

**IN THE MATTER of
the Resource Management Act 1991**

AND

**IN THE MATTER of
the Proposed Te Tai O
Poutini Plan**

“General District Wide Matters”

Oral Submission on behalf of

Lauren Nyhan and Anthony Phillips - Submission
533

Russel and Joanne Smith - Submission 477

Claire and John West - Submission 506

Joel and Jennifer Watkins - Submission 565

Tim and Phaedra Robins - Submission 579

14 November 2023

Context

1. I am presenting today on behalf of myself (Lauren Nyhan), and my husband Anthony Phillips (Submission 533) and the submitters listed below as our interests in the Te Tai o Poutini Plan (TTPP) are substantially similar:

Submission 477 – Russel and Joanne Smith

Submission 506 – Claire and John West

Submission 565 – Joel and Jennifer Watkins

Submission 579 – Tim and Phaedra Robins

2. The properties that these submissions relate to are located at 332 North Beach Road, Cobden – in the subdivision known as “Point Elizabeth Heights”.
3. These properties form a subdivision that was created in 2005, with a minimum lot size of 1 hectare. The subdivision contains 9 parcels of land, the access road forming one of these parcels. Two of those parcels are held by one owner due to the minimum lot size requirement. As such, there are 7 landowners. Four of those parcels have residential dwellings and ancillary buildings such as garages and sheds. I have **attached** an aerial view of the subdivision and a map for context.
4. The land concerned is currently zoned as “Rural” under the Operative Grey District Plan. Under the TTPP this land will be rezoned as “Rural Lifestyle Zone”. The subdivision also sits within the Greymouth Earthworks Control Area under the West Coast Regional Land and Water Plan.¹

Submission

5. While there are broader concerns regarding proposed overlays on the land (in particular in relation to ONL’s) these will be considered during the appropriate hearing stream, our submission today relates to the earthwork controls which the TTPP will place on the land we own.
6. My husband and I purchased our section at Point Elizabeth Heights in 2020 with the intention of building our home there. Anthony was born and raised in Greymouth and, with the lure of a section surrounded by native bush, convinced me we should move back. The sections on the lot are challenging to build on, they require engineering and geotechnical input due to the gradient of the sites, and also due to their proximity to the coastal environment. Resource consents for earthworks will also be required from the West Coast Regional Council. Put simply, building on one of these sites is already a complex and expensive process.
7. The owners of the subdivision all share a similar concern, that the ability to establish a residential dwelling on land that was subdivided for that intent, or to extend or maintain their existing dwelling or our access road which is vital, will now be unnecessarily complex and costly and, in the worst case, prohibitive and unworkable.

¹ Map 1 – Schedule 4: Greymouth Earthworks Control Area Maps.

8. Our submission in relation to the General District Wide matters are discreet and regard specific earthworks provisions which we consider to be unduly restrictive:
 - a. EW – R1 – Earthworks General Standards
 - b. EW – R3 – Earthworks in the GRUZ, RLZ, INZ, FUZ, AIRPZ, OSRZ and MPZ

EW – R1 – Earthworks General Standards

9. EW-R1 sets out permitted activity standards for earthworks generally.
10. The properties at Point Elizabeth Heights all gain access to their lot via a private road which we all hold 1/8 share in. On the face of it, it is unclear whether EW-R1 (which requires that Earthworks must not exceed a maximum depth or height above ground level of 1.5m measured vertically within 1.5m of a boundary) would be required to be complied with where the contiguous land parcels are owned by the same people. If it does apply, this would mean that most works in relation to stabilising the access road would require resource consent. This may be appropriate where major works are undertaken, but a recent example – where a very large boulder and other rocks came down onto the road and were required to be removed to enable safe access, would trigger the need for resource consent. We do not believe that an activity like this was intended to be captured.
11. Further, the matters that the standards seem to seek to control seem to relate more closely to regional council functions or are dealt with through other instruments. For example erosion and sediment run off from earthworks, or the diversion of stormwater are both discharges which are controlled by the Regional Plan.
12. The need to obtain consent in relation to matters which already require consent under the Regional Plan seems to create an unnecessary duplication. Policy 4.2. of the Regional Policy Statement provides that:²

2. Regional and district plans must:

- a) Contain regulation that is the most effective and efficient way of achieving resource management objective(s), taking into account the costs, benefits and risks;
 - b) Be as consistent as possible;
 - c) Be as simple as possible;
 - d) Use or support good management practices;
 - e) Minimise compliance costs where possible;
 - f) Enable subdivision, use and development that gives effect to relevant national and regional policy direction; and
 - g) Focus on effects and, where suitable, use performance standards.
13. As the effects of earthworks (in this subdivision) are already managed through the Regional Land and Water Plan (being that the land is situated within the Greymouth Earthworks Control Area), the approach taken in the TTPP does not seem to be as consistent as possible, as simple as possible, or minimise compliance costs were possible.

² At 15.

14. The proposed solution is to clarify that where contiguous land parcels are owned by the same person/people, that the 1.5 m cut height does not apply, however in my view, the whole of EW-RW1 could be significantly simplified to remove duplication throughout the permitted activity conditions.

EW – R3 – Earthworks in the GRUZ, RLZ, INZ, FUZ, AIRPZ, OSRZ and MPZ

15. EW – R3 sets out the requirements for ancillary earthworks, provided that all standards in EW-R1 are complied with, and adds the requirement that, for land in the rural lifestyle zone, a maximum of 500m² site of land is disturbed in any 12-month period.
16. The maximum land clearance seems unduly prohibitive and does not align with the way in which people who purchase rural lifestyle properties use their land. Using our property as an example, to enable a 200m² square home to be built would require a building pad of a size substantially more than the intended dwelling. Given the bare site and topography a 4 metre wide access road of 40 metres long would also be required (totalling 160m²). In cases where the land was flat, ancillary buildings or sheds may also be required as it is common for people in rural lifestyle areas to have animals or significant shedding for hobbies. A more appropriate maximum land disturbance could be based on a percentage calculation in relation to total useable land site or could be increased to 1000m².
17. It is also unnecessary, in our view, to have such a prohibitive standard in the TTPP, in relation to Point Elizabeth Heights in particular. As the properties sit within the Greymouth Earthworks Control Area, consent is already required for any earthworks over 10m³ per land holding in any 12-month period. To require consent to be obtained from the district council as well for the same activity seems inefficient and unnecessary and conflicts with the RPS policy outlined above.

Summary

18. While the Earthworks provisions may be suitable for the district more generally, in areas that are deemed to be within the Greymouth Earthworks Control area, they create an unnecessary process for those who wish to develop the land where there is already a process and standards in place in the regional plan. It would also cause similar issues where access lots are used to obtain access to multiple allotments due to the ambiguity in the wording in EW-R1. In the case of Point Elizabeth Heights, a rural lifestyle subdivision was granted consent to enable the development of rural lifestyle properties. Land was purchased by people seeking to build their main homes, on the basis of the consenting regime at the time. Increased compliance requirements and costs, where there are appropriate controls on the use of the land already in place, seems unfair and unnecessary.
19. One option is to exempt subdivisions in the RLZ which existed prior to the notification of the TTPP from the now more onerous earthworks standards. Alternatively, Point Elizabeth Heights, and any other subdivisions which are deemed similar, could be carved out so that the specific rules in relation to earthworks do not apply or are more generous to acknowledge that the land has already been subdivided and purchase for use as a rural lifestyle property prior to the notification of more onerous provisions in the TTPP.