

**BEFORE THE INDEPENDENT PROPOSED TE TAI O POUTINI PLAN HEARING
PANEL**

IN THE MATTER OF: the Resource Management Act 1991

AND

IN THE MATTER OF: the hearing of submissions in
relation to the Proposed Te Tai o
Poutini Plan - Variation 2 - Coastal
Hazards

**STATEMENT OF EVIDENCE OF SAMUEL DAVID FLEWELLEN ON BEHALF OF
SCENIC HOTEL GROUP LIMITED (S483)(FS244)**

Date: 3 March 2025

STATEMENT OF EVIDENCE OF SAMUEL DAVID FLEWELLEN

1. INTRODUCTION

- 1.1 My name is Samuel David Flewollen. I am a Partner at Planz Consultants Limited. I hold Bachelor of Resource Studies (Environmental Management) degree and Post Graduate Diploma in Resource Studies (Environmental Management) from Lincoln University. I am a full Member of the New Zealand Planning Institute. I have been employed in the practice of planning and resource management for over 20 years. A summary of my qualifications and relevant experience is contained in **Appendix A**.
- 1.2 I assisted with the preparation of the submission and further submissions made by Scenic Hotel Group Limited (**'Scenic'**) (Submitter 483 and Further Submitter 244) on Variation 2 – Coastal Hazards of the proposed Te Tai o Poutini Plan (**'TTPP'**). I have been authorised by Scenic to provide evidence on their behalf.

2. CODE OF CONDUCT

- 2.1. In preparing my evidence I confirm that I have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note 2023. I have complied with the Code of Conduct in preparing this evidence and I agree to comply with it while giving oral evidence before the Hearings Panel. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in this evidence.
- 2.2. In preparing this evidence for Scenic, I acknowledge that Mr Dean Chrystal of the Te Tai o Poutini Plan Independent Hearing Panel is a director at Planz Consultants Limited. This matter has been raised with the panel in advance and Mr Chrystal has confirmed that he will exclude himself in relation to the consideration of matters concerning Scenic.

3. SCOPE OF EVIDENCE

- 3.1 In preparing my evidence I have read the relevant s42A Officer's Report for Variation 2 – Coastal Hazards prepared by Mr James Beban and Ms Sarah Gunnell (**'the reporting officers'**). For the balance of my evidence, I will refer to this as **'the s42A report'**.
- 3.2 In my evidence, I set out:
- a. A brief overview of Scenic's operations in Punakaiki.
 - b. A brief summary of Scenic's submission.

- c. Matters of agreement with the s42A Report.
 - d. Matters of disagreement with the s42A Report including explanation and reasoning for proposed amendments.
 - e. Overall Conclusions.
- 3.3 I note that in the s42A Report, there have been recommended changes to some definitions, and the naming and numbering of some provisions. I have generally referred to the provisions as they were numbered in the notified version of the TTPP.
- 3.4 I also note the proposed changes to the names of the overlays which are used frequently in my evidence.
- Coastal Severe Overlay has been changed to **Coastal Hazard Erosion and Inundation Overlay**.
 - Coastal Alert Overlay has been changed to **Coastal Hazard Inundation Overlay 1**.
 - Coastal Setback Overlay has been changed to **Coastal Hazard Inundation Overlay 2**.
- 3.5 I have generally used the updated overlay names in this evidence.
- 3.6 For ease of reference, the reporting officer's recommended amendments are shown in my evidence with **black underline** and ~~black strikethrough~~. In the s42A Report, I note that the reporting officer has also used **red** and **blue** to indicate recommended changes. For clarity, any of my recommended amendments are shown in **green underline** and ~~green strikethrough~~.

4. SCENIC HOTEL GROUP LIMITED

- 4.1. Scenic owns and operates 18 hotels in New Zealand and is New Zealand's largest locally owned chain of hotels. Scenic own a number of facilities and landholdings in Punakaiki, which are the focus of this submission given the extent of the coastal hazard overlays in the Punakaiki area. Some of these landholdings have been developed for existing visitor accommodation uses while others remain undeveloped at this stage.
- 4.2. Scenic's landholdings are listed from north to south as follows:
- Punakaiki Rocks Hotel and Garden Bar, Corner Owen Street and State Highway 6 (SH6), Punakaiki
 - 2 -6 Mabel Street (Secs 23-25), Punakaiki
 - Punakaiki Beachfront Motels (Secs 27-29), 56 Punakaiki Road, Punakaiki

- Ocean View Resort, 4237 State Highway 6, Punakaiki
- 4.3. A map from the TTPP showing the location of Scenic's landholdings in Punakaiki in relation to the coastal hazard overlays is contained within **Appendix B** to this evidence.

5. SUMMARY OF SUBMISSION

- 5.1. The primary concern for Scenic with the TTPP was in relation to the premises it owns and operates within Punakaiki and the complex layering of constraints and overlays that are proposed to be applied over the underlying zoning of these sites, particularly the Special Purpose Scenic Visitor Zone ('SVZ').
- 5.2. The SVZ is the primary zone that seeks to provide for visitor accommodation in the Punakaiki area and the only zone that provides for visitor accommodation as a permitted activity.
- 5.3. Recognition of the critical role that Punakaiki plays in tourism on the West Coast is set out in the Overview to the SVZ section of the TTPP as follows:

In the case of the glacier towns of Franz Josef/Waiau and Fox Glacier/Weheka, tourism numbers have reached as high as 750,000 per annum (6000 people per day), with 450,000 people per annum visiting Punakaiki. The communities themselves, however, are home to a few hundred people, so the main focus of the commercial areas is supporting visitor activity¹.

- 5.4. The Settlement Zone including Coastal Settlement Precinct, and the SVZ, contain both general and more directive objectives and policies² that seek to support and enable growth, and development in these zones, including those which support tourism. Equally however, there are competing provisions that seek to avoid and minimise growth and development in these same areas where they are subject to identified constraints or overlays e.g. coastal hazards overlays.
- 5.5. In Punakaiki, the combination of extremely limited appropriately zoned land and private (non-conservation) land, combined with the layering of hazard overlays (as well as other overlays not subject to the Natural Hazard Chapter, e.g. ONLs and SNAs), means that, in effect, it will be very difficult to avoid a complex and difficult resource consenting process in Punakaiki for any new development that would seek to support visitor and worker accommodation. In short, as the notified Plan currently stands, it:

- 1) Recognises the key role that tourism plays in the local economy, especially in townships such as Punakaiki;
- 2) Seeks to enable and support the ongoing growth of tourism in Punakaiki;

¹ pTTPP – Scenic Visitor Zone – Overview – Paragraph 4

² Rural Zone – Policy 10, SVZ – Policy 3, SVZ – Policy 4

- 3) Provides a very limited geographic extent of urban zoned land in Punakaiki (due primarily to most of the land surrounding the township being in the conservation estate);
 - 4) Yet concurrently seeks to severely curtail development opportunities across much of the Punakaiki urban area through a combination of overlays, including the coastal hazard provisions which are the subject of this hearing.
- 5.6. It was therefore submitted that the Proposed TTPP (and now the officer recommendations) result in an internally inconsistent District Plan. There is a lack of balance between recognising the impact of these new coastal hazard overlay constraints against the increasing demand for growth and development to support the considerable tourism demand that is recognised in this area and that the regulatory framework, as proposed, will not actively achieve key policy direction sought by the underlying zone with regard to enabling growth and development of visitor accommodation and tourism support facilities.
- 5.7. In highlighting this inconsistency, it is important to emphasise that Scenic are extremely mindful of the need to appropriately manage natural hazard risk. Their submission therefore sought a package of discrete amendments to the provisions to still enable risk to be appropriately managed, whilst recognising the specific Punakaiki context of significant tourism support growth pressures set within a geographically constrained urban extent.

6. MATTERS OF AGREEMENT WITH S42A REPORT RECOMMENDATIONS

- 6.1. Having reviewed the s42A report commentary and recommendations, there have been a number of important amendments recommended from the notified version. A good proportion of these recommended amendments are now acceptable to Scenic and address the intent of the relief sought in their submission.
- 6.2. Those provisions to which Scenic accept are listed in **Appendix C** to this evidence.

7. MATTERS OF DISAGREEMENT WITH S42A REPORT RECOMMENDATIONS

- 7.1. There are a number of provisions where there remains some disagreement with the recommendations in the s42A report. These are discussed under the respective sub headings in this section of my evidence.

Extent and application of hazard overlay mapping - Coastal Hazard Overlays

- 7.2. Scenic, in its submission and further submissions, raised the extent and applicability of the mapping of the three different overlays as they apply to their landholdings within Punakaiki, and sought that property specific mapping for their sites would be justified given the constraints that the hazards would impose.

7.3. The s42A reporting officer has provided discussion on the mapping and development of the hazard overlays which is summarised below:

- The purpose of the mapping and overlays is to act as a trigger for where further site-specific investigation is required and that it is expected that an application for resource consent for development in the Coastal Hazard Severe or Coastal Hazard Alert layer would be supported by a suitably qualified and experienced person, that would recommend possible site-specific mitigation measures to reduce the risk to an acceptable level. This allows a pathway for consent to be granted³.
- Whilst property level mapping could be undertaken, this would be at considerable cost to the rate payer. Area-scale mapping of natural hazards for creating district plan hazard overlays is consistent with practice across New Zealand, and strikes an appropriate balance between cost and accuracy, by signalling where a natural hazard is expected to impact an area and where further site-specific investigation is required to determine if future development is appropriate or not⁴.
- While there are a significant number of submissions seeking that Variation 2 be withdrawn, the coastal erosion and inundation mapping upon which it is based is consistent with national guidance and best practice. There is no technical reason that the mapping should be withdrawn. The West Coast District Councils have an obligation under the RMA, NZCPS and RPS to identify areas at risk from coastal hazards over at least the next 100 years and manage development within these areas so that the risk remains acceptable⁵.

7.4. While I acknowledge that area scale modelling and mapping of natural hazards is common, there will always remain an inherent degree of uncertainty and contention as to the accuracy and extent of such mapping. The very fact that the coastal hazards overlays have had to be updated, changed and renotified during the course of this TTPP process to date is a reflection of this.

7.5. I consider that the comment that the overlays act as a trigger only and that a consent pathway remains in place subject to risk being reduced to an acceptable level is not actually reflected in the policy and rule framework, at least for the Coastal Hazard Erosion and Inundation (Severe) Overlay. This is discussed in more detail later in my evidence, but it is noted that any additions to existing buildings or new buildings containing hazard sensitive activities in the Coastal Hazard Erosion and Inundation (Severe) Overlay are proposed to be subject to a non-complying status⁶ while the policy framework is 'avoid based' and requires demonstration of an 'operational or functional need to locate there'⁷.

³ Paragraph 127 – S42A Report

⁴ Paragraph 129 – s42A Report

⁵ Paragraph 139 – s42A Report

⁶ Rule NH-R44 (R19) – Appendix 2 – s42A Report

⁷ Policy P10 (P6) – Appendix 2 – s42A Report

- 7.6. I consider that the combination of this activity status and directive policy framework is significantly constraining and is not simply a trigger to 'allow a pathway for consent to be granted' in the Coastal Hazard Erosion and Inundation (Severe) Overlay.
- 7.7. Given the extent of the Coastal Hazard Erosion and Inundation (Severe) Overlay coverage over SVZ zoned land within Punakaiki and the constraining regulatory framework proposed for this area, I consider that this will comprehensively discourage any further development within this overlay. If development in practice cannot occur, there will be the direct consequence of failing to enable growth and support of tourism and visitor accommodation in Punakaiki, an area that has specifically been identified in the TTPP as one of the three most visited tourist locations on the West Coast and where there is a specific need and demand for these activities. Therefore, the outcomes specifically sought by the underlying zoning will not be achieved.
- 7.8. Due to the specific circumstances in Punakaiki and the competing tension between the coastal hazard overlays and the very limited zoned land available, this places greater emphasis on the need to ensure that the extent of any overlays are accurate and suitably justified. In short, whilst an 'area-scale' approach to hazard mapping might be generally appropriate across rural zoned areas, given the high growth pressure and limited SVZ land available, a proper s.32 analysis of costs and benefits needs to be appropriately tailored to the context. In the case of Punakaiki a more robust analysis to site level is considered to be necessary given the very real costs the proposed overlay imposes on realising the recognised tourism benefits.
- 7.9. I therefore consider that the following relief should be applied:
- a. Remove the Coastal Hazard Erosion and Inundation (Severe) Overlay from Scenic's landholdings and undertake property specific mapping to accurately determine the extent of the hazard overlays.
 - b. Remove the Coastal Hazard Inundation (Alert) Overlay 1 from Scenic's landholdings and undertake property specific mapping to accurately determine the extent of the hazard overlays.

Coastal Hazard Inundation (Setback) Overlay 2

- 7.10. Scenic also specifically submitted on the Coastal Hazard Inundation Overlay (Setback) 2, a small portion of which is located on their landholding at 4237 State Highway 6, Punakaiki. This land is shown in **Figure 1** below.



Figure 1: Coastal Hazard Inundation Overlay 2 (Coastal Setback) located over Scenic land

- 7.11. In their submission, Scenic requested that this overlay be removed from their landholding. This was on the basis that this overlay was not modelled, nor did it appear to be based on any physically defining feature or characteristic on this land.
- 7.12. This specific submission does not appear to have been addressed individually in the s42A Report but rather falls under the broader consideration of the extent of overlays in general⁸. However, an important clarification has been recommended in the overview/description at the start of the Natural Hazards Chapter. This clarification now provides greater explanation of how this overlay has been mapped. The explanation for this is provided in the s42A Report⁹ as follows:
- Under the variation, the Coastal Setback Overlay is a 30m wide buffer from the edge of the active shoreline that extends further inland than the Coastal Hazard Alert Overlay to capture seasonal changes in the shoreline and corresponding inundation hazard
- 7.13. I note that this portion of overlay on Scenic's land is not located directly adjacent to the active shoreline but rather is located primarily on an elevated upper terrace of this property which contains existing buildings. In addition, this overlay does not adjoin a Coastal Hazard Alert Overlay but rather a Coastal Hazard Severe Overlay, nor is it a uniform 30 metre wide buffer, but closer to 20 metres at it widest and 10m at its narrowest.
- 7.14. I therefore do not consider that this portion of overlay has been adequately justified or explained, nor does it appear to logically follow any obvious physically defining feature on the site. As a result, I consider this proposed overlay only adds

⁸ Paras 126-135 – s42a Report

⁹ Paragraph 34 – Coastal Hazards - Variation 2 - s42A Report

further regulatory constraint and uncertainty over this land and conflicts with the underlying zone driver to enable visitor accommodation to address tourism demand in Punakaiki.

7.15. I therefore consider that the following relief should be applied:

- Remove the Coastal Hazard Inundation (Setback) Overlay 2 from Scenic's land at 4237 State Highway 6, Punakaiki.

Policy NH-P3

7.16. Scenic's submission raised two points with regard to NH-P3. Firstly, it sought to change the policy from an 'avoid' directive, while the second point related to hard engineering solutions.

7.17. The policy recognises that in some circumstances, hard engineering solutions may be the only practical means of protecting existing communities and critical infrastructure. Scenic sought to expand this point to include the enabling of anticipated development in the underlying zone to ensure there was clarity that the policy was not only intended to protect the existing environment.

7.18. The Section 42A Report¹⁰ recommended rejection of Scenic's first point and considered that an avoid directive gives effect to the NZCPS. The second point raised by Scenic did not appear to be specifically addressed in the s42A Report.

7.19. Policy NH-P3 sits under the natural hazards objectives all of which are proposed to be subject to various amendments in accordance with the s42A Report recommendations¹¹. These objectives have also been assessed in the s42A Report as giving effect to the NZCPS.

7.20. Of these amended objectives, Objective NH-O1 now specifically addresses the Coastal Hazard Erosion and Inundation (Severe) Overlay, while Objective NH-O2 now addresses all other natural hazard overlays including the Coastal Hazard Inundation (Alert) Overlay 1 and Coastal Hazard Inundation (Setback) Overlay 2.

7.21. As a result of the recommended changes in the s42A Report, Objective NH-O1 now seeks to 'reduce or do not increase' the existing risk from natural hazards. By comparison, Objective NH-O2 now seeks to 'minimise the risk' from natural hazards.

7.22. Unlike Objective NH-O1 and NH-O2, Policy NH-P3 applies to all natural hazard overlays generally and sets out four criteria that would apply when considering how to manage natural hazards. Clause (b) of this criteria is proposed to be worded as follows:

¹⁰ Paragraph 275 – s42A Report

¹¹ Appendix 2 – NH Chapter – s42A Report

b. Avoid increasing risk to people, ~~property and the environment~~ and buildings; while...

- 7.23. I consider that the use of the word 'avoid' is not consistent with the wording of the overarching objectives as neither NH-O1, and particularly NH-O2, seek to 'avoid' increasing the risk to people and buildings. Rather, the NH-O1 seeks to 'reduce or do not increase', and NH-O2 seeks to 'minimise the risk' which reflects the risk profiles of the different overlays.
- 7.24. I consider that Clause (b) of Policy NH-P3 should therefore be adjusted to align with the wording used in NH-O1 and NH-O2.
- 7.25. With regard to clause (c), this is proposed in the s42A Report to be worded as follows:

*(c) Recognising that in some circumstances hard engineering solutions may be the only practical means of protecting ~~existing~~ communities and ~~critical~~ **regionally significant** infrastructure; ...*

- 7.26. I consider that hard engineering solutions, where necessary in accordance with this policy, are not only applicable to protecting communities and regionally significant infrastructure, but also enabling anticipated development, provided the resultant risk profile is either 'reduced and/or not increased', or 'minimised' in the context of the relevant hazard overlays. There are many examples around the country where hard engineering solutions both protect communities and also enable continued development and/or redevelopment to occur e.g. retaining walls, sea walls, stop banks and I consider that this policy should be amended to provide greater clarification and certainty on this matter to ensure it is not interpreted as protecting existing communities and infrastructure only.
- 7.27. Overall, I consider that the following relief (in green) to clauses (b) and (c) of NH-P3 should be applied in addition to the s42A Report recommendations (in black) for this policy.

NH-P3

When managing natural hazards:

- a. *Promote the use of natural features, **natural systems** and appropriate risk management approaches in preference to hard engineering solutions in mitigating natural hazard risks; and*
- b. *~~Avoid~~**Reduce or do not increase** risk to people, ~~property and the environment~~ **and buildings in the Coastal Hazard Erosion and Inundation Overlay and minimise risk to people and buildings in other hazard overlays**; while*
- c. *Recognising that in some circumstances hard engineering solutions may be the only practical means of protecting ~~existing~~ communities and ~~critical~~ **regionally significant** infrastructure **and enabling anticipated development**; and*
- d. ***Enabling planned and funded natural hazard mitigation works within the Natural Hazard Overlays where these works are being undertaken by a Statutory Agency or their nominated contractor and***

these will decrease the existing risk to people's lives and wellbeing, buildings and regionally significant infrastructure.

Policy NH-P10

- 7.28. Scenic submitted on Policy NH-P10 which applies to development of hazard sensitive activities e.g. visitor accommodation or residential, within the Coastal Erosion and Inundation (Severe) Overlay. The primary matters that Scenic are concerned with is the use of the word 'avoid' at the beginning of the policy and the directive policy criteria that requires the demonstration of an 'operational or functional need to locate within the hazard area'.
- 7.29. In the s42A Report¹², the reporting officer considers that where the risk to life is high, even if mitigation measures are proposed that address the risk, they maintain that an 'avoid' directive is still appropriate.
- 7.30. The s42A reporting officer also disagrees¹³ that the lack of suitably zoned alternative land is an acceptable reason to allow future development for sensitive activities in these areas, although no explanation appeared to be provided to justify this position.
- 7.31. As discussed under Policy NH-P3 above, the use of the word avoid is not considered to be consistent with the overarching objectives NH-O1 which instead uses the words 'reduce or do not increase'. I consider the word 'Limit' better reflects the full context of this policy taking into account the discussion on the NZCPS and RPS and other requested amendments to Policy NH-10 which are addressed below.
- 7.32. With regard to the 'functional or operational need' test that has been included in this policy, the reporting officer has commented¹⁴ that they consider this an important caveat for the policy and uses the example of a port or marina, which cannot be located anywhere else.
- 7.33. The term 'functional need' is referenced in the NZCPS most notably in Policy 6 (2)(c) and (d) which are set out below:

(c) recognise that there are activities that have a functional need to be located in the coastal marine area, and provide for those activities in appropriate places;

(d) recognise that activities that do not have a functional need for location in the coastal marine area generally should not be located there;

¹² Paragraph 288 – s42A Report

¹³ Paragraph 290 - s42A Report

¹⁴ Paragraph 289 – S42A Report

- 7.34. These policies apply to the Coastal Marine Area (CMA) only, noting that ports and marinas also tend to primarily occupy the CMA. The CMA is defined under the RMA as:

Coastal marine area means the foreshore, seabed, and coastal water, and the air space above the water—

(a) of which the seaward boundary is the outer limits of the territorial sea:

(b) of which the landward boundary is the line of mean high water springs, except that where that line crosses a river, the landward boundary at that point shall be whichever is the lesser of—

(i) 1 kilometre upstream from the mouth of the river; or

(ii) the point upstream that is calculated by multiplying the width of the river mouth by 5

- 7.35. The area covered by the coastal overlays as it relates to Scenic's land is not located within the CMA and therefore the use of functional need term does not readily sit within the context of the above mentioned NZCPS policies. There is also no other reference to determining functional or operational need in coastal hazard risk areas including Policies 24 and 25.

- 7.36. Functional need/requirement is however referenced in the West Coast Regional Policy Statement (RPS) most notably in Policy 3(b)(ii) as follows:

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).

e) By allowing lawfully established activities to continue provided the adverse effects are the same or similar in scale, character or intensity.

- 7.37. This RPS policy is framed as a 'provide for' policy subject to the listed criteria noting that there is no priority or hierarchy between the listed criteria.

- 7.38. The terms 'functional and operational need' are contained within one of the two limbs of clause (b) for which only one of these limbs needs to be satisfied.

- 7.39. Policy 3, Clause (b)(i) can therefore be read as providing for subdivision, use and development in the coastal environment which requires the use of natural and physical resources in the coastal environment.

- 7.40. Land is a natural resource. In the case of Punakaiki, I consider that the natural and physical resources referenced in Clause (b)(i) can reasonably be interpreted

to apply to the SVZ land. This SVZ land has been intentionally zoned in the TTPP for this specific activity and due to there being extremely limited SVZ land available in the area and very little opportunity to provide any more elsewhere due to geographical constraints, there are few alternatives to meet the growth and demand of tourism signalled in the TTPP for Punakaiki.

- 7.41. The terms 'functional and operational need' are also defined in the National Planning Standards as follows:

Functional need - means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment.

Operational need - means the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical, logistical or operational characteristics or constraints.

- 7.42. The SVZ is the only zone that specifically provides for visitor accommodation in the Punakaiki area. Around half of all of this zoning is subject to the Coastal Hazard Erosion and Inundation (Severe) overlay. Of the remaining SVZ land, around half again is subject to other highly constraining overlays related to other chapters in the TTPP. Furthermore, it is not permitted for visitor accommodation activities to occur in the Settlement Zone in the northern extent of Punakaiki and much of this land is also subject to a suite of hazard overlays and constraints.
- 7.43. I therefore consider that it is a reasonable proposition to conclude that the hazard planning framework has essentially neutralised the ability for the majority of the underlying SVZ zoning to be developed and virtually no other viable locations within or near Punakaiki have been made available to accommodate this activity. Consequently, the direction and intent of the underlying SVZ signalled in the SVZ Chapter of the TTPP cannot actually be met.
- 7.44. Given the situation that has been created, I consider that it is reasonable to conclude that there is a functional and operational need for this specific activity to operate in this particular coastal environment because the activity can realistically only occur in this environment through the lack of any alternative operating environment being provided by TTPP.
- 7.45. Given the interpretation of the s42A Reporting officer that they consider this situation would not meet the test of being considered functional or operational need, I also consider that greater clarity of this matter should be provided in the TTPP framework now rather than left to be debated in subsequent resource consent processes. I have therefore suggested relief to this effect and also to better align with the balance of criteria within RPS Policy 3(b).
- 7.46. It is important to again emphasise that I readily agree that provision for tourism activities in the extensive parts of the SVZ that are subject to natural hazard risk should still be subject to a proposal-specific assessment through a resource consent process. Clauses (b) and (c) of the policy are conjunctive with clause (a) and require proposals to demonstrate how risks are to be mitigated and to ensure effects on adjacent sites are not exacerbated.

- 7.47. As an additional comment, I note that the revised wording for Policy 10 (renumbered to Policy 6) in Appendix 2 of the s42A Report no longer flows correctly due to the removal of the words 'unless it can be demonstrated that' and therefore some minor correction is also required to address this.
- 7.48. The following relief (in green) to Policy NH-P10 is set out below in addition to the s42A Report recommendations (in black) for this policy.

NH-P10

~~Avoid~~ **Limit subdivision, use** and development of for **Potentially Hazard Sensitive and Hazard Sensitive Activities within the Coastal Severe Hazard and Flood Severe and Earthquake Severe Hazard and the Coastal Hazard Erosion and Inundation Overlay** ~~where:~~ ~~Overlays~~ **unless it can be demonstrated that:**

- a. The activity **subdivision, use or development** has:
- i. an operational and or functional need to locate within the hazard area, or**
 - ii Requires the use of the natural and physical resources in the coastal environment due to a lack of suitable alternative zoned land;**
- and
- b. ~~That the activity~~ The **subdivision, use or development** incorporates mitigation **measures that minimise** ~~the of risk to life, property and the environment, and there is significant public or environmental benefit in doing so~~ **people, buildings and regionally significant infrastructure; and**
- c. ~~In the Flood Severe Overlay the risk to people and buildings on adjacent sites is not increased as a result of the activity proceeding.~~

New Hazard Mitigation Structures Policy –NH-P11 (as renumbered in the s42A Report

- 7.49. In response to a number of submitters seeking entirely new provisions in the Plan, including Scenic, the s42A Report has recommended a new policy¹⁵ be included to provide greater direction on hard engineering structures.
- 7.50. The potential need and use of hard engineering structures is already incorporated into Policy NH-P3 clause (c) as discussed earlier.
- 7.51. The purpose of this new policy therefore is to provide additional direction and criteria as to when it might be appropriate to implement such structures as opposed to a natural solution.
- 7.52. I consider the proposed wording of this policy does result in some duplication or overlap with NH-P3. To this extent I consider that minor amendments should be made including the removal of the word 'Only' at the start of the policy and also to clause (f) regarding the need to demonstrate that 'green infrastructure measures would not provide an appropriate level of protection'.

¹⁵ Paragraph 260 – s42A Report

- 7.53. I consider that Policy NH-P3 sets out the hierarchy and pathway for when hard engineering solutions should or should not be used as opposed to natural or green solutions noting that it is still quite clear that natural solutions are to be prioritised where practicable. This new policy therefore does not need to create a separate pathway or test for when hard engineering structures can be implemented.
- 7.54. I have therefore recommended some minor amendments, which I consider will enable this policy to still provide improved direction for plan users as to what hard engineering structures need to achieve when they are considered to be the only practicable option under NH-P3.
- 7.55. The following relief (in green) to new the new Hazard Mitigation Structure Policy is set out below in addition to the s42A Report recommendations (in black).

New Policy NH-P11

~~Only Allow for hard engineering natural hazards mitigation works for the reduction of the risk from coastal hazards where:~~

~~a) The engineering measures are needed to protect existing nationally and regionally significant infrastructure and it can be demonstrated that there is no practicable alternative;~~

~~b) There is a demonstrable risk to existing nationally and regionally significant infrastructure, life or private property from the coastal hazard;~~

~~c) The construction of the hard engineering measures will not increase the risk from Coastal Hazards on adjacent properties that are not protected by the hard engineering measures;~~

~~d) Hard engineering structures are designed to minimise adverse effects on the coastal environment; and~~

~~e) Adverse effects on significant natural features and systems and their function as natural defences are avoided, remedied or mitigated; and~~

~~f) It can be demonstrated that green infrastructure measures would not provide an appropriate level of protection in relation to the significance of the risk.~~

Policy NH-P12

- 7.56. Scenic submitted on this policy seeking specific changes with regard to the use of the word 'effects' in clause (a), and the use of the term 'functional and operational need' in clause (g).
- 7.57. The s42A report¹⁶ addresses Scenic's submission by noting that changes are recommended to refer to the 'level of risk' rather than 'effects'. The s42A Report does not however, consider that it is appropriate to link zoning intent to a functional and operational need and therefore did not accept this aspect of Scenic's submission.

¹⁶ Paragraph 299 – S42A Report

- 7.58. I agree that the change to clause (a) to remove the reference to 'effects; is appropriate and better reflects the intent of the policy.
- 7.59. The matter of functional need has been discussed under the context of Policy NH-P10 earlier and I consider is equally applicable here. The only additional comment that I would add is that the functional and operational need that I consider is applicable in this case is not simply a matter of linking zoning intent. Rather, it is the lack of suitable alternative zoned land following the imposition of the Coastal Hazard Erosion and Inundation Overlay coupled with the specific intent within the TTPP to recognise the tourism demand in Punakaiki and need to enable growth and development to support tourism that creates the functional need.
- 7.60. I consider these circumstances are therefore unlikely to be replicated anywhere other than Punakaiki with regard to the SVZ. This is a specific situation that I do not consider that the S42A Report has actually addressed in any detail, but I consider that it is important that it is addressed to ensure that the provisions of the TTPP can operate with appropriate balance and a proper weighing of the costs and benefits under s32 is undertaken.
- 7.61. The following relief (in green) to Policy NH-P12 is set out below in addition to the s42A Report recommendations (in black).

NH-P128

When assessing the **actual and potential** effects of activities **subdivision, use and development** in the ~~the~~ **Natural Hazard** ~~o~~ **Overlays** consider:

- a. ~~The effects of~~ level of risk posed by natural hazards ~~on~~ to people, property and the environment buildings and regionally significant infrastructure;
- b. Existing and proposed ~~t~~Technological and engineering mitigation measures and other non-engineered options;
- c. The location and design of proposed sites, buildings, vehicle access, earthworks and regionally significant infrastructure in relation to the natural hazard risk;
- d. The clearance or retention of vegetation or other natural features to mitigate natural hazard risk;
- e. The timing, location, scale and nature of any earthworks in relation to the natural hazard ~~risk~~;
- f. The potential for the proposal to exacerbate natural hazard risk, including transferring risk to any other site;
- g. The functional or operational need to locate in these areas **(excluding Punakaiki)**
- h. **Within Punakaiki**
 - i. **The functional or operational need to locate in these areas; or**

ii. the need to use the natural and physical resources in the coastal environment due to a lack of suitable alternative zoned land; and

- h. Any ~~significant~~ adverse effects on the environment of any proposed mitigation measures.

Proposed New Policy - Punakaiki

- 7.62. Scenic submitted seeking a Punakaiki specific policy be included to recognise the specific circumstances at Punakaiki that have been discussed above. The intent of this separate policy was to recognise that there are circumstances that are unique and specific to Punakaiki in terms of very limited privately owned land, geographical constraints, very high visitor and tourism demand which is signalled in the TTPP to be enabled to grow and develop, while being very constrained through a range of proposed restrictive overlays including the coastal hazard overlays.
- 7.63. This new policy would recognise these specific factors and separate them from the balance of directive policies that apply more broadly across the West Coast coastal area but lack the planning nuance to be able to address the specific issues that Punakaiki faces.
- 7.64. The s42A reporting officer disagrees that a specific policy is required¹⁷ and considers that the planning provisions recommended in the s42A Report are appropriate.
- 7.65. While I have made recommendations to other provisions as discussed in this evidence as I consider the recommendations improve the workability of the provisions as they apply to the Districts more generally, I consider that the issues and constraints that apply to Punakaiki are unique and as such would benefit from a specific policy to recognise these and consequently provide better balance in the TTPP for this area.
- 7.66. This approach would also remove the interpretation debate around functional and operational need for Punakaiki, and provide a more balanced pathway for development to occur, but only where any risk from hazards is appropriately managed in accordance with the risk profile of each overlay i.e. reduce or do not increase risk in the Coastal Hazard Erosion and Inundation (Severe) Overlay and minimise risk in the Coastal Hazard Inundation (Alert) Overlay 1.
- 7.67. The proposed wording of this new policy has been modified slightly from that proposed in Scenic's submission to recognise the constraints of Punakaiki through a 'provide for' directive while still aligning with the overarching direction of NH-O1 and NH-O2 with regard to managing hazard risk.
- 7.68. The proposed policy wording is set out (in green) below.

¹⁷ Paragraph 257 – s42A Report

New Policy - Punakaiki

Provide for subdivision, use and development within Punakaiki that recognises its unique demands as a tourist destination as well as significant land and geographical constraints, provided:

- a. Subdivision, use and development within the Coastal Hazard Erosion and Inundation Overlay reduces or does not increase the existing risk from natural hazards to people, buildings, and regionally significant infrastructure; and**
- b. Subdivision, use and development within all other Coastal Hazard Overlays minimises the risk from natural hazards to people, buildings, and regionally significant infrastructure.**

Rule NH-R38/R1

- 7.69. Rule NH-R38 relates to the reconstruction and replacement of lawfully established buildings in natural hazard overlays. Scenic submitted seeking amendments to remove the criteria that rebuilds can only occur if there has been a disaster such as a fire.
- 7.70. In the s42A Report¹⁸, the reporting officer has recommended deletion of Rule NH-R38 and proposes instead to utilise rule NH-R1 to avoid overlap of similar provisions.
- 7.71. Their recommendations in the s42A Report to Rule NH-R1 include removing the ability for any reconstruction of lawfully established buildings, and providing for replacement of lawfully established buildings only where those buildings have been lost due to fire or a natural hazard event. In addition, any replacement must occur within 3 years and be of similar character, intensity and scale and comply with minimum floor level requirements.
- 7.72. I disagree with some aspects of this approach. Firstly, I consider that where a building or activity is lawfully established and has existing use rights under Section 10 of the RMA, then it should be allowed to be either rebuilt or replaced regardless of whether there has been a fire or natural disaster. In terms of effects, I consider that there is no difference in the outcome provided the scale, character and intensity of any rebuild or replacement remains the same. I agree that minimum floor level requirements should be required to be met and that this would result in the risk profile of any replacement or rebuild being either reduced, not increased, or minimised, in line with the respective outcomes sought under NH-O1 and NH-O2.
- 7.73. I also consider that replacing any building within 3 years should be reverted to the 5-year time period as originally notified. There appeared to be no detailed explanation as to why a 3-year replacement period has now been proposed in the s42A Report. I consider that a 5-year time period provides greater flexibility to

¹⁸ Paragraph 327 – s42A Report

undertake any rebuild or replacement which may be of a large scale and could require an extended period of time to complete or be subject to protracted insurance settlement processes. I also note that for any resource consent, a lapsing period of 5 years (section 125 RMA) is provided to give effect to the consent and consider that this provides good justification that a 5-year period is a reasonable timeframe to give effect to a development.

- 7.74. The following relief (in green) to Rule NH-R1 is set out below in addition to the s42A Report recommendations (in black).

NH-R1 – Reconstruction and Replacement of Lawfully Established Buildings in all Natural Hazard Overlays

Permitted Where:

1. This is the reconstruction/replacement of a ~~building~~ lawfully established building ~~at the time of notification of the Plan~~; and

~~2. The building has been destroyed or substantially damaged due to fire, natural disaster or Act of God or a natural hazard event and is located in the Flood Susceptibility, Earthquake Susceptibility, Land Instability, Coastal Hazard Inundation Overlay 1, Coastal Hazard Inundation Overlay 2, Hokitika Coastal or Westport Hazard Overlay; and~~

3. ~~The destroyed/damaged building is reconstructed or replaced within 2 years in the Westport Hazard, Coastal Severe and Flood Severe Overlays. If the building is to contain a Potentially Hazard Sensitive or Hazard Sensitive Activity and is within the Flood Susceptibility, Coastal Hazard Erosion and Inundation Overlay, Coastal Hazard Inundation 1, Coastal Hazard Inundation Overlay 2, Hokitika Coastal, or Westport Hazard Overlay, then the replacement building complies with the minimum floor level requirement of the specific Natural Hazard Overlay Rules; and~~

4. The destroyed/damaged/replaced building is replaced within 5 3 years ~~in all other natural hazard overlays~~; and

5. ~~The reconstructed/replaced building is similar in character, intensity and scale to the building that it replaces. The gross floor area of the replacement building is the same, or smaller than the building that~~ was replaced was destroyed.

Rule NH-R44

- 7.75. Scenic submitted on Rule NH-R44 seeking that the rule default status of non-complying be amended to discretionary. The reasoning for this was based on the policy pathway under NH-P10 which while directive, still provides a pathway for consenting subject to meeting criteria around minimising the risk to people, buildings and demonstrating an operational or functional need to locate in the hazard area. If these criteria can be met, then this policy direction will be met

however, the activity will still be subject to the constraints and general planning perception that comes with a non-complying status.

- 7.76. I also consider that a non-complying status, coupled with a directive 'avoid' policy as currently proposed in the s42A Report for the Coastal Hazard Erosion and Inundation Overlay will be generally akin to allowing no further development in these overlays.
- 7.77. Given the proposed recommendation in the s42A Report¹⁹ to not provide for rebuilds of the same scale, character and intensity (as discussed under Rule NH-38/NH-R1 above) and only allowing 3 years to replace buildings lost to natural disaster, this can also be interpreted to mean the actual intention of the reporting officer is to progressively remove subdivision, use and development from within this overlay area over time.
- 7.78. This approach is more aligned with managed retreat, however, the s42A reporting officer has at the same time made it clear that the TTPP does not seek to facilitate managed retreat²⁰ and that any provisions for managed retreat would be better introduced into the TTPP once the details of how the managed retreat is to implemented are clearer²¹.
- 7.79. The s42A report therefore implicitly seeks a 'managed retreat' outcome – namely to avoid new development, avoid replacement buildings, and limit buildings lost through a hazard event to having to be rebuilt within 3 years regardless of any practical delays such as protracted insurance settlements or the time needed to undertake site-specific investigation, modelling, design, and consenting for mitigation works i.e. managed retreat in all but name. Yet the s42A report authors have expressed a reluctance to provide explicit policy direction or to undertake a proper s32 assessment on managed retreat due to the uncertainties inherent to properly resolving an effective framework for managed retreat. This leaves landowners with a framework that delivers 'retreat' without the 'managed' component.
- 7.80. The s42A Report²² states that the proposed non-complying status gives effect to Policy 25 of the NZCPS which seeks to avoid increasing the risk from coastal hazards in areas potentially affected by coastal hazards over the next 100 years.
- 7.81. I note that Policy 25 of the NZCPS uses the word 'avoid' for two of its six clauses which are set out below:

(a) avoid increasing the risk of social, environmental and economic harm from coastal hazards;

(b) avoid redevelopment, or change in land use, that would increase the risk of adverse effects from coastal hazards;

¹⁹ Paragraph 359 – s42A Report

²⁰ Paragraph 147 – s42A Report

²¹ Paragraph 288 – s42A Report

²² Paragraph 449 – s42A Report

- 7.82. These policies are focussed on avoiding any increase in risk rather than avoiding any development or use of land in these areas outright, or where new development is able to be undertaken in a manner that mitigates risk.
- 7.83. I consider that the above clauses of the NZCPS can be met in instances where the risk can be managed to an extent that it is not increased from the existing level. This is something that would need to be determined via a site-specific Hazard Risk Assessment which would need to reach a conclusion that risk will not be increased, whether that be through the use of design or other mitigations.
- 7.84. Given the uncertainty with regard to the accuracy of the overlays as they relate to Punakaiki (in lieu of property specific hazard mapping), and the restrictive but potential pathway set out in the NZCPS and proposed policy framework, I do not consider that there has been sufficient justification to warrant a non-complying status combined with an 'avoid' policy, particularly for areas where no consideration has been given to managed retreat or alternative land to accommodate the activities that will be prevented from occurring. Rather I consider that a discretionary status coupled with a directive policy framework will still achieve the broad level risk-based outcomes sought for this overlay while achieving a more appropriate balance with regard to the ability for site-specific designs to mitigate risk and the competing outcomes signalled in other sections of the TTPP, particularly for Punakaiki.
- 7.85. Alternatively, a discretionary status rule for Punakaiki coupled with specific Punakaiki policy as discussed above would also address this matter and remove any potential unintended consequences across the remainder of the West Coast with regard to these provisions. Both options are presented below.

Rule NH-R44 – Option 1

NH-R4419 ~~Coastal Severe Overlay: Additions to Existing Buildings and New Buildings for containing Hazard Sensitive Activities and Additions and Alterations of Buildings that increase the net floor area for Sensitive Activities in the Coastal Hazard Erosion and Inundation Overlay.~~

Activity Status ~~Non-complying~~ Discretionary

Rule NH-R44 – Option 2

NH-R4419 ~~Coastal Severe Overlay: Additions to Existing Buildings and New Buildings for containing Hazard Sensitive Activities and Additions and Alterations of Buildings that increase the net floor area for Sensitive Activities in the Coastal Hazard Erosion and Inundation Overlay~~
(excluding Punakaiki).

Activity Status Non-complying

NH-Rxx Additions to Existing Buildings and New Buildings containing Hazard Sensitive Activities in the Coastal Hazard Erosion and Inundation Overlay in Punakaiki.

Activity Status: Discretionary

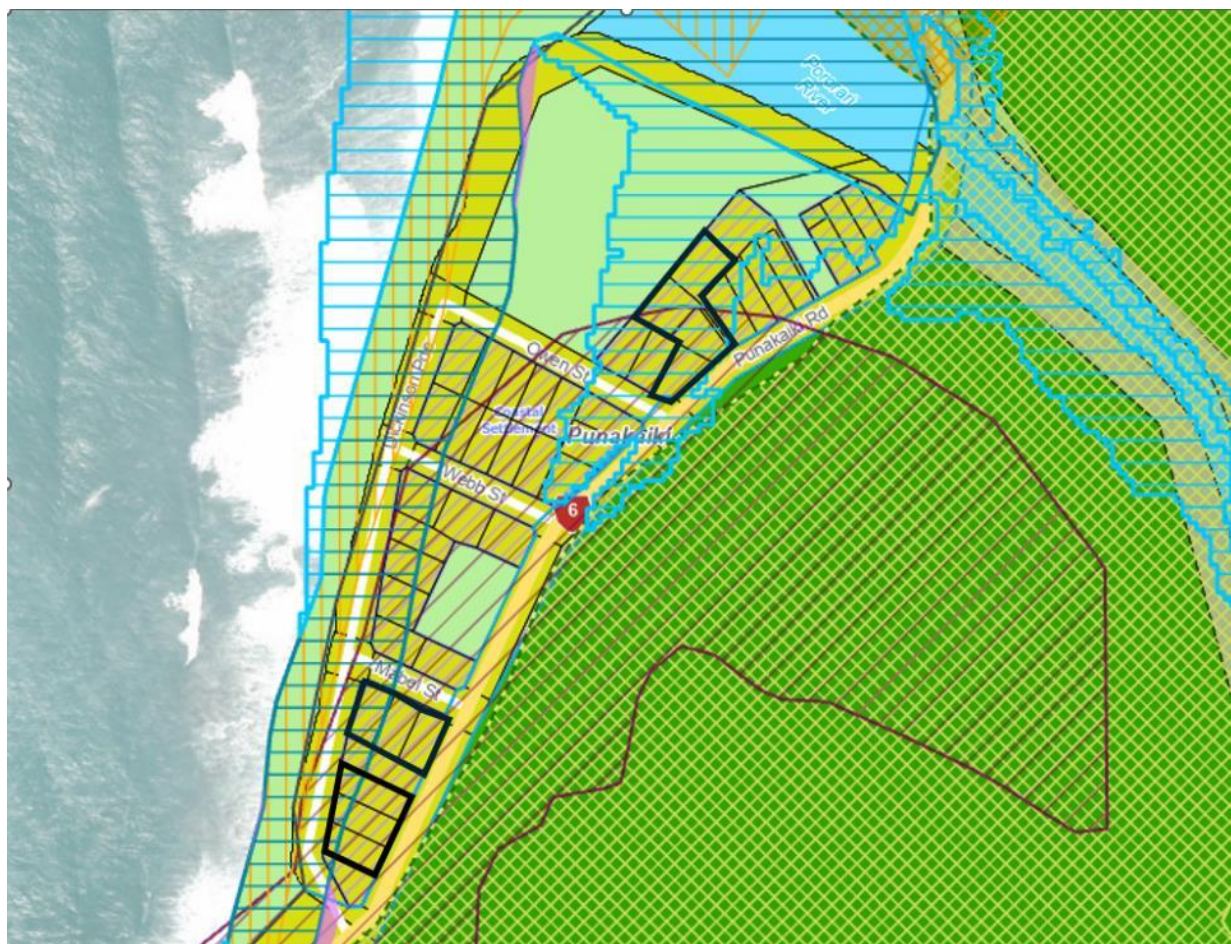
8. CONCLUSION

- 8.1. Overall, I consider that amendments sought in this evidence will provide for improved balance and function of the TTPP, particularly with regard to the special circumstances of Punakaiki, while not diminishing the need to provide an effective framework for appropriately managing the risks associated with Coastal Hazards.
- 8.2. I also attach a s32/32AA assessment (**Appendix D**) to this evidence which evaluates the changes proposed in my evidence.

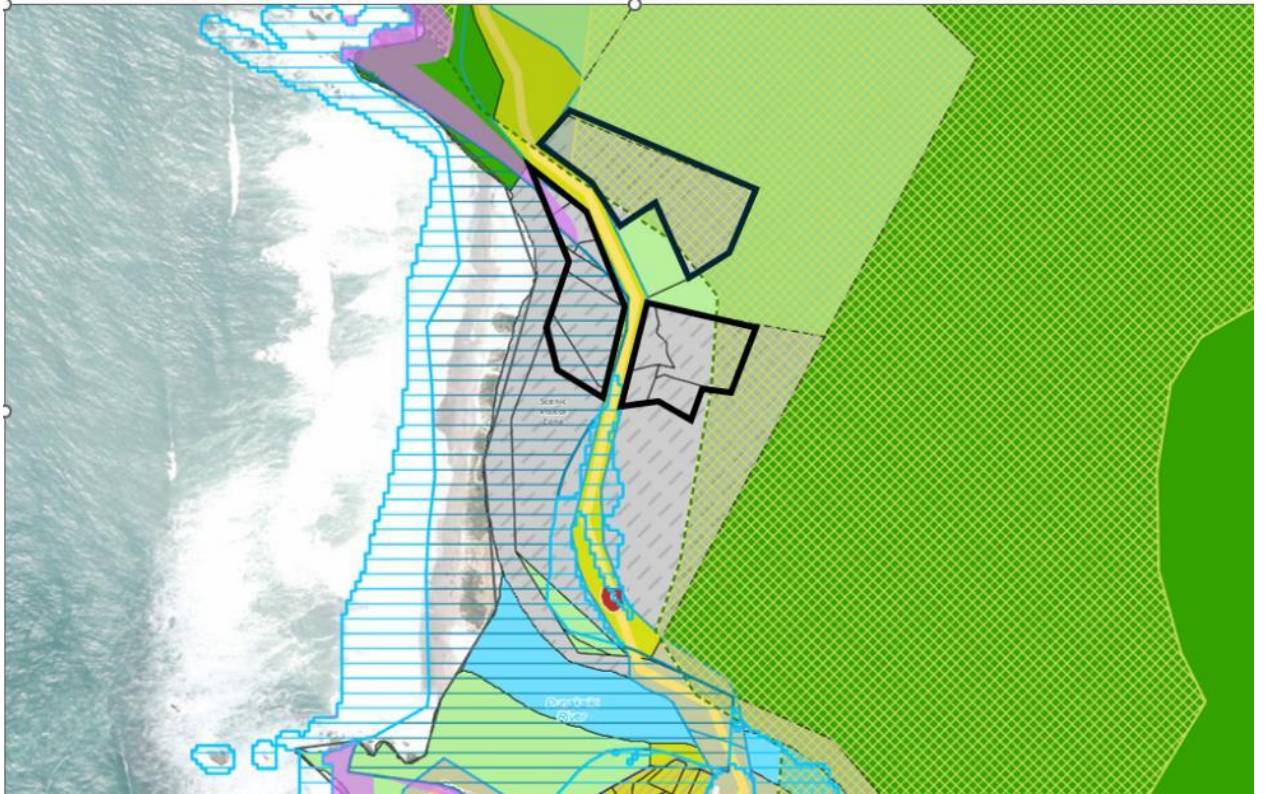
APPENDIX A

1. My name is Samuel David Flewellen. I am a Consultant Planner and Partner at Planz Consultants Limited.
2. I hold Bachelor of Resource Studies (Environmental Management) degree and Post Graduate Diploma in Resource Studies (Environmental Management) from Lincoln University. I am a full Member of the New Zealand Planning Institute and have completed the Making Good Decisions certification.
3. I have been employed in the practice of planning and resource management for approximately 20 years both in New Zealand and the United Kingdom.
4. My relevant planning experience includes:
 - The preparation of submissions and/or evidence on a number of planning processes including:
 - The review of Proposed District and Regional Plans on behalf of Fonterra Limited including the Selwyn District Plan, Southland District Plan, Hurunui District Plan, and South Taranaki District Plan.
 - Plan Change 29 to the Nelson City Council Resource Management Plan on behalf of Nelson Airport Ltd which incorporates new housing density provisions along with new hazard overlays.
 - Christchurch City Council District Plan Review on behalf of numerous clients including the Cassels family regarding the Woolston Tannery complex.
 - The preparation of Plan Change 4 to the Southland District Plan to provide for a noise control boundary for the Fonterra Edendale site.
 - Preparation of notice of requirements for NZTA and multiple outline plan processes for NZTA, Christchurch International Airport Limited and Nelson Airport Limited.
 - Preparation of numerous complex resource consents for a wide of range of clients including comprehensive housing developments, large industrial premises, and a range of non-residential activities. These developments have canvassed a range of District and Regional Planning documents across the country and a range of matters including: building bulk and location, building density, landscape and visual amenity, outstanding natural landscapes, intensive farming rural activities, traffic, noise, reverse sensitivity, subdivision, and natural hazards.
 - Processing numerous complex resource consents on behalf of Christchurch City Council and Selwyn District Council for a range of activities including the preparation and presentation of evidence at multiple hearings and also the Environment Court.

APPENDIX B



Northern Punakaiki Area – Scenic Landholdings in black outline



Southern Punakaiki Area – Scenic Landholdings in black outline

APPENDIX C

Section 42A provisions accepted by Scenic²³

Objective NH-O1	<p>To use a regionally consistent, risk-based approach to natural hazard management.</p> <p><u>Subdivision, use and development within the Severe Natural Hazard and the Coastal Hazard Erosion and Inundation Overlays reduces or does not increase the existing risk from natural hazards to people, buildings, and regionally significant infrastructure.</u></p>
Objective NH-O2	<p>To reduce the risk to life, property and the environment from natural hazards, thereby promoting the well-being of the community and environment.</p> <p><u>Subdivision, use and development within all other Natural Hazard Overlays minimises the risk from natural hazards to people, buildings, and regionally significant infrastructure.</u></p>
Objective NH-O6	<p>Measures taken to mitigate natural hazards do not create or exacerbate adverse effects on other <u>increase the risks to people, property, buildings and regionally significant infrastructure and the environment.</u></p>
Policy NH-P5	<p>When assessing areas suitable for managed retreat, the following matters will be considered:</p> <p>a. That the natural hazard risk of the area is less than the existing location, and</p> <p>b. The potential future need to protect the community and associated infrastructure by hazard mitigation works.</p>
Policy NH-P11	<p>Allow <u>Provide for subdivision, use and development for Potentially Hazard Sensitive Activities and Hazard Sensitive Activities in the Land Instability, Alert, Coastal Alert and Coastal Hazard Inundation Overlay 1, Coastal Hazard Inundation Overlay 2, Flood Susceptibility and Earthquake Susceptibility Hazard overlays where:</u></p> <p>a. Mitigation measures avoid risk to life and are incorporated to minimise the risk to property and the environment people, buildings and regionally significant infrastructure; and</p> <p>b. In the Flood Susceptibility and Land Instability Overlays the risk to adjacent properties, activities and people and buildings on adjacent sites is not increased as a result of the activity proceeding.</p>

²³ As per Appendix 2 of s42A Report

Rule R39	<table> <tr> <td data-bbox="504 197 692 349">NH - R3914</td><td data-bbox="692 197 1437 349"><u>New-Unoccupied Buildings and Structures in the Coastal Severe and Coastal Alert Overlays Additions to Existing Buildings and New Buildings containing Less Hazard Sensitive Activities in the Coastal Hazard Erosion and Inundation Overlay and Coastal Hazard Inundation Overlay 1.</u></td></tr> <tr> <td data-bbox="504 349 1158 501">Activity Status Permitted</td><td data-bbox="1158 349 1437 501"> Activity status where compliance not achieved: N/A </td></tr> </table>	NH - R3914	<u>New-Unoccupied Buildings and Structures in the Coastal Severe and Coastal Alert Overlays Additions to Existing Buildings and New Buildings containing Less Hazard Sensitive Activities in the Coastal Hazard Erosion and Inundation Overlay and Coastal Hazard Inundation Overlay 1.</u>	Activity Status Permitted	Activity status where compliance not achieved: N/A		
NH - R3914	<u>New-Unoccupied Buildings and Structures in the Coastal Severe and Coastal Alert Overlays Additions to Existing Buildings and New Buildings containing Less Hazard Sensitive Activities in the Coastal Hazard Erosion and Inundation Overlay and Coastal Hazard Inundation Overlay 1.</u>						
Activity Status Permitted	Activity status where compliance not achieved: N/A						
Rule R41	<table> <tr> <td data-bbox="504 524 692 647">NH - R4116</td><td data-bbox="692 524 1437 647"><u>Additions and Alterations of Existing Buildings used for Sensitive Activities in the Coastal Severe and Coastal Alert Overlays Additions to Existing Buildings containing Hazard Sensitive Activities in the Coastal Hazard Inundation Overlay 1.</u></td></tr> <tr> <td data-bbox="504 647 1158 1050"> Activity Status Permitted Where: 1. <u>There is no increase in net floor area used for a sensitive activity.</u> Activity Status Restricted Discretionary Activity Discretion is restricted to: a. <u>The risk from coastal hazards on people and property and any measures to reduce or mitigate this risk;</u> b. <u>The management of vegetation or other natural features to mitigate natural hazard risk;</u> </td><td data-bbox="1158 647 1437 1050"> Activity status where compliance not achieved: <u>Discretionary</u> <u>for Coastal Alert</u> <u>Non-complying</u> <u>for Coastal Severe</u> N/A </td></tr> <tr> <td data-bbox="504 1050 1158 1368"> c. <u>The potential for there to be an increase in the risk of coastal erosion to neighbouring properties from either the design of the proposed development or any mitigation measures to reduce the risk to future occupants or buildings.</u> d. <u>Any potential impacts on the natural environment or changes in natural processes as a result of any natural hazard mitigation measures use to reduce the risk to the building.</u> </td><td data-bbox="1158 1050 1437 1368"></td></tr> </table>	NH - R4116	<u>Additions and Alterations of Existing Buildings used for Sensitive Activities in the Coastal Severe and Coastal Alert Overlays Additions to Existing Buildings containing Hazard Sensitive Activities in the Coastal Hazard Inundation Overlay 1.</u>	Activity Status Permitted Where: 1. <u>There is no increase in net floor area used for a sensitive activity.</u> Activity Status Restricted Discretionary Activity Discretion is restricted to: a. <u>The risk from coastal hazards on people and property and any measures to reduce or mitigate this risk;</u> b. <u>The management of vegetation or other natural features to mitigate natural hazard risk;</u>	Activity status where compliance not achieved: <u>Discretionary</u> <u>for Coastal Alert</u> <u>Non-complying</u> <u>for Coastal Severe</u> N/A	c. <u>The potential for there to be an increase in the risk of coastal erosion to neighbouring properties from either the design of the proposed development or any mitigation measures to reduce the risk to future occupants or buildings.</u> d. <u>Any potential impacts on the natural environment or changes in natural processes as a result of any natural hazard mitigation measures use to reduce the risk to the building.</u>	
NH - R4116	<u>Additions and Alterations of Existing Buildings used for Sensitive Activities in the Coastal Severe and Coastal Alert Overlays Additions to Existing Buildings containing Hazard Sensitive Activities in the Coastal Hazard Inundation Overlay 1.</u>						
Activity Status Permitted Where: 1. <u>There is no increase in net floor area used for a sensitive activity.</u> Activity Status Restricted Discretionary Activity Discretion is restricted to: a. <u>The risk from coastal hazards on people and property and any measures to reduce or mitigate this risk;</u> b. <u>The management of vegetation or other natural features to mitigate natural hazard risk;</u>	Activity status where compliance not achieved: <u>Discretionary</u> <u>for Coastal Alert</u> <u>Non-complying</u> <u>for Coastal Severe</u> N/A						
c. <u>The potential for there to be an increase in the risk of coastal erosion to neighbouring properties from either the design of the proposed development or any mitigation measures to reduce the risk to future occupants or buildings.</u> d. <u>Any potential impacts on the natural environment or changes in natural processes as a result of any natural hazard mitigation measures use to reduce the risk to the building.</u>							

Rule R43	Discretionary Activities	
	NH – R43	<u>Coastal Alert Overlay: New Buildings for Sensitive Activities and Additions and Alterations of existing Buildings that increase the net floor area for Sensitive Activities</u>
	Activity Status Discretionary Where: 1. <u>These are located in the Coastal Alert Overlay</u>	Activity status where compliance not achieved: N/A
	NH – R4318	<u>New Buildings Containing Hazard Sensitive Activities in the Coastal Hazard Inundation Overlay 1.</u>
	Activity Status Restricted Discretionary Where: 1. <u>This is accompanied by a natural hazard risk assessment prepared by a suitably qualified and experienced person.</u> Discretion is restricted to: <ol style="list-style-type: none"> <u>The risk from coastal hazards on people and property and any measures to reduce or mitigate this risk;</u> <u>The management of vegetation or other natural features to mitigate natural hazard risk;</u> <u>The potential for there to be an increase in the risk of coastal erosion to neighbouring properties from either the design of the proposed development or any</u> 	Activity status where compliance not achieved: Non-Complying Discretionary
	<ol style="list-style-type: none"> <u>mitigation measures to reduce the risk to future occupants or buildings.</u> <u>Any potential impacts on the natural environment or changes in natural processes as a result of any natural hazard mitigation measures use to reduce the risk to the building.</u> 	
Rule R45	Restricted Discretionary Activities	
	NH - R4522	New Buildings <u>for containing Hazard</u> Sensitive Activities in the Coastal Setback Overlay 2 <u>Coastal Hazard Inundation Overlay 2</u>
	Activity Status Restricted Discretionary Where:	Activity status where compliance not achieved:

	<p>1. This is accompanied by a natural hazard risk assessment prepared by a suitably qualified and experienced person.</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. The level of risk as assessed by a suitably qualified and experienced person; b. The location and design of proposed sites, building, structures, vehicle access in relation to natural hazard risk e. The modification or retention of vegetation or other natural features to mitigate natural hazard risk; d. The impact of underlying geology and topography of the site on hazard risk; e. The potential of the proposal to exacerbate natural hazard risk, including transferring risk to another site; f. Any adverse effects on the environment of any proposed natural hazard mitigation structures. a. <u>The risk from coastal hazards on people and property and any measures to reduce or mitigate this risk;</u> b. <u>The management of vegetation or other natural features to mitigate natural hazard risk;</u> c. <u>The potential for there to be an increase in the risk of coastal erosion to neighbouring properties from either the design of the proposed development or any mitigation measures to reduce the risk to future occupants or buildings.</u> d. <u>Any potential impacts on the natural environment or changes in natural processes as a result of any natural hazard mitigation measures use to reduce the risk to the building.</u> 	<p>Non - complying</p>
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APPENDIX D

S32/s32AA Evaluation Assessment

Section 32AA ASSESSMENT

In respect of a Section 32 / 32AA evaluation of the issues raised in my evidence, along with the proposed amendments to provisions which I have recommended (as set out as an attachment to my evidence), I provide the following assessment and commentary:

Extent of Overlays

Amendments are sought to the coastal hazard overlays as recommended in the s42A Report. These overlays are:

- **Coastal Hazard Erosion and Inundation (Severe) Overlay** - The changes seek that this overlay is removed from Scenic's landholdings and property specific mapping is undertaken to accurately determine the extent of any coastal hazard.
- **Coastal Hazard Inundation (Alert) Overlay 1** - The changes seek that this overlay is removed from Scenic's landholdings and property specific mapping is undertaken to accurately determine the extent of any coastal hazard.
- **Coastal Hazard Inundation (Setback) Overlay 2** - The changes seek that this overlay is removed from Scenic's land.

Effectiveness and efficiency	<ul style="list-style-type: none">• The provision of property specific hazard mapping for Scenic's land in Punakaiki will result in a high degree of overlay accuracy to ensure any associated planning interventions are better justified, particularly in terms of providing direction and balance with regard to the specific competing tensions and challenges with regard to the provisions in the TTPP that relate to Punakaiki.
Costs/Benefits	<ul style="list-style-type: none">• The provision of property specific hazard mapping will ensure a high degree of accuracy to ensure any associated planning interventions (and associated costs and benefits) are suitably justified. For example, if the overlay over Scenic's land is determined to be reduced compared to the modelled overlay then this will reduce significant costs associated with the constraints of the overlays. In turn, this will enable benefits to Punakaiki with regard to meeting the underlying zone direction.
Risk of acting or not acting	<ul style="list-style-type: none">• The risk of acting (to implement the recommended changes) is that significant inaccuracies are identified in the modelled overlay extent which could result in large reductions or increases in the overlay extent and therefore require further consideration to be undertaken to the balance of provisions that relate to these

	<p>overlays to ensure the associated provisions are still efficient and effective.</p> <ul style="list-style-type: none"> • Conversely the risk of not acting (to not implement the recommended changes) is that the significant extent of the proposed overlays will remain and will be coupled with a non-complying status and 'avoid' policy framework (based on current s42A recommendations). • Therefore, even if property specific mapping is undertaken separately by an applicant that shows a different and potentially reduced hazard extent, any activity will still be subject to this restrictive framework.
Decision about more appropriate action.	<ul style="list-style-type: none"> • Given the above consideration, the recommended changes as set out in my evidence are considered to be more appropriate in achieving the purpose of the RMA than the notified version of the TTPP or the proposed changes set out in the section 42A report.

Policy Framework

Amendments are sought to three notified policies and one new policy as recommended in the s42A Report. These policies are:

- **Policy NH-P3** - Applies to all natural hazard overlays generally and comprises four criteria that would apply when considering how to manage natural hazards. Recommended amendments to Policy NH-P3 are set out in my evidence.
- **Policy NH-P10** - Applies to development of hazard sensitive activities within the Coastal Erosion and Inundation (Severe) Overlay. Recommended amendments to Policy NH-P10 are set out in my evidence.
- **New Policy NH-11**. Applies to the consideration of new hard engineering hazard mitigation structures. I have recommended minor amendments, which will enable this policy to provide improved direction for plan users as to what hard engineering structures need to achieve when they are considered to be the only practicable option available under Policy NH-P3.
- **Policy NH-P12** – applies to the assessment of all subdivision, use and development activities within all natural hazard overlays. Recommended amendments are proposed

to recognise the specific circumstances for Punakaiki with regard to the constraints of the coastal hazard overlays and associated provisions.

A new Punakaiki specific policy is also recommended in my evidence as follows:

- **New Policy – Punakaiki** - To recognise that there are circumstances that are unique and specific to Punakaiki in terms of very limited privately owned zoned land, geographical constraints, very high visitor and tourism demand which is signalled to need to grow and develop, while being very constrained through a range of restrictive overlays including the coastal hazard overlays.

Effectiveness and efficiency	<ul style="list-style-type: none"> • The recommended changes to Policy NH-P3 and NH-P10 will be more effective in aligning with the overarching wording of, and delivering the outcomes sought by, Objectives NH-O1 and NH-O2. • The recommended changes to New Policy 11 will remove potential duplication and overlap with Policy NH-P3 while providing improved direction for plan users as to what hard engineering structures need to achieve when they are considered to be the only practicable option under NH-P3(c). • The recommended new Punakaiki specific policy will recognise and provide specific direction on the circumstances that Punakaiki faces. This will separate Punakaiki from the balance of policies that apply more broadly across the West Coast coastal hazard overlay areas and address the lack of planning nuance to be able to address location specific issues.
Costs/Benefits	<ul style="list-style-type: none"> • The recommended changes to the policies will provide for a greater balance between the enablement of activities signalled as necessary to achieve the outcomes sought for Punakaiki and the need to manage and mitigate activities from the effects of natural hazards. • This improved balance will provide greater potential for benefits to be realised compared to the costs of constraining land.
Risk of acting or not acting	<ul style="list-style-type: none"> • The risk of acting (to implement the recommended changes) is that unanticipated consequences may occur in some areas where there are similar circumstances to Punakaiki. However, Punakaiki is very

	<p>specifically identified in the TTPP in terms of the need to support tourism and therefore this risk is considered low.</p> <ul style="list-style-type: none"> • Conversely the risk of not acting (to not implement the recommended changes) is that there will remain internal inconsistencies and imbalance in the TTPP and the key policy direction for the underlying zone will not be achieved.
Decision about more appropriate action	<ul style="list-style-type: none"> • Given the above consideration, the recommended changes as set out in my evidence are considered to be more appropriate in achieving the purpose of the RMA than the notified version of the TTPP or the proposed changes set out in the section 42A report.

Rule framework

Amendments are sought to two notified rules as recommended in the s42A Report. These rules are:

- **Rule – NH-R38/R1** – Applies to the reconstruction and replacement of lawfully established buildings. Recommended amendments are proposed to provide for rebuilds of a similar scale, character and intensity to be permitted regardless of whether they have been lost to a natural disaster or not.
- **Rule – NH-R44** – Applies a non-complying status to any additions to existing buildings and new buildings containing hazard sensitive activities in the Coastal Hazard Erosion and Inundation (Severe) Overlay. Recommended amendments are proposed to remove the constraints and planning perception that comes with a non-complying status and utilise a discretionary activity status instead.

Effectiveness and efficiency	<ul style="list-style-type: none"> • Providing for the ability to reconstruct lawfully established buildings and activities within a hazard area will ensure that existing use rights are acknowledged and protected while risk mitigation (through minimum floor levels) is also appropriately applied which will align with overarching objectives NH-O1 and NH-O2. • Providing for new buildings in the overlays as a discretionary activity (either generally or in a Punakaiki specific rule) will achieve greater balance in the TTPP in relation to the key policy direction for the underlying SVZ zone in Punakaiki.
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Costs/Benefits	<ul style="list-style-type: none"> • The recommended changes to the policies will provide for a greater balance between the enablement of activities signalled as necessary to achieve the outcomes sought for Punakaiki and the need to manage and mitigate activities from the effects of natural hazards. • This improved balance will provide greater potential for benefits to be realised compared to the costs of constraining land to a level that can be considered to direct 'retreat' only.
Risk of acting or not acting	<ul style="list-style-type: none"> • The risk of acting (to implement the recommended changes) is that unanticipated consequences may occur in some areas where there are similar circumstances to Punakaiki. However, Punakaiki is very specifically identified in the TTPP in terms of the need to support tourism and therefore this risk is considered low. • Conversely the risk of not acting (to not implement the recommended changes) is that the TTPP framework will remain directed towards one of 'retreat' in lieu of any managed retreat policy or alternative land being made available or properly considered. As a result, there will remain internal inconsistencies and imbalance in the TTPP and the direction for the underlying zone will not be achieved.
Decision about more appropriate action.	<ul style="list-style-type: none"> • Given the above consideration, the recommended changes as set out in my evidence are considered to be more appropriate in achieving the purpose of the RMA than the notified version of the TTPP or the proposed changes set out in the section 42A report.