

**BEFORE THE HEARINGS PANEL
APPOINTED BY THE TE TAI O POUTINI JOINT COMMITTEE**

UNDER THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Te Tai o Poutini Plan

**Topic: Natural Character and Margins
of Waterbodies and Activities on the
Surface of Water.**

**STATEMENT OF EVIDENCE OF STEPHANIE STYLES
ON BEHALF OF MANAWA ENERGY LIMITED (SUBMITTER ID NUMBER 438)**

DATED 22 January 2023

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1.0 SUMMARY

- 1.1 My evidence focusses on the Natural Character and Margins of Waterbodies and Activities on the Surface of Water sections of the Proposed Te Tai o Poutini Plan (**pTTPP**), as relevant to the renewable electricity generation operations of Manawa Energy Ltd (**Manawa**) across the West Coast / Te Tai o Poutini Region, and renewable electricity generation (**REG**) generally.
- 1.2 Renewable energy is a matter of national significance, and the pTTPP is required to:
- a) have particular regard to the benefits to be derived from the use and development of renewable energy under s7(j) of the Resource Management Act 1991 (RMA); and
 - b) give effect to the policy directions in the National Policy Statement for Renewable Electricity Generation (NPSREG), including to recognise and provide for renewable electricity generation activities.
- 1.3 Manawa (submitter ID number **S438**) made numerous submission points that are related to this topic and raise issues of concern particularly at a detailed level.
- 1.4 Overall, I am of the view that the chapter (both as notified as and as recommended to be amended by the reporting officer) does not fully give effect to the NPS-REG as it does not sufficiently provide for Renewable Electricity Generation activities, especially existing activities. I consider that several changes are necessary to give effect to higher order documents, remove confusion and overlapping provisions, and improve the approach to Renewable Electricity Generation activities as a matter of national importance.

2.0 INTRODUCTION

- 2.1 My name is Stephanie Styles. I hold the position of Senior Resource Management Planner with the environmental consultancy firm Boffa Miskell Limited, based in the firm's Christchurch office. I have been employed by Boffa Miskell since 2004.
- 2.2 In my brief of evidence dated 2 October 2023, in relation to the Introduction and Strategic Direction hearings, I provided an outline of my experience, my role advising Manawa, my involvement in the pTTPP process to date, and the key policy issues of relevance to Manawa.
- 2.3 I reiterate that I have read the Code of Conduct for expert witnesses in the Environment Court Practice Note 2023. I agree to comply with this Code. This evidence is within my area of expertise, except where I state that I am relying on the evidence of another

person. I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

3.0 PART 1 – INTRODUCTION AND GENERAL PROVISIONS – INTERPRETATION - DEFINITIONS

Definitions of ‘Artificial Lake or Pond’ and ‘Lake’

- 3.1 Manawa requested that the definitions of ‘artificial lake or pond’ and ‘lake’ in the Plan be retained as notified (submission points **S438.005** and **S438.011** respectively). These definitions are recommended to be retained by the Council’s reporting officer¹. I agree with this recommendation.

Definition of ‘Riparian Margin’

- 3.2 Manawa requested that the definition of ‘riparian margin’ be simplified and amended to refer to all land within 10m of a waterbody (submission point **S438.017**). Council’s reporting officer Ms Easton has recommended² that this submission point be rejected on the basis that the relief sought would create an inconsistency with the provisions of the Land and Water Regional Plan.
- 3.3 I disagree with this recommendation and note that the roles and responsibilities of the District Councils and the Regional Council are quite different in respect of riparian margins. District Councils are required to make decisions about the effects of land use and public access. Regional Councils are responsible for the integrated management of the natural and physical resources of a region and are generally responsible for making decisions about water quality and quantity, discharges of contaminants, land use to avoid natural hazards and soil conservation. I consider that if the pTTPP ‘followed’ the provisions of the Land and Water Plan in respect of riparian areas this would result in unnecessary duplication and consenting costs, and potentially consents being required where it is not related to matters within the responsibility of the district council.
- 3.4 Manawa has a specific interest in riparian setbacks as its assets and operations are functionally and operationally required to be located within and adjacent to waterbodies. Within the area administered by the pTTPP these include a range of

¹ Te Tai o Poutini Plan, Section 42A Officer’s Report, Natural Character and Margins of Waterbodies and - Activities on the Surface of Water, L Easton, paragraphs 70-71, page 21.

² Te Tai o Poutini Plan, Section 42A Officer’s Report, Natural Character and Margins of Waterbodies and Activities on the Surface of Water, L Easton, paragraphs 175-179, pages 52-53.

types of waterbody, including natural lakes and rivers e.g. Kawhaka Creek and the Arnold River, and many artificial or modified waterbodies such as Kumara reservoir and Dillmans canal. The larger setback of 20m for lakes may subject a greater number of Manawa activities, such as earthworks, vegetation clearance and structural maintenance to potential consenting requirements that are unnecessary for the district councils to manage. I consider that a standard margin of 10m from all waterbodies is sufficient to manage the issues within the responsibility of the district councils.

- 3.5 I also note that Ms Easton considers that rules relating to margins of wetlands³ are not necessary given the provisions of the NES-F. In this regard, I am of the view that if the Panel decides that this matter should be addressed by a District Plan rule, the 10m margin proposed in the definition as notified should be retained.

4.0 PART 2, DISTRICT WIDE MATTERS – NATURAL ENVIRONMENT VALUES - NATURAL CHARACTER AND THE MARGINS OF WATERBODIES

General Comment

- 4.1 I note that Ms Easton has recommended that the structure of the Plan be altered by removal of rules relating to the clearance of significant indigenous vegetation in riparian margins from this chapter, and that these rules be contained within the ecosystem chapter⁴. I comment on this further in the context of the rules in this chapter of the Plan, however I wish to draw the attention of the Panel to this matter at the outset. If this restructure is supported by the Panel, I consider that a more detailed analysis of the objective and policy framework is required to remove potential overlaps, the potential for conflicting policy provisions and to provide clarity for Plan users. By way of example, Policy NC – P2 as amended by Ms Easton continues to explicitly refer to indigenous vegetation removal which would not be necessary in this chapter if the rules do not deal with this issue. I will provide further evidence on any specific changes proposed if these are addressed further in future s42A reporting.

Submission Themes

- 4.2 The submission points relevant to this chapter include some key themes that are repeated in relation to the objectives, policies and rules. These include:

³ Other than wetlands within the coastal marine area. Te Tai o Poutini Plan, Section 42A Officer's Report, Natural Character and Margins of Waterbodies and Activities on the Surface of Water, L Easton, paragraphs 171-173, pages 51-52.

⁴ Te Tai o Poutini Plan, Section 42A Officer's Report, Natural Character and Margins of Waterbodies and Activities on the Surface of Water, L Easton, paragraphs 54-55, page 14.

- a) Not using the term 'minimise' and using 'avoid, remedy or mitigate' or referencing the effects management hierarchy.
- b) Referring to both functional need and operational need consistently.
- c) Referencing identified natural character values rather than natural character generally.
- d) Referring to regionally significant infrastructure for consistency with other parts of the plan and other evidence.

I address these points where applicable below.

Overview

- 4.3 Manawa sought to include a reference to hydroelectricity in the consents of the chapter overview (submission point **S438.103**). The overview as notified does not acknowledge the important resource that waterbodies are for the region in terms of providing for hydroelectricity generation, and the associated benefits of this activity to the community. Ms Easton has recommended that this submission point be accepted⁵. I agree with this recommendation.

Objectives

Objective NC-O1

- 4.4 Objective NC – O1 is one of three objectives for this chapter of the Plan. This objective primarily aligns with the Part II provisions relating to natural character (i.e. s6(a) preservation of the natural character of waterbodies and their margins and protection from inappropriate subdivision, use and development). The submission lodged by Manawa requested that the objective be amended to also refer to the ability to 'remedy' effects (submission point **S438.104**). Ms Easton has recommended that this submission be accepted in part⁶. She also proposes to amend this objective as generally proposed by the Department of Conservation (S602.101). The relief sought in the DOC submission on this objective includes the inclusion of a reference to the effects management

⁵ Te Tai o Poutini Plan, Section 42A Officer's Report, Natural Character and Margins of Waterbodies and Activities on the Surface of Water, L Easton, paragraph 62, page 17.

⁶ Te Tai o Poutini Plan, Section 42A Officer's Report, Natural Character and Margins of Waterbodies and Activities on the Surface of Water, L Easton, paragraphs 88-93, page 26.

hierarchy. I am comfortable with this amendment, as the effects management hierarchy includes provision for remedying activities (in addition to offsetting and compensating).

Objective NC – O3

- 4.5 Manawa opposes the use of the term ‘minimise’ in this objective (submission point **S438.105**). This is consistent with other submission points raised by Manawa on the Plan as a whole and addressed in previous evidence I have presented. Manawa also sought in their submission that this objective be simplified, reference to the impacts on natural character being ‘minimised’ be deleted, and that reference be made to the operational (as well as functional) need of activities. My comments on the Officer recommendations on these provisions are as follows:
- 4.6 Firstly, the addition of a reference to operational need is supported by Ms Easton⁷. I agree with this recommendation as this is consistent with the provisions of higher order national planning documents (such as the NPS–REG).
- 4.7 Secondly, the proposed rewording of the objective recommended by Ms Easton⁸ includes a reference to ‘...*while ensuring adverse effects on natural character are minimised*’ (as requested by DOC (S602.103)). I do not consider that there is a need to include this second part of the objective dealing with effects. Objective 1 already directs the appropriate management of effects in accordance with the effects management hierarchy. There is no need for this objective to also address effects and then to use different wording that seeks minimisation rather than following the effects management hierarchy. Dealing with effects twice is unnecessary duplication and using different terminology is confusing.
- 4.8 Further I do not consider that the use of the term ‘minimise’ as notified nor the recommended change accurately reflect the intent of the legislation, or that use of the term ‘minimise’ is appropriate in the context of this policy. For example:
- a) Section 6(a) RMA requires the protection of the natural character of waterbodies and their margins from inappropriate subdivision use and development;

⁷ Te Tai o Poutini Plan, Section 42A Officer’s Report, Natural Character and Margins of Waterbodies and Activities on the Surface of Water, L Easton, paragraph 97, pages 30-31.

⁸ Te Tai o Poutini Plan, Section 42A Officer’s Report, Natural Character and Margins of Waterbodies and Activities on the Surface of Water, L Easton, paragraphs 100-101, page 31.

b) the definition of 'sustainable management' (Section 5, RMA) enables activities to occur while 'avoiding, remedying or mitigating any adverse effects of activities on the environment'.

c) Clause 3.24 of the NPS–FW requires regional councils to include a policy in their plans stating '*the loss of river extent and values is avoided, unless the Council is satisfied that*

(a) there is a functional need for the activity in that location; and

(b) the effects of the activity are managed by applying the effects management hierarchy'.

d) Clause 3.22 of the NPS–FW makes provision for the maintenance or operation of specified infrastructure in the context of the management of natural inland wetlands.

4.9 I note that these latter two provisions stipulate requirements for regional councils. The Plan under discussion here is a combined District Plan. I request that the Panel keep this in mind when making decisions to ensure that any specific legislative provisions made for the maintenance and operation of specified infrastructure, and renewable electricity generation activities.

4.10 Policy B of the NPS–REG requires decision makers to have particular regard to the following matter (amongst other things): '*maintenance of the generation output of existing renewable electricity generation activities can require protection of the assets, operational capacity and continued availability of the renewable energy resource*'.

4.11 I have also commented on the use of the term 'minimise' in relation to other hearing topics, and do not propose to repeat this information here.

4.12 In summary, I recommend that the objective is reworded as outlined in the submission to simply direct the provision for activities that have a functional or operational need to locate within riparian margins.

Policies

Policy NC – P1

- 4.13 Ms Easton has recommended that submission point **S438.106** on policy NC – P1 be rejected⁹. Similarly to above, Manawa had sought that the policy be reworded to remove the use of ‘minimise’ and in addition that the reference is made to identified natural character values. I will not comment further on the use of the term ‘minimise’ other to state that my views expressed above also apply to the use of this term in this policy.
- 4.14 The second part of the relief sought by Manawa does not appear to have been specifically addressed in the Officer’s report. I acknowledge the national direction provided in the Act in relation to the protection of natural character. However, I note that natural character can be a subjective term and is commonly grounded in expert assessment. Natural character values can be interpreted in a variety of ways in different contexts with assessment being subject to the circumstances e.g. at a project specific level or in relation to whole waterbodies. For this reason, Manawa sought that the wording of the policy be amended to refer to identified natural character values (as opposed to a general reference to ‘natural character’) which would enable decisions on assessment to be grounded in what has been assessed to be the special values that merit protection. I consider that this would reduce the level of ambiguity associated with applying this policy and would also provide certainty for plan users (particularly those utilising riparian areas).
- 4.15 I note that other changes to the policy recommended by the reporting officer in response to other submissions introduce the concepts of form and scale, and also the maintenance and enhancement of public access. I reiterate other comments made in relation to the identification of natural character values and the subjective nature of such with the addition of the terms ‘form and scale’ introducing a further element of subjectivity. Also, I am unsure of the need for adding in reference to public access as policy NC – P5 (which is discussed later in my evidence) specifically addresses public access and is recommended by Ms Easton to be moved to the public access section of the Plan.

⁹ Te Tai o Poutini Plan, Section 42A Officer’s Report, Natural Character and Margins of Waterbodies and Activities on the Surface of Water, L Easton, paragraphs 106-112, page 34, and Appendix Two, page 9.

Policy NC – P2

- 4.16 Similar matters are raised by Manawa in the context of the submission point relating to Policy NC – P2 (submission point **S438.107**). Manawa has again opposed the use of the term minimise which in this case has been accepted by Ms Easton, although other requested changes to the policy have been rejected ¹⁰.
- 4.17 Manawa sought that clause b be amended to relate to ‘network utilities and regionally significant infrastructure’ to ensure alignment with other submission points and to direct that works within riparian margins are appropriately controlled. Ms Easton considers that this would reduce the scope of the policy and while that is the case, I consider that it is appropriate. While renewable electricity generation activities would be included regardless (falling under both the definitions), the application of the policy to all infrastructure would enable a wider range of activities and thus could lead to greater impacts on riparian margins.
- 4.18 Ms Easton has raised a concern that the relief sought by Manawa to amend ‘renewable electricity generation structures’ to ‘renewable electricity generation activities’ may increase the range of permitted activities. While this may extend the application of the policy, I do not consider that this is an issue as it does not change the rules and therefore has no bearing on what may be a permitted activity. I note that terminology used in the NPS–REG (in particular the definition of renewable electricity generation activities) includes both references to structures and activities and to limit the wording in the policy would undermine the national direction. Further, the pTTPP currently includes a definition of the term ‘renewable electricity generation activities’ which includes reference to both structures and activities and it would be appropriate to continue to apply this approach. The ability to construct, operate and maintain renewable electricity generation activities goes well beyond just the structures themselves with aspects such as access tracks needing to be in riparian margins to support these activities.
- 4.19 I note that other changes recommended to this policy in response to other submissions include a requirement for this policy to be applied outside SNA’s. I caution the Panel to consider this in light of the provision of higher level documents associated with the provision of infrastructure and REG, including (but not limited to) the NPS-REG, NPS-IB and NPS-FW. I do not consider that applying this policy only outside SNA’s is

¹⁰ Te Tai o Poutini Plan, Section 42A Officer’s Report, Natural Character and Margins of Waterbodies and Activities on the Surface of Water, L Easton, paragraph 128, page 40.

appropriate nor consistent with the provisions of the NPS-IB which do not apply to renewable electricity generation activities.

Policy NC – P3

- 4.20 The relief sought by Manawa in relation to this policy (submission point **S438.108**) is similar to other submission points i.e. inclusion of a reference to operational need, and the seeking the specific identification of natural character values. Ms Easton has recommended that this submission point is accepted in part¹¹, accepting the inclusion of 'operational need' but there is no specific discussion of the request to specifically identify natural character values. Again, I reiterate the need to be clear on what is being protected.

Policy NC – P5 (recommended to be included in the Public Access chapter as Policy PA – P1)

- 4.21 Manawa operates an extensive range of activities and infrastructure in riparian areas, some of which requires the exclusion of public access to meet health and safety obligations. It is considered that this should be specifically recognised in this policy. Ms Easton has recommended that this submission point (submission point **S438.109**) be rejected¹² as she does not consider that the health and safety or the operational requirements of regionally significant infrastructure should carry the same weighting as S6 matters (such as the provision of public access and the management of natural hazards).
- 4.22 I disagree with this assessment. I consider that section 5 of the RMA provides a specific obligation to consider health and wellbeing in the context of sustainable management and this places an appropriate limit on where public access should be focussed. Further, it is my opinion that s6(a) does not require unfettered public access in all situations especially where it could lead to harm to people. The NZ Coastal Policy Statement (NZCPS) provides a good example of how public access restrictions should be restricted. Policy 19 of the NZCPS specifically directs that public walking access can be restricted in certain circumstances including to ensure public health or safety. In the context of regionally significant infrastructure, I consider such a restriction to be

¹¹ Te Tai o Poutini Plan, Section 42A Officer's Report, Natural Character and Margins of Waterbodies and Activities on the Surface of Water, L Easton, paragraph 131, page 42.

¹² Te Tai o Poutini Plan, Section 42A Officer's Report, Natural Character and Margins of Waterbodies and Activities on the Surface of Water, L Easton, paragraphs 141-142, pages 44-45.

appropriate and that including this in the policy will avoid conflict and confusion in future.

- 4.23 Further, I urge the Panel to consider this issue in the context of the functional and operational needs of REG activities. Policy C1 (a) of the NPS REG specifically requires decision makers to have particular regard to '*the need to locate the renewable electivity generational activity where the renewable energy resource is available*'. I consider that having due regard to public health and safety is a critical part of any REG activity.
- 4.24 I note that Ms Easton has recommended that this policy move to the Public Access chapter and I have no concerns over that approach.

Rules

General Comment

- 4.25 I wish to briefly reiterate the key matters that lie behind the Manawa submission, and which provide background context to the rationale for the submission points on rules in this and other chapters of the pTTPP. These comments apply to all the submission points on these rules (and also to submissions made on other parts of the Plan).
- a) the key premise for the Manawa submission is to ensure provision is made for the ongoing operation and maintenance of existing REG activities, and the development of new REG, as directed as a matter of national significance by the NPS-REG. The contribution of REG to the resilience of the West Coast region / Te Tai o Poutini has been covered in other hearing topics.
 - b) national legislation and higher level documents provide key direction for the Councils to follow in giving effect to (a).
 - c) despite (b), the rules applying to REG activities in various chapters impose, in a number of cases, a higher level of restriction (either through matters such as volumetric limitations or the specific activity status) than other similar activities undertaken within the same area.
 - d) the structure of the pTTPP, and the topic / chapter based hearings schedule mean that it is difficult to provide a full picture of the overlapping nature of the rules in the Plan, and the cumulative effect of these in achieving (a). Manawa requests that

prior to making decisions on the Plan, the Panel gives detailed consideration to this matter (particularly in the context of discharging Section 32 duties).

- e) terminology used throughout the Plan relating to REG activities / regionally significant infrastructure, should be consistent to avoid confusion in interpretation.

4.26 Ms Easton has also recommended a proposed restructuring of rules in relation to indigenous vegetation clearance. I will deal with this matter at the end of this section of my evidence.

Rule NC – R1 (submission point S438.110)

4.27 The Manawa submission supports the provision for renewable electricity generation activities within this rule. However, the submission raises concern with:

- a) the permitted earthworks quantities being unreasonably restrictive and not adequately providing for the nature of renewable electricity generation activities.
- b) the limitations within the rule being more restrictive than similar activities in other overlay areas (such as in outstanding natural landscapes and the high coastal natural character overlay).

4.28 Manawa sought that the quantity limits do not apply to renewable electricity generation activities or at least be significantly increased to reasonably provide for regionally significant infrastructure activities. Ms Easton has recommended that the submission be accepted in part¹³ with acceptance of the amendment from critical infrastructure to regionally significant infrastructure to align with other parts of the plan.

4.29 In relation to the changes sought to the quantity limits however, Ms Easton has compared the changes sought to the rule (which applies to riparian areas) to the same activity being undertaken within an ONL. On this basis she does not support the changes proposed as she considers that this will have a proportionally larger effect on a riparian margin given its width and length.

4.30 I acknowledge that riparian margins are much smaller than an ONL and are confined to a linear area associated with a waterbody, however these often involve considerable length. For Manawa this can be significant given that the hydroelectric schemes are inherently located adjacent to waterbodies and can include large areas of riparian margins that are used as part of a power scheme or for access. For example, the

¹³ Te Tai o Poutini Plan, Section 42A Officer's Report, Natural Character and Margins of Waterbodies and Activities on the Surface of Water, L Easton, paragraphs 214-216, page 62.

Dillmans Scheme is located adjacent to the Kawaka Creek, the Kawhaka canal, the Kumara reservoir, the Kapitia reservoir, the Dillmans canal and the Taramakau River. Access (roads and bridges) to the scheme, various infrastructure including dams and intakes, and other scheme activities are all located within riparian margins. Normal operation and maintenance activities undertaken include various earthworks and vegetation clearance to ensure continued renewable electricity generation. Applying the quantity limit currently within the rule, would mean that the permitted activity rule for maintenance, operation, minor upgrade and repair of such renewable electricity generation activities would not be achievable. The net effect of this is that day to day activities are likely to need consent on a regular basis. This would not give effect to higher order documents.

- 4.31 While I do not consider that vegetation clearance and earthworks should be unlimited for all infrastructure activities, I do consider that placing such a restriction on existing renewable electricity generation activities fails to give effect to higher order direction. I recommend that the rule be amended to exclude maintenance, operation, minor upgrade and repair of existing renewable electricity generation activities. I note that the restriction could apply to new activities and that this would enable consideration of new effects on riparian areas if new schemes were proposed.
- 4.32 Manawa also sought that the 'default' activity status be altered from discretionary to restricted discretionary (and proposed new matters of discretion under submission point S438.112). Ms Easton has recommended that this submission point be rejected¹⁴ on the basis that a restricted discretionary activity would not meet the Section 6(a) 'test'. I disagree with this comment, and I do not consider that section 6(a) sets any kind of activity status test. As outlined above, Section 6(a) needs to be considered in its full context (*...protection of these from inappropriate subdivision, use and development*). On this basis it is clear that it is anticipated by the Act that some activities can be appropriate. Restricted discretionary activity status, which enables activities to be assessed and declined if necessary, is appropriate. I consider that the matters of discretion proposed are sufficient to enable Councils administering the pTTPP to address the specific effects of the activity (rather than the merits of the activity itself).

¹⁴ Te Tai o Poutini Plan, Section 42A Officer's Report, Natural Character and Margins of Waterbodies and Activities on the Surface of Water, L Easton, paragraph 258, page 77.

- 4.33 I also note that other rules in the Plan which deal with similar matters provide a controlled or restricted discretionary default status¹⁵. I do not consider that the provisions relating to riparian margins warrant a different and more restrictive approach.

Rule NC – R2

- 4.34 Manawa lodged a brief submission on this rule requesting that the wording of the rule is amended to refer to REG activities which have an operational need to locate within a riparian margin (submission point **S438.111**). Ms Easton has recommended that this submission point should be accepted¹⁶. I concur with her assessment.

Proposed Restructuring of Rules

- 4.35 The amended plan provisions contained in Appendix One to Ms Easton's S42A report include a restructuring of rules (based on the submission from of Forest and Bird, S560.508). In summary, the provisions relating to earthworks and structures in relation to riparian margins will remain in this NC chapter, and provisions relating to indigenous vegetation clearance are proposed to be relocated to sit within the ECO chapter.
- 4.36 I can see the merits of this relocation, however I wish to reiterate the points raised above (and in previous evidence) in relation to the overlapping nature of the various plan provisions and the necessity to ensure that there is not unnecessary duplication or confusion in interpreting and applying the rules.
- 4.37 The new proposed rules, ECO RXX (indigenous vegetation clearance within the riparian margin of a river, lake or wetland/ activity status – permitted) and ECO RXX (indigenous vegetation clearance within the riparian margin of a river, lake or wetland/ activity status – discretionary), are in effect a replication of Rules NC – R1 and NC – R3 – but apply to indigenous vegetation clearance only. I have already commented on Rules NC R1 – and NC R3 as notified. The same comments apply to the new proposed rules in the ECO chapter – including the request for a default activity status of restricted discretionary (as opposed to discretionary).

¹⁵ Earthworks within an Outstanding Natural Landscape are permitted under NFL-R6 for energy activities and if not meeting the permitted standards default to a controlled activity. Earthworks within the Coastal Environment in the High Coastal Natural Character Overlay that do not meet permitted standards are a restricted discretionary activity under CE-R7, and the same in the Outstanding Natural Environment under CE-R11.

¹⁶ Te Tai o Poutini Plan, Section 42A Officer's Report, Natural Character and Margins of Waterbodies and Activities on the Surface of Water, L Easton, paragraph 225, page 66.

5.0 CONCLUSION

- 5.1 I consider that the clarification and text modifications proposed in the Manawa submission points, as explained further above, remain necessary to improve the clarity and application of the pTTPP.

APPENDIX ONE: KEY POLICIES FROM THE NPSREG

The particular policies that are most relevant to the development of the pTTPP (emphasis added):

POLICY A

Decision-makers shall recognise and provide for the national significance of renewable electricity generation activities, including the national, regional and local benefits relevant to renewable electricity generation activities. These benefits include, but are not limited to: ...

POLICY B

Decision-makers shall have particular regard to the following matters:

a) maintenance of the generation output of existing renewable electricity generation activities can require protection of the assets, operational capacity and continued availability of the renewable energy resource; and

b) even minor reductions in the generation output of existing renewable electricity generation activities can cumulatively have significant adverse effects on national, regional and local renewable electricity generation output; and

c) meeting or exceeding the New Zealand Government's national target for the generation of electricity from renewable resources will require the significant development of renewable electricity generation activities.

POLICY C1

Decision-makers shall have particular regard to the following matters:

a) the need to locate the renewable electricity generation activity where the renewable energy resource is available;

b) logistical or technical practicalities associated with developing, upgrading, operating or maintaining the renewable electricity generation activity;

c) the location of existing structures and infrastructure including, but not limited to, roads, navigation and telecommunication structures and facilities, the distribution network and the national grid in relation to the renewable electricity generation activity, and the need to connect renewable electricity generation activity to the national grid; ...

POLICY C2

When considering any residual environmental effects of renewable electricity generation activities that cannot be avoided, remedied or mitigated, decision-makers shall have regard to offsetting measures or environmental compensation including measures or compensation which benefit the local environment and community affected.

POLICY D

Decision-makers shall, to the extent reasonably possible, manage activities to avoid reverse sensitivity effects on consented and on existing renewable electricity generation activities.

POLICY E2

Regional policy statements and regional and district plans shall include objectives, policies, and methods (including rules within plans) to provide for the development, operation, maintenance, and upgrading of new and existing hydro-electricity generation activities to the extent applicable to the region or district.

POLICY G

Regional policy statements and regional and district plans shall include objectives, policies, and methods (including rules within plans) to provide for activities associated with the investigation, identification and assessment of potential sites and energy sources for renewable electricity generation by existing and prospective generators.

APPENDIX TWO: SECTION 32AA ANALYSIS

The following table sets out an analysis under s32AA of the Act, in relation to the changes I recommend to the pTTPP:

The extent to which the objectives are the most appropriate way to achieve the purpose of this Act [s32(1)(a)]
The amendments sought to objectives O1 and O3 are considered a more appropriate way to achieve the purpose of the Act as they align more closely to the NPSREG while providing clear direction in the approach to managing activities in riparian margins. They clearly address the resource management issues relevant to protecting natural character. They reflect best practice by using directive language and provide an appropriate level of certainty for users of the pTTPP.
Benefits and costs of the environmental, economic, social, and cultural effects anticipated [s32(2)(a)]
The benefits of amending provisions within this section include: <ul style="list-style-type: none">• Greater clarity for all parties in understanding what the direction is for protecting natural character values and removing duplication and contradiction in the provisions.• Greater certainty for regionally significant infrastructure and REG asset owners and developers in the provision for existing and enablement of new activities within riparian margins.• Increased security of supply of electricity from renewable energy resources, assisting with reducing emissions and supporting national climate change responses. The costs of amending provisions within this section include: <ul style="list-style-type: none">• Potential that some REG activities may be provided for that could have some adverse effects on the environment.• Potential for conflict between different parts of the community or environment in providing for REG activities.
Given the high-level provisions within the pTTPP, the changes to the wording of this section are unlikely to have significant impact on opportunities for economic growth or employment, however it is possible that the lack of certainty and overly restrictive approach may put off REG development and reduce economic growth and employment for REG activities in the region.
Whether the provisions in the proposal are the most appropriate way to achieve the objectives [s32(1)(b)]
I consider that the revised provisions are more appropriate to achieve the objectives as they are efficient and effective. They are efficient in that the benefits outweigh the costs and provide improved clarity of understanding and for implementation. Effectiveness is demonstrated by ensuring they give effect to the objectives as well as the RMA and the NPSREG. The other option, the proposed provisions in the notified pTTPP, are less appropriate.
The risk of acting or not acting [s32(2)(c)]
I consider that there is a low risk of acting as there is a lot of knowledge of the issues relating to REG activities and the need to increase REG nationally, as well as the need to protect riparian areas and natural character values. There is a high risk of not acting and retaining inappropriate and confusing provisions relating to this matter.