

Form 7

Notice of appeal to Environment Court against decision on
proposed policy statement or plan or change or variation

Clause 14(1) of Schedule 1, Resource Management Act 1991

To the Registrar

Environment Court

Auckland, Wellington, and Christchurch

I, Barnabas Stephen Joel Young appeal against a decision (*or* part of a decision) of the West Coast Regional Council on the following policy statement (*or* plan *or* change *or* variation): Te Tai o Poutini Plan – Decision No. [2025] NZEnvC 325

I made a submission on the Te Tai o Poutini Plan regarding our property at **Rural Section 1`884, 2719 Franz Josef Highway, Franz Josef Glacier**.

Our submission opposed the re-zoning of this property from the *Flood Susceptibility Overlay* to the *Flood Severe Overlay*.

We are **not trade competitors** for the purposes of section 308D of the Act.

We received notice of the decision on **10 October 2025**.

The decision was made by the **Te Tai o Poutini Plan Committee**.

The reasons for the appeal are as follows:

Due Diligence and Planning Context

Prior to purchasing the property in 2022, we carried out comprehensive due diligence, including review of the draft Te Tai o Poutini Plan (TTPP) maps, discussions with Westland District Council (WDC) planners and examination of sites of nearby equal or higher flood risk (such as the council-funded Cron Street Extension project exceeding \$1 million). The draft TTPP had our property in the Flood Susceptibility overlay, merely months after we purchased the property we learnt this was changed to Severe Flood Overlay.

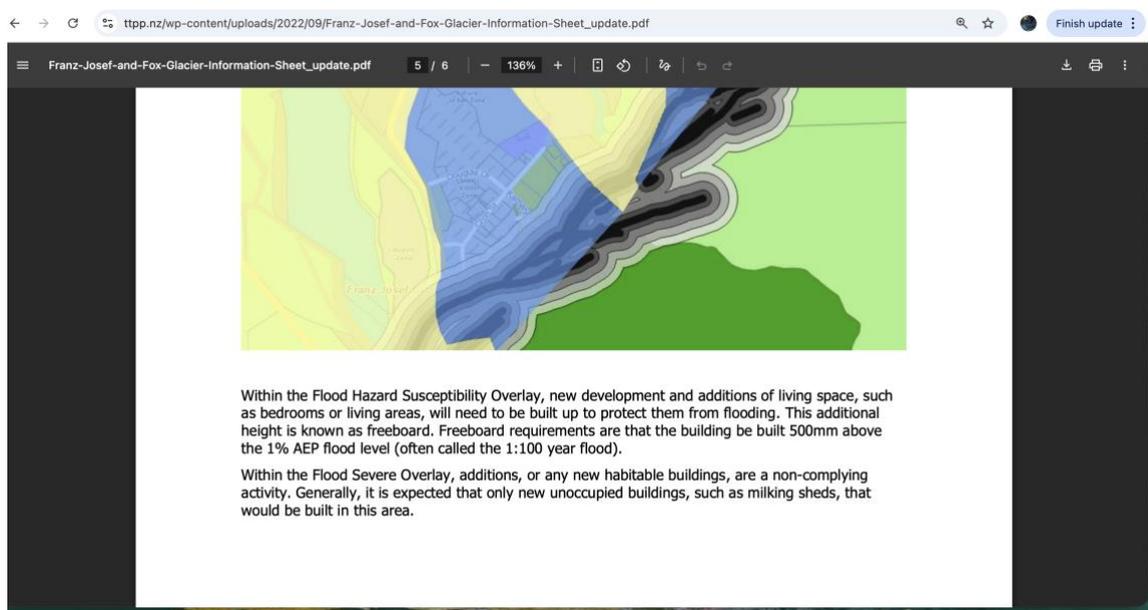
Engineering Evidence and Peer-Reviewed Assessments

After purchasing the property we submitted building consent to the

Westland District Council and were informed that due to the property being in the proposed Severe Flood Overlay we would need to provide an in depth natural hazard report from a suitably qualified engineer with a specific focus on flooding. At the time we requested to review the councils natural hazard report for the nearby Cron Street extension (the council was unable to provide this). We commissioned **Stuart Chapman (Eliot Sinclair)** to prepare a detailed natural hazards assessment (Report No. 510318, 15 June 2022).

The report found:

“Through LIDAR information and GPS coordinates of the building platform for the proposed dwelling, we consider the site to be greater than 5 m above the level of the Tartare Stream. In the event of a 1-in-100-year flood, we consider it unlikely that the building location will be flooded.”



Flood Data and Freeboard Standards

The West Coast Regional Council’s own TTPP information sheet above states that within the Flood Hazard Susceptibility Overlay, new development must achieve 500 mm freeboard above the 1% AEP (1:100-year) flood level. There is no specific 1% AEP flood data for the Tartare

Stream adjacent to our property; however, the 2014 LRS Consulting report (see below) for the nearby Waiho River predicted a 1:100-year flood level of 6.1 m above mean river level. Mr Chapman used 5 m as the relevant baseline for the significantly smaller Tartare Stream, which supports a low flood risk at our site.

Finally, using the current river bed heights, the 100-yr flood event is modelled as an event with a water level c. 6.1 m above mean channel flow. Figure 3.8d shows water depths and inundation for the 100-year flood event. Such a flow would produce similar effects and impacts to the 50-yr flood, though with 30 cm more water depth. Flood waters would not enter the main part of the town under this scenario.

The estimated peak flows for a series of flood return periods for the Waiho River at the S.H. 6 bridge are displayed in Table 3.2. LRS Consulting used this data to create conservative peak flow values for the 100, 200 and 400 year flood situations.

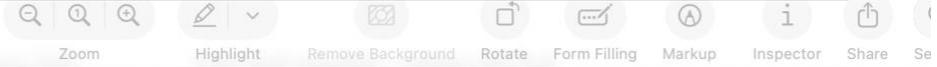
Table 3.2 Estimated peak flows for a range of return period events on the Waiho River at SH6 Bridge (data from LRS, 2014).

Return period (years)	Peak flow range (m ³ /s)	Adopted Peak flow* (m ³ /s)
20	1857-1953	-
50	2128-2238	-
100	2330-2451	2500
200	2553-2664	2700
400	2735-2876	2900
500	2800-2945	-

*The final value adopted by LRS Consulting (2014) in their flood hazard study.

Regional Studies and Spatial Data

The 2023 Tim Davies report illustrates the 100–200 year flood return interval areas for Franz Josef. In the mapping (image below), approximately 99% of our property is outside the flood-affected area, whereas the nearby NT-2 area — considered for new town development — has significant areas within it.



flows to increase over time (indicated in Fig. 2). If a large proportion of Waiho floods in due course enters the Tatare then substantial aggradation of the Tatare is to be expected, which can then progressively cause its upstream bed level to increase. Modelling by Davies et al. (2013) indicated that flooding from the Tatare upstream of the SH6 bridge may eventually be exacerbated due to this aggradation. To prevent this scenario the planned stopbank upgrades include a bank extending from the oxidation ponds to the Waiho Loop (Fig. 3) designed to contain Waiho flows of $2500 \text{ m}^3\text{s}^{-1}$ (Gardner, 2021) which is about a 200-year event (Table 1). We assume that this bank will prevent such overflows as designed.

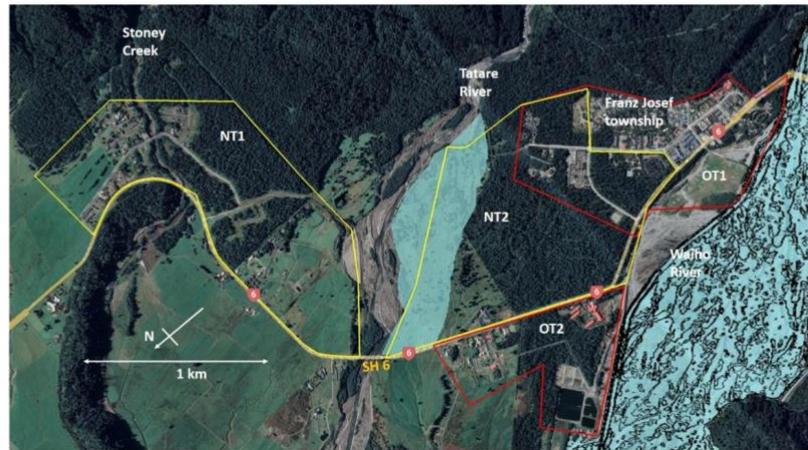
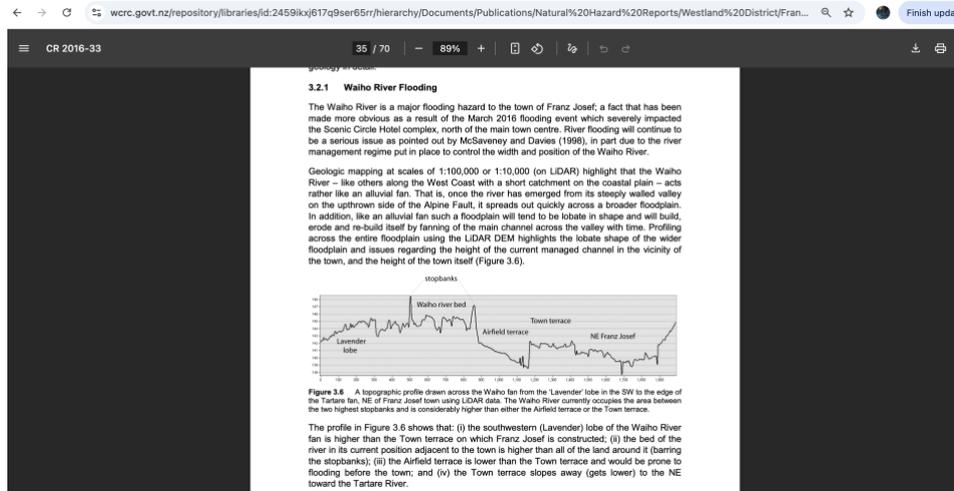


Fig. 5 Flood hazards (blue) at Franz Josef from Tatare (left) and Waiho (right) Rivers, ca 100-200-year return interval. Modified Google Earth image.

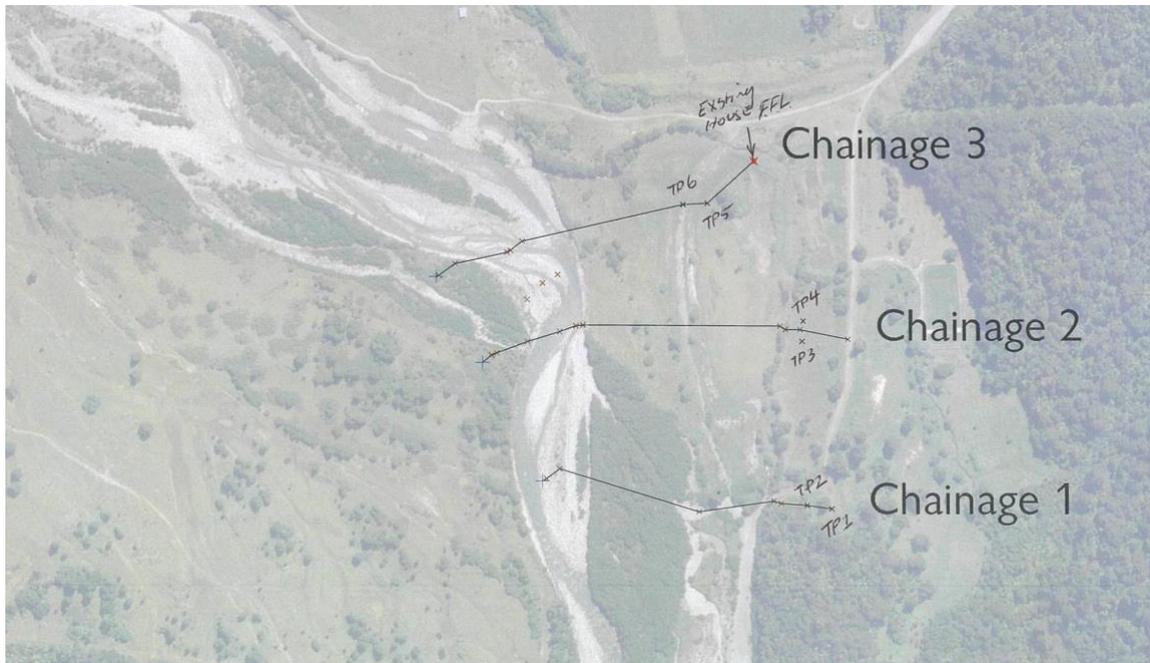
Further, LIDAR imagery (GNS 2016) – see below image - shows the Waiho River bed is now substantially higher than the town Terrace. The only thing keeping it contained during floods are its stop banks. The town terrace then slopes away towards the Tartare Stream which you can see around the 1650- 1750 mark. As you move further Northeast towards our property the elevation increases quickly with our property sitting much higher than the town terrace.



Updated Engineering Survey (2025)

We were advised by the Westland District Council that if we wanted to build on our property then we should apply for Resource Consent prior to the TTPP becoming operable as otherwise it would become a prohibited activity. In response to our recent resource consent application for a second dwelling, despite the evidence above and already having provided a report just three years prior from Stuart Chapman of Eliot Sinclair in 2022, it was requested we provide another peer reviewed report from a qualified engineer. We commissioned **Andrei Contiga** (Eliot Sinclair, Report 510318, 30 June 2025).

Due to the dTTPP showing a majority of our property in the flood severe category this report included an in-depth site visit where a surveyor completed a detailed LIDAR cross section (see below) of various proposed building sites - chainage 1-3 on our property. In this cross section the first point is located on the northern edge of the Tartare stream, you can see that in chainage 2/3 the stream has now moved significantly more towards the South (away from the property - rural section 1884). In 1 and 2 the proposed building sites were over 7m higher than the Tartare stream, with 3 being 6.2m higher.



The data in this cross section which we received on the 30th June 2025 is the most relevant, up to date and site specific data available and backs up the LIDAR information we can see in the GNS report above which the TTPP committee should have used to make an informed decision before coming up with a blanket rule that would lower our property value by hundreds of thousands of dollars and make future development on our site very difficult.

Inconsistency and Economic Impact

I believe Rural section 1884 should remain in the flood susceptibility overlay. The decision to apply the Flood Severe Overlay is inconsistent with the TTPP's own criteria for flood susceptibility management and is unsupported by empirical evidence. The West Coast Regional Council has in fact provided contradictory evidence as I recently received a report from Doug Bray (Senior Policy Planner at the West Coast Regional Council) prepared by Tim Davies and he said that the council had used this report as guidance in making their decision - in this report (see below) you can clearly see that the majority of rural section 1884 is well outside the 100-200 year flood return highlighted in light blue.

flows to increase over time (indicated in Fig. 2). If a large proportion of Waiho floods in due course enters the Tatare then substantial aggradation of the Tatare is to be expected, which can then progressively cause its upstream bed level to increase. Modelling by Davies et al. (2013) indicated that flooding from the Tatare upstream of the SH6 bridge may eventually be exacerbated due to this aggradation. To prevent this scenario the planned stopbank upgrades include a bank extending from the oxidation ponds to the Waiho Loop (Fig. 3) designed to contain Waiho flows of $2500 \text{ m}^3\text{s}^{-1}$ (Gardner, 2021) which is about a 200-year event (Table 1). We assume that this bank will prevent such overflows as designed.

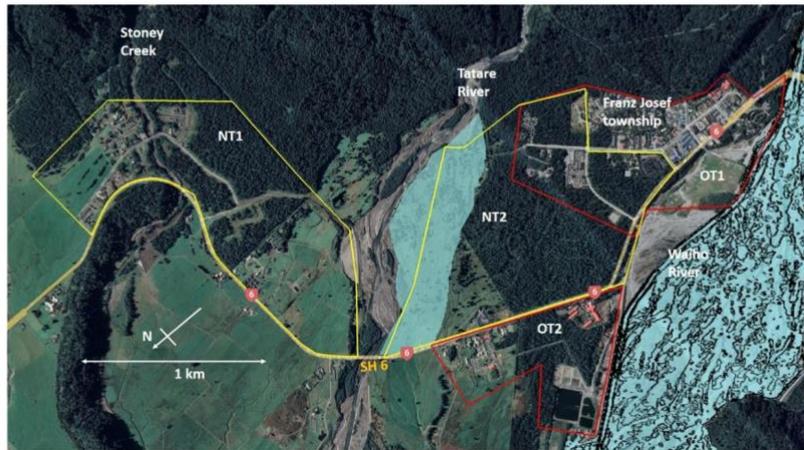


Fig. 5 Flood hazards (blue) at Franz Josef from Tatare (left) and Waiho (right) Rivers, ca 100-200-year return interval. Modified Google Earth image.

Additionally the information provided on the TTPP's own website states that new developments built in the flood susceptibility zone are required to be built up 500mm above the 1% AEP flood level or 1:100 year flood. The chainage evidence included in the attached geotechnical report (510318) clearly shows that a significant proportion of this property is well above Chapmans 5m 1% AEP prediction with the top terrace sitting over 7m above mean river level. Technically this would mean any structure built on the top terrace of the property, even if built at ground level, would have well over 2000mm freeboard above the 1% AEP level (Chapmans prediction) and significantly more than 2000mm for Davies prediction above.

When the TTPP planning committee have stated that they are happy for new development to occur in flood susceptible zoning as long as 500mm freeboard is achieved this is contradictory as they are admitting that there are properties that will remain in the Flood Susceptibility zoning and be allowed to be built on that have significantly higher flood risk than Rural Section 1884.

The information about confirms that the TTPP committee have no site specific and real time data to back up their claims and I believe they have acted with negligence when making decisions as they have not used the data they have had available to them to help make an informed decision. Based on the information provided above I believe it is absolutely clear that there is no justification or evidence for moving rural section 1884 from the Flood Hazard Susceptibility Overlay to the Flood Severe overlay.

The change unjustifiably reduces our property's development potential and value by hundreds of thousands of dollars without demonstrated environmental benefit.

I seek the following relief:

1. **Rural Section 1884** remain within the **Flood Susceptibility Overlay** rather than the **Flood Severe Overlay**.
2. **Reimbursement of costs** directly incurred in responding to the decision, including:
 - Court filing fee; and
 - Costs of commissioned engineering and surveying reports (Eliot Sinclair 2022 and 2025).

Date: 03/12/2025

Signature of appellant:
(*or* person authorised
to sign on behalf of
appellant)



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