

# **TAI POUTINI PLAN COMMITTEE**

## **Hearing of Submissions on the Proposed Te Tai O Poutini Plan**

### **Report and Decisions of Hearing Panel**

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#### **Decision Report 1**

##### **Introduction and General Provisions –**

##### **Te Wāhanga 1 – Te Whakataki me Ngā Kōrero Whānui**

##### **Hearing Dates:**

**30 -31 October 2023 and 1- 2 November 2023**

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#### **HEARING PANEL**

Dean Chrystal (Chair)

Sharon McGarry

Maria Bartlett

Paul Rogers

Anton Becker

## **Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel**

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

### **CONTENTS**

<b>PART A – INTRODUCTORY MATTERS</b>	<b>3</b>
<b>1. TE TAI POUTINI PLAN BACKGROUND AND HEARING PROCESS</b>	<b>3</b>
1.1 Introduction	3
1.2 Opening Legal Submissions	4
1.3 Hearings and Recommendations	5
1.4 Scope of this Report	6
1.5 Terminology in this Report	8
1.6 Hearing Arrangements	9
1.7 Appearances	9
1.8 Overview of submitter evidence received	11
1.9 Legal Advice Received During the Hearing	14
1.10 Overview of information exchanged following the hearing	15
1.11 Procedural Steps and Issues	15
1.12 Site Visits	15
<b>PART B – STATUTORY REQUIREMENTS AND DOCUMENTS</b>	<b>15</b>
<b>PART C - SUBMISSIONS, EVIDENCE, EVALUATION AND RECOMMENDATIONS</b>	<b>17</b>
<b>2. GENERAL SUBMISSIONS ON TTPP AND CROSS PLAN ISSUES</b>	<b>17</b>
2.1 Submissions seeking that the Plan be withdrawn	17
2.2 Submissions Supporting the Plan as a Whole	18
2.3 Submissions Seeking that the Plan be Simplified	19
2.4 Submissions Seeking better Plan Integration	20
2.5 Submissions on the Use of Te Reo and Māori references in the Plan	22
2.6 Other Amendments sought to provisions across the whole Plan	24
2.7 Submissions seeking a greater weight on economic growth and social outcomes	35
2.8 Submissions in relation to lawfulness	35
2.9 General submissions on the planning maps	37
<b>3. INTRODUCTION AND GENERAL PROVISIONS</b>	<b>41</b>
3.1 Submissions on the Introduction	41
3.2 Submissions on the Statutory Context	44
3.3 Submissions on General Approach	48
3.4 Submissions on Cross Boundary Matters	51
3.5 Submissions on Relationships between Spatial Layers	53
3.6 Submissions on the Abbreviations	65
3.7 General Submissions and Additions to the Glossary	66
3.8 Submissions on Specific Terms in the Glossary	67
3.9 Definitions chapter in general	68
3.10 National Planning Standards Definitions	69
3.11 Submissions on TTPP Specific Definitions	71
3.12 Submissions on New Definitions	83
3.13 Submissions on the National Direction Instruments	89
<b>4. SUBMISSIONS ON THE TANGATA WHENUA CHAPTER</b>	<b>91</b>
4.1 Submissions on the Chapter as a whole	91
4.2 Submissions on aspects of the Tangata Whenua Chapter	93
4.3 Appendices Five and Six	99
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## **PART A – INTRODUCTORY MATTERS**

### **1. TE TAI POUTINI PLAN BACKGROUND AND HEARING PROCESS**

#### **1.1 Introduction**

1. On 17 June 2019 the Government issued an Order in Council (Order) that came into force 28 days after the Order was notified on 21 June 2019 in the New Zealand Gazette.
2. The Order (clause 6) transferred the Resource Management Act (**RMA**) section 73 and Schedule 1 district plan obligations of the Buller, Grey and Westland districts to the West Coast Regional Council. Relevantly, the transferred obligations included the preparation, notification and adoption of a combined district plan for the three district councils under section 80 of the RMA, which enables district plans to be prepared.
3. The Order provided for a joint committee to be established by the four West Coast councils and local iwi, known as the Te Tai Poutini Plan Committee (TTPP Joint Committee), administered by the West Coast Regional Council (**WCRC**).
4. The Order, at clause 8 (3), directs the West Coast Regional Council to delegate to the TTPP Joint Committee its combined district plan obligations under the Final Order. The purpose of the delegation by the Regional Council of its combined district plan obligations to the TTP Joint Committee is to enable it to:
  - prepare and notify a combined district plan;
  - hear and consider (including through sub-committees as necessary and appropriate) all submissions received on the draft combined district plan;
  - adopt a final combined district plan;
  - monitor implementation of the combined district plan and the need for any amendments; and
  - undertake amendments and reviews of the combined district plan, or ensure these are undertaken, as required.
5. The TTPP Joint Committee prepared and then publicly notified the Te Tai o Poutini Plan (**TTPP**) on 14 July 2022. Submissions on the TTPP closed on 11 November 2022, with 534 submissions received. The TTPP Joint Committee notified its summary of decisions requested on 28 April 2023 and the period for further submissions closed on the 30 June 2023.
6. The TTPP Joint Committee appointed a five-person Hearings Panel (the Panel) of Commissioners under Section 34A (1) of the RMA to hear and make recommendations to the TTPP Joint Committee on the submissions lodged in relation to the TTPP.
7. The Commissioners appointed were:
  - Dean Chrystal, Chair
  - Sharon McGarry
  - Paul Rogers
  - Maria Bartlett
  - Anton Becker

8. All of the Panel members are accredited in accordance with s39A of the RMA. The Chair and Commissioners McGarry and Rogers hold Chair Endorsement accreditation.

## **1.2 Opening Legal Submissions**

9. Prior to the beginning of the hearings, the Panel received opening legal submissions from Ms Lucy de Latour of Wynn Williams (dated 13 October 2023) on behalf of the behalf of the Te Tai o Poutini Plan Committee which:
  - (a) Outlined the background to the TTPP Committee;
  - (b) Provided an overview of the legal framework for making decisions on the TTPP;
  - (c) Outlined the principles in respect of the scope to make changes to the TTPP;
  - (d) Outlined how the TTPP should address new national policy statements that have come into legal effect since the TTPP was prepared and notified; and
  - (e) Addressed the relevance of the Natural and Built Environment Act 2023 (subsequently repealed).
10. The Panel have been guided by these legal submissions, particularly in terms of the legal framework for making decisions, the scope available to make amendments, and how we address new national policy statements that have come into legal effect since the TTPP was prepared and notified.
11. In terms of the legal framework, Ms de Latour submitted that the Panel's power to make a recommendation to the TTPP Committee sits within a framework established under the RMA, which is set out in sections 72 to 77 of the RMA. She noted that combined district plans must also clearly identify which local authority is responsible for observing, and enforcing the observance of, each provision of the TTPP.
12. Turning to scope, Ms de Latour submitted that giving recommendations on the provisions of the TTPP and any matters raised in submissions, the Panel must be satisfied that there is scope to make any such amendments to the TTPP. In doing so, the Panel must consider whether:
  - (a) submissions received are “on” the TTPP; and, if so,
  - (b) any amendments are within the scope of a submissions such that the Panel has jurisdiction to recommend amendments.
13. Ms de Latour went on to say that any amendments proposed before the Panel must also be within the scope of a submission. She said the orthodox test for whether an amendment is within the scope of a submission was outlined by the High Court in *Countdown Properties (Northlands) Ltd v Dunedin City Council*<sup>1</sup> as follows:

The local authority or Tribunal must consider whether any amendment made to the plan change as notified goes beyond what is reasonably and fairly raised in submissions on the plan change. ... It will usually be a question of degree to be judged by the terms of the proposed change and of the content of the submissions.
14. Ms de Latour said that issues of scope should be approached in a realistic workable fashion, rather than from a perspective of legal nicety; however, she noted that there is no jurisdiction to make amendments to such an extent that those who are potentially affected have not had the opportunity to participate.

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<sup>1</sup> *Countdown Properties (Northlands) Ltd v Dunedin City Council* [1994] NZRMA 145 (HC) at 41

15. In relation to any new national policy statements, Ms de Latour submitted that:

The TTPP does not need to give full effect to the NPS-HPL or the NPS-IB, but rather the TTPP must give effect to the NPS-HPL and NPS-IB to the extent possible, as provided for within the scope of the TTPP and the submissions on the TTPP (and in the case of the NPS-IB, to the extent it is reasonably practicable).

16. Ms de Latour submitted that to the extent that there is scope to do so, the Panel should strive to give effect to the NPS-IB and the NPS-HPL, whilst acknowledging that both instruments are the first of their kind and introduce many new aspects in respect of indigenous biodiversity and highly productive land. In addition, she said both instruments include certain implementation steps that must be followed which are set out in the policy statements. She said that the TTPP Committee accepts that unless and until certain implementation steps have been followed, the NPS-IB and the NPS-HPL cannot be fully given effect to.

### **1.3 Hearings and Recommendations**

17. Throughout the process, the Panel has reviewed all the submissions and further submissions and heard from those submitters who sought to be heard at various hearings across the West Coast. Hearings began on 30 October 2023 and were completed on the 20 March 2025, occurring in Westport, Greymouth, Hokitika and Franz Josef. A schedule of the hearings is available on the TTPP website.

18. The hearings were generally held on a chapter-by-chapter basis, beginning with the District-Wide Matters followed by the Area Specific (zoning) matters. Due to circumstances beyond the Panel's control, some chapters ended up out of sequence. The Panel also heard Variation 1 (Activities on the Surface of Water) and Variation 2 (Coastal Hazards) as part of the process.

19. For some hearings, a Panel of one, three and four commissioners have been used for reasons of efficiency and availability. The Panel has taken care throughout the process to ensure that any actual or perceived conflicts have been avoided by identifying these within relevant recommendations. We also sought to run hearings with a low level of formality.

20. During the process the Panel has issued a considerable number of Minutes setting out processes, issuing directions and seeking further information on various hearing topics. These are detailed and available on the TTPP website.

21. Subsequently, the Panel have prepared recommendation reports for the TTPP Committee's consideration and adoption in respect to the TTPP. The recommendations made by the Panel have been based on the submissions lodged on the TTPP, the section 42A (of the RMA) Reports from the reporting officers and their right of reply assessing those submissions, evidence from expert witnesses on submissions (including reference to Joint Witness Statements), legal submissions, statements (both written and verbal) from submitters on their submissions; while having regard, as required, to the relevant higher order documents, including the West Coast Regional Policy Statement, National Policy Statements, the National Planning Standards, National Environmental Standards and the Resource Management Act.

22. The Panel has worked within the regulatory framework, as required, and within the scope provided by submissions. We have also utilised clause 16(2) of the First Schedule of the RMA, which enables us to recommend amendments where such an alteration is of minor effect, or may correct any minor errors. While we have been careful in our use of clause 16(2), it has been utilised throughout the recommendations to correct a wide range of errors in the TTPP and to make minor amendments, where the substance and intent is not

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

### Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

changed. We acknowledge, however, that there are some corrections to the TTPP that we have not been able to correct because of their broader implications. Where necessary we have noted these.

23. The Panel have been supported by an Administration Team at West Coast Regional Council, and Ms Lois Easton as the primary Reporting Officer, and we thank them for their support.
24. The Panel would also like to thank all those involved in the process to date and for their conduct in the hearing process. In particular, we would like to acknowledge those submitters who submitted and presented at the various hearings, some attending on multiple occasions. For many, it would have been the first time in such a process and we acknowledge that can be daunting.

#### 1.4 Scope of this Report

25. This Recommendation Report relates to Part 1 – Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui. The Report contains the Panel's evaluations and recommendations to the TTPP Committee on the submissions and further submissions received on these sections of Part 1, which covers the Introduction, How the Plan Works, Interpretations and National Direction Instruments.
26. The Section 32 Report<sup>2</sup> provided an evaluation of the options for the management of Introduction and General Provisions matters through the combined Plan, including key resource management issues, the regulatory and policy direction, the evidence base (research, consultation, information and analysis undertaken) and evaluation of the options.
27. The section 42A Officer's Report titled '*Introduction and General Provisions*' ('s42A Report') was circulated prior to the hearing, authored by Ms Lois Easton, a planner with Kererū Consultants, acting as the Reporting Officer. The s42A Report provided an analysis of submissions and further submissions received; and made recommendations on changes to the notified plan provisions.
28. Ms Easton subsequently provided an Addendum s42A Report to account for seven further submissions that were originally omitted from the s42A Report. The Addendum addressed the further submissions and offered recommendations on whether to accept, accept in part or reject the submissions.
29. The s42A Report assessed 469 submission points and 154 further submissions relating to the Introduction and General Provisions Chapter generally. It provided summaries of all the submissions and further submissions received and the relief sought; an analysis of the proposed changes to provisions; and recommendations on changes to the plan provisions (see Appendix 1 of s42A Report).
30. The matters raised by submitters were grouped in the s42A Report in accordance with the following key themes:
  - (a) The TTPP as a whole;
  - (b) Structure and format of the TTPP;
  - (c) Transparency and symbology of spatial layers;
  - (d) Support for definitions as notified;

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<sup>2</sup> Te Tai o Poutini Plan – Section 32 Evaluation Report Seven General District Wide Matters -

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

- (e) Requests for amendments or deletion of proposed definitions; and
- (f) Requests for new terms to be defined.

31. These themes were subsequently assessed in the s42A Report in the order set out below:

- (a) General submissions and cross plan issues;
- (b) General submissions on the planning maps;
- (c) Introduction Chapter;
- (d) How the Plan Works Chapter;
- (e) Abbreviations;
- (f) Glossary;
- (g) Definitions;
- (h) National Direction Instruments;
- (i) Tangata Whenua Chapter; and
- (j) Appendices Five and Six.

32. A s32AA Evaluation for the proposed changes in each chapter was provided at the end of the s42A Report.

33. This Recommendation Report follows the same structure of the s42A Report for each chapter and provides a brief summary of the issues raised in submissions and further submissions, the s42A Report analysis and recommendations, submitter evidence/statements and the Reporting Officer's reply evidence, before providing our evaluation and recommendation.

34. This Recommendation Report should be read in conjunction with the s42A Report and the tracked change version of the notified Plan provisions (attached as Appendix 1 to this Report). The tracked change version of the TTPP provisions forms an integral part of the decision and records all recommended amendments (additions and deletions) to the notified TTPP provisions made by the Panel. The tracked change version of the TTPP shows the Panel's recommended changes to the notified provisions in **bold and underlining** indicating additions and ~~striketrough~~ indicating deletions. If there is any discrepancy between this Recommendation Report and the tracked change version of the Plan, the tracked change version of the Plan shown in Appendix 1 of this Report must prevail.

35. This Recommendation Report contains the reasons for the Panel's recommendations. These comprise either adoption of the reasoning and recommendations of the original section 42A Reports or the Reporting Officer's reply evidence (Councils' right of reply post hearing adjournment), or an otherwise specified reasoning by the Panel.

36. Where the Panel recommends the TTPP provisions should remain as notified, it is because:

- a) The Panel has adopted the reasoning and recommendation of the s42A Report or Addendum to retain the provision as notified; or
- b) The Panel has adopted the reasoning and recommendation to retain the provision as notified as recommended in the Reporting Officer's reply evidence; or
- c) The Panel has recommended to retain the provision as notified for reasons set out in this Recommendation Report.

37. Where there is a recommended change to a notified provision of the TTPP, it is because:

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

- a) The Panel has recommended amendment to a provision for reasons set out in this Recommendation Report in response to a submission point, which the s42A Report or Addendum did not recommend; or
  - b) The Panel adopted the reasoning and recommendation of the s42A Report or Addendum to change the provision to that recommended in the original s42A Report; or
  - c) The Panel has adopted the reasoning and recommendation to that recommended in the Reporting Officer's reply evidence; or
  - d) A consequential change has been necessary following on from a decision in either (a), (b) or (c).
38. Where there may be a different recommendation between the s42A Report or Addendum and the Reporting Officer's reply evidence (i.e., the recommendation by the Reporting Officer has changed as a result of hearing the evidence of submitters), unless the Panel decision specifically adopts the original s42A Report or Addendum's reasoning and recommendations, the reasoning and recommendations in the (later) reply to evidence has been adopted and it must be taken to prevail.
39. If there are circumstances where the Panel consider that alternative relief is more appropriate than that requested in submissions and further submissions to give effect to the RMA, NZCPS, national policy statements and/or RPS, but are still within the scope of the relief sought, the relevant recommendation clearly sets out the nature of the change and the reason for the change. This is recorded in this Recommendation Report.
40. If any changes are recommended to the provisions (since the Section 32A Report was completed) a further evaluation is required pursuant to section 32AA of the RMA. Any such circumstances are referred to in this Recommendation Report in sufficient detail to demonstrate a further evaluation was undertaken.
41. Clause 16(2) of the First Schedule of the RMA enables the Panel to recommend amendments to alter information, where such an alteration is of minor effect, or may correct any minor errors. The Panel's recommendations below each section considered in Part C of this Report and in the tracked change version of the notified Plan provisions (Appendix 1 of this Report) records any such minor amendments.

### 1.5 Terminology in this Report

Throughout this Report, the following abbreviations will be used.

BDC	Buller District Council
Councils	Buller District Council, Grey District Council, and Westland District Council
Director General	Director General of Conservation
DOC	Department of Conservation
Forest & Bird	Royal Forest & Bird Protection Society of New Zealand Incorporated
GDC	Grey District Council
Kiwirail	Kiwirail Holdings Limited

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

LGRSWC	Local Government Reorganisation Scheme for the West Coast
Manawa	Manawa Energy Limited
MOE	Ministry of Education Te Tāhuhu o Te Mātauranga
NPS-FM	National Policy Statement for Freshwater Management 2020
NPS-HPL	National Policy Statement for Highly Productive Land 2022
NPSIB	National Policy Statement for Indigenous Biodiversity 2023
NZCPS	New Zealand Coastal Policy Statement 2010
NZPAM	New Zealand Petroleum and Minerals
Planning Standards	National Planning Standards 2019
Poutini Ngāi Tahu	Te Rūnanga o Ngāi Tahu, Te Runanga o Ngāti Waewae, Te Rūnanga o Makaawhio
pTTPP or the Plan	Proposed Te Tai Poutini Plan
RMA or the Act	Resource Management Act 1991
Transpower	Transpower New Zealand Limited
Waka Kotahi	NZ Transport Agency Waka Kotahi
WCRC	West Coast Regional Council
WCRPS	West Coast Regional Policy Statement
WDC	Westland District Council
Westpower	Westpower Limited

### 1.6 Hearing Arrangements

42. The hearing was held at the West Coast Regional Council Chambers, over the course of four days from the 30 October 2023 to 2 November 2023, in conjunction with the Strategic Direction Chapter. Some submitters appeared remotely by internet connection.

43. At the hearing, Ms Lois Easton tabled a Planning Summary Statement and an Addendum to the s42A Report with an updated Appendix 1 (recommended provisions) and Appendix 2 (Officer recommendations on individual submission points and further submission points).

### 1.7 Appearances

44. The following parties appeared at the hearing:

Organisation/ Submitter	Attendee
Reporting Officer	Ms Lois Easton
TTPP Committee	Ms Lucy de Latour (Legal submissions)
Te Rūnanga o Ngāti Waewae, Te Rūnanga o	- Ms Katherine Viskovic, Counsel

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

Makaawhio and Te Rūnanga o Ngāi Tahu (S620)	- Ms Veronica Baldwin-Smith - Ms Rachael Pull
Anthony Eden (S578)	- Mr Anthony Eden
Development West Coast (S484)	- Mr Heath Milne
Te Tumu Paeroa – office of the Māori Trustee (S440)	- Ms Sonya Rimene - Ms Ngahaia Huirama
Birchfields Ross Mining, Limited (S604), Birchfield Coal Mines Limited (S601), Papahaua Resource Limited(S500), Phoenix Minerals Limited, Rocky Mining Limited (S474), TiGa Minerals and Metals Limited (S493), Whyte Gold Limited (S607), and WMS Group Limited & WMS Land Co. Limited (S599)	- Ms Alex Booker, Counsel - Mr John Ballingall, Economist - Ms Katherine McKenzie, Planner
Birchfield Coal Mines Limited (S601)	- Mr Mark Birchfield - Mr Philip McKinnel
WMS Group Limited & WMS Land Co. Limited (S599)	- Mr Raymond Mudgway - Mr Michael Stewart - Mr Duncan Hardie
Phoenix Mineral Limited (S606)	- Ms Donna Meates for Mr Chris Meates
Westpower Limited (S547)	- Mr Roger Griffiths - Ms Sylvie Saskova - Mr Martin Kennedy, Planner
Whyte Gold Limited (S607)	- Mr Iain Whyte
TiGa Minerals and Metal Limited (S493)	- Mr Robert Brand
Terra Firma Mining Limited (S536)	- Ms Lucy Smith
Papahaua Resource Limited (S474) and Rocky Mining Limited (S474)	- Mr Thomas Ritchie
Manawa Energy (S438)	- Ms Nicola Foran - Ms Stephanie Styles, Planner
Director General of Conservation (S602)	- Mr Matt Pemberton, Counsel - Ms Amy Young, Planner
West Coast Fish and Game Council (S302)	- Mr Dean van Mierlo, Counsel - Mr Dean Kelly
Bathurst Resources Ltd & BT Mining Limited (S491)	- Mr Joshua Leckie, Legal - Mr Richard Tacon - Ms Clare Hunter, Planner
Vance Boyd (S447)	- Mr Vance Boyd
Manawa Energy Ltd (S438)	- Ms Nicola Foran - Ms Stephine Styles, Planner
Transpower New Zealand Limited (299)	- Ms Rebecca Eng - Ms Pauline Whitney, Planner
Straterra (S536)	- Ms Josie Vidal - Mr Jeremy Harding
Scenic Hotel Group (483)	- Mr Karl Luxon - Ms Kim Smith
Richard Arlidge (S419)	- Mr Richard Arlidge

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

Frida Inta (S553) & Buller Conservation Group (S552)	- Ms Frida Inta
Greg Maitland (S571)	- Mr Greg Maitland
West Coast Penguin Trust (S275)	- Ms Inger Perkins
Suzanne Hills (S443)	- Ms Suzanne Hills
Inger Perkins (S462)	- Ms Inger Perkins
Karen Lippiatt (S439)	- Ms Kair Lippiatt
Katherine Crick (S101)	- Ms Katherine Crick
Silver Farm Farms Limited (S441)	- Mr Steve Tuck, Planner
Neil Mouat (S535)	- Mr Neil Mouat
Forest and Bird (S560)	- Ms Nicky Snoyink
KiwiRail Holdings Ltd (S442)	- Ms Kristin Gunnell, Counsel - Ms Michelle Grinlinton-Hancock - Ms Catherine Heppelthwaite, Planner

### 1.8 Overview of submitter evidence received

45. The following legal submissions were received:

- (a) Legal submissions were received from Ms Lucy de Latour and Ms Tegan Wadworth for the Te Tai Poutini Plan Committee (dated 13 October 2023);
- (b) Legal submissions were received from Ms Alex Booker and Ms Alex Hansby for Birchfield Coal Mines Limited; Birchfields Ross Mining Limited; WMS Group (HQ) Limited and WMS Land Co. Limited; TiGa Minerals and Metals Limited; Phoenix Minerals Limited; Whyte Gold Limited; Rocky Mining Limited; Papahaua Resources Limited ('Birchfield *et. al.*') (dated 13 October 2023);
- (c) Legal submissions were received from Ms Christina Sheard and Mr Joshua Leckie for Bathurst Resources Limited and BT Mining Limited (dated 16 October 2023);
- (d) Legal submissions were received from Mr Dean van Mierlo for the West Coast Fish and Game Council (dated 12 October 2023);
- (e) Legal submissions were received from Ms Kristen Gunnell for KiwiRail Holdings Limited (dated 16 October 2023);
- (f) Legal submissions were received from Ms Sarah Scott and Ms Katherine Viskovic for Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu (dated 16 October 2023);
- (g) Legal submissions were received from Mr Matt Pemberton for the Director General of Conservation (dated 26 October 2025).

46. For those appearing at the hearing the following evidence and/or statements were received:

- (a) Statement of evidence by Ms Sonya Rimene and Ms Ngahuia Huirama on behalf of Te Tumu Paeroa - the office of the Māori Trustee (dated 31 October 2023);
- (b) Statement of evidence by Ms Claire Hunter for Bathurst Resources Limited and BT Mining Limited (dated 29 September 2023);
- (c) Statement of evidence by Mr Richard Tacon for Bathurst Resources Limited and BT Mining Limited (dated 29 September 2023);

## **Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel**

### Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

- (d) Statement of evidence by Mr John Ballingall for Birchfield Coal Mines Limited; WMS Group (HQ) Limited and WMS Land Co. Limited; TiGa Minerals and Metals Limited; Birchfields Ross Mining Limited; Phoenix Minerals Limited; Whyte Gold Limited; Rocky Mining Limited; Papahaua Resources Limited (dated 2 October 2023);
- (e) Statements of evidence by Ms Katherine McKenzie for Birchfield Coal Mines Limited; WMS Group (HQ) Limited and WMS Land Co. Limited; TiGa Minerals and Metals Limited; Birchfields Ross Mining Limited; Phoenix Minerals Limited; Whyte Gold Limited; Rocky Mining Limited; Papahaua Resources Limited (dated 2 October 2023);
- (f) Statement of evidence by Mr Mark Birchfield for Birchfields Ross Mining Limited (dated 2 October 2023);
- (g) Statement of evidence by Mr Phil McKinnel for Birchfield Coal Mines (dated 2 October 2023);
- (h) Statement of evidence by Mr Robert Brand for TiGa Materials & Metals Limited (dated 2 October 2023);
- (i) Statement of evidence by Mr Tom Ritchie for Rocky Mining Limited and Papahaua Resources;
- (j) Statement of evidence by Mr Michael Stewart for WMS Group (HQ) Limited and WMS Land Co. Limited and West Coast Bulk Logistics (dated 2 October 2023);
- (k) Statement of evidence by Mr Duncan Hardie for WMS Group (HQ) Limited and WMS Land Co. Limited (dated 2 October 2023);
- (l) Statement of evidence by Mr Raymond Mudgeway for WMS Group (HQ) Limited and WMS Land Co. Limited (dated 2 October 2023);
- (m) Statement of evidence by Mr Iain Whyte for Whyte Gold Limited (dated 2 October 2023);
- (n) Statement of evidence by Mr Chris Meates for Phoenix Minerals Limited (dated 2 October 2023);
- (o) Statement of evidence by Ms Amy Young for the Director General of Conservation (dated 16 October 2023);
- (p) Statement of evidence by Ms Catherine Heppelthwaite for KiwiRail Holdings Limited (dated 2 October 2023);
- (q) Statement of evidence by Ms Michelle Grinlinton-Hancock for KiwiRail Holdings Limited (dated 2 October 2023);
- (r) Statement of evidence by Ms Stephanie Styles for Manawa Energy Limited (dated 26 September 2023);
- (s) Statement of evidence by Ms Nicola Foran for Manawa Energy Limited (dated 29 September 2023);
- (t) Statement of evidence by Ms Veronica Baldwin-Smith for Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu (dated 2 October 2023);
- (u) Statement of evidence by Ms Rachael Pull for Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu (dated 2 October 2023);
- (v) Statement of evidence by Ms Pauline Whitney for Transpower New Zealand Limited (dated 29 September 2023);
- (w) Statement of evidence by Ms Rebecca Eng for Transpower New Zealand Limited (dated 29 September 2023);

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

- (x) Statement of evidence by Mr Dean Kelly for West Coast Fish and Game Council (dated 27 September 2023);
- (y) Statement of evidence by Mr Martin Kennedy for Westpower Limited (dated 29 September 2023);
- (z) Statement of evidence Ms Kate Graham for the Ministry of Education (dated 11 October 2023);
- (aa) Statement of evidence for Mr Heath Milne for Development West Coast (dated 30 September 2023); and
- (bb) Statement of evidence for Ms Emily Levenson for Horticulture New Zealand (dated 29 September 2023).

47. The following submitter statements were presented at the hearing:

- (a) Summary of evidence from Ms Rachael Pull on behalf of Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu (dated 30 October 2023);
- (b) Summary of evidence from Ms Veronica Baldwin-Smith on behalf of Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu (dated 30 October 2023);
- (c) Summary of legal submissions from Ms Katherine Viskovic on behalf of Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu (dated 30 October 2023);
- (d) Summary statement of Ms Inger Perkins on her own behalf (dated 30 October 2023);
- (e) Summary statement of Ms Inger Perkins on behalf of the West Coast Penguin Trust (dated 30 October 2023);
- (f) Presentation by Mr Richard Arlidge on his own behalf (received 30 October 2023);
- (g) Summary statement of Mr Vance Boyd on his own behalf (dated 31 October 2023);
- (h) Summary of evidence by Ms Sonya Rimene and Ms Ngahuia Huirama, on behalf of Dr Charlotte Severne, the Māori Trustee (dated 31 October 2023);
- (i) Summary statement by Ms Nicky Snoyink on behalf of Forest and Bird (dated 31 October 2023);
- (j) Statement of evidence by Mr Roger Griffiths on behalf of Westpower Limited (dated 16 October 2023);
- (k) Statement of evidence of Ms Michelle Grinlinton-Hancock on behalf of KiwiRail Holdings Limited (dated 2 October 2023);
- (l) Statement of evidence of Ms Catherine Heppelthwaite on behalf of KiwiRail Holdings Limited (dated 2 October 2023); and
- (m) Statement of Ms Amy Young on behalf of the Director General of Conservation (dated 2 November 2023).

48. Following the hearing, supplementary statements were received from the following submitters:

- (a) Mr Dean van Mierlo on behalf of West Coast Fish and Game Council (dated 1 December 2023);
- (b) Mr Joshua Leckie and Ms Christina Sheard on behalf of Bathurst Resources and BT Mining Limited (dated 24 November 2023); and

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

- (c) A joint statement submitted by Dr Charlotte Severne on behalf of Te Tumu Paeroa – the office of the Māori Trustee and Ms Fiona McQuade, Mr Francois Tumahai and Mr Paul Madgwick on behalf of Poutini Ngāi Tahu (dated 10 November 2023).

### 1.9 Legal Advice Received During the Hearing

49. On Day 4 of proceedings, the Panel received supplementary legal submissions from Wynn Williams (Counsel for Te Tai o Poutini Plan Committee) to address questions raised by the Panel. In summary, the submissions:

- (a) Confirmed that there are specific requirements in the NPS-UD that are required to be given effect to insofar that Greymouth is an urban environment, but that does not apply in relation to the Buller and Westland District Councils.
- (b) Considered that to the extent that the NPS-IB does not apply to renewable electricity generation assets and activities and electricity transmission network assets and activities, consideration of Part 2 matters under the RMA may be necessary.
- (c) Confirmed that section 35 of the RMA requires that local authorities shall keep reasonably available at each of its offices in the district, copies of its operative and proposed plans, including all requirements for designations and heritage orders, and all operative and proposed changes to plans.
- (d) Submitted that it is not unlawful to include the advice note *“For the avoidance of doubt, marae are community facilities”* in relation to the definition of community facilities, and it does not alter the definition, which would be contrary to the National Planning Standards mandatory direction.

50. In terms of whether cross references to New Zealand Standards documents need to be incorporated by reference, or whether such documents can be cross referenced so that future updates to any standards referred to will apply without going through a Schedule 1 process, it was submitted that for updates to standards incorporated by reference into the TTPP to have legal effect, and be formally included in the TTPP, the TTPP would need to be changed via a Schedule 1 process. This means that any updates to standards incorporated by reference do not automatically have legal effect through the TTPP. It was also noted that because these technical documents generally do not undergo a public consultation process when developed, the decision to include them in a planning document must be tested in accordance with the principles of public participation in planning processes to ensure that people have the opportunity to comment on the impact that the standard referred to in the regulation may have on them.

51. It was noted that Direction 1, Mandatory Direction 7 of the National Planning Standards provides that:

Unless otherwise directed in these planning standards, local authorities may use cross-references and links within the policy statement or plan. Any references or links to external material not incorporated by reference under RMA Schedule 1 Part 3 must be identified as not having legal effect beyond the scope provided for in the policy statement or plan.

52. Accordingly, it was submitted that there is a distinction between incorporating a technical document by reference (generally being a document that has not gone through public consultation) and cross referring to another regulation or planning document.

## **1.10 Overview of information exchanged following the hearing**

53. Ms Easton provided a written Right of Reply (dated 9 November 2023) that included a response to matters raised in the hearing. The Reply also proposed any further amendments to the notified version of the Plan, beyond those recommended in the s42A Report and Addendum.

## **1.11 Procedural Steps and Issues**

54. No procedural matters were raised at the hearing.

## **1.12 Site Visits**

55. No site visits relating to the Introduction and General Provisions were undertaken.

## **PART B – STATUTORY REQUIREMENTS AND DOCUMENTS**

56. The section 32 Report outlined the relevant statutory considerations applicable to the TTPP. The statutory documents included the RMA, NZCPS, NPSET, NPSREG, NPSFM, NPSUD, NPSIB (draft at the time), pNPSHPL (draft at the time), seven National Environmental Standards, the National Planning Standards, the WCRPS, Regional Plans, Iwi Management Plans, the Mana Whakahono a Rohe Agreement and the Statutory Acknowledgements. The section 32 Report also referenced various other pieces of legislation that have guided the development of the Plan provisions.

57. In considering submissions and making recommendations, the s42A Report referred directly to the NZCPS, NPSFM, NPSET, NPSREG, NPSIB, and the WCRPS. The evaluation below will discuss their relevance.

58. The s42A Report notes that the TTPP has been prepared in accordance with the National Planning Standards, which includes in relation to the Introduction section:

- How the Plan Works: Relationships Between Spatial Layers
- Interpretation: Definitions and Abbreviations
- National Direction Instruments: National Policy Statements and the New Zealand Coastal Policy Statement, National Environmental Standards, Regulations
- Tangata whenua: Tangata whenua/Mana whenua

59. The Panel acknowledges that there are three iwi management plans on the West Coast – the Te Rūnanga o Makaawhio Pounamu Management Plan, the Ngāti Waewae Pounamu Management Plan and the Lake Māhinapua Management Plan, which must be taken into account when considering the pTTPP provisions, along with the Paetae Kotahitanga ki Te Tai Poutini Partnership Protocol Mana Whakahono ā Rohe 2020 agreement between Poutini Ngāi Tahu and Westland Coast Regional Council (Schedule 1, section 1A of the RMA). We note that Section 8 of the Mana Whakahono ā Rohe specifies the process to be followed when developing planning instruments and the Panel understand this has been implemented in preparing the pTTPP.

60. Clause 10 of the First Schedule states that providing decisions on individual submissions is unnecessary. The Panel's recommendations are made within the scope of requested relief, either individual submissions or groups of submissions making similar requests, as specified in the reasons for recommendations.

## **Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel**

### Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

61. Section 32AA of the RMA requires a further evaluation to be undertaken if any amendment has been made to the Plan since the original s32 evaluation report was completed. It requires that the evaluation is undertaken in a level of detail that corresponds to the scale and significance of the changes. The s42A Report has not evaluated minor changes to correct errors or improve the readability of Plan. The Panel agrees that such minor amendments are efficient and effective in improving the administration of pTTPP provisions, being primarily matters of clarification rather than substance. The s42A Report has undertaken a section 32AA evaluation of the specific amendments to some Subdivision and Financial Contributions provisions, for example, where the amendments are more substantial.

## **PART C - SUBMISSIONS, EVIDENCE, EVALUATION AND RECOMMENDATIONS**

### **2. GENERAL SUBMISSIONS ON TTPP AND CROSS PLAN ISSUES**

#### **2.1 Submissions seeking that the Plan be withdrawn**

##### **Submissions and Further Submissions**

62. Twenty-five submission points and six further submissions that sought the Plan be withdrawn were summarised in a Table on pages 17-19 of the s42A Report. The Panel adopts these summaries and has considered the submissions and further submissions.

##### **Section 42A Report**

63. Terry Rea (S13.001), Deborah Amies (S196.001), Joanne and Ken Dixon (S213.001), and Chris Reynolds (S362.001) requested that the Plan not be combined for the three West Coast Districts, whereas 11 other submissions<sup>3</sup> sought full withdrawal of the Plan. In response, Ms Easton noted that the combined Plan was a mandatory requirement of the Local Government Reorganisation Scheme (West Coast) Order 2019, and therefore the Committee retains no discretion to withdraw the Plan.

64. Peter Dawson (S44.001), Scenic Hotel Group (S483.001) and Joan Kallmann (S618.001) sought to remove restrictions on private property rights, whereas Ingrid Mesman (S310.001) suggested that there was no authority to place restrictions on private property. In response, Ms Easton noted that central Government and various legislation specifically provided for restrictions on private property.

65. Reuben Lane (S272.001) sought the retention of existing use rights, whereas Peter Dawson sought that the Plan process be started again with a more enabling mindset. In response, Ms Easton noted that existing use rights were not over-ridden if certain criteria are met, as per section 10 of the RMA. She further stated that the Plan provisions were enabling, but that there are statutory restrictions on the land that must be implemented.

66. Groundswell NZ (S562.001) sought that the Plan process be paused pending review of the RMA, and implementation of the NPSIB and Natural and Built Environment Act. They also sought to pause parts of the Plan that responded to section 6 of the RMA. Ms Easton stated that the Local Government Reorganisation Scheme for the West Coast (LGRSWC) and section 29 of the RMA required that the Plan be expedited. Furthermore, Ms Easton confirmed that there were no statutory grounds to ignore section 6 of the RMA.

67. Robyn Langridge (S479.001) also sought a pause until more search functions were put in place for the e-Plan, while also requesting more diversity in decision making to ensure the Plan was balanced.

68. In response to all the above submissions, Ms Easton reiterated the statutory basis for the Plan and detailed the significant extent of consultation and community inputs into the Plan development process.

69. Ms Easton recommended that no changes to the TTPP were made in response to these submissions.

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<sup>3</sup> Alain Daunes (S199.001), Reuben Lane (S272.001), Alan Greig (S30.001), John Davidson (S31.001), Louise Morgan (S35.001), A Breen & L Breen (S159.001), Garry Howard (S358.001), Loraine and Kirk Haworth (S359.001), Robert Burdekin (S378.002), Janie Cook (S594.001, 002 and 004) and Hadley Mills (S534)

## **Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel**

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

### **Hearing and Submitter Evidence/Statements**

70. Scenic Hotel Group appeared at the hearing but did not speak directly to its submission to withdraw provisions that may affect private property rights.

### **Reporting Officer Reply Evidence**

71. No specific points were made in the Reply regarding matters related to the general submissions on the TTPP and cross-plan issues.

### **Hearing Panel's Evaluation**

72. The Panel agrees with the responses provided by Ms Easton to the submissions seeking that the Plan be withdrawn or paused. We accept there is a statutory basis for the Plan and that a significant level of consultation and community input into the Plan development process has taken place over a number of years. We see no valid or legal reason for the Plan to be withdrawn or paused. We therefore recommend the submissions are rejected.

### **Hearing Panel's Recommendation**

73. The Panel recommends no changes to the Plan provisions in relation to issues raised in these submissions and further submissions.

## **2.2 Submissions Supporting the Plan as a Whole**

### **Submissions and Further Submissions**

74. Eight submission points and six further submissions supporting the Plan as a whole or supporting in part were summarised in a Table on pages 20-21 of the s42A Report. The Panel adopts these summaries and has considered the submissions and further submissions.

### **Section 42A Report**

75. Two submitters noted the favourable functionality of the Plan.<sup>4</sup> Ms Easton noted the submissions in general support of the Plan as a whole and recommended no further amendments to this section of the Plan.

### **Hearing and Submitter Evidence/Statements**

76. No evidence was provided at the hearing in support of the above submissions.

### **Reporting Officer Reply Evidence**

77. No specific points were made in the Reply regarding any submissions in support of the Plan.

### **Hearing Panel's Evaluation**

78. The Panel acknowledges these submissions in support and recommends these are accepted in part given the amendments that are recommended throughout the Plan.

### **Hearing Panel's Recommendation**

79. The Panel recommends no changes to the TTPP as a result of submissions in general support of the Plan.

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<sup>4</sup> Bert Hofmans (S504.001) and Lindy Millar (S505.001)

## **2.3 Submissions Seeking that the Plan be Simplified**

### **Submissions and Further Submissions**

80. Twenty-two submission points and 12 further submissions that sought the Plan be simplified were summarised in a Table on pages 21-23 of the s42A Report. The Panel adopts these summaries and has considered the submissions and further submissions.

### **Section 42A Report**

81. Most of the submissions<sup>5</sup> under this theme sought changes to the Plan because they considered it was difficult to understand.

82. Peter Dawson (S44.002) sought separate Te Reo Māori and English versions of the Plan. Ms Easton noted that the TTPP could not avoid using terminology and phrasing that may be difficult to understand for some users. She noted that Te Reo Māori is an official language and there is an expectation that Māori words would be integrated throughout the Plan. On that basis, Ms Easton considered it would be inappropriate to adopt separate plans.

83. Rebecca Inwood (S422.003) sought a “usability check” for the final Plan, whereas Anne Chapman (S425.003) sought to ensure that there was no unnecessary regulation in the Plan.

84. Katherine Gilbert (S473.001), David Morris (S83.001), and Forest and Bird (S560.001) considered the Plan did not meet the expectation of the LGRSWC.

85. Ms Easton confirmed that the Plan format was in accordance with the mandatory requirements of the LGRSWC. However, she acknowledged the need to both adopt the format and structure of the Planning Standards and to combine three district Plans into one made the Plan more complex. However, she reiterated the direction to combine the three Plans together was due to the advanced age of the old Plans and their failure to keep up to date with statutory requirements.

86. Ms Easton considered the Plan was in accordance with statutory requirements and that there was sufficient guidance available for Plan users to use and interpret the Plan. Accordingly, she recommended no changes to the TTPP in response to these submission points.

### **Hearing and Submitter Evidence/Statements**

87. Mr Vance Boyd reiterated his view at the hearing that the complexity of the Plan would continue to limit access to the Plan for many residents.

88. No additional evidence was offered by the submitters in relation to this section of the Plan.

### **Reporting Officer Reply Evidence/Statements**

89. No specific points were made in Reply in response to submissions seeking simplification of the Plan.

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<sup>5</sup> Raylene Black (S420.003), Misato Nomura (S151.001), Buller Conservation Group (S552.016), Frida Inta (S553.016), Gina Hogarth (S304.003), Lucina Brady (S322.001), Annabel Boland (S324.001), Suzanne Hills (S443.001), Margaret Montgomery (S446.110), Vance & Carol Boyd (S447.001), Katherine Gilbert (S473.001), Lynley Hargreaves (S481.001), Rosalie Sampson (S539.006, 539.010), Betty Harris (S405.001), Anthony Eden (S578.003), Shaun and Carissa du Plessis (S402.001) and Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird) (S560)

## **Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel**

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

### **Hearing Panel's Evaluation**

90. The Panel acknowledges the above submissions, and we accept that the Plan is relatively complex. We note that this is not unusual for modern district plans, and the Plan is required to be developed in accordance with the Planning Standards. Notwithstanding this, throughout our recommendations we have attempted, where possible, to reduce complexity.
91. The Panel agrees with Ms Easton that the Plan format is in accordance with the mandatory requirements of the LGRSWC.

### **Hearing Panel's Recommendation**

92. The Panel recommends changes, where necessary, in response to these submission points, as outlined in other Recommendation Reports.

## **2.4 Submissions Seeking better Plan Integration**

### **Submissions and Further Submissions**

93. Thirteen submission points and six further submissions that sought better Plan integration were summarised in a table on pages 24-27 of the s42A Report. The Panel adopts these summaries and has considered the submissions and further submissions.

### **Section 42A Report**

94. Buller Conservation Group (S552.013) and Frida Inta (S553.013) sought cross-referencing of the chapters against the relevant sections of the RMA and cross-referencing against the page numbers of the pdf version. Ms Easton noted that the Plan references more than just the RMA and considered there would be no benefit to cross-reference each section. Further, she noted the primary format for the Plan would be as an e-Plan and, therefore, she saw no benefit in developing a separate pdf version with cross references and links.
95. Buller Conservation Group (S552.014) and Frida Inta (S553.014) also sought hyperlinking of any cross-references while Forest and Bird (S560.432) sought that defined terms were consistently hyperlinked or otherwise fully identified. In response, Ms Easton noted that many terms were already hyperlinked, while also stating several reasons why an e-Plan was the preferred format. These included the Planning Standard requirements for development of an e-Plan, functionality benefits, and the ease with which changes to the Plan can be made through RMA updates and processes. She did not support the relief sought given the scale of costs involved and the limited number of benefits.
96. Straterra (S536.026) sought that the entire plan be reviewed for consistency across overlays and zones. Ms Easton agreed with this submission.
97. Forest and Bird (S560.036) sought to apply a consistent approach to cross-referencing across the Plan by including all relevant chapters under the section headed "*other relevant Te Tai Poutini Plan provisions*". They noted the purpose of this section and associated notes would be to identify that other district-wide matters may apply, in addition to matters within that specific chapter. After the initial note, they proposed to list each of the potentially relevant chapters. Ms Easton recognised the value in the submission and recommended that the submission and associated amendments be supported in part, with the following revisions:

Other relevant Te Tai o Poutini Plan provisions

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

It is important to note that in addition to the provisions of this chapter, a number of Part 2: District Wide chapters also contain provisions that may be relevant ~~to~~ activities in the .... **these** zones. **These chapters include provisions that apply everywhere in the district, as well as some rules that only apply within identified and/or scheduled features (or overlays). Please refer to those chapters,** including:

98. Ms Easton noted that the cross references were generally in the form of advice notes to both remind users to check other sections of the Plan, but also to help users navigate a new and more complex Plan structure than previous Plans. Over time, Ms Easton anticipated greater familiarity with the Plan by users and therefore considered a “slimming down” of the advice notes was appropriate, although she considered the reduction was best addressed on a chapter-by-chapter basis.
99. Forest and Bird (560.333) also made a three-part submission, firstly suggesting that the Plan include a section “*Other relevant Te Tai o Poutini Plan Provisions*” listing all relevant chapters with an explanation, including all Natural Environment Chapters and District-Wide Chapters, similar to the submission point above. Secondly, the submission referenced the need to make clear that all vegetation clearance was dealt with in the Ecosystems and Indigenous Biodiversity (**ECO**) and Natural Character and the Margins of Waterbodies (**NC**) Chapters, in the zone overviews, and to amend any relevant provisions within each chapter to that effect, including that the ECO objectives and policies may be relevant to other activities. Ms Easton referred this matter to the s42A Report of the ECO Chapter. Third, they sought that all mining activities require consent and an ecological assessment in accordance with Appendix 1 of the WCRPS, which Ms Easton noted would be addressed in the section 42A Report for the Mineral Extraction chapters.
100. In response, Ms Easton recommended changes to the overview section of each chapter to address the relief sought in submission point (S560.036), as well as conducting a final review to ensure cross references were correct.

### **Hearing and Submitter Evidence/Statements**

101. Ms Frida Inta presented a statement at the hearing on behalf of herself and the Buller Conservation Group. She re-emphasised the need for digital cross-referencing on the e-plan and the pdf version.
102. Ms Snoyink spoke on behalf of Forest and Bird and indicated satisfaction with the proposed amendments in response to their submissions.
103. Mr Martin Kennedy presented evidence for Westpower in relation to their further submission point in response to a submission by Forest and Bird, which Ms Easton had recommended be rejected. He noted the concern was that there should not be an unanticipated change to the intent of provisions or result in additional matters applying. He requested the ability to review any proposed changes that may result from the chapter-by-chapter review and subsequent slimming down of advice notes.

### **Reporting Officer Reply Evidence**

104. No specific points were made in Reply in response to submissions that sought better Plan integration.

### **Hearing Panel's Evaluation**

105. The Panel acknowledges there is a degree of inconsistency within each of the overviews of the District-wide Matters chapters. We note that in most cases under the heading “*Other relevant Te Tai o Poutini Plan provisions*” the wording used is:

## **Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel**

### Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

It is important to note that in addition to the provisions in this chapter, a number of Part 2: District-wide Matters chapters also contain provisions that may be relevant for activities in the ..... Zone, including:

106. This statement is then followed by a list all relevant chapters, with a brief explanation of what they do. The Panel acknowledges the lists of relevant chapters are not always consistent in the notified Plan. As a result of the Forest and Bird submission on this matter, our analyses recommendations involve review and associated amendments of each zone chapter where reference is made to the relevant District-wide Matter chapters.
107. In terms of adding wording to the 'Other relevant Te Tai o Poutini Plan provisions' section proposed by Forest and Bird and supported by Ms Easton, the Panel do not consider this is necessary as it largely seems to replicate the first sentence. We consider that by adding the relevant chapters it becomes self-evident they will be relevant depending on the circumstances. We therefore recommend no change is made to the standard wording.
108. In terms of the Westpower further submission around unanticipated changes to the intent of provisions or additional matters applying, the Panel notes that this is a normal District Plan hearing process. There is no legal requirement to provide submitters with an opportunity to review the Panel's recommendations prior to decisions being released. We consider we have explored possible relief with participants throughout the hearing process, within the scope of submissions, and where appropriate have provided opportunities for further input from submitters.
109. Turning to other submissions, the Panel agree that the e-Plan will need to be checked upon completion to ensure that all definitions are hyperlinked. We consider this is a technical matter that does not require a recommendation from the Panel. We also accept that cross-references and advice notes within the Plan will require checking upon completion to ensure that all are relevant and refer to the correct provisions in the Plan.
110. In relation to the remainder of the submissions on better plan integration, the Panel notes that some of the matters raised are addressed elsewhere in the recommendations and we agree with Ms Easton that no other amendments are necessary.

#### **Hearing Panel's Recommendation**

111. Other than the broader change that reference be made to the relevant District-wide Matters chapters in each zone chapter, which is dealt with in those chapters, the Panel recommends no additional changes to the TTPP in response to the above submission points.

## **2.5 Submissions on the Use of Te Reo and Māori references in the Plan**

### **Submissions and Further Submissions**

112. Eight submission points and one further submission on the use of Te Reo Māori references in the Plan were summarised in a Table on page 29 of the s42A Report. The Panel adopts these summaries and has considered the submissions and further submission.

### **Section 42A Report**

113. Poutini Ngāi Tahu (S620.001, S620.002 and S620.003) and the Director General (S602.007) noted the inconsistent use of dialect and incorrect spelling of some Te Reo

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

Māori text in the Plan. Consistent use of the name '*Ngāti Mahaki*' was also proposed instead of '*Ngāti Māhaki o Makaawhio*' or '*Ngāti Māhaki ki Makaawhio*'.

114. Ms Easton supported the submissions that sought a full accuracy check of Te Reo Māori, to be undertaken by a suitably qualified person, and that '*Ngāti Māhaki o Makaawhio*' or '*Ngāti Māhaki ki Makaawhio*' be replaced with '*Ngāti Māhaki*' throughout the Plan.
115. Poutini Ngāi Tahu (S620.005), Māwhera Incorporation (S621.009) and the Director General (S602.002) made submissions related to the order of language used in dual names throughout the Plan. Both Poutini Ngāi Tahu and Māwhera Incorporation sought Māori names first in all instances, whereas the Director General proposed English names first when referring to the West Coast and New Zealand. For consistency the Director General (S602.004) also sought that the terms '*New Zealand*' or '*Aotearoa New Zealand*' be amended to only use '*New Zealand/Aotearoa*'.
116. Ms Easton recommended that, based on LINZ naming convention standards, the dual name for the West Coast should be '*Te Tai o Poutini/West Coast*' and that references to New Zealand become '*Aotearoa/New Zealand*'. Thus, Ms Easton recommended the submissions of Poutini Ngāi Tahu and Māwhera Incorporation be accepted in part, the Director General's submission to only use English first be rejected and that submission S602.004 that sought a single consistent term for New Zealand/ Aotearoa be accepted in part, with the exception that Ms Easton recommended use of the term '*Aotearoa/New Zealand*'.
117. The s42A Report recommended:  
That the provisions of the Plan be amended so that all dual place names are with Māori name first and then English name with all dual names separated by a forward slash with a space either side.
118. For instances in the Plan that did not reference a place, such as chapter titles, Ms Easton recommended adopting the English name first, followed by the name in Te Reo Māori. Ms Easton considered this format would be easier for users of the Plan.
119. Ms Easton also stated that if the Commissioners considered it was best to adopt a consistent approach, then "I would prefer that all names are English first and Māori second to retain the ease of understanding for Plan users".
120. The Director General (S602.009) also sought bilingual names for all Plan chapters. Ms Easton agreed with this suggestion, however, for chapters relating to requiring authorities with bilingual names, Ms Easton sought the retention of English first, Māori second, and bilingual naming conventions for all Plan chapters. Ms Easton did not support the assigning of Māori names to organisations that do not already have a bilingual naming convention. Therefore, Ms Easton recommended accepting submission point S602.009 in part.
121. The s42A Report recommended:  
That where a chapter does not already have a bilingual name a Māori name is applied. Where the chapter name is the name of a requiring authority that has a Māori name that this be included in the name of the chapter.

### **Hearing and Submitter Evidence/Statements**

122. Veronica Baldwin-Smith provided cultural evidence on behalf of Poutini Ngāi Tahu and Te Rūnanga o Ngāi Tahu. She noted the pTTPP correctly identified and acknowledged Te Rūnanga o Ngāi Tahu as the iwi authority for the entire West Coast/Te Tai o Poutini

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

region. She described the respective hapū and said that Poutini Ngāi Tahu were dedicated to the sustainable management of resources and the achievement of sound environmental outcomes, and had an overarching objective to build a stronger environmental, economic, social, and cultural base for their people.

123. Rachael Pull's planning evidence for Poutini Ngāi Tahu generally supported the approach identified in the s42A Report.

124. Amy Young's planning evidence for the Director General agreed with the s42A Report in respect of the above submission points.

### Reporting Officer Reply Evidence

125. No specific points were made in Reply in response to submissions on the use of Te Reo Māori.

### Hearing Panel's Evaluation

126. The Panel agrees with Ms Easton's approach to naming and notes that the two submitters involved in this part of the Plan agreed with Ms Easton's approach. We therefore recommend that the amendments identified below are adopted throughout the Plan.

### Hearing Panel's Recommendation

127. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted in part, and recommend the following amendments are made Plan-wide:

Plan Section	Recommended Amendment
Whole Plan	Prior to finalisation of the Plan a full check of the Plan is undertaken by a suitably qualified person with understanding of the Poutini Ngāi Tahu dialect to address spelling and appropriate use of macrons as well as ensuring a consistent dialect is used throughout the Plan. <sup>6</sup>
Whole Plan	The provisions of the Plan are amended so that all dual place names are with Māori name first and then English name with all dual names separated by a forward slash with a space either side. <sup>7</sup>
Whole Plan	Replacing ' <i>Ngāti Māhaki o Makaawhio or Ngāti Māhaki ki Makaawhio</i> ' with ' <i>Ngāti Māhaki</i> '. <sup>8</sup>
Whole Plan	All references to New Zealand in the Plan are reconfigured to refer to ' <i>Aotearoa / New Zealand</i> '. <sup>9</sup>
Whole Plan	Where a chapter does not have a bilingual name, a Māori name is applied. Where the chapter name is the name of a requiring authority that has a Māori name, this is included in the name of the chapter. <sup>10</sup>

## 2.6 Other Amendments sought to provisions across the whole Plan

<sup>6</sup> Poutini Ngāi Tahu S620.001, S620.002 and S620.003, Director General S602.007

<sup>7</sup> Poutini Ngāi Tahu Ngāi Tahu S620.005, Māwhera Incorporation S621.009, Director General of Conservation S602.004

<sup>8</sup> Poutini Ngāi Tahu Ngāi Tahu S620.003

<sup>9</sup> Poutini Ngāi Tahu Ngāi Tahu S620.005, Māwhera Incorporation S621.009, Director General S602.004

<sup>10</sup> Director General of Conservation S602.009

### **Submissions and Further Submissions**

128. Forty submission points and 22 further submissions seeking amendments to provisions across the whole plan were summarised in a Table on pages 31-37 of the s42A Report. The Panel adopts these summaries and has considered the submissions and further submissions.

### **Section 42A Report**

129. Buller Conservation Group (S552.005) and Frida Inta (S553.005) sought that all activities proposed as controlled and restricted discretionary should be reclassified as discretionary. Ms Easton did not support the submissions on the grounds that the activity status related to the likely extent of actual or potential effects, and the proposed change did not meeting the purposes and principles of the RMA and was not justified in terms of costs and benefits by the s32 Report.

130. Vance and Carol Boyd (S447.003) sought review of all “catch all” non-complying activity rules. Similarly, William McLaughlin (S567.395), Chris & Jan Coll (S558.335), Chris J Coll Surveying Limited (S566.335) and Laura Coll McLaughlin (S574.335) sought that all non-complying or prohibited activity rules that include the wording “*not provided for in another rule*” be deleted or made discretionary activities.

131. Ms Easton endorsed the submission for a case-by-case chapter review and agreed that in some instances “catch all” rules could unintentionally catch activities that had negligible environmental effects. However, Ms Easton did not support the default amendment of non-complying or prohibited activity rules to discretionary, on the basis that the underlying zones and the activity status should be reflective of the potential for significant adverse effects. Therefore, Ms Easton rejected the relief sought by the four submitters, but referred submission S447.003 by Vance and Carol Boyd for consideration within the zone chapter s42A Reports.

132. The Fuel Companies (S613.001) sought general relief that the purpose and principles of the RMA, the WCRPS and the statutory tests of section 32 of the RMA were met. Ms Easton confirmed that the Tai Poutini Committee considered that the TTPP met the RMA requirements, including undertaking a section 32 evaluation. Ms Easton acknowledged the argument that some provisions may not be the best way to meet the requirements of the RMA and the WCRPS. However, she did not consider there was a need to review the whole plan and therefore rejected the submission.

133. Poutini Ngāi Tahu (S620.015) sought that “*effects on Poutini Ngāi Tahu values*” be included as a matter of control or discretion within the controlled and restricted activity rules within all zone chapters. In considering this submission, Ms Easton noted that granting such relief would add significant, and in some cases, unnecessary additional requirements on consent applicants. Ms Easton provided two examples where there would be no merit in undertaking an assessment of cultural values. However, where assessment of Poutini Ngāi Tahu values was already a relevant assessment matter, Ms Easton remained supportive. However, Ms Easton considered the blanket approach in the relief sought by Poutini Ngāi Tahu was inappropriate.

134. Minerals West Coast (S569.037) sought that the effects management hierarchy be applied throughout the TTPP. Ms Easton stated that the Committee had already considered the effects management hierarchy in developing the TTPP and therefore the submission was not supported.

135. The New Zealand Motor Caravan Association (S490.002) sought that camping as an activity was specifically excluded from the Plan. Ms Easton did not support this submission

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

### Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

on the basis that camping can generate adverse effects on the environment and therefore should be subject to regulation under the TTPP. The submitter (S490.005) also sought better support for camping as an activity in the Plan. Ms Easton noted the existing provisions applied to specific contexts and therefore considered the effects of camping were best looked at on a spatial basis.

136. Westpower (S547.027) sought to add "*locational need and technical need*" to all rules referring to "*functional need and/or operational need*". Ms Easton noted that higher order documents provide specific direction for '*functional need*' or '*operational need*' and therefore considered the relief sought was inappropriate.
137. Ms Easton supported the submission of Davis Ogilvie and Partners Ltd (S465.038) that sought all references in the Plan to "*certificates of title*" be replaced with "*record of title*". The submitter (S465.039) also sought to add a supplementary statement to account for any subsequent updating of the standards over time, instead of direct reference to NZS 4404:2010. In response, Ms Easton stated that Schedule 31 of the RMA was clear that updates can only be incorporated by a plan change and, therefore, she did not support the relief sought.
138. Ms Easton did not support the submission from Frida Inta (S553.232) that sought that all residential (including settlement) zones have an air pollution rule added because she considered the submission was out of scope of s31 of the RMA.
139. Chris and Jan Coll (S558.001, S558.333), William McLaughlin (S567.001, S567.393) Chris J Coll Surveying (S566.333) and Laura Coll McLaughlin (S574.001, S574.333) sought that references to compliance with standards (e.g. permitted activity standards or performance standards) be amended to accommodate pre-existing non-compliances that were not exacerbated by the proposed activity. Ms Easton expressed concern that adverse effects could be aggravated by a change of use or activity due to existing non-compliances, particularly in relation to amenity issues. Ms Easton considered that, instead of the blanket retention of non-compliances, the merits of such non-compliances were better addressed through the subdivision consent process.
140. Ms Easton was generally accepting of the submission points by the Director General (S602.003), (S602.005), (S602.008) that sought amendments to terms used in the Plan. Ms Easton supported replacing "*natural heritage*" with "*natural environment*" on the basis that the term "*natural heritage*" was a drafting error. She also supported replacing "*native*" with "*indigenous*"; and replacing '*waterway*' and '*stream*' with '*river*' and/or '*waterbody*' throughout the Plan given that these terms were defined in the RMA (and TTPP). She considered these changes would provide a consistent approach for ease of interpretation of policies and rules.
141. The Director General (S602.006) also sought that the term "*impacts*" be amended to "*adverse effects*", unless "*impacts*" was required for consistency with a higher order document. Ms Easton did not support this submission on the grounds that "*impacts*" can be both positive and negative, and noted the term was used extensively within the WCRPS and the TTPP so was appropriate.
142. Ms Easton supported the submission from Forest and Bird (S560.465) that sought to replace "*utility*" with '*network utility*', included as a defined term in the Plan.
143. Similarly, Buller Electricity Limited (S451.016) sought that '*network utility operator*' was used consistently throughout the Plan. Ms Easton acknowledged the use of multiple terms in the Plan, noting that matters of consistency and infrastructure definitions were mostly dealt with in the Energy, Infrastructure and Transport s42A Report. Ms Easton

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

considered the recommendation to use the term '*network utility*', as sought by Forest and Bird (S560.465), partly addressed the concerns of the submitter.

144. KiwiRail (S442.093) sought to add a new rule to require all buildings and structures within 5m of any site boundary with the railway corridor to apply for consent as a restricted discretionary activity. Ms Easton reviewed the potential implications of this relief as it would apply to railway corridors through Westport, Reefton, Greymouth and Hokitika, as well as several smaller towns. Based on this analysis, Ms Easton considered adding additional setbacks from the railway corridor would significantly reduce the developable area of many properties across West Coast towns and settlements. For this reason, she did not support the submission and considered KiwiRail should consider designating or purchasing the affected land where safety risks existed.
145. Brian Anderson (S576.014) sought that references to "*biodiversity offsetting*" should be removed from the Plan. Ms Easton noted that some of the matters raised in the submission were addressed in the ECO Chapter s42A Report, and rejected the relief sought.
146. New Zealand Heavy Haulage Association Incorporated (S616.015) sought to retain the provisions for relocated buildings; whereas William McLaughlin (S567.394), Chris and Jan Coll (S588.334), Chris J Coll Surveying (S566.334) and Laura Coll McLaughlin (S574.334) sought that the provisions be deleted on the grounds that they were unnecessary and too restrictive. Ms Easton considered the rules took a balanced approach to supporting relocation and reuse of existing building stock, while accommodating health and safety and amenity considerations. Ms Easton therefore supported the retention of the provisions and rejected the submissions in opposition.
147. Anthony Eden (S578.004) sought a reduction in the number of Plan overlays to increase the ease of using the Plan for non-planner readers and affected parties. In response, Ms Easton noted the Plan structure was established by the Planning Standards. However, she saw benefit in developing a "*Method*" section to the Plan, building upon existing place-based information sheets, to help explain the effects of the Plan rules for individual communities. Therefore, she accepted the submission point in part and recommended:
- That a Method be added to the Plan in the Settlement Zone which outlines that user friendly information will be developed to explain the combined effect of the Plan rules for individual communities.
148. The Director General (S602.012) sought that matters of control and discretion throughout the Plan include an assessment of alternatives, where the rules relate to managing activities within scheduled areas and significant natural areas (**SNA**). Ms Easton noted that there were already provisions under s108(8) and s131 of the RMA relating to the consideration of alternatives. Ms Easton suggested that requiring controlled activities to consider alternatives was not appropriate given controlled activities must be granted. However, upon review of restricted discretionary activity examples across various provisions in the Plan, Ms Easton found potential for significant adverse effects and subsequently recommended an assessment of alternatives would be appropriate in those circumstances. Ms Easton therefore supported the submission in part recommending the following:
- That an additional assessment criterion "Consideration of an assessment of alternatives" be added to the following Restricted Discretionary Activity Rules – SUB – R9, SUB – R10, SUB – R11, NFL – R11, NFL – R12, HH – R6, HH – R7, HH -R8, TREE – R5, TREE – R6, TREE – R7, CE -R13, CE -R14, CE -R15, CE

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

### Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

-R16, CE -R17 and CE -R18 and as a consequential amendment, any other Restricted Discretionary Activity Rules that relate to SNAs and Scheduled Areas.

149. Te Tumu Paeroa (S440.002, S440.003) sought singular terms and subsequent definitions to be used in the Plan for the following groups of terms: (a) *'Poutini Ngāi Tahu'*, *'Poutini Ngāi Tahu whānui'*, *'Poutini Ngāi Tahu community'*, and *'Poutini Ngāi Tahu members'*; (b) *'Poutini Ngāi Tahu land'* and *'ancestral land'*; and (c) *'Cultural uses'*, *'Cultural purposes'*, and *'Cultural activities'*.
150. Ms Easton considered that a single term *'Poutini Ngāi Tahu'* would be appropriate and recommended:
- That the terms *'Poutini Ngāi Tahu whānui'*; *'Poutini Ngāi Tahu community'* and *'Poutini Ngāi Tahu members'* be replaced with the term *'Poutini Ngāi Tahu'* anywhere it is used in the Plan.
151. For the second grouping of terms, Ms Easton noted the terms *'Poutini Ngāi Tahu land'* and *'Ancestral land'* were not used interchangeably in the Plan. She considered *'Poutini Ngāi Tahu land'* related to land currently held by Poutini Ngāi Tahu, whereas *'Ancestral land'* relates to lands formerly owned by Poutini Ngāi Tahu. Ms Easton therefore recommended no changes.
152. Ms Easton noted the third grouping of terms tended to be used interchangeably and therefore recommended *'Cultural uses'* and *'Cultural activities'* was replaced with *'Cultural purposes'* Plan-wide.
153. Poutini Ngāi Tahu (S620.006) sought references to *'site coverage'* be amended to *'building coverage'*. Ms Easton did not support this because she noted there were differences between the meanings and *'Site Coverage'* related to impermeable surfaces across a site, whereas *'Building Coverage'* primarily related to the bulk and location of buildings on a site.
154. Cape Foulwind Staple 1 Ltd (S557.006) and Cape Foulwind Staple 2 Ltd (S568.014) sought clarification of the definition of *'Site Coverage'* versus *'Building Coverage'* for the purposes of consistency. Ms Easton noted that *'Site Coverage'* was not defined in the Plan, whereas *'Building Coverage'* was defined in the Planning Standards.
155. Ms Easton noted that review of the Plan and s32 Reports identified inconsistencies within the Plan where permitted activity rules referred to *'Site Coverage'* and controlled and restricted discretionary activity rules referred to *'Building Coverage'*. Ms Easton considered this was a drafting error given the principal concern for coverage matters on the West Coast was the impact of flooding and stormwater.
156. Accordingly, the s42A Report recommended two amendments to the Plan as follows:
- The term *'Building Coverage'* be replaced with *'Site Coverage'* anywhere it is used in the Plan; and
- That the term *'Site Coverage'* be defined in the Plan as follows:
- Site Coverage means the proportion of a site that is covered by buildings, decks and paving, including concrete, asphalt, brick, stone and precast concrete slabs.
157. Ms Easton did not support the relief sought by Straterra (S536.025) that sought to remove references to *"avoid"* where it was not used within the wider effects management hierarchy. Straterra was concerned that use of *"avoid"* without *"remedy or mitigate"* implied that an activity should not occur. Ms Easton confirmed that this was the intent of

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

### Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

the word “*avoid*” and that it was appropriate to retain it in certain contexts to give effect to the RMA and higher order statutory direction.

158. Minerals West Coast (S569.002) sought to amend the Plan to uphold and provide for the strategic objectives regarding minerals activities. They sought amendments across the Plan to achieve this, but did not specify where. Ms Easton did not support this submission on the grounds that the Plan already placed a high weight on the value of development of mineral extraction opportunities and was relatively permissive regarding such activities.
159. Waka Kotahi (S450.00342) sought that performance standards be clearly identified in a separate table (believing this was a requirement of the Planning Standards) and a separate rule for the specific matters currently identified as Rule 1. Ms Easton noted there was no requirement under the Planning Standards to adopt such a structure. She considered the requested changes would not make the Plan simpler and would require significant amendments. On this basis, she did not support this submission.
160. Vance and Carol Boyd (S447.004) sought that the spatial extent of scheduled areas like Outstanding Natural Landscapes, areas of Outstanding and High Natural Character, Significant Natural Areas, Outstanding Natural Features, Sites of Areas of Significance to Māori and Historic Heritage, be outlined in detail in the schedules. Ms Easton noted that while it was possible to zoom in to an individual property to see the extent of a scheduled area in the Plan, where possible, a more detailed description of the spatial extent of the scheduled areas would be desirable. Therefore, Ms Easton supported the submission in part and recommended that a more detailed description of the spatial extent be provided for the scheduled areas within the schedules.
161. GDC (S608.498) sought a review of whether all matters in the objectives, policies and rules were appropriate as district council matters. Ms Easton acknowledged areas of overlap in function between the regional and the district councils, but considered that significant care had been taken to ensure that only matters specifically delegated to district councils were addressed in the Plan. She considered that whether the level of regulation was appropriate, given potential overlap in rules between regional and district council responsibilities, was a matter for assessment in relation to each specific provision. Therefore, Ms Easton did not support a Plan-wide review in response to the submission.

### Hearing and Submitter Evidence/Statements

162. Ms Young, for Director General, agreed with Ms Easton that “*impacts*” can be both positive and negative, but suggested that the key point was that a general approach to the use of the term “*impacts*” was not appropriate and should be addressed on a case-by-case basis. She also addressed submission point S602.012, which sought a general approach to controlled activity and restricted discretionary rules requiring a consideration of alternatives to be a matter of control or discretion, particularly where activities affect “*scheduled areas and SNAs*”. She acknowledged Ms Easton’s recommendation to include the assessment of alternatives for restricted discretionary rules and agreed that adding this to controlled activities would be of limited utility given the consent would be granted.
163. Ms Katherine Viskovic’s legal submissions for Poutini Ngāi Tahu detailed the matters at the core of the Poutini Ngāi Tahu submission regarding their identity, their relationship with the environment, and the history associated with that relationship. She stated Poutini Ngāi Tahu sought for the Panel to provide a direction on the matter of Poutini Ngāi Tahu values as a consent consideration, given the potential for the matter to be raised in multiple chapter hearings. She reiterated that the failure to grant the relief sought would mean that there were no pathways to consider Poutini Ngāi Tahu values within resource consent applications for controlled and restricted discretionary activities.

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

### Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

164. Ms Baldwin-Smith outlined the basis for the assertion of rangatiratanga of Poutini Ngāi Tahu over the geographical extent of the Plan and stated that rangatiratanga was not a passive responsibility. She noted that the Mana Whakahono a Rohe agreement was in place to guide relationships between the iwi authority and territorial authorities.
165. Ms Pull addressed the need for further recognition of Poutini Ngāi Tahu values (S620.015). She reiterated that Poutini Ngāi Tahu sought consideration of those values as necessary for controlled activities and restricted discretionary activities throughout the Plan. She stated that such an approach was not new and was already adopted in the Buller and Westland District Plans, with Poutini Ngāi Tahu values also being acknowledged in the WCRPS and the Tangata Whenua Chapter.
166. Ms Pull addressed the submission by Te Tumu Paeroa (S440.003) that sought a range of additional definitions that related to Poutini Ngāi Tahu activities and whanau, including *'Ancestral land'*, *'Cultural activities'*, *'Cultural materials'*, *'Cultural purposes'*, *'Cultural uses'*, *'Poutini Ngāi Tahu community'*, *'Poutini Ngāi Tahu members'*, *'Poutini Ngāi Tahu land'*, *'Poutini Ngāi Tahu whānui'*, *'Suitably qualified and experienced person'*, and *'Te Rūnanga o Ngāi Tahu land'*. She considered there was value in considering such definitions in this hearing and for the Panel to consider potential preliminary definitions to give direction for the other hearing topics. Ms Pull commented on each of the potential definitions to provide guidance to the Panel in considering this matter. She requested submission S440.003 by Te Tumu Paeroa be rejected in part, with the definitions subject to that submission considered in this hearing and the definition of *'suitably qualified and experienced person'* considered during the Natural Hazards Chapter hearing.
167. Mr Roger Griffiths, General Manager - Generation and Technology for Westpower, outlined the Westpower business and expressed concern that the existence of their network had not been appropriately identified and recognised in the development in the Plan. He noted that a major outcome of the WCRPS process was recognition of the activities undertaken by Westpower as *'Regionally Significant Infrastructure'*.
168. Mr Kennedy, for Westpower, noted that the Plan must have regard to the WCRPS and in accordance with section 75 of the RMA must give effect to the WCRPS, including Policy 2 of Chapter 4 – Resilient and Sustainable Communities. He noted the s42A Report summary of recommendations incorrectly summarised the outcomes sought by Westpower regarding their submissions on *'functional need'* and *'operational need'*. He explained why *'locational and technical needs'* should be added wherever the other two terms were mentioned in the Plan. He considered the s42A Report did not recognise the WCRPS as a higher order document and suggested that using terms consistent with those already used in the WCRPS would be beneficial to Plan interpretation and implementation.
169. Mr Kennedy noted support for the s42A Report recommendation regarding replacing *'waterway'* and *'stream'* with *'river'* for consistency with the RMA and TTPP definitions; and for replacing *'utility'* with *'network utility'*. He also commented on the rejection of further submission FS222.073 relating to consideration of alternatives under restricted discretionary activity rules. He supported the notion that an assessment of alternatives was necessary where activities had the potential to create significant adverse effects, but not where an assessment of alternatives was required as a matter of course. He acknowledged such matters were provided for in RMA Schedule 4, clause 6, and suggested that if such changes were necessary that the wording should be as follows:

In cases where it is likely that the activity will result in a significant adverse effect on the environment consideration of any possible alternative locations or methods for undertaking the activity.

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

### Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

170. Legal submissions on behalf of KiwiRail by Ms Kristen Gunnell related to the safety setbacks proposed KiwiRail and the definition of a *'sensitive activity'*.
171. In terms of the safety setback, KiwiRail detailed that a boundary setback control sought to avoid health and safety issues caused by people needing to enter the railway corridor to manage any of their property that shared a boundary with KiwiRail. They suggested that any encroachment onto the rail corridor had the potential to result in serious injury or death and justified a standard setback provision. Further, they considered enabling development adjacent to the railway corridor that could not be built or maintained safely and lawfully was a breach of Councils' obligations under s74(1)(b) of the RMA. They clarified that the proposed setback control was intended to apply to new or altered buildings and structures, but would not apply to existing buildings.
172. KiwiRail also noted that the cost to designate and purchase the relevant properties, as suggested in the s42A Report, would be a *"disproportionate, extremely costly, and burdensome alternative planning solution"*.<sup>11</sup> They therefore did not support the s42A Report recommendation.
173. KiwiRail also referenced an amendment to the definition of sensitive activity, such that *"community facility"* is replaced with *"place of worship"*. They noted their proposed definition was based on provisions that were commonly used in district plans throughout the country and considered the amendment would better assist with Plan coherency.
174. Ms Michelle Grinlinton – Hancock provided a statement of evidence for KiwiRail addressing the need for a safety setback, setback distance, and the inclusion of an associated matter of discretion. She considered a setback distance of 5m was appropriate and noted this was consistent with the existing zone provisions in the General Industrial, Light Industrial and Port Zones. She reiterated that such a setback was critical to ensure the health and safety of occupants of properties adjoining the rail corridor, but also to ensure the safe and efficient operation of the rail network as nationally and regionally significant infrastructure.<sup>12</sup> She clarified that a safety setback, and any noise and vibration provisions, were for different purposes and she therefore considered the 40m setback in the acoustic provisions had no bearing on the relief sought.
175. Ms Grinlinton-Hancock also responded to the s42A Report recommendation that KiwiRail should designate the areas necessary to protect the safe and efficient operation of the rail corridor. She stated that designating land adjacent to the existing rail corridor would impose greater constraints on private land, as well as result in additional cost, inefficiency, and uncertainty for taxpayers and developers, due to the need to apply for approval from KiwiRail under s176 of the RMA when wishing to undertake activities on their land. She considered the suggestion that the proposed setback would restrict development, including in instances where development was desirable, was incorrect because the setback controls sought did not constitute a *"no build setback"*. She noted that KiwiRail sought an associated matter of discretion where an adjoining landowner would be able to seek consent to build within the setback area, provided that proposal would not compromise the safe and efficient operation of the rail network. She noted the matter of discretion would allow KiwiRail to be notified as a potentially affected party to assess any effects of the proposal.
176. Ms Catherine Heppelthwaite provided a statement of evidence for KiwiRail addressing the s42A Report rejection of the proposed setback. She confirmed the relief sought would not apply to existing buildings and therefore the concern about the potential

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<sup>11</sup> KiwiRail legal submission, s. 3.9. pg. 5,

<sup>12</sup> Statement of evidence of Michell Grinlinton-Hancock for Kiwirail, s.2, pg.2

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

### Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

impact on existing buildings was unfounded. She also confirmed that the relief sought did not propose a “no build” control, but rather provided a means for Council and KiwiRail, as an affected party, to assess whether safety concerns could be adequately managed or not. She noted boundary setback controls were a common planning mechanism throughout New Zealand to ensure the safe and efficient operation of infrastructure. She noted setback controls were not the same as acoustic controls as they were provided for different reasons. She considered the proposed setback control was consistent with existing mechanisms and provisions in the TTPP, including setbacks from roads; and the strong policy framework in the WCRPS.

177. Ms Heppelthwaite provided evidence of an analysis of TTPP provisions as they related to setbacks and proposed changes to the Plan provisions as follows:

- (a) Provide a 5m building setback for the Mixed Use, Town Centre, General, Large Lot and Medium Residential Zones;
- (b) Amend the existing 5m setbacks in the General Industrial Light Industrial and Settlement Zones to refer to rail designation boundary; and
- (c) Include rules across all zones providing for any infringement of the building setback as a restricted discretionary activity (and associated matter of discretion).

178. In response to questions from the Panel, Ms Grinlinton-Hancock confirmed that KiwiRail had accepted lesser setbacks in different contexts, but that the preferred option based on KiwiRail’s experience was 5m. She also confirmed that trees were not an issue within the setback corridor as KiwiRail relies on a separate regulatory framework to manage trees.

179. Ms Inta reiterated the need to have an air pollution rule added to all zones. She stated that district councils had delegated authority from regional authorities to manage domestic fires and therefore air quality was a relevant issue for inclusion in the Plan.

### **Reporting Officer Reply Evidence**

180. Ms Easton’s Right of Reply addressed ‘*locational and technical need*’ noting that, without exception, all of the district plans reviewed throughout the country referred to both ‘*functional need*’ and ‘*operational need*’.

181. In response to the Panel’s questions regarding the Directors General’s submission (S602.012), Ms Easton reviewed the relevant rules and listed the various rules that would need to be amended should the relief sought be granted. She confirmed that under RMA Schedule 4, many of the rules related to activities that would trigger the need for an assessment of alternatives. She noted that the three district councils were also consulted, confirming that where s6 matters were concerned, in all instances an assessment of alternatives would be required.

182. Ms Easton concluded it was unnecessary to amend the matters of discretion to include an assessment of alternatives, which negated the need for a s32AA evaluation. However, she suggested an alternative of adding an advice note as follows:

Advice Note: Where the activity could result in significant adverse effects on RMA s6 Matters of National Importance, then any resource consent application will require an assessment of alternative locations and/or methods for the activity should be undertaken as required by Schedule 4 of the RMA.

### **Hearing Panel’s Evaluation**

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

183. The Panel acknowledges submitter concerns regarding “*catch-all*” non-complying activity rules. We address this within each of the chapters, and note that in most situations we recommend the “*catch-all*” rule is a discretionary activity. The Panel note that prohibited activity status is used sparingly in the Plan and only as appropriate.
184. With regards to the submission from Poutini Ngai Tahu that sought to add “*effects on Poutini Ngāi Tahu values*” as a matter of control or discretion within the controlled and restricted activity rules within all zone chapters, the Panel agree with Ms Easton that such a broad ranging amendment would not be appropriate. We accept that there are instances where adding “*effects on Poutini Ngāi Tahu values*” as a matter of control or discretion is appropriate, which is a matter addressed within the individual chapters.
185. In terms of the application of the effects management hierarchy, the Panel considers it is limited to those situations directed by higher order instruments. It is not open to us to apply its use throughout the Plan as sought by Minerals West Coast. We therefore recommend this submission be rejected. However, we note this is recommended to be added to relevant provisions in the ECO Chapter to give effect to the NPSIB.
186. The Panel does not agree with Westpower that ‘*locational need*’ and ‘*technical need*’ should be added to all rules associated with functional need and operational need. We agree with Ms Easton that there is direction in higher order documents that must be given effect to. We consider matters relating to locational and technical need are captured within the definitions of ‘*functional need*’ and ‘*operational need*’ which are defined in the Plan using the Planning Standards definitions. We consider the language of the WCRPS predates this direction. We therefore recommend this submission is rejected.
187. In terms of the KiwiRail submission points, we note that Ms Grinlinton-Hancock provided further evidence on the setback issue at subsequent hearings. The Panel agrees that a setback from the rail corridor is appropriate, however, we do not consider that it needs to be a uniform 5m in every zone because this will create constraints and inefficiencies in relation to development, particularly in urban areas and town centres. The Panel also considers that the point of setback should be set at the designation boundary rather than the rail corridor. We note that these amendments have been made in the relevant zone chapters, so no recommendation is required here.
188. The Panel acknowledges Ms Easton’s confirmation regarding the assessment of alternatives under clause 6(1)(a) of Fourth Schedule of the RMA. This is a specific requirement associated with activities that reach a ‘significant adverse effects’ threshold. In our view, implementation of the Director General’s submission would undermine that requirement. We have considered Ms Easton’s advice note, however, we are unclear exactly where in the Plan this would be placed and, in our view, given this is an RMA requirement, which should be reasonably well understood, we do not see the necessity for it. We note our recommendations on some specific rules include the assessment of alternatives in the context of determining ‘*functional need*’.
189. The Panel agrees with the recommendation to replace ‘*certificate of title*’ with ‘*record of title*’ in line with current legal wording; that the term ‘*natural heritage*’ be amended to ‘*natural environment*’; that ‘*native*’ is replaced with ‘*indigenous*’; and ‘*waterway*’ and ‘*stream*’ replaced with ‘*river*’ and/or ‘*waterbody*’ throughout the Plan. We also agree that ‘*utility*’ is replaced with ‘*network utility*’ throughout the Plan. The Panel notes other terms have been addressed in the relevant chapter recommendations.
190. The Panel agree that ‘*Building coverage*’ and ‘*Site coverage*’ are two distinct terms relating to different matters. We note the two terms are used inconsistently throughout the Plan and consider their use in the context of particular provisions.

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

191. The Panel does not agree with Ms Easton’s recommendation to add a Method in response to Mr Eden’s submission, outlining that user-friendly information will be developed to explain the combined effect of the Plan rules for individual communities in the Settlement zones. We consider that it is unnecessary to detail this in the Plan and that if such information is to be provided it can be undertaken outside of Plan requirements.

192. In relation to Te Tumu Paeroa (S440.002) seeking singular terms be used in the Plan for the range of Māori terms, we noted that this part of the submission was formally withdrawn via letter dated 22 August 2024. However, the use of some of these terms and definitions are considered where relevant in our recommendation on specific chapters.

193. In relation to the remainder of the submissions, the Panel notes that some of the amendments sought have been addressed in the specific chapters, others are supported in part with no amendment, while others are not supported by Ms Easton and in those cases, we agree that these should be rejected based on her conclusions.

194. The Panel note that further changes to definitions in the Plan are made as a consequence of submissions and evidence on various chapters of the Plan, as outlined in subsequent Recommendation Reports.

### Hearing Panel’s Recommendation

195. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends the submission points identified in the footnotes below are accepted or accepted in part, and recommend the following changes to the whole Plan and **Definitions**:

Plan Section	Recommended Amendment
Whole Plan	All references to ‘ <i>certificates of title</i> ’ in the Plan are replaced with ‘ <i>record of title</i> ’. <sup>13</sup>
Whole Plan	All references to ‘ <i>natural heritage</i> ’ in the Plan are replaced with ‘ <i>natural environment</i> ’. <sup>14</sup>
Whole Plan	All references to ‘ <i>native</i> ’ in the Plan are replaced with ‘ <i>indigenous</i> ’. <sup>15</sup>
Whole Plan	All references to ‘ <i>waterway</i> ’ and ‘ <i>stream</i> ’ in the Plan are replaced with ‘ <i>river</i> ’ or ‘ <i>waterbody</i> ’. <sup>16</sup>
Whole Plan	All references to ‘ <i>utility</i> ’ in the Plan are replaced with ‘ <i>network utility</i> ’. <sup>17</sup>
Whole Plan	References to ‘ <i>Building Coverage</i> ’ in the Plan are replaced with ‘ <i>Site Coverage</i> ’, including NCZ – R10, GRZ - R16, GRZ - R17, GRZ - R18, LLRZ – R14, MRZ– R11, SVZ – R1. <sup>18</sup>
Definitions	Add a new definition for Site Coverage as follows: <b><u>SITE COVERAGE</u></b> <b><u>means the proportion of a site that is covered by buildings, decks and paving, including concrete, asphalt, brick, stone and precast concrete slabs.</u></b> <sup>19</sup>

<sup>13</sup> Davis Ogilvie and Partners Ltd S465.038

<sup>14</sup> Director General of Conservation S602.003

<sup>15</sup> Director General of Conservation S602.005

<sup>16</sup> Director General of Conservation S602.008

<sup>17</sup> Royal Forest and Bird Protection Society of New Zealand Incorporated S560.465

<sup>18</sup> Cape Foulwind Staple 1 Ltd S557.006

<sup>19</sup> Cape Foulwind Staple 2 Ltd S568.014

## **2.7 Submissions seeking a greater weight on economic growth and social outcomes**

### **Submissions and Further Submissions**

196. Five submissions and seven further submissions sought greater weighting on economic growth and social outcomes, as summarised in a Table on pages 44-45 of the s42A Report. The Panel adopts these summaries and has considered the submissions and further submissions.

### **Section 42A Report**

197. Development West Coast (S484.002) sought greater emphasis on economic sustainability within the Plan; whereas the West Coast Regional Council (S488.038) sought a balance between the social and economic impacts of the Plan and other requirements.
198. Westpower (S547.003) sought that the Panel give effect to WCRPS Chapter 4 - Resilient and Sustainable Communities, Policy 2 when determining Plan matters.
199. Rosalie Sampson (S539.007) sought for the Plan to be less restrictive. The Scenic Hotel Group (S483.019) sought that the Plan better address long term environmental and economic sustainability.
200. In response, Ms Easton was satisfied that the process to develop the Plan had sufficiently accommodated economic development opportunities and priorities. She considered the Plan maintained a strong focus on supporting economic development opportunities and therefore recommended rejection of all the above submissions.

### **Hearing and Submitter Evidence/Statements**

201. Mr Kennedy, Westpower, considered placing greater weight on economic growth and social outcomes was appropriate given those factors should be incorporated into decisions when determining plan matters.
202. Mr Karl Luxon and Ms Kim Smith, for Scenic Hotel Group, spoke at the hearing in general terms about their desire for the Plan to encourage economic investment and innovation to maintain and improve existing assets. They further sought flexibility to enable them to manage their assets, particularly when considering worker accommodation needs within various zones.

### **Reporting Officer Reply Evidence**

203. No specific points were made in Reply in response to the above submissions.

### **Hearing Panel's Evaluation**

204. The Panel acknowledges the above submissions, and we note that these matters are considered and included in appropriate provisions, including Strategic Direction.

### **Hearing Panel's Recommendation**

205. The Panel recommends no change as a result of the above-mentioned submission points.

## **2.8 Submissions in relation to lawfulness**

### **Submissions and Further Submissions**

## **Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel**

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

206. There were six submissions and one further submission in relation to the lawfulness of the Plan as a whole, as summarised in the tables on pages 46-47 of the s42A report. The Panel adopts these summaries and has considered all the submissions and further submission.

### **Section 42A Report**

207. As developers, Project and Ventures (S348.001) sought a full Plan review of the legality and consequences of various provisions and inclusions on their future development prospects. Ms Easton noted she had relied on the advice of legal counsel throughout the Plan development process and was satisfied it was consistent with the statutory requirements. She therefore rejected the submission.
208. Groundswell NZ (S562.007) sought support from the Councils to lobby local and central government for legislative changes related to perceived failings of section 6 of the RMA. Ms Easton did not support the submission on the grounds that it was out of scope.
209. Ms Easton rejected the submission from Westpower (S547.002) that suggested the Plan did not meet the requirements of section 32 of the RMA.
210. Ms Easton rejected the submissions by Paul Kerridge (S32.001), Buller Conservation Group (S552.011) and Frida Inta (S553.011) seeking that more enforcement information be included within the Plan, given that the RMA already defined enforcement requirements.
211. GT Farms Ltd (S273.001) sought that the Plan provisions not affect the day-to-day operation of their farming and business activities on their property. Ms Easton supported the submission on the grounds that the proposed activities on their property were permitted by the applicable zoning and overlay provisions.
212. Ms Easton rejected the submission from Groundswell NZ (S562.004) which sought that the immediate legal effect of new overlays, including Sites and Areas of Significance to Māori, be withdrawn. She based her recommendation on the requirements of s86B(3) of the RMA that sets out which rules have legal effect in a proposed Plan.
213. Ms Easton recommended no changes in response to these submission points.

### **Hearing and Submitter Evidence/Statements**

214. Ms Inta disagreed with Ms Easton's view regarding compliance and enforcement elements in the Plan. She emphasised the need for the Plan to make clear the implications of breaches of rules and suggested the Councils had not been good at this in the past.
215. Mr Kennedy, for Westpower, accepted that the Plan had been through a s32 process, however, he considered reference to that section was also required in considering and determining matters. He noted the key concern was to ensure Westpower could undertake its activities, and he highlighted the need to ensure matters were not considered in isolation.

### **Reporting Officer Reply Evidence**

216. No specific points were made in the Reply in response to these submissions.

### **Hearing Panel's Evaluation**

217. The Panel acknowledges the submissions, and are satisfied that the Plan meets all necessary legal tests.

### **Hearing Panel's Recommendation**

218. The Panel recommends no change in response to the above submission points.

## **2.9 General submissions on the planning maps**

### **Submissions and Further Submissions**

219. Twenty submission points and 20 further submissions were received regarding general matters in relation to the Planning Maps and Overlays, as summarised in the table on pages 48-52 of the s42A Report. The Panel adopts these summaries and has considered the submissions and further submissions.

### **Section 42A Report**

220. Ms Easton noted that several submitters supported various mapping extents.

221. Poutini Ngāi Tahu (S620.009, S620.010, S620.011 and S620.012) sought changes to the hard copy/pdfs of the Plan. Ms Easton noted that such copies had only been produced for consultation purposes and that the TTPP was to be developed primarily as an e-plan in accordance with the Planning Standards. As there was no intent to continue with hard copies, Ms Easton rejected this submission.

222. Several submitters sought amendments to the functionality of the Plan maps. Poutini Ngāi Tahu (S620.013) sought that the legal boundaries for properties were shown and that relevant information was able to be selected.

223. Jane Neale (S262.007) sought that all boundaries for zones were accurate and justifiable. Forest and Bird (S560.033) sought that the map tool was modified so that property information could be identified even when an address was not available, and also that special purpose zones could be selected. Cape Foulwind Staple 1 (S557.001) and Cape Foulwind Staple 2 Ltd (S568.001) sought that the Planning Maps reflected the legal appellations at the time of printing, and that the zones reflect appellation boundaries.

224. Lara Kelly (S421.005) sought that the maps identify what provisions apply to an individual property. Inger Perkins (S462.035) sought a single click functionality to zone and elements of the map; and also requested the inclusion of topographical base maps. Clare Backes (S444.001) requested the tool be expanded to be more comprehensive and apply to all areas on the West Coast. Davis Oglivie and Partners Ltd (S465.040) sought that maps could be saved and printed at a defined scale. BDC (S538.087) sought that road reserve boundaries were added to the maps.

225. In response to the above submissions, Ms Easton noted that some of the submitters concerns about "*real time*" accuracy of the underlying data, would be addressed by the time the Plan was finalised. However, she also noted that at times there would be some degree of "*lag*" due to the incremental changes (for example due to subdivisions) of the underlying cadastre, prior to updates being applied. Therefore, Ms Easton accepted some of the relevant submissions in part.

226. Ms Easton was mostly supportive of the submissions related to enhanced functionality, although she stated that the submissions would need to be added to a priority list for the WCRC to implement over time.

227. Several submissions, including those of Kevin Klempel (S276.002), Greg Maitland (S571.001), Frida Inta (S553.015) and Buller Conservation Group (S552.015), related to the colours and the way precincts and zones were shown on the maps. There were also submissions by Forest and Bird (S560.045) and Poutini Ngāi Tahu (S620.008) related to

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

### Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

improvements in labelling. Ms Easton agreed that the Precincts and Special Purposes Zones were hard to distinguish, suggesting support for the proposals, but only within the constraints of “*costs and timing*”.

228. Ms Easton supported the submissions of Forest and Bird (S560.014) and Katherine Gilbert (S474.011) requesting the inclusion of the topographical layer basemap, and for the layer of public conservation land (PCL) to also be added.
229. Ms Easton supported the Ngāi Tahu (S620.004) submission which sought a consistent approach to the names of the overlays between the plan and the maps.
230. NZTA Waka Kotahi (S450.00343, S450.327, S450.328, S450.329, S450.330, S450.331, S450.332) sought review and amendment of the map overlays, on the basis that in many instances the overlays extended into road corridor, including that of State Highways. Ms Easton rejected the submission, noting that in some cases the road may not detract significantly from the overlay values.
231. BDC (S538.633), GDC (S608.497), Gail Dickson (S407.006) and Rebecca Inwood (S422.002, S422.004 and S422.005) sought that the overlays/schedules were removed, reviewed or reassessed. The submitters were concerned with the mapped extent of the scheduled site overlays and the potential for unanticipated and unwarranted restrictions. Ms Easton supported additional review of specific submissions, however, did not support the wholesale review of all schedules and overlays.
232. Poutini Ngāi Tahu (S620.407) identified inaccuracies in the mapped extents of waterbodies, suggesting in some cases that the mapping was insufficient. Ms Easton discussed that the inaccuracies arose due to limitations of the underlying waterbody data, suggesting that there was limited opportunity to rectify the matter.
233. Cape Foulwind Staple 2 Ltd (S568.008) sought that the Village of Omau was correctly referenced on Planning Map 152, and to remove the reference to Cape Foulwind. Ms Easton noted that NZ Topo Maps online identified the settlement as Cape Foulwind, and that the name was widely recognised. However, she also noted that no further pdf/hard copies of the plans were proposed, although if they were, then Ms Easton supported the submission to include the name Omau for the name of the settlement.

### Hearing and Submitter Evidence/Statements

234. Ms Pull, for Poutini Ngāi Tahu, strongly opposed the submission by GDC that sought the removal of overlays. She noted the submitter did not explain why it considered there was insufficient evidence to justify the inclusion of any/all of the overlays notified as part of the TTPP. However, while Ms Pull did not support a wholesale review of the overlays, she supported a review where needed to respond to specific submissions.
235. Ms Pull emphasised the need for maps to be legally correct at a set date, and then regularly maintained to ensure ease of use for Plan users. She expressed support for the s42A Report recommendations relating to submission points S620.004 (recording overlays) and S620.008 (labelling of special purpose zones).
236. Ms Pull identified that the planning maps and Appendix 3 refer to ‘*property boundaries*’ and not ‘*legal boundaries*’, making navigation of the TTPP difficult. She noted the potential for confusion when trying to ascertain sites and legal rights and responsibilities. Ms Pull sought that the electronic maps have a layer with the legal boundaries instead of just the property boundaries.
237. With respect to Poutini Ngāi Tahu’s submission on pdf versions of the Plan, Ms Pull accepted Ms Easton’s rejection of the original submission. However, she expressed

## **Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel**

### Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

concern that a lack of hard copies of the Plan would limit the ability to archive and refer to changes over time. This was particularly relevant with respect to court proceedings involving a district plan and the need to have legal versions of maps at a given point in time. Ms Pull suggested that the maintenance of a hard copy should be considered, even if it was not accessible to the public. In this respect, Ms Pull sought confirmation that in the future there would be the ability to review past versions of the TTPP maps for the purposes of Court action or confirming existing use rights for example.

238. Submission point (S620.407) from Poutini Ngai Tahu identified some issues with the accuracy of waterbodies on the zoning maps. Ms Pull noted that some of the issues with identifying waterbodies include:

- (a) Where the zoning of land is identified as a waterbody, but there isn't a waterbody;
- (b) The application of rules to areas with waterbodies, where the waterbody isn't shown on a map (flooding, riparian margins, activities on the surface of water); and
- (c) The consideration of Statutory Acknowledgements that apply to waterbodies, which did not match the areas identified on the maps.

239. Given these potential issues, Ms Pull requested as relief, firstly, a disclaimer on the maps which notes that the waterbody areas identified on the maps were indicative only, and any rules and the Statutory Acknowledgments relating to waterbodies need to apply to areas covered by definition or legalisation. Secondly, that any site with an identified waterbody shown on the maps takes its zoning from the nearest adjoining zone, and this is noted on the disclaimer on the maps.

240. In relation to Westpower's further submission (FS222.0325), which rejected Forest and Bird's submission to identify public conservation land on the planning maps, Mr Kennedy conveyed his perception that it was unnecessary to add that information to an already complex set of mapping information.

241. Greg Maitland presented to the Panel regarding his submission on the difficulties with colours of the map. Panel members agreed.

### **Reporting Officer Reply Evidence/Statements**

242. The Panel asked Ms Easton whether there was a statutory obligation to have a hard copy of a district plan. In response, Ms Easton noted that legal advice had confirmed that hard copies of the Plan are required under s35 of the RMA. She stated that all hard copies (including in pdf format) will need to be progressively updated for any minor corrections over time.

243. The Panel also asked Ms Easton to clarify how time stamping on the Plan works.

244. Ms Easton provided a detailed description of the time stamping of the Plan and how previous versions of the Plan would still be accessible through the e-plan interface. Ms Easton also elaborated on the structure of the various map layers, and the manner in which hard copy Plans would need to present the various maps. No subsequent amendments to the Plan were recommended.

245. The Panel questioned what 'mapping' changes were possible from the list sought by submitters, given the constraints of the current software. Ms Easton replied that the following amendments were possible:

- Better distinguishing of precincts and special purpose zones through better use of coloured cross hatching;

## **Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel**

### Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

- Improvements to the search tool to include parcel ID, legal description and rating reference;
- Identifying road reserve boundaries and having this as a separate selectable layer;
- Some improvement in terms of the underlying property boundaries, which would need detailed work to be more definitive).
- Adding a topographic base map; and
- Adding the public conservation land as a separate layer.

246. Correspondingly, Ms Easton stated that the following changes were not possible due to limitations in the software:

- Selection of individual properties and layers and individual special purpose zones because the e-plan was not a full GIS tool and only enables the selection of an individual property to link to the text and written content in the plan;
- Selection of precincts and special zones separately;
- Selection of the public conservation land (if added) separately;
- Saving and printing maps at a defined scale; and
- Differentiating zones for colour blind people because the colours were set by the planning standards. However, if a parcel is selected, the information on the left-hand side has all the relevant zone and overlay information.

#### **Hearing Panel's Evaluation**

247. The Panel agrees with Ms Easton that a wholesale review of the overlays as sought by some submissions is unnecessary. However, we note that some overlays have been recommended to be amended in response to detailed submissions through the hearing process. The Recommendation Reports of relevance to the overlays discuss reviews undertaken throughout the hearing process.

248. The Panel acknowledges the possible amendments referred to by Ms Easton, however, we consider these are all mechanical issues associated with the Plan itself and not its provisions and, bar one, are beyond what we are able to consider in this process. The one matter we can recommend is that the overlays are consistently named on the maps and through the Plan.

249. The concerns raised by Ms Pull in relation to the zoning of waterbodies on the Planning Maps is addressed in the NC Chapter and SASM Chapter Recommendation Reports.

#### **Hearing Panel's Recommendation**

250. Based on the above, the Panel recommends that all overlays are consistently named on the maps and through the Plan as follows:

- Main Street Frontage Control Street
- Sites and Areas of Significance to Māori
- Historic Heritage Items and Areas
- Archaeological Site
- 50dBA Noise Contour Boundary
- 55dBA Noise Contour Boundary

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

- Coastal Tsunami Hazard, Lake Tsunami Hazard, Westport Hazard, Flood Susceptibility Hazard, Flood Severe Hazard, Land Instability Hazard, Coastal Severe Hazard, Coastal Alert Hazard, Flood Plain Hazard, Hokitika Hazard
- Consistent use of the singular for Main Street Frontage Control Street, Rifle Range Protection Area, Airport Approach Path<sup>20</sup>

### 3. INTRODUCTION AND GENERAL PROVISIONS

#### 3.1 Submissions on the Introduction

##### Submissions and Further Submissions

251. Eighteen submission points and two further submission points were received in relation to the two sections of the Introduction Chapter, the Mihi section and the Description of the Districts section. One submission related to the Mihi section and 17 submissions related to the Description of the District section, as summarised on pages 55-58 of the s42A Report. The Panel adopts these summaries and has considered the submissions and further submissions.

##### Section 42A Report

252. With regard to the Mihi section, Ms Easton supported the submission for Poutini Ngāi Tahu (S620.018) to retain the wording as notified, and to also include appropriate Poutini Ngāi Tahu identified graphics or photos.

253. Ms Easton noted that several submissions supported the historical content of the Introduction Chapter<sup>21</sup>. Federated Farmers of New Zealand (S524.001, S534.002) supported the description of and identification of the significance of agriculture/primary production to the West Coast.

254. Richard Arlidge (S419.001, S419.003 and S419.004) sought further amendments related to the addition of historical, geographical, the likely effects of climate change and tourism to the description of Grey District's economy.

255. Westpower (S547.004) sought to add further informational text around energy and infrastructure at the end of the first general section (i.e. new 6th paragraph) as follows:

Energy and Infrastructure have historically been, and will continue to be, important for the social, economic and cultural wellbeing of the communities of the West Coast. The construction and operation of energy activities and infrastructure provide for, and ensure, connections between communities and enables resilient and sustainable communities on an ongoing basis. Access to, and use of, renewable energy assists the community to achieve improved environmental outcomes

256. Ms Easton did not support the adoption of the proposed text.

257. Buller Conservation Group (S552.017) and Frida Inta (S552.017) sought mention of other pā sites in the introduction. In considering this submissions Ms Easton noted that the introduction had no statutory weight and therefore did not support the relief sought through the above submissions.

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<sup>20</sup> Te Rūnanga o Ngāi Tau, Te Rūnanga of Ngāti Waewae and Te Rūnanga o Makaawhio S620.004

<sup>21</sup> TiGa Minerals and Metals Limited (S493.002), Birchfield Coal Mines Ltd (S601.002), BRM Developments Limited (S603.002), Birchfield Ross Mining Limited (S604.002), Phoenix Minerals Limited (S606.002), Papahaua Resources Ltd (S500.001), WMS Group (HQ) Limited and WMS Land Co. Limited (S599.170) and Whyte Gold Limited (S607.002)

## **Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel**

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

258. Ms Easton supported the submission from Māwhera Incorporation (S621.012, S621.014) to correct Māori spelling errors and to include further detail around aotea as a taonga (S621.013). She recommended the Description of the Districts section, Westland District 2nd paragraph be amended to read as follows:

aotea stone, which is a taonga for Ngāti Māhaki ki Makaawhio and the ancestral descendants of the tipuna that were allocated land in Awarua (South Westland) by the 1879 Young Commission.

259. Ms Easton acknowledged the submission point by Frida Inta (S553.209) that identified a typographic error in the contents section of the pdf Plan.

### **Hearing and Submitter Evidence**

260. Westpower reiterated their submission that the introduction needed to reference the importance of infrastructure within and connecting each district as a whole, and its role and value to the region as '*regionally significant infrastructure*'. They suggested that the addition of the proposed paragraph would better represent the "*picture of the region*" and would further recognise the strategic role that infrastructure plays in the area covered by the Plan.

261. Mr Richard Arlidge presented to the Panel, speaking to some of the historical context to the West Coast, the risks of climate change to the West Coast, mineral extraction zones and design guidelines.

### **Reporting Officer Reply Evidence**

262. The Panel sought confirmation that the wording proposed in response to submission S621.013 relating to Aotea Stone was acceptable to Ngāti Māhaki. In response, Ms Easton stated she had checked with Mr Paul Madgwick, Kaiwhakahaere of Ngāti Māhaki, who had confirmed that Ngāti Māhaki did not support the proposed wording.

263. Subsequently Ms Easton retracted her support of the proposed amendments in the s42A Report and recommended the Plan was not amended as previously proposed in the s42A Report and shown in Appendix 1.

264. The Panel queried whether the Introduction to the Plan needed a broader background and history of the West Coast. Ms Easton stated that in the development of the Plan, the technical team sought to prioritise statutory information and minimise explanations and other general material. In doing so, they sought to keep the Plan concise and minimise the potential for information to become dated. Ms Easton noted that she had a neutral view on the matter, and if it would assist readers, more information could be added. However, Ms Easton did not offer any potential amendments in support of the notion.

### **Hearing Panel's Evaluation**

265. The Panel acknowledges no changes are recommended to the Mihi section but that appropriate graphics, as provided by Poutini Ngāi Tahu, are included in the section.

266. The Panel accept the recommendation to changes the "*Māwhera (Grey) River*" to "*Māwheranui River*".

267. In terms of the Description of the Districts section, while the Panel sees some information value in the paragraph proposed by Westpower regarding energy and infrastructure, particularly given Reefton's history in that regard, we do not consider that the proposed paragraph fits in the context. We therefore recommend not to include it.

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

### Hearing Panel's Recommendation

268. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted and recommends that the following amendments be made to **Description of the Districts**:

#### **Description of the Districts - Te Whakamāramatanga o ngā Rohe**

Te Tai o Poutini Plan covers the whole of the West Coast Region - made up of three Districts - Buller, Grey and Westland.

The **Te Tai o Poutini / West Coast Region/Te Tai o Poutini**<sup>22</sup> covers a land area of 23,245 km<sup>2</sup> stretching from Kahurangi Point in the north of Buller District to Awarua Point in the south of Westland District.<sup>23</sup>

Early history of the **Te Tai o Poutini / West Coast/Te Tai o Poutini** dates back to the 15th Century when Poutini Ngāi Tahu recognised the area's importance as the source of pounamu/greenstone. On the **Te Tai o Poutini / West Coast/Te Tai o Poutini**, Poutini Ngāi Tahu are recognised as mana whenua and their history and values are outlined in the Tangata Whenua Chapter.<sup>24</sup>

Following the discovery of gold in the Taramakau River in 1864, the **Te Tai o Poutini / West Coast/Te Tai o Poutini** became the centre of the first early gold rushes. Following pounamu and gold, the next most valuable mineral was coal which was first discovered near the Kawatiri/Buller/~~Kawatiri~~ River in the 1840s and from the 1880s became the **Te Tai o Poutini / West Coast's/Te Tai o Poutini's** main industry.<sup>25</sup>

The **Te Tai o Poutini / West Coast/Te Tai o Poutini** we see today has been shaped by this history, with the main towns of Reefton, Westport, Greymouth and Hokitika all developed as a result of the success of the minerals industry.<sup>26</sup>

#### **Buller District**

The Buller District covers a land area of 7,953 km<sup>2</sup> with a population of 9600 people (2020). The two main towns of Reefton and **Kawatiri / Westport/Kawatiri** were developed on the strength of their minerals industries. **Kawatiri / Westport/Kawatiri** is the **Tai o Poutini / West Coast's/Tai o Poutini's** oldest European settlement, established in 1861. Reefton was also established in the 1860s, being named for the gold reef found there and is the **Tai o Poutini / West Coast's/Te Tai o Poutini's** only inland town.<sup>27</sup>

Today economic activity in the Buller District is established around coal mining, dairy farming and fishing and the District is the home of **Aotearoa / New Zealand/Aotearoa me Te Waipounamu's**<sup>28</sup> largest coal mining operation at Stockton. Tourism is also an important industry in Buller, with the Punakaiki Pancake Rocks among one of the most visited locations.<sup>29</sup>

<sup>22</sup> Te Runanga o Ngāi Tahu, Te Runanga o Ngāti Waewae, Te Runanga o Makaawhio S620.005

<sup>23</sup> Te Runanga o Ngāi Tahu, Te Runanga o Ngāti Waewae and Te Runanga o Makaawhio S620.005, Māwhera Incorporation S621.009, Director General of Conservation S602.004

<sup>24</sup> Te Runanga o Ngāi Tahu, Te Runanga o Ngāti Waewae and Te Runanga o Makaawhio S620.005, Māwhera Incorporation S621.009, Director General of Conservation S602.004

<sup>25</sup> Te Runanga o Ngāi Tahu, Te Runanga o Ngāti Waewae and Te Runanga o Makaawhio S620.005, Māwhera Incorporation S621.009, Director General of Conservation S602.004

<sup>26</sup> Te Runanga o Ngāi Tahu, Te Runanga o Ngāti Waewae and Te Runanga o Makaawhio S620.005, Māwhera Incorporation S621.009, Director General of Conservation S602.004

<sup>27</sup> Te Runanga o Ngāi Tahu, Te Runanga o Ngāti Waewae and Te Runanga o Makaawhio S620.005, Māwhera Incorporation S621.009, Director General of Conservation S602.004

<sup>28</sup> Te Runanga o Ngāi Tahu, Te Runanga o Ngāti Waewae and Te Runanga o Makaawhio S620.005, Māwhera Incorporation S621.009, Director General of Conservation S602.004

<sup>29</sup> Te Runanga o Ngāi Tahu, Te Runanga o Ngāti Waewae and Te Runanga o Makaawhio S620.005, Māwhera Incorporation S621.009, Director General of Conservation S602.004

### **Grey District**

The Grey District covers a land area of 3,516 km<sup>2</sup> with a population of 13,800 people (2020). It is the most densely populated area on the Te Tai o Poutini / West Coast/Te Tai o Poutini. Greymouth/Māwhera is the largest town on the Te Tai o Poutini / West Coast/Te Tai o Poutini and was established at the mouth of the Māwheranui / Grey/Māwhera River<sup>30</sup>. Ngāti Waewae had lived in the area for a considerable time before European settlement and the town was established at the site of Māwhera Pa during the West Coast Gold Rush of the 1860s, but for 150 years the economy of the Grey District has been based on coal mining and native timber forestry. While mining is still a very important industry, dairy farming and fishing have also become important parts of the economy.<sup>31</sup>

### **Westland District**

The Westland District covers a land area of 11,880 km<sup>2</sup> with a population of 8640 (2020). Much of the district is a long thin strip of land between the Tiritiri-o-te-Moana / Southern Alps/Tiritiri-o-te-Moana and the Tai-o-Rēhua / Tasman Sea/Tai-o-Rēhua. Hokitika is the main town in the district, founded on gold mining in 1864. Hokitika was the centre of the West Coast Gold Rush and by 1866 was one of Aotearoa / New Zealand's/Aotearoa's<sup>32</sup> most populous centres. Many towns across Westland were also founded as a result of the gold rushes.<sup>33</sup>

The Westland District is where much of the pounamu still found on the West Coast is located and in South Westland, aotea stone, which is a taonga for Ngāti Māhaki-ki-Makaawhio,<sup>34</sup> who lived across South Westland, is also found.

Tourism, dairy farming and gold mining are key industries in Westland, with the world famous glaciers in South Westland being one of the most visited tourist sites in Aotearoa / New Zealand/Aotearoa.<sup>35</sup>

## **3.2 Submissions on the Statutory Context**

### **Submissions and Further Submissions**

269. There were fifteen submissions and three further submissions on the Statutory Context section, as summarised in the tables on pages 58-60 of the s42A Report. The Panel adopts these summaries and has considered the submissions and further submissions.

### **Section 42A Report**

270. Ms Easton did not support the submissions by the Buller Conservation Group (\$552.019) and Frida Inta (\$553.019) to add a new section to the plan to list all other relevant legislation, plans and documents. The same submitters requested an amendment to the diagram that identifies the hierarchy of relationships under the RMA. Ms Easton

<sup>30</sup> Director General of Conservation S602.009

<sup>31</sup> Te Rūnanga o Ngāi Tau, Te Rūnanga of Ngāti Waewae and Te Rūnanga o Makaawhio S620.005, Māwhera Incorporation S621.009, Director General of Conservation S602.004)

<sup>32</sup> Te Rūnanga o Ngāi Tau, Te Rūnanga of Ngāti Waewae and Te Rūnanga o Makaawhio S620.005, Māwhera Incorporation S621.009, Director General of Conservation S602.004)

<sup>33</sup> Te Rūnanga o Ngāi Tau, Te Rūnanga of Ngāti Waewae and Te Rūnanga o Makaawhio S620.005, Māwhera Incorporation S621.009, Director General of Conservation S602.004)

<sup>34</sup> Te Rūnanga o Ngāi Tau, Te Rūnanga of Ngāti Waewae and Te Rūnanga o Makaawhio S620.003

<sup>35</sup> Te Rūnanga o Ngāi Tau, Te Rūnanga of Ngāti Waewae and Te Rūnanga o Makaawhio S620.005, Māwhera Incorporation S621.009, Director General of Conservation S602.004

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

### Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

suggested that the existing information was sufficient and therefore did not support the submission.

271. Frida Inta (S553.188) and Buller Conservation Group (S552.188) sought that a General Duty to Comply statement be included and suggested wording sourced from the Buller District Plan as detailed below:

General Duty to Comply – (1) No person may use any land in a manner which contravenes a rule in this Plan unless the activity is expressly allowed by a resource consent, or is an existing use allowed by Section 10 of the Act.

(2) Any activity which is not specifically referred to in the Plan or does not fall within the limits of permitted, controlled or discretionary activities is deemed to be a noncomplying activity and will require a resource consent.

272. Ms Easton saw merit in the suggestion, although recognising errors in the submitter's text, she recommended wording as follows:

General Duty to Comply: Compliance with Te Tai o Poutini Plan and the RMA does not remove the need to comply with all other relevant acts, regulations, bylaws and rules. It is the applicant's responsibility to identify and understand all requirements they are required to comply with all applicable requirements.

Where compliance is required under any other legislation, including a bylaw, it is the responsibility of the applicant to comply with that legislation.

Conversely, activities that may be allowed or permitted under other regulatory requirements, such as the Building Act 2004, may still require resource consent.

Every person has a duty to avoid, remedy, or mitigate any adverse effect on the environment arising from an activity carried on by or on behalf of the person, whether or not the activity is carried on in accordance with existing use rights under the RMA (s. 10, 10A, 10B, and 20A) or a national environmental standard, a rule, a resource consent, or a designation.

273. Māwhera Incorporation (S621.015) sought that the Plan identify that Māwhera Incorporation was legislated as an iwi authority over properties owned and managed by Māwhera Incorporation. Consequential amendments sought recognition of their mana whenua status (S621.036 and S621.037). In response, Ms Easton referred to the RMA definition of Iwi Authority as "*iwi authority means the authority which represents an iwi and which is recognised by that iwi as having authority to do so*". She referred to the Ngāi Tahu Claims Settlement Act (the Act) section 9, which states:

For the purposes of this Act and any other enactment, unless the context otherwise requires, Ngāi Tahu and Ngāi Tahu Whānui each means the collective of individuals who descend from the primary hapū of Waitaha, Ngāti Mamoe, and Ngāi Tahu, namely Kāti Kurī, Kāti Irakehu, Kāti Huirapa, Ngāi Tūāhuriri, and Kai Te Ruahikihiki.

274. Ms Easton went on to reference sections 5 and 6 of the Act whereby "*the Crown recognises Ngāi Tahu as the tāngata whenua of, and as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui*". She noted the whole of the West Coast fell within the takiwā of Ngāi Tahu Whānui, as per Section 5 of the Act; and other provisions of the Act apply, including section 15(1) which states that Te Rūnanga o Ngāi Tahu shall be recognised for all purposes as the representative of Ngāi Tahu Whānui. She noted section

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

15 (2) went on to state “*where any enactment requires consultation with any iwi or with any iwi authority, that consultation with respect to matters affecting Ngāi Tahu Whānui, be held with Te Rūnanga o Ngāi Tahu.*”

275. Ms Easton noted that Papatipu rūnanga of the West Coast were defined in the Te Rūnanga o Ngāi Tahu (Declaration of Membership) Order 2001. She noted the order defined Te Rūnaka o Kāti Weawae (Ngāti Waewae) and Te Rūnanga o Makaawhio as the two Papatipu Rūnanga of the West Coast.

276. In consideration of the identified Acts and Order in Council, Ms Easton considered that Māwhera Incorporation was not an iwi authority, and that the mandated iwi authority for the West Coast was Te Rūnanga o Ngāi Tahu and the two Papatipu Rūnanga being Te Rūnaka o Kāti Weawae (Ngāti Waewae) and Te Rūnanga o Makaawhio. On that basis Ms Easton did not support the submission by Māwhera Incorporation (S621.015).

277. Fish and Game (S302.001) sought recognition as an entity requiring specific consideration of their status as an affected party. In this regard they proposed to add a new item to the list of entities to be given specific consideration when deciding whether any person is affected as follows:

In relation to the habitats of sports fish or game birds, the West Coast Fish and Game Council.

278. Ms Easton did not support the submission on the grounds that resource consent applications were context specific and, given the potential interests of a wide range of organisations, she considered it would be inappropriate to only single out the West Coast Fish and Game Council as a potentially affected party.

279. Poutini Ngāi Tahu (S620.020), sought to correct the list of Statutory Acknowledgement Areas by the addition of Tititea/ Mount Aspiring. Ms Easton supported the submission and recommended amendments to paragraph 3 under the heading Te Tiriti o Wāitangi (Treaty of Waitangi) and the Resource Management Act as follows:

... On **Te Tai o Poutini /** the West Coast the Statutory Acknowledgement Areas are: Ōkari Lagoon, Taramakau River, Kōtukuwhakaoka (**Moana /** Lake Brunner ~~/Moana~~), Lake Kaniere, Pouerua-hāpua (Saltwater Lagoon), Ōkārīto Lagoon, Makaawhio (Jacob’s River), Karangarua Lagoon, **Tititea / Mount Aspiring** and Lake Paringa.

### **Hearing and Submitter Evidence/Statements**

280. Mr Dean van Mierlo presented legal submissions on behalf of Fish and Game. He considered their omission from the list of entities in the pTTPP who may be considered affected parties was noteworthy, and inappropriate given the acknowledgement that Fish and Game have an important role supported by statute. He referred to s95E of the RMA that required the consent authority to decide who might be affected by adverse effects that were minor, or more than minor. He noted adverse effects of proposed activities could impact on the habitats of sports fish or game birds, and also through reverse sensitivity. He also referenced s7(h) of the Act which required functionaries, when deciding on notification of a consent application, to have particular regard to the protection of the habitat of trout and salmon. He stated:

The s42a report writers’ recommendation to reject this submission point is based on an erroneous understanding of the pTTPP, and has not given due consideration, or any consideration, to the requirements of s7(h) of the Act. That recommendation should not be accepted. The amendment sought by WCF&G is consistent with the existing structure of the introductory section

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

### Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

of the TTPP which includes a list of entities to be given specific consideration in relation to notification decisions and will better give effect to s7(h) and Part 2 of the Act, thereby promoting the purpose of sustainable management.<sup>36</sup>

281. Mr Dean Kelly provided a statement of evidence on behalf of Fish and Game. He reiterated the importance of Fish and Game being an entity to be given specific consideration as affected parties, in relation to proposals that might impact on the habitats of sports fish and game birds. He suggested that without such notification, obligations and appropriate mitigation may not be forthcoming. He noted the potential for adverse effects on access to rivers and lakes and disturbance of species, associated with activities such as subdivisions, and developments near riparian margins or on the surface of waterbodies.
282. Fish and Game provided a response to Panel questions in a supplementary statement as to whether any other district plans include Fish and Game as a listed entity to whom consideration will be given for limited notification purposes. In a memorandum (dated 1 December 2023) they identified four such examples of Plans in the South Island that included some reference to Fish and Game as affected parties. Mr van Mierlo reiterated it was appropriate to include Fish and Game as entities with responsibility for natural and physical resources.
283. Mr Kennedy, for Westpower, offered support for the Reporting Officer's position that accepted a General Duty to Comply clause on the proviso that the paragraph, which is a summary of Section 17, was amended to refer to section 17 in total because it clarifies the role of enforcement as it relates to the general duty. He expressed some concern that there may be a perception of a broadening of the enforcement scope under section 17.
284. Ms Whitney on behalf of Transpower sought clarification to the last clause of the General Duty to Comply clause being that "*Every person has a duty to avoid, remedy, or mitigate any adverse effect on the environment arising from an activity...*". She sought to clarify that while the wording reflected section 17(1) of the RMA, section 17(2) further clarified that "*The duty referred to in subsection (1) is not of itself enforceable against any person, and no person is liable to any other person for a breach of that duty.*" Ms Whitney considered that the additional wording would correctly reflect the context in which section 17(1) was intended.
285. In her evidence for Poutini Ngāi Tahu, Ms Pull supported an amendment to the Plan to ensure the inclusion of "*Tōpuni*" in the Schedule Three Sites and Areas of Significance to Māori and Appendix Five: Statutory Acknowledgments. She noted the basis for the inclusion was contained in the Mana Whakahono ā Rohe agreement between Poutini Ngāi Tahu and the West Coast Regional Council.
286. Ms Inta reiterated the need for some text identifying a General Duty to Comply.

### **Reporting Officer Reply Evidence**

287. The Panel posed a question as to whether an amendment on page 14 should refer to "*Iwi and Papatipu Rūnanga management plans*" and not "*Iwi and Papatipu Rūnanga planning documents*". In response, Ms Easton confirmed that this was an error and recommended amendment to refer to "*Iwi and Papatipu Rūnanga management plans*", as relevant to the Tangata Whenua Chapter.

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<sup>36</sup> Legal submission of D van Mierlo for West Coast Fish and Game, s.36, p.9

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

288. The Panel prompted Ms Easton to consider the proposed additional wording provided in the evidence of Ms Whitney, in response to Transpower's further submission (FS110.001) regarding a General Duty to Comply. Upon review, Ms Easton stated that she was supportive of the additional amendment proposed by Ms Whitney and recommended the additional text to the end of the advice note, as follows:

However, this duty is not of itself enforceable against any person, and no person is liable to any other person for a breach of that duty.

### Hearing Panel's Evaluation

289. The Panel accepts the matter raised by Ms Inta in terms of a General Duty to Comply is appropriate to include in the Plan. We agree with the wording provided by Ms Easton, with the inclusion of the additional wording stemming from Ms Whitney's evidence. We recommend this amendment is included in the Introduction.

290. The Panel has considered the Fish and Game submission, and the slightly amended position now put forward by Mr van Mierlo. We accept that Fish and Game Council have specific functions, responsibilities, and powers to manage sports fish and game birds under the Conservation Act and Wildlife Act as detailed by Mr Kelly. On that basis we accept that they have a specific role codified in legislation, which makes it appropriate that they are identified in the list of entities that the District Councils will give specific consideration when determining affected parties. We therefore recommend adding to the list as follows:

6. In relation to the habitats of sports fish or game birds, the West Coast Fish and Game Council.

291. The Panel accepts the of Statutory Acknowledgement Areas should be corrected to add "*Tititea / Mount Aspiring*", and that Tōpuni should be added to Appendix Five, which should therefore be amended so that the title of the appendix reads "*Statutory Acknowledgements and Tōpuni*", and relevant Tōpuni from the Ngāi Tahu Claims Settlement Act 1998 should be included in the appendix.

292. In relation to the remainder of the submissions that sought amendments, the Panel agree that these are rejected on the basis of the conclusions reached by Ms Easton.

### Hearing Panel's Recommendation

293. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes further below are accepted or accepted in part, and recommend the amendments shown at the end of this section are made to **How the Plan Works - Statutory Context**, as well as amendments to **Appendix Five** to amend the title of the appendix to read "*Statutory Acknowledgements and Tōpuni*", and include all relevant Tōpuni from the Ngāi Tahu Claims Settlement Act in the appendix.

## 3.3 Submissions on General Approach

### Submissions and Further Submissions

294. Twelve submissions and eight further submissions on the General Approach section were summarised in the table on pages 63-66 of the s42A Report. The Panel adopts these summaries and has considered the submissions and further submissions.

### Section 42A Report

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

295. Ms Easton noted support for elements of the Plan chapter by both the BDC (S538.001) and Manawa Energy (S438.004).
296. Misato Nomura (S151.012) sought amendments to the Plan with respect to Plan cross- referencing to make the Plan less confusing for users. Ms Easton did not support the proposed submissions on the grounds that the proposed changes were no less complex than the existing Plan.
297. Westpower (S547.005) sought amendments to the text which discusses the relationship between the Energy and Infrastructure chapters and the zone chapters. They proposed the following text to amend the second paragraph of Step 2 commentary:
- ... will refer you to other chapters, as required. The Area Specific Provisions (Zone Chapters) do not apply to the Energy Activities and Infrastructure Chapters, and the provisions of the Infrastructure Chapter do not apply to Energy Activities.
298. Ms Easton supported the submission text, but recommended additional reference to the Transport Chapter was made. In response, the s42A Report recommended amending the General Approach section, second paragraph of Step 2 commentary by adding a sentence as follows:
- ... will refer you to other chapters, as required. The Area Specific Provisions (Zone Chapters) do not apply to the Energy, Transport and Infrastructure Chapters, and the provisions of the Infrastructure Chapter do not apply to Energy Activities.
299. Forest and Bird (S560.046) specifically referenced the ECO Chapter when seeking clarification that matters within the overlay chapters might also apply outside of the overlay. Ms Easton noted that such matters would apply outside of the overlay, but that the ECO Chapter and Natural Hazard Chapter were the only instances that contained rules outside of the relevant scheduled overlay. The submitter proposed the following text:
- There may be several sets of district-wide rules that you need to check for your activity e.g., Subdivision rules and Earthworks rules. If there is an overlay or feature on your property you also need to check those rule sets. **Additionally, the 'overlay chapters' contain rules that apply district-wide, outside the scheduled overlays. For example, the Ecosystems and Indigenous Biodiversity chapter.**
300. Ms Easton was generally supportive of the submission but recommended a modification to the proposed text as follows:
- Step 3 - Locate the relevant district-wide rules
- There may be several sets of district-wide rules that you need to check for your activity e.g. Subdivision rules and **Earthworks** rules. If there is an overlay or feature on your property you also need to check those rule sets. **Additionally, the Ecosystems and Indigenous Biodiversity chapter and Natural Hazards chapter contain rules that apply district-wide, outside the scheduled overlays.**
301. Forest and Bird (S560.047) also sought amendments to Step 5 – Apply for Resource Consent, to clarify that if any aspect of works, a project or activity requires resource consent, then a consent application is required for the whole activity. Ms Easton supported the submission suggesting that the proposed wording was appropriate for adoption.

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

302. The s42A Report recommended the following amendment:

If the works, project, or activity you are wanting to undertake requires consent for any aspect of it, a consent application is required for the whole activity. You should talk to the Council about whether any permitted activities may still apply.

303. Forest and Bird (S560.048) also submitted amended text identifying that in some instances Plan users may want to reconsider their proposed activity. Ms Easton considered the proposed wording was appropriate therefore recommended adoption of the following:

Decide **if you still want to undertake your activity** ~~if you want to~~ and apply for resource consent.

304. With respect to the “*Information to be submitted with resource consents*” section, Forest and Bird (S560.048) sought that the limitations on AEE’s with respect to controlled and restricted discretionary activities be deleted. They considered that the limitations created uncertainty for Plan users. Ms Easton agreed with the submission on the grounds that RMA Schedule 4 already provides the requirements for AEEs and was the best place of reference.

305. The s42A Report recommended the following amendment:

For controlled activities, the AEE shall only address those matters over which Te Tai o Poutini Plan has specifically reserved its control. In respect of any application for a restricted discretionary activity, the assessment shall only address those matters over which Te Tai o Poutini Plan has specifically restricted its discretion. These matters of control or discretion are detailed within Te Tai o Poutini Plan. For all other activities, the AEE should address all relevant matters relating to the actual or potential effects of the proposed activity on the environment. **Information on the requirements for an AEE can be found in Schedule 4 of the RMA.**

306. Buller Conservation Group (S552.009) and Frida Inta (S553.009) sought that “*Step 5 – Apply for a resource consent*” be amended to refer to section 10 of the RMA, such that any activity that was not specifically referred to in the Plan would be deemed to be a non-complying activity. Ms Easton did not support the submission noting that under section 9 of the RMA, activities on land were deemed permitted unless specified otherwise in a rule.

307. Buller Conservation Group (S552.020) and Frida Inta (S552.020) sought deletion of the section on “*Legal Effect of the Rules*”. Ms Easton supported the submission and noted its inclusion beyond the original draft plan was unintentional. The s42A Report recommended deleting the sentence from the first paragraph of the General Approach, Legal Effect of the Rules as follows:

Section 86B of the RMA allows councils to seek legal effect from the time of public notification. The Te Tai o Poutini Plan Committee has yet to consider whether there are parts of the proposed Plan that they will seek to have legal effect at time of notification.

### **Hearing and Submitter Evidence/Statements**

308. Responding to the Forest and Bird (S560.046) overlay chapter submission, Mr Kennedy on behalf of Westpower (FS222.0206) noted support for the s42A Report recommendation, as the submission did not appear to result in any amendment that resulted in a change, or broadening of the application of rules. However, he suggested that

## **Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel**

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

there needed to be wording to reflect that the Grey District regime differs to the Westland and Buller Districts regimes in terms of rules relating to SNA in the ECO Chapter. He suggested this would ensure that the interpretation of applicable rules in Grey District was not broadened, as a result of this amendment, to indicate a requirement for consents for those areas outside of the identified and Scheduled sites.

### **Reporting Officer Reply Evidence**

309. No specific points were made in the Reply in response to submissions on the General Approach section of the Plan.

### **Hearing Panel's Evaluation**

310. The Panel has reviewed the various amendments proposed to the General Approach section of the Plan in response to submissions. We generally agree with Ms Easton's recommended amendments and consider they will provide clarity for the Plan users and reduce uncertainty. We do not consider it is necessary within Step 3 to spell out the difference between the districts in relation to SNA, as sought by Westpower. We note that there are various differences between the districts on different provisions throughout the Plan and it would be cumbersome to include them all here. The identified SNA in the Grey District are recognised in the ECO Chapter rules.
311. The Panel note that we have addressed some errors in recommendations in the s42A Report and associated Appendix 1. On that basis, we therefore recommend the amendments be adopted.
312. In relation to the remainder of the submission by Misato Nomura that sought the Plan be amended so that there are not references to other rules within a permitted activity rule, to make it less confusing to the Plan user, the Panel agrees with the analysis and recommendation of Ms Easton.

### **Hearing Panel's Recommendation**

313. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes further below are accepted or accepted in part, and recommend that the amendments at the end of this section are made to **How the Plan Works – General Approach**.

## **3.4 Submissions on Cross Boundary Matters**

### **Submissions and Further Submissions**

314. Five submissions points on Cross Boundary Matters were summarised in the table on pages 67-69 of the s42A Report. The Panel adopts these summaries and has considered the submissions.

### **Section 42A Report**

315. The Queenstown Lakes District Council (S523.001) sought specific amendments to include a procedure for how cross boundary issues would be dealt with where they impact on an adjacent territorial authority. Ms Easton supported the addition of a statement to outline a process to deal with such matters. The s42A Report recommended adopting the following:

Cross boundary issues on land that is not managed by the Te Tai o Poutini Plan. Cross boundary issues refer to situations where an activity takes place

## **Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel**

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

on or near a territorial boundary or where the effects of a particular activity impact on the territory of an adjacent authority, including any territorial boundary that is not managed by the Te Tai o Poutini Plan. The following procedure will be followed for such cross-boundary issues: The consenting territorial authority will consider whether any resource consents are required from another territorial authority. Reference to the provisions of the Resource Management Act (1991) that relate to joint hearings will be made where an activity requires consent from two or more territorial authorities; Applicants for resource consent for activities which might have effects on an adjoining territory authority will be encouraged to consult with that authority. In the case of infrastructure networks crossing territorial boundaries, the consenting territorial authority will consult with other relevant territorial authorities and endeavour to arrive at a planning framework that provides a consistent approach to the network.

316. Ms Easton was not supportive of Forest and Bird's (S560.049) request for an explanation of how the Plan might respond to cross boundary issues where both Regional and District Councils might have responsibilities. Ms Easton considered that the existing information in the Plan was sufficient.

317. Māwhera Incorporation (S621.016) sought their inclusion in the integrated management of Cross Boundary Matters. Ms Easton did not support this submission on the grounds that Māwhera Incorporation was not a recognised iwi authority and for the purposes of the Plan were recognised as a landowner.

318. Buller Electricity Limited (S451.004) and Frank and Jo Dooley (S478.061) sought the inclusion of additional text around the identification of, and efficient functioning of, electricity transmission networks. Ms Easton did not support the submission. She suggested that the issue and proposed text was not appropriate for this section of the Plan, which was effectively focussed on regulatory overlap and inter-agency cross boundary issues.

### **Hearing and Submitter Evidence/Statements**

319. No further evidence was offered in relation to the above submission points.

### **Reporting Officer Reply Evidence**

320. No specific points were made in the Reply in response to submissions on cross boundary matters.

### **Hearing Panel's Evaluation**

321. The Panel consider Ms Easton's recommended wording in relation to the submission by Queenstown Lakes District Council is appropriate and we recommend it is adopted.

322. The Panel agrees with Ms Easton that the matter raised by Buller Electricity Limited and Frank and Jo Dooley is not appropriate for this section of the Plan and is more aligned with the objectives and policies. In relation to the Forest and Bird and Māwhera Incorporation submissions, we agree with the reasoning of Ms Easton and reject these submissions.

### **Hearing Panel's Recommendation**

323. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes further

below are accepted, and recommend the amendments at the end of this section are made to **How the Plan Works – Cross Boundary Matters**.

### **3.5 Submissions on Relationships between Spatial Layers**

#### **Submissions and Further Submissions**

324. Twenty-two submissions and 16 further submissions on the Relationships between Spatial Layers were summarised in the table on pages 70-74 of the s42A Report. The Panel adopts these summaries and has considered the submissions and further submissions.

#### **Section 42A Report**

325. Ms Easton supported the submission by Westpower (S547.006) that sought a minor amendment to clarify that the information would assist in understanding what provisions apply to an activity. She recommended the following amendment under the heading “*Relationships Between Spatial Layers*”:

These will assist you in determining which overlays or features apply to a specific property **or activity**.

326. Poutini Ngāi Tahu (S620.409) sought that a description of the overlays be included in the Spatial Layer name table. Ms Easton was not supportive of this amendment. She suggested that the level of information provided in the table was sufficient and that any description of overlays was best provided in the Overview section of each chapter.

327. Forest and Bird (S560.052) sought to delete the development areas section in the table, and to amend the map tools heading to “*Zones and Development Areas*”. Ms Easton did not support the submission due to the potential for future development areas to be added.

328. Forest and Bird (S560.409) sought the addition of Significant Natural Areas to the Overlay Table, suggesting the addition of the following text:

Significant Natural Areas: areas of significant indigenous vegetation and significant habitats of indigenous fauna. Only some of these areas have been identified on Schedule Four. The consenting process will; be used to identify further SNAs. The rules in the Ecosystems and Indigenous Biodiversity chapter apply both to the Schedule Four areas and everywhere district wide.

329. Ms Easton supported the adoption of some of the proposed text, however, did not think that the additional text regarding the ECO Chapter to be appropriate for the table. Ms Easton therefore recommended accepting the submission in part, by way of adopting the following text:

Areas of significant indigenous vegetation and significant habitats of indigenous fauna. Only some of these areas have been identified on Schedule Four. The consenting process will be used to identify further SNAs.

330. GDC (S608.484) sought that the “*Highly Productive Land Precinct*” be renamed the “*Rural Production Precinct*”. Ms Easton considered that the terminology used created confusion given it did not relate to the NPS-HPL. She therefore agreed with the submission and recommended that the “*Highly Productive Land Precinct*” be renamed the “*Rural Production Precinct*”, noting that consequential changes would be required throughout the Plan and on the Planning Maps.

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

331. GDC (S608.001) identified a drafting error in the Plan referring to the “*Rural Production Zone*” and sought its deletion, which Ms Easton supported.
332. Several submitters<sup>37</sup> sought that the description of the Mineral Extraction Zone be amended to identify that mineral extraction was enabled in such areas. Ms Easton did not support the submission, suggesting that the description of the zone reflected the intent of the Plan and zone correctly.
333. Ms Easton noted the support from Westpower (S547.007) for the description of the “*Electricity Transmission and Distribution Yard*”.
334. Westpower sought several amendments<sup>38</sup> to the table descriptions of several overlays<sup>39</sup> to outline that energy activities and infrastructure may be located in such areas. Ms Easton did not consider the proposed wording appropriate or necessary because she considered the descriptions of the overlays could already be found in the Overview section of the relevant chapters.
335. Poutini Ngāi Tahu (S620.024) sought changes to the wording used for Statutory Acknowledgement Areas to be consistent with the Ngāi Tahu Claims Settlement Act. Ms Easton supported the submission and Poutini Ngāi Tahu’s submitted text. The s42A Report recommended the following amendment:
- Areas identified in Treaty Settlement Legislation the Ngai Tahu Claims Settlement Act 1998 where the Crown has made an acknowledgment of the particular cultural, spiritual, historic and traditional association of Ngāi Tahu with the statutory areas where Poutini Ngāi Tahu have a statutory acknowledgement.
336. Poutini Ngāi Tahu (S620.025) sought deletion of the references to “*Nohoanga Entitlements*” because there were no associated overlay or provisions within the Plan. Ms Easton agreed with the submission and recommended its deletion.
337. GDC (S608.002) identified an omission from the Precincts table which did not include the “*Highly Productive Land Precinct*”. Ms Easton supported an amendment to the table but recommended the addition was renamed “*Rural Production Precinct*”, consistent with a previous recommendation. In this instance Ms Easton recommended to amend the Precincts Table and the following description as follows:
- Rural Production Precinct. The purpose of this Precinct is to manage lot size for ongoing rural production.
338. Poutini Ngāi Tahu (S620.021) sought inclusion of Aotea and Pounamu Management Areas in the Overlays table, which had been mapped but not listed. Ms Easton supported the inclusion of these areas including the proposed text submitted by Poutini Ngāi Tahu. The s42A Report recommended the following amendment:
- Aotea Management Area: Areas identified where restrictions apply to quarrying and mineral extraction activities is required. Pounamu Management Area: Areas identified where restrictions apply to quarrying and mineral extraction activities is required.
339. Forest and Bird (S560.051) sought that Schedule Nine (Lawfully Established Mineral Extraction and Processing Areas) be deleted from the Overlays table. Ms Easton stated

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<sup>37</sup> Birchfield Coal Mines (S601.003), BRM Developments Limited (S603.003), Birchfield Ross Mining Limited (S604.003), TiGa Minerals and Metals Ltd (S493.003), WMS Group (HQ) Limited and WMS Land Co. Limited (S599.171) and Whyte Gold Limited (S607.003)

<sup>38</sup> Westpower Limited (S547.010), (S547.008), (S547.009), (S547.011), (S547.015) and (S547.016)

<sup>39</sup> Outstanding Coastal Environment Area, Outstanding Natural Features Overlay, Outstanding Natural Landscapes Overlay, High Coastal Natural Character Overlay, General Coastal Environment Area and Natural Hazard Overlay

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

that the proposed amendments were addressed in the Mineral Extraction s42A Report. As such, she recommended no changes to the Overlay table and that any changes could be considered pending the outcome of any changes to the Mineral Extraction Chapter.

340. Ms Easton noted the support of Poutini Ngāi Tahu (S620.023) for the Sites and Areas of Significance to Māori in the Overlay table.

### Hearing and Submitter Evidence/Statements

341. Westpower opposed submission S560.409 by Forest and Bird. Mr Kennedy agreed with the s42A Report recommendation in that there was no increase in scope of how the rules might be interpreted, due to the proposed text. However, he considered the proposed amendment did not account for the difference in regulatory regimes between the Grey District and Westland and Buller Districts, He stated that *“The wording could be interpreted to indicate that consents are required outside the Schedule 4 sites in Grey and should be amended to accurately describe the regime.”*

342. Westpower made several submissions that sought additional text for various overlay headings, which were not supported by Ms Easton. Mr Kennedy stated that the reason for the submissions was that in developing and mapping overlays there did not appear to have been any identification or account for existing infrastructure and assets in the plan assessments for such areas. He further noted:

It is understood that submission issues related to identification are also to arise in the hearing for planning maps and I am unsure if that is covered by Topic 21 on an as yet unidentified date. My opinion is that these are relevant matters that should be recognised and provided for in the plan and the development of the layers to ensure consideration of the relevant issues in a holistic manner. An understanding as to how it is proposed to deal with similar submission points such as those identified above could assist with considering the matter further.<sup>40</sup>

343. Legal submissions on behalf of Birchfield et. al.<sup>41</sup> referred to the Reporting Officer’s response to Forest and Bird’s submission S560.409. The submission did not support the recommended approach and questioned the Reporting Officer’s recommendation *“that would state that the resource consenting process will be used to identify SNAs, with the potential implication that the resource consent process could ‘create’ SNAs”*.<sup>42</sup> The submissions stated:

It is not clear how a resource consent process could even insert a SNA into the TPP and to make the relevant TPP and NPS-IB provisions apply. Regardless, this would be in opposition to clause 3.8(6) of the NPS-IB, which requires potential SNAs identified, for example, through a resource consent application to be assessed further to determine whether a new SNA should be inserted into the district plan. Clause 3.8(6) does not allow the Schedule 1 process of inserting this SNA to be circumvented and the Relationships between Spatial Layers should not imply as much.

344. Forest and Bird expressed support for Ms Easton’s recommended description of the Significant Natural Area Overlay.

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<sup>40</sup> Expert evidence of Martin Kennedy for Westpower, s.8.15, p.12 re: submissions S547.008-S547.011, S547.015- S547.016

<sup>41</sup> Birchfields Ross Mining Limited (S604 and FS150) Birchfield Coal Mines Limited (S601 and FS232) Papahaua Resources Limited (S500) Phoenix Minerals Ltd (S606 and FS215) Rocky Mining Limited (S474) TiGa Minerals and Metals Limited (S493 and FS104) Whyte Gold Limited (S607) WMS Group (HQ) Limited and WMS Land Co. Limited (S599 and FS231)

<sup>42</sup> Legal submissions for Mining Interests, s.40, p.10

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

345. Ms Pull, for Poutini Ngai Tahu, identified an error in the marked-up text of Appendix One in relation to submission point S620.024. She noted the marked-up text did not reflect the submission that was accepted, which according to the original submission should be:

Areas identified in ~~Treaty Settlement Legislation~~ the Ngai Tahu Claims Settlement Act 1998 where the Crown has made an acknowledgment of the particular cultural, spiritual, historic and traditional association of Ngāi Tahu with the statutory areas ~~where Poutini Ngāi Tahu have a statutory acknowledgement~~.

346. Ms Pull identified another inconsistency with respect to submission point S620.409. For clarity, she sought that the Pounamu and Aotea management areas overlays be retained in the relationships between spatial layers chapter.

### Reporting Officer Reply Evidence

347. The Panel asked Ms Easton to consider whether there was alternative wording to address the Forest and Bird submission (S560.409) that might improve the response to the submission. In response, Ms Easton agreed that alternative wording would be helpful and recommended the following text, (with the Forest and Bird wording to be altered shown in strikethrough):

Areas of significant indigenous vegetation and significant habitats of indigenous fauna. Only some of these areas have been identified on Schedule Four. The consenting process will be used **on a case-by-case basis to identify significant indigenous vegetation and habitats of fauna outside Schedule 4 areas, using the criteria in the RPS.** ~~to identify further SNAs.~~

### Hearing Panel's Evaluation

348. The Panel agrees with the minor amendment sought by Westpower to add “*or activity*” to the first paragraph under “*Relationships Between Spatial Layers*”. We recommend this amendment as a point of clarification.
349. In terms of the inclusion of Significant Natural Areas in the listed Overlays, the Panel accepts that their exclusion was an error as they are included as an overlay and should therefore be included along with other overlays. The Panel supports Ms Easton’s revised text in the Right of Reply regarding the consent process and we consider this goes some way towards addressing the concerns expressed by the mining industry. However, based on our recommendations in the ECO Chapter, we have amended the wording to reflect that assessments by a qualified ecologist using the WCRPS Appendix 1 criteria is required until the district-wide SNA assessment under ECO-P1 is completed. We also note that the recommended wording in the Right of Reply - Recommended Amendment (pg. 15) is the original version rather than the revised version. Subject to the above revision, we recommend SNA are included in the Overlay section.
350. The Panel agrees with GDC that the “*Highly Productive Land Precinct*” has been inadvertently left off the list of precincts, and while we accept it should be included, we note that as a result of our recommendations in the Rural Zones Chapter, we recommended retaining the label “*Highly Productive Land Precinct*” as opposed to “*Rural Production Precinct*” as sought by GDC. We also agree with GDC that “*Rural production zone*” needs to be removed from the description of the Rural Lifestyle Zone because there is no such zone.
351. The Panel accepts the amendments sought by Poutini Ngāi Tahu to the wording around Statutory Acknowledgements and we acknowledge the correction made by Ms Pull

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

to the description. We also accept the deletion of “*Nohoanga Entitlements*” and the addition of “*Aotea and Pounamu Management Areas*” as sought by Poutini Ngāi Tahu in the Overlay section. We recommended these amendments are adopted.

352. We agree with Ms Easton in response to a Poutini Ngāi Tahu submission that the level of information provided in the Overlay table is sufficient for this section of the Plan, and that any additional description is best provided for in the relevant Overview section.

353. In relation to the remainder of the submissions on the overlays that sought changes, the Panel agree that these are rejected on the basis of the conclusions reached by Ms Easton.

354. The Panel has also made amendments that are consequential to recommendations on other chapters of the Plan, including Transport and Rural zones.

### Hearing Panel’s Recommendation

355. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend amendments are made to **How The Plan Works** section as follows:

#### Statutory Context - Te Horopaki ā-Ture

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#### **Te Tiriti o Waitangi (Treaty of Waitangi) and the Resource Management Act**

Te Tiriti o Waitangi is a foundational legal document for Aotearoa / New Zealand/Aotearoa me Te Waipounamu.<sup>43</sup> The Crown is the primary Treaty partner responsible for the Treaty relationship, however, Councils as entities to which responsibilities have been delegated must ensure that they give appropriate consideration to the principles of the Treaty as part of their statutory Māori obligations.<sup>44</sup>

The RMA outlines that in achieving its purpose of sustainable management, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi [Section 8 of the RMA]. Te Rūnanga o Ngāi Tahu is the iwi authority for the entire Te Tai o Poutini / West Coast Region. Poutini Ngāi Tahu are the tangata whenua of Te Tai o Poutini / (the West Coast). Under section 9 of the Te Rūnanga o Ngāi Tahu Act 1996 the two Papatipu Rūnanga who represent the tangata whenua interests of Poutini Ngāi Tahu on Te Tai o Poutini / the West Coast are Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio. Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio have worked in partnership with the four councils in preparation of Te Tai o Poutini Plan in accordance with the principles of the Treaty of Waitangi.<sup>45</sup>

Section 220 of the Ngāi Tahu Claims Settlement Act 1998 recognises the mana held by Ngāi Tahu in relation to specific sites and resources, known as Statutory Acknowledgement Areas. These are acknowledgements by the Crown of the special relationships that Ngāi Tahu have with the

<sup>43</sup> Te Runanga o Ngai Tahu, Te Runanga o Ngāti Waewae, Te Runanga o Makaawhio S620.005

<sup>44</sup> Te Rūnanga O Ngāti Waewae, Te Rūnanga O Makaawhio and Te Rūnanga O Ngāi Tahu S620.005, Māwhera Incorporation S621.009, Director General of Conservation S602.004

<sup>45</sup> Te Rūnanga O Ngāti Waewae, Te Rūnanga O Makaawhio and Te Rūnanga O Ngāi Tahu S620.005, Māwhera Incorporation S621.009, Director General of Conservation S602.004

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

Areas for cultural, spiritual, historical, and traditional reasons. On **Te Tai o Poutini /** the West Coast the Statutory Acknowledgement Areas are: Ōkari Lagoon, Taramakau River, Kōtukuwhakaoka (**Moana /** Lake Brunner/~~Moana~~), Lake Kaniere, Pouerua-hāpua (Saltwater Lagoon), Ōkārīto Lagoon, Makaawhio (Jacob’s River), Karangarua Lagoon, **Tititea / Mount Aspiring**<sup>46</sup> and Lake Paringa. The West Coast Councils will consider Te Rūnanga o Ngāi Tahu and the respective papatipu rūnanga to be affected parties where resource use may adversely affect Statutory Acknowledgement Areas. Appendix Five includes the detailed statements of statutory acknowledgement for each area.<sup>47</sup>

The Ngāi Tahu Claims Settlement Act 1998 also identifies nohoanga entitlements. These are entitlements to occupy temporarily and exclusively an area of land bordering lakes or rivers for the purpose of lawful fishing and the gathering of other natural resources. They may be used for up to 210 days a year between mid-August and the end of April. The nohoanga entitlements are detailed in Appendix Six.

The relationships between Poutini Ngāi Tahu, the Statutory Acknowledgements and Te Tai o Poutini Plan are outlined further in the Tangata Whenua chapter.<sup>48</sup>

### General Approach - Te Huarahi Whānui

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Step 1 - Check the planning maps

Check the planning maps to identify which zone applies to your property (e.g. General Residential Zone). Also check to see if any overlays or features apply to your property (e.g. Natural Hazards).

Step 2 - Locate the relevant zone rules

Go to the Zone Chapters and find the relevant zone rules that apply to your property (e.g. General Residential Zone rules).

The Infrastructure, Energy, Transport, Subdivision and Temporary Activities Chapters operate slightly differently to the rest of the Plan. If you are undertaking any activities relating to infrastructure, energy, transport or are wanting to undertake any temporary activities or subdivide your property, you should start by looking at those chapters first. These chapters will then refer you to other chapters, as required. **The Area Specific Provisions (Zone Chapters) do not apply to the Energy, Transport and Infrastructure Chapters, and the provisions of the Infrastructure Chapter do not apply to Energy Activities.**<sup>49</sup>

Step 3 - Locate the relevant district-wide rules

There may be several sets of district-wide rules that you need to check for your activity e.g. Subdivision rules and Earthworks rules. If there is an overlay or feature on your property you also need to check those rule sets. **Additionally, the Ecosystems and Indigenous Biodiversity Chapter and Natural Hazards Chapter contain rules that apply district-wide, outside the scheduled overlays.**<sup>50</sup>

You should also check if there are any relevant National Environmental Standards (e.g. for contaminated land). The National Environmental Standards chapter **section**<sup>51</sup> and Table 2 below

<sup>46</sup> Te Rūnanga O Ngāti Waewae, Te Rūnanga O Makaawhio and Te Rūnanga O Ngāi Tahu 620.020

<sup>47</sup> Te Rūnanga O Ngāti Waewae, Te Rūnanga O Makaawhio and Te Rūnanga O Ngāi Tahu S620.005, Māwhera Incorporation S621.009, Director General of Conservation S602.004

<sup>48</sup> RMA First Schedule, Clause 16

<sup>49</sup> Westpower Limited S547.005

<sup>50</sup> Forest and Bird S560.046

<sup>51</sup> RMA First Schedule, Clause 16

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

provide an overview of these standards. In most cases these override or apply in addition to rules in Te Tai o Poutini Plan, however in some cases Te Tai o Poutini Plan can have more stringent rules. If there is a conflict between the rules in Te Tai o Poutini Plan and a National Environmental Standard, the most restrictive rule applies.

Step 4 - Check the relevant standards.

Check the Permitted Activity standards for the relevant zone and district-wide rules. If the activity complies with all the relevant standards, then it is permitted and can be undertaken without resource consent. To obtain council confirmation that it is a permitted activity, you may apply for a Certificate of Compliance.

Step 5 - Apply for resource consent

If any condition stated for a permitted activity is not complied with or you are proposing an activity that is listed as a controlled, restricted discretionary, discretionary or non-complying activity, you must obtain resource consent. Look within Table 1: Classes of activity, which state the category of resource consent required (controlled, restricted discretionary, discretionary or non-complying). If you are not sure, contact your local District Council (Buller, Grey or Westland) planning staff, who are available to help you. If more than one condition is not complied with, the whole of the activity will be assessed against the highest activity category that applies. Decide **if you still want to undertake your activity** ~~if you want to~~<sup>52</sup> and apply for resource consent. You may prefer to redesign your proposal to fit the permitted activity conditions.

If the works, project, or activity you are wanting to undertake requires consent for any aspect of it, a consent application is required for the whole activity. You should talk to the Council about whether any permitted activities may still apply.<sup>53</sup>

Under section 86BA of the RMA, you may not need to obtain a resource consent if you are undertaking a boundary activity and have the approval of each owner of an allotment with an infringed boundary and that is the only thing you require a resource consent for. See s87AAB of the RMA for a definition of boundary activity.

General Duty to Comply

Compliance with Te Tai o Poutini Plan and the RMA does not remove the need to comply with all other relevant acts, regulations, bylaws and rules. It is the applicant's responsibility to identify and understand all applicable requirements. Where compliance is required under any other legislation, including a bylaw, it is the responsibility of the applicant to comply with that legislation.

Conversely, activities that may be allowed or permitted under other regulatory requirements, such as the Building Act 2004, may still require resource consent.

Every person has a duty to avoid, remedy, or mitigate any adverse effect on the environment arising from an activity undertaken by, or on behalf of, the person, whether or not the activity is carried out in accordance with existing use rights under the RMA (s.10, 10A, 10B, and 20A) or a national environmental standard, a rule, a resource consent, or a designation.<sup>54</sup>

However, this duty is not of itself enforceable against any person, and no person is liable to any other person for a breach of that duty.<sup>55</sup>

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Notification

<sup>52</sup> Forest and Bird S560.048

<sup>53</sup> Forest and Bird S560.047

<sup>54</sup> Frida Inta S552.188 and the Buller Conservation Group S552.188

<sup>55</sup> Transpower Limited FS110.001

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When deciding whether any person is affected in relation to an activity for the purposes of section 95E of the RMA, the District Councils will give specific consideration to the following entities with responsibility for any natural and physical resources which may be affected by the activity, including:

1. In relation to infrastructure, the network utility operator that owns or operates that infrastructure;
2. In relation to historic heritage, Heritage New Zealand Pouhere Taonga;
3. In relation to natural resources and the coastal environment, the Minister of Conservation;
4. In relation to sites or areas of significance to Māori or cultural values,<sup>56</sup> Poutini Ngāi Tahu; ~~and~~
5. In relation to a rule which addresses reverse sensitivity effects, the operator of the activity which is protected by the rule from such effects; and
6. In relation to the habitats of sports fish or game birds, the West Coast Fish and Game Council.<sup>57</sup>

Information to be submitted with resource consents

Schedule 4 of the RMA sets out information that is required in all resource consent applications. This includes an Assessment of Environmental Effects (AEE).

An AEE is a written statement identifying the effects of your proposed activity on the environment and must be prepared in accordance with Schedule 4 of the RMA.

For controlled activities, the AEE shall only address those matters over which Te Tai o Poutini Plan has specifically reserved its control.

In respect of any application for a restricted discretionary activity, the assessment shall only address those matters over which Te Tai o Poutini Plan has specifically restricted its discretion.

These matters of control and discretion are detailed within Te Tai o Poutini Plan.<sup>58</sup>

~~For all other types of activities, the~~ AEE should address all relevant matters relating to the actual or potential effects of the proposed activity on the environment. Information on the requirements for an AEE can be found in Schedule 4 of the RMA.<sup>59</sup>

Legal effect of Rules

Rules in Te Tai o Poutini Plan have legal effect when it becomes Operative. Section 86B of the RMA allows councils to seek legal effect from the time of public notification. The Te Tai o Poutini Plan Committee has yet to consider whether there are parts of the proposed Plan that they will seek to have legal effect at time of notification.

Section 86B also states that a rule in a proposed plan has legal effect if it protects or relates to areas of water, air, or soil, significant indigenous vegetation, significant habitats of indigenous fauna, historic heritage or aquaculture activities.

This means that some of the rules in the activities on the surface of rivers and lakes, ecosystems and indigenous biodiversity, natural character and waterbodies, coastal environment, historical

<sup>56</sup> Consequential amendment arising from recommendations on inclusion of "Effects on Poutini Ngāi Tahu values" as matters of control or discretion in particular provisions

<sup>57</sup> West Coast Fish and Game Council S302.001

<sup>58</sup> Forest and Bird S560.048

<sup>59</sup> Forest and Bird S560.048

heritage and sites and areas of significance to Māori chapters as well as the specific rules in some zones for Aquaculture will have legal effect at the date of notification of this Plan.<sup>60</sup>

### Cross Boundary Matters - Ngā Take Whakawhiti Rohenga

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#### Management of Cross Boundary Matters

The key to managing cross boundary matters is aiming to have a consistent approach. The combined plan approach of Te Tai o Poutini Plan has been developed to maximise integrated management across the three West Coast district councils of Buller, Grey and Westland. A combined committee of the three district councils, the West Coast Regional Council and representatives of the two Runanga on **Te Tai o Poutini /** the West Coast oversees the Te Tai o Poutini Plan and will continue to be a vehicle to ensure integrated management in Plan implementation.<sup>61</sup>

Alongside this, the West Coast Regional Policy Statement, the New Zealand Coastal Policy Statement and other national instruments provide a degree of consistency of direction and management.

Other methods which will be used to ensure integrated management of cross boundary issues include:

1. Holding joint hearings of resource consents under section 102 of the RMA when appropriate to address cross boundary effects
2. Regular joint liaison meetings between the four councils on **Te Tai o Poutini /** the West Coast<sup>62</sup>
3. Liaison with iwi authorities and Poutini Ngāi Tahu
4. Regular liaison with other organisations involved in resource management for example – New Zealand Transport Authority, Heritage New Zealand Pouhere Taonga, Transpower and lines companies, Kiwirail, Department of Conservation, Ministry for Primary Industries.
5. Submissions on other local authority policy statements, plans and resource consents.

Cross boundary issues on land that is not managed by the Te Tai o Poutini Plan.

Cross boundary issues refer to situations where an activity takes place on or near a territorial boundary or where the effects of a particular activity impact on the territory of an adjacent authority, including any territorial boundary that is not managed by the Te Tai o Poutini Plan. The following procedure will be followed for such cross-boundary issues: The consenting territorial authority will consider whether any resource consents are required from another territorial authority. Reference to the provisions of the Resource Management Act (1991) that relate to joint hearings will be made where an activity requires consent from two or more territorial authorities; Applicants for resource consent for activities which might have effects on an adjoining territory authority will be encouraged to consult with that authority. In the case of infrastructure networks

<sup>60</sup> Buller Conservation Group S552.020 and Frida Inta S533.020

<sup>61</sup> Te Rūnanga O Ngāti Waewae, Te Rūnanga O Makaawhio and Te Rūnanga O Ngāi Tahu S620.005, Māwhera Incorporation S621.009, Director General of Conservation S602.004

<sup>62</sup> Te Rūnanga O Ngāti Waewae, Te Rūnanga O Makaawhio and Te Rūnanga O Ngāi Tahu S620.005, Māwhera Incorporation S621.009, Director General of Conservation S602.004

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

crossing territorial boundaries, the consenting territorial authority will consult with other relevant territorial authorities and endeavour to arrive at a planning framework that provides a consistent approach to the network.<sup>63</sup>

### Relationships between spatial layers - Ngā hononga ki waenga i ngā paparanga mokowā

Te Tai o Poutini Plan uses a range of spatial layers that are shown on planning maps. These will assist you in determining which overlays or features apply to a specific property or activity.<sup>64</sup>

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### Rural Zone Descriptions

Name	Code	Description
General Rural Zone	GRUZ	Areas used predominantly for primary production activities, including intensive indoor primary production. The zone may also be used for a range of activities that support primary production activities, including associated rural industry, and other activities that require a rural location.
Rural Lifestyle Zone	RLZ	Areas used predominantly for a residential lifestyle within a rural environment on lots smaller than those of the General rural and Rural production zones, while still enabling primary production to occur. <sup>65</sup>
Settlement Zone	SETZ	Areas used predominantly for a cluster of residential, commercial, light industrial and/or community activities that are located in rural areas or coastal environments.
Rural Zones	RURZ	Where an objective, policy, rule or requirement applies to all the rural zones, the term RURZ may be used to collectively describe them.

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### Precincts

Name	Description
Greymouth Town Centre Precinct	The purpose of this precinct is to manage activities and urban design within the Greymouth Town Centre.
Hokitika Town Centre Precinct	The purpose of this precinct is to manage activities and urban design within the Hokitika Town Centre.
Reefton Town Centre Precinct	The purpose of this precinct is to manage activities and urban design within the Reefton Town Centre
Westport Town Centre Precinct	The purpose of this precinct is to manage activities and urban design within the Westport Town Centre

<sup>63</sup> Queenstown Lakes District Council S523.001

<sup>64</sup> Westpower Limited S547.006

<sup>65</sup> Grey District Council S608.001

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

Settlement Precinct	Centre	The purpose of this precinct is to manage activities and building design within settlement centres.
Rural Precinct	Residential	The purpose of this precinct is to manage activities and lot size within these rural areas.
Coastal Precinct	Settlement	The purpose of this precinct is to manage activities and building design within these coastal settlements.
Community Precinct	Living	The purpose of this precinct is to provide for community living development within these rural areas.
Highly Productive Land Precinct		The purpose of this Precinct is to manage lot size for ongoing rural production. <sup>66</sup>

Overlays		
Name	Description	
Rifle Range Protection Areas	Areas where restrictions on activities and noise insulation is required.	
Westport Radio Mast EM Overlay	Area where restrictions on activities ensure public safety in proximity to the Westport Radio Mast <sup>67</sup>	
Airport Approach Paths	Areas where height restrictions to protect airport approach paths are in place.	
Airport Noise Contour Overlays	Areas where noise insulation requirements for residential buildings near airports/heliports are required.	
Electricity Transmission and Distribution Yard	Identifies national grid and significant electricity transmission lines utilised by a network utility operator for electricity distribution.	
Historic Heritage Items and Areas	Areas and items of significant historic heritage value.	
Notable Trees	Trees of significant cultural, aesthetic or scientific value.	
Sites and Areas of Significance to Māori	Areas and places of significant Māori cultural or heritage value.	
Statutory Acknowledgement Areas	Areas identified in <del>Treaty Settlement Legislation</del> the Ngai Tahu Claims Settlement Act 1998 where the Crown has made an acknowledgement of the particular cultural, spiritual, historic and traditional association of Ngāi Tahu with the statutory areas <del>Poutini Ngāi Tahu have a statutory acknowledgement.</del> <sup>68</sup>	

<sup>66</sup> Grey District Council S608.484, S608.002

<sup>67</sup> Consequential amendment arising from recommendations in the Rural Zones Recommendation Report

<sup>68</sup> Te Rūnanga O Ngāti Waewae, Te Rūnanga O Makaawhio and Te Rūnanga O Ngāi Tahu S620.024

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

Aotea Management Area	Areas identified where restrictions apply to land disturbance, earthworks, quarrying and mineral extraction activities <sup>69</sup>
Pouamu Management Area	Areas identified where restrictions apply to land disturbance, earthworks, quarrying and mineral extraction activities <sup>70</sup>
Outstanding Natural Features Overlay	Areas of natural features of international significance.
Outstanding Natural Landscapes Overlay	Areas of natural landscape assessed as being outstanding natural value.
Outstanding Coastal Environment Area	Areas of the coastal environment with outstanding natural landscape, outstanding natural features or outstanding natural character.
High Coastal Natural Character Area	Areas of the coastal environment with high natural character values.
General Coastal Environment Area	Areas of the coastal environment outside of the urban area where human values dominate over natural character.
Significant Natural Areas	Areas of significant indigenous vegetation and significant habitats of indigenous fauna. Only some of these areas have been identified on Schedule Four. The consent process will be used on a case by case basis to identify areas of significant indigenous biodiversity outside Schedule Four areas, using the criteria in Appendix 1 of the West Coastal Regional Policy Statement until a district-wide SNA assessment has been undertaken using the criteria in the National Policy Statement on Indigenous Biodiversity. <sup>71</sup>
<del>Lawfully Established Mineral Extraction and Processing Areas</del>	<del>Areas within the Mineral Extraction and Buller Coalfield Zones where mineral extraction is lawfully established.</del> <sup>72</sup>
Previously Mined Locations in Rural and Open Space Zones	Areas previously mined subject to specific rules in the Rural and Open Space Zones <sup>73</sup>
Nohoanga Entitlements	Areas identified in Treaty Settlement Legislation where Poutini Ngāi Tahu are able to establish nohoanga <sup>74</sup>
Natural Hazard Overlays	These overlays are still being developed and will be mapped and consulted on as part of a parallel process with the draft Te Tai o Poutini Plan.

<sup>69</sup> Te Rūnanga O Ngāti Waewae, Te Rūnanga O Makaawhio and Te Rūnanga O Ngāi Tahu S620.021

<sup>70</sup> Te Rūnanga O Ngāti Waewae, Te Rūnanga O Makaawhio and Te Rūnanga O Ngāi Tahu S620.021

<sup>71</sup> Forest and Bird S560.409

<sup>72</sup> Consequential amendment arising from recommendations in the Mineral Extraction Recommendation Report

<sup>73</sup> Consequential amendment arising from recommendations in the Mineral Extraction Recommendation Report

<sup>74</sup> Te Rūnanga O Ngāti Waewae, Te Rūnanga O Makaawhio and Te Rūnanga O Ngāi Tahu S620.025

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

Road Classification	Demonstrates roading hierarchy classifications across the West Coast/Tai-o-Poutini. <sup>75</sup>
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### 3.6 Submissions on the Abbreviations

#### Submissions and Further Submissions

356. Three submissions on the abbreviations were summarised in the table on page 76 of the s42A Report. The Panel adopts these summaries and has considered the submissions.

#### Section 42A Report

357. Buller Conservation Group (S552.033) and Frida Inta (S553.033) sought that the chapter be renamed to Acronyms. Ms Easton noted that the National Planning Standards prescribe the chapter names to be used, including the Abbreviations chapter and therefore did not support the submission.

358. Heritage New Zealand Pouhere Taonga (S140.008) sought that the abbreviation for their enabling Act be corrected to the “*HNZPT Act*” and the fuller term be amended to “*Heritage New Zealand Pouhere Taonga Act 2014*”. Ms Easton supported this correction and recommended that all necessary references in the Plan be amended accordingly.

#### Hearing and Submitter Evidence/Statements

359. No specific evidence was presented during the hearing in relation to the above submissions.

#### Reporting Officer Reply Evidence

360. No further matters were raised the Right of Reply.

#### Hearing Panel’s Evaluation

361. The Panel accept the submission of Heritage New Zealand Pouhere Taonga.

362. The Panel agrees with Ms Easton that the Panel is required to follow the Planning Standards in response to the submissions from Buller Conservation Group and Frida Inta.

#### Hearing Panel’s Recommendation

363. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission point identified in the footnote is accepted, and recommend the following amendments to the **Abbreviations**:

Abbreviations - Ngā Whakapototanga	
Abbreviations	Full term
AEE	Assessment of Environmental Effects
HSNO	Hazardous Substances and New Organisms Act 1996
LGA	Local Government Act 2002

<sup>75</sup> RMA First Schedule, Clause 16, consequential to recommendations on the Transport Chapter

<del>NZHPT</del> <b>HNZPT</b> Act	<b>Heritage</b> New Zealand Pouhere Taonga Act 2014 <sup>76</sup>
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### **3.7 General Submissions and Additions to the Glossary**

#### **Submissions and Further Submissions**

364. Nine submissions on the Glossary were summarised in the table on page 77 of the s42A Report. The Panel adopts these summaries and has considered the submissions.

#### **Section 42A Report**

365. Ms Easton noted the support for the Glossary from Poutini Ngāi Tahu.
366. Buller Conservation Group (S552.032) and Frida Inta (S553.032) sought a Māori/English translation for the title of the glossary. Ms Easton did not support the submission because the name Glossary was set by the Planning Standards.
367. WMS Group (HQ) Limited (S599.015), WMS Land Co. Limited (S493.013), TiGa Minerals and Metals Limited and Rocky Mining Limited (S474.027) sought that the Māori terms in Schedule Three be included in the Glossary.
368. Ms Easton supported the inclusion of '*wāhi tohu*', '*wāhi taonga*', '*mahinga kai*', '*nohoanga*', '*whenua*', '*marae*', '*kaitiakitanga*', '*taonga*' and '*pounamu*' in the glossary, noting that '*tohu*' was already included. Ms Easton did not support the inclusion of '*Māori reserve*', noting that it could be included in the definitions section.
369. Ms Easton supported the submission from David Ellerm (S581.010) for the inclusion of '*kaitiakitanga*' in the Glossary.
370. Ms Easton supported the submissions by Stephen Page (S270.018) and Helen Carter (S209.005) for inclusion of all Māori terms in the Glossary.

#### **Hearing and Submitter Evidence/Statements**

371. Ms Pull, for Poutini Ngāi Tahu, noted support for the new Māori terms recommended by the s42A Report to be included in the Glossary. She acknowledged the definitions were developed with Poutini Ngāi Tahu input.

#### **Reporting Officer Reply Evidence**

372. No specific points were made in the Reply.

#### **Hearing Panel's Evaluation**

373. The Panel accepts the recommendations from Ms Easton to include a suite of Māori terms included in the Glossary, but do not consider that '*Māori Reserve*' needs to be included as a definition considering limits on its usage in the Plan.
374. The Panel agrees with Ms Easton that the name Glossary is set by the Planning Standards.

#### **Hearing Panel's Recommendation**

375. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below

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<sup>76</sup> Heritage New Zealand Pouhere Taonga S140.008

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

### Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

are accepted or accepted in part, and recommend the following amendments to the Glossary:

Glossary - He Kuputaka	
Term	Meaning
<u>Kaitiakitanga</u>	<u>guardianship</u>
<u>Mahinga kai</u>	<u>the customary gathering of food and natural materials and the places where those resources are gathered</u>
<u>Marae</u>	<u>meeting ground</u>
<u>Nohoanga</u>	<u>seasonal occupation sites which were an integral part of the mobile lifestyle of Ngāi Tahu Whānui (tribal members) as they moved around Te Waipounamu (the South Island) in pursuit of food and other natural resources. Under the Ngāi Tahu Claims Settlement Act 1998, nohoanga sites are specific areas of Crown owned land adjacent to lakeshores or riverbanks available as camping sites to support mahinga kai activities</u>
<u>Pounamu</u>	<u>greenstone</u>
<u>Taonga</u>	<u>treasure</u>
<u>Wāhi taonga</u>	<u>a place of treasures</u>
<u>Wāhi tohu</u>	<u>landmark</u>
<u>Whenua</u>	<u>land</u> <sup>77</sup>

### 3.8 Submissions on Specific Terms in the Glossary

#### Submissions and Further Submissions

376. Two submissions made on specific terms in the Glossary were summarised in the table on page 78 of the s42A Report. The Panel adopts these summaries and has considered the submissions.

#### Section 42A Report

377. Māwhera Incorporation (S621.010 and S621.011) sought that the definitions of '*mana whenua*' and '*tangata whenua*' were amended in relation to the properties that Māwhera Incorporation manage.

378. In response, Ms Easton identified that the definitions in the Plan for '*tangata whenua*' and '*mana whenua*' were derived from legislation, including the Reserves Act, the Conservation Act and the Resource Management Act. She considered the definitions in the Plan were appropriate based on the resource management function of the Plan, whilst also referring to discussions on the various definitions in the WAI64 report by the Waitangi Tribunal. Ms Easton therefore recommended that the current definitions in the Plan were retained and did not support the relief sought.

<sup>77</sup> David Ellerm S581.010, Stephen Page S270.018 and Helen Carter S209.005 WMS Group (HQ) Limited and WMS Land Co. Limited S599.015, TiGa Minerals and Metals Limited S493.013 and Rocky Mining Limited S474.027

## **Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel**

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

### **Hearing and Submitter Evidence/Statements**

379. In their submitted and oral evidence, representatives for Poutini Ngāi Tahu detailed the tikanga based cultural and statutory basis for Ngāi Tahu's claim to rangatiratanga and mana whenua status.

### **Reporting Officer Reply Evidence**

380. No specific points were made in the Reply to the above submissions.

### **Hearing Panel's Evaluation**

381. The Panel agrees with the reasoning provided by Ms Easton and Poutini Ngāi Tahu in relation to the Māwhera Incorporation submission and recommends it is rejected.

### **Hearing Panel's Recommendation**

382. The Panel recommends no changes in response to the submissions.

## **3.9 Definitions chapter in general**

### **Submissions and Further Submissions**

383. Three submissions on the Definitions Chapter in general were summarised in the table on page 79 of the s42A Report. The Panel adopts these summaries and has considered the submissions.

### **Section 42A Report**

384. Straterra (S536.028) sought that the definitions be reviewed to ensure that the cross references were correct. Ms Easton stated that she was not able to determine from the submission what errors Straterra has identified. However, she supported the correction of any errors in cross references that were identified.
385. Ms Easton noted the submission from the Director General (S602.017) and the general statement that they were neutral in relation to all other definitions not specifically submitted on.
386. Forest and Bird (S560.053) sought that defined terms were identifiable in the "printed" version of the Plan. Ms Easton noted the printed versions of the proposed Plan were only produced as a consultation tool to assist people wanting to submit on the Plan. There was no intention that there be printed versions of the operative Plan and therefore this submission is by default, declined.
387. Forest and Bird (S560.053) also sought that the interpretation list include all terms defined in the Plan. Noting several errors in the e-plan definitions, Ms Easton recommended a thorough review of the e-plan "pop up" definitions to ensure that only definitions intentionally used in the TTPP would be seen in the pop ups.

### **Hearing and Submitter Evidence/Statements**

388. Forest and Bird stated they did not have anything to add about definitions; however, they indicated that they would comment on the definition of Significant Natural Area in their comments on other chapters.

### **Reporting Officer Reply Evidence**

389. No specific points were made in the Reply to the above submissions.

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

### Hearing Panel's Evaluation

390. The Panel accepts that a review of the e-plan pop up definitions to ensure that only definitions intentionally used in TTPP are seen in the pop ups will be necessary. We see this as a mechanical issue and not one we need to make a recommendation on.

### Hearing Panel's Recommendation

391. The Panel recommends no changes in response to the submissions.

## 3.10 National Planning Standards Definitions

### Submissions and Further Submissions

392. Sixty-one submissions and six further submissions were made in relation to the Definitions taken from the National Planning Standards were summarised in the table on pages 80-85 of the s42A Report. The Panel adopts these summaries and has considered the submissions and further submissions.

### Section 42A Report

393. All the definitions discussed in this section of the report are definitions derived from the National Planning Standards.

#### *Building*

394. Several submitters<sup>78</sup> sought amendments to the definition of '*Building*' to specifically exclude non-motorised caravans and tiny homes built on trailers. The New Zealand Motor Caravan Association (S490.004) also stated concern about the risk that non-motorised caravans were included within the definition. Ms Easton recognised that the definition captured motorised caravans and tiny homes built on trailers. However, she considered there was no legal pathway to amend the definition. She therefore did not support the relief sought.

395. Cape Foulwind Staple 2 Ltd (S568.011) sought that the definition of '*Building*' clarified the situation in relation to water tanks, wastewater treatment and land application areas. In response, Ms Easton applied the same logic as above to this matter, that there was no legal pathway available to amend the definition. She therefore recommended rejecting the relief sought.

396. Straterra (S536.029) was concerned that the definition of '*Building*' may not be appropriately cross referenced. They had a similar concern in relation to the definition of '*Dust*' (S536.031). Ms Easton checked the e-Plan and these definitions were correct between the Plan and the Planning Standards, and therefore recommended no amendments.

#### *Functional Need and Operational Need*

397. Westpower (S547.025, S547.033) sought to address locational issues by adding to the definitions of '*functional need*' and '*operational need*' by adding "*including the need for the activity to locate where the resource is available*".

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<sup>78</sup> William McLaughlin (S567.034, S567.035), Chris & Jan Coll (S558.274, S558.275), Chris J Coll Surveying Limited (S566.274, S566.275) and Laura McLaughlin (S574.274, S574.275)

## **Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel**

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

398. Ms Easton considered there was no available pathway to amend the definitions given they were Planning Standard definitions and therefore did not support the relief sought. She noted that the same submitters had also sought a new definition for '*Locational need*' that would be addressed in a subsequent section.

### *Site*

399. Buller Conservation Group (S552.007, S552.008) and Frida Inta (S553.007, S553.008) highlighted issues with the consistency of use of the definition of the word '*site*' in the Plan. Ms Easton notes that the term '*site*' was applied in a diverse manner throughout the Plan, but noted that the Planning Standards did not allow for the term to be altered to suit its context. Ms Easton therefore recommended deleting the term '*site*' from the Plan and where site was used in the Subdivision and Financial Contributions Chapter, replace it with the word '*allotment*'. She also recommended adding a definition for '*allotment*' from the Planning Standards.

### *Visitor Accommodation*

400. The New Zealand Motor Caravan Association (S490.006) submitted that camping activities be included within the definition of '*Visitor Accommodation*'. Ms Easton did not support the submission but noted that it may be possible to provide relief elsewhere based on other submissions from the submitter.

## **Hearing and Submitter Evidence/Statements**

401. The Panel asked KiwiRail representatives whether definitions of '*functional need*' and '*operational need*' were being used wider than intended, and whether there were associated problems with that approach. They confirmed that the use of the terms was wider than intended and that it had become a "de facto test", and additional hurdle and therefore care needed to be taken in using the terms.
402. Ms Whitney, for Transpower, confirmed support for the s42A recommendations to retain the definitions of '*functional need*' and '*operational need*'.

## **Reporting Officer Reply Evidence**

403. The Panel asked Ms Easton whether other Plans under the Planning Standards dealt with functional need and operational need. We also queried whether any other Plans had a definition for '*Technical need*'.

404. In response, Ms Easton stated:

I have reviewed the following post national planning standards plans: Selwyn District Plan (Decisions version), Waimakiriri District Plan (Proposed Plan), Timaru District Plan (Proposed Plan), Nelson Plan (Draft Plan), Far North District Plan (Proposed Plan), Porirua District Plan (Decision Plan), New Plymouth District Plan (Decision Plan) and Central Hawkes Bay (Proposed Plan). Without exception all of these plans refer to both Functional Need and Operational Need. None of these plans use or define Technical Need.

In light of this, and the verbal evidence presented by a range of submitters, I revert to my original position that Functional Need and Operational Need definitions are sufficient, and that these terms cover all the matters sought within the "Locational Need and Technical Need" definition proposal.

## **Hearing Panel's Evaluation**

## **Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel**

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

405. The Panel agrees with Ms Easton that there is no ability to alter definitions prescribed in the Planning Standards. We therefore recommend that the submissions relating to these prescribed definitions are rejected.
406. In terms of the Westpower submission on *'locational and technical need'*, we agree with Ms Easton that the definitions for *'Functional need'* and *'Operational need'* cannot be amended. We have also considered whether these could be additional definitions, however, in our view, matters associated with locational and technical need are inherently captured in the definitions of *'Functional need'* and *'Operational need'*. While we acknowledge the WCRPS references locational and technical need in relation to RSI, we see no reason for their inclusion as definitions and recommend the submission is rejected.
407. In relation to the definition of *'site'*, the Panel notes that Ms Easton recommended it is deleted in favour of the definition of *'allotment'*. The Panel has looked closely at this issue and we consider deleting the definition of *'site'* would have significant consequences for the Plan as a whole. We note that the definition of *'allotment'* is already in the Plan and there are differences between it and the definition of *'site'* that would make replacing one with the other difficult, and create interpretation issues within the Plan. We recommend that the definition of *'Site'* is retained as per the Planning Standards.

### **Hearing Panel's Recommendation**

408. The Panel recommends that there are no changes due to the above submissions

## **3.11 Submissions on TTPP Specific Definitions**

### **Submissions and Further Submissions**

409. Sixty-three submissions and 25 further submissions were summarised in the table on pages 87-96 of the s42A Report. The Panel adopts these summaries and has considered the submissions and further submissions.

### **Section 42A Report**

410. The following TTPP specific definitions were subject to submissions.

#### *Accessway*

411. Forest and Bird (S560.054) sought clarification on whether the definition of *'Accessway'* was specific to vehicle access or includes walking access, and access to private property such as driveways or other situations. Ms Easton recommended that no changes were necessary based on the existing definition being sufficiently clear.

#### *Activity*

412. Forest and Bird (S560.055) opposed the definition of *'Activity'*. Ms Easton recognised the definition was a drafting error and therefore supported its deletion from the Plan.

#### *Additions and Alterations*

413. Ms Easton noted the submissions of Heritage New Zealand Pouhere Taonga (S140.001) and Westpower (S547.017) who supported the existing definition of *'Additions and Alterations'*.

#### *Building Platform*

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

414. Forest and Bird (S560.058) sought amendments to the definition of *'Building platform'*. Ms Easton supported this submission on the basis that the Plan adequately addressed the matters identified within existing rules. The s42A Report recommended that the definition of *'Building platform'* be amended as follows:

Means: land that is practical for accommodating a residential house, or other intended building, having regard to ground conditions, gradient, access, natural hazards, indigenous vegetation and habitat, amenity and health and safety.

### *Camping Ground*

415. Several submitters<sup>79</sup> sought that the definition of *'Camping ground'*, as derived from the Camping Grounds Regulations 1985, be amended to include the supporting premises and equipment that accompanies more commercial camping ground operations. Ms Easton supported the proposed amendments and recommended the definition of *'Camping ground'* be amended as follows:

~~has the same meaning as the Camping Grounds Regulations 1985 (as set out below)~~ means any area of land used, or designed or intended to be used, ..., or other premises and equipment, **and includes the use of permanent buildings for sleeping in such as cabins and motel accommodation ancillary to the camping ground.**

### *Cemeteries*

416. Buller Conservation Group (S552.023) and Frida Inta (S553.023) identified a typographic error in the spelling of *'Cemeteries'*, which Ms Easton acknowledged and recommended be rectified.

### *Conservation Activities*

417. Several submitters<sup>80</sup> sought amendments to the definition of *'Conservation Activities'*. New Zealand Agricultural Aviation Association (S166.007), sought to include *"weed and pest control and intermittent use of aircraft for conservation purposes"*, and Federated Farmers of New Zealand (S524.005), proposed to include *"weed and pest control"*. The Director General (S602.013), sought that the definition *"excludes commercial activities"*.

418. Ms Easton agreed with the submission of the Agricultural Aviation Association that the definition of *'Conservation Activities'*, includes pest control. She further agreed with the Director General that the definition should not include commercial activities.

419. Forest and Bird (S560.060) sought that the definition be narrowed to only refer to activities with respect to natural and ecological values aimed at restoration of ecosystem health and indigenous biodiversity. Ms Easton did not support the submission by Forest and Bird on the basis that their suggestions would narrow the definition too much, effectively excluding recreation and historical values, which are covered within the purpose of the Conservation Act.

420. West Coast Fish and Game Council (S302.002) proposed to amend the definition to include any activity undertaken for the purposes of enhancing the lawful utilisation of the

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<sup>79</sup> Paparoa Track Services Ltd, Craig and Sue Findlay, Tim Findlay, Punakaiki Beach Camp Ltd (S605.002)

<sup>80</sup> New Zealand Agricultural Aviation Association (S166.007), Director General (S602.013), Federated Farmers of New Zealand (S524.005), West Coast Fish and Game Council (S302.002) and Forest and Bird (S560.060)

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

sports fish or game bird resource. Ms Easton did not consider that the inclusion of activities to support sports fish and game bird resources should be part of the definition. Given some sports fish and game bird species are exotic, Ms Easton suggested that adopting the submission may result in outcomes counter to indigenous species conservation and other ecological values.

421. The s42A Report recommended amending the definition of Conservation Activities as follows:

means the use of **land** or buildings for any **activity** undertaken for the purposes of protecting and/or enhancing the natural, historic and/or ecological values of a natural or historic resource. It includes ancillary activities which assist to enhance the public's appreciation and recreational enjoyment of the resource, **including weed and pest control and the intermittent use of aircraft for conservation purposes and excludes commercial activities.**

### *Emergency Service Facility*

422. Ms Easton acknowledged the submissions by the New Zealand Defence Force (S519.005) and Fire and Emergency New Zealand (S573.003) in support of the definition of Emergency Service Facility.

### *Existing Buildings and Structures*

423. Forest and Bird (S560.064, S560.423) sought that the definition of "*Existing buildings and structures*" be deleted and replaced in the Plan with "*lawfully established buildings and structures*". Ms Easton recommended retaining the definition as it is on the basis that the definition was used extensively during Plan consultation, and its retention made it easy to understand for lay people using the Plan.

424. Ms Easton did not support the submission of Forest and Bird that sought deletion of the definition as it incorporated buildings that were not yet existing. Ms Easton noted the definition provided certainty for the ongoing use of existing buildings, which is particularly significant in relation to natural hazards, and certainty during the Plan review process.

### *Existing Use Rights*

425. David Ellerm (S581.003), Horticulture New Zealand (S486.002) and Federated Farmers of New Zealand (S524.007) submitted on the '*Existing Use Rights*' definition. David Ellerm sought to alter the definition to extend existing use rights to 36 months. Horticulture New Zealand and Federated Farmers sought that either the definition was deleted or the entirety of RMA s10 of the RMA was repeated.

426. Upon review, Ms Easton recommended deletion of the definition given its use was limited to advice notes.

### *Lawfully established*

427. Ms Easton noted the support for the definition of '*Lawfully established*' by Radio New Zealand (S476.002).

428. Several submissions sought amendments to the definition of '*Lawfully established*' in the Plan. Bathurst Resources (S491.004) sought amendments that would include Ancillary Coal Mining Licences within the definition.

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

### Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

429. Ms Easton supported the Radio New Zealand (S476.005, S476.006) submission, which sought recognition that activities established by designation be included in the definition. Similarly, Ms Easton also supported the submissions by Horticulture New Zealand (S486.003) and Federated Farmers (S524.012) who sought to restructure the definition to make it clear that an activity could be lawfully established through a number of mechanisms.
430. Forest and Bird (S560.067, S560.422) sought that the definition for ‘*Lawfully established*’ be clarified, to state that an activity ceases to be lawful when the consent or license expired. The submission also sought that the definition of ‘*Lawfully established*’ only apply at the date of notification of the Plan. Ms Easton did not support the submission regarding lawful establishment only applying at the time of notification of the Plan, on the basis that doing so would transform the intent of many rules in the plan. However, Ms Easton supported in part the submission by Forest and Bird relating to the need to identify that the definition doesn’t apply to resource consents or coal mining licences that have expired and have not been renewed.
431. Regarding the part of the submission that relates to Coal Mining Licences and the submission of Bathurst Resources (S491.004), regarding Ancillary Coal Mining Licences, Ms Easton considered such matters to be most appropriately addressed within the wider discussion and analysis of the Mineral Extraction s42A Report.
432. The s42A Report recommended amendments to the definition of ‘*Lawfully established*’ as follows:
- means buildings, structures and activities provided for by one of the following:
1. permitted through a rule in a plan, or
  2. a resource consent, or.
  3. a national environmental standard; or
  4. a designation;<sup>81</sup> or
  5. by an existing use right (as provided for in Section 10 of the RMA)<sup>82</sup>; or
- 6. In the case of mineral extraction it also includes an activity permitted through a Coal Mining License issued under the Coal Mines Act (1979); and does not include where the resource consent or license has expired and not been renewed.**

### Maintenance

433. Ms Easton noted several submitters<sup>83</sup> supported the definition of ‘*Maintenance*’ in the Plan.
434. Buller Electricity (S451.011) and Frank and Jo Dooley (S478.068) sought a substantial amendment to spell out in specific detail what maintenance was in relation to electricity generation and distribution. Ms Easton did not consider it appropriate to provide the level of detail sought just for energy generation and distribution, given the detail already provided and the implications of having to redefine all other types of infrastructure.
435. Westpower (S547.030) sought that the words “*energy activities*” were included in the definition, replacing “*renewable energy generation activities*”. This related to the

<sup>81</sup>Ibid, s.381, pg. 102; re: Radio New Zealand (S476.005, S476.006)

<sup>82</sup> Ibid, s.381, pg. 102; Horticulture New Zealand (S486.003) and Federated Farmers (S523.012)

<sup>83</sup> Transpower New Zealand Limited (S299.007), Heritage New Zealand Pouhere Taonga (S140.005), Radio New Zealand (S476.006), Forest and Bird (S560.068), KiwiRail Holdings Limited (S442.005) and Manawa Energy (S438.013)

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

wider position of Westpower that *'Energy activities'* should be separately defined and that they should be included in all circumstances where infrastructure was mentioned in the Plan. Ms Easton noted that this matter was addressed in the Energy, Infrastructure and Transport s42A Report and therefore proposed no changes to the definition.

436. Westpower (S547.030) and Manawa (S438.013) also made submissions relating to the inclusion of repair in the definition of *'Maintenance'*. Ms Easton considered the existing definition was very wide and therefore inclusion of the word repair was not necessary.

437. The s42A Report recommended no changes to the definition of *'Maintenance'*.

### *Overlay Chapter*

438. Forest and Bird (S560.428, S560.073) sought amendments to the definition of *'Overlay Chapter'* which was used very widely in the Plan. They sought that the definition list each overlay chapter. Ms Easton supported this submission because it made the definition clearer.

439. Forest and Bird also sought that the definition explain the relationship with overlay provisions given some chapters (Natural Hazards and Ecosystems and Indigenous Biodiversity) contain provisions that apply both within and outside of the scheduled overlays. Ms Easton supported this submission and the proposed amendments.

440. The s42A Report recommended amending the definition for Overlay Chapter as follows:

means the ~~Coastal Environment Chapter and~~ chapters in the following sections of the Plan:

- a. ~~Hazards and Risks;~~ Natural Hazards;
- b. Historical and Cultural Values; and Historic Heritage;
- c. Natural Environment. Notable Trees;
- d. Sites and Areas of Significance to Māori;
- e. Historical and Cultural Values;
- f. Ecosystems and Indigenous Biodiversity;
- g. Natural Features and Landscapes;
- h. Natural Character and the Margins of Waterbodies; and
- i. Coastal Environment

In relation to the Ecosystems and Indigenous Biodiversity and Natural Hazards chapters these contain provisions that apply district wide.

### *Papatipu Rūnanga*

441. Poutini Ngāi Tahu (S620.038) sought that the definition of *'Papatipu Rūnanga'* in the Plan incorporate the text from the Ngāi Tahu Claims Settlement Act. Ms Easton supported this proposed amendment and recommended amendments as follows:

has the same meaning as in the Ngāi Tahu Claims Settlement Act 1998 (as set out below) means the Papatipu Rūnanga of Ngāi Tahu Whānui referred to in section 9 of Te Rūnanga o Ngāi Tahu Act 1996.

### *Poutini Ngāi Tahu*

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

442. Māwhera Incorporation (S621.008) sought that the definition of *'Poutini Ngāi Tahu'* be amended to include other Ngāi Tahu hapū members who were entitled to Te Tai o Poutini lands by the 1879 Young Commission. Ms Easton did not support this submission on the basis that the Ngāi Tahu Claims Settlement Act 1996 and Te Rūnanga o Ngāi Tahu Act 1996 were clear on the definition, and she considered the relief sought by Māwhera Incorporation was inconsistent with the legislation.
443. Poutini Ngāi Tahu (S620.029) sought that the definition of *'Poutini Ngāi Tahu'* be expanded to include Te Rūnanga o Ngāi Tahu as the iwi authority, which was supported by Ms Easton.

### *Poutini Ngāi Tahu Activities*

444. Poutini Ngāi Tahu (S620.040) sought that the terms *'cultural activities'*, *'cultural harvest'* and *'Poutini Ngāi Tahu cultural purposes'* be replaced with *'Poutini Ngāi Tahu activities'*. Ms Easton was comfortable supporting part of the submission, consolidating *'cultural activities'* and *'Poutini Ngāi Tahu cultural purposes'* as *'Poutini Ngāi Tahu activities'*. However, she did not support the inclusion of *'cultural harvest'* in this term because *'cultural harvest'* was a key permitted activity in the Ecosystems and Indigenous Biodiversity rules. She considered incorporating *'cultural harvest'* would widen the rule considerably if clearance for *'Poutini Ngāi Tahu Activities'* was a permitted activity.
445. The s42A Report recommended replacing *'cultural activities'* and *'Poutini Ngāi Tahu cultural purposes'* with *'Poutini Ngāi Tahu activities'*.
446. Poutini Ngāi Tahu (S620.040) also sought that the definition of *'Poutini Ngāi Tahu activities'* be altered, proposing the addition of the following text:

...

2. Cultural harvest (which may including the clearance of vegetation), Mahinga kai, and the collection or mining of Pounamu, Aotea stone or rock; or
3. The installation of Pou whenua on or clearance of vegetation for maintenance of cultural redress land.

447. Ms Easton noted that the current rules around Poutini Ngāi Tahu activities are very permissive (generally permitted activities), including in very sensitive locations including the Coastal Environment, Outstanding Natural Landscapes and the margins of waterbodies. Ms Easton expressed concern that the proposal would provide for mining of pounamu and aotea and clearance of native vegetation, including on cultural redress land. She considered that any widening of the definition needed to be looked at within the context of the relevant chapters in which the rules reside, rather than as a wholesale change.
448. Therefore, Ms Easton referred this component of submission S620.040 for consideration within the ECO Chapter s42A Report.

### *Papakāinga*

449. Ms Easton noted that Poutini Ngāi Tahu (S620.037) supported the definition of *'Papakāinga'*.
450. Te Tumu Paeroa (S440.001) sought that the definition be amended to include Māori landowners *"who whakapapa but may not be registered members of Poutini Ngāi Tahu"*. Ms Easton notes that the term *'papakāinga'* is intended to acknowledge a particular type

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

of residential development for people with a specific connection to the land on which the development occurs. Therefore, Ms Easton did not support the submission on the basis that the existing definition is intended to apply exclusively to Poutini Ngāi Tahu members, as mana whenua, with their unique whakapapa connection to the land.

### *Reverse Sensitivity*

451. Ms Easton noted the support for the definition of reverse sensitivity by New Zealand Agricultural Aviation Association (S166.009), New Zealand Defence Force (S519.006), Radio New Zealand (S476.008) and Transpower (S299.013).
452. Silver Fern Farms (S441.005) sought the addition of “or curtailed by the possible establishment...” in the definition. They suggested that the phrase “*more recent establishment or alteration of another activity*” implied that reverse sensitivity was not relevant until such time as the new sensitive activity was physically established and reverse sensitivity effects were in place.
453. Ms Easton did not support these amendments on the basis that they did not add significant value to the interpretation.
454. KiwiRail (S442.012) sought to alter the emphasis of the definition to specifically refer to “*the development, upgrading, operation and maintenance*” of an activity. Ms Easton did not support the proposed amendment on the basis that it did little to improve the definition and could unintentionally narrow it.
455. Federated Farmers of New Zealand (S524.016) and Horticulture New Zealand (S486.004) submitted in support of the definition but sought amendments to refer to the definition of ‘*Lawfully established*’ rather than using the terms “*approved, existing or permitted activity*”. Ms Easton supported these proposed amendments.
456. The s42A Report recommended amendments to the definition as follows:  
means the potential for an ~~approved, existing~~ **lawfully established or permitted activity** to be compromised, constrained by the more recent establishment or alteration of another activity which may be sensitive to the actual, potential or perceived adverse environmental effects generated by a **lawfully established** ~~n-approved, existing or permitted~~ activity.

### *Sensitive Activity*

457. In relation to rules in the Noise and Natural Hazards Chapters, Ms Easton noted the support for the definition of ‘*Sensitive activity*’ as indicated by Westpower (S547.037), Transpower (S299.014), NZTA Waka Kotahi (S450.008), Ministry of Education Te Tāhuhu o Te Mātauranga (S456.003), Radio New Zealand (S476.005), Horticulture New Zealand (S486.005) and Federated Farmers of New Zealand (S524.022).
458. Ms Easton did not support the submission by David Ellerm (S581.004) that sought to remove residential activities and visitor accommodation from the definition. She considered residential and visitor accommodation activities were exactly the types of activities that were sensitive to noise and natural hazards.
459. Frida Inta (S553.030) and Buller Conservation Group (S552.030) sought that the words “*includes but is not limited to*” was included in the definition. Ms Easton did not consider that this was appropriate because the purpose of the definition was to clearly define what activities were affected by the rules so that the rule status can be confirmed.

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

460. KiwiRail (S442.013) sought that the definition included marae/papakāinga, hospitals and places of worship. Ms Easton did not support this submission on the basis that each of those places were captured within other relevant definitions.

### *Urban Zone*

461. Ms Easton supported the submission by Forest and Bird (S560.079) who sought that the Future Urban Zone be excluded from the definition of Urban Zone, on the grounds that it had not yet been developed.

462. The s42A Report recommended amendments as follows:

means one or more of the RESZ -Residential zones, CMUZ - Commercial and mixed-use zones, INZ - industrial zones, ~~FUZ – Future Urban Zone~~ or any part of any OSRZ - Open space and recreation zone that is surrounded by one of these zones.

### Hearing and Submitter Evidence/Statements

463. Ms Pull, on behalf Poutini Ngāi Tahu, sought appropriate recognition of nohoanga sites, and consequential clarification that these were not ‘*Camping ground*’ as defined. Specifically, she sought that the definition of ‘*Camping ground*’ included a note confirming that it did not include ‘*nohoanga entitlements*’. Ms Pull clarified that nohoanga provide rights of seasonal occupation for Ngāi Tahu whānui and are managed by a booking system which does not generate any income or reward. In this respect she noted that the concept of nohoanga did not meet the definition of a camping ground, given nohoanga entitlements did not provide rights “*for rent, hire, donation or otherwise for reward*”. Ms Pull also requested the definition of ‘*freedom camping*’ include a note that clearly excluded ‘*nohoanga entitlements*’.

464. Ms Viskovic provided further context that nohoanga entitlements were guaranteed to Ngāi Tahu through its Treaty settlement. She submitted that because they were subject to statute, they should be considered distinct from other camping activities and should not be captured by any other provisions, such as freedom camping bylaws.

465. With respect to other definitions, Ms Pull requested that the definition of ‘*Sensitive activities*’ be deferred for consideration in the Noise Chapter hearing.

466. The Panel asked for clarification as to the definition of ‘*Papakāinga*’ as conceived by Te Tumu Paeroa, the office of the Māori Trustee. In a supplementary joint response, and based on a series of joint meetings between Te Tumu Paeroa and Poutini Ngāi Tahu, the parties jointly put forward the following definition:

Papakāinga means a development on Māori land which provides residential accommodation, including communal buildings and facilities, for the benefit of members of Poutini Ngai Tahu and others who whakapapa to Poutini Ngāi Tahu.

467. They noted the proposed definition advances four main elements:
- that papakāinga are available for those who whakapapa to the region, whether or not they are registered with Te Rūnanga o Ngāi Tahu, or who live in the region;
  - that Papakāinga are limited to those who whakapapa to the region;
  - that through the inclusion of Māori land, Council have a way of verifying who these provisions provide for; and
  - that it is not limited to land classified as Māori Land, by title.

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

468. They stated that should the proposed definition of ‘*Papakāinga*’ be adopted, then there should be consequential amendments to the definition of ‘*Māori land*’ to accommodate the change as follows:

Māori Land means (in relation to provisions for papakāinga):

a. Any land where:

v. One or more owners are able to provide written evidence of Whakapapa ~~to the original grantees of the land to Poutini Ngāi Tahu~~ as confirmed by the Te Runanga o Ngāi Tahu Whakapapa Unit or the Māori land Court;

469. For Westpower, Mr Kennedy referred to deletion of the definition of ‘*Activity*’ (FS222.0209). He suggested that the proposed deletion had not assessed the impact of removing the definition.

470. In terms of submission S547.030, Mr Kennedy requested that the word “*repair*” be added to the definition of ‘*Maintenance*’. He suggested this would assist in avoiding doubt and potential debate, and assist in the administration and interpretation of the Plan.

471. Mr Kennedy also referred to further submissions FS222.0216 and FS222.0217, related to the submission by Forest and Bird requesting amendments to the ‘*Overlay Chapter*’ definition. He reiterated the need to ensure that any changes did not broaden the application of rules rather than simply clarifying them, as proposed. He suggested there needed to be wording to differentiate between rules relating to SNA in the Grey District and those that might apply to the Westland and Buller Districts.

472. Ms Styles on behalf of Manawa acknowledged the recommendation of Ms Easton that “*repair*” was covered by the existing definition of ‘*Maintenance*’ given the definition was very wide.

473. Mr Kelly for Fish and Game sought inclusion of its activities in ‘*Conservation activities*’ given the role of Fish and Game as a conservation agency. They offered several examples suggesting hunting of pest species by licence holders was consistent with Fish and Game’s management activities and therefore should fall within the definition of ‘*Conservation activities*’. He further suggested that should Fish and Games management activities be part of the ‘*Conservation activities*’ definition, then Fish and Game and licenced hunters would be enabled to clear small amounts of vegetation to support conservation management, as a permitted activity.

474. Mr van Meirlo’s legal submissions for Fish and Game sought to amend the ‘*Conservation activities*’ definition so that it was clear and unambiguous that activities undertaken for the purposes of enhancing the lawful utilisation of the sports fish or game bird resource were ‘*Conservation activities*’. He referenced the Conservation Act 1987 and Wildlife Act 1953 as clearly showing that from a legislative perspective the management of sports fish, and game birds was clearly a conservation activity. He pointed to the statutory role that Fish and Game have, and the relevance of other policy frameworks such as the West Coast Conservation Management Strategy that draw together the relationship between the management of sports fish and game birds with conservation activities. Fish and Game sought amendments as follows:

Conservation Activities’ means the use of land or buildings for any activity undertaken for the purposes of protecting and/or enhancing the natural, historic and/or ecological values of a natural or historic resource. It includes ancillary activities which assist to enhance the public’s appreciation and recreational enjoyment of the resource, including weed and pest control,

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

### species population management activities, and the intermittent use of aircraft for conservation purposes and excludes commercial activities.

475. Legal Counsel for Bathurst supported further consideration of their submission on the definition of '*Lawfully established*' within the Mineral Extraction hearing.

### Reporting Officer Reply Evidence

476. Ms Easton provided more analysis of the implications of the deletion of the definition of '*Activity*'. She identified that the definition of '*Activity*' had been carried over from one of the operative Plans, and that no analysis of the definition in the context of the new Plan had been undertaken. After review, Ms Easton found the definition to be unhelpful, and that retaining it potentially expanded its potential application beyond that intended and created confusion. On this basis, Ms Easton did not consider the definition was necessary or appropriate, and if retained, redrafting of a wide range of rules may be required. She therefore recommended deleting the definition for '*Activity*' was most efficient and the appropriate response.
477. In response to Fish and Game's evidence, Ms Easton noted that the term '*Conservation activities*' was used in rules that relate to permitted activities for indigenous vegetation clearance within Natural Features and Landscapes, as well as within the Open Space and Recreation Zones, Settlement Zone and Scenic Visitor Zone. She considered that activities referred to by Fish and Game were '*Recreational activities*' not '*Conservation activities*'.
478. Having reviewed relevant zone provisions, Ms Easton considered that Fish and Game's activities outlined, being recreational activities, were provided for within the Plan. She considered the substance of Fish and Game's submission appeared to be a desire for permitted activity status for indigenous vegetation clearance to enable hunters and anglers to cut access tracks to rivers, lakes and wetlands. She noted that indigenous vegetation clearance for '*Conservation activities*' was still likely to need consent. In view of the above, Ms Easton did not alter her view that the submission point of Fish and Game (S302.002) should be rejected.

### Hearing Panel's Evaluation

479. The Panel has considered the above definitions, and acknowledge the support for some definitions. We also acknowledge the submissions on the definition of '*Lawfully established*', which is a definition further assessed in the Mineral Extraction Recommendation Report.
480. The Panel agree with Ms Easton that definitions of '*Accessway*', '*Existing buildings and structures*', '*Maintenance*' and '*Sensitive activity*' should not be amended for the reasons detailed in her s42A Report.
481. The Panel accepts the minor amendment to correct the spelling of '*Cemeteries*'. We also accept that the definition of '*Activity*' should be deleted on the basis Ms Easton considers its inclusion was a drafting error.
482. The Panel agree with the recommended amendment to the definition of '*Building platform*' to delete content that is adequately addressed within the context of relevant rules.
483. In terms of '*Camping ground*', the Panel accepts the changes proposed to the definition. We agree that reference to the Camping Ground Regulations 1985 is not required and that the definition should include reference to supporting premises such as cabins and motel accommodation. We also agree with Ms Pull that nohoanga should be

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

### Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

excluded from the definition on the basis that nohoanga entitlements do not provide rights “for rent, hire, donation or otherwise for reward” and have a different intended purpose based on their status as Treaty Settlement redress.

484. The Panel have considered the various submissions on the definition of ‘Conservation activities’. We agree with the inclusion of reference to “weed and pest control” and the use of aircraft as sought by the New Zealand Agricultural Aviation Association. We consider these are important elements of conservation activities. We also accept that the term ‘Conservation activities’ should exclude commercial activities and that this should be made clear within the definition, as sought by the Director General. The Panel agrees with Ms Easton that the Forest and Bird submission would overly narrow the definition and effectively exclude recreational and historical values and therefore do not support those requested changes.
485. The Panel accept that ‘Existing use rights’ are only referred to in advice notes and we agree the definition can be deleted.
486. The Panel has considered the ‘Overlay Chapter’ definition and we accept that it appears to be deficient in terms of the number of overlays within the Plan. We have reviewed the changes proposed by Ms Easton and we generally agree with them. However, we do not consider that “Historical and Cultural Values” is necessary as this appears to double up with “Historic Heritage, Notable Trees and Sites and Areas of Significance to Māori”. We also do not consider that it is necessary to reference the Ecosystems and Indigenous Biodiversity and Natural Hazards Chapters as having provisions that apply district-wide.
487. The Panel accepts the recommended amendment to ‘Papatipu Rūnanga’, as sought by Poutini Ngāi Tahu. We also accept the recommended amendment to the definition of ‘Poutini Ngāi Tahu’ to include Te Rūnanga o Ngāi Tahu as the iwi authority.
488. In terms of ‘Poutini Ngāi Tahu activities’ the Panel agrees that consolidating ‘cultural activities’ and ‘Poutini Ngāi Tahu cultural purposes’ within the definition of ‘Poutini Ngāi Tahu activities’ is appropriate, although we note the former two are not defined in the Plan. We agree with Ms Pull that ‘cultural activities’, ‘cultural purpose’ and ‘cultural use’, which are undefined but utilised within the Plan, are incorporated within the definition of ‘Poutini Ngāi Tahu activities’.
489. In terms of the definition of ‘Reverse sensitivity’, the Panel agree with the submission of Federated Farmers and Horticulture New Zealand to refer to ‘Lawfully established’ in the definition instead of “approved existing or permitted activity”. We consider this better reflects RMA language. We agree with Ms Easton’s reasoning in regard to the other amendments sought by Silver Fern Farmers and KiwiRail and recommend these submissions are rejected.
490. The Panel agrees with the submission by Forest and Bird that “FUZ-Future Urban Zone” should be removed from the definition of ‘Urban Zone’ as it has not yet been developed.

### Hearing Panel’s Recommendation

491. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend the following amendments to **Definitions:**

Plan Section	Recommended Amendments
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## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

Activity	means land use activities, building activities, subdivision, and/or development. <sup>84</sup>
Building Platform	Means land that is practical for accommodating a residential house, or other intended building, <del>having regard to ground conditions, gradient, access, natural hazards, indigenous vegetation and habitat, amenity and health and safety.</del> <sup>85</sup>
Camping Ground	<del>has the same meaning as the Camping Grounds Regulations 1985 (as set out below)</del> means any area of land used, or designed or intended to be used, for rent, hire, donation, or otherwise for reward, for the purposes of placing or erecting on the land temporary living places for occupation by two or more families or parties (whether consisting of one or more persons) living independently of each other, whether or not such families or parties enjoy the use in common of entrances, water supplies, cookhouse, sanitary fixtures, or other premises and equipment, <b>and includes the use of permanent buildings for sleeping in such as cabins and motel accommodation ancillary to the camping ground.</b> <sup>86</sup> <b>For the purpose of this definition Nohoanga entitlements are excluded.</b> <sup>87</sup>
<del>Cemetaries</del> Cemeteries <sup>88</sup>	means the use of land for burial and cremation and includes urupā. It includes ancillary activities and buildings such as chapels, toilet facilities and crematoria.
Conservation Activities	means the use of land or buildings for any activity undertaken for the purposes of protecting and/or enhancing the natural, historic and/or ecological values of a natural or historic resource. It includes ancillary activities which assist to enhance the public's appreciation and recreational enjoyment of the resource, <b>including weed and pest control and the intermittent use of aircraft for conservation purposes, and excludes commercial activities</b> <sup>89</sup>
<del>Existing Use Rights</del>	<del>means a use of land that was lawfully established before the relevant rule in Te Tai o Poutini Plan becomes operative where:</del> a. <del>the effects of the use are similar in character, intensity and scale; and</del> b. <del>the use has not been discontinued for a continuous period of more than 12 months.</del> <sup>90</sup>
Overlay Chapter	means the <del>Coastal Environment Chapter</del> and chapters in the following sections of the Plan:

<sup>84</sup> Forest and Bird S560.055

<sup>85</sup> Forest and Bird S560.058

<sup>86</sup> Paparoa Track Services Ltd, Craig and Sue Findlay, Tim Findlay, Punakaiki Beach Camp Ltd S605.002

<sup>87</sup> Te Rūnanga O Ngāti Waewae, Te Rūnanga O Makaawhio and Te Rūnanga O Ngāi Tahu S620.025

<sup>88</sup> Buller Conservation Group S552.023 and Frida Inta S553.023

<sup>89</sup> New Zealand Agricultural Aircraft Association S166.007, Director General of Conservation S602.013, Federated Farmers of New Zealand S524.005

<sup>90</sup> David Ellerm (S581.003), Horticulture New Zealand S486.002, Federated Farmers of New Zealand S524.007

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

	<p>a. <del>Hazards and Risks;</del> <b>Natural Hazards;</b>  b. <del>Historical and Cultural Values;</del> and <b>Historic Heritage;</b>  c. <del>Natural Environment;</del> <b>Notable Trees;</b>  d. <b>Sites and Areas of Significance to Māori;</b>  e. <b>Ecosystems and Indigenous Biodiversity;</b>  f. <b>Natural Features and Landscapes;</b>  g. <b>Natural Character and the Margins of Waterbodies;</b>  <b>and</b>  h. <b>Coastal Environment.</b><sup>91</sup></p>
Papatipu Rūnanga	<b>has the same meaning as in the Ngāi Tahu Claims Settlement Act 1998 (as set out below)</b> means the Papatipu Rūnanga of Ngāi Tahu Whānui referred to in section 9 of Te Rūnanga o Ngāi Tahu Act 1996. <sup>92</sup>
Poutini Ngāi Tahu	means the members of the two Ngāi Tahu hapū from the West Coast/Tai o Poutini - Ngāti Waewae and Ngāti Māhaki, <b>and Te Rūnanga o Ngāi Tahu as the iwi authority.</b> <sup>93</sup>
Poutini Ngāi Tahu Activities	means the use of land and/or buildings for traditional Māori activities and includes making and/or creating cultural goods, textiles and art, medicinal and food gathering, waka ama, events, management and activities that recognise and provide for the special relationship between Poutini Ngāi Tahu and places of cultural importance. <b>Poutini Ngāi Tahu Activities include cultural activities, cultural purposes and cultural uses.</b> <sup>94</sup>
Reverse Sensitivity	means the potential for an <del>approved, existing</del> <b>lawfully established</b> <del>or permitted</del> activity to be compromised, constrained by the more recent establishment or alteration of another activity which may be sensitive to the actual, potential or perceived adverse environmental effects generated by a <b>lawfully established</b> <del>n-approved, existing or permitted</del> activity. <sup>95</sup>
Urban Zone	means one or more of the RESZ - Residential zones, CMUZ - Commercial and mixed-use zones, INZ - industrial zones, <del>FUZ - Future Urban Zone</del> or any part of any OSRZ - Open space and recreation zone that is surrounded by one of these zones. <sup>96</sup>

### 3.12 Submissions on New Definitions

#### Submissions and Further Submissions

<sup>91</sup> Forest and Bird S560.428, S560.073

<sup>92</sup> Te Rūnanga O Ngāti Waewae, Te Rūnanga O Makaawhio and Te Rūnanga O Ngāi Tahu S620.038

<sup>93</sup> Te Rūnanga O Ngāti Waewae, Te Rūnanga O Makaawhio and Te Rūnanga O Ngāi Tahu S620.039

<sup>94</sup> Te Rūnanga O Ngāti Waewae, Te Rūnanga O Makaawhio and Te Rūnanga O Ngāi Tahu S620.040

<sup>95</sup> Federated Farmers of New Zealand S524.016 and Horticulture New Zealand S486.004

<sup>96</sup> Forest and Bird S560.079

## **Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel**

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

492. Thirty-five submissions and 10 further submissions that sought additional definitions in the Plan were summarised in the table on pages 103-105 of the s42A Report. The Panel adopts these summaries and has considered the submissions and further submissions.

### **Section 42A Report**

493. The following were subject to submissions for new definitions and were assessed by the Reporting Officer.

#### *Amenity Plantings*

494. Poutini Ngāi Tahu (S620.404) sought a definition of '*Amenity plantings*' around dwellings and buildings. Ms Easton stated that this matter would be considered further within the s42A Report for Sites of Significance to Māori.

#### *Character*

495. Buller Conservation Group (S552.220) sought a definition of '*Character*'. Ms Easton noted the multiple uses and meanings of character in the Plan – for example, natural character, rural character, neighbourhood character. Ms Easton did not support the submission, as she did not consider defining '*Character*' was a necessary factor in interpreting the Plan.

#### *Community*

496. David Ellerm (S581.006) sought that a new definition of '*Community*' be added to the Plan. Ms Easton did not support the submission on the basis that '*Community*' was context specific and defining the term could limit rather than widen the term.

#### *Environment*

497. David Ellerm (S581.008) and Buller Conservation Group (S552.222) sought a new definition for '*Environment*'. Ms Easton noted that if the term '*Environment*' was to be defined in the Plan, then the Planning Standards term would apply.

498. The S42A report recommended adding a new definition as follows:

Environment: has the same meaning as in Section 2 of the RMA as set out below: Includes:

- (a) ecosystems and their constituent parts, including people and communities; and
- (b) all natural and physical resources; and
- (c) amenity values; and
- (d) the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters

#### *Hazardous facilities and Upper slopes*

499. Ms Easton noted that BDC (S538.003) sought a definition for '*Hazardous facilities*' and '*Upper slopes*' and said that this submission is addressed in detail in the Sites and Areas of Significance to Māori s42A Report.

#### *Locational Need*

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

500. Westpower (S547.026) sought the new definition for ‘*Locational need*’ as an alternative relief to their submission to amend the definition of ‘*Functional need*’, as follows:

Locational Need, means the need to locate a proposal or activity within or through that environment, including a need to locate where the resource is available.

501. Ms Easton did not consider this definition was necessary and referred to existing definitions of ‘*Functional need*’ and ‘*Operational need*’ from the National Planning Standards.

### *Minimise*

502. Transpower (S299.020) sought that the term ‘*Minimise*’ be defined and provided suggested wording. Manawa Energy (S438.001) sought that the term be deleted and replaced with “*avoid, remedy or mitigate*”. Ms Easton supported the proposal from Transpower because ‘*Minimise*’ was used widely within policies across the Plan – often because the terms “*avoid, remedy or mitigate*” did not capture the policy intent. The s42A Report recommended adding a new definition as follows:

Minimise: means to reduce to the smallest amount reasonably practicable.

### *Offensive industries*

503. Eighteen submitters<sup>97</sup> sought a definition for the term ‘*Offensive industries*’. Ms Easton noted that the term was mentioned once in the plan – in Policy SASM - P11 which supported Rule SASM – R17. She noted SASM-R17 specifically related to: Landfills, waste disposal facilities, new crematoria, hazardous facilities, intensive indoor primary production, wastewater treatment plants and wastewater disposal facilities. She considered a definition for ‘*Offensive industries*’ would therefore list those activities. The s42A Report recommended adding a new definition as follows:

Offensive Industries: means, in relation to Sites and Areas of Significance to Māori, landfills, community scale waste disposal facilities, new crematoria, intensive indoor primary production, community scale wastewater treatment plants and community scale wastewater disposal facilities.

### *Stakeholders*

504. David Ellerm (S581.005) sought that a new definition for ‘*Stakeholders*’ be included and that this included landowners. Ms Easton notes that the term ‘*Stakeholders*’ was used twice in the Plan in relation to historic heritage items on Policy HH – P2 and Rules BCZ – R2 in the Buller Coalfield Zone (formation of a stakeholder reference group). Ms Easton considered that the submission principally related to Policy HH – P2 and that a reasonable person would consider that the owner of a heritage building or site was a stakeholder in any RMA process. However, to address any uncertainty, Ms Easton recommended adding a new definition for stakeholder as follows:

Stakeholders: includes landowners of the site in question.

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<sup>97</sup> Karamea Lime Company (S614), Koiterangi Lime Co LTD (S577), Catherine Smart Simpson (S564), William McLaughlin (S567), Steve Croasdale (S516), Geoff Volckman (S563), Leonie Avery (S507), Jared Avery (S508), Kyle Avery (S509), Avery Bros (S510), Bradshaw Farms (S511), Paul Avery (S512), Brett Avery (S513), Chris & Jan Coll (S558), Chris J Coll Surveying Limited (S566), Laura Coll McLaughlin (S574), Peter Langford (S615), Buller District Council (S538)

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

### *Statutory Agency*

505. The GDC (S608.499) and NZTA Waka Kotahi (S450.011) sought that a definition of ‘*Statutory Agency*’ be included in the Plan. Ms Easton noted this term was used in several chapters allowing for permitted activities such as the construction of natural hazard mitigation structures where these works were undertaken by a Statutory Agency. The s42A Report recommended adding a new definition as follows:

Statutory Agency: means, in relation to construction of natural hazard mitigation structures, a District or Regional Council, Waka Kotahi – New Zealand Transport Agency, Transpower New Zealand, KiwiRail New Zealand or the Department of Conservation.

### *Subdivision, Use and Development*

506. Buller Conservation Group (S552.031) and Frida Inta (S553.031) sought that a definition be provided for ‘*Subdivision, use and development*’ that referred to land only. Ms Easton considered it would be incorrect to do so because the Plan also applied to activities on the surface of water. Ms Easton did not support the submission.

### *Sustainable Development*

507. Inger Perkins (S462.004) sought that a definition of ‘*Sustainable development*’ be included in the Plan. Ms Easton did not support a definition because this term was not used anywhere in the Plan. Furthermore, she considered the Plan used the term ‘*Sustainable management*’, which was consistent with the Planning Standards definition.

### *Tiny homes Built on Trailers*

508. William McLaughlin (S567.038), Chris & Jan Coll (S558.318), Chris J Coll Surveying Limited (S566.318) and Laura Coll McLaughlin (S574.318) sought that a definition for ‘*tiny homes built on trailers*’ be included. Collectively they also sought to differentiate tiny homes built on trailers from the definition of ‘*Building*’. Ms Easton did not support this submission, although noted that this matter will likely be addressed in other s42A Reports.

### **Hearing and Submitter Evidence/Statements**

509. Mr Kennedy, for Westpower (FS222.0010), suggested there was no need to include the definition of ‘*Environment*’ given it was already defined in the Act and including it would just be repetition. He disagreed with the assessment of the S42A report which rejected the request for a definition of ‘*Locational need*’ noting that this was used in the RPS and the development of the Plan should give effect to the RPS as a higher order document. He noted the s42A Report did not advise that ‘*Locational need*’ was an irrelevant matter, and therefore it should be included for consistency across the plans and policies.

510. Ms Styles on behalf of Manawa Energy provided evidence in support of their submission to replace ‘*Minimise*’ with wording such as “*avoid, remedy or mitigate*”. She considered ‘*Minimise*’ was subjective, open to interpretation and ambiguous. She noted the terminology was absent from statutory documentation, including the RMA, and did not have a basis in caselaw. Ms Styles noted some support for Transpower’s proposed insertion of a definition for the term ‘*Minimise*’, being “*reduce to the smallest amount reasonably practicable*”. However, she considered that the terms “*avoid, remedy or mitigate*” were more appropriate in some instances and better reflected terminology used in the RMA and NPSREG.

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

511. Ms Styles suggested that use of the term '*Minimise*' in isolation could constrain the ability for resource users to undertake activities. Therefore, she recommended that the use of the term throughout the plan should be carefully considered and where other terminology is more appropriate, that the term is amended. In response to questions, Ms Styles considered there was no need to include a definition for '*Locational need*' because it was covered within the definitions of '*Functional need*' and '*Operational need*' and thus was a subset of these.
512. On behalf of Poutini Ngāi Tahu, Ms Pull supported the recommendation to defer further consideration of the term '*Offensive activities*' to be considered within the SASM Chapter. She further supports consideration of the definition '*Hazardous facilities*' in the Hazardous Substances hearing.
513. Ms Whitney for Transpower sought minor amendments to the definitions relating to the National Grid. She referred to three definitions that were relevant to the National Grid and therefore Transpower's interests, being '*Critical infrastructure*', '*Infrastructure*' and '*Energy activity*', and considered the definition of '*Infrastructure*' in the Plan was incorrect in terms of consistency with RMA section 2. She expressed concerns that '*Energy activity*' was not adequately provided for within the Plan, suggesting that subsequent hearings may exclude '*Energy activities*' from the definition of '*Infrastructure*'. To allay these concerns, Ms Whitney sought to have references to '*Energy activities*' inserted across the Plan.

### Reporting Officer Reply Evidence

514. The Panel questioned the need for a definition for '*Tiny Homes Built on Trailers*' in relation to providing for relocatable buildings and natural hazards, or for worker accommodation. If so, what would a definition be. In response, Ms Easton stated that tiny homes built on trailers were deemed to be a building in terms of the Building Act. She noted the technical team of the District Councils did not support the addition of a definition or any exemption from the definition of '*Building*'. She noted that there had been ongoing problems with long term tiny homes on trailers and associated adverse effects on amenity values, which was why the technical team did not consider that '*Tiny Homes Built on Trailers*' should be treated any differently than a minor residential dwelling.
515. Ms Easton identified the Planning Standards definition for '*Minor Residential Unit*' as follows:
- Minor Residential Unit means a self-contained residential unit that is ancillary to the principal residential unit and is held in common ownership with the principal residential unit on the same site.
516. Ms Easton noted that there were existing rules in the Plan providing for '*Minor residential units*' in most residential zones and considered tiny homes on trailers to be a subset of '*Minor residential units*'.
517. Ms Easton noted the definition for '*Relocated buildings*' in the Plan also captures tiny homes on trailers as follows:
- Relocated Building includes any building that is removed from one site and relocated to another site, in whole or in parts. It excludes any new building which is designed for, or intended to be used on a site but which is constructed or prefabricated off-site, in whole or in parts and transported to the site.
518. Ms Easton highlighted that relocatable buildings were permitted activities in all zones, subject to meeting various performance standards covering pre-inspection reporting, reinstatement works, building consent requirements and relevant timeframes.

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

She suggested that if the Panel wanted to better provide for tiny homes on trailers, that the *'Relocated building'* rules would be the better place to do so because that was where the performance standards would probably trigger a resource consent.

519. Ms Easton suggested that the Panel should consider the matter as a substantive issue and reconsider the suitability of the performance standards in the *'Relocated building'* rules. She noted that the substantive issue would be dealt with in relation to the submissions on the rules in the zone chapter s42A Reports.

520. The Panel questioned whether there needed to be a definition of *'Stakeholders'* or whether amendment of Policy HH – P2 be sufficient. Ms Easton suggested that an amendment to Policy HH – P2 would be sufficient, given there is only one reference in the Plan to stakeholders. She suggested the following amendment:

Identify, assess and map heritage buildings, features, places and sites and archaeological sites, in partnership with the Poutini Ngāi Tahu and Te Rūnanga o Ngāi Tahu and in consultation with the community and key stakeholders, **including landowners.**

### Hearing Panel's Evaluation

521. The Panel has considered the various definitions sought. We agree with Ms Easton that definitions for *'Character'*, *'Community'*, *'Subdivision, use and development'* and *'Sustainable development'* are unnecessary for the reason outlined in her s42A Report. We recommend rejecting the submission points that sought these definitions.

522. The Panel has considered whether a definition for *'Environment'* is necessary and consider it would be helpful. We agree with Ms Easton that it is appropriate to use the RMA definition.

523. In terms of adding a definition for *'Locational need,'* sought by Westpower, the Panel has already discussed this above. We reiterate our view that this is already captured within the definitions of *'Functional need'* and *'Operational need'* and it is not necessary to repeat the wording of the RPS. We therefore recommend this submission is rejected.

524. The Panel has considered the proposed definition of *'Minimise'* sought by Transpower. We note that the term has been discussed widely during the hearing process and in particular Ms Styles for Manawa sought for it to be replaced with *"avoid, remedy or mitigate"* throughout the Plan. We have within various objectives and policies throughout the Plan agreed with the change to *"avoid, remedy or mitigate"* or in some situations a change to *"manage"*. However, the word *'Minimise'* is used extensively in the Plan and it remains warranted in particular circumstances. We therefore recommend adding a definition for *'Minimise'* to the Plan.

525. The Panel further considers the term *'Offensive industries'* in the SASM Chapter Recommendation Report.

526. The Panel does not consider that a definition of *'Stakeholders'* is necessary as the word only occurs once in the Plan in relation to Policy HH-P2. We agree with Ms Easton that David Ellerm's concerns can be address by adding at the end of Policy HH-P2, which is addressed further in the Historic Heritage Recommendation Report.

527. The Panel agrees that a definition of *'Statutory Agency'* is appropriate because this term is used in a number of locations throughout the Plan and enables some permitted activities for the construction of natural hazard mitigation structures where these works are undertaken by a Statutory Agency. We therefore recommend adding a definition for *'Statutory Agency'* to improve clarity for Plan users.

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

528. In terms of a definition of 'Tiny Homes Built on Trailers' the Panel acknowledges the response from Ms Easton in Reply regarding the background to issues associated with tiny homes. Having considered this, we are of the opinion that a definition is not required as the term is not currently used within the Plan itself. We therefore consider it is unnecessary.

### Hearing Panel's Recommendation

529. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the relevant submission points identified in the footnotes below are accepted or accepted in part, and recommend the following new **Definitions** are added:

Plan Section	Recommended Amendment
<b><u>Environment</u></b>	<b><u>has the same meaning as in Section 2 of the RMA as set out below:</u></b> <b><u>Includes:</u></b> <b><u>(a) ecosystems and their constituent parts, including people and communities; and</u></b> <b><u>(b) all natural and physical resources; and</u></b> <b><u>(c) amenity values; and</u></b> <b><u>(d) the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters.</u></b> <sup>98</sup>
<b><u>Minimise</u></b>	<b><u>means to reduce to the smallest amount reasonably practicable.</u></b> <sup>99</sup>
<b><u>Statutory Agency</u></b>	<b><u>means, in relation to construction of natural hazard mitigation structures, a District or Regional Council, Waka Kotahi – New Zealand Transport Agency, Transpower New Zealand, KiwiRail New Zealand or the Department of Conservation.</u></b> <sup>100</sup>

### 3.13 Submissions on the National Direction Instruments

#### Submissions and Further Submissions

530. Five submissions on the National Direction Instruments were summarised in the table on pages 107-108 of the s42A Report. The Panel adopts these summaries and has considered the submissions.

#### Section 42A Report

531. Ms Easton noted the support for this section by several submitters.<sup>101</sup>

532. Forest and Bird (S560.083 and S560.084) sought amendments to provide more explanation to the National Environmental Standards and Regulations parts of the chapter. Submission S560.083 sought to add a new second sentence as follows:

... requirements apply directly to activities and must be considered in addition to Plan provisions. If an activity...

<sup>98</sup> David Ellerm S581.008 and Buller Conservation Group S552.222

<sup>99</sup> Transpower S299.020

<sup>100</sup> Grey District Council S608.499 and NZTA Waka Kotahi S450.011

<sup>101</sup> Buller Conservation Group (S552.034), Frida Inta (S553.034) and Buller District Council (S538.014)

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

533. Submission S560.084 sought to amend the introductory statement to the Regulations section as follows:

The regulations ~~included in this chapter~~ **listed below are those that** come under the Resource Management Act 1991 (excluding the national environmental standards listed above). **Regulations are rules that apply directly to activities and must be considered in addition to Plan provisions. Unless otherwise stated with respect to rule in this Plan, where both a regulation and a Plan rule address the same matter, the more stringent requirement will apply.** These regulations are:

534. Ms Easton supported both proposed amendments because they provided greater clarity for the Plan user. The S42A Report made two recommendations, the first including:

That the following amendment be made to the explanatory text under the National Environmental Standards header: National environmental standards (NESS) are prepared by central government and can prescribe technical standards, methods (including rules) and/or other requirements for environmental matters throughout the whole country or specific areas. **Requirements apply directly to activities and must be considered in addition to Plan provisions.** If an activity...

535. The second recommendation of the s42A Report included:

That the following amendment be made to the explanatory text under the Regulations header: The regulations ~~included in this chapter~~ **listed below are those that** come under the Resource Management Act 1991 (excluding the national environmental standards listed above). **Regulations are rules that apply directly to activities and must be considered in addition to Plan provisions. Unless otherwise stated with respect to rule in this Plan, where both a regulation and a Plan rule address the same matter, the more stringent requirement will apply.** These regulations are:...

### Hearing and Submitter Evidence/Statements

536. No specific evidence was provided in relation to the above submission points.

### Reporting Officer Reply Evidence

537. No matters relevant to the above submissions were included in the Right of Reply.

### Hearing Panel's Evaluation

538. The Panel acknowledges that more explanation regarding the National Environmental Standards and Regulations is appropriate as part of this section. We accept Ms Easton's recommend amendments.

### Hearing Panel's Recommendation

539. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the relevant submission points identified in the footnotes below are accepted, and recommend the following amendments to **National Direction Instruments**:

National environmental standards - Ngā ture ārahi taiao ā-motu

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

National environmental standards (NESs) are prepared by central government and can prescribe technical standards, methods (including rules) and/or other requirements for environmental matters throughout the whole country or specific areas. **Requirements apply directly to activities and must be considered in addition to Plan provisions.**<sup>102</sup> If an activity doesn't comply with an NES, it is likely to require a resource consent. NESs must be observed and enforced by local authorities. The following NESs are currently in force:

...

### Regulations - Ngā waeture

The regulations included in this chapter **listed below are those that** come under the Resource Management Act 1991 (excluding the national environmental standards listed above). **Regulations are rules that apply directly to activities and must be considered in addition to Plan provisions. Unless otherwise stated with respect to rule in this Plan, where both a regulation and a Plan rule address the same matter, the more stringent requirement will apply.** These regulations are:...<sup>103</sup>

...

## 4. SUBMISSIONS ON THE TANGATA WHENUA CHAPTER

### 4.1 Submissions on the Chapter as a whole

#### Submissions and Further Submissions

540. Three submissions on the Tangata Whenua Chapter were summarised in a table on page 109 of the s42A Report. The Panel adopts these summaries and has considered the submissions.

#### Section 42A Report

541. Ms Easton noted Poutini Ngāi Tahu (S620.044) support the chapter as a whole because it describes who mana whenua are for the West Coast and highlights the values and matters of importance to Poutini Ngāi Tahu. Ms Easton also noted BDC (S538.015) supported the chapter.

542. Tuwhenua Moriori Tau imi Ihi (S555.001) sought that the chapter be amended to recognise the original Waitaha people from the West Coast – who inhabited the area before Ngāi Tahu. They state that there were still people on the West Coast who consider their primary whakapapa line is to Waitaha, and do not affiliate to Poutini Ngāi Tahu. They therefore sought that the chapter be amended.

543. Ms Easton did not support the submission on the basis that under the Ngāi Tahu Claims Settlement Act the definition of Ngāi Tahu Whānui already recognises Waitaha, and furthermore, Te Rūnanga o Ngāi Tahu had originally provided the specified text. As such, Ms Easton considered the matter was an internal one requiring resolution between the submitters and Ngāi Tahu.

544. Ms Easton recommended no changes to the Plan based on the submissions.

#### Hearing and Submitter Evidence/Statements

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<sup>102</sup> Forest and Bird S560.083

<sup>103</sup> Forest and Bird S560.084

## **Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel**

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

545. Overall, Poutini Ngāi Tahu stated support for the notified provisions of the Tangata Whenua Chapter and supported the implementation of the Te Rūnanga o Ngāi Tahu Act and Ngāi Tahu Claims Settlement Act, except for the minor inclusions they had identified.
546. Ms Pull highlighted the Mana Whakahono ā Rohe agreement between Poutini Ngāi Tahu and the West Coast Regional Council included an action that the text of the Statutory Acknowledgement Areas and Tōpuni would be stated in full in Planning documents, as required by the Ngāi Tahu Claims Settlement Act 1998. She noted that not including Tōpuni in the Plan was an oversight.
547. Ms Pull requested amendments to the Tangata Whenua Chapter, Schedule Three: Sites and Areas of Significance to Māori and Appendix Five: Statutory Acknowledgements to ensure that Tōpuni were correctly provided for, as follows:
- a. Create a new subheading in the Tangata Whenua Chapter that outlines what Tōpuni are and its status under the RMA; and
  - b. List the following sites as Tōpuni:
    - i. Kahurangi;
    - ii. Ōtūkoru Iti; and
    - iii. Tititea / Mount Aspiring;
  - c. Remove Tititea / Mount Aspiring from the list of Statutory Acknowledgements in the Tangata Whenua Chapter; and
  - d. Correct Schedule Three to remove reference to Statutory Acknowledgement in relation to SASM216
548. Ms Pull considered the proposed amendments were minor because they reflected legal obligations and referred to information that was already within the public sphere.

### **Reporting Officer Reply Evidence**

549. With respect to the submission from Moriori Tuwhenu Moriori Tau imi Ihi (S555.001), the Panel asked Ms Easton to consider whether or not it was appropriate to recognise the three waves of migration of Ngāi Tahu whānui by just adding the words "*the earliest inhabitants of the West Coast were Waitaha*".
550. Ms Easton responded that there was already recognition of Waitaha in the Tangata Whenua Chapter. She stated she maintained her recommendation to reject the submission from Moriori Tuwhenu Moriori Tau imi Ihi.

### **Hearing Panel's Evaluation**

551. The Panel has considered the amendments sought by Ms Pull and we agree it is appropriate that these are included in the Plan. We recommend this suite of changes are made to the Tangata Whenua Chapter, as sought, with the exception that Tititea / Mt Aspiring is retained as a Statutory Acknowledgement Area in accordance with Schedule 62 of the Ngāi Tahu Claims Settlement Act 1998.
552. The Panel further considers matters pertaining to Statutory Acknowledgement Areas and Tōpuni in the SASM Chapter Recommendation Report.

### **Hearing Panel's Recommendation**

553. The Panel's recommended amendments to the **Tangata Whenua Chapter** are shown at the end of this section of this Report.

## **4.2 Submissions on aspects of the Tangata Whenua Chapter**

### **Submissions and Further Submissions**

554. Twenty-seven submissions on aspects of the Tangata Whenua Chapter were summarised in a table on pages 109 - 115 of the s42A Report. The Panel adopts these summaries and has considered the submissions.

### **Section 42A Report**

555. Ms Easton noted the support for the existing provisions concerning pounamu and aotea by Poutini Ngāi Tahu (S620.045) and Minerals West Coast (S569.024).

556. Māwhera Incorporation (S621.034) opposed the reference to Te Rūnanga o Ngāti Waewae as having the exclusive possession of "*tino rangatiratanga over the whole of the Ngāi Tahu takiwā*". Ms Easton suggested there was no such reference in the Report and noted that Te Rūnanga o Ngāti Tahu were the iwi authority for the whole of the West Coast in law.

557. Māwhera Incorporation (S621.002) sought clarity as to whether the references to Poutini Ngāi Tahu were to the Iwi or the Mana Whakahono a Rohe group composed of Te Rūnaka o Kāti Waewae, Te Rūnaka o Māhaki and Te Rūnaka o Kāi Tahu who had named their group Poutini Kāi Tahu. Ms Easton considered the Plan had an existing and sufficient definition for Poutini Ngāi Tahu based on the law, as outlined in the Te Rūnanga o Ngāi Tahu Act and Ngāi Tahu Claim Settlement Act.

558. Māwhera Incorporation (S621.022) sought that the first paragraph be amended to include recognition of Ngāti (Kāti) Wairangi (Wairaki) ancestors. Māwhera Incorporation (S621.024) also sought amendment to the chapter to acknowledge iwi of other Ngāi Tahu hapū that were given Māori Reserve land in Te Tai o Poutini at the time of the 1879 Young Commission. Ms Easton did not support these submissions on the grounds that Ngāi Tahu and their Papatipu Rūnanga were mana whenua within the context of the Plan and therefore the Tangata Whenua Chapter.

559. Māwhera Incorporation (S621.023) sought amendments to reflect that the Ngāi Tahu Claims Settlement Act did not give Te Rūnanga o Ngāi Tahu a mandate over Ngāi Tahu organisation(s) that were in existence and owned and managed ancestral land for Ngāi Tahu owners, prior to the commencement of the Act.

560. Māwhera Incorporation (S621.027) also sought amendments to state that Māwhera Incorporated possess the exclusive right of Rakatirataka, and associated values like Kaitiakitaka, Mauri, Mahika Kai, Ki Uta Ki Tai, Wāhi Tapu, Taoka, and Resources of Significance over the properties that Māwhera own and manage. Ms Easton did not support the submissions on the grounds that the situation in law was that Ngāi Tahu were the recognised iwi authority for the purposes of the Plan.

561. Māwhera Incorporation (S621.025) sought amendment to the chapter to delete the reference to Te Rūnanga o Kāti Waewae having the mandate to represent all Ngāi Tahu iwi. Ms Easton considered there was no such statement in the chapter and therefore rejected the submission.

562. Māwhera Incorporation (S621.001) sought that all references to Te Tai o Poutini Māori Reserves and the Awa Arahura be deleted from the Plan, except for a statement that "*tino Rakatirataka*" (full exclusive authority under the Treaty) over the Māori Reserves and the Arahura River on Te Tai o Poutini will be managed by the present day owners and their future descendants, using parliamentary law as a guide for management.

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

### Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

Ms Easton did not support this submission given the Plan had been prepared under the RMA and there was no provision in law to exempt any Māori or other landowner from its requirements.

563. Ms Easton noted the support of Poutini Ngāi Tahu (S620.046) for the “*Poutini Ngāi Tahu and the Management of Natural Resources*” section. She also noted the support of Poutini Ngāi Tahu (S620.047 and S620.048) for the “*kaitiakitanga*” and “*tino rangatiratanga*” provisions. Furthermore, Ms Easton noted the support from Poutini Ngāi Tahu to retain the provisions for “*Mauri*” (S620.049), “*Mahinga Kai*” (S620.050), “*Ki uta ki tai*” (S620.051), “*Resources of significance to Poutini Ngāi Tahu*” (S620.054) and “*Taonga*” (S620.053).

564. Māwhera Incorporation (S621.003) sought amendments on the grounds that local government law might not apply to Māori land that had never been ceded. Ms Easton rejected this statement and noted that the law was clear that all land was subject to the provisions of the RMA.

565. Poutini Ngāi Tahu (S620.056) sought amendments to the “*Statutory Acknowledgement*” section to reflect the agreements in the Mana Whakahono a Rohe agreement with West Coast Regional Council. Ms Easton supported the requested amendments because they were consistent with the agreement.

566. The s42A Report recommended amendments as follows:

The Councils will forward copies **and seek advice and recommendations** for all resource consent applications which may affect a statutory acknowledgement to Te Rūnanga o Ngāi Tahu and Pokeka Poutini Environmental as the resource management agent of Poutini Ngāi Tahu.

567. Poutini Ngāi Tahu (S620.055) sought amendments to the Treaty Settlement Requirements section to refer to “*Cultural redress lands*”. Ms Easton supported this amendment because it provides useful context.

568. The s42A Report recommended amendments as follows:

These include rights in relation to the management of specified significant areas (statutory acknowledgement areas, **cultural redress lands** and Nohoanga).

Cultural redress lands

Cultural redress lands were returned to Te Rūnanga o Ngāi Tahu ownership and are important for cultural, mahinga kai or conservation purposes (Part 11, Ngāi Tahu Claims Settlement Act 1998). Cultural redress lands provided in Te Tai o Poutini / West Coast are as follows:

- Otukoro Iti
- Lake Moeraki Reserve
- Lake Mahinapua
- Motutapu

569. Māwhera Incorporation (S621.028) opposed the “*Treaty Settlement Requirements*” section and sought its deletion. Ms Easton did not support this on the grounds that the Plan was required to reflect established law.

570. Poutini Ngāi Tahu (S620.057) sought amendments to the “*Nohoanga*” section to better describe their use, including an omitted site and correcting the spelling of one of

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

### Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

the sites. Ms Easton supported this submission as she considered it provided better context for the sites and their use.

571. The s42A Report recommended amendments as follows:

Nohoanga entitlements provide a right of seasonal occupation and use for Poutini Ngāi Tahu and Ngāi Tahu whānui of specified areas of Crown owned land near water bodies for harvest of natural resources (sections 255 to 268, Ngāi Tahu Claims Settlement Act 1998). Nohoanga entitlements provided in 114 Te Tai o Poutini Plan – Section 42A Report Introduction and General Provisions TeTai o Poutini/West Coast are in the following locations:

- Cascade River
- Karangarua River
- Lady Lake
- Lake Brunner/Moana
- Lake Haupiri
- Lake Kaniere
- Mahitahi River
- Mikonui River
- Ōkarito
- Waiatoto River
- Punakaiki River
- Pororari River
- Taramakau River
- Waiata Waita River and Māori Lakes
- Waiatoto Lagoon

572. Poutini Ngāi Tahu (S620.058) sought amendments to include other planning documents that have been recognised as an Iwi Management Plan. Ms Easton supported this amendment as a correction to the Plan.

573. Poutini Ngāi Tahu (S620.408) sought that the name of the “*Hapū and Iwi Planning Documents*” section be amended to be “*Iwi/ Papatipu Rūnanga Planning Documents*”. Ms Easton did not support this submission point because there were hapū on the West Coast who did not consider that they affiliate to Ngāi Tahu. Ms Easton considered that they had a right to have any planning documents that they endorsed to also be considered and advised that she was aware of a couple of such documents that could meet the definition of “*Hapū Planning Documents*”.

574. Ms Easton recommended amendments as follows:

#### ~~Hapū and Iwi~~ **and Papatipu Rūnanga** Planning Documents

Both Ngāti **Māhaki** o Makaawhio and Ngāti Waewae have prepared Pounamu Management Plans which have been recognised by Te Rūnanga o Ngāi Tahu as planning documents. **Other planning documents that have been recognised as an Iwi Management Plan by Te Rūnanga o Ngāi Tahu include Te Mahaere Whakahaere o Te Tāwhiri a Te Makō: Lake Māhinapua Management Plan.** These iwi management plans have been taken into

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

account in this Plan through participation of Poutini Ngāi Tahu representatives in development of the Plan provisions.

575. Poutini Ngāi Tahu (S620.059) sought amendments to the “*Mana Whakahono a Rohe Agreements*” section to make the wording of the text better reflect the partnership relationship. Ms Easton supported amendments as follows:

~~The West Coast Regional Council has a Mana Whakahono a Rohe agreement with Poutini Ngāi Tahu.~~ There is a Mana Whakahono a Rohe agreement between the West Coast Regional Council, the Poutini Ngāi Tahu Rūnanga and Te Rūnanga o Ngāi Tahu.

### Hearing and Submitter Evidence/Statements

576. Ms Baldwin-Smith, cultural expert for Ngāi Tahu, provided evidence of the status of Poutini Ngāi Tahu as mana whenua who hold tino rangatiratanga within the takiwā that the TTPP covers. She noted the basis for this assertion was derived from rights that existed prior to the present system of Parliamentary democracy and Government. In the context of the RMA, she noted those rights were expressed through statutory rights and interests associated with the Ngāi Tahu Claims Settlement Act 1998, the Te Runanga o Ngāi Tahu Act 1996, alongside other Acts. She stated that Ngāi Tahu consider it was a duty of Parliament to acknowledge their tino rangatiratanga because of the guarantee under the Treaty of Waitangi. She suggested it followed that the role of the Councils was to give effect to Ngāi Tahu Rangatiratanga, and in doing so, acknowledge their exclusive mana whenua status.

577. Ms Pull, for Poutini Ngāi Tahu, noted the request for a minor change to the relief sought in S620.059, on the basis that when the submission was made it was uncertain if Te Rūnanga o Ngāi Tahu would be a part of the definition of ‘*Poutini Ngāi Tahu*’. She noted that if the recommendation of the s42A Report was accepted, there would be no need to note it separately in relation to the Mana Whakahono a Rohe. She sought the text under the “*Mana Whakahono ā Rohe*” subheading be amended to remove specific reference to Te Rūnanga o Ngāi Tahu (unless the definition of ‘*Poutini Ngāi Tahu*’ would not include Te Runanga o Ngāi Tahu) as follows:

There is a Mana Whakahono a Rohe agreement between the West Coast Regional Council ~~and~~ the Poutini Ngāi Tahu Runanga ~~and Te Runanga o Ngāi Tahu.~~

578. Ms Pull also sought a minor change to the relief sought in submission S620.056, as supported by the s42A Report, to correctly record the name of the resource management agent in Appendix One to “*Pōkeka Poutini Ngāi Tahu Ltd*”, which is the full name of the company.

579. Ms Pull also sought clarity in the heading of the “*Hapu and Iwi Planning Documents*” text (submission 620.058) given the rejection of changing the section name in the s42A Report and the adoption of the recommended changes in the marked-up text of Appendices One and Three. She supported an amendment to the heading because Ngāi Tahu was the recognised iwi authority for the West Coast, as acknowledged in the s42A Report. She considered that, in accordance with legislation, iwi management plans must be recognised by an iwi authority, and lodged with Council. She considered that only those that has been through this process should be recognised in the Plan.

580. Ms Pull considered the heading should also read “*Iwi and Papatipu Rūnanga Management Planning Documents*” for consistency reasons and noted the term ‘*Iwi and*

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

*Papatipu Rūnanga Management Plan'* was a defined term in the TTPP that was referenced in multiple provisions. She sought amendment to the heading as follows:

~~Hapu and Iwi~~ **and Papatipu Rūnanga** Planning Documents

### Reporting Officer Reply Evidence

581. The Panel asked for confirmation that the wording proposed in the s42A Report regarding aotea stone was acceptable to Ngāti Māhaki. Ms Easton confirmed she had checked with the kaiwhakahaere of Ngāti Māhaki and they did not support the proposed wording. Ms Easton, therefore reversed her support for the submission that sought the change and recommended retaining it as notified.

582. Ms Easton acknowledged an error in the recommended amendments on page 14 of the s42A Report, which should refer to "*Iwi and Papatipu Rūnanga management plans*" not "*Iwi and Papatipu Rūnanga planning documents*".

### Hearing Panel's Evaluation

583. The Panel acknowledge the responses from Ms Easton in relation to the Māwhera Incorporation submissions that in law Ngāi Tahu are the recognised iwi authority for the purposes of the Plan; and that Ngāi Tahu and their Papatipu Rūnanga are mana whenua within the context of the Plan, and therefore the Tangata Whenua Chapter. These matters are further discussed in the SASM Chapter Recommendation Report.

584. The Panel notes the various amendments recommended by Ms Easton and Ms Pull and we accept that the changes recommended are appropriate. The Panel note that Tititea / Mt Aspiring is both a Statutory Acknowledgement Area and a Tōpuni in the Ngāi Tahu Claims Settlement Act 1998. No change is required to the "*Mana Whakahono a Rohe Agreements*" section of the chapter because the definition of '*Poutini Ngāi Tahu*' has been amended to include Te Rūnanga o Ngāi Tahu.

### Hearing Panel's Recommendation

585. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the relevant submission points identified in the footnotes below are accepted, and recommend the following amendments to the **Tangata Whenua Chapter**:

#### **Tangata Whenua– Te Tangata Whenua**

...

#### **Treaty Settlement Requirements**

The Ngāi Tahu Claims Settlement Act 1998, in addition to recognising the rangatiratanga of Ngāi Tahu, includes specific provisions that provide for exercise of rangatiratanga and kaitiakitanga of Poutini Ngāi Tahu in respect to resource management matters. These include rights in relation to the management of specified significant areas (statutory acknowledgement areas, **cultural redress lands**<sup>104</sup> and nohoanga).

#### **Statutory Acknowledgements**

The requirements relating to statutory acknowledgements (sections 205 to 220, Ngāi Tahu Claims Settlement Act 1998) are intended to provide for improved participation and Poutini Ngāi Tahu and

<sup>104</sup> Te Rūnanga o Ngāi Tau, Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio S620.055

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

Te Rūnanga o Ngāi Tahu in resource management decision-making for areas with significant cultural, spiritual, historic and traditional associations. The particular values and associations are described in schedules to the Act.

Statutory acknowledgements recognised in Te Tai Poutini are:

- Kōtuku-Whakaoho (Lake Brunner/Moana) (Schedule 25)
- Karangarua Lagoon (Schedule 24)
- Lake Kaniere (Schedule 31)
- Lake Pāringa (Schedule 33)
- Makaawhio (Jacobs River) (Schedule 38)
- Ōkari lagoon (Schedule 47)
- Ōkarito lagoon (Schedule 48)
- Pouerua (Saltwater lagoon) (Schedule 53)
- Taramakau River (Schedule 56)
- Tititea/Mount Aspiring (Schedule ~~56~~ 562)<sup>105</sup>

Section 208 of the Ngāi Tahu Treaty Settlement Act 1998 and 95B of the Resource Management Act 1991 recognise the interests of Te Rūnanga o Ngāi Tahu and Poutini Ngāi Tahu in statutory acknowledgement areas in regard to notification of resource consent applications for activities that may affect land in these areas. The Councils will forward **copies and seek advice and recommendations of for** all resource consent applications ~~which that~~ may affect a statutory acknowledgement **area** to Te Rūnanga o Ngāi Tahu and **Pōkeka Poutini Ngāi Tahu Limited Environmental**, as the resource management agent of Poutini Ngāi Tahu.<sup>106</sup> The Councils must have regard to effects on Poutini Ngāi Tahu and Te Rūnanga o Ngāi Tahu when considering the need for notification of such resource consents and in making decisions on resource consent applications.

### Tōpuni

**Tōpuni are areas of land which are administered under the National Parks Act 1980, the Conservation Act 1987 or the Reserves Act 1977, have Poutini Ngāi Tahu values and are declared Tōpuni under section 238 of the Ngāi Tahu Claims Settlement Act. Tōpuni areas recognised in Te Tai o Poutini/the West Coast are:**

- **Kahurangi**
- **Ōtūkoro iti**
- **Tititea/Mount Aspiring**<sup>107</sup>

### Cultural redress lands

**Cultural redress lands were returned to Te Runanga o Ngai Tahu ownership and are important for cultural, mahinga kai or conservation purposes (Part 11, Ngāi Tahu Claims Settlement Act 1998). Cultural redress lands provided in Te Tai o Poutini / West Coast are as follows:**

- **Ōtūkoro iti**
- **Lake Moeraki Reserve**
- **Lake Māhinapua**
- **Motutapu**<sup>108</sup>

<sup>105</sup> Clause 16(2) the RMA

<sup>106</sup> Te Rūnanga o Ngāi Tahu, Te Rūnanga of Ngāti Waewae and Te Rūnanga o Makaawhio S620.056, and Clause 16(2) of the RMA

<sup>107</sup> Clause 16(2) of the RMA

<sup>108</sup> Te Rūnanga O Ngāti Waewae, Te Rūnanga O Makaawhio and Te Rūnanga O Ngāi Tahu S620.055

### **Nohoanga**

Nohoanga entitlements **are recorded under the Ngāi Tahu Claims Settlement Act and** provide a right of seasonal occupation and use for Poutini Ngāi Tahu **and Ngai Tahu whānui** of specified areas of Crown owned land near water bodies for harvest of natural resources (sections 255 to 268, Ngāi Tahu Claims Settlement Act 1998). **Nohoanga are one method that provides for the ongoing relationship of Ngāi Tahu, and acknowledge the Ngāi Tahu values associated, with those areas.**<sup>109</sup>

Nohoanga entitlements provided in Te Tai o Poutini/West Coast are in the following locations:

- Cascade River
- Karangarua River
- Lady Lake
- Lake Brunner/Moana
- Lake Haupiri
- Lake Kaniere
- Mahitahi River
- Mikonui River
- Ōkarito
- Waiatoto River
- Punakaiki River
- **Pororari River**<sup>110</sup>
- Taramakau River
- ~~Waiaia~~ **Waiaia** River and Māori Lakes<sup>111</sup>
- Waiatoto Lagoon

### **Hapu and Iwi and Papatipu Rūnanga Planning Documents**<sup>112</sup>

Under section 74(2A) of the Resource Management Act territorial authorities, in preparing or changing a district plan, must take into account planning documents recognised by iwi. These documents are also relevant to consider, under section 104(1)(c), in making decisions on resource consents that could affect the values and interests described in this chapter.

Both Ngāti ~~Māhaki o Makaawhio~~ and Ngāti Waewae have prepared Pounamu Management Plans which have been recognised by Te Rūnanga o Ngāi Tahu as planning documents, **as has Te Mahaere Whakahaere o Te Tāwhiri a Te Makō: Lake Māhinapua Management Plan.**<sup>113</sup>

These iwi management plans have been taken into account in this Plan through participation of Poutini Ngāi Tahu representatives in development of the Plan provisions.

## **4.3 Appendices Five and Six**

### **Submissions and Further Submissions**

<sup>109</sup> Te Rūnanga O Ngāti Waewae, Te Rūnanga O Makaawhio and Te Rūnanga O Ngāi Tahu S620.057

<sup>110</sup> Te Rūnanga O Ngāti Waewae, Te Rūnanga O Makaawhio and Te Rūnanga O Ngāi Tahu S620.057

<sup>111</sup> Te Rūnanga O Ngāti Waewae, Te Rūnanga O Makaawhio and Te Rūnanga O Ngāi Tahu S620.057

<sup>112</sup> Te Rūnanga O Ngāti Waewae, Te Rūnanga O Makaawhio and Te Rūnanga O Ngāi Tahu S620.408

<sup>113</sup> Te Rūnanga O Ngāti Waewae, Te Rūnanga O Makaawhio and Te Rūnanga O Ngāi Tahu S620.058

## **Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel**

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

586. Three submissions were made on Appendix Five and Appendix Six as summarised in the table on page 117 of the s42A Report. The Panel adopts these summaries and has considered the submissions.

### **Section 42A Report**

587. Ms Easton acknowledged Buller District Councils (S538.634) support of the appendices.

588. Poutini Ngāi Tahu (S620.390) sought an amendment to Appendix Six to correct a drafting error that omitted the Pororari River Site from the list of Nohoanga sites. Ms Easton supported the proposed amendment.

589. Poutini Ngāi Tahu (S620.389) sought an amendment to Appendix Five to clarify the role of Statutory Acknowledgements within resource management instruments. Ms Easton supported this amendment on the basis that it provided clearer information for the Plan user.

590. The s42A Report recommended amendments as follows:

Section 208 of that act requires that local authorities have regard to these statutory acknowledgements in resource consent processing under ~~sections 93 to 94C~~ **the notification provisions** of the Resource Management Act 1991 (Notification of resource consents)...

### **Hearing and Submitter Evidence/Statements**

591. Ms Pull identified a drafting error in the s42A Report where submission S620.389 was accepted but the last sentence was not deleted from Appendix Five – Statutory Acknowledgements, as requested, as follows:

Section 220 of the NTCS Act requires that all regional policy statements, district plans and regional plans have information recording those statutory acknowledgements for areas covered by the policy statement or plan attached to them. ~~This is for the purpose of public information only and does not form part of the policy statement or plan.~~

592. Ms Pull noted support for Appendix Five and Appendix Six, subject to the inclusion of Tōpuni, outlined above.

### **Reporting Officer Reply Evidence**

593. No specific points were made in the Reply to the above submissions.

### **Hearing Panel's Evaluation**

594. The Panel acknowledges the amendments sought to Appendix Five and Appendix Six referred to by Ms Pull. We accept the omission of Tōpuni was an oversight and that the inclusion is appropriate and recommend accepting these amendments. The Panel note that the Statutory Acknowledgement for Tititea / Mt Aspiring should remain and that the Tōpuni for Tititea / Mt Aspiring should be added after the other two Tōpuni.

### **Hearing Panel's Recommendation**

595. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted, and recommend the following amendments to the **Appendix Five** and **Appendix Six**:

**Appendix Five: Statutory Acknowledgements and Tōpuni<sup>114</sup>**  
**Te Āpitianga Tuarima: Ngā Wāhi kua Āhukahukatia**

**Statutory Acknowledgments**

Statutory acknowledgements are recorded in the Ngāi Tahu Claims Settlement Act 1998 (the NTCS Act) for several water bodies, mountains and coastal features in Te Tai o Poutini /the West Coast. This appendix contains the text from the Schedules to the NTCS Act that describe these statutory acknowledgement sites.

These acknowledgements comprise a statement made by Te Rūnanga o Ngāi Tahu of the particular cultural, spiritual, historic and traditional association of Ngāi Tahu with these areas, accepted as deemed fact by the Government.

Part 12 of the NTCS Act provides details of statutory acknowledgements, and the responsibilities relating to them.

Section 208 of that act requires that local authorities have regard to these statutory acknowledgements in resource consent processing under **the notification provisions sections 93 to 94C**<sup>115</sup> of the Resource Management Act 1991 (Notification of resource consents).

Section 211 of the NTCS Act enables Ngāi Tahu to cite these acknowledgements in submissions, or in proceedings before consent authorities or the Environment Court. In these proceedings, the contents of the Ngāi Tahu "association with the site" part of the acknowledgement in question is not binding on the consent authority (e.g., the regional council), but may be taken into account.

Section 220 of the NTCS Act requires that all regional policy statements, district plans and regional plans have information recording those statutory acknowledgements for areas covered by the policy statement or plan attached to them. ~~This is for the purpose of public information only and does not form part of the policy statement or plan.~~<sup>116</sup>

...

**Tōpuni**

**Tōpuni are areas of land which are administered under the National Parks Act 1980, the Conservation Act 1987 or the Reserves Act 1977, have Poutini Ngāi Tahu values and are declared Tōpuni under section 238 of the Ngāi Tahu Claims Settlement Act.**

**Tōpuni areas recognised in Te Tai o Poutini/the West Coast are:**

- **Kahurangi**
- **Ōtūkoro Iti**
- **Tititea/Mount Aspiring**<sup>117</sup>

**Tōpuni for Kahurangi**

**Description of area**

<sup>114</sup> RMA First Schedule, Clause 16

<sup>115</sup> Te Rūnanga O Ngāti Waewae, Te Rūnanga O Makaawhio and Te Rūnanga O Ngāi Tahu S620.389

<sup>116</sup> Te Rūnanga O Ngāti Waewae, Te Rūnanga O Makaawhio and Te Rūnanga O Ngāi Tahu S620.389

<sup>117</sup> Clause 16(2) of the RMA

The area over which the Tōpuni is created is the area known as Kahurangi, located in Kahurangi National Park, as shown on Allocation Plan MS 21 (SO 15490).

#### Preamble

Under section 206 (clause 12.5.3 of the deed of settlement), the Crown acknowledges Te Rūnanga o Ngāi Tahu's statement of Ngāi Tahu's cultural, spiritual, historic, and traditional values relating to Kahurangi, as set out below.

#### Ngāi Tahu values relating to Kahurangi

Kahurangi is a tremendously significant landmark to Ngāi Tahu, marking the extreme north western point of the tribal takiwā. It is a distinctive and easily recognisable physical boundary marker. The name "Kahurangi", which, in full, is said to be "Te Kahu o te Rangi" ("the blue skies of Rangi"), refers to the temperate climate of this part of the coast, which is noted for its clear skies.

Kahurangi was a natural landing point for seafarers travelling south by waka, to prepare for the next stage along a section of coastline that had very few safe anchorages or landing sites. Such tauranga waka (landing places) represent the intimate knowledge the tūpuna (ancestors) had of navigation, river routes, safe harbours and landing places, and the locations of food and other resources. The traditional mobile lifestyle of the people led to their dependence on the resources of the land. Knowledge of these routes and trails continues to be held by whānau and hapū and is regarded as a taonga.

To Ngāi Tahu, Kahurangi is an important expression of the iwi's mana over the vast tract of land to the south. Its significance in this respect is to be marked by the construction of a pou whenua (boundary marker). Ngāi Tahu have expended great effort and human sacrifice over many generations to maintain the security and integrity of their takiwā.

The mauri of Kahurangi represents the essence that binds the physical and spiritual elements of all things together, generating and upholding all life. All elements of the natural environment possess a life force, and all forms of life are related. Mauri is a critical element of the spiritual relationship of Ngāi Tahu Whānui with Kahurangi.<sup>118</sup>

#### Tōpuni for Ōtūkorō Iti

##### Description of area

The area over which the Tōpuni is created is the area known as Ōtūkorō Iti, located in Kahurangi National Park, as shown on Allocation Plan MS 488 (SO 15489).

##### Preamble

Under section 206 (clause 12.5.3 of the deed of settlement), the Crown acknowledges Te Rūnanga o Ngāi Tahu's statement of Ngāi Tahu's cultural, spiritual, historic, and traditional values relating to Ōtūkorō Iti, as set out below.

##### Ngāi Tahu values relating to Ōtūkorō Iti

The name Ōtūkorō Iti relates to a battle between Ngāti Rarua (a hapū of Ngāti Toa—one of Ngāi Tahu's northern neighbours) and Ngāi Tahu which took place in this area in the 1820s. It is said

<sup>118</sup> Clause 16(2) of the RMA

that the fighting began at sunrise on the fifth day of the month and ended only when the moon (referred to as a “koro” or “old man”) rose. In the Ngāi Tahu account, Ngāti Rarua were the attackers, but after Ngāi Tahu held their own during battle, it was the northerners who retreated.

For Ngāi Tahu, histories such as this reinforce tribal identity and solidarity, and continuity between generations, and document the events which shaped the environment of Te Wai Pounamu and Ngāi Tahu as an iwi.

As a result of the loss of life and blood spilt here during the battle, and the significance of the Ngāi Tahu victory, Ōtūkoro Iti is now regarded as a wāhi tapu. Such places hold the memories, traditions, victories and defeats of our tūpuna (ancestors).

Ōtūkoro Iti was an important kainga nohoanga (permanent settlement), the northern-most of Ngāi Tahu’s traditional settlements on Te Tai Poutini (the West Coast of the South Island). It was also the closest traditional settlement to the tribal boundary point of Kahurangi. As such, it is a symbol of Ngāi Tahu’s manawhenua (tribal authority) in this area.

Ōtūkoro Iti was one of very few safe landing sites on the coast of Te Tai Poutini for long distances to the south and north. Strategically, it was an important headland to maintain control over, and important tauraka waka (landing place) for travellers by sea, and represents the intimate knowledge which the tūpuna had of navigation, sea routes, safe harbours and landing places, and the locations of food and other resources on the coast and land. Ōtūkoro Iti was thus an integral part of a network of trails which were used in order to ensure the safest journey and incorporated locations along the way that were identified for activities including camping overnight and gathering kai. Knowledge of these trails continues to be held by whānau and hapū and is regarded as a taonga. The traditional mobile lifestyle of the people led to their dependence on the resources of the land.

The mauri of Ōtūkoro Iti represents the essence that binds the physical and spiritual elements of all things together, generating and upholding all life. All elements of the natural environment possess a life force, and all forms of life are related. Mauri is a critical element of the spiritual relationship of Ngāi Tahu Whānui with the land.<sup>119</sup>

## Tōpuni for Tititea (Mount Aspiring)

### Description of area

#### Preamble

Under section 239 (clause 12.5.3 of the deed of settlement), the Crown acknowledges Te Rūnanga o Ngāi Tahu’s statement of Ngāi Tahu’s cultural, spiritual, historic, and traditional values relating to Tititea, as set out below.

#### Ngāi Tahu values relating to Tititea (Mount Aspiring)

As with all principal maunga (mountains), Tititea is imbued with the spiritual elements of Raki and Papa, in tradition and practice regarded as an important link to the primeval parents. Tititea is a prominent and majestic peak, clearly visible from a number of vantage points in the south, and its role in Ngāi Tahu’s creation stories gives rise to its tapu status. From the heights above Te Ana-au (Lake Te Anau), it is a particularly impressive sight when the sun is setting.

<sup>119</sup> Clause 16(2) of the RMA

The most common Ngāi Tahu name for the mountain known to Pākehā as Mount Aspiring is Tititea, referring to the mountain’s white peak. It is not unusual, however, for places and physical features to have more than one name, reflecting the traditions of the successive iwi who peopled the land. Other names for the mountain include “Mākahi Tā Rakiwhānoa” (referring to a wedge belonging to Tū Te Rakiwhānoa) and “Ōtapahu”, which may refer to a type of dogskin cloak.

The Bonar Glacier is known as Hukairoroa Tā Parekiore (which refers to the long, hard glacial ice and crevasses formed by Parekiore). Parekiore was a giant who used to stalk up and down the South and North Islands taking tītī (muttonbirds) northwards and returning with kūmara. The lakes represent his footprints and the frozen splashes from his footsteps in the south were transformed into glaciers.

For Ngāi Tahu, traditions such as this represent the links between the cosmological world of the gods and present generations, these histories reinforce tribal identity and solidarity, and continuity between generations, and document the events which shaped the environment of Te Wai Pounamu and Ngāi Tahu as an iwi.

The area was an integral part of a network of trails which were used in order to ensure the safest journey and incorporated locations along the way that were identified for activities including camping overnight and gathering kai. Knowledge of these trails continues to be held by whānau and hapū and is regarded as a taonga. The traditional mobile lifestyle of the people led to their dependence on the resources of the land.

The mauri of Tititea represents the essence that binds the physical and spiritual elements of all things together, generating and upholding all life. All elements of the natural environment possess a life force, and all forms of life are related. Mauri is a critical element of the spiritual relationship of Ngāi Tahu Whānui with the area.

### Appendix Six: Nohoanga Entitlements Te Āpitianga Tuaono: Ngā Āheinga Nohoanga

Nohoanga entitlements located in the West Coast/ Te Tai o Poutini are in the following locations:

Waterbody	Site	Legal Description/Allocation Plan
<u>Pororari River</u>	<u>Pororari River</u>	<u>1 hectare, approximately, being Part Seabed. Subject to survey, as shown on Allocation Plan MN 185 (SO 15491)</u> <sup>120</sup>

Dean Chrystal  
 Hearings Panel Chair

Maria Bartlett  
 Hearings Panel Member

<sup>120</sup> Te Rūnanga O Ngāti Waewae, Te Rūnanga O Makaawhio and Te Rūnanga O Ngāi Tahu S620.390

**Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel**

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui



Paul Rogers

Hearings Panel Member



Sharon McGarry

Hearings Panel Member



Anton Becker

Hearings Panel Member

Date: 16 September 2025

**Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel**

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

**APPENDIX 1 RECOMMENDATIONS**

<b>Plan Section</b>	<b>Recommended Amendment</b>
Whole Plan	Prior to finalisation of the Plan a full check of the Plan is undertaken by a suitably qualified person with understanding of the Poutini Ngāi Tahu dialect to address spelling and appropriate use of macrons as well as ensuring a consistent dialect is used throughout the Plan.
Whole Plan	The provisions of the Plan be amended so that all dual place names are with Māori name first and then English name with all dual names separated by a forward slash with a space either side.
Whole Plan	Replacing ' <i>Ngāti Māhaki o Makaawhio or Ngāti Māhaki ki Makaawhio</i> ' with ' <i>Ngāti Māhaki</i> '.
Whole Plan	All references to New Zealand in the Plan are reconfigured to refer to ' <i>Aotearoa / New Zealand</i> '.
Whole Plan	Where a chapter does not have a bilingual name, a Māori name is applied. Where the chapter name is the name of a requiring authority that has a Māori name, this is included in the name of the chapter.
Whole Plan	All references to ' <i>certificates of title</i> ' in the Plan are replaced with ' <i>record of title</i> '.
Whole Plan	All references to ' <i>natural heritage</i> ' in the Plan are replaced with ' <i>natural environment</i> '.
Whole Plan	All references to ' <i>native</i> ' in the Plan are replaced with ' <i>indigenous</i> '.
Whole Plan	All references to ' <i>waterway</i> ' and ' <i>stream</i> ' in the Plan are replaced with ' <i>river</i> ' or ' <i>waterbody</i> '.
Whole Plan	All references to ' <i>utility</i> ' in the Plan are replaced with ' <i>network utility</i> '.
Whole Plan	References to ' <i>Building Coverage</i> ' in the Plan are replaced with ' <i>Site Coverage</i> ', including NCZ – R10, GRZ - R16, GRZ - R17, GRZ - R18, LLRZ – R14, MRZ– R11, SVZ – R1.
Maps	All overlays be consistently named on the maps and through the Plan as follows:

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

	<ul style="list-style-type: none"> <li>• Main Street Frontage Control Street</li> <li>• Sites and Areas of Significance to Māori</li> <li>• Historic Heritage Items and Areas</li> <li>• Archaeological Site</li> <li>• 50dBA Noise Contour Boundary</li> <li>• 55dBA Noise Contour Boundary</li> <li>• Coastal Tsunami Hazard, Lake Tsunami Hazard, Westport Hazard, Flood Susceptibility Hazard, Flood Severe Hazard, Land Instability Hazard, Coastal Severe Hazard, Coastal Alert Hazard, Flood Plain Hazard, Hokitika Hazard</li> <li>• Consistent use of the singular for Main Street Frontage Control Street, Rifle Range Protection Area, Airport Approach Path</li> </ul>
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### Definitions

Activity	means <del>land use activities, building activities, subdivision, and/or</del> development.
Building Platform	Means land that is practical for accommodating a residential house, or other intended building, <del>having regard to ground conditions, gradient, access, natural hazards, indigenous vegetation and habitat, amenity and</del> health and safety.
Camping Ground	<p><del>has the same meaning as the Camping Grounds Regulations 1985 (as set out below)</del> means any area of land used, or designed or intended to be used, for rent, hire, donation, or otherwise for reward, for the purposes of placing or erecting on the land temporary living places for occupation by two or more families or parties (whether consisting of one or more persons) living independently of each other, whether or not such families or parties enjoy the use in common of entrances, water supplies, cookhouse, sanitary fixtures, or other premises and equipment, <b><u>and includes the use of permanent buildings for sleeping in such as cabins and motel accommodation ancillary to the camping ground.</u></b></p> <p><b><u>For the purpose of this definition Nohoanga entitlements are excluded.</u></b></p>

**Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel**

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

<p>Cemetaries <u>Cemeteries</u></p>	<p>means the use of land for burial and cremation and includes urupā. It includes ancillary activities and buildings such as chapels, toilet facilities and crematoria.</p>
<p>Conservation Activities</p>	<p>means the use of land or buildings for any activity undertaken for the purposes of protecting and/or enhancing the natural, historic and/or ecological values of a natural or historic resource. It includes ancillary activities which assist to enhance the public’s appreciation and recreational enjoyment of the resource, <b><u>including weed and pest control and the intermittent use of aircraft for conservation purposes and excludes commercial activities</u></b></p>
<p>Existing Use Rights</p>	<p>means a use of land that was lawfully established before the relevant rule in Te Tai o Poutini Plan becomes operative where:</p> <p>e. — the effects of the use are similar in character, intensity and scale; and the use has not been discontinued for a continuous period of more than 12 months.</p>
<p>Overlay Chapter</p>	<p>means the <del>Coastal Environment Chapter</del> and chapters in the following sections of the Plan:</p> <p>a. <del>Hazards and Risks;</del> <b><u>Natural Hazards;</u></b></p> <p>b. <del>Historical and Cultural Values;</del> and <b><u>Historic Heritage;</u></b></p> <p>c. <del>Natural Environment;</del> <b><u>Notable Trees;</u></b></p> <p>d. <b><u>Sites and Areas of Significance to Māori;</u></b></p> <p><b><u>e. Ecosystems and Indigenous Biodiversity;</u></b></p> <p><b><u>f. Natural Features and Landscapes;</u></b></p> <p><b><u>g. Natural Character and the Margins of Waterbodies; and</u></b></p> <p><b><u>h. Coastal Environment.</u></b></p>
<p>Papatipu Rūnanga</p>	<p><b><u>has the same meaning as in the Ngāi Tahu Claims Settlement Act 1998 (as set out below)</u></b> means the Papatipu Rūnanga of Ngāi Tahu Whānui referred to in section 9 of Te Rūnanga o Ngāi Tahu Act 1996.</p>

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

Poutini Ngāi Tahu	means the members of the two Ngāi Tahu hapū from the West Coast/Tai o Poutini - Ngāti Waewae and Ngāti Māhaki, <b><u>and Te Rūnanga o Ngāi Tahu as the iwi authority.</u></b>
Poutini Ngāi Tahu Activities	means the use of land and/or buildings for traditional Māori activities and includes making and/or creating cultural goods, textiles and art, medicinal and food gathering, waka ama, events, management and activities that recognise and provide for the special relationship between Poutini Ngāi Tahu and places of cultural importance. <b><u>Poutini Ngāi Tahu Activities include cultural activities, cultural purposes and cultural uses.</u></b>
Reverse Sensitivity	means the potential for an <del>approved, existing</del> <b><u>lawfully established</u></b> or <del>permitted</del> activity to be compromised, constrained by the more recent establishment or alteration of another activity which may be sensitive to the actual, potential or perceived adverse environmental effects generated by a <b><u>lawfully established</u></b> <del>n-approved, existing or permitted</del> activity.
Urban Zone	means one or more of the RESZ - Residential zones, CMUZ - Commercial and mixed-use zones, INZ - industrial zones, <del>FUZ - Future Urban Zone</del> or any part of any OSRZ - Open space and recreation zone that is surrounded by one of these zones.
<b><u>Environment</u></b>	<b><u>has the same meaning as in Section 2 of the RMA as set out below:</u></b>  <b><u>Includes:</u></b>  <b><u>(a) ecosystems and their constituent parts, including people and communities; and</u></b>  <b><u>(b) all natural and physical resources; and</u></b>  <b><u>(c) amenity values; and</u></b>  <b><u>(d) the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters.</u></b>
<b><u>Minimise</u></b>	<b><u>means to reduce to the smallest amount reasonably practicable.</u></b>
<b><u>Statutory Agency</u></b>	<b><u>means, in relation to construction of natural hazard mitigation structures, a District or Regional Council, Waka Kotahi – New Zealand Transport</u></b>

**Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel**

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

	<b><u>Agency, Transpower New Zealand, KiwiRail New Zealand or the Department of Conservation.</u></b>
<b><u>Site Coverage</u></b>	<b><u>means the proportion of a site that is covered by buildings, decks and paving, including concrete, asphalt, brick, stone and precast concrete slabs.</u></b>

<b>Glossary - He Kuputaka</b>	
<b>Term</b>	<b>Meaning</b>
<b><u>Kaitiakitanga</u></b>	<b><u>guardianship</u></b>
<b><u>Mahinga kai</u></b>	<b><u>the customary gathering of food and natural materials and the places where those resources are gathered</u></b>
<b><u>Marae</u></b>	<b><u>meeting ground</u></b>
<b><u>Nohoanga</u></b>	<b><u>seasonal occupation sites which were an integral part of the mobile lifestyle of Ngāi Tahu Whānui (tribal members) as they moved around Te Waipounamu (the South Island) in pursuit of food and other natural resources. Under the Ngāi Tahu Claims Settlement Act 1998, nohoanga sites are specific areas of Crown owned land adjacent to lakeshores or riverbanks available as camping sites to support mahinga kai activities</u></b>
<b><u>Pounamu</u></b>	<b><u>greenstone</u></b>
<b><u>Taonga</u></b>	<b><u>treasure</u></b>
<b><u>Wāhi taonga</u></b>	<b><u>a place of treasures</u></b>
<b><u>Wāhi tohu</u></b>	<b><u>landmark</u></b>
<b><u>Whenua</u></b>	<b><u>land</u></b>

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

Abbreviations - Ngā Whakapototanga	
Abbreviations	Full term
AEE	Assessment of Environmental Effects
HSNO	Hazardous Substances and New Organisms Act 1996
LGA	Local Government Act 2002
<del>NZHPT</del> <b>HNZPT</b> Act	<b>Heritage</b> New Zealand Pouhere Taonga Act 2014

### Introduction Section

#### Description of the Districts - Te Whakamāramatanga o ngā Rohe

Te Tai o Poutini Plan covers the whole of the West Coast Region - made up of three Districts - Buller, Grey and Westland.

The **Te Tai o Poutini**/West Coast Region/~~Te Tai o Poutini~~ covers a land area of 23,245 km<sup>2</sup> stretching from Kahurangi Point in the north of Buller District to Awarua Point in the south of Westland District.

Early history of the **Te Tai o Poutini**/West Coast/~~Te Tai o Poutini~~ dates back to the 15th Century when Poutini Ngāi Tahu recognised the area's importance as the source of pounamu/greenstone.

On the **Te Tai o Poutini**/West Coast/~~Te Tai o Poutini~~, Poutini Ngāi Tahu are recognised as mana whenua and their history and values are outlined in the Tangata Whenua Chapter.

Following the discovery of gold in the Taramakau River in 1864, the **Te Tai o Poutini**/West Coast/~~Te Tai o Poutini~~ became the centre of the first early gold rushes. Following pounamu and gold, the next most valuable mineral was coal which was first discovered near the Kawatiri/Buller/~~Kawatiri~~ River in the 1840s and from the 1880s became the **Te Tai o Poutini**/West Coast's/~~Te Tai o Poutini~~'s main industry.

The **Te Tai o Poutini**/West Coast/~~Te Tai o Poutini~~ we see today has been shaped by this history, with the main towns of Reefton, Westport, Greymouth and Hokitika all developed as a result of the success of the minerals industry.

#### Buller District

The Buller District covers a land area of 7,953 km<sup>2</sup> with a population of 9600 people (2020). The two main towns of Reefton and Kawatiri/Westport/~~Kawatiri~~ were developed on the strength of their minerals industries. Kawatiri/Westport/~~Kawatiri~~ is the **Tai o Poutini**/West Coast's/~~Tai o Poutini~~'s oldest European settlement, established in 1861. Reefton was also established in the 1860s, being

named for the gold reef found there and is the Te Tai o Poutini/West Coast's/~~Te Tai o Poutini~~'s only inland town.

Today economic activity in the Buller District is established around coal mining, dairy farming and fishing and the District is the home of Aotearoa/New Zealand/~~Aotearoa~~ me Te Waipounamu's largest coal mining operation at Stockton. Tourism is also an important industry in Buller, with the Punakaiki Pancake Rocks among one of the most visited locations.

### **Grey District**

The Grey District covers a land area of 3,516 km<sup>2</sup> with a population of 13,800 people (2020). It is the most densely populated area on the Te Tai o Poutini/West Coast/~~Te Tai o Poutini~~. Greymouth/Māwhera is the largest town on the Te Tai o Poutini/West Coast/~~Te Tai o Poutini~~ and was established at the mouth of the Māwheranui/Grey/~~Māwhera~~ River. Ngāti Waewae had lived in the area for a considerable time before European settlement and the town was established at the site of Māwhera Pa during the West Coast Gold Rush of the 1860s, but for 150 years the economy of the Grey District has been based on coal mining and native timber forestry. While mining is still a very important industry, dairy farming and fishing have also become important parts of the economy.

### **Westland District**

The Westland District covers a land area of 11,880 km<sup>2</sup> with a population of 8640 (2020). Much of the district is a long thin strip of land between the Tiritiri-o-te-Moana/Southern Alps/Tiritiri-o-te-Moana and the Tai-o-Rēhua/Tasman Sea/~~Tai-o-Rēhua~~. Hokitika is the main town in the district, founded on gold mining in 1864. Hokitika was the centre of the West Coast Gold Rush and by 1866 was one of Aotearoa/New Zealand's/~~Aotearoa~~'s most populous centres. Many towns across Westland were also founded as a result of the gold rushes.

The Westland District is where much of the pounamu still found on the West Coast is located and in South Westland, aotea stone, which is a taonga for Ngāti Māhaki-ki-Makaawhio, who lived across South Westland, is also found.

Tourism, dairy farming and gold mining are key industries in Westland, with the world famous glaciers in South Westland being one of the most visited tourist sites in Aotearoa/New Zealand/~~Aotearoa~~.

## Statutory Context - Te Horopaki ā-Ture

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### Te Tiriti o Waitangi (Treaty of Waitangi) and the Resource Management Act

Te Tiriti o Waitangi is a foundational legal document for Aotearoa / New Zealand/Aotearoa me Te Wāipounamu. The Crown is the primary Treaty partner responsible for the Treaty relationship, however, Councils as entities to which responsibilities have been delegated must ensure that they give appropriate consideration to the principles of the Treaty as part of their statutory Māori obligations.

The RMA outlines that in achieving its purpose of sustainable management, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi [Section 8 of the RMA]. Te Rūnanga o Ngāi Tahu is the iwi authority for the entire Te Tai o Poutini / West Coast Region. Poutini Ngāi Tahu are the tangata whenua of Te Tai o Poutini / (the West Coast). Under section 9 of the Te Rūnanga o Ngāi Tahu Act 1996 the two Papatipu Rūnanga who represent the tangata whenua interests of Poutini Ngāi Tahu on Te Tai o Poutini / the West Coast are Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio. Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio have worked in partnership with the four councils in preparation of Te Tai o Poutini Plan in accordance with the principles of the Treaty of Waitangi.

Section 220 of the Ngāi Tahu Claims Settlement Act 1998 recognises the mana held by Ngāi Tahu in relation to specific sites and resources, known as Statutory Acknowledgement Areas. These are acknowledgements by the Crown of the special relationships that Ngāi Tahu have with the Areas for cultural, spiritual, historical, and traditional reasons. On Te Tai o Poutini / the West Coast the Statutory Acknowledgement Areas are: Ōkari Lagoon, Taramakau River, Kōtukuwhakaoka (Moana / Lake Brunner/Moana), Lake Kaniere, Pouerua-hāpua (Saltwater Lagoon), Ōkārīto Lagoon, Makaawhio (Jacob's River), Karangarua Lagoon, Tititea / Mount Aspiring and Lake Paringa. The West Coast Councils will consider Te Rūnanga o Ngāi Tahu and the respective papatipu rūnanga to be affected parties where resource use may adversely affect Statutory Acknowledgement Areas. Appendix Five includes the detailed statements of statutory acknowledgement for each area.

The Ngāi Tahu Claims Settlement Act 1998 also identifies nohoanga entitlements. These are entitlements to occupy temporarily and exclusively an area of land bordering lakes or rivers for the purpose of lawful fishing and the gathering of other natural resources. They may be used for up to 210 days a year between mid-August and the end of April. The nohoanga entitlements are

detailed in Appendix Six.

The relationships between Poutini Ngāi Tahu the Statutory Acknowledgement and Te Tai o Poutini Plan are outlined further in the Tangata Whenua chapter.

### General Approach - Te Huarahi Whānui

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#### Step 1 - Check the planning maps

Check the planning maps to identify which zone applies to your property (e.g. General Residential Zone). Also check to see if any overlays or features apply to your property (e.g. Natural Hazards).

#### Step 2 - Locate the relevant zone rules

Go to the Zone Chapters and find the relevant zone rules that apply to your property (e.g. General Residential Zone rules).

The Infrastructure, Energy, Transport, Subdivision and Temporary Activities Chapters operate slightly differently to the rest of the Plan. If you are undertaking any activities relating to infrastructure, energy, transport or are wanting to undertake any temporary activities or subdivide your property, you should start by looking at those chapters first. These chapters will then refer you to other chapters, as required. **The Area Specific Provisions (Zone Chapters) do not apply to the Energy, Transport and Infrastructure Chapters, and the provisions of the Infrastructure Chapter do not apply to Energy Activities.**

#### Step 3 - Locate the relevant district-wide rules

There may be several sets of district-wide rules that you need to check for your activity e.g. Subdivision rules and **Earthworks** rules. If there is an overlay or feature on your property you also need to check those rule sets. **Additionally, the Ecosystems and Indigenous Biodiversity chapter and Natural Hazards chapter contain rules that apply district-wide, outside the scheduled overlays.**

You should also check if there are any relevant National Environmental Standards (e.g. for contaminated land). The National Environmental Standards chapter and Table 2 below provide an overview of these standards. In most cases these override or apply in addition to rules in Te Tai o Poutini Plan, however in some cases Te Tai o Poutini Plan can have more stringent rules. If there is a conflict between the rules in Te Tai o Poutini Plan and a National Environmental Standard, the most restrictive rule applies.

#### Step 4 - Check the relevant standards.

Check the Permitted Activity standards for the relevant zone and district-wide rules. If the activity complies with all the relevant standards, then it is permitted and can be undertaken without resource consent. To obtain council confirmation that it is a permitted activity, you may apply for a Certificate of Compliance.

#### Step 5 - Apply for resource consent

If any condition stated for a permitted activity is not complied with or you are proposing an activity that is listed as a controlled, restricted discretionary, discretionary or non-complying activity, you must obtain resource consent. Look within Table 1: Classes of activity, which state the category of resource consent required (controlled, restricted discretionary, discretionary or non-complying). If

you are not sure, contact your local District Council (Buller, Grey or Westland) planning staff, who are available to help you. If more than one condition is not complied with, the whole of the activity will be assessed against the highest activity category that applies. Decide **if you still want to undertake your activity** ~~if you want to~~ and apply for resource consent. You may prefer to redesign your proposal to fit the permitted activity conditions.

**If the works, project, or activity you are wanting to undertake requires consent for any aspect of it, a consent application is required for the whole activity. You should talk to the Council about whether any permitted activities may still apply.**

Under section 86BA of the RMA, you may not need to obtain a resource consent if you are undertaking a boundary activity and have the approval of each owner of an allotment with an infringed boundary and that is the only thing you require a resource consent for. See s87AAB of the RMA for a definition of boundary activity.

**General Duty to Comply:**

**Compliance with Te Tai o Poutini Plan and the RMA does not remove the need to comply with all other relevant acts, regulations, bylaws and rules. It is the applicant's responsibility to identify and understand all requirements they are required to comply with all applicable requirements.**

**Where compliance is required under any other legislation, including a bylaw, it is the responsibility of the applicant to comply with that legislation.**

**Conversely, activities that may be allowed or permitted under other regulatory requirements, such as the Building Act 2004, may still require resource consent.**

**Every person has a duty to avoid, remedy, or mitigate any adverse effect on the environment arising from an activity carried on by or on behalf of the person, whether or not the activity is carried on in accordance with existing use rights under the RMA (s.10, 10A, 10B, and 20A) or a national environmental standard, a rule, a resource consent, or a designation.**

**However, this duty is not of itself enforceable against any person, and no person is liable to any other person for a breach of that duty.**

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**Notification**

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When deciding whether any person is affected in relation to an activity for the purposes of section 95E of the RMA, the District Councils will give specific consideration to the following entities with responsibility for any natural and physical resources which may be affected by the activity, including:

1. In relation to infrastructure, the network utility operator that owns or operates that infrastructure;
2. In relation to historic heritage, Heritage New Zealand Pouhere Taonga;
3. In relation to natural resources and the coastal environment, the Minister of Conservation;
4. In relation to sites or areas of significance to Māori **or cultural values**, Poutini Ngāi Tahu; ~~and~~
5. In relation to a rule which addresses reverse sensitivity effects, the operator of the activity which is protected by the rule from such effects; **and**
6. **In relation to the habitats of sports fish or game birds, the West Coast Fish and Game Council.**

**Information to be submitted with resource consents**

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

Schedule 4 of the RMA sets out information that is required in all resource consent applications. This includes an Assessment of Environmental Effects (AEE).

An AEE is a written statement identifying the effects of your proposed activity on the environment and must be prepared in accordance with Schedule 4 of the RMA.

For controlled activities, the AEE shall only address those matters over which Te Tai o Poutini Plan has specifically reserved its control.

In respect of any application for a restricted discretionary activity, the assessment shall only address those matters over which Te Tai o Poutini Plan has specifically restricted its discretion.

These matters of control and discretion are detailed within Te Tai o Poutini Plan.

~~For all other types of activities, the~~ AEE should address all relevant matters relating to the actual or potential effects of the proposed activity on the environment. **Information on the requirements for an AEE can be found in Schedule 4 of the RMA.**

### Legal effect of Rules

~~Rules in Te Tai o Poutini Plan have legal effect when it becomes Operative. Section 86B of the RMA allows councils to seek legal effect from the time of public notification. The Te Tai o Poutini Plan Committee has yet to consider whether there are parts of the proposed Plan that they will seek to have legal effect at time of notification.~~

~~Section 86B also states that a rule in a proposed plan has legal effect if it protects or relates to areas of water, air, or soil, significant indigenous vegetation, significant habitats of indigenous fauna, historic heritage or aquaculture activities.~~

~~This means that some of the rules in the activities on the surface of rivers and lakes, ecosystems and indigenous biodiversity, natural character and waterbodies, coastal environment, historical heritage and sites and areas of significance to Māori chapters as well as the specific rules in some zones for Aquaculture will have legal effect at the date of notification of this Plan.~~

## Cross Boundary Matters - Ngā Take Whakawhiti Rohenga

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### Management of Cross Boundary Matters

The key to managing cross boundary matters is aiming to have a consistent approach. The combined plan approach of Te Tai o Poutini Plan has been developed to maximise integrated management across the three West Coast district councils of Buller, Grey and Westland. A combined committee of the three district councils, the West Coast Regional Council and representatives of the two Runanga on **Te Tai o Poutini** / the West Coast oversees the Te Tai o Poutini Plan and will continue to be a vehicle to ensure integrated management in Plan implementation.

Alongside this, the West Coast Regional Policy Statement, the New Zealand Coastal Policy Statement and other national instruments provide a degree of consistency of direction and management.

Other methods which will be used to ensure integrated management of cross boundary issues include:

1. Holding joint hearings of resource consents under section 102 of the RMA when appropriate to address cross boundary effects

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

2. Regular joint liaison meetings between the four councils on **Te Tai o Poutini / the West Coast**
3. Liaison with iwi authorities and Poutini Ngāi Tahu
4. Regular liaison with other organisations involved in resource management for example – New Zealand Transport Authority, Heritage New Zealand Pouhere Taonga, Transpower and lines companies, Kiwirail, Department of Conservation, Ministry for Primary Industries.
5. Submissions on other local authority policy statements, plans and resource consents.

### **Cross boundary issues on land that is not managed by the Te Tai o Poutini Plan.**

**Cross boundary issues refer to situations where an activity takes place on or near a territorial boundary or where the effects of a particular activity impact on the territory of an adjacent authority, including any territorial boundary that is not managed by the Te Tai o Poutini Plan. The following procedure will be followed for such cross-boundary issues: The consenting territorial authority will consider whether any resource consents are required from another territorial authority. Reference to the provisions of the Resource Management Act (1991) that relate to joint hearings will be made where an activity requires consent from two or more territorial authorities; Applicants for resource consent for activities which might have effects on an adjoining territory authority will be encouraged to consult with that authority. In the case of infrastructure networks crossing territorial boundaries, the consenting territorial authority will consult with other relevant territorial authorities and endeavour to arrive at a planning framework that provides a consistent approach to the network.**

### **Relationships between spatial layers - Ngā hononga ki waenga i ngā paparanga mokowā**

Te Tai o Poutini Plan uses a range of spatial layers that are shown on planning maps. These will assist you in determining which overlays or features apply to a specific property **or activity.**

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### **Rural Zone Descriptions**

<b>Name</b>	<b>Code</b>	<b>Description</b>
General Rural Zone	GRUZ	Areas used predominantly for primary production activities, including intensive indoor primary production. The zone may also be used for a range of activities that support primary production activities, including associated rural industry, and other activities that require a rural location.
Rural Lifestyle Zone	RLZ	Areas used predominantly for a residential lifestyle within a rural environment on lots smaller than those of the General rural and Rural production zones, while still enabling primary production to occur.

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

Settlement Zone	SETZ	Areas used predominantly for a cluster of residential, commercial, light industrial and/or community activities that are located in rural areas or coastal environments.
Rural Zones	RURZ	Where an objective, policy, rule or requirement applies to all the rural zones, the term RURZ may be used to collectively describe them.

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Precincts		
Name		Description
Greymouth Town Centre Precinct		The purpose of this precinct is to manage activities and urban design within the Greymouth Town Centre.
Hokitika Town Centre Precinct		The purpose of this precinct is to manage activities and urban design within the Hokitika Town Centre.
Reefton Town Centre Precinct		The purpose of this precinct is to manage activities and urban design within the Reefton Town Centre
Westport Town Centre Precinct		The purpose of this precinct is to manage activities and urban design within the Westport Town Centre
Settlement Centre Precinct		The purpose of this precinct is to manage activities and <a href="#">building</a> design within settlement centres.
Rural Residential Precinct		The purpose of this precinct is to manage activities and lot size within these rural areas.
Coastal Settlement Precinct		The purpose of this precinct is to manage activities and building design within these coastal settlements.
Community Living Precinct		The purpose of this precinct is to provide for community living development within these rural areas.
<b><u>Highly Productive Land Precinct</u></b>		<b><u>The purpose of this Precinct is to manage lot size for ongoing rural production.</u></b>

Overlays	
Name	Description
Rifle Range Protection Areas	Areas where restrictions on activities and noise insulation is required.
<b><u>Westport Radio Mast EM Overlay</u></b>	<b><u>Area where restrictions on activities ensure public safety in proximity to the Westport Radio Mast</u></b>

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

Airport Approach Paths	Areas where height restrictions to protect airport approach paths are in place.
Airport Noise Contour Overlays	Areas where noise insulation requirements for residential buildings near airports/heliports are required.
Electricity Transmission and Distribution Yard	Identifies national grid and significant electricity transmission lines utilised by a network utility operator for electricity distribution.
Historic Heritage Items and Areas	Areas and items of significant historic heritage value.
Notable Trees	Trees of significant cultural, aesthetic or scientific value.
Sites and Areas of Significance to Māori	Areas and places of significant Māori cultural or heritage value.
Statutory Acknowledgement Areas	Areas identified in <del>Treaty Settlement Legislation</del> the Ngai Tahu Claims Settlement Act 1998 where the Crown has made an acknowledgement of the particular cultural, spiritual, historic and traditional association of Ngāi Tahu with the statutory areas <del>Poutini Ngāi Tahu have a statutory acknowledgement.</del>
<b><u>Aotea Management Area</u></b>	<b><u>Areas identified where restrictions apply to land disturbance, earthworks, quarrying and mineral extraction activities.</u></b>
<b><u>Pounamu Management Area</u></b>	<b><u>Areas identified where restrictions apply to land disturbance, earthworks quarrying and mineral extraction activities.</u></b>
Outstanding Natural Features Overlay	Areas of natural features of international significance.
Outstanding Natural Landscapes Overlay	Areas of natural landscape assessed as being outstanding natural value.
Outstanding Coastal Environment Area	Areas of the coastal environment with outstanding natural landscape, outstanding natural features or outstanding natural character.
High Coastal Natural Character Area	Areas of the coastal environment with high natural character values.
<del>General Coastal Environment Area</del>	<del>Areas of the coastal environment outside of the urban area where human values dominate over natural character.</del>
Significant Natural Areas	Areas of significant indigenous vegetation and significant habitats of indigenous fauna. Only some of these areas have been identified on Schedule Four. The consenting process will be used on a case by case basis to identify significant indigenous vegetation and habitats of fauna outside

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

	Schedule 4 areas, using the criteria in the National Policy Statement on Indigenous Biodiversity
<del>Lawfully Established Mineral Extraction and Processing Areas</del>	<del>Areas within the Mineral Extraction and Buller Coalfield Zones where mineral extraction is lawfully established.</del>
<del>Previously Mined Locations in Rural and Open Space Zones</del>	<del>Areas previously mined subject to specific rules in the Rural and Open Space Zones</del>
<del>Nohoanga Entitlements</del>	<del>Areas identified in Treaty Settlement Legislation where Poutini Ngāi Tahu are able to establish nohoanga</del>
Natural Hazard Overlays	These overlays are still being developed and will be mapped and consulted on as part of a parallel process with the draft Te Tai o Poutini Plan.
<del>Road Classification</del>	<del>Demonstrates roading hierarchy classifications across the West Coast/Tai o Poutini.</del>

### National environmental standards - Ngā ture ārahi taiao ā-motu

National environmental standards (NESs) are prepared by central government and can prescribe technical standards, methods (including rules) and/or other requirements for environmental matters throughout the whole country or specific areas. **Requirements apply directly to activities and must be considered in addition to Plan provisions.** If an activity doesn't comply with an NES, it is likely to require a resource consent. NESs must be observed and enforced by local authorities. The following NESs are currently in force:

...

### Regulations - Ngā waeture

The regulations included in this chapter **listed below are those that** come under the Resource Management Act 1991 (excluding the national environmental standards listed above). **Regulations are rules that apply directly to activities and must be considered in addition to Plan provisions. Unless otherwise stated with respect to rule in this Plan, where both a regulation and a Plan rule address the same matter, the more stringent requirement will apply.** These regulations are:...

...

### Tangata Whenua– Te Tangata Whenua

...

### Treaty Settlement Requirements

The Ngāi Tahu Claims Settlement Act 1998, in addition to recognising the rangatiratanga of Ngāi Tahu, includes specific provisions that provide for exercise of rangatiratanga and kaitikitanga of Poutini Ngāi

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

Tahu in respect to resource management matters. These include rights in relation to the management of specified significant areas (statutory acknowledgement areas, **cultural redress lands** and nohoanga).

### Statutory Acknowledgements

The requirements relating to statutory acknowledgements (sections 205 to 220, Ngāi Tahu Claims Settlement Act 1998) are intended to provide for improved participation and Poutini Ngāi Tahu and Te Rūnanga o Ngāi Tahu in resource management decision-making for areas with significant cultural, spiritual, historic and traditional associations. The particular values and associations are described in schedules to the Act.

Statutory acknowledgements recognised in Te Tai Poutini are:

- Kōtuku-Whakaoho (Lake Brunner/Moana) (Schedule 25)
- Karangarua Lagoon (Schedule 24)
- Lake Kaniere (Schedule 31)
- Lake Pāringa (Schedule 33)
- Makaawhio (Jacobs River) (Schedule 38)
- Ōkari lagoon (Schedule 47)
- Ōkarito lagoon (Schedule 48)
- Pouerua (Saltwater lagoon) (Schedule 53)
- Taramakau River (Schedule 56)
- Tititea/Mount Aspiring (Schedule ~~56~~2)

Section 208 of the Ngāi Tahu Treaty Settlement Act 1998 and 95B of the Resource Management Act 1991 recognise the interests of Te Rūnanga o Ngāi Tahu and Poutini Ngāi Tahu in statutory acknowledgement areas in regard to notification of resource consent applications for activities that may affect land in these areas. The Councils will forward **copies and seek advice and recommendations** ~~of~~ ~~for~~ all resource consent applications which may affect a statutory acknowledgement to Te Rūnanga o Ngāi Tahu and **Pōkeka** Poutini **Ngāi Tahu Limited** Environmental, as the resource management agent of Poutini Ngāi Tahu. The Councils must have regard to effects on Poutini Ngāi Tahu and Te Rūnanga o Ngāi Tahu when considering the need for notification of such resource consents and in making decisions on resource consent applications.

### **Tōpuni**

**Tōpuni are areas of land which are administered under the National Parks Act 1980, the Conservation Act 1987 or the Reserves Act 1977, have Poutini Ngāi Tahu values and are declared**

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

### Tōpuni under section 238 of the Ngāi Tahu Claims Settlement Act. Tōpuni areas recognised in Te Tai

#### o Poutini/the West Coast are:

- Kahurangi
- Ōtūkoro Iti
- Tititea/Mount Aspiring
- 

#### Cultural redress lands

Cultural redress lands were returned to Te Runanga o Ngai Tahu ownership and are important for cultural, mahinga kai or conservation purposes (Part 11, Ngāi Tahu Claims Settlement Act 1998).

Cultural redress lands provided in Te Tai o Poutini / West Coast are as follows:

- Otukoro Iti
- Lake Moeraki Reserve
- Lake Mahinapua
- Motutapu

#### **Nohoanga**

Nohoanga entitlements are recorded under the Ngāi Tahu Claims Settlement Act and provide a right of seasonal occupation and use for Poutini Ngāi Tahu and Ngai Tahu whānui of specified areas of Crown owned land near water bodies for harvest of natural resources (sections 255 to 268, Ngāi Tahu Claims Settlement Act 1998). Nohoanga are one method which provides for the ongoing relationship of Ngāi Tahu with the area and acknowledge the Ngāi Tahu values associated with those areas.

Nohoanga entitlements provided in Te Tai o Poutini/West Coast are in the following locations:

- Cascade River
- Karangarua River
- Lady Lake
- Lake Brunner/Moana
- Lake Haupiri
- Lake Kaniere
- Mahitahi River
- Mikonui River
- Ōkarito
- Waiatoto River
- Punakaiki River
- Pororari River

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

- Taramakau River
- ~~Waiata~~ **Waita** River and Māori Lakes
- Waiatoto Lagoon

### ~~Hapu and~~ **Iwi and Papatipu Rūnanga Planning Documents**

Under section 74(2A) of the Resource Management Act territorial authorities, in preparing or changing a district plan, must take into account planning documents recognised by iwi. These documents are also relevant to consider, under section 104(1)(c), in making decisions on resource consents that could affect the values and interests described in this chapter.

Both Ngāti ~~Māhaki o Mākaawhio~~ and Ngāti Waewae have prepared Pounamu Management Plans which have been recognised by Te Rūnanga o Ngāi Tahu as planning documents, **as has Te Mahaere Whakahaere o Te Tāwhiri a Te Makō: Lake Māhinapua Management Plan.**

These iwi management plans have been taken into account in this Plan through participation of Poutini Ngāi Tahu representatives in development of the Plan provisions.

#### **Appendix Five: Statutory Acknowledgements and Tōpuni**

#### **Te Āpitihangā Tuarima: Ngā Wāhi kua Āhukahukatia**

### **Statutory Acknowledgments**

Statutory acknowledgements are recorded in the Ngāi Tahu Claims Settlement Act 1998 (the NTCS Act) for several water bodies, mountains and coastal features in Te Tai o Poutini /the West Coast.

This appendix contains the text from the Schedules to the NTCS Act that describe these statutory acknowledgement sites.

These acknowledgements comprise a statement made by Te Rūnanga o Ngāi Tahu of the particular cultural, spiritual, historic and traditional association of Ngāi Tahu with these areas, accepted as deemed fact by the Government.

Part 12 of the NTCS Act provides details of statutory acknowledgements, and the responsibilities relating to them.

Section 208 of that act requires that local authorities have regard to these statutory acknowledgements in resource consent processing under **the notification provisions** ~~sections 93 to 94~~ of the Resource Management Act 1991 (Notification of resource consents).

Section 211 of the NTCS Act enables Ngāi Tahu to cite these acknowledgements in submissions, or in proceedings before consent authorities or the Environment Court. In these proceedings, the contents of the Ngāi Tahu "association with the site" part of the acknowledgement in question is not binding on the consent authority (e.g., the regional council), but may be taken into account.

Section 220 of the NTCS Act requires that all regional policy statements, district plans and regional plans have information recording those statutory acknowledgements for areas covered by the policy statement or plan attached to them. ~~This is for the purpose of public information only and does not form part of the policy statement or plan.~~

...

## Tōpuni

Tōpuni are areas of land which are administered under the National Parks Act 1980, the Conservation Act 1987 or the Reserves Act 1977, have Poutini Ngāi Tahu values and are declared Tōpuni under section 238 of the Ngāi Tahu Claims Settlement Act.

Tōpuni areas recognised in Te Tai o Poutini/the West Coast are:

- Kahurangi
- Ōtūkoro Iti
- Tititea/Mount Aspiring

### Tōpuni for Kahurangi

#### Description of area

The area over which the Tōpuni is created is the area known as Kahurangi, located in Kahurangi National Park, as shown on Allocation Plan MS 21 (SO 15490).

#### Preamble

Under section 239 (clause 12.5.3 of the deed of settlement), the Crown acknowledges Te Rūnanga o Ngāi Tahu's statement of Ngāi Tahu's cultural, spiritual, historic, and traditional values relating to Kahurangi, as set out below.

#### Ngāi Tahu values relating to Kahurangi

Kahurangi is a tremendously significant landmark to Ngāi Tahu, marking the extreme north western point of the tribal takiwā. It is a distinctive and easily recognisable physical boundary marker. The name "Kahurangi", which, in full, is said to be "Te Kahu o te Rangi" ("the blue skies of Rangi"), refers to the temperate climate of this part of the coast, which is noted for its clear skies.

Kahurangi was a natural landing point for seafarers travelling south by waka, to prepare for the next stage along a section of coastline that had very few safe anchorages or landing sites. Such tauranga waka (landing places) represent the intimate knowledge the tūpuna (ancestors) had of navigation, river routes, safe harbours and landing places, and the locations of food and other resources. The traditional mobile lifestyle of the people led to their dependence on the resources of the land. Knowledge of these routes and trails continues to be held by whānau and hapū and is regarded as a taonga.

To Ngāi Tahu, Kahurangi is an important expression of the iwi's mana over the vast tract of land to the south. Its significance in this respect is to be marked by the construction of a pou whenua (boundary marker). Ngāi Tahu have expended great effort and human sacrifice over many generations to maintain the security and integrity of their takiwā.

The mauri of Kahurangi represents the essence that binds the physical and spiritual elements of all things together, generating and upholding all life. All elements of the natural environment possess a life force, and all forms of life are related. Mauri is a critical element of the spiritual relationship of Ngāi Tahu Whānui with Kahurangi.

## Tōpuni for Ōtūkorō Iti

### Description of area

The area over which the Tōpuni is created is the area known as Ōtūkorō Iti, located in Kahurangi National Park, as shown on Allocation Plan MS 488 (SO 15489).

### Preamble

Under section 239 (clause 12.5.3 of the deed of settlement), the Crown acknowledges Te Rūnanga o Ngāi Tahu's statement of Ngāi Tahu's cultural, spiritual, historic, and traditional values relating to Ōtūkorō Iti, as set out below.

### Ngāi Tahu values relating to Ōtūkorō Iti

The name Ōtūkorō Iti relates to a battle between Ngāti Rarua (a hapū of Ngāti Toa—one of Ngāi Tahu's northern neighbours) and Ngāi Tahu which took place in this area in the 1820s. It is said that the fighting began at sunrise on the fifth day of the month and ended only when the moon (referred to as a "koro" or "old man") rose. In the Ngāi Tahu account, Ngāti Rarua were the attackers, but after Ngāi Tahu held their own during battle, it was the northerners who retreated.

For Ngāi Tahu, histories such as this reinforce tribal identity and solidarity, and continuity between generations, and document the events which shaped the environment of Te Wai Pounamu and Ngāi Tahu as an iwi.

As a result of the loss of life and blood spilt here during the battle, and the significance of the Ngāi Tahu victory, Ōtūkorō Iti is now regarded as a wāhi tapu. Such places hold the memories, traditions, victories and defeats of our tūpuna (ancestors).

Ōtūkorō Iti was an important kainga nohoanga (permanent settlement), the northern-most of Ngāi Tahu's traditional settlements on Te Tai Poutini (the West Coast of the South Island). It was also the closest traditional settlement to the tribal boundary point of Kahurangi. As such, it is a symbol of Ngāi Tahu's manawhenua (tribal authority) in this area.

Ōtūkorō Iti was one of very few safe landing sites on the coast of Te Tai Poutini for long distances to the south and north. Strategically, it was an important headland to maintain control over, and important tauraka waka (landing place) for travellers by sea, and represents the intimate knowledge which the tūpuna had of navigation, sea routes, safe harbours and landing places, and the locations of food and other resources on the coast and land. Ōtūkorō Iti was thus an integral part of a network of trails which were used in order to ensure the safest journey and incorporated locations along the way that were identified for activities including camping overnight and gathering kai. Knowledge of these trails continues to be held by whānau and hapū and is regarded as a taonga. The traditional mobile lifestyle of the people led to their dependence on the resources of the land.

The mauri of Ōtūkorō Iti represents the essence that binds the physical and spiritual elements of all things together, generating and upholding all life. All elements of the natural environment possess a life force, and all forms of life are related. Mauri is a critical element of the spiritual relationship of Ngāi Tahu Whānui with the land.

### Tōpuni for Tititea (Mount Aspiring)

#### Description of area

The area over which the Tōpuni is created is the area known as Tititea (Mount Aspiring) as shown on Allocation Plan MS 2 (SO 24665).

#### Preamble

Under section 239 (clause 12.5.3 of the deed of settlement), the Crown acknowledges Te Rūnanga o Ngāi Tahu's statement of Ngāi Tahu's cultural, spiritual, historic, and traditional values relating to Tititea, as set out below.

#### Ngāi Tahu values relating to Tititea (Mount Aspiring)

As with all principal maunga (mountains), Tititea is imbued with the spiritual elements of Raki and Papa, in tradition and practice regarded as an important link to the primeval parents. Tititea is a prominent and majestic peak, clearly visible from a number of vantage points in the south, and its role in Ngāi Tahu's creation stories gives rise to its tapu status. From the heights above Te Ana-au (Lake Te Anau), it is a particularly impressive sight when the sun is setting.

The most common Ngāi Tahu name for the mountain known to Pākehā as Mount Aspiring is Tititea, referring to the mountain's white peak. It is not unusual, however, for places and physical features to have more than one name, reflecting the traditions of the successive iwi who peopled the land. Other names for the mountain include "Mākahi Tā Rakiwhānoa" (referring to a wedge belonging to Tū Te Rakiwhānoa) and "Ōtapahu", which may refer to a type of dogskin cloak.

The Bonar Glacier is known as Hukairoroa Tā Parekiore (which refers to the long, hard glacial ice and crevasses formed by Parekiore). Parekiore was a giant who used to stalk up and down the South and North Islands taking tītī (muttonbirds) northwards and returning with kūmara. The lakes represent his footprints and the frozen splashes from his footsteps in the south were transformed into glaciers.

For Ngāi Tahu, traditions such as this represent the links between the cosmological world of the gods and present generations, these histories reinforce tribal identity and solidarity, and continuity between generations, and document the events which shaped the environment of Te Wai Pounamu and Ngāi Tahu as an iwi.

The area was an integral part of a network of trails which were used in order to ensure the safest journey and incorporated locations along the way that were identified for activities including camping overnight and gathering kai. Knowledge of these trails continues to be held by whānau and hapū and is regarded as a taonga. The traditional mobile lifestyle of the people led to their dependence on the resources of the land.

The mauri of Tititea represents the essence that binds the physical and spiritual elements of all things together, generating and upholding all life. All elements of the natural environment possess a life force, and all forms of life are related. Mauri is a critical element of the spiritual relationship of Ngāi Tahu Whānui with the area.

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Introduction and General Provisions - Te Wāhanga 1 - Te Whakataki me Ngā Kōrero Whānui

### Appendix Six: Nohoanga Entitlements

#### Te Āpitianga Tuaono: Ngā Āheinga Nohoanga

Nohoanga entitlements located in the West Coast/ Te Tai o Poutini are in the following locations:

Waterbody	Site	Legal Description/Allocation Plan
<u>Pororari River</u>	<u>Pororari River</u>	<u>1 hectare, approximately, being Part Seabed. Subject to survey, as shown on Allocation Plan MN 185 (SO 15491)</u>

