

## Minerals West Coast submission on “Draft Te Tai Poutini Plan”

Friday 11<sup>th</sup> November 2022

*Please note Minerals West Coast would welcome the opportunity to speak to this submission either directly with the people working on this plan or in a formal hearing setting.*

### INTRODUCTION

1. Minerals West Coast is an industry association representing the West Coast region’s miners and mining interests.
2. The association’s members include people and companies in the business of mining gold, coal, and aggregates. These range in scale from small to medium-sized, family-owned and/or owner-operators to larger firms employing anywhere up to 100 staff across different sites, as well as some of New Zealand’s largest mining companies. Other members include training institutes, engineering and mechanical support services, geologists, and other contractors and consultants.
3. Mining makes a significant contribution to the West Coast region’s prosperity, comprising 8.4% of GDP in the West Coast region, 3rd after ‘dairy cattle farming’ (10.6%) and ‘electricity and gas supply’ (9.1%) in 2021, according to Infometrics<sup>1</sup>.
4. At a regional level, direct employment in the mining industry amounted to about 581 fulltime staff, according to Infometrics data for that year<sup>2</sup>.

### EXECUTIVE SUMMARY/RECOMMENDATIONS

The Minerals West Coast submission on the [draft Te Tai Poutini Plan](#) (TTPP) makes the following key points:

#### **Ensure that TTPP enables responsible minerals activities**

- TTPP provides for past, present, and future mineral extraction in Tai Poutini West Coast region; it is among key themes of the draft plan, and as such Minerals West Coast supports this.
- TTPP should provide for minerals activities to access the “effects management hierarchy” throughout the region – avoid, then remedy, then mitigate, then offset and/or compensate.
- Mining and quarrying are amenable to the effects management hierarchy because of the relatively small footprint, the relatively temporary duration of operations, and that they are typically the highest-value use of land.
- Exceptions to the above would include zones covering towns and settlements, national parks and other classes of land listed on Schedule 4 of the Crown Minerals Act 1991.
- The Buller Coalfield Zone is supported because the region’s coal resources are extensive in area and are well documented.
- Note that – excepting coal strata – economic mineral deposits are discrete in the landscape, and their extraction occupies individually, and collectively, a relatively small footprint.

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<sup>1</sup> Based on Minerals West Coast interpretation of data from [Infometrics](#).

<sup>2</sup> Based on Minerals West Coast interpretation of data from [Infometrics](#).

- Therefore, with the exception of coal resources, zoning is not an appropriate planning solution for minerals activities.
- A further exception would be existing operations where reverse sensitivity is a risk.
- Classifying mineral extraction in zones as permitted, controlled, restricted discretionary or discretionary activities – except in towns and airports etc – is an alternative approach.

#### **Minerals activities can help manage and maintain the environment**

- Note that exotic pests and weeds are by far the biggest threat to indigenous biodiversity everywhere in Aotearoa, including in Tai Poutini.
- Miners and quarry operators can help maintain and enhance biodiversity under resource consent conditions, as currently occurs.
- To provide for the above, MINZ provisions relating to environmental management should apply to all minerals activities across the region. Overlays would still apply.
- Mining and quarrying should have access to the effects management hierarchy in overlays concerning natural heritage (NENV), and ecosystems and indigenous biodiversity (ECO).

#### **Other**

- Note that the Government accepts it made serious errors in the 2020 freshwater regulations, in prohibiting earthworks in or near wetlands.
- The result is to prevent mining, quarrying, landfills, and other land uses across almost all of New Zealand, including the West Coast. The Government is seeking to fix these errors.
- The provisions in respect of outstanding natural landscapes and features are supported, noting concern over the meaning of to “minimise” adverse effects.
- We suggest deleting all references to “minimise”, and replace with the effects management hierarchy, as discussed above.
- Minerals West Coast urges care in identifying areas of outstanding natural character etc in the coastal environment, to provide for appropriate minerals activities in this zone.
- The provisions for management of pounamu and other cultural minerals are supported, noting the need to amend text to ensure that alluvial gold miners can continue to provide pounamu to iwi/Māori as a by-product of mining operations.

#### **Ensure consistency of wording**

- Amend TPPP for consistency of wording between different sections, and thereby support Objectives, Policies and Rules relating to minerals prospecting, exploration and extraction.
- Mining and quarrying are locationally, functionally, technically, and operationally constrained. TPPP should provide consistent wording to reflect this reality.
- Remediation should be available to developers after mine or quarry closure as well as during operations, to meet TPPP objectives and policies for site rehabilitation post-closure.

## SUBMISSION

### Enabling responsible minerals activities

The tenor of TTPP is that minerals prospecting, exploration, mining, processing and related activities are important to the region's economic, social and cultural framework (e.g. pages 8, 9, and 65).

As well, TTPP provides for minerals activities in areas of conflicting environmental values, subject to criteria and conditions, noting inconsistencies between different parts of the draft plan.

Minerals West Coast supports this approach. We submit from the perspective of workability – do the plan provisions uphold and provide for the Objectives of the TTPP as regards minerals activities?

TTPP states on page 12: “The RMA requires integrated management of the environment.”

And on page 66: “There is no hierarchy between the stated Objectives i.e., no one Strategic Objective has primacy over another Strategic Objective and the Strategic Objectives should be read as a whole.”

Both principles are important for enabling responsible minerals activities in the region, e.g. the districtwide provisions concerning minerals on page 69.

The Objective MIN – 03 states: “To recognise that mineral resources are widespread and fixed in location throughout the West Coast/Te Tai o Poutini and that provided adverse effects are managed, mineral extraction activities can be appropriate in **a range of locations** outside specified zones and precincts” (emphasis added).

This point is supported on page 70, which lists NENV (Natural Heritage) Objectives. We refer to NENV – 04, which states:

“To clearly identify: a. Unique and important natural environment areas and features on the West Coast/Te Tai o Poutini which must be protected; and b. Areas where subdivision, use and development to enable community economic, cultural and social wellbeing **can be sustainably managed**” (emphasis added).

### Zoning and minerals

The problem with establishing a Minerals Extraction Zone – MINZ – is that people today (be they geologists, miners, investors etc) cannot know where all economic mineral deposits are going to be now and in the future.

The location of potentially economically viable mines is the result of an ever-changing equation of resource value (based on market demand), cost of recovery (based on market dynamics such as the price of fuel, cost of labour, technological advancement), and demands of customers in markets.

TTPP takes up this point on page 484: “It is anticipated that there will continue to be widespread mineral extraction outside of the MINZ – Mineral Extraction Zone.”

This raises the question of why apply different Objectives, Policies and Rules to mining and quarrying within the MINZ, and mining and quarrying outside of the MINZ. The effects of extraction on other values are exactly the same.

For example, Policy MINZ – P4 provides in respect of mining and quarry companies: “Managing impacts on significant indigenous vegetation and significant habitats of indigenous fauna”.

This should be the approach everywhere mining and quarrying can gain resource consent and should appear everywhere in TTPP. Overlays would still apply, e.g. in respect of the coastal environment, and landscapes, noting our opposition to the treatment of significant biodiversity (refer to section on managing conflicting values, below).

To go further, MINZ – P5 states:

“Where the removal of an area of significant indigenous vegetation or significant fauna habitat in whole or in part is necessary to provide for mineral extraction and processing activities and cannot be avoided, adverse effects should be mitigated, remedied, offset, or compensated to achieve no net loss in biodiversity values.”

This should be the approach everywhere in TTPP.

There are two key issues with minerals that make zoning as a planning tool challenging and inappropriate:

- Economic mineral deposits are functionally, technically, operationally, and locationally constrained
- They are discrete, and individually and collectively have a relatively small footprint.

This stands in contrast to open space and rural zones which are extensive in area, as is the Buller Coalfield Zone.

### **Buller Coalfield Zone**

It is noted that the Buller Coalfield Zone (BCZ) Includes the Stockton and Denniston plateau and Te Kuha (page 461).

We note also in respect of BCZ - P3 – “To ensure that after mineral extraction, all mine sites in the BCZ - Buller Coalfield Zone are rehabilitated to **best practice** environmental standards and to provide for future use and activities appropriate to the area.”

What is “**best practice**”? If it has the same meaning as the effects management hierarchy – avoid, remedy, mitigate, offset and/or compensate – then we ask council planners to write that, for clarity.

One may look to page 463 for inspiration, BCZ – P5:

“Where the removal of an area of significant vegetation or significant fauna habitat in whole or in part is necessary to provide for mineral extraction and processing activities and cannot be avoided, **adverse effects should be mitigated, remedied, offset or compensated to achieve no net loss in biodiversity values**” (emphasis added).

We note the following for permitted activities: “The site shall be rehabilitated as much as is practicable to its original condition.”

That is supported, however, that support is contingent on the meaning of “original condition”.

### **Ecosystems and indigenous biodiversity**

TTPP notes (page 166, ECO – ecosystems and indigenous biodiversity) that 84% of land on the West Coast is conservation land managed by the Department of Conservation, and that 90% of the region’s land area is covered in indigenous vegetation, compared with 24% nationally.

This presents an issue in terms of competing demands for space and environmental values. Note the strong correlation between economic mineral deposits and mountains (a matter of geology), and between mountains and conservation land (a matter of human settlement patterns).

A plan that achieves both minerals extraction and the protection of natural environmental values must, therefore, be able to resolve trade-offs between enabling one Objective and another. TTPP attempts to do this (refer to section above on enabling minerals activities).

### **Managing conflicting values – significant biodiversity**

This aspect of TTPP is of greatest concern to Minerals West Coast. As it is currently worded, TTPP prioritises the existing state of the large majority of the region's land area over other activities and contradicts Objectives relating to minerals activities.

TTPP says on page 166: "Tai o Poutini includes the last habitats or strongholds of some native species threatened with extinction."

At issue is that it is always possible to find threatened indigenous species almost everywhere in New Zealand, e.g. species of insect. We urge care in drafting plan provisions to avoid preventing almost all land use and resource activities in the region.

TTPP on page 168 states in respect of ECO – 02: "To provide for appropriate subdivision, use and development within areas of significant indigenous vegetation and significant habitats of indigenous fauna **where the values of the area can be maintained or enhanced.**"

The provision is supported and is consistent with other TTPP provisions (discussed above), **provided** minerals activities can access the effects management hierarchy – avoid, then remedy, then mitigate, then offset and/or compensate for adverse effects.

But ECO – P2 is problematic where it states:

"Allow activities within areas of significant indigenous vegetation or significant habitats of indigenous fauna where: d. The activity has a functional need to be located in the area; e. **The activity has no more than minor adverse effects** on the significant indigenous vegetation or fauna habitat."

This provision is unworkable for mining and quarrying because these activities almost always have more than minor adverse effects, and because significant biodiversity is prevalent on the West Coast. Note that operators can manage these effects under the effects management hierarchy, as per ECO – P9 on page 170:

"ECO – P9: Provide for biodiversity offsets and compensation to manage residual adverse effects of an activity where a. The goal of the biodiversity offsets is no net loss and, preferably, a net gain of biodiversity; b. The conservation outcomes are measurable and positive; and c. The biodiversity offsets or compensation are in accordance with best practice, including but not limited to NZ Government guidance on biodiversity offsetting."

Indeed, that is surely the purpose of the effects management hierarchy - where adverse effects are more than minor, can they be adequately managed, and the project proponent should have the opportunity to have their project considered in that light.

Note that we oppose the "NZ Government guidance on biodiversity offsetting" because it has been superseded by the draft National Policy Statement for Indigenous Biodiversity (which itself requires further development for workability).



Minerals West Coast supports the Straterra submission in relation to Appendix 1, which sets out criteria for identifying SNAs.

### **Open space and recreational zones**

The Natural Open Space Zone (NOSZ, page 293) focuses on the highest classifications of conservation land, where mining is to be a non-complying activity. We argue that if the effects management hierarchy applies, mining should be classified as a discretionary activity.

In explanation: as biodiversity at any location grows in value, the cost barrier to offsetting and compensation likewise increases, to a point beyond which a project cannot proceed. That consideration provides a natural limit to offsetting and compensation.

The OSZ - Open Space Zone - includes much conservation land (page 294), and is enabling of minerals activities, in principle. Note our opposition to TTPP's treatment of significant biodiversity (refer above to the section on managing conflicting values).

We note the following on page 311: "When assessing resource consent applications for mineral: extraction activities assessment against Policies RURZ - P20, RURZ - P22, RURZ - P23, RURZ - P24 and RURZ - P26 should also be undertaken."

This provides consistency between the OSZ provisions and Rural Zones (RURZ) provisions, which is supported.

We urge council planners to ensure the same consistency between other TTPP provisions and minerals provisions. Refer to the section below on disincentivising minerals investment.

### **Wetlands**

TTPP mentions on page 54 the applicability of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020.

It notes on page 464, "restrictions in relation to earthworks within 100m of a wetland and work which may affect waterbodies".

Those provisions currently **prevent almost all land use activities** in New Zealand because wetlands are pervasive in the landscape, and cover everything in the regulations from sites of international significance to – literally – patches of wet grass.

The Government recognises the serious error it made in publishing the regulations and is seeking to fix them for workability.

We urge council planners to understand the implications of making explicit reference to the freshwater regulations in TTPP.

### **Natural features and landscapes**

This section from page 179 demands careful consideration, specifically NFL – P5:

"Minimise adverse effects on outstanding natural landscapes and outstanding natural features by considering the following matters when assessing proposals for land use or subdivision ... d. The temporary or permanent nature of any adverse effects; e. **The functional, technical, operational or locational need of any activity** to be sited in the particular location."

Our reading of TTPP is that the NFL provisions are potentially workable, provided the word “minimise” is replaced by the effects management hierarchy (see below on unclear wording). This caveat also applies to the coastal environment.

### Coastal environment

Minerals West Coast accepts that TTPP in respect of the coastal environment (pages 235ff) must be consistent with the New Zealand Coastal Policy Statement.

That is in light of CE – 01 (page 136): “To **preserve** the natural character, landscapes and biodiversity of the coastal environment while enabling people and communities to provide for their social, economic and cultural wellbeing in a manner appropriate for the coastal environment.”

TTPP does provide on page 237 the following provision, CE – 03:

“To provide for activities which have a **functional need** to locate in the coastal environment in such a way that the impacts on natural character, landscape, natural features, access and biodiversity values are minimised.”

As in other parts of TTPP, the meaning of “minimise” is unclear (refer to the last section of this submission). We prefer the use of the effects management hierarchy. As well, “functional need” should be replaced by “locational, functional, technical and operational” for consistency across TTPP.

That said, the following is a preservation provision, CE – P3:

“Only allow new subdivision, use and development within areas of outstanding and high coastal natural character, outstanding coastal natural landscapes and outstanding coastal natural features where: ... **Significant adverse effects** on natural character, natural landscapes and natural features, and adverse effects on areas of significant indigenous biodiversity, areas of outstanding natural character and outstanding natural landscapes and features **are avoided**.” (Emphasis added).

We urge council planners to exercise care in defining outstanding natural features and landscapes.

### Pounamu and cultural minerals

Minerals West Coast supports TTPP provisions (eg page 71ff) concerning pounamu and aotea (bluestone).

But we note the following Policy under Sites and Areas of Significance to Māori, SASM – P6 on page 152, to “avoid the disturbance or removal of this resource **by non-hapū members**” (emphasis added).

This provision will adversely affect those alluvial gold miners who are non-Māori and mine pounamu as a by-product for local iwi under an arrangement between the parties.

The problem appears to be resolved on page 158 under SASM – R7, which provides for extraction of pounamu by mana whenua, including by “their authorised representatives or contractors”.

But this would be a **non-complying activity for non-Māori** (page 162, SASM – R15), and that provision alone could spell an end to alluvial gold mining where pounamu occurs. There often is a concurrence of the two, pounamu and alluvial gold, as they are found in the same places as a result of the same geological processes.

Minerals West Coast urges council officers to amend the SASM provisions for workability, and to allow existing arrangements between Ngāi Tahu iwi and alluvial gold miners to endure, allowing the mutually beneficial production of both resources through mining alluvial deposits.

It is worth noting many alluvial gold miners also operate on forestry land owned by Ngāi Tahu under access arrangements between two parties.

### **Disincentivising minerals investment**

Within the Settlement Zone (SETZ, pages 448ff), prospecting and exploration are permitted activities, while mining is non-complying.

Minerals West Coast finds it intriguing that the draft provisions enable prospecting and exploration, but the same provisions classify mining as non-complying. This seems illogical, and a disincentive to minerals investment in this zone.

The same consideration applies to the Future Urban Zone (FUZ), pages 473ff.

On the other hand, the provisions for the General Rural Zone (GRZ), pages 410ff, enable responsible minerals activities, as is also the case for the Rural Lifestyle Zone (RLZ).

We ask for consistency of treatment of minerals activities between these and other zones where it is appropriate to enable prospecting, exploration, and mining/quarrying.

Recall that in all cases the effects management hierarchy would apply to mining and quarrying.

### **Enabling suction dredging to continue without undue difficulty**

Minerals West Coast notes that there are restrictions proposed in the draft plan for commercial motorised watercraft operating on the surface of water. It is worth considering what impact these plan provisions may have on suction dredging, a small scale/hobby mining method by which small bodies of water may be dredged for gold through the use of a “suction dredge”.

While people engage in this activity with the intention of recovering gold and selling it, it is not “commercial” in the sense anybody is doing it full-time or employing people to do so.

Suction dredging is more appropriately classified as “primary production” as opposed to “commercial activity”, and provisions should be made to protect or remove suction dredging from any restrictions that may inadvertently inhibit it that are designed instead for actual commercial activities.

Suction dredging is currently a permitted activity and should remain classified as such, and the rules for activities on the surface of water should clearly exclude suction dredging activities to ensure that the practice remains a permitted activity.

### **Unclear and inconsistent wording**

#### *Use of the term “minimise”*

In many parts of TTPP, persons carrying out certain activities are required to “minimise” adverse effects. Examples occur in RURZ – 05 (page 404), RURZ – P19 (page 407), OSZ – P14 (page 296), CE – 03 (page 237).

At issue is that “minimise” is not defined, and the RMA does not provide for it as such. So, this term is *ultra vires*, and should be replaced with other wording such as “avoid, remedy, mitigate, offset and/or compensate”, i.e. the effects management hierarchy.

The rural zone provision RURZ – 05 (page 404) requires adverse effects of minerals activities to be “minimised”, while RURZ – P18 (page 407) requires adverse effects to be “avoided, remedied or mitigated”. The two sets of terms must mean different things, or TTPP writers would not have used different wording.

Consistency is necessary for TTPP to be effective, and we prefer the use of the effects management hierarchy throughout TTPP because it is clear, consistent with the RMA, and recognises and provides for responsible minerals activities.

#### *Inconsistent wording*

We note that OSRZ – P14 (page 296) provides for “adverse effects on open space and recreation values and the environment are **avoided, mitigated, remedied, offset or compensated**” (emphasis added). This terminology should appear more widely, and consistently throughout TTPP.

On page 408, RURZ – P25 speaks of “avoiding and mitigating impacts” on significant indigenous vegetation and significant habitats of indigenous fauna. “Remedying” is referred to separately as an activity to occur during minerals extraction, as opposed to also being applicable post-mine or quarry closure. This is unnecessarily restrictive and does not make sense. See below. Here too, the full effects management hierarchy should apply.

#### *Misunderstanding of remediation*

TTPP provides for “undertaking remediation alongside extraction operations” (page 486), and the same concept is repeated in several parts of the document.

Why this restriction? Surely, an operator can remediate (repair adverse effects, e.g. plant seedlings where trees have been removed) after mine closure as well. The existing wording does not reflect the nature of mining. We suggest applying the effects management hierarchy throughout TTPP.

Minerals West Coast recognises the benefits of progressive rehabilitation (rehabilitating land as it is mined) but notes this is not practical for all mines, as each operation comes with its own set of operational constraints.

#### *Nature of mineral resources*

Compare and contrast:

- RURZ – P18 (page 407) speaks of mineral resources being “fixed in location”.
- On page 179, TTP states “the functional, technical, operational or locational need of any activity to be sited in the particular location”. This is comprehensive, and, therefore, supported.
- OSRZ – P9 (page 295): “Mineral extraction of resources where these are limited in their location”.

We urge consistency of wording to achieve consistency of meaning.

#### *Rehabilitation*

Minerals West Coast asks why there are differences in wording between:

OSRZ – P14, page 296: “sites are rehabilitated at the end of the mineral extraction activity to enable the land to be used for an appropriate activity.”

RURZ – P22, page 408: “Sites used for mineral extraction should be rehabilitated to enable the land to be used for other activities appropriate to the area.”

RURZ – P25, “Requiring sites to be rehabilitated and ensuring that appropriate methods are used for this purpose.”

We urge council planners to be consistent with wording; otherwise, the different provisions must mean different things, and we doubt that is the intent of TTPP.

*“And” versus “or”*

Consider page 296, which stated for OSRZ – P14:

- “b. This is provided for within any Open Space Management Plan for the area;
- c. Adverse effects on open space and recreation values and the environment are avoided, mitigated, remedied, offset or compensated;
- d. Sites are rehabilitated at the end of the mineral extraction activity to enable the land to be used for an appropriate activity.”

Question to council planners: are these “and” provisions, or are they “or” provisions? Clarity is important to determine the meaning of this provision.

Regardless, TTPP needs to provide for minerals activities to avoid adverse effects via the effects management hierarchy, to it to be logically consistent, and to achieve its Objectives.

**ENDS**