

**IN THE ENVIRONMENT COURT  
AT CHRISTCHURCH**

ENV-2025-CHC-

**I TE I TE KŌTI TAIAO  
KI ŌTAUTAHI**

**UNDER**

the Resource Management Act 1991

**IN THE MATTER**

of an appeal under clause 14(1) of  
Schedule 1 of the Act

**BETWEEN**

**VANCE AND CAROL BOYD, MICHAEL  
ELFORD AND M W AND S J ELFORD  
TRUSTEES LTD**

Appellants

**AND**

**TE TAI O POUTINI PLAN COMMITTEE**

Respondent

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**NOTICE OF APPEAL**

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Dated: 4 December 2025

**Todd Walker**

**Solicitor acting**

R E M Hill / L C King

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P: 03 441 2743

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**TO:** The Registrar  
Environment Court  
Christchurch

**AND TO:** The Respondent

- [1] Vance and Carol Boyd, and Michael Elford and M W and S J Elford Trustees Ltd (**Appellants**) appeal against part of a decision of the **Te Tai o Poutini Plan Committee** on the proposed Te Tai o Poutini Plan (**TTPP Committee**).
- [2] The Appellants made submissions on that plan or are a successor of a submitter for the purposes of this appeal, as provided under s 2A of the Resource Management Act 1991 (**Act**).<sup>1</sup>
- [3] The Appellants are not a trade competitor for the purposes of section 308D of the Act.
- [4] The Appellants received notice of the decision on 10 October 2025.
- [5] The decision was made by the TTPP Committee.
- [6] The part of the decision the Appellants are appealing is the rejection of the relief sought in the Appellants' submissions, including:
- (a) Rejection of relief sought to remove the Appellants' land at Hannah's Clearing within the mapping of the Coastal Hazard Erosion and Inundation (**CHEI**) overlay; and
  - (b) Rejection of relief to provide a consenting pathway for extensions to habitable dwellings in the CHEI overlay.
- [7] The relevant part of the decision dealing with the Appellants' submission is the Hazards and Risk Chapter (**HAZ**) Natural Hazards (**NH**) provisions.

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<sup>1</sup> See: *Kaitiaki Tarawera Inc v Rotorua DC* [1997] NZRMA 372. Michael Elford and MW and SJ Elford Trustees Ltd are successors of Raylene Black (Submitter 305 and 420) having purchased the property to which her submission relates.

[8] The reasons for the appeal are as follows:

- (a) The TTPP Committee erred in applying the CHEI overlay to Hannah's Clearing due to the uncertainty of the data set informing the mapping, in particular:
  - (i) The NIWA reporting that informed this mapping relies on an uncertain dataset for Hannah's Clearing that did not take into account land heights or accretion.
  - (ii) The mapping does not take into account relevance of recently constructed mitigation structures (a rock revetment).
  - (iii) At Hannah's Clearing, there is inconsistency in the way that properties at the southern end of the village have been mapped compared to those at the north, and also disagreement over conservation of projected sea level rise in respect of some hazard layer mapping, but ignore projected land rise in respect of CHEI.
  - (iv) Evidence was produced by the Submitter which demonstrates neutral long-term trends of erosion along the total front of the village. In addition, mapped historical frontal vegetation lines support the contention that the position at the southern end of the village is not different from that 500m north.
  - (v) There is scope to identify coastal hazards over a 50-year and 100-year planning horizon and adopt a more flexible and adaptive approach that better aligns with local conditions and community appetite for risk.
- (b) The CHEI mapping is also inconsistent with higher order planning documents, including Part 2 of the New Zealand Coastal Policy Statement (**NZCPS**), the West Coast Regional Policy Statement (**RPS**), and guidance regarding the mapping of coastal hazards from the Ministry for the Environment (**MfE**). It is also inconsistent with the National Policy Statement for Natural Hazards (**NPS-NH**), which is currently in draft form.

- (c) The TTPP Committee erred in classifying the CHEI overlay (as it applies to Hannah's Clearing) as a Severe Natural Hazard Overlay. This classification is disproportionate to the risk profile of Hannah's Clearing. The CHEI applied to Hannah's Clearing does not distinguish between coastal inundation and erosion – the latter occurs slowly, providing some warning to residents. In the alternative, the TTPP Committee erred in making the distinction between the risks of these hazard overlays when applying various rules (further set out below in relief).
- (d) Following the above point, the TTPP Committee erred in establishing a consenting pathway that is disproportionate to the level of risk to the Appellants' properties at Hannah's Clearing. As there is no immediate catastrophic consequence to the properties of erosion, a non-complying consenting pathway for expansions to habitable dwellings is disproportionate to the risk profile. The consenting pathway also does not distinguish between alterations that may extend living areas of a residential unit (for example, kitchen extension) versus developments that may increase residential capacity (for example, extra bedrooms or a minor residential unit). A less restrictive consenting pathway is available for the Appellants' properties (that may take into account the varying nature of development and whether these increase the risk profile, for example) which would achieve the purpose of the Act and the objectives of the TTPP. A less restrictive consenting pathway is available in the TTPP for specified land located within a Severe Natural Hazard Overlay.<sup>2</sup>
- (e) The CHEI overlay and rules are inconsistent with the NH objectives and policies. Overarching NH objectives and policies provide for a risk-based approach that takes into account the risk posed to people's lives and well-being, considering the likelihood and consequences of natural hazard events.<sup>3</sup> As noted above, the

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<sup>2</sup> See NH-R6 and NH-R7 which provides a restricted discretionary pathway for new / additions to buildings containing Hazard Sensitive Activities within a Severe Natural Hazard Overlay within the Scenic Visitor Zone or Māori Purpose Zone land.

<sup>3</sup> See NH-P1.

CHEI overlay and corresponding consenting pathway do not adopt a risk-based approach.

**Relief sought**

[9] The Appellants seek the following primary relief:

**Hazard overlay mapping**

- (a) The CHEI overlay is reconsidered and amended to reflect more reliable data input and exclude the Appellants’ properties; or
- (b) The CHEI overlay is reconsidered and amended to reflect more reliable data input and exclude the Appellants’ properties and other properties at Hannah’s Clearing that are also more appropriately excluded based upon a revision of the data and mapping.

**Plan provisions**

[10] In the alternative, the HAZ NH provisions be amended to recognise the risk profile of the Appellants’ properties at Hannah’s Clearing. Appropriate amendments include, but are not necessarily limited to, the following:

- (a) The CHEI overlay is removed from the definition of Severe Natural Hazard Overlay; and / or
- (b) Establish a consenting pathway for new / extensions to habitable buildings that is proportionate to the risk profile of the Appellants’ properties. This may include amendments to:

<b>HN - R27</b>	Additions to Existing Buildings and New Buildings containing Hazard Sensitive Activities in the Coastal Hazard Erosion and Inundation Overlay	
Activity Status Non-complying		Activity status where compliance not achieved: N/A

- The Appellant seeks that this rule be amended to provide a restricted discretionary consenting pathway for extensions to existing buildings within the CHEI, or
- Exempt properties at Hannah's Clearing from this rule, or
- Exempt the Appellants' properties, or
- Exempt additions to buildings containing hazard sensitive activities where this does not increase the habitable dwelling rooms.

[11] The Appellants also seek such other alternative or consequential amendments to the provisions of the TTPP that may be required to give effect to the relief sought.

### **Attachments**

[12] The following documents are **attached** to this notice:

- (a) A copy of the Appellants' submissions (**Attachment A**); and
- (b) A copy of the Te Tai o Poutini Plan Committee's decision (**Attachment B**).

[13] Persons to be served with a copy of this notice have been determined in accordance with the recent decision of the Environment Court.<sup>4</sup> No other party provided a further submission on the points of appeal. As such, the TTPP Committee (as Respondent) is the only party served and there are no other persons to be served with a copy of this notice.

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<sup>4</sup> [2025] NZEnvC 325.

Dated: 4 December 2025

A handwritten signature in black ink, appearing to be 'R E M Hill', written in a cursive style.

.....  
**Signed** for Vance Boyd / Michael Elford  
by their solicitor and duly authorised agent  
R E M Hill

**Address for Service:**

C/- Todd Walker  
PO Box 124, Queenstown 9348  
P: 03 441 2743

E: [rosie.hill@toddwalker.com](mailto:rosie.hill@toddwalker.com) / [lucy.king@toddwalker.com](mailto:lucy.king@toddwalker.com)  
**Contact persons:** R E M Hill / L C King

**Attachment A: Appellants' Submissions**

S447.

# Te Tai o Poutini Plan Proposed Plan

# Submission form



We need your feedback. We want to hear from you on the proposed Te Tai o Poutini Plan. What do you support and what would you like changed? And why? It is just as important to understand what you like in the Proposed Plan as what you don't. Understanding everyone's perspectives is essential for developing a balanced plan.



## Your details:

First name: VANCE and CAROL Surname: BOYD

Are you submitting as an individual, or on behalf of an organisation?  Individual  Organisation

Organisation (if applicable): \_\_\_\_\_

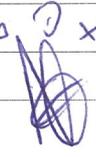
Would you gain an advantage in trade competition through this submission?  Yes  No

If you **could** gain an advantage in trade competition through this submission please complete the following:

I am  /am not  directly affected by an effect of the subject matter of the submission that (a) adversely affects the environment; and (b) does not relate to trade competition or the effects of trade competition.

Postal address: 11 AVRUM LANE, Queenstown 9300

Email: vcarb@extra-co.nz Phone: 0274343275

Signature:  Date: 22-October 2022

## Your submission:

The specific provisions of the proposal that my submission relates to are:

- Strategic Direction
- Historical and Cultural Values
- General District Wide Matters
- Appendices
- Energy Infrastructure and Transport
- Natural Environment Values
- Zones
- General feedback
- Hazards and Risks
- Subdivision
- Schedules

All submitters have the opportunity to present their feedback to Commissioners during the hearings process. Hearings are anticipated to be held in the middle of 2023. Please indicate your preferred option below:

I wish to speak to my submission  I do not wish to speak to my submission

If others make a similar submission, would you consider presenting a joint case with them at a hearing?

Yes, I would consider presenting a joint case  No, I would not consider presenting a joint case

Public information - all information contained in a submission under the Resource Management Act 1991, including names and addresses for service, becomes public information. The content provided in your submission form will be published to the Te Tai o Poutini Plan website and available to the public. It is your responsibility to ensure that your submission does not include any personal information that you do not want published.

Want to know more?  
[www.ttpp.nz](http://www.ttpp.nz)  
 0508 800 118



**Te Tai o Poutini**  
**PLAN**  
*A combined district plan for the West Coast*



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**Pages 6,7,8,9 & 10 Mapping of the Severe Coastal Hazard land.**

**Pages 11,12,13, 14 & 15 Emails exchanged with Council pre submission.**

**Page16. Natural Hazard Rules.**

**Page 17. Natural Coastal Defences.**

**Page 18 Blank.**

### **General Feedback.**

To develop a proposed plan consisting of 800 pages plus maps and overlays, covering an area from Karamea to the Cascade must have been a massive job given the resources available. Those responsible must have at times felt exhausted and overwhelmed.

I can't help but think that the proposed plan represents too much change too soon, it is bewildering to most people and distressing to many. There must be a better way.

I have tried to restrict my submissions to matters that affect our village at Hannahs Clearing where we own three sections at the south end, adjacent to the coast. I just hope I have captured our main issues. Where my submission refers specific aspects of rules my intention is that any associated objectives and policies would also need to be modified as applicable.

The complexity of the proposed plan is mind boggling. For example if I want to find out what activities are permitted on our property I have to look at map overlays for Flood Plain, Coastal Severe Hazard, Coastal Severe, Coastal Environment, ONL and Outstanding Coastal Natural Character. I then have to read chapters for District Wide Rules, Hazards and Risks, Natural Environmental Values, Rural Zone Rules and Rural Lifestyle Zone Rules. There may be others I have missed. This is not a plan that can easily be read and interpreted.

In my view the haste of preparation has led to other issues. For example the map books are very hard to read and provide no detail regarding Hannahs Clearing. The internet based overlay maps are good but require faster speeds than available at many West Coast Locations.

There are aspects that I have found difficulty understanding, some that come to mind are:

1. The proposed plan refers readers to schedules one to eight to determine restrictions on certain land. Unfortunately the schedules have no boundaries defined and only refer to areas in general terms. I accept that the online overlay maps do, but they are not referred to as being the definers.
2. I noticed that even in the Rural Zone resource consent is required for satellite dishes greater than 1m in diameter. If left as is I suggest that council staff will be very busy. Many satellite internet dishes have a greater diameter to counter rain fade.
3. I note that most rule sections conclude with "any activity not provided for by a rule in the zone shall be non complying". Perhaps this is common practise but it is hard to imagine that the plan has provided for every minor activity.
4. The land area of existing sites in some zones, e.g. Rural Lifestyle is contrary to the site size proposed by the plan.

The impression I get is that the proposed plan was released on the basis of sorting things out at the submission and subsequent stage, rather than taking more time to get it right. This is messy and could turn out to be a tortuous and expensive process for all involved.

Please accept that criticism of the plan is just that, it is not criticism of the nice and hardworking people involved with the process.

**This part of my submission relates to mapping of Outstanding Natural Landscapes and Outstanding Coastal Character and High Coastal Natural Character areas.**

I oppose the proposed inclusion of our residential properties at Hannahs Clearing in these areas, if indeed that is the intention. The properties affected are lots 1,2 & 3 DP 357973 and our neighbour Raylene Black at rapid 1976B.

The decision I seek from Council is to change the map boundaries to make it clear that these properties are not included, to ensure that clear maps are produced and to include clear references to boundaries in Schedules 5, 6, & 7 not just general values. I have attached a modified boundary map. The adoption of this would exclude the private subdivided village land from the ONL and OCC/HCNC, i.e. these areas would commence at our southern boundary with the DOC land. My reasons are as follows:

*The ONL boundaries.* I understand that in the online proposed plan maps these are identical to those identified in the 2013 Brown report. I note that in the area from Haast to Jacksons Bay the ONL area appears to exclude residential properties with the exception of four at the South of Hannahs Clearing i.e. our three titles plus Raylene's.

I have spoken to Mr Brown and understand that his 2013 report, which was probably developed earlier, relied on features identified on maps supplied at the time. Although the properties at the south of Hannahs Clearing Township were consented subdivisions and had dwellings and building platforms these did not show on the maps used, so they became included in the ONL land. This has resulted in an unfair inconsistency, especially as the features and values of the titles included in the ONL at Hannahs Clearing are no different to those of others in the western part of the settlement. This can be clearly seen from the aerial overlay photos. The second reason is that modified, subdivided land with dwellings does not fit within the values described in either Mr Browns 2021 report or in Schedule 5 referring to ONL's.

You will appreciate that activities in ONL's are restricted which would make residential activity or construction difficult and could degrade the value of our properties.

*Outstanding Coastal Natural Character and High Coastal Natural Character.*

At Hannahs Clearing the proposed boundaries of the above are the same as the ONL so many of the same comments apply. I find the position regarding this land to be very confusing. Firstly the description *above*, which appears on the web based overlay maps, does not appear on the PDF maps which are impossible to read anyway. Secondly, despite trawling through hundreds of pages contained within S32 reports I cannot find any commentary on land of this description, only some maps but these give no indication of their origin (Maybe Brown?). Likewise while Council has referred to the later 2021 Brown report as having some relevance to the coastal land classification it seems to me to relate only to the ONL. While Schedules 6 and 7 do relate to coastal classification they don't contain boundary descriptions. This may be a problem as the rules within various sections refer to land described in the schedules. Be that as it may, if we assume that our properties at Hannahs Clearing are proposed to be within the Outstanding Coastal Natural Character and High Coastal Natural Character boundary I submit they should not be as this is inconsistent with the rest



Later in his report Mr Brown went onto say:

*“I have rectified those ONL and HNC/ONC Area boundaries in response to Council’s identification of areas of concern in the brief received from Council. However, it is equally clear that the persistent issue of ONLs and HNC/ONC Areas encroaching on private properties could be partly (though, not wholly) addressed via the sort of re-mapping shown in this report”*

Mr Brown amended several South Westland ONL boundaries to exclude private residential property.

This report was presented to the Committee by Senior Planner Lois Easton as part of her report dated 29 April 2022. Lois alluded to the changes to the boundaries at Hannahs Clearing. She said that the changes would be incorporated into the maps to be released with the Proposed District Plan. It may be an oversight, but this did not happen.

Mr Brown commented at length about the difficulties he encountered in 2012/13 due to the quality of maps and photographs available. There may still be some problems, the quality of the image on page 164 of his May 2022 report is not great and I suspect he still has the revised southern boundary passing through our lot 3 DP 357973 rather than on or south of the southern boundary with the DOC estate.

**This part of my submission relates to the mapping of the Severe Coastal Hazard land at Hannahs Clearing.** There are a number of properties including ours, included fully or partially within the area mapped as Severe Coastal Hazard.

I oppose the inclusion of land at Hannahs Clearing village.

The decision I seek is to change the map boundaries and other references to make it clear that these properties are not included. My reasons are summarised as follows:

1. Land heights are not available from LIDAR measurements and could not be accurately determined.
2. The 2022 NIWA report makes it clear that there is a lack of data regarding the Hannahs Clearing village area.
3. The proposed Severe Coastal Hazard has the affected land width much wider at the south of the village than the north, even though the land height is greater at the south. This is illogical. (For clarification : I am not suggesting that the width should be greater in the north)
4. It cannot be concluded from the NIWA report that the land at Hannahs Clearing should be included
5. The process has ignored the guidance issued to local bodies by the Ministry for the Environment re the process for dealing with land proposed coastal hazard.  
<https://environment.govt.nz/assets/Publications/Files/coastal-hazards-guide-final.pdf>
6. The proposed classification of land at Hannahs Clearing is callous and cannot be justified on the information available. It is causing potentially affected residents unnecessary anxiety about the effect on life quality and the value of what is generally their biggest asset.

Enlarging on the above.

1. The 2022 NIWA report, commissioned by the Regional Council, seems to be the sole source of information used for the overlay mapping process. The report explains that when considering inundation land height is a critical factor and predicting erosion is complex. Due to a lack of data history, a comparison of past and present shoreline photos is a major tool for future predictions. Referring to inundation the report states on page 10 *“For Westport and Rapahoe high resolution LiDAR topography data was used for this analysis, but for other areas this data is not yet available so the analysis utilised the less accurate SRTM dataset. There is much higher uncertainty in this data and it is recommended that inundation hazard should be re-analysed to confirm/update the results once LiDAR data is released for these areas.”* On page 94 the report further states *“In all of the pCHA except Granity, Orowaiti and Rapahoe LiDAR topography data is not yet available and SRTM DEM was used instead. SRTM DEM is a crude representation of the ground elevation with lower accuracy and resolution than LiDAR, resulting in high uncertainty for the inundation analysis. With LiDAR survey expected to become available in the near future, the inundation mapping for these areas should be redone to confirm/update the results”* There is also comment on page 94 about the lack of data for the prediction of erosion, while on page 42 the report explains that there is a lack of data available for most areas of the West Coast so image comparison is useful. Given the above I submit that there is no justification for land at Hannahs Clearing being included in the overlay because of inundation. If required the matter can be reconsidered when the plan is reviewed after ten years.

2. In the 108 page NIWA report, Hannahs Clearing is specifically covered in only four lines on page 83. *“Shorelines in Hannahs Clearing and North do not show trends but have shown cycles of erosion and accretion with an erosion phase starting in the 1950s (30 – 60 m between 1951 – 1969) followed by a full recovery (1969 – 2006) and is ongoing a new erosion phase. South of Hannahs Clearing erosion trend are clearer, exceeding 0.5 m/year (see also Figure 4-31).”* The report has a table showing that erosion at Hannahs Clearing Village has been/ is neutral. The comment regarding erosion south of Hannahs Clearing relates to the old tip site 2km to the south, where erosion occurred in 2020 as a result of Cyclone Fehi. I believe a major cause there was the disturbance over the years, at this location, of the natural terrain and vegetation which provides protection for much of the coast, including Hannahs Clearing. I agree that shorelines at Hannahs Clearing village do not show erosion trends, I have had the opportunity to compare images covering the period 1951 to 2022 including one taken in 1979. If anything the shoreline is now further from the road than it was then.
3. The existing Hazard overlay starts off narrow at the northern end of the village, but 500m to the south it is the entire width of ours and our neighbour’s sections. I have had no logical explanation for this. I think the land on our southernmost title, the southernmost private land in the village, is 1.9-2m higher than that at the north. I have spoken with one of the NIWA reports authors about this. He explained that there was a lack of data re Hannahs Clearing so a line was drawn wider in the south as there had been some erosion at the tip site 2km down the road. I do not think that this is a particularly scientific approach and got the impression that the report authors felt that despite the lack of evidence they should produce something. It is hard to comprehend how something 2km south could translate to such a variance with the width at Hannahs Clearing over a distance of just 500m.
4. Papers put before the Planning Committee on 17 May indicated that community concerns had been raised about the robustness of the mapping at Hannahs Clearing. A response comment was that the NIWA modelling output had been carefully checked and no changes were recommended. I wonder about this statement given I have been unable to find any documented scientific modelling for Hannahs Clearing and as has been said the images don’t disclose any erosion trends. I submit that given the implications for ratepayers the reasonable conclusion to be drawn from the NIWA report is that there is insufficient evidence to warrant including Hannahs Clearing in the overlay. I get the impression that pressure to produce something has overridden logic. Since the NIWA report was prepared data from the Searise mapping programme has become available. This indicates that the coast near Hannahs Clearing is rising. A further factor, not taken into account is that a main divide earthquake, predicted to occur within the next 30 years or so, will likely cause further coastal land rise and as commented by NIWA will likely produce material that will travel down rivers and increase beach size. On page 111 of the PDP it states that the overlays have identified Coastal Severe and Coastal Alert areas where the risks have been modelled and mapped. There may well have been lines drawn on maps but there is no evidence of what could reasonably be considered modelling. I submit therefore that the inclusion of land at Hannahs Clearing and probably elsewhere fails the test described.

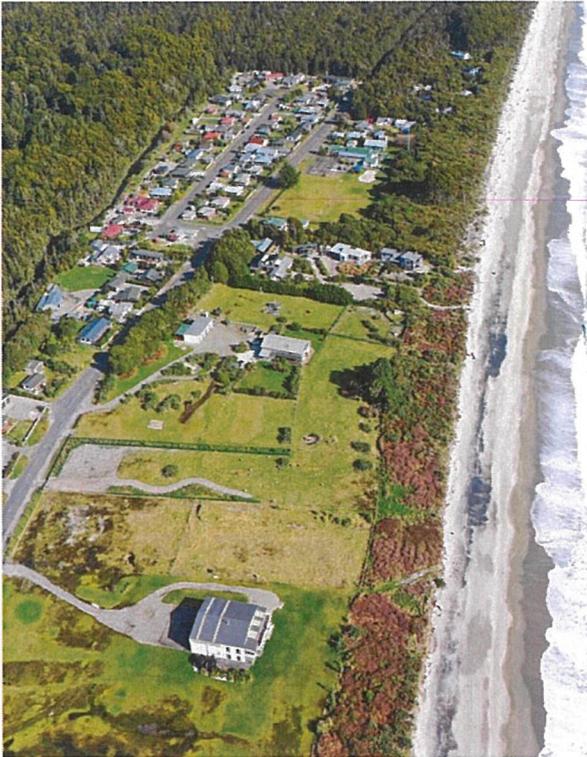
5. Dealing with potential coastal hazards has been a minefield for local bodies. In 2017 the Ministry for the Environment produced a 279 page guide for Local Authorities. I know that council is aware of the report and I have attached a link in summary point 5 above. The guide recognises the importance of involving stakeholders given the potential effect of decisions on their economic, mental and social wellbeing and devotes a substantial amount of its content to how this process should be undertaken. The report emphasises the need to produce data over a period of at least ten years and to share this with affected communities over time, taking on their feedback. Case studies are included. These show that best practise has been to work with communities for ten years or more so that if there is a problem there is general buy in. I feel that so far we have been presented with a fait accompli after a once over lightly exercise with minimal dialogue. While the magnitude of reporting on a 600km coastline within a tight timeframe possibly makes this understandable it does not make it right. I understand that there is a school of thought that says that the Government Coastal Policy Statement required urgent recognition in the proposed plan, but the approach that has been taken and the timing is nothing like that suggested by the Ministry, and there is nothing in the Policy Statement or the MOE guide that justifies the current position.

6.

I am sure that Council is aware of the bond between people and their land. In most cases it represents the bulk of their wealth, it is inseparable from their social lifestyle and the saying that their home is their castle is generally true. I have used the word callous to describe the way this proposal has been dealt with. This is not a criticism of the council people involved, I realise that this was not their intention, but it is the reality of the effect on those on the receiving end. Some people are considering moving, afraid that the value of their property will be significantly diminished; others have been distressed and unable to sleep. This is an understandable reaction and this situation should not have happened given that there has been no property in the village affected by erosion or inundation to date.



*Hannahs Clearing Beach 1979*



*Hannahs Clearing Beach 2022*



Council Proposed Severe Hazard Overlay showing increasing width N to S over 500m.

*Emails between Vance and Planners April 2022 re Hazard Mapping Included as background Information.*

Good Afternoon Edith,

Thank you so much for your considered reply.

Over the weekend I have been reading and thinking about the issues and realise what a huge job you have given that the Coastal part of the plan you are developing, while large and complex in itself, is only one aspect of the total plan.

In terms of hazards you will be considering flooding from rivers, earthquake risk etc, etc on it goes. I have attached a report I came across about river flooding , which often combines with coastal flooding, between 1846 and 1987. It reminded me that the West Coast is indeed a place where the forces of nature are felt and that is part of its attraction for many, one which has played a large part in the culture of the district.

Anyway, back to Coastal planning issues. I note that not many local bodies have got to grips with it so far, not surprising given the difficulties and the potential social and financial effects on residents.

The Christchurch City Council is at a similar stage to Westland, they sum up the requirements of the RMA and the Coastal Policy Statement as follows. That :

- Development, subdivision and land use does not increase the risk of coastal inundation, coastal erosion, rising groundwater or tsunami causing physical, social, economic or environmental harm.
- Existing communities potentially affected by coastal hazards are able to continue to develop and use land, natural and physical resources where the risk of adverse effects from coastal hazards is not increased and the level of risk can be managed to an acceptable level.

I presume this is the approach you are taking. With regard to risk it seems to be defined as the usual risk management approach, where high risk can be something that has a lesser effect but is likely to happen often or as something that is not likely to happen often but can have a significant effect on human safety if it does. If we relate this to Hannahs Clearing, I think that the red zoning and restrictive provisions suggested are unjustified for the south end of the township.

I note that the interactive draft plan ( the one where you can put in an address and bring up map overlays ) does not disclose any hazards at Hannahs Clearing so I assume that your current thinking has arisen as a result of the latest NIWA report. Understandably the report acknowledges the difficulties of accurately modelling what nature will do in the future.

The report notes that there are no known coastal erosion trends at Hannahs but that between 1950 and 1969 there was a period of erosion which reversed between 1969 and 2006. Since then the report suggests that erosion may be in the order of .5m per year more toward the old tip site a km or so to the south. It should be noted however that the power company about three years back removed a strip of beach top forest and vegetation near the tip site and this has allowed the sea to claim back to the "new" bush edge. The report further notes that unlike some other areas there has been no inundation of land at Hannahs Clearing, in other words the line denoting the red zone on the map has been derived we assume from calculations involving land height and perhaps beach profile. The report acknowledges that heights were obtained using the DEM satellite method as the more accurate DAR data is not yet available for our area. I am not sure how the DEM method deals with tree cover, interestingly the red part of Hannahs is the most forested. I note that the red zone seems to extend to or maybe across the road just south of our place.

Edith, as far as I can tell by walking around the town and along the beach edge it is all pretty well flat and of similar height at both north and south ends and to my eye the beach profile looks the same as well. Our properties are the last residential lots, all at the south end on the sea side of the road. We have built on the northern two while the southern lot is a vacant section. The land is low sand dunes which has been forested over centuries. As far as I can make out the height of the land where our house is located is probably similar in height to the seaward land on which houses are built on at the north end of the village and I estimate the building platform on our section next door is higher and further from the sea. Our house is 15 – 20 m further from the sea than the houses at the north and the next door (most southern) building platform is even higher and is separated from the sea by mature, 250 year old or so, forest. I have attached a photo looking toward the sea from the building platform. You can get a good idea from Google maps although I am sure you will have your own maps.

I calculate that if erosion were to happen at .5 m per year, it would take over 100 years to reach our house and much longer to reach the building site next door. Given that erosion tends to be cyclical it would probably take much longer. This ignores the effect the forest has on binding the land. Even if this is all wrong buildings on our land are not going to create a risk to life and limb in the way an earthquake could so I cannot understand why any of Hannahs Clearing should be considered red zone.

I do note that the M.O.E guide re introducing the National Coastal Policy into District plans sounds a note of caution about using map overlays in coastal areas, I can understand why.

Edith, a further point of concern is the notion of requiring people who wish to build etc on red zone coastal land to provide detailed technical mitigation with a RC application. In reality I suspect that this would just mean two lots of “experts” disagreeing with each other – I just don’t think the science is that clear here. If there was disagreement the likely outcome would probably not be positive. I have read a report of a case up north where the matter was finally decided in the owners favour by the high court, no doubt at great cost to the council and the owner.

I am sure you have figured out by now that I would therefore like all of Hannahs Clearing not to be red zone. I know that District Plans have to be reviewed every ten years, if new more compelling evidence arises there will be plenty of future opportunity to address it in the future. This approach seems to be similar to that adopted by some other councils so you will not be alone !

Edith, thanks for taking your mind away from the big picture to address our personal concerns, would it be possible to further my understanding by way of a phone chat with you ?

Kind Regards,

Vance Boyd.

**From:** Edith Bretherton [<mailto:edithb@wrc.govt.nz>]

**Sent:** Friday, April 22, 2022 2:55 PM

**To:** [rvcb@xtra.co.nz](mailto:rvcb@xtra.co.nz)

**Subject:** FW: West Coast Coastal erosion

Afternoon Vance,

Thank you for sending through your feedback, and further email.

---

The coastal protection question is a big one. The general approach has been that, if the structure is built to mitigate a 1% annual exceedance probability event, commonly referred to but actually slightly different 100 year coastal storm event, and 100 years of erosion, including climate change consideration, and is publicly maintained then it is considered part of mitigation. The reason for being so stringent is that we legally have to consider coastal hazards with at least a 100 year timeframe. The publicly maintained part, which the rating district ones would be part of, is also important. There is a danger, when something is maintained by a third party that if that third party has a change of circumstances the maintenance is lost. When I undertook the site visits with the NIWA coastal engineer we looked at the various structures, and read the asset management plans, which then formed the NIWA report. The other issue with protection works, and this is the case at Punakaiki, I need to reread on Okuru, is that even with a substantial seawall, storm surge comes up the Pororari River and into the settlement behind the wall.

In regard to the Building Act, I'm aware of that section, and do work closely with the building control teams to try to ensure that we are aligned where we can be. The difficulty is that district plans are written under the Resource Management Act, which has different requirements. It may be that people require a resource consent, and a building consent.

And yes you are correct. The most recent satellite imagery has been used to calculate erosion, and coastal inundation. The coastal inundation part takes into account storm surge, wave setup, vertical land movement, and climate change. I've had a quick look at it, and can understand the question, why is it wider in part of Hannahs Clearing. It will most likely be one of two things, relative ground heights, but could also be the offshore contours, so as the wave approaches, is the seabed consistent offshore, and if not, the inundation should reflect that. Please do let me know if you feel that is not correct and I can go back to our coastal engineer and ask him to please have another look.

Best regards

**Edith Bretherton**

Senior Planner – Te Tai o Poutini Plan

Tel. 03 768 0466

E: [edithb@wrc.govt.nz](mailto:edithb@wrc.govt.nz)

PO Box 66, Greymouth 7840

388 Main South Road

[www.ttp.govt.nz](http://www.ttp.govt.nz)



**From:** Hayley Burgess <[hayley.burgess@wrc.govt.nz](mailto:hayley.burgess@wrc.govt.nz)>

**Sent:** Friday, 22 April 2022 1:17 PM

**To:** Rachel Vaughan <[rachel.vaughan@wrc.govt.nz](mailto:rachel.vaughan@wrc.govt.nz)>

**Cc:** Edith Bretherton <[edithb@wrc.govt.nz](mailto:edithb@wrc.govt.nz)>; Jo Armstrong <[joa@wrc.govt.nz](mailto:joa@wrc.govt.nz)>

**Subject:** FW: West Coast Coastal erosion

**Hayley Burgess**

Customer Services Officer

Tel. 03 744 7302 ext. 9021

M: 021 194 4673

E:  
[hayley.burgess@wrc.govt.nz](mailto:hayley.burgess@wrc.govt.nz)



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388 Main South Road

[www.wrc.govt.nz](http://www.wrc.govt.nz)



**From:** Vance Boyd <[rvcnb@xtra.co.nz](mailto:rvcnb@xtra.co.nz)>  
**Sent:** Thursday, April 21, 2022 4:56 PM  
**To:** info <[info@wcr.govt.nz](mailto:info@wcr.govt.nz)>  
**Subject:** West Coast Coastal erosion

This email is from an external sender. Please be careful with any links or attachments.

Hello,

My name is Vance Boyd, our Trust owns property at Hannahs Clearing. Earlier today I made a form submission regarding the coastal plan.

Since making it I discovered a later NIWA report which fill in some of the gaps for me.

I am still puzzled about the role that coastal protection plays. For example at Punakaiki and Okuru there are substantial protection works but these places are still red on the maps ?

Further, the notes to the draft plan say that if one wishes to build on land identified as being of risk of coastal erosion a resource consent will be required and it will need to show mitigation.

I have attached an extract from the Act , assuming it is still current, it would appear that this is not always the case, for example when the building will not contribute to erosion damage on the property or adjoining land.

I would hope that council will realise the implications of what it is suggesting and modify the draft accordingly.

In an effort to appreciate why it is thought that one end of Hannahs Clearing is okay and one not I will attempt to compare the height of our land compared with that at the North end. From what I can make of the NIWA report they used satellite methods to calculate land height v potential wave height.

Regards,

Vance Boyd

**This Part of my Submission relates to the Natural Hazards Rule43 to NH Rule45 and associated policies and strategies.**

I oppose these sections applying to existing consented subdivision land. I also oppose the provisions of Rules 43 and 44.

The decision I seek is for Rules 43 and 44 to be deleted and the provisions for Severe Coastal and Coastal Alert to be similar to those provided in Rule 45 for Coastal Setback. I also seek recognition and remedy of the proposed position regarding existing consented subdivided land.

My reasons are as follows:

1. The existing District Plan requires consideration of matters including land suitability when considering Resource Consents for subdivisions. The matters to be considered are more comprehensive than those for establishing a building. Our three titles were approved by a subdivision consent issued in 2004 after these issues were considered. I am aware of other coastal subdivision consents having been issued later.
2. It is unfair and unreasonable for a person owning a consented section to find that establishing a dwelling on it is a non complying activity, even if this is sometimes the case with the current plan. Given the current planning mindset this proposal has the potential to significantly reduce land value, why would someone want to buy a section with no certainty of being able to build because this is designated as a non complying activity. Resource consents for NC activity on land zone Severe Coastal are likely to be difficult and expensive to obtain and would involve experts who will not necessarily agree with other. Council needs to face up to its moral obligations where subdivision has been approved and titles issued.
3. If Council wishes to retain an overview of building consents in coastal areas the provisions set out in NH Rule 45 should be perfectly adequate. I submit that there is no advantage to anyone, except consultants, in forcing people who wish to build a dwelling on a section they own to proceed down the path of applying for consent on the basis that building a house is a Non Complying activity. If Council wishes to continue on this basis it needs to consider the compensation implications. I suggest that the subdivision stage is when matters should be explored not when someone wishes to build on their section. It seems anomalous that the proposed plan says in rule Sub Rule 21, that applications for as subdivision consent in Severe Coastal areas shall be treated as discretionary when to build a house is proposed to be non complying.

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**This Part of my Submission relates to the Natural Hazards Rule38.**

I oppose the timeframe of two years for rebuilding in the event of damage to an existing dwelling.

The decision I seek is to allow five years.

My reason is that two years is unrealistic given the time that would be required for insurance settlement, plan development, builder availability and construction. I can't follow the logic of two years in some areas versus five years in others. I may be reading things wrong, or have missed something, but the above provision seems to relate to buildings in existence at the time the plan is notified. What happens with regard to damaged buildings finished after that date?

**This part of my Submission relates to protecting or restoring natural defences to coastal hazards.**

The Decision I seek is to amend the proposed plan in several sections to make it clear that the destruction of natural beach front defences, particularly in the Hannahs Clearing Area is not a permitted activity.

My Reasons are as follows:

1. The Coastal Policy Statement 2010, which has been referred to in the proposed plan, places an obligation on Councils to protect and restore natural defences to coastal hazards. These include barriers such as dunes and coastal vegetation and trees.
2. The village at Hannahs Clearing has been well served by the protection offered by the dunes and vegetation. It seems ironical that the proposed plan on one hand seeks to suggest that our properties are likely to be subjected to erosion or inundation but provides minimal protection for our defences, preferring instead to discourage us from living there.
3. Damage to our natural defences can be seen to the south near the old tip site where there has been activity going back to the tip days and more recently by the electricity company.



Handwritten initials and 'S420' in the top right corner.

# Te Tai o Poutini Plan Proposed Plan Submission form



We need your feedback. We want to hear from you on the proposed Te Tai o Poutini Plan. What do you support and what would you like changed? And why? It is just as important to understand what you like in the Proposed Plan as what you don't. Understanding everyone's perspectives is essential for developing a balanced plan.

## Your details:

First name: Raylene Surname: Black

Are you submitting as an individual, or on behalf of an organisation?  Individual  Organisation

Organisation (if applicable): \_\_\_\_\_

Would you gain an advantage in trade competition through this submission?  Yes  No

If you **could** gain an advantage in trade competition through this submission please complete the following:  
I am  /am not  directly affected by an effect of the subject matter of the submission that (a) adversely affects the environment; and (b) does not relate to trade competition or the effects of trade competition.

Postal address: P.O. Box 85; Haast  
South Westland - West Coast

Email: ratray@farmside-co.nz Phone: 03 7500 098

Signature: [Handwritten Signature] Date: 03/11/2022

## Your submission:

The specific provisions of the proposal that my submission relates to are:

- Strategic Direction
- Energy Infrastructure and Transport
- Hazards and Risks
- Historical and Cultural Values
- Natural Environment Values
- Subdivision
- General District Wide Matters
- Zones
- Schedules
- Appendices
- General feedback



All submitters have the opportunity to present their feedback to Commissioners during the hearings process. Hearings are anticipated to be held in the middle of 2023. Please indicate your preferred option below:

I wish to speak to my submission  I do not wish to speak to my submission

If others make a similar submission, would you consider presenting a joint case with them at a hearing?

Yes, I would consider presenting a joint case  No, I would not consider presenting a joint case

Public information - all information contained in a submission under the Resource Management Act 1991, including names and addresses for service, becomes public information. The content provided in your submission form will be published to the Te Tai o Poutini Plan website and available to the public. It is your responsibility to ensure that your submission does not include any personal information that you do not want published.

Want to know more?  
[www.ttpp.nz](http://www.ttpp.nz)  
0508 800 118



Te Tai o Poutini  
PLAN  
A combined district plan for the West Coast

**My submission:**

*(Include whether you support or oppose the specific provisions or wish to have them amended, reasons for your views and the decision you seek from us).*

Pages attached

Lined area for writing the submission.

Lined area for writing the submission.

Please attach more pages if required.

**How to send in your submission form**

▶ Did you know you can complete this submission form online?



Online submission form:

**www.ttp.nz**

▶ Or post this form back to us:



**TTPP Submissions, PO Box 66,  
Greymouth 7840**

**Submissions must be made by 5pm, Friday 11th November 2022**

**Want to know more?**

**www.ttp.nz**

**0508 800 118**



**Te Tai o Poutini  
PLAN**

*A combined district plan for the West Coast*

## OUTSTANDING NATURAL LANDSCAPES AND OUTSTANDING COASTAL CHARACTER AND HIGH COASTAL NATURAL CHARACTER AREAS.

I am opposing the inclusion of my property at 1976B Haast Jackson Bay Road in these categories as Vance and Carol Boyd and I seem to be the only ones in this category from Haast to Jackson Bay, every other residential property has been excluded.

It appears that in Mr. Browns 2013 report, the maps he was using never showed a consented subdivision with buildings on them in our area.

The inclusion of my property in this proposal puts unfair implications and conditions as well as decreased values to our properties.

## SEVERE COASTAL HAZARD.

I am opposing the inclusion of my property in this category, as I fail to see why the next door property on the western side 1976A is not documented in this category, surely there is no different in coastal landscapes between our two properties.

As being a longterm resident in the area...50 years..I have watched the sea come and go many times.

Our main problem here is our local power company falling our large trees to move power poles back on the beach therefore exposing the young little trees and shrubs to harsh salt conditions which kills them off , therefore eroding our natural barrier.

**General Feed Back.**

The proposed plan is not easily read or interpreted by the lay person as there are too many overlays, chapters, values and rules to be understood clearly .

**BEFORE THE HEARINGS PANEL  
FOR THE PROPOSED TE TAI O POUTINI PLAN**

**UNDER** the Resource Management Act 1991

**IN THE MATTER** of a submission on the Te Tai o Poutini  
Plan variation 2 – Coastal Natural  
Hazards Mapping

**BY** **Vance and Carol Boyd**

Submitter 447, FS117

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**SUBMISSION OF Vance & Carol Boyd : VARIATION 2 TO THE TE TAI O  
POUTINI PLAN**

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Dated: 30 August 2024

## **MAY IT PLEASE THE PANEL**

### **Introduction**

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

### **Background**

- [5] We own three lots at Hannahs Clearing being 1984 Haast -Jacksons bay Road ( two lots ) and adjoining to the south, Lot 3.
- [6] We originally submitted on the proposed plan, including on Coastal Hazards, in October 2022. I understand that as far as applicable this original submission will be taken into account as well as this submission.

### **Submission**

- [7] The Submitter opposes the Variation in its current form.
- [8] As part of the consultation process the submitter prepared feedbacks for the TTPP committee and presented it at a Committee meeting. This feedback is relied on as part of our submission and is **appended** as **A**.

### *Mapping*

- [9] The Variation mapping is opposed on the following basis:
  - (a) Counsel for the Submitter sent a letter to the TTPP Committee dated 20 May 2024, before the Variation was notified. This letter was on behalf of a number of property owners affected by the

Variation, including the Submitter This letter and supporting email is attached to this submission as **Appendix B**.

- (b) This letter is also relied on as part of this submission, notably in terms of:
- (i) the Variation mapping being inconsistent with Part 2 of the New Zealand Coastal Policy Statement (**NZCPS**), the West Coast Regional Policy Statement (**RPS**), and guidance regarding the mapping of coastal hazards from the Ministry for the Environment (**MfE**);
  - (ii) issues with the methodology of NIWA reports which informed the mapping of the Variation;<sup>1</sup>
  - (iii) issues regarding the uncertainties of erosion and inundation hazards in the Variation mapping, stemming from the NIWA reports;
  - (iv) the application of NZCPS Policies 24 and 25;
  - (v) ineffective and insufficient consultation being undertaken; and
  - (vi) the Variation process being inconsistent with processes followed in other recent plan review processes in different jurisdictions.
  - (vii) Recent trends cast further doubt on the accuracy of the mapping. These aspects are outlined in **Appendix C**.
- (c) The Submitter seeks the mapping be revised and that the Submitter properties in particular be removed from any alert or severe coastal hazard overlay.

[10] While it is noted that the Council's website states the Variation does not propose any changes to the relevant proposed TTPP rules, the

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<sup>1</sup> Contained within the NIWA reports (February 2022 Measures and Rouse; March 2022, Bosserelle and Allis) (together the **NIWA reports**).

Submitter opposes the associated coastal hazard overlay rules on the following basis:

*Scope*

- (a) The Submitter lodged the above original submission which addressed, in part, the coastal hazard policies and rules in the proposed TTPP.
- (b) The Variation regarding the mapping has fundamentally changed the planning framework for new owners affected by the coastal natural hazard rules and the proposed TTPP generally.
- (c) The TTPP rules directly flow from the coastal natural hazard mapping overlays, as proposed to be varied by the Variation.
- (d) In response to the letter Counsel for the Submitter sent to the Committee on 20 May 2024, the Committee's legal counsel (Wynn Williams) replied in a letter dated 7 June 2024. This letter acknowledged that the rules hearing will be delayed until the mapping Variation catches up, so the hearings are heard all as one. Therefore, the Submitter considers there must be sufficient scope for submissions on the rules and related coastal hazard provisions as well as mapping, through this Variation.
- (e) This letter is attached to this submission as **Appendix D**
- (f) There is no prejudice to other parties in allowing for scope for submissions to include those on the rules relevant to the Variation, as the submissions on the Variation will be notified allowing for further submissions on the provisions. That the mapping and provisions/rules changes will be heard together in one hearing means that earlier submitters and later submitters will all follow the same timeframes.

- (g) As was found in *Clearwater*<sup>2</sup> and similar cases regarding scope, there would be significant prejudice to those landowners now affected and interested in the new overlays to not be able to participate in rules policies and objectives which are now engaged as a result of the Variation. This is as a result of applying the first *Clearwater* limb of the test, in understanding scope by reference to whether the status quo of the planning framework has changed as a result of notification of a proposed plan. The Variation fundamentally changes the status quo of the existing planning framework (and the proposed TTPP as originally notified) by amending and introducing new alert and severe overlay areas.

*Risk Based Approach.*

- (h) The proposed plan makes it clear that a risk based approach is being taken with regard to classifying natural hazards. This is reinforced by comments made in the S42a report re hazards other than coastal.
- (i) The plan classifies coastal land as coastal severe and coastal alert. There appears to be no general nationally recognised definition of Coastal Hazard Severe, or for that matter Severe Hazard. Activities relating to dwellings in this zone are proposed to be generally Non Complying.
- (j) The GNS publication Risk-based Land use Planning for Natural Hazard Risk Reduction, is referred to in the general natural hazards S42a report and is one of the most comprehensive guides we have been able to find. Its approach is confirmed in various Environment Ministry releases. Categorising risk involves combining likelihood of events with consequences or effect. The relevant section of the GNS publication is **Appendix E**
- (k) The guide contains a table which translates a level of risk to a recommended consent status. Non Complying is recommended

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<sup>2</sup> *Clearwater Resort Ltd v Christchurch City Council* HC Christchurch, AP34/02, 14 March 2003. Also see *Palmerston North City Council v Motor Machinists Ltd* [2014] NZRMA 519.

only for an intolerable level of risk. We suggest that the level of risk at Hannahs Clearing, particularly at the south end of the village, is not intolerable. The risk is from erosion not inundation from flowing water. The land is about 6m above the sea. Erosion is a slow and historically cyclical process. At the time of writing this submission a revetment is under construction as a consequence of a recent ( April 24, weather event.

- (l) If we apply the likelihood of erosion happening to the extent that it reaches residential buildings and causes damage it could be considered to be level 4 - possible in 50-100 years ( Figure 4
- (m) We then consider the consequences chart, example, figure 5.1. We suggest that we can discount death or severe injury as a result of erosion. There would be ample warning to avoid that. There are a small number of dwellings in the Severe Hazard area. If we said that 21% to 40% of them could be damaged by erosion, but I suggest that steps would be taken before that happened, then we would have a score of 1 as there are no buildings of social cultural significance in the proposed Severe Coastal Hazard zone at Hannahs Clearing. Applying these numbers to the framework, Figure 3.1, gives a score of 4, translating to a recommended permitted planning status. If we reconsider and say the probability is level 5 it moves the planning status to controlled. Given that there are a low number of dwellings in the severe hazard zone, there are no buildings of social or cultural significance and the likelihood of death is minimal we fall well short of the catastrophic rating required to justify a Non Complying classification.
- (n) To overcome this requires either a change in the non complying status or a change in the zone description or both.

*Changes sought on rules*

- (o) The rules relevant to the Variation require more clarity regarding the relationship between the legal effect / operative status of the rule and savings/exemptions for when resource consents (and established activities) are granted and/or implemented prior to the date the proposed TTPP gains legal effect / becomes operative. Specifically:
  - (i) where consents are considered to have been given effect to, or partially given effect to, in terms of s 125 of the Resource Management Act 1991 (**RMA**), the new coastal hazard overlay and related provisions do not apply;
  - (ii) where there has been a previous subdivision of a single title for predominantly lifestyle or residential purposes, but those new subdivided sections are not yet built on, the new coastal hazard overlay and related provisions do not apply; and
  - (iii) where existing use rights apply in terms of ss 10, 10A, and 20A of the RMA, the new coastal hazard overlay and related provisions do not apply.
- (p) The rules require clarity as to what 'lawfully established' means in terms of the Variation and the proposed TTPP. The Submitter seeks instead that terminology consistent with the RMA is used, and that greater savings protection is afforded to property owners who have bought and invested in lifestyle or residential properties, or which have obtained resource consents for buildings, or which have developed on the basis of existing use rights.
- (q) the statuses of some activities under proposed TTPP rules relevant to the Variation are unnecessarily restrictive and should be reduced. Specifically;

- (i) discretionary and non-complying activities under Rules NH-R43 and NH-R44 respectively should be reduced to restricted discretionary; and
  - (ii) permitted activities under Rules NH-R1 and NH-38 should be expanded to include a provision for existing structures as a permitted activity.
- (r) It is submitted that the above clarifications and changes are consistent with the NZCPS direction not to increase risk per Policy 25, as opposed to implementing a blanket avoidance or reduction of risk in a plan.

### **Summary of relief sought**

[11] The Submitter seeks the following specific relief:

#### *Mapping*

- (a) That the proposed mapping overlays in the Variation are not accepted, and any further coastal natural hazards mapping overlays are revised to be consistent with the NZCPS, the RPS, and the MfE coastal hazards mapping guidance.
- (b) That the Submitter properties specifically are excluded from the coastal alert and coastal severe overlays.

#### *Rules*

- (c) The rules relevant to the Variation are given greater clarity regarding the relationship between the legal effect / operative effect of the rule and savings/exemptions for when resource consents (and established activities) are granted and/or implemented prior to the date the proposed TTPP gains legal effect / becomes operative.
- (d) The rules relevant to the Variation are given greater clarity regarding what 'lawfully established' means in terms of the Variation and the proposed TTPP, particularly that terminology consistent with the RMA is used.

- (e) Rule NH-R43, relating to discretionary activities within the coastal alert overlay zones, and Rule NH-R44, relating to non-complying activities within the coastal severe overlay zones, should be amended to be either of the following:
  - (i) the activities within Rules NH-R43 and NH-R44 should be classed as Restricted Discretionary activities; and/or
  - (ii) in the alternative, the non-complying activities in Rules NH-R43 and NH-R44 should exclude single titles subdivided for lifestyle or residential purposes as of the date the proposed TTPP rule gains legal effect or becomes operative.
- (f) Rules NH-R1 and NH-38, relating to permitted activities within the coastal hazard overlay zones, should be expanded to include rebuilds, and reasonable extensions, of existing structures (as of the date the proposed TTPP rule gains legal effect or becomes operative) as a permitted activity.

[12] The Submitter seeks the following general relief:

- (a) The below Table of Relief Sought further particularises how the Submitter considers the relevant rules could be amended to achieve the above intentions in this Submission, however additional, alternative, consequential, or necessary changes to these provisions may be sought.
- (b) such other relief as may be required to give effect to this submission, including alternative, consequential or necessary amendments to the proposed TTPP that address the matters raised by the Submitter.

Dated 30 August 2024

**Table of relief sought**

Those parts the Submitter considers should be removed are ~~struck out~~

Those parts the Submitter considers should be included are underlined

Rule	Activity	Activity status where compliance not achieved
<b>All Natural Hazard Overlays</b>		
NH-R1	<p><b>Reconstruction and Replacement of Lawfully Established Buildings in all Natural Hazard Overlays</b></p> <p><b>Activity Status Permitted</b></p> <p>Where:</p> <ol style="list-style-type: none"> <li><del>1. This is the reconstruction/replacement of a building lawfully established at the time of notification of the Plan;</del></li> <li><u>2. This is the reconstruction, replacement, or reasonable extension of an existing structure which has either obtained resource consent, or been lawfully established at the time the Plan becomes operative; and</u></li> <li><del>3. The building has been destroyed or substantially damaged due to fire, natural disaster or Act of God;</del></li> <li>4. The destroyed/damaged building is reconstructed or replaced within <u>5</u> 2 years in the Westport Hazard, Coastal Severe and Flood Severe Overlays;</li> <li>5. The destroyed/damaged building is reconstructed or replaced within 5 years in all other natural hazard overlays; and</li> <li><del>6. The reconstructed/replaced building is similar in character, intensity and scale to the building that it replaces.</del></li> </ol>	Refer to specific Natural Hazard Overlay Rules.
<b>Rules for the Coastal Severe and Coastal Alert Overlays</b>		
NH-R38	<b>Repairs and Maintenance to Existing Buildings in the Coastal Severe and Coastal Alert Overlays</b>	NA

	<p><b>Activity Status Permitted</b></p> <p>Where:</p> <ol style="list-style-type: none"> <li>1. For repairs and maintenance there is no increase in the area of the building;</li> <li>2. <u>For the rebuild or reasonable extension of an existing structure which has either obtained resource consent or been lawfully established at the time the Plan becomes operative;</u></li> <li>3. For reconstruction of a building lawfully established at the time of notification of the Plan where: <ol style="list-style-type: none"> <li>a. The building has been destroyed or substantially damaged due to fire, natural disaster or Act of God;</li> <li>b. The destroyed/damaged building is reconstructed within 5 years in the Coastal Alert overlay and 2 years in the Coastal Severe overlay;</li> <li>c. The reconstructed building is similar in character, intensity and scale to the building it replaces.</li> </ol> </li> </ol>	
<p>NH-R43 Option 1</p>	<p><b>Coastal Alert Overlay: New Buildings for Sensitive Activities and Additions and Alterations of existing Buildings that increase the net floor area for Sensitive Activities</b></p> <p><b>Activity Status <u>Restricted</u> Discretionary</b></p> <p>Where:</p> <ol style="list-style-type: none"> <li>1. These are located in the Coastal Alert Overlay</li> </ol>	<p>NA</p>
<p>NH-R43 Option 2</p>	<p><b>Coastal Alert Overlay: New Buildings for Sensitive Activities and Additions and Alterations of existing Buildings that increase the net floor area for Sensitive Activities</b></p> <p><b>Activity Status Discretionary</b></p> <p>Where:</p>	

	<p>1. These are located in the Coastal Alert Overlay.</p> <p><b><u>Activity Status Restricted Discretionary</u></b></p> <p><u>Where:</u></p> <p>1. <u>These are located within a single title subdivided for lifestyle or residential purposes at the time the Plan becomes operative.</u></p>	
NH-R44 Option 1	<p><b>Coastal Severe Overlay: New Buildings for Sensitive Activities and Additions and Alterations of Buildings that increase the net floor area for Sensitive Activities</b></p> <p><b>Activity Status <del>Non-complying</del> <u>Restricted Discretionary</u></b></p> <p><u>Where:</u></p> <p>1. These are located in the Coastal Severe Overlay</p>	NA
NH-R44 Option 2	<p><b>Coastal Severe Overlay: New Buildings for Sensitive Activities and Additions and Alterations of Buildings that increase the net floor area for Sensitive Activities</b></p> <p><b>Activity Status Non-complying</b></p> <p><u>Where:</u></p> <p>1. These are located in the Coastal Severe Overlay</p> <p><b><u>Activity Status Restricted Discretionary</u></b></p> <p><u>Where:</u></p> <p>1. <u>These are located within a single title subdivided for lifestyle or residential purposes at the time the Plan gains legal effect.</u></p>	

# **Appendix A - TPPP Committee Meeting Feedback**

## **Appendix A.**

### **Vance and Carol Boyd. Rapid 1984, Hannahs Clearing.**

#### **Feedback for the TPP Committee. Draft Coastal Hazard Mapping . Prepared by Vance.**

##### *Introduction.*

The coastal settlement of Hannahs Clearing , previously known as Carters Mill, consists of about 60 homes and the Haast Area School. The settlement is surrounded by Department of Conservation Stewardship Land. Houses were built from the mid 1960's, originally to service the then Carter's sawmill. Early maps and photos show that prior to that there was a cattle resting area about where the school is now. The Westland District Council has approved land subdivision on the seaward side of the road since around year 2000. In doing so they recognised that the surrounding DOC land limits available sites and considered that there was no obvious threat from coastal hazards. Our property consists of the last three titles at the south western end of the village. Our house is on two titles, while the third is vacant land with a physical building platform. All three titles are forested with trees estimated to be up to 350 years old.

##### *Why am I taking the opportunity to provide feedback now?*

The committee has the ability to decide if the overlay maps should be notified as is, or if they should be withheld from the plan pending further study and community consultation. I hope to persuade the committee that the latter should be the case. It would be even better to withdraw all of the coastal hazard sections from the PDP at this stage to allow the process to proceed properly. If the outcome of an adaptive coastal hazard strategy was that the PDP was the best tool (doubtful) then this could be addressed at a ten year review.

If the maps proceed to the notified PDP stage then the reality is that residents are faced with employing expensive experts before the commissioners and, if unsuccessful at that stage will face even greater cost at Environment Court level. I feel that the further proposals such as these advance, the harder it becomes to change them. The committee has the ability to decide whether, based on a common sense approach, the maps as they stand are fit for purpose and whether at this stage, the limited science behind is sufficient to justify their potential consequences for residents. Although my focus is on Hannahs Clearing I'm sure the points I wish to make won't be unique to there.

##### *Feedback on the consultation process.*

The online form, which can be used for brief feedback, asks initially for comment on the consultation process. My comments relate to the process and should not be considered to be personal criticism of those involved.

I think the consultation process, at least as it relates to CHA's 25 and 26 in South Westland was unsuccessful. The revised mapping has about 150 properties at Okuru, Hannahs Clearing, Neils Beach and Jacksons Bay in proposed severe coastal hazard areas. The implications of this are that to build or extend a house on land in this area would be a Non Complying activity. This would have significant effect on property values, and insurance and would impose significant restrictions on individual property owner's rights.

It's reasonable to expect that a large number of people would be concerned about this and would want to be involved.

In fact only four parties, all from Hannahs Clearing took part in the "drop in" session at Haast and a further two, one from Neils Beach and one from Hannahs Clearing took part in a later video session.

I think there are several reasons for this. Firstly people claim they were unaware of what is proposed. I understand that the main method of communication was by email to those who had submitted on the draft PDP. This may have left out those who are affected by extensions to the map overlays. Also there are a number of absentee owners who don't regularly pick up on word of mouth information and those subject to special rating schemes who may have felt unaffected.

There are other factors. When the first draft of the PDP was being prepared for notification there was a meeting at Haast attended by about 50 people. Unfortunately the consultation then and later proceeded on the basis of "this is what we are going to do and we are here to explain it" rather than on the basis of "is there a problem and if so what are our options?" As a result residents, most of whom struggled to understand the process due to the time required and their busy lives, felt that it would be a waste of time taking part in consultation as decisions had already been made. To some extent this sentiment was vindicated by no change being made to the previously notified PDP hazard provisions between consultation and notification. For example I provided feedback about the inadequacy of the mapping because of (amongst other things ) the lack of LIDAR land height information but the process ploughed on anyway. This is why with LIDAR information we are now back where we were. I have appended my original feedback on the pre notified draft proposals to this document.

Further factors as to why the consultation has not worked are that unlike the Buller region we have not experienced any immediate coastal threat to property, so it has not really been on people's radar. For example the March 2022 NIWA report, which is the principal document relied on to support the mapping, has 9 pages relating to the Granity , Hector, Ngakawau area and has 9 references to previous reports relating to that area. By contrast Hannahs Clearing gets less than one page of analysis and there are no studies or reports which have been on people's minds.

Finally, there are probably some who think that it doesn't matter what is in a plan, things will just carry on as before down here.

I have noted before that the approach taken to possible coastal hazards, via the PDP, is at odds with a body of reports providing guidance including the extensive 2017 Ministry for the Environment publication, Coastal Hazards and Climate Change – Guidance for local Government. Other more recent publications on the same theme include a 2023 publication from international consultants WSP in conjunction with the Helen Clark foundation. Both of these reports set out the principle of consultation in detail. The extract and chart below outline the recommended process. In terms of the five stage ten step process we seem to have minimised step one, then leapt straight from a once over lightly step two straight to step eight. It should be no surprise that the consultation process hasn't really worked.

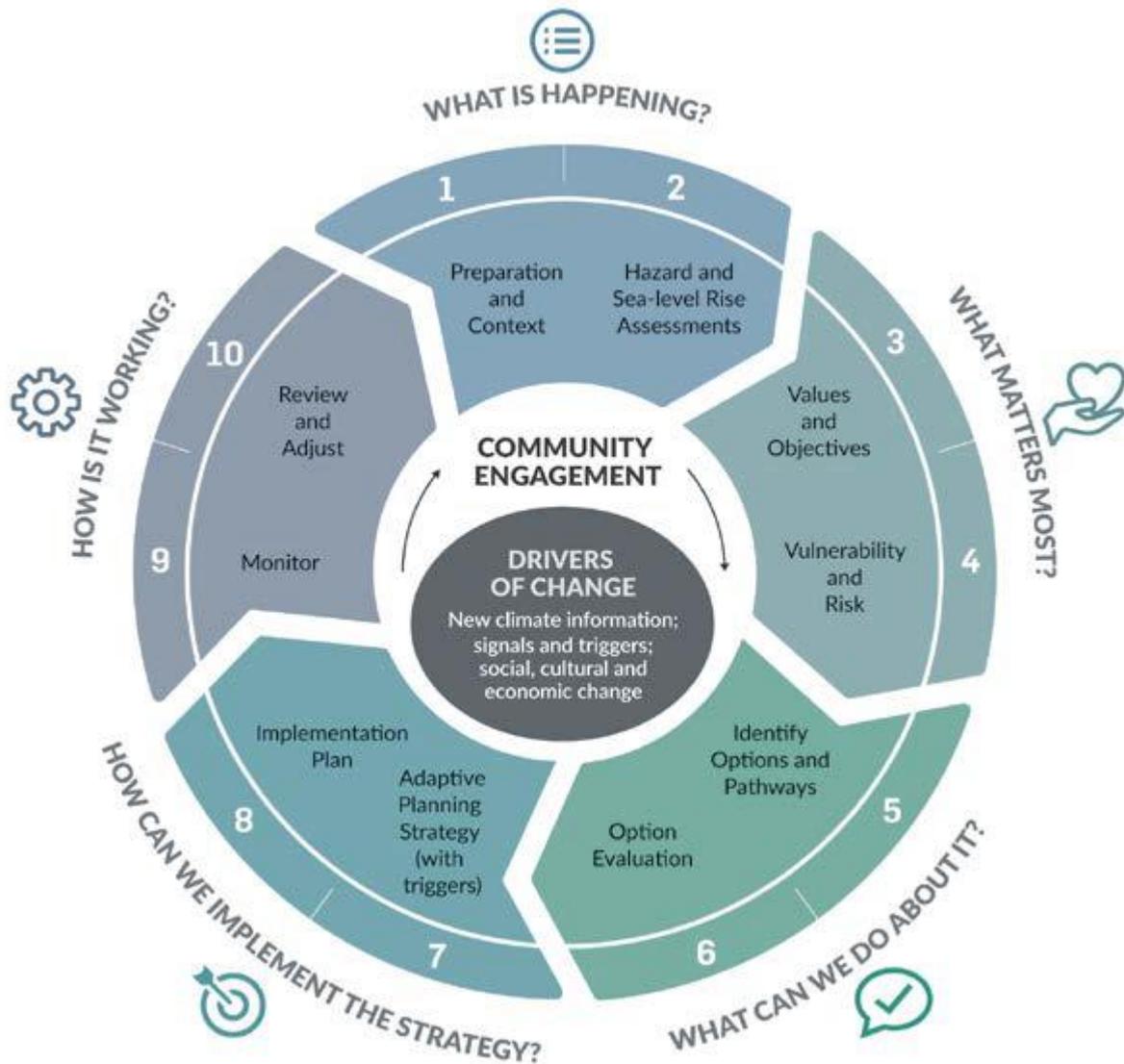
***"A. What is happening?*** (includes setting the context and preparation through to undertaking sea-level rise and hazard assessments based on scenarios) – **Chapters 1–6**

***B. What matters most?*** (centred on values and objectives: people and asset service delivery and undertaking risk and vulnerability assessments) – **Chapters 7–8**

***C. What can we do about it?*** (identifying and evaluating options) – **Chapter 9**

***D. How can we implement the strategy?*** (secure and implement an adaptive planning strategy) – **Chapter 10**

***E. How is it working?*** (monitoring and regular reviews and possible adjustments) – **Chapter 11 "**



*Feedback on Updated mapping.*

The mapping process was undertaken with limited resources and on a tight time frame. Below I comment on what I consider are specific inadequacies. I am conscious that in raising these it will be tempting to ask NIWA for answers to some questions. The problem with this is that it naturally leads to a defensive position being taken. I think the real solution is to start again following the methodology of the process outlined above.

For some time the West Coast coastal area has been divided into 7 CHA's ( Coastal Hazard Areas )

The areas are classified as high, low and medium priority. Our property is in CHA 25. The South Westland CHA's are classified medium priority as opposed to those in Buller which are generally high priority. CHA's were adopted using advice provided by NIWA about 2002.

In 2022 NIWA were asked to further consider the CHA's and to map hazard areas including severe coastal hazard areas. The report regarding this work can be found here [https://tppp.nz/wp-content/uploads/2023/11/2022-03-NIWA\\_CHA\\_Report-inundation-erosion-for-7-CHAs.pdf](https://tppp.nz/wp-content/uploads/2023/11/2022-03-NIWA_CHA_Report-inundation-erosion-for-7-CHAs.pdf).

At the time of this report LIDAR height information was not available but that information became available shortly after the PDP submission period closed. As a result NIWA updated their previous work and released a further report <https://tppp.nz/wp-content/uploads/2023/11/2023-03-NIWA->

[CHA-Rpt-inundation-only-update-for-7-CHAs-but-ex-Westport-LiDAR2022.pdf](#). These reports form the basis for the mapping.

In the PDP the introduction explains the map overlays as follows:

*“Coastal Hazard Overlays – “Coastal Severe” where risk from coastal erosion and inundation have been modelled and mapped, “Coastal Alert” where risk from coastal inundation has been modelled and mapped. “Coastal Setback” where modelling has not been undertaken and is a precautionary approach. “Coastal Tsunami” is where the most—“*

As you will see from my comments below I find it hard to accept that risk for CHA25, particularly with regard to erosion, was “modelled” There simply isn’t enough information currently available. In 2022 I raised this during a conversation with one of the NIWA report authors. He conceded that there was little information available and due to time pressure the authors were required to use “educated guesswork”.

Some points re the mapping :

1. The adoption of the maps and their relevance to the PDP took place without any attempt to follow the recommendations of the Ministry for the Environment 2017 document Coastal Hazards and Climate Change advice for Local Government. That document and others, including the WSP/Helen Clark Foundation report emphasises the desirability of following a ten part cycle process starting with identifying the problem and ending with monitoring the solution. Matters such as local knowledge, appetite for risk, soft and hard mitigation options have not been explored. Jumping straight to a plan with land use being Non Complying is a big step and a very blunt instrument compared with other options and should require very sound science.
2. The NIWA mapping report deals at some length with the methods adopted for the calculation of inundation and coastal erosion but in my view is light on the information used as the basis for erosion calculations, particularly in CHA25. This is because unlike some northern CHA’s the data just doesn’t exist. The explanation for CHA25 takes less than one page.
3. The severe hazard areas are defined as being areas where hazard can exist due to possible inundation or erosion but specifics as to which could cause the possible hazard and why are not provided.
4. The LIDAR data has disclosed that our house site is 6.2m above the datum; our vacant property is 6.4m while those to the north are at about 5.5m. These heights are well above any estimated storm tide plus wave setup height estimates. My assumption is therefore that the village is not likely to suffer from inundation, so the mapping was perhaps done on the basis of erosion. On the other hand many properties at Okuru are around 3.0m high so perhaps the mapping of the of the severe zone there was done on the basis of inundation. Okuru has a substantial mitigation structure.
5. Large parts of Hokitika, Greymouth and Westport towns are at a height of around 3m. The rules for these areas are either less restricted or not yet clear. Following this section is a figure showing heights at Hannahs Clearing.
6. The later mapping, done after LIDAR heights were available moved the eastern boundary of the severe zone at Hannahs Clearing slightly closer to the sea. There is no explanation given for this.
7. The NIWA report ( page 82) comments that there are no trends indicated for the shoreline at Hannahs Clearing. This is supported by a trend line which shows a neutral erosion position until south by the old rubbish tip site.
8. Below I have included photographs from 1951 to 2022. While there has no doubt been episodic and cyclical shoreline erosion and accretion over that time it is clear from the

photos that there has been little overall change between 1951 and the present. This is in line with the NIWA statement that shorelines in Hannahs Clearing and north do not show (long term) trends. Around page 42 the report comments on the methods used to estimate future coastal erosion. Where data is lacking estimates are calculated using information derived from photo comparisons over as long a term possible.

9. The mapping has a narrow band of severe hazard at the north of Hannahs Clearing which expands to be wide enough to cover most of our properties which are only 480m to the south. There is no explanation for this; certainly neither the photographs nor the LIIDA data disclose any reason for it. In fact our properties are higher than those to the north and as can be seen from the images they have additional protection provided by forest and vegetation. My discussion with one of the NIWA authors left me with the impression that this aspect of the mapping was somewhat arbitrary and a reaction to some erosion at the old tip site to the south during ex tropical cyclone Fehi .
10. No 50 year or for that matter 25 or 75 year mapping has been made available. In my view this restricts understanding and limits the ability to consider adaptive change with trigger points - if that is what is required.
11. Westland has over 20 of special rating districts, including at Okuru and Neils Beach . The purpose of these is to provide the Regional Council with funding for the construction and maintenance of mitigation structures .There is an extensive hard structure at Okuru and a soft feature at Neils Beach. The mapping and NIWA report does not appear to take these into account. The Regional Council 2021-2031 plan is committed to working with existing communities to investigate the provision of protection where it is required. This objective was confirmed in this year's Chairman's report and is in accord with most recommendations for dealing with climate change where infrastructure and settlement currently exists.
12. The draft plan accepts that a main divide earthquake has a 75% probability of occurring within the next 50 years. My advice is that this will likely result in some coastal uplift and will certainly result in beach accretion due to large volumes of material being transported down rivers. This has been the case over recent centuries. Aerial observation of the Haast coastal plain clearly shows inland sand hills marking where the coast was during roughly 300 year events. It seems reasonable to factor AF8 into any coastal hazard planning, but this has not been done. The estimates from experts in the seismic field suggest that the certainty of AF8 in the next 50 years is much higher than the certainty of coastal hazard threat.
13. I am not alone in thinking that the mapping is inadequate. The WCRC has submitted on the proposed plan objecting to the generalised nature of the mapping and the potential effect on community wellbeing. The Council submission is appended later.
14. Additionally, the Department of Education commissioned an adaptive pathway report from international consultants WSP, regarding potential coastal hazard threats to the Hannahs Clearing School which is about 250m up the beach from our place. That report considers that there is no short or medium term threat and it should be business as usual until 2070 and business as usual with adaptation, if required from 2070 to 2120. The report also comments that further study of the beach is required and takes into account statements contained in the WCRC long term plan about general monitoring and community consultation. This seems sensible given the current lack of data.
15. The existing severe coastal mapping boundaries pass through parts of existing houses e.g. through the third bedroom of my friends house at Okuru. To suggest that the mapping is this accurate is not sensible.

Photographs etc.



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Figure 1. Hannahs Clearing town site, 1951, taken looking east. The dogleg in the road to the left of the cattle resting place provides a good reference to later images. Distances can be estimated by reference to the distance from the coast to the road and the distance to Little Groper Creek running roughly parallel to the eastern of the road.



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Figure 2. Similar view from the east ,1951. Little Groper stream is more obvious.



Figure 3. An aerial photo of Hannahs Clearing, then known as Carter Mill taken in 1979. Reference to the road dog leg suggests that the cattle resting place in earlier photos was about where the school grounds are.



Figure 4. A comparable photo to 3, above taken late 2022. The building to the west of the dogleg in both photos is now a family home. Our house can be seen top right of photo.

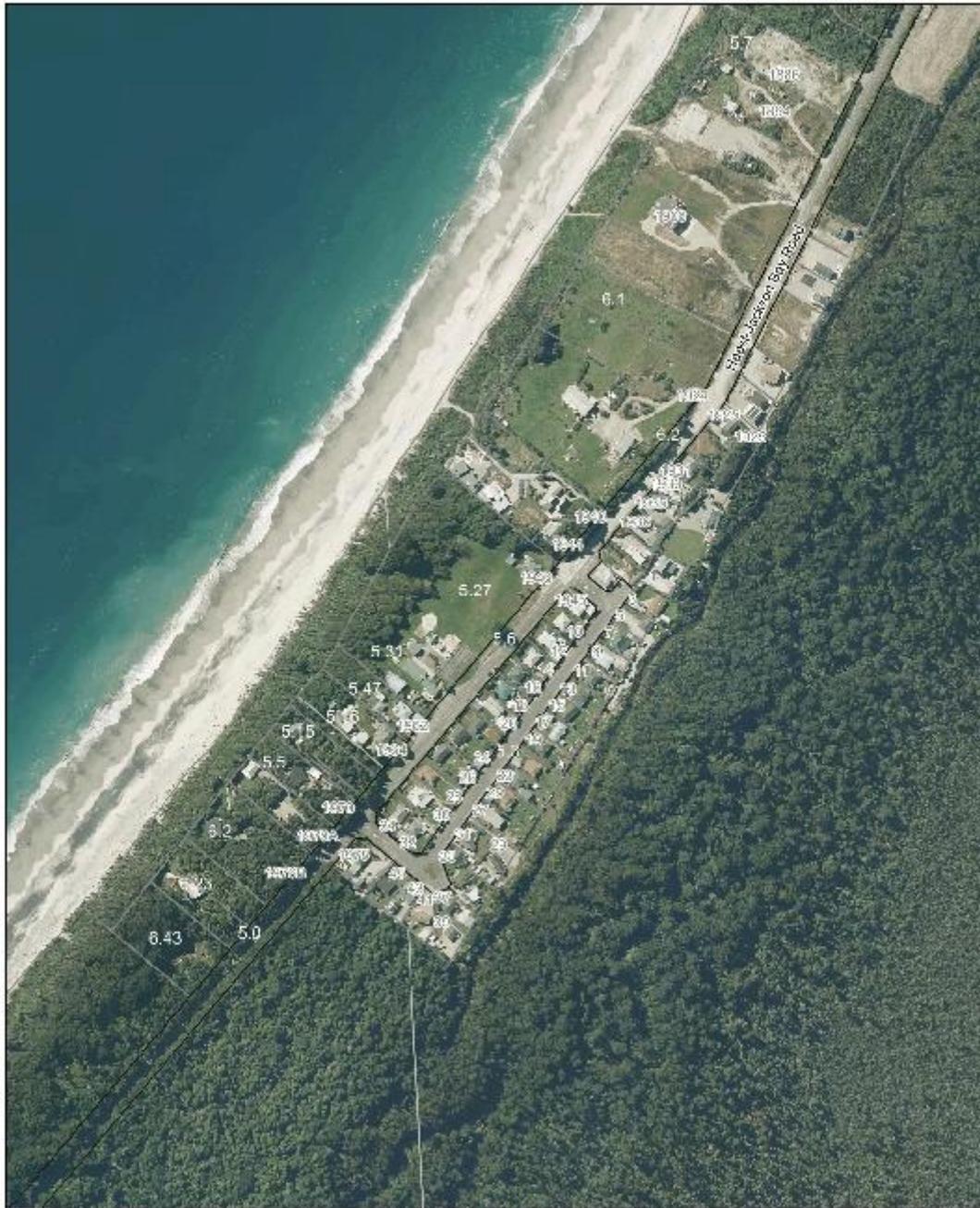


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Figure 4 . Hannahs Clearing from the west. 1988.

# Hannahs Clearing LIDAR land heights M

Created By:  
Print Date: 13/12/2023  
Print Time: 3:51 PM



Scale: 1:4483  
Original Sheet Size A4

Projection: NZGD2000 / New Zealand Transverse Mercator 2000  
Bounds: 1267159, 10404852, 5125883, 6682087  
1267984, 50339688, 5126909, 23906213

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Figure 5. A current WDC LINZ data photo of Hannahs Clearing with LIDAR land heights in meters shown in white.

These heights were sourced from LINZ DEM LIDAR data. Our house and vacant section is in the left lower. One again the road dog leg , coast and stream can be used as comparisons with earlier photos.

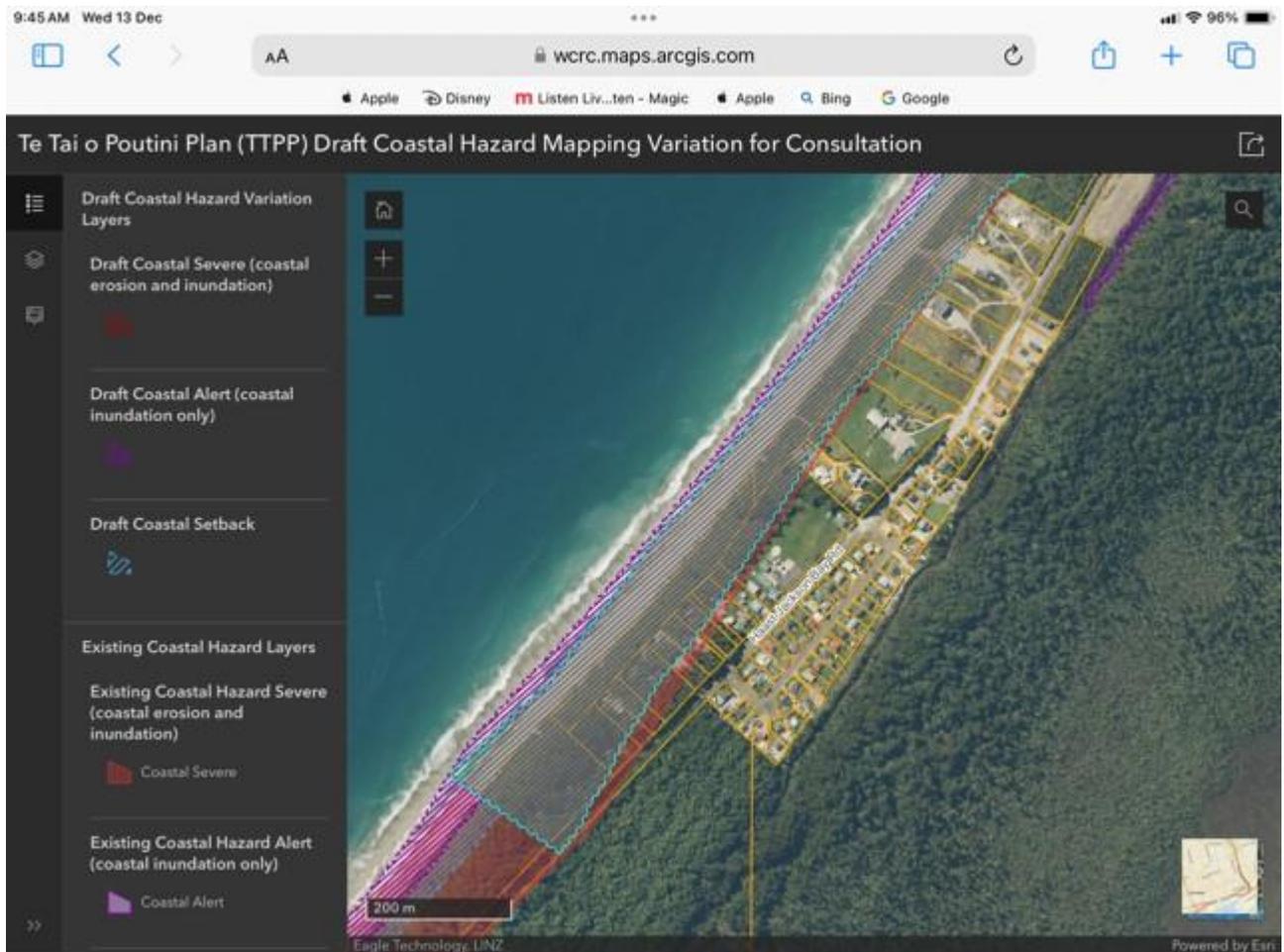


Figure 6. A screen shot of the severe hazard re mapped area at Hannahs Clearing. The area is relatively narrow at the north of the village. As it goes SW it passes through some houses, before completely including some houses and practically all of our vacant section.

*Other feedback I would like the Committee to consider.*

For years the West Coast has tended to take a more permissive approach to regulation than other regions of New Zealand and seems to have recognised the rights of individuals to as far as possible control their own destinies.

The issue of Natural Hazards and how to deal with them has been considered by many local bodies. It is interesting therefore that the approach proposed via the PDP is one of the most restrictive if not the most restrictive I have found.

Local bodies have generally fulfilled their responsibilities by publishing advisory maps (i.e. let the buyer beware) and for existing settlements by working toward taking an adaptive approach for areas with existing infrastructure. This is in line with the WCRC long term plan but at odds with the PDP.

The Kapiti Council started going down a similar path to the PDP, albeit with a much more comprehensive risk assessment report. My understanding is that after backlash the Council commissioned a panel of experts to review the original report. Despite its detailed approach the mapping was found to be too simplistic and not fit for purpose. The coastal hazard provisions were withdrawn from the PDP and the council then appointed a panel chaired by Sir Jim Bolger to tackle an adaptive pathway approach in consultation with the community. That work is continuing.

There seems to have been a rush to complete the PDP. It's unclear why this is although it's been suggested that there were concerns that the previous Government may have foisted some regime upon the region if haste was not displayed. I sincerely hope that threat has passed and we can back off to a more considered approach.

Vance Boyd, 17 December 2023.

# **Appendix B - Letter to West Coast Regional Council**

20 May 2024

West Coast Regional Council  
PO Box 66  
Greymouth 7840

**Attention:** Te Tai o Poutini Plan Committee  
**By email:** info@tppp.nz; Michelle.Conland@wrc.govt.nz; Doug.Bray@wrc.govt.nz;  
Lois.Easton@wrc.govt.nz

Dear Members of the Te Tai o Poutini Plan Committee

### **Imminent Notification of Variation to the Te Tai o Poutini Plan (TTPP) – Coastal Hazard Mapping**

1. We act for a number of property owners concerned as to the impending variation for coastal hazards. Our clients reside own properties located at Hannah's Clearing and Okuru. We understand that the TTPP Committee has recently agreed to notify a variation to the TTPP (anticipated for 27th June 2024) to include amended coastal hazard (severe) layers. We understand these layers will impose a non-complying consent status for new buildings, significantly impacting our clients' ability to develop and use their land.
2. Our clients have serious concerns regarding:
  - (a) The methodology and adequacy of the NIWA reports informing these hazard overlays;
  - (b) Inadequacy of consultation to date in preparation of the proposed variation (particularly in respect of ascertaining appropriate adaptive management approaches);
  - (c) Incorrect interpretations of the New Zealand Coastal Policy Statement (NZCPS).
3. As detailed below, we consider there are significant uncertainties and potential inaccuracies in the severe coastal hazards mapping that need to be addressed before proceeding with formal Schedule 1 notification under the RMA for any variation. We strongly urge the Committee to delay the notification of this variation until these issues are resolved.

4. Proceeding to notification in advance of resolving these issues will put significant costs on Council in terms of protracted litigation on the Variation and puts landowners at a significant and unfair disadvantage in having to formally rebut erroneous hazard mapping once notified.
5. In terms of hearing streams for the TTPP, we strongly urge that any plan provisions (methods, policies, objectives, rules) for coastal hazards must be heard in the same hearing stream along with the mapping of the severe coastal hazards overlay. If this variation on mapping proceeds after provisions for natural hazards are heard, many landowners affected by the variation will be unjustly and prejudicially affected without a right to participate. Best practice would see rules and overlays to which those relate, to be heard together.

## Key Points of Concern

### *Methodological Issues with NIWA's Report*

6. Our clients believe that NIWA's methodology<sup>1</sup>, particularly the application of a 100-year risk assessment only for erosion and inundation coastal hazards, is flawed. This assessment appears to have been taken from a literal interpretation of the NZCPS policy 24 and 25.
7. There is no dispute as to the obligations contained in ss67(3)(b) and 75(3)(b) RMA for the TTPP to *give effect to* NZCPS (being a combined regional and district plan).<sup>2</sup> The process of identification of hazards over a 100 year planning horizon is clear in policy 24, however the matter of how to manage those risks within the life of the combined plan leaves relatively more discretion.
8. Policies 25(a) and (b) are directed at subdivision, use or development (including redevelopment) which *increases the risk* of social, environmental and economic harm and the risk of adverse effects from coastal hazards. The policies do not require the complete avoidance of risk which is defined as ... *a combination of the consequences of an event (including changes in circumstances) and the associated likelihood of occurrence*<sup>3</sup> ... but rather seek to avoid increasing risk. This requires a comparative exercise based upon existing risk and zoning.
9. Our review of the Committee's April agenda, the NIWA reports, and the existing s32 report for natural hazards<sup>4</sup>, also show that there has been inadequate consideration of alternative timeframes or adaptive management strategies, as is directed in the recent Ministry for the Environment (**MfE**) guidance materials (2024), and as followed in other recent plan review processes in different jurisdictions.

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<sup>1</sup> Contained within the NIWA reports (February 2022 Measures and Rouse; March 2022, Bosserelle and Allis) (together the **NIWA reports**).

<sup>2</sup> Per *Environmental Defence Society Incorporated v New Zealand King Salmon Co Ltd & Others* [2014] NZSC 38; [2014] 1 NZLR 593; [2014] NZRMA 195; (2014) 17 ELRNZ 442.

<sup>3</sup> Policy 25(a) and Glossary.

<sup>4</sup> Report 5

### *Application of NZCPS Policy 24 and 25*

10. The NZCPS and the MfE guidance<sup>5</sup> emphasise the importance of adaptive management and suggest that risk assessments for coastal hazards can consider shorter timeframes, such as 25 or 50 years, in addition to the 100-year timeframe in order to inform risk management options and pathways. While we accept policy 24 directs a requirement to identify risks to a 100-year planning horizon, this does not translate to a requirement that:
  - (a) Only a 100 year (1:100 AEP) line in the TTPP is notified with an avoidance / non complying regime; nor
  - (b) That management of those identified risks in a TTPP framework could be something different than the above.
11. Put simply, policy 24 directs identification, but how to manage that subsequently depends on factors such as community risk appetite (informed through consultation), costs, cultural and social consequences).
12. Given the consequences of this particular proposal (affecting a significant number of property titles in the severe overlay), the need for informed consultation to feed into a s32 analysis assessing that, is heightened. The absence of 25, 50 and 75 -year mapping for public consumption severely restricts understanding and limits the ability to consider adaptive change with trigger points (per step 5 of the MfE guidance). In principle it is acceptable to consider modelling coastal inundation at the same time as coastal erosion although it depends on locality. The s32 document prepared for the previous overlays suggests significant consultation, but it is not clear upon what actual information around mapping was provided.
13. We have lodged a LGOIMA request for 25 and 50 year mapping which is referenced in the 2022 NIWA report but was not publicised. We have also sought information on the instruction / scope of work provided by Council staff to NIWA to inform this work.
14. A more flexible and adaptive approach may better align with local conditions and community risk appetites – but this can only be understood through community assessment (which is not necessarily available through a schedule 1 notification process, that becomes inherently adversarial).
15. Other recent second generation plans have conducted informed community consultation based upon a range of timeline mapping, for example, Christchurch City and Dunedin. Without any input from the community in terms of risk appetite, there can

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<sup>5</sup> Including Step 5 – requirement to identify options and pathways - several types of adaptation options are available for adapting to coastal hazards and climate change consistent with NZCPS policy 25 and 27.

be no understanding of what are the possible and appropriate adaptive management responses (as opposed to a simple non complying regime in severe overlays).

16. There is a fundamental failure in the committee moving to notify the variation, without assessing these relative costs and benefits in accordance with revised s32 RMA (at least to a draft / high level).
17. We note that the previous s32 documentation for natural hazards is flawed in a number of ways and now requires updating, including because:
  - (a) It is based upon the MfE 2017 guidance for coastal hazards and climate change, not the 2024 guidance;
  - (b) It does not include an appraisal of options for adaption based upon community risk appetite informed by available mapping over different timeframes (as set out above);
  - (c) It will need to be updated in light of the revised severe overlay mapping and this should underpin any decision towards notifying the variation.

#### *Specific Issues and Uncertainties in the Mapping – erosion*

18. There are specific issues and uncertainties in the current severe overlay mapping that need to be addressed. For instance:
  - (a) The LIDAR data and NIWA's report has revealed inconsistencies in the erosion and inundation risk assessments.
  - (b) The mapping includes areas that have shown no significant long-term erosion trends. Despite clear evidence as to the stability of some areas in terms of coastal erosion, those remain mapped as severe.
  - (c) The mapping provides for no site specific recognition of mitigations on the ground – such as stop bank walls and structures at Okuru, or natural processes of accretion which mitigate erosion processes. NZCPS policy 24(1)(b) requires assessment of *both short-term and long-term natural dynamic fluctuations of erosion and accretion*.
  - (d) Adequate data and historic information about shoreline changes and sediment budgets are needed, along with an understanding of how vulnerable the coast is to climate change.
  - (e) Page 93 of the 2022 NIWA report references the uncertainty of the mapping including in light of the occurrence of a major earthquake not being accounted for although it would significantly affect the shoreline relative to sea level and

that the pulse of sediment transported down rivers will modify (build up) the shoreline.<sup>6</sup>

- (f) We have sought expert input to provide comment on the NIWA reports. We are informed there are further uncertainties as to:
- (i) What data, if any, other than the erosion at the old dump site at Hannah's Clearing was used to create the map of shoreline changes (Figure 4-34 of the March 2022 report).
  - (ii) There are obvious inaccuracies in some parts of the mapping – for example at Hannah's clearing where the mapping shows a pattern of abrupt change to the inland boundary to the Severe area overlay, suggesting an area between two known data points is extrapolated with straight lines rather than with due consideration of the geomorphology and land-use.<sup>7</sup> This contradicts with section 3.11 of the NIWA 2022 report, suggesting that hazard areas were manually reviewed.
19. Uncertainty of the projected erosion presents an onerous burden on landowners, and although providing for residential activities as 'permitted' may be too generous, the assessment of historical land-use and the risk under existing subdivision patterns suggests that there is scope for special consideration in addressing a differing activity status for existing residential / lifestyle sections. In other words, existing subdivisions for residential and lifestyle sections have generally been approved according to the ODP approach for discretionary consents within 150 masl – which necessitated a comprehensive hazards risk assessment. Any case for intensification, rezoning, or further infill subdivision would potentially be an increase in risk – as opposed to simply providing a reasonable consenting pathway for existing activities (i.e. single dwellings on single lots)<sup>8</sup>.

#### *Uncertainties for inundation mapping*

20. In terms of inundation, the NZCPS asks councils to consider, over 100 years, the “*cumulative effects of sea level rise, storm surge and wave height under storm conditions*” and add SLR into the mix (Policy 24.1(e)).
21. The approach in the NIWA reports however essentially takes a very high tide combined with a very large storm surge and a very high sea-level anomaly all at the same time. This approach is arguably more 'deterministic' than 'probabilistic'.
22. The NIWA methodologies should be clarified and recalibrated in light of the 2024 MfE guidance, and likely held off until later guidance expected this year, is released.

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<sup>6</sup> This is despite the TTMP also stating there is a 75% chance within 50 years scenario of an AF8 event, which would result in coastal accretion. The uncertainty of this consequence could also be built into a more adaptive management approach.

<sup>7</sup> Refer to the screenshots of GIS overlays provided to the DPR Committee by Mr Boyd.

<sup>8</sup> Consistent with policy 25 NZCPS – to avoid *increasing* risks of harm and adverse effects.

## Consequences of Proceeding with Notification

### *Ineffective Consultation Process*

23. The consultation process to date has been inadequate. Our clients inform us that many affected property owners were not properly informed or engaged. We have sent the Committee's April meeting minutes to a number of our clients who are affected by the overlay, and they were not aware of this process (despite being actively engaged in other TTP matters). Effective consultation is crucial for ensuring that the mapping accurately reflects local conditions and community needs. It is also crucial, as above, and required under MfE guidance to understand and inform any s32 assessment on relative options.
24. It is inefficient and not consistent with the requirements of s32 to put in place rules that might put residents to unnecessary expense of obtaining discretionary consents when the s32 report itself suggests that a little bit of further assessment right now would remove that need<sup>9</sup>.

### *Contrary to MfE guidance*

25. The following are key extracts in relation to the mapping and planning of erosion coastal hazards, and which are contrary to the 2022 NIWA approach to date:
  - (a) Page 19 – the principle of proportionality applies in determining adaption planning processes - decisions affecting small areas and few people and requiring little sunk investment may reasonably consider climate change effects over a shorter timeframe. This should be applied on a community-specific basis and a number of those (such as Hannah's clearing and Okuru) where subdivision consents have already issued for single dwelling use – would qualify as small with little sunk investment.
  - (b) Page 56 - There is likely to be considerable spatial variability in future erosion rates under RSLR (Dickson et al, 2023). The NIWA approach assumes uniformity along the entire West Coast jurisdiction.
  - (c) Page 72 - Councils should engage with the wider community to understand what 'things or objects' of value could be affected by increasing coastal hazards and rising sea levels. This engagement should be done after the coastal hazards and SLR assessments are complete.
    - (i) Consistent with the footnoted examples, we consider this should be done before formal Schedule 1 notification, and as part of feeding into any s32 assessment.

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<sup>9</sup> Second generation plan reviews for Christchurch, Dunedin, Northland, and Auckland Council all provided for consultation based upon 30, 50, and / or 100 year coastal erosion timeframes, to inform community feedback for options analysis. See for example: <https://www.aucklandcouncil.govt.nz/environment/what-we-do-to-help-environment/Documents/predicting-auckland-exposure-coastal-instability-erosion.pdf>

- (d) We also understand that further technical guidance on this subject matter is to be released by MfE later this year<sup>10</sup>. It would therefore be prudent to hold off notification of the variation until that is received.

### *Interpretation of NZCPS*

- 26. Our clients are concerned about overlapping and duplicating regulation in the form of a non-complying building rule applying to vacant residential allotments, which have already been subdivided in anticipation of residential development and obtained site specific hazard assessments to support the same.
  - (a) Site-specific investigations of potential slope erosion hazards are likely to be more detailed than any district-wide coastal hazard assessment. Council could effectively control and require these assessments on a case by case basis without a blanket presumption of avoidance or a non complying regime. A lesser activity status would be entirely appropriate.
  - (b) In considering what rule may be the most appropriate in the context of the evaluation under s 32 of the Act, the correct approach remains as expressed in *Wakatipu Environmental Society Inc v Queenstown Lakes District Council*<sup>11</sup> namely where the purpose of the Act and the objectives of the Plan can be met by a less restrictive regime then that regime should be adopted. Such an approach reflects the requirement in s 32(1)(b)(ii) to examine the efficiency of the provision by identifying, assessing and, if practicable, quantifying all of the benefits and costs anticipated from its implementation. It also promotes the purpose of the Act by being enabling so that people can provide for their well-being while addressing the effects of their activities.<sup>12</sup> The direction in policy 25 of the NZCPS does not change this case law, in that this direction provides for consideration of *increases* in risk.
  - (c) the ‘avoidance’ and ‘mitigation’ directions from the NZCPS in relation to high risks can equally be undertaken through existing resource consents which have issued residential allotment titles, which appropriately address the risks of coastal erosion on the ground, rather than high level assumptions or modelling. This is a key point of difference to consideration of intensification (i.e. denser subdivision and development or rezoning) in coastal hazard areas as compared to providing just before existing subdivided allotments to develop as anticipated.
- 27. Adaptive management and design are “Acceptance” strategies rather than an avoidance one – i.e. accept the risk (erosion) and the costs consequent on the hazard being realised (relocating buildings). Such an approach is consistent with Objective 5 of the NZCPS which provides:

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<sup>10</sup> MfE’s website states that broader guidance on the practical steps to take as part of the adaptation process is expected to be published later in 2024. When this *Adaptation Planning Guidance* is released, a condensed technical version of the *Coastal hazards and climate change guidance* will sit alongside it.

<sup>11</sup> *Wakatipu Environmental Society Inc v Queenstown Lakes District Council Decision C153/2004* at [56].

<sup>12</sup> *Royal Forest and Bird Protection Society of New Zealand Inc v Whakatane District Council*, [2017] NZEnvC 051, at [59].

Objective 5: To ensure that coastal hazard risks taking account of climate change, are managed by:

- locating new development away from areas prone to such risks;
  - considering responses, including managed retreat, for existing development in this situation; and
  - protecting or restoring natural defences to coastal hazards.
28. When assessing the risk of an effect, the High Court has stated that it must be able to satisfy itself (on the balance of probabilities) that the risk of the future event occurring is likely, albeit that it may be a low probability event.<sup>13</sup> The case law is clear that a mere suspicion of an effect is not enough, as there must be at least a scintilla of evidence (not just a theory) sufficient to support a prognosis of an adverse effect on the environment.<sup>14</sup>
29. This is particularly relevant in that policy 24 of the NZCPS is subject to the requirement to take '*into account national guidance and the best available information on the likely effects of climate change on the region or district*'.
30. Council has not provided the evidence to support the notification of a severe hazard layer only based upon high level 1:100 AEP events, with an associated non-complying rule for new buildings. A number of properties within this will have already demonstrated that they have satisfied Policy 3 of the NZCPS by assessing the risk of coastal hazards, and taking steps to mitigate the risk to the point of acceptability through subdivision.
31. At best the NIWA 'lines' are an initial, untested, attempt to decide the initial (draft) location of the hazard lines for the eventual variation. These are not fit for immediate schedule 1 notification along with a non-complying / avoidance building regime.

## Conclusion

32. Given the concerns outlined above, we strongly recommend that the TTPP Committee delay / suspend the notification of the coastal hazard mapping variation. A thorough review of the methodology, additional community consultation, and consideration of adaptive management strategies are necessary steps to ensure that the TTPP accurately reflects the risks and needs of the West Coast communities. We suggest prudent steps would be:
- (a) To commission a peer review of the NIWA reports;
  - (b) To publicly notify for comment any further peer review commissioned;
  - (c) To assess community risk appetite and consequences by way of requesting feedback on a range of options on a continuum from risk management

<sup>13</sup> *R J Davidson Family Trust v Marlborough District Council* (2017) 19 ELRNZ 628 (HC), at [133].

<sup>14</sup> *Shirley Primary School v Christchurch City Council* [1999] NZRMA 66 (EnvC).

(avoidance) to adaptive management consistent with Step 5 in the MfE Guidance (and including based upon NIWA 50 year erosion mapping, which is known to exist);

(d) To await further MfE technical guidance being released this year; and

(e) To then use the above to inform any s32 assessment.

33. **Attachments** – extracts from opinions expressed by previous Environment Court Judge Allin, in the context of the Kapiti plan review process.

Yours faithfully

**TODD & WALKER LAW**



**Rosie Hill / Ben Russell**

Senior Associate / Solicitor

Email: [rosie.hill@toddandwalker.com](mailto:rosie.hill@toddandwalker.com)

Matter ID: 36398

# Appendix C - Summary of recent trends

## **Recent trends at Hannahs Clearing.**

We have already traversed what are perceived to be inadequacies in mapping given the consequences of the proposed Severe Coastal Zoning.

As stated elsewhere the 2022 NIWA report acknowledges the fact that the shoreline at Hannahs Clearing has episodes of accretion and erosion but that no long term trend can be identified. It further states, and we accept, that there currently exists a phase of active erosion. The report states that erosion is difficult to predict, however based on history the current erosion will reverse at some stage, in the worst case scenario when AF8 occurs, expected to be within the next 30 years.

Recent events illustrate the difficulty with mapping erosion areas. In April 2024 number of coinciding circumstances caused erosion to the shoreline of the West Coast, including at Hannahs Clearing.

Subsequent actual measurements compared with Google maps and Council aerial imagery show that between April 2021 and the end of April 2024 the shore adjacent to houses at the south of the village eroded 14m while over the same period the shore adjacent to houses at the north of the village eroded 26m. This is contrary to the coastal hazard mapping which shows a greater risk at the south where homes are placed in the Severe Hazard zone while those in the north are not.

This reality simply illustrates the difficulty in predicting erosion without detailed site specific studies being undertaken. As ratepayers we don't feel it is our responsibility to finance these studies and suggest that this should fall upon those seeking to impose severe restrictions. This view is consistent with that expressed in Ministry for the Environment guidance publications.

We realise that further work is expensive for whoever undertakes it and suggest that a more permissive and uniform zoning proposal could avoid the need for this.

**Appendix D - Letter from Counsel for TPPP Committee**



7 June 2024

**Attention:** Rosie Hill | Ben Russell

Level 2  
Craigs Investment Partners House,  
Five Mile Centre,  
36 Grant Road, Frankton, 9300

**By email to:** rosie.hill@toddandwalker.com

Dear Rosie and Ben,

### **Te Tai o Poutini Plan – Coastal Hazard Mapping Variation**

1. We act for the Te Tai o Poutini Plan Committee in respect of its proposed Te Tai o Poutini Plan (**TTPP**). We refer to your letter dated 20 May 2024 (**Letter**), and subsequent email dated 28 May 2024 in relation to the TTPP – Coastal Hazard Mapping Variation (**Variation**).
2. At paragraph 7 of your letter, you refer to the TTPP as a combined regional and district plan. We wish to clarify at the outset that the TTPP is a *combined district plan* as per section 80 of the Resource Management Act 1991 (**RMA**) and does not include the provisions of the regional plan.<sup>1</sup> As such, the Te Tai o Poutini Joint Committee (**Committee**) only has the functions of the District Councils in respect of preparation of a District Plan and not the functions of the Regional Council.
3. In respect of the Variation, you have identified a number of concerns and seek that notification of the Variation be delayed. The Committee has already resolved to notify the Variation and notification is scheduled to take place on 27 June 2024.<sup>2</sup> Once the Variation has been notified, the Variation will follow the schedule 1 RMA process, and be considered by the Independent Hearing Panel. We consider that the concerns you have raised are best addressed to the Independent Hearing Panel in a submission on the Variation.
4. To the extent you have raised concerns regarding the Committee's process, including in respect of consultation, we note that there is no obligation on the Committee to consult, except to the limited extent provided for in clause 3 of Schedule 1. Notwithstanding, the Committee did undertake community consultation in respect of the Variation. Details of the consultation can be found in the Agenda for the Committee Meeting on the 14 February 2024.<sup>3</sup> Accordingly, we do not consider there is any procedural reasons why notification of the Variation should be delayed.

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<sup>1</sup> Local Government Reorganisation Scheme (West Coast Region) Order 2019.

<sup>2</sup> Lois Eaton 'Te Tai o Poutini Plan – Draft Coastal Natural Hazards Variation – Further Information and Recommendation to Proceed with Variation' dated 29 April 2024.

<sup>3</sup> Lois Eaton 'Te Tai o Poutini Plan – Feedback on Draft Coastal Hazards Variation to the Plan and Recommendation to Proceed with Variation' dated 14 February 2024, at paragraph 4.

5. In order to ensure that your client's concerns are able to be addressed, we have recommended to the Committee that the hearing of the coastal hazard provisions, currently scheduled for October 2024 as part of the Natural Hazards topic, be deferred until such time as the notified Variation has "caught up" in the schedule 1 process. This means that submissions on the coastal hazard provisions and on the maps will be heard together.

Yours faithfully  
**Wynn Williams**



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## Appendix E - Risk Assessment : Extract from GNS Publication.

- Hazard maps, inundation maps, overlays of current and proposed development;
- Consequence analysis – what do minor to severe events look like?
- Keep it simple.

Questions to ask and information to gather:

- If a major event happened to this locality, what would be the main issues of concern?
- What are the expectations about how this area is to be managed into the future? (e.g., housing, or commercial development)
- What are key matters affecting exposure, e.g., important buildings, access ways, vulnerable communities, important icons?
- What do people want to know more about?

Be prepared for:

- Conflicts that may arise due to stakeholders' unfamiliarity with risk estimation and the uncertainties and value assumptions associated with the method.
- This step will also reveal what are the 'sticking points' – areas of biggest concern or areas where beliefs about the hazard and associated risks are most at odds with those of hazard technical advisors.

### 3.3 STEP 3 - LIKELIHOOD

Once the land use and consequences have been determined, only then should the likelihood be evaluated (Figure 3.5). For example, if a natural hazard event has a return period of 1:100 years then, using the table below, this event would be considered to be “possible” (level 4). Similarly if a natural hazard even has a return period of 1:500 years, then it would be considered to be unlikely (level 3). The level calculated for the natural hazard is needed to complete the risk-based approach (Step 4).

Level	Descriptor	Description	Indicative frequency
5	Likely	The event has occurred several times in your lifetime	Up to once every 50 years
4	Possible	The event might occur once in your lifetime	Once every 51 – 100 years
3	Unlikely	The event does occur somewhere from time to time	Once every 101 - 1000 years
2	Rare	Possible but not expected to occur except in exceptional circumstances	Once every 1001 – 2,500 years
1	Very rare	Possible but not expected to occur except in exceptional circumstances	2,501 years plus

**Figure 3.5** Likelihood scale.

As part of this step, while no formal communication with the stakeholders and general public is required, the decision around the likelihood, and the fundamental assumptions on which it was based should be recorded for the purposes of transparency and to allow for later use under Step 4.

Once the land use, consequences and likelihood have been determined (Steps 2 and 3), a risk-based approach can be applied.

### 3.3.1 Likelihood table assumptions

The assumptions relating to the use of the likelihood table are follows:

- The likelihoods provided are accepted by key stakeholders.
- The table is scaleable, in that it allows for the evaluation of multiple hazards, i.e., flooding, landslides, tsunami, fault rupture.

### 3.4 STEP 4: TAKE A RISK-BASED APPROACH

In order to take a risk-based approach, the consequences and likelihood need to be quantified to provide a level of risk.

To achieve this, a matrix can be used that incorporates the relevant risk level, expressed as a function of consequences multiplied by likelihood (Figure 3.6). The risk then ranges from 1 (extremely low) to 25 (extremely high).

		Consequences				
Likelihood		1	2	3	4	5
5		5	10	15	20	25
4		4	8	12	16	20
3		3	6	9	12	15
2		2	4	6	8	10
1		1	2	3	4	5

**Figure 3.6** Quantifying consequences and likelihood (adapted from Saunders, 2012b).

The risk levels then need to be determined. Figure 3.7 shows how the risk levels were determined from Figure 3.6. In practice, participation and associated debate would be required within council and with the community to determine the thresholds for the levels of risk (See Section 3.1.1– Building an Engagement Strategy).

Risk	Level of risk
1-9	Acceptable
10-19	Tolerable
20-25	Intolerable

**Figure 3.7** Qualifying levels of risk from Figure 3.6 (adapted from Saunders, 2012b).

When decision makers are considering the risk levels and the planning options to address the levels of risk, they should consider the questions detailed in Table 3.4. A robust and thorough consideration of these questions will help ensure that the right risk and consent thresholds are established, and that the objectives, policies and rules developed in response to the risk levels achieve their intended outcomes.

**Table 3.4** Questions to be considered when determining levels of risk (adapted from Standards New Zealand, 2004, p82).

Acceptability	Is the risk reduction option likely to be accepted by relevant stakeholders?
Administrative efficiency	Is this risk reduction option easy to implement or will it be neglected because of difficulty of administration or lack of expertise?
Compatibility	How compatible is the risk reduction option with others that may be adopted?
Continuity of effects	Will the effects be continuous or only short term? Will the effects of this risk reduction option be sustainable? At what cost?
Cost effectiveness	Is it cost effective, could the same results be achieved at a lower cost by other means?
Economic and social effects	What will be the economic and social impacts of this risk reduction option?
Effects on the environment	What will be the environmental impacts of this risk reduction option?
Equity	Are risks and benefits distributed fairly e.g. Do those responsible for creating the risk pay for its reduction?
Individual freedom	Does the risk reduction option deny any basic rights?
Jurisdictional authority	Does this level of organisation or government have the authority to apply this option? If not, can higher levels be encouraged to do so?
Leverage	Will the risk reduction option lead to additional benefits in other areas?
Objectives	Are organisational objectives advanced by this risk reduction option?
Regulatory	Does the risk reduction option (or lack of option) breach any regulatory requirements?
Political acceptability	Is it likely to be endorsed by the relevant government authority? Will it be acceptable to communities?
Risk creation	Will this risk reduction option introduce new risks?
Timing	Will the beneficial effects be realised quickly?

Once levels of risk have been determined, the matrix is then colour-coded (Figure 3.8), based on the levels of risk shown in Figure 3.7. The use of colours allows a faster assessment of the levels of risk involved. The colours of green and blue (acceptable i.e. permitted/controlled), yellow and orange (tolerable with consent i.e. restricted discretionary, discretionary) and red (intolerable i.e. non-complying, prohibited – see Figure 3.9), are considered standard colours for this approach (Standards New Zealand, 2004).

		<b>Consequences</b>				
<b>Likelihood</b>		<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
<b>5</b>		5	10	15	20	25
<b>4</b>		4	8	12	16	20
<b>3</b>		3	6	9	12	15
<b>2</b>		2	4	6	8	10
<b>1</b>		1	2	3	4	5

**Figure 3.8** Colour-coding the matrix based on level of risk (adapted from Saunders, 2012b).

The stage uses the colours, based on the levels of risk, to determine the consent status (i.e., treatment) of the activity (Figure 3.9).

Level of risk	Consent
Acceptable	Permitted
Acceptable	Controlled
Tolerable	Restricted Discretionary
Tolerable	Discretionary
Intolerable	Non complying, prohibited

**Figure 3.9** Level of risk and associated consent status (adapted from Saunders, 2012b).

Non-complying and prohibited are merged together, but it is acknowledged that the former allows for development, while the latter avoids development. For the purposes of this example, the two are merged to allow for high consequence activities to take place in high-risk areas that may not be able to be avoided, e.g., a port.

In the final stage of the process, consequence values 1–5 are relabelled into roman numerals to ensure no confusion between the likelihood scale and consequence scale. Figure 3.10 provides the final framework, where risk equates to consent status applied.

Likelihood	Consequences				
	I	II	III	IV	V
5	Controlled	Restricted Discretionary	Discretionary	Non complying, prohibited	Non complying, prohibited
4	Permitted	Controlled	Restricted Discretionary	Discretionary	Non complying, prohibited
3	Permitted	Controlled	Controlled	Restricted Discretionary	Discretionary
2	Permitted	Permitted	Controlled	Controlled	Restricted Discretionary
1	Permitted	Permitted	Permitted	Permitted	Controlled

**Figure 3.10** The risk-based planning framework (adapted from Saunders, 2012b).

Not all consent categories may be required. The consent categories that are used need to relate to the level of risk associated with the hazard, and the desires of the community to address this risk. As such, it may be that a council chooses to use only the following consent categories when implementing the risk-based approach: permitted, discretionary, and non-complying.

### 3.4.1 Public views on risk acceptability and mitigation

At this stage, stakeholder acceptance of the determined levels of risk and associated consent categories are assessed. It is also when ideas about risk mitigation may be reviewed – particularly in relation to areas of greatest contention.

Risk communication at this step serves two purposes:

1. To get feedback from stakeholders and affected parties on whether the risk categories and/or consent levels are appropriate, and to check for perverse outcomes; and
2. To discuss what trade-offs might be made between extra margins of safety, possible benefits, and costs of mitigation.

The actions that should be undertaken for completing this step include:

- A review of the proposed risk categories and the current and proposed land use activity, and identification of the areas of greatest contention;
- Getting stakeholder input to identify any control options for reducing risk. If necessary, review the risk control measures in terms of their impact on risk reduction, likely costs, and potential increased risk for other parties. Re-present these to stakeholders and affected parties for discussion about acceptable costs and benefits, and identification of any additional risks associated with the measures;
- Checking whether there are new stakeholders, affected parties, or issues associated with implementing control measures, and revise the stakeholder analysis and engagement strategy to address this.

Key actions for this step include:

1. Sharing information:
  - Clarify the purpose of this step – i.e., to agree on categorisations of risk as acceptable, tolerable or intolerable, so that appropriate decisions can be made about future land use;
  - Be transparent about the rationale (i.e., method and assumptions) behind the proposed levels of risk and the consent categories; and
  - Discuss what is known about the likely impact of the proposed consent categories on foreseeable land use.
2. Questions to ask and information to gather:
  - Are the risk thresholds levels for tolerable, intolerable, and acceptable appropriate?
  - Are there concerns about the impacts on land use?
  - Are risk trade-offs possible and/or desirable?
  - Are risk reduction measures desirable and acceptable?
  - Is further consultation/discussion required before recommendations are made?
3. Be prepared:
  - For changes from initial risk perceptions, as earlier steps (1 and 2) may have raised awareness the natural hazard, the decisions, and the planning options associated with this.
  - This stage may require several iterations.

Engagement approach options include holding working groups (e.g., community board members, CDEM representatives, iwi representatives, and local stakeholders) to hold initial discussions of the issues at this stage. This group may also serve as a conduit for wider public engagement.

Severity of Impact	Built				Economic	Health & Safety
	Social/Cultural	Buildings	Critical Buildings	Lifelines		
<b>Catastrophic (V)</b>	≥25% of buildings of social/cultural significance within hazard zone have functionality compromised	≥50% of affected buildings within hazard zone have functionality compromised	≥25% of critical facilities within hazard zone have functionality compromised	Out of service for > 1 month (affecting ≥20% of the town/city population) OR suburbs out of service for > 6 months (affecting < 20% of the town/city population)	> 10% of regional GDP	> 101 dead and/or > 1001 inj.
<b>Major (IV)</b>	11-24% of buildings of social/cultural significance within hazard zone have functionality compromised	21-49% of buildings within hazard zone have functionality compromised	11-24% of buildings within hazard zone have functionality compromised	Out of service for 1 week – 1 month (affecting ≥20% of the town/city population) OR suburbs out of service for 6 weeks to 6 months (affecting < 20% of the town/city population people)	1-9.99% of regional GDP	11 – 100 dead and/or 101 – 1000 injured
<b>Moderate (III)</b>	6-10% of buildings of social/cultural significance within hazard zone have functionality compromised	11-20% of buildings within hazard zone have functionality compromised	6-10% of buildings within hazard zone have functionality compromised	Out of service for 1 day to 1 week (affecting ≥20% of the town/city population people) OR suburbs out of service for 1 week to 6 weeks (affecting < 20% of the town/city population)	0.1-0.99% of regional GDP	2 – 10 dead and/or 11 – 100 injured
<b>Minor (II)</b>	1-5% of buildings of social/cultural significance within hazard zone have functionality compromised	2-10% of buildings within hazard zone have functionality compromised	1-5% of buildings within hazard zone have functionality compromised	Out of service for 2 hours to 1 day (affecting ≥20% of the town/city population) OR suburbs out of service for 1 day to 1 week (affecting < 20% of the town/city population)	0.01-0.09 % of regional GDP	<= 1 dead and/or 1 – 10 injured
<b>Insignificant (I)</b>	No buildings of social/cultural significance within hazard zone have functionality compromised	< 1% of affected buildings within hazard zone have functionality compromised	No damage within hazard zone, fully functional	Out of service for up to 2 hours (affecting ≥20% of the town/city population) OR suburbs out of service for up to 1 day (affecting < 20% of the town/city population)	<0.01% of regional GDP	No dead No injured

**Figure 3.4** Consequence table.

## ***Submission of Vance and Carol Boyd, S447 FS 117.***

*In response to Variation 2 of Proposed Coastal Hazards notified November 2024.*

1. We submitted on 30 August 2024. This submission included our views on rule matters.
2. We have always intended that by implication any accepted rule changes would also require consequential changes to Objectives and Policies. For example in 2023 Vance appeared before the Hearing Panel on the Objectives section of the proposed plan. Part of that submission related to the fact that no Coastal Hazard objectives appeared in that section of the plan.
3. We understand that all previous submissions will be considered.
4. We first submitted on October 17 2022.
5. A further submission was made in July 2023.
6. The TTPP Committee was addressed in May 2024.
7. We again submitted on 30 August 2024. This submission embodied copies of and reference to earlier submissions.
8. Recent coastal variations were referred to in Appendix C.
9. The construction of an 800 m long revetment at Hannahs Clearing was referred to in paragraph K on page 5
10. The Department of Conservation has recently called for tenders to extend this revetment northward by a further 325m.

Our submission of 30 August encapsulates the points we have been making since 2022. Principally, and without denigrating the importance of those not numbered below, these are:

1. The concept of drawing lines on maps to indicate hazard areas is too simplistic.
2. With regard to the proposed plan there has been little success with the concept of collaboration and cooperation with communities about matters such as risk identification and acceptance.
3. Conversely, the Regional Council is to be commended for its acceptance of its role in engineered risk mitigation and for community liaison where structures exist or are planned.
4. There is no statutory requirement to actually plan on 100 years out. The requirement is simply to consider that far ahead.
5. Recent erosion events at the north of Hannahs Clearing contradict the risk assessments and illustrate the difficulty with drawing lines on maps.
6. The main divide earthquake (AF8) has been ignored in coastal assessments although it is significant, real and recognised in other parts of the proposed plan.
7. A Non complying approach is unfair, too restrictive and fails to allow for individual circumstances to be assessed as required.
8. The topography of Westland means that there has been and will continue to be a greater reliance on engineered hazard solutions than in some other districts.

As previously indicated we wish to be heard.

Vance and Carol Boyd.

19 December 2024.

**Attachment B: TPPP Committee Recommendation Report**

# **TAI POUTINI PLAN COMMITTEE**

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

### **Recommendation Report of Hearing Panel**

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#### **Natural Hazards - Ngā Mōreareatanga Aotūroa**

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

**8 and 9 October 2024 (Part 1)**

**22 and 23 October 2024 (Part 2)**

**30 and 31 October 2024 (Part 3)**

**17, 18, 20 and 21 March 2025 (Variation 2 – Coastal Hazards)**

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#### **HEARING PANEL**

Dean Chrystal (Chair) – Topics 18, 19 and 21

Sharon McGarry – Topics 18 and 19

Paul Rogers – Topics 18, 19 and 21

Maria Bartlett – Topics 18, 19 and 21

Anton Becker – Topics 18, 19 and 21

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

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## 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 Recommendation Report 1.
2. This Recommendation Report relates to the Natural Hazards (**NH**) - Ngā Mōreareatanga Aotūroa chapter and contains the Hearing Panel’s evaluations and recommendations to the TTPP Committee on the submissions and further submissions received on this section of Part 2 of the Plan, including submissions and further submissions on coastal hazards (dealt with as Variation 2 to the pTTPP process).
3. The Hazards and Risks: Part One – Natural Hazards Section 32 Report<sup>1</sup> provides an evaluation of the options for the management of NH, including the regulatory framework, key resource management issues, the evidence and research base, including the consultation, information and analysis undertaken and evaluation of the options.
4. Necessarily, two Section 42 Reports were prepared to deal with the NH topic.
5. Firstly, the Section 42A Officer’s Report Natural Hazards – Ngā Mōreareatanga Aotūroa (prepared by Mr James Beban and Ms Sarah Gunnell) (**‘the s42A Report’**) dealt with flooding, fault rupture, coastal tsunami, lake tsunami and slope stability hazards, as well as the combined river flooding and coastal inundation hazard in Hokitika and Westport (**‘the NH chapter’**). Secondly, the Section 42A Officer’s Report Variation 2 – Coastal Hazards (also authored by Mr James Beban and Ms Sarah Gunnell) (**‘the s42A Variation Report’**) addressed the coastal erosion and coastal inundation hazards (**‘Variation 2’**). Where required, these reports will be referred to collectively as **‘the s42A Reports’**.
6. The s42A Reports were accompanied by supporting technical statements/reports from:

#### NH Chapter

- i. Statement of Dr Sharon Hornblow, Natural Hazards analyst, WCRC
- ii. Punakaiki Rockfall Study prepared by URS (for BDC), 2003
- iii. Updated Alpine Fault mapping and Fault Avoidance Zones for priority areas in the West Coast region report prepared by GNS Science (for WCRC), 2022

#### Variation 2

- i. Mapping for priority coastal hazard areas in the West Coast Region report prepared by NIWA (for WCRC), 2022

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<sup>1</sup> Te Tai o Poutini Plan – Section 32 Evaluation Report Three – Hazards and Risks Ngā Pūmate me ngā Mōrea Part One Natural Hazards – Ngā Mōreareatanga Aotūroa – including Coastal Hazards

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- ii. Review of NIWA coastal hazards assessment for the West Coast Region prepared by T+T (for WCRC), 2022
  - iii. Letter regarding the Coastal Setback Overlay prepared by NIWA (for WCRC), 2024
  - iv. Final review of NIWA coastal hazards assessment for the West Coast Region prepared by Tonkin and Taylor (for WCRC), 2025
7. It is also noted that Mr Cyprien Bossarelle (NIWA) appeared on Day 2 of the Variation 2 hearing (in Westport) addressing the science of coastal hazards and the methodology for the coastal hazard modelling and mapping.
8. The s42A Report assessed a total of 1345 submission and further submission points, while the s42A Variation Report assessed a total of 734 submission and further submission points. The s42A Reports provided summaries of all 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 the s42A Reports).
9. The matters raised by submitters were grouped in the Reports in relation to each of the following key issues:
  - (a) Definitions;
  - (b) Overlays and site specific submissions;
  - (c) Overview and provisions in general;
  - (d) Objectives;
  - (e) Policies;
  - (f) Rules; and
  - (g) Subdivision provisions (in relation to NH).
10. This Recommendation Report largely follows the same structure as the s42A Reports. Specifically, a brief summary of the submissions and further submissions, the s42A Report analysis and recommendations, submitter evidence and any rebuttal or reply evidence from the Reporting Officer. Where necessary, this information is grouped by either NH chapter or Variation 2; however, our evaluation and recommendations have considered all of the information from both hearing streams.
11. This Recommendation Report should be read in conjunction with the s42A Reports and the tracked change version of the notified Plan provisions (attached as Appendix 1 to this Recommendation 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 ~~**bold and underlining**~~ indicating deletions. If there is any discrepancy between this Recommendation Report and the tracked change version of the Plan, the Recommendation 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 s42A Reports, or the Reporting Officer's rebuttal evidence, 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:

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

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- (a) The Panel has adopted the reasoning and recommendation of the s42A Report/s or rebuttal evidence 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 an amendment to a provision for reasons set out in this Recommendation Report in response to a submission point, which the s42A Report/s did not recommend; or
  - (b) The Panel has adopted the reasoning and recommendation of the s42A Report or rebuttal evidence to change the provision; or
  - (c) The Panel has adopted the reasoning and recommendation of the Reporting Officer's reply evidence to change the provision; 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 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 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 records any such minor amendments.

### **1.2. Terminology in this Report**

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

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### Natural Hazards - Ngā Mōreareatanga Aotūroa Chapter

AEP	Annual Exceedance Probability
ARI	Average Recurrence Interval
Biggles et al.	P and A Horrell, MTP Limited, Biggles Limited, Michael Snowden and Vance and Carol Boyd
BDC	Buller District Council
Chorus et al.	Chorus NZ Ltd, Spark NZ Trading Ltd, Vodafone NZ Ltd
Councils	Buller District Council, Grey District Council, and Westland District Council
CRF	Critical Response Facility
DOC	Department of Conservation
Director General	Director General of Conservation
EIT	Energy, Infrastructure and Transport
ERP	Emissions Reduction Plan
Federated Farmers	Federated Farmers of New Zealand
FFL	Finished Floor Level
Foodstuffs	Foodstuffs (South Island) Properties Limited and Foodstuffs South Island Limited
Forest & Bird	Royal Forest and Bird Protection Society of New Zealand Inc.
GDC	Grey District Council
HAS	Hazard sensitive activity
KiwiRail	KiwiRail Holdings Limited
LHSA	Less hazard sensitive activity
LiDAR	Light Detection and Ranging
Manawa	Manawa Energy Limited
Martin & Co	Martin & Co Westport Ltd and Lumberland Building Market Westport
MOE	Ministry of Education Te Tāhuhu o Te Mātauranga
NAP	National Adaptation Plan
NES-TF	National Environmental Standards for Telecommunications Facilities 2016
NH	Natural Hazards
NZCPS	New Zealand Coastal Policy Statement

Paparoa Track Services et al.	Paparoa Track Services Ltd, Craig and Sue Findlay, Tim Findlay, Punakaiki Beach Camp Ltd
PHSA	Potentially hazard sensitive activity
Planning Standards	National Planning Standards
Poutini Ngāi Tahu	Te Rūnanga o Ngāi Tahu, Te Runanga o Ngāti Waewae, Te Rūnanga o Makaawhio
RMA or the Act	Resource Management Act 1991
RSI	Regionally Significant Infrastructure
SASM	Sites and Areas of Significance to Māori
Scenic	Scenic Hotel Group
Silver Fern Farms	Silver Fern Farms Limited by its authorised agents Mitchell Daysh Limited
SLR	Sea level rise
Te Mana Ora	Te Mana Ora (Community and Public Health) of the NPHS / Te Whatu Ora
The Māori Trustee	Te Tumu Paeroa - The Office of the Māori Trustee
Tim Penlington et al.	Tim Penlington, Katie Deans, Karl and Brenda Feyen, Catherine Woods, Richard Wallis
Toka Tū Ake	Toka Tū Ake EQC
TTPP Committee	Te Tai o Poutini Plan Committee
Waka Kotahi	NZ Transport Agency Waka Kotahi
WCRC	West Coast Regional Council
WCRPS	West Coast Regional Policy Statement
Westpower	Westpower Limited

### **1.3. Hearing Arrangements**

20. The NH Chapter hearings were held at the St John Training Room in Franz Josef on the 8 and 9 October 2024 (Part A); the Westport NBS Theatre, Westport on the 22 and 23 October 2024 (Part B); and the Hokitika RSA, Hokitika on the 30 and 31 October 2024 (Part C). Some submitters appeared by audio visual link.
21. The Variation 2 hearing was convened on the 17 and 18 March 2025 at the Westport NBS Theatre, Westport, and then again at the Hokitika RSA, Hokitika on the 20 and 21 March 2025. Some submitters appeared by audio visual link.

### **1.4. Submitter evidence / legal submissions from those who did not appear**

22. The following was tabled without hearing appearances (NH chapter):

- (a) **Kiwirail:** Corporate submission by Ms Michelle Grinlinton-Hancock (dated 9 September 2024);
  - (b) **Manawa:** Statement of (planning) evidence of Ms Stephanie Styles;
  - (c) **Silver Fern Farms:** Letter from Mr Steve Tuck (dated 4 September 2024);
  - (d) **Chorus et al.:** Letter from Mr Chris Horne (dated 29 August 2024);
  - (e) **Poutini Ngāi Tahu:** Letter from Ms Rachael Pull (dated 19 September 2024);
23. The following was tabled without hearing appearances (Variation 2);
- (a) **ADT Trust:** Letter from Mr Caleb Tien (dated 10 March 2025);
  - (b) **Scenic:** Statement of (planning) evidence of Mr Sam Flewellen; and
  - (c) **Mr Ronald Williams:** written statement

### **1.5. Submitter Appearances**

24. The following parties appeared at the hearings. Those identified with an asterix (\*) prepared written material.

#### NH Chapter Part A

25. The following submitters appeared at the hearing:
- Scenic:** Ms Melanie Foote (Planning expert)\*
  - BDC:** Mr Craig Barr (Planning expert)\*
  - Mr Grant Marshall:** Mr Joel Marshall (Legal)\* and Mr Nick Harwood (Hazard expert)\*

#### NH Chapter Part B

26. The following submitters appeared at the hearing:
- Mr Neil Mouat:** for himself\*
  - Mr Frank O'Toole (Jennian Homes):** for himself\*
  - Jane Duncan, Tanya Reynolds, Christine Blair (Snodgrass Road Submitters):** for themselves
  - Ms Desna Bruce-Walker:** for herself
  - Mr Vance Boyd:** for himself
  - Ms Frida Inta and Buller Conservation Group:** for herself\*
  - Poutini Ngāi Tahu:** Ms Rachael Pull (Planning expert)\*

#### NH Chapter Part C

27. The following submitters appeared at the hearing:

**Westpower:** Mr Martin Kennedy (Planning expert)\*

**Mr Bert Hofmans:** for himself\*

**Ms Jane Whyte:** for herself\*

**Mr Paul Miles:** for himself\*

**Director General:** Mr Matt Pemberton (Legal)\* and Mr Murray Brass (Planning expert)\*

**Mr Martin Kennedy:** for himself

Variation 2 (Westport)

28. The following submitters appeared at the hearing:

**BDC (Resilient Westport):** Mr Simon Bastion (GM Regulatory – BDC), Mr Paul Zaanen (Project Lead Master Planning – BDC), Ms Helen Kerr (Project Lead – Isthmus), Mr Brad Ward (Isthmus), Mr Tom Holden (Isthmus)

**Mr Paul Reynolds:** for himself\*

**Ms Joey Keen:** for themselves\*

**Ms Penny and Mr Mark Rounthwaite:** for themselves

**Ms Ruth Henschel:** for herself\*

**Mr Hamish Macbeth:** for himself

**P&A Horrell:** Ms Anita Collie (Planning expert)\*

**MTP Limited:** Ms Anita Collie (Planning expert)\*

**Biggles Limited:** Ms Anita Collie (Planning expert)\*

**Mr Vance Boyd:** for himself\*, Ms Rosie Hill (Legal)\* and Ms Anita Collie (Planning expert)\*

**Mr Michael Snowden:** Ms Rosie Hill (Legal)\* and Ms Anita Collie (Planning expert)\*

**Mr John Sutton:** for himself

**Ms Rae Reynolds:** for herself\*

**Griffen & Smith Ltd (Mitre 10 Greymouth):** Mr Dave Smith, Mr Gary Tear (Coastal expert)\* and Ms Pauline Hadfield (Planning expert)

**Ms Desna Bruce Walker:** for herself\*

**Mr Neil Mouat:** for himself\*

**Mr Kevin Smith:** for himself

**Ms Adriana de Ruiter-James:** for herself\*

**Mr Tom Sawyers:** for himself

**Ms Christine and Mr Keith Carter:** for themselves

**Mr Mitchell Rogers:** for himself\*

**Mr Ken Wiltshire:** for himself\*

### Variation 2 (Hokitika)

29. The following submitters appeared at the hearing:

**Scenic Hotel Group** Samuel Flewellen (Planning expert)\*

**Westpower:** Mr Martin Kennedy (Planning expert)\*

### **1.6. Rebuttal evidence**

30. Mr Beban provided two written rebuttal statements ahead of the NH Chapter hearings (dated 3 October and 18 October 2024) responding to written evidence from submitters ("**3 October rebuttal**" and "**18 October rebuttal**"). Dr Robert Langridge (GNS) provided a statement of evidence addressing the fault hazard mapping in the Inchbonnie area.

31. Mr Beban also provided a written rebuttal statement ahead of the Variation 2 hearing (dated 14 March 2025) ("**Variation 2 rebuttal**") responding to written evidence from submitters.

### **1.7. Post hearing information**

32. The subsequent information was received as follows (NH Chapter):

(a) A letter from Mr Craig Barr with commentary on the issue of scope in relation to Faultline mapping and the Land Instability Overlay.

33. The subsequent information was received as follows (Variation 2):

(a) A letter (and related information) from Mr Vance Boyd querying Dr Bosserelle's modelling, specifically the implications of land rise/fall on the sea level rise modelling.

(b) The resource consent (council reference RC100043) for the subdivision of Punakaiki Farm (Lot 3 DP 306878) on State Highway 6 near Punakaiki.

### **1.8. Right of Reply**

34. Mr Beban provided a written Right of Reply on the NH chapter (dated 13 March 2025) ("**the March Right of Reply**") which included final recommendations on the relevant definitions, NH chapter and SUB provisions; as well as summary of submission points providing scope for the recommended changes.

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35. Mr Beban also provided a written Right of Reply on Variation 2 (dated 30 May 2025) (“**the May Right of Reply**”), which included a final recommendation on the relevant definitions, NH Chapter and SUB provisions; as well several pieces of further information in relation to specific submission points.

### 1.9. Procedural Steps and Issues

36. Following the NH Chapter hearings, it became evident to the Panel that Variation 2 would need to be renotified to enable submitters to consider the provisions alongside the new coastal hazard mapping. To this end, the Panel issued Minute 53, recommending that Variation 2 be renotified and that the NH provisions be included. The TTPP Committee agreed to the direction and Variation 2 was renotified on 21 November 2024.
37. In the s42A Variation Report, the Reporting Officer’s identified those submissions from the notification of the NH Chapter that had been carried over to be considered as part of the s42A Variation Report (marked with an asterisk (\*)). The Panel have considered the timing of submissions in their deliberations (but have not carried over the (\*) in this report).
38. Because Scenic Hotel Group are a client of the planning firm that Commissioner Chrystal is a director of, he was not present during Scenic’s hearing presentation and did not partake in any deliberations in respect of the Scenic submissions and further submissions.
39. No other procedural matters were raised at the hearing, and the Panel did not direct expert conferencing or any other measure to assist their deliberations.

### 1.10. Site Visits

40. The Panel undertook a number of site visits relating to Natural Hazards. These included:
- Lake Poeroa and Inchbonnie area
  - Nikau Heights, Little Wanganui
  - Karamea
  - Rapahoe
  - Bruce Bay
  - Granity
  - Ngākawau
  - Snodgrass Road, Westport
  - Carters Beach
  - Punakaiki
  - Hokitika
  - Franz Josef
  - Okuru River
  - Hannah’s Clearing
  - Neils Beach

## PART B - STATUTORY REQUIREMENTS AND DOCUMENTS

41. Hazards and Risks - Ngā Pūmate me ngā Mōrea is one section of seven sections located in Part 2 – District-Wide Matters – Te Wāhanga 2 – Ngā Kaupapa ā-Rohe Whānui. Nested in the Hazards and Risks section is the Natural Hazards - Ngā Mōreareatanga Aotūroa Chapter, which includes the objectives, policies and rules relating to the NH identified within the region (and visually represented as overlays on the pTTPP planning maps).
42. The Section 32 Report outlined the relevant statutory considerations applicable NH; and the relationships between the sections of the RMA and higher order documents (which the s42A Reports reiterated to some extent). In summary, the following sections of the RMA and higher order documents are relevant to NH:

### RMA

43. In addition to section 5 of the RMA, sections 6(h), 7(i) and 8 are relevant to the consideration of NH. Specifically, section 6(h) states that *'the management of significant risks from natural hazards'* shall be recognised and provided for; and section 7(i) states that *'the effects of climate change'* shall be given particular regard. Section 8 is relevant due to the impact of NH on Māori, including sites and practices of significance. Lastly, section 106 enables consent authorities to refuse consent for a subdivision if there is significant risk from NH.
44. In terms of plan development, a district plan must be prepared in accordance with the functions listed in section 31 (including *the avoidance or mitigation of natural hazards* (section 31(1)(b)(i)) and any evaluation report prepared pursuant to section 32.
45. Section 74(1)(b) directs that a district plan/plan change must be prepared in accordance with the RMA. Section 74(2)(d) and (e) also direct that a district plan or plan change must have regard to any ERP (made in accordance with Section 5ZI of the Climate Change Response Act 2002), and any NAP (made in accordance with Section 5ZS of the Climate Change Response Act 2002).

### NP Standards

46. A district plan/plan change must be prepared in accordance with the NP Standards (Section 74(1)(ea)). Furthermore, a district plan must give effect to the NP Standards (Section 75(3)(ba)).
47. The NP Standards direct that provisions relating to coastal hazards should sit in the Coastal Environment chapter. However, given the location of a number of West Coast towns at river mouths and the need to consider flooding and inundation in an integrated manner to best manage these risks, the Panel agree with Reporting Officers that coastal hazards are nested in the NH Chapter (not the Coastal Environment chapter). This is discussed further below.

### NZCPS 2010

48. The key objective in the NZCPS for managing NH in the region is Objective 5, which states:  
*To ensure that coastal hazard risks taking account of climate change, are managed by:*
  - *Locating new development away from areas prone to such risks;*

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- *Considering responses, including managed retreat, for existing development in this situation; and*
  - *Protecting or restoring natural defences to coastal hazards.*
49. This objective is supported by Policy 3 (precautionary approach), Policy 24 (identification of coastal hazards), Policy 25 (subdivision, use and development in areas of coastal hazard risk), Policy 26 (natural defences against coastal hazards) and Policy 27 (Strategies for protecting significant existing development from coastal hazard risk).
50. Specific NZCPS matters requiring attention are:
- priority to maintaining and protecting natural features as defences against coastal hazards to protect coastal land uses;
  - the requirement to identify areas in the coastal environment potentially affected by coastal hazards over the next 100 years including consideration of the effects of climate change;
  - avoiding redevelopment, or change in use that would increase the risk of adverse effects; discouraging hard protection structures where practicable; and
  - identifying long-term sustainable risk reduction approaches, including relocation or removal of existing development and structures at risk.
51. A district plan/plan change must be prepared in accordance with the NZCPS (RMA section 74(1)(ea)). Furthermore, a district plan must give effect to the NZCPS (RMA section 75(3)(b)).

#### National Policy Statement on Urban Development 2020 (NPSUD)

52. The NPSUD requires New Zealand's urban environments (of which Greymouth is considered one by definition) to be resilient to the current and future effects of climate change<sup>2</sup>.
53. A district plan/plan change must be prepared in accordance with the NZCPS (RMA section 74(1)(ea)). Furthermore, a district plan must give effect to the NZCPS (RMA section 75(3)(a)).

#### NES-TF 2016

54. Regulation 57 of the NES-TF prevents the pTTPP from making NH rules that relates to an activity subject to the NES-TF.
55. A district plan/plan change must be prepared in accordance with any regulations (RMA section 74(1)(f)).

#### National Adaptation Plan

56. The NAP was published in 2022 and amended in January 2025. The purpose of the NAP is to enable New Zealanders to prepare for and adapt to the impacts of climate change. The NAP is underpinned by four priorities, specifically:

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<sup>2</sup> National Policy Statement on Urban Development, Objective 8, Policy 1(f) and Policy 6(e)

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

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- *enabling better risk-informed decisions;*
- *driving climate-resilient development in the right places;*
- *laying the foundations for a range of adaptation options including managed retreat; and*
- *embedding climate resilience across government policy.*

57. Relevantly, the NAP referred specifically to flood resilience in Westport (Action 5.3, or Action SW2 in the 2025 Addendum) highlighting the significance of the NH risk in this area.
58. A district plan/plan change shall have regard to any national adaptation plan (RMA section 74(2)(e)).

#### Emissions Reduction Plan

59. The second ERP was published in 2024. This will come into effect on 1 January 2026. The ERP outlines several cross-sector policies, as well a number of sector specific policies to support emission reductions.
60. A district plan/plan change shall have regard to any national emissions plan (Section 74(2)(d)).

#### WCRPS 2000

61. The objectives and policies in the WCRPS that are relevant to this topic and that must be given effect to are Objectives 9.3, 9.4 and 11.1 and Policies 9.6, 9.7, 9.8, 11.1, 11.2, 11.3 and 11.4. The s32 Report summarises the relevant objectives as:

*Objective 11.1.1 seeks that the risks and impacts associated with natural hazards are avoided or minimised. Objective 9.3.1 seeks that appropriate regard be had to the level of coastal hazard risks for new subdivision use or development. Objective 9.4 relates to existing coastal hazard risks and seeks that they be managed to enable the safety and wellbeing of people and communities.*

62. A district plan must give effect to the WCRPS (RMA section 75(3)(c)).

#### West Coast Regional Coastal Plan 2001

63. Chapter 14 of the Regional Coastal Plan 2001 considers the impact of natural hazards on the coastal environment on the West Coast. The chapter includes three objectives supported by three policies. In essence, the framework seeks to manage the effects of natural hazards on the use, development and subdivision of the coastal environment, while also recognising that the use, development and subdivision of the coastal environment can exacerbate natural hazards.
64. A district plan must not be inconsistent with a regional plan for any matter specified in RMA section 30(1) (RMA section 75(4)(b)). Section 30(1) includes matters related to natural hazards.
65. It is noted that in September 2024, the Proposed Regional Coastal Plan 2016 was withdrawn. Therefore, no regard has been had to this regional plan (Section 74(2)(b)(ii)).

West Coast Land and Water Plan 2014

66. The Land and Water Plan 2014 manages the use, development and subdivision of land and water resources on the West Coast. The key focus in relation to natural hazards is ensuring that use, development or subdivision does not worsen the impact of natural hazards. Objective 3.2.4 seeks to *'to avoid or mitigate the exacerbation of any natural hazard or the creation of a hazard'*. This is supported by Policy 3.3.1(2). In relation to flooding, Objective 5.2 directs (in part) that lake and riverbed activities must avoid, remedy or mitigate the adverse effects on the flood carrying capacity of rivers. This is supported by Policy 5.3.2(b).
67. A district plan must not be inconsistent with a regional plan for any matter specified in RMA section 30(1) (RMA section 75(4)(b)). Section 30(1) includes matters related to natural hazards.

Iwi management plans

68. 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. The documents consider the approach to sustainability and kaitiakitanga of resources and Poutini Ngāi Tahu values, which are relevant when considering the management of natural hazards.
69. A district plan/plan change must take into account the Poutini Ngāi Tahu Iwi Management Plans (Section 74(2A)).

Other legislation

70. The Building Act 2004, the Civil Defence Emergency Management Act 2002, the Fire and Emergency New Zealand Act 2017, the Soil Conservation and Rivers Control Act 1941 and the Local Government Official Information and Meetings Act 1987 all have provisions that relate to the management of natural hazards.

Other considerations

71. At the time of writing this Recommendation Report, central government had completed consultation on a number of higher order documents, specifically:
- Package 1: proposed provisions for a new National Policy Statement for Natural Hazards and proposed amendments to the NES-TF 2016.
  - Package 2: proposed amendments to the NZCPS 2010.
72. No further progress had been made on the reform, and consequently, the proposed provisions / amendments have had no bearing on these recommendations.
73. While relevant to district plan making (RMA section 75(4)(b)), the National Water Conservation (Grey River) Order 1991 and the National Water Conservation (Buller River) Order 2001 are not relevant to the NH Chapter.
74. Furthermore, while the National Environmental Standards for Commercial Forestry 2023 contain setback requirements that would have a bearing on wildfire risk, this is not a natural hazard risk that has been contemplated by the pTTPP and therefore is not considered further in this Recommendation Report.

75. Lastly, there are a large number of government issued guidance documents that are relevant to the consideration of NH on the West Coast. While valuable, they are guidance only and do not form part of the statutory framework for considering the NH Chapter.

Summary

76. By direction of sections 30, 31, 74 and 75 of the RMA, the relevant statutory documents have been relied on to inform this Recommendation Report on natural hazards.

**PART C – SUBMISSIONS, EVIDENCE, EVALUATION AND RECOMMENDATIONS**

77. The following notes will assist the readers of this Report:
- (a) Where a notified provision is unopposed (or only supported in submissions) and no consequential changes are otherwise needed, this Recommendation Report has made no further comment about the provision.
  - (b) Where there has been no rebuttal, evidence or reply evidence, these sections have not been included in the relevant discussion.
  - (c) The hearing and submitter evidence summaries refer only to areas of disagreement (i.e. where a submitter disagrees with the recommendation of the Reporting Officer).
  - (d) Any recommendation to accept or reject a submission is a corresponding recommendation to reject or accept any further submissions received.
  - (e) For ease of reference, the original numbering and overlay titles notified in the pTTPP have been used throughout this Recommendation Report (rather than the revised numbering/titles shown in the s42A Reports).
  - (f) For ease of reference, where a defined word is relevant to the discussion, this is shown in *italics*.

**2. OVERARCHING MATTERS**

**2.1 Scope**

78. This section sets out the framework for considering whether there is sufficient scope provided by submissions to make changes to the NH provisions. Because it is not simply a case of a blanket yes or no, the Panel's evaluation of individual maps and provisions below discusses the available scope (or otherwise) for the recommended changes. We have limited this exercise to only those NH maps and provisions where the scope for change is questionable.
79. The issue of scope is a legal one and is critical to ensure natural justice. The RMA<sup>3</sup> directs [our emphasis] *'a local authority must give a decision on the provisions and matters raised in submissions...'*, meaning our ability to make amendments to the pTTPP is bound by the submissions and further submissions received on the pTTPP.

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<sup>3</sup> RMA, Clause 10 of Schedule 1

80. As part of the Whole of Plan/Strategic Directions hearing process, the Panel received legal submissions from counsel for the TTPP Committee. These submissions addressed the legal framework for considering scope, directing that the Panel must consider whether:
- a. *submissions received are “on” the TTPP; and, if so,*
  - b. *any amendments are within the scope of a submission such that the Panel has jurisdiction to recommend amendments.*
81. With regards to point (a), the legal submissions noted that:
- The Courts have endorsed a bipartite approach when considering whether a submission is “on” a proposed plan change<sup>4</sup>:*
- a. *First, the submission must reasonably fall within the ambit of the proposed change by addressing a change to the status quo advanced by the proposed change.*
  - b. *Secondly, the decision-maker should consider whether there is a real risk that persons potentially affected by the changes sought in a submission have been denied an effective opportunity to participate in the decision-making process.*
82. Counsel confirmed that subsequent Court decisions<sup>5</sup> have confirmed that a plan review (rather than a plan change on a singular aspect of a plan) gives wide scope for a submission to be “on” the plan.
83. With regards to point (b), the legal submissions advised that the Courts<sup>6</sup> for an amendment to a plan to be within the scope of a submission, the amendment must be ‘*fairly and reasonably within the general scope*’, which is further refined by the Courts<sup>7</sup> as ‘*...(i) an original submission, (ii) the proposed plan as notified, or (iii) somewhere in between*’.
84. Further Court decisions<sup>8</sup> determined that issues of scope should be approached in a realistic workable fashion and to such an extent where those who are potentially affected have had the opportunity to participate.
85. When contemplating the issue of scope, we have been mindful of the following:
- a. The requirement for the pTTPP to give effect to the RMA, the NZCPS, any relevant national policy statements and the WCRPS.
  - b. Evidence<sup>9</sup> from the Reporting Officers that:  
*While the recommended changes are extensive, they largely relate to the following:*
    - *Removal of natural hazards overlays and associated provisions from the plan;*
    - *Simplification of the frameworks (particularly in relation to fault hazards); and*
    - *Using consistent terms throughout the chapter to assist plan users.*

*In terms of natural justice, when recommending these changes, we have been careful to ensure that the proposed rule framework maintains or lessens the regulatory burden on property owners. For the vast majority of the rules, the regulatory burden is the same or*

<sup>4</sup> Clearwater Resort Ltd v Christchurch City Council HC Christchurch AP 34/02, 14 March 2003

<sup>5</sup> Albany North Landowners v Auckland Council [2017] NZHC 138, at [129].

<sup>6</sup> Countdown Properties (Northlands) Ltd v Dunedin City Council [1994] NZRMA 145 (HC) at 41.

<sup>7</sup> Re an application by Vivid Holdings Ltd [1999] NZRMA 467 (EnvC) at [19].

<sup>8</sup> Royal Forest and Bird Protection Society of New Zealand Inc v Southland District Council [1997] NZRMA 408 (HC) at 10; General Distributors Ltd v Waipa District Council (2008) 15 ELRNZ 59 (HC) at [55], [56] and [59]; *Clearwater Resort Ltd v Christchurch City Council* HC Christchurch AP 34/02, 14 March 2003 at [66].

<sup>9</sup> March Right of Reply

*less than what was notified. There are instances, where we are of the view that new maps need to be added to the District Plan, particularly in relation to flood hazards and climate change. However, in the interest of natural justice we have not included these maps within our evidence in chief and have rather made a recommendation for a future plan change to address these matters.*

*However, there is one rule where the regulatory burden has increased. In the Flood Severe overlay, it is recommended that the activity status for new industrial and commercial activities is elevated from a Restricted Discretionary Activity to Non-Complying Activity. This change is recommended in direct response to the EQC submission which requested that the activity status for these activities be increased. This elevation is consistent with the general risk-based framework.*

- c. The risk to life and property if a precautionary approach is not adopted.

86. In their s42A Report, the Reporting Officers recommended significant changes to the notified NH Chapter, citing:

*There have been a number of changes to the natural hazard objectives as a result of the submissions that have been received. These changes seek to improve the robustness of the proposed objectives. In response to these submission points, we would conclude that the overall intent of the objectives remains intact, being that a risk-based approach is taken to the management of natural hazard risk, but the proposed wording is quite different from what was notified for several of the objectives.*

...

*The overall intent of these changes is to:*

- *Provide clearer direction to plan users;*
- *Ensure that the policies and rules better align to with the objectives;*
- *Remove complexity from the Natural Hazards Chapter as notified;*
- *Ensure there is a more consistent risk-based approach through the natural hazards chapter; and*
- *Provide greater certainty to plan users and the public around the areas where future land development can occur.*

*We acknowledge that the proposed changes to the objectives are significant from what was notified. However, we consider that being more directive around the desire to avoid development, unless it can reduce the existing risk, is overall more beneficial to plan users in that it gives clearer direction in terms of the outcome that the policies and rules are giving arise to.*

87. In their March Right of Reply, the Reporting Officers stated:

*We have been asked to confirm whether there is scope for the recommended changes that we have suggested to the Natural Hazards Chapter. We acknowledge that there are a substantial number of changes recommended. When making these recommendations, scope and natural justice is at the forefront of our minds.*

*In terms of scope, we believe there is sufficient scope for the recommended changes as there is a wide range of submissions on this chapter seeking:*

- *Broad changes to simplify and make the chapter more workable (e.g. West Coast Regional Council, Buller District Council);*
- *Changes to how hazards are mapped (e.g. EQC); and*
- *Detailed changes to the wording of provisions.*

*In Appendix 1 we have attached a table that shows the scope of the submissions for the recommended changes we have made to the chapter.*

88. A post-hearing email (dated 18 October 2024) was provided to the Panel by Mr Barr (for BDC). He advised that the full version of the BDC's general submission point no.7 is:

*One area that Council understands will be contentious are the Natural Hazards provisions. This submission can be summed up as an attempt to allow improvements or upgrades to existing buildings and infrastructure, but restrict new development in areas that will likely increase the number of people potentially exposed to the risk/hazard. Council realises the significant impact of the various overlays to residents and in particular the current challenges facing Buller. A review of all natural hazard overlays is required and needs to be supported with evidence to justify their extent. It seems that further technical reporting is required.*

89. In Mr Barr's opinion, this submission provides scope for amendments to the overlays.
90. As noted above, we consider the issue of scope (where necessary) in the evaluation sections below.

## **2.2 Does the WCRPS give effect to the RMA and the NZCPS?**

91. In their September 2024 legal submissions, counsel for the Director General reiterated earlier<sup>10</sup> concerns that the WCRPS does not give effect to the RMA with respect to NH and climate change. Mr Pemberton cited two reasons for this position. Firstly, that RMA section 6(h) was inserted after the notification of the WCRPS; and secondly, that the need to have regard to a National Adaptation Plan (Section 74(2)(e)) was only inserted after the WCRPS was made operative. Mr Pemberton submitted that, if the Panel makes the finding that the WCRPS does not adequately cover its requirements, in regard to NH and climate change, then they should refer to the NZCPS and sections 6(h) and 7(i) of the RMA for direction. He noted there is very limited national direction<sup>11</sup> with respect to the terrestrial environment and NH and climate change. In the hearing, Mr Pemberton advised that the Panel does not need to rely on scope provided by submissions to give effect to the RMA, as this is a legal requirement.
92. In their March Right of Reply, the Reporting Officers advised that they did not consider that the WCRPS gives effect to the NZCPS because:
- *There is no reference to risk within the policies and rather there is a focus on avoiding or mitigating adverse effects and on avoiding the need for protection work. The management of risk as required by the NZCPS is very different to the management of effects under the RPS;*
  - *There is no reference to sea level rise or the changing impacts from natural hazards as a result of sea level rise in the RPS;*
  - *The RPS does not provide any guidance on how to identify coastal hazards at a regional or local level;*
  - *There is no discouragement of hard engineering structures within the coastal environment, or a preference towards soft engineering or green infrastructure measures;*

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<sup>10</sup> Director General, legal submissions, 10 November 2023

<sup>11</sup> NPS-IB (at 3.6) and NPSFM (at 2.2 Policy 4)

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### Natural Hazards - Ngā Mōreareatanga Aotūroa Chapter

- *The RPS does not provide direction around how to ensure risk to peoples lives, the community and buildings does not increase from coastal hazards;*
  - *The RPS does not provide any differentiation around how to treat existing developed areas (Policy 27 of the NZCPS) vs undeveloped areas (Policy 25 of the NZCPS); and*
  - *There is no direction in the RPS policies around the rezoning of land, particularly for those areas at risk from coastal hazards.*
93. The Panel have considered the position of the Director General and agree, in part, that the WCRPS does not give effect to the RMA. We note the ‘*management*’ directive for significant hazards in section 6(h), and the ‘*avoidance or mitigation*’ directive of section 31(1)(b)(i) (for all natural hazards). Objective 11.1 is expressed as ‘*avoid or minimise*’ (rather than ‘*avoid or mitigate*’), which sets a higher bar than required by the RMA in our opinion. We also agree with Mr Pemberton that, likely due to timing, the WCRPS does not have regard to the NAP (as required by RMA section 61(2)(e)), which sets out more explicit methods for managing NH risk, including mapping of NH.
94. With respect to the NZCPS and when considering both Chapter 9 (Coastal Environment) and Chapter 11 (Natural Hazards), we are satisfied that the WCRPS has given effect to the NZCPS (although acknowledge the approach in the WCRPS lacks the clarity of the NZCPS).
95. The WCRC (in respect of their RPS) is bound by the duties and functions set out in sections 30 and 59 – 62 of the RMA. Conversely, territorial authorities are bound by the duties set out in sections 31 and 72 – 77 of the RMA. It is not the role of the Panel to direct the Regional Council, rather our role is to assist the territorial authority (or TTPP Committee in this instance) fulfil their duties and functions.
96. In respect of plan making, the RMA directs the management of significant risks from NH (RMA section 6(h)) and the avoidance or mitigation of NH (RMA section 30(1)(c)(iv) and section 31(b)(i)).
97. The NZCPS directs that coastal hazards must be identified (Policy 24), that the risk to subdivision, use and development must not be increased, reduced where possible and otherwise managed (Policy 25), that natural defences should be protected, restored or enhanced (Policy 26) and that strategies should be developed to protect significant existing development (Policy 27).
98. The NAP has four key priorities including enabling better risk-informed decisions (Priority 1), driving climate-resilient development in the right places (Priority 2), laying the foundations for a range of adaptation options including managed retreat (Priority 3) and embedding climate resilience across government policy (Priority 4). Priority 1 supports improved access to information, tools, methodologies and guidance for New Zealanders. The NAP recognises that spatial identification of hazards (also required by the NPSUD) is key to decision making. The Panel considers that the pTTPP NH mapping is a key step to enabling better risk-based decisions on the West Coast.
99. We are satisfied, subject to the recommendations of this Report, that the NH Chapter gives effect to the RMA, the NZCPS and the WCRPS, and has had regard to the NAP.
- ### 2.3 National planning standards
100. As noted above, a district plan/plan change must be prepared in accordance with the NP Standards (RMA section 74(1)(ea) and section 75(3)(ba)).

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### Natural Hazards - Ngā Mōreareatanga Aotūroa Chapter

101. The NP Standards<sup>12</sup> direct that all hazards, except coastal hazards, must be located in a NH Chapter. Further, the NH Chapter must cross reference any coastal hazard provisions in the Coastal Environment Chapter.
102. The pTTPP does not give effect to the NP Standards, as coastal hazards have been nested in the NH Chapter, rather than the Coastal Environment Chapter.
103. In their May Right of Reply, the Reporting Officers provided the following commentary:

*It is our understanding from the s32 report for the Natural Hazards Chapter and subsequent discussions with Ms Easton that a conscious decision was made to locate the coastal hazard provisions in the Natural Hazards Chapter and not in the Coastal Environment Chapter due to the interconnected nature of coastal and flood hazards. It was felt that separating out the provisions would hinder an integrated approach to planning for natural hazards. It is for this reason that the decision was made to combine the coastal and flood hazard overlays at Westport and Hokitika, and we understand a similar approach is intended for Greymouth as part of a future plan change.*

...

*We are also of the view that the provisions pertaining to natural and coastal hazards have been drafted in a very integrated manner. While it would be possible to split these provisions for natural hazards and coastal hazards, the net effect would be a duplication of provisions in different chapters. While we understand the requirements of the National Planning Standards for this outcome, given earlier Council decisions on this matter, we feel from a plan usability perspective, and given other councils have made similar decisions, that it may be more legible to leave the provisions as they are currently drafted.*

104. The Reporting Officers cited the Partially Operative Selwyn District Plan (Appeals Version 2023), the Proposed Waimakariri District Plan (now partially operative) and the Partially Operative Waikato District Plan (Appeals Version 2024) as plans that have coastal hazards sitting in the NH chapter. They noted that a submission on the Selwyn District Plan seeking to locate coastal hazards in the Coastal Environment chapter was rejected. There were no submissions on either the Waimakariri or Waikato District Plans seeking this outcome. They noted that the Waikato District Plan does not have a Coastal Environment chapter.
105. In this specific instance, the Panel agree with the approach adopted in the pTTPP to locate coastal hazards in the NH Chapter. To separate coastal hazards from flood hazards would make it difficult to manage the risks in Westport and Hokitika (and Greymouth in the future) in an integrated way, which could make hazard management less effective. As a consequence, we consider it inefficient and confusing to consider natural hazards outside of Westport and Hokitika across two chapters and that it is clearer to Plan users that natural hazards, including coastal hazards, sit in the NH Chapter.
106. We acknowledge that such an approach will not entirely give effect to the RMA and Planning Standards but note that there is precedent for such an approach and also that this is appropriate to achieve the efficient and effective management of natural hazard risks to life and property.

## 2.4 Submissions on the process

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<sup>12</sup> National Planning Standards, Section 7, Clauses 10 and 11

107. There were a number of submissions<sup>13</sup> that stated that the consultation process had been inadequate. The Reporting Officers recommended that these submissions be rejected as they considered that adequate time and processes had been available for people to engage with the pTTPP process.
108. With respect to the Variation 2 submission process, the Reporting Officer advised:

*Vance & Carol Boyd (S447.024), Westpower Limited (S547.0515; S547.0538), Department of Conservation (S602.00241) and Natural Hazards Commission Toka Tū Ake (S775.001; S775.002) seek that all submission points previously and currently made are taken into account. We can confirm that all submissions made by these parties on the proposed TTPP as originally notified, and relating to Variation 2 and the renotification of Variation 2 (also referred to as Variation 2.1) have been taken into account.*

*Jane Whyte & Jeff Page (S467.045) and Paparoa Track Services Ltd, Craig and Sue Findlay, Tim Findlay, Punakaiki Beach Camp Ltd (S605.045) submit that where Variation 2 has altered the Natural Hazard Overlays applying to a property, those persons affected also be able to comment on the relevant objectives, policies and rules of the Natural Hazards Chapter, and that these submissions should all be heard together. Grey District Council (FS1.00443) supports the submission by Jane Whyte and Jeff Page. These submissions and Ms Whyte's presentation at the hearing for the Natural Hazards Chapter were instrumental in the decision to renotify Variation 2 to give those persons now impacted by the updated mapping the opportunity to submit on the relevant provisions as well. Therefore, we recommend that these submissions be accepted.*

109. The principle of natural justice has been at the forefront of the Panel's minds throughout this process. We are satisfied that the legislated process has been followed to enable interested/affected parties to be party to proceedings.
110. With respect to Variation 2, the Panel agreed with Ms Whyte (who presented at the NH Chapter hearings) that the NH provisions should be notified alongside the coastal mapping and recommended to the TTPP Committee that Variation 2 be renotified to enable this to occur. The TTPP Committee adopted that recommendation.

### **3. DEFINITIONS**

#### **3.1. Annual exceedance probability – AEP / Average recurrence interval – ARI**

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

111. Four submission points were received (as part of the NH chapter process) seeking that AEP and ARI be defined. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.
112. No submission points were received on AEP/ARI as part of Variation 2.

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

113. The Reporting Officers have recommended that the submissions of Frank and Jo Dooley (S478.007, S478.008 and S478.052) and The O'Connor Institute Trust Board (S466.009) be accepted in part. Specifically, that any reference to ARI be removed (and therefore no

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<sup>13</sup> David Ellerm (S581.016), Mary Stewart (S222.003), Adriana James (S678.001) Karen Lippiatt (S439.020), Hamish Macbeth (S307.001)

definition is required) as the term is often incorrectly interpreted and that the definition of *AEP* from the Australian Rainfall and Runoff Guidelines be adopted.

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

114. The Panel agrees with the recommendation of the Reporting Officers and accept that *AEP* is generally considered the more user-friendly term for describing the likelihood of a flood or other extreme event. *AEP* reflects the probability of an event occurring in any given year, while *ARI* implies a fixed interval between events, which is misleading. We recommend the *AEP* definition is adopted.

### **Recommendation**

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

Delete all references to *Average Recurrence Interval / ARI* from the pTTPP

Use *Annual Exceedance Probability / AEP* in the pTTPP.

Add a definition as follows:

**ANNUAL EXCEEDANCE PROBABILITY (AEP)**

**means the probability of an event occurring in any given year.**<sup>14</sup>

## **3.2. Addition**

### **Submissions and Further Submissions**

116. One submission point was received (as part of the NH Chapter process) seeking that the definition of *addition* be reviewed. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.
117. No submission points were received on *addition* as part of Variation 2.

### **Section 42A Report**

118. The Reporting Officers agree with Gail Dickson (S407.004) that having a definition for *addition* and a definition for *additions and alterations* creates confusion. They have recommended that clause (a) in the definition of *additions and alterations* be deleted.

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

119. The Panel agrees with the recommendation of the Reporting Officers that having definitions for both *addition* and *additions and alterations* that could both apply to buildings and structures within natural hazard overlays is confusing. We are satisfied that the definition of *addition* (in combination with the new terms proposed for HAS, LHSA and PHSA) is appropriate for understanding the NH provisions and we recommend this amendment is made.

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<sup>14</sup> Frank and Jo Dooley (S478.007, S478.008 and S478.052), The O'Connor Institute Trust Board (S466.009)

## **Recommendation**

120. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission point identified in the footnote below is accepted, and recommend the following changes to the definition of **Additions and Alterations**:

### **ADDITIONS AND ALTERATIONS**

~~a. in relation to natural hazards, changes to a building or structure that alters the habitable space in such a way as to increase the likely number of inhabitants. For example, increasing the number of bedrooms, but not the size of bedrooms, or converting a garage to a bedroom but not increasing the size of a garage; and~~

~~b. means, in relation to historic heritage items, changes to the extent, floor levels, form, proportion and scale of the item, or changes to the design, texture, or form of the fabric of the item.<sup>15</sup>~~

### **3.3. Brownfield**

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

121. Two submission points were received (as part of the NH Chapter process) seeking that the definition of *brownfield* be amended. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.
122. No submission points were received on the definition of *brownfield* as part of Variation 2.

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

123. The Reporting Officers recommended that the submissions of Westpower (S547.019) and Mr David Ellerm (S581.001) be rejected on the basis that the term *brownfield* has been removed from the revised NH provisions.

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

124. The Panel agrees with the recommendation of the Reporting Officers that no changes are required to the definition of *brownfield* as a consequence of submissions on the NH chapter. For clarity, we support the deletion of *brownfield* from the NH Chapter (due to the recommended shift to using *HSA*, *LHSA* and *PHSA*).

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

125. Retain the definition of *brownfield* as notified.

### **3.4. Community facilities, education facilities and health facilities**

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

126. One submission point was received (as part of the NH Chapter process) seeking that the definition of *community facilities, education facilities and health facilities* be amended.

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<sup>15</sup> Gail Dickson (S407.004)

There is one further submission against this. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

127. No submission points were received on *community facilities, education facilities and health facilities* as part of Variation 2.

### **Section 42A Report**

128. The Reporting Officers recommended that the submission of BDC (S538.009) be rejected on the basis that the definition of *community facilities, education facilities and health facilities* (which relates only to NH) should be deleted as it is a confusing duplication of these already defined activities.

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

129. The Panel agrees with the recommendation of the Reporting Officer that the definition for *community facilities, education facilities and health facilities* is an unnecessary duplication and we recommend it is deleted.

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

130. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission point identified in the footnote below is accepted in part, and recommend the deletion of the definition of **Community facilities, education facilities and health facilities** as follows:

~~COMMUNITY FACILITIES, EDUCATION FACILITIES AND HEALTH FACILITIES means in relation to natural hazards, all community buildings where people congregate including places of worship, Marae, daycare, primary, secondary and tertiary education facilities, medical facilities excluding hospitals and medical centres with surgery facilities.<sup>16</sup>~~

## **3.5. Critical response facilities**

### **Submissions and Further Submissions**

131. Three submission points were received (as part of the NH Chapter process) seeking that the definition of *Critical Response Facilities (CRF)* be amended. There is one submission that supported the definition as notified. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.
132. One submission point was received (as part of Variation 2) seeking that the definition of *CRF* be amended. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.

### **Section 42A Reports**

133. In the s42A Report, the Reporting Officers agreed that amendments to the definition of *CRF* are appropriate to align with revised definitions for *RSI* and *PHSA*. To this end, they recommended that '*major dams*' and '*hazardous and explosive material*' be removed from the definition (Westpower (S547.023) and Silver Fern Farms (S441.002)); however, they did

<sup>16</sup> Buller District Council (S538.009)

not support the inclusion of '*electricity generation, transmission and distribution assets*' (in lieu of '*major dam*') as requested by Manawa (S438.008), as these activities are addressed through the Energy, Infrastructure and Transport (EIT) chapters.

134. In the s42A Variation Report, the Reporting Officers agreed with Poutini Ngāi Tahu (S620.424) that an advice note should be added so that the definition will not apply to Community Emergency Centres when it is not the main purpose of the building.

### **Rebuttal**

135. The Reporting Officers disagreed with the position of Ms Styles (for Manawa Energy) that '*electricity generation, transmission and distribution assets*' should be included in the definition of CRF. They stated that its inclusion would have no bearing on the role of electricity generation, transmission and distribution assets in disaster response; and secondly, its inclusion in the definition would mean electricity generation, transmission and distribution assets become a HSA and in areas of high hazard require resource consent as a non-complying activity.

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

136. Ms Styles (for Manawa) disagreed with the Reporting Officers and noted that electricity generation, transmission and distribution assets are already defined as '*lifeline utilities*' and '*critical infrastructure*' and to be included in CRF is consistent with how these facilities are otherwise identified in the pTTPP. Furthermore, she noted that with the recommended deletion of '*major dams*' there is no recognition for the provision of power as a critical part of any event response. Ms Styles reiterated that the EIT chapters do not override the overlay provisions.

### **Reporting Officer Reply Evidence**

137. The Reporting Officer's May Right of Reply considered the use of the term '*community emergency centres*' in the definition of CRF. They noted that this term is undefined and that a better term would be *Community Facility*, which is already defined and includes marae (being the primary concern of the submitter). The Reporting Officers also noted that a *Community Facility* would have a more lenient pathway through the NH provisions compared to CRF and they consider it is appropriate.

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

138. The Panel agrees with the recommendation of the Reporting Officers that '*hazardous or explosive material storage*' and '*major dam*' should be removed from the definition of CRF and that '*electricity generation, transmission and distribution assets*' should not be added.
139. Having considered the definition of CRF, the Panel considers that '*hazardous or explosive material storage*' are not critical during a hazard response. However, where these materials are stored is relevant in the overall of management of NH risk and the definition of PHSA captures the activities that will likely store hazardous and explosive material (e.g. *Industrial Activity*) and be managed accordingly through NH risk-based rule framework.
140. With respect to '*major dams*' and '*electricity generation, transmission and distribution assets*', the Panel considers that these are not critical during a hazard response and should not be included in the definition of CRF. Further, as RSI, '*major dams*' and '*electricity*

*generation, transmission and distribution assets'* would have a relatively unconstrained pathway through the NH provisions where they can prove functional need or operation need (compared to *CRF*, which are nested under *HSA* and subject to stricter NH controls).

141. The Panel agrees with the recommendation of the Reporting Officers that an Advice Note should be included in the definition of *CRF* to clarify when '*buildings intended to be used in an emergency for shelter*' would be captured by the definition. The Reporting Officers have recommended that the Advice Note refer to '*community facilities*'; however, we recommend a small amendment to refer to a *Community Facility* instead (which is the definition title in the pTTPP).
142. Lastly, we recommend that the term is singular, rather than plural. While not all definitions refer to the singular (e.g. activity compared to activities), the rules in the NH Chapter refer to *Critical Response Facility* (singular) and our preference is for the definition to reflect this.

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

143. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnote below are accepted or accepted in part, and recommend the amendment of the definition of **Critical Response Facilities** as follows:

CRITICAL RESPONSE FACILITY<sup>17</sup> means, in relation to natural hazards, hospitals, fire, rescue, police stations, buildings intended to be used in an emergency for shelter, communication operations or response, ~~hazardous or explosive material storage,~~<sup>18</sup> aviation control towers, air traffic control centre, emergency aircraft hangers, fuel storage, ~~major dams,~~<sup>19</sup> community scale potable water treatment facilities; and wastewater treatment facilities

**Note: This definition does not apply to a Community Facility when emergency shelter is not the main purpose of the building.**<sup>20</sup>

### **3.6. New definitions: Hazard Sensitive Activity – HSA, Potentially Hazard Sensitive Activity – PHSA, Less Hazard Sensitive Activity – LHSA, Minimise and Severe Natural Hazard Overlay**

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

144. There were no submissions received as part of the NH Chapter process on these new definitions because they were recommended by the Reporting Officers as part of the s42A Report.
145. As part of Variation 2, one submission point was received seeking that the new definitions be adopted (with one further submission point in opposition) and one submission was received seeking an amendment to *HSA*. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

<sup>17</sup> Clause 16(2) of the RMA

<sup>18</sup> Silver Fern Farms (S441.002)

<sup>19</sup> Westpower (S547.023)

<sup>20</sup> Clause 16(2) of the RMA

### **Section 42A Reports**

146. To assist in interpreting the changes recommended to the natural hazard provisions (to ensure a more risk-based approach) and to address submissions seeking clarity about 'occupied' vs 'unoccupied' (Federated Farmers (S524.044), Griffen & Smith Ltd (S253.013), GDC (S608.575 and S608.591), WDC (S181.010), Scoped Planning and Design Limited (S617.013 and S617.017), Totally Tourism Limited (S449.011), BDC (S538.110, S538.111, S538.112, S538.113, S538.114, S538.115, S538.116, S538.117, S538.118, S538.119, S538.149, S538.158 and S538.162), Toka Tū Ake (S612.051, S612.053, S612.057 and S612.063), Gail Dickson (S407.003) and Westpower (S547.161 and S547.162)), the Reporting Officers recommended five new definitions be included, specifically, *HSA*, *PHSA*, *LHSA*, *Minimise* and *Severe Natural Hazard Overlay*. In their s32AA analysis, the Reporting Officers state:

*The introduction of a definition for 'minimise' helps to ensure that the outcomes sought in the TTPP, with respect to the low and medium hazard areas, are clear in terms of mitigating the impacts of natural hazards on people, property and regionally significant infrastructure, while still enabling development.*

*The introduction of definitions for 'Less Hazard Sensitive', 'Potentially Hazard Sensitive' and 'Hazard Sensitive Activities' will give the clarity for plan users not currently provided in the proposed TTPP around what activities are captured by the rules.*

147. In the s42A Variation Report, the Reporting Officers recommended that the submission of the TTPP Committee (S171.026) be accepted and that the new definitions be adopted. They also agreed with Poutini Ngāi Tahu (S620.425) that *HSA* should not include 'marae' as the definition of *Community Facility* already includes marae.

### **Rebuttal**

148. In their 3 October 2024 rebuttal, the Reporting Officers agreed with Mr Kennedy (for Westpower) that *LHSA* clause (k) should refer to 'and structures' as this is pragmatic and will assist plan users.
149. In their Variation 2 rebuttal, the Reporting Officers acknowledged that the definition of *Severe Natural Hazard Overlay* needed to include the amended title for the Coastal Severe Overlay (specifically, the Coastal Hazard Erosion and Inundation Overlay).

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

150. In a tabled letter, Ms Pull (for Poutini Ngāi Tahu) advised that:

*...as per the Civil Defence Emergency Management framework, Councils also have the responsibility to be ready, have a response and be able to recover<sup>2</sup>. Many of the 'Hazard Sensitive Activities' are also essential to readiness plans, evacuation points and recovery...in order to be effective, they need to be located where people need them, which is usually in hazard overlays. And Councils and agencies that provide these services need to be enabled to provide them where they can safely do so...it is unclear if there is the ability under many of the hazard s42A recommended rules to consider their value as a critical response facility as a matter of discretion. This consideration has been deleted from other rules in this chapter, meaning that this rule [NH-R11] has more importance in addressing this issue.*

151. Evidence from Mr Kennedy (for Westpower) sought an amendment to the definition of 'less sensitive activities' where structures not specified in clauses (a) through (j) of the

definition are captured in the generic clause (k). The Reporting Officer recommended (in rebuttal evidence) that this amendment be accepted.

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

152. In their March Right of Reply, the Reporting Officers recommended amendments to the *HSA, PHSA, LHSA* to align with other activities and definitions used in the pTTPP (e.g. 'Retirement Home' was amended to 'Retirement Village').

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

153. The Panel agrees with the recommendation of the Reporting Officers to introduce new definitions for *HSA, PHSA, LHSA*. It is clear from the submissions that the use of 'occupied' and 'unoccupied' created confusion and there is support for a risk-based approach, which relies on a sensitivity spectrum to differentiate activities (rather than whether a building is occupied or not). We are therefore comfortable that there is scope to include definitions for *HSA, PHSA* and *LHSA*.
154. The Panel recommend two small amendments to *HSA*. Specifically, the deletion of 'Childcare services, including kohanga reo', as these are already nested under the definition of *Educational Facility*; and relocating 'sleep outs' to clause (a).
155. With respect to the definition of 'minimise', the Panel notes that this has been included in the Plan as part of the Introduction and General Provisions recommendation.
156. The Panel agrees with the recommendation of the Reporting Officers to include a definition for *Severe Natural Hazard Overlay* to differentiate them from other NH and enable them to be easily grouped where a provision relates to all severe NH.

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

157. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnote below are accepted or accepted in part, and recommend the inclusion of the definitions of **Hazard sensitive activity, Potentially hazard sensitive activity, Less hazard sensitive activity** and **Severe Natural Hazard Overlay** as follows:

**HAZARD SENSITIVE ACTIVITY means buildings accommodating:**

- a. **Residential Activity, including residential units, respite care, sleep outs and rehabilitation housing**
- b. **Visitor Accommodation and Worker Accommodation**
- c. **Retirement Village**
- d. **Healthcare and Medical Activities**
- e. **Community Facility**
- f. **Educational Facility**
- g. **Critical Response Facility**<sup>21</sup>

**LESS HAZARD SENSITIVE ACTIVITY means:**

<sup>21</sup> Toka Tū Ake (S612.052)

- a. **Buildings used for non-habitable purposes**
- b. **Fences**
- c. **Minor storage facilities**
- d. **Parks facilities**
- e. **Parks furniture**
- f. **Buildings associated with primary production, including intensive indoor primary production**
- g. **West Coast Regional Council monitoring structures**
- h. **Buildings associated with port activities**
- i. **Buildings associated with quarrying and mining activities**
- j. **Decks**
- k. **Buildings and structures associated with any other activity that is not identified as a Hazard Sensitive Activity or Potentially Hazard Sensitive Activity**<sup>22</sup>

**POTENTIALLY HAZARD SENSITIVE ACTIVITY means buildings accommodating:**

- a. **Commercial Activity**
- b. **Crematoriums and Funeral Homes**
- c. **Entertainment Facility**
- d. **Food and Beverage Activity**
- e. **Industrial Activity**
- f. **Stadium Activity**
- g. **Retail Activity**
- h. **Rural Industrial**<sup>23</sup>

**SEVERE NATURAL HAZARD OVERLAY means either one or a combination of the mapped extents of the Severe Flood Overlay, Earthquake Severe Overlay and Coastal Hazard Erosion and Inundation Overlay.**<sup>24</sup>

## 4. OVERLAYS AND SITE-SPECIFIC SUBMISSIONS

### 4.1. General submissions

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

158. Nine submission points were received (as part of the NH Chapter process) seeking that the overlays be amended/reviewed. These were supported by five further submissions points.
159. Two submission points were received (as part of the NH Chapter process) seeking that further overlays be investigated. One further submission point was received in opposition.
160. As part of Variation 2, there were four neutral submission points on the coastal overlays, 12 submission points seeking refinement of the coastal overlays, 13 submission points in opposition and three submission points supporting the coastal overlays. There were eight further submission points received.

<sup>22</sup> Federated Farmers (S524.044), Toka Tū Ake (S612.051)

<sup>23</sup> Bert Hofmans (S504.002), Lindy Millar (S505.002)

<sup>24</sup> Toka Tū Ake (S612.024)

161. The Panel adopts the summary of the submissions and further submissions provided in the s42A Reports.

### **Section 42A Reports**

162. The Reporting Officers recommend that those submissions seeking that the overlays be reviewed be accepted (Gina Hogarth (S304.004), Shaun and Carissa du Plessis (S402.002 and S402.003), Betty Harris (S405.002), Gail Dickson (S407.005), Misato Nomura (S151.007) and Jane Whyte & Jeff Page (S467.004)). These general submissions have been considered as part of the Reporting Officers' recommendations on each overlay addressed in the sections below. The Panel's evaluation of these submissions therefore follows.

## **4.2. Terminology**

### **Submissions and Further Submissions**

163. As part of Variation 2, four submission points were received seeking amendments to the terminology / naming conventions used in the NH Chapter. Three further submission points were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.

### **Section 42A Report**

164. The new definitions proposed as part of the s42A Report are discussed above, this includes the analysis of the TTPP Committee Variation 2 submission (S171.026) that sought retitling of HSA, PHSA and LHSAs (previously defined as residential, commercial, non-habitable etc).
165. As part of the NH Chapter process, the Reporting Officers also recommended that the naming of the earthquake hazard overlays be amended. As discussed below, the Reporting Officers recommended that the revised fault avoidance zone mapping be adopted, which has two categories. They therefore recommended that two overlays be adopted with names that align with other proposed hazards, specifically Earthquake Severe Hazard Overlay (being 'well-defined and well-defined extended' fault avoidance zones) and Earthquake Susceptibility Hazard Overlay (being 'distributed, uncertain constrained and uncertain poorly constrained' fault avoidance zones). The recommended earthquake hazard overlays would replace Earthquake Hazard Overlays 20m, 50m, 100m, 150m and 200m.
166. With regards to Variation 2, the Reporting Officers recommended that the TTPP Committee submission (S171.027) be accepted and that where a provision specifically relates to a coastal hazard then the term '*coastal hazard*' be used rather than the more general description of '*natural hazard*'.
167. The Reporting Officers also agreed with submissions (TTPP Committee (S171.033) and Robert Burdekin (S378.006)) that submitted that the names of the coastal hazard overlays should be more reflective of the actual hazard. The Reporting Officers recommended the following amendments:
- "*Coastal Severe*" is replaced with "*Coastal Hazard Erosion and Inundation Overlay*"
  - "*Coastal Alert*" is replaced with "*Coastal Hazard Inundation Overlay 1*"
  - "*Coastal Setback*" is replaced with "*Coastal Hazard Inundation Overlay 2*"

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

168. Mr Kennedy (for Westpower) helpfully provided direction as to where the term ‘*coastal hazard*’ could be used in lieu of ‘*natural hazard*’. Mr Kennedy seemed to support the naming convention for the coastal hazard overlays and suggested that a similar convention could be pursued for other hazard layers. Although, he did not offer alternatives.

#### **Hearing Panel’s Evaluation**

169. In addition to the definitions discussed above, the Panel agrees with the recommendation of the Reporting Officers to amend the titles of the fault hazard overlays and the coastal hazard overlays. The titles are logical and will assist plan useability and we recommend they are adopted.

#### **Hearing Panel’s Recommendation**

170. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnote below are accepted or accepted in part, and recommend the inclusion of the following overlay titles:

Earthquake Hazard Overlays 20m, 50m, 100m, 150m and 200m

**Earthquake Severe Hazard Overlay**

**Earthquake Susceptibility Hazard Overlay**<sup>25</sup>

~~Coastal Severe Overlay~~

**Coastal Hazard Erosion and Inundation Overlay**

~~Coastal Alert Overlay~~

**Coastal Hazard Inundation Overlay 1**

~~Coastal Setback Overlay~~

**Coastal Hazard Inundation Overlay 2**<sup>26</sup>

### **4.3. Flood Hazard Overlays (NH chapter)**

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

171. Four submission points were received supporting the extent of the flood hazard overlays. Seven submission points were received opposing the flood hazard overlays.
172. Forty-nine submission points were received seeking amendments to the flood hazard overlays, the large majority of these were seeking that the overlay/s be removed from the submitter’s own property (rather than general amendments to the overlay/s). Of these 49, five submission points were general in nature (rather than site specific).
173. Eighteen submission points were received requesting that the objective, policy and rule package associated with the flood hazard overlays were made more enabling.

<sup>25</sup> Toka Tū Ake (S612.048)

<sup>26</sup> TTPP Committee (S171.033), Robert Burdekin (S378.006)

174. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

### **Section 42A Report**

#### *Flood Plain Overlay*

175. The Reporting Officers recommended that the submissions<sup>27</sup> seeking the deletion of the Flood Plain Overlay (or removal from specific properties) be accepted. They confirm that *'We have considered the information upon which this overlay is based, and while it does capture areas that are known to be subject to flood inundation, it is not based upon accurate mapping or modelling, and has been applied as a precautionary layer. We are of the view that the science behind the Flood Plain Overlay is not sufficiently robust to justify its inclusion within TTPP. As such, it is recommended that the Flood Plain Overlay and all associated provisions are deleted from the TTPP'*.
176. Based on their s32AA analysis, the Reporting Officers considered that the removal of the Flood Plan Overlay is the most appropriate way to achieve the objectives of the Plan.

#### *Flood Susceptibility and Flood Severe Overlays*

177. The Reporting Officers recommended that all submissions<sup>28</sup> seeking that the Flood Susceptibility or Flood Severe Overlays be deleted/removed/refined from specific properties be rejected noting that *'we have no reason to believe that the flood hazard modelling upon which the Flood Severe and Flood Susceptibility Hazard Overlays is based is incorrect or contains significant errors'*.
178. With respect to the submission from Toka Tū Ake (S612.121), the Reporting Officers note that the Flood Severe Overlay and the Flood Susceptibility Overlay generally reflect river/stream corridors and areas of overland flow and ponding respectively. The Reporting Officers acknowledged that further nuance between overland flow and ponding could be considered as part of a future plan change.
179. The Reporting Officers recommended that the submissions<sup>29</sup> seeking that the objectives, policies and rules associated with the Flood Susceptibility and Flood Severe Overlays be more enabling be rejected. Further, they recommended that the Toka Tū Ake submissions (S612.042 and S612.114) seeking that the flood depth threshold be amended to 1m also be rejected. The Reporting Officers consider that the Flood Susceptibility and Flood Severe Overlays (equal to the H1 to H4 hazard classification and H5/H6 hazard classification respectively) represent a considerable risk to people and buildings and should be retained.

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<sup>27</sup> Richard Lowe (S351.001), Anne Chapman (SS425.001), Stuart Marshall and Susan Gooch (S433.002), Gavin Molloy (S485.002), Rosalie Sampson (S539.004), Benjamin and Shari Ferguson (S173.002), Kaye Leighton (S174.002), John Boyles (S175.002), David McInroe (S176.002), Ken and Robyn Ferguson (S192.001), Whittaker Ventures Ltd (S197.001 and S197.002), Paul Miles (S226.001), Hayden Kendrick (S259.001), Grant Marshall (S311.002), Debbie Bland (S325.001), Katrina McLachlan (S340.001), Lynette Heine (S354.001), David Hahn (S368.001), Mills Family Trust (S427.001), Bruce Jones (S429.001), T Croft Ltd (S460.004 and S460.006), Davis Ogilvie & Partners Ltd (S465.002), Scenic Hotel Group (S483.010), Michael Snowden (S492.003), Hapuka Landing Limited (SS514.004), Peter Jefferies (S544.008), Martin & Lisa Kennedy (S545.008), Nick Pupich Sandy Jefferies (S546.008), Brian Anderson (S576.005), David Ellerm (S581.015 and S581.018)

<sup>28</sup> Graeme Kellaway (S18.001), Frances Yeoman (S33.001), Barnabas Young (S50.001), Graeme Kellaway (S53.001), Scenic Hotel Group (S483.015), Bert Hofmans (S504.004), Lindy Millar (S504.005), Leonie Avery (S507.108), Jared Avery (S508.110 and S508.111), Kyle Avery (S509.110), Avery Bros (S510.109, S510.110 and S510.111), Bradshaw Farms (S511.109, S511.110 and S511.111), Paul Avery (S512.109, S512.110 and S512.111), Brett Avery (S513.109, S513.110 and S513.111), Snodgrass Road submitters (S619.004)

<sup>29</sup> Leonie Avery (S507.108), Jared Avery (S508.110 and S508.111), Kyle Avery (S509.110), Avery Bros (S510.109, S510.110 and S510.111), Bradshaw Farms (S511.109, S511.110 and S511.111), Paul Avery (S512.109, S512.110 and S512.111), Brett Avery (S513.109, S513.110 and S513.111), Chris & Jan Coll (S558.061)

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While they agree with Toka Tū Ake that the flood depth threshold should be adjusted (the Reporting Officers consider that 1.2m is appropriate, rather than 1m), they considered that this amendment raises issues of natural justice because the number of properties subject to the Flood Severe Overlay would substantially increase. They support a change to the flood depth threshold being considered as part of a future plan change.

### **Rebuttal**

180. In their 3 October 2024 rebuttal statement, the Reporting Officers confirmed that the flood modelling for the Haast, Karamea, Inangahua, Ngākawau, Mokihinui, Waimangaroa and Waitakere/Nile Rivers and the Waiho River/Tartare Stream does not meet a sufficient level of scientific robustness. They advised:

*The problem with this is that as the flood data has not been subject to robust modelling we are unable to confirm the following:*

- *The minimum floor levels for subdivision, use and development as these do not exist in the data that is held by the Council;*
- *Whether the flood maps represent a 1% AEP event, or whether they are observational data and therefore may not represent true 1% AEP extents;*
- *Whether flood defence structures have been appropriately allowed for in the flood hazard overlays; and*
- *Any assumptions within the maps that have been used to inform the flood hazard extents.*

181. Given that there is a known flood risk, the Reporting Officers considered the best approach was to include a Flood Alert Overlay with new subdivision provisions that will require a site-specific risk assessment that identified suitable mitigation. The Reporting Officers advised that there would be a gap in respect of land use planning but that there is insufficient information to determine minimum FFL requirements.

182. The Flood Alert Overlay will be included in NH-P7, SUB-R6, SUB-R8, SUB-RX and SUB-R13.

183. The Reporting Officers considered that scope for these amendments came from submitters seeking to have the Flood Susceptibility Overlay removed from their properties, specifically Richard Lowe (S351.001), Gavin Molloy (S485.002), Rosalie Sampson (S539.004), Graeme Kellaway (S18.001), Frances Yeoman (S33.001), Barnabas Young (S50.001), Graeme Kellaway (S53.001), Scenic Hotel Group (S483.015), Bert Hofmans (S504.004) and Lindy Millar (S505.005). They consider that the Flood Alert Overlay provides partial relief to these submissions as the regulatory burden is somewhat lifted from these landowners.

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

184. Mr Hofmans advised that the Flood Hazard Susceptibility Overlay should be removed from his property as resource consent is needed now and was not required in the past.

185. Mr Beban advised that the Flood Alert Overlay will mean that the landowner will need to engage a professional to report of flood risk; or alternatively, the hazard overlay could be removed but this would 'leave a bigger gap' at subdivision phase. He advised that future modelling of flood risk should also include climate change impacts.

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

186. Given there is a lack of robust data to support the Flood Plain Overlay, the Panel agrees with the Reporting Officers that it should be removed from the Plan.
187. Equally, because the data supporting the Flood Susceptibility and Flood Severe Overlays is sufficient, the Panel agrees with the Reporting Officers that these overlays should be retained. Further, the Panel accepts the Reporting Officers' analysis that any amendment to the flood depth threshold (the point at which the Flood Susceptibility Overlay transitions to the Flood Severe Overlay) should be deferred to a future plan change, particularly in relation to issues of natural justice as identified by the Reporting Officers. We make the point, however, that flood depths of 2m or a velocity of 2m/s represents a risk of structural damage to buildings (and potential for collapse), whereas flood depths of 1.2m or a velocity of 2m/s represents a flood hazard unsafe for people and vehicles. In that context, we consider a plan change is necessary to better determine the extent of the Flood Severe Overlay.
188. With respect to the Flood Susceptibility Overlay over the Haast, Karamea, Inangahua, Ngākawau, Mokihinui, Waimangaroa and Waitakere/Nile Rivers and the Waiho River/Tartare Stream, the Panel agree that this overlay should be removed. We also agree that a Flood Alert Overlay is appropriate as there is a known flood hazard risk. The inclusion of the Flood Alert Overlay in NH-P7, SUB-R6, SUB-R8, SUB-RX and SUB-R13 means that subdivision design includes consideration of the known flood risk. Alerting the landowner to the flood risk and enabling them to contemplate it in the subdivision design, will reduce the potential for a decline of consent pursuant to RMA section 106(1)(a). Given the Flood Alert Overlay represents a lesser burden to landowners (compared to the Flood Susceptibility Overlay), we are comfortable that there is scope for such a change.

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

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

Delete the Flood Plain Overlay and the related provisions from the Plan.<sup>30</sup>

Replace the Flood Susceptibility Overlay with a Flood Alert Overlay in the Haast, Karamea, Inangahua, Ngākawau, Mokihinui, Waimangaroa and Waitakere/Nile Rivers and the Waiho River/Tartare Stream catchments (and include reference to the Flood Alert Overlay in NH-P7, SUB-R6, SUB-R8, SUB-RX and SUB-R13).<sup>31</sup>

#### **4.4. Earthquake Hazard Overlays (NH chapter)**

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

<sup>30</sup> Richard Lowe (S351.001), Anne Chapman (S5425.001), Stuart Marshall and Susan Gooch (S433.002), Gavin Molloy (S485.002), Rosalie Sampson (S539.004), Benjamin and Shari Ferguson (S173.002), Kaye Leighton (S174.002), John Boyles (S175.002), David McInroe (S176.002), Ken and Robyn Ferguson (S192.001), Whittaker Ventures Ltd (S197.001 and S197.002), Paul Miles (S226.001), Hayden Kendrick (S259.001), Grant Marshall (S311.002), Debbie Bland (S325.001), Katrina McLachlan (S340.001), Lynette Heine (S354.001), David Hahn (S368.001), Mills Family Trust (S427.001), Bruce Jones (S429.001), T Croft Ltd (S460.004 and S460.006), Davis Ogilvie & Partners Ltd (S465.002), Scenic Hotel Group (S483.010), Michael Snowden (S492.003), Hapuka Landing Limited (S514.004), Peter Jefferies (S544.008), Martin & Lisa Kennedy (S545.008), Nick Pupich Sandy Jefferies (S546.008), Brian Anderson (S576.005), David Ellerm (S581.015 and S581.018)

<sup>31</sup> Richard Lowe (S351.001), Gavin Molloy (S485.002), Rosalie Sampson (S539.004), Graeme Kellaway (S18.001), Frances Yeoman (S33.001), Barnabas Young (S50.001), Graeme Kellaway (S53.001), Scenic (S483.015), Bert Hofmans (S504.004), Lindy Millar (S505.005)

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190. Six submission points were received seeking amendments to the earthquake hazard overlays, four of which related to specific properties. Five further submissions were received.
191. One submission point was received seeking clarification about the implication of the earthquake hazard overlays.
192. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

### **Section 42A Report**

193. The Reporting Officers agreed with the submission of Toka Tū Ake (S612.048) that the earthquake hazard overlays be amended to align with the MfE Active Fault Guidelines. The Reporting Officers recommended that the revised fault avoidance zones mapped by GNS Science (and submitted to the TTPP Committee after the notification of the pTTPP) be adopted. They noted that, while the revised mapping did not form part of the notified pTTPP, it results in a reduction in the earthquake hazard overlays (i.e. no additional sites are affected). The Reporting Officers advised that the amended overlays would, in part, address the submissions of Grant Marshall (S311.001, S311.004, S311.005) and Scenic Hotel Group (S483.013).
194. The Reporting Officers recommended that the submissions by Toka Tū Ake (S612.021) seeking that all active faults be mapped be rejected. They generally agreed that it would be preferable to map all active faults but advised that such a task would require significant resourcing that is not available.
195. Lastly, Scenic Hotel Group (S483.018) submitted that financial compensation should be investigated to assist those affected by the earthquake hazard overlays. The Reporting Officers have recommended that this submission be rejected on the basis natural hazards management is a function of territorial authorities (RMA section 31(1)(b)(i)) and there is no requirement for financial compensation.

### **Rebuttal**

196. The Reporting Officers provided a summary of how the mapping has been applied taking into account the MfE Active Fault Guidelines. They confirmed:

*The MfE guidance and practice around the country takes the approach of as the fault hazard location becomes more well known (represented by the areas mapped as well-defined and well-defined extension), the provisions become more restrictive (as there is a high degree of certainty around the fault line location). Conversely, if the position of the fault line is less certain, the provisions become more enabling, subject to the fault location being identified by the applicant relative to their development. This is in recognition that the Uncertain Poorly Constrained Overlays can be very wide and capture a large amount of land which may not contain the fault rupture zone.*

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

197. Mr Joel Marshall (counsel) and Mr Nick Harwood (geotechnical expert) presented legal submissions and expert evidence (respectively) on behalf of Mr Grant Marshall, the owner of 2261 Lake Brunner Road, Inchbonnie.

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

### Natural Hazards - Ngā Mōreareatanga Aotūroa Chapter

198. The legal submissions argue that the Reporting Officers have not fulfilled the obligations of s32 and set out the costs, in particular the economic costs, of unsubstantiated fault mapping. The legal submissions set out that the appropriate relief is to amend the recommended Earthquake Severe Hazard Overlay extent by reverting to the overlay extent shown in the TTPP draft, or an alternative extent presented in expert evidence by Mr Harwood.
199. Mr Harwood notes that his evidence relies on the 2022 GNS Report, which was only made publicly available in September 2024 (being the same month that Mr Harwood's evidence was received). Mr Harwood considers that the GNS Report *'is not sufficient to understand or accept the mapping or S42A recommendations as they relate to the site'*. Further, Mr Harwood considers that the recommended mapping is inconsistent with the MfE Guidelines.
200. Dr Robert Langridge prepared a (rebuttal) statement of evidence in response to the evidence of Mr Harwood. Dr Langridge is the lead author of the 2022 GNS Report. Mr Langridge confirmed that the 2022 data/report was not intended to make decisions at a property level, rather it is sufficient for planning purposes at a district/regional scale. Dr Langridge considered that the Alpine Fault can be confidently mapped from Taramakau River to Lake Poerua and likewise from Brown River to Homestead Creek. Dr Langridge advised that this leaves an area of uncertainty between Lake Poerua and Homestead Creek, for which Dr Langridge provided the following information:

*The 'dog-leg' occurs between Lake Poerua and Homestead Creek and is mapped as an uncertain trace. In this area we cannot identify any certain fault traces, due to the thick and recent alluvial fan cover. However, we have had to consider how these two more well-defined parts of the fault (to the northeast and southwest) link up as it is unequivocal that they join up. In essence, the dog-leg was the most logical way to do this at the scale defined for the Langridge et al. (2022) report.*

*Put in different terms, the fault must take a right-step (stepover) across from Lake Poerua to the range front. This is probably more complex than we have been able to convey with a single, uncertain fault trace.*

201. At the hearing, Dr Langridge advised that there is a level of uncertainty with the mapping through Mr Marshall's property, but the uncertainty does not relate to whether the overlay should exist, but where the overlay changes from the Earthquake Susceptibility Hazard Overlay to the Earthquake Severe Hazard Overlay. Further, he noted that the methodology for determining the mapping is consistent with MfE guidelines.

### **Reporting Officer Reply Evidence**

202. The Reporting Officer confirmed that, having heard the evidence of both Mr Harwood and Dr Langridge *'I consider that the mapping of the Fault Hazard Overlay in the vicinity of 2261 Lake Brunner Road aligns with the MfE Active Fault Guidelines. I did not hear any evidence which would justify a change of the location of the Fault Hazard Overlay from a planning perspective'*.
203. The Reporting Officers goes on to state that *'I am not aware of any Council that follows this methodology and undertakes site specific testing to determine the location of the Fault Hazard Overlays. The cost and time required for this level of testing would be prohibitive. In my experience, other Councils rely on experts (such as GNS Science) that identify the position of fault lines from a range of sources including the interpretation of LIDAR data and the*

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*findings of research projects and any individual geotechnical assessments that the Council will hold. This process is consistent with the approach undertaken on the West Coast and therefore I am of the view that the Fault Hazard Overlays are not invalidated due to there not being onsite testing’.*

204. The Reporting Officer reiterated their position that the earthquake hazard overlay recommended in the s42A Report should be retained for 2261 Lake Brunner Road.

### **Hearing Panel’s Evaluation**

205. The Panel agrees with the Reporting Officers that the fault hazard overlays should be amended and refined to reflect the latest GNS Science data (provided to the TTPP Committee in July 2022) as this accords with the MfE Active Fault Guidelines (and represents best practice and a risk-based approach). We agree with the Reporting Officer that mapping of all active faults is overly burdensome on both councils and landowners (particularly when a resource consent process enables a closer inspection of particular sites and proposals).
206. With respect to Mr Marshall’s property near Inchbonnie, the Panel prefers the evidence of Dr Langridge and accept that where a fault cannot be accurately identified/mapped (through surface features), there must be an educated inference to determine fault extents. We accept that this brings a level of uncertainty, but this is recognised through the use of the Earthquake Susceptibility Hazard Overlay (rather than the Earthquake Severe Hazard Overlay).
207. The Panel agrees with the Reporting Officers that there is no requirement for financial compensation in relation to the Scenic Hotel Group submission.

### **Hearing Panel’s Recommendation**

208. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnote below are accepted, and recommend the following:

Delete the Earthquake Hazard Overlay 20m, 50m, 100m, 150m and 200m and replaced with the refined Earthquake Susceptibility Hazard and Earthquake Severe Hazard Overlays. <sup>32</sup>
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## **4.5. Land Instability Overlay (NH chapter)**

### **Submissions and Further Submissions**

209. One submission point was received in support of the Land Instability Overlay. Twelve submission points were received seeking amendments (including deletion in Granity area, removal of specific properties and the addition of areas). Two further submission points were received.
210. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

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<sup>32</sup> Toka Tū Ake (S612.048)

### **Section 42A Report**

211. The Reporting Officers agree with submitters (Northern Buller Communities Society Incorporated (S142.007 and S142.008), BDC (S538.149), Jackie and Bart Mathers and Gillman (S228.002), David Marshall (S347.001), Gail Dickson (S407.001) and TTPP Committee (S171.012)) that the Land Instability Overlay in the Granity/Ngākawau/Hector area needs to be amended. Specifically, the Officers recommended that the Land Instability Overlay is removed from Granity and is added to the area north of Hector as shown in the operative Buller District Plan.
212. With respect to the Land Instability Overlay shown at Punakaiki, the Reporting Officers agree with the submission of Paparoa Track Services Ltd et al. (S605.038) that the proposed mapping differs from the operative Buller District Plan, both of which are inconsistent with the latest land stability reporting for the area (URS, 2003). The Reporting Officer noted that, in 2024, GNS completed a region wide slope instability study that will be the subject of a future plan change. In the meantime, the Reporting Officers recommended that the overlay revert to the extent shown in the operative Buller District Plan. This recommendation will provide the relief sought by Peter Haddock (S417.003) and Jane Whyte and Jeff Page (S467.020), and it will in part provide the relief sought by Scenic Hotel Group (S483.014).
213. The Reporting Officers recommended that the submissions of Scoped Planning and Design Limited (S617.019 and S617.020) be rejected as it raises natural justice issues for the affected properties. Furthermore, the land instability will be addressed as part of a future plan change, which will rely on the 2024 GNS Report.

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

214. As there was inadequate data at the time of notification to support the proposed Land Instability Overlay, the Panel agrees with the recommendation of the Reporting Officers to amend the extent of the Land Instability Overlay to reflect what is shown in the operative Buller District Plan at the two locations (Granity/Ngākawau/Hector and Punakaiki). We note that a future plan change will be needed to amend the overlay to reflect current data.

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

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

Amend the extent of the Land Instability Overlay to reflect what is shown in the Operative Buller District Plan at Granity/Ngākawau/Hector.<sup>33</sup>

Amend the extent of the Land Instability Overlay to reflect what is shown in the Operative Buller District Plan and Punakaiki.<sup>34</sup>

## **4.6. Lake Tsunami Hazard Overlay (NH Chapter)**

### **Submissions and Further Submissions**

<sup>33</sup> Northern Buller Communities Society Incorporated (S142.007 and S142.008), Buller District Council (S538.149), Jackie and Bart Mathers and Gillman (S228.002), David Marshall (S347.001), Gail Dickson (S407.001), TTPP Committee (S171.012)

<sup>34</sup> Peter Haddock (S417.003), Jane Whyte and Jeff Page (S467.020), Scenic Hotel Group (S483.014)

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216. One submission point was received in support of the Lake Tsunami Hazard Overlay. One submission point was received seeking that the overlay be amended. One further submission points were received.
217. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

### Section 42A Report

218. While one submission (Toka Tū Ake (S612.069)) sought that the overlay be retained and two submissions (Grant Marshall (S311.006) and Stephen Hogg (FS52.2)) sought that it be amended utilising Golders' mapping at Lake Poerua, the Reporting Officer recommended that the Lake Tsunami Hazard Overlay be deleted drawing on scope from submissions that requested that the natural hazard overlays be reviewed to ensure they are based on robust science. The Reporting Officers acknowledged the (Golders) mapping that exists for Lake Poerua, but noted this does not reflect the pTTPP overlay (which is an arbitrary 5m setback from the edge of all lakes). They determined that to use the Golder mapping would raise issues of natural justice. The Reporting Officers concluded:

*While we do not dispute that this natural hazard likely exists, we feel that given the science that was used to map this hazard, combined with the low number of properties impacted by this hazard, the removal of this overlay will not significantly increase the risk to people, buildings or infrastructure, and can be managed by proxy through other TTPP provisions [the 20m setback required in the Natural Character and Margins of Waterbodies Chapter] as well as through Civil Defence and Emergency Management procedures until such time that more accurate mapping enables a land use planning response.*

### Hearing Panel's Evaluation

219. The Panel agrees with the recommendation of the Reporting Officers that there is inadequate data to support the inclusion of the Lake Tsunami Hazard Overlay and accordingly, it should be removed. We agree that there are a number of submitters that have sought that overlays be supported by robust evidence, and we have relied on them in deleting this overlay. We also note that we have recommended that the 20m riparian setback from lakes be retained as this is consistent with the WCLWRP and will act as a proxy for managing lake tsunami hazard risk to some extent.

### Hearing Panel's Recommendation

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

Delete the Lake Tsunami Hazard Overlay and related provisions from the Plan. <sup>35</sup>
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## **4.7. Coastal Tsunami Hazard Overlay (NH chapter)**

### Submissions and Further Submissions

221. One submission point was received in support of the extent of the Coastal Tsunami Hazard Overlay. One submission point was received seeking that the overlay be removed. Three

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<sup>35</sup> Gina Hogarth (S304.004), Shaun and Carissa du Plessis (S402.002 and S402.003), Betty Harris (S405.002)

submission points were received seeking that the overlay be amended (to exclude the submitters' properties). One further submission points were received.

222. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

### **Section 42A Report**

223. As with the Lake Tsunami Hazard Overlay, the Reporting Officers considered the robustness of the evidence to support the Coastal Tsunami Hazard Overlay. Having completed this review, they noted *'the Coastal Tsunami Hazard Overlay is based on evacuation mapping and represents the 'red zone' where land elevation is less than 2m above mean high water springs. The non-statutory guidance for land use planning for tsunami inundation recommends that evacuation mapping is not used for land use planning purposes, as the focus of this mapping is life safety, and therefore it is necessarily conservative in nature and considers 'worst case' scenarios'*. On this basis, the Officers recommended that the Coastal Tsunami Hazard Overlay is removed from the TTPP.

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

224. The Panel agrees with the recommendation of the Reporting Officers that there is inadequate data to support the inclusion of the Coastal Tsunami Hazard Overlay and accordingly, it should be removed. We note the evaluation of the Reporting Officers that the Coastal Severe and Flood Severe Overlays will act as a short-term proxy for managing the coastal tsunami hazard risk until such time as data is collected and a potential plan change advanced to incorporate mapping.

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

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

Delete the Coastal Tsunami Hazard Overlay and any relevant provisions from the Plan. <sup>36</sup>
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## **4.8. Hokitika Hazard Overlay (NH Chapter)**

### **Submissions and Further Submissions**

226. One submission point was received in support of the Hokitika Hazard Overlay but requested that the Hokitika Flood and Coastal Erosion Protection Scheme be shown on the pTTPP maps. One submission sought an amendment to the overlay. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

### **Section 42A Report**

227. The Reporting Officers recommended that the Director General's submission (S602.049) be rejected as infrastructure (including flood protection) is not typically shown on district planning maps unless it is designated. In response to Director General, the Reporting

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<sup>36</sup> Elley Group Ltd (S164.002), Bert Hofmans (504.008), Lindy Millar (S505.008), Avery Brothers (S609.075)

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Officers also confirmed that the overlay is clearly mapped (on the e-plan) so there is certainty about the rules that will apply.

228. The Reporting Officers recommended that the Toka Tū Ake submission (S612.080) be accepted such that the chapter overview be updated to reference the AEP event that it represents. The Panel note that no recommended wording was included in the s42A Report.

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

229. The Panel agrees with the recommendation of the Reporting Officers that there is no need to show hazard protection structures on the district planning maps. While Ms Hornblow and Mr Bossarelle both note that some protection structures have been accounted for in the flood and coastal modelling, we do not consider that there is any planning merit to including these structures in the maps as there are no provisions that are tied to the protection structures.
230. While we agree with the Reporting Officers that there is merit in identifying the relevant AEP event that has been modelled for Hokitika in the chapter overview, we have not been provided with any amended wording, and therefore we recommend the description of Hokitika Hazard Overlay in the chapter overview be retained as notified.

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

231. Retain the Hokitika Hazard Overlay as notified.

## **4.9. Westport Hazard Overlay (NH Chapter)**

### **Submissions and Further Submissions**

232. One submission point was received in support of the Westport Hazard Overlay but requested that government funding is secured to facilitate rebuild. One submission opposed the overlay. Twenty-five submission points were received seeking that the overlay be amended (as well as the associated provisions). Eleven further submission points were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

### **Section 42A Report**

233. Two submissions (Karen Lippiatt (S439.023) and Felicity Watson (S487.003)) sought confirmation of government funding for rebuilding and of the timing of the protection works. The Reporting Officers recommended that these submissions be rejected as they are outside the scope of the pTTPP process. Further, Frank O'Toole (S595.013) sought that all properties in the overlay are included within the limits of future protection scheme. The Reporting Officers also confirmed that this is outside the scope of the plan change. Conversely, the Reporting Officers recommended that the submission by Toka Tū Ake (S612.083) be accepted such that the chapter overview be updated to reference the AEP event that it represents.
234. The Reporting Officers recommended that submissions (Rick Hayman (S471.004) and Martin & Co. (S543.004)) be rejected as the protection scheme is yet to be constructed and as such, the overlay extent is based on the current flood hazard risk. The Officers noted

that once the protection scheme is constructed, the flood hazard risk could be remodelled to determine if the overlay should be reduced in extent.

235. Frank and Jo Dooley (S478.006) considered that further explanatory text is required to describe the overlay. The Reporting Officers recommended that this submission be rejected because they did not consider that the additional text added value.
236. A number of submissions<sup>37</sup> challenged the data used to determine the overlay, the extent of the overlay and the restrictions of the associated rules. The Reporting Officers stated that:

*We reject these submissions, as without the Westport Hazard Overlay the majority of properties in Westport would be covered by a Flood Susceptibility or Flood Severe Overlay that has the same or more restrictive provisions proposed than those for the Westport Hazard Overlay. The purpose of the Westport Hazard Overlay is to recognise the existing investment in this area, and the planned protection works, so that the private development rights are provided for in an area that is subject to an elevated level of risk from flood hazards.*

...

*We have no reason to believe that the flood hazard modelling that has been undertaken is incorrect or contains significant errors. Recent events have demonstrated that there has been flooding in a number of the areas encompassed by the mapping, and therefore this supports the basis that there is a hazard in these areas that needs to be addressed. On this basis, to give effect to s6(h) of the RMA it would be inappropriate to remove the Westport Hazard Overlay from the TTPP and it is our position that this hazard overlay should be retained.*

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

237. Mr O'Toole advised that the Westport flood protection scheme had not been given enough weight by the pTTPP mapping and provisions. Mr O'Toole referred to comments from Mr Matt Gardner (of Land River Sea Consulting who has completed work for the WCRC on the protection scheme) that the risk will 'disappear' once the scheme is constructed in 3-5 years (we note that no expert evidence was provided by Mr Gardner). Mr O'Toole advised that providing for the 1% AEP event is sufficient but adds significant cost to development.
238. Mr Duncan (for the Snodgrass Road submitters) advised that the blanket approach is problematic and well suited to large scale development (not small existing communities). He noted that the risk to the Snodgrass Road area is not severe and there is advice that some properties will not flood at all. Mr Duncan received advice that section 10 (of the RMA) could be overridden.

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

239. The Panel agrees with the recommendation of the Reporting Officers that the issues of funding, timing and extent of the Westport protection scheme are outside the scope of the pTTPP and that these submissions are rejected.

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<sup>37</sup> The Coda Trust (S480.003), Felicity Watson (S487.001), Joanne and Ken Dixon (S213.006), Rick Hayman (S471.004), Leonie Avery (S507.081 and S507.109), Jared Avery (S508.081), Kyle Avery (S509.081), Avery Bros (S510.081), Bradshaw Farms (S511.081), Paul Avery (S512.081), Brett Avery (S513.081), Steve Croasdale (S516.016 and S516.017), William McLaughlin (S567.144), Avery Brothers (S609.073 and S609.104), Snodgrass Road submitters (S619.003)

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240. As above, while the Panel agrees with the Reporting Officers that there is merit in identifying the relevant AEP event that has been modelled for Westport in the chapter overview, we have not been provided with any amended wording, and therefore we recommend the description of Westport Hazard Overlay in the chapter overview be retained as notified.
241. The Panel agrees with the recommendation of the Reporting Officer that the extent of the Westport Hazard Overlay is retained as notified. In the absence of data challenging the modelling, the Panel accepts the modelling (and therefore the extent of the overlay) completed by NIWA.

### Hearing Panel's Recommendation

242. Retain the Westport Hazard Overlay as notified.

## 4.10. General submissions on the coastal hazard overlays (Variation 2)

### Submissions and Further Submissions

243. Four submission point were received in support of the coastal hazard overlays (in particular the extent). Forty submission points opposed the overlay. Seventy-nine submission points were received seeking that the overlay be amended (as well as the associated provisions). Twenty-two further submission points were received.
244. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

### Section 42A Report

245. There were a large number of submissions<sup>38</sup> seeking that the coastal hazard overlays be either deleted or amended because, generally speaking, the modelling/process/approach was considered inaccurate, the science is not well founded, the scale too large (i.e. modelling should be to site level) or individuals should be given the opportunity to determine the hazard extent. The Reporting Officers recommended that these submissions be largely rejected because:

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<sup>38</sup> Forest Habitats Limited (S186.002, S186.004, S186.006 and S186.008), WCRC (S488.0515), Michael Snowden (S492.008 and S492.013), Andrew Wiffen (S683.001), Ash Oldham (S684.001), Biggles Limited (S685.001), Desna Bruce Walker (S692.001), Mitchell Rogers (S710.03), P & A Horrell (S715.001), Paul Drake (S716.001), Paul Fraser (S717.001), Stuart Liddicoat (S729.002), Ballin Family (S766.001), James McElrea (S768.002), Charlie Johnson (S786.003), Chris Reynolds (S362.004), Lyn McIntosh (S469.003), Gary Clarke (S667.001), Helen & Tom Sawyers (S674.005), Joshua Tranter (S675.002), Mike MacMillan (S677.001 and S667.002), Andrew Dempster (S681.001), Andrew Lisseman (S682.001), David Gourlay (S690.001), Dee Deaker (S691.001 and S691.002), Daniel Reynolds (S695.001), Glen Kingan (S697.001), Jason Jacobs (S698.001), Joelyn Billett (S700.001), Kevin Smith (S707.001), Michael Rogers (S709.002 and S709.003), Prue & Daimon Schwalger (S720.001), Rae Reynolds (S722.001 and S722.002), Rebecca Blackhurst (S723.001), Rod Thornton (S724.002), Ros Bradley (S725.002, S725.002 and S725.003), Stephen & Pauline Tranter (S727.001 and S727.002), Steve Miller (S728.001), Stuart Liddicoat (S729.001), Vanessa Kingan (S733.001), Vicki Stevenson (S734.001), William Sage (S735.001), Laurie & Marlene Collins (S737.001), Susan Norgart (S738.001), Ann Hamplough (S740.002), Damer Farrell (S741.001) Derek Roberts (S744.001), Jane Abraham (S747.001), Janette Donaldson (S748.001 and S748.002), Kenneth Wiltshire (S749.001), Les & Kathy McManaway (S751.001), Lynda Reynolds (S752.001), Marilyn McKinney (S753.001), Patricia Paxton (S755.001), Paul Reynolds (S756.001 and S756.006), Charlotte May Treasurer (S762.001), Rex & Anthea Keenan (S763.001 and S763.002), Wendy Stuart (S777.001), Christopher St Johanser (S780.001 and S780.002), Grant Gear (S782.001), Paul Truman (S784.001), Kevin Boyd (S787.001), Norma O'Dea (S788.001), Michael Simon (S789.001), Shelley Taylor (S790.001), David Bloxham (S791.001), Colin Reidy (S792.001), Gerrit Groeneveld (S794.001), Robert Schouten (S795.001 and S795.002) and Jan Phillips (S796.001).

*The NIWA modelling has been reviewed by Tonkin and Taylor who concluded that both the inundation methodology and erosion assessment were appropriate for the scale of assessment and availability of data.*

*While the bathtub methodology used for the inundation modelling can result in an overestimation of coastal flood extents, particularly where topography is flat and low lying, it does provide an approximation of coastal flooding extents for identifying key elements at risk e.g. populations, buildings, roads etc. It is used in the TTPP to indicate where site specific investigations are required to confirm that proposed use and development will not increase the risk to people and property to an unacceptable level.*

*This methodology is consistent with planning practice across New Zealand, and strikes an appropriate balance between cost and level of detail. Site specific investigations for the entire West Coast would be extremely time and cost prohibitive. It is standard practice that district plans identify where a hazard is anticipated to impact an area, and the onus is then on the property owner to demonstrate that their proposal will avoid increasing risk and is an appropriate use of the site.*

*The use of 0.2m increments of sea level rise used to account for projected climate change is consistent with national guidance. As discussed in the NIWA report, vertical land movement (VLM) has not been included in the modelling due to the uncertainty in the extrapolated VLM estimates, and the negligible impact the inclusion of VLM would have given the inherent uncertainties and limitations in the underlying analysis.*

*While there are a significant number of submissions seeking that Variation 2 be withdrawn, the coastal erosion and inundation mapping upon which it is based is consistent with national guidance and best practice. There is no technical reason that the mapping should be withdrawn. The West Coast district councils have an obligation under the RMA, NZCPS and RPS to identify areas at risk from coastal hazards over at least the next 100 years and manage development within these areas so that the risk remains acceptable.*

246. There were also a number of submissions<sup>39</sup> that requested the provisions associated with the coastal hazard overlays be amended to be more enabling. The Reporting Officers stated *‘we note that all of these submission points relate to properties now encompassed by the Westport Hazard Overlay, which has a more permissive rule framework than the coastal hazard overlays. As such we consider that this provides the relief sought by these submission points, and for this reason we recommend that they be accepted’.*
247. With respect to managed retreat, the Reporting Officers recommended that those submissions (Barbara Clark (S673.002) and Charlotte May Treasurer (S762.002)) be rejected as any provisions relating to managed retreat should be developed to support a specific proposal. They noted *‘we see little benefit of including objectives, policies, or rules relating to managed retreat in the absence of such a comprehensive proposal/spatial plan, with the main outcome being increased fear and anxiety for communities and property owners’.*
248. The submission of Kevin Smith (S707.004) raised concerns about the need for reviews and issues with securing insurance. The Reporting Officers recommended that this submission be accepted in part and noted that district plans are reviewed every 10 years (Section 79) and insurance companies place limited relevance on district plan overlays instead opting to rely on their own research.

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<sup>39</sup> Leonie Avery (S507.081 and S507.109), Jared Avery (S508.081), Kyle Avery (S509.081), Avery Bros (S510.081), Bradshaw Farms (S511.081), Paul Avery (S512.081), Brett Avery (S513.081), Chris & Jan Coll (S558.063), William McLaughlin (S567.148), Avery Brothers (S609.093).

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249. Paul Drake (S716.001), Desna Bruce Walker (S692.001) and Michael Snowden (S492.008) all submitted on the appropriateness of considering climate change/sea level rise/the 100 year timeframe as part of the coastal hazard modelling. The Reporting Officers advised that *'the NZCPS directs that natural hazard risk including the effects of climate change must be assessed over at least 100 years. The use of RCP8.5 (median) (equivalent to SSP5-8.5) is consistent with national guidance and current best practice. Therefore, we recommend that these submission points be rejected'*.
250. The Reporting Officers agreed with the submissions of Michael Robson (S327.001) and Kenneth Wiltshire (S749.003 and S749.006) and agreed in part with the submissions of Paul Murray (S718.001) and Punakaiki Farm Ltd (S721.005) that prevention/protection measures should be identified and that the natural hazard provisions recognises this (although skews to natural processes and green infrastructure as protection measures, rather than hard structures).
251. On the expert evidence of Mr Bossarelle, the Reporting Officers recommended that the submissions from the Neils Beach Special Rating District Committee (S669.003) and Mr John Sutton (S704.003) be rejected because the role of driftwood in storm resilience is minimal.

### Hearing and Submitter Evidence/Statements

252. It is noted that the submitters that appeared before the Panel made both general and specific submissions about the coastal hazard overlays (i.e. general opposition to the overlay, but specific opposition to the overlay in a particular location). The Panel have therefore addressed their evidence/presentation under the relevant location specific discussion, but we acknowledge the general comments (largely in opposition).
253. Mr Beban provided comment on a number of matters including appropriate provisions for Punakaiki; the meaning of lawfully established; refinement of NH-P6 and NH-P11; and the intention of NH-O1 and NH-O2 (reduced risk vs minimising risk). Following questioning from the Panel, Mr Beban reiterated that a restricted discretionary activity status for subdivision is appropriate; that the NZCPS requires a precautionary approach; and it is very difficult for a district plan to be nimble.
254. Mr Bossarelle (of NIWA) provided an overview of the coastal modelling completed for Variation 2. He noted the following:
  - a. The Coastal Hazard Erosion and Inundation Hazard Overlay covers the 1:100 AEP (starting at 2014), while the Coastal Hazard Inundation Overlay 1 covers the 1:50 AEP.
  - b. Protection structures can make a big difference if they are constructed properly.
  - c. In many circumstances, the modelling has accounted for existing coastal protection structures. Plan change/s will be needed to model new protection structures.
  - d. LIDAR is very reliable, and any uncertainties are well understood (e.g. areas of dense forest) and is therefore preferred to other mapping data.
  - e. The 'bathtub method' is modestly conservative, but the 1m SLR and wave setup in the modelling is not conservative (the wave setup was agreed with Tonkin and Taylor).
  - f. The availability of data has influenced the level of conservatism factored into the model, e.g. there is less data at the southern end of the West Coast, and therefore overlays are wider to account for hazard confidence.

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- g. With respect to weather events and SLR, storm changes won't be as severe as SLR (e.g. would need a 1% AEP event to double in size to be the same as SLR). Cyclone Fehi was a 1:30 event, but due to storm tide influences was more severe. There is confidence in predicting storm tide influences due to availability of data.
- h. Research suggests that models overestimate hazard risk on the West Coast.
- i. There is interplay between hazards, but it is difficult to understand how one might influence another.

### Reporting Officer Reply Evidence

255. In their May 2025 Right of Reply, the Reporting Officers provided a comprehensive response to a number of the concerns raised by submitters and further queried by the Panel. The Panel refer readers to the reply evidence rather than repeating it verbatim but provide a summary of the issues covered below. Any location specific comments are captured in the sections below.

#### Use of 100-year Timeframe and Sea Level Rise

256. The Reporting Officers confirmed that:

- The NZCPS requires the assessment of coastal hazard risk over at least 100 years (Policy 24).
- Further, Policy 25 and 27 of the NZCPS require (respectively) that the hazard risk be avoided and in populated areas, options considered to reduce risk. The NZCPS must be given effect to.
- The WCRPS (Policy 7) also directs that coastal hazards are to be assessed over a 100-year timeframe.
- Policy 6 of the WCRPS requires a risk management approach that takes into account national guidance.
- The MfE 2024 guidance *'recommends that prior to a dynamic adaptive pathways planning approach being undertaken for a district or specific area that at least a 100 year timeframe with the medium confidence SSP5-8.5 M sea level rise scenario be used for land use planning controls for existing coastal uses (e.g. building additions) and at least a 100 year timeframe with the medium confidence SSP5-8.5 H+ sea level rise scenario be used when considering changes in land use and redevelopment'*.
- The Guidelines direct that:
  - ...using SSP5-8.5 (M and H+) for coastal hazard and risk assessment screening is consistent with council planning decisions needing to:*
    - *Implement RMA requirements and policies, including the precautionary approach of the NZCPS (Policy 3)*
    - *Identify areas 'potentially affected' by coastal hazards and climate change (Policy 24 of the NZCPS)*
    - *Have regard to the National Adaptation Plan which also directs consideration of the same scenarios.*

*Alternatively, regular increments of relative SLR height can be used with associated bracketed time windows when each height is reached to cover the full range of*

*recommended projections out to 2150. This is the approach that was taken by the coastal inundation mapping for the TTPP, with 1m of sea level rise chosen as this is expected to be reached in 2123 in New Zealand under the RCP8.5M scenario.*

- The use of a 100 year timeframe for managing coastal hazards is also established in case law<sup>40</sup>.

257. Lastly, the Reporting Officers provided a table setting out the approach of other district plans to managing coastal hazards (Appendix 1 to the May RoR). They considered that an adaptive management strategy needs to be developed with community and stakeholder engagement so that the outcome reflects the specific context and that at this stage provisions can be inserted into the District Plan to give effect to the strategy.

#### *Inclusion of vertical land movement*

258. The Reporting Officers confirmed that

the proposed modelling does not include vertical land movement. The reasons being:

- *There is significant uncertainty around the rates of vertical land movement along the West Coast, particularly due to the influence of the Kaikoura earthquake on the recorded vertical land movements at the various GPS gauges...*
- *There are limited collection points along the West Coast, with only three GPS gauges located along the West Coast at Westport, Hokitika and Karangarua...*
- *A complex vertical land movement profile along the West Coast with subsidence of 0.8mm per year at Westport, but 0.3mm uplift at Hokitika and Karangarua. There is significant uncertainty to what happens along the West Coast outside of these locations...*

#### *Inclusion of Intermediate Coastal Erosion Overlays*

259. The Reporting Officers provided mapping showing the 50-year and 100-year coastal erosion lines (Appendix 2 of the May RoR). The 50-year mapping shows no significant difference in some areas, while it does in other areas.

260. The Reporting Officers supported the use of the 50-year erosion line or a more nuanced approach but acknowledged potential natural justice issues with the introduction of new mapping and provisions at this late stage.

#### *Tonkin and Taylor Review*

261. A copy of the Tonkin and Taylor (T+T) peer review was appended to the May Right of Reply (Appendix 3) with the 'Draft' watermark removed. In Appendix 4 to the May RoR, Mr Bossarelle has set out how each of the T+T review comments were addressed in the final report.

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

262. As with submitter comments, the Panel address location specific submissions in the location specific discussions below. The following discussion addresses the general issues raised above.

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<sup>40</sup> Foreworld Developments Limited v Napier City Council NZEnvC W029/2006

263. The Panel agrees with the commentary of the Reporting Officers that the modelling meets best practice and national guidance; adopts a sound method for district scale modelling; that site specific scale modelling is time and cost prohibitive; adopts appropriate (required or recommended) SLR parameters and timeframe; that VLM is uncertain and should not be factored into the modelling; and that the NIWA modelling is largely supported by the T+T peer review. We therefore agree with the Reporting Officers that all submissions seeking the deletion or reduction in coastal mapping are rejected.
264. We appreciate the additional work of Mr Bossarelle to provide the 50 year coastal erosion line. We note that in some locations there is quite a difference between the 50 year and 100 year lines while in others it is minimal or non-existent. We agree with the Reporting Officers that there is no scope to incorporate this interim hazard overlay into the pTTPP and given the differences at each location it may well take a bespoke approach in any event, but this may be something that the TTPP Committee consider in the future.
265. As to the issue of managed retreat, the Panel do not agree entirely with the recommendation of the Reporting Officers that the NH Chapter should be silent on this climate adaptation method. While we accept that an adaptive management plan approach is likely to be the appropriate way forward in managing coastal hazards including managed retreat in the broader sense across the West Coast, we consider that any specific proposals for managed retreat should be afforded support in the Plan (at a policy level). We therefore accept the submissions of Barbara Clark (S673.002) and Charlotte May Treasurer (S762.002). The specific wording is discussed in the policy section below.
266. Notwithstanding the above, the Panel accepts that until the broader Coast wide work is undertaken, the District Plan needs to include a rule framework to manage development in order to avoid further increasing risk in areas where existing risk is already high.

#### **Hearing Panel's Recommendations**

267. That all submissions seeking the deletion or reduction in coastal mapping are rejected.
268. That policies NH-P4 and NH-P5 addressing managed retreat are retained.

#### **4.11. Karamea/Little Wanganui (Variation 2)**

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

269. Twenty-one submission points were received seeking deletion of or amendments to the coastal hazard overlays in the Karamea/Little Wanganui area, including 12 site specific amendments. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

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

270. The Reporting Officers advised that new LIDAR data is now available for Karamea/Little Wanganui, but it was not available at the time Variation 2 was notified. Consequently, the Coastal Alert Overlay will remain in place (at the extent notified) to enable a site-specific assessment to be undertaken through a resource consent process (being a suitable precautionary approach). If a plan change is advanced to revise the coastal hazard overlays in the Karamea/Little Wanganui area, residents will have the opportunity to submit on the

process. Accordingly, the Reporting Officers recommended that the submissions are largely rejected (as the deletion/amendment of the overlay is not recommended).

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

271. Ms Ruth Henschel rejected the accuracy of the mapping as it related to her property at 4456B Karamea Highway because it did not account for the topography of the site (and used a standard distance from the coast). She noted that recommended rules NH-R6 and NH-R18 provide for a single dwelling to be constructed, but do not address the potential insurability and consequently the ability to build a dwelling. Ms Henschel requested that the coastal hazard overlay extent (as well as the flood hazard overlay extent) be amended on her property. Helpfully, she provided images of where she considered the overlay should stop.
272. Hamish Macbeth was concerned about the overlays over his property and sought information on the datum used to determine the overlays. Mr Bossarelle advised that a datum of 3.3m above mean sea level was used which included storm tide plus wave setup plus 1m of sea level rise. He also noted that LIDAR data for Karamea had recently been released which would enable revised modelling of the overlays at some point.
273. Mr Keith Carter expressed concern that the Coastal Alert Overlay does not cover the Karamea area, but it is covered by the Flood Plain Overlay, which is to be removed.

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

274. Given the statutory requirement to consider a 100 year SLR risk, and in the absence of any technical modelling or evidence to support a reduction or deletion in the mapping extent, the Panel agrees with the recommendation of the Reporting Officers that the coastal hazard mapping in the Karamea/Little Wanganui area should be retained.
275. We do not know if revised modelling will increase or decrease the risks to Karamea/Little Wanganui residents, but we would encourage the TTPP Committee to advance a plan change to provide the residents with higher level of certainty.

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

276. Retain the coastal hazard mapping for the Karamea/Little Wanganui area.

### **4.12. Hector/Ngākawau/Granity (Variation 2)**

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

277. Eight submission points were received seeking deletion of or amendments to the coastal hazard overlays in the Hector/Ngākawau/Granity area, including five site specific amendments. Four further submissions were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

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

278. The Reporting Officers confirmed, on the basis of reporting prepared in 2022 for the WCRC, that very few existing coastal defence structures had been accounted for in the coastal modelling, and none of these are privately owned. The 2022 report noted that *'at various*

*properties in Hector, Ngakawau and Granity, sea walls or bunds have been constructed, these are highly variable in design and condition. Whilst somewhat effective at mitigating shoreline retreat and inundation hazards in the short term, these structures will not provide long term protection without substantial reinvestment and upgrades’.*

279. On this basis, the Reporting Officers recommended that the coastal hazard layers are appropriate and that the rule settings to require a resource consent application and a site-specific assessment are also appropriate. Accordingly, their recommendation is that the submissions relating to the Hector/Ngākawau/Granity area be rejected.

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

280. Mr Wiltshire presented information as part of both hearing streams. Given that his evidence relates to his property at Ngākawau, we have captured his evidence given as part of the NH Chapter process under this heading for ease of reference.
281. Mr Wiltshire expressed concern at the use of the ‘bathtub model’ stating it *‘is fundamentally flawed and not fit for purpose at a local level as it is not based on local research and specific measurements of the sea floor topography, wave inducement and exit channels, measurements and testing of wave heights and directions, frequency and tidal current variations over a statistically valid period of time’*. He did not consider that the TTPP provides the necessary guidance and mitigation advice to manage hazards. He condemned the emotive language in the TTPP and that the hazard information, now recorded on the LIM Report, was problematic. Mr Wiltshire spoke specifically to the boulder wall at Ngākawau, which has been budgeted in the 2024 – 2027 National Land Transport Programme as a ‘possible’ project, but has not been considered by the pTTPP. He also expressed concern that the pTTPP was deficient and should provide for mitigation and/or managed retreat to support the health and safety of residents.
282. Mr Mitchell Rogers expressed concern about the accuracy of the LIDAR data used to determine the extent of the coastal hazard overlays and noted that existing protective structures had not been accounted for in the modelling. He sought that existing protection structures are included in coastal hazard planning (along with their maintenance requirements); that climate change planning is incorporated into the policies; that local knowledge inform solutions; and that modelling is accurate (not just based on elevation models). He also advised that communication in relation to the pTTPP had been poor.

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

283. While not specific to the Hector/Ngākawau/Granity area, the May Right of Reply addressed the following:

*At the request of the Commissioners the mapping of the 50 year and 100 year coastal erosion lines are provided in Appendix 2. While the inclusion of the 50 year erosion line will not result in a significant difference to the coastal erosion line as mapped in the TTPP in areas such as Granity, Ngakawau, Hector, and Punakaiki township, it does in other areas including the Orowaiti river mouth (Utopia Road) and Neils Beach.*

*While we are supportive of using the 50 year erosion line to provide a more nuanced approach to the hazard and risks faced, and while there are submissions that provide broad scope for this, the inclusion of an additional overlay and associated provisions at this stage of the process will not allow for the public scrutiny and submissions. We consider there to be a high risk of natural justice issues and unintended consequences, and for these reasons we recommend that the 50-year erosion line is not included in the TTPP at this time.*

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284. The Reporting Officer, in consultation with Mr Bossarelle, recommended that the Coastal Alert Overlay be removed from areas north of Hector as the modelling is based on less reliable data than the LIDAR data that has been used in other locations.

### Hearing Panel's Evaluation

285. On the basis that the data used to model coastal hazards north of Hector is not considered reliable, we agree with the Reporting Officers that the Coastal Alert Overlay should be removed from this area.
286. Given the statutory requirement to consider a 100 year SLR risk, and in the absence of any technical modelling or evidence to support a reduction or deletion in the mapping extent, the Panel agrees with the recommendation of the Reporting Officers that the coastal hazard mapping in the Hector/Ngākawau/Granity area should be retained.
287. We acknowledge the frustration of Mr Wiltshire that there is a lack of integration between planned infrastructure works and the pTTPP; however, we agree with the Reporting Officer that it is inappropriate for the modelling to have regard to any protection structure that has either not been constructed or does not have a sound maintenance programme in place. We agree that the full coastal hazard risk should be mapped where a protection structure is at risk of failure.

### Hearing Panel's Recommendation

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

Delete the Coastal Alert Overlay north of Hector, otherwise retain the coastal hazard mapping for the Hector/Ngakawau/Granity area. <sup>41</sup>
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## 4.13. Westport (Variation 2)

### Submissions and Further Submissions

289. Three submissions supported the revised coastal hazard mapping notified as part of Variation 2 (as it removed overlays from the submitters' properties). Twenty-four submission points were received seeking deletion of or amendments to the coastal hazard overlays in Westport, including 21 site specific amendments. Nine further submissions were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

### Section 42A Report

290. The Reporting Officers recommended that the submissions opposing or seeking amendment to the coastal hazard overlays be rejected. They advised that:

*No evidence has been provided by the submitters that demonstrate that the coastal hazard modelling that has been undertaken is incorrect or contains significant errors. The modelling has been peer reviewed by Tonkin and Taylor and found to be appropriate. Furthermore, previous events have demonstrated that there a number of communities on the West Coast*

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<sup>41</sup> Kenneth Wiltshire (S749.002)

*that are susceptible to coastal hazards in areas encompassed by the mapping, and therefore this supports the basis that there is a hazard in these areas that need to be addressed. On this basis, to give effect to s6(h) of the RMA it would be inappropriate to remove the Coastal Hazard Overlay from the TTPP and it is our position that these hazard overlays should be retained.*

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

291. Representatives from Resilient Westport presented information to the Panel on the master planning package being completed to, in part, fulfil the 'Protect, Avoid, Retreat, Accommodate' mandate of the organisation. The first stage of the master plan process was to establish a vision, and the second stage (recently completed) was to prepare the concept plan. The concept plan has focussed on viability (e.g. ground quality, access to infrastructure, land availability), desirability (e.g. accessibility, proximity coastline/views/etc, microclimate) and compatibility (e.g. proximity to Westport, transport links, current growth areas). Representatives opined that the pTTPP should not foreclose future options, but noted that a future plan change will be needed in the future to capture the concept plan in the pTTPP.
292. In addition to her submission which noted that the coastal hazard overlay had been extended to cover their entire Snodgrass Road property, Ms Joey Keen advised that they currently have a resource consent application with the WCRC for a rock wall to prevent erosion of their property.
293. At the hearing, Mr Reynolds provided a written statement on behalf of Mr Ronald Williams. The statement expressed concern about the costs of being involved in the pTTPP process, the undemocratic nature of the process, the reliability of the data that has been used in the modelling, and the need to direct funds to urgent manmade issues in the system (rather than climate change planning). The statement requested that the Panel recommend that the hazard overlays be deleted and effective data collection be undertaken over the next 20 years.
294. At the hearing, Mr Kevin Smith noted that LIDAR needs to be done on a regular basis as coastal drift has a big impact on the coastline.
295. Ms Rae Reynolds considered that the modelling was not based on established scientific data because none had been provided when requested. She advised that the existing hazard notations on Westport were rushed through following the 2021 flooding that could have been avoided if protection measures had been undertaken.
296. Ms Penny and Mr Mark Rounthwaite suggested that the pTTPP adopt the same approach as the Whakatāne District Plan which includes coastal hazard overlays for the current risk, the 2060 risk and the 2100 risk.
297. Mr Paul Reynolds expressed concern that there was a lack of data supporting sea level rise of 1m and that the hazard overlays would result in increased insurance costs and decreased property values. At the hearing, Mr Reynolds expressed concern about the Resilient Westport master planning and noted that the flooding has been caused by Council. Lastly, he considered the 100 year SLR is ridiculous and that 20 years would be more appropriate.

### **Reporting Officer Reply Evidence**

298. In their May Right of Reply, Reporting Officers confirmed that:

*In response to the Commissioners request to confirm if the modelling for Westport takes into account any mitigation structures on the true left side of the river, Mr Bray of WCRC has confirmed that there are no existing or planned mitigation structures on the true left side of the Buller River, but that the hydrodynamic modelling does take into account the stopbanks, roads and railway embankments that have the potential to influence peak flood levels/extents.*

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

299. Given the statutory requirement to consider a 100 year SLR risk, and in the absence of any alternative technical modelling evidence showing that the current modelling is unreliable or evidence to support a reduction or deletion in the mapping extent, the Panel agrees with the recommendation of the Reporting Officers that the coastal hazard mapping in the Westport area should be retained.

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

300. Retain the coastal hazard mapping for the Westport area.

#### **4.14. Carters Beach/Cape Foulwind (Variation 2)**

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

301. Ten submission points were received seeking deletion of or amendments to the coastal hazard overlays in the Carters Beach/Cape Foulwind area, including seven site specific amendments. One neutral submission point was received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

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

302. The Reporting Officers recommended that the submissions opposing or seeking amendment to the coastal hazard overlays be rejected. They advised that:

*No evidence has been provided by the submitters that demonstrate that the coastal hazard modelling that has been undertaken is incorrect or contains significant errors. Furthermore, we would note that the NIWA report was peer reviewed and was found to be appropriate, with some minor improvements or recommendations. We understand that these recommendations were incorporated into the final versions of the report.*

*We also recognize previous events have demonstrated that there a number of communities on the West Coast are susceptible to coastal hazards in a number of the areas encompassed by the mapping, and therefore this supports the basis that there is a hazard in these areas that need to be addressed. On this basis, to give effect to s6(h) of the RMA it would be inappropriate to remove the coastal hazard overlays from the TPPP and it is our position that these hazard overlays should be retained. Therefore, we recommend that the above submission points be rejected.*

303. With regards to the Cape Foulwind Staple 2 Ltd submission (S568.010), the Reporting Officers advised that if the resource consent documents are produced as evidence (for Mr Bossarelle to review), they would be open to discussing this submission further.

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

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304. Ms Helen and Mr Tom Sawyers expressed concern about the undemocratic nature of the pTTPP process, the validity of the coastal hazard modelling, the impact of the coastal hazard overlays on their insurance premiums (correspondence on this was provided following the hearing), the effectiveness of current protection works, and the cost of managed retreat.
305. Ms Adriana de Ruiter-James set out a range of factors that have contributed to the overall negative impact of the pTTPP on the community including poor communication, lack of fairness and transparency, poor and undemocratic processes, misinformation and a lack of scientific rigour. She considered that a staged approach to managing climate change is appropriate.
306. Ms Desna Bruce Walker presented information as part of both hearing streams. Given that her evidence relates to her property at Carters Beach, the Panel have captured her full evidence here under this heading for ease of reference. Ms Bruce Walker raised concerns regarding managed retreat, including the cost and logistics of such an undertaking. She noted the increased insurance (55% since 2022) and rates (14% BDC and 27% WCRC) costs and the decreasing land value. Ms Bruce Walker expressed concern about the costs of the TTPP project and a displeasure for the combined nature of the pTTPP given the diverse coastline. Ms Bruce Walker noted her own observations of accretion (not erosion) at Carters Beach. Ms Bruce Walker considered the 100-year projections in sea level rise uses unreliable, worst-case data and pointed to commentary by Dr Willem de Lange on this matter (we note no evidence was produced). She considered that monitoring and modelling should be done over time to account for what is actually happening. Lastly, Ms Bruce Walker considers that the pTTPP process should be deferred until central government has released national direction on managing natural hazards.

### **Reporting Officer Reply Evidence**

307. The Reporting Officers noted the support for, particularly those from Carters Beach, the development of an adaptive approach which they considered needed to be developed with community and stakeholder engagement so that the outcome reflects the specific context. It is at that stage that provisions can be inserted into the District Plan to give effect to the strategy. However, they said until such time that an adaptive management plan is prepared, the District Plan needs to include a rule framework to manage development to avoid further increasing risk in areas where existing risk is already high.
308. At the request of the Panel, the Reporting Officers considered the request by Cape Foulwind Staple 2 (S568) to rezone their land at Larsen Street, Cape Foulwind from GRUZ to SETZ (rural residential precinct). They advised:

*We note that Variation 2 has significantly reduced the Coastal Alert Overlay on this land such that only the esplanade reserve is affected as shown below. Therefore, there are no grounds to not support the rezoning request from a natural hazards perspective. However, it is noted that the author of the s42A report for the Rural Zones and Settlement Zones Ms Easton does not support the rezoning request due to servicing and potential reverse sensitivity issues.*

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

309. The Panel have some sympathy for the position of submitters, and we agree that an adaptive management approach provides a potential way forward in time. However, given

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the statutory requirement to consider a 100 year SLR risk, and in the absence of any technical modelling or evidence to support a reduction or deletion in the mapping extent, we agree with the recommendation of the Reporting Officers that the coastal hazard mapping in the Carters Beach/Cape Foulwind area should be retained as proposed so as to help manage development to avoid further increasing risk in areas where such risk is already high.

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

310. Retain the coastal hazard mapping for the Carters Beach/Cape Foulwind area as proposed.

## **4.15. Pahautane (Variation 2)**

### **Submissions and Further Submissions**

311. Two submission points were received seeking amendments to the coastal hazard overlays in the Pahautane area, both related to a specific site. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

### **Section 42A Report**

312. The Reporting Officers confirmed that, by virtue of the amended mapping notified as part of Variation 2, the overlay has been removed from Mr van Mierlo's property (S570.002 and S570.003).

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

313. Given the statutory requirement to consider a 100 year SLR risk, and in the absence of any technical modelling or evidence to support a reduction or deletion in the mapping extent, the Panel agrees with the recommendation of the Reporting Officers that the coastal hazard mapping in the Pahautane area should be retained.

314. The Panel notes the revised mapping no longer includes Mr van Mierlo's property which will address his concerns.

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

315. Retain the coastal hazard mapping for the Pahautane area as proposed.

## **4.16. Punakaiki (Variation 2)**

### **Submissions and Further Submissions**

316. Twenty submission points were received seeking deletion of or amendments to the coastal hazard overlays (and provisions) in Punakaiki, including 10 site specific amendments. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

### **Section 42A Report**

317. The Reporting Officers confirmed that the remodelling of overlays for inclusion in Variation 2 has addressed the submissions (entirely or in part) of Jane Whyte and Jeff Page (S467.018 and S467.019), Scenic Hotel Group (S483.016) and Neil Mouat (S535.080).

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318. With respect to the submissions (Jane Whyte and Jeff Page (S467.017) and Punakaiki Farm Ltd (S721.004)) seeking changes to the provisions to better provide for the management and development of Punakaiki as a key tourism location on the West Coast, the Reporting Officers confirmed that the amended provisions strike the appropriate balance between the NZCPS and existing protections. Further to this point, the Reporting Officers advised that *'we have checked with the modeller, Mr Bosserelle, on this matter, and they have confirmed that...the modelling does account for these structures'*.
319. With respect to the large number of submissions<sup>42</sup> seeking deletion or amendment to the coastal hazard overlays in Punakaiki, the Reporting Officers confirmed that *'we have no reason to believe that the coastal hazard modelling that has been undertaken is incorrect or contains significant errors. There has been no evidence presented through the submission process which demonstrates the need for these reports to be disregarded as there are incorrect assumptions or approach applied to the modelling...to give effect to s6(h) of the RMA it would be inappropriate to remove the Coastal Hazard Overlay from the TTPP and it is our position that these hazard overlays should be retained'*.

### Hearing and Submitter Evidence/Statements

320. Mr Sam Flewellen (for Scenic Hotel Group) raised concerns with the rule framework applying to additions to existing buildings or new buildings containing hazard sensitive activities in the Coastal Severe Overlay which require resource consent as non-complying activities and are subject to an avoid policy framework unless an operational or functional need exists to locate there. Mr Flewellen identified that overly restrictive development controls conflicts with the need to support Punakaiki as a tourist destination. To address these concerns, Mr Flewellen recommended that property specific mapping be completed.
321. Further to this, Mr Flewellen noted that the mapped Coastal Setback Overlay over Scenic Hotel Group's property at 4237 State Highway 6, Punakaiki had not taken into account the elevated nature of this piece of land and is not consistent with the explanation for the overlay set out in the chapter overview. Mr Flewellen considered that the Coastal Setback Overlay should be removed from the site due to inadequate justification.
322. Mr Neil Mouat (Punakaiki Farm Limited) presented information as part of both hearing streams. Given that his evidence relates to his property at Punakaiki, we have captured his evidence given as part of the NH Chapter process under this heading for ease of reference. Mr Mouat provided information to the Panel regarding the development (and related cost) of his property in Punakaiki (including providing a copy of subdivision consent RC100043 following the hearing). He provided detail about the already completed seawall along the front of the property and advised that its design (to manage a 1m sea level rise over 100 years) meant that his property should not be subject to the coastal hazard overlays. Mr Mouat advised that suitable relief would be for a 'tag' to be included on his land to indicate the presence of the coastal protection structure.

### Reporting Officer Reply Evidence

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<sup>42</sup> Jane Whyte & Jeff Page (S467.016, S467.018, S467.030), Scenic Hotel Group (S483.016, S483.028), Neil Mouat (S535.080), Paparoa Track Services Ltd, Craig and Sue Findlay, Tim Findlay, Punakaiki Beach Camp Ltd (S605.040, S605.042, S605.044), Andrew & Shirley Nolan (S765.001)

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323. The Reporting Officers considered that any amendment to the Overview to recognise the specific provisions that are proposed to apply to the Scenic Visitor Zone at Punakaiki (as suggested by the Panel) was an unnecessary addition.
324. In their May Right of Reply, the Reporting Officers canvassed the opportunity to recognise the role of private coastal hazard mitigation structures, including at Punakaiki. As their recommendation relates to NH-P6, the Panel have left the discussion until that section of this Recommendation Report.

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

325. In terms of Mr Mouat's property, the Panel notes that the revised mapping reduces the extent of the Coastal Severe Overlay, with some now being covered by the Coastal Alert Overlay and a portion of the site now being clear of any coastal hazards overlay. We note that the mapping extent on Mr Mouat's land has accounted for the presence of the protection structure.
326. The Panel also note that the revised mapping addresses the submission of Jane Whyte & Jeff Page and partially addressed that of Scenic Hotel Group.
327. Overall, however, given the statutory requirement to consider a 100 year SLR risk, and in the absence of any technical modelling or evidence to support a reduction or deletion in the mapping extent, the Panel agrees with the recommendation of the Reporting Officers that the coastal hazard mapping in the Punakaiki area should be retained.
328. We discuss the evidence of Mr Flewellen and the rule framework applying to Punakaiki in later sections in the Report.

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

329. Retain the coastal hazard mapping for the Punakaiki area.

## **4.17. Rapahoe (Variation 2)**

### **Submissions and Further Submissions**

330. Four submission points were received seeking deletion of or amendments to the coastal hazard overlays in the Rapahoe area, including three site specific amendments. One further submission point was received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

### **Section 42A Report**

331. The Reporting Officers recommended that all submissions seeking deletion or amendment of the overlays (Lee Cummings (S554.002), Brette and Irene-Sharel Kokshoorn (S671.001), Colman Creagh (S688.001) and Irene and Ken Tiller (S706.001)) be rejected as *'no evidence has been presented that contradicts the science that the Council is relying on for this plan change'*.

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

332. Again, given the statutory requirement to consider a 100 year SLR risk, and in the absence of any technical modelling or evidence to support a reduction or deletion in the mapping

extent, the Panel agrees with the recommendation of the Reporting Officers that the coastal hazard mapping in the Rapahoe area should be retained.

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

333. Retain the coastal hazard mapping for the Rapahoe area.

#### **4.18. Greymouth (Variation 2)**

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

334. One (site specific) submission point was received seeking that the coastal hazard overlays be amended in Greymouth. Two submission points were received seeking confirmation if the coastal hazard overlays affected their properties. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

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

335. The Reporting Officers recommended that the Griffen & Smith Ltd submission (S253.007) be rejected, as *'no evidence has been presented that contradicts the science that the Council is relying on for this plan change. On this basis, we do not support removing the Coastal Hazard Overlays from Greymouth'*.
336. The Reporting Officers confirmed that Mr Phillips' (S703.001) properties are both affected by the Coastal Alery Overlay.

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

337. Mr Gary Tear (for Griffen and Smith (Mitre10)) raised issue with the Coastal Hazard Alert Overlay over the Mitre10 site in Greymouth. To support his position, the company he works for (OCEL) completed a drone survey with floor levels determined relative to LINZ benchmark EVHV(5) (on Water Walk Road). Mr Tear advised:

*The CHA overlay represents the area that would be subject to coastal inundation from storm surge coupled with Sea Level Rise (SLR) or tsunami. The inundation level is taken as constant over the area, in accordance with the 'bath tub' analogy. Logic then would dictate that the borders of the inundated area would be determined by the contours of the site and would follow a contour corresponding to the inundation level. The line as drawn does not follow site contours and there are clear anomalies. Buildings southwest of the Mitre 10 site are outside the CHA overlay whereas parts of the Mitre 10 are included inside it despite being higher than the levels at buildings to the southwest. It appears that the CHA boundary roughly corresponds to a 3 m (above MSL) height. The Mitre 10 floor levels at 3.5 m above MSL (3.35 NZVD 2016) are above the inundation level yet the entire shop area is included in the CHA. The minimum yard level at the Mitre 10 site is 2.945 m (NZVD 2016). The CHA boundary should pass around the north west side of the Mitre 10 property.*

338. Mr Tear highlighted other mechanisms that would manage a flood hazard from the Blaketown Lagoon, including the 4.5m high seawall and the flood gates on the railway line and under Raleigh Street. At the hearing, Mr Tear reiterated the salient points set out in his evidence.

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

339. The Reporting Officers advised that they had reviewed the Coastal Hazard Alert Overlay over the Mitre10 site using information from the submitters evidence and new (more accurate) hydrodynamic modelling. This shows inundation of the site although not to the extent notified. They recommend that the Alert layer on the Mitre10 site be revised to reflect the new modelling. As shown in Figure 1 below:

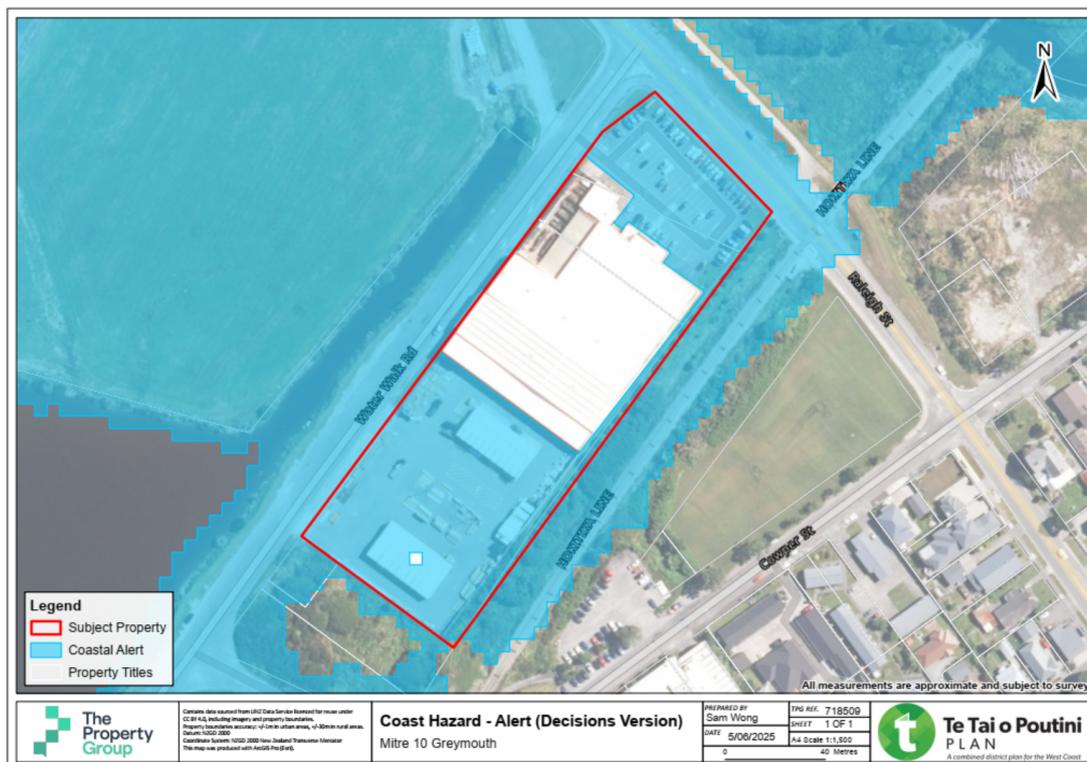


Figure 1: Revised Coastal Hazard Inundation Overlay 1 on Mitre10 Greymouth site

340. The Reporting Officers noted that the revised modelling covered all of Greymouth, but shows a number of properties affected that were not included in Variation 2. To include the new modelling (and revise the extent of the Alert layer) at this stage, would, in the opinion of the Reporting Officers, result in issues of natural justice.

**Hearing Panel’s Evaluation**

341. The Panel agree with the Reporting Officers based on the information provided with the Mitre10 evidence that the mapping extent over the Mitre10 site should be amended to reflect the latest data. We recommend this change is made.

342. In terms of the wider Greymouth area, we note that we unable to determine whether the revised modelling increases or decreases the risk to Greymouth residents and we agree with the Reporting Officers that there are natural justice issues in taking this any further. However, given the modelling has been undertaken the TTPP Committee may wish to consider this matter further in any review.

343. Given the statutory requirement to consider a 100 year SLR risk, and in the absence of any technical modelling or evidence to support a reduction or deletion in the mapping extent, the Panel agrees with the recommendation of the Reporting Officers that the coastal hazard mapping in the Greymouth area should otherwise be retained.

### **Recommendation**

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

Amend the Coastal Hazard Alert Overlay over the Mitre10 site, as shown in Figure 1 above.<sup>43</sup>

Otherwise retain the coastal hazard mapping for the Greymouth area.

### **4.19. Awatuna (Variation 2)**

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

345. One (site specific) submission point was received seeking that the coastal hazard overlays be amended in the Awatuna area. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

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

346. The Reporting Officers recommended that the submission of Pauline Te Rakau (S776.001) be rejected as *'we note that only the very southern corner of this property is affected by the Coastal Hazard Alert Overlay... This appears appropriate in our opinion given the proximity to the Waimea Creek, and we note that it is unlikely that this area of the property will ever be subject to further development'*.

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

347. The Reporting Officers advised that the overlay on 1298D Kumara Junction Highway be amended as shown in Figure 2 because:

*Mr Bosserelle confirms it is acceptable to remove the overlay in this situation, given that it is a negligible low-lying area of the property, and that the area of the property is not at or near the active/wave exposed shore.*

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<sup>43</sup> Griffen & Smith Ltd (S253.007)

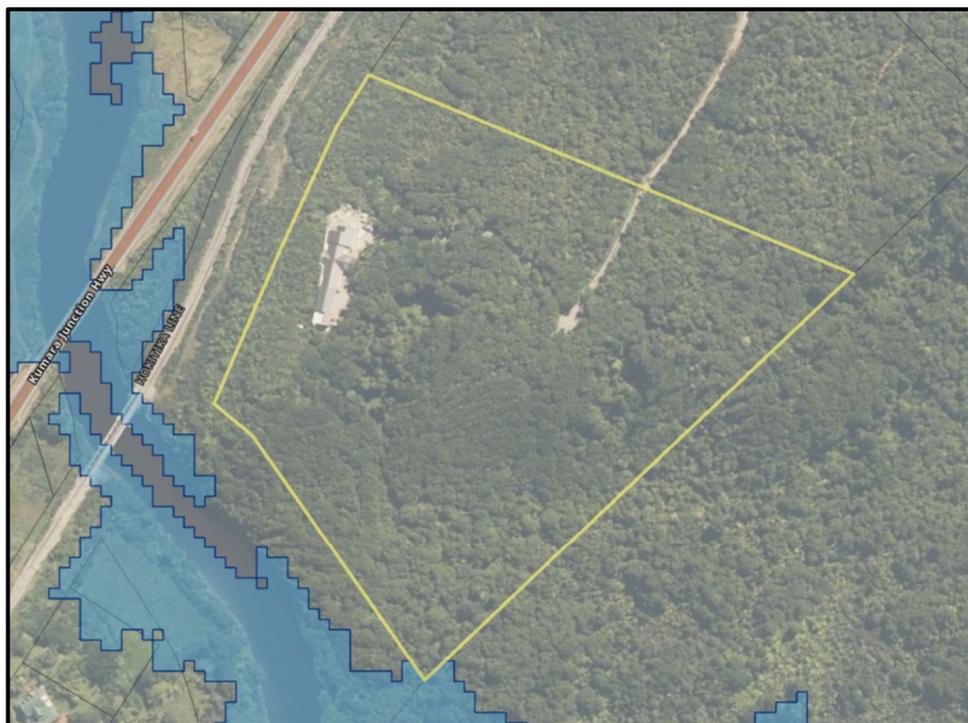


Figure 2: Revised Coastal Hazard Inundation Overlay 1 on 1298D Kumara Junction Highway, Awatuna

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

348. The Panel agree with the Reporting Officers recommendation that the Coastal Hazard Alert Overlay over Ms Te Rakau's land should be amended to reflect the actual hazard risk.

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

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

Remove the Coastal Hazard Alert Overlay over 1298D Kumara Junction Highway.<sup>44</sup>

#### **4.20. Arahura (Variation 2)**

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

350. Five submission points were received seeking deletion of or amendments to the coastal hazard overlays in the Arahura area. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

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

351. The Reporting Officers confirmed that the remodelling of overlays for inclusion in Variation 2 has addressed the submission of Coastwide Surveys Limited (S495.001). Therefore, this submission should be accepted.

<sup>44</sup> Pauline Te Rakau (S776.001)

352. The Reporting Officers recommended that all other submissions seeking deletion or amendment of the overlays (Antony Burt (S132.001 and S132.002), Antony Burt (S180.001) and Graeme Quickfall (S255.001)) be rejected as *'no evidence has been presented that contradicts the science that the Council is relying on for this plan change. On this basis, we do not support removing the Coastal Hazard Overlays from these requested properties in Arahura'*.
353. With respect to the submission by Antony Burt (S132.001), the Reporting Officers confirmed that the coastal overlay does not prevent further development. But resource consent as a restricted discretionary activity is required demonstrating that the risks arising from the development can be mitigated.

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

354. Given the statutory requirement to consider a 100 year SLR risk, and in the absence of any technical modelling or evidence to support a reduction or deletion in the mapping extent, the Panel agrees with the recommendation of the Reporting Officers that the coastal hazard mapping in the Arahura area should be retained.

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

355. Retain the coastal hazard mapping for the Arahura area.

### **4.21. Hokitika/Ruatapu (Variation 2)**

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

356. Four submission points were received seeking deletion of or amendments to the coastal hazard overlays in the Hokitika/Ruatapu area. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

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

357. The Reporting Officers recommended that all submissions seeking deletion or amendment of the overlays (Forest Habitats Limited (S186.003), Lyn McIntosh (S469.004) and Craig Hipson (S689.001)) be rejected as *'no evidence has been presented that contradicts the science that the Council is relying on for this plan change. On this basis, we do not support removing the Coastal Hazard Overlays from these requested properties in Hokitika/Ruatapu'*.
358. As district plans do not generally map protective schemes, the Reporting Officers recommended the submission of the Director General (S602.254) be rejected.

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

359. At the request of the Panel, the Reporting Officers considered the rezoning of Revell St in Hokitika from GRZ to MRZ due to its proximity to the coast. The Reporting Officers confirmed that:

*... the WCRC Long Term Plan includes funding for the upgrading of the existing river and coastal protection structures and design work was under way with the consent application expected to be lodged in 2023. As such a Coastal Alert Overlay was not applied to the Hokitika Beach Front.*

*In 2022 Beca lodged the resource consent application for the extension of the seawall by 1100m between Stafford Street and Richards Drive due to continued coastal erosion threatening properties. The project is part of a wider package of works called the Hokitika and Kaniere Resilience Project that has received funding from Councils shovel ready fund. However, the extension is not a permanent solution with the design life of the wall being 10-15 years, to give time to plan and implement an adaptive management strategy for the longer-term management of coastal hazards in Hokitika.*

*We have not been privy to the discussions relating to the rezoning of the Revell Street properties. Without knowledge of all of the factors that have contributed to the rezoning decision we are reluctant to comment further than confirming that under the proposed TTPP these properties are not subject to a coastal hazard overlay and therefore medium density housing would be a permitted activity provided all relevant standards are met by a proposal.*

360. At the request of the Panel, the Reporting Officers considered the rezoning of 117 Arthurstown Road, Hokitika from GRUZ to SETZ (with a rural residential precinct) due to its proximity to the Hokitika River. The Reporting Officers confirmed that:

*We note that since the Hearings on the TTPP the resource consent to subdivide the site into 17 lots and land use consent to erect 12 dwellings has been granted on the basis that the risk of inundation can be mitigated through raised building platforms and minimum floor levels.*

*While we appreciate that it has been demonstrated that the risk can be mitigated, as the rezoning would allow for allotments a minimum of 4000m<sup>2</sup> and therefore further subdivision of some lots created by the recently approved resource consent, we agree in principle with Ms Easton that rezoning of the land would send the wrong message that the site was suitable for denser development.*

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

361. Given the statutory requirement to consider a 100 year SLR risk, and in the absence of any technical modelling or evidence to support a reduction or deletion in the mapping extent, the Panel agrees with the recommendation of the Reporting Officers that the coastal hazard mapping in the Hokitika/Ruatapu area should be retained.
362. In terms of the Forest Habitats Limited submission, the Panel notes the substantive issue of rezoning the land at Arthurstown is addressed in the Rural Zones Recommendation Report, however for completeness we continue to recommend that this land should not be rezoned for denser development due to the flooding risks.

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

363. Retain the coastal hazard mapping for the Hokitika/Ruatapu area.

#### **4.22. Ōkārīto (Variation 2)**

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

364. One submission point was received seeking that the coastal hazard overlays be amended in the Ōkārīto area. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

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

365. The Reporting Officer has recommended that the submission of Anna Leary (S668.001) be rejected because vertical land movement was considered but ultimately excluded due to the insignificant influence it had. They noted the other reporting cited by Ms Leary could be used to make a resource consent application.

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

366. Given the statutory requirement to consider a 100 year SLR risk, and in the absence of any technical modelling or evidence to support a reduction or deletion in the mapping extent, the Panel agrees with the recommendation of the Reporting Officers that the coastal hazard mapping in the Ōkārito area should be retained.

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

367. Retain the coastal hazard mapping for the Ōkārito area as notified.

### **4.23. Haast/Okuru/Hannahs Clearing (Variation 2)**

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

368. One submission point was received supporting the coastal hazard overlays in Okuru. Seventeen submission points were received seeking that the coastal hazard overlays be amended in the Haast/Okuru/Hannah's Clearing area. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

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

369. The Reporting Officers confirmed that the remodelling of overlays for inclusion in Variation 2 has addressed the submissions (entirely or in part) of Richard Wallis (S97.001 and S97.002) and Tim Penlington et al. (S137.001 and S137.002).
370. The Reporting Officers recommended that all submissions seeking deletion of the Coastal Severe Overlay (now "Coastal Hazard Erosion and Inundation Overlay") for their properties (Will Harvey (S157.002), Raylene Black (S420.002), Vance & Carol Boyd (S447.013), Biggles Limited (S685.003), MTP Limited (S711.003) and P & A Horrell (S715.003) be rejected as *'no evidence has been presented that contradicts the science that the Council is relying on for this plan change. On this basis, we do not support removing the Coastal Hazard Overlays from these requested properties'*.
371. The Reporting Officer advised that those submissions (Graeme Anderson (S187.001), Alan Anderson (S188.001), Sue Templeton (S207.001), Gerard Nolan (S261.001) and Anthony Eden (S578.001 and S578.002)) seeking that the Coastal Severe Overlay be amended are rejected. They advised that *'the Coastal Severe Overlay is based upon where there is a high risk of coastal erosion occurring...Given the modelling shows the need for the Coastal Severe Overlay and there has been no science provided to counter the maps that have been produced, we are in a position where we cannot support the outcomes sought in the submissions'*.
372. The Reporting Officers advised that the 100-year timescale is a statutory consideration for coastal hazards; accordingly, they recommended that the submissions of Michael Snowden (492.004 and S492.014) be rejected.

### Hearing and Submitter Evidence/Statements

373. All those submitters that appeared (or were represented) had recent subdivision/land use consents approved for their land. The submitters were concerned to ensure that there would be a planning framework in place that would protect their consented rights. The Panel have not gone into detail of the consenting history here but acknowledge that we have considered it in respect of the amendments sought by the submitters.

374. Ms Rosie Hill (for Vance and Carol Boyd and Michael Snowden) submitted that the requirement to identify the 100 year sea level rise is clear in the NZCPS (Policy 24), but there is discretion in how to manage those risks within the life of the combined plan citing the ‘manage’ directive of Objective 5 and the limited ‘avoid’ direction of Policy 25 (to avoid increasing risk of harm from coastal hazards, rather than outright avoid). Ms Hill submitted:

*The NZCPS and the MfE guidance emphasise the importance of adaptive management and suggest that risk assessments for coastal hazards can consider shorter timeframes, such as 25 or 50 years, in addition to the 100-year timeframe. There is no requirement that only a 100-year is notified or that management of those identified risks could occur outside of simply identifying the 100-year timeframe hazard lines.*

*The NZCPS directs identification, but how to manage that subsequently depends on factors such as community risk appetite (informed through consultation), costs, cultural and social consequences)... Without any input from the community in terms of risk appetite, there can be no understanding of what are the possible and appropriate adaptive management responses (as opposed to a simple non complying regime in severe overlays).*

375. At the hearing, Ms Hill agreed with the Panel that site by site assessment would be inefficient and rate payers would need to bear this considerable cost. She opined that an alternative option would be to consider hazards over 50 years as they have the potential to markedly change (whereas the asset is unlikely to change markedly).

376. Ms Collie (for Biggles et al.) considered that the consented development on her clients’ sites does not constitute ‘new development’ as subject to Objective 5 (NZCPS) and ‘the appropriate approach under objective 5 is to manage coastal hazard risks by considering responses for existing development’. With respect to the precautionary approach directed by Policy 3 of the NZCPS, Ms Collie considered that where coastal assessments had been completed as part of a resource consent process, a mitigation and management of risk was appropriate (rather than avoidance). Ms Collie cited Objectives 2, 3 and 4 of the WCRPS and UD-O1 of the pTTPP as relevant. Lastly, Ms Collie noted that it is outside her expertise to comment on the accuracy of the mapping, but that her clients are concerned about the conservatism and potential inaccuracy of the modelling that has informed the overlay extents. At the hearing, Ms Collie clarified that, at paragraph 58 of her evidence, ‘reasonable use’ refers to a use that does not increase the risk of coastal hazards. Further, Ms Collie commented further on paragraph 67 of her evidence and reiterated that the WCRPS<sup>45</sup> provides for ‘similar’ development, not the ‘same’ development. Lastly, she noted that it is possible to provide for existing use rights while giving effect to a higher order document.

377. With respect to the coastal hazard mapping, Mr Boyd considered the risk at Hannah’s Clearing relates only to erosion (not inundation). He considered that the rate at which erosion occurs at Hannah’s Clearing would mean that the categorisation as ‘severe hazard’

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<sup>45</sup> West Coast Regional Policy Statement, Chapter 9, Policy 3e

is inappropriate. As such, the mapping should be amended to reflect the actual risk categorisation. Mr Boyd provided emails from two coastal process experts, which commented on the various aspects of the NIWA modelling and approach. With respect to relief, Mr Boyd considered that the overlays over Hannah's Clearing could be removed and reconsidered in the next plan review when the science and mapping is more precise; or alternatively, include trigger points which would require action if activated. At the hearing, Mr Boyd considered that mapping for 25, 50 and 100 AEP events would be more appropriate and iterated that erosion, rather than inundation, is the key issue at Hannah's Clearing. He expressed concern at a non-complying activity status for an addition to a building.

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

378. The Panel have considered the additional modelling of Mr Bossarelle that shows the 50 year SLR risk, but we agree with the Reporting Officers that there is no scope to incorporate this interim hazard overlay into the pTTPP, but this may be something that the TTPP Committee consider in the future. We acknowledge that the two coastal process experts referred to by Mr Boyd indicated that timeframes less than 100 years SLR should also be mapped. We were unable to question these 'experts', however we note that Mr Bossarelle's modelling showed little difference between the 50 and 100 year lines at Hannah's Clearing.
379. Therefore, given the statutory requirement to consider a 100 year SLR risk, and in the absence of any technical modelling or evidence to support a reduction or deletion in the mapping extent, the Panel agrees with the recommendation of the Reporting Officers that the coastal hazard mapping in the Haast/Okuru/Hannah's Clearing area should be retained.
380. We discuss the evidence of Ms Collie and the rule framework applying to legally established buildings in later sections in this Report.

### **Recommendation**

381. Retain the coastal hazard mapping for the Haast/Okuru/Hannah's Clearing area.

## **4.24. Neils Beach (Variation 2)**

### **Submissions and Further Submissions**

382. One submission point was received supporting the coastal hazard overlays in Neils Beach. Twelve submission points were received seeking that the coastal hazard overlays be deleted or amended in the Neils Beach area. One neutral submission was received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

### **Section 42A Report**

383. The Reporting Officers recommended that the submissions seeking the amendment or deletion of the coastal hazard overlays be rejected (specifically the submissions of Ms Mandy Deans (S549.003), the Neils Beach Special Rating District Committee (S669.001), Ms Allison Sutton (S672.001 and 672.002), Finn Lindqvist (S694.002), Jim & Anne Murray (S699.001), John Sutton (S704.001), Murray and Rachel Petrie (S712.001 and S712.003) and Peter Scott (S719.001).

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

Natural Hazards - Ngā Mōreareatanga Aotūroa Chapter

384. Due to the regular 10-year review of the district plan, the Reporting Officers recommended that the submissions of Jim and Anne Murray (S669.004) and John Sutton (S704.004) should be accepted / accepted in part.
385. The Panel considers the submission of Mandy Deans (S549.004) is outside the scope of the Plan.

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

386. At the hearing, Mr Sutton advised that a 500m-600m bund had been constructed and he considered a Coastal Severe Overlay was inappropriate for the Neils Beach area, but that he would support a Coastal Alert Overlay. Mr Sutton requested that progressive overlays be introduced over time to manage the hazard risk. Lastly, Mr Sutton advised that the ability to manage the shifting river mouth should be provided for as a permitted activity in the pTTPP.

### **Reporting Officer Reply Evidence**

387. The Reporting Officers provided mapping showing the 50-year and 100-year coastal erosion lines (Appendix 2 of the May RoR). The 50-year mapping shows a significant difference in Neils Beach. As noted above, the Reporting Officers supported the use of the 50-year erosion line or a more nuanced approach but acknowledged potential natural justice issues with the introduction of new mapping and provisions at this late stage.

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

388. As above, the Panel have considered the additional modelling of Mr Bossarelle that shows the 50 year SLR risk, but we agree with the Reporting Officers that there is no scope (along with potential natural justice issues) to incorporate this interim hazard overlay into the pTTPP, but as we have indicated this may be something that the TTPP Committee consider in the future.
389. Given the statutory requirement to consider a 100 year SLR risk, and in the absence of any technical modelling or evidence to support a reduction or deletion in the mapping extent, the Panel agrees with the recommendation of the Reporting Officers that the coastal hazard mapping in the Neils Beach area should be retained.
390. The Panel acknowledge the statements of Mr Sutton in regard to managing the shifting river mouth. However, it is our position that such a rule would be best addressed by the WCRC as works in the coastal marine area are within their jurisdiction (the pTTPP would manage the effects of the earthworks landward of mean high water springs). For this reason, we recommend that the submission of Mr Sutton is rejected.

### **Recommendation**

391. Retain the coastal hazard mapping for the Neils Beach area.

## **5. WHOLE CHAPTER**

### **Submissions and Further Submissions**

392. Five submission points were received supporting the natural hazard provisions. Twenty-three submission points were received seeking that the coastal hazard provisions be

deleted or amended. Two neutral submissions were received. One submission point sought a new method be included in the chapter. Twenty-one further submission points were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

### **Section 42A Report**

393. The Reporting Officers recommended that the submissions in support of the provisions/approach be accepted/accepted in part (specifically the submissions of Bert Hofmans (S504.002), Lindy Millar (S505.002), WDC (S181.006), MOE (S456.015), the Director General (S602.037) and Lee Cummings (S554.003).

394. The Reporting Officers recommended that the submissions of Federated Farmers (S524.044) Elley Group Limited (S164.003), Richard Henschel (S285.004), WCRC (S488.020), Scenic (S483.009) and Katherine Gilbert (S473.019) be accepted in part. They agreed that:

*...there was an ability to be more nuanced in the approach to natural hazard risk management within the chapter, and in response to these submission points, we are proposing significant changes to the natural hazards chapter. These changes reduce the regulatory impact of the natural hazards chapter as proposed and ensure that the proposed framework addresses the key natural hazard risks that exist on the West Coast. The key changes that we are recommending include:*

- *Removing three of the notified natural hazard overlays, where the evidence base was not sufficient to support a District Plan intervention;*
- *Strengthening a risk-based approach to the management of natural hazard risks, with more directive objectives and policies in this regard;*
- *Reducing the number of rules within the chapter through consolidation and the removal of several overlays;*
- *Aligning the activity status of rules, with the outcomes sought in the objectives and policies; and*
- *Ensuring that there is consistent wording used in the objectives and policies to assist plan users.*

395. Richard Wallis (S97.003), Tim Penlington et al. (S137.003) and Will Harvey (S157.003) requested additional information to support implementation and understanding. The Reporting Officers recommended that these submissions be accepted and that a new method be included to this effect.

396. Forest and Bird (S560.004, S560.005 and S560.186) sought amendments to the chapter; specifically, to include reference to the emissions reduction plan and the national adaptation plan, as well as the protection of biodiversity. The Reporting Officers consider that these requests are best achieved through other avenues, including the WCRPS and the Ecosystems and Indigenous Biodiversity (ECO) Chapter of the pTTPP.

397. Toka Tū Ake (S612.118) seeks that compounding and cascading hazards are recognised in the NH Chapter. The Reporting Officers noted that:

*This is a very complex area of land use planning, where there has been very little research undertaken in the context of the New Zealand planning system. There is very little guidance on how to address these hazards and it is our view that while there is merit in this submission point, this is simply a very difficult exercise to undertake and would require a complete rewrite of the Natural Hazards Chapter.*

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

Natural Hazards - Ngā Mōreareatanga Aotūroa Chapter

398. The Reporting Officers recommended that the submissions of Vance and Carol Boyd (S447.017) and Frank and Jo Dooley (S478.018) be rejected because the matters raised are dealt with elsewhere in the pTTPP. Further, they recommended that the submission of Michael Snowden (S492.007) be rejected because the terminology they propose is not used in the pTTPP.
399. The submissions of Michael Snowden (S492.009), Karen Lippiatt (S439.022) and Troy Scanlon (S468.001) are outside the scope of the plan change and therefore the Reporting Officers have recommended these be rejected.

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

400. Subject to our recommendations below, we agree with the Reporting Officers that amendments (including deletions) are appropriate to the NH Chapter provisions to ensure they take a risk-based approach to NH, are focussed on key NH risks and minimise the regulatory burden on landowners where there is insufficient evidence to support an overlay or provision. We discuss these specific changes in more detail below. Submissions raising matters dealt with in other chapters or that are outside the scope of the pTTPP are rejected.
401. The Panel agree with the Reporting Officer that any guidance that assists plan users is a good outcome. However, we have a concern with the method proposed by the Reporting Officers. It is unclear to us why the proposed method places the burden of responsibility at the feet of WCRC (who are not the territorial authority responsible for administering the pTTPP). We therefore have some difficulty with this approach as we do not consider the TTPP has the ability to require the WCRC to undertake to provide the guidance. We do not therefore support the inclusion of a new method in the NH Chapter of this nature, but we would encourage BDC, GDC and WDC to work with the WCRC on such an approach outside of the TTPP.
402. The Panel agrees with the Reporting Officer that the Forest & Bird submissions (S560.004, S560.005 and S560.186) should be rejected. The NH Chapter has had regard to the NAP (most notably through the mapping of hazards), but we consider specific reference is unnecessary. Matters relating to biodiversity are dealt with in the ECO Chapter.
403. While we acknowledge the concerns raised by Toka Tū Ake (S612.118), we agree with the Reporting Officers that the assessment of compounding and cascading hazards is a difficult exercise and is not the approach taken in the pTTPP. We note that consideration of compounding and cascading hazards may be necessary or appropriate as part of future reviews of the pTTPP.
404. The Panel note that changes have already been recommended which related to some of the above submissions.

### **Haring Panel's Recommendation**

405. That no changes are made as a result of the above submissions.

## **6. OVERVIEW**

### **Submissions and Further Submissions**

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

### Natural Hazards - Ngā Mōreareatanga Aotūroa Chapter

406. Three submission points were received supporting the overview of the NH Chapter. Five submission points were received seeking that the overview be amended. One further submission point was received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.
407. There were no submissions received (as part of Variation 2) on the chapter overview.

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

408. The Reporting Officer recommend that the submissions in support (specifically Te Mana Ora (S190.113 and S190.148) and Karamea Lime (S614.059) and the submissions seeking minor changes to the overview Toka Tū Ake (S612.122) be accepted/accepted in part.
409. Inger Perkins (S462.006) seeks greater recognition of climate change within the overview. The Reporting Officers recommended that this submission is rejected as there is sufficient coverage of the issue of climate change in the provisions.
410. The O'Connor Institute Trust Board (S466.008), Frank and Jo Dooley (S478.051) and Westpower (S547.121) seek further information is added to the overview (with respect to Westport and the energy network). The Reporting Officers do not consider the further information is necessary and recommend that these submissions be rejected.
411. In their s42A Variation Report, the Reporting Officers recommended that the overview be updated to reflect the removal of overlays and new terminology (discussed above) for the coastal hazard overlays.

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

412. Mr Kennedy (for Westpower) considered that an amendment to the overview is appropriate to recognise the energy network and provide context.

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

413. In their May Right of Reply, the Reporting Officers canvassed the opportunity to recognise the role of private coastal hazard mitigation structures, including at Punakaiki. As an alternative to amending NH-P6 (discussed below), they outlined the Thames Coromandel District Plan approach which provides for the reasonable use of a lot where a consented coastal mitigation structure has reduced the coastal erosion to a tolerable level. This approach is set out in the NH Chapter overview and therefore has no legal weight; for this reason, the Reporting Officers recommended that this approach not be pursued.

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

414. The Panel agrees with the Reporting Officers that the Overview should be updated to remove reference to overlays that have been deleted and the terminology amendments. With respect to the issues raised by submitters, we agree with the Reporting Officers that no other changes to the NH chapter Overlay are necessary.

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

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

The West Coast/Te Tai o Poutini region is subject many natural hazards; river flooding, coastal erosion, coastal inundation and land instability; the impact of these natural hazards is likely to be exacerbated by climate change including sea level rise over the lifetime of this Plan. There is also natural hazard risk from earthquakes and tsunami (coastal and lake).<sup>46</sup>

A natural hazard is defined in the RMA as "any atmospheric or earth or water related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire or flooding) the action of which adversely affects or may adversely affect human life, property, or other aspects of the environment".

The risks associated with natural hazards vary on the West Coast/Te Tai o Poutini, with its sparse population and low level of development in some areas, compared with discrete areas of larger populations in the towns and settlements. In the larger populated and developed areas the consequences of natural hazards are considerably greater - hence the risk is higher. A risk-based approach to natural hazards has been taken in Te Tai o Poutini Plan and means that the focus of the natural hazard provisions is in the areas where there is greatest risk.

- Coastal Hazard Overlays—~~Coastal Severe~~ **Coastal Hazard Erosion and Inundation Overlay** where risk from coastal erosion and inundation **over the next 100 years with 1m of sea level rise** have been modelled and mapped, ~~Coastal Alert~~ **Coastal Hazard Inundation Overlay 1** where risk from coastal inundation **in a 1% AEP coastal storm event with 1m of sea level rise** has been modelled and mapped. ~~Coastal Setback~~ **Coastal Hazard Inundation Overlay 2** where modelling has not been undertaken and is a precautionary approach **which is a 30m wide buffer from the edge of the active shoreline to capture seasonal changes in the shoreline and corresponding inundation hazard.** ~~Coastal Tsunami~~ is where the most significant risk from coastal tsunami has been mapped and is different from coastal tsunami evacuation areas.<sup>47</sup>
- Hokitika Coastal Overlay – applies to parts of Hokitika where the design and consent process for planned upgrades have not yet occurred, and a significant risk remains.
- Flood Hazard Overlays – “Flood Severe” and “Flood Susceptibility” where risk from flooding has been modelled, and due to depth and speed of water, mapped as either severe ~~/ or~~ susceptibility. “Floodplain” are areas where modelling has not been undertaken and this is a precautionary approach.<sup>48</sup>
- Westport Hazard Overlay - specific provisions managing flooding and coastal inundation. This applies to the area identified in the West Coast Regional Council Long Term Plan as to be protected. Design and consent work is underway.
- Earthquake Hazard Overlays – These overlays applies ~~200m~~<sup>49</sup> either side of the active fault traces for the Alpine, Hope, Clarence and Awatere Faults. A large earthquake on these faults will result in ground shaking outside of these areas. The Earthquake Hazard Overlay should not be considered the total extent of the hazard but are considered to reflect the likely extent of the most significant hazard.
- Land Instability Overlay – This overlay applies to areas where there is risk from slope instability, landslide, debris flow and rockfall.

<sup>46</sup> Richard Henschel (S285.004), WCRC (S488.020)

<sup>47</sup> Te Tai o Poutini Plan Committee (S171.033)

<sup>48</sup> Benjamin and Shari Ferguson (S173.002), Kaye Leighton (S174.002), John Boyles (S175.002), David McInroe (S176.002), Ken and Robyn Ferguson (S192.001), Whittaker Ventures Ltd (S197.001 and S197.002), Paul Miles (S226.001), Hayden Kendrick (S259.001), Grant Marshall (S311.002), Debbie Bland (S325.001), Katrina McLachlan (S340.001), Lynette Heine (S354.001), David Hahn (S368.001), Mills Family Trust (S427.001), Bruce Jones (S429.001), T Croft Ltd (S460.004 and S460.006), Davis Ogilvie & Partners Ltd (S465.002), Scenic (S483.010), Michael Snowden (S492.003), Hapuka Landing Limited (S514.004), Peter Jefferies (S544.008), Martin & Lisa Kennedy (S545.008), Nick Pupich Sandy Jefferies (S546.008), Brian Anderson (S576.005), David Ellerm (S581.015, S581.016 and S581.018)

<sup>49</sup> Toka Tū Ake (S612.048)

- ~~Lake Tsunami / Seiche~~ This applies to the land proximate to lakes.<sup>50</sup>

~~The impacts of climate change have been included in the technical work underlying the development of the Coastal severe, Coastal alert, Coastal Setback and Hokitika Coastal, Westport Hazard, flood severe and flood susceptibility overlays.<sup>51</sup>~~

The spatial extent of the overlays is where rules apply. Some properties may have more than one natural hazard overlay, the rules from all overlays apply.

~~There are no land use rules for the flood plain overlay and this overlay relates to the subdivision rules.<sup>52</sup>~~

### **Natural Hazard Mitigation Structures**

Where Natural Hazard Mitigation Structures are located or proposed in the Coastal Environment or Riparian Areas of Waterbodies, the rules for these are to be found in the relevant Coastal Environment and Natural Character and Margins of Waterbodies Chapters.

### **Other relevant Te Tai o Poutini Plan provisions**

It is important to note that in addition to this chapter, a number of General District-wide Matters chapters also contain provisions that may be relevant for natural hazards and in particular the specific provisions around the construction of natural hazard mitigation structures such as seawalls, flood walls and stop banks.

In particular the Coastal Environment Chapter, Natural Character and Margins of Waterbodies Chapter, Earthworks Chapter, Ecosystems and Indigenous Biodiversity and Natural Features and Landscapes Chapters may be relevant.

## **7. OBJECTIVES**

### **7.1. General**

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

416. Six submission points were received generally supporting the NH objectives. Three submission points were received seeking that the objectives be amended. One further submission point was received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.
417. As part of Variation 2, six submission points were received seeking that the NH objectives be amended. Two further submission points were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.

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

418. The Reporting Officers recommended that supporting submissions from Steve Croasdale (S516.008), BDC (S538.094), Chris & Jan Coll (S558.739), Chris J Coll Surveying Limited

<sup>50</sup> Richard Henschel (S285.004), WCRC (S488.020)

<sup>51</sup> Consequential amendment stemming from revision of overlays

<sup>52</sup> Benjamin and Shari Ferguson (S173.002), Kaye Leighton (S174.002), John Boyles (S175.002), David McInroe (S176.002), Ken and Robyn Ferguson (S192.001), Whittaker Ventures Ltd (S197.001 and S197.002), Paul Miles (S226.001), Hayden Kendrick (S259.001), Grant Marshall (S311.002), Debbie Bland (S325.001), Katrina McLachlan (S340.001), Lynette Heine (S354.001), David Hahn (S368.001), Mills Family Trust (S427.001), Bruce Jones (S429.001), T Croft Ltd (S460.004 and S460.006), Davis Ogilvie & Partners Ltd (S465.002), Scenic (S483.010), Michael Snowden (S492.003), Hapuka Landing Limited (S514.004), Peter Jefferies (S544.008), Martin & Lisa Kennedy (S545.008), Nick Pupich Sandy Jefferies (S546.008), Brian Anderson (S576.005), David Ellerm (S581.015, S581.016 and S581.018)

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(S566.739), William McLaughlin (S567.096) and Laura Coll McLaughlin (S574.739) be accepted in part because significant changes have been proposed to the objective and therefore not retained as notified.

419. The Reporting Officers recommended that the submissions from Frank and Jo Dooley (S478.015) and Frank O'Toole (S595.003) seeking an objective requiring council to provide flood protection measures be rejected because a district plan cannot be bound to commitments that require consent from other councils and it is impossible to protect all land from hazards.
420. With respect to the submission by Snodgrass Road Submitters (S619.009), the Reporting Officers recommended that this submission be accepted because the objectives already provide for development through a risk-based approach.
421. In their s42A Variation 2 Report, the Reporting Officers recommended that the TTPP Committee submission (S171.028) be rejected because introducing two new objectives on coastal hazards into the CE Chapter this late in the process creates a natural justice issue.
422. A number of submissions on Variation 2 (Biggles Limited (S685.007), Mitchell Rogers (S710.001), MTP Limited (S711.007), Charlie Johnson (S786.002) and P & A Horrell (S715.007)) sought recognition of existing consented hazard mitigation works in the objectives. The Reporting Officers recommended that these submissions be rejected because there is no guarantee that these structures will continue to be maintained or upgraded to provide the level of protection necessary to mitigate the risk.

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

423. The Panel agree with the Reporting Officers recommendations on these general submission points. We agree that the objectives of the NH Chapter should not require the construction of protection structures, nor should they protect existing protection structures. We also agree that introducing new objectives on coastal hazards into the CE Chapter would create a natural justice issue because this chapter did not form part of the Variation 2 notification.

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

424. No changes are recommended as a result of the above submissions.

## **7.2. Objective NH-O1**

### **Submissions and Further Submissions**

425. Three submission points were received supporting NH-O1. Two submission points were received seeking that the objective be amended. Five further submission points were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.
426. As part of Variation 2, one submission point was received seeking that NH-O1 be amended. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.

### **Section 42A Report**

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427. The Reporting Officers recommended a substantial rewrite of NH-O1, specifically:

~~*To use a regionally consistent, risk-based approach to natural hazard management.*~~

*Subdivision, use and development within the Severe Natural Hazard Overlays reduces or does not increase the existing risk from natural hazards to people, buildings, and regionally significant infrastructure.*

428. They advised the change will:

- *Provide clearer direction to plan users;*
- *Ensure that the policies and rules better align to with the objectives;*
- *Remove complexity from the Natural Hazards Chapter as notified;*
- *Ensure there is a more consistent risk-based approach through the natural hazards chapter; and*
- *Provide greater certainty to plan users and the public around the areas where future land development can occur.*

429. In their s32AA assessment, the Reporting Officers noted that the proposed change aligns better with RMA Part 2 and section 6(h), provides greater clarity to the regulatory approach to managing NH and improves plan interpretation and implementation.

430. The Reporting Officers advised that the scope for such a change comes from the submissions of Ruth Henschel (\$150.006), Elley Group Ltd (\$164.003), Richard Henschel (\$285.004), Troy Scanlon (\$468.004) and WCRC (\$488.020). As a consequence of the change, the Reporting Officers recommended that the submissions of Te Mana Ora (\$190.155), GDC (\$608.553), David Ellerm (\$581.014) and (Toka Tū Ake (\$612.022) be rejected and the submission of Federated Farmers (\$524.041) be accepted in part.

431. In the s42A Variation Reporting, the Reporting Officers recommended that reference be made in NH-O1 to the coastal hazard overlays, specifically:

~~*To use a regionally consistent, risk-based approach to natural hazard management.*~~

*Subdivision, use and development within the Severe Natural Hazard **and the Coastal Hazard Erosion and Inundation** Overlays reduces or does not increase the existing risk from natural hazards to people, buildings, and regionally significant infrastructure.*

432. They also recommended that the submission of Westpower (\$547.516) be accepted as the change they sought was consistent with the amendment recommended in the s42A Report.

### **Rebuttal**

433. The Reporting Officers disagreed with Mr Kennedy (for Westpower) that regionally significant infrastructure should be removed from NH-O1 because the purpose of the objective is to consider the impact of subdivision, use and development in hazard overlays on people, buildings and regionally significant infrastructure.

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

434. Mr Kennedy (for Westpower) advised that, due to the locational and functional needs of regionally significant infrastructure to, at times, locate within severe hazard areas, the reference to regionally significant infrastructure should be removed from NH-O1. Otherwise, he noted his support for the substantially amended provision.

### **Reporting Officer Reply Evidence**

435. In their May Right of Reply, the Reporting Officers outlined the purpose of NH-O1, being:

*NH-O1 applies to those areas which are impacted by what are considered to be High Hazard Areas. This objective requires for the existing risk on a site to be considered and for development to only proceed if this existing risk is reduced or not increased.*

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

436. We have undertaken our evaluation of both **NH-O1** and **NH-O2** together below.

### **7.3. Objective NH-O2**

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

437. Three submission points were received supporting NH-O2. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

438. As part of Variation 2, three submission points were received seeking that NH-O2 be amended. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.

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

439. In their s42A Report, the Reporting Officers recommended that the submissions of Te Mana Ora (S190.156), GDC (S608.554) and Toka Tū Ake (S612.023) because they recommended that NH-O2 be amended to compliment NH-O1 and minimise the risk to people and property in other NH overlays, specifically:

*To reduce the risk to life, property and the environment from natural hazards, thereby promoting the well-being of the community and the environment.*

*Subdivision, use and development within all other Natural Hazard Overlays minimises the risk from natural hazards to people, buildings, and regionally significant infrastructure.*

440. Their reasoning for this change (and the scope for the change) is the same as identified above for NH-O1. They noted that the risk arising from the subdivision, use or development should be minimised (through minimum FFL, relocatable buildings, engineering solutions or enhanced natural systems).

441. In their s32AA assessment, the Reporting Officers stated that the amendments to NH-O2 were important to work in conjunction with amended NH-O1 to manage NH in the region. They consider amended NH-O2 will improve plan interpretation and implementation, give better effect to RMA Part 2 and section 6(h) and improve the regulatory framework for managing the risk of NH.

442. In their s42A Variation Report, the Reporting Officers recommended that the submission of Scenic Hotel Group (S483.020) be rejected because they consider that the NH overlays act somewhat independently of the underlying zoning.

443. The Reporting Officers agreed with the submissions of Westpower (S547.517) and noted that 'buildings' had been included in the version of NH-O2 recommended in the S42A Report.

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444. With respect to the submission of Poutini Ngāi Tahu (S620.426), the Reporting Officers acknowledged that recovery from NH events is important, it did not need explicit inclusion in NH-O2 as wellbeing and resilience is embedded in managing the location and built form of future subdivision, use and development.

### **Rebuttal**

445. The Reporting Officers disagreed with Mr Kennedy (for Westpower) that regionally significant infrastructure should be removed from NH-O2 because the purpose of the objective is to consider the impact of subdivision, use and development in hazard overlays on people, buildings and regionally significant infrastructure.
446. The Reporting Officers also disagree with Mr Brass (for the Director General) who considered that the phrase *'and avoid increasing'* should be added to the objective. The Reporting Officers considered that an avoid directive in less severe hazard overlays and in overlays outside the coastal environment is inappropriate.

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

447. Consistent with his position on NH-O1, Mr Kennedy (for Westpower) considered that regionally significant infrastructure should be deleted from the objective.
448. Evidence provided by Mr Murray Brass (for the Director General) provided comment on NH-O2 and is discussed below in the section on new objectives.

### **Reporting Officer Reply Evidence**

449. As with NH-O1, the Reporting Officers outlined the purpose of NH-O2, as follows:

*NH-O2 requires subdivision, use and development in all other Natural Hazard Overlays to minimise the risk from development. This means that subdivision, use and development needs to reduce as far as practicable the risk to it from the natural hazards. This means the starting point is not the existing risk profile of the site pre-development, but rather the risk presented by the subdivision, use and development. By its nature, subdivision, use and development increases risk on a site as it results in more exposed building assets or people. As such, it is very difficult for new subdivision, use and development to reduce the existing risk of a site.*

450. They went on to say that *'there is a very deliberate difference in the wording of NH-O1 and NH-O2 to describe the risk (existing vs. new) that needs to be addressed by subdivision, use and development'*.

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

451. The Panel have been very careful in our consideration of NH-O1 and NH-O2 as the wording recommended by the Reporting Officers departs significantly from what was notified. We agree with the Reporting Officers that a risk-based approach to NH management is the fundamental basis for the provisions (both notified and revised). We also agree with the Reporting Officers that NH-O1 and NH-O2 do not make it clear to plan users what a risk-based approach entails and that such a clarification would greatly assist.
452. The Panel consider that there is support (and therefore scope) from submissions for a risk-based approach to NH management, which was key part of NH-O1 as notified. We are also of the opinion that the Reporting Officers' recommended wording of NH-O1 and NH-O2

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focusses on a risk-based approach and is therefore merely a continuation (or explanation) of notified NH-O1 (which has support through submissions). We are satisfied that the amendments recommended by the Reporting Officers to NH-O1 and NH-O2 are within the scope of submissions.

453. However, we consider that there is merit to retaining some of the notified wording of NH-O1 to make it clear to plan users that the backbone of the NH Chapter is a risk-based approach to managing the risk of NH. While we also support included the wording recommended by the Reporting Officers, in our view the two objectives should be combined into one objective with two subclauses addressing subdivision, use and development within Severe Natural Hazard Overlays and subdivision, use and development within all other Natural Hazard Overlays. We consider with make it clearer for Plan users.
454. As set out above, we do not support the use of '*minimise*' in the NH Chapter. We therefore consider that NH-O2 should be amended to '*mitigate*', which also aligns better with the RMA language.
455. With respect to Mr Kennedy's evidence, we agree with the Reporting Officers that the intent of NH-O1 and NH-O2 is that subdivision, use and development should not increase/should mitigate risk from NH on regionally significant infrastructure (compared to the NH-O3 which addresses the risks from NH for regionally significant infrastructure).
456. We have largely addressed NH-O2 in our discuss of NH-O1 above. But consider comment on the Poutini Ngāi Tahu submission (S620.426) and the evidence of Mr Brass is appropriate.
457. Firstly, we agree with Poutini Ngāi Tahu that recovery from NH events is critical. However, we also agree with the Reporting Officers that the role of recovery in the pTTPP is to ensure that buildings and uses (i.e. for sensitive activities or less sensitive activities) are appropriately located. If buildings and uses are well located, this will assist recovery efforts. We do not consider that recovery needs explicit mention in the objectives.
458. We agree with the Reporting Officers that an avoid directive in NH-O2 (now subclause 2 of NH-O1), which will address the less severe overlays, may confuse plan users and undermine the risk-based approach. Nevertheless, we consider Mr Brass has a point that without a further qualifier that this could allow development that increases risk and therefore fails to give effect to NZCPS Policy 25. We therefore consider adding '*and does not increase*' to subclause (2) to address with issue and are of the view that this would address Director General's submission on a new objective.
459. The Panel recommends the amendments to NH-O1 and NH-O2 detailed below.

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

460. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend the following amendments to **Objectives NH-O1** and **NH-O2**:

<p><b>NH-O1:</b> <del>To use a regionally consistent,</del> <b>Adopt a</b> risk-based approach to natural hazard management, <b>where:</b></p>
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1. Subdivision, use and development within Severe Natural Hazard Overlays reduces or does not increase the existing risk from natural hazards to people, buildings, and regionally significant infrastructure.

2. Subdivision, use and development within all other Natural Hazard Overlays manages and does not increase the risk from natural hazards to people, buildings, and regionally significant infrastructure.<sup>53</sup>

~~NH-O2: To reduce the risk to life, property and the environment from natural hazards, thereby promoting the well-being of the community and environment.~~<sup>54</sup>

#### 7.4. Objective NH-O3

##### Submissions and Further Submissions

461. Five submission points were received supporting NH-O3. Three submission points sought that the objective be amended. One submission point was neutral and three further submission points were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.
462. As part of Variation 2, two submission points were received seeking that NH-O3 be amended. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.

##### Section 42A Report

463. In their s42A Report, the Reporting Officers recommended that the supporting submissions of Te Mana Ora (S190.157), KiwiRail (S442.044), Waka Kotahi (S450.06), GDC (S608.555) and Chorus et al. (S663.039) be accepted in part (as amendments to the objective are also recommended).
464. The Reporting Officers recommended that the submission of Manawa (S438.058) be accepted in part and agreed that the locational and functional needs of regionally significant infrastructure to locate in severe hazard overlays should be recognised.
465. With regards to the second part of Manawa's submission (which was echoed by Federated Farmers (S524.042)), the Reporting Officers did not consider that NH-O3 should require critical infrastructure to be designed to be resilient to the impacts of NH. This is because such a directive would be better placed as a policy and many critical infrastructure activities already have redundancies built into them to enable them to operate during a NH event.
466. The Reporting Officers recommended that the reference to 'significant' natural hazard be removed in response to the submission by Toka Tū Ake (S612.024).
467. Jacobus Wiskerk (S95.001) sought that existing hazardous facilities be removed from high-risk locations. The Reporting Officers noted that a district plan cannot cancel existing use rights and recommended that this submission be rejected.

<sup>53</sup> Te Mana Ora (S190.142), Federated Farmers (S524.041), Toka Tū Ake (S612.048), Bert Hofmans (S504.002) and Lindy Millar (S505.002), Director General (S602.038)

<sup>54</sup> Te Mana Ora (S190.142), Federated Farmers (S524.041), Toka Tū Ake (S612.048), Bert Hofmans (S504.002) and Lindy Millar (S505.002), Director General (S602.038)

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468. In their s42A Variation Report, the Reporting Officers recommended that the submission by Poutini Ngāi Tahu (S620.427) be rejected and advised that:

*We are of the opinion that the development of Māori land be subject to the same regime as fee simple land, in that where risk (based on likelihood and consequences) is lower, then development be provided for, but where risk is higher that this needs to be managed to ensure the health and safety and social, economic and cultural wellbeing of people and communities.*

469. The Reporting Officers agreed with the submission of Westpower (S547.518) that 'critical' be removed from NH-O3.
470. Lastly, the Reporting Officers recommended that the objective be amended to refer to coastal hazards.

### **Rebuttal**

471. The Reporting Officers disagreed with the position of Mr Kennedy (for Westpower) that NH-O3 should refer to 'other' buildings because it is appropriate to consider onsite effects as well and not just offsite effects.

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

472. Mr Kennedy (for Westpower) advised that the objective should refer to increased risk to 'other' buildings to ensure that the objective does not inadvertently capture the regionally significant infrastructure being constructed.

### **Reporting Officer Reply Evidence**

473. In their March Right of Reply, the Reporting Officers agreed with the evidence of Mr Kennedy and that NH-O3 should refer to increased risk to 'other' buildings.
474. With respect to the Toka Tū Ake submission (S612.024), the Reporting Officers confirmed that, because the reference to 'significant natural hazard' had been removed from the chapter, the submission of Toka Tū Ake seeking that this be defined was no longer relevant. They noted that the draft NPS-NH does include a definition for *Significant Natural Hazard Risk* and that the various overlays in the NH Chapter align with this definition. Lastly the Reporting Officers noted that RMA section 6(h) takes precedence over Policy 25 of the NZCPS and therefore the avoid directive (of Policy 25) does not entirely align with section 6(h).

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

475. The Panel agrees with Manawa (S438.058) and Reporting Officers that the functional need and operational need of RSI should be the qualifying factor for locating in severe hazard overlays. We also agree with the Reporting Officers that the pTTPP is not able to cancel existing use rights and require RSI to locate in less hazard prone locations.
476. The Panel considers the submission by Ngāi Tahu (S620.427) seems out of context (given NH-O3 relates to RSI), although we recognise the issue raised regarding subdivision, use and development of Māori land, which may be within the Severe Natural Hazard Overlays. We do not consider that the matter is one to be addressed through this objective.

477. The Panel agrees with the Reporting Officers that the other amendments to NH-O3 are appropriate to reflect plan terminology (removing reference to significant risk and using RSI instead of critical infrastructure) and recommends these are adopted.

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

478. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend the following amendments to **Objective NH-O3**:

**NH-O3** To only locate critical **regionally significant**<sup>55</sup> infrastructure within ~~areas of significant natural hazard risk~~<sup>56</sup> **the Severe Natural Hazard Overlays** where there is ~~no reasonable alternative~~ **an operational need or functional need to be located within these overlays**,<sup>57</sup> and to design ~~the~~ infrastructure so as not to ~~exacerbate natural hazard~~ **increase the** risk to people and ~~property~~ **other buildings**.<sup>58</sup>

### **7.5. Objective NH-O4**

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

479. Three submission points supported the objective as notified. One submission point was received seeking that the objective be amended. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.
480. As part of Variation 2, one submission point was received seeking that the objective be amended. One further submission point was received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.

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

481. The Reporting Officers have recommended a redraft of the objective to improve clarity of the concept. They advised that the substantial redrafting is within the scope of submissions by WCRC (S488.020) and Director General (S602.037).
482. The Reporting Officers acknowledged the support of Te Mana Ora (S1901.158), Karen Lippiatt (S439.018) and Toku Tū Ake (S612.025), but recommended that the objective be amended and therefore that these submissions be rejected.
483. Poutini Ngāi Tahu (S620.098) sought a small change to the objective to acknowledge the role of natural features in hazard mitigation.

#### **Rebuttal**

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<sup>55</sup> Westpower (S547.518)

<sup>56</sup> Toka Tū Ake (S612.024)

<sup>57</sup> Manawa (S438.058)

<sup>58</sup> Westpower (S547.123)

484. The Reporting Officers advised that they preferred their amended wording for NH-O4 over that of Ms Pull (for Ngāi Tahu) as it is more directive about the built environment components being protected and creates a pathway for new natural systems and features.

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

485. In a pre-hearing letter, Ms Pull (for Poutini Ngāi Tahu) opposed the redrafted objective stating that the related policies (NH-P3 and NH-P8) are no longer strongly linked to the amended objective, and better reflect the notified objective. She also noted that the original wording of '*recognise and protect*' better reflects RMA sections 6(a), 6(c) and 6(h). In her oral evidence, Ms Pull considered that '*natural systems*' should be replaced with '*green infrastructure*' (being the term used in the NP Standards).
486. The Panel note however that Poutini Ngāi Tahu's submission on Variation 2 was significantly different to the original submission and sought the objective be reworded as follows:

*Recognise that Green Infrastructure may reduce the susceptibility of people, buildings, and regionally significant infrastructure to damage from natural hazards and can result in environmental benefits that should be enabled, enhanced, or protected.*

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

487. The Reporting Officers agreed with Ms Pull that '*natural systems and features*' should be replaced with '*green infrastructure*'.
488. The Reporting Officers ultimately proposed the following wording, which is similar to that sought by Poutini Ngāi Tahu:

*Green Infrastructure that reduce the susceptibility of people, buildings, and regionally significant infrastructure to damage from natural hazards are created, retained, or enhanced and protected.*

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

489. Having reviewed the submissions, the Panel considers the scope to totally redraft NH-O4. is provided by the Poutini Ngāi Tahu submission (S620.428), which was on Variation 2. The Panel consider that the wording recommended by the Reporting Officers is clearer and will better assist plan users to understand the intention of the objective and related policies.
490. The Panel therefore recommend the redrafted wording substantially proposed by Poutini Ngāi Tahu is adopted because we consider it provides a clearer understanding of the objective than that notified.

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

491. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission point identified in the footnote below is accepted in part and, recommend the following amendments to **Objective NH-O4**:

**NH-O4** ~~To ensure the role of hazard mitigation played by natural features that minimise impacts of hazards including wetlands and dunes is recognised and protected.~~ **Green Infrastructure that reduces the susceptibility of people, buildings, and regionally**

**significant infrastructure to damage from natural hazards are created, retained, or enhanced and protected.**<sup>59</sup>

## 7.6. Objective NH-O5

### Submissions and Further Submissions

492. Two submission points supported the objective as notified. One submission point was received seeking that the objective be amended. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.
493. As part of Variation 2, one submission point was received seeking that the objective be retained as notified. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.

### Section 42A Report

494. In their s42A Report, the Reporting Officers recommended that the submissions be accepted in part. While they considered that the intent of the objective was clear (as queried by GDC (S608.556)), they recommended that the word 'effects' is changed to 'impacts' to better reflect the wording in the related policies.
495. For the reasons above, the Reporting Officer (in their s42A Variation Report) also recommended that the Westpower submission (547.519) was accepted in part.

### Hearing Panel's Evaluation

496. The Panel has considered NH-O5, and we agree with the Reporting Officer that the replacement of 'effects' with 'impacts' improves the connection to the related policies. We recommend this change is adopted.

### Hearing Panel's Recommendation

497. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission point identified in the footnote below is accepted, and recommend the following amendments to **Objective NH-O5**:

**NH-O54:** To recognise and provide for the effects **impacts**<sup>60</sup> of climate change, and its influence on the frequency and severity of natural hazards.

## 7.7. Objective NH-O6

### Submissions and Further Submissions

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<sup>59</sup> Poutini Ngāi Tahu (S620.428)

<sup>60</sup> Grey District Council (S608.556)

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498. Six submission points were received seeking that the objective be retained as notified. One submission point was received seeking that it be amended. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.
499. As part of Variation 2, one submission point was received seeking that the objective be amended. One further submission point was received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.

### Section 42A Report

500. In their s42A Report, the Reporting Officers recommended that the submissions of Te Mana Ora (S190.160), KiwiRail (S442.045), Waka Kotahi (S450.062), GDC (S608.557 and S608.558), Toka TūAke (S612.027), Chorus et al. (S663.040) and Westpower (S547.123) be accepted in part. They recommended further amendments to the objective relying on the general submissions received on the NH Chapter for scope. They recommended the following amendments:

*Measures taken to mitigate natural hazards do not ~~create or exacerbate adverse effects on~~ other increase the risks to people, ~~property,~~ buildings and regionally significant infrastructure ~~and the environment.~~*

501. In their s42A Variation Report, the Reporting Officers recommended that the submission of Scenic Hotel Group (483.021) be rejected as including the word 'significant' (in relation to adverse effects) to the objective removes the intended purpose of the objective which is ensuring that mitigation measures have no adverse effects on people and property.

### Rebuttal

502. The Reporting Officers disagreed with the position of Mr Kennedy (for Westpower) that NH-O6 should refer to 'other' buildings because it is appropriate to consider onsite effects as well as offsite effects.

### Hearing and Submitter Evidence/Statements

503. Mr Kennedy (for Westpower) advised that the objective should refer to increased risk to 'other' buildings to ensure that the objective does not inadvertently capture the buildings or regionally significant infrastructure being constructed.

### Hearing Panel's Evaluation

504. The Panel consider that the rewording of NH-O6 recommended by the Reporting Officers is clearer and will assist plan users to better understand the intention of the objective and improve consistency with policies and rules. We have been careful to review the scope of submissions in considering the changes proposed. Broadly, we are not as convinced as the Reporting Officers that "the relief sought is wide ranging"<sup>61</sup>. We consider the submission of Westpower (S547.123) provides scope to refer to 'regionally significant infrastructure' and we consider that the submission of Katherine Gilbert (S473.019) which seeks that the "Natural Hazard Section statements need to turn into policy or rules otherwise it is just misleading. It must be made perfectly clear what is intended considering the future and climate disruption" provides sufficient scope for the changes proposed as we note this is

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<sup>61</sup> Para 290 of s42A Report on Natural Hazards

not a wholesale amendment. On this basis, we recommend the amendments are adopted and we consider they address Mr Kennedy's concerns.

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

505. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission point identified in the footnote below is accepted and recommend the following amendments to **Objective NH-O6**:

**NH-O6<sup>5</sup>** Measures taken to mitigate natural hazards do not create or exacerbate adverse effects on other **increase the risks to** people, property, **buildings and**<sup>62</sup> **regionally significant** infrastructure and the environment.<sup>63</sup>

## **7.8. New objectives**

### **Submissions and Further Submissions**

506. Twenty-three submission points were received seeking that a new objective be included. Six further submission points were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.
507. One submission point was received as part of Variation 2 seeking a new objective. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.

### **Section 42A Report**

508. A number of submitters<sup>64</sup> sought a new objective to recognise and protect the role of protective structures and works in hazard mitigation. The Reporting Officers recommended that these submissions be rejected because there are already two hazard mitigation objectives; the protection of mitigation structures and works is not needed (because there are no provisions that promote their removal); and there is no related policy and rule framework.
509. The Reporting Officers recommended that the submissions of Poutini Ngāi Tahu (S440.012) seeking an objective relating to managed retreat be rejected. This is because there is work underway at a central government level and it would be premature to predetermine that process.
510. The Reporting Officers recommended that the submissions of Westpower (S547.122) and the Director General (S602.038) be rejected because objectives NH-O1, NH-O2 and NH-O3 address the issues raised.

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<sup>62</sup> Katherine Gilbert (S473.019)

<sup>63</sup> Westpower (S547.123)

<sup>64</sup> John Brazil (S360.002), Leonie Avery (S507.004), Jared Avery (S508.004), Kyle Avery (S509.004), Avery Bros (S510.004), Bradshaw Farms (S511.004), Paul Avery (S512.004), Brett Avery (S513.004), Neil Mouat (S535.001), Martin & Co (S543.006), Chris & Jan Coll (S558.738), Geoff Volckman (S563.011), Catherine Smart-Simpson (S564.014), Chris J Coll Surveying Limited (S566.738), William McLaughlin (S567.095), Laura Coll McLaughlin (S574.738), Koiterangi Lime (S577.012), Avery Brothers (S609.004), Karamea Lime Company (S614.031) and Peter Langford (S615.031)

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511. As above, the Director General (S602.00243) submitted on the Variation 2 process seeking a new objective be added, which the Reporting Officers did not consider necessary because the coverage of the issue is provided by NH-O1 and NH-O2.

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

512. Mr Brass (for the Director General) advised that a new objective is needed to ensure that, outside of the severe hazard overlays, risk is not only minimised but is not increased. He did not think that NH-O2 (as amended) provided sufficient coverage of the issue raised to give effect to Policy 25 of the NZCPS.
513. The Panel notes we have addressed this evidence under NH-O1 and NH-O2 above.

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

514. The Panel agrees with the Reporting Officers that no further objectives are needed. We consider that the objectives (as amended) provide the necessary framework for the policies and rules.
515. We agree with Poutini Ngāi Tahu (S440.012), in part, that the issue of managed retreat needs to be addressed in pTTPP. We consider that a policy in relation to NH-O5 is appropriate because managed retreat is largely a response to climate change adaptation.

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

516. The Panel recommends no new natural hazards objectives are included in the Plan.

## **8. POLICIES**

### **8.1. General**

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

517. Three submission points were received generally supporting the policies as notified. Five submission points were received seeking amendments. Two further submission points were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.
518. Six submission points were received seeking amendments to the policies. Two submission points were received as part of Variation 2 seeking new policies. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.

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

519. A number of new policies were requested. These submissions are discussed briefly in a section below but have generally been recommended to be rejected as the matters raised are either incorporated into the existing policies as amendments (rather than as new policies) or are not within the control of the pTTPP.
520. With respect to the remaining general submissions (The Māori Trustee (S440.013), Steve Croasdale (S516.009), David Ellerm (S581.017) and Ruth Henschel (S150.001)), the Reporting Officers recommended that these are accepted in part because amendments to

the policies have been recommended, including responding better to the risk-based approach.

521. In the s42A Variation Report, the Reporting Officers recommended that the submissions of Michael Rogers (S709.001) and Mitchell Rogers (S710.002) be rejected and accepted respectively because the amendments to the policies are proposed and they will not be retained as notified and NH-P4 addresses climate change planning.

### **Rebuttal**

522. The Reporting Officers provided comment on several submissions<sup>65</sup> on the NH policies. They noted that the specific conditions are either outside the scope of the plan change process or have been addressed by other changes recommended to the provisions.

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

523. The Panel accepts the recommendation of the Reporting Officers, and we note that a number of submission points above have been addressed in the relevant policies below. We consider the policy suite, as amended below, provides the necessary coverage and response to the issues set out in the objectives.

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

524. Recommended amendments to the policies are set out below.

## **8.2. Policy NH-P1**

### **Submissions and Further Submissions**

525. Five submission points were received supporting NH-P1. One submission point was received seeking amendments. One submission point sought an appropriate definition to assist understanding the policy. Three further submission points were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.
526. Two submission points were received as part of Variation 2 supporting NH-P1. One submission point was received seeking amendments to the policy. One further submission point was received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.

### **Section 42A Report**

527. In their s42A Report and in their s42A Variation Report, the Reporting Officers recommended that all the submissions<sup>66</sup> be accepted in part because, while the policy will be retained in part, a substantial amendment was recommended to NH-P1 to outline how the risk-based approach will work across the NH Chapter.

### **Rebuttal**

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<sup>65</sup> Mary Stewart (S222.004), Mandy Deans (S549.004), Jane Whyte & Jeff Page (S467.046 – S467.050), Paparoa Track et al (S605.045), Desna Bruce Walker (S692.005), Michael Rogers (S709.001), Mitchell Rogers (S710.001 and S710.002), Kenneth Wiltshire (S749.006)

<sup>66</sup> Te Mana Ora (S190.161), Chris & Jan Coll (S558.740), Chris J Coll Surveying Limited (S566.740), William McLaughlin (S567.097), Laura Coll McLaughlin (S574.740), GDC (S608.559) and Toka Tū Ake (S612.028)

528. The Reporting Officers disagreed with the position of Mr Kennedy (for Westpower) that NH-P1(b) should be rationalised and remove reference to people's lives and wellbeing, buildings and regionally significant infrastructure because these are the things that provide context for considering the severity of a hazard.

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

529. Mr Kennedy (for Westpower) considered that clause (b) can be rationalised to just state '*considering the likelihood and consequences of natural hazard events...*' as people, buildings and regionally significant infrastructure are provided for through clause (a) and the associated definitions of hazard sensitive, less hazard sensitive and potentially hazard sensitive.

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

530. As noted above, with respect to the Toka Tū Ake submission (S612.024), the Reporting Officers confirmed that, because the reference to '*significant natural hazard*' had been removed from the chapter, the submission of Toka Tū Ake seeking that this be defined was no longer relevant.

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

531. The Panel agrees with the Reporting Officers and the GDC (S608.559) that NH-P1 needs greater clarity/explanation. Following on from the redrafting of NH-O1 that we recommended, the amended wording recommended by the Reporting Officers is appropriate to provide further explanation of the risk-based approach, specifically consideration of sensitivity, likelihood, consequence and functional and operational need.
532. The Panel recommend that NH-P1 is revised as detailed below.

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

533. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend the following amendments to **Policy NH-P1**:

**NH-P1 Identify in areas subject to natural hazards overlays areas at significant risk from natural hazards. within the District Plan and take a risk-based approach to the management of subdivision, use and development based on:**

- a. The sensitivity of the activities to the impacts of natural hazards;**
- b. The risk posed to people's lives and wellbeing, buildings and regionally significant infrastructure, by considering the likelihood and consequences of natural hazard events; and**
- c. The operational need or functional need for some activities to locate within the Natural Hazard Overlays.<sup>67</sup>**

<sup>67</sup> Grey District Council (S608.559), Jane Whyte & Jeff Page (S467.047)

### **8.3. Policy NH-P2**

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

534. Five submission points were received supporting NH-P2. Four submission points were received seeking amendments. One submission point sought an appropriate definition to assist understanding the policy. One submission point opposed NH-P2. Seven further submission points were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.
535. As part of Variation 2, three submission points were received seeking amendments to NH-P2. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.

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

536. The Reporting Officers acknowledged the support of Te Mana Ora (S190.162), Chris & Jan Coll (S558.741), Chris J Coll Surveying Limited (S566.741), William McLaughlin (S567.098) and Laura Coll McLaughlin (S574.741).
537. The Reporting Officers recommended that the submission of Silver Fern Farms (S441.015), Margaret Montgomery (S446.011), Waka Kotahi (S450.063), GDC (S608.560) and Toka Tū Ake (S612.029) be rejected as the policy does not preclude consideration of functional or operational needs; the precautionary approach is a well understood concept and should be adopted; and the need for evidence to determine the level of risk creates uncertainty in the policy and should be deleted.
538. The submission of Westpower (S547.124) is recommended to be accepted in part because the Reporting Officers agree that some additional context is required and that the policy should refer to subdivision, use and development.
539. In their s42A Variation Report, the Reporting Officers did not support further amendment of the policy to acknowledge the role of mitigation measures. They therefore recommended that the submissions of Biggles Limited (S685.008), MTP Limited (S711.008) and P&A Horrell (S715.008) be rejected.

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

540. Mr Steve Tuck (for Silver Fern Farms) provided a pre-hearing letter to the Panel acknowledging that, while the Reporting Officers recommended that the submission on NH-P2 be rejected, the concerns of Silver Fern Farms are addressed through the revisions to NH-P1.
541. Mr Kennedy (for Westpower) supported the wording requiring an evidence base to be provided to determine the level of risk, noting that *'...further rewording is required to make the policy more certain. I am concerned with the potential for a precautionary approach to be adopted for poorly or incorrectly defined/identified natural hazards which then puts the onus on a landowner/party to prove such does not exist'*.

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

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542. As noted above, with respect to the Toka Tū Ake submission (S612.024), the Reporting Officers confirmed that, because the reference to ‘*significant natural hazard*’ had been removed from the chapter, the submission of Toka Tū Ake seeking that this be defined was no longer relevant.

### Hearing Panel’s Evaluation

543. The Panel agrees with the Reporting Officer and GDC (S608.560) that the notified policy needs further clarification. We consider that the amended wording largely provides the necessary clarification, however, we consider that the words ‘*uncertain*’ would be more appropriate than ‘*unquantified*’, because some quantification may be possible, but that will not necessarily be complete or remove uncertainty.

544. The Panel recommend that NH-P2 is revised as set out below.

### Hearing Panel’s Recommendation

545. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend the following amendments to **Policy NH-P2**:

**NH-P2:** Where a natural hazard has been identified and the natural hazard risk to people and communities is **uncertain** ~~unquantified but evidence suggests that the risk is potentially significant~~, apply a precautionary approach to allowing **subdivision, use and development** ~~or use~~ of the area.<sup>68</sup>

## 8.4. Policy NH-P3

### Submissions and Further Submissions

546. Ten submission points were received supporting NH-P3. Four submission points were received seeking amendments. Five further submission points were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.
547. As part of Variation 2, one submission point was received supporting NH-P3 and two submission points were received seeking amendments. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.

### Section 42A Report

548. The Reporting Officers acknowledged the support of a number of submitters<sup>69</sup> for the notified provision but recommended that these are accepted in part due to the amendments proposed to NH-P3.

<sup>68</sup> Grey District Council (S608.560), Westpower (S547.124)

<sup>69</sup> Te Mana Ora (S190.163), Karen Lippiatt (S439.019), KiwiRail (S442.046), Waka Kotahi (450.064), Chris & Jan Coll (S558.742), Chris J Coll Surveying Limited (S566.742), William McLaughlin (S567.099), Laura Coll McLaughlin (S574.742), GDC (S608.561), Chorus et al. (S663.041)

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549. The Reporting Officers recommended that the submissions of Margaret Montgomery (S446.012) and Westpower (S547.125) be rejected because the policy is necessary to frame the related rules and reference to RSI encompasses Westpower's interests.
550. The submissions of Neil Mouat (S535.002) and Martin & Co (S543.007) sought the removal of the word 'existing' from the policy. The Reporting Officers recommended that these submissions be accepted because the policy should apply to future areas of development, not just existing ones.
551. Further amendments to NH-P3 were proposed by the Reporting Officers to reflect the wording of the objectives, remove reference to 'environment' and to better enable hazard mitigation works.
552. In the s42A Variation Report, the Reporting Officers recommended that the submission of Poutini Ngāi Tahu (S620.429) and Jane Whyte & Jeff Page (S467.048) be accepted/accepted in part noting the amendments recommended to the policy in the s42A Report.
553. The Reporting Officers recommended that the submission of Scenic Hotel Group (S483.022) be rejected because the NZCPS directs that increasing risk be avoided (rather than appropriately managed). They considered in relation to the Westpower submission that the activity of 'energy' was sufficiently covered by the definition of 'regionally significant infrastructure'.

### Hearing and Submitter Evidence/Statements

554. Mr Flewelling (for Scenic Hotel Group) did not consider that NH-P3 reflects NH-O1 or NH-O2; where NH-P3 has an avoid directive, while NH-O1 or NH-O2 require 'reduce or do not increase' and 'minimise the risk' respectively. Further, Mr Flewelling considered that the construction of hard engineering solutions should be enabled for anticipated development as well as communities and RSI. The following amendments to the wording of NH-P3 recommended by the Reporting Officers was proposed by Mr Flewelling (changes are in bold):

*When managing natural hazards:*

- a. *Promote the use of natural features, natural systems and appropriate risk management approaches in preference to hard engineering solutions in mitigating natural hazard risks; and*
  - b. ***Avoid Reduce or do not increasing** risk to people, ~~property and the environment and buildings in the Coastal Hazard Erosion and Inundation Overlay and minimise risk to people and buildings in other hazard overlays~~; while*
  - c. *Recognising that in some circumstances hard engineering solutions may be the only practical means of protecting ~~existing~~ communities and ~~critical~~ regionally significant infrastructure and enabling anticipated development; and*
  - d. *Enabling planned and funded natural hazard mitigation works within the Natural Hazard Overlays where these works are being undertaken by a Statutory Agency or their nominated contractor and these will decrease the existing risk to people's lives and wellbeing, buildings and regionally significant infrastructure.*
555. Mr Barr (for BDC) did not think additional clause (d) provided scope for emergency works or works outside a hazard overlay and should be amended accordingly. The Panel note that BDC does not appear to have submitted on NH-P3.

### Reporting Officer Reply Evidence

556. In their March Right of Reply, the Reporting Officers agreed with Mr Barr and the Snodgrass Road submitters that the words '*planned and funded*' and '*Natural Hazard Overlay*' be removed from NH-P3 and the words 'acting on their behalf' be added. These amendments provide for emergency work, works outside a hazard overlay and contractors acting on behalf of a Statutory Authority.
557. In their May Right of Reply, the Reporting Officers recommended a consequential change to NH-P3 that '*green infrastructure*' be referred to instead of '*natural features and natural systems*' (to reflect the amended wording of NH-O4).

### Hearing Panel's Evaluation

558. The Panel has considered the amendments proposed to NH-P3 by the Reporting Officer's and we agree with the amendments. We are of the view that with the amendments that we have recommended to NH-O4 and NH-O6, the amended wording of NH-P3 provides for a range of protection structures but signals a preference for green infrastructure over hard protection structures in the first instance, recognising that in some instances hard engineering solutions might be the only practical option. We agree that the reference to '*green infrastructure*' is appropriate and a consequence of our recommended revision of NH-O4.
559. The Panel notes that the amendment to clause (2) goes some way towards addressing the submission of Scenic Hotel Group by limiting the consideration to '*buildings*' rather than '*property and environment*'. The Panel also agree that a fourth limb to the policy is appropriate to enable hazard mitigation works and this addresses concerns by submitters including Scenic Hotel Group.
560. The Panel recommend that NH-P3 is revised as detailed below.

### Hearing Panel's Recommendation

561. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend the following amendments to **Policy NH-P3**:

**NH-P3:** When managing natural hazards:

- a. Promote the use of ~~natural features~~ **green infrastructure**<sup>70</sup> and appropriate risk management approaches in preference to hard engineering solutions in mitigating natural hazard risks; and
- b. Avoid increasing risk to people, ~~property and the environment~~ **and buildings**;<sup>71</sup> while
- c. Recognising that in some circumstances hard engineering solutions may be the only practical means of protecting ~~existing~~<sup>72</sup> communities and ~~critical~~ **regionally significant** infrastructure; and<sup>73</sup>

<sup>70</sup> Consequential amendment stemming from Poutini Ngāi Tahu (S620.428)

<sup>71</sup> Scenic Hotel Group (S483.022)

<sup>72</sup> Neil Mouat (S35.002), Martin & Co. (S543.007)

<sup>73</sup> Westpower (S547.125)

- d. Enabling natural hazard mitigation works where these works are being undertaken by a Statutory Agency or their nominated contractor acting on their behalf and these will decrease the existing risk to people's lives and wellbeing, buildings and regionally significant infrastructure.<sup>74</sup>

## 8.5. Policy NH-P4

### Submissions and Further Submissions

562. Six submission points were received supporting NH-P4. One submission point was received opposing the policy. Two submission points were received seeking amendments. Three further submission points were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.
563. As part of Variation 2, one submission point was received seeking amendments to NH-P4. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.

### Section 42A Report

564. The Reporting Officers recommended that the supporting submissions (S190.164, S558.011, S566.011, S567.100, S576.011, S612.030) and submission seeking amendments (Suzanne Hills (S443.019) and the Director General (S602.039)) be accepted/accepted in part because appropriate recognition of climate change is required by RMA section 7(i). For this reason, they also recommended that the submission of Margaret Montgomery (S446.013) be rejected.
565. In their s42A Report, the Reporting Officers went on to recommend a number of changes to NH-P4 on the basis of general submissions received on the NH Chapter, including amendments to improve implementation, remove reference to managed retreat (to avoid pre-empting future central government work), remove reference to coastal processes (in the jurisdiction of the regional council); remove reference to temperature changes (being a public health matter), and include reference to increased rainfall.
566. The administrative submission by the Director General on Variation 2 is also recommended to be accepted.

### Hearing Panel's Evaluation

567. The Panel generally supports the recommendation of the Reporting Officers. We agree that some of the changes recommended respond to matters that are within the control of the pTTPP and this is appropriate. In this context we agree that section 7(i) of the RMA requires decision-makers must have particular regard to the effects of climate change and therefore we consider the policy is necessary.
568. However, as noted above, the Panel consider that reference to managed retreat is appropriate and necessary for two primary reasons. Firstly, we do not consider that the pTTPP should wait for direction from central government, but rather it should proactively acknowledge that managed retreat as a climate adaptation measure. Secondly,

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<sup>74</sup> Scenic Hotel Group (S483.009)

unanticipated plan changes that support managed retreat should have policy support from the pTTPP.

569. The Panel agree that changes in the magnitude, frequency and duration of severe weather events is an outcome resulting from climate change and should be a considered by decision makers as sought by the Director General.
570. In terms of the other amendments proposed by the Reporting Officers, we have carefully considered these. Firstly, we accept that coastal processes fall under the jurisdiction of the Regional Council and that changes in temperature are not addressed by any rules. While we acknowledge there are some broad submissions, we consider these matters are more akin to errors and therefore fall under clause 16(2) of the First Schedule of the RMA. We also accept that reference to 100 years in relation to sea level change aligns with the NZCPS (a higher order document) and we note that Katherine Gilbert (S473.019) has sought that the natural hazards policies implement the Overview (which references the 100 year with 1m of sea level rise) and reflect the seriousness of future climate disruption.
571. In terms of the remaining amendments proposed by the Reporting Officers we do not consider there is scope available to delete or amend the subclauses relating to inundation, rainfall patterns and cyclonic storms and we note that some submissions such as that of Inger Perkins (S462.006) have more broader sought their inclusion.
572. The Panel recommend that NH-P4 is revised as detailed below

### **Recommendation**

573. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend the following amendments to **Policy NH-P4**:

**NH-P4** Natural hazard assessments, ~~managed retreat locations and resource consent applications~~ **for subdivision, use and development (including for managed retreat)**<sup>75</sup> will consider the impacts of climate change. In particular the following matters will be considered:

- a. Change in sea level **over the next 100 years**;<sup>76</sup>
- ~~b. Altering of coastal processes;~~<sup>77</sup>
- b. Increased inundation of low lying areas;
- ~~c. Changes in local temperatures;~~<sup>78</sup>
- c. Changes in rainfall patterns; and
- d. Increase in cyclonic storms.
- e. **Changes in the magnitude, frequency and duration of severe weather events.**<sup>79</sup>

<sup>75</sup> Consequential amendment stemming from amendment to NH-O1 and NH-O2.

<sup>76</sup> Katherine Gilbert (S473.019)

<sup>77</sup> Clause 16(2) of the RMA

<sup>78</sup> Clause 16(2) of the RMA

<sup>79</sup> Director General (S602.039)

## **8.6. Policy NH-P5**

### **Submissions and Further Submissions**

574. Seven submission points were received supporting NH-P5. Two submission points were received opposing the policy and seeking amendments. Four further submission points were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.
575. As part of Variation 2, one submission point was received seeking amendments to NH-P5. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.

### **Section 42A Report**

576. The Reporting Officers (in both the NH Chapter process and Variation 2) recommended that NH-P5 be deleted because ‘...there is currently work underway at the Central Government level to look at how managed retreat can be provided for...it would be premature to predetermine this position and how this will be provided for through central, regional and local government processes’. The submissions are accordingly recommended to be accepted or rejected.

### **Reporting Officer Reply Evidence**

577. With respect to the recommendation to delete NH-P5, the Reporting Officers (in the May Right of Reply) advised:

*We remain of the opinion that any provisions relating to managed retreat would need to be developed to support a specific proposal, and the individual requirements of that proposal. Such a proposal would have been subject to extensive engagement and would be unique to the community impacted. We see little benefit of including objectives, policies, or rules relating to managed retreat in the absence of such a comprehensive proposal/spatial plan, with the main outcome being increased fear and anxiety for communities and property owners.*

578. The Reporting Officers advised that the scope for the deletion of this policy came from Margaret Montgomery (S446.014) and Robert Burdekin (S378.003).
579. The Reporting Officers acknowledged that managed retreat was referred to elsewhere in the pTTPP, but this was a very specific scenario (the Westport Airport) without ambiguity.

### **Hearing Panel’s Evaluation**

580. The Panel agrees with the submissions of Te Mana Ora (S190.165), Chris & Jan Coll (S558.012), Chris J Coll Surveying Limited (S566.012), William McLaughlin (S567.101), Brian Anderson (S576.012), Toka Tū Ake (S612.031) and Chorus et al. (S663.042) that the policy should be retained as notified. As set out above, we consider that reference to managed retreat is appropriate and necessary for two primary reasons. Firstly, we do not consider that the pTTPP should wait for direction from central government, but rather it should proactively acknowledge that managed retreat as a climate adaptation measure. Secondly, unanticipated plan changes that support managed retreat should have policy support from the pTTPP.

581. For these reasons we recommend NH-P5 is retained as notified.

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

582. No amendments are made to NH-P5.

**NH-P5** When assessing areas suitable for managed retreat, the following matters will be considered:

- a. That the natural hazard risk of the area is less than the existing location, and
- b. The potential future need to protect the community and associated infrastructure by hazard mitigation works.

### **8.7. Policy NH-P6**

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

583. Six submission points were received supporting NH-P6. Four submission points were received seeking amendments. Two further submission points were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

584. As NH-P6 does not relate to coastal hazards, it was not considered by submitters as part of Variation 2.

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

585. The Reporting Officers recommended that NH-P6 be deleted because '*...we are recommending that the framework incorporates fault hazards within other policies (which we will address when considering these policies). This is to ensure that there is a consistent risk-based approach taken when assessing hazards of varying severity*'. They consider the submission of Toka Tū Ake (S612.032) is pertinent here as they agreed that the Earthquake Hazard Overlays and provisions as notified do not sufficiently take a risk-based approach. The submissions are accordingly recommended to be accepted or rejected.

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

586. The Panel agree with the Reporting Officer that NH-P6 should be deleted and that policies that group hazards are appropriate to ensure that there is a consistent risk-based approach taken when assessing hazards of varying severity. We accept that the submission of Toka Tū Ake provides the relevant scope for our recommendation to delete this policy and to make subsequent amendments.

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

587. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission point identified in the footnote below is accepted in part and recommends the following amendments to Policy **NH-P6**:

**NH-P6** In the Earthquake Hazard Overlay avoid:

- ~~a. Development of critical response facilities;~~
- ~~b. Community facilities, educational facilities and health facilities within 150m of the faultline;~~
- ~~c. Commercial and industrial buildings within 100m of the faultline; and~~
- ~~d. Residential activities within 50m of the faultline.<sup>80</sup>~~

## 8.8. Policy NH-P7

### Submissions and Further Submissions

588. Nine submission points were received supporting NH-P7. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.
589. As the notified version of NH-P7 do not relate to coastal hazards, it was not considered by submitters as part of Variation 2.

### Section 42A Report

590. The Reporting Officers recommended that all the submissions in support<sup>81</sup> be accepted in part as they proposed changed to NH-P7, within the scope of Federated Farmers submission (S524.044), to provide for less hazard sensitive activities in all hazard overlays. In their s32AA assessment, the Reporting Officers consider this change supports the risk-based framework and are effective and efficient (covering all overlays with one policy).

### Hearing Panel's Evaluation

591. The Panel supports the redrafting of NH-O7 as we agree LHSAs are appropriate in all hazard overlays (due to a likely negligible consequence in the event of a NH). We agree that the amendment falls within the scope of the Federated Farmers submission which sought that *"there should be provision for unoccupied farm buildings in natural hazard areas as these have a lower risk than occupied buildings"*. As above, we also support consolidation of policies to deal with multiple hazards rather than individual policies for each NH.
592. The Panel recommend the amendments set out below.

### Hearing Panel's Recommendation

593. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission point identified in the footnote below is accepted in part, and recommend the following amendments to Policy **NH-P7**:

**NH-P7: Allow unoccupied structures and buildings within the Earthquake Hazard Overlay for subdivision, use and development for Less Hazard Sensitive Activities in all Natural Hazard Overlays.<sup>82</sup>**

<sup>80</sup> Toka Tū Ake (S612.032)

<sup>81</sup> Te Mana Ora (S190.167), Margaret Montgomery (S446.016), Federated Farmers (S524.043), Westpower (S5477.130), Chris & Jan Coll (S558.014), Chris J Coll Surveying Limited (S566.014), William McLaughlin (S567.103), GDC (S608.563), Toka Tū Ake (S612.033)

<sup>82</sup> Federated Farmers (524.044)

## 8.9. Policy NH-P8

### Submissions and Further Submissions

594. Seven submission points were received supporting NH-P8. One submission point was received seeking that it be amended. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.
595. As NH-P8 does not relate to coastal hazards addressed in Variation 2, it was not considered by submitters as part of Variation 2.

### Section 42A Report

596. The Reporting Officers recommended that NH-P8 be deleted because *‘we have recommended that the Coastal Tsunami Hazard Overlay is deleted from the TTPP, due to the science that it is based on. As there is no overlay, it is appropriate that the associated provisions are also removed...’*. The submissions are accordingly recommended to be accepted or rejected.

### Hearing Panel’s Evaluation

597. The Panel has supported the recommendation to delete the Coastal Tsunami Hazard Overlay (due to a lack of data), we therefore recommend the deletion of all related provisions as a consequential amendment.

### Hearing Panel’s Recommendation

598. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnote below is accepted in part, and recommend the following amendments to Policy **NH-P8**:

~~NH P8 Avoid locating critical response facilities within the Coastal Tsunami Hazard overlay.<sup>83</sup>~~

## 8.10. Policy NH-P9

### Submissions and Further Submissions

599. Six submission points were received supporting NH-P9. One submission point was received seeking that it be amended. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.
600. As NH-P9 does not relate to coastal hazards, it was not considered by submitters as part of Variation 2.

### Section 42A Report

601. The Reporting Officers recommended that NH-P9 is deleted because *‘we have recommended that the Lake Tsunami Hazard Overlay is deleted from the TTPP, due to the*

<sup>83</sup> Consequential amendment stemming from Elley Group Ltd (S164.002), Bert Hofmans (504.008), Lindy Millar (S505.008), Avery Brothers (S609.075)

*information upon which it is based. As there is no overlay, it is appropriate that the associated provisions are also removed...'. The submissions are accordingly recommended to be accepted or rejected.*

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

602. As above, the Panel has supported the recommendation to delete the Lake Tsunami Hazard Overlay (due to a lack of data), we therefore recommend the deletion of all related provisions as a consequential amendment.

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

603. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnote below is accepted in part, and recommend the following amendments to **Policy NH-P9**:

**NH-P9:** Restrict further development of sensitive activities in the Lake Tsunami Hazard overlay.<sup>84</sup>

## **8.11. Policy NH-P10**

### **Submissions and Further Submissions**

604. Four submission points were received supporting NH-P10. Twenty-six submission points were received seeking that it be amended. Three further submission points were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.
605. As part of Variation 2, eight submission points were received seeking that it be amended. The Panel adopts the summary of the submissions and further submissions provided in the s42A variation Report.

### **Section 42A Report**

606. The Reporting Officers recommended<sup>85</sup> that supporting submissions and the submissions seeking amendments are largely support and rejected respectively. With respect to the amendments requesting that the policy be more enabling, the Reporting Officers noted:

*The Severe Flood Hazard Overlay and the Severe Earthquake Hazard Overlay reflect where a significant threat to people and property exists from these respective hazards. These are areas where new subdivision, use and development should not be enabled, unless there is an operational or functional need for it to occur. On this basis, it is not appropriate for this policy to be more enabling.*

...

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<sup>84</sup> Consequential amendment stemming from Elley Group Ltd (S164.002), Bert Hofmans (504.008), Lindy Millar (S505.008), Avery Brothers (S609.075)

<sup>85</sup> Northern Buller Communities Society Incorporated (S142.005), Te Mana Ora (S190.170), John Brazil (S360.003), Margaret Montgomery (S446.019), Leonie Avery (S507.005), Jared Avery (S508.005), Kyle Avery (S509.005), Avery Bros (S5010.005), Bradshaw Farms (S511.005), Paul Avery (S512.005), Brett Avery (S513.005), Neil Mouat (S535.003), BDC (S538.095), Martin & Co. (S543.037), Chris & Jan Coll (S558.017, S558.018 and S558.019), Chris J Coll Surveying Limited (S566.017, S566.018 and S566.019), William McLaughlin (S567.106, S567.107 and S567.108), Paparoa Track et al (605.004 and S605.039), Avery Brothers (S609.005), GDC (S608.566) and Toka Tū Ake (S612.036)

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*We generally reject these submissions, as the risk is so high in these areas that subdivision, use and development should be avoided.*

607. Conversely, the Reporting Officers recommended that the submission of the Director General (S602.040) is rejected because it would nullify any operational or functional need consideration. The same submission on Variation 2 is recommended to be rejected as well.
608. The Reporting Officers recommended that the submission of Erin Stagg (S314.003) be accepted in part, whereby consideration of adjacent properties and activities is considered with respect to the Flood Hazard Severe Overlay only.
609. In their s42A Report, the Reporting Officers went on to recommend a number of changes to NH-P10 on the basis of general submissions received on the NH Chapter, including clarifying relevant overlays and activities subject to the policy and the consideration of risk to people, buildings and RSI.
610. In their s42A Variation Report, the Reporting Officers recommended that the submission of the TTPP Committee (S171.029) is rejected as they consider that the most appropriate chapter to consider coastal hazards is in the NH Chapter.
611. Furthermore, the Reporting Officers also recommended (as above) that the submissions seeking that the policy be more enabling be rejected because *'Policy NH-P10 relates to development in the Severe Overlays, which indicate where the risk to life and property is high, even with mitigation measures, and therefore we maintain that an 'avoid' directive for future subdivision, use and development is appropriate'*.
612. Submissions from Scenic Hotel Group (S483.024) and Poutini Ngāi Tahu (S620.430) sought (respectively) for a more lenient response where there was a lack of suitable zoned land or for Māori land. The Reporting Officers noted *'the focus of this policy is those activities that have an operational or functional need to locate in a high risk area, and a lack of suitably zoned land or that the land is held as Māori land are not considered to be acceptable reasons to allow future development for sensitive activities in these areas. We recommend that these submission points be rejected'*.

### **Rebuttal**

613. The Reporting Officers did not support the position of Mr Kennedy (for Westpower) that clause (c), not (b), should refer to RSI because this would limit consideration of the impacts on RSI in severe hazard overlays.
614. However, they agreed with Mr Barr (for BDC) that NH-P10 should include the text *'unless it can be demonstrated that'* ahead of the clauses because these are required to be met in order to get through this policy test.
615. In their second rebuttal statement, the Reporting Officers recommended that reference to the Coastal Severe layer be retained in the policy to ensure that the overlay had appropriate policy coverage. Variation 2 usurped this recommendation by amending the title of the overlay.
616. In their Variation 2 rebuttal statement, the Reporting Officers provided further comment on Ms Collie's (for Biggles et al.) request to recognise a lawfully established use of an existing residential site. Specifically, they did not support the change requested because

the pTTPP will not override existing resource consents (including those that have been given effect to) and therefore such policy is unnecessary. However, the Reporting Officers raised the issue of reasonable use (Section 85(2)) and have contemplated an alternative solution (addressed in the 'new policy' section below).

617. The Reporting Officers also agreed with Ms Collie that there is a conflict between NH-O1 and NH-P10 and recommended an amendment to clause (b) that the mitigation should reduce or not increase the risk (rather than minimise).

### **Hearing and Submitter Evidence**

618. Mr Flewelling (for Scenic Hotel Group) considered that the 'avoid' directive of NH-P10 is inconsistent with the 'reduce or do not increase' directive of NH-O1. Further, he did not consider that the higher order documents only provide exemptions (in the Coastal Severe Overlay) for functional and operational needs and that there was also provision for activities that 'require the use of the natural and physical resources in the coastal environment' (Policy 3(b)(i)). Mr Flewelling concluded:

*The SVZ is the only zone that specifically provides for visitor accommodation in the Punakaiki area. Around half of all of this zoning is subject to the Coastal Hazard Erosion and Inundation (Severe) overlay. Of the remaining SVZ land, around half again is subject to other highly constraining overlays related to other chapters in the TTPP. Furthermore, it is not permitted for visitor accommodation activities to occur in the Settlement Zone in the northern extent of Punakaiki and much of this land is also subject to a suite of hazard overlays and constraints.*

*I therefore consider that it is a reasonable proposition to conclude that the hazard planning framework has essentially neutralised the ability for the majority of the underlying SVZ zoning to be developed and virtually no other viable locations within or near Punakaiki have been made available to accommodate this activity. Consequently, the direction and intent of the underlying SVZ signalled in the SVZ Chapter of the TTPP cannot actually be met.*

*Given the situation that has been created, I consider that it is reasonable to conclude that there is a functional and operational need for this specific activity to operate in this particular coastal environment because the activity can realistically only occur in this environment through the lack of any alternative operating environment being provided by TTPP.*

*Given the interpretation of the s42A Reporting officer that they consider this situation would not meet the test of being considered functional or operational need, I also consider that greater clarity of this matter should be provided in the TTPP framework now rather than left to be debated in subsequent resource consent processes. I have therefore suggested relief to this effect and also to better align with the balance of criteria within RPS Policy 3(b).*

*It is important to again emphasise that I readily agree that provision for tourism activities in the extensive parts of the SVZ that are subject to natural hazard risk should still be subject to a proposal-specific assessment through a resource consent process. Clauses (b) and (c) of the policy are conjunctive with clause (a) and require proposals to demonstrate how risks are to be mitigated and to ensure effects on adjacent sites are not exacerbated.*

619. Ms Collie (for Biggles et al.) considered that NH-P10 should provide for lawfully established uses on a residential site to overcome the scenario faced by her clients that they have undeveloped residential sections now subject to coastal hazards.
620. Mr Kennedy (for Westpower) considered that reference to RSI should be removed from clause (b) and added to clause (c).

### Reporting Officer Reply Evidence

621. In their March Right of Reply, the Reporting Officers agreed with Mr Kennedy that clause (c) should also refer to RSI.
622. In response to a request from the Panel, the Reporting Officers considered the issue of private coastal hazard mitigation structures, which submitters sought be accounted for in the coastal hazard mapping or provisions. They discounted remapping the coastline to account for these private hazard mitigation structures due to the economic cost, commercial realities, and large amount of time to undertake this process. They also noted that any option needs to ensure that the coastal hazard mitigation structure has been constructed to a sufficient standard, and that ongoing maintenance and 'topping up' will occur.
623. The Reporting Officer's considered two options, the first being to modify the NH-P10 to recognise the potential protection provided by private mitigation structures to a property. This included determining appropriate engineering design requirements for private coastal erosion mitigation structures with Mr Bosserelle and establishing some minimum requirements, which would be included in the policy to provide direction. No changes were proposed to the rule framework to reflect existing or proposed private coastal erosion mitigation structures for the reasons set out in paragraph 48 of the Right of Reply to Variation 2.
624. The second option stemmed from the Thames Coromandel District Plan which takes an approach of where a coastal mitigation structure that has been consented by the regional and/or district council has reduced the current coastal erosion to a tolerable level, the Plan allows for reasonable use of lots that already exist and are seaward of the future coastal erosion line provided criteria are met. The approach is contained within the Overview part of the Chapter, not within the rules which means that it has no statutory weight and as such could not be used to provide the relief sought by the submitters.
625. The Reporting Officers considered that there was a real risk of unintended consequences arising from Option 2 and therefore their preferred approach was to amend the policy wording as suggested in Option 1 by added a further clause as follows:

...

*d. In the Coastal Hazard Erosion and Inundation Overlay there are existing or proposed coastal erosion mitigation structures that are certified by an engineer to provide protection from coastal erosion and meeting the following design requirements:*

- *Have a batter slope of 1:2.5 or less;*
- *Must be embedded a minimum of 1.0 metres into the beach terrain, ideally reaching a level below the low water mark level;*
- *The rock just be of sound composition with a minimum density of 2.6 tonnes per cubic metre; and*
- *The rock must have a minimum D50 (median diameter) of 800mm and be well graded and constructed to form a competent lining.*

### Hearing Panel's Evaluation

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626. For PHSA and HSA, the Panel supports an avoid policy with appropriately defined exceptions. We agree with the Reporting Officer's that, given the severe nature of the identified hazards, the policy should not generally be more lenient or enabling. We agree with the Reporting Officers' drafting of NH-P10 but have recommended a small amendment to utilise the new definition *Severe Natural Hazard Overlay(s)*.
627. The Panel agree that the policy, like others, should refer to '*subdivision, use and development*' and that that RSI should be referred to as it is the effects on RSI that the policy is seeking to manage.
628. The Panel also agree with submitters that the reference to '*significant public or environmental benefit*' should be deleted. In particular, we accept that activities shouldn't need to be linked to a public good, and that the focus should be on whether the risk to the activity from the natural hazard can be mitigated.
629. The Panel agree with the new clause to specifically address the Flood Severe Overlay to ensure that the risk to adjacent properties, activities and people is not increased as a result for a proposed activity.
630. Finally, we have considered the new clause proposed by the Reporting Officers in the Right of Reply to Variation 2 to address private coastal hazard mitigation structures. While perhaps somewhat unusual, we consider this would address some of the concerns of submitters and provide a pathway where mitigation structures are provided and appropriately certified. We do however consider the wording proposed does not integrate well with the front end of the policy and we have recommended some minor amendments to address this.
631. In terms of a potential carve out for Punakaiki stemming from the Scenic Hotel Group submission, the Reporting Officers have recommended to support the issues raised in evidence by Mr Flewellen and these are addressed below in the section on new policies. The Panel agree with Scenic Hotel Group that it is important to be clear about what constitutes '*functional need*' and recognise the situation that has been identified with the Scenic Visitor Zone.
632. In the case of Māori land, the landowners are constrained in ways that freehold title owners are not in terms of available options, and therefore a pathway needs to be made available, whilst recognising the significant risks posed that will challenge design of any use or development. We therefore disagree with the conclusions of the Reporting Officers regarding their reasoning in relation to Māori land and we consider a carve out in relation to the Māori Purpose Zone in a similar way to the Scenic Visitor Zone is appropriate stemming from the Poutini Ngāi Tahu submission.
633. In terms of the evidence of Collie, the Panel note that the Reporting Officers did not support the change requested because the pTTPP will not override existing resource consents (including those that have been given effect to). However, they did raise the issue of reasonable use (section 85(2) of the RMA) and have suggested an alternative solution, which is addressed in the 'new policy' section below.
634. The Panel recommend that the amendments to NH-P10 detailed below are adopted.

### Hearing Panel's Recommendation

635. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend the following amendments to **Policy NH-P10**:

**NH-P106:** Avoid subdivision, use and development of for Potentially Hazard Sensitive and Hazard sSensitive aActivities within the Coastal Severe Hazard and Flood Severe Severe Natural Hazard oOverlays unless it can be demonstrated that:<sup>86</sup>

- a. The activity subdivision, use or development has an operational and or functional need to locate within the hazard area; and<sup>87</sup>
- b. ~~That the activity~~ The subdivision, use or development incorporates mitigation measures that reduce or do not increase the ~~minimise the of~~ existing risk to life, property and the environment, and there is significant public or environmental benefit in doing so<sup>88</sup> people, buildings and regionally significant infrastructure; and<sup>89</sup>
- c. In the Flood Severe Overlay the risk to people, buildings and regionally significant infrastructure on adjacent sites is not increased as a result of the activity proceeding; or<sup>90</sup>
- d. In the Coastal Hazard Erosion and Inundation Overlay there are existing or proposed coastal erosion mitigation structures that are certified by an engineer to provide protection from coastal erosion and meeting the following design requirements:
  - Have a batter slope of 1:2.5 or less;
  - Must be embedded a minimum of 1.0 metres into the beach terrain, ideally reaching a level below the low water mark level;
  - The rock just be of sound composition with a minimum density of 2.6 tonnes per cubic metre; and
  - The rock must have a minimum D50 (median diameter) of 800mm and be well graded and constructed to form a competent lining.<sup>91</sup>

## 8.12. Policy NH-P11

### Submissions and Further Submissions

636. Fourteen submission points were received supporting NH-P11. Five submission points were received seeking that it be amended. Two further submission points were received. The

<sup>86</sup> Consequential amendment stemming from Toka Tū Ake (S612.032)

<sup>87</sup> Consequential amendment stemming from Toka Tū Ake (S612.032)

<sup>88</sup> Erin Stagg (S314.005), Leonie Avery (S507.005), Jared Avery (S08.005), Kyle Avery (S09.005), Avery Bros (S10.005), Bradshaw Farms (S11.005), Paul Avery (S512.005), Brett Avery (S513.005), Buller District Council (S538.095), Chris & Jan Coll (S566.019), Chris J Coll Surveying Limited (S566.019), William McLaughlin (S567.108), Paparoa Track Services et al (S605.004), Avery Brothers (S609.005)

<sup>89</sup> Westpower (S547.125)

<sup>90</sup> Erin Stagg (S314.005)

<sup>91</sup> Punakaiki Farm Ltd (S721.001; S721.003; S721.005\*), Michael Rogers (S709.003), Grant Gear (S782.001), Sam Carter (S726.001), Jane Whyte & Jeff Page (S467.017), Biggles Limited (S685.007; S685.010), Mitchell Rogers (S710.001), MTP Limited (S711.007; S711.010); P & A Horrell (S715.007; S715.010), Charlie Johnson (S786.002; S786.003), Kenneth Wiltshire (S749.004).

Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

637. As part of Variation 2, two submission points were received seeking that it be amended. The Panel adopts the summary of the submissions and further submissions provided in the s42A variation Report.

### **Section 42A Report**

638. The support of submitters<sup>92</sup> was acknowledged by the Reporting Officers.
639. The recommendation of the Reporting Officers was to reject the submissions of Waka Kotahi (S450.065), GDC (S608.567) and the Director General (S602.041) because the use of ‘*minimise*’ is appropriate and can be readily achieved by a range of measures (including minimum FFL, relocatable building etc) and it would be inappropriate to refer to ‘*significant risk*’ in overlays where the risk is known to not be significant. The Director General made a similar submission on Variation 2, which was recommended to be rejected as well.
640. The submissions of Margaret Montgomery (S446.021) and Martin & Co. (S543.038) was generally accepted as the requests were generally embedded in the policy already.
641. In their s42A Report, the Reporting Officers went on to recommend a number of changes to NH-P11 on the basis of general submissions received on the NH chapter, including clarifying relevant overlays and activities subject to the policy and the consideration of risk to people, buildings and regionally significant infrastructure.
642. In the s42A Variation Report, the Reporting Officers agreed with Scenic (S483.025) that the word ‘*avoid*’ should be deleted from the policy and that the focus should be on minimising risk.

### **Rebuttal**

643. The Reporting Officers did not support the position of Mr Kennedy (for Westpower) that clause (b), not (a), should refer to regionally significant infrastructure as this would limit consideration of the impacts on regionally significant infrastructure in hazard overlays.
644. In their second rebuttal statement, the Reporting Officers recommended that reference to the Coastal Alert layer be retained in the policy to ensure that the overlay had appropriate policy coverage. Variation 2 usurped this recommendation by amending the title of the overlay.

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

645. Similar to NH-P10, Mr Kennedy (for Westpower) considered that reference to RSI should be removed from clause (b) and added to clause (c).

### **Hearing Panel’s Evaluation**

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<sup>92</sup> Te Mana Ora (S190.171), John Brazil (S360.004), Margaret Montgomery (S446.021), Leonie Avery (S507.006), Jared Avery (S508.006), Kyle Avery (S509.006), Avery Bros (S510.006), Bradshaw Farms (S511.006), Paul Avery (S512.006), Brett Avery (S513.006), Westpower (S547.133), Chris & Jan Coll (S558.022), Chris J Coll Surveying Limited (S566.022), William McLaughlin (S567.110), Avery Brothers (S609.006), Toka Tū Ake (S612.037)

646. The Panel largely agree with the amendments proposed by the Reporting Officers, although as noted previously, we do not support the use of the word ‘*minimise*’ and agree with submitters (Waka Kotahi and GDC) as in our view it creates an unreasonable burden of mitigation for developers and landowners in a situation where, as acknowledged by the Reporting Officers, the risk is not significant. Our preference is to use ‘*manage*’.
647. The Panel agree that the policy, like others, should refer to ‘*subdivision, use and development*’ and as recommended above, we consider it is appropriate for the policy to refer to RSI. We also agree that combining overlays is appropriate and better streamlines the Plan, while the other amends align with the previous policies and objectives.
648. The Panel recommend that the amendments to NH-P11 detailed below are adopted.

#### **Hearing Panel’s Recommendation**

649. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part and recommends the following amendments to **Policy NH-P11**:

**NH-P117**: ~~Allow~~ **Provide for subdivision, use and development for Potentially Hazard Sensitive Activities and Hazard Sensitive Activities** in the Land Instability Alert, ~~Coastal Setback~~<sup>93</sup> **Coastal Hazard Inundation Overlay 1, Coastal Hazard Inundation Overlay 2, and Flood Alert, Flood Susceptibility and Earthquake Susceptibility Hazard** ~~Overlays~~<sup>94</sup> where:

a. ~~Mitigation measures avoid risk to life and~~ **are incorporated to minimise mitigate the**<sup>95</sup> ~~risk to property and the environment~~ **people, buildings and regionally significant infrastructure; and**<sup>96</sup>

b. **In the Flood Susceptibility and Land Instability Overlays** ~~the risk to adjacent properties, activities and~~ **people and buildings on adjacent sites** is not increased as a result of the activity proceeding.<sup>97</sup>

### **8.13. Policy NH-P12**

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

650. Fourteen submission points were received supporting NH-P12. Thirteen submission points were received seeking that it be amended. Five further submission points were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.
651. As part of Variation 2, five submission points were received seeking that it be amended. Three further submission points were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A variation Report.

<sup>93</sup> Consequential amendment stemming from Toka Tū Ake (S612.032)

<sup>94</sup> Te Tai o Poutini Plan Committee (S171.033)

<sup>95</sup> Grey District Council (S608.567), Waka Kotahi (450.065)

<sup>96</sup> Consequential amendment stemming from Westpower (S547.125)

<sup>97</sup> Consequential amendment stemming from Erin Stagg (S314.005)

### Section 42A Report

652. The support of submitters<sup>98</sup> was acknowledged by the Reporting Officers.
653. Manawa (S438.061) supported clause (g) and sought that it be retained. A number of submissions<sup>99</sup> opposed it. The Reporting Officers recommended that these submissions be accepted and rejected accordingly. Further, the Reporting Officers recommended that the submission of Westpower (S547.134) be rejected because the technical and locational needs of activities is contemplated by the terms *functional need* and *operational need*, which are defined in the Plan using the National Planning Standards definition..
654. The Reporting Officers recommended that the submission of GDC (S608.568) be accepted and have suggested a number of clarifications to the policy in response.
655. The Director General's submission (S602.042) sought to discourage hard protection structures (consistent with the NZCPS). The Reporting Officers recommended that this submission be rejected as it would conflict with specific policies proposed for hard protection structures. The Director General made a similar submission on Variation 2, which was recommended to be rejected as well.
656. In their s42A Variation Report, the Reporting Officers recommended that the Scenic Hotel Group submission (S483.026) be accepted in part because changes recommended in the s42A Report changed 'effects' to 'impacts'. However, the Reporting Officers did not consider it appropriate to link the zone intent to a functional need or operational need.
657. Lastly, the Reporting Officers confirmed that reference to existing mitigation structures has been incorporated in the policy and therefore the submission of Biggles Limited (S685.010), MTP Limited (S711.010) and P&A Horrell (S715.010) have been addressed.

### Rebuttal

658. The Reporting Officers did not support the position of Mr Kennedy (for Westpower) that reference to '*regionally significant infrastructure*' should be removed from clause (a), but they agreed with Mr Kennedy that clause (c) should refer to '*on-site infrastructure*' (instead of regionally significant infrastructure).

### Hearing and Submitter Evidence/Statements

659. Mr Flewellen (for Scenic Hotel Group) referred to his arguments set out in relation to NH-P10 but added that '*the functional and operational need that I consider is applicable in this case is not simply a matter of linking zoning intent. Rather, it is the lack of suitable alternative zoned land following the imposition of the Coastal Hazard Erosion and Inundation Overlay coupled with the specific intent within the TPPP to recognise the tourism demand in Punakaiki and need to enable growth and development to support tourism that creates the functional need*'. Mr Flewellen recommended a specific change to NH-P12 to address the situation in Punakaiki, specifically (changes shown in bold):

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<sup>98</sup> Te Mana Ora (S190.172), John Brazil (S360.005), Manawa Energy (S438.061), Chris & Jan Coll (S558.020), Geoff Volckman (S563.012), Catherine Smart-Simpson (S564.015), Chris J Coll Surveying Limited (S566.020), William McLaughlin (S567.109), Koiterangi Lime (S577.013), Paparoa Track Services et al. (605.005), Toka Tū Ake (S612.038), Karamea Lime (S614.032), Peter Langford (S615.032), Chorus et al. (S663.043)

<sup>99</sup> Bert Hofmans (S504.003), Lindy Millar (S505.003), Leonie Avery (S507.007), Jared Avery (S508.007), Kyle Avery (S509.007), Avery Bros (S510.007), Bradshaw Farms (S511.007), Paul Avery (S512.007), Brett Avery (S513.007)

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

*(g) The functional or operational need to locate in these areas (excluding Punakaiki)*

*(h) Within Punakaiki:*

*i. The functional or operational need to locate in these areas; or*

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

660. Mr Kennedy (for Westpower) considered that reference to regionally significant infrastructure should be deleted from clauses (a) and (c), and instead clause (c) should refer to 'on-site' infrastructure.

### Hearing Panel's Evaluation

661. We agree with the Reporting Officers and GDC (S608.568) that amendment to the policy is necessary to clarify which effects are to be assessed and we support the amendments recommended by the Reporting Officers in that regard. We also consider that the list of consideration when assessing subdivision, use and development is appropriate.

662. The Panel also agree with a number of minor amendments to the policy to improve clarity are appropriate and we consider these can be made under clause 16(2) of the First Schedule of the RMA.

663. The remaining amendments stem from earlier recommendation and are therefore consequential to those amendments.

664. The carve out for Punakaiki that the Reporting Officer has recommended to support the issues raised in evidence by Mr Flewellen are discussed below in the section for new policies.

665. The Panel recommend that the amendments to NH-P12 detailed below are adopted.

### Hearing Panel's Recommendation

666. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend the following amendments to **Policy NH-P12**:

**NH-P128** When assessing the **actual and potential**<sup>100</sup> effects of activities **subdivision, use and development** in ~~the~~ ~~Natural~~ ~~Hazard~~ ~~Overlays~~ consider:<sup>101</sup>

a. The ~~effects of~~ **level of risk posed by**<sup>102</sup> natural hazards ~~on to~~ people, property and the environment **buildings and regionally significant infrastructure**;<sup>103</sup>

<sup>100</sup> Grey District Council (S608.568)

<sup>101</sup> Consequential amendment stemming from Toka Tū Ake (S612.032)

<sup>102</sup> Grey District Council (S608.568)

<sup>103</sup> Consequential amendment stemming from Westpower (S547.125)

- b. **Existing and proposed** technological and engineering mitigation measures and other non-engineered options;<sup>104</sup>
- c. The location and design of proposed sites, buildings, vehicle access, earthworks and **on-site** infrastructure in relation to **the** natural hazard risk;<sup>105</sup>
- d. The clearance or retention of vegetation or other natural features to mitigate natural hazard risk;
- e. The timing, location, scale and nature of any earthworks in relation to **the** natural hazard risk;<sup>106</sup>
- f. The potential for the proposal to exacerbate natural hazard risk, including transferring risk to any other site;
- g. The functional **need** or operational need to locate in these areas; and<sup>107</sup>
- h. Any **significant** adverse effects on the environment of any proposed mitigation measures.<sup>108</sup>

#### 8.14. Policy NH-P13

##### Submissions and Further Submissions

- 667. Two submission points were received supporting NH-P13. Twelve submission points sought it be amended. Thirteen further submission points were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.
- 668. As NH-P13 does not relate to coastal hazards addressed in Variation 2, it was not considered by submitters as part of Variation 2.

##### Section 42A Report

- 669. The support of submitters<sup>109</sup> (Te Mana Ora (S190.173), Hamish Macbeth (S307.004)) was acknowledged by the Reporting Officers.
- 670. A number of submissions<sup>110</sup> sought to make this policy more enabling, in particular the deletion of clauses (a), (b) and (c). The Reporting Officers stated:

*We disagree with these submissions. The removal of these clauses would result in an enabling policy, with no consideration of the sea level rise and flood hazard componentry that makes up this hazard overlay. It remains our view that retaining clauses (a) and (b) are appropriate. We however support the removal of clause (c) from the policy as clauses (a) and (b) make it clear that mitigation is required. The natural conclusion from the tests under clauses (a) and*

<sup>104</sup> Grey District Council (S608.568)

<sup>105</sup> Clause 16(2) of the RMA

<sup>106</sup> Clause 16(2) of the RMA

<sup>107</sup> Clause 16(2) of the RMA

<sup>108</sup> Grey District Council (S608.568)

<sup>109</sup> Te Mana Ora (S190.173), Hamish Macbeth (S307.004),

<sup>110</sup> The O'Conor Institute Trust Board (S466.010), Frank and Jo Dooley (S478.009 and S478.053), Margaret Montgomery (S446.022), The O'Conor Institute Trust Board (S466.010), Frank and Jo Dooley (S478.009 and S478.053), Bert Hofmans (S504.005), Lindy Millar (S505.005), Martin & Co. (S543.028), Chris & Jan Coll (S558.023), Chris J Coll Surveying Limited (S566.023), William McLaughlin (S567.111)(S543.028), Chris & Jan Coll (S558.023), Chris J Coll Surveying Limited (S566.023), William McLaughlin (S567.111), Snodgrass Road submitters (S619.011)

*(b) is that if these are not met, then development would not be able to occur. In this regard, it is our view that clause (c) can be removed.*

671. The Reporting Officers recommended that the submissions of Frank and Jo Dooley (S478.009 and S478.053), Toka Tū Ake (S612.039) and Snodgrass Road submitters (S619.011) be rejected on the basis that they consider that the policy is appropriately balanced between managing the risk and providing for development rights, and it works well alongside the suite of other policies.

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

672. Snodgrass Road submitters sought bespoke wording be added to the NH-P13 for subdivision, use and development on Snodgrass Road properties to be allowed in circumstances where the specified minimum floor levels are not achieved.
673. The Reporting Officers considered the changes sought are either best addressed in the rules (for example the replacement of existing buildings or the scale of additions to existing residential units allowed for) or addressed through other policies or are already addressed through the suggested wording of the policy, where the natural hazard risks need to be minimised through mitigation measures.

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

674. The Panel largely agrees with the recommendation of the Reporting Officers. We accept that clauses (a) and (b) should be retained, and we agree that clause (c) is not necessary which will partially address the concerns of submitters. However, as already noted, we do not support the use of the word 'minimised' and instead consider that 'mitigate' should be used.
675. We agree with the Reporting Officers that the policy does not need to be more enabling and that the subclauses are necessary to ensure that subdivision, use and development respond to the known natural hazard risk.

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

676. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend the following amendments to **Policy NH-P13**:

**NH-P139** Allow subdivision, use and development within the Westport Hazard Overlay where **the risk to people and buildings is mitigated from the:**<sup>111</sup>

- a. 1% annual exceedance probability flood event ~~is mitigated~~; and
- b. 1% annual recurrence interval **exceedance probability** plus 1m sea level rise coastal event. ~~are mitigated~~; and
- c. ~~Where mitigation is not achieved, further subdivision, use and development is avoided.~~<sup>112</sup>

<sup>111</sup> Consequential amendment stemming from Grey District Council (S608.559)

<sup>112</sup> The O'Connor Institute Trust Board (S466.010), Frank and Jo Dooley (S478.009 and S478.053)

## 8.15. Policy NH-P14

### Submissions and Further Submissions

677. One submission point was received supporting NH-P14 and one submission point opposed it. Three further submission points were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.
678. As NH-P14 does not relate to coastal hazards addressed in Variation 2, it was not considered by submitters as part of Variation 2.

### Section 42A Report

679. The Reporting Officers recommended that the submission of Toka Tū Ake (S612.040) be rejected because *'the inclusion of a Hokitika specific overlay is in recognition of plans to upgrade the existing seawall and flood walls, and to construct a new flood protection scheme. In light of this investment in protecting the Hokitika township, the directive of Policy NH-P14 to 'allow' subdivision, use and development where the risk from the coastal storm event is minimised is considered appropriate. We recommend rejecting this submission point'*.
680. Additional changes were proposed by the Reporting Officers to achieve plan consistency, including replacing *'mitigated'* with *'minimised'* and replacing *'annual recurrence interval'* with *'annual exceedance probability'*.

### Hearing Panel's Evaluation

681. The amendment recommended by the Reporting Officers to NH-P14 reflect earlier amendments regarding the risk to people and buildings and the Panel consider these to be consequential. As above, we do not support the use of the term *'minimised'* in the NH Chapter and have amended it to *'mitigated'* (being the wording originally notified). We support the use of AEP (instead of ARI) for reasons set out earlier that it is accept that AEP is generally considered the more user-friendly term for describing the likelihood of a flood or other extreme event. We consider this is a consequential amendment. The Panel supports the other changes to the policy recommended by the Reporting Officers.

### Hearing Panel's Recommendation

682. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend the following amendments to **Policy NH-P14**:

**NH-P140** Allow subdivision, use and development within the Hokitika Coastal Hazard Overlay where the risk to people and buildings is mitigated from the<sup>113</sup> 1% annual recurrence interval exceedance probability<sup>114</sup> coastal storm event plus 1m sea level rise

<sup>113</sup> Consequential amendment stemming from Grey District Council (S608.559)

<sup>114</sup> Consequential Amendment stemming from Frank and Jo Dooley (S478.007, S478.008 and S478.052), The O'Connor Institute Trust Board (S466.009)

~~coastal event risks are mitigated; and where mitigation is not achieved, further subdivision, use and development is avoided.~~<sup>115</sup>

## **8.16. New policies**

### **Submissions and Further Submissions**

683. Six submission points sought for new policies to be included. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report and the s42A Variation Report.

### **Section 42A Report**

684. With respect to the submissions of Frank and Jo Dooley (S478.016), Frank O'Toole (S595.004) and Anthony Eden (S578.005), the Reporting Officers recommended that these are rejected because the matters discussed sit outside the control of the pTTPP.

685. Jane Whyte & Jeff Page (S467.046) and Scenic (S483.027) made submissions seeking that new policies be included to address the mitigation requirements in the Coastal Hazards Alert Overlay and Punakaiki Scenic Visitor Zone. The Reporting Officers considered that these requests are addressed by amendments to NH-P11 and the policy suite more broadly.

686. The TTPP Committee (S171.031) and the Director General (S602.242) seek to include a policy in relation to hard protection structures. The Reporting Officers identified a tension in the two submissions and sought to resolve that tension with a new policy.

### **Rebuttal**

687. In their Variation 2 rebuttal statement, the Reporting Officers acknowledged the position of Ms Collie (for Biggles et al.) and agreed that some provisions at a policy level for the reasonable use of residential sites in severe hazard overlays should be provided. The associated rule is dealt with below.

688. With respect to the evidence of Mr Flewelling (for Scenic Hotel Group), the Reporting Officers did not support amendments to NH-P3, NHP10, NH-P12 and NH-R44; however, they supported a bespoke policy and rule acknowledging the purpose of the Scenic Visitor Zone in Punakaiki and the conflicting purpose of the NH provisions. The associated rule is dealt with below.

689. The Reporting Officers disagreed with Mr Flewelling who sought amendments to the new policy for hard protection structures citing the NZCPS, which discourages hard protection structures.

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

690. The Panel accept that the NZCPS discourages the use of hard protection structures in the coastal environment<sup>116</sup> but acknowledges that they may be the only practical means for protecting RSI<sup>117</sup>. Amended NH-P3 also provides for hard protection structures, but in our opinion needs more context. We therefore agree with the Reporting Officers that a new

<sup>115</sup> Consequential amendment stemming from Grey District Council (S608.559)

<sup>116</sup> NZCPS, Policy 25(e)

<sup>117</sup> NZCPS, Policy 27

policy (NH-P11) is necessary to capture the restrictions of the NZCPS to ensure that they are not prioritised over green infrastructure.

691. In responding to the evidence of Ms Collie, the Panel agree with the Reporting Officer that a framework providing for the reasonable use of a residential site is appropriate. We acknowledge that s85(2) of the RMA enables any person having an interest in land who considers that provisions would render that interest in the land incapable of reasonable use may challenge that provision on those grounds. We therefore consider that a framework which provides for limited development provided certain criteria are met addresses this issue. We consider that the wording of the new policy is appropriate, but we have recommended that the policy used *Severe Natural Hazard Overlay(s)* to make the policy more concise.
692. In a similar vein, we agree with the Reporting Officer that some reasonable use of the Scenic Visitor Zone in Punakaiki is appropriate. Mr Flewellen comprehensively argued that NH provisions effectively neutralise the purpose of the Special Purpose Zone and overtime will hinder the economic wellbeing of the town. We accept he has a point, and we therefore agree a limit framework is appropriate. The Panel largely agree with the wording of the policy but have amended 'minimise' to 'mitigate' to avoid an overly restrictive management approach that would restrict feasibility.
693. The Panel also recommend a similar approach to the Māori Purpose Zone as that for the Scenic Visitor Zone, because similar issues arise in relation to areas of significant indigenous biodiversity and areas of significant natural hazard, in terms of limited options for Māori land owners and a long history of constraints on development.
694. The Panel recommends that the following new policies set out below are adopted.

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

695. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend adding the following new **Policies NH-P11, NH-P12 and NH-P13**:

**NH-P11 Only allow for hard engineering natural hazards mitigation works for the reduction of the risk from coastal hazards where:**

- a. The engineering measures are needed to protect existing nationally and regionally significant infrastructure and it can be demonstrated that there is no practicable alternative;**
- b. There is a demonstrable risk to existing nationally and regionally significant infrastructure, life or private property from the coastal hazard;**
- c. The construction of the hard engineering measures will not increase the risk from Coastal Hazards on adjacent properties that are not protected by the hard engineering measures;**
- d. Hard engineering structures are designed to minimise adverse effects on the coastal environment**
- e. Adverse effects on significant natural features and systems and their function as natural defences are avoided, remedied or mitigated; and**

- f. It can be demonstrated that green infrastructure measures would not provide an appropriate level of protection in relation to the significance of the risk.<sup>118</sup>

NH-P12 Only allow for the construction of a single residential unit on an existing vacant site located within the Severe Natural Hazard Overlays, where:

- a. Locating a residential unit on a site outside of the Severe Natural Hazard Overlays is not a practicable option; and
- b. Mitigation measures are incorporated into the building to minimise the risk to life of the occupants and the structural integrity of the building in the event of a natural hazard that relates to the overlay.<sup>119</sup>

NH-P13 Only allow for the construction of buildings associated with Hazard Sensitive Activities and Potentially Hazard Sensitive Activities within the Scenic Visitor Zone and within the Coastal Hazard Erosion and Inundation Overlay, where:

- a. Locating a building on the site outside of the Coastal Hazard Erosion and Inundation Overlay is not a practicable option; and
- b. Mitigation measures are incorporated into the building to mitigate the risk to life of the occupants and maintain the structural integrity of the building from coastal erosion or coastal inundation.<sup>120</sup>

NH-P14: Only allow for the construction of buildings associated with Hazard Sensitive Activities and Potentially Hazard Sensitive Activities within a Severe Natural Hazard Overlay where:

- a. Locating a building on the site outside of the Severe Natural Hazard Overlay is not a practicable option on Māori Purpose Zone land; and
- b. Mitigation measures are incorporated into the building to mitigate the risk to life of the occupants and maintain the structural integrity of the building from the severe natural hazard.<sup>121</sup>

## 9. RULES

### 9.1. General (including Variation 2)

#### Submissions and Further Submissions

696. Eleven submission points were received generally supporting the rule package. Twenty-two submission points were received seeking amendments to the rule package (generally). One submission point was received opposing the NH rules (specifically their effect on existing activities). Four further submission points were received.

<sup>118</sup> TPPP Committee (S171.031), Director General (S602.242)

<sup>119</sup> Biggles Limited (S685.011)

<sup>120</sup> Scenic Hotel Group (S483.027)

<sup>121</sup> Te Runanga o Ngai Tahu, Te Runanga o Ngati Waewae, Te Runanga o Makaawhio (S620.427)

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

Natural Hazards - Ngā Mōreareatanga Aotūroa Chapter

697. One submission point was received (as part of the NH Chapter process) seeking the addition of a new rule.
698. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.
699. As part of Variation 2, 13 submission points were received seeking that the rule package be amended. One further submission point was received.
700. Four submission points were received as part of Variation 2 seeking the addition of new rules.
701. The Panel adopts the summary of the submissions and further submissions provided in the s42A variation Report.

### **Section 42A Report**

702. The Reporting Officers recommended that the submissions of Paul Finlay (S408.007) and Toka Tū Ake (S612.116) regarding liquefiable land be rejected because there is insufficient information to manage this risk under the pTTPP and the building consent process will be able to address any risk from liquefiable land at the time of development.
703. A number of submissions<sup>122</sup> sought general amendments to the rule package including (but not limited to) more enabling rules, prescriptive rules (including setting out alternatives), changed activity status, more discretion for processing planners and more nuance to account for individual circumstances. The Reporting Officers advised that the various submissions are effectively addressed by the risk-based approach where the higher the risk, the more restrictive the provisions, and conversely the lower the risk the more permissive the provisions. The Reporting Officers recommend these submissions are accepted in part.
704. The Reporting Officers recommended that the Scenic Hotel Group submission (S483.011) be rejected and acknowledged that the new rules will have some impact on private development rights, but that a resource consent pathway is available in most instances. Lastly, they confirmed that the rules have no effect until the decisions on the plan change are notified and that, even then, the provisions will not apply retrospectively.
705. The submissions in support (Chris & Jan Coll (S558.393 and S558.415) and Chris J Coll Surveying Limited (S566.378, S566.393, S566.415 and S566.701), and those seeking deletion of the Flood Plain Overlay<sup>123</sup> rules are recommended to be accepted.
706. The Reporting Officers did not support the new rule proposed by Chorus et al. (S663.035) to provide for critical infrastructure (or alternatively telecommunications infrastructure) as

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<sup>122</sup> Paul Finlay (S408.007), Margaret Montgomery (S446.023 and S446.040), Michael Snowden (S492.005, S492.006), BDC (S538.226), Rosalie Sampson (S539.005, S539.008, S539.009), Chris & Jan Coll (S558.100, S558.102, S558.310, S558.314, S558.338, S558.341, S558.393/ S558.415, S558.737), Geoff Volckman (S563.010), Catherine Smart-Simpson (S564.013), Chris J Coll Surveying Limited (S566.100, S566.310, S566.314, S566.338, S566.341, S566.378/ S566.393/ S566.415/ S566.701, S566.737), William McLaughlin (S567.094), Laura Coll McLaughlin (S574.737), Karamea Lime (S614.030), Peter Langford (S615.030), Koiterangi Lime (S577.011), Toka Tū Ake (S612.116)

<sup>123</sup> Benjamin and Shari Ferguson (S173.002), Kaye Leighton (S174.002), John Boyles (S175.002), David McInroe (S176.002), Ken and Robyn Ferguson (S192.001), Whittaker Ventures Ltd (S197.001 and S197.002), Paul Miles (S226.001), Hayden Kendrick (S259.001), Grant Marshall (S311.002), Debbie Bland (S325.001), Katrina McLachlan (S340.001), Lynette Heine (S354.001), David Hahn (S368.001), Mills Family Trust (S427.001), Bruce Jones (S429.001), T Croft Ltd (S460.004 and S460.006), Davis Ogilvie & Partners Ltd (S465.002), Scenic (S483.010), Michael Snowden (S492.003), Hapuka Landing Limited (S514.004), Peter Jefferies (S544.008), Martin & Lisa Kennedy (S545.008), Nick Pupich Sandy Jefferies (S546.008), Brian Anderson (S576.005), David Ellerm (S581.015, S581.016 and S581.018)

a permitted activity in all NH overlays on the basis that the EIT chapters provide the necessary relief.

707. As part of Variation 2, a number of submissions<sup>124</sup> sought general amendments to the rule package including (but not limited to) more enabling rules, changed activity status, provision for existing use rights and more nuanced rules. The Reporting Officers advised that the various submissions are effectively addressed by the risk-based approach. They highlighted that the new rules cannot apply retrospectively and will not change what is lawfully established. The Reporting Officers recommend that these submissions be variably accepted, accepted in part or rejected.
708. The Reporting Officers recommended that the submission by Scenic Hotel Group (S483.035) requesting a new rule (to address the tension between height limits / recession planes and minimum FFL) are rejected because there is no analysis to support such a rule.
709. Paparoa Track Services Ltd et al. (S605.006) made a submission seeking a new rule be included that allows for relocatable buildings as permitted activities in the Coastal Alert Overlay. The Reporting Officers considered that it was appropriate that such buildings are subject to a resource consent process (as a restricted discretionary activity) so that the mitigation measure could be appropriately assessed.
710. A new rule was sought by the Neils Beach Special Rating District Committee (S669.002), Alison Sutton (S672.003) and John Sutton (S704.002) to enable realignment of river mouths in special rating districts (specifically Neils Beach). The Reporting Officer advised *'this is a matter that would require evaluation of the proposal and the agreement of local authorities, which the submitters have not provided evidence of. Therefore, we recommend that these submissions be rejected'*.

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

711. The Panel agree with the recommendations of the Reporting Officer, specifically:
- Liquefaction has not been identified as a NH requiring managing within the region, therefore no rules relating to liquefaction are necessary.
  - The risk-based approach provides for a more enabling framework where appropriate, otherwise activities are restricted in recognition of the identified risk. In almost all circumstances, a resource consent can be applied for which provides an avenue for considering mitigation options.
  - Removal of the Flood Plan Overlay on the basis that there is a lack of scientific data supporting such an overlay.
  - The NH Chapter does not need to address activities that are provided for in other parts of the pTTPP.

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<sup>124</sup> Forest Habitats Limited (S186.005), Jane Whyte & Jeff Page (S467.051), Scenic (S483.035), Michael Snowden (S492.015), Martin & Co (S543.041 and S543.042), Paparoa Track Services et al (S605.006), Neils Beach Special Rating District Committee (S669.002), Allison Sutton (S672.003), Barbara Clark (S673.002), Biggles Limited (S685.002 and S685.011), Finn Lindqvist (S694.001), John Sutton (S704.002), MTP Limited (S711.002 and S711.011), P & A Horrell (S715.002 and S715.011), Rod Thornton (S724.001), James McElrea (S768.001)

- That an appropriate analysis of the minimum FFL on the height to boundary provisions be completed and considered through a plan change if necessary/appropriate.
- The pTTPP is not the appropriate platform for enabling the realignment of river mouths. This is best pursued through the WCRC.

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

712. Amendments and recommendations associated the above submissions are addressed in the relevant rules below. No specific recommendation are made in response to the submissions at this point.

## **9.2. Rule NH-R1**

### **Submissions and Further Submissions**

713. Five submission points were received in support of NH-R1. Thirty-four submission points were received seeking amendments to the rule and two submission points opposed it outright. Ten further submission points were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

714. As part of Variation 2, six submission points were received seeking that NH-R1 be amended. The Panel adopts the summary of the submissions and further submissions provided in the s42A variation Report.

### **Section 42A Report**

715. The support for the rule was acknowledged<sup>125</sup> by the Reporting Officers, but as changes are proposed they recommended these submissions be accepted in part.

716. The Reporting Officers agreed with GDC (S608.570) that the phrase 'Act of God' is not appropriate and that amendments are needed to clarify the default activity status (if NH-R1 is not complied with). Further, the Reporting Officers acknowledged the conflict between rules highlighted by Westpower (S547.135) and agreed this needs addressing. However, they disagreed with Waka Kotahi (S450.066) that the rule needs to address the unlawful construction of buildings (i.e. outside the property boundaries) and considered the building consent process would address this.

717. There were a large number of submissions<sup>126</sup> seeking a revision to the time period within which lawfully established buildings can be re-established. There were also two submissions (Scoped Planning and Design Limited (S617.011) and Toka Tū Ake (S612.120)) that opposed the rule and did not consider it appropriate to rebuild at all. The Reporting Officers advised:

*This is a rule that has had considerable thought and debate through the process. We completely understand the position of the submitters which seek to have this rule removed,*

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<sup>125</sup> Northern Buller Communities Society Incorporated (S142.006), Griffen & Smith Ltd (S253.006), Margaret Montgomery (S446.024), BDC (S538.096)

<sup>126</sup> WDC (S181.005), Griffen & Smith Ltd (S253.006), John Brazil (S360.006), The Māori Trustee (S440.014), Vance & Carol Boyd (S447.016), Frank and Jo Dooley (S478.010), Leonie Avery (S507.008), Jared Avery (S508.008), Kyle Avery (S509.008), Avery Bros (S510.008), Bradshaw Farms (S511.008), Paul Avery (S512.008), Brett Avery (S513.008), Neil Mouat (S535.004), Martin & Co. (S543.029), Chris & Jan Coll (S558.024), Geoff Volckman (S563.013), Catherine Smart-Simpson (S564.016), Chris J Coll Surveying Limited (S566.024), William McLaughlin (S567.112), Koiterangi Lime (S577.014 and S577.015), Avery Brothers (S609.008), Karamea Lime (S614.033), Peter Langford (S615.033), Snodgrass Road submitters (S619.012)

*and we have a degree of sympathy with this position. We are balancing this view with the fact that Territorial Authorities cannot cancel existing use rights, and that it can take a long time to rebuild due to access to materials and labour. We do not agree that buildings should be permitted to be reconstructed within the Severe Hazard Overlays where they have been destroyed or damaged by that natural hazard, as this is not reducing risk or providing for the financial well-being of property owners due to insurance implications, nor for their health and safety. However, we accept that where the risk is lower, additional time to rebuild should be provided in recognition of the constraints on resources in the recovery period from an event that has caused widespread damage.*

*In consultation with Buller District Council, it has been decided that a timeframe of three years for rebuilding was appropriate based on their experience after the 2021 Westport flood.*

718. The submissions are therefore recommended to be accepted, accepted in part or rejected accordingly.
719. The Reporting Officers concluded that *'We are finely balanced on this rule. We are open to discussing this rule further, but it is our position that the recommended wording strikes an acceptable balance between managing risk while recognising the investment that people have in their properties'*.
720. In the Variation 2 process, Penny & Mark Rounthwaite (S778.003) also sought an amendment to the timeframe in NH-R1. The Reporting Officers referred to their assessment in the s42A Report.
721. Submissions from Vance & Carol Boyd (S447.018), Michael Snowden (S492.016), Biggles Limited (S685.006), MTP Limited (S711.006) and P&A Horrell (S715.006) highlighted inconsistencies between NH-R1 and NH-R38. The Reporting Officers agreed that amendments were required to address these inconsistencies.

### **Rebuttal**

722. The Reporting Officers disagreed with Mr Kennedy (for Westpower) that *Less Hazard Sensitive Activities* should be removed from the title of NH-R1, as the rule is intended to apply to these activities.
723. In their Variation 2 rebuttal statement, the Reporting Officers responded to Ms Collie's (for Biggles et al.) and Mr Flewellen's (for Scenic Hotel Group) evidence on NH-R1. They noted that their recommendation was to increase the timeframe specified in the rule to four years and that the rule does not conflict with section 10 of the RMA.
724. The Reporting Officers agreed with Mr Kennedy (for Westpower) that the title of NH-R1 needed amending to refer to *Potentially Hazard Sensitive Activities* and *Hazard Sensitive Activities*.

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

725. Ms Collie (Biggles et al.) considered that the 2-3 year timeframe to rebuild is inadequate (although gave no alternative for the Panel to consider). Further, she considered that the replacement of buildings due only to natural disaster was an unnecessary restriction on development rights. Ms Collie also noted that the rule framework for replacing buildings in the coastal hazard overlays needs rationalising.

726. Mr Kennedy (for Westpower) advised that he was generally comfortable with the amended wording set out in the s42A Report, but that the rule need not refer to 'less hazard sensitive activities' as these are addressed elsewhere in the rule framework. Mr Kennedy considered that a five year timeframe to rebuild was appropriate.

### **Reporting Officer Reply Evidence**

727. With regards to NH-R1, the Reporting Officers (in their March Right of Reply) advised that:

*We acknowledge the evidence from the submitters that it can take time to fix residential dwellings on the West Coast due to the smaller skill pool, and the time taken to sort insurance issues. However, when setting this timeframe, we relied on the recent experience from Buller District Council that the vast majority of the houses were fixed within 3 years of the Westport floods. Given the magnitude of this flood event, and the number of properties that were impacted, I am not convinced that 5 years is a more appropriate timeframe. However, to give some relief to the submitters and in recognition of the West Coast market (as well as the potential for much larger natural hazard events such as the Alpine Fault), I have recommended the period of time for which this rule applies is increased to 4 years after the natural hazard event. I further recommend changes to clarify that the 4 years apply from the date of the natural hazard event that gives rise to the damage to the building occurring.*

728. Further, the Reporting Officers agreed with Mr Kennedy that the rule heading should exclude 'less hazard sensitive' activities. They acknowledged that this is a narrowing of scope, but that it does not disadvantage people and is therefore acceptable.

729. In their May Right of Reply, the Reporting Officers confirmed that there are no issues to the workability of NH-R1 by including the coastal hazard overlays (and deleting NH-R38 – discuss further later). Further, they addressed the exclusion of the severe hazard overlays from the rule and confirmed that this was a conscious exclusion. They advised that to include the severe hazard overlays in the rule would be inconsistent with the risk-based approach adopted in the NH Chapter. The Reporting Officers consider that the trigger events (set out in clause (2)) are appropriate, otherwise the rule would apply to the demolition of any building and be too broad.

730. The Reporting Officers again revisited the timeframe issue in their May Right of Reply and advised:

*The rule as notified had a 5 year period, and through the Natural Hazards Hearing process this was recommended to be reduced to 4 years. However, within the Coastal Hazards Variation, there was a point made that if it was 5 years, it would be the same time period as a resource consent. We can understand the logic in this, and given the submitters desire for this rule to be as flexible as possible in respect to the time that it could apply, we have changed our position and have recommended a 5 year time period.*

731. With respect to clause (4), the Reporting Officers advised that it was appropriate to change the term 'replaced' to 'substantially repaired or reconstructed' to avoid any confusion that the building needs to be completed.

732. Lastly, the Reporting Officers provided advice around the Hastings District Council buyout process following Cyclone Gabrielle. They advised that this issue is very different to the issue that NH-R1 is trying to resolve (being to rebuild on the same property, rather than a different property).

733. The Panel requested legal advice from counsel asking whether the TTPP is able to be more permissive than RMA s10, in relation to existing uses. This legal advice was received on 24 June 2025 and noted:

*Section 10 in and of itself is an 'exemption' from the district plan – essentially creating a carve out of compliance from the district plan (within the limits specified in section 10(2)(b)(i)). On its face it does not constrain or create parameters for the provisions of the district plan. Nor are we aware of any caselaw indicating that section 10 constrains a council in its rule-making functions.*

*As such, we do not consider that section 10 constrains what Rule 1 provides for, and it is open for a territorial authority to permit activities in a way that goes beyond what section 10 provides in terms of existing use rights.*

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

734. Having received legal advice that RMA s10 does not preclude NH-R1 from being included in the pTTPP, the Panel has considered the substantive merits of the rule.

735. The Panel largely agree with the recommended wording of the Reporting Officers including:

- The amendments to the title, which excludes LHSA is appropriate given they are permitted under the rule framework.
- The limited application of the rule to the less severe hazard overlays is appropriate so that HSA and PHSA are not reconstructed in high risk locations.
- The removal of language from clause (2) that has no technical basis.
- The requirement to raise the FFL of a building containing an HSA or PHSA to reduce the hazard risk.
- The five year allowance from the date of the natural hazard event.
- The requirement for the building to be the same or smaller in size (so as not to increase the risk by including more habitable rooms).

736. The Panel also accept that NH-R1 does not extinguish the protections under RMA s10 in relation to existing use rights.

737. However, the Panel consider that an amendment is needed to clause (4). Specifically, we consider that '*substantially repaired or reconstructed*' to be an uncertain term, which may give rise to legal challenge. Given the time and cost that goes into starting construction of a building, we consider that that is sufficient to have '*commenced*' a rebuild. Further, if someone has lost their house in a disaster, it would seem unfair to then require them to prove substantial repair or reconstruction once they have clearly started the rebuild. We have therefore recommended clause (4) is amended to read:

*The **rebuild has commenced** ~~destroyed/damaged building is reconstructed or replaced~~ within 5 years **after the date of the natural hazard event or fire which caused the damage or destruction to the building** ~~in all other natural hazard overlays;~~*

738. The Panel also note that the heading to NH-R1 requires amendment as pointed out by Mr Kennedy. We consider this is a Clause 16(2) of the First Schedule of the RMA matter. Similarly, adding the words "*and fire*" need to be included in clause 4 to ensure that Clause 2 and 4 speak to one another.

739. The Panel recommends the amendment set out below are adopted.

**Hearing Panel’s Recommendation**

740. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend the following amendments to **NH-R1**:

<b>All Natural Hazard Overlays and Coastal Hazard Overlays<sup>127</sup></b>	
<b>Permitted Activities</b>	
<b><del>NH-R1–Reconstruction and Replacement of Lawfully Established Buildings for Less Hazard Sensitive Activities, Potentially Hazard Sensitive Activities and Hazard Sensitive Activities in all the Natural Hazard Overlays</del><sup>128</sup></b>	
<p><b>Activity Status Permitted</b></p> <p>Where:</p> <ol style="list-style-type: none"> <li>1. This is the <del>reconstruction/replacement</del> of a <del>building</del> lawfully established <b>building</b> at the time of notification of the Plan; and<sup>129</sup></li> <li>2. The building has been destroyed or substantially damaged due to fire, <del>natural disaster or Act of God</del><sup>130</sup> <b>or a natural hazard event and is located in the Flood Susceptibility, Earthquake Susceptibility, Land Instability, Coastal Hazard Inundation Overlay 1, Coastal Hazard Inundation Overlay 2, Hokitika Coastal or Westport Hazard Overlay; and</b><sup>131</sup></li> <li>3. <del>The destroyed/damaged building is reconstructed or replaced within 2 years in the Westport Hazard, Coastal Severe and Flood Severe Overlays</del> <b>If the building is to contain a Potentially Hazard Sensitive or Hazard Sensitive Activity and is within the Flood Susceptibility, Hokitika Coastal, or Westport Hazard Overlay, then the replacement building complies with the minimum floor level requirement of the specific Natural Hazard Overlay Rules; and</b><sup>132</sup></li> <li>4. The <b>rebuild has commenced</b> <del>destroyed/damaged building is reconstructed or replaced</del> within 5 years <b>after the date of the natural hazard event or fire</b><sup>133</sup> <b>which caused the damage or destruction to the building</b> <del>in all other natural hazard overlays; and</del><sup>134</sup></li> </ol>	<p><b>Activity status where compliance not achieved:</b></p> <p>Refer to specific Natural Hazard Overlay Rules</p>

<sup>127</sup> Clause 16(2) of the RMA  
<sup>128</sup> Clause 16(2) of the RMA  
<sup>129</sup> Vance & Carol Boyd (S447.018)  
<sup>130</sup> Grey District Council (S608.570)  
<sup>131</sup> Clause 16(2) of the RMA  
<sup>132</sup> Toka Tū Ake (S612.120)  
<sup>133</sup> Clause 16(2) of the RMA  
<sup>134</sup> Snodgrass Road Submitters (S619.012)

5. <del>The reconstructed/replaced building is similar in character, intensity and scale to the building that it replaces</del> <b>The gross floor area of the replacement building is the same, or smaller than the building that was destroyed.</b> <sup>135</sup>	
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### 9.3. Rules for natural hazard mitigation structures – NH-R2, NH-R3, NH-R4 and NH-R5

#### Submissions and Further Submissions

741. As part of the NH Chapter:

1. One general submission was received on natural hazard mitigation structures. One further submission was received.
2. Six submission points were received in support of NH-R2. Six submission points were received seeking amendments to the NH-R2. One further submission point was received.
3. Four submission points were received in support of NH-R3. Seven submission points were received seeking amendments to the NH-R4. Two further submission points were received.
4. Four submission points were received in support of NH-R4 and one submission point opposed the rule. Nine submission points were received seeking amendments to the NH-R4. Three further submission points were received.
5. Six submission points were received in support of NH-R5. Two submission points were received seeking amendments to the NH-R5.
6. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

742. As part of Variation 2:

1. Two general submissions were received on natural hazard mitigation structures. One further submission was received.
2. One submission point was received seeking amendments to the NH-R2. One further submission point was received.
3. Three submission points were received seeking amendments to the NH-R3. One further submission point was received.
4. One submission point was received seeking amendments to the NH-R4. One further submission point was received.
5. One submission point was received seeking amendments to the NH-R5. One further submission point was received.

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<sup>135</sup> Toka Tū Ake (S612.041 and S612.120), Westpower (S547.135)

6. One submission point was received seeking a new rule be included for natural hazard mitigation structures.
7. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.

### **Section 42A Report**

743. In response to submissions, the Reporting Officers recommended that the rules relating to natural hazard mitigation structures be rationalised to avoid unnecessary repetition and that the content be amended to improve the provisions. These changes resulted in the Reporting Officers recommending that a number of submissions<sup>136</sup> be accepted or accepted in part because the provisions need to respond to whether the work is being undertaken by a Statutory Agency (or its contractor) or a private individual; and the provisions need to be measurable (so no reduction in public access is appropriate) and to recognise some earthworks/land disturbance must be expected.
744. However, the Reporting Officers recommended that the submission of WDC (S181.008 and S181.009), Scoped Planning and Design Limited (S617.012) be rejected because the provision needs to be measurable; other chapters of the pTTPP and the regional council plans will still apply; and works (on new structures) are limited to Statutory Agencies (or their authorised contractors).
745. At the time of writing the s42A Variation Report, the Right of Reply on the Coastal Environment Chapter had been lodged. The Reporting Officers acknowledged that there are discrepancies between the CE Chapter and the NH Chapter. They considered that these discrepancies will likely need to be tidied up through a future plan change process but have recommended some changes within the scope of submissions. These are discussed below.
746. The Reporting Officers advised that the submissions of the TTPP Committee (S171.031), the Director General (S602.248, S602.249 and S602.252) and Poutini Ngāi Tahu S620.431 had already been addressed through recommendations in the s42A Report.
747. The Director General (S602.251) sought that new structures be restricted discretionary, rather than permitted. The Reporting Officers advised that a restricted discretionary activity status would be too blunt in their opinion and would run counter to the CE Chapter.
748. Submissions by the Director General (S602.045 and S602.250) sought for a new rule to be included for the demolition and removal of hazard mitigation structures. The Reporting Officer advised *'We are supportive of this position. The District Plan is currently silent of the removal of natural hazard mitigation structures and therefore it is our understanding that as there is no catch all rule, these activities would become permitted by default. We believe it assists plan users by being more overt in identifying that it is permitted to remove these structure'*.

### **Rebuttal**

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<sup>136</sup> Forest and Bird (S560.535), WDC (S181.007), Te Mana Ora (S190.176, S190.177, S190.178, S608.572), Margaret Montgomery (S446.025, S446.026, S446.027), Waka Kotahi (S450.067, S450.068, S450.069), Jane Whyte & Jeff Page (S467.022, S467.023), BDC (S538.097, S538.099, 608.573, S538.098, S538.100), Chris & Jan Coll (S558.025, S558.026, S558.027, S558.028), Chris J Coll Surveying Limited (S566.025, S566.026, S566.027, S566.028), William McLaughlin (S567.113, S567.114, S567.116), Director General of Conservation (S602.043, 602.044, 602.046, S602.047, S602.045), Snodgrass Road Submitters (S619.013, S619.014, S619.015, S619.016), GDC (S608.571, S608.572, S608.574), Hamish Macbeth (S307.003)

749. In their Variation 2 rebuttal statement, the Reporting Officers acknowledged that NH-R2(3) and NH-R4(2) should refer to a nominated contractor '*acting on their behalf*'. They also recommended an amendment to ensure that the appropriate activity status cascade in the event of non-compliance with NH-R4.

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

750. Mr Brass (for the Director General) raised concerns with the combining and rewording of NH-R2 and NH-R3 which, as proposed by the Reporting Officers, provides for works that increase dimensions of the structure by more than 10% subject to an engineer's report. Mr Brass considers that the revised rule places too much reliance on a single engineering report, which does not consider non-engineering effects (e.g. biodiversity or cultural values) and removes Council's control of the rule. Overall, he considered '*this provision is too uncertain to be appropriate as a permitted activity, and risks giving rise to significant adverse effects in conflict with the requirements of the NZCPS and WCRPS and the Council's obligations under the RMA*'.

751. The relief sought by Mr Brass was removing the clauses relating to '*Statutory Agency*', as well as any allowance for works exceeding 10% of the existing structure.

752. Mr Brass also provided comment on NH-R4. He considered that the rule enabled Statutory Agency's to limit their own consideration of the effects of the works (due to organisational priorities or funding constraints). He stated that '*the rule would place no limits on the scale or effects of the works, so is highly permissive rather than precautionary*' and that the unconstrained nature of the rule is compounded by the absence of a definition of *Statutory Agency*. Mr Brass concluded:

*Overall, I conclude that this proposed rule is far too uncertain to be appropriate as a permitted activity. It would be highly likely to give rise to significant adverse effects on other properties and the wider environment, and would be in direct conflict with the requirements of the NZCPS and WCRPS and the Council's obligations under the RMA.*

753. The relief sought by Mr Brass was that NH-R4 be elevated to a restricted discretionary activity status.

754. Mr Kennedy (for Westpower) considered that the clauses in NH-R2 and NH-R4 providing for works by a Statutory Agency should be extended to include works by Network Utility Operators. Further, Mr Kennedy considered that RSI should be added to clause (5) of NH-R2.

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

755. In their March Right of Reply, the Reporting Officers agreed with Mr Brass and recommended that NH-R2 revert to the notified wording, which required an engineering assessment for any works to the protection structure.

756. The Reporting Officers also agreed with Mr Brass in relation to NH-R4; however, they acknowledged the conflicts with the CE Chapter, which provides for mitigation structures as permitted activities provided they are outside the High or Outstanding Coastal Character Overlay. The Reporting Officers noted that the NZCPS requires a stronger approach to mitigation structures (particularly hard engineering structures) but that it would not be appropriate to create conflicting provisions within the pTTPP. They recommended that a plan change is pursued to align better with the NZCPS on this issue.

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757. As with NH-R2, the Reporting Officer noted that there is no scope to remove the requirement for an engineering assessment in NH-R4. They recommend that this clause is reinstated.
758. In response to Panel questions, the Reporting Officers identified in their May Right of Reply that NH-R2 is intended to provide for private mitigation structures (and not just be limited to works by Statutory Agencies). They recommended that this rule be amended accordingly.

### Hearing Panel's Evaluation

759. The Panel agree with the recommendations of the Reporting Officer to rationalise the rule set applying to natural hazard mitigation structures (**NHMS**) which will involve the deletion of rule NH-R3 and the concentration of provision in NH-R2 and NH-R4.
760. The Panel does not agree that NH-R5 should be deleted as it remains the default activity status for NH-R2. This is because of the fundamental structure of the rules in the Plan, which requires a corresponding rule when an activity status is escalated. Overall, we consider these amendments will improve clarity for Plan users.
761. The Panel agree with the Reporting Officers with regard to NH-R2. We consider that a permitted activity status (defaulting to discretionary) with clearly defined and relatively conservative standards for the maintenance of NHMS to be appropriate.
762. The Panel agree with Mr Brass with respect to the activity status for new NHMS. We are of a view that a permitted status would in conflict with the WCRPS, which requires amongst other things such works to assess the potential effects on the environment, the costs and benefits to the community and effectiveness of the works or activities and the practicality of alternative means. We cannot see how this can be achieved through a permitted activity status. Further, we consider a permitted status would likely be at odds with Policy 27 of the NZCPS which requires *“where hard protection structures are considered to be necessary, ensure that the form and location of any structures are designed to minimise adverse effects on the coastal environment”*. Again, we cannot see how this can be met for certain through a permitted activity status.
763. The Panel also agree with Mr Bass that the process of an assessment by a Chartered Professional Engineer confirming that the NHMS does not increase the natural hazard risk to other properties or any other lawfully established NHMS places the decision on permitted activity status in the hands of a third party without any Council input via a consent process.
764. While we appreciate that NHMS were also notified as permitted activities in the Coastal Environment Chapter (provided they are outside an Outstanding Coastal Environment Area or High Coastal Natural Character Area), this was also a point opposed by the Director General (S602.150). Therefore, it is open to the Panel to consider the appropriateness of the CE rule, as well as the NH rule (we note that, had the Director General not explicitly submitted on that clause in CE-R4, we would likely have agreed with the Reporting Officers and prioritised plan consistency). We note that the Reporting Officer provided no direct commentary on CE-R4.2(c) and why it should be retained, we are therefore recommending that it be deleted, meaning that new NHMS will be at least a restricted discretionary activity in the CE.

765. The Panel agree with the position of Mr Brass that the appropriateness of new NHMS extends beyond just engineering considerations and we have recommended matters of discretion to reflect this, which we have taken from rule CE-R12 and the Directors General’s submission.
766. With respect to the new rule to provide for the removal of NHMS, we consider that permitted activity standards to manage this are appropriate to avoid adverse effects on the environment. Specifically, we consider that the removal should be subject to an engineering assessment (provided to Council prior to the completion of works), and that confirmation upon completion of works that the NHMS has been fully removed (and will not pose unintended risk) and any engineering requirements satisfied.
767. The Panel recommend the suite of amendments detailed below are adopted.

**Hearing Panel’s Recommendation**

768. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend- amendments to rules **NH-R2, NH-R3, NH-R4** and **NH-R5** and the introduction of a new rule as follows:

<b>NH-R2 Repairs, Maintenance and <del>Operation of any Upgrades</del> to Existing Natural Hazard Mitigation Structures<sup>137</sup></b>	
<p>Activity Status Permitted</p> <p>Where:</p> <ol style="list-style-type: none"> <li>1. The structure has been lawfully established;</li> <li>2. <del>Earthworks and land disturbance is the minimum required to undertake the activity;</del><sup>138</sup></li> <li>3. <del>There is no change to the design, texture, or form of the structure;</del><sup>139</sup></li> <li>4. <del>The materials used are the same as the original, or most significant material, or the closest equivalent provided that <del>Only</del> cleanfill is used where fill materials are part of the structure; and</del><sup>140</sup></li> </ol> <ol style="list-style-type: none"> <li>2. There is no reduction in public access;</li> <li>3. <b><u>There is no change of more than 10% to the overall dimensions, orientation, height or length of the structure from the originally lawfully established structure; and</u></b><sup>141</sup></li> <li>4. <b><u>It is accompanied by an assessment undertaken by a Chartered Professional Engineer, confirming that the natural hazard mitigation structure does not increase</u></b></li> </ol>	<p><b>Activity status where compliance not achieved:</b>  <b><u>Restricted</u></b> Discretionary</p>

<sup>137</sup> Grey District Council (S608.571)

<sup>138</sup> Director General of Conservation (S602.044), Joel and Jennifer Watkins (S65.037and S65.038)

<sup>139</sup> Joel and Jennifer Watkins (S65.037and S65.038)

<sup>140</sup> Consequential amendment from Coastal Environment Chapter Recommendation Report, NZTA Waka Kotahi S450.141

<sup>141</sup> Grey District Council (S608.571)

<p><b><u>the natural hazard risk to other properties or any other lawfully established natural hazard mitigation structure, is provided to the relevant District Council 10 working days prior to works commencing.</u></b></p> <p><b>Advice Notes:</b></p> <ol style="list-style-type: none"> <li>1. Where any natural hazard mitigation structure is also located in <b><u>the Coastal Environment or</u></b><sup>142</sup> another Overlay Chapter area as identified on the planning maps and in the Schedules One to Eight<sup>143</sup> then resource consent may be required under the relevant Overlay Chapter rules.</li> <li>2. A West Coast Regional Council resource consent may be required under the West Coast Regional Land and Water Plan and/or Regional Coastal Plan.<sup>144</sup></li> </ol>	
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<b>NH R3 Upgrades to Existing Natural Hazard Mitigation Structures</b>	
<p><b>Activity Status Permitted</b></p> <p>Where:</p> <ol style="list-style-type: none"> <li>1. The structure has been lawfully established;</li> <li>2. Earthworks and land disturbance is the minimum required to undertake the activity;</li> <li>3. There is no reduction in public access;</li> <li>4. There is no change to more than 10% to the overall dimensions, orientation or outline of structure from that originally consented structure; and</li> <li>5. It is accompanied by an assessment undertaken by a Chartered Professional Engineer confirming that the natural hazard mitigation structure does not increase the natural hazard risk to other properties or any other lawfully established natural hazard mitigation structure, and this assessment is provided to the relevant District Council 10 working days prior to works commencing.</li> </ol> <p><b>Advice Notes:</b></p> <ol style="list-style-type: none"> <li>1. Where any natural hazard mitigation structure is also located in another Overlay Chapter area as identified on the planning maps and in the schedules then resource consent may be required under the relevant Overlay Chapter rules.</li> </ol>	<p><b>Activity status where compliance not achieved:</b></p> <p>Discretionary</p>

<sup>142</sup> RMA Schedule 1, clause 16(2)

<sup>143</sup> RMA Schedule 1, clause 16(2)

<sup>144</sup> Forest and Bird (S560.535)

<p><del>2. A West Coast Regional Council resource consent may be required under the West Coast Regional Land and Water Plan and/or Regional Coastal Plan.<sup>145</sup></del></p>	
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**NH-R3 Demolition and Removal of a Natural Hazard Mitigation Structure within all zones and Overlay Areas**

<p><b>Activity Status: Permitted</b></p> <p><b>Where:</b></p> <ol style="list-style-type: none"> <li>1. <u>It is accompanied by an assessment undertaken by a Chartered Professional Engineer certifying that removal of the natural hazard mitigation structure does not increase the natural hazard risk to other properties or any other lawfully established natural hazard mitigation structure, and this certification is provided to the relevant District Council 10 working days prior to works commencing.</u></li> <li>2. <u>Within one month of the natural hazard mitigation structure being removed, evidence is provided to Council of the completion of works and certification that any engineering requirements specified in the assessment (clause 1) are fulfilled.</u></li> </ol> <p><u>Advice Note: Where any natural hazard mitigation structure is also located in the Coastal Environment or another Overlay Chapter area as identified on the planning maps and in the Schedules One to Eight then resource consent may be required under the relevant Overlay Chapter rules.<sup>146</sup></u></p>	<p><b>Activity status where compliance not achieved:</b>  <u>N/A</u></p>
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**Restricted Discretionary Activity**

**NH-R4 New Natural Hazard Mitigation Structure and Repairs, Maintenance and Operation of any Minor Upgrades to Existing Natural Hazard Mitigation Structures not meeting Permitted Activity Standards**

<p>Activity Status <del>Permitted</del> <b>Restricted discretionary<sup>147</sup></b></p> <p><b>Where:</b></p> <ol style="list-style-type: none"> <li>1. <del>The structure is located outside of any Overlay Chapter area identified in Schedules 1-8;</del><sup>148</sup></li> <li>2. <del>Earthworks and land disturbance is the minimum required to undertake the activity.</del><sup>149</sup></li> </ol>	<p><b>Activity status where compliance not achieved:</b>                  Refer to relevant Overlay Chapter rules where standard 1 is not complied with.</p>
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<sup>145</sup> Forest and Bird (S560.535), Joel and Jennifer Watkins (S65.037and S565.038)  
<sup>146</sup> Director General of Conservation (S602.045 and S602.00250)  
<sup>147</sup> Director General of Conservation (S602.00251), Scoped Planning and Design Limited (S617.012)  
<sup>148</sup> Chris & Jan Coll (S558.027), Chris J Coll Surveying Limited (S566.027)  
<sup>149</sup> Director General of Conservation (S602.046)

<p><b>1. <u>The structure is constructed by a Statutory Agency or their nominated authorised contractor acting on its behalf;</u></b></p> <p>2. There is no reduction in public access;</p> <p>3. It is accompanied by an assessment undertaken by a Chartered Professional Engineer confirming that the natural hazard mitigation structure does not increase the natural hazard risk to other properties or any other lawfully established natural hazard mitigation structure, and this assessment is provided to the relevant District Council 10 working days prior to works commencing.</p> <p><b><u>Discretion is restricted to:</u></b></p> <p><b>a. <u>The effects on people and property;</u></b></p> <p><b>b. <u>The effects on the natural character of the coastal environment;</u></b></p> <p><b>c. <u>The effects on Poutini Ngāi Tahu values; any archaeological sites, historic heritage or on any Site and Areas of Significance to Māori identified in Schedule Three;</u></b></p> <p><b>d. <u>The effects on public access;</u></b></p> <p><b>e. <u>Volume and area of earthworks;</u></b></p> <p><b>f. <u>Effects on ecosystems and indigenous biodiversity;</u></b></p> <p><b>g. <u>Measures to mitigate landscape effects; and</u></b></p> <p><b>h. <u>The functional need or operational need of the activity.</u></b><sup>150</sup></p> <p>Advice Notes:</p> <p>1. A West Coast Regional Council resource consent may be required under the West Coast Regional Land and Water Plan and/or Regional Coastal Plan.</p> <p>2. Natural Hazard Mitigation Structures constructed in the Coastal Environment, or within the Riparian Margins of Waterbodies or within areas identified in Schedules One to Eight will be subject to the provisions in the relevant Overlay Chapters.</p> <p>3. If the Overlay Chapters don't provide for this activity then NH-R4<del>3</del> prevails.</p>	<p>Discretionary—where standard 2.4 is not complied with</p>
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**Discretionary Activities**

<sup>150</sup> Director General of Conservation (S602.046)

NH-R8 Repairs, Maintenance, <del>Operation</del> , Upgrade of to Existing Natural Hazard Mitigation Structures and New Natural Hazard Mitigation Structures not meeting <del>Permitted Activity Restricted Discretionary</del> <sup>151</sup> Standards	
<p><b><u>Activity Status: Discretionary</u></b></p> <p><b><u>Advice Note:</u></b></p> <ol style="list-style-type: none"> <li>1. Where any natural hazard mitigation structure is also located in <b><u>the Coastal Environment or</u></b><sup>152</sup> another Overlay Chapter area as identified on the planning maps and in the Schedules One to Eight then resource consent may be required under the relevant Overlay Chapter rules.</li> <li>2. A West Coast Regional Council resource consent may be required under the West Coast Regional Land and Water Plan and/or Regional Coastal Plan.</li> </ol>	<p><b>Activity status where compliance not achieved:</b> N/A</p>

**9.4. Rules for the Flood Severe and Flood Susceptibility Overlays – NH-R6, NH-R7, NH-R8, NH-R9, NH-R10, NH-R11, NH-R12, NH-R13 and NH-R14**

**Submissions and Further Submissions**

769. As part of the NH Chapter:

1. Six general submission points were received on the rules for the flood overlays, as well as two further submission points.
2. Four submission points were received in support of NH-R6. Five submission points were received seeking amendments to the NH-R6.
3. Eight submission points were received in support of NH-R7. Three submission points were received seeking amendments to the NH-R7. Two further submission points were received.
4. Three submission points were received in support of NH-R8. Nineteen submission points were received seeking amendments to the NH-R8.
5. One submission point was received in support of NH-R9. Fourteen submission points were received seeking amendments to the NH-R9. One further submission point was received.
6. Five submission points were received in support of NH-R10. Four submission points were received seeking amendments to the NH-R10. Three further submission points were received.
7. Six submission points were received in support of NH-R11. Three submission points were received seeking amendments to the NH-R11.

<sup>151</sup> Director General (S602.00252)

<sup>152</sup> RMA Schedule 1, clause 16(2)

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

Natural Hazards - Ngā Mōreareatanga Aotūroa Chapter

8. Fourteen submission points were received in support of NH-R12. Eight submission points were received seeking amendments to the NH-R12. One further submission point was received.
9. Sixteen submission points were received in support of NH-R13. Five submission points were received seeking amendments to the NH-R13. One further submission point was received.
10. Two submission points were received in support of NH-R14. Thirteen submission points were received seeking amendments to the NH-R14. One further submission point was received.
11. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

770. The Flood Hazard provisions did not form part of Variation 2.

### **Section 42A Report**

771. In response to submissions, the Reporting Officers recommended that the rules relating to the flood hazard overlays be rationalised to avoid unnecessary repetition and that content be amended to improve the provisions. The various submissions on the Flood Severe Overlay and Flood Susceptibility Overlay have informed the recommended changes.
772. The Reporting Officers recommended a number of submissions be accepted/accepted in part because simplification of the rule framework is appropriate; the revisions to the provisions have resulted in a more enabling rule framework where the risk is lower; activity statuses are elevated where the hazard risk is higher; some provisions are surplus to requirements; the recommended revisions provide the necessary clarity; it is appropriate that the FFL are set as a minimum; and amendments to the matters of discretion improve consistency.
773. The Reporting Officer recommended that a number of submissions be rejected because there is no evidence to suggest that there are specific properties that should be carved out of the rules; planning for a 1% AEP flood event is common practice; there is potential for offsite effects arising from flood mitigation; some reasonable use of a site must be provided for where the risk is sufficiently low; warning systems should be administered by the local authority (not the pTTPP); the rules align with accepted practice; amendments elsewhere in the pTTPP have addressed the submission; the recommended revisions provide the necessary clarity; minimum FFL will appropriately address low level risk; and due to risk levels, it is appropriate that minimum FFL are met for extensions.
774. As part of their s42A Report, the Reporting Officers flagged that the flood hazard modelling does not account for climate change, meaning that the flood risk will increase over time. Further, they advised that the threshold between the Flood Severe and Flood Susceptibility Overlays should be reduced from 2m to 1.2m. They advised that both of these matters will need to be addressed by a future plan change.

### **Rebuttal**

775. The Reporting Officers agreed with Mr Kennedy that matter of discretion (b) should refer to '*on-site infrastructure*' instead of *RSI*.

**Reporting Officer Reply Evidence**

776. In their March Right of Reply, the Reporting Officers advised that they had reconsidered NH-R5 (new) and determined that, consistent with the comments of Mr Hofmans, the activity status could be amended to restricted discretionary (from discretionary). They recommended three matters of discretion for the new activity status.

**Hearing Panel’s Evaluation**

777. The Panel acknowledge that the amendments recommended are substantial, however, we agree with the rationalisation and risk-based approach that the Reporting Officers have recommended for the flood hazard rules. We note that a number of submitters have sought that the rules be amended to be more enabling, have sought clarification of the rules and the default statuses, and the deletion of particular clauses.

778. The Panel consider that the escalating activity statuses, permitted activity standards and matters of discretion are appropriate to manage risk within the flood hazard overlays. We consider that the intent of the rationalised rules is consistent with notified provisions (while emphasising the risk-based approach, transitioning to new terms and removing unnecessary rule escalations). We consider there is scope for the proposed amendments within the submissions on this suite of rules.

779. The Panel recommend the suite of amendments detailed below be adopted. In this instance, our recommendations as a whole are based primarily on the following submission points which we recommend are accepted or accepted in part:

Martin & Co. (S543.034 and S543.035), Margaret Montgomery (S446.028), Westland District Council (S181.010), Chris & Jan Coll (S558.031 and S558.037), Chris J Coll Surveying Limited (S566.031 and S566.037), William McLaughlin (S567.119 and S567.124), Westpower (S547.142).

**Hearing Panel’s Recommendation**

780. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommend rules **NH-R6, NH-R7, NH-R8, NH-R9, NH-R10, NH-R11, NH-R12, NH-R13** and **NH-R14** are deleted and new rules **NH-R6, NH-R7, NH-R9** and **NH-R9** are added as follows:

<b>Rules - Flood Severe Overlay and Flood Susceptibility Overlay</b>	
<b><u>Permitted Activities</u></b>	
<b><u>NH-R10 Additions to Existing Buildings and New Buildings containing Less Hazard Sensitive Activities in the Flood Susceptibility and Flood Severe Hazard Overlays</u></b>	
<b><u>Activity Status: Permitted</u></b>	<b><u>Activity status where compliance not achieved:</u></b> <b><u>N/A</u></b>

<b><u>NH-R11 Additions to Existing Buildings and New Buildings containing Potentially Hazard Sensitive Activities or Hazard Sensitive Activities in the Flood Susceptibility Hazard Overlays</u></b>	
<p><b><u>Activity Status: Permitted</u></b></p> <p><b><u>Where:</u></b></p> <ol style="list-style-type: none"> <li><b><u>Any new buildings or additions for Potentially Hazard Sensitive Activities have a minimum finished floor level of 300mm above a 1% annual exceedance probability flood event.</u></b></li> <li><b><u>Any new buildings or additions for Hazard Sensitive Activities have a minimum finished floor level of 500mm above a 1% annual exceedance probability flood event.</u></b></li> </ol>	<p><b><u>Activity status where compliance not achieved:</u></b></p> <p><b><u>Restricted Discretionary Activity</u></b></p>

<b><u>Restricted Discretionary Activities</u></b>	
<b><u>NH-R12 Additions to Existing Buildings and New Buildings containing Potentially Hazard Sensitive Activities or Hazard Sensitive Activities not meeting Permitted Activity Standards in the Flood Susceptibility Hazard Overlays</u></b>	
<p><b><u>Activity Status: Restricted Discretionary</u></b></p> <p><b><u>Discretion is restricted to:</u></b></p> <ol style="list-style-type: none"> <li><b><u>The risk to people and buildings on the site from the 1% Annual Exceedance Probability Flood and the mitigation measures to reduce this risk.</u></b></li> <li><b><u>The risk to people and buildings on adjacent properties from the 1% Annual Exceedance Probability Flood, and the mitigation measures to reduce this risk.</u></b></li> <li><b><u>The impacts of the building on the conveyance of flood waters, including any potential for flood waters to be blocked or diverted onto adjacent properties.</u></b></li> </ol>	<p><b><u>Activity status where compliance not achieved:</u></b></p> <p><b><u>N/A</u></b></p>

<b><u>NH-R13 Additions to Existing Buildings and New Buildings containing Potentially Hazard Sensitive Activities or Hazard Sensitive Activities in the Flood Severe Hazard Overlay</u></b>	
<p><b><u>Activity Status: Non-complying</u></b></p>	<p><b><u>Activity status where compliance not achieved:</u></b></p> <p><b><u>N/A</u></b></p>

<b>NH— R6</b>	<b>Repairs and Maintenance of Existing Buildings in the Flood Severe and Flood Susceptibility Overlays</b>
<p><b>Activity Status Permitted</b></p> <p>Where:</p> <p>1. Repairs and maintenance do not increase the net floor area of the building used for sensitive activities.</p>	<p><b>Activity status where compliance not achieved:</b></p> <p><b>Discretionary</b></p> <p>For Flood Susceptibility Overlay</p> <p><b>Non-complying</b></p> <p>For Flood Severe Overlay</p>
<b>NH— R7</b>	<b>New Unoccupied Buildings in the Flood Severe and Flood Susceptibility Overlays</b>
<p><b>Activity Status Permitted</b></p>	<p><b>Activity status where compliance not achieved:</b></p> <p>N/A</p>
<b>NH— R8</b>	<b>Additions and Alterations to Existing Buildings for Critical Response Facilities, and New Buildings and Additions and Alterations to Existing Buildings for Commercial and Industrial Activities in the Flood Severe and Flood Susceptibility Overlays</b>
<p><b>Activity Status Permitted</b></p> <p>Where:</p> <p>1. There are no increases in net floor area of the building used for sensitive activities; and</p> <p>2. Any new buildings or additions and alterations have a finished floor level of 300mm above a 1% annual exceedance probability (AEP) flood event.</p>	<p><b>Activity status where compliance not achieved:</b></p> <p>Restricted-Discretionary</p>
<b>NH— R9</b>	<b>Flood Severe Overlay— Additions and Alterations to Existing Buildings used for Sensitive Activities</b>
<p><b>Activity Status Permitted</b></p> <p>Where:</p> <p>1. There is no increase in net floor area for sensitive activities</p>	<p><b>Activity status where compliance not achieved:</b></p> <p>Non-complying</p>
<b>NH— R10</b>	<b>Flood Susceptibility Overlay— New Buildings used for Sensitive Activities and Additions and Alterations to Existing Buildings used for Sensitive Activities</b>

<p><b>Activity Status Permitted</b></p> <p>Where:</p> <p><del>1.</del> Any new buildings or additions and alterations have a finished floor level of 500mm above the 1% AEP flood event.</p>		<p><b>Activity status where compliance not achieved:</b></p> <p>Discretionary</p>
<p><b>NH – R11</b></p>	<p><b><del>New Critical Response Facilities and Additions and Alterations to Existing Critical Response Facilities not meeting Permitted Activity Standards in the Flood Severe and Flood Susceptibility Overlays</del></b></p>	
<p><b>Activity Status Restricted Discretionary</b></p> <p><b>Discretion is restricted to:</b></p> <p>a. Whether there is a functional or operational need for the facility to be located in a Flood Severe or Flood Susceptibility Overlay area;</p> <p>b. The effects of natural hazards on people and property;</p> <p>c. The location and design of proposed sites, buildings, vehicle access, earthworks and infrastructure in relation to natural hazard risk;</p> <p>d. Any freeboard requirements to be included;</p> <p>e. The management of vegetation or other natural features to mitigate natural hazard risk;</p> <p>f. The timing, location, scale and nature of any earthworks in relation to natural hazard risk;</p> <p>g. The potential for the proposal to exacerbate natural hazard risk, including transferring risk to any other site;</p> <p>h. How the activity incorporates mitigation of risk to life, property and the environment; and</p> <p>i. Any adverse effects on the environment of any proposed natural hazard mitigation measures.</p>		<p><b>Activity status where compliance not achieved:</b></p> <p>N/A</p>
<p><b>NH – R12</b></p>	<p><b><del>New Commercial and Industrial Buildings and Additions and Alterations to Existing Commercial and Industrial Buildings not meeting Permitted Activity Standards in the Flood Severe and Flood Susceptibility Overlays</del></b></p>	

<b>Activity Status Restricted Discretionary</b> <b>Discretion is restricted to:</b> <ul style="list-style-type: none"> <li>a. The effects of natural hazards on people and property;</li> <li>b. The location and design of proposed sites, buildings, vehicle access, earthworks and infrastructure in relation to natural hazard risk;</li> <li>c. Any freeboard requirements to be included;</li> <li>d. The management of vegetation or other natural features to mitigate natural hazard risk;</li> <li>e. The timing, location, scale and nature of any earthworks in relation to natural hazard risk;</li> <li>f. The potential for the proposal to exacerbate natural hazard risk, including transferring risk to any other site; and</li> <li>g. Any adverse effects on the environment of any proposed natural hazard mitigation measures.</li> </ul>		<b>Activity status where compliance not achieved:</b>  N/A
<b>Discretionary Activities</b>		
<b>NH – R13</b>		<b>Flood Susceptibility Overlay – Additions and Alterations to Existing Buildings used for Sensitive Activities not meeting Permitted Activity standards and New Buildings used for Sensitive Activities not meeting Permitted Activity standards</b>
<b>Activity Status Discretionary</b>		<b>Activity status where compliance not achieved:</b>  N/A
<b>Non-complying Activities</b>		
<b>NH – R14</b>		<b>Flood Severe Overlay – Additions and Alterations to Existing Buildings used for Sensitive Activities not meeting Permitted Activity standards and New Buildings used for Sensitive Activities</b>
<b>Activity Status Non-complying</b>		<b>Activity status where compliance not achieved:</b>  N/A

9.5. Rules for the Earthquake Hazard Overlays – NH-R15, NH-R16, NH-R17, NH-R18, NH-R19, NH-R20, NH-R21, NH-R22, NH-R23, NH-R24, NH-R25, NH-R26, NH-R27, NH-R28, NH-R29, NH-R30, NH-R31 and NH-R32

**Submissions and Further Submissions**

781. As part of the NH Chapter:

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

### Natural Hazards - Ngā Mōreareatanga Aotūroa Chapter

1. Three general submission points were received on the rules for the earthquake overlays, as well as one further submission point.
2. One submission point was received in support of NH-R15. Five submission points were received seeking amendments to the NH-R15. One further submission point was received.
3. Three submission points were received in support of NH-R16. Two submission points were received seeking amendments to the NH-R16.
4. Two submission points were received in support of NH-R17. Five submission points were received seeking amendments to the NH-R17.
5. One submission point was received in support of NH-R18. Fourteen submission points were received seeking amendments to the NH-R18. One further submission point was received.
6. One submission point was received in support of NH-R19. Two submission points were received seeking amendments to the NH-R19. One further submission point was received.
7. One submission point was received in support of NH-R20. Four submission points were received seeking amendments to the NH-R20.
8. One submission point was received in support of NH-R21. Six submission points were received seeking amendments to the NH-R21.
9. One submission point was received in support of NH-R22. Three submission points were received seeking amendments to the NH-R22.
10. Two submission points were received in support of NH-R23. One submission point was received seeking amendments to the NH-R23.
11. One submission point was received in support of NH-R24. Seven submission points were received seeking amendments to the NH-R24. One further submission point was received.
12. Two submission points were received in support of NH-R25. Five submission points were received seeking amendments to the NH-R25.
13. Two submission points were received in support of NH-R26. Three submission points were received seeking amendments to the NH-R26. One further submission point was received.
14. One submission point was received in support of NH-R27. Five submission points were received seeking amendments to the NH-R27. One further submission point was received.
15. Two submission points were received in support of NH-R28. Five submission points were received seeking amendments to the NH-R28.
16. One submission point was received in support of NH-R29. Two submission points were received seeking amendments to the NH-R29.

17. One submission point was received in support of NH-R30. Six submission points were received seeking amendments to the NH-R30. One further submission point was received.
18. One submission point was received in support of NH-R31. Seven submission points were received seeking amendments to the NH-R31.
19. One submission point was received in support of NH-R32. Three submission points were received seeking amendments to the NH-R32.
20. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

782. The Earthquake Hazard provisions did not form part of Variation 2.

### **Section 42A Report**

783. The Reporting Officers recommended substantial changes to the rules applying to the earthquake hazard overlays to simplify the provisions, respond to new mapping (received after notification of the pTTPP) and align with the MfE Active Fault Guidelines. The recommendation of the Reporting Officers is to delete NH-R15 – NH-32 and replace with five new rules. The Reporting Officers advised that they have taken into account the submissions received on NH-R15 – NH-32 when drafting the five new rules. Importantly, the Reporting Officers noted that:

*Toka Tū Ake (S612.054; S612.055; S612.058; S612.059; S612.061; S612.062; S612.064 and S612.065) requests that the Earthquake Hazard Zones or overlays be amended to align with the MfE guidelines. We agree, and as discussed previously in Section 7.3 the provisions for the Earthquake Hazard Overlays as notified were superfluous and did not adequately reflect the uncertainty in the location of fault rupture and deformation. In addition, new evidence was received from GNS Science that further refined the overlays, resulting in a significant reduction in the number of properties impacted by the overlays.*

784. The Reporting Officers recommended a number of submissions<sup>153</sup> be accepted/accepted in part because the activity status has been adjusted to respond to the level of risk; appropriate matters of discretion have been included to manage risk in Fault Avoidance Overlay (where risk is lower); it is appropriate to provide for Less Hazard Sensitive Buildings as permitted activities; the intent of some notified rules will be carried over in the new provisions; and the submission improves clarity and consistency.

785. The Reporting Officers recommended a number of submissions<sup>154</sup> be rejected because the rule has been deleted and the matter addressed in another way through the suite of NH

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<sup>153</sup> Toka Tū Ake (S612.054; S612.055; S612.058; S612.059; S612.061; S612.062; S612.064, S612.065, S612.051; S612.052; S612.053; S612.057; S612.060; S612.063, S612.049, S612.050, S612.056), Totally Tourism Limited (S449.013, S449.001, S449.011, S449.014, S449.015), Buller District Council (S538.110; S538.111; S538.112; S538.113; S538.114; S538.115; S538.116; S538.117; S538.118; S538.119, S538.114, S538.115, S538.116; S538.117; S538.118; S538.119, S538.128, S538.120; S538.121; S538.132; S538.136; S538.140, S538.122; S538.129; S538.137, S538.123; S538.133; S538.137; S538.141, S538.145; S538.147, S538.124; S538.130, S538.146, S538.125; S538.134; S538.138; S538.142, S538.126; S538.131, S538.127; S538.135; S538.139; S538.143; S538.148), Grey District Council (S608.580; S608.582; S608.583; S608.584; S608.585; S608.586, S608.581, S608.585, S608.586, S608.587, S608.588, S608.589, S608.590), Te Mana Ora (S190.191, S190.192, S190.193, S190.194, S190.195, S190.196, S190.197, S190.198, S190.199, S190.200, S190.201, S190.202, S190.203, S190.204, S190.205, S190.206, S190.207), Westpower (S547.148), Foodstuffs (S46.044)

Scenic Hotel Group (S483.012), Westpower (S547.145; S547.146; S547.147; S547.148; S547.149; S547.150; S547.152; S547.153; S547.156; S547.157; S547.158, S547.144), Te Mana Ora (S190.190)

<sup>154</sup> Scenic Hotel Group (S483.012), Westpower (S547.145; S547.146; S547.147; S547.148; S547.149; S547.150; S547.152; S547.153; S547.156; S547.157; S547.158, S547.144), Te Mana Ora (S190.190)

provisions; engineering solutions do not necessarily reduce the risk property; and the submission has been addressed elsewhere in the plan provisions.

### **Rebuttal**

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

786. Mr Kennedy (for Westpower) considered that matter of discretion (b) in NH-R9 (new) should be amended to refer to onsite/ancillary infrastructure, rather than regionally significant infrastructure.

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

787. The Panel again agree with the rationalisation and risk-based approach that the Reporting Officers have recommended for the earthquake hazard rules. We consider the rationalisation will help Plan users better navigate the provisions. We also agree with Toka Tū Ake (S612.054; S612.055; S612.058; S612.059; S612.061; S612.062; S612.064 and S612.065) that the overlays and provisions should be consistent with the MfE Guidelines.

788. The Panel consider that the escalating activity statuses, permitted activity standards and matters of discretion are appropriate to manage risk within the earthquake hazard overlays. We consider that the intent of the rationalised rules is consistent with notified provisions (while emphasising the risk-based approach, transitioning to new terms and removing unnecessary rule escalations). We consider that there is scope for the proposed amendments.

789. Lastly, we note that given the role that a *Critical Response Facility* will play in a NH response, it is appropriate that they are prohibited in Earthquake Severe Hazard Overlay (noting that investigations into AF8 signal significant surface displacement).

790. The Panel recommend the suite of amendments detailed below be adopted. In this instance our recommendations as a whole are based primarily on the following submission points which we recommend are accepted or accepted in part:

Toka Tū Ake (S612.054; S612.055; S612.058; S612.059; S612.061; S612.062; S612.064 and S612.065), Grey District Council (S608.580; S608.582; S608.583; S608.584; S608.585; S608.586, S608.587, S608.588, S608.589 and S608.590), Totally Tourism Limited (S449.01, S449.011, S449.013, S449.014 and S449.015), Buller District Council (S538.110; S538.111; S538.112; S538.113; S538.114; S538.115, S538.116; S538.117; S538.118, S538.119, S538.120, S538.121, S538.122, S538.123, S538.124, S538.125, S538.126, S538.127, S538.128, S538.129, S538.130, S538.131, S538.132; S538.133, S538.134, S538.135, S538.136, S538.137, S538.138, S538.139, S538.140, S538.141, S538.142, S538.143 and S538.148), Westpower (S547.148) and Foodstuffs (S46.044).

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

791. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommend rules **NH-R15, NH-R16, NH-R17, NH-R18, NH-R19, NH-R20, NH-R21, NH-R22, NH-R23, NH-R24, NH-R25, NH-R26, NH-R27, NH-R28, NH-R29, NH-R30, NH-R31 and NH-R32** are deleted and new rules **NH-R10, NH-R11, NH-R12 and NH-R13** are added as follows:

<b>Rules – Earthquake Susceptibility and Earthquake Severe Hazard Overlays - All</b>	
<b>Permitted Activities – All Earthquake Hazard Overlays</b>	
<b>Permitted Activities</b>	
<b><u>NH-R14 Additions to Existing Buildings and New Buildings containing Less Hazard Sensitive Activities in the Earthquake Susceptibility and Earthquake Severe Hazard Overlays</u></b>	
<b><u>Activity Status: Permitted</u></b>	<b><u>Activity status where compliance not achieved:</u></b> <b><u>N/A</u></b>

<b><u>NH-R15 Additions to Existing Buildings containing Potentially Hazard Sensitive Activities or Hazard Sensitive Activities in the Earthquake Susceptibility and Earthquake Severe Hazard Overlays</u></b>	
<b><u>Activity Status: Restricted Discretionary</u></b> <b><u>Where:</u></b> <b><u>1. The additions are not to a Critical Response Facility.</u></b> <b><u>Discretion is restricted to:</u></b> <b><u>a. The location of the addition or building in relation to the fault trace; and</u></b> <b><u>b. Consideration of the mitigation measures incorporated into the addition to minimise the risk to life to the occupants and maintain the structural integrity of the building in the event of a fault rupture.</u></b>	<b><u>Activity status where compliance not achieved:</u></b> <b><u>Non-complying</u></b>

<b><u>NH-R16 New Buildings containing Potentially Hazard Sensitive Activities or Hazard Sensitive Activities in the Earthquake Susceptibility Hazard Overlays</u></b>	
<b><u>Activity Status: Restricted Discretionary</u></b> <b><u>Where:</u></b> <b><u>1. A hazard risk assessment undertaken by a suitably qualified and experienced geotechnical or geological specialist is provided; and</u></b> <b><u>2. The new building is not a Critical Response Facility.</u></b> <b><u>Discretion is restricted to:</u></b> <b><u>a. The recommendations of the hazard risk assessment;</u></b> <b><u>b. The location, design and construction materials of the building, vehicle access and regionally significant infrastructure in relation to the likely fault deformation area; and</u></b>	<b><u>Activity status where compliance not achieved:</u></b> <b><u>Non-complying</u></b>

<p>c. <u>Consideration of the mitigation measures incorporated into the building to minimise the risk to life to the occupants and maintain the structural integrity of the building in the event of a fault rupture.</u></p>	
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**NH-R17 New Buildings containing Potentially Hazard Sensitive Activities or Hazard Sensitive Activities in the Earthquake Severe Hazard Overlay**

<p><b>Activity Status: Non-complying</b>  <b>Where:</b>                  1. <u>The new building is not a Critical Response Facility.</u></p>	<p><b>Activity status where compliance not achieved: Prohibited</b></p>
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**NH—R15 Repairs, Maintenance, Additions and Alterations to Existing and New Unoccupied Buildings in the Earthquake Hazard Overlays— all buffer widths**

<p><b>Activity Status Permitted</b>  <b>Where:</b>                  1. These are lawfully established or a Permitted Activity for the zone; and                  2. Any unoccupied building does not form part of the buildings for critical response facilities.</p>	<p><b>Activity status where compliance not achieved:</b>                  Non-complying</p>
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**NH—R16 Additions and Alterations to Existing Buildings and New Buildings Used for Critical Response Facilities in Brownfield areas in the Earthquake Hazard Overlays— all buffer widths**

<p><b>Activity Status Non-complying</b></p>	<p><b>Activity status where compliance not achieved:</b>                  N/A</p>
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**Prohibited Activities**

**NH—R17 New Buildings Used for Critical Response Facilities in Greenfield areas in the Earthquake Hazard Overlays— all buffer widths**

**No application for resource consent will be accepted for this activity**

**Rules— Earthquake Hazard Overlay— 20m**

**Permitted Activities**

**NH—R18 Repairs and Maintenance to Existing Occupied Buildings in the Earthquake Hazard Overlay— 20m**

<b>Activity Status Permitted</b>		<b>Activity status where compliance not achieved:</b>
Where: 1. There is no increase in the net floor area of the building used for a Critical Response Facility.		Non-complying
<b>Non-complying Activities</b>		
<b>NH – R19</b>	<b>Repairs and Maintenance and Additions and Alterations to Existing Occupied Buildings not meeting Permitted Activity Standards and New Occupied Buildings in the Earthquake Hazard Overlay – 20m</b>	
<b>Activity Status Non-complying</b>		<b>Activity status where compliance not achieved:</b>
		N/A
<b>Rules – Earthquake Hazard Overlay – 50m</b>		
<b>Permitted Activities</b>		
<b>NH – R20</b>	<b>Repairs and Maintenance to Existing Occupied Buildings in the Earthquake Hazard Overlay – 50m</b>	
<b>Activity Status Permitted</b>		<b>Activity status where compliance not achieved:</b>
Where: 1. There is no increase in the area of the building used for a Critical Response Facility.		<b>Non-complying</b>  For critical response facilities in brownfield areas under Rule NH-R16  <b>Prohibited</b>  For critical response facilities in greenfield areas under Rule NH- R17.
<b>Restricted Discretionary Activities</b>		
<b>NH – R21</b>	<b>Additions and Alterations to Existing Residential Buildings and New Residential Buildings in the Earthquake Hazard Overlay – 50m</b>	

<p><b>Activity Status Restricted Discretionary</b></p> <p>Where:</p> <p>1. These are accompanied by a hazard risk assessment undertaken by a suitably qualified and experienced natural hazards practitioner.</p> <p><b>Discretion is restricted to:</b></p> <ul style="list-style-type: none"> <li>Implementation of recommendations in accompanying hazard risk assessment;</li> <li>Risk to life, property and the environment from the proposal and any measures to mitigate those risks;</li> <li>The location and design of proposed buildings, vehicle access and infrastructure in relation to natural hazard risk; and</li> <li>Any adverse effect on the environment of any proposed natural hazard mitigation measures.</li> </ul>		<p><b>Activity status where compliance not achieved:</b></p> <p>Discretionary</p>
<p><b>Discretionary Activities</b></p>		
<p><b>NH – R22</b></p>	<p><b>Additions and Alterations to Existing Residential Buildings and New Residential Buildings not meeting Restricted Discretionary Standards, Additions and Alterations to Existing Commercial and Industrial Buildings and New Commercial and Industrial Buildings in the Earthquake Hazard Overlay – 50m</b></p>	
<p><b>Activity Status Discretionary</b></p>		<p><b>Activity status where compliance not achieved:</b></p> <p>N/A</p>
<p><b>Non-complying Activities</b></p>		
<p><b>NH – R23</b></p>	<p><b>Additions and Alterations to Existing Community Facilities, Education Facilities and Health Facilities and New Community Facilities, Education Facilities and Health Facilities in the Earthquake Hazard Overlay – 50m</b></p>	
<p><b>Activity Status Non-complying</b></p>		<p><b>Activity status where compliance not achieved:</b></p> <p>N/A</p>
<p><b>Rules – Earthquake Hazard Overlay – 100m</b></p>		
<p><b>Permitted Activities</b></p>		

<b>NH – R24</b> <b>Repairs and Maintenance to Existing Occupied Buildings in the Earthquake Hazard Overlay – 100m</b>	
<b>Activity Status Permitted</b> Where: 1. There is no increase in the area of the building used for Critical Response Facility	<b>Activity status where compliance not achieved:</b>  <b>Non-complying</b> For critical response facilities in brownfield areas under Rule NH– R16  <b>Prohibited</b> For critical response facilities in greenfield areas under Rule NH– R17
<b>Restricted Discretionary Activities</b>	
<b>NH – R25</b> <b>Additions and Alterations to Existing Residential Buildings, and New Residential Buildings in the Earthquake Hazard Overlay – 100m</b>	
<b>Activity Status Restricted Discretionary</b> Where:	<b>Activity status where compliance not achieved:</b>  Discretionary
1. These are accompanied by a hazard risk assessment undertaken by a suitably qualified and experienced natural hazards practitioner.  <b>Discretion is restricted to:</b> <ul style="list-style-type: none"> <li>• Implementation of recommendations in accompanying hazard risk assessment;</li> <li>• Risk to life, property and the environment from the proposal and any measures to mitigate those risks;</li> <li>• The location, design and construction materials of proposed buildings, vehicle access and infrastructure in relation to natural hazard risk; and</li> <li>• Any adverse effect on the environment of any proposed mitigation measures.</li> </ul>	
<b>Discretionary Activities</b>	

<b>NH – R26</b>	<b>Additions and Alterations to and New Residential Buildings not meeting Restricted Discretionary Standards, Additions and Alterations to and New Commercial and Industrial Buildings, Community Facilities, Educational Facilities and Health Facilities in the Earthquake Hazard Overlay – 100m</b>
<b>Activity Status Discretionary</b>	<b>Activity status where compliance not achieved:</b>  N/A
<b>Rules – Earthquake Hazard Overlay – 150m</b>	
<b>Permitted Activities</b>	
<b>NH – R27</b>	<b>Repairs and Maintenance to Existing Occupied Buildings in the Earthquake Hazard Overlay – 150m</b>
<b>Activity Status Permitted</b>  Where:  1. There is no increase in the area of the building used for Critical Response Facility purposes	<b>Activity status where compliance not achieved:</b>  <b>Non-complying</b>  For critical response facilities in brownfield areas under Rule NH–R16  <b>Prohibited</b>  For critical response facilities in greenfield areas under Rule NH–R17
<b>Restricted Discretionary Activities</b>	
<b>NH – R28</b>	<b>Additions and Alterations to New and Existing Residential, Commercial and Industrial Buildings in the Earthquake Hazard Overlay – 150m</b>

<p><b>Activity Status Restricted Discretionary</b></p> <p>Where:</p> <p>1. These are accompanied by a hazard risk assessment undertaken by a suitably qualified and experienced natural hazards practitioner.</p> <p><b>Discretion is restricted to:</b></p> <ul style="list-style-type: none"> <li>• Recommendations in accompanying hazard risk assessment;</li> <li>• Risk to life, property and the environment from the proposal and any measures to mitigate those risks;</li> <li>• The location, design and construction materials of proposed buildings, vehicle access and infrastructure in relation to natural hazard risk; and</li> <li>• Any adverse effect on the environment of any proposed mitigation measures.</li> </ul>		<p><b>Activity status where compliance not achieved:</b></p> <p>Discretionary</p>
<p><b>Discretionary Activities</b></p>		
<p><b>NH – R29</b></p> <p><b>Additions and Alterations to and New Community Facilities, Educational Facilities and Health Facilities in the Earthquake Hazard Overlay – 150m</b></p>		
<p><b>Activity Status Discretionary</b></p>		<p><b>Activity status where compliance not achieved:</b></p> <p>N/A</p>
<p><b>Rules – Earthquake Hazard Overlay – 200m</b></p>		
<p><b>Permitted Activities</b></p>		
<p><b>NH – R30</b></p> <p><b>Repairs and Maintenance to Existing Occupied Buildings in the Earthquake Hazard Overlay – 200m</b></p>		
<p><b>Activity Status Permitted</b></p> <p>Where:</p>		<p><b>Activity status where compliance not achieved:</b></p>

<p>a. — Repairs and maintenance do not increase the area of a building used for Critical Response Facility purposes.</p>	<p><b>Non-complying</b></p> <p>For critical response facilities in brownfield areas under Rule NH- R16</p> <p><b>Prohibited</b></p> <p>For critical response facilities in greenfield areas under Rule NH- R17</p>
<p><b>Restricted Discretionary Activities</b></p>	
<p><b>NH — R31</b></p>	<p><b>Additions and Alterations New and Existing New Residential, Commercial and Industrial Buildings and Community Facilities, Educational Facilities and Health Facilities in the Earthquake Hazard Overlay — 200m</b></p>
<p><b>Activity Status Restricted Discretionary</b></p> <p>Where:</p> <p>1. — These are accompanied by a hazard risk assessment undertaken by a suitably qualified and experienced natural hazards practitioner.</p> <p><b>Discretion is restricted to:</b></p> <ul style="list-style-type: none"> <li>• Implementation of recommendations in the accompanying hazard risk assessment;</li> <li>• Risk to life, property and the environment from the proposal and any measures to mitigate those risks;</li> <li>• The location, design and construction materials of proposed buildings, vehicle access and infrastructure in relation to natural hazard risk; and</li> <li>• Any adverse effect on the environment of any proposed natural hazard mitigation measures.</li> </ul>	<p><b>Activity status where compliance not achieved:</b></p> <p>Discretionary</p>
<p><b>Discretionary Activities</b></p>	
<p><b>NH — R32</b></p>	<p><b>Additions and Alterations to Existing Buildings and New Buildings not meeting Restricted Activity Standards in the Earthquake Hazard Overlay — 200m</b></p>
<p><b>Activity Status Discretionary</b></p> <p>Where:</p> <p>1. — These are not Critical Response Facilities.</p>	<p><b>Activity status where compliance not achieved:</b></p> <p><b>Non-complying</b></p>

	<p>For critical response facilities in brownfield areas under Rule NH - R11</p> <p><b>Prohibited</b></p> <p>For critical response facilities in greenfield areas under Rule NH - R12</p>
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## 9.6. Rules for the Land Instability Overlay – NH-R33 and NH-R34

### Submissions and Further Submissions

792. As part of the NH Chapter:

1. One general submission points was received on the rules for the Land Instability overlay.
2. Five submission points were received in support of NH-R33. Fourteen submission points were received seeking amendments to the NH-R33. One further submission point was received.
3. Two submission points were received in support of NH-R34. Five submission points were received seeking amendments to the NH-R34.
4. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

793. The Land Instability provisions did not form part of Variation 2.

### Section 42A Report

794. The submissions<sup>155</sup> in support of the notified rules were acknowledged by the Reporting Officers. The Reporting Officers also confirmed that existing use rights will not be affected by the rules once they become operative<sup>156</sup>.

795. The Reporting Officers recommended that the submissions of Jane Whyte & Jeff Page (S467.024 and S467.025) and Paparoa Track Services et al. (S605.007 and S605.008) be rejected because it is not appropriate to remove consideration of Punakaiki from the land instability rules when there is a known slope stability issue in the village.

796. The Reporting Officers recommended that the submission of Poutini Ngāi Tahu (S620.099) be rejected because SASM are accounted for in the phrase '*adjoining or downslope property*', which is already included in the rule.

797. The Reporting Officers also recommended that the submissions of Chris & Jan Coll (S558.041), Chris J Coll Surveying Limited (S566.041) and William McLaughlin (S567.128) be

<sup>155</sup> Te Mana Ora (S190.208, S190.209), Chris & Jan Coll (S558.040), Chris J Coll Surveying Limited (S566.040), William McLaughlin (S567.127), Toka Tū Ake (S612.067), Buller District Council (S538.150)

<sup>156</sup> Russell and Joanne Smith (S477.003), Tim Mcfarlane (S482.003), Claire & John West (S506.003), Lauren Nyhan Anthony Phillips (S533.003), Stewart & Catherine Nimmo (S559.003), Joel and Jennifer Watkins (S565.006), Tim and Phaedra Robins (S579.002)

rejected because it is inappropriate to lower the activity status to discretionary (from non-complying) if there is no expert assessment of the risk.

798. The Reporting Officers recommended that the submissions from Gail Dickson (S407.0030), BDC (S538.149) and GDC (S608.591) are accepted because it is appropriate to provide for Less Hazard Sensitive Activities as permitted activities.
799. The Reporting Officers recommended the deletion of NH-R34 because NH-R33 elevates to non-complying.

### **Rebuttal**

800. The Reporting Officers disagreed with Ms Pull (for Poutini Ngāi Tahu) that a specific matter of discretion is needed to recognise whether a proposed building has a post disaster function. They considered that the rule framework was sufficiently nuanced that it was clear where such facilities are appropriate and that it would not be appropriate to place more importance on the post disaster function of a building than the need to mitigate (or avoid) the hazard.
801. Further, the Reporting Officers did not agree with Ms Pull that an additional matter of assessment was needed to consider whether the proposed activity would cause adverse effects on overlays identified in Schedules One to Eight. They considered this was sufficiently captured by the existing matter of discretion which requires consideration of adjoining or downslope properties. They conceded that, if the Panel was in agreement with Ms Pull, the inclusion of such a matter of discretion would not detract from the rule.

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

802. Ms Pull (for Poutini Ngāi Tahu) considered that NH-R33 should include a matter of discretion which considers the buildings function as a welfare centre or other disaster relief structure. This will ensure that these critical facilities are located close to a disaster, rather than remote from the people that need them. Further, Ms Pull considered SASM should be listed in a separate matter of discretion to ensure that the cultural effects of any land instability can be assessed (rather than the slope stability risk).

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

803. The Panel agree with the risk-based approach that the Reporting Officers have recommended for the land instability hazard rules. We consider that the escalating activity statuses and matters of discretion are appropriate to manage risk within the land instability hazard overlays. We consider that the intent of the amended rules is consistent with notified provisions (while emphasising the risk-based approach, transitioning to new terms and removing unnecessary rule escalations). We also agree that the introduction of a permitted status close a gap in the rules. Overall, we consider that there is scope for the recommended amendments.
804. With respect to the evidence of Ms Pull, we consider that Poutini Ngāi Tahu's scope (on the land instability provisions) is limited to the issue of whether SASM are specifically identified in the matters of discretion. We agree with Ms Pull that discretion to consider the value of the adjoining or downhill property is limited to only geotechnical or structural integrity and that this is not sufficient when there may be physical or metaphysical values that are outside the ambit of a geotechnical engineer. We consider that Ms Pull's requested

amendment is best accommodated by reference to *'adjoining or downhill property and its identified values'*.

805. The Panel do not agree that the non-complying rule (NH-R34 as notified) should be deleted given the restricted discretionary rule escalates to non-complying. This is because of the fundamental structure of the rules in the Plan, which requires a corresponding rule when an activity status is escalated. Therefore, in this case, we consider that a non-complying rule remains necessary to address activities where one or more of the performance standards in the corresponding restricted discretionary rule are not met.

**Hearing Panel's Recommendation**

806. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend amendments to rules **NH-R15** and to add new rule **NH-R14** as follows:

<b>Rules – Land Instability Overlay</b>	
<b><u>Permitted Activities</u></b>	
<b><u>NH-R18 Additions to Existing Buildings and New Buildings containing Less Hazard Sensitive Activities in the Land Instability Hazard Overlay</u></b>	
<b><u>Activity Status: Permitted</u></b>	<b><u>Activity status where compliance not achieved:</u></b> <b><u>N/A</u></b> <sup>157</sup>

<b>Restricted Discretionary Activities</b>	
<b><u>NH-R<del>33</del>19 Additions to Existing Buildings and New Buildings for containing Potentially Hazard Sensitive and Hazard Sensitive Activities in the Land Instability Overlay</u></b> <sup>158</sup>	
<p><b>Activity Status Restricted Discretionary</b></p> <p>Where:</p> <p>1. <del>These are accompanied by a</del> geotechnical assessment prepared by a suitably qualified and experienced geotechnical engineer <b><u>is provided</u></b>.<sup>159</sup></p> <p><b>Discretion is restricted to:</b></p> <p>a. Requirements for measures in relation to building location, design or construction that, if carried out, will be adequate to avoid any damage to the proposed building or additions, or to any adjoining or downslope property <b><u>and its identified values</u></b>,<sup>160</sup> arising from slope</p>	<p><b>Activity status where compliance not achieved:</b> Non-complying</p>

<sup>157</sup> Gail Dickson (S407.003), Buller District Council (S538.149), Grey District Council (S608.591)

<sup>158</sup> Consequential amendment stemming from restructure of overlays

<sup>159</sup> Clause 16(2) of the RMA

<sup>160</sup> Ngāi Tahu (S620.099)

instability during the useful life of the building or structure; and  b. Requirements for geotechnical certification that subject to those measures specified:  i. The proposed building or structure will not be likely to be subject to damage from slope instability during its life; and  ii. The proposed works will not be likely to result in or contribute to damage to any adjoining or downslope property <b>and its identified values</b> <sup>161</sup> within or adjoining the natural hazard overlay – land instability alert.	
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<b>Non-complying Activities</b>	
<b>NH - R3420</b>	<b><u>Additions to Existing Buildings and New buildings for containing Potentially Hazard Sensitive and Hazard Sensitive Activities in the Land Instability Overlay not meeting Restricted Discretionary Activity Standards</u></b> <sup>162</sup>
<b>Activity Status Non-complying</b>	<b>Activity status where compliance not achieved:</b>  N/A

## 9.7. Rules for the Lake Tsunami Hazard Overlay – NH-R35, NH-R36 and NH-R37

### Submissions and Further Submissions

807. As part of the NH Chapter:

1. One submission point was received in support of NH-R35. Two submission points were received seeking amendments to the NH-R35.
2. Two submission points were received in support of NH-R36.
3. One submission point was received in support of NH-R37.
4. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

808. The Lake Tsunami Hazard provisions did not form part of Variation 2.

### Section 42A Report

<sup>161</sup> Poutini Ngāi Tahu (S620.099)

<sup>162</sup> Consequential amendment stemming from restructure of overlays

809. The Reporting Officers acknowledged the submissions on the Lake Tsunami Hazard provisions, but recommended that the provisions are deleted because there is insufficient evidence to support the overlay.

**Hearing Panel’s Evaluation**

810. The Panel has accepted the recommendation to delete the Lake Tsunami Hazard Overlay (due to a lack of data), we therefore recommend deletion of all related provisions. We note that the deletion of these rules are a consequential amendment stemming from Gina Hogarth (S304.004), Shaun and Carissa du Plessis (S402.002 and S402.003) and Betty Harris (S405.002).

**Hearing Panel’s Recommendation**

811. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified above are accepted or accepted in part, and recommend rules **NH-R35**, **NH-R36** and **NH-R37** are deleted as follows:

<b>Rules—Lake Tsunami Hazard Overlay</b>	
<b>Permitted Activities</b>	
<b>NH—R35</b>	<b>Repairs, Maintenance, Additions and Alterations to Existing Buildings and Structures, or New Buildings and Structures in the Lake Tsunami Hazard Overlay</b>
<b>Activity Status Permitted</b> Where: 2. There is no increase in the area of the building used for sensitive activities.	<b>Activity status where compliance not achieved:</b> Restricted Discretionary
<b>Restricted Discretionary Activities</b>	
<b>NH—R36</b>	<b>Buildings for Sensitive Activities not meeting Permitted Activity Standards in the Lake Tsunami Hazard Overlay</b>

<p><b>Activity Status Restricted Discretionary</b></p> <p>Where:</p> <p>2. This is accompanied by a hazard assessment prepared by a suitably qualified and experienced natural hazard practitioner.</p> <p><b>Discretion is restricted to:</b></p> <ul style="list-style-type: none"> <li>The level of risk as assessed by suitably qualified and experienced person;</li> <li>The location and design of proposed sites, buildings, structures and vehicle access in relation to natural hazard risk;</li> <li>The clearance or retention of vegetation or other natural features to mitigate natural hazard risk;</li> <li>The potential for the proposal to exacerbate natural hazard risk, including transferring risk to any other site; and</li> <li>Any adverse effect on the environment of any proposed natural hazard mitigation measures.</li> </ul>	<p><b>Activity status where compliance not achieved:</b></p> <p>Non-complying</p>
<p><b>Non-complying Activities</b></p>	
<p><b>NH-R37</b></p>	<p><b>Buildings for sensitive activities in the Lake Tsunami Hazard Overlay not meeting Restricted Discretionary Standards</b></p>
<p><b>Activity Status Non-complying</b></p>	<p><b>Activity status where compliance not achieved:</b></p> <p>N/A</p>

## 9.8. Rules for the Coastal Hazard Overlays – NH-R38

### Submissions and Further Submissions

812. Three submission points were received in support of NH-R38. One submission point was received opposing NH-R38. Fifty submission points were received seeking that NH-R38 be amended. Eleven further submission points were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.

813. Consideration of NH-R38 did not form part of the NH Chapter hearing process.

### Section 42A Variation Report

814. The Reporting Officers recommended that NH-R38 is deleted and NH-R1 is relied upon. Their review of the submissions<sup>163</sup> assisted their decision to make this recommendation. Their summary stated:

*It is clear that this rule is contentious, with both support and opposition and requests for amendment noted. As per the analysis of Rule NH-R1 in the Natural Hazards Chapter s42A we have tried to balance these submission points to provide for rebuilding in areas where it is appropriate, within a reasonable timeframe, while also ensuring that opportunities for reducing the risk from natural hazards are provided for in the rebuilding phase.*

**Hearing Panel’s Evaluation**

815. The Panel agrees with the Reporting Officers recommendation to delete this rule with reliance on NH-R1 for rebuilding within the NH overlays following a NH event.

**Hearing Panel’s Recommendation**

816. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission point identified below is accepted, and recommend rule **NH-R38** is deleted as follows:

<b><u>Permitted Activities</u></b>	
<b>NH-R38</b>	<b>Repairs and Maintenance to Existing Buildings in the Coastal Severe and Coastal Alert Overlays</b>

<sup>163</sup> Te Mana Ora (S190.213), Hamish Macbeth (S307.007), Paparoa Track Services et al (S605.009), Scoped Planning and Design Limited (S617.016), Jane Whyte & Jeff Page (S467.026), Westland District Council (S181.011), Toka Tū Ake EQC (S612.070, S612.126), Robert Burdekin (S378.004, S378.005), Vance & Carol Boyd (S447.019), Scenic (S483.030), Michael Snowden (S492.017), Penny & Mark Rounthwaite (S778.002, S778.006), Will Harvey (S157.001), Te Tumu Paeroa (S440.015), Barry Hughes (S773.001), Okarito Kayaks Ltd (774.001), Fiona Blair (S783.001), John Brazil (S360.007), Leonie Avery (S507.014), Jared Avery (S508.014), Kyle Avery (S509.014), Avery Bros (S510.014), Bradshaw Farms (S511.014), Paul Avery (S512.014), Brett Avery (S513.014), Steve Croasdale (S516.010), Neil Mouat (S535.005), Graham Sinclair (S769.001), Neil Aldred (S770.001), Pam Birmingham (S772.002), Karen Lippiatt (S439.042), Chris & Jan Coll (S558.042), Geoff Volckman (S563.016), Catherine Smart-Simpson (S564.019, S564.020), Koiterangi Lime (S577.018, S577.019, S577.020), Avery Brothers (S609.013), Karamea Lime (S614.036), Peter Langford (S615.036), West Coast Regional Council (S488.002, S488.025), Buller District Council (S538.151), Department of Conservation (S602.00253, S602.048, S602.00238), Westpower (S547.160), Chris J Coll Surveying Limited (S566.042), William McLaughlin (S567.129), Snodgrass Road submitters (S619.021), Biggles Limited (S685.006), MTP Limited (S711.006), P & A Horrell (S715.006)

<b>Activity Status Permitted</b>	<b>Activity status where compliance not achieved:</b>
<p>Where:</p> <ol style="list-style-type: none"> <li>1. For repairs and maintenance there is no increase in the area of the building;</li> <li>2. For reconstruction of a building lawfully established at the time of notification of the Plan where:                             <ol style="list-style-type: none"> <li>a. The building has been destroyed or substantially damaged due to fire, natural disaster or Act of God;</li> <li>b. The destroyed/damaged building is reconstructed within 5 years in the Coastal Alert overlay and 2 years in the Coastal Severe overlay;</li> <li>c. The reconstructed building is similar in character, intensity and scale to the building it replaces.</li> </ol> </li> </ol>	<p>NA</p>

## 9.9. Rules for the Coastal Hazard Overlays – NH-R39

### Submissions and Further Submissions

817. Twenty submission points were received in support of NH-R39. Five submission points were received seeking that NH-R39 be amended. Two further submission points were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.

818. Consideration of NH-R39 did not form part of the NH Chapter hearing process.

### Section 42A Variation Report

819. The Reporting Officers acknowledged the submissions in support of this rule and recommended they be accepted in part (noting that changes to the rule are recommended).

820. WDC (S181.012) sought for the activity status to be increased to controlled or restricted discretionary to enable a risk assessment of new buildings. The Reporting Officers disagreed with this submission and noted that Less Hazard Sensitive Buildings are generally low value and have a small risk profile. Further, the Reporting Officers recommended that the submission of GDC (608.593) is rejected as the rule has no standards and therefore there does not need to be a default activity status.

821. With respect to the submission of Scoped Planning and Design Limited (S617.017), the Reporting Officers recommended that this submission is rejected as a size restriction was not considered necessary for buildings that are low risk and generally small anyway.

822. To address the submission of Waka Kotahi (S450.070), the Reporting Officers recommended amending the rule so it was clear that it applies to Less Hazard Sensitive Buildings. They also clarified that the rule would not apply retrospectively (Westpower (S547.161)).

**Hearing Panel’s Evaluation**

823. The Panel agree with the risk-based approach that the Reporting Officers have recommended for NH-R39. We consider that the permitted activity status is appropriate for LHSA within the coastal hazard overlays. We agree that the intent of the amended rule is consistent with notified provisions (while emphasising the risk-based approach and transitioning to new terms).

824. The Panel recommend the amendments set out below are adopted.

**Hearing Panel’s Recommendation**

825. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend amendments to rule **NH-R39** as follows:

<p><b><u>NH-R3921 – New Unoccupied Buildings and Structures – Additions to Existing Buildings and New Buildings containing Less Hazard Sensitive Activities in the Coastal Severe and Coastal Alert Overlays – Coastal Hazard Erosion and Inundation Overlay and Coastal Hazard Inundation Overlay 1</u></b><sup>164</sup></p>	
<p><b>Activity Status: Permitted</b></p>	<p>Activity status where compliance not achieved: N/A</p>

**9.10. Rules for the Coastal Hazard Overlays – NH-R40**

**Submissions and Further Submissions**

826. One submission point was received in support of NH-R40. Twenty submission points were received seeking that NH-R40 be amended. One further submission point was received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.

827. Consideration of NH-R40 did not form part of the NH Chapter hearing process.

**Section 42A Report**

828. The Reporting Officers recommended that a number of submissions<sup>165</sup> be accepted in part because the recommended amendments to the rule will address these submissions (in part) specifically retaining parts of the rule; being more enabling for certain activities; improving clarity; including reference to AEP and 1m SLR; and removing critical response facilities from the rule and managing Hazard Sensitive Activity.

<sup>164</sup> Waka Kotahi (S450.070), Westpower (S547.161)

<sup>165</sup> Buller District Council (S538.153), John Brazil (S360.009), Leonie Avery (S507.016), Jared Avery (S508.016), Kyle Avery (S509.016), Avery Bros (S510.016), Bradshaw Farms (S511.016), Paul Avery (S512.016), Brett Avery (S513.016), Steve Croasdale (S516.012), Geoff Volckman (S563.018), Catherine Smart-Simpson (S564.023), Koiterangi Lime (S577.022), Avery Brothers (S609.015), Karamea Lime Company (S614.038), Peter Langford (S615.038), Te Mana Ora (S190.215), Toka Tū Ake EQC (S612.127), Jane Whyte & Jeff Page (S467.027)

829. The Reporting Officers recommended that the submissions of Westpower (S547.162), Paparoa Track Services Ltd et al. (S605.010), Karen Lippiatt (S439.021), Toka Tū Ake EQC (S612.071) and Jane Whyte & Jeff Page (S467.027) are rejected because their suggested changes are inconsistent with the purpose of the rule; inconsistent with current best practice; best dealt with through other means; and give rise to unacceptable risk to buildings in Punakaiki.
830. The Reporting Officers agreed in part with submitters seeking that clause (2) relating to minimum floor levels be deleted, as minimum floor levels will only mitigate inundation hazard and not address the erosion hazard posed in the Coastal Severe Overlay. They sought Mr Bosserelle’s advice who confirmed this position.

**Hearing Panel’s Evaluation**

831. The Panel agree with the risk-based approach that the Reporting Officers have recommended for NH-R40. We consider that the permitted activity status is appropriate for PHSA within the coastal hazard overlays. We consider that the intent of the amended rule is consistent with notified provisions (while emphasising the risk-based approach and transitioning to new terms).
832. The Panel agree with including ‘*of any building*’, as sought by GDC, and the inclusion of 1m SLR, as sought by BDC. We also accept clause (1) should be deleted.
833. The Panel recommend the amendments set out below are adopted.

**Hearing Panel’s Recommendation**

834. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend amendments to rule **NH-R40** as follows:

<p><b><u>NH-R40<sup>22</sup> Additions and Alterations for Commercial and Industrial to Existing Buildings and Critical Response Facilities in the containing Potentially Hazard Sensitive Activities in the Coastal Severe and Coastal Alert Overlays Coastal Hazard Erosion and Inundation Overlay and Coastal Hazard Inundation Overlay 1<sup>166</sup></u></b></p>	
<p><b>Activity Status: Permitted</b></p> <p>Where:</p> <ol style="list-style-type: none"> <li>There is no increase to the net floor area used for any sensitive activity; and<sup>167</sup></li> <li>Where a <b>Any increase in net floor area <u>of any building</u></b><sup>168</sup> meets a minimum finished floor level of 300mm above a 1% annual exceedance probability (AEP) event <b><u>plus 1m sea level rise coastal event.</u></b><sup>169</sup></li> </ol>	<p><b>Activity status where compliance not achieved:</b>                  Restricted Discretionary</p>

<sup>166</sup> Consequential amendment stemming from restructure of overlays  
<sup>167</sup> Paparoa Track Services Ltd, Craig and Sue Findlay, Tim Findlay, Punakaiki Beach Camp Ltd (S605.010)  
<sup>168</sup> Grey District Council (S608.594)  
<sup>169</sup> Buller District Council (S538.153)

## **9.11. Rules for the Coastal Hazard Overlays – NH-R41**

### **Submissions and Further Submissions**

835. One submission point was received in support of NH-R41. One submission point was received opposing NH-R41. Twenty submission points were received seeking that NH-R41 be amended. Three further submission points were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.
836. Consideration of NH-R41 did not form part of the NH Chapter process.

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

837. The Reporting Officer recommended that a number of submissions<sup>170</sup> be accepted in part because they consider it appropriate that additions to buildings in the Coastal Alert Overlay have a lesser activity status because the risk is more manageable.
838. The Reporting Officers recommended that submissions seeking that the rule be amended to improve clarity are accepted, specifically the submissions of Scenic Hotel group (S483.032), BDC (S538.154), Westpower (S547.0522) and GDC (S608.595).

### **Rebuttal**

839. The Reporting Officers agreed with Mr Kennedy (for Westpower) that the impacts on RSI from coastal erosion should be included as a matter of discretion.

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

840. The Panel agree with the risk-based approach that the Reporting Officers have recommended for NH-R41. We consider that the restricted discretionary activity status is appropriate for PHSA within the Coastal Hazard Inundation Overlay 1. We consider that the intent of the amended rule is consistent with notified provisions (while emphasising the risk-based approach and transitioning to new terms).
841. To assist with readability, the Panel consider that this rule should be reordered so that PHSA are dealt with as a block (before the rules go on to consider HSA). We have renumbered these accordingly below.
842. The Panel recommend the amendments set out below are adopted.

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

843. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend the following amendments to rule **NH-R41** as follows:

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<sup>170</sup> Te Mana Ora (S190.216), John Brazil (S360.010), Leonie Avery (S507.017), Jared Avery (S508.017), Kyle Avery (S509.017), Avery Bros (S510.017), Bradshaw Farms (S511.017), Paul Avery (S512.017), Brett Avery (S513.017), Steve Croasdale (S516.013, S516.014), Neil Mouat (S535.006), Chris & Jan Coll (S558.046), Chris J Coll Surveying Limited (S566.046), William McLaughlin (S567.132), Avery Brothers (S609.016)

**NH-R4124 Additions and Alterations of Existing Buildings used for Sensitive Activities in the Coastal Severe and Coastal Alert Overlays Additions to Existing Buildings containing Hazard Sensitive Activities in the Coastal Hazard Inundation Overlay 1**

**Activity Status:** Permitted—Restricted Discretionary Activity<sup>171</sup>

**Where:**

1. There is no increase to the net floor area used for any sensitive activity; and

**Discretion is restricted to:**

- a. The risk from coastal hazards on people and property and any measures to reduce or mitigate this risk;**
- b. The management of vegetation or other natural features to mitigate natural hazard risk;**
- c. The potential for there to be an increase in the risk of coastal erosion to neighbouring properties or Regionally Significant Infrastructure from either the design of the proposed development or any mitigation measures to reduce the risk to future occupants or buildings.**
- d. Any potential impacts on the natural environment or changes in natural processes as a result of any natural hazard mitigation measures use to reduce the risk to the building.**<sup>172</sup>

**Activity status where compliance not achieved:**

Discretionary for Coastal Alert

Non-complying for Coastal Severe

N/A<sup>173</sup>

## 9.12. Rules for the Coastal Hazard Overlays – NH-R42

### Submissions and Further Submissions

844. One submission point was received in support of NH-R42. Sixteen submission points were received seeking that NH-R42 be amended. Two further submission points were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.

845. Consideration of NH-R41 did not form part of the NH Chapter process.

### Section 42A Variation Report

846. The Reporting Officer recommended that a number of submissions<sup>174</sup> be accepted in part because they consider it appropriate that new buildings in the Coastal Alert Overlay have a lesser activity status because the risk is more manageable. However, they do not support any change to the non-complying activity status assigned to new buildings in the Coastal

<sup>171</sup> Steve Croasdale (S516.013)

<sup>172</sup> Buller District Council (S538.154), Steve Croasdale (S516.014)

<sup>173</sup> Steve Croasdale (S516.013)

<sup>174</sup> Leonie Avery (S507.018), Jared Avery (S508.018), Kyle Avery (S509.018), Avery Bros (S510.018), Bradshaw Farms (S511.018), Paul Avery (S512.018), Brett Avery (S513.018), Neil Mouat (S535.007), Chris & Jan Coll (S558.047), Chris J Coll Surveying Limited (S566.047), William McLaughlin (S567.133)

Severe Overlay and accordingly recommend that the same submissions seeking this be rejected.

- 847. The Reporting Officers also recommended that submissions from BDC (S538.155), Westpower (S547.164), Toka Tū Ake (S612.072) are rejected because the science is sufficiently robust to justify the extent of the overlay; the amendments sought have been addressed elsewhere; or are best dealt with through other means.
- 848. The Reporting Officers recommend the submission of Toka Tū Ake (S612.128) seeking to remove ‘critical response facilities’ from the rule is accepted.

**Rebuttal**

- 849. The Reporting Officers agreed with Mr Kennedy (for Westpower) that the impacts on regionally significant infrastructure from coastal erosion should be included as a matter of discretion.

**Hearing Panel’s Evaluation**

- 850. The Panel agree with the risk-based approach that the Reporting Officers have recommended for NH-R42. We consider that the restricted discretionary activity status is appropriate for new buildings containing PHSA within the coastal hazard overlays. We consider that the intent of the amended rule is consistent with notified provisions (while emphasising the risk-based approach and transitioning to new terms). We also consider the amendments will partially address those submitters seeking that the rule be more enabling.
- 851. The Panel has included reference to ‘not meeting a Permitted Activity Standard’ within the heading. This ensures that the escalation to restricted discretionary status from NH-R18 where the standard is not met is picked up. This seems to have been missed by the Reporting Officers.
- 852. The Panel recommend the amendments set out below are adopted.

**Hearing Panel’s Recommendation**

- 853. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend amendments to rule **NH-R42** as follows:

<p><b><del>NH-R4223 New Commercial, Industrial, or Critical Response Facilities Buildings containing Potentially Hazard Sensitive Activities Additions and Alterations to Commercial, Industrial, or Critical Response Activities Buildings not meeting Permitted Activity Standards in the Coastal Hazard Erosion and Inundation Overlay or Coastal Hazard Inundation Overlay 1 or not meeting a Permitted Activity Standard</del></b><sup>175</sup></p>	
<p><b>Activity Status:</b> Restricted Discretionary Activity</p> <p>Where:</p>	<p><b>Activity status where compliance not achieved:</b>                  Discretionary for Coastal Alert</p>

<sup>175</sup> Consequential amendment stemming from restructure of overlays

<p><del>1. There is no increase to the net floor area used for any sensitive activity; and<sup>176</sup></del></p> <p><b>Discretion is restricted to:</b></p> <p><del>a. The effects of natural hazards on people and property;</del></p> <p><del>b. The location and design of proposed sites, buildings, vehicle access, earthworks and infrastructure in relation to natural hazard risk;</del></p> <p><del>c. Any freeboard requirements to be included;</del></p> <p><del>d. The management of vegetation or other natural features to mitigate natural hazard risk;</del></p> <p><del>e. The timing, location, scale and nature of any earthworks in relation to natural hazard risk;</del></p> <p><del>f. The potential for the proposal to exacerbate natural hazard risk, including transferring risk to any other site and adjacent properties;</del></p> <p><del>g. Any adverse effects on the environment of any proposed natural hazard mitigation measures.</del></p> <p><b>a. <u>The risk from coastal hazards on people and property and any measures to reduce or mitigate this risk;</u></b></p> <p><b>b. <u>The management of vegetation or other natural features to mitigate natural hazard risk;</u></b></p> <p><b>c. <u>The potential for there to be an increase in the risk of coastal erosion to neighbouring properties or Regionally Significant Infrastructure from either the design of the proposed development or any mitigation measures to reduce the risk to future occupants or buildings; and</u></b></p> <p><b>d. <u>Any potential impacts on the natural environment or changes in natural processes as a result of any natural hazard mitigation measures use to reduce the risk to the building.</u><sup>177</sup></b></p>	<p>Non-complying for Coastal Severe</p> <p><u>N/A</u><sup>178</sup></p>
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### 9.13. Rules for the Coastal Hazard Overlays – NH-R43

#### Submissions and Further Submissions

854. Eighteen submission points were received in support of NH-R43. One submission point was received opposing NH-R43. Twenty submission points were received seeking that NH-R43 be amended. Three further submission points were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.

<sup>176</sup> Chris & Jan Coll (S558.047), Chris J Coll Surveying Limited (S566.047), William McLaughlin (S567.133)

<sup>177</sup> Chris & Jan Coll (S558.047), Chris J Coll Surveying Limited (S566.047), William McLaughlin (S567.133), Buller District Council (S538.154), Steve Croasdale (S516.014)

<sup>178</sup> Chris & Jan Coll (S558.047), Chris J Coll Surveying Limited (S566.047), William McLaughlin (S567.133)

855. Consideration of NH-R41 did not form part of the NH Chapter process.

### **Section 42A Report**

856. The Reporting Officer recommended that a number of submissions<sup>179</sup> be accepted in part because they consider it appropriate that new buildings for sensitive activities (Hazard Sensitive Activities) in the Coastal Alert Overlay have a restricted discretionary activity status because the risk is more manageable. In terms of new matters of discretion, they support those proposed by the TTPP Committee (S171.030).

857. As such, the Reporting Officers do not support a permitted activity status for new buildings in the Coastal Alert Overlay and accordingly recommend that any submissions<sup>180</sup> seeking this are rejected.

858. Submissions seeking changes to the spatial extent of the overlays were recommended to be rejected because the modelling has determined that the spatial extent is appropriate.

### **Rebuttal**

859. The Reporting Officers agreed with Mr Kennedy (for Westpower) that the impacts on regionally significant infrastructure from coastal erosion should be included as a matter of discretion.

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

860. The Panel agree with the risk-based approach that the Reporting Officers have recommended for NH-R41. We consider that the restricted discretionary activity status is appropriate for new building containing HSA within the Coastal Hazard Inundation Overlay 1; and we agree with the matters of discretion put forward primarily by the Te Tai o Poutini Plan Committee. We consider that the intent of the amended rule is consistent with notified provisions (while emphasising the risk-based approach and transitioning to new terms).

861. The Panel agree that a standard should be added to require an assessment prepared by a suitably qualified and experienced person as sought by submitters and we note that as a consequential amendment an escalation to non-complying is required if that standard is not met.

862. The Panel recommend the amendments set out below are adopted.

### **Recommendation**

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<sup>179</sup> Te Tai o Poutini Plan Committee (S171.030), Te Mana Ora (S190.218), John Brazil (S360.011), Vance & Carol Boyd (S447.020, S447.021), Scenic, (S483.033), Michael Snowden (S492.018), Bert Hofmans (S504.007), Lindy Millar (S505.007), Leonie Avery (S507.019), Jared Avery (S508.019), Kyle Avery (S509.019), Avery Bros (S510.019), Bradshaw Farms (S511.019), Paul Avery (S512.019), Brett Avery (S513.019), Hapuka Landing Limited (S514.005), Steve Croasdale (S516.015), Chris & Jan Coll (S558.048), Geoff Volckman (S563.019), Catherine Smart-Simpson (S564.022), Chris J Coll Surveying Limited (S566.048), William McLaughlin (S567.134), Koiterangi Lime Co (S577.023), Avery Brothers (S609.018), Toka Tū Ake EQC (S612.073), Karamea Lime Company (S614.039), Peter Langford (S615.039), Snodgrass Road submitters (S619.024), Biggles Limited (S685.004), MTP Limited (S711.004), P & A Horrell (S715.004), ADT Trust (S785.001)

<sup>180</sup> Forest Habitats Limited (S186.007), Vance & Carol Boyd (S447.014), Jane Whyte & Jeff Page (S467.029), Pam Birmingham (S772.001)

863. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend amendments to rule **NH-R43** as follows:

<p><b><u>NH-R43<sup>25</sup> New Buildings for containing Hazard Sensitive Activities and Additions and Alterations of Existing Buildings that increase the net floor area for Sensitive Activities in the Coastal Hazard Inundation Overlay 1<sup>181</sup></u></b></p>	
<p><b>Activity Status:</b> <u>Restricted</u> Discretionary<sup>182</sup></p> <p>Where:</p> <ol style="list-style-type: none"> <li>1. These are located in the Coastal Alert Overlay<sup>183</sup></li> <li>2. <b><u>This is accompanied by a natural hazard risk assessment prepared by a suitably qualified and experienced person.</u></b><sup>184</sup></li> </ol> <p><b><u>Discretion is restricted to:</u></b></p> <ol style="list-style-type: none"> <li>a. <b><u>The risk from coastal hazards on people and property and any measures to reduce or mitigate this risk;</u></b></li> <li>b. <b><u>The management of vegetation or other natural features to mitigate natural hazard risk;</u></b></li> <li>c. <b><u>The potential for there to be an increase in the risk of coastal erosion to neighbouring properties or Regionally Significant Infrastructure from either the design of the proposed development or any mitigation measures to reduce the risk to future occupants or buildings.</u></b></li> <li>d. <b><u>Any potential impacts on the natural environment or changes in natural processes as a result of any natural hazard mitigation measures use to reduce the risk to the building.</u></b><sup>185</sup></li> </ol>	<p><b>Activity status where compliance not achieved:</b>  <b><u>Non-complying</u></b></p> <p>N/A<sup>186</sup></p>

#### 9.14. Rules for the Coastal Hazard Overlays – NH-R44

##### Submissions and Further Submissions

864. Two submission points were received in support of NH-R44. One submission point was received opposing NH-R44. Twenty-eight submission points were received seeking that NH-R44 be amended. Two further submission points were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.

<sup>181</sup> Consequential amendment stemming from restructure of overlays

<sup>182</sup> Te Tai o Poutini Plan Committee (S171.030), Vance & Carol Boyd (S447.020), Scenic Hotel Group (S483.033), Michael Snowden (S492.018), Bert Hofmans (S504.007), Lindy Millar (S505.007), Hapuka Landing Limited (S514.005), Biggles Limited (S685.004), MTP Limited (S711.004), P & A Horrell (S715.004), ADT Trust (S785.001)

<sup>183</sup> Te Tai o Poutini Plan Committee (S171)

<sup>184</sup> ADT Trust (S785.001), Forest Habitats Limited (S186.007)

<sup>185</sup> Te Tai o Poutini Plan Committee (S171.030)

<sup>186</sup> Consequential amendment stemming from ADT Trust (S785.001)

865. Consideration of NH-R44 did not form part of the NH Chapter process.

### **Section 42A Report**

866. The Reporting Officer recommended that the majority of submissions<sup>187</sup> be rejected because they consider it appropriate that sensitive activities (Hazard Sensitive Activities) in the Coastal Severe Overlay have a non-complying activity status because the risk is high. They consider the rule gives effect to the NZCPS. Accordingly, submissions supporting the rule are recommended to be accepted.

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

867. Mr Flewelling (for Scenic Hotel Group), having regard to the amendments that he recommended to NH-P10, considered that a discretionary activity status was more appropriate. Otherwise, his opinion was that the notified non-complying activity status coupled with an 'avoid' notified NH-P10 will effectively result in managed retreat over time as property owners will have no ability to further develop or redevelop their land. Mr Flewelling did not consider that the NZCPS supports no use or development of land, rather it directs that risk will not be increased (determined by way of a suitable assessment at resource consent stage). Mr Flewelling recommended the following wording for NH-R44:

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

*Activity Status ~~Non-complying~~ **Discretionary***

868. Mr Flewelling supported a Punakaiki specific provision if changes to the region wide rule was not supported.

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

869. The Panel agree with the risk-based approach that the Reporting Officers recommend for NH-R44. We consider that the non-complying activity status is appropriate for new buildings and additions to buildings containing HSA within the Coastal Hazard Severe Overlay. We consider that the intent of the amended rule is consistent with notified provisions (while emphasising the risk-based approach and transitioning to new terms) and we agree that the Coastal Severe Overlay should be deleted as a standard.

870. The Panel note that in response to the Scenic Hotel Group submission and the evidence of Mr Flewelling we have considered a new rule for Scenic Visitor Zone below. Similarly, we have considered a new rule for the Māori Purpose Zone in response to Ngāi Tahu.

871. The Panel recommend the amendments set out below are adopted.

### **Recommendation**

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<sup>187</sup> Erin Stagg (S314.002), John Brazil (S360.034), Andrew Wright (S364.001), Vance & Carol Boyd (S447.015), Vance & Carol Boyd (S447.022, S447.023), Michael Snowden (S492.019), Leonie Avery (S507.020), Jared Avery (S508.020), Kyle Avery (S509.020), Avery Bros (S510.020), Bradshaw Farms (S511.020), Paul Avery (S512.020), Brett Avery (S513.020), Hapuka Landing Limited (S514.006), Neil Mouat (S535.008), Chris & Jan Coll (S558.049), Chris J Coll Surveying Limited (S566.049), William McLaughlin (S567.135), Paparoa Track Services et al (S605.012), Avery Brothers (S609.019), Scoped Planning and Design Limited (S617.018), Biggles Limited (S685.005), MTP Limited (S711.005), P & A Horrell (S715.005), Penny & Mark Rounthwaite (S778.005)

872. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend amendments to rule **NH-R44** as follows:

<b><del>NH-R44</del><sup>26</sup> Coastal Severe Overlay: Additions to Existing Buildings and New Buildings for containing Hazard Sensitive Activities and Additions and Alterations of Buildings that increase the net floor area for Sensitive Activities in the Coastal Hazard Erosion and Inundation Overlay<sup>188</sup></b>	
Activity Status: Non-complying  Where:  1. <del>These are located in the Coastal Severe Overlay<sup>189</sup></del>	<b>Activity status where compliance not achieved:</b>  N/A

### **9.15. Rules for the Coastal Hazard Overlays – NH-R45**

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

873. Five submission points were received in support of NH-R45. Five submission points were received seeking that NH-R45 be amended. Three further submission points were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.

874. Consideration of NH-R45 did not form part of the NH Chapter process.

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

875. The Reporting Officers acknowledged the submissions supporting this rule, but due to changes to the rule recommended that these submissions be accepted in part.

876. A number of submissions<sup>190</sup> were received addressing the rule gap for Less Hazard Sensitive Activities and Potentially Hazard Sensitive Activities in the Coastal Setback Overlay. The Reporting Officers recommend new rules to address this gap but recommend the activity status is permitted to avoid any natural justice issues with the late introduction of these rules.

#### **Rebuttal**

877. The Reporting Officers agreed with Mr Kennedy (for Westpower) that the impacts on regionally significant infrastructure from coastal erosion should be included as a matter of discretion.

#### **Hearing Panel’s Evaluation**

878. The Panel accept that there is a gap in the rule framework for the Coastal Setback Overlay which requires addressing. We agree that a rule is required for the altering, adding or maintaining to existing buildings, as well as for new buildings that are Less Hazard Sensitive Activities and/or Potentially Hazard Sensitive Activities. We consider this gap needs to be

<sup>188</sup> Consequential amendment stemming from restructure of overlays

<sup>189</sup> Buller District Council (S538.157)

<sup>190</sup> Te Tai o Poutini Plan Committee (S171.032), Buller District Council (S538.158), Grey District Council (S608.596)

remedied to improve the efficiency and effectiveness of the Plan. We agree that as people would not have the opportunity to submit on these new rules, in order to ensure natural justice, the activity status of the new rules needs to be permitted as sought by the Te Tai o Poutini Plan Committee and BDC. We also consider the matter extends beyond the Coastal Setback Overlay and will need to be addressed in other provisions covered below.

879. The Panel agree with the risk-based approach that the Reporting Officers have recommended for activities in the Coastal Setback Overlay. We consider that the escalating activity statuses is appropriate as the sensitivity of activities increases in the Coastal Setback Overlay. We consider that the intent of the amended rule (NH-R45) is consistent with notified provisions (while emphasising the risk-based approach and transitioning to new terms).

880. The Panel recommend new rules and amendments as set out below are adopted.

**Hearing Panel’s Recommendation**

881. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend amendments to rule **NH-R45** and adding two new permitted activity rules as follows:

<b>Coastal <del>Setback</del> <u>Inundation</u> Overlay 2</b>	
<b><u>Permitted Activities</u></b>	
<b><u>NH-R27 Additions to Existing Buildings and New Buildings containing Less Hazard Sensitive Activities and Potentially Hazard Sensitive Activities in the Coastal Hazard Inundation Overlay 2</u></b>	
<b><u>Activity Status: Permitted</u></b>	<b><u>Activity status where compliance not achieved:</u> N/A<sup>191</sup></b>
<b><u>NH-R28 Additions to Existing Buildings containing Hazard Sensitive Activities in the Coastal Hazard Inundation Overlay 2</u></b>	
<b><u>Activity Status: Permitted</u></b>	<b><u>Activity status where compliance not achieved:</u> N/A<sup>192</sup></b>
<b>Restricted Discretionary Activities</b>	
<b><u>NH-R45<del>29</del> New Buildings <del>for</del> containing Hazard Sensitive Activities in the Coastal <del>Setback Overlay</del> Coastal Hazard Inundation Overlay 2</u></b>	

<sup>191</sup> Te Tai o Poutini Plan Committee (S171.032), Grey District Council (S608.596)

<sup>192</sup> Te Tai o Poutini Plan Committee (S171.032), Grey District Council (S608.596)

<p><b>Activity Status: Restricted Discretionary</b></p> <p>Where:</p> <p>1. This is accompanied by a natural hazard risk assessment prepared by a suitably qualified and experienced person.</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> <li><del>i. The level of risk as assessed by a suitably qualified and experienced person;</del></li> <li><del>ii. The location and design of proposed sites, building, structures, vehicle access in relation to natural hazard risk</del></li> <li><del>iii. The modification or retention of vegetation or other natural features to mitigate natural hazard risk;</del></li> <li><del>iv. The impact of underlying geology and topography of the site on hazard risk;</del></li> <li><del>v. The potential of the proposal to exacerbate natural hazard risk, including transferring risk to another site;</del></li> <li><del>vi. Any adverse effects on the environment of any proposed natural hazard mitigation structures.</del></li> </ul> <ul style="list-style-type: none"> <li><b>a. <u>The risk from coastal hazards on people and property and any measures to reduce or mitigate this risk;</u></b></li> <li><b>b. <u>The management of vegetation or other natural features to mitigate natural hazard risk;</u></b></li> <li><b>c. <u>The potential for there to be an increase in the risk of coastal erosion to neighbouring properties or Regionally Significant Infrastructure from either the design of the proposed development or any mitigation measures to reduce the risk to future occupants or buildings; and</u></b></li> <li><b>d. <u>Any potential impacts on the natural environment or changes in natural processes as a result of any natural hazard mitigation measures use to reduce the risk to the building.</u></b><sup>193</sup></li> </ul>	<p><b>Activity status where compliance not achieved:</b></p> <p>Non-complying</p>
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## 9.16. Rules for the Coastal Hazard Overlays – NH-R46

### Submissions and Further Submissions

882. Three submission points were received in support of NH-R46. Three submission points were received opposing NH-R46. Four submission points were received seeking that NH-R46 be amended. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.

<sup>193</sup> Consequential amendment stemming from Te Tai o Poutini Plan Committee (S171.030)

883. Consideration of NH-R46 did not form part of the NH Chapter process.

**Section 42A Report**

884. The Reporting Officer recommended that this rule be deleted as a separate rule is not required to escalate the activity status (this can be achieved in the primary rule).

**Hearing Panel’s Evaluation**

885. The Panel disagrees with the recommendation of the Reporting Officers that NH-R46 is not required. As we have previously noted, this is because of the fundamental structure of the rules in the Plan, which requires a corresponding rule when an activity status is escalated. Therefore, in this case, we consider that a non-complying rule remains necessary to address activities where one or more of the performance standards in the corresponding restricted discretionary rule are not met.

**Hearing Panel’s Recommendation**

886. That Rule NH-R46 remain as notified, except for renumbering as follows:

<b>Non-complying Activities</b>	
<b>NH - R4630</b>	<b>New Buildings for Sensitive Activities in the Coastal Setback Overlay not meeting Restricted Activity Standards</b>
<b>Activity Status Non-complying</b>	<b>Activity status where compliance not achieved: N/A</b>

**9.17. Rules for the Coastal Tsunami Hazard Overlay – NH-R47, NH-R48 and NH-R49**

**Submissions and Further Submissions**

887. As part of the NH Chapter:

1. Two general submissions were made on the Coastal Tsunami Overlay provisions.
2. Six submission points were received in support of NH-R47. One submission point was received seeking amendments to the NH-R47.
3. Six submission points were received in support of NH-R48.
4. Five submission points were received in support of NH-R49. One submission point was received seeking amendments to the NH-R49.
5. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

888. The Lake Tsunami Hazard provisions did not form part of Variation 2.

**Section 42A Report**

889. The Reporting Officer acknowledged the submissions on the Coastal Tsunami Hazard provisions but recommends the provisions are deleted because there is insufficient evidence to support the overlay.

**Hearing Panel’s Evaluation**

890. The Panel have accepted the recommendation to delete the Coastal Tsunami Hazard Overlay (due to a lack of data), we therefore support the deletion of all related provisions. We note that the deletion of these rules is a consequential amendment stemming from Gina Hogarth (S304.004), Shaun and Carissa du Plessis (S402.002 and S402.003) and Betty Harris (S405.002).

**Hearing Panel’s Recommendation**

891. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified above are accepted or accepted in part, and recommend rules NH-R47, NH-R48 and NH-R49 are deleted as follows:

<b>Coastal Tsunami Overlay</b>	
<b>Permitted Activities</b>	
<b>NH R47</b>	<b>Repairs, Maintenance, Additions and Alterations to Existing Buildings within the Coastal Tsunami Overlay</b>
<p><b>Activity Status Permitted</b></p> <p>Where:</p> <p>3. Any works do not increase the building footprint used for Critical Response Facility purposes;</p> <p>4. Any works do not increase the area of the building used for Critical Response Facility purposes; and</p> <p>5. No building used for a Critical Response Facility is reconstructed or replaced in a position that is seaward of the building it replaces.</p>	<p><b>Activity status where compliance not achieved:</b></p> <p><b>Discretionary</b> where Standard 1 is not complied with</p> <p><b>Non-complying</b> where Standard 2 or 3 is not complied with</p>
<b>Discretionary Activities</b>	
<b>NH R48</b>	<b>Repairs, Maintenance, Additions and Alterations to Existing Buildings within the Coastal Tsunami Overlay not meeting Permitted Activity Standards</b>

<p><b>Activity Status Discretionary</b></p> <p>Where:</p> <p>3. Any addition or alteration does not increase the area of the building used for Critical Response Facilities</p> <p>4. No building used for a Critical Response Facility is reconstructed or replaced in a position that is seaward of the building it replaces.</p>	<p><b>Activity status where compliance not achieved:</b></p> <p>Non-complying</p>
<p><b>Non-complying Activities</b></p>	
<p><b>NH - R49</b></p>	<p><b>New Buildings for Critical Response Facilities within the Coastal Tsunami Overlay and Additions and Alterations to existing buildings for Critical Response Facilities not meeting Discretionary Activity Standards</b></p>

### 9.18. Rules for the Hokitika Hazard Overlay – NH-R50 and NH-R51

#### Submissions and Further Submissions

892. As part of the NH Chapter:

1. Two submission points were received in support of NH-R50. Four submission points were received seeking amendments to NH-R50. Two further submission points were received.
2. Two submission points were received in support of NH-R51. Three submission points were received seeking amendments to NH-R51. Two further submission points were received.
3. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

893. As part of Variation 2:

1. One submission point was received seeking amendments to NH-R50. One further submission point was received.
2. One submission point was received seeking amendments to NH-R51. One further submission point was received.
3. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.

#### Section 42A Report

894. The Director General’s submission (S602.255) received on Variation 2 is the exact same submission as they filed on the NH Chapter. It will therefore not be dealt with separately.

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895. The Reporting Officers recommended that the submission of WCRC (S488.016) is accepted because they agreed that the wording of NH-R50 is unenforceable because the level of service offered by the proposed flood protection scheme will change over time.
896. The Reporting Officers also recommended that the submission of Toka Tū Ake (S612.081) is accepted and that the minimum FFL for Hazard Sensitive Activities and Potentially Hazard Sensitive Activities is 500mm and 300mm, respectively. Further, recommended amendments to NH-R50 clarify that, regardless of the state of the protection works (i.e. uncompleted or completed), the minimum FFL is required to be provided.
897. The Reporting Officers noted that
- ... once the extent of the new and upgraded scheme is decided, there may be properties within the Hokitika Coastal Hazard that will ultimately not be protected that will enjoy the benefit of a Permitted Activity status subject to minimum floor levels including freeboard above the inundation level for activities that might otherwise have a more restrictive activity status in accordance with the underlying coastal or flood hazard overlay until such time that a Plan Change is undertaken to amend the extent of the Hokitika Coastal Hazard Overlay.*
898. The Director General's submissions (S602.050 and S602.239) sought for NH-R50 and NH-R51 to be elevated to restricted discretionary and non-complying, respectively. The Reporting Officers recommended that these submissions are rejected because the mitigation built into the rule (the minimum FFL) is sufficient to manage the risk. Similarly, Foodstuffs sought that the default activity status of NH-R50 is restricted discretionary (instead of discretionary). The Reporting Officers also recommended that this is rejected because the level of risk is such that all effects must be considered.
899. The Reporting Officers recommended NH-R51 is deleted because the elevated activity status can be achieved through NH-R50.

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

900. The Panel agrees with the risk-based approach that the Reporting Officers have recommended for activities in the Hokitika Coastal Hazard Overlay. We consider that the escalating activity statuses is appropriate as the sensitivity of activities increases. We consider that the intent of the amended rule (NH-R50) is consistent with notified provision (while emphasising the risk-based approach and transitioning to new terms).
901. The Panel note that the new rule proposed addresses the gap already identified in relation to Less Hazard Sensitive Activities, which we have already addressed, and we see this as a consequential amendment. With a permitted activity status, we do not consider that the introduction of the new rule creates any natural justice issues.
902. For completeness, we agree with the submissions of WCRC (S488.016) and Toka Tū Ake (S612.081) and consider the amendments recommended by the Reporting Officers address a significant shortcoming in the notified provision and ensure that appropriate FFL are achieved relative to the sensitivity of activities.
903. As we have addressed previously, the Panel disagrees with the recommendation of the Reporting Officers that NH-R51 is not required. This is because of the fundamental structure of the rules in the Plan, which requires a corresponding rule when an activity status is escalated. Therefore, in this case, we consider that a discretionary rule remains

necessary to address activities where one or more of the performance standards in the corresponding restricted discretionary rule are not met.

904. The Panel recommend the following new rule and amendments set out below are adopted.

**Hearing Panel’s Recommendation**

905. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend amendments to rule **NH-R50** and adding a new permitted activity rules as follows:

<b>Hokitika Coastal Overlay</b>	
<b>Permitted Activities</b>	
<b><u>NH-R31 Additions to Existing Buildings and New Buildings containing Less Hazard Sensitive Activities in the Hokitika Coastal Hazard Overlay</u></b>	
<b><u>Activity Status: Permitted</u></b>	<b><u>Activity status where compliance not achieved:</u></b> <b><u>N/A</u></b> <sup>194</sup>

<b><u>NH-R5032 Additions to Existing Buildings and New Buildings containing Potentially Hazard Sensitive and Hazard Sensitive Activities in the Hokitika Coastal Hazard Overlay</u></b> <sup>195</sup>	
<p><b><u>Activity Status: Permitted</u></b></p> <p>Where:</p> <ol style="list-style-type: none"> <li><del>1. All new buildings are protected by the Hokitika Flood and Coastal Erosion Protection Scheme from a 100-year Annual Recurrence Interval (ARI) plus 1m sea level rise coastal event, as certified by the West Coast Regional Council</del></li> <li>1. <del>Where n</del><b><u>New buildings or additions to existing buildings</u></b> are not protected by the Hokitika Flood and Coastal Erosion Protection Scheme from a 100-year Annual Recurrence Interval (ARI) plus 1m sea level rise coastal event <b><u>have a minimum floor level as follows:</u></b> <ol style="list-style-type: none"> <li>a. Buildings <del>for</del> <b><u>or additions containing Hazard s</u></b><del>Sensitive a</del><b><u>Activities - 500mm above the 100-year ARI 1% annual exceedance probability</u></b> plus 1m sea level rise coastal event;</li> <li>b. <del>Commercial and industrial b</del><b><u>Buildings have a finished floor level of or additions containing Potentially Hazard Sensitive Activities - 300mm above the 100-</u></b></li> </ol> </li> </ol>	<p><b><u>Activity status where compliance not achieved:</u></b> Discretionary</p>

<sup>194</sup> Consequential amendment stemming from Te Tai o Poutini Plan Committee (S171.032), Grey District Council (S608.596)

<sup>195</sup> Consequential amendment stemming from restructure of overlays

year ARI <del>1%</del> <b>1% annual exceedance probability</b> plus 1m sea level rise coastal event. <sup>196</sup>	
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<b>Discretionary Activities</b>	
<b>NH - R5133</b>	<b>New Buildings in the Hokitika Coastal Overlay not meeting Permitted Activity standards</b>
<b>Activity Status Discretionary</b>	<b>Activity status where compliance not achieved:</b> N/A

### 9.19. Rules for the Westport Hazard Overlay – NH-R52 and NH-R53

#### Submissions and Further Submissions

906. As part of the NH Chapter:

1. Nine general submission points were received on the Westport Hazard Overlay provisions. Four further submission points were received.
2. One submission point was received in support of NH-R52. Thirty-three submission points were received seeking amendments to NH-R52. Thirty further submission points were received.
3. Four submission points were received in support of NH-R53. Seven submission points were received seeking amendments to NH-R53. Eight further submission points were received.
4. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

907. As part of Variation 2:

1. One submission point was received seeking amendments to NH-R53. One further submission point was received.
2. The Panel adopts the summary of the submissions and further submissions provided in the s42A Variation Report.

#### Section 42A Report

908. The general submissions of Margaret Montgomery (S446.037) and Joanne & Ken Dixon (S213.004) were acknowledged by the Reporting Officers but ultimately recommended to be rejected because the wording of the rules has been chosen to minimise costs and avoid every person having to engage a suitably qualified expert to confirm flood risk. They

<sup>196</sup> West Coast Regional Council (S488.016), Toka Tū Ake (S612.081),

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confirmed that peer-reviewed modelling had been completed recently and had been used to prepare the provisions.

909. With respect to the flood protection scheme, the Reporting Officers advised that the overlay and provisions will, in time, take this into account once the scheme is completed. Accordingly, the submissions of Troy Scanlon (S468.002) and Martin & Co. (S543.005) are recommended to be rejected.
910. The submissions of Troy Scanlon (S468.003), Martin & Co. (S543.027 and S543.005), Chris & Jan Coll (S566.059) and Avery Brothers (S609.074) sought for the rules to be more enabling. The Reporting Officers recommended that these submissions are rejected because the proposed rules strike the right balance and meet best practice.
911. The Reporting Officers recommended that the submission of WCRC (S488.018 and S488.019) are accepted because they agreed that the wording of NH-R52 is unenforceable as the level of service offered by the proposed flood protection scheme will change over time. The WCRC submission was echoed by The O'Conor Institute Trust Board (S466.012), Frank and Jo Dooley (S478.011, S478.013 and S478.055) and Frank O'Toole (S595.001).
912. The submissions of Martin & Co (S543.030), Chris & Jan Coll (S558.057), Chris J Coll Surveying Limited (S566.057) and William McLaughlin (S567.142) sought that the provisions be more enabling, while the submissions of TTPP Committee (S171.003), BDC (S538.162) and Toka Tū Ake (S612.084) sought for the rule to be improved/clearer.
913. In a similar vein, the submissions of Rick Hayman (S471.002), The Coda Trust (S480.001), Felicity Watson (S487.002) and Warren French (S494.001) sought that the minimum FFL are reconsidered to reflect levels recently consented.
914. The Reporting Officer stated:

*The mapping that has been undertaken for the flood hazard at Westport clearly demonstrates that a significant level of residual risk is present, particularly when climate change is factored in. While upgrades of the protection structures are planned, the final details and level of service that will be provided are still to be confirmed.*

*It is further recognised that if the TTPP becomes operative prior to the scheme being completed and therefore the extent of properties protected being confirmed, there will be a period of time where all properties within the Westport Hazard Overlay will be required to comply with the minimum floor level above inundation levels as none of these will be protected...*

*...the Westport Hazard Overlay and the associated provisions are intended to be an interim measure until such time the scheme is completed. At that stage, the expectation is that there will be a Plan Change process to amend the extent of the overlay to correctly include those properties protected, with properties that are not protected reverting to the underlying flood and coastal hazard overlays. The provisions could also be updated at this time to appropriately reflect the level of risk (including residual risk) associated with the completed scheme. Until this time, the recommended wording of rule NH-R52 is considered to provide the flexibility required given the uncertainty that still exists in terms of the finished protection scheme.*

915. The Reporting Officers therefore recommended that the submissions be accepted or rejected accordingly because it is inappropriate to make the provisions more enabling, but amendments are required to ensure that they are unenforceable and workable.

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916. The Reporting Officers have recommended that the submissions of Rick Hayman (S471.006), The Coda Trust (S480.004), Felicity Watson (S487.004) and Warren French (S494.004) be accepted as the WCRC will be the agency that provides floor level requirements when requested and an Advice Note will be added to this effect.
917. All submissions relating to the flood protection scheme were acknowledged and the Reporting Officers provided the most up-to-date information with regards to progress in their s42A Report
918. The Snodgrass Road submitters (S619.028) sought for the pTTPP to permit extensions for properties in Snodgrass Road without meeting the minimum FFL requirements. The Reporting Officers advised:
- We have given considerable thought to whether a certain level of permitted additions should be allowed for properties in general within the Westport Hazard Overlay. However, due to the nature of the hazard, and the potential flood inundation depths, we have come to the position that it is appropriate for additions to occur to residential units, but only providing they meet the minimum floor level requirements. While we acknowledge this could result in split level residential units in some areas due to the flood depth, we are also of the view that the risk in this area should not be incrementally increased overtime through the ability to undertake constant additions to residential units, which are below the inundation level.*
919. With regards to the submission of Frank O'Toole (S595.006) seeking amendments to the recession plane to account for the minimum FFL, the Reporting Officers advised that a piece of work would need to occur as part of the Residential Chapter review and is beyond the scope of the NH Chapter. They did acknowledge that they had seen similar undertakings in other parts of New Zealand to address this tension.
920. With regards to NH-R53, the Reporting Officers recommended that the submissions of Martin & Co (S543.031), Chris & Jan Coll (S558.058), Chris J Coll Surveying Limited (S566.058), William McLaughlin (S567.143), Margaret Montgomery (S446.020) and Foodstuffs (S464.046) are rejected because a discretionary activity status for activities not meeting the permitted activity standards is appropriate given the flood risk. However, they recommended that the rule is deleted because the activity status escalation can be achieved as part of NH-R52.
921. In the s42A Variation Report, the Reporting Officer recommended that the submission of Snodgrass Road submitters (S619.058) is rejected because modelling had followed national guidance and best practice.

### **Hearing and Submitter Evidence**

922. Mr O'Toole (who is the Managing Director of Jennian Homes) did not consider the flood protection scheme had been given enough weight in the provisions and he considered the risk would go once the protection scheme is completed (3-5 years time). He referred to comments from Mr Matt Gardiner of Land River Sea, who is responsible for the modelling which informed the flood protection works, who said the risk to the township very must disappears once the protection works are installed. (The Panel notes we did not hear evidence from Mr Gardiner himself).
923. Mr O'Toole was of the view that compliance costs would be significant and noted that there was already a significant cost to meet the 1% AEP. He was of the view that there was no need to consider 100 years of climate change adding to the floor heights and he noted that

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the required increased heights create issues around recession planes and privacy. He felt that continuing with the current 1% AEP requirement would be more than adequate as risk mitigation.

924. The Snodgrass Road Submitters said the flood risk was well known and that a blank approach was a problem. They considered a bespoke approach should be included for the Snodgrass Road area and noted that evidence showed that certain properties don't flood.

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

925. The Reporting Officers reiterated previous comments (in response to Mr O'Toole's comments at the hearing) that, until the Westport flood protection scheme is constructed, there is still a risk to new development from flooding, and therefore it is important that new development accounts for the flood risk. They acknowledged that following completion of the scheme, Council could remodel the flood risk and adjust the overlay accordingly. They also noted that any revision of the recession plane standards needs to be completed as part of the residential hearing process.

926. The Reporting Officers also reiterated (in response to the comments of the Snodgrass Road submitters at the hearing) that any extensions to existing buildings in the Snodgrass Road area should be required to meet the minimum FFL to address the flood risk. They confirmed that in calculating minimum FFL the topography and related inundation of a site is factored in.

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

927. The Panel consider an overall comment about the overlay is appropriate given the tension between the overlay and the yet-to-be-built flood protection scheme. We appreciate the concerns of local residents and the seemingly heavy-handed planning approach for additions and new builds, when flood protection is imminent (which will add time and cost to building projects). However, territorial authorities are legally required to control any actual or potential effects of the use, development, or protection of land to avoid or mitigate natural hazards<sup>197</sup>, and in our opinion, given recent past events (2018 and 2021), it would be wrong (and illegal) for the territorial authority not to take a precautionary approach to the intervening period before the flood scheme is fully constructed and the flood risk reassessed.

928. The Panel agree with the Reporting Officers that it is open for remodelling of the flood risk to occur once the protection works are completed and the Plan provisions adjusted accordingly. We agree with Mr O'Toole that recession planes are problematic in regard to raised floor levels and we consider this requires a specific piece of work (and consultation) to determine the most appropriate outcomes in this regard, which is matter the TTPP Committee should consider.

929. Overall, the Panel agree with the risk-based approach that the Reporting Officers have recommended for activities in the Westport Coastal Hazard Overlay. We consider that the escalating activity statuses is appropriate as the sensitivity of activities increases. We consider that the intent of the amended rule (NH-R52) is consistent with notified provision (while emphasising the risk-based approach and transitioning to new terms). With a

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<sup>197</sup> RMA, section 31(1)(b)(i)

permitted activity status, we do not consider that the introduction of the new rule creates any natural justice issues.

930. For completeness, the Panel agree with the submission of WCRC (S488.018 and S488.019) and the amendments recommended by the Reporting Officers close a significant shortcoming in the notified provision. We also agree with the Reporting Officers that the minimum FFL should apply to extensions within the overlay. We consider that this is an appropriate risk-based approach to the identified risk as it currently stands.
931. The Panel also note that the new rule proposed addresses the gap already identified in relation to Less Hazard Sensitive Activities, which we have already addressed, and we see this as a consequential amendment. With a permitted activity status, we do not consider that the introduction of the new rule creates any natural justice issues.
932. As we have addressed previously, the Panel disagrees with the recommendation of the Reporting Officers that NH-R53 is not required. This is because of the fundamental structure of the rules in the Plan, which requires a corresponding rule when an activity status is escalated. Therefore, in this case, we consider that a discretionary rule remains necessary to address activities where one or more of the performance standards in the corresponding restricted discretionary rule are not met.
933. The Panel recommend the new rule and amendments as set out below are adopted.

**Hearing Panel’s Recommendation**

934. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend amendments to rule **NH-R52** and adding a new permitted activity rule as follows:

<b>NH-R34 Additions to Existing Buildings and New Buildings containing Less Hazard Sensitive Activities in the Westport Hazard Overlay</b>	
<b>Activity Status: Permitted</b>	<b>Activity status where compliance not achieved:</b> <b>N/A</b> <sup>198</sup>

<b>NH-R5235 Additions to Existing Buildings and New Buildings and Additions and Alterations to Existing Buildings containing Potentially Hazard Sensitive and Hazard Sensitive Activities in the Westport Hazard Overlay</b> <sup>199</sup>	
<b>Activity Status: Permitted</b>  Where:  1. <del>New occupied buildings and additions and alterations to existing occupied buildings where these are protected by the Westport Flood and Coastal Erosion Protection Scheme from a 100-year Annual Recurrence Interval</del>	<b>Activity status where compliance not achieved:</b> Discretionary

<sup>198</sup> Consequential amendment stemming from Te Tai o Poutini Plan Committee (S171.032), Grey District Council (S608.596)

<sup>199</sup> Consequential amendment stemming from restructure of overlays

~~(1%ARI) plus 1m sea level rise coastal event and a 1% annual exceedance probability (AEP) flood event as certified by the West Coast Regional Council; or<sup>200</sup>~~

- ~~1. New occupied buildings **or additions to existing buildings** in areas not protected by the Westport Flood and Coastal Erosion Protection Scheme from a 1% ARI plus 1m sea level rise coastal event and a 1% AEP flood event, where these are **have a minimum floor level as follows:**
  - a. Buildings **or additions containing** for Hazard Sensitive Activities where the finished floor level is - 500mm above a **1% ARI annual exceedance probability** plus 1m sea level rise coastal event and a 1% AEP **annual exceedance probability** flood event; **and**
  - b. Commercial and industrial **Buildings or additions containing Potentially Hazard Sensitive Activities** where the finished floor level is - 300mm above a **1% ARI annual exceedance probability** plus 1m sea level rise coastal event and a 1% AEP **annual exceedance probability** flood event.~~
- ~~3. These are new unoccupied buildings or additions or alterations to existing unoccupied buildings; or~~
- ~~4. These are additions and alterations to critical response facilities, commercial and industrial activities where there is no increase in area of building that does not meet a minimum finished floor level of 300mm above a 1% ARI plus 1m sea level rise event and a 1% AEP flood event;~~
- ~~5. These are additions and alterations to buildings for sensitive activities in areas not protected by the Westport Flood and Coastal Erosion Protection Scheme from a 1% ARI plus sea level rise coastal event and a 1% AEP flood event, where there is no increase in area of building that does not meet a minimum finished floor level of 500mm above a 1% ARI plus 1m sea level rise event and a 1% AEP flood event.<sup>201</sup>~~

**Advice Note:**

**The finished floor level required shall be obtained from West Coast Regional Council.**<sup>202</sup>

## 9.1. New rules

<sup>200</sup> The O'Connor Institute Trust Board (S466.012), Frank and Jo Dooley (S478.011 and S478.55))

<sup>201</sup> TTPP Committee (S171.003), West Coast Regional Council (S488.018 and S488.019), Buller District Council (S538.162)

<sup>202</sup> Warren French (S494.004), The Coda Trust (S480.004), Rick Hayman (S471.006), Felicity Watson (S487.004)

**Rebuttal**

935. In their Variation 2 rebuttal statement, the Reporting Officers acknowledged the position of Ms Collie (for Biggles et al.) and agreed that some provision for the reasonable use of residential sites in severe hazard overlays should be provided.
936. In a similar vein, the Reporting Officers also agreed with Mr Flewollen (for Scenic Hotel Group) that a bespoke rule is appropriate acknowledging the purpose of the Scenic Visitor Zone in Punakaiki and the conflicting purpose of the NH provisions.

**Hearing Panel’s Evaluation**

937. As referred to earlier in this recommendation, the Panel agrees with the approach of the Reporting Officers and the evidence of Ms Collie and Mr Flewollen and the submission of Ngāi Tahu, that the reasonable use of sites subject to Severe Natural Hazard Overlays and a bespoke approach to the Scenic Visitor Zone and Māori Purpose Zone is appropriate. As we have already signalled at the policy level, we accept associated rules are necessary.
938. The Panel agree with the recommended wording of the new rules and the restricted discretionary status and consider that they strike the appropriate balance between reasonable use and managing the high risk. We therefore recommend the new rules set out below are adopted.
939. In terms of the location of these rules, the Panel considers they fall within the **Rules - All Natural Hazard Overlays** at the beginning of the rules section, and we have therefore numbered them accordingly. We also recommend including a new non-complying rule below to address the escalated activity status if the standards are not met.

**Hearing Panel’s Recommendation**

940. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend adding new rules as follows:

<b><u>NH-R5 The construction of buildings that will contain a residential unit within the Flood Severe Overlay, Earthquake Severe Overlay or Coastal Hazard Erosion and Inundation Overlay</u></b>	
<p><b><u>Activity Status: Restricted Discretionary</u></b></p> <p><b><u>Where:</u></b></p> <p><b><u>1. It involves the construction of one residential unit on an existing vacant site that existed prior to 1 July 2022 where the residential unit is located within the Severe Natural Hazard Overlays.</u></b></p> <p><b><u>Discretion is restricted to:</u></b></p> <p><b><u>a. The location of the residential unit on the site and whether there are any other practicable locations on the site to locate the residential unit outside of the natural hazard overlay;</u></b></p>	<p><b><u>Activity status where compliance not achieved:</u></b></p> <p><b><u>Non-complying</u></b></p>

<p>b. <u>The mitigation measures incorporated into the residential unit to minimise the risk to life to the occupants and maintain the structural integrity of the building from the natural hazard which relates to the overlay; and</u></p> <p>c. <u>Within the Flood Severe and the Coastal Hazard Erosion and Inundation Overlay the incorporation of mitigation measures into the residential unit to allow for the building to be relocated due to the future risk presented to the building from natural hazards.</u><sup>203</sup></p>	
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**NH-R6 The construction of buildings, and additions to buildings, that will contain Hazard Sensitive Activities or Potentially Hazard Sensitive Activities and are within the Scenic Visitor Zone and within the Coastal Hazard Erosion and Inundation Overlay**

<p><b><u>Activity Status: Restricted Discretionary</u></b></p> <p><b><u>Where:</u></b></p> <p>1. <u>This is accompanied by a natural hazard risk assessment prepared by a suitably qualified and experienced person.</u></p> <p><b><u>Discretion is restricted to:</u></b></p> <p>a. <u>The risk from coastal hazards to people and property and any measures to reduce or mitigate this risk;</u></p> <p>b. <u>The management of vegetation or other natural features to mitigate natural hazard risk;</u></p> <p>c. <u>The potential for there to be an increase in the risk of coastal erosion to either neighbouring properties or Regionally Significant Infrastructure from either the design of the proposed development or any mitigation measures to reduce the risk to future occupants or buildings.</u></p> <p>d. <u>Any potential impacts on the natural environment or changes in natural processes as a result of any natural hazard mitigation measures use to reduce the risk to the building;</u></p> <p>e. <u>In respect to Community Facilities, Retirement Homes, Healthcare Facilities, Childcare Services and Educational Facilities the ability for people to be able to safely evacuate from the site in a coastal hazard event; and</u></p> <p>f. <u>In respect to Emergency Facilities the ability for emergency vehicles and services to be able to operate during and after a coastal hazard event.</u><sup>204</sup></p>	<p><b><u>Activity status where compliance not achieved: Non-complying</u></b></p>
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<sup>203</sup> Biggles Limited (S685.011)

<sup>204</sup> Scenic Hotel Group (S483.027)

**NH-R7 The construction of buildings, and additions to buildings, that will contain Hazard Sensitive Activities or Potentially Hazard Sensitive Activities and are within a Severe Natural Hazard Overlay**

**Activity Status: Restricted Discretionary**

**Where:**

- 1. The construction is within Māori Purpose Zone land; and**
- 2. This is accompanied by a natural hazard risk assessment prepared by a suitably qualified and experienced person.**

**Discretion is restricted to:**

- a. The risk from natural hazards to people and property and any measures to reduce or mitigate this risk;**
- b. The management of vegetation or other natural features to mitigate natural hazard risk;**
- c. The potential for there to be an increase in the risk to either neighbouring properties or Regionally Significant Infrastructure from either the design of the proposed development or any mitigation measures to reduce the risk to future occupants or buildings.**
- d. Any potential impacts on the natural environment or changes in natural processes as a result of any natural hazard mitigation measures use to reduce the risk to the building.**
- e. In respect to Community Facilities and Educational Facilities the ability for people to be able to safely evacuate from the site in a natural hazard event;**
- f. In respect to Emergency Facilities the ability for emergency vehicles and services to be able to operate during and after a natural hazard event.<sup>205</sup>**

**Activity status where compliance not achieved: Non-complying**

**NH-R9**

**The construction of buildings that will contain a residential unit within the Flood Severe Overlay, Earthquake Severe Overlay or Coastal Hazard Erosion and Inundation Overlay or;**

**The construction of buildings, and additions to buildings, that will contain Hazard Sensitive Activities or Potentially Hazard Sensitive Activities and are within the Scenic Visitor Zone and within the Coastal Hazard Erosion and Inundation Overlay; or**

**The construction of buildings, and additions to buildings, that will contain Hazard Sensitive Activities or Potentially Hazard Sensitive Activities and are within or Māori Purpose Zone;**

<sup>205</sup> Te Runanga o Ngai Tahu, Te Runanga o Ngati Waewae, Te Runanga o Makaawhio (S620.430)

<b>not meeting the Restricted Discretionary Activity Standards</b>	
<b>Activity Status: Non-complying</b>	<b>Activity status where compliance not achieved:</b> <b>N/A</b> <sup>206</sup>

## 10. SUBDIVISION PROVISIONS

### 10.1. Objectives – SUB-O2

#### Submissions and Further Submissions

941. Three submission points were received seeking amendments to SUB-O2. Three further submissions were received. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

#### Section 42A Report

942. The Reporting Officers recommended that the submissions of Frank and Jo Dooley (S478.004), Frank O'Toole (S595.016) and Snodgrass Road Submitters (S619.035) is rejected because it is appropriate that there is an avoid directive where significant risk exists.

943. The Reporting Officers clarified that a significant risk is where severe overlays have been mapped (Toka Tū Ake (S612.129)).

#### Hearing Panel's Evaluation

944. The Panel agrees with the Reporting Officers that subdivision should be avoided in areas identified as subject to severe NH. However, we agree with Toka Tū Ake (S612.129) that, as an undefined term, reference to '*significant*' in the objective could create plan interpretation issues. We therefore recommend that the objective should make reference to *Severe Natural Hazard Overlays* rather than '*significant*'.

945. The Panel recommend the amendments set out below are adopted.

#### Hearing Panel's Recommendation

946. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission point identified in the footnote below is accepted and, recommend the amendments to **SUB-O2** as follows:

**SUB-O2:** Subdivision occurs in locations and at a rate that:

...

f. Avoids ~~significant~~ **the Severe Natural Hazards Overlays** and are built to be resilient to natural hazards.<sup>207</sup>

<sup>206</sup> Consequential amendment stemming from Biggles Limited (S685.011), Scenic Hotel Group (S483.027), Te Runanga o Ngai Tahu, Te Runanga o Ngati Waewae, Te Runanga o Makaawhio (S620.430)

<sup>207</sup> Toka Tū Ake (S612.129)

## **10.2. Policies – SUB-P4 and SUB-P6**

### **Submissions and Further Submissions**

947. Two submission points were received in support of SUB-P4. Nine submission points were received seeking amendments to SUB-P4. Five further submissions were received.
948. Three submission points were received seeking amendments to SUB-P6. Two further submissions were received.
949. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

### **Section 42A Report**

950. In respect of SUB-P4, the Reporting Officers recommended that the submissions of Chris & Jan Coll (S558.190), Chris J Coll Surveying Limited (S566.190), William McLaughlin (S567.263) and Laura Coll McLaughlin (S574.190) are accepted because there are measures that can ensure a building platform is flood free.
951. In respect of SUB-P4, the Reporting Officers recommended that the submissions of the Director General (S602.122) and Toka Tū Ake (S612.090) are accepted because it is appropriate to avoid significant risk, which is also consistent with terminology used throughout the Natural Hazards Chapter.
952. In respect of SUB-P6, the Reporting Officers recommended that the submissions of Frank and Jo Dooley (S478.029), Frank O'Toole (S595.017) and Snodgrass Road Submitters (S619.035) are rejected because it is appropriate that there is an avoid directive where significant risk exists.

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

953. We largely agree with the recommendations of the Reporting Officers. However, we note that amendments to the NH provisions have completely removed reference to '*significant*' NH as this is an undefined term. We therefore consider that SUB-P4 and SUB-P6 (where they relate to NH) should reflect the language of the NH Chapter and we therefore agree with Toka Tū Ake that, as an undefined term, reference to '*significant*' in the policies could create plan interpretation issues. We therefore recommend that both policies reference '*Severe Natural Hazard Overlays*' rather than '*significant*'.
954. The Panel recommend the amendments set out below are adopted.

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

955. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend amendments to **SUB-P4** and **SUB-P6** as follows:

**SUB-P4:** Manage significant risks ~~in the Severe~~ from ~~nNatural hHazards~~ **Overlays**<sup>208</sup> by ~~restricting~~ **avoiding**<sup>209</sup> subdivision that:

- a. Creates new or exacerbates existing natural hazards including coastal hazards, erosion, slippage, subsidence, falling debris, fault rupture, severe ground shaking or flooding; or
- b. Results in adverse effects on the stability of land and buildings; and
- b. Does not provide safe, ~~flood free~~<sup>210</sup> and stable building platforms at the time of subdivision.

**SUB-P6:** Avoid subdivision:

...

- f. In areas of significant risk of ~~the Severe~~ ~~nNatural hHazards~~ **Overlays**,<sup>211</sup> where this is for the purposes of accommodating and/or servicing people and communities.

### 10.3. Rules and standards – general, SUB-R6, SUB-R8, SUB-R13, SUB-R20, SUB-R21, SUB-R23, SUB-R26 and SUB-R28 and SUB-S2

#### Submissions and Further Submissions

956. One general submission was received in relation to matters of discretion on all restricted discretionary activities.
957. One submission point was received seeking amendments to SUB-R5. One further submission was received.
958. One submission point was received seeking amendments to SUB-R6. One further submission was received.
959. One submission point was received seeking amendments to SUB-R8.
960. Sixteen submission points were received in support of SUB-R13. One submission point was received opposing SUB-R13. Sixteen submission points were received seeking amendments to SUB-R13. Four further submission points were received.
961. Fifteen submission points were received in support of SUB-R20. Two submission points were received seeking amendments to SUB-R20. Two further submission points were received.
962. Two submission points were received in support of SUB-R21. Sixteen submission points were received seeking amendments to SUB-R21. One further submission point was received.

<sup>208</sup> Toka Tū Ake (S612.129)

<sup>209</sup> Director General (S602.112)

<sup>210</sup> Chris & Jan Coll (S558.190), Chris J Coll Surveying Limited (S566.190), William McLaughlin (S567.263), Laura Coll McLaughlin (S574.190)

<sup>211</sup> Consequential amendment stemming from Toka Tū Ake (S612) S612.129

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

Natural Hazards - Ngā Mōreareatanga Aotūroa Chapter

963. Nineteen submission points were received in support of SUB-R23. Five submission points were received seeking amendments to SUB-R20. Two further submission points were received.
964. Two submission points were received in support of SUB-R26. Five submission points were received seeking amendments to SUB-R26. One further submission point was received.
965. Three submission points were received in support of SUB-R28. Five submission points were received seeking amendments to SUB-R28. One further submission point was received.
966. One submission point was received seeking amendments to SUB-S2.
967. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

### **Section 42A Report**

968. With the removal of the Flood Plain Overlay and the Lake Tsunami and Coastal Tsunami Overlays, the Reporting Officers recommended that all reference to these overlays are removed from SUB-R6, SUB-R8, and SUB-R13. All related submissions are therefore recommended to be accepted.
969. With respect to SUB-R13, the submissions<sup>212</sup> in support are acknowledged by the Reporting Officers (but ultimately recommended to be accepted in part because amendments are proposed to the rule). Further, the Reporting Officers recommended that the submissions of Hamish Macbeth (S307.006), BDC (S538.266), Chris & Jan Coll (S558.238), Chris J Coll Surveying Limited (S566.238), William McLaughlin (S567.307), Laura Coll McLaughlin (S574.238), Frank and Jo Dooley (S478.030) and Frank O'Toole (S595.018) are accepted because subdivision will be possible by way of a resource consent in the Flood Susceptibility Overlay; further guidance regarding '*suitably qualified and experienced practitioner*' is appropriate; it is appropriate to remove reference to '*sensitive activities*'; and it is appropriate to delete SUB-R13(3).
970. However, the Reporting Officers recommended that the submission on SUB-R13 of Margaret Montgomery (S446.057), Toka Tū Ake (S612.10) are accepted in part and the submissions of Westpower (S547.384, S547.385 and S547.386) are rejected because it is appropriate to retain SUB-R13 matter of discretion (e); it is necessary to address critical response facilities (although it is proposed to shift them to SUB-R21); and any risk assessment can address effects on infrastructure.
971. With respect to SUB-R20, the submissions<sup>213</sup> in support are recommended to be accepted by the Reporting Officers. However, they recommended that the submission of Margaret Montgomery (S446.059) is rejected because a discretionary activity status is appropriate for subdividing in the Westport Hazard Overlay.

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<sup>212</sup> Te Mana Ora (S190.428), John Brazil (S360.019), Leonie Avery (S507.052), Jared Avery (S508.052), Kyle Avery (S509.052), Avery Bros (S510.052), Bradshaw Farms (S511.052), Paul Avery (S512.052), Brett Avery (S513.052), Steve Croasdale (S516.054), Geoff Volckman (S563.048), Catherine Smart-Simpson (S564.054), Koiterangi Lime (S577.059), Avery Brothers (S609.046), Karamea Lime (S614.076), Peter Langford (S615.076)

<sup>213</sup> Te Mana Ora (S190.435), Leonie Avery (S507.057), Jared Avery (S508.057), Kyle Avery (S509.057), Avery Bros (S510.057), Bradshaw Farms (S511.057), Paul Avery (S512.057), Brett Avery (S513.057), Chris & Jan Coll (S558.250), Chris J Coll Surveying Limited (S566.250), William McLaughlin (S567.318), Laura Coll McLaughlin (S574.250), Avery Brothers (S609.050), Toka Tū Ake (S612.102), Snodgrass Road Submitters (S619.036)

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

Natural Hazards - Ngā Mōreareatanga Aotūroa Chapter

972. With respect to SUB-R21, the submissions<sup>214</sup> in support and the submissions of Margaret Montgomery (S446.060) and Martin & Co. (S543.045) are acknowledged by the Reporting Officers (but ultimately recommended to be rejected because amendments are proposed to the rule). The Reporting Officers recommended that the submission of the TTPP Committee (S171.006) is accepted as a non-complying activity status is more appropriate for subdivision in the severe hazard overlays. Consequentially, they consider this resolves an error identified by a number of submitters<sup>215</sup>.
973. The Reporting Officers recommended that SUB-R23 is deleted because the activities escalation can be provided under other rules.
974. It was recommended that the submissions<sup>216</sup> on SUB-R26 and SUB-R28 are all accepted in part. The Reporting Officers advised that as a result of the remapping of the earthquake hazards and adopting a risk based approach in accordance with the MfE Active Fault Guidelines, the activity status for activities in the Earthquake Severe Overlay remain non-complying, but the activity status for activities in the Earthquake Susceptibility Overlay be amended to restricted discretionary (elevating to discretionary when compliance is not achieved).
975. The Reporting Officers recommended that the submissions of Margaret Montgomery (S446.065) and Toka Tū Ake (S612.099) is rejected because SUB-S2 requires consideration of natural hazards and geotechnical constraints (and therefore additional matters of discretion are not required) and it is appropriate that the activity status in SUB-S2 is elevated where a building platform is located within a NH overlay.

### **Rebuttal**

976. The Reporting Officers agreed with Mr Kennedy that SUB-R13(c) should refer to '*on-site infrastructure*' (instead of regionally significant infrastructure).

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

977. The Panel agrees with the risk-based approach that the Reporting Officers have recommended for subdivision in the NH overlays. We consider that the escalating activity statuses is appropriate as the sensitivity of activities increases. We consider that the intent of the amended rules is consistent with notified provision (while emphasising the risk-based approach and transitioning to new terms).
978. In terms of the amendments proposed, the Panel note the Reporting Officers have referred to building platforms in each of the amendment rules. We consider this is incorrect, the process of subdivision is to create allotments and that is emphasised in the flow of rules in the Subdivision Chapter. We consider this is an error and have amended the rules below accordingly.
979. The Panel notes that the amendments recommended to SUB-R6, as part of this NH recommendation, have generally been captured in the Subdivision and Financial

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<sup>214</sup> Te Mana Ora (S190.436), Toka Tū Ake (S612.103)

<sup>215</sup> John Brazil (S360.021), Leonie Avery (S507.058), Jared Avery (S508.058), Avery Bros (S510.058), Bradshaw Farms (S511.058), Paul Avery (S512.058), Brett Avery (S513.058), Neil Mouat (S535.029), Chris & Jan Coll (S558.251), Chris J Coll Surveying Limited (S566.251), William McLaughlin (S567.319), Laura Coll McLaughlin (S574.251), Avery Brothers (S609.051)

<sup>216</sup> Te Mana Ora (S190.443, S190.436), Lara Kelly (S421.017, S421.018), Chris & Jan Coll (S558.257, S558.259), Chris J Coll Surveying Limited (S566.257, S566.259), William McLaughlin (S567.324, S567.326), Laura Coll McLaughlin (S574.257, S574.259), Toka Tū Ake (S612.104, S612.105), Buller District Council (S538.270)

Contributions and Public Access Recommendation Report. However, through the Variation 2 process, further amendments have been made which were not captured in the Subdivision and Financial Contributions and Public Access Recommendation Report. These have been highlighted in abbreviated format in the amendments below.

980. In terms of SUB-R8, this rule is substantially restructured in the Subdivision and Financial Contributions and Public Access Recommendation Report, and we consider the amendments proposed by the Reporting Officers are therefore no longer necessary.
981. The Panel agree the new rule recommended addresses the gap already identified in relation to Less Hazard Sensitive Activities, which we have already addressed, and we see this as a consequential amendment.
982. The Panel agrees that no amendment is required to SUB-R20 because discretionary status is appropriate Westport Hazard Overlay. In terms of SUB-21, we agree that it should be non-complying and we note that there was a somewhat confused situation in the notified Plan where the rule is discretionary, with an escalated default status of non-complying, but without any standard for which the escalation would be related to. This amendment will resolve this issue. In addition, we note that the inclusion of the Earthquake Severe Overlay in revised rule SUB-21 means that SUB-R26 can be deleted.
983. The Panel agree that with the recommendation for the activity status for subdivision within the Earthquake Severe Overlay, which encompasses the 20m buffer, changed to non-complying SUB-R28 can be deleted.
984. In terms of SUB-R23, as we have addressed previously, the Panel disagrees with the recommendation of the Reporting Officers that it be deleted. This is because of the fundamental structure of the rules in the Plan, which requires a corresponding rule when an activity status is escalated. Therefore, in this case, we consider that a discretionary rule remains necessary to address activities where one or more of the performance standards in the corresponding restricted discretionary rule are not met.
985. The Panel agrees that no amendments are necessary to SUB-S2.

**Hearing Panel’s Recommendation**

986. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the submission points identified in the footnotes below are accepted or accepted in part, and recommend amendments to **SUB-R6, SUB-R13, SUB-R20, SUB-R21 and SUB-R23**, adding a new rule and deleting **SUB-R26 and SUB-R28** as follows:

<b><u>SUB-RX Subdivision to create allotment(s) for Less Hazard Sensitive Activities in the Flood Susceptibility, Flood Alert, Earthquake Susceptibility, Land Instability, Coastal Hazard Inundation Overlay 1, Coastal Hazard Inundation Overlay 2, Hokitika Coastal, Westport, Coastal Hazard Erosion and Inundation, Flood Severe, or Earthquake Severe Hazard Overlays</u></b>	
<b><u>Activity Status: Controlled</u></b> <b><u>Matters of control:</u></b> <b><u>a. Risk to people, buildings and regionally significant infrastructure from the proposal and any measures to mitigate those risks; and</u></b>	<b><u>Activity status where compliance not achieved:</u></b> <b><u>N/A</u></b>

<p><b>b. <u>The location and design of proposed buildings, vehicle access, and regionally significant infrastructure in relation to the natural hazard.</u></b><sup>217</sup></p>	
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**SUB-R6 Subdivision to create allotment(s) in any RURZ - Rural Zone or MPZ - Māori Purpose Zone**

<p><b>Activity Status: Controlled</b></p> <p>Where</p> <p>...</p> <p>4. It does not create a building platform for a Potentially Hazard Sensitive or Hazard Sensitive Activity in the:</p> <p>i. Flood Susceptibility, Earthquake Susceptibility, Land Instability, <del>Coastal Alert</del> <b>Coastal Hazard Inundation Overlay 1, Coastal Hazard Inundation Overlay 2</b>, or Hokitika Coastal Hazard Overlay;</p> <p>ii. Westport Hazard Overlay;</p> <p>iii. Flood Severe, <del>Coastal Severe</del>, <b>Coastal Hazard Erosion and Inundation</b> or Earthquake Severe Overlay;<sup>218</sup></p> <p>...</p>	<p><b>Activity status where compliance not achieved:</b></p> <p>...</p> <p>Non-complying where 4 is not complied with.</p>
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**SUB-R13 Subdivision to create allotment(s) for Potentially Hazard Sensitive Activities and Hazard Sensitive Activities in the Flood Susceptibility, ~~Flood Alert, Flood Plain,~~ Earthquake Susceptibility, Land Instability, Coastal Hazard Inundation Overlay 1, Coastal Hazard Inundation Overlay 2, Lake Tsunami and Coastal Tsunami or Hokitika Coastal Hazard Overlays**<sup>219</sup>

<p><b>Activity Status: Restricted Discretionary</b></p> <p><del>1. The subdivision will not lead to use of the land within the Coastal Tsunami Overlay for critical response facilities;</del><sup>220</sup></p> <p><del>2. This is accompanied by a <b>A</b> hazard risk assessment undertaken by a suitably qualified and experienced practitioner <b>is provided</b>; and</del><sup>221</sup></p> <p><del>3. All Subdivision Standards are complied with.</del><sup>222</sup></p> <p>Discretion is restricted to:</p> <p>a. Matters outlined in the accompanying hazard risk assessment;</p>	<p><b>Activity status where compliance not achieved:</b></p> <p>Discretionary</p>
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<sup>217</sup> Consequential amendment stemming from Te Tai o Poutini Plan Committee (S171.032), Grey District Council (S608.596)

<sup>218</sup> Consequential amendment stemming from restructure of overlays

<sup>219</sup> Consequential amendment stemming from restructure of overlays, Grey District Council (S608.076), T Croft Ltd (S460.005)

<sup>220</sup> Toka Tū Ake (S612.101)

<sup>221</sup> Clause 16(2) of the RMA

<sup>222</sup> Frank and Jo Dooley (S478.030) and Frank O'Toole (S595.018)

<p>b. Risk to <del>life, property and the environment</del> <b>people, buildings and regionally significant infrastructure</b> from the proposal and any measures to mitigate those risks;<sup>223</sup></p> <p>c. The location and design of proposed buildings, vehicle access and <b>regionally significant</b> infrastructure in relation to <b>the</b> natural hazard risk;<sup>224</sup></p> <p>d. Whether the intended future use of the allotment(s) created by subdivision is for <del>sensitive activities, or</del> critical response facilities; and<sup>225</sup></p> <p>e. Any adverse effect on the environment of any proposed natural hazard mitigation measures.</p>	
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**SUB-R20: Subdivision to create allotment(s) for Potentially Hazard Sensitive Activities and Hazard Sensitive Activities ~~of Land~~ in the Westport Hazard Overlay<sup>226</sup>**

<p><b>Activity Status: Discretionary</b></p>	<p><b>Activity status where compliance not achieved:</b> N/A</p>
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**SUB-R23 Subdivision to create ~~create~~ allotment(s) for Potentially Hazard Sensitive Activities and Hazard Sensitive Activities in the Flood Susceptibility, Flood Alert, ~~Flood Plain~~, Earthquake Susceptibility, Land Instability, Coastal Hazard Inundation Overlay 1, Coastal Hazard Inundation Overlay 2, ~~Lake Tsunami and Coastal Tsunami~~ or Hokitika Coastal Hazard Overlays not meeting Restricted Discretionary Activity Standards<sup>227</sup>**

<p><b>Activity Status: Discretionary</b></p>	<p><b>Activity status where compliance not achieved:</b> N/A</p>
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**SUB-R21 Subdivision to create allotment(s) for Potentially Hazard Sensitive Activities and Hazard Sensitive Activities ~~within the Coastal Severe Coastal Hazard Erosion and Inundation, and Flood Severe, or Earthquake Severe Natural Hazard Overlays~~<sup>228</sup>**

<p><b>Activity Status: <del>Discretionary</del> Non-complying</b></p>	<p><b>Activity status where compliance not achieved:</b> <del>Non-complying<sup>229</sup></del> <b>N/A</b></p>
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<sup>223</sup> Consequential amendment stemming from Te Mana Ora (S190.142), Federated Farmers (S524.041), Toka Tū Ake (S612.048), Bert Hofmans (S504.002) and Lindy Millar (S505.002), Director General (S602.038)

<sup>224</sup> Consequential amendment stemming from Westpower (S547.518)

<sup>225</sup> Chris & Jan Coll (S558.238), Chris J Coll Surveying Limited (S566.238), William McLaughlin (S567.307), Laura Coll McLaughlin (S574.238)

<sup>226</sup> Consequential amendment stemming from restructure of overlays

<sup>227</sup> Consequential amendment stemming from restructure of overlays

<sup>228</sup> Consequential amendment stemming from restructure of overlays

<sup>229</sup> Clause 16(2) of the RMA

~~SUB R26: Subdivision to Create Allotments in the Earthquake Hazard Overlay: 50m, 100m, 150m or 200m Buffers~~

~~Activity Status: Non-complying~~

~~Activity status where compliance not achieved:~~

~~N/A<sup>230</sup>~~

~~Prohibited Activities~~

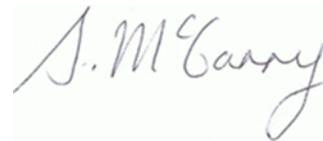
~~SUB R28: Subdivision to create Allotments in the Earthquake Hazard Overlay: 20m Buffer~~

~~No application for resource consent will be accepted for this activity<sup>231</sup>~~



Dean Chrystal

Hearings Panel - Chair



Sharon McGarry

Hearings Panel Member



Paul Rogers

Hearings Panel Member



Anton Becker

Hearings Panel Member



Maria Bartlett

Hearings Panel Member

Date: 19 September 2025

<sup>230</sup> Consequential amendment stemming from SUB-R21

<sup>231</sup> Consequential amendment stemming from SUB-R21

## APPENDIX 1 – RECOMMENDATIONS ON PLAN PROVISIONS

### Whole Chapter and Maps

Delete all references to *Average Recurrence Interval / ARI* from the pTTPP

Use *Annual Exceedance Probability / AEP* in the pTTPP.

Delete the Flood Plain Overlay and the related provisions from the Plan.

Replace the Flood Susceptibility Overlay with a Flood Alert Overlay in the Haast, Karamea, Inangahua, Ngakawau, Mokihinui, Waimangaroa and Waitakere/Nile Rivers and the Waiho River/Tartare Stream catchments (and include reference to the Flood Alert Overlay in NH-P7, SUB-R6, SUB-R8, SUB-RX and SUB-R13).

Delete the Earthquake Hazard Overlay 20m, 50m, 100m, 150m and 200m and replaced with the refined Earthquake Susceptibility Hazard and Earthquake Severe Hazard Overlays

Amend the extent of the Land Instability Overlay to reflect what is shown in the Operative Buller District Plan at Granity/Ngākawau/Hector.

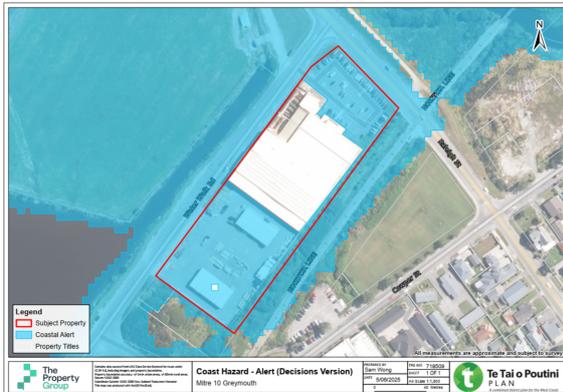
Amend the extent of the Land Instability Overlay to reflect what is shown in the Operative Buller District Plan and Punakaiki.

Delete the Lake Tsunami Hazard Overlay and related provisions from the Plan.

Delete the Coastal Tsunami Hazard Overlay and any relevant provisions from the Plan.

Delete the Coastal Alert Overlay north of Hector, otherwise retain the coastal hazard mapping for the Hector/Ngakawau/Granity area

Amend the Coastal Hazard Alert Overlay over the Mitre10 site, as shown in the map below:



Remove the Coastal Hazard Alert Overlay over 1298D Kumara Junction Highway as shown in the map below.



**Names of Hazard Overlays**

<p>Earthquake Hazard Overlays 20m, 50m, 100m, 150m and 200m</p> <p><b><u>Earthquake Severe Hazard Overlay</u></b></p> <p><b><u>Earthquake Susceptibility Hazard Overlay</u></b></p>
<p>Coastal Severe Overlay</p> <p><b><u>Coastal Hazard Erosion and Inundation Overlay</u></b></p> <p>Coastal Alert Overlay</p> <p><b><u>Coastal Hazard Inundation Overlay 1</u></b></p> <p>Coastal Setback Overlay</p> <p><b><u>Coastal Hazard Inundation Overlay 2</u></b></p>

**Definitions**

<b><u>ANNUAL EXCEEDANCE PROBABILITY (AEP)</u></b>	<b><u>means the probability of an event occurring in any given year.</u></b>
<b><u>ADDITIONS AND ALTERATIONS</u></b>	<p>a. in relation to natural hazards, changes to a building or structure that alters the habitable space in such a way as to increase the likely number of inhabitants. For example, increasing the number of bedrooms, but not the size of bedrooms, or converting a garage to a bedroom but not increasing the size of a garage; and</p> <p>b. means, in relation to historic heritage items, changes to the extent, floor levels, form, proportion and scale of the item, or changes to the design, texture, or form of the fabric of the item.</p>
<b><u>COMMUNITY FACILITIES, EDUCATION FACILITIES AND HEALTH FACILITIES</u></b>	means in relation to natural hazards, all community buildings where people congregate including places of worship, Marae, daycare, primary, secondary and tertiary education facilities, medical facilities excluding hospitals and medical centres with surgery facilities
<b><u>CRITICAL RESPONSE FACILITIES</u></b>	<p>means, in relation to natural hazards, hospitals, fire, rescue, police stations, buildings intended to be used in an emergency for shelter, communication operations or response, <del>hazardous or explosive material storage</del>, aviation control towers, air traffic control centre, emergency aircraft hangers, fuel storage, <del>major dams</del>, community scale potable water treatment facilities; and wastewater treatment facilities</p> <p><b><u>Note: This definition does not apply to a Community Facility when emergency shelter is not the main purpose of the building.</u></b></p>
<b><u>HAZARD SENSITIVE ACTIVITY</u></b>	<p><b><u>means buildings accommodating:</u></b></p> <p>h. <b><u>Residential Activity, including residential units, respite care, sleep outs and rehabilitation housing</u></b></p> <p>i. <b><u>Visitor Accommodation and Worker Accommodation</u></b></p> <p>j. <b><u>Retirement Village</u></b></p>

	<ul style="list-style-type: none"> <li>k. <u>Healthcare and Medical Activities</u></li> <li>l. <u>Community Facility</u></li> <li>m. <u>Educational Facility</u></li> <li>n. <u>Critical Response Facility</u></li> </ul>
<b><u>LESS HAZARD SENSITIVE ACTIVITY</u></b>	<p><b>means:</b></p> <ul style="list-style-type: none"> <li>a. <u>Buildings used for non-habitable purposes</u></li> <li>b. <u>Fences</u></li> <li>c. <u>Minor storage facilities</u></li> <li>d. <u>Parks facilities</u></li> <li>e. <u>Parks furniture</u></li> <li>f. <u>Buildings associated with primary production, including intensive indoor primary production</u></li> <li>g. <u>West Coast Regional Council monitoring structures</u></li> <li>h. <u>Buildings associated with port activities</u></li> <li>i. <u>Buildings associated with quarrying and mining activities</u></li> <li>j. <u>Decks</u></li> <li>k. <u>Buildings and structures associated with any other activity that is not identified as a Hazard Sensitive Activity or Potentially Hazard Sensitive Activity</u></li> </ul>
<b><u>POTENTIALLY HAZARD SENSITIVE ACTIVITY</u></b>	<p><b>means buildings accommodating:</b></p> <ul style="list-style-type: none"> <li>j. <u>Commercial Activity</u></li> <li>i. <u>Crematoriums and Funeral Homes</u></li> <li>j. <u>Entertainment Facility</u></li> <li>k. <u>Food and Beverage Activity</u></li> <li>l. <u>Industrial Activity</u></li> <li>m. <u>Stadium Activity</u></li> <li>n. <u>Retail Activity</u></li> <li>o. <u>Rural Industrial</u></li> </ul>
<b><u>SEVERE NATURAL HAZARD OVERLAY</u></b>	<p><b>means either one or a combination of the mapped extents of the Severe Flood Overlay, Earthquake Severe Overlay and Coastal Hazard Erosion and Inundation Overlay.</b></p>

### Overview

The West Coast/Te Tai o Poutini region is subject many natural hazards; river flooding, coastal erosion, coastal inundation and land instability; the impact of these natural hazards is likely to be exacerbated by climate change including sea level rise over the lifetime of this Plan. There is also natural hazard risk from earthquakes and tsunami (coastal and lake).

A natural hazard is defined in the RMA as "any atmospheric or earth or water related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire or flooding) the action of which adversely affects or may adversely affect human life, property, or other aspects of the environment".

The risks associated with natural hazards vary on the West Coast/Te Tai o Poutini, with its sparse population and low level of development in some areas, compared with discrete areas of larger populations in the towns and settlements. In the larger populated and developed areas the consequences of natural hazards are considerably greater - hence the risk is higher. A risk-based

approach to natural hazards has been taken in Te Tai o Poutini Plan and means that the focus of the natural hazard provisions is in the areas where there is greatest risk.

- Coastal Hazard Overlays—~~Coastal Severe~~ **Coastal Hazard Erosion and Inundation Overlay** where risk from coastal erosion and inundation **over the next 100 years with 1m of sea level rise** have been modelled and mapped, ~~Coastal Alert~~ **Coastal Hazard Inundation Overlay 1** where risk from coastal inundation **in a 1% AEP coastal storm event with 1m of sea level rise** has been modelled and mapped. ~~Coastal Setback~~ **Coastal Hazard Inundation Overlay 2** where modelling has not been undertaken and is a precautionary approach **which is a 30m wide buffer from the edge of the active shoreline to capture seasonal changes in the shoreline and corresponding inundation hazard.** ~~Coastal Tsunami~~ is where the most significant risk from coastal tsunami has been mapped and is different from coastal tsunami evacuation areas.
- Hokitika Coastal Overlay – applies to parts of Hokitika where the design and consent process for planned upgrades have not yet occurred, and a significant risk remains.
- Flood Hazard Overlays – “Flood Severe” and “Flood Susceptibility” where risk from flooding has been modelled, and due to depth and speed of water, mapped as either severe ~~or~~ susceptibility. “Floodplain” are areas where modelling has not been undertaken and this is a precautionary approach.
- Westport Hazard Overlay - specific provisions managing flooding and coastal inundation. This applies to the area identified in the West Coast Regional Council Long Term Plan as to be protected. Design and consent work is underway.
- Earthquake Hazard Overlays – These overlays applies ~~200m~~ either side of the active fault traces for the Alpine, Hope, Clarence and Awatere Faults. A large earthquake on these faults will result in ground shaking outside of these areas. The Earthquake Hazard Overlay should not be considered the total extent of the hazard but are considered to reflect the likely extent of the most significant hazard.
- Land Instability Overlay – This overlay applies to areas where there is risk from slope instability, landslide, debris flow and rockfall.
- ~~Lake Tsunami / Seiche~~ – This applies to the land proximate to lakes.

~~The impacts of climate change have been included in the technical work underlying the development of the Coastal severe, Coastal alert, Coastal Setback and Hokitika Coastal, Westport Hazard, flood severe and flood susceptibility overlays.~~

The spatial extent of the overlays is where rules apply. Some properties may have more than one natural hazard overlay, the rules from all overlays apply.

~~There are no land use rules for the flood plain overlay and this overlay relates to the subdivision rules.~~

### **Natural Hazard Mitigation Structures**

Where Natural Hazard Mitigation Structures are located or proposed in the Coastal Environment or Riparian Areas of Waterbodies, the rules for these are to be found in the relevant Coastal Environment and Natural Character and Margins of Waterbodies Chapters.

### **Other relevant Te Tai o Poutini Plan provisions**

It is important to note that in addition to this chapter, a number of General District-wide Matters chapters also contain provisions that may be relevant for natural hazards and in particular the specific provisions around the construction of natural hazard mitigation structures such as seawalls, flood walls and stop banks.

In particular the Coastal Environment Chapter, Natural Character and Margins of Waterbodies Chapter, Earthworks Chapter, Ecosystems and Indigenous Biodiversity and Natural Features and Landscapes Chapters may be relevant.

## Objectives

~~NH-01: To use a regionally consistent,~~ **Adopt a risk-based approach to natural hazard management, where:**

- 1. Subdivision, use and development within Severe Natural Hazard Overlays reduces or does not increase the existing risk from natural hazards to people, buildings, and regionally significant infrastructure.**
- 2. Subdivision, use and development within all other Natural Hazard Overlays manages and does not increase the risk from natural hazards to people, buildings, and regionally significant infrastructure.**

~~NH-02: To reduce the risk to life, property and the environment from natural hazards, thereby promoting the well-being of the community and environment.~~

~~NH-032 To only locate critical **regionally significant** infrastructure within areas of significant natural hazard risk **the Severe Natural Hazard Overlays** where there is ~~no reasonable alternative~~ **an operational need or functional need to be located within these overlays**, and to design **the** infrastructure so as not to exacerbate natural hazard **increase the** risk to people and property **other buildings**.~~

~~NH-043 To ensure the role of hazard mitigation played by natural features that minimise impacts of hazards including wetlands and dunes is recognised and protected.~~ **Green Infrastructure that reduces the susceptibility of people, buildings, and regionally significant infrastructure to damage from natural hazards are created, retained, or enhanced and protected.**

~~NH-054: To recognise and provide for the effects **impacts** of climate change, and its influence on the frequency and severity of natural hazards.~~

~~NH-065 Measures taken to mitigate natural hazards do not create or exacerbate adverse effects on other **increase the risks to** people, property, **buildings and regionally significant** infrastructure and the environment.~~

## Policies

~~NH-P1 Identify in **areas subject to** natural hazards ~~overlays~~ areas at significant risk from natural hazards: **within the District Plan and take a risk-based approach to the management of subdivision, use and development based on:**~~

- The sensitivity of the activities to the impacts of natural hazards;**
- The risk posed to people's lives and wellbeing, buildings and regionally significant infrastructure, by considering the likelihood and consequences of natural hazard events; and**
- The operational need or functional need for some activities to locate within the Natural Hazard Overlays.**

~~NH-P2: Where a natural hazard has been identified and the natural hazard risk to people and communities is **uncertain** unquantified but evidence suggests that the risk is potentially significant, apply a precautionary approach to allowing **subdivision, use and** development ~~or use~~ of the area.~~

~~NH-P3: When managing natural hazards:~~

- ~~Promote the use of natural features **green infrastructure** and appropriate risk management approaches in preference to hard engineering solutions in mitigating natural hazard risks; and~~
- ~~Avoid increasing risk to people, property and the environment **and buildings**; while~~
- ~~Recognising that in some circumstances hard engineering solutions may be the only practical means of protecting existing communities and critical **regionally significant** infrastructure; and~~

- d. **Enabling natural hazard mitigation works where these works are being undertaken by a Statutory Agency or their nominated contractor acting on their behalf and these will decrease the existing risk to people's lives and wellbeing, buildings and regionally significant infrastructure.**

**NH-P4** Natural hazard assessments, ~~managed retreat locations and resource consent applications for~~ **subdivision, use and development (including for managed retreat)** will consider the impacts of climate change. In particular the following matters will be considered:

- a. Change in sea level **over the next 100 years;**
- b. ~~Altering of coastal processes;~~
- b. Increased inundation of low lying areas;
- c. ~~Changes in local temperatures;~~
- c. Changes in rainfall patterns; and
- d. Increase in cyclonic storms.
- e. **Changes in the magnitude, frequency and duration of severe weather events.**

**NH-P5** When assessing areas suitable for managed retreat, the following matters will be considered:

- a. That the natural hazard risk of the area is less than the existing location, and
- c. The potential future need to protect the community and associated infrastructure by hazard mitigation works.

**NH-P6** In the Earthquake Hazard Overlay avoid:

- a. ~~Development of critical response facilities;~~
- b. ~~Community facilities, educational facilities and health facilities within 150m of the faultline;~~
- c. ~~Commercial and industrial buildings within 100m of the faultline; and~~
- d. ~~Residential activities within 50m of the faultline.~~

**NH-P7:** ~~Allow unoccupied structures and buildings within the Earthquake Hazard Overlay.~~ **for subdivision, use and development for Less Hazard Sensitive Activities in all Natural Hazard Overlays.**

**NH-P8** ~~Avoid locating critical response facilities within the Coastal Tsunami Hazard overlay.~~

**NH-P9:** ~~Restrict further development of sensitive activities in the Lake Tsunami Hazard overlay.~~

**NH-P106:** ~~Avoid~~ **subdivision, use and development of for Potentially Hazard Sensitive and Hazard Sensitive aActivities within the Coastal Severe Hazard and Flood Severe Severe Natural Hazard eOverlays unless it can be demonstrated that:**

- a. The activity **subdivision, use or development** has an operational and or functional need to locate within the hazard area; and
- b. That the activity **The subdivision, use or development** incorporates mitigation **measures that reduce or do not increase the** minimise the of **existing** risk to life, property and the environment, and there is significant public or environmental benefit in doing so **people, buildings and regionally significant infrastructure; and**
- c. **In the Flood Severe Overlay the risk to people, buildings and regionally significant infrastructure on adjacent sites is not increased as a result of the activity proceeding; or**
- d. **In the Coastal Hazard Erosion and Inundation Overlay there are existing or proposed coastal erosion mitigation structures that are certified by an engineer to provide protection from coastal erosion and meeting the following design requirements:**

- Have a batter slope of 1:2.5 or less;
- Must be embedded a minimum of 1.0 metres into the beach terrain, ideally reaching a level below the low water mark level;
- The rock just be of sound composition with a minimum density of 2.6 tonnes per cubic metre; and
- The rock must have a minimum D50 (median diameter) of 800mm and be well graded and constructed to form a competent lining.

**NH-P117:** ~~Allow~~ Provide for subdivision, use and development for Potentially Hazard Sensitive Activities and Hazard Sensitive Activities in the Land Instability Alert, ~~Coastal Setback~~ Coastal Hazard Inundation Overlay 1, Coastal Hazard Inundation Overlay 2, and Flood Alert, Flood Susceptibility and Earthquake Susceptibility Hazard ~~Overlays~~ where:

- ~~Mitigation measures avoid risk to life and property and the environment~~ are incorporated to minimise mitigate the risk to people, buildings and regionally significant infrastructure; and
- ~~In the Flood Susceptibility and Land Instability Overlays the risk to adjacent properties, activities and people and buildings on adjacent sites~~ is not increased as a result of the activity proceeding.

**NH-P128** When assessing the actual and potential effects of activities subdivision, use and development in the ~~n~~ Natural Hazard ~~Overlays~~ consider:

- The effects of level of risk posed by natural hazards ~~on~~ to people, property and the environment buildings and regionally significant infrastructure;
- Existing and proposed ~~T~~ technological and engineering mitigation measures and other non-engineered options;
- The location and design of proposed sites, buildings, vehicle access, earthworks and on-site infrastructure in relation to the natural hazard risk;
- The clearance or retention of vegetation or other natural features to mitigate natural hazard risk;
- The timing, location, scale and nature of any earthworks in relation to the natural hazard risk;
- The potential for the proposal to exacerbate natural hazard risk, including transferring risk to any other site;
- The functional need or operational need to locate in these areas; and
- Any ~~significant~~ adverse effects on the environment of any proposed mitigation measures.

**NH-P139** Allow subdivision, use and development within the Westport Hazard Overlay where the risk to people and buildings is mitigated from the:

- 1% annual exceedance probability flood event ~~is mitigated;~~ and
- 1% annual recurrence interval exceedance probability plus 1m sea level rise coastal event. ~~are mitigated;~~ and
- Where mitigation is not achieved, further subdivision, use and development is avoided.

**NH-P140** Allow subdivision, use and development within the Hokitika Coastal Hazard Overlay where the risk to people and buildings is mitigated from the 1% annual recurrence interval exceedance probability coastal storm event plus 1m sea level rise coastal event risks ~~are mitigated;~~ and where mitigation is not achieved, further subdivision, use and development is avoided.

**NH-P11** Only allow for hard engineering natural hazards mitigation works for the reduction of the risk from coastal hazards where:

- a. The engineering measures are needed to protect existing nationally and regionally significant infrastructure and it can be demonstrated that there is no practicable alternative;
- b. There is a demonstrable risk to existing nationally and regionally significant infrastructure, life or private property from the coastal hazard;
- c. The construction of the hard engineering measures will not increase the risk from Coastal Hazards on adjacent properties that are not protected by the hard engineering measures;
- d. Hard engineering structures are designed to minimise adverse effects on the coastal environment
- e. Adverse effects on significant natural features and systems and their function as natural defences are avoided, remedied or mitigated; and
- f. It can be demonstrated that green infrastructure measures would not provide an appropriate level of protection in relation to the significance of the risk.

**NH-P12 Only allow for the construction of a single residential unit on an existing vacant site located within the Severe Natural Hazard Overlays, where:**

- a. Locating a residential unit on a site outside of the Severe Natural Hazard Overlays is not a practicable option; and
- b. Mitigation measures are incorporated into the building to minimise the risk to life of the occupants and the structural integrity of the building in the event of a natural hazard that relates to the overlay.

**NH-P13 Only allow for the construction of buildings associated with Hazard Sensitive Activities and Potentially Hazard Sensitive Activities within the Scenic Visitor Zone and within the Coastal Hazard Erosion and Inundation Overlay, where:**

- a. Locating a building on the site outside of the Coastal Hazard Erosion and Inundation Overlay is not a practicable option; and
- b. Mitigation measures are incorporated into the building to mitigate the risk to life of the occupants and maintain the structural integrity of the building from coastal erosion or coastal inundation.

**NH-P14: Only allow for the construction of buildings associated with Hazard Sensitive Activities and Potentially Hazard Sensitive Activities within a Severe Natural Hazard Overlay where:**

- a. Locating a building on the site outside of the Severe Natural Hazard Overlay is not a practicable option on Māori Purpose Zone land; and
- b. Mitigation measures are incorporated into the building to mitigate the risk to life of the occupants and maintain the structural integrity of the building from the severe natural hazard.

All Natural Hazard Overlays and Coastal Hazard Overlays	
Permitted Activities	
<b>NH-R1 <del>Reconstruction and</del> Replacement of Lawfully Established Buildings for <del>Less Hazard Sensitive Activities,</del> Potentially Hazard Sensitive Activities and Hazard Sensitive Activities in all the-Natural Hazard Overlays</b>	
<p><b>Activity Status Permitted</b></p> <p>Where:</p> <ol style="list-style-type: none"> <li>1. This is the <del>reconstruction/replacement</del> of a building lawfully established <b>building</b> at the time of notification of the Plan; and</li> <li>2. The building has been destroyed or substantially damaged due to fire, <del>natural disaster or Act of God</del> <b>or a natural hazard event and is located in the Flood Susceptibility, Earthquake Susceptibility, Land Instability, Coastal Hazard Inundation Overlay 1, Coastal Hazard Inundation Overlay 2, Hokitika Coastal or Westport Hazard Overlay; and</b></li> <li>3. The <del>destroyed/damaged</del> building is reconstructed or replaced within 2 years in the Westport Hazard, Coastal Severe and Flood Severe Overlays <b>if the building is to contain a Potentially Hazard Sensitive or Hazard Sensitive Activity and is within the Flood Susceptibility, Hokitika Coastal, or Westport Hazard Overlay, then the replacement building complies with the minimum floor level requirement of the specific Natural Hazard Overlay Rules; and</b></li> <li>4. The <b>rebuild has commenced</b> <del>destroyed/damaged</del> building is reconstructed or replaced within 5 years <b>after the date of the natural hazard event or fire which caused the damage or destruction to the building</b> in all other natural hazard overlays; and</li> <li>5. The <del>reconstructed/replaced</del> building is similar in character, intensity and scale to the building that it replaces <b>The gross floor area of the replacement building is the same, or smaller than the building that was destroyed.</b></li> </ol>	<p><b>Activity status where compliance not achieved:</b></p> <p>Refer to specific Natural Hazard Overlay Rules</p>
<b>NH-R2 Repairs, Maintenance and <del>Operation of any</del> Upgrades to Existing Natural Hazard Mitigation Structures</b>	
<p><b>Activity Status Permitted</b></p> <p>Where:</p> <ol style="list-style-type: none"> <li>1. The structure has been lawfully established;</li> <li>2. Earthworks and land disturbance is the minimum required to undertake the activity;</li> </ol>	<p><b>Activity status where compliance not achieved: <u>Restricted</u></b></p> <p>Discretionary</p>

<p>3. There is no change to the design, texture, or form of the structure;</p> <p>4. The materials used are the same as the original, or most significant material, or the closest equivalent provided that <del>only</del> cleanfill is used where fill materials are part of the structure; and</p> <p>5. There is no reduction in public access;</p> <p>6. <u>There is no change of more than 10% to the overall dimensions, orientation, height or length of the structure from the originally lawfully established structure; and</u></p> <p>7. <u>It is accompanied by an assessment undertaken by a Chartered Professional Engineer, confirming that the natural hazard mitigation structure does not increase the natural hazard risk to other properties or any other lawfully established natural hazard mitigation structure, is provided to the relevant District Council 10 working days prior to works commencing.</u></p> <p><b>Advice Notes:</b></p> <p>1. Where any natural hazard mitigation structure is also located in <u>the Coastal Environment or</u> another Overlay Chapter area as identified on the planning maps and in the Schedules One to Eight then resource consent may be required under the relevant Overlay Chapter rules.</p> <p>2. A West Coast Regional Council resource consent may be required under the West Coast Regional Land and Water Plan and/or Regional Coastal Plan.</p>	
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<b>NH R3 Upgrades to Existing Natural Hazard Mitigation Structures</b>	
<p><b>Activity Status Permitted</b></p> <p>Where:</p> <p>1. The structure has been lawfully established;</p> <p>2. Earthworks and land disturbance is the minimum required to undertake the activity;</p> <p>3. There is no reduction in public access;</p> <p>4. There is no change to more than 10% to the overall dimensions, orientation or outline of structure from that originally consented structure; and</p> <p>5. It is accompanied by an assessment undertaken by a Chartered Professional Engineer confirming that the natural hazard mitigation structure does not increase the natural hazard risk to other properties or any other lawfully established natural hazard mitigation structure, and this assessment is provided to the relevant District Council 10 working days prior to works commencing.</p>	<p><b>Activity status where compliance not achieved:</b></p> <p>Discretionary</p>

<p><b>Advice Notes:</b></p> <ol style="list-style-type: none"> <li>1. Where any natural hazard mitigation structure is also located in another Overlay Chapter area as identified on the planning maps and in the schedules then resource consent may be required under the relevant Overlay Chapter rules.</li> <li>2. A West Coast Regional Council resource consent may be required under the West Coast Regional Land and Water Plan and/or Regional Coastal Plan.</li> </ol>	
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**NH-R3 Demolition and Removal of a Natural Hazard Mitigation Structure within all zones and Overlay Areas**

<p><b>Activity Status: Permitted</b></p> <p><b>Where:</b></p> <ol style="list-style-type: none"> <li>1. <u>It is accompanied by an assessment undertaken by a Chartered Professional Engineer certifying that removal of the natural hazard mitigation structure does not increase the natural hazard risk to other properties or any other lawfully established natural hazard mitigation structure, and this certification is provided to the relevant District Council 10 working days prior to works commencing.</u></li> <li>2. <u>Within one month of the natural hazard mitigation structure being removed, evidence is provided to Council of the completion of works and certification that any engineering requirements specified in the assessment (clause 1) are fulfilled.</u></li> </ol> <p><b>Advice Note:</b> <u>Where any natural hazard mitigation structure is also located in the Coastal Environment or another Overlay Chapter area as identified on the planning maps and in the Schedules One to Eight then resource consent may be required under the relevant Overlay Chapter rules.</u></p>	<p><b>Activity status where compliance not achieved:</b>  <b>N/A</b></p>
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**Restricted Discretionary Activity**

**NH-R4 New Natural Hazard Mitigation Structure and Repairs, Maintenance and Operation of any Minor Upgrades to Existing Natural Hazard Mitigation Structures not meeting Permitted Activity Standards**

<p>Activity Status Permitted <b>Restricted discretionary</b></p> <p><b>Where:</b></p> <ol style="list-style-type: none"> <li>1. The structure is located outside of any Overlay Chapter area identified in Schedules 1-8;</li> </ol>	<p><b>Activity status where compliance not achieved:</b></p> <p>Refer to relevant Overlay Chapter rules where standard 1 is not complied with.</p>
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<p><del>4. Earthworks and land disturbance is the minimum required to undertake the activity</del></p> <p><b><u>1. The structure is constructed by a Statutory Agency or their nominated authorised contractor acting on its behalf;</u></b></p> <p>2. There is no reduction in public access;</p> <p>3. It is accompanied by an assessment undertaken by a Chartered Professional Engineer confirming that the natural hazard mitigation structure does not increase the natural hazard risk to other properties or any other lawfully established natural hazard mitigation structure, and this assessment is provided to the relevant District Council 10 working days prior to works commencing.</p> <p><b><u>Discretion is restricted to:</u></b></p> <p>a. <b><u>The effects on people and property;</u></b></p> <p>b. <b><u>The effects on the natural character of the coastal environment;</u></b></p> <p>c. <b><u>The effects on Poutini Ngāi Tahu values; any archaeological sites, historic heritage or on any Site and Areas of Significance to Māori identified in Schedule Three;</u></b></p> <p>d. <b><u>The effects on public access;</u></b></p> <p>e. <b><u>Volume and area of earthworks;</u></b></p> <p>f. <b><u>Effects on ecosystems and indigenous biodiversity;</u></b></p> <p>g. <b><u>Measures to mitigate landscape effects; and</u></b></p> <p>h. <b><u>The functional need or operational need of the activity.</u></b></p> <p>Advice Notes:</p> <p>1. A West Coast Regional Council resource consent may be required under the West Coast Regional Land and Water Plan and/or Regional Coastal Plan.</p> <p>2. Natural Hazard Mitigation Structures constructed in the Coastal Environment, or within the Riparian Margins of Waterbodies or within areas identified in Schedules One to Eight will be subject to the provisions in the relevant Overlay Chapters.</p> <p>3. If the Overlay Chapters don't provide for this activity then NH-R43 prevails.</p>	<p><del>Discretionary where standard 2.4 is not complied with</del></p>
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**NH-R5 The construction of buildings that will contain a residential unit within the Flood Severe Overlay, Earthquake Severe Overlay or Coastal Hazard Erosion and Inundation Overlay**

<p><b><u>Activity Status: Restricted Discretionary</u></b></p> <p><b><u>Where:</u></b></p> <p><b><u>1. It involves the construction of one residential unit on an existing vacant site that existed prior to 1 July 2022 where the residential unit is located within the Severe Natural Hazard Overlays.</u></b></p> <p><b><u>Discretion is restricted to:</u></b></p> <p><b><u>a. The location of the residential unit on the site and whether there are any other practicable locations on the site to locate the residential unit outside of the natural hazard overlay;</u></b></p> <p><b><u>b. The mitigation measures incorporated into the residential unit to minimise the risk to life to the occupants and maintain the structural integrity of the building from the natural hazard which relates to the overlay; and</u></b></p> <p><b><u>c. Within the Flood Severe and the Coastal Hazard Erosion and Inundation Overlay the incorporation of mitigation measures into the residential unit to allow for the building to be relocated due to the future risk presented to the building from natural hazards.</u></b></p>	<p><b><u>Activity status where compliance not achieved:</u></b></p> <p><b><u>Non-complying</u></b></p>
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**NH-R6 The construction of buildings, and additions to buildings, that will contain Hazard Sensitive Activities or Potentially Hazard Sensitive Activities and are within the Scenic Visitor Zone and within the Coastal Hazard Erosion and Inundation Overlay**

<p><b><u>Activity Status: Restricted Discretionary</u></b></p> <p><b><u>Where:</u></b></p> <p><b><u>1. This is accompanied by a natural hazard risk assessment prepared by a suitably qualified and experienced person.</u></b></p> <p><b><u>Discretion is restricted to:</u></b></p> <p><b><u>a. The risk from coastal hazards to people and property and any measures to reduce or mitigate this risk;</u></b></p> <p><b><u>b. The management of vegetation or other natural features to mitigate natural hazard risk;</u></b></p> <p><b><u>c. The potential for there to be an increase in the risk of coastal erosion to either neighbouring properties or Regionally Significant Infrastructure from either the design of the proposed development or any mitigation measures to reduce the risk to future occupants or buildings.</u></b></p> <p><b><u>d. Any potential impacts on the natural environment or changes in natural processes as a result of any natural</u></b></p>	<p><b><u>Activity status where compliance not achieved:</u></b></p> <p><b><u>Non-complying</u></b></p>
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<p><u>hazard mitigation measures use to reduce the risk to the building;</u></p> <p>e. <u>In respect to Community Facilities, Retirement Homes, Healthcare Facilities, Childcare Services and Educational Facilities the ability for people to be able to safely evacuate from the site in a coastal hazard event; and</u></p> <p>f. <u>In respect to Emergency Facilities the ability for emergency vehicles and services to be able to operate during and after a coastal hazard event.</u></p>	
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**NH-R7 The construction of buildings, and additions to buildings, that will contain Hazard Sensitive Activities or Potentially Hazard Sensitive Activities and are within a Severe Natural Hazard Overlay**

<p><u>Activity Status: Restricted Discretionary</u></p> <p><u>Where:</u></p> <p><u>1. The construction is within Māori Purpose Zone land; and</u></p> <p><u>2. This is accompanied by a natural hazard risk assessment prepared by a suitably qualified and experienced person.</u></p> <p><u>Discretion is restricted to:</u></p> <p><u>a. The risk from natural hazards to people and property and any measures to reduce or mitigate this risk;</u></p> <p><u>b. The management of vegetation or other natural features to mitigate natural hazard risk;</u></p> <p><u>c. The potential for there to be an increase in the risk to either neighbouring properties or Regionally Significant Infrastructure from either the design of the proposed development or any mitigation measures to reduce the risk to future occupants or buildings.</u></p> <p><u>d. Any potential impacts on the natural environment or changes in natural processes as a result of any natural hazard mitigation measures use to reduce the risk to the building.</u></p> <p><u>e. In respect to Community Facilities and Educational Facilities the ability for people to be able to safely evacuate from the site in a natural hazard event;</u></p> <p><u>f. In respect to Emergency Facilities the ability for emergency vehicles and services to be able to operate during and after a natural hazard event.</u></p>	<p><u>Activity status where compliance not achieved:</u>  <u>Non-complying</u></p>
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<b>Discretionary Activities</b>	
<b>NH-R8 Repairs, Maintenance, <del>Operation</del>, Upgrade of to Existing Natural Hazard Mitigation Structures and New Natural Hazard Mitigation Structures not meeting <del>Permitted Activity</del> Restricted Discretionary Standards</b>	
<b>Activity Status: Discretionary</b>	<b>Activity status where compliance not achieved:</b> N/A
<b>Advice Note:</b>	
<ol style="list-style-type: none"> <li>1. Where any natural hazard mitigation structure is also located in <b><u>the Coastal Environment or</u></b> another Overlay Chapter area as identified on the planning maps and in the Schedules One to Eight then resource consent may be required under the relevant Overlay Chapter rules.</li> <li>2. A West Coast Regional Council resource consent may be required under the West Coast Regional Land and Water Plan and/or Regional Coastal Plan.</li> </ol>	

<b>NH-R9</b>	
<b><u>The construction of buildings that will contain a residential unit within the Flood Severe Overlay, Earthquake Severe Overlay or Coastal Hazard Erosion and Inundation Overlay or;</u></b>	
<b><u>The construction of buildings, and additions to buildings, that will contain Hazard Sensitive Activities or Potentially Hazard Sensitive Activities and are within the Scenic Visitor Zone and within the Coastal Hazard Erosion and Inundation Overlay; or</u></b>	
<b><u>The construction of buildings, and additions to buildings, that will contain Hazard Sensitive Activities or Potentially Hazard Sensitive Activities and are within or Māori Purpose Zone;</u></b>	
<b>not meeting the Restricted Discretionary Activity Standards</b>	
<b>Activity Status: Non-complying</b>	<b>Activity status where compliance not achieved:</b> N/A

<b>Rules - Flood Severe Overlay and Flood Susceptibility Overlay</b>	
<b>Permitted Activities</b>	
<b>NH-R10 Additions to Existing Buildings and New Buildings containing Less Hazard Sensitive Activities in the Flood Susceptibility and Flood Severe Hazard Overlays</b>	
<b>Activity Status: Permitted</b>	<b>Activity status where compliance not achieved: N/A</b>

<b>NH-R11 Additions to Existing Buildings and New Buildings containing Potentially Hazard Sensitive Activities or Hazard Sensitive Activities in the Flood Susceptibility Hazard Overlays</b>
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<p><b><u>Activity Status: Permitted</u></b></p> <p><b><u>Where:</u></b></p> <ol style="list-style-type: none"> <li><b><u>Any new buildings or additions for Potentially Hazard Sensitive Activities have a minimum finished floor level of 300mm above a 1% annual exceedance probability flood event.</u></b></li> <li><b><u>Any new buildings or additions for Hazard Sensitive Activities have a minimum finished floor level of 500mm above a 1% annual exceedance probability flood event.</u></b></li> </ol>	<p><b><u>Activity status where compliance not achieved:</u></b></p> <p><b><u>Restricted Discretionary Activity</u></b></p>
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<p><b><u>Restricted Discretionary Activities</u></b></p>	
<p><b><u>NH-R12 Additions to Existing Buildings and New Buildings containing Potentially Hazard Sensitive Activities or Hazard Sensitive Activities not meeting Permitted Activity Standards in the Flood Susceptibility Hazard Overlays</u></b></p>	
<p><b><u>Activity Status: Restricted Discretionary</u></b></p> <p><b><u>Discretion is restricted to:</u></b></p> <ol style="list-style-type: none"> <li><b><u>The risk to people and buildings on the site from the 1% Annual Exceedance Probability Flood and the mitigation measures to reduce this risk.</u></b></li> <li><b><u>The risk to people and buildings on adjacent properties from the 1% Annual Exceedance Probability Flood, and the mitigation measures to reduce this risk.</u></b></li> <li><b><u>The impacts of the building on the conveyance of flood waters, including any potential for flood waters to be blocked or diverted onto adjacent properties.</u></b></li> </ol>	<p><b><u>Activity status where compliance not achieved:</u></b></p> <p><b><u>N/A</u></b></p>

<p><b><u>NH-R13 Additions to Existing Buildings and New Buildings containing Potentially Hazard Sensitive Activities or Hazard Sensitive Activities in the Flood Severe Hazard Overlay</u></b></p>	
<p><b><u>Activity Status: Non-complying</u></b></p>	<p><b><u>Activity status where compliance not achieved:</u></b></p> <p><b><u>N/A</u></b></p>

<p><b>NH-R6</b></p>	<p><b>Repairs and Maintenance of Existing Buildings in the Flood Severe and Flood Susceptibility Overlays</b></p>
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<p><b>Activity Status Permitted</b></p> <p>Where:</p> <p>1. — Repairs and maintenance do not increase the net floor area of the building used for sensitive activities.</p>	<p><b>Activity status where compliance not achieved:</b></p> <p><b>Discretionary</b>                  For Flood Susceptibility Overlay</p> <p><b>Non-complying</b>                  For Flood Severe Overlay</p>
<p><b>NH—R7 New Unoccupied Buildings in the Flood Severe and Flood Susceptibility Overlays</b></p>	
<p><b>Activity Status Permitted</b></p>	<p><b>Activity status where compliance not achieved:</b></p> <p>N/A</p>
<p><b>NH—R8 Additions and Alterations to Existing Buildings for Critical Response Facilities, and New Buildings and Additions and Alterations to Existing Buildings for Commercial and Industrial Activities in the Flood Severe and Flood Susceptibility Overlays</b></p>	
<p><b>Activity Status Permitted</b></p> <p>Where:</p> <p>1. — There are no increases in net floor area of the building used for sensitive activities; and</p> <p>2. — Any new buildings or additions and alterations have a finished floor level of 300mm above a 1% annual exceedance probability (AEP) flood event.</p>	<p><b>Activity status where compliance not achieved:</b></p> <p>Restricted Discretionary</p>
<p><b>NH—R9 Flood Severe Overlay— Additions and Alterations to Existing Buildings used for Sensitive Activities</b></p>	
<p><b>Activity Status Permitted</b></p> <p>Where:</p> <p>1. — There is no increase in net floor area for sensitive activities</p>	<p><b>Activity status where compliance not achieved:</b></p> <p>Non-complying</p>
<p><b>NH—R10 Flood Susceptibility Overlay— New Buildings used for Sensitive Activities and Additions and Alterations to Existing Buildings used for Sensitive Activities</b></p>	

<p><b>Activity Status Permitted</b></p> <p>Where:</p> <p><del>1. Any new buildings or additions and alterations have a finished floor level of 500mm above the 1% AEP flood event.</del></p>	<p><b>Activity status where compliance not achieved:</b></p> <p>Discretionary</p>
<p><b>NH R11      <del>New Critical Response Facilities and Additions and Alterations to Existing Critical Response Facilities not meeting Permitted Activity Standards in the Flood Severe and Flood Susceptibility Overlays</del></b></p>	
<p><b>Activity Status Restricted Discretionary</b></p> <p><b>Discretion is restricted to:</b></p> <ol style="list-style-type: none"> <li>a. Whether there is a functional or operational need for the facility to be located in a Flood Severe or Flood Susceptibility Overlay area;</li> <li>b. The effects of natural hazards on people and property;</li> <li>c. The location and design of proposed sites, buildings, vehicle access, earthworks and infrastructure in relation to natural hazard risk;</li> <li>d. Any freeboard requirements to be included;</li> <li>e. The management of vegetation or other natural features to mitigate natural hazard risk;</li> <li>f. The timing, location, scale and nature of any earthworks in relation to natural hazard risk;</li> <li>g. The potential for the proposal to exacerbate natural hazard risk, including transferring risk to any other site;</li> <li>h. How the activity incorporates mitigation of risk to life, property and the environment; and</li> <li>i. Any adverse effects on the environment of any proposed natural hazard mitigation measures.</li> </ol>	<p><b>Activity status where compliance not achieved:</b></p> <p>N/A</p>
<p><b>NH R12      <del>New Commercial and Industrial Buildings and Additions and Alterations to Existing Commercial and Industrial Buildings not meeting Permitted Activity Standards in the Flood Severe and Flood Susceptibility Overlays</del></b></p>	

<b>Activity Status Restricted Discretionary</b> <b>Discretion is restricted to:</b>		<b>Activity status where compliance not achieved:</b>  N/A
a. The effects of natural hazards on people and property; b. The location and design of proposed sites, buildings, vehicle access, earthworks and infrastructure in relation to natural hazard risk; c. Any freeboard requirements to be included; d. The management of vegetation or other natural features to mitigate natural hazard risk; e. The timing, location, scale and nature of any earthworks in relation to natural hazard risk; f. The potential for the proposal to exacerbate natural hazard risk, including transferring risk to any other site; and g. Any adverse effects on the environment of any proposed natural hazard mitigation measures.		
<b>Discretionary Activities</b>		
<b>NH R13</b>	<b>Flood Susceptibility Overlay – Additions and Alterations to Existing Buildings used for Sensitive Activities not meeting Permitted Activity standards and New Buildings used for Sensitive Activities not meeting Permitted Activity standards</b>	
<b>Activity Status Discretionary</b>		<b>Activity status where compliance not achieved:</b>  N/A
<b>Non-complying Activities</b>		
<b>NH R14</b>	<b>Flood Severe Overlay – Additions and Alterations to Existing Buildings used for Sensitive Activities not meeting Permitted Activity standards and New Buildings used for Sensitive Activities</b>	
<b>Activity Status Non-complying</b>		<b>Activity status where compliance not achieved:</b>  N/A

<b>Rules – Earthquake Susceptibility and Earthquake Severe Hazard Overlays - All</b>
<b>Permitted Activities – All Earthquake Hazard Overlays</b>
<b>Permitted Activities</b>
<b>NH-R14 Additions to Existing Buildings and New Buildings containing Less Hazard Sensitive Activities in the Earthquake Susceptibility and Earthquake Severe Hazard Overlays</b>

<b><u>Activity Status: Permitted</u></b>	<b><u>Activity status where compliance not achieved:</u></b> <b><u>N/A</u></b>
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**NH-R15 Additions to Existing Buildings containing Potentially Hazard Sensitive Activities or Hazard Sensitive Activities in the Earthquake Susceptibility and Earthquake Severe Hazard Overlays**

<p><b><u>Activity Status: Restricted Discretionary</u></b></p> <p><b><u>Where:</u></b></p> <p><b><u>1. The additions are not to a Critical Response Facility.</u></b></p> <p><b><u>Discretion is restricted to:</u></b></p> <p><b><u>a. The location of the addition or building in relation to the fault trace; and</u></b></p> <p><b><u>b. Consideration of the mitigation measures incorporated into the addition to minimise the risk to life to the occupants and maintain the structural integrity of the building in the event of a fault rupture.</u></b></p>	<p><b><u>Activity status where compliance not achieved:</u></b> <b><u>Non-complying</u></b></p>
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**NH-R16 New Buildings containing Potentially Hazard Sensitive Activities or Hazard Sensitive Activities in the Earthquake Susceptibility Hazard Overlays**

<p><b><u>Activity Status: Restricted Discretionary</u></b></p> <p><b><u>Where:</u></b></p> <p><b><u>1. A hazard risk assessment undertaken by a suitably qualified and experienced geotechnical or geological specialist is provided; and</u></b></p> <p><b><u>2. The new building is not a Critical Response Facility.</u></b></p> <p><b><u>Discretion is restricted to:</u></b></p> <p><b><u>a. The recommendations of the hazard risk assessment;</u></b></p> <p><b><u>b. The location, design and construction materials of the building, vehicle access and regionally significant infrastructure in relation to the likely fault deformation area; and</u></b></p> <p><b><u>c. Consideration of the mitigation measures incorporated into the building to minimise the risk to life to the occupants and maintain the structural integrity of the building in the event of a fault rupture.</u></b></p>	<p><b><u>Activity status where compliance not achieved:</u></b> <b><u>Non-complying</u></b></p>
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**NH-R17 New Buildings containing Potentially Hazard Sensitive Activities or Hazard Sensitive Activities in the Earthquake Severe Hazard Overlay**

<p><b>Activity Status: Non-complying</b></p> <p><b>Where:</b></p> <p>1. <u>The new building is not a Critical Response Facility.</u></p>	<p><b>Activity status where compliance not achieved: Prohibited</b></p>
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<b>NH—R15</b>	<b>Repairs, Maintenance, Additions and Alterations to Existing and New Unoccupied Buildings in the Earthquake Hazard Overlays—all buffer widths</b>
<p><b>Activity Status Permitted</b></p> <p>Where:</p> <p>1. These are lawfully established or a Permitted Activity for the zone; and</p> <p>2. Any unoccupied building does not form part of the buildings for critical response facilities.</p>	<p><b>Activity status where compliance not achieved:</b></p> <p>Non-complying</p>
<b>NH—R16</b>	<b>Additions and Alterations to Existing Buildings and New Buildings Used for Critical Response Facilities in Brownfield areas in the Earthquake Hazard Overlays—all buffer widths</b>
<p><b>Activity Status Non-complying</b></p>	<p><b>Activity status where compliance not achieved:</b></p> <p>N/A</p>
<b>Prohibited Activities</b>	
<b>NH—R17</b>	<b>New Buildings Used for Critical Response Facilities in Greenfield areas in the Earthquake Hazard Overlays—all buffer widths</b>
<b>No application for resource consent will be accepted for this activity</b>	
<b>Rules—Earthquake Hazard Overlay—20m</b>	
<b>Permitted Activities</b>	
<b>NH—R18</b>	<b>Repairs and Maintenance to Existing Occupied Buildings in the Earthquake Hazard Overlay—20m</b>
<p><b>Activity Status Permitted</b></p> <p>Where:</p> <p>1. There is no increase in the net floor area of the building used for a Critical Response Facility.</p>	<p><b>Activity status where compliance not achieved:</b></p> <p>Non-complying</p>
<b>Non-complying Activities</b>	

<b>NH— R19</b>	<b>Repairs and Maintenance and Additions and Alterations to Existing Occupied Buildings not meeting Permitted Activity Standards and New Occupied Buildings in the Earthquake Hazard Overlay— 20m</b>	
<b>Activity Status Non-complying</b>	<b>Activity status where compliance not achieved:</b> N/A	
<b>Rules— Earthquake Hazard Overlay— 50m</b>		
<b>Permitted Activities</b>		
<b>NH— R20</b>	<b>Repairs and Maintenance to Existing Occupied Buildings in the Earthquake Hazard Overlay— 50m</b>	
<b>Activity Status Permitted</b> Where: 1. There is no increase in the area of the building used for a Critical Response Facility.	<b>Activity status where compliance not achieved:</b> <b>Non-complying</b> For critical response facilities in brownfield areas under Rule NH— R16 <b>Prohibited</b> For critical response facilities in greenfield areas under Rule NH— R17.	
<b>Restricted Discretionary Activities</b>		
<b>NH— R21</b>	<b>Additions and Alterations to Existing Residential Buildings and New Residential Buildings in the Earthquake Hazard Overlay— 50m</b>	

<p><b>Activity Status Restricted Discretionary</b></p> <p>Where:</p> <ol style="list-style-type: none"> <li>These are accompanied by a hazard risk assessment undertaken by a suitably qualified and experienced natural hazards practitioner.</li> </ol> <p><b>Discretion is restricted to:</b></p> <ol style="list-style-type: none"> <li>Implementation of recommendations in accompanying hazard risk assessment;</li> <li>Risk to life, property and the environment from the proposal and any measures to mitigate those risks;</li> <li>The location and design of proposed buildings, vehicle access and infrastructure in relation to natural hazard risk; and</li> <li>Any adverse effect on the environment of any proposed natural hazard mitigation measures.</li> </ol>		<p><b>Activity status where compliance not achieved:</b></p> <p>Discretionary</p>
<p><b>Discretionary Activities</b></p>		
<p><b>NH – R22</b></p>	<p><b>Additions and Alterations to Existing Residential Buildings and New Residential Buildings not meeting Restricted Discretionary Standards, Additions and Alterations to Existing Commercial and Industrial Buildings and New Commercial and Industrial Buildings in the Earthquake Hazard Overlay – 50m</b></p>	
<p><b>Activity Status Discretionary</b></p>	<p><b>Activity status where compliance not achieved:</b></p> <p>N/A</p>	
<p><b>Non-complying Activities</b></p>		
<p><b>NH – R23</b></p>	<p><b>Additions and Alterations to Existing Community Facilities, Education Facilities and Health Facilities and New Community Facilities, Education Facilities and Health Facilities in the Earthquake Hazard Overlay – 50m</b></p>	
<p><b>Activity Status Non-complying</b></p>	<p><b>Activity status where compliance not achieved:</b></p> <p>N/A</p>	
<p><b>Rules – Earthquake Hazard Overlay – 100m</b></p>		
<p><b>Permitted Activities</b></p>		

<b>NH—R24</b>		<b>Repairs and Maintenance to Existing Occupied Buildings in the Earthquake Hazard Overlay—100m</b>	
<b>Activity Status Permitted</b>		<b>Activity status where compliance not achieved:</b>	
Where:		<b>Non-complying</b>	
1. There is no increase in the area of the building used for Critical Response Facility		For critical response facilities in brownfield areas under Rule NH—R16	
		<b>Prohibited</b>	
		For critical response facilities in greenfield areas under Rule NH—R17	
<b>Restricted Discretionary Activities</b>			
<b>NH—R25</b>		<b>Additions and Alterations to Existing Residential Buildings, and New Residential Buildings in the Earthquake Hazard Overlay—100m</b>	
<b>Activity Status Restricted Discretionary</b>		<b>Activity status where compliance not achieved:</b>	
Where:		Discretionary	
1. These are accompanied by a hazard risk assessment undertaken by a suitably qualified and experienced natural hazards practitioner.			
<b>Discretion is restricted to:</b>			
<ul style="list-style-type: none"> <li>• Implementation of recommendations in accompanying hazard risk assessment;</li> <li>• Risk to life, property and the environment from the proposal and any measures to mitigate those risks;</li> <li>• The location, design and construction materials of proposed buildings, vehicle access and infrastructure in relation to natural hazard risk; and</li> <li>• Any adverse effect on the environment of any proposed mitigation measures.</li> </ul>			
<b>Discretionary Activities</b>			
<b>NH—R26</b>		<b>Additions and Alterations to and New Residential Buildings not meeting Restricted Discretionary Standards, Additions and Alterations to and New Commercial and Industrial Buildings, Community Facilities, Educational Facilities and Health Facilities in the Earthquake Hazard Overlay—100m</b>	

<b>Activity Status Discretionary</b>		<b>Activity status where compliance not achieved:</b> N/A
<b>Rules— Earthquake Hazard Overlay— 150m</b>		
<b>Permitted Activities</b>		
<b>NH— R27</b>	<b>Repairs and Maintenance to Existing Occupied Buildings in the Earthquake Hazard Overlay— 150m</b>	
<b>Activity Status Permitted</b> Where: 1. There is no increase in the area of the building used for Critical Response Facility purposes		<b>Activity status where compliance not achieved:</b>  <b>Non-complying</b> For critical response facilities in brownfield areas under Rule NH—R16  <b>Prohibited</b> For critical response facilities in greenfield areas under Rule NH—R17
<b>Restricted Discretionary Activities</b>		
<b>NH— R28</b>	<b>Additions and Alterations to New and Existing Residential, Commercial and Industrial Buildings in the Earthquake Hazard Overlay— 150m</b>	
<b>Activity Status Restricted Discretionary</b> Where: 1. These are accompanied by a hazard risk assessment undertaken by a suitably qualified and experienced natural hazards practitioner.  <b>Discretion is restricted to:</b> <ul style="list-style-type: none"> <li>• Recommendations in accompanying hazard risk assessment;</li> <li>• Risk to life, property and the environment from the proposal and any measures to mitigate those risks;</li> <li>• The location, design and construction materials of proposed buildings, vehicle access and infrastructure in relation to natural hazard risk; and</li> <li>• Any adverse effect on the environment of any proposed mitigation measures.</li> </ul>		<b>Activity status where compliance not achieved:</b>  Discretionary

<b>Discretionary Activities</b>	
<b>NH—R29</b>	<b>Additions and Alterations to and New Community Facilities, Educational Facilities and Health Facilities in the Earthquake Hazard Overlay—150m</b>
<b>Activity Status Discretionary</b>	<b>Activity status where compliance not achieved:</b> N/A
<b>Rules—Earthquake Hazard Overlay—200m</b>	
<b>Permitted Activities</b>	
<b>NH—R30</b>	<b>Repairs and Maintenance to Existing Occupied Buildings in the Earthquake Hazard Overlay—200m</b>
<b>Activity Status Permitted</b>	<b>Activity status where compliance not achieved:</b>
Where:	
a.—Repairs and maintenance do not increase the area of a building used for Critical Response Facility purposes.	<b>Non-complying</b> For critical response facilities in brownfield areas under Rule NH—R16  <b>Prohibited</b> For critical response facilities in greenfield areas under Rule NH—R17
<b>Restricted Discretionary Activities</b>	
<b>NH—R31</b>	<b>Additions and Alterations New and Existing New Residential, Commercial and Industrial Buildings and Community Facilities, Educational Facilities and Health Facilities in the Earthquake Hazard Overlay—200m</b>

<p><b>Activity Status Restricted Discretionary</b></p> <p>Where:</p> <p>1. These are accompanied by a hazard risk assessment undertaken by a suitably qualified and experienced natural hazards practitioner.</p> <p><b>Discretion is restricted to:</b></p> <ul style="list-style-type: none"> <li>• Implementation of recommendations in the accompanying hazard risk assessment;</li> <li>• Risk to life, property and the environment from the proposal and any measures to mitigate those risks;</li> <li>• The location, design and construction materials of proposed buildings, vehicle access and infrastructure in relation to natural hazard risk; and</li> <li>• Any adverse effect on the environment of any proposed natural hazard mitigation measures.</li> </ul>	<p><b>Activity status where compliance not achieved:</b></p> <p>Discretionary</p>
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**Discretionary Activities**

**NH – R32**

**Additions and Alterations to Existing Buildings and New Buildings not meeting Restricted Activity Standards in the Earthquake Hazard Overlay – 200m**

**Activity Status Discretionary**

Where:

1. These are not Critical Response Facilities.

**Activity status where compliance not achieved:**

**Non-complying**

For critical response facilities in brownfield areas under Rule NH – R11

**Prohibited**

For critical response facilities in greenfield areas under Rule NH – R12

**Rules – Land Instability Overlay**

**Permitted Activities**

**NH-R18 Additions to Existing Buildings and New Buildings containing Less Hazard Sensitive Activities in the Land Instability Hazard Overlay**

**Activity Status: Permitted**

**Activity status where compliance not achieved:**  
**N/A**

Restricted Discretionary Activities	
NH-R3319 Additions to Existing Buildings and New Buildings <del>for</del> containing Potentially Hazard Sensitive and Hazard Sensitive Activities in the Land Instability Overlay	
<p><b>Activity Status Restricted Discretionary</b></p> <p>Where:</p> <p>1. <del>These are accompanied by a</del> <b>A</b> geotechnical assessment prepared by a suitably qualified and experienced geotechnical engineer <b>is provided</b>.</p> <p><b>Discretion is restricted to:</b></p> <p>1. Requirements for measures in relation to building location, design or construction that, if carried out, will be adequate to avoid any damage to the proposed building or additions, or to any adjoining or downslope property <b>and its identified values</b>, arising from slope instability during the useful life of the building or structure; and</p> <p>2. Requirements for geotechnical certification that subject to those measures specified:</p> <p style="margin-left: 20px;">a. The proposed building or structure will not be likely to be subject to damage from slope instability during its life; and</p> <p style="margin-left: 20px;">b. The proposed works will not be likely to result in or contribute to damage to any adjoining or downslope property <b>and its identified values</b> within or adjoining the natural hazard overlay – land instability alert.</p>	<p><b>Activity status where compliance not achieved:</b></p> <p>Non-complying</p>

Non-complying Activities	
NH - R3420	<b>Additions to Existing Buildings and New buildings <del>for</del> containing Potentially Hazard Sensitive and Hazard Sensitive Activities in the Land Instability Overlay not meeting Restricted Discretionary Activity Standards</b>
Activity Status Non-complying	Activity status where compliance not achieved: N/A

<b>Rules – Lake Tsunami Hazard Overlay</b>
<b>Permitted Activities</b>

<b>NH—R35</b> <b>Repairs, Maintenance, Additions and Alterations to Existing Buildings and Structures, or New Buildings and Structures in the Lake Tsunami Hazard Overlay</b>	
<b>Activity Status Permitted</b> Where: 1. There is no increase in the area of the building used for sensitive activities.	<b>Activity status where compliance not achieved:</b> Restricted Discretionary
<b>Restricted Discretionary Activities</b>	
<b>NH—R36</b> <b>Buildings for Sensitive Activities not meeting Permitted Activity Standards in the Lake Tsunami Hazard Overlay</b>	
<b>Activity Status Restricted Discretionary</b> Where: 1. This is accompanied by a hazard assessment prepared by a suitably qualified and experienced natural hazard practitioner.  <b>Discretion is restricted to:</b> <ul style="list-style-type: none"> <li>• The level of risk as assessed by suitably qualified and experienced person;</li> <li>• The location and design of proposed sites, buildings, structures and vehicle access in relation to natural hazard risk;</li> <li>• The clearance or retention of vegetation or other natural features to mitigate natural hazard risk;</li> <li>• The potential for the proposal to exacerbate natural hazard risk, including transferring risk to any other site; and</li> <li>• Any adverse effect on the environment of any proposed natural hazard mitigation measures.</li> </ul>	<b>Activity status where compliance not achieved:</b> Non-complying
<b>Non-complying Activities</b>	
<b>NH—R37</b> <b>Buildings for sensitive activities in the Lake Tsunami Hazard Overlay not meeting Restricted Discretionary Standards</b>	
<b>Activity Status Non-complying</b>	<b>Activity status where compliance not achieved:</b> N/A
<b>Permitted Activities</b>	
<b>NH—R38</b> <b>Repairs and Maintenance to Existing Buildings in the Coastal Severe and Coastal Alert Overlays</b>	

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<p><b>Activity Status Permitted</b></p> <p>Where:</p> <ol style="list-style-type: none"> <li>1. For repairs and maintenance there is no increase in the area of the building;</li> <li>2. For reconstruction of a building lawfully established at the time of notification of the Plan where:             <ol style="list-style-type: none"> <li>a. The building has been destroyed or substantially damaged due to fire, natural disaster or Act of God;</li> <li>b. The destroyed/damaged building is reconstructed within 5 years in the Coastal Alert overlay and 2 years in the Coastal Severe overlay;</li> <li>c. The reconstructed building is similar in character, intensity and scale to the building it replaces.</li> </ol> </li> </ol>	<p><b>Activity status where compliance not achieved:</b></p> <p>NA</p>
<p><b><del>NH-R3921 New Unoccupied Buildings and Structures Additions to Existing Buildings and New Buildings containing Less Hazard Sensitive Activities in the Coastal Severe and Coastal Alert Overlays Coastal Hazard Erosion and Inundation Overlay and Coastal Hazard Inundation Overlay 1</del></b></p>	
<p><b>Activity Status: Permitted</b></p>	<p>Activity status where compliance not achieved:</p> <p>N/A</p>
<p><b><del>NH-R4022 Additions and Alterations for Commercial and Industrial to Existing Buildings and Critical Response Facilities in the containing Potentially Hazard Sensitive Activities in the Coastal Severe and Coastal Alert Overlays Coastal Hazard Erosion and Inundation Overlay and Coastal Hazard Inundation Overlay 1</del></b></p>	
<p><b>Activity Status: Permitted</b></p> <p>Where:</p> <ol style="list-style-type: none"> <li>1. There is no increase to the net floor area used for any sensitive activity; and</li> <li>1. <del>Where a</del> Any increase in net floor area <b>of any building</b> meets a minimum finished floor level of 300mm above a 1% annual exceedance probability (AEP) event <b>plus 1m sea level rise coastal event.</b></li> </ol>	<p><b>Activity status where compliance not achieved:</b> Restricted Discretionary</p>
<p><b><del>NH-R4124 Additions and Alterations of Existing Buildings used for Sensitive Activities in the Coastal Severe and Coastal Alert Overlays Additions to Existing Buildings containing Hazard Sensitive Activities in the Coastal Hazard Inundation Overlay 1</del></b></p>	
<p><b>Activity Status: Permitted <u>Restricted Discretionary Activity</u></b></p> <p>Where:</p> <ol style="list-style-type: none"> <li>1. There is no increase to the net floor area used for any sensitive activity; and</li> </ol> <p><b><u>Discretion is restricted to:</u></b></p>	<p><b>Activity status where compliance not achieved:</b> <u>Discretionary</u> for Coastal Alert</p> <p>Non-complying for Coastal Severe</p> <p><b><u>N/A</u></b></p>

<p><b><u>a. The risk from coastal hazards on people and property and any measures to reduce or mitigate this risk;</u></b></p> <p><b><u>b. The management of vegetation or other natural features to mitigate natural hazard risk;</u></b></p> <p><b><u>c. The potential for there to be an increase in the risk of coastal erosion to neighbouring properties or Regionally Significant Infrastructure from either the design of the proposed development or any mitigation measures to reduce the risk to future occupants or buildings.</u></b></p> <p><b><u>d. Any potential impacts on the natural environment or changes in natural processes as a result of any natural hazard mitigation measures use to reduce the risk to the building.</u></b></p>	
<p><b><u>NH-R4223 New Commercial, Industrial, or Critical Response Facilities Buildings containing Potentially Hazard Sensitive Activities Additions and Alterations to Commercial, Industrial, or Critical Response Activities Buildings not meeting Permitted Activity Standards in the Coastal Hazard Erosion and Inundation Overlay or Coastal Hazard Inundation Overlay 1 or not meeting a Permitted Activity Standard</u></b></p>	
<p><b>Activity Status:</b> Restricted Discretionary Activity</p> <p>Where:</p> <p>1. There is no increase to the net floor area used for any sensitive activity; and</p> <p><b>Discretion is restricted to:</b></p> <p><del><u>a.</u></del> The effects of natural hazards on people and property;</p> <p><del><u>b.</u></del> The location and design of proposed sites, buildings, vehicle access, earthworks and infrastructure in relation to natural hazard risk;</p> <p><del><u>c.</u></del> Any freeboard requirements to be included;</p> <p><del><u>d.</u></del> The management of vegetation or other natural features to mitigate natural hazard risk;</p> <p><del><u>e.</u></del> The timing, location, scale and nature of any earthworks in relation to natural hazard risk;</p> <p><del><u>f.</u></del> The potential for the proposal to exacerbate natural hazard risk, including transferring risk to any other site and adjacent properties;</p> <p><del><u>g.</u></del> Any adverse effects on the environment of any proposed natural hazard mitigation measures.</p> <p><b><u>e. The risk from coastal hazards on people and property and any measures to reduce or mitigate this risk;</u></b></p> <p><b><u>f. The management of vegetation or other natural features to mitigate natural hazard risk;</u></b></p> <p><b><u>g. The potential for there to be an increase in the risk of coastal erosion to neighbouring properties or Regionally</u></b></p>	<p><b>Activity status where compliance not achieved:</b></p> <p>Discretionary for Coastal Alert</p> <p>Non-complying for Coastal Severe</p> <p><b><u>N/A</u></b></p>

<p><u>Significant Infrastructure from either the design of the proposed development or any mitigation measures to reduce the risk to future occupants or buildings; and</u></p> <p><u>h. Any potential impacts on the natural environment or changes in natural processes as a result of any natural hazard mitigation measures use to reduce the risk to the building.</u></p>	
<p><b>NH-R4325 <del>New Buildings for containing Hazard Sensitive Activities and Additions and Alterations of Existing Buildings that increase the net floor area for Sensitive Activities in the Coastal Hazard Inundation Overlay 1</del></b></p>	
<p>Activity Status: <u>Restricted</u> Discretionary</p> <p>Where:</p> <ol style="list-style-type: none"> <li>These are located in the Coastal Alert Overlay</li> <li><u>This is accompanied by a natural hazard risk assessment prepared by a suitably qualified and experienced person.</u></li> </ol> <p><u>Discretion is restricted to:</u></p> <ol style="list-style-type: none"> <li><u>The risk from coastal hazards on people and property and any measures to reduce or mitigate this risk;</u></li> <li><u>The management of vegetation or other natural features to mitigate natural hazard risk;</u></li> <li><u>The potential for there to be an increase in the risk of coastal erosion to neighbouring properties or Regionally Significant Infrastructure from either the design of the proposed development or any mitigation measures to reduce the risk to future occupants or buildings.</u></li> <li><u>Any potential impacts on the natural environment or changes in natural processes as a result of any natural hazard mitigation measures use to reduce the risk to the building.</u></li> </ol>	<p>Activity status where compliance not achieved:  <u>Non-complying</u></p> <p>N/A</p>
<p><b>NH-R4426 <del>Coastal Severe Overlay: Additions to Existing Buildings and New Buildings for containing Hazard Sensitive Activities and Additions and Alterations of Buildings that increase the net floor area for Sensitive Activities in the Coastal Hazard Erosion and Inundation Overlay</del></b></p>	
<p>Activity Status: Non-complying</p> <p>Where:</p> <ol style="list-style-type: none"> <li><del>These are located in the Coastal Severe Overlay</del></li> </ol>	<p>Activity status where compliance not achieved:                  N/A</p>
<p><b>Coastal <del>Setback</del> <u>Inundation Overlay 2</u></b></p>	
<p><b><u>Permitted Activities</u></b></p>	
<p><b>NH-R27 <u>Additions to Existing Buildings and New Buildings containing Less Hazard Sensitive Activities and Potentially Hazard Sensitive Activities in the Coastal Hazard Inundation Overlay 2</u></b></p>	

<b><u>Activity Status: Permitted</u></b>	<b><u>Activity status where compliance not achieved:</u></b> <b><u>N/A</u></b>
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**NH-R28 Additions to Existing Buildings containing Hazard Sensitive Activities in the Coastal Hazard Inundation Overlay 2**

<b><u>Activity Status: Permitted</u></b>	<b><u>Activity status where compliance not achieved:</u></b> <b><u>N/A</u></b>
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**Restricted Discretionary Activities**

**NH-R4529 New Buildings for containing Hazard Sensitive Activities in the Coastal Setback Overlay Coastal Hazard Inundation Overlay 2**

<p><b>Activity Status: Restricted Discretionary</b></p> <p>Where:</p> <p>1. This is accompanied by a natural hazard risk assessment prepared by a suitably qualified and experienced person.</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> <li><del>i. The level of risk as assessed by a suitably qualified and experienced person;</del></li> <li><del>ii. The location and design of proposed sites, building, structures, vehicle access in relation to natural hazard risk</del></li> <li><del>iii. The modification or retention of vegetation or other natural features to mitigate natural hazard risk;</del></li> <li><del>iv. The impact of underlying geology and topography of the site on hazard risk;</del></li> <li><del>v. The potential of the proposal to exacerbate natural hazard risk, including transferring risk to another site;</del></li> <li><del>vi. Any adverse effects on the environment of any proposed natural hazard mitigation structures.</del></li> <li><b>a. <u>The risk from coastal hazards on people and property and any measures to reduce or mitigate this risk;</u></b></li> <li><b>b. <u>The management of vegetation or other natural features to mitigate natural hazard risk;</u></b></li> <li><b>c. <u>The potential for there to be an increase in the risk of coastal erosion to neighbouring properties or Regionally Significant Infrastructure from either the design of the proposed development or any mitigation measures to reduce the risk to future occupants or buildings; and</u></b></li> </ul>	<p><b>Activity status where compliance not achieved:</b> Non-complying</p>
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<b>d. Any potential impacts on the natural environment or changes in natural processes as a result of any natural hazard mitigation measures use to reduce the risk to the building.</b>		
<b>Non-complying Activities</b>		
<b>NH - R4630</b>	<b>New Buildings for Sensitive Activities in the Coastal Setback Overlay not meeting Restricted Activity Standards</b>	
<b>Activity Status Non-complying</b>	<b>Activity status where compliance not achieved: N/A</b>	
<b>Coastal Tsunami Overlay</b>		
<b>Permitted Activities</b>		
<b>NH - R47</b>	<b>Repairs, Maintenance, Additions and Alterations to Existing Buildings within the Coastal Tsunami Overlay</b>	
<b>Activity Status Permitted</b>	<b>Activity status where compliance not achieved:</b>	
Where: 2. Any works do not increase the building footprint used for Critical Response Facility purposes; 3. Any works do not increase the area of the building used for Critical Response Facility purposes; and 4. No building used for a Critical Response Facility is reconstructed or replaced in a position that is seaward of the building it replaces.	<b>Discretionary</b> where Standard 1 is not complied with <b>Non-complying</b> where Standard 2 or 3 is not complied with	
<b>Discretionary Activities</b>		
<b>NH - R48</b>	<b>Repairs, Maintenance, Additions and Alterations to Existing Buildings within the Coastal Tsunami Overlay not meeting Permitted Activity Standards</b>	
<b>Activity Status Discretionary</b>	<b>Activity status where compliance not achieved:</b>	
Where: 2. Any addition or alteration does not increase the area of the building used for Critical Response Facilities 3. No building used for a Critical Response Facility is reconstructed or replaced in a position that is seaward of the building it replaces.	<b>Non-complying</b>	

Non-complying Activities	
NH - R49	<del>New Buildings for Critical Response Facilities within the Coastal Tsunami Overlay and Additions and Alterations to existing buildings for Critical Response Facilities not meeting Discretionary Activity Standards</del>

Hokitika Coastal Overlay	
Permitted Activities	
NH-R31 Additions to Existing Buildings and New Buildings containing Less Hazard Sensitive Activities in the Hokitika Coastal Hazard Overlay	
<u>Activity Status: Permitted</u>	<u>Activity status where compliance not achieved:</u> N/A

NH-R5032 Additions to Existing Buildings and New Buildings containing Potentially Hazard Sensitive and Hazard Sensitive Activities in the Hokitika Coastal Hazard Overlay	
<p><b>Activity Status: Permitted</b></p> <p>Where:</p> <ol style="list-style-type: none"> <li>All new buildings are protected by the Hokitika Flood and Coastal Erosion Protection Scheme from a 100-year Annual Recurrence Interval (ARI) plus 1m sea level rise coastal event, as certified by the West Coast Regional Council</li> <li>Where <del>a</del> <b>New buildings or additions to existing buildings</b> are not protected by the Hokitika Flood and Coastal Erosion Protection Scheme from a 100-year Annual Recurrence Interval (ARI) plus 1m sea level rise coastal event <b>have a minimum floor level as follows:</b> <ol style="list-style-type: none"> <li>Buildings <del>for</del> <b>or additions containing Hazard sSensitive aActivities</b> - 500mm above the <del>100-year ARI</del> <b>1% annual exceedance probability</b> plus 1m sea level rise coastal event;</li> <li>Commercial and industrial <del>b</del> <b>Buildings have a finished floor level of or additions containing Potentially Hazard Sensitive Activities</b> - 300mm above the <del>100-year ARI</del> <b>1% annual exceedance probability</b> plus 1m sea level rise coastal event.</li> </ol> </li> </ol>	<p><b>Activity status where compliance not achieved:</b> Discretionary</p>

Discretionary Activities	
NH - R5133	New Buildings in the Hokitika Coastal Overlay not meeting Permitted Activity standards

<b>Activity Status Discretionary</b>	<b>Activity status where compliance not achieved:</b>  N/A
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<b>NH-R34 Additions to Existing Buildings and New Buildings containing Less Hazard Sensitive Activities in the Westport Hazard Overlay</b>	
<b>Activity Status: Permitted</b>	<b>Activity status where compliance not achieved:</b>  N/A

<b>NH-R5235 Additions to Existing Buildings and New Buildings and Additions and Alterations to Existing Buildings containing Potentially Hazard Sensitive and Hazard Sensitive Activities in the Westport Hazard Overlay</b>	
<p><b>Activity Status: Permitted</b></p> <p>Where:</p> <ol style="list-style-type: none"> <li>1. <del>New occupied buildings and additions and alterations to existing occupied buildings where these are protected by the Westport Flood and Coastal Erosion Protection Scheme from a 100 year Annual Recurrence Interval (1%ARI) plus 1m sea level rise coastal event and a 1% annual exceedance probability (AEP) flood event as certified by the West Coast Regional Council; or</del></li> <li>1. <b>New occupied buildings <u>or additions to existing buildings</u> in areas not protected by the Westport Flood and Coastal Erosion Protection Scheme from a 1% ARI plus 1m sea level rise coastal event and a 1% AEP flood event, where these are <u>have a minimum floor level as follows:</u></b> <ol style="list-style-type: none"> <li>a. <b>Buildings <u>or additions containing</u> for Hazard Sensitive Activities where the finished floor level is - 500mm above a <u>1% ARI annual exceedance probability</u> plus 1m sea level rise coastal event and a 1% AEP <u>annual exceedance probability</u> flood event; <u>and</u></b></li> <li>b. <b>Commercial and industrial Buildings <u>or additions containing Potentially Hazard Sensitive Activities</u> where the finished floor level is - 300mm above a <u>1% ARI annual exceedance probability</u> plus 1m sea level rise coastal event and a 1% AEP <u>annual exceedance probability</u> flood event.</b></li> </ol> </li> <li>6. <del>These are new unoccupied buildings or additions or alterations to existing unoccupied buildings; or</del></li> <li>7. <del>These are additions and alterations to critical response facilities, commercial and industrial activities where there</del></li> </ol>	<p><b>Activity status where compliance not achieved:</b>  Discretionary</p>

<p>is no increase in area of building that does not meet a minimum finished floor level of 300mm above a 1% ARI plus 1m sea level rise event and a 1% AEP flood event;</p> <p>8. <del>These are additions and alterations to buildings for sensitive activities in areas not protected by the Westport Flood and Coastal Erosion Protection Scheme from a 1% ARI plus sea level rise coastal event and a 1% AEP flood event, where there is no increase in area of building that does not meet a minimum finished floor level of 500mm above a 1% ARI plus 1m sea level rise event and a 1% AEP flood event.</del></p> <p><b><u>Advice Note:</u></b></p> <p><b><u>The finished floor level required shall be obtained from West Coast Regional Council.</u></b></p>	
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**Subdivision Chapter Objectives**

<p><b>SUB-O2:</b> Subdivision occurs in locations and at a rate that:</p> <p>...</p> <p>g. Avoids significant <del>the Severe</del> <b><u>nNatural hHazards Overlays</u></b> and are built to be resilient to natural hazards.</p>
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**Policies**

<p><b>SUB-P4:</b> Manage significant risks <del>in the Severe</del> <b><u>nNatural hHazards Overlays</u></b> by restricting <b><u>avoiding</u></b> subdivision that:</p> <p>a. Creates new or exacerbates existing natural hazards including coastal hazards, erosion, slippage, subsidence, falling debris, fault rupture, severe ground shaking or flooding; or</p> <p>b. Results in adverse effects on the stability of land and buildings; and</p> <p>c. Does not provide safe, <del>flood free</del> and stable building platforms at the time of subdivision.</p>
<p><b>SUB-P6:</b> Avoid subdivision:</p> <p>...</p> <p>g. In areas of significant risk of <del>the Severe</del> <b><u>nNatural hHazards Overlays</u></b>, where this is for the purposes of accommodating and/or servicing people and communities.</p>

**Rules**

<p><b><u>SUB-RX Subdivision to create allotment(s) for Less Hazard Sensitive Activities in the Flood Susceptibility, Flood Alert, Earthquake Susceptibility, Land Instability, Coastal Hazard Inundation Overlay 1, Coastal Hazard Inundation Overlay 2, Hokitika Coastal, Westport, Coastal Hazard Erosion and Inundation, Flood Severe, or Earthquake Severe Hazard Overlays</u></b></p>	
<p><b><u>Activity Status: Controlled</u></b></p> <p><b><u>Matters of control:</u></b></p>	<p><b><u>Activity status where compliance not achieved:</u></b>  <b><u>N/A</u></b></p>

<p>a. <u>Risk to people, buildings and regionally significant infrastructure from the proposal and any measures to mitigate those risks; and</u></p> <p>b. <u>The location and design of proposed buildings, vehicle access, and regionally significant infrastructure in relation to the natural hazard.</u></p>	
<p><b>SUB-R6 Subdivision to create allotment(s) in any RURZ - Rural Zone or MPZ - Māori Purpose Zone</b></p>	
<p><b>Activity Status: Controlled</b></p> <p>Where</p> <p>...</p> <p>4. It does not create a building platform for a Potentially Hazard Sensitive or Hazard Sensitive Activity in the:</p> <p>i. Flood Susceptibility, Earthquake Susceptibility, Land Instability, <del>Coastal Alert</del> <u>Coastal Hazard Inundation Overlay 1, Coastal Hazard Inundation Overlay 2</u>, or Hokitika Coastal Hazard Overlay;</p> <p>ii. Westport Hazard Overlay;</p> <p>iii. Flood Severe, <del>Coastal Severe</del>, <u>Coastal Hazard Erosion and Inundation</u> or Earthquake Severe Overlay;<sup>232</sup></p> <p>...</p>	<p><b>Activity status where compliance not achieved:</b></p> <p>...</p> <p>Non-complying where 4 is not complied with.</p>
<p><b>SUB-R13 Subdivision to create allotment(s) <u>for Potentially Hazard Sensitive Activities and Hazard Sensitive Activities</u> in the Flood Susceptibility, Flood Alert, <del>Flood Plain</del>, Earthquake Susceptibility, Land Instability, Coastal Hazard Inundation Overlay 1, Coastal Hazard Inundation Overlay 2, <del>Lake Tsunami and Coastal Tsunami</del> or Hokitika Coastal Hazard Overlays</b></p>	
<p><b>Activity Status: Restricted Discretionary</b></p> <p>1. <del>The subdivision will not lead to use of the land within the Coastal Tsunami Overlay for critical response facilities;</del></p> <p>2. <del>This is accompanied by a A</del> hazard risk assessment undertaken by a suitably qualified and experienced practitioner <b>is provided</b>; and</p> <p>3. <del>All Subdivision Standards are complied with.</del></p> <p>Discretion is restricted to:</p> <p>a. Matters outlined in the accompanying hazard risk assessment;</p> <p>b. Risk to life, property and the environment <b>people, buildings and regionally significant infrastructure</b> from the proposal and any measures to mitigate those risks;</p> <p>c. The location and design of proposed buildings, vehicle access and <b>regionally significant</b> infrastructure in relation to <b>the</b> natural hazard risk;</p>	<p><b>Activity status where compliance not achieved:</b></p> <p>Discretionary</p>

<sup>232</sup> Consequential amendment stemming from restructure of overlays

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<p>d. Whether the intended future use of the allotment(s) created by subdivision is for sensitive activities, or critical response facilities; and</p> <p>e. Any adverse effect on the environment of any proposed natural hazard mitigation measures.</p>	
<p><b>SUB-R20: Subdivision to create allotment(s) for Potentially Hazard Sensitive Activities and Hazard Sensitive Activities of Land in the Westport Hazard Overlay</b></p>	
<p><b>Activity Status: Discretionary</b></p>	<p><b>Activity status where compliance not achieved:</b> N/A</p>
<p><b>SUB-R23 Subdivision to create create allotment(s) for Potentially Hazard Sensitive Activities and Hazard Sensitive Activities in the Flood Susceptibility, Flood Alert, Flood Plain, Earthquake Susceptibility, Land Instability, Coastal Hazard Inundation Overlay 1, Coastal Hazard Inundation Overlay 2, Lake Tsunami and Coastal Tsunami or Hokitika Coastal Hazard Overlays not meeting Restricted Discretionary Activity Standards</b></p>	
<p><b>Activity Status: Discretionary</b></p>	<p><b>Activity status where compliance not achieved:</b> N/A</p>
<p><b>SUB-R21 Subdivision to create allotment(s) for Potentially Hazard Sensitive Activities and Hazard Sensitive Activities within the Coastal Severe Coastal Hazard Erosion and Inundation, and Flood Severe, or Earthquake Severe Natural-Hazard Overlays</b></p>	
<p><b>Activity Status: Discretionary <u>Non-complying</u></b></p>	<p><b>Activity status where compliance not achieved:</b> Non-complying <u>N/A</u></p>
<p><b>SUB-R26: Subdivision to Create Allotments in the Earthquake Hazard Overlay: 50m, 100m, 150m or 200m Buffers</b></p>	
<p><b>Activity Status: Non-complying</b></p>	<p><b>Activity status where compliance not achieved:</b> N/A</p>
<p><b>Prohibited Activities</b></p>	
<p><b>SUB-R28: Subdivision to create Allotments in the Earthquake Hazard Overlay: 20m Buffer</b></p>	
<p><b>No application for resource consent will be accepted for this activity</b></p>	

