

**BEFORE THE INDEPENDENT HEARINGS PANELS APPOINTED TO HEAR AND MAKE
RECOMMENDATIONS ON SUBMISSIONS AND FURTHER SUBMISSIONS ON THE NATURAL
HAZARDS CHAPTER OF THE TE TAI POUTINI PLAN**

UNDER Schedule 1 of the Resource
Management Act 1991 (the Act)
IN THE MATTER OF Hearing Submissions and Further
Submissions on the natural hazards
chapter of the Te Tai o Poutini Plan

**REBUTTAL EVIDENCE OF
JAMES GARY BEBAN
NATURAL HAZARD CHAPTER
3 OCTOBER 2024**

INTRODUCTION

- 1 My names is James Gary Beban and I am the co-author of the s.42A report and supplementary evidence pertaining to the following natural hazard chapter.
- 2 This piece of evidence responds to several of the pieces of planning evidence received as well as the following two matters that have come to our attention following the release of the section 42A report.
 - The flood susceptibility overlay for several waterbodies; and
 - Annotating the natural hazards chapter changes to identify which submission point is being responding to in relation to the changes that have been made to the chapter.

Flood Susceptibility Overlay

- 3 Following the release of the s.42A report, it came to our attention that the flood modelling for several waterways within the Flood Susceptibility Overlay do not meet a sufficient level of scientific robustness. The water bodies that this apply to include:
 - Haast River
 - Karamea River
 - Inangahua River
 - Ngakawau River
 - Mokihinui River
 - Waimangaroa River
 - Waitakere/Nile River
 - Waiho River/Tartare Stream.
- 4 Specifically, it appears that the flood hazard extents are based on mapping from the West Coast Civil Defence Team from previous flood events. The problem with this is that as the flood data has not been subject to robust modelling we are unable to confirm the following:
 - The minimum floor levels for subdivision, use and development as these do not exist in the data that is held by the Council;
 - Whether the flood maps represent a 1% AEP event, or whether they are observational data and therefore may not represent true 1% AEP extents;

- Whether flood defence structures have been appropriately allowed for in the flood hazard overlays; and
- Any assumptions within the maps that have been used to inform the flood hazard extents.

5 As a result of this new information, we are now in somewhat of an awkward position. We have flood maps, which are not based on modelled scenarios. We also have a situation where we are acutely aware that there is a significant flood hazard posed by these water bodies that present a real risk to life and property. We are also of the understanding that there are currently no active modelling projects underway for these water bodies, which would mean that this issue can be addressed in a timely manner. In fact, it may be years before this issue can be appropriately addressed through a plan change process.

6 Given there is a known hazard associated with these water bodies, we have fallen on the planning position that imperfect flood hazard maps are better than no flood hazard maps. However, given the quality of these flood hazard maps, we also do not believe it is appropriate that they remain within the existing flood susceptibility overlay policy and rule framework. As such, we have proposed a revised framework for these areas, called a Flood Alert Overlay. Given the quality of the data informing the maps, we are proposing that only subdivisions that create new building platforms within the overlay are captured by the new layer. The recommended changes to the subdivision provisions require a site-specific risk assessment to be undertaken in certain overlays. If the Flood Alert Overlay is included, this would ensure that the required information relating to the risk from flooding is provided to the Council at the time of subdivision by the applicant.

7 It is acknowledged that the proposed approach we are suggesting does create a gap in respect to land use consent applications. However, the level of flood information for the proposed Flood Alert Overlay is not sufficient to be able to provide site specific floor level information. On this basis, having a land use rule that requires a minimum floor level, would end up frustrating applicants as they cannot obtain this information from the Council.

8 The proposed changes to the policy and rule framework are identified in blue below. For the purposes of clarity the red are the changes proposed as part of the s.42A report:

NH - P7	Provide for subdivision, use and development for Potentially Hazard Sensitive Activities and Hazard Sensitive Activities in the Land Instability Flood Susceptibility, Flood Alert and Earthquake Susceptibility Hazard overlays where:
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	<p>a. Mitigation measures <u>are incorporated to</u> minimise <u>the</u> risk to <u>people, buildings and regionally significant infrastructure</u>; <u>and</u></p> <p>b. <u>In the Flood Susceptibility and Land Instability Overlays</u> the risk to people <u>and buildings on adjacent sites</u> is not increased as a result of the activity proceeding.</p>
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Subdivision Rules	
Controlled Activities	
SUB - R6	Subdivision to create allotment(s) in any RURZ - Rural Zone or MPZ - Māori Purpose Zone
<p>Activity Controlled</p> <p>Where:</p> <p>...</p> <p>3. This is not within an area of:</p> <ul style="list-style-type: none"> i. Outstanding Natural Landscape as identified in Schedule Five; ii. Outstanding Natural Feature as identified in Schedule Six; iii. Sites of Historic Heritage as identified in Schedule One; iv. Any Flood Susceptibility, Flood Plain, Land Instability, Coastal Alert or Coastal Tsunami Hazard Overlay; v. This is not within the Earthquake Hazard Overlay; <p>4. <u>It does not create a building platform for a Potentially Hazard Sensitive or Hazard Sensitive Activity in the:</u></p> <ul style="list-style-type: none"> <u>i. Flood Susceptibility, Flood Alert Earthquake Susceptibility, Land Instability, Coastal Alert, or Hokitika Coastal Hazard Overlay;</u> <u>ii. Westport Hazard Overlay;</u> <u>iii. Flood Severe, Coastal Severe, or Earthquake Severe Overlay</u> <p>5. <u>This is not within an area of Flood Severe, Coastal Severe or Westport Hazard Overlay or the Airport Noise Control Overlay;</u></p>	<p>Activity status where compliance not achieved:</p> <p>Restricted</p> <p>Discretionary where <u>3 or 4(i)</u> is not complied with.</p> <p>Discretionary <u>where 2, 4(ii) or 5-7 6-8</u> is not complied with.</p> <p>Non-complying where <u>4(iii) or 5</u> is not complied with.</p>

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SUB - R8	Subdivision to create allotment(s) of Land that contains or is within the Electricity Transmission and Distribution Yard	
<p>Activity Status Controlled</p> <p>Where:</p> <p>...</p> <p>3. This is not within an area of:</p> <ul style="list-style-type: none"> i. Outstanding Natural Landscape as identified in Schedule Five; ii. Outstanding Natural Feature as identified in Schedule Six; iii. Sites of Historic Heritage as identified in Schedule One; iv. Sites and Areas of Significance to Māori as identified in Schedule Three; v. Any Flood Susceptibility, Flood Plain, Land Instability, Coastal Alert or Coastal Tsunami Hazard Overlay; <p>4. <u>It does not create a building platform for a Potentially Hazard Sensitive or Hazard Sensitive Activity in the:</u></p> <ul style="list-style-type: none"> <u>i. Flood Susceptibility, Flood Alert, Earthquake Susceptibility, Land Instability, Coastal Alert, or Hokitika Coastal Hazard Overlay;</u> <u>ii. Westport Hazard Overlay;</u> <u>iii. Flood Severe, Coastal Severe, or Earthquake Severe Overlay.</u> <p><u>5.</u> This is not within an area of Flood Severe, Coastal Severe or Westport Hazard Overlay or the Airport Noise Control Overlay;</p> <p>56. All Subdivision Standards are complied with; and</p> <p>67. Subdivision in the MPZ - Māori Purpose Zone is in accordance with an Iwi/Papatipu Rūnanga Management Plan for the site.</p> <p>7. This is not within the Earthquake Hazard Overlay;</p> <p>...</p>	<p>Activity status where compliance not achieved:</p> <p>Restricted</p> <p>Discretionary where 1, 3 or <u>4(i) or 5</u> is not complied with</p> <p>Discretionary where <u>2, 4(ii) or 56</u> is not complied with</p> <p>Non-complying where <u>4(iii) or 67-11</u> is not complied with</p>	

SUB-RX	Subdivision to create building platform(s) for Less Hazard Sensitive Activities in in the Flood Susceptibility, Flood Alert, Earthquake Susceptibility, Land Instability, Coastal Alert, Coastal Setback, Hokitika Coastal, Westport, Coastal Severe, Flood Severe, or Earthquake Severe Hazard Overlay	
<u>Activity Status Controlled</u> <u>Matters of Control:</u> <u>a. Risk to people, buildings and regionally significant infrastructure from the proposal and any measures to mitigate those risks;</u> <u>b. The location and design of proposed buildings, vehicle access, and regionally significant infrastructure in relation to the natural hazard.</u>		<u>Activity status where compliance not achieved:</u> N/A
Restricted Discretionary Activities		
SUB - R13	Subdivision to create allotment(s) building platform(s) for Potentially Hazard Sensitive Activities and Hazard Sensitive Activities in the Flood Susceptibility, Flood Alert, Flood Plain Earthquake Susceptibility, Land Instability, Coastal Alert, Coastal Setback, Lake Tsunami and Coastal Tsunami or Hokitika Coastal Hazard Overlays	

9 We acknowledge that none of the submissions received seek a new policy or rule framework in relation to these flood extents. However, there are a number of submitters who seek that their respective properties are removed from the Flood Susceptibility Hazard Overlay associated with the waterbodies identified above. The new Overlay gives partial relief to these submissions and I have updated our recommendations in relation to the relevant submission points below:

Submitter	Submission reference	Position	Reason	Accept or reject of the submission
Richard Lowe (S351)	S351.001	Oppose	I am opposed to the Karamea flood modeling that has been presented	Accept the submission point insofar that a new Flood Alert Overlay is proposed, which reduces the regulatory burden on this property.
Gavin Molloy (S485)	S485.002	Amend	Remove the flood overlay north of Franz Josef that affects	Accept the submission point insofar that a new Flood Alert

			Franz Alpine development.	Overlay is proposed, which reduces the regulatory burden on this property
Rosalie Sampson (S539)	S539.004	Oppose	Remove flood overlays from Karamea	Accept the submission point insofar that a new Flood Alert Overlay is proposed, which reduces the regulatory burden on this property
Graeme Kellaway (S18)	S18.001	Oppose	Seeks to understand why 47 River Road (Hector) is covered by Flood Hazard Susceptibility overlay.	Accept the submission point insofar that a new Flood Alert Overlay is proposed, which reduces the regulatory burden on this property
Frances Yeoman (S33)	S33.001	Oppose	Remove flood hazard susceptibility overlay from 2596 Franz Josef Highway.	Accept the submission point insofar that a new Flood Alert Overlay is proposed, which reduces the regulatory burden on this property
Barnabas Young (S50)	S50.001	Amend	Amend the Flood Hazard over Rural Section 1884, State Highway 6, Tatare bordering the Northern side of the Tartare stream in Franz Josef from Flood Hazard Severe to Flood Hazard Susceptibility.	Accept the submission point insofar that a new Flood Alert Overlay is proposed, which reduces the regulatory burden on this property
Graeme Kellaway (S53)	S53.001	Amend	Remove the Flood Hazard Susceptibility overlay from the property at 47 River Road Hector.	Accept the submission point insofar that a new Flood Alert Overlay is proposed, which reduces the regulatory burden on this property

Scenic Hotel Group (S483)	S483.015	Oppose	Oppose Flood Hazard Susceptibility Overlay on the following properties: 24 Cowan Street, Franz Josef Glacier 26 Cron Street, Franz Josef 2 Condon Street, Franz Josef Glacier Te Waionui Forest Retreat 3 Wallace St Franz Josef Glacier Scenic Hotel Franz Josef Glacier 45 SH6 Franz Josef Glacier Kea Staff Village 93 Cron Street, Franz Josef Glacier	Accept the submission point insofar that a new Flood Alert Overlay is proposed, which reduces the regulatory burden on this property
Bert Hofmans (S504)	S504.004	Amend	Remove Lots 1-3 DP 395733 Block iX Oparara SD Flagstaff Road Karamea and other properties in a similar position from the Flood Susceptibility Overlay.	Accept the submission point insofar that a new Flood Alert Overlay is proposed, which reduces the regulatory burden on this property
Lindy Millar (S505)	S504.005	Amend	Remove Lots 1-3 DP 395733 Block iX Oparara SD Flagstaff Road Karamea and other properties in a similar position from the Flood Susceptibility Overlay.	Accept the submission point insofar that a new Flood Alert Overlay is proposed, which reduces the regulatory burden on this property

Expert Evidence received on the Section 42A report.

10 Following the publication of the s.42A report, planning evidence has been received from the following parties:

- Rachael Pull – Te Runanga o Ngati Waewae, Te Runanga o Makaawhio and Te Runanga o Ngai Tahu
- Stephanie Styles – Manawa Energy Limited
- Craig Alan Barr – Buller District Council
- Martin Kennedy - West Power Limited
- Melanie Foote – Scenic Hotel
- Murray Brass – Director General of Conservation
- Michelle Grinlington Hancock – Kiwirail
- Frida Inta and Buller Conservation Group
- Silver Fern Farms – Steve Tuck
- Chorus, Spark, One NZ and Forty South – Chris Horne

11 Engineering evidence has been received on behalf of Grant Marshall by Nick Harwood

12 Legal submissions have also been received on behalf of

- Director General for Conservation; and
- Grant Marshall.

13 There are several matters from the following parties that I would like to address within this rebuttal evidence.

- Rachael Pull – Te Runanga o Ngati Waewae, Te Runanga o Makaawhio and Te Runanga o Ngai Tahu
- Craig Alan Barr – Buller District Council
- Stephanie Styles – Manawa Energy Limited
- Martin Kennedy - West Power Limited
- Murray Brass – Director General of Conservation; and
- Nicholas Harwood.

Rachael Pull – Te Runanga o Ngati Waewae, Te Runanga o Makaawhio and Te Runanga o Ngai Tahu

- 14 Within the tabled document, Ms Pull sought to retain the objective NH-O4 as notified, with some minor changes. While we understand Ms Pull’s position on this objective, we still prefer our proposed objective wording. The reason for this is that our proposed wording is more directive in terms of the components of the built environment that the natural systems and features provide protection to, as well as providing a pathway for the creation of new natural systems and features. This is in contrast to the existing objective, which relates to existing natural features only, and while this objective directs their protection, it does not seek to enhance or create new natural systems or features.
- 15 In relation to rule NH-R12, Ms Pull has raised two concerns.
- Critical response facilities have a post disaster function and this needs to be represented in the rule framework; and
 - There is the potential for works to cause an impact on a site or area of significance to Māori listed in schedule 3.
- 16 I do not agree with recognising the post disaster function need of a building as a matter of discretion when assessing the appropriateness of new buildings or additions under rule NH-R12.
- 17 The rule framework has been nuanced so critical response facilities in areas where the natural hazards present a real risk to people and building are discouraged. Conversely, the framework allows for buildings, where the risk to people and buildings is lower, subject to mitigation measures being included into subdivision, use and development.
- 18 Given the importance of critical response facilities in terms of their post disaster function, there is need for the natural hazard risk to the facility to be addressed as part of the design of the development. I do not consider it is appropriate to lessen or weaken this requirement, and this could happen through adding the post disaster function of the building, as a matter of discretion. Adding this matter of discretion could create a situation where the planner gives more weight to the post disaster functionality of the building as opposed to the hazard mitigation measures. For this reason, I do not support the requested change to rule NH-R12.
- 19 The submitter originally sought to have potential for works to cause an impact on a site or area of significance to Māori listed in schedule 3 as a matter of discretion. This has been extended to “If the proposed activity will cause adverse effects on overlays identified in Schedules 1-8.” I do not support the revised wording as it is too broad and would cover a number of sites with wider implications than the

original submission point. I still remain of the view that the relief sought by the submitter is captured by the matter of discretion that states:

The proposed works will not be likely to result in or contribute to damage to any adjoining or downslope property within or adjoining the natural hazard overlay – land instability.

20 However, if the Panel was of a view that there is merit in the relief sought by the submitter, then in my view it will not detract from the rule, but will result in double assessment of the same effect.

Stephanie Styles - Manawa Energy Limited

21 Ms Styles is seeking a change to the definition of critical facilities to replace the term 'major dams' with electricity generation, transmission and distribution assets.

22 I do not support this change. Critical Response Facilities is a term that is used exclusively in response to natural hazards. It is not a term that is used in either the energy or infrastructure chapter. Ms Styles position seems to be based on the premise that if relief is not granted, there is no recognition of the provision of power as a critical part of any event response.

23 I disagree with this position. Whether electricity generation, transmission and distribution assets are part of an emergency response will be addressed through the Civil Defence Emergency Management Act 2002 and associated response plans. The inclusion of these activities in the definition of Critical Response Facilities has no implications on this matter.

24 If the relief sought by the submitter was granted the implication is that electricity generation, transmission and distribution assets would become a Hazard Sensitive Activity under the proposed framework. This would mean in practice that a number of resource consents would be generated for new electricity generation, transmission and distribution assets. In some instances, in areas subject to a high hazard, these resource consent applications would be a non-complying activity.

25 It remains my view that the best way to deal with electricity generation, transmission and distribution assets is to let the infrastructure and energy chapter manage these activities and their location. It is my view that the resource consent implications for other energy providers beyond the submitter represented by Ms Styles would be significant if the relief sought was granted and therefore, I do not support the requested amendments to the provisions.

Martin Kennedy - West Power Limited

26 Mr Kennedy has raised a number of recommended changes to the proposed provisions. The changes largely relate to regionally significant infrastructure. I would like to thank Mr Kennedy for the effort he has gone to on this review, and I have found his comments helpful in relation to several aspects of this chapter.

27 Mr Kennedy has sought to add the word other to objective NH-O3 as follows:

To only locate regionally significant infrastructure within the Severe Natural Hazard Overlays where there is an operational or functional need to be located within these overlays, and to design infrastructure so as not to increase the risk to other people and buildings.

28 I do not support this recommended change. While I can appreciate the position that Mr Kennedy has raised, if the suggested change was made, then it changes the focus of the objective and would mean that Regionally Significant Infrastructure would not need to consider the risks to buildings associated with Regionally Significant Infrastructure and people that may work within the Regionally Significant Infrastructure. The recommended wording of the objective in the s.42A report does not preclude the consideration of risk off site, but also still requires the on-site risk consideration from the natural hazard to the regionally significant infrastructure. It is for this reason I prefer the recommended wording in the s.42A report.

29 Mr Kennedy has also sought to remove reference to regionally significant infrastructure from objectives NH-O1 and NH-O2. I do not support this change. Objectives NH-O1 and NH-O2 apply to subdivision, use and development, whereas objective NH-O3 specifically relates to regionally significant infrastructure. Objectives NH-O1 and NH-O2 seek to ensure that subdivision, use and development does not impact regionally significant infrastructure through the transfer of natural hazard risk (such as flood water displacement, or increasing off the chances of slope failure off site). On this basis, it remains my current position that the recommended changes to objectives NH-O1 and NH-O2 in the s.42A report remain.

30 Mr Kennedy also seeks that objective NH-O6 is amended from what was recommended in the following way:

Measures taken to mitigate natural hazards do not increase the risks to other people, buildings and regionally significant infrastructure.

31 Mr Kennedy has recommended that the second limb of Policy NH-P1 is modified by removing the first part of this limb. I do not support this change. This second limb provides the justification for how the various natural hazards have been assessed

as to whether they are severe or not. Making the suggested change would remove some of the matters that were considered for making this assessment. As such, I prefer the wording in the s.42A assessment.

32 Mr Kennedy has recommended that regionally significant infrastructure is removed from limb (b) of policy NH-P6 (Mr Kennedy references the policy as NH-P10 as notified), and place this requirement into limb (c). I do not support this change as if this change was made, subdivision, use, and development would only have to consider the risk to regionally significant infrastructure in the Flood Severe Overlay, not the Earthquake Severe Overlay . As such, subdivision, use and development for Hazard Sensitive and Potentially Hazard Sensitive Activities should be required to minimise the risk to regionally significant infrastructure in both the Earthquake and Flood Severe Hazard Overlays. On this basis, I believe the recommended changes to the Policy as set out in the S.42a report should remain the same.

33 Mr Kennedy has also recommended a similar change to Policy NH-P7 as what is proposed for policy NH-P6 (which is referenced as NH-P11) in his evidence. For similar reasons as outlined above in relation to policy NH-P6 I do not support this change occurring as there would be no requirement for subdivision, use and development to consider the impact in all overlays and the requested change would be limited to Flood Susceptibility and Land Instability Overlay

34 Mr Kennedy has recommended that ‘and structures’ is added to the definition of Less Hazard Sensitive Activities to support Policy NH-P7. I agree with Mr Kennedy’s rationale on this recommended change, and I believe this suggestion is pragmatic and will assist plan users. As such, I would support the definition of Less Hazard Sensitive Activities being amended as follows:

<u>LESS HAZARD SENSITIVE ACTIVITY</u>	<u>means:</u> <u>a. Buildings used for non-habitable purposes</u> <u>b. Fences</u> <u>c. Minor storage facilities</u> <u>d. Parks facilities</u> <u>e. Parks furniture</u> <u>f. Buildings associated with primary production, including intensive indoor primary production</u> <u>g. West Coast Regional Council monitoring structures</u> <u>h. Buildings associated with port activities</u> <u>i. Buildings associated with quarrying and mining activities</u> <u>j. Decks</u> <u>k. Buildings and structures associated with any other activity that is not identified as a Hazard Sensitive Activity or Potentially Hazard Sensitive Activity</u>
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35 Mr Kennedy has recommended changes to NH-P8 (referenced as NH-P12 in his evidence). I have some sympathy for the changes that Mr Kennedy is seeking in respect to this policy. While I do not support the changes to limb (a) of this policy for similar reasons as NH-P6 and NH-P7, I do agree with him to a degree in relation to limb (c). I agree this limb is intended to capture on-site infrastructure as opposed to regionally significant infrastructure. While Mr Kennedy has proposed wording, I think this can be simplified to 'on-site infrastructure'. On this basis, I recommended amending policy NH-P8 as follows:

NH - P128	<p>When assessing the <u>actual and potential</u> effects of activities-subdivision, use and development in the nNatural HHazard oOverlays consider:</p> <ol style="list-style-type: none"> a. The effects-of-level of risk posed by natural hazards on-to people, property and the environment <u>buildings and regionally significant infrastructure</u>; b. <u>Existing and proposed</u> Ttechnological and engineering mitigation measures and other non-engineered options; c. The location and design of proposed sites, buildings, vehicle access, earthworks and <u>regionally significant on site</u> infrastructure in relation to <u>the</u> natural hazard risk; d. The clearance or retention of vegetation or other natural features to mitigate natural hazard risk; e. The timing, location, scale and nature of any earthworks in relation to <u>the</u> natural hazard risk; f. The potential for the proposal to exacerbate natural hazard risk, including transferring risk to any other site;; g. The functional or operational need to locate in these areas; and h. Any significant adverse effects on the environment of any proposed mitigation measures.
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36 Mr Kennedy has recommended that the title of rule NH-R1 is changed so that it reflects that it applies to Hazard Sensitive and Potentially Hazard Sensitive Activities on the basis that Less Hazard Sensitive Activities are permitted in the Natural Hazard Overlays. While Mr Kennedy is correct in this respect, I would note that this rule also does cover Less Hazard Sensitive Activities. On this basis, I recommend that the title of the rule is changed as per Mr Kennedy's evidence, but that Less Hazard Sensitive Activities are also referenced as they are also captured by the rule. However, I do also recognise that it is somewhat of a moot point as to whether an applicant would use this rule for Less Hazard Sensitive Activities, given the permissive framework that is proposed for these activities in the Natural Hazards Chapter. The proposed new wording for the rule would be as follows:

NH- R1	Reconstruction and Replacement of Lawfully Established Buildings <u>for Less Hazard Sensitive Activities, Potentially Hazard Sensitive Activities and Hazard Sensitive Activities</u> in all Natural Hazard Overlays
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37 Mr Kennedy has recommended changes to the Natural Hazard Mitigation Structure repairs and construction rules NH-R2 and NH-R3. In light of the comments also made by Mr Brass and Mr Barr (discussed below) in relation to these rules, I would like to be able to consider these changes further and come back to the panel with a holistic response.

38 Mr Kennedy has recommended that the matter of discretion (b) in Rule NH-R9 is made to align with the recommended change to Policy NH-P8. For the reasons outlined in relation to this matter in NH-P8 I agree with Mr Kennedy in relation to this matter and recommend that Rule NH-R9 is amended as follows:

NH - R9	<u>New Buildings containing Potentially Hazard Sensitive Activities or Hazard Sensitive Activities in the Earthquake Susceptibility Hazard Overlay</u>
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<p><u>Activity Status Restricted Discretionary</u> <u>Where:</u> 1. <u>A hazard risk assessment undertaken by a suitably qualified and experienced geotechnical or geological specialist is provided; and</u> 2. <u>The new building is not a Critical Response Facility.</u> <u>Discretion is restricted to:</u> a. <u>The recommendations of the hazard risk assessment;</u> b. <u>The location, design and construction materials of the building, vehicle access and <u>regionally significant on site</u> infrastructure in relation to the likely fault deformation area.</u> c. <u>Consideration of the mitigation measures incorporated into the addition to minimise the risk to life to the occupants and maintain the structural integrity of the building in the event of a fault rupture.</u></p>	<p><u>Activity status where compliance not achieved:</u> <u>Non-complying</u></p>
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39 Mr Kennedy has sought a change to a matter of discretion to rule SUB-R13 which seeks to align subdivisions with the change to policy NH-P8. I am supportive of this change for the reasons outlined under policy NH-P8 and because it also aligns the matters of discretion with the policy wording. The proposed recommended wording is as follows:

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Restricted Discretionary Activities	
SUB - R13	Subdivision to create allotment <u>building platform(s) for Potentially Hazard Sensitive Activities and Hazard Sensitive Activities</u> in the Flood Susceptibility, Flood Plain <u>Earthquake Susceptibility</u> , Land Instability, Coastal Alert, Coastal Setback, Lake Tsunami and Coastal Tsunami or Hokitika Coastal Hazard <u>Overlays</u>

Activity Status Restricted Discretionary	Activity status where compliance not achieved:
<p>Where:</p> <ol style="list-style-type: none"> 1. A hazard risk assessment undertaken by a suitably qualified and experienced practitioner is provided. <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> a. Matters outlined in the accompanying hazard risk assessment; b. Risk to people, buildings and regionally significant infrastructure from the proposal and any measures to mitigate those risks; c. The location and design of proposed buildings, vehicle access and regionally significant <u>on-site</u> infrastructure in relation to the natural hazard; d. Whether the intended future use of the subdivision is for critical response facilities; and e. Any adverse effect on the environment of any proposed natural hazard mitigation measures. 	<p>Discretionary</p>

41 Finally, Mr Kennedy as brought up a change that I understand has been sought as part of the subdivision chapter hearing in relation to wording around the Matters of Control. As this is not our hearing stream, I will not comment on this change, other than to say that we would support the consistent using for the Matters of Control that were considered within the Subdivision Chapter hearing to also apply to the natural hazard subdivision rules.

Craig Allan Barr – Buller District Council

42 Mr Barr is generally supportive of the proposed changes to the District Plan provisions. Within his evidence, Mr Barr suggests recommended changes to policies NH-P3 and NH-P6.

43 In relation to policy NH-P3, I am still forming a view on this matter, as it is also influenced by the evidence of Mr Brass on behalf of the Director-General of Conservation. There is a need to work through the wider natural hazard mitigation

framework, and I will provide an updated view to the Panel on these provisions through the hearing process.

- 44 In relation to policy NH-P6 Mr Barr is of the view that the qualifier that states “unless it can be demonstrated” remains in the policy. I have reviewed the policy in light of this suggestion, and I agree with Mr Barr’s position that this would be an improvement to policy NH-P6 as limbs a – c are required to be met to get through this policy test. I have also noted that the term overlay was accidentally recommended to be removed at the end of Flood Severe and Earthquake Severe Hazard. I am also suggesting this typo is corrected. As such, I recommend the following changes to NH-P6.

NH P106	<p>Avoid <u>subdivision, use and</u> development of <u>for Potentially Hazard Sensitive and Hazard sSensitive a</u>Activities within the Coastal Severe Hazard and Flood Severe and Earthquake Severe Hazard <u>Overlays unless it can be demonstrated that where:</u></p> <p>a. The activity-subdivision, use or development has an operational and <u>or</u> functional need to locate within the hazard area; and</p> <p>b. That the activity-subdivision, use or development incorporates mitigation <u>measures that minimise the of-risk to life, property and the environment, and there is significant public or environmental benefit in doing so people, buildings and regionally significant infrastructure; and</u></p> <p>c. <u>In the Flood Severe Overlay the risk to people and buildings on adjacent sites is not increased as a result of the activity proceeding.</u></p>
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Murray Brass – Director- General of Conservation

- 45 Mr Brass has made several recommended changes pertaining to objective NH-O2 and the rules pertaining to hazard mitigation structures. As with Mr Barr, some further time is needed to work through the matters raised by Mr Brass in regard to hazard mitigation structures. I will update the panel on my position on these suggested revisions once I am able to complete my assessment as the changes have quite significant implications.

- 46 In relation to objective NH-O2, Mr Brass seeks to add the phrase ‘and avoids increasing’. I do not support this recommended change. The objective relates to those hazards where the severity of consequences is less, and it is possible to address the risk through mitigation measures (noting that there will always be a residual risk). The term avoid would mean that all risk needs to be addressed. Given the very directional natural of the term avoid, and that this objective also applies to a number of overlays that are not within the Coastal Environment (for example

some of the Earthquake Susceptibility and Earthquake Severe Overlays and as well as the proposed Flood Alert Overlays), the change sought by Mr Brass would extend beyond the reach of the New Zealand Coastal Policy Statement. On this basis, I do not support this change.

Nicolas Harwood

47 Mr Harwood has raised several concerns regarding the proposed Fault Hazard Overlays in relation to the landowner at 2261 Lake Brunner Road. The mapping that has been used to refine the Fault Hazard Overlays from what was notified better aligns with the MfE Active Fault Guidelines. It is recommended by the report supporting the mapping that this information be considered the most accurate and up-to-date information locating the Alpine Fault and other fault traces, and for defining the associated Fault Avoidance Zone (FAZ) buffers, based on the quality of the Light Detection and Ranging (LiDAR) data and analysis.

48 The report notes that northeast of Lake Poerua there is large uncertainty in the position of the fault due to the trace being buried/eroded away. The GNS report concedes that it is possible that the fault is more northeast-striking in this area than what is mapped, however the location of the fault in this area is based on expert interpretation.

49 However, it is not uncommon for the maps to be prepared at a scale that is larger than an individual property, with the rule framework (which applies to the individual property) placing the onus on the person wanting to develop to undertake more refined fault assessments specific to their respective project. This approach is very common in District Plans across the country including a number that have been through either a full or partial District Plan review process, including:

- Wellington City District Plan 2024 version
- Hutt City District Plan
- Porirua District Plan
- Plan Change 47 – Upper Hutt District Plan

50 In relation to the comment around risk and the width of the Fault Hazard Overlay. The MfE guidance and practice around the country takes the approach of as the fault hazard location becomes more well known (represented by the areas mapped as well-defined and well-defined extension), the provisions become more restrictive (as there is a high degree of certainty around the fault line location). Conversely, if the position of the fault line is less certain, the provisions become more enabling, subject to the fault location being identified by the applicant

relative to their development. This is in recognition that the Uncertain Poorly Constrained Overlays can be very wide and capture a large amount of land which may not contain the fault rupture zone.

- 51 On the basis of the above, I am not proposing any changes to either the provisions or the location of the Fault Hazard Overlay in respect of 2261 Lake Brunner Road. .

Section 32AA

- 52 In respect to the changes made in response to the submissions received, I do not believe a Section 32AA assessment is needed, as the changes are small and largely administrative and do not add any additional cost or regulatory burden to any party.

Annotated Changes to the Chapter.

- 53 Attached to this evidence are updated versions of the Natural Hazards Chapter, Subdivision Chapter and Definitions to reflect the changes made in light of the planning evidence received. As part of updating these changes, we have also included the submission points that have resulted in our suggested changes to the chapter.

Signed

A handwritten signature in blue ink that reads "James W." followed by a stylized flourish.

James Beban

3 October 2024