

**BEFORE INDEPENDENT HEARING COMMISSIONER APPOINTED BY THE  
WESTLAND DISTRICT COUNCIL**

**IN THE MATTER OF** the Resource Management Act 1991

**AND**

**IN THE MATTER OF** resource consent applications  
220120 & 230030  
at 117 Arthurstown Road, Hokitika

**BY** Forest Habitats Limited

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**MEMORANDUM FOR THE COMMISSIONER**

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## May it please the Commissioner

1. Counsel notes the postponement of the resumed hearing of the Forest Habitats application and wishes both Commissioner and family a speedy recovery.
2. The hearing is to be reconvened on 25 September 2024 at 3:30pm. There are 2 matters relevant to the application which have been identified during the period leading up to the resumed hearing. These relate to the Flood Susceptibility Overlay and the recommended removal of the Flood Plain Overlay in the TTPP.
3. **Matter 1 - Flood Hazard Overlays - TTPP**

It has been ascertained that the TTPP notes that Flood Hazard Overlays – “flood severe” and “flood susceptibility” where risk from flooding has been modelled and due to depth and speed of water mapped as either severe/susceptibility and “flood plain” are areas where modelling has not been undertaken and this is a precautionary approach.

The Flood Severe Overlay does not affect any of the proposed building platforms in the proposed subdivision and is restricted to that area closer to the river.

The Flood Susceptibility Overlay affects 5 of the 12 proposed lots and their building platforms. These are Lots 4, 5, 6, 7 and 9.

The building platforms for Lots 1, 2, 3, 8, 10, 11 and 12 are all outside the Flood Susceptibility Overlay, and if the Flood Plain Overlay is removed, these sites will be unaffected by Flood Hazard Overlays.

Rule NH-R10 in the TTPP, states that in respect of the Flood Susceptibility Overlay – New Buildings used for sensitive activities and additions and alterations to existing buildings used for sensitive activities are Permitted activities where: -

*“Any new buildings or additions or alterations have a finished floor level of 500mm above the 1% AEP flood event”.*

Sensitive activities included residential activities. The engineering evidence before the Commissioner (Hutchinson) confirms that based on the Land River Sea Consulting Limited Hokitika River Hydraulic Modelling and Flood Hazard Mapping all proposed building platforms and associated accessways will remain flood free during 1% AEP peak flood flows.

In the s42A report, some minor refinements are recommended for NH-R10, which is to be replaced by NH-R5, but still states that a new residential building in the Flood Susceptibility Overlay is a Permitted Activity provided the finished floor level (FFL) is a minimum of 500 mm above the 1% AEP flood event.

Thus, building on the allotments will be permitted activities. Relevant pages of TTPP NH-R10 annexed as "A".

The Council's 42A report recommends (relevant sections annexed as "B") that: -

*"That the Flood Plain Overlay and all associated provisions be deleted from the TTPP"*

and that

*"... all other Flood Hazard Overlays remain in the TTPP".*

#### 4. **Matter 2 - Flood Plain Overlay - TTPP**

By way of background in respect of the Flood Plain Overlay, on 1 August 2024 Jeremy Dillon & Barry MacDonell appeared before the TTPP hearings panel, in respect of the Rural Zones hearing, in support of a submission to have the Applicant's Arthurstown Road property (including the smaller area of land subject to this subdivision application) re-zoned to rural residential.

During the hearing the Panel acknowledged that the accuracy of the flood hazard mapping has been called into question by various submitters, including the West Coast Regional Council, who apparently commissioned the work. The WCRC submission states that the flood hazard mapping is "*too high*" level and requires "*further refinement*" to provide definitive guidance on flood hazard.

As the Applicant has expressed where potential flood hazard risk exists, a site-specific engineering assessment should be carried out, as has been done in the case of the within application.

The s42A report on the Hazards chapter in the TTPP has just been released (26 August 2024). The author of the s42A report accepts the WCRC submission and is recommending that the Flood Plain Overlay is deleted from the TTPP. The other Flood Hazard Overlays are to remain.

The recommendation is also that there be a plan change process to address flood hazard overlays.

A handwritten signature in blue ink, appearing to read 'NA McFadden', is written over a horizontal line.

NA McFadden  
Counsel for Forest Habitats Limited

19 September 2024

## NH

### Natural Hazards - Ngā Mōreareatanga Aotūroa

The West Coast/Te Tai o Poutini region is subject many natural hazards; river flooding, coastal erosion, coastal inundation and land instability; the impact of these natural hazards is likely to be exacerbated by climate change including sea level rise over the lifetime of this Plan. There is also natural hazard risk from earthquakes and tsunami (coastal and lake).

A natural hazard is defined in the RMA as "any atmospheric or earth or water related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire or flooding) the action of which adversely affects or may adversely affect human life, property, or other aspects of the environment".

The risks associated with natural hazards vary on the West Coast/Te Tai o Poutini, with its sparse population and low level of development in some areas, compared with discrete areas of larger populations in the towns and settlements. In the larger populated and developed areas the consequences of natural hazards are considerably greater - hence the risk is higher. A risk-based approach to natural hazards has been taken in Te Tai o Poutini Plan and means that the focus of the natural hazard provisions is in the areas where there is greatest risk.

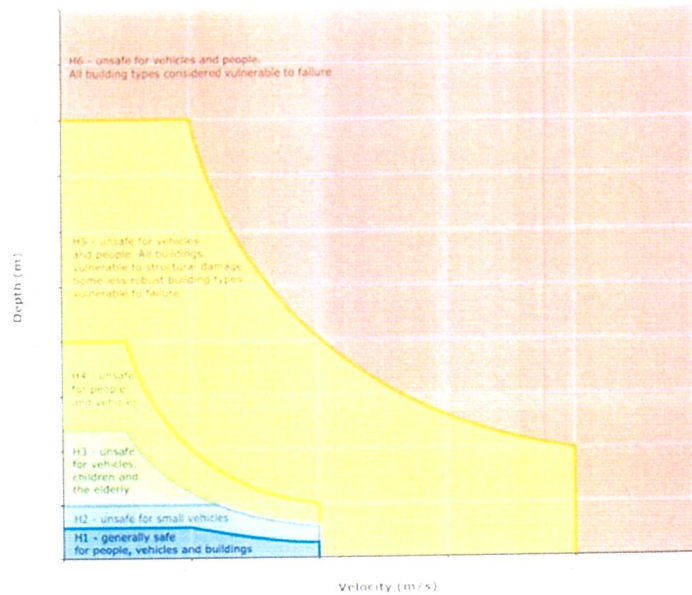
- Coastal Hazard Overlays — "Coastal Severe" where risk from coastal erosion and inundation have been modelled and mapped, "Coastal Alert" where risk from coastal inundation has been modelled and mapped. "Coastal Setback" where modelling has not been undertaken and is a precautionary approach. "Coastal Tsunami" is where the most significant risk from coastal tsunami has been mapped and is different from coastal tsunami evacuation areas.
- Hokitika Coastal Overlay — applies to parts of Hokitika where the design and consent process for planned upgrades have not yet occurred, and a significant risk remains.
- Flood Hazard Overlays — "Flood Severe" and "Flood Susceptibility" where risk from flooding has been modelled, and due to depth and speed of water, mapped as either severe/susceptibility. "Floodplain" are areas where modelling has not been undertaken and this is a precautionary approach.
- Westport Hazard Overlay - specific provisions managing flooding and coastal inundation. This applies to the area identified in the West Coast Regional Council Long Term Plan as to be protected. Design and consent work is underway.
- Earthquake Hazard Overlay — These overlays applies 200m either side of the active fault traces for the Alpine, Hope, Clarence and Awatere Faults. A large earthquake on these faults will result in ground shaking outside of these areas. The Earthquake Hazard Overlay should not be considered the total extent of the hazard but are considered to reflect the likely extent of the most significant hazard.
- Land Instability Overlay — This overlay applies to areas where there is risk from slope instability, landslide, debris flow and rockfall.
- Lake Tsunami / Seiche — This applies to the land proximate to lakes.

The impacts of climate change have been included in the technical work underlying the

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|--|---|--|
|  |   | For Flood Severe Overlay<br>Non-complying                                      |
| <b>NH - R7</b>   | <b>New Unoccupied Buildings in the Flood Severe and Flood Susceptibility Overlays</b>   |  |
| <b>Activity Status Permitted</b>   |   | <b>Activity status where compliance not achieved: N/A</b>                      |
| <b>NH - R8</b>   | <b>Additions and Alterations to Existing Buildings for Critical Response Facilities, and New Buildings and Additions and Alterations to Existing Buildings for Commercial and Industrial Activities in the Flood Severe and Flood Susceptibility Overlays</b> |  |
| <b>Activity Status Permitted</b><br>Where:<br>1. There are no increases in net floor area of the building used for sensitive activities; and<br>2. Any new buildings or additions and alterations have a finished floor level of 300mm above a 1% annual exceedance probability (AEP) flood event. |   | <b>Activity status where compliance not achieved: Restricted Discretionary</b> |
| <b>NH - R9</b>   | <b>Flood Severe Overlay - Additions and Alterations to Existing Buildings used for Sensitive Activities</b>   |  |
| <b>Activity Status Permitted</b><br>Where:<br>1. There is no increase in net floor area for sensitive activities   |   | <b>Activity status where compliance not achieved: Non-complying</b>            |
| <b>NH - R10</b>  | <b>Flood Susceptibility Overlay - New Buildings used for Sensitive Activities* and Additions and Alterations to Existing Buildings used for Sensitive Activities</b>  |  |
| <b>Activity Status Permitted</b><br>Where:<br>1. Any new buildings or additions and alterations have a finished floor level of 500mm above the 1% AEP flood event.   |   | <b>Activity status where compliance not achieved: Discretionary</b>            |
| <b>Restricted Discretionary Activities</b>   |   |  |
| <b>NH - R11</b>  | <b>New Critical Response Facilities and Additions and Alterations to Existing Critical Response Facilities not meeting Permitted Activity Standards in the Flood Severe and Flood Susceptibility Overlays</b>   |  |
| <b>Activity Status Restricted Discretionary</b><br><br><b>Discretion is restricted to:</b><br>a. Whether there is a functional or operational need for the   |   | <b>Activity status where compliance not achieved: N/A</b>                      |

\* Sensitive Activities includes Residential

# "B"



**Figure 1: Flood Hazard Vulnerability Curves (Source: Australian Rainfall and Runoff Guidelines)**

103. Toka Tū Ake (S612.042; S612.114) request that the Flood Severe Overlay is amended to represent areas which are expected to have flood depths of greater than 1m in a 1% AEP flood, and correspondingly the Flood Susceptibility Overlay would be those with flood depths of less than 1m.
104. For context, the Canterbury Regional Policy Statement and Waikato Regional Policy Statement have chosen to apply the H3 hazard classification where flood depths are greater than 1.2m or a velocity of greater than 2 m/s to define the 'high hazard area'. At this flood depth and speed the flood hazard is unsafe for people and vehicles.
105. We consider the request from Toka Tū Ake is an appropriate reflection of the level of risk from flood waters, because as notified the Flood Susceptibility Overlay still potentially represents a high level of risk to life, as flood waters can be up to 2m in depth. However, when considering the potential consequences on private properties from reducing the threshold between the Flood Severe and Flood Susceptibility Overlays from 2m to 1.2m of water depth, a large number of additional properties would be covered by the Flood Severe Overlay. This raises significant natural justice issues as there would be a considerable tightening and potential loss of development rights by the provisions on these properties, beyond what was expected through the proposed TTPP. We are also mindful that there are specific submissions opposing any extension to the Flood Severe or Flood Susceptibility Overlays as notified (S507.108, S508.110, S508.111, S509.110, S510.109, S510.110, S510.111, S511.109, S511.110, S511.111, S512.109, S512.110, S512.111, S513.109, S513.110, S513.11, S558.060, S566.060 and S567.145). We therefore recommend, that the thresholds are not altered, with the extent of the Flood Severe Overlay increased, as part of this full plan review process. However, we do recommend that it is addressed as part of a future Plan Change process that could also address the inclusion of climate change into the flood mapping adopted for the TTPP. It might also be appropriate as part of this plan change to consider the inclusion of an additional flood hazard overlay that is based on the H1 hazard classification that is more permissive due to the lower level of risk present, to provide a more nuanced approach to flood risk.

106. Submissions (S18.001, S33.001, S50.001, and S483.015, S504.004, S504.005, and S351.001) raised concerns regarding the flood mapping in respect to specific properties and areas. We have no reason to believe that the flood hazard modelling upon which the Flood Severe and Flood Susceptibility Overlays is based is incorrect or contains significant errors. There has been no evidence presented through the submission process which demonstrates the need for these reports to be peer reviewed as there are incorrect assumptions or approach applied to the modelling. On this basis, we do not propose to remove the flood hazard extents from these submitters properties.

*Recommendations*

- 107. That the Flood Plain Overlay and all associated provisions be deleted from TTPP. It is recommended that all other Flood Hazard Overlays remain in the TTPP.
- 108. It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in Appendix 2.

*Section 42AA Evaluation*

**Effectiveness and Efficiency**

109. The deletion of the Flood Plain Overlay will improve the effectiveness of the plan as this overlay was a precautionary layer that was not based on accurate mapping. This will also improve the efficiency of plan administration, as the Flood Plain Overlay captured a large number of properties. The deletion of this overlay will provide more certainty for property owners, and ensure that they are not subjected to provisions, for which there is a low level of certainty regarding the underlying science.

**Costs and Benefits**

110. The benefits of deleting the overlay are high, as it will provide certainty for property owners and will reduce the number of resource consent applications received by councils in the region (while noting only rules for subdividing in this overlay were notified). There will be no costs of removing the overlay and therefore the benefits outweigh the costs.

**Risk of Acting or Not Acting**

111. The information upon which the overlay is based is not accurate, is insufficient and uncertain. However, there is a risk from deleting the overlay in that it does cover properties that are known to be subject to inundation from past events. The precautionary approach of Policy NH-P2 will provide direction for decision-makers in such instances.

**Decision About the Most Appropriate Option**

112. The deletion of the Flood Plain Overlay is the most appropriate way to achieve the objectives of the plan, compared to retaining it.

**7.3 Earthquake Hazard Overlays**

*Submissions*

| Submitter Name (ID)   | Submission Point | Position | Decision Requested   |
|-----------------------|------------------|----------|--|
| <b>General</b>        |                  |          |  |
| Grant Marshall (S311) | S311.005         | Amend    | I would like the inclusion of the GNS report on Lake Poerua dated January 2008 to the technical info in the TTPP |