

## COASTAL ENVIRONMENT (CE) AND NATURAL CHARACTER (NATC) RESPONSE TO QUESTIONS

PETER WILSON, S42A REPORTING OFFICER

### OVERARCHING

1. While appreciating that we have yet to hear submissions directly on the EI – Energy and Infrastructure Chapter, please provide at a high level a statement setting out how the objectives, policies, rules and standards in the CE – Coastal Environment, ASM – Activities on the surface of Water, NATC - Natural Character of Freshwater Bodies and NFL - Natural Features and Landscapes are intended to operate with the objectives, policies, rules and standards in the EI – Energy and Infrastructure Chapter. As examples, the Panel would like officers to consider:
  - The recommendation in the NFL s42A report that rules and standards would apply to energy and infrastructure activities
  - The recommendation in the CE Coastal Environment s42A report that rules within the CE Chapter do not apply to energy and infrastructure activities
  - The reply report in respect to SASM – Sites and Areas of Significance to Māori to remove the reference to customer connections from SASM-R4 and to reply on EI-R4 instead
  - The relationship between NFL-P1, 3 and 4, CE-P7, NATC-P6, and other policies relating to activities in overlay areas, and EI-P5, and in particular clauses 3 and 4.

I support the recommendations of Mr Maclellan in regard to these

2. Please explain the difference and relationship between a carbon sink (undefined and referenced in the definition of Woodlot) and a carbon forest (which is defined).

I consider that a carbon sink is a wider than a carbon forest, as a carbon sink could include the use of land to sequester carbon other than a forest, such as a wetland, or other non-forest vegetation. However the use of 'carbon sink' should be considered in the context of the 'woodlot' definition where it appears. A woodlot is a small area of forest, and generally, of non-commercial or limited commercial purpose, whereas carbon forests are larger, and have specific regulatory obligations. I would not inadvertently want to define all large carbon forests as woodlots, so the alternative phrase 'carbon sink' is used instead to separate these out.

3. Can you please provide some assessment of whether the objectives and policies of these chapters, and your recommendations to amend those, are consistent with the relevant Strategic Directions objectives.

For the CE chapter I consider that my recommendations are consistent with:

SD-O1 natural environment, in particular:

- (2) the natural character of the coastal environment, freshwater bodies and wetlands is preserved or enhanced, or restored where degradation has occurred;
- (3) outstanding natural features and outstanding natural landscapes are identified and their values recognised and protected;
- (4) people have access to a network of natural areas for open space and recreation, conservation and education, including within riparian areas, the coastal environment, the western ranges, and within urban environments; and

SD-O5 Ngai Tahu manawhenua/Te Ngai Tuahuriri Runanga, in particular:

- (1) Ngāi Tūāhuriri's historic and contemporary connections, and cultural and spiritual values, associated with the land, water and other taonga are recognised and provided for;
- (2) the values of identified sites and areas of significance to Ngāi Tūāhuriri are protected;

For the NATC chapter I consider that my recommendations are consistent with:

SD-O1 natural environment, in particular:

- (2) the natural character of the coastal environment, freshwater bodies and wetlands is preserved or enhanced, or restored where degradation has occurred;

SD-O2 urban development, in particular:

- (2) that recognises existing character, amenity values, and is attractive and functional to residents, businesses and visitors;

SD-O4 rural land, in particular:

- (1) providing for rural production activities, activities that directly support rural production activities and activities reliant on the natural resources of Rural Zones and limit other activities;

SD-O5 Ngai Tahu manawhenua/Te Ngai Tuahuriri Runanga, in particular:

- (1) Ngāi Tūāhuriri's historic and contemporary connections, and cultural and spiritual values, associated with the land, water and other taonga are recognised and provided for;
- (2) the values of identified sites and areas of significance to Ngāi Tūāhuriri are protected;

## CE – Coastal Environment Questions

Paragraph or Plan reference	Question
Para 44 (and para 135 third bullet point)	<p>You say: <i>“However, energy and infrastructure activities may still have to reconcile competing objective and policy direction within a consent process.”</i></p> <p>Would you not consider the Plan has role to provide some policy direction on how these (inevitable) competing objectives and policies may be reconciled</p>

Paragraph or Plan reference	Question
	<p>rather than relying on ad-hoc and potentially inconsistent decision making at a resource consent level?</p> <p>(NB: this question is also relevant to overarching question 1 and the later question on para 174)</p> <p>I intended the “may” have to reconcile competing objective and policy direction as a preliminary comment, having not seen the confirmed recommendations of Mr Maclennan at the time of writing the CE s42A. I note his memorandum (and comments) today.</p> <p>I can now consider the specifics of an energy and infrastructure application in light of Mr Maclennan’s foreshadowed recommendations.</p> <p>The purpose of the energy and infrastructure objectives and policies are to enable infrastructure, whereas, on balance, the CE objectives and policies are to protect coastal natural character, however, whilst still providing for activities, including infrastructure activities, through CE-O4 and CE-P7 where various types of effects on identified coastal natural character areas have been avoided, remedied, or mitigated. I note that the preservation requirements in CE-P2, which include strong avoid tests, apply to specific areas of the coastal environment, such as identified natural character areas, rather than all of the coastal environment overlay.</p> <p>I also consider that CE-O4 and CE-P7, along with the specific list of areas in CE-P2 act as ‘reconcilers’ reducing tension and competing direction in the context of infrastructure that has a functional or operational need to be located in the coastal environment.</p> <p>I note that activities outside of energy and infrastructure activities (and transport) would be handled directly by the CE rules themselves.</p>
Para 114	<p>You say the Transpower submission is inconsistent with the RPS and NZCPS yet s6(a) is qualified by the phrase “inappropriate” subdivision etc. Should this not be reflected in Objectives CE-01 and/or 04?</p> <p>I consider that the NZCPS and RPS detail what “inappropriate” activities are in the context of the coastal environment, and I note that neither of these two higher order documents uses the phrase inappropriate. I also note the requirements of King Salmon<sup>1</sup> to only refer to the next level up of higher order direction and not have recourse directly to s6(a) and Part 2 except where the higher order policy does not cover the matter.</p> <p>Even in the case that “inappropriate” was possible to include, I consider that merely parroting the Act in CE-O1 and O4 would also not provide the necessary and required specificity and clarity in respect of the NZCPS, and the NESETA, and NESTF enabled infrastructure activities which is the crux of the issue for me.</p>

Paragraph or Plan reference	Question
	<p>I note the difference between the CE provisions which must give effect to the NZCPS, and the NFL, NATC, ASW, and PA provisions which do not have an NPS, and as such, may have more recourse back to Part II and section 6.</p> <p>1. <a href="#">Environmental Defence Society v NZ King Salmon [2014] NZSC 38</a></p>
Para 137	<p>As per the overarching question above, can you please explain why your recommendation differs in respect to whether rules in the CE chapter apply to energy and infrastructure activities to other authors' recommendations.</p> <p>As a follow on to the first question above, you have recommended including a new rule as follows:</p> <p><b><u>How to interpret and apply the rules</u></b></p> <p>(1) <u>The rules within the CE Chapter do not apply to energy and infrastructure activities</u></p> <p>How can the Panel (at this stage of proceedings) be satisfied that the EI rules will give effect to the NZCPS? Or is this something the Panel will need to revisit after hearing the submissions on the EI Chapter.</p> <p>1. Mr Maclennan's memorandum outlines this issue in some detail, and I note that my initial recommendation for the "How to interpret and apply the rules" or variations thereof is now recommended for all the protective chapters<sup>1</sup>. I consider that Mr Maclennan's chapter specific versions of the new rule is preferable to my version, and I would as such defer to his drafting recommendations, or any future recommendations he makes on that matter.</p> <p>2. I consider that the EI chapter rules do give effect to the NZCPS in respect of infrastructure activities, and furthermore, the use of these rules still invokes the CE objectives and policies, further ensuring that the NZCPS applies when considering applications. I also note the overriding provisions of the NESETA and NESTF in respect of the coastal environment and the nuance that is required to ensure that these are integrated with the EI and CE provisions.</p> <p>1. <a href="#">Para 21 of Mr Maclennan's memo</a></p>
Para 163	<p>You say: "Federated Farmers [414.163] concern about existing activities being treated as a new activity in the context of natural character values may have already been addressed in part with the changes to CE-P2(4)".</p> <p>Should this be a reference to changes to <u>CE-P2(6)</u>?</p> <p>Yes, this should be <u>CE-P2(6)</u>.</p>

Paragraph or Plan reference	Question
Para 172	<p>Is the second reference to CE-P6 intended to be CE-P7?</p> <p><b>Yes, this should be CE-P7</b></p>
Para 174	<p>What is the intended relationship between CE-P7 and EI-P5, and how is it intended that these would be applied through a consenting process?</p> <p>How can the recommended amendment to CE-P7 be seen to be giving effect to the NZCPS which has an “avoid” directive (referencing the King Salmon case where avoid means avoid, without a qualifier)?</p> <p><b>The coastal environment overlay includes identified areas of natural character where the avoid directive applies as per NZCPS Policy 13(1)(a) and CE-P2(1), however the coastal environment overlay is broader than just the areas of identified natural character, whereby the broader avoid, remedy and mitigate directive in NZCPS Policy 13(1)(b) applies. CE-P2(3) reflects this.</b></p> <p><b>In the context of activities within the identified natural character areas, I consider that the avoid directive would almost certainly prevent new infrastructure from being located there, but the maintenance and upgrading (within the existing footprint) of existing infrastructure may be permissible, especially where the effects are the same as current, and also for designated activities.</b></p> <p><b>I note the permitted activity standards in national environmental standards, such as for maintenance of electricity transmission lines and telecommunications ‘regulated activities’. The NESETA and NESTF may override the NZCPS here, but only in specific circumstances.</b></p> <p><b>It may be that explicit reference to maintenance and upgrading and/or the other limited circumstances is required within CE-P7, however I would recommend discussion with the relevant expert planners on that matter first, as that approach may not fully cover the nuances of the NESETA, NESTF, and NZECP.</b></p>
Para 186	<p>Is the NZ Defence Force relief not ‘accept in part’?</p> <p><b>I have not recommended any amendment to the Proposed Plan as a result of the NZ Defence Force [166.28] relief. I interpreted their relief as requesting explicit inclusion of them as an emergency service and as I have not explicitly written them into the definition I recommended rejection. However, if the recommendation was changed to “accept in part” it would also make sense in the context of their implicit inclusion in the definition.</b></p>
Para 199	<p>You say that ‘not all of a cycleway or walkway is a structure’. Yet structure “<i>means any building, equipment, device, or other facility,</i></p>

Paragraph or Plan reference	Question
	<p><i>made by people and <b>which is fixed to land</b>; and includes any raft.” Is a constructed track surface not a facility fixed to land?</i></p> <p>I considered a variety of cycleway and walkway types, ranging from a simple tyre or foot track on the bare surface of the ground through to constructions that would meet the definition of ‘structure’. I would not call a cycleway or walkway that is simply a track on the ground, perhaps with some spread gravel a ‘facility fixed to land’, however, if the cycleway or walkway also includes raised boardwalks, bridges, or other similar structures, then that part of the cycleway or walkway is a structure ‘fixed to land’. But I would struggle to define a simple clay track with or without spread gravel as a facility ‘fixed to land’. The Building Act also considers structures in this way – gravel and a clay track is not a structure.</p> <p>The context of this is the clarified Forest and Bird relief, whereby their concern is not the structure itself, but the effect of potential vegetation clearance and disturbance of species in the construction/clearance for a pathway. This effect arises regardless of if there is a structure or not, hence I recommend continuing to treat cycleways or walkways generally as a use of land to appropriately capture all of them.</p>
Para 215	<p>Is it the intention that a temporary military training activity would require consent both under this Chapter and the TA Temporary Activities Chapter?</p> <p>Consents under the Temporary Activities chapter override the relevant zone provisions and the CE rules, however the objectives and polices from a relevant district-wide chapter, such as the CE objectives and policies, would still apply. I consider that this interface should be clarified by the TEMP s42 author.</p>
Para 225	<p>Please set out the scope to delete the permitted activity rule under CE-R4</p> <p>I consider that the scope for the inclusion of carbon forestry to the rule derives from Federated Farmers [414.165], and the scope to delete the permitted activity component derives from Rayonier [171.1], considered in my Overarching and Part 1 matters s42A report for Hearing Stream 1. For Rayonier I recommended to the relevant chapter authors to consider the implementation of the NESPF in respect of their chapters’ forestry provisions and make recommendations accordingly. This applies to myself as CE s42A author.</p> <p>I also note that notified CE-R4 is also inconsistent with NESPF cl 14(3)(c) which requires a 30m setback from the CMA.</p>

Paragraph or Plan reference	Question
Para 241	<p data-bbox="568 271 1182 300">Please check your recommendation here is correct.</p> <p data-bbox="568 333 1106 362">My recommendation should be amended to:</p> <p data-bbox="568 405 1342 470">“I recommend that the amendments as set out above and in Appendix A are adopted”, with the recommendations as follows:</p> <p data-bbox="568 512 999 542">CE-MD1 Buildings and structures</p> <ol data-bbox="520 577 1382 1496" style="list-style-type: none"> <li data-bbox="520 577 1174 607">1. The extent of indigenous vegetation clearance.</li> <li data-bbox="520 642 1382 707">2. Measures to minimise any adverse effects on sensitive habitats such as dunes, rivers, lakes or wetlands.</li> <li data-bbox="520 743 1382 898">3. The extent to which the proposal will integrate into, and be sympathetic to the landscape, including the scale, form, design and finish (materials) proposed and mitigation measures such as planting.</li> <li data-bbox="520 934 1342 999">4. Mitigation measures to minimise the tsunami risk to people and property.</li> <li data-bbox="520 1034 1362 1099">5. The extent to which the proposal would compromise existing public access to the CMA.</li> <li data-bbox="520 1135 1374 1200">6. The use of natural elements such as landforms and vegetation within the site to mitigate the visibility of the proposal.</li> <li data-bbox="520 1236 1337 1391">7. Where Te Ngāi Tūāhuriri Rūnanga has been consulted, the outcome of that consultation, and how the development or activity responds to, or incorporates the outcome of that consultation.</li> <li data-bbox="520 1426 1286 1491">8. <u>Whether any restoration or rehabilitation of the natural character of the coastal environment is proposed</u><sup>1</sup></li> </ol> <p data-bbox="568 1527 1366 1697">I note my recommendation to accept in part the Mainpower relief at para 238 where I recommended to include wording around the functional and operational need to locate critical infrastructure, or carry out maintenance, repair, and upgrading of existing critical infrastructure within the coastal environment.</p> <p data-bbox="568 1733 1370 1868">Given that energy and infrastructure activities use the EI rules and MDs, this CE MD is unlikely to be used on its own, with the various EI MD matters of discretion likely addressing the Mainpower relief, for instance, EI-MD1,3,6.</p>

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<sup>1</sup> Forest and Bird [192.94]

Paragraph or Plan reference	Question
	<p>I still recommend that Mainpower is accepted in part because of the recommended interface provisions between the EI and CE chapters, but do not recommend any additional changes to CE-MD1.</p>
Appendix A	<p>The recommended amendments do not include the explanation, objectives and policies. Please provide an updated document.</p> <p>I have attached this as updated Appendix A.</p>
CE-R2 and CE-MD1 – recommended amendments	<p>Taking into account the recommended amendments to CE-R2 to include walkways and cycleways, is the title of CE-MD1 still appropriate, and if not, is there scope to amend this?</p> <p>I consider that the title should be amended to include “public amenities” and that Forest and Bird [192.92, 192.93] provides the scope for this:</p> <p>CE-MD1 – Buildings and Structures <u>and Public Amenities</u><sup>2</sup></p>

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<sup>2</sup> Forest and Bird [192.92, 192.93]







**NATC – Natural Character of Freshwater Bodies**

Paragraph or Plan reference	Question
Overall	<p>Please provide an assessment against the Clampett and RIDL submissions which seek to preclude all controlled and restricted discretionary activity rules from public or limited notification.</p> <p>For the Clampett and RIDL relief [284.1, 326.1, 326.2, 326.3] to remove public and limited notification on all controlled and restricted discretionary activity rules, and to remove the terms avoid, remedy, and mitigate from PDP provisions, I have considered that:</p> <ul style="list-style-type: none"> <li>• Nothing provided in the submission justifies the removal of public and/or limited notification from the natural character chapter rules.</li> <li>• Similarly, no specific and contextual information has been provided to justify the removal of the terms avoid, remedy, or mitigate from the objectives, policies, rules, and matters of discretion within the natural character chapter provisions, although I note that I have recommended that several policies be amended in respect of their effects mitigation direction in response to other submitters.</li> <li>• I consider that the notification status and RMA sustainable management direction verb is appropriate.</li> </ul>
Overall	<p>Please check your recommended tracked changes to the chapter so that they accurately record your recommended amendments and the notified text.</p>

Paragraph or Plan reference	Question
	<p>I have checked and amended my Appendix A in response to the identified errata and to your questions, however I consider that further changes may emerge during the hearing, so I will supply a updated recommendations and an Appendix A if required as part of my Right of Reply.</p>
Para 82	<p>Please reconcile your statement that “there is no ‘protection” term within the CRPS Objective, and to include one would be to be inconsistent with the CRPS. I cannot accept the WIL relief as it would derogate from the higher order direction” with the wording of CRPS Objective 7.2.1 set out in your paragraph 80 and the wording of s6(a) RMA.</p> <p>I was referring to the preservation directive in CRPS Objective 7.2.1, which is implemented in the Proposed Plan by NATC-O1, and which WIL request to be changed to “protect”. I consider that the “protected from inappropriate subdivision, use, and development” component of the CRPS objective is a specific example of how the overall preservation directive is to be given effect to, and is a rephrasing of s6(a) RMA.</p> <p>I consider that preservation is a stronger directive than protect, and that they are not synonymous. Even if they were synonymous, King Salmon requires the Proposed Plan to implement the CRPS. If the Proposed Plan was to introduce a directive term other than “preserve”, I consider it would be inconsistent with the CRPS, and for this reason, I have recommended decline of the WIL relief.</p>
Para 84	<p>Please provide reference to CRPS provisions that require restoration. Also, please reconcile this approach with the NPSFM which only appears to refer to restoration on the context of wetlands.</p>

Paragraph or Plan reference	Question
	<p>CRPS objective 7.2.1 and CRPS policy 7.3.1 provide direction on restoration overall, and CRPS policy 7.3.2 provides direction specifically to braided rivers, albeit focusing primarily on the natural character component of water levels and flow. The NPSFM does not provide specific direction on restoration beyond wetlands, and even then, the NPSFM is largely specific to regional council functions.</p>
Para 92	<p>How far does a District Council's jurisdiction extend to the 'use' of freshwater bodies?</p> <p>Section 13 RMA restricts certain uses of beds of lakes and rivers, and makes this a regional council function. However, s13(4) does not limit s9 RMA, which provides the Waimakariri District Council with broad jurisdiction in this regard. I also note the requirement of s3.5 NPSFM 2020 on interconnectedness/ki uta ki tai for all local authorities.</p> <p>I also note that the Canterbury Land and Water Regional Plan primarily regulates activities that have an effect on water quality or quantity, and does not regulate the placement of structures within the beds of lakes or rivers, and their effect on natural character specifically, especially where these structure are on private land, as opposed to regional council catchment reserve.</p> <p>The RMA also treats the surface of freshwater bodies as a s9 land use matter, and as such, the Proposed Plan has provisions for surface water activities, and the Council's jurisdiction for these is similarly broader than effects on water quality and quantity.</p>

Paragraph or Plan reference	Question
Para 98 and 102	<p>Should a District Council policy address hydrological processes in ss(3) and the matters in ss(5) of Policy NATC-P1 in relation to freshwater bodies?</p> <p>NATC-P1 outlines the matters that would form the basis of any natural character assessment, rather than regulating those activities, which are the domain of NATC-P3 to P6. Hydrological and fluvial processes are not listed in P3-P6 for this reason, as the District Council's functions here are limited to s9 matters.</p>
Para 113	<p>Should your tracked amendments show ss4 as deleted?</p> <p>In Para 112 I recommended simplifying (4) to <u>recreational use</u> rather than deleting it entirely, however, I have reconsidered this in light of Ms Stevens final s42A recommendations on Public Access and your question, and I consider that a reference to public access in the context of natural character should be limited to natural character identification, mapping, and scheduling matters, rather than the broader suite of public access matters. I accept that my recommendations do not fully capture this, so I recommend the following:</p> <p style="padding-left: 40px;">4. <del>recreational use importance of the freshwater body to provide access and connections to areas of recreational use;</del> and</p> <p><u>associated with the experience of natural character elements, patterns and processes.</u></p>
Para 144	Isn't the question here whether the existence of infrastructure has an

Paragraph or Plan reference	Question
	<p data-bbox="465 272 1039 300">impact on the significance of natural character?</p> <p data-bbox="465 336 1357 711">Para 144 outlines Transpower’s [195.77] submission and I note they requested the retention of NATC-P5 as notified, and as it was in support, I did not undertake assessment of this submission. NATC-P5 is an operational policy governing structures within surface freshwater setbacks. If the existence of infrastructure on the significance of natural character was to be assessed it would be under NATC-P1, and I note that for energy and infrastructure activities, the relevant rules from that chapter would apply. NATC-P2 is fairly enabling in the context of existing infrastructure, with the full effects mitigation hierarchy, and I do not consider that significance test in the NATC-P1 sense would be required.</p>
Para 122	<p data-bbox="465 746 1357 858">Is the reference to “limiting the size, visual appearance, and location” of land use activities a method of achieving the policy or does it need to be part of the policy itself?</p> <p data-bbox="465 890 1357 1034">Would it not be preferable to leave the policy as wide as possible to allow consideration of other matters, and then to determine whether the matters of discretion are appropriate (rather than doing it the other way around as you have suggested)?</p> <p data-bbox="465 1066 1357 1251">Ngai Tuahuiriri were consulted on the wording of NATC-P3 and requested that specificity for the size, visual appearance and location limitations, and I would be reluctant to amend it without appropriate input from iwi, however, I agree with you that NATC-P3 is more limited in scope due to the current drafting.</p>
Para 138	<p data-bbox="465 1286 1227 1313">Should the policy not cross reference to the exemptions noted?</p> <p data-bbox="465 1350 1357 1377">I consider that Mr Maclennan’s recommended amendments to the chapter</p>

Paragraph or Plan reference	Question
	<p>on the interface between the EI chapter and NATC chapter address the primary concern of the submitters, and as the primary pathway for maintenance of irrigation infrastructure will be through the EI rules.</p> <p>In regard to the cross-reference, I was referring to my recommended amendments on indigenous vegetation to refer only to indigenous vegetation clearance and modification <u>that affects natural character</u>. This amendment makes the policy more enabling outside of an SNA.</p>
Para 169	<p>Should the amendment read “Consider the provision of...”</p> <p>I would support and recommend this wording, especially if it reconciles the competing requests between “provide for”, and “consider”.</p>
Para 173	<p>You state: <i>“in the context of how I have recommended the deletion of indigenous biodiversity provisions in other provisions where already covered by the ECO chapter,...”</i> can you please explain which indigenous biodiversity provisions you are referring to?</p> <p>I am referring to my treatment of indigenous vegetation clearance in NATC-P4 whereby I have recommended it be linked to natural character, given that the wider issue of indigenous vegetation clearance is covered by the ECO chapter. However, NATC-P6(4) is different because it refers to habitat, and so I have not recommended any changes. There are no other plan provisions that govern habitat.</p>
Para 200	<p>Taking into account our overarching question in respect to carbon sinks, woodlots and carbon forestry, do you have any updated recommendation in respect to carbon forestry?</p> <p>I have no updated recommendations, and consider that if the definition of</p>



Paragraph or Plan reference	Question
	<p>woodlot changes, to exclude or include carbon sink, it will not alter how amended rule NATC-R10 applies as it will still be captured by the definition of carbon forest. The purpose of the rule is to govern afforestation in general in the overlays and setbacks. Existing forestry can continue under s10 RMA.</p>
<p>Para 225</p>	<p>Is the recommended approach to stock exclusion fences consistent with how exemptions are dealt with other rules in the PDP?</p> <p>And how does the reference to ‘replacement fences and troughs’ align with s10 of the RMA?</p> <p>The challenge with this rule as drafted following submissions is to separate out the urban vs rural components of it. It was primarily intended to manage the impact on natural character of urban fences within the setbacks and overlays, given that urban fences are of a substantially different nature to stock exclusion fences. I had given considerable thought on a more appropriate definition of a ‘fence’, but decided to remain consistent with the Fencing Act definition.</p> <p>I have reconsidered the rule in respect of s10 RMA, and I do not think it can apply to the replacement existing fences of any nature, nor of water troughs. If the intent of the rule is to ensure that natural character is maintained in overlays and setbacks after subdivision of land, it would be ultra vires s10 RMA if it applied to the replacement of those fences and water troughs.</p> <p>I have also reconsidered the rule in respect of NATC-R4 water intake structure, siphon and ancillary equipment, and consider that water troughs may be covered under ‘ancillary equipment’, and as such, NATC-R6 is</p>

Paragraph or Plan reference	Question
	<p>currently inconsistent with R4.</p> <p>I would support the following amendments to rectify these issues:</p> <p><b><del>New or replacement fences</del> <u>(other than stock exclusion fences)</u> and water troughs</b></p>
Para 231	<p>Is the struck-out phrase not what Transpower were asking for?</p> <p>Yes, this is an error in formatting, however, I assessed the submission as requested by the submitter.</p>
Para 264	<p>Clarify what cl 6(1) applies to. There is no reference in it to the NPSFM.</p> <p>Cl 6(1) is referring to the NESF.</p>
Para 285 – Table NATC-1	<p>Please explain how the wording “within the freshwater overlay” would operate as a setback width?</p> <p>This wording is intended to ensure that an additional setback attached to the overlay is not applied for SCHED1 rivers, so that the setback operates within the overlay. However I accept that “within” may not be clear, and I reconsider “the freshwater overlay” would be more appropriate wording.</p> <p>Since the writing of the s42A report I have also received consenting staff feedback that the Proposed Plan is still not clear, particularly for the SCHED2-4 setbacks, and so I consider that the wording “<u>an additional Xm</u>” may be required for the other items in the table to clearly show the difference.</p>

Paragraph or Plan reference	Question
Para 291	<p data-bbox="465 300 1357 403">Please address that part of the Federated Farmers submission that seeks consistency of setbacks with other setbacks, including the Canterbury Land and Water Regional Plan.</p> <p data-bbox="465 440 1357 775">I will address this issue in more detail in my s42A report on earthworks for hearing 5, where Federated Farmers have made a similar submission, however I can foreshadow that I consider that a consistency of setbacks cannot be achieved in all circumstances – as the setbacks in the Proposed Plan overall apply to different activities, with different environmental effects, and cannot always be reconciled. For instance, the earthworks setbacks are to minimise effects on water quality, and apply to distance from water, whereas the natural character setbacks are for natural character, unrelated to water quality.</p>
Para 309	<p data-bbox="465 815 1357 879">Should the recommendation for Dean and Victoria Caseley be “accept in part”?</p> <p data-bbox="465 916 1357 1023">I considered that as I had not incorporated any of their specific relief that the recommendation would be to reject it, however as I did agree with it in general, I would support changing my recommendation to “accept in part”.</p>
Para 319	<p data-bbox="465 1059 1357 1203">But would a reduced setback of 10m, to reflect the consent granted, be more efficient in enabling additional building development without the need for resource consents each time a building extension is required in the 20m setback area?</p> <p data-bbox="465 1240 1357 1383">The 20m setback applies to rural areas, and a 10m setback for urban areas. Bellgrove Stage 1 has been rezoned to medium density residential as a result of Variation 1, and as such, the 10m setback applies because it is now an urban environment. This same process will occur upon rezoning any</p>

Paragraph or Plan reference	Question
	other development areas, including the other stages for Bellgrove.
Para 368	<p data-bbox="465 339 1357 408">Please clarify how activities with functional and operational need are provided for. Are they all permitted activities?</p> <p data-bbox="465 440 1357 549">Maintenance and upgrading within the existing footprint of electricity distribution lines are permitted activities under the relevant EI chapter rules. When consents are triggered the EI matters of discretion also apply.</p>

## Appendix A. Coastal Environment Updated Recommended Amendments

Where I recommend changes in response to submissions, these are shown as follows:

- Text recommended to be added to the Proposed Plan is underlined.
- Text recommended to be deleted from the Proposed Plan is ~~struck through~~.

### **Other notes**

- [e.g. Consequential changes have been made in this chapter in response to...]

<b>CE-O1</b>	<p><b>Natural character values</b></p> <p>The natural character attributes of the coastal environment of the District are preserved, <del>maintained, and enhanced,</del> restored or rehabilitated<sup>3</sup>.</p>
<b>CE-O4</b>	<p><b>Activities in the Coastal Environment</b></p> <p>People and communities are able to provide for their social, economic and cultural well-being, recognising that the protection of natural character and <del>indigenous biodiversity</del><sup>4</sup>, public access or cultural values does not preclude subdivision, use or development, where this does not compromise these values.</p>

<b>CE-P2</b>	<p><b>Preservation of natural character</b></p> <p>Recognise the natural character values identified in CE-SCHED1, CE-SCHED2, and other areas of the coastal environment, and protect them by:</p> <ol style="list-style-type: none"> <li>1. avoiding all adverse effects from subdivision, use or development within areas of ONC, and <del>areas</del> <u>places</u><sup>5</sup> adjoining the CMA;</li> <li>2. avoiding significant adverse effects, including cumulative effects, from subdivision, use or development within areas of HNC, or VHNC;</li> <li>3. avoiding, remedying or mitigating any other adverse effects on natural character attributes in the coastal environment;</li> <li>4. avoiding the clearance of indigenous vegetation, and the planting of non-indigenous vegetation within identified coastal natural character areas;</li> </ol>
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<sup>3</sup> Forest and Bird [192.84], Federated Farmers [414.158], Department of Conservation [419.115]

<sup>4</sup> Forest and Bird [192.85]

<sup>5</sup> Mainpower [249.3]

<b>CE-P7</b>	<p>5. avoiding activities that damage the stability of coastal dune systems; and</p> <p>6. maintaining indigenous biodiversity, <del>where it is not already covered by ECO-P7, including remnant vegetation and habitats of indigenous species</del><sup>6</sup>.</p> <p><b>Infrastructure in the coastal environment</b></p> <p>Recognise and provide for the maintenance, upgrade and development of infrastructure that has a functional need or operational need to be located in the coastal environment, where <del>this does not create adverse effects on the values of the identified coastal natural character areas are avoided, or where this is not practicable, remedied or mitigated</del><sup>7</sup>.</p>
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### **How to interpret and apply the rules**

(2) The rules within the CE Chapter do not apply to energy and infrastructure activities<sup>8</sup>

<b>CE-R2</b>	<b>Public amenities</b>	
<b>Coastal Environment Overlay</b>	<p><b>Activity status: PER</b></p> <p>Where:</p> <ol style="list-style-type: none"> <li>any building or structure for public amenities shall be set back a minimum of 20m from any identified coastal natural character area, as listed in CE-SCHED1 or CE-SCHED2;</li> </ol>	<p><b>Activity status when compliance not achieved: RDIS</b></p> <p><b>Matters of discretion are restricted to:</b></p> <ul style="list-style-type: none"> <li>CE-MD1 - Buildings and structures</li> </ul>

<sup>6</sup> Forest and Bird [192.87]

<sup>7</sup> Transpower [191.100, 191.101]

<sup>8</sup> Transpower [191.101]

	<p>2. any individual building shall have a maximum building footprint of 75m<sup>2</sup>; and</p> <p>3. the maximum height of any building shall be 4m; <u>and</u></p> <p>4. <u>the use of land for any walking or cycling path for public amenities shall be limited to 2.5m maximum width, with no minimum setback from any identified coastal natural character area<sup>9</sup>.</u></p>	
<p><b>Te Kōhanga Wetlands - HNC area</b></p> <p><b>Tūtaepatu Lagoon - HNC area</b></p>	<p><b>Activity status: RDIS</b></p> <p><b>Matters of discretion are restricted to:</b></p> <ul style="list-style-type: none"> <li>• CE-MD1 - Buildings and structures</li> </ul>	<p><b>Activity status when compliance not achieved: N/A</b></p>
<p><b>Jockey Baker Creek - VHNC area</b></p> <p><b>Ashley River / Rakahuri Saltwater Creek Estuary - ONC</b></p>	<p><b>Activity status: DIS</b></p>	<p><b>Activity status when compliance not achieved: N/A</b></p>

<b>CE-R4</b>	<b>Plantation forestry and Carbon Forest<sup>10</sup></b>	
<del>Coastal Environment Overlay</del>	<p><del>Activity status: PER</del></p> <p>Where:</p>	<p><del>Activity status when compliance not achieved: NC</del></p>

<sup>9</sup> Forest and Bird [192.92, 192.93]

<sup>10</sup> Federated Farmers [414.165]



	1. the activity shall be limited to <del>plantation forestry</del> existing prior to the enactment of the <del>NESPF</del> , that is set back at least 20m from any identified coastal natural character area, as shown on the planning map. <sup>11</sup>	
<b>Coastal Environment Overlay</b>  <b>Jockey Baker Creek - VHNC</b> <b>Te Kōhanga Wetlands - HNC</b> <b>Tūtaepatu Lagoon - HNC</b> <b>Ashley River/ Rakahuri</b> <b>Saltwater Creek Estuary</b> <b>- ONC</b>	<b>Activity status: NC</b>	<b>Activity status when compliance not achieved: N/A</b>

### CE-AN1

The Ashley River/Rakahuri Saltwater Creek Estuary - Outstanding Natural Character area and Jockey Baker Creek – Very High Natural Character Area is are located on both the landward side and seaward side of the CMA. ~~Resource consent is required from~~The District Council manages for any land use and subdivision activities occurring on the landward side of the CMA. The regional council manages land use activities For activities seaward of the CMA, ~~resource consent must be given from the Regional Council.~~<sup>12</sup>

<b>CE-MD1</b>	<b>Buildings and structures and public amenities<sup>13</sup></b> 1. The extent of indigenous vegetation clearance.
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<sup>11</sup> Rayonier [171.1]

<sup>12</sup> Cl 16(2), sch 1, RMA minor errors and changes

<sup>13</sup> Forest and Bird [192.94]

2. Measures to minimise any adverse effects on sensitive habitats such as dunes, rivers, lakes or wetlands.
3. The extent to which the proposal will integrate into, and be sympathetic to the landscape, including the scale, form, design and finish (materials) proposed and mitigation measures such as planting.
4. Mitigation measures to minimise the tsunami risk to people and property.
5. The extent to which the proposal would compromise existing public access to the CMA.
6. The use of natural elements such as landforms and vegetation within the site to mitigate the visibility of the proposal.
7. Where Te Ngāi Tūāhuriri Rūnanga has been consulted, the outcome of that consultation, and how the development or activity responds to, or incorporates the outcome of that consultation.
8. Whether any restoration or rehabilitation of the natural character of the coastal environment is proposed<sup>14</sup>.
9. Where there is a functional or operational need to locate infrastructure, or carry out maintenance, repair and upgrade of existing critical infrastructure, within the coastal environment<sup>15</sup>

### Abiotic Systems and Landforms

- Braided Ashley [River](#)/Rakahuri mouth and saltmarshes retain high legibility through lack of modification.
- It is a largely unmodified example of a large [river](#) mouth and saltmarsh community with its hydrological and geomorphological processes largely intact.
- The Ashworth Spit contains sand dunes<sup>16</sup>

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<sup>14</sup> Forest and Bird [192.92, 192.93]

<sup>15</sup> Mainpower [249.6]

<sup>16</sup> Forest and Bird [192.95]

