

BEFORE THE HEARING PANEL

UNDER THE

Resource Management Act 1991

IN THE MATTER OF

The Proposed Te Tai o Poutini Plan – a
Combined District Plan for the West Coast

BETWEEN

**WEST COAST REGIONAL COUNCIL
BULLER DISTRICT COUNCIL
GREY DISTRICT COUNCIL
WESTLAND DISTRICT COUNCIL**

Local authority

AND

**WEST COAST FEDERATED FARMERS OF
NEW ZEALAND INC**

Submitter number 524
Further submitter number 103

**WEST COAST PROPOSED TE TAI O POUTINI PLAN – HEARING 10B
‘ECOSYSTEMS AND INDIGENOUS BIODIVERSITY’**

**HEARING STATEMENT OF KATE SANNAZZARO ON BEHALF OF
WEST COAST FEDERATED FARMERS OF NEW ZEALAND
(INCORPORATED)**

19 NOVEMBER 2024



Federated Farmers of New Zealand
PO Box 447
Hamilton 3240
Contact: Kate Sannazzaro
Phone: 027 245 2969
Email: ksannazzaro@fedfarm.org.nz

INTRODUCTION

1. My name is Karen (Kate) Lisa Sannazzaro. I hold a Bachelor of Science (Honours) with First Class Honours, majoring in Geology from the University of Auckland. I have over twenty years' experience in the field of environmental policy and planning, including at city and regional councils, and at the Ministry for the Environment. I am an Associate Member of the New Zealand Planning Institute (**NZPI**).
2. I have recently been employed by Federated Farmers of New Zealand (Incorporated) (**Federated Farmers**) as a Senior Policy Advisor.
3. West Coast Federated Farmers of New Zealand (Incorporated) (**West Coast Federated Farmers**) made a submission and a further submission on the Proposed Te Tai o Poutini Plan. Ms Eleanor Linscott, South Island Regional Policy Manager, provided a Statement of Evidence for the topic of Ecosystems and Indigenous Biodiversity (dated 7 August 2024).
4. I have been asked to attend this hearing to speak on behalf of West Coast Federated Farmers and answer any questions from the hearings panel.
5. I have read and reviewed the following documents:
 - (a) The relevant sections of proposed Te Tai o Poutini Plan (**TTPP**) and associated Section 32 report, undated but estimated to be July 2022.
 - (b) The Te Tai o Poutini Plan's Section 42A Officer's Report for Ecosystems and Biodiversity (and its appendices) by Lois Easton undated but estimated to be July 2024.
 - (c) West Coast Federated Farmers Submission to the Te Tai o Poutini Plan, dated 11 November 2022.
 - (d) West Coast Federated Farmers Further Submissions to submissions on the Te Tai o Poutini Plan, dated 17 July 2023.
 - (e) The West Coast Regional Policy Statement 2020 (**WCRPS**).
 - (f) The National Policy Statement for Indigenous Biodiversity 2023 (**NPSIB**).

- (g) The New Zealand Coastal Policy Statement 2010 (**NZCPS**).
 - (h) Relevant provisions of the Resource Management Act 1991 (**RMA**), and the Resource Management (Freshwater and Other Matters) Amendment Act 2024.
6. I have been in the employment of Federated Farmers for approximately two months. A request was made to the Hearings Coordinator seeking approval to submit expert planning evidence. While the panel has declined my request to pre-circulate my own planning evidence as it is beyond the evidence deadline established by the panel, for my own benefit I have completed an expert planning analysis. This was necessary to support my understanding of the situation and form an opinion, including of recent legislative change, and to meet my responsibilities under the NZPI Code of Ethics. My analysis is within the scope of matters raised in Ms Linscott's Statement of Evidence.
7. I have attached my expert planning analysis to this hearing statement (Appendix 1). It is developed in accordance with the Expert Witness Code of Conduct set out in section 9 the Environment Court's Practice Note 2023. I have pre-circulated it within required statutory timeframes under S103B(4) of the RMA.
8. The panel may treat my hearing statement as advocacy and not consider Appendix 1 on the basis that my request to provide additional expert evidence was declined. However, the panel may also find Appendix 1 helpful to their deliberations, and they may choose to consider it as expert evidence as, other than not being submitted within the panel's evidence deadline (which was not adjusted with the delayed hearing date), it meets the necessary criteria. I will take direction from the hearing panel on how the attached expert planning analysis will be considered hereon.

CONTEXT

9. Federated Farmers is a primary sector organisation with a long and proud history of representing the needs and interests of New Zealand farmers involved in a range of rural businesses.
10. West Coast Federated Farmers' submission represents the views of 231 members comprising dairy, beef and lamb, lifestyle and young farmer

memberships. Dairy cattle farming is the largest employer in West Coast, comprising 6 per cent of all employees, and beef cattle farming is also a significant contributor to the Westland District economy, particularly in the southern parts of the district. Members' primary production activities make a significant contribution to the economic, social, and cultural well-being of New Zealand.

11. Federated Farmers key strategic outcomes include the need for New Zealand to provide an economic and social environment within which:
 - (a) members may operate their business in a fair and flexible commercial environment;
 - (b) members' families and their staff have access to services essential to the needs of the rural community; and
 - (c) members adopt responsible management and environmental practices.

12. Federated Farmers members want and need district plans that balances environmental, cultural, social, and economic values while ensuring rules are equitable, cost-effective, pragmatic and effects based. They also want district plans that are written in plain English; are easy to use and understand; acknowledge and reward the positive effects farming has on conservation; and recognise the importance of collaborating with communities to achieve desired environmental outcomes.

SUMMARY OF WEST COAST FEDERATED FARMERS POSITION AND PLANNING CONSIDERATIONS

13. For the *Ecosystems and Indigenous Biodiversity* topic, West Coast Federated Farmers position can be summarised as wanting:
 - (a) To continue to farm without unnecessary restriction;
 - (b) The hearing panel to respond appropriately to the Governments recent legislative changes, and consider the ongoing review of the NPSIB; and
 - (c) To not treat all indigenous biodiversity as if it is significant.

Farmers want to be able to continue to farm without unnecessary restriction

14. West Coast Federated Farmers want to continue to farm without unnecessary restriction on clearance of indigenous vegetation. The West Coast environment is such that a variety of indigenous species naturally regenerate on cleared land¹.
15. Both new and established activities, including improved pasture maintenance, are anticipated by the NPSIB². Farming activities that may affect indigenous biodiversity are grazing, pasture and improved pasture maintenance, and operation and maintenance of farm infrastructure such as drains and tracks.
16. The precautionary approach required by clause 3.7 of the NPSIB is only necessary where effects on indigenous biodiversity are unknown or uncertain and could cause significant or irreversible damage. If it is agreed that effects from established farming activities are generally known and understood³, and where effects are likely to be no more than minor, they should be provided for through permitted activity rules.
17. Provision for agricultural development and innovation are also recognised in TTPP proposed Strategic Objective AG – O2.

The Government has suspended certain NPSIB clauses and is continuing to review the NPSIB

18. The *Ecosystems and Indigenous Biodiversity* provisions in the notified TTPP were the councils' response to 2022 requirements under the RMA, and the WCRPS.
19. The NPSIB took effect in 2023. However, in response to concerns the Government suspended certain clauses relating to identification and mapping of Significant Natural Areas (**SNAs**) via the Resource Management (Freshwater and Other Matters) Amendment Act 2024 (**Amendment Act**) which came into law on 24 October 2024⁴.

¹ E.g. [Timmons: Cattle on Conservation Land](#), NZ Journal of Ecology, vol 26, No 2, 2002.

² NPSIB clauses 3.5(1)(b), 3.10, 3.11, 3.14, 3.15, 3.16 and 3.17.

³ Eg, [Timmons: Cattle on Conservation Land](#), NZ Journal of Ecology, vol 26, No 2, 2002.

⁴ RMA [s78](#).

20. The purpose of this suspension is to “*allow time for a proposed review of the SNA provisions in the NPSIB, particularly the SNA identification criteria and processes to address concerns raised by some stakeholders such as that the criteria are too broad and the processes are burdensome*”⁵.
21. While the Amendment Act does not affect other functions or provisions relating to indigenous biodiversity, or any SNA included in a plan or a notified proposed plan, West Coast Federated Farmers have advocated for the West Coast councils to put the entire *Ecosystems and Indigenous Biodiversity* chapter on hold until the work is completed.
22. The S32 report acknowledges the benefit of retaining the status quo is that “*Rules are known and have been operating without significant concern for the last 20 years*”⁶. It is my opinion that a further benefit of maintaining the status quo is the avoidance of further costs on ratepayers and submitters when certain clauses have been suspended and a wider review of the NPSIB is underway.
23. When protecting and maintaining indigenous biodiversity, clauses 3.5(d) and (e) of the NPSIB require councils to consider the importance of forming partnerships, and the role of people and communities, particularly landowners, as stewards.
24. West Coast Federated Farmers have previously stated an overly restrictive framework will risk disincentivising farmers’ voluntary biodiversity restoration and enhancement efforts, and as a deterrent to working with councils and providing information⁷.

Considering all indigenous biodiversity as if it is significant

25. Of particular concern to West Coast Federated Farmers is the approach in the notified TTPP, in Buller and Westland Districts where SNAs have not been mapped by those councils, that place:

⁵ Cabinet Economic Policy Committee Minute of Decision [ECO-24-MIN-0021](#) decision 5 (6 March 2024).

⁶ S32 report, Table 4.2.2 Evaluation of Options, Option A: status quo

⁷ [Federated Farmers submission](#) on the 2022 Exposure Draft of the NPSIB

- (a) stringent restrictions for indigenous vegetation clearance on landowners, potentially necessitating a resource consent process to enable everyday farming activities to occur; and
 - (b) responsibility on consent applicants to identify whether their land is an SNA.
26. This approach is inconsistent with clauses 3.8(1) and 3.8(6) of the NPSIB where the responsibility is on councils to determine SNA, including where the council becomes aware of a potential SNA through a resource consent application⁸.
27. Clause 3.16 of the NPSIB relates to indigenous biodiversity outside SNAs. All activities must be managed to give effect to NPSIB objectives and policies, and the effects hierarchy must be applied to new activities. This means taking a precautionary approach (policy 3), ensuring provision for certain established activities to occur (policy 9), and recognising and providing for activities that contribute to social, economic, cultural and environmental wellbeing (policy 10).
28. As noted in paragraph 16, where the effects of established farming activities are known and understood a precautionary approach is unnecessary.
29. West Coast Federated Farmers are requesting the ability to continue to farm without undue restriction. West Coast farms are long-established and have been operating under current indigenous biodiversity rules “*without significant concern for the last 20 years*”⁹. Farming is recognised in the WCRPS as a significant contributor and mainstay of the regional economy¹⁰.

RELIEF SOUGHT

30. The above concerns translate to requested amendments across definitions, policy, indigenous vegetation clearance rules, and subdivision rules as provided in West Coast Federated Farmers submission, further submission, Ms Linscott’s evidence and summarised in the table below.

⁸ Noting these clauses do not apply for 3 years from 25 October 2024.

⁹ S32 report, Table 4.2.2 Evaluation of Options, Option A: status quo

¹⁰ [WCRPS](#) Chapter 5 Use and Development of Resources (background to the issues)

Further detail applying planning considerations to the requested amendments is also given in Appendix 1 to this Hearing Statement.

Provision	Reason
Definitions	To be consistent with NPSIB definitions.
ECO – P2 ECO – R1 ECO – R1A ECO – R1B ECO – R2	To better provide for established farming activities - being grazing, pasture and improved pasture maintenance, and operation and maintenance of farm infrastructure - both within and beyond SNAs, likely to have no more than minor effects on indigenous biodiversity, and consistent with NPSIB clauses 3.5(1)(b), 3.10, 3.11, 3.15, 3.16 and 3.17.
ECO – P1 SUB – R7 SUB – R9 ECO – R5	To align with identification and mapping requirements for SNAs in the NPSIB, consistent with clauses 3.8(1), 3.8(6) and 3.9 that clarify it is the council's role to identify SNAs and notify them for inclusion in their plans (while noting these clauses do not apply for 3 years, from 25 October 2024).

Appendix 1 to the Hearing Statement for TTPP Hearing 10B - Ecosystems and Indigenous Biodiversity

Supplementary planning analysis

Kate Sannazzaro for West Coast Federated Farmers

8 November 2024

BACKGROUND

1. The West Coast Regional Policy Statement 2020 (**WCRPS**) recognises farming as a significant contributor and mainstay of the regional economy, and it highlights the region's rich indigenous biodiversity, with 84% of land under Department of Conservation management. The central role of resource use and development for the West Coast is a regionally significant issue, along with potential impacts and conflicts of that use and development on indigenous biodiversity¹.
2. A key WCRPS objective² is to achieve regional consistency in identifying significant natural areas (**SNAs**). WCRPS policy provides for existing lawfully established activities to continue and new activities with no more than minor effects to occur in SNAs³, and it provides for various activities impacting indigenous biodiversity outside of SNAs⁴.
3. The National Policy Statement for Indigenous Biodiversity 2023 (**NPSIB**) seeks to maintain indigenous biodiversity. It was gazetted on 7 July 2023 and came into force on 4 August 2023. Amongst other things, the NPSIB requires a precautionary approach in certain circumstances, it provides for certain activities to occur, and it sets a process for identifying SNAs. Councils were required to give effect to the NPSIB as soon as reasonably practicable, and publicly notify SNAs within five years.

¹ [WCRPS](#) Chapter 5 Use and Development of Resources (background to the issues, regionally significant issue 1 and 2) and Chapter 7 Ecosystems and Indigenous Biodiversity (background to the issues, regionally significant issue 1)

² Ibid, Chapter 7 objective 1

³ Ibid, Chapter 7 policy 6

⁴ Ibid, Chapter 7 policy 7

4. The proposed Te Tai o Poutini Plan (TTPP) was prepared in 2022, and the S42A reporting planner acknowledges the TTPP must give effect to the NPSIB to the extent possible and practicable, as provided for within the scope of the submissions⁵.
5. Federated Farmers have expressed their support of the need to maintain and protect significant indigenous biodiversity but have also expressed concerns over how the NPSIB achieves this⁶.
6. In response to various concerns, the Government has proposed changes to the NPSIB, both in the short-term, and over a longer-term⁷:
 - (a) The Resource Management (Freshwater and Other Matters) Amendment Act 2024 (**the Amendment Act**) was given Royal Assent on 24 October 2024. The Amendment Act suspends specific NPSIB provisions relating to the identification and mapping of SNA⁸ for three-years.

The Amendment Act is clear that it does not affect other functions or provisions relating to indigenous biodiversity⁹, or any SNA included in a plan or proposed plan¹⁰. However, any new area of significant vegetation or habitats identified during the three-year hiatus (commencing on 25 October 2024), is not an NPSIB SNA regardless of how it is described¹¹.
 - (b) The intention of the three-year suspension is to *“allow time for a proposed review of the SNA provisions in the NPSIB, particularly the SNA identification criteria and processes to address concerns raised by some stakeholders such as that the criteria are too broad and the processes are burdensome”*¹².
7. The legislative and planning framework provides for both protection of indigenous biodiversity, but also for certain established activities to continue. As noted in paragraph 6, aspects of the legislative framework have been paused, and are under review.
8. The planning instrument that provides over-arching direction for the region, the WCRPS, has not yet been amended to give effect to the NPSIB, and indigenous biodiversity

⁵ S42A report paragraphs 35, 223, 225

⁶ [Federated Farmers submission](#) on the 2022 Exposure Draft of the NPSIB

⁷ Ministry for the Environment proactive release of Cabinet material for [Proposed cessation of new SNAs and review of their operation](#) (10 July 2024)

⁸ [Resource Management \(Freshwater and Other Matters\) Amendment Act 2024](#), s78 clauses (1) and (2)

⁹ [Ibid](#) s78 clause (4)

¹⁰ [Ibid](#) s78 clause (6)

¹¹ [Ibid](#) s78 clause (4A)

¹² Cabinet Economic Policy Committee Minute of Decision [ECO-24-MIN-0021](#) decision 5 (6 March 2024)

provisions in the TTPP as notified do not give effect to the NPSIB as it was not in force during its development.

9. In my opinion, this context is relevant in two ways:

(a) Firstly, the changed indigenous biodiversity framework since the TTPP was notified adds complexity to decision-making for this TTPP Chapter, and there is a possibility that the framework will change further. In addition to the costs of proceeding with this plan change, there is a risk¹³ the councils will incur additional costs to implement any further NPSIB changes (anticipated during the next three years).

Should the hearing committee recommend proceeding with the plan change it may be prudent to consider to what degree the provisions can be adjusted within the current framework to accommodate the matters being considered by the Government (being landowner burden – how they use their land and the costs (both financial and opportunity), while still maintaining and protecting indigenous biodiversity.

(b) Secondly, the indigenous biodiversity framework provides for activities to occur. Agriculture is an important activity in the region, the hearing committee needs to be satisfied the proposed TTPP framework adequately provides for existing activities that to date have been occurring in their current form and alongside indigenous biodiversity. I note the S32 report acknowledges the benefit of retaining the status quo is that “*Rules are known and have been operating without significant concern for the last 20 years*”¹⁴.

10. It is my opinion the S42A reporting planner’s analysis does not adequately evaluate whether the proposed indigenous biodiversity provisions appropriately enable established agricultural use, nor the threshold of when an activity should require a resource consent.

¹³ The degree of risk which will depend on decisions on the final TTPP provisions

¹⁴ S32 report, Table 4.2.2 Evaluation of Options, Option A: status quo

RESPONSE TO SECTION 42A REPORT

Strategic Direction (section 3.3)

11. The S42A report acknowledges the Strategic Direction given in the proposed TTPP¹⁵. This is important because “*For the purposes of preparing, changing, interpreting and implementing Te Tai o Poutini Plan all other objectives and policies in all other chapters of Te Tai o Poutini Plan are to be read and achieved in a manner consistent with these strategic objectives*”¹⁶.
12. However, the S42A report only acknowledges the strategic direction for the Natural Environment and Poutini Ngāi Tahu. The TTPP states there is no hierarchy between the stated Objectives, and that they should be read as a whole¹⁷. For West Coast Federated Farmers, the Agriculture Strategic Direction is particularly relevant. Proposed Objective AG – O2, is (as notified) “*To recognise the significance of agriculture to the West Coast economy, provide for agricultural development and innovation and enable the support industries and services needed to maintain agricultural viability within rural areas*”¹⁸.

The NPSIB and the Resource Management (Freshwater and Other Matters) Amendment Bill (sections 4.3 and 4.4)

13. The S42A reporting planner notes the Bill (now an Act) does not affect WCRPS requirements that direct action to protect indigenous biodiversity, and that those obligations will continue to apply¹⁹. I agree that is correct insofar as the WCRPS is not inconsistent with, and gives effect to, the NPSIB. However, The S24A report does not acknowledge that the WCRPS will need to be amended so that this is the case. In my opinion, some provisions within the WCRPS are not consistent with the NPSIB (detailed below).

Definitions (section 6.0)

Significant Natural Area

14. West Coast Federated Farmers submission highlighted an inconsistency in the proposed definition with the WCRPS definition.

¹⁵ S42A report paragraph 20

¹⁶ TTPP Strategic Directions Overview page 66

¹⁷ Ibid

¹⁸ TTPP Strategic Directions Overview – Agriculture – Te Ahuwhenua page 67

¹⁹ S42A report paragraph 42.

15. However, the NPSIB²⁰ now defines an SNA and the process for their identification, and it requires the area to be included or notified in a plan before it is an SNA.
16. I support the S42A recommendation to include the SNA definition from the NPSIB however, for clarity I recommend it also include "has the same meaning as the National Policy Statement for Indigenous Biodiversity 2023 (as set out below)"

Indigenous vegetation clearance

17. West Coast Federated Farmers supported this definition in part, and sought an addition (underlined) to clarify the status of pasture management:

means the clearing or removal of indigenous vegetation by any means, including cutting, crushing, cultivation, irrigation, chemical application, drainage, stop-banking, overplanting, or burning. It does not include the grazing of pasture or improved pasture species in that area of indigenous vegetation.

18. The S42A reporting planner does not support this amendment, on the basis that "*existing use rights will apply for lawfully established grazing...*", and if included this could "*result in landowners believing that developing new areas of pasture and grazing being established within the indigenous vegetation is appropriate*"²¹.
19. Indigenous species self-propagate in West Coast pasture²². If livestock were to trample or graze these species present in areas of pasture, this could be considered as "*clear or remove indigenous vegetation by any means...*" (my emphasis). In my opinion, inclusion of the proposed wording would improve clarity and certainty, and enable an established farming activity with minor effects, consistent with policies in the NPSIB, the WCRPS, and proposed TTPP Strategic Objective AG – O2.
20. I note the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 provide a definition for 'vegetation clearance'²³, that specifically

²⁰ [NPSIB](#) Clause 1.6 Interpretation

²¹ S42A report paragraph 70

²² Eg, [Timmons: Cattle on Conservation Land](#), NZ Journal of Ecology, vol 26, No 2, 2002. "*Along the many rivers, flooding and erosion have created open alluvial flats with correspondingly young soils. Some of these flats have no forest, for a variety of reasons including frost, cold air, very young soils, either too much or too little drainage; or changing river courses have recently removed forest cover. Farmers cleared some of the flats in the late 19th century or early 20th century. Left undisturbed, these cleared flats would usually be re-clothed in forest*". This same paper also found '*A third group of species appears to be regenerating better in the presence of cattle than in their absence, particularly mountain horopito and prickly shield fern*'.

²³ [Resource Management \(National Environmental Standards for Freshwater\) Regulations 2020](#), Section 3 Interpretation

excludes grazing (as well as shelter belt maintenance, fencing and sphagnum moss harvesting).

21. The concern expressed by the S42A reporting planner, that “*if there is a specific exclusion from the definition then this could result in landowners believing that developing new areas of pasture and grazing being established within the indigenous vegetation is appropriate*”²⁴ in my view, is misplaced.
22. Rather, it is the rules that control the activity, and not the definition of the activity. My preference is that the concern be addressed through adding the word ‘established’, such that it reads “It does not include the grazing of established pasture or improved pasture species...”.

Improved pasture

23. West Coast Federated Farmers sought a new definition for ‘improved pasture’, sourced from the NPSIB, on the basis that the term would be introduced by the requested amendments to ‘indigenous vegetation clearance’ (as detailed in paragraph 17).
24. Despite not recommending relief to the ‘indigenous vegetation clearance’ definition, the S42A reporting planner recommends adopting the NPSIB definition of ‘improved pasture’ along with new rules that provide for ‘improved pasture’, that I broadly agree with and discuss further in relation to ECO – R1 (paragraph 50 (c)).
25. However, the S42A reporting planners proposed amended rules (ECO – R1, ECO – R1A, ECO – R2) more accurately refer to the ‘maintenance of improved pasture’, and the NPSIB also provides a definition for this term which should also be included if the term is to be used.

Ecosystems and Indigenous Biodiversity Chapter Overview (section 7)

26. The S42A report does not identify West Coast Federated Farmers as a submitter on either the *Ecosystems and Indigenous Biodiversity Chapter as a whole*²⁵ or *Submissions on the Overview*²⁶, despite West Coast Federated Farmers submitting their concern over “the ECO provisions and their application”, and how they would align with the soon-to-be-released NPSIB, and providing specific commentary on the broader approach in relation to the chapter.

²⁴ S42A report paragraph 70

²⁵ S42A report section 7.1

²⁶ S42A report section 7.2

27. It is in relation to these sections where the S42A reporting planner addresses the broader approach of the TTPP to biodiversity, and the status of the NPSIB. The S42A reporting planner recommends recognition of the NPSIB²⁷ (para 139 and 160). I note this wording will require amendment to reflect the current situation which has evolved since the S24A report was drafted.

Policy ECO – P1 SNA Identification (section 9.2)

28. ECO – P1 establishes how SNAs will be identified. For the Grey District, proposed SNAs are mapped and included in the plan, while for Buller and Westland, where councils have not yet mapped SNA, the policy states the WCRPS process will be used and the exercise completed by 2027, with proposed new SNAs to be added by plan change. Criteria 2(ii) is that “*areas of significant indigenous vegetation and fauna habitat will be identified through the resource consent process until such time as... [the council completes SNA mapping]*”.
29. West Coast Federated Farmers submitted that “*the onus of mapping is a council cost – not a burden covered by the ratepayer*”.
30. While the approach of identifying SNAs through the resource consent process is consistent with WCRPS²⁸, the WCRPS does not yet give effect to the NPSIB. The NPSIB policy position is that a territorial authority must undertake a district-wide assessment to identify SNAs²⁹. Should a territorial authority become aware that any area may qualify as an SNA including through a consent application, it is the territorial authority that must conduct the assessment and it must then be identified as a SNA through a plan change³⁰.
31. As noted in paragraph 6, the Amendment Act does not impact mapped SNAs included in a plan change, up to 24 October 2024³¹, but it will impact any new SNAs being identified for three years³². The Government’s clear intention is that the NPSIB will be reviewed³³, and it is possible the criteria and process for identifying SNAs may change.

²⁷ S42A report paragraphs 139 and 160

²⁸ [WCRPS](#) Chapter 7 objective 1

²⁹ [NPSIB](#), clause 3.8 (1)

³⁰ [Ibid](#), clause 3.8 (6)

³¹ [Resource Management \(Freshwater and Other Matters\) Amendment Act 2024](#), new s78 clause (6)

³² [Ibid](#), new s78 clause (4A)

³³ [Beehive press release: Scope of Significant Natural Areas review revealed](#) (28 August 2024) and [Suspension of new SNAs passes its third reading](#) (24 October 2024)

32. The S42A report reporting planner recommends changes to ECO – P1 to reflect the NPSIB, including deletion of criteria 2(ii). I broadly agree with the intent of these suggestions. However, given the above I prefer the following further amendments:
- (a) Removing reference to all dates by which mapping will occur (as this is directed by the NPSIB, and to enable futureproofing).
 - (b) If general reference to criteria and process in the NPSIB is made, that reference to ‘Appendix 1’ be removed (to enable futureproofing).
 - (c) Deleting proposed new clauses (5) and (6) as these relate to non-SNA indigenous vegetation. This is unnecessary in a policy about SNAs and should not be included.

Policy ECO – P2 Activities in SNAs (section 9.3)

33. West Coast Federated Farmers submitted in support of this policy, as it recognises existing lawful activities including existing use rights, and they requested farm and pasture maintenance be specifically recognised.
34. The S42A reporting planner did not support this submission, instead preferring to rely on dealing with farm and pasture maintenance as ‘lawfully established activities’³⁴. I agree that farm and pasture maintenance are lawfully established activities, and my opinion is that in some circumstances both activities may also meet the definition of having ‘functional need’.
35. Despite this, I note the reporting planner recommends substantial amendments to the notified policy, based on other submissions and giving effect to NPSIB requirements.
36. The NPSIB provides specific direction on managing adverse effects and activities in SNAs³⁵:
- (a) Clause 3.10 directs how new activities in SNA must be managed, and clause 3.11 provides exceptions.
 - (b) Clause 3.15 directs how established activities in SNA must be managed, subclause (2) states that plan provisions must “*enable specified established activities, or specified types of established activities*” (my emphasis) where it may affect an SNA.

³⁴ S42A report paragraph 252

³⁵ [NPSIB](#) clauses 3.10, 3.11, 3.15 and 3.17

- (c) Clause 3.17 provides for maintenance of improved pasture where it may affect an SNA. Local authorities must provide for maintenance of improved pasture to various conditions being met.
37. The reporting planner's proposed amended ECO – P2³⁶ addresses NPSIB clauses 3.10, 3.11, and 3.15. However, in my view she does not address NPSIB clause 3.17 and instead rely on 'existing lawful activities' to cover farm and pasture maintenance.
38. The reporting planner has also proposed further amendments to the 'lawful activity' provision based on NPSIB clause 3.15 adding "and adverse effects are no greater in intensity, scale, or character over time than at the operative date and do not result in the loss of ecosystem representation or degradation of ecological integrity."
39. NPSIB clause 3.17 establishes different criteria than 3.15 for maintenance of improved pasture, being "*any adverse effects of the maintenance of improved pasture on an SNA are no greater in intensity, scale, or character than the effects of activities previously undertaken as part of the regular cycle of periodic maintenance of that pasture*".
40. In my opinion, ECO – P1 should expressly provide for maintenance of improved pasture for farming, in accordance with NPSIB clause 3.17. This approach would also be consistent with other proposed rule amendments in the S42A report (discussed below).

New Rule ECO – R1B Indigenous Vegetation Clearance Within a SNA (section 10.1)

41. This is a new permitted activity rule recommended by the S42A reporting planner³⁷ in response to general submissions on rules and submissions seeking new rules, to better align with the NPSIB and WCRPS which anticipate that some activities will be permitted³⁸. I agree the NPSIB and the WCRPS³⁹ anticipate certain activities and that a permitted activity rule enabling some vegetation clearance in SNAs is necessary.
42. Clause (1) of proposed new rule ECO – R1B allows "*the maintenance, operation and repair of established activities including but not limited to: tracks, fences, drains, structures, infrastructure and renewable electricity generation activities where the removal is within 3m of the established activity and is limited to a maximum area of 50m² per individual SNA*".

³⁶ S42A report paragraph 258

³⁷ Ibid, paragraph 401

³⁸ Ibid, paragraph 395

³⁹ To the extent it gives effect to the NPSIB

43. While I support provision for established infrastructure, the reporting planner provides no evidence to support the why the proposed limits of 3m and 50m² are necessary. Many West Coast farms comprise of large land areas and there is considerable potential for large SNAs to be identified under the current NPSIB assessment criteria. In my opinion, a limit of 50m² per individual SNA may not adequately provide for maintenance, operation and repair of established infrastructure with minor effects, particularly on larger landholdings.
44. Clause (2) of the proposed new rule allows vegetation clearance “*necessary to remove vegetation that endangers human life or existing buildings or structures where this is certified by a Council Approved Arboricultural Contractor*”.
45. While I support provision for removal of dangerous vegetation, I query the need and practicality of having that vegetation certified by a Council-Approved Arboricultural Contractor. The S42A reporting planner does not clarify why this is necessary. In my opinion this is likely to be impractical and will add unnecessary cost and time delays that could exacerbate the very danger that the removal of the vegetation seeks to mitigate. Failure to obtain such certification would require a resource consent, so either way this imposes an additional cost burden on the landowner in order to improve safety.
46. I suggest these clauses could be made simpler to implement, and more accommodating of established activities with minor effects, by making the following amendments:
- (1) *For the maintenance, operation and repair of established activities including but not limited to: tracks, fences, drains, structures, infrastructure and renewable electricity generation activities ~~where the removal is within 3m of the established activity and is limited to a maximum area of 50m² per individual SNA~~ and the removal is limited to the smallest extent practicable to undertake that activity.*
- (2) *Necessary to remove vegetation that endangers human life or existing buildings or structures ~~where this is certified by a Council Approved Arboricultural Contractor.~~*

Rule ECO – R1 Indigenous vegetation clearance and disturbance within the Buller and Westland Districts and outside of the coastal environment (section 10.3)

47. As notified this region-wide permitted rule was for vegetation clearance and disturbance other than in SNAs, the coastal environment or a Grey District outstanding natural landscape (ONL). The rule has numerous restrictions.
48. West Coast Federated Farmers sought various adjustments to ensure farming activities with no more than minor effects could be undertaken.
49. The S42A reporting planner recommends numerous changes to ECO – R1, in response to other submissions and the NPSIB along with a new separate rule for the Grey District where SNAs are mapped (new ECO – R1A, discussed in paragraph 51).
50. Farming activities are most likely to fall under clause 4 of ECO – R1, which allows for vegetation clearance for specified activities outside of an SNA or within an ONL, provided it does not exceed a newly proposed limit of 5000m² over a continuous 3 year period:
 - (a) 4(ii) allows vegetation clearance for maintenance, operation and repair of a list of established infrastructure. The submission requested ‘drains’ and ‘water lines’ (water supply pipelines) be included in the list. The S24A report does not address why they are not recommended for inclusion, when various other infrastructure is⁴⁰. It is my opinion that it would be reasonable to include these activities.
 - (b) 4(iv) allows vegetation clearance to prevent a serious threat to people, property or services. The submission requests the addition of ‘animals’. The S24A report does not address why they are not recommended for inclusion. The S42A report recommends adding “*where this is certified by a Council Approved Arboricultural Contractor*“. I would prefer if this qualifier was not included for the reasons set out in paragraph 45.
 - (c) I agree with the S42A reporting planner recommending addition of clause 4(xiii), which recognises maintenance of improved pasture. However, in my view:
 - (i) The restriction of this as a permitted activity to 5000m² per site over any continuous 3-year period is unlikely to adequately provide for improved pasture maintenance on larger landholdings. In my opinion this spatial restriction in relation to clause 4(xiii) should be removed.

⁴⁰ S42A report paragraph 424.

- (ii) The specification that the removal of indigenous vegetation for the purpose of maintenance of improved pasture relates only to manuka, kānuka and bracken is also impractical and overly restrictive, and fails to recognise the variety of species that naturally regenerate very easily, and constantly on the West Coast⁴¹.
- (iii) Clause 4(xiii) as drafted does also not appear to consider NPSIB clause 3.17, maintenance of improved pasture for farming. While clause 3.17 applies within SNAs, it is reasonable to anticipate indigenous vegetation management beyond SNAs would not be more onerous. Clause 3.17 requires councils to allow maintenance of improved pasture if there is adequate evidence to demonstrate it is part of a regular cycle of periodic maintenance; and any adverse effects are no greater in intensity, scale, or character than previously.
- (iv) I would prefer that 4(xiii) be renumbered to 5 and amended as follows, with deletion of advice note 1 (noting this is not an advice note for ECO - R2):

5. *It is on a site where no SNA assessment has been undertaken or is within an Outstanding Natural Landscape and it is for the purpose of maintenance of improved pasture for farming, and*

(i) it is part of a regular cycle of periodic maintenance and any adverse effects are no greater in intensity, scale, or character than previously;

(ii) and involves the removal or clearance of ~~manuka, kānuka and bracken~~ only indigenous vegetation ~~that~~ is not part of any wetland and ~~which~~ is under 15 years old;

~~*1. Where clearance of mānuka, kānuka or bracken is proposed under Standard 5 (xiii) of this rule, if proof that the vegetation is less than 15 years old or that the site is not a wetland, is unavailable, then a resource consent will be required.*~~

- (d) These suggested changes to ECO – R1(4) would in my opinion fulfil the policy requirements in the NPSIB whilst enabling established farm activities to continue in a practical manner, without undue regulatory burden until SNAs are mapped.

⁴¹ Eg, [Timmons: Cattle on Conservation Land](#), NZ Journal of Ecology, vol 26, No 2, 2002.

Rule ECO – R1A Indigenous vegetation clearance and disturbance within the Grey District and outside of the coastal environment

51. This proposed new rule has resulted from a split to ECO – R1, for Grey District where SNAs are mapped. It is otherwise very similar, and my comments in paragraphs 50 – (d) apply.

ECO – R2 Indigenous Vegetation Clearance in the Coastal Environment

52. This permitted rule was for vegetation clearance in the coastal environment. The S42A report recommends substantial changes, similar to those in ECO – R1.
53. My comments on ECO – R1 (4) in paragraphs 50 – (d) also apply to ECO – R2 (5), noting the difference in the area able to be cleared, being 500m² per site over any continuous 3-year period. The reason for this being 1/10 of the size of that permitted outside the coastal environment, is not clear.

Rule SUB – R7/ ECO – R4 Subdivision of Land to Create Allotments Containing an Area of Significant Indigenous Biodiversity Where Legal Protection of the Area of Significant Indigenous Biodiversity is Proposed

54. Rule SUB – R7 as notified allows for subdivision of land containing a ‘Area of Significant Indigenous Biodiversity’ (ASIB) to create an allotment with an ASIB within it. For the purposes of the subdivision rules, and ASIB is defined in the TTPP as an SNA, or an area assessed as meeting the criteria for an SNA in the WCRPS.
55. West Coast Federated Farmers submitted in support of R7, and in support of the definition of the ASIB. However, they made a further submission opposing the Forest and Bird submission seeking to clarify within the rule that applicants would need to assess the site against WCRPS SNA criteria.
56. In my opinion it appears that Federated Farmers overlooked the implications of the ASIB definition, however, the position stated in relation to this rule in their further submission, “SNA’s should be identified by the council” is consistent with points made in their original submission and discussed here in paragraphs 28 to 32.
57. The S42A reporting planner did not recommend any amendments to the definition of ASIB.
58. The S42A reporting planner recommends a new clause (2) “An assessment of the site against the significance criteria in the NPSIB is provided with the application and this is

*undertaken by a suitably qualified ecologist where this has not already been undertaken as part of a district wide SNA assessment*⁴².

59. The S42A reporting planner provides some context as to the original intent of the rules, which is to incentivise legal protection of SNAs providing additional subdivision rights to those landowners that do⁴³.
60. The notified TTPP proposed a definition for 'SNA' was very similar to that for 'Area of Significant Indigenous Biodiversity', however, the S42A reporting planner recommended using the NPSIB definition of SNA. The NPSIB definition of SNA is one that has been assessed as meeting the criteria and is notified or included in a plan. In relation to SNAs matter, the S42A reporting planner states "*I do not consider that having "unmapped" SNAs referred to and regulated in the Plan provides for good process or natural justice for landowners*"⁴⁴.
61. It is unclear why for subdivision rules the identification of potential SNAs should fall to landowners. In my opinion, this seems inconsistent with the NPSIB clause 3.8, and in particular (1), (2) and (6).

Rule SUB – R9/ ECO R6 Subdivision of Land to create Allotments Containing an Area of Significant Indigenous Biodiversity Where Legal Protection of the Area of Significant Indigenous Biodiversity is Proposed (not meeting Rule SUB – R7)

62. If the requirements of SUB – R7 are not met, the activity becomes restricted discretionary under SUB – R9. The S42A reporting planner recommends similar amendments as for SUB – R7.
63. My comments on SUB – R7 in paragraphs 58 –61 also apply to SUB – R9.

Rule ECO – R5 Indigenous Vegetation Clearance not a Permitted or Controlled Activity

64. If the permitted or controlled indigenous vegetation rules are not met, the activity becomes restricted discretionary. As notified this rule did not apply to SNAs.
65. The S42A reporting planner this exclusion should also apply to other land, being "A Significant Natural Area identified in Schedule Four or in an area that has been assessed

⁴² S42A report paragraph 486

⁴³ Ibid, paragraph 462

⁴⁴ Ibid, paragraph 65

in accordance with the Significant Natural Area criteria in the NPSIB that meets the criteria to be a Significant Natural Area⁴⁵

66. Again, the notified TTPP proposed a definition for an 'SNA' that the S42A reporting planner recommended replacing with the NPSIB definition. In relation to this matter, she stated "*I do not consider that having "unmapped" SNAs referred to and regulated in the Plan provides for good process or natural justice for landowners*"⁴⁶.
67. It is unclear why the S42A reporting planner has recommended this wording be included in ECO – R1. An area is either an SNA, or it is not.
68. Ms Linscott's evidence requests 'as assessed by Council' be added, however, this proposed solution would also be inconsistent with the NPSIB, because to be an SNA it must be notified as such in a plan change.

⁴⁵ S42A report paragraph 551

⁴⁶ Ibid, paragraph 65