

AGENDA

Meeting of the Regulatory and Hearings Committee

**Commencing at 3.30pm
on Wednesday 11 May 2022**

*To be held at the
Clocktower Chambers
Palmerston Street
Westport*

Regulatory and Hearings Committee

Reports To:	The Council
Chairperson:	Phil Rutherford
Membership:	The Mayor, all Councillors and Maori Representative
Meeting Frequency:	As required
Quorum:	The composition of any Regulatory Hearings Committee for quorum purposes to be determined by the Chairperson

Purpose

1. To conduct fair and effective hearings and make determinations on a range of the Council's quasi-judicial functions under legislation and other matters as referred to the Committee.
2. Ensuring Buller is performing to the highest standard in the area of civil defence and emergency management through:
 - a) Implementation of Government requirements.
 - b) Contractual service delivery arrangements with the West Coast Regional Group Emergency Management Office.

In addition to the common delegations on page 9, the Regulatory and Hearings Committee is delegated the following Terms of Reference and powers:

3. Hear and determine any statutory or regulatory hearings under relevant legislation unless otherwise delegated by Council, including (but without limitation):
 - objections under the Dog Control Act 1996;
 - matters regarding drainage and works on private land under the Local Government Act 1974 and Local Government Act 2002;
 - proposals for temporary closure of any road;
 - Supply and Sale of Alcohol Act 2012.
4. Consider and determine changes to the registers and restrictions in the Traffic Bylaw and Speed Limit Bylaw, including hearing any submissions relating to those proposed changes.
5. Hear and determine matters arising under current bylaws, including applications for dispensation from compliance with the requirements of bylaws, unless such matters are otherwise delegated by Council.
6. Hear and determine other matters that require hearings or submissions, as referred by Council or other Committees.

The Committee is delegated the following powers to act:

- Approval of matters determined by the Committee within its Terms of Reference.

The Committee is delegated the following recommendatory powers:

- The Committee may make recommendation to the Council.
- The Committee may make recommendations to Committees.

Special Notes:

- The Committee may request expert advice through an independent advisor when necessary.
- The Committee may appoint additional members for hearings where the relevant terms of reference specify the requirement for expert or external representation.
- The Chief Executive Officer, Group Manager Regulatory Services are required to attend all meetings but are not members and have no voting rights. Other Council officers may attend the committee meetings, as required.
- Written updates may be requested to be provided to Council meeting from the Chair and Group Manager Regulatory Services from time to time.

Oversight of Policies:

- *Dangerous, Earthquake-prone and Insanitary Buildings*
- *Class 4 Gambling and Totalisator Agency Board Venue*
- *Dog Control*
- *Vegetation Overhanging Footpaths*
- *Election Signs*
- *Fencing of Swimming Pools*
- *Commercial Trading*
 - *Alcohol Consumption & Dining on Public Footpaths*
 - *Display of goods Furniture or Sandwich Board Signs*
 - *Mobile Shops*
 - *Street Stalls Raffles, Appeals & Busking*

Regulatory and Hearings Committee

11 May 2022 09:00 AM - 05:00 PM



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REGULATORY and HEARINGS COMMITTEE

5 MAY 2022

AGENDA ITEM 1

Prepared by Sean Judd
Group Manager Regulatory Services

APOLOGIES

1. REPORT SUMMARY

That the Regulatory & Hearings Committee receive any apologies or requests for leave of absence from elected members.

2. DRAFT RECOMMENDATION

That there are no apologies to be received and no requests for leave of absence.

OR

That the Regulatory and Hearings Committee receives apologies from (insert Councillor name) and accepts Councillor (insert name) request for leave of absence.

REGULATORY and HEARINGS COMMITTEE

5 MAY 2022

AGENDA ITEM 2

Prepared by Sean Judd
Group Manager Regulatory Services

MEMBERS INTEREST

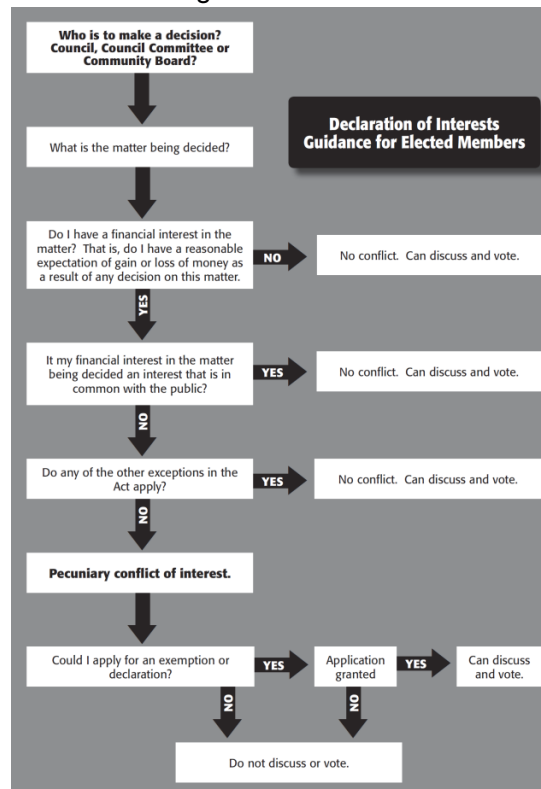
Members are encouraged to consider the items on the agenda and disclose whether they believe they have a financial or non-financial interest in any of the items in terms of Council's Code of Conduct.

Councillors are encouraged to advise the Governance Assistant, of any changes required to their declared Members Interest Register.

The attached flowchart may assist members in making that determination (Appendix A from Code of Conduct).

DRAFT RECOMMENDATION:

That Members disclose any financial or non-financial interest in any of the agenda items.



REGULATORY and HEARINGS COMMITTEE

5 MAY 2022

AGENDA ITEM 3

Prepared by Sean Judd
Group Manager Regulatory Services

CONFIRMATION OF MINUTES

1. DRAFT RECOMMENDATION

That the Regulatory and Hearings Committee receive and confirm previous minutes from the meeting of 9 March 2022.



**MEETING OF THE REGULATORY AND HEARINGS COMMITTEE, COMMENCING
AT 3:30pm, WEDNESDAY 09 MARCH 2022, VIA ZOOM**

PRESENT: Mayor J Cleine, DM S Roche, Councillors J Bougen, D Hawes, J Howard, M Montgomery, R Nahr, P Rutherford, R Sampson, Iwi Representative N Tauwhare

APOLOGIES: Cr G Weston

IN ATTENDANCE S Mason (Chief Executive Officer), L Gregory (Team Leader Development & Engagement), S Judd (Group Manager Regulatory Services), V Hill (Governance Assistant)

MEDIA:

PUBLIC FORUM:

Speaker 1: Peter Rainton – Poultry

Mr Rainton was present on the ZOOM meeting however he did not wish to address the public forum.

Mr Rainton's primary comment was that he was concerned the issue of noisy roosters could take years to resolve.

The meeting was declared open at 3.31pm

1. APOLOGIES (p5)
Discussion:

An apology was received from Cr G Weston.

RESOLVED

That the Regulatory & Hearings Committee receive apologies from Councillor G Weston.

Mayor J Cleine/DM S Roche
10/10

CARRIED UNANIMOUSLY

2. MEMBERS INTEREST (p6)

Discussion:

Nil.

RESOLVED that Regulatory & Hearings Committee members disclose any financial or non-financial interest in any of the agenda items.

Cr P Rutherford/Cr J Bougen

10/10

CARRIED UNANIMOUSLY

3. CONFIRMATION OF PREVIOUS MEETING MINUTES (p7)

Discussion:

DM S Roche raised a matter on page 12 which was not an amendment however it should have become an action point.

A plan schedule of all policies and bylaws, when they were last reviewed, when they would be reviewed again and statutory obligations had been requested at the October 2021 meeting.

Cr P Rutherford agreed and thought this list would be available today and confirmed that such a list does exist.

S Judd (GM Regulatory Services) had forwarded this list to Cr Rutherford and there was no change to the last time this was discussed.

Suffice to say this was a piece of work that had not progressed however an update would be provided.

Cr Rutherford asked that this list be circulated to all councillors for their reference, rather than creating an action point.

S Mason (CEO) would work with Mr Judd to circulate this list to all councillors.

DFM S Roche suggested it may be prudent to have this list attached to the Terms of Reference or as an appendix to each meeting.

S Mason noted that with the challenges of two floods and staff placed elsewhere for emergency management, the programme had been put on hold.

The intention was to formulate a list for quarterly review.

RESOLVED that the Regulatory & Hearings Committee receive and confirm minutes from the meeting of 13 October 2021

Cr R Nahr/DM S Roche

10/10

CARRIED UNANIMOUSLY

4. BYLAW REVIEW – KEEPING OF ANIMALS (p13)

Discussion:

S Judd (GM Regulatory Services) reported the Keeping of Animals Bylaw review was primarily prompted by issues caused by one particular rooster and a lot of staff had put this together in addition to other duties.

Many other bylaws from around the country had been combined. There may be gaps and suggestions were welcome.

Cr J Howard noted from the previous draft there was a clause that referred to noisy birds and aviaries. This was missing out of the current draft and Cr Howard would like to see this clause brought in.

Also, the previous bylaw for the keeping of cats stated the number of cats able to be kept at six months maturity was three.

This appears to have been increased to four and Cr Howard's personal preference was for this to remain at three.

There was also a need to agree on the definition of "urban area". Cr Howard asked if the rating definition should be used or the District Plan definition?

Mr Judd responded that these points would definitely be noted and the number of cats in the draft bylaw could be reduced, depending on the committee agreement.

After a show of hands, there seemed to be overwhelming support for the number of permissible cats to be increased to four.

Cr Rutherford said there needed to be wider discussion on the definition of "urban".

Cr R Sampson had not picked up where there were now to be consequences in the new bylaw. This draft appeared to be toothless if there was a noisy animal involved like the previous bylaw.

Mr Judd replied that two fundamental things were missing from the previous bylaw. One was the ability to issue an infringement notice.

He had noticed that this did not appear in a lot of bylaws, which was surprising. More importantly this draft has the ability to seize.

Infringement notices work for some but not for all. The ability to seize is useful and staff will now have the ability to go onto a property after investigation and seize animals if necessary. The cost to the Council would be reimbursed by the offender. This raises challenges, depending on the animal.

The relevant clause is on page 28.

S Mason (CEO) advised that she and Mr Judd would work to find a consistent definition of "urban".

After legal scrutiny a draft would come back to Council to be adopted after public consultation.

Cr R Sampson proposed there be one modification to the current draft to introduce comment around aviaries.

This should go to the legal team for scrutiny and then brought back to the next full Council meeting.

Cr J Bougen queried the requirement for "Taj Mahal" poultry runs and doubts any would have construction in accordance with the Building Act.

Perhaps too much was being demanded for a chicken coop and this should be brought back a bit.

Cr Rutherford noted that certain standards need to be set with a minimum standard to prevent "hillbilly" constructions. These were necessary in residential areas to reduce smell, insect nuisance etc.

Cr Bougen thought the key point were that the rooster was gone and that there were very clear controls in terms of distance from poultry houses to boundaries and effluent etc.

Cr R Sampson agreed saying bought type mobile chicken coops were common and coops constructed with concrete floors that are built in ways that are unable to be moved around are not practical. Access to fresh grass was part of the ethos of this method of poultry keeping.

Mr Judd agreed guidelines around animal welfare needed to be considered.

There was agreement from Cr D Hawes in this regard. Having mobile coops would often be a better option than a permanent house and as long a suitable shelter was being provided this semi-free range with access to fresh forage option would be the most advantageous way to keep chickens in an urban environment.

Cr Rutherford reiterated that it was necessary to progress this bylaw and suggested that it come back to the next Council meeting in March for final ratification.

Slowing this process down would not be helpful and meeting guidelines could still be investigated.

Mr Judd acknowledged these points and alternatives regarding construction would be quickly reviewed.

RESOLVED that the Regulatory & Hearings Committee direct staff to progress the draft 'Keeping of Animals' Bylaw for legal comment with the following alteration : Clause 1304 Noise from Animal, Bird or Fowl should include noisy birds in aviaries.

DM S Roche/Cr R Nahr

10/10

CARRIED UNANIMOUSLY

5. CLIMATE CHANGE ADAPTATION PLANNING REPORT (P42)

Discussion:

Cr P Rutherford introduced the report prepared by Di Rossiter from Dextera, saying Council cannot understate the importance of this piece of work, given all that had happened in our district.

Climate change is very topical, the Te Tai o Poutini Plan (TTPP) has a lot of reference to natural hazards and has a symbiotic relationship with this work.

It was most important we do have some work in progress when national adaptation planning is introduced in August of this year. Council needs to have a strong voice in this matter and be able to demonstrate this is taken seriously and the issues for our district are recognised.

Di Rossiter noted this was an enormous topic and a separate workshop was warranted towards the end of this month so the subject could be looked at in far greater detail.

Cr J Howard had attended a webinar with the Ministry for the Environment (MfE), along with Cr Rutherford and Ms Rossiter. Cr Howard commented this provided a good overview at a high level of process and recommended everyone view that to gain an understanding.

The importance of framework providing good communication and engagement was highlighted.

Cr P Rutherford agreed and commented that climate change mitigation and adaptation both feature and one of the steps in the process of the plan would involve preparing a risk matrix for the district.

This would be across the entire district and relate to the TTPP.

Risk versus cost was discussed and Ms Rossiter advised there was a need to make sure all information that had been collected and developed to date was centralised.

The first stage of the project would be ensuring work undertaken already is not being duplicated.

Mayor J Cleine commented that Council risk in terms of infrastructure and assets for the district as a whole needed to be assessed. How much risk is acceptable versus what the community is prepared to pay for in rates or government funding to mitigate would need to be examined.

Ms Rossiter agreed saying this was not a simple process. Developing a risk matrix for the entire district will prioritise risks and develop action plans for the most significant risks. Scenario modelling and risk analysis would encompass assessment of physical, economic, social, and cultural impacts.

S Mason (CEO) reminded councillors that Council had committed as part of the Long Term Plan to invest in climate change and this was the fledgling state at the start of the project and funding was stretched out over a three to four year period.

There would be limited work between now and the end of June. There would be incremental work and we have climate change on the Strategic Risk Register. Changes would be made as part of the Climate Change Adaptation Plan.

Details for the workshop scheduled for towards the end of March would be circulated offline.

RESOLVED that the Regulatory & Hearings Committee receives the information provided within this report and endorses the Project Plan and its actions contained within Attachment 1.

Mayor J Cleine/Cr J Howard

10/10

CARRIED UNANIMOUSLY

Cr Rutherford thanked Ms Rossiter and asked what councillors could do prior to the planned workshop to prepare.

Ms Rossiter advised councillors should become familiar with the project plan provided with the paper today, as well as a document introduced by MfE.

This was a guide for local government for the climate change adaptation risk assessment process and planning.

S Mason advised that this document would be made available to councillors in the Diligent Resource Centre.

Ms Rossiter would provide a link to the MfE webinar referred to earlier in the meeting.

6. WEST COAST CDEM GROUP – JOINT COMMITTEE PARTNERSHIP AGREEMENT (p73)

S Mason welcomed Chris Hawker from C3 Consulting Ltd who was an external consultant providing support across the whole of West Coast Civil Defence and who had been an integral part of working with this committee drafting the partnership agreement.

Mr Hawker asked if the report presented in October last year had been distributed to the councillors.

Ms Mason replied that this document had not been tabled and she understood none of the councils involved had tabled the report.

Mr Hawker provided a precis of the complete review of the West Coast Civil Defence group. This report looked at what was working, what was not working and made recommendations to establish a useful foundation.

This was presented to the joint committee at a workshop at the end of last year and it was accepted. Recommendations were all accepted in principle.

It was important to ensure the foundation was correct, that the group was working in partnership and that there was transparency and openness.

The foundation document to achieve that was the partnership agreement. This would ensure all the moving parts of the West Coast Civil Defence structure were working properly and that everyone understood their responsibilities and how they work together.

Ms Mason thanked Mr Hawker for the overview and advised this draft agreement was going to all councils for approval.

A key component of the partnership agreement around funding is that within legislative requirements, the responsibility to strike a rate to fund key parts of civil defence sits with the West Coast Regional Council (WCRC).

As a territorial authority Buller District Council has a responsibility to keep a pot of funding for training of it's own staff and are required to do this.

The broader civil defence responsibility sits with the WCRC.

Cr R Sampson commented that there was going to be a debrief in the smaller communities such as the Northern Buller after the last event and asked where that fits in with regards to working with volunteer controllers.

Mr Hawker responded that this was an operational matter for the WCRC and that process was now underway. The review that was undertaken was from the July 2021 event and was not analysed as well as it could have been.

That has now been followed up, will be fully analysed and brought to councillors when it has been completed.

Mayor J Cleine observed that significant components of Mr Hawker's work spoke to specific staff and roles and were therefore sensitive in nature. That was why it had not gone out to a wider audience.

Ms Mason confirmed this and said that the intention was that once the main work plan was produced a summary document would be brought forward.

Cr Rutherford thanked Mr Hawker, who then left the ZOOM meeting.

RESOLVED that the Regulatory & Hearings Committee endorse the Civil Defence Emergency Management Partnership Agreement which supersedes all previous agreements.

Cr R Sampson/Cr J Howard

10/10

CARRIED UNANIMOUSLY

7. STEWARDSHIP LAND PROCESS REVIEW – WEST COAST COUNCILS SUBMISSION (p102)

S Mason (CEO) reported that she and Mayor Cleine had circulated different iterations of this document over the past few weeks seeking feedback and there had been none received locally.

The submission is on behalf of the West Coast and has been through the Mayors and Chairs and Chief Executive Officer meetings.

A whole of West Coast approach is being presented for endorsement and must be signed by tomorrow.

Given that no feedback had been received and Council was happy with the overall response, endorsement was sought so Mayor Cleine could sign the document for submission tomorrow.

Cr P Rutherford agreed that it was not possible to rewrite the submission however he believed it did represent what had been happening over the years in terms of submissions to the Department of Conservation (DOC) regarding stewardship land.

Concerns overall had been captured in the document and Cr Rutherford was happy to provide an endorsement.

Mayor J Cleine pointed out that the submission had been bought together by an environmental lawyer contracted by all councils so the West Coast submission had been written at a professional level.

Cr J Howard stated she would support the endorsement saying as a council it was important to look at the four well beings. Having an assessment only on environmental aspects does not represent the community and the criteria being “any conservation value”.

Any block of land could be considered to have conservation value and there was a need to bring balance.

RESOLVED:

1. That Regulatory & Hearings Committee receive the report for information.
2. That Regulatory & Hearings Committee endorses the draft submission and authorises Mayor Cleine to sign the submission on behalf of Buller District Council.

Cr R Nahr/Iwi Representative N Tauwhare
10/10

CARRIED UNANIMOUSLY

8. GENERAL BUSINESS (p169)

Cr P Rutherford noted a verbal update on bylaws had been received, however there was no document available at present.

S Mason (CEO) confirmed that this schedule would be circulated and incorporated into the minutes (Appendix 1)

The intention is to bring a programme of work together and bring it to Regulatory so it may be revised and updated and given to councillors for visibility.

S Judd (GM Regulatory Services) provided a general update and advised that the bylaws had been allocated to the four departments they relate to. Staff are going through each bylaw ensuring they are fit for purpose and if they are required etc.

There was quite a bit of work already completed before the project was put on hold so it has progressed fairly well and staff are not starting from scratch.

RESOLVED that the Regulatory and Hearings Committee:

1. Receive a verbal update on bylaws timelines
2. Discuss general business items.

Cr J Bougen/Mayor J Cleine
10/10

CARRIED UNANIMOUSLY

RESPONSE TO PUBLIC FORUM:
Discussion:

Although Peter Rainton did not formally speak at public forum, he was present throughout the discussion on bylaws. Cr Rutherford would email Mr Rainton to thank him for his attendance and update on progress made.

- There being no further business the meeting concluded at 4.33pm
- **Next meeting: To be Advised**, Clocktower Chambers, Palmerston Street, Westport.

Confirmed: **Date:**

REGULATORY AND HEARINGS COMMITTEE

11 MAY 2022

AGENDA ITEM 4

- Prepared by -** Rachel Townrow
Deputy Chief Executive Officer
- Reviewed by -** Sean Judd
Group Manager Regulatory Services
- Attachments -** A - Te Tai o Poutini Plan Ecosystems and Indigenous Biodiversity and SNAs
B - Te Tai o Poutini Plan - Ecosystems and Biodiversity April 2022

PROPOSED APPROACH TO SIGNIFICANT NATURAL AREAS IN THE TE TAI O POUTINI PLAN

1. REPORT PURPOSE

To seek direction on the proposed approach to significant natural areas in the Te Tai o Poutini Plan from the Committee, for feedback to the Te Tai o Poutini Plan Committee.

2. REPORT SUMMARY

The exposure draft of the Te Tai o Poutini Plan (TToPP) proposed to treat significant natural areas (SNAs) in Buller in much the same way as the current Buller District Plan. Following feedback on the TToPP exposure draft it is proposed to amend this approach. As the proposed approach is substantially different, direction is sought from the Regulatory and Hearings Committee to inform feedback on this issue from Council's representatives to the TToPP Committee.

3. DRAFT RECOMMENDATION

That the Committee identifies Option [X] as its preferred approach to significant natural areas in Buller in the Draft Te Tai o Poutini Plan, with this feedback to be provided to the Te Tai o Poutini Plan Committee via Buller District Council's representatives on that Committee.

4. BACKGROUND

Background and Context

As part of its implementation of section 6 of the Resource Management Act (RMA), TToPP is required to:

“recognise and provide for the following matters of national importance:...

(c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:...”

And:

“have particular regard to—

(a) kaitiakitanga:

(aa) the ethic of stewardship:..

(d) intrinsic values of ecosystems:...”

Policy 7(1)(a) of the West Coast Regional Policy Statement (RPS), which TToPP is required to implement, specifically identifies that SNAs will be identified and mapped in the district plans on the West Coast. It states:

“Areas of significant indigenous vegetation and significant habitats of indigenous fauna will be identified using the criteria in Appendix 1; they will be known as Significant Natural Areas (SNAs) and will be mapped in the relevant regional plan and district plans.”

Proposed approach in TToPP

The June 2021 report to the TToPP Committee, attached to this report as Appendix A, provides background to this issue and the decisions that led to the proposed approach in the exposure draft of the TToPP.

Of particular relevance in the exposure draft is *Ecosystems and Indigenous Biodiversity Policy 1* which states,

“To identify areas of significant indigenous vegetation and fauna habitat:

1. In the Grey District these areas are identified in Schedule Four;

2. In the Buller and Westland Districts:

i. Areas of significant indigenous vegetation and fauna habitat will be identified through the resource consent process; and

ii. Identified areas of significant indigenous vegetation and fauna habitat will be added to Schedule Four through Plan Changes as they are identified progressively through resource consents.”

Policy 1(2)(i) above is consistent with the approach currently taken in Buller under the Buller District Plan. Policy 2(2)(ii) is an additional step from the status quo, aimed at meeting the requirement set out in the RPS which came into effect after the Buller District Plan became operative. The different approach proposed for Grey is due to the fact that the Grey District has already identified SNAs.

The April 2022 report to the TToPP Committee, attached to this report as Appendix B, includes feedback received on this issue through the exposure draft engagement process and the amendments technical staff now recommend to the TToPP, including to *Ecosystems and Indigenous Biodiversity Policy 1*.

As per Appendix B, it has been recommended that *Ecosystems and Indigenous Biodiversity Policy 1* be amended to say that SNA identification will be undertaken in Buller and Westland within five years of TToPP notification (i.e. within five years of July 2022).

As this is a significant change from the existing situation in Buller and the approach put forward in the exposure draft, Council's representatives on the TToPP Committee requested the opportunity to seek direction from Council before voting on this issue at the TToPP Committee.

Key reasons noted for the recommended change in approach to SNAs in Buller (and Westland) are the high risk of legal challenge to the originally proposed approach, and the inability to complete identification of SNAs before the Proposed TToPP is notified.

In response to a question at the TToPP Committee meeting, staff advised that the responsibility to identify SNAs in Buller and Westland and amend the TToPP would sit with the West Coast Regional Council and the TToPP Committee, as the entities with the statutory responsibility for the TToPP.

A further consideration is the proposed National Policy Statement on Indigenous Biodiversity (NPSIB). The NPSIB included assessment criteria for SNAs and a requirement that SNAs be included in district plans within five years from the date of the NPSIB's enactment.

Public consultation on the NPSIB took place between November 2019 and January 2020. The Ministry for the Environment are continuing work on addressing the issues raised in submissions and hui during consultation on the NPSIB, to ensure that it promotes the maintenance and protection of indigenous biodiversity while also providing for the social, cultural and economic wellbeing of communities.

Decisions on the release of an exposure draft of the NPSIB are expected by July 2022, after the draft TToPP is notified. Once in place, district plans are required to give effect to national policy statements.

Options for SNAs in the TToPP

1. Maintain the approach included in the exposure draft – this approach is not recommended by TToPP staff for the reasons outlined above and in the report at Appendix B.
2. Modified exposure draft approach – maintain the policy wording in the exposure draft, include the existing high-level mapping of potential SNAs (as per Appendix A) in the TToPP and use this to identify when resource consent would be required for vegetation clearance.

This is a form of identification of SNAs in the TToPP and arguably goes some way to meeting the RPS requirement.

A risk here is that the mapping is still high-level and identifies a considerable area of Buller as potentially SNAs, however there would be potential benefit for landowners outside of those areas if it removed resource consent requirements for vegetation clearance on their land.

This approach has previously been discussed by the TToPP Committee prior to engagement on the exposure draft, but was not the final direction given to staff at the time.

3. Amend the TToPP to state that SNAs will be identified in Buller within five years of TToPP notification – TToPP staff recommend this option for the reasons outlined above and in the report at Appendix B.

While there is still a risk of legal challenge with this approach it is arguably a more defensible position than Options 1 and 2 above.

This approach is generally consistent with the NPSIB approach and timeframe, noting that this document is still in draft stage and subject to change, and that it is currently unknown when its five year timeframe would start from.

If this option is chosen it is recommended that the policy wording be very specific to provide certainty for Councils and plan users, and to avoid issues in years to come.

At a minimum it is recommended that the wording used specifies that identification of SNAs will commence within five years of TToPP notification, to avoid confusion as to whether the intention is to have started or completed the process within five years.

It will also be important to ensure that there is clarity in the TToPP on how vegetation clearance will be treated in Buller in the meantime.

4. Hybrid approach – include the high-level mapping and link this to the rules as per Option 2 above, and state that SNA identification will occur in Buller within a specified timeframe as per Option 3, with a longer timeframe given to start the identification (e.g. seven years).

This approach would provide a form of identification in the TToPP, and signal the intent to improve the identification over time. A longer timeframe may mean a better chance of alignment with the NPSIB timeframe, but there are still too many unknowns here to say with any certainty. The risks with each of Options 2 and 3 identified above would remain.

Option 3 is the more technically straightforward option and has a lower risk. It is arguable that Option 4 would add to the legal defensibility as there would be at least high-level identification of SNAs in the TToPP, however there may be practical unintended consequences of this approach in the meantime (e.g. due to the extent of the areas identified as potential SNAs).

All of the options would require resource consent under the TToPP for vegetation clearance in Buller, with Options 2 and 4 having the possibility of this requirement only applying to areas identified as potential SNAs.

The NPSIB is likely to require identification of SNAs in Buller within a particular timeframe regardless of the approach taken in the TToPP, meaning that Option 3 would align with the Buller status quo post-enactment of the NPSIB (provided that requirement remains in the NPSIB).

5. CONSIDERATIONS

5.1 Strategic Alignment

The TToPP will set the strategic direction for resource management in Buller. It must be consistent with, and/or give effect to, higher order planning documents including the RPS and national direction.

5.2 Significance Assessment

This matter is not considered to meet the threshold for significance under Council's Significance and Engagement Policy.

5.3 Tangata Whenua Considerations

Ngāti Waewae has a representative on the TToPP Committee. No specific considerations have been identified in relation to this report.

5.4 Risk Management Implications

The risks of each option are outlined above, and the risks generally are discussed in the appendices.

5.5 Policy Framework Implications

As above, the TToPP will be the resource management policy framework for Buller and the West Coast. It will also set the rules for land use and development activities, and it is important to have Council's broader policy framework and intentions in mind when considering the types of resource management policy and rules that will be in place, as these will impact the ability to achieve those goals.

5.6 Legal Implications

As discussed above and in the appendices.

5.7 Financial / Budget Implications

There are currently no direct financial or budget implications anticipated for Council. While identification of SNAs would fall to the West Coast Regional Council, there would likely be staff time required for technical input into the process. This would either have to come from existing budgets with a resulting impact on work programmes, or be resourced.

5.8 Consultation Considerations

The approach chosen by the TToPP Committee will go into the Proposed TToPP, which will then be notified and go through the full public consultation process required by the RMA.



Prepared for: Te Tai o Poutini Plan Committee
Prepared by: Lois Easton, Principal Planner
Date: June 2021
Subject: **Technical Update – Ecosystems and Indigenous Biodiversity**

SUMMARY

This report gives an update on the technical work being undertaken on ecosystems and indigenous biodiversity and discusses how these could be managed through Te Tai o Poutini Plan.

The report updates on the work done to date identifying potential Significant Natural Areas and also outlines a range of options forward for this topic.

RECOMMENDATIONS

1. That the Committee receive the report.
2. That the Committee provide direction around Rule options in relation to ecosystems and indigenous biodiversity in Te Tai o Poutini Plan.

Lois Easton
Principal Planner

INTRODUCTION

1. The management of natural heritage matters (ecosystems, landscape, natural features, natural character and the coastal environment) are mandatory matters that need to be addressed in Te Tai o Poutini Plan (TTPP).
2. The Committee has previously provided feedback on an overall approach to this through draft Strategic Objectives for Natural Heritage.
3. The draft Strategic Objectives are attached at Appendix One.
4. These draft Objectives recognise that protection of values does not automatically mean that no activities can occur in the areas where these values are found and provide the overarching framework to guide the development of the detailed provisions for natural heritage matters.
5. This report looks specifically at the matters around ecosystems and biodiversity natural heritage "matters of national importance" under the RMA and the overall approach to how they are managed in TTPP.

NATIONAL POLICY STATEMENT FOR INDIGENOUS BIODIVERSITY (NPSIB)

6. The NPSIB was due for release in August – however recent announcements from the relevant Ministers appear to see this being delayed with it now due to be finalised by the end of the year.
7. The draft NPSIB included assessment criteria for SNAs and a requirement that Significant Natural Areas (SNAs) be included within District Plans within 5 years from the date of enactment.
8. There has been considerable discussion around SNAs over the last month in the media, initially focussed on Northland, but more recently the West Coast. Minister Shaw (Associate Minister for the Environment – Biodiversity) made comments in response to the Northland issues in the media, which initially were being more widely interpreted than he intended.
9. To clarify the Government position, a letter has been sent by the Ministers Shaw and Mahuta (Minister of Local Government), who are jointly responsible for the NPSIB, to all Councils and this is attached at Appendix Two. This letter confirms that SNAs will be required to be identified, with the key matter to be resolved being around the process for SNAs on Māori Land.
10. Through the work undertaken on the West Coast, Poutini Ngāi Tahu Land has specifically been excluded from SNA evaluation – and separate provisions which better recognise tino rangatiratanga on this land are proposed to address management of important natural heritage in these areas.
11. However, if the NPSIB has a significantly different approach to the draft (e.g., by setting substantially less restrictive criteria for SNA identification) then this may provide some grounds to consider the consistency of the RPS direction with the national direction and which takes precedence.
12. Staff suggest a legal opinion on this once the NPSIB is released may provide useful information for the Committee in decision making.

BACKGROUND

13. As part of its implementation of Section 6 (Matters of National Importance) of the Resource Management Act (RMA), Te Tai o Poutini Plan is required to:

*"recognise and provide for the following matters of national importance:
...(c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:..."*

And

*"have particular regard to—
...(a) kaitiakitanga:
...(aa) the ethic of stewardship:..*

... (d) intrinsic values of ecosystems:..”

14. Policy 7 (1) (a) of the West Coast Regional Policy Statement (RPS), which TTPP is required to implement, specifically identifies that Significant Natural Areas (SNAs) will be identified and mapped in the district plans on the West Coast. It states:

*Policy 1. a) Areas of significant indigenous vegetation and significant habitats of indigenous fauna will be identified using the criteria in Appendix 1; they will be known as Significant Natural Areas (SNAs) and **will be mapped in the relevant regional plan and district plans***

15. In accordance with that approach, a preliminary desk top assessment of “potential” SNAs has been undertaken by Wildlands Consultants.

IDENTIFICATION OF POTENTIAL SIGNIFICANT NATURAL AREAS

16. The brief for the work undertaken by Wildlands was in two stages. In the first stage, an assessment of private land, Land Information New Zealand (LINZ) land and a limited area of Department of Conservation (DOC) administered land was assessed. Some DOC land was included at this stage, where staff considered it would provide a better context for the assessment of private land within the same ecological district.
17. The second stage of the work involved the assessment of the remaining DOC land on the West Coast, funded largely by DOC as a Variation to the original contract.
18. This work has now been completed in draft, with the draft Maps attached at Appendix Three. Key matters to note from the methodology as follows:
- a. The sites were assessed against the criteria in the West Coast Regional Policy Statement;
 - b. Assessment for a range of the criteria is at an ecological district level – there are 44 ecological districts in the West Coast region;
 - c. Wetlands were generally not assessed as this work is primarily a function of the West Coast Regional Council under the National Policy Statement and National Environmental Standard for Freshwater Management;
 - d. Poutini Ngāi Tahu Land has been excluded from the assessment;
 - e. Stand-alone trees in pasture have not been assessed;
 - f. Mapping was done at a 1:5000 scale based on the available aerial photography;
 - g. Potential SNA site mapping has not considered property ownership boundaries, but has rather followed the extent of indigenous habitat on the ground. This may result in numerous properties throughout the District with narrow “slivers” of SNA on them. The consultants suggest that these slivers are removed through GIS processing before landowner consultation is undertaken.
 - h. There were a large number of sites where there was insufficient desktop information available to assess the significance of the sites against the RPS criteria – all of these sites are recommended for field assessment to check significance and they represent 23% of the area identified as “potential” SNA. A further 52% of the area is recommended for checking for correct boundaries.

IMPLICATIONS OF ASSESSMENT AND RPS REQUIREMENTS

19. The Wildlands desktop assessment has identified the majority of the native vegetation on the West Coast as a “potential” SNA – with the rider that field checking of nearly all sites is needed.
20. A total of 92 DOC administered sites and 171 non DOC/private land sites have been identified by the consultants as needing assessment to confirm significance and/or to confirm the boundaries
21. There are no plans for the field assessment of DOC Administered land with the TTPP focus being on the land outside the DOC estate.

22. Prior to any detailed field assessment TTPP staff believe a "drive by" field assessment and correction of site boundaries should be undertaken, as this would be expected to eliminate some areas as not meeting the criteria.
23. The extent of potential SNAs does however raise the more substantive question about what is the best policy approach for managing significant indigenous vegetation and habitats of indigenous fauna on the West Coast.
24. To date policy development was based on the assumption that there would be a large area of "not significant" vegetation – so that that SNAs and other indigenous vegetation would be managed differently in TTPP.
25. If in fact the vast majority of vegetation could be considered "significant" – then this policy approach may not be appropriate.
26. However the RPS requirements are very clear. Staff consider that it would be difficult to defend not mapping and identifying SNAs in TTPP.
27. Section 21 of the RMA places a requirement on all bodies working under the RMA to avoid unreasonable delay and to put in place matters under the RMA for which time limits are not prescribed to do so as promptly as is reasonable in the circumstances.
28. Staff are concerned that if SNAs are not included in TTPP, then there is a high risk of a parallel situation occurring for SNAs, as the West Coast Regional Council faced with Regionally Significant Wetlands, where an appeal by the Department of Conservation and Forest and Bird resulted in the Environment Court requiring a list of wetlands, which had not been field assessed – or discussed with affected landowners, to be placed in the Regional Plan without any further consultation or notification back to landowners.

APPROACH FORWARD FOR INDIGENOUS BIODIVERSITY IN TTPP

29. While the high-level policy direction of the RMA, RPS and draft NPSIB is clear that Significant Natural Areas must be identified and their values protected, there are options for how this is achieved through Te Tai o Poutini Plan.
30. As a Matter of National Importance, and one which has been well traversed through the Environment Court, it is clear that Rules will be required, however as discussed in previous papers, Rules alone will not protect these values. Ideally a package of measures – regulatory and non-regulatory would be developed, to support significant indigenous biodiversity values.
31. Many Councils have a comprehensive package of non-regulatory measures (e.g., rates relief, advice and education programmes, assistance with pest control, fencing and covenanting, fee waivers for resource consents etc) to support Rules within their Plans.
32. However, decisions on these matters are up to the individual West Coast Councils, and these methods cannot be directed by TTPP.
33. The main incentive which is available for TTPP is the inclusion of subdivision incentive provisions – whereby additional lots are allowed to be subdivided off where areas are legally protected through a covenant. This kind of incentive is included in a number of plans nationally and provides at least a potential financial benefit to landowners who have an SNA on their property. In developing Options for management of significant indigenous biodiversity staff recommend that these subdivision incentives be included.

POTENTIAL OPTIONS FOR SIGNIFICANT INDIGENOUS BIODIVERSITY

34. Staff have reviewed the range of approaches currently taken in the West Coast District Plans, and how other Councils nationally have managed this issue.
35. When looking across the range of approaches, and considering the RMA, RPS and likely NPSIB requirements, staff suggest that there are four main options for vegetation clearance which could be taken in relation to the Rules.
36. These options have been developed reflecting the fact that essentially most of the native vegetation on the West Coast has been identified as a "potential" SNA. While it is expected that this area would reduce somewhat with field checks, the widespread extent means that in practice a similar number of landowners will be affected regardless of the Option chosen.

Option 1: Rules focus on Significant Natural Areas with limited Permitted Activities in these areas and resource consents required for most activities undertaken within the Significant Natural Area. This approach is most similar to that which currently operates in Grey District, although the Significant Natural Areas, which are mapped and have rules applying, are not shown in the District Plan.

Option 2: General Restricted Discretionary vegetation clearance rules across all native vegetation with varying resource consent requirements for SNAs – with the most restrictive rules applying only to SNAs where these meet the highest value criteria in the RPS (a Threatened Environment Classification of category two or below or has species in Threat Categories 1-3a present). This approach is most similar to the tiered approach for vegetation clearance that currently operates in Buller District.

Option 3: General vegetation clearance rules across all native vegetation with limited Permitted Activities and resource consents required for most activities. This approach is most similar to that which currently operates in Westland District.

Option 4 “the Hurunui Approach”. General vegetation clearance rules across all native vegetation with limited Permitted Activities resource consents required for most activities. Provision for a Biodiversity Management Plan to be developed for any site – vegetation clearance undertaken in accordance with this Plan to be a Permitted Activity. This approach is also in place in Opotiki District Council, in their Plan made operative in 2020.

Subdivision Incentives to Support Significant Natural Areas

37. Under all these options staff propose that incentives within the subdivision rules be included to support the legal and physical protection of Significant Natural Areas. At this stage staff suggest a similar approach to that being used by New Plymouth District Council where additional “bonus lots” are provided for subdivision where this results in legal (covenant) and physical (fencing) protection of an SNA.
38. In the New Plymouth situation, an additional 4000m² lot is provided for as a Controlled Activity (i.e., consent must be granted); a Restricted Discretionary Activity where two - three 4000m² lots are created; and a Discretionary Activity where four 4000m² lots are created.

Field Assessment of Significant Natural Areas – Implications of Options

39. Options 1 and 2 have specific rules protecting SNAs and as a consequence staff consider that in implementing these options the opportunity should be provided for landowners to have a field assessment of their property in relation to the SNA criteria.
40. Options 3 and 4 have general native vegetation clearance rules – with SNA rules only in relation to providing incentives for protection through the subdivision rules. For these options while it would be good practice to undertake a detailed field assessment, a simple “drive by” to eliminate non-significant areas could be sufficient. Any need for detailed ecological assessment would be undertaken as part of resource consents.

A summary of some pros and cons of each option are outlined in the table below:

Option 1	Option 2	Option 3	Option 4
Pros: <ul style="list-style-type: none"> Those landowners without identified SNAs are less restricted in their land use. 	Pros: <ul style="list-style-type: none"> Makes it clear which are the highest value SNAs. 	Pros: <ul style="list-style-type: none"> SNAs are only associated with positive measures in the Plan – subdivision incentives for their protection. 	Pros: <ul style="list-style-type: none"> Provides a path for landowners to have greater certainty about land use options for their property and

			<p>a less onerous consent process</p> <ul style="list-style-type: none"> • SNAs are only associated with positive measures in the Plan – subdivision incentives for their protection • Biodiversity Management Plans fit with wider Farm Environment Plan approach being developed nationally
<p>Cons:</p> <ul style="list-style-type: none"> • SNAs associated with “punitive” measures in the Plan – landowner goodwill degraded because SNAs are seen as a negative • There may be very few landowners who have native vegetation on their property that is not an SNA. 	<p>Cons:</p> <ul style="list-style-type: none"> • Highest value SNAs associated with “punitive” measures in the Plan – landowner goodwill degraded because SNAs are seen as a negative • Those landowners without identified SNAs still require resource consent to undertake vegetation clearance – although this may only be a small number of landowners 	<p>Cons:</p> <p>Those landowners without identified SNAs still require resource consent to undertake vegetation clearance – although this may only be a small number of landowners</p>	<p>Cons:</p> <ul style="list-style-type: none"> • Those landowners without identified SNAs still require resource consent to undertake vegetation clearance – although this may only be a small number of landowners • Resourcing required to develop property scale Biodiversity Management Plans

NEXT STEPS FOR SNAS

41. Feedback from the Committee on the options for approach is sought. Option 1 and 2 would require progression of detailed field assessment of SNAs however for Options 3 and 4 a simple “drive by” assessment may be sufficient.

Appendix One: Draft Natural Heritage Strategic Objectives

Natural Heritage Strategic Objectives	
NH - O1	To ensure that the rights interests and values of Poutini Ngai Tahu to natural heritage areas and features are protected and provided for and that the ability to exercise kaitiakitanga and tino rangatiratanga is maintained and enhanced.
NH - O2	To protect areas of significant natural heritage on the West Coast while recognising: <ul style="list-style-type: none"> the substantial contribution that is made by the existence of conservation land in protecting significant areas, habitats and features the need to support the ethic of stewardship and enable positive effects of the conservation estate on achieving the requirements of the RMA
NH - O3	To clearly identify: <ul style="list-style-type: none"> unique and important natural heritage areas and features on the West Coast; and areas where subdivision, use and development to enable community economic, cultural and social wellbeing can be sustainably managed.

For the purposes of preparing, changing, interpreting and implementing Te Tai o Poutini Plan all other objectives and policies in all other chapters of Te Tai o Poutini Plan are to be read and achieved in a manner consistent with these strategic objectives.

APPENDIX TWO: LETTER FROM MINISTERS SHAW AND MAHUTA

Hon James Shaw

Minister of Climate Change
Associate Minister for the Environment (Biodiversity)



11 June 2021

Local authorities
Local Government New Zealand

Dear local authorities,

Progress on the National Policy Statement for Indigenous Biodiversity

Thank you for your continued work to protect indigenous biodiversity in your regions and districts. We recognise this work can be challenging and we have heard your calls for improved clarity on the progress of the National Policy Statement for Indigenous Biodiversity (NPSIB).

Almost 4,000 of our native plants and wildlife are currently threatened or at risk of extinction. The NPSIB will be crucial part of our Government's plan to halt the loss of indigenous biodiversity and protect what is unique about Aotearoa New Zealand.

The requirement to protect areas with significant habitats of indigenous biodiversity has existed under the Resource Management Act (RMA) for several decades. However, we acknowledge that local councils are at different stages in the process of meeting this requirement. Part of the reason for this is that no previous Government has provided guidance to councils on how they should identify those areas of significant indigenous biodiversity.

In most cases, the NPSIB requirement to identify Significant Natural Areas (SNAs) is not new. A large number of councils have already identified the equivalent areas. Many others are legally required to do so because the regional policy statement applying in their region requires it.

The NPSIB will provide standardised ecological criteria and process that would apply across the country on how SNAs should be identified. The criteria can be used to ensure consistency between local plans, and effective implementation of the RMA and the Aotearoa New Zealand Biodiversity Strategy.

The NPSIB will also enable councils and tangata whenua to work together to identify and protect biodiversity on Māori land. It will also ensure that the processes councils will need to follow to identify and manage an SNA is transparent and inclusive. Put simply, the NPSIB will provide councils with the regulatory tools to identify and protect SNAs.

Since public consultation concluded in March 2020, officials have been working through the 7000+ submissions and further developing the policy to ensure the NPSIB hits the right

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balance of protecting biodiversity while providing for the social, economic, environmental and cultural wellbeing of people and communities.

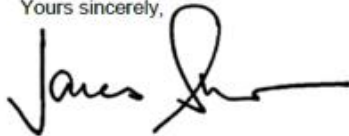
The next phase of development is to test this thinking through an exposure draft process in the coming months. We will be looking for feedback on the workability and practicality of implementation of the proposal. This will be an opportunity to work together to get this important work right. Our intention is to finalise the NPSIB by the end of this year.

Following gazettal, the implementation of the NPSIB will focus on supporting councils, iwi/Māori and other landowners to work together to identify, protect and restore the ngahere and the precious native plants and animals that live there. An implementation plan will also be developed to support local communities. The government's intention is to release this alongside the final NPSIB.

As New Zealanders, we all love getting out in nature. We also need development to occur in a way that meets the needs of current and future generations. One should not come at the expense of the other. That's what the NPSIB will help to ensure.

Once finalised, the NPSIB will be crucial to our efforts to reverse the decline of Aotearoa New Zealand's unique biodiversity and protect our natural taonga for generations to come. The NPSIB has been decades in the making and we look forward to working with you as it is finalised and we turn our attention to its implementation.

Yours sincerely,

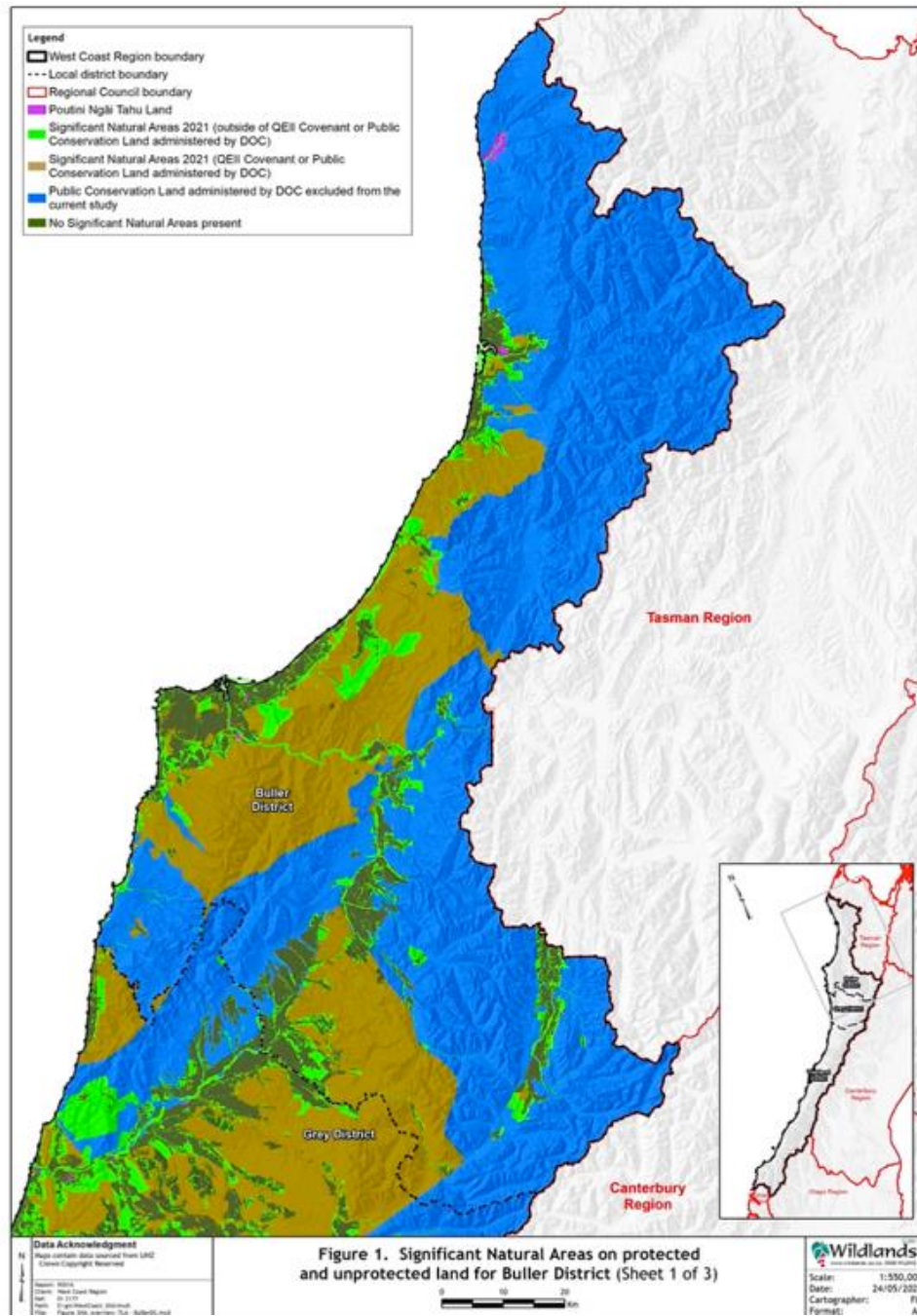


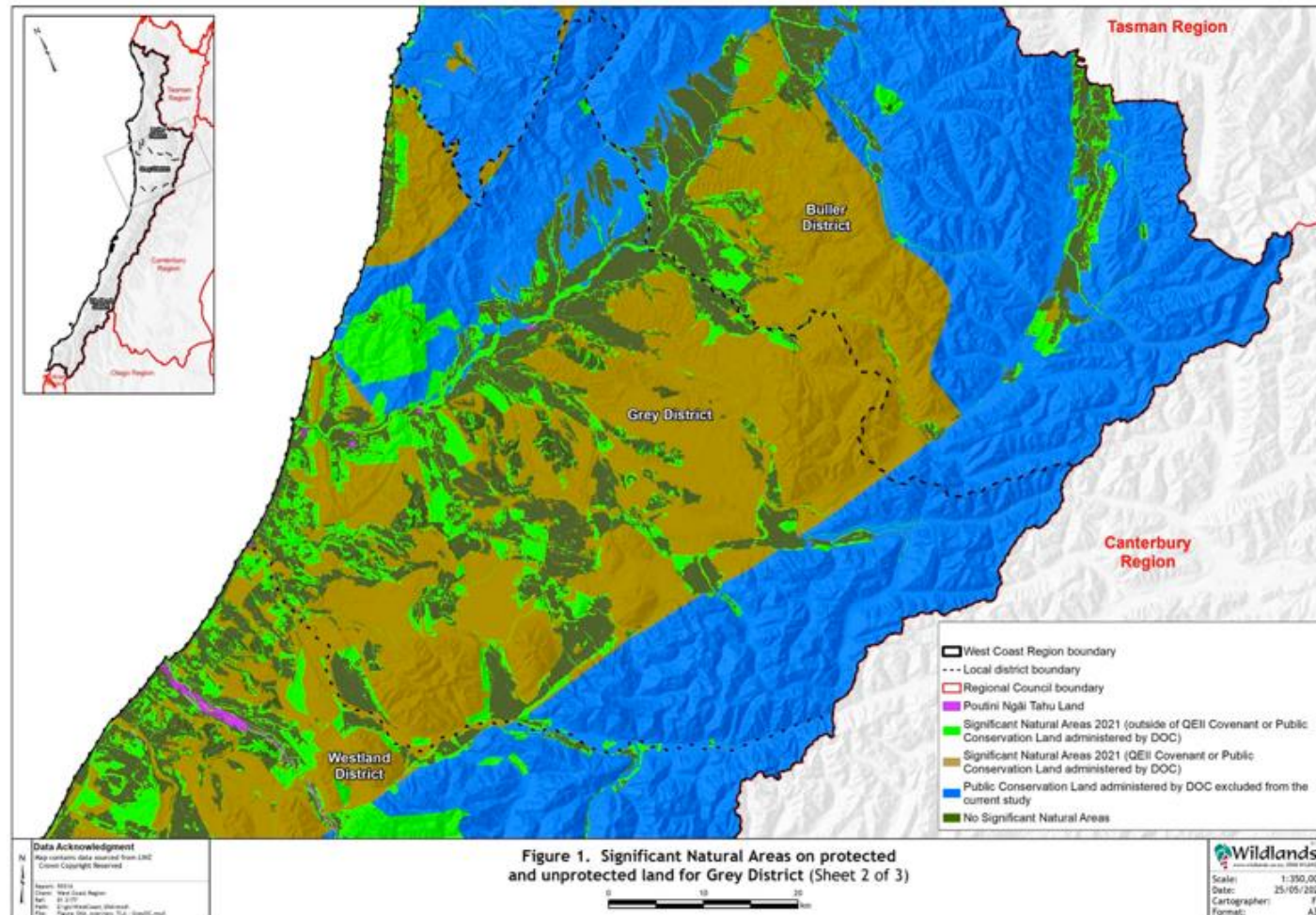
Hon James Shaw
**Associate Minister for the Environment
(Biodiversity)**

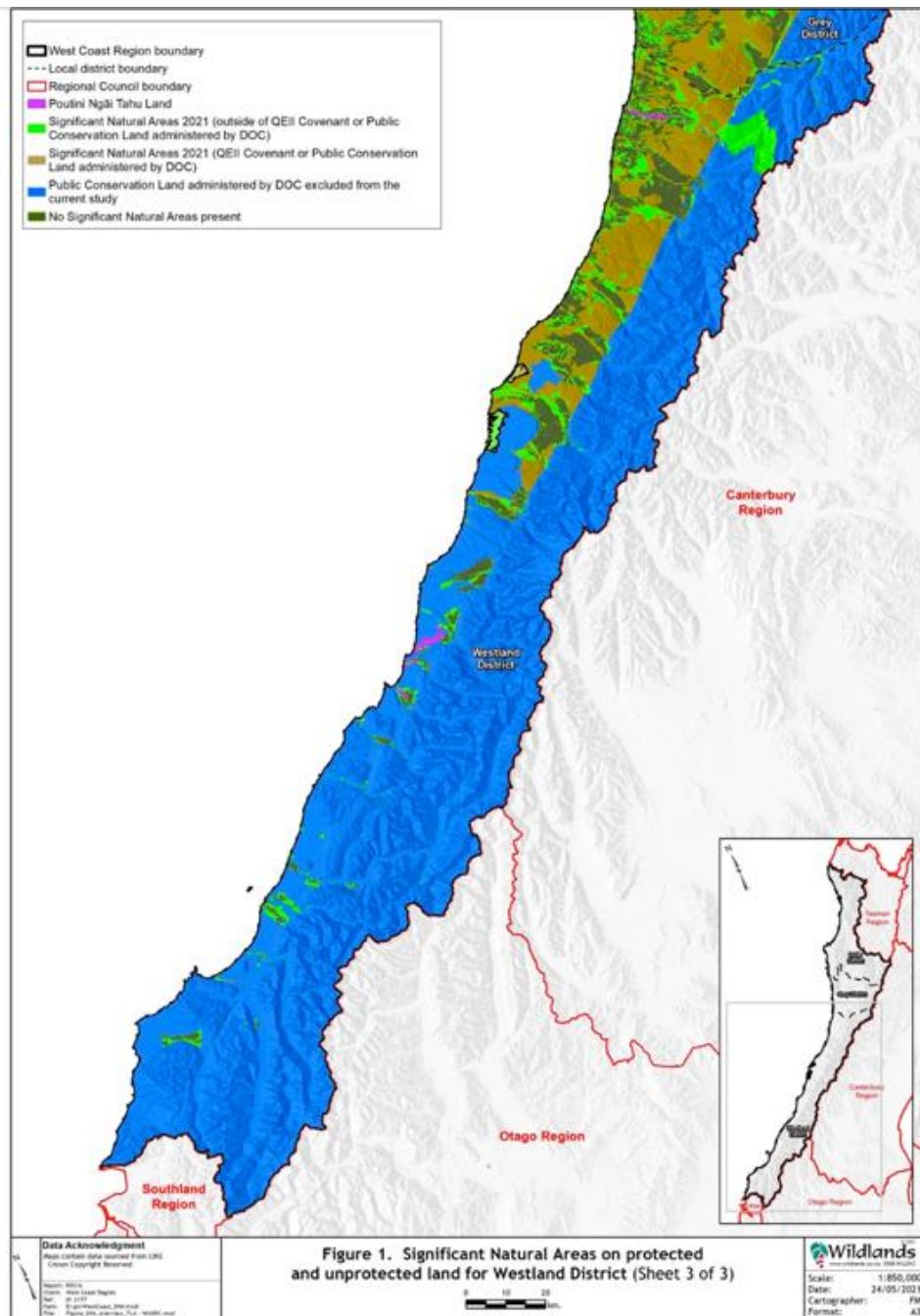


Hon Nanaia Mahuta
Minister of Local Government

APPENDIX THREE: DRAFT MAPS SHOWING "POTENTIAL" SNAS ON THE WEST COAST









Te Tai o Poutini PLAN

A combined district plan for the West Coast

Prepared for: Te Tai o Poutini Plan Committee
Prepared by: Lois Easton, Principal Planner
Date: 29 April 2022
Subject: **Te Tai o Poutini Plan – Ecosystems and Biodiversity**

SUMMARY

This report brings back the draft Plan feedback on the issue of Ecosystems and Biodiversity.

The report considers the range of feedback on the objectives, policies, rules and definitions, alignment with the West Coast Regional Policy Statement (RPS) as well as the overall approach to significant natural area (SNA) identification within the Plan.

RECOMMENDATIONS

1. That the Committee receive the report.
2. That the Ecosystems and Biodiversity Chapter be amended in accordance with the approach outlined in the report.

Lois Easton

Principal Planner

INTRODUCTION

1. The exposure draft Te Tai o Poutini Plan was made available to the public on 26 January 2022. A series of consultation meetings and drop in sessions were undertaken over late February. Feedback on the draft was able to be provided until 11 March and an overview of this and proposed responses was considered at the 29 March meeting of the Committee for discussion and decision around amendments to the draft Plan.
2. 25 people and organisations provided feedback on the Ecosystems and Biodiversity provisions. Because this is a such a significant matter, with such a wide ranges of feedback, this report brings the feedback back and seeks direction from the Committee on these matters.

DRAFT TTPP APPROACH

3. As required by the National Planning Standards, the draft TTPP considers matters of indigenous vegetation and fauna management within the Ecosystems and Biodiversity Chapter. Alongside two objectives and 9 policies, there are a cascade of rules across the Permitted – Controlled- Restricted Discretionary and Discretionary Activities. In the Grey District a core component of the rule framework is the identification of SNAs. Within Westland and Buller a “general” vegetation clearance approach is taken, as SNAs have not been identified.

CONSULTATION

4. Because of the significance of the topic, specific consultation Zooms with key stakeholders were held so that they could ask questions in relation to plan provisions. In relation to the Grey SNA identification, a letter was sent to every affected landowner advising them of the draft Plan provisions and the feedback process. Several landowners attended the drop in session at the Grey District Council.

FEEDBACK ON THE DRAFT TTPP

5. 27 individuals and stakeholder organisations provided feedback on the Ecosystems and Biodiversity provisions. Alongside this there was feedback provided at the drop in sessions and also through the Zoom stakeholder meetings.
6. This feedback is outlined in Appendix One. There are a number of key themes to the feedback and this is summarised in the table below.

Theme	Feedback
Grey SNAs	<p>There was feedback from five people specifically in relation to the Grey SNAs.</p> <ul style="list-style-type: none">• Four of these were landowners with SNAs with three of the landowners supporting the identification of the SNA on their property and one seeking a copy of the s32 analysis.• The other feedback received also supported the Grey SNAs being included in the Plan.
SNA identification in Buller and Westland	<p>One organisation expressed support for the draft plan approach but 16 people and organisations sought that SNAs be identified within Buller and Westland as part of the Plan process and not be left to the resource consent stage.</p> <p>There were several key points to the feedback seeking SNAs to be identified in Buller and Westland.</p> <ul style="list-style-type: none">• That the Permitted Activity rules could enable significant areas to be cleared – and that SNAs need to be identified so they are excluded from Permitted Rules• That not identifying SNAs in Buller and Westland places an onerous requirement over landowners to undertake the assessment at the time of any resource consent.• That the lack of certainty about the location of SNAs makes it difficult for infrastructure providers and landowners to manage the effects of their activities.

	<ul style="list-style-type: none"> • Identification and mapping of SNAs is a requirement of the West Coast Regional Policy Statement that TTPP is required to give effect to.
Policy Changes	<p>A range of amendments to the policies were sought. The key points from the feedback are:</p> <ul style="list-style-type: none"> • Add “protection” into Objective 1 • Clearer protection of species that are totally protected under the Wildlife Act in policy • Policies need to address Maintenance of indigenous biodiversity (s31) • Policies need amendment to give effect to the RPS including by identifying that SNAs should meet the criteria in the RPS • Policies should recognise the value of lowland forest ecosystems • Mixed views on biodiversity offsetting (from total opposition to support) – also feedback seeking greater consistency with the RPS
Rule Changes	<p>A range of amendments to the rules were sought. The key points from the feedback are:</p> <ul style="list-style-type: none"> • Amendments seeking that activities should not put protected wildlife or indigenous threatened species at risk • ECO-R1 and R2 are considered by several submitters to be too permissive for Buller and Westland, or too permissive coast-wide and that effects will be more than minor – particularly in relation to lowland forest remnants, however these rules are also supported by other submitters • Need for some standards to go alongside removal of windthrown timber – as some removal methods can have significant adverse effects • Need for permitted activities to have a maximum cleared area – not be additive • Identification that a standard “per site” clearance approach may not be appropriate where there are small sites (e.g. in Settlement or Residential areas) • Minerals sector submitters seek a lower level of restriction within the the Mineral Extraction Zone, than applies for other activities and a clear consenting pathway where minerals activities occur within SNAs and ONLs
Definition Changes	<p>Key amendments sought</p> <ul style="list-style-type: none"> • Altering the definition of SNA to align with the WCRPS and to include reference to Schedule 4

DISCUSSION

General Policy Approach – SNAs in Grey/General Vegetation Clearance in Buller and Westland

7. The Ecosystems and Biodiversity topic is acknowledged to be one of the most contentious in the draft TTPP. Generally the feedback on the policy provisions are largely supportive, subject to a range of relatively minor amendments.
8. However the lack of identification of SNAs in Buller and Westland is exceedingly problematic. As has been previously discussed at the Committee this is ultra vires (not in accordance with the law) – specifically in that the West Coast RPS requires SNA identification. This will make defending these draft provisions difficult, and there is a high likelihood that their identification will eventually be forced onto the WCRC and TTPP Committee by the Court.
9. However the identification of SNAs in Buller and Westland is now not possible to be undertaken prior to notification of the proposed TTPP.
10. In order to address the feedback, and to take some steps towards meeting the West Coast RPS requirements it is recommended that a Policy 1 (how SNAs will be identified) be amended to

specifically state that a district wide process for SNA identification will be undertaken in Buller and Westland with a clear timeframe under which such identification will be undertaken. A timeframe of 5 years from Plan Notification to undertake this work is suggested to be included in the policy.

Grey SNAs

11. All landowners who own land with a Grey SNA on it were sent a letter to advise them that the SNAs were being included in the draft TTPP. While only four landowners have provided written feedback, there was also good attendance by SNA landowners to the drop in session in Greymouth. Generally the combined feedback is that the approach is largely supported by landowners.

Objectives and Policies

12. There are a range of changes sought to policies and objectives, many of which are not substantive in terms of their change in intent and generally it is proposed to accept these where possible.
13. There was a range of feedback seeking that the policies be worded more in alignment with those of the West Coast RPS. In originally drafting the policies the technical team had not wanted to include the complexity of wording found in the RPS – where many ecological terms are used. Given however that the feedback from stakeholders across the spectrum seeks greater alignment in wording it is recommended that this is undertaken.
14. In terms of making the policies more or less “protective” or “enabling” no changes are recommended as it is considered there is fair balance in the current wording.
15. In terms of the matters of protection of threatened species and lowland ecosystems, these are matters that it is recommended are expanded on in the policy. In the case of Grey District, almost all of the identified SNAs are lowland ecosystems and this was a key objective (to protect threatened ecosystem types) in the SNA identification process in that district.

Rules

16. The key focus of feedback is the Permitted Activity rules, with a strong theme that they are too permissive, or insufficiently prescriptive to meet RMA tests. Staff have considered the feedback and arguments carefully and consider that there are some changes that should be made to make the provisions more robust. Specifically:
 - a. Make reference to, and make provisions less permissive where this is clearance of the habitats of threatened species and land environments – and provide for these areas to be identified in an Appendix. While the Councils do not hold the information on locations of key threatened species as this is generally the remit of DOC, DOC has been approached to provide information for the appendix, which could be incorporated through a submission on the proposed Plan. This would better align the Permitted Activity standards with the RPS.
 - b. Include some standards alongside the removal of windthrown timber to mitigate any effects so they are less than minor.
 - c. Review the Permitted Activity “exemptions” from the maximum 5000m²/3 years so that activities that are likely to be confined to a single site (as opposed to activities such as tracks that are undertaken in a corridor) are excluded from the exemption.
17. It is not recommended to provide for exemptions or reductions in stringency of rules specifically for particular activities or zones where these activities are not identified in National Direction such as an NPS or NES. However advice notes are recommended to be used to cross reference specifically to the Mineral Extraction and Connections and Resilience Strategic Objectives.
18. It is recommended to combine Rule 1 and Rule 2 – these were kept separate in the draft mainly to highlight the differing approach in the three districts.

RECOMMENDED CHANGES TO THE DRAFT TTPP

19. Based on the discussion above the following amendments are recommended to the ecosystems and biodiversity provisions in the draft TTPP:
 - a. Amend Policy 1 to state that a district wide process for SNA identification will be undertaken in Buller and Westland within 5 years of Plan Notification.

- b. Minor amendments to objectives and policies where these do not change the substantive direction of the provision
- c. Amend policies to better reflect RPS wording.
- d. Include advice notes that specifically reference the mineral extraction and connections and resilience strategic objectives from Rules.
- e. Make reference to, and make Rules less permissive where this is clearance of the habitats of threatened species and land environments – and provide for these areas to be identified in an Appendix.
- f. Include some standards alongside the removal of windthrown timber to mitigate any effects so they are less than minor.
- g. Review the Permitted Activity “exemptions” from the maximum 5000m²/3 years so that activities that are likely to be confined to a single site (as opposed to activities such as tracks that are undertaken in a corridor) are excluded from the exemption.
- h. Amend the definition of significant natural area to align with that in the RPS.

Appendix One: Summary of Feedback Received on Open Space and Recreation Zones and Zoning of PCL

Name/Organisation	Sub Topic	Feedback
Mark Hurst	Grey SNAs Rules	<ul style="list-style-type: none"> • Support Grey SNAs • Provide more detailed information on the SNAs to help explain their values for landowners. • Provide for walkways and other conservation activities in SNAs • Provide for more information around what is needed for ecological studies to support resource consents. • Clearly identify what is and isn't permitted in an SNA
Don and Dianne Bradley	Grey SNAs	<ul style="list-style-type: none"> • Support the draft Grey SNA approach
John McKinnon	Grey SNAs Rules	<ul style="list-style-type: none"> • Supports SNA on his land • Seeks to be able clear a small area (footprint 120m²) for a bach – recognising there is currently no building on the property.
West Coast Penguin Trust	Policy Rules	<ul style="list-style-type: none"> • Seeks that Objective 1 be amended to include protection of all species absolutely protected under the Wildlife Act 1953. • Seeks policies be amended to take into account s31 of the RMA to "maintain indigenous biodiversity" – with either P3 or P7 being amended, or a new policy which specifically relate to protected wildlife. • Seeks amendment to the Rules to ensure that any activity, Permitted, Controlled, Restricted Discretionary or Discretionary, cannot put protected wildlife at risk, whether or not the vegetation is significant, indigenous or otherwise.
Kathy Gilbert	Policy Rules Buller/ Westland SNAs	<ul style="list-style-type: none"> • Considers the chapter is overly permissive and does not give effect to s6 or s31 of the RMA • Seeks that ECO - P7 be amended to give effect to the RPS • Considers that ECO - R1 is too permissive for Buller and Westland - standards are too ambiguous - particularly clearance for building/access/parking where no dwelling, Removal of windthrow timber needs to define methods and location and 5000m² clearance/3 years is too permissive. • Considers that using the consenting process to establish significant biodiversity is inappropriate - particularly in mineral extraction zones. • SNAs should be identified in Buller and Westland

NZ Coal and Carbon		<ul style="list-style-type: none"> • The Significant Natural Areas (SNA) and Outstanding Natural Landscapes (ONL) provisions will have legal effect upon notification. Many of these provisions and overlays will apply to mineral extraction activities both within and outside of the Mineral Extraction Zone. We seek a consenting pathway and access to the management or mitigation hierarchy for our current and future activities such that they are not unnecessarily restricted. • ECO - O2, ECO-P2 and ECO – P6 should allow for mitigation • ECO – R1 and R2 should specifically provide for lawfully established activities
Inger Perkins	Policy Rules Buller/ Westland SNAs	<ul style="list-style-type: none"> • Considers that the chapter needs to emphasise the value of lowland forest ecosystems, which are underrepresented and easily lost or diminished through permitted clearance rules. • Seeks that ECO-O1 –should be extended to add 'protect', thus: To protect and maintain the range and diversity of ecosystems and indigenous species found on the West Coast/Tai o Poutini. • ECO-P7 and ECO – P4 should also be extended this to protect species, e.g., The impact of the activity on protected wildlife and how any potential impact could be avoided, remedied or mitigated. • ECO P9 – seeks in relation to biodiversity offsets that TTPP needs to be clear on which guidance and that it is sufficiently robust. • ECO – R1 - 5000m²/3 years could mean death by a thousand cuts to lowland forest remnants. Considers that such permitted activity has no justification in the context of protecting indigenous vegetation and habitat as required by section 6 of the RMA - "areas of significant indigenous vegetation and significant habitats of indigenous fauna are protected". Some means to protect more valuable areas needs to be found and implemented. • ECO-R1 as drafted allows for the clearance of indigenous vegetation when it is the removal of windthrow timber. When DOC explored the adverse effects of removing windthrow timber, one of the clear early findings of Manaaki Whenua Landcare Research, acting in a consulting capacity, was that a significant and long lasting potential impact on the forest was the compaction of forest soil by vehicles carrying out the removal. Such removal by vehicle was only allowed when adjacent to existing tracks; removal was otherwise carried out by helicopter. This adverse effect needs to be taken into account in this rule.
Frida Inta	Policy	<ul style="list-style-type: none"> • Seeks two new objectives – one to recognise the benefits of ecosystem services and one that relates to natural character • Opposes Policy 1 as being insufficient for protection of biodiversity • Seeks Policy 2 be amended so that there are no adverse effects on SNAs • Seeks Policy 3 be amended to refer to natural indigenous character and Seeks clarification of wording around additional subdivision rights • Opposes Policy 4 • Opposes Maori considerations in Policy 5 • Policy 6 – seeks reference to the information in Appendices 1 and 2 of the RPS • Policy 7 – seeks reference to the resource consent process rather than subdivision, use and development

		<ul style="list-style-type: none"> • Rule 1 – seeks that no mature trees be felled as part of permitted walking tracks, Opposes 5ha per site – as some sites are old ¼ acre sections, would like to see 15 years for manuka/kanuka/bracken reduced to 10 or 5 years, permitted maximum clearance needs to be tightened • ECO R-6 – if SNA spans more than 1x 4000m² allotment is too restrictive • Seeks that the chapter recognise Section 31 of the RMA and protects indigenous biodiversity that is not recognised or classified as an SNA • Clearance for utilities needs conditions as such clearance can be destructive • Opposes permitted fencelines within an SNA
Federated Farmers	Buller/ Westland SNAs	<ul style="list-style-type: none"> • FFNZ supports the principle of a planning approach that identifies SNAs using robust methodology and targeted land use controls as being more appropriate than general catch all rules which elevate all indigenous vegetation to a significance status until proven otherwise. • We are concerned for areas in Buller and Westland where the SNA mapping has only occurred at a desktop level, that now the approach is for SNA's to be ground truthed when landowners apply for a resource consent. • From looking at other councils methodology, there are various methodologies for Council to meet their s6 obligations under the RMA. We would request that the Council ensure that the process is not a cost burden on the landowner. • We would also like to see more information made available to landowners as to what criteria their sites meet.
Michael Orchard	Grey SNAs Buller/ Westland SNAs	<ul style="list-style-type: none"> • I fully support the provision and evaluation of Grey District SNA's • Buller and Westport Districts should include identification of SNAs • Identify some specific locations as SNAs • Seeks that DOC biodiversity values be included in the Plan
Greg Maitland	Buller/ Westland SNAs Rules	<ul style="list-style-type: none"> • ECO R1 Indigenous Vegetation Clearance – opposes the rule as the identification of SNAs has not been undertaken in Buller and Westland and the costs of SNA identification will lie with landowners. • In regards to ECO- R1, X.5 Removal of Bracken , Manuka , Kanuka under 15 years old . There should also be provision for the acceptance of a signed affidavit from a seperate witness for verification. As photographic evidence may not be verifiable . Bracken for example can be cleared on year and grow back the next showing no difference. • No 6 I agree with the right to remove wind-throw timber. • No 7 I would like this to be extended to 1 Hectare over 3 years if the natural vegetation has ben cut over or previously logged and is an altered non pristine state . verifiable by witnessed affidavits and recent photographs.
Brian Anderson	Policy	

	Rules Westland/ Buller SNAs	<ul style="list-style-type: none"> • Policy - All mention of biodiversity offsetting should be removed from the plan. • Rules All indigenous vegetation clearance should be a Discretionary Activity Permitted and controlled rules for indigenous vegetation removal should be removed. They are undesirable because of the biodiversity and climate change implications, and untenable without identification of Significant Natural Areas. • The TTPP fails to identify SNAs in Buller and Westland but one of the fundamental requirements under s6 of the RMA. Maps of potential SNAs should be included within the Plan.
DOC	Objectives Rules Definitions	<ul style="list-style-type: none"> • ECO – O4 should include reference to maintaining the extent of indigenous biodiversity. • Amend definition of SNA to align with the WCRPS. • Permitted rules are too permissive • Identify areas of kiwi habitat that may require additional protection from residential development and pests. • Permitted vegetation clearance of up to 5,000m² per site can be undertaken in accordance with rule ECO - R1 and ECO - R2 without verifying what type of vegetation is being removed with the exception of manuka, kanuka and bracken. These rules should exclude clearance of indigenous threatened species to give effect to Policy ECO - P6. • Delete the permitted activity standard that allows clearance for building, access, parking and manoeuvring where no practical alternative development area as is not enforceable. • The way the rules are drafted it is not clear if the 5,000m² limit for permitted clearance applies to this activity or the likes of the construction of up to 2.5m wide cycling tracks and new fences. • All these activities potentially could require large scale vegetation clearance and there needs to be clarity of the limits that apply within the permitted activity rules. • There is a permitted activity to remove windthrown trees but no caveat of the damage which could be inflicted as part of the extraction process. • Manuka/kanuka are now all threatened species because of the risk posed from myrtle rust. The rules specific to removal of manuka/kanuka may therefore be in conflict with the assessment criteria for SNAs. This was addressed in the draft NPS-IB by excluding natural areas of manuka/kanuka where the myrtle rust qualifier was the only trigger for the SNA to be identified. The Department would be comfortable if the same wording in the draft NPS-IB was used. • This vegetation type could also occur in pakihi wetland and it would be important make the point clearly in the Plan that while it may be a permitted activity to clear this vegetation in certain circumstances, the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 contains controls on the clearance of vegetation and earthworks within natural wetlands.
Garry Hill	Buller/ Westland Rules	<ul style="list-style-type: none"> • ECO measures to manage vegetation clearance in Buller and Westland are too vague and permissive.

Linda Grammer and Ian Mulholland	Policy Rules Buller/ Westland SNAs	<ul style="list-style-type: none"> • Insufficient emphasis on Biosecurity in the draft Plan.. • GE/GMOs (Genetically Modified Organisms) Genetically Modified Organisms/ Gene Drive should be addressed in the Plan • The policies with clear direction to protect threatened and at risk species are good ECO - Policy 7 sets some useful and clear considerations, but the provisions don't go far enough to give effect to the West Coast Regional Policy Statement. • The rule framework in the ECO chapter is overly permissive and does not appear to give effect to the RMA s 6 or s 31 • ECO - R1 is concerning, where SNAs have not yet been identified and mapped (in Buller and Westland districts). The permitted activity standards are too permissive and lack clarity, for example : It is clearance for building, access, parking and manoeuvring areas where there is no practical alternative development area on the site – who decides? It is the removal of windthrow timber – does not specify how or where It is a maximum area of 5000m2 per site, in total, over any continuous three year period – seems to apply anywhere, including in a potential SNA • Relying solely on consenting process leaves unidentified significant biodiversity at risk and will result in ad-hoc and in many cases only partial identification of significant areas. • It is not clear how the rules which are intended to restrict activities in such areas can be effectively applied with this approach. .
Beef and Lamb	Buller/ Westland SNAs	<ul style="list-style-type: none"> • Raise concerns about the indigenous vegetation clearance provisions and the perverse outcomes this may result in. Specifically, where landowners will be required to obtain resource consent for vegetation clearance and require an assessment against a regionally consistent significance criteria, the outcome of which will determine whether their land is added to Schedule 4.
Ted Brennan	Westland SNAs	<ul style="list-style-type: none"> • In Central Westland there are only 3 remaining areas of remnant Coastal Kowhai forest. The best remnants includes one area on south side Waitaha River, along both sides of Ounatai Creek as far as Duffers Creek Lagoon. Another site in the Totara Lagoon area, has kowhai forest from Frenchies Island and along both sides of Gow Creek almost as far as the West Coast Wilderness Cycleway (old Ross to Ruatapu railway). The 3rd area is at Donoghues south of Ross and is adjacent to the northern Miconui Lagoon - a Schedule 2 wetland. This area is at most risk of loss through development/mining/lack of care. • All 3 areas provide and incredible food source for tui, bellbird (korimako) and kereru, as well as an amazing display of flowers and birdsong during the spring for those who know these areas exist and where they are. I feel these remnant areas should noted in the TTP Plan and be given the highest level of protection available."

Keith Morfett	Buller/ Westland SNAs	<ul style="list-style-type: none"> • Ecosystems and Indigenous Biodiversity Policies. The draft proposes that areas of significant vegetation and fauna habitat in Westland and Buller be identified through the resource consent process (ECO-P1). • Concomitant with this clause land owners may clear 0.5 ha of indigenous vegetation every three years as a permitted activity (ECO-R2). • There is therefore a real risk that significant natural areas will be gradually cleared by landowners prior to any resource consent being applied for. • This approach is inconsistent with the RMA and Buller and Westland should formally identify SNAs to prevent the creeping destruction of indigenous biodiversity.
Clare Backes	Buller/ Westland SNAs	<ul style="list-style-type: none"> • There are some good policies that give good direction to protect threatened and at risk species in the ECO chapter, but there are also some glaring omissions. • ECO-P1 states that significant indigenous vegetation and fauna will be identified through the resource consent process. However ECO-R2 states that clearance of 5000m2 over 3 years is a permitted activity, which means that a potential SNA could be gradually cleared over a number of years and never be identified. • Westland and Buller do not have to formally identify SNAs until resource consent is applied for – this is contrary to the RMA. • There are some very vaguely worded policies e.g. ECO-P6 uses the term “reasonable measurable reduction” – this could be interpreted in a number of ways. • Overall there are many permitted activities which could be harmful to the environment – this puts the onus on the general public to monitor these activities, as the Councils are not able to monitor everything. • The lack of the need for a resource consent also excludes the general public and affected neighbours completely from the process.
Hans Wiskerke	Policy Buller / Westland SNAs Rules	<ul style="list-style-type: none"> • While it is correct the West Coast has a large area of indigenous vegetation, it would not be correct to conclude this is ‘intact natural diversity’ as there are many plant and wildlife species under threat, due to introduced predators, weeds including wilding pines, and effects of climate change. • The TTPP should aim to actively improve biodiversity, rather than refer to the high percentage of conservation land on the West Coast as a reason not to take (or slow down) active measures. • The proposed approach for Westland and Buller Districts (where no SNAs have been formally identified) would mean that any area with significant natural areas, where development takes place that does not require a resource consent, is assumed to not have any significant natural areas. This important assumption seems to be taken to avoid the need to formally identify SNAs. • While it is understood the identification of SNAs can have financial effects for the owner/user of the land, it should be remembered that humans are only guardians of the land. The best outcome from an environmental perspective would be if SNAs are formally identified so suitable protection measures can be taken.

		<ul style="list-style-type: none"> • In my view TTPP should also include protection for those areas of natural significance where non-resource consented developments are allowed to take place that could diminish or destroy its natural values. • ECO-R1 Windthrow timber should only be removed when essential, if is a risk to people, structures or infrastructure, as per ECO-R1-1. Such windthrow timber is a valuable resource for the ecosystem which it forms part of, and removing it for e.g. economic considerations should not be an allowed activity under the umbrella of Ecosystems and Indigenous Biodiversity.
Forest and Bird	Buller / Westland SNAs Rules Definitions	<ul style="list-style-type: none"> • Relying on consent processes to identify SNAs before they can be included in the plan means that this plan will not provide for the protection of SNAs. While the plan provisions suggest that areas identified through consenting will be added to the plan by way of plan change, this method is not adequate on its own • The limitation of matters of control or restriction makes it unclear whether an assessment under the RPS significance will or can be undertaken • The plan should provide for future and ongoing surveys to identify SNAs. • The RPS provides a framework under which permitted activities may be appropriate where adverse effects are no more than minor. However, the draft ECO rules would not ensure this • While some of the bottom lines, limits and other requirements of the RPS Chapter 7 policies are captured in the draft ECO policies, not all are. • For example, the hierarchy of measures before offsetting and then before compensation can be considered, the limits and requirements for offsetting and compensation are not captured • This is particularly concerning for areas that meet the significance criteria of the RPS but are not identified in the plan. • Even beyond those areas that may be significant, the limit of 5000m² appear high given the extent of loss that has occurred under the current district plans. • We are particularly concerned that this could result in clearance of remaining vegetation on a site including significant biodiversity within residential zones where property sizes are smaller and SNAs could extend over more than one property. • Definitions - AREA OF SIGNIFICANT INDIGENOUS BIODIVERSITY which capture both identified SNAs and areas meeting the Significance criteria of the RPS. We consider this term would be useful in other chapters. However, we note that the RPS policy requires areas identified using the significance criteria are known as SNAs • The definition of SIGNIFICANT INDIGENOUS BIODIVERSITY should be worded so that it captures areas that meet the significant criteria of the RPS. • The requirement for assessment should be set out in provisions. If the area has already been assessed, it should be mapped for inclusion in the plan schedules and maps

West Coast Conservation Board	Policy Rules Buller/ Westland SNAs	<ul style="list-style-type: none"> • Opportunities for the provision of guidance to landowners regarding recognising pakihi wetland so this can be appropriately managed under the NESF (as opposed to cleared under native vegetation clearance permitted activity rules), • Native vegetation clearance rules 0.5ha / 3 years in Buller and Grey Districts, and how this approach can allow the clearance of vegetation within SNAs under permitted rules. Understand this is an intermediary approach as the NPSIB is in train. However, SNAs (which may contain considerable ecological values e.g., GSK or other threatened wildlife) remain vulnerable to clearance activity. Consideration towards mechanisms that can be incorporated to protect our F/F values in our SNAs before they are recognised as such,
Aggregate and Quarry Association	Rules	<ul style="list-style-type: none"> • A major concern with the plan relates to the impact of SNAs and ONLs in the transition period between the plan being notified and when it becomes fully operative. • Specifically, the SNA, ONL and other overlay provisions will take effect when the plan is notified but the enabling provisions, both in the extractive zones and outside, will not become operative until decisions are made much later. This clearly causes problems for consent applications in that interim period. The rules need to be operational at the outset to prevent the SNAs from being legally effective without the intended enabling rules.
Gordon Graham	Grey SNAs	seeks a copy of the s32 around SNAs
Community and Public Health	Policy	Re Eco-P9 recommend offsets are as close as possible to the development site
Trustpower	Buller/ Westland SNAs Definitions Policies	<ul style="list-style-type: none"> • Opposes the approach for identifying significant natural areas in Buller and Westland and approach in ECO – P1 • Seeks ECO –O2 should reference effects on values being remedied, mitigated, offset or compensated • Support ECO – P2 • Seeks consistency across P6, P7 and P9 in relation to the Regional Policy Statement should be given further consideration. • Policy 7 be amended as follows: <p>When assessing resource consents in areas of significant indigenous vegetation and significant habitats of indigenous fauna, consider the following matters:</p> <p>- ...</p> <p>- <u>The necessity for the activity to provide for critical infrastructure or renewable electricity generation;</u></p> <ul style="list-style-type: none"> • ECO – R1 and ECO – R2 seeks amendment as follows:

		<p>it is necessary for one of the following purposes:</p> <p>i. The maintenance, <u>operation</u> and repair of lawfully established tracks, fences, structures, buildings, <u>critical infrastructure, energy activities,</u> network utilities or natural hazard mitigation activities;</p> <p>For the installation of temporary network activities <u>or temporary energy activities in ENG-R5,</u> following a regional or local state of emergency declaration;</p>
NZTA	Policies Rules	<p>Support the following Objectives and Policies:</p> <ul style="list-style-type: none"> ECO – O1, ECO – O2, ECO – O4, ECO-P7 and ECO – P9 <p>Support the following Rules</p> <ul style="list-style-type: none"> ECO – R1, ECO – R2 but reword for clarity, ECO – R4/SUB R7
Chorus, Spark and Vodafone	Policies	<ul style="list-style-type: none"> The objectives and policies in this section appear to provide a workable approach for infrastructure. However, for consistency with other natural environmental overlays, a linkage to the new policy provisions being sought in the Infrastructure section for activities in sensitive overlays should be provided.
Birchfield Coal	Policies Buller/ westland SNAs Rules	<ul style="list-style-type: none"> support the need to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna (collectively SNA). seek the exclusion of mineral extraction activities in the MEZ from this framework. BCML agrees with the proposal that SNA in Buller and Westland can be identified through the resource consenting process. BCML considers that site-specific (and where possible on the ground) assessment through resource consenting will be more robust than a broad desktop analysis for the purposes of the TTPP. BCML is unclear of the basis of some of the SNA (and ONL) identification and does not support these overlays applying to its operations without justification. BCML considers that identification should be on the basis of the criteria attached as Appendix 1 to the WCRPS. BCML considers that reference to specific criteria will provide consistency to the identification of SNA. There needs to be express acknowledgment in the provisions that functional activities like mining can often not avoid these areas. BCML considers that the management hierarchy adopted by the WCRPS should be used for management of SNA across the Districts. A similar hierarchy should be applied for Natural Feature Landscapes (ONL/ONFs). The consideration of biodiversity offsetting and environmental compensation at ECO P9 is vague and BCML considers that the policies in the WCRPS should be used. Combine R1 and R2 BCML considers that in relation to mineral extraction activities indigenous vegetation clearance can be effectively managed through controlled (outside ONL/SNA) and restricted discretionary rules (inside ONL/SNA) rules.

		<ul style="list-style-type: none"> Although Grey District has mapped SNAs and Buller and Westland have not, we do not consider that different permitted activity rules are required. Buller and Westland will have SNA added to Schedule 4 either because they are regionally identified as SNA (i.e. wetlands) or through the resource consenting process.
Straterra	Policies Rules	<ul style="list-style-type: none"> Find the chapter complicated – seek more consistency with the WCRPS Support the provisions in ECO - P7 and ECO - P9 that allow for compensation The Significant Natural Areas (SNA) and Outstanding Natural Landscapes (ONL) provisions will have legal effect upon notification. Many of these provisions and overlays will apply to mineral extraction activities both within and outside of the Mineral Extraction Zone. Seek a consenting pathway and access to the management or mitigation hierarchy for current and future mineral extraction activities. ECO - O2, ECO-P2 and ECO – P6 should allow for mitigation ECO – R1 and R2 should specifically provide for lawfully established activities Identify some drafting errors in rules
Minerals West Coast		<ul style="list-style-type: none"> Where mineral values and biodiversity or landscape values intersect, mining can still be carried out responsibly in keeping with the objectives of the Resource Management Act. In these instances, Minerals West Coast supports a consenting pathway that provides access to the effects management hierarchy. This allows use or development to in the first instance: <ul style="list-style-type: none"> - Avoid, and where not possible: - Mitigate, and where not possible: - Remedy, and where not possible: - Offset, and where not possible: - Compensate. Where restrictions do apply as a result of overlays or other provisions, this consenting pathway needs to be clearly available. Where mineral extraction is not a permitted activity there must be a clear and defined consenting pathway that is able to allow for mineral extraction to occur in a way that causes no net loss (and preferably a net gain) to other values, e.g. indigenous biodiversity.

REGULATORY AND HEARINGS COMMITTEE

11 MAY 2022

AGENDA ITEM 5

Prepared by - Rachel Townrow
Deputy Chief Executive

Attachments - A – Letter from Finance and Expenditure Committee
B – Draft Submission on the Natural Hazards Insurance Bill
C – Draft Feedback on Proposed Planning Boundaries

FEEDBACK – NATURAL HAZARDS INSURANCE BILL AND BOUNDARIES FOR NATURAL AND BUILT ENVIRONMENT PLANS AND REGIONAL SPATIAL STRATEGIES

1. REPORT PURPOSE

To seek the Committee's endorsement of a submission on the *Natural Hazards Insurance Bill* and feedback on the planning boundaries to be used for *Natural and Built Environment Plans* and *Regional Spatial Strategies* under the proposed new resource management framework.

2. REPORT SUMMARY

Central Government is currently seeking feedback on the *Natural Hazards Insurance Bill*, and the planning boundaries to be used for Te Tau Ihu (Top of the South Island) for preparing *Natural and Built Environment Plans* (under the proposed *Natural and Built Environments Act*) and *Regional Spatial Strategies* (under the proposed *Strategic Planning Act*). This report presents background to these consultations and draft feedbacks on both, seeking endorsement from the Committee for the submissions to be made on behalf of Council.

3. RECOMMENDATION

That the Committee:

1. Endorse a submission being made on the Natural Hazards Insurance Bill, as per Appendix B attached to this report.

2. **Endorse written feedback, as per Appendix C attached to this report, being provided to the Ministry for the Environment on the proposed planning boundaries to be used for Te Tau Ihu/Top of the South Island for preparing Natural and Built Environment Plans under the proposed Natural and Built Environments Act and Regional Spatial Strategies (under the proposed Strategic Planning Act.**

4. BACKGROUND

Natural Hazards Insurance Bill

Background and Context

Public submissions are now being called for on the *Natural Hazards Insurance Bill* (the Bill), and must be made by 13 May 2022. The Bill can be viewed in its entirety at www.legislation.govt.nz. A copy has been made available to Committee members.

The Bill would replace the Earthquake Commission Act 1993. Its main objectives are to enable better community recovery from natural hazards, to clarify the role of the Commission and the cover provided by the bill, and to enhance the durability and flexibility of the legislation. It would also change the name of the Earthquake Commission to Toka Tū Ake – Natural Hazards Commission to better reflect the range of natural hazards the Commission deals with.

The Bill seeks to improve natural hazard insurance by, among other things:

- modernising the Commission's purpose, and introducing new objectives and core functions (such as re-framing its relationship with the Natural Hazard Fund)
- amending insurance coverage rules for buildings and land (including rules around mixed and multi-use buildings, retaining walls, bridges, and culverts, and extending the damage period for volcanic activity events)
- introducing a Code of Insured Persons' Rights to improve claims handling and settlement
- changing the Commission's financial governance and sustainability settings (including a requirement to review insurance levies and other key financial settings every five years)
- strengthening the Commission's information gathering and sharing powers.

The Finance and Expenditure Committee wrote to Mayor Cleine on 11 April 2022 to alert Council to the Bill and indicate that, should Council wish to make a submission, the committee would be happy to accept it (attached as Appendix A).

Discussion and Feedback

A draft submission is attached as Appendix B. It outlines a suggested response to the provisions of the Bill, and the reasons for those views.

Boundaries for Natural and Built Environment Plans and Regional Spatial Strategies

Background and Context

The Ministry for the Environment is seeking feedback on proposed options for the boundaries to be used for preparing *Natural and Built Environment Plans* (NBEP) and *Regional Spatial Strategies* (RSS). Councils will be required to prepare these documents under the proposed *Natural and Built Environments Act* (NBEA) and *Strategic Planning Act* (SPA) respectively.

Under the proposed NBEA, one NBEP plan will be developed for each region, prepared by a joint committee comprising representatives from iwi, hapū and Māori, local government, and potentially a representative appointed by the Minister of Conservation. They are intended to bring efficiencies into the resource management system by providing consistency across a region and more effectively implementing the National Planning Framework. Consent activity classes and notification rules will be standardised, with key requirements set out in natural and built environment plans, rather than assessed on a case-by-case basis. In essence, NBEPs will take the place of what we currently call district plans.

The proposed SPA provides a strategic and long-term approach to how we plan for using land and the coastal marine area. It requires the development of a long-term spatial strategy (RSS) for each region to identify areas that:

- will be suitable for development
- need to be protected or improved
- will need new infrastructure and other social needs such as hospitals and schools
- are vulnerable to climate change effects and natural hazards such as earthquakes.

The Resource Management Review Panel recommended one plan for each region. For Te Tau Ihu region they recommended that Nelson, Tasman and Marlborough unitary authorities produce one combined plan. Te Tau Ihu mayors and Te Rūnanga o Ngāi Tahu requested further analysis/clarification of this proposal. Ministers have requested a report back on the appropriate geographical boundaries for Te Tau Ihu plans.

At a meeting of mayors/chair and staff from Buller District, West Coast Regional, Nelson City, Tasman District and Marlborough District Councils on 29 April, Ministry for the Environment staff presented the four planning boundary options being considered. These will also be presented to the eight Te Tau Ihu iwi and Ngāi Tahu.

Feedback received from these engagements will influence the planning boundary decision to be made by Ministers in late May. We are able to provide written feedback on Council's view by mid-May. The Select committee process in late 2022 will provide a further opportunity to give feedback.

Three of the four options presented do not impact Buller and the West Coast as they would see Buller remain part of the West Coast NBEP and RSS.

The remaining option would use the Ngāi Tahu takiwā northern boundary as the planning boundary at the Top of the South/Te Tau Ihu, with the remaining northern boundaries to be determined. This option would see the NBEP and RSS content for the areas in the Ngāi Tahu takiwā sit with the adjacent region for planning purposes - Tasman with West Coast, Marlborough with Canterbury.

This is shown in Figure 1 below. Tasman and Marlborough District Councils would either have representatives on the West Coast/Canterbury joint committees or have a role in the development process.

Te Tau Ihu iwi with interests that extend beyond the Ngāi Tahu takiwā boundary would likewise have a role in the development process in the West Coast and Canterbury plans. Each council would be required to implement its district's NBEP and RSS.



Figure 1: Ngāi Tahu takiwā northern boundary as the planning boundary at the Te Tau Ihu

Discussion and Feedback

It is noted that the takiwā approach described above is more consistent with the Ngāi Tahu Treaty settlement guarantee of rangatiratanga than using existing council boundaries. It is also noted that the Future for Local Government Review is currently underway and that the outcomes of this reform may have implications for planning boundary decisions.

For Buller specifically, the following points are noted:

- We have been required to carry out the TToPP process via an Order in Council. This process is well advanced, with significant resource having been invested in it to date.
- Costs to prepare a NBEP and RSS along different boundaries to those used for the TToPP would likely be significant. If this was required in a short timeframe, the benefits from the investment in the TToPP would not be fully realised, nor would the efficiencies intended from that process.
- Funding lines for the TToPP process have been clearly defined in the Order in Council, and would be blurred if an alternative boundary was drawn.
- From a planning perspective the West Coast has similar geography, communities of interest, geology, and environmental and population density context. While there will be some similarities, there are also significant differences to Tasman which may present a challenge to joint planning in terms of the NBEA and SPA.
- The outcome of the Future for Local Government Review may be the natural decision point for any boundary change, and an interim approach that allows for these proposals to be revisited within that review seems sensible. Buller reserves its right to consider a more formal link to Tasman in the broader local government sense in future.
- For these reasons Buller's preference is for the status quo to be maintained for the West Coast. It has no preference between the other three options involving only Tasman, Nelson and Marlborough.

The above points were provided as verbal feedback during the discussion at the 29 April meeting. Endorsement from the Committee is now sought for this feedback to be provided to the Ministry for the Environment in writing, as per the draft letter attached as Appendix C.

5. CONSIDERATIONS

5.1 Strategic Alignment

The *Flood Recovery Action Programme – February 2022/Waipuke whakaoranga mahi hōtaka* (the RAP) provides direction for restoring and enhancing our district following the July 2021 and February 2022 floods.

It is about rebuilding our communities in a future-focused way, making the most of opportunities and paving the way towards a strong, resilient, and successful Buller District.

The overarching objectives of the Bill, particularly that of enabling better community recovery from natural hazards, enhancing the durability and flexibility of the legislation and recognising that the Commission covers a broad range of natural hazards, are consistent with the direction set in the RAP. Submitting in support of these objectives of the Bill is consistent with the RAP.

Amending resource management planning boundaries to include Tasman with the West Coast would be a departure from recent practice, including the TToPP currently under development. As this would be part of broader resource management reforms that will in essence 'reset' some existing practices, this is not considered to be inconsistent with Council's strategic direction per se, rather it would mandate a new direction as part of those reforms.

5.2 Significance Assessment

This matter is not considered to meet the threshold for significance under Council's Significance and Engagement Policy.

5.3 Tangata Whenua Considerations

Tangata whenua have the opportunity to provide feedback directly into both processes. No specific considerations have been identified in relation to this report.

5.4 Risk Management Implications

There is considered to be minimal risk in providing feedback to both processes. The greater risk is considered to be in not putting Council's views forward to be taken into account in the decision making process.

In relation to the NBEP and RSS boundaries, there is a risk that the intended efficiencies of both the TToPP and the RMA reform will not be realised if the boundary decision requires a change from the TToPP process that has been undertaken.

5.5 Policy Framework Implications

The Bill is considered to have minimal implications for Council's policy framework.

If the planning boundary decision differs from the status quo, this will have implications for the TToPP which will be the resource management policy framework for Buller.

5.6 Legal Implications

No specific legal implications for Council have been identified.

5.7 Financial / Budget Implications

Providing feedback to both processes will not have a financial or budget implication. The staff time required has been absorbed into existing budget and workload.

If planning boundary decisions require significant changes to the TToPP this is likely to require technical staff resource that is not currently budgeted for.

5.8 Consultation Considerations

The public are currently able to make a submission on the Bill directly.

A select committee process currently planned for later in 2022 will give the public an opportunity to provide feedback on the planning boundaries.

Consultation is not considered necessary prior to Council giving its feedback.



FINANCE AND EXPENDITURE COMMITTEE
KOMITI WHIRIWHIRI TAKE PŪTEA, WHAKAPAUNGA PŪTEA HOKI

11 April 2022

Jamie Cleine
Mayor
Buller District Council
By email: Jamie.cleine@bdc.govt.nz

Dear Jamie

Natural Hazards Insurance Bill

The Finance and Expenditure Committee is currently considering the Natural Hazards Insurance Bill. The bill replaces the Earthquake Commission Act 1993 and renames the Earthquake Commission as Toka Tū Ake – Natural Hazards Commission. The overarching objectives of the changes are to enable better community recovery from natural hazards, to clarify the role of the commission, and to enhance the durability and flexibility of the legislation.

The committee has called for submissions, with a closing date of 13 May 2022. At its meeting on 6 April the committee resolved to write to you to alert you to the bill and indicate that, should you wish to make a submission, the committee would be happy to accept it.

Submissions can be made online at https://www.parliament.nz/en/pb/sc/make-a-submission/document/53SCFE_SCF_BILL_121175/natural-hazards-insurance-bill.

The committee will decide in due course about any hearings of evidence to hear from submitters. If you have any questions about the matters contained in this letter please contact the Clerk of Committee, James Picker, by email at james.picker@parliament.govt.nz.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Duncan Webb'.

Dr Duncan Webb
Chairperson
Finance and Expenditure Committee

Buller District Council Submission on Natural Hazards Insurance Bill
[submissions are via an online form]

Buller District Council (Council) thanks the Finance and Expenditure Committee for the opportunity to provide this submission on the Natural Hazards Insurance Bill (the Bill).

Council wishes to speak to its submission.

We make the following general comments in relation to the objectives of the Bill:

Council supports the overarching objectives of the changes and the purposes contained in Clause 3. In particular, it is pleasing to see the objective of enabling better community recovery from natural hazards, and the recognition of community resilience to natural hazards in the purpose. Buller's recent experiences with the flooding events of July 2021 and February 2022 have highlighted to us how critical it is that all systems and processes involved in natural hazard recovery, at the central and local government level as well as the private sector, are enabling for the myriad of tasks individuals and communities have to undertake as part of their recovery. The additional objectives of providing clarity, durability and flexibility in the legislation are also supported as these are considered to be crucial for achieving the enablement of better community recovery from natural hazards.

Council supports the change of the Commission's name and the name of the Bill to better reflect the broad range of hazards they cover, and the intent to provide greater clarity, clear definitions and standardised processes where possible through the drafting of the Bill.

Council supports the obligation to ensure the Commission's research and education function has sufficient flexibility to allow it to contribute to community resilience, a whole-of-government disaster recovery, and work that seeks to reduce the cost of insurance over time. Natural hazard recovery involves a range of agencies and organisations, and better outcomes can be achieved for communities when these parties work collaboratively. Having these agencies work together on planning and resilience prior to events, and on recovery post-events, has significant potential to achieve greater outcomes for our communities on a range of aspects, including but not limited to:

- Improved resilience
- Improved hazard preparedness
- Faster transition to recovery post-event
- Faster recovery process
- Reduced costs at all stages
- Reduced costs for individuals.

Greater protections and clarity for claimants is supported.

The ability to share information with those with a proper interest in receiving it is supported. Having timely access to accurate information is critical to natural hazard response and recovery.

We make the following specific comments:

Clause 18 – the inclusion of retaining walls necessary to support or protect the residential building or residential land is supported. The potential for a retaining wall to be necessary

for support or protection of the residential building or land, but to be more than 60 metres from the residential building and therefore not covered is noted. While the inclusion of the 60 metre restriction provides clarity, it could lead to excluding some structures from cover that would meet the first part of the definition and should arguably be covered given their purpose. The inclusion of bridges and culverts is supported.

Clauses 23-24 – the broad definitions of “natural hazard” and “natural hazard damage”, particularly the inclusion of mitigation measures and imminent damage, are supported.

Clause 28 – temporary accommodation costs for people displaced by natural hazards can be significant, and this is exacerbated by the range of other costs that arise from these events. The fear of theft and vandalism of properties while they cannot be occupied post-disaster is commonly reported and adds significantly to anxiety and psycho-social issues for those displaced by a natural hazard, again compounding other issues being experienced at what is an incredibly stressful time for people. Provided these “consequential losses” are adequately covered by private insurance, their exclusion from the Bill is accepted.

Clause 32 – the intent here is supported, especially the coverage of costs to meet compliance with the Building Act 2004 and the building code. Is it intended that replacement cost would include the costs of modifying a building with existing use rights under the Resource Management Act 1991 to comply with the district plan rules existing at the time of the replacement?

Clauses 32 and 40 – The inclusion of costs to mitigate the risk of imminent damage is supported as this supports and incentivises resilience and preparedness, in turn lessening the potential damage.

Clause 42 – the maximum of \$50,000 plus GST for retaining walls and \$25,000 plus GST for bridges or culverts is considered too low. In rural areas these structures can be substantial, with more than one per property, and necessary to enable access to dwellings. Council requests a maximum that better reflects the actual cost of replacing these structures.

Clause 44 – while noting this is part of the definition of “undepreciated value” for these assets, Council questions why the Bill does not provide for retaining walls, bridges or culverts to be brought up to new legal requirements, as it does for buildings, and would support their being able to meet new standards.

Clause 46 – making provision for those who are unable to obtain fire insurance for the building is supported. Would this extend to those who are unable to obtain fire insurance because they cannot afford to, and if so would the contracted insurance be made affordable for them? Insurance affordability, particularly for those on fixed incomes such as superannuation, is becoming an increasing issue. Council would support natural hazard insurance being as accessible as possible.

Clauses 48 and 70 – greater clarity is sought on how “reasonable steps” will be assessed. Will this include consideration of affordability and ability to pay?

Clause 52 – the need to place time limits on making a claim is accepted. Based on the experience in Buller following the July and February flood events, constraints such as the

lack of availability of suitable temporary accommodation and the need to leave the area to access family or other psycho-social support post-disaster meant that some of our community members would not have been in a position to make a claim within three months of the event. Council would support extending the time limit for making a claim without qualification to within six months from when the first damage occurs.

Clause 56 – the need to have adequate information to assess the claim is accepted, and it is acknowledged that at times this will require technical expertise. The potential for significant delays in the process is noted, given the likely high number of impacted properties post-disaster compared with the number and availability of people to provide this advice. This is exacerbated in areas like Buller where the expertise required is often not available locally, adding time and cost for our residents. Utilising the Commission's research and education function to facilitate the timely and affordable availability of technical expertise following a natural hazard would be supported, as a step towards alleviating this issue.

Clause 62 – the ability for a claim to be settled by relocating a residential building is supported, as this supports achievement of the resilience objective.

Clause 74 – to support the fair and consistent application of this provision, Council would support use of the Commission's research and education function to facilitate greater guidance on the use of sections 72 and 74 of the Building Act 2004. This would provide greater certainty and clarity for councils and landowners, and help ensure that these provisions are being applied fairly and consistently across the country.

Clauses 84-103 – Council supports the ability for the Minister to make a Code of Insured Persons' Rights, and the inclusion of provisions in the Bill addressing the resolution of disputes about claims. It is considered important that rights and protections for claimants are included in the Bill.

Clause 114 – as discussed above, insurance affordability is becoming an increasing issue. While the need to fund natural hazard cover is acknowledged, Council requests that affordability is required to be taken into account in setting the levy.

Clauses 139-140 – the ability to disclose information in specific circumstances is supported. In both the response and recovery phase from a natural hazard there is a need for timely access to accurate information, and the ability to share this information is appreciated.

Clause 156 – restrictions on amendments to "excluded property" are supported, as a safeguard against the coverage of the Bill being diluted over time.

12 May 2022

Liz Moncrieff
Resource Management Reform

By email: rm.reform@mfe.govt.nz

Dear Liz

Te Tau Ihu Planning Boundaries

Council thanks the Ministry for this opportunity to provide feedback on the options for the Te Tau Ihu planning boundaries.

In general Council notes that the takiwā approach (Option 4) is more consistent with the Ngāi Tahu Treaty settlement guarantee of rangatiratanga than using existing council boundaries. It is also noted that the Future for Local Government Review is currently underway and that the outcomes of this reform may have implications for planning boundary decisions.

For Buller specifically, we note the following:

- We have been required to carry out the TToPP process via an Order in Council. This process is well advanced, with significant resource having been invested in it to date.
- Costs to prepare a NBEP and RSS along different boundaries to those used for the TToPP would likely be significant. If this was required in a short timeframe, the benefits from the investment in the TToPP would not be fully realised, nor would the efficiencies intended from that process.
- Funding lines for the TToPP process have been clearly defined in the Order in Council, and would be blurred if an alternative boundary was drawn.
- From a planning perspective the West Coast has similar geography, communities of interest, geology, and environmental and population density context. While there will be some similarities, there are also significant differences to Tasman which may present a challenge to joint planning in terms of the NBEA and SPA.
- The outcome of the Future for Local Government Review may be the natural decision point for any boundary change, and an interim approach that allows for these proposals to be revisited within that review seems sensible. Buller reserves its right to consider a more formal link to Tasman in the broader local government sense in future.

For the reasons outlined above Buller's preference is for the status quo to be maintained for the West Coast. It has no preference between the other three options involving only Tasman, Nelson and Marlborough.

We are happy to continue to engage in this process, and note the opportunity for further engagement through the select committee process later in 2022.

Yours sincerely



Jamie Cleine

Buller District Mayor
Phone 027 423 2629 | Email jamie.cleine@bdc.govt.nz

Our Values: Community Driven | One Team | Future Focused | Integrity | We Care

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