.468 (Appendix 1, page 6)

8.11 The s42A Report recommends that this submission be rejected on the grounds that there matters raised are not provided for in the Regional Land & Water Plan. The intent of the submission was not to avoid those matters being appropriately managed but to ensure a compliance check was undertaken to avoid duplication of rules and consistency between plans as sought by the RPS. I accept that the s42A Report has reviewed these matters and whilst not entirely agreeing with the comments made accept the recommendation in regard to this matter.

Key Issue 5 – EW-R2 (pages 42-49 – s42A Report)

S547.469 (Appendix 1, page 6)

8.12 The s42A Report recommends that this submission be rejected on the grounds that the definition of critical infrastructure includes energy activities and infrastructure. The issue with multiple terms for energy activities is discussed above, is raised throughout submissions to the plan by Westpower, and has also been canvassed through the Introduction & General Provisions/Strategic Directions hearing. The matter is also arising at the hearing for energy activities and infrastructure. The intent of the submission is to ensure provisions provide for the activities undertaken by Westpower on a consistent basis. The matter of “Regionally Significant Infrastructure” is also arising at coming hearings which may assist in regularising terms but I note reference is proposed to be added to these rules where it is used nowhere else in the plan. This would essentially be an additional term for the same matter and needs resolution. Until such time as these matters are resolved it is my opinion that the outcome sought in the Westpower submission should be adopted to encompass all of the activities.

FS222.0106 (Appendix 1, pages 4-5)

8.13 The s42A Report does not provide any commentary in regard to this further submission but it is recommended to be accepted in part in the summary of recommendations. I note that there has been an amendment to the wording of (d) which changes the scope of the rule and is not in line with amendments sought in the Westpower submission or the further submission. Item (d) is recommended to be changed to remove the word “including”. This was not sought in submission S602.170 on which the change is presumably based and changes the scope of the rule from “earthworks including stockpiles required for ...” to being solely about stockpiles. I do not agree with that change as the intent of the rule is impacted and is not simply a tidying of the wording. It appears that the addition of the word “are” is in the wrong place and should be amended such that the provisions as a whole reads “These earthworks including ~~are~~ stockpiles are required for ...”. The scope of the rule should not be changed through this particular amendment as the amendment as recommended is not simply revision to avoid duplication.

Key Issue 5 – EW-R3 (pages 49-53 – s42A Report)

S547.470 (Appendix 1, page 6)

8.14 The s42A Report recommends that this submission be rejected on the grounds that infrastructure is already provided for in EW-R2. The submission of Westpower sought consistency of wording of provisions for interpretation and implementation by changing clause 2.ii. from “network utility operation” to “infrastructure”. This provision would then read, “ii. An Energy Activity, ~~Network Utility Operation~~ Infrastructure Activity or Transport Activity.”. This amendment was intended to ensure consistency with the naming of chapters in the Energy, Infrastructure and Transport Section of the plan as that is clearly what the provision is about. There is no issue arising in terms of the applicability of these rules, including that infrastructure should be left out, as that is not the intent of the proposed rule. This matter highlights Westpower’s numerous submissions seeking a consistent approach to the terms used given that there are multiple terms for certain activities. My opinion is that the change sought by Westpower should be implemented to ensure that the intent of the rule is achieved.

FS222.315 (Appendix 1, page 7)

8.15 The s42A Report recommends that this further submission be rejected on the grounds that more stringent earthworks rules should apply to activities in the NOSZ and be more akin to residential zone requirements. I disagree with that generalization given the context of the West Coast. The further submission of Westpower opposed the outcome sought in the original submission based on potential impacts on its activities and servicing of the community. Limits are already imposed in Open Space Zones as proposed by the rule and there is no assessment of the impact of this change in the submission or by the s42A Report from which to comment. I also note that there are later submissions to the plan seeking considerable extension to the mapped coverage of NOSZ which would have additional impacts based on the recommendation to this submission point. The amendment recommended in the report also changes the scope and intent of the original rule by introducing an “and” instead of the “or” at the end of the recommended addition. The matter could be resolved by the reinstatement of the original wording convention, ie,

“2. These are ancillary earthworks for:

- i. A Permitted Activity, except that in the:
 - a. Rural Lifestyle Zone ..., or
 - b. Natural Open Space Zone ... existing ground level; ~~and~~ or
- ii. An”.

FS222.0316 (Appendix 1, page 3)

8.16 The summary of recommendations to the s42A Report advises that this further submission be accepted and the original submission (S560.321) rejected. However a review of paragraph 140 indicates this is not correct and no view has been formed. There is no basis on which to make further comment at this point as the position of the s42A Report is unknown. The further submission of Westpower was on the ground that the original submission provided no specific wording and did not enable an understanding of the implications of the requested change, including whether it intended to broaden the scope of rules. Given that there is clearly some confusion as to what is sought my opinion is that the further submission should be upheld and the submission disallowed.

Key Issue 5 – EW-R4 (pages 53-54 – s42A Report)

S547.471 (Appendix 1, page 6)

8.17 The s42A Report recommends that this submission be rejected on the grounds that infrastructure is already provided for in EW-R2 as a permitted activity. The submission of Westpower sought consistency of wording of provisions for interpretation and implementation by changing clause 3. from “network utility operation” to “infrastructure”. This provision would then read, “ii. An Energy Activity, ~~Network Utility Operation~~ Infrastructure Activity or Transport Activity.”. This amendment was intended to ensure consistency with the naming of chapters in the Energy, Infrastructure and Transport Section of the plan as that is clearly what the provision is about. There is no issue arising in terms of the applicability of these rules, including that infrastructure should be left out, as that is not the intent of the proposed rule. This matter highlights Westpower’s numerous submissions seeking a consistent approach to the terms used given that there are multiple terms for certain activities. My opinion is that the change sought by Westpower should be implemented to ensure that the intent of the rule is achieved.

FS222.0317 (Appendix 1, page 3)

8.18 The summary of recommendations to the s42A Report advises that this further submission be accepted and the original submission (S560.322) rejected. However a review of paragraphs 142-145 provides no commentary in that regard. Accordingly there is no basis on which to make further comment at this point. I support the summary of recommendations in this regard and request the right to provide further input should it be found that this was an error that should have been addressed further in the report.

Key Issue 5 – EW-R5 (pages 54-55 – s42A Report)

S547.472 (Appendix 1, page 6)

8.19 The s42A Report recommends that this submission be rejected on the grounds that infrastructure is already provided for in EW-R2 as a permitted activity. The submission of Westpower sought consistency of wording of provisions for interpretation and implementation by changing clause 3. from “network utility operation” to “infrastructure”. This provision would then read, “ii. An Energy Activity, ~~Network Utility Operation~~ Infrastructure Activity or Transport Activity.”. This amendment was intended to ensure consistency with the naming of chapters in the Energy, Infrastructure and Transport Section of the plan as that is clearly what the provision is about. There is no issue arising in terms of the applicability of these rules, including that infrastructure should be left out, as that is not the intent of the proposed rule. This matter highlights Westpowers numerous submissions seeking a consistent approach to the terms used given that there are multiple terms for certain activities. My opinion is that the change sought by Westpower should be implemented to ensure that the intent of the rule is achieved.

FS222.0318 (Appendix 1, page 3)

8.20 The summary of recommendations to the s42A Report advises that this further submission be accepted and the original submission (S560.323) rejected. However a review of paragraphs 147-148 provides no commentary in that regard. Accordingly there is no basis on which to make further comment at this point. I support the summary of recommendations in this regard and request the right to provide further input should it be found that this was an error that should have been addressed further in the report.

Key Issue 5 – EW-R7 (pages 57-62 – s42A Report)

S547.474 & S547.475 (Appendix 1, page 6)

8.21 The summary of recommendations to the s42A Report recommends that these submissions be rejected but provides no commentary in this regard. The Report does note the further submission by Transpower in opposition to S547.475 but I note that there is no opposition to S547.474 which seeks the deletion of proposed item “e.”. Presumably the lack of commentary is on the grounds of a recommendation to delete the existing proposed rule in its entirety and replace it with a new restricted discretionary rule. However I note that the recommended rule contains no list of matters over which discretion is restricted. It is therefore not possible to comment further until that list of matters is known. In my opinion the submission points remain valid and should be provided for in any new restricted discretionary rule. I note that the further submission of Transpower whilst opposing the outcomes sought by Westpower at the same time understood the intent. In my opinion the activities of Westpower and Transpower are by necessity complementary and these issues should be resolved and provided for to ensure the transmission and distribution to, and use of renewable energy by, the community.

S547.476 (Appendix 1, page 6)

8.22 The summary of recommendations to the s42A Report recommends that this submission be rejected but there is no commentary in regard to this submission. Essentially my opinion is the same as set out in the discussion above at paragraph 8.21.

Key Issue 5 – EW-R8 (pages 62-66 – s42A Report)

S547.477 (Appendix 1, page 6)

8.23 The s42A Report recommends that this submission be rejected on the grounds that the submission will change the intent, reduce clear direction and reduce effectiveness of the clause. I disagree with that assessment, including a universal requirement to minimise effects in every instance regardless of circumstances. This plan is not a regional plan regulating matters under Section 15 of the Act. As amended by the submission item “d.” would ensure assessment of proposed “management or mitigation measures” for adverse effects beyond the boundary. The s42A Report elsewhere advises that the term management includes the usual measures to “avoid, remedy or mitigate” effects.

These terms are a standard assessment matter in considering applications on a case by case basis as would occur through this rule as a “restricted discretionary” activity. The Westpower submission sought to use the language of the rule (ie management and mitigation) but elsewhere in submissions to this section had sought to make such matters more explicit. Those proposals have struck opposition in the s42A Report on the grounds that “management” implicitly includes these matters (avoid, remedy, mitigate). In my opinion the outcome requested in the submission is appropriate but, if required, the provision could be reworded to provide better direction in regard to the management of effects beyond the boundary, ie. “d. The effectiveness of measures to avoid, remedy or mitigate adverse effects beyond the property boundary of the activity.”. This would ensure consistency with outcomes sought by Westpower throughout this chapter and the outcome sought in proposed EW-O1 as set out in Appendix 1 to the s42A Report.

S547.478 (Appendix 1, page 6)

8.24 The s42A Report recommends that this submission be rejected on the grounds that the amendments sought are already included in the term “critical infrastructure. The use of multiple terms for the same activities is discussed above, and applies in this instance. I note that having recommended there be no change to this provision the s42A Report elsewhere proposes changing the term to “*Regionally Significant Infrastructure*”. I agree that term would give effect to the RPS but is an overall unresolved matter through the hearings process as the plan in its drafting has specifically chosen not to use that term. Westpower in other submissions seeks to regularise terms and avoid the use of multiple terms in different parts of the plan for the same activities, but with slightly different wording. As the plan currently stands in my opinion it is appropriate to include the wording sought by Westpower as those are all terms are used to define its activities.

FS222.031 (Appendix 1, page 2) and FS222.0142 (Appendix 2, page 7)

8.25 The summary of recommendations in the s42A Report recommends differing outcomes, ie. accept and reject respectively, regarding identical submission points by different submitters. Having reviewed the s42A Report it appears that the recommendation to both the further submissions and original submissions is to “accept in part”. I disagree that the outcome sought in the submission is

essentially the same as the proposal changes one matter (landscape character) to two matters (landscape and natural character). There is no discussion in the s42A report in regard to how this broadens the assessment of any proposal and I disagree that the change more correctly reflects the policy intent as shown in EW-P1 as set out in the Appendix 1 to the s42A Report, ie “impact on ..., landscape character, ...”. I agree that requested amendments to items (d) and (e) are not appropriate and should be rejected as, respectively, they do not provide for “management” as discussed above and introduce issues managed through regional plans.

Lighting

6.2 Key Issue 1: General Submissions (pages 67-69 – s42A Report)

FS222.0364 (Appendix 2, page 8) and FS222.365 (Appendix 2, page 1)

8.26 The s42A Report summary of recommendations appears to be in error with reference to the commentary in the report. The summarised recommendation is to reject further submission FS222.0364 however the submission to which it relates is also recommended to be rejected. As the further submission was to disallow the original submission point presumably the further submission is to be accepted. I note that FS222.365, which is about the same topic from the same submitter, recommends accepting the outcome sought in the further submission. Provided the recommendation regarding FS222.0364 is an error and the recommendation is to accept both further submissions I agree with the reasoning set out in the s42A Report as that includes the matters raised in the further submission. Any such identification of “Dark Skies” areas should be worked through in a comprehensive and separate process enabling input from all parties.

6.3 Key Issue 2: LIGHT Overview (pages 69-70 – s42A Report)

S547.479 (Appendix 2, page 1)

8.27 The s42A Report notes this submission, seeking retention of the overview as worded, and recommends it be accepted. I support that recommendation. However, it then recommends an amendment to the wording which changes how it might be interpreted; ie. “*the immediate area*”. Whilst perhaps not a major issue given its location in the overview I am concerned that this amendment removes the clarity of the wording and adds a level of ambiguity, ie what is immediate?, which can cause interpretation issues when administering

and using the plan. I consider the wording should remain as proposed in the plan.

6.4 Key Issue 3: Light Objectives

Key Issue 3 – LIGHT-O1 (pages 70-72 – s42A Report)

FS222.032 (Appendix 2, page 9) and FS222.0143 (Appendix 2, page 5)

8.28 The s42A Report summary of recommendations appears to be in error with reference to the commentary in the report. The summarised recommendation is to reject further submission FS222.032 however the submission to which it relates is also recommended to be rejected. As the further submission was to disallow the original submission point presumably the further submission is to be accepted. I note that FS222.0143, which is about the same topic from a different submitter, recommends accepting the outcome sought in the further submission. Provided the recommendation regarding FS222.032 is an error and the recommendation is to accept both further submissions, and disallow the original submissions, I agree with the reasoning set out in the s42A Report as that includes the matters raised in the further submission.

Key Issue 3 – LIGHT-O2 (pages 72-74 – s42A Report)

S547.481 (Appendix 2, page 7)

8.29 The s42A Report recommends that this submission be rejected on the basis that a requirement to ensure potential effects on the matters listed is avoided, remedied or mitigated is not sufficient policy direction. The wording of the proposed objective has been amended to remove “protection” of views of the night sky and replace with “recognise the values and qualities”. There is an error in wording at paragraph 201(a) but I note this has been corrected in the revised provisions wording. I do not agree with the addition of “protection” to all indigenous vegetation and fauna as proposed under paragraph 201(d) as total protection may not always be possible. Protection of all indigenous vegetation and fauna from all development is neither required by the Act nor consistent with the provisions of the RPS, particularly with regard to regionally significant infrastructure. In my opinion given the range of matters the wording in the Westpower submission provided adequately for the matters in, and manner consistent with, the Act and RPS. This was part of a suite of amendments sought to both objectives and policies to ensure potential effects were appropriately managed.

6.6 Key Issue 4: Policies

Key Issue 4 – LIGHT-P1 (pages 75-77, s42A Report)

S547.482 (Appendix 2, page 9)

8.30 The s42A Report recommends that this submission be rejected based on the outcome sought not being sufficiently targeted or meeting the requirements of Sections 6 and 7 of the Act. I disagree with that assessment as the outcome sought were a suite of amendments; ie objective, policy and rules that contained consistent wording. I note that the s42A report advised that, in recommending rejection of amendments to LIGHT-O2, reference to avoid, remedy or mitigate did not give sufficient policy direction. I disagree that the implementation of policies and objectives that require the management of potential effects will not achieve the outcomes of Sections 6 and 7 of the Act. In my opinion the implementation as proposed in the submission will ensure that those requirements are met taking in to account the context of the issue and the location in which it is occurring. I note, for example, that with the amendments proposed at paragraph 208(b) and (f) of the s42A Report that the policy and objective essentially say the same thing and provide no guidance on management of effects. As above I note that “protection” as proposed in (f) is stated as an absolute which is not consistent with the Act or the RPS, particularly as it relates to regionally significant infrastructure. The policy as worded provides no guidance as to how that is to be achieved. In my opinion the use of management of effects, ie avoid, remedy or mitigate, is consistent with both the Act and the RPS and provides opportunities to achieve the desired outcomes. Finally the s42A Report considers that taking account of requirements and constraints of activities is not required as it is essentially incorporated in to items (a) and (c). I disagree with that assessment given that (a) and (c) will be weighed against the wording in proposed (b), (d), (e) and (f). In my opinion the additional matter (f) sought in the submission is an appropriate consideration when taking all of the matters into account. In my opinion the relief sought through the Westpower submission in regard LIGHT-P1 is better able to guide decision making and implementation to achieve lighting outcomes.

Key Issue 4 – LIGHT-P3 (pages 78-82, s42A Report)

S547.0510 (Appendix 2, page 7-8)

8.31 The s42A Report recommends that this submission be rejected based on the outcome sought not being sufficiently targeted or meeting the requirements of Sections 6 and 7 of the Act. I have discussed these matters above so will not repeat them here other than to reiterate those reasons for the amendments sought. In my opinion, as a whole, the differences in wording between the policies are likely to cause interpretation issues. It is my opinion that consistency in approach and wording is required to ensure that the appropriate outcomes are achieved. The submission of Westpower in setting out proposed wording sought such consistency of approach and provided for the management of lighting. I note that in discussing the issue of requirements and constraints of activities the s42A Report advises that these are better placed in LIGHT-P1 but in the recommendations at LIGHT-P1 advised the matters could already be interpreted as being provided for. I disagree with that assessment, including as discussed above in relation to LIGHT-P1. I do note that having advised that amendment is not required in this regard additional wording is incorporated in to proposed item (c) at paragraph 223 of the s42A Report. In my opinion these are relevant matters in general and are consistent with, and give effect to the RPS, particularly in regard to regionally significant infrastructure. The wording submitted by Westpower is appropriate in this regard.

6.7 Key Issue 5: Light Rules

Key Issue 5 – LIGHT Rules General (pages 83-87, s42A Report)

FS222.058 (Appendix 2, page 2)

FS222.059 (Appendix 2, page 9)

FS222.060 (Appendix 2, page 3)

FS222.061 (Appendix 2, page 4)

8.32 The s42A Report has accepted or rejected the range of further submissions in part to the rules. Westpower had supported the Buller District Council in seeking to be more enabling in terms of lighting in a manner consistent with current rules. I agree with that but do note that the matter is the subject of specific lighting evidence through the s42A Report. Reviewing the proposed rules I note that the latest version of R1 is in line with the outcome sought by Westpower in its further submission as this assists with interpreting and

implementing the rules to follow. The remaining issues in the submission and further submissions related to simplifying the rules and retaining existing flexibility in lux levels. Whilst I accept that lighting is a specialist matter, I do consider that it is relevant to consider why a change is being made rather than simply because that is what is done elsewhere in terms of the standards. In making a more restrictive regime it would be useful to gain an understanding of the problems with the existing regime that require a change. Having reviewed the expert lighting evidence it is unclear to me whether the full range of activities that might occur across the district have been readily identified and assessed in terms of the impact of these provisions. This is particularly relevant given that the rural zone is significantly reduced from that which is provided for in the current District Plans and the extensive areas of the region proposed to be covered by overlays which impose the most restrictive light levels, such as those in proposed LIGHT-R3. The addition of overlays (ie outstanding natural landscapes and outstanding natural features) into the rules is a considerable amendment without full examination of the outcomes. This change has the potential to considerably change the interpretation of the rules which are generally based on “zones”. I consider that it should be clear what the regulatory impacts of these proposals are before any decisions are made. It will also be important to bear these impacts in mind when considering any submissions to change the extent of zones, or overlays.

Key Issue 5 – LIGHT-R5

S547.484 (Appendix 2, page 1)

8.33 The s42A Report recommends that this submission be accepted based on the current wording not providing for a consideration of the constraints or requirements of the proposed activity. I agree with that recommendation. Having said that, the proposed amendment (as set out in Appendix 1 to the s42A Report) only includes functional and operational matters and in my opinion the wording in the submission from Westpower should be adopted. This wording is consistent with wording used in the RPS in relation to constraint or requirement matters. A variation of wording of this issue is used throughout the document and it is a consistent submission point from Westpower to regularise the wording for consistency within the document and across documents in terms of the RPS. I consider that the wording sought by Westpower should be included

in the plan on a consistent basis and I note it appears to have been the intention of the Reporting Officer in terms of the recommendation listed at page 83, LIGHT-R5, of the s42A Report.

Temporary Activities

7.2 Key Issue 1 – TEMP general (pages 94-97 – s42A Report)

S547.042 (Appendix 3, page 1)

8.34 The s42A Report recommends that this submission be rejected based on there being a reference to buildings in the first paragraph of the definition. Whilst I understand this in my opinion there is benefit in adding “buildings” to (e) given that it refers to structures, which is also referenced in the first paragraph. Given that it is the only item of matters (a) – (f) that makes this reference I consider it likely there will be an interpretation that the intent is this is only to relate to “structures”. As that is not the intent, based on the s42A Report, then the item should reference “buildings”. The alternative is to remove the reference to structures in (e), ie. “~~e. structures for~~ construction and demolition projects; and ...” although this was not the decision sought. In my opinion the addition of “buildings” to (e) is appropriate to ensure consistent implementation of the provisions.

Key Issue 5 – Temporary Activity Rules – TEMP-R2 (pages 103-104 – s42A Report)

S547.495 (Appendix 3, page 1)

8.35 The s42A Report recommends that this submission be rejected based on there being a potential for implementation complications and for effects to spread beyond a single site. Whilst I understand the concern in my experience the outcome sought already occurs in certain circumstances and may therefore prevent existing temporary practices that raise no issues given their temporary nature. The relief sought was qualified in that it allowed some flexibility provided there was no greater effect arising to any other landowner. In my opinion it is an appropriate addition to the provision for temporary activities.

Key Issue 5 – Temporary Activity Rules – TEMP-R8 (pages 108 – s42A Report)

S547.497 & S547.498 (Appendix 3, pages 1 & 2)

8.36 The s42A Report recommends that this submission be rejected based on the matters being provided for in the energy, infrastructure and transport chapters

and to avoid duplication. Given this is a separate district wide matter that presumably must also be complied with then it is relevant to include these matters in this section. If it is intended that the “Temporary Activities” chapter does not apply to energy, infrastructure and transport chapters then the plan should clearly state that. I note that TEMP-R8 is a “*restricted discretionary*” activity and therefore only those matters listed are to be considered in determining an application under that rule. In my opinion the two additions matters (c) and (d) sought in the submission are appropriate inclusions to ensure they are considered in relation to applications under this rule. The wording of proposed matter (c) is consistent with wording proposed by Westpower throughout the document to give effect to, and be consistent with wording in, the RPS. I note that these matters, in particular matter (c) are relevant when considering the outcome of the issues raised above in regard to TEMP-R2 as the matters are interrelated.

Key Issue 5 – Temporary Activity Rules – TEMP-R9 (pages 108-109 – s42A Report)

S547.499 & S547.500 (Appendix 3, pages 2)

8.37 The s42A Report recommends that this submission be rejected based on the matters being provided for in the energy, infrastructure and transport chapters and to avoid duplication. I have canvassed these matters in the evidence relating to TEMP-R9 and my opinion is the same in this regard, and for the same reasons.

9.0 PART II OF THE ACT

9.1 Part 2 of the Act, and more particularly Section 5, requires an assessment of the proposal and its ability to achieve the Acts overriding principal of sustainable management to be undertaken.

9.2 It is my opinion that the amendments suggested above will assist in ensuring the TTPP achieves the purpose and principals of the Act for the reasons discussed above.

Martin Kennedy
Planning Consultant
(West Coast Planning Ltd)

16 October 2023

Appendix 1: Summary of S42A Recommendations – Earthworks

Submissions & Further Submissions Accepted

Submissions

Submission Point	Submitter/Further Submitter	Provision	Position	Summary of Decision Requested	Officer Recommendation
S547.456	Westpower Limited	Overview	Amend	Insert new point under Other Relevant Te Tai oPoutini Plan provisions: Energy Activities - this Chapter contains provisions for activities in the vicinity of energy activities and infrastructure.	Accept in part
S547.457	Westpower Limited	Overview	Amend	Add under Other relevant regulations: Earthworks in the vicinity of electrical infrastructure are also regulated under the New Zealand Code of Practice for Electrical Safe Distances (NZCEP 34:2001)	Accept
S547.460	Westpower Limited	EW - P1	Amend	Amend: Enable temporary and small scale ... land, the provision of utilities, including energy activities and critical infrastructure , and hazard ...”	Accept in part
S547.461	Westpower Limited	EW - P2	Amend	Avoid duplication of compliance by removing reference to “water quality” from the policy where already provided for in regulations administered by regional plans.	Accept
S547.462	Westpower Limited	EW - P2	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: Manage the effects of earthworks to avoid, remedy or mitigate adverse effects on landscape character, amenity, natural features, biodiversity	Accept in part
S541.463	Westpower Limited	EW – P3	Amend	Retain	Accept
S547.464	Westpower Limited	EW - P4	Amend	Amend: Protect critical infrastructure, including energy activities and infrastructure , and natural hazard ...	Accept
S547.466	Westpower Limited	EW – R1	Amend	Add d. Installation of underground equipment for as part of the electricity supply or distribution network.	Accept

S547.467	Westpower Limited	EW – R1	Amend	Add e. achieving safe separation between conductors and the ground.	Accept
S547473	Westpower Limited	EW – R6	Retain	Support	Accept

Further Submissions

Submission Point	Submitter/Further Submitter	Provision	Position	Summary of Decision Requested	Officer Recommendation
S486.046	Horticulture New Zealand	EW-P4	Oppose in part	Amend EW-P4: Ensure that critical infrastructure and natural hazard defences are not compromised by the adverse effects of earthworks.	Reject
FS222.0164	Westpower limited	Oppose	Disallow		Accept
S519.034	New Zealand Defence Force	EW- R2	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.	Reject
FS222.0199	Westpower Limited		Oppose	Disallow	Accept
S524.094	Federated Farmers of New Zealand	EW-P4	Support in part	Amend EW-P4: Ensure that critical infrastructure and natural hazard defences are not compromised by the adverse effects of earthworks.	Reject
FS222.0112	Westpower Limited		Oppose	Disallow	Support
S552.137	Buller Conservation Group	Overview	Amend	The scope and scale of earthworks range from large bulk earthworks, which can alter the landform, and its topography, and drainage hydraulics , to small and discrete areas of works most often associated with minor development	Reject
FS222.029	Westpower Limited		Oppose	Disallow	Accept
S552.139	Buller Conservation Group	EW – O1	Oppose	Separate into 2 objectives, the first for protection of the natural environment, the second for exploitation of that environment.	Reject
FS222.030	Westpower Limited		Oppose	Disallow	Accept
S552.142	Buller Conservation Group	EW - R8	Amend	a The impact on visual amenity, landscape and natural character, outlook and privacy;	Reject

				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;	
FS222.031	Westpower Limited		Oppose	Disallow	Accept
S553.139	Frida Inta	EW - O1	Oppose	Separate into 2 objectives, the first for protection of the natural environment, the second for exploitation of that environment.	Reject
FS222.0141	Westpower Limited		Oppose	Disallow	Accept
5560.314	Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	Earthworks	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'.	Reject
FS222.0312	Westpower Limited		Oppose	Disallow	Accept
S560.318	Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	EW - R1	Amend	Add the following standard: 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	Reject
FS222.0314	Westpower Limited		Oppose	Disallow	Accept
S560.321	Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	EW - R3	Amend	Replace term 'Overlay', or otherwise clarify in line with Key Issue above.	Reject
FS222.0316	Westpower Limited		Oppose	Disallow	Accept
S560.322	Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	EW - R4	Amend	Replace term 'Overlay', or otherwise clarify in line with Key Issue above.	Reject

FS222.0317	Westpower Limited		Oppose	Disallow	Accept
S560.323	Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	EW – R5	Amend	Replace term ‘Overlay’, or otherwise clarify in line with Key Issue above.	Reject
FS222.0318	Westpower Limited		Oppose	Disallow	Accept
S560.325	Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	EW - R7	Amend	Make it dear in these two roles, by way of a condition, that: 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.	Reject
FS222.0319	Westpower Limited		Oppose	Disallow	Accept
S560.326	Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	EW – R8	Amend	Make it dear in these two roles, by way of a condition, that: 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. Retain matters of discretion. The advice note at the bottom of RB should be amended in line with Key Issue above.	Reject
FS222.0320	Westpower Limited		Oppose	Disallow	Accept
S602.170	Department of Conservation	Earthworks	Amend	Amend: Activity Status Permitted Where: 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 These are earthworks associated with an approved subdivision consent; or 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	Accept in Part

				network utilities including public roads; or These are earthworks 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	
FS222.0106	Westpower Limited		Oppose	Disallow	Accept in Part
S608.085	Grey District Council	EW - R1	Amend	Amend Condition 1 to read: 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; or 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	Reject
FS222.0154	Westpower Limited		Oppose	Not Stated	Accept in Part
S560.0588	Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	EW – P2	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.	Reject
FS222.0313	Westpower Limited		Oppose	Disallow	Accept

Submissions & Further Submissions Rejected

Submissions

Submission Point	Submitter/Further Submitter	Provision	Position	Summary of Decision Requested	Officer Recommendation
S547.458	Westpower limited	Overview	Amend	Insert section on Strategic Objectives and Policies as per previous	Reject

				chapters.	
S547.459	Westpower Limited	EW - O1	Amend	Amend: To provide for earthworks ... on the surrounding natural and physical environment are avoided, remedied or mitigated.”.	Reject
S547.465	Westpower Limited	EW - R1	Amend	Amend 1. Earthworks must not exceed a maximum depth of 1.5m or height above ground of 2m measured vertically within 1.5m of a boundary except	Reject
S547.468	Westpower Limited	EW - R1	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.	Reject
S547.469	Westpower United	EW - R2	Amend	Amend d. These are earthworks including stockpiles required for network utility, including energy activities and infrastructure , or critical infrastructure ... of new network utilities, including energy activities and infrastructure , and public roads.	Reject
S547.470	Westpower Limited	EW - R3	Amend	Amend item 2.ii., ii. An Energy Activity, Infrastructure Activity or Transport Activity.	Reject
S547.471	Westpower limited	EW - R4	Amend	Amend 3. An Energy Activity, Infrastructure Activity or Transport Activity.	Reject
S547.472	Westpower limited	EW - R5	Amend	Amend 3. An Energy Activity, Infrastructure Activity or Transport Activity.	Reject
S547.474	Westpower Limited	EW - R7	Amend	Delete e.	Reject
S547.475	Westpower Limited	EW - R7	Amend	Add h. Any technical, locational, functional or operational constraints or requirements of the proposed activity.	Reject
FS110.046	Transpower NZ Ltd		Oppose	Disallow	Accept
S547.476	Westpower Limited	EW - R7	Amend	Add i. The benefits arising from the proposed new activity.	Reject
FS110.045	Transpower NZ Ltd		Oppose	Disallow	Accept
S547.477	Westpower Limited	EW - R8	Amend	Amend d. The effectiveness of proposed management or mitigation measures for adverse effects beyond the property boundary of the activity.	Reject
S547.478	Westpower Limited	EW - R8	Amend	Amend g. The impact of earthworks on energy activities and infrastructure , including critical infrastructure.	Reject

Further Submissions

Submission Point	Submitter/Further Submitter	Provision	Position	Summary of Decision Requested	Officer Recommendation
S553.142	Frida Inta	EW - R8	Amend	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;	Reject
FS222.0142	Westpower Limited		Oppose	Disallow	Reject
S560.320	Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	EW - R3	Oppose	b. Add to Rule EW - R3 the following conditions: "4. Where the earthworks are In the NOSZ they are: A maximum of 250m2/site of land Is disturbed In any 12-month period; A maximum of 200m3 of material is transported off site in any 12-month period; and c. There is a maximum 1m change of existing ground level."	Accept
FS222.0315	Westpower Limited		Oppose	Disallow	Reject

Appendix 2: Summary of S42A Recommendations – Lighting

Submissions & Further Submissions Accepted

Submissions

Submission Point	Submitter/Further Submitter	Provision	Position	Summary of Decision Requested	Officer Recommendation
S647.479	Westpower Limited	Overview	Retain	Support	Accept
S547.480	Westpower Limited	LIGHT - O1	Amend	Amend Artificial outdoor lighting enables ... entertainment activities, transport, energy activities and public health and safety.”	Accept
S547.483	Westpower Limited	LIGHT - R4	Amend	Amend: Control the intensity, location ... a. ensure that adverse effects of any artificial outdoor lighting on light sensitive areas and uses are avoided, remedied or mitigated. ... c. avoid, remedy or mitigate adverse effects on views ... d. avoid, remedy or mitigate adverse effects on the significant habitats ... e. avoid, remedy or mitigate adverse effects on the health and safety ... f. recognises the technical, location, functional or operation constraints or requirements of activities.	Accept in part
S547.484	Westpower Limited	LIGHT – R5	Amend	Add i. The technical, locational, functional or operational constraints and/or requirements of the activity.	Accept

Further Submissions

Submission Point	Submitter/Further Submitter	Provision	Position	Summary of Decision Requested	Officer Recommendation
S275.009	West Coast Penguin Trust	Light	Amend	Amend the provisions to support Dark Sky Park designation in the Punakaiki/Barrytown Flats area	Reject
FS222.0365	Westpower Limited		Oppose	Disallow	Accept

S538.324	Buller District Council	LIGHT - R1	Oppose	<p>Delete Rules 1 to 5 and insert the following:</p> <p>LIGHT - R1: Artificial Outdoor Lighting Associated with Roads and Pedestrian Cycle Pathways Activity Status Permitted</p> <p>LIGHT - R2: Activities with Artificial Outdoor lighting Activity Status Permitted</p> <p>Where:</p> <p>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).</p> <p>Advice Note Lighting limits must be measured and assessed in accordance with Standard ASINZS 4282-Control of the Obtrusive Effects of Outdoor Lighting.</p> <p>Consequential amendment to Rule 6 as follows: Artificial Outdoor lighting within the Outstanding Coastal Natural Character Overlay and not meeting the Permitted Activity Standards.</p>	Accept in part
FS222.058	Westpower Limited		Oppose in part	Not stated	Accept in part
S538.326	Buller District Council	LIGHT – R3	Oppose	<p>Delete Rules 1 to 5 and insert the following:</p> <p>LIGHT - R1: Artificial Outdoor Lighting Associated with Roads and Pedestrian Cycle Pathways Activity Status Permitted</p> <p>LIGHT - R2: Activities with Artificial Outdoor lighting Activity Status Permitted</p> <p>Where:</p>	Accept in part

				<p>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</p> <p>10 lux (in both the horizontal and vertical planes).</p> <p>Advice Note Lighting limits must be measured and assessed in accordance with Standard ASINZS 4282-Control of the Obtrusive Effects of Outdoor Lighting.</p> <p>Consequential amendment to Rule 6 as follows: Artificial Outdoor lighting within the Outstanding Coastal Natural Character Overlay and not meeting the Permitted Activity Standards.</p>	
FS222.060	Westpower Limited		Oppose in part	Not stated	Accept in part
S538.327	Buller District Council	LIGHT – R4	Oppose	<p>Delete Rules 1 to 5 and insert the following:</p> <p>LIGHT - R1: Artificial Outdoor Lighting Associated with Roads and Pedestrian Cycle Pathways Activity Status Permitted</p> <p>LIGHT - R2: Activities with Artificial Outdoor lighting Activity Status Permitted</p> <p>Where:</p> <p>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</p>	Accept in part

				<p>the Mixed Use Zone, Port Zone and General Industrial Zone; and for all other zones 10 lux (in both the horizontal and vertical planes). Advice Note Lighting limits must be measured and assessed in accordance with Standard ASINZS 4282-Control of the Obtrusive Effects of Outdoor Lighting.</p> <p>Consequential amendment to Rule 6 as follows: Artificial Outdoor lighting within the Outstanding Coastal Natural Character Overlay and not meeting the Permitted Activity Standards.</p>	
FS222.061	Westpower Limited		Oppose in part	Not stated	Accept in part
S538.328	Buller District Council	LIGHT – R5	Oppose	<p>Delete Rules 1 to 5 and insert the following: LIGHT - R1: Artificial Outdoor Lighting Associated with Roads and Pedestrian Cycle Pathways Activity Status Permitted LIGHT - R2: Activities with Artificial Outdoor lighting Activity Status Permitted Where: 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). Advice Note Lighting limits must be measured and assessed in accordance with Standard ASINZS 4282-Control of the Obtrusive Effects of Outdoor Lighting.</p>	Accept in part

				Consequential amendment to Rule 6 as follows: Artificial Outdoor lighting within the Outstanding Coastal Natural Character Overlay and not meeting the Permitted Activity Standards.	
FS222.062	Westpower Limited		Oppose in part	Not stated	Accept in part
S552.143	Buller Conservation Group	Light Policies	Amend	New policy: 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.	Reject
FS222.033	Westpower Limited		Oppose	Disallow	Accept
S552.148	Buller Conservation Group	LIGHT - P3	Amend	e Minimizes adverse effects on amenity values , the health and, safety and enjoyment of people and communities in the surrounding area. f Minimizes light blindness caused by badly- directed light.	Reject
FS222.034	Westpower Limited		Oppose	Disallow	Accept
S553.143	Frida Inta	Light Policies	Amend	New policy: 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.	Reject
FS222.0144	Westpower Limited		Oppose	Disallow	Support
S553.145	Buller Conservation Group	LIGHT - O1	Amend	Artificial outdoor lighting enables night-time wait, rural productive activities, recreation activities, sport, entertainment activities, transportation and public health and safety, and maintains other amenity values within zones.	Reject
FS222.0143	Westpower Limited		Oppose	Disallow	Accept
S553.148	Buller Conservation Group	LIGHT - P3	Amend	e Minimizes adverse effects on amenity values , the health and, safety and enjoyment of people and communities in the surrounding area. f Minimizes light blindness caused by badly- directed light.	Reject
FS222.0145	Westpower Limited		Oppose	Disallow	Accept

S560.327	Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	Light	Amend	Amend provisions of the chapter to protect indigenous biodiversity more appropriately.	Reject
FS222.0321	Westpower Limited		Oppose	Disallow	Accept
S560.329	Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	LIGHT - P1	Support in part	Include “and avoids adverse effects on indigenous biodiversity” at end of(e).	Reject
FS222.0322	Westpower Limited		Oppose	Disallow	Accept
S602.175	Department of Conservation	LIGHT - P1	Amend	Amend: 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; Minimises adverse effects on the significant habitats of light sensitive native indigenous vegetation and habitats of indigenous fauna and the species themselves; and Minimises adverse effects on the health and safety of people and communities in the surrounding area.	Reject
FS222.0107	Westpower Limited		Oppose	Disallow	Accept
S560.559	Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	LIGHT - P2	Amend	Amend b. Artificial outdoor lighting for the purpose of emergency response or public health and safety, which complies with P2 as much as possible.	Reject
FS222.0323	Westpower Limited		Oppose	Disallow	Accept

Submissions & Further Submissions Rejected

Submissions

Submission Point	Submitter/Further Submitter	Provision	Position	Summary of Decision Requested	Officer Recommendation
S547.481	Westpower Limited	LIGHT -O2	Amend	Amend Artificial lighting is located, operated and designed to maintain 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, protects views of the night sky, the habitats and ecosystems of nocturnal native fauna and the-species themselves are avoided, remedied or mitigated.	Reject
S547.482	Westpower Limited	LIGHT – P1	Amend	Amend LIGHT – P1, “Provide for the use of ... a. ... b. avoids, remedies or mitigates adverse effects on the character and amenity values of c. ... d. ... e. avoids, remedies or mitigates adverse effects on the health and wellbeing ... f. recognises the technical, location, functional or operation constraints or requirements of activities.” .	Reject
S547.0510	Westpower Limited	LIGHT – P3	Amend	1) Amend LIGHT-P3, “ Control the intensity, location ... a. ensure that adverse effects of any artificial outdoor lighting on light sensitive areas and uses are avoided, remedied or mitigated. ... c. avoid, remedy or mitigate adverse effects on views ... d. avoid, remedy or mitigate adverse effects on the significant habitats ... e. avoid, remedy or mitigate adverse effects on the health and safety ...	Reject

				f. recognises the technical, location, functional or operation constraints or requirements of activities.”	
--	--	--	--	--	--

Further Submissions

Submission Point	Submitter/Further Submitter	Provision	Position	Summary of Decision Requested	Officer Recommendation
S275.016	West Coast Penguin Trust	LIGHT	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.	Reject
FS222.0364	Westpower Limited		Oppose	Disallow	Reject
S538.325	Buller District Council	LIGHT – R2	Oppose	<p>Delete Rules 1 to 5 and insert the following:</p> <p>LIGHT - RI: Artificial Outdoor Lighting Associated with Roads and Pedestrian Cycle Pathways Activity Status Permitted</p> <p>LIGHT - R2: Activities with Artificial Outdoor lighting Activity Status Permitted</p> <p>Where:</p> <p>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).</p> <p>Advice Note Lighting limits must be measured and assessed in accordance with Standard ASINZS 4282-Control of the Obtrusive Effects of Outdoor Lighting.</p> <p>Consequential amendment to Rule 6 as follows:</p>	Accept in part

				Artificial Outdoor lighting within the Outstanding Coastal Natural Character Overlay and not meeting the Permitted Activity Standards.	
FS222.059	Westpower Limited		Oppose in part	Not stated	Reject
S552.145	Buller Conservation Group	LIGHT - O1	Amend	Artificial outdoor lighting enables night-time wait, rural productive activities, recreation activities, sport, entertainment activities, transportation and public health and safety, and maintains other amenity values within zones.	Reject
FS222.032	Westpower Limited		Oppose	Disallow	Reject

Appendix 3: Summary of S42A Recommendations – Temporary Activities

Submissions & Further Submissions Accepted

Submissions

Submission Point	Submitter/Further Submitter	Provision	Position	Summary of Decision Requested	Officer Recommendation
S547.496	Westpower Limited	TEMP-R2	Amend	Review items 2. and 4. for duplication of provisions and delete item 4 if required.	Accept

Further Submissions

Submission Point	Submitter/Further Submitter	Provision	Position	Summary of Decision Requested	Officer Recommendation
5553.159	Frida Inta	TEMP – R6	Amend	Amend 3. to provide explanation as to what ‘other temporary activities’ are, including such as spatial size, expected number of people.	Reject
FS222.0 149	Westpower Limited		Oppose	Disallow	Accept

Submissions & Further Submissions Rejected

Submissions

Submission Point	Submitter/Further Submitter	Provision	Position	Summary of Decision Requested	Officer Recommendation
S547.042	Westpower Limited	TEMPORARY ACTIVITY	Amend	Amend (e) ... buildings and structures for ...	Reject
S547.495	Westpower Limited	TEMP - R2	Amend	Amend: 2. The building or structure is located on the same site as the construction or demolition activity, or on a site in the vicinity where there will be no greater effect arising to any other landowner	Reject
S547.497	Westpower Limited	TEMP - R8	Amend	Add c. The technical, locational, functional or operational constraints and/or requirements of the activity.	Reject

S547.498	Westpower Limited	TEMP - R8	Amend	Add d. Benefits from the work being undertaken and energy activities and infrastructure developed.	Reject
S547.499	Westpower Limited	TEMP - R9	Amend	Add g. The technical, locational, functional or operational constraints and/or requirements of the activity.	Reject
S547.500	Westpower Limited	TEMP - R9	Amend	Add h. Benefits from the work being undertaken and energy activities and infrastructure developed.	Reject

Further Submissions

Submission Point	Submitter/Further Submitter	Provision	Position	Summary of Decision Requested	Officer Recommendation