

Form 5

Submission on Te Tai o Poutini Plan Variation 2 – Coastal Natural Hazards Mapping

Clause 6 of Schedule 1, Resource Management Act 1991

To: **Te Tai o Poutini Plan Committee**
Name of Submitter: **MTP Limited**

Introduction

1. This is a submission on behalf of MTP Limited (“**Submitter**”) on the proposed Te Tai o Poutini Plan (“**TTPP**”) Variation 2 – Coastal Natural Hazard Mapping (“**Variation**”).
2. The Submitter could not gain an advantage in trade competition through this submission.
3. The Submitter wishes to be heard in support of this submission.
4. If others make a similar submission, the Submitter will consider presenting a joint case with them at the hearing.

Background

5. The Submitter owns land at 19 and 29 Fox Moth Drive, Okuru, South Westland, legally described as Lot 10 DP 498766 and Lot 15 DP 498766.
6. The Submitter’s properties are shown in **Figure 1** below:



Figure 1 Location of the properties that the Submitter has an interest in, indicated by yellow outline (Grip Maps).

7. The Submitters land is located in the subdivision known as Hapuka Landing. This development authorised by subdivision consent creating 18 allotments for residential living, each with land use consent for residential buildings. The resource consent – subdivision and land use – has been given effect to as set out in *MTP Ltd v Westland District Council*.
8. Under the Variation mapping, the Submitter’s properties are included in the ‘Severe’ mapping layer (red). This area is shown in **Figure 2**:



Figure 2 Coastal Hazards Variation Layer - ‘Severe’ mapping layer (red) (TTPP)

9. Under the proposed TTPP the properties are included in the ‘Flood Plain’ layer with no other hazard overlays applicable to the site layer shown in Error! Reference source not found. below:

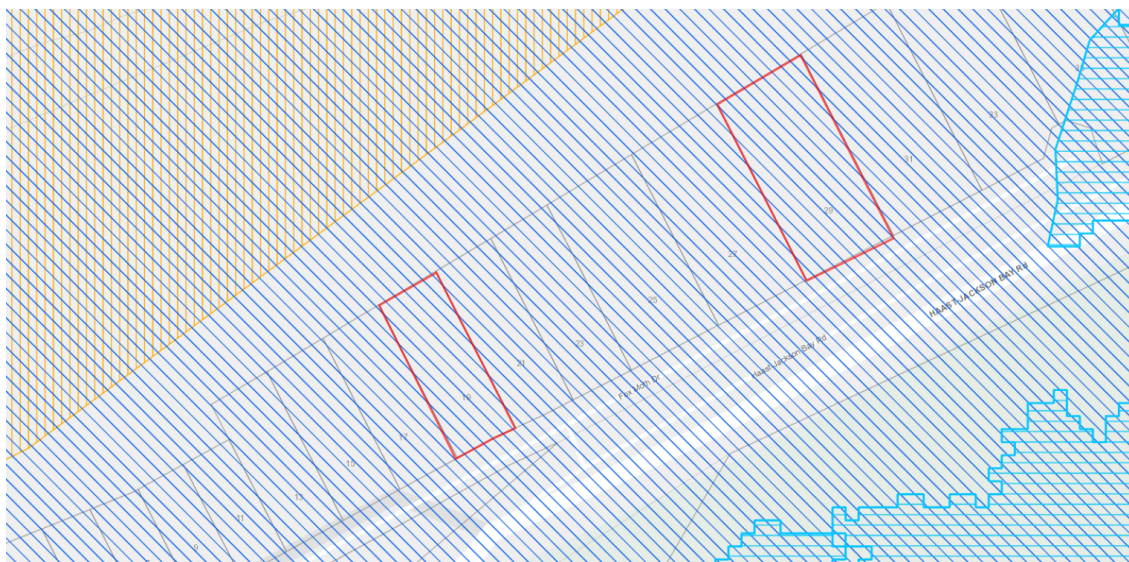


Figure 3 Existing TTPP Hazards Layers. Only ‘Flood Plain’ layer (dark blue stripe) applies to the Submitters sites.

Submission

10. The Submitter opposes the Variation in its entirety.

Mapping

11. The Variation mapping is opposed. The reasons include:

- a. the Variation mapping is inconsistent with Part 2 of the New Zealand Coastal Policy Statement (“**NZCPS**”), the West Coast Regional Policy Statement (“**RPS**”), and guidance regarding the mapping of coastal hazards from the Ministry for the Environment (“**MfE**”);
- b. the methodology of NIWA reports which informed the mapping of the Variation results in overestimating hazard risk, and the uncertainties of erosion and inundation hazards in the Variation mapping stemming from the NIWA reports;
- c. the lack of site-specific analysis of hazard risk;
- d. the application of NZCPS Policies 24 and 25; and
- e. the ineffective and insufficient consultation being undertaken.

12. The Hapuka Landing subdivision included a considerable amount of earthworks which raised the site well above sea level. Furthermore, a specific consent notice was placed on the titles of each of the 18 sites to require residential buildings are setback sufficiently to avoid the risk of coastal hazard and inundation. This further supports the Submitter requests for exclusion of the properties from the Variation.

13. In addition, the Submitter consider that the effects of any potential hazards identified in the TTPP and Variation can be remedied or mitigated with earthworks and building placement (including through minimum floor levels). This should be reflected in the provisions to enable building and use of the Submitter properties.

Rules

14. The Submitter opposes the associated coastal hazard overlay rules. The reasons include:

- a. the Variation concerning the mapping has fundamentally altered the planning framework for property owners affected by the coastal natural hazard rules and the proposed TTPP;
- b. the TTPP rules are directly derived from the coastal natural hazard mapping overlays, which are being revised by this Variation;
- c. the Submitter wishes to seek amendments to the rules due to the significant changes introduced by the Variation; and
- d. given the substantial changes introduced by the Variation to the planning framework, it is essential for all affected landowners, including the Submitter, to have the opportunity to participate in discussions and provide input on these significant modifications.



15. The rules relevant to the Variation need to be clear and unambiguous regarding the relationship between the legal effect/operative status of the rules and exemptions for resource consents and established activities granted or implemented prior to the proposed TTPP becoming operative. Specifically:
- a. where consents are considered to have been given effect to, or partially given effect to, under Section 125 of the RMA, the new coastal hazard overlay and related provisions should not apply;
 - b. where existing allotments have been created for lifestyle or residential purposes, but those allotments have not yet been built on, the new coastal hazard overlay and related provisions should not apply;
 - c. where existing use rights apply under Sections 10, 10A, and 20A of the RMA, the new coastal hazard overlay and related provisions should not apply;
 - d. The rules need clarity on what 'lawfully established' means in terms of the Variation and the proposed TTPP. The Submitters request the use of terminology consistent with the RMA and greater protection for property owners who have invested in lifestyle or residential properties, obtained resource consents, or have existing use rights;
 - e. Some proposed TTPP rules relevant to the Variation are unnecessarily restrictive and should be reduced. Specifically:
 - i. discretionary and non-complying activities under Rules NH-R43 and NH-R44 respectively should be reduced to restricted discretionary; and
 - ii. permitted activities under Rules NH-R1 and NH-38 should be expanded to include a provision for existing structures as a permitted activity.
 - f. The requested clarifications and changes are consistent with the NZCPS direction to avoid increasing risk as per Policy 25, rather than implementing a blanket avoidance or reduction of risk in the plan.

Relief sought

16. The Submitter seeks the following relief:
- a. That the proposed mapping overlays are not accepted;
 - b. That the Submitters property, and that of Hapuka Landings and the surrounds at Okuru, are specifically excluded from the coastal overlays;
 - c. The rules are amended to protect existing and consented residential activities and buildings, including extensions and modifications to existing residential buildings, by providing for them as a Permitted Activity; and
 - d. any additional or consequential relief necessary to effectively address the issues raised in this submission. This includes alternative, consequential, or necessary amendments to both the proposed TTPP and the District Plan, as required to fully

implement the requested changes and ensure that all relevant matters are adequately addressed.

DATED: 30 August 2024



On behalf of MTP Limited

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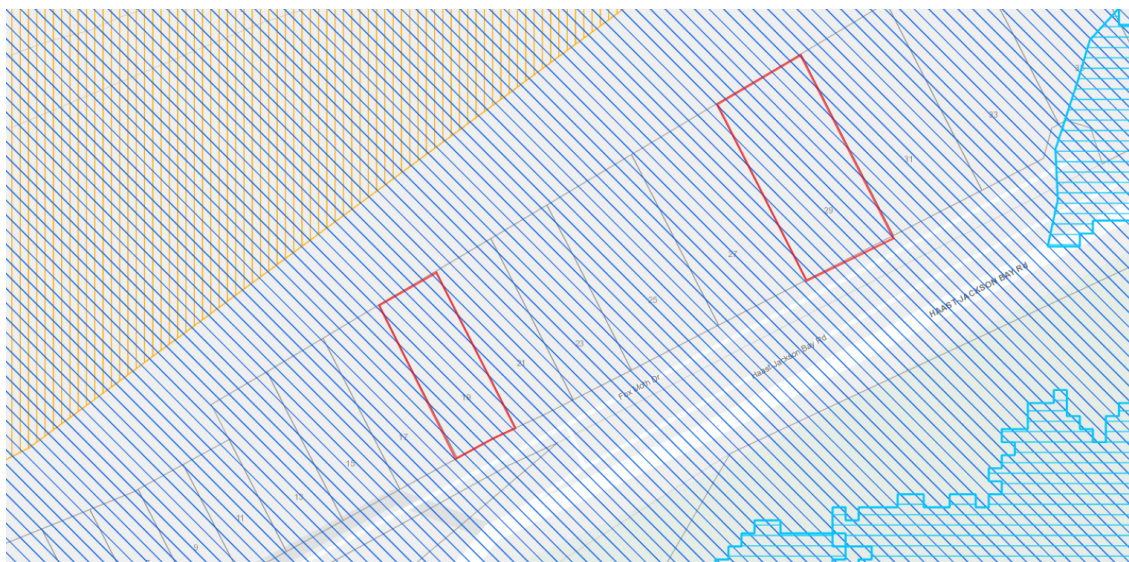


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- b. the methodology of NIWA reports which informed the mapping of the Variation results in overestimating hazard risk, and the uncertainties of erosion and inundation hazards in the Variation mapping stemming from the NIWA reports;
- c. the lack of site-specific analysis of hazard risk;
- d. the application of NZCPS Policies 24 and 25; and
- e. the ineffective and insufficient consultation being undertaken.

12. The Hapuka Landing subdivision included a considerable amount of earthworks which raised the site well above sea level. Furthermore, a specific consent notice was placed on the titles of each of the 18 sites to require residential buildings are setback sufficiently to avoid the risk of coastal hazard and inundation. This further supports the Submitter requests for exclusion of the properties from the Variation.

13. In addition, the Submitter consider that the effects of any potential hazards identified in the TTPP and Variation can be remedied or mitigated with earthworks and building placement (including through minimum floor levels). This should be reflected in the provisions to enable building and use of the Submitter properties.

Objectives and Policies

14. The Submitter generally supports the Objectives as notified, however considers that there would be benefit in including some recognition of existing hazard mitigation works, where these have been previously approved by Council on the basis of protection of life, property and the environment from natural hazards.

15. The Submitter recommends amendments to the policies to provide for existing and consented residential activities and buildings, and hazard mitigation works. Comments on particular policies are set out in the below paragraphs.

16. Policy NH-P2 provides for a precautionary approach to natural hazards where evidence suggests that the risk is potentially significant. The Submitter considers that the policy should also provide for natural hazard mitigation works, and proposes the following amended wording:

NH - P2 Where a natural hazard has been identified and the natural hazard risk to people and communities is unquantified but evidence **suggests demonstrates** that the risk **remains** potentially significant **even after considering appropriate**



mitigation measures, apply a precautionary approach to allowing development or use of the area.

17. Policy NH-P10 does not provide for existing and consented residential activities and buildings, where appropriate natural hazard mitigation works have already been completed. The Submitter proposes the following re-write of this policy.

NH - P10 Restrict development of sensitive activities within the Coastal Severe Hazard and Flood Severe Hazard overlays unless it can be demonstrated that the activity incorporates appropriate mitigation of risk to life, property and the environment; and either

- i. The activity has an operational and functional need to locate within the hazard area and there is significant public or environmental benefit in doing so; or
- ii. The activity is an existing or consented residential activities or building.

18. Policy NH-P12 lists matters for consideration when assessing effects of activities in natural hazard overlays. The Submitter considers that this policy should also include existing natural hazard mitigation works.

Rules

19. The Submitter opposes the associated coastal hazard overlay rules. The reasons include:
- a. the Variation concerning the mapping has fundamentally altered the planning framework for property owners affected by the coastal natural hazard rules and the proposed TTPP;
 - b. the TTPP rules are directly derived from the coastal natural hazard mapping overlays, which are being revised by this Variation;
 - c. the Submitter wishes to seek amendments to the rules due to the significant changes introduced by the Variation; and
 - d. given the substantial changes introduced by the Variation to the planning framework, it is essential for all affected landowners, including the Submitter, to have the opportunity to participate in discussions and provide input on these significant modifications.
20. The rules relevant to the Variation need to be clear and unambiguous regarding the relationship between the legal effect/operative status of the rules and exemptions for resource consents and established activities granted or implemented prior to the proposed TTPP becoming operative. Specifically:
- a. where consents are considered to have been given effect to, or partially given effect to, under Section 125 of the RMA, the new coastal hazard overlay and related provisions should not apply;

- b. where existing allotments have been created for lifestyle or residential purposes, but those allotments have not yet been built on, the new coastal hazard overlay and related provisions should not apply;
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- e. Some proposed TTPP rules relevant to the Variation are unnecessarily restrictive and should be reduced. Specifically:
 - i. discretionary and non-complying activities under Rules NH-R43 and NH-R44 respectively should be reduced to restricted discretionary; and
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- f. The requested clarifications and changes are consistent with the NZCPS direction to avoid increasing risk as per Policy 25, rather than implementing a blanket avoidance or reduction of risk in the plan.

Relief sought

21. The Submitter seeks the following relief:

- a. That the proposed mapping overlays are not accepted;
- b. That the Submitters property, and that of Hapuka Landings and the surrounds at Okuru, are specifically excluded from the coastal overlays;
- c. The objectives, policies and rules are amended to protect existing and consented residential activities and buildings, including extensions and modifications to existing residential buildings, by providing for them as a Permitted Activity; and
- d. any additional or consequential relief necessary to effectively address the issues raised in this submission. This includes alternative, consequential, or necessary amendments to both the proposed TTPP and the District Plan, as required to fully implement the requested changes and ensure that all relevant matters are adequately addressed.



DATED: 20 December 2024



On behalf of MTP Limited

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