Submission on the
Proposed Plan Change 1 to the Regional Land and Water Plan

Return your signed submission to the West Coast Regional Council by 5.00pm, Friday 16 September 2016

Submissions may be:

a) Posted to: Proposed Plan Change 1 - L&WP, West Coast Regional Council, PO Box 66, Greymouth 7840
b) Delivered direct to the West Coast Regional Council at 388 Main South Road, Greymouth
c) Emailed to Plan@wcrc.govt.nz
d) Sent by facsimile (03) 768 7133

PART A: Submitters contact details

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Full name: ANTON DAVID BECKER

Organisation: AHAURA PLAINS MOSS LTD
[The organisation that this submission is on behalf of, if applicable]

Postal address: 3530 MAIN ROAD AHAURA **Post Code:** 7840

Email: abecker@minidata.co.nz **Phone (Hm):** 037323576 **Phone (Wk):**

Phone (Cell): 0272498341 **Preferred method of contact:** cell phone

Contact person and address for service [if different from above]:

Please turn over

PART B: Trade Competition

As per Schedule 1 of the Resource Management Act 1991, a person who could gain an advantage in trade competition through the submission may make a submission only if directly affected by an effect of the proposed policy statement that:

a) Adversely affects the environment
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Please tick the sentence that applies to you:

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Signature: _____ **Date:** 16/9/2016

[Signature of person making submission, or authorised to sign on behalf of person making the submission]

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PART C: Request to be Heard

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Harvesting of Sphagnum Moss	I support the Harvesting of Sphagnum from Wetlands without the need for resource consent due to the low impact of this activity on the overall health and integrity of a Wetland. A well managed harvesting cycle will result in a Wetland and a Moss Industry, the jobs and export dollars that come with that. The two can co-exist indefinitely for the benefit of both whilst retaining diversity in our economy.	

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Full name: Bernadette arnold

Organisation: _____

[The organisation that this submission is on behalf of, if applicable]

Postal address: 2 Coates terrace, Rapahoe 03 7684986 **Post Code:** 7803

Email: Bernie.m.arnold@hotmail.com **Phone (Hm):** _____ **Phone (Wk):** _____

Phone (Cell): 0278646732 **Preferred method of contact:** _____

Contact person and address for service [if different from above]:

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Full name: Deborah Arnold

Organisation: Moo
[The organisation that this submission is on behalf of, if applicable]

Postal address: 69 Granville Road RD 1 Blackball **Post Code:** 7871

Email: dmaarnold@xtra.co.nz **Phone (Hm):** 7323402 **Phone (Wk):** _____

Phone (Cell): _____ **Preferred method of contact:** _____

Contact person and address for service [if different from above]:

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Full name: Steven John Bagnall

Organisation: _____

[The organisation that this submission is on behalf of, if applicable]

Postal address: PO Box 37, Ahaura **Post Code:** 7843

Email: steve.bagnall@xtra.co.nz **Phone (Hm):** _____ **Phone (Wk):** 037680444

Phone (Cell): 0277684004 **Preferred method of contact:** Email

Contact person and address for service [if different from above]:

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Signature: _____ **Date:** 15/09/2016

[Signature of person making submission, or authorised to sign on behalf of person making the submission]

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Attach further sheets as required

PROPOSED
CHANGES 1
LAND AND WATER PLAN

BULLER CONSERVATION GROUP INCORPORATED

SUBMISSION FROM: **Buller Conservation Group**.

ADDRESS; c/o P O Box 463,
Westport,
Buller 7866

Phone: 03 782 1813

Email: karearea.f@gmail.com (preferred contact method)

We **could not** gain an advantage in trade competition through this submission

We **are not** directly affected by an effect of the subject matter of the submission, although, as residents of the West Coast we are all affected in some way by regional plans and at some stage we, as individuals, may be directly affected.

We **do** wish to be heard in support of our submission; and if so, would be prepared to consider presenting in a joint case with others making a similar submission at any Hearing (e.g. F.Inta)

Rather than receiving paper copies during this plan's progress we would prefer e-copies unless specially requested.

Specific provisions	My submission	Amendments sought
8. SURFACE WATER QUALITY 8.3.5 (f) *The best practicable option for the treatment or disposal of human sewage effluent wastewater, including the use of land disposal or wetland treatment.*	The term, "sewage effluent wastewater" is not correct. This change needs to decide what it is referring to: • is it sewage - which is wastewater including faeces, and as specified in the glossary to this plan, specifically human waste. • is it effluent - which is an outflowing, but can be more specific if identified as such e.g. included in the glossary to this plan, • is it wastewater - which is any water that has been contaminated.	"*human sewage wastewater*" needs to be replaced with "human sewage" and any further explanation annexed to the glossary. "*wetland treatment"*, needs to be qualified. It is not acceptable that a significant wetland be used for treatment of dairy effluent or human sewage.
Summary Table of Riparian Margin widths	Ratio is very confusing and a way of calculating must be included if ratios are being adopted in this plan.	Ratios need to be qualified, being horizontal distance to vertical distance; HD:VD (or cotan A = HD/VD)
Riparian Margins: □ *The dominant slope angle is the angle between the fullest flow/highest level of the bed of the lake or river, or major farm drain in the Lake Brunner Catchment and a point 20 metres upslope as illustrated in the diagram below.*		Comma after "*Lake Brunner Catchment*"
Use of word, "waterbody".	Retention of the word, "waterbody", is preferred, as it is all-inclusive, whereas, "river", and, "lake", can be exclusive. we understand, having read the S32 explanation, that exclusion is what is being aimed for, but we still prefer the encompassment of, "waterbody". What concerns us is the use of the word, "ephemeral". We note that in the glossary an ephemeral waterbody is defined as that holding water from a period of a few days to that of months. A waterbody that	Retain, "waterbody".

Specific provisions	My submission	Amendments sought
	holds water for a period of months should not be classified as an ephemeral waterbody (or, "river", as it is referred to in the glossary). It is possible that at any future date, more wetland could be added to the schedule. Excluding waterbodies (or rivers) that hold water for months at a time from 17.3.4 could pre-empt those waterbodies from a deserved inclusion of wetland. if the glossary referred to ephemeral as being those waterbodies (rivers) holding water from days to weeks the change to 17.3.4 could be more acceptable.	
Rule 20:	Allowing changes of 10% to an authorised structure should include a caveat as to the original size of the structure. If the structure is small to start with then 10% is not a large change, but if the structure is large, then a 10% alteration could be quite significant. We understand that the constraint, "10%", is already established in this rule and it is not part of the miscellaneous changes, but nevertheless this term needs further quantification.	Size of original structure needs to be included here e.g. for structures of volume less than (e.g. 10cumec?)
Rule 34 - whitebait stands - changed from restricted discretionary to controlled.	**Controlled activity:** Resource consent required but always granted Activities which are specified as controlled activities require a resource consent, but the Council must grant consent. The conditions Council sets on the resource consent will be limited to the matters stated in the rule. Whereas council has discretion to either decline or accept resource consent under the restricted discretionary category. If rule 34 is changed from restricted discretionary to controlled then is it possible that anyone that applies for consent for a stand will be granted	retain restricted discretionary status

Specific provisions	My submission	Amendments sought
	one? It looks to us as though changing that status would breach the extant limitations within the Plan pertaining to whitebait stands. Restricted discretionary must be retained. It doesn't matter if making it controlled creates a more stream-lined process due to environmental issues being well-known and generally standard conditions issued. We believe the S32 Evaluation Report has erred in its argument to change the status of activity. Of concern is incursion of the tidal influence up rivers as sea level rises (and unsustainable amounts of gravel are taken from just upstream of the CMA). Will this incursion be incentive to create more whitebait stands along rivers? We hope not. A controlled status of resource consent may oblige the council to issue consent for consent applications in such areas.	
Rule 79(c) refers to AS/NZS1547:2012 'On-site Domestic Waste Water Management'.	This should not be included unless there is further reference to what the soil classes are. To find out what is referred to requires payment of over $100 to buy that AS/ NZ Standard.	Include explanation of soil categories referred to.
Glossary: vegetation disturbance:	The exclusion of sphagnum moss harvesting form the definition of vegetation disturbance removes protection of the natural character, indigenous biodiversity and other values of wetlands in the region, where any modification is likely to result in the degradation or loss of the values of the wetlands. S32 Evaluation Report - Reason for the change: **"Presently the Plan requires harvesters of sphagnum moss to obtain resource consent before undertaking the activity. This was**	Include sphagnum moss harvesting as vegetation disturbance

Specific provisions	My submission	Amendments sought
	an unintended outcome of the Environment Court case on identifying significant wetlands, and requiring resource consent is unnecessary as the effects of this activity on the environment are known to be minimal." The Land and Water Plan's **section 2** says that widespread loss of wetlands is an issue of significance for Poutini Ngai Tahu, who seek to restore degraded wetlands. **Section 6** objective 6.1 says: **To recognise and provide for the protection of the natural character, indigenous biodiversity and other values of wetlands in the region;** with **policies** saying, **"...to identify and protect their values by controlling activities in those wetlands and their margins to ensure their natural character and ecosystems (including ecosystem functions and habitats) are sustained.",** and **Explanation** saying**, "..Any wetland modification is likely to result in the degradation or loss of the values of the wetlands or the wetlands themselves.".** Also in **Explanations**, **"...the need to manage all wetlands sustainably...".** **Rule 36(b)** says that, "**To excavate, drill, tunnel, or otherwise disturb the bed**", is a **discretionary activity,** and **Rule 37(b)** says the same, both in relation to Schedule 1 and 2 wetlands. In the **glossary, track** within a scheduled wetland is of concern. **Schedule 3; Ecological criteria:** Summary:	

Specific provisions	My submission	Amendments sought
	• wetlands play an important role in protecting adjacent ecological values, and have an important contribution to ecological functions and processes. • A representative wetland must, by interpreting the criteria, include sphagnum moss in its virgin form, due to it being a typical wetland plant. Wetlands should be intact and contain cushion bogs. • Wetlands are identified by the dominant species present. Some of our group has been involved in sphagnum moss harvesting in the past. Actual harvesting by hand is a minor activity. The moss, once collected, being water-laden, is very heavy. Harvesters often drag sacks out by hand, creating drag paths along a cut route. Routes may be cut in to provide for quad bike passage. More adventurous harvesters cart out by helicopter. Some harvesters erect drying racks at the harvesting sites, often clearing shrubbery to do so. Tracking in can deposit gorse, broom and other weeds and also pest invertebrates via boot soles, tools etc. Dogs often accompany harvesters, where indigenous fauna can be put at risk. Without controls on moss harvesting, peripheral activities, such as track creation and site drying racks, will be harder to monitor also. Moss harvesters harvest the moss on a 7-year cycle, because that is how long it takes for the moss to recover, but all harvesters know that the initial harvest reaps the best moss, of very long, fine, pastel-coloured strands. Any subsequent harvest can never reproduce that quality, where regrowth strands become broader, shorter and darker-coloured.	

Specific provisions	My submission	Amendments sought
	Sphagnum moss is intrinsic to most wetlands, being a critical plant in wetland health. It is also a critical plant in flood amelioration, sedimentation, and water purification. Sphagnum moss is the most amazing sponge - while absorbing incredible amounts of water during wet conditions, it can also dry out during dry spells but remain viable, so long as it is not contaminated. Allowing sphagnum moss harvesting as a permitted activity (by excluding it from any rule) in wetlands breaches the Land and Water Plan in a number of ways, including those we have listed above. Mainly, allowing the indiscriminate harvesting of the moss in any wetland, anywhere, will ensure that incremental degradation of those wetlands will occur. we understand that sphagnum moss harvesting should be a permitted activity for smale-scale harvesting; however, there is a lot of land in the region that is not a scheduled wetland, nor anywhere that could be considered for inclusion in the wetland schedule, that will have good cushions of sphagnum moss for harvesting. we absolutely object to sphagnum moss being a permitted activity via exclusion from any rule in regional plans. We suggest it should be included as a facet of vegetation disturbance, (vegetation disturbance it is), thus excluding it from scheduled wetlands, also excluding it from wetlands with potential to be included in that schedule via assessment of environmental effects in consent applications, but allowing it on other, unclassified land within the region.	
Further to Miscellaneous		

Specific provisions	My submission	Amendments sought
changes:		
Rule 20	10% size of structure	Needs quantification as to the original size of the structure, as 10% of a small structure is much less than 10% of a large structure.
Rule 29: Gravel Extraction,	is ambiguous at (iii). (i) and (ii) list sites on rivers that gravel can be extracted from but (iii) says that any other river can have 10cumecs extracted from it.	It needs to be clarified that, "**any river**" either includes rivers mentioned in Schedules A, B, or 12; or it doesn't.
Glossary: 1 definition of vegetation disturbance:	all fences should be erected outside of riparian margins. The Land and Water Plan in general tries to discourage grazing within riparian margins but this vegetation disturbance definition encourages grazing within riparian margins.	should not include fencing within a riparian margin
2. definition of, "ephemeral":	"Months", is far too long a time to consider such waterbodies to be ephemeral;	should be restricted to waterbodies (rivers) holding water from a period of days to weeks less than 1 month. "Ephemeral", needs to include lakes as well as rivers.
Proposed schedule 1 and 2 wetland boundary amendments	There are a lot of deletions involved but very few additions. The only places we found proposed additions are at Otumahana, Mahinapua, Kapitea. There are 77 wetland sites with proposed deletions. The Land and Water Plan's section 6, objective 1, **Explanation**, says, **"...Mapping included sufficient margins where necessary to control adjoining land drainage activities that might otherwise affect the natural water level within the**	we would like to see any marginal areas around these wetlands retained as buffer areas where restricted activities are permitted, with any drainage activity excluded.

Specific provisions	My submission	Amendments sought
	wetland itself and have adverse effects on the values present.".	
	Most of the deletions are in marginal areas of the wetlands. These marginal areas are buffer areas to the wetlands. Note that the Land and Water Plan says that mapping has included sufficient margins to control adjacent activities.	These marginal areas could be allowed to continue to function as they are but any land drainage should be prohibited via rules in the Plan.
	Some areas proposed for removal, especially some block areas, are obviously developed and it is understandable that they be excluded, however, a buffer margin to the wetland should still be included from those blocks.	Exclude such developed block areas but include buffer margin
	Of major concern is that some areas proposed for exclusion are on public land. Too many adjacent landowners on the west coast have developed, and profit, from public land whilst paying no rates and having no lease. It is a breach of regional and district plans that private activity, including indigenous degradation/ destruction, occurs on our public lands in cases where no permission/ lease for such has been issued.	Any public land proposed for removal from the wetland schedule is objectionable. Such areas, even if developed, should have any private activity removed from it and the land allowed to revert to its natural state.

	We took a desktop look at scheduled wetlands in our local area (and some further afield), comparing them to the WCRC GIS database, and also to Google Earth. Also, talking to locals. This is what we found:	
	Otumahana Wetland: here is yet another case of public land being used by adjacent landowners as their own, and no doubt indigenous vegetation all cleared from that land to put it into pasture, where no rates are being paid on that public land.	

Specific provisions	My submission	Amendments sought
	P3 The 2 areas to the west of valuation reference 1878015100 are on public land so it is objectionable to have this removed. It is public land and we have a right to retain and enhance its wetland status. The middle area to be included should encompass all of the public land in that enclave.	Object
	P4 West of 1878028302- public land	object
	south-west corner 1878028101 - partly on public land	object
	eastern end 1878028300 - rich ecology	object
	north-east of ID3649099 - public land	object
	P5 middle east of ID3649099 - public land - object - wetland should be reinstated.	object
	western side of eastern 1878030500 - high ecological value	object
	public land in between 1878030500 sections - reinstate indigenous value	object
	P6 marginal land but will still have wetland value	object
	P7 upper bottom part within 1878028600 - will encroach on high ecological quality	object
	bottom part within 1878028600 - ditto	object
	upper eastern part of 1878031400 - ditto	object
	Oparara P8 this is important estuary right through this area. It needs to be retained. The most probable reason it has been requested to be removed is so that stock can access it; stock should not be allowed anywhere near such fragile, estuarine areas. A fair part of this is also public land - object to any removal of wetland status here.	object
	Tidal Creek: P9 The marginal area here is	object

Specific provisions	My submission	Amendments sought
	largely around the perimeter of that property. There is little to no modification of the wetland area therefore this proposed exclusion is unacceptable. The small amount of modified land at the southern border of this property has already been excluded.	
	Birchfield p10 The proposed deletion does not look as though it has been developed. It is in forest just south of the developed area. Wetland status there needs to be kept.	object
	p11 north-eastern line to be removed - is on public property bottom-most south-eastern line - there is little or no development western bottom block - ditto	object object
	Buller River p15 All proposed removal appears to be on public land. Why should the status be revoked in such cases?	object
	Jones Creek P16 once again all revocations appear to be on public land or on the cusp	object
	Waimangaroa P17 left-hand top revocation looks as though it still has functioning wetland value.	object
	Jones Creek P18 North-west bottom revocation - some is on public land so objectionable.	object
	South Westport P21 areas marginal to development - where is any buffer? Such areas should be left to create a buffer zone.	object
	Caledonian terrace P22 the 2 blocks of darker blue	object

Specific provisions	My submission	Amendments sought
	appear to be waterbodies, or at least very wet - these need to be retained as wetland. Costello Hill P23 Middle block area The area is a natural indentation/ gully, most likely has rich ecology/ wetland and needs to be retained. Okari Rd P26 - marginal to wetland - retain as buffer. Maher Swamp P30 This swamp particularly needs all the protection it can get. Lewis pass P34 This is public land - why would the perimeter want to be changed?	object object object

THE WEST COAST
REGIONAL COUNCIL

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Return your signed submission to the West Coast Regional Council by 5.00pm, Friday 16 September 2016

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a) Posted to: Proposed Plan Change 1 - L&WP, West Coast Regional Council, PO Box 66, Greymouth 7840
b) Delivered direct to the West Coast Regional Council at 388 Main South Road, Greymouth
c) Emailed to Plan@wcrc.govt.nz
d) Sent by facsimile (03) 768 7133

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Full name: Andrew Peter Bennett

Organisation: _____
[The organisation that this submission is on behalf of, if applicable]

Postal address: 65 Bradshaws Road RD 2 Westport **Post Code:** 7892

Email: _____ **Phone (Hm):** _____ **Phone (Wk):** _____

Phone (Cell): 0224021497 **Preferred method of contact:** Post

Contact person and address for service [if different from above]:

Jan Coll - jan@cjc.co.nz

Please turn over

PART B: Trade Competition

As per Schedule 1 of the Resource Management Act 1991, a person who could gain an advantage in trade competition through the submission may make a submission only if directly affected by an effect of the proposed policy statement that:

a) Adversely affects the environment
b) Does not relate to trade competition or the effects of trade competition.

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Signature: _____ **Date:** _____

[Signature of person making submission, or authorised to sign on behalf of person making the submission]

(A signature is not required if you make your submission by electronic means)

PART C: Request to be Heard

☑ I **do not** wish to be heard in support of my submission; or

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See attached sheet		

Attach further sheets as required

My family has had a long term interest and been involved with the creation of the Gillows Wildlife Sanctuary under the Lands & Surveys and Ian McCallen who was the Fish & Game Representative at the time.
We are unsure why there has been no consultation on the 20 hectares that has been taken & added to this Sanctuary.
We have personally invested alot of time & money into the reinstatement of Gillows Damm & Water Ways which was created by early settlers in the late 1800's.
We have no problems in continuing in the maintainence when necessary.
My submission is that the Regional Land Owners should have the opportunity to have a say in the whereabouts of the boundries of the S.N.A.

Yours Sincerely

K. P Bennett

THE WEST COAST
REGIONAL COUNCIL

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Full name: KAREN ANNE BIRCHFIELD

Organisation: BIRCHFIELD COAL MINES LTD
[The organisation that this submission is on behalf of, if applicable]

Postal address: PO BOX 264 GREYMOUTH **Post Code:** 7840

Email: BIRCHCOAL@SNAP.NET.NZ **Phone (Hm):** _____ **Phone (Wk):** 03 7328360

Phone (Cell): 027 220 3126 **Preferred method of contact:** EMAIL

Contact person and address for service [if different from above]:

_____

Please turn over

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- ☐ I **am not** directly affected by an effect of the subject matter of the submission.

Signature: _____ **Date:** 16/9/2016.

[Signature of person making submission, or authorised to sign on behalf of person making the submission]

(A signature is not required if you make your submission by electronic means)

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MAIP004 GILES CREEK ENVIORMENTAL	MITIAGE WATER QUALITY OF ADJACENT ML 41454 & ML 37210. THIS LAND IS NOT A FUNCTIONING WET LAND. NO STUDY HAS BEEN UNDERTAKEN BY WCRC TO IDENTIFY SIGNIFICANCE OF LAND. THE LAND IDENTIFIED IS ELEVATED RIVER TERRACE AND NOT A WET LAND	REMOVE ALL AREAS OF BIRCHFIELD COAL MINE FREEHOLD LAND FROM THE REGIONAL LAND AND WATER PLAN. BLOCKS SECS 4,5,9,10,11 IDENTIFER: NL122/215 9-11 IDENTIFER: NL4B/1343 IDENTIFER; NL 4B/1344
MAIP 004 GILES CREEK ECONOMIC	PROVIDED CONTINUED EMPOLYEMENT FOR EXSISTING EMPLOYESS	REMOVE ALL AREAS OF BIRCHFIELD COAL MINE FREEHOLD LAND FROM THE REGIONAL LAND AND WATER PLAN. BLOCKS SECS 4,5,9,10,11 IDENTIFER: NL122/215 9-11 IDENTIFER: NL4B/1343 IDENTIFER; NL 4B/1344
MAIP004 GILES CREEK ENVIORMENTAL	THIS FREEHOLD LAND WAS PURCHASED IN 2010 BY BIRCHFIELD COAL MINES FOR THE PURPOSE OF SETTLING WATER FROM GILES CREEK MINE WHICH IS ADJACENT.	REMOVE ALL AREAS OF BIRCHFIELD COAL MINE FREEHOLD LAND FROM THE REGIONAL LAND AND WATER PLAN. BLOCKS SECS 4,5,9,10,11 IDENTIFER: NL122/215 9-11 IDENTIFER: NL4B/1343 IDENTIFER; NL 4B/1344
		REMOVE ALL AREAS OF BIRCHFIELD COAL MINE FREEHOLD LAND FROM THE REGIONAL LAND AND WATER PLAN. BLOCKS SECS 4,5,9,10,11 IDENTIFER: NL122/215 9-11 IDENTIFER: NL4B/1343 IDENTIFER; NL 4B/1344

Attach further sheets as required

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MAIP004 ENVIORMENTAL	THE BLOCKS IDENTIFIED HAVE A GRANTED MINING LICENCE M L 56210 OVER THE AREA. THIS LICENCE IS CURRENTLY BEING MINED. THE LAND IS USED FOR SETTLING OF WATER.	REMOVE ALL AREAS OF BIRCHFIELD COAL MINE FREEHOLD LAND FROM THE REGIONAL LAND AND WATER PLAN. BLOCKS SECS 4,5,9,10,11 IDENTIFER: NL122/215 9-11 IDENTIFER: NL4B/1343 IDENTIFER; NL 4B/1344
MAIP004	LACK OF CONSOULTATION FROM WCRC. NO NOTIFICATION OF BOUNDARY ADJUSTMENT AFTER VISIT FROM HAMISH FARIBAIRN IN 2013. LACK OF COMPENSATION BOUNDARIES ARE NON SPECIFIC LAND HAS BEEN ALTERED PRIOR TO NOTIFICATION	REMOVE ALL AREAS OF BIRCHFIELD COAL MINE FREEHOLD LAND FROM THE REGIONAL LAND AND WATER PLAN. BLOCKS SECS 4,5,9,10,11 IDENTIFER: NL122/215 9-11 IDENTIFER: NL4B/1343 IDENTIFER; NL 4B/1344
MAOP003 FLETCHER CREEK	GRANTED MINING LICENCE ON LAND LAND HAS BEEN MINED HAS A GRANTED EP OVER AREA	REMOVE AREA FROM REGIONAL LAND AND WATER PLAN
MAOP003 FLETCHER CREEK	AREA IS NOT A WETLAND IT IS FREE DRAINING ALLUVAIL GRAVEL BASE WITH STEEP TERRACES. RE VEGITATED FOREST COVER. NO ECOLOGICAL ASSESEMNT HAS BEEN DONE TO PROVE SIGNIFIANCE OF THE AREA. GRANTED MINING LICENCE ON AREA	REMOVE AREA FROM REGIONAL LAND AND WATER PLAN

Attach further sheets as required

16 September 2016

West Coast regional council
Greymouth

We hereby submit that in the proposed Plan Change 1 Land and Water Plan that the following areas are removed from this Plan: (WC Regional Council reference): - MAIP004 Giles Creek and MAIP003 Fletcher Creek

Original Wetland Identification Process

The background to the process of wetland identification needs to be considered. The original process for identifying and classifying the current 'wetland' was and is flawed with no input sought from the landowner. No distinction is made between land removed from the wetland area and those left in.

Birchfield Coal Mines Ltd have been operating in the Mai Mai Valley for over 30 years and through this time have gathered significant local knowledge around the land covered by and surrounding the current coal mining activity.

There appears to have been no on ground assessment of the characteristics or historical use of the land covered by the 'wetland' definition. Nor has any evidence been provided to BCML who either own the land or have an interest in the land area through minerals permit rights regarding identification of the values associated with the so called wetland.

The boundaries don't appear to have been defined by any scientific process as some areas of land adjoining the 'wetland' appear to be similar in characteristics.

MAIP003 Fletcher Creek

A recent survey of the area has identified significant historical logging and development through tracking and road construction. Much of the area is regenerating bush and is not considered to be wetland. The land is made up of alluvial gravels and river flats. There are three opencast coal mines in the area marked. This area has granted mining licences and prospecting licences over it.

The area was extensively logged from 1970 to the early 1990 and has pinus radiata and eucalyptus plantations. The roads and areas of previous logging have not been taken into consideration which is inconsistent with other changes being made to wetland boundaries. There is little or no information regarding the values associated with this wetland available to the submitter in order to make an informed assessment of the proposed changes therefore there can be little confidence in the assessment of the overall area.

Given the above BCML submit that the entire MAIP003 Wetland be removed given the level of error associated with the current wetland boundary

MAIP004

In 2012 BCML purchased the neighbouring freehold land in order to provide certainty of access and to make land available for activities associated with mining, including water management infrastructure, as well as mine development. This land has granted MP and is mined in conjunction with the adjacent coal licence.

The current coal mining activity employs approximately 20 full time equivalent staff with a large number of technical, service and professional industries also supported through this coal and gold mining activity.

This land consists of dissected alluvial river terraces. A feature of this land is usually coarse grain well drain land covered by low forest. The land has been developed to include ponds for Giles Creek and the alluvial gravels are processed for gold recovery.

There is a considerable amount of proven coal on this freehold land but due to the fact this information is open to the public we will not disclose details.

It would be prudent to evaluate that this area and the adjacent area of Fletcher Creek has one of the West Coast largest deposits of low sulphur low ash coal clean burning coal on the West Coast which is now being requested by the end users of coal.

Economics / Development

Coal won from these areas are delivered direct to industries in the South Island ensuring the continued prosperity of this region. BCML customers depend on the ability to receive quality energy units direct to their factories. The known minerals deposits under these blocks are coal and gold. BCML has invested significantly to provide continued supply to industry users and if these areas are not removed it would be detrimental to both BCML and their customers.

The wetlands areas have been put on top of either granted working coal or gold mining licences or over granted prospecting licences. There are proven coal reserves under these areas which will continue to ensure the economic prosperity of the primary industries of West Coast in particular and the New Zealand as a whole.

We submit that the entire areas of nominated wetland identified as MAIP003 and MAIP004 be removed from

We wish to be heard in support of this submission.

Gary Birchfield

Karen Birchfield

THE WEST COAST

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Full name: Andrew Wilson Campbell

Organisation: Bonar Farms LTD
[The organisation that this submission is on behalf of, if applicable]

Postal address: Private Bag 758 Hokitika **Post Code:** 7842

Email: acampbell@xtra.co.nz **Phone (Hm):** 03753132 **Phone (Wk):** 027 631 1410

Phone (Cell): 027 631 1410 **Preferred method of contact:**

Contact person and address for service [if different from above]:
Andy or Jackie Campbell

Please turn over

PART B: Trade Competition

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Signature: A-W-Campbell
[Signature of person making submission, or authorised to sign on behalf of person making the submission]

Date: 15 / 9 / 2016

(A signature is not required if you make your submission by electronic means)

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(1) Process of handling of our Situation	Drawing a Boundary with out proper consultation with us, landowner.	We Wish person to walk our Boundary with us.
(2) Boundary	we made a fair offer and was not even Considered	we want a proper negotiation process
River Protection	What portion of River protection is to be paid DOC/ WCRC	?
who are we actually dealing with	Doc / WCRC. ?	

Attach further sheets as required

Consent Part in to finish Development was not excepted. (Phil Mikunel Signed)

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THE WEST COAST
REGIONAL COUNCIL

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Full name: Gordon Douglas Bradley

Organisation: _____
[The organisation that this submission is on behalf of, if applicable]

Postal address: 99 Blair Road RD1 Dobson **Post Code:** 7872

Email: bradleyfarming@gmail.com **Phone (Hm):** 03-7625798 **Phone (Wk):** _____

Phone (Cell): 027 3791118 **Preferred method of contact:** 027 379 1118

Contact person and address for service [if different from above]:

_____

Please turn over

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  - [ ] I **am** directly affected by an effect of the subject matter of the submission.
  - [ ] I **am not** directly affected by an effect of the subject matter of the submission.

Signature: G.D. Bradley. **Date:** 14/9/2016

[Signature of person making submission, or authorised to sign on behalf of person making the submission]

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The proposed Schedule 2 wetland boundary change on my property. map HOCP004 Candle light Pakihi.	Support in part.	That the remaining mapped area on my property is removed from the Schedule 2 wetland classification. The s32 map highlights the reason for removal being that the area is not a functioning wetland, it has conspicuous pasture development, undergone spraying for pest plants and sown with exotic grass sead. As all the mapped area of my farm has been modified in exactly the same way (subsurface drginage, pasture development, and sown with exotic grasses) it is unclear why only a portion is proposed to have the wetland classification removed. This area has no wetland values attached to it and should no be subject to the land use restriction imposed

Attach further sheets as required P.T.O.

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		on wetland areas. For consistency and workability, all mapped wetland areas on my farm should be removed.

Attach further sheets as required

M & W Brooks.

Kaihinu Farms LTD.

RD2 Hokitika 7882.

12 September 2016

The West Coast Regional Council.

388 Main South Rd

Paroa.

Dear Sir/Madam.

Re the proposed changes to schedule 2 land on our property.

PART 1: I have not studied the changes to the rules & policies etc as no one has sent me a copy of the said changes. I did have a glance on a computer and decided I would need to be an ecologist or lawyer to decipher it.

PART 2: I have no real objections to the change of boundaries regarding our property as they are obviously of no ecological value.

PART 3: I know nothing of this so won't comment.

General Discussion:

I am a bit annoyed by the lack of consultation and general help by the W.C.R.C

i.e. We own the land and have no say as to what we can do on our land. If you look at aerial maps on our land you will see that we have preserved most of our stands of trees. So we are conservationists at heart, however we do this by choice not dictation.

I have approached the W.C.R.C on occasion to ask for help towards fencing & spraying of weeds etc to help preserve the land they want to lock up. They politely told me no and where to go. I think that if you want to preserve land that is not yours you need to do your bit.

If we were to let loose our herd of beef cows on the said land (which is supposedly of significant ecological value) they would soon destroy it. As we seem to care more about the said land than yourselves we have fenced most of it to keep the animals out. Maybe you need to work in with people rather than act as dictators which always puts peoples backs up.

Rates: I think that the land owners of scheduled lands should be exempt of paying rates on the parts of land in the schedule in both W.C.R.C and W.D.C (I don't think DOC pay rates on their land).

Land Values: I think that some of the land owners have been financially disadvantaged by having a schedule 2 slapped on them, as it has made it harder for them to sell as they or future owners can't do what they want (We personally bought the land knowing it was on there).

I think the land owners that have a large portion of their land affected should be financially compensated or buy their land off them if mutually agreed. As you know DOC assessed our land as significantly of ecological value and tried to buy it. They absolutely insulted us with a pathetic offer. We did not want to be greedy but only wanted a fair price. So maybe if our land has no real financial value- take it off the schedule altogether so that its value can be increased by whatever means.

[redacted] If any of your team care enough they are welcome to see what we have done and will do in the future with our land.

We are happy to meet with you regarding the above letter.

Yours faithfully,

Mike & Wendy brooks.

THE WEST COAST
REGIONAL COUNCIL

388 Main South Rd, Paroa
P.O. Box 66, Greymouth 7840
The West Coast, New Zealand
Telephone (03) 768 0466
Toll free 0508 800 118
Facsimile (03) 768 7133
Email info@wcrc.govt.nz
www.wcrc.govt.nz

22 August 2016

KAIHINU FARMS LIMITED
82 One Mile Line Road
RD 2
HOKITIKA 7882

Dear KAIHINU FARMS LIMITED

Proposed Plan Change 1 to the Regional Land and Water Plan for Consultation

The West Coast Regional Council (the Council) is pleased to notify, for public consultation, Proposed Plan Change 1 to the Regional Land and Water Plan.

Proposed Plan Change 1 has three parts:

- PART 1: Miscellaneous changes to the policies, rules, definitions, and other sections of the Plan.
- PART 2: Changes to wetland boundaries within Schedule 1 and 2 to omit areas that are not ecologically significant.
- PART 3: Changes to Wetland KAGP008 to recognise cultural and spiritual values.

The Council is seeking your feedback on the proposed Plan Change, including the boundary adjustments proposed to a scheduled wetland on your property. Enclosed is a map showing the areas of scheduled wetland proposed for amendment. Public submissions will be received until **5.00pm Friday 16 September 2016.**

A copy of Proposed Plan Change 1, accompanying Section 32 Evaluation Report, an information sheet on how to make a submission, and a submission form, are available at: www.wcrc.govt.nz/pc1.

Should you have any questions regarding the Proposed Plan Change please contact the Planning Team on 0508 800 118 or email Plan@wcrc.govt.nz.

Yours faithfully

Sarah Jones
Planning Team Leader

Submission on the
Proposed Plan Change 1 to the Regional Land and Water Plan

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Full name: Ian Aynsley

Organisation: Coastpak
[The organisation that this submission is on behalf of, if applicable]

Postal address: RD2 Three Mile, Hokitika **Post Code:** 7882

Email: ian@besgrow.com **Phone (Hm):** 03 7626689 **Phone (Wk):** 03 7558552

Phone (Cell): 0272274001 **Preferred method of contact:** Cell Phone

Contact person and address for service [if different from above]:

Please turn over

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- ☐ I **am not** directly affected by an effect of the subject matter of the submission.

Signature: _____ **Date:** 14/09/2016

[Signature of person making submission, or authorised to sign on behalf of person making the submission]

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Miscellaneous change N, to remove the " harvesting of sphagnum moss " from the definition of " Vegetation disturbance.	I support this proposed change by the Council. This change removes one possible hindrance to the industry as it strives firstly to retain and then maintain these sphagnum moss producing wetland areas. The nature of the industry is environmentally friendly and the effects are accurately described in the Regional Council document as " Less than minor ". With the loss of huge areas due to development over the last 25 years it is critical that the remaining sphagnum moss producing wetland areas (In both public and private ownership) are able to be managed to be sustainable and economically viable for the Owner, Industry and the region. (Approx 65 Jobs) A Ministry of Economic Development Report identified Sphagnum Moss as a sustainable West Coast Industry.I feel the proposed plan change By the West Coast Regional Council is positive.	

Attach further sheets as required

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West Coast Regional Council
388 Main Road South
Paroa
Greymouth 7840

3rd September 2016

Proposed Plan Change1 to the Regional Land & Water Plan HOK P099.

Dear Sarah Jones.
Further to our telephone conversation on 1st September 2016. I have attached a plan showing the changes I would like to see in place on land designated as RS. 1182.(HOKP099).
I would like to retain all land within the True Right of the existing waterway that backs on to my grazing area. Also would like to retain the area that forms the bird habitat adjacent to my grazing area.
This water way is a major component within the grazing area as it helps in the drainage process throughout the top farm. This drain needs to be cleared at times to maintain flow. Also this drain starts at the top of my property then continues through the adjacent land so this access water needs to be controlled on my property.
The area within the bird habitat has been built up over the years to provide a small pond for all bird life to use & also assist in water flow in high rainfall.
The wet land area within RS.1068 and RS.1150 has also been used to supplement my income by picking moss. I have been picking moss over 25 years in this area. I have sprayed the gorse, crushed the gorse and have picked moss at various places over a 5-6 year cycle. This I hope to continue for future generations.

Doug Chinn. Doug Chinn

September 1, 2016

TLA

West Coast Region

Note: The orange line is where Douglas would like the wetland boundary to be.

1:1,905

0 0.0225 0.045 0.09 mi

0 0.0375 0.075 0.15 km

Submission on the
Proposed Plan Change 1 to the Regional Land and Water Plan

Return your signed submission to the West Coast Regional Council by 5.00pm, Friday 16 September 2016

Submissions may be:

a) Posted to: Proposed Plan Change 1 - L&WP, West Coast Regional Council, PO Box 66, Greymouth 7840
b) Delivered direct to the West Coast Regional Council at 388 Main South Road, Greymouth
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PART A: Submitters contact details

Public information - all information contained in a submission under the Resource Management Act 1991, including names and addresses for service, becomes public information. Your information is held and administered by the West Coast Regional Council in accordance with the Local Government Official Information and Meetings Act 1987 and the Privacy Act 1993. This means that your information may be disclosed to other people who request it in accordance with the terms of these Acts. It is therefore important you let us know if your form includes any information you consider should not be disclosed.

Full name: David R. Knighton, CEO

Organisation: Creative Water Solutions, LLC
[The organisation that this submission is on behalf of, if applicable]

Postal address: 13809 Industrial Park Blvd., Plymouth, MN USA **Post Code:** 55330

Email: dknighton@cwsnaturally.com **Phone (Hm):** _____ **Phone (Wk):** 7633980141

Phone (Cell): _____ **Preferred method of contact:** email

Contact person and address for service [if different from above]:

Gina M. Chavez, COO - gchavez@cwsnaturally.com - 763.398.0141

Please turn over

PART B: Trade Competition

As per Schedule 1 of the Resource Management Act 1991, a person who could gain an advantage in trade competition through the submission may make a submission only if directly affected by an effect of the proposed policy statement that:

a) Adversely affects the environment
b) Does not relate to trade competition or the effects of trade competition.

Please tick the sentence that applies to you:

☐ I **could not** gain an advantage in trade competition through this submission; or

☑ I **could** gain an advantage in trade competition through this submission. *If you have ticked this box, please select one of the following:*

- ☑ I **am** directly affected by an effect of the subject matter of the submission.
- ☐ I **am not** directly affected by an effect of the subject matter of the submission.

Signature: Gina M. Chavez **Date:** September 15, 2016

[Signature of person making submission, or authorised to sign on behalf of person making the submission]

(A signature is not required if you make your submission by electronic means)

PART C: Request to be Heard

☐ I **do not** wish to be heard in support of my submission; or

☑ I **do** wish to be heard in support of my submission; and if so,

☑ I would be prepared to consider presenting my submission in a joint case with others making a similar submission at any Hearing.

The specific provisions of the proposal that my submission relates to are:	**My submission is that:** *(State concisely whether you support or oppose each separate provision being submitted on, or wish to have amendments made, and the reasons for your views)*	**I seek the following amendments from the West Coast Regional Council:** *(Give precise details for each provision. The more specific you can be, the easier it will be for the Council to understand your concerns.)*
Harvesting of Sphagnum Moss	I support the Harvesting of Sphagnum from Wetlands without the need for resource consent due to the low impact of this activity on the overall health and integrity of a Wetland. A well managed harvesting cycle will result in a Wetland and a Moss Industry, the jobs and export dollars that come with that. The two can co-exist indefinitely for the benefit of both whilst retaining diversity in our economy.	

Attach further sheets as required

The specific provisions of the proposal that my submission relates to are:	**My submission is that:** *(State concisely whether you support or oppose each separate provision being submitted on, or wish to have amendments made, and the reasons for your views)*	**I seek the following amendments from the West Coast Regional Council:** *(Give precise details for each provision. The more specific you can be, the easier it will be for the Council to understand your concerns.)*

Attach further sheets as required

Department of Conservation
Te Papa Atawhai

DOCDM-2875678

16 September 2016

Chief Executive Officer
The West Coast Regional Council
P O Box 66
GREYMOUTH 7840

Attention: Sarah Jones

Dear Sarah,

West Coast Regional Land and Water Plan Plan Change 1

Please find enclosed the submission by the Director-General of Conservation in respect of the West Coast Regional Land and Water Plan Plan Change 1.

Please contact Ken Murray in the first instance if you wish to discuss any of the matters raised in this further– 03 3713759 / kmurray@doc.govt.nz.

Yours sincerely

Mark Reid Davies
Director Operations
Western South Island

Department of Conservation *Te Papa Atawhai*
Christchurch Shared Services
Private Bag 4715, Christchurch Mail Centre, Christchurch 8140, New Zealand
www.doc.govt.nz

RESOURCE MANAGEMENT ACT 1991

SUBMISSION ON THE WEST COAST REGIONAL LAND AND WATER PLAN: PROPOSED PLAN CHANGE 1

TO:	West Coast Regional Council
SUBMISSION ON:	Regional Land and Water Plan Proposed Plan Change 1
NAME:	Director-General of Conservation
ADDRESS:	RMA Shared Services Department of Conservation Private Bag 4715 Christchurch Mail Centre 8140 Attn: Ken Murray

STATEMENT OF SUBMISSION BY THE DIRECTOR-GENERAL OF THE DEPARTMENT OF CONSERVATION

Pursuant to clause 6 of the First Schedule of the Resource Management Act 1991 (RMA), I, Mark Reid Davies, Director Operations Western South Island, Department of Conservation acting upon delegation from the Director-General of the Department of Conservation, make the following submission in respect of the Regional Land and Water Plan Proposed Plan Change 1 to the West Coast Regional Council.

1. This is a submission on the West Coast Land and Water Plan: Plan Change 1.

2. The specific provisions of the Proposed Plan that my submission relates to are set out in Attachment 1 to this submission. The decisions sought in this submission are required to ensure that the Proposed Plan Change 1:
    a. Gives effect to the New Zealand Coastal Policy Statement 2010 and the National Policy Statement for Freshwater Management 2014;
    b. Promotes the sustainable management of natural and physical resources in particular the protection of the significant natural resources of the West Coast;
    c. Recognises and provides for the matters of national importance listed in section 6 of the Act and to have particular regard to the other matters in section 7 of the Act;
    d. Gives effect to the decisions of the Environment Court on the Land and Water Plan; and
    e. The changes sought are necessary, appropriate and sound resource management practice.

3. **I seek** the following decision from the Council:

    3.1 That the particular provisions of West Coast Land and Water Plan: Plan Change 1 that I support, as identified in Attachment 1, are retained.

3.2 That the amendments, additions and deletions to West Coast Land and Water Plan: Plan Change 1 sought in Attachment 1 are made.

3.3 Further, consequential or alternative relief to like effect to that sought in 3.1 – 3.2 above.

4. I wish to be heard in support of my submission and if others make a similar submission, I may consider presenting a joint case with them at the hearing.

Mark Reid Davies
Director Operations
Western South Island

Pursuant to delegated authority
From
Louis Vernon Sanson
Director-General of Conservation

Date: 16 September 2016

Note: A copy of the Instrument of Delegation may be inspected at the Director-General's office at Conservation House Whare Kaupapa Atawhai, 18/32 Manners Street, Wellington 6011.

Address for service of person making further submission:

RMA Shared Services
Department of Conservation
Private Bay 4715
Christchurch Mail Centre 8140

Contact person: Ken Murray
Telephone: 03 3713759
email: kmurray@doc.govt.nz

ATTACHMENT 1:

WEST COAST REGIONAL COUNCIL LAND AND WATER PLAN
PROPOSED PLAN CHANGE 1
SUBMISSION BY THE DIRECTOR-GENERAL OF CONSERVATION

The specific provisions that my submission relates to are set out in Attachment 1. My submissions are set out immediately following these headings, together with the reason and the decision I seek from the Council.

The decision that has been requested may suggest new or revised wording for identified sections of the proposed plan change. This wording is intended to be helpful but alternative wording of like effect may be equally acceptable. Text quoted from West Coast Land and Water Plan: Plan Change 1 is shown in *Italics*. The wording of decisions sought shows new text as <u>underlined</u> and original text to be deleted as ~~*strikethrough.*~~

Unless specified in each submission point my reasons for supporting are that the policies are consistent with the purposes and principles of the Resource Management Act 1991 (RMA).

PC REF	PLAN PROVISION	POSITION AND REASON	RELIEF SOUGHT
Page 1 Introduction 1.2 Area covered by the plan	New Provision Second paragraph And Figure 1	Support in part. The introduction including Figure 1 does not give effect to Policy 1(2)(a) of the New Zealand Coastal Policy Statement 2010 (NZCPS) as the coastal environment includes the coastal marine area.	Retain the second paragraph as notified with the last sentence amended to read: *...Unless otherwise stated, all objectives, policies, and rules in the Land and Water Plan apply to the "Coastal Environment"* <u>landward of the Mean High Water Spring Mark.</u> And amend Figure 1 to have the coastal environment extent to extend from outer limit of the Territorial Sea to and landward of the Mean High Water Spring line.
Page 2 Chapter 8 Surface Water Quality	Policy 8.3.5	Support. In the coastal environment outside of the coastal marine area, this policy gives effect to NZCPS Policy 23 (2). The proposed amendments are also consistent with the Resource Management Act 1991 (RMA) in particular Part 2 including s5 and s6(e) and Schedule	Retain the proposed amendments to Policy 8.3.5 and its explanation as notified.

PC REF	PLAN PROVISION	POSITION AND REASON	RELIEF SOUGHT
		4.	
Page 4-5 Introduction to the Rules	Riparian margins	Support **in part.** The 20 metre riparian margin from the bed of lakes or rivers is strongly supported. This riparian margin creates a buffer between any adjacent land uses and these lake and river beds and strongly assists in managing land use effects on in particular water quality. It is also consistent with the RMA in particular Part 2 especially s6(a) and the esplanade reserve and strip provisions. The buffer should also apply to Schedule 1 or 2 wetlands and their margins to be consistent with the Land and Water Plan policies. The sentence in Riparian Margins and Advisory Note can be read that these provisions only apply to the Lake Brunner catchment.	Retain the Section on Riparian Margins as notified with the following amendments: *The dominant slope angle is the angle between the fullest flow /highest level of the bed of the lake or river,* or Schedule 1 or 2 wetland *or* in the case of Lake Brunner Catchment *major farm drain ~~in Lake Brunner Catchment~~ and a point 20 metres upslope as illustrated in the diagram below.* And amend the advisory note 2. to read: *...terrestrial vegetation immediately adjacent to the lake or river* or Schedule 1 or 2 wetland or in the case of Lake Brunner Catchment *major farm drain ~~in Lake Brunner Catchment water body.~~*
Rules	Rules 1, 2, 3 4,5,6, 12, 86	Support. The standard conditions to manage effects of sediment discharge to water by using visual clarity and turbidity standards are supported as these standard conditions will manage the effects of sediment discharges on water quality.	Retain Standard Conditions for visual clarity and turbidity as notified.
Rules	Rules 3, 4 and 5	Support. Rules controlling earthworks on slopes will result in reduced discharge of sediment to water. It is noted in Rule 3 there is a typographic error. It should read 1:4.7 ratio.	Retain these rules as notified with the following amendment to Rule 3: *Or a 1:4.7 ratio*
Rules	Rule 20	Support. The proposed change ensures that structures on river or lake beds cannot be increased in extent by more than 10 % without an application for consent. This proposed change will manage the cumulative effects of extensions of structures on the values of lake and river beds.	Retain the Change to Rule 20 (ii) (b) as notified.
Rules	Rule 34	Support in part. The inclusion to the reference to the erection of	Amend Rule 34 to read; *The erection of whitebait stands listed in Tables 1 and 2*

PC REF	PLAN PROVISION	POSITION AND REASON	RELIEF SOUGHT
		whitebait stands listed in Tables 1 and 2 of Schedule 17 is supported as this rule clearly identifies where whitebait stands can or cannot be erected. There is a potential concern about the change of the activity status from restricted discretionary to controlled activity. Whilst it is agreed the adverse effects are minor, there is a potential situation where two applicants apply to occupy the same space with a whitebait stand. One application will have to be declined, which cannot occur using a controlled activity rule.	*of Schedule 17 is a* restricted discretionary ~~*controlled*~~ *activity.* *In* considering ~~*granting*~~ *any resource consent under this Rule Council* will restrict *the exercise* of its discretion ~~*control*~~ *over the following matters*: ....
New Rule	Rule 34a	Support. This rule clarifies where whitebait stands cannot be erected. It is therefore strongly supported.	Retain this Rule as notified.
Glossary	Vegetation disturbance	Oppose. Allowing sphagnum moss harvesting in Schedule 1 and 2 wetlands as a permitted activity may have adverse effects on other indigenous vegetation and have adverse effects on any brown mudfish populations present. On Schedule 1 and 2 wetlands on land managed by the Department, the proposed changes are contrary to the West Coast Conservation Management Strategy as it is considered these wetlands are significant.	Retain this definition as notified with the deletion of the following words: *...excludes ~~sphagnum moss harvesting~~, tree pruning ...*
Schedule 1 and 2	Schedule 1 and 2: Significant wetlands of the West Coast Region	Support. The case by case assessment of whether the Regional Coastal Plan or the Land and Water Plan applies to wetlands on or adjacent to the coastal marine area is supported as it is pragmatic way of managing a complex situation.	Retain the provision with regard to Scheduled wetlands within or adjacent to the coastal marine area (CMA) as notified.
Schedule 1 and 2	Schedule 1 and 2: Significant wetlands of the West Coast Region	Support. The Schedules and Maps for the Schedule 1 and 2 wetlands is supported as the maps accurately reflect the extent of the wetlands. The following wetlands are excluded and will be discussed below: • Schedule and Map for wetlands FOUP016	Retain the reference guides and Maps for the Schedule 1 or 2 wetlands as notified except for: • Schedule and Map for wetlands FOUP016 South Westport and FOUP052 Okari Road; • Schedule and Map for wetland BRUP003 Lake

PC REF	PLAN PROVISION	POSITION AND REASON	RELIEF SOUGHT
		South Westport and FOUP052 Okari Road; • Schedule and Map for wetland BRUP003 Lake Poerua; • Schedule and Map for wetland HOKP107 Serpentine and Acre Creeks;	Poerua; • Schedule and Map for wetland HOKP107 Serpentine and Acre Creeks;
Schedule 1 and 2	Schedule and Map for Wetland FOUP016 South Westport	Support in part. Minor boundary changes are required by shifting the shape file to exclude farmland and include the wetland that is presently outside of the proposed wetland boundary.	Amend the Map FOUP016 as notified by shifting the shape file to exclude farmland and include wetland outside of the wetland boundary.
Schedule 1 and 2	Schedule and Map for Wetland FOUP052 Okari Road	Support in part. Minor boundary changes are required by shifting the shape file to exclude farmland and include the wetland that is presently outside of the proposed wetland boundary.	Amend the Map FOUP052 as notified by shifting the shape file to exclude farmland and include wetland outside of the present wetland boundary.
Schedule 1 and 2	Schedule and Map for Wetland BRUP003 Lake Poerua	Support in part. The landward boundary of the wetland on the margins of Lake Poerua may not follow the drain that has been constructed to intercept drainage from the farmland.	Amend the Map for Wetland BRUP003 Lake Poerua by ensuring the landward boundary of this wetland follows the drain constructed to intercept water from the surrounding farmland.
Schedule 1 and 2	Schedule and Map for Wetland HOKP107 Serpentine and Acre Creeks	Oppose. The deletion of the triangular shaped part of the wetland is opposed as this wetland values are the same as the neighbouring two blocks managed by DOC: - Kumara Scenic Reserve; - Kapitea Creek Stewardship Area. The values are also the same as the adjacent Kumara Junction pakihi management unit and ecosystem asset.	Amend the Map for Wetland HOKP107 Serpentine and Acre Creeks by including the triangular piece of wetland proposed to be excluded as a Schedule 2 wetland.

Submission to the West Coast Regional Council's (WCRC's) Proposed Plan Change 1 to the Regional Land and Water Plan ('the Plan Change').

Name of submitter: Paul Elwell-Sutton.
Postal address: P.O.Box 99, Haast, Westland 7844.
Residential address: Snapshot creek, Haast, Westland 7886.
Phone: No phone.
Email: pelwellsutton@fastmail.fm

Statement:
1.) I live in Haast where I have resided since January 2001.
2.) I make this submission on my own behalf, and do not represent any group, party, trust, organisation, cooperative, lobby group or otherwise.
3.) I have no pecuniary interest in the outcome of this plan change.
4.) I **do wish** to be heard.
5.) I would be prepared to present my submission in conjunction with others making submissions on the same matter at a hearing.

Submission
1.) I oppose the proposed change to exclude sphagnum moss harvesting from the definition of 'vegetation disturbance' in the glossary on page 22.
Reasons:
a.) By excluding sphagnum moss harvesting ('moss harvesting') from the definition of vegetation disturbance, in the context of Rules 9, 10, 17 and 19 (which govern vegetation disturbance), of the operative Land and Water Plan ('the Plan'), moss harvesting will become a de facto **permitted and uncontrolled** activity in all scheduled (1 &2) wetlands, as well as any wetlands which might or could become scheduled.
The Evaluation Report provided by the WCRC, claims that the effects of moss harvesting on wetlands 'are known to be minimal', 'less than minor', 'well known and minor'. These statements are unsubstantiated and specious because:
No account has apparently been taken of the scale, timing and method or mode of harvesting, or of the ecological characteristics and values of individual wetlands, including the schedule 3 (Ecological Criteria for Significant Wetlands) values of all schedule 1 wetlands and potentially some or all schedule 2 wetlands which are still awaiting schedule 3 assessments.
There has been no apparent recognition or study of the effects of any scale or mode/method of moss harvesting and the activities associated with it, on the birdlife largely peculiar to, and dependent on wetland habitats, such as Australasian Brown Bitterns (*Botaurus poiciloptilus*), Fernbirds (*Bowdleria punctata*) and potentially White Herons (*Egretta alba*) and White-faced Herons (*Ardea novehollandiae*), plus other indigenous birdlife commonly found living and breeding in wetlands. Some of these species are nationally endangered (bittern) vulnerable, rare and/or in decline.
b.) Objective 6.2.1. of the Plan states "To recognise and provide for the protection of the natural character, **indigenous biodiversity** (my bold lettering), and other values of wetlands in the region", while Policies 6.3.1 and 6.3.2 refer to "**controlling**" activities within schedule 1 and schedule 2 wetlands in order to "identify and protect" their values.
Policy explanation 6.3.1 explains that "Any wetland modification is likely to result in the degradation or loss of the values of the wetlands or the wetlands themselves".

The proposed change does not make clear how uncontrolled moss harvesting within schedule 1 wetlands will not result in "the degradation or loss of values" of those wetlands. The same criteria apply to schedule 2 wetlands.
By making moss harvesting a permitted activity in scheduled wetlands this Plan change fails to "recognise and provide for the protection of the indigenous biodiversity" of wetlands, and fails to exert control over that activity in "order to identify and protect" their values.
c.) Part 2 of the Resource Management Act (RMA), sets out the environmental protection principles against which human activities can take place, and places an onus on decision-makers to sustain, safeguard, protect, maintain and enhance environmental values.
In proposing to allow uncontrolled moss harvesting within scheduled wetlands, Council is seeking to override and subjugate these principles, and indeed the spirit of the RMA, for apparent political expediency.

Therefore **I request** council to withdraw the proposed exclusion of sphagnum moss harvesting from the definition of vegetation disturbance.
Note:
If moss harvesting is to take place in wetlands on the Coast, it must be subject to controls, and not take place in schedule 1 wetlands. Any other wetlands must be assessed according to schedule 3 criteria prior to being considered available for moss harvesting.
It may be advantageous and necessary to create a schedule of wetlands available for moss harvesting, plus conditions governing the scale, time and mode of harvesting.

2.) I oppose all changes to scheduled wetland boundaries where those changes remove marginal strip-like areas along the wetland margins.
Reason:
Policies 6.3.1 and 6.3.2 and their explanations in the WCRC's Land and Water Plan refer to protecting wetlands **and their margins**, and mapping them to include "sufficient margins where necessary to control adjoining land drainage activities that might otherwise affect the natural water level within the wetland itself and have adverse effects on the values present".
The proposed changes do not make clear whether or not the margins removed are in fact what are "sufficient margins where necessary", and are mapped as integral to the wetland for that reason.
Therefore **I request** that the Proposed Plan Change make clear whether or not the strips proposed for removal have in fact been assessed for their importance or otherwise as "sufficient margins" for the wetlands concerned, and list the qualifications of the person(s) making those assessments, and whether those assessments were peer-reviewed.

3.) I oppose the removal of any wetland areas in the Hapuka river catchment or basin (Maps HAAP 009 and HAAP 012 Turnbull Waiatoto pages 74-75).
Reason:
Unlike other South Westland rivers, the Hapuka river and estuary upstream of the Jackson Bay road bridge never carries a high sediment load, and its water quality is high, despite the brown colouration, due to the tannin content derived from the peaty indigenous forests and wetlands which it drains, making it particularly unique in New Zealand, and especially vulnerable to any land development in its catchment.
Despite these features, the Hapuka river is perhaps the most publicly accessible relatively unmodified estuary of its type in New Zealand, and certainly on the West Coast.
The Hapuka estuary walk, which is wheel-chair accessible and maintained by the Department of Conservation (DOC), is one of the West Coast's premier self-guide nature walks, and the

river itself, plus the tributary of Groper creek, may be kayaked upstream for several kilometres on a high tide to experience magnificent and primeval rimu and kahikatea forests, (the latter indicative of swampy ground), including past the main and largest of the wetland sections proposed for excision from the schedule 2 wetland classification. The Hapuka is also a catchment where, upstream of the Jackson Bay road bridge, whitebaiting is prohibited, in further and official recognition of its unique and highly valuable conservation status.
In addition, eminent New Zealand naturalist Kerry-Jayne Wilson, of Charleston (Buller), in her highly regarded naturalist's guide to the West Coast, "West Coast Walking", confirms the high conservation values of this river and its catchment.
Within the past 7 days I have, by kayak, visited the area on the true right of the Hapuka river for which excision from schedule 2 is proposed, and can assure Council that it is wetland forest and scrubland, with mainly typical wetland indigenous vegetation such as kahikatea, manuka, cutty grass (sedges), small-leaved coprosmas, astelias, and occasional rimu. The trees are scattered, and most vegetation is indigenous scrub.
The proposed excisions imply opening the excised areas for development. Land development in the still undeveloped parts of the Hapuka river basin will impact negatively on their very high conservation values, and degrade the remarkable nature experience which visitors can expect, and which is promoted as one of Haast's attractions.
For these reasons, it is crucial that no changes be made to existing wetland boundaries within the Hapuka river catchment or basin.
Therefore **I request** to Council, that all reaches of the river upstream of the road bridge be scheduled as schedule 1 wetland and removed from all land development pressures and activities, with a full recovery plan developed and applied for those sections which have been cleared and developed for pastoral use (true left of river upstream of road bridge as far as Groper creek confluence and true left of Groper creek).

4.) I propose and **request** that council schedule the wetland located on Callery Flat, on the true left of the Arawhata river as a Schedule 2 wetland in the Proposed Plan Change.
Reason:
This wetland is a very large wetland in one of the largest, if not the largest, of the wide and open river valleys in South Westland. The Arawhata river has an iconic landscape, recreational and conservation status, and its catchment is home to rare and threatened bird species including the Haast Tokoeka, Kaka, Kea, Kakariki and NZ Falcon, and has exceedingly high conservation values.
For these reasons, this wetland should in the first instance receive schedule 2 status pending a schedule 3 assessment (Ecological Criteria for Significant Wetlands).

End of submission.

Paul Elwell-Sutton.
Haast.
9/9/2016

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Proposed Plan Change 1 to the Regional Land and Water Plan

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Full name: Gerald Peter Essenberg

Organisation: _____
[The organisation that this submission is on behalf of, if applicable]

Postal address: 29 Kotare Place **Post Code:** 7300

Email: gerry@kaikoura.govt.nz **Phone (Hm):** _____ **Phone (Wk):** _____

Phone (Cell): 0272246597 **Preferred method of contact:** _____

Contact person and address for service [if different from above]:

_____

Please turn over

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Please tick the sentence that applies to you:

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☐ I **could** gain an advantage in trade competition through this submission. *If you have ticked this box, please select one of the following:*

- ☑ I **am** directly affected by an effect of the subject matter of the submission.
- ☐ I **am not** directly affected by an effect of the subject matter of the submission.

Signature: GP Essenberg **Date:** 13/8/16

[Signature of person making submission, or authorised to sign on behalf of person making the submission]

(A signature is not required if you make your submission by electronic means)

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☐ I **do not** wish to be heard in support of my submission; or

☑ I **do** wish to be heard in support of my submission; and if so,

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HAAP012 Turnbull Specifically Sec 1 SO 394482 Pt SEC 1 SO11949	This section in Schedule 2 wetland also needs to be removed from the Plan as it was incorrectly added. There has never been an ecological study undertaken on the land that shows that this is wetland. a study would identify that this land was previously logged in the 1950's and is slowly regenerating. The land is also dry under drought conditions and does not have any of the species normally associated with a wetland. Unless a detailed report can show that this is a significant wetland then the council must remove this from the schedule.	That Sec 1 SO 394482 Pt SEC 1 SO11949 be removed from the Schedule.

Attach further sheets as required

The specific provisions of the proposal that my submission relates to are:	**My submission is that:** *(State concisely whether you support or oppose each separate provision being submitted on, or wish to have amendments made, and the reasons for your views)*	**I seek the following amendments from the West Coast Regional Council:** *(Give precise details for each provision. The more specific you can be, the easier it will be for the Council to understand your concerns.)*

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THE WEST COAST
REGIONAL COUNCIL

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Full name: Mrs Karen Boyd.

Organisation: Est of Graham R Boyd.
[The organisation that this submission is on behalf of, if applicable]

Postal address: 52 Schadick Avenue Carters Beach Westport. **Post Code:** _____

Email: _____ **Phone (Hm):** 027507 3866 **Phone (Wk):** _____

Phone (Cell): 027507 3866. **Preferred method of contact:** _____

Contact person and address for service [if different from above]:

_____

Please turn over

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Please tick the sentence that applies to you:

- [x] I **could not** gain an advantage in trade competition through this submission; or
- [ ] I **could** gain an advantage in trade competition through this submission. *If you have ticked this box, please select one of the following:*
  - [ ] I **am** directly affected by an effect of the subject matter of the submission.
  - [ ] I **am not** directly affected by an effect of the subject matter of the submission.

Signature: _____ **Date:** 13/9/2016.

[Signature of person making submission, or authorised to sign on behalf of person making the submission]

(A signature is not required if you make your submission by electronic means)

PART C: Request to be Heard

- [ ] I **do not** wish to be heard in support of my submission; or
- [x] I **do** wish to be heard in support of my submission; and if so,
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	This should have been on the LIMS report as it was a court requirement. Information of this importance should be past on to other Council or authorities.	
	The Regional council should have come around and marked	
	where these purpose new boundary areas a pencil line on a aerial photo map or GPS. are just not accurate enough. and this need to be accurate.	
	I will not support this ~~until~~ submission or proposal boundary change! The Regional Council can buy the land they want	

Attach further sheets as required

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Full name: Geoffrey Mansell

Organisation: Exotica Plants
[The organisation that this submission is on behalf of, if applicable]

Postal address: 368 Hodges Road, Cordalba. Queensland. Australia **Post Code:** 4660

Email: geoff@exoticaplants.com.au **Phone (Hm):** +61 7 41266434 **Phone (Wk):** +61 7 41266434

Phone (Cell): 0413292432 **Preferred method of contact:** email

Contact person and address for service [if different from above]:

Please turn over

PART B: Trade Competition

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[Signature of person making submission, or authorised to sign on behalf of person making the submission]

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Harvesting of Sphagnum Moss	I support the Harvesting of Sphagnum from Wetlands without the need for resource consent due to the low impact of this activity on the overall health and integrity of a Wetland. A well managed harvesting cycle will result in a Wetland and a Moss Industry, the jobs and export dollars that come with that. The two can co-exist indefinitely for the benefit of both whilst retaining diversity in our economy.	

Attach further sheets as required

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Attach further sheets as required

FEDERATED FARMERS OF NEW ZEALAND

Federated Farmers of New Zealand

Submission on Plan Change 1 to the West Coast Land and Water Plan

16 September 2016

0800 327 646 | FED FARM .ORG.NZ

SUBMISSION TO WEST COAST REGIONAL COUNCIL ON PLAN CHANGE 1 TO THE REGIONAL LAND AND WATER PLAN

Form 5
Submission on publicly notified proposal for policy statement or plan
Clause 6 of First Schedule, Resource Management Act 1991

To: West Coast Regional Council
PO Box 66
Greymouth 7840
Plan@wcrc.govt.nz

Name of submitter: Federated Farmers of New Zealand

Contact: Angela Johnston
SENIOR REGIONAL POLICY ADVISOR

M 021 518 271
E ajohnston@fedfarm.org.nz

Address for service: Federated Farmers of New Zealand
PO Box 20448
Bishopdale
Christchurch 8543

This is a submission on the following proposed plan change – Proposed Plan Change 1 to the Regional Land and Water Plan.

Federated Farmers could not gain an advantage in trade competition through this submission.

The specific provisions of the proposal that the submission relates to and the decisions we seek from Council are as detailed on the following pages.

Federated Farmers wishes to be heard in support of this submission.

West Coast Regional Council – Land and Water Plan, Proposed Plan Change 1

Federated Farmers of New Zealand (FFNZ) welcomes the opportunity to submit on the proposed plan change 1 to the Regional Land and Water Plan.

FFNZ acknowledges and supports individual members' submissions, particularly in relation to proposed boundary changes on their property.

PART 1 – Miscellaneous Changes

Rule 28 Flood protection works

It is unclear why work must be completed within 5 consecutive days as per 28(d). The proposed wording creates unnecessary risk for landowners should a contractor start and is unable to complete work due to circumstances outside their control eg equipment failure or bad weather.

Relief sought:
Retain original wording

Components of the proposed rule 28(k) present unnecessary regulation, risk and potentially cost to the landowner if they have no "before" photos. In the majority of circumstances it will be easily ascertained the effects and damage a flood has caused.

Relief Sought:
Delete 28(k) i and iii

FFNZ would like an explanation included in the plan regarding 28(k). Clarity is required as to what level of evidence is acceptable to WCRC eg mobile phone photographs, receipts for materials purchased and invoices from contractors.

Rule 34 White Bait Stands
FFNZ commends WCRC for proposing white bait stand consents be a controlled activity instead of a restricted discretionary activity. This is an efficient use of WCRC resources.

Relief Sought:
Adopt proposed wording

Rule 72 Silage and silage wrap
FFNZ agrees with WCRC removing burning of silage wrap, which is consistent with the Regional Air Quality Plan and the National Environment Standard for Air Quality. However, the permitted alternatives need to be readily available and easily accessible to all eg recycling and landfill locations.

Relief Sought:
Adopt proposed changes

PART 2 – S32 Report Maps

FFNZ supports the boundary changes for wetland areas where these areas are not ecologically significant, especially on farmland, as this allows farmers to use their land as normal. The proposed boundary changes need to consider current land use and should there be no wetland values associated with a mapped area, that area should not be subject to the land use restrictions imposed on wetland areas.

We are concerned that some mapped 'wetland' areas still cover developed and drained farmland, which could unnecessarily restrict normal farming activities.

Relief sought:
Remove all developed and drained farmland from the mapped 'wetland' areas.

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Full name: Dean Kelly

Organisation: Fish and Game West Coast
[The organisation that this submission is on behalf of, if applicable]

Postal address: PO Box 179, Hokitika **Post Code:** 7842

Email: dkelly@fishandgame.org.nz **Phone (Hm):** _____ **Phone (Wk):** (03) 7558546

Phone (Cell): 0272442807 **Preferred method of contact:** email

Contact person and address for service [if different from above]:

_____

Please turn over

PART B: Trade Competition

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Signature: Dean Kelly **Date:** 15/9/2016

[Signature of person making submission, or authorised to sign on behalf of person making the submission]

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All proposed changes to the existing Land and Water Plan as specified in the 'Proposed Plan Change 1 to the Regional Land and Water Plan' August 2016.	Fish and Game supports the proposed changes to the Land and Water Plan as they will provide further clarity about permitted activities whilst adequately protecting freshwater resources for current and future generations.	Fish and Game seeks that the proposed changes are implemented in their entirety without change from the currently proposed amendments.

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THE WEST COAST
REGIONAL COUNCIL

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Full name: Graham Ronald Friend

Organisation: _____

[The organisation that this submission is on behalf of, if applicable]

Postal address: PO BOX 405 GREYMOUTH **Post Code:** 7840

Email: _____ **Phone (Hm):** 03 7369130 **Phone (Wk):** _____

Phone (Cell): _____ **Preferred method of contact:** _____

Contact person and address for service [if different from above]:

_____

Please turn over

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Signature: G R Fri **Date:** 7.9.20

[Signature of person making submission, or authorised to sign on behalf of person making the submission]

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GKR ☐ I **do** wish to be heard in support of my submission; and if so,

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HOK 107 ~~Serpentine Creek & Acre Creek Remove~~		
HOK 107 Serpentine Creek & Acre Creek take land from Wetlands	I support the move to remove the land from schedule 2 wetlands because they are not ecologically significant	

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Full name: Katrina Lee

Organisation: Grey District Council
[The organisation that this submission is on behalf of, if applicable]

Postal address: P O Box 382, Greymouth **Post Code:** 7840

Email: katrina.lee@greydc.govt.nz **Phone (Hm):** _____ **Phone (Wk):** 03 769 8607

Phone (Cell): _____ **Preferred method of contact:** email

Contact person and address for service [if different from above]:

_____

Please turn over

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Signature: Katrina Lee - on behalf of the Grey District Council **Date:** 16 September 2016

[Signature of person making submission, or authorised to sign on behalf of person making the submission]

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The entire plan change 1 as notified	In general we support the entire plan change 1.	There are no amendments we seek as a result of this submission.

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Full name: Andrew Duncan Grigg

Organisation: _____
[The organisation that this submission is on behalf of, if applicable]

Postal address: P.O.Box 206 Hokitika **Post Code:** 7842

Email: bushman2002@yahoo.co.nz **Phone (Hm):** 0272650144 **Phone (Wk):** _____

Phone (Cell): _____ **Preferred method of contact:** phone

Contact person and address for service [if different from above]:

_____

Please turn over

0 f 8

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Signature: C.B.Gee **Date:** 1/9/16

[Signature of person making submission, or authorised to sign on behalf of person making the submission]

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C.B.G

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HOKP 119	I am in support of each separate provision because the land is not wetland and this area has been developed for a long time	

Attach further sheets as required

aff

COSTELLO HILL FARM

P.O. Box 183

WESTPORT.

10/9/2016

TO : WEST COAST REGIONAL COUNCIL

P.O. Box 66 .

GREYMOUTH.

RE : PROPOSED PLAN CHANGES (Regional Land and Water Plan.)

Our property is situated at Costello Hill and is identified on your map as being FOUP024 Costello Hill - Sean Hayes.

In relation to the changes proposed under Plan Change 1 to the Regional Land and Water Plan (Letter dated 22/8/2016 – Sarah Jones) , we would like the following noted :

We SUPPORT the area to the south of our property (adjoining Casey Marks property) to be taken off the Wetlands 2 Schedule. This area is not wetlands, and has no ecological values as it is just tailings from old gold mining activity , covered in Manuka .

Near the northern end of our property , there is a line(in red) , indicating an area to be removed from the schedule . This line covers no area, and is within our boundary , which is all grassed . The area to the north of this line (in blue) is an extension of the same pakihi terrace that our farm is on , and is not a wetland . On that basis , we ask that the line be moved out to the northern boundary of our property , and not be within it.

I would like to note that in December 2013 , Hamish Fairbairn (WCDC Wetland Co-ordinator) visited our property , and inspected both the southern area , and the northern area , and concluded that there was no wetland , and nothing of ecological significance.

Overall we SUPPORT the removal of wetland classification over the two affected areas on our property , as they are not wetlands , or areas of ecological significance .

We do not wish to be heard in support of this submission , and we do not wish to join with others in support of a joint submission .

SIGNED:

SEAN HAYES.

(03) 7896572

(027) 2777860

THE WEST COAST
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Full name: COLIN PAUL & JULIETTE PATRICIA HENRY

Organisation:
[The organisation that this submission is on behalf of, if applicable]

Postal address: 31 BONAR DRIVE, HOKITIKA **Post Code:** ~~03 75~~ 7900 ?

Email: N.A **Phone (Hm):** 03 7556176 **Phone (Wk):** 03 7556176

Phone (Cell): N.A **Preferred method of contact:** LETTER.

Contact person and address for service [if different from above]:
C/O J.P HENRY, 31 BONAR DRIVE, HOKITIKA

Please turn over

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Signature: C.P.Henry **Date:** 8/09/2015

[Signature of person making submission, or authorised to sign on behalf of person making the submission]

(A signature is not required if you make your submission by electronic means)

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Are our submissions really going to be heard.?
Or is this yet another joke?

The specific provisions of the proposal that my submission relates to are:	My submission is that: (State concisely whether you support or oppose each separate provision being submitted on, or wish to have amendments made, and the reasons for your views)	I seek the following amendments from the West Coast Regional Council: (Give precise details for each provision. The more specific you can be, the easier it will be for the Council to understand your concerns.)
Time taken This is Yr No 4	That this is yet another VORTEX. for schedule 1 & 2 owners. Even	That farm owners in this designated Schedule 1 & 2
	Methusulah had to die at sometime.	be bought out at a fair and reasonable price, or be given a land
	Schedule 1 & 2 are preventing farmers from the enjoyment and husbandry of their	exchange post haste. or the designation of a wetland taken
	land which is rightfully theirs. As a result they are not seen as adding to the economy of this land.	of their title.

Attach further sheets as required

CROPP Road Kowhitirangi Hok POST 19 192.

The specific provisions of the proposal that my submission relates to are:	My submission is that: (State concisely whether you support or oppose each separate provision being submitted on, or wish to have amendments made, and the reasons for your views) Rule 28.	I seek the following amendments from the West Coast Regional Council: (Give precise details for each provision. The more specific you can be, the easier it will be for the Council to understand your concerns.)
Sect J 3 Rule 28.	Section J. (3) is ridiculous. Whose land is this? Who is paying the rates?	IF THIS PIECE OF LAND CANNOT BE BOUGHT BY THE POWERS THAT BE THEN THE
	THESE RULES, WHILST DICTATING WHAT CAN & CAN'T BE DONE	DESIGNATION OF WET LANDS BE RENOVED. FORTH WITH.
	ON SCHEDULE 1 & 2. LAND. DO NOT CONTAIN A	
	PROVISION FOR THE SALE OF SAID LAND AS WAS OUTLINED AS A PROVISION IN ORIGINAL LEGISLATION	

Attach further sheets as required

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Public information - all information contained in a submission under the Resource Management Act 1991, including names and addresses for service, becomes public information. Your information is held and administered by the West Coast Regional Council in accordance with the Local Government Official Information and Meetings Act 1987 and the Privacy Act 1993. This means that your information may be disclosed to other people who request it in accordance with the terms of these Acts. It is therefore important you let us know if your form includes any information you consider should not be disclosed.

Full name: Richard Clark Henschel

Organisation: _____
[The organisation that this submission is on behalf of, if applicable]

Postal address: P O Box 396, CHRISTCHURCH **Post Code:** 8140

Email: getmail@greenmail.net **Phone (Hm):** 03 3265456 **Phone (Wk):** _____

Phone (Cell): 027 6610399 **Preferred method of contact:** email

Contact person and address for service [if different from above]:

4456b Kongahu Highway, Karamea (North boundary red outline as indicated on map: KAMP001) Pt Lot 3 DP 17859 Blk XIII Oparara SD

Please turn over

PART B: Trade Competition

As per Schedule 1 of the Resource Management Act 1991, a person who could gain an advantage in trade competition through the submission may make a submission only if directly affected by an effect of the proposed policy statement that:

a) Adversely affects the environment
b) Does not relate to trade competition or the effects of trade competition.

Please tick the sentence that applies to you:

☐ I **could not** gain an advantage in trade competition through this submission; or

☐ I **could** gain an advantage in trade competition through this submission. *If you have ticked this box, please select one of the following:*

- ☐ I **am** directly affected by an effect of the subject matter of the submission.
- ☐ I **am not** directly affected by an effect of the subject matter of the submission.

Signature: R. Hemmes **Date:** 9/9/16

[Signature of person making submission, or authorised to sign on behalf of person making the submission]

(A signature is not required if you make your submission by electronic means)

PART C: Request to be Heard

☑ I **do not** wish to be heard in support of my submission; or

☐ I **do** wish to be heard in support of my submission; and if so,

☐ I would be prepared to consider presenting my submission in a joint case with others making a similar submission at any Hearing.

The specific provisions of the proposal that my submission relates to are:	**My submission is that:** *(State concisely whether you support or oppose each separate provision being submitted on, or wish to have amendments made, and the reasons for your views)*	**I seek the following amendments from the West Coast Regional Council:** *(Give precise details for each provision. The more specific you can be, the easier it will be for the Council to understand your concerns.)*
4.3.4 To manage the maintenance of existing land drainage activity to avoid, remedy, or mitigate adverse effects on receiving water bodies or property.	The need to maintain watercourses on our property so that the water can flow through unimpeded from higher elevated properties. SUPPORTED	
4.3.10 To encourage the retention, maintenance, or planting of appropriate riparian vegetation.	Encourage the retention, maintenance, or planting of appropriate riparian vegetation. Enhancing water quality by stabilising the banks against erosion and by filtering and trapping the overland flow of sediment. Riparian vegetation also contributes to the maintenance of indigenous biological diversity by providing shade and keeping water cool and providing a source of food for aquatic life and by controlling exotic weed. SUPPORTED	
6.4.7	Schedule 1 and Schedule 2 were derived from two different planning processes. Where assessments of the wetlands in Schedule 2 demonstrate that the ecological criteria in Schedule 3 are met those wetlands should be included in Schedule 1. Equally, where the criteria are not met, those wetlands should be removed from Schedule 2. Changes to Schedule 1 and 2 to either include or remove wetlands will be the subject of a plan change process. SUPPORTED	
Part 2 Changes to Boundaries	Amending the wetland boundaries is efficient because it will ensure areas that are not ecologically significant will not be subject to provisions within the Plan relating to wetlands. Areas which have not been mapped in error will be retained within the wetland designation ensuring the objectives within the Plan remain achievable. SUPPORTED	The areas to be removed 'Section 32 report: Maps showing Changes to Scheduled Wetland Boundaries' have been agreed to by the Regional Council and DOC. Because: a. The area was developed prior to notification of the Plan and is not a functioning wetland. b. The area has a combination of exotic vegetation and development occurred prior to notification of the Plan, and so it is not a functioning wetland.

Attach further sheets as required

PROPOSED
CHANGES 1
LAND AND WATER PLAN

SUBMISSION FROM: Frida Inta.

ADDRESS; P O Box 463,
Westport,
Buller 7866

Phone: 03 782 1813

Email: karearea.f@gmail.com (preferred contact method)

I **could not** gain an advantage in trade competition through this submission

I **am not** directly affected by an effect of the subject matter of the submission, although, as residents of the West Coast, we are all affected in some way by regional plans and at some stage we, as individuals, may be directly affected.

I **do** wish to be heard in support of my submission; and if so, I would be prepared to consider presenting my submission in a joint case with others making a similar submission at any Hearing (e.g. Buller conservation group, which I am also representing)

Rather than receiving paper copies during this plan's progress I will prefer e-copies unless specially requested.

Specific provisions	My submission	Amendments sought
8. SURFACE WATER QUALITY 8.3.5 (f) *The best practicable option for the treatment or disposal of human sewage effluent wastewater, including the use of land disposal or wetland treatment.*	The term, "sewage effluent wastewater" is not correct. This change needs to decide what it is referring to: • is it sewage - which is wastewater including faeces, and as specified in the glossary to this plan, specifically human waste. • is it effluent - which is an outflowing, but can be more specific if identified as such e.g. included in the glossary to this plan, • is it wastewater - which is any water that has been contaminated.	"*human sewage wastewater*" needs to be replaced with "human sewage" and any further explanation annexed to the glossary. "*wetland treatment"*, needs to be qualified. It is not acceptable that a significant wetland be used for treatment of dairy effluent or human sewage.
Summary Table of Riparian Margin widths	Ratio is very confusing and a way of calculating must be included if ratios are being adopted in this plan.	Ratios need to be qualified, being horizontal distance to vertical distance; HD:VD (or cotan A = HD/VD)
Riparian Margins: □ *The dominant slope angle is the angle between the fullest flow/highest level of the bed of the lake or river, or major farm drain in the Lake Brunner Catchment and a point 20 metres upslope as illustrated in the diagram below.*		Comma after "*Lake Brunner Catchment*"
Use of word, "waterbody".	I prefer retention of the word, "waterbody" as it is all-inclusive, whereas, "river", and, "lake", can be exclusive. I understand, having read the S32 explanation, that exclusion is what is being aimed for, but I still prefer the encompassment of, "waterbody". What concerns me further is the use of the word, "ephemeral". I note that in the glossary an ephemeral waterbody is defined as that holding water from a period of a few days to that of months. A waterbody that holds water for a period of months should not be	Retain, "waterbody".

Specific provisions	My submission	Amendments sought
	classified as an ephemeral waterbody (or, "river", as it is referred to in the glossary). It is possible that at any future date, more wetland could be added to the schedule. Excluding waterbodies (or rivers) that hold water for months at a time from 17.3.4 could pre-empt those waterbodies from a deserved inclusion of wetland. if the glossary referred to ephemeral as being those waterbodies (rivers) holding water from days to weeks the change to 17.3.4 could be more acceptable.	
Rule 20:	Allowing changes of 10% to an authorised structure should include a caveat as to the original size of the structure. If the structure is small to start with then 10% is not a large change, but if the structure is large, then a 10% alteration could be quite significant. I understand that the constraint, "10%", is already established in this rule and it is not part of the miscellaneous changes, but nevertheless this term needs further quantification.	Size of original structure needs to be included here e.g. for structures of volume less than (e.g. 10cumec?)
Rule 34 - whitebait stands - changed from restricted discretionary to controlled.	**Controlled activity:** Resource consent required but always granted Activities which are specified as controlled activities require a resource consent, but the Council must grant consent. The conditions Council sets on the resource consent will be limited to the matters stated in the rule. Whereas council has discretion to either decline or accept resource consent under the restricted discretionary category. If rule 34 is changed from restricted discretionary to controlled then is it possible that anyone that applies for consent for a stand will be granted one? It looks to me as though changing that status would breach the extant limitations within the Plan	retain restricted discretionary status

Specific provisions	My submission	Amendments sought
	pertaining to whitebait stands. Restricted discretionary must be retained. It doesn't matter if making it controlled creates a more stream-lined process due to environmental issues being well-known and generally standard conditions issued. I believe the S32 Evaluation Report has erred in its argument to change the status of activity. Of concern is incursion of the tidal influence up rivers as sea level rises (and unsustainable amounts of gravel are taken from just upstream of the CMA). Will this incursion be incentive to create more whitebait stands along rivers? I hope not. A controlled status of resource consent may oblige the council to issue consent for consent applications in such areas.	
Rule 79(c) refers to AS/NZS1547:2012 'On-site Domestic Waste Water Management'.	This should not be included unless there is further reference to what the soil classes are. To find out what is referred to requires payment of over $100 to buy that AS/ NZ Standard.	Include explanation of soil categories referred to.
Glossary: vegetation disturbance:	The exclusion of sphagnum moss harvesting form the definition of vegetation disturbance removes protection of the natural character, indigenous biodiversity and other values of wetlands in the region, where any modification is likely to result in the degradation or loss of the values of the wetlands. S32 Evaluation Report - Reason for the change: **"Presently the Plan requires harvesters of sphagnum moss to obtain resource consent before undertaking the activity. This was an unintended outcome of the Environment Court case on identifying significant wetlands, and requiring resource consent is unnecessary as the effects of this**	Include sphagnum moss harvesting as vegetation disturbance

Specific provisions	My submission	Amendments sought
	activity on the environment are known to be minimal." The Land and Water Plan's **section 2** says that widespread loss of wetlands is an issue of significance for Poutini Ngai Tahu, who seek to restore degraded wetlands. **Section 6** objective 6.1 says: **To recognise and provide for the protection of the natural character, indigenous biodiversity and other values of wetlands in the region;** with **policies** saying, **"...to identify and protect their values by controlling activities in those wetlands and their margins to ensure their natural character and ecosystems (including ecosystem functions and habitats) are sustained.",** and **Explanation** saying**, "..Any wetland modification is likely to result in the degradation or loss of the values of the wetlands or the wetlands themselves.".** Also in **Explanations**, **"...the need to manage all wetlands sustainably...".** **Rule 36(b)** says that, "**To excavate, drill, tunnel, or otherwise disturb the bed**", is a **discretionary activity,** and **Rule 37(b)** says the same, both in relation to Schedule 1 and 2 wetlands. In the **glossary, track** within a scheduled wetland is of concern. **Schedule 3; Ecological criteria:** Summary: • wetlands play an important role in protecting adjacent ecological values, and have an important contribution to ecological functions and processes.	

Specific provisions	My submission	Amendments sought
	• A representative wetland must, by interpreting the criteria, include sphagnum moss in its virgin form, due to it being a typical wetland plant. Wetlands should be intact and contain cushion bogs. • Wetlands are identified by the dominant species present. I have harvested, and helped in harvesting sphagnum moss in the past. Actual harvesting by hand is a minor activity. The moss, once collected, being water-laden, is very heavy. Harvesters I knew dragged sacks out by hand, creating drag paths along a cut route. Routes were also cut in to provide for quad bike passage. More adventurous harvesters carted out by helicopter. Some harvesters erected drying racks at the harvesting sites, often clearing shrubbery to do so. Tracking in can deposit gorse, broom and other weeds, and possibly prest invertebrates via boot soles, tools etc. Dogs often accompany harvesters, where indigenous fauna can be put at risk. Without controls on moss harvesting, peripheral activities, such as track creation and site drying racks, will be harder to monitor also. Moss harvesters harvest the moss on a 7-year cycle, because that is how long it takes for the moss to recover, but all harvesters know that the initial harvest reaps the best moss, of very long, fine, pastel-coloured strands. Any subsequent harvest can never reproduce that quality, where regrowth strands become broader, shorter and darker-coloured. Sphagnum moss is intrinsic to most wetlands, being a critical plant in wetland health. It is also a critical plant in flood amelioration, sedimentation, and water purification.	

Specific provisions	My submission	Amendments sought
	Sphagnum moss is the most amazing sponge - while absorbing incredible amounts of water during wet conditions, it can also dry out during dry spells but remain viable, so long as it is not contaminated. Allowing sphagnum moss harvesting as a permitted activity (by excluding it from any rule) in wetlands breaches the Land and Water Plan in a number of ways, including those I have listed above. Mainly, allowing the indiscriminate harvesting of the moss in any wetland, anywhere, will ensure that incremental degradation of those wetlands will occur. I understand that sphagnum moss harvesting should be a permitted activity for smale-scale harvesting, however, there is a lot of land in the region that is not a scheduled wetland, nor anywhere that could be considered for inclusion in the wetland schedule, that will have good cushions of sphagnum moss for harvesting. I absolutely object to sphagnum moss being a permitted activity via exclusion from any rule in regional plans. I suggest it should be included as a facet of vegetation disturbance, (vegetation disturbance it is), thus excluding it from scheduled wetlands, also excluding it from wetlands with potential to be included in that schedule via assessment of environmental effects in consent applications, but allowing it on other, unclassified land within the region.	
Further to Miscellaneous changes: Rule 20	10% size of structure	Needs quantification as to the original size of the structure, as 10% of a small structure is much less than 10% of a large structure.

Specific provisions	My submission	Amendments sought
Rule 29: Gravel Extraction,	is ambiguous at (iii). (i) and (ii) list sites on rivers that gravel can be extracted from but (iii) says that any other river can have 10cumecs extracted from it.	It needs to be clarified that, "**any river**" either includes rivers mentioned in Schedules A, B, or 12; or it doesn't.
Glossary: 1 definition of vegetation disturbance:	all fences should be erected outside of riparian margins. The Land and Water Plan in general tries to discourage grazing within riparian margins but this vegetation disturbance definition encourages grazing within riparian margins.	should not include fencing within a riparian margin
2. definition of, "ephemeral":	"Months", is far too long a time to consider such waterbodies to be ephemeral;	should be restricted to waterbodies (rivers) holding water from a period of days to weeks less than 1 month. "Ephemeral", needs to include lakes as well as rivers.
Typo errors	There are still typo errors in the Plan which I found when reading through in relation to these miscellaneous changes. I found 2 further to that which I collated above (in, Riparian Margins), although I have now lost the place they were. They were repetitive mistakes, using the same word/ phrase, twice in the same sentence - somewhere in sections 3 to 5.	
Proposed schedule 1 and 2 wetland boundary amendments	There are a lot of deletions involved but very few additions. The only places I found proposed additions are at Otumahana, Mahinapua, Kapitea. There are 77 wetland sites with proposed deletions. The Land and Water Plan's section 6, objective 1, **Explanation**, says, **"...Mapping included sufficient margins where necessary to control adjoining land drainage activities that might otherwise affect the natural water level within the wetland itself and have adverse**	I would like to see any marginal areas around these wetlands retained as buffer areas where restricted activities are permitted, with any drainage activity excluded.

Specific provisions	My submission	Amendments sought
	effects on the values present.".	
	Most of the deletions are in marginal areas of the wetlands. These marginal areas are buffer areas to the wetlands. Note that the Land and Water Plan says that mapping has included sufficient margins to control adjacent activities.	These marginal areas could be allowed to continue to function as they are but any land drainage should be prohibited via rules in the Plan.
	Some areas proposed for removal, especially some block areas, are obviously developed and it is understandable that they be excluded, however, a buffer margin to the wetland should still be included from those blocks.	Exclude such developed block areas but include buffer margin
	Of major concern is that some areas proposed for exclusion are on public land. Too many adjacent landowners on the west coast have developed, and profit, from public land whilst paying no rates and having no lease. It is a breach of regional and district plans that private activity, including indigenous degradation/ destruction, occurs on our public lands in cases where no permission/ lease for such has been issued.	Any public land proposed for removal from the wetland schedule is objectionable. Such areas, even if developed, should have any private activity removed from it and the land allowed to revert to its natural state.

	I had a desktop look at scheduled wetlands in my local area (and some further afield), comparing them to the WCRC GIS database, and also to Google Earth. Also, talking to locals. This is what I found:	
	Otumahana Wetland: here is yet another case of public land being used by adjacent landowners as their own, and no doubt indigenous vegetation all cleared from that land to put it into pasture, where no rates are being paid on that public land.	
	P3 The 2 areas to the west of valuation reference 1878015100 are on public land so it is objectionable to	Object

Specific provisions	My submission	Amendments sought
	have this removed. It is public land and we have a right to retain and enhance its wetland status. The middle area to be included should encompass all of the public land in that enclave.	
	P4 West of 1878028302- public land	object
	south-west corner 1878028101 - partly on public land	object
	eastern end 1878028300 - rich ecology	object
	north-east of ID3649099 - public land	object
	P5 middle east of ID3649099 - public land - object - wetland should be reinstated.	object
	western side of eastern 1878030500 - high ecological value	object
	public land in between 1878030500 sections - reinstate indigenous value	object
	P6 marginal land but will still have wetland value	object
	P7 upper bottom part within 1878028600 - will encroach on high ecological quality	object
	bottom part within 1878028600 - ditto	object
	upper eastern part of 1878031400 - ditto	object
	Oparara P8 this is important estuary right through this area. It needs to be retained. The most probable reason it has been requested to be removed is so that stock can access it; stock should not be allowed anywhere near such fragile, estuarine areas. A fair part of this is also public land - object to any removal of wetland status here.	object
	Tidal Creek: P9 The marginal area here is largely around the perimeter of the property involved. There is little to no modification of the wetland area therefore this proposed exclusion is	object

Specific provisions	My submission	Amendments sought
	unacceptable. The small amount of modified land at the southern border of this property has already been excluded.	
	Birchfield p10 The proposed deletion does not look as though it has been developed. It is in forest just south of the developed area. Wetland status there needs to be kept.	object
	p11 north-eastern line to be removed - is on public property bottom-most south-eastern line - there is little or no development	object
	western bottom block - ditto	object
	Buller River p15 All proposed removal appears to be on public land. Why should the status be revoked in such cases?	object
	Jones Creek P16 once again all revocations appear to be on public land or on the cusp	object
	Waimangaroa P17 left-hand top revocation looks as though it still has functioning wetland value.	object
	Jones Creek P18 North-west bottom revocation - some is on public land so objectionable.	object
	South Westport P21 areas marginal to development - where is any buffer? Such areas should be left to create a buffer zone.	object
	Caledonian terrace P22 the 2 blocks of darker blue appear to be waterbodies, or at least very wet - these need to be retained as wetland.	object

Specific provisions	My submission	Amendments sought
	Costello Hill P23 Middle block area The area is a natural indentation/ gully, most likely has rich ecology/ wetland and needs to be retained. Okari Rd P26 - marginal to wetland - retain as buffer. Maher Swamp P30 This swamp particularly needs all the protection it can get. Lewis pass P34 This is public land - why would the perimeter want to be changed?	object object object object

Brian Jones
4300 Karamea Highway
RD3 Karamea
7893

Phone (03)782 6704

I submit that I am in favour of changes to schedule 2 wetlands affecting my property (KAMP001 Otumahana Estuary – Brian Jones 1 and 2) . Areas to be removed (in Brian Jones 1)include areas of shade (which led to parts of developed paddocks being designated wetland presumably working from aerial photos) and farm roadways that should not be included, as well as water-courses which if included restrict important works such as stream clearance. It should be noted that "Brian Jones 2" involved parts of the Coastal Marine Area which have now been totally obliterated by coastal erosion so are irrelevant.
I also wish to know if boundaries of the schedule 1 wetland (shown above) are being officially adjusted? Parts of this wetland were originally drawn including a bush area (North Western corner) which I have developed after negotiation with the Regional Council and DoC in October /November 2015 (Alyce Melrose and Jane Marshall)..
This Schedule 1 wetland also includes part of the Blackwater Creek channel which is part of the Kongahu Rating District's drainage infrastructure. The actual creek and a minimum of 5 meters of the bank should be excluded to allow for routine maintenance to be done by excavators without breaching wetland regulations and allow the Rating District's drainage to function properly.

Submission on the
Proposed Plan Change 1 to the Regional Land and Water Plan

Return your signed submission to the West Coast Regional Council by 5.00pm, Friday 16 September 2016

Submissions may be:

a) Posted to: Proposed Plan Change 1 - L&WP, West Coast Regional Council, PO Box 66, Greymouth 7840
b) Delivered direct to the West Coast Regional Council at 388 Main South Road, Greymouth
c) Emailed to Plan@wcrc.govt.nz
d) Sent by facsimile (03) 768 7133

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Full name: Philip James McKinnel

Organisation: Kauri 139 Limited / NZG Limited
[The organisation that this submission is on behalf of, if applicable]

Postal address: C/- Resource Solutions West Coast Ltd, PO Box 257, Greymouth **Post Code:** 7840

Email: phil@rswc.co.nz **Phone (Hm):** _____ **Phone (Wk):** 03 768 7365

Phone (Cell): 021 849 978 **Preferred method of contact:** E-mail

Contact person and address for service [if different from above]:

_____

Please turn over

PART B: Trade Competition

As per Schedule 1 of the Resource Management Act 1991, a person who could gain an advantage in trade competition through the submission may make a submission only if directly affected by an effect of the proposed policy statement that:

a) Adversely affects the environment
b) Does not relate to trade competition or the effects of trade competition.

Please tick the sentence that applies to you:

☒ I **could not** gain an advantage in trade competition through this submission; or

☐ I **could** gain an advantage in trade competition through this submission. *If you have ticked this box, please select one of the following:*

- ☐ I **am** directly affected by an effect of the subject matter of the submission.
- ☐ I **am not** directly affected by an effect of the subject matter of the submission.

Signature:  **Date:** 19 September 2016

[Signature of person making submission, or authorised to sign on behalf of person making the submission]

(A signature is not required if you make your submission by electronic means)

PART C: Request to be Heard

☐ I **do not** wish to be heard in support of my submission; or

☒ I **do** wish to be heard in support of my submission; and if so,

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Part 2 - Removal of area associated with HOKP086	Kauri 139 Ltd / NZG Limited support the removal of part of HOKP086, however the current area of removal does not fully cover the areas that have been modified previously. Therefore an amendment is requested, this is reflect in the attached map.	The removal area should be increased to cover the area shown on the attached map.

Attach further sheets as required

The specific provisions of the proposal that my submission relates to are:	**My submission is that:** *(State concisely whether you support or oppose each separate provision being submitted on, or wish to have amendments made, and the reasons for your views)*	**I seek the following amendments from the West Coast Regional Council:** *(Give precise details for each provision. The more specific you can be, the easier it will be for the Council to understand your concerns.)*

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Kauri 139 Ltd / NZG Limited - Proposed Plan Change One - Submiission Map - HOKP086
Date: 19 September 2016
Scale: 1:1,500
Author: Phil McKinnel
Legend
HOKP086 Removal Area
Plan Change 1 - Removal Area
Sched_1_2_wetlands_EC_Current
0
50
100 m
RESOURCE SOLUTIONS WEST COAST

THE WEST COAST
REGIONAL COUNCIL

Submission on the Proposed Plan Change 1 to the Regional Land and Water Plan

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Full name: Allan Lowe

Organisation: _____
[The organisation that this submission is on behalf of, if applicable]

Postal address: 3314 Karamea Highway **Post Code:** 7891

Email: gghannabee@hotmail.com **Phone (Hm):** 03 7826642 **Phone (Wk):** _____

Phone (Cell): _____ **Preferred method of contact:** phone - leave message

Contact person and address for service [if different from above]:

_____

Please turn over

PART B: Trade Competition

As per Schedule 1 of the Resource Management Act 1991, a person who could gain an advantage in trade competition through the submission may make a submission only if directly affected by an effect of the proposed policy statement that:

a) Adversely affects the environment
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- ☐ I **am** directly affected by an effect of the subject matter of the submission.
- ☐ I **am not** directly affected by an effect of the subject matter of the submission.

Signature: _____ **Date:** 16/9/2016

[Signature of person making submission, or authorised to sign on behalf of person making the submission]

(A signature is not required if you make your submission by electronic means)

PART C: Request to be Heard

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☑ I **do** wish to be heard in support of my submission; and if so,

☑ I would be prepared to consider presenting my submission in a joint case with others making a similar submission at any Hearing.

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80KP099 Little Houhou	I oppose this section of the Plan as I am a land owner who has lost significant value of my property and also lost the option to build on this land; without any compensation offered.	withdraw the reclassification of my property, which is now useless to me as an investment, or arrange appropriate compensation for the loss of value.

Attach further sheets as required

The specific provisions of the proposal that my submission relates to are:	**My submission is that:** *(State concisely whether you support or oppose each separate provision being submitted on, or wish to have amendments made, and the reasons for your views)*	**I seek the following amendments from the West Coast Regional Council:** *(Give precise details for each provision. The more specific you can be, the easier it will be for the Council to understand your concerns.)*

Attach further sheets as required

West Coast Regional Council
Regional Land and Water Plan
Submission

from
Hamish Macbeth
4545 Karamea Highway
RD 3 Karamea 7893

Plan Change Staff

I wish to make a submission on the proposed changes as follows:

My wife and I own a property on the eastern edge of the Otumahana Estuary, Karamea. We are extremely pleased that the significance of the estuary has been recognised and classified as such.

We are also aware that the original broadbrush approach was not entirely accurate and applaud the council and DoC for their efforts in correcting the errors. An on site visit was conducted on our property and in my opinion a more accurate line was identified, excluding a formed road in particular.

It is my opinion that generally this has been the case for the slivers of land that have been identified for inclusion or exclusion in the Otumahana and Karamea waterways. However there is one parcel of land at the northern end of the 'Jones' spit' – the southern spit – which has now eroded and is effectively coastal dune. I am not sure how that could now be deemed to not be a wetland or within the CMA.

I understand that the area to be excluded form Schedule Two in the inland Tidal Creek area may be removed but is to be made into a reserve by the subdivision developers; in which case I consider that a Schedule Two designation would not be necessary. I am not aware of the existing values of the area proposed to be excluded.

In conclusion, I am fully supportive of the changes proposed bordering our property which are certainly not significant. Other areas within the Karamea/Otumahana Estuaries are generally appropriate with one exception on the Jones's spit.

I do not wish to be heard.
Hamish Macbeth
16 September 2016

Manager,

West Coast Regional Council,

Greymouth.

Sir/Madam,

In relation to my good knowledge of the West Coast's many wetlands, based on detailed ecological research and publication on several in South Westland, Burmeister Morasse, Dismal Swamp and the Hapuka Estuary in particular, I strongly recommend that in the Council's proposed Plan change 1 to the Land and Water Plan (1a and 3), that moss harvesting in all West Coast wetlands must always be defined as a "controlled activity", never uncontrolled and further, that in the definition of vegetation disturbance, the harvesting of Sphagnum moss must be included.

This would be a relatively small but nevertheless, an important amendment in view of the ecological importance of these West Coast wetlands.

Sincerely, Alan F. Mark.

Alan Mark PhD, ΦBK (Duke), Hon DSc (Otago), FRSNZ, KNZM

Emeritus Professor

Department of Botany

University of Otago

P O Box 56, 464 Gt King St.

Dunedin 9054

New Zealand

Ph: +64-3-479-7573; Pt: +64-3-476-3229; email: alan.mark@otago.ac.nz

19 September 2016

West Coast Regional Council
388 Main South Road
Greymouth 7805

Via e-mail: plan@wcrc.govt.nz

Submission – Proposed Plan Change 1 – Minerals West Coast

Name: Phil McKinnel
Organisation: Minerals West Coast Trust
Address: PO Box 77
Greymouth 7840
E-mail: phil@mwc.org.nz
Phone: 03 768 7365
Mobile: 021 849 978

Preferred method of contact: E-mail.

As per Schedule 1 of the Resource Management Act 1991, a person who could gain an advantage in trade competition through the submission may make a submission only if directly affected by an effect of the proposed policy statement that:

a) Adversely affects the environment
b) Does not relate to trade competition or the effects of trade competition.

Please tick the sentence that applies to you:

- [X] I **could not** gain an advantage in trade competition through this submission; or
- [ ] I **could** gain an advantage in trade competition through this submission. *If you have ticked this box, please select one of the following:*
  - [ ] I **am** directly affected by an effect of the subject matter of the submission.
  - [ ] I **am not** directly affected by an effect of the subject matter of the submission.

Signature: _____ **Date:** 16 September 2016
[Signature of person making submission, or authorised to sign on behalf of person making the submission]

(A signature is not required if you make your submission by electronic means)

PART C: Request to be Heard

- [ ] I **do not** wish to be heard in support of my submission; or
- [X] I **do** wish to be heard in support of my submission; and if so,
- [X] I would be prepared to consider presenting my submission in a joint case with others making a similar submission at any Hearing.

Provisions to which submission relates

- MAIP003
- MAIP004
- HOKP086
- HOKP009
- PUNP001

Submission

Minerals West Coast supports the proposed removal of areas of the following wetland areas:

- HOKP009
- PUNP001

Minerals also supports the proposed removal of areas of the following wetlands but also requests that further areas are removed due to previous modification and development of these areas.

- MAIP003
- MAIP004
- MAIP006
- HOKP086

The wetland identified above cover existing minerals permits that allow the holder to either explore or mine for minerals and coal. The incorrect classification or identification of wetlands in these areas will result in increased costs associated with the exploration and development of the mineral and coal resources in these areas.

In some cases this classification has the potential to adversely affect existing mining activities, including current and future investment and employment opportunities.

In assessing the current wetland maps and the associated areas designated for amendment, it appears that there is no consistent approach taken to identification or classification of wetland areas.

In some instances, areas of previous track or road construction and previous land development has been removed where in others this has not.

As a general comment, Minerals West Coast holds concerns regarding the process for identification of the wetlands and the subsequent this process has had on landowners across the region. The inclusion of wetland areas without appropriate assessment has resulted in additional costs being imposed on exploration and mining activities without any information being available to either the land owner or permit holder.

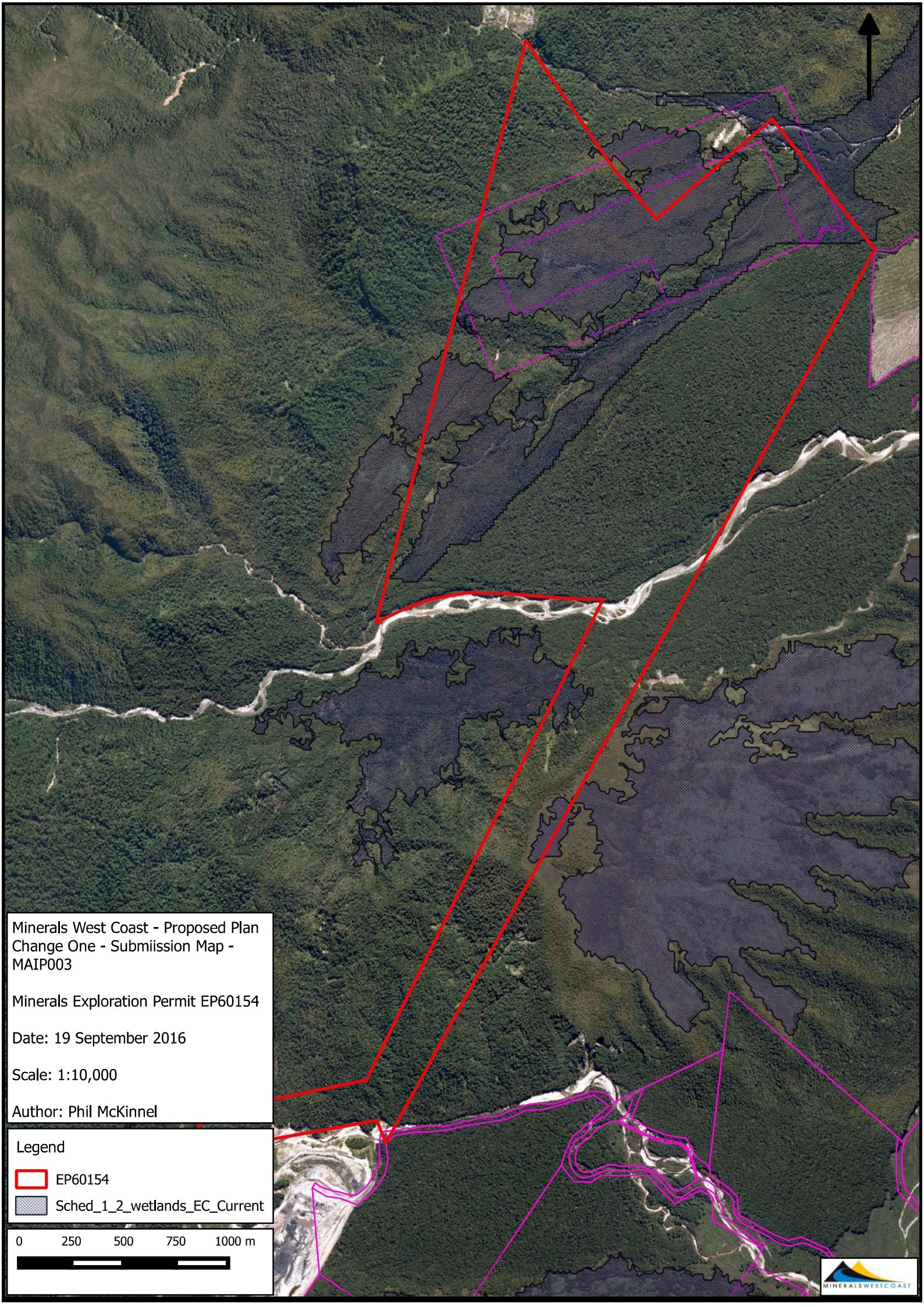
Amendements Sought

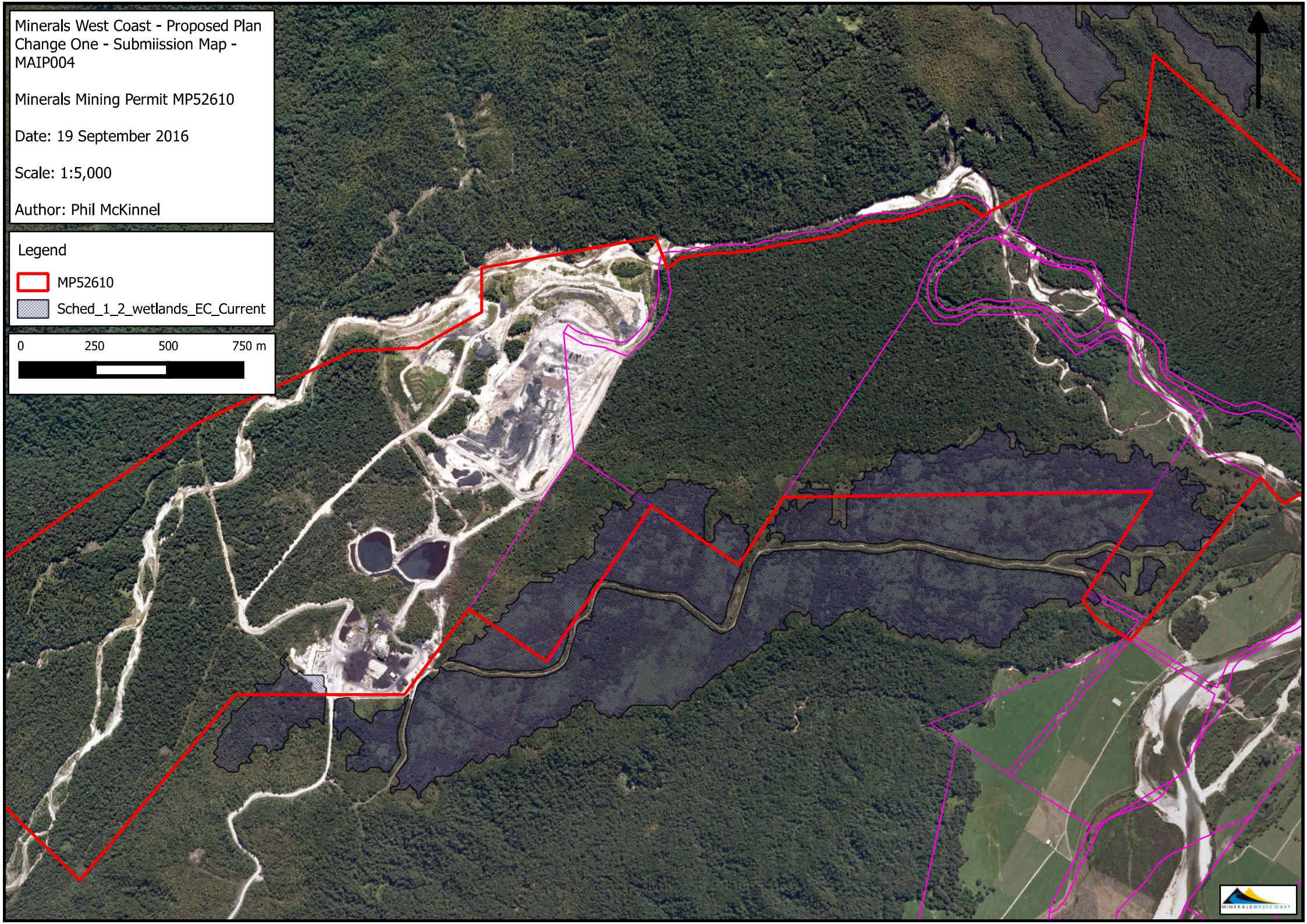
The following amendments are sought:

- Removal from MAIP003 all areas of previous modification including Perseverance Road, previous tracking and roading and areas of previous modification associated with logging activities within Minerals Exploration Permit EP60154
- Removal of MAIP006 from within Minerals Mining Permit MP41646 given the level of previous modification within this area as evident on the attached aerial photograph.
- Removal of MAIP004 from within Minerals Mining Permit 52160 given the level of previous modification within this area.
- An increase in the area to be removed from HOKP086 to more fully capture land that has been developed prior to the notification of the Land and Water Plan.
- A more thorough assessment of the values associated with the wetlands identified above and this information provided to the land owners or persons holding interests over the land in question, including minerals permit holders, prior to confirmation or removal or addition to these areas.

The maps attached to this submission show the areas initially identified by the submitter as being consistent with other areas that have been removed from the current wetland areas. Given the significance of the mineral potential underlying these areas a fuller assessment of the identified wetland areas should be undertaken.


Minerals West Coast - Proposed Plan Change One - Submiission Map - HOKP086
Date: 19 September 2016
Scale: 1:1,500
Author: Phil McKinnel
Legend
HOKP086 Removal Area
Plan Change 1 - Removal Area
Sched_1_2_wetlands_EC_Current
0
50
100 m


Minerals West Coast - Proposed Plan Change One - Submiission Map - MAIP003
Minerals Exploration Permit EP60154
Date: 19 September 2016
Scale: 1:10,000
Author: Phil McKinnel
Legend
EP60154
Sched_1_2_wetlands_EC_Current
0 250 500 750 1000 m


Minerals West Coast - Proposed Plan Change One - Submiission Map - MAIP004
Minerals Mining Permit MP52610
Date: 19 September 2016
Scale: 1:5,000
Author: Phil McKinnel
Legend
MP52610
Sched_1_2_wetlands_EC_Current
0
250
500
750 m


Minerals West Coast - Proposed Plan Change One - Submiission Map - MAIP006
Minerals Mining Permit MP41646
Date: 19 September 2016
Scale: 1:5,000
Author: Phil McKinnel
Legend
MP41646
Sched_1_2_wetlands_EC_Current
0 100 200 300 400 500 m
MINERALSWESTCOAST

Submission on the
Proposed Plan Change 1 to the Regional Land and Water Plan

Return your signed submission to the West Coast Regional Council by 5.00pm, Friday 16 September 2016

Submissions may be:

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d) Sent by facsimile (03) 768 7133

PART A: Submitters contact details

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Full name: Matthew Joseph O'Regan

Organisation: MJ & CE O'Regan Family Trust
[The organisation that this submission is on behalf of, if applicable]

Postal address: 223 O'Regans Road, RD1, Reefton **Post Code:** 7895

Email: mcoregan@ihug.co.nz **Phone (Hm):** 03 7890241 **Phone (Wk):** _____

Phone (Cell): 021670287 **Preferred method of contact:** email

Contact person and address for service [if different from above]:

_____

Please turn over

PART B: Trade Competition

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- ☐ I **am** directly affected by an effect of the subject matter of the submission.
- ☑ I **am not** directly affected by an effect of the subject matter of the submission.

Signature: Matt O'Regan **Date:** 14 September 2016

[Signature of person making submission, or authorised to sign on behalf of person making the submission]

(A signature is not required if you make your submission by electronic means)

PART C: Request to be Heard

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The specific provisions of the proposal that my submission relates to are:	**My submission is that:** *(State concisely whether you support or oppose each separate provision being submitted on, or wish to have amendments made, and the reasons for your views)*	**I seek the following amendments from the West Coast Regional Council:** *(Give precise details for each provision. The more specific you can be, the easier it will be for the Council to understand your concerns.)*
BLUP050 Oweka, Matthew O'Regan	Part 1, Oppose. The rules in the original identification of the wetland were unreasonable as they did not allow for consultation with the landowner. As the owner of the land involved I find it unusual that we are now expected to submit on how a proposed change to a decision that was made without any opportunity to submit to the original decision. We do not accept this area is a Wetland.	Compensation should be payable for land that is privately owned but can not be used by the land owner due to it being of significance to the rest of NZ. If these areas are to stay as recognized wetlands, land owners should be compensated for the cost of seeking a resource consent to use the area. Rates should not be paid on these area by the land owner but instead be paid by the central government.
		Where applicable a land swap of the same financial value should be offered to the land owner. Owners should be advised as to the effect on the value of their property that these areas are part of. Banks should be consulted as it is part of there loan security.
BLUP050 Oweka, Matthew O'Regan	Part 2, Oppose. This type of land and vegetation is well represented in other land held by the Department of Conservation in the Inangahua Valley. This land was offered to the Department of Conservation to be purchased through the Heritage Fund by the previous owner, we have offered this land as part of a land swap with the Department of Conservation. Both of these have been turned down.	This area to be removed from the Wetlands schedule. (Boundaries removed completely)

Attach further sheets as required

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Attach further sheets as required

Submission on the Proposed Plan Change 1 to the Regional Land and Water Plan

THE WEST COAST REGIONAL COUNCIL

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Full name: _Garry Clark_____

Organisation: _____Pacific Wide (NZ) Limited, trading as Besgrow_____
[Theorganisationthatthissubmissionisonbehalfof,ifapplicable]

Postal address: _____PO Box 4334, Christchurch_____ **Post Code: ___8140**_____

Email: _____garry@besgrow.com_____ **Phone (Hm):** _____ **Phone (Wk): ___03 359 8230**_____

Phone (Cell): ___027 227 7185_____ **Preferred method of contact: _____Cell phone**_____

Contact person and address for service [if different from above]:

_____

PART B: Trade Competition

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☐ I **could** gain an advantage in trade competition through this submission. Ifyouhavetickedthisbox,pleaseselectoneofthefollowing:

☐ I **am** directly affected by an effect of the subject matter of the submission.

☐ I **am not** directly affected by an effect of the subject matter of the submission.

Signature: _____ **Date:** 15th September, 2016_____

[Signatureofpersonmakingsubmission,orauthorisedtosignonbehalfofpersonmakingthesubmission]

(A signature is not required if you make your submission by electronic means)

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The specific provisions of the proposal that my submission relates to are:	**My submission is that:** (Stateconciselywhetheryousupportoropposeeachseparateprovision beingsubmittedon,orwishtohaveamendmentsmade,andthereasons foryourviews)	**I seek the following amendments from the West Coast Regional Council:** (Giveprecisedetailsforeachprovision.Themorespecificyoucanbe,the easieritwillbefortheCounciltounderstandyourconcerns.)
Miscellaneous Change N., to remove the "harvesting of sphagnum moss" from the definition of Vegetation disturbance.	Pacific Wide (NZ) supports the change proposed by Council as per Miscellaneous Change N. We have been involved in the sphagnum moss industry for 28 years and know first-hand that the industry is an iconic industry, important for a very large number of people and businesses on the West Coast and in other regions of New Zealand.	Make proposed Miscellaneous Change N., to remove the "harvesting of sphagnum moss" from the definition of Vegetation disturbance
	A key goal of our business is only to use renewable resource (moss, bark), sustainably managed, which requires us to protect the physical environment sphagnum moss grows in to ensure the long levity of the moss industry and our business. Pacific Wide strives to follow management practices for growing and harvesting of moss which results in minimal or no disturbance to the dynamics of the wetlands that it grows in.	
	There has been a lot of wetland swamps and moss resource lost over the years to development, especially dairy conversion (with reduction in moss industry activity and jobs). This makes it more important than ever for the future well-being of the West Coast, its residents and businesses, that the remaining wetland areas are maintained in good health and available for economic harvesting.	

Attachfurthersheetsasrequired

The specific provisions of the proposal that my submission relates to are:	**My submission is that:** (Stateconciselywhetheryousupportoropposeeachseparateprovision beingsubmittedon,orwishtohaveamendmentsmade,andthereasons foryourviews)	**I seek the following amendments from the West Coast Regional Council:** (Giveprecisedetailsforeachprovision.Themorespecificyoucanbe,the easieritwillbefortheCounciltounderstandyourconcerns.)

Attachfurthersheetsasrequired

Provis Farms Limited
2 Pine Tree Road, Kaniere
Hokitika 7811

16th September 2016

Sarah Jones
Planning Team Leader
West Coast Regional Council
Greymouth

Dear Sarah,

I am replying to a letter received by Provis Family Farms in relation to a proposed wetland as indicated on a map attached to the proposal. I note that my father (A C Provis) the former land owner has received some correspondence in regard this wet land and I have to admit I am not familiar as to what has been agreed in regards to the area marked as wetland.

I would like to suggest that the land as marker in blue on the map enclosed be removed from the classification as wetland as it doesn't really fall within this category for the following reasons:

1) The 4 darker lines (within the blue zone), on the map, are pilot drains which were dug in the 1970's. The ground is actually relatively dry, and unfortunately for us we have had difficulty even getting the sphagnum moss to grow.
2) We have planted a mixture of exotic and native trees (mainly totara trees) in this area which are at different stages with the plan to use them for fence posts and fire wood.
3) The valuable wetland is further back beyond the boundary, where there is some drainage, we hoped to have been able to put an access track along the boundary to cut off the water which drains out of the wetland by using the track as a duel access and barrier to the drainage of this area.

I hope you will consider this proposal, and I look forward to your reply. If you would like a tour of the area, I would be more than willing to do this.

Yours faithfully

Graham Provis
Director of: Provis Farms Limited

Marks Pilot drains from the 1970's

Proposed track for access and barrier.

THE WEST COAST
REGIONAL COUNCIL

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Full name: Ken Caldwell

Organisation: Rainbow Park Nurseries
[The organisation that this submission is on behalf of, if applicable]

Postal address: PO Box 415 Drury **Post Code:** 2247

Email: ken@rainbowpark.co.nz **Phone (Hm):** 09 297654 **Phone (Wk):** 09 2948771

Phone (Cell): 021 589501 **Preferred method of contact:** email

Contact person and address for service [if different from above]:

Please turn over

PART B: Trade Competition

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Signature: _____ **Date:** 15/09/2016

[Signature of person making submission, or authorised to sign on behalf of person making the submission]

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Harvesting of Sphagnum Moss	I support the Harvesting of Sphagnum from Wetlands without the need for resource consent due to the low impact of this activity on the overall health and integrity of a Wetland. A well managed harvesting cycle will result in a Wetland and a Moss Industry, the jobs and export dollars that come with that. The two can co-exist indefinitely for the benefit of both whilst retaining diversity in our economy.	

Attach further sheets as required

The specific provisions of the proposal that my submission relates to are:	**My submission is that:** *(State concisely whether you support or oppose each separate provision being submitted on, or wish to have amendments made, and the reasons for your views)*	**I seek the following amendments from the West Coast Regional Council:** *(Give precise details for each provision. The more specific you can be, the easier it will be for the Council to understand your concerns.)*

Attach further sheets as required

16 September 2016

Submission to the proposed Plan Change 1 Regional Land and Water Plan

To: West Coast Regional Council
PO Box 66
Greymouth 7840

BY EMAIL TO plan@wcrc.govt.nz

From: Royal Forest and Bird Protection Society of NZ Inc. (Forest and Bird)
PO Box 2516
Christchurch 8140
Attention: Jen Miller

Email: j.miller@forestandbird.org.nz
Phone: 03 940 5523 / 021 651 778

1. Forest and Bird could not gain an advantage in trade competition through this submission.

2. Forest and Bird wishes to be heard in support of this submission, and would be prepared to consider presenting this submission in a joint case with others making a similar submission at any hearing.

INTRODUCTION

3. Forest and Bird is New Zealand's largest non-governmental conservation organisation with 70,000 members and supporters. Forest & Bird originally set out to protect New Zealand's unique flora and fauna. In more recent years Forest & Bird's role has extended to protecting and maintaining the environment surrounding the flora and fauna. Establishing wildlife reserves, initiating protection campaigns and promoting general public awareness of what is happening in and around New Zealand is all central to Forest & Bird's establishing principle of flora and fauna protection.

4. Forest and Bird has a long-term interest in any potential activities on the West Coast. We have an interest in land on the Coast and Forest and Bird's West Coast Branch members are active in the trapping of pests on Public Conservation Land near Reefton (Rainy Creek).

5. For the purposes of this submission, relief sought includes such other relief, including consequential changes, as is necessary to give effect to the relief sought.

GENERAL SUBMISSION

6. Forest and Bird is generally supportive of the miscellaneous changes proposed. In most instances they are sensible amendments to ensure the Plan reads well and to provide clarity as to the intention of some provisions.

7. Forest and Bird is disappointed to see, and is firmly opposed to the Council proposal to exclude the harvesting of sphagnum moss from the definition of vegetation disturbance, effectively providing for harvesting to occur in any wetland as a permitted activity.

Submission on specific provisions

Title of Provision	Forest and Bird submission	Relief sought
New addition to Rules relating to sediment control Rules 1, 2,3, 4, 5 6,9,12, 86	**Support.** NTU is a better measure because it is a more effective and efficient method of identifying changes in water clarity.	**Retain**
Introduction to the Rules 17.3.2, Rule 3, 4, 5,10, and any others that relate to ratio/degree slope	**Support:** The addition of a slope ratio alongside degree slope is supported as provides additional and possibly more helpful information for a landowner to assess plan provisions regarding erosion prone areas and within and outside riparian margins.	**Retain**
Rule 20 (b)	**Support.** The addition of the words 'originally authorised structures' is supported. It makes clear that the permitted rule only applies to authorised structures. The additional sentence to 'Note' in relation to Rule 20 (b) is **supported** as it clarifies that any changes to structures will require a resource consent if it is intended that the structure would increase by more than 10%.	**Retain** **Retain**
Rule 28	**Support.** Proposed additional clause (k) is supported as it provides for the better	**Retain**

	regulation of effects.	
Rule 34 (a)	**Support.** The prohibition of whitebait stands on rivers not listed in Schedule 17 is supported. The new rule improves clarity of existing provisions and consistent with sound resource management practice.	**Retain**
Glossary	**Oppose**. The proposal to exclude sphagnum moss harvesting from the definition of Vegetation Disturbance is opposed. The rationale for this exclusion is set out in the s.32 as follows *Presently the Plan requires harvesters of sphagnum moss to obtain resource consent before undertaking the activity. This was an unintended outcome of the Environment Court case on identifying significant wetlands, and requiring resource consent is unnecessary as the effects of this activity on the environment are known to be minimal.* There is no evidence to support the s.32 contention that the need for resource consent to harvest sphagnum moss was an 'unintended consequence' of an Environment Court case nor that the effects of the activity 'are known to be minimal'. Forest and Bird were involved in the Environment Court proceedings related to identifying significant wetlands and at the time carefully considered the impact on wetlands as a result of harvesting. In the absence of any information on the amount of sphagnum taken, where it was being harvested, the impact on the wetlands, minimal or otherwise, it was considered it could not be supported as a permitted activity. Sphagnum moss harvesting has the potential to disrupt the natural function of wetlands, cause the introduction of invasive species and adversely impact on	**Reject**-delete 'excluding sphagnum moss harvesting' to the definition of 'vegetation disturbance'.

	indigenous flora and fauna. The protection of wetlands is considered to be a national priority. Providing for harvesting as a permitted activity is contrary to Part 2 RMA including s 6 (a) (c). What is being proposed is contrary to 30 (ga) RMA - Council to maintain indigenous biodiversity. It is also contrary to various objectives and policies of the operative Land and Water Plan including: Chapter 4 Objective and Policy 4.3.3 (d) to manage the disturbance of land and vegetation to avoid, remedy or mitigate any effects on significant vegetation and habitats of significant fauna. Chapter 6 Objective and Policies.	
Part 2 Section 32 Report Maps Schedule 1 and 2 Wetlands	The shape files showing the amended wetlands do not identify any hydrological buffer. Failure to delineate a buffer (and in fact in all Schedule 1 and 2 wetlands notified in the operative Land and Water Plan) does not give proper effect to objectives and policies in the proposed Regional Policy Statement, the operative Land and Water Plan and section 6 (a) RMA. The wetland definition set out in the Plan Glossary includes the land water margins. Objective 5.2.1, Policy 5.5.2 and the Objective and Policies in Chapter 6 refer to the protection of wetlands and their margins. The provision of a hydrological buffer was intended to be provided for as an	**Add** a 20 m buffer to each wetland shape file of amended Schedule 1 and 2 wetlands, and all other Scheduled wetlands, to provide for a hydrological buffer

	outcome of Environment Court proceedings in relation to the identification of significant wetlands in the Plan.[1]	and to ensure any land owner and decision maker are aware of the need to protect the land margins of these wetlands.
Part 3 Changes to Wetland (KAGP008) to recognise cultural and spiritual values.	• It is inappropriate to remove areas of wetlands (KAGP008) from Schedule 2 of the Operative Plan to recognise local Ngai Tahu cultural and spiritual values. The identification of significant wetlands occurs as a result of ecological criteria. The recognition of matters in relation to s 6 (e) should occur elsewhere in the Plan to address the management of wetlands with cultural values and these values addressed through a consenting process. • The tenure of the subject land needs to be established. If it is fully or in part	**Retain** Schedule 2 wetland status in areas on map KAGP008 proposed to be removed to 'recognise local Ngai Tahu cultural and spiritual values'.

[1] Friends of Shearer Swamp v WCRC [2012] NZEnvC 006

	land subject to the South Island Native Land Act (SILNA) the Environment Court[2] has found that a rule in a Plan relating to SILNA land did not 'necessarily fail to take into account the Treaty of Waitangi. • Forest and Bird submits regardless of whether it is SILNA land or not identifying a wetland as ecologically significant in the Plan and on land owned by Iwi does not in itself fail to properly consider the Treaty nor does exempting the land from any Schedule or rule.	

Jennifer Miller

16 September 2016

[2] Environment Court A039/01 paras 147-148

DOUBLE SIDED ORIGINAL

Decision No. A039/01

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an appeal under section 120 of the Act

BETWEEN **THE MINISTER OF CONSERVATION**

(RMA902/95)

FEDERATED FARMERS OF NEW ZEALAND (SOUTHLAND PROVINCE) INCORPORATED

(RMA909/95)

RAYONIER NEW ZEALAND LIMITED

(RMA917/95)

ROYAL FOREST AND BIRD PROTECTION SOCIETY OF NEW ZEALAND INCORPORATED

(RMA919/95)

Referrers

AND **THE SOUTHLAND DISTRICT COUNCIL**

Respondent

BEFORE THE ENVIRONMENT COURT

Environment Judge D F G Sheppard (presiding)
Environment Commissioner P A Catchpole
Environment Commissioner F Easdale

HEARING at Invercargill on 4, 5, 6 and 7 December 2000.

THE SEAL OF THE ENVIRONMENT COURT NEW ZEALAND

APPEARANCES:

R H Ibbotson and C M Lenihan for the Minister of Conservation

No appearance on behalf of Federated Farmers

J Campbell for Rayonier New Zealand Limited

S Maturin for Royal Forest and Bird Protection Society

B J Slowley for the Southland District Council

B J Arthur for the Crown and the Minister of Forestry

D McPhail for the Maori Trustee

K Dell for South Wood Export Limited

DECISION

Introduction

[1] These four references relate to contents of the Southland District Council's district plan, including provisions about clearing of indigenous vegetation. The references were lodged by the Minister of Conservation, Federated Farmers of New Zealand (Southland Province) Incorporated, Rayonier New Zealand Limited, and the Royal Forest and Bird Protection Society of New Zealand Incorporated.

[2] When the district plan was publicly notified, it contained Rule COA.4 which provided that within a part of the district identified as the Coastal Activity Area any activity which had the effect of destroying, modifying, removing or in any way adversely affecting any native vegetation or the habitat of native fauna was to require resource consent as a discretionary activity.

[3] The rule was the subject of submissions. Having considered the submissions, the District Council amended the plan by extending the control over clearing indigenous vegetation to the whole of the district, and by inserting specific recognition in respect of land in the district that had been granted under the South Island Landless Natives Act 1906.[1] Those amendments were contained in the provisions of the district plan identified as Method HER.9 and Rule HER.3. A consequential amendment was made to Rule COA.4.

[1] By s 2 of the Maori Purposes Act 1947, where the term "Native" appears in any Act as descriptive of any person, it is to be read as "Maori". Accordingly the short title of the 1906 Act should now be read as the South Island Landless *Maori* Act 1906. However, perhaps unaware of the 1947 enactment, in the hearing of these references counsel and witnesses used the original title. To avoid confusion, in this decision we do the same.

[4] Those amendments were the subject of these references. Two of the references challenged the validity of the new rule. That question was argued as a preliminary issue that was finally determined by the High Court which held that the amendments to the district plan made by the Council were not ultra vires.[2]

[5] Subsequently, most of the issues raised by the references were resolved by consent and were the subject of determinations by the Court.[3]

[6] The referrers and the District Council have also reached settlement on the issues raised by the references of Method HER.9 and Rule HER.3, and have submitted a proposal to the Court for further amendments of the district plan to resolve those issues. The Minister of Forestry has also consented to the proposed amendments. However the Maori Trustee, South Wood Export Limited and a Mr W R Austin did not consent to the proposed amendments.

[7] A question arose whether the Court had jurisdiction to entertain relief sought by any of the additional parties (namely the Maori Trustee, South Wood Export Limited or the Minister of Forestry)[4] beyond the relief sought in the reference or references on which each had sought to be heard. Following consideration of submissions the Court decided that it had jurisdiction to grant the relief sought by the Maori Trustee and South Wood Export Limited.[5] The Court therefore held a hearing of the references to consider the proposal of the principal parties for directions to make further amendments to the district plan to dispose of the remaining issues; and to hear the cases of the Maori Trustee and South Wood Export Limited.

[8] The Maori Trustee sought to be heard on these references as a person having an interest greater than the public generally. The ground for that claim was that the Maori Trustee is Ahu Whenua Trustee under Te Ture Whenua Maori Act 1993 for 5079 beneficial owners of some 7037 hectares of Maori freehold land in the West Rowallan, Rowallan and Alton areas in the Southland District; and also advisory Ahu Whenua Trustee for about 1400 beneficial owners in respect of a further 4928 hectares of land held under the Waimumu Trust. Those lands, and other land, had

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[2] *Royal Forest and Bird Protection Society Inc v Southland District Council* (High Court, Christchurch, AP198/96 (INV); 15 July 1997, Panckhurst, J).

[3] See Environment Court Records of Determinations C78/98; C100/98; C53/99; and C87/99.

[4] At the time Mr Austin had consented to the determination proposed by the principal parties, but later withdrew his consent.

[5] Environment Court Decision A119/2000 given on 4 October 2000. By then it was clear that the Minister of Forestry was not seeking relief other than the amendments proposed by the principal parties.

been granted to Maoris under the South Island Landless Natives Act 1906. (We refer to land granted under that Act as SILNA land.)

[9] The Maori Trustee had lodged a submission in respect of provisions of the proposed district plan, including Rule COA.4. No party sought to challenge the Maori Trustee's claim to be entitled to be heard in the proceedings.

[10] South Wood Export Limited has about 1350 hectares of land in exotic forest in the Rowallan Alton area of Southland. Much of the land on which those exotic forests are growing has an understorey of indigenous vegetation. Some of the planted exotic trees are surrounded by indigenous vegetation and access is only available through indigenous vegetation.

[11] South Wood Export Limited had lodged submissions on the proposed district plan seeking (among other things) amendments in respect of land exempt from the Forest Amendment Act. No party sought to challenge South Wood Export Limited's claim to be entitled to be heard in the proceedings.

[12] The Ministry of Forestry had made submissions on the proposed district plan. The Minister of Forestry had joined in the proposal by the principal parties for disposal of the references. His counsel (Ms Arthur) also represented the Crown, which sought to be heard in respect of submissions on behalf of the Maori Trustee to the effect that the District Council does not have authority to impose restrictions in its district plan on SILNA land.

[13] The Southland Province of Federated Farmers had lodged a reference, and joined the other principal parties in seeking amendments to the plan to satisfy their concerns. They did not appear or take part in the substantive hearing of the references.

[14] Mr W R Austin had advised the Court that he has an interest in the proceedings as an owner of SILNA land in Rowallan-Alton area, and as representing some other owners who were not represented by the Maori Trustee. Mr Austin had joined in seeking the amendments now before the Court, but had subsequently withdrawn his consent. However Mr Austin did not appear at, or take part in, the Court hearing of the references.

The relief sought

[15] The context is the relevant provisions of the district plan following amendments made on consideration of submissions. We quote Method HER.9 and Rule HER.3 as so amended:

> *Method HER.9 – Significant Indigenous Vegetation and Fauna Assessment Criteria*
>
> *(a) In determining whether or not indigenous vegetation is significant or habitats of indigenous fauna are significant regard shall be had to such of the following criteria as may be relevant in the circumstances.*
> *(i) Whether that habitat or vegetation has been specially set aside by statute or covenant for protection or preservation.*
> *(ii) Whether the habitat or vegetation supports indigenous species that are rare, threatened or endangered.*
> *(iii) Whether that indigenous vegetation or habitat is important in the recovery of an indigenous species that is rare, threatened or endangered.*
> *(iv) Whether the vegetation or habitat is unusual and is influenced by factors such as historical cultural practices, altitude, water table or soil or rock type.*
> *(v) Whether it is important that a particular habitat or vegetation should be represented within a district.*
> *(vi) Whether the vegetation is subject to a registered sustainable Forest Management Plan under the Forests Amendment Act 1993.*
> *(vii) Whether the vegetation is exempted from the Forest Amendment Act 1993.*
>
> *(b) In determining the criteria set out in paragraphs (a)(ii), (iii) and (iv) regard shall be had to the availability or otherwise of the species, vegetation or habitat in question in areas outside the district.*
>
> *(c) Nothing in paragraphs (a) and (b) shall limit or preclude the consideration of other relevant factors*
>
> *Rule HER.3 – Indigenous Flora and Fauna*
>
> *(a) Any activity which has the effect of destroying, modifying, removing or in any way adversely affecting any:*
> *(i) Significant indigenous vegetation or*
> *(ii) Significant habitats of indigenous fauna*
> *shall, except to the extent set out in this Rule, be considered to be a Discretionary Activity.*
>
> *(b) Any activity which has the effect referred to in Clause (I) but which is:*
> *(i) The taking of timber from an area to which the Forests Amendment Act 1993 does not apply or*
> *(ii) The carrying out of recognised and appropriate agricultural practises on land which is primarily used for agricultural production purposes*
> *shall, except to the extent set out in this Rule, be considered to be a Controlled Activity*
>
> *(c) Any activity which has the effect referred to in Clause (a) but which is:*
> *(i) The taking of timber from an area subject to and managed in accordance with a registered sustainable forest management plan under the Forest Amendment Act 1993 or*
> *(ii) The taking of timber from an area to which the Forest Amendment Act 1993 does not apply in accordance with an Approved Sustainable Yield Plan or*

(iii) The carrying out of recognised and appropriate silvicultural or horticultural practises with the intention of properly managing significant indigenous vegetation or
(iv) Part of the ordinary incidence of gardening or
(v) The carrying out of recognised and appropriate agricultural practises on land not involving the felling of trees or clearance of bush which is primarily used for agricultural production purposes

shall be considered to be a Permitted Activity.

(d) In assessing an application under this Rule, the Council shall consider the following matters:
- *The significance of and impact on the indigenous vegetation and habitats*
- *The visual impact of the activity and resulting from the activity*
- *The impact on water and soil quality.*

Reason
Indigenous flora and fauna are major contributors to the natural character of the District. In places they are threatened and where this is so they are considered a non-renewable resource.
In other places such as the Coastal Resource Area the land has, in the past, been so developed for urban or rural purposes that the natural character of the coast in the sense of tracts of unspoilt bush and indigenous trees has been irretrievably lost.
The Rule recognises that within the District there are significant areas of land granted under the South Island Landless Natives Act 1906 intended as settlement of obligations under the Treaty of Waitangi and which are specifically exempt from the sustainable forest management regime of the Forests Amendment Act 1993.
While Council acknowledged that it has a responsibility under the Act to promote the sustainable management of its natural and physical resources of this land, its history and status which cannot be ignored.

[16] The amendments proposed by the principal parties (and consented to by the Minister of Forestry) are that Method HER.9 is to be deleted; Rule HER.3 is to be deleted and a new rule substituted; and consequentially Rule COA.4 is to be deleted and Policy RU.4 is to be amended. We quote the text of the replacement Rule HER.3 proposed by them:

HER.3 – Indigenous Vegetation and Habitats of Indigenous Fauna

1. No person shall carry out any activity which involves the clearance, modification, damage, destruction or removal of indigenous vegetation or habitats of indigenous fauna otherwise than in accordance with this Plan.

Permitted Activities

2. The following shall be permitted activities:

(a) The harvesting of indigenous trees with diameters of not less than 25 cm at breast height yielding not more than 50 m^3 of timber per ten year period per Certificate of Title.

(b) The clearance, modification or harvesting of indigenous vegetation which:
(i) has been planted and managed specifically for the purpose of harvesting or clearing; or

(ii) has grown naturally within the boundaries of any area of planted indigenous or exotic vegetation and its clearance or modification is necessarily incidental to the management of that planted vegetation; or
(iii) has been planted and/or managed as part of a garden or gardens or has been planted for amenity purposes.

(c) The clearance, modification or destruction of indigenous vegetation which has grown naturally on land cleared of vegetation in the 15 years immediately prior to this Plan becoming operative.

(d) The clearance, modification or destruction of indigenous vegetation necessary for the operation and/or maintenance of those permitted activities in rule PWN.1 but excluding the expansion or upgrading of those permitted activities or the erection of any building as part of those permitted activities.

(e) The clearance, modification or destruction of indigenous vegetation for the purpose of maintaining existing road, traffic, marine or aviation safety and which is undertaken by or on behalf of the authority responsible for maintaining that safety.

(f) The removal of wind thrown trees or dead standing trees which have died as a result of natural causes.

(g) The clearance, modification or removal of plant pests undertaken for the purpose of maintaining or enhancing the existing state of the remaining indigenous vegetation.

(h) The clearance or modification of indigenous grass lands where the percentage canopy of tussock species is less than 50 %.

Discretionary Activities

3. Any activities which do not comply with Rule HER3(2) shall be discretionary activities.

Applications for Resource Consent

4. An Application made in accordance with Rule HER3(3) shall, in addition to any other information, include:
(a) The details of any water body in, or adjacent to the site.
(b) Details of any area within or adjacent to the site which has been set aside by statute or covenant for conservation or sustainable management purposes.

Criteria for Assessment

5. In assessing an Application for resource consent under Rule HER 3(3) the Council shall have regard to the following matters:
(a) The significance of the affected indigenous vegetation or habitat of indigenous fauna in terms of ecological, intrinsic, cultural or amenity values, and the effects of the proposed activity on these values.
(b) The representativeness of the affected indigenous vegetation or habitat of indigenous fauna and its relationship with other habitats or area of vegetation.
(c) Whether the vegetation is subject to a sustainable Forest Management Plan or permit under Part IIIA of the Forests Act 1949.
(d) Whether the application includes a forest management plan and system of implementation prepared to a standard at least equivalent to a plan approved under Part IIIA of the Forests Act 1949.

(e) Whether the habitat and/or vegetation are important to indigenous species which are regionally rare or nationally threatened, and the effects of the proposed activity on these values.
(f) Whether the area has been identified in Schedule 6.14 to this Plan or by the Protected Natural Areas Programme administered by the Department of Conservation.

Explanation
Indigenous flora and fauna are major contributors to the character of the District. In places they are threatened and where this is so they are considered a non-renewable resource. In other places, such as the Coastal Resource Area the land has, in the past, been so developed for urban or rural purposes that the natural character in the sense of tracts of unspoiled bush and indigenous trees have been irretrievably lost.
The Rule is considered an interim measure by Council, with which to endeavour to provide for some indigenous vegetation modification in specific circumstances; while also requiring that specific assessments be undertaken in situations where proposed activities have discretionary activity status.
The Council recognises that its knowledge of significant indigenous vegetation and significant habitats of indigenous flora and fauna is far from complete and that the process of improving this knowledge will be ongoing. In order to do this Council will make use of the best available technology with specialised information. The Council is also aware that the Minister for the Environment is currently preparing guidelines for councils in relation to their duties under section 6(c) of the Act. The Council recognises the ongoing need for plan changes to ensure that the district plan recognises increasing knowledge of significant natural areas; and to ensure that the provisions of the Plan remain current and relevant and continue to provide an appropriate level of protection.
This rule, being an interim rule, will cease to have effect from the date at which a plan change containing a schedule of Significant Natural Areas produced from a detailed survey of remaining indigenous vegetation and associated landowner consultation, is notified as operative in terms of the First Schedule of the Act.

[17] The relief sought by the Maori Trustee was that Rule HER.3 be amended to exempt from its application all SILNA land. In the alternative, the Trustee sought that the rule be amended to exempt from its application all SILNA land which is not subject to a long-term protection agreement with the Crown.

[18] In addition the Maori Trustee sought that the Court confirm that in any case forestry use of the SILNA land was lawfully established as an existing use before the district plan was notified.

[19] There was no formal application before the Court for a declaration about those claimed existing use rights. The District Council and the other parties had not prepared to respond to that claim. Existing uses are only protected in respect of activities that contravene a rule in a district plan or proposed district plan.[6] Therefore the issues before the Court about the content of the rules should be determined first. Accordingly at the hearing of the references the Court did not call

[6] Resource Management Act 1991, s 10(1).

on the parties to address the existing use claim. If the Maori Trustee wishes to pursue it, then (once the contents of the relevant rules of the proposed district plan have been finally settled) application might be made to the Court for a declaration, or other appropriate proceedings might be commenced to have that issue adjudicated on. Nothing in this decision should be taken as expressing any opinion on that issue.

[20] The amendments sought by the Maori Trustee seeking exemptions from the application of Rule HER.3 were opposed by the Crown.

[21] Rayonier confirmed that it joined the other principal parties in seeking the amendments to Rule HER.3, and in particular clause 2(b)(ii) about clearing indigenous understorey as a permitted activity. It submitted that if that is not to be a permitted activity, then the rule should be deleted in its entirety, as without that clause the rule would be broader than is necessary to achieve the purpose of the Act.

[22] South Wood Export Limited sought two amendments to the new Rule HER.3 proposed by the principal parties. First, it sought that proposed clause 2(b)(ii) be deleted and the following class of activity substituted as a permitted activity:

> *The clearance or modification of indigenous vegetation which is reasonably necessary to the management, harvesting, or replanting of any area of planted indigenous or exotic vegetation.*

[23] Secondly, South Wood Export Limited sought that proposed clause 2(c) be amended by deleting the expression "15 years" and substituting the expression "30 years".

[24] The amendments sought by South Wood Export Limited were opposed by Forest and Bird.

Scope of District Council's authority over SILNA land

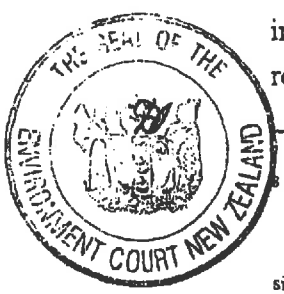
[25] It was part of the case for the Maori Trustee that as a matter of law, the District Council does not have authority to make a rule in its district plan controlling the clearance of indigenous vegetation on SILNA land. That was not accepted by the Crown or the District Council. We address that question now.

[26] The heart of the Maori Trustee's submission lay in the exemption of SILNA land from application of Part IIIA of the Forests Act 1949.[7] Counsel submitted that the District Council does not have power to make the proposed rule in respect of SILNA land on three main grounds. The first was that the general power to make such a rule was impliedly repealed *pro tanto* in respect of SILNA land by the exemption of SILNA land from the application of Part IIIA of the Forests Act. The second ground was that application of the rule to SILNA land would fail to take into account the principles of the Treaty of Waitangi, in particular the principles of partnership, active protection in the use of Maori land, undisturbed possession and protection of taonga. The third ground was that in purporting to apply to all indigenous vegetation, the proposed new Rule HER.3 is beyond the District Council's powers under the Resource Management Act.

The Maori Trustee's case

[27] The first ground was that the proposed new Rule HER.3 would impose a regime similar to that of Part IIIA of the Forests Act from the application of which SILNA land had been specifically exempted. Counsel contended that the Resource Management Act was general legislation, and the Forests Amendment Act was a later special act which is inconsistent with it, so as to create an exception to the general power to make rules in district plans, by curtailing the power to make rules affecting the exemption. It was argued that the intent and effect of the proposed new Rule HER.3 would be to permit only sustainable management of the forest assets of SILNA land, which is exactly the opposite of the exemption.

[28] Counsel for the Maori Trustee also relied on the judgment of the High Court in *Alan Johnston Sawmilling v Governor-General*[8] in which it had been held that the Crown had commitments to SILNA landowners regarding their right to use the land and forests provided for them in a manner that would ensure their economic and social well-being. It was argued that this case established the "full compensation" nature of the SILNA land, bringing with it the obligation to permit full use of the land; and that the proposed rule would prevent SILNA owners from optimal use of the forest and be repugnant to the exemption from Part IIIA of the Forests Amendment Act. It was also argued that the proposed rule would be imposed for an improper purpose, to enforce sustainable management of the forest by a backdoor route.



[7] Part IIIA was inserted in the Forests Act 1949 by s 3 of the Forest Amendment Act 1993.
[8] High Court, Wellington, CP140/97; 9 June 1999, Wild J.

[29] The second main ground of the Maori Trustee's submission was that the rule would offend principles of the Treaty of Waitangi contrary to the duty imposed by section 8 of the Resource Management Act. Several particulars were given.

[30] First, it was contended that it would breach the principle of partnership (a relationship creating responsibilities akin to fiduciary duties) to prevent owners of SILNA land from utilising their land in any manner they would otherwise be permitted to, as a result of the exemption from Part IIIA of the Forests Act. It was also contended that it would breach the principle of partnership (a relationship founded on trust) to fail to take into account that the land was compensation land granted for the economic benefit of Maori, and that it enjoys exemption from the sustainable management provisions of Part IIIA of the Forests Act.

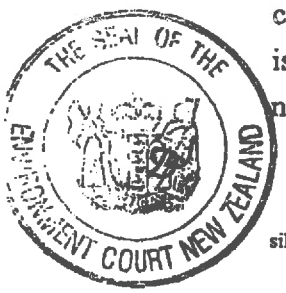
[31] Secondly it was contended that it would breach the duty of active protection to restrict the ways in which the indigenous forest on the SILNA land can be used.

[32] Thirdly it was contended that Rule HER.3 (both as inserted by the Council and as proposed to be replaced) would breach the Treaty principle of undisturbed possession of land by preventing full utilisation of it.

[33] The fourth respect in which it was contended that the rule would offend the Treaty principles was that it would fail to recognise the right of Maori to deal with their lands as a taonga.

[34] The third main ground of the Maori Trustee's submission was that the proposed new Rule HER.3 purports to apply to all indigenous vegetation, and it was contended that this is beyond the District Council's powers under the Resource Management Act. The basis for that submission was the contention that the Resource Management Act authorises protection of "*significant* indigenous vegetation", not *all* indigenous vegetation.

[35] Counsel for the Maori Trustee acknowledged that the definition of the term "sustainable management" in the Resource Management Act is much different from the definition of the same term in the Forests Act, the latter being more focussed. Counsel submitted that there is nothing in the former Act which requires the continuing existence of all indigenous vegetation, and that the proposed Rule HER.3 is directed at giving effect to sustainable management as defined in the Forests Act, not as defined in the Resource Management Act.



[36] Counsel argued that it is not sufficient to say that the rule is interim, submitting that lack of knowledge is not a legitimate reason for blanket rules outside the District Council's authority under the Resource Management Act.

The response to the Maori Trustee's Case

[37] The Crown challenged the first two of the submissions made on behalf of the Maori Trustee, namely that the Resource Management Act 1991 was impliedly repealed in part by the Forests Amendment Act, and that application of the proposed rule to SILNA land would fail the District Council's duty under section 8 of the Resource Management Act to take into account the principles of the Treaty of Waitangi. Submissions in that respect were presented by Crown counsel, Ms Arthur. Counsel for the Minister of Conservation, Mr Ibbotson, presented separate argument on the first submission, and also presented argument in opposition to the Maori Trustee's third submission, namely that it is beyond the District Council's powers to apply vegetation clearance control to all indigenous vegetation. In addition, counsel for the District Council and the advocate for Forest and Bird also presented submissions on those issues. We have been assisted by all those submissions, as well as those of counsel for the Maori Trustee, Mr McPhail, in our consideration of these issues, which we now consider in turn.

Implied part repeal of the Resource Management Act

[38] In considering the question raised by the Maori Trustee's first submission, we start with the three enactments concerned, the South Island Landless Natives Act 1906, the Resource Management Act 1991, and the Forests Amendment Act 1993. We will then identify the principles for deciding whether an enactment is impliedly repealed by another enactment, and apply them to the case.

South Island Landless Natives Act 1906[9] –

[39] The title of the Act described it as–

An Act to make Provision for Landless Natives in the South Island.

[9] The Act was repealed by the [Maori] Land Act 1909.

[40] The Act authorised the Governor to reserve Crown land and allocate it to Maoris in the South Island[10] who are not in possession of sufficient land to provide for their own support and maintenance.[11] The land so granted is absolutely inalienable except amongst the persons or their descendants who are so entitled.[12]

[41] Counsel for the District Council remarked that there is nothing in the South Island Landless Natives Act that indicates that the land granted under it was allocated for the purpose of timber extraction. We accept that. Crown Counsel submitted it can be inferred from the language "Maoris ... who are not in possession of sufficient land to provide for their own support and maintenance ...", that the purpose of granting land was so that the grantees might provide for their own support and maintenance. We accept that too.

[42] In *Alan Johnston Sawmilling Limited v Governor General*[13] Justice Wild cited a draft Cabinet paper in which it was stated that the SILNA lands had been granted "as compensation for their treatment by the Crown in the preceding decades". In these proceedings counsel for the Crown did not accept the correctness of that statement, and submitted that there is no evidence that the SILNA land was granted as compensation of that kind, but was more in the nature of the provision of practical welfare.

[43] However the draft Cabinet paper was not produced in evidence in this Court. With respect, the Environment Court is not bound to adopt findings of fact made by the High Court in other proceedings and based on evidence that is not before the Environment Court.

[44] The submissions made by the Crown about the purpose of the grants of SILNA land were consistent with the language of the 1906 Act. There being no evidence to the contrary before this Court, we accept Ms Arthur's submissions in that respect.

[10] See s 7.
[11] See the definition of "Landless Natives" in s 2.
[12] See s 9.
[13] High Court, Wellington, CP140/97; 9 June 1999, Wild J.

Resource Management Act 1991

[45] The purpose of the Resource Management Act 1991 is the sustainable management of natural and physical resources, as those terms are defined in the Act.[14] The definition of the term "natural and physical resources" includes " ...land ... all forms of plants and animals (whether native to New Zealand or introduced) ..." The term "sustainable management" is defined[15] as follows:

> *In this Act, "sustainable management" means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while –*
> *(a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
> *(b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
> *(c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

[46] For the present purpose, it is relevant to note the exclusion of minerals from the goal stated in paragraph (a). Subject to exceptions that are not significant in deciding this point, the Resource Management Act 1991 binds the Crown. There are other exceptions provided by section 4A in respect of ships and aircraft of foreign States. Subject to those express exceptions and to other specific enactments[16] (none of which is material to these proceedings) the Resource Management Act 1991 is an Act of general application.

[47] The Resource Management Act does not express any exemption in respect of SILNA lands. It does provide [17]–

> *Compliance with this Act does not remove the need to comply with all other applicable Acts, regulations, bylaws, and rules of law.*

[48] We respectfully adopt the findings of Justice Barker in *Falkner v Gisborne District Council*[18] that –

> *The Act prescribes a comprehensive, interrelated system of rules, plans, policy statements and procedures, all guided by the touchstone of sustainable management of resources. The whole thrust of the regime is the regulation and control of the use of land, sea and air. There is nothing ambiguous or equivocal about this.*
> ...

[14] Resource Management Act 1991, s 5(1).
[15] Ibid, s 5(2).
[16] Eg the Local Government (Millennium Events) Amendment Act 1999.
[17] Resource Management Act 1991, s 23(1).
[18] [1995] 3 NZLR 622, 632, 633; [1995] NZRMA 462, 477, 478.

The Act is simply not about vindication of personal property rights, but about the sustainable management of resources.

...

The relevant statute in the present proceedings deliberately sets in place a coherent scheme in which the concept of sustainable management takes priority over private property rights.

[49] The Act stipulates that there is to be a district plan for each district prepared by the territorial authority[19] to assist it to carry out its functions in order to achieve the purpose of the Act.[20] For the purpose of carrying out its functions under the Act and achieving the objectives and policies of the plan, a territorial authority is empowered to include in its district plan rules which prohibit, regulate or allow activities.[21] In making a rule, the territorial authority is to have regard to the actual or potential effect on the environment of activities including, in particular, any adverse effect.[22]

Forests Amendment Act 1993

[50] The Forests Amendment Act 1993 inserted a new Part IIIA in the Forests Act 1949.[23] The purpose of Part IIIA is stated[24]–

The purpose of this Part of this Act is to promote the sustainable forest management of indigenous forest land.

[51] The term "sustainable forest management" is defined as follows[25]–

'Sustainable forest management' means the management of an area of indigenous forest land in a way that maintains the ability of the forest growing on that land to continue to provide a full range of products and amenities in perpetuity while retaining the forest's natural values.

[52] The term "indigenous forest land" is defined as follows[26]–

'Indigenous forest land' means land wholly or predominantly under the cover of indigenous flora.

[19] Resource Management Act 1991, s 73(1).
[20] Ibid, s 72.
[21] Ibid, s 76.
[22] Idem, subs (3).
[23] Forests Amendment Act 1993, s 3.
[24] Forests Act 1949, s 67B (as inserted by the Forests Amendment Act 1993, s 3).
[25] Forests Act 1949, s 2(1) (as amended by the Forests Amendment Act 1993, s 2(1)).
[26] Idem.

[53] Counsel for the Maori Trustee contended that Part IIIA effectively prevented the use of products from indigenous forest except within the confines of a sustainable management plan approved by the Minister of Forests. Crown counsel stated that Part IIIA had been the Crown's response to uncontrolled felling of indigenous trees throughout the country by imposing controls on exports and sawmilling and providing for sustainable forest management plans.

[54] The effect of Part IIIA was summarised by Justice Wild in *Alan Johnston Sawmilling* as follows[27]:

> *... prohibiting the export of indigenous forest produce unless logged from an area managed under a registered sustainable forest management plan or permit, and by prohibiting the milling of indigenous timber unless taken from an area managed in accordance with a registered sustainable forest management plan*

[55] We respectfully adopt that summary of the effect of Part IIIA, and find that the statement of its effect contended for by Mr McPhail was too broad and not supported by the terms of the enactment. It does not contain controls on the *use* of products from indigenous forest, but on milling[28], and on export from New Zealand[29], of indigenous timber. Counsel for the District Council (Mr Slowley) submitted that nothing in Part IIIA of the Forests Act prevents the felling of indigenous timber on any land, provided that the timber is not milled or exported. Counsel for the Minister of Conservation (Mr Ibbotson) observed–

> *Nothing in Part IIIA relates directly to or purports to impose controls on the clear felling for waste, firewood, farming or replanting [in] exotic forests.*

[56] There are certain general exceptions to the application of Part IIIA. When Part IIIA was originally inserted in the Forests Act, the specific exceptions to the application of Part IIIA were defined as follows[30] –

> ***67A. Application of this Part** – (1) Nothing in this Part of this Act applies to the following:*
> *(a) Any West Coast indigenous production forest:*
> *(b) Any indigenous timber from or on any land permanently reserved under the South Island Landless Maori Act 1906 and having the status of Maori land or General land owned by Maori under Te Ture Whenua Maori Act 1993:*

[27] *Alan Johnston Sawmilling Limited v Governor-General* (High Court, Wellington, CP140/97; 9 June 1999, Wild J) page 5.
[28] Forests Act 1949, s 67D (as inserted by Forests Amendment Act 1993, s 3).
[29] Forests Act 1949, s 67C (as inserted by Forests Amendment Act 1993, s 3).
[30] Forests Act 1949, s 67A (as inserted by Forests Amendment Act 1993, s 3).

(c) Any indigenous timber from or on any land held, managed, or administered by the Crown under the Conservation Act 1987 or any of the Acts specified in the First Schedule to that Act:
(d) Any indigenous timber from any planted indigenous forest.
(2) Except as provided in subsection (1) of this section, this Part of this Act binds the Crown.

[57] Paragraph (b) of that section was replaced in 1996 by the following [31]–

(b) Any indigenous timber from or on any land originally reserved or granted under–
(i) The South Island Landless Maori Act 1906; or
(ii) Section 12 of the Maori Land Amendment Act 1914; or
(iii) Section 88 of the Reserves and other Lands Disposal and Public Bodies Empowering Act 1916; or
(iv) Section 110 of the Maori Purposes Act 1931–
and having the status of Maori land or General land owned by Maori under Te Ture Whenua Maori Act 1993:

[58] Part IIIA contains certain provisions that indicate the interface between it and the Resource Management Act 1991.

[59] Section 67L of the Forests Act[32] prescribes –

The approval or registration of a sustainable forest management plan shall not constitute a subdivision of land for the purposes of the Local Government Act 1974 or the Resource Management Act 1991.

[60] Section 67V [33]provides –

Before cutting or felling any indigenous timber pursuant to a sustainable forest management plan, the owner shall obtain the resource consents (if any) required under the Resource Management Act for that activity.

Principles of implied repeal

[61] We have now to identify the legal principles by which to decide the question whether the Resource Management Act 1991 was impliedly repealed *pro tanto* by the enactment of the Forests Amendment Act.

[62] The concept is described in *Burrows Statute Law in New Zealand*[34] in this way–

If a general provision is followed by a later special one that is inconsistent with it, the effect of that special statute is to engraft an exception on to the general one. It

[31] Forests Amendment Act (No 2) 1996, s 2.
[32] Inserted by the Forests Amendment Act 1993, s 3.
[33] Inserted by the Forests Amendment Act 1993, s 3.
[34] Second edition, Wellington, Butterworths, 1999, page 277.

takes away part of its subject-matter and deals with it specially. The general provision remains intact, for not a word of it is truly repealed or changed, but it is now inapplicable to one situation which it previously covered. The second provision is said to impliedly repeal the first "pro tanto", as far as its subject-matter extends.

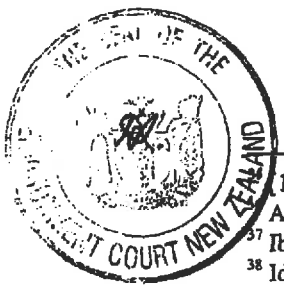
[63] An example of the application of this principle arose over the relationship between the Town and Country Planning Act 1953 and the Mining Act 1971. In *Stewart v Grey County Council*[35] the Court of Appeal held that although the Town and Country Planning Act 1953 was general in application, the provisions of the Mining Act formed a special code exclusively applicable to mining, and took mining out of the general provisions of the earlier the Town and Country Planning Act, and dealt with it specially.

[64] In delivering the judgment of the Court of Appeal, Justice Richardson[36] said[37]–

The starting point, of course, is that there be an inconsistency. If it is reasonably possible to construe the provisions so as to give effect to both, that must be done. It is only if one is so inconsistent with, or repugnant to the other, that the two are incapable of standing together, that it is necessary to determine which is to prevail.

[65] Applying the principle to the two enactments, the learned Judge said[38]–

... the Mining Act 1971 is special legislation governing the use of land for mining purposes. The Act provides a clear and detailed statutory code determining and controlling, under the direction of the Minister, the use and development of land for mining purposes. There are express provisions involving catchment authorities. There are express provisions barring mining operations where the land is being used in particular ways. And in s 152 Parliament directed its attention to the application of other legislation and provided that where conflict appeared between any provision of Part VI of the Act and the provision of the Quarries Act 1944 or the Construction Act 1959, the provisions of the Quarries Act or the Construction Act, as the case might be, should prevail. So far as land use is concerned, the scheme of the Act is that mining may and must be carried out in accordance with the provisions of the 1971 Act. There is no suggestion or implication that the use of land for mining purposes is also subject to other and possibly inconsistent controls imposed by territorial authorities. And it would be surprising if the Minister, having determined as he did in this case that it was in the national interest for land to be declared open further mining as if it were Crown land, and having then granted a mining licence, the town planning legislation could then be invoked to negate that decision. We are satisfied that that would be contrary to the purpose of the legislation. On our analysis, the Mining Act 1971 was intended to be an exclusive code in respect of the use of land for mining purposes under mining licences granted under that Act. Whatever the position as at the dates the Town and Country Planning Act 1953 and ss28D and 38A were enacted ... the 1971 Act must



[35] [1978] 2 NZLR 577.
[36] As he then was (now President of the Court of Appeal).
[37] Ibid, page 583.
[38] Idem.

be taken to have pre-empted the field and not to be subject to the land use control provisions of the Town and Country Planning Act.

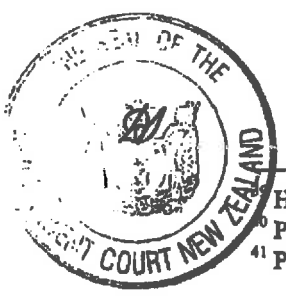
[66] In considering an argument founded on the opinion of the Privy Council in a New South Wales decision, the learned Judge identified material differences between the legislation involved in that case and the New Zealand legislation. He observed that there was an express statutory provision making Crown land subject to the New South Wales planning legislation, and that in New Zealand the Crown (with certain immaterial exceptions) was not subject to the Town and Country Planning legislation. Justice Richardson also remarked that there was no such express exclusion from that Act of other named statutes; and that it would be inconsistent with the scheme of the Mining Act to allow territorial authorities, instituting and implementing land use controls, to derogate from the rights and obligations in that respect provided for in the Mining Act.

[67] The relationship between the Civil Aviation Act 1990 and the Resource Management Act 1991 was considered by the High Court in *Director of Civil Aviation v Glacier Helicopters*[39] which the extent to which air safety issues should be considered on a resource consent application for a proposed heliport near an existing airport. Justice Ellis said[40]–

> ***Where two statutes deal with the same matter, the proper approach to interpretation is to try to give each its effect without creating conflict. If conflict cannot be avoided, then the special statute will usually prevail over the general:*** **Stewart v Grey County Council** ***[1978] NZLR 57. In my view the two statutes here are not in conflict.***

[68] The reason for that conclusion was set out in this passage[41]–

> ***In this case the [Planning] Tribunal directed itself precisely to these matters and concluded that an air accident in this area, although of low probability, would have a high potential impact on the social and economic conditions of the local communities dependent on the tourist trade. Plainly air safety must be considered by the Council and the Tribunal. While the essential function of the Director [of Civil Aviation] is to set the minimum safety standards that are acceptable, and that must involve some degree of risk, and while in the ordinary situation that would normally satisfy a council or the Tribunal, nevertheless the Tribunal is entitled to take a more particular look at the communities affected. I think too as a matter of law it is open to the Tribunal to require a higher degree of safety than required by the Director. A Council and the Tribunal is not necessarily thereby contradicting the Director as the issues are not identical.***



[39] High Court, Wellington, CP128/95; 27 June 1997, Ellis J.
[40] Page 10.
[41] Page 9.

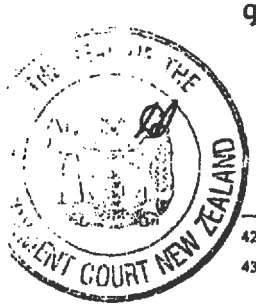
[69] The principles about implied repeal have been applied by the Environment Court to the relationship between the Fisheries legislation and the Resource Management Act 1991 in *Challenger Scallop Enhancement Co v Marlborough District Council*[42] and in *Ngati Kahu Ki Whangaroa v Northland Regional Council.*[43]

[70] From the Court of Appeal and High Court decisions cited, we discern these steps in the process of deciding whether the Resource Management Act 1991 was impliedly repealed *pro tanto* by the Forests Amendment Act 1993, so that the former no longer applies to SILNA land. The Court first has to find whether or not it is reasonably possible to construe the enactments so as give effect to both. If it can, then repeal *pro tanto* of the former by the latter is not to be inferred. Some relevant indications are evident from the decisions.

[71] One is the extent of overlap of issues. (Compare *Stewart,* where the *use* of land was common to both enactments, with *Glacier Helicopters,* where setting minimum safety standards was the function of the Director, and deciding whether the heliport would promote sustainable management of resources was the function of the Council and Tribunal, issues that were not identical).

[72] Another indication that may be influential is the scope for inconsistent controls. In *Stewart,* the possibility that a licence to use land for mining might be negated by a territorial authority acting under town planning legislation was an indication of inconsistency. But in Glacier Helicopters, the possibility that a functionary under the Resource Management Act might require safety standards higher than the minima set by the Director did not mean that the two enactments were inconsistent with each other.

[73] An indication may also be found where an enactment expressly deals with the relationship between it and other legislation. So, in *Stewart* the Court of Appeal noted that in the Mining Act Parliament had directed its attention to the application of other legislation and made provision in that respect. In *Glacier Helicopters* the question did not arise.



[42] [1998] NZRMA 342.
[43] Environment Court Decision A95/2000.

[74] A further consideration is where one of the enactments is so comprehensive as to be a special code excluding other legislation, as the Mining Act was found to be in *Stewart*.

[75] If it is found that one of the enactments is so inconsistent with, or repugnant to, the other that they are incapable of standing together, then the Court has to determine which is to prevail, as in *Stewart* where the Mining Act was held to have pre-empted the field.

Application of principles

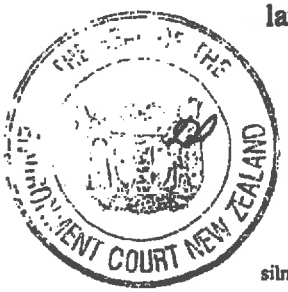
[76] We now follow those steps in respect of the Forests Amendment Act 1993 and the Resource Management Act 1991, starting with consideration of the extent of overlap of the issues.

[77] The stated purpose of each Act refers to sustainable management. The definition of sustainable forest management in Part IIIA shows that it is concerned with the sustainability of the forest. By comparison, the definition of sustainable management in the 1991 Act shows that it is concerned with effects on all natural and physical resources of the environment, particularly effects on resources that are external to those being managed.

[78] The subject matter of the regulation imposed by Part IIIA is export and milling of certain forest products. The subject matter of the regulation imposed under the 1991 Act is the use of all natural and physical resources of land, water, and air, including land and all forms of plants.

[79] The intended relationship between Part IIIA and the 1991 Act is indicated by the duty imposed by Part IIIA that any resource consent required under the 1991 Act for cutting or felling any indigenous timber pursuant to a sustainable forest management plan is to be obtained.

[80] Although Part IIIA provides that it does not apply to indigenous timber from or on certain SILNA land, it contains no indication of an intention to exempt that land (or the owners of it) from regulation imposed under the 1991 Act.



[81] The purpose of Part IIIA may overlap to an extent with the purpose of the 1991 Act, in that sustainability of an indigenous forest may also be part of sustainability of management of natural and physical resources generally. However exempting certain SILNA land from the control for the purpose of sustainability of the forest does not conflict with applying to that land the control for the purpose of promoting sustainable management of natural and physical resources generally, particularly in respect of external effects.

[82] In that Part IIIA controls export of certain forest products, it does not overlap any control under the 1991 Act, which does not provide for control over exports. The control in Part IIIA over milling of certain forest products does not overlap with the 1991 Act either. As an activity, milling of forest products might be controlled under the 1991 Act, but that control would be for the wider purpose of promoting sustainable management of natural and physical resources generally, with particular reference to external effects of the activity itself, not for the sustainability of the source forest.

[83] There is no overlap of control over cutting or felling indigenous timber. That is not controlled at all by Part IIIA, which expressly stipulates that any resource consent required under the 1991 Act is to be obtained.

[84] From that consideration we find that although there is some overlap of issues between the two enactments, they are capable of being construed so that they stand together, each having its effect without creating conflict between them.

[85] We also consider the important question of scope for inconsistent controls. Authority for milling certain indigenous timber under Part IIIA does not imply that cutting and felling that timber is immune from any applicable control under the 1991 Act, because section 67V expressly states otherwise. Authority for milling certain indigenous timber does not imply immunity from control under the 1991 Act of the activity of the particular mill. The one relates to the source and nature of the timber being milled, the other to the location of the timber mill and the effects of the milling activity, particularly those on the external environment. The 1991 Act is permissive, and expressly states that compliance with it does not remove the need to comply with other applicable Acts etc. So the fact that the operation of a particular timber mill may conform with the 1991 Act would not create any inconsistency with control

under Part IIIA by which milling of certain indigenous timber may be prohibited. For those reasons we do not perceive any scope for inconsistent controls.

[86] By requiring (in Part IIIA) the obtaining of any resource consent required for cutting or felling indigenous timber pursuant to a sustainable forest management plan, and declaring (in the 1991 Act) that compliance with that Act does not remove the need to comply with other applicable Acts etc, Parliament has expressly dealt with the relationship between the two enactments. Those provisions are indicative of an intention that they should stand together and each take effect on its own terms. We have not found inconsistency between those terms (let alone conflict between them) that would frustrate that intention.

[87] Part IIIA might be described as a special code as far as it goes, that is, for the sustainability of the indigenous forests to which it applies. However the express provision to obtaining any resource consent required under the 1991 Act negates any notion that Part IIIA was intended to be a comprehensive code excluding other legislation, in the way that the Mining Act 1991 was held (in *Stewart's* case) to be.

[88] The grant of the SILNA lands so that the grantees (and their descendants) might provide for their own support and maintenance is not inconsistent with application to those lands of the district rules regulating clearance of indigenous vegetation. The proposed rule would not prohibit that activity, but would control it for the general purpose of the 1991 Act. That regulation does not conflict with exempting certain SILNA lands from application of the regulation over milling and exporting of indigenous timber for the purpose of forest sustainability.

[89] In short, we find that Part IIIA is not inconsistent with, or repugnant to, the 1991 Act, and that each can be given effect without creating conflict. We do not accept that the 1993 enactment of Part IIIA was intended to create an implied exception to the Resource Management Act 1991 so that it would not apply to the cutting or felling of indigenous timber, the milling or export of which is regulated by Part IIIA. That would conflict with section 67V of Part IIIA.

[90] For those reasons we reject the Maori Trustee's submission that the general power of the District Council to make the proposed rule was impliedly repealed *pro tanto* in respect of SILNA land by the enactment of Part IIIA by the Forests Amendment Act 1993.

[91] We now consider the Maori Trustee's subsidiary submission that the District Council is proposing the replacement Rule HER.3 for an improper purpose, that is, to impose restrictions for sustainable management on SILNA lands which Parliament has exempted from sustainable management.

[92] We accept that the purpose for which the District Council is proposing the replacement rule is one of sustainable management. The purpose is that of the Resource Management Act, namely, the promotion of sustainable management of natural and physical resources. Later in this decision we compare the meaning given to the term 'sustainable management' in the Resource Management Act with the definition of the term 'sustainable forest management' in the Forests Act. It is sufficient for the present purpose to record that they are quite different. In short, the latter is concerned with the sustainability of the forest; the former with promoting sustainable management of all natural and physical resources.

[93] The proposed rule is to be inserted in a district plan under the Resource Management Act to assist the District Council in carrying out its functions in order to achieve the sustainable management purpose of that Act.[44] There is no evidence on which we could find that this is not the District Council's true purpose, but "a backdoor route" (to use Mr McPhail's words) to sustainable management of forests, which is the purpose of Forest Act controls from which some SILNA lands are exempt. We reject the Maori Trustee's charge of impropriety on the part of the District Council.

Taking into account the principles of the Treaty of Waitangi

[94] The second ground of the Maori Trustee's challenge to the District Council's authority to make the proposed rule was that application of the rule to SILNA lands would, contrary to the duty imposed by section 8 of the Resource Management Act 1991, fail to take into account the principles of the Treaty of Waitangi, particularly the principles of partnership, of active protection, of undisturbed possession of land, and of dealing with lands as taonga.

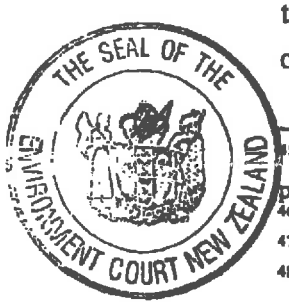
[44] Resource Management Act 1991, s 72.

[95] For the principles of partnership, active protection, and undisturbed possession of lands, Mr McPhail cited passages in judgments in the Court of Appeal in the *Maori Council* case.[45] In respect of the principle about treating Maori lands as taonga, counsel cited the report by the Waitangi Tribunal on the Mohaka River case and the Tribunal's Orakei Report.

[96] Mr Slowley announced that the District Council recognised that there may be matters to be addressed between owners of SILNA land and the Crown, but that the District Council does not accept that it is a Treaty partner, or that it must take over the Crown's obligations under the Treaty. Counsel also observed that even if it is held that the SILNA lands should be exempt from proposed Rule HER.3, that would not leave the owners of that land the right to clear it of indigenous vegetation untrammelled by the district plan. Mr Slowley drew attention to other general rules that would constrain forestry roading activities that would disturb soil and have effects on water.

[97] The representative of the Royal Forest and Bird Protection Society Incorporated (Forest and Bird), Ms Maturin, submitted that the Council is not subject to the same obligations as the Crown under the Treaty, but rather to take into account the principles of the Treaty in reaching its decision.[46] She reminded us that section 8 of the Resource Management Act is not to be read independently of section 5 as an end in itself, but is to promote the Act's central purpose of sustainable management.[47]

[98] Ms Maturin submitted that the Council had to include in its district plan provisions that were considered necessary to fulfil the purpose of the Resource Management Act in relation to Maori, while maintaining a proper balance in achieving the Act's purpose with regard to other sections of the community.[48] In that regard, Ms Maturin observed that Rule HER.3 would not have the effect of preventing the clearance of indigenous vegetation on SILNA land. Rather, in order to sustainably manage the resources of those lands in the way stated in section 5 of the Act, the rule would require that in defined circumstances resource consent be obtained.



[45] *New Zealand Maori Council v Attorney-General* [1987] 1 NZLR 641 at 664 per Cooke P as to the principles of partnership and active protection, and at 715 per Bisson J as to undisturbed possession.
[46] Citing *Hanton v Auckland City Council* Planning Tribunal Decision A10/94.
[47] Citing *Mahuta v Waikato Regional Council* Environment Court Decision A91/98.
[48] Citing *Nicholas v Western Bay of Plenty District Council* Environment Court Decision A3/00.

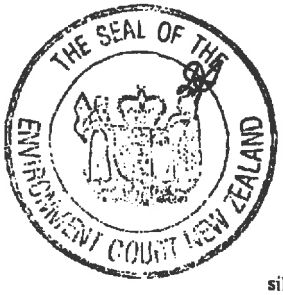
[99] Crown Counsel, Ms Arthur, announced that the Crown accepted that the District Council was required to take into account the principles of the Treaty of Waitangi. However counsel submitted that the principles invoked by the Maori Trustee are not exclusive; and they do not give the Maori owners of land a power of veto over a rule in a plan. Like Ms Maturin, Ms Arthur contended that section 8 is only one of the matters identified in Part II of the Resource Management Act that have to be considered in achieving the purpose of that Act. They have no greater weight because some of the land affected is owned by Maori, however that land was acquired.

[100] Ms Arthur submitted that the District Council's duty under the Resource Management Act to promote the sustainable management of natural resources is an exercise of Article the First of the Treaty (the right to govern, kawanatanga). The Council's exercise of its powers, functions and duties includes taking into account the principles of the Treaty. However having done so, the Council is able to impose controls on land owned by Maori, however that land was acquired, provided the controls are in accordance with the purpose of the Resource Management Act.

[101] This second ground of the Maori Trustee's challenge to the District Council's authority to make Rule HER.3 was, of course, founded on section 8 of the Resource Management Act 1991 which imposes an important duty in these terms:

> ***8. Treaty of Waitangi*** *– In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).*

[102] The language of the section leaves no room for a person exercising a function or power under the Act to have immunity from the duty imposed on the ground that the person is not a Treaty partner, and has not assumed the Crown's obligations under the Treaty. Persons exercising functions and powers under the Act do not thereby have the Crown's obligations of giving effect to the Treaty. Even so, Parliament has directed that, in the cases described by the section, they are to take into account the principles of the Treaty. We hold that, in deciding the contents of its district plan the District Council was required to do so; and that in deciding these references, the Court is required to do so.



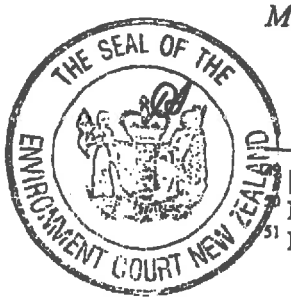
[103] We also accept that the principles of partnership, of active protection, and of undisturbed possession of land, that were identified in the *Maori Council* case,[49] are indeed principles of the Treaty. However the reports by the Waitangi Tribunal that were relied on for the claim for a principle about Maori land being a taonga were not produced to the Court, nor were references provided to the passages relied on. Although reports by the Waitangi Tribunal may deserve respect, they are not a source of law. The Tribunal's findings are not binding on the Court. In short, we do not accept that there is a principle of the Treaty of classifying land owned by Maori as a taonga, separate from the principles of active protection and of undisturbed possession of land.

[104] The principle of partnership is that the Crown is to act towards the Maori race "with the utmost good faith which is the characteristic obligation of partnership".[50] The Maori Trustee submitted that it is a breach of that relationship to prevent owners of SILNA land from utilising their land in any manner which they would otherwise be permitted to as a result of the exemption from Part IIIA of the Forests Act. It was also submitted that it is a breach of trust to fail to take into account that the land was compensation land granted for the economic benefit of Maori owners.

[105] We do not accept that those submissions represent the effect of performing the duty cast on the District Council by section 8 for these four reasons.

[106] First, we do not accept that the exemption of certain SILNA lands from Part IIIA of the Forests Act has anything to do with the District Council's functions and powers under the Resource Management Act. The exemption was no more than an item in the list of exemptions by which Parliament defined the boundaries of the controls over the milling and export of indigenous timber introduced by Part IIIA. We do not consider that section 67A(1)(b) of Part IIIA can be read as expressing an intention that SILNA land would also be exempt from regulation of clearance of indigenous vegetation under and for the purpose of the Resource Management Act.

[107] Secondly, we remain of the opinion that we expressed in our decision in *Mahuta v Waikato Regional Council*[51] (cited by Ms Maturin) that



[49] [1987] 1 NZLR 641 (CA).
[50] Ibid, at 664, per Cooke, P.
[51] Environment Court Decision A91/98.

The Resource Management Act has a single purpose. Consistent with that we hold that the provisions of sections 6 to 8 are subordinate and accessory to the primary or principal purpose of the Act.

[108] Accordingly the duty to take into account the principles of the Treaty does not necessarily prevail over the duties to have regard to other contents of Part II of the Act. All relevant matters have to be identified and weighed so that a balanced judgment can be made for achieving the statutory purpose of promoting sustainable management of natural and physical resources as defined.

[109] Thirdly, we do not accept that adopting the proposed Rule HER.3 would fail to take into account the Treaty principle of partnership. That principle is that the Crown should act towards the Maori race with the utmost good faith. The rule would not discriminate against the Maori race: it would apply generally. Even if the SILNA land had been granted as compensation (which, as we have stated,[52] we do not accept) it would not be a breach of the good faith with which the Crown is to act towards the Maori race for a District Council to have the proposed rule in its district plan.

[110] The rule would not prohibit clearing of indigenous vegetation, but would regulate it in a way that allows for the circumstances and effects of a specific proposal to be considered by elected officials by an open process against stated criteria, and for a clearly stated public purpose, with a right of appeal to an independent Court with membership and experience appropriate to its task.

[111] The principle of active protection is a duty of "active protection of Maori people in the use of their lands and waters to the fullest extent practicable".[53] The principle of undisturbed possession is a duty of "full, exclusive and undisturbed possession [by Maori] of their lands".[54] These seem different ways of expressing the one principle, and we treat them in that way. It was the Maori Trustee's case that placing restrictions on the way in which indigenous forest on the SILNA lands can be used is a breach of this principle.

[112] Plainly the proposed rule would not in any way affect the possession of the lands. The only effect it would have would be to regulate a particular activity on them. The nature of the regulation would not be to prohibit the activity. Obtaining resource consent is a well-established and open process, involving stated criteria and

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[52] See paragraph [44] *ante*.
[53] *NZ Maori Council v Att-Gen* [1987] 1 NZLR 641, 664, per Cooke P.
[54] Ibid, at 715, per Bisson J.

appropriate decision-makers, directed for a statutory purpose. We accept the Crown's submission that to the extent that the rule would impose some constraint on the use of the SILNA lands by Maori people, making the rule is an exercise of the Treaty right to govern.

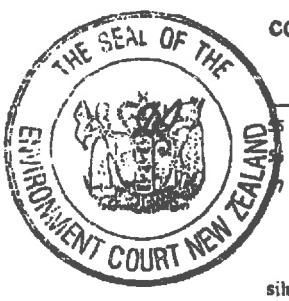
[113] In deciding on the merits whether the District Council should be directed to include the proposed rule in its district plan, this Court will have to take into account among other relevant considerations) the extent to which the rule would constrain the use by Maori of their lands (whether or not the lands were granted under the 1906 Act). However, we do not accept that the regulation of clearance of indigenous vegetation of SILNA lands is necessarily a contravention of the Treaty principles of active protection and undisturbed possession so that the application of the rule to such lands would be beyond the District Council's lawful authority under the Resource Management Act.

Regulating clearance of all vegetation

[114] The third ground of the Maori Trustee's challenge to the District Council's authority to make the proposed rule was that it would be beyond the District Council's powers in regulating clearing of *all* indigenous vegetation, rather than being confined to regulating clearing of *significant* indigenous vegetation. As we understood it, this submission was founded on two arguments. One was based on the direction in the Resource Management Act that functionaries are to recognise and provide for stated matters of national importance, among which are the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.[55] The other argument was based on the difference between the definition of 'sustainable management' in the Resource Management Act 1991[56] and the definition of 'sustainable forest management' in Part IIIA of the Forests Act.[57] We address each of those arguments in turn before deciding on the submission as a whole.

Regulating clearing of *all* indigenous vegetation

[115] It was the Maori Trustee's case that in law the District Council can only control the use of *significant* indigenous forest and not *all* indigenous forest.



[55] Resource Management Act 1991, s 6(c).
[56] Resource Management Act 1991, s 5(2).
[57] Forests Act, s 2(1) (as amended by the Forests Amendment Act 1993, s 2(1)).

[116] For the District Council, Mr Slowley observed that the proposed Rule HER.3 does not regulate clearance of *all* indigenous vegetation, as clause 2 sets out a broad range of exclusions from the rule. Counsel submitted that one way of reading the rule is that there is a definition of significant indigenous vegetation by exclusion.

[117] Mr Slowley also contended that while section 6(c) deals with protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna as matters of national importance, that is not conclusive of a territorial authority's powers under the Act. He argued that in undertaking the purpose set out in section 5, regard is to be had to all of Part II which includes (in section 7) matters relating to managing the use, development and protection of natural and physical resources. Counsel submitted that there is nothing in the Act that prevents the Council from seeking to control the removal of indigenous vegetation in the way proposed.

[118] Ms Maturin (for Forest and Bird) contended that there is no mechanism for control of logging on SILNA land except that which may arise from the plan. In the absence of a comprehensive survey of areas of significant indigenous vegetation and significant habitats of indigenous fauna in the district, the criteria in the proposed Rule HER.3 for assessing resource consent applications could be applied to comply with the direction in section 6(c) to recognise and provide for them.

[119] Like Mr Slowley, Ms Maturin submitted that section 6(c) has to be applied in the context of the purpose in section 5 to sustainably manage *all* natural resources, not just the significant ones. She argued that the significance of areas of vegetation or habitat should be measured against their functional value in contributing to the sustainable management of a natural resource of an indigenous species population, or to the sustainable management of other natural or physical resources.

[120] Counsel for the Minister of Conservation, Mr Ibbotson, observed that nothing in section 6 of the Resource Management Act relates to private rights of ownership, nor to the manner in which land was acquired from the Crown.

[121] We start our consideration of this argument by observing that the proposed Rule HER.3 does not purport to regulate clearance of *all* indigenous vegetation. By its own terms (quoted in paragraph [16] of this decision) the rule defines[58] ten cases in which clearance of indigenous vegetation is expressly classified as a permitted

[58] In clause 2.

activity, so that it may be carried out without a resource consent if it complies with stipulated conditions.[59]

[122] Next we quote the relevant provision of section 6 of the Resource Management Act –

> *6. Matters of national importance– In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall 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:*
> ...

[123] In this part of this decision we are not addressing the question whether on its merits the proposed rule should be included in the district plan. The question we are addressing is whether as a matter of law, a territorial authority has authority to include in a district plan a rule that regulates clearance of areas of indigenous vegetation that do not qualify for the epithet 'significant'.

[124] Consistent with the submissions on behalf of the District Council and Forest and Bird, it is our understanding that the subject-matter of regulation by district rules is not limited to the specific topics listed in sections 6 and 7 of the Resource Management Act. Because of their importance, those topics have been selected for specific attention: where applicable, they are not to be overlooked. However they do not occupy the entire field of the matters that need to be provided for to enable the Council to carry out its functions under the Act so that the purpose of the Act is achieved.

[125] In particular, in addition to providing for the protection of areas of indigenous vegetation that may have been identified as significant, a territorial authority may also need to regulate clearance of other areas of indigenous vegetation in case they might also qualify to be so classified, or (as Mr Slowley and Ms Maturin submitted) for other goals such as sustaining the potential of natural resources to meet the reasonably foreseeable needs of future generations;[60] safeguarding the life-supporting capacity of air, water, soil and ecosystems;[61] avoiding, remedying or mitigating adverse effects of activities on the environment;[62] the maintenance of

[59] See the definition of 'permitted activity' in the Resource Management Act 1991, s 2(1).
[60] Resource Management Act 1991, s 5(2)(a).
[61] Ibid, s 5(2)(b).
[62] Ibid, s 5(2)(c).

amenity values;[63] the intrinsic values of ecosystems;[64] or maintenance of the quality of the environment.[65]

[126] We acknowledge the Maori Trustee's submission that lack of knowledge by the District Council should not be treated as justifying blanket rules outside the District Council's authority under the Act. We understand the Maori Trustee's reference to a blanket rule as being one that controls activities indiscriminately and without justification, so that it has unreasonable effect being a major interference with the rights of owners of SILNA lands.

[127] We find that the proposed rule HER.3 before the Court is not a blanket rule in that sense. The rule has been developed over a period of several years with opportunities for participation by all interested parties. In the form in which it has now to be considered by the Court, it classifies ten classes of case as permitted activities; it prescribes five criteria for assessment of applications for discretionary activity consent; and it contains an explanation of the rule that acknowledges the limits to the Council's knowledge of areas of significant indigenous vegetation and records its future plans for surveying indigenous vegetation. We do not accept that proposed rule is beyond the Council's powers as being indiscriminate, unjustified, or unreasonably interfering with the rights of owners of SILNA lands.

[128] In summary, we do not accept the Maori Trustee's submission in this respect. We hold that the proposed rule is not beyond the District Council's power at law to include in its district plan.

Definitions of 'sustainable management' and 'sustainable forest management'

[129] Mr McPhail observed that the definition of 'sustainable management' in the Resource Management Act is much different from the definition of 'sustainable forest management' in the Forests Act; that the latter is more focussed and deals with sustainability of forests; and the former is more general. Counsel submitted that the District Council had misinterpreted its duty in formulating Rule HER.3 which, he contended, is directed at enforcing a definition of sustainable management from the Forests Act, not that from the Resource Management Act, in that the criteria refer specifically to the Forests Act requirements, from which the SILNA lands are exempt.

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[63] Ibid, s 7(c).
[64] Ibid, s 7(d).
[65] Ibid, s 7(e).

[130] Mr McPhail contended that economic and cultural well-being of Maori owners of SILNA lands are at stake, and that the definition of sustainable management in the Resource Management Act 1991 includes these elements, but does not give any prominence to indigenous vegetation, although he acknowledged that it is part of natural and physical resources. Counsel submitted that there is ample leeway for exercise of the principle of sustainable management in a manner which recognises Treaty rights to permit various types of utilisation of forests.

[131] Mr Ibbotson observed that the definition of 'sustainable forest management' in the Forests Act is about providing for sustainable yield, to keep the forest intact; and that this differs from the sustainable management of natural and physical resources in that the Resource Management Act has no interest to ensure that a forest continues to be productive, but contemplates a broader purpose than the export of unsustainably harvested indigenous timber and timber products.

[132] Counsel compared the interface between the Forests Act and the Resource Management Act with the interface between the Fisheries Acts and the Resource Management Act. The latter had been held to be that the sustainability of the fishery itself was controlled under the Fisheries Acts, not under the Resource Management Act.[66] Mr Ibbotson submitted that in a similar way the Forests Act provides a code for the sustainability of indigenous forests (by which certain SILNA lands are exempt), leaving the broader responsibility for promoting sustainable management of indigenous forests as natural and physical resources for the Resource Management Act.

[133] We quoted the definition of 'sustainable management' in the Resource Management Act in paragraph [45] of this decision, and the definition of 'sustainable forest management' in the Forests Act in paragraph [51]. From comparing them, we accept the submissions of both Mr McPhail and Mr Ibbotson that the two definitions differ in substance as well as in wording.

[134] The breadth of the Resource Management Act definition is evident from passage from Justice Barker's judgment in *Falkner's* case that we quoted in paragraph [48]. It extends to effects of forestry activities beyond the forest itself.

[66] See *Challenger Scallop Enhancement Co v Marlborough District Council* [1998] NZRMA 342 and *Ngati Kahu Ki Whangaroa v Northland Regional Council* Environment Court Decision A95/00.

[135] By its very language the Forests Act definition of 'sustainable forest management' is limited to maintaining the ability of the forest to continue to provide a full range of products and amenities.

[136] The similarity of the interfaces of the Resource Management Act with the Forests Act and with the Fisheries Acts may not have been deliberate, and is not complete. Even so, there is a similarity in that the Fisheries Acts and the Forests Act are focussed on sustainability of the particular resources to which they relate. The purpose of the Resource Management Act is promoting sustainable management of all natural and physical resources.

[137] We quoted the Rule HER.3 proposed to the Court by the principal parties in paragraph [16] of this decision. The criteria on which counsel for the Maori Trustee relied are specified in clause 5 of the rule. We repeat them here for reference in considering the Maori Trustee's submission.

[138] Criterion (a) is –

> *The significance of the affected indigenous vegetation or habitat of indigenous fauna in terms of ecological, intrinsic, cultural or amenity values, and the effects of the proposed activity on these values.*

[139] Those words use the language of sections 5, 6 and 7 of the Resource Management Act. Their meaning does not refer to the meaning given by the Forests Act to the term 'sustainable forest management'. It does not refer to the sustainability of a forest to provide products. We do not accept that this criterion refers to Forests Act requirements.

[140] Criterion (b) is –

> *The representativeness of the affected indigenous vegetation or habitat of indigenous fauna and its relationship with other habitats or area of vegetation*

[141] Those words refer to qualities that may qualify an area of indigenous vegetation or habitat as significant, a matter specifically required to be considered by section 6(c) of the Resource Management Act, and outside the sustainable forest management purpose of the Forests Act. We are not able to uphold the Maori Trustee's submission in respect of this criterion either.

[142] Criteria (c) and (d) are –

(c) Whether the vegetation is subject to a sustainable Forest Management Plan or permit under Part IIIA of the Forests Act 1949.
(d) Whether the application includes a forest management plan and system of implementation prepared to a standard at least equivalent to a plan approved under Part IIIA of the Forests Act 1949.

[143] These criteria both refer to instruments under Part IIIA of the Forests Act. However that does not by itself make them objectionable. Rather they call for a consent authority to address the interface between the Resource Management Act and the Forests Act where applicable. Some of the contents of a forest management plan or system of implementation under the latter Act may be relevant and useful to the consent authority, and reference to existing documents may avoid pointless duplication. That would not disadvantage owners of SILNA lands that may be exempt from Part IIIA of the Forests Act. We see no basis in these criteria for holding that Rule HER.3 is beyond the District Council's powers under the Resource Management Act.

[144] Criteria (e) and (f) are –

(e) Whether the habitat and/or vegetation are important to indigenous species which are regionally rare or nationally threatened, and the effects of the proposed activity on these values.
(f) Whether the area has been identified in Schedule 6.14 to this Plan or by the Protected Natural Areas Programme administered by the Department of Conservation.

[145] Like Criterion (b), these criteria refer to qualities that may qualify an area of indigenous vegetation or habitat as significant, and to sources of information potentially helpful in making such a judgment. They do not refer to, nor does their substance relate back to, the sustainable forest management purpose of Part IIIA.

[146] In short we do not accept the Maori Trustee's submission that Rule HER.3 is directed at the sustainable forest management purpose of Part IIIA, from which certain SILNA lands are exempt. We accept Mr McPhail's submission that the economic and cultural well-being of Maori owners of SILNA lands are capable of being included in the meaning given in the Resource Management Act of 'sustainable management'. We also hold that there is scope for exercise of the judgment in deciding specific resource consent applications for consideration where relevant of the relationship of Maori and their culture and traditions with their ancestral lands;[67] of kaitiakitanga;[68] and the principles of the Treaty of Waitangi.[69]

[67] Resource Management Act 1991, s 6(e).
[68] Ibid, s 7(a).
[69] Ibid, s 8.

Conclusion on authority for application of proposed rule to SILNA lands

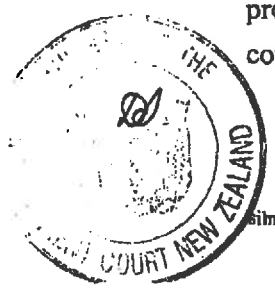
[147] We have considered each of the three grounds of the Maori Trustee's challenge to the District Council's authority at law to make a district rule regulating clearance of indigenous vegetation applying to SILNA lands. We have not accepted that the exemption of certain SILNA lands from Part IIIA of the Forests Act (by the Forests Amendment Act 1993) impliedly repealed *pro tanto* the general power conferred by the Resource Management Act on territorial authorities to make district rules. We have not accepted that the proposed rule would necessarily fail to take into account the principles of the Treaty of Waitangi relied on by the Maori Trustee. We have not accepted that the proposed rule exceeds the District Council's lawful authority either by applying to the clearance of indigenous vegetation that is not categorised as significant, or by stating criteria that relate to the sustainable forest management purpose of the Forests Act, rather than to the sustainable management purpose of the Resource Management Act.

[148] In short we do not accept the Maori Trustee's claim that the proposed rule would exceed the District Council's authority at law, on any of the grounds advanced. Therefore we now address the cases of the parties about the provisions that should be made in the district plan about clearance of indigenous vegetation.

Rule proposed by the principal parties

[149] In paragraph [16] we set out the replacement Rule HER.3 proposed by the referrers and the District Council, with the assent of the Minister of Forestry. There would need to be consequential amendments to the district plan: deletion of Rule COA.4 (which would become unnecessary), and amendment of Policy RU.4. Although the Maori Trustee, and South Wood Export Limited sought amendments to the proposed Rule HER.3, there was no challenge to the appropriateness of the consequential amendments if that opposition is unsuccessful. Accordingly we consider first the case for the replacement Rule HER.3, then the cases for amendment of it.

[150] It was the case for the District Council that the proposed rule is a temporary filtering measure until more detailed empirical evidence has been obtained from the proposed survey of indigenous vegetation and landowner consultation, and a new control devised that may depend less on discretionary judgments.



[151] The Council's Manager of Resource Planning, Mr B G Halligan, gave evidence that no comprehensive database exists of the quality and quantity of indigenous vegetation in the district (which occupies an area of land equivalent to more than 10% of the total area of New Zealand). He also testified that the Council had considered that a precautionary approach was appropriate, until significant natural areas have been carefully identified, and landowners consulted.

[152] Mr Halligan deposed that the Council had seen merit in the resource consent process providing opportunity for those with expertise (such as local iwi and local Department of Conservation botanical staff) to have input to the decision-making process, leading to better environmental outcomes that more appropriately reflect the purpose of the Act. The witness explained that the rule establishes trigger points by which certain activities can be classified as permitted activities.

[153] In cross-examination by Mr McPhail, Mr Halligan confirmed that the economic and cultural well-being of owners of SILNA lands had been considered by the Council committee in considering the proposal; and that the Council would have regard to the status of the land in considering a resource consent application.

[154] In cross-examination by Ms Campbell, counsel for Rayonier, Mr Halligan deposed that the Council had never intended that resource consent would be required for clearing understorey.

[155] Rayonier submitted that clause 2(b)(ii) of the proposed rule is important to allow as a permitted activity clearance or modification of indigenous understorey beneath or within plantation forest. It contended that if this is not provided for, the rule would be broader than is necessary to achieve the purpose of the Act, and would have serious implications for activities that do not warrant regulation under the Act.

[156] Mr L S Cawood, Regional Manager for Rayonier, explained that during the period between harvests of pine trees, the understorey contains native species which are usually shrubs, including manuka, kanuka, cabbage trees, tree ferns, and wineberry. He gave the opinion that damage to the understorey is inevitable during harvesting plantation forest.

[157] Mr Cawood deposed that Rayonier is a member of the Forest Owners Association which is a signatory to the New Zealand Forest Accord, by which they are committed to exclude from clearing and disturbance certain areas of naturally

occurring indigenous vegetation. In cross-examination by Ms Maturin, Mr Cawood gave the opinion that the amendment to the rule suggested by South Wood would be consistent with the Forest Accord.

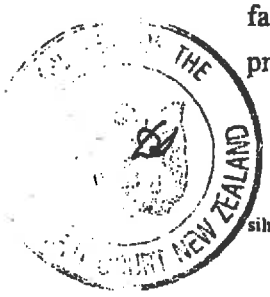
[158] The Minister of Conservation supported the proposed replacement rule recognising the Council's duty to make interim provision pending carrying out of the proposed survey to identify and define all significant areas of indigenous vegetation and significant habitats of indigenous fauna.

[159] Mr Ibbotson drew our attention to passages in the Southland district plan in which the Council had identified the significant resource management issue as being areas of significant ecosystems that are under threat from clearance; had stated an objective of protection of natural heritage sites for the enjoyment of present and future generations; and policies of identifying and listing significant areas of indigenous vegetation and indigenous habitat, developing methods of protecting them, and requiring resource consent for activities that may have adverse effect on the quality of those areas. Those parts of the district plan are beyond challenge.

[160] It was the evidence of an experienced environmental consultant, Mr M A Harding, that the Southland District supports areas of indigenous vegetation and habitats of indigenous fauna that are regionally and nationally important; that indigenous vegetation and habitat of indigenous fauna are substantially depleted in many parts of the district; that indigenous vegetation and habitat are threatened by a range of activities, including logging; that information about many remaining area of indigenous vegetation and habitats of indigenous fauna is insufficient to determine with certainty the ecological values present at particular sites; and that assessments of areas of indigenous vegetation and habitats of indigenous fauna are required to ensure that proposed activities do not affect ecological values. The witness gave the opinion that the proposed Rule HER.3 would provide an opportunity to ensure that such assessments are made.

Relief sought by the Maori Trustee

[161] As mentioned in paragraph [17], the relief sought by the Maori Trustee was that Rule HER.3 be amended to exempt from its application all SILNA lands, or failing that, to exempt all SILNA lands that are not the subject of a long-term protection agreement with the Crown.



[162] Mr G A Kuru, a forestry consultant called as a witness on behalf of the Maori Trustee, criticised the proposed rule as placing severe and unreasonable restrictions, particularly on owners of SILNA lands. The basis for his opinion was the witness's understanding of the effect of criteria (d) and (f) (in clause 5) for assessment of applications for consent for clearance of indigenous vegetation. He claimed that those criteria impose on owners of SILNA lands restrictions from which they should be exempt.

[163] In cross-examination by Mr Ibbotson, the witness was asked whether that was a fair assessment of the proposed rule. He answered that it was his understanding of the practical and operational effect, but he could not speak of the legal implications. He confirmed that paragraphs (d) and (f) in clause 5 are items in a series of assessment criteria, not pre-requisites.

[164] Mr Kuru also gave the opinion that the effect of making the rule would be large economic loss to the owners of SILNA lands in devaluation of their forest resource, high compliance and organisational costs, and inability to fully utilise lands originally granted as compensation. He added that there would be a significant effect on wood harvesting and processing infrastructure specially configured for indigenous timber.

[165] In cross-examination by Ms Maturin, Mr Kuru agreed that a chip mill to which he had referred is not totally dependent on indigenous timber, and that it processes radiata and plantation hardwood as well. He was unable to say what proportion of the capacity of the sawmills is used for exotic timber.

[166] Mr Kuru also asserted that it would impact on current negotiations between owners of SILNA lands and the Crown as part of a Treaty of Waitangi claim.

[167] In cross-examination by Mr Slowley, the witness was also critical of the process by which Significant Natural Areas are identified. He testified that there is no process that is documented by reference to standards, and no objectives or clear criteria, no transparent process, no documented standards for qualifications of assessors, and no clear description of a process for audit and review.

[168] In cross-examination by Mr Ibbotson, Mr Kuru stated that it is a good programme for a volume process, agreed that it is only one of a series of criteria for assessment, but maintained that for removal of rights a higher standard is required.

In cross-examination by Ms Maturin, he agreed that the significance of an area of forest the subject of a resource consent application could be assessed at the time the application was considered. However when asked whether, if it was found that an area of forest was not significant, it is possible that consent would be given for the area to be logged, he stated that it was not his understanding. In explaining that answer, Mr Kuru gave his understanding that the intent of the rule is that landowners should meet the criteria of the proposed rule.

[169] In response to Mr Kuru's evidence, Mr Harding deposed that there are a number of species of indigenous flora and fauna in Southland District that are threatened, that some of them are endemic to the Southland District. The witness gave the opinion that the loss of those important populations of those species could be irretrievable, and that they can be regarded as a non-renewable resource. Mr Harding also gave the opinion that less than 10% of the remaining area of coastal hardwood-podocarp forest on the south coast of mainland Southland (excluding the Fiordland coast) is protected.

[170] In response to Mr Kuru's criticism of the protected natural areas programme, Mr Harding cited the publication in which the methodology for those surveys is prescribed, and deposed that surveys are undertaken according to that methodology, supervised by external experts, carried out in consultation with landowners, and the results peer-reviewed.

[171] Mr Harding also deposed that forests on SILNA lands are, for the most part, lowland forests (situated below 300 metres altitude); and that lowland forest is substantially depleted in all areas of Southland District except Stewart Island and Fiordland. The witness added that indigenous forests vary significantly in structure in composition throughout the district, so the relevant significance of areas of indigenous vegetation cannot be determined by extent alone.

[172] Another witness for the Maori Trustee was Mr R K McAnergney, of the Waitaha people, who with other members of his family is an owner of an interest in SILNA land in the Alton Rowallan district, chairman of the management committee of the Rowallan Alton Maori Incorporation (having 1313 hectares of land), and honorary secretary of Rau Murihiku Whenua Maori, a committee of owners of SILNA lands elected to represent them in negotiations with the Crown.

[173] Mr McAnergney deposed that the result of the process of succession is that ownership of the SILNA lands is very fragmented

[174] Mr McAnergney gave his opinions that a rule requiring District Council consent for use of their indigenous forest would not be taking into account the principles of the Treaty of Waitangi of partnership, of active protection, of undisturbed possession. He also asserted a Treaty principle of protection of taonga and deposed that for many owners of SILNA land their share in their land is their taonga, representing their Maori heritage.

[175] Mr McAnergney asserted that it is the right of the owners of the SILNA lands to decide how they wish to deal with that resource and that land; and that the rule is seen as removing from them the ability to make decisions with respect to the land granted to their ancestors, and as opening up the decision process to the interference of others who have no rights in respect of that land, no connection with that land, and no umbilical cord that binds them to the land of the ancestors.

[176] Mr McAnergney reported the view of many owners of SILNA land that the clearing of forests and replanting in plantation species should be a permitted activity, providing much needed work opportunities, an ongoing source of income, and promoting a sustainable use of the land resource. The witness gave the opinion that leaving the land and its indigenous forest untouched would not be a sustainable use of the resource, would provide nothing for the owners, and no income to support the costs of being a owner of a visual resource gradually being degraded and modified by forest pests.

[177] In cross-examination by Mr Ibbotson, Mr McAnergney accepted that clearing indigenous vegetation in areas of SILNA land that have already been cleared and planted in production forest would be a permitted activity under clause 2 of the proposed rule. He confirmed that they had received advice that the forest could be better managed by forest enhancement programmes involving large-scale thinning, and selective logging.

[178] Mr McAnergney also stated that the SILNA owners do not have access to the resources to prepare the documentation for the resource consent process.

[179] In responding to the case of the Maori Trustee, counsel for the Minister observed that the rule would not impose a total restriction of the use of forests on SILNA lands without the Council's consent, because the various classes of activity listed in clause 2 are classified as permitted activities. Mr Ibbotson acknowledged that the protection of areas of indigenous vegetation is not absolute;[70] but cited Environment Court decisions in which the national interest in protecting areas of indigenous vegetation had been held to prevail over the economic interests of landowners.[71]

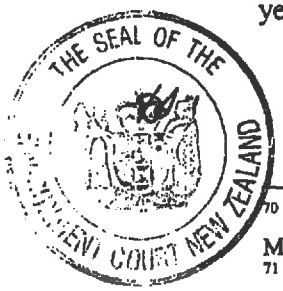
[180] The Council maintained that except to the extent required by Part II of the Resource Management Act, Treaty issues and grievances are matters for Maori and the Crown, and not the province of local authorities. Forest and Bird also maintained that the social and political issues surrounding the SILNA lands are not matters that should be resolved or addressed through the district plan process. Ms Maturin submitted that they are complex matters and ones that should be dealt with by central Government in a way that does not erode the fundamental core of the Resource Management Act.

Relief sought by South Wood Export Limited

[181] South Wood Export Limited (South Wood) maintained that the proposed replacement Rule HER.3 is unnecessarily restrictive and sought that it be amended to allow clearance or modification of indigenous vegetation to enable harvesting of exotic timber plantations. Specifically two amendments were sought. The first was deletion of subclause 2(b)(ii) and substitution of the following:

> *The clearance or modification of indigenous vegetation which is reasonably necessary to the management, harvesting, or replanting of any area of planted indigenous or exotic vegetation.*

The second amendment relates to subclause 2(c). It would delete the expression "15 years" and substitute the expression "30 years".



[70] Citing *Environmental Defence Society v Mangonui City Council* [1989] 3 NZLR 257 (CA) – see eg McMullin J at 272.

[71] *Leith v Auckland City Council* [1995] NZRMA 400; *Royal Forest & Bird Protection Society v Manawatu-Wanganui Regional Council* [1996] NZRMA 241; *Minister of Conservation v Gisborne District Council* Environment Court Decision A16/00.

[182] The grounds advanced for the first of those amendments were that subclause 2(b)(ii) is unsatisfactory in three respects. It was submitted that it is not clear what is meant by the word "boundaries"; it is not clear whether the word "management" includes harvesting and replanting; and it is not clear what is meant by the words "necessarily incidental". It was claimed that those words could be capable of an unnecessarily restrictive meaning.

[183] It was contended for South Wood that the amended subclause would continue to allow clearance or modification of understorey, and would allow clearance for access.

[184] The ground for extending the period since previous clearance was that there are areas of pine and eucalyptus trees planted on land that had been cleared more than 15 years prior to the plan becoming operative, some up to 30 years. It was claimed that there is a possibility that those older eucalyptus and pines would not be able to be harvested without obtaining resource consent.

[185] The General Manager of South Wood, Mr G H Manley, explained that areas where exotic plantings had failed, and where indigenous vegetation was regenerating, might isolate areas of exotic plantation from access unless the regenerating vegetation can be cleared as a permitted activity. In cross-examination by Mr Ibbotson, Mr Manley confirmed that the areas he was concerned with would be modified forests, not virgin forests.

[186] In cross-examination by Ms Maturin, Mr Harding deposed that 30-year-old forest in the East Rowallan block and fertile lowland sites would be likely to contain beech trees up to 6 metres in height. He also deposed that depending on the site and location of the road, removal of trees for access could have impacts beyond the site by affecting breeding habitat for threatened bird species, by erosion of exposed soil, and by invasion of new plant and animal pests.

[187] Forest and Bird opposed the amendment sought by South Wood on two grounds. First it referred to negotiations between the parties leading to the proposal of the new Rule HER.3, and submitted that in the spirit of the negotiations it was not good form to attempt to relitigate the results of the negotiations. That may be, but this is not private law litigation. Negotiations and agreements among parties cannot deprive the Court from considering relevant representations and evidence from a person who is entitled to be heard.

[188] The second ground of opposition by Forest and Bird was that the amendment would provide for activities that would have environmental effects beyond and greater than those contemplated by Forest and Bird when it joined in proposing the form of Rule HER.3 before the Court.

Consideration

[189] The foundation of the case for the proposed rule is section 6(c) of the Resource Management Act –

> *6. Matters of national importance– In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall 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:*
> ...

[190] Accepting the evidence of Messrs Halligan, Cawood and Harding, we find that there are within the Southland District areas of significant indigenous vegetation and significant habitats of indigenous fauna; that in general these are worthy of protection as directed by section 6(c) of the Resource Management Act; and that the District Council does not currently possess sufficient information about the locality and extent of those areas and habitats to define them conclusively.

[191] We accept that until it is able to define those areas and habitats, the District Council is justified in resorting to imposing an interim measure combining permitted activities and discretionary activities in order to carry out its duty to recognise and provide for the protection of the areas and habitats. That is justified on two conditions: that the Council intends to survey at least the parts of the district where protection may be needed, and (to provide certainty wherever it can) that the regulation is devised so that the extent of the discretionary activities is no greater than is necessary for the purpose.

[192] On Mr Halligan's evidence we find that the first condition is established. In his testimony he described a methodical process of identification, verification, and consultation that would lead to notification of a change to the district plan, with the usual rights of submission and appeal.

[193] We cannot make a finding on the extent to which the rule now proposed would meet the second condition until we have considered the proposals for amendment by the Maori Trustee and South Wood.

[194] We recognise that the duty imposed by section 6(c) is not absolute. It is one of many matters listed in Part II of the Act that have to be addressed, and where there is conflict, judgments may have to be made about the best way of reconciling them in the particular circumstances so that the district plan best serves its purpose of assisting the Council to carry out its functions to achieve the single statutory purpose of promoting the sustainable management of natural and physical resources.

[195] That is the context in which the Maori Trustee's case has to be considered. The duties imposed by section 6(e) to recognise and provide for the relationship of Maori with their ancestral lands, and by section 8 to take into account the principles of the Treaty of Waitangi, are no less important than the other matters described in section 6 as being of national importance. We quoted section 8 in paragraph [101] of this decision. Section 6(e) reads –

> ***6. Matters of national importance–*** *In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:*
>
> ...
>
> *(e) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.*

[196] We find that Mr Kuru's criticism of the proposed rule as placing severe and unreasonable restrictions on owners of SILNA lands was based on a misunderstanding of the rule, and particularly the contents of clause 5. When asked about them in cross-examination Mr Kuru accepted that they are criteria for assessment, not conditions. On our own reading of clause 5, we hold that, on the ordinary meaning of the words –

> *5. In assessing an application for resource consent under Rule HER.3(3) the Council shall have regard to the following matters...*

they are assessment criteria, not conditions. We do not accept the witness's suggestion that the practical or operational effect would be that they would be treated as conditions, because the process for considering a resource consent application is prescribed by law, is carried out in public by an elected public authority (or its delegate), a written decision is given with reasons, and is subject to rights of appeal to this Court. These features reduce the scope for misapplying the criteria as if they

were conditions. Therefore we do not accept Mr Kuru's criticism of the rule in that respect.

[197] Mr Kuru was also critical of the process by which Significant Natural Areas are identified. Mr Harding largely refuted that criticism. However even if Mr Kuru's criticism is justified, that would not provide a sound ground for exempting the SILNA lands, or some of them, from the proposed rule. The Council's intention is that identification of Significant Natural Areas would be a basis for a future plan change. By clause 5(f) of the proposed rule, identification of an area the subject of a resource consent application by the Protected Natural Areas Programme is a matter to which the consent authority is to have regard. However identification as such is not instrumental in granting or refusing consent: it is merely one of the criteria. If a party had evidence to show that the identification was erroneous or misleading, they would be free to present it. Accordingly we do not accept that the proposed rule is objectionable in this respect.

[198] Both Mr Kuru and Mr McAnergney urged that the proposed rule would result in economic loss to the owners of the SILNA lands, in depriving them of the ability to harvest trees as and when they choose. We accept that there is potential for loss of opportunity to all owners of indigenous trees to the extent that consent to felling them might be refused.

[199] In considering a resource consent application for clearance of indigenous vegetation, the economic and cultural interests of Maori people (including owners of SILNA lands) affected by the proposed clearance would be able to be the subject of evidence and consideration by the consent authority. Those interests would not necessarily prevail in all cases. However the features of the process mentioned in paragraph [193] would ensure that they would be given due weight.

[200] The same is true of the concern expressed by Mr Kuru for effects on wood harvesting and processing infrastructure. The consequential impact of granting or refusing consent for a particular clearance proposal could be the subject of evidence and consideration.

[201] We also accept that there would be some cost in making and presenting an application for resource consent, and providing the necessary assessment of environmental effects and evidence. We note Mr McAnergney's statement that the owners of SILNA lands do not have access to the resources to do so.

[202] We do not accept as relevant for the present purpose the claim under the Treaty of Waitangi Act referred to by Mr Kuru. It would not be appropriate for the Court to presume any particular outcome of that process.

[203] Mr McAnergney claimed that the application of the proposed rule to the SILNA lands would fail to take into account certain principles of the Treaty of Waitangi. We associate with that the witness's claim that it is the right of the owners to decide for themselves how to deal with their lands and any trees on them, and the rule removes their ability to do so, and opens the decision process to interference by others with no ancestral connection with the land.

[204] We addressed the Treaty principles in the context of the Maori Trustee's challenge to the lawfulness of the proposed rule. In short, it is our opinion that the rule would represent an act of government under Article the First of the Treaty, and would not offend any of the principles invoked by Mr McAnergney.

[205] Although we understand the rhetoric of landowners claiming the exclusive right to decide how to use their land, that has not been an untrammelled right in this country for many decades. The quality of the environment in which future generations will live and work depends on regulation of the use of natural and physical resources.

[206] We do not accept that "interference" is the appropriate description for the opportunity for making submissions on resource consent applications. It is our own experience that the process of deciding whether resource consent should be granted or refused is more complete, and leads to better decisions, when others have the opportunity to make submissions and gave evidence. Succession to land held by one's ancestors is not the only source of knowledge about the effects of particular activity on it.

[207] In summary, although we accept that there would be cost in making resource consent applications, and uncertainty whether a particular application might be granted or refused, it is our judgment that the proposed rule provides a restrained and proportionate interim regulation of clearance of indigenous vegetation, classifying many activities as permitted, and providing a reputable process for others that would allow for the relevant interests of owners of SILNA lands (among others) to be the subject of evidence and due consideration.

[208] For those reasons we do not accept the case for the Maori Trustee that the SILNA lands, or some of them, should be exempted from application of the proposed rule.

[209] We accept that the first of the amendments to the proposed rule sought by South Wood (a replacement subclause 2(b)(ii)) would allow clearance of indigenous vegetation that obstructs access for plantation forestry. Although that was opposed by Forest and Bird, its case was based on the effect of the amendment allowing more clearance of indigenous vegetation than would the form of the subclause previously agreed on. Clearly that is so, but it does not provide a reason for rejecting the amendment now proposed.

[210] We accept that the application of the word 'boundaries' in the rule as proposed may in some cases be capable of debate. To avoid repetition, we have recast the amendment so that subclause 2(b)(ii) would read–

> *(ii) is reasonably necessary to enable the management, harvesting or replanting of any area of planted indigenous or exotic vegetation; or*

[211] The case by South Wood for amendment of subclause 2(c) was to enable clearance of indigenous vegetation that stood in the way harvesting exotic forest. It is our understanding that in practice the amendment to subclause 2(b)(ii) set out in paragraph [207] would also meet that need. It would also meet the case presented on behalf of Rayonier for clearance of indigenous understorey.

[212] With that amendment it is our judgment that the proposed rule would provide for discretionary activities to no greater extent than is necessary for the purpose.

Determinations

[213] Therefore the Court allows the references to the extent that it directs the Southland District Council to delete Rule HER.3 from its district plan and substitute the Rule HER.3 set out in Schedule 1; consequentially to delete Rule COA.4; and to delete Policy RU.4 and substitute the Policy RU.4 set out in Schedule 2.

[214] The question of the costs of the parties to these references is reserved. However the Court is aware of no reason why it would not be appropriate to follow the general practice of not awarding costs on references about the contents of planning instruments.

DATED at **AUCKLAND** this 19th day of April 2001.

For the Court:

D F G Sheppard
Environment Judge

SCHEDULE 1

Rule HER.3 to be substituted in district plan

HER.3 – Indigenous Vegetation and Habitats of Indigenous Fauna

1. No person shall carry out any activity which involves the clearance, modification, damage, destruction or removal of indigenous vegetation or habitats of indigenous fauna otherwise than in accordance with this Plan.

Permitted Activities

2. The following shall be permitted activities:

(a) The harvesting of indigenous trees with diameters of not less than 25 cm at breast height yielding not more than 50 m^3 of timber per ten year period per Certificate of Title.

(b) The clearance, modification or harvesting of indigenous vegetation which:
(i) has been planted and managed specifically for the purpose of harvesting or clearing; or
(ii)) is reasonably necessary to enable the management, harvesting or replanting of any area of planted indigenous or exotic vegetation; or
(iii) has been planted and/or managed as part of a garden or gardens or has been planted for amenity purposes.

(c) The clearance, modification or destruction of indigenous vegetation which has grown naturally on land cleared of vegetation in the 15 years immediately prior to this Plan becoming operative.

(d) The clearance, modification or destruction of indigenous vegetation necessary for the operation and/or maintenance of those permitted activities in rule PWN.1 but excluding the expansion or upgrading of those permitted activities or the erection of any building as part of those permitted activities.

(e) The clearance, modification or destruction of indigenous vegetation for the purpose of maintaining existing road, traffic, marine or aviation safety and which is undertaken by or on behalf of the authority responsible for maintaining that safety.

(f) The removal of wind thrown trees or dead standing trees which have died as a result of natural causes.

(g) The clearance, modification or removal of plant pests undertaken for the purpose of maintaining or enhancing the existing state of the remaining indigenous vegetation.

(h) The clearance or modification of indigenous grass lands where the percentage canopy of tussock species is less than 50 %.

Discretionary Activities

3. Any activities which do not comply with Rule HER3(2) shall be discretionary activities.

Applications for Resource Consent

4. An Application made in accordance with Rule HER3(3) shall, in addition to any other information, include:

(a) The details of any water body in, or adjacent to the site.
(b) Details of any area within or adjacent to the site which has been set aside by statute or covenant for conservation or sustainable management purposes.

Criteria for Assessment

5. In assessing an Application for resource consent under Rule HER 3(3) the Council shall have regard to the following matters:
(a) The significance of the affected indigenous vegetation or habitat of indigenous fauna in terms of ecological, intrinsic, cultural or amenity values, and the effects of the proposed activity on these values.
(b) The representativeness of the affected indigenous vegetation or habitat of indigenous fauna and its relationship with other habitats or area of vegetation.
(c) Whether the vegetation is subject to a sustainable Forest Management Plan or permit under Part IIIA of the Forests Act 1949.
(d) Whether the application includes a forest management plan and system of implementation prepared to a standard at least equivalent to a plan approved under Part IIIA of the Forests Act 1949.
(e) Whether the habitat and/or vegetation are important to indigenous species which are regionally rare or nationally threatened, and the effects of the proposed activity on these values.
(f) Whether the area has been identified in Schedule 6.14 to this Plan or by the Protected Natural Areas Programme administered by the Department of Conservation.

Explanation
Indigenous flora and fauna are major contributors to the character of the District. In places they are threatened and where this is so they are considered a non-renewable resource. In other places, such as the Coastal Resource Area the land has, in the past, been so developed for urban or rural purposes that the natural character in the sense of tracts of unspoiled bush and indigenous trees have been irretrievably lost.
The Rule is considered an interim measure by Council, with which to endeavour to provide for some indigenous vegetation modification in specific circumstances; while also requiring that specific assessments be undertaken in situations where proposed activities have discretionary activity status.
The Council recognises that its knowledge of significant indigenous vegetation and significant habitats of indigenous flora and fauna is far from complete and that the process of improving this knowledge will be ongoing. In order to do this Council will make use of the best available technology with specialised information. The Council is also aware that the Minister for the Environment is currently preparing guidelines for councils in relation to their duties under section 6(c) of the Act. The Council recognises the ongoing need for plan changes to ensure that the district plan recognises increasing knowledge of significant natural areas; and to ensure that the provisions of the Plan remain current and relevant and continue to provide an appropriate level of protection.
This rule, being an interim rule, will cease to have effect from the date at which a plan change containing a schedule of Significant Natural Areas produced from a detailed survey of remaining indigenous vegetation and associated landowner consultation, is notified as operative in terms of the First Schedule of the Act.

SCHEDULE 2

Policy RU.4 to be substituted in district plan

Policy RU.4

To avoid, or if unavoidable, minimise the adverse effects of clearing indigenous vegetation provided that nothing in this Policy shall prevent the clearing of regenerating indigenous vegetation underneath a commercial forestry activity.

Explanation

Indigenous vegetation is one form of vegetation which can play a significant role in mitigating the adverse effects of development. It stabilises hillsides, reduces adverse effects on water quality and provides habitat for indigenous fauna. It is not the intention of this Policy to provide protection for indigenous vegetation regenerating underneath commercial forestry. (Refer Rule PRA.5 and 6, Method PRA.2 and Section 3.4 Heritage)

THE WEST COAST
REGIONAL COUNCIL

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Full name: NIGEL SNOEP

Organisation: n/a
[The organisation that this submission is on behalf of, if applicable]

Postal address: 233 TAYLORS MISTAKE RD - RD1 **Post Code:** 8081

Email: nigel_snoep@yahoo.com **Phone (Hm):** - **Phone (Wk):** -

Phone (Cell): - **Preferred method of contact:** email

Contact person and address for service [if different from above]:

-

Please turn over

PART B: Trade Competition

As per Schedule 1 of the Resource Management Act 1991, a person who could gain an advantage in trade competition through the submission may make a submission only if directly affected by an effect of the proposed policy statement that:

a) Adversely affects the environment
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- ☐ I **am** directly affected by an effect of the subject matter of the submission.
- ☐ I **am not** directly affected by an effect of the subject matter of the submission.

Signature: _____ **Date:** 29-08-2016

[Signature of person making submission, or authorised to sign on behalf of person making the submission]

(A signature is not required if you make your submission by electronic means)

PART C: Request to be Heard

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The specific provisions of the proposal that my submission relates to are:	My submission is that: *(State concisely whether you support or oppose each separate provision being submitted on, or wish to have amendments made, and the reasons for your views)*	I seek the following amendments from the West Coast Regional Council: *(Give precise details for each provision. The more specific you can be, the easier it will be for the Council to understand your concerns.)*
6.1 Introduction, paragraph 11 'It is intended over time... assessment ...	While I support the concept of protecting wetlands I opposed the authoritarian manner in which 'wetland' designations have been	Amend 6.1 by adding the following words to the end of Paragraph 11 at the top of page 23 of the Plan; 'Where a formal Schedule 3 assessment has not been completed by 31 August 2017 to confirm the status of any Schedule 2 wetland, then all ~~an assessed~~ Schedule 2 wetlands shall by default be permanently removed from this Operational Land & Water Plan & the status of such lands shall revert to their pre 2012 status.'
Policy 6.3.2 6.4.6 6.4.7	imposed on individual private land owners by 'out side' groups. I own part of the Schedule 2 wetland HOKP100 (DP 386432, Lot 2 Block XIII Waimea SD) In the 4 years since the Plan was notified, to the best of my knowledge, no assessment has been made by the WCRC or the original proponents of the wetlands to assert their claim & determine whether the whole of HOKP100 meets	

Attach further sheets as required

(cont over)

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	the Schedule 3 criteria for inclusion as a wetland. I note that for HOKP100; (a) to the best of my knowledge	
	HOKP100 is a man made wetland, having been denuded of the ~~original~~ pre 1840 Rimu/Kahakitea forest in the early 1900's for timber	
	(b) the area at approx 18 hectares is less than the 40 hectare minimum for a Pakihi type wetland.	
	(c) located approx 1km distant from Houhora CK, the nearest significant water way in the direction of general surface water drainage flow	
	(d) the area is bisected by a partially formed road serving power transmission lines.	

Attach further sheets as required

I urge WCRC to make a timely assessment

Submission on the Proposed Plan Change 1 to the Regional Land and Water Plan

Warren John Stratford
P O Box 426
Westport 7866
warren@zelan.co.nz
03 789 5502
0274445503

Part B Trade Competition - Not Applicable

Part C - Request to be Heard
I do wish to be heard in support of my submission

The specific provisions of the proposal that my submission relates to is - Boundary adjustment on Wetlands

My submission is: I strongly oppose any boundary changes to any part of my property under my ownership. The property concerned at the present time (labelled as FOUP014) is property which I purchased and paid for. The land is used for grazing and farm income and is not wetlands. Any part of this that is not grazed or farmed is currently in scrub which will be developed. If anyone wants to use this property for any other use they will be required to purchase this from me like any other person or company requiring land by anyone else.

I seek the following amendments from the WCRC: that the WCRC leave any private property owned by anyone else alone and makes no further changes to any of these boundaries. If the WCRC does however wish to purchase any of the land required then it is to be negotiated with the property owners and agreed upon.

Regards,
Warren Stratford
03 789 5502
027 444 5503

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Full name: Bruce James Truman

Organisation: Supersphag ltd
[The organisation that this submission is on behalf of, if applicable]

Postal address: 81 Granville Road, RD1, Blackball **Post Code:** 7871

Email: btruman@xtra.co.nz **Phone (Hm):** 7323617 **Phone (Wk):** 7323610

Phone (Cell): 027 641 3848 **Preferred method of contact:** _____

Contact person and address for service [if different from above]:

_____

Please turn over

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Signature: _____ **Date:** September 15, 2016

[Signature of person making submission, or authorised to sign on behalf of person making the submission]

(A signature is not required if you make your submission by electronic means)

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Harvesting of Sphagnum Moss	I support the proposal to allow a continued ability to harvest sphagnum moss from wetlands, without the need for resource consent, due to the low impact of this activity on the overall health and integrity of a wetland. I have sustainably owned and operated a moss harvesting business for a number of years and support the Councils intention to allow that activity to continue on a permitted provisions.	That, with an amendment as to wording, the exclusion of "sphagnum moss harvesting" from the definition of "Vegetation disturbance" be retained. Such an amendment to ensure that it is clear that sphagnum moss harvesting is not contained with the definition of "vegetation disturbance", including with respect to Schedule 1 and 2 wetlands. That the wording be amended to read (or to like effect), "Vegetation disturbance includes the
	The proposed amendment seeks to rectify an unintended outcome relating to previous changes to wetland provisions of the Regional Land and Water Plan. It also recognises that sphagnum moss harvesting operations have been, and are able to be, undertaken on a sustainable basis on the West Coast. The ongoing industry on the West Coast indicates that a well managed moss harvesting cycle will result in the	cutting ..... spraying of vegetation. Vegetation disturbance excludes any of the following activities; (i) sphagnum moss harvesting, (ii) tree pruning ..... utility operators unless a rule in relation to a Schedule 1 or 2 wetland expressly identifies any of these specific activities."
	sustainability of both wetlands and the local sphagnum moss industry, including from a community perspective the associated jobs and export dollars that come with that. The two can co-exist, and indeed have for a considerable period of time on the West Coast, indefinitely for the benefit of both the environment and moss industry whilst retaining wetland values and diversity in our economy.	
	Having said that the proposed definition is slightly ambiguous in its wording and should be amended to ensure that the exclusion of "sphagnum moss harvesting" from the definition of "Vegetation disturbance" applies in all circumstances, as is intended by the Council	

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Full name: Mary Tapp

Organisation: _____

[The organisation that this submission is on behalf of, if applicable]

Postal address: 181 jollie street, Hokitika **Post Code:** 7810

Email: _____ **Phone (Hm):** 03 7557237 **Phone (Wk):** _____

Phone (Cell): _____ **Preferred method of contact:** _____

Contact person and address for service [if different from above]:

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[Signature of person making submission, or authorised to sign on behalf of person making the submission]

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Full name: Sam Tapp

Organisation: _____

[The organisation that this submission is on behalf of, if applicable]

Postal address: 181 jollie street, Hokitika **Post Code:** 7810

Email: _____ **Phone (Hm):** 03 7557237 **Phone (Wk):** _____

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c) Emailed to Plan@wcrc.govt.nz
d) Sent by facsimile (03) 768 7133

PART A: Submitters contact details

Public information - all information contained in a submission under the Resource Management Act 1991, including names and addresses for service, becomes public information. Your information is held and administered by the West Coast Regional Council in accordance with the Local Government Official Information and Meetings Act 1987 and the Privacy Act 1993. This means that your information may be disclosed to other people who request it in accordance with the terms of these Acts. It is therefore important you let us know if your form includes any information you consider should not be disclosed.

Full name: Gregory Albert Topp

Organisation: _____
[The organisation that this submission is on behalf of, if applicable]

Postal address: PO Box 4, Reefton **Post Code:** 7851

Email: gregtopp@hotmail.co.nz **Phone (Hm):** 03 7328648 **Phone (Wk):** 03 7328118

Phone (Cell): 027 243 7039 **Preferred method of contact:** Cellphone

Contact person and address for service [if different from above]:

_____

Please turn over

PART B: Trade Competition

As per Schedule 1 of the Resource Management Act 1991, a person who could gain an advantage in trade competition through the submission may make a submission only if directly affected by an effect of the proposed policy statement that:

a) Adversely affects the environment
b) Does not relate to trade competition or the effects of trade competition.

Please tick the sentence that applies to you:

- [x] I **could not** gain an advantage in trade competition through this submission; or
- [ ] I **could** gain an advantage in trade competition through this submission. *If you have ticked this box, please select one of the following:*
  - [ ] I **am** directly affected by an effect of the subject matter of the submission.
  - [ ] I **am not** directly affected by an effect of the subject matter of the submission.

Signature: _____ **Date:** 15/9/16

[Signature of person making submission, or authorised to sign on behalf of person making the submission]

(A signature is not required if you make your submission by electronic means)

PART C: Request to be Heard

- [x] I **do not** wish to be heard in support of my submission; or
- [ ] I **do** wish to be heard in support of my submission; and if so,
- [ ] I would be prepared to consider presenting my submission in a joint case with others making a similar submission at any Hearing.

The specific provisions of the proposal that my submission relates to are:	**My submission is that:** *(State concisely whether you support or oppose each separate provision being submitted on, or wish to have amendments made, and the reasons for your views)*	**I seek the following amendments from the West Coast Regional Council:** *(Give precise details for each provision. The more specific you can be, the easier it will be for the Council to understand your concerns.)*
Harvesting of Sphagnum Moss	I support the Harvesting of Sphagnum from Wetlands without the need for resource consent due to the low impact of this activity on the overall health and integrity of a Wetland. A well managed harvesting cycle will result in a Wetland and a Moss Industry, the jobs and export dollars that come with that. The two can co-exist indefinitely for the benefit of both whilst retaining diversity in our economy.	

Attach further sheets as required

The specific provisions of the proposal that my submission relates to are:	**My submission is that:** *(State concisely whether you support or oppose each separate provision being submitted on, or wish to have amendments made, and the reasons for your views)*	**I seek the following amendments from the West Coast Regional Council:** *(Give precise details for each provision. The more specific you can be, the easier it will be for the Council to understand your concerns.)*

Attach further sheets as required

Proposed Plan Change 1 to the West Coast Regional Land and Water Plan

A submission to the West Coast Regional Council

Trustpower Limited ("Trustpower") makes the following submission on Proposed Plan Change 1 to the West Coast Regional Land and Water Plan ("Plan Change 1").

Trustpower could not gain an advantage in trade competition through this submission.

Trustpower would like to be heard in support of its submission.

If other persons make a similar submission, Trustpower would consider presenting joint evidence at the time of hearing.

The address for service for this submission is as follows:

Trustpower Limited

_____

Trudy Richards
Environmental Advisor – Policy and Planning

Private Bag 12023
Tauranga Mail Centre
Tauranga 3143

Email: trudy.richards@trustpower.co.nz
Phone: 027 404 9027

Introduction and Overview

Trustpower is one of the nation's largest electricity retailers/generators. Trustpower's New Zealand based generation portfolio derives primarily from renewable energy sources that comprise 20 hydroelectric power schemes and two wind farms spread throughout the country.

Within the West Coast Region, Trustpower owns and operates four hydroelectric power schemes ("HEPS") as follows:

- Arnold HEPS: Located on the Arnold River and fed by Lake Brunner, the Scheme has a maximum capacity of 3 MW and resource consent to increase this to 46 MW.
- Kumara/Dillmans/Duffers HEPS: Drawing water from the Big Wainihinihi, Arahura Wainihinihi and Kawhaka catchments, and discharging water to Loopline Lake (Kumara Reservoir), Kapitea Lake and Taramakau River, this scheme has a maximum capacity of 10 MW.
- Kaniere Forks/McKays Creek HEPS: Located in the Kaniere River catchment, this scheme has a maximum generation capacity of 1.5 MW. Trustpower has resource consent to increase the capacity of this scheme by approximately 1 MW.
- Wahapo HEPS: Flowing from Lake Wahapo, this scheme was redeveloped on the existing site in 1990, with maximum capacity boosted to 3.1 MW.

These power generation facilities play a vital role in ensuring a reliable supply of electricity to the West Coast community.

Against this background, Trustpower has a strong interest in the management of water on the West Coast by way of the Regional Land and Water Plan.

Trustpower's Submission

1. Changes to Scheduled Wetland HOKP005 (Kapitea and Kumara Reservoirs)

Trustpower supports the proposed boundary adjustments of scheduled wetland HOKP005 as the areas marked to be deleted are not functioning wetlands and do not have any significant environmental values. These corrections involve small areas but enable landowners to utilise this land without needing to obtain resource consent.

Trustpower seeks that the proposed changes to Scheduled Wetland HOKP005 (Kapitea and Kumara Reservoirs) are retained as notified in Plan Change 1.

2. Changes to Rule 28

Trustpower supports the proposal to amend Rule 28 as it simplifies the wording of the rule and clarifies the work that can be undertaken. This gives plan users certainty as to when resource consent is required and allows erosion repairs to be carried out while avoiding the placement of inappropriate structures.

Trustpower seeks that the proposed changes to Rule 28 are retained as notified in Plan Change 1.

3. Changes to Rule 52

Trustpower opposes the proposed amendment to Rule 52. Trustpower is concerned that this rule does not take into consideration the impacts of reconsenting community water supply takes on other existing consented water users. Trustpower supports the concept of ensuring security of water supply for communities, however appropriate consent conditions must be imposed in relation to residual flows, rates of take, volume and timing etc. in order to ensure that there are no adverse effects on other existing water users in the catchment.

Trustpower seeks that the West Coast Regional Council insert an additional matter of control to Rule 52 as follows:

> *In granting any resource consent for the taking of surface water in terms of this Rule, the Council will restrict the exercise of its control to the following:*
>
> *…*
>
> *(i) Any adverse effect of continuing the taking of water on any existing lawfully established take, use, dam, discharge or diversion of water.*

The requested amendment to the matters of control for existing community water supply takes is similar to the matters of control for existing hydroelectricity generation takes (Rule 54).

Trustpower Limited

_____

Trudy Richards
Environmental Advisor – Policy and Planning

Waiomou Valley Farms Limited
Head Office
36 Pakaraka Road
RD2 Tirau

22/08/2016

Attention: Sarah Jones
Planning Team Leader – West Coast Regional Council
388 Main South Road
Paroa
P.O.Box 66
Greymouth
7840

To Sarah

Re Proposed Plan Change 1 to the Regional Land and Water Plan for Consultation.

Thank you for your letter dated 22 August 2016, we accept and appreciate the proposed removal of the Area as outlined and hatched in red from DOC's proposed Schedule 2 extended wetlands on Waiomou Valley Farms Runoff (map identification HOKP018).

Our main request of clarification is whether Waiomou Valley Farms Limited can still retain access over the unformed road portion that will still be under schedule 2 wetland classification on our property to the back gated entry that already exists. This was discussed with D.O.C staff and we believed they were happy to grant us this ongoing right.

It would seem the legend that was presented with this letter should have read the "land to be removed" was from the proposed schedule 2 wetlands area that D.O.C. had initially proposed to take.

Please accept this as a submission on the proposed plan change

Yours sincerely

Gordon Blake
Waimou Valley Farms Limited Director