

To: Hearing Commissioners – Te Tai o Poutini Plan

From: Kasey Zhai – Reporting Officer

Date: 21 December 2023

Re: **s42A Author Right of Reply – Designations**

Introduction and Purpose

- (1) This report responds to the questions raised by the Commissioner during the Designations hearing for the proposed Te Tai o Poutini Plan (pTTPP). This report will also respond to outstanding matters in response to submissions and evidence presented at the hearing.
- (2) This report is supported by the following attachments:
 - (a) **Attachment 1:** Legal memorandum; and
 - (b) **Attachment 2:** Further amendments to the designation schedule.

Scope to include new designations or modifications to existing designations

- (3) The sections of the RMA which apply to the inclusion of a new designation or modification to an existing designation under a plan review process is set out in the Legal Memorandum prepared by Wynn Williams and included at **Attachment 1**.
- (4) In summary, under Schedule 1, clause 4:
 - (a) A requiring authority may request an existing designation be included in a proposed plan, with or without modification, prior to the notification of the proposed plan. Where modifications are requested, the requiring authority must notify the territorial authority of the nature of the modifications and the reasons; or
 - (b) A territorial authority must include in its proposed plan provision for any notice of requirement for a designation (or alteration) to which section 170 applies.
- (5) In addition, if a territorial authority is given notice of a notice of requirement for a new designation or an alteration, the territorial authority may include that requirement in a proposed plan, if the proposed plan is to be notified within 40 working days of receipt of that notice of requirement.
- (6) In particular, the legal memorandum confirms that under the RMA, there is no process that provide for the inclusion of notice of requirements for designations in a proposed plan through relief sought in submissions. For new designations to be included in the pTTPP, that request by a requiring authority, including other territorial authorities, must have occurred prior to the notification of the pTTPP on 14 July 2022.
- (7) Overall, I consider that the requests to include new designations to the pTTPP¹ (other than minor corrections) as identified within the Section 42A Report were received through the submissions

¹ Submission from Westland District Council in relation to the Hokitika Transfer Station (S181.063);

Submission from The Proprietors of Mawhera Tiamana Wawhera Incorporation in relation to the water supply tanks and extraction and pumping building at 33 Old Christchurch Road (S621.031); and

Submission from Buller District Council (excluded from the SDR in error) in relation to Muria Landfill and Westreef Quarry.

process or in separate correspondence to the Regional Council, and not in accordance with the processes under Schedule 1 and section 170 of the RMA.

- (8) Based on the legal response prepared by Wynn Williams, I do not consider there is scope to include new designation sites within the pTTPP.

The inclusion of a roading hierarchy

- (9) Frida Inta (S553.203) and Buller Conservation Group (S552.203) sought to include a roading hierarchy in the Designation schedule.
- (10) I have considered whether the inclusion of a roading hierarchy or classification in accordance with the One Network Framework within the pTTPP would require consequential amendments to the Designation schedule.
- (11) I understand that the inclusion of a roading hierarchy within the pTTPP is subject to consideration under the Energy, Infrastructure, and Transport topic, and that a decision is yet to be made.
- (12) I have considered the inclusion of all roads in the West Coast within the pTTPP Designation schedule at paragraphs 58-59 of the Section 42A Report. I maintain that the designation of all public roads under the pTTPP is not necessary, and that roading works are appropriately managed under the provisions of the Transport chapter.
- (13) In my view, the inclusion of a roading hierarchy is appropriately addressed under the Energy, Infrastructure, and Transport topic. In the event that a roading hierarchy or classification is to be included within the pTTPP, I do not consider it necessary to do so under the Designation schedule. In my view, it is more appropriate for this information to be located within an appendix or schedule to the pTTPP. I note this has been the case within recently adopted district plans, for example:
- Schedule 1 of the Porirua District Plan, Decisions Version (7 December 2023); and
 - Appendix 2 of the Selwyn District Plan, Appeals Version (19 August 2023).
- (14) I therefore do not support amendments to the pTTPP Designation schedule to include public roads or a roading hierarchy.

Whether to include mapped Outstanding Natural Landscapes, Outstanding Natural Features, and Outstanding Natural Character within KiwiRail designated areas

- (15) I have reviewed the tabled statement by KiwiRail for the Designation topic, dated 3 November 2023.
- (16) In relation to the request to delete any overlays for ONL, ONF, and ONC, I agree that the extent and inclusion of mapping for ONL, ONF, and ONC across the Districts is more appropriately determined as part of the Ecosystems and Indigenous Biodiversity hearing. I confirm that submission S442.096 has subsequently been reallocated to that hearing stream.
- (17) For completeness and in relation to overall plan approach, I consider that where ONL, ONF, and ONC overlays are confirmed to apply to designated land, it is appropriate for the mapping to apply. As set out at paragraph 52 of the Section 42A Report, the deletion of mapped overlays from designated land is not necessary to enable the underlying land to be used for designation purposes. Furthermore, overlay mapping should be retained in the event that land is not used for the designation purpose, as it would be necessary for the provisions of the overlay chapters to apply.

Amendment of KiwiRail KRH1 designation hierarchy to 'varies'

- (18) KiwiRail sought for the Designation Hierarchy under KRH1 to be amended to 'primary' (S442.094). This relief sought was rejected at paragraph 68 of the Section 42A Report.
- (19) In their tabled statement, KiwiRail accepts an amendment to KRH1 to include 'varies' as the Designation Hierarchy.
- (20) I agree that this amendment is appropriate, and would achieve consistency with Waka Kotahi designations, where they have sought for the designation hierarchy be amended to 'varies' where there is overlap with KiwiRail's. Further recommended amendments to the Designation Schedule is included at **Attachment 2**, which should be reviewed in conjunction with the amendments included at Appendix 1 of the Section 42A Report.

Amendments to designation boundaries (NZTA-1 – NZTA-10) sought by Waka Kotahi

- (21) Waka Kotahi sought to amend the designation boundaries to NZTA-1 – NZTA-10 to give effect to a number of generic mapping corrections, and specific mapping corrections to NZTA-2 and NZTA-3, NZTA-7, and NZTA-8. The statement of evidence of Mr Pearson is supported by shapefiles which show the full extent of the recommended state highway designation.
- (22) I have reviewed the reasons identified at Appendix A of Mr Pearson's evidence for generic mapping corrections, as well the specific mapping correction requests, and my comments are set out below.
- (23) I agree that it is appropriate to amend the state highway designation to:
 - (a) Align with corrected legalised road boundaries;
 - (b) Cover formed and operational road, including shoulders, existing gravel areas, lay-bys, rockwalls, and other areas which meet the definition of 'road' under the Government Roading Powers Act 1989; and
 - (c) Cover any missed legal road parcels.
- (24) In particular, I note that above amendments relate to existing designations that have been given effect to, and do not enable any new or additional works to occur.
- (25) However, the shape files appended to Mr Pearson's statement of evidence show the full extent of the recommended state highway designations. I understand that the Regional Council's GIS team has identified there to be 379 discrete areas of amendments to expand the designation boundaries, and the areas of expansion range from 0.1m² to 82,189m². I also note that the road parcel boundaries in the planning maps have not been updated to align with the corrected LINZ parcel boundaries shown in the shape files provided by Mr Pearson. As such, it cannot be confirmed whether the expanded designation extents apply to existing private property.
- (26) Based on this analysis, I consider that the number of amendments sought is high, and there is potential for the recommended expansion areas to result in significant change to the existing state highway designation boundaries. While I acknowledge that this would be a significant undertaking, I consider that Waka Kotahi should show the changes to the designation boundary in greater detail, such as the format included at Appendix B to Mr Pearson's evidence, to ensure that the mapping amendments recommended by Waka Kotahi can be assessed for accuracy.

- (27) In relation to the expansion of the designation extent to 5m on either side of the edge of an existing structure, I do not support the requested amendments for the following reasons:
- (a) In some instances, the expansion of the designation extent may include land outside of the existing road parcel. In my view, appropriate conditions are necessary to ensure that the areas within the widened designation boundary only accommodate maintenance activities. Alternatively, further assessment is necessary to determine whether the expanded areas could also accommodate future physical works to extend the existing structure.
 - (b) As a number of structures are located within waterbodies, expansion of the designation extent has the potential to affect cultural values, including Poutini Ngāi Tahu values.
 - (c) I concur that any regional consents, such as works within waterbodies, would still be required under the West Coast Regional Plans.
 - (d) For the above reasons, I consider that there is the potential for more than minor effects as a result of expanding the designation extent to 5m on either side of the edge of existing structures. I therefore am of the view that further information is needed to support the alterations to these designations as recommended by Waka Kotahi.
- (28) I have also reviewed the specific mapping corrections recommended to NZTA-2 and NZTA-3, NZTA-7, and NZTA-8, and make the following comments:
- (a) In relation to corrections NZTA-2 and NZTA-3 relating to the Taramakau River Bridge and NZTA-7 relating to Ahaura River Bridge, I note it is unclear from the planning maps whether the new designation extent will apply to private property. As noted above, the planning maps have not been updated to incorporate the latest LINZ parcel boundaries.
 - (b) In relation to corrections to NZTA-8 relating to SH67A, the expanded designation is located within the existing road parcel and incorporates the existing formed and operational road network. In this instance, I consider there is sufficient information available to support the requested mapping amendment.

Processes followed for Waka Kotahi designations through other plan reviews

- (29) I have also reviewed and considered the processes for Waka Kotahi designations under recent district plan reviews, as requested during the hearing. In particular, I have reviewed the proposed Selwyn District Plan and Porirua District Plan, and make the following comments:
- (a) I have reviewed the submission and evidence prepared by Waka Kotahi to the proposed Selwyn District Plan, as well as the Council's Designation Overview Report and Section 42A Report. I am not aware of a request or relief sought by Waka Kotahi to expand the designation extent around structures through the Selwyn District Plan review process. However, I note that Waka Kotahi provided shape files and updated data to identify mapping corrections as a result from LINZ updating land parcel boundaries, and that this relief sought was accepted in the Council's recommendations.
 - (b) Under the proposed Porirua District Plan, Waka Kotahi prepared a Rollover Report which outlined the proposed modifications to their designations, prior to the notification of the Plan. The Rollover Report identified instances where minor alterations to designation boundaries were proposed, including instances where the designation boundary was widened to include land maintained by Waka Kotahi in agreement with Porirua City Council. The Rollover Report also includes an appendix which identifies and compares the existing designation extent to that proposed. I am not aware of a request or relief sought by Waka Kotahi to expand the designation extent around structures under the Porirua District Plan review.

Other matters

- (30) I confirm that the Regional Council's GIS team is able to incorporate the shapefiles provided by Waka Kotahi to the pTTPP planning maps, should Commissioners accept the relief sought.