



Te Tai o Poutini PLAN

A combined district plan for the West Coast

Prepared for: Hearing Commissioners - Te Tai o Poutini Plan
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Date: 3 February 2025

Subject: s42A Author Right of Reply Coastal Environment

Purpose of Report

1. The purpose of this report is to respond to the questions raised by the Hearings Commissioner during Hearing 18: Coastal Environment, and for the Officer to propose any further amendments to the notified version of the Proposed District Plan above those recommended in the Officers s42a evidence reports.

Hearing Panel's Questions to the s42a Reporting Officer and their Response

2. The following questions were received from the Hearing Commissioners for the Coastal Environment topic which sat on 22-23 October and 30-31 October 2024.

General

[1] What is my view on whether the WCRPS is consistent with the national direction in NZCPS Policy 6 ?

3. The queries from the commissioners at the hearings have been focussed around the use of the term "functional need" and in the NZCPS Policy 6 this does focus on the coastal marine area – with its use highlighted in bold below. However as a whole Policy 6 does recognise a wide range of activities that may be appropriate in the coastal environment – for example, clause a specifically identifies infrastructure, energy generation and transmission and mineral extraction, and clause d recognises tangata whenua needs for papakāinga, marae and associated developments.

Policy 6 of the NZCPS states:

Activities in the coastal environment

(1) In relation to the coastal environment:

- (a) recognise that the provision of infrastructure, the supply and transport of energy including the generation and transmission of electricity, and the extraction of minerals are activities important to the social, economic and cultural well-being of people and communities;*
- (b) consider the rate at which built development and the associated public infrastructure should be enabled to provide for the reasonably foreseeable needs of population growth without compromising the other values of the coastal environment;*
- (c) encourage the consolidation of existing coastal settlements and urban areas where this will contribute to the avoidance or mitigation of sprawling or sporadic patterns of settlement and urban growth;*
- (d) recognise tangata whenua needs for papakāinga, marae and associated developments and make appropriate provision for them;*
- (e) **consider where and how built development on land should be controlled so that it does not compromise activities of national or regional importance that have a functional need to locate and operate in the coastal marine area;***

- (f) *consider where development that maintains the character of the existing built environment should be encouraged, and where development resulting in a change in character would be acceptable;*
 - (g) *take into account the potential of renewable resources in the coastal environment, such as energy from wind, waves, currents and tides, to meet the reasonably foreseeable needs of future generations;*
 - (h) *consider how adverse visual impacts of development can be avoided in areas sensitive to such effects, such as headlands and prominent ridgelines, and as far as practicable and reasonable apply controls or conditions to avoid those effects;*
 - (i) *set back development from the coastal marine area and other water bodies, where practicable and reasonable, to protect the natural character, open space, public access and amenity values of the coastal environment; and*
 - (j) *where appropriate, buffer areas and sites of significant indigenous biological diversity, or historic heritage value.*
- (2) *Additionally, in relation to the coastal marine area:*
- (a) *recognise potential contributions to the social, economic and cultural wellbeing of people and communities from use and development of the coastal marine area, including the potential for renewable marine energy to contribute to meeting the energy needs of future generations;*
 - (b) *recognise the need to maintain and enhance the public open space and recreation qualities and values of the coastal marine area;*
 - (c) ***recognise that there are activities that have a functional need to be located in the coastal marine area, and provide for those activities in appropriate places;***
 - (d) ***recognise that activities that do not have a functional need for location in the coastal marine area generally should not be located there; and***
 - (e) *promote the efficient use of occupied space, including by:*
 - i. *requiring that structures be made available for public or multiple use wherever reasonable and practicable;*
 - ii. *requiring the removal of any abandoned or redundant structure that has no heritage, amenity or reuse value; and*
 - iii. *considering whether consent conditions should be applied to ensure that space occupied for an activity is used for that purpose effectively and without unreasonable delay.*
4. Within the WCRPS this wider policy direction from the NZCPS has been incorporated into Objective 2 and policies 2, 3 and 4 of the coastal environment chapter. The WCRPS has used the phrase "technical, functional or operational needs" in relation to renewable electricity generation (Policy 4) and in relation to wider subdivision, use and development in Policy 3. Considering the full text of Policy 6 I do not consider the objective or policies of the WCRPS to be inconsistent with the approach outlined in Policy 6 of the NZCPS.

[2] What is the Link between the Rules and Maps of the Scheduled Areas in this (and other) chapter(s).

- 5. The Plan was drafted so that Rules refer to schedules. For example : Rule CE – R5 "Buildings and Structures in the Coastal Environment within the High Coastal Natural Character Overlay as identified in Schedule Seven".
- 6. The schedules describe the areas but do not include the extent or boundaries.
- 7. To find out the extent of the scheduled areas one must look at the maps.
- 8. In response to submissions on the Coastal Environment Rules I have recommended that the part of the rule title "as identified in Schedule XX" be removed from the relevant rules. I consider this removes any confusion that only the schedules, not the maps, should be referred to.

9. As currently drafted there is no specific link between the rules and the maps, although sections of the Plan such as the "How the Plan Works" Chapter explain the link.
10. In order to address this issue I consider that the introduction to each of Schedules 1 – 8 should specifically state that the extent of the scheduled area is shown on the Planning Maps. I consider that as this is the current actual practice, addition of such a statement could be considered a Clause 16 amendment.
11. I recommend that the following statement be added as an Introductory statement to each of Schedules 1 - 8.

This schedule describes the areas identified as meeting the criteria of being a Historic Heritage Item or Area/Archaeological Site/Notable Tree/Site or Area of Significance to Māori/Significant Natural Area/Outstanding Natural Landscape/Outstanding Natural Feature/High Coastal Natural Character/Outstanding Coastal Natural Character. These areas are mapped on the Planning Maps which show the extent of the areas described in the schedule and to which the Rules apply.

Overlays vs Schedules

[3] Are Overlay areas only areas that are Scheduled? Is the Coastal Environment an Overlay?

12. The national planning standards creates the framework for overlays and these are described in the Relationship between Spatial Layers Chapter of the Introduction which lists the Overlays. This includes things like the Rifle Range Protection Area, Airport Approach Path Overlay and Airport Noise Contour Overlays as well as those overlays which are mapped and scheduled such as Outstanding Natural Landscapes.
13. The Relationship Between Spatial Layers section of the Plan will need to be updated as a consequential amendment to decisions on the overlays in the Plan. There are recommendations to add or amend overlays.
14. The Coastal Environment is an Overlay, but is not currently listed in the "Relationship between Spatial Layers" section. This is an error and scope is provided in the Forest and Bird submission to correct this error.
15. I recommend the following amendment to the Relationship between Spatial Layers Chapter as a result.

Overlays

Name	Description
Coastal Environment	<u>Extent of area that meets Policy 1 of the NZCPS. The coastal environment extends from Mean High Water Springs inland over the mapped area as shown on the Planning Maps.</u>

Overview

[4] Can I review the amended Overview text and confirm my recommended changes.

16. I have reviewed the overview text and confirm that the description of the NZCPS and its requirements could be improved. As the Overview has no statutory weight, I consider this change could be made as a Clause 16 amendment. I recommend the following amended text (changes from the s42A report highlighted in yellow)

Overview

The NZCPS also requires a high level of protective management protection of significant indigenous biodiversity and the avoidance of significant adverse effects on all indigenous biodiversity values in the coastal environment. Provisions for indigenous vegetation and biodiversity management within the coastal environment are located in the Ecosystems and Biodiversity Chapter

Objectives

[5] Can I please look at the submission of Forest and Bird and consider whether the Objectives sufficiently address the direction provided in the NZCPS.

17. The NZCPS Objectives have the following areas of focus that are not well addressed within the TTPP Coastal Environment objectives:
 - Coastal processes, ecosystems, coastal water quality, open space and recreation, public access, coastal hazard risks.
18. Of these matters, I consider that the coastal hazard risks are best addressed through the natural hazards chapter – which addresses these hazards, and their complex interface with river hazards on the West Coast.
19. Of the other matters, open space and recreation in the coastal environment is generally dealt with in the Open Space Zones Chapter, public access sits within the Public Access chapter, and coastal water quality is principally a regional council matter. I do consider that the objectives as currently drafted do not sufficiently recognise the direction in the NZCPS around coastal processes and ecosystems and consider that the submission of Forest and Bird provides scope to address this.
20. I also note that Objective 1 does not specifically reference natural features and consider that this should also be remedied.
21. I therefore recommend that Objective 1 and 3 be amended to refer additionally to coastal processes and ecosystems as shown below.

CE - 01

To preserve the natural character, landscapes, natural features, coastal processes, ecosystems and biodiversity of the coastal environment and protect these values from inappropriate subdivision, use and development while enabling people and communities to provide for their social, economic and cultural wellbeing ~~in a manner appropriate for the coastal environment.~~

CE - 03

To provide for activities which have a functional need or operational need to locate in the coastal environment ~~in such a way~~ while ensuring that the ~~impacts~~ adverse effects on natural character, landscape, natural features, coastal processes, access, ecosystems and biodiversity values are minimised.

[6] Objective 3 – does this recognise the need to avoid adverse effects on significant values and significant adverse effects on other values? Is there scope to address cumulative effects in the Objectives?

22. I have checked the submission of Frida Inta and I consider that it does not provide any scope to address cumulative effects in the Objectives.
23. The submission of Forest and Bird - and specifically submission point S560.002 seeks that this chapter be amended to give effect to the NZCPS. I consider this does provide some scope to amend the objectives (and policies) to address cumulative effects as NZCPS specifically addresses cumulative effects in Policies 4 and 7 as follows:

NZCPS Policy 4 Integration

Provide for the integrated management of natural and physical resources in the coastal environment, and activities that affect the coastal environment. This requires:

(a)...

... (c) particular consideration of adverse effects where:

(i) ...

...(v) significant adverse cumulative effects are occurring or can be anticipated.

NZCPS Policy 7: Strategic Planning

(1) ...

...(2) Identify in regional policy statements, and plans, coastal processes, resources or values that are under threat or at significant risk from adverse cumulative effects. Include provisions in plans to manage these effects. Where practicable, in plans, set thresholds (including zones, standards or targets), or specify acceptable limits to change, to assist in determining when activities causing adverse cumulative effects are to be avoided.

24. These policies relate to the anticipation of cumulative effects (Policy 4) and the need to include provisions to manage these (Policy 7) and in particular to provide thresholds in plans that assist in determining when activities causing adverse cumulative effects are to be avoided.
25. On this basis, and accepting that the submission of Forest and Bird provides scope, I recommend the following amendments to Objective 3:

CE - O3

To provide for activities which have a functional need or operational need to locate in the coastal environment in such a way while ensuring that the impacts adverse effects including cumulative adverse effects on natural character, landscape, natural features, coastal processes, access, ecosystems and biodiversity values are minimised.

Policies

[7] Can you please confirm which submissions Te Tumu Paroa have withdrawn and if it effects any recommendations.

26. Te Tumu Paeroa have withdrawn the following submissions:

- Introduction and General Provisions Topic S440.002
- Strategic Directions Topic S440.009, S440.011,
- Natural Features and Landscape Topic S440.031
- Sites and Areas of Significance to Māori Topic S440.017, S440.018, S440.019, S440.020, S440.021, S440.053
- Special Purpose Zones Topic S440.048
- Ecosystems and Biodiversity Topic S440.025, S440.026

27. This does not affect any recommendations in the Coastal Environment topic.

[8] In relation to Paragraph 107 Do I think that "minimise" as defined – equates to "more than minor or less than minor effects" (as outlined in the NZCPS policies).

28. I consider that minimise is less stringent than "avoid" but implies a greater degree of reduction of effects than "remedies or mitigates". In terms of the level of adverse effects which might arise from a "minimised" effect I consider that this will often sit within the "less than minor" effects framework – but this will not always be the case, as the term "where practicable" introduces an economic element to decision making.

[9] How have other Councils/District Plans dealt with Urban Areas in the coastal environment, including small townships.

29. I have undertaken analysis of the 6 most recent district plans (prepared consistent with the national planning standards) and where there is an urban area adjacent to the coast all but one of these identifies the extent of the coastal environment within urban locations. The approach in these plans is outlined in the table below.

Plan	Mapping Approach	Approach to Provisions
New Plymouth	Urban area included in coastal environment extent.	Urban Zones exempt from rules, but Objectives and Policies apply
Porirua	Urban area mapped in "landward extent of coastal environment".	Rules only apply to Outstanding Coastal Natural Character area, but Objectives and Policies apply to the whole coastal environment

Timaru	Urban area included in coastal environment extent.	Urban Zones exempt from rules, but Objectives and Policies apply
Far North	Urban area included in coastal environment extent.	Urban Zones exempt from rules, but Objectives and Policies apply
Wellington	Urban area included in coastal environment extent.	Rules apply to high coastal natural character, coastal and riparian margins. Some district wide coastal policies but also zone specific coastal policies
Auckland	Only coastline mapped.	Coastal setbacks apply

[10] How are Cumulative Effects addressed in the policies? Is there a need for further policy or amendment to existing policy and if so what scope is there for such amendments?

30. Cumulative effects are not identified in the coastal environment chapter, and there are no specific provisions to manage these. I consider this omission does not give effect to the NZCPS. The WCRPS does not provide any direction on the management of cumulative effects in the coastal environment – though it does include policy on this matter in relation to Outstanding Natural Landscapes.
31. In terms of scope to address this matter, as is discussed in [6] above, there is no scope from the submission of Frida Inta as this does not address cumulative effects in the coastal environment at all.
32. However I consider some scope is provided by the submission of Forest and Bird and recommend that the following Policies be amended to recognise cumulative effects as a specific adverse effect:

CE – P3 – clause b as follows:

b. Significant adverse effects, including cumulative adverse effects, on natural character, natural landscapes and natural features, and adverse effects on areas of significant indigenous biodiversity, areas of outstanding and high natural character and outstanding coastal natural landscapes and outstanding coastal natural features are avoided;

CE – P4 clause c as follows:

c. Adverse effects including cumulative adverse effects, on outstanding natural character, outstanding natural landscapes and outstanding natural features are avoided.

CE – P5 Clause g as follows:

g. Adverse effects, including cumulative adverse effects, on amenity, natural character, historic and cultural values, and biodiversity are appropriately managed

CE – P6 Clause v as follows:

- c. In areas of ~~outstanding~~ or high natural character:
- i. Provide for lawfully established land uses and activities to continue;
 - ii. Allow for other uses with a functional need or operational need to locate in the coastal environment;
 - iii. Allow for Poutini Ngāi Tahu ~~cultural uses~~ Activities and Māori Purpose Activities;
 - iv. Avoid encroachment into unmodified areas of the coastal environment; and
 - v. Ensure subdivision and development is of a scale and design where adverse effects, including cumulative adverse effects on the elements, patterns and processes that contribute to natural character are ~~minimised~~ avoided, remedied or mitigated.

[11] Can I provide an updated Policy 2 that addresses the omission of the words as identified in the DOC evidence.

33. The version of Policy 2 shown in the s42A report and appendix is missing the words "and protect these" – this is an error of omission and corrected below.

Preserve the natural character, natural features and landscape qualities and values of areas within the coastal environment and protect these from inappropriate subdivision, use and development that have:

a. ...

[12] Should the reference in Policy 3 "Poutini Ngai Tahu Activities" or "Cultural Purposes" ?

34. The definition of Poutini Ngāi Tahu Activities is "means the use of land and/or buildings for traditional Māori activities and includes making and/or creating cultural goods, textiles and art, medicinal and food gathering, waka ama, events, management and activities that recognise and provide for the special relationship between Poutini Ngāi Tahu and places of cultural importance."

35. This definition is narrower than "Māori Purpose Activities" which are provided for in the Policy where these are located on a Māori Purpose Zone in accordance with an Iwi Management Plan.

36. "Poutini Ngāi Tahu cultural purpose" is not defined, and I consider within this policy "Poutini Ngāi Tahu Activities" is appropriate.

[13] Can I make it clearer in Policy CE – P3 the matters where significant adverse effects – vs adverse effects, should be avoided.

37. Clause b could be split out into two parts – there is scope provided for this change in the Forest and Bird and Department of Conservation submissions. To be consistent with the changes to the Objectives outlined above, Policy CE – P3 should also reference ecosystems, biodiversity and coastal processes. An amended clause b is as follows:

- b. i. Significant adverse effects, including cumulative adverse effects on natural character, ecosystems, biodiversity, coastal processes, natural landscapes and natural features, and
- ii. adverse effects on areas of significant indigenous biodiversity, areas of outstanding and high natural character and outstanding coastal natural landscapes and outstanding coastal natural features

are avoided;

[14] How are minor or transitory effects policy in the RPS addressed

c. Policy 3 of the Coastal Environment Chapter of the WCRPS states:

Provide for subdivision, use or development in the coastal environment:

- a) *Which maintains or enhances the social, economic and cultural well-being of people and communities;*
- b) *Which:*
- i. *Requires the use of the natural and physical resources in the coastal environment; or*
- ii. *Has a technical, functional or operational requirement to be located within the coastal environment;*
- c) *Recognising that minor or transitory effects associated with subdivision, use and development may not be an adverse effect within those areas described in Policy 1.b).*
- d) *By allowing subdivision, use and development where the adverse effects are no more than minor within those areas described in Policy 1.c).*
- e) *By allowing lawfully established activities to continue provided the adverse effects are the same or similar in scale, character or intensity.*

d. This policy refers to Policy 1.c. which states

c. *Avoiding adverse effects on significant indigenous biological diversity, areas of outstanding natural character and outstanding natural landscapes and features; and*

- e. TTPP does not specifically address transitory effects in the coastal environment policy, however it gives effect to the policy by identifying the types of activities which could be appropriate and meet those tests within Policy CE – P3 in particular.
- f. I acknowledge however that the “avoid” component in CE – P3 clause b could be interpreted as not providing for minor or transitory effects that may not be adverse effects. The addition of cumulative effects to this policy could strengthen this interpretation.
- g. In terms of scope I consider that the submission of Westpower gives scope to address this matter as it seeks that the Plan is consistent with Policy 3 of Chapter 9 (coastal environment) of the NZCPS.
- h. I recommend that the following amendments are made to CE – P3 in order to address this issue.

CE – P3 – add an additional clause f as follows:

f. it has a minor or transitory effect that does not have an adverse effect on the area of significant indigenous biodiversity, area of outstanding or high natural character, outstanding natural landscape or outstanding natural feature.

[15] Can I respond to the written evidence of Kiwirail and NZTA with regard to Critical Infrastructure/RSI and providing for these in Policy 3

38. Kiwirail and NZTA provided evidence seeking that RSI be recognised in Policy 3. NZTA submitted evidence to the hearing that Policy 5 of the Coastal Environment Chapter of the WCRPS creates a framework that means RSI should be included in Policy. However Policy 5 of the Coastal Environment Chapter of the WCRPS is about sites of significance to Poutini Ngāi Tahu in the coastal environment and states:

To give effect to Objective 2 of Chapter 3 of this RPS, manage land and water use in the coastal environment in a way that avoids significant adverse effects (other than those arising from the development, operation, maintenance, or upgrading of RSI and local roads) and avoids, remedies or mitigates other adverse water quality effects on sites that are significant to Poutini Ngāi Tahu, including the following:

- a) *Estuaries, hāpua lagoons, and other coastal wetlands; and*
- b) *Shellfish beds and fishing areas.*

39. Chapter 3 of the RPS is Resource Management Issues of Significance to Poutini Ngāi Tahu, and the focus of this Objective 2 is ensuring that Poutini Ngāi Tahu cultural sites are recognised.

40. I therefore retain my view as expressed in the s42A report, that there is no policy direction in the NZCPS or the WCRPS which provides for critical infrastructure/regionally significant infrastructure within Outstanding areas of the coastal environment.

[16] CE – P5 – can I provide an updated recommendation on this policy addressing drafting issues and cumulative effects.

41. There is a drafting error in clauses e and g in terms of grammar and clause g should also refer to “significant” adverse effects, in order to be consistent with the WCRPS and the NZCPS. I recommend the following amendments to clause g to address this.

e. Are renewable electricity generation activities where the coastal environment is where the renewable electricity resource is available;

g Ensure that significant adverse effects, including cumulative adverse effects, on amenity, natural character, historic and cultural values, and biodiversity are appropriately managed

[17] CE – P6 – would it improve readability if the different types of areas were split into two policies?

42. Yes I consider it would be clearer if the two matters (development around the main towns, and development in areas of High Natural Character) were included in two policies. I propose redrafting as follows:

CE – P6

Recognise that there are existing settlements and urban areas located within the coastal environment of the West Coast/Te Tai o Poutini including ~~parts~~ **areas on the edges** of Westport, Greymouth and Hokitika and ~~in these areas~~ enable new subdivision, ~~buildings and structures~~ use and development within and expansion of towns and settlements where these ~~activities~~ are located in areas already modified by built development or primary production activities.

CE – P6A

In areas of ~~outstanding~~ or high natural character:

- i. Provide for lawfully established land uses and activities to continue;
- ii. Allow for other uses with a functional need or operational need to locate in the coastal environment;
- iii. Allow for Poutini Ngāi Tahu ~~cultural uses~~ Activities and Māori Purpose Activities;
- iv. Avoid encroachment into unmodified areas of the coastal environment; and
- v. Ensure subdivision and development is of a scale and design where adverse effects, **including cumulative adverse effects**, on the elements, patterns and processes that contribute to natural character are ~~minimised~~ avoided, remedied or mitigated.

[18] Policy 7 – should this policy be in the Public Access Chapter?

43. Regulation 22 of the National Planning Standards directs that all provisions in relation to public access must be located in the Public Access chapter, therefore this policy will need to be moved across and cross referenced.

[19] Is there any scope to amend Policy CE - P7 to better address Policy 19 of the NZCPS.

44. I have looked at the submission of Inger Perkins, West Coast Penguin Trust and Herenga ā Nuku Aotearoa Outdoor Access Commission and none of these submissions seek consistency with the NZCPS or amendments to reflect Policy 19 of the NZCPS. I do not consider there is scope to make these amendments.

[20] Can I respond to the written evidence of Transpower re Policy CE - P8 and also advise as to the extent that the Transpower network traverses the coastal environment

45. I have reviewed the extent of the Transpower designation. It includes areas within the coastal environment around Westport and Greymouth. While it passes through bush clad hills around Greymouth that are within the coastal environment it does not pass through any area of Outstanding Natural Landscape, Outstanding Natural Character or High Natural Character within the coastal environment. It does pass through a Site of Significance to Māori within the coastal environment.
46. Transpower in their tabled evidence seek that the notified version of CE – P8 be retained with only minor modifications. The amendment I recommended in the s42A report was in response to the submission of Frida Inta who considered there was duplication in the policies, however I am comfortable with retaining the “seek to avoid” limb of the policy as proposed by Transpower.
47. I note that the evidence of DOC raises issues with the term “upgrade” rather than “minor upgrade” being included in the first limb of the policy. I agree with the evidence of Mr Brass that the WCRPS refers to minor upgrade, and that it is a drafting error that the word “minor” is excluded.

48. I therefore recommend the following amendment to CE – P8.

CE - P8

Enable the maintenance, repair, and operation and **minor upgrade** of the National Grid. **Where new development and upgrades of the National Grid are required, seek to avoid and otherwise remedy or mitigate adverse effects on Overlay Chapter areas.**

[21] Is there scope for a new policy on restoration of the coastal environment? Would I support such a policy?

49. While I do consider such a policy could be useful, I have not found scope in any submission.

50. I have looked at the submissions of Inger Perkins, West Coast Penguin Trust and Frida Inta in relation to this. Frida Inta seeks expansion of the existing restoration policy in the Ecosystems and Biodiversity chapter, but does not seek any provisions around restoration in the coastal environment. There is also no scope provided in the submission of Inger Perkins or the West Coast Penguin Trust.

Rules

[22] Can you please look at the matters of discretion across the Restricted Discretionary Activity rule set and consider whether there is potential (as a Clause 16 amendment or as a result of submissions in another topic) to remove the duplication in relation to landscape matters.

51. I have reviewed my recommendations from the Landscape and Natural Features topic and have considered the matters of discretion for the following rules:

CE – R12
CE – R13
CE – R14
CE – R15
CE – R18
CE - RXXX

52. I consider that there could be some rationalisation of matters of discretion in the following areas:

CE – R12 [Natural Hazard Mitigation Structures and Earthworks] / CE – R13 [Māori Purpose Activities]

g. Landscape and visual effects

i. Location, dimensions and appearance of the structure

CE – R14 [Buildings and Structures]

f. Design and location of any buildings, structures or earthworks;

j. Landscape measures

CE – R15 [Buildings, Structures and Earthworks]

f. Design and location of any buildings, structures or earthworks

l. Landscape and visual effects; and

m. Location, dimensions and appearance of any structure

53. I consider that these matters could all be rationalised to the following:

"landscape and visual effects including design and location of any buildings, structures or earthworks"

[23] Can I consider Westpower's alternative wording for the Activity Status where compliance is not achieved regarding earthworks for Rule CE – R1

54. I consider Westpower's alternative wording for "activity status where compliance is not achieved" point 2 is clearer than the proposed wording in the s42A report. I recommend the wording for the advice note is amended to the following.

2. Where earthworks are proposed as part of maintenance and repair, refer to the Rules in the Earthworks Chapter.

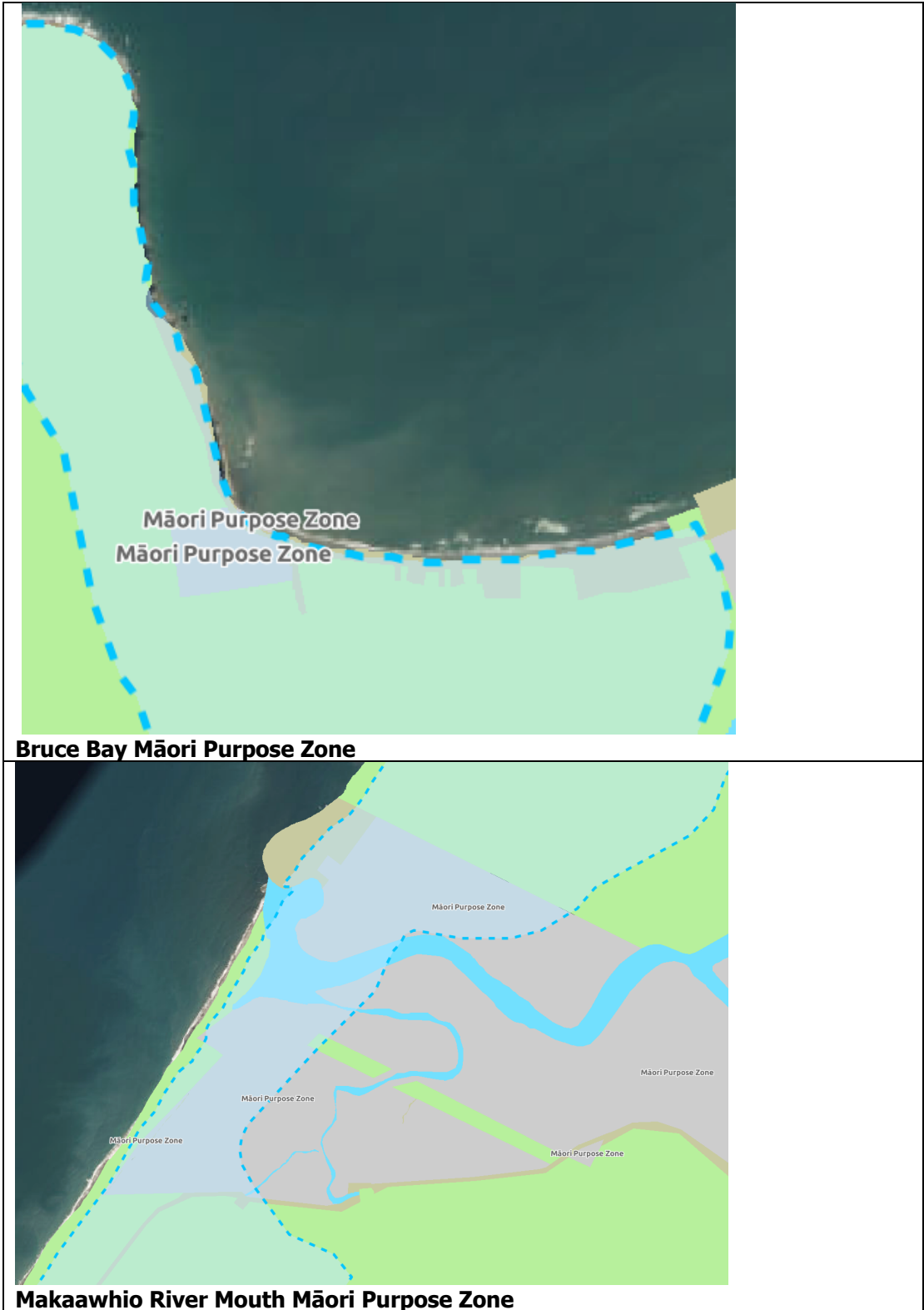
[24] What are the implications of the recommended changes to Rule CE – R3?

55. The major recommended change to Rule CE – R3 would be to exclude Outstanding areas from the Permitted Activity rule. In the notified Plan there are no areas of Outstanding Natural Landscape or Outstanding Natural Features within the coastal environment over Māori Purpose Zoned areas. As is discussed in the Landscape and Natural Features Right of Reply I do not recommend any expansion of this overlay over private land due to scope and natural justice issues.
56. I identify the areas of Outstanding Natural Character over areas of Māori Purpose Zone in the maps below. One of these is a historic urupa at Mahitahi Bruce Bay. I consider the impact of the rule change in this location would be minimal. The area has no legal or physical access other than by boat and is entirely bush covered. The foreshore area is subject to the Coastal Hazard Alert overlay. Development of this site for other than seasonal camping/nohoanga would seem very unlikely.
57. The second location is the mouth of the Makaawhio River. This is a much larger area and on a property where Ngāti Māhaki have development aspirations as it is the former location of a large settlement and where active development planning is underway. While much of this area is subject to the Coastal Hazard Alert overlay the removal of the Permitted Activity for Māori Purpose Activities in this location would restrict the ability of Ngāti Māhaki to exercise tino rangatiratanga over a site where they do have strong development aspirations.

[25] What are the Areas of Māori Purpose Zone that are covered by Outstanding Natural Character that would be affected by Rule 3 changes?

- b. The following are the locations of Māori Purpose Zone located in areas of Outstanding Natural Character:
- Bruce Bay – Maori Purpose Zone on the foreshore of the southern end of Bruce Bay
 - Makaawhio River Mouth – part of an area of Māori Purpose Zone around the river mouth

These areas are shown in the maps below:



58. I do note that the Bridget Gilbert revised mapping of the Outstanding Natural Character areas would mean that additional areas of outstanding natural character are located across part of the Hunts Beach/Manakiaua Māori Purpose Zone, however I do not consider that there is scope to include that change.

[26] Please address the inconsistency between Policy CE – P3 and Rule CE – R2 with regard to – Outstanding Areas and Poutini Ngai Tahu Values. Can you consider

whether the term “ancillary buildings” title of CE - R3 is more appropriate than “associated buildings”

59. I have considered the evidence of Ngāi Tahu, the information discussed above, and how I have addressed this matter at a policy level. I have also reviewed the NZCPS and in particular Policy 6 (d) which states:

(d) recognise tangata whenua needs for papakāinga, marae and associated developments and make appropriate provision for them;

60. In light of this, and the clear intention of TPPP to provide for tino rangatiratanga I no longer support the addition of the standard that Rule CE – R3 not apply to outstanding areas.

61. In relation to the term “Associated Buildings” I would support the alternative use of “Ancillary Buildings” as this is a defined term and removes uncertainty from the Plan.

62. My updated recommendations for the wording of the rule are for this to be as per the notified version with the addition of the reference to Ancillary Buildings as follows:

CE - R3 Māori Purpose Activities and Ancillary Buildings in the Coastal Environment Activity Status Permitted

Where:

1. These are Poutini Ngāi Tahu activities, including cultural harvest of vegetation, mahinga kai, collection of Pounamu, Aotea stone or rock; or
2. Māori Purpose Activities undertaken within the Māori Purpose Zone undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan that includes an assessment of, and mitigation of, impacts on the coastal environment values, including, where relevant, natural character, natural landscape and natural features

[27] Can I outline whether I consider there is able to be an allowance for larger farm buildings compared with residential dwellings in relation to Rule CE -R4

63. Having considered the evidence of Mr Coates and also the previous advice from Mr Brown around the loss of landscape values in some parts of the West Coast I do consider that farm buildings have different visual effects to residential dwellings and that some allowance could be made for larger farm buildings. I note that residential dwellings have significant associated infrastructure that adds to the visual effects – lighting, driveways, carparking areas, gardens and amenity plantings, and fences. Whereas farm buildings such as barns and silos are generally contained to the building and a yard area. Farm buildings are also less complex structures and as such do not draw the eye in the same way that complex residential dwellings can.

64. In terms of landscape degradation that has been identified on the West Coast in recent times, it has been fragmentation of areas with residential dwellings that has resulted in two landscape areas being “downgraded” from outstanding – the hills behind Greymouth, and part of the hills behind Barrytown. The colour size and shape of the residential dwellings (often light - reflecting colours and multi storey complex buildings) is a significant contributor to these. In addition residential buildings are often located to maximise views, and frequently protrude above the ridgeline, having greater visual effect in location.

65. By comparison agricultural/farming buildings with their simple forms are a common part of the coastal landscape and are less visually dominating.

66. I also note that because an economic farm is generally a much larger property size than a rural residential or lifestyle property, the density of farm buildings across the landscape is considerably lower than residential development.

67. In light of this I do consider that, differentiation between the two types of buildings could be appropriate. The General Rural Zone allows for 10m high buildings and there are existing rural buildings of this size within the coastal environment. Mr Coates provided useful evidence at the hearing as to the types of requirements for farming buildings that create a need for a taller building such as fertilizer silos.

68. The General Rural Zone does allow for very large footprint rural buildings, and I consider that some restriction in the coastal environment of size is still necessary to reduce the risk of loss of natural character and landscape values.
69. I have reviewed how this matter is dealt with in other recent district plans however, and I do find that there is a strong degree of restriction in building size and that no differentiation between residential and rural buildings is made. For example 4m/100m² (Selwyn District), 4m/150m² (Timaru), 5m/50m² (New Plymouth). By comparison the notified 200m²/7m height standard in the coastal environment in TTPP is relatively permissive.

[28] Can I clarify the requirements for structures in Rule CE – R4. Are there amendments to this rule which would make it clearer what the requirements are?

70. The standards for Rule CE – R4, where these are outside of the scheduled areas apply to new buildings only, not extensions. This is stated in standard a.i.
71. In terms of making the rule clearer, I consider adding an Advice Note would be useful as follows:

2. For the avoidance of doubt, within the General Rural, Rural Lifestyle, Settlement and Open Space and Recreation Zones, outside of scheduled areas, this rule regulates new buildings only, not structures, or any additions to existing buildings.

[29] Can I provide examples of setbacks from the coastal environment from other plans.

Plan	Setback Width from Coastal Environment
Waimakiriri	20m
Wellington	10m
Auckland	Variable by location – 40m in countryside living zone or 50m in other rural zones

[30] Re Rule CE – R8 – in light of the evidence presented at the hearing do I still support allowing a 50m² addition every 5 years? Is there a need for an overall maximum size within the rule?

72. In light of the evidence presented at the hearing I no longer support my s42A report recommended amendment to this rule and consider the 5 year provision should be removed.
73. While I would support an overall maximum size, I have reviewed the submissions on this rule and do not consider there is scope to make this change.
74. My revised recommended rule is as follows:

**CE - R8 Additions and Alterations to Lawfully Established Buildings and Structures in the Outstanding Coastal Environment Area
Activity Status Permitted**

Where:

1. The addition or alteration increases the building footprint or footprint of the structure by no more than 50m² in any 5-year time period;
2. The maximum height of any addition or alteration to a building and or structures above ground level is 5m above ground level or the height of the existing lawfully established building or structure.

[31] Can you consider the tabled evidence and whether that might alter your recommendations on the definition of Statutory Agency

75. I have considered the various pieces of technical evidence and agree that the definition proposed in the Introduction and General Provisions s42A report should provide for network utility operators. I recommend the following amendment to the proposed definition:

Statutory Agency: means in relation to construction of natural hazard mitigation structures, a District or Regional Council, Waka Kotahi – New Zealand Transport Agency, Transpower New Zealand, KiwiRail New Zealand, the Department of Conservation or any network utility operator.

[32] Regarding Rule CE – R15 can I respond to the DOC evidence on this

76. DOC have sought that two additional matters of discretion: Effects on ecological functioning and the life supporting capacity of air, water, soil and ecosystems; and. Effects on the intrinsic values of ecosystems; be added into this rule.
77. They argue that this would be consistent with Rule CE – R12 which relates to natural hazard mitigation structures. I had not supported these amendments as necessary given Rule CE – R15 principally relates to new buildings greater than 7m in height or 200m in area.
78. I accept however that tall buildings could impact on ecosystem values and ecological function, and that large buildings will likely result in more earthworks and disturbance of vegetation which could have consequential impacts on both these matters.
79. I therefore am satisfied that these are appropriate additional matters of discretion and recommend they are added to Rule CE – R15.

[33] Can I respond to the Westpower evidence in relation to the addition of Conservation Values as a matter of discretion in Rule CE – R14.

80. Westpower raise the concern in their evidence that the term “conservation values” should not be added as a matter of discretion as it is undefined and could significantly widen the matters of discretion. In considering their evidence I note that the matters generally considered within conservation values are already covered by the other matters of discretion eg public access, historic values, archaeological sites, ecological values and therefore the additional matter “conservation values” is not needed. I therefore recommend it not be included.

[34] Should CE – R5 be a Controlled Activity or be more restrictive as a mechanism to control cumulative effects?

81. The main submission providing scope to make CE – R5 more restrictive is that of Forest and Bird. Their submission does refer to NZCPS policies 13 and 15 but the major focus of their submission is concerns about application of this rule to network utilities, not just the National Grid. Overall I consider that there is not scope to make the rule in its entirety a Controlled Activity, or to (for example) amend the rule to restrict the increase in floor area from the date of notification of the Plan.

[35] Can you consider the issue of infrastructure upgrading in areas of High Natural Character.

82. In the evidence of Westpower Mr Kennedy refers to Policy 3 of Chapter 6 (Regionally Significant Infrastructure) which states:
“ When considering regional and district plan development and resource consent applications for regionally and nationally significant electricity transmission, distribution and renewable electricity generation infrastructure, have particular regard to the constraints imposed by the locational, technical and operational requirements of the infrastructure, including within areas of natural character (including outstanding natural character), outstanding natural features or landscapes, or areas of significant indigenous vegetation and significant habitats of indigenous fauna.”
83. This policy does support providing for regionally significant electricity transmission and distribution alongside the National Grid and renewable electricity generation in areas of high and outstanding natural character where these have locational, technical or operational requirements. The Westpower network does traverse some areas of High Natural Character in particular. As currently drafted in the s42A report Rule CE – R5 allows for new network

utility buildings and structures where they are associated with the maintenance, operation, minor upgrade and repair of the network utility.

84. In his evidence, Mr Kennedy is concerned at the lack of definition of "minor upgrade". This is remedied by my recommendation in the Landscape and Natural Features s42A report of a definition of minor upgrade as follows:

Minor upgrade means increasing the carrying capacity, efficiency, security, or safety of a network utility, or renewable electricity generation activity where the effects of the activity are the same or similar in character, intensity in scale as the existing structure or activity. This includes increasing generation, transmission or distribution capacity and includes replacing support structures within the footprint of existing lawfully established activities.

85. While the rule has a height limit of 7m for this Permitted Activity, I consider that, with the addition of the definition for minor upgrade, appropriate provision, which meets the requirements of the WCRPS, is made for electricity distribution activities within this rule.

[36] RE CE – R6 – Where is the scope for deleting clause 4 of this rule?

86. There is no submission on this specific clause in Rule CE – R4, however the s42A author for the natural hazards report recommend that this clause be deleted from the relevant rules in the NH chapter. I have recommended the deletion of clause 4 of CE – R6 in order to be consistent with the NH chapter, and effectively as a consequential amendment of that recommendation. However I have carefully reviewed the submissions on the natural hazards chapter and cannot find that there is scope provided by these submissions to delete the clause. I therefore no longer recommend the deletion of this clause.

[37] RE CE – R7 can I review the use of "existing" in amended clauses a and b?

87. In order to be consistent with other parts of the Plan it would be more appropriate to use the term "lawfully established" rather than existing.
88. However with the change to "lawfully established" I consider that there is a need to also refer to this being at the date of notification of the Plan, in order to avoid cumulative effects, and reflect the relief sought by the Department of Conservation. This is also consistent with the approach used in other rules.
89. I recommend these changes as follow:

**CE - R7 Earthworks within the Coastal Environment in the High Coastal Natural Character Overlay identified in Schedule Seven
Activity Status Permitted**

Where:

1. These are for:

- a. Operation, maintenance, repair and upgrade of existing walking/cycling tracks, roads, farm tracks or fences lawfully established at the time of notification of the Plan;
- b. Operation, maintenance, repair, upgrade of existing or installation of new network utility infrastructure or renewable electricity generation lawfully established at the time of notification of the Plan;
- c....

[38] Can I confirm the cascade for CE – R8

90. R8 – should cascade to R16 (Discretionary) not Restricted Discretionary.

[39] Could we delete the reference to "alterations" in the rules ?

91. Yes. I consider the reference to "alterations" is unnecessary as the rules do not actually regulate alterations in any way, it is additions that are regulated, as alterations do not

increase the building footprint -they are things like replacing windows with doors or changing roofing materials. The reference to "alterations" is in the following rules, and I consider could be deleted as a minor amendment.

CE – R8

CE – R9

CE – R11

[40] With regard to CE – R9 could the phrase "no reduction in public access" be replaced with "public access is maintained" as a Clause 16 amendment?

92. I have reflected on this – in that I think there is a difference between "no reduction in public access" and "public access is maintained". I think that "no reduction in public access is a higher bar. For example public access may exist in the form of an accessway to the coast with people able to walk along the beach at high tide. If the accessway was retained, but a retaining wall built on the beach, then there could be reduction in public access along the beach – but it could be argued that the threshold of "public access is maintained" could be considered to be met.

93. For this reason I would not support such an amendment.

[41] Is there any scope to address the uncertainty as a Permitted Activity of Clause 6 in Rules CE – R6 and Clause 5 in CE – R9? Can I review the recommended wording of the rules from a grammatical perspective.

94. A general principle of a Permitted Activity is that there should be no ambiguity about whether an activity is Permitted or not. As currently drafted these clauses which require an assessment to be provided confirming the effects are no greater than the originally lawfully established structure may not meet that test.

95. I do not consider these clauses could be deleted as a Clause 16 amendment, but it may be possible to redraft them to refer to a Certification process rather than an assessment and I have done so below. I consider that it is possible that this could be considered a Clause 16 minor amendment.

96. In terms of grammar I also propose some amendments to these clauses to help with readability.

97. My recommended amendments to Clause 6 Rule 6 to reflect these changes are as follows:

6. There is no change to more than 10% to the overall dimensions, orientation, height or length outline of the lawfully established structure from the consented structure, and an assessment is provided the structure is certified by a suitably qualified professional confirming that the effects of the activity are no greater than the consented lawfully established structure

98. My recommended amendments to Clause 5 Rule 9 to reflect these changes are as follows:

5. There is no change to more than 10% to the overall dimensions, orientation or outline of the lawfully established structure from that originally consented, or consented variation lawfully established, and an assessment is provided the structure is certified by a suitably qualified professional confirming that the effects of the activity are no greater than the originally consented or consented variation lawfully established structure; and

[42] Rule 10 – what is the cascade – does this go to Discretionary or Restricted Discretionary.

99. My recommendation in the s42A report is Discretionary - Appendix 1 is incorrect.

[43] Re CE - R10 – is there scope to add Māori Purpose Activities in a Māori Purpose Zone to Clause 5

100. While I would support such a proposal I cannot find specific scope to do so. Ngāi Tahu did not submit on this rule, and while there are submissions seeking that it be more permissive, these do not relate to Māori Purpose Activities or the Māori Purpose Zone.

[44] Rule CE - R11 – Can I rephrase this to make this clearer and consider further the evidence of Westpower in relation to this rule.

101. Reviewing the rule I recommend some clarification of the following standards:

- Standard 1 – that it refers to the existing land disturbed by the lawfully established activity or structure and that this should be lawfully established at the date of notification of the Plan
- Standard 2 – should refer to structures as well as buildings and the reference to alterations be deleted

102. The word “activities” is also missing in relation to renewable electricity generation.

103. Westpower provided evidence to the hearing that Regionally Significant Infrastructure should be included in the rule. Having reviewed the evidence I support this for the reasons outlined by Mr Kennedy.

104. I recommend the following amendments to the rule:

**CE - R11 Earthworks in the Outstanding Coastal Environment
Activity Status Permitted**

1. Where the earthworks are wholly contained within the existing footprint or modified ground disturbed by a lawfully established activity established at the time of notification of the Plan and these are for:

- a. Maintenance, repair or upgrade of lawfully established walking/cycling tracks, roads, farm tracks or fences; or
- b. Operation, maintenance, repair and upgrade of lawfully established Regionally Significant Infrastructure, network utility infrastructure or renewable electricity generation activities; or

2. Where the earthworks are for additions or alterations to lawfully established buildings or structures provided for in Rule CE – R8 where any fill, excavation or removal of material is not more than 100m²/ha and 100m³/ha

[45] Can I address the consistency in the order in all the rules for matters of discretion

105. Can I address the consistency in the order in all the rules for matter of discretion f (CE – R12/CE – R14, CE – R18), k (CE – R15). Re Rule CE – R12 / CE – R14/ CE – R15, CE – RXXX/CE – R18

[46] Re Rule CE – R12 can I address the issue raised by the Department of Conservation around heritage values as outlined in Paragraph 39 of the evidence of Mr Brass.

106. Reviewing Mr Brass’s evidence and how this matter of discretion has been considered in rules CE – R14 and CE - R15 I consider for consistency the appropriate reference is actually “historic heritage” as provided for in those other rules. This should also address the concern that Mr Brass has expressed that new heritage items could be identified through a consent process and therefore the assessment criteria should provide for this.

107. For reasons of consistency I also recommend a similar amendment to the assessment criterion in rules CE – R14, CE – R15, CE – R18 and CE – RXX. I also recommend a reordering of the wording of the assessment criterion so it is the same as the other rules as follows:

“The effects on Poutini Ngāi Tahu values; any archaeological sites, historic heritage or on any Site and Areas of Significance to Māori identified in Schedule Three”

[47] Can I provide additional 32AA analysis in relation to converting Rule CE – R12 from a Controlled to Restricted Discretionary Activity.

108. Rule CE – R12 relates to natural hazard mitigation structures in high natural character and outstanding environment areas. As notified the rule was a Controlled Activity in the limited circumstances of being to protect the coastal state highway, special purpose roads or critical infrastructure or as part of the construction of the Westport flood control scheme.
109. As part of the recommended amendments in the s42A report the rule no longer applies to the Westport Flood control scheme – which has now been largely designed and does not affect areas of high natural character or outstanding environment areas.
110. The rule still applies to the coastal state highway, special purpose roads and critical infrastructure. I have recommended that it be amended to be a restricted discretionary activity, largely as a consequence of ensuring that the Plan gives effect to the NZCPS. This has very clear direction in relation to areas of outstanding natural character – that adverse effects should be avoided, and on other natural character – that significant adverse effects should be avoided. In relation to areas of outstanding natural landscape it has a similar direction. The WCRPS also has a similar direction.
111. Because a Controlled Activity must be granted consent I considered that it was possible that some of the activities undertaken under this rule could have adverse effects on outstanding natural character/outstanding natural landscapes or significant adverse effects on areas of high natural character within the coastal environment. By not being able to decline consent in such situations, the NZCPS/WCRPS direction would not be given effect to.

Effectiveness and Efficiency

1. Making natural hazard mitigation structures for critical infrastructure in high and outstanding coastal areas a restricted discretionary activity better meets the direction in Section 6 of the RMA that the protection of natural character of the coast from inappropriate subdivision, use and development is a matter of national importance.
2. The increased restriction will be more effective at implementing the objectives of the Plan and in particular Objective CE – O1 which states "To preserve the natural character, landscapes, natural features, coastal processes, ecosystems and biodiversity of the coastal environment and protect these values from inappropriate subdivision, use and development while enabling people and communities to provide for their social, economic and cultural wellbeing."
3. Making natural hazard mitigation structures for critical infrastructure in high and outstanding coastal areas a restricted discretionary activity is also more effective in implementing the direction of the NZCPS Policy 13 and NZCPS Policy 15 and WCRPS Policy 1 of the coastal environment chapter. These policies direct that adverse effects on outstanding natural character and outstanding natural landscapes in the coastal environment be avoided, and that significant adverse effects on other natural character and landscapes be avoided.
4. Overall I consider that this change is more effective at implementing the direction provided by the RMA, NZCPS, WCRPS and the Objectives of the Plan.

Costs/Benefits

The proposed change of rule status enables activities to be declined consent, but the restricted discretionary status makes it clear what matters will be considered in any consent application.

I consider there is little difference in cost in developing a resource consent application for a controlled vs restricted discretionary activity, but the change in activity status may result in costs being incurred by the applicant in terms of directing them towards design options that have a lesser impact on natural character and landscape values, and in the extent of consent conditions that an application might receive.

The proposed change of rule status will provide benefits to the community in that they can be confident that the areas of high and outstanding natural character, and outstanding landscape within the coastal environment and the aesthetic, cultural and sense of place values provided by these valued areas is more likely to be retained in the community.

Overall I consider that the potential costs of these proposals are outweighed by the benefits.

Risk of Acting/Not Acting.

I consider that there is certain and sufficient information about the effect of this change. The effect of a Restricted Discretionary Activity compared with a Controlled Activity is known, and the proposed matters of discretion are similar to the notified plan matters of control.

The increase in erosion and threats to the state highway in the coastal environment in particular has been significant over the last few years. This has resulted in some degradation of natural character and landscape values, particularly in Punakaiki where a very large rock protection work has been built to protect the state highway. Very substantial rock work has also been installed at Bruce Bay. Neither of these structures provides significant landscape or natural character mitigation, and are currently Permitted Activities under the operative plans. There have also been issues arising with wildlife impacts, in particular access by penguins to nesting areas. Given the erosive nature of the West Coast coastline, it is likely that further mitigation works will be designed and constructed in the future to protect other parts of the State Highway. If the natural character and landscapes of the coast are to be protected and significant adverse effects avoided, and adverse effects on high and outstanding areas are to be avoided, then I consider there is a risk of not acting and retaining the controlled activity approach.

Conclusion about the most appropriate option

I consider this recommended amendment is more appropriate in achieving the purpose of the RMA than the notified version of TTPP.

[48] When considering NZCPS requirements should Rules CE -R19, CE – R20 and CE – 21 be a Non-complying Activity? (No scope CE – R19)

5. I have reviewed the submissions and evidence in relation to these rules as well as the NZCPS. I consider there is little scope to amend Rule CE – 19 (Natural Hazard Mitigation Structures). No submitter has sought a change in activity status for this rule. I consider relying on general submissions to be more consistent with the NZCPS does not provide sufficient scope for such a change.
6. In relation to Rules CE – R20 (Afforestation) and CE – R21 (Earthworks) Forest and Bird (S560.0574 and S560.310) do seek that these rules be non-complying activities. Policy 15 of the NZCPS does require that adverse effects on Outstanding Natural Landscapes in the coastal environment be avoided and Policy 1 (b) of the coastal environment chapter of the WCRPS has a similar provision.
7. In relation to Rule CE – R20 I agree that afforestation within a high or outstanding area could result in adverse effects and I note that should any vegetation clearance be required (which is likely in a High Natural Character or Outstanding Environment Area), then this will also require a discretionary activity resource consent under the ecosystems and biodiversity rules. If the afforestation was in a Significant Natural Area it may fall into the category of a non-complying resource consent for indigenous vegetation clearance. I consider the existing rule framework therefore provides a combined framework across the two chapters which would enable any afforestation proposal to be appropriately assessed.
8. In relation to Rule CE – R21 I consider that the earthworks threshold for an activity being required to apply for a discretionary consent is very low -essentially any earthworks of any volume to establish a new activity not listed in Rule CE – R18 would trigger this rule. This could include many small scale activities that would not have an adverse effect on the Outstanding values. If this rule was to be made non-complying I consider that there is probably still a volume threshold of earthworks for a new activity that should be provided for as a discretionary activity.
9. In addition I note that making these rules non-complying would also require a supporting policy framework. Based on the evidence received I do not support this approach.
10. In relation to CE – R20, I had recommended that this be amended from "plantation" forestry as a potential clause 16 minor amendment and raised this matter within the s42A report. However since the hearing I have reflected on this further and I consider it is unlikely to meet that threshold. I therefore recommend the reference in Rule CE – R20 remain as applying to "plantation" forestry.

- [49] Re CE -R18 - Can we combine some of the matters of discretion as a Clause 16 amendment (some duplication in terms of earthworks).**
11. Reviewing the rule, I consider that matters of discretion g, and h, are overlapping and could be consolidated into one matter "design, location and area of earthworks"

- [50] Could I please provide a corrected version of CE - R22A**
12. As drafted in the s42A report, there are several errors in this rule, the reference should be "coastal environment area" and the word Restricted is missing from the title. It is also missing the activity status where compliance is not achieved. A corrected version is shown below.

CE – R22A

Buildings and Structures in the Outstanding Coastal Environment **Area not meeting Permitted or **Restricted** Discretionary Activity Rules**

Activity Status Non – complying

Activity status where compliance not achieved: N/A

- [51] Re Rule Subdivision R16 – can I outline how this rule would work and give examples of where it would apply,**
13. This rule would provide for, as a Discretionary Activity:
- Boundary adjustments and amalgamation of lots within the Outstanding Coastal Natural Character, but no new lots
 - New lots within Outstanding Natural Landscapes that are not Outstanding Natural Character (example location Griegs area north of Greymouth)
 - New lots within the High Natural Character overlay (eg Chesterfield Terraces, Arahura Rivermouth, Totara Lagoon)

Schedules

- [52] Can I provide an updated version of the natural character schedules which reflect recommended mapping changes.**
14. Bridget Gilbert has provided an updated set of schedules that are an attached appendix to her evidence provided with this Right of Reply.

Maps

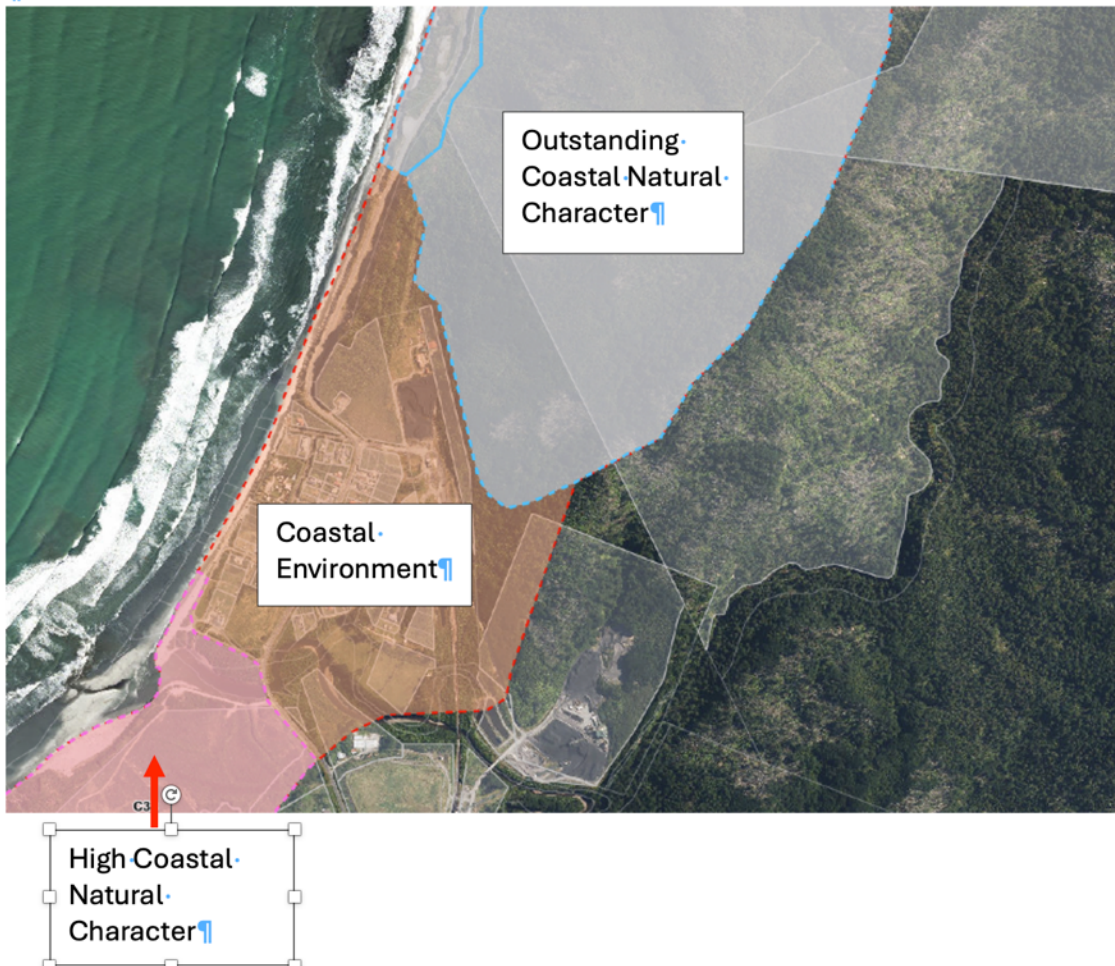
- [53] Can I provide information on how other Councils have dealt with the issue of property titles and zoning extending into the sea**
15. I have reviewed the following e-plans and conclude that it is standard practice to zone by land title, and that where this has eroded into the sea, these areas are still included in the zones. However it is normal to only map overlays to a more recently established coastline/mean high water springs.

Plan	Zones – how mapped where erosion has occurred	Overlays – where erosion has occurred
New Plymouth	All part of land title zoned, including area in the sea (eg land adjacent to New Plymouth Golf Course)	Overlays do not extend seaward beyond the mapped extent of the coastal environment. Coastal environment mapped to Mean High Water Springs.
Porirua	All part of land title zoned, including area in the sea (eg northern edge of Pauatahanui Inlet)	Some Amenity Landscape Areas mapped to land title boundaries – includes eroded land now in the sea

Timaru	All part of land title zoned, including area in the sea (eg coastline south of Redruth)	Some Light Protection Areas mapped to land title boundaries – includes eroded land now in the sea
Far North	All part of land title zoned, including area in the sea (eg coastline south of Opuia Marina)	Overlays do not extend seaward beyond the mapped extent of the coastal environment. Coastal environment mapped to Mean High Water Springs.

[54] Can Ms Gilbert review the evidence and mapping in relation to the Birchfield Coal and WCRC submissions and evidence

16. Bridget Gilbert has reviewed the mapping in relation to the Birchfield Coal site and proposes the following amendment. I have confirmed with Birchfield Coal that this meets their concern in relation to the boundary of the Outstanding Natural Character area. However they note that they still oppose the recommended boundary for the Coastal Environment.



17. Bridget Gilbert has reviewed the mapping in relation to the West Coast Regional Council sites and proposes the following amendments. I have confirmed with West Coast Regional Council that this meets their concern in relation to the boundary of the relevant Outstanding and High Natural Character areas.

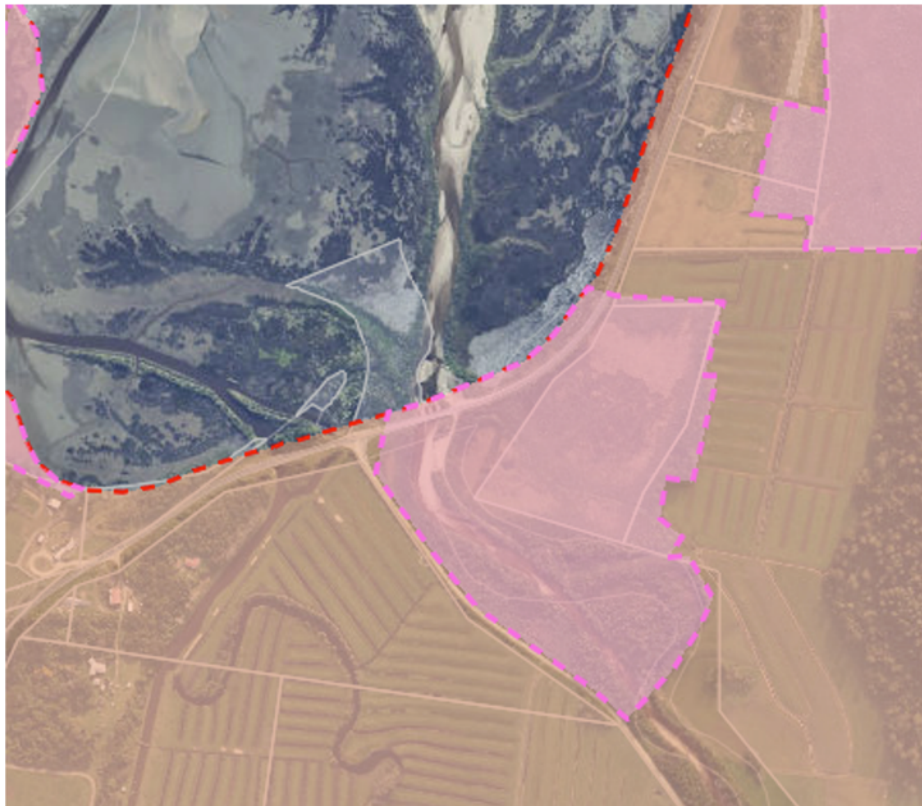
Karamea River Revised HNC mapping



Key – orange is High Natural Character Area – Pink is the Coastal Environment.

Granite Creek Revised HNC mapping

Updated Overlays - correction to mapping of MHWS means that the overlay does not apply to the infrastructure.



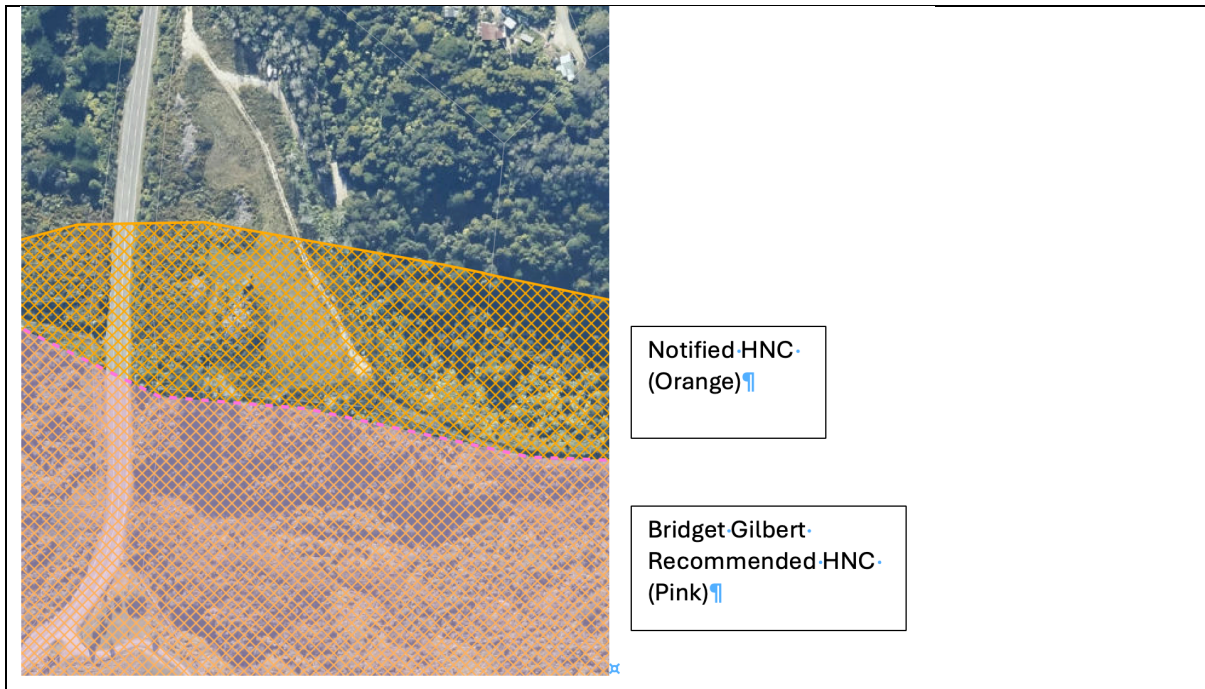
Mohikini River Revised HNC mapping



Key – Outstanding Natural Character is Blue, Rest of area is Coastal Environment (no Overlays)

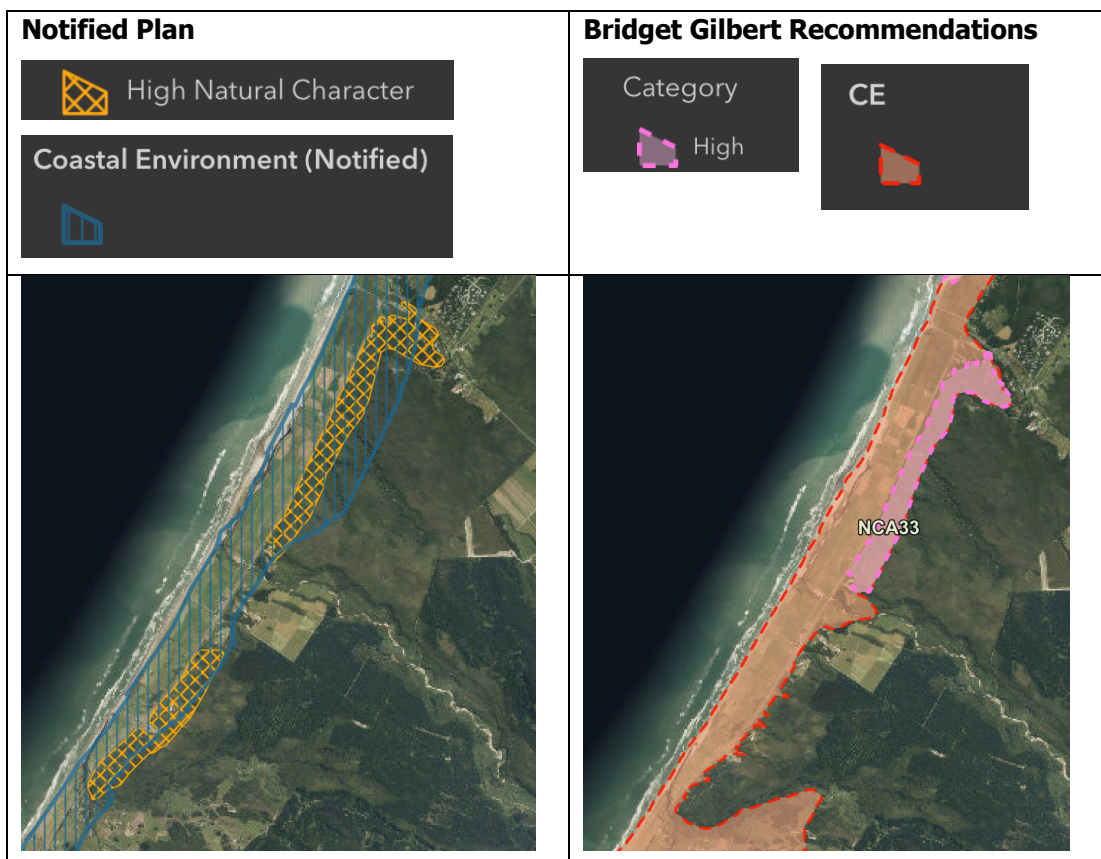
[55] Can I respond to Dean de Mielo’s tabled evidence and the boundary of the OCNC.

18. Ms Gilbert has reviewed the tabled evidence and the aerial photography. Her final recommendation on the OCNC in this area is shown on the map below:



[56] Can the Chesterfield Terrace NCA 33 mapping be reviewed.

19. Ms Gilbert has reviewed the mapping and with the use of contour information has provided a final recommendation on the boundary for both the HNC and the Coastal Environment in this area. She has recommended that the Coastal Environment be reduced in its extent to the terrace edge in the southernmost terrace. This has the effect of removing part of the area of High Natural Character (as it is no longer in the Coastal Environment) as sought by the submitters and shown in the maps below.



[57] Can I confirm what size islands need to be zoned.






20. I have sought advice on this from the Department of Conservation and Ministry for the Environment. Their advice is there is no minimum size – all land above mean high water springs and within the 12 mile limit of the West Coast must be zoned.



[58] What is the scope on increasing the extent of areas of Outstanding Coastal Natural Character and High Natural Character?

21. The following submissions provide scope to review/alter the areas of Outstanding Natural Character and High Natural Character:
- i. *Grey District Council (S608) S608.843 Remove the Overlays, review/reassess, check for accuracy and apply to the properties that they relate to only.*
 - ii. *Brian Anderson (S576) S576.018 Amend Outstanding Coastal Natural Character boundaries based on landscape values, not the underlying land tenure.*
22. These submissions are generic and, as outlined in the legal advice provided around ONLs, I consider do not provide for wholesale changes which increase the extent of HNCs and ONCs.

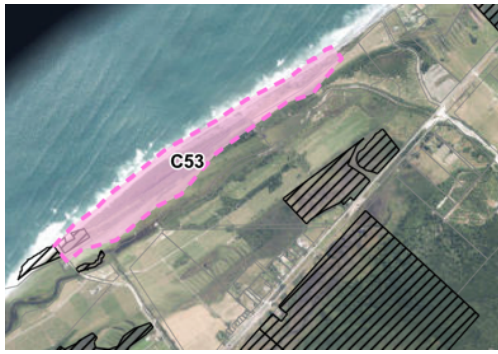
23. In most circumstances the review undertaken by Ms Gilbert has reduced the area of HNC/ONC that affects private land, however in the following locations her recommendation is to increase the extent of HNC/ONC that affects private land:

Key

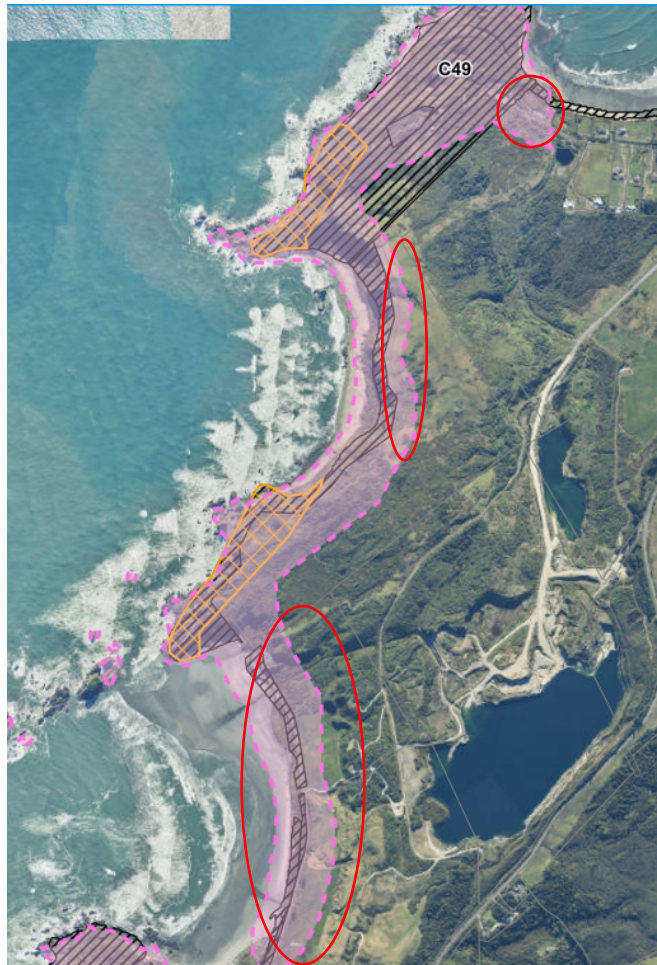
<p>Outstanding Coastal Natural Character and High Coastal Natural Character (Notified)</p> <p> High Natural Character</p> <p> Outstanding Natural Character</p>	<p>BG ONC HNC Areas October 2024</p> <p>Category</p> <p> High</p> <p> Outstanding</p>	<p>DOC Protected Area</p> <p></p>
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<p>NCA59 - Karamea North/Oparara</p> 	<p>NCA54 - Mokihinui</p> 
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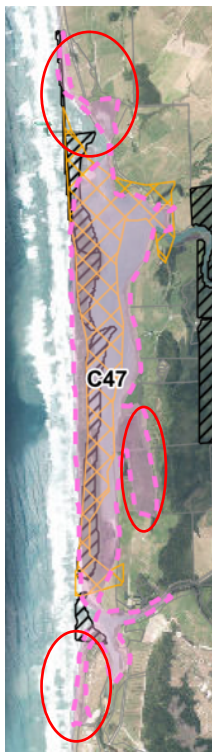
NCA53 – New HNC Area Birchfield



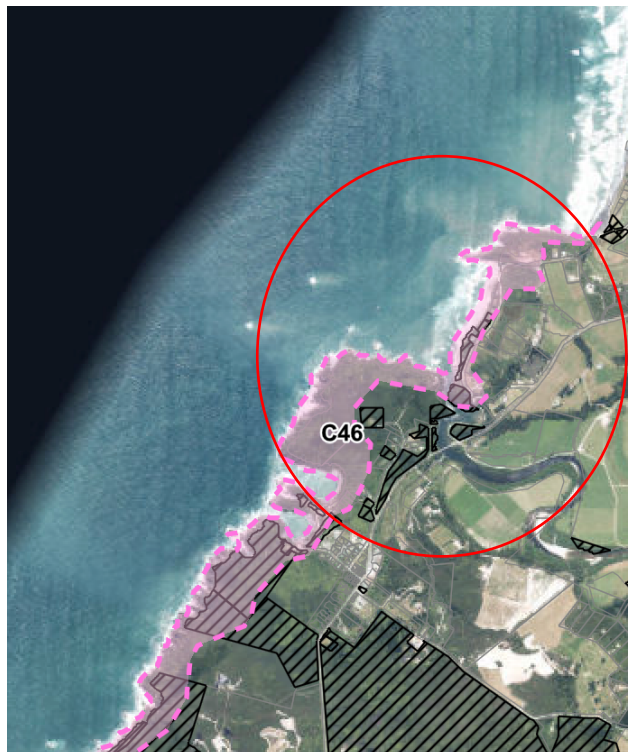
NCA 49 -Cape Foulwind – Tauranga Bay



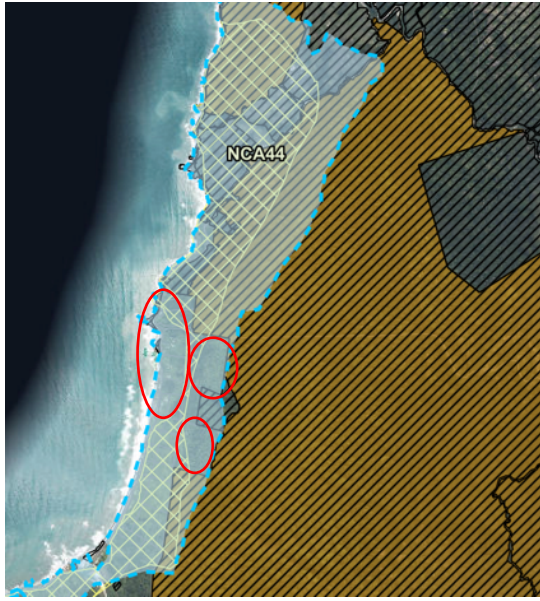
NCA 47 – Okari



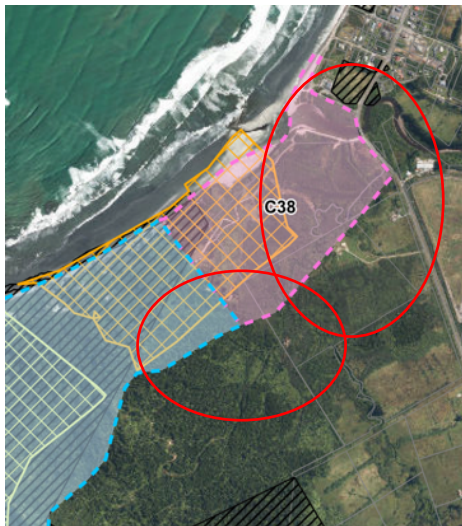
NCA 46 New HNC Area Charleston



NCA 44 Fox River



NCA 38 Rapahoe



NCA 37 Cobden



NCA34 Taramakau River



NCA32 Arahura River



NCA31 Totara Lagoon



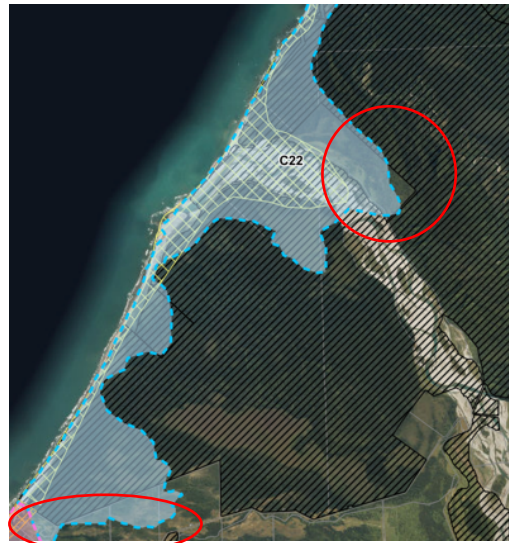
NCA30 Mikonui



NCA28 Ianthe



NCA22 Karangarua



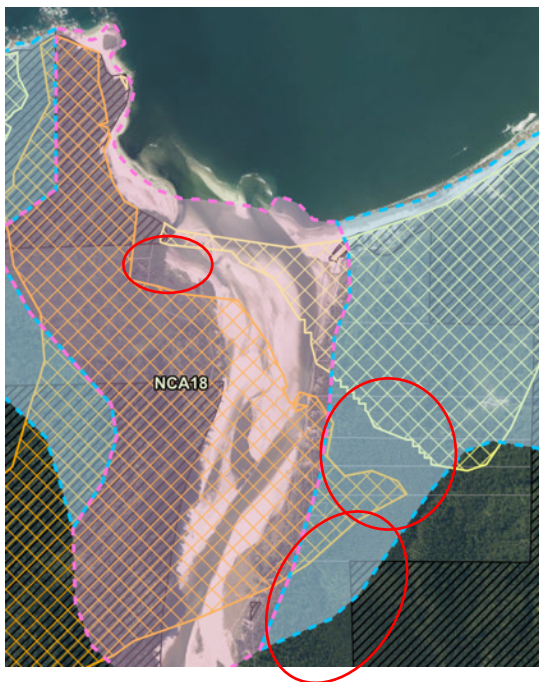
NCA 20 Bruce Bay



NCA 19 Bruce Bay



NCA 18 at Paringa River



NCA 14 at Moeraki River



NCA 10 at Okuru



24. Generally I consider that where the increased size of HNC/ONC area covers public conservation land, these amendments should be included within TTPP as part of the current process with scope specifically provided by Brian Anderson S576.018.
25. There are also locations (eg NCA 37 Cobden) where submitters have sought a review of the boundaries and therefore I consider there is scope within the submissions to make the changes.
26. Where the recommendations would increase the area of private land/introduce new areas of private land affected, and the scope provided by the generic submissions is, I consider, insufficient to provide for natural justice, I recommend that only changes which do not increase the area of private land affected by the HNC/ONC are included. This affects the following locations/Natural Character Areas:
 - b. NCA 55 at Oparara
 - c. NCA 54 at Mokihinui
 - d. New NCA 53 at Birchfield
 - e. NCA 49 at Cape Foulwind and Tauranga Bay
 - f. NCA 47 at Okari
 - g. New NCA 46 at Charleston
 - h. NCA 44 at Fox River
 - i. NCA 38 at Rapahoe
 - j. NCA 34 Taramakau River
 - k. NCA 32 Arahura River
 - l. NCA 31 Totara Lagoon
 - m. NCA 30 at Mikonui River
 - n. NCA 28 Ianthe

- o. NCA 22 at Karangarua River
- p. NCA 20 at Bruce Bay
- q. NCA 19 at Bruce Bay
- r. NCA 18 at Paringa River
- s. NCA 14 at Moeraki River
- t. NCA 10 at Okuru

Recommendations

1. The following amendment is made to the Relationship between Spatial Layers Chapter:

Overlays

Name	Description
<u>Coastal Environment</u>	<u>Extent of area that meets Policy 1 of the NZCPS. The coastal environment extends from Mean High Water Springs inland over the mapped area as identified in the Planning Maps.</u>

2. That the following amendments are made to the Definitions:

Statutory Agency: means in relation to construction of natural hazard mitigation structures, a District or Regional Council, Waka Kotahi – New Zealand Transport Agency, Transpower New Zealand, KiwiRail New Zealand, the Department of Conservation or any network utility operator.

3. That the following amendment is made to the Overview section of the Coastal Environment Chapter:

Overview

The NZCPS also requires a high level of protective management protection of significant indigenous biodiversity and the avoidance of significant adverse effects on all indigenous biodiversity values in the coastal environment. Provisions for indigenous vegetation and biodiversity management within the coastal environment are located in the Ecosystems and Biodiversity Chapter

4. That the following amendments are made to the Objectives:

CE - O1

To preserve the natural character, landscapes, natural features, coastal processes, ecosystems and biodiversity of the coastal environment and protect these values from inappropriate subdivision, use and development while enabling people and communities to provide for their social, economic and cultural wellbeing in a manner appropriate for the coastal environment.

CE - O3

To provide for activities which have a functional need or operational need to locate in the coastal environment in such a way while ensuring that the impacts adverse effects including cumulative adverse effects on natural character, landscape, natural features, coastal processes, access, ecosystems and biodiversity values are minimised.

5. That the following amendments are made to the Policies:

CE – P2

Preserve the natural character, natural features and landscape qualities and values of areas within the coastal environment and protect these from inappropriate subdivision, use and development that have:

a. ...

CE – P3

b. i. Significant adverse effects, including cumulative adverse effects on natural character, ecosystems, biodiversity, coastal processes, natural landscapes and natural features, and

ii. adverse effects on areas of significant indigenous biodiversity, areas of outstanding and high natural character and outstanding coastal natural landscapes and outstanding coastal natural features

are avoided;

f. it has a minor or transitory effect that does not have an adverse effect on the area of significant indigenous biodiversity, area of outstanding or high natural character, outstanding natural landscape or outstanding natural feature.

CE – P4

c. Adverse effects including cumulative adverse effects, on outstanding natural character, outstanding natural landscapes and outstanding natural features are avoided

CE – P5

e. Are renewable electricity generation activities where the coastal environment is where the renewable electricity resource is available;

g Ensure that significant adverse effects, including cumulative adverse effects, on amenity, natural character, historic and cultural values, and biodiversity are appropriately managed

CE – P6

c. In areas of ~~outstanding~~ or high natural character:

i. Provide for lawfully established land uses and activities to continue;

ii. Allow for other uses with a functional need or operational need to locate in the coastal environment;

iii. Allow for Poutini Ngāi Tahu ~~cultural uses~~ Cultural Uses Activities and Māori Purpose Activities;

iv. Avoid encroachment into unmodified areas of the coastal environment; and

v. Ensure subdivision and development is of a scale and design where adverse effects, including cumulative adverse effects on the elements, patterns and processes that contribute to natural character are ~~minimised~~ avoided, remedied or mitigated.

CE – P8

Enable the maintenance, repair, and operation and minor upgrade of the National Grid. Where new development and upgrades of the National Grid are required, seek to avoid and otherwise remedy or mitigate adverse effects on Overlay Chapter areas.

6. That policy **CE – P7** is moved to the Public Access Chapter.

7. That the following amendments are made to the Rules:

CE – R1 Maintenance and repair of lawfully established structures, network utilities, renewable electricity generation, regionally significant infrastructure fence lines and tracks within the Coastal Environment

Activity Status Permitted

Where:

1.....

Activity Status where compliance not achieved: N/A

1. Refer to relevant rules for the High Coastal Natural Character Area and Outstanding Coastal Environment.

2. Where earthworks are proposed as part of maintenance and repair, refer to the Rules in the Earthworks Chapter Rules for specific zone – based requirements.

CE – R3

Māori Purpose Activities and Ancillary Buildings in the Coastal Environment

Activity Status Permitted

Where:

1. These are Poutini Ngāi Tahu activities, including cultural harvest of vegetation, mahinga kai, collection of Pounamu, Aotea stone or rock; or
2. Māori Purpose Activities undertaken within the Māori Purpose Zone undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan that includes an assessment of, and mitigation of, impacts on the coastal environment values, including, where relevant, natural character, natural landscape and natural features

CE – R4 Buildings and Structures in the Coastal Environment

Activity Status Permitted

Where:

1....

Advice Notes:

1. Refer to the Natural Hazards, Sites and Areas of Significance to Māori, Historic Heritage, Natural Character and Margins of Waterbodies Overlay Chapters and Zone Chapters for other rules in relation to buildings and structures in these areas.

2. For the avoidance of doubt, within the General Rural, Rural Lifestyle, Settlement and Open Space and Recreation Zones, outside of scheduled areas, this rule regulates new buildings only, not structures, or any additions to existing buildings.

CE – R6 Maintenance, Alteration, Repair and Reconstruction Upgrade of Natural Hazard Mitigation Structures and associated earthworks in the Coastal Environment within the High Coastal Natural Character Overlay identified in Schedule Seven

Activity Status Permitted

Where:

1. ...

3. There is no reduction in public access;

4. The materials used are the same as the original, or most significant material, or the closest equivalent provided that only cleanfill is used where fill materials are part of the structure;

5. Any upgrade of the structure The activity is undertaken by a Statutory Agency or their designated nominated contractor; and

6. There is no change to more than 10% to the overall dimensions, orientation, height or length outline of the lawfully established structure from the consented structure, and an assessment is provided the structure is certified by a suitably qualified professional confirming that the effects of the activity are no greater than the consented lawfully established structure

CE - R7 Earthworks within the Coastal Environment in the High Coastal Natural Character Overlay identified in Schedule Seven

Activity Status Permitted

Where:

1. These are for:

- a. Operation, maintenance, repair and upgrade of existing walking/cycling tracks, roads, farm tracks or fences lawfully established at the time of notification of the Plan;
- b. Operation, maintenance, repair, upgrade of existing or installation of new network utility infrastructure or renewable electricity generation lawfully established at the time of notification of the Plan;
- c. Installation of new network utility infrastructure where this is located within the boundary of a formed legal road; or
- d. Establishment of a building platform and access to a building site in an approved subdivision or where there is no existing residential building on the site; or
- e. Establishment of buildings permitted by Rule CE – R5; and
- f. Any fill, excavation or removal is not more than 250m²/ha and 250m³/ha.

CE - R8 Additions and Alterations to Lawfully Established Buildings and Structures in the Outstanding Coastal Environment Area

Activity Status Permitted

Where:

1. The addition or alteration increases the building footprint or footprint of the structure by no more than 50m² in any 5 year time period;
2. The maximum height of any addition or alteration to a building and or structures above ground level is 5m above ground level or the height of the existing lawfully established building or structure.

Advice Notes:

1. Any indigenous vegetation clearance or disturbance is subject to the relevant rules in the Ecosystems and Biodiversity Chapter.
2. Any earthworks are also subject to relevant rules in the Historic Heritage, Sites and Areas of Significance to Māori, Notable Trees, and Natural Character and the Margins of Waterbodies Chapters.

Activity status where compliance not achieved: Restricted Discretionary

CE - R9 Maintenance, Alteration, and Repair and Reconstruction of Natural Hazard Mitigation Structures within the Outstanding Coastal Environment Area

Activity Status Permitted

Where:

1. The structure has been lawfully established;
2. Earthworks and land disturbance are the minimum required to undertake the activity is contained wholly within the footprint of the mitigation structure;
3. There is no reduction in public access;
4. The materials used are the same as the original, or most significant material, or the closest equivalent provided that only cleanfill is used where fill materials are part of the structure;
5. There is no change to more than 10% to the overall dimensions, orientation or outline of the lawfully established structure from that originally consented, or consented variation lawfully established, and an assessment is provided the structure is certified by a suitably qualified professional confirming that the effects of the activity are no greater than the originally consented or consented variation lawfully established structure; and

6. The activity is undertaken by a Statutory Agency or their designated contractor.

Activity status where compliance not achieved: ~~Controlled~~ Restricted Discretionary

CE – R10 Erection of a Buildings ~~or~~ and Structures in the Outstanding Coastal Environment Area

Activity Status Permitted

Where the structure is:

1....

...

Activity status where compliance not achieved: Restricted Discretionary

CE - R11 Earthworks in the Outstanding Coastal Environment

Activity Status Permitted

1. Where the earthworks are wholly contained within the existing footprint or modified ground disturbed by a lawfully established activity established at the time of notification of the Plan and these are for:

- a. Maintenance, repair or upgrade of lawfully established walking/cycling tracks, roads, farm tracks or fences; or
- b. Operation, maintenance, repair and upgrade of lawfully established Regionally Significant Infrastructure, network utility infrastructure or renewable electricity generation activities; or

2. Where the earthworks are for additions or alterations to lawfully established buildings or structures provided for in Rule CE – R8 where any fill, excavation or removal of material is not more than 100m²/ha and 100m³/ha

Activity status where compliance not achieved: Restricted Discretionary

CE – R12 Natural Hazard Mitigation Structures and associated Earthworks in the Coastal Environment in High Coastal Natural Character Overlay Area ~~identified in Schedule Seven~~ and the Outstanding Coastal Environment not ~~provided for as a~~ meeting Permitted Activity standards

Activity Status ~~Controlled~~ Restricted Discretionary

Where:

1. Within the Outstanding Coastal Environment Area these are only to protect the coastal State Highway, Special Purpose Roads or other ~~Critical Infrastructure~~ Regionally Significant Infrastructure;
2. These are ~~Westport flood and coastal protection works constructed by a statutory agency or its authorised contractor.~~

Matters of control are ~~Discretion is~~ Restricted to:

- a. Effects on habitats of any threatened or protected flora or fauna species indigenous vegetation and habitats of indigenous fauna;
- b. Effects on the threat status of land environments in category one or two of the Threatened Environments Classification;
- c. Effects on ecological functioning and the life supporting capacity of air, water, soil and ecosystems;
- d. Effects on the intrinsic values of ecosystems;
- e. Effects on recreational values of public land;
- f. Effects on Poutini Ngāi Tahu values, any archaeological sites; or any historic heritage items identified in Schedule One or any Sites and Areas of Significance to Māori identified in Schedule Three;
- g. Landscape and visual effects including design and location of any buildings, structures or earthworks;
- h. Effects on natural character and natural features;
- i. Location, dimensions and appearance of the structure;

- j. Effects on public access to the coast; and
- k. Effects on the level of hazard risk created by the structure on other properties

Advice Note:

- 1. The rules in the Earthworks Chapter do not apply to Controlled Activities under Rule CE-R11.
- 2. This rule also applies to plantation forestry activities where this provision is more stringent than the NES-PF.

Activity status where compliance not achieved: ~~Restricted Discretionary except Discretionary where these are within the Outstanding Coastal Environment Area~~

CE - R14 Buildings and Structures not meeting Rule CE - R4 outside of the Outstanding Coastal Environment and Areas of High Coastal Natural Character Overlay identified in Schedule Seven

Activity Status Restricted Discretionary

Discretion is restricted to:

- a. Any requirements for landscape evaluation;
- b. The extent to which the site is visible from a road or public place;
- c. The effects on the natural character of the coast;
- d. The effects on Poutini Ngāi Tahu values; any archaeological sites, historic heritage or on any Site and Areas of Significance to Māori identified in Schedule Three;
- e. The effects on potential or current public access to the coast;
- f. Landscape and visual effects including dDesign and location of any buildings, structures or earthworks;
- g. Volume and area of earthworks;
- h. Area and location of any vegetation clearance;
- i. Impacts Adverse effects on biodiversity and conservation values; and
- j. Landscape measures;
- k. The effects on natural landscapes and natural features of the coastal environment; and
- l. The functional or operational needs of the activity.

Activity status where compliance not achieved: N/A

CE - R15 Buildings, Structures and Earthworks within the High Coastal Natural Character Overlay not meeting Permitted Activity Standards

Activity Status Restricted Discretionary

Discretion is restricted to:

- a. Any requirements for landscape evaluation;
- b. The extent to which the site is visible from a road or public place;
- c. The effects on the natural character of the coast;
- d. The effects on landscape and natural features of the coast;
- e. The effects on potential or existing public access to the coast;
- f. Landscape and visual effects including dDesign and location of any buildings, structure or earthworks;
- g. Volume and area of earthworks;
- h. Effects on habitats of any threatened or protected flora or fauna species indigenous vegetation and habitats of indigenous fauna;
- i. Effects on the threat status of land environments in category one or two of the Threatened Environments Classification;
- j. Effects on recreational values of public land;
- k. Effects on Poutini Ngāi Tahu values, any archaeological sites, historic heritage and any Sites and Areas of Significance to Māori identified in Schedule Three;
- l. Landscape and visual effects including design and location of any buildings, structures or earthworks; and
- m. Location, dimensions and appearance of any structure; Effects on the intrinsic values of ecosystems;
- n. Effects on ecological functioning and the life supporting capacity of air, water, soil and ecosystems; and

o. The functional needs or operational needs of the activity

Activity status where compliance not achieved: Discretionary

CE - R18 Earthworks within the Outstanding Coastal Environment Area not provided for as a Permitted Activity meeting Permitted Activity Standards

Activity Status Restricted Discretionary

Where:

1. These are for:
 - i. Walking/cycling tracks;
 - ii. Roads, farm tracks or fences;
 - iii. Installation of network utility infrastructure or renewable electricity generation activities; or
 - iv. For establishment of a building platform and access to a building site in an approved subdivision or where there is no existing residential building on the site; and

~~2. Earthworks are the minimum required to undertake the activity.~~

Discretion is restricted to:

- a. Any requirements for landscape evaluation;
- b. The extent to which the site is visible from a road or public place;
- c. Any effects on the values that make the site Outstanding;
- d. ~~Effects on habitats of any threatened or protected species~~ indigenous vegetation and habitats of indigenous fauna;
- e. Effects on the threat status of land environments in category one or two of the Threatened Environments Classification
- f. The effects on Poutini Ngāi Tahu values, any archaeological sites , historic heritage and any Sites and Areas of Significance to Māori identified in Schedule Three;
- g. Design and location and area of any earthworks;
- h. Volume and area of earthworks;
- i. Area and location of vegetation clearance;
- j. Landscape measures to reduce the visual effects on the values of the Outstanding Natural Landscape or Feature; and
- k. Where relevant, matters included within Policy NFL - P6;
- l. The effects on the natural character of the coastal environment;
- m. The effects on natural features and natural landscapes.

CE - R20 Afforestation with Plantation Commercial Forestry in the High Coastal Natural Character Overlay, the Outstanding Coastal Environment Area or any Significant Natural Area identified in Schedule Four in the Coastal Environment

Activity Status Discretionary

Advice Note:

1. When assessing resource consents under this rule, assessment against the relevant Coastal Environment, Ecosystems and Indigenous Biodiversity, Natural Features and Landscapes policies will be required.
2. This rule applies to commercial plantation forestry activities where this provision is more stringent than the NES - CF

Activity status where compliance not achieved: N/A

CE – R22A

Buildings and Structures in the Outstanding Coastal Environment Area not meeting Permitted or Restricted Discretionary Activity Rules

Activity Status Non - complying

Activity status where compliance not achieved: N/A

8. That the schedules are amended as per Bridget Gilbert's recommendations in the attached appendices.
9. That the maps are amended as per Bridget Gilbert's recommendations to the maps as outlined in her evidence and the attached appendices for the Coastal Environment.
10. That the maps are amended as per Bridget Gilbert's recommendations to the maps as outlined in her evidence and the attached appendices for the High and Outstanding Natural Character where these do not increase the area of private land affected by the HNC/ONC.