NOTES FOR HEARING

SUBDIVISION
FINANCIAL CONTRIBUTIONS
PUBLIC ACCESS

Frida Inta S553 Buller Conservation Group S552

14.04.2024

Representing myself and Buller Conservation Group, I have read the s42A report of Briar Belgrave and Ruth Evans., the S42A Addendum of Bridget Gilbert, and Bridget's landscape report.

SUBDIVISION

Significant:

Throughout the proposed plan I have problems with the intent of where the word, 'significant' is being used in relation to the natural environment.

For non-complying activities of the proposed plan, on page 14, it says

An applicant must first demonstrate that the effects of a proposal are no more than minor or that the proposal is not contrary to the objectives and policies of Te Tai o Poutini Plan

and on P17 of the proposed plan;

Applications that have adverse effects on the environment that are more than minor must be publicly notified (unless a rule or national environmental standard expressly excludes this)

There is only 1 instance that I can find of the phrase' no more than minor' in the proposed plan, other than in the Introduction, and that is in reference to activities within Significant Natural Areas, in ECO at P2.

Although the adverse effects of remedy and mitigate are used within the proposed plan, in general I feel that the plan sees no gap between 'no more than minor' and 'significant' adverse effects, instead appearing to consider that 'significant adverse effects are the next step up from 'no more

than minor' adverse effects, with remedy and mitigate being permitted activities. However, serious damage can be done before remedying and mitigating.

Moreso, adverse effects are generally only considered in relation to significant areas i.e. SNAs, where 'avoid, remedy, mitigate' is used mostly with respect to SNAs, anything not regarded as an SNA seems not to need the adverse effects hierarchy applied, where any IB not cut and quartered into an SNA is barely considered. I see this as an overly liberal evaluation of the RMA and and in particular, sections such as S95A(8)(b).

If a local council rule permits an activity which otherwise is not permitted in the RMA, then there should be good reason, other than economic, to use that permission; just because sections such as 95D allow such steps should not mean that full liberal advantage is swung on the permission, especially if done so in order to prevent any hindrance of resource extraction and land development for economic incentive. From this viewpoint this proposed plan fails in relation of the purpose of the RMA, enshrined in section 5.

S95A Public notification of consent applications

(1) A consent authority must follow the steps set out in this section, in the order given, to determine whether to publicly notify an application for a resource consent.

(8)(b) the consent authority decides, in accordance with section 95D, that the activity will have or is likely to have adverse effects on the environment that are more than minor.

S95D Consent authority decides if adverse effects likely to be more than minor

S95D(b) allows local authorities to disregard an adverse effect if a rule permits that activity, allowing S95A to regard the usual NESs, controlled, restricted etc conditions as waivers when deciding to notify or not.

ENG P8 is a typical example of where any adverse effects on natural character can be ignored other than significant effects.

ENG P8 *Seeking to avoid significant adverse effects on other areas of natural character, natural attributes and character of natural features and landscapes and indigenous biodiversity values*

Throughout the proposed plan it should be that any natural character/ indigenous biodiversity needs to have the adverse effects hierarchy applied to it, starting from trying to avoid damage. If this is not applied we will see cumulative and increasing loss of natural character throughout our region, destroying connectivity and buffering.

MfE says

New Zealand's native species are in serious trouble. Thousands of species are threatened or at risk of extinction
https://environment.govt.nz/acts-and-regulations/national-policy-statements/national-policy-statement-for-indigenous-biodiversity/

The main objective of the NPS-BD is:

2.1 Objective:

(1) The objective of this National Policy Statement is:

(a) to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date;

(b) (iii) by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity;

and it says that landowners must act as stewards of that indigenous biodiversity. As the proposed plan stands it will allow landowners to be reckless with regards to any indigenous biodiversity not under legal protection.

NPS-BD Policy 3 recommends a precautionary approach when considering adverse effects on indigenous biodiversity.

Policy 8: *The importance of maintaining indigenous biodiversity outside SNAs is recognised and provided for*

Policy 16: *Regional biodiversity strategies are developed and implemented to maintain and restore indigenous biodiversity at a landscape scale.*

The scaffold of this proposed plan does not support the objective and policies of the NES-BD, nor does it honour RMA S95A(8)(b).

NPS-BD ***3.16 Indigenous biodiversity outside SNAs***

(1) If a new subdivision, use, or development is outside an SNA and not on specified Māori land, any significant adverse effects of the new subdivision, use, or development on indigenous biodiversity outside the SNA must be managed by applying the effects management hierarchy.

(2) All other adverse effects of any activities that may adversely affect indigenous biodiversity that is outside an SNA (other than indigenous biodiversity on specified Māori land (see clause 3.18)), ***must be managed to give effect to the objective and policies of this National Policy Statement.***

(3) Every local authority must make or change its policy statements and plans to be consistent with the requirements of this clause.

For instance, Objective 3 of Subdivision refers to **protecting** significant ecology, NOT addressing significant adverse effects on IB in general. This highlights two different ways of using 'significant', and it is the latter that should be employed, as well as the former, in the plan but it is not.

3.24 Information requirements

(1) Every local authority must make or change its policy statements and plans to require that, in relation to an application for a resource consent for an activity that would have more than minor adverse effects on indigenous biodiversity, the application is not considered unless it includes a report (etc)

This does not allow for effects more than minor, but less than significant, to be ignored.

The adverse effects hierarchy is applied only once in the ECO chapter, once in FC, once in CE, once in Earthworks, once in 'Zones'

'Adverse effects' is used mainly with respect to **significant** adverse effects, and only applied to significant natural areas.

ECO R3 - Matters of control

(d) The measures to avoid, remedy, or mitigate any adverse effects on any significant indigenous vegetation and significant habitats of indigenous fauna.

By always ensuring, in the proposed plan, that it is only significant adverse effects that need to be considered, it ensures circumvention, via S104(2) or S95D for instance, of S95A(8)(b) except in the most dire of cases.

S104(2) *When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.*

The proposed plan is taking the liberal provisions of the RMA to their greatest extent, disregarding any effect that such liberties may have on our remaining pockets of indigenous biodiversity.

Further note:

Anywhere in the plan 'significant natural areas' is referred to, it needs to be noted that it does not apply to the Buller, where the SNA project has not completed. It needs to be noted that any IB in the Buller needs to be assessed for its SNA potential before any development or land-use change occurs

S42A@189.

'Forest & Bird (S560.523) seeks to amend all references to Schedule Four so that they apply to SNAs, which include those areas that are not included in the Schedule. As discussed above, with regard to SNAs which have not been mapped, the pTTPP includes general vegetation clearance rules under the ECO Chapter. In my view, the subdivision activity does not facilitate vegetation clearance as of right, and the provisions of the ECO Chapter will provide sufficient protection to those areas of SNA that are not mapped. The relief sought is therefore not considered to be necessary'

This anomaly has been fixed in several places where Schedule 4 is referred to.
It has certainly been applied to SUB - R5, R6, This fix needs to be applied throughout the TTPP.

SUB - Overview

Allotment: Allotment is used in reference to land titles, or 'sites' as used in 'Definitions', in this chapter.
My concern is that throughout the TTPP the word 'site' is used in ways that could be interpreted differently to that of 'site' in 'Definitions' of the TTPP
e.g.

ENG - R9 3. Any temporary structures are removed from the site when operation ceases and the sites is rehabilitated. (note: remove excess 's' in 'sites')

NH - P12 f. The potential for the proposal to exacerbate natural hazard risk, including transferring risk to any other site.

HH - Overview Where a site is scheduled in multiple locations, the provisions of all chapters must be considered

...it is unlawful to destroy, damage or modify an archaeological site …

SASM - P8 Where an activity is proposed within any site or area of significance to Māori identified in

Schedule Three

Schedule 3 SASM 55 Māwhera Burial Cave Site; (and other 'sites' in the schedule)

ECO - R1 (3)(ix) b. All machinery used in construction is cleaned and made free of weed material and seeds prior to entering the site;

NFL - R12 2. The building is identified on an approved subdivision plan for the site or for a residential building where there is no existing residential building on the property;

SUB - Overview Subdivision of land that contains an identified feature, site or area of natural, cultural, historical or ecological significance,

CE - R14 b. The extent to which the site is visible from a road or public place;

CE18 - (1)(iv) For establishment of a building platform and access to a building site in an approved subdivision

Building site: a piece of land on which a house or other building is being built;

A construction site is an area or piece of land where construction work is taking place.

EW - Overview …the whole or any part of an archaeological site....

TEMP - R2 (1) These are removed within 1 month of the activity ceasing and the site reinstated to the original or better condition;

TEMP - R5 (1) ...relevant District Council as a designated Responsible Camping Site or Freedom Camping Site;

OSRZ - P14 (a) Impacts on open space and recreation values of the site are minimised;

OSZ - R11 (4) The site shall be rehabilitated as far as is practicable to its original condition;

Perhaps some of these examples really do directly relate to 'site' as in 'Definitions' but I fail to see the connection.

There is no definition of 'site' in the RMA, but in section 2, Historic heritage, includes

(i) historic sites, structures, places, and areas; and

(ii) archaeological sites; and

(iii) sites of significance to Māori

These section 2 terms do not relate directly to an allotment or land title but rather to a specific place or geographical point, generally **within** an allotment/ land title, and used synonymously in this proposed plan.

At some future time there may be detailed scrutiny of this issue and I consider that it needs to be cleaned up now rather than later.

I suggest that any reference to 'site' in relation to land titles could be substituted with 'allotment'.

O2

S42A@83 S552, S553.105

Requested inclusion of

protects and enhances amenity values.

O1 might consider the character and qualities of each zone, but that falls short of ensuring it contributes to people's wellbeing. Being 'compatible' is not analogous to 'contributing' to people's wellbeing.

O3

S42A@88 S552, S553.106

Subdivision design and development protects the quality of the environment including the intrinsic value of ecosystems and coastal, natural, ecological, landscape, historical and Poutini Ngāi Tahu values, and responds to the physical characteristics and constraints of the site and surrounding environment.

Contrary to the S42A report:

- Physical characteristics and constraints will most likely not be interpreted by future plan analyses as referring to the constraints provided by indigenous biodiversity as there is much development leniency in the plan allowing for only **significant** adverse effects on IB. Physical characteristics etc will most likely be interpreted as **abiotic** characteristics etc, which is a rightful interpretation of 'physical'.
- O3 encompasses more than that which S6(c) refers to, including coastal and natural character, both of which do not require only significant areas to be protected, but rather, **any** and **all** such areas need protection.
- I am not requesting deleting 'significant' in relation to the intrinsic nature of ecosystems, I am requesting an **inclusion** of 'the intrinsic nature of ecosystems' **PLUS** deleting 'significant' from the other natural values included in O3.
- Referring to S7(d), there may be a swathe of values in S7 that have not been included in O3, but 7(d) particularly refers to IB, complementing those values referred to in O3. S7(d) may not specifically refer to subdivision but S7 itself specifically refers to 'use, development and protection of natural and physical resources' which certainly includes subdivision.
- I see it as rhetoric referring to S6(a) and S7(d) as cherry-picking.

Subdivision **must** protect the quality of the environment if it is not to degrade it.

O5

S42A@95 S552, S553.108

Esplanade reserves and strips created through subdivision contribute to the protection of natural heritage and Poutini Ngāi Tahu values,...

'Natural heritage' may well be a broader term than natural character, which implies it does include natural character, where s6(a) requires **all** natural character be protected. This is especially so important here as we are referring to esplanade strips which often abut waterways, meaning S6(a) is highly relevant here.
The SNA project has not completed in the Buller therefore '**identified** significant natural heritage' is unacceptable. 'Identified significant' is wrong on too many accounts.
'identified significant' must therefore be deleted.

P1

S42A@ 109 S552, S553.103

S42A refers to FC - P1, not SUB - P1, therefore Paragraph 109 needs to be ignored.

S42A@110 S552, S553.109

d. Protects the cultural, historical, natural and ecological features sites and areas identified on the planning maps and in the Schedules in the Plan;

Once again, unhappy with use of the word, significant'. There is no need for the term here as it is a double positive, pre-empting this clause latterly saying the sites referred to here are identified on the planning maps and schedules.

P3

S42A@137, 138 S552, S553.111

Provide for the subdivision of land containing riparian margins, natural character, outstanding natural features and landscapes,...

It is surely absurd to even consider that subdivision may occur **within** a riparian margin, the very concept of a subdivision less than 10 metres wide is ludicrous. I consider this a totally irresponsible attitude towards natural character and the need for its protection.
'riparian margin' could be substituted with 'natural character', although the basic english meaning of 'natural character' encompasses more than riparian margins.

Rules - general

S42A@187 S552, S553.104

Esplanades on subdivision >4ha in size

S42A 'The submitters have not provided evidence to support the requirement of esplanade reserves and strips under section 77(2) of the RMA within the three districts or carried out additional section 32AA.'

Reply S230 provides a default position on protecting waterbodies with esplanade reserves or strips, saying that, unless provided for otherwise, esplanades for subdivision less than 4ha are mandatory [S230(3)], but not so for those greater than 4ha [S230(5)]. S77 allows local authorities to provide rules on esplanades for allotments both smaller and larger than 4ha.

With respect to 32(1)(a) ensuring that esplanades are created for allotments greater than 4ha will support the purpose of the Act by ensuring that the margins of waterbodies have greater protection than that which the Natural Character Chapter would provide, which provision is a frugally bare minimum. The West Coast Region needs to strive to do better in order to honour S5 and the rich biodiversity which is still ours to claim, but which is eroding fast due often to misdirected development, for instance, where new fencelines are often put at the edge of waterbody banks, whether or not there is indigenous cover. Rules protecting buffer margins would provide better guidance to land development. Esplanades are a *means of maintaining and enhancing water quality* (BDC Plan 4.4.4.1.5). Too often there is no means to access waterbodies by the public, and very often even unformed legal road adjacent to waterbodies is being denied access to the public by the landowner, sometimes by threatening behaviour, sometimes by fencing, sometimes a combination of the two, and sometimes by clearing (often illegally) then allowing impenetrable scrub to grow; subdivisions greater than 4ha are at greatest risk of falling under this concern because of their predominantly rural situation.

S6(a) and 6(d) would be supported and honoured by providing rules requiring esplanades for subdivisions greater than 4ha.

6(a) *the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*

6(d) *the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers*

Esplanades for subdivisions greater than 4ha will also support and honour S229

229 Purposes of esplanade reserves and esplanade strips

An esplanade reserve or an esplanade strip has 1 or more of the following purposes:

(a) to contribute to the protection of conservation values by, in particular,—

(i) maintaining or enhancing the natural functioning of the adjacent sea, river, or lake; or

(ii) maintaining or enhancing water quality; or

(iii) maintaining or enhancing aquatic habitats; or

(iv) protecting the natural values associated with the esplanade reserve or esplanade strip; or

(v) mitigating natural hazards; or

(b) to enable public access to or along any sea, river, or lake; or

(c) to enable public recreational use of the esplanade reserve or esplanade strip and adjacent sea, river, or lake, where the use is compatible with conservation values.

Esplanades for subdivisions greater than 4ha will also support and honour objective 4 of the New Zealand Coastal Policy Statement:

To maintain and enhance the public open space qualities and recreation opportunities of the coastal environment by:

- *recognising that the coastal marine area is an extensive area of public space for the public to use and enjoy;*
- *maintaining and enhancing public walking access to and along the coastal marine area without charge, and where there are exceptional reasons that mean this is not practicable providing alternative linking access close to the coastal marine area; and*
- *recognising the potential for coastal processes, including those likely to be affected by climate change, to restrict access to the coastal environment and the need to ensure that public access is maintained even when the coastal marine area advances inland.*

Obviously esplanades contribute to a swathe of positive effects on the environment and amenity, and esplanades on subdivisions greater than 4ha could contribute abundantly to such effects. By not making rules with a default position of mandatory esplanades on subdivisions greater than 4ha, there is a very real risk of losing further important biodiversity within the region.

With respect to S32(1)(b)(i) It is irresponsible not to address esplanade strips or reserves on allotments greater than 4ha because that absence/ the alternative, will require subdividers to refer to the RMA itself since there is no guidance in the proposed plan on this topic. There will also be no guidance for resource consent applications and assessments. The Natural Character Chapter provides neither sufficient guidance nor protection abutting waterbodies when subdividing allotments greater than 4ha.

With respect to 32(2)(a) the local authority would be required to compensate the landowner if the council requires the esplanade. S237E and F say that compensation is payable for an esplanade reserve or esplanade strip where, in relation to allotments under 4 hectares, the width of the reserve or strip is greater than 20 metres, or, in relation to allotments 4 hectares or over, a reserve or strip of any width is required.
A 20 metre wide strip alongside a waterbody within a rural setting (which subdivision of greater than 4ha can reasonably be expected to reside) would not be of very great value, and in consideration of the cost of the consent process, may well be within the council's means. The alternative to not requiring an esplanade could require much greater costs at some future time where restoring IB alongside those waterbodies is necessitated in order to halt declining IB, especially in this extant climate of climate change and global-warming.

With respect to 32(2)(c) the risk of not addressing esplanades on subdivision greater than 4ha is that we may see further degradation of indigenous value alongside waterbody margins, and loss, or further loss, of public access to and alongside waterbodies.

The Buller District Council; includes a rule for esplanades on subdivisions greater than 4ha, therefore a S32AA evaluation report will be supporting such a rule. I see no reason why that evaluation should now have no value. I request commissioners to refer to that report to substantiate reasoning to include a rule for esplanade requirements for subdivisions greater than 4ha.

Tasman District Council provides a sensible chapter on subdivisions and esplanades which would be an appropriate way to address the esplanade issue, in particular 16.4.2.2 and 16.4.20. I provide the extract for your perusal.

R1

1. The boundary adjustment does not alter:

a. The activity status of any existing activities occurring on the

allotments and/or the ability of an existing activity to continue to comply under applicable rules and standards in this Plan;

R1 is very cumbersome and I'm not sure it conveys any proper meaning. If my R1(1)(a) is adopted then there is no need for R1(1)(b). This would simplify without altering meaning. Simplification is needed in the TTPP.

R3

S42@226, 227 S552, S553.115

Boundary adjustments, matters of control

f Management of adverse effects on outstanding natural features and landforms, areas of significant indigenous biodiversity, amenity values, historic heritage, sites of significance to Māori, archaeological sites, coastal features, natural character, landscapes or any other identified features.

The S42A argument against including 'amenity values' I consider to be a logical fallacy.

'...this matter of control focusses on attributes that are typically identifiable through mapping.'

R3 includes 'zones'. Zones include attributes which may not necessarily be identified through mapping.

'...the potential for adverse effects on amenity values arising from a boundary adjustment is limited.'

This argument could also be extended to the potential for adverse effects on any of the other attributes in R3(f).

'...assessing effects on amenity values is not certain enough for a controlled activity'.

Should this argument then be extended to matters of control or discretion of:

INF - R13,14,15,22,23

TREE - R5,6,

ASW - R6

etc?

R5 (creating allotments in zones)

S42A@254 S552, S553.116

Matters of control;

k Effects on Poutini Ngāi Tahu values, existing amenity values, the quality of the environment, natural character, notable trees or historic heritage within or adjacent to the site;

S42A - 'the wording requested by the submitter does not provide sufficient certainty for a controlled activity assessment, and potential effects in relation to amenity and character are adequately addressed under matters of control a.'

As per R3, **amenity** is used elsewhere under 'Matters of control' in the TTPP

'**Natural character**' is defined in the Natural Character chapter and is therefore reasonably precise.

There is nothing under Matters of control, (a) that even remotely would allude to amenity or natural character.

I therefore request that commissioners consider my proposed amendment.

My suggested amendments are particularly relevant to R5 because R5 involves zones and in particular all residential zones. Having healthy riparian margins in 'zones' enhances peoples' wellbeing and quality of life.

This amendment should be applied to all SUB rules concerning 'zones', including R12.

Financial contributions

I would also like to discuss the term, 'natural character' but this may be better addressed when the hearing comes to ECO.

R7

'3 Waters' may now be an obsolete term.

Public Access

Overview

I object to the latest exclusions.

With respect to the Walking Access Act, the plan does not have to adhere to the letter of s6(d) but can be creative around it, especially as to enhancing s6(d). Surely public access, other than that listed in s6(d), within the districts is also an important amenity value?

Unformed legal road; this chapter is a good place to consider unformed legal road (UFLR) and the way in which it is often viewed by the public. Unless a dispensation is received by the landowner to use ULFR in a private manner, the public has a right to access any UFLR, and there is great tension, between landowners whose land incorporates UFLR, and public access along them. UFLR are mandated to not prevent public access by anything such as fencing but too often that is actually the case. It is a weak argument of the S42A report which appeases the anxieties of landowners over 'their UFLRs; anxieties I consider unfounded.

The overview could also discuss road reserve, in order to distinguish it from ULFR, and to highlight the way in which it complements s6(d).

O1

To maintain and enhance customary and public access to and along the coastal marine area, and waterbodies ~~and public resources~~

I object to the deletion of 'and public resources', for the reasoning above. However, it could be substituted with, 'public amenity'

16.4 ESPLANADE RESERVES, STRIPS AND ACCESS STRIPS

Refer to Policy sets 8.1, 8.2, 9.1, 9.2, 9.3, 13.1, 14.1 – 14.4.

16.4.1 Scope of Section

This section deals with the subdivision of land adjacent to:

- a river whose bed has an average width of 3 metres or more;
- a lake whose bed has an area of 8 hectares or more; or
- the coastal marine area.

For subdivision of land in these locations, regardless of zone, section 16.4 applies notwithstanding the subdivision rules of section 16.3.

Subdivision of land in any other location is regulated under section 16.3.

Section 16.4 provides for the circumstances where the Act allows an esplanade reserve or esplanade strip to be set aside or created upon subdivision. The general provision of the Act is that where any allotment of less than 4 hectares is created adjacent to the water areas listed above, an esplanade reserve of 20 metres in width is to be provided. However, the Act allows specific Plan rules, or any resource consent, to waive or amend the width of an esplanade reserve.

Where an allotment is 4 hectares or more, the Act provides that a plan rule may require an esplanade reserve or esplanade strip to be set aside, and that a resource consent may waive or amend the width of the esplanade reserve or strip.

The Act also provides that where an allotment of less than 4 hectares is created, no compensation is payable for esplanade reserves or esplanade strips of 20 metres or less in width. Compensation is payable to the registered proprietor for any width above 20 metres. Where an allotment of 4 hectares or more is created, and an esplanade reserve or esplanade strip is required, compensation is payable.

Except for reserves or strips obtained through the rules in this section or as a condition of a resource consent, the acquisition of other reserves (or obtaining agreements for esplanade strips or access strips), is through negotiation with landowners.

16.4.2 Esplanade Reserves, Strips and Access Strips on Subdivision

16.4.2.1 Restricted Discretionary Subdivision (Esplanade Reserves, Strips and Access Strips on Subdivision — Allotments less than 4 Hectares)

The subdivision of land where one or more allotments of less than 4 hectares is created, including any balance allotments, adjacent to:

- a river whose bed has an average width of 3 metres or more; or
- a lake whose bed has an area of 8 hectares or more; or
- the coastal marine area;

is a restricted discretionary activity.

A resource consent is required. Consent may be refused, or conditions imposed, only in respect of the following matters to which the Council has restricted is discretion:

(1) A 20-metre-wide esplanade reserve will be taken for any of the purposes in Section 229 of the Act of:
- protecting conservation values;
- enabling public access

- enabling public recreation;

unless the Council determines otherwise after consideration of:

(a) Where, having regard to Section 229 and Part II of the Act, it would not be appropriate to set aside an esplanade reserve because:

(i) in any working port area, there is a risk to security for activities that are permitted or authorised to operate in any part of the area that would otherwise be an esplanade reserve;

(ii) in any working port area, there is a risk to public safety in any part of the area that would otherwise be an esplanade reserve;

(iii) the land has little or no value in terms of the purposes of Section 229 of the Act;

(iv) there is already adequate protection in place for any value the land may have for purposes in Section 229 of the Act.

(b) Whether a reserve of greater than 20 metres width is required for purposes in Section 229 of the Act, and the compensation payable for that additional land.

(c) Whether the subdivision is a minor boundary adjustment or relocation.

(d) Whether the subdivision is for public utility or infrastructure purposes.

(e) Whether an esplanade strip will achieve the purposes in Section 229 of the Act and is preferable because the location is one where there is a high likelihood of movement of the margin through erosion, inundation or land movement.

(f) Whether any existing structure on land in the reserve entitlement affects the purposes in Section 229 of the Act, including consideration of the form and width of any reserve, access to and along it, and the use of it.

(2) Whether, in setting aside or creating a reserve or strip, there is any need to restrict public access in order to:

- protect areas of significant indigenous vegetation and/or significant habitats of indigenous fauna;
- protect Māori cultural values;
- protect public health and safety;
- ensure a level of security consistent with the purpose of a resource consent (or permitted activity); or
- in other exceptional circumstances sufficient to justify the restriction notwithstanding the national importance of maintaining that access.

(3) The assessment criteria set out in Schedule 16.3A.

(4) The duration of the consent (Section 123 of the Act).

(5) The purpose and timing of any review of consent conditions (Section 128).

(6) Financial contributions, bonds and covenants in respect of the performance of conditions, and administrative charges (Sections 36 and 108).

16.4.2.2 Restricted Discretionary Subdivision (Esplanade Reserves, Strips and Access Strips on Subdivision — Allotments 4 Hectares or More)

The subdivision of land where one or more allotments of 4 hectares or more is created, including any balance lot, adjacent to:

- a river whose bed has an average width of 3 metres or more; or
- a lake whose bed has an area of 8 hectares or more; or

- the coastal marine area;

is a restricted discretionary activity.

A resource consent is required. Consent may be refused, or conditions imposed, only in respect of the following matters to which the Council has restricted is discretion:

(1) Whether any land is to be set aside as an esplanade reserve or esplanade strip for any of the purposes in Section 229 of the Act of:
- protecting conservation values;
- enabling public access;
- enabling public recreation;

and any compensation is to be paid for that land.

(2) Whether, if a reserve or strip is to be set aside or created, there is any need to restrict public access in order to:
- protect areas of significant indigenous vegetation and/or significant habitats of indigenous fauna;
- protect Māori cultural values;
- protect public health and safety;
- ensure a level of security consistent with the purpose of a resource consent (or permitted activity); or
- in other exceptional circumstances sufficient to justify the restriction notwithstanding the national importance of maintaining that access.

(3) The assessment criteria set out in Schedule 16.3A.

(4) The duration of the consent (Section 123 of the Act).

(5) The purpose and timing of any review of consent conditions (Section 128).

(6) Financial contributions, bonds and covenants in respect of the performance of conditions, and administrative charges (Sections 36 and 108).

16.4.20 Principal Reasons for Rules

It is a matter of national importance to preserve the natural character of the coastal environment, wetlands, lakes and rivers and their margins; and to maintain public access to and along them (except wetlands). Values that contribute to natural character include the natural functioning of the water body, aquatic and adjacent habitats and water quality.

Council may seek to acquire esplanade reserves or esplanade strips to protect or enhance those values, or to provide for public access and recreation to and in such areas. Access strips may also be sought in some circumstances.

The Act entitles Council to take an esplanade reserve up to 20 metres wide when land adjacent to the sea or major rivers and lakes of the District is subdivided to allotments less than 4 hectares in area. It enables reserves to be sought where larger allotments are created, but makes compensation payable in those circumstances. Compensation is also payable when a reserve wider than 20 metres is sought from allotments less than 4 hectares.

The rule reflects the powers and limitations that the Act gives Council for obtaining reserves when land adjacent to major water features is subdivided.