

Te Tai o Poutini Plan
Section 42A Officer's Report
Variation 1: Activities on the Surface of
Water



Te Tai o Poutini
PLAN

A combined district plan for the West Coast

Table of Contents

LIST OF SUBMITTERS AND FURTHER SUBMITTERS ADDRESSED IN THIS REPORT	2
ABBREVIATIONS	3
1.0 PURPOSE OF REPORT	3
2.0 QUALIFICATIONS AND EXPERIENCE.....	4
2.1 Code of Conduct	4
2.2 CONFLICT OF INTEREST	4
2.3 EXPERT ADVICE	4
3.0 SCOPE OF REPORT AND TOPIC OVERVIEW.....	5
3.1 SCOPE OF REPORT	5
3.2 TOPIC OVERVIEW	5
3.3 STRATEGIC DIRECTION	7
4.0 STATUTORY REQUIREMENTS.....	7
4.1 RESOURCE MANAGEMENT ACT	7
4.2 NATIONAL POLICY STATEMENT FOR FRESHWATER MANAGEMENT.....	8
4.3 NATIONAL ENVIRONMENTAL STANDARDS FOR FRESHWATER.....	9
4.4 NEW ZEALAND COASTAL POLICY STATEMENT	9
4.5 NATIONAL PLANNING STANDARDS	10
4.6 ANY OTHER RELEVANT NATIONAL DIRECTION.....	11
4.7 THE WEST COAST REGIONAL POLICY STATEMENT.....	11
4.6 WEST COAST REGIONAL COASTAL PLAN	13
4.7 WEST COAST REGIONAL LAND AND WATER PLAN.....	13
4.8 WEST COAST REGIONAL LAND TRANSPORT PLAN.....	13
4.9 IWI MANAGEMENT PLANS	14
4.10 PROCEDURAL MATTERS	15
5.0 CONSIDERATION OF SUBMISSIONS RECEIVED	16
5.1 OVERVIEW OF SUBMISSIONS RECEIVED.....	16
5.2 STRUCTURE OF THIS REPORT	16
6.0 SUBMISSIONS ON POLICY ASW-P4	17
7.0 SUBMISSIONS ON RULE ASW-R4A	17
8.0 SUBMISSIONS ON RULE ASW-R6.....	18
9.0 S32AA EVALUATION FOR ALL RECOMMENDED AMENDMENTS.....	19
9.1 EFFECTIVENESS AND EFFICIENCY	19
9.2 COSTS/BENEFITS	20
9.3 RISK OF ACTING/NOT ACTING.....	20
9.4 DECISION ABOUT MOST APPROPRIATE OPTION.....	20
10.0 CONCLUSION.....	20

List of Submitters and Further Submitters addressed in this report

Submitter ID	Submitter Name	Abbreviation
S665	Harbourmaster, Buller District Council	Westport Harbour
S666	Manager, Port of Greymouth	Port of Greymouth

S488	West Coast Regional Council	WCRC
S547	Westpower Limited	Westpower
S599	WMS Group HQ Limited and WMS Land Co. Limited	WMS Group

Abbreviations

Abbreviation	Meaning
NPS	National Policy Statement
NPSFM	National Policy Statement for Freshwater Management
NESF	National Environmental Standard for Freshwater
NZCPS	New Zealand Coastal Policy Statement
Planning Standards	National Planning Standards
RMA	Resource Management Act
TTPP	Te Tai o Poutini Plan
WCRC	West Coast Regional Council
WCRCP	West Coast Regional Coastal Plan
WCRLTP	West Coast Regional Land Transport Plan
WCRLWP	West Coast Regional Land and Water Plan
WCRPS	West Coast Regional Policy Statement
WMS	Westland Mineral Sands

1.0 Purpose of Report

1. This report has been prepared in accordance with Section 42A of the RMA to:
 - assist the Hearings Panel in making their decisions on the submissions and further submissions on the Te Tai o Poutini Plan (TTPP); and
 - provide submitters with an opportunity to see how their submissions have been evaluated and the recommendations being made by officers, prior to the hearing.
2. This report responds to submissions on Variation 1: Activities on the Surface of Water. The report provides the Hearing Panel with a summary and analysis of the submissions received on the Variation to the Activities on the Surface of Water Chapter and makes recommendations on either retaining the TTPP provisions without amendment or amending the TTPP in response to those submissions.
3. The recommendations are informed by evaluation undertaken by me as the planning author. In preparing this report I have had regard to the following reports:
 - Introduction and General Provisions report that addresses the higher order statutory planning and legal context s42A report, prepared by Lois Easton.
 - Strategic Directions report that addresses the wider strategic direction of the Plan s42A, report prepared by Lois Easton

- Natural Character and Margins of Waterbodies and Activities on the Surface of Waterbodies s42A, report prepared by Lois Easton
 - General District Wide matters s42A report prepared by Briar Belgrave
 - Energy, Infrastructure and Transport s42A report prepared by Grace Fono and Melissa McGrath
4. Variation 1: Commercial Activities on the Surface of Water Section 32 Evaluation report, prepared by Lois Easton.

The conclusions reached and recommendations made in this report are not binding on the Hearing Panel. It should not be assumed that the Hearing Panel will reach the same conclusions having considered all the information in the submissions and the evidence to be brought before them, by the submitters.

2.0 Qualifications and Experience.

5. My full name is Douglas Trevor Bray and I am Senior Policy Planner with the TTPP Team engaged by the West Coast Regional Council to support the development of the TTPP.
6. I hold the degree of Master of Environmental Policy from Lincoln University, which I obtained in 2002.
7. I have twelve years' experience in resource management planning, including work in the resource consents processing areas for the Far North, Clutha and Grey District Councils, as Heritage Advisor Planning for the New Zealand Historic Places Trust (now Heritage New Zealand) in their Northland and Otago/Southland Regions, and as a Planning Consultant for the Queenstown-based Town Planning Group and the Invercargill-based Ralph Moir Ltd, before taking on my present role in May 2024.
8. I am a Graduate Plus member of the New Zealand Planning Institute.
9. I also have a previous career of fourteen years with the Department of Conservation, working principally in the areas of recreation/tourism concessions management, statutory land management and visitor servicing. I have a strong interest in resource protection under the RMA and other land and resource management-type legislation.

2.1 Code of Conduct

10. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
11. I am authorized to give this evidence on behalf of the Tai o Poutini Plan Committee to the TTPP Hearings Commissioners (Hearings Panel).

2.2 Conflict of Interest

12. To the best of my knowledge, I have no real or perceived conflict of interest.

2.3 Expert Advice

13. In preparing this report I have not needed to rely on any expert advice from other parties, and I have had paid close attention to the purpose of the Variation and documentation supporting it.

3.0 Scope of Report and Topic Overview

3.1 Scope of Report

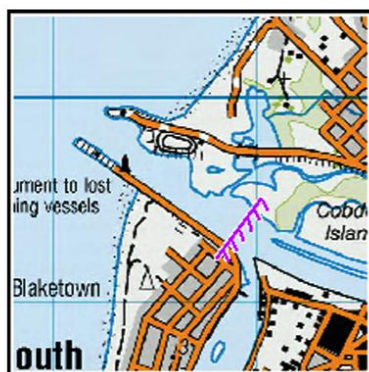
14. This report considers the submissions and further submissions that were received in relation to Variation 1: Activities on the Surface of Water.
15. Recommendations are made to either retain provisions without amendment, or delete, add to or amend the provisions. All recommended amendments are shown by way of ~~strikeout~~ and underlining in Appendix 1 of this Report. Footnoted references to a submitter number, submission point and the abbreviation for their title provide the scope for each recommended change. Where it is considered that an amendment may be appropriate, but it would be beneficial to hear further evidence before making a final recommendation, this is made clear within the report. Where no amendments are recommended to a provision, submission points that sought the retention of the provision without amendment are not footnoted.
16. Clause 16(2) of the RMA allows a local authority to make an amendment to a proposed plan without using a Schedule 1 process, where such an alteration is of minor effect, or may correct any minor errors. A number of alterations have already been made to the TTPP using cl.16(2) and these are documented on the TTPP website. Where a submitter has requested the same or similar changes to the TTPP that fall within the ambit of cl.16(2), then such amendments will continue to be made and documented as cl.16(2) amendments in this s42A report. The assessment of submissions generally follows the following format:
 - Submission Information
 - Analysis
 - Recommendation and Amendments

3.2 Topic Overview

Variation 1: Activities on the Surface of Water

17. Activities on the surface of water are regulated as part of the General District-Wide Matters subsection under Part 2: District-Wide matters of the TTPP. These provisions principally regulate structures, use of motorized watercraft and commercial activities on the surface of inland waterbodies on the West Coast. Such provisions do not regulate activities within the coastal marine area, which is subject to the West Coast Regional Coastal Plan (WCRCP). And the provisions do not affect inland water management generally, which is regulated under the West Coast Regional Land and Water Plan (WCRLWP).
18. The Variation is a fairly straightforward one, required to address a relatively basic requirement. Because the Coastal Marine Area boundary as set out in the Regional Coastal Plan is downstream of both Westport Harbour and the Port of Greymouth, the TTPP as notified in mid-2022 effectively made all commercial activities, including those of the two Ports, a Restricted Discretionary Activity in accordance with Rule ASW-R6.

19. The Coastal Marine Area boundary in relation to both ports is shown on the maps below.



GREY RIVER/MĀWHERA/MAWHERANUI

Description: 5 x mouth at breakwater including Range Creek below culvert

Map Reference: BT19 519 994

Start: 1452020 5299519

End: 1451796 5299219

Image Scale: 1:30,000

BULLER DISTRICT



BULLER RIVER/KAWATERERE

Description: 900 metres upstream of a line between the tipheads (where the River enters the Tasman Sea)

Map Reference: BR20 828 787

Start: 1483028 5378712

End: 1482499 5378605

Image Scale: 1:30,000

20. Consequently, Rule ASW-R6 as it reads in the TTPP at present would require that consent to a Restricted Discretionary Activity be obtained for commercial activities, including those of the existing Ports, on the surfaces of the Erua Lagoon, the Grey/Mawhera/Mawheranui River and the Buller/Kawatiri/Kawaterere River. It was never intended that the TTPP regulate commercial port activities in this way, and on discovery of this oversight, the Section 32 Report concluded that a Variation to the Plan would be the best means to rectify the situation.

21. The Variation itself adds Policy ASW-P4 and Rule ASW-R4A, and amends Rule ASW-R6 as follows (with all additions underlined, and nothing in this instance having been struck out):

- **ASW-P4** – Enable the use of the Port of Greymouth and Westport Harbour Ports and their use of the Marwheranui/Grey and Kawatiri/Buller Rivers for port activities and commercial activities associated with the ports.
- **ASW-R4A – Use of Watercraft for Commercial Activities and Port Activities on the Surface of Water**

Activity Status: Permitted

Where: This is the use of the surface of water and other Port Activities

- Associated with Port of Greymouth and harbour, and seaward of the State Highway 6 Bridge of the Mawheranui/Grey River, and including within the Erua Moana Lagoon; or

- Associated with Westport Harbour Port and harbour, and seaward of the State Highway 67 Bridge on the Kawatiri/Buller River
 - **ASW-R6 – Commercial Activities on the Surface of Rivers, Lagoons and Lakes not Associated with Westport Harbour Port and Port of Greymouth**
Activity Status: Restricted Discretionary
(No Changes to wording of Rule itself beyond this)
22. Such additions and alterations will address the issue of relevance – i.e. they clarify that commercial *Port* activities are a Permitted Activity (there being no intention to regulate these via the TTPP). Rather, it is those commercial activities that are *not* associated with Port operations that will require consent to a Restricted Discretionary Activity.

3.3 Strategic Direction

23. The Connections and Resilience Strategic Objective CR-01 recognises the importance of providing for the continued function and resilience of critical infrastructure. While the Plan’s definition of “critical infrastructure” does not mention the Ports specifically, Connections and Resilience Strategic Objective CR-04 recognises the importance of enabling the development of greater infrastructure self-sufficiency and backup of critical infrastructure. The Plan’s definition of “infrastructure” includes all facilities associated with the loading and unloading of cargo, hence existing Port facilities.

4.0 Statutory Requirements.

24. The TTPP must be prepared in accordance with the Council's functions under section 31 of the RMA; Part 2 of the RMA; the requirements of sections 74 and 75, and its obligation to prepare, and have particular regard to, an evaluation report under section 32 of the RMA, any further evaluation required by section 32AA of the RMA; any national policy statement, the New Zealand Coastal Policy Statement (NZCPS), national planning standards; and any regulations. Regard is also to be given to the West Coast Regional Policy Statement (WCRPS), any regional plan, district plans of adjacent territorial authorities, and the Iwi Management Plans.
25. In addition, there is a Mana Whakahono a Rohe agreement between West Coast Regional Council and Poutini Ngāi Tahu which must be implemented.
26. As set out in the Section 32 and Section 42A Overview Reports, there are a number of higher order planning documents and strategic plans that provide direction and guidance for the preparation and content of TTPP. These documents are discussed in more detail within this report where relevant to the assessment of submission points.
27. The assessment of submission points is made in the context of the Section 32 reports already undertaken with respect to this topic, being:
- Variation 1: Activities on the Surface of Water

4.1 Resource Management Act

28. Under the RMA, Section 2(1): Interpretation defines “land” as including land covered by water. And in terms of any national environmental standard dealing with a territorial authority function under Section 31 or any district rule, “land” includes the surface of water in a lake or river. And with respect to Sections 9 (restrictions on use of land), 10A (certain existing activities allowed), 81(2) (boundary adjustments), 176 (1)(b)(i) (designations) and 193(a) (heritage orders), the definition of “use” includes passing across the surface of water in a lake or river.

29. In terms of Part 2: Purpose and Principles, Part 5 sets out the purpose of the RMA, being to promote the sustainable management of natural and physical resources. Sustainable management includes managing the use, development and protection of natural and physical resources to enable people and communities to provide for their social, economic and cultural wellbeing, and for their health and safety.
30. In order to achieve this, a number of matters of national importance must be recognised and provided for under Section 6. This includes the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use and development under Section 6(a), the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna (Section 6(c)), and the maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers (Section 6(d)).
31. In addition, a number of matters of national importance must be recognized and provided for under Section 7. These include the maintenance and enhancement of amenity values (Section 7(c)) and the maintenance and enhancement of the quality of the environment (Section 7(f)).
32. Section 8, meanwhile, requires that all persons exercising powers and functions under the RMA take into account the Principles of the Treaty of Waitangi.
33. It is a requirement of Section 31 that territorial authorities undertake certain functions in order to give effect to the RMA in their districts. A specific such function is the control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes (Section 31(1)(e)). A number of such functions are given effect to through the preparation and change of District Plans, as required by Section 74 of the Act. The preparation, change and review of District Plans themselves is undertaken in accordance with Schedule 1 of the RMA, with Clause 16A providing for Variations to be made to proposed plans.
34. In terms of the TTPP, the Chapter ASW: Activities on the Surface of Water – Nga Mahi Ki Te Karewa o Te Wai recognises that a range of activities occur on the surface of rivers, streams, lagoons and lakes. These include activities with a functional need to locate and take place in such areas. Port activities in Westport Harbour and the Port of Greymouth would fall into that category. There is no requirement or intention to regulate such activities, with Variation 1: Activities on the Surface of Water having been undertaken to correct what was an unintentional error in that regard.

4.2 National Policy Statement for Freshwater Management

35. The National Policy Statement for Freshwater Management 2020 (Amended 2024 – NPS-FM) sets out one Objective and 15 Policies which focus on:
 - Managing natural and physical resources which prioritise the health and wellbeing of water bodies and freshwater ecosystems, the needs of people and the ability of people and communities to provide for their social, economic and cultural wellbeing, now and in the future – in that order;
 - Managing freshwater in a way that gives effect to Te Mana o te Wai (the integrated and holistic well-being of a freshwater body) in the management of freshwater;
 - Avoiding over-allocation, improving and maximizing efficient allocation and use of water and safeguarding its life-supporting capacity;
 - Improving integrated management of freshwater, and the use and development of land;
 - Establishing a national objectives framework, monitoring progress and accounting for freshwater takes and contaminants; and

- Providing for the active involvement of tangata whenua in freshwater management, and identifying and providing for Maori freshwater values.
36. Implementing such objectives and policies is principally the responsibility of regional councils, but territorial authorities have a degree of responsibility with respect to integrated management and tangata whenua. Of particular relevance is Section 3.5(4), which requires that:
- In order to give effect to this National Policy Statement, local authorities that share jurisdiction over a catchment must cooperate in the integrated management of the effects of land use and development on freshwater.*
37. What is proposed by Variation 1: Activities on the Surface of Water to the TTPP will not compromise the achievement of the Objectives and Policies of the NPS-FM.

4.3 National Environmental Standards for Freshwater

38. The Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NESF) regulate those activities which pose a risk to freshwater health and freshwater ecosystems. The West Coast Regional Council (WCRC) is the agency responsible for administering these regulations on the West Coast. This includes any consenting and associated monitoring requirements.
39. In this particular instance, there are no particular matters under the NESF which overlap with territorial authority responsibilities, with Section 31 of the RMA clear that territorial authorities are responsible for the management of activities on the surface of water in rivers and lakes. Variation 1: Activities on the Surface of Water will not, therefore, compromise requirements of the NES-FM in any way.

4.4 New Zealand Coastal Policy Statement

40. The New Zealand Coastal Policy Statement 2010 (NZCPS) states policies required to achieve the purpose of the RMA in relation to the coastal environment of New Zealand. The coastal environment itself varies significantly in nature and extent throughout New Zealand. It includes:
- The coastal marine area;
 - Islands within the coastal marine area;
 - Areas where coastal processes, influences, or qualities are significant, including coastal lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands and the margins of these;
 - Areas at risk from coastal hazards;
 - Coastal vegetation, and the habitat of indigenous coastal species, including migratory birds;
 - Elements and features that contribute to the natural character, landscape, visual qualities or amenity values;
 - Items of cultural and historic heritage in the coastal marine area or on the coast;
 - Inter-related coastal marine and terrestrial ecosystems, including the intertidal zone; and
 - Physical resources and built facilities, including infrastructure, that have modified the coastal environment.
41. The coastal environment is consequently more than the coastal marine area, which is defined in the RMA as being the foreshore, seabed and coastal water, and the air and space above the water:

- Of which the seaward boundary is the outer limits of the territorial sea; and
- Of which the landward boundary is the line of mean high water springs (MHWS), except that where that line crosses a river, the landward boundary at that point shall be whichever is the lesser of:
 - a) 1 kilometre upstream from the mouth of the river; or
 - b) The point upstream that is calculated by multiplying the width of the river mouth by five.

Importantly, the *NZCPS 2010 Guidance Note – Policy 4: Integration* (Department of Conservation, 2010) recognises that while the RMA effectively places responsibility for managing the coastal marine area, hence the “wet part” of the coastal environment or that area below MHWS with regional councils, with the jurisdiction of territorial authorities covering that area *landward of MHWS*, there is a need for integrated management across what is a “dynamic boundary” this in some instances recognized by extending such boundaries of jurisdiction.

42. In this particular instance, there has been no specific extension of jurisdiction, meaning the TTPP effectively covers those areas landward of MHWS only. Consistent with Points 19 and 41 of this report, the coastal marine area boundary is defined in relation to the Buller/Kawatiri/Kawatere River as extending upstream to a line 900 metres upstream of a line between the tipheads (where the Rivers enters the Tasman Sea), and in relation to the Grey/Mawhera/Mawheranui River as extending upstream to a line equivalent to five times the width of the rivermouth at the breakwater, and including Range Creek below its culvert. Such definitions result in parts of both Westport Harbour and the Port of Greymouth respectively being *upstream of* such boundaries (with the Port of Greymouth also including part of Erua Lagoon).
43. Policy 9 of the NZCPS provides specifically for Ports as follows:
- Recognise that a sustainable national transport system requires an efficient national network of safe ports, servicing national and international shipping, with efficient connections with other transport modes, including by:*
- *Ensuring that development in the coastal environment does not adversely affect the efficient and safe operation of these ports, or their connections with other transport modes; and*
 - *Considering where, how and when to provide in regional policy statements and in plans for the efficient and safe operation of these ports, the development of their capacity for shipping, and their connections with other transport modes.*
44. There is consequently no inconsistency with Westport Harbour or the Port of Greymouth being included within the coastal environment as defined in the NZCPS. And what is somewhat of a technical alteration to the TTPP by Variation 1: Activities on the Surface of Water will simply enable existing port operations to continue as a Permitted Activity in those areas of the Ports that are upstream of the coastal marine area, and therefore covered by the TTPP.

4.5 National Planning Standards

45. The planning standards were introduced to improve the consistency of plans and policy statements. The planning standards were gazetted and came into effect on 5 April 2019. There are 17 standards in total, of which one standard, being Standard 4: District Plan Structure Standard is of specific relevance to Variation 1: Activities on the Surface of Water. Direction 3 under this Standard requires that an Activities on the Surface of Water Chapter is included if relevant, with Direction 4 requiring that such a title be used for that Chapter.

4.6 Any other Relevant National Direction

46. The Buller/Kawatiri/Kawaterere River and Grey/Mawhera/Mawheranui River are subject to the Water Conservation (Buller River) Order 2001 and the National Conservation (Grey River) Order 1991. The former includes both waters to be retained in their natural state and protected waters, while the latter includes both entire and partial retention of natural waters in their natural state. In both cases, such protection does not extend downstream to those areas of the Rivers used by the Ports. Variation 1: Activities on the Surface of Water will not, therefore compromise the requirements of either of these Water Conservation Orders.
47. No other National Directions are of relevance to this Variation.

4.7 The West Coast Regional Policy Statement

48. The West Coast Regional Policy Statement (Operative 2020 – WCRPS) identifies the following significant resource management issues of relevance:
- Resilient and Sustainable Communities 1: The West Coast is at risk of experiencing population decline. It is critical that our planning documents address this risk by enabling the appropriate use and development of natural and physical resources, whilst promoting their sustainable management;
 - Resilient and Sustainable Communities 3: The implementation of the RMA by local authorities can support economic growth and creation of employment in the region, whilst also avoiding, remedying or mitigating any associated adverse effects;
 - Use and Development 1: Recognising the central role of resource use and development on the West Coast;
 - Use and Development 2: Managing the conflicts arising from the use, development and protection of natural and physical resources;
 - Regionally Significant Infrastructure (RSI) 1: Resilient RSI is essential for the social, economic and cultural wellbeing of the West Coast;
 - Regionally Significant Infrastructure (RSI) 2: Strategically integrating infrastructure and land use; and
 - Coastal Environment 1: Protecting the values of the coastal environment whilst enabling sustainable use and development, to provide for the region's economic, social and cultural wellbeing.
49. The following Objectives and Policies of the RPS are thus of relevance:
- Resilient and Sustainable Communities Objective 1: To enable sustainable and resilient communities on the West Coast;
 - Resilient and Sustainable Communities Objective 2: This region's planning framework enables existing and new economic use, development and employment opportunities, while ensuring sustainable environmental outcomes are achieved;
 - Resilient and Sustainable Communities Policy 1: To sustainably manage the West Coast's natural and physical resources in a way that enables a range of existing and new economic activities to occur, including activities likely to provide substantial employment that benefits the long term sustainability of the region's communities;
 - Resilient and Sustainable Communities Policy 2: Regional and District Plans must:
 - a) Contain regulation that is the most effective and efficient way of achieving resource management objective(s), taking into account the costs, benefits and risks;
 - b) Be as consistent as possible;

- c) Be as simple as possible;
 - d) Use or support good management practices;
 - e) Minimise compliance costs where possible;
 - f) Enable subdivision, use and development that gives effect to relevant national and regional policy direction; and
 - g) Focus on effects and, where suitable, use performance standards.
- Resilient and Sustainable Communities Policy 3: To consider the transfer and delegation of regional and district council functions (as provided by Sections 33 and 34 of the RMA) where it would result in increased efficiencies and/or effectiveness in achieving resource management objectives, using shared services principles;
 - Use and Development of Resources Objective 1: Enabling sustainable resource use and development on the West Coast to contribute to the economic, social and cultural wellbeing of the region's people and communities;
 - Use and Development of Resources Objective 2: Incompatible use and development of natural and physical resources are managed to avoid or minimize conflict;
 - Use and Development of Resources Policy 1: Enabling sustainable resource use and development on the West Coast to contribute to the economic, social and cultural wellbeing of the region's people and communities;
 - Regionally Significant Infrastructure (RSI) Objective 1: Enable the safe, efficient and integrated development, operation, maintenance and upgrading of regionally and nationally significant infrastructure;
 - Regionally Significant Infrastructure (RSI) Policy 4: Recognise that RSI important to the West Coast's wellbeing needs to be protected from the reverse sensitivity effects arising from incompatible new subdivision, use and development, and the adverse effects of other activities, which would compromise the effective operation, maintenance, upgrading or development of the infrastructure;
 - Regionally Significant Infrastructure (RSI) Policy 8: Land use and infrastructure should be integrated to avoid as much as practically possible:
 - a) Constraints through the lack of supporting infrastructure;
 - b) Unsustainable demands being placed on infrastructure to meet new growth; and
 - c) Significant adverse effects on existing land uses.
 - Land and Water Objective 2: Provide for a range of land and water uses to enable the economic, social and cultural wellbeing of West Coast communities, while maintaining or improving water quality and aquatic ecosystems;
 - Land and Water Objective 5: Achieve the integrated management of water and the subdivision, use and development of land within catchments, recognizing the interconnections between land, freshwater and coastal water, including by managing adverse effects on land and water use on coastal water quality;
 - Coastal Environment Objective 2: Provide for appropriate subdivision, use and development in the coastal environment to enable people and communities to maintain or enhance their economic, social and cultural wellbeing; and
 - Coastal Environment Policy 3: Provide for subdivision, use or development in the coastal environment:
 - a) Which maintains or enhances the social, economic and cultural well-being of people and communities;
 - b) Which:
 - i. Requires the use of the natural and physical resources in the coastal environment; or

- ii. Has a technical, functional or operational requirement to be located within the coastal environment;
 - c) Recognising that minor or transitory effects associated with subdivision, use and development may not be an adverse effect within those areas described in Policy 1.b);
 - d) By allowing subdivision, use and development where the adverse effects are no more than minor within those areas described in Policy 1.c); and
 - e) By allowing lawfully established activities to continue provided the adverse effects are the same or similar in scale, character or intensity.
50. Variation 1: Activities on the Surface of Water is consistent with those Objectives and Policies of relevance in the RPS. It will facilitate the continued operation of both Westport Harbour and the Port of Greymouth, both of which are important infrastructural assets on the West Coast. No compromising of either natural and physical resources or their existing uses will occur by facilitating port operations in this manner.

4.6 West Coast Regional Coastal Plan

51. The West Coast Regional Coastal Plan (Operative 2000 - WCRCP) was subject to a partially completed Review in 2016, and is now subject to a full review commenced in 2023. Regional Coastal Plans apply to those areas *below* MHWS and out to the outer limit of the Territorial Sea. By contrast, Variation 1 itself (consistent with limits of District Plans as provided for in the RMA) affects those areas of Westport Harbour and the Port of Greymouth which are *above* MHWS. The WCRCP is not, therefore, of direct relevance to this Variation.

4.7 West Coast Regional Land and Water Plan

52. The West Coast Regional Land and Water Plan (Operative 2014 – WCRLWP.) provides a framework for the integrated and sustainable management of the West Coast’s natural and physical resources as they apply in the context of land and water. It regulates activities on land which affect water, allocation and use of the water resource itself and activities on the beds of lakes and rivers. This is done to mean high water springs, with the WCRCP then regulating similar activity within the coastal marine area.
53. By contrast, Variation 1: Activities on the Surface of Water is concerned with surface water activity only, and in this particular instance, those activities of the Westport Harbour and Port of Greymouth which are *on the water surface* and *upstream of* the coastal marine area as defined in Points 15 and 38 of this report. The WCRLWP is not, therefore of direct relevance to this Variation, while none of its Objectives or Policies will be in any way compromised by the Variation itself.
54. No other Regional Plans prepared in accordance with the RMA are of relevance to Variation 1.

4.8 West Coast Regional Land Transport Plan

55. The WCRC’s Regional Land Transport Plan (2024-2034 – WCRLTP) is a document required in accordance with the Land Transport Management Act 2003. It sets out:
- The context in which the Region’s transport system operates;
 - The vision and strategic objectives for the Region’s transport system;
 - The priorities for investment – including key areas where further investment is required to achieve the Plan’s vision and objectives; and
 - A prioritised regional programme of transport activities.

56. While independent of the land transport network itself, the Region's ports are seen as lifeline assets and important contributors to future economic growth of the Region. A 2020 Ports Strategy produced by Development West Coast applied a "protect, optimize, growth" framework, recognizing that while the Region's ports are somewhat underutilized, considerable potential exists for increased use by sectors such as heavy mineral sands and fishing. The Strategy recognises the importance of protecting the Ports as assets vital to commercial and climate resilience on the West Coast.
57. Development West Coast has also produced a West Coast Transport and Logistics Strategy in 2022, which considers all transport modes including coastal shipping. Amongst other things, it recommends that port performance be enhanced, a shipping strategy be developed (involving Development West Coast, the four West Coast local authorities and the West Coast Resilience Committee), and such an alliance work with Waka Kotahi/New Zealand Transport Agency to promote coastal shipping. The Grey District Council, meanwhile, has submitted an application for port-related funding, as part of the 2024-27 National Land Transport Plan.
58. The WCRLTP's Vision is "a safe, resilient and connected multi-modal transport network, which enables the West Coast to thrive". The Plan's four objectives focus on Resilience, Asset Condition, Safety and Connectivity. In terms of Policies beneath these objectives, the Ports are seen as vital economic hubs, in terms of connecting the Region to national and international markets. Over \$17 million is presently invested in port projects throughout the Region, recognising the critical role played by the Region's Ports in terms of enhancing resilience, efficiency and carbon reduction within the freight networks.

4.9 Iwi Management Plans

59. It is a requirement of Section 74(2A) of the RMA that when preparing or changing a District Plan, any territorial authority concerned must take into account any relevant planning document recognised by an Iwi Authority and lodged with the territorial authority "to the extent that its contents has a bearing on the resource management issues of the district". Consistent with the Local Government Reorganisation Scheme (West Coast Region) Order 2019, one combined District Plan (i.e. the TTPP), covering the Buller, Grey and Westland Districts is to be prepared, with the statutory obligation for its preparation transferred to the WCRC.
60. Three Iwi Management Plans apply specifically within the West Coast/Te Tai o Poutini Region, these including:
 - The Lake Mahinapua Management Plan;
 - The Ngati Waewae Pounamu Management Plan; and
 - The Te Runanga o Makaawhio Pounamu Management Plan.

None of the three Iwi Management Plans are of relevance to the particular issue of concern, being activities on the surface of water. Particular waterways, including the Buller/Kawatiri/Kawaterere River and Grey/Mawhera/Mawheranui River do, however, have particular significance within the wider landscape to Poutini Ngai Tahu. And that is notwithstanding neither River being subject to a Statutory Acknowledgement or any other means of protection or recognition provided for in the Ngai Tahu Claims Settlement Act 1998.
61. The WCRC has entered into a Mana Whakahono a Rohe Iwi RMA Participation Arrangement with Te Runanga o Ngati Waewae, Te Runanga o Makaawhio and Te Runanga o Ngai Tahu. The former two are the two West Coast Runanga comprising Poutini Ngai Tahu, while Te Runanga o Ngai Tahu is the umbrella agency acting for and on behalf of all Papatipu Runanga of the Iwi and based in Christchurch. Both of the Poutini Ngai Tahu Runanga are represented on the Te Tai o Poutini Plan Committee, while Te Runanga o Ngati Waewae (which exercises manawhenua with respect to both areas the subject of this Variation) was included in its limited notification.

4.10 Procedural Matters

62. At the time of writing this s42A report there has not been any pre-hearing conferences, clause 8AA meetings or expert witness conferencing in relation to submissions on this Variation.
63. No additional work by staff (e.g. site visits) has been undertaken by staff as part of this Variation.
64. Clause 16(2) of Schedule 1 of the RMA allows a local authority to make an amendment to its proposed policy statement or plan, or alter any information within such a document, where such an alteration is of minor effect or may correct any minor errors. Should such an amendment or alteration have more than a minor effect, then Clause 16A(1) of Schedule 1 of the RMA provides for a local authority to undertake variations to proposed policy statements or plans ahead of such approval of the document concerned. Consistent with Clause 16A(2) of Schedule 1 of the RMA, the provisions of Schedule 1 itself apply, with any necessary modifications, to every such variation, as if it were a Plan Change to an approved policy statement or Plan.
65. While Variation 1: Activities on the Surface of Water is itself a fairly minor Variation and to correct a relatively obvious and straightforward matter (i.e. not wanting the Plan itself to unduly regulate day-to-day Port operations), it is realistically more than just a "minor error", given it involves inserting a new policy and rule and amending another rule. The decision was made, therefore, to seek a Variation in accordance with Clause 16A(1) of Schedule 1 of the RMA.
66. Clause 5A of Schedule 1 of the RMA provides a local authority with the option to give limited notification of a plan change or variation, as opposed to public notification in accordance with Clause 5, if all persons directly affected by the change or variation can in fact be identified. In this instance, it was agreed that the following persons and organisations could be deemed "affected by Variation 1":
 - Ministry for the Environment;
 - Department of Conservation;
 - Maritime New Zealand;
 - Te Runanga o Ngati Waewae;
 - West Coast Regional Council;
 - Buller District Council;
 - Grey District Council;
 - Westland District Council;
 - Westport Harbour (c/- Buller District Council);
 - Port of Greymouth (c/- Grey District Council);
 - Tai Poutini Resources (Tai Poutini Professional Services Ltd);
 - Westpower Ltd;
 - Papahaua Resources Ltd;
 - Rocky Mining Ltd;
 - TiGa Minerals and Metals;
 - WMS Group;
 - Specific landowners identified as being:
 - a) Within the Proposed Port Zone under the TTPP;

- b) Immediately adjoining the Proposed Port Zone;
- c) Immediately adjoining the Buller River between the State highway 67 Bridge and the coastal marine area boundary; and
- d) Immediately adjoining the Grey River between the State Highway 7 Bridge and the coastal marine area.

This list was based on regulatory responsibilities, submissions of relevance and land ownership.

5.0 Consideration of Submissions Received

5.1 Overview of Submissions Received

67. A total of five submissions (fifteen submission points) were received on Variation 1: Activities on the Surface of Water up to and including the closing date of Friday 26 July 2024. No further submissions had been received by the closing date for the receipt of further submissions, being Friday 13 September 2024.
68. As discussed in Point 17 of this Report, this Variation simply adds Policy ASW-P4 and Rules ASW-4A to the TTPP's Activities on the Surface of Water Chapter, while amending Rule ASW-R6. Such amendments are simply to confirm that commercial activities associated with the Westport Harbour and Port of Greymouth are Permitted Activities – and correspondingly make it clear that it is commercial activities *other than those associated with the Ports* which will require consent to a Restricted Discretionary Activity. It is a Variation which has required no alterations to any Plan Schedules or Appendices, and no consequential amendments to any other parts of the Plan.
69. All submissions received support the Variation being given effect to, seeing it as an initiative that will both provide for the continuing operation of the two Port areas and better clarify the fact that there is no intention to regulate Port activities themselves under the TTPP. The various submission points themselves relate to such support relative to the three affected provisions – i.e. the new Policy ASW-P4, the new Rule ASW-4A and the amended Rule ASW-R6 themselves.
70. A totally unrelated "submission" was received from Mr Alex Woods of Taylorville. This related to possible mapping of public, private and cleanfill dump sites in the TTPP. It was a handwritten letter (not using the submission form provided – as based on Form 5 under Schedule 1 of the Resource Management (Forms, Fees and Procedure) Regulations 2003). Such a submission was, therefore, neither of relevance to the Variation itself nor in the "prescribed form" as required by Clause 6(5) of Schedule 1 of the RMA.
71. This submission was also simply headed "Submission Te Tai o Poutini Plan", meaning it was unclear as to whether or not the submission was in fact on Variation 1: Activities on the Surface of Water or Variation 2: Coastal Natural Hazards Mapping. Both Variations were notified for submissions on 27 June 2024, with Variation 2 publicly notified and submissions for that Variation closing on 30 August 2024. Because Mr Woods' submission had no relevance to either Variation concerned, he was advised that his letter could not be accepted as a "submission", and to take up the matters he raised with the Grey District Council as local waste management authority.

5.2 Structure of this Report

72. Variation 1 is an activity-specific one, it proposes three very specific and interrelated changes to the TTPP to achieve the one specific outcome (i.e. avoiding undue regulation of Port activities by the TTPP itself) and all five submissions received were relatively brief. Given this, the Report will simply deal with the submissions points relative to each of the three Plan provisions concerned.

6.0 Submissions on Policy ASW-P4

Submissions

Submitter Name /ID	Submission Point	Position	Decision Requested
Harbourmaster, Buller District Council (S665)	S665.001	Support	That the new Policy ASW-P4 is added to the Plan
Westpower Limited (S547)	S547.0511	Support	That the new Policy ASW-P4 is retained
West Coast Regional Council (S488)	S488.040	Support	That the Variation (including Policy ASW-P4) be adopted
Manager, Port of Greymouth (S666)	S666.003	Support	That the new Policy ASW-P4 is supported
WMS Group HQ Limited and WMS Land Co Limited (S599)	S599.174	Support	Retain the proposed Policy ASW-P4

Analysis

73. Submissions supporting the addition of Policy ASW-P4 were received from the following:

- The Harbourmaster, Buller District Council (S665.001)
- Westpower Limited (S547.0511)
- The West Coast Regional Council (S488.040)
- The Manager, Port of Greymouth (S666.003)
- WMS Group HQ Limited and WMS Land Co Limited (S599.174)

That support is noted.

74. All five submitters support port operations at Westport Harbour and the Port of Greymouth being able to continue as Permitted Activities, agreeing that such activities do not require regulation by the TTPP. The West Coast Regional Council (S448.040) also points out that continued Port operations themselves are consistent with the WCRLTP.

Recommendations

75. It is recommended that all five submissions are accepted, and that the proposed new Policy ASW-P4 as worded in Variation 1: Activities on the Surface of Water be added to the TTPP.

7.0 Submissions on Rule ASW-R4A

Submissions

Submitter Name /ID	Submission Point	Position	Decision Requested
Harbourmaster, Buller District Council (S665)	S665.002	Support	That the new Rule ASW-R4A is added to the Plan
Westpower Limited (S547)	S547.0512	Support	That the new Rule ASW-R4A is retained
West Coast Regional Council (S488)	S488.039	Support	That the Variation (including Rule ASW-R4A) be adopted

Manager, Port of Greymouth (S666)	S666.001	Support	That the new Rule ASW-R4A be retained
WMS Group HQ Limited and WMS Land Co Limited (S599)	S559.175	Support	Retain the proposed Rule ASW-R4A

Analysis

76. Submissions supporting the addition of Rule ASW-R4A were received from the following:

- The Harbourmaster, Buller District Council (S665.002)
- Westpower Limited (S547.0512)
- The West Coast Regional Council (S488.039)
- The Manager, Port of Greymouth (S666.001)
- WMS Group HQ Limited and WMS Land Co Limited (S599.175)

That support is noted.

77. All five submitters support port operations at Westport Harbour and the Port of Greymouth being able to continue as Permitted Activities, agreeing that such activities do not require regulation by the TTPP. The West Coast Regional Council (S448.039) also points out that continued Port operations themselves are consistent with the WCRLTP.

Recommendations

78. It is recommended that all five submissions are accepted, and that the proposed new Rule ASW-R4A as worded in Variation 1: Activities on the Surface of Water be added to the TTPP.

8.0 Submissions on Rule ASW-R6

Submissions

Submitter Name / ID	Submission Point	Position	Decision Requested
Harbourmaster, Buller District Council (S665)	S665.003	Support	The Amendment to Rule ASW-R6 is supported
Westpower Limited (S547)	S547.0513	Support	That the proposed amended heading to Rule ASW-R6 be retained
West Coast Regional Council (S488)	S488.041	Support	That the Variation (including the amendment to Rule ASW-R6) be adopted
Manager, Port of Greymouth (S666)	S666.002	Support	That the amendment to Rule ASW-R6 be retained
WMS Group HQ Limited and WMS Land Co Limited (S599)	S599.176	Support	Retain the amendment to Rule ASW-R6

Analysis

79. Submissions supporting the amendment to Rule ASW-R6 were received from the following:

- The Harbourmaster, Buller District Council (S665.003)
- Westpower Limited (S547.0513)
- The West Coast Regional Council (S488.041)
- The Manager, Port of Greymouth (S666.002)
- WMS Group HQ Limited and WMS Land Co Limited (S599.176)

That support is noted.

80. All five submitters support port operations at Westport Harbour and the Port of Greymouth being able to continue as Permitted Activities, agreeing that such activities do not require regulation by the TTPP. The West Coast Regional Council (S448.041) also points out that continued Port operations themselves are consistent with the West Coast Regional Land Transport Plan 2024-2034.

Recommendations

81. It is recommended that all five submissions are accepted, and that the proposed amendment to Rule ASW-R6 as worded in Variation 1: Activities on the Surface of Water is added to the TTPP.

9.0 S32AA Evaluation for all Recommended Amendments

82. Section 32AA of the RMA requires a further evaluation to be undertaken in accordance with s32(1)- (4) if any amendment has been made to the proposal (in this case TTPP) since the original s32 evaluation report was completed. Section 32AA requires that the evaluation is undertaken in a level of detail that corresponds to the scale and significance of the changes. Minor changes to correct errors or improve the readability of TTPP have not been individually evaluated. In terms of s32AA, these minor amendments are efficient and effective in improving the administration of TTPP provisions, being primarily matters of clarification rather than substance.
83. In this instance, a Section 32 Report was also undertaken, as required, for Variation 1: Activities on the Surface of Water specifically. This concluded that any environmental, economic, social and cultural effects of the new and amended provisions involved would be minor to low only, with the option of proceeding with the Variation (as opposed to the alternative of leaving the Plan as it was) deemed preferable. To not proceed with such a Variation would create unnecessary regulation of day-to-day Port operations and leave the Port authorities with considerable uncertainty about whether or not resource consent would be required for specific activities. Variation 1: Activities on the Surface of Water will both remove such unnecessary regulation and provide far greater certainty about precisely what commercial activities on the surface of water do or don't require resource consent.

9.1 Effectiveness and Efficiency

84. The insertion of one further Policy and one further Rule, together with the amendment to one existing Rule as proposed will effectively and efficiently achieve what is a relatively minor amendment to the TTPP with the aim of better clarifying what commercial activities on the surface of water require resource consent and what do not.
85. Consistent with this, it will make it clear that day-to-day Port operations on Westport Harbour and the Port of Greymouth are a Permitted Activity. There is neither the intention nor any need to regulate such activities via the TTPP itself, and the proposed amendments will improve the workability of the TTPP generally.

86. Following discovery of the issue of concern itself, discussions were held by TTPP staff with the Buller and Grey District Councils as Port owners, and the WCRC as a key regulator of marine activity, via both the WCRCP and various Bylaws. All three parties agreed that Variation 1 as proposed was the best means of addressing the issue.

9.2 Costs/Benefits

87. Variation 1: Activities on the Surface of Water will thus improve workability of the Plan, and particularly in relation to Port areas and their operation. The costs of not acting as recommended will be to leave the Ports themselves with considerable uncertainty as to consent requirements relative to day-to-day activities.
88. Such uncertainty itself would not be conducive to future development of the ports and their continuing to function effectively as regionally significant infrastructural assets.

9.3 Risk of Acting/Not Acting

89. To not act as proposed, and implement Variation 1, would leave considerable uncertainty surrounding day-to-day port operations relative to overall regulation of other commercial activities on the surface of water. The changes proposed are of a minor, clarification-type nature, and will not impact adversely with respect to either other parts of the TTPP itself or the environment being regulated.
90. While of a minor nature itself, the changes to the Plan required are arguably slightly more than could be authorised as a minor amendment in accordance with Clause 16(1) of the First Schedule of the RMA. Undertaking Variation 1 in accordance with Clause 16A of the First Schedule of the RMA will ensure that there is no possibility of any allegations being substantiated to the effect that improper procedures were used to effect the change.

9.4 Decision about most appropriate option

91. Consistent with the above, it is concluded that Variation 1: Activities on the Surface of Water is the best option by which to address the issue at hand. It is recommended that it be proceeded with.

10.0 Conclusion

92. This report has provided an assessment of submissions received in relation to Variation 1: Activities on the Surface of Water. The primary amendments that I have recommended relate to:

- **The insertion of ASW-P4;**
- **The insertion of Rule ASW-R4A; and**
- **The amendment to Rule ASW-R6**

As proposed in the Variation itself.

93. Sections 6.0, 7.0 and 8.0 consider and provide recommendations on the decisions requested in submissions. I consider that the submissions on **Variation 1: Activities on the Surface of Water** should all be accepted, as set out in my recommendations in each of the three sections concerned and contained in **Appendix 2** of this report.
94. I recommend that provisions for the **Activities on the Surface of Water Chapter** be amended for the reasons set out in this report and as contained in **Appendix 1** of this report.

95. I consider that the amended provisions will be efficient and effective in achieving the purpose of the RMA, the relevant objectives of this plan and other relevant statutory documents, for the reasons set out in the Section 32AA evaluations undertaken.