

Te Tai o Poutini Plan
Supplementary Statement from
Reporting Officer

Re RMA Amendment (Freshwater and
Other Matters Act) and Implications for
the Ecosystems and Biodiversity Topic



Te Tai o Poutini
PLAN

A combined district plan for the West Coast

Supplementary Statement in relation to the Extent of the Coastal Environment

1. Since the s42A report was prepared and expert and legal evidence provided by the submitters in relation to this, the Government has passed the Resource Management Amendment Bill into law.
2. The relevant clauses of the Bill in relation to the Ecosystems and Biodiversity topic are outlined below:

New section 78 inserted (Time-limited modifications to NPSIB 2023)

78 Time-limited modifications to NPSIB 2023

- (1) In this section,—
3-year period means the period that—
 - (a) commences on the date on which the Resource Management (Freshwater and Other Matters) Amendment Act 2024 comes into force; and
 - (b) expires on the date that is 3 years after that date**commencement** means the date on which the Resource Management (Freshwater and Other Matters) Amendment Act 2024 comes into force
NPSIB SNA means a significant natural area as defined in clause 1.6 of the NPSIB 2023.
- (2) The following provisions of the NPSIB 2023 do not apply during the 3-year period:
 - (a) clause 2.2, Policy 6 (which requires a consistent approach in identifying significant indigenous vegetation and significant habitats of indigenous fauna as NPSIB SNAs):
 - (b) clause 3.8(1), (6), and (8) (which requires a territorial authority to conduct assessments to identify areas of significant indigenous vegetation and significant habitats of indigenous fauna that qualify as NPSIB SNAs):
 - (c) clause 3.9(1) (which requires a territorial authority to notify a plan or plan change to include areas identified as qualifying as NPSIB SNAs):
 - (d) clause 3.9(3) (which requires that a local authority must, when doing its 10-yearly plan review, assess its district in accordance with clause 3.8(1) and (2) to determine whether changes are needed).
- (3) Clause 4.1(1) of the NPSIB 2023 (which requires a local authority to give effect to the NPSIB 2023 as soon as reasonably practicable)—
 - (a) does not apply during the 3-year period in relation to clause 3.8(5) of the NPSIB 2023 and the provisions of the NPSIB 2023 specified in subsection (2); but
 - (b) continues to apply in relation to the other provisions of the NPSIB 2023.
- (4) This section does not affect—
 - (a) any function or requirement under other provisions of this Act relating to indigenous biological diversity, areas of significant indigenous vegetation, or areas of significant habitats of indigenous fauna; or
 - (b) any obligations of local authorities and other decision makers under this Act to give effect to provisions in policy statements and plans relating to indigenous biological diversity.
- (5) However, if, during the 3-year period, a new area of significant indigenous vegetation or significant habitat of indigenous fauna is included in a proposed policy statement, proposed plan, or change,—
 - (a) the new area is not an NPSIB SNA regardless of how it is described in that document; and
 - (b) the NPSIB 2023 does not apply to the new area.
- (6) This section does not affect—
 - (a) any NPSIB SNA included in a policy statement, proposed policy statement, plan, proposed plan, or change before commencement (*see also* clause 40 of Schedule 12); or
 - (b) any of the following matters that commenced but were not completed before commencement (*see also* clause 40 of Schedule 12):
 - (i) a proposed policy statement, proposed plan, or change (a **planning process**) that has been notified under Schedule 1; and
 - (ii) the identification, modification, or removal of an area to give effect to decisions on that planning process.
- (7) This section is repealed on the close of the date of expiry of the 3-year period.

Requirements around the Identification of Significant Natural Areas

3. I was cognisant of, and referred to the Resource Management (Freshwater and Other Matters) Amendment Bill in my s42A report and my recommendations have largely not altered as a result of the passing of this bill into law. That is because, in relation to the

identification of Significant Natural Areas (SNAs) specifically, this requirement and the policy direction within the proposed Plan, as amended by my recommendations in the s42A report, have their genesis in the clear requirements as set out in the West Coast Regional Policy Statement, that SNAs must be identified.

4. However the final RMA Amendment Act differs in its wording to the Bill as outlined in Paragraph 37 of my s42A report.
5. The key differences are:
 - a. Changes to Clause 4 – further specifying that the new section 78 does not apply to any obligations to give effect to policy statements and plans relating to indigenous biological diversity.
 - b. Changes to Clause 5 - specifically excluding any new SNAs identified after commencement of the Act and during the 3 year period as being NPSIB SNAs or having the provisions of the NPSIB applying to those areas.
 - c. Changes to Clause 6 which now states that the 3 year deferral does not apply to “the identification, modification or removal of an area” to give effect to any proposed plan that has been notified under Schedule 1” that were commenced but not completed before the commencement of the RMA Amendment Act.
6. As a result of these changes I am clear that the process commenced in TTPP which directs that SNAs should be identified by June 2027 is not affected by this RMA Amendment Act.
7. I note in my paragraph 225 of my s42A report that I have given no weight to the Amendment Bill, as it had not been passed into law. However I now note that the new clause 78 added by the Amendment Act expires in October 2027 and that my recommendation is to complete the Plan Change introducing the new SNAs by August 2028. I therefore consider my recommendations around the timeframe for identification of new SNAs remain appropriate.
8. I also note in paragraph 225 that in order to give effect to Clause 3.8(5) of the NPSIB confirmation of the SNA status of the Grey District Schedule 4 SNAs and Regional Significant Wetlands is required. The RMA Amendment Act now includes these requirements within the 3 year deferral period. This leads me to alter my recommendations in relation to that specific matter and the drafting of Clause 2 in ECO – P1. I now recommend that the confirmation of these SNAs should be undertaken over the same timeframe as the identification of new SNAs – with any amendments to be included in the August 2028 Plan Change I therefore recommend an amended ECO – P1 as follows (changes highlighted in yellow):

ECO - P1

Identify areas of significant indigenous vegetation and fauna habitat and include these in Schedule Four through a Plan Change which will be introduced no later than August 2028.

The Significant Natural Area identification process will be undertaken as follows:

1. The criteria and process set out in the National Policy Statement for Indigenous Biodiversity Appendix 1 will be used to identify and map Significant Natural Areas;
2. In the Grey District these areas that are already identified in Schedule Four will be confirmed as meeting the National Policy Statement for Indigenous Biodiversity criteria by the end of 2025-June 2027;
3. Region – wide, Regionally Significant Wetlands will be confirmed as meeting the National Policy Statement for Indigenous Biodiversity criteria by the end of 2025-June 2027;
4. In the Grey, Buller and Westland Districts the assessment and identification of other Significant Natural Areas will be undertaken by June 2027.
5. Until a site has been assessed as to whether it contains a Significant Natural Area a general indigenous vegetation clearance rule will apply to that site.
6. Once a site has been assessed a less restrictive general vegetation clearance rule will apply to other indigenous vegetation on that site that is outside of the Significant Natural Area.
 - i. ~~The criteria set out in Appendix 1 of the West Coast Regional Policy Statement will~~
 1. ~~be used to assess significance;~~
 - ii. ~~Areas of significant indigenous vegetation and fauna habitat will be identified~~
 2. ~~through the resource consent process until such time as district wide identification~~
 3. ~~and mapping of significant natural areas is undertaken;~~
 - iii. ~~Buller and Westland district wide assessment, identification and mapping of~~

- 4. ~~significant natural areas will be undertaken and completed by June 2027; and~~
- iv. ~~Identified areas of significant indigenous vegetation and fauna habitat will be~~
- 5. ~~added to Schedule Four through a Plan Change.~~

Provisions in relation to Coal Mining

- 9. The RMA Amendment Act removes the restrictions in clause 3.11(1)(a)(ii) that prevented coal mining from being a type of mineral extraction to which that provision applies, and that it also revokes clause 3.11(1) (a) (iv) which provides an exception for pre-established coal mines that, after 31 December 2030, would only apply to coal mines that extract coking coal.
- 10. This therefore alters my view on the wording of both Policy ECO – P2 and Rule ECO – R7. In relation to Policy ECO – P2 I have recommended in the s42A report a new clause d.iv. In light of the RMA Amendment Act this clause is no longer required. I therefore recommend an amended ECO – P2 as follows:

ECO – P2

~~Allow~~ Provide for activities within areas of significant indigenous vegetation or significant habitats of indigenous fauna where the activity has no more than minor adverse effects on the significant indigenous vegetation or fauna habitat and:

- a. This is for a lawfully established activity 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; or
- b. It is for a Poutini Ngāi Tahu Activities cultural purpose; or
- c. This is undertaken on Poutini Ngāi Tahu or Te Rūnanga o Ngāi Tahu land in accordance with an Iwi/Papatipu Rūnanga Management Plan; or
- d. The adverse effects of the activity on the significant indigenous vegetation or fauna habitat are managed in accordance with the effects management hierarchy and the activity has a functional need or operational need to be located in the area, and is for the purpose of:
 - i. Construction or upgrade of regionally significant infrastructure; or
 - ii. Mineral extraction that provides significant national benefit; or
 - iii. Aggregate extraction that provides significant national or regional benefit; or
 - iv. The operation or expansion of any coal mine that was lawfully established before 4 August 2023; except that, after 31 December 2030, this exception applies only to such coal mines that extract coking coal

~~The activity has no more than minor adverse effects on the significant indigenous vegetation or fauna habitat.~~

- 11. In relation to Rule ECO – R7 I have recommended new clauses that allow for mineral extraction (other than for coal) and the operation and expansion of existing coal mines. In light of the RMA Amendment Act Clause 2 should be amended and Clause 3 is not required.
- 12. I therefore recommend an amended ECO – R7 as follows:

ECO - R7

Indigenous vegetation clearance not meeting ECO - R5

Activity Status Discretionary

Where:

- 1. An ecological assessment undertaken by a suitably qualified ecologist identifies that the clearance will not result in any of the following:
 - a. Loss of ecosystem representation and extent
 - b. Disruption to sequences, mosaics or ecosystem function
 - c. Fragmentation of Significant Natural Areas or the loss of buffers or connections with a Significant Natural Area
 - e. A reduction in the function of the Significant Natural Area as a buffer or connection to important habitats or ecosystems
 - f. A reduction in the population size or occupancy of any threatened or at risk (declining) species that use the Significant Natural Area.

OR

2. This is for mineral extraction (other than coal) that provides significant national public benefit that could not otherwise be achieved using resources within New Zealand; or
3. This is for a single residential dwelling on an allotment created before 4 August 2023; or
4. This is for a commercial forestry activity and is required for the commercial forestry activity to continue.

Advice Note:

1. Where assessing resource consents for indigenous vegetation clearance under this rule, assessment against the objectives and policies of both the Ecosystems and Biodiversity Chapter and Natural Features and Landscapes Chapters and the MINZ and BCZ Zone objectives and policies will be required where relevant
2. This rule also applies to plantation commercial forestry activities, where this provision is more stringent than the NES - PCF.

Activity status where compliance not achieved: N/A Non-complying

Thank you
Lois Easton
8 November 2024.