

BEFORE THE HEARING PANEL

IN THE MATTER

of the Resource Management Act 1991

AND

of the proposed Te Tai o Poutini Plan

**LEGAL SUBMISSIONS
FOR THE DIRECTOR-GENERAL OF CONSERVATION**

7 October 2024

Hearing Topic

Coastal environment

Department of Conservation / Te Papa Atawhai
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Legal submissions before the Commissioners

Hearing Topic: Coastal environment

1. These legal submissions focus on:
 - a) Statutory framework – Coastal environment;
 - b) The NZCPS and West Coast RPS; and
 - c) The Director-General’s submission points relating to the Coastal environment topic.
2. The Director-General calls Mr Murray Brass, an RMA planner, who has prepared evidence on planning matters relating to the Coastal environment topic.

Statutory framework – Coastal environment

3. Although “coastal environment” is not defined in the RMA, policy 1 of the NZCPS¹ outlines matters relevant when considering the extent and characteristics of the coastal environment. The terrestrial component of the coastal environment is the area of land extending from the mean high-water springs mark (MHWS) to the mapped inland extent of the coastal environment boundary.
4. Section 6 of the RMA identifies several relevant Matters of National Importance that TTPP must recognise and provide for. These provide specific direction to this topic, and include:
 - (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development*
 - (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development*
 - (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna*
 - (d) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.*
5. The proposed Coastal environment chapter needs to give effect to both the New Zealand Coastal Policy Statement (NZCPS) and the West Coast RPS (WCRPS).
6. The TTPP must give effect to the National Policy Statements for Electricity Transmission (NPSET for the National Grid) and Renewable Electricity Generation (NPSREG), where

¹ Policy 1 Extent and characteristic of the coastal environment

activities covered by these NPS's occur in the coastal environment. My understanding from Ms Easton² is that the pTTPP gives effect to these documents primarily through the Energy, Infrastructure and Transport Chapter however there is cross referencing throughout the plan to other chapters as required, including Coastal environment.

7. As noted by the Ms Easton³ the TTPP is now required to give effect to the National Policy Statement for Indigenous Biodiversity 2023 (NPSIB). Clause 1.4 of the NPSIB clarifies that both the NZCPS and the NPSIB apply in the terrestrial coastal environment, but if there is a conflict between the instruments then the NZCPS prevails⁴.

The NZCPS and West Coast RPS

8. The Panel may make a finding that the WCRPS does not “cover the field” in relation to the Coastal environment. The Coastal Environment Chapter (Chapter 9) of the WCRPS is only 5 pages long and is lacking in detail in some areas. For example Chapter 9 of the WCRPS contains no mention of historic heritage identification and protection or provision for walking access in the coastal environment.
9. In that instance, you should look to relevant National Direction. The NZCPS⁵ contains comprehensive objectives and policies relating to the coastal environment, including policy 17 relating to historic heritage identification and protection and policy 19 relating to walking access.

Submission points relating to the Coastal environment topic

10. In relation to the Coastal environment topic the Director-General is seeking the amendments to the TTPP as set out in her submission and as generally supported by the evidence of Mr Brass dated 18 September 2024.
11. Having reviewed Mr Brass's evidence I note that he is broadly supportive of the approach taken in the TTPP, and the changes recommended in the s42A Report. The recommended changes have adopted many of the DG's requests, and generally give better effect to the WCRPS and the NZCPS. Where Mr Brass recommends changes, these are consistent with the broad approach and are intended to improve drafting or clarity.

² Section 42A Officer's Report Coastal Environment, para 45

³ Ibid, para 40

⁴ Clause 1.4(2) of the NPSIB

⁵ As provided in the policy 1(2)(c) of the NZCPS the coastal environment extends inland from MHWS to the extent of “where coastal processes, influences, or qualities are significant”.

7 October 2024

A handwritten signature in blue ink, appearing to read 'Matt Pemberton', with a stylized, cursive script.

Matt Pemberton

Counsel for Director-General of Conservation