

TAI POUTINI PLAN COMMITTEE

Hearing of Submissions on the Proposed Te Tai O Poutini Plan

Recommendation Report of Hearing Panel

Recommendation Report

Subdivision - Te Wawaetanga

Financial Contributions - Ngā Rourou Pūtea

Public Access - Te Āheinga Tūmatanui

Hearing Dates: 16 and 17 April 2024

HEARING PANEL

Dean Chrystal (Chair)

Sharon McGarry

Anton Becker

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

CONTENTS

PART A – INTRODUCTORY MATTERS	3
1. Preliminary Matters	3
1.1. Introduction	3
1.2. Terminology in this Report	5
1.3. Hearing Arrangements	7
1.4. Appearances	7
1.5. Overview of submitter evidence received	7
1.6. Overview of information exchanged following the hearing	8
1.7. Procedural Steps and Issues	9
1.8. Site Visits	9
PART B - STATUTORY REQUIREMENTS AND DOCUMENTS	9
PART C – SUBMISSIONS, EVIDENCE, EVALUATION AND RECOMMENDATIONS	11
2. Subdivision	11
2.1. SUB General/Whole Chapter	11
2.2. Subdivision Overview	12
2.3. Subdivision Objectives	14
2.4. Subdivision Policies	23
2.5. Subdivision – Rules	47
2.6. Subdivision – Standards	98
3. Financial Contributions	119
3.1. FC General/Whole Chapter	119
3.2. FC Overview	125
3.3. Financial Contributions Objectives	127
3.4. Financial Contributions Policies	129
3.5. Financial Contribution Rules	137
4. Public Access	164
4.1. PA General/Whole Chapter	164
4.2. PA Overview	165
4.3. PA Objectives & Policies	169

APPENDICES

Appendix 1 – Recommendations

PART A – INTRODUCTORY MATTERS

1. PRELIMINARY MATTERS

1.1. Introduction

1. Matters to do with our appointment and other preliminary matters applicable to all Hearing Panel’s recommendations on the Proposed Te Tai o Poutini Plan (**pTTPP** or ‘the Plan’) are recorded and addressed in General Matters and Introduction Recommendation Report.
2. This Recommendation Report relates to three chapters from two separate sections of the pTTPP. The first two are the Subdivisions (**SUB**) - Te Wawaetanga and Financial Contributions (**FC**) - Ngā Rourou Pūtea Chapters which are contained in the Subdivision Section. The second is the Public Access (**PA**)- Te Āheinga Tūmatanui Chapter which is contained in the Natural Environment Values – Ngā Uara Taiao Aotūroa section. The Report contains the Hearing Panel’s evaluations and recommendations to the TTPP Committee on the submissions and further submissions received on these sections of Part 2 of the Plan.
3. The Subdivision and Financial Contributions Section 32 Report¹ provides separate evaluation of the options for the management of both Subdivision and Financial Contributions through the Plan, including the regulatory framework key resource management issues, the evidence and research basis, including the consultation, information and analysis undertaken and evaluation of the options.
4. The Section 32 Report² on Public Access provided an evaluation of the options for the management of access to, and alongside waterbodies and the coastal marine area through the Plan, including the regulatory framework, key resource management issues, the evidence base (research, consultation, information and analysis undertaken) and evaluation of the options. The Report notes that the role that the pTTPP has under s31 of the RMA in terms of public access is relatively restricted. The adopted option is for a sole objective that provides the policy direction for other chapters of the pTTPP to maintain and enhance public access. There are no policies or rules in the proposed Public Access Chapter.
5. The Section 42A Officer’s Report³ (‘s42A Report’), authored by Ms Briar Belgrave and Ms Ruth Evans, planners with Barker & Associates acting as the Reporting Officers, was circulated prior to the hearing. The s42A Report provided an analysis of submissions and further submissions received; and made recommendations on changes to the notified plan provisions (the changes were included in Appendix 1 and the recommendation on all submissions as to either accepted, accepted in part or rejected in Appendix 2). The s42A Report included a Memorandum from Mr Mat Collins, Associate Transportation Engineer at Abley’s (dated 7 February 2024), which addressed submissions received on Rule FC-R4 Full Cost Financial Contribution for Roads.

¹ Te Tai o Poutini Plan – Section 32 Evaluation Report Six Subdivision - Te Wawaetanga Financial Contributions - Ngā Rourou Pūtea

² Te Tai o Poutini Plan – Section 32 Evaluation Report Ten Open Space and Recreation Zones Ngā Mokowā Pōaha me ngā Takiwā Hākinakina and Public Access Te Āheinga Tūmatanui

³ Subdivision, Financial Contributions and Public Access

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

6. Ms Evans subsequently provided an Addendum s42A Report⁴ which responded to key matters raised by submitters in evidence filed before the hearing. She also included a revised Appendix 1 and Appendix 2.
7. The s42A Report assessed a total of 933 submissions points and 17 further submissions points across the three chapters (SUB, FC and PA). It was divided into three parts based on the three chapters and provided summaries of 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).
8. The matters raised by submitters were grouped in the s42A Report in relation to each of the following key issues for each of the three chapters:
 - a) General;
 - b) Overview;
 - c) Objectives;
 - d) Policies; (excluding PA);
 - e) Rules (excluding PA); and
 - f) Standards (Sub only).
9. A s32AA Evaluation for the changes in each chapter was provided at the end of the s42A Report.
10. This Recommendation Report follows this 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 and addendum analysis and recommendations, submitter evidence and statements and the Reporting Officer's reply evidence, before providing our evaluation and recommendation.
11. 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 ~~strikethrough~~ 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.
12. 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 or a specific reasoning by the Panel.
13. Where the Panel recommends the TTPP provisions should remain as notified, it is because:

⁴ Addendum to Section 42A Report on Subdivision, Financial Contributions and Public Access

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

- (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.
14. Where there is a recommended change to a notified provision of the TTPP, it is because:
- (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 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).
15. Where there may be a different recommendation between the s42A Report and the Reporting Officer's Addendum or 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's reasoning and recommendations, the reasoning and recommendations in the (later) reply to evidence has been adopted and it must be taken to prevail.
16. If there are circumstances where the Panel consider that alternative relief is more appropriate than that requested in submissions and further submission 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.
17. If any changes are recommended to the provisions (since the Section 32A Report was completed) a further evaluation, if required, pursuant to section 32AA of the RMA has been undertaken. Any such circumstances are referred to in this Recommendation Report in sufficient detail to demonstrate a further evaluation was undertaken.
18. 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. In 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.

1.2. Terminology in this Report

19. Throughout this Report, the following abbreviations will be used:

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

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 NZ Inc
Fish & Game	West Coast Fish and Game Council
GDC	Grey District Council
Hort NZ	Horticulture New Zealand
KiwiRail	KiwiRail Holdings Limited
Manawa	Manawa Energy Limited
MINZ	Mineral Extraction Zone
MOE	Ministry of Education Te Tāhuhu o Te Mātauranga
NOSZ	Natural Open Space Zone
NPSHPL	National Policy Statement for Highly Productive Land
NPSIB	National Policy Statement for Indigenous Biodiversity
Poutini Ngāi Tahu	Te Rūnanga o Ngāi Tahu, Te Runanga o Ngāti Waewae, Te Rūnanga o Makaawhio
Planning Standards	National Planning Standards
RMA or the Act	Resource Management Act 1991
WCRPS	West Coast Regional Policy Statement
RLZ	Rural Lifestyle Zone
SASM	Sites and Areas of Significance to Māori
SNA	Significant Natural Area
Te Mana Ora	Te Mana Ora (Community and Public Health) of the NPHS/ Te Whatu Ora
Transpower	Transpower New Zealand Limited
Waka Kotahi NZTA	NZ Transport Agency Waka Kotahi

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

1.3. Hearing Arrangements

20. The hearing was held at the West Coast Regional Council Building on the 16 and 17 of April 2024. Some submitters appeared remotely by internet connection.
21. At the hearing, Ms Evans tabled a Planning Summary Statement to her s42A Report and Addendum Report.

1.4. Appearances

22. The following submitters appeared at the hearing:

Ms Frida Inta for herself and on behalf of the Buller Conservation Group

West Coast Fish & Game Council

- Mr Dean van Mierlo, Counsel
- Mr Dean Kelly, Manager

Spark Trading NZ Ltd, Chorus NZ Ltd, One NZ Group Ltd & Forty South

- Mr Graeme McCarrison, Engagement & Planning Manager
- Mr Colin Clune, Resource Management Planning Advisor and
- Mr Andrew Kantor, Environmental Planning and Engagement Manager

Westpower Limited

- Mr Roger Griffiths, General Manager, Generation and Technology with Westpower
- Mr Martin Kennedy, Planner

Davis Ogilvie & Partners, Ball Developments and Chris J Coll Surveying

- Mr Geoff Ball
- Ms Pauline Hadfield, Planner

Mr Martin Kennedy for himself

Herenga ā Nuku Aotearoa, the Outdoor Access Commission - Ms Inger Perkins

Mr Frank O'Toole - (Jennian Homes franchise owner) and Ms Anna Bensemman, Planner

Federated Farmers West Coast

- Mr James Sutherland
- Mr Bede O'Connor

Director General of Conservation – Ms Amy Young, Planner

Manawa Energy Limited – Ms Stephanie Styles, Planner

1.5. Overview of submitter evidence received

23. For those appearing at the hearing legal submissions were received from Mr Dean van Mierlo for Fish & Game (dated 2 April 2024).
24. For those appearing at the hearing the following evidence and/or statements were received:

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

- (a) Ms Anna Bensemman, planner for Mr O’Toole a franchise owner for the West Coast Jeninan Homes (dated 15 March 2024);
 - (b) Mr Martin Kennedy, planner for Westpower Limited (dated 16 April 2024);
 - (c) Mr Dean Kelly, Manager on behalf of Fish & Game (dated 14 March 2024);
 - (d) Ms Amy Young on behalf of the Director General of Conservation (dated 15 March 2024);
 - (e) Mr Graeme McCarrison, Engagement & Planning Manager, Mr Colin Clune, Resource Management Planning Advisor and Mr Andrew Kantor, Environmental Planning and Engagement Manager on behalf of Spark Trading NZ Ltd, Chorus NZ Ltd, One NZ Group Ltd & Forty South (dated 15 March 2024);
 - (f) Ms Frida Inta on behalf of Buller Conservation Group and herself (dated 14 April 2024);
 - (g) Ms Inger Perkins Regional Field Advisor, on behalf of Herenga ā Nuku Aotearoa, the Outdoor Access Commission (dated 17 April 2024);
 - (h) Mr James Sutherland and Mr Bede O’Connor, on behalf of Federated Farmers for the West Coast (dated 15 March 2024); and
 - (i) Ms Pauline Hadfield on behalf of Davis Ogilvie & Partners, Ball Developments and Chris J Coll Surveying (dated 15 March 2024).
25. The following evidence/statements were tabled without hearing appearances:
- (a) Statement of evidence by Ms Pauline Whitney, planner for Transpower New Zealand Limited (date 14 March 2024), followed by an Addendum (dated 12 April 2024);
 - (b) Manawa Energy filed a statement of planning evidence by Ms Stephanie Styles (date 13 March 2024);
 - (c) Silver Fern Farms Limited advised⁵ that it accepted the s42A recommendations of the Reporting Planner on its submissions and that it would not be filing evidence or appearing at the hearing in relation to this hearing topic;
 - (d) Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu (‘Ngāi Tahu’) - Ms Philippa Lynch, General Manager for Poutini Environmental;
 - (e) KiwiRail letter from Ms Michelle Grinlinton-Hancock (dated 15 March 2024); and
 - (f) Ministry of Education letter from Mr Daly Williams, planning consultant (dated 28 March 2024).

1.6. Overview of information exchanged following the hearing

26. Following the hearing the Panel issued Minute 23 seeking:

⁵ Letter from Steve Tuck, Consultant Planner dated 6 March 2024

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

- (a) Clarification from Ms Young regarding her position in terms of the activity status sought by the Director General for Rule SUB-R11 and Public Access chapter and the relief being sought; and
 - (b) Clarification from Ms Aitken representing Poutini Ngāi Tahu as to the wording amendments requested to meet the relief sought to exclude seven listed SASM sites. We indicated it would be helpful if this could be provided within the context of the recommended wording of the rule.
27. The subsequent information was received as follows:
- (a) A response from Mr Matt Pemberton on behalf of the Director General indicating that the amended restricted discretionary SUB-R11 rule as recommended by the s42A Report writer was preferred and confirming that the Director General's submission (S602.099) on the Public Access Chapter had been withdrawn.
 - (b) A response from Ms Aitken on behalf of Poutini Ngāi Tahu providing wording in relation to SUB-R5 and noting that SASM 59 and SASM 62 are partially within the Rural Zone and therefore subject to SUB-R6 meaning that there may be situations where engagement with Poutini Ngāi Tahu experts will be required for subdivision on those sites.
28. Reference to Health and Safety advice for farmers was provided by Ms Perkins post the hearing on the 17 April 2024.
29. Ms Evans provided a written Right of Reply (dated 26 July 2024) that included an updated Appendix 1 showing tracked changes to the notified provisions.

1.7. Procedural Steps and Issues

30. No procedural matters were raised at the hearing.

1.8. Site Visits

31. No specific site visits relating to these chapters were undertaken.

PART B - STATUTORY REQUIREMENTS AND DOCUMENTS

32. Subdivisions (**SUB**) and Financial Contributions (**FC**) Chapters are contained in the Subdivision Section of Part 2 – District-Wide Matters – Te Wāhanga 2 – Ngā Kaupapa ā-Rohe Whānui. The Public Access Chapter is also located in the District-Wide Matters Section under Natural Environment Values Section.
33. The Section 32 Report outlined the relevant statutory considerations applicable to Subdivision, Financial Contributions and Public Access and the relationships between the sections of the RMA and higher order documents. These are summarised below.
34. The section 42A Report highlighted the relevant section 6, 7 and 8 matters of the RMA at paragraphs 36-39. The matters under sections 6 and 7 are particularly relevant when considering the subdivision of land to facilitate use and development, which create environmental effects under the SUB chapter, the provision of financial contributions to offset

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

or compensate environmental effects, and the provision of public access to and along the coast, lakes and rivers.

35. RMA section 8 requires the Councils to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). As noted in the section 42A Report, the section 8 principle of most relevance to these topics is the duty to make informed decisions through consultation. The Panel understands that Poutini Ngāi Tahu though the Rūnanga kaiwhakahaere have been involved in the governance and development of pTTPP and their planners have collaborated in the development of provisions. Alongside this, Poutini Ngāi Tahu been consulted as part of the review process and the obligation to make informed decisions based on that consultation is noted.
36. The NZCPS seeks to protect and enhance the coastal environment, including safeguarding the integrity, form, functioning and resilience of the coastal environment, preserving the natural character and protecting natural features and landscapes values of the coastal environment, to maintain and enhance public open space qualities and recreation opportunities of the coastal environment, and managing coastal hazard risks. Objectives 3 and 6 and Policies 4, 7, 13, 15, 17, 19, 22 and 25 are of particular relevance to subdivision, addressing the coastal hazard risk, and areas where subdivision would be inappropriate while enable subdivision in appropriate locations. Policies 18 and 19 are relevant to the public access and seeks to recognise the need for public open space within and adjacent to the coastal marine area, for public use and appreciation.
37. The NPS-HPL seeks to protect and ensure the availability of New Zealand's high-class soils for primary production now and for future generations. The NPS-HPL provides a stringent protection regime and seeks to direct new housing development away from highly productive land where possible and prevent inappropriate subdivision, use and development occur on our highest-class soils. The NPS-HPL is of particular relevance to subdivision within the Rural Zones.
38. The NPS-IB provides direction to councils to protect, maintain and restore indigenous biodiversity requiring at least no further reduction nationally. The NPS-IB sets out the effects management hierarchy and is of relevance to the consideration of offset and compensation of adverse residual effects on indigenous biodiversity, which is provided for under the SUB and FC chapters.
39. The WCRPS contains various provisions both to enable, and address the effects of, subdivision throughout its chapters for which the pTTPP must give effect to. The WCRPS also contains a specific provision on public access within the Resilient and Sustainable Communities Chapter (Policy 4) which is aimed at maintaining and enhancing public access to and along the coastal marine area.
40. 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 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 understand this has been implemented in preparing the pTTPP.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

41. The National Planning Standards require (Clause 22) that if provisions to maintain and enhance public access to and along the coastal marine area, lakes, and rivers are addressed they must be located in a Public Access Chapter under the Natural Environment Values heading. Clause 24 requires that subdivision provisions must be located in one or more chapters under the subdivision heading, and the chapter must include cross references to any relevant provisions under the Energy, Infrastructure and Transport heading. The Panel is satisfied the Plan structure is consistent with these national directions.
42. Clause 10 of the First Schedule of the RMA 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 recommendation.
43. Section 32AA of the RMA requires a further evaluation to be undertaken if any amendment have 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 did undertake a section 32AA evaluation of the specific amendments to some of the SUB and FC provisions where the amendments were more substantial.

PART C – SUBMISSIONS, EVIDENCE, EVALUATION AND RECOMMENDATIONS

2. SUBDIVISION

2.1. SUB General/Whole Chapter

Submissions and Further Submissions

44. Thirteen submissions points and two further submission points relating to general matters or the whole SUB Chapter were summarised in a Table on pages 16-17 of the s42A Report. The Panel has considered the relevant submissions and further submissions received and adopts the summaries in the s42A Report.
45. In addition to these specific submission and further submission points, the Panel has considered the implications of making Plan-wide changes for consistency to replace the use of '*critical infrastructure*' with '*regionally significant infrastructure*' within the context of the SUB Chapter.

Section 42A Report

46. Ms Belgrave and Ms Evans (the Reporting Officers) acknowledged the general support from several submitters to either retain the SUB Chapter as notified or not to seek any specific relief. The acknowledgement was subject to recommended amendments that arose from other submissions in subsequent sections.
47. Four submission points sought to amend the definition of '*boundary adjustment*'. The Reporting Officers did not support the change given the definition was taken from the Planning Standards.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

48. One submitter sought to enable the development of tiny houses. The Reporting Officers did not consider any specific relief was necessary as the land use activity is regulated by the underlying zone provisions.
49. Forest and Bird sought amendments to ensure that waterbodies and their margins were protected during the subdivision process and that NC-O1 and NC-P1 were met. The Reporting Officers recommend amendments to address this.
50. The relief sought by Transpower for the inclusion of a new rule where subdivision within the National Grid Subdivision Corridor would be a non-complying activity was not initially supported by the Reporting Officers because they considered that the relief was provided by SUB-R8. However, this position was revised in the s42A Addendum report prepared by Ms Evans.

Hearing and Submitter Evidence/Statements

51. Ms Hadfield for Davis Ogilvie & Partners *et. al.*⁶ agreed with the Reporting Officers that the definition of boundary adjustment must be consistent with the Planning Standards.
52. Ms Whitney's evidence for Transpower reiterated the relief sought in the submission to amend terminology to the '*National Grid Subdivision Corridor*' rather than the undefined term in the Plan '*Electricity Transmission and Distribution Yard*'.

Reporting Officer Reply Evidence

53. Ms Evans supported amending '*critical infrastructure*' to '*regionally significant infrastructure*' on the basis the new term is consistent with the WCRPS. She acknowledged this matter related to other topic hearings and that any decision in terms of the General District Wide Matters provisions would need to align with the decisions made on other topics.

Hearing Panel's Evaluation

54. The Hearing Panel accepts that no amendments to the Plan are necessary in relation to the submissions on the general matters or the whole Chapter, noting that Transpower's on SUB-R8 is dealt with later in the recommendations.

Hearing Panel's Recommendation

55. No changes to the provisions are required in relation to issues raised in submissions and further submission made on general matters or the whole SUB Chapter.
56. The Panel notes, however, that as set out in the Energy, Infrastructure and Transport Recommendation Report the definition of '*critical infrastructure*' has been recommended to be replaced with '*Regionally Significant Infrastructure*', which effectively mirrors the WCRPS with minor changes. All recommendations in this Report adopt the recommendations on this issue set out in the Energy, Infrastructure and Transport Recommendation Report.

2.2. Subdivision Overview

⁶ Davis Ogilvie & Partners Limited, Ball Developments Limited, and Chris J Coll Surveying Limited

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

Submissions and Further Submissions

57. Four submissions points relating to the Overview were summarised in a Table on page 18 of the s42A Report. The Panel adopts the summaries in the s42A Report and has considered the relevant submissions.
58. All submission points sought amendments to include additional wording and cross-referencing in the Overview.

Section 42A Report

59. The Reporting Officers considered the requested additional wording and cross-referencing in the text of the SUB Chapter Overview and did not consider the changes were necessary. Their recommendation was to retain the text as notified, provided that the recommended amendments to SUB-S2 were made to include an appropriate link to the NC Chapter rules.

Hearing and Submitter Evidence/Statements

60. Mr Kennedy's evidence for Westpower Limited reiterated the submission point to seek the following inclusion of additional wording into the first paragraph of the Overview:

- *Subdivision is the process of ... but it also impacts on adjacent sites and the future use of land, **including energy activities and infrastructure and the provision of services.** Subdivision affects the natural ...*

61. Forest & Bird sought the inclusion of cross-references to the relevant Overlay Chapters of the Plan. They also sought amendments to avoid effects on waterbodies and their margins.

Reporting Officer Reply Evidence

62. Ms Evans recommended a minor amendment to the text of the Overview to include a reference to the provision of infrastructure services.
63. Minor amendments were also recommended to how the various overlays were referred to align with RMA terminology. Furthermore, additional wording was recommended to recognise that some features, sites and areas may not be identified by the pTTPP, but rather through a resource consent process.
64. Ms Evans recommended that the word '*significant*' be removed from the third paragraph of the Overview in relation to natural hazards. Additional text was also recommended to reiterate that the subdivision provisions were to be read in conjunction with other district-wide provisions.

Hearing Panel's Evaluation

65. The Panel agrees that the additional wording to the Overview proposed by Westpower is unnecessary and see no reason to specifically single out energy activities and infrastructure. However, we accept that including reference to the provision of infrastructure services is appropriate given that this is provided for in the chapter provisions. We consider this will go some way towards addressing Westpower's concerns.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

66. The Panel also agrees with the various minor amendments recommended by Ms Evans to provide for cross-referencing and better alignment with RMA terminology and the wording of objectives, policies and rules in the Subdivision Chapter, along with the removal of the word '*significant*' in relation to natural hazards. We consider these amendments address the submission points raised by Forest and Bird.

Hearing Panel's Recommendation

67. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that relevant submissions identified in the footnotes below are accepted or accepted in part, and that changes are made to the **Subdivision Overview** as follows:

Overview

Subdivision is the process of dividing an allotment of land or building into one or more additional lots or units or changing an existing boundary location. The way an allotment is subdivided, including its size and shape, is important as it not only determines the quality and character of development, but it also impacts on adjacent sites and the future use of land. Subdivision affects the natural and physical environment and introduces long-term development patterns that cannot be easily changed. **Subdivision should include the provision of infrastructure services.**⁷ Subdivision should also provide for good connectivity and integration which incorporates multi-modal transport opportunities.

Subdivision will be assessed against Te Tai o Poutini Plan objectives, policies, rules and standards and any relevant development plans.

Additional provisions apply for subdivision of land that contains an identified outstanding natural feature, an outstanding natural landscape, an area of significant indigenous biodiversity, a site or area of historic heritage, an area of high natural character, a site or area of significance to Māori, cultural, historical or ecological significance, or where there are significant natural hazards will be subject to additional provisions - and assessment against the objectives and policies in the relevant Overlay chapter concerning the feature, site or area. Subdivision applications involving these identified features, sites or areas may need to be accompanied by expert reports to assess the effect of the subdivision on the identified feature, site or area. These sites, areas and features include those identified in schedules and overlays, and may also include those identified through other methods, for example the resource consent process.⁸

The provisions in this chapter should be read in conjunction with district-wide provisions, including hazards and risks and natural environment values.⁹

Māori land is exempt from the subdivision provisions of the Act. It is primarily controlled by the Te Ture Whenua Māori Act 1993 and administered by the Māori Land Court.

2.3. Subdivision Objectives

Submissions and Further Submissions

⁷ Westpower Limited S547.342

⁸ Royal Forest and Bird Protection Society of New Zealand Inc S560.264

⁹ Royal Forest and Bird Protection Society of New Zealand Inc S560.521

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

68. Four submissions points and one further submission point relating to the Subdivision objectives (as a whole) were summarised in a Table on page 19 of the s42A Report. Three submission points sought to retain the six objectives as notified.¹⁰ The fourth submission by Forest & Bird sought amendments to ensure the protection of wetlands. The further submission was received on this point, and it sought to disallow the amendments sought.
69. Eight submission points relating to **SUB-O1** were summarised in a Table on page 20 of the s42A Report. Six submissions supported the retention of the objective as notified and two sought amendments.
70. Seventeen submission points and four further submission points relating to **SUB-O2** were summarised in a Table on pages 21-23 of the s42A Report. Eight submissions supported the retention of the objective as notified and nine sought amendments. The Panel notes that submissions by Frank and Jo Dooley (S478.028), Frank O'Toole (S595.016) and Toka Tū Ake (EQC) (S612.086) on clause (f) have primarily been addressed in the Natural Hazards Chapter Recommendation Report.
71. Thirteen submission points and one further submission point relating to **SUB-O3** were summarised in a Table on pages 24-25 of the s42A Report. Seven submissions supported the retention of the objective as notified and six sought amendments.
72. One submission point supporting **SUB-O4** was received, and it was summarised in a Table on page 27 of the s42A Report. The Panel also notes that Frida Inta and the Buller Conservation Group sought to add '*protects valuable horticulture land from urban sprawl*' into SUB-O4.
73. Nine submission points relating to **SUB-O5** were summarised in a Table on pages 27-28 of the s42A Report. Three submissions supported the retention of the objective as notified and six sought amendments.
74. Seven submission points were received relating to **SUB-O6** and they were summarised in a Table on pages 28-29 of the s42A Report. Five submissions supported the retention of the objective as notified and two sought amendments.
75. The Panel adopts these summaries and has considered the relevant submissions and further submissions.

Section 42A Report

Objectives (General)

76. In relation to the objectives (as a group), the Reporting Officers acknowledged the support from the submitters that sought to retain the objectives as notified. The acknowledgement was subject to recommended amendments that arose from other submissions on specific objectives.
77. With respect to the Forest & Bird submission, the s42A report recommended amendment to SUB-S2 to refer to 'District-wide' to address the concerns. Subject to these amendments, the

¹⁰ The Hearing Panel notes that the submission S442.068 by KiwiRail refers to SUB-O7(c). However, this appears to be an error as there is no SUB-O7. We assume the submission seeks to support SUB-P7(c).

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

Reporting Officers made no recommended changes to the objectives based on these submissions.

SUB - O1

78. The Reporting Officers acknowledged the support from the six submitters that seek to retain the objective as notified.
79. The Reporting Officers did not support the additional wording to SUB-O1 requested by Silver Fern Farms because they considered that the reverse sensitivity concerns were more appropriately addressed through zoning and zone provisions. Similarly, they did not support the amendment requested by David Ellerm because they considered the reference to the 'zone' was more specific than the 'environment'.
80. The Reporting Officers did not recommend any changes to this objective.

SUB – O2

81. The Reporting Officers acknowledged the support from the eight submitters that sought to retain the objective as notified, noting that amendments were recommended in response to other submissions.
82. In response to the submission made by Silver Fern Farms, the Reporting Officers supported the addition of 'industry' to clause (e) of SUB-O2. They also supported the addition of the words 'safe and efficient' to clause (b) in relation to the operation of critical infrastructure, as sought by KiwiRail.
83. In response to the submission made by the Ministry of Education (**MOE**), the Reporting Officers did not support the addition of a new clause to SUB-O2 to 'enable growth and development to be supported by educational facilities' because subdivision did not generate the need for schools. They noted that additionally, the designation process was available to MOE.
84. The Reporting Officers supported the submission made by Hort NZ to the extent that reference should be given to highly productive land to give effect to the NPS-HPL. Therefore, they recommended adding new clause (g).
85. In response to the submission points made by Westpower, the Reporting Officers did not support the addition of 'energy activities' to clauses (a) and (b), principally because the definitions of 'infrastructure', 'critical infrastructure' and 'regionally significant infrastructure' capture 'energy activities'.
86. In response to the submission points made by Buller Conservation Group and Frida Inta, the Reporting Officers did not support an additional clause relating to amenity values. They considered that SUB-O1 broadly covered amenity values and that such values would be different for each zone.
87. The Reporting Officers did not support the submission made by David Ellerm to add a further clause to the objective. They considered that the proposed wording had a narrow focus and that SUB-O1 broadly covered the qualities of each zone.
88. The s42A Report recommended amending SUB-O2 as follows:

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

SUB-O2

Subdivision occurs in locations and at a rate that

- a. *Is supported by the capacity of existing infrastructure networks, or provides for infrastructure facilities and networks that are sufficient to accommodate growth and development that meets the standards required by the Council and the Plan;*
- b. *Facilitates the **safe and efficient** operation of critical infrastructure;*
- c. *Enables access and connectivity;*
- d. *Provide for the health, wellbeing and safety of the West Coast/Te Tai o Poutini community;*
- e. *Provides for growth and expansion of West Coast/Te Tai o Poutini settlements, ~~and~~ businesses, **and industry**; ~~and~~*
- f. *Avoids significant natural hazards and are built to be resilient to natural hazards; **and***
- g. ***Protects highly productive land.***

SUB - O3

89. The Reporting Officers acknowledged the support from the seven submitters that sought to retain the objective as notified, noting that amendments were recommended in response to other submissions.
90. The Reporting Officers did not support the submission made by Hort NZ, to make an addition referencing highly productive land because of their recommendation to protect highly productive land in SUB-O2.
91. In response to the submission points made by Buller Conservation Group and Frida Inta, the Reporting Officers did not support the deletion of the word '*significant*'. Nor did they support additional wording to align with s6(a) and s7 of the RMA because this was only one of the many matters in these sections of the Act and they did not recommend that particular matters were 'cherry picked'.
92. In response to similar submissions made by David Ellerm and Poutini Ngāi Tahu that requested the inclusion of '*cultural values*' in the objective, the Reporting Officers recommended replacing '*features and resources*' with '*values*'. They noted that this was consistent with other wording throughout the pTTPP.
93. In response to the submission point made by the Director General, Ms Belgrave and Ms Evans supported it in part. They agreed that the addition of '*landscape*' should be part of the list of matters to be protected by the objective, on the basis of s6(b) of the Act. They did not agree that '*responds*' should be replaced with more specific language.
94. The s42A Report recommended amending SUB-O3 as follows:

*Subdivision design and development protects significant coastal, natural, ecological, **landscape**, historical and Poutini Ngāi Tahu **values**, ~~features and resources~~ and responds to the physical characteristics and constraints of the site and surrounding environment.*

SUB-O4

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

95. The submission received on this objective by Chorus, Spark and Vodafone sought to retain the objective as notified. Ms Belgrave and Ms Evans acknowledged this support and made no other comment.

SUB-O5

96. Ms Belgrave and Ms Evans acknowledged the support from the three submitters that sought to retain the objective as notified.
97. In response to the submission points made by Buller Conservation Group and Frida Inta, the s42A Report did not support the deletion of the words '*identified significant*'. This was because the objective was broader than this single point and there were other provisions in the pTTPP that set out the regime for identifying and protecting Significant Natural Areas (SNA).
98. In response to the final four submission points that all have requested that the objective be limited in scope to those matters set out in s229 of the RMA, (with the only additional inclusion being Poutini Ngāi Tahu values), the s42A Report did not support the suggested change. It noted that the objective was already consistent with the purpose of s229.
99. Ms Belgrave and Ms Evans did not recommend any changes to this objective.

SUB - O6

100. Ms Belgrave and Ms Evans acknowledged the support from the five submitters that sought to retain the objective as notified, noting that amendments were recommended in response to other submissions.
101. In response to the submission point made by Westpower, the s42A Report recommended that it be accepted in part. The submission requested the addition of '*created by the subdivision*' at the end of the objective to not limit the provision of open space on an *ad hoc* basis. Ms Belgrave and Ms Evans recommended that the words '*and appropriate*' were added.
102. In response to the submission point made by David Ellerm, Ms Belgrave and Ms Evans did not support the requested addition of the words '*in all zones*'. This was because the provision of open space may not always be necessary or appropriate in some zones, i.e. Airport Zone.
103. The s42A Report recommended amending SUB-O6 as follows:

*Where subdivision occurs, sufficient **and appropriate** provision is made for the additional community need for open space.*

Hearing and Submitter Evidence/Statements

104. No evidence was presented at the hearing in relation to the submission points on the objectives generally, SUB-O1 or SUB-O4.
105. Mr Kennedy's evidence for Westpower accepted the amendments to SUB-O2, provided '*critical infrastructure*' was amended to '*regionally significant infrastructure*', and the words '*safe and efficient*' were added to clause (b).

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

106. Ms Frida Inta presented a statement at the hearing on behalf of herself and the Buller Conservation Group. She reiterated the request for the inclusion of an additional clause to protect and enhance amenity values in SUB-O2; and to for additional wording in SUB-O3 and the removal of the word '*significant*' on the basis that all areas require protection not only those identified as being significant. She also sought the removal of the words '*identified significant*' from SUB-O5, for similar reasons as set out in relation to SUB-O3. She highlighted the NPSIB required the management of significant adverse effects on indigenous biodiversity by applying the effects management hierarchy.
107. Ms Young's evidence for the Director General accepted the s42A Report recommendation to amend SUB-O3 to add '*landscape*' as a matter for protection. She also agreed with the reasoning for the phrase '*is of a scale, density and design that is compatible with*' not being incorporated in the objective as requested because it was more appropriate for a policy.
108. The letter from the MOE reiterated the need to ensure the district had well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural well-being. While recognising clause (d) could implicitly provide for the consideration of the need for educational facilities through 'well-being', the Ministry remained of the view that a new clause '*Considers the need for growth and development to be supported by educational facilities*' was needed.
109. Mr Kennedy's evidence for Westpower noted that the submission on SUB-O6 was only in relation to subdivisions for infrastructure/network utility purposes, while the objective related to all subdivision. He had reservations about the word '*appropriate*' and therefore set out two alternatives for the wording of the objective.

Reporting Officer Reply Evidence

110. No specific points were made in the Right of Reply regarding the objectives generally, SUB-O1 or SUB-O4.
111. In relation to SUB-O2, Ms Evans recommended a minor amendment to the new clause (g) linking it to the NPS-HPL.
112. In the 'Recommended Provisions' attached to the Right of Reply, Ms Evans included an additional clause to SUB-O2 – '*maintains and enhances amenity values*'. This reflected (but not entirely as requested) the submission points made by Frida Inta and Buller Conservation Group.¹¹ Amendments were also proposed to clause (f) of SUB-O2 for clarity, and it was noted that this would also be considered as part of the Natural Hazard Chapter hearing.
113. In relation to SUB-O3, Ms Evans acknowledged the Panel's concern regarding the choice of language and the references to the overlays. To improve clarity, she recommended splitting the objective into two sub-parts.
114. Ms Evans also acknowledged the discussion during the hearing as to whether SUB-O3 was giving effect to higher order policy. She did not consider there were submission points made on the subdivision provisions to provide scope to amend the objective to enable a more nuanced direction. Nevertheless, she said that if the Panel were to find scope to make amendments via a broad submission allocated to another topic, she would recommend the

¹¹ Frida Inta (S553.105), Buller Conservation Group (S552.105)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

addition of another clause in SUB-O3 – *‘avoids, remedies or mitigates adverse effects on other values’*.

115. In relation to SUB-O5, Ms Evans recommended minor amendments to improve clarity of language and to align with s229 of the RMA.
116. In relation to SUB-O6, Ms Evans considered the discussion at the hearing and the evidence of Mr Kennedy regarding the word *‘appropriate’*. She recommended amended wording of the objective to acknowledge that not every subdivision may in itself generate a need for open space.

Hearing Panel’s Evaluation

SUB – O1

117. The Panel agrees with the Reporting officers reasoning in relation to reserve sensitivity and the term *‘zone’* and accept that no amendments to SUB-O1 are necessary. We recommend the objective is retained as notified.

SUB – O2

118. The Panel notes the s42A Report summary did not pick up all of the requested wording from Westpower submission point S547.344 relating to clause (b) and did not address the addition of the words *‘maintains and provides for, and did not adversely impact’*. However, we note Mr Kennedy accepted that provided the reference in clause (b) is amended to refer to *‘regionally significant infrastructure’* rather than *‘critical infrastructure’* he would accept the recommendation. As referred to earlier in this Report, this change has been recommended. The Panel also agrees with the inclusion of the words *‘safe and efficient’* to clause (b); and as a consequential amendment stemming from the Te Mana Ora submission on SUB – P1, the addition of *‘effective’*.
119. The Panel has considered whether the additional of the word *‘industry’* as sought by Silver Fern Farms and supported by the Reporting Officers in subclause (e) is necessary. We note that the Plan appears to interchange the words *‘business’* and *‘industry’* and we have therefore concluded that introducing *‘industry’* is appropriate.
120. The Panel notes that Ms Evans has recommended changes to clause (f) to introduce the terms *‘risk’* and has reworded the end of the clause. The introduction of *‘risk’* has been sought by a Toka Tū Ake (EQC) submission which was addressed in the Natural Hazards Chapter hearing. Nevertheless, we consider it is open to us to also give consideration the submission given it is on subdivision, and we agree that it is the avoidance of the significant risk from natural hazards that the clause should address rather than the avoiding significant natural hazards which is simply not obtainable. We also agree with Ms Evans consequential rewording of the end of the clause, which as notified makes little sense, as it seems to be missing some words.
121. The Panel agrees that the reference to highly productive land as sought by Hort NZ is appropriate within the context on this objective and gives effect to the NPS-HPL. We therefore accept a new clause (g) should be added. We note that Federated Farmers, who had sought a similar outcome for SUB-P1, support this amendment.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

122. The Panel also agrees with the revised position of Ms Evans to include a new clause (h) addressing the maintenance and enhancement of amenity values, which partially addresses the submission of Ms Inta and Buller Conservation Group.

123. The Panel agrees with the Reporting Officers conclusions with regards to rejecting the MOE submission and that of David Ellerm.

SUB – O3

124. The Panel questioned Ms Evans with regards the language in SUB-O3, which did not reflect the relevant wording in the RMA. Ms Evans acknowledged this in her Right of Reply and recommended improvements to address the situation. She also recommended splitting the objective into two subclauses to improve clarity. The Panel agrees with this approach and notes that clause (a) focusses on protecting the RMA s6 matters, while clause (b) focusses on the physical characteristics of the site and surrounding environment. We note that these changes go some way to addressing the submission points raised by the Director General, Poutini Ngāi Tahu and David Ellerm.

125. The Panel agrees with the conclusions of the Reporting Officers in relation to the submissions by Frida Inta, Buller Conservation Group, and Hort NZ.

126. In her Right of Reply, Ms Evans responded to the Panel's questions relating to whether this objective (and others) was giving effect to higher order direction including the RMA and NZCPS. She considered SUB-O3 (and the policies in the Subdivision Chapter) did not provide specific direction in relation to Policies 11 and 13 of the NZCPS. She said the focus was on protection and what the overlays seek to achieve, rather than setting different thresholds depending on whether what is being protected is significant, the adverse effect is significant, or the adverse effect is not significant but still must be avoided, remedied or mitigated. Notwithstanding this, Ms Evans advised she had not found any specific submission points on the subdivision provisions that gave scope to amend the provisions to address this. The Panel accept Ms Evans conclusion on this matter and notes this may well need to be addressed in a future plan change.

SUB – O4

127. The Panel recommends retaining SUB-O4 as notified.

SUB – O5

128. Ms Evans reviewed her position on SUB-O5 in the Right of Reply and recommended some minor amendments to improve clarity of language and to better align with s229 of the RMA. The Panel agrees with these amendments and considers they address to some extent the concerns raised by submitters seeking that the objective reflect only the purpose of esplanade reserves and strips as set out in s229.

129. The Panel agrees with the conclusions of the Reporting Officers in relation to the submissions by Frida Inta and Buller Conservation Group to delete the words '*identified significant*' from the objective.

SUB – O6

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

130. Ms Evans reflected on discussion at the hearing and evidence of Mr Kennedy for Westpower in relation to SUB-O6. She noted Westpower's concern with what 'appropriate' means in this context and agreed it may be difficult to determine on a case-by-case basis. She recommended additional wording linking the requirement for open space to take into account the need created by the proposed subdivision. We agree and accept that this still allows for the strategic provision of open space and opportunity to respond to any existing need, while acknowledging not every subdivision (e.g. subdivision associated with provision of infrastructure) may not in itself generate a need for open space.
131. The Panel agrees with the Reporting Officers conclusions with regards to rejecting the submission of David Ellerm.

Hearing Panel's Recommendation

132. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that relevant submissions identified in the footnotes below are accepted or accepted in part, and recommend changes are made to the **Subdivision Objectives** as follows:

SUB – O1	Subdivision achieves patterns of land development that are compatible with the purpose, character and qualities of each zone.
SUB – O2	Subdivision occurs in locations and at a rate that: <ol style="list-style-type: none">Is supported by the capacity of existing infrastructure networks, or provides for infrastructure facilities and networks that are sufficient to accommodate growth and development that meets the standards required by the Council and the Plan;Facilitates the safe, efficient¹² and effective¹³ operation of critical regionally significant¹⁴ infrastructure;Enables access and connectivity;Provides¹⁵ for the health, wellbeing and safety of the West Coast/Te Tai o Poutini community;Provides for growth and expansion of West Coast/Te Tai o Poutini settlements and businesses, and industry;¹⁶ andAvoids significant risk from¹⁷ natural hazards and builds community resilience are built to be resilient¹⁸ to natural hazards;<u>Protects highly productive land as defined by the NPS-HPL and¹⁹</u><u>Maintains and enhances amenity values.</u>²⁰

¹² KiwiRail S442.064

¹³ Consequential amendment resulting from Te Mana Ora S190.408

¹⁴ Consequential amendment Plan-wide

¹⁵ Clause 16(2) of the RMA

¹⁶ Silver Fern Farms S441.019

¹⁷ Toka Tū Ake (EQC) S612.090

¹⁸ RMA, Schedule 1, clause 16(2)

¹⁹ Horticulture New Zealand S486.039

²⁰ Buller Conservation Group S552.105, Frida Inta 553.105

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

SUB – 03	Subdivision design and development: <ul style="list-style-type: none">a. Protects significant <u>indigenous biodiversity, natural character, the coastal environment</u> natural, ecological, <u>outstanding natural landscapes and outstanding natural features, areas of historical heritage</u> and Poutini Ngāi Tahu <u>values</u> features and resources <u>from adverse effects; and</u>²¹b. Responds to the physical characteristics and constraints of the site and surrounding environment.
SUB – 04	Subdivision within the FUZ - Future Urban Zone does not result in the fragmentation of sites that would compromise the potential of land within the FUZ - Future Urban Zone to accommodate integrated and serviced urban development.
SUB – 05	Esplanade reserves and strips created through subdivision contribute to the protection of <u>natural values</u> identified significant natural heritage ²² and Poutini Ngāi Tahu values, provide natural hazard mitigation, support good water quality and provide for public access to and along <u>waterbodies</u> rivers and the coastal marine area. ²³
SUB – 06	Where subdivision occurs, sufficient provision is made for the additional community need for open space <u>taking into account demand generated by the subdivision.</u> ²⁴

2.4. Subdivision Policies

Submissions and Further Submissions

133. Seven submissions points and two further submission point relating to the Subdivision policies (as a whole) were summarised in a Table on page 29-31 of the s42A Report. One submission point sought to retain the nine policies as notified. Two submissions points sought to retain the policies as notified, except for an amendment to SUB-P6. Four submission points sought the addition of a new policy. The further submissions supported the addition of a new policy.
134. Seventeen submission points relating to **SUB-P1** were summarised in a Table on pages 31-33 of the s42A Report. Eight submission points supported the retention of the policy as notified. Two submission points opposed the policy. The remaining seven submission points sought amendments.
135. Twenty-five submission points and eight further submission points relating to **SUB-P2** were summarised in a Table on pages 35-38 of the S42A Report. Five submission points supported the retention of the policy as notified and twenty sought amendments.

²¹ Director General of Conservation S602.120, Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu S581.042, David Ellerm S581.042

²² Buller Conservation Group S552.108, Frida Inta 553.108

²³ Chris & Jan Coll S558.181, Chris J Coll Surveying Limited S566.181, William McLaughlin S567.255, Laura Coll McLaughlin S574.181

²⁴ Westpower Limited S547.345

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

136. Thirteen submission points relating to **SUB-P3** were summarised in a Table on page 41 of the S42A Report. Ten submission points supported the retention of the policy as notified and three sought amendments.
137. Fifteen submission points relating to **SUB-P5** were summarised in a Table on pages 42-43 of the S42A Report. Five submission points supported the retention of the policy as notified and 10 sought amendments.
138. Twenty-one submission points and 12 further submission points relating to **SUB-P6** were summarised in a Table on pages 44-46 of the S42A Report. Five submission points supported the retention of the policy as notified and 10 sought amendments. Eight submission points supported the retention of the policy as notified and 13 sought amendments.
139. Nine submission points relating to **SUB-P7** were summarised in a Table on page 49 of the s42A Report. Six submission points supported the retention of the policy as notified and three sought amendments.
140. Two submission points and two further submission points relating to **SUB-P8** were summarised in a Table on page 50 of the S42A Report. One submission point supported the retention of the policy as notified and the other sought amendments.
141. Twenty-four submission points relating to **SUB-P9** were summarised in a Table on pages 51-53 of the S42A Report. Five submission points supported the retention of the policy as notified and 19 sought amendments. The Panel notes that submissions from Buller Conservation Group (S552.118) and Frida Inta (S553.118) were incorrectly summarised (and commented on) against this policy instead of SUB-R9/ECO-R6 which was transferred to the Ecosystems and Biodiversity.
142. The Panel has considered the relevant submissions and adopts the summaries in the s42A Report.

Section 42A Report

Policies (General)

143. Ms Belgrave and Ms Evans acknowledged the support from two submitters that generally supported the policies as notified. The acknowledgement was subject to recommended amendments that arose from other submissions on specific policies.
144. Ms Belgrave and Ms Evans did not support the addition of a new policy relating to subdivision in the Rural Zones as sought by four submitters²⁵ (supported by two further submissions) because it was inconsistent with the NPS-HPL. Furthermore, in Ms Evans' s42A Addendum Report, she considered the new policy would not be efficient or effective in achieving SUB-O1 and RURZ-O1.
145. Ms Belgrave and Ms Evans recommended no changes to the policies based on these submissions.

SUB - P1

²⁵ Chris & Jan Coll (S558.195), Chris J Coll Surveying Limited (S566.195), William McLaughlin (S567.268) and Laura Coll McLaughlin (S574.195)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

146. Ms Belgrave and Ms Evans acknowledged the support from the eight submitters that seek to retain the policy as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.
147. In response to Federated Farmers, Ms Belgrave and Ms Evans did not support the requested amendments because they considered the notified wording already recognised the anticipated purpose, character and intensity of the underlying zone. Additionally, they noted that the Rural Zone objectives and policies recognised highly productive land.
148. In response to Westpower, Ms Belgrave and Ms Evans supported the requested amendments in part. They agreed that the protection of regionally significant infrastructure was a relevant consideration and recommended an amendment to the policy in response to this part of the submission. They did not consider the reference to appropriate servicing to be necessary because it duplicated SUB-P2.
149. Ms Belgrave and Ms Evans did not support the deletion of the word '*significant*' from SUB-P1(d) as requested by the submission points by Frida Inta and Buller Conservation Group because they considered this was consistent with the RMA and SUB-O3.
150. In response to the submission points made by David Ellerm, Ms Belgrave and Ms Evans did not support the amendment to SUB-P1(b) because they considered the policy as notified would provide greater clarity to plan users and was more efficient in achieving SUB-O1. In response to a second submission point made by David Ellerm, to add an additional clause to SUB-P1, the s42A Report recommended accepting it in part. They considered the recognition of integration and connectivity was relevant to giving effect to SUB-O1 and therefore recommended adding a new clause to SUB-P1 '*are integrated and connected to the immediately surrounding area and road network*'.
151. The Reporting Officers did not initially support the submission made by the Director General to include significant features, sites and areas identified through the resource consent process. This was because they acknowledged that there were other provisions in the pTTPP that would provide protection to areas not mapped as SNA. Nevertheless, after having reviewed Ms Young's evidence, Ms Evans revised her position in the s42A Addendum Report to ensure there was protection to areas of significant indigenous biodiversity yet to be identified and mapped in the Plan.
152. In Appendix 1 of the Addendum Report, Ms Belgrave and Ms Evans recommended amending SUB-P1 as follows:

SUB-P1

Enable subdivision that creates allotments that:

- a. *Are consistent with the purpose, character, and qualities of the applicable zone;*
- b. *Maintains the integrity of the zone with lot sizes and dimensions sufficient to accommodate intended land uses;*
- c. ***Are integrated and connected to the immediately surrounding area and road network;***
- d. *Minimises natural hazard risk to people's lives and properties;*

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

- e. Protects **identified** significant cultural, historical, natural and ecological features sites and areas ~~identified on the planning maps and in the Schedules in the Plan;~~ and
- f. **Protects the safe and efficient operation and maintenance of infrastructure; and**
- g. Have legal, physical and safe access to each allotment created by the subdivision.

SUB - P2

153. Ms Belgrave and Ms Evans acknowledged the support from the submitters that sought to retain the policy as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.
154. In response to the submission made by Te Mana Ora, Ms Belgrave and Ms Evans supported it in part and agreed that pedestrian and cycle linkages should be combined with the other transport matters in clause (d). However, they did not agree to include reference to playgrounds because they considered as these were typically provided and maintained by the Council and not provided at the time of subdivision.
155. Ms Evans reconsidered the recommended wording of the changes to SUB-P2 following review of the letter from KiwiRail in her s42A Addendum Report and recommended retaining the word 'efficient' in SUB-P2(d).
156. In response to the submission made by Margaret Montgomery, Ms Belgrave and Ms Evans did not support the amendments requested. They considered infrastructure capacity and the provision of access were key considerations for subdivision and therefore clauses (a), (c) and (d) were recommended to be retained. They agreed that the provision of open space and reserves was relevant to subdivision and therefore recommended retaining clause (e). The specific detail regarding the inclusion of a note about vesting in clause (n) was considered unnecessary.
157. In response to the submission made by Westpower, the Ms Belgrave and Ms Evans did not support the amendments requested. They reiterated their position regarding the addition of 'energy activities' which was the same as that set out in relation to SUB-O2. Additionally, in relation to the requested addition to SUB-P2(n)(ii) they did not consider it necessary to specifically set out that electricity provision could be above ground in the industrial zones.
158. Ms Belgrave and Ms Evans did not support requests by Buller Conservation Group and Frida Inta to include a clause to consider the use of composting toilets because they considered the existing clause did not preclude composting toilets from being considered.
159. In response to the four submission points²⁶ that sought to delete the words 'where deemed reasonable by the Council' from clause (k), Ms Belgrave and Ms Evans supported the amendment. They acknowledged that the wording 'appropriate to development', gave the Councils enough discretion to determine that the chosen method for electricity and telecommunication provision was reasonable.
160. Ms Belgrave and Ms Evans did not support the request in four submission points²⁷ to delete subclause (m) because they noted this clause related to the maintenance of infrastructure

²⁶ Chris & Jan Coll (S558.185), Chris J Coll Surveying Limited (S566.185), William McLaughlin (S567.259) and Laura Coll McLaughlin (S574.185)

²⁷ Chris & Jan Coll (S558.187), Chris J Coll Surveying Limited (S566.187), William McLaughlin (S567.260) and Laura Coll McLaughlin (S574.187)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

developed as part of a subdivision, which they considered was an important consideration to ensure the ongoing efficient operation of infrastructure.

161. In response to four submission points²⁸ that sought to more detail around clause (o), Ms Belgrave and Ms Evans did not support the request because the clarification sought was provided in the Financial Contributions Chapter.
162. In response to the submission point by David Ellerm that sought to rewrite clause (i), Ms Belgrave and Ms Evans did not support the amendment because it was too detailed and they considered the notified clause provided for both reticulated and land-based disposal. In relation to the additions sought to clause (n)(iii), Ms Belgrave and Ms Evans also did not support this amendment because they considered it was unlikely that all footpaths would be suitable for shared use and it should be considered on a case-by-case basis.
163. In response to a further submission point by David Ellerm that sought additions to clause (n)(iv), Ms Belgrave and Ms Evans did not support the amendment because they considered it was too detailed and the matters of control in various rules included reference to appropriate standards for streetlighting. Additionally, the noted that 'urban areas' included zones beyond the residential zones.
164. In the Appendix 1 of the Addendum Report, Ms Belgrave and Ms Evans recommended amending SUB-P2 follows:

SUB-P2

Ensure subdivision is appropriately serviced and integrated with existing or planned infrastructure that is provided in an efficient, integrated and coordinated manner by ensuring:

- a. Infrastructure networks have sufficient capacity to accommodate the additional development, and requiring any necessary upgrades to be completed at the time of subdivision;*
- b. Infrastructure is installed at the time of subdivision, except for on-site infrastructure that cannot be determined until the allotment is developed;*
- c. Sufficient provision has been made for legal and physical access to each allotment created by the subdivision;*
- d. Provision of safe, ~~and~~ **efficient and effective transport connections and linkages, including pedestrian, cycling linkages, public transport and** vehicle access;*
- e. Provision for open space and reserves, including pedestrian and cycle linkages;*
- f. Drinking water compliant with New Zealand Drinking Water Standards;*
- g. Adequate water supply for firefighting;*
- h. Treatment and safe disposal of stormwater that did not result in increased flooding and erosion risk;*
- i. Treatment and safe disposal of wastewater with a preference for land-based treatment where no reticulated network is in place;*

²⁸ Chris & Jan Coll (S558.188), Chris J Coll Surveying Limited (S566.188), William McLaughlin (S567.261) and Laura Coll McLaughlin (S574.188)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

- j. Where community scale infrastructure is developed to support more than 10 privately owned lots this should be to appropriate standards and vested in the Council to ensure ongoing maintenance and renewal;*
- k. Supply of electricity and telecommunications using a method that is appropriate to the type of development, location and character of the area including off-grid renewable electricity supply / wireless /satellite ~~where deemed reasonable by the Council;~~*
- l. Connections are made to wastewater, water supply and stormwater systems where they are available and there is capacity; and*
- m. Where new community infrastructure is developed, that there is adequate provision for ongoing maintenance either by the vesting of the infrastructure in the relevant Council, or in the case of papakāinga developments, that an ongoing hapū entity may be responsible for maintenance;*
- n. In all RESZ - Residential, INZ - Industrial and CMUZ - Commercial and Mixed Use Zones requiring:
 - i. Roads to a sealed standard;*
 - ii. Underground reticulation of services;*
 - iii. Sealed footpaths;*
 - iv. Streetlights in urban areas; and**
- o. Financial contributions are provided where additional or upgraded network utility infrastructure is required to service development.*

Advice Note: The standards for road construction can be found in Appendix One: Transport Performance Standards.

SUB - P3

- 165. Ms Belgrave and Ms Evans acknowledged the support from the submitters that sought to retain the policy as notified.
- 166. In response to the submission point made by Westpower that sought the review and possible deletion of clause (a) because it duplicated clause (b), Ms Belgrave and Ms Evans did not agree there was duplication. They considered clause (a) related to the values of the relevant overlay chapter and clause (b) related to the objectives and policies. They recommended both clauses were retained as notified.
- 167. In response to the submission points made by Frida Inta and Buller Conservation Group, Ms Belgrave and Ms Evans did not support the requested amendments because they considered the notified wording provided greater clarity. They noted that land could be both within, or contain the matters identified in the policy; and the values were identified in the relevant schedule and not the overlay chapters.
- 168. Ms Belgrave and Ms Evans recommended retaining SUB-P3 as notified.

SUB-P4

- 169. The consideration of SUB-P4 is in the Natural Hazard Chapter Recommendation Report.

SUB - P5

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

170. Ms Belgrave and Ms Evans acknowledged the support from the submitters that sought to retain the policy as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.
171. In response to the submission points made by Westpower that sought to amend clauses (b) and (c) of the policy, Ms Belgrave and Ms Evans did not support the requested amendments. This was principally because they considered the definition of 'infrastructure' captured 'energy activities' and clause (c) sufficiently provided for the protection of infrastructure.
172. In response to the three submission points²⁹ that sought to delete clause (b), Ms Belgrave and Ms Evans supported these in part (the Panel notes that Laura Coll McLaughlin also sought the same relief, but this was not summarised). They acknowledged that the policy clause intended to avoid the premature upgrade to infrastructure that could compromise its efficient and integrated provision. They therefore recommended deleting 'in advance of integrated urban development' from the clause.
173. In response to four submission points³⁰ that sought to amend the wording of SUB-P5 to recognise instances where a structure plan may be in place, Ms Belgrave and Ms Evans supported the requested change and suggested amended wording to reflect this.
174. The Reporting Officers did not support the submission point made by Margaret Montgomery due to a lack of specificity about what relief was sought.
175. In Appendix 1 of the Addendum Report, Ms Belgrave and Ms Evans recommended amending SUB-P5 as follows:

SUB-P5

*Avoid subdivision within the FUZ - Future Urban Zone that may result in one or more of the following, **unless subdivision occurs in accordance with a Structure Plan adopted by the relevant District Council:***

- a. A compromise in the efficient and effective operation of the local and wider transport network;*
- b. The need for significant upgrades, provisions or extensions to the reticulated wastewater, reticulated water supply or stormwater networks, or other infrastructure ~~in advance of integrated urban development;~~*
- c. The efficient provision of infrastructure being compromised;*
- d. Reverse sensitivity effects when urban development occurs;*
- e. Reverse sensitivity effects on existing rural activities or infrastructure; or*
- f. Fragmentation of sites in a manner that may compromise the appropriate form or nature of future urban development.*

SUB - P6

²⁹ Chris & Jan Coll (S558.191), Chris J Coll Surveying Limited (S566.191), William McLaughlin (S567.264)

³⁰ Chris & Jan Coll (S558.192), Chris J Coll Surveying Limited (S566.192), William McLaughlin (S567.265), Laura Coll McLaughlin (S574.192)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

176. Ms Belgrave and Ms Evans acknowledged the support from the submitters that sought to retain the policy as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.
177. In response to the submission point made by Manawa, Ms Belgrave and Ms Evans did not support the proposed amendment because they considered the deletion of 'Energy Activities' and its replacement with '*Renewable Electricity Generation Activities*' narrowed the application of the policy. Additionally, they noted the definition of '*Energy Activities*' included renewable electricity generation.
178. Ms Belgrave and Ms Evans did not initially support similar submission points made by KiwiRail and Federated Farmers that sought the addition of a new clause relating to reverse sensitivity. They considered reverse sensitivity effects arose from land use activities, not subdivision and so was more appropriately managed via the zone provisions. However, in the s42A Addendum Report, Ms Evans revised her position having read the statement of evidence from Mr Sutherland and Mr O'Conner on behalf of Federated Farmers. She recommended an amendment to SUB-P6(e) to include activities in the General Rural and Industrial zones in recognition that subdivision occurring within and adjacent to these zones had the potential to create reverse sensitivity effects due to intensification of neighbouring land uses via additional allotments. She noted the submissions had been supported in further submissions by Radio NZ in the case of the KiwiRail and Silver Fern Farms in the case of Federated Farmers.
179. In response to the submission point made by Margaret Montgomery, the s42A Report did not support the recommended changes due to a lack of specificity about what relief was sought.
180. Ms Belgrave and Ms Evans supported in part the submission point made by Hort NZ to include a new clause referring to the NPS-HPL. However, they recommended slightly different wording, and consequential renumbering of the clauses.
181. In response to the submission point made by Westpower to amend clause (d), Ms Belgrave and Ms Evans supported the requested wording because it was consistent with the wording in the WCRPS, and it broadened the consideration from only significant reverse sensitivity effects.
182. In response to the submission points made by Frida Inta and Buller Conservation Group to amend subclause (e), Ms Belgrave and Ms Evans did not support the amendment. They considered the removal of the option to mitigate adverse effects was not consistent with the NZCPS.
183. In response to the four submission points³¹ and the further submissions that seek to delete subclauses (a), (c), (e) and (f), due to their prescriptive nature, and retain clause (d), Ms Belgrave and Ms Evans, acknowledge the support for clause (d), subject to the amendment sought by Westpower that is recommended to be accepted in part. The deletion of the other clauses is not supported as these address resource management issues.
184. Following the review of Ms Bensemam's evidence on behalf of Frank O'Toole, Ms Evans reconsidered these clauses in her s42A Addendum and recommended some amendments to

³¹ Chris & Jan Coll (S558.193), Chris J Coll Surveying Limited (S566.193), William McLaughlin (S567.266), Laura Coll McLaughlin (S574.193)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

clause (f) to improve clarity. She also recommended amendments to the proposed new clause addressing highly productive land to improve clarity.

185. In response to the submission made by Poutini Ngāi Tahu that sought amendments to clause (a), Ms Belgrave and Ms Evans supported the submission point. They recommended including additional words to the clause to provide an exception if a subdivision was to provide for papakāinga.
186. In Appendix 1 of the Addendum Report, Ms Belgrave and Ms Evans recommended amending SUB-P6 follows:

SUB-P6

Avoid subdivision:

- a. *In the RURZ - Rural Zones that could result in the creation of an unplanned new settlement, **unless the subdivision is to establish papakāinga by Poutini Ngāi Tahu;***
- b. **Of Highly Productive Land as defined under the National Policy Statement for Highly Productive Land unless the requirements of clause 3.8 of the NPS-HPL are met;**
- c. *In the Earthquake Hazard Overlay that could result in the creation of new allotments;*
- d. *Where detached minor residential units in RURZ - Rural Zones become legally separated from the main residential unit thereby creating cumulative effects on rural character and productivity;*
- e. *Where this could create ~~significant~~ reverse sensitivity issues in relation to the MINZ - Mineral Extraction Zone **activities in the GRUZ – General Rural Zones or INZ – Industrial Zones, or regionally significant infrastructure;***
- f. *In **unmodified areas of** the Coastal environment ~~outside of areas that are already modified~~ unless adverse effects on the natural character of the coastal environment can be avoided or mitigated; and*
- g. *In areas of significant risk of natural hazards, where this is for the purposes of accommodating and/or servicing people and communities.*

SUB - P7

187. Ms Belgrave and Ms Evans acknowledged the support from the six submitters that sought to retain the policy as notified.
188. In response to the submission made by Waka Kotahi NZTA, Ms Belgrave and Ms Evans did not support the relief sought. They considered that SUB-P7 provided helpful clarification for when reductions to a minimum vacant lot size might be appropriate.
189. Ms Belgrave and Ms Evans did not support the addition of a clause relating to restricting subdivision in character areas because only one character area was identified in the pTTPP and that was not in a Residential Zone. Additionally, they noted clause (b) referred to residential character and amenity.
190. In response to the submission point made by GDC, Ms Belgrave and Ms Evans did not support the addition to require an assessment of capacity to accommodate increased density because they considered this was captured in SUB-P2.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

191. Ms Belgrave and Ms Evans recommended retaining SUB-P7 as notified.

SUB - P8

192. Ms Belgrave and Ms Evans acknowledged the support from Te Mana Ora that sought to retain the policy as notified.

193. The submission point by Margaret Montgomery opposed SUB-P8 on the basis that it would encourage staged development. Ms Belgrave and Ms Evans recommend rejecting the submission because no specific relief was sought in the submission.

194. Ms Belgrave and Ms Evans recommended retaining SUB-P8 as notified.

SUB - P9

195. Ms Belgrave and Ms Evans acknowledged the support from five submitters that sought to retain the policy as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.

196. Ms Belgrave and Ms Evans did not support the submission points³² that sought to amend SUB-P9 by deleting references to esplanade reserves or strips being greater than 20m wide because this was in accordance with s230 of the RMA.

197. Five submission points³³ sought amendments to reflect the wording of the operative Buller District Plan on the basis that what was notified was too extensive; and that the purpose of the policy be limited to those matters set out in the RMA, with the additional inclusion of Poutini Ngāi Tahu values. Ms Belgrave and Ms Evans supported this in part because SUB-P9 created duplication with SUB-O5. They recommended deleting the purpose from SUB-P9 to focus this policy on instances where a waiver or reduction may be appropriate.

198. In response submission point made by Federated Farmers that sought various amendments to the policy, Ms Belgrave and Ms Evans recommended accepting the submission in relation to clause (a) because this would improve clarity. They did not recommend making the amendments to add a specific reference to the RMA, or the amended wording to clause (d) regarding sale and purchase agreements because they considered was unrelated to the provision of an esplanade reserve or strip.

199. In response to the submission points made by Buller Conservation Group and Frida Inta to include wording about native fauna corridors, Ms Belgrave and Ms Evans did not support the addition because the existing policy already referred to '*natural character and biodiversity values*' which incapsulated native fauna corridors.

200. Ms Belgrave and Ms Evans recommended amending SUB-P9 as follows:

SUB-P9

To require esplanade reserves or esplanade strips for allotments of less than 4 ha to enable public access, reduce natural hazard risk, and contribute to the protection of

³² S360.017; S507.045; S508.045; S509.045; S510.045; S511.045; S512.045; S513.045; S535.022; S558.196; S566.196; S567.269; S574.196; S609.043

³³ John Brazil (S360.017), Chris & Jan Coll (S558.196), Chris J Coll Surveying Limited (S566.196), William McLaughlin (S567.269), and Laura Coll McLaughlin (S574.196)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

~~natural character and biodiversity values~~, except that the width of the esplanade reserve or strip may be varied from 20 metres or waived if:

- a. ~~The natural values~~ **The protection of conservation values, or the enabling of public access, or the enabling of public recreational use that is compatible with conservation values, or reduction of natural hazard risk** warrant a wider or narrower esplanade strip or esplanade reserve; or
- b. Topography, or the siting of any building or other feature, renders the 20-metre width inadequate or excessive; or
- c. The protection of Sites and Areas of Significance to Māori or other taonga requires an esplanade reserve or esplanade strip of greater or lesser width than 20 metres; or
- d. The protection or enhancement of biodiversity values or water quality requires an esplanade reserve or esplanade strip of greater or lesser than 20 metres; or
- e. The land is within a natural hazard area of where there is an identified risk from one or more natural hazards (such as coastal erosion).

Hearing and Submitter Evidence/Statements

201. Ms Inta highlighted the s42A Report incorrectly considered that submission points S552.103 and S553.103 related to SUB-P1, instead of FC-P1. She reiterated her request to delete 'significant' in SUB-P1 because it did not address adverse effect on other natural values such as indigenous biodiversity outside SNA. She considered subdivision should not occur 'within' a riparian margin and requested to be deleted from SUB-P3. She also suggested that the words 'riparian margin' could be replaced with 'natural character'.
202. Ms Inta's drew attention to the disconnect between SUB-S9, that only relates to creating esplanade reserves and strips when an allotment of less than 4 ha was created, and SUB-P9 that considered esplanade provisions when lots greater than 4 ha were created.³⁴ She noted that s237F of the RMA allowed a subdivider to seek compensation from the territorial authority if the allotment was greater than 4 ha. To address this, she suggested that the existing provisions of the Buller District Plan (that provides for esplanade reserves and strips when allotments of more than 4 ha were created) should be transferred to the pTTPP.
203. Ms Young, for the Director General, reiterated that SUB-P1 should capture all areas of significant indigenous biodiversity and not only those identified in the schedule as SNA.
204. Mr Sutherland and Mr O'Connor, for Federated Farmers, supported the s42A Report recommendation in relation to SUB-P1.
205. Ms Hadfield, for Chris J Coll Surveying Limited, accepted the s42A Report in relation to their submission on SUB-P2(k).
206. Mr Kennedy, for Westpower, accepted the recommended amendments to SUB-P1. He drew attention to the further submission made by Westpower to disallow the amendment to SUB-P2(k), and to retain the policy as notified. He reiterated the request to add 'regionally significant infrastructure' to SUB-P2 and additional wording to SUB-P2(n)(ii) to enable above ground electricity infrastructure in the Industrial Zone. He also clarified that the amendment

³⁴ S553.104 & S552.104

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

sought to SUB-P5(c) was more than relating to the provision of infrastructure, but also in relation to any potential effects on existing infrastructure, and its operational requirements.

207. Ms Hadfield, for Davis Oglivie & Partners Limited, acknowledged the s42A Report had not accepted the relief sought by David Ellerm in regard to SUB-P2(n)(i), which was consistent with their further submission.
208. Ms Bensemman, for Frank O'Toole, noted the s42A Report did not accept the relief sought by submitters to add a new policy to enable subdivision in the RURZ. Mr O'Toole supported these submissions by further submission. Ms Bensemman's evidence did not agree with the Reporting Officers that the NPS-HPL is reason to not allow the proposed policy. She also addresses Mr O'Toole's support for the submissions to delete clauses (a) and (c) from SUB-P6, suggesting that the 'avoid' mechanism is too strong and supported the deletion of these clauses if the proposed new policy is accepted so that it is clear where development is and is not appropriate. Ms Bensemman also considered SUB-P6(e) was not entirely consistent with the NZCPS because she considered it was potentially more restrictive and sought amendment to be consistent with the NZCPS. She also considered the natural hazard risks referred to in SUB-P6(f) was more appropriately managed by SUB-P4.
209. Mr Sutherland and Mr O'Connor, for Federated Farmers, supported the s42A recommendation in part with respect to SUB-P6. It is their opinion that it was relevant to consider reverse sensitivity effects at the time of subdivision. They advised that they accepted the s42A Report recommendation for SUB-P9.
210. Ms Young's evidence for the Director General supports the amended wording of SUB-P9 as set out in the S42A report.
211. No evidence was presented at the hearing in relation to the submission on SUB-P7 or SUB-8. The Panel notes that submissions relating to SUB-P4 were heard in the Natural Hazards Chapter hearing.

Reporting Officer Reply Evidence

212. In relation to SUB-P1, Ms Evans recommended minor amendments to align with the recommended language used in SUB-O3 with respect to the RMA s6 matters, as well as minor changes to correct the tense of certain words.
213. In relation to SUB-P2, Ms Evans recommended minor amendments to correct the tense of certain words and typographical errors. She considered the matters discussed at the hearing regarding SUB-P2(n)(ii) and whether electricity lines could be above ground in the INZ. Given the Reply evidence in relation to the Energy, Infrastructure and Transport Chapters hearing recommended that new distribution lines should be underground, she maintained her opinion that the wording of SUB-P2(n)(ii) should remain as notified to ensure consistency across the Plan.
214. In response to the Panel's questions regarding David Ellerm's submission point on the disposal of wastewater and if this should be addressed in a standard, Ms Evans considered that this was already provided for. The Panel notes that Ms Evans referred to SUB-S7, however we consider this was an error and should have been SUB-S5.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

215. In relation to SUB-P3, Ms Evans recommended minor amendments to improve clarity. She also recommended the deletion of the words '*within or*' in accordance with the submissions made by Ms Inta and the Buller Conservation Group. In response to questions from the Panel, Ms Evans considered whether the reference to '*riparian margins*' should be deleted but did not find scope to be able to do so.
216. In relation to SUB-P5 Ms Evans recommended minor amendments to improve clarity of language and consistency with pTTPP terminology.
217. In relation to SUB-P6 Ms Evans recommended a minor amendment to refer to '*lawfully established activities*' for consistency with pTTPP language.
218. Ms Evans also provided commentary responding to discussion at the hearing that centred around the direction in SUB-P6 to '*avoid*' certain activities and whether the corresponding activity status should be non-complying. She advised that she had not found scope in submissions to amend the activity status to more appropriately give effect to the policy in full but acknowledged this could be revisited as hearings on the zone chapters progress, particularly as this was where submissions on the minimum lot size standard are being heard.
219. Ms Evans also advised that she had not found scope to amend SUB-P6(e) (renumbered as (f)) to fully give effect to the NZCPS.
220. No specific points were made in the Reply Evidence regarding the policies generally, SUB-P7 or SUB-P8.
221. Following discussion at the hearing about whether the requirement for esplanade reserves should be limited to allotments of less than 4 ha, Ms Evans reviewed the operative District Plans for Buller, Westland and Grey, as well as for other district councils that had recently reviewed their Plans. As a result of this, Ms Evans considered it was appropriate to amend SUB-P9 (and associated provisions) so that the requirement was not limited to allotments of less than 4 ha.
222. Ms Evans confirmed that in her opinion the reference to natural hazards is appropriate in SUB-P9. She comments that the wording largely aligns with S229. However, she noted that the Act says '*mitigating natural hazards*', while the policy wording is '*reduction of natural hazard risk*'.

Hearing Panel's Evaluation

223. The Panel acknowledges that submissions by Ms Inta and the Buller Conservation Group have been incorrectly summarised and therefore addressed under SUB-P1 rather than FC-P1. We have therefore disregarded the Reporting Officers comments in this regard and have considered the submissions in relation to FC-P1.

New Policy

224. Four submitters have sought to introduce a new policy to provide for situations in the RURZ where development not meeting minimum lot design and parameters is allowed for if certain criteria are met. The Panel has considered this matter and notes the recommendations of the Reporting Officers and the evidence of Ms Bensemann on behalf of Frank O'Toole which

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

contains a proposed new policy for Rural Zones based on SUB-P7 for Residential Zones. As we understood it the new policy would replace elements of SUB-P6.

225. The Panel acknowledges Ms Bensemam's point that the Reporting Officers appear to have solely focuses on the NPS–HPL as the reason for rejecting the proposed policy. We agree that the matter is broader than that, however highly productive land is still, in our view, a matter that would be considered in any policy of this nature. We note the policy proposed by the submitters did not include any reference to highly productive land.
226. The Panel's concern with a policy of this nature is that it would generally be in play where subdivision for a residential activity was being sought, and the minimum density standards were being breached. The status of such an application is fully discretionary in terms of subdivision as it is for land use. We acknowledge that we consider there is a policy gap in RURZ provisions in this regard which is addressed in the Rural Zones Recommendation Report. It seems to us, that a policy of this nature is extremely enabling in the context of the discretionary activity, although we note the situation is the same for some of the Residential Zones.
227. In the Panel's view, the policy framework for density standards is not necessarily the same between the RURZ and RESZ and it is therefore not appropriate to simply replicate one from the other as is proposed. For example, the s32 Report refers to issues such as reverse sensitivity, cumulative effects and infrastructural implications in relation to rural subdivision below minimum density standards. We note that these are not issues specifically referred to in SUB-P7.
228. The Panel notes that the s32 report states "*In summary, all three of the Operative Plans have been identified as no longer achieving desired outcomes in relation to subdivision with issues of rural subdivision and the need to retain rural production values and avoid reverse sensitivity being particularly significant*".³⁵ The s32 Report goes onto say "*while there do not appear to be significant issues with subdivision within the main centres, the widespread uptake of rural subdivision and development of rural lifestyle properties has been identified as a significant concern across all three districts. This overlaps with the wider provisions in the Rural Zones, but there is a clearly identified need to better ensure that matters of rural production – both significant farming values and mineral extraction, are better accounted for in relation to subdivision*".³⁶ We consider the findings raised in the s32 Report are significant and clearly distinguish between the urban and rural subdivision situations. Neither the submitters nor Ms Bensemam have challenged or tested those findings.
229. On the basis of the above, the Panel finds that a new policy, along the lines proposed by submitters and contained in Ms Bensemam's evidence, is not appropriate and as such the relevant submissions are rejected. Notwithstanding this, the Panel accepts that there is an element of disconnect between an 'avoid' policy such as SUB-P6 and a discretionary activity status. We discuss this further below.

SUB-P1

230. The Panel acknowledges the amendments proposed by Ms Evans address some of the concerns of Westpower, the Director General and David Ellerm. In this regard we agree with and accept the reasoning and amendments recommended to introduce two new clauses in

³⁵ Te Tai o Poutini Plan – Section 32 Evaluation Report Six - Subdivision, Section 2.3.4 Analysis of combined operative district plan approaches

³⁶ Te Tai o Poutini Plan – Section 32 Evaluation Report Six – Subdivision, Section 2.5 Summary of Issues Analysis

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

relation to integration and connection with the surrounding area and road network; and protecting the operation and maintenance of infrastructure, and to delete reference to the planning maps and Schedules.

231. As referred to above, the Panel notes Federated Farmers now support SUB-P1 given the amendment to SUB-O2 to refer to highly productive land.
232. In terms of the submission by David Ellerm to amend SUB-P1(b), the Panel agrees with the Reporting Officers that it should be rejected. In our view the wording proposed is not clear and did not easily sit within the framework of the policy. We agree that the clause as notified will provide greater clarity to plan users and is more efficient in achieving SUB-O1.
233. While the Panel acknowledges Ms Inta's concerns about using the '*significant*' in SUB-P1, we note that as a result of proposed amendments by the Ms Evans this now only relates to indigenous biodiversity which is reflective of s6(c) of the RMA. However, we acknowledge there is a gap in terms of the RPS and NPSIB requirement to maintain indigenous biodiversity. We accept these submissions provide scope to add a new clause to '*Maintain Indigenous biodiversity*' to give effect to the RPS and NPSIB. We consider the clause (d) should use the terms '*areas of significant biodiversity*', which is consistent with defined term in the Ecosystems and Indigenous Biodiversity Chapter Recommendation Report. We also recommend deleting the entire last part of clause (d) based on the refined wording.
234. The Panel agrees with the minor amendments proposed by Ms Evans to align SUB-P1 with SUB-O3 in relation to the RMA s6 matters and minor changes to correct the tense of certain words.

SUB-P2

235. The Panel agrees with the amendment sought by Te Mana Ora to SUB-P2(d) which was supported by the Reporting Officers to reference to '*effective transport connections and linkages, including pedestrian, cycling linkages, public transport*'. However, we agree with the Reporting Officers that reference to playgrounds in subclause (e) is not appropriate as these are not necessarily provided as part of a subdivision and can ultimately be provided and maintained by the Council. The Panel also agrees with KiwiRail that the word '*efficient*' should be retained in this clause.
236. In relation to the Westpower submission points, the Panel considers the references to '*infrastructure*' in SUB-P2 include energy activities and agree with the Reporting Officers that there is no need to amend the provisions in this regard. We also consider that in the context of this provision, reference to regionally significant infrastructure is not necessary. Regarding the matter of underground or above ground electricity lines in SUB-P2(n)(ii), the Panel notes that the recommendation from the EIT chapters hearing is to enable both above and below ground transmission lines. However we do not consider a 'carve out' for Industrial Zones within this rule is appropriate.
237. In response to submissions made by Margaret Montgomery, Buller Conservation Group and Frida Inta, the Panel agrees with the reasoning of the Reporting Officers to reject these submissions.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

238. The Panel agree with submitters³⁷ that the words '*where deemed reasonable by the Council*' should be deleted from clause (k), which is supported by the Reporting Officers. We consider that this wording is ambiguous and leaves a broad range of undefined discretion to the Council as to what is reasonable within the context of a policy. We note on this matter that we disagree with Mr Kennedy's conclusions. The same group of submitters also sought the deletion of clause (m) which relates to the maintenance of infrastructure developed as part of a subdivision. The Reporting Officers consider this is an important consideration to ensure the ongoing efficient operation of infrastructure. We agree and recommend it is retained.
239. The same group of submitters sought more detail be provided around clause (o) as to how it was to be achieved. The Reporting Officers did not support the request as the clarification sought is provided in the Financial Contributions Chapter. The Panel accepts the Reporting Officers conclusions and recommends no changes are made to this clause.
240. The Panel agrees that clause (i) does not require rewording. The submission by David Ellerm, while having merit, is in our view more akin to a rule than a policy. We note that the provision of infrastructure and services for wastewater is a matter of control under various rules and subject to SUB-S5, and therefore consider the matter is appropriately addressed by these provisions. The Panel also agrees with the Reporting Officers that Mr Ellerm's submission seeking additions to (n)(iii) to require footpaths to provide capacity for both pedestrian and cycle movements should be rejected. We agree that it is unlikely that all footpaths will be suitable for shared use and should be considered on a case-by-case basis.
241. In response to a submission point by David Ellerm seeking additions to clause (n)(iv), regarding lighting in residential areas, the Panel do not support the amendment because again the matter raised are more appropriately covered in the rules, and as noted to by the Reporting Officers, relevant standards have been set in the rule. We also note that '*urban areas*' includes zones beyond the residential zones.
242. Finally, the Panel agrees with the minor amendments proposed by Ms Evans to correct the tense of certain words and typographical errors.

SUB-P3

243. The Panel agrees with the Reporting Officers that there is no duplication between clauses (a) and (b) in response to the submission made by Westpower and we do not recommend any specific changes.
244. The Panel notes Ms Evans changed position on the amendment sought by Frida Inta and Buller Conservation Group to delete the words '*within or*' from SUB-P3 and we agree that it would be unusual for subdivision to occur '*within*' a riparian margin.
245. The Panel also notes that it queried Ms Evans as to whether reference to '*riparian margins*' was appropriate and should it be deleted. Ms Evans agreed that this reference was an odd addition given the focus of the policy is on matters managed by overlays, however she could not find any scope to enable its deletion. We agree with Ms Evans and consider the reference to riparian margins is in the context of this policy somewhat inconsistent. However, we have reached a view that we are unable to consider amending the provision to address this issue due to the lack of scope in submissions. While we note that Ms Inta considered '*riparian*

³⁷ Chris & Jan Coll (S558.187), Chris J Coll Surveying Limited (S566.187), William McLaughlin (S567.260) and Laura Coll McLaughlin (S574.187)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

margin' could be replaced with *'natural character'*, this was not part of her original submissions. This may therefore be a matter that necessitates further consideration at a later date.

246. The Panel agrees with the minor amendments proposed by Ms Evans to correct the tense of certain words and errors.

SUB-P4

247. The recommendation on SUB-P4 was made as part of the Natural Hazard Recommendation Report but is contained below for clarity and ease of reference.

SUB-P5

248. In relation to the Westpower submission on SUB-P5(b), as referred to above, the Panel considers the reference to *'infrastructure'* includes energy activities and there is no need to amend the provisions in this regard.

249. In response to the submissions seeking to delete clause(b), the Panel agrees with the Reporting Officers that the deletion of the end of the clause - *'in advance of integrated urban development'* partly addresses submitters' concerns.

250. In terms of Westpower's submission to amend clause (c), the Panel note the Reporting Officers did not support the amendments as they considered the clause sufficiently provided for the protection of infrastructure. Mr Kennedy argued that clause (c) only relates to the ability to provide infrastructure but not to issues around the potential effect on existing infrastructure. We think he has a point in that regard, although we consider his revised wording did not actually address the matter because it fails to refer to existing infrastructure. The Panel recommends referring to *'efficient provision of or access to proposed or operating infrastructure'* would better address the issue and is within the scope of Westpower submission.

251. The Panel agrees with submitters Chris & Jan Coll, Chris J Coll Surveying Limited, William McLaughlin and Laura Coll McLaughlin (Chris and Jan Coll *et. al.*), supported by the Reporting Officers, that the wording of SUB-P5 should recognise instances where a structure plan may be in place.

252. In response to submissions made by Margaret Montgomery, the Panel agrees with the reasoning of the Reporting Officers that due to a lack of specificity about what is being sought the submission is rejected.

253. The Panel generally agrees with the minor amendments proposed by Ms Evans to correct the tense of certain words, errors and to align wording with other policies as a consequential amendment, however we consider the amendments to combine subclauses d. and e. with regards reverse sensitivity are beyond minor amendments and we do not consider there is scope to do so.

SUB-P6

254. The Panel acknowledges the further consideration given to the SUB-P6 and the apparent disconnect between this policy and the corresponding activity status in the rules. As

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

- referenced by Ms Evan the avoidance of certain activities at policy level generally corresponds with a 'non-complying' activity status which is not the case here. We accept however that there is no scope within submissions to amend the activity status to more appropriately give effect to the policy in full. This would need to be addressed at a future date via a plan change.
255. The Panel also accepts Ms Evans advice in relation to the notified subclause e. that there is no scope to amend it to fully give effect to the NZCPS. Again, we note that this may need to be addressed via a future plan change.
256. The Panel accept the submission made by Ngai Tāhu on SUB-P6 a. and recommend including additional words to the clause which provides an exception if a subdivision is to provide for papakāinga.
257. The Panel agrees with the Reporting Officers conclusions in response to the submission made by Manawa. They considered the deletion of 'Energy Activities' and its replacement with 'Renewable Electricity Generation Activities' narrows the application of the policy and noted that the definition of 'Energy Activities' includes renewable electricity generation.
258. In terms of the reverse sensitivity issue raised by KiwiRail and Federated Farmers, the Panel notes Ms Evans revised position having considered Mr Sutherland and Mr O'Conner's statement on behalf of Federated Farmers. We agree with the amendment proposed to SUB-P6 d. to include activities in the General Rural and Industrial zones and acknowledge that subdivision occurring within and/or adjacent to these zones has the potential to create reverse sensitivity effects. We also agree with the deleted of the word '*significant*' from subclause d. sought by Westpower so as to broaden the consideration of reverse sensitivity effects.
259. The Panel agrees that submission made by Hort NZ to include a new subclause referring to the NPS-HPL should be accepted, however we consider the wording proposed by the Reporting Officers is more appropriate.
260. The Panel did not agree that subclause (a), (c), (e) and (f), should be deleted as sought by Chris & Jan Coll et al. In our view the situations referred to in the clauses are legitimate resource management issues and are the type of circumstances where consideration of avoidance of subdivision should be given. We agree with the Reporting Officers in this regard.
261. In terms of Ms Bensemenn's comments on the NZCPS we note that subclause e. did contain a qualifier regarding adverse effects, however as signalled above we acknowledge that the scope to fully give effect to the NZCPS is limited. We note though that if scope were available any changes to subclause e. would only be to strengthen it so as to be aligned with the NZCPS. That said we consider there is some scope available so as to introduce '*remedy*' and to rework the beginning of the subclause to provide greater clarity and ability for consents to be considered. We do not agree with the submission made by Frida Inta and Buller Conservation Group to amend subclause e. by deleting mitigated. In our view this would be inconsistent with the NZCPS.
262. The Panel notes that following a review of Ms Bensemenn's evidence, Ms Evans reconsidered some of the subclauses in her S42A addendum and recommended some amendments to clause e. to improve clarity. She also recommends amendments to the proposed new clause addressing highly productive land to improve its clarity.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

263. In response to submissions made by Margaret Montgomery, the Panel agrees with the reasoning of the Reporting Officers to reject this submission.
264. The Panel agrees with the minor amendments proposed by Ms Evans to correct the tense of certain words, errors and to align wording with other policies as a consequential amendment.
265. The Panel notes the Snodgrass Road submitters (S619.033 and S619.034) sought to have clause (f) deleted from SUB-P6. They noted that these submission points did not appear to have been discussed in the S42A report. The submission considers that the clause undermines SUB-P4 (which provides for mitigation measures to be used to manage natural hazards) by directing in all areas subject to natural hazard risk subdivision be avoided where it is intended to accommodate people.

SUB-P7

266. The Waka Kotahi submission on SUB-P7 raises the point that the notified wording of subclause (a) appears to allow for subdivision in residential zones that did not comply with minimum lot design and parameters but requires that size and configuration is appropriate for the development intended by the zone. They seek that clarification on what they see is a conflict in outcomes sought.
267. Having consider this, the Panel agrees that Waka Kotahi has a point. The size and configuration of what is appropriate for the development intended by the zone is in our view effectively referring to a permitted activity. Anything beyond that needs to be justified. As currently worded the subclause makes little sense, particularly given that the status for breaching two of the three RESZ's is fully discretionary. We consider there is sufficient scope within the Waka Kotahi submission to deleted subclause (a) and we recommend this be undertaken.
268. The Panel agrees with the Reporting Officers conclusions not to support the submission by David Ellerm seeking an additional subclause relating to restricting subdivision in character areas. We also agree that the sentiments of the GDC submission are already captured in SUB-P2 and it is not necessary to include a further subclause.

SUB-P8

269. In response to submissions made by Margaret Montgomery, the Panel agrees with the reasoning of the Reporting Officers to reject this submission. We recommend retaining SUB-P8 as notified.

SUB-P9

270. A number of submitters sought that SUB-P9 be amended to delete references to esplanade reserves or strips being greater than 20m wide. Submitters also sought amendments to reflect the wording of the operative Buller District Plan on the basis that what was notified is too extensive. They considered that the policy should be limited to those matters set out in s219 the RMA, with the additional inclusion of Poutini Ngāi Tahu values. The Reporting Officers considered that SUB-P9 creates duplication with SUB-O5 and recommend the purpose (which we took to be the reference to public access, natural hazard risk, the protection of natural character and biodiversity values) is deleted from SUB-P9 to focus this policy to instances where a waiver or reduction may be appropriate.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

271. Having reviewed the legislation, the Panel consider that the provision as redrafted is potentially problematic because in situations of an allotment or subdivision of less than 4 ha, an esplanade reserve of 20 m is required by default under the RMA. A territorial authority may vary this presumption in its district plan through the creation of a rule under section 77(1) of the RMA. For esplanade reserves, the RMA does not require the width to be specified in the rule. For esplanade strips, the RMA states the width must be specified in the rule. Therefore, a rule that did not specify the width of a required esplanade strip would be *ultra vires*. The Panel notes, however, that a landowner is eligible for compensation if a strip or reserve greater than 20 metres in width is required, or where a reserve or strip is required on an allotment of 4 ha or more.
272. The Panel have reviewed the s32 Report and we can find nothing that refers to the issue of compensation. It seems to us that the s32 Report authors may well have been unaware that increasing the width of esplanade reserves or strips could trigger compensation. It also seems that they were unaware that for esplanade strips, the change in width must be specified in the rule. These misunderstandings appear to have flowed through into the s42A Report and the Right of Reply. In these circumstances, we agree with submitters that reference within the policy that would potentially result in circumstances of widths greater than 20m should be deleted at this point in time. In our view providing for widths greater than 20m for 4 ha lots or for any esplanade reserves or strips on lots greater than 4 ha would necessitate a more thorough examination, including whether Council's would be committed to a compensation regime. We discuss this matter further in relation to SUB-S9 later in this Report.
273. The Panel agree with the Reporting Officers that the purpose of SUB-P9 should be deleted so that the policy focuses on instances where a reduction may be appropriate.
274. The Panel have considered the submission by Federated Farmers and agree with the Reporting Officers that the amendment to clause (a) will improve clarity of the policy. We do not recommend making the amendments to add a specific reference to the RMA, or the amended wording to clauses (b) and (d) regarding '*site location*' and sale and purchase agreements, with the latter considered to be unrelated to the provision of an esplanade reserve or strip.
275. The Panel notes that the Federated Farmers submission also sought the deletion of clause (c), which relates to the protection of sites and areas of significance to Māori (**SASM**) or other taonga. The submission records that s229 of the RMA did not identify this as a reason to require an esplanade reserve or strip, therefore clause (c) should be deleted. However, we note Mr Sutherland and Mr O'Connor supported the Reporting Officer's analysis and recommendations on SUB-P9 and did not take this matter further.
276. In response to submissions made by Buller Conservation Group and Frida Inta to include wording about native fauna corridors, the Panel agrees with the reasoning of the Reporting Officers to reject this submission and notes that the existing policy contains reference to '*biodiversity values*'.

Hearing Panel's Recommendation

277. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the relevant submissions identified in the footnotes below are accepted or accepted in part, and recommend that changes are made to the **Subdivision Policies** as follows:

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

SUB – P1

Enable subdivision that creates allotments that:

- a. Are consistent with the purpose, character, and qualities of the applicable zone;
- b. Maintains³⁸ the integrity of the zone with lot sizes and dimensions sufficient to accommodate intended land uses;
- c. Minimises³⁹ natural hazard risk to people's lives and properties;
- d. Protects **areas of significant indigenous biodiversity,**⁴⁰ **outstanding natural features and landscapes,** cultural **values, areas of historical heritage,** natural **character of the coastal environment**⁴¹ and ecological features sites and areas identified on the planning maps and in the Schedules in the Plan;⁴²
- e. **Maintains indigenous biodiversity;**⁴³
- f. Have legal, physical and safe access to each allotment created by the subdivision;
- f. **Are integrated and connected to the immediately surrounding area and road network; and**⁴⁴
- g. **Protect the safe and efficient operation and maintenance of infrastructure.**⁴⁵

SUB – P2

Ensure subdivision is appropriately serviced and integrated with existing or planned infrastructure that is provided in an efficient, integrated and coordinated manner by ensuring:

- a. Infrastructure networks have sufficient capacity to accommodate the additional development, and requiring any necessary upgrades to be completed at the time of subdivision;
- b. Infrastructure is installed at the time of subdivision, except for on-site infrastructure that cannot be determined until the allotment is developed;
- c. Sufficient provision has been made for legal and physical access to each allotment created by the subdivision;
- d. Provision of safe, and efficient **and effective transport connections and linkages, including pedestrian, cycling linkages, public transport and vehicle access;**⁴⁶
- e. Provision for open space and reserves, including pedestrian and cycle linkages;

³⁸ RMA Schedule 1, clause 16(2)

³⁹ RMA Schedule 1, clause 16(2)

⁴⁰ Buller Conservation Group S552.109, Frida Inta 553.109

⁴¹ Consequential amendment as a result of amendments to SUB-02,

⁴² Director General of Conservation S602.121

⁴³ Buller Conservation Group S552.109, Frida Inta 553.109

⁴⁴ David Ellerm S581.045

⁴⁵ Westpower Limited S547.346

⁴⁶ Te Mana Ora S190.408

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

- f. ~~Provision of~~⁴⁷ Drinking water compliant with New Zealand Drinking Water Standards;
- g. Adequate water supply for firefighting;
- h. Treatment and safe disposal of stormwater that did not result in increased flooding and erosion risk;
- i. Treatment and safe disposal of wastewater with a preference for land-based treatment where no reticulated network is in place;
- j. Where community scale infrastructure is developed to support more than 10 privately owned lots this should be to appropriate standards and vested in the Council to ensure ongoing maintenance and renewal;
- k. Supply of electricity and telecommunications using a method that is appropriate to the type of development, location and character of the area including off-grid renewable electricity supply / wireless /satellite ~~where deemed reasonable by the Council,~~⁴⁸
- l. Connections are made to wastewater, water supply and stormwater systems where they are available and there is capacity; and
- m. Where new community infrastructure is developed, that there is adequate provision for ongoing maintenance either by the vesting of the infrastructure in the relevant Council, or in the case of papakāinga developments, that an ongoing hapū entity may be responsible for maintenance;
- n. In all RESZ - Residential, INZ - Industrial and CMUZ - Commercial and Mixed Use Zones requiring:⁴⁹
 - i. Roads to a sealed standard;
 - ii. Underground reticulation of services;
 - iii. Sealed footpaths;
 - iv. Streetlights in urban areas; and
- o. Financial contributions are provided where additional or upgraded network utility infrastructure is required to service development.

Advice Note: The standards for road construction can be found in Appendix One: Transport Performance Standards.

SUB – P3

~~Provide for~~ The⁵⁰ subdivision of land ~~within or~~⁵¹ containing riparian margins, outstanding natural features and landscapes, the coastal environment, areas of significant indigenous biodiversity, sites and areas of significance to Māori or historic heritage settings, ~~where it can be demonstrated~~ **must demonstrate**⁵² that the design and layout of allotments and the location of any building platforms will:

⁴⁷ RMA Schedule 1, clause 16(2)

⁴⁸ Chris & Jan Coll S558.185, Chris J Coll Surveying Limited S566.185, William McLaughlin S567.259 and Laura Coll McLaughlin S574.185

⁴⁹ RMA Schedule 1, clause 16(2)

⁵⁰ RMA Schedule 1, clause 16(2)

⁵¹ Frida Inta S553.111 and Buller Conservation Group S552.111

⁵² RMA Schedule 1, clause 16(2)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

	<ul style="list-style-type: none">a. Not compromise the identified characteristics and values of the Overlay Chapter⁵³ it is located within; andb. Achieve the relevant objectives and policies for the Overlay Chapter.
SUB – P4	Considered in Natural Hazards Recommendation.
SUB – P5	<p><u>Unless subdivision occurs in accordance with a Structure Plan adopted by the relevant District Council</u>⁵⁴ Avoid subdivision within the FUZ - Future Urban Zone that may result in one or more of the following:</p> <ul style="list-style-type: none">a. A <u>Compromise in the safe,</u>⁵⁵ efficient and effective operation of the local and wider transport network;b. The need for significant upgrades, provisions or extensions to the reticulated wastewater, reticulated water supply or stormwater networks, or other infrastructure in advance of integrated urban development;⁵⁶c. <u>Compromise of</u> the efficient provision of <u>or access to proposed or operating</u>⁵⁷ infrastructure being compromised;⁵⁸d. Reverse sensitivity effects when urban development occurs;e. Reverse sensitivity effects on existing rural activities or infrastructure; orf. Fragmentation of sites in a manner that may compromise the appropriate form or nature of future urban development.
SUB – P6	<p>Avoid subdivision:</p> <ul style="list-style-type: none">a. In the RURZ - Rural Zones that could result in the creation of an unplanned new settlement, <u>unless the subdivision is to establish papakāinga by Poutini Ngāi Tahu;</u>⁵⁹b. In the Earthquake Hazard Overlay that could result in the creation of new allotments;c. Where detached minor residential units in RURZ - Rural Zones become legally separated from the main residential unit thereby creating cumulative effects on rural character and productivity;d. Where this could create significant⁶⁰ reverse sensitivity issues in relation to <u>lawfully established activities</u>⁶¹ in the MINZ - Mineral Extraction Zone, or Energy Activities <u>activities in the GRUZ – General Rural Zones or INZ – Industrial Zones</u>⁶² <u>or regionally significant infrastructure;</u>⁶³

⁵³ RMA Schedule 1, clause 16(2)

⁵⁴ Chris & Jan Coll S558.192, Chris J Coll Surveying Limited S566.192, William McLaughlin S567.265 and Laura Coll McLaughlin S574.192

⁵⁵ Consequential amendment

⁵⁶ Chris & Jan Coll S558.191, Chris J Coll Surveying Limited S566.191, William McLaughlin S567.264

⁵⁷ Westpower Limited S547.353

⁵⁸ RMA Schedule 1, clause 16(2)

⁵⁹ Te Rūnanga o Ngāi Tau, Te Rūnanga of Ngāti Waewae and Te Rūnanga o Makaawhio S620.181

⁶⁰ Westpower Limited S547.345

⁶¹ Consequential amendment for consistency

⁶² Federated Farmers S524.082, KiwiRail S442.067

⁶³ Consequential Plan wide amendment, as a result of the Panel's Energy, Infrastructures and Transport Recommendation Report

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

	<p>e. In unmodified areas of the Coastal environment outside of areas that are already modified⁶⁴ unless adverse effects on the natural character of the coastal environment can be avoided, remedied⁶⁵ or mitigated; and</p> <p>f. In areas of significant risk of natural hazards, where this is for the purposes of accommodating and/or servicing people and communities; and⁶⁶</p> <p>g. <u>Of Highly Productive Land as defined under the National Policy Statement for Highly Productive Land, unless the requirements of clause 3.8 of the NPS-HPL are met.</u>⁶⁷</p>
SUB – P7	<p>Allow subdivision in the RESZ - Residential Zones that did not comply with the minimum lot design and parameters when:</p> <p>a. The site size and configuration is appropriate for development intended by the zone;⁶⁸</p> <p>a. The subdivision design maintains residential character and amenity;</p> <p>b. The increased density did not create adverse effects on critical regionally significant⁶⁹ infrastructure; and</p> <p>c. It can be demonstrated that it is consistent with the quality and types of development envisaged by RESZ - Residential Zone Objectives and Policies and any residential or medium density housing design guides in place for the zone.</p>
SUB – P8	<p>Provide for subdivision around existing or approved residential development where it enables creation of sites for uses that are in accordance with an approved land use consent or building consent.</p>
SUB – P9	<p>To require esplanade reserves or esplanade strips for allotments of less than 4 ha to enable public access, reduce natural hazard risk, and contribute to the protection of natural character and biodiversity values,⁷⁰ except that the width of the esplanade reserve or strip may be varied from 20 metres or waived if:</p> <p>a. The natural values <u>The protection of conservation values, or the enabling of public access or public recreational use that is compatible with conservation values, or reduction of natural hazard risk</u>⁷¹ warrant a wider or⁷² narrower esplanade strip or esplanade reserve; or</p> <p>b. Topography, or the siting of any building or other feature, renders the 20-metre width inadequate or⁷³ excessive; or</p>

⁶⁴ Chris & Jan Coll S558.193, Chris J Coll Surveying Limited S566.193, William McLaughlin S567.266 and Laura Coll McLaughlin S574.193

⁶⁵ Chris & Jan Coll S558.193, Chris J Coll Surveying Limited S566.193, William McLaughlin S567.266 and Laura Coll McLaughlin S574.193

⁶⁶ RMA Schedule 1, clause 16(2)

⁶⁷ Horticulture New Zealand S486.041

⁶⁸ Waka Kotahi NZTA S450.119

⁶⁹ Consequential Plan-wide amendment from the Energy, Infrastructures and Transport Chapters Recommendation Report

⁷⁰ John Brazil S360.017, Chris & Jan Coll S558.196, Chris J Coll Surveying Limited (S566.196, William McLaughlin S567.269, and Laura Coll McLaughlin S574.196

⁷¹ Federated Farmers of New Zealand S524.083

⁷² John Brazil S360.017, Chris & Jan Coll S558.196, Chris J Coll Surveying Limited S566.196, William McLaughlin S567.269, and Laura Coll McLaughlin S574.196, Leonie Avery (S07.045, Jared Avery S508.045, Kyle Avery S509.045, Avery Bros S510.045, Bradshaw Farms S511.045, Paul Avery S512.045, Brett Avery S513.045, Neil Mouat S535.022

⁷³ John Brazil S360.017, Chris & Jan Coll S558.196, Chris J Coll Surveying Limited S566.196, William McLaughlin S567.269, and Laura Coll McLaughlin S574.196, Leonie Avery S507.045, Jared Avery S508.045, Kyle Avery S509.045, Avery Bros S510.045, Bradshaw Farms S511.045, Paul Avery S512.045, Brett Avery S513.045, Neil Mouat S535.022

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

- c. The protection of Sites and Areas of Significance to Māori or other taonga requires an esplanade reserve or esplanade strip of ~~greater or~~⁷⁴ lesser width than 20 metres; or
- d. The protection or enhancement of biodiversity values or water quality requires an esplanade reserve or esplanade strip of ~~greater or~~⁷⁵ lesser than 20 metres; or
- e. The land is within a natural hazard area of where there is an identified risk from one or more natural hazards (such as coastal erosion).

2.5. Subdivision – Rules

Submissions and Further Submissions

278. Eleven submission points and five further submission points relating to the Subdivision rules (as a whole) were summarised in a Table on page 56-59 of the s42A Report. One submission point sought to retain the rules as notified. Ten submission points sought various amendments to the rules. Four of the further submissions supported various amendments, and one opposed one of the proposed amendments.
279. Eighteen submission points and two further submission points relating to **SUB-R1** were summarised in a Table on pages 60-61 of the s42A Report. Four submission points supported the retention of the rule as notified. One submission point opposed the rule. The remaining 13 submission points sought amendments.
280. Fourteen submission points relating to **SUB-R2** were summarised in a Table on page 64 of the s42A Report. Six submission points supported the retention of the rule as notified. Eight submission points sought amendments.
281. Thirty-three submission points and six further submission points relating to **SUB-R3** were summarised in a Table on pages 65-68 of the s42A Report. Four submission points supported the retention of the rule as notified. The remaining submission points sought amendments.
282. Thirteen submission points relating to **SUB-R4** were summarised in a Table on pages 72-73 of the s42A Report. Six submission points supported the retention of the rule as notified. The remaining submission points sought amendments.
283. Seventy-seven submission points and three further submission points relating to **SUB-R5** were summarised in a Table on pages 74-78 of the s42A Report. Eight submission points supported the retention of the rule as notified. The remaining submission points sought amendments.
284. Sixty-four submission points and 13 further submission points relating to **SUB-R6** were summarised in a Table on pages 82-87 of the s42A Report. Five submission points supported the retention of the rule as notified. The remaining submission points sought amendments.

⁷⁴ John Brazil S360.017, Chris & Jan Coll S558.196, Chris J Coll Surveying Limited S566.196, William McLaughlin S567.269, and Laura Coll McLaughlin S574.196, Leonie Avery S507.045, Jared Avery S508.045, Kyle Avery S509.045, Avery Bros S510.045, Bradshaw Farms S511.045, Paul Avery S512.045, Brett Avery S513.045, Neil Mouat S535.022

⁷⁵ John Brazil S360.017, Chris & Jan Coll S558.196, Chris J Coll Surveying Limited S566.196, William McLaughlin S567.269, and Laura Coll McLaughlin S574.196, Leonie Avery S507.045, Jared Avery S508.045, Kyle Avery S509.045, Avery Bros S510.045, Bradshaw Farms S511.045, Paul Avery S512.045, Brett Avery S513.045, Neil Mouat S535.022

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

285. Fourteen submission points and four further submission points relating to **SUB-R8** were summarised in a Table on pages 91-96 of the s42A Report. Three submission points supported the retention of the rule as notified. The remaining submission points sought amendments.
286. Twenty-one submission points and two further submission points relating to **SUB-R10** were summarised in a Table on pages 100-102 of the s42A Report. Four submission points supported the retention of the rule as notified. The remaining submission points sought amendments.
287. Three submission points relating to **SUB-R11** were summarised in a Table on page 106 of the s42A Report. All the submission points sought amendments. The Panel notes that this rule was also addressed in the Natural Features and Landscapes recommendation.
288. Five submission points relating to **SUB-R12** were summarised in a Table on page 105 of the s42A Report. All the submission points sought amendments. The Panel notes that this rule was also addressed in the Special Purpose Zones recommendation.
289. Seventeen submission points relating to **SUB-R14** were summarised in a Table on pages 107-108 of the s42A Report. Three submission points supported the retention of the rule as notified. The remaining submission points sought amendments.
290. Twenty-five submission points relating to **SUB-R18** were summarised in a Table on pages 109-110 of the s42A Report. Ten submission points supported the retention of the rule as notified. The remaining submission points sought amendments.
291. Six submission points relating to **SUB-R19** were summarised in a Table on page 112 of the s42A Report. Five submission points supported the retention of the rule as notified. The remaining submission point sought amendments.
292. Six submission points relating to **SUB-R22** were summarised in a Table on page 113 of the s42A Report. Five submission points supported the retention of the rule as notified. The remaining submission point sought amendments.
293. One submission point supporting the retention of **SUB-R23** as notified was summarised in a Table on page 114 of the s42A Report.
294. One submission point opposing the retention of **SUB-R24** as notified was summarised in a Table on page 114 of the s42A Report.
295. Twenty-one submission points relating to **SUB-R25** were summarised in a Table on page 114-115 of the s42A Report. Twenty submission points opposed the retention of the rule as notified. The remaining submission point supported it.
296. The Panel adopts these summaries and has considered the relevant submissions and further submissions.

Section 42A Report

Rules (General)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

297. Ms Belgrave and Ms Evans acknowledged the support from Toka Tū Ake EQC that supported the rules as notified. The acknowledgement was subject to recommended amendments that arose from other submissions on specific rules.
298. In response to the submission point made by Deb Langridge, Ms Belgrave and Ms Evans did not support the requested amendments. This was because the relief sought to subdivide land into small house size lots had the potential to undermine the intent of SUB-O1, the objectives of the Rural Zones and the NPS-HPL. The s42A Report noted that GDC, by way of further submission, did not support the submission point.
299. In response to Margaret Montgomery's submission point to make the rules more accessible to a lay person, Ms Belgrave and Ms Evans, acknowledged the submission. However, without any specific relief they did not recommend any changes.
300. The s42A Report did not support the submission point made by Inger Perkins that sought amendments to rules to require renewable energy generation systems to support residential and commercial development. This was because there was no s32AA evaluation provided to support the relief sought and it did not align with the policy intent of the Plan.
301. In response to the submission point made by the West Coast Regional Council (**WCRC**) to ensure the provisions of the NPS-HPL were met, the s42A Report acknowledged the submission. It noted that amendments were recommended to appropriate rules to respond to this submission.
302. In response the submission points made by Buller Conservation Group and Frida Inta to amend the rules regarding the provision of esplanade reserves and strips, Ms Belgrave and Ms Evans did not support the relief sought due to an absence of detailed justification.
303. In response to the submission points made by Forest and Bird, Ms Belgrave and Ms Evans considered that amendments to SUB-S2 were necessary to provide the relief sought in S560.043 to ensure waterbodies and their margins were protected in the subdivision process. However, they did not support the relief sought to amend the references to Schedule Four so that they apply to SNA.
304. In response to the submission point made by Poutini Ngāi Tahu to include '*Poutini Ngāi Tahu values*' as a matter of discretion for all rules, Ms Belgrave and Ms Evans acknowledged the sentiment. However, they invited the submitter to provide further information to provide clarity and methods for practical implementation.

SUB-R1: Permitted Activity – General Residential Zone and General Rule Zone – Boundary adjustments

305. Ms Belgrave and Ms Evans acknowledged the support from four submitters that sought to retain the rule as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.
306. In relation to the submission point made by Margaret Montgomery, who opposed the rule in part, Ms Belgrave and Ms Evans did not make any recommended changes because no specific relief was sought in the submission.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

307. Ms Belgrave and Ms Evans did not initially support the relief sought in the submission point made by Davis Ogilvie & Partners to have the rule apply to all zones. This was because the provision for boundary adjustments in other zones was provided as a controlled activity in SUB-R3. Additionally, without a minimum lot size in the rule, Ms Belgrave and Ms Evans were concerned about the fragmentation of rural land, particularly where it was classed as highly productive. However, having reviewed Ms Hadfield's evidence, Ms Evans revised the recommendation in her Addendum Report and recommended amending the heading of the rule to include all residential and rural zones.
308. In response to the submissions that request a permitted baseline apply when determining compliance with SUB-R1(5)⁷⁶, Ms Belgrave and Ms Evans recommended that these submissions were part of the consideration of the density standards in the Rural Zone Chapter hearing.
309. In response to the submission point made by BDC that SUB-R1(1)(a) and SUB-R1.1(c) were essentially duplications, Ms Belgrave and Ms Evans agreed and recommended deleting SUB-R1(1)(c).
310. In response to the submission point made by Westpower to add a new clause to the rule, Ms Belgrave and Ms Evans did not support the addition. This was because they did not consider a boundary adjustment would affect existing legal and physical access to existing energy activities or create the need for a new easement for non-private infrastructure. They also did not consider that the suggested wording was suitable for a permitted activity rule.
311. In response to the second submission point made by Westpower that sought clarification as to whether the rule applied to the overlays, Ms Belgrave and Ms Evans agreed that the clarity could be improved. They therefore recommended amending the wording of SUB-R1(1)(a), changing 'the' for 'all' when referring to the rules, confirming that compliance with all rules needs to be achieved, including those in an overlay chapters.
312. In response to the four submission points⁷⁷ that requested the deletion of SUB-R1(3) and SUB-R1(5) on the basis that the rules were too restrictive, Ms Belgrave and Ms Evans did not agree. They considered that the provision of a complying access was relevant in order for the boundary adjustment to be a permitted activity. In line with their previous recommendation regarding SUB-R1(5), they considered these submission points would be considered in the Rural Zone Chapter hearing.
313. Ms Belgrave and Ms Evans did not support amendments sought by the four submission points⁷⁸ to enable a boundary adjustment which reduces allotments (or records of title) to be a permitted activity. Nor did they support any amendment to the definition of 'boundary adjustment' as it was in accordance with the National Planning Standards.
314. Appendix 1 of the Addendum Report recommended amending SUB-R1 as follows:

~~SUB-R1-General Residential Zones and General Rural Zones~~ - Boundary adjustments

Activity Status Permitted

Where:

⁷⁶ Buller District Council (S538.245), Davis Ogilvie & Partners Limited (S465.014)

⁷⁷ Chris & Jan Coll (S558.198), Chris J Coll Surveying Limited (S566.198), William McLaughlin (S567.270), Laura Coll McLaughlin (S574.198)

⁷⁸ Chris & Jan Coll (S558.199), Chris J Coll Surveying Limited (S566.199), William McLaughlin (S567.271), and Laura Coll McLaughlin (S574.199)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

1. *The boundary adjustment did not alter:*
 - a. *The permitted activity status of any existing permitted activities occurring on the allotments and/or the ability of an existing permitted activity to continue to comply as a permitted activity under ~~the~~ **all** rules and standards in this Plan;*
 - b. *The extent or degree to which any consented or otherwise lawfully established activity occurring on the allotments did not comply with a rule or standard in this Plan; ~~and~~*
 - c. *~~The ability of an existing permitted activity (including on adjacent lots) to continue to comply with the Plan.~~*
2. *No new roading or access points are required;*
3. *All existing vehicle access points comply with the requirements of Rule TRN - R1;*
4. *No new Council services are required; and*
5. *In the GRUZ - General Rural Zone the boundary adjustment did not result in potential additional residential units as a permitted activity.*

SUB-R2: Permitted Activity – All Zones – Subdivision for a Network Utility or Critical Infrastructure

315. Ms Belgrave and Ms Evans acknowledged the support from six submitters that sought to retain the rule as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.
316. In response to the submission point made by Westpower to make additions to SUB-R2(2), Ms Belgrave and Ms Evans supported the amendment in part. They recommended adding ‘*or the conditions of any land use consent*’ at the end of the clause to be consistent with RMA language.
317. In response to submission points⁷⁹ that requested amendments to SUB-R2(4) for readability, Ms Belgrave and Ms Evans agreed and recommend amendments.
318. In response to submission points⁸⁰ that request SUB-R2(2) and SUB-R2(3) be deleted, Ms Belgrave and Ms Evans did not agree and considered the clauses necessary to manage potential effects.
319. Ms Belgrave and Ms Evans recommend amending SUB-R1 as follows:

SUB-R2

Activity Status Permitted

Where:

1. *Any new lot created is solely for a network utility or critical infrastructure which is either a Permitted Activity under the Energy Chapter, Infrastructure Chapter or Transport Chapter or is approved as a result of a land use consent;*
2. *Any existing buildings comply with the relevant zone Permitted Activity standards **or the conditions of any land use consent**;*
3. *All existing vehicle access points comply with the requirements of Rule TRN - R1;*

⁷⁹ Buller Conservation Group (S552.114), Frida Inta (S553.114) and Buller District Council (S538.246)

⁸⁰ Chris & Jan Coll (S558.200), Chris J Coll Surveying Limited (S566.200), William McLaughlin (S567.272), and Laura Coll McLaughlin (S574.200)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

4. ~~Where the~~ **The** site is less than 4ha **and** adjacent to a river >3m wide or **adjacent to the coast**, the provision of an esplanade reserve or strip of 20m;
5. No new roading or access points are required; and
6. No new Council services are required.

SUB-R3: All Zones and All Overlays – Boundary Adjustments

320. Ms Belgrave and Ms Evans acknowledged the support from four submitters that sought to retain the rule as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.
321. In response to the submission point made by Christopher and Donna Meates that sought to reduce the minimum allotment size to 5,000m² for a controlled activity, Ms Belgrave and Ms Evans did not support the relief sought. They noted this was a significant reduction from the 4 ha notified standard and considered a discretionary activity was more appropriate.
322. In response to the submission point made by Margaret Montgomery to clarify clause (f) in the matters of control, Ms Belgrave and Ms Evans supported the submission in part. They recommended amendments that would ensure consistency with objectives and policies.
323. Ms Belgrave and Ms Evans did not support the submission point made by Hort NZ to add a matter of control relating to the consideration of reverse sensitivity effects for reasons already set out in regard to other submission points.
324. Ms Belgrave and Ms Evans supported the relief sought in the submission point by BDC to delete the requirement in SUB-R3(3)(a) to have had a building consent issued because it was not a necessary consideration as to the potential effects of any boundary adjustment proposal.
325. In response to the submission point made by Westpower to make amendments to SUB-R3(3)(a), Ms Belgrave and Ms Evans did not support the relief sought. The addition of the words 'or activity' were considered to be superfluous, and as the building consent part of the rule is recommended to be deleted, they considered the other additions sought by Westpower were not necessary.
326. In response to the submission point made by Westpower to make amendments to clause (f) of the matters of control, Ms Belgrave and Ms Evans recommended that the addition of the words 'management of adverse effects' to be helpful.
327. Ms Belgrave and Ms Evans supported in part the relief sought by Westpower to add a new matter of control relating to the consideration of energy activities/infrastructure. However, they recommended using 'infrastructure activities' instead of 'energy activities'.
328. Ms Evans revisited the new matter of control in her Addendum Report, after considering Mr Kennedy's evidence. She agreed that the inclusion of the word 'maintain' in the matter was relevant and appropriate.
329. Ms Belgrave and Ms Evans did not support the proposed addition of 'amenity values' to the matters of control in clause (f), as sought by Frida Inta and Buller Conservation Group. They considered a controlled activity boundary adjustment had limited potential for effects on amenity values, and that the term was not certain enough for a matter of control.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

330. In response to submission points⁸¹ that sought to retain SUB-R3(1) and SUB-R3(3), and delete SUB-R3(2), which would remove the escalation of any non-compliance to a discretionary activity, Ms Belgrave and Ms Evans did not support the relief sought. This was because they considered there was potential for adverse environmental effects to arise from rearranging lot boundaries which could not be considered with the deletion of SUB-R3(2).
331. In response to submission points⁸² that sought more specificity to the wording of clause (a) in the matters of control, Ms Belgrave and Ms Evans supported the intention of the submission point but recommended adding *'including space for a compliant building platform within any vacant allotment'* to the clause.
332. Ms Belgrave and Ms Evans did not support the relief sought in the submission point from Forest and Bird to add a rule preventing a boundary from being located through an SNA. This was because they considered the matter for control clause (f) (as recommended to be amended) allowed for an assessment of effects on areas of significant indigenous biodiversity.
333. The Forest and Bird submission point also sought an additional matter for control to require an assessment against the significant criteria in Appendix 1 of the WCRPS. Ms Belgrave and Ms Evans did not support this addition and considered that this is better addressed in the ECO Chapter of the pTTPP.
334. In response to the submission point made by David Ellerm to add a new rule giving zone specific standards precedence where there was inconsistency with the general standards, the Ms Belgrave and Ms Evans did not support the addition. This was because they considered there was a lack of information and justification in the submission.
335. In response to the submission point made by the Director General, which sought amendments to the matters of control in clause (f), Ms Belgrave and Ms Evans supported the submission in part. They agree that additions relating to coastal features, natural character and landscapes should be included but did not support the additional reference to other features identified through the resource consent process.
336. In response to the submission point made by Poutini Ngāi Tahu, which sought to add 'Poutini Ngāi Tahu values' as a matter of control, Ms Belgrave and Ms Evans did not support the addition as they consider the addition would not create certainty for a controlled activity.
337. Appendix 1 of the Addendum Report recommended amending SUB-R3 as follows:

SUB-R3

Activity Status Controlled

Where:

- 1. These are not Permitted Activities under Rule SUB - R1;*
- 2. All Subdivision Standards are complied with; and*
- 3. The existing or proposed buildings must:*
 - a. Comply with all permitted activity standards relevant to the zone and any overlays ~~and a building consent has been issued for any proposed buildings;~~ or*

⁸¹ Chris & Jan Coll (S558.202) (S558.203), Chris J Coll Surveying Limited (S566.202) (S566.203), William McLaughlin (S567.274) (S567.275), and Laura Coll McLaughlin (S574.202) (S574.203)

⁸² Chris & Jan Coll (S558.204), Chris J Coll Surveying Limited (S566.204), William McLaughlin (S567.276), and Laura Coll McLaughlin (S574.204)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

- b. Be subject to an approved resource consent for any non-compliances; or
- c. Where there is an existing building that did not comply with the current district plan, the subdivision must not increase the extent to which the existing building fails to comply.

Matters of control are:

- a. The design and layout of allotments, **including space for a compliant building platform within any vacant allotment**, and the ability to accommodate permitted and/or intended land uses;
- b. The design and provision of access;
- c. The provision, design and construction of infrastructure and services;
- d. Any requirements which arise from the location in relation to natural hazards;
- e. Effects of development phase works on the surrounding area; ~~and~~
- f. **Management of adverse effects on** ~~Protection, maintenance or enhancement of~~ **outstanding natural features and landforms, areas of significant indigenous biodiversity, historic heritage, sites and areas of significance to Māori, archaeological sites, coastal features, natural character, landscapes, or any other identified features; and**
- g. **The ability to access, operate, maintain or upgrade existing infrastructure activities, is retained.**

SUB-R4: All Zones and All Overlays – Subdivision for a Network Utilities, Critical Infrastructure, Access or Reserves

338. Ms Belgrave and Ms Evans acknowledged the support from submitters that sought to retain the rule as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.
339. Ms Belgrave and Ms Evans supported in part the submission point made by Westpower to amend clause (a) of the matters of control to add reference to critical infrastructure. However, they recommended using 'regionally significant infrastructure' to reflect Plan-wide amendments. They noted this required a consequential amendment to the title of the rule.
340. In response to the second submission point by Westpower to amend clause (c) of the matters of control, Ms Belgrave and Ms Evans made a similar recommendation to in SUB-R3.
341. In response to submission points⁸³ that sought the deletion of clause (c) from the matters of control, Ms Belgrave and Ms Evans did not support the submission to retain consistency with similar matters throughout the SUB Chapter.
342. In response to the submission point made by Poutini Ngāi Tahu, Ms Belgrave and Ms Evans did not support the relief sought to add a new matter of control, for the same reasons set out in relation to SUB-R3.
343. Ms Belgrave and Ms Evans recommended amending SUB-R4 as follows:

SUB-R4

Activity Status Controlled

Where:

⁸³ Chris & Jan Coll (S558.205), Chris J Coll Surveying Limited (S566.205), William McLaughlin (S567.277) and Laura Coll McLaughlin (S574.205)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

1. *The Subdivision is not a Permitted Activity under Rule SUB - R2*

Matters of control are:

- a. *The size, design and layout of allotments for the purpose of public network utilities, **regionally significant infrastructure**, reserves or access;*
- b. *Legal and physical access to and from allotments;*
- c. *~~Protection, maintenance or enhancement of~~ **Management of adverse effects on outstanding natural features and landforms, natural character, the coastal environment, waterbodies, significant indigenous biodiversity, historic heritage, sites and areas of significance to Māori, archaeological sites, coastal features, natural character, landscapes**, or identified features;*
- d. *Where relevant, compliance with Subdivision Standards; and*
- e. *Any requirements which arise from the location in relation to natural hazards, esplanade reserves or esplanade strips.*

SUB-R5: Subdivision to create allotment(s) in all RESZ - Residential Zones, CMUZ - Commercial and Mixed Use Zones, INZ - Industrial Zones, SVZ - Scenic Visitor Zone or PORTZ - Port Zones

344. Ms Belgrave and Ms Evans acknowledged the support from submitters that sought to retain the rule as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.
345. Ms Belgrave and Ms Evans did not support the relief sought in the submission made by Margaret Montgomery to reformat the rule because this was consistent with the drafting of other rules in the SUB Chapter.
346. In response to the submission point made by the TPPP Committee to amend SUB-R5(4), Ms Belgrave and Ms Evans supported the submission point and recommend that the lead in words of SUB-R5(4) be replaced.
347. Ms Belgrave and Ms Evans did not support the relief sought in the submission point made by Silver Fern Farms to require a discretionary consenting pathway and a notification requirement for subdivision in a residential zone that created new residential lots within 100m of an industrial zone boundary. This was because they did not consider the SUB Chapter was the appropriate part of the Plan to address reverse sensitivity effects and the significant constraints it would place on the existing residentially zoned land.
348. In response to the similar submission points made by KiwiRail and Westpower to amend clause (p) of the matters of control, Ms Belgrave and Ms Evans supported the submissions in part. Ms Belgrave and Ms Evans recommended replacing 'network utilities' with 'regionally significant infrastructure'.
349. In response to the submission point made by Westpower to amend clause (g) of the matters of control to specifically add reference to energy activities and infrastructure, Ms Belgrave and Ms Evans did not support the addition. They considered that the notified wording was sufficiently broad to capture the outcome sought by Westpower.
350. Ms Belgrave and Ms Evans did not support the relief sought by BDC in two of their submission points to condense SUB-R5(2) and SUB-R5(3) into one clause because non-compliance with the notified clause resulted in a different default activity status.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

351. In response to further submission points by BDC to change '*constraints*' to '*considerations*' in clause (n) of the matters of control, Ms Belgrave and Ms Evans supported the amendment as they considered it provided more certainty to enable a comprehensive assessment of the natural hazard or geotechnical risks.
352. In response to submission points made by Frida Inta and Buller Conservation Group to include '*existing amenity values, the quality of the environment, natural character*' in clause (k) of the matters of control, Ms Belgrave and Ms Evans did not support the additions. They considered the term did not provide certainty enough for a matter of control. Additionally, they noted these matters were addressed in clause (a).
353. In response to submission points⁸⁴ that sought more specificity in the wording of matter of control (a), Ms Belgrave and Ms Evans supported the intention of the submission point but recommend using the same wording as recommended in relation to SUB-R3.
354. In response to submission points⁸⁵ that requested deleting matter of control (j) Ms Belgrave and Ms Evans supported the relief sought. This was because effects of earthworks were managed separately, and the temporary effects of construction and development were managed in other parts of the Plan.
355. Ms Belgrave and Ms Evans did not support submission points⁸⁶ that requested amendments to matters of control (b) and (c) to reference relevant standards (e.g. District Council Engineering Standards). Ms Belgrave and Ms Evans noted the notified provisions were to manage effects associated with the design of subdivision, which were not typically addressed by engineering standards.
356. Ms Belgrave and Ms Evans did not support the submission points⁸⁷ that sought the deletion of words relating to providing access to esplanade reserves and strips from matter of control (l) because it was a relevant matter to be considered at the time of subdivision.
357. In response to submission points⁸⁸ that sought to delete matter of control (o), Ms Belgrave and Ms Evans supported the relief sought because these matters were managed under other provisions of the Plan.
358. Regarding submission points⁸⁹ that related to SUB-R5(8), the relief sought ranged from the deletion of the whole rule (on the basis that '*development plan*' was not defined), or that it be defined; and if the rule was deleted, consequential amendments to the activity status when compliance was not achieved. Ms Belgrave and Ms Evans agreed that there was uncertainty due to the term '*development plan*' not being defined and recommended amendments to instead refer to '*structure plan or outline development plan*'. They considered consequential amendments were not necessary.

⁸⁴ Chris J Coll Survey Limited (S566.210), Chris & Jan Coll (S558.210), Catherine Smart-Simpson (S564.049), William McLaughlin (S567.281), Geoff Volckman (S563.043), Laura Coll McLaughlin (S574.210), Koiterangi Lime Co LTD (S577.054), Karamea Lime Company (S614.071), and Peter Langford (S615.071)

⁸⁵ Chris J Coll Survey Limited (S566.211), Chris & Jan Coll (S558.211), Catherine Smart-Simpson (S564.050), William McLaughlin (S567.282), Laura Coll McLaughlin (S574.211), Koiterangi Lime Co LTD (S577.055) and Peter Langford (S615.072) Karamea Lime Company (S614.072)

⁸⁶ Chris J Coll Survey Limited (S566.212), Chris & Jan Coll (S558.212), William McLaughlin (S567.283), Laura Coll McLaughlin (S574.212)

⁸⁷ Chris J Coll Survey Limited (S566.213) Chris & Jan Coll (S558.213), William McLaughlin (S567.284), and Laura Coll McLaughlin (S574.213)

⁸⁸ Chris J Coll Survey Limited (S566.214), Chris & Jan Coll (S558.214), William McLaughlin (S567.285), and Laura Coll McLaughlin (S574.214)

⁸⁹ Chris J Coll Survey Limited (S566.209 & S566.215), Chris & Jan Coll (S558.209 & S558.215), William McLaughlin (S567.280 & S567.286), Laura Coll McLaughlin (S574.209 & S574.215) Geoff Volckman (S563.042), Koiterangi Lime Co LTD (S577.053), Karamea Lime Company (S614.070), Peter Langford (S615.070), and Catherine Smart-Simpson (S564.048)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

359. In response to the submission point made by Forest and Bird to amend SUB-R5(1) to delete the reference to Schedule Four, Ms Belgrave and Ms Evans supported the relief sought. They considered this would achieve consistency with the title of SUB-R7.
360. In response to the submission point made by Poutini Ngāi Tahu, which sought to retain SUB-R5(4) and matter for control (k) as notified, Ms Belgrave and Ms Evans noted that they had recommended amendments to SUB-R5(4) in response to the TTPP Committee's submission. However, they considered the intent remained the same. No amendments were recommended to matter for control (k).
361. In response to submission points⁹⁰ that sought to retain the activity status of discretionary when non-compliance with SUB-R5(6) was not achieved, Ms Belgrave and Ms Evans supported the relief sought and noted that no submission sought to change it.
362. Ms Belgrave and Ms Evans recommended amending SUB-R5 as follows:

SUB-R5

Activity Status Controlled

Where:

1. *This is not within a Significant Natural Area ~~as identified in Schedule Four~~ subject to Rule SUB - R7;*
2. *This is not within one of the following locations in the coastal environment:*
 - i. *Outstanding Natural Landscape as identified in Schedule five;*
 - ii. *Outstanding Natural Feature as identified in Schedule Six;*
 - iii. *High or Outstanding Coastal Natural Character as identified in Schedules Seven and Eight;*
or
3. *This is not within an area of:*
 - i. *Outstanding Natural Landscape as identified in Schedule Five;*
 - ii. *Outstanding Natural Feature as identified in Schedule Six;*
 - iii. *Sites of Historic Heritage as identified in Schedule One;*
 - iv. *Any Flood Susceptibility, Flood Plain, Land Instability, Coastal Alert or Coastal Tsunami Hazard Overlay;*
4. ***This is not within a Site or Area of Significance to Māori except those listed below and ~~This only occurs in the following sites and areas of significance to Māori identified in Schedule Three:~~***
 - i. *SASM 10 Kawatiri Pā; SASM 12 Kawatiri Town Reserve; SASM 15 No. 42 Kawatiri (Township) Native Reserve; SASM 31 Punakaiki Area; SASM 56 Māwhera Pā 1; SASM 57 Māwhera Gardens; SASM 58 Greymouth Railway Land; SASM 59 Māwhera Pā 2; SASM 60 Māwhera Kāinga; SASM 61 Victoria Park; SASM 63 No. 32 Nga Moana e Rua Native Reserve; SASM 94 No. 30 Arahura Native Reserve; SASM 96 Taramakau River; SASM 104 Kawhaka Creek Catchment; SASM 112 Arahura River at Tūhua; SASM 117 Waitaiki Catchment; SASM 121 Waitaiki Historic Reserve; SASM 197 Ōkuru;*
5. *This is not within the Earthquake Hazard Overlay;*

⁹⁰ Leonie Avery (S507.046), Jared Avery (S508.046), Kyle Avery (S509.046), Avery Bros (S510.046), Bradshaw Farms (S511.046), Paul Avery (S512.046), Brett Avery (S513.046), Neil Mouat (S535.023), Chris & Jan Coll (S558.206), and Avery Brothers (S609.044)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

6. *This is not within an area of Flood Severe, Coastal Severe or Westport Hazard Overlay or the Airport Noise Control Overlay;*
7. *All Subdivision Standards are complied with; and*
8. *The subdivision is in general accordance with any structure development plan ~~or outline development plan~~ or outline development plan in place for the site.*

Matters of control are:

- a. *The design and layout of allotments, including space for a compliant building platform on any vacant allotment and the ability to accommodate permitted and/or intended land uses;*
- b. *The design and provision of roads, pedestrian and cycle ways; and*
- c. *The design and provision of access;*
- d. *The provision of infrastructure and services for drinking water, wastewater and stormwater, telecommunications and energy;*
- e. *The adequacy of water supply for firefighting;*
- f. *Any requirements arising from meeting the relevant district Council Engineering Standards, or where no such Standard exists, NZS 4404:2010 Land Development and Subdivision Infrastructure;*
- g. *The provision of easements;*
- h. *The provision of local purpose reserves;*
- i. *The requirement for financial contributions as outlined in Rules FC – R1 to FC – R12;*
- ~~j. *Effects of development phase works on the surrounding area;*~~
- k. *Effects on Poutini Ngāi Tahu values, notable trees or historic heritage within or adjacent to the site;*
- l. *The provision of esplanade reserves or strips, and the need for access to be provided to any esplanade reserve or strip created;*
- m. *The extent to which any land identified as contaminated is safe for habitation; and*
- n. *Natural hazards ~~or~~ and geotechnical considerations ~~constraints~~; and*
- ~~o. *Management of construction effects, including traffic movements, hours of operation, noise, earthworks and erosion and sediment control; and*~~
- p. *Management of potential reverse sensitivity effects on existing land uses, including regionally significant infrastructure ~~network utilities~~, rural activities or significant hazardous facilities.*

SUB-R6 Subdivision to create allotment(s) in any RURZ - Rural Zone or MPZ - Māori Purpose Zone

363. Ms Belgrave and Ms Evans acknowledged the support from five submitters that sought to retain the rule as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.

364. In response submission points⁹¹ that sought the activity status be amended from non-complying to discretionary when non-compliance with SUB-R6(4) occurred, Ms Belgrave and Ms Evans did not support the amendment. This was because they considered a non-complying activity status was appropriate for confined areas where further subdivision was not

⁹¹ S360.018; S421.004; S507.048; S507.050; S508.058; S508.048; S509.048; S509.050; S510.050; S511.048; S511.050; S512.048; S512.050; S513.048; S513.050; S558.216; S566.216; S567.287; S574.216; S609.045

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

anticipated due to the significant identified constraints. They noted this consideration also applied to the submission made by Lara Kelly, which was of a similar nature.

365. In response to the submission point made by Silver Fern Farms to include a reference to minimum lot size in matter of control (a) and to include additional wording in matter of control (m) to refer to industrial activities, Ms Belgrave and Ms Evans supported the submission in part. They did not recommend changing clause (a) because minimum lot sizes were referred to elsewhere and duplication was not necessary. Regarding clause (m), they considered the inclusion of *'industrial'* activities was a helpful clarification and recommended the addition of *'rural industry'* to the clause.
366. In response to the similar submissions made by KiwiRail and Westpower to amend matter of control (m) in relation to the reference to infrastructure, Ms Belgrave and Ms Evan reiterated their previous position about this matter and recommended amendments to refer to *'regionally significant infrastructure'*.
367. In response to the submission point made by Hort NZ to include a new matter of control to address potential reverse sensitivity effects on rural production activities, Ms Belgrave and Ms Evans did not support the submission because they considered the matter was already managed by the reference to *'rural activities'* in matter of control (m).
368. In response to the two submissions made by BDC to condense SUB-R5(2) and SUB-R5(3) into one rule, Ms Belgrave and Ms Evans reiterated their previous position about this matter and did not support the amendment.
369. BDC also sought to have *'natural hazards or geotechnical considerations'* added to the matters for control. EQC sought this relief too. Ms Belgrave and Ms Evans supported these submissions with a minor amendment that *'or'* be replaced with *'and'* in accordance with s106 of the RMA.
370. In response to the submission point from Westpower to have a matter for control added to consider the provision of easements for energy activities, Ms Belgrave and Ms Evans supported the submission in part, as this was a relevant consideration. They did not consider the specificity of the type of easement was necessary.
371. In response to submission points⁹² that sought more specificity to the wording of matter of control (a), Ms Belgrave and Ms Evans reiterated their previous recommendation in relation to SUB-R5 and considered the alternative wording addressed the intent of the submissions.
372. In response to submission points⁹³ that sought amendments to matters of control (b) and (c) to reference relevant standards, Ms Belgrave and Ms Evans reiterated their previous position about this matter in relation to SUB-R5 and did not support the relief sought.
373. In response to submission points⁹⁴ that sought the deletion of words relating to providing access to esplanade reserves and strips from matter of control (j), Ms Belgrave and Ms Evans reiterated their previous position in relation to SUB-R5 and did not support the relief sought.

⁹² Chris & Jan Coll (S558.217), Chris J Coll Surveying Limited (S566.217), William McLaughlin (S567.288), and Laura Coll McLaughlin (S574.217)

⁹³ Chris & Jan Coll (S558.218), Chris J Coll Surveying Limited (S566.218), William McLaughlin (S567.289), and Laura Coll McLaughlin (S574.218)

⁹⁴ Chris J Coll Survey Limited (S566.221) Chris & Jan Coll (S558.221), William McLaughlin (S567.291), and Laura Coll McLaughlin (S574.221)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

374. In response to submission points⁹⁵ that sought to delete matter of control (l), Ms Belgrave and Ms Evans reiterated their previous position in relation to SUB-R5 and supported the relief sought by the submissions.
375. Forest and Bird's submission point sought to amend SUB-R6(1) to apply to areas of significant indigenous biodiversity that were not identified in Schedule Four. A further submission from Chris J Coll Surveying opposed the submission. Ms Belgrave and Ms Evans did not support the relief sought by Forest and Bird because they considered an ecological assessment was not always necessary to demonstrate that an area did not qualify for an SNA. Nevertheless, they recommended minor amendments to the rule to improve clarity and consistency with SUB-R5.
376. Ms Belgrave and Ms Evans did not support the relief sought by Poutini Ngāi Tahu to amend SUB-R6(6) because the relief would preclude consideration under SUB-R6(1), SUB-R6(2), and SUB-R6(5) which required compliance with the proposed subdivision standards.
377. Ms Belgrave and Ms Evans did not support the relief sought in submission points⁹⁶ to amend matters of control (d) and (k) because no specific relief sought had been identified.
378. In response to submission points⁹⁷ that sought amendments to make the rule less restrictive, Ms Belgrave and Ms Evans did not support the submissions because no specific relief sought had been identified.
379. Ms Belgrave and Ms Evans did not support the relief sought in submission points⁹⁸ to delete references to highly productive land as it was a defined term in the NPS-HPL.
380. Ms Belgrave and Ms Evans recommended amending SUB-R6 as follows:

SUB-R6

Activity Status Controlled

Where:

1. *This is not within a Significant Natural Area ~~as identified in Schedule Four~~ and subject to Rule SUB - R7;*
2. *This is not within one of the following locations in the coastal environment:*
 - i. *Outstanding Natural Landscape as identified in Schedule Five;*
 - ii. *Outstanding Natural Feature as identified in Schedule Six;*
 - iii. *High or Outstanding Coastal Natural Character as identified in Schedules Seven and Eight;*
or
3. *This is not within an area of:*
 - i. *Outstanding Natural Landscape as identified in Schedule Five;*
 - ii. *Outstanding Natural Feature as identified in Schedule Six;*
 - iii. *Sites of Historic Heritage as identified in Schedule One;*

⁹⁵ Chris J Coll Survey Limited (S566.222), Chris & Jan Coll (S558.222), William McLaughlin (S567.292), and Laura Coll McLaughlin (S574.222)

⁹⁶ Chris J Coll Surveying Limited (S556.220), Chris & Jan Coll (S558.220), William McLaughlin (S567.290), and Laura Coll McLaughlin (S574.220)

⁹⁷ Steve Croasdale (S516.050), Geoff Volckman (S563.045), Catherine Smart-Simpson (S564.051), Koiterangi Lime Co LTD (S577.057), Karamea Lime Company (S614.073), and Peter Langford (S615.073)

⁹⁸ Peter Jefferies (S544.007), Martin and Lisa Kennedy (S545.007), and Nick Pupich (S546.004)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

- iv. Any Flood Susceptibility, Flood Plain, Land Instability, Coastal Alert or Coastal Tsunami Hazard Overlay;
 - v. This is not within the Earthquake Hazard Overlay;
 - vi. This is not within an area of Flood Severe, Coastal Severe or Westport Hazard Overlay or the Airport Noise Control Overlay;
4. All Subdivision Standards are complied with; and
5. Subdivision in the MPZ - Māori Purpose Zone is in accordance with an Iwi/Papatipu Rūnanga Management Plan for the site.

Matters of control are:

- a. The size, design, shape, location and layout of allotments **including space for a compliant building platform for any vacant allotment;**
- b. The design and provision of roads, pedestrian and cycle ways;
- c. The design and provision of access;
- d. Efficient use of land and compatibility with rural character and the role, function and predominant character of the Rural or Māori Purpose Zone in which the subdivision is located;
- e. Any requirements arising from meeting the relevant District Council's Engineering Standards, or where no such Standards exist, NZS 4404:2010 Land Development and Subdivision Infrastructure;
- f. The provision of infrastructure and services for drinking water, wastewater and stormwater, telecommunications and energy;
- g. The adequacy of water supply for firefighting;
- h. The requirement for financial contributions as outlined in Rules FC – R1 to FC – R12;
- i. Effects on Poutini Ngāi Tahu values or notable trees within or adjacent to the site;
- j. The provision of esplanade reserves or strips, and the need for access to be provided to any esplanade reserve or strip created;
- k. Management of any effects on the production value of any highly productive land or high value soils such as those located at Karamea and Totara Flat;
- ~~l. Management of construction effects, including traffic movements, hours of operation, noise, earthworks and erosion and sediment control; and~~
- m. Management of potential reverse sensitivity effects on existing land uses, including **regionally significant infrastructure** ~~network utilities~~, rural **and rural industry** activities or significant hazardous facilities;
- n. **Natural hazards and geotechnical considerations; and**
- o. **The provision of easements.**

SUB-R7/ECO-R4 Subdivision to create allotment(s) of Land Containing an Area of Significant Indigenous Biodiversity

381. The consideration of SUB-R7/ECO-R4 is part of the Natural Hazard Chapter Recommendation Report.

SUB-R8 Subdivision to create allotment(s) of Land that contains or is within the Electricity Transmission and Distribution Yard

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

382. Ms Belgrave and Ms Evans acknowledged the support from the three submitters that sought to retain the rule as notified, and also the submission from Poutini Ngāi Tahu that sought specific provisions of the rule be retained. The acknowledgement was subject to recommended amendments that arose from other submission points.
383. In response to the submission point from Transpower to provide a cross reference in the rule to ENG-P3 and ENG-P10, Ms Belgrave and Ms Evans did not support the submission point based on recommended amendments to the matters of control that responded to other submissions. (The Panel notes ENG-P10 is a typo from the submission, as there is no ENG-P10, the correct reference is ENG-9. This was clarified in Ms Whitney's evidence for Transpower).
384. In response to the submission point from EQC that sought to have '*natural hazards or geotechnical considerations*' added to the matters for control, Ms Belgrave and Ms Evans reiterated their previous position about this matter considered in relation to SUB-R5 and SUB-R6; and they supported the submission with a minor amendment that '*or*' be replaced with '*and*' in accordance with s106 of the RMA.
385. In response to the submission point from Westpower to amend the wording of SUB-R8(8)(iii) and SUB-R8(10), Ms Belgrave and Ms Evans agreed that the wording required clarification. They support amending SUB-R8(8)(iii) to include all permitted activity requirements (not just in reference to the zone), and also to include reference to the '*Distribution*' Operator in SUB-R8(10).
386. In response to the submission point from Westpower to amend the wording of matter of control (m) to include reference to critical infrastructure and to add a matter in relation to easements, Ms Belgrave and Ms Evans reiterated their previous position about this matter. They recommended adding the words '*regionally significant infrastructure*' to matter (m) and including a matter of control that relates to the provision of easements.
387. In response to submission points⁹⁹ that sought to replace the rule with those developed in the operative Grey District Plan with regard to National Grid matters, Ms Belgrave and Ms Evans did not support the submission. Rather, they supported the further submissions made by Transpower against the submissions.
388. In response to submission points¹⁰⁰ that sought to remove provisions relating to highly productive land, Ms Belgrave and Ms Evans supported the relief sought (subject to the other recommended amendments).
389. Ms Belgrave and Ms Evans supported the relief sought in the submission points from Transpower and the TTPP Committee to change the references from '*Electricity Transmission Corridor*' and '*Electricity Transmission Yard*' to '*National Grid Subdivision Corridor*' and '*National Grid Yard*' respectively. They considered this was consistent with recommended amendments in other hearing streams.
390. In response to the Transpower submission point that sought substantial changes to this rule, Ms Belgrave and Ms Evans supported the relief sought in part, as follows:

⁹⁹ Martin and Lisa Kennedy (S545.012) and Nick Pupich & Sandy Jefferies (S546.012)

¹⁰⁰ Peter Jefferies (S544.007), Martin and Lisa Kennedy (S545.007), and Nick Pupich (S546.004)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

- a) The requested change of activity status to replace the controlled status with restricted discretionary was not supported but they agreed that when compliance was not achieved the activity status should be non-complying.
- b) Simplification of the rule was supported in part and they agreed that SUB-R8(1) – SUB-R8(7) and matters of control (b) – (l) be deleted and matters of control (a) and (m) are amended.

391. In her Addendum Report, Ms Evans noted she had considered Ms Whitney's evidence prepared for Transpower and advised she supported further simplification of the rule to focus provisions to those matters which were directly relevant to the National Grid. She therefore recommended deleting SUB-R8 and including the following new restricted discretionary activity Rule SUB-R13A, as follows:

SUB-R13A Subdivision to create allotment(s) in the National Grid Subdivision Corridor

Activity Status Restricted Discretionary

Where:

1. All resulting allotments, except allotments for access or a public work, demonstrate they are capable of accommodating a building platform for the principal building or any dwelling or sensitive activity entirely outside of the National Grid Yard; and
2. The subdivision maintains any existing access to National Grid support structures.

Discretion is restricted to:

- a) The extent to which the subdivision allows for earthworks, buildings and structures to comply with the safe distance requirements of the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) ISSN01140663;
- b) The provision for the on-going efficient operation, maintenance, development and upgrade of the National Grid, including the ability for continued access to existing transmission lines (including support structures) for maintenance, inspections and upgrading;
- c) The extent to which the design and layout of the subdivision demonstrates that a suitable building platform(s) for the principal building or any dwelling or sensitive activity can be located outside of the National Grid Yard for each new allotment.
- d) The size, design, shape, location and layout of allotments, including the extent to which potential adverse effects, including visual and reverse sensitivity effects on the National Grid and on public safety and property, are mitigated through the location of building platforms, roads, and reserves;
- e) The nature and location of any proposed vegetation to be planted in the vicinity of the National Grid; and
- f) The outcome of any consultation with the owner and operator of the National Grid.

Activity status where compliance not achieved: Non-complying

SUB-R9/ECO-R6 Subdivision of Land to create allotment(s) Containing an Area of Significant Indigenous Biodiversity not meeting Rule SUB-R7

392. The consideration of SUB-R9/ECO-R6 will be made as part of the Ecosystems and Indigenous Biodiversity Chapter hearing.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

SUB-R10 Subdivision of Land to create allotment(s) in Areas of Historic Heritage identified in Schedule One or within Sites or Areas of Significance to Māori identified in Schedule Three not meeting Rule SUB - R5

393. Ms Belgrave and Ms Evans acknowledged the support from the four submitters that sought to retain the rule as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.
394. Ms Belgrave and Ms Evans acknowledged the submission made by the TTPP Committee that sought to make amendments making it clear that within the Sites and Areas of Significance to Māori identified in SUB-R5, subdivision was a controlled activity, and rule SUB - R10 did not apply. They considered the recommended amendments to SUB-R5 addressed the relief sought.
395. In response to the submission point from BDC that sought to have '*natural hazards or geotechnical considerations*' added to the matters for discretion Ms Belgrave and Ms Evans reiterated their previous position.
396. In response to the submission point from BDC that sought reference to '*critical infrastructure*' in the advice note at the end of the rule in relation to SUB-R4, Ms Belgrave and Ms Evans supported the addition. However, they recommended using '*regionally significant infrastructure*' and adding '*Advice Note*'.
397. Ms Belgrave and Ms Evans did not support the submission point from BDC to delete the notification section of the rule because the rule related to subdivision in areas of significance to Māori or in areas of historic heritage and therefore notification to these parties was considered appropriate. Nevertheless, they noted that amendments were recommended to the notification clauses to be consistent with recommendations Plan-wide.
398. In response to the submission point from Westpower to add a new matter of discretion to consider reverse sensitivity effects on existing land uses, Ms Belgrave and Ms Evans reiterated their previously stated view that these effects were better managed through the underlying zone provisions. Therefore, they did not support the addition sought by Westpower. Ms Evan's revisited this in her s42A Addendum Report having considered Mr Kennedy's evidence and maintained her view.
399. In response to the submission point from Westpower to have a matter of discretion added to consider the provision of easements for energy activities, Ms Belgrave and Ms Evans reiterated their previous position about this matter. They recommend adding a matter of discretion that related to the general provision of easements.
400. In response to submission points¹⁰¹ that sought an amendment to matter of discretion (e) to make it more specific, Ms Belgrave and Ms Evans did not support the relief sought. Despite supporting similar submission points in relation to matters for control, they did not consider the same level of detail was required for restricted discretionary activity rules.

¹⁰¹ Chris & Jan Coll (S558.229), Chris J Coll Surveying Limited (S566.229), William McLaughlin (S567.299), and Laura Coll McLaughlin (S574.229)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

401. Ms Belgrave and Ms Evans did not support the relief sought by submission points¹⁰² to delete 'and the need for access to be provided to any esplanade reserve or strip created' from matter of discretion (j) because this was a relevant consideration at the time of subdivision.
402. Ms Belgrave and Ms Evans did not support the submission point made by the Director General to add the following additional matter of control or discretion because they considered that the matters of discretion are already focused on these matters:
- Management of adverse effects and the protection of any significant natural, cultural or heritage feature or area identified in the resource consent*
403. In response to the submission point made by GDC to remove the reference to "Site or Area of Significance to Māori", Ms Belgrave and Ms Evans supported the relief sought given the recommended amendment to remove the application of this rule to subdivision in SASM.
404. Ms Belgrave and Ms Evans supported the relief sought by GDC to include "transport" in matter of discretion (g) because this was a relevant consideration.
405. Ms Belgrave and Ms Evans recommended amending SUB-R10 as follows:

SUB-R10

Activity Status Restricted Discretionary

Where:

1. *Written confirmation is provided by the relevant Poutini Ngāi Tahu rūnanga – Te Rūnanga o Ngāti Waewae or Te Rūnanga o Makaawhio, that the activity will not impact on any sites or areas of significance to Māori within Schedule Three; and*
2. *All Subdivision Standards are complied with.*

Discretion is restricted to:

- a. *Ensuring the values for which the area is scheduled or identified in Te Tai o Poutini Plan are maintained and protected;*
- b. *Ensuring sufficient land is provided around the heritage resource to protect associated heritage values including from any potential effects of natural hazards;*
- c. *Measures used to minimise obstruction of views of the heritage resource from adjoining public spaces that may result from any future land use or development;*
- d. *Whether there are any adverse effects on a Notable Tree, that has any associated heritage or Poutini Ngāi Tahu values; and*
- e. *The size, design, shape, location and layout of allotments;*
- f. *Whether the allotments are of a size that will continue to provide the heritage resource with a suitable setting to maintain the associated heritage or Poutini Ngāi Tahu values.*
- g. *The provision of infrastructure and services for **transport**, drinking water, wastewater and stormwater, telecommunications and energy;*
- h. *The adequacy of water supply for firefighting;*
- i. *The requirement for financial contributions as outlined in Rules FC – R1 to FC – R12;*

¹⁰² Chris & Jan Coll (S558.231), Chris J Coll Surveying Limited (S566.231), William McLaughlin (S567.300), and Laura Coll McLaughlin (S574.231)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

j. *The provision of esplanade reserves or strips, and the need for access to be provided to any esplanade reserve or strip created;*

k. **Natural hazards and geotechnical considerations; and**

l. **The provision of easements.**

Notification:

1. **When making notification decisions in relation to Applications to subdivide a lot within a Site or Area of Significance to Māori identified in Schedule Three, the Council will be informed by advice from** ~~will always be limited notified to the relevant rūnanga and may be publicly notified.~~

2. **When making notification decisions in relation to Applications to subdivide a lot with a Historical Heritage feature, the Council will be informed by advice from** ~~will always be limited notified to Heritage New Zealand - Pouhere Taonga and may be publicly notified.~~

Advice Note: ~~3-~~ This rule did not apply to subdivisions to create allotments for network utilities, **regionally significant infrastructure**, access or reserves which are subject to Rule SUB - R4.

SUB-R11 Subdivision to create allotment(s) of Land within the Outstanding Natural Landscape identified in Schedule Five or Outstanding Natural Feature identified in Schedule Six

406. In response to the submission point made by Laura Coll McLaughlin to make an amendment to matter of discretion (b) to make it more specific, Ms Belgrave and Ms Evans reiterated their recommendation to not amend this matter as set out in relation to SUB-R10.

407. Ms Belgrave and Ms Evans reiterated their previous recommendation not to delete 'and the need for access to be provided to any esplanade reserve or strip created' from matter of discretion (f), as sought by Laura Coll McLaughlin.

408. Ms Belgrave and Ms Evans reiterated their support the relief sought by GDC to include "transport" to matter of discretion (c).

409. Ms Belgrave and Ms Evans recommended amending SUB-R11 as follows:

SUB-R11

Activity Status Restricted Discretionary

Where:

1. *The site is outside of the Coastal Environment;*
2. *The area has not been identified as an Area of Significant Biodiversity subject to Rules SUB – R8, SUB – R9 or SUB-14;*
3. *The area is not a Significant Natural Area identified in Schedule Four; and*
4. *All Subdivision Standards are complied with.*

Discretion is restricted to:

- a. *Ensuring that landscape or natural feature values within the overlay for which the area or feature is scheduled are maintained;*
- b. *The size, design, shape, location and layout of allotments;*
- c. *The provision of infrastructure and services for **transport**, drinking water, wastewater and stormwater, telecommunications and energy;*
- d. *The adequacy of water supply for firefighting;*

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

- e. *The requirement for financial contributions as outlined in Rules FC – R1 to FC – R12; and*
- f. *The provision of esplanade reserves or strips, and the need for access to be provided to any esplanade reserve or strip created.*

Advice Note: This rule did not apply to subdivisions to create allotments for network utilities, access or reserves which are subject to Rule SUB - R4.

SUB-R12 Subdivision of land to create allotment(s) within the FUZ - Future Urban Zone

- 410. In response to the submission point made by Laura Coll McLaughlin to amend the rule so it did not apply until a robust development or concept plan was approved, Ms Belgrave and Ms Evans did not support the relief sought. This was because no specific reasoning was provided in the submission. They also noted that SUB-P5 applied to subdivision in the FUZ and that it was to be avoided in specified circumstances including in relation to transport and infrastructure matters.
- 411. Ms Belgrave and Ms Evans reiterated their previous recommendation to not delete ‘*and the need for access to be provided to any esplanade reserve or strip created*’ from matter of discretion (h), as sought by Laura Coll McLaughlin.
- 412. Ms Belgrave and Ms Evans reiterated their previous recommendation to delete matter of discretion (i) that relates to the management of construction effects, as sought by Laura Coll McLaughlin. They also did not support her submission point to amend the activity status to discretionary where compliance was not achieved because SUB-P5 sets an avoidance approach and a default activity of non-complying was appropriate.
- 413. Ms Belgrave and Ms Evans reiterated that they supported the relief sought by GDC to include “*transport*” to matter of discretion (d).
- 414. Ms Belgrave and Ms Evans recommended amending SUB-R12 as follows:

SUB-R12

Activity Status Restricted Discretionary

Where:

- 1. *All Subdivision Standards are complied with.*

Discretion is restricted to:

- a. *The size, design, shape, location and layout of allotments;*
- b. *The extent to which the subdivision will be consistent with the Objectives and Policies for the Future Urban Zone and Policy SUB - P5;*
- c. *Where relevant consistency with the NZS 4404 Code of Practice for Land Development and Subdivision infrastructure;*
- d. *The provision of infrastructure and services for **transport**, drinking water, wastewater and stormwater, telecommunications and energy;*
- e. *The adequacy of water supply for firefighting;*
- f. *The requirement for financial contributions as outlined in Rules FC – R1 to FC – R12;*
- g. *Effects on Poutini Ngāi Tahu values or notable trees within or adjacent to the site;*
- h. *The provision of esplanade reserves or strips, and the need for access to be provided to any esplanade reserve or strip created;*

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

~~i. Management of construction effects, including traffic movements, hours of operation, noise, earthworks and erosion and sediment control; and~~

j. Management of potential reverse sensitivity effects on existing land uses, including network utilities, rural activities or significant hazardous facilities.

Advice Note: This rule did not apply to subdivisions to create allotments for network utilities, access or reserves which are subject to Rule SUB - R4.

SUB-R14 Subdivision to create allotment(s) in the Hospital, Stadium, Mineral Extraction, Buller Coalfield and Airport Special Purpose Zones or in the Māori Purpose Zone where no Iwi/Papatipu Rūnanga Management Plan is in place.

415. Ms Belgrave and Ms Evans acknowledged the support from the three submitters that sought to retain the rule as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.

416. In response to the remaining submission points, Ms Belgrave and Ms Evans addressed them as two groups:

a) Four submission points¹⁰³ that sought a robust definition for 'development plan'; and

b) Ten submission points¹⁰⁴ that sought to amend the activity status from non-complying to N/A when compliance was not achieved and to delete SUB-R14(1).

417. Regarding the relief sought to define 'development plan', Ms Belgrave and Ms Evans acknowledged that a similar submission point was considered with respect to SUB-R5. In this instance, they noted that there were no 'development plans' or 'structure plans' for the zones subject to this rule. Ms Belgrave and Ms Evans acknowledged that in the absence of a definition of 'development plan' it would be difficult to determine whether a proposal achieved discretionary activity status or becomes non-complying. Given the uncertainty around the definition of 'development plan', they considered the relief sought by the second group of submitters (which would have the effect of making all subdivision discretionary), to be appropriate to address all 14 submission points.

418. Ms Belgrave and Ms Evans recommended amending SUB-R14 as follows:

SUB-R14

Activity Status Discretionary

~~Where:~~

~~1. The subdivision is in general accordance with any development plan in place for the site.~~

Activity status where compliance not achieved:

~~Non-complying~~ **N/A**

SUB-R18 Subdivision of Land which would otherwise be a Controlled or Restricted Discretionary Activity, where one or more of the Subdivision Standards are Not Complied With

¹⁰³ Chris & Jan Coll (S558.239), Chris J Coll Surveying Limited (S566.239), William McLaughlin (S567.308) and Laura Coll McLaughlin (S574.239)

¹⁰⁴ Geoff Volckman (S563.049) (S563.050), Catherine Smart Simpson (S564.055) (S564.056), Koiterangi Lime Co LTD (S577.060) (S577.061), Karamea Lime Company (S614.077) (S614.078) and Peter Langford (S615.077) (S615.078)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

419. Ms Belgrave and Ms Evans acknowledged the support from the 10 submitters that sought to retain the rule as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.
420. In response to the remaining 15 submission points, Ms Belgrave and Ms Evans addressed the as two groups:
- a) Six submission points¹⁰⁵ that sought a review of SUB-R18(1) and in particular the other rule references, noting some did not relate to overlays and that there was reference to itself; and
 - b) Nine submission points¹⁰⁶ that sought similar relief to make the rule less restrictive and to remove the escalation to non-complying. However, four of the submission points, acknowledge that that escalation should remain in relation to SUB-R18(3).
421. Ms Belgrave and Ms Evans reviewed the rule references in SUB-R18(1) and noted that, other than SUB-R16 which stands alone, non-compliance with these rules results in a discretionary activity status. Therefore, they recommended deleting SUB-R18(1).
422. In response to the escalated activity status for SUB-R18(2) and SUB-R18(3), as these relate to specific circumstances where non-compliance may result in adverse effects with respect to zone character and fragmentation of rural land, Ms Belgrave and Ms Evans recommended that a non-complying activity status was appropriate. Nevertheless, to simplify the rule, Ms Belgrave and Ms Evans recommended two non-complying subdivision rules with the rule titles specific to the particular type of subdivision being managed, as interpreting the rule under the current heading becomes circular.
423. Ms Belgrave and Ms Evans recommend deleting SUB-R18 in its entirety and inserting the two following new rules as follows:

SUB-R27B – Subdivision of land separating a minor residential unit from the principal dwelling in the GRUZ – General Rural Zone

Activity Status Non-complying

Activity status where compliance not achieved: N/A

SUB-R27C – Subdivision of land within a papākaiinga development or within the GRUZ - PREC 1 - Community Living Precinct where the minimum lot sizes for the relevant zone are not met

Activity Status Non-complying

Activity status where compliance not achieved: N/A

SUB-R19 Subdivision in any OSRZ - Open Space and Recreation Zone

424. Ms Belgrave and Ms Evans acknowledged the support from five submitters that sought to retain the rule as notified. The acknowledgement was subject to recommended amendments that arose from other submission point.

¹⁰⁵ Davis Ogilvie & Partners Ltd (S465.019) Westpower Limited (S547.387) Chris & Jan Coll (S558.246), Chris J Coll Surveying Limited (S566.246), William McLaughlin (S567.314), and Laura Coll McLaughlin (S574.246)

¹⁰⁶ Lara Kelly (S421.011) Chris & Jan Coll (S558.248), Chris J Coll Surveying Limited (S566.248), William McLaughlin (S567.316), and Laura Coll McLaughlin (S574.248) Chris & Jan Coll (S558.247), Chris J Coll Surveying Limited (S566.247), William McLaughlin (S567.315), and Laura Coll McLaughlin (S574.247)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

425. In response to the submission point made by Forest and Bird that sought to exclude the Natural Open Space Zone (**NOSZ**) and make subdivision in this zone a non-complying activity, Ms Belgrave and Ms Evans supported the relief sought. This was because, given the nature of the zone, subdivision would typically be unlikely and generally discouraged in order to avoid fragmentation of land and changes to the character of this open space.
426. Ms Belgrave and Ms Evans recommended amending the heading of SUB-R19 and inserting a new rule to relate to the NOSZ as follows:

SUB-R19 - Subdivision in any OSRZ - Open Space and Recreation Zone except the Natural Open Space Zone

Activity Status Discretionary

Activity status where compliance not achieved: N/A

SUB - R27A Subdivision of Land within the Open Space – Natural Open Space Zone

Activity Status Non-complying

Activity status where compliance not achieved: N/A

SUB-R22 Subdivision within the Airport Noise Control Overlay

427. Ms Belgrave and Ms Evans acknowledged the support from five submitters that sought to retain the rule as notified.
428. In response to the submission point made by Margaret Montgomery that sought to change the activity status of the rule to restricted discretionary (from discretionary), Ms Belgrave and Ms Evans did not support the relief sought. This was because no reasons were provided, nor were any matters for discretion specified.

429. Ms Belgrave and Ms Evans recommended retaining SUB-R22 as notified.

SUB-R23 Subdivision to create Allotments in the Flood Susceptibility, Flood Plain, Land Instability, Coastal Alert, Coastal Setback, Lake Tsunami and Coastal Tsunami Overlays not meeting Restricted Discretionary Activity Standards

430. Ms Belgrave and Ms Evans acknowledged the support from one submitter that sought to retain the rule as notified. The relief sought was accepted and they recommended retaining the rule as notified.

SUB-R24 Subdivision within the Outstanding Coastal Natural Character Overlay

431. Ms Belgrave and Ms Evans did not support the relief sought by one submitter to delete SUB-R24 and replace it with a discretionary activity rule because they considered the rule gives effect to policy 13(1)(a) of the NZCPS, which was an avoid policy. They recommended retaining the rule as notified.

SUB-R25 Subdivision of land not subject to another Rule in this Plan

432. Ms Belgrave and Ms Evans acknowledged the support from Te Mana Ora that sought to retain the rule as notified.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

433. Ms Belgrave and Ms Evans did not support the relief sought by submission points¹⁰⁷ to delete SUB-R25 on the basis that the rule was a catch-all intended to cover any subdivision that was not already addressed in another rule. They recommend retaining the rule as notified.

Hearing and Submitter Evidence/Statements

434. In relation to the rules generally, Ms Inta considered the TTPP should make provision for the taking of esplanade reserves and strips when allotments greater than 4 ha were created so as not to lose biodiversity within the region.
435. Mr Kennedy, for Westpower, noted that submission points S547.367 (SUB-R7/ECO/R4), S547.375-377 (SUB-R9/ECO-R6), S547.380-381 (SUB-R11), S547.383 (SUB-R12) and S547.384-386 (SUB-R13) were not included in the summary table in the s42A Report. He noted some may have been allocated to the Ecosystems and Indigenous Biodiversity Chapter hearing but was unclear if all of these submissions had been addressed.

SUB-R1: Permitted Activity – General Residential Zone and General Rule Zone – Boundary adjustments

436. Ms Hadfield, for Davis Oglivie & Partners, considered there was no compelling reason why the permitted activity boundary adjustment rule (SUB-R1) should only be limited to GRZ and GRUZ. She sought relief that it be extended to (at least) all Residential and all Rural zones. However, she conceded that it would not be appropriate within Open Space, Commercial, Industrial and Special Purpose zones. She suggested two additional clauses be added to SUB-R1 to address the risk of fragmentation and the NPS-HPL, as follows:

6. *If any existing allotment did not comply with the minimum area for the relevant Zone: the boundary adjustment did not result in the creation of any allotment that is smaller than the smallest that existed prior to the subdivision.*
7. *The boundary adjustment did not include Highly Productive Land (as defined in the National Policy Statement for Highly Productive Land (NPS-HPL)).*

437. Ms Hadfield reiterated the submission point that provided the zone density provisions were met (which will be heard at future hearings), the potential for a permitted building site should not be a consideration for SUB-R1.
438. Mr Kennedy, for Westpower, addressed the submission point relating to maintaining access to electricity infrastructure, which was recommended to be rejected in the s42A Report. He noted that the notified rule made provision for the consideration of access and Council infrastructure and considered a boundary adjustment had the potential to raise access issues depending on the proposed layout of the adjusted boundaries. He noted he had reconsidered the wording for the additional rule and has simplified it to *'the ability to access electricity infrastructure is maintained'*.
439. Ms Hadfield, for Chris J Coll Surveying, reiterated that when a boundary adjustment reduced the number of allotments it should be a permitted activity. She acknowledged that the definition of *'boundary adjustment'* must be consistent with the National Planning Standards

¹⁰⁷ John Brazil (S360.023), Leonie Avery (S507.060), Jared Avery (S508.060), Kyle Avery (S509.060), Avery Bros (S510.060), Bradshaw Farms (S511.060), Paul Avery (S512.060), Brett Avery (S513.060), Steve Croasdale (S516.061), Neil Mouat (S535.031), Chris & Jan Coll (S558.256), Geoff Volckman (S563.054), Catherine Smart-Simpson (S564.060), Chris J Coll Surveying Limited (S566.256), William McLaughlin (S567.323), Laura Coll McLaughlin (S574.256), Koiterangi Lime Co LTD (S577.065), Avery Brothers (S609.053), Karamea Lime Company (S614.082) and Peter Langford (S615.082)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

(which states that the number of allotments shall not alter) and therefore proposed a new rule as follows:

SUB-R1A – Residential and Rural Zones – Subdivision Resulting in a Reduced Number of Allotments

Activity Status: Permitted

Where:

1. *The subdivision results in fewer allotments than prior to subdivision;*
2. *The subdivision did not alter:*
 - b. *The permitted activity status of any existing permitted activities occurring on the allotments and/or the ability of an existing permitted activity to continue to comply as a permitted activity under the rules and standards in this Plan;*
 - c. *The extent or degree to which any consented or otherwise lawfully established activity occurring on the allotments did not comply with a rule or standard in this Plan; and*
 - d. *The ability of an existing permitted activity (including on adjacent lots) to continue to comply with the Plan.*
3. *No new roading or access points are required;*
4. *All existing vehicle access points comply with the requirements of Rule TRN - R1;*
5. *No new Council services are required; and*
6. ~~*In the GRUZ – General Rural Zone the boundary adjustment did not result in potential additional residential units as a permitted activity.*~~
7. *If any existing allotment did not comply with the minimum area for the relevant Zone: the subdivision did not result in the creation of any allotment that is smaller than the smallest that existed prior to the subdivision.*
8. *The subdivision did not include Highly Productive Land (as defined in the National Policy Statement for Highly Productive Land (NPS-HPL)*

Activity Status where compliance not achieved: Controlled

440. In Ms Inta commented on SUB-R1(1)(a) and SUB-R1(1)(b). However, the Panel note she did not a submission or further submission on these matters.

SUB-R3: All Zones and All Overlays – Boundary Adjustments

441. Mr Kennedy, for Westpower, accepted the amended wording proposed by Ms Belgrave and Ms Evans for a new matter of control. However, he noted that it had omitted reference to maintenance that he considered necessary for inclusion.
442. Ms Inta reiterated in her view that ‘amenity values’ should be a matter for control in SUB-R3(f). She disagrees with the Reporting Officer’s reasons for not including the term and drew the Panel’s attention to other rules in the Plan where amenity values was a matter for control.
443. Ms Young, for the Director General, accepted the additional wording to the matter of control clause (a).

SUB-R5: Subdivision to create allotment(s) in all RESZ - Residential Zones, CMUZ - Commercial and Mixed Use Zones, INZ - Industrial Zones, SVZ - Scenic Visitor Zone or PORTZ - Port Zones

444. Ms Inta reiterated her view that ‘amenity values’ should be a matter of control given its use in other parts of the Plan. She also commented that clause (a) did not include the matters for which she sought to be added at clause (k).

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

445. Ms Young, for the Director General, supported the s42A amendments to SUB-R5(1). However, she noted that the wording changes in rules SUB-R5 to SUB-R8 and SUB-R9/ECO-R6 were not consistent. She considered all these clauses should not be limited to SNA in Schedule Four but noted the intent of the submission is to ensure all areas of significant biodiversity are protected.

446. Mr Tuck, for Silver Fern Farms, accepted the s42A recommendations on its submissions on SUB-R5 and SUB-R6 and agreed that reverse sensitivity issues were most appropriately addressed by appropriate zoning of land and the detail of zone provisions.

SUB-R6 Subdivision to create allotment(s) in any RURZ - Rural Zone or MPZ - Māori Purpose Zone

447. Mr Kennedy, for Westpower, accepted the amended wording proposed by the Reporting Officers for matter of control (m), and the proposed new matter of control regarding easements.

SUB-R8 Subdivision to create allotment(s) of Land that contains or is within the Electricity Transmission and Distribution Yard

448. Ms Whitney, for Transpower, confirmed that the reference to ENG-P10, should be ENG-P9. She discussed the submission point related to the cross referencing of the ENG policies in SUB-R8 and maintained it was necessary to ensure that Plan users were directed to the more informative policies. She her concerns could be addressed by amending the sentence that followed the SUB policies as follows.

*It is also important to refer to the relevant policies for the particular zone and any overlays in which the subdivision occurs **as well as any District Wide policies.***

449. Ms Whitney also explained why managing subdivision in close proximity to the National Grid was important to Transpower. She summarised in a table the relief sought in relation to SUB-R8, the s42A recommendations and her response to those. In summary, she still considered substantial changes were required to the rule to achieve the appropriate management of effects of activities on the National Grid. The relief sought was in the form of a new restricted discretionary rule and the wording was set out in her evidence.

450. After having reviewed Ms Evans' Addendum Report, Ms Whitney also prepared an Addendum to her evidence and confirmed she now accepted the Reporting Officers recommendations, subject to the correction of a minor typo.

451. Mr Kennedy, for Westpower, accepted the amended wording for SUB-R8(8)(iii) (provided it was as shown in Appendix 1) and he also accepted the wording for the matters of control regarding easements and the reference to regionally significant infrastructure.

SUB-R10 Subdivision of Land to create allotment(s) in Areas of Historic Heritage identified in Schedule One or within Sites or Areas of Significance to Māori identified in Schedule Three not meeting Rule SUB - R5

452. Mr Kennedy, for Westpower, commented that despite Westpower seeking to have rules related to 'Significant Distribution Lines' located in the zone chapters, they were recommended to be located in the Energy Chapter. Furthermore, he commented that the management of reverse sensitivity was recommended to be included as a matter of control

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

in other rules in the Subdivision Chapter (i.e. SUB-R5, SUB-R6 and SUB-R12), and so for consistency it should also be a matter for discretion in SUB-R10.

SUB-R11 Subdivision to create allotment(s) of Land within the Outstanding Natural Landscape identified in Schedule Five or Outstanding Natural Feature identified in Schedule Six

453. Ms Young, for the Director General, opposed the restricted discretionary activity status for SUB-R11 and requested this be changed to discretionary. She noted that the Overview acknowledged subdivision affected the natural and physical environment and introduces long-term development patterns that cannot be easily changed. Further, these patterns directly affect natural landscapes and features and subdivision within outstanding areas should therefore be a fully discretionary activity.

SUB-R18 Subdivision of Land which would otherwise be a Controlled or Restricted Discretionary Activity, where one or more of the Subdivision Standards are Not Complied With

454. Ms Hadfield, for Davis Ogilvie & Partners Limited and Chris J Coll Surveying Limited, accepted the s42A Report recommendation to delete SUB-R18 and replace it with two new rules.

Reporting Officer Reply Evidence

455. In relation to SUB-R1, Ms Evans reconsidered whether an additional permitted rule would be necessary where a boundary adjustment might result in a reduced number of allotments. Her investigation determined that applications resulting in this outcome were not common and, therefore, she considered a specific rule was not required. She also recommended a minor amendment to SUB-R1(1)(b) relating to lawfully established activities to align with definitions.

456. In relation to SUB-R2, Ms Evans recommended minor amendments for clarity and consistency. She also provided comment as to whether the reference to 'coast' in SUB-R2(4) should instead be 'coastal environment' or 'coastal marine area' in response to questions asked by the Panel during the hearing. It was her opinion that 'coast' was the appropriate term in this context.

457. In response to questions asked by the Panel in relation to reverse sensitivity and the matters for control in SUB-R3, Ms Evans reiterated her opinion that this matter was best addressed via zone provisions. Nevertheless, she has commented that in order to meet the controlled standard minimum allotment sizes must be met, and as such she didn't consider a reference to reverse sensitivity was necessary as a matter of control.

458. Ms Evans restated her opinion that 'amenity values' was not certain enough for a matter of control.

459. In relation to SUB-R5 and SUB-R6, Ms Evans responded to questions from the Panel as to whether the recommended change from 'constraints' to 'considerations' in relation to geotechnical matters changed the meaning. She maintained her opinion that 'considerations' did not exclude 'constraints' and was therefore comfortable with the recommended wording. She also commented that the link between natural hazards and geotechnical considerations should be 'and' to ensure both matters are considered.

460. Ms Evans also recommended minor amendments for clarity and consistency with regard to SUB-R5. Following the hearing, clarification was sought from Poutini Ngāi Tahu in Minute 23 as to the list of SASM that should be subject to the exemption in the rule. As a result of that

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

advice, she considered there was one other SASM that should be included - SASM 62 No.31 Māwhera Native Reserve.

461. In response to clarification sought by the Panel on SUB-R10(1) and whether an exception was needed for those SASM listed in clause (4) of Rule 5, Ms Evans recommended an exception be included for clarity and efficiency.
462. Following discussion at the hearing in relation to SUB-R11, where the Panel became aware that they had evidence before it regarding the Natural Features and Landscapes Chapter hearing, Ms Evans has advised that the residual matters would be transferred to that hearing and that the matters would be addressed holistically in the Right of Reply for that Chapter.
463. Ms Evans recommended minor amendments for clarity and consistency in SUB-R12.

Hearing Panel's Evaluation

464. The Panel notes that a submission by the Director General (S302.125) was only summarised against SUB-R10 but also relates to rules SUB-R5 to SUB-R8, SUB-R10 and SUB-12, in seeking an additional matter of control/discretion regarding the '*management of adverse effects and the protection of any significant natural, cultural or heritage feature or area identified in the resource consent*'. Ms Young acknowledged that the Reporting Officers had recommended removing '*identified in Schedule Four*' from the relevant rules, which had been sought by Forest and Bird, and confirmed this addressed the Director General's concerns. The Panel notes that this change applies to Rules SUB-R5, SUB-R6, SUB-R8, SUB-R9, SUB-R11, SUB-R15 (SUB-R9 and SUB-R15 are addressed in the Ecosystems and Indigenous Biodiversity recommendation and SUB-R11 in the Natural Features and Landscapes Recommendation).
465. The Panel also note that we sought clarification from Ms Hadfield as to her position in presenting evidence on submissions lodged by the company she employed with. We noted that she had indicated in her statement that she had read the Code of Conduct for Expert Witnesses and complied with it. However, we would have expected Ms Hadfield to declare the relationship between herself and Davis Ogilvie & Partners Limited when she indicated compliance with the Code of Conduct. While we acknowledge, as she indicated, this was one of her first hearings and therefore the seriousness of the conflict of interest was perhaps not apparent to her, it did mean that the weight that we can afford Ms Hadfield's evidence, particularly when it comes to the Davis Ogilvie & Partners Limited submissions, is somewhat reduced.

General Rules

466. The Panel has considered the submissions by Deb Langridge, Margaret Montgomery, Inger Perkins, Buller Conservation Group and Frida Inta and agrees with the conclusions of the Reporting Officers on each submission and recommend they be rejected.
467. The Panel accepts the submission by the WCRC which seeks to ensure the provisions of the NPS-HPL are given effect to and note that amendments have been recommended to relevant provisions in response to this and other submitters.
468. In response to the submission made by Forest and Bird, which sought to ensure waterbodies, and their margins are protected in the subdivision process, the Reporting Officers considered that amendments to SUB-S2 were necessary to provide the relief sought. However, no

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

amendment was subsequently proposed. Having further considered the submission, the Panel are of a view that the submission is unrelated to SUB-S2 and what is being sought is consideration of new rules, or amendments to existing rules to avoid effects on waterbodies and their margins in the subdivision process, in a similar way as is sought for SNA. We consider Forest and Bird have a valid point as there is no reference to waterbodies within the rules except for SUB-R4 which is specifically related to Subdivision for a Network Utilities, Critical Infrastructure, Access or Reserves. In our view, both SUB-R5 and SUB-R6 should refer to waterbodies and we have recommended amendments to the matters of control accordingly in accepting the submission.

469. In response to the submission made by Poutini Ngāi Tahu to include ‘*Poutini Ngāi Tahu values*’ as a matter of discretion for all rules, the Reporting Officers acknowledge the sentiment but sought further information to provide clarity and methods for practical implementation. Poutini Ngāi Tahu responded that the “*Poutini Ngāi Tahu values were already covered in the matters of discretion for relevant RDAs in this Chapter*”. The Panel notes this outcome and do not recommend any amendments as a result.

SUB-R1

470. The Panel has considered the submissions by Margaret Montgomery and agrees with the conclusion of the Reporting Officers that it is rejected.
471. Having read Ms Evans’ Addendum Report and Ms Hadfield’s evidence, the Panel agrees that it would be appropriate to include other zones within SUB-R1. We therefore recommend amending the heading of the rule to include all residential and rural zones.
472. The Panel agrees with the submission from BDC that SUB-R1(1)(a) and SUB-R1(1)(c) are essentially duplications and recommend the deletion of SUB-R1(1)(c).
473. A new clause related to access for energy activities sought by Westpower was not considered necessary by the Reporting Officers. However, Mr Kennedy said that the rule did provide for access and Council services but did not consider other infrastructure such as electricity infrastructure. He provided refined the proposed wording to ensure that the ability to access electricity infrastructure was maintained. The Panel has considered the Westpower position, and we agree with the Reporting Officers conclusions and do not see the necessity or purpose of an additional clause of the nature proposed given the existing wording of the rule and we therefore recommend the submission is rejected.
474. In relation to a Westpower submission seeking clarification as to whether the rule applies to overlays, the Panel agrees with the Reporting Officers recommendation to amend the wording of SUB-R1(1)(a), by changing ‘*the*’ for ‘*all*’ when referring to the rules so as to confirm that compliance with all rules is needed, including those in an overlay.
475. The Panel agrees with the Reporting Officers that SUB-R1(3) should not be deleted as sought by Chris & Jan Coll *et. al.* who considered it too restrictive. We accept that the provision of compliant access is a relevant consideration for boundary adjustments provided for as a permitted activity. We therefore recommend rejecting the submissions.
476. Chris & Jan Coll *et. al.* sought to amend the rule and/or the definition of boundary adjustment to include subdivisions where the number of allotments (or records of titles) is reduced as a result of the subdivision. The Panel notes that Ms Hadfield sought further amendments to

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

SUB-R1 in her evidence to add further clauses, however, we are unable to establish from which submission points those changes stem and considered them further. However, we note that matters associated with the NPS-HPL have been addressed in this and the Rural Zones recommendations. We note Ms Hadfield went on to suggest a new an additional permitted activity rule relating to subdivision resulting in a reduced number of allotments should be inserted into the Plan.

477. The Panel agrees with the Reporting Officers that the definition of *'boundary adjustment'* is in accordance with the National Planning Standards and based on the feedback from district councils that it is not a common occurrence for boundary adjustment proposals that reduce the number of lots, we therefore recommend rejecting the submissions and not including a further rule.
478. The Panel agrees with the minor amendment proposed by Ms Evans to rely on reference to the defined term of *'lawfully established activity'*.

SUB-R2

479. In response to the submission made by Westpower to make additions to SUB-R2(2), the Panel agrees with the amendment proposed by Ms Belgrave and Ms Evans to replace the word *'requirements'* with *'conditions'* to be consistent with RMA language in extending clause (2).
480. The Panel agrees that the amendments sought by Ms Inta, the Buller Conservation Group and BDC to SUB-R2(4) will improve readability, and recommend these are accepted.
481. In response to submission points that request SUB-R2(2) and SUB-R2(3) be deleted, the Panel agrees that these clauses are necessary to manage potential effects and recommend the submission point are rejected.

SUB-R3

482. The Panel accept SUB-R3 requires amendments to improve clarity as sought by Margaret Montgomery. We agree with the recommended minor amendments to achieve this.
483. The Panel has considered Ms Evans' response to our questions around reserve sensitivity effects and whether it should be included as a matter of control for controlled activity subdivisions. We acknowledge that to meet the controlled activity status the minimum lot size standard must be met. We also note that in meeting that standard (and other matters) consent could not be declined in relation to the matters on control. We consider that makes a matter of control related to reverse sensitivity a difficult proposition.
484. The Panel support the relief sought by BDC to delete the requirement in SUB-R3(3)(a) to have had a building consent issued for the reasons outlined by the Reporting Officers, rather than the alterations sought by Westpower.
485. The Panel agree with the amendment proposed by Ms Belgrave and Ms Evans to clause (a) to provide more specificity in response to submissions. We also accept the amendments now proposed by Ms Evans to clause (f) in response to submissions to clarify the clause and ensure consistency with objectives and policies. We agree that the amendment initially proposed to change *'protection, maintenance and enhancement'* to *'management of adverse effects'*, in response to a Westpower submission, diminishes the need to protect RMA s6 matters. We

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

consider Ms Evans is correct to recommend reverting to the protection language, which in our view better gives effect to the RMA in this context and aligns with the recommended wording in the objectives and policies. We also agree that the natural character of the coastal environment, and landscapes should be included in the clause as sought by the Director General. However, we do not support including *'any other features identified through the resource consent process'* as this would be inappropriate and difficult to determine.

486. The Panel agree with the introduction of a new matter of control sought by Westpower and supported by the Reporting Officers to the consideration of energy activities/infrastructure. We accept that the use of the broader term *'infrastructure activities'*, rather than *'energy activities'* is appropriate in the new clause and that it should include the word *'maintain'* as proposed by Mr Kennedy and *'lawfully established'* to ensure Plan consistency.
487. In relation to the remainder of the submissions on the SUB-R3 seeking changes the Panel agree that these are rejected on the basis of the conclusions reached by Ms Belgrave and Ms Evans.

SUB-R4

488. The Panel support the submission by Westpower to amend clause (a) of the matters of control, but we recommend the wording *'regionally significant infrastructure'* rather than *'critical infrastructure'* which reflects amendments throughout the Plan. We note this recommendation also requires consequential amendment to the title of the rule.
489. The Panel accept that amendment to clause (c) of the matters of control is necessary, however, for the same reasons as our recommendation on SUB-R3 (f), we consider that using protection language better gives effect to the RMA in this context and aligns with the recommended wording in the objectives and policies. Importantly, we consider there is a need for consistency with SUB-R3.
490. In relation to the remainder of the submissions on SUB-R4 seeking changes, the Panel agree that these are rejected on the basis of the conclusions reached by Ms Belgrave and Ms Evans.

SUB-R5

491. In response to the submission point made by Forest and Bird to amend SUB-R5(1) to delete the reference to Schedule Four, the Panel agree that this will achieve consistency with the title of SUB-R7, which is addressed in the Ecosystems and Indigenous Biodiversity Recommendation Report.
492. The Panel agree with the amendment recommended to SUB-R5(4) by the TTPP Committee that the lead in words indicate that *'This is not within a Site or Area of Significance to Māori except those listed below'* as this provides greater clarity. We also note that this clarifies that SUB-R10 did not apply to the SASM referred to in SUB-R5.4 and we have recommendation a clarification amendment to SUB-R10 to ensure Plan readers understand this. We also note that following our Minute 23, Poutini Ngāi Tahu have clarified that SASM 62 No.31 Māwhera Native Reserve should be added to the list of SASM that subject to the exemption in the rule and we recommend this is included.
493. The Panel support the amendment to SUB-R5(8) to refer to *'structure plan or outline development plan'* due to the uncertainty of the term *'development plan'* not being defined.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

We consider requiring a subdivision to be in general accordance with any structure plan or outline development plan which is in place for the site, rather than deleting the clause as some submitters sought, remains important as the purpose of such plans is to address potential effects and guide development.

494. The Panel agree with the additional wording proposed by the Reporting Officers in response to submissions seeking more specificity to the wording of clause (a) in the matters of control. We also agree, in response to similar submitters, that clause (j) can be deleted. We accept that the effects of earthworks are managed separately, and the temporary effects of construction and development are managed in other parts of the Plan.
495. Having questioned Ms Evans, the Panel agree with the recommendation to change 'constraints' to 'considerations' in clause (n) as notified of the matters of control, to provide more certainty and enable a comprehensive assessment of the natural hazard or geotechnical risks. We accept that the link between natural hazards and geotechnical considerations should be 'and' to ensure both matters are considered. We also agree with the recommendation to delete matter of control (o) as notified noting that this is managed by other provisions of the Plan.
496. In response to similar submissions made by KiwiRail and Westpower to amend clause (p) to reference critical infrastructure instead on network utilities, the Panel accept the Reporting Officers' recommendation to amend the matter of control to refer to '*regionally significant infrastructure*' which reflects amendments throughout the Plan. However, we consider the deletion of network utilities would have unintended consequences, such as the local roading network no longer being considered. We therefore recommend network utilities be retained. Finally, we agree that '*lawfully established*' should replace '*existing land use*' to ensure Plan consistency.
497. In relation to the remainder of the submissions on the SUB-R5 seeking changes, the Panel agree that these are rejected on the basis of the conclusions reached by Ms Belgrave and Ms Evans.

SUB-R6

498. In response to the submission point made by Forest and Bird to amend SUB-R6.1 to delete the reference to Schedule Four, the Panel agree that this will achieve consistency with the title of SUB-R7, which is addressed in the Ecosystems and Indigenous Biodiversity Recommendation Report.
499. The Panel agree with the additional wording proposed by the Reporting Officers in response to submissions seeking more specificity to the wording of clause (a) in the matters of control. We also agree with the recommendation to delete matter of control (l) noting that this is managed by other provisions of the Plan.
500. In response to similar submissions made by KiwiRail and Westpower to amend clause (m) to reference critical infrastructure instead on network utilities, the Panel accept the Reporting Officers recommendation to amend the matter of control to refer to '*regionally significant infrastructure*' which reflects amendments throughout the Plan. However, as referred to above in SUB-R5, we consider the deletion of network utilities would have unintended consequences, such as the local roading network no longer being considered. We therefore

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

recommend network utilities be retained. We accept that the inclusion of *'industrial'* activities as a helpful clarification and recommend the addition of *'rural industry'* to the clause.

501. The Panel agree with adding *'natural hazards or geotechnical considerations'* to the matters for control as sought by BDC and Toka Tū Ake EQC and note, as in SUB-R5 above, we recommend amending the *'or'* to *'and'* to ensure both matters are considered. We accept that this amendment accords with s106 of the RMA.
502. The Panel have considered the submission by Westpower to have a matter for control added to consider the provision of easements for energy activities. We accept that provision of easements is a relevant consideration, however we do not accept that this should be simply limited to energy activities. Rather, we consider more generic wording as proposed by the Reporting Officers is more appropriate.
503. The Panel note that a number of submitters have sought that the activity status where there is a non-compliance should be discretionary and that there should be no escalation to a non-complying status, which occurs with clause (4) only. While we do not support that proposition in its entirety, as it would create inconsistencies with the policy framework which seeks to avoid subdivision where there is a significant risk of natural hazards, we consider that the Airport Noise Control Overlay (**ANCO**) which is found in clause (4) is somewhat different and we note that while SUB-R6 defaults subdivision in the ANCO to non-complying, SUB-R22 refers to subdivision within the ANCO as being discretionary. The Panel considers that while two aerodromes with ANCO are identified as regionally significant infrastructure (Hokitika and Westport) the majority are not and therefore we consider a discretionary status to be more appropriate. On this basis we recommend that clause (4) is amended to remove reference to the ANCO and that it be placed in a separate clause defaulting to a discretionary activity status.
504. The Panel also notes that a number of amendments stemming from the Natural Hazard Recommendations are identified in the amendments below.
505. In relation to the remainder of the submissions on the SUB-R6 seeking changes, the Panel agree that these are rejected on the basis of the conclusions reached by Ms Belgrave and Ms Evans.

SUB-R8

506. The Panel acknowledges that Ms Evans revised her position in her Addendum Report having considered Ms Whitney's evidence for Transpower and recommended SUB-R8 be deleted in favour of a new restricted discretionary rule. However, we consider Ms Evans and Transpower have missed the point that SUB-R8 also applied to other electricity transmission distribution yards. By deleting the rule and moving to a restricted discretionary status and only applying that new rule to the National Grid these other entities would become discretionary.
507. The Panel have therefore considered the amendment in light of the above. We accept that focusing on matters that are directly relevant to the National Grid is appropriate. We also accept that Ms Whitney's approach aligns with other district plans drafted in the planning standards format and agree that consistency is a relevant consideration. However, we consider SUB-R8 needs to be retained in relation to other electricity transmission distribution yards associated with the likes of Westpower and Buller Electricity.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

508. On this basis, we recommend that SUB-R8 is retained and amended and that a new restricted discretionary rule related to subdivision to create allotment(s) in the National Grid Subdivision Corridor is added to the SUB Chapter.

509. As a result of the Panel's above recommendations, we consider those submissions supporting the rule and those seeking amendments or replacement of the rule are accepted in part.

SUB-R10

510. The Panel agree with adding '*natural hazards or geotechnical considerations*' to the matters of discretion in SUB-R10 as sought by BDC, and as noted in SUB-R5 above, we recommend amending the '*or*' to '*and*' to ensure both matters are considered.

511. The Panel accept the submission point made by BDC regarding reference to '*critical infrastructure*' in what is shown as clause (3) under Notification in SUB-R10 in relation to SUB-R4. However, we recommend using '*regionally significant infrastructure*' to be consistent with other recommended changes. We also agree that this clause is an Advice Note and not a notification clause and that '*Advice note*' needs to be added. We also agree that the remaining notification clauses should be retained and not deleted, as sought by BDC, given that they are specific to SASM or in areas of historic heritage

512. The Panel agree with the Reporting Officers, in response to a submission by Westpower, that the inclusion of a new matter of discretion to consider reverse sensitivity effects on existing land uses such a matter of discretion in SUB-R10 is unnecessary given the rule is specific to non-compliances with identified SASM and historic heritage related provisions identified in SUB-R5.

513. The Panel agree that a matter of discretion related to easements should be included in SUB-R10, in response to Westpower's submission, but as we have indicated above, we consider this should not be limited to energy activities and recommend the more generic wording proposed by the Reporting Officers is included.

514. The Panel have considered the additional wording sought by submitters¹⁰⁸ to matters of discretion (e) and (b) SUB-R10 in order to provide more specificity. We do not agree with the Ms Belgrave and Ms Evans that the same level of detail is not required for restricted discretionary activity rules as for controlled activities. We consider that the addition the wording '*including space for a compliant building platform within any vacant allotment*' as in the controlled activities helps in the interpretation of these matters of discretion. We therefore accept these submission points.

515. The Panel agree with Ms Belgrave and Ms Evans that the additional matter of discretion sought by the Director General is already covered in the existing matters of discretion and we do not accept that '*the need for access to be provided to any esplanade reserve or strip created*' should be deleted from matters of discretion (j) and (f), in SUB-R10 and SUB-R11 respectively, as sought by submitters, as this is a relevant consideration at the time of subdivision.

¹⁰⁸ Chris & Jan Coll (S558.231), Chris J Coll Surveying Limited (S566.231), William McLaughlin (S567.300), and Laura Coll McLaughlin (S574.231)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

516. The Panel agree with GDC that “*transport*” should be included in to matters of discretion (g) and (c), in SUB-R10 as this is a relevant consideration.
517. In relation to the remainder of the submissions on the SUB-R10 seeking changes, the Panel agree that these are rejected on the basis of the conclusions reached by Ms Belgrave and Ms Evans.
518. The Panel notes that amendments have been made to the notification clauses to reflect amendments made elsewhere in the Plan.

SUB-R12

519. As with our previous recommendations above, the Panel do not agree that ‘*the need for access to be provided to any esplanade reserve or strip created*’ should be deleted from matter of discretion (h), as sought by submitters, as we consider this is a relevant consideration at the time of subdivision.
520. Similarly, the Panel agree, as we have above, that the effects of earthworks are managed separately, and the temporary effects of construction and development are managed in other parts of the Plan and therefore matter of discretion (i) can be deleted as sought.
521. In response to other submission points by Laura Coll McLaughlin, the Panel agree with Ms Belgrave and Ms Evans that non-compliance with SUB-R12 should remain as a non-complying activity. The rule relates to the Future Urban Zone and the policy setting is for avoidance whether subdivision did not occur in accordance with a Structure Plan, therefore non-complying is the appropriate activity status.
522. The Panel agree with GDC that ‘*transport*’ should be included in to matters of discretion (d) because this is a relevant consideration.
523. The Panel accepts Ms Evans recommended minor amendments to align matter of discretion (j) with the similar matters of discretion in SUB-R5 and SUB-R6, so as to include reference to ‘*lawfully established activities*’ and ‘*regionally significant infrastructure*’.
524. The Panel note that a Westpower submission (S547.383) on SUB-R12 was not covered in the s42A report. The submission sought the addition of a further matter of discretion as follows:
 - k. *The provision of easements, including for both existing and proposed energy activities and associated infrastructure.*
525. The Panel has considered the submission, and we are of the view that the issue raised by Westpower is covered in matter of discretion (d) which refers to “*the provision of infrastructure and services for drinking water, wastewater and stormwater, telecommunications and energy.* We consider that the provision of easements would be part of addressing this matter.
526. In relation to the remainder of the submissions on the SUB-R12 seeking changes, the Panel agree that these are rejected on the basis of the conclusions reached by Ms Belgrave and Ms Evans.

SUB-R14

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

527. The Panel has considered the various submissions on SUB-R14 either seeking the deletion of clause (1), which requires subdivision to be in general accordance with any development plan in order to be discretionary, or the deletion of the default non-complying status or a definition of *'development plan'*. We agree that the rule as drafted is problematic, noting in particular that there are no development plans in place for the zones concerned. We also accept Ms Belgrave and Ms Evans conclusion that in the absence of a definition for *'development plan'* it will be difficult to determine whether a proposal achieves discretionary activity status or becomes non-complying. Given this uncertainty we agree that deleting clause (1) and making all subdivision discretionary is the appropriate way forward and we recommended this change. We consider this will address the concerns of submitters seeking amend to this rule.

SUB-R18

528. The Panel agree SUB-R18(1) is unclear because it is not referenced in the activity status where compliance not achieved. In other words, the status of subdivision would remain discretionary despite the rule being *'This is not in an Overlay area subject to Rules SUB-R14, SUB-R15, SUB-R18 or SUB-R20'*. Having reviewed each of the rules concerned, we consider they already have a default status reference and clause (1) is therefore unnecessary and would, if it remained, contradict the rules referred to in some cases. We therefore recommend deleting SUB-R18(1).
529. Having reviewed SUB-R18 overall, the Panel do not agree with the Ms Belgrave and Ms Evans that the rule should be deleted because the structure of the Plan requires that where an activity status is escalated in a rule a corresponding rule associated with the escalated status is required. In this case, we consider a discretionary activity rule is necessary to address the subdivision of land which would otherwise be a controlled or restricted discretionary, where one or more of the subdivision standards are not complied with. However, the Panel agree with Ms Belgrave and Ms Evans that the escalated activity status for SUB-R18(2) and SUB-R18(3) should remain non-complying because these relate to specific circumstances where non-compliance could result in adverse effects with respect to zone character and fragmentation of rural land. We therefore accept the recommendation that these clauses should become separate non-complying rules.

SUB-R19

530. The Panel note that in response to the submission by Forest and Bird seeking to exclude the Natural Open Space Zone and make subdivision in this zone a non-complying activity, Ms Belgrave and Ms Evans supported the relief, considering that given the nature of the zone, subdivision would typically be unlikely and generally discouraged in order to avoid fragmentation of land and changes to the character of this open space. While we have some sympathy for this position, we note that there is no policy backing a non-complying status and nor did Forest and Bird or any other submitter seek to amend the policies to promote the avoidance of subdivision in any of the open space zones. We therefore recommend the amendment is rejected.

SUB-R22

531. In response to the submission point to amend the activity status of the rule to restricted discretionary (from discretionary), the Panel agree with the Ms Belgrave and Ms Evans that it should remain discretionary to reflect the policy position.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

SUB-R24

532. The Panel agree with Ms Belgrave and Ms Evans that SUB-R24 should remain a non-complying activity rather than changing this to a discretionary activity as sought. We agree that a non-complying status gives effect to Policy 13(1)(a) of the NZCPS, as well as SUB-P6. We recommend the rule is retained as notified.

SUB-R25

533. The Panel agree with Ms Belgrave and Ms Evans that SUB-R25 should be retained on the basis that it is a catch-all intended to cover any subdivision that is not already addressed in another rule. We recommend the rule is retained as notified.

Hearing Panel's Recommendation

534. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the relevant submissions identified in the footnotes below are accepted or accepted in part, and recommend changes are made to the **Subdivision Rules** as follows:

Subdivision Rules	
Note: There may be a number of Plan provisions that apply to an activity, building, structure and site. In some cases, consent may be required under rules in this Chapter as well as rules in other Chapters in the Plan. In those cases, unless otherwise specifically stated in a rule, consent is required under each of those identified rules. Details of the steps Plan users should take to determine the status of an activity are provided in General Approach.	
Permitted Activities	
SUB - R1	General RESZ - Residential Zones and General RURZ - Rural Zones – Boundary adjustments ¹⁰⁹
Activity Status Permitted	
Where:	
1. The boundary adjustment did not alter:	
a. The permitted activity status of any existing permitted activities occurring on the allotments and/or the ability of an existing permitted activity to continue to comply as a permitted activity under the <u>all</u> ¹¹⁰ rules and standards in this Plan; <u>and</u>	
b. The extent or degree to which any consented or otherwise ¹¹¹ lawfully established activity occurring on the allotments did not comply with a rule or standard in this Plan.; and	
c. The ability of an existing permitted activity (including on adjacent lots) to continue to comply with the Plan. ¹¹²	
2. No new roading or access points are required;	

¹⁰⁹ Davis Ogilvie & Partners Ltd S465.013

¹¹⁰ Westpower Limited S547.356

¹¹¹ RMA Schedule 1, clause 16(2) to align with definition of lawfully established activity

¹¹² Buller District Council S538.245

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

Subdivisions - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

3. All existing vehicle access points comply with the requirements of Rule TRN - R1;
4. No new Council services are required; and
5. In the GRUZ - General Rural Zone the boundary adjustment did not result in potential additional residential units as a permitted activity.

Activity status where compliance not achieved: Controlled

SUB - R2 All Zones – Subdivision for a Network Utility or ~~Critical~~ Regionally Significant Infrastructure¹¹³

Activity Status: Permitted

Where:

1. Any new lot created is solely for a network utility or ~~critical~~ **regionally significant** infrastructure¹¹⁴ which is either a Permitted Activity under the Energy Chapter, Infrastructure Chapter or Transport Chapter or is approved as a result of a land use consent;
2. Any existing buildings comply with the relevant zone Permitted Activity standards **or the conditions of any land use consent**;¹¹⁵
3. All existing vehicle access points comply with the requirements of Rule TRN - R1;
4. ~~Where the site is less than 4ha~~ **and adjoining** adjacent to a river >3m wide or **adjoining**¹¹⁶ the coast, the provision of an esplanade reserve or strip of 20m;
5. No new roading or access points are required; and
6. No new Council services are required.

Activity status where compliance not achieved: Controlled

Controlled Activities

SUB – R3 All Zones and All Overlays – Boundary Adjustments

Activity Status Controlled

Where:

1. These are not Permitted Activities under Rule SUB - R1;
2. All Subdivision Standards are complied with; and
3. The existing or proposed buildings ~~must~~¹¹⁷
 - a. Comply with all permitted activity standards relevant to the zone and any overlays ~~and a building consent has been issued for any proposed buildings~~;¹¹⁸ or
 - b. **Be Are**¹¹⁹ subject to an approved resource consent for any non-compliances; or

¹¹³ Consequential Plan-wide amendment from Energy, Infrastructures and Transport Recommendation Report

¹¹⁴ Consequential Plan-wide amendment from Energy, Infrastructures and Transport Recommendation Report

¹¹⁵ Westpower Limited S547.357

¹¹⁶ Buller Conservation Group S552.114, Frida Inta S553.114, Buller District Council S538.246

¹¹⁷ Margaret Montgomery S446.051

¹¹⁸ Buller District Council S538.247

¹¹⁹ Margaret Montgomery S446.051

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

- c. Where there is an existing building that did not comply with the current district plan, the subdivision must not increase the extent to which the existing building fails to comply.

Matters of control are:

- a. The design and layout of allotments, **including space for a compliant building platform within any vacant allotment**,¹²⁰ and the ability to accommodate permitted and/or intended land uses;
- b. The design and provision of access;
- c. The provision, design and construction of infrastructure and services;
- d. Any requirements which arise from the location in relation to natural hazards;
- e. Effects of development phase works on the surrounding area; and
- f. Protection, ~~maintenance or enhancement~~ of **outstanding** natural features and ~~landforms~~ **landscapes**, areas of significant indigenous biodiversity, historic heritage, sites and areas of significance to Māori, archaeological sites **natural character of the coastal environment** or any other identified features; ~~and~~¹²¹
- g. The ability to access, operate, maintain, or upgrade lawfully established infrastructure activities is retained.**¹²²

Activity status where compliance not achieved: Discretionary where Standard 2 is not complied with.

Refer relevant zone and overlay subdivision rules where not compliant with Standard 3.

SUB – R4 All Zones and All Overlays - Subdivision for a Network Utilities, Critical Infrastructure Regionally Significant Infrastructure¹²³ Access or Reserves

Activity Status Controlled

Where:

1. The Subdivision is not a Permitted Activity under Rule SUB - R2

Matters of control are:

- a. The size, design and layout of allotments for the purpose of public network utilities, **regionally significant infrastructure**,¹²⁴ reserves or access;
- b. Legal and physical access to and from allotments;
- c. Protection, ~~maintenance or enhancement~~ of **outstanding** natural features and ~~landforms~~ **landscapes**, natural character, the coastal environment, waterbodies, significant indigenous

¹²⁰ Chris & Jan Coll S558.204, Chris J Coll Surveying Limited S566.204, William McLaughlin S567.276, Laura Coll McLaughlin S574.204

¹²¹ Margaret Montgomery S446.051, Director General S602.124

¹²² Westpower Limited S547.360

¹²³ Consequential Plan-wide amendment from Energy, Infrastructures and Transport Recommendation Report

¹²⁴ Westpower Limited S547.361, consequential Plan-wide amendment from Energy, Infrastructures and Transport Recommendation Report

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

biodiversity, historic heritage, sites and areas of significance to Māori, archaeological sites **natural character of the coastal environment or any other** identified features;¹²⁵

- d. Where relevant, compliance with Subdivision Standards; and
- e. Any requirements which arise from the location in relation to natural hazards, esplanade reserves or esplanade strips.

Activity status where compliance not achieved: N/A

SUB – R5 Subdivision to create allotment(s) in all RESZ - Residential Zones, CMUZ - Commercial and Mixed Use Zones, INZ - Industrial Zones, SVZ - Scenic Visitor Zone or PORTZ - Port Zones

Activity Status Controlled

Where:

1. This is not within a Significant Natural Area as identified in Schedule Four¹²⁶ subject to Rule SUB - R7;
2. This is not within one of the following locations in the coastal environment:
 - i. Outstanding Natural Landscape as identified in Schedule Five;
 - ii. Outstanding Natural Feature as identified in Schedule Six;
 - iii. High or Outstanding Coastal Natural Character as identified in Schedules Seven and Eight; or
3. This is not within an area of:
 - i. Outstanding Natural Landscape as identified in Schedule Five;
 - ii. Outstanding Natural Feature as identified in Schedule Six;
 - iii. Sites of Historic Heritage as identified in Schedule One;
 - iv. Any Flood Susceptibility, Flood Plain, Land Instability, Coastal Alert or Coastal Tsunami Hazard Overlay;
4. ~~This only occurs in the following sites and areas of significance to Māori~~ **This is not within a Site or Area of Significance to Māori except those listed below** identified in Schedule Three:¹²⁷
 - i. SASM 10 Kawatiri Pā; SASM 12 Kawatiri Town Reserve; SASM 15 No. 42 Kawatiri (Township) Native Reserve; SASM 31 Punakaiki Area; SASM 56 Māwhera Pā 1; SASM 57 Māwhera Gardens; SASM 58 Greymouth Railway Land; SASM 59 Māwhera Pā 2; SASM 60 Māwhera Kāinga; SASM 61 Victoria Park; **SASM 62 No.31 Māwhera Native Reserve;**¹²⁸ SASM 63 No. 32 Nga Moana e Rua Native Reserve; SASM 94 No. 30 Arahura Native Reserve; SASM 96 Taramakau River; SASM 104 Kawhaka Creek Catchment; SASM 112 Arahura River at Tūhua; SASM 117 Waitaiki Catchment; SASM 121 Waitaiki Historic Reserve; SASM 197 Ōkuru;
5. This is not within the Earthquake Hazard Overlay;

¹²⁵ Consequential amendment for consistency with SUB-R3

¹²⁶ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.267, Director General of Conservation S602.125

¹²⁷ Te Tai o Poutini Plan Committee (S171.016)

¹²⁸ Consequential amendment Te Rūnanga o Ngāi Tau, Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio 620.184

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

6. This is not within an area of Flood Severe, Coastal Severe or Westport Hazard Overlay or the Airport Noise Control Overlay;
7. All Subdivision Standards are complied with; and
8. The subdivision is in general accordance with any **structure development plan or outline development plan** in place for the site.¹²⁹

Matters of control are:

- a. The design and layout of allotments, **including space for a compliant building platform within any vacant allotment** and the ability to accommodate permitted and/or intended land uses;¹³⁰
- b. The design and provision of roads, pedestrian and cycle ways; and
- c. The design and provision of access;
- d. The provision of infrastructure and services for drinking water, wastewater and stormwater, telecommunications and energy;
- e. The adequacy of water supply for firefighting;
- f. Any requirements arising from meeting the relevant district Council Engineering Standards, or where no such Standard exists, NZS 4404:2010 Land Development and Subdivision Infrastructure;
- g. The provision of easements;
- h. The provision of local purpose reserves;
- i. The requirement for financial contributions as outlined in Rules FC – R1 to FC – R120;
- ~~j. Effects of development phase works on the surrounding area;~~¹³¹
- j. Effects on Poutini Ngāi Tahu values, notable trees or historic heritage within or adjacent to the site;
- k. The provision of esplanade reserves or strips;
- l. The extent to which any land identified as contaminated is safe for habitation; and
- m. Natural hazards ~~or~~ **and** geotechnical ~~constraints~~ **considerations**.¹³²
- ~~n. Management of construction effects, including traffic movements, hours of operation, noise, earthworks and erosion and sediment control; and~~¹³³
- n. Management of potential reverse sensitivity effects on ~~existing land uses~~ **lawfully established activities**, including **regionally significant infrastructure**, network utilities, rural activities or significant hazardous facilities; **and**¹³⁴

¹²⁹ Geoff Volckman (S563.042), Koiterangi Lime Co LTD (S577.053), Karamea Lime Company (S614.070), Peter Langford (S615.070), Catherine Smart-Simpson (S564.048)

¹³⁰ Chris J Coll Survey Limited (S566.210), Chris & Jan Coll (S558.210), Catherine Smart-Simpson (S564.049), William McLaughlin (S567.281), Geoff Volckman (S563.043), Laura Coll McLaughlin (S574.210), Koiterangi Lime Co LTD (S577.054), Karamea Lime Company (S614.071), Peter Langford (S615.071)

¹³¹ Chris J Coll Survey Limited (S566.211), Chris & Jan Coll (S558.211), Catherine Smart-Simpson (S564.050), William McLaughlin (S567.282), Laura Coll McLaughlin (S574.211), Koiterangi Lime Co LTD (S577.055) and Peter Langford (S615.072) Karamea Lime Company (S614.072), Peter Langford (S615.071)

¹³² Buller District Council S538.252

¹³³ Chris J Coll Survey Limited S566.209, Chris & Jan Coll S558.209, William McLaughlin S567.280, Laura Coll McLaughlin S574.209

¹³⁴ KiwiRail S442.070; Westpower Limited S547.363

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

o. The protection, maintenance or enhancement of waterbodies.¹³⁵

Activity status where compliance not achieved:

Restricted Discretionary where 3 and 4 is not complied with.

Discretionary 2, 6, 7 or 8 is not complied with.

Non-complying where 5 is not complied with.

SUB – R6 Subdivision to create allotment(s) in any RURZ - Rural Zone or MPZ - Māori Purpose Zone

Activity Status Controlled

Where:

1. This is not within a Significant Natural Area or an area of significant indigenous biodiversity as identified in Schedule Four and¹³⁶ subject to Rule SUB - R7;
2. This is not within one of the following locations in the coastal environment:
 - i. Outstanding Natural Landscape as identified in Schedule Five;
 - ii. Outstanding Natural Feature as identified in Schedule Six;
 - iii. High or Outstanding Coastal Natural Character as identified in Schedules Seven and Eight; or
3. This is not within an area of:
 - i. Outstanding Natural Landscape as identified in Schedule Five;
 - ii. Outstanding Natural Feature as identified in Schedule Six;
 - iii. Sites of Historic Heritage as identified in Schedule One;
 - iv. ~~Any Flood Susceptibility, Flood Plain, Land Instability, Coastal Alert or Coastal Tsunami Hazard Overlay;~~
 - v. ~~This is not within the Earthquake Hazard Overlay;~~¹³⁷
4. ~~This is not within an area of~~ **It does not create a building platform for a Potentially Hazard Sensitive or Hazard Sensitive Activity in the:**
 - i. **Flood Susceptibility, Earthquake Susceptibility, Land Instability, Coastal Alert, or Hokitika Coastal Hazard Overlay;**
 - ii. Westport Hazard Overlay
 - iii. Flood Severe, Coastal Severe **or Earthquake Severe Overlay** ~~or the Airport Noise Control Overlay;~~¹³⁸
5. **This is not within an Airport Noise Control Overlay;**¹³⁹
6. All Subdivision Standards are complied with; and

¹³⁵ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.043

¹³⁶ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.523, S560.268

¹³⁷ Stemming from the Natural Hazards Recommendation Grey District Council (S608.073)

¹³⁸ Stemming from the Natural Hazards Recommendation Grey District Council (S608.073)

¹³⁹ John Brazil S360.018, Leonie Avery S507.048, Jared Avery S508.048, Kyle Avery S509.048, Avery Bros S510.048, Bradshaw Farms S511.048, Paul Avery S512.048, Brett Avery S513.048, Chris & Jan Coll S558.216, Chris J Coll Surveying Limited S566.216, William McLaughlin S567.287, and Laura Coll McLaughlin S574.216, Avery Brothers S609.045

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

7. Subdivision in the MPZ - Māori Purpose Zone is in accordance with an Iwi/Papatipu Rūnanga Management Plan for the site.

Matters of control are:

- a) The size, design, shape, location and layout of allotments **including space for a compliant building platform within any vacant allotment.**¹⁴⁰
- b) The design and provision of roads, pedestrian and cycle ways;
- c) The design and provision of access;
- d) Efficient use of land and compatibility with rural character and the role, function and predominant character of the Rural or Māori Purpose Zone in which the subdivision is located;
- e) Any requirements arising from meeting the relevant District Council's Engineering Standards, or where no such Standards exist, NZS 4404:2010 Land Development and Subdivision Infrastructure;
- f) The provision of infrastructure and services for drinking water, wastewater and stormwater, telecommunications and energy;
- g) The adequacy of water supply for firefighting;
- h) The requirement for financial contributions as outlined in Rules FC – R1 to FC – R12;
- i) Effects on Poutini Ngāi Tahu values or notable trees within or adjacent to the site;
- j) The provision of esplanade reserves or strips;
- k) Management of any effects on the production value of any highly productive land or high value soils such as those located at Karamea and Totara Flat;
- ~~l) Management of construction effects, including traffic movements, hours of operation, noise, earthworks and erosion and sediment control; and~~¹⁴¹
- l) Management of potential reverse sensitivity effects on existing land uses, including **regionally significant infrastructure**, network utilities,¹⁴² rural **and rural industry**¹⁴³ activities or significant hazardous facilities;
- m) Natural hazards and geotechnical considerations.**¹⁴⁴
- n) The provision of easements; and.**¹⁴⁵
- o) The protection, maintenance or enhancement of the margins of waterbodies.**¹⁴⁶

Activity status where compliance not achieved:

Restricted Discretionary where 3 **or 4(i)** is not complied with.

Discretionary **where 2 or 54(ii) 5-76-8** is not complied with.

Non-complying where **4(iii) and 5** is not complied with.

¹⁴⁰ Chris & Jan Coll S558.217, Chris J Coll Surveying Limited S566.217, William McLaughlin S567.288, and Laura Coll McLaughlin S574.217

¹⁴¹ Chris J Coll Survey Limited S566.222, Chris & Jan Coll S558.222, William McLaughlin S567.292, and Laura Coll McLaughlin S574.222

¹⁴² KiwiRail S442.071, Westpower Limited S547.365

¹⁴³ Silver Fern Farms Limited S441.021

¹⁴⁴ Buller District Council S538.253, S538.255, Toka Tū Ake EQC S612.097

¹⁴⁵ Westpower Limited S547.363

¹⁴⁶ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.043

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

SUB - R7 Considered in Ecosystems and Biodiversity Recommendation

SUB – R8 Subdivision to create allotment(s) of Land that contains or is within the Electricity Transmission and Distribution Yard (This does not apply to the National Grid Subdivision Corridor)¹⁴⁷

Activity Status Controlled

Where:

- ~~1. This is not within a Significant Natural Area as identified in Schedule Four and subject to Rule SUB – R7;~~
- ~~2. This is not within one of the following locations in the coastal environment:
 - ~~i. Outstanding Natural Landscape as identified in Schedule Five;~~
 - ~~ii. Outstanding Natural Feature as identified in Schedule Six;~~
 - ~~iii. High or Outstanding Coastal Natural Character as identified in Schedules Seven and Eight; or~~~~
- ~~3. This is not within an area of:
 - ~~i. Outstanding Natural Landscape as identified in Schedule Five;~~
 - ~~ii. Outstanding Natural Feature as identified in Schedule Six;~~
 - ~~iii. Sites of Historic Heritage as identified in Schedule One;~~
 - ~~iv. Sites and Areas of Significance to Māori as identified in Schedule Three;~~
 - ~~v. Any Flood Susceptibility, Flood Plain, Land Instability, Coastal Alert or Coastal Tsunami Hazard Overlay;~~~~
- ~~4. This is not within an area of Flood Severe, Coastal Severe or Westport Hazard Overlay or the Airport Noise Control Overlay;~~
- ~~5. All Subdivision Standards are complied with; and~~
- ~~6. Subdivision in the MPZ – Māori Purpose Zone is in accordance with an Iwi/Papatipu Rūnanga Management Plan for the site.~~
- ~~7. This is not within the Earthquake Hazard Overlay;¹⁴⁸~~
 1. Any allotment created can contain a 15x15m area of land which:
 - i. Is located entirely outside of the Electricity Transmission and Distribution Yard;
 - ii. Has reasonable physical and legal access; and
 - iii. Could accommodate a building which can comply with **the standards for a** ~~all~~ Permitted Activity **in the District Plan** standards for the Zone it is located in.¹⁴⁹
 2. The subdivision maintains any existing access to Electricity Transmission and Distribution Yard;

¹⁴⁷ Consequential amendment stemming from Transpower (S299.055)

¹⁴⁸ Transpower (S299.055)

¹⁴⁹ Westpower Limited (S547.370)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

3. Written documentation is provided that demonstrates consultation has occurred with the Electricity Transmission or Distribution ¹⁵⁰Operator including any response from the operator; and
4. The minimum lot size for any allotment that contains any part of the Electricity Transmission Corridor shall be 1ha.

Matters of control are:

- a. **The extent to which the subdivision allows for earthworks, buildings and structures to comply with the safe distance requirements of the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) ISSN01140663;**¹⁵¹
 - b. **The provision for the on-going efficient operation, maintenance, development and upgrade, including the ability for continued access to existing transmission lines (including support structures) for maintenance, inspections and upgrading;**¹⁵²
 - c. The size, design, shape, location and layout of allotments **including the extent to which potential adverse effects are mitigated through the location of building platforms, roads, and reserves;**¹⁵³
 - d. Management of potential reverse sensitivity effects on existing land uses, including **regionally significant infrastructure** network utilities, rural activities or significant hazardous facilities;¹⁵⁴
 - e. **Natural hazards and geotechnical considerations; and**¹⁵⁵
 - f. **The provision of easements.**¹⁵⁶
- ~~a. Efficient use of land and compatibility with the role, function and predominant character of the Zone in which the subdivision is located;~~
 - ~~a. Where relevant consistency with the NZS 4404 Code of Practice for Land Development and Subdivision infrastructure;~~
 - ~~b. The provision of infrastructure and services for drinking water, wastewater and stormwater, telecommunications and energy;~~
 - ~~c. The adequacy of water supply for firefighting;~~
 - ~~d. The requirement for financial contributions as outlined in Rules FC R1 to FC R12;~~
 - ~~e. Effects on Poutini Ngāi Tahu values or notable trees within or adjacent to the site;~~
 - ~~f. Management of any contaminated land;~~
 - ~~g. Management of reverse sensitivity effects on the national grid;~~
 - ~~h. The provision of esplanade reserves or strips, and the need for access to be provided to any esplanade reserve or strip created;~~
 - ~~i. Management of any effects on the production value of any highly productive land or high value soils such as those located at Karamea and Totara Flat;~~

¹⁵⁰ Westpower Limited (S547.370)

¹⁵¹ Transpower (S299.055)

¹⁵² Transpower (S299.055)

¹⁵³ Transpower (S299.055)

¹⁵⁴ Westpower Limited (S547.370)

¹⁵⁵ Toka Tū Ake EQC (S612.098)

¹⁵⁶ Westpower Limited (S547.370)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

~~j. Management of construction effects, including traffic movements, hours of operation, noise, earthworks and erosion and sediment control; and¹⁵⁷~~

Advice Note:

1. This rule did not apply to subdivisions to create allotments for network utilities, access or reserves which are subject to Rule SUB - R4.

Activity status where compliance not achieved:

~~Restricted Discretionary where 1, 3 or 4 is not complied with~~

~~Discretionary where 2 or 5 is not complied with~~

Non-complying where ~~1-4 6-11~~ is not complied with¹⁵⁸

SUB – R9 Considered in Ecosystems and Biodiversity Recommendation

Restricted Discretionary Activities

SUB – R10 Subdivision of Land to create allotment(s) in Areas of Historic Heritage identified in Schedule One or within Sites or Areas of Significance to Māori identified in Schedule Three not meeting Rule SUB - R5

Activity Status Restricted Discretionary

Where:

1. Written confirmation is provided by the relevant Poutini Ngāi Tahu rūnanga - Te Rūnanga o Ngati Waewae or Te Rūnanga o Makaawhio, that the activity will not impact on any sites or areas of significance to Māori within Schedule Three (**except for those sites and areas of significance to Māori listed in SUB-R5.4.i. where no written confirmation is required**); and¹⁵⁹
2. All Subdivision Standards are complied with.

Discretion is restricted to:

- a. Ensuring the values for which the area is scheduled or identified in Te Tai o Poutini Plan are maintained and protected;
- b. Ensuring sufficient land is provided around the heritage resource to protect associated heritage values including from any potential effects of natural hazards;
- c. Measures used to minimise obstruction of views of the heritage resource from adjoining public spaces that may result from any future land use or development;
- d. Whether there are any adverse effects on a Notable Tree, that has any associated heritage or Poutini Ngāi Tahu values; and
- e. The size, design, shape, location and layout of allotments, **including space for a compliant building platform within any vacant allotment**;¹⁶⁰

¹⁵⁷ Transpower (S299.055)

¹⁵⁸ Transpower Limited S299.055

¹⁵⁹ Consequential Amendment resulting from Te Tai o Poutini Plan Committee S171.016

¹⁶⁰ Chris & Jan Coll S558.229, Chris J Coll Surveying Limited S566.229, William McLaughlin S567.299, and Laura Coll McLaughlin S574.229

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

- f. Whether the allotments are of a size that will continue to provide the heritage resource with a suitable setting to maintain the associated heritage or Poutini Ngāi Tahu values.
- g. The provision of infrastructure and services for **transport**,¹⁶¹ drinking water, wastewater and stormwater, telecommunications and energy;
- h. The adequacy of water supply for firefighting;
- i. The requirement for financial contributions as outlined in Rules FC – R1 to FC – R12;
- j. The provision of esplanade reserves or strips, and the need for access to be provided to any esplanade reserve or strip created.

k. Natural hazards and geotechnical considerations; and¹⁶²

l. The provision of easements¹⁶³

Notification:

1. **When making notification decisions in relation to** Applications to subdivide a lot within a Site or Area of Significance to Māori identified in Schedule Three, **the Council will be informed by advice from** will always be limited notified to the relevant rūnanga and may be publicly notified.¹⁶⁴
2. **When making notification decisions in relation to** Applications to subdivide a lot with a Historical Heritage feature, **the Council will be informed by advice from** will always be limited notified to Heritage New Zealand - Pouhere Taonga and may be publicly notified.¹⁶⁵

Advice Note:¹⁶⁶

- ~~3-1.~~ This rule did not apply to subdivisions to create allotments for network utilities, **regionally significant infrastructure**¹⁶⁷ access or reserves which are subject to Rule SUB - R4.

Activity status where compliance is not achieved: Discretionary

SUB-R11 Considered in the Natural Features and Landscapes Recommendation

SUB – R12 Subdivision of land to create allotment(s) within the FUZ - Future Urban Zone

Activity Status Restricted Discretionary

Where:

1. All Subdivision Standards are complied with.

Discretion is restricted to:

- a. The size, design, shape, location and layout of allotments;

¹⁶¹ Grey District Council S608.640

¹⁶² Buller District Council S538.257

¹⁶³ Westpower Limited S547.379

¹⁶⁴ Consequential amendment for consistency with recommended approach to other notification clauses

¹⁶⁵ Consequential amendment for consistency with recommended approach to other notification clauses

¹⁶⁶ RMA Schedule 1, clause 16(2)

¹⁶⁷ Buller District Council S538.263

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

- b. The extent to which the subdivision will be consistent with the Objectives and Policies for the Future Urban Zone and Policy SUB - P5;
- c. Where relevant consistency with the NZS 4404 Code of Practice for Land Development and Subdivision infrastructure;
- d. The provision of infrastructure and services for **transport**,¹⁶⁸ drinking water, wastewater and stormwater, telecommunications and energy;
- e. The adequacy of water supply for firefighting;
- f. The requirement for financial contributions as outlined in Rules FC – R1 to FC – R12;
- g. Effects on Poutini Ngāi Tahu values or notable trees within or adjacent to the site;
- h. The provision of esplanade reserves or strips, and the need for access to be provided to any esplanade reserve or strip created;
- ~~i. Management of construction effects, including traffic movements, hours of operation, noise, earthworks and erosion and sediment control; and¹⁶⁹~~
- i. Management of potential reverse sensitivity effects on existing land uses **lawfully established activities**, including **regionally significant infrastructure** network utilities, rural activities or significant hazardous facilities.¹⁷⁰

Advice Note: This rule did not apply to subdivisions to create allotments for network utilities, access or reserves which are subject to Rule SUB - R4.

Activity status where compliance is not achieved: Non-complying

SUB-R13 Considered in Natural Hazards Recommendation

SUB – R14 **Subdivision to create allotment(s) in the National Grid Subdivision Corridor**

Activity Status Restricted Discretionary

Where:

1. **All resulting allotments, except allotments for access or a public work, demonstrate they are capable of accommodating a building platform for the principal building or any dwelling or sensitive activity entirely outside of the National Grid Yard; and**
2. **The subdivision maintains any existing access to National Grid support structures.**

Discretion is restricted to:

- a. **The extent to which the subdivision allows for earthworks, buildings and structures to comply with the safe distance requirements of the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) ISSN01140663;**
- b. **The provision for the on-going efficient operation, maintenance, development and upgrade of the National Grid, including the ability for continued access to existing transmission lines (including support structures) for maintenance, inspections and upgrading;**

¹⁶⁸ Grey District Council S608.642

¹⁶⁹ Laura Coll McLaughlin S574.236

¹⁷⁰ Consequential amendments KiwiRail S442.070 and Westpower Limited S547.363

- c. The extent to which the design and layout of the subdivision demonstrates that a suitable building platform(s) for the principal building or any dwelling or sensitive activity can be located outside of the National Grid Yard for each new allotment;
- d. The size, design, shape, location and layout of allotments, including the extent to which potential adverse effects, including visual and reverse sensitivity effects on the National Grid and on public safety and property, are mitigated through the location of building platforms, roads, and reserves;
- e. The nature and location of any proposed vegetation to be planted in the vicinity of the National Grid; and
- f. The outcome of any consultation with the owner and operator of the National Grid.

Activity status where compliance not achieved: Non-complying ¹⁷¹

Discretionary Activities

SUB – R145 Subdivision to create allotment(s) in the Hospital, Stadium, Mineral Extraction, Buller Coalfield and Airport Special Purpose Zones or in the Māori Purpose Zone where no Iwi/Papatipu Rūnanga Management Plan is in place.

Activity Status Discretionary

Where:

1. ~~The subdivision is in general accordance with any development plan in place for the site.~~

Activity status where compliance not achieved: Non-complying N/A ¹⁷²

SUB-R15 Considered in Ecosystems and Biodiversity Recommendation

SUB-R16 Considered in the Natural Features and Landscapes Recommendation

SUB-R17 Considered in the Coastal Environment Recommendation

SUB – R189 Subdivision of Land which would otherwise be a Controlled or Restricted Discretionary Activity, where one or more of the Subdivision Standards are Not Complied With

Activity Status Discretionary

Where:

1. ~~This is not in an Overlay area subject to Rules SUB – R14, SUB – R15, SUB – R18 or SUB – R20;~~ ¹⁷³

¹⁷¹ Transpower Limited S299.055

¹⁷² Geoff Volckman S563.049 S563.050, Catherine Smart-Simpson S564.055, S564.055, Koiterangi Lime Co Ltd S577.060, S577.061, Karamea Lime Company S614.077, S614.078, Peter Langford S615.077, S615.078

¹⁷³ Davis Ogilvie & Partners Ltd S465.019, Westpower Limited S547.387

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

~~2. This is not the subdivision of a minor residential unit from the principal dwelling in the GRUZ – General Rural Zone; and~~

~~3. This is not the subdivision of units within a papākainga development or within the GRUZ – PREC 1 – Community Living Precinct where the minimum lot sizes for the relevant zone are not met.~~

Activity status where compliance not achieved:

Non-complying where 2 or 3 are not complied with¹⁷⁴

SUB – R1920 Subdivision in any OSRZ - Open Space and Recreation Zone

Activity status Discretionary

Activity status where compliance not achieved: N/A

SUB–R20 Considered in the Natural Hazards Recommendation

SUB–R21 Considered in the Natural Hazards Recommendation

SUB – R223 Subdivision within the Airport Noise Control Overlay

Activity status Discretionary

Activity status where compliance not achieved: N/A

SUB – R234 Subdivision to create Allotments in the Flood Susceptibility, Flood Plain, Land Instability, Coastal Alert, and Coastal Setback, Lake Tsunami and Coastal Tsunami Overlays not meeting Restricted Discretionary Activity Standards¹⁷⁵

Activity status Discretionary

Activity status where compliance not achieved: N/A

Non-complying Activities

SUB – R24 Considered in the Coastal Environment Recommendation

SUB – R256 Subdivision of land not subject to another Rule in this Plan

Activity status Non-complying

Activity status where compliance not achieved: N/A

SUB – R27 Subdivision of land separating a minor residential unit from the principal dwelling in the GRUZ – General Rural Zone

¹⁷⁴ Chris & Jan Coll S558.248, Chris J Coll Surveying Limited S566.248, William McLaughlin S567.316, Laura Coll McLaughlin S574.248

¹⁷⁵ Consequential amendments stemming from Natural Hazards Recommendation

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

Activity status Non-complying

Activity status where compliance not achieved: N/A¹⁷⁶

SUB – R28 Subdivision of land within a papākainga development or within the GRUZ - PREC 1 - Community Living Precinct where the minimum lot sizes for the relevant zone are not met

Activity status Non-complying

Activity status where compliance not achieved: N/A¹⁷⁷

SUB-R26 Considered in the Natural Hazards Recommendation

SUB-R27 Considered in the Ecosystems and Biodiversity Recommendation

SUB-R28 Considered in the Natural Hazards Recommendation

2.6. Subdivision – Standards

Submissions and Further Submissions

535. Seven submission points and two further submission points relating to the Subdivision Standards (as a whole) were summarised in a Table on page 116-117 of the s42A Report. One submission point sought to retain the eleven standards as notified. The other six submission points sought various amendments to the standards. The two further submissions opposed one of the proposed amendments.
536. The consideration of SUB-S1 is made as part of the respective zone hearing streams.
537. Eleven submission points and one further submission relating to **SUB-S2** were summarised in a Table on pages 118-119 of the s42A Report. Seven submission points supported the retention of the standard as notified. Four submission points sought amendments.
538. Nine submission points relating to **SUB-S3** were summarised in a Table on pages 120-121 of the s42A Report. Three submission points supported the retention of the standard as notified. Six submission points sought amendments.
539. Ten submission points relating to **SUB-S4** were summarised in a Table on pages 122 of the s42A Report. Four submission points supported the retention of the standard as notified. Six submission points sought amendments.
540. Ten submission points relating to **SUB-S5** were summarised in a Table on pages 123-124 of the s42A Report. Two submission points supported the retention of the standard as notified. Eight submission points sought amendments.

¹⁷⁶ Chris & Jan Coll S558.248, Chris J Coll Surveying Limited S566.248, William McLaughlin S567.316, Laura Coll McLaughlin S574.248

¹⁷⁷ Chris & Jan Coll S558.248, Chris J Coll Surveying Limited S566.248, William McLaughlin S567.316, Laura Coll McLaughlin S574.248

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

541. Thirteen submission points relating to **SUB-S6** were summarised in a Table on pages 125-126 of the s42A Report. Nine submission points supported the retention of the standard as notified. Four submission points sought amendments.
542. Eleven submission points relating to **SUB-S7** were summarised in a Table on pages 126-128 of the s42A Report. Seven submission points supported the retention of the standard as notified. Four submission points sought amendments.
543. Twelve submission points relating to **SUB-S8** were summarised in a Table on pages 129-130 of the s42A Report. Seven submission points supported the retention of the standard as notified. Five submission points sought amendments.
544. Eleven submission points relating to **SUB-S9** were summarised in a Table on pages 131-134 of the s42A Report. Two submission points supported the retention of the standard as notified. Nine submission points sought amendments.
545. Ten submission points relating to **SUB-S10** were summarised in a Table on pages 135-136 of the s42A Report. Three submission points supported the retention of the standard as notified. Seven submission points sought amendments.
546. Nine submission points relating to **SUB-S11** were summarised in a Table on page 137 of the s42A Report. Three submission points supported the retention of the standard as notified. Six submission points sought amendments.
547. The Panel adopts these summaries and has considered the relevant submissions and further submissions.

Section 42A Report

Standards (General)

548. Ms Belgrave and Ms Evans acknowledged the support from the Snodgrass Road submitters that supported the standards as notified.
549. In response to submission points¹⁷⁸ that requested amending references to accommodate pre-existing non-compliance that was not being exacerbated by the proposed activity, Ms Belgrave and Ms Evans did not support the relief sought. This was because the provisions already recognised consented or legally established activities.
550. In response to the submission point from David Ellerm to add a new standard relating to Character Areas, Ms Belgrave and Ms Evans did not support the relief sought. They consider that the matters sought for inclusion did not provide sufficient certainty or assessment. Additionally, they noted that subdivision design and the layout of allotments was a matter for control in SUB-R5. Two further submissions from Davis Ogilvie & Partners and Cashmere Bay Dairy Limited opposed the addition of this standard.
551. Ms Belgrave and Ms Evans recommended no amendments the Subdivision Standards in response to these submissions.

¹⁷⁸ Chris & Jan Coll (S558.272), Chris J Coll Surveying Limited (S566.272), William McLaughlin (S567.338), Laura Coll McLaughlin (S574.272)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

SUB-S2 Requirements for building platforms for each allotment

552. Ms Belgrave and Ms Evans acknowledged the support from the submitters that sought to retain the standard as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.
553. Ms Belgrave and Ms Evans supported an amendment to the standard in response to the submission point made by Forest and Bird for an indicative building platform and access to be identified on any allotment within an SNA and for this to be confirmed in a covenant on the new titles. Ms Belgrave and Ms Evans acknowledged that the standard only referred to zone standards, therefore excluding the need to comply with district-wide rules. They supported an amendment to delete the words 'underlying zone' in SUB-S2(2)(b).
554. Forest and Bird sought to delete 'having regard to ground conditions, gradient, access, natural hazards, indigenous vegetation and habitat, amenity and health and safety' from the definition of 'building platform' and have the same words added in SUB-S2. Ms Belgrave and Ms Evans did not support this submission because they considered the requested wording was too subjective for a standard and the definition was recommended to be amended as part of the Introduction and General Provisions hearing.
555. In response to the submission point made by the Director General to make additions to SUB-S2(2)(a) and SUB-S2(2)(b), Ms Belgrave and Ms Evans did not support the exact relief sought. This was because they considered the recommended amendment responding to the Forest and Bird submission point would address the intent of the Director General's submission.
556. Ms Belgrave and Ms Evans recommended amending SUB-S2 as follows:

SUB-S2 Requirements for building platforms for each allotment

- ~~1. Each allotment must provide a stable, flood free building area suitable for building foundations in accordance with the requirements of the New Zealand Building Code – Acceptable Solution B1/AS4 Approved Document B1/4: Structure Foundations.~~
2. On sites less than 4ha in size, an indicative building platform on each allotment must be identified in subdivision applications and:
 - a. Must allow the buildings to comply with the standards for a permitted activity in the ~~underlying zone under this~~ **District Plan**; and
 - b. Must not include any area of land to be used for access or for the disposal of wastewater or stormwater; and
 - c. Must be outside of any area identified in a Natural Hazard overlay.

SUB-S3 Water Supply

557. Ms Belgrave and Ms Evans acknowledged the support from three submitters that sought to retain the standard as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.
558. In response to the submission point made by Margaret Montgomery to require proposals to state the approximate sizes for self-potable water based on the size of the dwelling, Ms Belgrave and Ms Evans did not support the relief sought. This was because there was no

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

s32AA evaluation. Additionally, they considered the requirement would add significant cost to a development, and it would require a policy shift under the Plan.

559. Ms Belgrave and Ms Evans supported the relief sought by BDC to make minor amendments to the wording of both clauses to replace '*must be provided with*' to '*must provide*'. They agreed that this would simplify the wording of the standard.
560. In response to submission points¹⁷⁹ that sought amendments to consider the existing system capacity, Ms Belgrave and Ms Evans did not support the relief sought. This was because it was appropriate for a standard to require that a connection to water supply be provided where one was available. They considered any non-compliance with the standard could be assessed on a case-by-case basis.
561. Ms Belgrave and Ms Evans recommend amending SUB-S3 as follows:

SUB-S3 Water Supply

1. *Where a connection to a District Council or Community reticulated water supply system is available, all new allotments must ~~be provided with~~ **provide** a connection at the boundary and net boundary where access is shared (including firefighting water supply).*
2. *Where a connection to a District Council or Community reticulated water supply system is unavailable, all new allotments must ~~be provided with~~ **provide** access to a self-sufficient potable water supply (including firefighting water supply).*

Advice Notes:

1. *SNZ PAS 4509 New Zealand Fire Service Firefighting Water Supplies Code of Practice should be consulted when determining the most appropriate design for firefighting water supply. Fire and Emergency New Zealand is available to assist with this.*
2. *Where water is to be taken from ground or surface water, resource consent from West Coast Regional Council may be required.*

SUB-S4 Stormwater

562. In response to the submission point made by Margaret Montgomery to change SUB-S4(1) to a land use condition, Ms Belgrave and Ms Evans did not support the relief sought. They considered it more transparent that stormwater disposal requirements be included as a standard.
563. Ms Belgrave and Ms Evans supported the relief sought by BDC to make minor amendments to the wording of SUB-S4(2) to replace '*must be provided with*' to '*must provide*'. They agreed that this would simplify the wording of the standard.
564. In response to submission points¹⁸⁰ that sought amendments to consider the existing system capacity, Ms Belgrave and Ms Evans reiterated their previous recommendation set out in SUB-S3 and did not support the relief sought. Additionally, they considered Advice Note (2) was a helpful clarification for plan users and did not support its deletion as sought.

¹⁷⁹ Chris & Jan Coll (S558.262), Chris J Coll Surveying Limited (S566.262), William McLaughlin (S567.329), and Laura Coll McLaughlin (S574.262)

¹⁸⁰ Chris & Jan Coll (S558.264), Chris J Coll Surveying Limited (S566.264), William McLaughlin (S567.330), and Laura Coll McLaughlin (S574.264)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

565. Ms Belgrave and Ms Evans recommend amending SUB-S4 as follows:

SUB-S4 Stormwater

- 1. All allotments must provide the means for disposal of stormwater from the roof of all buildings and all impervious or potentially impervious surfaces, including, but not limited, to structures, compacted soils and sealed surfaces.*
- 2. Where a connection to a District Council or Community stormwater management system is available, all new allotments must ~~be provided with~~ **provide** a connection at the boundary or net boundary where access is shared.*
- 3. Where a connection to a District Council or Community stormwater management system is not available, the applicant shall demonstrate that stormwater will be treated and disposed of in such a way that surface flooding of adjacent properties and roads will not be exacerbated, nor shall there be adverse water quality effects on freshwater.*
- 4. Where the means of stormwater disposal is to ground, that area shall not be subject to instability, slippage or inundation, or used for the disposal of wastewater.*
- 5. Where the stormwater discharge is from industrial land or large areas of impervious surface, the applicant shall demonstrate that sufficient treatment is undertaken that adverse effects **on** freshwater and the receiving environment will be mitigated.*

SUB-S5 Wastewater

566. In response to the submission point made by Te Mana Ora, to add a clause to the Standard, Ms Belgrave and Ms Evans did not support the addition as they considered the standard as notified was sufficient to address potential effects associated with wastewater servicing.
567. In response to the submission point made by Margaret Montgomery to remove references requiring sanitary disposal requirements to be demonstrated, Ms Belgrave and Ms Evans did not support the relief sought as they did not consider there was duplication with the Building Code.
568. Ms Belgrave and Ms Evans did not support the relief sought by BDC to amend SUB-S5(1) to require a feasibility report for wastewater disposal because they considered the requested wording read as an information requirement rather than a standard.
569. In response to submission points¹⁸¹ that sought amendments to consider the existing system capacity, Ms Belgrave and Ms Evans reiterate their previous recommendation set out in SUB-S3 and SUB-S4 and did not support the relief sought.
570. In response to the submission point from EQC, requesting an addition to SUB-S5(1) to consider land instability issues, Ms Belgrave and Ms Evans did not support the relief sought. This was because instability was unlikely to be a potential effect associated with the disposal of wastewater to a reticulated system.
571. Ms Belgrave and Ms Evans supported consequential amendments, as sought by BDC in relation to SUB-S3 and SUB-S4, to change 'must be provided' to 'must provide'.
572. Ms Belgrave and Ms Evans recommended amending SUB-S5 as follows:

¹⁸¹ Chris & Jan Coll (S558.265), Chris J Coll Surveying Limited (S566.265), William McLaughlin (S567.331), and Laura Coll McLaughlin (S574.265)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

SUB-S5 Wastewater

1. *All allotments must provide the means for disposal of wastewater from all potential land uses that could be established on the respective allotments that did not involve a direct discharge to fresh or coastal water.*
2. *Where a connection to a District Council or Community wastewater management system is available, all new allotments must ~~be provided with~~ **provide** a connection at the boundary or the net boundary where access is shared.*
3. *Where a connection to a District Council or Community wastewater management system is not available, the applicant shall demonstrate that wastewater will be disposed of in a sanitary manner within the net site area of the allotment with no direct discharge to water.*
4. *For a subdivision where community scale infrastructure is developed to support more than 10 privately owned lots this should be to appropriate standards and vested in the Council to ensure ongoing maintenance and renewal.*

SUB-S6 Transport and Access

573. In response to the submission point from Te Mana Ora that sought an additional clause to make provision for pedestrians and cyclists as well as public transport links, Ms Belgrave and Ms Evans did not support the relief sought. This was because the proposed provision was not sufficiently clear and was not appropriate as a standard.
574. Ms Belgrave and Ms Evans supported the relief sought by BDC to simplify the wording from 'must be provided with' to 'must provide' for the same reasons as set out in the previous standards.
575. In response to the submission points made by Frida Inta and Buller Conservation Group to amend SUB-S6(3) to include 'to provide for safe bicycle and pedestrian use', Ms Belgrave and Ms Evans did not support the addition. This was because the purpose of the clause is not limited to pedestrian and cyclist safety.
576. Ms Belgrave and Ms Evans recommended amending SUB-S6 as follows:

SUB-S6 Transport and Access

1. *All allotments must ~~be provided with~~ **provide** vehicular access to a road by way of a vehicle access point, driveway or right of way in accordance with the Transport Performance Standards*
2. *In all zones any vehicle rights of way or crossings shall be constructed in accordance with the Transport Performance Standards*
3. *All new roads and upgrades of existing roads shall be constructed in accordance with the relevant district Council Engineering Standards, or where no such Standard exists, NZS 4404:2010 Land Development and Subdivision Infrastructure.*

SUB-S7 Energy Supply

577. Ms Belgrave and Ms Evans did not support the relief sought by Davis Ogilvie & Partners to clarify that energy services should be reticulated in residential areas, as the purpose of the standard was to ensure that all allotments could be serviced by electricity generally.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

578. In response to the submission point made by BDC to reword the beginning of SUB-S7(1), the Ms Belgrave and Ms Evans support the relief sought and agreed that the amended wording simplified the standard.
579. In response to the submission point made by Westpower to delete the second sentence from SUB-S7(2), Ms Belgrave and Ms Evans supported the relief sought in part. They recommended amending the sentence to change 'may' to 'will' so that for any subdivision that created more than 15 lots, consultation with energy network operators would be required.
580. Westpower's submission point also sought to include a new clause as follows:

At the time of subdivision the applicant shall supply written confirmation from the energy network utility operator that electricity can be provided to the subdivision and that appropriate easements are proposed to ensure the ongoing ability to access, operate, maintain and upgrade existing and proposed electricity infrastructure. At the time of completion of the subdivision certification shall be provided from the energy network utility operator that electricity is available at the boundary of each newly created lot and the required easements have been granted and reserved on the survey plan.

581. Ms Belgrave and Ms Evans did not support this addition because they considered this matter was more appropriately managed through conditions of consent.
582. In response to the submission point made by Westpower to amend the wording of SUB-S7(3), Ms Belgrave and Ms Evans recommended accepting the relief in part. They did not consider it necessary to include the words 'existing and proposed'.
583. Ms Belgrave and Ms Evans did not support the submission point made by Greg Maitland to amend the standard to make it discretionary to supply power to the boundaries of properties in the Rural Lifestyle and General Rural Zones. This was because they considered it appropriate to require these allotments to be serviced by electricity.
584. Ms Belgrave and Ms Evans recommended amending SUB-S7 as follows:

SUB-S7 Energy Supply

1. ~~For all~~ **All** new allotments **must** provide electricity services ~~must be provided~~ to the boundary of each new lot or the applicant shall demonstrate that electricity services are able to be provided by alternative means.
2. At the time of subdivision, sufficient land for transformers and any associated ancillary services must be set aside. For a subdivision that creates more than 15 lots, consultation with energy network utility operators ~~may~~ **will** be required.
3. All necessary easements for the protection of **and access** to energy network utility services **and infrastructure** must be duly granted and reserved.

SUB-S8 Telecommunications

585. In response to the submission point made by Margaret Montgomery to make SUB-S8(2) an advice note, Ms Belgrave and Ms Evans supported the relief sought in part. They agreed that the part of the clause relating to consultation was better served as an advice note. Regarding the remaining part of the clause, they recommended including 'required to service the new allotments' to improve clarity and purpose.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

586. In response to the similar submission point made by Davis Ogilvie & Partners on SUB-S7, Ms Belgrave and Ms Evans reiterated that they did not support the relief sought to clarify that telecommunication services should be reticulated in residential areas.
587. Ms Belgrave and Ms Evans reiterated their previous recommendation that they supported the submission point made by BDC to reword the beginning of SUB-S8(1), to simplify the wording.
588. Ms Belgrave and Ms Evans did not support the relief sought by Spark, Chorus & One NZ, which involved replacing SUB-S8(1) with the following two clauses:
1. *Provision shall be made for telecommunications connections to an open access fibre network to the boundary of each new lot for all new allotments in the following zones:*
 - a. *all CMUZ - Commercial and Mixed Use Zones*
 - b. *all INZ - Industrial Zones*
 - c. *all RESZ - Residential Zones*
 - d. *RLZ - Rural Lifestyle Zone*
 - e. *SETZ - Settlement Zone*
 - f. *SVZ - Scenic Visitor Zone*
 2. *For all other zones the applicant shall provide written confirmation from a telecommunication network operator confirming that a telecommunications connection (fibre, mobile or wireless including satellite) can be provided to all new allotments and describing how this can be achieved.*
589. The requested amendments to SUB-S8(1) to identify the type of telecommunication network connectivity required, Ms Belgrave and Ms Evans did not support the additions. This was because they considered that the level of detail was not necessary for a standard and that there was opportunity to consider these matters through matters of control and conditions of consent. The relief sought by the telecommunications companies also included replacing 'may' with 'will' in clause SUB-S8(2), which was supported on the basis that it provided certainty to the standard.
590. Ms Belgrave and Ms Evans recommended amending SUB-S8 as follows:

SUB-S8 Energy Supply

1. ~~For all~~ **All** new allotments **must provide** telecommunication services ~~must be provided~~ to the boundary of each new lot or the applicant shall demonstrate that telecommunication services are able to be provided by alternative means.
2. At the time of subdivision, sufficient land for telecommunications, transformers and any associated ancillary services **required to service the new allotments** must be set aside.
Advice note: For a subdivision that creates more than 15 lots, consultation with telecommunications network utility operators ~~may~~ **will** be required.
3. All necessary easements for the protection of telecommunications network utility services must be duly granted and reserved.

SUB-S9 Requirement for Esplanade Reserves or Esplanade Strips

591. In response to the submission point made by Davis Ogilvie & Partners Ltd to include the minimum area for a lake as set out in s230 of the RMA, Ms Belgrave and Ms Evans supported

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

the relief sought. This was because it achieved consistency with the requirements of esplanade reserves or strips as set out in the RMA.

592. In response to the submission point made by BDC to amend SUB-S9(1)(c) to include words to explain how to establish the average width of the river, Ms Belgrave and Ms Evans did not support the submission. This was because the measurement of the average width was commonly undertaken nationally and in accordance with surveying best practice.
593. Ms Belgrave and Ms Evans supported the relief sought in submission points from Frida Inta and Buller Conservation Group to add the words '*or greater*' to SUB-S9(1)(c), as it was consistent with s230 of the RMA.
594. In response to submission points¹⁸² that sought the deletion of the notified standard to be replaced by rules 7.9.6.1.1 – 7.9.6.1.3 of the Buller District Plan, Ms Belgrave and Ms Evans did not support the relief sought. They considered the provisions for esplanade reserves and strips in the pTTPP generally achieved the same outcomes as the Buller District Plan.
595. In response to the submission point made by Forest and Bird to add '*or when calculated for the length/distance of the bed adjoining the allotment(s) of the subdivision*' to SUB-S9(1)(c), Ms Belgrave and Ms Evans did not support the relief sought. This was because the requested wording has the potential to create inconsistent and disjointed areas of esplanade reserves or strips.
596. Ms Belgrave and Ms Evans recommend amending SUB-S9 as follows:

SUB-S9 Requirement for Esplanade Reserves or Esplanade Strips

1. *An esplanade reserve or esplanade strip shall be provided where any subdivision creates an allotment smaller than 4ha where that allotment adjoins any of:*
 - a. *The coastal marine area;*
 - b. *A lake **whose bed has an area of 8 hectares or greater**; or*
 - c. *The bank of a river whose bed has an average width of 3m **or greater**.*

SUB-S10 Easements for Any Purpose

597. In response to the submission point made by Westpower to amend the wording of SUB-S10(1)(a) to refer to '*network utility services and infrastructure (including energy infrastructure)*', Ms Belgrave and Ms Evans supported the relief sought in part. They did not support only adding one type of infrastructure to the standard. However, supported the addition of '*infrastructure*' because this was defined and was sufficiently broad to encapsulate the relief sought by Westpower.
598. In response to the submission point made by Westpower to amend the wording of SUB-S10(2)(ii) to include '*network*' and '*infrastructure*', Ms Belgrave and Ms Evans did not agree that the amendment was necessary subject to the recommended amendments to SUB-S10(2)(iv).

¹⁸² Chris & Jan Coll (S558.269), Chris J Coll Surveying Limited (S566.269), William McLaughlin (S567.335), and Laura Coll McLaughlin (S574.269)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

599. In response to a similar submission point made by Westpower to amend wording at SUB-S10(2)(iv) to add 'other' and 'critical infrastructure', Ms Belgrave and Ms Evans supported the relief sought in part. They supported the addition of 'other' as this was a relevant addition and clarification to ensure that all necessary easements can be required. To be consistent with other recommendations, they recommended 'critical infrastructure' was replaced with 'regionally significant infrastructure', and that 'utilities' was deleted from the standard.
600. In response to submission points¹⁸³ that sought to have the reference to centre line easements deleted from SUB-S10(1)(d), Ms Belgrave and Ms Evans did not support the relief sought because the submitters had not provided any justification for the request.
601. Ms Belgrave and Ms Evans recommend amending SUB-S10 as follows:

SUB-S10 Easements for Any Purpose

1. *Easements shall be provided where necessary for:*
 - a. *Public works and ~~utility~~**infrastructure** services;*
 - b. *Easements in gross where a service or access is required by the district council;*
 - c. *Easements in respect of other parties in favour of nominated allotments or adjoining Certificates of Title;*
 - d. *Service easements, whether in gross or for private purposes, with sufficient width to permit maintenance, repair or replacement. Centre line easements shall apply when the line is privately owned;*
2. *Easements can also be required for any of the following purposes:*
 - i. *Accessways, whether mutual or not;*
 - ii. *Stormwater, wastewater disposal, water supply, utilities;*
 - iii. *Party walls and floor/ceilings; or*
 - iv. *Other ~~utilities~~ **regionally significant infrastructure services.***

SUB-S11 Point Strips

602. Submission points¹⁸⁴ sought amendments to this standard for general clarification and certainty. Ms Belgrave and Ms Evans addressed the submissions as a group. They understood the standard had rolled over from the Grey District Plan and they agreed that the wording would benefit from amendment to improve its clarity and certainty. Additionally, they agreed an amendment to reference His Majesty the King was appropriate.
603. Ms Belgrave and Ms Evans recommend amending SUB-S11 as follows:

SUB-S11 Point Strips

1. *Point strips shall be provided where in the course of subdivision a new road is constructed and vested that will ~~or could~~ provide frontage to other land **either at the time of subdivision or in***

¹⁸³ Chris & Jan Coll (S558.270), Chris J Coll Surveying Limited (S566.270), William McLaughlin (S567.336), and Laura Coll McLaughlin (S574.270)

¹⁸⁴ Margaret Montgomery (S446.074), Chris & Jan Coll (S558.271), Chris J Coll Surveying Limited (S566.271), William McLaughlin (S567.337), and Laura Coll McLaughlin (S574.271) Te Runanga o Ngai Tahu, Te Runanga o Ngāti Waewae, Te Runanga o Makaawhio (S620.190)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

~~*the future. In this instance an A point strip agreement is will be entered into by between the first subdivider with and the Council, to ensure the benefiting owner pays a fair share towards the cost of providing the frontage road. The point strip agreement sets the amount to be paid by the subdivider, which will be updated from the date of signature of the agreement by the Consumers Price Index.*~~

2. Point strips ~~may~~ **will** also be required where access to any road ~~would~~ **is determined to be unsafe by the Council.**
3. A point strip of no less than 100mm in width shall be created along the State Highway 7 frontage of any new allotment, or balance allotment created within the Kaiata Park development area and fronting State Highway 7 including any allotment created to contain the wetland area. Such point strip shall vest in ~~Her~~ **His** Majesty the ~~Queen~~ **King** for Use in Connection with a road (point strip).

Hearing and Submitter Evidence/Statements

604. Ms Hadfield, for Davis Ogilvie & Partners (as a further submitter), supported the s42A Report recommendation to reject the relief sought by David Ellerm to add a new standard about character areas. In relation to SUB-S7, Ms Hadfield encouraged the Panel to give further consideration to the Davis Ogilvie & Partners submission to require subdividers in urban areas to connect to reticulated electricity supply. In relation to SUB-S8, she reiterated that subdividers in urban areas should connect to a reticulated telecommunications supply. She accepted the s42A Report wording for SUB-S9.
605. Ms Young, for the Director General, accepted the recommended amendment in relation to SUB-S2 and she confirmed it satisfied the Director General's submission regarding this standard.
606. Mr Kennedy, for Westpower accepted the amended wording in the s42A Report with respect to SUB-S3. He also discussed the recommended s42A wording for SUB-S7(2) and the new clause set out in the Westpower submission. He noted that the recommended wording for SUB-S7(2) would only require consultation if more than 15 allotments were proposed. He considered the amendments sought by Westpower would solidify existing procedures (particularly in Grey District) where any subdivider consults with the electricity network operator as to their requirements for the subdivision. In his opinion, the relief sought by Westpower would be a useful mechanism for ensuring the coordination of electricity supply.
607. The joint statement of evidence presented on behalf of Spark, Chorus & One NZ reiterated the view that SUB-S8 should set out the detail sought in the original submission. They explained that failing to provide adequate telecommunications infrastructure at the time of subdivision could lead to unnecessary disruptions and increased costs for end-users when installed retrospectively.

Reporting Officer Reply Evidence

608. In relation to SUB-S2 Ms Evans acknowledged that the s42A Report recommended SUB-S2(1) be deleted, but that this was shown in the s42A version of the provisions. She confirmed her recommendation was to delete the clause because it repeated the requirements of the building code. Nevertheless, she also recommended that the appropriateness of this be considered as part of the Natural Hazards Chapter hearing. However, her recommendation for this hearing was that the clause remain as notified.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

609. Ms Evans recommended amendments to SUB-S4 changing 'freshwater' to 'waterbody' which was consistent with recommendations agreed to in other chapter hearings. Following questioning in the hearing, she also discussed whether the addition of 'coastal water' would be appropriate in this Standard. Her recommendation was that there was no scope to make this addition, however, she supported the addition if scope was found or the Panel determined it be a clause 16(2) amendment.
610. In response to questions from the Panel, Ms Evans advised she had not been able to find any supporting information regarding the 15 lot trigger in SUB-S7(2). Nevertheless, she did not currently support the amendments proposed by Westpower because they relied on a third party to provide approval/certification. She indicated that it was her understanding that a legal opinion was being sought on this matter.
611. In response to questions from the Panel, Ms Evans advised that it would be her expectation that future lot owners would be aware of any alternative energy supply as it would be recorded on the record of title.
612. In response to the Panel's questions regarding the use of the word 'shall' and whether 'must' would be more appropriate, Ms Evans considered that 'must' was more certain and recommended the change. For consistency, she recommended the same changes throughout the other Standards.
613. Ms Evans reconsidered SUB-S8(1) having heard the evidence from the telecommunication companies' representatives. She acknowledged the concern they had about having to retrospectively install services and the disruption that created. However, she considered the wording sought by the submitters could be problematic where fibre was not yet available. As such she recommended the following amended wording:
1. ~~For all~~ **All new allotments must provide telecommunication services, including to an open access fibre network where it is available, must be provided to the boundary of each new lot or the applicant ~~shall~~ **must** demonstrate that telecommunication services are able to be provided by alternative means.**
614. Ms Evans reiterated that she did not support the relief sought to require consultation with a third party, for the same reasons she set out in relation to SUB-S7.
615. In response to discussion at the hearing about potential wording improvements for SUB-S9(1)(b), Ms Evans recommended minor edits to improve the clarity.
616. She also commented that a recommendation from the Natural Character and Margins of Waterbodies Chapter hearing was to include the National Planning Standard definition of 'bed' into the pTTPP. She considered this would assist with addressing the submissions that relate to this matter.
617. Ms Evans also recognised that consequential to the agreement that esplanade reserves and strips were not limited to allotments of 4 ha or less, she recommended deleting the 4 ha reference from the standard.

Hearing Panel's Evaluation

General

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

618. The Panel notes that no specific amendments were sought in relation to SUB-S1, however, we acknowledge that there are submissions within specific zones seeking changes to the net site area for residential units.
619. The Panel acknowledge that a number of matters stemming from submissions were common to various standards and we therefore address those matters together.
620. The first of those matters related to the BDC submission to amend '*must be provided with*' to '*must provide*' in SUB-S3(1) and (2), SUB-S4(2) and SUB-S6(1). We agree with the Reporting Officers that this will simplify the wording of the standard. We also note that as a consequential amendment the same wording in SUB-S5(2) should be similarly amended for consistency.
621. In response to the Panel's questions regarding the use of the word '*shall*' and whether '*must*' would be more appropriate, Ms Evans considered that '*must*' is more certain and recommends the change. For consistency, she recommended the same changes throughout the other Standards, which include SUB-S4, SUB-S6, SUB-S7, SUB-S8, SUB-S10 and SUB-S11. We consider this to be a minor amendment which can be made under clause 16(2) of Schedule 1 of the RMA.
622. Turning to the submission by David Ellerm (S581.052) requesting the inclusion of a new standard for additional matters relating to character areas, the Panel agree with the Reporting Officers that the matters sought to be included by Mr Ellerm do not provide sufficient certainty to be included within a standard. We also agree that matters related to subdivision design are provided for in SUB-R5.
623. In relation to the remainder of the general submissions seeking changes the Panel agree that these are rejected on the basis of the conclusions reached by Ms Belgrave and Ms Evans.

SUB-S2

624. The Panel acknowledges that in Reply, Ms Evans noted that she had recommended that clause (1) of SUB-S2 be deleted in her s42A Report but had not shown the deletion in Appendix 1. She considered there was opportunity to delete this clause because repeated a requirement of the building code but accepted that it related to a requirement for a flood free building platform. We note that this issue was addressed in the Natural Hazards s42A Report where the Reporting Officers recommended a submission by Margaret Montgomery (S446.065) be rejected on the basis that the standard related to a permitted activity and therefore it was appropriate that a resource consent application was elevated in activity status where it could not provide a building platform outside of a Natural Hazard Overlay. The Panel agrees with the Reporting Officer's recommendation in that case. We therefore recommend that no change is made to the existing clause (1).
625. The Panel have considered the submission made by Forest and Bird to include a requirement for an indicative building platform and access to be identified on any allotment within an SNA and for this to be confirmed in a covenant on the new titles. We note that the standard already requires an indicative building platform on each allotment to be identified in subdivision applications on sites less than 4 ha, so the amendment sought in, some regards, would be a duplication. We agree with the Reporting Officers that the standard only refers to zone standards, thus excluding the need to comply with District-wide rules. We therefore consider an amendment to clause (2)(a) to delete the words '*underlying zone*' and instead refer to

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

'District Plan' would ensure that the District-wide rules were considered. We consider to a large degree this would address the concerns of Forest and Bird. We also note that this amendment largely addresses a similar submission by the Director General, and we acknowledge that Ms Young in her evidence indicated she was comfortable that the proposed change addressed the Director General's concerns on this standard.

626. In relation to the submission by Forest and Bird to delete reference to ground conditions, gradient, access, natural hazards, indigenous vegetation and habitat, amenity, and health and safety from the definition of building platform and add that to clause (1), the Panel agrees with Ms Belgrave and Ms Evans that the wording proposed is subjective and is not suitable for a standard and that with the above amendment to require compliance with district-wide rules the change sought to clause 1 is not necessary.

SUB-S3

627. The Panel agrees with the Reporting Officers that it is appropriate for a standard to require that a connection to water supply be provided where one is available in response to submitters seeking that existing system capacity be considered on the basis that new allotments should not be required to connect to water supply if a system is in place but cannot accommodate the new allotments. We note that non-compliance with this standard can be assessed on a case by case basis through the resource consent process.

628. In relation to the remainder of the submissions on SUB-S3 seeking changes, the Panel agree that these are rejected on the basis of the conclusions reached by Ms Belgrave and Ms Evans.

SUB-S4

629. Similar to above, the Panel agrees with the Reporting Officers that it is appropriate for a standard to require that a connection to stormwater be provided where one is available in response to submitters seeking that existing system capacity be considered. Again, we note that non-compliance with this standard can be assessed on a case by case basis through the resource consent process. In relation to the same submitters, we also agree that Advice Note (2) should be retained to provide clear information to plan users.

630. In relation to the remainder of the submissions on SUB-S4 seeking changes, the Panel agree that these are rejected on the basis of the conclusions reached by Ms Belgrave and Ms Evans.

SUB-S5

631. The Panel have considered the BDC request to amend clause (1) because the wording "*all allotments must provide the means for disposal of wastewater from...*" may be interpreted that the wastewater disposal system must be installed at the time of subdivision. While the Reporting Officers have rejected the amendment proposed, the Panel consider there is some merit in BDC's concern, although we do not agree with the extent of their proposed amendment. The Panel considers that the core of the problem identified by BDC is with the word *'provide'* and we recommend its replacement with *'demonstrate'* to address the issue.

632. Similar to the water and stormwater conclusions, the Panel agrees with the Reporting Officers that it is appropriate for a standard to require that a connection to wastewater be provided where one is available in response to submitters seeking that existing system capacity be considered. Again, we note that non-compliance with this standard can be assessed on a case

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

by case basis through the resource consent process. In relation to the same submitters, we also agree that Advice Note (2) should be retained to provide clear information to plan users.

633. In relation to the remainder of the submissions on SUB-S4 seeking changes, the Panel agree that these are rejected on the basis of the conclusions reached by Ms Belgrave and Ms Evans.

SUB-S6

634. The Panel has considered the submissions from Te Mana Ora (Community and Public Health), Buller Conservation Group and Frida Inta that relate to the provision of pedestrian and cyclist facilities, and we agree with the Reporting Officers that further wording is not necessary, and that the purpose of these standards is not limited to pedestrian and cyclist safety.

SUB-S7

635. While the Panel agrees that the beginning of clause (1) could be simplified as sought by BDC, we do not consider their wording is quite correct and we recommend it be amended to read 'All new allotments must **be provided with electricity ...**'. We consider this put the onus on electricity being provided to the allotment and will partially address the concerns of Davis Ogilvie and Partners Ltd.
636. In response to the submission made by Westpower, the Panel has considered the various amendments sought, which primarily relate to, or stem from, clause (2). We acknowledge Ms Evans comments that she has been unable to find any supporting information that indicates why the trigger of 15 lots has been included in the second sentence to initiate consultation with an energy network utility operator. We also acknowledge Mr Kennedy's proposed new clause requiring consultation with the electricity network operator to ensure electricity matters were appropriately provided for through the subdivision process and subsequent certification and his noting that this has been a long-standing procedure, particularly in Grey District, and has worked to ensure the coordination of subdivision and servicing matters. We note, however, that this procedure did not appear to be codified in the Grey District Plan.
637. The Panel consider that the amendment proposed to clause (2) to require consultation with the energy network utility operator would negate the need for Mr Kennedy's new clause, provided the trigger of 15 lots was removed. We consider a consultation process will enable the matters raised by Mr Kennedy and any others to be address and subsequently documented as part of any application. We are somewhat weary of establishing a strict third-party certification process within the Plan, which would apply beyond Westpower (there are other providers within the region covered by the TTPP), and such an approach may necessitate similar consideration in other standards such as telecommunications in this regard. Given this is a standard and not a rule it is unclear to us where the inability to obtain certification would leave the situation and what course of action might follow.
638. Given the above the Panel recommend amending the second sentence of clause (2) to change '*may*' to '*will*' and deleting the reference to 15 lots, which appears to be unjustified, so that for any subdivision consultation with energy network operators will be required. We also acknowledge that such matters may ultimately be more appropriately managed though conditions of consent.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

639. The Panel agree with the Reporting Officers recommended amendment to clause (3) in response to a Westpower submission, and we accept that it is not necessary to include the words *'existing and proposed'*. We note Mr Kennedy supports the amendment.
640. The Panel note the submission point made by Greg Maitland to amend the standard to make it discretionary to supply power to the boundaries of properties in the Rural Lifestyle and General Rural Zones. However, we agree with the Reporting Officers that it is appropriate to require these allotments to be serviced by electricity, and we therefore reject the submission but note that an applicant can seek consent not to provide electricity and justify those circumstances.

SUB-S8

641. The Panel notes that submissions on SUB-S8 are similar to those on SUB-S7 and that we have traversed some of the same of similar issues. We consider there is a need for a degree of consistency between these two standards
642. Again, the Panel agrees that the beginning of clause (1) could be simplified as sought by BDC, but we consider their wording is not quite correct and we recommend it be amended to read *'All new allotments must be provided with telecommunications ...'* and we note that this will partially address the concerns of Davis Ogilvie and Partners Ltd.
643. Turning to the relief sought by the Telecommunications Companies the Panel understand their concern is the need for stronger direction to guarantee the provision of an appropriate level of telecommunications infrastructure at the time of subdivision. They contend that failing to do so can lead to unnecessary disruptions and increased costs for end-users when installed retroactively. We agree with the sentiments expressed by the Telecommunications companies and consider further amendments are required and we note Ms Evans now supports this position.
644. The Panel considers the amendment now proposed by Ms Evans addresses the issue appropriately without the need for the extended clause proposed by the Telecommunications Companies. As referred to above, we are weary of a third-party certification process given this is a standard and not a rule and do not consider it is appropriate to pursue that approach.
645. The Panel have given consideration as to whether clause (2) in totality should become and advice note as sought by Margaret Montgomery; or that the second sentence of the clause should become an advice note as recommended by Ms Belgrave and Ms Evans. In reviewing this matter, we are also conscious of ensuring a level of consistency with SUB-S7. In our view, the first sentence is clearly a standard and not an advice note. Turning to the second sentence, we consider the recommended amendment from *'may'* to *'will'* sends a different signal and in our view *'will'* requires an action to be undertaken and therefore it should form part of the standard. In regard to the first part of clause (2), we agree that including *'required to service the new allotments'* will improve clarity. We also note that, in line with SUB-S7, we recommend the reference to 15 lots is deleted.

SUB-S9

646. The Panel note that Ms Evans' Right of Reply requires an esplanade reserve or strip to be taken in all circumstances, i.e. it deletes the smaller than 4 ha requirement. As we have commented in relation to SUB-P9 above, we consider there are problems going beyond the

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

requirements in s230(3) of the RMA for 20m esplanade reserves where an allotment of less than 4 ha is created. To do so, does not meet the requirements of s77(1)(c) or s77(2) of the RMA that a width for any other allotment size must be specified in the rule. As we have noted, no such assessment along these lines has been undertaken. We also note that any rule requiring an esplanade strip must specify the width. Given that 20m is referenced in the policy the Panel recommends that a width of 20m is specified in the standard and that the limit of lots smaller than 4 ha is retained. We consider this also addresses some of the concerns submitters expressed in relation to SUB-P9.

647. The Panel agree with the submission of Buller Conservation Group and Frida Inta to include *'or greater'* in clause (c) as this is consistent with the requirements of s230(4) of the RMA. We also agree that clause (b) should refer to a minimum area of 8 ha or greater for a lake, which is again set out in s230(4) and has been sought by Davis Ogilvie & Partners Ltd.
648. In response to the submission point made by BDC to amend SUB-S9(1)(c) to include words to explain how to establish the average width of the river, Ms Belgrave and Ms Evans do not support the submission. This is because the measurement of the average width is commonly undertaken nationally and in accordance with surveying best practice.
649. In response to a number of submitters seeking the standard be deleted and replaced with provisions which match those in the operative Buller District Plan related to esplanade strips and esplanade reserves, the Panel agrees with the Reporting Officers that the provisions for esplanade reserves and strips in the Plan generally achieve the same outcomes as the Buller District Plan. We note that Ms Hadfield, for Chris J Coll Surveying Limited, supported the changes to SUB-R9. The Panel have, however, further reviewed the Buller District Plan provisions, and we consider it would be appropriate to excluded boundary adjustments from the standard.
650. In response to the submission point made by Forest and Bird to add *'or when calculated for the length/distance of the bed adjoining the allotment(s) of the subdivision'* to SUB-S9.1(c), Ms Belgrave and Ms Evans do not support the relief sought. This is because the requested wording has the potential to create inconsistent and disjointed areas of esplanade reserves or strips.
651. In relation to the remainder of the submissions on SUB-S9 seeking changes, the Panel agree that these are rejected on the basis of the conclusions reached by Ms Belgrave and Ms Evans.

SUB-S10

652. The Panel agree with the amendments recommended by Ms Belgrave and Ms Evans in response to the submission points by Westpower. We accept that the addition of *'infrastructure'* in SUB-S10(1)(a) is more appropriate as it is defined and is sufficiently broad to encapsulate the relief sought by Westpower. We also agree with the recommendation that utilities in SUB-S10(2)(iv) be replaced with *'regionally significant infrastructure'* and consider this addresses Westpower's submission point on this clause.
653. In relation to the remainder of the submissions on SUB-S10 seeking changes, the Panel agree that these are rejected on the basis of the conclusions reached by Ms Belgrave and Ms Evans.

SUB-S11

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

654. The Panel notes that a number of submitters sought that SUB-S11 be amended to provide more clarity and certainty, which was agreed with by Ms Belgrave and Ms Evans. They pointed to references to *'agreement'* between landowners, and a *'fair share'* of the cost of providing the frontage of the road, and where access to a road may be *'unsafe'* as being unclear and/or subjective. Having considered the recommended rewording by the Reporting Officers, the Panel agree that the changes reduce the level of ambiguity and uncertainty and provide a higher level of clarity and we recommend they are adopted.
655. The Panel agrees with the amendment sought by Poutini Ngāi Tahu to amend the reference in clause (3) to His Majesty the King.

Hearing Panel's Recommendation

656. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the relevant submissions identified in the footnotes below are accepted or accepted in part, and recommend changes are made to the **Subdivision Standards** as follows:

Subdivision Standards	
SUB – S2	Requirements for building platforms for each allotment
	<ol style="list-style-type: none">1. Each allotment must provide a stable, flood free building area suitable for building foundations in accordance with the requirements of the New Zealand Building Code - Acceptable Solution B1/AS4 Approved Document B1/4: Structure Foundations.2. On sites less than 4ha in size, an indicative building platform on each allotment must be identified in subdivision applications and:<ol style="list-style-type: none">b. Must allow the buildings to comply with the standards for a permitted activity in the underlying zone under this District Plan;¹⁸⁵ andc. Must not include any area of land to be used for access or for the disposal of wastewater or stormwater; andd. Must be outside of any area identified in a Natural Hazard overlay.
SUB – S3	Water Supply
	<ol style="list-style-type: none">1. Where a connection to a District Council or Community reticulated water supply system is available, all new allotments must be provided with provide¹⁸⁶ a connection at the boundary and net boundary where access is shared (including firefighting water supply).2. Where a connection to a District Council or Community reticulated water supply system is unavailable, all new allotments must be provided with provide¹⁸⁷ access to a self-sufficient potable water supply (including firefighting water supply).
Advice Notes	

¹⁸⁵ Director General of Conservation S602.127

¹⁸⁶ Buller District Council S538.272

¹⁸⁷ Buller District Council S538.272

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

1. SNZ PAS 4509 New Zealand Fire Service Firefighting Water Supplies Code of Practice should be consulted when determining the most appropriate design for firefighting water supply. Fire and Emergency New Zealand is available to assist with this.
2. Where water is to be taken from ground or surface water, resource consent from West Coast Regional Council may be required.

SUB – S4 Stormwater

1. All allotments must provide the means for disposal of stormwater from the roof of all buildings and all impervious or potentially impervious surfaces, including, but not limited, to structures, compacted soils and sealed surfaces.
2. Where a connection to a District Council or Community stormwater management system is available, all new allotments must ~~be provided with~~ **provide**¹⁸⁸ a connection at the boundary or net boundary where access is shared.
3. Where a connection to a District Council or Community stormwater management system is not available, the applicant ~~shall~~ **must**¹⁸⁹ demonstrate that stormwater will be treated and disposed of in such a way that surface flooding of adjacent properties and roads will not be exacerbated, nor shall there be adverse water quality effects on ~~freshwater~~ **waterbodies**.¹⁹⁰
4. Where the means of stormwater disposal is to ground, that area ~~shall~~ **must**¹⁹¹ not be subject to instability, slippage or inundation, or used for the disposal of wastewater.
5. Where the stormwater discharge is from industrial land or large areas of impervious surface, the applicant ~~shall~~ **must**¹⁹² demonstrate that sufficient treatment is undertaken that adverse effects on ~~freshwater~~ **waterbodies**¹⁹³ and the receiving environment will be mitigated.

Advice Note:

1. If stormwater disposal to a river, stream, lake or wetland is proposed then a resource consent may be required from West Coast Regional Council.
2. State Highway Infrastructure such as swales or roadside drains is not considered a "Community stormwater management system" and disposal of stormwater to this infrastructure is not an appropriate method of managing stormwater in terms of this standard.

SUB – S5 Wastewater

1. All allotments must ~~provide~~ **demonstrate**¹⁹⁴ the means for disposal of wastewater from all potential land uses that could be established on the respective allotments that did not involve a direct discharge to fresh or coastal water.
2. Where a connection to a District Council or Community wastewater management system is available, all new allotments must ~~be provided with~~ **provide**¹⁹⁵ a connection at the boundary or the net boundary where access is shared.

¹⁸⁸ Buller District Council S538.273

¹⁸⁹ RMA Schedule 1, clause 16(2)

¹⁹⁰ RMA Schedule 1, clause 16(2)

¹⁹¹ RMA Schedule 1, clause 16(2)

¹⁹² RMA Schedule 1, clause 16(2)

¹⁹³ RMA Schedule 1, clause 16(2)

¹⁹⁴ Buller District Council 538.276

¹⁹⁵ Consequential amendment from Buller District Council S538.275

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

3. Where a connection to a District Council or Community wastewater management system is not available, the applicant shall demonstrate that wastewater will be disposed of in a sanitary manner within the net site area of the allotment with no direct discharge to water.
4. For a subdivision where community scale infrastructure is developed to support more than 10 privately owned lots this should be to appropriate standards and vested in the Council to ensure ongoing maintenance and renewal.

Advice Note:

On site wastewater systems may require a resource consent from the West Coast Regional Council.

SUB – S6 Transport and Access

1. All allotments must be provided with **provide**¹⁹⁶ vehicular access to a road by way of a vehicle access point, driveway or right of way in accordance with the Transport Performance Standards
2. In all zones any vehicle rights of way or crossings shall **must**¹⁹⁷ be constructed in accordance with the Transport Performance Standards
3. All new roads and upgrades of existing roads shall **must**¹⁹⁸ be constructed in accordance with the relevant district Council Engineering Standards, or where no such Standard exists, NZS 4404:2010 Land Development and Subdivision Infrastructure.

Advice Note:

SNZ PAS 4509 New Zealand Fire Service Firefighting Water Supplies Code of Practice shall **must**¹⁹⁹ be consulted to ensure compliance with the access way dimensions required for fire appliances for developments where a fire appliance is not able to reach either the residential house or the source of firefighting water supply from the public road.

SUB – S7 Energy Supply

1. ~~For all new allotments electricity services must be provided~~ **All new allotments must be provided with electricity**²⁰⁰ to the boundary of each new lot or the applicant shall **must**²⁰¹ demonstrate that electricity services are able to be provided by alternative means.
2. At the time of subdivision, sufficient land for transformers and any associated ancillary services must be set aside. ~~For a subdivision that creates more than 15 lots, c~~ Consultation with energy network utility operators may **will** be required.²⁰²
3. All necessary easements for the protection of **and access to** energy network utility services **and infrastructure** must be duly granted and reserved.²⁰³

SUB – S8 Telecommunications

¹⁹⁶ Buller District Council S538.275

¹⁹⁷ RMA Schedule 1, clause 16(2)

¹⁹⁸ RMA Schedule 1, clause 16(2)

¹⁹⁹ RMA Schedule 1, clause 16(2)

²⁰⁰ Buller District Council S538.274

²⁰¹ RMA Schedule 1, clause 16(2)

²⁰² Westpower Limited S547.388

²⁰³ Westpower Limited S547.388

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

1. ~~For all new allotments telecommunication services must be provided~~ **All new allotments must be provided with telecommunication services,²⁰⁴ including to an open access fibre network where it is available²⁰⁵** to the boundary of each new lot or the applicant ~~shall~~ **must²⁰⁶** demonstrate that telecommunication services are able to be provided by alternative means.
2. At the time of subdivision, sufficient land for telecommunications, transformers and any associated ancillary services **required to service the new allotments²⁰⁷** must be set aside. ~~For a subdivision that creates more than 15 lots, c~~Consultation with telecommunications network utility operators ~~may~~ **will²⁰⁸** be required.
3. All necessary easements for the protection of telecommunications network utility services must be duly granted and reserved.

SUB – S9 Requirement for Esplanade Reserves or Esplanade Strips

1. An esplanade reserve or esplanade strip **of 20 metres in width** shall be provided where any subdivision creates an allotment **(other than an allotment created by boundary adjustment)²⁰⁹** smaller than 4ha where that allotment²¹⁰ adjoins any of:
 - a. The coastal marine area;
 - b. A lake **with a bed that has an area of 8 hectares or greater;** or²¹¹
 - c. The bank of a river ~~whose~~ **with a bed that²¹²** has an average width of 3m **or greater.²¹³**

SUB – S10 Easements for Any Purpose

1. Easements ~~shall~~ **must²¹⁴** be provided where necessary for:
 - a. Public works and ~~utility~~ **infrastructure** services;²¹⁵
 - b. Easements in gross where a service or access is required by the district council;
 - c. Easements in respect of other parties in favour of nominated allotments or adjoining Certificates of Title;
 - d. Service easements, whether in gross or for private purposes, with sufficient width to permit maintenance, repair or replacement. Centre line easements ~~shall~~ **must²¹⁶** apply when the line is privately owned.
2. Easements can also be required for any of the following purposes:
 - i. Accessways, whether mutual or not;
 - ii. Stormwater, wastewater disposal, water supply, utilities;

²⁰⁴ Buller District Council S538.274

²⁰⁵ Spark NZ Trading Ltd, Vodafone NZ Ltd, Chorus NZ Ltd S541.001

²⁰⁶ RMA Schedule 1, clause 16(2)

²⁰⁷ Margaret Montgomery S446.071

²⁰⁸ Spark NZ Trading Ltd, Vodafone NZ Ltd, Chorus NZ Ltd S541.001

²⁰⁹ Chris & Jan Coll S558.269, Chris J Coll Surveying Limited S566.269, William McLaughlin S567.335, Laura Coll McLaughlin S574.269

²¹⁰ RMA Schedule 1, clause 16(2)

²¹¹ Davis Ogilvie & Partners Ltd S465.023

²¹² Consequential amendment for consistency with clause b.

²¹³ Buller Conservation Group S552.123, Frida Inta S553.123

²¹⁴ RMA Schedule 1, clause 16(2)

²¹⁵ Westpower Limited S547.391

²¹⁶ RMA Schedule 1, clause 16(2)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

- iii. Party walls and floor/ceilings; or
- iv. ~~Other utilities~~ **Regionally significant infrastructure.**²¹⁷

SUB – S11 Point Strips

1. Point strips ~~shall~~ **must**²¹⁸ be provided where in the course of subdivision a new road is constructed and vested that will ~~or could~~ provide frontage to other land **either at the time of subdivision or in the future**. ~~In this instance an A point strip agreement is will be into by between the first subdivider with and the Council, to ensure the benefiting owner pays a fair share towards the cost of providing the frontage road.~~ The point strip agreement sets the amount to be paid **by the subdivider**, which will be updated from the date of signature of the agreement by the Consumers Price Index.²¹⁹
2. Point strips ~~may~~ **will** also be required where access to any road ~~would~~ **that is determined to be unsafe by the Council.**²²⁰
3. A point strip of no less than 100mm in width ~~shall~~ **must**²²¹ be created along the State Highway 7 frontage of any new allotment, or balance allotment created within the Kaiata Park development area and fronting State Highway 7 including any allotment created to contain the wetland area. Such point strip ~~shall~~ **must**²²² vest in ~~Her~~ **His Majesty the Queen King**²²³ for Use in Connection with a road (point strip).

3. FINANCIAL CONTRIBUTIONS

3.1. FC General/Whole Chapter

Submissions and Further Submissions

657. Fifteen submissions points and 10 further submission points relating to general matters or the whole Financial Contributions (FC) Chapter were summarised in a Table on pages 138-140 of the s42A Report. The Panel has considered the relevant submissions and further submissions and adopts the summaries in the s42A Report.

Section 42A Report and Addendum

658. In response to the two submission points and two further submission points²²⁴ that sought to remove the FC provisions from the SUB Chapter, Ms Belgrave and Ms Evans supported the relief sought. They note that the National Planning Standards did not direct where the FC Chapter should be in a plan. Therefore, as the FC provisions were broader in scope than simply subdivision, they recommended the FC chapter should sit within the General District-Wide Matters.

659. Ms Belgrave and Ms Evans did not initially support the submission point made by the TTPP Committee to include a separate discretionary activity rule when a permitted activity standard was not met. This was because they considered a separate rule was unnecessary, noting that

²¹⁷ Westpower Limited S547.393

²¹⁸ RMA Schedule 1, clause 16(2)

²¹⁹ Chris & Jan Coll S558.271, Chris J Coll Surveying Limited S566.271, William McLaughlin S567.337, Laura Coll McLaughlin S574.271

²²⁰ Chris & Jan Coll S558.271, Chris J Coll Surveying Limited S566.271, William McLaughlin S567.337, Laura Coll McLaughlin S574.271

²²¹ RMA Schedule 1, clause 16(2)

²²² RMA Schedule 1, clause 16(2)

²²³ Te Rūnanga o Ngāi Tau, Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio S620.190

²²⁴ Manawa Energy (S438.113), Buller District Council (S538.230) and Kāinga Ora (FS58.048 and FS58.099)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

s108 of the RMA provided for conditions to be included in resource consents in accordance with the requirements of the rules in the FC Chapter. However, Ms Evans reconsidered her position in her Addendum Report having considered Ms Styles' evidence for Manawa that raised similar concerns about a lack of activity status. As a result, Ms Evans supported the inclusion of a non-compliance status (discretionary activity) where the rules were not complied with. She considered this would ensure that there was a consenting pathway to consider circumstances where a financial contribution may not be required or was not proposed.

660. In response to the submission point made by Manawa and the four supporting further submissions²²⁵ that opposed the FC Chapter for the management of the adverse effects relating to land use consents and sought the deletion of various provisions, Ms Belgrave and Ms Evans did not support the relief sought. Nevertheless, they supported in part the alternative relief sought by Manawa to make amendments to the provisions to improve clarity as to when financial contributions were required. The recommended amendments to address these matters are set out in subsequent and relevant parts of this Report and include:
- a) Clarification that financial contributions relate to the management of residual effects through offset and compensation rather than to avoid, remedy, and mitigate adverse effects generally;
 - b) Deletion of references to 'works' as this form of financial contribution is not provided for under s108 of the RMA; and
 - c) Amendments to FC-R3 to improve clarity and interpretation.
661. In her Addendum Report, Ms Evans reconsidered these matters having considered evidence prepared by Ms Whitney (for Transpower) and Ms Styles (for Manawa). She recognised that the provisions created the potential for uncertainty and ambiguity in terms of determining the amount of financial contribution required to offset or compensate. She considered the plan rule could not objectively set or quantify what was required. On this basis, Ms Evans revised her opinion and recommended that any notified provisions in the FC Chapter that relate to offset and compensation be deleted.
662. Ms Belgrave and Ms Evans supported the relief sought by Westland District Council to amend wording throughout the chapter to remove the subjective 'may' wording from the provisions for more clear and certain language. This submission point was supported by GDC and opposed by Westpower.
663. In response to the submission point made by Westpower to amend the provisions to specify a minimum contribution, Ms Belgrave and Ms Evans did not support the relief sought. This was because it had potential to increase uncertainty for plan users. Furthermore, they considered the financial contributions required by conditions of consent should be the amount necessary to sufficiently address infrastructure provision and/or any offset and compensation as determined under the FC Chapter rules.
664. In response to the submission point made by Forest and Bird that sought to delete provisions that provide for financial contribution *in lieu* of appropriately managing effects on biodiversity, Ms Belgrave and Ms Evans did not support the relief sought. Westpower also opposed the submission point by Forest and Bird. Ms Belgrave and Ms Evans consider that

²²⁵ Kāinga Ora (FS58.049; FS58.0100; FS58.0107) Westpower (FS222.0194)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

the WCRPS anticipated offset and compensation in relation to indigenous biodiversity and as such they considered the FC Chapter was generally consistent with the WCRPS and the NPSIB.

665. As set out in previous paragraphs, Ms Evans reconsidered the matter of compensation and offsetting in her Addendum Report and revised her recommendation to support the deletion of provisions relating to these matters. She acknowledged that deleting these provisions did not preclude the ability to offset or compensate via provisions in other chapters where appropriate through the resource consent process. She considered this addressed the concerns of Manawa and Forest and Bird.
666. In response to a similar submission point also made by Forest and Bird that sought to make it clear that the obligation to manage adverse effects lies with the applicant, Ms Belgrave and Ms Evans did not consider that the relief sought was necessary. However, to improve plan clarity, and in accordance with FC-R12, a cross reference in the Overview text to the Ecosystems and Indigenous Biodiversity Chapter and the Natural Features and Landscapes Chapter was initially recommended. However, on reconsideration of the matter in her Addendum Report she no longer recommended the cross-reference.
667. In response to submission points²²⁶ that sought the addition of an advice note to explain how a mediation process could be used to resolve disputes regarding financial contributions, Ms Belgrave and Ms Evans did not support the relief sought. This was because it was non-statutory information that could be provided through other council documents or websites.
668. Ms Belgrave and Ms Evans did not support the relief sought by Greg Maitland to delete the whole chapter on the basis that landowners should not have to gift land or make a cash payment. This was because s108 of the RMA empowered councils to impose financial contributions on resource consents.
669. In response to the submission point made by Poutini Ngāi Tahu that sought to amend the FC Chapter to ensure that there was consideration of 'Poutini Ngāi Tahu values', Ms Belgrave and Ms Evans (consistent with the approach taken in other hearings), raised concerns about how these considerations would work in practice and they invited the submitter to provide further information regarding the practicalities of implementing the relief sought.
670. Ms Belgrave and Ms Evans recommended amendments as follows:
- a) That the FC chapter be relocated to the General District Wide Matters section of the pTTPP.
 - b) The following was initially recommended to be included in the Overview of the FC chapter (responding to the submission point from Forest and Bird), but then it was subsequently recommended to be removed as part of Ms Evans's recommendation in her S42A addendum report:

Other relevant Te Tai o Poutini Plan provisions

In addition to the provisions in this chapter, offset and compensation actions are also subject to additional provisions in a number of Part 2: District-Wide Matters chapters, including:

- *Overlay Chapters – Ecosystems and Indigenous Biodiversity, Natural Features and Landscapes*

²²⁶ Chris & Jan Coll (S558.176), Chris J Coll Surveying Limited (S566.176), William McLaughlin (S567.250) and Laura Coll McLaughlin (S574.176)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

Hearing and Submitter Evidence/Statements

671. Ms Styles presented evidence on behalf of Manawa and reiterated their fundamental concerns with the FC provisions, specifically in relation to land use activities. She maintained that references to land use activities should be deleted from the FC Chapter. Her opinion was explained as follows:
- a) The full effects management hierarchy could not be appropriately applied to residual adverse environmental effects on values such as ONL, ONF and natural character.
 - b) The inconsistent use of terminology did not equate to the terms used on other chapters, schedules or maps of the pTTPP.
 - c) The potential for ‘double-dipping’ by taking a financial contribution to address a residual effect that had also been addressed by mitigation.
 - d) Conflict with the requirements of higher-level policy documents that require plans to recognise the benefits of and provide for renewable energy generation activities, which could require the payment of financial contributions associated with the upgrading or maintenance of existing assets.
 - e) The potential for inconsistent administration across the three Councils.
 - f) The rules were unlawful as they were unclear and uncertain in terms of their implications, and the parameters of any discretion were not clear.
672. Ms Styles’ evidence set out some key matters of relief if the Panel decided to retain the financial contribution provisions in the Plan. These were:
- a) Ensuring the consistent use of terminology relating to regionally significant infrastructure (not critical infrastructure), and renewable electricity generation activities (not energy activities); and
 - b) The location of the Financial Contribution Chapter in a stand-alone chapter within the pTTPP. Ms Styles acknowledged that the Reporting Officers recommended the chapter be located in the General District Wide Matters, and she supported this recommendation.

Reporting Officer Reply Evidence

673. Ms Evans did not make any specific comments in her Right of Reply that addressed matters raised generally in this chapter, except to note that the word ‘*shall*’ should be replaced by ‘*must*’, for clarity and consistency throughout the Plan.

Hearing Panel’s Evaluation

Location of Chapter

674. The Panel acknowledge the concerns expressed by submitters regarding the FC Chapter and the responses from Ms Evans. While we note that FC Chapters in district plans are not prevalent throughout the country, as we understand it, the three West Coast District Councils currently use financial contributions under the RMA as their sole mechanism in providing for the costs and impacts of development on Council infrastructure. We acknowledge that the provisions associated with the FC Chapter have been developed on the basis of that approach continuing, even though the Councils are exploring the potential to move to a Development

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

Contributions regime. We therefore accept that the FC Chapter needs to remain in the Plan and that should a Development Contributions regime be introduced in the future a plan change would be necessary to remove the FC Chapter.

675. At a high level, the Panel agree with BDC (\$538.230) and Manawa (\$438.113) that the FC Chapter should be relocated into the General District-Wide Matters section and we note this is where other district plans such as Whakatane and Southland have placed the chapter. We accept that the provisions associated with a FC Chapter are broader than simply relating to subdivision and also apply to development and land. We also accept that there is a need for consistent terminology throughout the chapter and we have addressed this throughout our recommendations below.

'May' versus 'Shall'

676. Turning to the more generic submissions on Financial Contributions, the Panel has initially addressed the issue of replacing *'may'* with *'shall'* in a number of key provisions in the rules. We consider we need to address this matter at this point because it potentially impacts on the following issue of an activity status.
677. The Reporting Officers have supported a change from *'may'* to *'shall'* in FC-R1 as proposed by Westland District Council, as in their view, the notified wording referencing *'may'* carries a higher risk in interpretation and the potential for discretion by applicants as to whether financial contributions will be imposed and that amending it to shall would provide greater certainty and direction to plan users. In Reply, Ms Evans recommended that the words *'unless determined otherwise by the council'* which was also sought by Westland District Council not be included, as this determination would be provided for in the consenting process now proposed i.e. the activity status referred to below.
678. Both Manawa and Westpower have opposed the change. Ms Styles for Manawa considered the change to the wording would appear to require that all land use consent applications must be imposed with financial contributions. She considered it was not appropriate for such a requirement to be applied in all cases without due consideration. Mr Kennedy for Westpower said that there was a need for decisions makers to consider whether a financial contribution is appropriate or required in the circumstances. He said it may not be appropriate or required in every instance to provide offsetting or compensation, and this would depend on the circumstances at the time.
679. The Panel have reviewed the existing operative plans across the district and we note that both Grey and Buller District Plans use the word *'may'*, while the Westland District Plan uses both *'may'* and *'shall'* in the key provisions. In terms of other plans around New Zealand that were identified in the s32 Report as using financial contributions, the Opotiki and Southland District Plans use *'may'*, while the Whakatane, South Waikato and Hamilton District Plans use *'shall'* or in Hamilton's case *'will'*. We also make the point that in all these Plans financial contribution are associated with a consent being sought for some other purpose and that there is no activity status associated with financial contributions themselves. This is perhaps best articulated in the Buller and Whakatane District Plans which respectively state:

Buller District Plan

- 8.1.1 *Financial contributions as outlined in Part 8.3 may be required on land use and subdivision consents for controlled, discretionary and non-complying activities.*

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

Whakatane District Plan

Financial contributions are required as part of the resource consent process and not subject to an activity rule on their own accord, for this reason there is no activity status for any of the rules in this chapter.

680. For the sake of completeness, the Panel notes the Buller District Plan may also require financial contributions for permitted activities which are ‘developments’, which is defined. This appears to be limited in its extent, and we assume it is utilised at the building consent or service connection stage. We note that we address the issue of ‘development’ under FC-R1.
681. Having considered the various issues involved here, the Panel have some concerns with the change proposed. We agree that using ‘shall’ on its own takes away any form discretion and as Ms Evans suggested any ‘non-compliance’ would be then addressed, with a newly added activity status, by way of a resource consent at the discretionary level should an applicant wish to ‘challenge’ the outcome. It seems to us, that this places a reasonably high threshold on applicants which would limit opportunity to discuss or address alternative options. It also raises a question as to whether there remains available to an applicant an objection to conditions pathway.
682. The Panel have also considered the Westland District Council’s additional wording of ‘unless determined otherwise by the council’. That seems to us to be little different from the notified situation of having ‘may’ in the rule. In other words, the Councils would already have discretion in the rule as notified.
683. While the use of ‘shall’ is appropriate for the finer grained provisions such as “the financial contribution **shall** only be spent by Council on” we have reached a conclusion that we do not believe it is appropriate at the initial instigation of financial contributions level. In short, we agree with the evidence of Ms Styles and Mr Kennedy that it is not appropriate for such a requirement to be applied in all cases without due consideration and that there was a need for decisions makers to consider whether a financial contribution is appropriate or required in the circumstances. While we acknowledge that around the country it appears different approaches have been taken to this issue, we are mindful that the current approach on the West Coast favours a ‘may’ rather than a ‘shall’ and in any event the discretion remains with the Council. What we are enabling is at least an ability for consideration of individual circumstances should that be required.

Introduction of an Activity Status

684. In relation to the issue of activity status, as can be seen from our analysis above, the Panel have been unable to identify any district plans which currently have an activity status as part of the financial contribution provisions; and indeed, some Plans actively indicate that there is no activity status for any of the financial contribution rules. In our view, having an activity status is unnecessary as the proposal concerned is (aside from permitted activities) already seeking consent at a particular activity status. The way forward in this situation, for an applicant dissatisfied with an outcome on financial contributions, is an objection to conditions. We therefore see no reason to include an activity status as we consider it would complicate the situation.

Offsetting and Compensation

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

685. The Panel has considered the issues associated with the offsetting and compensation provisions. Having reviewed the evidence of Ms Styles and the response from Ms Evans, we agree with the recommendation that any notified provisions in the FC Chapter that relate to offsetting and compensation are deleted. We consider that having offsetting and compensation provisions in the FC Chapter detracts from their intended purposes and raises broader issues about the actual avoidance or mitigation of adverse effects, which is appropriately dealt with in other chapters.
686. In reaching the above conclusion, we note that the deletion of these provisions will not preclude the ability to offset or compensate via provisions in other chapters through applicable resource consent process in order to manage residual effects, or the inclusion of appropriate consent conditions to secure these outcomes where they form part of a proposal and are provided in accordance with relevant National Policy Statements, noting that the NPSIB and NPSREG recognise environmental offset and/or compensation.
687. The Panel considers that the deletion of the offset and compensation provisions from the FC Chapter addresses the concerns expressed by Manawa and Forest & Bird in terms of the potential for the provisions as notified to enable offset and compensation in place of appropriately avoiding and mitigating adverse effects.
688. Other submission points covered in the s42A Report under the heading Financial Contributions – General have been addressed in relation to specific provisions below.

Hearing Panel's Recommendation

689. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the FC Chapter is relocated into the General District-Wide Matters section of the TTPP and a discretionary activity status is established for situations where there is a non-compliance with any of the provisions.

3.2. FC Overview

Submissions and Further Submissions

690. Three submissions points and one further submission point relating to the Overview were summarised in a Table on page 143 of the s42A Report. The Panel adopts these summaries and has considered the relevant submissions and further submissions.

Section 42A Report and Addendum

691. Ms Belgrave and Ms Evans did not support the relief sought by Frida Inta and Buller Conservation Group to add the words '*development of*' before '*infrastructure*' in the first sentence of the Overview. They considered the addition would narrow the interpretation of financial contributions in relation to infrastructure.
692. In response to the submission point made by the Director General to delete references to offsetting and instead refer to compensation, Ms Belgrave and Ms Evans initially considered it appropriate to refer to both methodologies. However, in her Addendum Report, following the review of evidence prepared for the hearing, Ms Evans revised her recommendation to support the deletion of all provisions relating to these matters and rejected the relief sought.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

693. Ms Belgrave and Ms Evans initially recommended the following in the s42A Report:

*This section of Te Tai o Poutini Plan contains the objectives, policies and rules for financial contributions for infrastructure and for their use to offset **or compensate** adverse effects on the environment of the West Coast/Te Tai o Poutini. **Financial contributions shall be required in accordance with rules unless determined otherwise by Council.***

694. This recommendation was subsequently changed in the Addendum Report as follows:

This section of Te Tai o Poutini Plan contains the objectives, policies and rules for financial contributions for infrastructure ~~and for their use to offset adverse effects on the environment of the West Coast/Te Tai o Poutini.~~

Hearing and Submitter Evidence/Statements

695. No submitter evidence was presented specifically relating to the Overview of the FC chapter. However, the evidence summarised in the section of this Report that considered the chapter as a whole had consequential implications for the Overview.

Reporting Officer Reply Evidence

696. Ms Evans made no specific comments on the Overview in her Right of Reply.

Hearing Panel's Evaluation

697. As noted above, the Panel recommends deleting references to offsetting within the provisions and therefore, we agree with the amendment to the first paragraph in this regard. On this basis, we reject the amendment sought by the Director General to refer to compensation.

698. The Panel agree with the reasoning of the Reporting Officers to not add 'development of' before 'infrastructure' as sought by Frida Inta and Buller Conservation Group.

Hearing Panel's Recommendation

699. 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 changes to the **Financial Contributions Overview** as follows:

Overview

This section of Te Tai o Poutini Plan contains the objectives, policies and rules for financial contributions for infrastructure ~~and for their use to offset adverse effects on the environment of the West Coast/Te Tai o Poutini.~~²²⁷

Currently the three District Councils on the West Coast/Te Tai o Poutini use financial contributions under the RMA as the sole mechanism to provide for the costs and impacts of development on Council infrastructure and these draft provisions have been developed on the basis of that approach continuing.

However, the District Councils are exploring the potential to move to a Development Contributions regime under the Local Government Act 2002 (LGA). If the Councils do introduce

²²⁷ Manawa Energy Limited S438.114, Royal Forest and Bird Protection Society of New Zealand Incorporated S560.026

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

Development Contributions under the LGA then these provisions will be amended by Variation or Plan Change to reflect the updated regime.

3.3. Financial Contributions Objectives

Submissions and Further Submissions

700. Five submission points and one further submission point relating to **FC-O1** were summarised in a Table on pages 144-145 of the s42A Report. One submission point supported the retention of the objective as notified. Four submission points sought amendments.
701. Nine submissions points and four further submission point relating to **FC-O2** were summarised in a Table on pages 144-145 of the s42A Report. Six submission points supported the retention of the objective as notified. Three submission points sought amendments.
702. The Panel adopts these summaries and has considered the relevant submissions and further submissions.

Section 42A Report

FC-O1

703. In relation to FC-O1, Ms Belgrave and Ms Evans acknowledged the support from Te Mana Ora that seeks to retain the standard as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.
704. In response to the four submission points²²⁸ and the further submission point from Alex Wood that sought minor drafting amendments to FC-O1, Ms Belgrave and Ms Evans support the amendments in part. They do not agree to adding '*remedy*' or '*mitigate*' to the objective as they consider those terms to be more appropriate for a policy.
705. Ms Belgrave and Ms Evans recommend that FC-O1 be amended as follows:

FC-O1

Through the use of Financial Contributions the West Coast/Te Tai o Poutini's infrastructure is able to meet the demands generated by subdivision, land use and development so that it did not adversely affect natural and physical resources, or compromise the quality of service provided to existing users, ~~through the use of financial contributions.~~

FC-O2

706. Ms Belgrave and Ms Evans acknowledged the support from six submitters that sought to retain the standard as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.
707. The submission points from Manawa, Westpower and the Director General sought various amendments to the objective, ranging from its entire deletion (Manawa), the addition of references to enable compensation, and the management or minimising of adverse effects.

²²⁸ Chris & Jan Coll S558.145, Chris J Coll Surveying Limited S566.145, William McLaughlin S567.222, Laura Coll McLaughlin S567.145

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

Manawa also offered an alternative option to amend the objective if deletion was not supported.

708. Ms Belgrave and Ms Evans initially supported some amendment to the objective as follows:

*To ensure that new activities and development contributes fairly and equitably towards the costs of ~~avoiding, remedying, mitigating or offsetting~~ **managing** adverse effects on the environment ~~and infrastructure resources~~ of the West Coast/Te Tai o Poutini.*

709. However, Ms Evans revised her opinion following her review of the evidence from Ms Whitney (for Transpower) and Ms Styles (for Manawa) and recommended deleting the objective entirely, which was shown as struck out in Appendix 1 of the Addendum Report.

Hearing and Submitter Evidence/Statements

710. Ms Hadfield, Ball Developments Limited, noted that despite the submitter supporting FC-O2 as notified, the amendments proposed to FC-O2 in the s42A Report (prior to the Addendum) were supported by the submitter.

711. Mr Kennedy, for Westpower, accepted the amendments proposed to FC-O2 in the s42A Report (prior to the Addendum).

712. No other submitter evidence was presented specifically relating to the objectives of the FC chapter. However, the evidence summarised in the section of this Report that considered the chapter as a whole had consequential implications particularly for FC-O2.

Reporting Officer Reply Evidence

713. Ms Evans made no specific comments in her Right of Reply about the objectives.

Hearing Panel's Evaluation

714. The Panel agree with the Reporting Officers that the inclusion of 'remedy' or 'mitigate' in FC-O1 as sought by submitters is not appropriate within an objective. Further, we do not consider the deletion of 'that it did not adversely affect' and its replacement with 'adverse effects on' adds any clarity to the objective. We do, however, recommend that the second reference in the objective to financial contributions is deleted as sought as this seems to double up on the first part of the objective.

715. In relation to FC-O2, as noted above, the Panel is recommending deleting references to offsetting within the provisions and we therefore agree with the removal of reference to offsetting from the objective. We have also considered whether as recommended by Ms Evans the whole objective itself should be deleted.

716. It is not clear to the Panel why Ms Evans' Appendix 1 to the Right of Reply deleted FC-O2, as the Right of Reply itself refers (at paragraph 70) to the objective collectively with the policies to provide flexibility to consider resource consents that go above and beyond what is required and thus seek a financial contribution waiver. We also note that in the s42A Report the amendments proposed by Manawa (in the alternative to the deletion of the objective) were supported by the Reporting Officers.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

717. The Panel consider FC-O2 has an important role to play in the FC Chapter, and we recommend it is retained. However, we agree that the wording proposed by Manawa, which deletes reference to the *'avoiding, remedying, mitigating or offsetting'* and replaces it with *'manage'*, is more appropriate at this level and streamlines the objective. We also agree that reference to *'infrastructure resources'* should be deleted as this is covered in FC-O1.
718. On the basis of the above, we reject the amendments sought by the Director General to refer to *'minimising'* and *'compensation'*; and those of Westpower to refer to *'offsetting or compensation'*.

Hearing Panel's Recommendation

719. 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 changes to the **Financial Contributions Objectives** as follows:

FC – O1	Through the use of Financial Contributions the West Coast/Te Tai o Poutini's infrastructure is able to meet the demands generated by subdivision, land use and development so that it did not adversely affect natural and physical resources, or compromise the quality of service provided to existing users, through the use of financial contributions. ²²⁹
FC – O2	To ensure that new activities and development contributes fairly and equitably towards the costs of avoiding, remedying, mitigating or offsetting managing adverse effects on the environment and infrastructure resources of the West Coast/Te Tai o Poutini. ²³⁰

3.4. Financial Contributions Policies

Submissions and Further Submissions

720. Two submission points relating generally to the policies were summarised in a Table on page 148 of the s42A Report. Both submissions supported the retention of the policies either in full or in part.
721. Six submission points relating to **FC-P1** were summarised in a Table on page 148 of the s42A Report. Two submission points supported the retention of the policy as notified. Four submission points sought amendments. The Panel notes here that we have also considered the submissions of Frida Inta (S553.103) and Buller Conservation Group (S552.103), which were incorrectly summarised as referred to earlier.
722. Seven submission points and three further submission points relating to **FC-P2** were summarised in a Table on pages 149-150 of the s42A Report. Five submission points supported the retention of the policy as notified. Two submission points sought amendments. One of these submission points was supported by the three further submission points.

²²⁹ Chris & Jan Coll S558.145, Chris J Coll Surveying Limited S566.145, William McLaughlin S567.222, Laura Coll McLaughlin S567.145

²³⁰ Manawa Energy Limited S438.115

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

723. Six submission points relating to **FC-P3** were summarised in a Table on pages 150-151 of the s42A Report. Two submission points supported the retention of the policy as notified. Four submission points sought amendments.
724. Eight submission points relating to **FC-P4** were summarised in a Table on pages 151-152 of the s42A Report. Six submission points supported the retention of the policy as notified. Two submission points sought amendments.
725. Six submission points relating to **FC-P5** were summarised in a Table on page 153 of the s42A Report. Two submission points supported the retention of the policy as notified. Four submission points sought amendments.
726. Eleven submission points and two further submission points relating to **FC-P6** were summarised in a Table on pages 154-155 of the s42A Report. Two submission points supported the retention of the policy as notified. Three submission points, and the two further submissions sought the deletion of the policy, which the remaining submission points sought amendments.
727. Nine submission points and three further submission points relating to **FC-P7** were summarised in a Table on page 157 of the s42A Report. Seven submission points supported the retention of the policy as notified. Two submission points sought the deletion of the policy. The three further submissions supported one of the submissions to delete the policy.
728. The Panel adopts these summaries and has considered the relevant submissions and further submissions

Section 42A Report

Policies (General)

729. In response to the submission points from BDC and WDC that support the FC policies generally, Ms Belgrave and Ms Evans acknowledged the support of the submissions and note that they were subject to recommended amendments that arose from other more specific submission points.

FC-P1

730. Ms Belgrave and Ms Evans acknowledged the support from the two submitters that sought to retain the policy as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.
731. Ms Belgrave and Ms Evans supported the submission points²³¹ that sought to add 'land' to the policy as this ensured consistency of language.
732. Ms Belgrave and Ms Evans recommended amending FC-P1 as follows:

FC-P1

To require financial contributions as a condition of subdivision, development and land use consents to remedy or mitigate adverse effects created by the need to create, extend or

²³¹ Chris & Jan Coll (S558.147), Chris J Coll Surveying Limited (S566.147), William McLaughlin (S567.224) and Laura Coll McLaughlin (S574.147)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

upgrade public infrastructure, reserves and community facilities as a result of the subdivision, land use or development

FC - P2

733. Ms Belgrave and Ms Evans acknowledged the support from five submitters that sought to retain the policy as notified.

734. Ms Belgrave and Ms Evans did not support the following additions to clauses (a) and (d) as set out in the submission point from Manawa Energy:

Financial contributions shall be applied in a fair and equitable manner that:

- a) Is financially transparent **reasonable and appropriate to the circumstances;***
- b) Reflects the adverse effects and demand on services and facilities generated by the subdivision, land use or development;*
- c) Is complementary to the Council's other financial management policies; and*
- d) Takes into account any costs incurred **and financial benefits associated with the** ~~in~~ taking, holding and allocating the financial contributions.*

735. The Reporting Officers did not consider the additional words were necessary to achieve the objectives. They also considered that the additions to clause (a) would result in inefficiencies necessitated by the case by case assessment.

736. Ms Belgrave and Ms Evans did not support the following additions sought by David Ellerm:

- e. **That the spending of any financial contribution are applied within the locality of the subdivision, use or land development; and***
- f. **Agreement is reached as to the most beneficial use of those monies with the developer.***

737. The Reporting Officers did not support these additions because they considered they would unnecessarily constrain the spending of financial contributions resulting in inefficiencies in achieving the objectives, particularly with regard to being able to meet the demands generated by new subdivision, land uses and activities.

738. Ms Belgrave and Ms Evans recommended FC-P2 was retained as notified.

FC - P3

739. Ms Belgrave and Ms Evans acknowledged the support from two submitters that sought to retain the policy as notified. The acknowledgement was subject to recommended minor amendments that arose from other submission points.

740. In response to submission points²³² that sought to delete the words '*but at the final discretion of the Council*', Ms Belgrave and Ms Evans did not support the relief sought. They considered it was an unnecessary change and that the policy as notified was in accordance with s108 of the RMA.

²³² Chris & Jan Coll (S558.149), Chris J Coll Surveying Limited (S566.149), William McLaughlin (S567.226) and Laura Coll McLaughlin (S574.149)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

741. In response to the submission point made by Manawa Energy (S438.114) that sought to improve clarity across the FC Chapter, the Reporting Officers recommended deleting the word 'works' from FC-P3 as a financial contribution in the form of works was not provided for under s108 of the RMA. They recommended amending FC-P3 as follows:

FC-P3

Financial contributions may be taken in the form of cash, or land, ~~works~~ or a combination of these in discussion with the applicant but at the final discretion of the Council.

FC - P4

742. Ms Belgrave and Ms Evans acknowledged the support from six submitters that sought to retain the policy as notified. The acknowledgement was subject to recommended minor amendments that arose from other submission points.
743. Ms Belgrave and Ms Evans did not support the relief sought by Ball Developments Limited to add additional words to the policy. They considered the additional wording which sought to take into account the value of any work necessary to make land suitable for its intended use was unnecessary.
744. In response to the submission point made by BDC to improve clarity of the policy, Ms Belgrave and Ms Evans agreed that the policy could be simplified and recommended amended wording as follows:

FC-P4

***Ensure that** ~~Where land is provided by way of a financial contribution to ensure that such land shall be~~ is suitable for the intended use bearing in mind the community to be served.*

FC - P5

745. Ms Belgrave and Ms Evans acknowledged the support from two submitters that sought to retain the policy as notified.
746. Ms Belgrave and Ms Evans did not support the relief sought by submission points that sought to change the word 'shall' to 'can' to retain consistent terminology throughout the FC Chapter.
747. Ms Belgrave and Ms Evans recommend retaining FC-P5 as notified.

FC - P6

748. Ms Belgrave and Ms Evans acknowledged the support from the two submitters that sought to retain the policy as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.
749. In response to the submission point made by Transpower to either delete the policy or amend it so that it did not apply to the National Grid, the Reporting Officers did not initially support the relief sought. This was on the basis that infrastructure activities have the potential to generate adverse effects that cannot be avoided, remedied, minimised, or mitigated, and therefore it would be appropriate to offset these effects through financial contributions.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

750. Ms Belgrave and Ms Evans also initially did not support the relief sought by Forest and Bird to delete the policy. Forest and Bird sought that the policy be deleted because they considered it to be contrary to the WCRPS and the RMA regarding effects management.
751. In response to the submission point made by Manawa to either delete the policy or to make amendments to ensure that it be directed at the management of effects and that it not be in relation to offsetting or compensation, Ms Belgrave and Ms Evans also did not initially support the relief sought.
752. As set out above in paragraphs related to the FC Chapter generally, Ms Evans reconsidered the matter of compensation and offsetting in her Addendum Report and revised her recommendation to support the submissions made by Transpower, Manawa and Forest & Bird to delete FC-P6 in its entirety.
753. Ms Belgrave and Ms Evans also initially supported the relief sought by the Director General to amend the policy so that financial contributions required to address any effects on significant values and areas should only be applied to residual adverse effects along with other minor amendments. They did not support the deletion of mineral extraction but supported the replacement of '*critical infrastructure*' with '*regionally significant infrastructure*'.
754. In response to submission points²³³ that sought the addition of the words '*but not limited to*' after '*such as*' to the policy, Ms Belgrave and Ms Evans did not support the relief sought because the activities which were relevant to FC-P6 could be readily identified.
755. In response to the submission point made by BDC to simplify the policy, the Reporting Officers recommended reworded the policy to respond to the submission and the relief sought.
756. In her Addendum Report, Ms Evans recommended deleting FC-P6.

FC - P7

757. In response to submission points²³⁴ that sought to delete FC-P7, Ms Belgrave and Ms Evans supported the relief sought. They agreed with the submitters that the policy lacked clarity and was ambiguous. They also agreed that the proposed provisions did not clearly identify how the benefits of a proposed activity were to be quantified.
758. In response to the submission point made by Transpower, that sought the retention of FC-P7, if FC-P6 was to be retained, the Reporting Officers recommended rejecting the submission. However, as noted Addendum Report changed the recommendation with regard to FC-P6.
759. In response to submission points²³⁵ that supported the retention of FC-P7, Ms Belgrave and Ms Evans did not support the submissions, for the reasons set out above.
760. Ms Belgrave and Ms Evans recommended deleting FC-P7.

Hearing and Submitter Evidence/Statements

²³³ Chris & Jan Coll (S558.152), Chris J Coll Surveying Limited (S566.152), William McLaughlin (S567.229) and Laura Coll McLaughlin (S574.152)

²³⁴ Manawa Energy (S438.118) and Director General of Conservation (S602.115)

²³⁵ Te Mana Ora (Community and Public Health) of the NPHS/Te Whatu Ora (S190.387), Westpower (S547.336), Chris & Jan Coll (S558.154), Chris J Coll Surveying Limited (S566.154), William McLaughlin (S567.230) and Laura Coll McLaughlin (S574.154)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

761. Ms Hadfield, for Ball Developments Limited (who supported FC-P1 as notified), confirmed she accepted the recommendation in relation to FC-P1, FC-P3 and FC-P4. She also acknowledged that no amendment was recommended to FC-P5, which was consistent with the submission point.
762. Ms Styles, for Manawa, noted the s42A Report had not accepted the relief sought to FC-P3(d) and considered the Reporting Officers had misunderstood the intention of the suggested wording. She clarified that a district council should not hold financial contributions for long periods of time without using the funds, and that the benefits of such holding of funds (i.e. interest incurred) should also be taken into account. She reiterated that for transparency the wording suggested should be included in FC-P3.
763. Ms Whitney's addendum to her evidence on behalf of Transpower confirmed and accepted the recommendation to delete FC-P6.
764. Mr Kennedy, for Westpower, responded to the s42A recommendation prior to Ms Evans's Addendum recommendation to delete the policy. He did not support proposed FC-P6(b), and if it was to be retained, he suggested it be reworded. He also commented on the recommendation to delete FC-P7 and considered it should be retained as notified because there may be instances where a decision maker may wish to consider the benefits of a proposal when calculating any financial contribution.

Reporting Officer Reply Evidence

765. Ms Evans reviewed the recommended wording for FC-P3 following the hearing and in light of proposed changes to the rule framework. Based on this, she considered the words '*in discussion with the applicant but at the final discretion of the Council*' were superfluous as this was what happened as part of a resource consent process. Her recommendation was to delete this from the policy, which she considered gave partial relief to the submission points²³⁶ made with respect to this policy.
766. Ms Evans reconsidered the relief sought by the submission points regarding FC-P5 to change '*shall*' to '*can*'. She changed her recommendation to support the submission points recognising that the list in the policy was not exhaustive.

Hearing Panel's Evaluation

FC-P1

767. The Panel agree with the inclusion of '*land*' in the policy as sought by a group of submitters as it ensures consistency of language.
768. The Panel notes that Ms Inta and the Buller Conservation Group sought to delete this policy because they consider FC-P2 adequately covers what FC-P1 is trying to say. We note that Ms Inta in her statement did not comment on this further. In the Panel's view the two policies are quite different with the first being about the requirement for financial contributions and the second about how they are to be applied. We have therefore rejected the submissions.

²³⁶ Chris & Jan Coll (S558.149), Chris J Coll Surveying Limited (S566.149), William McLaughlin (S567.226) and Laura Coll McLaughlin (S574.149)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

FC-P2

769. The Panel has considered the differing views between the Reporting Officers and Ms Styles in terms of the additional wording sought by Manawa. The Panel have some sympathy for Manawa's position, and we agree that there is a need for transparency in relation to financial contributions. We consider the wording proposed by Manawa ensures there is an onus on the Councils to appropriately deal with financial contributions reasonable manner, taking into account the relevant context. We therefore recommend that the wording proposed by Manawa is included in the Policy.

770. The Panel agree with the Reporting Officers that the additional clauses proposed by Mr Ellerm would potentially constrain the spending of financial contributions and thus result in inefficiencies in achieving the objectives. We therefore reject this submission.

FC-P3

771. The Panel acknowledge Ms Evans revised position on FC-P3, and we agree the words '*in discussion with the applicant but at the final discretion of the council*' are, given our recommendation to include a discretionary activity status, superfluous as this is what would essentially occur as part of any resource consent process. We recommend these words are deleted.

772. We agree with the Reporting Officers' recommendation to delete the word '*works*' from FC-P3 in response to a submission from Manawa given that a financial contribution in the form of works is not provided for under s108 of the RMA.

FC-P4

773. The Panel agrees with Ms Belgrave and Ms Evans that the additional words to the policy sought by Ball Developments Limited to take into account the value of any work necessary to make land suitable for its intended use is unnecessary. Nevertheless, we accept that improvements to the clarity of the policy, as sought by BDC, are necessary and we agree with the revised wording proposed by the Reporting Officers, noting that Ms Hadfield's evidence for Ball Developments Limited accepts this wording.

FC-P5

774. The Panel notes that Ms Belgrave and Ms Evans did not initially support the relief sought by the submission points to change the word '*shall*' to '*can*'. However, in her Right of Reply, Ms Evans changed her view and indicated that she now recommended amending '*shall*' in this policy to '*can*' to recognise that this list is not exhaustive, and not all of the infrastructure and facilities listed will be provided in every scenario. The Panel agrees and recommends this change.

FC-P6

775. The Panel recommends deleting FC-P6 in accordance with our recommendation to remove references to offsetting and compensation from the FC Chapter.

FC-P7

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

776. The Panel have considered the submission to delete FC-P7, which was support by Ms Belgrave and Ms Evans. We accept that policy lacks clarity and is somewhat ambiguous. Further, it does not identify how the benefits of an activity are to be quantified in the decision-making process. We have considered whether the policy could be redrafted to better articulate the intent in assessing benefits, however, in our view, ultimately this would be difficult to provide clear guidance. We therefore recommend deleting the policy.

Hearing Panel's Recommendation

777. 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 changes to the **Financial Contributions Policies** as follows:

FC – P1	To require financial contributions as a condition of subdivision, development and land use consents to remedy or mitigate adverse effects created by the need to create, extend or upgrade public infrastructure, reserves and community facilities as a result of the subdivision, <u>land</u> ²³⁷ use or development.
FC – P2	Financial contributions shall must ²³⁸ be applied in a fair and equitable manner that: a) Is financially transparent <u>reasonable and appropriate to the circumstances</u> ; ²³⁹ b) Reflects the adverse effects and demand on services and facilities generated by the subdivision, land use or development; c) Is complementary to the Council's other financial management policies; and d) Takes into account any costs incurred <u>and financial benefits associated with the</u> in ²⁴⁰ taking, holding and allocating the financial contributions.
FC – P3	Financial contributions may be taken in the form of cash, land, works ²⁴¹ or a combination of these in discussion with the applicant but at the final discretion of the Council. ²⁴²
FC – P4	<u>Ensure that</u> Where land is provided by way of a financial contribution to ensure that such land shall be is suitable for the intended use bearing in mind the community to be served. ²⁴³
FC – P5	To use financial contributions in money to provide additional capacity, and to meet the need for community infrastructure and facilities that arise from the activity. This shall can ²⁴⁴ include roading, streetscape improvements, shared pathways, vehicle parking, EV charging spaces, service lanes, water supply, wastewater, stormwater, parks, reserves, recreation facilities and community facilities.

²³⁷ Chris & Jan Coll S558.147, Chris J Coll Surveying Limited S566.147, William McLaughlin S567.224 and Laura Coll McLaughlin S574.147

²³⁸ RMA Schedule 1, clause 16(2)

²³⁹ Manawa S438.116

²⁴⁰ Manawa Energy Limited S438.116

²⁴¹ Manawa Energy Limited S438.114

²⁴² Chris & Jan Coll S558.149, Chris J Coll Surveying Limited S566.149, William McLaughlin S567.226 and Laura Coll McLaughlin S574.149

²⁴³ Buller District Council S538.229

²⁴⁴ Chris & Jan Coll S558.151, Chris J Coll Surveying Limited S566.151, William McLaughlin S567.228 and Laura Coll McLaughlin S574.151

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

FC-P6	To provide for the use of financial contributions for managing adverse environmental effects, including those on significant indigenous biodiversity and outstanding natural landscapes where these cannot be avoided, remedied or mitigated and the activities have specific spatial location requirements or functional and operational needs such as mineral extraction, renewable electricity generation activities and critical infrastructure.²⁴⁵
FC-P7	When calculating financial contributions as a method of managing adverse environmental effects of activities, take into account the local, regional and national benefits of the proposed activity.²⁴⁶

3.5. Financial Contribution Rules

Submissions and Further Submissions

778. Nineteen submission points and two further submission points relating to **FC-R1** were summarised in a Table on pages 158-160 of the s42A Report. One submission point supported the retention of the rule as notified. The other 18 submission points sought amendments.
779. Thirteen submission points relating to **FC-R2** were summarised in a Table on pages 163-164 of the s42A Report. One submission point supported the retention of the rule as notified. The other 12 submission points sought amendments.
780. Seven submission points and four further submission points relating to **FC-R3** were summarised in a Table on page 166 of the s42A Report. One submission point supported the retention of the rule as notified. The other six submission points sought amendments.
781. Seven submission points and one further submission point relating to **FC-R4** were summarised in a Table on page 169 of the s42A Report. Five submission points supported the retention of the rule as notified. Two submission points sought amendments.
782. Ten submission points and two further submission points relating to **FC-R5** were summarised in a Table on pages 170-171 of the s42A Report. Two submission points supported the retention of the rule as notified. Eight submission points sought amendments.
783. Six submission points relating to **FC-R6** were summarised in a Table on page 172 of the s42A Report. Two submission points supported the retention of the rule as notified. Four submission points sought amendments.
784. Eleven submission points and two further submission points relating to **FC-R7** were summarised in a Table on pages 173-174 of the s42A Report. One submission point supported the retention of the rule as notified. Ten submission points sought amendments.
785. Eleven submission points and four further submission points relating to **FC-R8** were summarised in a Table on pages 175-176 of the s42A Report. One submission point supported the retention of the rule as notified. Ten submission points sought amendments.

²⁴⁵ Manawa Energy Limited S438.117, Transpower NZ Ltd S299.086, Royal Forest and Bird Protection Society of New Zealand Incorporated S560.261

²⁴⁶ Manawa Energy Limited S438.118, Director General of Conservation S602.115

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

786. Eleven submission points and one further submission point relating to **FC-R9** were summarised in a Table on pages 177-178 of the s42A Report. One submission point supported the retention of the rule as notified. Ten submission points sought amendments.
787. Ten submission points and two further submission points relating to **FC-R10** were summarised in a Table on page 179 of the s42A Report. Two submission points supported the retention of the rule as notified. Eight submission points sought amendments.
788. Eleven submission points and three further submission points relating to **FC-R11** were summarised in a Table on pages 180-181 of the s42A Report. Three submission points supported the retention of the rule as notified. Seven submission points sought amendments.
789. Sixteen submission points relating to **FC-R12** were summarised in a Table on pages 182-184 of the s42A Report. Five submission points supported the retention of the rule as notified. Two sought it be deleted, while nine submission points sought amendments.
790. The Panel adopts these summaries and has considered the relevant submissions and further submissions.

Section 42A Report

FC-R1 Financial Contributions as Conditions of Consent

791. Ms Belgrave and Ms Evans acknowledged the support from Te Mana Ora that sought to retain the rule as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.
792. In response to the submission point made by WDC to amend the wording of FC-R1(1), (as set out below), Ms Belgrave and Ms Evans supported the relief sought as it provides greater certainty and direction to plan users. Westpower opposed this amendment in a further submission.
793. In response to the submission point from Transpower that sought to delete the rule as it relates to the National Grid due to a lack of policy direction and guidance as to the circumstances for requiring a contribution, Ms Belgrave and Ms Evans did not support the relief sought. This was because they disagreed there was uncertainty and pointed to the list of purposes under FC-R1(1).
794. In response to the similar submission points²⁴⁷ that sought additional exclusions be added to FC-R1(2) in relation to any allotment vested in Council or the Crown or when a subdivision results in reduction or amalgamation in the total number of allotments or records of title, Ms Belgrave and Ms Evans supported the relief sought.
795. In response to the submission point made by the BDC to add '*development*' to FC-R1(1), the Reporting Officers did not support the addition, as the notified language referred to '*subdivision and land use*' which was consistent with the types of consents under the RMA. BDC also sought to reword clause (3) of the rule and add '*resilience initiatives*' and '*Water Entities*'. Ms Belgrave and Ms Evans did not support the additional words due to the ambiguity of '*resilience initiatives*' and the government direction on Three Waters.

²⁴⁷ Ball Developments Ltd (S453.013) and Davis Ogilvie & Partners Ltd (S465.010) Chris & Jan Coll (S558.155), Chris J Coll Surveying Limited (S566.155), William McLaughlin (S567.231), Laura Coll McLaughlin (S574.155), and Ball Developments Ltd (S453.014)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

796. In response to the similar submission points²⁴⁸ that sought to improve the wording of FC-R1(3), Ms Belgrave and Ms Evans agreed that it could be amended to improve clarity.
797. The submission points made by the Director General, Westpower and Forest and Bird sought to make amendments to FC-R1(1)(ii) to either add reference to offsetting (in the case of Director General and Westpower), or to delete it entirely in the case of Forest and Bird. As set out previously, Ms Evans considered the matter of offsetting and compensation in her Addendum Report and ultimately recommended any provisions relating to this be deleted.
798. With respect to the other elements of the submission points made by these submitters, Ms Belgrave and Ms Evans did not support the addition of words *'including but not limited to'* in FC-R1(1), as sought the Director General, because they considered it would create uncertainty. They did support the deletion of FC-R1(1)(i), as sought by Forest and Bird, as it created duplication with other clauses and ambiguity.
799. In her Addendum Report, Ms Evans reconsidered the submission made by the TTPP Committee to include a non-compliance activity status when a rule was not complied with after consideration of Ms Styles' evidence for Manawa. She considered her revised recommendation to include a discretionary activity status when the rule was not complied with would ensure a consenting pathway was provided for.
800. In the Addendum Report, Ms Belgrave and Ms Evans recommended amending FC-R1 as follows:
1. A condition ~~may~~ **shall** be imposed on a subdivision or land use consent to require the applicant, including network utility operators and/or requiring authorities, to make a financial contribution for the following purpose (**unless determined otherwise by Council**):
 - i. ~~The management of potential adverse effects arising from the activity;~~
 - ii. ~~Securing environmental offsetting or compensation where any residual adverse effects of the subdivision, use or development that cannot be avoided, minimised, remedied or otherwise mitigated;~~
 - iii. Providing and/or upgrading public network utility services and transport infrastructure;
 - iv. Providing and/or upgrading public reserves, public access and community facilities; and
 2. No financial contribution is payable for:
 - i. Additions and alterations to residential buildings;
 - ii. A residential building replacing one previously on the site;
 - iii. An approved boundary adjustment;
 - iv. An approved subdivision creating a certificate of title solely for a utility;
 - v. An additional allotment where such land is set aside for ecological, historic heritage or cultural protection in perpetuity; ~~and~~
 - vi. Infrastructure for which a financial contribution has been made previously;
 - vii. **Any allotment that is vested in the Council or the Crown; and**
 - viii. **An approved subdivision resulting in the amalgamation of or a reduction in the number of titles.**

²⁴⁸ Buller District Council (S538.231) Chris & Jan Coll (S558.155), Chris J Coll Surveying Limited (S566.156), William McLaughlin (S567.232), and Laura Coll McLaughlin (S574.155)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

3. *Where roading or three waters infrastructure upgrades or extensions necessary to meet the requirements of the proposed land-use, development or subdivision are proposed in the relevant District Council's Long Term Plan, but the proposed land-use, development or subdivision requires that the planned works be undertaken earlier than planned for in the Long Term Plan, then the Council will require the developer to meet the full cost of the upgrades and extensions including interest on loans subject to the following:*
- i. The relevant District Council may, at its discretion, and guided by its financial strategy, agree to contribute to the funding at the time the infrastructure is required by the proposed land-use, subdivision or development;*
 - ii. Agreements shall be made in writing between the developer and the relevant District Council, and shall state the amount of the financial contribution and timing of any payments to be made **by the relevant District Council**;*
 - iii. In the event that the relevant District Council did not contribute to the funding at ~~that~~ **the time the infrastructure is required by the proposed land-use, subdivision or development**, the developer will be reimbursed by the **relevant District Council**;*
 - iv. Agreed reimbursement will be made no later than at the time the extension or upgrade would otherwise have been undertaken as set out in **relevant District Council's Long Term Plan**; and*
 - v. Reimbursement will not include interest additional to that which would have been payable by the relevant District Council, had the upgrades or extensions been undertaken at the time proposed in the Long Term Plan.*

Activity status where compliance not achieved: Discretionary

FC-R2 Nature of Financial Contributions

801. Ms Belgrave and Ms Evans acknowledged the support from Te Mana Ora that sought to retain the rule as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.
802. In response to the submission points made by Westpower and BDC to make minor amendments to the wording of various parts of FC-R2, Ms Belgrave and Ms Evans supported the changes as they improved the clarity of the rule.
803. Ms Belgrave and Ms Evans supported the intent of the amendment sought by Westpower but recommended different wording as follows:
- FC-R2.3(c)(ii) - In the case of land use, **the time of payment as specified in the conditions** at the time of issuing of the resource consent*
804. Ms Belgrave and Ms Evans did not support the relief sought by submission points²⁴⁹ to add 'within the land being subdivided or under application' to the end of FC-R2(4)(a) as a land contribution may not be located within the subject site, and the addition would restrict the rule.
805. Ms Belgrave and Ms Evans supported submission points²⁵⁰ that sought to retain references to a 'registered valuer' in the rule.

²⁴⁹ Chris & Jan Coll (S558.157), Chris J Coll Surveying Limited (S566.157), William McLaughlin (S567.233), Laura Coll McLaughlin (S574.157)

²⁵⁰ Chris & Jan Coll (S558.158), Chris J Coll Surveying Limited (S566.158), William McLaughlin (S567.234), Laura Coll McLaughlin (S574.158)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

806. In response to submission points²⁵¹ that sought to include additional clauses relating to where a financial contribution was or included works, Ms Belgrave and Ms Evans did not support the additions. They note that under s108(9) of the RMA, a financial contribution may include money or land, or a combination of money and land. Consequentially, they recommended the deletion of 'works' from FC-R2 to improve the clarity of the rule.

807. The recommended amendments to this rule also included the following:

- a) Minor consequential amendments resulting from earlier submissions from WDC to change 'may' to 'shall' in FC-R2.1.
- b) The addition of a discretionary activity status when the rule was not complied with to ensure a consenting pathway was provided for, as set out in the Addendum Report.

808. In the Addendum Report, Ms Belgrave and Ms Evans recommend amending FC-R2 as follows:

1. *Financial contributions ~~may~~ **shall**, at the relevant District Council's discretion, take the form of money or land ~~or works~~ or any combination of money, **and land and works**;*
2. *Financial contributions shall not be imposed on a use, development or subdivision for the same purpose as a development contribution that is **already** required, or has already been paid in relation to that use, development or subdivision;*
3. *Where a financial contribution is, or includes the payment of money, the relevant District Council may specify any one or more of the following in the conditions of the resource consent;*
 - a. *The amount to be paid by the consent holder;*
 - b. *How the payment is to be made, including whether payment is to be made by instalment and whether bonding or security can be entered into;*
 - c. *When the payment is to be made:*
 - i. *In the case of subdivision, generally before **issuing** ~~uplifting~~ the section 224 certificate;*
 - ii. *In the case of land use, **the time of payment as specified in the conditions** at the time of issuing of the resource consent;*
 - d. *If the amount of the payment is to be adjusted to take account of inflation and if so, how the amount is to be adjusted; and*
 - e. *Whether any penalty is to be imposed for default in payment and if so, the amount of the penalty or formula by which the penalty is to be calculated.*
4. ...

Activity status where compliance not achieved: Discretionary

FC-R3 Calculation of Financial Contributions - Roads

809. Ms Belgrave and Ms Evans acknowledged the support from Te Mana Ora that sought to retain the rule as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.

810. Ms Belgrave and Ms Evans did not support the submission point made by David Ellerm that sought to include a distance from a proposed subdivision or development that Council can require road upgrades from. This was because no specific wording was provided with the

²⁵¹ Ball Developments Ltd (S453.015) and Davis Ogilvie & Partners Ltd (S465.011)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

submission and an assessment of traffic effects was dependent on individual applications, so it would not be efficient or effective to include a distance in the rule.

811. In response to submission points²⁵² that sought to amend FC-R3 to ensure that an applicant did not bear the full cost of upgrading a road that was already below an appropriate of service, Ms Belgrave and Ms Evans supported the relief sought.
812. Due to a lack of specific amendments relating the to the submission point made by BDC and the supporting further submissions from Kāinga Ora to 'road test' the formula at FC-R3(3), the Reporting Officers did not support the relief sought.
813. In response to the submission point made by Manawa on the whole of the FC Chapter that sought clarity on how contributions would be applied, Ms Belgrave and Ms Evans considered that submission in light of FC-R3. They reviewed the formulae in FC-R3(3) with Mr Collins (a Transportation Engineer from Abley) and found that it contained a gap relating to intersections. Given this, and the overall confusing nature of the rule, the Reporting Officers recommended amendments to the rule to simplify the formulae and address the gap relating to intersections.
814. The recommended amendments to this rule also included the following:
- a) Minor consequential amendments resulting from earlier submissions from WDC to change 'may' to 'shall' in FC-R2.1.
 - b) The addition of a discretionary activity status when the rule was not complied with to ensure a consenting pathway was provided for, as set out in the Addendum Report.
815. In the Addendum Report, Ms Belgrave and Ms Evans recommended amending FC-R3 as follows:
1. *The maximum contribution required for the ~~development~~, maintenance and upgrading of roads **including intersections** that serve a subdivision, land use or development shall be 100% of the ~~estimated~~ cost **calculated in FC-R3(3); and***
 2. *Where a development or subdivision will generate traffic effects that require the sealing, widening or upgrading of a road , the financial contribution shall be calculated as the cost of upgrading the road **from the level of service required for existing land uses** to the ~~required~~ level of service **required for the development or subdivision** specified in the relevant Council Engineering Standards or where no such Standard exists, the standard required by NZS 4404:2010 Land Development and Subdivision Infrastructure.*
 3. *Financial contributions for roading will be calculated in accordance with the following formulae ~~based on the number of new allotments created~~:*
 - i. *Financial contribution for subdivision – based on number of new allotments created:*

$$\mathbf{CP = LG \times D1 \times Rc + Ic}$$

$$\mathbf{CP = Value\ of\ contribution\ (\$)}$$

$$\mathbf{LG = Number\ of\ new\ allotments\ created\ in\ the\ proposed\ subdivision}$$

$$\mathbf{D1 = Length\ of\ road\ frontage\ (km)\ along\ the\ application\ site.\ If\ the\ subdivision\ is\ on\ both\ sides\ of\ the\ road\ the\ length\ shall\ be\ added\ together}$$

$$\mathbf{Rc = Cost\ (\$/km)\ determined\ by\ the\ council\ based\ on\ the\ road\ hierarchy}$$

²⁵² Chris & Jan Coll (S558.159), Chris J Coll Surveying Limited (S566.159), William McLaughlin (S567.235) and Laura Coll McLaughlin (S574.159)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

Ic = Cost (\$/m2) to upgrade the intersection as determined by the council (if required)

Contribution = Cost of forming or upgrading road to the nearest Allotment boundary of the site + Cost of upgrading road along the frontage of the site

$$C_p = \frac{D_1 \times R_c \times L_g}{L_e + L_g} + \frac{D_2 \times R_c}{2}$$

Where

Cp = Value of contribution (\$)

D1 = Length of road (km) required to be upgraded to the closest boundary of the site

D2 = Length of road frontage (km) along the application site. If the development is on both sides of the road the length along both frontages shall be added together

Le = Total number of existing allotments fronting to the road to be upgraded measured as D1

Lg = Number of new allotments created in the proposed subdivision

Rc = Cost (\$/km) of improving the affected section of road to the level required as determined by the predicted traffic volume and road hierarchy.

- ii. *Financial Contribution for Land-use and Development – Based on traffic generation:*

$$C_p = R_c \times T_g + I_c$$

Cp = Value of contribution (\$)

Rc = Cost (\$/vehicle movement) determined by the council based on the road hierarchy and activity

Tg = Total amount of traffic generated by the development (annual average daily traffic)

Ic = Cost (\$/m2) to upgrade the intersection as determined by the council (if required)

Contribution = Cost of upgrading road to the nearest boundary of the site multiplied by the total traffic to be generated by the proposal + cost of upgrading road along the frontage of the site

$$C_p = \frac{D_1 \times R_c \times T_g}{T_e + T_g} + \frac{D_2 \times R_c}{2}$$

Where:

Cp = Value of contribution (\$)

D1 = Length of road (km) required to be upgraded to the closest boundary of the site

D2 = Length of road frontage (km) along the application site. If the development is on both sides of the road the length along both frontages shall be added together.

Te = Total amount of traffic currently using this road (as vehicles per day, AADT)

Tg = Total amount of traffic generated by the development (as vehicles per day, AADT)

Rc = Cost (\$/km) of improving the affected section of road to the level required as determined by the predicted traffic volume and road hierarchy.

4. **Financial contributions do not apply to the forming of new roads and intersections. These will form part of resource consent condition and vesting under section 224c of the RMA.**

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

Activity status where compliance not achieved: Discretionary

FC-R4 Full Cost Financial Contribution for Roads

816. Ms Belgrave and Ms Evans acknowledged the support from submitters that sought to retain the rule as notified. However, as set out below, they recommend deleting the rule.
817. Ms Belgrave and Ms Evans did not support the submission point from David Ellerm that sought to have Lake View Terrace, Iveah Bay added as a road that was at capacity. Their opinion was supported by advice from Mr Collins (Transportation Engineer) who did not agree that the road was at capacity with respect to traffic movements.
818. As part of his advice, Mr Collins identified that the wording of FC-R4 was ambiguous, particularly in terms of determining when a road was 'at capacity'. Based on submissions that sought clarity in the FC Chapter, the Reporting Officers recommended deleting FC-R4 in its entirety, as financial contributions required in relation to roads were managed by FC-R3.
819. Ms Belgrave and Ms Evans acknowledge the amendments sought by BDC to delete words from the rule.
820. In the Addendum Report, Ms Belgrave and Ms Evans recommend deleting FC-R4.

FC-R5 Financial Contributions for Vehicle Parking

821. Ms Belgrave and Ms Evans acknowledged the support from submitters that sought to retain the rule as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.
822. In response to submission points²⁵³ that sought to improve the clarity, transparency and certainty of this rule, in the absence of any specific amendments Ms Belgrave and Ms Evans did not support the relief sought.
823. In response to submission points²⁵⁴ that sought amendment to FC-R5.1 to change the 'and' to an 'or' at the end of the rule, the Reporting Officers supported the amendment as it improved the clarity of the rule.
824. In the Addendum Report, Ms Belgrave and Ms Evans recommended amending FC-R5 as follows:
1. *A financial contribution for vehicle parking ~~may~~ **shall** be required where the on – site accessible parking, on - site bicycle parking, on - site trailer/boat parking or EV charging requirements cannot be achieved as required for the activity in the zone in accordance with the Transport Performance Standards. The financial contribution will be charged based on the following formula for each accessible, trailer/boat park or EV charging site ~~and~~ **or** for every 5 bicycle parks not provided.*
 2. ...

Activity status where compliance not achieved: Discretionary

²⁵³ Chris & Jan Coll (S558.162), Chris J Coll Surveying Limited (S566.162), William McLaughlin (S567.238) and Laura Coll McLaughlin (S574.162)

²⁵⁴ Chris & Jan Coll (S558.161), Chris J Coll Surveying Limited (S566.161), William McLaughlin (S567.237) and Laura Coll McLaughlin (S574.161)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

FC-R6 Financial Contributions for Service Lanes

825. Ms Belgrave and Ms Evans acknowledged the support from submitters that sought to retain the rule as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.
826. In response to submission points²⁵⁵ that sought to replace 'development' with 'land use', Ms Belgrave and Ms Evans supported an amendment to refer to 'subdivision and land use consent' as this was consistent with the language used elsewhere in the FC Chapter.
827. In the Addendum Report, Ms Belgrave and Ms Evans recommended amending FC-R6 as follows:
1. *Where the District Plan indicates the formation and vesting of land for the purpose of a service lane, or the upgrading of a service lane, a ~~development~~ or subdivision **or land use consent of the land** shall include a condition requiring the land to be formed to the standards specified in the relevant district Council Engineering Standards or where no such Standard exists, NZS 4404:2010 Land Development and Subdivision Infrastructure.*

Activity status where compliance not achieved: Discretionary

FC-R7 Financial Contributions for Water Supply

828. Ms Belgrave and Ms Evans acknowledged the support from Te Mana Ora that sought to retain the rule as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.
829. Ms Belgrave and Ms Evans support the relief sought by BDC to add an advice note following FC-R7(1) because it would improve plan clarity and efficiency.
830. In response to the submission point made by David Ellerm to replace 'may' with 'are' In FC-R7(1), Ms Evans and Ms Belgrave supported the amendment. However, they recommended replacing 'may' with 'shall' to achieve consistency with other recommended amendments.
831. In response to submission points²⁵⁶ that sought to improve the fairness, transparency and certainty for an applicant, in the absence of any specific amendments Ms Belgrave and Ms Evans did not support the relief sought.
832. In response to submission points²⁵⁷ that sought amendments to ensure that an applicant was not responsible for bearing the cost of any upgrade that was due to Council not adequately undertaking its responsibilities, Ms Belgrave and Ms Evans did not support the relief sought. This was because it was unclear how the matter would be clearly assessed or determined.
833. In the Addendum Report, Ms Belgrave and Ms Evans recommended amending FC-R7 as follows:

²⁵⁵ Chris & Jan Coll (S558.163), Chris J Coll Surveying Limited (S566.163), William McLaughlin (S567.239) and Laura Coll McLaughlin (S574.163)

²⁵⁶ Chris & Jan Coll (S558.165), Chris J Coll Surveying Limited (S566.165), William McLaughlin (S567.240) and Laura Coll McLaughlin (S574.165)

²⁵⁷ Chris & Jan Coll (S558.166), Chris J Coll Surveying Limited (S566.166), William McLaughlin (S567.241) and Laura Coll McLaughlin (S574.166)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

1. Financial contributions ~~may~~**shall** be required (**unless determined otherwise by Council**) to ensure a supply of:
 - i. Potable drinking water for human consumption (complying with the NZ Standard for Drinking Water);
 - ii. Water for industrial and commercial activities;
 - iii. Water for fire fighting and irrigation; and
 - iv. Where proposed allotments, sites or buildings are intended for human habitation or occupation.

Advice note: It shall be noted that even though existing 3 waters infrastructure may be located in an area, it may not be available, for instance if the infrastructure is on the boundary between urban and rural environmental zones.

...

Activity status where compliance not achieved: Discretionary

FC-R8 Financial Contributions for Wastewater Treatment and Disposal

834. Ms Belgrave and Ms Evans acknowledged the support from Te Mana Ora that sought to retain the rule as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.
835. Similar to FC-R7, Ms Belgrave and Ms Evans supported the relief sought by BDC to add an advice note following FC-R8(1) to improve plan clarity and efficiency.
836. Similar to FC-R7, in response to the submission point made by David Ellerm to replace 'may' with 'are' in FC-R8(1), Ms Evans and Ms Belgrave supported the amendment. However, they recommended replacing 'may' with 'shall' to achieve consistency with other recommended amendments.
837. In response to submission points²⁵⁸ that sought to improve the fairness, transparency and certainty for an applicant, Ms Belgrave and Ms Evans reiterated their recommendation on the same matter from FC-R7, and in the absence of any specific amendments they did not support the relief sought.
838. In response to submission points²⁵⁹ that sought amendments to ensure that an applicant was not responsible for bearing the cost of any upgrade that was due to Council not adequately undertaking its responsibilities, Ms Belgrave and Ms Evans reiterated their recommendation on the same matter from FC-R7 and did not support the relief sought.
839. In the Addendum Report, Ms Belgrave and Ms Evans recommended amending FC-R8 as follows:
1. Financial contributions ~~may~~**shall** be required (**unless determined otherwise by Council**) to maintain the health and public safety and amenity of inhabitants or occupants and to protect the natural environment from harmful disposal of wastewater where new allotments, sites or buildings are intended for human habitation or occupation.

²⁵⁸ Chris & Jan Coll (S558.167), Chris J Coll Surveying Limited (S566.167), William McLaughlin (S567.242) and Laura Coll McLaughlin (S574.167)

²⁵⁹ Chris & Jan Coll (S558.168), Chris J Coll Surveying Limited (S566.168), William McLaughlin (S567.243) and Laura Coll McLaughlin (S574.168)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

Advice note: It shall be noted that even though existing 3 waters infrastructure may be located in an area, it may not be available, for instance if the infrastructure is on the boundary between urban and rural environmental zones.

...

Activity status where compliance not achieved: Discretionary

FC-R9 Financial Contributions for Stormwater Treatment and Disposal

840. Ms Belgrave and Ms Evans acknowledged the support from Te Mana Ora that sought to retain the rule as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.
841. Similar to FC-R7 and FC-R8, Ms Belgrave and Ms Evans supported the relief sought by BDC to add an advice note following FC-R9(1) to improve plan clarity and efficiency.
842. Similar to FC-R7 and FC-R8, in response to the submission point made by David Ellerm to replace 'may' with 'are' in FC-R9(1), Ms Evans and Ms Belgrave supported the amendment. However, they recommended replacing 'may' with 'shall' to achieve consistency with other recommended amendments.
843. In response to submission points²⁶⁰ that sought to improve the fairness, transparency and certainty for an applicant, Ms Belgrave and Ms Evans reiterated their recommendation on the same matter from FC-R7 and FC-R8, and in the absence of any specific amendments they did not support the relief sought.
844. In response to submission points²⁶¹ that sought amendments to ensure that an applicant was not responsible for bearing the cost of any upgrade that was due to Council not adequately undertaking its responsibilities, Ms Belgrave and Ms Evans reiterated their recommendation on the same matter from FC-R7 and FC-R8 and did not support the relief sought.
845. In the Addendum Report, Ms Belgrave and Ms Evans recommended amending FC-R9 as follows:

1. *Financial contributions ~~may~~ shall be required (unless determined otherwise by Council) to prevent damage and loss of property and amenity from uncontrolled run-off and to protect the natural environment from harmful disposal of stormwater where new allotments, roads and/or other impervious surface are created by subdivision or land use and create a need for stormwater treatment and disposal.*

Advice note: It shall be noted that even though existing 3 waters infrastructure may be located in an area, it may not be available, for instance if the infrastructure is on the boundary between urban and rural environmental zones.

...

Activity status where compliance not achieved: Discretionary

FC-R10 Financial Contributions for Reserves and Community Facilities

²⁶⁰ Chris & Jan Coll (S558.169), Chris J Coll Surveying Limited (S566.169), William McLaughlin (S567.244) and Laura Coll McLaughlin (S574.169)

²⁶¹ Chris & Jan Coll (S558.170), Chris J Coll Surveying Limited (S566.170), William McLaughlin (S567.245) and Laura Coll McLaughlin (S574.170)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

846. Ms Belgrave and Ms Evans acknowledged the support from submission points that sought to retain the rule as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.
847. In response to submission points²⁶² that sought to delete the five year timeframe from FC-R10(2)(ii) and FC-R10(2)(iii), Ms Belgrave and Ms Evans did not initially support the relief sought. However, in the Addendum Report, Ms Evans revised her opinion after having considered Ms Hadfield's evidence. Nevertheless, she did not consider the rule would result in double dipping as in her opinion it would not apply to a building consent for a single residential unit on a new lot, as it referred to 'additional' residential units. She recommended increasing the five year timeframe to eight years.
848. Similar to previous rules, in response to the submission point made by David Ellerm to replace 'may' with 'are' in FC-R10(1), Ms Evans and Ms Belgrave supported the amendment. However, they recommended replacing 'may' with 'shall' to achieve consistency with other recommended amendments.
849. In response to the submission point made by David Ellerm to set the financial contribution at a flat rate of 3.5%, Ms Belgrave and Ms Evans did not support the relief sought as the submitter had not provided sufficient evidence to demonstrate that a rate of 3.5% would provide a sufficient level of funding to provide recreational and community facilities that would meet the needs of the community.
850. In response to submission points²⁶³ that sought to amend the 'and' to an 'or' at the end of FC-R10(2)(ii), Ms Belgrave and Ms Evans did not support the relief sought as this would change the intention and application of the rule.
851. In the Addendum Report, Ms Belgrave and Ms Evans recommended amending FC-R10 as follows:
1. *Financial contributions ~~may~~ shall be required **(unless determined otherwise by Council)** to provide for open space, recreational and community facilities to address the need for these facilities created by subdivision and development in the locality where new allotments or residential units are created.*
 2. *The maximum contribution shall be required as follows:*
 - i. *7.5% of the additional allotments at the time of subdivision consent (either in cash or land equivalent, at Council's discretion) except that in the case of subdivisions where allotments are greater than 4000 m², the value of the rural allotment for this purpose shall be the proportional value of a house site of 1,000m² within each allotment;*
 - ii. *Cash equivalent of the value of 20m² of land for each additional residential unit created, at the time of building consent, less any contribution made at the time of previous subdivision within the preceding ~~five~~ **eight** years; and*
 - iii. *Cash equivalent of the value of 4m² of land for each additional 100m² of net, non-residential building floor area created, at the time of building consent, less any contribution made at the time of previous subdivision within the preceding five years.*

Activity status where compliance not achieved: Discretionary

²⁶² Ball Developments Ltd (S453.016) and Davis Ogilvie & Partners Ltd (S465.012)

²⁶³ Chris & Jan Coll (S558.171), Chris J Coll Surveying Limited (S566.171), William McLaughlin (S567.246) and Laura Coll McLaughlin (S574.171)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

FC-R11 Financial Contributions for Shared Pathways

852. Ms Belgrave and Ms Evans acknowledged the support from three submission points that sought to retain the rule as notified. The acknowledgement was subject to recommended amendments that arose from other submission points.
853. Ms Belgrave and Ms Evans supported the relief sought by submission points²⁶⁴ that sought an amendment to ensure that an applicant did not bear the full cost of upgrading footpaths, walkways, or cycle lanes that have an inadequate level of service before making an application or undertaking an activity.
854. In response to submission points²⁶⁵ that sought to improve the fairness, transparency and certainty for an applicant, Ms Belgrave and Ms Evans reiterated their recommendation on the same matter from previous rules, and in the absence of any specific amendments they did not support the relief sought.
855. In the Addendum Report, Ms Belgrave and Ms Evans recommended amending FC-R10 as follows:
1. *The maximum contribution required for the development and upgrading of shared pathways that serve a subdivision, land use or development shall be 100% of the estimated cost.*
 2. *Where a development or subdivision will generate effects that require the creation or upgrading of a footpath, walkway or cycleway access, the financial contribution shall be calculated as:*
 - i. the cost of building **the footpath, walkway or cycleway access**; or*
 - ii. **the cost of upgrading the pedestrian/cycle access footpath, walkway or cycleway access from the level of service required for existing land uses to the required level of service required for the subdivision, land use or development** specified in the relevant district Council Engineering Standards or where no such Standard exists, the standard required by NZS 4404:2010 Land Development and Subdivision Infrastructure.*

FC-R12 Financial Contributions for Offsetting and Compensating for Adverse Environmental Effects on Natural Landscape Values or Biodiversity Values

856. Ms Belgrave and Ms Evans acknowledged the support from three submission points that sought to retain the rule as notified. However, as set out below, they ultimately recommended deleting the rule.
857. In response to the two submission points from Forest & Bird and Manawa that sought the deletion of FC-R12, Ms Belgrave and Ms Evans initially did not support the relief sought. However, in her Addendum Report, Ms Evans recommended deleting FC-R12, which supported the relief sought by Forest and Bird and Manawa.
858. In response to the second submission point from Forest and Bird that sought amendment to delete provisions relating to non-biodiversity offsetting, given the recommendation of the Addendum Report to delete all matters relating to compensation and offsetting, the Reporting Officers did not support the relief sought in this submission point.

²⁶⁴ Chris & Jan Coll (S558.170), Chris J Coll Surveying Limited (S566.170), William McLaughlin (S567.245) and Laura Coll McLaughlin (S574.170)

²⁶⁵ Chris & Jan Coll (S558.172), Chris J Coll Surveying Limited (S566.172), William McLaughlin (S567.247) and Laura Coll McLaughlin (S574.172)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

859. Ms Belgrave and Ms Evans did not support the relief sought by BDC to include esplanade reserves and strips as a financial contribution because they were managed separately to financial contributions.
860. In response to the two submission points made by Westpower to change the title of the rule and to amend FC-R12(1), the Reporting Officers did not support changing the title of the rule. They initially supported making minor amendments to FC-R12(1), however, as set out in the Addendum Report, Ms Evans revised this and recommended deleting the rule entirely.
861. In response to the two submissions from NZ Energy Limited and Inchbonnie Hydro Limited that sought to remove provisions relating to financial contributions on land use consents to remedy or mitigate effects, Ms Belgrave and Ms Evans initially supported the submissions in part. They recommended additions to the rule to make it clear that it only related to residual adverse environmental effects. However, as set out in the Addendum Report, Ms Evans revised the recommendation to delete the rule entirely.
862. In response to the submission made by Transpower that sought to amend FC-R12 to remove reference to the National Grid, the Reporting Officers initially did not support the relief sought as it was considered that the amendments to clarify the consenting process addressed the Transpower submission. However, as set out in the Addendum Report, Ms Evans revised the recommendation to delete the rule, which supported the submission in part.
863. Ms Belgrave and Ms Evans initially did not support the relief sought by GDC to remove the references to network utility operators and/or requiring authorities. However, as set out in the Addendum Report, Ms Evans revised the recommendation to delete the rule, which supported the submission in part.
864. In response to the submission point made by the Director General to replace '*maximum*' with '*minimum*', Ms Belgrave and Ms Evans initially supported the amendment on the basis that a financial contribution to offset or compensate environmental effects may be greater than the minimum required. However, as set out in the Addendum Report, Ms Evans revised the recommendation to delete the rule, which did not support the submission.
865. In the Addendum Report, Ms Belgrave and Ms Evans recommended deleting FC-R4.

Hearing and Submitter Evidence/Statements

866. Ms Whitney, for Transpower, reiterated the submission point to delete FC-R1 as it related to the National Grid. She did not initially support the s42A Report recommendation. However, after having reviewed the Addendum Report that recommended deleting FC-R1(1)(ii), Ms Whitney accepted in her addendum statement that while no exemption was provided for the National Grid, that relief sought was no longer required. She accepted the Addendum Report recommended wording of FC-R1. Ms Whitney's addendum statement also accepted the recommended deletion of FC-R12.
867. In Mr Kennedy, for Westpower, reiterated the relief sought by the further submission (FS222.044) that opposed changing '*may*' to '*shall*' in FC-R1(1). He considered there was a need for decision makers to consider whether it was appropriate or required in the circumstances to impose a financial contribution, and '*may*' was better suited to that context. He did not support the s42A recommendation to delete FC-R1(1)(i) on the basis that it potentially created an additional requirement and was inconsistent with the provisions of the

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

WCRPS (Chapter 6, Policy 5 and Chapter 7, Policies 3-5) which were based on actions to “*avoid, remedy or mitigate*” effects. Mr Kennedy accepted the recommended wording for FC-R2.3(c)(ii).

868. Mr Kennedy reiterated that the rule heading should be amended to add ‘*proposed*’ to it. He also did not accept the initial recommendation to reword the rule and while he accepted that ‘*works*’ should not be included in the rule, he drew attention to ‘*land*’ not being included. He did not support the Director General’s submission point to change ‘*maximum*’ for ‘*minimum*’ with reference to a contribution and sought alternate wording.
869. Ms Styles, for Manawa, commented on changing ‘*may*’ to ‘*shall*’ in FC-R1(1) and noted that while Manawa did not make a submission specifically on this matter, their general submission provided scope. She did not support the proposed change and was of the view that ‘*must*’ would require financial contributions to be imposed on all land use consents, which she did not agree with. She also raised concerns as to how an applicant could determine whether they require resource consent under the provisions of the rules, and if so, how the activity status would be determined.
870. Ms Styles reiterated her opinion that FC-R12 should be deleted because it dealt with offsetting and compensating residual adverse effects and had been inappropriately applied in the context of this rule. She considered this was one of the provisions which did not meet the requirements of sections 76 (2), 77E or 108 of the RMA or basic plan drafting requirements.
871. Ms Hadfield, for Ball Developments, advised she supported the recommended wording of FC-R1. She acknowledged the s42A recommendation to delete reference to ‘*works*’ in the rule. Nevertheless, she raised questions about the *suitability* of any land vested as a financial contribution, drawing the Panel’s attention to FC-P4 that indicated vested land should be suitable for the intended use., which may require works to make land suitable. She pointed to FC-P5 to conclude that she considered it was a reasonable expectation that the costs of providing additional community facilities could be offset against the total monetary financial contributions payable. In support of her position, Ms Hadfield directed the Panel to rules in the Tasman Resource Management Plan that provided for the waiver or reduction in financial contributions where work has been undertaken that was greater than necessary to manage the adverse effects of the subdivision.
872. in relation to FC-R10, Ms Hadfield raised concern that the notified rule required a financial contribution to be paid on additional lots at the time of subdivision and an additional contribution to be paid at the time of building consent if that is more than five years following subdivision. She contended that the five year period was too short, especially during periods when the housing market is slow. She also drew attention to the subdivision timeframe set out in the RMA, which provided three years between s223 approval and the issue of titles. Furthermore, she considered that regardless of the time that had elapsed since subdivision, no further financial contribution should be payable at the time of building consent. She considered that this resulted in ‘double-dipping’ with councils effectively taking the same contribution twice for the same parcel of land.

Reporting Officer Reply Evidence

873. Having reconsidered the wording of FC-R1 following the hearing, Ms Evans recommended deleting the words ‘*unless determined otherwise by the council*’ from the end of FC-R1(1) as this determination is provided for in the consenting process. The deletion of these words was

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

consequential to the recommendation to include an activity status for non-compliance with the rules in this chapter.

874. In response to Ms Hadfield's evidence, Ms Evans did not support the addition of a rule similar to that in the Tasman Resource Management Plan. She considered that this matter was best considered through a resource consent process. In response to the Panel's questions as to whether the policy direction was satisfactory to allow consideration of the matters outlined by Ms Hadfield, Ms Evans was of the view that it did. She considered that FC-O2 and the financial contributions policies collectively provide for this through directions to remedy or mitigate adverse effects resulting from the proposal (FC-P1), applying financial contributions in a fair and equitable manner (FC-P2), and by providing for either cash or land or a combination (FC-P3).
875. Minor amendments throughout the rules to replace '*shall*' with '*must*' were recommended for clarity and consistency.

Hearing Panel's Evaluation

FC-R1

876. The Panel considers that in response to the submission made by the BDC to add '*development*' to FC-R1.1, the Reporting Officers have misunderstood both the reasoning from BDC and the requirements of s77E of the RMA. BDC have sought that the rule aligns with FC-P1, which already refers to '*development*', while we note s77E enables a local authority to make a rule requiring a financial contribution for any class of activity other than a prohibited activity. Therefore, financial contribution can apply to permitted activities and would have to be associated with development consents i.e. building consents or servicing connections. On this basis, we recommend '*development*' is included in FC-R1.
877. BDC also sought to reword clause (3) of the rule and add '*resilience initiatives*' and '*Water Entities*' which was not supported by Ms Belgrave and Ms Evans. The Panel agree with their conclusions that '*resilience initiatives*' is undefined as to what would qualify in terms of a financial contribution and is thus uncertain. We therefore agree that inclusion of Water Entities is unnecessary.
878. The Panel agrees with the Reporting Officers that the Director General's request to '*including but not limited to*' in clause (1) would create uncertainty and we note that financial contributions are subject to s77E(2) of the RMA, which requires the purpose for which the financial contribution is required to be specified.
879. The Panel agree with Forest and Bird that FC-R1(1)(i) and FC-R1(1)(ii) should be deleted. We consider FC-R1(1)(i) is ambiguous and, as per our recommendation on compensation overall, we recommend that FC-R1(1)(ii) is deleted.
880. The Panel agrees with submitters that a financial contribution should not apply to land to be vested or to subdivisions resulting in amalgamations or a reduction the number of titles. We recommend the further exclusions proposed by the Reporting Officers are included in clause (2).
881. The Panel have considered a number of submissions on clause (3), which include seeking for it to be fairer to applicants and providing some certainty, and we accept that the wording

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

could be clearer in that regard. The Reporting Officers have recommended a series of amendments which we consider are appropriate and we recommend these are included.

882. In relation to the remainder of the submissions on FC-R1 seeking changes, the Panel agree that these are rejected on the basis of the conclusions reached by Ms Belgrave and Ms Evans.

FC-R2

883. The Panel have considered the terms '*works*' in FC-R2(1) and we acknowledge the Reporting Officers recommend its deletion on the basis that s108(9) defines financial contribution as meaning a contribution of '*money or land or a combination of money and land*'. While we note submitters have sought to further include '*works*' in the rule, in our view, this would be inconsistent with the RMA and likely *ultra vires*. We acknowledge Ms Hadfield's concerns and her suggestion to include a rule similar to that in the Tasman Resource Management Plan. However, we consider by both maintaining the word '*may*' and the guidance provided by the policies and clauses in FC-R2, there is sufficient ability to consider situations where an applicant has gone beyond the simple provision of land without adding further clauses. We recommend deleting the reference to '*works*' under RMA Schedule 1, clause 16(2).

884. The Panel agrees the minor amendment to FC-R2(2) proposed by Westpower will improve clarity. We have also considered Westpower's proposed amendment to FC-R2(3)(c)(ii) and while we understand the concern regarding the clause being interpreted as a financial contribution being payable at the time of issue, irrespective of whether the resource consent will be implemented, we are not convinced that Westpower proposed wording of "*prior to giving effect to or implementing the resource consent*" improves the situation or provides any further certainty. The Panel agrees with the Reporting Officers that the time of payment should be specified in conditions, and we recommend this amendment is made. We note Mr Kennedy accepted the revised wording.

885. The Panel agrees with the submission by BDC to amend '*uplifting*' to '*issuing*' in FC-R2(3)(c)(i).

886. In relation to the remainder of the submissions on FC-R2 seeking changes, the Panel agree that these are rejected on the basis of the conclusions reached by Ms Belgrave and Ms Evans.

FC-R3

887. The Panel agrees with the Reporting Officers and submitters that the existing condition of a road is a relevant consideration to the calculation of financial contributions. We have considered the rewording proposed by the Reporting Officers, which requires a consideration of the cost of upgrading the road from the level of service required for existing land uses to the level of service required for the development or subdivision specified in the relevant Council Engineering Standards, and recommend this amendment is made.

888. A general submission by Manawa (S438.114), supported by Kāinga Ora and Westpower, sought, as an alternative to deletion of a number of FC provisions, that, amongst other things, a clear methodology for how contribution will be calculated, over which period of time, and who is responsible for such a calculation. The Panel accepts that the submission provides broad scope.

889. In discussing FC-R4 with Mr Collins, a traffic engineer, the Reporting Officers found that the formulae in FC-R3(3) as notified includes a gap relating to intersections and would not allow

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

for the collection of financial contributions in relation to intersection upgrades and maintenance as part of the road. Mr Collins considered the current wording of the rule was confusing, lacked clarity and was difficult to interpret. Ms Evans reviewed the operative approaches to financial contributions of the three councils and the s32 Report, she noted the s32 Report referenced the ambiguity and difficulties collecting financial contributions currently with an ongoing issue of undercharging. She therefore recommended amendments to the rule to simplify the formulae and address the gap relating to intersections. The Panel accept these amendments and recommend they are adopted.

890. In relation to the submissions of David Ellerm and BDC on FC-R2 seeking changes, the Panel agree that these are rejected on the basis of the conclusions reached by Ms Belgrave and Ms Evans, noting that neither party took up the opportunity offered to provide further information on their submission points.

FC-R4

891. The Panel notes that as part of his advice, Mr Collins identified that the wording of FC-R4 was ambiguous, particularly in terms of determining when a road was *'at capacity'*. As a result, the Reporting Officers, based on the scope provided by the Manawa submission seeking clarity of the FC Chapter, recommended deleting FC-R4 in its entirety, noting that financial contributions required in relation to roads are managed by FC-R3. The Panel accepts the reasoning of the Reporting Officers and recommend deleting FC-R4
892. In relation to the remainder of the submissions on FC-R4 seeking changes, the Panel agree that these are now accepted in part due to the deletion of the rule altogether.

FC-R5

893. The Panel agrees with submissions seeking an amendment to FC-R5(1) to change the *'and'* to an *'or'* at the end of the rule to improve clarity.
894. In relation to the remainder of the submissions on FC-R5 seeking changes, the Panel agree that these are rejected on the basis of the conclusions reached by Ms Belgrave and Ms Evans.

FC-R6

895. The Panel agrees with submissions seeking an amendment to FC-R6(1) to replace *'development'* with *'land use'*, which is consistent with the language used in the FC Chapter.

FC-R7

896. The Panel agree with BDC that an advice note following FC-R7(1) stating that even though existing three waters infrastructure may be located in an area, it may not be available, will provide clarity on this situation for Plan users. We recommend an advice note is included.
897. The Panel notes that a submission by David Ellerm to replace *'may'* with *'are'* in FC-R7(1) was partially supported by Ms Evans and Ms Belgrave who recommended replacing *'may'* with *'shall'*. As discussed previously, the Panel do not recommend this amendment.
898. In relation to the remainder of the submissions on FC-R7 seeking changes, the Panel agree that these are rejected on the basis of the conclusions reached by Ms Belgrave and Ms Evans.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

FC-R8

899. Similar to FC-R7, the Panel agree with the relief sought by BDC to add an advice note addressing the availability of three waters infrastructure and recommend this is included.
900. Again, similar to FC-R7, in response to the submission by David Ellerm seeking to replace 'may' with 'are' in FC-R8(1), the Panel do recommend this amendment.
901. In relation to the remainder of the submissions on FC-R8 seeking changes, the Panel agree that these are rejected on the basis of the conclusions reached by Ms Belgrave and Ms Evans.

FC-R9

902. Similar to FC-R7, the Panel agree with the relief sought by BDC to add an advice note addressing the availability of three waters infrastructure and recommend this is included.
903. Again, similar to FC-R7, in response to the submission by David Ellerm seeking to replace 'may' with 'are' in FC-R9.1, the Panel do not recommend this amendment.
904. In relation to the remainder of the submissions on FC-R9 seeking changes, the Panel agree that these are rejected on the basis of the conclusions reached by Ms Belgrave and Ms Evans.

FC-R10

905. The Panel have considered submissions seeking to delete the five-year timeframe from FC-R10(2)(ii) and FC-R10(2)(iii). We acknowledge that Ms Evans revised her opinion after having considered Ms Hadfield's evidence. We also note Ms Evans did not consider the rule would result in 'double dipping' as contended by Ms Hadfield because she noted it would not apply to a building consent for a single residential unit on a new lot given it refers to 'additional' residential units. We agree with the recommendation to now increase the five year timeframe to eight years to enable extensions of time that may be granted for the issue of a s224(c) certificate. We accept that this is an appropriate timeframe to recognise any recent and relevant contributions that have been made to reserves and community facilities. The Panel notes that this amendment should be made to both FC-R10(2)(ii) and FC-R10(2)(iii).
906. Again, similar to FC-R7, in response to the submission by David Ellerm seeking to replace 'may' with 'are' in FC-R10(1), the Panel do not recommend this amendment.
907. The Panel note that we recommend an amendment under RMA Schedule 1, clause 16(2) to FC-R10(2)(i) to add the words 'of the value' to clarify the rule, as the notified wording makes little sense.
908. In relation to the remainder of the submissions on FC-R10 seeking changes, the Panel agree that these are rejected on the basis of the conclusions reached by Ms Belgrave and Ms Evans.

FC-R11

909. The Panel notes that the Reporting Officers support submitters that sought to ensure that an applicant did not bear the full cost of upgrading footpaths, walkways, or cycle lanes that have an inadequate level of service before making an application or undertaking an activity. We agree that the existing condition of a shared footpath, walkway or cycleway is a relevant consideration to the calculation of financial contributions, and we recommend FC-R11 is

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

amended to differentiate between the provision of new shared pathways and upgrade of existing shared pathways and recognising their existing condition.

910. In relation to the remainder of the submissions on FC-R11 seeking changes, the Panel agree that these are rejected on the basis of the conclusions reached by Ms Belgrave and Ms Evans.

RC-R12

911. The Panel recommends deleting the provisions in the FC Chapter that relate to offsetting and compensation and therefore recommend deleting FC-R12.

Hearing Panel's Recommendation

912. 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 changes to the **Financial Contributions Rules** as follows:

Financial Contribution Rules	
FC – R1	Financial Contributions as Conditions of Consent
1.	<p>A condition may be imposed on a subdivision, <u>development</u>²⁶⁶ or land use consent to require the applicant, including network utility operators and/or requiring authorities, to make a financial contribution for the following purposes:</p> <ul style="list-style-type: none">i. The management of potential adverse effects arising from the activity;²⁶⁷ii. Securing environmental compensation where any residual adverse effects of the subdivision, use or development that cannot be avoided, remedied or otherwise mitigated;²⁶⁸i. Providing and/or upgrading public network utility services and transport infrastructure;ii. Providing and/or upgrading public reserves, public access and community facilities; and
2.	<p>No financial contribution is payable for:</p> <ul style="list-style-type: none">i. Additions and alterations to residential buildings;ii. A residential building replacing one previously on the site;iii. An approved boundary adjustment;iv. An approved subdivision creating a certificate of title solely for a utility;v. An additional allotment where such land is set aside for ecological, historic heritage or cultural protection in perpetuity; andvi. Infrastructure for which a financial contribution has been made previously;<u>vii. Any allotment that is vested in the Council or the Crown; and</u>²⁶⁹

²⁶⁶ Buller District Council S538.231

²⁶⁷ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.262

²⁶⁸ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.262

²⁶⁹ Ball Developments Ltd S453.013, Davis Ogilvie & Partners Ltd S465.010

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

viii. An approved subdivision resulting in the amalgamation of, or a reduction in, the number of titles.²⁷⁰

3. Where roading or three waters infrastructure upgrades or extensions necessary to meet the requirements of the proposed land-use, development or subdivision are proposed in the relevant District Council's Long Term Plan, but the proposed land-use, development or subdivision requires that the planned works be undertaken earlier than planned for in the Long Term Plan, then the Council will require the developer to meet the full cost of the upgrades and extensions including interest on loans subject to the following:
 - i. The relevant District Council may, at its discretion, and guided by its financial strategy, agree to contribute to the funding at the time the infrastructure is required by the proposed land-use, subdivision or development;
 - ii. Agreements ~~shall~~ **must**²⁷¹ be made in writing between the developer and the relevant District Council, and ~~shall~~ **must**²⁷² state the amount of the financial contribution and timing of any payments to be made **by the relevant District Council**,²⁷³
 - iii. In the event that the relevant District Council does not contribute to the funding at ~~that~~ **the time the infrastructure is required by the proposed land-use, subdivision or development**, the developer will be reimbursed by the **relevant District Council**,²⁷⁴
 - iv. Agreed reimbursement will be made no later than at the time the extension or upgrade would otherwise have been undertaken as set out in **relevant District Council's** Long Term Plan; and²⁷⁵
 - v. Reimbursement will not include interest additional to that which would have been payable by the relevant District Council, had the upgrades or extensions been undertaken at the time proposed in the Long Term Plan.

FC – R2 Nature Of Financial Contributions

1. Financial contributions may at the relevant District Council's discretion, take the form of money or land ~~or works~~ or any combination of money, **and** land ~~and works~~,²⁷⁶
2. Financial contributions ~~shall~~ **must**²⁷⁷ not be imposed on a use, development or subdivision for the same purpose as a development contribution that is **already**²⁷⁸ required, or has already been paid in relation to that use, development or subdivision;
3. Where a financial contribution is, or includes the payment of money, the relevant District Council may specify any one or more of the following in the conditions of the resource consent:
 - a. The amount to be paid by the consent holder;
 - b. How the payment is to be made, including whether payment is to be made by instalment and whether bonding or security can be entered into;

²⁷⁰ Chris & Jan Coll S558.155, Chris J Coll Surveying Limited S566.155, William McLaughlin S567.231, Laura Coll McLaughlin S574.155, Ball Developments Ltd S453.014

²⁷¹ RMA Schedule 1, clause 16(2)

²⁷² RMA Schedule 1, clause 16(2)

²⁷³ Chris & Jan Coll S558.155, Chris J Coll Surveying Limited (S566.156), William McLaughlin S567.232, Laura Coll McLaughlin S574.155

²⁷⁴ Buller District Council S538.231 Chris & Jan Coll S558.155, Chris J Coll Surveying Limited S566.156, William McLaughlin S567.232, Laura Coll McLaughlin S574.155

²⁷⁵ Chris & Jan Coll S558.155, Chris J Coll Surveying Limited S566.156, William McLaughlin S567.232, Laura Coll McLaughlin S574.155

²⁷⁶ Ball Developments Ltd (S453.015), Davis Ogilvie & Partners Ltd (S465.011)

²⁷⁷ RMA Schedule 1, clause 16(2)

²⁷⁸ Westpower Limited S547.338

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

- c. When the payment is to be made:
 - i. In the case of subdivision, generally before ~~uplifting~~ **issuing**²⁷⁹ the section 224 certificate;
 - ii. In the case of land use, **the time of payment as specified in the conditions**²⁸⁰ at the time of issuing of the resource consent;
 - d. If the amount of the payment is to be adjusted to take account of inflation and if so, how the amount is to be adjusted; and
 - e. Whether any penalty is to be imposed for default in payment and if so, the amount of the penalty or formula by which the penalty is to be calculated.
4. Where a financial contribution is, or includes land, the relevant District Council may specify any one or more of the following in the conditions of the resource consent:
- a. The location and area of the land **within the land being subdivided or under application**;
 - b. The state the land is to be in before vesting in or transferring to the Council; and
 - c. The purpose of the land if it is to be classified under the Reserves Act 1977, or the general purpose of the land.
5. When and how the land is to be vested in, or transferred to the relevant District Council or other infrastructure provider. In the case of subdivision consent the land shall **must**²⁸¹ be vested on the deposit of the survey plan under section 224 of the Act, or transferred as soon as legal certificate of title is available; and
6. Where any land is to be vested in the relevant District Council or other infrastructure provider as part of a financial contribution a registered valuer shall **must**²⁸² determine its market value at the date on which the resource consent (imposing the financial contribution condition) commenced under section 116 of the Resource Management Act 1991.

For the purposes of this rule, 'market value' has the same meaning as defined in the International Valuation Standard, as adopted by Australian Property Institute 2008 and Property Institute of New Zealand 2009, which is as follows:

'Market Value is the estimated amount for which a property should exchange on the date of valuation between a willing buyer and a willing seller in an arm's length transaction, after proper marketing, wherein the parties had each acted knowledgeably, prudently and without compulsion.'

This rule does not apply to land that is to be vested in Council as a financial contribution in circumstances where the value of the land does not need to be determined.

FC – R3 Calculation of Financial Contributions - Roads

1. The maximum contribution required for the ~~development~~,²⁸³ maintenance and upgrading of roads **including intersections**²⁸⁴ that serve a subdivision, land use or development shall **must**²⁸⁵ be 100% of the ~~estimated~~ cost **calculated in FC-R3(3); and**²⁸⁶

²⁷⁹ Buller District Council S538.232

²⁸⁰ Westpower Limited S547.338

²⁸¹ RMA Schedule 1, clause 16(2)

²⁸² RMA Schedule 1, clause 16(2)

²⁸³ RMA Schedule 1, clause 16(2)

²⁸⁴ Manawa Energy Limited S438.114

²⁸⁵ RMA Schedule 1, clause 16(2)

²⁸⁶ Manawa Energy Limited S438.114

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

2. Where a development or subdivision will generate traffic effects that require the sealing, widening or upgrading of a road **or intersection**,²⁸⁷ the financial contribution shall **must**²⁸⁸ be calculated as the cost of upgrading the road **from the level of service required for existing land uses** to the required level of service **required for the development or subdivision**²⁸⁹ specified in the relevant Council Engineering Standards or where no such Standard exists, the standard required by NZS 4404:2010 Land Development and Subdivision Infrastructure.
3. Financial contributions for roading will be calculated in accordance with the following formulae based on the number of new allotments created:²⁹⁰

- i. Financial contribution for subdivision - based on number of new allotments created:

$$\mathbf{Cp = Lg \times D1 \times Rc + Ic}$$

$$\mathbf{Cp = Value of contribution (\$)}$$

Lg = Number of new allotments created in the proposed subdivision

D1 = Length of road frontage (km) along the application site. If the subdivision is on both sides of the road the length must be added together

Rc = Cost (\\$/km) determined by the Council based on the road hierarchy

Ic = Cost (\\$/m²) to upgrade the intersection as determined by the Council (if required)

Contribution = Cost of forming or upgrading road to the nearest Allotment boundary of the site + Cost of upgrading road along the frontage of the site

$$\mathbf{Cp = \frac{D1 \times Rc \times Lg}{Le + Lg} + \frac{D2 \times Rc}{2}}$$

Where

Cp = Value of contribution (\\$)

D1 = Length of road (km) required to be upgraded to the closest boundary of the site

D2 = Length of road frontage (km) along the application site. If the development is on both sides of the road the length along both frontages shall be added together.

Le = Total number of existing allotments fronting to the road to be upgraded measured as D1

Lg = Number of new allotments created in the proposed subdivision

Rc = Cost (\\$/km) of improving the affected section of road to the level required as determined by the predicted traffic volume and road hierarchy.²⁹¹

- ii. Financial Contribution for Land-use and Development - Based on traffic generation:

$$\mathbf{Cp = Rc \times Tg + Ic}$$

$$\mathbf{Cp = Value of contribution (\$)}$$

Rc = Cost (\\$/vehicle movement) determined by the council based on the road hierarchy and activity

²⁸⁷ Manawa Energy Limited S438.114

²⁸⁸ RMA Schedule 1, clause 16(2)

²⁸⁹ Chris & Jan Coll S558.159, Chris J Coll Surveying Limited S566.159, William McLaughlin S567.235, Laura Coll McLaughlin S574.159

²⁹⁰ Manawa Energy Limited S438.114

²⁹¹ Manawa Energy Limited S438.114

Tg = Total amount of traffic generated by the development (annual average daily traffic)

Ic = Cost (\$/m²) to upgrade the intersection as determined by the council (if required)

Contribution = Cost of upgrading road to the nearest boundary of the site multiplied by the total traffic to be generated by the proposal + cost of upgrading road along the frontage of the site

$$C_p = \frac{D_1 \times R_c \times T_g}{T_e + T_g} + \frac{D_2 \times R_c}{2}$$

Where:

C_p = Value of contribution (\$)

D₁ = Length of road (km) required to be upgraded to the closest boundary of the site

D₂ = Length of road frontage (km) along the application site. If the development is on both sides of the road the length along both frontages shall be added together.

T_e = Total amount of traffic currently using this road (as vehicles per day, AADT)

T_g = Total amount of traffic generated by the development (as vehicles per day, AADT)

R_c = Cost (\$/km) of improving the affected section of road to the level required as determined by the predicted traffic volume and road hierarchy.²⁹²

4. Financial contributions do not apply to the forming of new roads and intersections. These will form part of resource consent and vesting under section 224c of the RMA.²⁹³

FC – R4 Full Cost Financial Contribution for Roads

1. Roads outlined in 2 below which are at capacity for their structure are unable to accommodate additional loadings. The financial contribution for these roads shall be the full cost to accommodate the additional loadings and to bring the road up to the relevant District Council's Subdivision and Development Infrastructure Technical Requirements Code standard for its place in the road hierarchy or where no such Code of Practice exists, the standards in NZS 4404:2010 Land Development and Subdivision Infrastructure.

2. This rule applies to the following roads:

- i. No roads have been identified in the proposed Plan.²⁹⁴

FC – R54 Financial Contributions for Vehicle Parking

1. A financial contribution for vehicle parking may be required where the on - site accessible parking, on - site bicycle parking, on - site trailer/boat parking or EV charging requirements cannot be achieved as required for the activity in the zone in accordance with the Transport Performance Standards. The financial contribution will be charged based on the following formula for each accessible, trailer/boat park or EV charging site ~~and~~ or²⁹⁵ for every 5 bicycle parks not provided.

Contribution = value of land required + Cost of construction

²⁹² Manawa Energy Limited S438.114

²⁹³ Manawa Energy Limited S438.114

²⁹⁴ Manawa Energy Limited S438.114

²⁹⁵ Chris & Jan Coll S558.161, Chris J Coll Surveying Limited S566.161, William McLaughlin S567.237, Laura Coll McLaughlin S574.161

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

$$C_p = (VI \times A) + (D \times A)$$

Where:

C_p = Value of contribution (\$)

VI = Value of 35m² of land in the vicinity of the off-site vehicle parking area as determined by an independent registered valuer

A = Number of vehicle parks required to make up the on-site shortfall where 5 bicycle parks equate to 1 carpark

D = cost of construction of 35m² of parking area to a permanent asphaltic concrete or concrete surface, including earthworks, pavement, kerbing, drainage, electricity connection and charge station for EV charging and marking determined either by an independent cost assessment or from the current Construction Price Index.

2. The financial contributions taken by the Council in lieu of the on-site vehicle parking ~~shall~~ **must**²⁹⁶ be used to provide, upgrade or extend public vehicle parking/EV charging in the vicinity of the location from which it is collected. It may also be used to contribute towards the cost of vehicle parking/EV charging facilities that have already been constructed.
3. The relevant District Council may reduce the value or waive the contribution in one or more of the following circumstances:
 - i. The Council has not provided or did not intend to provide additional off-site vehicle parking/EV charging in the vicinity of the site;
 - ii. The Council has provided vehicle parking/EV charging or intends to do so, but this has been or will be funded through a different funding source in the Council's Long Term Plan, such as user fees and charges; or
 - iii. The site contains a Historic Heritage resource scheduled in this plan and the reduction will enable the continued use of the building and support its protection or conservation.

FC – R65 Financial Contributions for Service Lanes

1. Where the District Plan indicates the formation and vesting of land for the purpose of a service lane, or the upgrading of a service lane, a ~~development or subdivision~~ **or land use consent of the land shall**²⁹⁷ **must**²⁹⁸ include a condition requiring the land to be formed to the standards specified in the relevant district Council Engineering Standards or where no such Standard exists, NZS 4404:2010 Land Development and Subdivision Infrastructure.

FC – R76 Financial Contributions for Water Supply

1. Financial contributions may be required to ensure a supply of:
 - i. Potable drinking water for human consumption (complying with the NZ Standard for Drinking Water);
 - ii. Water for industrial and commercial activities;
 - iii. Water for fire fighting and irrigation; and

²⁹⁶ RMA Schedule 1, clause 16(2)

²⁹⁷ Chris & Jan Coll S558.163, Chris J Coll Surveying Limited S566.163, William McLaughlin S567.239, Laura Coll McLaughlin S574.163

²⁹⁸ RMA Schedule 1, clause 16(2)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

- iv. Where proposed allotments, sites or buildings are intended for human habitation or occupation.

Advice Note: It shall be noted that even though existing three waters infrastructure may be located in an area, it may not be available, for instance if the infrastructure is on the boundary between urban and rural environmental zones.²⁹⁹

2. The maximum contribution required for the development and upgrading of water supply infrastructure that services a subdivision, land use or development shall be 100% of the estimated cost. Reticulation shall be designed and constructed to meet the relevant district Council Engineering Standards, or where no such Standard exists, NZS 4404:2010 Land Development and Subdivision Infrastructure.
3. Where an existing potable drinking water supply is available and has adequate capacity for meeting the needs of the proposed activity the financial contribution shall be the full and actual costs of providing all the necessary reticulation to serve the proposed allotments, sites and buildings.
4. Where no supply is available, or the capacity of the supply is inadequate, the financial contribution shall be the full and actual costs of providing a supply and/or increasing the capacity, if necessary, together with the cost of reticulation within the subdivision or land use.

FC – R87 Financial Contribution for Wastewater Treatment and Disposal

1. Financial contributions may be required to maintain the health and public safety and amenity of inhabitants or occupants and to protect the natural environment from harmful disposal of wastewater where new allotments, sites or buildings are intended for human habitation or occupation.

Advice Note: It shall be noted that even though existing 3 waters infrastructure may be located in an area, it may not be available, for instance if the infrastructure is on the boundary between urban and rural environmental zones.³⁰⁰

2. The maximum contribution required for the development and upgrading of wastewater treatment and disposal infrastructure that serve a subdivision, land use or development shall be 100% of the estimated cost. Reticulation shall be designed and constructed to meet the relevant district Council Engineering Standards, or where no such Standard exists, NZS 4404:2010 Land Development and Subdivision Infrastructure.
3. Where an existing wastewater treatment system is available and has adequate capacity within its operational limits and environmental compliance requirements to meet the needs of the proposed activity the financial contribution shall be the full and actual costs of providing all the necessary reticulation to connect the proposed allotments, sites and buildings.
4. Where no wastewater system is available, or the capacity of the supply is inadequate, the financial contribution shall be the full and actual costs of treatment and disposal and/or increasing the capacity, including design and investigation, acquiring sufficient land for on-site land-based treatment and disposal of wastewater likely from the activities on the site, together with the cost of reticulation within the subdivision or land use.

FC – R98 Financial Contribution for Stormwater Treatment and Disposal

²⁹⁹ Buller District Council S538.238

³⁰⁰ Buller District Council S538.239

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

1. Financial contributions may be required to prevent damage and loss of property and amenity from uncontrolled run-off and to protect the natural environment from harmful disposal of stormwater where new allotments, roads and/or other impervious surface are created by subdivision or land use and create a need for stormwater treatment and disposal.

Advice Note: It shall be noted that even though existing three waters infrastructure may be located in an area, it may not be available, for instance if the infrastructure is on the boundary between urban and rural environmental zones.³⁰¹

2. The maximum contribution required for the development and upgrading of stormwater treatment and disposal infrastructure that serve a subdivision, land use or development shall be 100% of the estimated cost. Stormwater reticulation and any stormwater treatment devices shall be designed and constructed to meet the relevant district Council Engineering Standards, or where no such Standard exists, NZS 4404:2010 Land Development and Subdivision Infrastructure.
3. Where an existing stormwater piped outfall or stormwater treatment system is available and has adequate capacity for meeting the needs of the proposed activity the financial contribution shall be the full and actual costs of providing for the conveyance of stormwater to the outfall or treatment system.
4. Where there is no stormwater piped outfall or treatment system (and treatment is required), or the capacity of the piped outfall or treatment system is inadequate, the financial contribution shall be the full and actual costs of providing for the stormwater treatment and disposal and/or increasing the existing stormwater system capacity, together with the cost of reticulation within the subdivision or land use.

FC – R109 Financial Contribution for Reserves and Community Facilities

1. Financial contributions may be required to provide for open space, recreational and community facilities to address the need for these facilities created by subdivision and development in the locality where new allotments or residential units are created.
2. The maximum contribution shall be required as follows:
 - i. 7.5% **of the value**³⁰² of the additional allotments at the time of subdivision consent (either in cash or land equivalent, at Council's discretion) except that in the case of subdivisions where allotments are greater than 4000m², the value of the rural allotment for this purpose shall be the proportional value of a house site of 1,000m² within each allotment;
 - ii. Cash equivalent of the value of 20m² of land for each additional residential unit created, at the time of building consent, less any contribution made at the time of previous subdivision within the preceding **five eight** years; and³⁰³
 - iii. Cash equivalent of the value of 4m² of land for each additional 100m² of net, non-residential building floor area created, at the time of building consent, less any contribution made at the time of previous subdivision within the preceding **five eight** years.³⁰⁴

FC – R110 Financial Contribution for Shared Pathways

³⁰¹ Buller District Council S538.240

³⁰² RMA Schedule 1, clause 16(2)

³⁰³ Ball Developments Ltd S453.016, Davis Ogilvie & Partners Ltd S465.012

³⁰⁴ Ball Developments Ltd S453.016, Davis Ogilvie & Partners Ltd S465.012

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

1. The maximum contribution required for the development and upgrading of shared pathways that serve a subdivision, land use or development shall be 100% of the estimated cost.
2. Where a development or subdivision will generate effects that require the creation or upgrading of a footpath, walkway or cycleway access, the financial contribution shall be calculated as:
 - i. the cost of building the footpath, walkway or cycleway access; or
 - ii. the cost of upgrading the pedestrian/cycle access footpath, walkway or cycleway access from the level of service required for existing land uses to the required level of service required for the subdivision, land use or development specified in the relevant district Council Engineering Standards or where no such Standard exists, the standard required by NZS 4404:2010 Land Development and Subdivision Infrastructure.³⁰⁵

~~FC R12 Financial Contribution for Offsetting and Compensation for Adverse Environmental Effects on Natural Landscapes Values or Biodiversity Values~~

- ~~1. The maximum financial contribution for offsetting or compensation for adverse environmental effects on outstanding natural landscape values, areas of significant indigenous vegetation or areas of significant habitat of indigenous fauna will be the amount of money needed to fully offset or compensate (or any combination of these) any adverse environmental effects that cannot otherwise be avoided, remedied or mitigated.~~
- ~~2. In assessing the level of financial contribution required for biodiversity offsetting and compensation the principles in Policy ECO P9 will be adhered to.³⁰⁶~~

4. PUBLIC ACCESS

4.1. PA General/Whole Chapter

Submissions and Further Submissions

913. Five submission points and five further submission points relating to the Public Access (PA) Chapter general matters were summarised in a Table on pages 185-186 of the s42A Report. One submission sought to retain the chapter in its entirety, one sought to delete the chapter, and the three further submission points sought amendments.

914. The Panel adopts these summaries and has considered the relevant submissions and further submissions.

Section 42A Report

915. Ms Belgrave and Ms Evans acknowledged the support from Herenga ā Nuku Aotearoa that sought to retain the PA chapter as notified. This acknowledgement was subject to recommended amendments that arose from other submission points.

916. In response to the submission point made by the Director General (opposed by a further submission from Herenga ā Nuku Aotearoa and supported by a further submission point from BDC) to delete the PA chapter in its entirety, Ms Belgrave and Ms Evans did not support the

³⁰⁵ Chris & Jan Coll S558.170, Chris J Coll Surveying Limited S566.170, William McLaughlin S567.245, Laura Coll McLaughlin S574.170

³⁰⁶ Manawa Energy Limited S438.119

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

relief sought. The Director General's submission considers that the public access matters were sufficiently addressed elsewhere in the Plan. However, the s42A Report highlights that a separate PA Chapter was in accordance with the National Planning Standard.

917. Ms Belgrave and Ms Evans did not support the relief sought by GDC to remove all references to '*Sites or Areas of Significance to Māori*' because no justification had been provided to support the submission point. Poutini Ngāi Tahu opposed this relief by way of further submission.
918. In response to the two submission points made by GDC that sought to amend the chapter to include provisions to manage the construction, design and approval of unformed legal roads, Ms Belgrave and Ms Evans did not support the relief sought. They considered the relief was unnecessary because the matter was addressed in the Transport Chapter.
919. Ms Belgrave and Ms Evans recommended no amendments to the chapter based on these submissions.

Hearing and Submitter Evidence/Statements

920. Ms Young, for the Director General, advised the submission point on this chapter was withdrawn when a further submission was made.

Reporting Officer Reply Evidence

921. Ms Evans's Right of Reply addressed various matters that were raised at the hearing. The specific matters are summarised in the relevant sections.

Hearing Panel's Evaluation

922. The Panel agree with the Reporting Officers that a Public Access Chapter is a requirement of the National Planning Standards and we acknowledge the Director General withdrew the submission on this matter.
923. The Panel agree that there is no justification to remove reference to Site or Area of Significance to Māori given the requirements of the RMA and WCRPS. We agree that the construction, design and approval of unformed legal roads is covered in the Transport Chapter. We recommend the GDC submission points are rejected.

Hearing Panel's Recommendation

924. The Panel recommends no amendments in response to the submissions.

4.2. PA Overview

Submissions and Further Submissions

925. Eleven submission points and five further submission points relating to the Overview were summarised in a Table on pages 187-188 of the S42A Report. Eight submission points supported retention of the wording as notified and three sought amendments. The Panel adopts these summaries and has considered all the relevant submissions and further submissions.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

Section 42A Report

926. Ms Belgrave and Ms Evans acknowledged the support from the submission points that sought retain the PA Overview text as notified. This acknowledgement was subject to recommended amendments that arose from other submission points.
927. In response to the submission made by Herenga ā Nuku Aotearoa that sought to amend the wording to include the specific purpose of the Walking Access Act 2008, Ms Belgrave and Ms Evans initially supported the relief sought on the basis that it would improve plan clarity and because the Walking Access Act was referenced. However, in the Addendum Report, Ms Evans revised her view, having heard the evidence of Mr Sutherland and Mr O’Conner (for Federated Farmers) and recommended deleting all references to the Walking Access Act in recognition that the scope of the chapter was limited to RMA s6(d) and not public access more generally.
928. Ms Belgrave and Ms Evans supported the relief sought by Frida Inta to include a cross-reference to NC-P5 because this policy related to enabling reductions in public access to waterways when natural hazard works were required. They therefore considered it was appropriate to include a cross-reference as follows:

*Objectives, policies, rule requirements, and matters for control or discretion for all esplanade reserves, esplanade strips and access strips are located in the Subdivision Chapter **and Natural Character and Margins of Waterbodies Chapter**.*

929. There were a number of submission and further submission points that relate to Unformed Legal Roads section of the Overview. Lyn McIntosh (S469.001) supported the wording, Herenga ā Nuku Aotearoa (S274.003 and FS53.20) opposed it in part, and the Fish and Game (S302.004) sought minor amendments. Ms Belgrave and Ms Evans agreed with the further submission point that unformed legal roads were located adjacent to or were separate to areas of private land. They also noted that the formation of an unformed legal road was provided for as a permitted activity under Rule TRAN-R3 within the Transport chapter, which did not include a cross reference to the PA Chapter. Having considered these matters, the Reporting Officers recommend deleting this part of the Overview because they considered it was unnecessary in this part of the plan.
930. In the Addendum Report, Ms Belgrave and Ms Evans recommended amending the PA Overview as follows:

The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers is a matter of national importance provided for under Section 6 of the Resource Management Act. Provision of public access to waterbodies is also included in the primary purpose of the Walking Access Act 2008, which is to provide the New Zealand public with free, certain, enduring and practical access to the outdoors (including around the coast and lakes, along rivers, and to public resources) so that the public can enjoy the outdoors.

...

*Objectives, policies, rule requirements, and matters for control or discretion for all esplanade reserves, esplanade strips and access strips are located in the Subdivision Chapter **and Natural Character and Margins of Waterbodies Chapter**.*

Unformed Legal Roads

Unformed legal roads provide a valuable network of public access opportunities to the outdoors with many allowing access to and along the coast, freshwater bodies and other public resources. Many also cross private land or traverse sensitive ecological environments and careful decision

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

~~making is needed to ensure that any new provision for public access through unformed legal roads is undertaken in a way that the impacts on natural resources and the safety and security of private landowners are well managed to avoid adverse effects on those resources and private landowners.~~

Hearing and Submitter Evidence

931. Mr Dean Kelly provided a statement of evidence for Fish and Game reiterating the relief sought in the submission to more accurate reference to unformed legal roads 'bisecting' private land rather than 'crossing' it. He pointed out the importance of unformed legal roads to provide public access to waterways and wetlands for fishing and hunting. He noted that there was no private ownership of the land underlying unformed legal roads and that the neighbouring landowners had no more privilege to use this land than the general public.
932. Mr Dean van Mierlo presented legal submissions on behalf of Fish and Game questioning whether the Reporting Officers had fully understood the nature of the submission due to what appeared to be errors in the recommended amendments to the part of the Overview relating to unformed legal roads. He reiterated the importance of unformed legal roads in providing public access, particularly to fresh waterbodies. He considered it was relevant to reference unformed legal roads in this Chapter and did not support the deletion of the entire wording, as set out in the s42A Report. He requested retaining the first sentence, so it reads as follows:

Unformed Legal Roads

Unformed legal roads provide a valuable network of public access opportunities to the outdoors with many allowing access to and along the coast, freshwater bodies and other public resources.

933. In Ms Inta did not support deleting the references to the Walking Access Act. She considered the PA Chapter was an appropriate place to refer to unformed legal roads and supported the Fish and Game position that they are an important way of providing public access to fresh waterbodies.
934. Ms Inger Perkins spoke at the hearing on behalf of Herenga ā Nuku Aotearoa, the Outdoor Access Commission. She was concerned with the removal of the reference to the Walking Access Act, which emphasised the value of public access to the outdoors and was entirely appropriate for this chapter. She noted that the network of unformed legal roads across the region were a critical component of public access and strongly recommended that they were included in the Public Access Chapter, noting they were referenced in the Transport Chapter. She considered that there needed to be a brief paragraph about unformed legal roads in the introductory text and provided associated wording. She also referred to health and safety advice for farmers in regard to public access and provided a website link to that advice.

Reporting Officer Reply Evidence

935. Ms Evans reconsidered the s42A Addendum Report recommendations relating to unformed legal roads, having heard from submitters at the hearing. Ms Evans advised she remained neutral whether it was appropriate to retain the reference to unformed legal roads in the Overview but accepted there was a general preference for the first sentence to be retained for context and updated her recommendation accordingly.
936. In response to questions from the Panel about the management of unformed legal roads beyond the requirements of the Transport Chapter, Ms Evans identified reference to them in

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

Rule INF-R12, which provided for new telecommunications poles and new antenna. She noted it did not cross reference the PA Chapter.

937. In response to whether the PA chapter was located in the right part of the pTTPP, Ms Evans advised that she had reviewed other district plans for comparison. She noted that it was common for a PA chapter to be located in the Natural Environment Values section.

Hearing Panel's Evaluation

938. The Panel initially considers the reference to the Walking Access Act 2008 in the Overview. We tend to agree with Ms Evan the Act's relevance in a district plan context is limited to access to and along the coast, lakes and rivers. However, we do not consider there is a now scope to delete reference to it given that the Director General's submission, which Ms Evans relied upon, has been withdrawn. As might be expected from these considerations, we do not consider there is any benefit to adding reference to the specific purpose of the Walking Access Act in the Overview, as sought by Herenga ā Nuku Aotearoa. We therefore recommend no amendments to the first paragraph of the Overview.
939. The Panel notes that Ms Belgrave and Ms Evans supported the relief sought by Frida Inta to include a cross-reference to NC-P5, which relates to enabling reductions in public access to waterways when natural hazard works are required. They had recommended adding reference to the Natural Character and Margins of Waterbodies Chapter in the paragraph referring to esplanade reserves, esplanade strips and access strips, however, that wording did not flow through into Appendix 1 of the Right of Reply. The Panel as examined this further and noted that NC-P5 does not reference esplanade reserves, esplanade strips and access strips and therefore consider adding Natural Character and Margins of Waterbodies Chapter to this paragraph is inappropriate. Further, we note reference to the Natural Character Chapter is already contained within the PA Overview, although the wording needs to be corrected to '*Natural Character and ~~Activities Adjacent to~~ the Margins of Waterbodies*'. As a result, other than this correction, the Panel do not recommend any further changes.
940. The Panel acknowledges the submissions related to the unformed legal roads section of the Overview. We acknowledge that unformed legal roads are separate to areas of private land. We also acknowledge that the formation of an unformed legal road is a permitted activity under Rule TRAN-R3. The question is whether it is necessary within the PA Chapter to be referring to unformed legal roads. Having considered the views of submitters, the Panel accept that the first sentence is appropriate and should be retained. It is simply stating what unformed legal roads are able to provide which appropriate for an overview. In terms of the second sentence while we have some reservations about its contents, in that it appears to go beyond the purpose of an overview in referring to '*careful decision making*', there are now no submissions seeking deletion of this part of the overview. We have considered the amendment sought by Herenga ā Nuku Aotearoa, however, we consider these would also go beyond the purpose of an overview. We therefore recommend the paragraph be retained with the minor amendment sought by Fish and Game to replace '*cross*' with '*bisect*' to be more precise.

Hearing Panel's Recommendation

941. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the relevant submission point identified in the footnote below is accepted, and recommend amending the **Public Access Overview** as follows:

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

Overview

The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers is a matter of national importance provided for under Section 6 of the Resource Management Act. Provision of public access to waterbodies is also included in the primary purpose of the Walking Access Act 2008.

Being able to access these areas is an important facet of our well-being providing opportunities for the re-establishment of cultural connection to waterbodies as well as supporting recreation and relaxation. This is recognised and provided for in the New Zealand Coastal Policy Statement and the West Coast Regional Policy Statement and West Coast Regional Plans.

The majority of the plan provisions to support this Chapter have been woven through other chapters including; Poutini Ngāi Tahu, Sites and Areas of Significance to Māori, Subdivision, Natural Character and ~~Activities Adjacent to~~ **and the Margins of**³⁰⁷ Waterbodies, Activities on the Surface of the Water and the Coastal Environment.

Esplanade Reserves, Esplanade Strips and Access Strips

Esplanade reserves can be created through subdivision, when land is reclaimed, when a road is stopped, or can be created voluntarily.

Esplanade strips and access strips can be created either through subdivisions, or at any other time by agreement between the land owner and Council. The creation of strips outside of subdivision uses the process set out in s235 RMA (for esplanade strips) or in s237B RMA (for access strips).

Objectives, policies, rule requirements, and matters for control or discretion for all of esplanade reserves, esplanade strips and access strips are located in the Subdivision Chapter.

Unformed Legal Roads

Unformed legal roads provide a valuable network of public access opportunities to the outdoors with many allowing access to and along the coast, freshwater bodies and other public resources. Many also ~~cross~~ **bisect**³⁰⁸ private land or traverse sensitive ecological environments and careful decision making is needed to ensure that any new provision for public access through unformed legal roads is undertaken in a way that the impacts on natural resources and the safety and security of private landowners are well managed to avoid adverse effects on those resources and private landowners.

4.3. PA Objectives & Policies

Submissions and Further Submissions

942. Nineteen submission points and two further submission points relating to **PA-O1** were summarised in a Table on pages 189-190 of the s42A Report. Seventeen submissions sought to retain the provision as notified and two sought amendments. Both further submissions opposed the submissions that sought amendment.
943. Three submission points and one further submission point relating to the addition of a policy were summarised in a Table on page 191 of the s42A Report. The three submissions sought the addition of a policy, while the further submission opposed one of them.

³⁰⁷ RMA Schedule 1, clause 16(2)

³⁰⁸ West Coast Fish and Game Council (S302.004)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

944. The Panel adopts these summaries and has considered the relevant submissions and further submissions.

Section 42A Report

PA - O1

945. Ms Belgrave and Ms Evans acknowledged the support from 17 submission points that sought to retain the PA-O1 as notified. This acknowledgement was subject to recommended amendments that arose from other submission points.

946. In response to the submission points made by Federated Farmers and Westpower that both sought to change the wording of PA-O1, Ms Belgrave and Ms Evans did not support the amendments. Herenga ā Nuku Aotearoa opposed both submissions by way of further submission.

947. Federated Farmers sought amendments as follows:

~~To maintain and enhance~~ Customary and public access to and along the coastal marine area, waterbodies and public resources is provided for, maintained and enhanced where the access did not create adverse effects on the natural character, indigenous biodiversity, cultural values or the rights and obligations of private property owners.

948. Westpower sought amendments as follows:

~~To maintain and enhance~~ The maintenance and enhancement of customary and public access to and along the coastal marine area, waterbodies and public resources where is contributes to the economic, social and cultural wellbeing of people and communities is promoted.

949. Ms Belgrave and Ms Evans did not consider the Westpower revision gave appropriate effect to RMA s6(d) or NZCPS Objective 4. They also did not consider it was necessary to duplicate the wording of the WCRPS. They also did not support the Federated Farmers revision because they considered economic, social and cultural wellbeing was already covered in PA-O1 in addition to other provisions in the Plan.

950. Initially, no amendments were recommended to PA-O1. However, in the Addendum Report, Ms Evans recommended deleting 'public resources' from the objective to align the language with the Walking Access Act 2008, as follows:

To maintain and enhance customary and public access to and along the coastal marine area, and waterbodies ~~and public resources.~~

New Policy

951. In response to the submission point made by Manawa that sought to add a new policy to the PA Chapter, Ms Belgrave and Ms Evans did not support the relief sought. Manawa sought the following policy be added:

To maintain and enhance public access to and along the coastal marine area and waterbodies, while taking into account the need to ensure public safety and maintenance of the operational functional needs of infrastructure.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

952. Herenga ā Nuku Aotearoa opposed the addition of the new policy by way of further submission on the basis that the policy sought was similar to PA-O1 and that other policies throughout the Plan provided for the maintenance of infrastructure. The Reporting Officers agreed with Herenga ā Nuku Aotearoa and recommended rejecting the Manawa submission.
953. In response to submission points made by Buller Conservation Group and Frida Inta that sought to add a new policy to the PA Chapter to cover the purpose of esplanade strips, the Reporting Officers considered it was unnecessary and they did not support the relief sought.
954. Ms Belgrave and Ms Evans recommended not adding any new policies to the PA Chapter.

Hearing and Submitter Evidence/Statements

955. Mr Sutherland and Mr O'Connor, for Federated Farmers, reiterated support in principle for the objective. However, they set out concerns that without clarification, it could result in adverse effects on private landowners. They advised that the Walking Access Act provided for public access over private land and therefore they consider that PA-O1 failed to adequately take into account the range of potential adverse effects associated with the public using private land for access. The noted health and safety was a primary concern and maintained their view that the objective should be amended as set out in their submission.
956. Mr Kennedy, for Westpower, disagreed with the s42A recommendation that the requested wording did not give effect to the NZCPS or did not recognise that public access as a matter of national importance. He considered the wording of the objective as notified was inconsistent with the WCRPS. Additionally, he did not consider that the other policies identified by the Reporting Officers fully give effect to the wording sought by Westpower's submission in relation to PA-O1. He maintained his view that the objective should be amended as set out in the submission.
957. Ms Inta did not support deleting '*public resources*' from PA-O1 and suggested it could be changed to '*public amenity*'.
958. Ms Styles, for Manawa, reiterated that it was appropriate to include a policy that related to public access. While she acknowledged that the wording was similar to the objective but pointed out that it also acknowledged the need to take into account public safety and maintenance activities through the provision of public access.
959. Mr van Mierlo, for Fish and Game, stated that he was not opposed to a new policy but considered health and safety reasons should not be overstated to preclude use or public access. Mr Kelly considered the policy should acknowledge unformed paper roads have public value and amenity.
960. Ms Perkins, for Herenga ā Nuku Aotearoa did not oppose a new policy but considered tow may be more appropriate to separate the maintaining and enhancing public access and health and safety aspects from safety. She acknowledged health and safety issues had been an issue in the past but considered this had been addressed in publication available to farmers.

Reporting Officer Reply Evidence

961. Discussion at the hearing raised questions as to whether the chapter should contain provisions relating to health and safety. Ms Evans reviewed other district plans for

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

comparison. She noted some plans included provisions that identify where it was not appropriate to provide public access for health and safety reasons, such as where the access was along and adjacent to waterbodies and not in the context of providing public access over privately owned land more generally.

962. In Reply, Ms Evans reflected on the discussion at the hearing and whether the public safety aspect of a new policy as requested by Manawa should be included in the Chapter. She considered that health and safety was a relevant consideration for the provision of public access, including influencing decisions on esplanade reserves or strips. She did not consider it necessary to include the reference to maintaining infrastructure as this was addressed elsewhere in the Plan. She recommended adding a new policy as follows:

Maintain and enhance public access to and along the coastal marine area and waterbodies, while having regard to public safety.

963. In response to questions from the Panel, Ms Evans also investigated whether a policy or policies are required to give effect to the objective, or whether it is adequately given effect to by other pTTPP provisions. She identifies the provisions in the subdivision chapter that relate to esplanade reserves and strips and ASW-P2 that enables motorise watercraft where it did not impact on public access.
964. Due to the limited scope relating to this Chapter, Ms Evans did not consider that any policy amendments beyond that relating the health and safety could be recommended.

Hearing Panel's Evaluation

PA-01

965. The Panel have reviewed the revised wording of PA-01 by both Federated Farmers and Westpower. We do not consider either amendment enhances the objective and we agree with the Reporting Officers that they do not appropriately recognise public access as a matter of national importance in accordance with section 6(d) of the RMA or give effect to Objective 4 of the NZCPS, which seeks to maintain and enhance to the public open space and recreation opportunities of the coastal environment by maintaining and enhancing public walking access. The Panel notes that with the withdrawal of the Director General's submission there is not scope within submissions to amend the objective, as proposed by Ms Evans in the Right of Reply. We therefore recommend that the objective remain unamended.

New Policy

966. In terms of the Manawa submission to introduce a new policy, the Panel have considered the wording proposed and the revised recommended wording of Ms Evans. We agree that addressing health and safety is a relevant consideration for the provision of public access. However, we consider both the Manawa version and Ms Evans' recommendation are framed more as an objective rather than a policy. We note that Policy PA-P2, which is amended and transferred from the Natural Character and Margins of Waterbodies Chapter addresses restricting public access to waterbodies when natural hazard mitigation works are required or when required for public safety due to the operational requirements of regionally significant infrastructure. We consider this partly addresses Manawa's concerns.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

967. Notwithstanding this, the Panel agree that a broader policy on health and safety is appropriate, and we recommend the policy proposed by Ms Evans amended to refer to begin 'Provide for...'.
968. In terms of the submission of Buller Conservation Group and Frida Inta, we agree with the Reporting Officers that a new policy on esplanade strips is not needed as they are addressed in the Subdivision Chapter.
969. Policy PA-P2 (notified as Policy NC-P5), which was considered in the Natural Character and Margins of Waterbodies Chapter hearing, is included below. We consider it aligns with the PA-O1 and PA-P1. The evaluation of the Panel's recommended changes to this policy are in the Natural Character and Margins of Waterbodies Chapter Recommendation Report.

Hearing Panel's Recommendation

970. 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 be accepted or accepted in part, recommend adding a new policy PA-P1 and transferring NC-P5 as PA-P2, as follows:

Public Access Objective	
PA - O1	To maintain and enhance customary and public access to and along the coastal marine area, waterbodies and public resources.
Public Access Policies	
PA – P1	<u>Provide for public access to and along the coastal marine area and waterbodies, while having regard to public safety.</u> ³¹⁰
NC P5PA-P2 ³⁰⁹	Reduction in public access to waterbodies can be considered when natural hazard mitigation works are required to protect communities from a significant natural hazard threat <u>or when required for public safety due to the operational requirements of regionally significant infrastructure.</u> ³¹¹ When assessing proposals for natural hazard structures, ³¹² effects on public access should be considered and ways to minimise them found, including: a. Provision of alternate certain and enduring access; and b. Provision of public amenity or opportunity for environmental benefit along the structure, provided that the physical integrity of the structure is maintained.

³⁰⁹ Rule NC-P5 as notified transferred to Public Access Chapter from Natural Character and Margins of Waterbodies Chapter Recommendation Report

³¹⁰ Manawa Energy Limited S438.102

³¹¹ Manawa Energy Limited S438.107, Westpower Limited S547.317

³¹² Consequential amendment to Buller Conservation Group S552.098 and Frida Inta S553.098

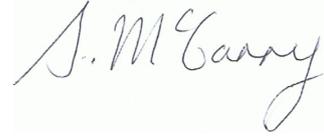
Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters



Dean Chrystal

Hearings Panel - Chair



Sharon McGarry

Hearings Panel Member



Anton Becker

Hearings Panel Member

Date: 10 September 2025

APPENDIX 1 – RECOMMENDATIONS ON PLAN PROVISION

Subdivision Chapter

Overview

Subdivision is the process of dividing an allotment of land or building into one or more additional lots or units or changing an existing boundary location. The way an allotment is subdivided, including its size and shape, is important as it not only determines the quality and character of development, but it also impacts on adjacent sites and the future use of land. Subdivision affects the natural and physical environment and introduces long-term development patterns that cannot be easily changed. **Subdivision should include the provision of infrastructure services.** Subdivision should also provide for good connectivity and integration which incorporates multi-modal transport opportunities.

Subdivision will be assessed against Te Tai o Poutini Plan objectives, policies, rules and standards and any relevant development plans.

Additional provisions apply for subdivision of land that contains an identified outstanding natural feature, and/or an outstanding natural landscape, an area of significant indigenous biodiversity, a site or area of historic heritage, an area of high natural character, a site or area of significant to Māori, cultural, historical or ecological significance, or where there are significant natural hazards will be subject to additional provisions - and assessment against the objectives and policies in the relevant Overlay chapter concerning the feature, site or area. Subdivision applications involving these identified features, sites or areas may need to be accompanied by expert reports to assess the effect of the subdivision on the identified feature, site or area. These sites, areas and features include those identified in schedules and overlays, and may also include those identified through other methods, for example the resource consent process.

The provisions in this chapter should be read in conjunction with district-wide provisions, including hazards and risks and natural environment values.

Māori land is exempt from the subdivision provisions of the Act. It is primarily controlled by the Te Ture Whenua Māori Act 1993 and administered by the Māori Land Court.

SUB – 01 Subdivision achieves patterns of land development that are compatible with the purpose, character and qualities of each zone.

SUB – 02 Subdivision occurs in locations and at a rate that:

- a. Is supported by the capacity of existing infrastructure networks, or provides for infrastructure facilities and networks that are sufficient to accommodate growth and development that meets the standards required by the Council and the Plan;
- b. Facilitates the **safe, efficient and effective** operation of critical **regionally significant** infrastructure;
- c. Enables access and connectivity;
- d. Provides for the health, wellbeing and safety of the West Coast/Te Tai o Poutini community;
- e. Provides for growth and expansion of West Coast/Te Tai o Poutini settlements and businesses, **and industry**; and

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

	<p>f. Avoids significant risk from natural hazards and builds community resilience are built to be resilient to natural hazards;</p> <p><u>g. Protects highly productive land as defined by the NPS-HPL and</u></p> <p><u>h. Maintains and enhances amenity values.</u></p>
SUB – O3	<p>Subdivision design and development:</p> <p>a. Protects significant indigenous biodiversity, natural character, the coastal environment natural, ecological, outstanding natural landscapes and outstanding natural features, areas of historical heritage and Poutini Ngāi Tahu values features and resources from adverse effects; and</p> <p>b. Responds to the physical characteristics and constraints of the site and surrounding environment.</p>
SUB – O4	<p>Subdivision within the FUZ - Future Urban Zone does not result in the fragmentation of sites that would compromise the potential of land within the FUZ - Future Urban Zone to accommodate integrated and serviced urban development.</p>
SUB – O5	<p>Esplanade reserves and strips created through subdivision contribute to the protection of natural values identified significant natural heritage and Poutini Ngāi Tahu values, provide natural hazard mitigation, support good water quality and provide for public access to and along waterbodies rivers and the coastal marine area.</p>
SUB – O6	<p>Where subdivision occurs, sufficient provision is made for the additional community need for open space taking into account demand generated by the subdivision.</p>

SUB – P1	<p>Enable subdivision that creates allotments that:</p> <p>a. Are consistent with the purpose, character, and qualities of the applicable zone;</p> <p>b. Maintains the integrity of the zone with lot sizes and dimensions sufficient to accommodate intended land uses;</p> <p>c. Minimises natural hazard risk to people's lives and properties;</p> <p>d. Protects areas of significant indigenous biodiversity, outstanding natural features and landscapes, cultural values, areas of historical heritage, natural character of the coastal environment and ecological features sites and areas identified on the planning maps and in the Schedules in the Plan;</p> <p>e. <u>Maintains indigenous biodiversity;</u>³¹³</p> <p>f. Have legal, physical and safe access to each allotment created by the subdivision;</p> <p><u>f. Are integrated and connected to the immediately surrounding area and road network; and</u></p> <p><u>g. Protect the safe and efficient operation and maintenance of infrastructure.</u></p>
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³¹³ Buller Conservation Group S552.109, Frida Inta 553.109

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

SUB – P2

Ensure subdivision is appropriately serviced and integrated with existing or planned infrastructure that is provided in an efficient, integrated and coordinated manner by ensuring:

- a. Infrastructure networks have sufficient capacity to accommodate the additional development, and requiring any necessary upgrades to be completed at the time of subdivision;
- b. Infrastructure is installed at the time of subdivision, except for on-site infrastructure that cannot be determined until the allotment is developed;
- c. Sufficient provision has been made for legal and physical access to each allotment created by the subdivision;
- d. Provision of safe, and efficient **and effective transport connections and linkages, including pedestrian, cycling linkages, public transport and** vehicle access;
- e. Provision for open space and reserves, including pedestrian and cycle linkages;
- f. **Provision of** ~~D~~drinking water compliant with New Zealand Drinking Water Standards;
- g. Adequate water supply for firefighting;
- h. Treatment and safe disposal of stormwater that did not result in increased flooding and erosion risk;
- i. Treatment and safe disposal of wastewater with a preference for land-based treatment where no reticulated network is in place;
- j. Where community scale infrastructure is developed to support more than 10 privately owned lots this should be to appropriate standards and vested in the Council to ensure ongoing maintenance and renewal;
- k. Supply of electricity and telecommunications using a method that is appropriate to the type of development, location and character of the area including off-grid renewable electricity supply / wireless /satellite ~~where deemed reasonable by the Council~~;
- l. Connections are made to wastewater, water supply and stormwater systems where they are available and there is capacity; and
- m. Where new community infrastructure is developed, that there is adequate provision for ongoing maintenance either by the vesting of the infrastructure in the relevant Council, or in the case of papakāinga developments, that an ongoing hapū entity may be responsible for maintenance;
- n. In all RESZ - Residential, INZ - Industrial and CMUZ - Commercial and Mixed Use Zones ~~requiring~~:
 - v. Roads to a sealed standard;
 - vi. Underground reticulation of services;
 - vii. Sealed footpaths;
 - viii. Streetlights in urban areas; and

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

	<p>o. Financial contributions are provided where additional or upgraded network utility infrastructure is required to service development.</p> <p>Advice Note: The standards for road construction can be found in Appendix One: Transport Performance Standards.</p>
SUB – P3	<p>Provide for t The subdivision of land within or containing riparian margins, outstanding natural features and landscapes, the coastal environment, areas of significant indigenous biodiversity, sites and areas of significance to Māori or historic heritage settings, where it can be demonstrated must demonstrate that the design and layout of allotments and the location of any building platforms will:</p> <p>a. Not compromise the identified characteristics and values of the Overlay Chapter it is located within; and</p> <p>b. Achieve the relevant objectives and policies for the Overlay Chapter.</p>
SUB – P4	Considered in Natural Hazards Recommendation.
SUB – P5	<p><u>Unless subdivision occurs in accordance with a Structure Plan adopted by the relevant District Council</u> Avoid subdivision within the FUZ - Future Urban Zone that may result in one or more of the following:</p> <p>a. A <u>Compromise</u> in the <u>safe</u>, efficient and effective operation of the local and wider transport network;</p> <p>b. The need for significant upgrades, provisions or extensions to the reticulated wastewater, reticulated water supply or stormwater networks, or other infrastructure in advance of integrated urban development;</p> <p>c. <u>Compromise of</u> the efficient provision of <u>or access to proposed or operating</u> infrastructure being compromised;</p> <p>d. Reverse sensitivity effects when urban development occurs;</p> <p>e. Reverse sensitivity effects on existing rural activities or infrastructure; or</p> <p>f. Fragmentation of sites in a manner that may compromise the appropriate form or nature of future urban development.</p>
SUB – P6	<p>Avoid subdivision:</p> <p>a. In the RURZ - Rural Zones that could result in the creation of an unplanned new settlement, <u>unless the subdivision is to establish papakāinga by Poutini Ngāi Tahu</u>;</p> <p>b. In the Earthquake Hazard Overlay that could result in the creation of new allotments;</p> <p>c. Where detached minor residential units in RURZ - Rural Zones become legally separated from the main residential unit thereby creating cumulative effects on rural character and productivity;</p> <p>d. Where this could create significant reverse sensitivity issues in relation to <u>lawfully established activities</u> in the MINZ - Mineral Extraction Zone, or Energy Activities <u>activities in the GRUZ – General Rural Zones or INZ – Industrial Zones or regionally significant infrastructure</u>;</p>

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

	<ul style="list-style-type: none">e. In unmodified areas of the Coastal environment outside of areas that are already modified unless adverse effects on the natural character of the coastal environment can be avoided, remedied or mitigated; andf. In areas of significant risk of natural hazards, where this is for the purposes of accommodating and/or servicing people and communities; andg. <u>Of Highly Productive Land as defined under the National Policy Statement for Highly Productive Land, unless the requirements of clause 3.8 of the NPS-HPL are met.</u>
SUB – P7	<p>Allow subdivision in the RESZ - Residential Zones that did not comply with the minimum lot design and parameters when:</p> <ul style="list-style-type: none">a. The site size and configuration is appropriate for development intended by the zone;a. The subdivision design maintains residential character and amenity;b. The increased density did not create adverse effects on critical regionally significant infrastructure; andc. It can be demonstrated that it is consistent with the quality and types of development envisaged by RESZ - Residential Zone Objectives and Policies and any residential or medium density housing design guides in place for the zone.
SUB – P8	<p>Provide for subdivision around existing or approved residential development where it enables creation of sites for uses that are in accordance with an approved land use consent or building consent.</p>
SUB – P9	<p>To require esplanade reserves or esplanade strips for allotments of less than 4 ha to enable public access, reduce natural hazard risk, and contribute to the protection of natural character and biodiversity values, except that the width of the esplanade reserve or strip may be varied from 20 metres or waived if:</p> <ul style="list-style-type: none">a. The natural values <u>The protection of conservation values, or the enabling of public access or public recreational use that is compatible with conservation values, or reduction of natural hazard risk</u> warrant a wider or narrower esplanade strip or esplanade reserve; orb. Topography, or the siting of any building or other feature, renders the 20-metre width inadequate or excessive; orc. The protection of Sites and Areas of Significance to Māori or other taonga requires an esplanade reserve or esplanade strip of greater or lesser width than 20 metres; ord. The protection or enhancement of biodiversity values or water quality requires an esplanade reserve or esplanade strip of greater or lesser than 20 metres; ore. The land is within a natural hazard area of where there is an identified risk from one or more natural hazards (such as coastal erosion).

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

Subdivision Rules

Note: There may be a number of Plan provisions that apply to an activity, building, structure and site. In some cases, consent may be required under rules in this Chapter as well as rules in other Chapters in the Plan. In those cases, unless otherwise specifically stated in a rule, consent is required under each of those identified rules. Details of the steps Plan users should take to determine the status of an activity are provided in General Approach.

Permitted Activities

SUB - R1 ~~General Residential Zones~~ and ~~General Rural Zones~~ – Boundary adjustments

Activity Status Permitted

Where:

1. The boundary adjustment did not alter:
 - a. The permitted activity status of any existing permitted activities occurring on the allotments and/or the ability of an existing permitted activity to continue to comply as a permitted activity under ~~the~~ all rules and standards in this Plan; and
 - b. The extent or degree to which any ~~consented or otherwise~~ lawfully established activity occurring on the allotments did not comply with a rule or standard in this Plan; ~~and~~
 - c. ~~The ability of an existing permitted activity (including on adjacent lots) to continue to comply with the Plan.~~
2. No new roading or access points are required;
3. All existing vehicle access points comply with the requirements of Rule TRN - R1;
4. No new Council services are required; and
5. In the GRUZ - General Rural Zone the boundary adjustment did not result in potential additional residential units as a permitted activity.

Activity status where compliance not achieved: Controlled

SUB - R2 ~~All Zones – Subdivision for a Network Utility or Critical-Regionally Significant Infrastructure~~

Activity Status: Permitted

Where:

1. Any new lot created is solely for a network utility or ~~critical~~ regionally significant infrastructure which is either a Permitted Activity under the Energy Chapter, Infrastructure Chapter or Transport Chapter or is approved as a result of a land use consent;
2. Any existing buildings comply with the relevant zone Permitted Activity standards or the conditions of any land use consent;
3. All existing vehicle access points comply with the requirements of Rule TRN - R1;
4. ~~Where~~ The site is less than 4ha and adjoining adjacent to a river >3m wide or adjoining the coast, the provision of an esplanade reserve or strip of 20m;
5. No new roading or access points are required; and
6. No new Council services are required.

Activity status where compliance not achieved: Controlled

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

Controlled Activities

SUB – R3 All Zones and All Overlays – Boundary Adjustments

Activity Status Controlled

Where:

1. These are not Permitted Activities under Rule SUB - R1;
2. All Subdivision Standards are complied with; and
3. The existing or proposed buildings must:
 - a. Comply with all permitted activity standards relevant to the zone and any overlays ~~and a building consent has been issued for any proposed buildings;~~ or
 - b. ~~Be~~ **Are** subject to an approved resource consent for any non-compliances; or
 - c. Where there is an existing building that did not comply with the current district plan, the subdivision must not increase the extent to which the existing building fails to comply.

Matters of control are:

- a. The design and layout of allotments, **including space for a compliant building platform within any vacant allotment**, and the ability to accommodate permitted and/or intended land uses;
- b. The design and provision of access;
- c. The provision, design and construction of infrastructure and services;
- d. Any requirements which arise from the location in relation to natural hazards;
- e. Effects of development phase works on the surrounding area; and
- f. Protection, ~~maintenance or enhancement~~ of **outstanding** natural features and ~~landforms~~ **landscapes**, areas of significant indigenous biodiversity, historic heritage, sites and areas of significance to Māori, archaeological sites **natural character of the coastal environment** or any other identified features; **and**
- g. The ability to access, operate, maintain, or upgrade lawfully established infrastructure activities is retained.**

Activity status where compliance not achieved: Discretionary where Standard 2 is not complied with.

Refer relevant zone and overlay subdivision rules where not compliant with Standard 3.

SUB – R4 All Zones and All Overlays - Subdivision for a Network Utilities, ~~Critical Infrastructure~~ **Regionally Significant Infrastructure Access or Reserves**

Activity Status Controlled

Where:

1. The Subdivision is not a Permitted Activity under Rule SUB - R2

Matters of control are:

- a. The size, design and layout of allotments for the purpose of public network utilities, **regionally significant infrastructure**, reserves or access;
- b. Legal and physical access to and from allotments;

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

- c. Protection, ~~maintenance or enhancement~~ of **outstanding** natural features and ~~landforms~~ **landscapes**, natural character, the coastal environment, waterbodies, significant indigenous biodiversity, historic heritage, sites and areas of significance to Māori, archaeological sites **natural character of the coastal environment** or **any other** identified features;
- d. Where relevant, compliance with Subdivision Standards; and
- e. Any requirements which arise from the location in relation to natural hazards, esplanade reserves or esplanade strips.

Activity status where compliance not achieved: N/A

SUB – R5 Subdivision to create allotment(s) in all RESZ - Residential Zones, CMUZ - Commercial and Mixed Use Zones, INZ - Industrial Zones, SVZ - Scenic Visitor Zone or PORTZ - Port Zones

Activity Status Controlled

Where:

1. This is not within a Significant Natural Area ~~as identified in Schedule Four~~ subject to Rule SUB - R7;
2. This is not within one of the following locations in the coastal environment:
 - i. Outstanding Natural Landscape as identified in Schedule Five;
 - ii. Outstanding Natural Feature as identified in Schedule Six;
 - iii. High or Outstanding Coastal Natural Character as identified in Schedules Seven and Eight; or
3. This is not within an area of:
 - i. Outstanding Natural Landscape as identified in Schedule Five;
 - ii. Outstanding Natural Feature as identified in Schedule Six;
 - iii. Sites of Historic Heritage as identified in Schedule One;
 - iv. Any Flood Susceptibility, Flood Plain, Land Instability, Coastal Alert or Coastal Tsunami Hazard Overlay;
4. ~~This only occurs in the following sites and areas of significance to Māori~~ **This is not within a Site or Area of Significance to Māori except those listed below** identified in Schedule Three:
 - i. SASM 10 Kawatiri Pā; SASM 12 Kawatiri Town Reserve; SASM 15 No. 42 Kawatiri (Township) Native Reserve; SASM 31 Punakaiki Area; SASM 56 Māwhera Pā 1; SASM 57 Māwhera Gardens; SASM 58 Greymouth Railway Land; SASM 59 Māwhera Pā 2; SASM 60 Māwhera Kāinga; SASM 61 Victoria Park; **SASM 62 No.31 Māwhera Native Reserve**; SASM 63 No. 32 Nga Moana e Rua Native Reserve; SASM 94 No. 30 Arahura Native Reserve; SASM 96 Taramakau River; SASM 104 Kawhaka Creek Catchment; SASM 112 Arahura River at Tūhua; SASM 117 Waitaiki Catchment; SASM 121 Waitaiki Historic Reserve; SASM 197 Ōkuru;
5. This is not within the Earthquake Hazard Overlay;
6. This is not within an area of Flood Severe, Coastal Severe or Westport Hazard Overlay or the Airport Noise Control Overlay;
7. All Subdivision Standards are complied with; and

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

8. The subdivision is in general accordance with any structure development plan ~~or outline development plan~~ development plan in place for the site.

Matters of control are:

- a. The design and layout of allotments, including space for a compliant building platform within any vacant allotment and the ability to accommodate permitted and/or intended land uses;
- b. The design and provision of roads, pedestrian and cycle ways; and
- c. The design and provision of access;
- d. The provision of infrastructure and services for drinking water, wastewater and stormwater, telecommunications and energy;
- e. The adequacy of water supply for firefighting;
- f. Any requirements arising from meeting the relevant district Council Engineering Standards, or where no such Standard exists, NZS 4404:2010 Land Development and Subdivision Infrastructure;
- g. The provision of easements;
- h. The provision of local purpose reserves;
- i. The requirement for financial contributions as outlined in Rules FC – R1 to FC – R120;
- ~~j. Effects of development phase works on the surrounding area;~~
- j. Effects on Poutini Ngāi Tahu values, notable trees or historic heritage within or adjacent to the site;
- k. The provision of esplanade reserves or strips;
- l. The extent to which any land identified as contaminated is safe for habitation; and
- m. Natural hazards ~~or~~ and geotechnical ~~constraints~~ considerations.
- ~~n. Management of construction effects, including traffic movements, hours of operation, noise, earthworks and erosion and sediment control; and~~
- n. Management of potential reverse sensitivity effects on existing land uses lawfully established activities, including regionally significant infrastructure, network utilities, rural activities or significant hazardous facilities; and
- o. The protection, maintenance or enhancement of waterbodies.

Activity status where compliance not achieved:

Restricted Discretionary where 3 and 4 is not complied with.

Discretionary 2, 6, 7 or 8 is not complied with.

Non-complying where 5 is not complied with.

SUB – R6 Subdivision to create allotment(s) in any RURZ - Rural Zone or MPZ - Māori Purpose Zone

Activity Status Controlled

Where:

1. This is not within a Significant Natural Area or an area of significant indigenous biodiversity as identified in Schedule Four and subject to Rule SUB - R7;

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

2. This is not within one of the following locations in the coastal environment:
 - i. Outstanding Natural Landscape as identified in Schedule Five;
 - ii. Outstanding Natural Feature as identified in Schedule Six;
 - iii. High or Outstanding Coastal Natural Character as identified in Schedules Seven and Eight;
or
3. This is not within an area of:
 - i. Outstanding Natural Landscape as identified in Schedule Five;
 - ii. Outstanding Natural Feature as identified in Schedule Six;
 - iii. Sites of Historic Heritage as identified in Schedule One;
 - ~~iv. Any Flood Susceptibility, Flood Plain, Land Instability, Coastal Alert or Coastal Tsunami Hazard Overlay;~~
 - ~~v. This is not within the Earthquake Hazard Overlay;~~
4. ~~This is not within an area of~~ **It does not create a building platform for a Potentially Hazard Sensitive or Hazard Sensitive Activity in the:**
 - i. **Flood Susceptibility, Earthquake Susceptibility, Land Instability, Coastal Alert, or Hokitika Coastal Hazard Overlay;**
 - ii. Westport Hazard Overlay
 - iii. Flood Severe, Coastal Severe **or Earthquake Severe Overlay** ~~or the Airport Noise Control Overlay;~~
5. **This is not within an Airport Noise Control Overlay;**
6. All Subdivision Standards are complied with; and
7. Subdivision in the MPZ - Māori Purpose Zone is in accordance with an Iwi/Papatipu Rūnanga Management Plan for the site.

Matters of control are:

- a) The size, design, shape, location and layout of allotments **including space for a compliant building platform within any vacant allotment.**
- b) The design and provision of roads, pedestrian and cycle ways;
- c) The design and provision of access;
- d) Efficient use of land and compatibility with rural character and the role, function and predominant character of the Rural or Māori Purpose Zone in which the subdivision is located;
- e) Any requirements arising from meeting the relevant District Council's Engineering Standards, or where no such Standards exist, NZS 4404:2010 Land Development and Subdivision Infrastructure;
- f) The provision of infrastructure and services for drinking water, wastewater and stormwater, telecommunications and energy;
- g) The adequacy of water supply for firefighting;
- h) The requirement for financial contributions as outlined in Rules FC – R1 to FC – R12;
- i) Effects on Poutini Ngāi Tahu values or notable trees within or adjacent to the site;

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

- j) The provision of esplanade reserves or strips;
- k) Management of any effects on the production value of any highly productive land or high value soils such as those located at Karamea and Totara Flat;
- ~~l) Management of construction effects, including traffic movements, hours of operation, noise, earthworks and erosion and sediment control; and~~
- l) Management of potential reverse sensitivity effects on existing land uses, including **regionally significant infrastructure** network utilities, rural **and rural industry** activities or significant hazardous facilities;

m) Natural hazards and geotechnical considerations; and

n) The provision of easements.

o) The protection, maintenance or enhancement of the margins of waterbodies.

Activity status where compliance not achieved:

Restricted Discretionary where 3 **or 4(i)** is not complied with.

Discretionary 2 or **54(ii) 5-76-8** is not complied with.

Non-complying where **4(iii) and 5** is not complied with.

SUB - R7 Considered in Ecosystems and Biodiversity Recommendation

SUB – R8 Subdivision to create allotment(s) of Land that contains or is within the Electricity Transmission and Distribution Yard (This does not apply to the National Grid Subdivision Corridor)

Activity Status Controlled

Where:

- ~~1. This is not within a Significant Natural Area as identified in Schedule Four and subject to Rule SUB – R7;~~
- ~~2. This is not within one of the following locations in the coastal environment:
 - ~~i. Outstanding Natural Landscape as identified in Schedule Five;~~
 - ~~ii. Outstanding Natural Feature as identified in Schedule Six;~~
 - ~~iii. High or Outstanding Coastal Natural Character as identified in Schedules Seven and Eight; or~~~~
- ~~3. This is not within an area of:
 - ~~i. Outstanding Natural Landscape as identified in Schedule Five;~~
 - ~~ii. Outstanding Natural Feature as identified in Schedule Six;~~
 - ~~iii. Sites of Historic Heritage as identified in Schedule One;~~
 - ~~iv. Sites and Areas of Significance to Māori as identified in Schedule Three;~~
 - ~~v. Any Flood Susceptibility, Flood Plain, Land Instability, Coastal Alert or Coastal Tsunami Hazard Overlay;~~~~
- ~~4. This is not within an area of Flood Severe, Coastal Severe or Westport Hazard Overlay or the Airport Noise Control Overlay;~~
- ~~5. All Subdivision Standards are complied with; and~~

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

- ~~6. Subdivision in the MPZ – Māori Purpose Zone is in accordance with an Iwi/Papatipu Rūnanga Management Plan for the site.~~
- ~~7. This is not within the Earthquake Hazard Overlay;~~
1. Any allotment created can contain a 15x15m area of land which:
 - i. Is located entirely outside of the Electricity Transmission and Distribution Yard;
 - ii. Has reasonable physical and legal access; and
 - iii. Could accommodate a building which can comply with **the standards for a** all Permitted Activity **in the District Plan** standards for the Zone it is located in.
2. The subdivision maintains any existing access to Electricity Transmission and Distribution Yard;
3. Written documentation is provided that demonstrates consultation has occurred with the Electricity Transmission **or Distribution** ³¹⁴Operator including any response from the operator; and
4. The minimum lot size for any allotment that contains any part of the Electricity Transmission Corridor shall be 1ha.

Matters of control are:

- a. **The extent to which the subdivision allows for earthworks, buildings and structures to comply with the safe distance requirements of the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) ISSN01140663;**
- b. **The provision for the on-going efficient operation, maintenance, development and upgrade, including the ability for continued access to existing transmission lines (including support structures) for maintenance, inspections and upgrading;**
- c. The size, design, shape, location and layout of allotments **including the extent to which potential adverse effects are mitigated through the location of building platforms, roads, and reserves;**
- d. Management of potential reverse sensitivity effects on existing land uses, including **regionally significant infrastructure** network utilities, rural activities or significant hazardous facilities;
- e. **Natural hazards and geotechnical considerations; and**
- f. **The provision of easements.**
 - ~~a. Efficient use of land and compatibility with the role, function and predominant character of the Zone in which the subdivision is located;~~
 - ~~b. Where relevant consistency with the NZS 4404 Code of Practice for Land Development and Subdivision infrastructure;~~
 - ~~c. The provision of infrastructure and services for drinking water, wastewater and stormwater, telecommunications and energy;~~
 - ~~d. The adequacy of water supply for firefighting;~~
 - ~~e. The requirement for financial contributions as outlined in Rules FC – R1 to FC – R12;~~
 - ~~f. Effects on Poutini Ngāi Tahu values or notable trees within or adjacent to the site;~~
 - ~~g. Management of any contaminated land;~~

³¹⁴ Westpower Limited (S547.370)

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

- ~~h. Management of reverse sensitivity effects on the national grid;~~
- ~~i. The provision of esplanade reserves or strips, and the need for access to be provided to any esplanade reserve or strip created;~~
- ~~j. Management of any effects on the production value of any highly productive land or high value soils such as those located at Karamea and Totara Flat;~~
- ~~k. Management of construction effects, including traffic movements, hours of operation, noise, earthworks and erosion and sediment control; and~~

Advice Note:

1. This rule did not apply to subdivisions to create allotments for network utilities, access or reserves which are subject to Rule SUB - R4.

Activity status where compliance not achieved:

~~Restricted Discretionary where 1, 3 or 4 is not complied with~~

~~Discretionary where 2 or 5 is not complied with~~

Non-complying where ~~1-4 6-11~~ is not complied with

SUB – R9 Considered in Ecosystems and Biodiversity Recommendation

Restricted Discretionary Activities

SUB – R10 Subdivision of Land to create allotment(s) in Areas of Historic Heritage identified in Schedule One or within Sites or Areas of Significance to Māori identified in Schedule Three not meeting Rule SUB - R5

Activity Status Restricted Discretionary

Where:

1. Written confirmation is provided by the relevant Poutini Ngāi Tahu rūnanga - Te Rūnanga o Ngati Waewae or Te Rūnanga o Makaawhio, that the activity will not impact on any sites or areas of significance to Māori within Schedule Three (**except for those sites and areas of significance to Māori listed in SUB-R5.4.i. where no written confirmation is required**); and
2. All Subdivision Standards are complied with.

Discretion is restricted to:

- a. Ensuring the values for which the area is scheduled or identified in Te Tai o Poutini Plan are maintained and protected;
- b. Ensuring sufficient land is provided around the heritage resource to protect associated heritage values including from any potential effects of natural hazards;
- c. Measures used to minimise obstruction of views of the heritage resource from adjoining public spaces that may result from any future land use or development;
- d. Whether there are any adverse effects on a Notable Tree, that has any associated heritage or Poutini Ngāi Tahu values; and
- e. The size, design, shape, location and layout of allotments, **including space for a compliant building platform within any vacant allotment**;
- f. Whether the allotments are of a size that will continue to provide the heritage resource with a suitable setting to maintain the associated heritage or Poutini Ngāi Tahu values.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

- g. The provision of infrastructure and services for **transport**, drinking water, wastewater and stormwater, telecommunications and energy;
- h. The adequacy of water supply for firefighting;
- i. The requirement for financial contributions as outlined in Rules FC – R1 to FC – R12;
- j. The provision of esplanade reserves or strips, and the need for access to be provided to any esplanade reserve or strip created.

k. Natural hazards and geotechnical considerations; and

l. The provision of easements

Notification:

- 1. **When making notification decisions in relation to Applications to subdivide a lot within a Site or Area of Significance to Māori identified in Schedule Three, the Council will be informed by advice from** ~~will always be limited notified to the relevant rūnanga and may be publicly notified.~~
- 2. **When making notification decisions in relation to Applications to subdivide a lot with a Historical Heritage feature, the Council will be informed by advice from** ~~will always be limited notified to Heritage New Zealand - Pouhere Taonga and may be publicly notified.~~

Advice Note:

- ~~3-1.~~ This rule did not apply to subdivisions to create allotments for network utilities, **regionally significant infrastructure** access or reserves which are subject to Rule SUB - R4.

Activity status where compliance is not achieved: Discretionary

SUB-R11 Considered in the Natural Features and Landscapes Recommendation

SUB – R12 Subdivision of land to create allotment(s) within the FUZ - Future Urban Zone

Activity Status Restricted Discretionary

Where:

- 1. All Subdivision Standards are complied with.

Discretion is restricted to:

- a. The size, design, shape, location and layout of allotments;
- b. The extent to which the subdivision will be consistent with the Objectives and Policies for the Future Urban Zone and Policy SUB - P5;
- c. Where relevant consistency with the NZS 4404 Code of Practice for Land Development and Subdivision infrastructure;
- d. The provision of infrastructure and services for **transport**, drinking water, wastewater and stormwater, telecommunications and energy;
- e. The adequacy of water supply for firefighting;
- f. The requirement for financial contributions as outlined in Rules FC – R1 to FC – R12;
- g. Effects on Poutini Ngāi Tahu values or notable trees within or adjacent to the site;
- h. The provision of esplanade reserves or strips, and the need for access to be provided to any esplanade reserve or strip created;

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

- ~~i. Management of construction effects, including traffic movements, hours of operation, noise, earthworks and erosion and sediment control; and~~
- i. Management of potential reverse sensitivity effects on existing land uses **lawfully established activities**, including **regionally significant infrastructure** network utilities, rural activities or significant hazardous facilities.

Advice Note: This rule did not apply to subdivisions to create allotments for network utilities, access or reserves which are subject to Rule SUB - R4.

Activity status where compliance is not achieved: Non-complying

SUB-R13_Considered in Natural Hazards Recommendation

SUB – R14 Subdivision to create allotment(s) in the National Grid Subdivision Corridor

Activity Status Restricted Discretionary

Where:

1. All resulting allotments, except allotments for access or a public work, demonstrate they are capable of accommodating a building platform for the principal building or any dwelling or sensitive activity entirely outside of the National Grid Yard; and
2. The subdivision maintains any existing access to National Grid support structures.

Discretion is restricted to:

- a. The extent to which the subdivision allows for earthworks, buildings and structures to comply with the safe distance requirements of the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) ISSN01140663;
- b. The provision for the on-going efficient operation, maintenance, development and upgrade of the National Grid, including the ability for continued access to existing transmission lines (including support structures) for maintenance, inspections and upgrading;
- c. The extent to which the design and layout of the subdivision demonstrates that a suitable building platform(s) for the principal building or any dwelling or sensitive activity can be located outside of the National Grid Yard for each new allotment;
- d. The size, design, shape, location and layout of allotments, including the extent to which potential adverse effects, including visual and reverse sensitivity effects on the National Grid and on public safety and property, are mitigated through the location of building platforms, roads, and reserves;
- e. The nature and location of any proposed vegetation to be planted in the vicinity of the National Grid; and
- f. The outcome of any consultation with the owner and operator of the National Grid.

Activity status where compliance not achieved: Non-complying

Discretionary Activities

SUB – R15 Subdivision to create allotment(s) in the Hospital, Stadium, Mineral Extraction, Buller Coalfield and Airport Special Purpose Zones or in the Māori Purpose Zone where no Iwi/Papatipu Rūnanga Management Plan is in place.

Activity Status Discretionary

Where:

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

~~1. The subdivision is in general accordance with any development plan in place for the site.~~

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

SUB-R16 Considered in Ecosystems and Biodiversity Recommendation

SUB-R17 Considered in the Natural Features and Landscapes Recommendation

SUB-R18 Considered in the Coastal Environment Recommendation

SUB – R19 Subdivision of Land which would otherwise be a Controlled or Restricted Discretionary Activity, where one or more of the Subdivision Standards are Not Complied With

Activity Status Discretionary

Where:-

- ~~1. This is not in an Overlay area subject to Rules SUB R14, SUB R15, SUB R18 or SUB R20;~~
- ~~2. This is not the subdivision of a minor residential unit from the principal dwelling in the GRUZ- General Rural Zone; and~~
- ~~3. This is not the subdivision of units within a papākainga development or within the GRUZ- PREC 1- Community Living Precinct where the minimum lot sizes for the relevant zone are not met.~~

Activity status where compliance not achieved:

~~Non-complying where 2 or 3 are not complied with-~~

SUB – R20 Subdivision in any OSRZ - Open Space and Recreation Zone

Activity status Discretionary

Activity status where compliance not achieved: N/A

SUB-R21 Considered in the Natural Hazards Recommendation

SUB-R22 Considered in the Natural Hazards Recommendation

SUB – R23 Subdivision within the Airport Noise Control Overlay

Activity status Discretionary

Activity status where compliance not achieved: N/A

SUB – R24 Subdivision to create Allotments in the Flood Susceptibility, Flood Plain, Land Instability, Coastal Alert, and Coastal Setback, ~~Lake Tsunami and Coastal Tsunami~~ Overlays not meeting Restricted Discretionary Activity Standards

Activity status Discretionary

Activity status where compliance not achieved: N/A

Non-complying Activities

SUB – R25 Considered in the Coastal Environment Recommendation

SUB – R26 Subdivision of land not subject to another Rule in this Plan

Activity status Non-complying

Activity status where compliance not achieved: N/A

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

SUB – R27	Subdivision of land separating a minor residential unit from the principal dwelling in the GRUZ – General Rural Zone
Activity status Non-complying	
Activity status where compliance not achieved: N/A	
SUB – R28	Subdivision of land within a papākainga development or within the GRUZ - PREC 1 - Community Living Precinct where the minimum lot sizes for the relevant zone are not met
Activity status Non-complying	
Activity status where compliance not achieved: N/A	
SUB–R29	Considered in the Natural Hazards Recommendation
SUB–R30	Considered in the Ecosystems and Biodiversity Recommendation
SUB–R31	Considered in the Natural Hazards Recommendation

Subdivision Standards	
SUB – S2	Requirements for building platforms for each allotment
<ol style="list-style-type: none">1. Each allotment must provide a stable, flood free building area suitable for building foundations in accordance with the requirements of the New Zealand Building Code - Acceptable Solution B1/AS4 Approved Document B1/4: Structure Foundations.2. On sites less than 4ha in size, an indicative building platform on each allotment must be identified in subdivision applications and:<ol style="list-style-type: none">b. Must allow the buildings to comply with the standards for a permitted activity in the underlying zone under this District Plan; andc. Must not include any area of land to be used for access or for the disposal of wastewater or stormwater; andd. Must be outside of any area identified in a Natural Hazard overlay.	
SUB – S3	Water Supply
<ol style="list-style-type: none">1. Where a connection to a District Council or Community reticulated water supply system is available, all new allotments must be provided with provide a connection at the boundary and net boundary where access is shared (including firefighting water supply).2. Where a connection to a District Council or Community reticulated water supply system is unavailable, all new allotments must be provided with provide access to a self-sufficient potable water supply (including firefighting water supply).	
Advice Notes	
<ol style="list-style-type: none">1. SNZ PAS 4509 New Zealand Fire Service Firefighting Water Supplies Code of Practice should be consulted when determining the most appropriate design for firefighting water supply. Fire and Emergency New Zealand is available to assist with this.2. Where water is to be taken from ground or surface water, resource consent from West Coast Regional Council may be required.	
SUB – S4	Stormwater

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

1. All allotments must provide the means for disposal of stormwater from the roof of all buildings and all impervious or potentially impervious surfaces, including, but not limited, to structures, compacted soils and sealed surfaces.
2. Where a connection to a District Council or Community stormwater management system is available, all new allotments must ~~be provided with~~ **provide** a connection at the boundary or net boundary where access is shared.
3. Where a connection to a District Council or Community stormwater management system is not available, the applicant ~~shall~~ **must** demonstrate that stormwater will be treated and disposed of in such a way that surface flooding of adjacent properties and roads will not be exacerbated, nor shall there be adverse water quality effects on ~~freshwater~~ **waterbodies**.
4. Where the means of stormwater disposal is to ground, that area ~~shall~~ **must** not be subject to instability, slippage or inundation, or used for the disposal of wastewater.
5. Where the stormwater discharge is from industrial land or large areas of impervious surface, the applicant ~~shall~~ **must** demonstrate that sufficient treatment is undertaken that adverse effects on ~~freshwater~~ **waterbodies** and the receiving environment will be mitigated.

Advice Note:

1. If stormwater disposal to a river, stream, lake or wetland is proposed then a resource consent may be required from West Coast Regional Council.
2. State Highway Infrastructure such as swales or roadside drains is not considered a "Community stormwater management system" and disposal of stormwater to this infrastructure is not an appropriate method of managing stormwater in terms of this standard.

SUB – S5 Wastewater

1. All allotments must ~~provide~~ **demonstrate** the means for disposal of wastewater from all potential land uses that could be established on the respective allotments that did not involve a direct discharge to fresh or coastal water.
2. Where a connection to a District Council or Community wastewater management system is available, all new allotments must ~~be provided with~~ **provide** a connection at the boundary or the net boundary where access is shared.
3. Where a connection to a District Council or Community wastewater management system is not available, the applicant shall demonstrate that wastewater will be disposed of in a sanitary manner within the net site area of the allotment with no direct discharge to water.
4. For a subdivision where community scale infrastructure is developed to support more than 10 privately owned lots this should be to appropriate standards and vested in the Council to ensure ongoing maintenance and renewal.

Advice Note:

On site wastewater systems may require a resource consent from the West Coast Regional Council.

SUB – S6 Transport and Access

1. All allotments must ~~be provided with~~ **provide** vehicular access to a road by way of a vehicle access point, driveway or right of way in accordance with the Transport Performance Standards

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

2. In all zones any vehicle rights of way or crossings shall **must** be constructed in accordance with the Transport Performance Standards
3. All new roads and upgrades of existing roads shall **must** be constructed in accordance with the relevant district Council Engineering Standards, or where no such Standard exists, NZS 4404:2010 Land Development and Subdivision Infrastructure.

Advice Note:

SNZ PAS 4509 New Zealand Fire Service Firefighting Water Supplies Code of Practice shall **must** be consulted to ensure compliance with the access way dimensions required for fire appliances for developments where a fire appliance is not able to reach either the residential house or the source of firefighting water supply from the public road.

SUB – S7 Energy Supply

1. ~~For all new allotments electricity services must be provided~~ **All new allotments must be provided with electricity** to the boundary of each new lot or the applicant shall **must** demonstrate that electricity services are able to be provided by alternative means.
2. At the time of subdivision, sufficient land for transformers and any associated ancillary services must be set aside. ~~For a subdivision that creates more than 15 lots, c~~Consultation with energy network utility operators ~~may~~ **will** be required.
3. All necessary easements for the protection of **and access to** energy network utility services **and infrastructure** must be duly granted and reserved.

SUB – S8 Telecommunications

1. ~~For all new allotments telecommunication services must be provided~~ **All new allotments must be provided with telecommunication services, including to an open access fibre network where it is available** to the boundary of each new lot or the applicant shall **must** demonstrate that telecommunication services are able to be provided by alternative means.
2. At the time of subdivision, sufficient land for telecommunications, transformers and any associated ancillary services **required to service the new allotments** must be set aside. ~~For a subdivision that creates more than 15 lots, c~~Consultation with telecommunications network utility operators ~~may~~ **will** be required.
3. All necessary easements for the protection of telecommunications network utility services must be duly granted and reserved.

SUB – S9 Requirement for Esplanade Reserves or Esplanade Strips

1. An esplanade reserve or esplanade strip **of 20 metres in width** shall be provided where any subdivision creates an allotment **(other than an allotment created by boundary adjustment)** smaller than 4ha where that allotment adjoins any of:
 - a. The coastal marine area;
 - b. A lake **with a bed that has an area of 8 hectares or greater**; or
 - c. The bank of a river ~~whose~~ **with a bed that** has an average width of 3m **or greater**.

SUB – S10 Easements for Any Purpose

1. Easements shall **must** be provided where necessary for:
 - a. Public works and ~~utility~~ **infrastructure** services;
 - b. Easements in gross where a service or access is required by the district council;

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

- c. Easements in respect of other parties in favour of nominated allotments or adjoining Certificates of Title;
 - d. Service easements, whether in gross or for private purposes, with sufficient width to permit maintenance, repair or replacement. Centre line easements ~~shall~~ **must** apply when the line is privately owned.
2. Easements can also be required for any of the following purposes:
- i. Accessways, whether mutual or not;
 - ii. Stormwater, wastewater disposal, water supply, utilities;
 - iii. Party walls and floor/ceilings; or
 - iv. ~~Other utilities~~ **Regionally significant infrastructure.**

SUB – S11 Point Strips

1. Point strips ~~shall~~ **must** be provided where in the course of subdivision a new road is constructed and vested that will ~~or could~~ provide frontage to other land **either at the time of subdivision or in the future**. ~~In this instance an~~ **A point strip** agreement ~~is~~ **will be** entered into ~~by~~ **between** the first subdivider ~~with~~ **and** the Council, ~~to ensure the benefiting owner pays a fair share towards the cost of providing the frontage road.~~ The point strip agreement sets the amount to be paid **by the subdivider**, which will be updated from the date of signature of the agreement by the Consumers Price Index.
2. Point strips ~~may~~ **will** also be required where access to any road ~~would~~ **is determined to be unsafe by the Council**.
3. A point strip of no less than 100mm in width ~~shall~~ **must** be created along the State Highway 7 frontage of any new allotment, or balance allotment created within the Kaiata Park development area and fronting State Highway 7 including any allotment created to contain the wetland area. Such point strip ~~shall~~ **must** vest in Her ~~His~~ Majesty the Queen **King** for Use in Connection with a road (point strip).

Financial Contributions Chapter

Overview

This section of Te Tai o Poutini Plan contains the objectives, policies and rules for financial contributions for infrastructure ~~and for their use to offset adverse effects on the environment of the West Coast/Te Tai o Poutini.~~

Currently the three District Councils on the West Coast/Te Tai o Poutini use financial contributions under the RMA as the sole mechanism to provide for the costs and impacts of development on Council infrastructure and these draft provisions have been developed on the basis of that approach continuing.

However, the District Councils are exploring the potential to move to a Development Contributions regime under the Local Government Act 2002 (LGA). If the Councils do introduce Development Contributions under the LGA then these provisions will be amended by Variation or Plan Change to reflect the updated regime.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

FC – O1	Through the use of Financial Contributions the West Coast/Te Tai o Poutini's infrastructure is able to meet the demands generated by subdivision, land use and development so that it did not adversely affect natural and physical resources, or compromise the quality of service provided to existing users, through the use of financial contributions.
FC – O2	To ensure that new activities and development contributes fairly and equitably towards the costs of avoiding, remedying, mitigating or offsetting managing adverse effects on the environment and infrastructure resources of the West Coast/Te Tai o Poutini.

FC – P1	To require financial contributions as a condition of subdivision, development and land use consents to remedy or mitigate adverse effects created by the need to create, extend or upgrade public infrastructure, reserves and community facilities as a result of the subdivision, land use or development.
FC – P2	Financial contributions shall must be applied in a fair and equitable manner that: a) Is financially transparent reasonable and appropriate to the circumstances ; b) Reflects the adverse effects and demand on services and facilities generated by the subdivision, land use or development; c) Is complementary to the Council's other financial management policies; and d) Takes into account any costs incurred and financial benefits associated with the in taking, holding and allocating the financial contributions.
FC – P3	Financial contributions may be taken in the form of cash, land, works or a combination of these in discussion with the applicant but at the final discretion of the Council.
FC – P4	Ensure that Where land is provided by way of a financial contribution to ensure that such land shall be is suitable for the intended use bearing in mind the community to be served.
FC – P5	To use financial contributions in money to provide additional capacity, and to meet the need for community infrastructure and facilities that arise from the activity. This shall can include roading, streetscape improvements, shared pathways, vehicle parking, EV charging spaces, service lanes, water supply, wastewater, stormwater, parks, reserves, recreation facilities and community facilities.
FC – P6	To provide for the use of financial contributions for managing adverse environmental effects, including those on significant indigenous biodiversity and outstanding natural landscapes where these cannot be avoided, remedied or mitigated and the activities have specific spatial location requirements or functional and operational needs such as mineral extraction, renewable electricity generation activities and critical infrastructure.
FC – P7	When calculating financial contributions as a method of managing adverse environmental effects of activities, take into account the local, regional and national benefits of the proposed activity.

Financial Contribution Rules

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

FC – R1 Financial Contributions as Conditions of Consent

1. A condition may be imposed on a subdivision, **development**³¹⁵ or land use consent to require the applicant, including network utility operators and/or requiring authorities, to make a financial contribution for the following purposes:
 - ~~i. The management of potential adverse effects arising from the activity;~~³¹⁶
 - ~~ii. Securing environmental compensation where any residual adverse effects of the subdivision, use or development that cannot be avoided, remedied or otherwise mitigated;~~
 - i. Providing and/or upgrading public network utility services and transport infrastructure;
 - ii. Providing and/or upgrading public reserves, public access and community facilities; and
2. No financial contribution is payable for:
 - i. Additions and alterations to residential buildings;
 - ii. A residential building replacing one previously on the site;
 - iii. An approved boundary adjustment;
 - iv. An approved subdivision creating a certificate of title solely for a utility;
 - v. An additional allotment where such land is set aside for ecological, historic heritage or cultural protection in perpetuity; ~~and~~
 - vi. Infrastructure for which a financial contribution has been made previously;
 - vii. Any allotment that is vested in the Council or the Crown; and**
 - viii. An approved subdivision resulting in the amalgamation of, or a reduction in, the number of titles.**
3. Where roading or three waters infrastructure upgrades or extensions necessary to meet the requirements of the proposed land-use, development or subdivision are proposed in the relevant District Council's Long Term Plan, but the proposed land-use, development or subdivision requires that the planned works be undertaken earlier than planned for in the Long Term Plan, then the Council will require the developer to meet the full cost of the upgrades and extensions including interest on loans subject to the following:
 - i. The relevant District Council may, at its discretion, and guided by its financial strategy, agree to contribute to the funding at the time the infrastructure is required by the proposed land-use, subdivision or development;
 - ii. Agreements ~~shall~~ **must** be made in writing between the developer and the relevant District Council, and ~~shall~~ **must** state the amount of the financial contribution and timing of any payments to be made **by the relevant District Council**;
 - iii. In the event that the relevant District Council did not contribute to the funding at ~~that~~ **the time the infrastructure is required by the proposed land-use, subdivision or development**, the developer will be reimbursed by the **relevant District Council**;
 - iv. Agreed reimbursement will be made no later than at the time the extension or upgrade would otherwise have been undertaken as set out in **relevant District Council's** Long Term Plan; and

³¹⁵ Buller District Council S538.231

³¹⁶ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.262

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

- v. Reimbursement will not include interest additional to that which would have been payable by the relevant District Council, had the upgrades or extensions been undertaken at the time proposed in the Long Term Plan.

FC – R2 Nature Of Financial Contributions

1. Financial contributions may at the relevant District Council’s discretion, take the form of money or land ~~or works~~ or any combination of money; **and** land ~~and works~~;
2. Financial contributions ~~shall~~ **must** not be imposed on a use, development or subdivision for the same purpose as a development contribution that is **already** required, or has already been paid in relation to that use, development or subdivision;
3. Where a financial contribution is, or includes the payment of money, the relevant District Council may specify any one or more of the following in the conditions of the resource consent;
 - a. The amount to be paid by the consent holder;
 - b. How the payment is to be made, including whether payment is to be made by instalment and whether bonding or security can be entered into;
 - c. When the payment is to be made:
 - i. In the case of subdivision, generally before ~~uplifting~~ **issuing** the section 224 certificate;
 - ii. In the case of land use, **the time of payment as specified in the conditions** at the time of issuing of the resource consent;
 - d. If the amount of the payment is to be adjusted to take account of inflation and if so, how the amount is to be adjusted; and
 - e. Whether any penalty is to be imposed for default in payment and if so, the amount of the penalty or formula by which the penalty is to be calculated.
4. Where a financial contribution is, or includes land, the relevant District Council may specify any one or more of the following in the conditions of the resource consent:
 - a. The location and area of the land **within the land being subdivided or under application**;
 - b. The state the land is to be in before vesting in or transferring to the Council; and
 - c. The purpose of the land if it is to be classified under the Reserves Act 1977, or the general purpose of the land.
5. When and how the land is to be vested in, or transferred to the relevant District Council or other infrastructure provider. In the case of subdivision consent the land ~~shall~~ **must** be vested on the deposit of the survey plan under section 224 of the Act, or transferred as soon as legal certificate of title is available; and
6. Where any land is to be vested in the relevant District Council or other infrastructure provider as part of a financial contribution a registered valuer ~~shall~~ **must** determine its market value at the date on which the resource consent (imposing the financial contribution condition) commenced under section 116 of the Resource Management Act 1991.

For the purposes of this rule, ‘market value’ has the same meaning as defined in the International Valuation Standard, as adopted by Australian Property Institute 2008 and Property Institute of New Zealand 2009, which is as follows:

‘Market Value is the estimated amount for which a property should exchange on the date of valuation between a willing buyer and a willing seller in an arm’s length transaction, after proper

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

marketing, wherein the parties had each acted knowledgeably, prudently and without compulsion.'

This rule does not apply to land that is to be vested in Council as a financial contribution in circumstances where the value of the land does not need to be determined.

FC – R3 Calculation of Financial Contributions - Roads

1. The maximum contribution required for the ~~development~~, maintenance and upgrading of roads **including intersections** that serve a subdivision, land use or development shall **must** be 100% of the ~~estimated~~ cost **calculated in FC-R3(3); and**
2. Where a development or subdivision will generate traffic effects that require the sealing, widening or upgrading of a road **or intersection**, the financial contribution shall **must** be calculated as the cost of upgrading the road **from the level of service required for existing land uses** to the ~~required~~ level of service **required for the development or subdivision** specified in the relevant Council Engineering Standards or where no such Standard exists, the standard required by NZS 4404:2010 Land Development and Subdivision Infrastructure.
3. Financial contributions for roading will be calculated in accordance with the following formulae ~~based on the number of new allotments created~~:

- i. Financial contribution for subdivision - based on number of new allotments created:

$$\mathbf{C_p = L_g \times D_1 \times R_c + I_c}$$

$$\mathbf{C_p = \text{Value of contribution (\$)}}$$

$$\mathbf{L_g = \text{Number of new allotments created in the proposed subdivision}}$$

$$\mathbf{D_1 = \text{Length of road frontage (km) along the application site. If the subdivision is on both sides of the road the length must be added together}}$$

$$\mathbf{R_c = \text{Cost (\$/km) determined by the Council based on the road hierarchy}}$$

$$\mathbf{I_c = \text{Cost (\$/m}^2\text{) to upgrade the intersection as determined by the Council (if required)}}$$

~~Contribution = Cost of forming or upgrading road to the nearest Allotment boundary of the site + Cost of upgrading road along the frontage of the site~~

$$\mathbf{C_p = \frac{D_1 \times R_c \times L_g}{L_e + L_g} + \frac{D_2 \times R_c}{2}}$$

Where

$$\mathbf{C_p = \text{Value of contribution (\$)}}$$

$$\mathbf{D_1 = \text{Length of road (km) required to be upgraded to the closest boundary of the site}}$$

$$\mathbf{D_2 = \text{Length of road frontage (km) along the application site. If the development is on both sides of the road the length along both frontages shall be added together.}}$$

$$\mathbf{L_e = \text{Total number of existing allotments fronting to the road to be upgraded measured as } D_1}$$

$$\mathbf{L_g = \text{Number of new allotments created in the proposed subdivision}}$$

$$\mathbf{R_c = \text{Cost (\$/km) of improving the affected section of road to the level required as determined by the predicted traffic volume and road hierarchy.}}$$

- ii. Financial Contribution for Land-use and Development - Based on traffic generation:

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

$$C_p = R_c \times T_g + I_c$$

C_p = Value of contribution (\$)

R_c = Cost (\$/vehicle movement) determined by the council based on the road hierarchy and activity

T_g = Total amount of traffic generated by the development (annual average daily traffic)

I_c = Cost (\$/m²) to upgrade the intersection as determined by the council (if required)

Contribution = Cost of upgrading road to the nearest boundary of the site multiplied by the total traffic to be generated by the proposal + cost of upgrading road along the frontage of the site

$$C_p = \frac{D_1 \times R_c \times T_g}{T_e + T_g} + \frac{D_2 \times R_c}{2}$$

Where:

C_p = Value of contribution (\$)

D₁ = Length of road (km) required to be upgraded to the closest boundary of the site

D₂ = Length of road frontage (km) along the application site. If the development is on both sides of the road the length along both frontages shall be added together.

T_e = Total amount of traffic currently using this road (as vehicles per day, AADT)

T_g = Total amount of traffic generated by the development (as vehicles per day, AADT)

R_c = Cost (\$/km) of improving the affected section of road to the level required as determined by the predicted traffic volume and road hierarchy.

4. Financial contributions do not apply to the forming of new roads and intersections. These will form part of resource consent and vesting under section 224c of the RMA.

FC – R4 Full-Cost Financial Contribution for Roads

1. Roads outlined in 2 below which are at capacity for their structure are unable to accommodate additional loadings. The financial contribution for these roads shall be the full cost to accommodate the additional loadings and to bring the road up to the relevant District Council's Subdivision and Development Infrastructure Technical Requirements Code standard for its place in the road hierarchy or where no such Code of Practice exists, the standards in NZS 4404:2010 Land Development and Subdivision Infrastructure.

2. This rule applies to the following roads:

- i. No roads have been identified in the proposed Plan.

FC – R54 Financial Contributions for Vehicle Parking

1. A financial contribution for vehicle parking may be required where the on - site accessible parking, on - site bicycle parking, on - site trailer/boat parking or EV charging requirements cannot be achieved as required for the activity in the zone in accordance with the Transport Performance Standards. The financial contribution will be charged based on the following formula for each accessible, trailer/boat park or EV charging site ~~and~~ or for every 5 bicycle parks not provided.

Contribution = value of land required + Cost of construction

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

$$C_p = (VI \times A) + (D \times A)$$

Where:

C_p = Value of contribution (\$)

VI = Value of 35m² of land in the vicinity of the off-site vehicle parking area as determined by an independent registered valuer

A = Number of vehicle parks required to make up the on-site shortfall where 5 bicycle parks equate to 1 carpark

D = cost of construction of 35m² of parking area to a permanent asphaltic concrete or concrete surface, including earthworks, pavement, kerbing, drainage, electricity connection and charge station for EV charging and marking determined either by an independent cost assessment or from the current Construction Price Index.

2. The financial contributions taken by the Council in lieu of the on-site vehicle parking ~~shall~~ **must** be used to provide, upgrade or extend public vehicle parking/EV charging in the vicinity of the location from which it is collected. It may also be used to contribute towards the cost of vehicle parking/EV charging facilities that have already been constructed.
3. The relevant District Council may reduce the value or waive the contribution in one or more of the following circumstances:
 - i. The Council has not provided or did not intend to provide additional off-site vehicle parking/EV charging in the vicinity of the site;
 - ii. The Council has provided vehicle parking/EV charging or intends to do so, but this has been or will be funded through a different funding source in the Council's Long Term Plan, such as user fees and charges; or
 - iii. The site contains a Historic Heritage resource scheduled in this plan and the reduction will enable the continued use of the building and support its protection or conservation.

FC – R65 Financial Contributions for Service Lanes

1. Where the District Plan indicates the formation and vesting of land for the purpose of a service lane, or the upgrading of a service lane, a ~~development or subdivision~~ **or land use consent of the land shall must** include a condition requiring the land to be formed to the standards specified in the relevant district Council Engineering Standards or where no such Standard exists, NZS 4404:2010 Land Development and Subdivision Infrastructure.

FC – R76 Financial Contributions for Water Supply

1. Financial contributions may be required to ensure a supply of:
 - i. Potable drinking water for human consumption (complying with the NZ Standard for Drinking Water);
 - ii. Water for industrial and commercial activities;
 - iii. Water for fire fighting and irrigation; and
 - iv. Where proposed allotments, sites or buildings are intended for human habitation or occupation.

Advice Note: It shall be noted that even though existing three waters infrastructure may be located in an area, it may not be available, for instance if the infrastructure is on the boundary between urban and rural environmental zones.

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

2. The maximum contribution required for the development and upgrading of water supply infrastructure that services a subdivision, land use or development shall be 100% of the estimated cost. Reticulation shall be designed and constructed to meet the relevant district Council Engineering Standards, or where no such Standard exists, NZS 4404:2010 Land Development and Subdivision Infrastructure.
3. Where an existing potable drinking water supply is available and has adequate capacity for meeting the needs of the proposed activity the financial contribution shall be the full and actual costs of providing all the necessary reticulation to serve the proposed allotments, sites and buildings.
4. Where no supply is available, or the capacity of the supply is inadequate, the financial contribution shall be the full and actual costs of providing a supply and/or increasing the capacity, if necessary, together with the cost of reticulation within the subdivision or land use.

FC – R87 Financial Contribution for Wastewater Treatment and Disposal

1. Financial contributions may be required to maintain the health and public safety and amenity of inhabitants or occupants and to protect the natural environment from harmful disposal of wastewater where new allotments, sites or buildings are intended for human habitation or occupation.

Advice Note: It shall be noted that even though existing 3 waters infrastructure may be located in an area, it may not be available, for instance if the infrastructure is on the boundary between urban and rural environmental zones.

2. The maximum contribution required for the development and upgrading of wastewater treatment and disposal infrastructure that serve a subdivision, land use or development shall be 100% of the estimated cost. Reticulation shall be designed and constructed to meet the relevant district Council Engineering Standards, or where no such Standard exists, NZS 4404:2010 Land Development and Subdivision Infrastructure.
3. Where an existing wastewater treatment system is available and has adequate capacity within its operational limits and environmental compliance requirements to meet the needs of the proposed activity the financial contribution shall be the full and actual costs of providing all the necessary reticulation to connect the proposed allotments, sites and buildings.
4. Where no wastewater system is available, or the capacity of the supply is inadequate, the financial contribution shall be the full and actual costs of treatment and disposal and/or increasing the capacity, including design and investigation, acquiring sufficient land for on-site land-based treatment and disposal of wastewater likely from the activities on the site, together with the cost of reticulation within the subdivision or land use.

FC – R98 Financial Contribution for Stormwater Treatment and Disposal

1. Financial contributions may be required to prevent damage and loss of property and amenity from uncontrolled run-off and to protect the natural environment from harmful disposal of stormwater where new allotments, roads and/or other impervious surface are created by subdivision or land use and create a need for stormwater treatment and disposal.

Advice Note: It shall be noted that even though existing three waters infrastructure may be located in an area, it may not be available, for instance if the infrastructure is on the boundary between urban and rural environmental zones.

2. The maximum contribution required for the development and upgrading of stormwater treatment and disposal infrastructure that serve a subdivision, land use or development shall

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

be 100% of the estimated cost. Stormwater reticulation and any stormwater treatment devices shall be designed and constructed to meet the relevant district Council Engineering Standards, or where no such Standard exists, NZS 4404:2010 Land Development and Subdivision Infrastructure.

3. Where an existing stormwater piped outfall or stormwater treatment system is available and has adequate capacity for meeting the needs of the proposed activity the financial contribution shall be the full and actual costs of providing for the conveyance of stormwater to the outfall or treatment system.
4. Where there is no stormwater piped outfall or treatment system (and treatment is required), or the capacity of the piped outfall or treatment system is inadequate, the financial contribution shall be the full and actual costs of providing for the stormwater treatment and disposal and/or increasing the existing stormwater system capacity, together with the cost of reticulation within the subdivision or land use.

FC – R109 Financial Contribution for Reserves and Community Facilities

1. Financial contributions may be required to provide for open space, recreational and community facilities to address the need for these facilities created by subdivision and development in the locality where new allotments or residential units are created.
2. The maximum contribution shall be required as follows:
 - i. 7.5% **of the value** of the additional allotments at the time of subdivision consent (either in cash or land equivalent, at Council's discretion) except that in the case of subdivisions where allotments are greater than 4000m², the value of the rural allotment for this purpose shall be the proportional value of a house site of 1,000m² within each allotment;
 - ii. Cash equivalent of the value of 20m² of land for each additional residential unit created, at the time of building consent, less any contribution made at the time of previous subdivision within the preceding **five eight** years; and
 - iii. Cash equivalent of the value of 4m² of land for each additional 100m² of net, non-residential building floor area created, at the time of building consent, less any contribution made at the time of previous subdivision within the preceding **five eight** years.

FC – R110 Financial Contribution for Shared Pathways

1. The maximum contribution required for the development and upgrading of shared pathways that serve a subdivision, land use or development shall be 100% of the estimated cost.
2. Where a development or subdivision will generate effects that require the creation or upgrading of a footpath, walkway or cycleway access, the financial contribution shall be calculated as:
 - i. the cost of building **the footpath, walkway or cycleway access**; or
 - ii. **the cost of** upgrading the ~~pedestrian/cycle access~~ **footpath, walkway or cycleway access from the level of service required for existing land uses** to the ~~required~~ level of service **required for the subdivision, land use or development** specified in the relevant district Council Engineering Standards or where no such Standard exists, the standard required by NZS 4404:2010 Land Development and Subdivision Infrastructure.

FC – R12 Financial Contribution for Offsetting and Compensation for Adverse Environmental Effects on Natural Landscapes Values or Biodiversity Values

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

Subdivision - Te Wawaetanga, Financial Contributions - Ngā Rourou Pūtea and Public Access - Te Āheinga Tūmatanui Chapters

- ~~1. The maximum financial contribution for offsetting or compensation for adverse environmental effects on outstanding natural landscape values, areas of significant indigenous vegetation or areas of significant habitat of indigenous fauna will be the amount of money needed to fully offset or compensate (or any combination of these) any adverse environmental effects that cannot otherwise be avoided, remedied or mitigated.~~
- ~~2. In assessing the level of financial contribution required for biodiversity offsetting and compensation the principles in Policy ECO P9 will be adhered to.~~

Public Access Chapter

Overview

The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers is a matter of national importance provided for under Section 6 of the Resource Management Act. Provision of public access to waterbodies is also included in the primary purpose of the Walking Access Act 2008.

Being able to access these areas is an important facet of our well-being providing opportunities for the re-establishment of cultural connection to waterbodies as well as supporting recreation and relaxation. This is recognised and provided for in the New Zealand Coastal Policy Statement and the West Coast Regional Policy Statement and West Coast Regional Plans.

The majority of the plan provisions to support this Chapter have been woven through other chapters including; Poutini Ngāi Tahu, Sites and Areas of Significance to Māori, Subdivision, Natural Character and ~~Activities Adjacent to~~ **and the Margins of** Waterbodies, Activities on the Surface of the Water and the Coastal Environment.

Esplanade Reserves, Esplanade Strips and Access Strips

Esplanade reserves can be created through subdivision, when land is reclaimed, when a road is stopped, or can be created voluntarily.

Esplanade strips and access strips can be created either through subdivisions, or at any other time by agreement between the land owner and Council. The creation of strips outside of subdivision uses the process set out in s235 RMA (for esplanade strips) or in s237B RMA (for access strips).

Objectives, policies, rule requirements, and matters for control or discretion for all of esplanade reserves, esplanade strips and access strips are located in the Subdivision Chapter.

Unformed Legal Roads

Unformed legal roads provide a valuable network of public access opportunities to the outdoors with many allowing access to and along the coast, freshwater bodies and other public resources. Many also ~~cross~~ **bisect** private land or traverse sensitive ecological environments and careful decision making is needed to ensure that any new provision for public access through unformed legal roads is undertaken in a way that the impacts on natural resources and the safety and security of private landowners are well managed to avoid adverse effects on those resources and private landowners.

Public Access Objective

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PA - O1	To maintain and enhance customary and public access to and along the coastal marine area, waterbodies and public resources.
Public Access Policies	
<u>PA – P1</u>	<u>Provide for public access to and along the coastal marine area and waterbodies, while having regard to public safety.</u>
<u>NC-P5PA-P2</u>	Reduction in public access to waterbodies can be considered when natural hazard mitigation works are required to protect communities from a significant natural hazard threat <u>or when required for public safety due to the operational requirements of regionally significant infrastructure.</u> When assessing proposals for natural hazard structures , effects on public access should be considered and ways to minimise them found, including: <ol style="list-style-type: none">a. Provision of alternate certain and enduring access; andb. Provision of public amenity or opportunity for environmental benefit along the structure, provided that the physical integrity of the structure is maintained.