

BEFORE THE HEARINGS PANEL

UNDER the Resource Management Act 1991

IN THE MATTER of the Proposed Te Tai o Poutini
Plan – Natural Character of Waterbodies and
Activities on the Surface of Water Hearing - Ngā
Āhua me ngā Mahi ka Noho Hāngai ki ngā Hopua
Wai - Ngā mahi ki te kārewa o te wai

STATEMENT OF EVIDENCE OF RACHAEL ELIZABETH PULL

**ON BEHALF OF TE RŪNANGA O NGĀTI WAEWAE, TE RŪNANGA O MAKAAWHIO
AND TE RŪNANGA O NGĀI TAHU
(Submitter 620 and Further Submission FS41)**

19 January 2024

INTRODUCTION

1. My name is Rachael Elizabeth Pull.
2. I hold the qualifications of a Bachelor of Environmental Management (majoring in policy and planning) and a Postgraduate Diploma in Resource Studies from Lincoln University. I am a full member of the New Zealand Planning Institute. I have completed the Making Good Decisions course.
3. I am employed by Te Rūnanga o Ngāi Tahu (**Te Rūnanga**) as a Senior Environmental Advisor - Planning in Te Ao Tūroa team. I moved to this position in October 2022.
4. I have over 15 years' experience in planning in New Zealand. I have worked for Whanganui, Far North and Thames-Coromandel District Councils as a planner, undertaking plan changes, bylaws and strategy development, resource consent drafting and processing as well as monitoring and enforcement work.
5. I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023 and have complied with it in preparing this evidence. I confirm that the issues addressed in this evidence are within my area of expertise and I have not omitted material facts known to me that might alter or detract from my evidence. The issues addressed in this statement of evidence are within my area of expertise except where I state that I am relying on the evidence or advice of another person. The data, information, facts and assumptions I have considered in forming my opinions are set out in the part of the evidence in which I express my opinions.
6. My evidence primarily addresses the submissions of Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu (collectively submitter 620), together these groups are referred to in my evidence and section 42A report as **Ngāi Tahu** for readability purposes.
7. When referring to provisions within the Te Tai o Poutini Plan (**TTPP**) relating to Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu I have used the TTPP term of **Poutini Ngāi Tahu** for readability purposes.

8. I contributed to the primary submission and further submissions on the **TTPP** on behalf of Ngāi Tahu. I have also filed evidence on behalf of Ngāi Tahu in relation to TTPP hearings on Introduction/Whole Plan and Strategic Direction (dated 2 October 2023) as well as Energy, Infrastructure and Transport (dated 30 October 2023).
9. The key documents I have referred to in drafting this brief of evidence are:
- (a) The Resource Management Act 1991 (**RMA**);
 - (b) Te Rūnanga o Ngāi Tahu Act 1996 (**TRoNT Act**);
 - (c) Ngāi Tahu Claims Settlement Act 1998 (**NTCSA**);
 - (d) Te Mahere Whakahaere o Te Tāwiri a Te Makō Lake Māhinapua Management Plan [2018](#);
 - (e) Mana Whakahono ā Rohe Iwi Participation Arrangement [2020](#);
 - (f) West Coast Regional Policy Statement 2020 (**WCRPS**);
 - (g) West Coast Regional Land and Water Plan 2014 (**WCLWP**);
 - (h) Te Tai o Poutini Plan Section 42A report Natural Character and the Margins of Waterbodies and Activities on the Surface of Water, Lois Easton circulated 15 December 2023
 - (i) Statement of Planning Evidence for Topic 1: Introduction and General Provisions, Topic 2: Strategic Directions and Part 2 General District Wide Matters Energy, Infrastructure and Transport, prepared by Rachael Pull; and
 - (j) Statement of Planning Evidence for Topic 3 General District Wide Matters Part 1, prepared by Philippa Lynch;

SCOPE OF EVIDENCE

10. My evidence:
- (a) Outlines the key themes raised in the submission and further submissions by Ngāi Tahu, including:

- (i) Te Tiriti o Waitangi (Te Tiriti),
 - (ii) The relationship between mana whenua and the Crown,
 - (iii) The concepts of kaitiakitanga and whanaungatanaga¹;
- (b) Provides clarification of Ngāi Tahu submission points and further submission points relating to the Natural Character and the Margins of Waterbodies and Activities on the Surface of Water provisions; and
- (c) Addresses the recommendations in the section 42A report where they deviate from the Ngāi Tahu submission.

SUMMARY

11. Ngāi Tahu made a submission and further submissions on the TTPP in general support of the notified version except where specific changes were requested. The submission generally sought to retain the notified version of the provisions, subject to further refinement of identified provisions in order to better achieve their intended purpose as well as the purpose of the RMA.
12. Specifically, Ngāi Tahu has sought the recognition and provision of Poutini Ngāi Tahu values relating to te taiao². As kaitiaki, Ngāi Tahu have the responsibility to ensure that their takiwā³ is left to the future generations in a better state than it currently is.
13. The West Coast Regional Land and Water Plan (**WCLWP**) recognises Kaitiakitanga and Mauri values for all lakes and rivers on the West Coast. In schedule 7C, it has identified the Poutini Ngāi Tahu values for 99 waterbody listings. This direction is consistent with the approach of the TTPP in regard to waterbodies.

¹ The concept of whanaungatanaga is about relationship, kinship and a sense of family connection. It provides a sense of belonging and comes with rights and obligations, which serve to strengthen each member of that whānau or group.

² The concept of Te Taiao is the environment that contains and surrounds people. It refers to the interconnection of people and nature.

³ The concept of takiwā in this context means territory.

14. Overall, I agree with the section 42A report prepared for this hearing and the direction within. I have made comment on identified provisions where the hearings panel may wish to consider other factors. A full summary of the Ngāi Tahu submissions and the references to the section 42A report is contained in **Appendix One** of this evidence.

RELEVANT STATUTORY DIRECTION

The Resource Management Act 1991 (RMA)

15. The evidence I filed in relation to the hearings for topics one and two sets out the relevant statutory direction in the RMA that underpins the relief sought by Ngāi Tahu⁴. I do not repeat that evidence here, however it remains relevant to the Natural Character and the Margins of Waterbodies and Activities on the Surface of Water provisions and Ngāi Tahu rangatiratanga and should be considered as part of this evidence. In particular I note:
- (a) recognition and provision for the relationship of Poutini Ngāi Tahu with their ancestral lands, waters, wāhi tapu and other taonga as a matter of national importance⁵;
 - (b) the ability for Poutini Ngāi Tahu to exercise their role as kaitiaki⁶; and
 - (c) the principles of the Tiriti o Waitangi (the Treaty of Waitangi) in decision making⁷.
16. These matters provide direction to the national policy statements and regional planning documents that the TTPP is required to implement or not be inconsistent with.

Te Rūnanga o Ngāi Tahu Act 1996 (TRoNT Act)

⁴ Paragraphs 15-30 Statement of Planning Evidence for Topic 1: Introduction and General Provisions and Topic 2: Strategic Directions prepared by Rachael Pull

⁵ Section 6(e) Matters of National Importance

⁶ Section 7(a) Other Matters

⁷ Section 8 Treaty of Waitangi

17. The TRoNT Act provides for the modern structure of Ngāi Tahu. Te Rūnanga o Ngāi Tahu (Te Rūnanga) is the collective of eighteen Papatipu Rūnanga, which are regional bodies that represent local views of Ngāi Tahu Whānui. Section 15(2) states that:

“Where any enactment requires consultation with any iwi or with any iwi authority, that consultation shall, with respect to matters affecting Ngāi Tahu Whānui, be held with Te Rūnanga o Ngāi Tahu”⁸

18. Pursuant to section 10 of the TRoNT Act, the Te Rūnanga o Ngāi Tahu (Declaration of Membership) Order 2001 was made. The Schedule to that Order identifies the two papatipu rūnanga who represent the tangata whenua interests of Ngāi Tahu on the West Coast as Te Rūnanga o Kāti (Ngāti) Waewae and Te Rūnanga o Makaawhio.

Ngāi Tahu Claims Settlement Act 1998 (NTCSA)

19. One of the most important aspects of the Crown’s settlement with Ngāi Tahu was a formal apology by the Crown. The wording was given much thought by both parties. The Crown included a formal apology as part of the Deed of Settlement and the NTCSA to acknowledge that Ngāi Tahu suffered grave injustices that significantly impaired its economic, social and cultural development. The Apology acknowledged that Ngāi Tahu is recognised “as the tangata whenua of, and as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui.”
20. The Mana Whakahono ā Rohe recognises the principles of Te Tiriti o Waitangi and NTCSA within the planning framework:

“3.1 The Ngāi Tahu Claims Settlement Act 1998, and Treaty principles as expressed by the Courts and the Waitangi Tribunal, referenced in Appendix 2, will be:

- a) included within induction materials for Councillors and Council staff with duties and functions under the Resource Management Act;*

⁸ Section 15(2) Te Runanga o Ngai Tahu Act 1996

b) incorporated in Council planning instruments and referenced in the development of their content.⁹

WEST COAST REGIONAL POLICY STATEMENT

21. As discussed in the evidence for the Energy, Infrastructure and Transport provisions, the West Coast Regional Policy Statement (**RPS**) identifies significant Poutini Ngāi Tahu issues and Poutini Ngāi Tahu values. Objectives and Policies in the RPS are to be read together with other relevant chapters.
22. The main relevant chapters of the RPS to this hearing include:
- Chapter 3: Significant issues for Poutini Ngāi Tahu
 - Chapter 7: Ecosystems and indigenous biological diversity
 - Chapter 7A: Natural Character
 - Chapter 8: Land and Water
21. The methods of these chapters direct district plans to avoid, remedy or mitigate the adverse effects of land use activities on water quality, natural character and indigenous vegetation.

WEST COAST REGIONAL LAND AND WATER PLAN

23. The TTPP must not be inconsistent with any regional plan. The West Coast Regional Land & Water Plan (**WCLWP**) states that the provisions within it guide both the Regional Council and other consent authorities when considering resource consents. Chapter 2.14 of the WCLWP provides information on identified Poutini Ngāi Tahu issues of significance. These include water, ecosystems and indigenous biodiversity and the beds of lakes and rivers and their riparian zones. It also contains Schedule 7C which identifies specific waterbodies and the Poutini Ngāi Tahu values for each waterbody. It notes that it is not a complete assessment of all waterbodies or values but is a useful resource for understanding if further consideration of Poutini Ngāi Tahu values is needed for a particular waterbody. A copy of Schedule 7C is contained in **Appendix Two** of this evidence.

⁹ Paetae Kotahitanga ki Te Tai Poutini - Partnership Protocol and Mana Whakahono ā Rohe - Iwi Participation Agreement (2020). Page 17.

24. Relevant provisions of the WCLWP for this evidence include:

“Objective 3.2.3 To maintain or where appropriate enhance the spiritual and cultural values and uses¹⁰”

“Policy 3.3.1 In the management of any activity involving water to give priority to avoiding, in preference to remedying or mitigating:

(1) Adverse effects on: ...

(c) Spiritual and cultural values and uses of significance to Poutini Ngāi Tahu identified in Schedule 7C;

(d) The significant natural character of wetlands, and lakes and rivers and their margins;

(e) Outstanding natural features and landscapes;

...

(h) Significant historic heritage;

(2) Adverse effects which cause or exacerbate flooding, erosion, land instability, sedimentation or property damage;

(3) Adverse effects on existing lawful uses including regionally significant infrastructure¹¹”

(Note the explanation states that the value of historic heritage varies along a continuum)

“Policy 3.3.7 In the management of any activity involving water, to avoid, remedy, or mitigate adverse effects on:

(a) Water quality;

(b) Amenity values;

(c) Indigenous biological diversity;

(d) Intrinsic values of ecosystems;

(e) The natural character of wetlands, and lakes and rivers and their margins, not described in 3.3.1(1)(d); and

(f) Historic heritage not described in 3.3.1(1)(h)¹²”

¹⁰ Page 1, Chapter 3 Natural and Human use values. West Coast Regional Council Land and Water Plan 2014.

¹¹ Page 2, Chapter 3 Natural and Human use values. West Coast Regional Council Land and Water Plan 2014.

¹² Page 4, Chapter 3 Natural and Human use values. West Coast Regional Council Land and Water Plan 2014.

(Note that the RMA definitions of ‘amenity values’ includes cultural attributes, and ‘historic heritage’ includes sites and areas of significance to Māori.)

“Policy 3.3.8 To recognise Poutini Ngāi Tahu’s interests by promoting opportunities for their involvement in resource consent processing¹³”

(Note the explanation states that Poutini Ngāi Tahu are provided with information on all resource consents and may be treated as an affected party with regards to some applications).

DEFINITION – RIPARIAN MARGIN

Submission no. S620.041

Further Submission:

FS222.0338 Westpower Limited and FS79.1 Westland District Council

25. The Ngāi Tahu submission sought that the definition of riparian margin was expanded to include 5 metres either side of a stream or river with an average bed width of 3 metres or less. The reason for the submission is that the values of smaller streams and rivers are just as important as wider streams and rivers and they are tributaries that feed into the wider waterbodies and their values. This is noted in Schedule 7C of the WCLWP which states that kaitiakitanga and mauri are elements that apply to all lakes and rivers on the Te Tai Poutini /West Coast.
26. The s42A report has recommended that the definition of riparian margin is amended to (recommendations underlined):
- means all land within:*
- a. 10m of any wetland that is located in the coastal marine area*
 - b. 20m of any lake; and*
 - c. 10m of any stream or river with an average bed width greater than 3m.*
- As measured from the point of annual fullest flow for a river or annual fullest water level for a lake or Mean High Water Springs for a coastal wetland.*

¹³ Page 4, Chapter 3 Natural and Human use values. West Coast Regional Council Land and Water Plan 2014.

27. However, the s42A report notes that the WCLWP definition of riparian margins has included riparian margins of between 3-10 metres wide for rivers between 1-3 metres wide, depending on the slope of the land or activity occurring on it. The s42A report promotes a consistent approach with the WCLWP and in paragraph 179 requests further evidence from Ngāi Tahu in regard to the submission point.
28. I agree with the s42A report that a consistent approach with the WCLWP will allow for easier consideration by the plan users and for small rivers having a minimum width of the river makes the definition easier to implement. Therefore, I recommend a width of between 1-3 metres rather than all waterbodies under 3m in width as in the submission.
29. I do not support that the TTPP adopt a variable riparian margin width based on the adjoining activity or slope. Those considerations are required for the WCLWP which seeks to manage discharge and water quality which are impacted by the adjoining activity and slope of the land. The TTPP seeks to manage natural character through earthworks and indigenous vegetation provisions. For rivers between 1-3m in width a variable riparian margin width like the WCLWP is not necessary to manage earthworks and indigenous vegetation. The Ngāi Tahu submission sought a 5m riparian margin for rivers under 3m wide, as the 10m wide riparian margin for rivers over 3m wide would have been unreasonable for the smaller rivers. I note that the WCLWP has a 5m riparian margin for rivers adjoining indigenous biodiversity on land with a slope of less than 12 degrees for rivers between 1-3m. I recommend that the TTPP uses the 5m riparian margin as indigenous biodiversity is a matter that both Regional and District Plans manage. As the slope part of the definition seeks to prevent adverse effects on water quality, the wider riparian margin for sloped land is not reasonable.
30. This sets a minimum width similar to the WCLWP that will provide clarity and consistency and allows for the smaller rivers to be assessed according to their values and the surrounding landscape as well as how they contribute to and impact the larger waterbodies. This also provides a Ki Uta Ki Tai/holistic approach which is consistent with Part 1 of the TTPP and Te Mana o Te Wai (Priority 1 – The health and wellbeing of water bodies and freshwater ecosystems).

31. Remedy Sought:

- (a) That the definition of riparian margin is amended to provide for rivers 1-3 metres wide:

Riparian Margin means all land within:

- a. 10m of any wetland that is located in the coastal marine area
- b. 20m of any lake; and
- c. 10m of any river with an average bed width greater than 3m.
- d. 5m of any river with an average bed width between 1-3m.

As measured from the point of annual fullest flow for a river or annual fullest water level for a lake or Mean High Water Springs for a coastal wetland.

WATERBODY ZONING

Submission no. 620.042

32. As discussed in my evidence for topics one and two paragraphs 57-59, the waterbody areas identified on the zoning maps caused confusion for multiple reasons, the key one being what TTPP zoning applied to those areas. The remedy sought in that evidence was that any identified waterbody in the notified maps, took its zoning from the nearest adjoining zone (the same as roads).
33. The s42A report for this hearing has acknowledged the issue and has recommended in paragraph 78 that all waterbodies are changed to General Rural. I consider that this addresses the submission for sites such as the Ngāi Tahu forestry site that was identified as waterbody in the original submission (Section 2 SO 12078) but has the potential to cause wider issues for the Te Tai Poutini/ West Coast where the adjoining land is not zoned General Rural.
34. The WCRPS identifies that 84% of the Te Tai Poutini/ West Coast region is managed by the Department of Conservation (and is therefore unlikely to have a rural zoning). It also states that there is roughly 40,647km of streams and rivers in the region and that 81% are in lands managed by the Department of

Conservation. This is approximately 10% of the total length of rivers in New Zealand¹⁴.

35. I am also cognizant that the s42A report states there is no accurate mapping of the waterbodies within the West Coast due to the associated cost and the dynamic nature of waterbodies, otherwise creating a waterbody zone connected to the Natural Character and Margins of Waterbodies Chapter would be a reasonable solution.
36. Waterbodies cut through most types of zones within the Plan. As well as General Rural, they pass urban areas, open space, and areas of national importance (such as outstanding natural landscapes). Their natural values are often reflected and connect to the surrounding landscape. Therefore, I consider the best zone to reflect the natural values of the waterbodies and what activities will not cause adverse effects is the adjoining zone at the location of any activity being considered. As noted, a large percentage of the Te Tai Poutini/ West Coast and waterbodies is managed by the Department of Conservation. The waterbodies in these areas should be subject to the same rules as the land in order to protect the values of the area. The same should apply in the rural and urban landscapes also.
37. Remedy Sought:
 - (a) That the waterbodies are not zoned General Rural as recommended in the s42A report.
 - (b) That the waterbodies shown on the zoning maps remain.
 - (c) That any site with an identified waterbody shown on the planning maps takes its zoning from the nearest adjoining zone (the same as roads), with a clear disclaimer included on the maps to avoid any uncertainty for the plan users.

¹⁴ Statistics taken from the Background to the Issues. Chapter 7 Ecosystems and Indigenous Biological Diversity. West Coast Regional Policy Statement.

ACTIVITIES ON LAKE MĀHINAPUA

Submission no. 620.195, 620.194

Further Submission no.

FS41.056, FS41.052 of S332.001, S332.002 Lake Māhinapua Aquatic Club

FS41.051 of S161.003 Jet Boating New Zealand

FS41.662 of S329.001 Mr Higgs

Status of Lake Māhinapua in the TTPP

38. Lake Māhinapua is a waterbody of cultural, natural, historic and recreational importance. To Ngāi Tahu it is a wāhi tapu site (sacred place). The bed of Māhinapua was vested in Te Rūnanga o Ngāi Tahu through the NTCSA as redress. It is managed by Poutini Ngāi Tahu under the Te Mahere Whakahaere o Te Tāwiri a Te Makō Lake Māhinapua Management Plan 2018, which is recognised as a planning document by Te Rūnanga o Ngāi Tahu and must therefore be taken into account by the TTPP.
39. The Lake is identified as a Site of Significance to Māori (SASM 110) and an Outstanding Natural Landscape (ONL 26) in the TTPP overlays. It is currently shown as 'waterbody' on the zoning maps, however the s42A report recommends at paragraph 78 that this is changed to General Rural. My recommendation on the zoning can be found at paragraph 11. The result of these combined overlays of the TTPP is that there is a high probability that activities on Lake Māhinapua will require a resource consent given the high concentration of s6 matters of national importance located on the Lake, regardless of the provisions of this chapter.

Te Mahere Whakahaere o Te Tāwiri a Te Makō Lake Māhinapua Management Plan 2018

40. The purpose of the Te Mahere Whakahaere o Te Tāwiri a Te Makō Lake Māhinapua Management Plan (**Management Plan**) is about restoring the relationship of Ngāi Tahu with the Lake and ensuring that its cultural importance is recognised by all users. This is done by managing activities affecting the lakebed and by recognition of the Management Plan in documents such as the Westland District Plan (which will be replaced by the TTPP).

41. Page 7 of the Management Plan provides background on the Lake Māhinapua Aquatic Club (the **Club**) that is relevant to this evidence. The jetty and the buoys used by the Club from time to time for commercial purposes are identified as existing lawful commercial uses in Section 197 and Schedule 10 of the NTCSA and are stated as being able to continue for as long as to the extent that such rights otherwise remain lawful.
42. The Management Plan builds on this, identifying the Club's usage from October to April with a regatta in late January/early February. In section 2.5 the Management Plan it identifies that Poutini Ngāi Tahu working with the Club is a key issue. Poutini Ngāi Tahu are supportive of the Club being enabled to continue with their current usage.
43. There are a number of policies and methods in the Management Plan relevant to how the Club activities should operate on Lake Māhinapua. While policy 3.4.7 provides for the continued use of the Lake by the Club, other policies enable activities only to the extent that they are consistent with the management objectives and policies of this plan (policy 3.5.1). This includes ensuring land use activities contribute to the improved water quality (policy 3.2.3), managing visitor numbers and facilities (policy 3.2.5) and enabling the use of non-powered watercraft (policy 3.4.1). Method 3.2A directly references Poutini Ngāi Tahu values in the provision of relevant objectives, policies and rules of district planning documents, as well as monitoring to achieve these policies. The method also includes providing or notifying all applications that potentially affect the Māhinapua lakebed and its catchment to Poutini Ngāi Tahu to comment.
44. Upon reviewing the Management Plan, I consider that Lake Māhinapua Aquatic Club had existing use rights at the scale established at the time of the NTCSA. However existing use rights on the surface of lakes and rivers are different to existing use rights on land, as they only provide a six-month window to apply for resource consent (s10A RMA). Because existing use rights will be extinguished if a resource consent is not applied for within six months of the rules in the TTPP relating to Club activities becoming operative, in this case it is reasonable to consider a permitted activity status at the same scale, intensity and character.

45. The further submissions by Ngāi Tahu opposed a permitted activity rule as there was concern that it would not be limited to the Club's existing activities (which are supported by Poutini Ngāi Tahu) and a permitted rule could open Lake Māhinapua to multiple new activities. The cumulative effect of potentially multiple activities with no ability for Ngāi Tahu to address their concerns as owner of the lakebed and as mana whenua is not supported and would not achieve the objectives of the Management Plan, NTCSA or the TTPP.
46. The objectives for the Management Plan specifically provide for compatible recreational and commercial usage. The recommend text in paragraph 324 of the s42A report specifically identifies the Club's activities and its seasonal limits, which addresses the concern of the further submission that a permitted rule would open Lake Māhinapua to multiple new activities and adverse cumulative impacts on the Lake.
47. I do note that other rules in the TTPP such as the SASM or the ONL rules could also provide an opportunity for Poutini Ngāi Tahu values to be considered for new or expanded activities on Lake Māhinapua or the surrounding land, however as those rules and values in the schedules have yet to be decided on by the hearing panel they are therefore subject to change. They also focus on different issues to the Activities on the Surface of Water Chapter.
48. Remedy Sought:
- (a) That the recommendations in the s42A report for Activities on the Surface of Water Rules– R2 and R4 in relation to the Lake Māhinapua Aquatic Club are adopted.

OVERVIEWS

Natural Character and Margin of Waterbodies Chapter

Submission no. 620.172,

Further Submission no.

FS41.664 of S274.004 Herenga ā Nuku Aotearoa Outdoor Access Commission

49. Herenga ā Nuku Aotearoa Outdoor Access Commission submitted two changes to the overview within this submission. The first was additional descriptive text and the second change was that additional government departments were added to the third paragraph of the overview. In particular, the submission requests that the Department of Conservation, NZ Landcare Trust, catchment care and other restoration groups and the Herenga ā Nuku Aotearoa Outdoor Access Commission are included. Ngāi Tahu opposed the second part of this submission as the third paragraph recognises the legislative relationship between Councils and mana whenua in relation to waterbodies. The further submission recommends that the agencies listed were added as an advice note for public information purposes at the end of the overview.
50. Paragraph 59 of the s42A report does not seem to address the submission point in full and instead focuses solely on the descriptive text part of the submission. While this does result in the agencies not being in the third paragraph, it does not consider the submission fully, which is not considered best practice. The issue is not addressed elsewhere in the report or by other submissions by Herenga ā Nuku Aotearoa Outdoor Access Commission.
51. My recommendation is that both submission S274.004 and further submission FS41.664 are Accepted in Part in relating to noting the other agencies. They have an adjoining role to the resource consent process, but the paragraph in question is specifically about the mana whenua and local government role and relationship which is central to the activities of the chapter. I recommend that an advice note is placed at the end of the overview informing plan users of the other potential agencies to consult or engage with.
52. Remedy sought:
- (a) That the overview is amended as follows:
- Other relevant Government Bodies
Aside from Regional and Local government, there are other key agencies and government groups involved in the integrated management of waterbodies. These include:
- The Department of Conservation;
 - NZ Landcare Trust;

- Catchment care and other restoration groups; and
- The Herenga ā Nuku Aotearoa Outdoor Access Commission

Infrastructure Policies

Submission no. 620.001

Transpower New Zealand Limited (S299.085)

Westpower Limited (S547.396)

53. The s42A report has recommended adoption of submission 299.085 to expand the section of the overview that informs the plan user of other potential TTPP provisions to include specific reference to the Energy, Infrastructure and Transport policies when considering a consent triggered by rules in the Natural Character and Margins of Waterbodies and Activities on the Surface of Water chapters.
54. I note that the chapters of the Natural Environment Values (except Public Access) have a statement under the policies of the chapter to refer to the policies of the Energy, Infrastructure and Transport policies where relevant. This statement does not appear in any other chapter of the TTPP.
55. In the Energy, Infrastructure and Transport evidence I submitted, I discussed the issue of cross-referencing other chapters to clarify the relationship between provisions. These cross references are for information and do not carry weight within a resource consent process.
56. The policies of the Energy, Infrastructure and Transport chapter relate to the rules of the Energy, Infrastructure and Transport chapter and seek to implement the objectives for the same chapter. These policies are very enabling within the Energy, Infrastructure and Transport chapters, resulting in the permitted activity status for many activities.
57. It is standard practice when processing a resource consent to consider any relevant provisions of the plan (including policies). The policies are then weighted as to their relevance to the activity, the wording of the policy and effects of the rule that triggered consent. This is stated in s104(1)(b)(vi) where the consent authority must have regard to any relevant provisions of the plan.

58. Therefore, I question the need for these specific references and whether drawing attention to them implies they require special consideration over and above other policies of the plan. I also question the lack of consistency in having a specific reference to consideration of policies in the Energy, Infrastructure and Transport chapters in the Natural Environment Values chapters only. By signalling out Energy, Infrastructure and Transport policies and using significantly different wording to the other overlay and district wide chapters it could give an impression that the provisions have different weights and may create confusion for the plan user.
59. I note that policy NC-P2 provides for energy, infrastructure and transport activities within riparian margins. Network Utilities are a permitted activity within the riparian margin under rule NC-R2, and maintenance of network utilities using motorised watercraft is permitted on the surface of water except for the eight waterbodies listed in rule ASW-R2. Therefore there is limited need for the recommended additions in their current form.
60. For consistency and to avoid confusion for plan users, I recommend that the s42A report reference is not adopted, that the existing reference to Energy, Infrastructure or Transport policies in the Natural Environment values chapters are removed and that a statement indicating the need to consider Energy, Infrastructure or Transport provisions is added to the 'Other relevant Te Tai o Poutini Plan Provisions' section of both overviews.
61. Remedy sought:
- (a) That in the overview of the Natural Character and the Margins of Waterbodies and the Activities on the Surface of Water chapters, the recommendation of the s42A report in respect of referencing the policies of the Energy, Infrastructure and Transport chapter is not adopted.
 - (b) That the following statement from the policies section of the Natural Environment Values chapters (Ecosystems and Indigenous Biodiversity, Natural Features and Landscapes and Natural Character and the Margins of Waterbodies) is removed.

Also where relevant refer to policies in the Energy, Infrastructure and Transport Chapters.

- (c) That in the overview of the Natural Character and the Margins of Waterbodies and the Activities on the Surface of Water chapters the following is added to the 'Other relevant Te Tai o Poutini Plan Provisions' section:

Energy, Infrastructure and Transport – The Energy, Infrastructure and Transport chapters contain provisions that manage Energy, Infrastructure and Transport activities and potential reserve sensitivity.

SPECIFIC POLICIES AND RULES

Port Activities (Activities on the Surface of Water)

Submission no. 620.195

Further Submission no.

FS152.005 West Coast Bulk Logistics Limited

FS149.0153 Buller District Council

FS1.436 Grey District Council

FS231.047 WMS Group (HQ) Limited and WMS Land Co. Limited (WMS Group)

62. Ports can be considered regionally significant infrastructure and are often located on areas with high recreational, cultural and historical values. Ports are vulnerable to natural hazards and climate change and may require relocation during the duration of the TTPP. The functional and operational need of these facilities and vessels associated with them, limit the locations available for relocation or expansion which needs to be balanced against the values the chapter is seeking to recognise and protect.
63. Ngāi Tahu submitted in support of policy ASW-P3 and received 4 further submissions in varying levels of support, commenting on how the policy provided for Ports within the West Coast. I understand a separate variation to address this issue is being prepared. Given the status of Ports within this chapter and within the Infrastructure and Transport chapters, I support a variation that provides clarity and certainty on the activity.

64. As a variation is already underway, I support the s42A report retaining policy ASW-P3 and not adjusting the associated rules as notified in relation to Ports until the hearing of the variation.
65. Remedy Sought:
- (a) Retain policy ASW-P3 as notified.

Rule NC-R2 Buildings and Structures within the Riparian Margin of a River, Lake or Wetland

Further Submission no.

FS41.189 on S519.031 New Zealand Defence Force

66. The s42A report accepted in part the submission from the New Zealand Defence Force to allow bridges constructed as part of a temporary military training activity as a Permitted Activity under rule NC-R2. The reason stated was that where temporary bridges do not include earthworks or vegetation clearance, they would be appropriate.
67. The Ngāi Tahu further submission was concerned with unmanaged effects. I consider that the rule as worded is unclear in how the activity is required to comply with the earthworks and vegetation limits in the riparian margin. I recommend that similar to how the earthworks permitted activities are organised, that rule NC-R2 states that all standards in rule NC-R1 and the new ECO rule for indigenous vegetation clearance within the riparian margin are complied with. This amendment will provide clarity not only to the bridges constructed as part of a temporary military training activity provision but all other provisions in this rule. It will also be a consistent format to the earthworks chapter which will improve the comprehension and consistency of the TTPP.
68. Remedy Sought:
- (a) Amend rule NC-R2 as follows:
 NC – R2 Buildings and Structures within the Riparian Margin of a River,
 Lake or Wetland
 Activity Status Permitted
 Where:

1. All standards in Rule NC - R1 and ECO-Rxxx¹⁵ in relation to riparian margins are complied with; and
2. 1. Where the buildings and structures have a functional or operational need to locate in the riparian margin and are: ...
 - (h) Temporary bridges constructed as part of a temporary military training activity; or ...

Rule ASW- R2 Use of Motorised Watercraft for Non-commercial Use on the Surface of Rivers, Lagoons and Lakes

Further Submission no.

FS41.058 on S440.038 Te Tumu Paeroa – The office of the Māori Trustee

69. Ngāi Tahu further submitted in support of submission 440.038 addressing past errors such as landlocked parcels preventing the reasonable use and development of Māori Land, however the scope of the rule is not limited to Māori Land and applies across all waterbodies regardless of their values. It also disincentivises establishing land access in the future due to its permitted activity status.
70. The further submission offers the alternative of having a policy enabling access to landlocked parcels through waterbody access so it could be considered on a case-by-case basis. The second alternative was to limit access to the landowner only.
71. The s42A report considers the submission at paragraph 301. It does not support limiting to the landowner as the land could be leased for a rural activity – meaning that although the rule applies to non-commercial uses, the rule could apply to rural activities using that scenario. I am also aware that the crossing could be a significant distance of the waterbody between the landlocked property and where the user could access the waterbody.

¹⁵ Note that the Indigenous Vegetation clearance in riparian margin rules have been moved to the Ecosystems and Indigenous Biodiversity Chapter and currently does not have a TTPP reference number.

72. The overview to the chapter states that the provisions of the Natural Character and the Margins of Waterbodies and the Sites and Areas of Significance to Māori chapters apply. This provides alternative avenues to addresses some of the potential effects of continued watercraft activity.
73. I still recommend that the rule is limited to Māori Land to minimise the potential effects, and that ‘parcels’ is replaced with the National Planning Standard definition of ‘site’ and ‘waterway’ replaced with ‘waterbody’ for clarity and consistency.
74. Remedy Sought:
- (a) Amend rule ASW-R2 as followed:
 ASW – R2 Use of Motorised Watercraft for Non-commercial Use on the Surface of Rivers, Lagoons and Lakes
 Activity Status Permitted
 Where:
 1. This does not occur on the surface of Lake Māhinapua or Māhinapua Creek/Tuwharewhare, Waitangiroto River, Makaawhio River, Arahura River, Kaimata/New River, Makatata Stream or Saltwater Lagoon (at Paroa) except: ...
 b. Where the activity is for:
 viii. Access to **Māori Land that is a** landlocked **parcels site** where primary and physical access is only achieved through crossing the **waterway waterbody**

Written Approvals

Submission no. 620.197, 620.199, 620.200

75. Rules ASW-R4, ASW-R6 and ASW-R7 contained provisions for written approval from Poutini Ngāi Tahu rūnanga for permitted activities.
76. The s42A report has accepted these submissions and amended the rules to create advice notes to provide information as to the potential need to engage with Poutini Ngāi Tahu. However, it is still unclear that for the waterbodies (excluding Lake Māhinapua) that written approval from Te Rūnanga o Ngāti

Waewae or Te Rūnanga o Makaawhio is still advised. To enhance the readability, I recommend further alterations in line with what has been recommended in the Ngāi Tahu submissions.

77. Remedy Sought:

(a) Amend Rules ASW-R4, ASW-R6 and ASW-R7 as follows:

ASW – R4 Installation of Structures on the Surface of Natural Waterbodies

Activity Status Permitted

Where: ...

4. These are structures installed by Poutini Ngāi Tahu that are identified in an Iwi/Papatipu Rūnanga Management Plan for Arahura River, Makaawhio River, Waitangiroto River, Māhinapua Creek/Tuwharewhare, Makatata Stream or Lake Māhinapua; or ...

Advice Note: ...

4. Written approval is recommended from the relevant Poutini Ngāi Tahu rūnanga - Te Rūnanga o Ngāti Waewae or Te Rūnanga o Makaawhio. In relation to Lake Māhinapua, written approval from ~~and from~~ Te Rūnanga o Ngāi Tahu in addition to Te Rūnanga o Ngāti Waewae or Te Rūnanga o Makaawhio is recommended in relation to Lake Māhinapua.

ASW – R6 Commercial Activities on the Surface of Rivers, Lagoons and Lakes

Activity Status Restricted Discretionary

Where:

1. Any commercial activity on the Makaawhio River, Arahura River, Lake Mahinapua, Mahinapua Creek/Tuwharewhare, Makatata Stream, Saltwater Lagoon (at Paroa), Waitangiroto River or Kaimata/New River is in accordance with an Iwi/Papatipu Rūnanga Management Plan

Advice Note: ...

Written approval is recommended from the relevant Poutini Ngāi Tahu rūnanga - Te Rūnanga o Ngāti Waewae or Te

Rūnanga o Makaawhio In relation to Lake Māhinapua, written approval from ~~and from~~ Te Rūnanga o Ngāi Tahu in addition to Te Rūnanga o Ngāti Waewae or Te Rūnanga o Makaawhio is recommended in relation to Lake Māhinapua.

ASW – R7 Use of Motorised Watercraft for Non - Commercial Use, Commercial Activities, and Structures on the Surface of Water not provided for in another Rules.

Activity Status Discretionary

Notification: When making notification decisions in relation to this rule, the Council will be informed by advice from Poutini Ngāi Tahu and should the application be notified, it will be served on the relevant Poutini Ngāi Tahu Rūnanga.

POUTINI NGĀI TAHU VALUES AS A CONSENT CONSIDERATION

Submission no. 620.015

S608.618 Grey District Council

78. **Appendix Three** of my evidence assesses the Controlled and Restricted Discretionary provisions for the Natural Character and the Margins of Waterbodies and the Activities on the Surface of Water chapters. The conclusion from my assessment is that the matters of control and discretion for activities on the surface of water will consider Poutini Ngāi Tahu values and that the matters of discretion for the Natural Character and the Margins of Waterbodies rule NC-R3 (Natural Hazard structures) currently does not.
79. The s42A report recommends that Natural Hazard structures not constructed by a Statutory Agency should be a Restricted Discretionary Activity (NC-R3). However, the matters of discretion are limited to physical matters¹⁶ and does not provide for or consider Poutini Ngāi Tahu values as identified in objective

¹⁶ Note I support the first matter of discretion as it potentially addresses engineering issues and potential long term effects from its location, design or construction method.

NC-O2. In Appendix Three I have compared the same feasible activity used for the new RDA Natural Hazard structure rule to the RDA earthworks rule EW-R8 (Earthworks in any zone not meeting Permitted Activity Standards) which has a more detailed matters of discretion and addressed all the potential Poutini Ngāi Tahu values identified as well as other matters that are identified in the policies of the chapter such as the ability to maintain network utilities in the area. Earthworks associated with a Natural Hazard structure is permitted when undertaken by a statutory agency in rule EW-R2(2)(g), indicating that earthworks not undertaken by a statutory agency for a Natural Hazard structure would require a resource consent under EW-R8.

80. I would expect that an activity breaching the new RDA Natural Hazard structure rule NC-R3 would also trigger rule EW-R8, unless the structure proposed required no earthworks, which I consider has a low probability in the riparian margins. Therefore, I recommend that the new RDA Natural Hazard structure rule includes the same discretion as in rule EW-R8 for clarity to the plan user as well as to achieve the objectives and policies of the Natural Character and the Margins of Waterbodies provisions¹⁷.
81. Remedy Sought:

- (a) Amend rule NC-R3 as follows:

NC – R3 Natural Hazard Mitigation Structures within the Riparian Margin of a River, Lake or Wetland not meeting Permitted Activity Standards

Activity Status Restricted Discretionary

Matters of Discretion

1. Design and location of the structure

2. Visual impact of the structure

3. Methods to avoid, remedy or mitigate adverse effects on natural character or public access.

¹⁷ Note that the discretion point 'cultural' was replaced with 'Poutini Ngāi Tahu values and sites' in accordance with other submission points to improve clarity. This is the only recommended difference from notified rule EW-R8.

2. The impact on visual amenity, landscape character, outlook and privacy;
3. Potential dust nuisance, sedimentation, land instability, contamination and erosion effects;
4. Effects that result from the stockpiling in terms of visual amenity, landscape context and character, views, outlook, overlooking and privacy;
5. The effectiveness of proposed management or mitigation measures to minimise any potential adverse effects beyond the property boundary of the activity;
6. Any changes to the patterns of surface drainage or subsoil drains that could result in a higher risk of drainage problems, inundation run-off, flooding, or raise the water table;
7. The impact of earthworks on critical infrastructure;
8. The impact on the road network, of heavy vehicle and other vehicular traffic generated as a result of earthworks;
9. Any adverse effects on landscape, amenity, natural features, water quality, Poutini Ngāi Tahu values and sites, heritage sites, biodiversity and habitat of indigenous flora and fauna, and the quality of the environment;
10. The impact on stormwater infrastructure and any overland flow paths; and
11. The impact on any natural hazards infrastructure and the effectiveness of its operation.

SUMMARY OF RELIEF SOUGHT FOR NATURAL CHARACTER AND THE MARGINS OF WATERBODIES AND ACTIVITIES ON THE SURFACE OF WATER

82. The Ngāi Tahu submissions on the TTPP generally support the notified plan and seek minor amendments to provide for the values and future of Papatipu Rūnanga. My evidence provides drafting and supporting reasons to enable the Hearings Panel to make provision for the principles of Te Tiriti as set out in the NTCSA.

83. In response to its submission and further submissions on the natural character and the margins of waterbodies and activities on the surface of water, Ngāi Tahu seeks the following relief:

Riparian Margin

- (a) That the definition of riparian margin is amended to provide for rivers 1-3 metres wide:

Riparian Margin means all land within:

- a. 10m of any wetland that is located in the coastal marine area
- b. 20m of any lake; and
- c. 10m of any river with an average bed width greater than 3m.
- d. 5m of any river with an average bed width between 1-3m.

As measured from the point of annual fullest flow for a river or annual fullest water level for a lake or Mean High Water Springs for a coastal wetland.

Waterbody zoning

- (b) That the waterbodies are not zoned General Rural as recommended in the s42A report.
- (c) That the waterbodies shown on the zoning maps remain.
- (d) That any site with an identified waterbody shown on the planning maps takes its zoning from the nearest adjoining zone (the same as roads), with a clear disclaimer included on the maps to avoid any uncertainty for the plan users.

Activities on Lake Māhinapua

- (e) That the recommendations in the s42A report for Activities on the Surface of Water Rules– R2 and R4 in relation to the Lake Māhinapua Aquatic Club are adopted.

Overview of the Natural Character and Margin of Waterbodies Chapter

- (f) That the overview is amended as follows:

Other relevant Government Bodies

Aside from Regional and Local government, there are other key agencies and government groups involved in the integrated management of waterbodies. These include:

- The Department of Conservation;
- NZ Landcare Trust;
- Catchment care and other restoration groups; and
- The Herenga ā Nuku Aotearoa Outdoor Access Commission

Infrastructure Policies in the Overviews

- (g) That in the overview of the Natural Character and the Margins of Waterbodies and the Activities on the Surface of Water chapters, the recommendation of the s42A report in respect of referencing the policies of the Energy, Infrastructure and Transport chapter is not adopted.
- (h) That the following statement from the policies section of the Natural Environment Values chapters (Ecosystems and Indigenous Biodiversity, Natural Features and Landscapes and Natural Character and the Margins of Waterbodies) is removed.

~~Also where relevant refer to policies in the Energy, Infrastructure and Transport Chapters.~~

- (i) That in the overview of the Natural Character and the Margins of Waterbodies and the Activities on the Surface of Water chapters the following is added to the 'Other relevant Te Tai o Poutini Plan Provisions' section:

Energy, Infrastructure and Transport – The Energy, Infrastructure and Transport chapters contain provisions that manage Energy, Infrastructure and Transport activities and potential reserve sensitivity.

Port Activities (Activities on the Surface of Water)

- (j) Retain ASW-P3 as notified.

NC-R2 Buildings and Structures within the Riparian Margin of a River, Lake or Wetland

- (k) Amend NC-R2 as followed:

NC – R2 Buildings and Structures within the Riparian Margin of a River, Lake or Wetland
Activity Status Permitted

Where:

1. All standards in Rule NC - R1 and ECO-Rxxx in relation to riparian margins are complied with; and
2. 1 Where the buildings and structures have a functional or operational need to locate in the riparian margin and are: ...
 - (h) Temporary bridges constructed as part of a temporary military training activity; or ...

ASW- R2 Use of Motorised Watercraft for Non-commercial Use on the Surface of Rivers, Lagoons and Lakes

(l) Amend ASW-R2 as followed:

ASW – R2 Use of Motorised Watercraft for Non-commercial Use on the Surface of Rivers, Lagoons and Lakes

Activity Status Permitted

Where:

1. This does not occur on the surface of Lake Māhinapua or Māhinapua Creek/Tuwharewhare, Waitangiroto River, Makaawhio River, Arahura River, Kaimata/New River, Makatata Stream or Saltwater Lagoon (at Paroa) except: ...

b. Where the activity is for:

- viii. Access to Māori Land that is a landlocked parcels site where primary and physical access is only achieved through crossing the waterway waterbody

Written Approvals

(m) Amend Rules ASW-R4, ASW-R6 and ASW-R7 as follows:

ASW – R4 Installation of Structures on the Surface of Natural Waterbodies

Activity Status Permitted

Where: ...

4. These are structures installed by Poutini Ngāi Tahu that are identified in an Iwi/Papatipu Rūnanga Management Plan for Arahura River, Makaawhio River, Waitangiroto River, Māhinapua Creek/Tuwharewhare, Makatata Stream or Lake Māhinapua; or ...

Advice Note: ...

4. Written approval is recommended from the relevant Poutini Ngāi Tahu rūnanga - Te Rūnanga o Ngāti Waewae or Te Rūnanga o Makaawhio. In relation to Lake Māhinapua, written approval from ~~and from~~ Te Rūnanga o Ngāi Tahu in addition to Te Rūnanga o Ngāti Waewae or Te Rūnanga o Makaawhio is recommended in relation to Lake Māhinapua.

ASW – R6 Commercial Activities on the Surface of Rivers, Lagoons and Lakes

Activity Status Restricted Discretionary

Where:

2. Any commercial activity on the Makaawhio River, Arahura River, Lake Mahinapua, Mahinapua Creek/Tuwharewhare, Makatata Stream, Saltwater Lagoon (at Paroa), Waitangiroto River or Kaimata/New River is in accordance with an Iwi/Papatipu Rūnanga Management Plan

Advice Note: ...

Written approval is recommended from the relevant Poutini Ngāi Tahu rūnanga - Te Rūnanga o Ngāti Waewae or Te Rūnanga o Makaawhio In relation to Lake Māhinapua, written approval from ~~and from~~ Te Rūnanga o Ngāi Tahu in addition to Te Rūnanga o Ngāti Waewae or Te Rūnanga o Makaawhio is recommended in relation to Lake Māhinapua.

ASW – R7 Use of Motorised Watercraft for Non - Commercial Use, Commercial Activities, and Structures on the Surface of Water not provided for in another Rules.

Activity Status Discretionary

Notification: When making notification decisions in relation to this rule, the Council will be informed by advice from Poutini Ngāi Tahu and should the application be notified, it will be served on the relevant Poutini Ngāi Tahu Rūnanga.

Poutini Ngāi Tahu values

- (n) Amend Rules NC-R3 as follows:

NC – R3 Natural Hazard Mitigation Structures within the Riparian Margin of a River, Lake or Wetland not meeting Permitted Activity Standards

Activity Status Restricted Discretionary

Matters of Discretion

1. Design and location of the structure
- ~~2. Visual impact of the structure~~
- ~~3. Methods to avoid, remedy or mitigate adverse effects on natural character or public access.~~
2. The impact on visual amenity, landscape character, outlook and privacy;
3. Potential dust nuisance, sedimentation, land instability, contamination and erosion effects;
4. Effects that result from the stockpiling in terms of visual amenity, landscape context and character, views, outlook, overlooking and privacy;
5. The effectiveness of proposed management or mitigation measures to minimise any potential adverse effects beyond the property boundary of the activity;
6. Any changes to the patterns of surface drainage or subsoil drains that could result in a higher risk of drainage problems, inundation run-off, flooding, or raise the water table;
7. The impact of earthworks on critical infrastructure;
8. The impact on the road network, of heavy vehicle and other vehicular traffic generated as a result of earthworks;
9. Any adverse effects on landscape, amenity, natural features, water quality, Poutini Ngāi Tahu values and sites, heritage sites, biodiversity and habitat of indigenous flora and fauna, and the quality of the environment;
10. The impact on stormwater infrastructure and any overland flow paths; and
11. The impact on any natural hazards infrastructure and the effectiveness of its operation.



Rachael Pull

19 January 2024

APPENDIX 1: Summary of Poutini Ngāi Tahu submissions and the direction taken

Submission	Provision	Position	Reasons for Submission	S42A position	Position in Evidence
Definitions					
S620.042	WATERBODY	Amend	Amend the definition of 'waterbody' to reflect the areas zoned.	P78 Accept	Recommend alternative remedy Paragraph 32
S620.191 S620.192	Definitions	Amend	Watercraft is not defined within the plan nor the RMA.	P81 Accept	Support
S620.041	RIPARIAN MARGIN	Amend	Include the following wording to the notified definition: <u>d. 5 m of any stream or river with an average bed width of 3 metres or less.</u>	P175-179 Reject	Recommend alternative remedy Paragraph 25
	Westpower Limited (FS222.0338)	Oppose	Riparian Margins - The proposed amendment is likely to adversely impact and inhibit Westpower's ability to service the community.		
	Westland District Council (FS79.1)	Support in Part	Definition – Amend the definition of riparian margin: Means all land within: a. 10m of any wetland; b. 20m of any lake; and c. A		

Submission	Provision	Position	Reasons for Submission	S42A position	Position in Evidence
			certain distance [as per attached table] from the usual and non-flood fullest flow/highest level [see diagram] of any river		
Natural Character and Margins of Waterbodies					
FS41.664 on S274.004 Herenga ā Nuku Aotearoa Outdoor Access Commission	Overview	Oppose in part	We oppose the addition of additional groups to the third paragraph of the overview. This paragraph recognises the RMA/NES relationship between Councils and mana whenua in relation to water. We recommend that they are added as an advice note for public information purposes at the end of the overview.	P59 Accept in Part	Support Paragraph 49
FS41.017 on S608.063 Grey District Council	Overview	Oppose	Cross referencing within the Plan is important for clarity.	P51 Accept	Support
S620.172	Overview	Support	The fourth paragraph describes the importance of and associations with waterbodies to Poutini Ngāi Tahu.	P58 Accept in Part	Support Paragraph 49

Submission	Provision	Position	Reasons for Submission	S42A position	Position in Evidence
S620.173	NC - O2	Support	This objective recognises the importance of water bodies to Poutini Ngāi Tahu.	P94 Accept	Support
FS41.731 on S608.608 Grey District Council	NC - P1	Oppose	As a s6 matter, 'minimise' is an acceptable term and it is recommended to retain. Core infrastructure needs to recognise and protect the natural character and margins of waterbodies as part of their core business.	P109 Accept	Support
S620.174	NC - P2	Amend	Provides for Poutini Ngāi Tahu cultural activities within riparian margins.	P119 Accept	Support
FS41.732 on S608.609 Grey District Council	NC - P2	Oppose	As a s6 matter, 'minimise' is an acceptable term and it is recommended to retain. Core infrastructure needs to recognise and protect the natural character and margins of waterbodies as part of their core business.	P123-124 Accept in Part	Support
FS41.195 on	NC - P2	Oppose	Mining, mineral extraction, exploration and prospecting activities within the margin of	P120	Support

Submission	Provision	Position	Reasons for Submission	S42A position	Position in Evidence
S493.065 TiGa Minerals			waterbodies needs to be considered carefully for potential effects and not provided for in all circumstances.	Accept	
FS41.193 on S560.249 Forest & Bird	NC - P2	Oppose	Poutini Ngāi Tahu activities and activities on Māori Purpose Land are appropriate and often have a functional need to be in the margins of waterbodies. The recognition and protection of these activities is a section 6 function equal (and often complementary) to biodiversity values.	P114 Accept	Support
FS41.194 on S599.070 WMS Group	NC - P2	Oppose	Mining, mineral extraction, exploration and prospecting activities within the margin of waterbodies needs to be considered carefully for potential effects and not provided for in all circumstances.	P120 Accept	Support
FS41.197 on S603.035 BRM Developments	NC - P2	Oppose	Mining, mineral extraction, exploration and prospecting activities within the margin of waterbodies needs to be considered carefully for potential effects and not provided for in all circumstances.	P120 Accept	Support

Submission	Provision	Position	Reasons for Submission	S42A position	Position in Evidence
FS41.199 on S604.045 Birchfield	NC - P2	Oppose	Mining, mineral extraction, exploration and prospecting activities within the margin of waterbodies needs to be considered carefully for potential effects and not provided for in all circumstances.	P120 Accept	Support
FS41.201 on S606.036 Phoenix Minerals	NC - P2	Oppose	Mining, mineral extraction, exploration and prospecting activities within the margin of waterbodies needs to be considered carefully for potential effects and not provided for in all circumstances.	P120 Accept	Support
FS41.203 on S607.034 Whyte Gold	NC - P2	Oppose	Mining, mineral extraction, exploration and prospecting activities within the margin of waterbodies needs to be considered carefully for potential effects and not provided for in all circumstances.	P120 Accept	Support
FS41.243 on S438.109 Manawa Energy	NC - P5	Oppose	Public access to waterbodies is a s6 matter along with other considerations meaning that any restriction can only be considered after all other avenues and options are exhausted.	P141 Accept	Support

Submission	Provision	Position	Reasons for Submission	S42A position	Position in Evidence
FS41.242 on S547.321 Westpower	NC - P5	Oppose	Public access to waterbodies is a s6 matter along with other considerations meaning that any restriction can only be considered after all other avenues and options are exhausted.	P141 Accept	Support
FS41.202 on S438.112 Manawa Energy	Natural Character and the Margins of Waterbodies Rules	Oppose in part	This new rule makes breaches to NC-R1 a restricted discretionary activity as opposed to the notified status of discretionary. This reduced ability to consider effects is not supported.	P258 Accept	Support
FS41.663 on S560.041 Forest & Bird	Natural Character and the Margins of Waterbodies Rules	Oppose in part	The relationship of Māori with their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga is a s6 matter of equal (and often complementary) to biodiversity values. The Rules of this chapter recognise this through the permitted status of Poutini Ngāi Tahu Activities.	P152 Accept in Part	Support
FS41.188 on	Natural Character and	Oppose	Hazard protection needs to occur at the hazard scale and not the individual property	P256	Support

Submission	Provision	Position	Reasons for Submission	S42A position	Position in Evidence
S608.065 Grey District Council	the Margins of Waterbodies Rules		in order to consider all the impacts on surrounding properties and if the protection is consistent with government direction (i.e managed retreat).	Accept	
S620.175 S620.176	NC - R1	Amend	Needs to be inclusive of MPZ - Māori Purpose Zoned land and the Sites or Areas of Significance to Māori listed in Schedule Three.	P195 Accept	Support
FS41.728 on S663.051 Chorus NZ Ltd, Spark NZ Trading Ltd, Vodafone NZ Ltd	NC - R1	Support in part	We support network utilities and critical infrastructure on existing bridges and formed roads but note that the definition of a legal road in the Land Transport Act 1998 includes beaches and places to which the public have access (i.e esplanade reserves and waterbodies in some instances). We submit that 'legal roads' is amended to 'formed roads' or its equivalent that limits this standard to existing constructed carriageways and the immediate land within the legal road parcel.	P196-197 Accept in Part	Support

Submission	Provision	Position	Reasons for Submission	S42A position	Position in Evidence
FS41.240 on S519.030 NZDF	NC - R1	Oppose	This permitted standard could potentially create unmanaged effects.	P182 Accept	Support
FS41.241 on S547.325 Westpower	NC - R1	Oppose	This permitted standard could potentially create unmanaged effects.	P175 Accept	Support
FS41.192 on S552.215 Buller Conservation	NC - R1	Oppose	Poutini Ngāi Tahu activities and activities on Māori Purpose Land are appropriate and often have a functional need to be in the margins of waterbodies. The recognition and protection of these activities is a section 6 function equal (and often complementary) to biodiversity values.	P186-188 Accept	Support
FS41.191 on S553.219 Ms Inta	NC - R1	Oppose	Poutini Ngāi Tahu activities and activities on Māori Purpose Land are appropriate and often have a functional need to be in the margins of waterbodies. The recognition and protection of these activities is a section 6 function equal (and often complementary) to biodiversity values.	P186-188 Reject	Support

Submission	Provision	Position	Reasons for Submission	S42A position	Position in Evidence
FS41.190 on S560.253 Forest & Bird	NC - R1	Oppose in part	Poutini Ngāi Tahu activities and activities on Māori Purpose Land are appropriate and often have a functional need to be in the margins of waterbodies. The recognition and protection of these activities is a section 6 function equal (and often complementary) to biodiversity values.	P183-185 Accept	Support
FS41.189 on S519.031 NZDF	NC - R2	Oppose	This permitted standard could potentially create unmanaged effects.	P223 Accept in Part	Recommend alternative remedy Paragraph 66
Activities on the surface of water					
FS41.020 on S608.078 Grey District Council	ASW	Oppose	Cross referencing within the Plan is important for clarity.	P264 Accept	Support
FS41.054 on S547.397 Westpower	Activities on the Surface of Water Objective	Oppose	Benefits are considered during a consent process, however any benefits needs to be balanced against the potential effects. This	P272 Accept	Support

Submission	Provision	Position	Reasons for Submission	S42A position	Position in Evidence
			is addressed in objective 1 and does not require a second objective.		
S620.193	ASW - O1	Support	Inappropriate structures or activities on the surface of water can adversely affect the values associated with a waterbody.	P269 Accept in Part	Support
FS41.055 on S547.399 Westpower	Activities on the Surface of Water Policies	Oppose	Structures are provided for in Policy 3 with consideration of what the adverse effects are. A blanket support policy for infrastructure without consideration of the values or effects is not sustainable management of the environment	P276 Accept	Support
S620.194	ASW - P2	Support	Inappropriate structures or activities on the surface of water can adversely affect the values associated with a waterbody.	P278 Accept	Support Paragraph 38
FS41.056 on S332.001 Lake Māhinapua Aquatic Club	ASW - P2	Oppose	Lake Māhinapua is a recognised area of value to Poutini Ngāi Tahu. Activities on this lake need to be considered against these values on a case-by-case basis.	P279-281 Accept	

Submission	Provision	Position	Reasons for Submission	S42A position	Position in Evidence
S620.195	ASW - P3	Support	Enables commercial activities that support the wellbeing of the community provide that there are no adverse effects on Poutini Ngāi Tahu values.	P283 Accept	Support Paragraph 62
	FS152.005 West Coast Bulk Logistics Limited	Support	Retain Policy ASW-P3 as notified – add permitted activity rule to give effect to this policy (as above).		
	FS149.0153 Buller District Council (s538)	Support	The rule framework does not implement ASW – P3 as no provision has been made for commercial vessels utilising the region’s ports. While the port operates under existing by-laws, for the avoidance of doubt, Council requests a new permitted activity rule to provide for commercial vessels.		
	FS1.436 Grey District Council	Support	ASW-P3 - The rule framework does not implement ASW – P3 as no provision has been made for commercial vessels utilising the region’s ports. While the port operates under bylaws, for the avoidance of doubt, Council requests a new permitted activity rule to provide for commercial vessels. Consequential amendment – insert a new		

Submission	Provision	Position	Reasons for Submission	S42A position	Position in Evidence
			permitted activity rule to allow commercial vessel activities on the surface of rivers associated with port operations		
	FS231.047 WMS Group (HQ) Limited and WMS Land Co. Limited (WMS Group)	Support in part	Allow in part WMS support policy ASW – P3 insofar as it seeks to enable commercial activities that support the wellbeing of the community. The current plan provisions do not appropriately give effect to this policy. WMS seeks a clear permitted activity rule which provides for port operations at the Greymouth and Buller Ports on the surface of the navigable waters in the vicinity of the port infrastructure.		
S620.196	ASW - R2	Amend	The ability for mana whenua to build on their Mātauranga through monitoring needs to be enabled.	P299 Accept	Support
FS41.051 on S161.003	ASW - R2	Oppose	Activities on these rivers need to be considered against these values.	P293-294 Accept	Support Paragraph 38

Submission	Provision	Position	Reasons for Submission	S42A position	Position in Evidence
Jet Boating NZ					
FS41.662 on S329.001 Mr Higgs	ASW - R2	Oppose	Lake Māhinapua is a recognised area of value to Poutini Ngāi Tahu. Activities on this lake need to be considered against these values on a case-by-case basis.	P295-298 Reject	
FS41.058 on S440.038 The office of the Māori Trustee	ASW - R2	Support in part	We support addressing past errors that prevent the reasonable use and development, however we submit that this access should be limited to the landowner due to the wide scope of the rule. Alternatively, this submission point may be more effective as a policy to be considered at subdivision/activity stage rather than a permitted rule.	P301 Reject	Recommend alternative remedy Paragraph 69
FS41.057 on S569.031 Minerals West Coast	ASW - R2	Oppose	This type of the activity needs to be considered on a case-by-case basis (via resource consent) due to the unique nature and values of waterbodies in order to best understand and assess the effects. In	P300 Accept	Support

Submission	Provision	Position	Reasons for Submission	S42A position	Position in Evidence
			particular, the waterbodies and cultural importance listed within Schedule Three.		
S620.197	ASW - R4	Amend	Consistency as elsewhere in the plan provides for temporary whitebait stands.	P304 Accept	Recommend alternative remedy Paragraph 75
FS41.052 on S332.002 Lake Māhinapua Aquatic Club	ASW - R4	Oppose	Lake Māhinapua is a recognised area of value to Poutini Ngāi Tahu. Activities on this lake need to be considered against these values on a case-by-case basis.	P305 Reject	Recommend alternative remedy Paragraph 38
FS41.666 & FS41.668 on S547.0504 & S547.0508 Westpower	ASW - R4	Oppose	This permitted standard could potentially create unmanaged effects.	P307-310 Accept in Part	Support

Submission	Provision	Position	Reasons for Submission	S42A position	Position in Evidence
S620.198	ASW - R5	Support	For those rivers where swimming platforms are enabled it is important that Poutini Ngāi Tahu have input to ensure these values are protected.	P311 Accept	Support
S620.199	ASW - R6	Amend	Preference is for reference to Poutini Ngāi Tahu values as only mana whenua can speak to their values.	P317 Accept	Recommend alternative wording Paragraph 75
FS41.060 on S493.068 TiGa Minerals	ASW - R6	Oppose	This type of the activity needs to be considered on a case-by-case basis (via resource consent) due to the unique nature and values of waterbodies in order to best understand and assess the effects. In particular, the waterbodies and cultural importance listed within Schedule Three.	P318 Accept	Support
S620.200	ASW - R7	Amend	Definition of Poutini Ngāi Tahu, Treaty Settlement Requirements and a ASW R4.	P320 Accept in Part	Recommend alternative wording Paragraph 75
FS41.059 on S493.069	ASW - R7	Oppose	This type of the activity needs to be considered on a case-by-case basis (via resource consent) due to the unique nature	P321 Accept	Support

Submission	Provision	Position	Reasons for Submission	S42A position	Position in Evidence
TiGa Minerals			and values of waterbodies in order to best understand and assess the effects. In particular, the waterbodies and cultural importance listed within Schedule Three.		

APPENDIX TWO: West Coast Regional Land and Water Plan Schedule 7C

Spiritual and cultural beliefs, values, and uses of significance to Poutini Ngāi Tahu

This Schedule identifies the spiritual or cultural beliefs, values or uses associated with water bodies of significance to Poutini Ngāi Tahu. Poutini Ngāi Tahu provided the information that appears in this schedule.

Kaitiakitanga and mauri are not listed for each river as these elements apply to all lakes and rivers on the West Coast. Shared rohe for Makaawhio and Ngāti Waewae are shown in italics.

Explanation of the values identified in the Schedule 1C Columns

Waahi tapu and/ or Waiwhakaheke	Sacred places; sites, areas and values associated with water bodies that hold spiritual values of importance to Poutini Ngāi Tahu. (Note: Poutini Ngāi Tahu may be consulted regarding the location of these places, sites, areas and values.)
Waahi taonga	Treasured resource; values, sites and resources that are valued and reinforce the special relationship Poutini Ngāi Tahu have with the West Coast's water resources.
Mahinga Kai	Places where food is procured or produced. Examples include eels, whitebait, kanakana (lamprey), kokopu (galaxiid species), koura (freshwater crayfish), freshwater mussels, indigenous waterfowl, watercress and raupo.
Kohanga	Important nursery/ spawning areas for native fisheries & breeding areas for birds
Navigation routes	Water bodies which formed part of traditional routes.
Cultural materials	Water bodies that are sources of traditional weaving materials (such as raupo and paru) and rongoa (medicines).
Waipuna	Waters highly regarded for their purity, healing and health-giving powers.
Trad. Campsite	Area or site of either temporary, seasonal or permanent traditional occupation
Nohoanga	Ngāi Tahu seasonal occupation sites, given contemporary effect through the Ngāi Tahu Claims Settlement Act
Statutory Ack. Areas	Statutory Acknowledgements areas are in Schedule 5 and are areas of particular significance for Ngāi Tahu.

Poutini Ngāi Tahu Spiritual and Cultural Beliefs Values and Uses

	Waahi tapu	Waahi taonga	Mahinga Kai	Kohanga	Navigation routes	Cultural materials	Waipuna	Trad. campsite	Nohoanga	Statutory Ack. areas
Kahurangi	X			X	X			X		
Whakapoai (Heaphy)	X		X	X	X			X		
Wekakura				X						
Kohaihai				X	X			X		
Oparara			X	X	X					
Roto Aorere		X			X		X			
Karamea	X	X		X	X	X		X		
Whanganui iti			X	X	X					
Mokihinui		X	X	X	X	X	X	X		
Ngakawau			X	X	X					
Orikaka			X	X	X			X		
Orowaiti				X	X					
Matakitaki				X	X					
Maruia	X			X	X			X		

	Waahi tapu	Waahi taonga	Mahinga Kai	Kohanga	Navigation routes	Cultural materials	Waipuna	Trad. campsite	Nohoanga	Statutory Ack. areas
Inangahua				X	X					
Kawatiri (Buller)	X	X	X	X	X			X		
Ohikanui			X	X	X			X		
Okari Lagoon		X	X	X	X					X
Totaranui			X	X	X					
Totara iti				X						
Waitakere (Nile)			X	X	X					
Tiropahi				X						
Potikohua (Fox)			X	X	X	X		X		
PunuNgāiro (Bullock Crk)	X		X				X			
Pororari		X	X		X					
Punakaiki			X	X	X			X		
Canoe Creek		X				X		X		
Kotuku Whakaohe (L Brunner)	X	X	X	X	X	X	X	X		X
Kotuku awa (Arnold)	X	X	X	X	X	X	X	X		
Lakes: Lady, Kangaroo, Haupiri, Ahaura		X		X						
Mawhera (Grey)	X	X	X	X	X	X	X	X		
Paroa			X					X		
Kaimata/ New River			X					X		
Hohonu				X	X	X	X	X		
Taramakau River	X	X	X	X	X	X	X	X	X	X
Kapitea		X				X				
Waimea		X	X			X				
Arahura	X	X	X	X	X	X	X	X		
Lake Kaniere		X	X	X	X	X	X	X		X
Hokitika	X	X	X	X	X	X	X	X		
Tauwharewhare			X	X						
Mahinapua (Lake and Ck)	X	X	X	X	X	X				
Totara			X							
Mikonui			X	X					X	
Waikoriri		X	X			X				
Waitaha		X	X	X	X	X	X			
Wanganui			X				X	X		
Matahi (Ilanthe)		X	X	X		X	X			
Poueruua (Saltwater Lagoon)		X	X	X	X	X				X
Poeruahapūa Lagoon		X	X	X		X		X		
Whataroa			X					X		
Waitangi Tahuna			X					X		
Waitangiroto			X	X						
Lake Wahapo			X					X		
Okarito Lagoon	X	X	X	X		X		X	X	X
Okarito River	X	X	X	X		X		X	X	
Lake Mapourika			X							
Waiau & Tatara					X					
Totara Iti & Nui/3 & 5 Mile Lagoons			X							
Omoeroa			X					X		
Waikukupa			X							
Te Wai A Hope Lake Mueller			X							
Lake Matheson			X							
Ohinetamatea			X		X					
Karangarua Lagoon			X			X		X	X	X
Karangarua River			X			X		X	X	
Manakaiaua			X					X		
Hunts Creek			X							
Ta Heke A Kai		X								
Makaawhio	X	X	X			X		X		X
Papkeri & Lake Kini			X							

APPENDIX THREE: Assessment Tables for Poutini Ngāi Tahu values¹⁸

The following tables have used a fictional yet realistic scenario that would trigger each of the controlled and restricted discretionary rules of the natural character and margin of waterbodies, and the activities on the surface of water chapters. They have been split into two part each. The first half of the table uses the values as described in the Tangata Whenua chapter, to listed potential effects on those values that would be triggered by what part of the activity required consent.

The second half of the table reviews the existing matters of control or discretion as well as other relevant parts of the Plan to determine if there is the potential for significant adverse effects on Poutini Ngāi tahu values that are not already provided for within the Plan. This analysis has been subjective as there are several matters of discretion that are open to interpretation. If my interpretation is incorrect of the matters of control and discretion or they significantly change as a result of hearing evidence of other submitters, then further consideration by the panel may be required to determine if the values have been considered.

TABLE 1: NATURAL CHARACTER AND MARGIN OF WATERBODIES

Relevant Objectives and Policies

NC – O2 To recognise and provide for the relationship of Poutini Ngāi Tahu and their traditions, values and interests associated with the natural character of lakes, rivers and wetlands and their margins.

NC – P2 Provide for indigenous vegetation removal and earthworks within riparian margins of lakes, rivers and wetlands where significant adverse effects on natural character are minimised as far as practicable and: ...

d. It is for Poutini Ngāi Tahu cultural purposes; or; ...

Note there are no Controlled or Restricted Discretionary rules for this chapter in the notified version, however there is one restricted discretionary activity recommended in the s42A report.

¹⁸ Disclaimers: Limited to the hearing topic, does not consider overlays, district wide provisions or Strategic Direction provisions (which would trigger additional requirements). These are theoretical examples only, they do not address all values or considerations, and are not to be used as an assessment tool by plan users.

CA & RDA rule	Feasible Activity scenario triggering consent	Potentially relevant Poutini Ngāi Tahu values	Level of Rūnanga engagement	Possible conditions of consent
NC-R3 RDA Natural Hazard Mitigation Structures within the Riparian Margin of a River, Lake or Wetland not meeting Permitted Activity Standards	Erosion control on a riparian margin to protect a private property (Gabion baskets)	<ol style="list-style-type: none"> 1. Kaitiakitanga – what resources are impacted by this? (is public access is reduced, loss of taonga species by habitat loss- including cumulative effect) 2. Tino Rangatiratanga – does this impact a statutory acknowledgement or resource identified and communicated to the Councils via a Management Plan or the Mana Whakahono o Rohe? 3. Mauri –will the structure result in increased erosion into a waterbody at a different location? How will it impact the lifeforce of the total ecosystem? 4. Mahinga kai – could the structure (during construction or once established) impact a food or resource gathering spot? 5. Ki Uta Ki Tai – what is the holistic impact on the wider environment and downstream (reduced shade, faster river flows) impacted by this structure? 6. Wāhi tapu & Taonga – are there stories/histories or resources in the area that could be impacted by the structure or its construction? 	<ul style="list-style-type: none"> • Pre-lodgment discussion with Rūnanga • Council reaches out to Rūnanga for expert advice 	<ol style="list-style-type: none"> 1. Planting of indigenous species within or alongside the baskets to create new habitats. 2. Conditions specific to the river values – education, access, change of size/location/material. 3. Erosion and sediment control requirements for construction. Monitoring of downstream effects if identified in the assessment. 4. No Construction will occur on the site between xx and xx in order to allow for the traditional harvest of e.g. whitebait/inanga. 5. Monitoring of downstream effects if identified in the assessment. 6. Conditions specific to any advice/information available to Council about Wāhi tapu and Taonga resources in the area.

Other potential rules relevant in the Plan:

- **Sites and Areas of Significance to Māori overlay and schedule three**
- **Appendices: Four** Accidental Discovery Protocols, **Five** Statutory Acknowledgements **and Six** Nohoanga Entitlements
- **Earthworks Chapter: EW-R1**
 - (3) Erosion and sediment control measures must be put in place to avoid sediment run-off from earthworks activities entering a Council reticulated network or into waterbodies;
 - (7): In the event of discovery of any sensitive or archaeological material that the Accidental Discovery Protocol outlined in Appendix Four must be followed.
- EW-R8** (discussed separately below)

CA & RDA rule	Possible conditions of consent	Relevant Matters of Discretion	Poutini Ngāi Tahu values not covered by existing provisions
NC-R3 RDA Natural Hazard Mitigation Structures within the Riparian Margin of a River, Lake or Wetland not meeting Permitted Activity Standards	<ol style="list-style-type: none"> Planting of indigenous species within the baskets to create new habitats. Conditions specific to the river values – education, access, change of size/location/material. Erosion and sediment control requirements for construction. Monitoring of downstream effects if identified in the assessment. No Construction will occur on the site between xx and xx in order to allow for the traditional harvest of e.g. whitebait/inanga. Monitoring of downstream effects if identified in the assessment. Conditions specific to any advice/information available to Council about Wāhi tapu and Taonga resources in the area. 	Matters of Discretion <ol style="list-style-type: none"> Design and location of the structure Visual impact of the structure Methods to avoid, remedy or mitigate adverse effects on natural character or public access. 	<ol style="list-style-type: none"> Planting of indigenous species within the baskets to create new habitats. Conditions specific to the river values – education, access, change of size/location/material. Erosion and sediment control requirements for construction. Monitoring of downstream effects if identified in the assessment. No Construction will occur on the site between xx and xx in order to allow for the traditional harvest of e.g. whitebait/inanga. Monitoring of downstream effects if identified in the assessment. Conditions specific to any advice/information available to Council about Wāhi tapu and Taonga resources in the area.

Comparison RDA rule	Possible conditions of consent	Relevant Matters of Discretion	Poutini Ngāi Tahu values not covered by existing provisions
As the activity is not carried out by a statutory body, there would be a possibility that this rule would also be triggered: EW-R8 RDA Earthworks in any Zone not meeting Permitted Activity standards	<ol style="list-style-type: none"> Planting of indigenous species within the baskets to create new habitats. Conditions specific to the river values – education, access, change of size/location/material. Erosion and sediment control requirements for construction. Monitoring of downstream effects if identified in the assessment. No Construction will occur on the site between xx and xx in order to allow for the traditional harvest of e.g. whitebait/inanga. Monitoring of downstream effects if identified in the assessment. Conditions specific to any advice/information available to Council about Wāhi tapu and Taonga resources in the area. 	Discretion is restricted to: <ol style="list-style-type: none"> The impact on visual amenity, landscape character, outlook and privacy; Potential dust nuisance, sedimentation, land instability, contamination and erosion effects; Effects that result from the stockpiling in terms of visual amenity, landscape context and character, views, outlook, overlooking and privacy; The effectiveness of proposed management or mitigation measures to minimise any potential adverse effects beyond the property boundary of the activity; Any changes to the patterns of surface drainage or subsoil drains that could result in a higher risk of drainage problems, inundation run-off, flooding, or raise the water table; The impact of earthworks on critical infrastructure; 	none

Comparison RDA rule	Possible conditions of consent	Relevant Matters of Discretion	Poutini Ngāi Tahu values not covered by existing provisions
		g. The impact on the road network, of heavy vehicle and other vehicular traffic generated as a result of earthworks; h. Any adverse effects on landscape, amenity, natural features, water quality, cultural and heritage sites, biodiversity and habitat of indigenous flora and fauna, and the quality of the environment; i. The impact on stormwater infrastructure and any overland flow paths; and j. The impact on any natural hazards infrastructure and the effectiveness of its operation	

Conclusion:

The new rule does not achieve the objective O-2 of the Natural Character and the Margins of Waterbodies Objective as it does not recognise or provide for Poutini Ngāi Tahu values. However, the same activity also triggers the earthworks RDA rules for the same reason (because the activity is not undertaken by a statutory agency) which does provide discretion to consider Poutini Ngāi Tahu values. I recommend that either the matters of discretion for NC-R3 are the same as EW-R8 or instead an advice note is put into rule NC-R3 linking to EW-R8.

TABLE 2: ACTIVITIES ON THE SURFACE OF WATER

Relevant Objectives and Policies

ASW – O1 The ecological, recreational, natural character, amenity and Poutini Ngāi Tahu values of the District's rivers, lakes and lagoons are protected from the adverse effects of activities and structures on the surface of water.

ASW- P2 Enable the non-commercial use of motorised watercraft on rivers lakes and lagoons on the West Coast where this does not impact significantly on natural character, ecosystem and biodiversity values, Poutini Ngāi Tahu values, public access, amenity or disruption of natural quiet.

ASW – P3 Provide for commercial activities and structures on the surface of West Coast/Te Tai o Poutini rivers, lakes and lagoons provided that the activity does not create:

- a. Adverse effects on
 - i. Significant natural heritage values including identified scheduled sites;
 - ii. Cultural and spiritual values including sites and areas of significance to Māori;
 - iii. Poutini Ngāi Tahu values and in particular as relate to culturally significant rivers and lakes;
- b. Significant adverse effects on
 - i. Amenity values;

- ii. Ecological values;
 - iii. Natural character;
 - iv. Other recreational uses; and
- c. Cumulative adverse effects with any other structures or activities on the surface of waterbodies.

CA & RDA rule	Feasible Activity scenario triggering consent	Potentially relevant Poutini Ngāi Tahu values	Level of Rūnanga engagement	Possible conditions of consent
ASW – R5 CA Permanent Swimming Platforms on the Surface of Natural Waterbodies	Swimming platform on Kaimata/New River (not a SASM, but has identified values as was given a dual name as part of settlement)	<ol style="list-style-type: none"> 1. Kaitiakitanga – what resources are impacted by this? (is public access is reduced, loss of taonga species by habitat loss- including cumulative effect) 2. Tino Rangatiratanga – does this impact a statutory acknowledgement or resource identified and communicated to the Councils via a Management Plan or the Mana Whakahono o Rohe? 3. Mauri –will the structure result in increased erosion? How will it impact the life force of the total ecosystem? Is a cleaning spot required to prevent the spread of invasive species? 4. Mahinga kai – could the structure (during construction or once established, or if subject to high use) impact a food or resource gathering spot? 5. Ki Uta Ki Tai – what is the holistic impact on the wider environment and downstream (reduced shade, more human noise) impacted by this structure and its use? 6. Wāhi tapu & Taonga – are there stories/histories or resources in the area that could be impacted by the structure or its construction? 	<p>A matter of control includes compliance with any iwi management plan or where this does not exist, advice from the relevant rūnanga.</p> <p>Therefore it would be reasonable to assume a letter/report (depending on the scale) from a rūnanga entity outlining any expert advice would be commissioned.</p> <p>It would also be reasonable for the Council to potentially circulate any draft conditions to the rūnanga for comment depending on what advice was given.</p>	<ol style="list-style-type: none"> 1. Planting of indigenous species along access and around the platform to create new habitats. 2. Conditions specific to the river values – education, access, restrictions on use due to breeding season. 3. Erosion and sediment control requirements for construction. Monitoring of downstream effects if identified in the assessment. 4. No Construction will occur on the site between xx and xx in order to allow for the traditional harvest of e.g. whitebait/inanga. 5. Monitoring of downstream effects if identified in the assessment. 6. Conditions specific to any advice/information available to Council about Wāhi tapu and Taonga resources in the area.

CA & RDA rule	Feasible Activity scenario triggering consent	Potentially relevant Poutini Ngāi Tahu values	Level of Rūnanga engagement	Possible conditions of consent
<p>ASW – R6 RDA</p> <p>Commercial Activities on the Surface of Rivers, Lagoons and Lakes</p>	<p>Fishing Tours on a boat on Kaimata/New River (Trout & Salmon)</p>	<ol style="list-style-type: none"> 1. Kaitiakitanga – what resources are impacted by this? (is public usage or river access reduced by exclusive use, loss of taonga species by habitat loss- including cumulative effect) 2. Tino Rangatiratanga – does this impact a statutory acknowledgement or resource identified and communicated to the Councils via a Management Plan or the Mana Whakahono o Rohe? 3. Mauri –How is the boat launched/people loaded/unloaded? Will any structures/higher amounts of people result in increased erosion or waste to the area? How will it impact the life force of the total ecosystem? Is a cleaning spot required to prevent the spread of invasive species? 4. Mahinga kai – could the activity and any associated structures (during construction or once established, or if subject to high use) impact a food or resource gathering spot? 5. Ki Uta Ki Tai – what is the holistic impact on the wider environment and downstream (more human noise, change in species dominance due to increased fishing) impacted by this structure and its use? 6. Wāhi tapu & Taonga – are there stories/histories or resources in the area that could be impacted by the activity? Does the activity include the telling of rūnanga stories or history? 	<p>The RDA status is dependent on being in accordance with any iwi management plan.</p> <p>Therefore it would be reasonable to assume a letter/report (depending on the scale) from a rūnanga entity outlining any expert advice would be commissioned.</p> <p>It would also be reasonable for the Council to potentially circulate any draft conditions to the rūnanga for comment depending on what advice was given.</p>	<ol style="list-style-type: none"> 1. Planting of indigenous species along access and around the any structures created or subject to increased use to create new habitats. 2. Conditions specific to the river values – education/how history is presented to the customers, access, restrictions on use due to breeding season. 3. Erosion and sediment control requirements for construction. Monitoring of downstream effects if identified in the assessment. 4. No Construction will occur on the site between xx and xx in order to allow for the traditional harvest of e.g. whitebait/inanga. 5. Monitoring of downstream effects if identified in the assessment. 6. Conditions specific to any advice/information available to Council about Wāhi tapu and Taonga resources in the area.

Other potential rules relevant in the Plan:

- **Sites and Areas of Significance to Māori overlay and schedule three**
- **Earthworks Chapter: EW-R1**
 - **(3)** Erosion and sediment control measures must be put in place to avoid sediment run-off from earthworks activities entering a Council reticulated network or into waterbodies;

(7): In the event of discovery of any sensitive or archaeological material that the Accidental Discovery Protocol outlined in Appendix Four must be followed.

CA & RDA rule	Possible conditions of consent	Relevant Matters of Control or Discretion	Poutini Ngāi Tahu values not covered by existing provisions
ASW – R5 CA Permanent Swimming Platforms on the Surface of Natural Waterbodies	<ol style="list-style-type: none"> 1. Planting of indigenous species along access and around the platform to create new habitats. 2. Conditions specific to the river values – education, access, restrictions on use due to breeding season. 	<p>Matters of control are:</p> <ol style="list-style-type: none"> a. Size, design and location of structure; b. Water safety measures; c. Compliance with any Iwi/Papatipu Rūnanga Management Plan or where this does not exist, advice from the relevant Poutini Ngāi Tahu Rūnanga - Te Rūnanga o Ngāti Waewae or Te Rūnanga o Makaawhio; and d. Management of effects on natural character of the waterbody and its margins. 	none
ASW – R6 RDA Commercial Activities on the Surface of Rivers, Lagoons and Lakes	<ol style="list-style-type: none"> 3. Erosion and sediment control requirements for construction. Monitoring of downstream effects if identified in the assessment. 4. No Construction will occur on the site between xx and xx in order to allow for the traditional harvest of e.g. whitebait/inanga. 5. Monitoring of downstream effects if identified in the assessment. 6. Conditions specific to any advice/information available to Council about Wāhi tapu and Taonga resources in the area. 	<p>Where:</p> <p>Any commercial activity on the Makaawhio River, Arahura River, Lake Mahinapua, Mahinapua Creek/Tuwharewhare, Makatata Stream, Saltwater Lagoon (at Paroa), Waitangirotto River or Kaimata/New River is in accordance with an Iwi/Papatipu Rūnanga Management Plan and has written approval of the relevant Poutini Ngāi Tahu rūnanga - Te Rūnanga o Ngāti Waewae or Te Rūnanga o Makaawhio.</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> a. Effects on public access and recreational use of the waterbody; b. Effects on landscape, natural features or natural character of the waterbody and its margins; c. Effects on the amenity values or any adjacent residential activities; d. Effects on significant natural or historic heritage values including effects on scheduled sites or areas; e. Effects of noise on the natural character, ecological and amenity values; and f. Effects on Poutini Ngāi Tahu cultural values including access to mahinga kai and scheduled sites and areas. 	none

Conclusion:

Both rules for the Activities on the Surface of Water provide for Poutini Ngāi Tahu values by having the ability to put consent conditions related to advice from rūnanga.