IN THE MATTER OF	the Resource Management Act 1991
AND	
IN THE MATTER OF	Hearings in Relation to the Proposed Te Tai o Poutini Plan: Subdivision, Financial Contributions and Public Access

---

STATEMENT OF EVIDENCE OF PAULINE HADFIELD

Dated: 15 March 2024

INTRODUCTION

1. My name is Pauline Hadfield. I am based in Nelson and work as a senior planner at Davis Ogilvie and Partners Limited, which is a multi-disciplinary survey, engineering and planning consulting company with offices in Christchurch, Nelson and Greymouth. Davis Ogilvie work in the resource management space across the West Coast.

2. I have over twenty years resource management experience. Most of this has been West Coast-based work including preparation of a wide range of subdivision, and land use consent applications to all three District Councils in the region. I also undertake external consent processing work on behalf of the Buller District Council and more recently, the Grey District Council.

3. I hold a Diploma in Environmental Management from the Open Polytechnic of New Zealand and I am an Associate member of the New Zealand Planning Institute. I completed the NZPI's Expert Witness – Presenting Planning Evidence course in 2017.

4. I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023 and complied with this when preparing the following comments. The evidence I will present is within my area of expertise, except where I state that I am relying on information provided by another party. I have not knowingly omitted facts or information that might alter or detract from the opinions I express.

SCOPE OF EVIDENCE

5. My evidence is presented on behalf of the following submitters:
   - Davis Ogilvie & Partners Limited (Submitter No. 465, Further Submitter No. 154)
   - Ball Developments Limited (Submitter No. 453); and
   - Chris J Coll Surveying Limited (Submitter No. 566), in relation to common matters discussed in my Further Submission FS154.

6. I have reviewed the sections of the s42A Officers Report prepared by Briar Belgrave and Ruth Evans that are relevant to the above submissions.

7. My evidence addresses each of the submission points discussed in the s42A Officers Report relating to Submissions S453 and S465, and Further Submission FS154 where they relate to Submission S566.

8. I request the opportunity to provide additional evidence, if necessary, at the hearing.

9. Geoff Ball, Director of Ball Developments Limited (Submitter S453), is in attendance at this hearing with me today and will speak to the matters in that submission from a developer's perspective.

SUBDIVISION

Subdivision – General – Boundary Adjustment Definition
S566.263 & FS154.007

10. I concur with the Planning Officers' assessment of this definition, and agree that the definition in the Plan must be consistent with the National Planning Standards.

Subdivision – Policy 2
S566.185, FS154.024 & FS154.025

11. I agree with the Planning Officers' recommendation that the subjective phrase "*deemed reasonable by Council*" should be deleted from subsection (k) of this Policy. I support the revised wording of Policy 2(k).

12. The discretion within the wording of the Policy for "*appropriate*" provision of electricity and telecommunications supply and reference to "off-grid" supply is, in my opinion, a practical approach that is already being implemented by the District Councils under the existing operative Plans. Primarily, this discretion has been applied to rural subdivisions where the cost of extending reticulated electricity and/or installing fibre is prohibitive.

13. The wording of this Policy as proposed also future proofs the Plan; current methods of supply may become out-dated in time and replaced with new technologies.

14. I concur with the Planning Officers' comments in their paragraph 129, relating to their recommendation on suggested changes to Policy 2(i) by S581.046 (Ellerm). I agree that the submitter's suggested wording is too detailed for a policy.

Subdivision – R1

S465.013, S465.014, S566.199 & FS154.029

15. The Planning Officers' s42A report (para. 195) considers that the scope of this permitted activity boundary adjustment rule should not be extended to zones other than the General Residential and General Rural zones, as these are managed by Controlled Activity Rule SUB-R3.

16. As a planner working in this space regularly, I do not see any compelling reason that the permitted activity boundary adjustment should be limited to these two specific zones. The criteria within the Rule ensures that to meet the permitted activity status, the new titles must be serviced appropriately and that any permitted or lawfully established activity can continue.

17. I note that under the current District Plans, there are fewer "residential" and "rural" zones; under the proposed TTPP, a number of more specific zones are proposed under the wider umbrella of "Residential" and "Rural" zones.

18. In my experience, boundary adjustment subdivisions are generally sought by private individuals to facilitate minor redevelopment or agreed land exchanges. Often these subdivisions simply legalise long-standing existing occupation. While this is often within Residential and Rural zones, it is not exclusively the case.

19. It is my professional opinion that the scope of this Rule should be extended to (at least) <u>all</u> Residential and Rural zones; that is:
    - GRZ General Residential
    - LLRZ Large Lot Residential
    - MRZ Medium Density Residential
    - GRUZ General Rural
    - RLZ Rural Lifestyle
    - SETZ Settlement

20. Extending the scope of this rule in this way will minimise costs to these largely private "mum and dad" subdividers, while also reducing processing requirements for Council staff when the effects are easily detemined.

21. I acknowledge that boundary adjustments within Open Space, Commercial, Industrial and Special Purpose zones may need consideration of additional effects, so accept the Planning Officers' comment that these can be considered under Rule SUB-R3.

22. The risk of fragmentation or creation of under-sized allotments as a result of boundary adjustments is noted as a concern in paragraphs 197-198 of the s42A report. To reduce this risk, I suggest that the following sub-section could be considered as an addition to Rule SUB-R1:

23. "**6. If any existing allotment does not comply with the minimum area for the relevant Zone: the boundary adjustment does not result in the creation of any allotment that is smaller than the smallest that existed prior to the subdivision**."

24. This suggestion is similar to existing Rule 25.2.1.1 (Rural Environmental Area Boundary Adjustments) in the operative Grey District Plan.

25. I have also considered the Planning Officers' concerns about the implications of the National Policy Statement for Highly Productive Land (NPS-HPL) in this part of their s42A report.

26. In my opinion, the NPS-HPL should be considered in relation to this Subdivision Rule. Rule SUB-R1 should not allow rural boundary adjustment subdivisions that potentially contradict the strong "avoid subdivision" language in the NPS-HPL.

27. I suggest that a further clause be added to Rule SUB-R1 to exclude Highly Productive Land, so that any effects on this land can be considered through the resource consent process.

28. **7. The boundary adjustment does not include Highly Productive Land (as defined in the National Policy Statement for Highly Productive Land (NPS-HPL).**

29. The Planning Officers' comments (para. 199) in relation to my submission point S465.014 are noted. However, pending further discussion of this point at future hearings, I reiterate my submission that providing the relevant zone density provisions are met, the creation of a potential permitted activity building site should not be a consideration for Rule SUB-R1.

30. I have discussed the matter of Submission Point S566.199 and FS154.029 with Jan Coll (Chris J Coll Surveying Limited) and acknowledge the Planning Officers' comments (para. 205). We have both encountered situations where the only "non-compliance" for a permitted activity subdivision under the operative Westland or Buller District Plans has been that the number of allotments has decreased.

31. We consider that this type of subdivision, typically where rural boundaries are adjusted and allotments consolidated, has the same or lesser effects on the environment than one to which the "boundary adjustment" definition applies; yet our clients have incurred additional costs due to the need to obtain resource consent.

32. Acknowledging that the definition of a boundary adjustment in the Plan must be consistent with National Planning Standards, it is our opinion that an additional permitted activity rule should be inserted into the Plan to anticipate and allow for this type of subdivision. The following wording is suggested, consistent with the changes that I have proposed above.

33. **SUB-R1A – Residential and Rural Zones – Subdivision Resulting in a Reduced Number of Allotments**

Activity Status Permitted

Where:

1. **The subdivision results in fewer allotments than prior to subdivision;**
2. **The subdivision does not alter:**
   a. **The permitted activity status of any existing permitted activities occurring on the allotments and/or the ability of an existing permitted activity to continue to comply as a permitted activity under the rules and standards in this Plan;**
   b. **The extent or degree to which any consented or otherwise lawfully established activity occurring on the allotments does not comply with a rule or standard in this Plan; and**
   c. **The ability of an existing permitted activity (including on adjacent lots) to continue to comply with the Plan.**
3. **No new roading or access points are required;**

4. **All existing vehicle access points comply with the requirements of Rule TRN - R1;**
5. **No new Council services are required; and**
6. ~~In the GRUZ - General Rural Zone the boundary adjustment does not result in potential additional residential units as a permitted activity.~~ *[Note: disputed under S465.014 as discussed above]*
7. **If any existing allotment does not comply with the minimum area for the relevant Zone: the subdivision does not result in the creation of any allotment that is smaller than the smallest that existed prior to the subdivision.**
8. **The subdivision does not include Highly Productive Land (as defined in the National Policy Statement for Highly Productive Land (NPS-HPL).**

34. The subsequent activity status cascade for this proposed Rule is anticipated to be the same as that for a permitted activity boundary adjustment subdivision under SUB-R1. If this amendment is accepted, subsequential amendments to Rule SUB-R3 would be necessary.

Subdivision – R18
S465.019

35. I concur with the Planning Officers' discussion and conclusion in respect of Rule SUB-R18; that is, that clause 1 should be deleted and new specific non-complying status rules created to the special circumstances listed in clauses 2 and 3.

Subdivision – Standards (General)
FS154.035

36. I concur with the Planning Officers' comments in paragraph 368 relating to S581.052 (Ellerm). I consider that the objectives, policies and rules for the Settlement zone, including Rule SUB-R5, are sufficient.

Subdivision – S7
S465.021

37. The Planning Officers' comment is noted in respect of Subdivision Standard S7. In my experience, District Councils consistently require that within urban or suburban areas, allotments created by subdivision are provided with a reticulated electricity supply to the boundary of the allotment.

38. The Standard, as written, appears to anticipate that even in urban areas where reticulated supply is readily available, developers could potentially avoid this requirement by showing that alternative supply could be provided e.g. solar power. As written, the Standard does not appear to allow for Councils to insist on a reticulated connection in urban areas.

39. I suggest that the Hearings Panel should give this matter further consideration and perhaps require some clarification to the Standard.

Subdivision – S8
S465.022

40. The Planning Officers' comment is noted in respect of Subdivision Standard S8.

41. Similarly to Standard S7, there is typically an expectation by Councils that where reticulated telecommunications (fibre) is readily available, that a physical connection should be provided to the boundary of all allotments created by subdivision.

42. The Standard, as written, appears to anticipate that even in urban areas where reticulated telecommunications supply is readily available, developers could potentially avoid this requirement by showing that alternative supply could be provided. Even more so than in rural areas, this could easily be catered for by mobile or wireless telecommunications coverage.

43. I suggest that the Hearings Panel should give this matter further consideration and perhaps require some clarification to the Standard.

Subdivision – S9
S465.023

44. The amendment to SUB-S9 recommended in paragraph 426 of the s42A report is supported. It is in accordance with my submission and s230 Resource Management Act 1991.

FINANCIAL CONTRIBUTIONS

Financial Contributions – Objective 2
S453.007

45. Ball Developments Limited supported this Objective as notified. The changes proposed in paragraph 463 of the s42A report are also supported.

Financial Contributions – Policy 1
S453.008

46. Ball Developments Limited supported this Policy as notified. The changes proposed in paragraph 468 of the s42A report are also supported to ensure consistency throughout the chapter.

Financial Contributions – Policy 3
S453.009

47. Ball Developments Limited supported this Policy as notified. The changes proposed in paragraph 478 of the s42A report are acknowledged.

48. I concur with the reasoning behind the change; that is, to ensure that the policy is consistent with s108(9) Resource Management Act 1991.

Financial Contributions – Policy 4
S453.010 & S453.012

49. Ball Developments Limited submitted that the value of improvement works carried out on land that is provided by way of a financial contribution should be considered under this Policy.

50. The Planning Officers (para. 481) consider that the Policy should remain generally as notified, with minor changes. I accept this recommendation, but will further address and discuss the matter of the value of improvement works under Rule FC-R2 below.

Financial Contributions – Policy 5
S453.011

51. Ball Developments Limited supported this Policy as notified. I note that the Planning Officers have not recommended any changes to this Policy.

Financial Contributions – R1
S453.013, S453.014, & S465.010

52. I concur with the Planning Officers' amendments to FC-R1, which are in keeping with the submission points above. The Rule now provides that no financial contributions are to be payable on allotments that vest in the Council or the Crown; or amalgamated titles; or on subdivisions that reduce the number of titles. I agree that this approach is fair and reasonable.

Financial Contributions – R2
S453.015 & S465.011

53. I acknowledge that the recommended amendment to this Rule proposed by the s42A report (para. 523) is consistent with s108(9) Resource Management Act 1991. That is, deleting "*or works*" from FC-R2(1).

54. However, I submit that it is a fair and reasonable request that the value of any significant improvements to land that is vested as a financial contribution – over and above works to ensure the land is "*suitable*" under Policy 4 – should be taken into consideration when determining the overall financial contributions payable for a development.

55. For example, under Rule FC-R1 an area of land may be vested as part of a residential subdivision for open space and recreation purposes. Works to make that land "suitable" would fairly and reasonably include contouring, soft landscaping (planting/grassing), and ensuring that legal and physical access to the vested area is provided.

56. However, if the developer were to go above and beyond this by forming internal walkways, installing playground equipment, or a shaded area with a BBQ provided; in my opinion this type of additional cost could and should be offset from the overall financial (reserves) contributions payable on the development.

57. Policy FC-P5 states that monetary financial contributions must be used "*to meet the need for community infrastructure and facilities that arise from the activity*". It is therefore not an unfair expectation that the costs of providing additional community facilities could be offset against the total monetary financial contributions payable. Taking this approach removes Council

responsibility for providing community facilities such as those described above, by allowing the works to be done at the time of development.

58. Tasman District Council have a rule of this nature in the Tasman Resource Management Plan; Rule 16.5.2.3 states (in part):

"(c) The financial contribution may be waived or reduced where, upon request, the Council considers it fair and reasonable having regard to the particular circumstances. Circumstances which may warrant a reduction or waiver include:

(i) where work is or has been undertaken or services provided, by agreement between the Council and the subdivider, that are greater than those necessary to manage adverse effects arising from the subdivision; …

(d) The cash component of the financial contribution will be offset where, by agreement, work is or has been undertaken or services provided that would have been the responsibility of the Council, and the Council agrees that the value of the work or services is fair and reasonable."

59. I submit that a similar rule could be inserted into the proposed TTPP. The wording allows for negotiation and agreement with Council.

Financial Contributions – R10
S465.016 & S465.012

60. Rule FC-R10, as notified, places a five-year limit on the time frame in which prior financial contributions are allowed for. The Rule requires a financial contribution to be paid on additional lots at subdivision consent stage; and a further contribution to be payable at the time of building consent.

61. FC-R10(2)(ii) and (iii) only allow five years between s224 certification and building consent in which the subdivision contribution can be offset. Particularly during periods where the housing market is slow, this is not a significant period of time for titles to be raised, sections sold, and for new owners to get to the point of seeking building consent.

62. I believe this is unfair; I disagree with the Planning Officers' comment that "*this is an appropriate timeframe to recognise any recent contributions made that may be relevant*".

63. Section 224(h) of the Act allows three years between s223 certification and the issue of titles. This is relevant to the five-year discussion because it potentially reduces the time in which the final landowners can seek building consent without losing the benefit of the subdivision contributions previously paid to as little as two years; in my experience developers usually seek s223 and s224 approvals concurrently but do not always immediately raise titles for their development.

64. I submit that regardless of the time elapsed since the subdivision was completed, the amount of reserves contribution paid at subdivision should be deducted from the financial contribution payable at building consent stage. If land values increase in the interim period, this will be reflected in the total payment required at building consent stage; Council will not be disadvantaged by allowing this deduction.

65. I stand by my original submission that this Rule, if accepted as notified, will result in “double-dipping”; Councils will effectively be taking the same contribution twice for the same parcel of land. Especially when the market is slow, this will be an added cost to purchasers which could contribute to even lower section prices and fewer sales.

66. I reiterate my submission that the five-year limit on subtracting subdivision contributions from those taken at building consent stage should be deleted from Rule FC-R10.

CONCLUSION

67. In conclusion, I request that the Hearings Panel give further consideration to the following points.

68. Subdivision Rule SUB-R1, in relation to:
    (i) The inclusion of all Residential and Rural zones in the permitted activity boundary adjustment provisions
    (ii) Inserting an additional clause to the rule to reduce the risk of creating under-sized allotments
    (iii) Addressing the requirement for compliance with the NPS-HPL

69. Adding a further Permitted Activity Rule in relation to subdivisions where the number of lots is reduced.

70. Subdivision Standards S7 and S8: to consider whether the intention of the Standards is to allow for non-reticulated electricity and telecommunications supply in areas where these services are readily available.

71. Financial Contributions Rule FC-R2, to consider whether it is appropriate to reduce monetary contributions to reflect the value of works carried out that are greater than needed to make land suitable for vesting.

72. Financial Contributions Rule FC-R10, to consider whether the five-year limit on offsetting prior subdivision contributions is fair and reasonable.

PAULINE HADFIELD

15 March 2024