

## Resource Consent application – Audit of Application and AEE

Application No: RC-2022-0039

Applicant: West Coast Regional Council

Activities: Deposition of Material, erect and remove structures, occupy space in the Coastal Marine Area; earthworks within 50m of the Coastal Marine Area

Location: Hokitika foreshore between Richards Drive and Stafford Street

Processing Officer: Kate McKenzie

Territorial Authority: Buller  Grey  Westland  Cross boundary issues

Consents required from Local Territorial Authority or Other Agencies (state whether applied for) e.g. building consent.: Resource consents required from Westland District Council

Identify and comment on any strategic policy issues that should be considered, including reference to Regional Policy Statement. Does the application address these issues? -

Plan/Policy Statement	Status	Objectives/Policies	Rules
NZ Coastal Policy Statement			
		O1, 2, 3, 4, 5, 6; P1, 2, 3, 4, 5, 6, 11, 13, 14, 15, 17, 18, 19, 20, 22, 24, 25, 26, 27, 29	
Regional Policy Statement			
Resource Management Issues of Significance to Poutini Ngai Tahu		O3.1, 3.2, P3.1, 3.2, 3.3	
Resilient and Sustainable Communities		O4.1, 4.2, P4.1, 4.4	
Regionally Significant Infrastructure		O6.1, P6.2, P6.5,	
Ecosystems and Indigenous Biological Diversity		O7.2, O7.3, O7.4, P7.2, P7.3, P7.4, P7.5, P7.6, P7.7, P7.8, P7.9,	
Land and Water		O8.2, O8.5, P8.1, P8.2, P8.3, P8.7, P 8.8	
Coastal Environment		O9.1; O9.2, O9.3, O9.4, P9.1, P9.3, P9.5, P9.6, P9.7, P9.8, P9.9	
Natural Hazards		O11.1, p11.1, p11.2, p11.3, P11.4	
Regional Coastal Plan			
Coastal Management		O5.3.1, O5.3.2, O5.3.3, P5.4.1.7, P5.4.1.8, P5.4.2.1, P5.4.2.2, P5.4.2.3, P5.4.2.4,	
Cross Boundary Issues		O6.3.1, O6.3.2, P6.4.1.3, P6.4.2.1, P6.4.2.2, P6.4.2.3, P6.4.2.4	
Occupation of The Coastal Marine Area	<b>D</b>	O7.3.1, O7.3.2, P 7.4.1, P7.4.2, P7.4.4	<b>7.5.1.4</b>
Erection of seawall structure	<b>D</b>	O8.3.1, O8.3.2, O8.3.4,	<b>8.5.1.7</b>
Removal of existing seawall structure	<b>D</b>	P8.4.1, P8.4.2, P8.4.3, P8.4.4, P8.4.5, P8.4.8	<b>8.5.3.2</b>
Disturbance of foreshore	<b>D</b>	O9.3.1, 9.3.2, 9.3.3, 9.3.4;	<b>9.5.3.6</b>
Deposition of natural material in the CMA	<b>D</b>	P9.4.1, 9.4.2, 9.4.3, 9.4.5, 9.4.7, 9.4.8	<b>9.5.4.1</b>
Noise		O12.3.1, P12.4.1	
Exotic Plants		O13.3.1, P13.4.2	
Natural Hazards		O14.3.1, O14.3.2, O14.3.3, P14.4.1, P14.4.2, P14.4.3	
Proposed Regional Coastal Plan			
Natural and Human Use Values		O3.2.1, O3.2.3, O3.2.4, O3.2.5, P3.3.1. P3.3.2,	

		P3.3.4, P3.3.5, P3.3.6, P3.3.7,P3.3.8, P3.3.9, P3.3.10	
Occupation of the Coastal Marine Area	<b>D</b>	O4.2.1, P4.3.1, P4.3.3,	<b>3</b>
Erection of seawall structure	<b>D</b>	O5.2.1, P5.3.1, P5.3.2, P5.3.3, P5.3.5, P5.3.7	<b>13</b>
Disturbance and deposition in the CMA	<b>D</b>	O6.2.1,P6.3.1, P6.3.2, P6.3.3, P6.3.5,6.3.6	<b>25</b>
Vegetation Removal and Planting		O7.2.1, P7.3.1, P7.3.2	
Noise		O10.2.1, P10.3.1	
Resource Management Act section(s)			
Restrictions on the Coastal Environment	S.12		
	<b>D</b>		
West Coast Regional Land and Water Plan			
Natural and Human Use Values		O3.2.1, O3.2.2, O3.2.4, P3.3.1, P3.3.8	
Land Management		O4.2.1, P4.3.1, P4.3.9	
Activities on Land	<b>D</b>		16

This application is: P – Permitted                      C – Controlled            **D – Discretionary**  
RD – Restricted Discretionary      Pro – Prohibited

#### Comments on Planning & RMA provisions

From the applicant's assessment the following resource consents are required:

Table 1-2 Resource consents required from West Coast Regional Council

Activity	Rule/Plan	Consent status
Occupation of the Coastal Marine Area	Rule 7.5.1.5 of West Coast Regional Coastal Plan	Coastal permit/ Discretionary
Erection of seawall extension	Rule 8.5.1.7 of West Coast Regional Coastal Plan Coastal Plan	Coastal permit/ Discretionary
Removal of existing structure (existing emergency rock structure)	Rule 8.5.3.2 of West Coast Regional Coastal Plan	Coastal permit/ Discretionary
Disturbance of foreshore and seabed	Rule 9.5.3.7 of West Coast Regional Coastal Plan	Coastal permit/ Discretionary
Temporary occupation of the Coastal Marine Area during construction	Rule 3 of the Proposed West Coast Regional Coastal Plan Coastal Plan	Coastal permit/ Discretionary
Occupation of the Coastal Marine Area by completed seawall	Rule 3 of the Proposed West Coast Regional Coastal Plan Coastal Plan	Coastal permit/ Discretionary
Erection of seawall extension	Rule 13 of the Proposed West Coast Regional Coastal Plan Coastal Plan	Coastal permit/ Discretionary
Disturbance of foreshore and seabed	Rule 25 of the Proposed West Coast Regional Coastal Plan Coastal Plan	Coastal permit/ Discretionary
Undertaking of earthworks within 50m of the Coastal Marine Area	Rule 16 of West Coast Land and Water Plan	Landuse/Discretionary

I have evaluated the proposal, and have determined that in addition to the consents identified within the application, consent is required under the Regional Coastal Plan for deposition of material on the foreshore (Rule 9.5.4.1) and the Proposed Regional Coastal Plan for disturbance and deposition (Rule 25).

As a result of the New Zealand Coastal Policy Statement coming into force in 2010, the operative Regional Coastal Plan was updated to removed the restricted coastal activities which were in the

previous version of the New Zealand Coastal Policy Statement (1994). This has resulted in rule reference changes. These are not reflected in the full version of the Regional Coastal Plan, but as an insert now available on the website. This means that the rule references in the table above are different from the applicant's assessment due to the insert not being available. The actual rules breached have not changed.

Any relevant National Environmental Standards (NES)

No relevant standards

**Tangata Whenua Issues**

To complete this checklist it is necessary to refer to 'Statutory Acknowledgements – A guide for Local Authorities'. Also refer to relevant plans for matters of significance to Poutini Ngai Tahu.

(A) Is the application in, near or adjacent to a Statutory Acknowledgement Area?

(B) Are Tangata Whenua potentially adversely affected by the application?

(C) List of Tangata Whenua

	To be consulted	potentially adversely affected
Ngati Waewae	<input type="checkbox"/>	✓
Makaawhio	<input type="checkbox"/>	<input type="checkbox"/>
TRONT	<input type="checkbox"/>	<input type="checkbox"/>

(D) List reasons, issues. A cultural impact assessment has been provided as part of further information supplied by the applicant. The assessment indicates that there are potential for effects on iwi, and how these can be mitigated. Not all of the mitigation measures are included as offered in the application.

**Environmental Effects**

**Audit of the applicant's AEE**

**Type of Consents Sought:**

- Coastal Permit
- Land Use Consent

**Term:**

- 15 years

**Application:**

- Deposit material within the Coastal Marine Area (coastal permit)
- Erect a structure within the Coastal Marine Area (coastal permit)
- Occupy the Coastal Marine Area (coastal permit)
- Disturb the foreshore (coastal permit)
- Undertake earthworks within 50m of the Coastal Marine Area (land use consent)

**AEE:**

- The proposal is to extend the Hokitika Seawall for approximately 1100m from Stafford Street to Richards Drive
- Works will occur on both the landward and seaward side of the Mean High Water Springs Mark, but the majority is on the landward side.
- The works involve placement of approximately 48,000m<sup>3</sup> of rock from a WCRC owned quarry.

- There is existing rock in place, which will be removed or reused in the new seawall design. This existing rock placement is unconsented, and is not within the scope of this application.
- The consent duration sought is 15 years, on the basis that this is an interim approach to erosion and sea level rise hazard mitigation, and within the 15 year duration, a longer term strategy for the protection of the Hokitika area will be developed.
- The application concludes that there will be positive effects primarily for the adjacent residents.
- The application concludes there will be minor or less than minor effects generally arising from the proposal.
- The application recommends limited notification of an identified number of nearby residential properties, the Department of Conservation and Te Runanga o Ngati Waewae. Following the provision of further information, the applicant has formally requested public notification of the application.
- The applicant has served notice on customary rights groups under the Marine and Coastal Area (Takutai Moana) Act 2011.

**Assessment of any differences between applicant's AEE and council staff:**

- I am in general agreeance with the applicants assessment, however note that the application states the effects may be "minor or less" but does not identify which parties these minor effects may be felt by. It is possible that these minor effects may be felt by the public generally, and it is therefore difficult to identify adversely affected parties on this basis.
- The application does not identify that the seawall will protect road reserve in addition to private properties and that this road reserve provides valuable public access opportunities to the coastal environment that may otherwise be lost if the beach is allowed to continue to erode into private properties. In my view this is a significant positive effect.

**Assessment of any relevant points not covered in the AEE:**

-

**Other:**

	None	Present	Reasons
<b>Construction/establishment</b>			
Water ways			
Bed disturbance	✓		
Sedimentation of water	✓		
Bank stability	✓		
Fish passage	✓		
Flora/fauna disturbance	✓		
Waterway capacity	✓		
Flow processes	✓		
<b>On land</b>			
Slope stability	✓		<ul style="list-style-type: none"> <li>- The applicant has identified areas of indigenous and other vegetation clearance which will be required in order to complete the works. This includes threatened Pingao and is habitat for Little Blue Penguin. A vegetation planting plan will be prepared to provide for the replanting of the area following completion of the stopbank.</li> <li>- The seawall has the potential to exacerbate existing erosion associated with coastal processes.</li> </ul>
Erosion potential		✓	
Vegetation clearance		✓	
Runoff/stormwater	✓		
<b>Coastal environment</b>			

Noise		✓	<ul style="list-style-type: none"> <li>- There will be occasional, temporary noise and limited public access in the immediate area while works are being carried out.</li> <li>- Public access may be impacted on the seaward side of the wall, at high tide, if further erosion of the beach occurs. Public access will be maintained by the seawall on the landward side.</li> <li>- The proposal represents a structure of a significant length, which is mostly not within the coastal marine area currently, but may become so if the beach continues to erode during the 15 year consent duration proposed.</li> <li>- The proposal is an interim response to an existing natural hazard to protect an existing community.</li> <li>- The proposal will have effects on the natural character and amenity of the Hokitika foreshore.</li> </ul>
Public access		✓	
Disturbance		✓	
Structures		✓	
Natural hazards		✓	
Amenity/natural character		✓	
<b>Discharges</b>			
Quantity	✓		-
Quality	✓		
Potential to effect -			
Water quality	✓		
Soakage ability	✓		
Air Discharge	✓		
<b>Social effects</b>	✓		<ul style="list-style-type: none"> <li>- A cultural impact assessment has been provided. The majority of mitigation measures proposed to address cultural matters have been included with the application, but not all.</li> </ul>
<b>Cultural effects</b>		✓	
<b>After/at completion of works</b>			
Flow processes		✓	<ul style="list-style-type: none"> <li>- Once the seawall is in place, the wall may alter coastal processes as described in the application.</li> <li>- Revegetation will occur in accordance with a planting plan which has not yet been provided.</li> <li>- Public access will primarily be restricted during operational works, and beyond completion access will be restored, including through provision of access ramps across the seawall.</li> <li>- Natural material will be replaced on top of the seawall structure to replicate the original coastal profile as closely as possible following construction.</li> </ul>
Sediment processes	✓		
Water Quality	✓		
Fish passage	✓		
Public access	✓		
Slope stability	✓		
Soakage	✓		
Revegetation	✓		
Land rehabilitation	✓		

**Notification - Non-Notification Decision Report**  
**Sections 92 & 95 — Resource Management Act 1991**

A. Details of Application	
<b>Application Number</b>	RC-2022-0039
<b>Applicant</b>	West Coast Regional Council
<b>Location/Legal Description</b>	Road Reserve, Coastal Marine Area, Hokitika Beach between Stafford Street and Richards Drive
<b>Activity Description</b>	<ul style="list-style-type: none"> <li>- Deposit material within the Coastal Marine Area (coastal permit)</li> <li>- Erect a structure within the Coastal Marine Area (coastal permit)</li> <li>- Occupy the Coastal Marine Area (coastal permit)</li> <li>- Disturb the foreshore (coastal permit)</li> <li>- Undertake earthworks within 50m of the Coastal Marine Area (land use consent)</li> </ul>
B. Matters for Consideration	

**PUBLIC NOTIFICATION**

**1. Request to Publicly Notify – s95(3)(a)**

**a.** Has the applicant requested that the application be notified?

- No..... **Go to** Question 2  
 Yes..... Application to be **publicly notify**, state below how applicant advised Council

**Comment:** In the original application the applicant sought limited notification to a number of parties. Following the provision of further information, the applicant has since requested by email from Paul Whyte dated 8 March 2023 that the applicant is formally requesting the application be publicly notified.

**2. Request for further information – S.92(1) or commissioning a report - S.92(2)**

**a.** Has a request been made and there has been no decision to publicly notify or limited notify the application? – **S.95C**

- No..... **Go to** Question 3  
 Yes..... **Go to** Question 2b

**b.** Has the applicant failed to respond by the deadline specified or refused to provide the information or refused to agree to the commissioning of a report? – **S.95C**

- No..... **Go to** Question 3  
 Yes..... Application to be **publicly notified**

**3. Notification Precluded**

Does a rule or an NES preclude notification for all activities in the application?

- No ..... **Go to** Question 4  
 Yes..... Identify rule/NES below, then **go to** Question 4

**Comment:**

**4. Classification of Activity**

What type of consent application is being made?

- Controlled.....(if all activities that form part of an application are controlled then application cannot be publicly notified unless special circumstances apply) **Go to** Question 5  
 Restricted Discretionary.....**Go to** Question 5  
 Discretionary.....**Go to** Question 5  
 Non-complying.....**Go to** Question 6

**5. Residential Activities**

Is the application for residential activities only with a Restricted Discretionary or Discretionary activity status?

Yes..... Application cannot be publically notified unless special circumstances exist, **Go to** Question 6.

No ..... Go to Question 6

**Comment:**

**6. Required Notification**

Does a rule or an NES require notification?

No..... **Go to** Question 7

Yes..... Application to be **publicly notified**, identify rule/NES below

**Comment:**

**7. Effects on the Environment**

Will the activity have adverse effects on the environment that will be, or are likely to be, more than minor? – **s95D**

In forming this opinion (a) to (e) apply:

- (a) we must disregard any effects on persons who own or occupy the land on which the activity will occur or any land adjacent to that land (s95D(a))
- (b) we may disregard an adverse effect of the activity if a rule or NES permits an activity with that effect (s95D(b))
- (c) for restricted discretionary we must disregard any adverse effects that fall outside the matters over which we restrict discretion (s95D(c))
- (d) we must disregard trade competition and the effects of trade competition (s95D(d))
- (e) we must disregard any effect on a person who has given written approval (s95D(e))

Yes..... State reasons below, then **go to** Question 8

No..... State reasons below, then **go to** Question 8

**Reasons: (Also identify disregarded effects and specify restricted discretionary rule if applicable)**

**8. Special Circumstances**

Is it considered that special circumstances exist in relation to the application that would suggest that the application should be notified?

No..... **Go to** Question 9

Yes..... Application to be publicly notified, state reasons below

**Reasons:**

**LIMITED NOTIFICATION**

**9. Protected Customary Rights or Marine Title Groups**

Are there any affected customary rights groups or customary marine title groups? **S95G**

Yes..... details \_\_\_\_\_ **Serve notice on affected groups**

No ..... Non-notified

The applicant has served notice on customary rights groups under the Marine and Coastal Area (Takutai Moana) Act 2011.

**10. Statutory Acknowledgement Areas**

**a.** Is the activity on, adjacent to, or affect land subject to a Statutory Acknowledgement?

Yes..... **Go to** Question 10b

No ..... **Go to** Question 11

**b.** Are the effects on the Statutory Acknowledgement holder minor or more than minor?

- Yes..... If written approval from holder has not been obtained then limited notify to affected holder.
- No ..... **Go to** Question 11

**11. Limited Notification Precluded**

Are all activities in the application subject to a rule or NES that precludes limited notification?

- Yes..... Rule/NES \_\_\_\_\_ **Go to** Question 12
- ✓ No..... **Go to** Question 12

**12. Plan Provisions**

Does the relevant Plan expressly allow processing of the application on a non-notified basis without the need to obtain the written approval of affected parties?

- Yes..... State relevant rule and plan, **Go to** Question 14
- ✓ No..... **Go to** Question 13

**13. Affected Parties**

**a. Are there any persons or parties considered to be adversely affected by the activity? - S.95B(1)**

A person is affected if the activity’s adverse effects on the person are minor or more than minor (but not less than minor – S.95E(1))

In forming an opinion as to who may be an affected person:

- (a) we may disregard an adverse effect on the person if a rule or NES permits an activity with that effect. (s95E(2)(a))
- (b) for controlled or restricted discretionary we must disregard any effects on the person that fall outside the matters over which we reserve control or restrict discretion (s95E(2)(b))
- (c) we must have regard to every Statutory Acknowledgement (s95E(2)(c))
- (d) We must decide that a person is not affected if the person has given written approval and has not withdrawn the approval in writing before the authority has decided whether there are any affected persons. (s95E(3)(a)) (NB: beware of conditional approvals).
- (e) We must decide that a person is not affected if it is unreasonable in the circumstances to seek the person’s written approval. (s95E(3)(b))

- ..... Yes **Go to** Question 13b
- No.....State reasons why below

**Reasons: (Also identify disregarded effects, specify controlled or restricted discretionary rule, and identify any Statutory Acknowledgement if applicable)**

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**b. Have written approvals been obtained from every person who is considered to be adversely affected by the activity? S95B(3)**

- Yes..... Complete the table below, then **go to** Question 12
- No..... Complete the table below, then **go to** Question 12
- ✓ Not applicable ..... **go to** Question 12

**Reasons:**

Affected Party	How they are affected?	Written approval in application? (Y/N)

**14. Special Circumstances**

Is it considered that special circumstances exist in relation to the application that would suggest that the application should be limited notified?

- ✓ No..... **Go to** Question 7



Yes..... Application to be limited notified, state reasons below

**Reasons:**

**Decision**

It is decided that this application be processed on the following basis:

✓ Notified

Limited Notified

Non-notified

**Reporting Officer:**

Signed:



Kate McKenzie – Consultant Planner

Date: 15/03/2023

**Delegated Authority:**

Signed:



Justine Bray – Commissioner

Date: 20/03/2023

### **Applications Affecting Navigation (s89A)**

Is the application in the Coastal Marine Area or affecting a navigable river?

- Yes.....see below
- No.....proceed to decision

If the application is for a coastal permit does it do any of the following:

- Reclaim land
- Build a structure
- Do or maintain works for the improvement, management, protection, or utilization of a harbour
- Remove boulders, mud, sand, shell, shingle, silt, stone, or other similar material from the CMA

or

- A land use consent to use the bed of a navigable lake or river

If yes then the application must be copied to Maritime New Zealand for consideration in regard to the effects on navigational safety.

Maritime New Zealand must report to Council on any navigation-related matters relevant to the application, including any conditions that it considers should be included in the consent for navigation related purposes. Maritime NZ must provide that report within 15 working days after receiving a copy of the application, If it fails to report within that time limit you can take it that Maritime NZ has nothing to report.

You must forward a copy of any report supplied by Maritime NZ to the applicant and every person who has made a submission on the application.

The report must be taken into account when considering the application.