

BEFORE THE WESTLAND DISTRICT COUNCIL

IN THE MATTER OF

Combined resource consent proposal to subdivide land into 17 allotments (including amalgamation condition) and land use consent to erect a total of 12 dwellings, including no more than one dwelling per allotment on Lots 1 to 12, and to form an unformed legal road for residential access, resulting from the three stage subdivision of land legally described as Lots 8 to 29 DP 142, Part RS 1300, 1589 and 4363, and RS 1421, 1588 and 1602-1603 within the Rural Zone, 117 Arthurstown Road, Hokitika. RC220120 and RC230030

APPLICANT

Forest Habitats Limited

MINUTE NO. 7 OF INDEPENDENT COMMISSIONER

DATED 17 DECEMBER 2024

Introduction

1. This minute responds to the latest memorandum received from the applicant's legal Counsel dated 12 December 2024.

Background

2. My Minute No. 6 dated 29 November 2024 requested further information from the applicant on the basis that:
 - a. Since the last hearing, Variation 2 to the Te Tai o Poutini Plan has been publicly notified.
 - b. The flood hazard layers associated with that variation have been revised and now show the coastal hazard alert (variation) overlay on only parts of the site.
 - c. Any modelling that informed the revised flood hazard overlays may be highly relevant to the subject application in which flooding is a key matter in contention.
3. In response to that minute, the applicant requests that the scope of the requested information is narrowed down to only that for which the applicant had direct input into. The applicant's memo further explains that most of the information being asked for is either in the Council reports or is information the applicant does not have access to. The applicant's memo then goes onto address each item of the further information I have requested in Minute No. 6.
4. My response to the applicant's memo and my associated directions are set out below.

Response and Directions

Item	Commissioner Request	Applicant Response	Commissioner Response	Commission Direction
a	A copy of the subdivision plan overlaid by the coastal hazard alert (variation) overlay proposed in Variation No. 2 to the Te Tai o Poutini Plan ('TTPP').	The Applicant is happy to show the Coastal Hazard Alert Overlay (Variation 2) on the scheme plan, with a further explanation, once the requests for additional information has been concluded. That said, the Applicant questions what additional information this would provide, as the building pads and access are being built above this level, in order that they are not subject to any hazard.	The height of the building platforms is predicated on the existing flooding modelling not the new modelling prepared for Variation 2. Therefore, overlaying the Variation 2 coastal hazard alert layer will enable me to judge the suitability of the height of the building platforms in the context of the new modelling. Further, the evidence is that the driveways will have to descend from the building platforms to the road. The information requested will therefore also illustrate the extent to which access may be restricted to and from the building platforms during a flood.	The original request stands.
b	A copy of the modelling report that informed the revised flood hazard layers in Variation 2 of the TTPP.	The modelling report that informed the revised flood hazard layers in Variation 2 to the TPP was updated using more recent LIDAR data and was prepared for the TPP Committee. The Applicant does not have it.	I can appreciate that the applicant does not have the flood modelling report to hand. Westland District Council may not have direct access to it either. What I am requesting is that you request the report from the local authority and provide me with a copy. You are welcome to clarify if you are refusing to obtain the information.	The original request stands.

c	A copy of the new provisions proposed as part of Variation 2 of the TPP.	The new provisions in Variation 2 (Coastal Hazards) are yet to be confirmed, with these provisions still open for submissions. The final provisions will be established during upcoming hearings, once the submission period closes. The Applicant considers the current provisions to have no weight in relation to the application, however they are available on the TPP website.	This request was made so that Variation 2 could be considered as part of the evidence. What I would have ordinarily expected was to be provided with a copy of Variation 2 with comment as to which provisions were relevant to the consideration of the subject application. In the absence of that I will refer to Variation 2 on the TPP website.	No further response is necessary.
d	Confirmation as to whether the reference in Rule NH-R10 of the TPP to the 1% AEP event includes the RCP8.5 scenario.	This question would be better addressed to the TPP Committee. What is important is that there is a consistent approach across the region. Both the Westport flood protection scheme and the Hokitika stop bank were designed using the RCP6 scenario. Why would a minor subdivision be required to use the more stringent climate change modelling (RCP 8.5) than used for large Council owned infrastructure projects?	In asking this question I anticipated you would seek clarification from your experts to refer to the background reports that informed this rule to investigate whether the 1% AEP event took account of the RCP8.5 scenario. You are welcome to respond further on that matter or confirm whether this is your final response.	The original request stands.
e	A copy of the flood modelling report for the new Hokitika stop	The applicant is happy to provide a copy of the Hokitika stop bank	I can appreciate this is a Council document. However, I suspect it is a Regional Council	The original request stands.

	bank prepared by Land River Sea Consulting Ltd.	modelling report, however once again this is a Council document.	document and therefore may not be held by Westland District Council. In any case, it is the applicant's case and therefore the onus is on the applicant to provide the information.	
f	A full explanation from Mr. Challenger regarding his estimations about the flood depths at the site resulting from the potential displacement of flood water from the Hokitika stop bank.	Stuart Challenger's estimations about flood depths resulting from the potential displacement of flood waters by the raised Hokitika stop bank are based on Matthew Gardiner's report. Again, as with (a) this can be elaborated on once the requests for additional information has been concluded.	Noted	The original request stands.

5. In respect of your request for communications between the Council and the Commissioner, I have the same response as in paragraphs 4 and 5 of my Minute No. 6 dated 29 November 2024.
6. The hearing will remain adjourned until the applicant completes their response to information requested. The applicant's response should be filed with Council no later than 15 February 2025.

Mark Geddes
Independent Hearing Commissioner