

Commissioners' Decisions on

PLAN CHANGE 7

Managing Fault Rupture Risk in Westland



**Decisions of the Hearing Panel appointed by Westland District
Council pursuant to Section 34A of the Resource Management Act
1991**

5 May 2015

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Westland District Council Decision Report of the Hearing Commissioners

Proposal Description:

Proposed Change 7 to the Westland District Plan –
Managing Fault Rupture Risk in Westland

Commissioners:

Gary Rae (Independent Commissioner, Chair), John Lumsden (Independent Commissioner)

Date of Hearing:

30 March 2015

1.0 INTRODUCTION

Context

- 1.1 We were appointed by the Westland District Council (“**the Council**” or “**WDC**”) to hear submissions to, and to consider and make a decision on, Proposed Plan Change 7 (“**PC7**” or “**the Plan Change**”). PC7 seeks to introduce additional rules and definitions, and alterations to the planning maps of the Westland District Plan (“**WDP**” or “**the District Plan**”) in order to establish two fault rupture avoidance zones.
- 1.2 The Plan Change has an extensive background, which we will canvas in due course, and has been the subject of a Council “Section 32” report, consultation with affected land owners, and of course the public notification and hearing, culminating in this Decision.
- 1.3 Before discussing the details of the Plan Change and the submissions to it, there are some preliminary matters that we will address, beginning with our role as Commissioners.

Role of Commissioners

- 1.4 We were appointed by the Council (via the District Planner) and in terms of the delegation contained in the Westland District Council Delegations Manual (amended in February 2014). The relevant delegation is Clause 25 “Jurisdiction of the Resource Management Commissioners”. This empowers us, as qualified Hearings Commissioners to hear and make decisions on submission to this proposed Plan Change. We are required to report our decisions back to the next meeting of the Council.
- 1.5 Having familiarised ourselves with the proposed Plan Change and the background material, read all submissions and evidence, conducted the hearing and heard from the submitters and the appointed Council advisors, as well as having visited the locality on several separate occasions, we hereby record our decisions.

Preliminary Comments

- 1.6 In advance of setting out the more substantive background matters of relevance, we make some initial general comments. Principally, we wish to record our appreciation at the manner in which the hearing was conducted by all the parties taking part. In this respect, we would like to acknowledge the following:
- the constructive input provided by all submitters appearing before us; and
 - the assistance from Council Officers and Advisors within the s42A report, at the hearing, and in the response to our further information request.
- 1.7 It was clear at the outset that many of the submitters are personally affected by the known fault hazard present in the Franz Josef settlement. The fault line goes directly under properties owned by several of the submitters, and given the accurate mapping that has taken place, it is possible to see precisely which parts of properties and buildings are affected. In this circumstance, we were impressed with how the submitters were able to present themselves in a professional manner and were able and willing to answer questions and engage in discussion at the hearing in a rational, open and frank manner.
- 1.8 As will be discussed in later sections of this report, there may have been some misunderstanding amongst submitters about our role as Commissioners and the precise matters that we are required to consider and make decisions with respect to. However, the manner in which the hearing was conducted greatly assisted us in assessing and determining the issues we are required to consider.

2.0 BACKGROUND

Context

- 2.1 PC7 is a planning response to the hazard (in terms of rupture) posed in Westland District by the Alpine Fault. This section provides a contextual summary of the recent work that has led to the development of the Plan Change.
- 2.2 The Alpine Fault is New Zealand's most active fault and it traverses the entire length of the West Coast region, spanning all three districts. It is recognised on land from Milford Sound to the Nelson Lakes area. The Alpine Fault will generate large magnitude ($M_w > 8$) earthquakes in the future with the potential to rupture the Earth's surface, causing damage to built structures across or adjacent to the fault zone.
- 2.3 The Alpine Fault is classified as a Recurrence Interval Class I (RI < 2000 yr) fault along its entire length, and has an average recurrence time of c. 300-500 years. While the Alpine Fault has not ruptured during the modern period of New Zealand history (since the beginning of European colonisation in AD 1840), the consensus from paleoseismic studies of the fault points towards the last earthquake rupture having occurred around AD 1717.
- 2.4 In 2010, the Institute of Geological and Nuclear Science [GNS] predicted that the probability of an Alpine Fault earthquake event, with a fault rupture to the surface occurring, was 20% within the next 30 years. Along the fault rupture, it is

estimated that there will be approximately 8-9 metres of horizontal displacement on the west (Australian plate) side, and 1-2 metres of vertical uplift on the east (Pacific plate) side.

- 2.5 In March 2010, a report¹ was prepared for West Coast Regional Council [WCRC] by GNS scientists, Dr. Robert Langridge and William Ries. This mapped the location of the Alpine Fault within the West Coast Region and overlaid a suggested Fault Avoidance Zone utilising the guidelines set within the Ministry of Environment's (MfE) 2004 guidance "*Planning for Development of Land on or Close to Active Faults*". Precise data on the location of the Alpine Fault was not available and, thus, variable exclusion zones were proposed of between 100 and 340 metres in width depending on the risk.
- 2.6 The Franz Josef/Waiau township is directly located within the 190 metre Fault Rupture Avoidance Zone as identified in the GNS report. It was considered that further study was required to enable more precise identification and reduction of the proposed fault rupture avoidance zone. Accordingly, the WCRC supported by WDC obtained Envirolink funding to enable further research to be carried out. The additional work included GPS geo-referencing and airborne LiDAR to create a digital elevation model and, ultimately, Geographic Information System [GIS] maps, all meaning that the fault line was now "well-defined" under the MfE guidelines and the fault rupture avoidance zone within this area was consequently reduced.
- 2.7 This work was published in a second GNS report² in September 2011. Individual and merged Fault Avoidance Zones were developed for the town. Individual reverse fault traces have a Fault Avoidance Zone width of 130 m that comprises a ± 30 m Fault Location Uncertainty, which is doubled on the hanging wall side of the fault, due to the likely asymmetric nature of deformation. A ± 20 m Margin of Safety buffer is added to this 90 m wide zone.
- 2.8 Concurrent with the work undertaken by GNS, which resulted in the two underlying reports, the Council engaged in consultation with the affected communities and prepared a draft plan change. According to Ms Beaumont's Section 42A Staff Report, meetings were held with the Franz Josef Community Council and Franz Inc in February 2012 and April 2012, and there were presentations to the Planning and Development Committee of Council in October 2010 and the Strategy Committee of Council in November 2011, February 2012, May 2012, and August 2012.
- 2.9 Following that process, WDC considered it held sufficient detailed information on the areas considered to be most at risk of ground deformation during an earthquake event and it resolved to notify the proposed change to the District Plan.

¹ Langridge, R.; Ries, W. 2009. Mapping and fault rupture avoidance zonation for the Alpine Fault in the West Coast region, *GNS Science Consultancy Report 2009/18* 47p

² Langridge, R.M.; Beban, J.G. 2011. Planning for a safer Franz Josef-Waiau community, Westland District: considering rupture of the Alpine Fault, *GNS Science Consultancy Report 2011/217* 61p

The Plan Change

Introduction

- 2.10 PC7 provides a framework to avoid the intensification of land use activities in this area of known hazard. Two distinct zones are proposed, these being the “General Fault Rupture Avoidance Zone” (affecting the length of the Westland District), and the “Franz Josef/Waiau Fault Rupture Avoidance Zone” (affecting the settlement itself).

General Fault Rupture Avoidance Zone (GFRAZ)

- 2.11 The GFRAZ is a proposed new zone introduced through Rule 5.8.2.1. In recognition that in some areas the location of the fault is not well defined, landowners are given the opportunity to obtain further technical advice regarding the fault location on specific sites. New non-residential buildings are permitted, and buildings to be used for residential activity may be considered as a Controlled Activity, subject to, in both instances, a specialist engineering report identifying the area of predicted fault rupture to a greater level of accuracy, and confirming the building is outside that area and that it contains suitable buffers for uncertainty.
- 2.12 For situations where a report cannot make these findings, i.e. where the proposal is entirely within the area affected by the fault rupture area, the proposal will be considered as a Non-Complying activity. The Explanation section notes, such applications “*are unlikely to be approved*”.

Franz Josef/ Waiau Fault Rupture Avoidance Zone (FJFRAZ)

- 2.13 The new zone for the Franz Josef settlement reflects the fact that the fault is much more “well-defined”, as per the findings of the 2011 GNS report. Accordingly, developments, and increases or alterations to activities within this area, are “heavily restricted” under proposed Rule 5.9.2.1 in order to ensure the health and safety of residents and visitors.
- 2.14 The construction of new buildings, or extensions to existing buildings, or change or increase in an activity within a building, are all classed as a Non-Complying activity. Ancillary commercial and residential activities that do not require buildings are permitted. However any structure will be unlikely to be approved, as per the Explanation for the GFRAZ.
- 2.15 Subdivision of land that is partly within the FJFRAZ is a Discretionary activity, and subdivision of land entirely within that zone is a Non-Complying activity.

Other Provisions

- 2.16 The Plan Change proposes no change to the settled objectives and policies of the Westland District Plan.
- 2.17 The Planning maps are proposed to be amended to show the location of the FRAZ's.

Notification and submissions

- 2.18 The Plan Change was publicly notified on 24 August 2012. A total of 20 submissions were received: 13 on behalf of Franz Josef residents and businesses, 4 from statutory bodies, and 3 in relation to the General Fault Rupture Zone.
- 2.19 Two late submissions were received from M and K Williams and D Bristowe (these are discussed in the Procedural Matters part of this report).
- 2.20 The summary of submissions was notified on 19th April 2013. Four parties made further submissions in support of 9 original submissions.

3.0 THE HEARING

- 3.1 The hearing was held on Monday 30th March 2015 in the Scenic Circle Mueller Wing, Franz Josef. We heard from the following parties:

Council Advisors

- Rebecca Beaumont - District Planner
- Jim Ebenhoh - Group Manager, Planning, Community and Environment
- Dr Robert Langridge - scientist, GNS

Submitters in attendance

- Mr Kim Smith, Scenic Circle Hotels Ltd
- Mr Craig Rankin, Ms Helen Lash, Franz Josef Community Committee
- Mr Gavin Molloy, property owner
- Mr Mark Williams, property owner
- Mr Frank Hocken (on behalf of Andrew Hocken), Aspen Court Motel
- Mr Grant Bissett, The Helicopter Line
- Ms Dianne Ferguson, Alpine Glacier Motels Ltd
- Ms Cushla Jones and Mr Chris Roy, property owners

- 3.2 We started proceedings by asking Ms Beaumont to set out the background to the Plan Change, and to show us on maps the areas affected by the proposed FRAZ's.
- 3.3 We then heard from those submitters in attendance who had indicated they wished to be heard (as set out in the list of submitters above). We asked those submitters a number of questions for clarification and to test the opinions being raised, and where appropriate we asked the Council representatives for clarification and comment.
- 3.4 For completeness we note that we had, prior to the hearing, also read in full the notices of submissions from those submitters who were unable to, or chose not to, attend the hearing.
- 3.5 Following the submitters' presentations, we heard from Council advisors, Ms Beaumont (author of the Staff Report); Mr Ebenhoh (who answered questions

relating to Council functions and processes); and Dr Langridge (who answered technical questions on his GNS reports).

- 3.6 After hearing all the evidence, we advised the parties that we would adjourn the hearing, conduct a site visit to the Franz Josef settlement, and then consider whether we had sufficient information to make our deliberations.

Minute of Commissioners

- 3.7 On 7 April 2015, we issued a Minute (refer Appendix 3) to the parties to request that the following information be provided by the District Planner, Ms Beaumont:

- A copy of The Franz Josef Urban Revitalisation Plan, and a statement as to its current status and any programme Council may have to progress and further develop this plan;
- Advice on whether, under the Building Act, building consents would be issued for new buildings and/or extensions/renovations to existing buildings in the areas of Franz Josef affected by the known fault line, irrespective of proposed Plan Change 7; and
- Confirmation on whether the Council, as a rule, provides advice of the fault rupture risk on its LIM and/or PIM reports for properties affected by the known earthquake fault line through Franz Josef and/or the proposed zoning.

- 3.8 This information (refer Appendix 4) was sent to us on 10 April 2014, and we advised the District Planner that the hearing could now be closed.

Hearing Closure

- 3.9 The information was forwarded to the submitters on 13 April 2015, together with advice that the hearing was formally closed.

4.0 PROCEDURAL MATTERS

- 4.1 Before we turn to our evaluation of substantive issues, we wish to record our findings on one procedural matter that arose. This was the matter concerning the two late submissions by:

(a) M and K Williams on behalf of the Fern Grove Trust and Fern Grove Holdings Ltd - 3 days after the closure of submissions;

(b) D Bristowe on behalf of Taipo Farm - 1 day late.

- 4.2 Ms Beaumont's Staff Report recommended that the late submissions be accepted, as they did not raise additional topics to those received as part of other submissions.

- 4.3 In our view, in light of the lengthy planning and notification process, the fact these submissions were lodged between only one and three days late, and given that the matters raised had also been canvassed by other submitters, it was appropriate that these submissions are accepted as valid submissions.

5.0 EVALUATION OF ISSUES

Overview

- 5.1 We have grouped our discussion of the submissions (and the reasons for accepting, rejecting, or accepting them in part) by the *matters*^[3] to which they relate – rather than assessing each issue on a submitter by submitter basis.
- 5.2 We have also provided a submitter-by-submitter summary of decisions requested in Appendix 1, which includes our decisions on each matter raised by the submitters. Those specific decisions have been derived from our issues assessment below.
- 5.3 Our discussion is distilled into the following three main issues/topic areas:

Issue 1: Is PC7 the appropriate planning response?

Issue 2: Detailed provisions of the Plan Change

Issue 3: Other matters raised in submissions

Evaluation Preamble

- 5.4 As a precursor to our detailed evaluation of the key issues, we wish to signal a few key matters that have underpinned our discussion below, and which we have kept very much at the ‘front of mind’ throughout the hearing.

Statutory framework

- 5.5 Firstly, we note that the requirements of the Resource Management Act 1991 [**the Act**], which underpin our role, these being principally contained in Sections 74 and 75 of the Act. We provide a summary evaluation of these statutory considerations at the close of this report (at Section 6), and our discussion of issues is essentially a running commentary of our examination of the Plan Change within that statutory context. These considerations include whether or not the proposed Plan Change:
- has been designed to accord with, and assist the territorial authority to carry out its functions so as to achieve the purpose of the Act;
 - gives effect to the Regional Policy Statement (**RPS**);
 - is consistent with any regional plan;

^[3] Clause 10(2)(a) of Schedule 1, of the Act sets out that a plan change decision may address submissions by grouping them according to either the provisions of the plan to which they relate, *or* to the matters to which they relate.

- has had regard to any relevant management plans and strategies under other Acts;
 - rules implement the policies of the Westland District Plan;
 - methods (including each rule), having regard to their efficiency and effectiveness, are the most appropriate method for achieving the objectives of the district plan taking into account: a) the benefits and costs of the proposed policies and methods (including rules); and b) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods; and
 - rules will result in any actual or potential effect of activities on the environment.
- 5.6 In considering these questions, our decisions are based on the notified Plan Change documentation, the submissions and further submissions received, the Council Staff Report, and the evidence of all parties appearing before us. It is not for us to introduce our own 'evidence,' and we have not done so – rather, our role has been to test the evidence and opinions of others, and to determine the most appropriate outcomes based on the views we consider best achieve sustainable management.

Section 32

- 5.7 We are aware that Parliament has recently amended the Act, including proposed changes to provisions that are relevant to our recommendation. However, we understand that the 2013 Amendment Act provisions do not apply in this case.
- 5.8 Ms Beaumont's Staff Report assessed PC7 against the previous Section 32 requirements, which continue to apply as PC7 was already notified and past the further submission period by the date that the amendment provisions took effect.

Issue 1: Is PC7 the appropriate planning response?

- 5.9 The fault rupture hazard risk in the Franz Josef settlement, and along the wider fault line, is now well established and was not at issue during the hearing. The overriding general issue for us to determine was whether the proposed Plan Change was the appropriate planning response to managing the risk.
- 5.10 The Staff Report, after having reviewed the Section 32 assessment (which contained an assessment of costs and benefits of various options) came to the conclusion that:

"Plan Change 7 is an appropriate method to manage fault rupture risk in the Westland District".

- 5.11 There was also support from submitters (e.g. **West Coast Regional Council, Community and Public Health**). Those submissions concluded that the restrictions on building in the area affected by the fault rupture hazard is a significant step towards ensuring public health in this area, and they agreed with the evidence-based methodology in PC7.

- 5.12 We consider that the Section 32 evaluation in PC7, and as summarised in the Staff Report, is robust and well-reasoned. It relies on the two technical reports from GNS, and follows the Ministry for the Environment's guidelines. We heard no evidence to challenge the credibility or methodologies used in those reports. In terms of the options, we concur with Ms Beaumont that it is not tenable to 'Do Nothing' (Option 1), as the current Westland District Plan's provisions are not adequate in this regard, and do not provide an appropriate means to discourage inappropriate development or to deal with applications for further development in the affected areas. In addition, the District Planner's response to our Minute confirmed that the provisions of the Building Act 2004 will not, by themselves, be able to prevent building activity in the area of risk.
- 5.13 The proposed Plan Change provides a specific set of provisions to manage development that can occur within the areas susceptible to fault rupture. Therefore in general terms, and subject to detailed analysis of the specific plan change provisions, we consider that the Plan Change is an appropriate response having regard to the Council's functions and responsibilities under the Act in terms of Sections 71 and 72, in particular.
- 5.14 We accept that the additional restrictions brought about by the Plan Change will impact on those people who own or occupy land within the proposed hazard zones. However, those businesses and activities can continue to operate, and upgrade and renovate their buildings under the Plan Change. We consider the Plan Change itself does not change the risk to those buildings and activities - that risk already exists. It would not be appropriate or responsible for the Council to ignore that risk and allow development to occur in those areas.
- 5.15 For those reasons we do not concur with submissions seeking to reject the Plan Change outright because of its economic and financial effects, or because the risk should be borne by landowners and managed through insurance (***South Westland Salmon, Colmat Motors, Helen Jones, Franz Josef Community Centre, D Bristowe, R and J Nicholl, and M and K Williams***).
- 5.16 Several submissions requested some other responses should instead be initiated. (***Anje Kremer, South Westland Salmon, Colmat Motors, Gavin Molloy, R and J Nicholl, M and K Williams, and Franz Josef Community Centre***) requested that the following actions be pursued:
- Relocation of the settlement outside of the fault risk area; and
 - Acquisition of affected properties or financial compensation to be paid to owners of affected properties.
- 5.17 In relation to the first point, there was much discussion at the hearing on the current and future town planning for the Franz Josef settlement. As a follow up we requested a copy of the relevant plan (the 'Franz Josef Urban Revitalisation Plan' or sometimes referred to as the 'Master Plan'). Whilst this is of interest to us, we are obliged in terms of the Statutory Framework to consider the particular Plan Change proposal that is in front of us, and cannot make any determinations on matters outside of that.
- 5.18 In relation to the second point, there was also discussion on previous central and local Government responses to the evacuation and relocation of residents

affected by flooding of the Waiho River south of the settlement. On the basis of that particular response to a significant hazard event, some submitters asked that consideration be given to similar evacuation and relocation procedures for properties most affected by the earthquake hazard in Franz Josef, with financial assistance from central and government authorities.

- 5.19 As we explained at the hearing, our role as Commissioners is to consider PC7 in light of the Statutory Framework outlined in an earlier section of this decision report. Regardless of our own thoughts on matters of relocation, or long term planning for Franz Josef settlement, we must test the Plan Change against those provisions, and cannot make determinations on matters outside of the scope of the proposed Plan Change itself.
- 5.20 In questioning the submitters at the hearing, it became apparent to us that the depth of feeling of those opposed to the Plan Change was generally not so much in relation to whether there should be restrictions placed on new development and investment in an area at risk of fault rupture. The concerns were more that the Council had not carried out proper consultation with the affected community, and had focused entirely on the Plan Change at the expense of investigating the issue on a wider front. As we understand the concerns, the Plan Change should have been promoted together with a range of measures to provide an all-embracing solution to the problem (such as the matters we highlighted above, including a Master Plan for the relocation of the settlement, and potential mechanisms for relocation).
- 5.21 For the reasons outlined above, we have no doubt that PC7 is an appropriate planning response to the known hazards in the Westland District. Whilst we have explained the limitations of our role as Commissioners, and the matters upon which we can deliberate, we certainly have some sympathy for those strongly held views amongst several of the submitters.
- 5.22 In our view PC7 should be seen as only one (first) step in the right direction. We consider it is incumbent upon the Council to pursue with some urgency the ongoing development of the Master Plan for this settlement, in consultation with the Franz Josef Community Committee and affected landowners. We requested advice from the Council following the hearing on that matter and the response was encouraging.
- 5.23 The District Planner has advised that Council's involvement with work on the Master Plan has been on hold whilst Plan Change 7 is being processed and that a revised version of the plan, consistent with the Plan Change, may need to focus more on issues of growth/relocation to the north of the settlement. The advice was that:
- "it has been suggested that the Council carry over \$100,000 set aside in the 2013/2014 Annual Plan for the implementation of the 'Franz Josef Urban Revitalisation Plan' into the following financial year following the resolution of Plan Change 7. It has been suggested that Council meets with Franz Inc and the Franz Josef Community Council at that point to discuss the future and implementation of the FJURP".*
- 5.24 As part of that on-going process, issues raised by submitters regarding possible financial assistance or compensation, in conjunction with central government agencies, may be able to also be investigated as appropriate.

DECISION [D1]	
D1.1	Those submissions in support of the Plan Change on the general grounds it is an appropriate planning response but with some wording changes for clarity are accepted in part . The Plan Change is amended as per Appendix 2.
D1.2	Those submissions seeking that the Plan Change be declined on the general grounds it is an inappropriate planning response, or that other responses outside of the scope of the Plan Change should be pursued in its place, are rejected .
<p>Note: <i>We recommend to Council that it actively pursue the strategic planning for the Franz Josef settlement, including matters of possible relocation and financial assistance, in consultation with the community, so PC7 can be clearly seen to be the first necessary step in a package of measures to manage the risk of fault rupture in the affected areas.</i></p>	

Issue 2: Detailed provisions of the Plan Change

Overview

- 5.25 Most of the discussion at the hearing focused on the wider issues addressed above. There were also several submissions on matters of the detail in the Plan Change, mainly the proposed rules. The submissions ranged from a direct challenge to the rules through to suggested amendments to the wording of rules to address specific areas of interest. These 'sub-issues' on the detailed provisions of the Plan Change are addressed below.

Sub - Issue 1: Rules too restrictive

- 5.26 **Scenic Circle Hotels** suggested that the proposed rules are unnecessary and are unduly restrictive. The submitter was of the view that new rules should be adopted to permit modern buildings and techniques that can withstand earthquakes without risk to life or unacceptable damage.
- 5.27 Mr Smith elaborated on this at the hearing. He said building owners, such as his company, are disadvantaged by prescriptive rules that do not provide flexibility when it comes to designing buildings and upgrading buildings to meet relevant building codes to withstand earthquakes. The Submissions by **Community Public Health, Franz Josef Community Committee** and **Cushla and Chris Roy**, on a similar vein, were also concerned that the rules will prevent strengthening of buildings to occur.
- 5.28 On questioning, Ms Beaumont advised that the renovation, upgrading and strengthening of buildings in the affected areas can take place without restriction under the provisions of the Plan Change (and we note the further information provided by Ms Beaumont post-hearing confirmed that building

consents would generally be issued for strengthening work). The key determinants are whether a building extension is proposed, or whether an increase in activity (i.e. intensification) is proposed, and in both of those scenarios a resource consent for a Non-Complying activity would be required.

- 5.29 In our view the proposed rules achieve the correct balance between discouraging intensification in a known hazard area whilst allowing renovation and strengthening works to take place so that existing businesses can continue to operate.

Sub - Issue 2: Other activities covered by rules

- 5.30 The submission of **West Coast Planning** (with a supporting further submission from **Westpower**) raised a concern that clarification is required so that existing rural-based activities in the Rural Zone will retain their status as Restricted Discretionary or Discretionary Activities. The submissions of **Community and Public Health** and **Andrew Hocken** were also concerned that infrastructure may not be provided for in the proposed zones, and **The Helicopter Line** requested that the term 'temporary building' should be defined.
- 5.31 The Staff Report states that the Plan Change does not alter the provision of infrastructure within this area. It also stated that there had been no intention to amend provisions relating to prospecting, mining and vegetation clearance as there is scope to address hazard risk, or they can be controlled through regional plans. As a result, additional rules have been added to the General Fault Rupture Zone to clarify this. The Staff Report noted that reference to 'temporary buildings' should be changed so it reads as 'temporary activities', but no change is required to the existing definition of 'temporary building'.
- 5.32 We accept these are the appropriate outcomes to provide clarity to the plan.

Sub - Issue 3: Deficiencies and inaccuracies of the Plan Change

- 5.33 The submission of **Franz Josef Community Committee** expressed concerns that the Plan Change has been promulgated under urgency, has material deficiencies, does not include discussion about acceptable risk, and it also questions the accuracy and adequacy of the width of the FRAZ. **Rob and Jan Nicholl's** submission is that the General Fault Hazard Zone does not have sufficient details, and local residents have greater knowledge of the location of the fault and rupture area. The submission of **Diane Ferguson** also raises the concern that the Plan Change does not utilise the correct risk-based approach suggested from the NES report.
- 5.34 The Staff Report confirms that the Plan Change has been informed by best practice regarding hazard planning in New Zealand, and this includes the use of risk-based planning. Utilising the risk-based matrix from the GNS reports⁴ results in a risk of 30, or 'Intolerable', and this corresponds to a Non-Complying Activity (or even a Prohibited Activity). It also states that the FRAZ has been created as narrow as possible (especially for the Franz Josef settlement) and has been developed with all available technical information and with appropriate margins of error relating to where the fault may rupture, and with a 20 metre buffer.

⁴ Langridge, R.M and Beban, J.G, 2011, Figure 21

- 5.35 We are satisfied from our reading of the GNS reports, and from the responses of Dr Langridge to technical questions we asked, that the science and methodology that has led to the creation of the fault rupture avoidance zones is consistent with accepted practice. We note also that the Ministry for Environment guidelines have been followed.
- 5.36 We note the dissatisfaction expressed by these and other submitters on the time taken in implementing the Plan Change, and the consultation process itself. It is noted that the Staff Report states that, whilst the proposed provisions of the Plan Change were implemented promptly, consultation did take place including public meetings and circulation of drafts of the Plan Change. Whilst these are not matters that we can place any weight on in our deliberations, our recommendations regarding on-going consultation and development of the Master Plan are recorded in an Advice Note to Decision D1 above.

Sub - Issue 4: Heritage buildings

- 5.37 **Heritage New Zealand's** submission requested a change in activity status to facilitate actively promoting maintenance and repair of heritage structures within the zone.
- 5.38 We concur with the Staff Report that heritage buildings themselves have no specific activity status and that the Plan Change encourages maintenance and repair of all heritage listed buildings in any event. There is no need for any amendment to the Plan Change in this regard.

Sub - Issue 5: Provisions for non-habitable and other buildings

- 5.39 **The Helicopter Line's** submission expressed the view that the Plan Change does not adequately provide for non-habitable buildings. It requested that non-habitable buildings should be provided for as Restricted Discretionary Activities in order to achieve a balance between avoiding and mitigating effects while also providing for the economic well-being of the owners. At the hearing Mr Bissett elaborated on the submission, including his concern that the Plan Change is too restrictive and puts owners in a difficult position.
- 5.40 We agree that some non-habitable buildings will have low consequence of failure. However, the proposed Plan Change clearly discourages larger scale investment and development in the affected areas, and we support that (as per our discussions decisions on Issue 1). For this reason it would be incongruous to provide for commercial buildings, even if they are non-habitable, as Restricted Discretionary Activities. We concur with the Staff Report on that matter. In the event that a developer can establish that, by location and specific design, a new building is able to mitigate the risk then that can be assessed as part of a resource consent for a Non-Complying Activity. It is appropriate that the bar is set very high, in this way, for assessing new commercial developments in this well-defined rupture hazard area.
- 5.41 The submission of **Federated Farmers** requested that buildings in 'Building Importance Category 1' should be permitted. The Staff Report recommends a change whereby buildings in 'Building Importance Category 1' will be permitted activities, and we accept that buildings such as small storage sheds, farm

buildings, and non-commercial buildings should be permitted activities, due to the minor consequence of failure in an earthquake rupture event.

DECISION [D2]

- D2.1 Those submissions seeking that the Plan Change be withdrawn on the basis the proposed rules are unnecessary and unduly restrictive are **rejected**.
- D2.2 Those submissions seeking clarity on other activities within the Rural Zone, and temporary activities, are **accepted in part** and those submissions seeking to continue to provide for infrastructure in the affected areas are **accepted**.
- D2.3 Those submissions seeking that the Plan Change be withdrawn on the basis that it has deficiencies, is inaccurate, and does not use the appropriate risk-based approach, are **rejected**.
- D2.4 The submission seeking a change to the activity status of heritage buildings is **rejected**.
- D2.5 The submission seeking new provisions for non-habitable buildings is **rejected**, and the submission seeking that buildings in 'Building Importance Category 1' should be permitted is **accepted**, with the Plan Change **amended** as per Appendix 2.

Issue 3: Other matters raised in submissions

- 5.42 Some other matters raised in submissions go beyond the scope of what we can deliberate on but for completeness are addressed in this Issue topic.
- 5.43 The submissions of **Robert Glennie, C Jones and C Roy, and Diane Ferguson** requested that all the hazards affecting Franz Josef/Waiau need to be addressed comprehensively. It was suggested that the Tatare River be rezoned as 'General Flood Hazard' and Prohibited Activities be introduced in the Severe Flood Hazard Zone.
- 5.44 The Staff Report, notes that an earthquake event will create significant hazard in addition to fault rupture, such as aggradation for the rivers in the area. The report states that District Council is continuing discussion at a regional level on how to address these hazards in addition to the fault rupture, and Council is embarking on a 'whole hazard' approach in this respect. We consider that this work needs to be done, but it is not within the scope of PC7, and we cannot consider this issue further.
- 5.45 The submission by **G Tripe and C Ashton** requests clarification on whether the 30-year timeframe discussed in the GNS report begins in 2011. We accept the advice of the Staff Report, which notes that this is just a technical expression of risk, and this may change over time, but has no real bearing on the detailed provisions of the Plan Change.
- 5.46 **Heritage New Zealand** requests that a database of contact details of all heritage building owners is established, and this can be provided to Civil Defence

Management to assist decisions to be made quickly on the damage status of buildings following an earthquake event. We accept this is a worthwhile course of action, and note from the Staff Report that this submission has been discussed with the WDC Civil Defence Officer for further action.

- 5.47 **R and J Nicholl** have requested that WDC provide further technical advice directly to landowners rather than leave it to developers to obtain this. The Staff Report noted that landowners intending to develop their properties in the affected areas may incur additional costs to obtain reports, but the Plan Change at least provides a method for owners who wish to utilise their land beyond the permitted activity allowances in the zone. The Council has supported the studies by GNS to date but it would be uneconomic for it to obtain individual reports for all properties in the affected areas.

DECISION [D3]

- D3.1 Those submissions seeking other matters outside of the scope of Plan Change 7 are **rejected**.

6.0 STATUTORY CONSIDERATIONS

- 6.1 In its *Long Bay* decision^[5], the Environment Court set out a summary framework for the matters to be evaluated in respect to a proposed Plan Change. For completeness, we recite that framework here and discuss the extent to which PC7 accords with the individual framework elements.

A district plan (change) should be designed to accord with, and assist the territorial authority to carry out its functions so as to achieve the purpose of the Act.

- 6.2 PC7 involves the establishment of new planning methods to manage development within areas recently identified in a definitive way as having a significant hazard risk. This will assist in achieving integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the Westland District (and in particular the area affected by fault rupture risk in the Franz Josef settlement).

- 6.3 Accordingly, we find that the Plan Change is generally designed to accord with and assist the Council to carry out its Section 31 functions.

When preparing its district plan (change) the territorial authority must give effect to any national policy statement (NPS) or New Zealand Coastal Policy Statement (NZCPS).

- 6.4 No NPS, nor the NZCPS, are relevant to the Plan Change.

^[5] Decision No. A078/2008, pp.29-31

When preparing its district plan (change) the territorial authority shall: a) have regard to any proposed regional policy statement; and b) give effect to any regional policy statement.

- 6.5 The West Coast RPS became operative on 10 March 2000, and is currently under review. The proposed West Coast RPS was notified on 16th March 2015 and so is very early in its process and cannot be afforded much weight in the assessment of PC7.

- 6.6 The Staff Report concludes that the introduction of the two proposed fault rupture avoidance zones will achieve the intent of Objective 11 from the operative RPS, and its associated policies, which is.

Objective 11

"The protection of human life and the avoidance or mitigation of damage to property and environmental values resulting from natural hazards".

- 6.7 We concur with that assessment.

In relation to regional plans: a) the district plan (change) must not be inconsistent with a regional plan for any matter specified in Section 30(1) [or a water conservation order]; and b) must have regard to any proposed regional plan on any matter of regional significance etc.

- 6.8 The Staff Report advises that the West Coast regional plans (i.e. for Land and Water; Coastal; and Discharge to Air) do not contain any specific provisions relating to earthquake risk. The Plan Change cannot therefore be inconsistent with any regional plan.

When preparing its district plan (change) the territorial authority must also: a) have regard to any relevant management plans and strategies under other Acts, and to any relevant entry in the Historic Places Register and to various fisheries regulations, and to consistency with plans and proposed plans of adjacent territorial local authorities; b) take into account any relevant planning document recognised by an iwi authority; and c) not have regard to trade competition.

- 6.9 The only document we consider are relevant are:

- The Ministry for the Environment (2004) document entitled "*Planning for Development of Land on or Close to Active Faults. A guideline to assist resource management planners*".

- 6.10 PC7 was developed to be consistent with those guidelines.

- Australia New Zealand Standard 1170: Structural Design Applications

- 6.11 This document introduces Building Importance Categories, and these have been incorporated into PC7.

- West Coast Regional Civil Defence Plan.

- 6.12 PC7 is consistent with the Civil Defence Plan in that it identifies an area increased hazard risk and restricts development within that area.

The district plan (change) must be prepared in accordance with any regulation (there are none at present).

The formal requirement that a district plan (change) must also state its objectives, policies and rules (if any) and may state other matters.

- 6.13 This requirement is met in respect of PC7. The Plan Change includes new rules and other methods, and relies on the settled objectives and policies of the Westland District Plan.

Each proposed objective in a District Plan (change) is to be evaluated in terms of the extent to which it is the most appropriate way to achieve the purpose of the Act.

- 6.14 The Plan Change does not include any new objectives. The settled objectives of the operative District Plan have already been deemed to be the most appropriate way to achieve the purpose of the Act through prior First Schedule processes.

The policies are to implement the objectives, and the rules are to implement the policies.

- 6.15 We consider that the proposed rules (as amended in Appendix 3) implement the aim of the key objective (Objective 11) of the District Plan, and its associated policy, to provide rules for the avoidance and mitigation of natural hazards.

Each proposed policy or method (including each rule) is to be examined, having regard to its efficiency and effectiveness, as to whether it is the most appropriate method for achieving the objectives of the district plan taking into account: a) the benefits and costs of the proposed policies and methods (including rules); and b) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.

- 6.16 This requirement has underpinned our evaluation of issues in Section 5 above. In particular, we do not accept the 'Do Nothing' option is tenable, and that PC7 is the appropriate planning response to the identified hazard risk in this area. We have concluded that the most efficient and effective method to achieve the settled objectives and policies of the District Plan is through the adoption of PC7 with modifications as set out in Appendix 3.

In making a rule the territorial authority must have regard to the actual or potential effect of activities on the environment.

- 6.17 As per our conclusion in relation to the efficiency and effectiveness of the proposed methods, we have concluded that the proposed Plan Change as amended in Appendix 2 will appropriately manage any actual and potential adverse effects of activities on the environment, principally by restricting new intensified development within the hazard prone areas.

Finally, territorial authorities may be required to comply with other statutes.

- 6.18 The only other statute relevant in this case is the Building Act 2004. We have discussed this in our evaluation of issues in Section 5 of this Decision Report, and have referred to the additional information provided by the District Planner following the hearing, which outlines the requirements for building and re-building in the affected areas.

7.0 OVERALL CONCLUSION & DECISIONS

Overall Conclusion

7.1 In terms of the three main issues/topics we have evaluated in Section 5 of this decision report, and based on the assessment of the relevant statutory matters in Section 6 of the report, we conclude that :

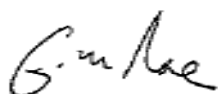
- Plan Change 7 is the most appropriate planning response to managing the risk posed by fault rupture in Westland District;
- The detailed provisions in the Plan Change are generally appropriate and, subject to the amendments in Appendix 3, will manage potential effects of the land uses and development anticipated by the new zone; and
- There are some other matters raised by submitters that are outside the scope of Plan Change 7 but are nevertheless worthy of investigation and follow up by the District Council as it progresses the Franz Josef Urban Revitalisation Plan, and other initiatives. Those initiatives may ultimately lead to the relocation of parts of the settlement and/or financial assistance for property owners most affected by the hazard.

Decision

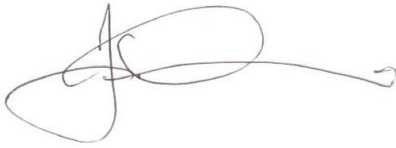
7.2 Based on our consideration of all the material before us, including the Section 42A report, the GNS reports, submissions and further submissions, statements presented at the hearing, and following consideration of the requirements of Section 32 and other relevant statutory matters, our decision pursuant to Clause 10 of the First Schedule of the Resource Management Act 1991, is that:

- (a) the Plan Change is **accepted**, as amended in Appendix 2, and
- (b) all submissions on the Plan Change be accepted or rejected to the extent set out in the decision summary tables above (D1, D2 and D3) and as further detailed in Appendix 1.

DATED THIS 5th DAY OF MAY 2015



Gary Rae
Commissioner (Chair)

A handwritten signature in black ink, appearing to be 'John Lumsden', with a large loop and a trailing flourish.

John Lumsden
Commissioner

APPENDIX 1

Summary of decisions on submissions

Submission number	Submitter	Decision
0	West Coast Planning	Accept in part
1	Robert Glennie	Reject
2	Scenic Circle Hotels	Reject
3	West Coast Regional Council	Accept in part
4	Anje Kremer	Reject
5	South Westland Salmon	Reject
6	Helen Jones	Reject
7	Community Public Health	Accept in part
8	Colmat Motors Ltd	Reject
9	George Tripe and Clare Ashton	Reject
10	Franz Josef Community Committee	Reject
11	Heritage New Zealand (formerly NZHPT)	Accept in part
12	The Helicopter Line (a) Temporary Buildings (b) Restricted discretionary status for non-habitable buildings	(a) Accept in part (b) Reject
13	Cushla Jones and Chris Roy	Reject
14	Rob and Jan Nicholl	Reject
15	Gavin Molloy	Reject
16	Federated Farmers	Accept
17	Dene Bristowe	Reject
18	Diane Ferguson	Reject
19	Mark and Kelsey Williams	Reject
20	Andrew Hocken	Reject
F01	Robert Glennie	Accept in part
F02	Colmat Motors	Reject
F03	Colmat Motors	Reject
F04	Colmat Motors	Reject
F05	Colmat Motors	Reject
F06	Dene Bristowe	Accept
F07	Dene Bristowe	Reject
F08	Westpower Ltd	Accept in part
F09	Westpower Ltd	Accept

APPENDIX 2

Amendments to Plan Change provisions

The proposed changes to the Westland District Plan as a result of Proposed Plan Change 7 are set out below.

Where changes have been made as a result of decisions on submissions these are shown in blue.

Where words are underlined, but not in blue, this represents amended wording to the existing provisions of the District Plan brought about by the Proposed Plan Change and not changes as result of decisions on submissions. New sections and definitions to be inserted are not underlined.

- Add additional wording into Policy 4.14 Explanation, page 99

The Alpine Fault is located within Westland and there is significant risk posed by the next an Alpine Fault earthquake rupture which has a probability of occurrence calculated at 20% over the next 30 years (Langridge, RM; Beban, JG 2011).

- Amend Rule 5.6.2.2 B, (Page 153) Controlled Activities in the Rural Zone to include reference to the General Fault Rupture Avoidance Zone and the Franz Josef/ Waiau Fault Rupture Avoidance Zone. New wording is underlined.

“The establishment of new buildings for the purposes of any residential activities except in

- the Waiho River General Flood Hazard Area as shown on Planning Map 14A,
- the Franz Josef/Waiau Fault Rupture Avoidance Zone; or
- within the General Fault Rupture Avoidance Zone.

Applications may be considered without the need to obtain the written approval of affected persons or publicly notify the application. The matters over which control is reserved are:

- Add new Section 5.8 General Fault Rupture Avoidance Zone and Section 5.9 Franz Josef/Waiau Fault Rupture Avoidance Zone (detailed on following pages).

5.8 General Fault Rupture Avoidance Zone

5.8.1 Description

The General Fault Rupture Avoidance Zone is an area of between 20 and 200 metres wide located on either side of the Alpine Fault as it runs through the length of Westland District. This zone is the area that is predicted to be seriously affected by fault rupture during an earthquake on the Alpine Fault.

The zone has been created and mapped by the Institute of Geological and Nuclear Sciences (GNS) utilising data from a number of sources. The width of this zone depends firstly on the type of fault at any given point and therefore its performance during an earthquake event, and secondly, variations in the accuracy of data available at any particular location.

GNS predict the probability of the next an Alpine Fault earthquake event occurring, with fault rupture to the surface, occurring is 20% within the next 30 years. Along the fault rupture it is estimated that there will be approximately 8-9 metres of horizontal displacement (to the north) on the west (Australian plate) side, and 1-2 metres vertical uplift on the east (Pacific Plate) side. As land deformation will be greater on the vertical lift or "hanging wall" side of the fault rupture, the Fault Rupture Avoidance Zone is wider on the east (Pacific Plate) side.

In order to manage the risk to human life and reduce effects on the long term recovery of the Westland District from an Alpine Fault earthquake event, it is necessary to restrict the types of activities that can occur within areas susceptible to fault rupture. However, in recognition of the fact that in some areas the location of the fault is not well defined, landowners are given the opportunity to obtain further technical advice regarding the fault's location on specific sites. If the further report identifies a narrower area of predicted fault rupture, then this may be approved through consent. Subdivision, commercial activities, and dwellings are discouraged in the General Fault Rupture Zone due to the increased hazard risk and the lack of available mitigation measures. Buildings with low consequence of failure remain permitted activities. There is similarly no alteration to general activities within the rural zone.

5.8.2 Zones

5.8.2.1 General Fault Rupture Avoidance Zone

A. Permitted Activities

- Any agricultural or forestry activity, subject to:
 - (1) Compliance with the standards for permitted activities in the Rural Policy Unit Rules 5.6.2.2 and set out in Table 5.7;
 - (2) Compliance with the general rules in Part 8;
 - (3) Any buildings that meet the definition of Building Importance Category I.
 - (4) Any buildings that are not considered Building Importance Category I and are not used for residential purposes, subject to:
 - (a) The provision of a report to Council from a suitably qualified person in geology or geotechnical engineering with specialisation in earthquake risk assessment that :
 - i. Records the survey and mapping of the site to identify and indicate as accurately as possible the location of the surface position of the plane of any active fault.
 - ii. Establishes the area that is likely to be subject to fault rupture and includes any buffers for uncertainty and establishes that the proposed building is located entirely outside of this area.
 - (a) Compliance with all other rules in Part 5.6.2.2A, 5.7 and Part 8 of the Plan.
- Prospecting activities as defined by the Crown Minerals Act 1991 and all reconnaissance exploration activities up to and including drilling, scout trenching and geophysical surveys, subject to compliance with all rules in Part 5.6.2.2A, 5.7 and Part 8 of the Plan.

B. Controlled Activities

- The establishment of new buildings for the purposes of any residential activities that are accompanied by:
 - (a) A report from a suitably qualified person in geology or geotechnical engineering with specialisation in earthquake risk assessment that :
 - i. records the survey and mapping of the site to identify and indicate as accurately as possible the location of the surface position of the plane of any active fault.
 - ii. Establishes the area that is likely to be subject to fault rupture and includes any buffers for uncertainty and

establishes that the proposed building is located entirely outside of this area.

Applications may be considered without the need to obtain the written approval of affected persons or publicly notify the application. The matters over which control is reserved are:

- financial contributions relating to the provision of potable water and roading
 - location of access points
 - method of effluent disposal
 - distance from existing activities which may have nuisance effects
 - visual and aesthetic values
- Advanced exploration activities (i.e. matters subject to reconnaissance exploration, but still able to be carried out under an exploration permit) including geophysical surveys using explosives and machine scout trenching, subject to compliance with the standards for controlled activities (Table 5.7), general rules in Part 8. Control matters are listed within rule 5.6.2.2B

C. Discretionary Activities

- Forestry above an altitude of 1000m.
 - The clearance of more than 2000m² of indigenous vegetation per 5 years per site:
 - (a) Where the contiguous land is managed for conservation purposes, or;
 - (b) From an area of indigenous vegetation in excess of 5 hectares.
 - (c) From a natural wetland
- This rule does not include:
- (a) Exotic plantation forest area
 - (b) The clearance of regrowth vegetation to maintain existing tracks and stock crossings
 - (c) The incidental clearance of indigenous vegetation to control gorse, broom or other exotic plant pests.

D. Restricted Discretionary Activities

- Mining. The matters over which discretion is restricted is set out in rule 5.6.2.2D.

E. Non complying activity

Any new building, building extension or alteration of an activity to increase the scale of effects of an activity within a building located within the Fault Rupture Avoidance zone.

Explanation

Through restricting the use of land subject to fault rupture, Council is managing natural hazard risk and providing for the health and safety of the residents and visitors to Westland.

Farming activities may occur without consent, and prospecting, vegetation clearance and mining activities receive no additional restriction. However, any buildings over building category 1, including farm sheds require consent. In addition to the risk to occupants of these buildings during rupture, these buildings can be significant investments in the infrastructure of a farm and will have significant economic effects if destroyed by fault rupture. This in turn will adversely affect Westland's recovery from an Alpine Fault Earthquake.

Council acknowledges that the detail and accuracy of the underlying information that formed the Fault Avoidance Zone was varied, so in situations where the fault is not well defined, a further report can be presented that provides additional detail into the location of the fault on the specific site, and the risk of fault rupture. This will allow the margins of error to be reduced and may allow the development to proceed without consent.

Development of new buildings within the General Fault Rupture Avoidance Zone that are not established through further study to be outside of fault rupture and are not considered of low risk are non-complying and are unlikely to be approved.

5.9 Franz Josef / Waiau Fault Rupture Avoidance Zone

5.9.1 Description

The Alpine Fault passes through the township of Franz Josef/Waiau and subsequently the town is subject to significant risk from fault rupture. A detailed study has been undertaken to map the location of the Alpine Fault through Franz Josef/Waiau and the surrounding area utilising LiDAR imagery and RTK GPS mapping. Within this area, the fault is considered "well defined" in this location and it is unlikely that further study would reduce the area of land identified as subject to fault rupture risk any further than that set out in the 2011 GNS report. New developments and increases or alterations to activities within this area are heavily restricted in order to ensure the health and safety of residents and visitors.

5.9.2 Zones

5.9.2.1 Franz Josef / Waiau Fault Rupture Avoidance Zone

A. Permitted Activities

Any commercial or residential activity, subject to:

- (1) No buildings other than temporary activities buildings or buildings of Building Importance Category 1 are permitted in association with these activities;
- (2) Compliance with the standards for permitted activities in the Tourist Policy Unit or Franz Alpine Resort;

- (3) Compliance with the general rules in Part 8;

B Non complying activities

The construction of any new building not permitted under Section 5.11.2.1A(1) above or Section 6 of this Plan, or extension of any existing building, or change or increase in an activity within a building on site within the Franz Josef Waiau Fault Rupture Avoidance Zone.

Explanation

Existing use rights under Section 10 of the Resource Management Act are not impinged by the above rules.

The location of the fault line within Franz Josef/ Waiau is well defined and therefore there is no opportunity for additional information to be provided in order to reduce the margin of error of the predicted rupture risk area.

Ancillary commercial and residential activities that do not require buildings are permitted, along with structures with a minor consequence of failure such as small storage sheds and non-commercial or residential buildings will be permitted. This allows activities such as carparking, storage, recreation areas, art installations and gardens to occur without consent. ~~however any~~ Buildings that do not meet this classification will be unlikely to be approved due to the risk to human safety and to reduce the risk of social, economic and environmental effects caused by a fault rupture event .

- Make the following alterations and additions to the subdivision section (Part 7.3 of the Plan, from page 182). New wording is underlined.

7.3.3 Discretionary Activities

Any subdivision which complies with the rules for discretionary activities in Table 7.1. All subdivision in the Waiho River General Flood Hazard Area as defined on Planning Map 14A. Any subdivision that is partially located within the Franz Josef/Waiiau Fault Rupture Avoidance Zone or the General Fault Rupture Avoidance Zone.

7.3.4 Non-complying Activities

Any subdivision which is not a permitted, controlled or discretionary activity. All subdivision in the Waiho River Severe Flood Hazard Zone as defined on Planning Map 14A. Any Subdivision of land that is entirely located within either the Franz Josef/Waiiau Fault Rupture Avoidance Zone or the General Fault Rupture Avoidance Zone.

7.6 Assessment of Discretionary Subdivision

- When a proposed subdivision includes land partially within the Franz Josef/Waiiau Fault Rupture Avoidance

Zone, or the General Fault Rupture Avoidance Zone, whether a report has been provided from a suitably qualified person in geology or geotechnical engineering with experience in earthquake assessment to demonstrate that any buildings are located outside of the relevant fault rupture avoidance zone, whether access can be achieved, if ground topography will cause additional adverse effects during fault rupture and whether any mechanisms have been volunteered to prevent development within the Fault Rupture Avoidance Zone.

- Insert the following definitions into Part 9: Definitions section of the Plan.

Franz Josef/Waiau Fault Rupture Avoidance Zone: means the area encompassing the active fault system within Franz Josef/ Waiau and suggested to be subject to elevated risk of a fault rupture hazard. This section of the Alpine Fault has been accurately determined utilising LIDAR and GPS mapping. Shown on the planning maps as Franz Josef/ Waiau Fault Rupture Avoidance Zone

General Fault Rupture Avoidance Zone: means the area encompassing the active fault systems in the District and suggested to be subject to elevated risk of a fault rupture hazard. Shown on the planning maps as General Fault Rupture Avoidance Zone

Building Importance Category I: means structures presenting a low degree of hazard to life and property. These include:

- Structures with a total floor area less than 30m².
 - Farm Buildings
 - Isolated Structures
 - Towers in rural situations
 - Fences
 - Walls
 - In-ground swimming pools.
- Replace the existing planning maps with new maps (shown on following pages) into Part 10 Appendices indicating the General Fault Rupture Avoidance Zone within the Westland District, and the Franz Josef/ Waiau Fault Rupture Avoidance Zone within Franz Josef/Waiau and the surrounding area.

APPENDIX 3

Minute issued by Commissioners

WESTLAND DISTRICT COUNCIL**PLAN CHANGE 7****MINUTE OF COMMISSIONERS****Introduction**

1. The hearing of submissions on proposed Plan Change 7 was held on 30 March 2015. At the conclusion of the presentation of submissions and evidence I announced that Commissioner Lumsden and I intended to walk the settlement focusing on properties affected by the proposals for Franz Josef settlement, and that following that we would consider whether we had sufficient information with which to make our deliberations and prepare Decisions on the submissions.
2. Following our walk around the affected area we determined that we require some additional information, and this Minute is to direct that the information described below is made available to us before we consider formally closing the hearing.

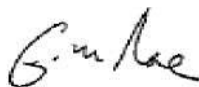
Directions to the Council

3. We direct that Westland District Council, through its District Planner, provides us with the following information:
 - (a) A copy of The Franz Josef Urban Revitalisation Master Plan, and a statement as to its current status and any programme Council may have to progress and further develop this plan;
 - (b) Advice on whether, under the Building Act, building consents would be issued for new buildings and/or extensions/renovations to existing buildings in the areas of Franz Josef affected by the known fault line, irrespective of proposed Plan Change 7; and
 - (c) Confirmation on whether the Council, as a rule, provides advice of the fault rupture risk on its LIM and/or PIM reports for properties affected by the known earthquake fault line through Franz Josef and/or the proposed zoning.
4. We direct that this information is provided by 13 April 2015, and that it is also sent on that day to the parties to the hearing for their information. No further evidence from submitters will be required.

Conclusion

5. It is anticipated the hearing will then be formally closed on receipt of this information, and that the decisions will be released within 15 working days of that date.

DATED this 6th day April 2015



GM Rae, **Hearing Commissioner (Chair)**
for and on behalf of Commissioner Lumsden

APPENDIX 4

Response received from District Planner

FILE REF: RMA 7 – PC7

10 April 2015

Westland District Council Plan Change 7 : Response to Minute of Commissioners

I have provided the information requested below. Please let me know if you would like any further clarification.

1. Franz Josef Urban Revitalisation Master Plan (FJURMP)

Copies of the following documents have been transferred by “Dropbox” to you on 31st March:

- Franz Josef Urban Revitalisation Master Plan Preliminary Design 7 December 2010.
- Franz Josef Urban Revitalisation Master Plan Design Details October 2011
- Franz Josef Urban Revitalisation Master Plan Westland District Council – District Plan / URMP Interface November 2011.
- Franz Josef Urban Revitalisation Master Plan 29 September 2014
- Franz Josef Urban Revitalisation Master Plan Design Guidelines and Details September 2014.

Due to document size, I do not intend to post or email these documents to submitters but will provide copies on request.

The Strategy Committee, a Council committee, considered presentations of various versions of the FJURMP and heard presentations from a previous Chairman of Franz Inc., Marcel Fekkes, in November 2011 and August 2012. The Committee supported the intent of the FJURMP, however asked that the Master Plan be amended to reflect the identified Fault Rupture Avoidance Zone and the proposed Plan Change 7. The Council paid the \$50,000 cost of the development of the FJURMP.

Franz Inc. raised the progression of the FJURMP with the Group Manager: Planning Community and Environment Jim Ebenhoh in July 2014. Mr Ebenhoh supported the future planning exercise for Franz Josef and the design elements included. He reiterated the difficulty that Council would have to adopt the Master Plan when it was directly in conflict with the Council’s District Plan Change 7. He also suggested that following the relocation of the Department of Conservation and the Glacier Guides, that the focus of the FJURMP could be broadened to cover the northern end of Franz Josef in greater detail. An

amended FJURMP was provided in September 2014. It was suggested by Council staff that works within Franz Josef could follow the intent of the FJURMP as they occurred, but a formal approach be made to Council following the outcome of Plan Change 7 to request formal adoption of the FJURMP, although this was expected to be a further amended version.

The Council has set aside \$100,000 from the recreation contribution fund in the 2013/2014 Annual Plan for the implementation of the “Franz Josef Urban Revitalisation Plan”. This has been suggested to be carried over into the following financial year to allow its use following the resolution of Plan Change 7. It is suggested that Council meets with Franz Inc. and the Franz Josef Community Council at that point to discuss the future and implementation of the FJURMP.

2. Provisions of Building Act

The application of Building Act provisions to future building consent applications within the proposed FRAZ is outlined within 6.09 – 6.11 of my section 42A Hearing report. Eddie Newman, District Building Inspector has assisted me to confirm the following:

I attach a copy of an email from Dennis Monastra of the Ministry for Building Innovation and Employment. This information confirms that the provisions of the Building Act do not provide for a specific setback distance from a faultline. The email refers to “near-fault factors” set out within New Zealand Standard 1170. The near-fault factor applied is the same throughout the Westland District due to the proximity to the Alpine Fault. Buildings within the proposed Fault Rupture Avoidance Zone (FRAZ) may be able to meet the foundation requirements of the Building Code B1 Structure through use of the Verification Method. This method is an engineering calculation and will require landowners to obtain expert certification. If buildings are designed to New Zealand Standard 3604 Light Timber Framed Construction, then no specific above foundation design will be required.

Applications to undertake earthquake strengthening will be subject to the standard provisions of the Building Act. There will be no specific provisions required due to the location in an identified area of Fault Rupture risk and building consents will be processed consistently with locations elsewhere in the District outside the proposed new zones. Under Westland District Council’s policy for Dangerous, Earthquake Prone and Insanitary Building Policy, once an application is lodged for over 30% of a non-residential building, an engineering assessment will be required to address the standard of the building.

Applications for building consent for new buildings, or rebuilds of Commercial buildings following fire or disaster will be required to satisfy the provisions of the Building Act and Building Code. This will require use of the verification method explained above to establish ground bearing and foundation design. Building extensions outside of the existing footprint will be required to satisfy ground bearing and foundation design for the extension portion of the building only. Rebuilds of non-commercial outbuildings within the same or lesser footprint are exempt.

It is further noted that the provisions of New Zealand Standard 1170 require consideration of a “moderate earthquake” only, rather than specific consideration of the Magnitude 8 predicted for the Alpine Fault.

3. Information supplied on LIMs

LIMs issued after October 2010 in relation to land located within the areas identified by GNS to be subject to fault rupture deformation risk contain specific wording identifying this risk, and reference made to the relevant GNS reports (received by Council in October 2010 and October 2011). Following the notification of this plan change in August 2012, the standardised wording placed on LIMs is:

- The Alpine Fault traverses this land. A Fault Avoidance Zone of variable width has been identified.
- This land is in close proximity to the Alpine Fault trace.
- The land is within an identified Fault Rupture Avoidance Zone (FAZ) which is an area of land most likely to be subject to deformation in the event of an earthquake involving the Alpine Fault. The Council has notified a Proposed Change to the Westland District Plan that controls additional development in this area.

Following the release of the decision on the plan change, the standardised note relating to the FAZ will be amended to either remove reference to the plan change in process and retain the first sentence referring to the risk of deformation only, or to refer to the new zones within the District Plan, dependent on outcome of the plan change.

Sincerely,

Rebecca Beaumont
District Planner

Eddie Newman

From: Dennis Monastra <Dennis.Monastra@mbie.govt.nz>
Sent: Wednesday, 8 October 2014 6:08 p.m.
To: Eddie Newman
Subject: RE: Building close to faults. [UNCLASSIFIED]

Hello Eddie

Thanks for your email of 19 June re the above matter. My apologies for the delay in getting back to you.

I have discussed the matter with others here including our structural people and confirm the Ministry's view that design to verification method B1/VM1, which includes the citation of the 1170 suite of Standards for design loadings, is considered to provide a building that complies with Building Code Clause B1 'Structure'. In other words, design to B1/VM1 is considered to result in a building with an acceptably low probability of failure from likely loads including earthquake. In relation to your query it is noted that NZS 1170.5 includes factors (see the Standard's Clause 3.1.6 'Near-fault factor') which specifically account for the proximity of the building to faults. While it must be acknowledged that it is not possible to design a building with zero risk of failure, design to B1/VM1 is considered to provide an acceptable level of risk.

Noting the above then the answer to your specific question is that the Building Act allows a building to be constructed anywhere, irrespective of proximity to a fault, provided the requirements of verification method B1/VM1 are met.

I hope this assists.

Regards

Dennis Monastra, Senior Advisor Building Standards
Building and Housing Group, Ministry of Business, Innovation and Employment
DDI: (04) 901 8705
Level 8, 33 Bowen Street, PO Box 1473, Wellington 6145

Ministry of Business, Innovation and Employment

From: Eddie Newman
[\[mailto:eddie.newman@westlanddc.govt.nz\]](mailto:eddie.newman@westlanddc.govt.nz)
Sent: Thursday, 19 June 2014 10:40 a.m.
To: Dennis Monastra
Subject: Building close to faults.

Hi Dennis.

I have been trying to find in NZS 1170 how close to a fault line people can build. I would like to know this since we have information that predicts there will be hanging cliffs created when the Alpine Fault corrects itself. There is nothing that we can build within that area that will not be likely to rupture, overturn or even collapse. As this is part of B1 Structure how close to a fault line should we let people build and know that the standard they are built to will be sufficient to do the job?

Regards, Eddie,

Eddie Newman
Building Inspector

Westland District Council

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