

WAIMAKARIRI DISTRICT PLAN REVIEW
MEMO TO HEARINGS PANEL

DATE:	22 October 2023
MEMO TO:	PDP Hearing Panel
FROM:	Peter Wilson, s42A reporting officer for coastal environment
SUBJECT:	CE-R2 wording in respect of the coastal setbacks issue

1. Paragraph 7(c) of Minute 9 requested me to discuss the matter of setbacks for scheduled areas in the coastal environment with Forest and Bird, and to provide a final reply.

Background

2. Forest and Bird submitted seeking controls and setbacks on cycleways and walkways within and near to scheduled natural character areas in the coastal environment overlay. Their concerns relate to the lack of controls on cycleways and walkways and the potential for damage and disturbance to nesting birds and their habitat during construction and maintenance.
3. In response to the submissions I recommended amendments to rule CE-R2 to limit the width of cycleways and walkways to 2.5m as a permitted activity, however, Forest and Bird's concern about disturbance of bird breeding habitat remained.

Recommended changes

4. I have since discussed the matter with Forest and Bird. Their planner, Ms Natasha Sitarz, and regional manager, Ms Nicky Snoyink, and I have worked together on changes to the coastal provisions to recognise the potential presence of nesting and breeding birds and to ensure that construction and maintenance activities of cycleways and walkways within the 20m setback to recognise the potential for presence of certain native birds and avoid disturbing their habitat during the bird breeding season. I am recommending that this is implemented by way of a new standard CE-S1 – standards for bird breeding periods.
5. The list of species was obtained on advice from Forest and Bird and the Ashley Rivercare Society¹, and consists of all native birds with a known presence in the coastal environment of the district. The breeding season dates were obtained from Forest and Bird².
6. In addition, I recommend that the matters of discretion should take into account the potential presence of breeding birds within setbacks for all buildings and structures.
7. My recommended drafting and s32AA evaluation is in Appendix 1. I note that the drafting shows my response to the Commissioner's questions that "buildings and structures" should

¹ <https://www.arrg.org.nz/>

² Pers comms, Ms Nicky Snoyink

now be “buildings and structures and public amenities” to more clearly reflect the scope of the rules.

Peter Wilson
22 October 2023

CE-R2	<u>Public amenities</u>	
<u>Coastal Environment</u> Overlay	<p>Activity status: PER</p> <p>Where:</p> <ol style="list-style-type: none"> 1. any <u>building</u> or <u>structure</u> for <u>public amenities</u> shall be set back a minimum of 20m from any identified coastal natural character area, as listed in <u>CE-SCHED1</u> or <u>CE-SCHED2</u>; 2. any individual <u>building</u> shall have a maximum <u>building footprint</u> of 75m²; and 3. the maximum <u>height</u> of any <u>building</u> shall be 4m; 4. <u>the use of land for any walking or cycling path is:</u> <ol style="list-style-type: none"> a) <u>limited to 2.5m maximum width; and</u> b) <u>will comply with standard CE-S1 – standards for bird breeding periods;</u> 	<p>Activity status when compliance not achieved: RDIS</p> <p>Matters of discretion are restricted to:</p> <ul style="list-style-type: none"> • <u>CE-MD1 - Buildings and structures and public amenities</u>
<p>Te Kōhanga <u>Wetlands</u> - <u>HNC</u> area</p> <p>Tūtaepatu Lagoon - <u>HNC</u> area</p>	<p>Activity status: RDIS</p> <p>Matters of discretion are restricted to:</p> <ul style="list-style-type: none"> • <u>CE-MD1 - Buildings and structures and public amenities</u> 	<p>Activity status when compliance not achieved: N/A</p>

<p>Jockey Baker Creek - VHNC area</p> <p>Ashley River / Rakahuri Saltwater Creek Estuary - ONC</p>	<p>Activity status: DIS</p>	<p>Activity status when compliance not achieved: N/A</p>
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<p><u>CE-S1 Standards for bird breeding periods</u></p> <p>1. <u>Construction and maintenance activities for cycleways and walkways within 20m of identified coastal natural character areas will avoid activities that disturb native breeding birds for the following identified species and breeding periods:</u></p> <table border="1" data-bbox="293 823 1041 1329"> <tr> <td data-bbox="293 823 672 879">Wrybill – Ngutupare</td> <td data-bbox="672 823 1041 879">1 August – 28 February</td> </tr> <tr> <td data-bbox="293 879 672 975">Banded Dotterel – Tuturiwhatu</td> <td data-bbox="672 879 1041 975"></td> </tr> <tr> <td data-bbox="293 975 672 1070">Black Fronted Tern – Tarapiroe</td> <td data-bbox="672 975 1041 1070"></td> </tr> <tr> <td data-bbox="293 1070 672 1150">Black Billed Gull – Tarāpuka</td> <td data-bbox="672 1070 1041 1150"></td> </tr> <tr> <td data-bbox="293 1150 672 1230">Black Stilt – Kaki</td> <td data-bbox="672 1150 1041 1230"></td> </tr> <tr> <td data-bbox="293 1230 672 1329">Pied stilt – Poaka</td> <td data-bbox="672 1230 1041 1329"></td> </tr> </table>	Wrybill – Ngutupare	1 August – 28 February	Banded Dotterel – Tuturiwhatu		Black Fronted Tern – Tarapiroe		Black Billed Gull – Tarāpuka		Black Stilt – Kaki		Pied stilt – Poaka		<p><u>Activity status when compliance not achieved: RDIS</u></p> <p><u>Matters of discretion are restricted to:</u></p> <p>1. <u>CE-MD1 - Buildings and structures and public amenities</u></p>
Wrybill – Ngutupare	1 August – 28 February												
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<p>South Island pied oystercatcher – Torea</p>		
<p>2. <u>If breeding birds are found, construction and maintenance activities will cease in that location until breeding season has completed and/or nesting is completed.</u></p>		

<p>CE-MD1</p>	<p><u>Buildings and structures and public amenities</u></p> <ol style="list-style-type: none"> 1. The extent of indigenous vegetation clearance. 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. <u>Adverse effects on breeding birds and their habitat, including measures such as stopping works upon discovery of nearby bird nesting sites and setbacks from known bird breeding areas</u>
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s32AA evaluation

I have considered the recommended amendments and consider that they give better effect to the CE policies, in particular, the CE-P2(6) requirement to maintain indigenous biodiversity, including remnant vegetation and habitats of indigenous species, but with a localised list of species, and the requirement in ECO-P7(2)(b) to avoid significant adverse effects on habitats that are important during vulnerable life stages of indigenous species.