



# Te Tai o Poutini PLAN

A combined district plan for the West Coast

## Te Tai o Poutini Plan Committee Meeting West Coast Regional Council Chambers 29<sup>th</sup> April 2024

10.00am

Via zoom

Meeting URL:

<https://wcrc-nz.zoom.us/j/85379943334?pwd=ajRjYUpRMWlnVdDUTNIOEFKQlJpQT09&from=addon>

Meeting ID: 853 7994 3334

Passcode: 092753

### AGENDA

<b>10.00am</b>	Welcome and Apologies	<b>Chair</b>
<b>10.05am</b>	Confirm previous minutes	<b>Chair</b>
	Matters arising from previous meeting	<b>Chair</b>
<b>10.15am</b>	Draft Coastal Natural Hazards Variation – Further Information and Recommendation to Proceed with Variation Presentation by Dr Cyprien Bosserelle, Hydrodynamics Modeller, NIWA	<b>Principal Planner</b>
<b>11.15am</b>	Break	
<b>11.30am</b>	Recommendation to Limited Notify Activities on the Surface of Water Variation	<b>Principal Planner</b>
<b>11.40am</b>	Notification of Addendum to the Summary of Submissions for Te Tai o Poutini Plan	<b>Principal Planner</b>
<b>11.50am</b>	Financial statements to end of January, February and March 2024	<b>Project Manager</b>
<b>12.15pm</b>	Implications of the proposed changes to the National Policy Statement for Indigenous Biodiversity and TTPP Lucy de Latour, Partner, Wynn Williams, will be available online for questions	<b>Principal Planner</b>
<b>12.45pm</b>	Project Manager Update	<b>Project Manager</b>
<b>1.00pm</b>	Meeting ends	

### Meeting dates for 2024:

- 19 June 2024, 10.00 am at Buller District Council
- 7 August 2024, 10.00 am at Westland District Council
- 10 October 2024, 9.00 am at Grey District Council



# Te Tai o Poutini PLAN

A combined district plan for the West Coast

## MINUTES OF MEETING OF TE TAI O POUTINI PLAN COMMITTEE HELD AT GREYMOUTH DISTRICT COUNCIL CHAMBERS AT 9.00AM ON 14 FEBRUARY 2024

### Present

R. Williams (Chairman), Mayor T. Gibson (GDC), Cr A. Gibson (GDC), Mayor J. Cleine (BDC), Cr G. Neylon (BDC), Mayor H. Lash (WDC), Cr A. Cassin (WDC), Kaiwhakahaere P. Madgwick (Makaawhio), F. Tumahai (Ngāti Waewae), Cr P. Haddock (WCRC)

### In attendance

T. Mehrtens (WCRC), D. Lew (WCRC), S. Bastion (WDC)  
Via Zoom- M. Conland (WCRC), L. Easton (Kereru Consultant on behalf of WCRC)

### Welcome

#### Apologies

Cr B. Cummings (WDC)

**Moved** (Cr Cassin/ Mayor Cleine) *That the apologies of Cr B. Cummings be accepted.*

*Carried*

#### Confirm minutes of the previous meeting held 12 October 2024

The draft minutes were amended to refer to Cr Cassin instead of Mayor Cassin.

**Moved** (Mayor Gibson/ n/a) *That the minutes of the meeting held 12 October be confirmed.*

*Carried*

#### Matters arising from previous meetings on 11<sup>th</sup> December 2023

**Moved** (Mayor Lash/ n/a) *That the notes from the workshop on 11<sup>th</sup> December 2023 are noted.*

*Carried*

### Feedback on Draft Variation to Activities on the Surface of Water Chapter and Recommendation to Proceed with Variation

L. Easton presented to the Committee on the draft Variation to Activities on the Surface of Water Chapter. There were five pieces of feedback that were received, all supporting the proposal. L. Easton noted that some amendments were sought to refer to the correct name of the ports, and clarify that the new rule would not affect other commercial activities. Amendments have been made to address these points, which were attached to the report. Some people providing feedback wanted to expand the scope of the Variation, but this is not supported as those matters are being dealt with in submissions being heard next week. L. Easton recommended that the Variation proceed to public notification.

L. Easton noted that the team is constrained in terms of staff resources as it does not have a Senior Planner at the moment, and so an exact date of notification could not be set at this stage.



# Te Tai o Poutini PLAN

A combined district plan for the West Coast

**Moved** (Mayor Cleine/Mayor Gibson)

1. *That the Committee receives the report*
2. *That the proposed Variation for Commercial Activities and Port Activities on the Surface of Water in relation to Port of Greymouth and Westport Harbour Port be adopted by the Te Tai o Poutini Plan Committee for legal public notification as a Variation to the Proposed Te o Poutini Plan by Thursday 28 March 2024.*
3. *That the submission period for the proposed Variation for Commercial Activities and Port Activities on the Surface of Water in relation to Port of Greymouth and Westport Harbour to Te Tai o Poutini Plan be from the date of notification to 5pm Friday 3 May 2024.*

*Carried*

## **TTPP Budget information and cost codes**

M. Conland noted the budget for the TTPP process, and that this has been divided up over 5 years in order to deliver the operative plan. M. Conland noted that the table in the agenda is missing data for the years 2019/2020 and 2020/2012 and provided the following updated information:

<b>Year</b>	<b>Budget</b>	<b>Actual</b>
<b>2019/2020*</b>	650,000	\$557,917
<b>2020/2021</b>	\$692,167	\$740,580
<b>2021/22</b>	\$1,394,324	\$1,053,280
<b>2022/23</b>	\$1,021,429	\$803,592
<b>2023/2024</b>	\$1,950,952	\$617,414*
<b>Total</b>	<b>\$5,058,872</b>	<b>\$3,214,866</b>

M. Conland noted that the 2019/2020 financial year was financed in a different manner to the latter years. From 2020/2021 onwards, and as directed by clause 13(1) of the Local Government Reorganisation Scheme (West Coast Region) Order 2019, WCRC is required to raise a regional rate to fund TTPP. In addition, a loan has been taken out over a period of 10 years for any expenditure not covered by the targeted rate.

M. Conland then spoke about the codes and in particular the explanations for what is covered by these costs codes. She noted that a report will be brought to the next Committee meeting with details of the forecast to complete the TTPP process and the budget included in the Long Term Plan.



# Te Tai o Poutini PLAN

A combined district plan for the West Coast

S. Bastion noted the Local Government Grant was \$200,000 rather than \$150,000. M. Conland replied that the budget was for \$200,000 but the actuals show that only \$150,000 was received.

S. Bastion noted that we could seek the remaining \$50,000.

P. Madgwick asked how much of our plans are we going to have to unpick with the new government. What effect will this have on the budget. R. Williams noted that this will be looked at in April when the budget for the next year will be set out.

D. Lew noted that the staff will need to be agile in relation to any future changes put forward by the government, and this is why some hearings have been pushed out towards the end of the hearings process to add flexibility. If some work is no longer needed then we can accommodate that and that may result in some cost savings. D. Lew also noted that he is quite comfortable with where we are at with the budget of \$5million but noted that there are still quite a few hearings to get through and then there are also likely to be costs for environment court or high court appeals. Now that the financials are sorted we need to forecast out to the end of the project and see what those figures look like as we need to stay within the \$5 million as its enough of a rates burden as it is. While the environment court costs are not currently included within the \$5 million, D. Lew noted that if the hearings can be completed for less than \$5 million then that will provide some headroom for any court costs. All Councils are currently facing sunk costs to date as the new government takes a new approach. F. Tumahai noted that by constraining the timeframes the way that they are is going to result in more costs as appeals will be more likely. He considers that the schedule needs to be relooked at and in relation to the Mining Extraction hearings in particular. D. Lew responded that those were helpful comments and that this would be looked into further.

M. Conland noted the second part of the report which provided details of the expense items and what they cover.

S. Bastion noted the LTP commentary around the TTPP, and if we're sticking with the budget of \$5 million then there will be no forecast budgets for the next LTP potentially. D. Lew said we haven't included any additional budget over and above the \$5m to complete this process, but there will be ongoing costs once the plan is operative for maintenance of the plan such as plan changes. He noted that budget provision and resourcing is an ongoing cost to provide for the ongoing maintenance of the plan to meet the needs of the community, and that we must not let it get to the place where it is so out of date again. D. Lew noted that rolling reviews each year are the best way to go for the plan to remain current.

Cr Gibson asked if the budget goes over \$5million, is this money to come out of rates or would we seek additional external funding? D. Lew said we would come back to the Committee with those options.

P. Haddock said that seeking additional funding is a live action and the opportunity to do that is still there.

**Moved** (Cr Gibson/Cr Neylon) *That the Committee receives the report.*

*Carried*

## **Report – Financial statements for to 30 November 2023 and 31 December 2023**

M. Conland noted in the December statement, the expenditure for the Isovist e-plan Platform appears to exceed the year to date budget but explained that this is because the invoice for the annual subscription fee received in December was entered incorrectly. She stated this should be fixed by the time she does the statements for January and February.

She also noted that the expenditure is tracking well below the budget, due to online hearing and some unpaid invoices that came in during the Christmas period shut down.

R. Williams said the financial statement is very credible compared to the previous financial statements. D. Lew noted that we now have a fully staffed up financial team to support all of the budget managers in the Council. S. Bastion noted that the forecast needs to be revisited. Cr Haddock noted that they were very clear to understand. R. Williams thanked Ms Conland for her hard work which gave them much confidence.

**Moved** (R. Williams/Mayor Lash) *That the Committee receives the report.*

*Carried*

## **Public Forum - Vance Boyd**

Mr Boyd addressed the Committee in relation to the draft coastal hazard mapping. He believed it was premature to notify the mapping at this stage, and that further study and community consultation was required. Mr Boyd noted that the feedback presented in the report of Ms Easton was similar to his.

Mr Boyd stated there was a problem with how the information about the draft variation was notified. He said that only people who had submitted on the original maps were emailed, and that many affected people are unaware of the proposal. Mr Boyd noted the 2017 MfE publication, *Coastal Hazards and Climate Change – Guidance for local Government* and considered in his view that the process should follow this guidance. He also discussed what he viewed as shortcomings with the NIWA report, as well as issues with the LIDAR data used. Mr Boyd also noted the coastal uplift that is likely following an earthquake on the Alpine Fault and thought that this was much more likely than a coastal hazard threat in the next 50 years.

Mr Boyd said that the TTPP should take the approach of allowing individuals to control their own destinies in relation to natural hazards and the approach proposed by the TTPP is not warranted.

Mr Boyd reiterated that the notification of the variation should be delayed.

Mr Boyd handed out pages from the NIWA report.

Cr Gibson commented on the 100 year timeframe and noted that 25 or 50 could be better to work with.

Cr Neylon asked if the mapping that hadn't been made public was the 50 year mapping. Mr Boyd noted that it was. He noted that he'd only seen the 100 years mapping and that the MfE guidance

says that the timeframes that should be considered is 100 years but it doesn't say that you shouldn't considered 25 or 50 years.

Cr Haddock asked at Hannah's Clearing whether Mr Boyd had noticed a change in erosion levels on his property. Mr Boyd noted nothing in the first 10 years but in the last three years they've had three episodic events and then last year in June, there was beach erosion of approximately 1m but in other parts its building up. It's currently in an erosive phase although its not affecting any properties. He said there was uncertainty though as we don't have the data

P. Madgwick noted that erosion is one matter and sea level rise is another, and he noted that he doesn't believe that clear evidence of sea level rise has been produced.

Mr Boyd noted in the Otago Daily Times that Dr Cox, Chief of GNS Science, had spoken about site specific assessment for South Dunedin which he felt was more appropriate than a broad brush approach. Mr Boyd feels the same about Hannah's Clearing.

Mayor Cleine asked about how insurance companies are dealing with his part of the coast. Mr Boyd said that he did not think there had been any special loading of his property, although premiums had increased.

Mayor Lash said she believed that insurance companies were waiting to see the final outcomes of this before they integrate that into their assessments of insurance.

### **Feedback on Draft Coastal Hazards Variation to the Plan and Recommendation to Proceed with Variation**

L. Easton presented to the Committee on the draft Variation and noted that the Variation focuses on mapping only, with no changes proposed to the rules. L. Easton noted that the mapping has been updated by NIWA based on the more accurate LIDAR data.

L. Easton provided information on the consultation process and the feedback from consultation. While almost all the feedback received opposed the Variation, the major points made were about people wanting more time to understand and discuss the issues.

L. Easton noted that people are wanting protection works and support with transition and adaptation, but these are not district plan matters. Some people opposed the methodology used to determine the extent of the hazards.

In terms of the matters raised by Mr Boyd in his verbal presentation, L. Easton noted that these have previously been addressed by staff in one on one discussions with Mr Boyd. The Hannah's Clearing mapping and information provided by Mr Boyd has been checked by NIWA.

If the Variation does not proceed, L. Easton noted that the TPP will proceed with known inaccurate maps and the new mapping will be introduced through the s42A process without any additional affected people being able to participate. Some people who are currently affected by the inaccurate maps will no longer be affected following the Variation.

L. Easton noted that there are strong signals from government and insurers that more progress on regulation of natural hazards is needed, not less. The proposed NPS for Natural Hazards is being worked on at the moment and is anticipated to come out in the second half of this year.

L. Easton explained that the community desire for planning for adaptation/ managed retreat/ more protection works is a non-regulatory process, and not matters for the TTPP. These are part of the wider work programmes that Councils are involved in. While a 1% event happens in theory every 100 years, but Gisborne had two 100 year events in one week last year. Not possible to know when these events will occur. In response to Mr Boyd, L. Easton explained that the reason for using the 100 year event is based on the requirements of the New Zealand Coastal Policy Statement which the TTPP must implement. Sea level rise requirements are also set out by the Ministry for the Environment. We are taking the approach of being consistent with what is required under the regulations and what is being applied throughout the rest of New Zealand.

Managing the risks of natural hazards is a specific matter that Councils are required to address in District Plans. Ms Easton noted that an Alpine Fault rupture would completely devastate the West Coast. Once that occurs, we would need to update the natural hazards framework for the West Coast. An Alpine Fault rupture is not able to be factored in to the mapping as we have no basis for what this might do to the coast.

D. Lew noted that this coastal hazard matter was one of the most fundamental and difficult that needs to be made in relation to TTPP. He noted that he supports and reinforces Ms Easton's comments. In discussions with regional council chief executives and central government, he notes that this government is even more committed to the NPS for Natural Hazards than ever before as the true cost of Gabrielle and other events are coming to bear. Inline with the insurance council, the government cannot continue to allow new development in hazard prone areas and then pick up the bill after an event. D. Lew noted Mr Boyd's quote from the Chief Executive of GNS that we have to be 'informed by the best science available' and that this work by NIWA represents that.

D. Lew advised the Committee to understand the implications of LGOIMA and LIMs and the requirements to discharge this information which is under a separate process to the TTPP. This, he noted, was more likely to trigger insurance risks than the coastal hazard lines. There is potential liability for the regional and district councils if this information is not discharged.

P. Haddock noted that the updated mapping provided greater accuracy but he thought that there were still some discrepancies. He noted that he didn't want people submitting on hazard lines that weren't quite correct. Cr Gibson noted that at Jackson Bay the sea is causing erosion not sea level rise and agreed that some of the maps needed to be revisited.

Mayor Gibson noted that the Committee still doesn't have the hydrodynamic maps for Grey District, and asked if we have to do a variation to a variation, who pays for that? She also asked the timing of this modelling information. L. Easton said that she will be meeting with natural hazard staff and will look into this further as she hadn't seen the final report. D. Lew said that staff would provide an update in relation to Grey District.

Mayor Cleine noted that he is fairly confident that the science is ok and asked what specifically needs to be looked at? Cr Haddock noted Hannah's Clearing and the other areas raised in submissions to the draft variation.

Mayor Lash noted her concern regarding the pressure of time affecting the review and assessment process of the hazard information.

L. Easton said that NIWA have looked specifically at Hannah's Clearing and Mr Boyd's information and did not consider that any changes were necessary, and as such, she is not expecting a different result if this is looked into again.

Mayor Gibson noted that this was affecting peoples' livelihoods and businesses so was important to be correct. Mayor Cleine noted the fairness issue as some people are no longer affected, and as such, they won't have submitted on the variation. He also noted that the Committee had set out at the beginning of the TTPP to take a science based approach to get the best data that they can. He noted the problems with the plan currently before the commissioners, and by delaying notifying the variation the Committee are knowingly approving an inaccurate plan already.

P. Madgwick noted Hokitika and Hannah's Clearing and that a site specific rather than a broad brush approach was needed, that needs to be accurate. He raised the issue of what if the government decided on a 50 year rather than 100 year timeframe for coastal hazards.

D. Lew asked the Committee to identify exactly what information staff should bring back to the Committee

These matters were identified as:

1. An update on the Grey District hydrodynamic modelling
2. Details of how existing coastal protections are affecting the planning provisions
3. What scientific agencies we are relying on for flooding and erosion, and what is the scope of their work
4. Review those places where people have submitted in relation to the draft coastal hazard mapping variation

Mayor Cleine asked who is going to be the source of truth and whether the Committee were going to use the science. F. Tumahai supported this. Mayor Cleine further asked whether the Committee believes in the agreed national position on sea level rise because if not, that was a different conversation. R. Williams noted that the previous Committees had accepted sea level rise, even if some individuals did not.

L. Easton said that she would organise the workshop as part of the next committee meeting and invite NIWA to attend.

**Moved** (Mayor Gibson/Cr Haddock)

1. *That the Committee receives the report*
2. *That this matter is discussed further at the April Committee meeting with reports covering the four points noted in the discussion.*

*Carried*



### **Report - Online attendance with respect to a quorum**

M. Conland noted that at the last meeting of the Committee, the meeting was structured as a workshop because the quorum requirements in relation to online attendance were unclear. At that meeting it was requested that a report be brought to this meeting in relation to the quorum for Committee meetings to clarify the situation in relation to members attending in person versus online.

M. Conland stated that until 30 September this year, attendance via an audio link or audiovisual link meets the requirements for a quorum, regardless of what the Committee standing orders say. Following that date, if there is a desire to continue this situation, the standing orders will need to be amended. M. Conland noted that that may be warranted given the area that the TTPP Committee relates to and would save travel and time.

P. Madgwick noted that it would be good if a report could be brought to the next TTPP Committee meeting with draft updated standing orders to be considered to allow for this as it makes sense for the TTPP where the members come from all over the coast. R. Williams said that the standing orders for the committee had been in use for 5 years and should be revised as they may be out of date. S. Bastion noted that the LGNZ provides model standing orders for Councils which would make it easy to revise the standing orders for this committee.

**Moved** (Cr Gibson/Mayor Lash) *That the Committee receives the report.*

*Carried*

### **Project Manager Update**

M. Conland noted that this is the last Committee meeting that Ms Mehrtens will be providing assistance at before going on maternity leave. M. Conland also noted that Mr Douglas who had the position of Senior Planner in the TTPP team has also resigned from WCRC. M. Conland thanked them for all their work with the process and wished them well for the future. M. Conland noted that recruitment was underway, with Ms Mehrtens role being advertised as a Planning Technician role to better reflect the position.

M. Conland noted that no changes had been made to the National Policy Statement for Indigenous Biodiversity (NPSIB) and nor had we received any indication that changes were likely to be made soon.

M. Conland noted that the hearing schedule had been amended to delay hearing the Ecosystems and Indigenous Biodiversity topic, and the Natural Hazards topic had also been delayed to allow time for the Coastal Hazards Variation to be notified and heard at the same time as the Natural Hazards topic. M. Conland noted that despite these changes, the hearing process was still largely keeping to the original timeframe. She further noted that at a Committee meeting in March 2023 it was noted that the costs would increase the longer the period over which the hearings were held, and so at that time it was agreed to have a fairly tight timeframe for the hearing.

P. Madgwick asked whether it would make sense to move the Natural Features and Landscapes hearing to later in the year, similar to what has been done for Significant Natural Areas (SNAs). L. Easton noted that Outstanding Natural Landscapes (ONLs) are not in the same category and that there are unlikely to be any changes to them. She noted that the government has been clear in signaling proposed changes, and that there has been no indication that ONLs would be reviewed. F.



# Te Tai o Poutini PLAN

A combined district plan for the West Coast

Tumahai asked whether it would be worthwhile planning for that. L. Easton replied that it was very unlikely as there had been no proposals for the government to review the requirements of ONLs. R. Williams asked about a possible timing change for this topic. L. Easton replied that the hearing was happening very soon, with the s42A report up on the website, and evidence was being received. She said that it wouldn't be her recommendation to delay that topic.

Mayor Lash asked about the split following decisions and appeals between provisions that are operative vs those that are appealed. L. Easton replied that it was standard planning practice to undertake a weighting exercise which was set out in the law, and that this had also been the same under the Town and Country Planning Act. L. Easton said that the planners were currently doing this exercise, and that as the TTPP progressed through the process more weight would be placed on the TTPP rather than the current operative plans. L. Easton also noted that only some parts of TTPP are likely to be appealed.

Mayor Gibson asked about changing the hearing schedule. D. Lew said that the Committee made decisions about whether to notify variations but that hearing matters have been delegated to the hearing panel and those are decisions for the commissioners.

Cr Haddock asked whether the government's stance on any matters would affect the appeals. L. Easton replied that central government frequently makes changes to planning processes and councils need to adapt to those changes. However, we can only deal with what is in front of us in law. P. Madgwick noted that the pace of change of this government is unprecedented and that there would be no harm in going back to the government to ask.

F. Tumahai and P. Madgwick discussed moving the Mineral Extraction hearing, and noted that preparation for the Sites and Areas of Significance to Māori hearing is taking up a lot of time. Cr Haddock also suggested that the Committee ask the hearing panel to look at rescheduling the hearings.

**Moved** (Cr Haddock/P. Madgwick) *That the Commissioners relook at the scheduling of hearings, especially in relation to Mineral Extraction.*

*Carried*

**Moved** (Cr Naylor/Cr Gibson) *That the Committee receives the report.*

*Carried*

Meeting ended at 11.04am

The Chairman thanked Tayla Mehrtens for her work with the TTPP Committee.



Prepared for: Te Tai o Poutini Plan Committee

Prepared by: Lois Easton, Principal Planner

Date: 29 April 2024

**Subject: Te Tai o Poutini Plan – Draft Coastal Natural Hazards Variation – Further Information and Recommendation to Proceed with Variation**

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## **BACKGROUND**

1. At the October 2023 meeting of the Committee, approval was given to consult the community on undertaking a Variation to Te Tai o Poutini Plan (TTPP) to update the coastal hazard mapping with the most recent and accurate information.
2. This updated mapping was developed by NIWA, based on the results of the coastal inundation modelling being re-run to reflect the LIDAR that has been flown from Jackson Bay to Hector.
3. Because of the extensive difference between the proposed TTPP and the updated information, staff recommended that the best approach to deal with this issue would be to prepare and publicly notify a Variation to the TTPP.
4. Engagement was undertaken with affected communities over November and December 2023. The feedback was presented at the Committee meeting of 14 February 2024. At this meeting the Committee resolved that the Committee receive the report and that this matter is discussed further at the next Committee meeting.
5. This report brings further information to the Committee on the Resource Management Act legal context for the draft Variation.
6. At the meeting Dr Cyprien Bosserelle will be present and will provide an overview to the Committee on the science underpinning the coastal natural hazards overlays in the TTPP and the difference between the proposed Plan and the updated modelling. Dr Bosserelle will also be available to answer questions from the Committee.

## **RESOURCE MANAGEMENT LEGAL CONTEXT**

7. The management of the significant risks of natural hazards is a matter of national importance under Section 6 of the Resource Management Act (RMA). This means that the TTPP is required to address the significant risks of natural hazards.
8. During the early stage of development of TTPP, work was undertaken to identify the priority natural hazards for management of risk on the West Coast. This was informed by other National Direction – most notably the New Zealand Coastal Policy Statement, the West Coast Regional Policy Statement and the West Coast Regional Coastal Plan.
9. The West Coast is subject to a large number of natural hazards and a key consideration



was which of these proposed a significant risk to people and property. Coastal erosion and coastal inundation were identified as priority hazards to address in the Plan because of the longstanding issues with these hazards in a range of locations across the West Coast. For example, ex Cyclone Fehi in 2018 caused widespread damage across coastal areas of the West Coast and destroyed homes due to the extent of coastal inundation. Alongside these hazards TTPP also manages significant hazards in relation to river flooding, earthquake, landslide and tsunami.

### ***New Zealand Coastal Policy Statement Requirements***

10. The New Zealand Coastal Policy Statement (NZCPS) sets the national framework for management of the coast. Like the RMA, the TTPP is legally required to be implemented through the NZCPS.

11. The NZCPS states in relation to coastal natural hazards:

#### ***“Policy 24 Identification of Coastal Hazards***

1. *Identify areas in the coastal environment that are potentially affected by coastal hazards (including tsunami), giving priority to the identification of areas at high risk of being affected. Hazard risks, over at least 100 years, are to be assessed having regard to:*
  - a. *physical drivers and processes that cause coastal change including sea level rise;*
  - b. *short-term and long-term natural dynamic fluctuations of erosion and accretion;*
  - c. *geomorphological character;*
  - d. *the potential for inundation of the coastal environment, taking into account potential sources, inundation pathways and overland extent;*
  - e. *cumulative effects of sea level rise, storm surge and wave height under storm conditions;*
  - f. *influences that humans have had or are having on the coast;*
  - g. *the extent and permanence of built development; and*
  - h. *the effects of climate change on:*
    - i. *matters (a) to (g) above;*
    - ii. *storm frequency, intensity and surges; and*
    - iii. *coastal sediment dynamics;**taking into account national guidance and the best available information on the likely effects of climate change on the region or district.*

12. Committee members have asked why the coastal natural hazard provisions in TTPP are based on the 1 in 100-year risk – this requirement has come from the NZCPS as outlined above, which also states that the assessment of risk must take into account the cumulative effects of sea level rise and the effects of climate change.



### ***West Coast Regional Policy Statement Requirements***

13. The TTPP is also required to give effect to (implement) the West Coast Regional Policy Statement (WCRPS). Section 11 of the WCRPS is the natural hazards chapter.
14. The Objective for this chapter requires that the risks and impacts of natural hazards on people, communities, property and infrastructure are avoided or minimised.
15. The policies specify that:  
*“new subdivision use and development should be located and designed so that the need for hazard protection works is avoided or minimised. Where necessary and practicable, further development in hazard prone areas will be restricted.”*
16. The combination of the national direction and regional direction means that:
  - the significant risks of natural hazards must be managed,
  - in the coastal environment these must be assessed in a 100 year timescale
  - the effects of climate change must be included;
  - that new subdivision, use and development should avoid these areas; and
  - further development should be restricted where it is already located in hazardous areas.
17. These directions underpin the policy and rule framework developed for TTPP, as well as provide the direction for how the mapping of the hazards should be undertaken.

### ***Draft National Policy Statement for Natural Hazards***

18. The previous government consulted on a Draft National Policy Statement for Natural Hazards. The new government has advised that it intends to progress this policy statement into law. The current draft focuses on new subdivision and development, but the indications are that it will be strengthened in relation to its direction on existing development and the need to stop exacerbating risks by building more in risky locations.
19. Staff understand the major driver of this is the threat of “insurance retreat” from parts of New Zealand, including the West Coast, as the industry is concerned that insufficient action is being taken in district plans to ensure development is not located in high-risk locations.

## **HOW THE COASTAL HAZARD MAPS WERE DEVELOPED**

### ***Coastal Hazard Severe Mapping – Hazard Areas identified in the West Coast Regional Coastal Plan***

20. The starting point for identifying the significant coastal hazards was the direction provided in the West Coast Regional Coastal Plan (WCRCP). Coastal hazards are widespread across the West Coast, and Schedule 3C of the WCRCP contains the list of

Coastal Hazard Areas based on a review done by NIWA in 2001. These areas are also mapped in the WCRCP, but the inland extent of these hazards was not determined at that time.

21. TTPP deals with the landward side of the coastal environment – everything above the Mean High Water Springs. This means an early priority was to identify the landward extent of the coastal hazards shown in the WCRCP.
22. NIWA were engaged to undertake this work as they have been working with the West Coast Regional Council on managing the coastal hazards for over 20 years. As well as having some of the top coastal scientists in the country, they have a long familiarity with the West Coast environment and the changes that have taken place over time here.
23. Given these hazards were mapped originally based on a 2001 assessment (prior to ex-Cyclones Ita, Fehi and Gita in the mid-late 2010s), some additional areas (e.g. Hunt’s Beach) that now are considered significant hazards were also mapped during summer 2020-2021. This was based on field assessment undertaken by NIWA jointly with WCRC natural hazards staff as well as further desk top analysis of aerial photography and hazard records.
24. The updated information was included in the NIWA report by Richard Measures and Helen Rouse produced in February 2022. This work also identified the inland extent of these known and identified coastal hazards and formed the basis of the Coastal Hazard Severe overlay in TTPP.

#### ***Coastal Hazard Alert Mapping – Inundation Modelling***

25. Alongside the known severe hazard locations, in accordance with the requirements of the NZCPS, coastal inundation modelling was undertaken by Dr Cyprien Bosserelle from NIWA to identify the extent of area at risk of coastal flooding, taking into account sea level rise and the required 1:100 year timescale. This used ground height data provided from the Space Shuttle photography, since LIDAR had not then been flown for the whole of the West Coast.
26. The output of this inundation modelling formed the basis of the Coastal Hazard Alert Layer in the proposed TTPP. It is also used to support the Coastal Hazard Severe Layer discussed above as this layer is areas where there are multiple coastal hazard risks in one location.
27. Due to cost issues, not all of the West Coast was modelled for inundation, and a precautionary “Coastal Setback” of 100m was applied in the proposed Plan.
28. Once LIDAR was flown, the modelling was re-run, and this is the basis for the recommended updated Coastal Hazard Layers in the draft Variation. Due to the availability of the LIDAR, apart from north of Mokihinui, the “Coastal Setback” areas have also been able to be modelled, meaning more accurate information is now available for places not previously modelled.

## DIFFERENCES BETWEEN THE PROPOSED PLAN AND DRAFT VARIATION MAPPING

29. There are significant differences between the proposed Plan and draft Variation mapping. A GIS analysis has been undertaken to look at the number of properties affected and this is outlined in the table below. Key points to note are that there are a large number of properties that are identified as being in a coastal hazard area in the proposed Plan, where the updated mapping does not have these properties affected. No differentiation has been made in terms of ownership of the titles in this analysis, so this number will include road and esplanade reserves and public conservation land.

	<b>Notified Plan</b>	<b>Draft Variation</b>
Buller District – Coastal Alert	948 titles – 655 with more than 50% of the property affected	676 titles – 379 with more than 50% of the property affected
Buller District – Coastal Severe	319 titles – 212 with more than 50% of the property affected	342 titles – 207 with more than 50% of the property affected
Buller District – Coastal Setback	146 titles – 70 with more than 50% of the property affected	168 titles – 11 with more than 50% of the property affected
<b>Total Buller Properties Affected</b>	<b>1413 titles – 927 with more than 50% of the property affected</b>	<b>1186 titles – 597 with more than 50% of the property affected</b>
Grey District – Coastal Alert	499 titles – 312 with more than 50% of the property affected	88 titles – 29 with more than 50% of the property affected
Grey District – Coastal Severe	32 titles – 24 with more than 50% of the property affected	13 titles – 10 with more than 50% of the property affected
Grey District – Coastal Setback	13 titles – 4 with more than 50% of the property affected	52 titles – 14 with more than 50% of the property affected
<b>Total Grey Properties Affected</b>	<b>544 titles – 340 with more than 50% of the property affected</b>	<b>153 titles – 53 with more than 50% of the property affected</b>
Westland District – Coastal Alert	356 titles – 228 with more than 50% of the property affected	722 titles – 324 with more than 50% of the property affected
Westland District – Coastal Severe	210 titles – 145 with more than 50% of the property affected	159 titles – 97 with more than 50% of the property affected





Westland District – Coastal Setback	124 titles – 48 with more than 50% of the property affected	89 titles – 6 with more than 50% of the property affected
<b>Total Westland Properties Affected</b>	<b>690 titles – 228 with more than 50% of the property affected</b>	<b>970 titles – 427 with more than 50% of the property affected</b>
<b>Total Region Wide Properties Affected</b>	<b>2647 titles – 1698 with more than 50% of the property affected</b>	<b>2309 titles - 1077 with more than 50% of the property affected</b>

30. This analysis shows that in total there are 338 fewer properties affected by the draft Variation maps, than are shown in the proposed Plan. However, the spread of this is not even. Across Buller and Grey District there are significant decreases in the numbers of properties affected – but in Westland District there are significantly more properties affected. This is due to the flat topography in South Westland, in particular, and the updated coastal inundation maps show the hazard goes much further inland than the notified Plan maps.
31. It is also important to note that in all the districts there are “winners” and “losers” – the water still has to go somewhere, and what the LIDAR does is enable much better analysis of where the water will go. This means that some properties will not be affected, but others, not shown in the proposed Plan maps, are identified as a property that will be affected. Additionally, some properties will have their hazard level change eg from Coastal Setback to Coastal Alert – or vice versa.

**UPDATE ON GREYMOUTH HYDRO-DYNAMIC MODELLING**

32. Greymouth was excluded from the draft Variation because a hydro-dynamic model which takes into account the effect of the river and the coastal hazards acting together was being developed. This is now complete and the new mapping provided to the Grey District Council.
33. The modelling covers the area from the Taramakau River to Point Elizabeth.
34. The modelling shows a much more accurate – and positive – picture for the Greymouth CBD than previous work, but as for the other updated maps there are “winners” and “losers”.
35. Engagement with the Greymouth community about the modelling has not been undertaken but is an important pre-cursor to any update of the maps for this area in TTPP.





## **OPTIONS GOING FORWARD**

36. Staff still recommend that the draft Variation is progressed. This is because there are hundreds of properties currently shown in the proposed TTPP maps as being affected by a hazard that does not affect them – and similarly there are hundreds of properties that are affected by a hazard where the maps do not include this indication.
37. As was outlined in the report to the February Committee meeting, feedback from the affected communities was largely negative about the Variation – but mainly this was not because the maps were considered worse than the proposed Plan, but on the overall direction of including coastal hazard maps in the Plan. There are three locations – Okuru, Neil’s Beach and Hannah’s Clearing where there are specific community member concerns about the mapping and its accuracy. However, the maps and modelling have been rechecked and no error has been identified. Dr Bosserelle will speak to this matter in his presentation.
38. If the Committee does decide to proceed with the draft Variation, a key consideration is the timing in relation to the Greymouth coastal natural hazards component. Prior to this area being included in any Variation, engagement and discussion with the Greymouth community is needed. Staff capacity to undertake such consultation is insufficient until the senior planner is onboard and adequately across these matters. Grey District Council staffing is also stretched, so realistically engagement with the Greymouth community may not be able to be undertaken until spring 2024.
39. Staff consider there are three options available to the Committee. An analysis of the pros and cons of each is also included in the table below.

### **Option 1: Do not proceed with Draft Variation**

Maps remain as per notified TTPP. Any specific submissions on maps could be responded to using the updated mapping, but there would be no way to introduce the updated maps as a whole in the hearings process.

### **Option 2: Proceed with Draft Variation.**

Submissions on the proposed Plan maps would “roll over” to the Variation and a separate hearing would be held on this topic. This would be outside of the main TTPP hearing schedule as there is insufficient time to “catch up”. A separate hearing panel could be used if necessary, ideally with at least one member of the current panel for consistency.

### **Option 3: Delay Variation and undertake further engagement combined with Greymouth Engagement with a view to notify Variation, including Greymouth, before the end of 2024.**

The Variation would be notified after the proposed TTPP hearings are completed, so for those purposes the maps would remain as notified and any specific submissions on maps could be responded to using the updated mapping, but there would be no way to introduce the updated maps as a whole in the hearings process.



	<b>Pros</b>	<b>Cons</b>
<b>Option 1: Do not proceed with Draft Variation</b>	<ul style="list-style-type: none"> <li>• There are hazard provisions already in the Plan.</li> <li>• Some property owners who are at risk of a hazard have been correctly identified as having a hazard layer on their property.</li> </ul>	<ul style="list-style-type: none"> <li>• Known incorrect maps in the Plan</li> <li>• Risk that development could occur in known hazard areas that are unrestricted due to incorrect maps – legal liability issues could arise</li> <li>• Some property owners who are not at risk of a hazard have a hazard layer on them – legal liability issues could arise</li> <li>• The Maps would still exist – we can't "unknow" the information. This will undermine confidence in the coastal natural hazards provisions for the insurance and property sector</li> <li>• Creates a confused regulatory situation – building consents would be required to use the correct information</li> </ul>
<b>Option 2: Proceed Now</b>	<ul style="list-style-type: none"> <li>• Means that known incorrect maps are replaced</li> <li>• Submissions on proposed Plan maps and the Variation maps heard together – a clear process</li> <li>• Clear message to insurance sector that the TTPP natural hazards provisions are science and evidence based</li> <li>• Clear regulatory situation – building consent processes aligned with</li> </ul>	<ul style="list-style-type: none"> <li>• Would still have to introduce Greymouth coastal hazard Variation in the future in a separate process.</li> <li>• Hearing of submissions on coastal hazard maps would be delayed until the Variation hearing.</li> </ul>



	TTPP	
<p><b>Option 3: Delay and consult further, notify Variation by end of 2024</b></p>	<ul style="list-style-type: none"> <li>• Would enable further engagement with affected communities outside of notification process</li> <li>• Some cost savings in notifying Greymouth alongside the rest of the West Coast.</li> </ul>	<ul style="list-style-type: none"> <li>• Known incorrect maps in the Plan and through the hearing process</li> <li>• Risk is seen as delay with no firm decision to progress could negatively affect insurance sector perception of the West Coast</li> <li>• Delay would mean risk that property sales and development could occur in known hazard areas that are unrestricted due to incorrect maps – legal liability issues could arise</li> <li>• Significant time during which there is a confused regulatory situation – building consents would be required to use the correct information</li> </ul>

**NEXT STEPS**

40. Staff recommend that the Committee proceed with Option 2 and notify the proposed Variation. Given that there is insufficient time to allow for the hearing of submissions to combine with the wider TTPP hearings process, staff suggest a longer period for submissions is provided for. The statutory period is normally 20 working days and staff suggest that extending this to a 30 working day period would be appropriate in this instance.
41. This would see the coastal hearings scheduled for TTPP go ahead – but without the submissions that specifically related to the mapping which would be heard as part of the Variation hearing.
42. Staff recommend a full public notification process – but that individual communication would also go to all people who submitted on the coastal natural hazards provisions of the proposed Plan.
43. An information sheet and awareness raising/engagement process about the Variation

would also be undertaken. This could involve community meetings where requested.

### **RECOMMENDATIONS**

1. That the information be received.
2. That the proposed Variation for the mapping of Coastal Hazards in TTPP be adopted by the Te Tai o Poutini Plan Committee for legal public notification as a Variation to the Proposed Te o Poutini Plan by 27 June 2024.
3. That the mapping for the Variation be that which is shown at <https://wcrs.maps.arcgis.com/apps/instant/sidebar/index.html?appid=1ac15f600be544e08dc6bd79539019e0> with the exception that there be no amendment to the hazard layers at Snodgrass Road.
4. That the submission period for the proposed Coastal Hazard Maps Variation to Te Tai o Poutini Plan be from the date of notification to 5pm, Friday 16 August 2024.

Lois Easton

**Principal Planner**



Prepared for: Te Tai o Poutini Plan Committee

Prepared by: Lois Easton, Principal Planner

Date: 29 April 2024

Subject: **Te Tai o Poutini Plan – Recommendation to Limited Notify Activities on the Surface of Water Variation**

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## **BACKGROUND**



1. As part of Te Tai o Poutini Plan, the General District Wide Matters section contains a chapter, Activities on the Surface of Water. This chapter has rules that have had legal effect since notification of the Plan. An issue of whether the rules applied to an activity that was transporting mineral material to the Port was raised by consultant planners working on the West Coast. This is because the Regional Coastal Plan defines the Coastal Marine Area as ending downstream of both Westport and Greymouth Ports.
2. Legal advice was obtained which identified that transporting mineral material to the Port would not trigger TTPP rules but it was agreed that there is a degree of ambiguity on the applicability of these rules to the Ports, and that this should be clarified through a Variation.
3. A report was brought to the October meeting of this Committee seeking approval to consult on a draft Variation. This consultation was undertaken and the report to the February 2024 meeting of the Committee recommended that the Variation proceed.
4. Because there was also a recommendation to proceed with the Coastal Hazard Mapping Variation, the February report recommended public notification of the Activities on the Surface of Water Variation – as the two Variations could be publicly notified together to save costs.
5. The Activities on the Surface of Water Variation is however a minor matter, that does not require full public notification as set out in the analysis below.

## **PROPOSED LIMITED NOTIFICATION APPROACH**

6. Clause 5A of Schedule 1 of the RMA provides for limited notification where there is an identifiable group of persons “directly affected” by the proposed change or variation.
7. In the case of the Activities on the Surface of Water Variation, staff consider that this group exists in the form of the four West Coast Councils, the port authorities of the ports of Westport and Greymouth, Maritime New Zealand, the owners of land zoned Port Zone as shown on the maps below, the owners of land that directly abuts the Kawatiri River downstream of the State Highway 67 bridge to the Coastal Marine Area boundary, the Grey River downstream of the State Highway Bridge to the Coastal Marine Area boundary and Erua Lagoon, and those other persons and organisations that provided feedback on

the draft Variation, being:

- Papahaua Resources and Rocky Mining Limited.
  - TiGa Metals and Minerals
  - WMS Group
  - Tai Poutini Resources
  - Westpower Limited
8. Staff consider that while the Variation relates just to activities that are associated with the Port Zone, it would be appropriate to limited notify all landowners whose property is immediately adjacent to the waterbodies in question upstream of the Coastal Marine Area boundary.
  9. The water in question is already managed as part by the two port authorities. Downstream of the Coastal Marine Area boundary (which is set out in the Regional Coastal Plan) this Variation would not have any impact, as that area is regulated by the Regional Coastal Plan.

Coastal Marine Area Boundary Westport	Coastal Marine Area Boundary Greymouth
 <p>This map shows the coastal area around Westport. A pink dashed line indicates the Coastal Marine Area boundary, which runs along the coast and then inland through a narrow channel. Key features include an Airport, several roads, and a 'CRADLE' area. A depth marker of '4m' is visible near the boundary line.</p>	 <p>This map shows the coastal area around Greymouth. A pink dashed line indicates the Coastal Marine Area boundary, which follows the coastline. Key features include 'Blaketown', 'Cobden Island', and a 'harbour' area. A note mentions 'harbourment to lost fishing vessels'.</p>

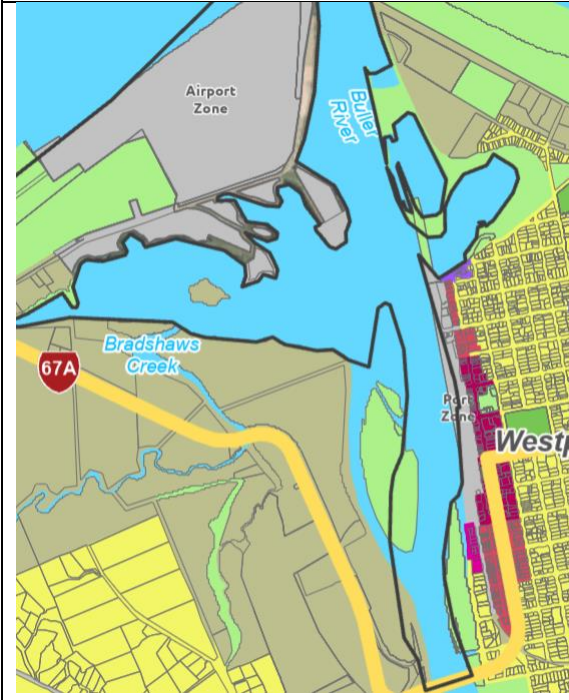




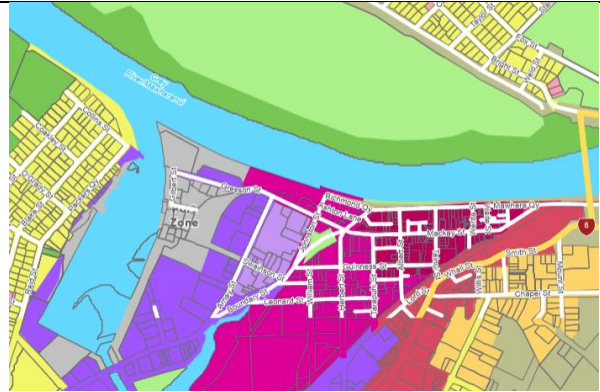
# Te Tai o Poutini PLAN

A combined district plan for the West Coast

## Westport Port Zone and Properties adjacent to the Buller River



## Greymouth Port Zone and Properties adjacent to the Grey River and Erua Lagoon



10. If the Variation is Limited Notified, the Minister for the Environment and the Minister of Conservation, local authorities and iwi authorities must also be notified. While the Variation must be publicly available, only those persons notified have the right to lodge submissions, participate in a hearing and lodge an appeal on the decision.

### NEXT STEPS

11. It is recommended that the Variation be Limited Notified on or before 28 June 2024. Allowing for the 20 working day submission period, it is recommended that submissions would close on 26 June 2024.
12. This would see the summary of submissions being brought back to the Committee by the end of August for notification for further submissions.

### RECOMMENDATIONS

1. That the information be received.
2. That the resolutions to publicly notify the proposed Variation for Commercial Activities and Port Activities on the Surface of Water in relation to Port of

Greymouth and Westport Harbour Port by Thursday 28 March 2024 and in relation to the submission period be rescinded.

3. That the proposed Variation for Commercial Activities and Port Activities on the Surface of Water in relation to Port of Greymouth and Westport Harbour Port be adopted by the Te Tai o Poutini Plan Committee for Limited Notification as a Variation to the Proposed Te o Poutini Plan by Tuesday 28 June 2024.
4. That following parties be Limited Notified for the Variation:
  - a. The port authorities of Westport and Greymouth
  - b. The three West Coast District Councils and the West Coast Regional Council
  - c. Te Rūnanga o Ngāi Tahu
  - d. Department of Conservation
  - e. Ministry for the Environment
  - f. Maritime New Zealand
  - g. Papahaua Resources and Rocky Mining Limited.
  - h. TiGa Metals and Minerals
  - i. WMS Group
  - j. Tai Poutini Resources
  - k. Westpower Limited
  - l. All landowners of Port Zone land
  - m. All other landowners with property abutting Port Zone land
  - n. All other landowners with property abutting the Erua Lagoon in Greymouth
  - o. All other landowners with property abutting the Grey River between the SH7 Bridge and the Coastal Marine Area boundary; and
  - p. All other landowners with property abutting the Buller River between the S67 Bridge and the Coastal Marine Area boundary.
5. That the submission period for the proposed Variation for Commercial Activities and Port Activities on the Surface of Water in relation to Port of Greymouth and Westport Harbour to Te Tai o Poutini Plan be from the date of notification to 5pm Friday 26 July 2024.

Lois Easton

**Principal Planner**



## **Appendix 1: Draft Variation on the Activities of the Surface of Water**

The addition of a new rule to allow for port activities and commercial activities associated with vessels entering and using Westport Harbour Port and Port of Greymouth as a Permitted Activity as follows:

### **ASW – R4A – Use of watercraft for Commercial Activities and Port Activities on the Surface of Water**

#### **Activity Status: Permitted**

Where: This is the use of the surface of water for commercial activities on water and other Port Activities

1. Associated with Port of Greymouth and harbour and seaward of the State Highway 6 Bridge on the Māwheranui/Grey River and including within the Erua Moana Lagoon; or
2. Associated with Westport Harbour Port and harbour and seaward of the State Highway 67 Bridge on the Kawatiri/Buller River.

Amendment to Rule ASW – R6 would as follows: (additions underlined)

### **ASW – R6 Commercial Activities on the Surface of Rivers, Lagoons and Lakes not associated with Westport Harbour Port and Port of Greymouth**

#### **Activity Status: Restricted Discretionary**

The addition of a new policy to support the amendment of the rules as follows:

**ASW P4** – Enable the use of the Port of Greymouth and Westport Harbour Ports and their use of the Māwheranui/Grey and Kawatiri/Buller Rivers for port activities and commercial activities associated with the Ports.

Prepared for: Te Tai o Poutini Plan Committee

Prepared by: Lois Easton, Principal Planner

Date: 29 April 2024

Subject: **Notification of Addendum to the Summary of Submissions for Te Tai o Poutini Plan**

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## **BACKGROUND**

1. The TTPP team have become aware of a submission from Mr Graeme Walsh relating to the Sites and Areas of Significance to Māori that was not included in the summary of submissions that was notified for further submissions.
2. It appears the submission was lodged on the day submissions closed but was updated by the submitter on 14 November 2022. In any event, an email from the Project Manager on 18 November 2022, confirmed that the submission had been accepted, however it was not uploaded in the submissions database.
3. Legal advice is that because the submission was not notified with the summary of submissions, an addendum to the summary of submissions, and a further submission period should be provided for.

## **ADDENDUM TO THE SUMMARY OF SUBMISSIONS**

4. The submission summary is attached at Appendix 1. It is recommended that this summary be notified for further submissions for the statutory 10 working day period. The submissions and any further submissions will then be heard towards the end of the submissions hearing schedule at a hearing in Westport, as has been requested by the submitter.

## **RECOMMENDATIONS**

1. That the information be received.
2. That the addendum to the summary of submissions be publicly notified for further submissions on 10 May 2024.
3. That the further submissions on the addendum to the summary of submissions close at 5pm 27<sup>th</sup> May 2024.

Lois Easton

**Principal Planner**



# Te Tai o Poutini PLAN

A combined district plan for the West Coast

Submitter	Submission Point	Provision	Submission	Reasons	Decision Requested
Graeme Walsh (S664)	S664.001	Sites and Areas of Significance to Māori	Oppose	We recognise the significance of historic sites but disagree with the 'shot gun' approach that has been used to determine them, and, the uncertainty of what this classification means. We were hoping to view the material that the TTPP have based their claims on so that we could better understand their position. As already referenced, when making determinations it is important to ascertain that the source material is correct. That is because our property rights are at risk. My family have owned the property since the 1950s. I have researched the history and do not consider it merits being included as a Site or Area of Significance to Māori.	Remove the Site and Area of Significance to Māori from the property Valuation No 1885012100 LD: Pt Sec 59 Secs 361-362 368 Sq 141 Blk III Kawatiri SD -The 'ten acre' family block with homestead at 74 Cape Road, that borders Mawhera Trust land.
Graeme Walsh (S664)	S664.002	Sites and Areas of Significance to Māori	Oppose	We recognise the significance of historic sites but disagree with the 'shot gun' approach that has been used to determine them, and, the uncertainty of what this classification means. We were hoping to view the material that the TTPP have based their claims on so that we could better understand their position. As already referenced, when making determinations it is important to ascertain that the source material is correct. That is because our property rights are at risk. My family have owned the property since the 1950s. I have researched the history and do not consider it merits being included as a Site or Area of Significance to Māori.	Remove the Site and Area of Significance to Māori from the property Valuation No 1885925402 LD: Lot 2 DP 7271 Blk III Steeples SD. 1189 sqm 417 Tauranga Bay Road, Cape Foulwind.
Graeme Walsh (S664)	S664.003	Sites and Areas of Significance	Oppose	We recognise the significance of historic sites but disagree with the 'shot gun' approach that has been used to determine them, and, the uncertainty of what this classification means. We were hoping to view the material	Remove the Site and Area of Significance to Māori from the property Valuation No 1885025500 LD: Lot 1 DP



# Te Tai o Poutini PLAN

*A combined district plan for the West Coast*

		to Māori		that the TTPP have based their claims on so that we could better understand their position. As already referenced, when making determinations it is important to ascertain that the source material is correct. That is because our property rights are at risk. I have researched the history and do not consider it merits being included as a Site or Area of Significance to Māori	4835 Blk III Steeples SD. 1083 sqm 415 Tauranga Bay Road, Cape Foulwind
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Prepared for: Te Tai o Poutini Plan Committee

Prepared by: Michelle Conland, Acting Project Manager

Date: 29 April 2024

Subject: **Financial statements to the end of January 2024, February 2024 and March 2024**

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## SUMMARY

This report includes the statements of financial performance to the end of January, February and March 2024.

## REPORT

Expenditure remains tracking well below the budget, in part due to the timing and stage of the hearing process. This has resulted in a significant favourable variance to the end of March of **\$559,475** against the budget. This is overstated in part as several large invoices for work in relation to the current hearings for consultants and contractors have been received in recent weeks. This will be shown in the April financial statement. Taking into account these most recent invoices, costs are generally tracking for this expenditure line below what was expected, and well within budget.

### ***Poutini Ngāi Tahu budget***

Further to my previous report, further information has come to light in relation to the budget for Poutini Ngāi Tahu. This work relates to Technical Advisory Team membership and technical input into the TAT meetings and iwi chapter updates and/or variations.

In the last report I noted that we had received an invoice from Poukeka Poutini Ngāi Tahu Ltd, and given the budget of \$15,000, I believed that this was for the first part of the year. However, on further investigation, it appears that the understanding of Poutini Ngāi Tahu, following discussions last year with the Planning and Science Manager of the budget for this work, was that the budget for 2023/24 would be \$50,000, the same as that budgeted for the 2021/22 and 2022/23<sup>1</sup> years.

While increasing this budget line as proposed would create an unfavourable variance, the overall costs for the year are still well within budget. In addition, the forecast for consultants and contractors has been reduced by \$100,000, so the overall spend on technical input to the process remains below what was originally budgeted.

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<sup>1</sup> The 2022/2023 budget for Poutini Ngāi Tahu input was originally \$50,000 and then increased to \$70,000, following the Committee's agreement on 20 February 2023

Approval for delegation to the Chief Executive Officer, WCRC, to sign a contract on behalf of the Committee for \$50,000 is also sought.

### ***Full year forecast***

A full year forecast has been provided to reflect the expenditure of previous months and likely expenditure for the rest of the financial year. This has been undertaken late in the financial year, as the first half of this financial year has had significantly lower costs than what is expected for the second half of the year, largely due to the timing of hearings. The key aspects to note are:

1. Employee Costs are below what was budgeted due to the lack of a Senior Planner for several months. Despite this, Consultant Planner and Contractor Costs are also forecast to be lower than what was originally budgeted.
2. The costs for Workshops and Events relate to the use of external facilitators for pre-hearing meetings, and room hire for remote venue hire (Hokitika and Westport) plus catering. To date, these costs solely relate to venue hire. While we haven't needed an external facilitator for any pre-hearings yet, a pre-hearing meeting is in the process of being arranged for a zoning issue which may require an independent facilitator. As such, the costs for this will be below what was budgeted for the full year, and the full year forecast has been reduced to \$7500.
3. \$40,000 was budgeted for Media Costs. This relates to advertising for hearings and committee meetings, copies information for the hearing panel, notification of any variations, design advertising and information sheets for hearing processes and letters to submitters. This is currently well below the budget as no variations have been notified, and each individual hearing does not need to be publicly notified in a newspaper. In addition, most submitters who wish to be heard have provided an email address so few hard copy letters to submitters have been required. The notification of the Ports variation will use some of this budget however, it is estimated that the full year forecast of Media Costs can be reduced to \$20,000 based on the timing for notifying variations, as set out in the earlier reports.
4. The legal expenses are well below what was budgeted. These are likely to be greater next financial year if the decision on TTPP is appealed. The full year forecast for this has been reduced to \$75,000.
5. The forecast for the hearing commissioners' fees has also been reduced. This is largely due to the timing of the hearings which started in October. Costs for four scheduled hearing topics remain for this financial year, and work on drafting the decision has begun for the hearings that have already been held. Consequently, while the forecast



for these costs has been reduced, there is likely to be significant work and therefore anticipated expenditure in this area over the next few months.

<b>Statement of Financial Performance to January 2024</b>						
	<b>Year to date</b>			<b>Full year</b>		
	<b>Actual</b>	<b>Budget</b>	<b>Variance</b>	<b>Forecast</b>	<b>Budget</b>	<b>Variance</b>
<b>EXPENDITURE</b>						
Employee costs	137,162	175,320	38,158	243,957	283,957	40,000
Consultant Planners/Contractors	183,000	452,500	269,500	630,000	730,000	100,000-
Chair and iwi representatives	35,000	37,917	2,917	65,000	65,000	
Governance	348	856	508	1,610	1,610	-
Poutini Ngāi Tahu	-	8,750	8,750	15,000	15,000	-
TTPP Website	3,691	4,667	976	8,000	8,000	-
Isovist e-plan Platform	11,213	11,667	455	20,001	20,001	-
Meals, Travel & Accom	26,302	48,246	21,944	85,251	85,251	-
Workshops & Events	791	7,500	6,709	7,500	15,000	7,500
Media Costs	3,620	10,000	6,380	20,000	40,000	20,000
Legal Advice	44,402	120,000	75,599	75,000	200,000	125,000
Hearings – commissioner fees	160,254	291,667	131,413	420,000	500,000	80,000
Overhead costs	87,500	87,500	-	150,000	150,000	-
<b>Total Cost</b>	<b>693,282</b>	<b>1,256,590</b>	<b>563,309</b>	<b>1,741,319</b>	<b>2,113,819</b>	<b>372,500</b>

<b>Statement of Financial Performance to February 2024</b>						
	<b>Year to date</b>			<b>Full year</b>		
	<b>Actual</b>	<b>Budget</b>	<b>Variance</b>	<b>Forecast</b>	<b>Budget</b>	<b>Variance</b>
<b>EXPENDITURE</b>						
Employee costs	168,282	197,047	28,765	243,957	283,957	40,000
Consultant Planners/Contractors	305,070	500,000	194,930	630,000	730,000	100,000-
Chair and iwi representatives	40,000	43,333	3,333	65,000	65,000	-
Governance	348	1,007	659	1,610	1,610	-
Poutini Ngāi Tahu	4,167	10,000	5,833	15,000	15,000	-
TTPP Website	3,691	5,333	1,642	8,000	8,000	-
Isovist e-plan Platform	11,213	13,334	2,122	20,001	20,001	-
Meals, Travel & Accom	30,286	56,567	26,281	85,251	85,251	-
Workshops & Events	881	11,500	10,619	7,500	15,000	7,500
Media Costs	3,901	30,000	26,099	20,000	40,000	20,000
Legal Advice	46,402	140,000	93,599	75,000	200,000	125,000
Hearings – commissioner fees	167,549	333,333	165,784	420,000	500,000	80,000



# Te Tai o Poutini PLAN

A combined district plan for the West Coast

Overhead costs	100,000	100,000	-	150,000	150,000	-
<b>Total Cost</b>	<b>881,791</b>	<b>1,441,454</b>	<b>559,666</b>	<b>1,741,319</b>	<b>2,113,819</b>	<b>372,500</b>

<b>Statement of Financial Performance to March 2024</b>						
	Year to date			Full year		
	Actual	Budget	Variance	Forecast	Budget	Variance
<b>EXPENDITURE</b>						
Employee costs	173,331	218,775	45,445	243,957	283,957	40,000
Consultant Planners and Contractors	417,256	587,500	170,244	630,000	730,000	100,000
Chair and iwi representatives	45,000	48,750	3,750	65,000	65,000	
Governance	348	1,157	809	1,610	1,610	-
Poutini Ngai Tahu	8,334	11,250	2,916	15,000	15,000	-
TTPP Website	3,691	6,000	2,309	8,000	8,000	-
Isovist e-plan Platform	11,213	15,001	3,788	20,001	20,001	-
Meals, Travel & Accom	42,590	64,888	22,298	85,251	85,251	-
Workshops & Events	4,868	15,000	10,132	7,500	15,000	7,500
Media Costs	3,901	40,000	36,099	20,000	40,000	20,000
Legal Advice	48,103	170,000	121,897	75,000	200,000	125,000
Hearings – commissioner fees	235,212	375,000	139,788	420,000	500,000	80,000
Overhead costs	112,500	112,500	-	150,000	150,000	-
<b>Total Cost</b>	<b>1,106,347</b>	<b>1,665,821</b>	<b>559,475</b>	<b>1,741,319</b>	<b>2,113,819</b>	<b>372,500</b>

### **Budget for 2024/2025**

Planning has begun for the draft budget for the 2024/25 financial year. The Long Term Plan which is currently out for consultation includes income from targeted rates estimated at \$326k, and a budget for costs of \$1.6M. Finance costs as a result of interest payments are estimated at \$139k.

Costs to complete the hearing process (hearings completed and decision released) have been estimated at \$1.3M. Costs beyond this time are more uncertain as this largely depends on the number of appeals received on the decision and whether these can be resolved through mediation or whether the appeals are likely to proceed to Environment Court. At this stage of the process, legal advice costs can be considerable, although there will no longer be commissioner fees and the use of consultants or contractors for expert advice is likely to be reduced compared with the current hearing stage of the process.



Additional external funding is currently being sought which, if successful, will also impact on the budget. The outcome of this, and the LTP consultation will be known in the coming months and will enable a better assessment of the budget for the 2024/25 financial year.

An update on these matters and the draft budget for 2024/25 will be brought to the June Committee meeting.

### ***RECOMMENDATIONS***

1. The Committee receives the report.
2. The Committee approves \$35,000 additional budget for Poutini Ngāi Tahu involvement.
3. The Committee approves the budget for the contract with Pokeka Poutini Ngāi Tahu Limited for \$50,000 for this financial year and delegates the Chief Executive Officer, West Coast Regional Council power to sign a contract on the Committee's behalf.



Prepared for: Te Tai o Poutini Plan Committee

Prepared by: Lois Easton, Principal Planner

Date: 29 April 2024

Subject: **Technical Update – Implications of the proposed changes to the National Policy Statement for Indigenous Biodiversity and Te Tai o Poutini Plan**

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## **SUMMARY**

This report updates the Committee on proposed changes to the National Policy Statement for Indigenous Biodiversity (NPSIB), the timing of these have implications for Te Tai o Poutini Plan (TTPP).

The report identifies that these changes have only a minor effect on the additional requirements that the NPSIB places on the West Coast Councils and that Significant Natural Area assessment will still be required across the West Coast as set out in the West Coast Regional Policy Statement.

This report has been informed by a memo from Lucy de Latour from Wynn Williams, *Potential implications of changes to the NPS-IB for the TTPP and SNA requirements*, dated 17 April 2024, attached.

## **BACKGROUND**

1. The management of natural heritage matters (ecosystems, landscape, natural features, natural character and the coastal environment) are matters that are addressed in Te Tai o Poutini Plan (TTPP).
2. In preparing TTPP the Tai Poutini Plan Committee was aware of the preparation of the National Policy Statement for Indigenous Biodiversity (NPSIB) – a draft of which was first released in 2021.
3. The four West Coast Councils put in a joint and comprehensive submission on the NPSIB, seeking a wide range of changes, as did many other submitters.
4. One of the key issues was the criteria and methodology for identification of significant natural areas (SNAs) – as the West Coast Regional Policy Statement includes criteria that are different to those that were included in the draft NPSIB.
5. The final NPSIB was not released prior to the release of the proposed TTPP.
6. As a consequence the Committee decided in mid 2021 to delay the implementation of the SNA identification programme, to await the NPSIB and the final criteria for SNA identification.
7. A policy was included in TTPP as follows:

*ECO – P1 Identify areas of significant indigenous vegetation and fauna habitat:*

1. *In the Grey District these areas are identified in Schedule Four;*
2. *In the Buller and Westland Districts:*
  - i. *The criteria set out in Appendix 1 of the West Coast Regional Policy Statement will be used to assess significance;*
  - ii. *Areas of significant indigenous vegetation and fauna habitat will be identified through the resource consent process until such time as district wide identification and mapping of significant natural areas is undertaken;*
  - iii. *Buller and Westland district wide assessment, identification and mapping of significant natural areas will be undertaken and completed by June 2027; and*
  - iv. *Identified areas of significant indigenous vegetation and fauna habitat will be added to Schedule Four through a Plan Change.*

#### **NATIONAL POLICY STATEMENT FOR INDIGENOUS BIODIVERSITY 2023 (NPSIB)**

8. The NPSIB was released on 7 July 2023 and came into effect 28 days after gazettal.
9. The NPSIB sets in place a new framework for the management of indigenous biodiversity, and as a National Policy Statement the West Coast Councils and Tai o Poutini Plan Committee are required to give effect to (implement) this.
10. The implications of the NPSIB were provided to the Committee in a report in October 2023.
11. Since that time the new government has announced some changes to the NPSIB, specifically around the requirement to identify SNAs. The consultation document states the following:

#### **Proposed changes to the NPSIB**

The Government wants to address concerns that the SNA identification criteria may be too broad and could capture areas with less significant indigenous biodiversity. The Government is proposing to amend the NPSIB to suspend the direction to councils to assess their districts and include areas qualifying as SNAs in their plans. The proposed suspension would apply for three years from the date of the change taking effect.

#### **What parts of the NPSIB would be addressed**

This change could be achieved by amending all or part of, the following NPSIB clauses:

- Clause 3.8, which sets out the process and requires councils to commence assessments of their districts to identify areas that qualify as SNAs.
- Clause 3.9, which requires councils to notify these SNAs in district plans.
- Clauses 4.1 and 4.2, which set the timeframes for councils to carry out these requirements for SNAs.

There may be a need to make more changes to the NPSIB to implement the changes set out above (including transitional provisions as required)

Existing obligations under the Resource Management Act 1991 to recognise and provide for areas of significant indigenous vegetation and significant habitats of indigenous fauna in their district plans would remain in place. Processes initiated before the

NPSIB came into force, including existing SNAs and biodiversity protection rules already in plans and policy statements, would also stay.

12. Staff understand that it is intended to make these changes to the NPSIB in May 2024.

#### **KEY IMPLICATIONS OF THE CHANGES TO THE NPSIB FOR TTPP**

13. TTPP was prepared prior to the NPSIB being released. The policy identifying that Significant Natural Areas (SNAs) would be identified was in response to the requirements set out in the West Coast Regional Policy Statement (WCRPS).
14. Advice from the Ministry for the Environment, and as set out in the consultation document, state that existing obligations under the RMA to recognise and provide for areas of significant indigenous vegetation and significant habitats of indigenous fauna will remain in place and that processes initiated prior to the proposed amendments to the NPSIB coming into force will also stay.
15. This means that the amendments proposed to the NPSIB will have little impact on the requirement to identify SNAs on the West Coast.
16. It does mean however that the criteria for SNAs set out in the WCRPS – which are different to those in the NPSIB, will be able to be used.
17. It also means that there will not be a need to reassess Grey District SNAs that are already included within TTPP. The government proposals at this time relate to the identification of new SNAs, where there is no direction from an RPS, rather than existing SNAs or where there is existing direction from an RPS.
18. Any further changes to the RMA or NPSIB in relation to matters beyond those clauses identified above have not been identified and are not likely to happen in the short term. In addition, if there are changes to the RMA or NPSIB in the future, these may include a provision that changes to District Plans can be made without using the Schedule 1 process. As such, it is recommended that the hearing of submissions in relation to SNAs continue at this time and if there are any further changes, these will be addressed once we know the details of the amended or new legislation.

#### **NEXT STEPS**

19. TTPP and WCRC staff will continue to work together to understand the implications and work programme that arises from the NPSIB requirements and the WCRPS direction to identify SNAs on the West Coast, with a view to developing a budget and project plan to inform the WCRC Long Term Plan. Once this is clearer, there will be further reporting back to this Committee.

***RECOMMENDATION***

1. That the Committee receive the report.

Lois Easton

**Principal Planner**



# Project Manager Update

**14 February 2024 – 28 March 2024**

**Prepared By:** Michelle Conland, Acting Project Manager  
**Date Prepared:** 28 March 2024

*Te Tai o Poutini Plan Team*

As there is no Committee meeting scheduled for this month, this update is provided to keep you abreast of the latest matters arising for the TTPP team.

## **Mineral Extraction Hearing**

At the TTPP Committee meeting on 14 February 2023, the Committee asked for more information about the hearing schedule and specifically, whether it would be possible for the Mineral Extraction topic to be swapped with one of the other topics to be heard later in the year. I have looked into this proposal, and have discussed this with the Chair of the Hearing Panel, Dean Chrystal, as well as Philippa Lynch, General Manager, Poutini Environmental.

The hearing schedule was discussed at the Committee meeting on 29 August 2023, and set out in Minute 2 dated 8 August 2023. The Mineral Extraction topic is due to be heard from 28 May 2024, over a period of two weeks at Westport and Greymouth. The s42A planning report is currently drafted and will be sent out to submitters on 15 April 2024. This report is being written by David Badham from Barker and Associates.

As this is a large hearing to be heard at two locations (Westport and Greymouth), there are difficulties with simply swapping this hearing for one of the latter hearings, including venue bookings, flight bookings (submitters and commissioners), and Commissioner availability. In addition, the consultants working on the s42A planning reports are working to specific and tight deadlines, so it's not possible to simply bring one of the other topics forward, as the report for that topic is not yet drafted. Under the Resource Management Act there are specific timeframes for how long prior to the hearing the s42A report needs to be sent out in order for submitter expert evidence and legal submissions to be provided in response.

### **Extending Hearings**

I have also investigated whether the hearings could be pushed out into November or December, or even into the new year. I have canvassed this option with the hearing panel, and unfortunately not all panel members are available to attend hearings at this time due to other commitments, including hearings for other Councils. Originally, the hearings were planned to finish in September, and now with the rearrangement of some of the other topics, the hearings are scheduled to finish at the end of October.

However, if the Committee were of a mind to delay some topics until 2025 for example, ideally we would have some of the same panel members hearing the submissions in order to maintain consistency with decisions.

### **Implications for Appeals**

I understand that some of the concern regarding the hearing schedule relates to the potential for the provisions to be appealed. Indeed, we have heard that some parties are not wishing to attend the hearings as they are proposing to appeal the decision regardless. As such, we are expecting appeals on the decision and note that, based on other district plan processes, this is almost guaranteed to happen. Consequently, there may not be any change in outcome in relation to attendance at the hearing or likelihood of appeals, regardless of whether the hearing date for Mineral Extraction is pushed back or not. However, doing so at this late stage would be difficult for many parties planning to attend in May for the reasons stated above.

While we have not yet discussed how appeals will be dealt with, the Environment Court is likely to direct mediation ahead of any hearing of appeals. However, we intend to approach this in a different manner to that taken by WCRC during mediation of the Forest and Bird appeals on the Regional Policy Statement decision.

This is because the experience of other Councils, and the TTPP team members involved is that appeals can be settled through mediation, with the Plan still staying true to the Council direction if a more proactive approach for mediation management is taken. For example, the Greater Wellington Regional Council recently settled all of its appeals on its Natural Resources Plan without needing to go to Court, and yet has a plan that stayed true to the original direction set by the Councillors. A similar experience occurred with the Gisborne Regional Freshwater Plan. A large reason for this was the drafting of position statements by the Council which set out what they could concede, and what they were not prepared to move on, prior to attending mediation.

Given the constraints in terms of availability of staff resources, venues, transport and the hearing panel themselves, it is proposed that the current timeframe for hearing the Mineral Extraction submissions continue. Please note, however, that Dean Chrystal is prepared to give leave for submitters to file evidence late if they need more time. Minute 19 with the current hearing schedule through to the beginning of August 2024 is attached for your reference.

### **Changes to the National Policy Statement for Indigenous Biodiversity**

We have received further advice from the Ministry for the Environment in relation to changes to the National Policy Statement for Indigenous Biodiversity (NPS-IB). The consultation document states the following:

### **Proposed changes to the NPSIB**

The Government wants to address concerns that the SNA identification criteria may be too broad and could capture areas with less significant indigenous biodiversity. The Government is proposing to amend the NPSIB to suspend the direction to councils to assess their districts and include areas qualifying as SNAs in their plans. The proposed suspension would apply for three years from the date of the change taking effect.

### **What parts of the NPSIB would be addressed**

This change could be achieved by amending all or part of, the following NPSIB clauses:

- Clause 3.8, which sets out the process and requires councils to commence assessments of their districts to identify areas that qualify as SNAs.
- Clause 3.9, which requires councils to notify these SNAs in district plans.
- Clauses 4.1 and 4.2, which set the timeframes for councils to carry out these requirements for SNAs.

There may be a need to make more changes to the NPSIB to implement the changes set out above (including transitional provisions as required)

Existing obligations under the Resource Management Act 1991 to recognise and provide for areas of significant indigenous vegetation and significant habitats of indigenous fauna in their district plans would remain in place. Processes initiated before the NPSIB came into force, including existing SNAs and biodiversity protection rules already in plans and policy statements, would also stay.

More information in relation to this matter and the implications for the TTPP process will be brought to the Committee meeting on 29 April 2024.

### **Activities on the Surface of Water Variation**

At the last meeting, the Committee resolved to publicly notify the Variation for Commercial Activities and Port Activities on the Surface of Water in relation to Port of Greymouth and Westport Harbour Port (the Ports Variation). The intention was that this be publicly notified with the Variation for Coastal Hazard Mapping. However, the Committee requested further information in relation to the coastal hazard mapping, and to not publicly notified the variation for coastal hazard mapping at this stage.

To publicly notify the Ports Variation on its own to all ratepayers, which was not the intention of staff, would cost in the vicinity of approximately \$40,000. Instead, it is recommended that the Ports Variation be limited notified only to those parties affected by the variation. This will result in considerable cost savings. As such, the Ports Variation will not be publicly notified by 28 March 2024. We will come back to the Committee at the next meeting with an updated report, timeline and recommendation to notify this variation on a limited basis to affected parties.

### **Staffing**

We have welcomed a new planning technician, Mr Chu Zhao, who has replaced Tayla Merhtens, and is quickly coming to grips with the role, having helped with the Natural Features and Landscapes hearings in Hokitika and Westport already. I'm pleased to announce that Tayla had a baby girl and both are doing well. We have begun recruitment for a Senior Planner, and will update you on progress with this at the next meeting.





# Te Tai o Poutini PLAN

*A combined district plan for the West Coast*

## Plans for Next Period

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- Recruitment of Senior Planner
- Reports to the Committee in relation to the NPS-IB and SNAs, Coastal hazards mapping, limited notification of the Ports Variation, Greymouth flood modelling, financial reports and draft budget information
- Drafting s32A report for the Ports Variation
- Continuation of hearings
- Ongoing preparation for future hearings
- Updates to Committee on hearings



# Project Manager Update

**28 March 2024 – 29 April 2024**

**Prepared By:** Michelle Conland, Acting Project Manager  
**Date Prepared:** 22 April 2024

## *Te Tai o Poutini Plan Team*

Hearings for the Natural Features and Landscapes topic were held on 4 and 5 March at the Hokitika RSA, with seven submitters wishing to be heard.

Hearings for this topic were also held on 19 March in Westport at the NBS Theatre. This was the first time the hearings had been held at this theatre. The theatre is a great facility and the theatre staff were very helpful. Unfortunately, there was an issue with sound which we hope to rectify before the next hearing to be held 'off-site'. There were six submitters who presented at this hearing.

Hearings have also been held for the Subdivision, Financial Contributions and Public Access topic. These hearings were held on 16 and 17 April at the WCRC Council Chamber, with 15 submitters represented at this hearing.

Hearings continue to take less time than originally planned which results in significant cost savings for this stage of the project.

At the last Committee meeting, there was discussion about updating the standing orders for the Committee. This work is being undertaken and draft updated standing orders will be brought to the next committee meeting for your consideration. As noted at the last meeting, attendance via Zoom meets the requirements for a quorum until 30 September 2024.

I am pleased to announce that we have a new Senior Policy Planner starting on 6 May 2024. He is familiar with District Plans and the West Coast and will be an asset to the team. It will be great to have additional TTPP staff in the WCRC office building.

## **Plans for Next Period**





- Preparation for limited notification of the variation to Activities on the Surface of Water Chapter in relation to the Port of Greymouth and Westport Harbour (if agreed by the Committee)
- Preparation for notification of the Coastal Hazard Mapping variation (if agreed by the Committee)

- Drafting s32A report for the variations
- Reports to the Committee in relation to updating standing orders
- Continuation of hearings
- Ongoing preparation for future hearings
- Updates to Committee on hearings

### Key Issues, Risks & Concerns

Item	Action/Resolution	Responsible	Completion Date
Decision makers can't agree	Get agreement on variations prior to notification	Chairman	Ongoing
Budget insufficient for timely plan delivery	Work with TTPPC to recommend budget, and with WCRC to raise rate to achieve deliverables	Project Manager, TTPP Committee, CE WCRC	Annually, first half of calendar year
Changes to national legislation	Planning team keep selves, Committee and Community updated on changes to legislation and the implications for TTPP	Project Manager, Planning Team	Ongoing
Staff safety at public consultation	Staff to notify appropriate parties. Committee members to proactively address & redirect aggressive behavior towards staff	CE WCRC, TTPP Committee	Ongoing
Emergencies such as weather events	Staff and Committee ensure personal safety and work remotely if necessary.	Project Manager, TTPP Committee	Ongoing
Time and Cost of Appeals Process	Realistic budget set for best case costs. Awareness that contentious issues such as SNAs, natural hazards, mineral extraction and landscape provisions could see an extended appeals process, increasing costs to reach operative plan status	TTPP Committee, Project Manager	Ongoing
Community concerns over proposed Plan content	Respond to queries by phone, email and public meetings. Update information.	TTPP Committee, Project Manager	Ongoing

### Status

<b>Overall</b>		
Schedule		Hearings continue, variations to be notified in due course, hearings to be completed by November 2024 at this stage, and any central government direction which may affect the hearing schedule to be followed
Resources		Budget for hearing to be monitored, staff resource constrained but will improve with the engagement of a new Senior Planner
Scope		Schedule 1 processes leading to updates to Plan to achieve operative status

### Schedule

Stage	Target for Completion	Comments
Hearings for Te Tai o Poutini Plan	November 2024	
Notification of Coastal Hazard Mapping Variation	TBC	
Limited notification of Variation to Activities on the Surface of Water Chapter	June/July 2024	Indicative time only
Decisions Te Tai o Poutini Plan	Beginning 2025	Indicative time only
Ongoing Decision Making for	2025 onward	TTPPC is a permanent Committee. Once the

Stage	Target for Completion	Comments
TTPP		Plan is adopted the ongoing Committee role includes monitoring implementation and the need for any amendments, undertaking amendments and reviews, or ensuring these are undertaken, as required.
Appeals and Mediation Te Tai o Poutini Plan	From early 2025	Indicative time only. Any parts of the Plan not appealed are operative from the end of the Appeal Period.

Attachments:

Minutes from Hearing Commissioners

Minute 19 – Updated hearing timetable

Minute 20 – Natural features and landscapes

Minute 21 – Strategic Directions



# Te Tai o Poutini PLAN

*A combined district plan for the West Coast*

## MEMORANDUM

**Date:** 17 April 2024  
**To:** TTPP Hearing Panel  
**From:** Lucy de Latour | Kate Dickson

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### Potential implications of changes to the NPS-IB for the TTPP and SNA requirements

1. The proposed Te Tai o Poutini Plan (**TTPP**) is currently being heard by an independent Hearing Panel (**Hearing Panel**) appointed by the TTPP Committee, a joint committee of the local authorities and rūnanga representatives in the West Coast region.
2. As a combined district plan for the West Coast, the TTPP is required to give effect to a number of documents, including both the West Coast Regional Policy Statement (**RPS**) and the National Policy Statement for Indigenous Biodiversity 2023 (**NPS-IB**). The NPS-IB came into force after the TTPP had been notified. We have previously advised the Hearing Panel that the TTPP must give effect to the NPS-IB to the extent that there is scope within the submissions to do so. We have also previously advised the TTPP Committee regarding its obligations in relation to the identification and mapping of significant natural areas (**SNAs**), including under the RPS.
3. Recent media statements by the responsible Ministers have indicated that changes to the NPS-IB may be forthcoming, possibly through legislation aiming to be introduced to Parliament in May 2024. We are aware that advice from Ministry for the Environment officials indicates that there may be changes to or a suspension of the operation of the clauses of the NPS-IB that require councils to assess and identify and map areas of their districts that are SNAs.
4. In light of this, you have asked:
  - (a) If the Government makes the changes they have identified (through Ministry consultation material) to the NPS-IB, will the TTPP still be required to implement SNAs under the RPS?
  - (b) If there is still a requirement to identify SNAs, what criteria will be required to be used (i.e. will this be the criteria set out in the RPS)?
    - (i) If not, what would need to happen to be able to retain and use the RPS SNA criteria?
  - (c) If the requirement in the NPS-IB 3.8(1) for a district-wide assessment of (terrestrial) SNAs remains, what will this mean for proposed TTPP Policy ECO - P1 2.(ii.), which provides for SNAs to be identified through the consent process on a case-by-case basis until a district-wide assessment is done?
  - (d) Will existing SNAs that have already been identified be affected by the changes proposed by the Government at this time?

### Executive summary

5. Sections 6(c), 30 and 31 of the Resource Management Act 1991 (**RMA**) form the basis for the requirement to ensure the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna (commonly referred to as SNAs). One of the methods that has been adopted to give effect to these provisions is the use of identification of SNAs in planning documents.
6. While the Government has proposed changes to the identification and mapping requirements of the NPS-IB, it has not proposed to remove the NPS-IB entirely (meaning that its objectives and policies would likely still remain in place). Any changes are still uncertain at this stage, and the current version of the NPS-IB remains in place until any changes to it come into force.

7. Even if the requirement to identify SNAs is removed from the NPS-IB (or indeed even if the whole NPS-IB were revoked), the RPS still requires identification and mapping of SNAs in order to give effect to the RPS. Chapter 7 Policy 1 of the RPS contains a requirement to map SNAs in relevant regional and district plans, and it is a requirement of the RMA that a district plan “gives effect to” (i.e. implements) a regional policy statement. This is also consistent with previous case law (decided prior to the introduction of the NPS-IB) where the Environment Court found a council was under a duty to identify SNAs where it had included criteria to do so in its district plan.
8. If the source of the requirement to identify SNAs reverts to the RPS, the Council would be bound to identify SNAs. At this point in time, it is difficult to conclusively say which criteria will apply to the identification of SNAs (e.g. the RPS criteria or the NPS-IB criteria, noting that as a minimum the RPS criteria would apply). Assuming that the NPS-IB criteria remain in force (as they have not been signalled by the Ministry of the Environment officials to be removed), we would expect parties to argue that the RPS criteria must be read down given that it has not yet been amended to give effect to the NPS-IB (and therefore the NPS-IB criteria are higher in the hierarchy of planning documents). If the TTPP Committee’s preference was for the RPS criteria only to apply, then it should be seeking changes to (or deletion of) the NPS-IB criteria through the upcoming consultation processes.
9. If the identification and mapping requirements in the NPS-IB were to remain, it does not appear that there would be any conflict with the approach in ECO-P1, as clause 3.8(6) of the NPS-IB provides for a similar approach, provided that each case-by-case instance is assessed in accordance with Appendix 1 of the NPS-IB and clause 3.8(2) of the NPS-IB (rather than solely the RPS criteria).
10. However, a likely avenue of challenge does still remain for parties to argue that ECO-P1 is not giving effect to the RPS policy in relation to mapping SNAs, as the TTPP is required to do. It may be easier to resist this argument while the NPS-IB is still in force, as it could be arguable currently that while ECO-P1 may not be giving effect to the RPS it is still giving effect to the NPS-IB (albeit that a future mapping exercise will still be required to fully give effect to the NPS-IB).
11. The Ministry for the Environment’s consultation material indicates that existing SNAs will not be affected by any policy changes to the NPS-IB. Existing SNAs already identified in the TTPP (for example in Grey District) are unlikely to be directly affected by any changes to the NPS-IB (except potentially to the extent there are submissions on the TTPP seeking changes to the extent of these SNAs or the rules applying to them).

### **Legislative and planning context in relation to SNAs**

12. Before we address each of your specific questions, it is important to set out the legislative and planning context that relate to the protection of SNAs.
13. Section 6 of the RMA contains a number of matters of national importance that planning documents must “recognise and provide for”. In particular, section 6(c) provides for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna (commonly referred to as SNAs).
14. The meaning of “protection” has been considered in case law, with the Environment Court stating:<sup>1</sup>

... The word “protection” is not defined in the RMA. The Environment Court has stated it has the ordinary meaning “to keep safe from harm, injury or damage”. In our view it is also a near synonym for “safeguard”, the word used in section 5(2)(b) of the Act.
15. The requirement to identify, and protect, SNAs has been clarified through case law, including in the *Royal Forest and Bird Protection Society v New Plymouth District Council* decision which considered these obligations in detail. The Court recognised that “the sustainable management

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<sup>1</sup> *Oceana Gold (New Zealand) Ltd v Otago Regional Council* [2019] NZEnvC 41, at [71].

of New Zealand's natural and physical resources requires that on occasions the exercise of private property rights will be subject to controls."<sup>2</sup>

16. The RMA is a three-tiered management system – with national, regional and district planning instruments. Within this system there is a hierarchy of planning documents. Those planning documents include objectives, policies and methods. Broadly speaking, objectives are set, policies (which are a course of action) implement those objectives and methods and rules implement the policies. Case law has clarified that policies may be either broad or narrow, and that a prescriptive policy may have the effect of a rule in terms of directing that certain things occur.<sup>3</sup>
17. The highest order planning documents are those that are the responsibility of central Government (specifically national policy statements and the New Zealand coastal policy statement). The RMA requires that district plans (such as the TTPP) give effect to regional policy statements, and national policy statements.<sup>4</sup>
18. The Supreme Court has confirmed that the phrase “give effect to” means to implement.<sup>5</sup> The Supreme Court has said it is a strong directive, creating a firm obligation on the part of those subject to it. It requires positive implementation of the superior planning document.
19. In relation to SNAs and the TTPP, the RPS and the NPS-IB both contain directive policies about SNAs that must be given effect to (these are addressed further below).<sup>6</sup> While the NPS-IB only came into effect after the TTPP was notified, the Hearing Panel when making recommendations on the submissions made on the TTPP must give effect to the NPS-IB to the extent that there is scope within the submissions to do so.<sup>7</sup>
20. This will include giving effect to the NPS-IB objectives and policies which include:
  - (a) Objective 1: to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date.
  - (b) Policy 5: Indigenous biodiversity is managed in an integrated way, within and across administrative boundaries.
  - (c) Policy 6: Significant indigenous vegetation and significant habitats of indigenous fauna are identified as SNAs using a consistent approach.
  - (d) Policy 7: SNAs are protected by avoiding or managing adverse effects from new subdivision, use and development.
21. Clauses 3.8 and 3.9 are also specific implementation clauses in relation to assessing areas that are SNAs and identifying them in district plans.

### **Potential changes to the NPS-IB**

22. We understand that the proposed changes to the NPS-IB that the Government is considering include suspending the direction to councils to assess their districts and areas qualifying as SNAs in plans, for three years from the date of the change taking effect.
23. Ministry consultation material indicates that this could be effected by changes to clauses 3.8, 3.9, 4.1 and 4.2 of the NPS-IB, although there may be a need to make further changes to the NPS-IB to implement the changes (potentially including transitional provisions).

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<sup>2</sup> *Royal Forest and Bird Protection Society of New Zealand Inc v New Plymouth District Council* [2015] NZEnvC 219, at [95].

<sup>3</sup> *Auckland Regional Council v North Shore City Council* [1995] 3 NZRMA 424 (CA) at 10.

<sup>4</sup> RMA, s 75(3).

<sup>5</sup> *Environmental Defence Society Incorporated v New Zealand King Salmon Company Limited* [2014] NZSC 38 at [77].

<sup>6</sup> The New Zealand Coastal Policy Statement also contains obligations in relation to indigenous biodiversity that will be relevant in the coastal environment.

<sup>7</sup> *Hawke's Bay and Eastern Fish and Game Council v Hawke's Bay Regional Council* [2014] NZHC 3191, 18 ELRNZ 348 at [183] and [184].



24. We note at the outset that at this stage there is a significant level of uncertainty as to the potential changes to the NPS-IB. Although we understand some high-level consultation material on proposed changes has been provided to various councils, there is no certainty on the detail of the proposed changes, and how these may be effected in practice. Until any changes have been Gazetted or otherwise come into force, all of the current provisions of the NPS-IB will apply.
25. In addition, the changes that have been signalled are changes to the implementation requirements of the NPS-IB, rather than changes to its policy direction. For example, while the mapping and identification implementation requirements of the NPS-IB may be removed, the objectives and policies of the NPS-IB will remain, and the TTPP will still be required to give effect to these provisions to the extent that there is scope within submissions to do so.
26. This advice demonstrates our preliminary assessment of the potential impacts of the changes. Once any proposed changes have come into force, we will be able to provide a more definitive view on the impact of those changes for the TTPP in particular.

### **RPS requirements to identify SNAs**

27. We have previously provided advice to the TTPP Committee, prior to the introduction of the NPS-IB, regarding the requirement to identify SNAs.
28. In short, even if the requirement to identify SNAs is removed from the NPS-IB, the RPS still requires identification and mapping of SNAs in order to give effect to the RPS (which reflect the obligations under section 6(c) to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna.
29. The RPS includes the following policy and explanation:<sup>8</sup>

(1)(a) Areas of significant indigenous vegetation and significant habitats of indigenous fauna will be identified using the criteria in Appendix 1; they will be known as Significant Natural Areas (SNAs), and will be mapped in the relevant regional plan and district plans.

...

Policy 1 recognises that using regionally consistent criteria for determining and identifying Significant Natural Areas (SNAs) assists with achieving sustainable management. It is best practice to map SNAs in plans, so that when a subdivision, use or development proposal is put forward, robust decisions can be made regarding its appropriateness.
30. Given the RPS has set out a direction that SNAs will be mapped in regional and district plans, not including maps in the relevant district plan would not give effect to the RPS. This means that even if the requirement to identify SNAs in the NPS-IB is removed or suspended, the requirement to map them under the RPS still remains (and the TTPP is required to give effect to this requirement).
31. This is also consistent with the Ministry's consultation material on the proposed NPS-IB changes to date, which states "Processes initiated before the NPS-IB came into force, including existing SNAs and biodiversity protection rules already in plans and policy statements, would also stay".
32. Previous case law has considered that the relevant council had a duty to map SNAs where the council had included in its plan criteria for identifying SNAs, but did not map or identify all of the SNAs that met the criteria. The Court made a declaration that "New Plymouth District Council has a duty to recognise and provide for the protection of SNAs within its District which have been identified using the process contained in Appendix 21.1 of its District Plan".<sup>9</sup>

<sup>8</sup> WCRPS, Policy 7-1(a) and explanation.

<sup>9</sup> *Royal Forest and Bird Protection Society of New Zealand Inc v New Plymouth District Council* [2015] NZEnvC 219, at [114(1)].



### Criteria used to identify SNAs

33. You have asked us if there is still a requirement to identify SNAs, what criteria will be required to be used (i.e. will this be the criteria set out in the RPS?). If not, what would need to happen to be able to retain and use the RPS SNA criteria?
34. As set out above, irrespective of the NPS-IB requirements, there is a requirement in the RPS to identify and map SNAs. At this point in time, it is difficult to conclusively say which criteria will apply (e.g. the RPS criteria or the NPS-IB criteria). We note that while the four main criteria in both the RPS and NPS-IB are the same, the guidance and how they should be applied differs.
35. To date, the information provided by Ministry officials has not indicated that the effect of the NPS-IB Appendix 1 criteria will be suspended, further we understand that the objectives and policies in the NPS-IB are not proposed to be amended (these include Policy 6 as identified above which requires that "Significant indigenous vegetation and significant habitats of indigenous fauna are identified as SNAs using a consistent approach").
36. Assuming that the NPS-IB criteria remain in force, we would expect parties to argue that the RPS criteria must be read down given that it has not yet been amended to give effect to the NPS-IB (and therefore the NPS-IB criteria are higher in the hierarchy of planning documents). Irrespective as a minimum the RPS criteria would apply to any assessment of SNAs.
37. It would be helpful to understand from an ecological point of view what the difference between the two sets of criteria is (e.g. does one result in more or less area qualifying as an SNA). If the TTPP Committee's preference was for the RPS criteria only to apply, then it should be seeking changes (or deletion of) to the NPS-IB criteria through the upcoming consultation processes (although we have no sense of what the appetite for the Government changing the criteria might be).

### Implications for ECO-P1

38. You have also asked us what it would mean for ECO-P1 if clause 3.8(1) of the NPS-IB and its requirement to undertake a district-wide assessment of SNAs remains in force.
39. As we understand it, ECO-P1 states that areas of significant indigenous vegetation and fauna habitat in the Grey District are to be identified in accordance with Schedule Four of the TTPP (ECO-P1(1)), meaning SNAs for the Grey District have already been identified.
40. Within the Buller and Westland Districts, the policy intends that an assessment of significance will be undertaken at the time any resource consents are applied for, on a case-by-case basis (ECO-P1(2)).
41. In respect of ECO-P1(2), clause 3.8(6) of the NPS-IB requires that where a territorial authority becomes aware, as a result of a resource consent application, notice of requirement or other means, that an area may be an SNA, the territorial authority must conduct an assessment in accordance with the criteria in Appendix 1 of the NPS-IB and the principles set out in clause 3.8(2).
42. Therefore, if clause 3.8(1) of the NPS-IB remained in force, along with the other subclauses of clause 3.8, the Council would be able to identify SNAs through the consenting process on a case-by-case basis (and must do so as soon as practicable) up until such as time as a district wide assessment is completed. The proposed approach in ECO-P1(2) is therefore relatively consistent with the approach taken in the NPS-IB.
43. However, it is important to reiterate that the regional council (and by extension the TTPP Committee, being the body required to be delegated the ongoing district plan making functions) would still be required to assess each potential SNA using the criteria set out in Appendix 1 of the NPS-IB and principles in clause 3.8(2), in include these in a future plan change in order to give effect to the NPS-IB.
44. Difficulties could arise where the criteria differ between the NPS-IB and the RPS – for example where under the NPS-IB an area would be considered an SNA, but not under the RPS. If this is the case (and the NPS-IB requirement remains in force), we consider that any

areas identified under *either* the RPS or NPS-IB criteria should be considered to be an SNA. The NPS-IB is clear that the TTPP Committee would also be required to include any such SNAs in the next appropriate plan or plan change (clause 3.8(6)(b)).

45. In respect of time limits, clause 4.2(1) requires local authorities to publicly notify any policy statement or plan (or changes to these) necessary to give effect to clauses relating to SNAs within five years. There is nothing in the NPS-IB to suggest that clause 3.8(6)(b) cannot be relied on at any point before the deadline in clause 4.2(1). Therefore, the “next appropriate plan or plan change” could well be the plan or plan change that satisfies the deadline in clause 4.2(1), being five years from July 2023.
46. For this reason, there does not appear to be conflict between the NPS-IB as it stands and the approach in ECO-P1(2), provided the assessment of each case-by-case SNA is assessed in accordance with Appendix 1 of the NPS-IB and clause 3.8(2) of the NPS-IB and that a further plan change (or variation depending on the timing for the TTPP) is promulgated in accordance with the time limits in clause 4.2 of the NPS-IB.
47. However, irrespective of the NPS-IB, given the directive nature of the RPS policy in relation to mapping, if the NPS-IB mapping obligations are suspended, we expect the TTPP will face challenges regarding whether ECO-P1 gives effect to the RPS given it does not require the identification or mapping of all SNAs. Further, we expect that parties will potentially argue that in order to give effect to the NPS-IB objectives and policies (rather than the implementation clauses) that SNAs are required to be identified and mapped (rather than simply relying on identification through resource consent processes).
48. We do consider that there is a potential argument against further mapping of SNAs occurring in circumstances where the NPS-IB is still in force (compared to if only the RPS applies given its directive policy about mapping). This is because the NPS-IB clearly provides a time period within which to map areas identified as SNAs (compared to the RPS, which simply directs mapping).

#### **Are existing SNAs affected by changes?**

49. You have asked whether existing SNAs that have already been identified in the TTPP will be affected by the changes proposed by the Government at this time.
50. First, it is important to reiterate that any press releases or statements made by Ministers or officials regarding the future of the NPS-IB have no legal status at this point in time. If the TTPP or any of the affected councils made decisions based on those statements alone they would open themselves to legal challenge.
51. However, we have interpreted your question as to what the implications will be, assuming the changes proceed as currently indicated. Based on the information provided on the potential changes to date, we do not consider that existing SNAs will be affected. The Ministry consultation material provided indicates that “processes initiated before the NPS-IB came into force, *including existing SNAs* and biodiversity protection rules already in plans and policy statements, would stay” [emphasis added].
52. This means that any SNAs already identified as part of the TTPP (for example those in the Grey District) are unlikely to be affected by any proposed changes to the NPS-IB.

#### **Conclusion**

53. We trust that our advice assists. Please do let us know if you have any further questions.

**Wynn Williams**