

**BEFORE PROPOSED WAIMAKARIRI DISTRICT PLAN  
HEARING PANEL**

In the matter of

**the Resource Management Act 1991**

and

**the Proposed Waimakariri District Plan  
– Hearing Stream 4**

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**Statement of Evidence of Ainsley Jean McLeod on  
behalf of Transpower New Zealand Limited  
(submitter reference 195 and further submitter reference  
FS92)  
dated 5 July 2023**

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## SUMMARY OF EVIDENCE

1. The submission made by Transpower New Zealand Limited (“Transpower”) on the Proposed Waimakariri District Plan (“Proposed District Plan”), as relevant to Hearing Stream 4, is concerned with how the Proposed District Plan recognises and provides for the nationally significant National Grid, and particularly the extent to which the provisions of the Proposed District Plan:
  - a. give effect to the National Policy Statement on Electricity Transmission 2008 (“NPSET”)
  - b. give effect to the New Zealand Coastal Policy Statement 2010 (“NZCPS”)
  - c. give effect to the operative Canterbury Regional Policy Statement (republished in October 2020 (“CRPS”), and
  - d. appropriately reflect the relationship of the Proposed District Plan with the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (“NESETA”).
2. The NPSET provides policy direction in relation to:
  - a. recognising the benefits of the National Grid;
  - b. managing the adverse effects on the environment of the National Grid;
  - c. managing the adverse effects of land use and development on the National Grid; and
  - d. long-term strategic planning for transmission assets.
3. The CRPS, amongst other relevant provisions, includes Policy 16.3.4 that sets out how a reliable and resilient National Grid is to be achieved in Canterbury.
4. In respect of the matters that are the subject of Hearing Stream 4, Transpower’s submission, and further submissions, are generally supportive of the Proposed District Plan as notified but seeks amendments to give effect to higher order planning instruments including the NZCPS, NPSET and CRPS. Transpower’s submission is also concerned with the relationship between provisions and seeks that the Proposed District Plan includes clear direction, avoids duplication and resolves tension and conflict between provisions.
5. My evidence considers the relief sought by Transpower and addresses, as relevant to this relief, the recommendations made in the following (together referred to as “the Officer’s Report” or “the Officers’ Reports”):
  - a. Officer’s Report: Tomonga mārea - Public Access;
  - b. Officer’s Report: Ngā momo tākaro ki rungai te wai/ Activities on the Surface of Water;
  - c. Officer’s Report: Āhuetanga o te whenua - Natural Features and Landscapes;
  - d. Officer’s Report: Te taiao o te takutai moana – Coastal Environment;
  - e. Officer’s Report: Āhuetanga o te awa - Natural character of freshwater bodies (‘NATC’).

6. I support a number of recommendations made in the Officers' Reports for the reasons given in Transpower's submissions and the Officers' Reports. These recommendations are briefly listed in my evidence.
7. As I have set out in my earlier evidence, it is my opinion that there are opportunities to reduce the complexity and improve the clarity and useability of the Proposed District Plan, in conjunction with resolving tension between provisions and giving effect to higher order planning instruments.
8. It is my evidence that limited amendments are required to the provisions that relate to the natural character of freshwater bodies in order to appropriately managed those activities than must located in, on and over these stream and rivers. This is particularly important for linear infrastructure, such as the National Grid, that cannot avoid traversing such freshwater bodies and similarly, cannot avoid all adverse effects.
9. In respect of the provisions that relate to natural features and landscapes, my evidence highlights tension between these provisions and the approach to natural features and landscape in the Energy and Infrastructure Chapter. My concern is that the 'avoid' policies that apply to natural features and landscapes generally would 'trump' any pathway in Policy EI-P5. I propose a 'carve-out' to address this.
10. I address similar issues in relation to the provisions that apply in the coastal environment and suggest that Policy CE-P7 effectively 'stands alone' in setting the policy approach for infrastructure in the coastal environment.
11. The amendments suggested in and supported by my evidence are consolidated in **Attachment A**. It is my conclusion that these amendments are necessary and the most appropriate (in terms of the requirements of section 32 of the RMA to achieve consistency with, and give effect to (as appropriate), higher order provisions; to improve the efficiency, clarity and usability of the Proposed District Plan and achieve the purpose of the RMA.

## INTRODUCTION

12. My full name is Ainsley Jean McLeod. I am a self-employed planner, trading as Ainsley McLeod Consulting Limited.
13. I have been engaged by Transpower to provide expert planning evidence in relation to the submission and further submissions made by Transpower on the Proposed District Plan.
14. This is the second statement of evidence prepared by me in relation to Transpower's submission. My qualifications and relevant experience are set out in my earlier evidence that was filed for Hearing Streams 1 and 2. I will not repeat this information here, but for completeness, I confirm that I am familiar with Transpower's roles and responsibilities and am also generally familiar with approaches in policy statements and plans to providing for infrastructure and utilities, including the National Grid, across New Zealand.

15. My evidence should also be read in conjunction with my earlier evidence and, to avoid unnecessary repetition, I rely on that evidence where it is relevant to the current Hearing Stream. In this regard, my earlier evidence sets out the statutory requirements for the Proposed District Plan, including the provisions of the NPSET and the CRPS as they relate to the content of Transpower's submission.
16. For the purpose of my evidence, I rely on the evidence of Rebecca Eng that was filed by Transpower for Hearing Streams 1 and 2 and describes Transpower's assets in Waimakariri District and gives an overview of Transpower's roles and responsibilities, including in respect of the pivotal role the National Grid plays in New Zealand's future zero-carbon economy. I also note that Transpower intends to file further evidence as part of Hearing Stream 5 (Energy and Infrastructure) that will further describe the role of the National Grid and explain the technical, operational and functional requirements of the National Grid.

### **CODE OF CONDUCT**

17. Although this matter is not before the Environment Court, I acknowledge the Hearing Panel direction in Minute 1 (paragraphs 70 and 84) and confirm that I have read the Code of Conduct for expert witnesses as contained in section 9 of the Environment Court Practice Note 2023. I further confirm that I have complied with this Code of Conduct when preparing my written statement of evidence and will do so, when giving evidence or otherwise participating in the hearing process.

### **SCOPE OF EVIDENCE**

18. My evidence:
  - a. acknowledges the statutory requirements for the Proposed District Plan, particularly in relation to the NPSET and the operative CRPS;
  - b. describes Transpower's submission and further submissions on the Proposed Plan that are the subject of Hearing Stream 4; and
  - c. addresses (as relevant to the relief sought by Transpower) the recommendations made in the various Officers' Reports.
19. In addition to the documents referred to above, in preparing this evidence I have also reviewed the following documents insofar as they relate to Transpower's submissions:
  - a. the relevant primary submissions and further submissions;
  - b. the National Planning Standards 2019; and
  - c. the various Section 32 Reports insofar as they are relevant to Transpower's submission and further submission on the matters considered as part of Hearing Stream 4.

## RELEVANT STATUTORY FRAMEWORK

20. The statutory and policy considerations and directions for the Proposed District Plan, insofar as is relevant to Transpower's submission and further submissions, are set out in detail in:
  - a. the Section 32 Reports; and
  - b. Transpower's submission; and
  - c. Summarised in the Officers' Report.
21. I consider that together these documents provide a fulsome and comprehensive description of the relevant statutory matters. I therefore rely on the summary in these documents and do not repeat the relevant provisions here except to emphasise that the Proposed District Plan must give effect to the NPSET, the NZCPS and the CRPS and that "give effect to" is a strong statutory directive in the RMA that was interpreted in the *EDS v New Zealand King Salmon* Supreme Court case as meaning "to implement".<sup>1</sup>
22. My analysis and consideration of the relief sought by Transpower is informed by the statutory framework for decisions on the Proposed District Plan set out in the Section 32 Reports, the RMA, and the on-going guidance provided by the modified Long Bay test.<sup>2</sup>
23. The remainder of my evidence describes Transpower's submission and further submission, and considers these submissions alongside the recommendations made in the Officers' Report.
24. Where amendments to the provisions of the Proposed District Plan are suggested in, and supported by, my evidence these are shown as follows and consolidated in **Attachment A**:
  - a. Officers' Report recommendation text: black underline and ~~black strikethrough~~;
  - b. Transpower submission text: blue underline and ~~blue strikethrough~~; and
  - c. evidence text: red double underline and ~~red double strikethrough~~.

## OFFICERS' REPORT RECOMMENDATIONS

### Matters of agreement

25. I acknowledge that there are a number of recommendations in the Officers' Reports relating to the relief sought by Transpower that are consistent with my opinion and conclusions in respect of that relief. In the interest of brevity, the following Table lists these recommendations and I confirm that the reasons for my support of these recommendations are those included in

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<sup>1</sup> *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited*, NZSC 38, 17 April 2014.

<sup>2</sup> *Long Bay – Okura Great Park Society v North Shore City Council* NZEnvC A078/2008, 16 July 2008, at [34], *High Country Rosehip Orchards Ltd v Mackenzie District Council* [2011] NZEnvC 387 and *Colonial Vineyard v Marlborough District Council* [2014] NZEnvC55.

Transpower's submission and the Officers' Reports. I do not address these matters further in my evidence.

### Officers' Report recommendations that are supported

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation
<b>Officer's Report - Āhuetanga o te awa - Natural character of freshwater bodies</b>			
Policy NATC-P5 Structures within surface freshwater body setbacks	195.77	Seeks that Policy NATC-P5 is retained as notified.	Accept, it is recommended that the Policy is retained as notified.
Policies NATC-P6 New and existing structures within and over freshwater bodies	FS92 (419.109)	Opposes the primary submission made by the Director General of Conservation ("DOC") and seeks that the submission be disallowed because the relief fails to include the exception for specified infrastructure included in the National Policy Statement on Freshwater 2020.	Reject, and therefore accept FS92. Policy NATC-P6 is addressed in further detail later in my evidence.
<b>Officer's Report - Āhuetanga o te whenua – Natural Features and Landscapes</b>			
Other potentially relevant District Plan provisions	195.84 <sup>3</sup>	Amend to include a clear direction that the rules do not apply to infrastructure located on natural features or within natural landscapes and that, instead, the rules in the Energy and Infrastructure Chapter apply.	Accept, it is recommended that new text is included in 'Other potentially relevant District Plan provisions' achieves the relief sought by Transpower.
Objective NFL-O1 Outstanding Natural Features	195.85 <sup>4</sup>	Seeks the inclusion of "inappropriate" in Objective NFL-O1 to better reflect section 6(b) of the RMA.	Accept, it is recommended to include "inappropriate" in the Objective.
Objective NFL-O2 Outstanding Natural Landscapes	195.86 <sup>5</sup>	Seeks the inclusion of "inappropriate" in Objective NFL-O2 to better reflect section 6(b) of the RMA.	Accept, it is recommended to include "inappropriate" in the Objective.
Objective NFL-O3 Significant Amenity Landscapes	195.87	Seeks that Objective NFL-O3 is retained as notified.	Accept, it is recommended that the Objective is retained notified.
<b>Tomonga mārea – Public Access</b>			
Objective PA-O1 Provision of public access	195.91	Seeks that Objective PA-O1 is retained as notified.	Accept, it is recommended that the Objective is retained notified.

<sup>3</sup> Supported by the further submission made by Waka Kotahi (FS110).

<sup>4</sup> Supported by the further submissions made by Chorus, Spark, Vodafone (FS95) and KiwiRail (FS99).

<sup>5</sup> Supported by the further submissions made by Chorus, Spark, Vodafone (FS95) and KiwiRail (FS99).

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation
Policy PA-P3 Adverse effects of public access	195.92	Seeks that Policy PA-P3 is retained as notified.	Accept, it is recommended that the Policy is amended, however, consistent with Transpower's relief, the amendments do not compromise the ability to restrict public access for safety reasons.

### Matters to be addressed in Hearing Stream 5 (Energy and Infrastructure)

26. As was the case in respect of Hearing Streams 1 and 2, some parts of Transpower's submission have been allocated to Hearing Stream 4 but the Officers' Reports have signalled that these parts of Transpower's submission are more properly considered in the context of Hearing Stream 5 (Energy and Infrastructure). I have therefore prepared my evidence on the understanding that the relief sought by Transpower in respect of the following provisions will be considered in the Officer's Report (or Reports) for Hearing Stream 5 and I do not consider these matters further in this statement of evidence:

- a. Rule NATC-R7 Addition to an existing building or structure (Scheduled Natural Character Freshwater Bodies Overlay);<sup>6</sup>
- b. Rule NATC-R8 New structures within and over freshwater bodies (Scheduled Natural Character Freshwater Bodies Overlay);<sup>7</sup>
- c. NATC-R9 New building or structure (Scheduled Natural Character Freshwater Bodies Overlay);<sup>8</sup> and
- d. Standard NATC-S1 Setback standards for the natural character of freshwater bodies.<sup>9</sup>

### Outstanding matters

27. Those parts of Transpower's submission and further submissions that remain outstanding relate to the following provisions and are addressed in the remainder of my evidence:
- a. Āhukatanga o te awa - Natural character of freshwater bodies, Policy NATC-P6 New and existing structures within and over freshwater bodies;
  - b. Āhukatanga o te whenua – Natural features and landscapes, Policy NFL-P1 Protect Outstanding Natural Features, Policy NFL-P2 Protect Outstanding Natural Landscapes and Policy NFL-P4 Maintain Significant Amenity Landscapes

<sup>6</sup> Submission reference 195.79.

<sup>7</sup> Submission reference 195.80.

<sup>8</sup> Submission reference 195.81.

<sup>9</sup> Submission reference 196.83.

- c. Te taiao o te takutai moana - Coastal environment, Other potentially relevant District Plan provisions, Objective CE-O4 Activities in the Coastal Environment, Policy CE-P2 Preservation of Natural Character, Policy CE-P7 Infrastructure in the coastal environment.

## **PART 2 – DISTRICT-WIDE MATTERS**

### **Natural environment values: Āhuatanga o te awa - Natural character of freshwater bodies**

#### Policy NATC-P2 Identify, map and schedule significant freshwater bodies

28. The submission made by Waimakariri Irrigation Limited (“WIL”)<sup>10</sup> seeks that Policy NATC-P2 to include an additional clause to direct that “*the absence of critical or regional significant infrastructure*” applies to the mapping and scheduling significant freshwater bodies.
29. Transpower’s further submission supports the WIL’s submission and notes that the presence of infrastructure is likely to diminish the natural character values of a water body.
30. The Officer’s Report (Āhuatanga o te awa - Natural character of freshwater bodies (‘NATC’)) recommends that the submission be rejected and comments as follows:

*“... as policies NATC-P5 and P6 provide for ongoing use of existing infrastructure, and subject to criteria, upgrading of infrastructure with a functional or operational need to be in areas subject to a freshwater natural character overlay. Even if it were possible under higher order direction (which in my opinion is not provided for) to exclude areas of freshwater natural character with critical infrastructure in them, it would not achieve the outcome the submitter wants, as this infrastructure is already provided for with restrictions and criteria. ...”<sup>11</sup>*
31. In my opinion, the provision for the ongoing use of existing infrastructure in Policies NATC-P5 and NATC-P6 does not directly respond to the issue WIL is seeking to address in its submission. This is because Policy NATC-P2 provides direction in respect of the identification of new areas with recognised natural character values and, as I understand the relief sought, WIL’s submission is concerned that the Policy may result in existing infrastructure being located in newly identified and mapped significant water bodies. The consequence of infrastructure being included in mapped areas of value is that the operation, maintenance and upgrading of such infrastructure may require resource consent, and be subject to consideration in respect of policies that protect the values of the mapped area, where resource consent would otherwise (or prior to mapping) not be required.
32. Similarly, in respect of the National Grid, the operation, maintenance, upgrading, relocation, or removal of an existing transmission line is regulated by the NESETA. The NESETA Regulations include provisions that require resource consent to be sought when activities

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<sup>10</sup> Submission reference 210.28.

<sup>11</sup> Paragraph 114.



occur within natural areas. The NESETA defines 'natural areas' as "*an area that is protected by a rule because it has outstanding natural features or landscapes, significant indigenous vegetation, or significant habitats of indigenous fauna*". It is possible that areas mapped through the direction given in Policy NATC-P2 would be considered natural areas under the NESETA. Therefore, if a new area is mapped in accordance with Policy NATC-P2, and that area includes a National Grid transmission line, certain works associated with that transmission line would (as a consequence of the mapping) require resource consent under the NESETA.

33. While I understand the concerns expressed in the WIL submission, I do not support the wording of the additional clause promoted in the submission because:
- a. I am of the view that it is immaterial whether infrastructure is critical or regionally significant in the context of Policy NATC-P2, rather, what is important is whether the Policy allow for a consideration of the extent to which any infrastructure (or buildings and structures more generally) that is present detracts from the values of the area; and
  - b. I accept that it is possible for infrastructure to be located in areas that are identified as having significant values (for instance, the National Grid may co-exist in habitats of rare species without having an impact on those values), such that I consider that the reference to 'absence' in WIL's relief is overly blunt, and again I note that what is critical is that, where infrastructure is present, the impacts on the values of the area can be considered.
34. I consider that Policy NATC-P2, as recommended for amendment in the Officer's Report, is drafted as an exclusive list of circumstances where an area may be identified and mapped and where an attribute in Policy NATC-P1 is present. Because the list is exclusive, the presence of land uses that may detract from the values of the mapped area is not able to be considered. It is my view that existing land uses may impact on the appropriateness of an area to be identified and mapped and I therefore support the following further amendments to Policy NATC-P2.

***"NATC-P2 Identify, map and schedule significant freshwater bodies***

*Continue the identification, mapping, and scheduling of freshwater bodies and their margins with one or more recognised natural character attributes, where the following apply:*

1. *they ~~freshwater bodies and their margins~~ have high indigenous species and habitat values, where they support threatened, at risk, or regionally distinct indigenous species;*
2. *the presence of distinctive geological features, such as fault traces, fossil localities, geoscience and geohistoric values, or represents a unique geomorphic process;*

3. *cultural, spiritual or heritage associations of Ngāi Tūāhuriri to the freshwater body, including the ability to undertake customary practices; and*
4. *importance of the freshwater body to provide access and connections to areas of recreational use;*
- x. buildings or structures are absent or otherwise do not detract from the recognised natural character attributes; and*
5. *recreational use associated with the experience of natural character elements, patterns and processes."*

Policy NATC-P3 Customary harvesting and Ngāi Tūāhuriri values within the freshwater body and their margins

35. The WIL submission<sup>12</sup> seeks that Policy NATC-P3 be amended to delete reference to “*limiting size, visual appearance and location*” as a means to manage the effects of land use activity on the cultural significance of wetlands, lakes and rivers and their margins, to mana whenua.
36. Transpower’s further submission supports the relief sought in WIL’s submission because in the context of the National Grid:
  - a. with reference to Policy 4 of the NPSET, alternative methods are also relevant; and
  - b. operational requirements may mean that limiting size, appearance and location cannot be achieved.
37. The Officer’s Report (Āhutatanga o te awa - Natural character of freshwater bodies (‘NATC’)) recommends that the submission be rejected on the basis that “*the matters of discretion, which are often specific to size, visual appearance, and location require a link through to the policy in order to function effectively.*”<sup>13</sup>
38. In response to the Officer’s Report, as a matter of plan architecture and with reference to section 75 of the RMA, I understand that policies are intended to implement objectives and, in turn, rules (including matters of discretion) implement policies. For this reason, I do not agree with the recommendation in the Officer’s Report and consider that the matters of discretion that are relevant to Policy NATC-P3 must implement that Policy, as opposed to the content of the Policy being influenced by the matters of discretion.
39. Insofar as Policy NATC-P3 relates to the National Grid, Policy 4 of the NPSET direct that, when considering effects of new, or major upgrades to, the National Grid, decision-makers must have regard to the extent to which any adverse effects have been avoided, remedied or mitigated by the route, site and method selection.

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<sup>12</sup> Submission reference 210.29.

<sup>13</sup> Paragraph 122.

40. In my opinion, confining the means by which effects on cultural values may be managed to size, visual appearance and location:
- a. is narrower than the direction given by Policy 4 to the extent that there may be other methods available to address adverse effects; and
  - b. may give rise to a perverse outcome, whereby the effects of land use activities may not be managed as well as they might because all means or methods to manage the effects of land use activities are not strictly available.
41. For these reasons, I consider that the relief sought in WIL's submission allows for effects to be managed without constraint and, as such, may better recognise the cultural significance of waterbodies and minimise the effects on associated cultural values. I therefore support the following amendment to Policy NATC-P3.

***“NATC-P3 Customary harvesting and Ngāi Tūāhuriri values within the freshwater body and their margins***

*Recognise the cultural significance of wetlands, lakes and rivers and their margins, to mana whenua, and manage the effects of land use activities ~~through limiting the size, visual appearance, and location,~~ to ensure they do not adversely affect taonga species, mahinga kai or customary harvesting, access, and other cultural values.”*

Policy NATC-P4 Preservation of natural character values

42. The submission made by Royal Forest and Bird Protection Society of New Zealand Inc. (Forest and Bird)<sup>14</sup> seeks that clause (2) of Policy NATC-P4 is amended to replace 'minimising' with 'avoid, remedy or mitigate, in that order'.
43. Transpower's further submission supports the relief sought by Forest and Bird subject to the following further amendment:
- “~~Avoid minimising-remedy or mitigate~~ the effects of in that order, indigenous vegetation clearance and modification, including where associated with ground disturbance and the location of structures near wetlands, and lakes and rivers and their margins; ...”*
44. The Officer's Report (Āhuetanga o te awa - Natural character of freshwater bodies ('NATC')) recommends that the submission be accepted.
45. I generally support the relief sought in the submission made by Forest and Bird, and the recommendation in the Officer's Report, on the basis that the use of 'minimise' is unclear, whereas 'avoid, remedy or mitigate' is more appropriate in the context of Policy NATC-P4. However, I support limited further amendments to the Policy to improve expression as follows:

***“NATC-P4 Preservation of natural character values***

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<sup>14</sup> Submission reference 192.69.

*Preserve the natural character values of wetlands, and lakes and rivers and their margins, and protect those values by:*

1. ...
2. *Avoiding, ~~minimising~~ remedying or mitigating, in that order, indigenous vegetation clearance and modification ~~that which~~ affects natural character, including where associated with ground disturbance and the location of structures, near wetlands, and lakes and rivers and their margins; ...”*

Policy NATC-P6 New and existing structures within and over freshwater bodies

46. Transpower’s submission<sup>15</sup> seeks the following amendment to Policy NATC-P6 in order to confirm that the Policy also applies to structures ‘over’ waterbodies:

*“Provide for new structures, and upgrades to existing structures, on or over the surface of freshwater where:*

1. *public access to, and along, the freshwater body is maintained;*
2. *the structure has a functional need or operational need to be located on or over the surface of freshwater;*
3. *the structure does not unreasonably compromise the use of the surface of freshwater for existing users;*
4. *the structure does not ~~disturb~~ have a significant adverse effect on the habitat of indigenous species or hinder passage of migratory fish species;*
5. *the structure avoids to the extent practicable creating new, or exacerbating existing natural hazards, or river or stream bank erosion; and*
6. *any adverse effects to the natural character and cultural values, associated with freshwater bodies are avoided, remedied or mitigated in order to preserve those values.”*

47. Transpower’s submission is supported by the further submission made by KiwiRail Holdings Limited (KiwiRail).<sup>16</sup>

48. In terms of Transpower’s interest in this Policy, I note that there are a number of freshwater bodies in the District that run west to east and are mapped as ‘Scheduled Natural Character Freshwater Bodies Overlay’, while the National Grid is orientated north-south and therefore must traverse most of the freshwater bodies.

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<sup>15</sup> Submission reference 195.78.

<sup>16</sup> Further submission reference FS99.

49. The Officer's Report (Āhutatanga o te awa - Natural character of freshwater bodies ('NATC')) recommends that the submission be accepted. The Report concludes:

*"I agree with Transpower that P6 applies to structures on and over freshwater bodies, and I have considered the other matters Transpower has raised in the context of the restricted discretionary activity status and the relevant matters of discretion. I consider that the "avoid" direction in P5(5) is too strong in this regard, and it should be amended to "minimise", which is the verb most consistently used in the Natural Hazards section."*<sup>17</sup>

50. While the Officer's Report recommends that Transpower's submission be accepted, the relief sought is not accurately reflected in the amendments that have been recommended as follows:

*~~"Provide for~~ Consider new structures, and upgrades to existing structures, on the surface of freshwater where:*

...

*5. the structure ~~avoids~~ minimises creating new, or exacerbating existing natural hazards, or river or stream bank erosion; and... ."*

51. Transpower's submission seeks that the words within Policy NATC-P6 reflect the title of the Policy by referring to structures that are 'over' the surface of water, as opposed to only being 'on' the surface of water. I note that the Officer's Report confirms that this is the intent of the Policy. The relevant Section 32 Report<sup>18</sup> also clearly indicates that the Policy is intended to relate to structures over surface water. On this basis, and in order to improve the clarity of the Policy, I support the inclusion of 'or over' in the initial clause and clause (2) of Policy NATC-P6.
52. The Officer's Report replaces 'provide for' with 'consider' in response to the submission made by Forest and Bird<sup>19</sup> on the basis that Policy NATC-P6 does not provide for structures, but *"it should be considering the suitability of structures subject to the six criteria within the policy"*. The Report concludes that 'provide for' *"is more enabling and has the connotation of making something available and is a stronger direction than 'consider', which is similar to 'have regard to' and 'take into account', subject to criteria"*.<sup>20</sup>
53. In my opinion, the use of 'consider' in the manner proposed is unusual, uncertain and inconsistent with the expression used in policies throughout the Proposed District Plan and, I

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<sup>17</sup> Paragraph 171.

<sup>18</sup> 'Section 32 Report Āhutatanga o te awa/Natural Character of Freshwater Bodies Chapter prepared for the Proposed Waimakariri District Plan', 18 September 2021.

<sup>19</sup> Submission reference 192.70.

<sup>20</sup> Paragraph 168.

therefore do not agree with the conclusion reached in Table C 6 in the Section 32AA Evaluation appended to the Officer's Report.

54. I agree with the Officer's Report that 'provide for' does make a pathway available. However, I am of the opinion that:
- a. 'provide for' falls short of directing that an activity or use is permitted, where to permit an activity 'enable' might be used (and is used in the Proposed District Plan;
  - b. 'provide for' might be implemented in rules that set out a consenting pathway and, in turn, allow for the activity to be assessed in the normal way and in terms of the relevant objectives and policies;
  - c. the extent to which new and upgraded structures are 'provided for' is appropriately qualified by clauses (1) to (5) of Policy NATC-P6;
  - d. insofar as the Policy applies to the National Grid, and noting the extensive areas subject to the 'Scheduled Natural Character Freshwater Bodies Overlay', it is necessary to 'provide for' in order to give effect to the Objective and Policies 1, 2 and 5 of the NPSET; and
  - e. while I have considered other terms used in the Proposed District Plan (such as 'only allow'), 'provide for' is the most appropriate policy direction in respect of the restricted discretionary activity rules that implement this Policy, being Rule NATC-R8 (New structures within and over freshwater bodies) and Rule NATC-R9 New building or structure.
55. I therefore support the retention of 'provide for' in Policy NATC-P6, as notified.
56. Transpower's submission also seeks that clause (3) of the Policy include 'unreasonably', so that the Policy provides for structures do not **unreasonably** compromise the use of the surface of freshwater for existing users.
57. I support the inclusion of 'unreasonably' in Policy NATC-P6 because I consider that there may be situations where a structure may compromise the existing use of surface water but:
- a. the extent to which the use is compromised may be inconsequential, for instance where boating in the vicinity of a transmission line is prevented for a short period of time to allow for maintenance activities; or
  - b. the locational need, or importance of, the new or upgraded structure may outweigh the extent to which the use is compromised.
58. In the case of the National Grid, there may be situations where the use of the surface of freshwater is compromised by the presence of transmission towers and conductors (including activities to maintain or upgrade these assets). I consider that the inclusion of 'unreasonable' is necessary to give effect to Policies 1, 2 and 4 of the NPSET on the basis that the policy direction is less absolute in that, as amended, it would allow for a consideration of whether impacts on existing users are reasonable.

59. Transpower's submission also seeks that clause (4) of Policy NATC-P6 be amended to replace 'disturb' with 'have a significant adverse effect on'. I support the replacement of 'disturb' on the basis that disturbance of the habitat of indigenous species generally does not necessary equate to an adverse effect or an outcome that would compromise the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna under section 6(c) of the RMA. With reference to the comparable provisions in the Proposed District Plan that address indigenous biodiversity and ecosystems, I am of the view the 'disturb' is overly stringent and inconsistent with Objective ECO-O1 (Ecosystems and indigenous biodiversity) and Policy ECO-P4(Maintenance and enhancement of other indigenous vegetation and habitats).
60. In respect of clause (5), Transpower's submission seeks that the requirement to 'avoid' is qualified with 'to the extent practicable'. The Officer's Report has recommended that 'avoid' be replaced with 'minimise'. I acknowledge the Officer's Report conclusion that the term 'minimise' is consistent with the provisions in the Proposed District Plan that relate to natural hazards. I am also of the view that the outcome of the recommended amendment is generally consistent with Transpower's relief. As such, I support the recommended amendment, subject to a further minor correction of expression.
61. In summary, the amendments to Policy NATC-P6 that I support are as follows:

***"NATC-P6 New and existing structures within and over freshwater bodies***

*~~Provide for~~ ~~Consider~~ Provide for new structures, and upgrades to existing structures, on or over the surface of freshwater where:*

- 1. public access to, and along, the freshwater body is maintained;*
- 2. the structure has a functional need or operational need to be located on or over the surface of freshwater;*
- 3. the structure does not unreasonably compromise the use of the surface of freshwater for existing users;*
- 4. the structure does not ~~disturb~~ have a significant adverse effect on the habitat of indigenous species or hinder passage of migratory fish species;*
- 5. the structure ~~avoids~~ minimises the creation of ~~creating~~ new, or exacerbates ~~existing~~ existing natural hazards, or river or stream bank erosion; and*
- 6. any adverse effects to the natural character and cultural values, associated with freshwater bodies are avoided, remedied or mitigated in order to preserve those values."*

## Natural environment values: Āhukatanga o te whenua – Natural features and landscapes

### Policy NFL-P1 Protect Outstanding Natural Features, Policy NFL-P3 Protect Outstanding Natural Landscapes and Policy NFL-P4 Maintain Significant Amenity Landscapes

62. Transpower's submission<sup>21</sup> seeks that the following Policies be amended to achieve consistency with Policy EI-P5 (Manage adverse effects of energy and infrastructure):
- a. Policy NFL-P1 Protect Outstanding Natural Features;
  - b. Policy NFL-P3 Protect Outstanding Natural Landscapes; and
  - c. Policy NFL-P4 Maintain Significant Amenity Landscapes.
63. Transpower's submission in respect of these Policies is supported by the further submission made by KiwiRail.<sup>22</sup> Transpower's submission on Policy NFL-P4 is opposed by the further submission made by DOC.<sup>23</sup>
64. The National Grid traverses the Ashley River / Rakahuri Significant Amenity Landscape and the Waimakariri River Outstanding Natural Feature. In this regard, I note that it is not possible for the National Grid avoid such features. That is, in order for the National Grid to transmit electricity to, and through, the District at least two identified natural features or landscape would need to be traversed.
- a. The Officer's Report (Āhukatanga o te whenua Natural Features and Landscapes} recommends that the submission be accepted in part. The Report acknowledges the relevance of Policy EI-P5 and agrees that adding 'inappropriate' to NFL-P1 and NFL-P3 would improve alignment with section 6(b); would better achieve the amended objectives and would provide a pathway for consideration through the resource consent process.<sup>24</sup>
65. The Officer's Report does not recommend a cross-reference or 'carve out' in respect of Policy EI-P5 and comments as follows:
- "Regarding the issue identified within submissions of the 'avoid' policies in NFL chapter precluding energy and infrastructure activities with functional or operational needs and conflicting with EI-P5, I consider these policies are more appropriately balanced during a resource consent decision making process.*
- I do not consider that it is necessary for a policy and its related rule(s) to be contained within the same chapter. In my opinion, the most relevant objectives and policies should be looked at regardless of which chapter they are located, in relation to the applicable rules. Policies NFLP1, NFL-P3 and NFL-P4 apply to specific values or features. While EI-P5 provides a pathway for considering energy and infrastructure activities to locate within ONF/ONF/SAL*

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<sup>21</sup> Submission references 195.88, 195.89 and 195.90.

<sup>22</sup> Further submission reference FS99.

<sup>23</sup> Further submission reference FS77.

<sup>24</sup> Paragraph 68.



*where there is functional need or operational need. I do not consider it necessary that a policy encompass all aspects relating to it (e.g., protecting ONFs while enabling functional or operational need of infrastructure), I think it is reasonable for all relevant provisions of the PDP to apply to an activity.”<sup>25</sup>*

66. I agree with the Officer’s Report to the extent that:
- a. in considering an application for resource consent or notice of requirement all relevant provisions should be considered together in forming a view as to whether a proposed activity is consistent with those provisions; and
  - b. it is not necessary for all provisions to be located in the same chapter within a district plan.
67. However, in my opinion it is important that a district plan endeavours to provide clear direction in respect of outcomes, avoids duplication and resolves tension between competing outcomes, while properly giving effect to the higher order planning instruments.
68. In this regard, I understand and echo the concern expressed in the submission made by Transpower, and similar submissions made by other infrastructure providers, that:
- a. Policies NFL-P1, NFL-P3 and NFL-P4 include a direction to ‘avoid’ activities and the effects of activities that is different and more stringent than Policy EI-P5; and
  - b. the ‘avoid’ provisions in Policies NFL-P1, NFL-P3 and NFL-P4 are more absolute and directive such that they are likely to be given substantial weight in considering a notice of requirement or application for resource consent and may result in infrastructure activities being prevented.
69. Further, I consider that directing ‘avoidance’ in respect of infrastructure does not give effect to the higher order planning instruments, and therefore does not enable people and communities to provide for their health, safety and wellbeing.
70. In terms of the National Grid, the higher order direction in Policy 16.3.4(3) of the CRPS and Policy 8 of the NPSET is as follows:
- “3. *enabling the operational, maintenance, upgrade, and development of the electricity transmission network provided that, as a result of route, site and method selection, where;*
    - a. *the adverse effects on significant natural and physical resources or cultural values are avoided, or where this is not practicable, remedied or mitigated; and*
    - b. *other adverse effects on the environment are appropriately controlled.”*

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<sup>25</sup> Paragraphs 112 and 113.

**“POLICY 8**

*In rural environments, planning and development of the transmission system should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity and existing sensitive activities.”*

71. It is my conclusion that the provisions of the Proposed District Plan require amendment in order to give effect to the higher order planning instruments and achieve the purpose of the RMA. To achieve this, Transpower’s submission proposed a ‘carve out’ approach through the inclusion of an exemption in Policies NFL-P1, NFL-P3 and NFL-P4 that directs that the infrastructure specific effects management framework applies. While not especially elegant, in my experience a ‘carve out’ approach is a succinct and efficient way to set apart important infrastructure activities from other activities in a way that allows a bespoke approach to the management of adverse effects of infrastructure activities that responds to the characteristics and importance of infrastructure and gives effect to the similarly bespoke direction in higher order planning instruments.
72. For the reasons set out above, I therefore support the following amendments to Policies NFL-P1, NFL-P3 and NFL-P4:

**“NFL-P1 Protect Outstanding Natural Features**

*Recognise the values of the outstanding natural features identified in NFL-APP1 and protect them from the adverse effects of inappropriate activities and development, except where Policy EI-P5 applies, by: ...”*

**“NFL-P3 Protect Outstanding Natural Landscapes**

*Recognise the values of the outstanding natural landscapes identified in NFL-APP1 and protect them from the adverse effects of inappropriate activities and development, except where Policy EI-P5 applies, by: ...”*

**“NFL-P4 Maintain Significant Amenity Landscapes**

*Recognise the values of the significant amenity landscapes identified in NFL-APP1 and maintain them, except where Policy EI-P5 applies, by: ...”*

**General District-wide matters: Te taiao o te takutai moana - Coastal environment**

Other potentially relevant District Plan provisions

73. Transpower’s submission<sup>26</sup> supports, in part, the direction given in ‘Other potentially relevant District Plan provisions’ in respect of the provisions in the Energy and Infrastructure Chapter

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<sup>26</sup> Submission reference 195.98.

but seeks that the direction be amended to provide clarity in respect of the rules that apply to infrastructure in the coastal environment.

74. The Officer's Report<sup>27</sup> includes a fulsome response to Transpower's submission that can be summarised as follows:
- a. the Energy and Infrastructure Chapter includes provisions that apply to sensitive areas adjoining the coastal marine area and this is what text subject to the submission addresses;
  - b. the 'other potentially relevant District Plan provisions' is guidance text and is not binding so that if Transpower's submission were accepted it may not have the desired effect;
  - c. the notified text, that is the subject of Transpower's submission does not accurately describe how the Energy and Infrastructure Chapter provisions "work" in the coastal environment overlay;
  - d. the NZCPS policies are more stringent than the Energy and Infrastructure provisions and therefore they cannot be "fully delegated" to the Energy and Infrastructure Chapter because to do so would fail to give effect to the NZCPS;
  - e. the National Planning Standards required that "these provisions" are in the Coastal Environment Chapter, which results in the plan needing to be read as a whole;
  - f. The preliminary opinion of the Reporting Officer for the Energy and Infrastructure Chapter, in respect of integrating the Energy and Infrastructure provisions with the coastal environment overlay and other overlays, zones and chapters, is new rules be included in the Proposed District Plan to describe the relationship between chapters and remove overlap;
  - g. to achieve consistency with this preliminary opinion, it is recommended that the following rule be included in the Coastal Environment chapter:

*"The rules within the CE Chapter do not apply to energy and infrastructure activities."*

75. Consistent with my earlier evidence, I support the inclusion of clear direction in the Proposed District Plan that sets out the provisions that apply to infrastructure activities. I consider that the rule recommended in the Officer's Report achieves this outcome. That said, I note that:
- a. the solution proposed in the Officer's Report is not entirely consistent with approaches taken in respect of other parts of the Proposed District Plan;
  - b. if it is accepted that the direction given in the District Plan in respect of rules that apply is guidance and not binding, then it is critical that provisions are drafted in a way that enable plan users to understand what rules might apply with certainty; and

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<sup>27</sup> Paragraphs 38 to 44.

- c. I have been in communication with the author of the Officer's Report in respect of Energy and Infrastructure (Hearing Stream 5) and I anticipate that plan architecture in respect of rules that are intended to apply to infrastructure will be comprehensively addressed in that forum.
76. As a final matter, I do not agree with the conclusions in the Officer's Report in respect of the NZCPS and National Planning Standards and comment as follows:
- a. the Proposed District Plan is required to give effect to the NZCPS (and other higher order planning instruments) and in doing so, the Energy and Infrastructure Chapter is not prevented from addressing matters related to the coastal environment;
  - b. because the NZCPS includes specific policy direction in respect of infrastructure, it is appropriate and common for an infrastructure chapters in a district plan to similarly include specific direction that gives effect to the NZCPS;
  - c. the National Planning Standards similarly require that all provisions relating to energy, infrastructure and transport that are not specific to the Special purpose zones chapter or sections must be located in one or more chapters under the Energy, infrastructure and transport heading; and
  - d. in all, and as I have stated earlier in my evidence, the location of provisions is not critical, rather it is the legibility, consistency and content that is important.

#### Objective CE-O4 Activities in the Coastal Environment

77. Transpower's submission<sup>28</sup> seeks that Objective CE-O4 be amended to include 'inappropriately' in respect of where values may be compromised and notes that the concept of values not being compromised differs from the direction given in section 6(a) of the RMA that directs that the preservation of natural character from inappropriate subdivision, use and development is recognised and provided for.
78. The Officer's Report (Te taiao o te takutai moana – Coastal Environment) recommends that the submission be rejected because the relief sought is inconsistent with the RPS and NZCPS.<sup>29</sup>
79. I have reviewed the CRPS and NZCPS and note that neither document includes a direction that activities in the coastal environment must not compromise natural character and indigenous biodiversity, public access or cultural values. Rather, Objective 8.2.2 introduces the concept of appropriateness from section 6 of the RMA and Policy 7 of the NZCPS as follows:

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<sup>28</sup> Submission reference 195.98.

<sup>29</sup> Paragraph 114.

***“Objective 8.2.2 Provision for appropriate activities in the coastal environment***

*A framework is provided for appropriate occupation, subdivision, use and development of the coastal environment while managing the adverse effects of those activities.”*

80. My understanding of ‘not compromise’, being a term that is used in Policy 10 of the NPSET, is that this may be understood as equivalent to ‘avoid’. Further, in the context of Policy 10 of the NPSET, the High Court has concluded that a “*mandatory requirement to ensure that an asset of national significance is not compromised is, in my judgment, a relatively strong directive*”.<sup>30</sup>
81. In my opinion, the direction to ‘not compromise’ without qualification is overly blunt and inconsistent with the provisions in higher order instruments, and section 6 of the RMA. All of which include the concept of appropriateness. Further, in my view it is the role of district plan provisions that relate to natural character and indigenous biodiversity, public access or cultural values in the coastal environment to add ‘colour’ in respect of where values might be inappropriately compromised. I therefore support the following amendment to Objective CE-O4:

***“Objective CE-O4 Activities in the Coastal Environment***

*People and communities are able to provide for their social, economic and cultural well-being, recognising that the protection of natural character and indigenous biodiversity, public access or cultural values does not preclude subdivision, use or development, where this does not inappropriately compromise these values.”*

Policy CE-P2 Preservation of Natural Character

82. Transpower’s submission<sup>31</sup> seeks that Policy CE-P2 is amended as follows:

*“Recognise the natural character values identified in CE-SCHED1, CE-SCHED2, and other areas of the coastal environment, and protect them by:*

- 1. avoiding, where possible, all adverse effects from inappropriate subdivision, use or development within areas of ONC, and areas adjoining the CMA;*
- 2. avoiding, where possible, significant adverse effects, including cumulative effects, from inappropriate subdivision, use or development within areas of HNC, or VHNC;*
- 3. avoiding, remedying or mitigating any other adverse effects on natural character attributes in the coastal environment;*

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<sup>30</sup> Transpower New Zealand Ltd v Auckland Council [2017] NZHC 281 [28 February 2017]

<sup>31</sup> Submission reference 195.100.

4. *avoiding where possible, the clearance of indigenous vegetation, and the planting of non-indigenous vegetation within identified coastal natural character areas;*
5. *avoiding where possible, activities that damage the stability of coastal dune systems; and*
6. *maintaining indigenous biodiversity, including remnant vegetation and habitats of indigenous species.”*

83. Transpower’s submission is opposed by the further submission made by DOC.<sup>32</sup>

84. The Officer’s Report (Te taiao o te takutai moana – Coastal Environment) recommends that the submission be accepted in part and comments as follows:

*“Transpower seek the words “where possible” for the avoid policies. Policy CE-P2(1) implements Policy 13(1)(a) NZCPS which is an avoid test for areas of outstanding natural character. The District Plan must implement this requirement and I cannot support Transpower’s requested amendments.”<sup>33</sup>*

85. I accept that Policy CE-P2 is intended to give effect to Policy 13 of the NZCPS and I note that a key element of Policy 13 is the inclusion of the section 6 of the RMA concept of protection from inappropriate subdivision, use and development. In my opinion, this implies that the Policy is not suggesting that development is entirely prevented, rather, that development must be appropriate. I consider that this concept is not correctly captured in Policy CE-P2 and, I therefore support the following amendments:

**“CE-P2 Preservation of Natural Character**

*Recognise the natural character values identified in CE-SCHED1, CE-SCHED2, and other areas of the coastal environment, and protect them from inappropriate subdivision, use and development by:*

1. *avoiding all-adverse effects of activities on the values of ~~from subdivision, use or development within~~ areas of ONC, and areas adjoining the CMA;*
2. *avoiding significant adverse effects, including cumulative effects, of activities on the values of ~~from subdivision, use or development within~~ areas of HNC, or VHNC;*
3. *avoiding, remedying or mitigating any other adverse effects of activities on natural character values, attributes in the coastal environment;*
4. *avoiding the clearance of indigenous vegetation, and the planting of non-indigenous vegetation within identified coastal natural character areas;*

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<sup>32</sup> Further submission reference FS77.

<sup>33</sup> Paragraph 133.

5. *avoiding activities that damage the stability of coastal dune systems; and*
6. *maintaining indigenous biodiversity, including remnant vegetation and habitats of indigenous species.”*

Policy CE-P7 Infrastructure in the coastal environment

86. Transpower’s submission<sup>34</sup> supports, in part, Policy CE-P7 and seeks the following amendments to the Policy in order give effect to the CRPS (including Policies 8.3.3, 8.3.6 and 16.3.4) and the NPSET insofar as the Policy relates to the National Grid:

*“~~Notwithstanding Policy CE-P2, r~~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 ~~this does not create~~ adverse effects on the values of ~~to the~~ identified coastal natural character areas are avoided, or where this is not practicable, remedied or mitigated.”*

87. Officer’s Report (Te taiao o te takutai moana – Coastal Environment) recommends that the submission be accepted in part and comments as follows:

*“For Transpower, I consider that CE-P7 is the carve-out policy for infrastructure in the coastal environment, where that infrastructure has a functional or operational need to be there. I consider that CE-P7 operationalises the “inappropriate” test in NZCPS Policy 13(1) in the context of activities that are appropriate, such as activities regulated and/or permitted under the NESETA, or NESTF, as well as other activities that may be “appropriate”. The “avoid” requirement in the context of the NZCPS is carried through primarily by CE-P2, with CE-P6 and CE-P6 undertaking the use and development function.*

...

*I agree, and recommend Transpower’s relief [191.101] without the “Notwithstanding Policy CE-P2: ...”<sup>35</sup>*

88. While not shown in Appendix A, I acknowledge that the Officer’s Report recommends that the majority of amendments sought in Transpower’s submission be accepted. I similarly support these amendments for the same reasons as given in Transpower’s submission.
89. The Officer’s Report does not support the inclusion of “notwithstanding Policy CE-P2”, but does not set out the rationale for this position. I understand that the inclusion of this clause is sought by Transpower because without this clause, Policy CE-P2 (and the firm ‘avoid’ direction therein) would continue to apply a policy hurdle that is likely to prevent the development of new infrastructure in a manner that does not give effect to higher order

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<sup>34</sup> Submission reference 195.101.

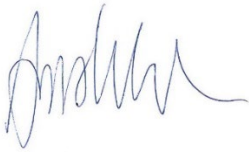
<sup>35</sup> Paragraphs 172 and 174.

instruments. In effect, any pathway in Policy CE-P7 would be rendered ineffective by Policy CE-P2.

90. Further, I note that the Report seems to lean on the rules not applying, rather than considering the implications of the Policies. In my view, given the NESETA and Transpower's requiring authority status and ability to designate new transmission lines, the content of policies is critical.
91. I therefore support the following further amendment to Policy CE-P7:

***"Policy CE-P7 Infrastructure in the coastal environment***

*Notwithstanding Policy CE-P2, r*~~r~~*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 ~~this does not create~~ adverse effects on the values of to the identified coastal natural character areas are avoided, or where this is not practicable, remedied or mitigated."*



Ainsley Jean McLeod

5 July 2023



## ATTACHMENT A: AMENDMENTS SOUGHT IN, AND/OR SUPPORTED BY, EVIDENCE

The following sets out the amendments to the provisions of the Proposed District Plan that are proposed by and/or supported in evidence.

Officers' Report amendments are shown in black underline and ~~black strikethrough~~ and the further amendments supported in evidence are shown in red double underline and ~~red double strikethrough~~.

### PART 2 – DISTRICT-WIDE MATTERS

#### Natural environment values: Āhuetanga o te awa - Natural character of freshwater bodies

**Amend** Policy NATC-P2 Identify, map and schedule significant freshwater bodies as follows:

***"NATC-P2 Identify, map and schedule significant freshwater bodies***

*Continue the identification, mapping, and scheduling of freshwater bodies and their margins with one or more recognised natural character attributes, where the following apply:*

1. *they ~~freshwater bodies and their margins~~ have high indigenous species and habitat values, where they support threatened, at risk, or regionally distinct indigenous species;*
2. *the presence of distinctive geological features, such as fault traces, fossil localities, geoscience and geohistoric values, or represents a unique geomorphic process;*
3. *cultural, spiritual or heritage associations of Ngāi Tūāhuriri ~~to the freshwater body,~~ including the ability to undertake customary practices; ~~and~~*
4. *importance of the freshwater body to provide access and connections to areas of recreational use;*
- x. ~~buildings or structures are absent or otherwise do not detract from the recognised natural character attributes; and~~*
5. *recreational use associated with the experience of natural character elements, patterns and processes."*

**Amend** Policy NATC-P3 Customary harvesting and Ngāi Tūāhuriri values within the freshwater body and their margins as follows:

***"NATC-P3 Customary harvesting and Ngāi Tūāhuriri values within the freshwater body and their margins***

*Recognise the cultural significance of wetlands, lakes and rivers and their margins, to mana whenua, and manage the effects of land use activities ~~through limiting the size, visual appearance, and location,~~ to ensure they do not adversely affect taonga species, mahinga kai or customary harvesting, access, and other cultural values."*

**Amend** Policy NATC-P4 Preservation of natural character values as follows:

**“NATC-P4 Preservation of natural character values**

*Preserve the natural character values of wetlands, and lakes and rivers and their margins, and protect those values by:*

1. ...
2. *Avoiding, ~~minimising-remediating~~ or ~~mitigating~~, in that order, indigenous vegetation clearance and modification ~~that which~~ affects natural character, including where associated with ground disturbance and the location of structures, near wetlands, and lakes and rivers and their margins; ...”*

**Retain** Policy NATC-P5 Structures within surface freshwater body setbacks

**Amend** Policy NATC-P6 New and existing structures within and over freshwater bodies as follows:

**“NATC-P6 New and existing structures within and over freshwater bodies**

*Provide for ~~Consider-Provide for~~ new structures, and upgrades to existing structures, on or over the surface of freshwater where:*

1. *public access to, and along, the freshwater body is maintained;*
2. *the structure has a functional need or operational need to be located on or over the surface of freshwater;*
3. *the structure does not unreasonably compromise the use of the surface of freshwater for existing users;*
4. *the structure does not ~~disturb~~ have a significant adverse effect on the habitat of indigenous species or hinder passage of migratory fish species;*
5. *the structure ~~avoids~~ minimises ~~the creation of creating~~ new, or exacerbating existing natural hazards, or river or stream bank erosion; and*
6. *any adverse effects to the natural character and cultural values, associated with freshwater bodies are avoided, remedied or mitigated in order to preserve those values.”*

**Natural environment values: Āhuatanga o te whenua – Natural Features and Landscapes**

**Amend** ‘Other potentially relevant District Plan provisions’ as follows:

*“Energy and Infrastructure: this chapter includes provisions to manage energy and infrastructure activities within ONL, ONFs, and SAL; as such the rules within the NFL Chapter do not apply to energy and infrastructure activities. The objectives, policies, standards, matters of discretion, appendix, and planning map overlay relating to the NFL chapter do apply to energy and infrastructure activities within ONL, ONFs, or SAL.*  
....”

**Amend** Objective NFL-O1 Outstanding Natural Features as follows:

***“NFL-O1 Outstanding Natural Features***

*Outstanding natural features are protected from inappropriate land use or development that would adversely affect the values of these features.”*

**Amend** Objective NFL-O3 Outstanding Natural Landscapes

***“NFL-O2 Outstanding Natural Landscapes***

*Outstanding natural landscapes are protected from inappropriate land use or development that would adversely affect the values of these landscapes.”*

**Retain** Objective NFL-O3 Significant Amenity Landscapes as notified.

**Amend** Policy NFL-P1 Protect Outstanding Natural Features as follows:

***“NFL-P1 Protect Outstanding Natural Features***

*Recognise the values of the outstanding natural features identified in NFL-APP1 and protect them from the adverse effects of inappropriate activities and development, except where Policy EI-P5 applies, by: ...”*

**Amend** Policy NFL-P3 Protect Outstanding Natural Landscapes as follows:

***“NFL-P3 Protect Outstanding Natural Landscapes***

*Recognise the values of the outstanding natural landscapes identified in NFL-APP1 and protect them from the adverse effects of inappropriate activities and development, except where Policy EI-P5 applies, by: ...”*

**Amend** Policy NFL-P4 Maintain Significant Amenity Landscapes as follows:

***“NFL-P4 Maintain Significant Amenity Landscapes***

Recognise the values of the significant amenity landscapes identified in NFL-APP1 and maintain them except where Policy EI-P5 applies by: ...”

### **Natural environment values: Tomonga mārea – Public Access**

**Retain** Objective PA-O1 Provision of public access

**Amend** Policy PA-P3 Adverse effects of public access as follows:

***“Policy PA-P3 Adverse effects of public access***

*Restrict public access to and along the CMA and water bodies with high values where it is necessary to protect:*

- 1. naturally rare or threatened indigenous flora and fauna; or*
- 2. dunes, estuaries, the margins of rivers, lakes and wetlands, or any other sensitive environments; or*
- 3. sites of cultural significance to Māori, including archaeological sites;*
- 4. public health or safety; or*
- 5. the rights of private property owners, where providing for public access would significantly compromise these rights.; or*
- 6. land-based primary production where potential reverse sensitivity effects cannot otherwise be mitigated.”*

### **General District-wide matters: Te taiao o te takutai moana - Coastal environment**

**Amend** the Activity Rules to include the following:

“How to interpret and apply the rules

(2) The rules within the CE Chapter do not apply to energy and infrastructure activities.”

Amend Objective CE-O4 Activities in the Coastal Environment as follows:

***“Objective CE-O4 Activities in the Coastal Environment***

*People and communities are able to provide for their social, economic and cultural well-being, recognising that the protection of natural character and indigenous biodiversity, public access or cultural values does not preclude subdivision, use or development, where this does not inappropriately compromise these values.”*

Amend Policy CE-P2 Preservation of Natural Character as follows:

**“CE-P2 Preservation of Natural Character**

Recognise the natural character values identified in CE-SCHED1, CE-SCHED2, and other areas of the coastal environment, and protect them from inappropriate subdivision, use and development by:

1. avoiding ~~all~~ adverse effects of activities on the values of ~~from subdivision, use or development within~~ areas of ONC, and areas adjoining the CMA;
2. avoiding significant adverse effects, including cumulative effects, of activities on the values of ~~from subdivision, use or development within~~ areas of HNC, or VHNC;
3. avoiding, remedying or mitigating any other adverse effects of activities on natural character values ~~attributes~~ in the coastal environment;
4. avoiding the clearance of indigenous vegetation, and the planting of non-indigenous vegetation within identified coastal natural character areas;
5. avoiding activities that damage the stability of coastal dune systems; and
6. maintaining indigenous biodiversity, including remnant vegetation and habitats of indigenous species.”

Amend Policy CE-P7 Infrastructure in the coastal environment as follows:

**“Policy CE-P7 Infrastructure in the coastal environment**

Notwithstanding Policy CE-P2. rRecognise 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 ~~this does not create~~ adverse effects on the values of ~~to the~~ identified coastal natural character areas are avoided, or where this is not practicable, remedied or mitigated.”