

Te Tai o Poutini Plan
Addendum to Section 42A Report on
Subdivision, Financial Contributions
and Public Access



Te Tai o Poutini
PLAN
A combined district plan for the West Coast

1.0 Introduction

1. This addendum to the Section 42A Report for the Subdivision, Financial Contributions, and Public Access chapters under the Proposed Te Tai o Poutini Plan (pTTPP) has been prepared to address key matters raised by submitters in evidence filed before the hearing.
2. This addendum has been prepared by Ruth Evans, one of the s42A Report authors. My qualifications and experience are set out in the s42A Report.

2.0 Provisions

3. This section identifies the key matters I have further considered in response to submitter evidence. My analysis on these matters is out in the table below.
4. The recommended provisions at Attachment 1 include the recommended amendments in response to submitter evidence.
5. My opinion on matters have not changed in response to written evidence where they are not detailed in this addendum report.
6. The key matters raised and addressed below in relation to the Subdivision chapter include:
 - a. Reverse sensitivity effects in the General Rural and Industrial Zones and on regionally significant infrastructure;
 - b. Including cross referencing to District Wide policies;
 - c. Applying the permitted activity boundary adjustment rule (SUB-R1) to all Rural and Residential zones;
 - d. Subdivision within the National Grid Yard; and
 - e. Other minor amendments to the objectives and policies.
7. The key matters raised and addressed below in relation to the Financial Contributions chapter include:
 - a. Activity status for non-compliance with rules;
 - b. Financial contributions for environmental offset and compensation; and
 - c. FC-R10 and the relationship between subdivision and buildings consents.
8. The key matters raised and addressed below in relation to the Public Access chapter include:
 - a. The relevant resource management matters under the Public Access chapter; and
 - b. References to the Walking Access Act 2008.

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Subdivision				
9.	Policies Pauline Whitney on behalf of Transpower, paragraph 6.4-6.10 (S299.053)	Include cross reference to District Wide Policies in the subtext following the subdivision policies.	To improve efficiency for plan users. ENG-P3 is more comprehensive in terms of identifying relevant considerations to the National Grid.	I support the overarching cross reference to District Wide policies as recommended by Ms Whitney to the text following the subdivision policies. I agree this will improve plan clarity. To simplify the wording suggested by Ms Whitney, I recommend that the amended text read 'and any District Wide policies'.
10.	SUB-O2 Martin Kennedy on behalf of Westpower, paragraph 8.4 (S547.343, S547.344)	Amend 'critical infrastructure' to 'regionally significant infrastructure'	This will achieve consistency with amendments made elsewhere to the SUB chapter and pTTPP.	As set out at paragraph 82 of the section 42A Report, it is noted that 'critical infrastructure' is recommended to be replaced with 'regionally significant infrastructure' through hearing topic Energy, Infrastructure, and Transport. I support this amendment to SUB-O2, noting that this is a change that will need to be made across the plan.
11.	SUB-P1 Amy Young on behalf of the Director-General of Conservation, Appendix One (S602.121)	Amend SUB-P1 to include SNAs that have not been mapped.	Not all SNAs within the West Coast have been identified and mapped through the appropriate schedules.	While I consider that effects on significant indigenous biodiversity are appropriately managed under the ECO chapter, I support the following amendments to SUB-P1.e that will simplify the wording of clause 2 and provide protection to areas of SNA that are yet to be mapped in the plan: Protects <u>identified</u> significant cultural, historical, natural and ecological features, sites and areas identified on the planning maps and in the Schedules in the Plan;
12.	SUB-P2 Tabled Letter on behalf of KiwiRail (S442.064)	Amend SUB-P2 to also include the word 'efficient' in addition to 'safe' and 'effective'.	This addition would achieve consistency with SUB-O2 as recommended to be amended in the section 42A	SUB-O2 is recommended to be amended to include 'safe and efficient' in response to KiwiRail (S442.064). SUB-P2 is recommended to be amended to provide for safe and effective transport connections and linkages in response to Te Mana Ora (Community and Public

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			Report.	Health) of the NPHS/Te Whatu Ora (S190.408) I agree that the inclusion of 'efficient' within SUB-P2 to achieve consistency with SUB-O2, as rail transport connections are a form of regionally significant infrastructure. For consistency between the objectives and policies and to give effect to Policy 2 of the NPS-REG, I also support the inclusion of 'effective' within SUB-O2.
13. SUB-P6	James Sutherland and Bede O'Connor on behalf of West Coast Federated Farmers, paragraph 8 (S524.082).	Amend SUB-P6 to recognise reverse sensitivity effects in the RURZ.	Subdivision created from the re-zoning of land has the potential to directly cause reverse sensitivity effects.	Having considered the evidence in relation to reverse sensitivity, I agree that reverse sensitivity effects can be a relevant consideration for subdivision, particularly in the case of new allotments that do not comply with the minimum vacant lot size or where there is potential for greater density than that anticipated within the underlying zone. I therefore support an amendment to SUB-P6.e to include activities in the General Rural and Industrial zones, as subdivision occurring within and adjacent to these zones has the potential to create reverse sensitivity effects to existing activities due to intensification of neighbouring land uses via additional allotments. I note the inclusion of industrial zones within SUB-P6 will also in part give effect to the relief sought by Silver Fern Farms under S441.018. Furthermore, and for completeness, I support amending 'energy activities' to 'regionally significant infrastructure' and note this will also in part give effect to the relief sought by Transpower under S442.067. In relation to the example of residential zoning located around the Silver Ferns Hokitika site identified by Mr

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				Sutherland, this relates to a new residential zoning proposed under the pTTPP. In this case, I am of the view that the management of this particular zoning interface is more appropriately considered through the Residential hearing topic when the most appropriate zoning is analysed.
14. SUB-P6	Anna Bensemam on behalf of Frank O'Toole, paragraph 16-21 (FS235.018, FS235.030)	Amend SUB-P6 to delete clauses a, c, e, and f.	<p>The use of 'avoid' within this policy is restrictive and may prohibit subdivision from occurring.</p> <p>Clause e is not entirely consistent with the NZCPS.</p> <p>Clause f creates duplication with SUB-P4.</p>	<p>In my view, an 'avoid' policy direction is appropriate for SUB-P6 as this policy identifies specific circumstances where subdivision is not appropriate. I consider that there will be limited instances where subdivision triggering the clauses within SUB-P6 will be appropriate in terms of effects and giving effect to the relevant objectives and policies. I note that resource consent may still be approved having regard to specific circumstances considered through the resource consent process.</p> <p>In relation to the coastal environment, SUB-P6 does not manage outstanding natural character. The relevant clause also provides a consenting pathway where adverse effects to be avoided and mitigated, as the 'avoid' directive is only applicable where this cannot be achieved.</p> <p>In relation to natural hazards, SUB-P6 is focused to avoiding new settlements from being established in areas of significant natural hazard risk. This is separate to SUB-P4 which seeks to identify and manage natural hazard risks. These provisions will be considered in detail as part of the Natural Hazards hearing stream,</p>

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				<p>and I note the opportunity for consolidation.</p> <p>I support the below amendments to clauses b and f to improve the clarity and accuracy of these clauses:</p> <p>b. In the RURZ—Rural Zones <u>Of Highly Productive Land as defined under the National Policy Statement for Highly Productive Land</u> unless the requirements of clause 3.8 of the NPS-HPL are met.</p> <p>f. In <u>unmodified areas of</u> the Coastal environment outside of areas that are already modified unless adverse effects on the natural character of the coastal environment can be avoided or mitigated.</p>
15.	New policy Statement of evidence of Anna Bensemman on behalf of Frank O'Toole, paragraph 10-15 (FS235.019, FS235.031)	Introduce a new policy which will allow for subdivision in the RURZ – Rural Zones that do not comply with the minimum lot design and parameters when specified criteria are met.	The new policy would enable development of the rural zone in a flexible manner and would be consistent with the wording of SUB-P7, which applies to residential zones. An additional clause requiring subdivision to consider the effect on highly productive land could be included to give effect to the NPS-HPL.	I remain of the view that a new policy which allows for subdivision in the RURZ- Rural Zones not meeting minimum lot size is inappropriate. In addition to inconsistency with the NPS-HPL in relation to parts of the rural zone where the land is classified as highly productive, I also consider that such a policy would not be efficient or effective in achieving SUB-O1 and RURZ-O1. These objectives seek that subdivision achieves a pattern of land development that is compatible with the purpose, character and qualities of each zone, and for activities to retain highly productive land, rural activities, and supporting a productive rural working environment. I consider that the potential adverse effects of rural subdivision not meeting minimum lot size relate to rural character and amenity, the creation of inappropriate

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				<p>densities, and subsequent potential for reverse sensitivity effects. I remain of the view that an 'allow' policy would be inappropriately permissive and will undermine the intent of the NPS-HPL, SUB-O1, RURZ-O1, as well as the rule framework where infringement to the minimum lot size standard requires resource consent for a non-complying activity.</p> <p>I also note that the effects of subdivision not complying with minimum lot size in the Residential zones are focused to character and amenity and the ability for new sites to accommodate residential units. In this case, SUB-P7 is appropriate as the relevant considerations can be readily identified and undersized lots in the Residential Zones are unlikely to facilitate future activities that undermine the intent and purpose of the Residential zones.</p>
16.	SUB-R1 Pauline Hadfield on behalf of Davis Ogilvie & Partners Limited, Ball Developments Limited, and Chris J Coll Surveying Limited, paragraph 15-29 (S465.013)	Provide for boundary adjustments as a permitted activity in all residential and rural zones.	The scope of the SUB-R1 should be extended to all residential and rural zones to minimise costs and processing requirements.	Under SUB-R1, I agree that there is no clear differentiation between General Residential and General Rural zones from the other Residential and Rural zones. I therefore consider that it would be appropriate to include these other zones within SUB-R1, being the Large Lot Residential, Medium Density Residential, Rural Lifestyle, and Settlement zones. As noted at paragraph 198 of the section 42A Report, there is the potential for future amendments to SUB-R1 following the Rural zones hearing stream to ensure that the pTTPP gives appropriate effect to the NPS-HPL.
17.	SUB-R3 Martin Kennedy on behalf of Westpower,	Amend SUB-R3.g to include the ability to	This is a relevant matter to	I agree that that maintenance of existing infrastructure is a relevant consideration in addition to the ability to

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		paragraph 8.11 (S547.360)	'maintain' existing infrastructure.	include in the rule.	access, operate, or upgrade existing infrastructure, and support this amendment to SUB-R3.g.
18.	SUB-R8	Pauline Whitney on behalf of Transpower, paragraph 6.11-6.14 (S299.055)	Amendments to SUB-R8	The amendments sought to SUB-R8 will focus the rule to those matters relevant to the National Grid.	<p>I have considered the amendments sought by Ms Whitney and support further simplification to the relevant rule under the pTTPP to focus provisions to those matters which are directly relevant to the National Grid. I note that the approach to provisions as set out by Ms Whitney, including the restricted discretionary and non-complying activity status', are in keeping with a number of district plans drafted in the planning standards format¹. I acknowledge that a consistent approach will contribute to the efficiency of applying these provisions for plan users and support further amendments to achieve national consistency.</p> <p>I have reviewed the provisions under SUB-R8 recommended to be deleted, and am satisfied that the relevant matters are appropriately provided for under the applicable rules which provide for boundary adjustment and subdivision within zones.</p> <p>I therefore recommend that SUB-R8 is deleted and a new restricted discretionary rule is included at SUB-R13A and included at Attachment 1. In addition, I have simplified and amended a number of provisions to be in keeping with the drafting style of the pTTPP.</p>
19.	SUB-R10	Martin Kennedy on	Amend SUB-R10 to include	The matter of discretion in	I note that SUB-R10 is specific to non-compliances with

¹ Including Porirua District Plan (Decisions Version 2023), New Plymouth District Plan (Appeals Version), Selwyn District Plan (Appeals Version), and Wellington City Proposed District Plan.

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	behalf of Westpower, paragraph 8.14 (S547.378)	a matter of discretion in relation to reverse sensitivity effects on existing land uses.	relation to reverse sensitivity effects on existing land uses should be in keeping with the matters of control for the equivalent activity at SUB-R5.	specific SASM and historic heritage related provisions identified under SUB-R5. I do not consider that duplication with SUB-R5, which applies to subdivision within the underlying zone, is necessary.
Financial Contributions				
FC-P6, FC-R1, FC-R12	Pauline Whitney on behalf of Transpower, paragraph 6.15-6.25. Stephanie Styles on behalf of Manawa Energy, paragraph 5-6.	The submitters seek amendment and/or deletion of the provisions in the FC chapter which relate to environmental offset and compensation.	The key reasons for the relief sought are: <ul style="list-style-type: none"> The provisions, particularly FC-R12 create ambiguity and uncertainty. It is unclear how offset and compensation for some values will be determined where they are not subject to overarching national direction such as the NPS-IB which applies to indigenous biodiversity. The approach to offset and compensation within the FC chapter has not been thoroughly tested. 	The relevant provisions for offset and compensation in the FC chapter as notified provide for financial compensation to be provided as a form of offset and compensation and for the amount to be conditioned as part of any resource consent. FC-12 specifically provides for offsetting and compensation for adverse effects on natural landscape values and biodiversity values. I agree with many of the issues submitters have raised in evidence, in particular that the provisions create the potential for uncertainty and ambiguity in terms of determining the amount of financial contribution required to offset or compensate. I note that values may change from site to site, and the nature and extent of adverse effects that may require offsetting or compensation will typically only be determined from a proposal specific assessment. That is, they are not able to be objectively set out and quantified in a plan rule. For these reasons, I support the deletion of relevant provisions within the FC chapter which relate to offset and compensation. In my view, the deletion of these provisions will not preclude the ability to offset or

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				<p>compensate via provisions in other chapters where appropriate through the resource consent process in order to manage residual effects, or the inclusion of relevant consent conditions to secure these outcomes where they form part of a proposal and are provided in accordance with any relevant National Policy Statements².</p> <p>I note that the deletion of the provisions for offset and compensation from this chapter will address concerns raised by Manawa Energy and Forest & Bird in terms of the potential for the provisions as notified to enable offset and compensation in place of appropriately avoiding and mitigating adverse effects.</p>
FC Rules	Stephanie Styles on behalf of Manawa Energy, paragraph 6.6 and 6.8.	Retain the wording in the notified version, where the start of each rule refers to 'a condition 'may' be imposed...'	The amendment will require that all land use consent applications must impose financial contributions.	I consider that the recommended amendment of 'may' to 'shall' is appropriate in this instance as it is applied in the context of the Financial Contribution rules which identify the circumstances where a financial contribution is required and 'shall' provides certainty. However, to improve application for plan users, I support the inclusion of a non-compliance status (discretionary activity) where the rules are not complied with. I consider this will provide a consenting pathway to consider circumstances where a financial contribution may not be required or is proposed by an applicant to be reduced or waived for some reason, and for the relevant assessment to be made as part of the resource consent process. I consider that the introduction of a

² For example, the NPS-IB and NPS-REG recognise environmental offset and/or compensation.

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				<p>discretionary activity status will assist in responding to concerns raised by Ms Styles in relation to determining when resource consent is required and the relevant activity status and how financial contributions are applied.</p> <p>I note this recommendation will also give effect to the relief sought by Te Tai o Poutini Plan Committee (S171.010).</p>
FC-R10	Statement of Evidence of Pauline Hadfield on behalf of Davis Ogilvie & Partners Limited, Ball Developments Limited, and Chris J Coll Surveying Limited, paragraph 60-66 (S465.012)	Delete the reference to a five year limit.	This provision will result in 'double dipping', where Councils will be taking the same contribution twice at the time of subdivision and building consent.	<p>FC-R10.2.ii refers to contributions for additional residential units created at the time of building consent. I support increasing the five year timeframe to eight years to enable extensions of time that may be granted for the issue of a section 224(c) Certificate, and consider this remains an appropriate timeframe to recognise any recent and relevant contributions that have been made to reserves and community facilities.</p> <p>I do not consider that FC-R10.2.ii would apply to a building consent for a single residential unit located within a new lot created through subdivision, nor would it enable the payment of financial contributions in relation to a single residential unit at the time of both subdivision and building consent, as the provision refers to additional residential units created.</p>
Public Access				
20. PA Overview text PA-O1	Dean Kelly on behalf of West Coast Fish and Game Council	Refer to analysis text.	<p>The submitters seek amendments to:</p> <ul style="list-style-type: none"> Maintain legal access to 	I support further amendments to the Public Access chapter to focus the provisions to the maintenance and enhancement of public access to and along the coastal marine area and waterbodies. I consider this will

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	<p>James Sutherland and Bede O'Connor on behalf of West Coast Federated Farmers, paragraph 12-18 (S524.075)</p> <p>Martin Kennedy on behalf of Westpower, paragraph 8.22 (S547.308)</p>		<p>waterways and wetlands for fishing and hunting through unformed legal roads.</p> <ul style="list-style-type: none"> • Achieve consistency with the intent of the West Coast RPS. • Manage potential adverse effects to private landowners' including in running arming operations. 	<p>simplify the Public Access chapter and provide improved clarity on the relevant resource management matters managed under the chapter. In my view and in accordance with the Overview text, the chapter gives effect to section 6(d) of the RMA and does not provide for public access generally across the Districts. I also note that this approach to the Public Access chapter is consistent with a number of other second generation District Plans, which focus resource management issues associated with public access to and along coastal areas and waterbodies.</p> <p>For these reasons I also recommend the deletion of reference to the Walking Access Act 2008. While public access to waterbodies is relevant to the purpose of the Walking Access Act 2008, I do not consider it is necessary for the Public Access chapter or pTTPP to include a specific reference to this Act.</p> <p>Consequentially, I support the deletion of 'public resources' from PA-O1 to improve clarity as the pTTPP does not identify specific public resources where public access is to be provided. I also note that providing access to and along 'public resources' is not necessary to give effect to section 6 of the RMA, and this wording appears to align with language within the Walking Access Act.</p> <p>I continue to support the deletion of reference to unformed legal roads, as the legal status of these roads are managed outside of the pTTPP, and works to an unformed legal road is managed under the Transport</p>

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				<p>chapter.</p> <p>With regard to the concerns raised by Mr Sutherland and Mr O'Connor, I consider that the above amendments to the Public Access chapter will not directly enable public access to working farms, as the subdivision and vesting process will apply to the creation of esplanade reserves and strips.</p>

4.0 Recommendation

21. Having considered all the statements of evidence filed on behalf of submitters, I recommend the further amendments to the Subdivision, Financial Contributions, and Public Access chapters as set out at Attachment 1.
22. Amendments to recommendations on submissions are set out in full at Attachment 2, including where the recommendation has changed as a result of considering submitter evidence.