



# **Proposed Timaru District Plan Section 42A Report: Natural Hazards, Coastal Environment and Drinking Water Protection**

**Report on submissions and further submissions**

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**Date: 25 March 2025**

## Contents

### **Contents .....i**

### **List of Submitters and Further Submitters Addressed in this Report ..... v**

Original Submission.....v

Further Submitters .....vi

### **1. Introduction .....1**

1.1 Experience and Qualifications ..... 1

1.2 Purpose and Scope of this Report ..... 1

1.3 Supporting Evidence..... 4

1.4 Procedural Matters..... 4

### **2. Topic Overview.....5**

2.1 Summary of Relevant Provisions of the PDP ..... 5

2.2 Background to the Relevant Provisions..... 7

### **3. Overview of Submissions and Further Submissions.....8**

### **4. Relevant Statutory Provisions ..... 10**

### **5. Statutory Instruments..... 11**

### **6. Analysis and Evaluation of Submissions ..... 11**

6.1 Approach to Analysis ..... 11

6.2 Provisions where no change is sought ..... 12

6.3 Matters to be considered in other reports..... 13

### **7. Natural Hazards chapter ..... 14**

7.2 Natural Hazards – Waipopo Huts grouped submissions ..... 14

7.3 Natural Hazards – The Port of Timaru ..... 20

7.4 Natural Hazards – Definition of “Earthquake Fault Awareness Areas” ..... 23

7.5 Natural Hazards – Definition of “High Hazard Area” ..... 24

7.6 Natural Hazards – Definition of “Liquefaction Awareness Area” ..... 26

7.7 Natural Hazards – Definition of “Natural Hazard Mitigation Works” ..... 26

7.8 Natural Hazards – Definition of “Natural Hazard Sensitive Activity” ..... 28

7.9 Natural Hazards – Definition of “Overland Flowpath” ..... 31

7.10 Natural Hazards – New Definition of “Natural Hazard Areas” ..... 32

7.11 Natural Hazards – General..... 33

7.12 Natural Hazards – Introduction ..... 37

7.13 Natural Hazards – Objective NH-O1 Areas subject to natural hazards ..... 38

7.14 Natural Hazards - Objective NH-O2 – Regionally Significant Infrastructure ..... 41

7.15 Natural Hazards - Objective NH-O3 – Natural hazard mitigation works ..... 43

7.16 Natural Hazards – Policy NH-P1 – Identification of natural hazards and approach to management within natural hazard areas ..... 45

|      |   |     |
|------|---|-----|
| 7.17 | Natural Hazards - Policy NH-P3 – Role of natural features and vegetation .....  | 47  |
| 7.18 | Natural Hazards – Policy NH-P4 – Subdivision, use and development in Flood Assessment Areas, excluding high hazard areas and overland flow paths .....  | 47  |
| 7.19 | Natural Hazards - Policy NH-P5 – Subdivision and regionally significant infrastructure in Liquefaction Awareness Areas .....  | 51  |
| 7.20 | Natural Hazards - Policy NH-P6 – Subdivision and regionally significant infrastructure in Earthquake Fault Awareness Areas .....  | 52  |
| 7.21 | Natural Hazards - Policy NH-P8 – Overland Flow Paths .....  | 54  |
| 7.22 | Natural Hazards - Policy NH-P9 – Natural hazard mitigation works.....   | 55  |
| 7.23 | Natural Hazards - Objective NH-P10 – High Hazard Areas .....  | 58  |
| 7.24 | Natural Hazards - Policy NH-P11 – Regionally Significant Infrastructure .....   | 60  |
| 7.25 | Natural Hazards – New Policies .....  | 62  |
| 7.26 | Natural Hazards – New Rules .....   | 63  |
| 7.27 | Natural Hazards – NH-R1 Earthworks, excluding land disturbance and for natural hazard mitigation works .....  | 64  |
| 7.28 | Natural Hazards – NH-R2 Fences.....   | 70  |
| 7.29 | Natural Hazards - Rule NH-R3 - Natural hazard mitigation works - maintenance, replacement and upgrading .....   | 72  |
| 7.30 | Natural Hazards – NH-R4 Natural hazard sensitive activities or structures and additions to such activities or structures with a ground floor area of 30m <sup>2</sup> or more   | 75  |
| 7.31 | Natural Hazards – NH-R5 Regionally Significant Infrastructure - Maintenance, replacement and upgrading .....  | 80  |
| 7.32 | Natural Hazards – NH-R6 New Regionally Significant Infrastructure .....   | 83  |
| 7.33 | Natural Hazards – NH-R7 Natural Hazard Sensitive Activities and additions, new buildings, and structures with a ground floor area of less than 30m <sup>2</sup> (excluding Regionally Significant Infrastructure) ..... | 90  |
| 7.34 | Natural Hazards – NH-R8 Subdivision .....   | 92  |
| 7.35 | Natural Hazards – NH-R9 Natural hazard mitigation works, including associated earthworks - New .....  | 94  |
| 7.36 | Natural Hazards – NH-S1 Flood Risk Certificate .....  | 96  |
| 7.37 | Natural Hazards – NH-S2 Volume of earthworks .....  | 98  |
| 7.38 | Natural Hazards – Flood Assessment Overlay .....  | 99  |
| 7.39 | Natural Hazards – Other Natural Hazards Overlays / Planning Maps Submissions  | 105 |

## **8. Coastal Environment..... 109**

|      |  |     |
|------|--|-----|
| 8.1  | Coastal environment Overview .....   | 109 |
| 8.2  | Coastal Environment – Definition of “Amenity Planting” .....                 | 109 |
| 8.3  | Coastal Environment – General and Introduction.....                          | 110 |
| 8.4  | Coastal Environment – Objective CE-O1 - Coastal natural character .....      | 116 |
| 8.5  | Coastal Environment – Objective CE-O2 - Quality of the coastal environment.. | 116 |
| 8.6  | Coastal Environment – Objective CE-O3 - Kāti Huirapa values .....            | 117 |
| 8.7  | Coastal Environment – Objective CE-O4 – Coastal hazards .....                | 118 |
| 8.8  | Coastal Environment – Objective CE-O5 – Natural features and buffers .....   | 120 |
| 8.9  | Coastal Environment – Objective CE-O6 – Existing urban activities .....      | 121 |
| 8.10 | Coastal Environment – New Objective .....                                    | 123 |

|      |   |     |
|------|---|-----|
| 8.11 | Coastal Environment – CE-P2 Identifying areas of high coastal natural character   | 124 |
| 8.12 | Coastal Environment – CE-P3 Identifying coastal hazards .....   | 125 |
| 8.13 | Coastal Environment – CE-P4 Role of natural features and vegetation .....   | 127 |
| 8.14 | Coastal Environment – CE-P5 Coastal natural character matters.....  | 128 |
| 8.15 | Coastal Environment – CE-P7 Coastal natural character matters.....  | 130 |
| 8.16 | Coastal Environment – CE-P8 Maintain and/or enhance the quality of the coastal environment .....  | 131 |
| 8.17 | Coastal Environment – CE-P9 Anticipated activities.....   | 132 |
| 8.18 | Coastal Environment – CE-P10 Preserving the natural character of the Coastal Environment .....  | 134 |
| 8.19 | Coastal Environment – CE-P11 Preserve the natural character qualities of areas with Coastal High Natural Character .....                                    | 138 |
| 8.20 | Coastal Environment – CE-P12 Coastal Hazard Areas (excluding Regional Significant Infrastructure) .....   | 142 |
| 8.21 | Coastal Environment – CE-P13 Regionally Significant Infrastructure in Coastal Hazard Areas.....   | 145 |
| 8.22 | Coastal Environment – CE-P14 Hard engineering natural hazard mitigation within the Coastal Environment .....  | 146 |
| 8.23 | Coastal Environment – CE-R2 Plantation forestry .....   | 150 |
| 8.24 | Coastal Environment – CE-R4 Buildings and structures and extensions (excluding Regionally Significant Infrastructure and fences).....                       | 151 |
| 8.25 | Coastal Environment – CE-R5 Earthworks, excluding: earthworks for natural hazard mitigation works; and any land disturbance .....                           | 159 |
| 8.26 | Coastal Environment – CE-R6 land disturbance .....  | 163 |
| 8.27 | Coastal Environment – CE-R7 Regionally Significant Infrastructure - maintenance and upgrade.....  | 164 |
| 8.28 | Coastal Environment – CE-R8 Regionally Significant Infrastructure - New .....   | 169 |
| 8.29 | Coastal Environment – CE-R9 Natural hazard mitigation works, including earthworks - maintenance, replacement and upgrading.....                             | 173 |
| 8.30 | Coastal Environment – CE-R11 Subdivision.....   | 176 |
| 8.31 | Coastal Environment – CE-R12 Natural hazard mitigation works, including Earthworks - New .....  | 179 |
| 8.32 | Coastal Environment – CE-R13 Primary Production not otherwise specified in this chapter .....   | 182 |
| 8.33 | Coastal Environment – CE-R14 Quarrying/Mining Activity (excluding for natural hazard mitigation works or reclamation within or adjacent the Port Zone)..... | 183 |
| 8.34 | Coastal Environment – CE-S1 Height of buildings and structures.....   | 186 |
| 8.35 | Coastal Environment – CE-S2 Site coverage .....   | 187 |
| 8.36 | Coastal Environment – CE-S3 Building and structure external materials.....  | 189 |
| 8.37 | Coastal Environment – CE Planning Maps.....   | 189 |
| 8.38 | Coastal Environment – CE Coastal Erosion Overlay.....   | 191 |
| 8.39 | Coastal Environment – CE Coastal High Natural Character Areas overlay .....   | 193 |
| 8.40 | Coastal Environment – Sea water inundation overlay .....  | 195 |
| 8.41 | Coastal Environment – CE SCHED14 - Schedule of attributes - qualities of coastal high natural character areas.....  | 197 |
| 8.42 | Coastal Environment – Infrastructure within the CE not already covered.....   | 199 |

**9. Drinking Water Protection ..... 202**

|     |   |     |
|-----|---|-----|
| 9.1 | DWP Overview.....   | 202 |
| 9.2 | DWP – General and DWP-P2 .....  | 203 |
| 9.3 | DWP Chapter – DWP-R2 - Subdivision not connected to a community sewage system.....                    | 209 |
| 9.4 | DWP Chapter - Rules - DWP-R3 Mining or quarrying.....   | 212 |
| 9.5 | DWP Chapter - Rules - DWP-R5 Industrial Activities Including Rural Industry....                       | 212 |
| 9.6 | DWP Chapter - APP6 - Table 1 - Groundwater community drinking water supply protection distances ..... | 214 |
| 9.7 | DWP Chapter – Planning Maps – Drinking Water Protection Area Overlay.....                             | 215 |

**10. Conclusions ..... 216****Appendices**

No table of contents entries found. **Appendix 3. Evidence of Derek Todd on Coastal Hazards**

**Appendix 4: Evidence of Cyprien Bosserelle on Coastal Hazard**

**Appendix 5: Evidence of Yvonne Pfluger on Coastal Environment**

**Appendix 6: Evidence of Grant Hall on DWP**

**Appendix 7: Evidence of Neil Thomas on DWP**

**Appendix 8: Memo From Nick Griffiths (ECan) on the Flood Assessment Overlay**

**Appendix 9: Evidence of Kevin Kemp on the Flood Assessment Overlay**

**List of Tables**

No table of figures entries found.

**List of Tables in Appendices**

No table of figures entries found.

## List of Submitters and Further Submitters Addressed in this Report

### Original Submission

| Submitter Ref | Submitter Name  | Abbreviation              |
|---------------|---|---------------------------|
| 41            | Maze Pastures Limited   | Maze Pastures             |
| 42            | Timaru District Council   | TDC                       |
| 53            | Helicopters South Canterbury 2015 Limited                           | Helicopters Sth Cant.     |
| 60            | Milward Finlay Lobb   | MFL                       |
| 66            | Bruce Speirs  | Bruce Speirs              |
| 89            | Dairy Holdings Limited  | Dairy Holdings            |
| 106           | Minister / Ministry of Education                                    | MoE                       |
| 107           | Lineage Logistics New Zealand Limited                               | Lineage Logistics         |
| 140           | Southern Proteins Limited   | Southern Proteins         |
| 143           | Waka Kotahi NZ Transport Agency                                     | Waka Kotahi               |
| 156           | Royal Forest and Bird Protection Society                            | Forest and Bird           |
| 159           | Transpower New Zealand Ltd  | Transpower                |
| 162           | Enviro NZ Services Limited (formerly Enviro Waste Services Limited) | Enviro NZ                 |
| 165           | Fonterra Limited  | Fonterra                  |
| 166           | Penny Nelson, Director-General of Conservation, Tumuaki Ahurei      | Dir. General Conservation |
| 168           | Hilton Haulage Limited Partnership                                  | Hilton Haulage            |
| 169           | Road Metals Company Limited   | Road Metals               |
| 170           | Fulton Hogan Limited  | Fulton Hogan              |
| 172           | Silver Fern Farms Limited   | Silver Fern Farms         |
| 173           | Alliance Group Limited  | Alliance Group            |
| 174           | Rooney Holdings Limited   | Rooney, et al             |
| 191           | GJH Rooney  |                           |
| 249           | Rooney Group Limited  |                           |
| 250           | Rooney Farms Limited  |                           |
| 251           | Rooney Earthmoving Limited  |                           |
| 252           | Timaru Developments Limited   |                           |

| Submitter Ref | Submitter Name   | Abbreviation             |
|---------------|--|--------------------------|
| 175           | PrimePort Limited  | PrimePort                |
| 176           | Connexa Limited  | Connexa                  |
| 179           | Barkers Fruit Processors Limited                                   | Barkers                  |
| 181           | Opuha Water Limited  | OWL                      |
| 182           | Federated Farmers of New Zealand Inc.                              | Federated Farmers        |
| 183           | Environment Canterbury / Canterbury Regional Council               | ECan                     |
| 185           | Te Rūnanga o Ngāi Tahu   | Te Rūnanga o Ngāi Tahu   |
| 186           | Timaru District Holdings   | Timaru District Holdings |
| 187           | KiwiRail Holdings Limited  | KiwiRail                 |
| 189           | Waipopo Huts Trust   | Waipopo Huts             |
| 190           | North Meadows 2021 Limited and Thompson Engineering (2002) Limited | North Meadows            |
| 192           | Harvey Norman Properties (NZ) Limited                              | Harvey Norman            |
| 196           | BP Oil, Mobil Oil NZ Ltd, Z Energy                                 | BP Oil et al             |
| 208           | Spark New Zealand Trading Ltd                                      | Spark                    |
| 209           | Chorus New Zealand Ltd   | Chorus                   |
| 210           | Vodafone New Zealand Ltd / One.NZ                                  | Vodafone                 |
| 229           | Kāinga Ora - Homes and Communities                                 | Kāinga Ora               |
| 245           | Horticulture NZ  | Hort NZ                  |

### Further Submitters

| Submitter Ref | Further Submitter Name   | Abbreviation    |
|---------------|--|-----------------|
| 41            | Maze Pastures Limited  | Maze Pastures   |
| 55            | Alpine Energy Limited  | Alpine Energy   |
| 60            | Milward Finlay Lobb  | MFL             |
| 89            | Dairy Holdings Limited   | Dairy Holdings  |
| 90            | Hermann Frank  | Frank, H        |
| 94            | Port Blakely Limited   | Port Blakely    |
| 143           | Waka Kotahi  | Waka Kotahi     |
| 152           | Radio New Zealand Limited  | Radio NZ        |
| 156           | Royal Forest & Bird Protection Society fo New Zealand Inc. (Forest & Bird) | Forest and Bird |
| 159           | Transpower New Zealand Limited   | Transpower      |

| Submitter Ref | Further Submitter Name  | Abbreviation              |
|---------------|---|---------------------------|
| 165           | Fonterra Limited  | Fonterra                  |
| 166           | Penny Nelson, Director-General of Conservation Tumuaki Ahurei               | Dir. General Conservation |
| 169           | Road Metals Company Limited   | Road Metals               |
| 170           | Fulton Hogan Limited  | Fulton Hogan              |
| 172           | Silver Fern Farms Limited   | Silver Fern Farms         |
| 173           | Alliance Group Limited  | Alliance Group            |
| 175           | PrimePort Limited   | PrimePort                 |
| 183           | Canterbury Regional Council (Environment Canterbury)                        | ECan                      |
| 185           | Te Rūnanga o Ngāi Tahu  | Te Rūnanga o Ngāi Tahu    |
| 189           | Waipopo Huts Trust  | Waipopo Huts              |
| 196           | bp Oil New Zealand Limited; Mobil Oil New Zealand Limited; Z Energy Limited | BP Oil, et al             |
| 229           | Kāinga Ora - Homes and Communities  | Kāinga Ora                |
| 245           | Horticulture New Zealand  | Hort NZ                   |
| 247           | NZ Pork Industry Board  | NZ Pork                   |
| 259           | Gavin Ladbroke  | Ladbroke, G               |
| 261           | Davis Ogilvie (Aoraki) Limited  | Davis Ogilvie             |
| 270           | PH and MJ Evans   | Evans, P H and M J        |
| 271           | BG Property Limited   | BG Property               |
| 275           | John Chapman  | Chapman, J                |

## Abbreviations Used in this Report:

| Abbreviation | Means  |
|--------------|--|
| CE           | Coastal Environment  |
| Council      | Timaru District Council / territorial authority                  |
| CRPS         | Operative Canterbury Regional Policy Statement                   |
| CE Chapter   | Coastal Environment Chapter                                      |
| DIS          | Discretionary  |
| DWP          | Drinking Water Protection  |
| EIB          | Ecosystems and Indigenous Biodiversity                           |
| EW           | Earthworks   |
| HNC          | High Natural Character   |
| KDP          | Kaikoura District Plan   |
| MHF          | Major Hazardous Facilities                                       |
| NC           | Non-Complying  |
| NES-TF       | National Environmental Standard for Telecommunication Facilities |
| NFL          | Natural Features and Landscapes                                  |
| NH           | Natural Hazards  |
| NPS          | National Planning Standards                                      |
| NPS-ET       | National Policy Statement for Electricity Transmission           |



| Abbreviation   | Means  |
|----------------|--|
| NPS-REG        | National Policy Statement for Renewable Electricity Generation |
| ONC            | Outstanding Natural Character                                  |
| ONL            | Outstanding Natural Landscape                                  |
| Operative Plan | Operative Timaru District Plan                                 |
| PDP            | Proposed Timaru District Plan                                  |
| RDIS           | Restricted Discretionary                                       |
| RMA            | Resource Management Act 1991                                   |
| RSI            | Regionally Significant Infrastructure                          |
| SASM           | Sites and Areas of Significance to Māori                       |
| SDP            | Partially Operative Selwyn District Plan                       |
| SLR            | Sea Level Rise   |
| WDP            | Proposed Waimakariri District Plan                             |

## 1. Introduction

### 1.1 Experience and Qualifications

1.1.1 My name is Andrew Willis. I hold the qualifications of Bachelor of Science in Ecology and a Masters of Science in Resource Management (an accredited planning degree). I am a full member of the New Zealand Planning Institute (NZPI). I have almost 30 years' experience working as a planner for local and central government (in New Zealand and the UK), as well as planning consultancies. I have been the director of Planning Matters Limited (a town planning consultancy) since its inception in 2012. My relevant work experience for this s42A report includes, amongst other matters:

- Drafting / co-drafting or updating the Strategic Directions, Natural Hazards (NH), Transport, Coastal Environment (CE), Industrial, Stormwater and Energy and Infrastructure and Drinking Water Protection (DWP) chapters for the Proposed Timaru District Plan (PDP);
- Drafting the strategic directions, natural hazards and commercial and industrial provisions of the Proposed Waimakariri District Plan (WDP);
- Co-drafting and leading the review of the Canterbury Regional Policy Statement 2013 (CRPS); and
- Hearing submissions (as an independent hearings commissioner) on various chapters of the proposed Selwyn District Plan (SDP) and proposed plan changes to the Mackenzie District Plan (MDP).

1.1.2 I was not the original author of the NH, CE or DWP chapters covered in my s42A report, however I did evolve all three chapters in response to stakeholder comments on the draft chapters.

1.1.3 Although this is a Council hearing, I confirm that I have read the Code of Conduct for Expert Witnesses, contained in the Environment Court Practice Note 2023, and that I have complied with it when preparing this report. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person. Having reviewed the submitters and further submitters relevant to this topic I advise there are no conflicts of interest that would impede me from providing independent advice to the Hearing Panel.

### 1.2 Purpose and Scope of this Report

1.2.1 The purpose of this report is to provide the Hearing Panel with a summary and analysis of the submissions received on these topics and to make recommendations in response to those submissions, to assist the Hearing Panel in evaluating and recommending on the submissions.

1.2.2 This report is prepared under section 42A of the RMA in relation to:

- The Natural Hazards chapter;
- The Coastal Environment chapter;
- The Drinking Water Protection chapter; and
- Associated definitions, overlays and other related provisions.

1.2.3 This report considers the submissions and further submissions that were received in relation to the above topics. It includes recommendations to either retain provisions without amendment, delete, or amend the provisions, in response to these submissions. All recommended amendments are shown by way of strikeout and underlining in **Appendix 1** to this Report, or, in relation to mapping, through recommended spatial amendments to the mapping. Footnoted references (in **Appendix 1**) to the relevant submitter(s) identify the scope for each recommended change.

1.2.4 The conclusions reached and recommendations made in this report are not binding on the Hearing Panel. It should not be assumed that the Hearing Panel will reach the same conclusions having considered all the information in the submissions and the evidence to be brought before them, by the submitters.

1.2.5 As required under the National Planning Standards (NPS), coastal hazards are covered in the CE chapter, while all other natural hazards are covered in the NH chapter. In my opinion this approach is confusing and repetitious as: the same natural hazards exist both within and outside the coastal environment (e.g. the Sea Water Inundation Overlay stretches much further inland than the Coastal Environment Overlay – see Figure 1 below); some sites and zones include areas within and outside the coastal environment (e.g. the PORTZ – see Figure 2 below); and in addition, sea water inundation and freshwater flooding can combine and should be considered holistically as part of risk assessment and natural hazard management. I understand that in Canterbury, best practice is for flood modelling to consider flooding from all sources, be they rainfall, river overflow, sea water inundation or a combination, and I note that I am recommending later in this report that the definition of “high hazard area” be amended to consider flooding from all sources.

*Figure 1 – The Sea Water Inundation Overlay (red horizontal lines and titled Coastal High Hazard (Inundation) Area on the Planning Map legend) stretches further inland than the Coastal Environment Area (blue vertical lines)*

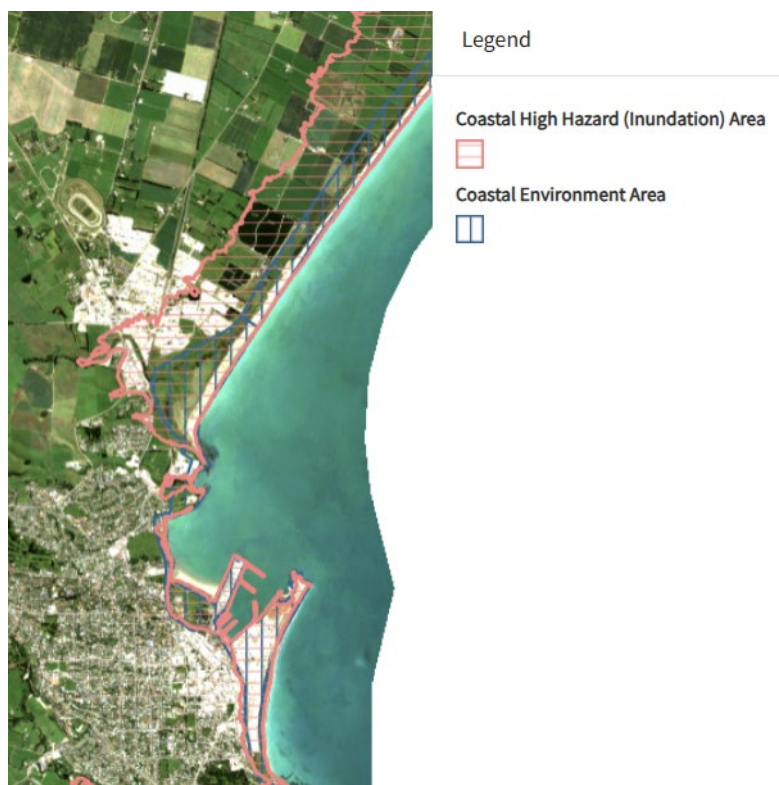
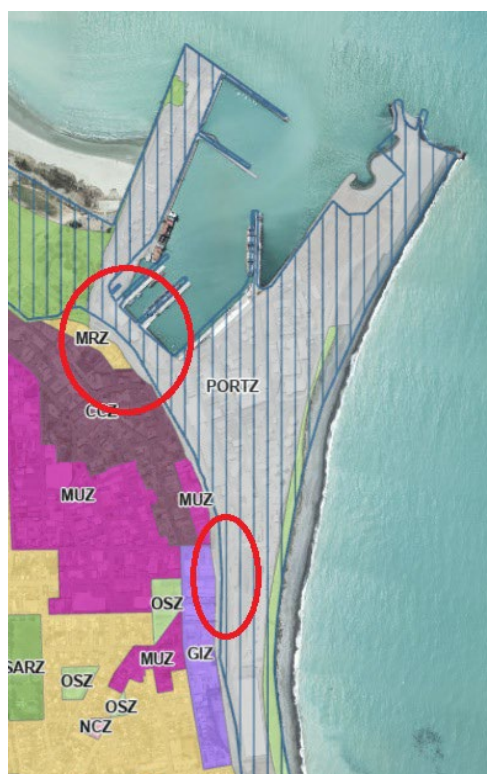


Figure 2 – The PORTZ is grey while the coastal environment is identified via the vertical blue lines. Red circles illustrate the PORTZ is covered by both the CE chapter natural hazards provisions (within the coastal environment) and the NH chapter provisions (outside the coastal environment)



- 1.2.6 In my opinion, all the natural hazards provisions should be contained within the NH Chapter only, with the CE chapter retaining non-natural hazards provisions. However, for the purposes of this s42A report I have kept the chapters separate at this time to match the PDP and the submissions. It is my intention to combine all natural hazards provisions in my Reply Report (as was proposed for the WDP). For clarity, as part of this, the separate Sea Water Inundation Overlay would be replaced by an expanded Flood Assessment Overlay that incorporates the sea water flooding. I have commented specifically on the Flood Assessment Overlay later in this report in response to the Memo from Mr Griffiths (attached as **Appendix 8**).

### **1.3 Supporting Evidence**

- 1.3.1 The expert evidence, literature, legal cases or other material which I have used or relied upon in support of the opinions expressed in this report includes the following:
- The Canterbury Regional Policy Statement (CRPS);
  - Various chapters within the PDP;
  - Relevant national policy statements;
  - The technical evidence of Derek Todd and Cyprien Bosserelle for coastal hazards;
  - The technical evidence of Yvonne Pfluger for landscape character matters in the CE Chapter;
  - The technical evidence of Grant Hall and Neil Thomas for the DWP Chapter;
  - The memo from Nick Griffiths on the Flood Assessment Area Overlay; and
  - The technical evidence of Kevin Kemp on the Timaru Urban Area component of the Flood Assessment Area Overlay.

### **1.4 Procedural Matters**

- 1.4.1 There are no outstanding procedural matters. At the time of writing this report there have been no pre-hearing meetings. However, I have had meetings and correspondence with the following submitters in relation to their submissions:
- ECan [183];
  - PrimePort [175] and Timaru District Holdings [186];
  - TDC [42].
- 1.4.2 Forest and Bird made a number of submissions on the EI and TRAN chapters seeking to include restrictions on infrastructure in the coastal environment ([156.63, 156.64, 156.65, 156.66, 156.67, 156.69, 156.70, 156.71, 156.72, 156.73, 156.74]). In my EI, TRAN and DWP s42A report (for Hearing Stream E) I recommended that these submissions be rejected as the CE Chapter (and all other District Wide Chapters) also applied to activities covered in the EI and TRAN provisions and it was those chapters that managed all activities within sensitive environments. I noted that the CE chapter already contains rules for Regionally Significant

Infrastructure (RSI) (e.g. CE-R7 and CE-R8) and buildings and structures (CE-R4) which would cover other infrastructure, as well as earthworks (CE-R5). As such, in my opinion there was no need to add in coastal environment infrastructure restrictions into the EI and TRAN provisions. Whilst that recommendation was correct for the EI and TRAN Hearing E s42A report, I considered it appropriate to reassess the submissions as part of this CE chapter hearing. To inform this reassessment I sought advice from Ms Pfluger (see the second half of Ms Pfluger's evidence attached in **Appendix 5**).

- 1.4.3 ECan [183.173] submitted on the definition of "Natural Hazard Sensitive Activity", however this submission was omitted in the Council's Summary of Submissions report. Because of this, the Council notified a summary of this ECan submission in February 2025 and one further submission was received (from NZ Pork [247.58FS]) in opposition.

## 2. Topic Overview

### 2.1 Summary of Relevant Provisions of the PDP

- 2.1.1 This section of the report provides a brief summary of the notified PDP provisions relevant to the topics covered.

#### *The Natural Hazards Chapter*

- 2.1.2 The purpose of this chapter is to protect people, RSI and property within the District from the worst effects of natural hazards and minimise the need for emergency services in hazard events, recognising that there may be occasions when some damage and loss of property cannot be avoided.
- 2.1.3 Due to its location and geology, the District is subject to a range of natural hazards including river flooding, coastal erosion and flooding, overland water flows, slope instability, earthquakes, liquefaction and tsunamis. Flooding is a particular issue for the district with frequent flood events impacting large areas.
- 2.1.4 The NH chapter contains policy direction to address the management of risk from non-coastal natural hazards throughout the District (natural hazards that are coastal hazards are addressed within the CE chapter). This chapter and associated planning map overlays identify a range of natural hazards and the level of risk they pose and applies rules to avoid risk to development and activities within areas that have been identified as high risk (both scale and probability) from natural hazards. A precautionary approach has been taken to areas where it is difficult to map different levels of flood risk and accordingly large areas, particularly of the General Rural Zone (GRUZ), are identified as Flood Assessment Areas. Therefore, some types of natural hazards may be mapped within the PDP (e.g. high flood risk areas), and others may be identified through either mapping or a certification approach within the Flood Assessment Area (e.g. overland flow paths).

- 2.1.5 Some hazards are only addressed at a policy level with related rules either included in a different chapter (for example, in relation to land stability and subsidence) or outside the PDP (e.g. tsunami).

***The Coastal Environment Chapter***

- 2.1.6 The intent of the CE chapter is to preserve the existing natural character of the CE and protect it from inappropriate subdivision, use and development. This intent is achieved through the application of a CE overlay, which applies more directive rules to development and activities within the coastal environment than would otherwise be applied in the underlying zones. The reason for this approach is that buildings, structures, infrastructure and earthworks have the potential to adversely affect the qualities that contribute to natural character, especially within those areas identified as having high natural character. Historic and passive activities such as non-intensive primary production, recreational walking and biking are able to continue as are existing urban zoned activities such as industrial activities, infrastructure and the Port of Timaru. The PDP policy framework also recognises the importance of the coastal environment to Kāti Huirapa and provides for activities such as customary harvesting.
- 2.1.7 This chapter also sets the policy direction, and includes rules, for the management of natural hazards risks arising from coastal hazards, as prescribed by the NPS. The intent is to minimise the risks to people and development from coastal hazards through appropriately locating new buildings or structures. The rules also acknowledge the Port of Timaru and its need to continue to develop and operate in an area of the coastal environment that is subject to significant coastal hazards. The PDP does not address managed retreat as it is unlikely to be achieved through it, but other actions are included so they can be considered through a consent process.
- 2.1.8 Timaru District's coastal environment is generally a narrow margin of land that lies between the coastal marine area and the farmed hinterlands. It is a dynamic environment that has been modified by human activity, such as the building of the railway line, but continues to be subject to active natural processes.
- 2.1.9 The coastal environment contains several waterbodies and wetlands including the Rangitata, Ōpihi and Ōrāri River mouths, and Waitarakao /Washdyke Lagoon that are important breeding, feeding and resting places for braided river birds, wading birds and seabirds as well as areas of indigenous vegetation. The Waitarakao/Washdyke Lagoon was a renowned culturally significant kaika mahika kai (food-gathering area) for local mana whenua.
- 2.1.10 In general, outside of Timaru township and the small settlements, the absence of buildings and structures means that remoteness and wildness can be experienced across much of the coastal environment.
- 2.1.11 Public access to the coast is limited, with a coastal walkway and Caroline Bay being the main ways in which people connect with the coastal environment. Even within the Timaru township itself, there is limited development within the coastal environment with the main township being located on rolling hills above the coast. This elevated position means that

extensive views of the coastal environment are available from the township and this contributes to the towns character, amenity and sense of place. The holiday huts at Milford and South Rangitata partly lie within the coastal environment.

### ***The Drinking Water Protection Chapter***

- 2.1.12 The District contains a number of community drinking water supplies and private drinking water supplies that provide its residents with drinking water and water for other domestic use. These supplies may be at risk of contamination from some land use and subdivision activities, and as such require protection to maintain the health and safety of the residents of the District.
- 2.1.13 When considering an application for a resource consent, section 104G of the RMA requires that a consent authority must have regard to:
- the actual or potential effect of the proposed activity on the source of a drinking water supply that is registered under section 55 of the Water Services Act 2021; and
  - any risks that the proposed activity may pose to the source of a drinking water supply that are identified in a source water risk management plan prepared in accordance with the requirements of the Water Services Act 2021.
- 2.1.14 While ECan is responsible for the control of discharges of contaminants into or onto land or water, the Timaru District Council manages land use and subdivision activities that may impact upon drinking water supplies. The Council has identified drinking water protection areas around community drinking water supplies. This protection overlay is referred to as the Drinking Water Protection Area Overlay. Protection is also given to private drinking water supplies, which are also mapped.

### ***Associated definitions***

- 2.1.15 The Definitions chapter includes definitions relevant to the above chapters. These are too many to list, but those submitted on are identified in **Appendix 2** and addressed in this chapter where required.

## **2.2 Background to the Relevant Provisions**

- 2.2.1 As with other chapters of the PDP, the review of these chapters involved: the identification of issues; community consultation via a discussion document; the development of provisions through collaboration amongst the Council's technical working group; community feedback on these through the draft Plan; and incorporation of updates responding to these comments reflected in the final PDP.
- 2.2.2 The key issues are identified in the supporting s32 reports, which also identify the relevant higher order statutory framework.



### 3. Overview of Submissions and Further Submissions

3.1.1 The full list of submission points addressed in this report are set out in **Appendix 2**. Overall, there were:

- 298 original submissions on the NH Chapter and 73 further submissions.
- 243 original submissions on CE Chapter and 66 further submissions.
- 28 original submissions on the DWP Chapter and 29 further submissions.

3.1.2 The submissions received on the chapters were diverse and sought a range of outcomes, with the key issues set out in the table below. These issues are assessed in the 'Analysis and Evaluation of Submissions' section of this report.

| ISSUE NAME   | SUMMARY OF ISSUE   | POSITION OF SUBMITTERS  |
|--|--|---|
| Natural hazards and Māori Reserves                                 | Some Māori Reserves are located in areas subject to natural hazards, for example the Waipopo Huts. These areas have been expressly set aside for kaika nohaka and for mahinga kai purposes, yet also have proposed restrictions for dwellings due to natural hazards. The two outcomes are potentially mutually exclusive.   | Some submitters seek to enable dwellings in the reserves, whereas other submitters seek to more strongly manage the natural hazard risks.                           |
| Natural hazards and the Port of Timaru                             | The Port of Timaru is required to be located in an area that interfaces the sea, however, this location exposes the Port to natural hazard risk (e.g. sea water inundation). There are also industrial activities that are not part of the Port, but are co-located for efficiency purposes (e.g. storage facilities and fish processing). The natural hazards provisions need to be cognisant of the Port's operational requirements and those of associated industrial activities. | Some submitters seek less restrictions on buildings and activities within the Port, whereas other submitters seek to more strongly manage the natural hazard risks. |
| Definition of natural hazard sensitive activity and thresholds for | The definition seeks to distinguish between activities that are sensitive to natural hazards from those that are not and uses some potentially arbitrary threshold as a way to   | Some submitters seek to delete or increase the FTE threshold, while others seek to replace it with alternative measures.  |

|   |   |   |
|---|---|---|
| when the rules apply  | distinguish activities on the basis of significance.  | Some submitters seek to increase the various permitted activity thresholds to enable bigger buildings to be built on land at risk of natural hazards.   |
| Flood Assessment Area Overlay   | The extent of the Flood Assessment Area Overlay   | One submitter seeks to enlarge the overlay to capture more properties that may be subject to flooding, whereas other submitters seek to remove specific properties from the Overlay.  |
| Water diversion and displacement  | The displacement and diversion of water creates / changes natural hazard risk and therefore needs to be managed. There are alternative ways to manage this.   | One submitter seeks to replace the earthworks and flood assessment certificate requirement for identifying displacement and diversion with a much simpler approach. Other submitters seek to amend the various earthworks thresholds to permit more earthworks. |
| Natural hazards mitigation works  | The provisions expressly provide for natural hazards mitigation works when undertaken by the Council, Regional Council or the Crown, as required by their functions and responsibilities, but requires consent for other parties. The PDP includes restrictions on these activities in other district wide chapters (e.g. the ECO, NFL, and NATC chapters). | Some submitters are seeking changes to the natural hazards mitigation works provisions to make them more permissive. Other submitters are seeking to amend these to better provide for existing flood schemes.  |
| Being more restrictive on buildings / structures in the coastal environment | Buildings and structures in the coastal environment can cause adverse effects, especially within areas of High Natural Character (HNC), but these are often required in these locations, especially RSI.  | Some submitters are seeking more restrictions in the coastal environment while others are seeking less.   |

|   |  |  |
|---|--|--|
| Duplication with ECan for drinking water protection       | ECan also regulates activities within drinking water protection areas and therefore there is potential for duplication to occur between the Land and Water Regional Plan (LWRP) and the PDP. | Some submitters seek amendments to remove restrictions on certain activities within DWP areas due to these already being covered by ECan and the LWRP. |
| Managing private drinking water bores                     | Whether to manage private drinking water bores.  | Some submitters seek to delete their private bores from the PDP, while others seek to add theirs.  |
| Industrial activities and drinking water protection areas | How to take into account of existing industrial activities within drinking water protection areas.   | Some submitters request their sites be excluded from the provisions due to existing industrial activities occurring.                                   |

## 4. Relevant Statutory Provisions

4.1.1 The assessment for the PDP includes the matters identified in sections 74-76 of the RMA. This includes whether:

- it is in accordance with the Council's functions (s74(1)(a));
- it is in accordance with Part 2 of the RMA (s74(1)(b));
- it will give effect to any national policy statement or operative regional policy statement (s75(3)(a) and (c));
- the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA (s32(1)(a)); and
- the provisions within the plan change are the most appropriate way to achieve the objectives of the District Plan (s32(1)(b)).
- In addition, assessment of the PDP must also have regard to:
  - any proposed regional policy statement, and management plans and strategies prepared under any other Acts (s74(2));
  - the extent to which the plan is consistent with the plans of adjacent territorial authorities (s74 (2)(c)); and
  - in terms of any proposed rules, the actual or potential effect on the environment of activities including, in particular, any adverse effect.

## 5. Statutory Instruments

- 5.1.1 The s32 reports for the chapters covered in this report set out the statutory requirements and relevant planning context for these topics. Given this, I have not repeated the relevant provisions from the higher order planning framework here. However, I have referred to them where relevant in response to submissions.

## 6. Analysis and Evaluation of Submissions

### 6.1 Approach to Analysis

- 6.1.1 This report covers three chapters. Two have been grouped together in this report and hearing stream for efficiency purposes and because they are related (e.g. the coastal environment also contains natural hazard provisions), while the DWP chapter was deferred from an earlier Hearing Stream. These chapters are addressed in turn in both the body of the report and in Appendices 1 and 2.
- 6.1.2 The submissions on the chapters raised some general issues, but were principally applied to a particular provision. I have therefore structured this report principally on a provision-by-provision basis (as opposed to a topic basis), following the layout of the various chapters. I have however grouped some repeated submissions under the headings of Waipopo Huts and the Port of Timaru. For efficiency, I have also grouped some repeated submissions (e.g. from Spark, etc) under the first provision that the repeated submissions apply to, where my recommendation applies to all the repeated submissions. Where submitters sought similar outcomes across their submission points, but provided provision-specific relief (e.g. Forest and Bird [156.86 and 156.87] and Te Rūnanga o Ngāi Tahu [185.45 and 185.67]), I have generally addressed these similar submissions separately under each provision. This approach has resulted in some repetition.
- 6.1.3 Accordingly, under each provision I have generally only identified changes recommended in response to the submissions specifically on that provision, rather than all of the various changes relating to that provision arising from other general submissions or from consequential changes. However, all the changes for each provision are collated and shown in **Appendix 1**.
- 6.1.4 For each identified topic or provision, I have considered the submissions that are seeking changes to the PDP in the following format:
- Matters raised by submitters;
  - Analysis;
  - Conclusions and recommendations, including recommended amendments to the PDP; and
  - A S32AA evaluation, where relevant and at a level of detail appropriate to the changes being proposed.

- 6.1.5 Clause 10(2)(b), Schedule 1 of the RMA provides for consequential changes arising from the submissions to be made where necessary, as well as any other matter relevant to the PDP arising from submissions. Consequential changes recommended under clause 10(2)(b) are footnoted as such.
- 6.1.6 Clause 16(2), Schedule 1 of the RMA allows a local authority to make an amendment to a proposed plan without using a Schedule 1 process, where such an alteration is of minor effect, or may correct any minor errors. Any changes recommended under clause 16(2) are footnoted as such.
- 6.1.7 I have not individually referenced submissions in support of provisions. However, where I am recommending changes to a provision, I have correspondingly recommended that the submission(s) in support of a provision are accepted, accepted in part, or rejected (depending on the extent of the recommended changes), in **Appendix 2**.
- 6.1.8 Further submissions have been considered in the preparation of this report, but in general, they are not specifically mentioned because they are limited to the matters raised in the original submissions and therefore the subject matter is canvassed in the analysis of the original submission. Further submissions may however be mentioned where they raise a valid matter not addressed in an original submission or are relevant to the particular analysis. Further submissions are not listed within **Appendix 2**. Instead, recommendations on the primary submissions indicate whether a further submission is accepted or rejected as follows:
- Where a further submission supports a primary submission and the primary submission is recommended to be accepted, or where a further submission opposes a primary submission and the primary submission is recommended to be rejected, the further submission is recommended to be accepted;
  - Where a further submission supports a primary submission and the primary submission is recommended to be rejected, or where a further submission opposes a primary submission and the primary submission recommended to be accepted, the further submission is recommended to be rejected;
  - Where a further submission supports or opposes a primary submission and the primary submission is recommended to be accepted in part, then the further submission is recommended to be accepted in part.
- 6.1.9 David and Judith Moore [100.2], Peel Forest [105.1] and Kerry and James McArthur [113.1], in a primary submission, support the submission of Federated Farmers and seek the same relief as sought in that submission. Discussion of Federated Farmers submission points and recommendations made in relation to these therefore also applies to that of David and Judith Moore [100.2], Peel Forest [105.1] and Kerry and James McArthur [113.1].

## **6.2 Provisions where no change is sought**

- 6.2.1 The following provisions were either not submitted on, or any submissions received sought their retention. As such, they are not assessed further in this report, and I recommend that

the provisions are retained as notified, except where clause 16(2) amendments are proposed:

- Natural Hazards – NH-P2; NH-P7.
- Coastal Environment – CE-P1; CE-P6; CE-R1; CE-R3; CE-R10.
- Drinking Water Protection – DWP-O1; DWP-P1; DWP-R1; DWP-R4.
- The following definitions: Flood Assessment Area; Flood Risk Certificate<sup>1</sup>; Natural Hazard.

### 6.3 Matters to be considered in other reports

- 6.3.1 The submission points identified below were allocated to this hearing but have either been heard or are to be re-allocated to a future hearing as set out. Accordingly, I have not considered these submissions in this report.

|  |  |
|--|--|
| Fenlea Farms Limited [171.19] - definition of "Urban Area"                                       | This definition is no longer used in the CE Chapter and is not used in the NH or DWP chapters – the submissions will be re-allocated to Hearing G - Urban Growth |
| Alastair Joseph Rooney [177.9] - definition of "Urban Area"                                      |  |
| ECan [183.10] - definition of "Urban Area"   |  |
| K J Rooney [197.2] - definition of "Urban Area"  |  |
| PrimePort Limited [175.7] - Planning Maps - Urban Area boundary                                  | This submission is not relevant to the chapters covered in this s42A report and will be re-allocated to Hearing G - Urban Growth                                 |
| North Meadows 2021 and Thompson Engineering (2002) [190.2] - Planning Maps - Urban Areas Overlay | This submission is not relevant to the chapters covered in this s42A report will be re-allocated to Hearing G - Urban Growth                                     |
| ECan [183.9] – definition of "Urban Development"   | This term was considered in the EI TRAN SW s42A Report for Hearing E (section 6.4). It is not relevant to the NH, CE or DWP Chapters                             |

<sup>1</sup> While there are no submissions seeking changes to this definition, a change is recommended under clause 16(2) to change the term from "Flood Risk Certificate" to "Flood Assessment Certificate" for clarity and consistency.

## 7. Natural Hazards chapter

7.1.1 In this section I have addressed the natural hazards related submissions in the following order: Waipopo Huts; the Port of Timaru; Definitions; General; Introduction; Objectives; Policies; Rules; Planning Maps / Overlays.

### 7.2 Natural Hazards – Waipopo Huts grouped submissions<sup>2</sup>

7.2.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME         | SUBMISSION POINT NUMBER(S)  |
|------------------------|---|
| Waipopo Huts           | 189.48 (and other related submissions as set out in <b>Appendix 2</b> )       |
| Te Kotare Trust        | 115.1, 115.2 (and other related submissions as set out in <b>Appendix 2</b> ) |
| Te Rūnanga o Ngāi Tahu | 185.47  |

#### *Submissions*

7.2.2 Waipopo Huts [189.48] and Te Kotare Trust [115.1] (and other related submission points as set out in **Appendix 2**) made submissions on the PDP. Both submitters support the rules insofar as they enable the outcomes contemplated by the Māori Purpose Zone (MPZ) objectives and MPZ policies, but oppose those rules insofar as they frustrate or impede these objectives by imposing undue regulatory burdens on the use, development and renewal of dwellings within the submitters' land. Likewise, Te Rūnanga o Ngāi Tahu [185.47] also sought to enable development on Māori land in the MPZ. Te Kotare Trust [115.2] considers that the matters advanced in their submission appear to be equally applicable to other Māori land within the Waipopo area as the same issues apply. I note that Māori Land is a defined term which is limited to MPZ land.

7.2.3 For the NH chapter, the submissions seek to amend the chapters' objectives, policies, and methods as necessary to enable the use, development and renewal of dwellings on the submitters' properties at Waipopo Huts, and to provide for mana whenua needs and activities on their land. They also seek to insert a permitted activity rule to allow the re-construction of dwellings that previously occupied the Waipopo Huts land. They also seek to apply the relief sought in this submission equally to other Māori owned land within this area.

<sup>2</sup> Waipopo Huts is both an area, and the name of a submitter. The Waipopo Huts is a bach community on the southern side of the Ōpihi River mouth, 11.5 kilometres southeast of Temuka and 17.3 northeast of Timaru by road. The huts are on land owned by the Waipopo Huts Māori Reserve Trust.

7.2.4 The specific relief set out in the Waipopo Huts broader submission on the NH chapter provisions is as follows:

- *Objectives NH-O1 & NH-O3: Amend the natural hazard provisions to recognise the particular case of the Trust land and provide for the replacement of existing dwellings of the same or similar size as a permitted activity.*
- *Policies NH-P1 NH-P4 NH-P5 NH-P10: Amend the natural hazard provisions to recognise the particular case of the Waipopo Trust land and provide for the upgrade and replacement of existing dwellings of the same or similar size as a permitted activity.*
- *Rules NH-R1 NH-R4 NH-R7 NH-R8(1)(2) & (4) NH-R9: Amend the natural hazard provisions to recognise the particular case of the huts and provide for the upgrade and replacement of existing dwellings of the same or similar size as a controlled activity.*
- *Standards NH-S1 NH-S2: Amend the natural hazard provisions to recognise the particular case of the huts and provide for the replacement of existing dwellings of the same or similar size as a permitted activity.*

### Analysis

7.2.5 ECan produced a report on the Waipopo Huts titled the “Timaru District recreational hut communities, overview assessment of flooding hazards” dated November 2020. The report includes the figures reproduced below. I understand that the Waipopo Huts’ submissions concern the main huts, whilst the Te Kotare Trust’s submissions concern the top huts.



Figure 4-2: Location map for the Waipopo hut settlement dwellings





Figure 4-3: Māori freehold land as shown in Māori Land-Māori Court layer in Canterbury Maps

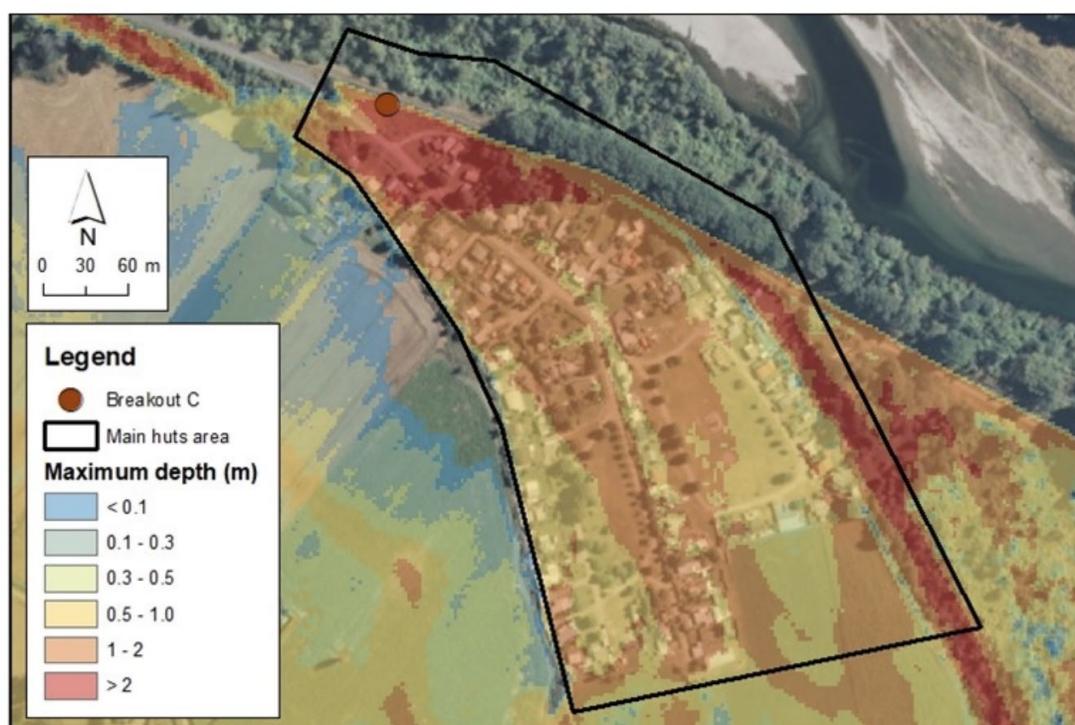


Figure 4-16: Modelled maximum flood depths for elevated SH1 and C breakouts at main huts

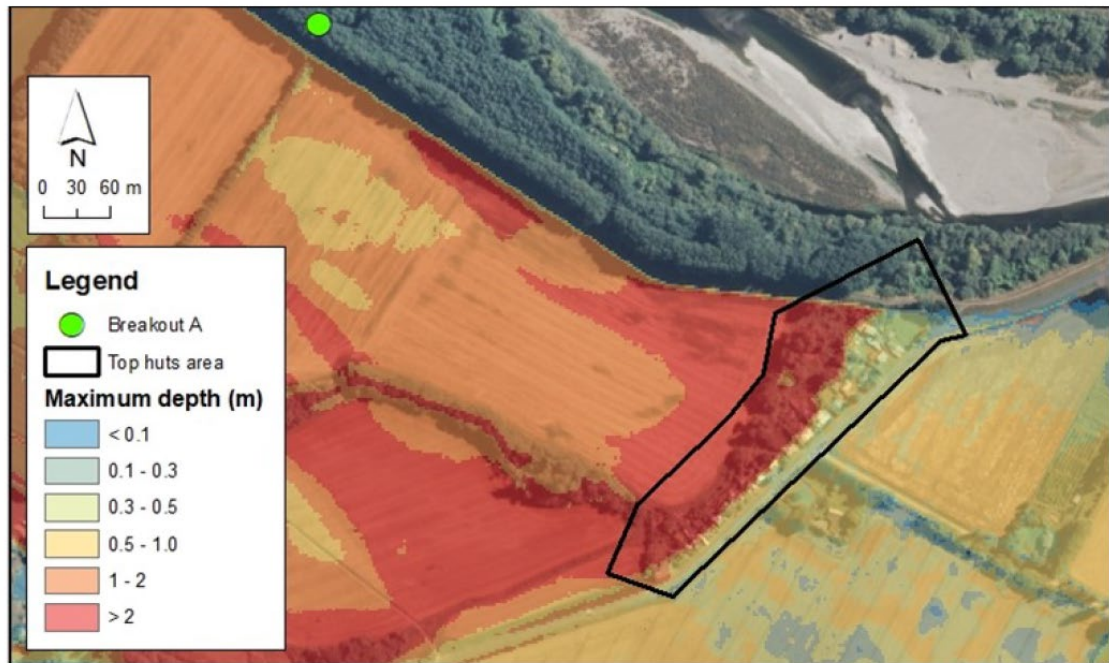


Figure 4-17: Modelled maximum flood depths for elevated SH1 and A breakouts at top huts

7.2.6 The ECan report concludes (section 4.8) that:

*“the main huts area avoids serious flooding in a range of modelled scenarios when flooding originates from upstream, however there is potential of severe flooding if the adjacent stopbank breaches. This is a low probability scenario but would have high consequences for the dwellings, and for the safety of any resident present during a flood. Any future increase in development at the main huts area would increase the flood risk in a local stopbank breach scenario.*

*The top huts are likely to be subject to serious flooding in a wide range of scenarios, including from upstream river overflows and stopbank breaches immediately upstream. In the scenarios modelled as part of this investigation, deep flooding occurs at these dwellings but in no scenario does it trigger high hazard flooding criteria (apart from a small area within the high hazard stopbank setback area). Flooding is still significant and property damage may still occur. While not triggering high hazard criteria the flooding at these dwellings is significant in some scenarios and property damage may still result.”*

7.2.7 The conclusion also states that:

*“there is considerable uncertainty contained within in flood modelling and assumptions. The modelling should not be used in isolation but in combination with historic records, topographic information and site visits to fully determine flood hazard at a site-specific level. The uncertainty and limitations in the modelling approach are recognised but do not create doubt around the overall nature and patterns of flooding expected over the study area. Where deep flooding is shown, we expect deep flooding, and where flow paths are indicated, we expect the worst flooding in major floods. The*

*pattern of flooding provided here is the best quantification of the flood hazard that we can produce at this time."*

- 7.2.8 While the Waipopo Huts are not within the PDP defined coastal environment, they are affected by sea water inundation risk. In his evidence on the Waipopo huts (**Appendix 4**) Mr Bosserelle states that the Waipopo Huts are generally not exposed to a coastal inundation hazard from a 1% AEP storm event with present day sea-level but are exposed for a 1% AEP storm event with 0.6m sea level rise (SLR) and above.<sup>3</sup> Because it is likely that SLR will make flooding more likely in Waipopo Huts, he considers that restrictions are required for developing, intensifying or upgrading and/or replacing dwellings in these areas to avoid unnecessary increase in the risk. The hazard varies at different locations within the Waipopo Huts location and different flood mitigation measures may be more or less appropriate depending on the dwelling location. I note that the PDP's High Hazard Area Overlay only applies to Milford Hut, Waipopo Huts and Rangitata Huts and hence covers a much smaller area than the sea water inundation overlay. Mr Bosserelle considers that NH-R7 and NH-R8 are appropriate for permitting some new building while restricting new building in hazard prone areas.
- 7.2.9 I understand that these areas were set aside for a specific Māori purpose decades before the RMA, the previous Town and Country Planning Act and District Plans were developed. I also understand that the bulk of the Waipopo Huts area is zoned MPZ and that the Waipopo Main Huts area was intended to also be zoned MPZ but was "inadvertently" left off the map, and that the extent of the MPZ was intended to correlate to the former Māori Reserve.<sup>4</sup> I also understand that this area is recommended to be zoned MPZ in the s42A report.<sup>5</sup> Given their special status and reason for existence, I consider that special care is required when developing and applying natural hazard provisions to these sites.
- 7.2.10 I consider these sites are already developed and in a zone (MPZ), or recommended to be rezoned (to MPZ) that anticipates residential and other urban activities occurring in it. Accordingly, the MPZ could be considered to be an existing urban area. I note that CRPS Policy 11.3.1 requires an avoidance or mitigation approach to apply to existing urban areas that are also a "high hazard area". However, in non-urban or rural areas, building in a "high hazard area" is to be avoided. Applying an urban area approach to the MPZ, I recommend that new hazard sensitive activities are provided for as permitted activities in the MPZ where subject to flooding, including in high hazard areas, if the required floor levels are met. If they are not met, the development would become RDIS (as opposed to NC in the notified PDP).
- 7.2.11 To enable this change I recommend that NH-R4 is amended so that being located within a high hazard area defaults to RDIS if the area is an urban zoned area, and remains NC if not. In response to these submissions and other submissions seeking to enable development in

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<sup>3</sup> I understand that Waipopo Huts submitted technical flooding evidence to Hearing E on the MPZ, however I have not analysed that evidence as part of my assessment, noting that this may not be provided as part of Hearing F, or is updated for Hearing F.

<sup>4</sup> As per TDC [42.73]

<sup>5</sup> Sites and Areas of Significance to Māori and Māori Purpose Zone S42A report of Ms White, 9.12.24 at paragraph 9.1.6

areas that are high hazard I have recommended later in this report to amend NH-S1 to provide a minimum finished floor level (under a Flood Risk Certificate) in high hazard areas that are existing urban areas (previously this was not provided for). I note that this urban / non-urban split approach is consistent with the WDP.

- 7.2.12 As part of the recommended amendments, I recommend adding additional matters of discretion to the relevant matters of discretion in both the NH chapter and CE Chapter (although I note there are currently no MPZ within the coastal environment) to enable consideration of the purpose for which an MPZ was created and the views of mana whenua. I note that I recommended including the views of mana whenua within my Strategic Directions s42A report for Hearing A.<sup>6</sup>
- 7.2.13 I note that the proposed approach does not provide for the upgrade and replacement of existing dwellings of the same or similar size as a permitted activity as a matter of course, rather, to be permitted the upgrade or replaced dwellings, and any new dwellings on vacant sites, would need to meet the minimum finished floor level provided within a Flood Assessment Certificate. If they did not meet this minimum floor level then an RDIS activity pathway would be triggered. In my opinion this is the minimum necessary given the flooding profile of these sites, and noting that existing use rights would still apply. Accordingly, I recommend that these submissions are accepted in part.
- 7.2.14 In providing for the Waipopo Huts through an existing urban approach, I note that I have not applied the same approach to the Milford Huts located on the northern side of the Opihi River or the South Rangitata Huts, both of which are mapped as being within a High Hazard Area Overlay. Tosh Prodanov [117.1] submitted on NH-O1 (addressed separately under NH-O1) seeking to allow for mitigation of Natural Hazards for the 114 huts at the South Rangitata Huts. My approach to the Waipopo huts is distinguishable from the South Rangitata Huts and Milford Huts as these other areas are both located within an Open Space Zone, which in my opinion, is not a zone that is intended to be urban and as such, the CRPS's 'avoid' approach would apply. I also note that these areas were not expressly set aside for housing as part of an historic agreement with the Crown. I acknowledge that this approach is somewhat arbitrary, but it does provide a pathway to recognise the special status of the Waipopo Huts located on Māori Purpose land which I consider is appropriate.

### **Conclusions and recommendations**

- 7.2.15 I recommend that the submissions from Waipopo Huts Trust [189.48], Te Kotare Trust [115.1] and [115.2], Te Rūnanga o Ngāi Tahu [185.47] and other related submissions as set out in **Appendix 2**, are accepted in part.
- 7.2.16 Amend NH-R4 as set out in **Appendix 1** to enable development within a High Hazard Area to be RDIS if located within an urban zoned area (as opposed to NC).<sup>7</sup>

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<sup>6</sup> In response to TRONT [185.19]

<sup>7</sup> As I am recommending a number of other changes to NH-R4 in response to other submissions I have shown these changes all together in Appendix 1.



## 7.2.17 Amend NH-P1 as follows:

Identification of natural hazards and approach to management within Natural Hazard Areas

Identify and map areas subject to natural hazards, taking into consideration the effects of climate change, and apply through rules a risk-based approach to the management of subdivision, use and development based on the following

[...]

5. for the Māori Purpose Zone, the extent to which managing the risk compromises the purpose for which the MPZ was created and the anticipated activities within the zone, and the outcome of any consultation with mana whenua.

7.2.18 Add additional matters of discretion to the relevant matters of discretion in both the NH chapter and CE Chapter (as set out in **Appendix 1**) as follows:

X. for development within the MPZ, the extent to which meeting the requirements of the rule compromises the purpose for which the MPZ was created and the views of mana whenua, if provided.

## 7.2.19 In terms of a s32 assessment, I consider this approach is generally consistent with the higher order CRPS Policy 11.3.1 in relation to managing activities within urban areas subject to natural hazards. It also supports achieving rakatirataka within the MPZ and therefore supports internal PDP consistency. I consider it better gives effect to RMA section 8. Overall, I consider that the amended approach is the most appropriate for achieving the Act.

## 7.3 Natural Hazards – The Port of Timaru

7.3.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME           | SUBMISSION POINT NUMBER(S)   |
|--------------------------|--|
| PrimePort                | 175 (various related submissions as set out in <b>Appendix 2</b> ) |
| Timaru District Holdings | 186 (various related submissions as set out in <b>Appendix 2</b> ) |
| BP Oil, et al            | 196  |

**Submissions**

## 7.3.2 There are a number of submissions on both the NH and CE chapters by PrimePort [175], Timaru District Holdings [186] (the Port's owner) and businesses located in or with interests in the Port Zone (PORTZ) such as BP Oil, et al [196] (the relevant submissions are set out in

**Appendix 2).** These submissions generally seek to better provide for PrimePort's activities in the Port's Operational Area (PREC7), along with associated activities in the wider PORTZ that rely on and support the Port's activities.

### **Analysis**

- 7.3.3 The port of Timaru is of critical importance to Timaru and indeed the Canterbury region and this is recognised by it being considered Regionally Significant Infrastructure (RSI) in the CRPS. The activities operating in the Operational Area of the Port are many and varied and include: wharfs for loading and unloading; container terminals; offices; storage; administration; quarantine; and wash areas. I understand that the administration and container storage and handling areas of the Port are located in a more elevated part of the port, that there are stormwater drainage systems in place, that some activities are fully bunded (e.g. the IXOM Chemical Product Storage / Distribution), and the breakwaters limit wave action and can be raised as required in response to sea level rise. However, there are also some areas with greater exposure to wave action, and SLR is projected to occur.
- 7.3.4 The Port cannot be relocated and because of its function, it needs to be in an area that is exposed to coastal hazards. However, at the same time natural hazard risk needs to be managed for the activities operating from the Port. In my opinion the Port's efficient ongoing operation and development relies on its ability to adapt its hazard mitigation as sea-level rises and to support this, the PDP's natural hazard provisions need to be pitched correctly.
- 7.3.5 In his evidence, Mr Bosserelle states that sea water inundation modelling completed by NIWA shows the Port area (which I understand is the Port Operational area identified by PREC7) progressively becoming increasingly exposed to sea water inundation as sea level rises. In his opinion, modelling by NIWA is likely conservative in the port area as it underestimates the damping role of the existing rock revetment on inundation as well as specific stormwater management in the port area. Nevertheless, results from the simulation are realistic when compared to historical high wave events. Mr Bosserelle states that the sea water inundation overlay in the PDP shows the inundation simulated for a 1% AEP storm event with 1.2m SLR and that the Port area is highly exposed to inundation. Mr Bosserelle considers that the planning rules for the Port area need to allow flexibility to adapt to increasing hazards from sea level rise so that they do not unnecessarily constrain its development and compromise its viability. However, any mitigation for the port should not increase the risk for other areas.
- 7.3.6 Regarding the wider PORTZ, Mr Bosserelle considers that some industrial development could be allowed where the effects of flooding (not limited to resilience to sea water flooding but also to account for impact of floating debris and their potential generation) can be mitigated either through flood/stormwater structures; and that the mitigation can be upgraded as sea-level rises to maintain a similar level of protection. In addition, specific measures would need to be in place to guarantee the safety of life in the area during storm events.

- 7.3.7 In my opinion the current PDP natural hazard and coastal hazard provisions for the Port are not sufficiently tailored to achieve both flexibility for the continued Port operations and to manage risk appropriately.
- 7.3.8 The matter is complicated by the fact that the Port has a number of business activities it relies on and which rely on it, which are located adjacent to but outside the Operational Area of the Port but still in the wider PORTZ. These activities include: cool stores; general storage; offices; bulk liquid importers; pipelines (including fuel); quarantine; fishing and engineering; container storage and processing; food grade dry goods storage and packaging; and log processing. I understand there are also some general industrial activities located in the PORTZ which have no or little relationship to the Port.
- 7.3.9 I have had a number of meetings and correspondence with PrimePort's planner and ECan's planner to discuss an appropriate set of provisions to manage Port and Port-associated activities.<sup>8</sup> Through these discussions the parties have developed an agreed set of PORTZ-specific provisions (these have also been reviewed by technical experts for both PrimePort and the Council). For the Council, Mr Todd has confirmed he supports these recommended provisions.<sup>9</sup> A summary of the recommended provisions is set out below. Elsewhere in my s42A report I have responded to PrimePort's submissions on specific provisions, and those of other submitters located within the PORTZ, within the context of my overall recommendations in this section.
- 7.3.10 The principal focus of the recommended amended provisions are the rules managing buildings and structures, the rules managing RSI, and the rules managing hazard mitigation works. The parties consider these amended provisions provide for the continued operation of the Port and associated industrial activities, while at the same time managing natural hazard risk to an appropriate level.
- 7.3.11 Because the PORTZ is located both within and outside of the coastal environment, the same agreed provisions are copied into both the NH and CE chapters. If the natural hazards provisions are combined within the NH chapter this duplication would be removed.

### ***Conclusions and recommendations***

- 7.3.12 I recommend that the submissions from PrimePort [175 - various related submissions as set out in **Appendix 2**], Timaru District Holdings [186 - various related submissions as set out in **Appendix 2**] BP Oil, et al [196] and related submitters (as set out in **Appendix 2**) are accepted, accepted in part or rejected as set out in **Appendix 2**.

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<sup>8</sup> Ms Seaton for PrimePort and Ms Francis for ECan.

<sup>9</sup> See his evidence in Appendix 3 under the Port Specific Natural Hazard Provisions heading.

7.3.13 I recommend that amendments are made to the NH and CE chapters as they relate to Port activities and activities within the PORTZ as set out in **Appendix 1**. As the changes are numerous I have not repeated them verbatim here. In summary the changes are:

- Amend the NH and CE introductions to identify that there are specific PORTZ provisions;
- Add a new Objective NH-O4 / CE-O7 for adaptive management at the Port;
- Add a new policy NH-P11 / CE-P15 to provide for the continued operation and development of the Port, PORTZ activities and natural hazard mitigation works, whilst managing natural hazard risk;
- Add a note to the NH and CE rules instructions that activities in the PORTZ are only subject to the Port-specific rules;
- Amend NH-R3 and CE-R9 to enable natural hazard mitigation works by the Port of Timaru within 310m of PREC7;
- Add PORTZ specific rules for buildings regarding their protection;
- Add PORTZ specific rules for building, structures and earthworks re floodwaters diversion and displacement;
- Add a PORTZ specific subdivision rule;
- Add definitions for the terms “Flood Resilient” and “Relocatable”;
- Remove references to the Port of Timaru where necessary to ensure only the proposed PORTZ-specific provisions apply.

7.3.14 In terms of a s32 assessment, I consider this approach strikes an appropriate balance between providing for the continued operation of the Port and associated industrial activities, while at the same time managing natural hazard risk to appropriate levels. I consider it therefore gives effect to the CRPS natural hazard and infrastructure provisions and NZCPS Policy 25. It is also consistent with CE-O4. I consider there is no risk from acting as there is sufficient information on the natural hazard risk. I also consider the approach is more efficient than the notified approach. Overall, I consider that the amended approach is the most appropriate for achieving the Act.

## 7.4 Natural Hazards – Definition of “Earthquake Fault Awareness Areas”

7.4.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME | SUBMISSION POINT NUMBER(S) |
|----------------|----------------------------|
| ECan           | 183.14B                    |



**Submissions**

- 7.4.2 ECan [183.14B] seek to amend this definition as earthquake fault awareness areas are not only mapped to 'ensure that landowners and service providers are aware of them', they are also mapped to support a regulatory response. They seek the following amendment:

*means land located on either side of ~~an identified active~~ a known or suspected active earthquake fault line that ~~is mapped to ensure that landowners and service providers are aware of the presence of a fault line before they decide to build~~ could be permanently deformed (ripped, buckled or warped) during an earthquake on that fault.*

**Analysis**

- 7.4.3 I agree that fault areas are mapped for a variety of reasons and that with some fault awareness areas (or parts of fault awareness areas) some faults are suspected only. I recommend this submission is accepted.

**Conclusions and Recommendations**

- 7.4.4 I recommend that the submission from ECan [183.14B] is accepted.
- 7.4.5 Amend the definition of "earthquake fault awareness areas" as follows:
- means land located on either side of ~~an identified active~~ a known or suspected active earthquake fault line that ~~is mapped to ensure that landowners and service providers are aware of the presence of a fault line before they decide to build~~ could be permanently deformed (ripped, buckled or warped) during an earthquake on that fault.*
- 7.4.6 In terms of a s32AA assessment, I consider that the original s32 evaluation continues to apply as this change simply more accurately aligns with the application of the provisions and what fault awareness areas are.

**7.5 Natural Hazards – Definition of "High Hazard Area"**

- 7.5.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME    | SUBMISSION POINT NUMBER(S) |
|-------------------|----------------------------|
| Silver Fern Farms | 172.2                      |
| Alliance Group    | 173.2                      |
| ECan              | 183.14                     |

**Submissions**

- 7.5.2 Three submissions sought amendments to this definition. Silver Fern Farms [172.2] and Alliance Group [173.2] state that given the implications for consenting, clarification is sought as to whether reference in this definition to "inundation" means land in the Sea Water Inundation Overlay will also be subject to the High Hazard Overlay.

- 7.5.3 ECan [183.14] considers the definition of “high hazard” in the CRPS is wider than just freshwater flooding and includes areas subject to coastal flooding and coastal erosion and that these matters need to be addressed in a consistent manner across the PDP, and the definition updated. They seek that the definition of “high hazard areas” is amended to be consistent with the definition in the CRPS by including coastal hazards and consequential amendments in the CE chapter to ensure that activities are treated in the same manner (except as required by the NZCPS). Unfortunately, no wording is provided.

### **Analysis**

- 7.5.4 Regarding the ECan [183.14] submission, I agree that the definition in the PDP is not consistent with the CRPS definition as it does not include areas subject to coastal erosion, nor sea water inundation. This is due to the approach to coastal erosion changing through the drafting process and because the CRPS “high hazard” definition includes any amount of sea water inundation, which I consider unhelpful as, in my opinion, small infrequent amounts should not be “high hazard”. This matter was also considered through the WDP review and a definition was developed in conjunction with ECan that resolves these omissions. I have set out this recommended new definition below in my recommended changes. Accordingly, I recommend that this submission is accepted.
- 7.5.5 In responding to the ECan submission, the submissions of Silver Fern Farms [172.2] and Alliance Group [173.2] are also responded to, i.e. I am recommending to clarify that the definition may include land within the Sea Water Inundation Overlay which meets the definition. I therefore recommend that these submissions are accepted.

### **Conclusions and recommendations**

- 7.5.6 I recommend that the submissions from ECan [183.14], Silver Fern Farms [172.2] and Alliance Group [173.2] are accepted.
- 7.5.7 Amend the definition of “high hazard area” as follows:
- High Hazard Area means:  
~~means flood hazard areas subject to inundation events where the water depth (metres) x velocity (metres per second) is greater than or equal to 1 or where depths are greater than 1 metre, in a 0.2% annual exceedance probability flood event.~~
- land likely to be subject to coastal erosion; or
  - land where there is inundation by floodwater and where the water depth (metres) x velocity (metres per second) is greater than or equal to 1, or where depths are greater than 1 metre, in a 0.2% Annual Exceedance Probability flood event.

When determining a. and b. above, the cumulative effects of climate change over the next 100 years (based on latest national guidance) and all sources of flooding (including fluvial, pluvial, and coastal) must be accounted for.<sup>10</sup>

<sup>10</sup> ECan [183.14], Silver Fern Farms [172.2] and Alliance Group [173.3]

- 7.5.8 In terms of a s32AA assessment, I consider that the amended definition more accurately identifies high hazard areas and is more consistent with the CRPS definition of “high hazard”. Accordingly, I consider it is more appropriate for achieving the PDP’s objectives and the purpose of the act.

## 7.6 Natural Hazards – Definition of “Liquefaction Awareness Area”

- 7.6.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME | SUBMISSION POINT NUMBER(S) |
|----------------|----------------------------|
| ECan           | 183.7                      |

### Submissions

- 7.6.2 ECan [183.7] considers that the land within the liquefaction awareness area will not necessarily liquefy during an earthquake (in most cases it will not), but the sediments underlying these areas are such that there could be liquefiable sands and silts within them, and a site-specific assessment is required to determine this. They seek that the definition of “liquefaction awareness area” is amended as follows:

*Liquefaction Awareness Area: means land ~~at risk from~~ where liquefaction and lateral spreading is possible during an earthquake, but which requires site specific assessment to determine the actual level of risk to property.*

### Analysis

- 7.6.3 I agree with ECan that liquefaction may not always occur and the risk needs to be individually assessed. I therefore recommend that this submission is accepted.

### Conclusions and recommendations

- 7.6.4 I recommend that the submission from ECan [183.7] is accepted.
- 7.6.5 Amend the definition of “liquefaction awareness area” as follows:
- Liquefaction Awareness Area: means land ~~at risk from~~ where liquefaction and lateral spreading is possible during an earthquake, but which requires site specific assessment to determine the actual level of risk to property.
- 7.6.6 In terms of a s32AA assessment, I consider that the original s32 evaluation continues to apply as this change simply more accurately describes liquefaction awareness areas.

## 7.7 Natural Hazards – Definition of “Natural Hazard Mitigation Works”

- 7.7.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME | SUBMISSION POINT NUMBER(S) |
|----------------|----------------------------|
| EnviroWaste    | 162.4                      |
| ECan           | 183.14A, 183.84, 183.87    |

### Submissions

- 7.7.2 EnviroWaste [162.4] seeks an amendment to this definition to clarify the types of works that “natural hazard mitigation works” covers, stating that if the most usual works are listed as an example, then practitioners will be able to understand how the rules apply. They seek the following amendments:

*Means structures and associated engineering works to prevent or control the impacts of natural hazards and includes both soft engineering natural hazard mitigation and hard engineering natural hazard mitigation (e.g. stop banks). [...]*

- 7.7.3 ECan [183.14A] (and the related submissions ECan [183.84] and [183.87] on the NATC chapter) considers that the current definition of “natural hazard mitigation works” refers to natural hazards mitigation as part of its definition in relation to different types of engineering work and that this may cause confusion and lacks clarity. They consider that natural hazard mitigation works encompasses flood and erosion protection works and drainage works instead of natural hazard mitigation works and note that there is already a definition for flood protection works in the PDP (Referred to in EC0-R1) and this could be built upon. They seek that the following relief:

*Either:*

- (a) delete reference to "Natural Hazard Mitigation Works" and instead refer to flood and erosion protection works and drainage works and then define those terms*

*OR*

- (b) define Natural Hazard Mitigation Works to be consistent with the description in the CRPS Issue 11.1.3:*

*Natural Hazard mitigation works are works intended to control the effects of natural events and provide benefits to people and the community. They include flood control works such as stop-banks, or land stabilisation works such as tree planting or retaining walls,*

*OR*

- (c) Rewrite the current Natural Hazard Mitigation Works definition to encompass the definition for "flood protection works", already defined in the Plan and broaden it to include retaining walls required to control the effects of natural events.*

*Or adopt an alternative approach that provides greater clarity and certainty.*

### Analysis

- 7.7.4 I agree with the submission of both EnviroWaste [162.4] and ECan [183.14A] (and the related submissions ECan [183.84] and [183.87] on the NATC chapter) and recommend that the

definition is amended to provide greater clarity, and alignment with the existing definition of flood protection works. I therefore recommend that these submissions are accepted.

### **Conclusions and recommendations**

7.7.5 I recommend that the submission from EnviroWaste [162.4] and ECan [183.14A], [183.84] and [183.87] are accepted.

7.7.6 Amend the definition of “natural hazard mitigation works as follows” to also apply to “natural hazard mitigation” and as follows:

means structures and associated engineering works to prevent or control the impacts of natural hazards and includes both soft engineering natural hazard mitigation works and hard engineering natural hazard mitigation works, retaining walls, stop banks and flood protection works. Retaining walls not required for a hazard mitigation purpose are excluded from this definition. Raised building floor levels and raised land which are required to be raised to meet the requirements of a flood assessment certificate are excluded from this definition.

7.7.7 In terms of a s32AA assessment, I consider that the original s32 evaluation continues to apply as this change simply provides more examples of mitigation works to aid in interpretation and provides clarity.

### **7.8 Natural Hazards – Definition of “Natural Hazard Sensitive Activity”**

7.8.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME           | SUBMISSION POINT NUMBER(S) |
|--------------------------|----------------------------|
| Lineage Logistics NZ     | 107.4                      |
| Southern Proteins        | 140.4                      |
| PrimePort                | 175.14                     |
| Timaru District Holdings | 186.7                      |
| ECan                     | 183.173                    |
| NZPork                   | 247.58FS                   |

### **Submissions**

7.8.2 Five submitters opposed the definition while three submitters supported the definition. ECan [183.173] submitted on this definition but this submission was omitted in the submission summary. Because of this, the Council notified a summary of this ECan submission in February 2025 and one further submission was received from NZ Pork [247.58FS] in opposition.

7.8.3 Lineage Logistics NZ [107.4], Southern Proteins [140.4], PrimePort [175.14] and Timaru District Holdings [186.7] all submitted seeking to delete or increase the definition's reference

to employees. Employee numbers requested in the submissions were 10, 12 and a number of employees which accurately reflects the risk associated with a natural hazard.

- 7.8.4 ECan [183.173] sought to amend the definition to be similar to the Kaikoura District Plan (KDP) definition that is based on the physical characteristics of the building, rather than the use of the building. They consider this would make it easier for applicants and council staff to determine if a given building meets the definition or not. ECan notes that the physical characteristics of the building are also less likely to change than the use of the building, and if they do change, would often require building consent. Finally, they note that there is limited opportunity for the council to pick up change in building use. NZPork [247.58FS] opposes this submission as the submitter is concerned with the impact of this definition change on the rule structure proposed in the plan and the lack of clarity as it relates to the variety of buildings used to support primary production and different land use activities that characterise the activity and sensitivity to natural hazards. The pig farming sector is comprised of both indoor and outdoor activity with buildings and infrastructure that reflect the intensity of use, the environment within which the activity is occurring and in some cases mobility of buildings and infrastructure to support farming activity, animal husbandry and welfare needs. NZ Pork considers that in the absence of a comprehensive rule framework that provides an effective and efficient response to sensitive and less sensitive activities the submission should be rejected.

### **Analysis**

- 7.8.5 The NH chapter is not only concerned with risk to people, it is also concerned with risk to buildings, and this is consistent with the approach taken in the CRPS. However, building risk is more or less significant depending on the value and significance of the building at risk. In the PDP definition, a habitable room (clause 1 of the definition) covers living rooms, dining rooms, sitting rooms, bedrooms, and offices. It does not however include buildings such as storage warehouses if there are no offices, but which might be significant structures. The reference to the number of employees was used as a proxy to capture these other buildings that were not captured by clause 1. I understand that the recently developed natural hazards definition of sensitive activities in the KDP has a different approach. It defines hazard sensitive buildings as any building which:

*"1. is/are used as part of the primary activities on the site; or  
2. contains habitable rooms; or  
3. which are serviced with a sewage system and connected to a potable water supply,  
For the purposes of clause 1, the following buildings are not included.  
i. farm sheds used solely for storage; or  
ii. animal shelters which comply with v below: or  
iii. carports; or  
iv. garden sheds; or  
v. any buildings with a dirt/gravel or similarly unconstructed floor; or  
vi. critical and non-critical infrastructure."*

- 7.8.6 The reference in clause 3 to buildings serviced with a sewage system and connected to a potable water supply is also a proxy to capture more significant buildings that do not have habitable rooms. By way of comparison, another approach is the Selwyn District Plan's (SDP) approach of referencing Principal Buildings". In this Plan "Principal Buildings" are defined as:
- "Any building or buildings which is/are used as part of the primary activity or activities on the site. Principal buildings include residential units, but do not include:*
- a. accessory buildings;*
- b. containers in the PORTZ."*
- 7.8.7 I accept that two employees may not be the appropriate threshold and that it could be a number greater than two (for comparison I note that the WDP definition refers to buildings with one or more employees while the Wellington District Plan refers to more than 10 employees (e.g. Rule CE-R19)).
- 7.8.8 I do not consider there is scope to adopt the SDP approach and in any case, I consider the Selwyn definition requires judgement to determine what is a principal building versus what is an accessory building and this uncertainty may be less helpful when managing natural hazard risks. I consider the KDP approach, with its greater detail on excluded accessory buildings, is workable, however in response to ECan [183.125] on CE-R4 I consider this should also apply to the conversion of buildings to a natural hazard sensitive activity. I also consider that the exclusions should include a threshold of 30m<sup>2</sup> which is taken from NH-R4 as small buildings and small additions will not likely increase the risk profile of the activity and were excluded from the rules. I also note that the draft CRPS's definition of "moderate importance building" for natural hazard management includes a reference to potable water supply and wastewater system connections (rather than an FTE).
- 7.8.9 Regarding the concerns raised by NZPork [247.58FS], I agree that there are a variety of buildings used across the District for primary production and that it is therefore difficult to develop a definition to capture some, but not others. I consider the approach proposed by ECan has merit and note that it includes a list of buildings to exclude, which provides greater certainty. I disagree that the requested change in definition is being proposed in the absence of a comprehensive rule framework that provides an effective and efficient response to sensitive and less sensitive activities. In my opinion the whole NH chapter (and CE chapter) has been developed using a risk-based approach to capture sensitive activities and not capture less sensitive activities, acknowledging that the submitter may not agree with the approach and thresholds proposed.
- 7.8.10 Accordingly, I recommend that the definition is amended in accordance with the ECan [183.173] submission to follow the KDP approach, including covering conversions of buildings. I also consider it clearer to replace the word "activities" in the definition with "buildings" as all the natural hazard sensitive activities are buildings. I therefore recommend that the ECan submission is accepted in part. As I am recommending deleting the FTE reference, I recommend the submissions from Lineage Logistics NZ [107.4], Southern Proteins [140.4], PrimePort [175.14] and Timaru District Holdings [186.7] are accepted in part.

**Conclusions and recommendations**

- 7.8.11 I recommend that the submissions from ECan [183.173], Lineage Logistics NZ [107.4], Southern Proteins [140.4], PrimePort [175.14] and Timaru District Holdings [186.7] are accepted in part.
- 7.8.12 Replace the definition of “natural hazard sensitive activities” with the following definition:

Natural Hazard Sensitive Buildings means buildings which:

1. is/are used as part of the primary activities on the site; or
2. contains habitable rooms; or
3. buildings which are connected to a potable water supply and wastewater system.

For the purposes of clause 1, the following buildings are not included:

- i. farm sheds used solely for storage; or
- ii. animal shelters which comply with v below: or
- iii. carports; or
- iv. garden sheds; or
- v. any buildings with a dirt/gravel or similarly unconstructed floor; or
- vi. any buildings or additions with a ground floor area less than 30m<sup>2</sup>; <sup>11</sup> or
- vii. Regionally Significant Infrastructure. <sup>12</sup>

Note: This definition also applies to the conversion of existing buildings into natural hazard sensitive buildings.

- 7.8.13 In terms of a s32AA assessment, I consider this amended definition is more targeted to natural hazard risk than the notified PDP definition. As such, it more accurately implements NH-O1 and its supporting policies. I also consider it more accurately applies the risk-based approach of the CRPS and its natural hazards objectives 11.2.1 and 11.2.2 and is therefore more efficient and effective than the notified definition. Accordingly, I consider it better achieves the purpose of the Act.

**7.9 Natural Hazards – Definition of “Overland Flowpath”**

- 7.9.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME | SUBMISSION POINT NUMBER(S) |
|----------------|----------------------------|
| ECan           | 183.6                      |

<sup>11</sup> Clause 16(2) amendment to change the location of the floor area from the rule into the definition

<sup>12</sup> ECan [183.173] and ECan [183.127]



**Submissions**

- 7.9.2 ECan [183.6] considers that the definition of “overland flowpath” is insufficiently clear, as all surface water will flow over land in a rain event on saturated ground. They consider that this term can be relied on for its natural meaning and does not require its own definition where referenced.

**Analysis**

- 7.9.3 I consider that there is value in providing a definition as this is used extensively in the NH chapter. The current definition reads: “means the route along which stormwater flows over land in a rain event, and excludes permanent watercourses or intermittent rivers or streams”. I note that the WDP also includes an overland flowpath definition which I consider is clearer as it refers to a “low point in terrain”. I therefore consider that the definition can be improved by also referring to a low point and therefore I recommend that this submission is accepted in part.

**Conclusions and recommendations**

- 7.9.4 I recommend that the submission from ECan [183.6] is accepted in part.
- 7.9.5 Amend the definition of “overland flowpath” as follows:  
means the route at a low point of terrain along which stormwater flows over land in a rain event, and excludes permanent watercourses or intermittent rivers or streams”.
- 7.9.6 In terms of a s32AA assessment, I consider that the original s32 evaluation continues to apply as this change simply provides greater accuracy.

**7.10 Natural Hazards – New Definition of “Natural Hazard Areas”**

- 7.10.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**.

| SUBMITTER NAME | SUBMISSION POINT NUMBER(S) |
|----------------|----------------------------|
| Owl            | 181.15                     |

**Submissions**

- 7.10.2 OWL [181.15] seeks to include a new definition of “natural hazard areas”, which is a term referred to in the NH chapter but is not defined. They seek the following new definition:

**Natural Hazard Areas**

**means areas subject to the Flood Assessment Area, Overland Flow Paths, and High Hazard Overlays.**

**Analysis**

7.10.3 The term “natural hazard areas” is used twice in policy headings (for NH-P1 and NH-P11) and once in a Policy NH-P11(1). As such, it is not regularly used in the NH chapter and in any case would apply to more areas than listed in the submission (for example it would also cover liquefaction, earthquake fault, coastal erosion and sea water inundation overlays). While I see some value in defining this term because of its use in PH-P11(1), on balance I do not see this as necessary as the Plan identifies the natural hazards to be considered through the rules and overlays, and for a fully discretionary or NC activity, it may be necessary to consider other hazards in limited instances, such as wildfire. To avoid confusion, I consider it would be helpful to not reference the term in upper case. I have made changes under clause 16(2) in **Appendix 1** to these provisions accordingly.

**Conclusions and recommendations**

7.10.4 I recommend that the submission from OWL [181.15] is rejected.

7.10.5 No amendments are recommended.

**7.11 Natural Hazards – General**

7.11.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME         | SUBMISSION POINT NUMBER(S)  |
|------------------------|---|
| ECan                   | 183.24, 183.25, 183.26, 183.27, 183.1, 183.5<br>And 183.77, 183.76, 183.85, 183.86, 183.90,<br>183.91 |
| Kāinga Ora             | 229.38  |
| Alastair Joseph Rooney | 177.15  |

**Submissions**

7.11.2 There were a range of submissions classified as ‘general’ on the NH chapter. For efficiency, I have already assessed the Waipopo Huts submissions separately when assessing their more specific submissions.

7.11.3 Fenlea Farms [171.33] and KJ Rooney [197.8] made general submissions along with specific submissions that have separate submission point numbers. For efficiency, I have assessed these general submissions when I assess the detailed provision specific submissions later in this report.

7.11.4 ECan [183.24] seeks to simplify the NH chapter to ensure it is easily applicable to a similar range of activities to other district plans that have recently been through plan review processes (e.g. Kaikōura and Selwyn). ECan states that given the regional council's resourcing in identifying flood hazards, a consistent approach is highly beneficial for both the

regional council, but also developers and designers who undertake work across local authority boundaries. ECan [183.5] seeks that either a new rule is provided or NH-R3 is amended to create an overarching permitted activity rule for all earthworks and vegetation clearance associated with existing public flood and erosion protection works (excluding new structures). This approach would include advisory notes for vegetation clearance and earthworks rules including ECO-R5, NATC-R1 and CE-R9 to make it clear that it is the natural hazards rules and not these rules that apply to existing flood and erosion protection schemes. No specific rule drafting was identified, but ECan have separately submitted on specific provisions consistent with this general submission and submitted on ECO-R2 [183.77], ECO-R1 [183.76], NATC-R1 [183.85], NATC-R2 [183.86], NFL-R2 [183.90] and NFL-R5 [183.91] to achieve this outcome.

- 7.11.5 ECan [183.25] seeks to amend the various references to a 0.5% AEP rainfall event or flood event, to be only a 0.5% AEP flood event, as rainfall can be variable within a catchment and does not necessarily address the hazard of concern, which is the flood, and associated flood heights. They seek the following amendment:

*Amend all references in the chapter from "~~rainfall event~~" to "flood event".*

- 7.11.6 ECan [183.26] considers that the certificates being issued are assessing flood hazard impacting the site, not risk. They seek to amend all references in the chapter from "~~Flood Risk Certificate~~" to "Flood Hazard Assessment Certificate".
- 7.11.7 ECan [183.27] considers that many of the restricted discretionary assessment matters in the NH chapter address the same matters, but are ordered differently and worded slightly differently and that they should be consistent. They seek to amend the chapter's restricted discretionary assessment matters so that they are in the same order, and provide consistent wording.
- 7.11.8 ECan [183.1] made a general submission noting that a large number of rules in the plan use variable terminology to define floor areas of buildings, often with the term undefined, so that it is not clear what is being measured, and requests the entire plan is reviewed so all references to the size of buildings, link to either building footprint or gross floor area which are defined terms in the National Planning Standards (NPS).
- 7.11.9 Kāinga Ora [229.38] supports the identification of natural hazards, however due to the dynamic nature of natural hazards seek amendments so that these areas are mapped on GIS layers which sit outside of the statutory planning maps. They also seek to make consequential changes to give effect to this submission, especially for NH-P1, NH-P4, NH-R4, NH-R7, NH-R8, NH-S1, NH-S2.
- 7.11.10 Alastair Joseph Rooney [177.15] opposes any objectives, policies, rules, standards and schedules in respect of the Flood Assessment Area Overlay relating to the submitter's properties. The submitter says the Flood Assessment Area Overlay covers the submitter's properties which are both used for primary production purposes. Farming activities, and natural hazard mitigation activities (such as maintenance of stopbanks) can involve

significantly more than 2,000m<sup>2</sup> in earthworks. The submitter seeks the following relief (all grouped under this general submission number):

- 1. Delete; amend; or reduce the extent of; the Flood Assessment Areas overlay off land located at 0 Domain Avenue, Temuka; 48 Milford Clandeboye Road and 32 Milford Clandeboye Road;*
- 2. Amend NH-S2 to increase the permitted earthworks volumes in the Rural Zones within the Flood Assessment Areas overlay per year under NH-S2.2. from 2,000m<sup>2</sup> to 2,500m<sup>2</sup> or more;*
- 3. Introduce a rule that earthwork limits within this overlay, only apply in respect to activities that increase flood exposure;*
- 4. Reduce the extent of the overlay on these properties;*
- 5. any alternative relief that would address the submitter's concerns.*

### **Analysis**

7.11.11 Regarding the ECan [183.24] submission and the related submissions [183.5] and on ECO-R2 [183.77], ECO-R1 [183.76], NATC-R1 [183.85], NATC-R2 [183.86], NFL-R2 [183.90] and NFL-R5 [183.91], in my opinion the suggestion has merit. I have discussed this with the responsible s42A author for the ECO, NATC, NFL and SASM chapters and consider that this approach can be adopted within NH-R3, as these chapters already contain exclusions for natural hazard mitigation works. The key differences are that NH-R3 includes permitted activity standards for upgrades, whereas the respective ECO, NATC, NFL and SASM chapters were focussed on maintenance and repairs. However, I consider that the other standards in NH-R3 (e.g. PER2 and PER-3) appropriately act to restrict the level of upgrading that can occur such that this slight extension to the ECO, NATC, NFL and SASM provisions is acceptable.

7.11.12 To achieve this change, I recommend adding to the relevant matters of discretion in NH-R3 an express requirement to consider the environmental effects on these matters and also adding a statement to the Rules introduction that the ECO, NATC, NFL and SASM chapters do not apply to NH-R3. Accordingly, I recommend that this submission is accepted in part. In doing so I note that EW-R1 already excludes earthworks for natural hazard mitigation works carried out by the Council or Regional Council that are permitted by the relevant Plan chapter. I consider this change is the most appropriate for collectively achieving NH-O1, NH-O3 and NH-O4, together with ECO-O1, NATC-O1, NFL-O1 and SASM-O3.

7.11.13 Regarding the ECan [183.25] submission replacing "rainfall event" with "flood event", I agree with this request as this is more accurate. Accordingly I recommend that this submission is accepted.

7.11.14 Regarding the ECan [183.26] submission replacing "Flood Risk Certificate" with "Flood Hazard Assessment Certificate", I agree as the certificates issued assess flood hazard impacting the site not risk. However, I consider the word 'hazard' is unnecessary. Accordingly, I recommend that this submission is accepted in part.

7.11.15 Regarding ECan [183.27], I agree that the assessment matters in the NH chapter should be re-ordered and the wording tweaked for consistency (but without changing the meaning) where possible. Accordingly, I recommend that this submission is accepted. I have not

sought to show these changes in **Appendix 1** as these changes are minor and it is my intention to combine the NH and CE chapters in my Reply Report, which might necessitate further minor changes for consistency. Whilst there is a submission seeking these amendments, given their nature I consider they can also be made under Clause 16(2).

7.11.16 Regarding ECan [183.1] and references to building floor areas, whilst I support the intention of the submission, the NH and CE chapters refer to floor areas (e.g. the definition of natural hazard sensitive activities and CE-R7). I have reviewed all references to floor area in the revised NH and CE chapters and am comfortable that these are already appropriate and clearly described, noting that the provisions also refer to 'structures' and these would not be captured by ECan's suggested change to 'building floor areas'. However, I recommend that building floor area is referred to in the recommended amended definition for "natural hazard sensitive activities". Accordingly, I recommend that this submission is accepted in part.

7.11.17 Regarding the Kāinga Ora [229.38] submission, I accept that some natural hazard overlays are dynamic, e.g. flooding, while others are more certain, e.g. fault awareness overlays. I consider that more certainty is provided by including the proposed hazard overlays in the PDP where possible, especially as these overlays come up when a property search is undertaken through the planning maps in the e-plan. I note that the way the flood assessment certificate is applied enables flexibility as the high flood hazard and overland flow paths are not mapped but are assessed on an individual basis and this provides some of the flexibility that the submitter is seeking. Accordingly, I recommend that this submission is rejected (I have assessed a similar but more detailed separate Kāinga Ora [229.39] submission under overlays / mapping later in this report).

7.11.18 Regarding the submission from Alastair Joseph Rooney [177.15], I have addressed the submission points in relation to the Food Assessment Area Overlay and earthworks when assessing NH-S2 and NH-R1 (earthworks etc). Based on my conclusions in response to those submissions, overall I recommend that this submission is accepted in part.

### **Conclusions and recommendations**

7.11.19 I recommend that the submissions from ECan [183.25], [183.26] and [183.27] are accepted.

7.11.20 I recommend that the submissions from ECan [183.24], [183.77], [183.76], [183.85], [183.86], [183.90], [183.1], [183.5] and [183.91], Alastair Joseph Rooney [177.15] are accepted in part.

7.11.21 I recommend that the submission from Kāinga Ora [229.38] is rejected.

7.11.22 Replace "rainfall event" with "flood event" throughout the NH and CE chapters.

7.11.23 Replace "flood risk certificate" with "flood assessment certificate" throughout the NH and CE chapters.

7.11.24 Amend the revised definition of “natural hazard sensitive buildings to refer to “building floor area”.

7.11.25 Add the following sentence to the Rules Note:

*For the purposes of NH-R3 natural hazard mitigation works, the rules in the ECO, NATC, NFL and SASM chapters do not apply.*

7.11.26 Amend NH-R3 as follows (note I have also recommended further changes to NH-R3 in response to submissions on that provision):

**Matters of discretion are restricted to:**

[...]

2. the extent of any adverse social, cultural and environmental effects, including from indigenous vegetation clearance, vegetation planting, and earthworks on any sensitive environments, including significant natural areas, natural character areas, riparian margins, sites and areas of significance to Māori and within any ONF or ONL overlay;<sup>13</sup> and

[...]

7.11.27 In terms of a s32AA assessment, the majority of the changes are minor and seek to provide greater clarity. The key substantive change is covering the ECO, NATC, NFL and SASM provisions in this rule instead of those district wide chapters. The key differences are that NH-R3 includes permitted activity standards for upgrades, whereas the respective ECO, NATC, NFL and SASM chapters were focussed on maintenance and repairs. I consider this change is the most appropriate for collectively achieving NH-O1, NH-O3 and NH-O4, together with ECO-O1, NATC-O1, NFL-O1 and SASM-O3. Accordingly, I consider the changes are the most appropriate to achieve the purpose of the Act

## 7.12 Natural Hazards – Introduction

7.12.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME | SUBMISSION POINT NUMBER(S) |
|----------------|----------------------------|
| TDC            | 42.30                      |
| Hort NZ        | 245.51                     |

### Submissions

7.12.2 There were two submissions on the introduction. TDC [42.30] considers that due to climate change, the risk associated with wildfires is expected to increase across many parts of the District, and that risks further increase when vegetation planting occurs in close proximity to where people live and work. They seek the following amendment to the introduction to address this:

<sup>13</sup> ECan [183.5], [183.77], [183.76], [183.85], [183.86], [183.90], [183.91]

Due to its location and geology the District is subject to a range of natural hazards including river flooding, coastal erosion and flooding, overland flows, slope instability, earthquakes, liquefaction and tsunamis. Flooding is a particular issue for the district with frequent flood events impacting large areas. Due to climate change the risk profile associated with wild fires is expected to increase generally across many parts of the district.

- 7.12.3 Hort NZ [245.51] supports a risk-based approach to managing risks associated with natural hazards and supports the inclusion of climate change, but notes that food security is an issue that arises due to climate change - both in terms of food production and distribution and that this should be acknowledged in the section on climate change. They seek the following Introduction amendment:

Climate change is likely to have significant implications for the District in terms of water shortages and ongoing water security issues and effects on food security.

#### **Analysis**

- 7.12.4 I consider that the suggested amendments of TDC [42.30] and Hort NZ [245.51] are accurate and provide suitable background for an introduction section. Accordingly, I recommend that both submissions are accepted.

#### **Conclusions and recommendations**

- 7.12.5 I recommend that the submission from the TDC [42.30] and Hort NZ [245.51] are accepted.

- 7.12.6 Amend the introduction as follows:

Due to its location and geology the District is subject to a range of natural hazards including river flooding, coastal erosion and flooding, overland flows, slope instability, earthquakes, liquefaction and tsunamis. Flooding is a particular issue for the district with frequent flood events impacting large areas. Due to climate change, the risk profile associated with wild fires is expected to increase generally across many parts of the district.<sup>14</sup> Climate change is also likely to have significant implications for the District in terms of water shortages and ongoing water security issues and effects on food security.

- 7.12.7 Regarding a S32AA assessment, the proposed additions are accurate and do not affect the provisions within the chapter. I consider they better support the achievement of the purpose of the RMA.

### **7.13 Natural Hazards – Objective NH-O1 Areas subject to natural hazards**

- 7.13.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME | SUBMISSION POINT NUMBER(S) |
|----------------|----------------------------|
|----------------|----------------------------|

<sup>14</sup> TDC [42.30]

|                   |        |
|-------------------|--------|
| Tosh Prodanov     | 117.1  |
| Fonterra          | 165.45 |
| Silver Fern Farms | 172.22 |
| Alliance Group    | 173.19 |
| OWL               | 181.45 |

### Submissions

7.13.2 There were seven submissions opposing NH-O1 while five submissions were in support.<sup>15</sup>

7.13.3 Fonterra [165.45] considers that the objective should be amended to enable risks to be managed outside of a high-risk area (noting that 'manage' includes 'avoid, remedy or mitigate'). They seek the following amendments:

*Risk to human life and significant risk to property, from natural hazards is:*

1. *avoided in high hazard areas; and*
2. ~~avoided or mitigated~~ managed elsewhere to an acceptable level.

7.13.4 Silver Fern Farms [172.22] and Alliance Group [173.19] consider it is inappropriate not to provide for mitigation as an approach to managing activities in high hazard areas. The submitters also consider that objective NH-O1 is inconsistent with CRPS directions that contemplate risk mitigation in areas of natural hazard risk. They seek the following amendments:

*Risk to human life and significant risk to property, from natural hazards is avoided in high hazard areas or mitigated to an acceptable level.*

1. ~~avoided in high hazard areas; and~~
2. ~~avoided or mitigated elsewhere to an acceptable level.~~

7.13.5 OWL [181.45] supports NH-O1, but questions whether the reference in NH-O1 and NH-O2 to "high hazard areas" is intended to be "High Hazard Areas", which is a term defined in the PDP. They seek to amend NH-O1 to refer instead to "High Hazard Areas".

7.13.6 Tosh Prodanov [117.1] considers NH-O1 must allow for mitigation of Natural Hazards for the 114 huts families at the South Rangitata Huts, which are identified as being within a "high hazard area". The submitter seeks the following amendment:

*Risk to human life and significant risk to property, from natural hazards is:*

1. avoided and/or mitigated in high hazard areas; and
2. avoided or mitigated elsewhere to an acceptable level.

<sup>15</sup> The Waipopo Huts Trust [189.16] and Te Kotare Trust [115.9] submissions in opposition have been assessed separately in the Waipopo Huts section.



**Analysis**

- 7.13.7 The Fonterra [165.45] submission seeks to replace “avoid or mitigate” with “manage”. I agree that manage includes avoid or mitigate. However, in my opinion ‘manage’ is a lot broader than avoid or mitigate, and I note that avoidance and mitigation are the stated approaches to natural hazards set out in CRPS Policy 11.3.1. I therefore recommend that this submission is rejected.
- 7.13.8 Regarding Silver Fern Farms [172.22], Alliance Group [173.19] and Tosh Prodanov [117.1] who seek changes to avoid or mitigate in high hazard areas, in my opinion some refinement of the objective could be made to better align this objective with CRPS Policy 11.3.1 which seeks to avoid new subdivision, use and development in high hazard areas unless various requirements are met. Whilst I consider the life risk and significant building risk to property are already generally consistent, I note that CRPS Policy 11.3.1 also includes a split approach to development within rural or non-urban areas and urban areas, with avoidance required in the former and avoidance or mitigation required in the latter in recognition of the fact that these areas already exist / are identified for urban development. I consider that changes to NH-O1 to achieve this refinement would be appropriate and respond in part to these submissions. Accordingly, I recommend that these submissions are accepted in part.
- 7.13.9 Regarding the submission from OWL [181.45], I agree that the reference is to the defined term, however the PDP drafting style does not require defined terms to be capitalised. I therefore recommend that this submission is rejected. I note that the NH chapter includes some defined terms in upper-case and some in lower-case throughout the chapter. I recommend that these are assessed and amended for consistency. Rather than making these changes now, I propose to resolve this issue as part of my Reply Report as these changes are non-consequential and I note that the PDP drafting style does not require the use of upper-case letters for defined terms.

**Conclusions and recommendations**

- 7.13.10 I recommend that the submission from OWL [181.45] is rejected.
- 7.13.11 I recommend that the submissions from Silver Fern Farms [172.22], Alliance Group [173.19] and Tosh Prodanov [117.1] are accepted in part.
- 7.13.12 I recommend that the submissions from Fonterra [165.45] rejected
- 7.13.13 Amend NH-O1 as follows:
- Risk to human life and significant risk to property, from natural hazards is:
1. avoided in high hazard areas that are outside of urban zoned areas; and
  2. avoided or mitigated in high hazard areas that are within urban zoned areas; and
  3. avoided or mitigated elsewhere in all other areas to an acceptable level.
- 7.13.14 In terms of a s32AA assessment, I consider that this amendment better gives effect to the CRPS approach for “high hazard” areas within and outside of urban areas under Policy 11.3.1 and is more consistent with the approach taken in the PDP CE chapter. I consider this

approach is more efficient and effective than the notified PDP as it is cognisant of the built development in existing urban areas and the known natural hazard risk in these locations. Overall, I consider this approach better achieves the purpose of the Act.

#### 7.14 Natural Hazards - Objective NH-O2 – Regionally Significant Infrastructure

7.14.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME | SUBMISSION POINT NUMBER(S)                     |
|----------------|--|
| Transpower     | 159.60   |
| OWL            | 181.46   |
| Connexa        | 176.60, 176.61, 176.62, 176.63, 176.64, 176.65 |
| Spark          | 208.60, 208.61, 208.62, 208.63, 208.64, 208.65 |
| Chorus         | 209.60, 209.61, 209.62, 209.63, 209.64, 209.65 |
| Vodafone       | 210.60, 210.61, 210.62, 210.63, 210.64, 210.65 |

#### Submissions

7.14.2 Six submissions sought amendments to NH-O2, while five were in support.

7.14.3 Transpower [159.60] supports that the PDP does not prevent the location of RSI within High Hazard Areas, however considers that the provisions fail to acknowledge that the National Grid is able to be located (and is appropriately designed to do so) in areas of high natural hazards without exacerbating risk to others, compromising electricity transmission or resulting in inappropriate risks or adverse effects on the National Grid itself. They seek the following amendment:

*Risk from natural hazards to Regionally Significant Infrastructure is managed by locating located outside of high hazard areas where practicable.*

7.14.4 OWL [181.46] supports NH-O2 but questions whether the reference in NH-O1 and O2 to "high hazard areas" is intended to be "High Hazard Areas", which is a term defined in the PDP. They seek to capitalise "High Hazard Areas".

7.14.5 Connexa [176.60], Spark [208.60], Chorus [209.60] and Vodafone [210.60] seek to amend NH-O2 to exclude telecommunication infrastructure from this objective. In related submissions, these submitters seek to exclude telecommunication infrastructure from NH-P5, NH-P6, NH-P11, NH-R5, NH-R6, CE-R5, CE-R7 and CE-R8. The submitter considers that Regulation 57 of the NESTF specifically disapplies District Plan natural hazard area rules from

telecommunication structures which are regulated under the NESTF. Consistency between the District Plan and the NESTF is sought.

### **Analysis**

- 7.14.6 Regarding Transpower's submission [159.60], I consider that the amended wording focusses the objective on risk, which is appropriate. I therefore recommend that this submission is accepted.
- 7.14.7 Regarding the submission by OWL [181.46], the PDP drafting style does not require defined terms to be capitalised. I therefore recommend this submission is rejected.<sup>16</sup>
- 7.14.8 Regarding the Connexa [176.60], Spark [208.60], Chorus [209.60], Vodafone [210.60] and related submissions specified above, I agree that NH-O2 and the other identified provisions do not apply given the Regulation 57 of the NES-TF. However, rather than exclude telecommunications facilities from every relevant provision as submitted, I recommend that this exclusion is instead identified in the chapter introduction. I therefore recommend that their various submissions are accepted in part.

### **Conclusions and recommendations**

- 7.14.9 I recommend that the submission from OWL [181.46] is rejected.
- 7.14.10 I recommend that the submission from Transpower [159.60] is accepted.
- 7.14.11 I recommend that the submissions from Connexa [176.60], Spark [208.60], Chorus [209.60] and Vodafone [210.60] and the related submissions specified above and as set out in **Appendix 2** are accepted in part.

- 7.14.12 Amend NH-O2 as follows:

Risk from natural hazards to Regionally Significant Infrastructure is managed by locating  
~~located~~ outside of high hazard areas where practicable.

- 7.14.13 Add the following sentence to the NH and CE Chapter introductions:

Regulation 57 of the National Environmental Standard for Telecommunication Facilities specifically disappplies District Plan natural hazard provisions from telecommunication structures which are regulated under that standard. Therefore, the natural hazards provisions in this chapter do not apply to telecommunications infrastructure regulated under this standard.

- 7.14.14 In terms of a s32AA assessment, the proposed amendment appropriately focusses the objective on risk, which is appropriate for a chapter that takes a risk-based approach to the

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<sup>16</sup> I note that in response to OWL [181.45], I identified that the NH chapter variously refers to some defined terms in both upper-case and lower-case, that consistency was required and that I would address this issue as part of my Reply Report.

management of natural hazards. As such, I consider it better achieves the purpose of the Act. I consider the introduction change simply implements the NES-TF.

## 7.15 Natural Hazards - Objective NH-O3 – Natural hazard mitigation works

7.15.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME           | SUBMISSION POINT NUMBER(S) |
|--------------------------|----------------------------|
| Forest and Bird          | 156.85                     |
| Silver Fern Farms        | 172.23                     |
| Alliance Group           | 173.20                     |
| PrimePort                | 175.28                     |
| Timaru District Holdings | 186.14                     |
| ECan                     | 183.31                     |

### Submissions

7.15.2 Eight submissions sought amendments to NH-O3, while two were in support.<sup>17</sup>

7.15.3 Forest and Bird [156.85] considers natural hazard mitigation works should reduce the risk to native species as well, and make provision for expanding their range, as part of the preference for using natural features and buffers. They seek the following amendments:

*Natural hazard mitigation works reduce risks to people and property, and native species, with a preference for the use of natural features and buffers and restoring and expanding natural habitat.*

7.15.4 Silver Fern Farms [172.23] and Alliance Group [173.20] consider it is necessary to allow the exercise of discretion as to the use of buffers and natural features, particularly where there is existing development. They seek the following amendments:

*Natural hazard mitigation works reduce risks to people and property, with a preference for the use of natural features and buffers wherever appropriate.*

7.15.5 PrimePort [175.28] and Timaru District Holdings [186.14] agree that the use of natural features and buffers for natural hazard mitigation is preferable where it is practicable, but considers that such features are not always sufficient to enable hazard mitigation. They seek the following amendments:

*Natural hazard mitigation works reduce risks to people and property, with a preference for the use of natural features and buffers where practicable.*

<sup>17</sup> Te Kotare Trust [115.10] and Waipopo Huts [189.17] submissions in opposition are assessed in the Waipopo Huts section.

- 7.15.6 ECan [183.31] supports that these works reduce risks to people and property, but consider it would be preferable to align NH-O3 and CE-O5 to be consistent. ECan considers that a clearer way to address these activities is to either refer to flood and erosion protection works or to change the definition of “natural hazard mitigation works to be more consistent with the description in CRPS Issue 11.1.3.

### **Analysis**

- 7.15.7 Regarding Forest and Bird's submission [156.85], I consider that it would be very challenging to try and reduce natural hazard risk to native species. I am not clear if this protection would cover just avifauna, or include all native flora and all native insects too. I note that vegetation is used to manage natural hazards so the amended objective could potentially use native species to manage the flood impacts on other native species. I consider this could be confusing and circular. In my opinion, to address risk to all native species would potentially require a survey of all areas potentially at risk of natural hazards (which for flooding is much of the District), to see what native species might be affected by the natural hazard (this is also sought in their separate submission [156.86] on NH-P1). I also consider this goes beyond the s6(h) requirement of managing the significant risk from natural hazards. Restoring and expanding natural habitats is a matter covered in the EIB Chapter and I do not support changing the focus of this Objective away from natural hazards towards habitat restoration. I therefore recommend that this submission is rejected.
- 7.15.8 Regarding the Silver Fern Farms [172.23], Alliance Group [173.20], PrimePort [175.28] and Timaru District Holdings [186.14] submissions, I agree that it will often not be appropriate or practicable to use natural features and buffers to manage natural hazard risk. I note that CRPS Policy 11.3.6 states that the role of natural topographic (or geographic) and vegetation features which assist in avoiding or mitigating natural hazards should be recognised, but does not state a preference for their use over hard engineering methods. CRPS Policy 11.3.7 covers physical mitigation works and again does not specify a preference for natural features and buffers. Given that the use of natural features for hazard mitigation may not always be practical and the CRPS policies I recommend that these submissions are accepted and accepted in part as set out below.
- 7.15.9 Regarding the ECan [183.31] submission, I accept that NH-O3 and CE-O5 both cover natural hazard risk mitigation. I have set out both objectives below. The differences in phraseology in part reflects the influence of the NCZPS. NZCPS Policy 25(e) discourages hard protection structures and seeks to promote alternatives including natural defences while the reference to “retained” comes from NZCPS Policy 26. There is also a slightly different focus between the objectives - NH-O3 seeks to make sure the works reduce risks to people and property, whereas CR-O5 is more about the retention of natural features as a preference. For these reasons I prefer to retain these objectives as drafted, noting my recommendation above to add a reference to “where practicable”. I also note that I have recommended amending the definition of “natural hazard mitigation works” in response to the specific ECan submission on this matter. I therefore recommend that this submission is accepted in part.
- NH-O3 Natural hazard mitigation works reduce risks to people and property, with a preference for the use of natural features and buffers.

- CE-O5 Natural features and buffers are retained and used for coastal hazard management, in preference to natural hazard mitigation works, wherever appropriate.

### **Conclusions and recommendations**

7.15.10 I recommend that the submissions from PrimePort [175.28] and Timaru District Holdings [186.14] are accepted.

7.15.11 I recommend that the submissions from Silver Fern Farms [172.23], Alliance Group [173.20] and ECan [183.31] are accepted in part.

7.15.12 I recommend that the submission from Forest and Bird [156.85] is rejected.

7.15.13 Amend NH-O3 as follows:

Natural hazard mitigation works reduce risks to people and property, with a preference for the use of natural features and buffers where practicable.

7.15.14 Regarding a s32AA assessment, I consider that the amendment simply recognises that the use of natural features and buffers may not always be practicable. This amended approach remains consistent with NZCPS Policy 25(5) and CRPS Policy 11.3.6 but is more efficient and effective than the notified NH-O3 as it more readily provides for other mitigation options. As such, I consider it better achieves the purpose of the RMA.

### **7.16 Natural Hazards – Policy NH-P1 – Identification of natural hazards and approach to management within natural hazard areas**

7.16.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME    | SUBMISSION POINT NUMBER(S) |
|-------------------|----------------------------|
| Forest and Bird   | 156.86, 156.89             |
| Silver Fern Farms | 172.24                     |
| Alliance Group    | 173.21                     |

### **Submissions**

7.16.2 Five submissions sought amendments to NH-P1, while three were in support.<sup>18 19</sup>

7.16.3 Forest and Bird [156.86] seek to amend NH-P1 to include identification and mapping of existing and potential habitat of native species that is subject to natural hazards, such as coastal habitat, wetlands, or riverbed/ margin/ floodplain habitat for native fauna. They also seek to include a clause that considers the level and severity of risk to native species and

<sup>18</sup> OWL's [181.48] submission point is a general submission supporting policies NH-P1 to NH-P11. I have counted it as a submission in support for each of these policies.

<sup>19</sup> Te Kotare Trust [115.11] and Waipopo Huts [189.18] submissions in opposition are assessed in the Waipopo Huts section.

habitat from the natural hazard and provide for its ability to recover after a natural hazard event. In a similar submission, Forest and Bird [156.89] considers the rules should protect native species and their habitat from natural hazards and mitigation works.

- 7.16.4 Silver Fern Farms [172.24] and Alliance Group [173.21] consider this policy does not expressly reflect the obligation of RMA s75(3)(c) for district plans to give effect to regional policy statements. They seek to amend NH-P1 to include reference to aligning the proposed district plan mapping of natural hazards with that of the CRPS.

### **Analysis**

- 7.16.5 Regarding the Forest and Bird [156.86] submission (which is similar to their [156.85] submission), I consider that the requested mapping could be significant as this would potentially require a survey of all areas potentially at risk of natural hazards, which for flooding, is much of the District. I also note that wildfire, drought and wind are also potential natural hazard threats to native species but these would be more difficult to map as the areas where this would occur are uncertain. While I understand that natural hazards can also threaten native species, I consider this goes beyond the s6(h) requirement of managing the significant risk from natural hazards. I note that the natural hazard mitigation works provisions already consider environmental effects (e.g. NH-R9 MD2). I therefore recommend that this submission is rejected.
- 7.16.6 Regarding the Silver Fern Farms [172.24] and Alliance Group [173.21] submissions, I have reviewed the CRPS Natural Hazards chapter and I have not found any requirements on District Plan mapping that would indicate that the PDP's mapping approach is not aligned with the CRPS. For example, Policy 11.3.3 Method 1 refers to delineating fault avoidance zones along known active fault traces as a regional council function. The planning maps delineate faults based on advice from ECan. In the absence of specific examples of inconsistencies, I recommend that these submissions are rejected. In doing so I note that ECan has submitted seeking changes to the mapping for the Flood Hazard Assessment Overlay and in relation to Coastal Erosion, but not raised a concern about inconsistencies with the CRPS mapping requirements.

### **Conclusions and recommendations**

- 7.16.7 I recommend that the submissions from Forest and Bird [156.86] and [156.89], Silver Fern Farms [172.24] and Alliance Group [173.21] are rejected.
- 7.16.8 No changes are recommended as a result of these submissions (noting the changes I have already recommended to NH-P1 in response to submissions from Waipopo Huts Trust [189.48], Te Kotare Trust [115.1] and [115.2], and Te Rūnanga o Ngāi Tahu [185.47]).

**7.17 Natural Hazards - Policy NH-P3 – Role of natural features and vegetation**

7.17.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME  | SUBMISSION POINT NUMBER(S) |
|-----------------|----------------------------|
| Forest and Bird | 156.87                     |

**Submissions**

7.17.2 One submission sought amendments to NH-P3, while two were in support. Forest and Bird [156.87] considers healthy, expansive, functioning natural ecosystems provide greater resilience to natural hazards for people as well as native species. They seek to expand this policy to include native vegetation and habitat for native species to give better effect to the RMA s 6(a). They seek the following amendments:

*Protect, maintain and restore, ~~where appropriate~~, natural topographic features and vegetation including native habitat that assists with avoiding or mitigating the risk to people and native species and significant risk to property from natural hazards.*

**Analysis**

7.17.3 I consider it will not always be practical to restore natural features and I therefore do not agree with removing the words “where appropriate”. I agree with adding the words “including native habitat” as sometimes the vegetation will be native habitat. However, I do not agree with including the requirement to protect native species from natural hazards for the reasons I provided under NH-O3. Accordingly, I recommend that this submission is accepted in part.

**Conclusions and recommendations**

7.17.4 I recommend that the submission from Forest and Bird [156.87] is accepted in part.

7.17.5 Amend NH-P3 as follows:

Protect, maintain and restore where appropriate, natural topographic features and vegetation, including native habitat that assists with avoiding or mitigating the risk to people and significant risk to property from natural hazards.

7.17.6 In terms of a S32AA assessment, I consider the original s32 continues to apply as this change simply clarifies that natural features and vegetation includes native habitat.

**7.18 Natural Hazards – Policy NH-P4 – Subdivision, use and development in Flood Assessment Areas, excluding high hazard areas and overland flow paths**

7.18.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:



| SUBMITTER NAME      | SUBMISSION POINT NUMBER(S) |
|---------------------|----------------------------|
| Silver Fern Farms   | 172.25                     |
| Alliance Group      | 173.21                     |
| Rangitata Dairies   | 44.2                       |
| Milward Finlay Lobb | 60.15                      |
| ECan                | 183.33                     |
| BP Oil, et al       | 196.50                     |

### Submissions

7.18.2 Ten submissions sought amendments to NH-P4, while four were in support.<sup>20</sup>

7.18.3 Silver Fern Farms [172.25] and Alliance Group [173.21] state that their sites are included in the Major Hazard Facility overlay as SHF-14 and SHF-12 respectively, but are not listed in SCHED2 - Schedule of Major Hazard Facilities, as such it is unclear if Major Hazard Facility provisions apply to the site. If the provisions do apply, it could be that some buildings at the submitter's sites are affected despite not containing hazardous substances. Additionally, the submitters consider amendments are required to avoid undue regulation simply because a building is in a Flood Assessment Area. They seek the following amendments:

[...]

5. buildings within major hazard facilities containing hazardous substances will not be inundated; and

[...]

7.18.4 Rangitata Dairies [44.2] considers that existing development within flood assessment areas has already occurred and needs to be acknowledged by the PDP. They seek NH-P4 is amended to acknowledge this.

7.18.5 Milward Finlay Lobb [60.15] is concerned there is no mention of freeboard with regard to flooding. They seek the following amendments:

[...]

6. increased risk on other sites is avoided as a priority and where this is not practicable, will be appropriately mitigated.; and

7. flood modelling is to include an allowance for freeboard.

7.18.6 ECan [183.33] considers NH-P4.4 requires all buildings to achieve minimum floor levels, when it should only be a requirement for natural hazard sensitive activities. They seek the following amendment:

*Enable subdivision, use and development (excluding Regionally Significant Infrastructure) in areas subject to inundation by a 0.5% AEP flood event provided that:*

<sup>20</sup> Te Kotare Trust [115.12] and Waipopo Huts [189.19] submissions in opposition are assessed in the Waipopo Huts section. The PrimePort [175.29] and Timaru District Holdings [186.15] submissions are assessed in the Port section.

*it is not likely to suffer significant damage in a flood event; and*

*[...]*

*4. for natural hazard sensitive activities, a minimum floor level above the 0.5% AEP design flood level can be achieved; and*

*[....]*

- 7.18.7 BP Oil, et al [196.50] consider it is unclear what 'inundated' means for major hazardous facilities (clause 5) when the Policy relates to areas that are already subject to inundation by a 0.5% flood event. The submitter considers that the overall policy is about risk which appropriately comes through via all other clauses, such that specific reference to MHF is unnecessary. They seek that clause 5 is deleted.

### **Analysis**

- 7.18.8 Regarding the Silver Fern Farms [172.25] and Alliance Group [173.21] submissions, as set out in my Hazardous Substances s42A report, SHF-14 and SHF-12 are recommended to be removed from the planning map. These sites are not listed in the SCHED2 - Schedule of Major Hazard Facilities. As such, I anticipate that clause 5 will not apply to these submitters. However, I agree that the clause can be refined to target only the potential harm caused by hazardous substances entering the environment, rather than the building itself. I therefore recommend that these submissions are accepted in part.
- 7.18.9 Regarding the Rangitata Dairies [44.2] submission, I accept that development has already occurred in areas subject to flooding in the District and note that existing use rights will apply to these developments. In response to other submissions I have recommended an 'avoid or mitigate' approach for high hazard areas in urban zoned areas. This is consistent with the submission. However, NH-P4 itself enables development to occur where the risk is appropriately managed (as set out in the policy). I consider this is enabling and does not require an additional reference to existing development in hazard risk areas. Accordingly, I recommend that this submission is accepted in part.
- 7.18.10 Regarding the Milward Finlay Lobb [60.15] submission, I understand that freeboard will be applied through the Flood Assessment Certificate approach identified in NH-S1 as freeboard is included in the definition of "Flood Risk Certificate". Given this, I recommend that this submission is rejected.
- 7.18.11 Regarding the ECan [183.33] submission seeking to limit clause NH-P4(4) to natural hazard sensitive activities, I agree that this amendment needs to be made as non-natural hazard sensitive activities would not be subject to unacceptable risk. I therefore recommend that this submission is accepted.
- 7.18.12 Regarding BP Oil, et al [196.50], I agree that there is some uncertainty as to what 'inundated' means for MHF when the Policy relates to areas that are already subject to inundation. In response to the Silver Fern Farms [172.25] and Alliance Group [173.21] submissions I have recommended amendments to this clause and I consider these amendments help to clarify its application. I therefore recommend that the submissions from BP Oil, et al [196.50] is

accepted in part. In doing so I note Mr Bosserelle's evidence for this submission which confirms that sea water inundation is an issue for the BP site in the PORTZ.

7.18.13 In addition to the above analysis, I recommend that clause 6 is amended to improve clarity (under RMA Clause 16(2)) to include examples of increasing risk on other sites. As set out under my analysis of NH-R1 later in this report, I recommend that as a consequence of amending NH-R1 in response to ECan [183.38], NH-P4 should be amended to also cover overland flow paths, and NH-P8 Overland Flow Paths is deleted. I have shown the recommended amendment to NH-P4 here, and to NH-P8 in my analysis of submissions on NH-P8.

### **Conclusion and recommendations**

7.18.14 I recommend that the submission from ECan [183.33] is accepted.

7.18.15 I recommend that the submissions from Silver Fern Farms [172.25], Alliance Group [173.21], BP Oil, et al [196.50] and Rangitata Dairies [44.2] submissions are accepted in part.

7.18.16 I recommend that the submission from Milward Finlay Lobb [60.15] is rejected.

7.18.17 Amend NH-P4 as follows:

#### **Subdivision, use and development in Flood Assessment Areas, excluding high hazard areas and overland flow paths**

Enable subdivision, use and development (excluding Regionally Significant Infrastructure) in areas subject to inundation by a 0.5% AEP flood event provided that:

1. it is not likely to suffer significant damage in a flood event; and
2. it will not significantly affect the functioning of the flood plain; and
3. it will not generate the need for new or upgraded public natural hazard mitigation works to mitigate or avoid the natural hazard; and
4. for natural hazard sensitive buildings, a minimum floor level above the 0.5% AEP design flood level can be achieved; and
5. for major hazard facilities will not be inundated, there is no risk of hazardous substances entering the environment; and
6. increased risk on other sites, including through floodwater displacement and diversion, is avoided as a priority and where this is not practicable, will be appropriately mitigated.

7.18.18 In terms of s32AA assessment, I consider the original s32 continues to apply as the changes simply clarify the application of the policy, achieve greater internal consistency and provide a more targeted approach to major hazardous facilities.

## 7.19 Natural Hazards - Policy NH-P5 – Subdivision and regionally significant infrastructure in Liquefaction Awareness Areas

- 7.19.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME | SUBMISSION POINT NUMBER(S) |
|----------------|----------------------------|
| Transpower     | 159.61                     |
| Waka Kotahi    | 143.67                     |
| ECan           | 183.34                     |

### Submissions

- 7.19.2 Eight submissions sought amendments to NH-P5,<sup>21</sup> while five were in support.
- 7.19.3 Transpower [159.61] acknowledges that the policy references RSI (but not all structures) on the basis that the Building Act addresses other buildings, but considers: the relationship between Policies NH-P5 and NH-P6 and NH-P11 is unclear; and the reference to RSI in Policy NH-P5 and Policy NH-P6 is unnecessary duplication. They consider that the reference to RSI (but not other activities) results in more onerous provisions applying to RSI when compared to other activities. They seek to remove the reference to RSI in NH-P5.
- 7.19.4 Waka Kotahi [143.67] generally supports NH-P5 but requests amendment to recognise the operational needs of infrastructure. They seek the following amendment:
- Require subdivision and Regionally Significant Infrastructure in Liquefaction Awareness Areas to apply appropriate measures to avoid or, where avoidance is not reasonably practicable due to the functional or operational needs of the activity, mitigate risks to people and property.*
- 7.19.5 ECan [183.34] considers this policy is relatively strongly worded for liquefaction risk, and wording should be better drafted to recognise the level of risk associated with liquefaction. ECan notes that the only control for liquefaction for RSI is in the subdivision provision NH-R8.2, so it is questionable whether or not RSI should be removed from the policy, and the subsequent assessment matter for NH-R8.2. Where RSI does form part of a subdivision, the amendment by removing it would not restrict consideration of risk to the infrastructure as part of the subdivision assessment. They seek to delete NH-P5 and replace it with the following wording or similar:

*Provide for subdivision in the Liquefaction Awareness Area Overlay, where the liquefaction risk has been identified and assessed, and can be appropriately remedied or mitigated.*

<sup>21</sup> This includes Connexa [176.61], Spark [208.61], Chorus [209.61] and Vodafone [210.61] which were considered earlier, as well as a Waipopo Huts Trust [189.20] submission which is covered in the separate Waipopo Huts section.

**Analysis**

- 7.19.6 Regarding the ECan [183.34] submission, I agree that liquefaction risk can be adequately managed and therefore the applicable provisions should be reworded. However, I favour alternative wording and therefore recommend that this submission is accepted in part.
- 7.19.7 Regarding the Transpower [159.61] submission, I agree there is overlap across these three policies for RSI. In response to Transpower's [159.63] submission on NH-P11, I have recommended amending NH-P11 to clarify its application to high hazard areas and other hazard areas. Because of this, I consider that RSI need not be expressly included within NH-P5. Noting my recommended amendments in response to ECan's submission, I recommend that this submission is accepted.
- 7.19.8 Regarding the Waka Kotahi [143.67] submission, I agree that both functional and operational needs should be considered. However, as I am recommending removing the reference to RSI and rewording the policy entirely to also remove references to functional need, I recommend that this submission is rejected.

**Conclusions and recommendations**

- 7.19.9 I recommend that the submission from Transpower [159.61] is accepted.
- 7.19.10 I recommend that the submission from ECan [183.34] is accepted in part.
- 7.19.11 I recommend that the submission from Waka Kotahi [143.67] is rejected.
- 7.19.12 Amend NH-P5 as follows:

**NH-P5 Subdivision and Regionally Significant Infrastructure in Liquefaction Awareness Areas**  
~~Require subdivision and Regionally Significant Infrastructure in Liquefaction Awareness Areas to apply appropriate measures to avoid or, where avoidance is not reasonably practicable due to the functional needs of the activity, mitigate risks to people and property.~~  
Require the liquefaction risk in the Liquefaction Awareness Area Overlay to be identified and appropriately remedied or mitigated.

- 7.19.13 In terms of s32AA assessment, I consider the original s32 generally continues to apply as the changes achieve greater internal consistency and more accurately reflect the rules. In addition, I note that the amended NH-P5 more appropriately manages the level of risk associated with the natural hazard and therefore better gives effect to CRPS objectives 11.2.1 and 11.2.2 and PDP NH-O1. Overall, I consider the amended NH-P5 better achieves the purpose of the Act.

**7.20 Natural Hazards - Policy NH-P6 – Subdivision and regionally significant infrastructure in Earthquake Fault Awareness Areas**

- 7.20.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME | SUBMISSION POINT NUMBER(S) |
|----------------|----------------------------|
| Transpower     | 159.62                     |
| Waka Kotahi    | 143.68                     |

**Matters raised by submitters**

7.20.2 Six submissions sought amendments to NH-P6,<sup>22</sup> while two were in support.

7.20.3 Similar to their submission on NH-P5, Transpower [159.62] acknowledges that the policy references RSI (but not all structures) on the basis that the Building Act addresses other buildings, but considers: the relationship between Policies NH-P5 and NH-P6 and NH-P11 is unclear; and the reference to regionally significant infrastructure in Policy NH-P5 and Policy NH-P6 is unnecessary duplication. They consider that the reference to RSI (but not other activities) results in more onerous provisions applying to RSI when compared to other activities. They seek to remove the reference to RSI in NH-P6.

7.20.4 Similar to their submission on NH-P5, Waka Kotahi [143.68] generally supports NH-P6 but requests amendment to recognise the operational needs of infrastructure. They seek the following amendment:

*Require subdivision and Regionally Significant Infrastructure in the Earthquake Fault Awareness Areas overlay to be designed or located in a way that avoids or, where avoidance is not reasonably practicable due to the functional or operational needs of the activity, mitigates risks to people and property.*

**Analysis**

7.20.5 Regarding the Transpower [159.62] submission, I agree there is overlap across these three policies for RSI. In response to Transpower's [159.61] and [159.63] submissions on NH-P5 and NH-P11 respectively, I have recommended amending NH-P5 to remove references to RSI and amend NH-P11 to clarify its application to high hazard areas and other hazard areas – i.e. it now covers all natural hazards. Because of this, I consider that RSI need not be included within NH-P6. I therefore recommend that this submission is accepted.

7.20.6 Regarding the Waka Kotahi [143.68] submission, I agree that both functional and operational needs should be considered. Even though I am recommending removing RSI from this policy I consider these matters are still relevant as other activities may also have similar requirements. I therefore recommend that this submission is accepted.

7.20.7 I also recommend that "(Subdivision)" is included in the overlay title (under clause 16(2) as that is the overlay title on the Planning Map.

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<sup>22</sup> This includes the submissions from Connexa [176.62], Spark [208.62], Chorus [209.62] and Vodafone [210.62] which were considered earlier.

**Conclusions and recommendations**

7.20.8 I recommend that the submissions from Transpower [159.62] and Waka Kotahi [143.68] are accepted.

7.20.9 Amend NH-P6 as follows:

**NH-P6 Subdivision and Regionally Significant Infrastructure in Earthquake Fault Awareness Areas**

Require subdivision and Regionally Significant Infrastructure<sup>23</sup> in the Earthquake Fault (Subdivision)<sup>24</sup> Awareness Areas overlay to be designed or located in a way that enables activities to avoid or, where avoidance is not reasonably practicable due to the functional need or operational needs<sup>25</sup> of the activity, mitigates risks to people and property.

7.20.10 In terms of a s32AA assessment, I consider the amendments simply refine the application of the policy to avoid duplication across the policies and more closely align it with the rules. The addition of 'operational need' more accurately recognises the locational requirements applying to activities. Accordingly, it better achieves NH-O1 and the purpose of the Act.

**7.21 Natural Hazards - Policy NH-P8 – Overland Flow Paths**

7.21.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME | SUBMISSION POINT NUMBER(S) |
|----------------|----------------------------|
| Kāinga Ora     | 229.40                     |

**Submissions**

7.21.2 One submission sought amendments to NH-P8, while one was in support.

7.21.3 Kāinga Ora [229.40] considers it is not clear how overland flow paths are identified. They seek to amend NH-P8 Overland Flow Paths to delete the reference to Overland Flow Paths, or insert sufficient text and/ or provisions so it is clear about how overland flow paths are identified, and how this information is available to district plan users.

**Assessment**

7.21.4 The obstruction of flowpaths can lead to increased flood risk on adjacent properties. It is therefore important that the functioning of overland flowpaths is maintained. Flowpaths are not identified on the planning maps as they are many and varied and can evolve over time.

<sup>23</sup> Transpower [159.62]

<sup>24</sup> Clause 16(2)

<sup>25</sup> Waka Kotahi [143.68]

As a result of this, flowpaths can be determined through a flood assessment certificate which also identifies the flood risk on the site. I agree that it is not clear in NH-P8 how a flowpath will be determined. However, NH-S1(1)(c) identifies that the flood risk certificate will specify this and I note that I am recommending changes to NH-R1 to include a permitted activity standard (PER-2) to not worsen flooding on another property through the diversion or displacement of flood water.

- 7.21.5 However, as set out under my analysis of NH-P4 earlier and NH-R1 later in this report, I recommend that as a consequence of amending NH-R1 in response to ECan [183.38], NH-P4 is amended to include overland flow paths, and NH-P8 Overland Flow Paths is deleted. In addition to avoiding the duplication for floodwater diversion occurring from NH-P4(6), a separate overland flowpath policy is no longer required given the altered approach to assessing and managing diversion and displacement under NH-R1. Accordingly, I recommend that the Kāinga Ora [229.40] submission is accepted in part.

### **Conclusions and recommendations**

- 7.21.6 I recommend that the submission from Kāinga Ora [229.40] is accepted in part.

- 7.21.7 Delete NH-P8.

- 7.21.8 In terms of a s32 AA assessment, this deletion is a consequential change resulting from the recommended changes made to NH-R1 and NH-P4. As such, the s32AA justification for this change is captured under NH-R1 and NH-P4.

### **7.22 Natural Hazards - Policy NH-P9 – Natural hazard mitigation works**

- 7.22.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| <b>SUBMITTER NAME</b>  | <b>SUBMISSION POINT NUMBER(S)</b> |
|------------------------|-----------------------------------|
| Silver Fern Farms      | 172.27                            |
| Alliance Group         | 173.24                            |
| ECan                   | 183.36                            |
| Te Rūnanga o Ngāi Tahu | 185.67                            |
| Waka Kotahi            | 143.18FS                          |

### **Submissions**

- 7.22.2 Four submissions sought amendments to NH-P8, while two were in support.

- 7.22.3 Silver Fern Farms [172.27] and Alliance Group [173.24] consider it appropriate to provide for private natural hazard mitigation works subject to the criteria specified in this policy. They seek a minor amendment to clause (2)(d) to recognise that changes to the flood risk profile



may be acceptable in some cases, for example where the increased flood risk is outweighed by the benefit of the project. They seek to amend NH-P9 as follows:

*Natural hazard mitigation works:*

[...]

2. *not undertaken by the Crown, Canterbury Regional Council or the Council, will only be acceptable where:*

[....]

d. *the construction or operation of the works will avoid or acceptably mitigate ~~not lead to~~ any increased or new risk from flooding to human life and property.*

7.22.4 ECan [183.36] considers that while NH-P9 is consistent with CRPS Policy 11.3.7, either the definition or the use of the term "natural hazard mitigation works" needs to change to provide greater clarity concerning the activities covered.

7.22.5 Te Rūnanga o Ngāi Tahu [185.67] considers that the values of qualities of ONL/ONF, Historic Heritage and SASM do not become less important when the works are being undertaken by the Crown, Canterbury Regional Council or the Council and that therefore the policy should be amended to only consider one set of criteria and due to the section 6 importance of these values, it should be subsection 2. They seek that NH-P9 is amended as set out below. In a further submission Waka Kotahi [143.18FS] opposed this submission as the amendments would result in onerous requirements that will restrict the ability of Waka Kotahi to respond and protect its infrastructure against natural hazards.

*Natural hazard mitigation works:*

- ~~1. — undertaken by the Crown, Canterbury Regional Council or the Council are enabled, where community scale hazard mitigation is necessary to protect existing communities from natural hazard risk which cannot reasonably be avoided, and any adverse effects on the identified values and qualities of Outstanding Landscapes and Features, the Coastal Environment, Visual Amenity Landscapes, Significant Natural Areas, High Naturalness Waterbodies Areas, Sites of Significance to Māori, Historic Heritage, cultural, and archaeological areas, riparian margins and Notable Trees are mitigated; or~~
- ~~2. — not undertaken by the Crown, Canterbury Regional Council or the Council, will only be acceptable where:~~

~~a. the natural hazard risk cannot otherwise be reasonably avoided; and~~

~~b. [...]~~

### **Analysis**

7.22.6 Regarding the Silver Fern Farms [172.27] and Alliance Group [173.24] submissions, I consider that it may be appropriate at the policy level to enable the consideration of acceptable mitigation of new or increased risk from flooding as there may be some instances where the works are justified as they protect an existing community but increase risk in a minor and acceptable way to other property, for example where stop banks are extended, causing increased flows past existing bridges, or where overland flows are diverted to discharge down roads. However, I am also uncomfortable that this could result in an increased risk to

life or the ready transference of the hazard to someone else. On balance, I recommend that these submissions on NH-P9 are accepted as the wording still requires the risk to be acceptably mitigated and note that NH-O1 enables risk to be avoided or mitigated to an acceptable level. In addition, this approach is consistent with some other district plans.<sup>26</sup> I note that a similar submission was made by Alliance Group [173.88] on CE-P14 which I have recommended to be rejected based on the evidence of Mr Todd. For that coastal environment submission, I distinguished that recommendation from NH-P9 on the basis that the wording in CE-P14 refers to hard engineering only, applies to adjacent properties only and is limited to coastal hazards (sea water inundation and coastal erosion).

7.22.7 Regarding the ECan [183.36] submission, I have already recommended amending the definition of natural hazard mitigation works in response to ECan [183.14A]. Accordingly, I recommend that this submission is accepted.

7.22.8 Regarding Te Rūnanga o Ngāi Tahu's [185.67] submission, I agree that the values of qualities of ONL/ONF, Historic Heritage and SASM do not become less important when the works are being undertaken by the Crown, Canterbury Regional Council or the Council, however these organisations have a statutory responsibility to also keep their communities safe by managing significant risks from natural hazards as a matter of national importance under s6(h) and s31 and s32. In my opinion, life risk is not something that should be subjugated under the matters listed in the submission and the policy therefore appropriately seeks to mitigate adverse effects. Accordingly, I recommend that this submission is rejected.

### **Conclusion and recommendations**

7.22.9 I recommend that the submissions from Silver Fern Farms [172.27], Alliance Group [173.24] and ECan [183.36] are accepted.

7.22.10 I recommend that the submission from Te Rūnanga o Ngāi Tahu [185.67] is rejected.

7.22.11 Amend NH-P9 as follows:

[....]

d. the construction or operation of the works will avoid or acceptably mitigate ~~not lead to~~ any increased or new risk from flooding to human life and property.

7.22.12 In terms of a s32 AA assessment, while transferring risk is generally not appropriate, in some limited circumstances this may be appropriate and the proposed amendment provides greater flexibility to consider this. Accordingly, this more flexible approach enables greater efficiency. It is also consistent with NH-O1 where risk can be avoided or mitigated to an acceptable level. As such, I consider it better achieves the purpose of the Act.

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<sup>26</sup> For example see Policy 5.2.2.1.4 No transferring of natural hazard risk in the Christchurch District Plan.

**7.23 Natural Hazards - Objective NH-P10 – High Hazard Areas**

7.23.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME    | SUBMISSION POINT NUMBER(S) |
|-------------------|----------------------------|
| Silver Fern Farms | 172.28                     |
| Alliance Group    | 173.25                     |
| Tosh Prodanov     | 117.2                      |

**Matters raised by submitters**

7.23.2 Four submissions sought amendments to NH-P10,<sup>27</sup> while four were in support.

7.23.3 Silver Fern Farms [172.28] and Alliance Group [173.25] consider that the unqualified avoidance policy setting is not appropriate as it may be acceptable to lose some structures e.g. a fence. They also consider that all high hazard areas need to be mapped, so the policy direction can be implemented at a consenting level. They seek to amend NH-P10 as follows:

*Avoid subdivision, use and development (excluding Regionally Significant Infrastructure) in, mapped ~~or identified~~ High Hazard Areas, unless:*

1. *it is a building that is not a natural hazard sensitive activity or is unlikely to suffer damage; or*
2. *it can be demonstrated that the risks of the natural hazard can be mitigated so that:*
  - a. *in the event of a natural hazard, there is likely to be no loss of life or serious injury ~~or and any built development is not likely to suffer~~ significant property damage or loss; and*
  - [...]

7.23.4 Tosh Prodanov [117.2] considers NH-P10 must allow for mitigation of Natural Hazards at the South Rangitata Huts. The submitter seeks the following amendments:

*Avoid subdivision, use and development (excluding Regionally Significant Infrastructure) in, mapped or identified High Hazard Areas, unless:*

1. *it is a building that is not a natural hazard sensitive activity or is unlikely to suffer damage; or*
2. *it can be demonstrated that the risks of the natural hazard can be mitigated so that:*
  - a. *in the event of a natural hazard, there is likely to be no loss of life or serious injury and any built development is not likely to suffer significant damage or loss; and*
  - b. ~~*it will not require new or upgraded public natural hazard mitigation works to mitigate the natural hazard; and*~~
  - [...]

*OR, alternatively:*

<sup>27</sup> The Waipopo Huts Trust [189.21] submission in opposition is assessed separately in the Waipopo Huts section.

Amend **NH-P10** as follows:

Avoid subdivision, ~~use~~ and development (excluding Regionally Significant Infrastructure) in, mapped or identified High Hazard Areas, unless:

1. it is a building that is not a natural hazard sensitive activity or is unlikely to suffer damage; or [...]

OR

Remove the **High Hazard Area** overlay from South Rangitata Huts which enables Natural Hazard mitigation works under NH-P9 which is otherwise prevented by NH-P10.

### Analysis

7.23.5 Regarding the Silver Fern Farms [172.28] and Alliance Group [173.25] submissions, in my opinion the policy does not require an unqualified avoidance policy as it provides a pathway for buildings that are not natural hazard sensitive. In my opinion this should include structures like fences and therefore an amendment is required to refer to structures in clause 1 in accordance with the submissions. I am also comfortable with the amendments proposed to clause 2(a) as these simplify the wording but are still accurate. Regarding the mapping of all high hazard areas, while I agree that this would provide certainty for all plan users, I understand that this is not possible as the Council does not hold detailed flood modelling data for the whole district. In addition, the flood modelling evolves as more data becomes available and works are undertaken to manage flood risk. Given this, the Flood Assessment Area Overlay identifies where flooding may occur and requires a Flood Assessment Certificate to identify the extent of flooding on the subject site. This enables an up-to-date detailed assessment of flood risk within the overlay. I consider this is a more accurate approach than trying to map all high hazard areas with insufficient or changing information. I therefore recommend that this part of these submissions is rejected. Overall, I recommend that these submissions are accepted in part.

7.23.6 Regarding the submission of Tosh Prodanov [117.2], I consider that at a policy level it is appropriate to avoid development that would rely on new or upgraded public natural hazard mitigation works to mitigate the natural hazard and that such development should require an assessment through a resource consent pathway to identify risk and appropriate responses. I understand that the South Rangitata Huts area is a high hazard area based on the flood modelling. I therefore recommend that this submission is rejected. In recommending this I note that I have distinguished this site from the Waipopo Huts site because of the underlying Open Space Zone applying to the South Rangitata Huts versus the existing and recommended MPZ applying to the Waipopo Huts, the intended use of the MPZ and its special status.

### Conclusions and recommendations

7.23.7 I recommend that the submissions from Silver Fern Farms [172.28] and Alliance Group [173.25] are accepted in part.

7.23.8 I recommend that the submission from Tosh Prodanov [117.2] is rejected.

7.23.9 Amend NH-P10 as follows:

Avoid subdivision, use and development (excluding Regionally Significant Infrastructure) in, mapped or identified-High Hazard Areas, unless:

1. it is a building or structure that is not a natural hazard sensitive building activity or is unlikely to suffer damage; or
2. it can be demonstrated that the risks of the natural hazard can be mitigated so that:
  - a. in the event of a natural hazard, there is likely to be no loss of life or serious injury or ~~and any built development is not likely to suffer significant property damage or loss;~~ and
- [....]
- : or
3. It is located within an Urban Zoned Area and the risks of the natural hazard are avoided or mitigated.

7.23.10 In terms of a s32AA assessment, all the changes with the exception of new clause 3 simply seek to provide greater clarity. For new clause 3, consistent with my s32AA assessment for NH-O1, I consider that this amendment better gives effect to the CRPS approach for “high hazard” areas within and outside of urban areas under Policy 11.3.1 and is more consistent with the approach taken in the PDP CE chapter. I consider this approach is more efficient and effective than the notified PDP as it is cognisant of the built development in existing urban areas and the known natural hazard risk in these locations. Overall, I consider this approach better achieves the purpose of the Act.

## 7.24 Natural Hazards - Policy NH-P11 – Regionally Significant Infrastructure

7.24.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME         | SUBMISSION POINT NUMBER(S) |
|------------------------|----------------------------|
| Transpower             | 159.63                     |
| Waka Kotahi            | 143.70                     |
| Te Rūnanga o Ngāi Tahu | 185.68                     |

### Submissions

7.24.2 Seven submissions sought amendments to NH-P11,<sup>28</sup> while three were in support.

7.24.3 Transpower [159.63] supports that there is a specific policy to address RSI in natural hazard areas however does not support the “only allow” direction as NH-O2 relates to high hazard areas. The submitter considers that this policy should be confined similarly. They seek to amend NH-P11 as follows:

*NH-P11 Regionally Significant Infrastructure in ~~Natural High~~ Hazard Areas*

*Only allow Regionally Significant Infrastructure in ~~Natural High~~ Hazard Areas where:*

<sup>28</sup> This includes the submissions from Connexa [176.63], Spark [208.63], Chorus [209.63] and Vodafone [210.63]

[...]

- 7.24.4 Waka Kotahi [143.70] supports NH-P11 which recognises that RSI may have an operational or functional need to be located within a natural hazard area, however requests an amendment to acknowledge the linear nature of some infrastructure, such as roading, as one reason why it may not be practicable, or sometimes possible, to avoid locations subject to natural hazards. They seek the following amendments:

*Only allow Regionally Significant Infrastructure in Natural Hazard Areas where:*

1. *it has an operational need or functional need for the location, including as a result of the linear nature of some infrastructure, and there are no feasible alternative locations; and*

[...]

- 7.24.5 Te Rūnanga o Ngāi Tahu [185.68] considers that the impact on Kāti Huirapa values and the ability to avoid, remedy and mitigate them should be a consideration of this policy given the long lifespan and potentially permanent impact of RSI. The submitter considers that it needs to be identified in the policy in order to ensure good cross referencing and to allow for consideration as a matter of discretion. They seek the following amendments:

*Only allow Regionally Significant Infrastructure in Natural Hazard Areas where: [...]*

4. *the impact on values identified in sensitive environments is avoided, remedied or mitigated.*

### **Analysis**

- 7.24.6 Regarding the Transpower [159.63] submission, I agree that there is some misalignment between NH-P11 and NH-O2. However, the solution proposed by the submitter would remove all policy support for RSI in natural hazard areas other than high hazard areas, and earthquake fault and liquefaction areas. CRPS Policy 11.3.4 requires that new critical infrastructure (which is generally the same as RSI) “*will be located outside high hazard areas unless there is no reasonable alternative. In relation to all areas, critical infrastructure must be designed to maintain, as far as practicable, its integrity and function during natural hazard events.*” Given this higher order policy, I consider that NH-P11 requires amending to limit the “only allow” direction to high hazard areas as per the submitter’s submission and CRPS Policy 11.3.4. I therefore recommend that NH-P11 is amended as set out below and that this submission is accepted in part.
- 7.24.7 Regarding the submission from Waka Kotahi [143.70], in my opinion the linear nature of some infrastructure is an example of an operational need or functional need. However, I do not consider it is necessary to add this into the policy as an example, noting that there are other examples that could also be added. I do not have a strong opinion on this matter, but on balance recommend that this submission is rejected.
- 7.24.8 Regarding Te Rūnanga o Ngāi Tahu’s [185.68] submission, I agree that they may be adverse effects on Kāti Huirapa values from some RSI. However, this policy is only concerned with natural hazards and the functioning of the RSI – it does not cover adverse effects such as those identified by the submitter, nor on indigenous biodiversity or natural character or

outstanding landscapes, etc – these are addressed by the relevant district wide chapter, not the natural hazards chapter. Noting that the SASM provisions apply to RSI (e.g. SASM-R2) that the assessment of Kāti Huirapa values can be undertaken under that chapter, I recommend that this submission is rejected.

### **Conclusions and recommendations**

7.24.9 I recommend that the submission from Transpower [159.63] is accepted in part.

7.24.10 I recommend that the submissions from Waka Kotahi [143.70] and Te Rūnanga o Ngāi Tahu [185.68] are rejected.

7.24.11 Amend NH-P11 as follows:

~~Only allow Regionally Significant Infrastructure in Natural Hazard Areas where:~~

1. is only allowed within high hazard areas where it has an operational need or functional need for the location and there are no feasible alternative locations; and
2. for other hazard areas:
  - ~~2.~~ a. it is designed to maintain its integrity and function during and after a natural hazard event, or it is able to be readily re-instated after a natural hazard event; and
  - ~~3.~~ b. it is designed and located to ensure that it will not exacerbate the risks or potential adverse effects of the natural hazard on surrounding land.

7.24.12 In terms of a s32AA assessment, I consider that the existing s32 continues to apply as the recommended changes do not change the intent or meaning of the policy.

## **7.25 Natural Hazards – New Policies**

7.25.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME  | SUBMISSION POINT NUMBER(S) |
|-----------------|----------------------------|
| Forest and Bird | 156.88                     |

### **Submissions**

7.25.2 Forest and Bird [156.88] considers that by excluding RSI in NH-P10, there is no policy direction for development of RSI in high hazard areas, noting that NH-P11 only addresses natural hazard areas that are not high hazard areas. They seek that a new policy is added to the NH chapter to provide guidance for development of RSI in high hazard areas.

### **Analysis**

7.25.3 In my opinion policy NH-P11 is not limited to non-high hazard areas, rather it covers all areas affected by natural hazard risk. I therefore recommend that this submission is rejected.

### **Conclusions and recommendations**

7.25.4 I recommend that the submission from Forest and Bird [156.88] is rejected.

7.25.5 No changes are recommended.

## 7.26 Natural Hazards – New Rules

7.26.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME | SUBMISSION POINT NUMBER(S) |
|----------------|----------------------------|
| ECan           | 183.41                     |

### **Submissions**

7.26.2 ECan [183.41] supports the need to obtain resource consent when establishing new flood protection schemes, but notes there is sometimes the need for small scale one-off works to protect a particular area, which would be captured by Rule NH-R3 (which they recommend is combined with NH-R9). Examples of activities that could be classified as new under this rule are small scale and have little environmental effect and include: proactive works where the movement of the river is signalling potential for bank erosion or overtopping in the next flood or repairs to areas where rivers have broken out in a flood. To resolve this ECan suggests adding a new rule “NH-RX: Natural hazard mitigation works, including associated earthworks” structured to prevent any consequential adverse effects that could occur if the work is not done well; is certain; can only occur at an acceptable scale; and ensures the work is part of an integrated protection scheme. This submission point also includes ECan’s recurring request to amend the terminology of “natural hazards mitigation works”.

### **Analysis**

7.26.3 While I am supportive of facilitating flood protection matters, unfortunately no suggested wording was provided in the submission that would deliver the outcomes set out in the submission (e.g. being of acceptable scale), nor is there clarity around how this new rule would integrate with related rules NH-R3 and NH-R9 which ECan has also recommended changes to. In the absence of this information I recommend that this submission is rejected. In doing so I note that in response to ECan submissions on NH-R3 and NH-R9 (e.g. ECan [183.40]) I have recommended changes to better facilitate natural hazard mitigation works.

### **Conclusions and recommendations**

7.26.4 I recommend that the submission from ECan [183.41] is rejected.

7.26.5 No changes are recommended in response to this submission point.



## 7.27 Natural Hazards – NH-R1 Earthworks, excluding land disturbance and for natural hazard mitigation works

7.27.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME          | SUBMISSION POINT NUMBER(S)             |
|-------------------------|--|
| Dairy Holdings          | 89.6                                   |
| Rangitata Dairies       | 44.3                                   |
| Silver Fern Farms       | 172.29                                 |
| Alliance Group          | 173.26                                 |
| ECan                    | 183.38                                 |
| Te Rūnanga o Ngāi Tahu  | 185.69, 185.70, 185.71, 185.72, 185.73 |
| South Rangitata Reserve | 206.10                                 |
| Alastair Joseph Rooney  | 177.15                                 |

### **Matters raised by submitters**

7.27.2 Ten submissions sought amendments to this rule<sup>29</sup> while three submissions were in support. There was also one general submission that I have addressed here.

7.27.3 Dairy Holdings [89.6] considers that ancillary rural earthworks should be excluded from this rule as the 2,000m<sup>2</sup> per year limit proposed in NH-S2 will severely limit the submitter's ability to maintain and improve its farm. The submitter considers it appropriate to exclude ancillary rural earthworks undertaken in a flood assessment area from this rule. They seek the following amendments:

[...]

*Or PER-3*

*The earthworks are ancillary rural earthworks.*

7.27.4 Rangitata Dairies [44.3] opposes NH-R1 as it would exclude remedial work post-flooding events being undertaken as a permitted activity in a Flood Assessment Area (such work would be a restricted discretionary activity). The submitter seeks to amend NH-R1 to enable remedial works to re-instate existing farmland and infrastructure post flooding events as a permitted activity.

7.27.5 Silver Fern Farms [172.29] and Alliance Group [173.26] support the provisions for buildings to be constructed in a Flood Assessment Area on a permitted basis if the specified criteria are met. However, the submitters oppose PER-1 on the basis that standard NH-S2 limits earthworks to 250m<sup>2</sup> per calendar year. The submitters consider that on a large industrial site, this small allowance is an undue constraint on typical operations. They seek either the

<sup>29</sup> Te Kotare Trust [115.13] and Waipopo Huts Trust [189.22] submissions in opposition are addressed in the Waipopo Huts section.

deletion of NH-R1 PER-1 or its retention subject to an increased allowance for earthworks in NH-S2 in the GIZ.

- 7.27.6 ECan [183.38] has made a number of comments on this rule and suggested amendments. ECan considers the purpose of the rule would be clearer if the title was amended to reflect that it applies to all earthworks except for those associated with natural hazards mitigation works and the land disturbance associated with those works. ECan suggests the same provisions for non-hazard sensitive buildings and structures can be covered by this rule. ECan considers PER-1 need only capture areas of earthworks that are subject to flooding, rather than the whole site. ECan considers in PER-2 the definition of overland flow path is not sufficiently clear, and any area identified as an overland flow path will show up in an assessment of whether the site is impacted by a 0.5% AEP flood event. In addition, "overland flow path" would not necessarily pick up ponding areas. The addition of the words "If a" at the beginning of the standard does not indicate the status of the activity if no certificate has been issued, as the standard would then only apply if a certificate had been issued. ECan seeks a new PER-3 to ensure that earthworks that might be undertaken as a permitted activity do not have offsite flooding effects, and to ensure compliance or enforcement action can be undertaken if offsite effects occur, and also addresses displacement of flood waters as well which can have an impact in non-flow ponding areas. ECan seeks the following amendments to NH-R1:

**NH-R1 Earthworks, and building and structures for non-natural hazard sensitive activities, excluding ~~and disturbance and for~~ natural hazard mitigation works and associated land disturbance.**

**Activity status: Permitted Where:**

**PER-1**

If the area subject to the earthworks site is subject to flooding in a 0.5% AEP ~~rainfall-flood event~~, NH-S2 is complied with; and

**PER-2**

~~A if a Flood Hazard Assessment Risk Certificate for the site has been issued in accordance with NH- S1, and the certificate states that the activity is not located on land ~~that is within an overland flow path.~~ subject to flooding in a 0.5% AEP flood event or high hazard area; and~~

**PER-3**

The earthworks, or buildings and structures for non-natural hazard sensitive activities, will not worsen flooding on another property through the diversion or displacement of flood water.

**Activity status where compliance not achieved with PER-1: Restricted Discretionary Matters of discretion are restricted to:**

1. The relevant matters of discretion of any infringed standard.

**Activity status where compliance not achieved with PER-2: Restricted Discretionary Matters of discretion are restricted to:**

1. any adverse effects on the rate of flow and direction of overland flow path(s); and
2. any adverse effects on property from blockage of or disturbance to the overland flow path(s) or displacement of floodwater; and
3. any increased flood risk for people, property, or public spaces; and

~~3.~~ 4. the effectiveness and potential adverse effects of any proposed mitigation measures.

- 7.27.7 Te Rūnanga o Ngāi Tahu [185.69] considers the extent of impacts on Kāti Huirapa values should be a matter of discretion for all the activities requiring resource consent in the Overlays and not just the maintenance, replacement and upgrading of mitigation works. They seek to add the Matters of Discretion below to all RDIS activities in this rule. Te Rūnanga o Ngāi Tahu also seeks the same outcomes in submissions [185.70], [185.71], [185.72], [185.73].

x. the extent of any adverse social, cultural and environmental effects, including on any sensitive environments;

x. the potential of any adverse effects on the spiritual and cultural values and beliefs of Kāti Huirapa, including measures to avoid, remedy or mitigate adverse effects.

- 7.27.8 South Rangitata Reserve [206.10] are concerned that compliance costs may outweigh the cost of the physical work and hopes that minor work would be readily approved. The submitter objects only if the protection works on the South Rangitata Reserve or neighbouring coastal or river margins is not provided for, but is otherwise supportive of NH-R1.
- 7.27.9 Alastair Joseph Rooney [177.15] opposes any rules in respect of the Flood Assessment Area Overlay relating to the submitter's properties which are used for primary production purposes. The submitter seeks to introduce a rule that earthwork limits within this overlay only apply in respect to activities that increase flood exposure and amend NH-S2 to increase the permitted earthworks volumes in the Rural Zones within the Flood Assessment Areas overlay per year from 2,000m<sup>2</sup> to 2,500m<sup>2</sup> or more.

### **Analysis**

- 7.27.10 Regarding the Dairy Holdings [89.6] submission, the definition of "ancillary rural earthworks" could enable significant earthworks to occur as it means any earthworks associated with the maintenance and construction of facilities typically associated with farming activities, including, but not limited to, farm tracks/roads (up to 6m wide), landings, stock races, silage pits, farm drains, farm effluent ponds, feeding pads, fencing and erosion and sediment control measures, and burying of material infected by unwanted organisms. In his evidence under 'Earthworks Considerations' and this submission, Mr Bosserelle states that it is important that in floodplains, earthworks do not significantly increase the inundation hazard by unintentionally facilitating the flow of inundation water landward or unintentionally creating dams that could catastrophically fail and increase the hazard. He supports setting a limit on the volume of earthworks that is allowed without consent and that the limit of 2,000m<sup>2</sup> in area in any calendar year in a rural zone seems appropriate as it should prevent any significant changes to flow pathways in the case of a coastal storm. As an alternative Mr Bosserelle supports an approach that simply seeks to not worsen flooding on another property through the diversion or displacement of flood water. He is also concerned that the definition of Ancillary Rural Earthworks is very broad and could allow for the significant disruption of sea water inundation flow pathways, potentially increasing the inundation

hazard. I consider this advice is relevant to general flooding as the issues of flow disruption are comparable.

7.27.11 I consider that the area or volume of earthworks in the standard is rather arbitrary. I note that in response to submissions on the Proposed WDP the s42A author recommended amending the earthworks provisions in flood assessment overlays to permit these where they 'will not increase flooding on another property through the diversion or displacement of floodwaters'. I note that this is also the approach in the SDP. Whilst I consider there is some uncertainty determining whether earthworks will increase flooding on another property, I consider this is a more accurate and flexible approach than including an arbitrary figure and I note Mr Bosserelle also supports this approach as an alternative. I therefore recommend that NH-R1 is amended to delete the reference to NH-S2 and instead include a performance standard that refers to increasing flooding on other properties (I have elaborated in this further under ECan [183.38] below). Accordingly, I recommend that this submission is accepted in part.

7.27.12 Regarding Silver Fern Farms [172.29] and Alliance Group [173.26] submissions, consistent with my response to Dairy Holdings [89.6], I consider that the volume and area of earthworks is arbitrary and that a more appropriate approach is to delete the reference to NH-S2 and instead include a performance standard that refers to increasing flooding on other properties. Accordingly, I recommend that these submissions are accepted in part.

7.27.13 Regarding the Rangitata Dairies [44.3] submission, I do not consider that the plan must permit all remedial work post-flooding events. It is clear that earthworks can affect the flow of water and therefore the effects of natural hazards. However, the amendments I have recommended in response to Dairy Holdings [89.6] should assist in the ability to respond to post-flooding events by providing more flexibility. Accordingly, I recommend that this submission is accepted in part.

7.27.14 Regarding the ECan [183.38] submission, I agree that the rule should also include buildings and structures as these can cause displacement. In doing so I note that NH-R2 Fences (structures) would also be covered by the amended NH-R1. I agree that a standard like ECan's suggested PER-3 is appropriate, as assessed in response to the submission from Dairy Holdings [89.6]. While I am concerned with the certainty of applying a 'will not worsen' approach as a permitted activity standard, I note this approach has been applied in other district plans and neatly avoids requiring arbitrary earthworks volume thresholds. However, this standard should include a reference to an appropriate flood event and clarify how climate change is to be considered to provide more certainty. I also consider that if this standard applies, there is no need to reference NH-S2, given the issue around arbitrary earthworks volumes / areas already assessed. I therefore recommend that PER-1 is deleted and NH-S2 is deleted. I agree with the additional matters of discretion to accompany the other changes. Regarding the requested removal of overland flowpaths from PER-2, given my recommended new standard for flood water displacement and disruption, I agree this is no longer needed. In addition, I consider that PER-2 is no longer needed at all, as if there is no flooding, then an activity clearly will not worsen flooding on another property. Rather

than keeping this standard I favour including it as a note. Overall, I recommend NH-R1 is amended as set out below, and is combined with NH-R2. Accordingly, I recommend that this submission is accepted in part. I note that if new PER-2 is accepted then NH-R7 is also no longer required as this rule is intended to cover water displacement and diversion.

- 7.27.15 Regarding Te Rūnanga o Ngāi Tahu [185.69], [185.70], [185.71], [185.72], [185.73] submissions, in my opinion the respective rules seek to manage natural hazards risks on sensitive buildings and RSI – they are not about considering the impacts of buildings or earthworks on sensitive environments. There are already separate provisions in other district wide chapters that will continue to apply to enable consideration of other adverse effects, for example the SASM, EIB and NFL chapters. Given this, I do not support including the requested additions into the respective rules under these submissions. I therefore recommend that these submissions are rejected.
- 7.27.16 Regarding South Rangitata Reserve [206.10], I do not consider it appropriate to predicate a submission on the basis that protection works on the South Rangitata Reserve or neighbouring coastal or river margins are provided for. Therefore, I consider this is a submission in opposition. I understand, based on advice from ECan, that flood risk certificates for rural parts of the District, if required, will be reasonably priced (in the order of \$150-\$200 dollars) and are therefore unlikely to outweigh the actual earthworks costs. I therefore recommend that this submission is rejected.
- 7.27.17 Regarding the submission from Alastair Joseph Rooney [177.15], consistent with my above recommendations I consider that a new permitted activity standard should be introduced that the earthworks (or buildings or structures for non-natural hazard sensitive activities), will not worsen flooding on another property through the diversion or displacement of flood water and to delete NH-S2. This addresses the submitter's concerns in part. Accordingly, I recommend that this submission is accepted in part
- 7.27.18 I consider that as a consequence of amending NH-R1 as set out above, this single rule adequately covers the risk from the diversion of overland flow paths, and that therefore this is not needed to be separately addressed in NH-R4 PER-3, NH-R6 PER-2, NH-R6.2, and NH-R7 PER-4. Additionally, I consider that NH-P8 Overland Flow Paths can be deleted and NH-P4 amended to also cover overland flow paths. I have amended these provisions accordingly when I have assessed the submissions on them.

### **Conclusion and recommendations**

- 7.27.19 I recommend that the submissions from Dairy Holdings [89.6], Rangitata Dairies [44.3], Silver Fern Farms [172.29], Alliance Group [173.26], ECan [183.38] and Alastair Joseph Rooney [177.15], are accepted in part.
- 7.27.20 I recommend that the submissions from Te Rūnanga o Ngāi Tahu [185.69], [185.69], [185.70], [185.71], [185.72], [185.73] and South Rangitata Reserve [206.10] are rejected.

7.27.21 Amend NH-R1 as follows:

**NH-R1 Buildings, structures and Earthworks, excluding and disturbance and for natural hazard mitigation works and its associated land disturbance**

**Flood Assessment Area Overlay**

**~~High Hazard Area Overlay~~<sup>30</sup>**

**Activity status: Permitted Where:**

**PER-1**

~~If the area is subject to flooding in a 0.5% AEP rainfall, NH-S2 is complied with; and~~<sup>31</sup>

**PER-2**

~~If a Flood Risk Certificate for the site has been issued in accordance with NH-S1, and the certificate states that the activity is not located on land that is within an overland flow path.~~

The buildings, structures or earthworks will not worsen flooding on another property that is not held in the same ownership, through the diversion or displacement of flood water in all events up to and including a 0.5% AEP event;

~~**Activity status where compliance not achieved with PER-1: Restricted Discretionary**~~

~~**Matters of discretion are restricted to:**~~

~~1. The relevant matters of discretion of any infringed standard.~~

~~**Activity status where compliance not achieved with PER-2: Restricted Discretionary**~~

~~**Matters of discretion are restricted to:**~~

1. any adverse effects on the rate of flow and direction of overland flow path(s); and
2. any adverse effects on property from blockage of or disturbance to the overland flow path(s) or displacement of floodwater; and
3. any increased flood risk for people, property, or public spaces; and
- ~~3-4.~~ the effectiveness and potential adverse effects of any proposed mitigation measures.

**Notes:**

1. A Flood Risk Assessment Certificate issued in accordance with NH-S1 will identify if the site is subject to flooding in events up to and including a 0.5% AEP flood event.

<sup>30</sup> See the Overlay section later in this report for the rationale for this deletion.

<sup>31</sup> Dairy Holdings [89.6], Rangitata Dairies [44.3], Silver Fern Farms [172.29], Alliance Group [173.26]

2. When considering flooding effects, the cumulative effects of climate change over the next 100 years (based on latest national guidance) and all sources of flooding (including fluvial, pluvial, and coastal) must be accounted for.

3. This rule applies in addition to all the remaining chapter rules.

7.27.22 Delete NH-R2, NH-S2 and NH-R7.

7.27.23 In terms of a s32AA assessment, the proposed amendments seek to clarify the application of the provisions and change the approach for managing diversion and displacement. Whilst the recommended diversion and displacement approach utilises a different approach from the PDP, the same outcomes are still sought. I consider that the recommended approach is more efficient than the notified approach of requiring flood assessment certificates and utilising building and earthworks thresholds and better achieves NH-O1 and the purpose of the Act.

## 7.28 Natural Hazards – NH-R2 Fences

7.28.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME      | SUBMISSION POINT NUMBER(S) |
|---------------------|----------------------------|
| Peter Bonifacio     | 36.15                      |
| ECan                | 183.39                     |
| Hort NZ             | 245.55                     |
| Milward Finlay Lobb | 60.12                      |

### Submissions

7.28.2 Three submissions sought amendments to NH-R2, one raised concerns, while three submissions support it.

7.28.3 Peter Bonifacio [36.15] considers the rule does not take into account the practicalities of farming and the need for secure fencing. The submitter seeks to amend NH-R2 to provide for different types of fences, and other practical and realistic measures to prevent flood damage.

7.28.4 ECan [183.39] considers the assessment matters can be simplified to "effects". ECan seeks the following amendments:

#### **NH- R2 Fences**

[...]

#### **Matters of discretion:**

1. [...]; and

2. any ~~potential~~ adverse effects ~~of from~~ diverting or blocking overland flow path(s), including upstream and downstream flood risks; and

3. [...]

4. the effectiveness and **potential** adverse effects of any proposed mitigation measures.

- 7.28.5 Hort NZ [245.55] considers NH-R2 should be extended to provide of other flood tolerant activities. They seek the following amendments:

**NH- R2 Fences, Crop Support Structures and Artificial Crop Protection Structures Activity status: Permitted**

**Where:**

**PER-1**

At least 70% of the surface area of the fence, Crop Support Structure or Artificial Crop Protection Structure is permeable above ground; or

- 7.28.6 Milward Finlay Lobb [60.12] is concerned about the enforceability of this rule, as most home owners will erect a fence without knowing of this requirement. No relief was specified.

### **Analysis**

- 7.28.7 Regarding the submissions from Peter Bonifacio [36.15] and Hort NZ [245.55], as I have recommended combining this rule with NH-R1 which covers structures, I consider other structures such as crop support structures and other types of fences are now captured in the rule. If these do not worsen flooding on another property through the diversion or displacement of flood water then they will be permitted. Accordingly, I recommend that these submissions are accepted in part.
- 7.28.8 Regarding the ECan [183.39] submission, I consider that the changes recommended under NH-R1 respond to the issues raised regarding matters of discretion. Accordingly, I recommend that this submission is accepted in part.
- 7.28.9 Regarding the Milward Finlay Lobb [60.12] submission, I note that I am recommending deleting NH-R2 and broadening the scope of NH-R1 to cover structures, including fences. The approach in NH-R1 is that buildings, structures or earthworks will not worsen flooding on another property through the diversion or displacement of flood water, so the express requirement for fence permeability or a Flood Assessment Certificate is no longer required. Whilst there was no relief sought, the recommended amendments align fences with all other buildings, structures and earthworks and accordingly, I recommend that this submission is accepted in part.

### **Conclusions and recommendations**

- 7.28.10 I recommend that the submissions from Peter Bonifacio [36.15], Hort NZ [245.55], Milward Finlay Lobb [60.12] and ECan [183.39] are accepted in part.
- 7.28.11 As per the recommendation under NH-R1, delete NH-R2.
- 7.28.12 In terms of a s32AA assessment, this matter was considered under NH-R1.



## 7.29 Natural Hazards - Rule NH-R3 - Natural hazard mitigation works - maintenance, replacement and upgrading

- 7.29.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME          | SUBMISSION POINT NUMBER(S) |
|-------------------------|----------------------------|
| OWL                     | 181.54                     |
| Waka Kotahi             | 143.71                     |
| ECan                    | 183.40                     |
| South Rangitata Reserve | 206.11                     |

### Submissions

- 7.29.2 Three submissions sought amendments to NH-R3, one raised concerns, while one submission supported it.
- 7.29.3 South Rangitata Reserve [206.11] is concerned the cost to obtaining council certificates may outweigh the cost of physical work and objects to this rule only if the protection works on the South Rangitata Reserve or neighbouring coastal or river margins is not provided for. Otherwise, the submitter approves of the rule. No specific relief was sought.
- 7.29.4 OWL [181.54] considers it is appropriate for a permitted activity status to be extended to network utility operators of RSI subject to compliance with the regional plan or the flood protection bylaw. OWL considers this would give due recognition to the importance of RSI to the District. They seek the following amendment:

[...]

#### **PER-5**

The activity is undertaken by or on behalf of a network utility operator of regionally significant infrastructure in accordance with a rule in the Canterbury Land and Water Regional Plan or a resource consent and/or approval granted by the Canterbury Regional Council.

- 7.29.5 Waka Kotahi [143.71] generally supports NH-R3 which provides for a limited scale of natural hazard mitigation works, however notes that if this rule cannot be met and resource consent is required as a RDIS Activity, the potential effects on infrastructure should also be considered in addition to the risk for people, property and public spaces. The submitter seeks the following amendments to the matters of discretion:

[...]

***Matters of discretion are restricted to:***

[...]

4. any increased flood risk for people, property, infrastructure or public spaces; and [...]

- 7.29.6 ECan [183.40] states that adopting the approach suggested in its general submission on the rule for natural hazard mitigation works would ensure greater clarity and certainty for PDP users. Amending the reference to natural hazard mitigation works or amending the

definition, in line with its submission on the definition of this term, will provide greater clarity about the activities this rule applies to. ECan considers NH-R3 and NH-R9 can be combined so that any Natural Hazard Mitigation Works are undertaken in a single location, regardless of whether it is for new hazard mitigation works, or operation, repair, maintenance or upgrade. Adopting this approach requires additional matters where compliance with the proposed new PER-2 are not met (from NH-R3), and utilisation of the restricted discretionary assessment matters for maintenance, operation and upgrading, which are more comprehensive than the assessment matters for new natural hazard mitigation works. ECan considers the restricted discretionary assessment matters require various amendments. ECan seeks the following amendments:

Amend **NH-R3** as follows:

**Natural hazard mitigation works - ~~maintenance, replacement and upgrading including associated earthworks and incidental vegetation removal~~**

**Activity status: Permitted**

**Where:**

**PER-1**

*The natural hazard mitigation works is within 25m of the existing alignment or location vertically and horizontally; and*

**PER-2**

*The footprint of the natural hazard mitigation works is not increased by more than 25% and*

**PER-3**

*The activity is undertaken by or on behalf of the Crown, Canterbury Regional Council or the Council; and*

**PER-4**

*If the site is subject to flooding in a 0.5% AEP rainfall event, NH-S2 is complied with.*

**Activity status where compliance not achieved with PER-2: Restricted Discretionary**  
**Where RDIS-1 The works are undertaken by or on behalf of the Crown, Regional Council or the Council.**

**Matters of discretion are restricted to:**

- 1. the likely effectiveness of the natural hazard mitigation works and the need for them; and**
- 2. the extent of any adverse social, cultural and environmental effects, including on any sensitive environments; and**
- 3. any adverse effects from diverting or blocking overland flow path(s), including upstream and downstream flood risks; and**
- 4. any increased flood risk for people, property, or public spaces; and**
- 5. the extent to which alternative locations and options for the natural hazard mitigation works have been considered and the merits of those; and**
- 6. any positive effects of the proposal on the community.**

**Activity status where compliance with RDIS-1 not achieved: Discretionary**

**Activity status where compliance not achieved with PER-1 or ~~PER-2 or~~ PER-3 or PER-4: Restricted Discretionary**

**Matters of discretion are restricted to:**

1. the likely effectiveness of the natural hazard mitigation works and the need for them; and
2. the extent of any adverse social, cultural and environmental effects, including on any sensitive environments; and
3. any ~~potential~~ adverse effects ~~of from~~ diverting or blocking overland flow path(s), including upstream and downstream flood risks; and
4. any increased flood risk for people, property, or public spaces; and
5. the extent to which alternative locations and options for the natural hazard mitigation works have been considered and the merits of those; and
6. any positive effects of the proposal on the community.

~~Activity status where compliance not achieved with PER-4: Restricted Discretionary Matters of discretion are restricted to: the relevant matters of discretion of any infringed standard.~~

**Analysis**

- 7.29.7 Regarding the submission by OWL [181.54], I note that the requested relief applies to all network utility operators of RSI, not just OWL's facilities. The reason PER-3 provides a pathway for works undertaken by or on behalf of the Crown, ECan or the Council is because these organisations have statutory natural hazard responsibilities to keep their communities safe. They are also accountable to the general public. I acknowledge the specific pathway recommended to be provided for the Port of Timaru but note that this is limited in geographic extent, is required given the Port must be located in an area subject to coastal hazards and still requires consent as an RDIS activity. At this time, I am unclear how compliance with the relevant regional plan or the flood protection bylaw will adequately manage adverse effects from OWL's activities. Overall, I am reluctant to create a permitted pathway for all network utility operators of RSI without significant evidence as to why this is appropriate and how the various effects can be managed, noting the potential risks from poorly constructed mitigation works. Accordingly, I recommend that this submission is rejected.
- 7.29.8 Regarding the submission by ECan [183.40], I agree that NH-R3 and NH-R9 can be combined. I consider this will improve clarity somewhat and does simplify the approach, although the amended NH-R3 rule itself becomes more complicated as a result. However, I do not agree with including a fully discretionary activity status for non-compliance with PER-2 where the works are not undertaken by Local Authorities or the Crown for simply maintenance, replacement or upgrading of existing structures, especially noting OWL's submission seeking this to be permitted. I assume this is a consequence of combining NH-R3 and NH-R9. Accordingly, I recommend that this submission is accepted in part. Given my recommended changes to NH-R1 to cover worsening flooding on another property (under recommended NH-R1 PER-2), I recommend that NH-R3 PER-4 is deleted as this standard was about limiting large quantities of earthworks that might divert or displace flood water.

7.29.9 Regarding the submission by Waka Kotahi [143.71], I agree that the potential effects on infrastructure should also be considered in addition to the risk for people, property and public spaces. However, in my opinion the effects on infrastructure are already captured under "property". To avoid confusion, I am comfortable amending MD 4 as requested. Accordingly, I recommend that this submission is accepted in part, noting my recommended changes in response to ECan [183.40].

7.29.10 Regarding the South Rangitata Reserve [206.11] submission, consistent with my analysis on their [206.10] submission, I do not consider it appropriate to predicate a submission on the basis that protection works on the South Rangitata Reserve or neighbouring coastal or river margins are provided for. Therefore, I consider this is a submission in opposition. I understand that flood risk certificates for rural areas, if required, will be reasonably priced (in the order of \$150 to \$200 dollars) and are therefore unlikely to outweigh the actual earthworks costs. I therefore recommend that this submission is rejected.

### **Conclusions and recommendations**

7.29.11 That the submissions by Waka Kotahi [143.71] and ECan [183.40] are accepted in part.

7.29.12 That the submissions by OWL [181.54] and South Rangitata Reserve [206.11] are rejected.

7.29.13 Delete NH-R9 and amend NH-R3 as set out in **Appendix 1**. Given the extensive changes proposed to NH-R3 I consider these are best assessed in situ, along with the other recommended changes to NH-R3 in response to other submissions.

7.29.14 In terms of a s32AA assessment, the majority of the changes to NH-R3 are a result of the merging of NH-R3 and NH-R9 and are therefore only structural changes. Other changes simply provide greater clarity around the application of the provisions. I have included the agreed changes with PrimePort from CE-R9 as part of the PORTZ is outside the coastal environment and the same provisions should apply to all of the PORTZ. The key substantive change is covering the ECO, NATC, NFL and SASM provisions in this rule which was assessed earlier under 'General' in response to ECan [183.24]. Accordingly, I consider the changes are the most appropriate to achieve the purpose of the Act.

### **7.30 Natural Hazards – NH-R4 Natural hazard sensitive activities or structures and additions to such activities or structures with a ground floor area of 30m<sup>2</sup> or more**

7.30.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME | SUBMISSION POINT NUMBER(S) |
|----------------|----------------------------|
| Road Metals    | 169.15                     |
| Fulton Hogan   | 170.16                     |
| Dairy Holdings | 89.6                       |

|                   |        |
|-------------------|--------|
| Silver Fern Farms | 172.30 |
| Alliance Group    | 173.27 |
| OWL               | 181.55 |
| TDC               | 42.31  |
| Peter Bonifacio   | 36.16  |
| Rangitata Dairies | 44.4   |
| ECan              | 183.42 |

**Matters raised by submitters**

7.30.2 Thirteen submissions sought amendments to this rule while five submissions were in support.<sup>32</sup>

7.30.3 Road Metals [169.15], Fulton Hogan [170.16] and Dairy Holdings [89.6] consider it is unclear if the rule applies to all structures or just those that are sensitive to natural hazards. They also consider it is unclear if 'ground floor area' applies to all structures. They seek the following amendments:

***NH-R4 Natural hazard sensitive activities ~~or structures~~ and additions to such activities ~~or structures~~ with a ground floor area of 30m<sup>2</sup> or more***

7.30.4 Silver Fern Farms [172.30] and Alliance Group [173.27] seeks clarity of the NC status under rule NH-R4.2 for >30m<sup>2</sup> developments in a High Hazard Area Overlay. The submitters' sites are not within the High Hazard Area Overlay, but parts of the site are subject to the Sea Water Inundation Overlay. If land is mapped in the Sea Water Inundation Overlay and is classed as a high hazard area, the submitters oppose the NC activity status. The submitter seeks to amend NH-R4 and other provisions as necessary, to clarify that land in the Sea Water Inundation Overlay is not subject to a NC consenting pathway for development of >30m<sup>2</sup>.

7.30.5 OWL [181.55] and TDC [42.31] consider the title of the rule should specifically exclude RSI to be consistent with the rule and that NH-R4 would be better located after NH-R7, as the two rules relate to similar activities and are currently separated by rules applying to RSI. They seek the following amendment:

***NH-R4 Natural hazard sensitive activities or structures and additions to such activities or structures with a ground floor area of 30m<sup>2</sup> or more (excluding Regionally Significant Infrastructure).***

[...]

7.30.6 Peter Bonifacio [36.16] opposes the restrictions as being too onerous and excessive in relation to the risk, and requests the Council reconsider the practical implications of the restrictions on farming operations of NH-R4.

<sup>32</sup> Te Kotare Trust [115.14] and Waipopo Huts Trust [189.23] submissions in opposition are addressed in the Waipopo Huts section. Te Rūnanga o Ngāi Tahu [185.70] is addressed under [185.69].

- 7.30.7 Rangitata Dairies [44.4] considers that rule NH-R4 captures existing natural hazard sensitive activities and structures and there is some uncertainty over the extent of any overland flow paths, and as such how this rule may apply. They seek to amend NH-R4 to enable the re-instatement of existing natural hazard sensitive activities and existing structures within flood assessment areas as a permitted activity and enable buildings that are not natural hazard sensitive activities (e.g. farm sheds) as a permitted activity.
- 7.30.8 ECan [183.42] considers the combination of NH-R4 and NH-R7 could be significantly simplified, and they are best located next to each other (which would require consequential renumbering). ECan recommends: providing a clear description in the title of the Rule and utilising the National Planning Standard definition of "building footprint"; removing PER-3 as it will be covered by amended PER-1; amending PER-1 as this rule would require that the building can only be built to the minimum finished floor level, and not above it; simplifying provisions so that anything that requires a Flood Assessment Certificate falls under a single permitted standard; including a new standard (PER-3) which ensures that any building will not worsen flooding through the diversion or displacement of floodwater; and changes to the restricted discretionary matters in line with other submission points. The suggested amendments are as follows:

**~~NH-R4 Natural hazard sensitive activities or structures and additions to such activities or structures with a ground floor area of 30m<sup>2</sup> or more with a building footprint over 30m<sup>2</sup>, extensions to natural hazard sensitive activities that increase the building footprint by more than 30m<sup>2</sup> in any continuous 5 year period, and change of use buildings greater than 30m<sup>2</sup> for natural hazard sensitive activities~~**

**Flood Assessment Area Overlay Activity status: Permitted Where:**

**~~PER-1~~**

~~the building complies with ~~is built to~~ the minimum finished floor level specified in an existing consent notice that is less than five years old; or~~

**~~PER-2~~**

~~A Flood Risk Certificate Flood Assessment Certificate for the activity has been issued in accordance with NH-S1; and~~

**~~PER-3~~**

~~The Flood Risk Certificate issued under PER-2 states that the activity is not located on land that is within an overland flow path; and~~

**~~PER-4~~**

~~1. The Flood Risk Certificate issued under PER-2 states that the activity is not located on land that is identified as a High Hazard area; or~~

**~~PER-5~~**

~~2. The building or structure complies with the minimum floor level specified in the Flood Assessment Certificate The Flood Risk Certificate issued under PER-2 states either: 1. the activity is located on land that is not subject to flooding in a 0.5% AEP rainfall.~~

**PER-3**

The earthworks, or buildings and structures for non-natural hazard sensitive activities, will not worsen flooding on another property through the diversion or displacement of flood water.

**Activity status where compliance not achieved with PER-3: Restricted Discretionary Matters of discretion are restricted to:**

1. any ~~potential~~ adverse effects of diverting or blocking overland flow path(s), including upstream and downstream flood risks; and
2. any increased flood risk for people, property, or public spaces; and
3. the effectiveness and ~~potential~~ adverse effects of any proposed mitigation measures; and
4. any operational need or functional need for the activity to be established in this location; and

[...]

**~~Activity status where compliance not achieved with PER-5: Restricted Discretionary Matters of discretion are restricted to:~~**

~~1. ...~~

~~2. ... [...]~~

**Activity status where compliance not achieved with PER-1, ~~or~~ PER-2 ~~or~~ PER-4: NC 2:**

**~~High Hazard Area Overlay Activity status: NC~~**

~~Note: if the new building or extension on the ground floor is less than 30m<sup>2</sup>, see NH-R7.~~

~~Activity status where compliance not achieved: Not applicable~~

**Analysis**

7.30.9 Regarding the OWL [181.55] and TDC [42.31] submissions, I agree it should be clarified that NH-R4 does not refer to RSI. Regarding order, in response to ECan's submission below I am recommending that NH-R7 is deleted. Accordingly, I recommend that these submissions are accepted in part.

7.30.10 Regarding the Road Metals [169.15], Fulton Hogan [170.16] and Dairy Holdings [89.6] submissions, given the recommended changes to NH-R1 which applies to non-natural hazards sensitive activities and structures, NH-R4 need not apply to structures. Accordingly, I recommend that 'structures' is removed from NH-R4 and these submissions are accepted.

7.30.11 Regarding the Silver Fern Farms [172.30] and Alliance Group [173.27] submissions, NH-R4 does not refer to or relate to the Sea Water Inundation Overlay. However, under NH-R4, developments in high hazard areas could be NC activities and this appears to be contrary to the submitters' submissions even though they refer to the Sea Water Inundation Overlay. As recommended earlier, I consider that new natural hazard sensitive activities in "high hazard areas" should be NC where these are not within urban zoned areas and avoided or mitigated if located within urban zoned areas. Accordingly, I recommend that these submissions are rejected. I note that Silver Fern Farms [172.89] and Alliance Group [173.90] submitted on the equivalent CE provisions directly.

7.30.12 Regarding the Peter Bonifacio [36.16] submission, as a result of the other submissions on this rule, NH-R4 is being amended. I consider the amended NH-R4 maintains the approach of managing natural hazard sensitive activities in areas subject to flooding and may affect the ability to build natural hazard sensitive buildings. I consider that a rule is appropriate and required under the RMA, however I consider that non-compliance with meeting the minimum specified floor levels under PER-1 and PER-2 should be RDIS, rather than non-complying as I agree that these are too onerous, noting that under the recommended PER-3 there is a distinction between natural hazard sensitive activities within high hazard areas versus not high hazard areas. Accordingly, I recommend that this submission is accepted. As this change to RDIS (from NC) is consistent with the approach taken in the WDP, I also consider this responds to ECan's general submission [183.24].

7.30.13 Regarding the Rangitata Dairies [44.4] submission, NH-R4 does enable the re-instatement of existing natural hazard sensitive activities and existing structures within flood assessment areas as a permitted activity as NH-R4 does not extinguish existing use rights. I anticipate relying on existing use rights is less than what the submitter was seeking in their submission, but in my opinion if a building or structure is being replaced, its risk profile should be reassessed as part of that. Accordingly, I recommend that this submission is rejected. I do note however that NH-R4 only covers those buildings and structures that are natural hazard sensitive. As such many buildings will not be captured by NH-R4.

7.30.14 Regarding the ECan [183.42] submission, I agree that this rule should be extended to cover extensions / additions, however as I have recommended including conversions of buildings and extensions in the definition of "natural hazard sensitive activities", I do not think this is required to be repeated in the rule. Whilst I support ensuring development will not worsen flood effects on other properties through displacement or blocking overland flowpaths I note this is now included in the amended NH-R1, which covers all buildings, structures and earthworks. I consider that this would enable NH-R7 to be deleted as this rule was only concerned with obstruction of overland flow paths. I consider that the 30m<sup>2</sup> threshold is appropriate to retain as buildings and extensions smaller than this are unlikely to increase the risk profile. However, I consider this 30m<sup>2</sup> can be referenced in the definition of "natural hazard sensitive activities", i.e. buildings and structures less than 30m<sup>2</sup> are exempt. I also support the requested minor wording changes proposed for clarity and have included others for clarity (e.g. referring to natural hazard sensitive activities instead of buildings). Given the changes I am recommending to NH-R4 in response to this submission I recommend it is accepted in part.

### **Conclusions and recommendations**

7.30.15 I recommend that the submissions from Road Metals [169.15], Fulton Hogan [170.16], Peter Bonifacio [36.16] and Dairy Holdings [89.6] are accepted.

7.30.16 I recommend that the submissions from OWL [181.55], TDC [42.31] and ECan [183.42] are accepted in part.



7.30.17 I recommend that the submissions from Silver Fern Farms [172.30], Alliance Group [173.27] are rejected.

7.30.18 Delete NH-R7.

7.30.19 I recommend that NH-R4 is amended as set out in **Appendix 1**. Given the extensive recommended changes, I consider these are best assessed in situ.

7.30.20 Many of the changes to NH-R4 simply seek to improve clarity (e.g. the changes to PER-1) or are a change required as a result of other recommended changes (e.g. the deletion of PER-3 due to changes to NH-R1). The substantive changes to NH-R4 involve amendments to introduce an urban zoned area / non-urban zoned area split in approach and matters of discretion for when activities are located in the MPZ. The s32AA assessments of these changes were undertaken as part of assessing the changes proposed in the Waipopo Huts section and under NH-O1. Overall, I consider that the amendments are the most appropriate for achieving NH-O1 and the purpose of the Act.

### **7.31 Natural Hazards – NH-R5 Regionally Significant Infrastructure - Maintenance, replacement and upgrading**

7.31.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| <b>SUBMITTER NAME</b> | <b>SUBMISSION POINT NUMBER(S)</b> |
|-----------------------|-----------------------------------|
| Transpower            | 159.64                            |
| PrimePort             | 175.30                            |
| ECan                  | 183.43                            |
| BP Oil, et al         | 196.54                            |

#### **Submissions**

7.31.2 Nine submission sought amendments to NH-R5,<sup>33</sup> while four submissions supported it.

7.31.3 Transpower [159.64] supports that the rule provides for the maintenance and upgrading of RSI. The submitter notes the rule applies to existing RSI and as such, the infrastructure is already located in the various overlays. Transpower seeks to include “repair” in the rule and does not support PER-2 as it is not clear how this standard would apply to a transmission line. Transpower seeks the follow amendments:

***NH-R5 Regionally Significant Infrastructure - maintenance, repair, replacement and upgrading Flood Assessment Area Overlay  
High Hazard Area Overlay***

<sup>33</sup> This includes the submissions seeking changes from Connexa [176.64], Spark [208.64], Chorus [209.64] and Vodafone [210.64] considered earlier. Te Rūnanga o Ngāi Tahu [185.71] is addressed under [185.69].

**Earthquake Fault (infrastructure or facilities) Awareness Area Overlay Activity status:****Permitted****Where:****PER-1**

*The infrastructure is within 5m of the existing alignment or location; and*

**PER-2**

*"The above ground footprint of any structure of the infrastructure is not increased by more than 10%;*

*[...]*

- 7.31.4 PrimePort [175.30] supports the provision for the maintenance, replacement and upgrading of RSI, although considers PER-1 is too restrictive, particularly where infrastructure is large scale and seeks this is amended from 5m to 20m.

- 7.31.5 ECan [183.43] considers that earthworks from infrastructure can displace flood storage capacity (i.e. additional fill taking up flood storage space in a ponding area) and that this will not always be disturbance to an overland flow path as defined in the plan, which is the route along which stormwater flows over land in a rain event. They seek the following amendments to the matters of discretion:

**Matters of discretion are restricted to:**

1. *any adverse effects arising from locating the regionally significant infrastructure in this location; and*
  2. *~~any-potential~~ adverse effects of diverting or blocking overland flow path(s), including upstream and downstream flood risks or displacement of floodwater; and*
- [....]*

- 7.31.6 BP Oil, et al [196.54] states that NH-R5 permits maintenance, replacement and upgrading of RSI which is supported, however the definition of 'upgrade' already includes 'replacement' so the necessity of including this term is questionable. The submitter opposes PER-1, as there could be instances where locating infrastructure more than 5m from its existing location would not generate more of a risk or adverse effect on or from a natural hazard, especially if, after works, the ground levels remain unchanged. They seek the following amendments to PER-1:

**PER-1**

*The infrastructure (excluding underground infrastructure) is within 5m of the existing alignment or location; and*

**Analysis**

- 7.31.7 Regarding the Transpower [159.64] submission, I consider repair is within the scope of the existing rule. I consider an amendment to clarify the application of the rule and standard to individual sections of infrastructure is acceptable, however I prefer alternative wording. Accordingly, I recommend that this submission is accepted in part.

- 7.31.8 Regarding the PrimePort [175.30] submission, I consider amending 5m to 20m is acceptable as the permitted standard applies to maintenance, repair, replacement and upgrading. I do not consider this extra distance will result in unacceptable adverse effects. In my opinion it is important to facilitate RSI as this is important for the community's health and wellbeing and this is also sought in the higher order planning framework.<sup>34</sup> Accordingly, I recommend that this submission is accepted. In doing so I note that this rule will not actually apply to the PORTZ as I have also recommended separate provisions applying (which have been developed in consultation with PrimePort and ECan).
- 7.31.9 Regarding the ECan [183.43] submission, I agree that earthworks from infrastructure can also displace flood storage capacity (i.e. additional fill taking up flood storage space in a ponding area) and that this will not always be disturbance to an overland flow path as defined in the plan. I therefore agree with the requested amendments. Accordingly, I recommend that this submission is accepted.
- 7.31.10 Regarding the submission from BP Oil, et al [196.54], I agree that the definition of 'upgrade' includes 'replacement', however I am comfortable including 'replacement' in the rule for greater certainty. I agree with the submitter that repair and upgrade of infrastructure more than 5m from the existing alignment may not generate additional natural hazard risk. However, I consider that as this distance increases, the uncertainty around changes in adverse effects increases. In response to PrimePort I have recommended making this distance 20m. Regarding whether it should exclude underground infrastructure, I am comfortable excluding this as the infrastructure will not be affected by flooding. I recommend that this submission is accepted in part as I favour alternative wording.

### **Conclusions and recommendations**

- 7.31.11 I recommend that the submissions from PrimePort [175.30] and ECan [183.43] are accepted.
- 7.31.12 I recommend that the submissions from Transpower [159.64] and BP et al [196.54] are accepted in part.
- 7.31.13 Amend NH-R5 as follows:

**NH-R5 Regionally Significant Infrastructure - maintenance, repair,<sup>35</sup> replacement and upgrading**

**Flood Assessment Area Overlay**

**~~High Hazard Area Overlay~~**

**Earthquake Fault (infrastructure or facilities) Awareness Area Overlay**

**Activity status: Permitted**

**Where:**

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<sup>34</sup> CRPS Chapter 5 and NPS-REG and NPS-ET.

<sup>35</sup> Transpower [159.64]

**PER-1**

The infrastructure:

1. is underground infrastructure only;<sup>36</sup> or
2. is within 520m<sup>37</sup> of the existing alignment or location; and

**PER-2**

The above ground footprint of any building or structure ~~the infrastructure~~<sup>38</sup> is not increased by more than 10%;

[...]

**Matters of discretion are restricted to:**

1. any adverse effects arising from locating the regionally significant infrastructure in this location; and
  2. ~~any potential~~ adverse effects of diverting or blocking overland flow path(s), including upstream and downstream flood risks or displacement of floodwater;<sup>39</sup> and
- [....]

7.31.14 In terms of a s32AA, the recommended amendments generally seek to refine the rule or clarify its application. The key substantive change is the inclusion of an additional PER clause for underground infrastructure and an increase for the distance from existing RSI for replacement and upgraded RSI. In my opinion these changes seek to provide increased flexibility and efficiency for RSI in areas subject to flooding and earthquake faults whilst still achieving NH-O1. Accordingly, I consider the amendments better achieve the Act.

## **7.32 Natural Hazards – NH-R6 New Regionally Significant Infrastructure**

7.32.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME | SUBMISSION POINT NUMBER(S) |
|----------------|----------------------------|
| Transpower     | 159.65                     |
| OWL            | 181.56                     |
| TDC            | 42.32                      |
| ECan           | 183.44                     |
| KiwiRail       | 187.48                     |
| BP Oil, et al  | 196.55                     |

<sup>36</sup> BP et al [196.54]

<sup>37</sup> PrimePort [175.30]

<sup>38</sup> Transpower [159.64]

<sup>39</sup> ECan [183.43]

**Matters raised by submitters**

7.32.2 Eleven submissions sought changes to NH-R6,<sup>40</sup> while two submissions supported it.

7.32.3 Transpower [159.65] supports that the rule provides for new RSI but considers that the exceptions to Rule NH-R6.1 need to clarify whether they relate to the footprint of a structure (and not any overhead lines component). It is critical that this exemption applies to the submitter given the linear nature of the National Grid and in order to give effect to the NPS-ET. They seek the following amendments:

**NH-R6 Regionally Significant Infrastructure - New NH-R6.1 and NH-R6.2 does not apply if:**

- 1. the infrastructure is below ground; or**
- 2. above ground infrastructure where any structure is less than 10m and is not located within a high hazard area as determined under NH-S1; or**
- 3. the structure is located within a road corridor. NH-R6.4 shall not apply to buildings and infrastructure where any structure is less than 10m<sup>2</sup> in area [...]**

7.32.4 OWL [181.56] notes that under NH-R6.1 new RSI would be a restricted discretionary activity if the land is subject to flooding in the 0.5% AEP event (PER-5) irrespective of minimum floor levels. OWL considers this is inconsistent with NH-R4.1 which enables new RSI on such land if it complies with the minimum floor level requirement. OWL is concerned that new RSI on land classified as an Overland Flow Path would default to restricted discretionary status irrespective of whether the infrastructure has been designed to maintain the function of the Overland Flow Path and minimise any increase or new risk from flooding. They are also concerned new RSI on land within the High Hazard Area Overlay would default to restricted discretionary status irrespective of whether the infrastructure has been designed for the natural hazard. They seek the following amendments:

**1. Flood Assessment Areas Overlay**

[...]

**PER-3**

The Flood Risk ~~C~~ertificate issued under PER-1 states that either:

1. the activity is located on land that is not subject to flooding in a 0.5% AEP rainfall event; or
2. the activity is located on land that is subject to flooding in a 0.5% AEP rainfall event and complies with the minimum finished floor level requirement for the site.

AND

and any consequential or additional amendments that may be required to Rule NH-R6.1, e.g., to the matters of discretion listed in RDIS-1

AND

<sup>40</sup> This includes the submissions seeking changes from Connexa [176.65], Spark [208.65], Chorus [209.65] and Vodafone [210.65] considered earlier. Te Rūnanga o Ngāi Tahu [185.72] is addressed under [185.69].

Amend **NH-R6.2** to allow new RSI in Overland Flow Paths as a permitted activity subject to compliance with an alternative condition to conditions PER-1 to 3 requiring that the infrastructure has been designed to maintain the function of the Overland Flow Path and certification from a suitably qualified and experienced person (e.g., chartered engineer) that the design will minimise any increase or new risk from flooding on surrounding properties (or alternative condition with similar effect);

AND

Amend **NH-R6.3** to allow new RSI in the High Hazard Risk Overlay as a permitted activity subject to compliance with a condition requiring that the infrastructure has been designed to maintain its integrity and function during and after a natural hazard event (or an alternative condition with similar effect, e.g., certification of design any a suitably qualified and experienced person to meet that outcome);

AND

Include a definition in the PDP for the term '**Natural Hazard Areas**' (refer related submission on the Definitions chapter).

- 7.32.5 TDC [42.32] considers that sometimes new RSI (e.g., stormwater pump stations) needs to be established on land within the Flood Assessment Area Overlay and that NH-R6.1 does not give appropriate recognition to the importance of RSI. The submitter considers that such infrastructure should be enabled within the Flood Assessment Area Overlay on land that is subject to flooding in a 0.5% AEP event if it complies with the minimum floor level requirements provided in NH-R4(1), PER-5. TDC seeks the following amendments:

**1. Flood Assessment Areas Overlay**

[...]

**PER-3**

*The Flood Risk ~~e~~Certificate issued under PER-1 states that:*

1. *the activity is located on land that is not subject to flooding in a 0.5% AEP rainfall event; or*
2. *the activity is located on land that is subject to flooding in a 0.5% AEP rainfall event and complies with the minimum finished floor level requirement for the site.*

AND

*Any consequential or additional amendments that may be required to Rule NH-R6.1, e.g., to the matters of discretion listed in RDIS-1: PER-3; NH-O2 and NH-P11 may be required as a consequence of the amendment sought to NH-R4.*

- 7.32.6 ECan [183.44] seeks to simplify the provisions by removing reference to overland flow paths in line with previous submissions and make PER-2 a subset of PER-1, with a new PER-1b to address flooding hazards, incorporating the second part of the rule (NH-R6.2) which relates to activities in overland flow paths. ECan seeks to delete the crossovers with the rule e.g. infrastructure that is above ground, or it is more than 10m<sup>2</sup>, which triggers RDIS activities requiring consent under both rules, and the title for the overlay should recognise the term Flood Assessment Certificate. They seek the following amendments:

1.

**Flood Assessment Areas Overlay Activity status: Permitted**

**PER-1**

A Flood ~~Risk Hazard Assessment~~ Certificate for the activity has been issued in accordance with NH-S1; and

**PER-2**

~~The Flood Risk Certificate issued under PER-1 states that the activity is not located on land that is within an overland flow path; and~~

**PER-3**

1. The ~~Flood Risk Certificate issued under PER-1 states that the~~ activity is located on land that is not subject to flooding in a 0.5% AEP ~~rainfall~~ flood event.; or

**PER 3**

2. The activity is located on land that is subject to flooding in a 0.5% AEP flood event (but not a high hazard area) and:

1. The infrastructure is below ground; or

2. The above ground infrastructure is less than 10m2; or

3. The infrastructure is located within a road corridor.

AND

2. Delete **NH-R6.2** and amend the trigger for the overlay as follows:

**3.2.****High Hazard Area Overlay**

**High Hazard Area identified in a ~~Flood Risk Certificate~~ Flood Assessment Certificate issued in accordance with NH-S1.**

7.32.7 KiwiRail Holdings [187.48] states that this rule includes an exception for structures within a road corridor and the submitter seeks broadening of this exception to include structures within a rail corridor as there are cases where rail structures are required within flood assessment areas due to their functional or operational need to be located there. They therefore seek that these structures be excluded from NH-R6.1 and NH-R6.2. They seek to amend the notation within the rule and PER-3 as follows "...located within a road or rail corridor".

7.32.8 BP Oil, et al [196.55] generally supports the rule as proposed as it generally enables minor structures and buildings, however, the submitter seeks clarification on the process and cost for obtaining a flood risk certificate, whether the Council has the resource and capacity to prepare these, whether the certificates will be limited to a site or apply to a catchment and that the requirement promotes efficient management of natural hazards.

**Analysis**

7.32.9 This rule is attempting to manage flood displacement and overland flowpath diversion as well as protecting the RSI itself from flood risk. In doing so it applies slightly different approaches depending on the Overlay, or if the site is within an overland flowpath and the size of the RSI. In addition, it also covers earthquake fault risk. Further complicating this, RSI is very broad, covering such things as the Timaru air and sea ports, transport hubs, the

strategic land transport network, and community three waters services. As a consequence, this rule is complicated.

7.32.10 Regarding the Transpower [159.65] submission, this is consistent with their previous submissions on NH-R5 which I recommended accepting. For the same reasons I recommend that this submission is accepted in part, noting that I am recommending to delete NH-R6.2.

7.32.11 Regarding the OWL [181.56] submission, I agree that there should be a permitted activity standard for buildings built to the required finished floor level in a flood assessment certificate.<sup>41</sup> Regarding OWL's additional request to amend NH-R6.2 to allow new RSI in Overland Flow Paths as a permitted activity, in my opinion a permitted activity standard could apply instead, as recommended for NH-R1 where the activity will not worsen flooding on another property through the diversion or displacement of flood water. I consider that this is now adequately provided for under the amended NH-R1 and therefore consider that NH-R6.2 can be deleted. Regarding OWL's additional request to amend NH-R6.3 to allow new RSI in the High Hazard Risk Overlay as a permitted activity subject to compliance with a condition requiring that the infrastructure has been designed to maintain its integrity and function during and after a natural hazard event, including via certification, I consider this approach has merit, however I am concerned whether this standard is sufficiently certain, or involves the delegation of decision making authority to a third party (the certifier). In the absence of examples or further information on how this could occur I recommend that RSI in high hazard areas remains an RDIS activity, with the assessments matters including an assessment of the ability for the RSI to be efficiently recovered after a hazard event or maintain its integrity and function during and after a natural hazard event (I also note that in response to Kāinga Ora [229.39] I am recommending to delete the High Hazard Overlay). Overall, I recommend that this submission is accepted in part.

7.32.12 Regarding the TDC [42.32] submissions, consistent with my assessment of the OWL submission I recommend that an additional standard is added for buildings built to the required finished floor level in a flood assessment certificate. Accordingly, I recommend that this submission is accepted.

7.32.13 Regarding the ECan [183.44] submission, I agree the rule can be simplified by removing references to overland flow paths in line with previous submissions and as assessed under the OWL [181.56] submission. I consider that NH-R6.3 can be incorporated into NH-R6.1 as the activity status is restricted discretionary for activities in these locations, which is the same as for activities not meeting the standards under NH-R6.1, and the matters of discretion are the same, with the exception of assessing positive effects of locating the RSI in high hazard areas, which can be added to NH-6.1. Having worked through the ECan submission and the others seeking changes to NH-R6 I recommend that NH-R6 is amended as set out below. This is not fully consistent with ECan's submission and accordingly I recommend it is accepted in part.

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<sup>41</sup> Whilst I support this change, I note that this would apply to all RSI buildings and not just those that are sensitive to flood risk as the definition of "natural hazard sensitive building" currently excludes RSI.



7.32.14 Regarding the KiwiRail Holdings [187.48] submission, the exception applied to the road corridor was informed by an assessment of the likely size of structures located in the corridor and their purpose, but also noting that road corridors are often used for the conveyance of stormwater. I consider the inclusion of rail corridors to the exception has merit, however I am unsure of the nature of the RSI that could occur in the rail corridors and the extent to which these could be adversely affected by flood hazard events. In the absence of further information on the types of structures / buildings proposed I recommend that this submission is rejected. In doing so I note that I am recommending including a pathway for RSI that meets the minimum finished floor levels and deleting NH-R6.2, and that these changes should be beneficial for KiwiRail.

7.32.15 Regarding the BP Oil, et al [196.55] submission, these are good questions. I note that flood assessment certificates / floor level requirements are already being required and issued by the Christchurch City Council, the Kaikoura District Council and Selwyn District Councils and are proposed for the Waimakariri District Council. As such, these are not novel. It is anticipated that the Council will establish a process for these and the cost for obtaining them will be in the \$150 to \$200 range if provided by ECan, but will be more expensive if provided by the Council (\$650). I understand that ECan will prepare these for the Council when development is located in rural / small urban areas. I understand the certificates are limited to sites, rather than a catchment given the specificity of the assessment. I consider that this process provides the opportunity to obtain up-to-date site-specific flood advice through a streamlined and efficient process and if flood risk is managed in accordance with the certificate, no resource consent is required. As such, I consider this approach achieves the efficient management of natural hazards. As this submission generally supported NH-R6, I recommend that it is accepted in part.

### **Conclusions and recommendations**

7.32.16 I recommend that the submissions from Transpower [159.65], OWL [181.56], TDC [42.32], ECan [183.44] and [196.55] are accepted in part.

7.32.17 I recommend that the submission from KiwiRail [187.48] is rejected.

7.32.18 Delete NH-R6.2 and NH-R6.3 and renumber NH-R6.4 as NH-6.2. Amend NH-R6.1 as follows:

#### **Regionally Significant Infrastructure – New**

NH-R6.1 does not apply if:

1. the infrastructure is below ground; or
2. above ground infrastructure, where any structure<sup>42</sup> is less than 10m<sup>2</sup> and is not located within a high hazard area as determined under NH-S1; or
3. the structure is located within a road corridor.

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<sup>42</sup> Transpower [159.65]

NH-R6.42 shall not apply to buildings and infrastructure where any structure is<sup>43</sup> less than 10m<sup>2</sup> in area.

1.

### **Flood Assessment Areas Overlay**

#### **Activity status: Permitted**

##### **PER-1**

A Flood Risk Assessment<sup>44</sup> Certificate for the activity has been issued in accordance with NH-S1; and

##### **PER-2**

~~The Flood Risk Certificate issued under PER-1 states that the activity is not located on land that is within an overland flow path; and~~

##### **PER-3**

The Flood Risk Assessment Certificate issued under PER-1 states that:

- a. the activity is located on land that is not subject to flooding in a 0.5% AEP rainfall event; or
- b. any building located on land that is subject to flooding in a 0.5% AEP event complies with the minimum finished floor level requirement for the site;<sup>45</sup> and

##### **PER-3**

The RSI is not located within a high hazard area identified by a Flood Assessment Certificate issued in accordance with NH-S1.

#### **Activity status where compliance not achieved with PER-1: NC**

#### **Activity status where compliance not achieved with PER-2 or PER-3: See NH-R6.2 Restricted Discretionary**

#### **~~Activity status where compliance not achieved with RDIS 1: See NH-R6.3~~**

#### **~~Activity status where compliance not achieved with PER-3: Restricted Discretionary~~**

#### **Matters of discretion are restricted to:**

[...]

9. any positive effects of locating the Regionally Significant Infrastructure at this location.

7.32.19 In terms of a s32AA assessment, I consider that majority of the changes consist of structural changes within the rule (e.g. the deletion of NH-R6.3 high hazard areas identified in a flood assessment certificate and inclusion of new PER-3) and changes to improve clarity (for example the additions of "where any structure"). I note the recommended deletion of overland flowpaths under NH-R6.2 was already assessed under the changes to NH-R1. The main substantive new change is the inclusion of the permitted standard (under PER-2) for buildings complying with the minimum finished floor level. I consider this is an appropriate

<sup>43</sup> Transpower [159.65]

<sup>44</sup> ECan [183.44] for this change and any changes not separately referenced

<sup>45</sup> OWL [181.56] and TDC [42.32]

addition which better achieves NH-O1 and NH-O2. Accordingly, I consider the amendments are the most appropriate to achieve the Act.

### 7.33 Natural Hazards – NH-R7 Natural Hazard Sensitive Activities and additions, new buildings, and structures with a ground floor area of less than 30m<sup>2</sup> (excluding Regionally Significant Infrastructure)

7.33.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME    | SUBMISSION POINT NUMBER(S) |
|-------------------|----------------------------|
| Fonterra Limited  | 165.50                     |
| Peter Bonifacio   | 36.17                      |
| Rangitata Dairies | 44.5                       |
| ECan              | 183.45                     |
| BP Oil, et al     | 196.56                     |

#### Submissions

7.33.2 There were twelve submissions on NH-R7. Eight submissions sought amendments or questioned the rule while four were in support.<sup>46</sup>

7.33.3 Earlier in this report I recommended to delete NH-R7 as part of my assessment and recommendations on NH-R4 (principally in response to ECan [183.42]). My key reasoning was that because I introduced a permitted activity standard into NH-R1 to ensure development will not worsen flood effects on other properties through displacement or blocking overland flow paths and that NH-R7 was only concerned with obstruction of overland flow paths, NH-R7 was no longer needed.

7.33.4 Fonterra Limited [165.50] seek specific amendments to the rule to remove the 'contradiction' between the PER-2 applying to 10m<sup>2</sup> and the rule itself which applies to 30m<sup>2</sup> or less buildings and structures.

7.33.5 Peter Bonifacio [36.17] opposes the restrictions as too onerous and excessive in relation to the risk and seeks that the Council reconsider the practical implications of the restrictions on farming operations of NH-R7.

7.33.6 Rangitata Dairies [44.5] states that above ground structures between 10m<sup>2</sup> and 30m<sup>2</sup> within an overland flow path which are not within a road corridor would require resource consent as an RDIS activity. Any existing structures captured by this rule which are affected by a climate related natural event (wind, flooding, earthquake) or by fire, would require a resource consent to be re-instated. They seek amendments to NH-R7 to enable the re-

<sup>46</sup> Te Kotare Trust [115.15] and Waipopo Huts Trust [189.24] submissions in opposition are assessed in the Waipopo Huts section. Te Rūnanga o Ngāi Tahu [185.73] is addressed under [185.69].

instatement of existing structures less than 30m<sup>2</sup> within flood assessment areas as a permitted activity.

7.33.7 ECan [183.45] seeks to move NH-R7 so it can be read in conjunction with NH-R4 and make amendments in line with the submission made on NH-R4.

7.33.8 BP Oil, et al [196.56] support NH-R7 but raise the same questions over the flood risk certificate as raised under NH-R6.

### **Analysis**

7.33.9 Regarding the Fonterra Limited [165.50] submission, as I am recommending deleting NH-R7 I do not agree with the requested amendments, accordingly I recommend that this submission is rejected.

7.33.10 Regarding the Peter Bonifacio [36.17] submission, as I am recommending that this rule is deleted I recommend that this submission is accepted.

7.33.11 Regarding the Rangitata Dairies [44.5] submission, this is the same as their submission on NH-R4 [44.4] which I addressed under NH-R4 but only relates to buildings less than 30m<sup>2</sup>. I agree with the submitter in this instance as the risk profile of buildings and structures less than 30m<sup>2</sup> is unlikely to be significant and have therefore recommended that the definition of natural hazard sensitive activities excludes buildings less than 30m<sup>2</sup>. Accordingly, I recommend that this submission is accepted in part (noting that I am recommending NH-R7 is deleted).

7.33.12 Regarding ECan's [183.45] submission, rather than move NH-R7, I have made amendments consistent with ECan's submission on NH-R4 which in my opinion means that NH-R7 can be deleted. Accordingly, I recommend that this submission is accepted in part.

7.33.13 Regarding the BP Oil et al [196.56] submission, this raises the same points as the submission on NH-R6 above [196.55] and my response is the same. As I am recommending to delete NH-R7 and the submitters supported NH-R7, I recommend that this submission is rejected.

### **Conclusions and recommendations**

7.33.14 I recommend that the submission from Peter Bonifacio [36.17] is accepted.

7.33.15 I recommend that the submissions from Rangitata Dairies [44.5] and ECan [183.45] are accepted in part.

7.33.16 I recommend that the submissions from Fonterra Limited [165.50] and BP Oil et al [196.56] are rejected.

7.33.17 No additional changes are recommended, noting that I have already recommended that NH-R7 is deleted as part of my assessment of NH-R4. As no additional changes are recommended no s32AA assessment is required.

**7.34 Natural Hazards – NH-R8 Subdivision**

- 7.34.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME      | SUBMISSION POINT NUMBER(S) |
|---------------------|----------------------------|
| Fonterra Limited    | 165.51                     |
| Silver Fern Farms   | 172.32                     |
| Alliance Group      | 173.29                     |
| Bruce Spiers        | 66.45                      |
| ECan                | 183.46, 183.47             |
| Milward Finlay Lobb | 60.13                      |

**Submissions**

- 7.34.2 There were eight submissions seeking to amend NH-R8 while two were in support.<sup>47</sup>
- 7.34.3 Fonterra Limited [165.51] considers that the activity status for the Liquefaction Awareness Areas should be amended to 'controlled'. The submitter understands that this rule only applies to subdivision within a Liquefaction Awareness Area and is concerned to ensure the rule remains limited to that extent.
- 7.34.4 Silver Fern Farms [172.32] and Alliance Group [173.29] are concerned about the ambiguity about whether land in the Sea Water Inundation Overlay is part of the High Hazard Area Overlay. If this is the case, then an NC activity status under NH-R8.4 would be inappropriate as it would conflict with and override the restricted discretionary pathway under rule CE-R11.1. The submitter seeks to amend rule NH-R8 Subdivision and other provisions as necessary to clarify that the subdivision of land in the Sea Water Inundation Overlay is not subject to a NC consenting pathway under the 'High Hazard Area Overlay'.
- 7.34.5 Bruce Spiers [66.45] considers that subdivision is given considerable prominence and significance in resource management and it makes sense to have all rules involving subdivision in one place in the plan. The submitter requests that NH-R8 is moved to the subdivision section of the PDP.
- 7.34.6 ECan [183.46] states that natural hazards are already an assessment matter for subdivision under SUB-R3 Matter of discretion 9(a). Natural hazards are also a matter to be considered prior to grant of consent under s106, and where there is significant risk from natural hazards, a subdivision can be declined. As such, ECan considers that the additional rules for subdivision in the natural hazard chapter are somewhat redundant, as all of the assessment matters fall within the scope of what is already being assessed. ECan suggests deleting NH-R8.

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<sup>47</sup> The Waipopo Huts Trust [189.25] submission is assessed in the Waipopo Huts section.

- 7.34.7 Alternatively, under a separate but related submission point, ECan [183.47] considers that if NH-R8 remains, it should be amended to ensure that both access and building platforms are not subject to high hazard to ensure safety and wellbeing and, if it is changed to controlled, the consideration of liquefaction should also be controlled, as there is always a technical engineering solution. ECan seeks the following amendments:

***Flood Assessment Area Overlay Activity status: Restricted Discretionary Where:***

***RDIS-1***

~~A Flood Risk Certificate~~ Flood Assessment Certificate for the subdivision is issued in accordance with NH-S1; and

***RDIS-2***

~~The site is Proposed building platforms and access to them (to be secured by way of a consent notice)~~ are not subject to high hazard flooding as stated in a ~~Flood Risk Certificate~~ Flood Assessment Certificate issued under RDIS-1.

AND

If the general activity status for subdivision is changed to controlled, amend the activity status for NH-R8.2 to controlled.

- 7.34.8 Milward Finlay Lobb [60.13] considers that liquefaction can be designed for, and Timaru and the surrounding areas are considered to be 'low risk'. While this overlay should be noted and addressed as part of a subdivision application, at most, this should be treated as a Controlled Activity.

***Analysis***

- 7.34.9 Regarding the Fonterra Limited [165.51] and Milward Finlay Lobb [60.13] submissions, I consider that liquefaction is low risk and can be designed around. However, I also understand that subdivision applications in the PDP are generally RDIS and I note that the Subdivision s42A report for Hearing E maintained this RDIS approach. Accordingly, I recommend that these submissions are rejected.
- 7.34.10 Regarding the Silver Fern Farms [172.32] and Alliance Group [173.29] submissions, the Sea Water Inundation Overlay is not automatically high hazard if my recommended amendments to the High Hazard definition are adopted. As set out in my response to submissions on the definition of High Hazard I am recommending that the high hazard definition incorporate sea water inundation as part of flooding from all sources. As such sea water inundation could occur but it might not be high hazard. In response to submissions on CE-R11 (Subdivision in the CE) I am recommending changes that would make subdivision in the Sea Water Inundation Overlay NC only if it proposed a building platform located within a High Hazard Area. I consider these changes respond to these submissions and accordingly recommend that they are accepted in part.
- 7.34.11 Regarding the submission from Bruce Spiers [66.45], I agree and am recommending the subdivision rules in the NH chapter (and the CE Chapter) are shifted to the Subdivision Chapter. Accordingly, I recommend that this submission is accepted. In doing so I note that

this is also the recommendation in the s42A Report on Subdivision and Development Areas for Hearing E.

7.34.12 Regarding ECan's [183.46] and [183.47] submissions, I agree that areas subject to liquefaction can be managed under normal subdivision requirements. I also agree with shifting the subdivision rule into the subdivision chapter. Whilst I agree with ECan that natural hazard matters can be considered under the SUB-R3, I consider that there is value from including an activity standard for subdivisions with building platforms located in High Hazard Areas to become NC. Because of this, I favour a separate subdivision rule for natural hazards. I note I have adopted a similar approach for CE-R11. Accordingly, I recommend that the submissions from ECan are accepted in part.

### **Conclusions and recommendations**

7.34.13 I recommend that the submission from Bruce Spiers [66.45] is accepted.

7.34.14 I recommend that the submissions from Silver Fern Farms [172.32], Alliance Group [173.29] and ECan [183.46] and [183.47] are accepted in part.

7.34.15 I recommend that the submissions from Fonterra Limited [165.51] and Milward Finlay Lobb [60.13] are rejected.

7.34.16 Amend NH-R8 as a new rule SUB-RX in the Subdivision Chapter as set out in **Appendix 1** to cover subdivision within all natural hazards overlays (both within and outside of the CE), including any consequential changes to insert this rule into the subdivision chapter. As the changes are extensive this is best assessed in situ.

7.34.17 In terms of a s32AA assessment, the key substantive changes are to include standards for building platforms to be located outside of high hazard areas and the Coastal Erosion Overlay. I consider these changes better give effect to CRPS Policy 11.3.1 and NH-O3 and are more effective because they better manage the natural hazard risk from these activities. Accordingly, they better achieve the purpose of the Act.

### **7.35 Natural Hazards – NH-R9 Natural hazard mitigation works, including associated earthworks - New**

7.35.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME          | SUBMISSION POINT NUMBER(S) |
|-------------------------|----------------------------|
| ECan                    | 183.48, 183.49             |
| South Rangitata Reserve | 206.12                     |

**Submissions**

- 7.35.2 There were five submissions that sought amendments<sup>48</sup> and one submission in support.
- 7.35.3 Consistent with the submission on NH-R3, ECan [183.48] considers that all natural hazard mitigation works should be addressed under a single rule, NH-R3, which would result in NH-R9 rule becoming redundant. They therefore seek that NH-R9 is deleted. ECan [183.49] considers that if the relief sought relating to the requested combining of NH-R3 and NH-R9 is not done, then the assessment matters for new hazard mitigation works should be the same as for NH-R3 for operation, maintenance and upgrade of hazard mitigation works. ECan seeks to amend NH-R9, restricted discretionary criteria to be consistent with NH-R3.
- 7.35.4 South Rangitata Reserve [206.12] is concerned that the compliance costs may outweigh the physical works costs but it is appropriate that approval is required. The submitter objects only if the protection works on the South Rangitata Reserve or neighbouring coastal or river margins is not provided for.

**Analysis**

- 7.35.5 Regarding the ECan [183.48] submission, as set out in my response to ECan [183.54] on NH-R3, I recommended merging NH-R9 into NH-R3 and deleting NH-R9. This is consistent with ECan's submission on NH-R9. Accordingly, I recommend that this submission is accepted and ECan's related submission [183.49] is accepted in part.
- 7.35.6 Regarding the South Rangitata Reserve [206.12] submission, the PDP does not expressly provide for protection works on the South Rangitata Reserve or neighbouring coastal or river margins. I doubt that compliance costs would exceed the physical natural hazard mitigation works costs. In the absence of further information on this matter, I recommend that this submission is rejected.

**Conclusions and recommendations**

- 7.35.7 I recommend that the submission from ECan [183.48] is accepted.
- 7.35.8 I recommend that the submission from ECan [183.49] is accepted in part.
- 7.35.9 I recommend that the submission from South Rangitata Reserve [206.12] is rejected.
- 7.35.10 No amendments additional to those already recommended under NH-R3, which was to delete NH-R9.
- 7.35.11 No s32AA assessment is required.

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<sup>48</sup> Te Kotare Trust [115.16] and Waipopo Huts [189.26] submissions in opposition are assessed in the Waipopo Huts section.



**7.36 Natural Hazards – NH-S1 Flood Risk Certificate**

7.36.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME    | SUBMISSION POINT NUMBER(S) |
|-------------------|----------------------------|
| Silver Fern Farms | 172.33                     |
| Alliance Group    | 173.30                     |
| ECan              | 183.50                     |
| Harvey Norman     | 192.12                     |

**Submissions**

- 7.36.2 There were four submissions that sought amendments,<sup>49</sup> while two submissions sought clarification.
- 7.36.3 Silver Fern Farms [172.33] and Alliance Group [173.30] are concerned about the ambiguity about whether land in the Sea Water Inundation Overlay is part of the High Hazard Area Overlay. If this is the case, then the submitter opposes the note for NH-S1 that indicates that a finished floor level will not be provided, given the Sea Water Inundation Overlay covers a large portion of the Pareora site, including most of the area within the GIZ.
- 7.36.4 ECan [183.50] considers the standards can be improved for clarity. They seek to amend the standard to ensure that the wording of the standard is consistent throughout the plan, including ensuring freeboard levels are consistent, and climate change is taken into account for all sources of flooding. This also requires a consequential amendment to the “Flood Risk Certificate” definition to remove reference to the distance from stop banks, as any flood risk regardless of distance from the stop bank will be assessed.
- 7.36.5 Harvey Norman [192.12] supports the requirement to obtain a Flood Risk Certificate, however considers the process to apply for, and obtain, the Flood Risk Certificate is unclear, particularly in regard to timeframes, information required to be supplied by the applicant, and if not obtained whether an NC activity consent under Rule NH-R8 would be required. They seek to amend NH-S1 Flood Risk Certificate to clarify the process of applying for and obtaining a Flood Risk Certificate.

**Analysis**

- 7.36.6 Regarding the Silver Fern Farms [172.33] and Alliance Group [173.30] submissions, consistent with my assessment of a similar submission (Silver Fern Farms [172.32] and Alliance Group [173.29]), as set out in my response to submissions on the definition of “high hazard area” I am recommending that this definition incorporate sea water inundation as part of flooding from all sources. As such, sea water inundation could occur but it might not be high hazard. In response to submissions on CE-R11 (Subdivision in the CE) I am also

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<sup>49</sup> Te Kotare Trust [115.17] and Waipopo Huts [189.27] submissions are assessed in the Waipopo Huts section.

recommending changes that would make subdivision in the Sea Water Inundation Overlay NC only if it proposed a building platform located within a high hazard area. I consider these changes respond in part to these submissions and accordingly recommend that they are accepted in part.

- 7.36.7 Regarding the ECan [183.50] submission, unfortunately no specific wording was provided. Reviewing the ECan submission and the matters raised, I agree with ECan that consistency is required between NH-S1 and the definition of Flood Risk Certificate and other changes are required to make NH-S1 more accurate as requested and accordingly I recommend their submission is accepted. These changes are set out below.
- 7.36.8 Regarding the Harvey Norman [192.12] submission, in response to BP Oil, et al [196.55] I stated that flood assessment certificates / floor level requirements are already being required and issued by the Christchurch City Council, the Kaikoura District Council and Selwyn District Councils and are proposed for the Waimakariri District Council. As such, these are not novel. I anticipate that the Council will establish a process for these. In response to the applicant's submission, I recommend adding an advice note in NH-S1 stating that an application form and guidance on how to obtain a Flood Assessment Certificate are available on the District Council's website. I therefore recommend that this submission is accepted.

#### **Conclusions and recommendations**

- 7.36.9 I recommend that the submissions from ECan [183.50] and Harvey Norman [192.12] are accepted.
- 7.36.10 I recommend that the submissions from Silver Fern Farms [172.33] and Alliance Group [173.30] are accepted in part.
- 7.36.11 Amend the definition of "Flood Risk Certificate" as follows:

#### **FLOOD RISK ASSESSMENT CERTIFICATE**

means a certificate issued by Timaru District Council which specifies:

- a. the flood event risk level for specific land (being either land not subject to flooding in a 0.5% AEP flood event, or land subject to flooding in a 0.5% AEP flood event, or land within a High Hazard area); and
- b. where a. above identifies that the specific land is subject to flooding in a 0.5% AEP flood event, the minimum finished floor level for any new building or structure (or part thereof) on the specific land to provide at least 300mm freeboard above the flood level in a 0.5% AEP flood event; and
- ~~c. if the specific land is within 150m of a stopbank, the minimum finished floor level for any new building or structure (or part thereof) on the specific land to avoid risk from a stopbank failure; and~~
- d. whether the specific land is located within an overland flow path.

- 7.36.12 Amend NH-S1 as follows:

**Flood Risk Assessment Certificate**

1. A Flood Risk Assessment Certificate is issued by the Council (that is valid for 3 years from the date of issue) which specifies:
  - a. the flood event risk level for specific land, being:
    - i. land not subject to flooding in a 0.5% AEP flood event, or
    - ii. land subject to flooding in a 0.5% AEP flood event, or
    - iii. land within a High Hazard area;
    - iv. or for sea water inundation, land subject to flooding in a 1% AEP storm surge event, coupled with sea level rise based on a Representative Concentration Pathway 8.5 climate change scenario; and
  - b. where 1(a)(ii) above identifies that the specific land is subject to flooding in a 0.5% AEP rainfall event, the minimum finished floor level for any new building or structure (or part thereof) on the specific land to provide at least ~~250~~ 300mm freeboard above the flood level in a 0.5% AEP flood event; and
  - c. whether the specific land is located within an overland flow path.
2. The AEP flood event risk level, minimum floor levels, ~~stopbank risk~~ and overland flow path locations are to be determined by reference to:
  - a. The most up to date models, maps and data held by Timaru District Council and Canterbury Regional Council; and
  - b. Any information held by, or provided to, Timaru District Council or Canterbury Regional Council that relates to flood risk for the specific land.

Note: A minimum finished floor level will not be provided in the Certificate for sites located within a high hazard area outside of urban zoned areas. Rather, these will need to be determined through a resource consent process.

An application form and guidance on how to obtain a Flood Assessment Certificate are available on the District Council's website.

7.36.13 In terms of a s32AA assessment, I consider that the existing s32 assessment continues to apply as the recommended amendments are minor and seek to clarify the application of NH-S1 and remove the stopbank reference from the definition of "flood assessment certificate" as the certificate does not provide a minimum finished floor height for sites adjacent to stopbanks.

## **7.37 Natural Hazards – NH-S2 Volume of earthworks**

7.37.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME                           | SUBMISSION POINT NUMBER(S) |
|--|----------------------------|
| Various, as set out in <b>Appendix 2</b> |                            |
| TDC                                      | 186.16                     |
| PrimePort                                | 175.31                     |
| Alastair Joseph Rooney                   | 177.15                     |

|                         |        |
|-------------------------|--------|
| South Rangitata Reserve | 206.13 |
|-------------------------|--------|

**Submissions**

- 7.37.2 There were 16 submissions seeking changes to NH-S2. NH-S2 was included to manage works that might cause flood water displacement and flow path disruption. In response to submissions on NH-R1 (e.g. Dairy Holdings [89.6] and ECan [183.38]) I have recommended changes to NH-R1 to include a permitted activity standard that ensures earthworks will not cause flood water displacement or flow path disruption and to delete NH-S2.
- 7.37.3 As set out in **Appendix 2**, most of the submissions on NH-S2 sought to increase the amount of permitted earthworks, either by changing the figures, changing the applicable zones, excluding ancillary earthworks, or excluding works required to meet minimum finished floor levels. Other submissions, such as TDC [186.16] and PrimePort [175.31] sought minor amendments to clarify the application of the provisions to sites.
- 7.37.4 Alastair Joseph Rooney [177.15] considers that farming activities, and natural hazard mitigation activities (such as maintenance of stopbanks) can involve significantly more than 2,000m<sup>2</sup> in earthworks. The submitter seeks to amend NH-S2 to increase the permitted earthworks volumes in the Rural Zones within the Flood Assessment Areas Overlay per year under NH-S2.2. from 2,000m<sup>2</sup> to 2,500m<sup>2</sup> or more and introduce a rule that earthwork limits within this overlay, only apply in respect to activities that increase flood exposure.

**Analysis**

- 7.37.5 As I have recommended deleting NH-S2 I have not assessed the merits of each of the submissions on NH-S2. Should this be required by the Panel in response to questions over deleting NH-S2, I can do so in my Reply Report.

**Conclusions and recommendations**

- 7.37.6 As I have recommended deleting NH-S2 and applying a different approach to earthworks management, I recommend that the submissions on NH-S2 are rejected as set out in **Appendix 2**.
- 7.37.7 Delete NH-S2, as recommended under NH-R1.
- 7.37.8 See the s32AA under NH-R1.

**7.38 Natural Hazards – Flood Assessment Overlay**

- 7.38.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME | SUBMISSION POINT NUMBER(S) |
|----------------|----------------------------|
| Harvey Norman  | 192.3                      |
| G.D.M. Offices | 38.1                       |
| Port Bryson    | 104.1                      |

|                           |        |
|---------------------------|--------|
| Broughs Gully Development | 167.3  |
| Hilton Development Trust  | 205.1  |
| Waipopo Huts Trust        | 189.7  |
| Te Kotare Trust           | 115.5  |
| K J Rooney Limited        | 197.9  |
| Fenlea Farms              | 171.34 |
| Barkers Fruit             | 179.3  |
| Noel Edward Glass         | 83.2   |
| ECan                      | 183.28 |

### Submissions

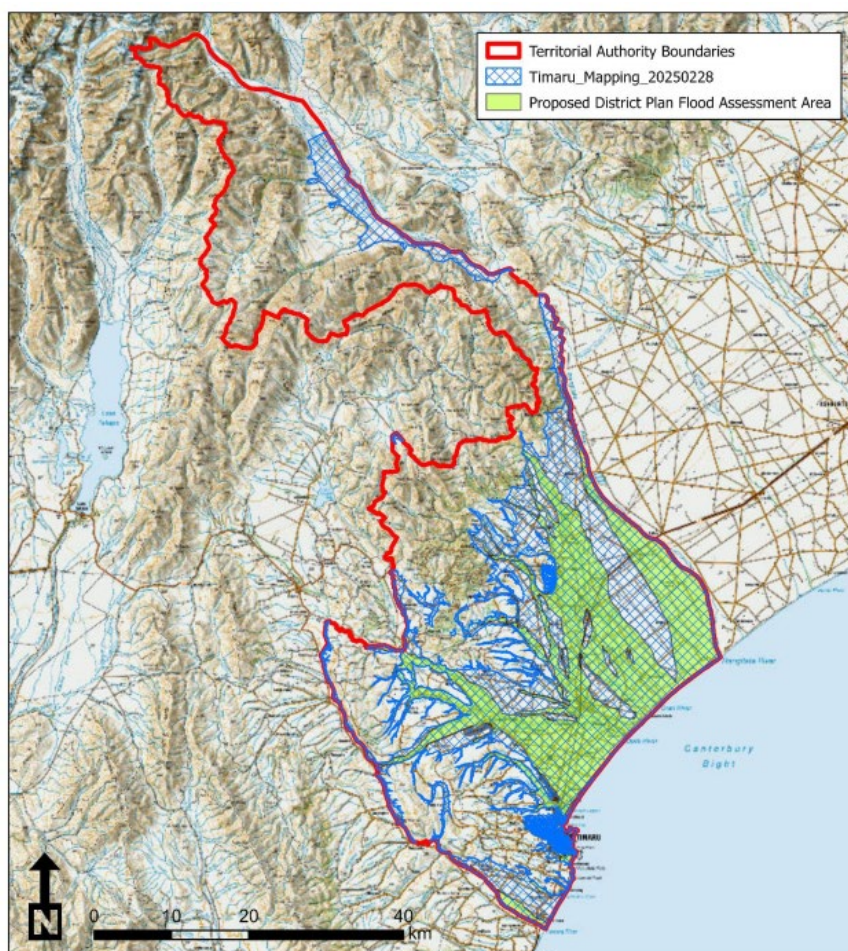
7.38.2 There were a number of submissions seeking to exclude submitter properties from the Flood Assessment Overlay. G.D.M. Offices [38.1], Port Bryson [104.1], Broughs Gully Development [167.3], Hilton Development Trust [205.1], Waipopo Huts Trust [189.7], Te Kotare Trust [115.5], K J Rooney Limited [197.9], Fenlea Farms [171.34] and Barkers Fruit [179.3] all sought to remove their properties and provided the following various reasons as set out in **Appendix 2**:

- It creates an unnecessary consent burden that can be dealt with through other legislation i.e., building consent;
- The topography of the site means there is no history of flooding and it is unlikely to flood;
- The data is out of date;
- The overlay should be removed from identified roads as stormwater management is a fundamental part of roading design;
- The property is used for primary production purposes;
- It would be practicable for plan implementation purposes, for the Flood Assessment Area overlay to follow the site boundary;
- This overlay, along with other overlays mean new or replacement dwellings, buildings and structures will be NC activities on the submitters' properties. A more permissive planning regime is appropriate to honour the historical commitment the Crown made to enabling Māori to carry out their needs and wants;
- The property has never experienced a flooding issue and due to the topography such an event is highly unlikely. The PDP does not provide a baseline to support the identification of flood risk;
- Flood plains have no place on these maps and that waterways are for all New Zealanders and seeks these are removed from the planning maps.

7.38.3 In addition to those identified above, Harvey Norman [192.3] considers that the extent of the Flood Assessment Area Overlay extends further across the submitters site than required and does not take into account the construction of culvert upgrades at State Highway 1 and at the Main North railway line. The submitter seeks to reduce the extent of the Flood Assessment Area Overlay at 266 Evans Street and provided technical evidence in support of its submission.

- 7.38.4 Noel Edward Glass [83.2] considers flood plains have no place on these maps, waterways are for all New Zealanders, and these should be removed from the planning map.
- 7.38.5 ECan [183.28] considers that the areas identified as potentially subject to flooding are too narrow. ECan seeks to amend the planning maps to encompass a wider area that is potentially subject to flood hazard risk. ECan did not provide proposed amendments to the planning maps in its submission, however the proposed amended flood assessment overlay is contained in the memo provided by Mr Griffiths (Science Team Leader, Natural Hazards at ECan) attached as **Appendix 8** and copied below. For clarity, this revised overlay includes the Sea Water Inundation Overlay, thereby creating a single overlay that recognises flood risk from all sources of flooding.

*Figure X - Mapping of areas where the potential for flooding may exist, and the notified district plan 'flood assessment area' overlay (Source: Memo from Mr Griffiths dated 28 February 2025)*



### Analysis

- 7.38.6 The Council is required to manage natural hazard risk, and flood risk is a significant natural hazard for the Timaru District. I consider the approach of including Flood Assessment Area

Overlays in the PDP is appropriate and is a common and accepted tool of district plans. Accordingly, I recommend that the submission from Noel Edward Glass [83.2] is rejected.

- 7.38.7 The approach behind the Flood Assessment Area Overlay is to identify areas that may flood in the modelled event, to enable a site specific assessment to then be undertaken. The overlay is not based on areas that have historically flooded. With the exception of Harvey Norman, none of the submitters provided technical evidence with their submission to support the removal of the Flood Assessment Area Overlay from their properties.
- 7.38.8 Regarding the Harvey Norman submission [192.3], the supplied PDP report states that culvert upgrades at SH1 and the railway are either underway or planned for the near future which will significantly reduce the extent of the flood assessment areas as demonstrated by the August 2022 PDP model update, and also that much of the Harvey Norman site is free of the 'high hazard' classification. In his evidence (**Appendix 9**) Mr Kemp assesses the Harvey Norman submission and concludes that the updated modelling now excludes the main Harvey Norman Building while continuing to cover the majority of the site (parking area, lower lying warehouse and former PGG Wrightson's Building) and that due to this localised flooding he recommends that the submission be rejected. I accept Mr Kemp's advice on this matter and accordingly, I recommend this submission is rejected.
- 7.38.9 Mr Kemp has assessed the submissions set out below and recommends their rejection as the modelling indicates these sites are at risk of flooding. I accept his opinion on these submissions and accordingly recommend that these are rejected.
- G.D.M. Offices [38.1] – Remove the Flood Assessment Area Overlay from 12 The Terrace.
  - Port Bryson [104.1] – Amend the extent of the Flood Assessment Area and overlay to exclude 16A, 16D, 16E Hilton Highway.
  - Broughs Gully Development [167.3] – Remove Flood Assessment Area overlay from Road 1 and Road 2 of DEV1 as shown below.
  - Hilton Development Trust [205.1] – Remove the Flood Assessment Area overlay from 18 Hilton Highway, Oceanview Timaru.
- 7.38.10 Regarding ECan's [183.28] submission, as set out in the memo of Mr Griffiths (contained in **Appendix 8**) ECan has provided the Council with a new flood assessment overlay (excluding the urban areas of Timaru and Geraldine) that is more comprehensive and extensive than the notified overlay. Mr Griffiths considers that the notified overlay does a reasonable job of identifying parts of the district that could be susceptible to flooding from major rivers and streams, but does not account for potential flooding from smaller streams or drains, or surface flooding from rainfall runoff. Mr Griffiths notes that the approach used to produce the mapping for TDC is very similar to that used to produce mapping for the Kaikoura, Waimakariri, Selwyn, Mackenzie, and Waimate district plans.

- 7.38.11 Relying on the memo of Mr Griffiths, I consider this amended overlay is likely to be more appropriate than the notified Flood Assessment Area Overlay. I note that the process to develop this map is very similar to that used to produce mapping for the above listed Councils and that ECan has responsibility for hazard management in Canterbury. Having been involved in the Waimakariri and Kaikoura District Plan flooding provisions and related overlay matters, I consider this Timaru PDP approach is consistent with those Plans. However, I note I am not a technical expert in flooding matters and therefore am not able to confirm whether this particular proposed overlay is accurate and the most appropriate approach.
- 7.38.12 Overall, I consider that the amended overlay is likely to be appropriate, however, in the absence of technical evidence supporting it<sup>50</sup> I am unable at this time to provide a recommendation to either accept or reject ECan's [183.28] submission seeking this amended overlay. I understand that ECan will provide technical evidence at the hearing to support their submission and the amended overlay, and intend to provide a recommendation in my Summary Statement to the Panel at the start of the Hearing, or subsequently in my Right of Reply if the Council considers it necessary to source independent technical expertise.
- 7.38.13 I note that the additional areas included within the revised ECan overlay (excluding the Timaru Urban Area) covers an additional 1655 properties. In terms of the significance of this change being introduced via the ECan submission and matters of natural justice, I note that the WDP flood assessment overlay was similarly recommended to be changed via a submission from ECan, and I understand this was also the process for the SDP. I note that inclusion in the overlay does not confirm that a site floods, but rather that it might flood and that a site specific assessment is required. Where a site specific assessment is provided, this will provide the recommended floor level to build to, which if adhered to, will result in a permitted activity under the relevant natural hazards rule.
- 7.38.14 For those areas outside of Timaru and Geraldine that are identified in Mr Griffith's amended flood assessment overlay, I understand that the cost of a flood assessment certificate is currently in the order of \$150 - \$200. I consider this good value for the service provided. As such, in my opinion the additional potential burden on sites that were not previously within the overlay is not significant, noting that a large proportion of these properties may not be in the process of being further developed. I note it is feasible that the extended overlay could include new properties that are determined to be high hazard areas, where building natural hazard sensitive buildings would be non-complying. I understand that this is likely to be rare as the areas of the district that have significant flooding are already captured by the notified overlay. In the event that some additional areas are high hazard, in my opinion identifying this is actually beneficial given the life and property risks associated with developing in high hazard areas.

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<sup>50</sup> I consider that Mr Griffith's memo is not technical evidence as it does not include his qualifications and experience, nor does it make a recommendation to adopt the updated Overlay.



- 7.38.15 Based on my above analysis, I consider the proposed approach is likely to be a more effective and efficient approach than the notified overlay, and noting the number of properties involved, on balance I consider it likely that any natural justice issues arising from introducing this change via a submission would be acceptable and justified. However, as identified above, in the absence of technical evidence supporting the amended overlay I am unable to conclude this at this time. As for the amended overlay, I understand that ECan will provide technical evidence at the hearing to support their submission and the amended overlay, and intend to provide a recommendation on the matter of natural justice in my Summary Statement to the Panel at the start of the Hearing, or subsequently in my Right of Reply if the Council considers it necessary to source independent technical expertise.
- 7.38.16 Regarding submitters with properties outside of the Timaru township that have sought removal of the Flood Assessment Area Overlay from their sites (Waipopo Huts Trust [189.7], Te Kotare Trust [115.5], Fenlea Farms [171.34] and Barkers Fruit [179.3]), I anticipate that these sites will continue to be covered by the amended Flood Assessment Area Overlay provided by Mr Griffiths for ECan. Consistent with my conclusions and recommendations on that revised Overlay, in the absence of technical evidence supporting the amended overlay I am unable to conclude at this time whether the Overlay should be retained, altered or removed for these properties. As above, if ECan provides technical evidence in support of the amended overlay I will be in a position to provide a recommendation on these submissions in my Summary Statement to the Panel at the start of the Hearing, or subsequently in my Right of Reply if the Council considers it necessary to source independent technical expertise.
- 7.38.17 Turning to the urban areas of Timaru, in his evidence in response to ECan [183.28], Mr Kemp has recommended updating the Flood Assessment Area Overlay for the Timaru urban area on the basis that new more accurate modelling has been obtained (see his Background and Reasons for Change sections and the Maps in his Appendix 1 showing the notified and amended Flood Assessment Overlays) and because ECan does not support utilising out-of-date modelling. Mr Kemp identifies changes between the notified and revised Flood Assessment Overlay for the Timaru urban area (paragraph 15), identifying that across this area, the total rating units impacted by the notified Flood Assessment Area Overlay equated to 6,986 rateable units, whereas under the revised overlay, the number of rateable units impacted decreases to 6,604 (a decrease of 382 properties).
- 7.38.18 In my opinion the PDP should utilise the most up-to-date accurate modelling for generating the overlay extent, and based on Mr Kemp's advice, recommend that the Flood Assessment Area Overlay for the Timaru urban area is updated. This will result in a reduced number of properties affected and therefore is more efficient and effective. For clarity, this updated urban area is included at a broad scale in the map provided in Mr Griffiths' memo for ECan and in more detail in Mr Kemp's evidence (in his Appendix 1). The scope for this Timaru urban area change is provided by ECan [183.28] which sought wholesale amendments to the overlay, together with Kāinga Ora [229.39] which sought the deletion of the Flood Assessment Area Overlay in its entirety (along with all other natural hazard overlays) due to

the dynamic nature of natural hazards, as well as the submissions seeking site specific changes.<sup>51</sup>

### **Conclusions and recommendations**

7.38.19 I recommend that the submission from ECan [183.28] in relation to the area outside of the Timaru Urban Area, is determined after evidence is received on the revised Overlay provided by Mr Griffiths. Likewise, I recommend that the submissions from Waipopo Huts Trust [189.7], Te Kotare Trust [115.5], Fenlea Farms [171.34], K J Rooney Limited [197.9] and Barkers Fruit [179.3] are determined after evidence is received on the revised overlay provided by Mr Griffiths.

7.38.20 I recommend that the Harvey Norman submission [192.3] G.D.M. Offices [38.1], Port Bryson [104.1], Broughs Gully Development [167.3], Hilton Development Trust [205.1] and Noel Edward Glass [83.2] are rejected.

7.38.21 Replace the PDP Flood Assessment Area Overlay with the amended overlay for the Timaru urban area as shown in a .pdf set out in Mr Kemp's evidence in his Appendix 1.

7.38.22 In terms of a s32AA assessment, the only change recommended at this time is the change in the Timaru urban area flood assessment overlay. I consider this change is more efficient and effective than the notified overlay as it is more accurate and therefore less likely to include properties that are not at risk of flooding. This increased accuracy better achieves NH-O1 and a risk-based approach and therefore is the most appropriate for achieving the Act.

### **7.39 Natural Hazards – Other Natural Hazards Overlays / Planning Maps Submissions**

7.39.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| <b>SUBMITTER NAME</b> | <b>SUBMISSION POINT NUMBER(S)</b> |
|-----------------------|-----------------------------------|
| Kāinga Ora            | 229.39, 229.2                     |
| Waipopo Huts          | 189.4, 189.5, 189.9               |
| Te Kotare             | 115.6                             |
| Barkers Fruit         | 179.4                             |
| Robert Whittam        | 121.1                             |
| Amy Alison            | 126.1                             |
| Nicolas Twaddle       | 127.1                             |

### **Submissions**

7.39.2 Kāinga Ora [229.39] supports the identification of natural hazards, however due to the dynamic nature of natural hazards amendments are sought so that these areas are mapped

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<sup>51</sup> Kāinga Ora [229.39] is assessed in the next section of this report.

on GIS layers which sit outside of the statutory maps. They therefore request to delete the following hazard overlays from the PDP: Earthquake Fault (Infrastructure or Facilities) Awareness Areas; Earthquake Fault (Subdivision) Awareness Areas; Flood Assessment Area; High Hazard Areas; and Liquefaction Awareness Area. In a similar submission Kāinga Ora [229.2] seeks the same relief.

- 7.39.3 Waipopo Huts [189.5] seeks to remove the High Hazard Overlay from their sites, stating that recent flood information is available from ECan which shows that the flood risk to the submitter's land is not as significant as indicated by the High Hazard Overlay and that the stopbank in the vicinity of the Waipopo Settlement has not breached in historic floods, while other areas of the lower Opihi Stopbank have been breached. Waipopo Huts [189.9] and Te Kotare [115.6] also oppose the Liquefaction Awareness Area Overlay, and Waipopo Huts [189.4] also opposes the Regional Council Stopbank Overlay on the submitter's properties and seeks this is removed, or the rules affecting development on the site are amended. The submitters consider a more permissive planning regime is appropriate to honour the historical commitment the Crown made to enabling Māori to carry out their needs and wants. These submissions are also responded to in the Waipopo Huts section.
- 7.39.4 Barkers Fruit [179.4] considers it would be practicable for plan implementation purposes for the Liquefaction Area overlay to follow the site boundary. They seek to amend the Liquefaction Area overlay to reflect the site boundary of 72 Shaw Road, Geraldine.
- 7.39.5 Three identical submissions from Robert Whittam [121.1], Amy Alison [126.1] and Nicolas Twaddle [127.1] oppose the proposed Open Space zoning of Blandswood due to the absence of specific district plan provisions to manage natural hazard risk and effects on existing and future landowners and council infrastructure from Kowhai Stream. The submitters were specifically concerned with maintaining safe access for existing and future residents, and visitors to the national park.

### **Analysis**

- 7.39.6 Regarding the Kāinga Ora [229.39] submission, I agree that the Flood Assessment Area Overlay is dynamic, as is the High Hazard Area Overlay, however the earthquake fault and liquefaction awareness areas are less dynamic and have more certainty. In my opinion it is helpful to have hazard areas mapped in the PDP where possible as they are identified when properties are searched through the planning map search function. In my opinion the most dynamic layers are for flooding, and the PDP's approach of requiring a flood assessment certificate responds to this dynamism by enabling the most up-to-date flood modelling information to be provided. The mapping of high hazard areas via the High Hazard Area Overlay in the PDP is in conflict with the flooding dynamism and flood assessment approach and I therefore recommend that this specific overlay is removed from the planning maps. In addition to being potentially superseded as future modelling occurs, including this overlay causes confusion as the flood assessment certificate process may also identify sites as being (unmapped) high hazard areas. Overall, I consider the PDP's approach of including hazard overlays is appropriate and provides greater certainty than having no hazard overlays included in the Plan, with the exception of the High Hazard Area Overlay. Accordingly, I

recommend that this submission is accepted in part. In doing so I note I have relied in part on this submission for my recommendation to include an updated more accurate Flood Assessment Area Overlay for the Timaru urban area.

- 7.39.7 Regarding the Waipopo Huts [189.5], [189.9] and Te Kotare [115.6] submissions, consistent with my recommendations for Kāinga Ora [229.39] I recommend that all the natural hazard overlays are retained, with the exception of the High Hazard Area Overlay. Accordingly, I recommend Waipopo Huts [189.5] is accepted and Waipopo Huts [189.9] and Te Kotare [115.6] are rejected.
- 7.39.8 Regarding Waipopo Huts [189.4] and the Regional Council Stopbank Overlay, stopbanks are referred to in NH-S1, however in response to the ECan [183.50] submission on NH-S1, I am recommending deleting this reference. Stopbanks are also referred to in DEV4 - Temuka North-West Residential Development Area where it states that all buildings and structures shall be setback 10m from the landward side of the stopbank. Because of this reference and the general value of identifying key features such as stopbanks on the planning map I recommend this overlay is retained. Given the changes I am recommending to enable appropriate development in the MPZ, I recommend Waipopo Huts [189.4] is accepted in part.
- 7.39.9 Regarding the Barkers Fruit [179.4] submission, while no evidence was presented to support the requested amendment, I note that the liquefaction overlay only just crosses into the subject site along parts of the eastern boundary and is potentially a result of the scale at which the assessments were undertaken. I also note that the liquefaction overlay is a minor hazard which can usually be appropriately managed. For these reasons, I consider it appropriate to exclude the submitter's site from this overlay. Accordingly, I recommend that this submission is accepted.
- 7.39.10 Regarding the submissions from Robert Whittam [121.1], Amy Alison [126.1] and Nicolas Twaddle [127.1], in my opinion the PDP contains comprehensive provisions to manage natural hazards. I consider that the remainder of their submission points are not relevant to this topic. Accordingly, I recommend that these submissions are rejected, as they relate to the natural hazards matter.

### **Conclusion and recommendations**

- 7.39.11 I recommend that the submissions from Barkers Fruit [179.4] and Waipopo Huts [189.5] are accepted.
- 7.39.12 I recommend that the submissions from Kāinga Ora [229.39] and [229.2] and Waipopo Huts [189.4] are accepted in part.
- 7.39.13 I recommend that the submissions from Waipopo Huts [189.9], Te Kotare [115.6], Robert Whittam [121.1], Amy Alison [126.1] and Nicolas Twaddle [127.1] are rejected.
- 7.39.14 Amend the Liquefaction Awareness Overlay to exclude the property situated at 72 Shaw Road, RD 21 Geraldine.

7.39.15 Remove the High Hazard Areas Overlay from the planning map.

7.39.16 In terms of a s32AA assessment, I consider the Liquefaction Awareness Overlay change is only minor. I consider the removal of the high Hazard Areas Overlay will reduce confusion and improve clarity as there are areas of the District that will also be high hazard that are not mapped. In addition, the Overlay is subject to change as flooding is dynamic, so mapping these areas reduces flexibility. The recommended changes therefore will improve efficiency and effectiveness, better achieve NH-O1 and are more appropriate for achieving the purpose of the Act.

## 8. Coastal Environment

### 8.1 Coastal environment Overview

- 8.1.1 In this section I have addressed the submissions in the following order: Definitions; General and Introduction; Objectives; Policies; Rules; Planning Maps / Overlays.

### 8.2 Coastal Environment – Definition of “Amenity Planting”

- 8.2.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME    | SUBMISSION POINT NUMBER(S) |
|-------------------|----------------------------|
| Federated Farmers | 182.6                      |

#### **Submissions**

- 8.2.2 Federated Farmers [182.6] consider the definition of “amenity planting” is clear but considers it would be appropriate to add further to the definition to appropriately include rural residential development within the definition. They seek the definition is amended as follows:

*“means any vegetation and/or trees planted in the immediate vicinity of a residential ~~unit~~, or rural residential development, primarily to provide aesthetic appeal, shelter or domestic food supply. Amenity planting includes any woodlot, orchard or vineyard (to a maximum combined area of 1ha) planted within 100m of a residential ~~unit~~ or rural residential development.”*

#### **Analysis**

- 8.2.3 The proposed definition enables amenity planting to be associated with a house irrespective of the zone it is in. Houses are also located in rural residential areas as part of rural residential development. If the activity is not associated with a house then it is a standalone activity and could be considered as horticulture. In my opinion this changes the meaning of the definition significantly and its application in the coastal environment. I do not consider this to be appropriate and therefore recommend this submission is rejected. In addition, I note that while the term “residential unit” is defined and therefore clear to understand, a reference to “residential or rural residential development”, which are not defined, would be unclear as to what constitutes the “development” from which the planting is to be measured.

#### **Conclusion and recommendations**

- 8.2.4 I recommend that the submissions from Federated Farmers [182.6] is rejected.
- 8.2.5 No changes are recommended.

### 8.3 Coastal Environment – General and Introduction

- 8.3.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME    | SUBMISSION POINT NUMBER(S)         |
|-------------------|------------------------------------|
| Forest and Bird   | 156.140, 156.138, 156.162          |
| Federated Farmers | 182.169                            |
| ECan              | 183.107, 183.108, 183.109, 183.110 |
| Fenlea Farms      | 171.14                             |
| Lineage Logistics | 107.6                              |

#### Submissions

- 8.3.2 There were 14 submissions classified as general on the CE chapter and one submission on the introduction.
- 8.3.3 Some submissions, such as Fenlea Farms [171.15] and [171.17] were classified as 'General' but actually relate principally to other provisions (e.g. the Sea Water inundation Overlay). For some of these I have addressed them when covering the specific topic. For others, such as ECan [183.107] on titling, I have addressed them here as the change applies throughout the chapter. I have also included in this section a submission from Lineage Logistics [107.6] that was deferred from Hearing A on Strategic Directions. This submission relates to coastal hazards specifically and natural hazards generally.
- 8.3.4 Forest and Bird [156.140] states that there are no provisions for the protection of Outstanding Natural Landscapes (ONLs) and Outstanding Natural Features (ONFs) in the coastal environment. The submitter recognises that ONF-5 is in the coastal environment and comes under the NFL Chapter in the PDP, but considers that the NFL chapter does not give effect to the requirements of the NZCPS. They seek to amend the CE chapter to include a new objective policy and rule regime that protects ONLs, ONFs and Outstanding Natural Character areas (ONCs) in accordance with the NZCPS.
- 8.3.5 Forest and Bird [156.138] considers the introduction does not reflect or explain which aspects of the NZCPS are addressed by other chapters of the plan which apply to the coastal environment, other than zones. They consider that the reference to the coastal environment being a narrow strip does not appear to have applied the NZCPS appropriately. They also consider that the chapter provisions make blanket assumptions and provision for activities in the coastal environment without recognising that they may not in fact be appropriate when considering aspects of the NZCPS that are not addressed in this chapter. They seek to amend the introduction to give effect to the NZCPS.
- 8.3.6 Forest and Bird [156.162] notes that there are no rules or overlays that discuss ONCs, or ONFs and consider the plan does not give effect to the NZCPS without avoiding adverse effects on ONCs and ONFs. The submitter considers it is difficult to support any of the rules given the deficiencies in the objective and policy development and seeks to amend the CE

chapter rules to include a raft of new rules to avoid adverse effects on ONC areas and ONFs and to give effect to the NZCPS.

- 8.3.7 Federated Farmers [182.169] considers it is important that the PDP provides for everyday agricultural activities to occur in the coastal environment and that it is appropriate to delete areas of coastal High Natural Character (HNC).
- 8.3.8 ECan [183.107] considers there appear to be a number of gaps in relation to the provisions for activities in the coastal environment, for example, implementation of Policy 11 relating to indigenous biological diversity. ECan recommends that the chapter is reviewed in light of the NZCPS to ensure that it gives effect to all of the requirements of it. In a related but separate submission, ECan [183.110] considers it is unclear how the provisions provide for the "bottom line" provisions in the NZCPS Policies 11, 13 and 15, which require an approach of "no adverse effects" on certain significant resources. They seek to include appropriate rules, including for infrastructure, to ensure that "no adverse effects" are created in relation to those resources addressed in Policies 11(a), 13(1)(a) and 15(a) of the NZCPS, and in relation to the secondary parts of those policies, ensure that the policy framework provides for "no significant adverse effects".
- 8.3.9 ECan [183.108] considers that the flood assessment certificates being issued, rather than assessing risk, are assessing the flood hazard impacting the site and therefore seek to amend all references to "Flood Risk Certificate" to "Flood Assessment Certificate".
- 8.3.10 ECan [183.109] considers that the PDP does not recognise that "high hazard" as defined in CRPS Policy 11.3.1 includes areas subject to coastal erosion and coastal inundation. They seek to amend the CE Chapter to recognise areas subject to high hazard include areas subject to coastal erosion and coastal inundation, and provide a framework consistent with Policy 11.3.1 of the CRPS.
- 8.3.11 Fenlea Farms [171.14] oppose any objectives, policies, rules, standards and schedules in respect of the Coastal Environment Overlay relating to 158 Prattley Road.
- 8.3.12 Lineage Logistics [107.6] made a submission on SD-O4 Natural Hazards stating that the Council's approach of applying a sea level rise of 1.2m on the basis of NZRCP8.5M is inappropriate and does not reflect the recommendations of the IPCC Sixth Assessment Report. The submitter considers that the requirement or goal in SD-O4 (ii) that development: *"is avoided in areas where the risks of natural hazards to people, property and infrastructure are assessed as being unacceptable"* is problematic for a range of reasons such as: the s32 assessment is unclear in terms of 'unacceptable risk'; a blanket avoidance approach impose significant costs which would outweigh the benefits; this is not addressed in the s32 assessment; and the approach is inconsistent with Part II of the RMA. The submitter seeks the following relief:
- That areas subject to sea level rise are identified on the basis of NZ RCP 4.5 Median projections as opposed to NZ RCP 8.5M:



- Remove SD-O4.ii; or
- Replace SD-O4.ii with wording that accurately reflects a risk-based approach. The following worded is suggested as an example only:
  - “Managing development to ensure the risks of natural hazards to people, property and infrastructure are acceptable.”
- Such other alternative or additional relief as may be appropriate to give effect to the intent of the submission including, but not limited to, corresponding objectives, policies and rules that implement SD-O4.

### **Analysis**

- 8.3.13 I note the NPS sets out matters to include in the CE Chapter. Clause 28 specifies that a CE chapter must be provided and includes the ability to cross-reference to any other specific coastal provisions that may be located within other chapters (clause 28(c)). Given the small numbers of SNAs and ONL / ONFs in the coastal environment I consider it more efficient that these matters are addressed in the topic-specific chapters (as per the PDP), rather than introduce unnecessary repetition into the CE Chapter.
- 8.3.14 Regarding the Forest and Bird [156.140] and [156.162] submissions, ONF-5 is addressed in the NFL chapter. As there is only one ONF in the coastal environment, for efficiency and consistency I consider it appropriate to be addressed in the NFL chapter as proposed in the Plan. As set out in the evidence of Ms Pfluger in **Appendix 5** (under Federated Farmers [182.169]), there are no ONC areas in the CE that meet the threshold for inclusion in the PDP. I therefore recommend that these submissions are rejected.
- 8.3.15 Regarding the Federated Farmers [182.169] submission, I agree that it is important that the PDP provides for everyday agricultural activities to occur in the coastal environment and I note that it enables these in the coastal environment, with the exception of primary production activities in the HNC Overlay, which is the overlay the submitter is seeking to delete. As set out in Ms Pfluger's evidence on this submission, under NZCPS Policy 1 Councils have an obligation to identify the extent of the coastal environment and to assess the natural character of the coastal environment by mapping or otherwise identifying at least areas of high natural character under NZCPS 13(1)(c). This exercise has been undertaken and the HNC areas identified. It is only open to the Council to delete these areas if evidence is presented that the identified HNC areas do not meet the threshold for inclusion. I note that the submitter did not provide evidence on this in their submission and accordingly I recommend that this submission is rejected.
- 8.3.16 Regarding the ECan [183.107] submission, it is not clear which matters ECan consider are missing from this chapter. However, this is clarified in the ECan [183.110] submission. Regarding indigenous biodiversity (NZCPS Policy 11), there are SNAs in the CE, but these are managed in the EIB chapter. Regarding natural character (NZCPS Policy 13), there are no areas identified with ONC (NZCPS Policy 13(1)(a)), there are however areas identified as HNC (NZCPS Policy 13(1)(b)). In my opinion the CE chapter does seek to avoid significant adverse

effects and avoid, remedy or mitigate other adverse effects of activities on natural character and this is clearly reflected in CE-P10 and CE-P11, with rules CE-R4 covering buildings and structures and CE-R5 covering earthworks and CE-R87 and CE-R8 covering RSI and CE-R13 covering primary production. I note that these policies and rules are the subject of specific submissions addressed later in this report. Regarding natural features and landscapes (NZCPS Policy 15), these are covered in the NFL chapter. Given the reliance on other chapters I consider it useful that this is set out in the introduction and therefore recommend the changes set out below and in **Appendix 1**. Accordingly, I recommend that these submissions are accepted in part.

- 8.3.17 Regarding the ECan [183.108] submission, I consider that all references to "Flood Risk Certificate" should be changed to "Flood Assessment Certificate" as shown in **Appendix 1**.
- 8.3.18 Regarding the ECan [183.109] submission, I agree that the "high hazard area" definition should be amended to recognise areas subject to high hazard include areas subject to coastal erosion and coastal inundation and that this is reflected in the chapter. In response to ECan [183.14] I have recommended to amend the definition of "high hazard area" in the definitions part of my Natural Hazards section of this report. Accordingly, I will not repeat this here. In his evidence under this submission (in **Appendix 3**), Mr Todd agrees with my suggested amendment of the "high hazard area" definition, however raises concerns that defining all areas that erode over the next 100 years as a High Hazard Area does not take account of the significant uncertainty in the extent of the erosion as the 100-year timeframe is approached. His preference is to identify a second hazard zone on the planning map based on time to exposure and probability of exposure, with the more seaward zone being a redefined "high hazard area" in which district plan provisions are more restricted, and the more landward zone being a 'medium or low hazard area' in which planning provisions are more permissive. I consider this proposal has merit, however I am also mindful that this would be inconsistent with the CRPS's definition of "high hazard". As an alternative, I recommend including an additional assessment matter for coastal erosion which references certainty, to more clearly enable a risk-based approach for consent applications in this overlay and I note this alternative option is supported by Mr Todd. I consider this is consistent with clauses 1 to 4 of CRPS Policy 11.3.1 (Avoidance of inappropriate development in high hazard areas) which seek to enable consideration of risk. Accordingly, I recommend that this submission is accepted.
- 8.3.19 Regarding the Forest and Bird [156.138] submission, in response to the ECan [183.107] and [183.110] submissions, I considered that the NZCPS is also given effect to by other chapters within the PDP and that this is appropriate for efficiency purposes, and that given the reliance on other chapters I considered it useful that this is set out in the introduction and therefore recommended changes. I consider these changes also respond to this submission. Regarding the mapping of the coastal environment, in her evidence (under Federated Farmers [182.169]), Ms Pfluger explains the extent and natural character of the coastal environment was assessed by Boffa Miskell with reference to the NZCPS, with the results contained in the Timaru Landscape and Coastal Study report (Boffa Miskell, 2020). I consider

that this study appropriately assessed and identified the extent of the coastal environment for Timaru. Overall, I recommend that this submission is accepted in part.

- 8.3.20 Regarding the Fenlea Farms [171.14] submission, the submitter has also made specific submissions on individual provisions in relation to 158 Prattley Road consistent with this general submission. For the individual submissions I have recommended acceptance in part for some and rejection of others. Accordingly, for this general submission I recommend it is accepted in part, with any chapter changes set out under the specific submission points.
- 8.3.21 Regarding the Lineage Logistics [107.6] submission, in his evidence on applying RCP8.5 SLR scenario, Mr Todd states that the Strategic Direction SD-O4ii approach of applying a 1.2 m SLR over 100 years is appropriate, as it is consistent with the relevant national guidance for land use planning controls for existing coastal uses and assets, and therefore also consistent with NZCPS Policy 24. He considers that there is no justification in the national guidance for dropping the SLR scenario to SSP2-4.5 as sought by the Lineage Logistics submission.
- 8.3.22 Regarding the wording on SD-O4ii, in my opinion, the wording “is avoided in areas where the risks of natural hazards to people, property and infrastructure are assessed as being unacceptable” is appropriate at the strategic directions level as, where the risk is considered acceptable (including through an assessment of likelihood x consequence and after hazard mitigation, if appropriate), then the development can proceed and it is avoided where the risk remains unacceptable. In my opinion this does enable a risk-based approach consistent with the submitter’s request. I note the CRPS has an ‘avoid unless’ approach for areas of high hazard (Policy 11.3.1), and areas subject to inundation covered by Policy 11.3.2. For other natural hazards the CRPS also includes a ‘manage’ approach, such as for earthquakes under Policy 11.3.3, while a general risk management approach applies under Policy 11.3.4 for natural hazards not covered by the identified policies. I also note NZCPS Policy 25 on coastal hazards refers to ‘avoiding’ increasing the risk of social, environmental and economic harm from coastal hazards (Policy 25(1)) and ‘avoiding’ redevelopment, or change in land use, that would increase the risk of adverse effects from coastal hazards (Policy 25(2)). I consider that SD-O4ii is consistent with the CRPS approach and the NZCPS. Whilst “managing development to ensure the risks of natural hazards to people, property and infrastructure are acceptable” (as proposed by the submitter) also provides an overview level statement, in my opinion this is less consistent with the CRPS and NZCPS policy framework with its avoidance approach, and provides a weaker connection to the NH and CE chapters where they seek to avoid development in high hazard areas, rather than managing this development. Accordingly, I recommend that this submission is rejected.
- 8.3.23 In addition to the above recommendations, I note that some terms (such as “coastal environment”) are variously upper-case and lower-case throughout the CE chapter. I recommend that these are assessed and amended for consistency. Rather than making these changes now, I propose to resolve this issue as part of my Reply Report as these changes are non-consequential and I note that the PDP drafting style does not require the use of upper case letters for defined terms.

- 8.3.24 I note that the “coastal environment” is not actually defined. Rather the chapter identifies the coastal environment as “generally a narrow margin of land that lies between the coastal marine area and the farmed hinterlands.” The PDP also includes a Coastal Environment Area Overlay to geographically identify the coastal environment and this is referred to in the rules. In my opinion it would be helpful if the chapter stated in the introduction that the coastal environment is that area of the District identified on the planning map as the Coastal Environment Area. I recommend this change is made under clause 16(2).

### **Conclusion and recommendations**

- 8.3.25 I recommend that the submission from ECan [183.109] is accepted.
- 8.3.26 I recommend that the submissions from ECan [183.107], [183.108] and [183.110], Forest and Bird [156.138] and Fenlea Farms [171.14] are accepted in part.
- 8.3.27 I recommend that the submissions from Forest and Bird [156.140] and [156.162], Federated Farmers [182.169] and Lineage Logistics [107.6] are rejected.

- 8.3.28 Amend the CE Introduction as follows:

Timaru District’s coastal environment is generally a narrow margin of land that lies between the coastal marine area and the farmed hinterlands and is identified by the Coastal Environment Area Overlay on the planning map. It is a dynamic environment that has been modified by human activity, such as the building of the railway line, but continues to be subject to active natural processes.

[...]

The provisions of other chapters in this plan also apply to the coastal environment. For example, identified significant natural areas and indigenous biodiversity clearance in the coastal environment are addressed in the EIB Chapter. ONLs and ONFs in the coastal environment are addressed in the NFL Chapter. SASMs located in the coastal environment are addressed in the SASM Chapter.

- 8.3.29 Amend all references to "Flood Risk Certificate" to "Flood Assessment Certificate" as shown in **Appendix 1**.
- 8.3.30 Include a reference to the level of certainty of the projected future shoreline in the matters of discretion for the coastal erosion rules in NH-R8 / SUB-RX.4, CE-RX.3, CE-R7.1 and CE-R8.2 as set out in **Appendix 1**.
- 8.3.31 In terms of a s32AA assessment, I consider the recommended introduction changes and reference to flood assessment certificates are minor changes that do not require a s32AA assessment as they do not change the meaning or application of the provisions. In my opinion the recommended addition of a reference to the level of certainty of the projected future shoreline in the matters of discretion for the coastal erosion rules more appropriately responds to the technical evidence available and more appropriately balances the assessment of the risks of acting or not acting. This also enables a more efficient

management approach for this risk. Overall, I consider it is the most appropriate for achieving CE-O4 and the purpose of the Act.

#### 8.4 Coastal Environment – Objective CE-O1 - Coastal natural character

- 8.4.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME  | SUBMISSION POINT NUMBER(S) |
|-----------------|----------------------------|
| Forest and Bird | 156.142                    |

##### **Submissions**

- 8.4.2 There were two submissions on CE-O1, one in support and one seeking change.
- 8.4.3 Forest and Bird [156.142] considers the objective conflates s5 with s6 of the RMA which is not appropriate. They consider that NZCPS - Objective 6 does not say enable people and communities to provide for the social, economic, and cultural wellbeing at the expense of the environment. Rather, it says to enable these features through use and development in appropriate places. They seek to amend CE-O1 as follows:

*The natural character of Timaru's Coastal Environment is preserved and protected from inappropriate subdivision, use and development, ~~while enabling people and communities to provide for their social, economic, and cultural wellbeing and their health and safety.~~*

##### **Analysis**

- 8.4.4 I note that NZCPS Objective 6 clearly seeks to enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development and then proceeds to refine matters and areas to recognise. I consider that CE-O1 is sufficiently consistent with NZCPS Objective 6 as written, noting the reference to 'inappropriate subdivision, use and development' and therefore consider this submission should be rejected.

##### **Conclusions and recommendations**

- 8.4.5 I recommend that the submission from Forest and Bird [156.142] is rejected.
- 8.4.6 No changes are recommended.

#### 8.5 Coastal Environment – Objective CE-O2 - Quality of the coastal environment

- 8.5.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME  | SUBMISSION POINT NUMBER(S) |
|-----------------|----------------------------|
| Forest and Bird | 156.143                    |

**Submissions**

- 8.5.2 There was one submission seeking changes to CE-O2 and three in support.
- 8.5.3 Forest and Bird [156.143] opposes the objective which it considers is subjective as to what "quality" of the coastal environment is. The submitter considers that the wording is not clear as it appears to be more about access to beaches and public spaces, than the coastal environment generally. They seek that CE-O2 is deleted.

**Analysis**

- 8.5.4 While I agree with the submitter that it is arguably subjective as to what "quality" of the coastal environment is and that the wording appears to be more about access, I note that NZCPS Objective 4 uses the word "qualities" ("maintain and enhance the public open space qualities and recreation opportunities of the coastal environment..."). I also note that CE-P8 lists the qualities of the coastal environment that are to be maintained or enhanced. Given this, I consider it is not necessary to define "quality" within CE-O2 and I therefore recommend that this submission is rejected.

**Conclusions and recommendations**

- 8.5.5 I recommend that the submission from Forest and Bird [156.143] is rejected.
- 8.5.6 No changes are recommended. No s32AA is required.

**8.6 Coastal Environment – Objective CE-O3 - Kāti Huirapa values**

- 8.6.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME         | SUBMISSION POINT NUMBER(S) |
|------------------------|----------------------------|
| Te Rūnanga o Ngāi Tahu | 185.42                     |

**Submissions**

- 8.6.2 There was one submission seeking changes to CE-O3 and four in support.
- 8.6.3 Te Rūnanga o Ngāi Tahu [185.42] considers that the relationship of Kāti Huirapa with their values and traditions is important. They recommend a minor amendment for an expansion of what this relationship includes as follows:

*The relationship of mana whenua / Kāti Huirapa with, and their cultural values, traditions and ancestral lands and waters in, the coastal environment are recognised and provided for and Kāti Huirapa are able to exercise rakatirataka and kaitiakitaka.*

**Analysis**

- 8.6.4 I have reviewed SD-O5 and note that it refers to kaitiakitaka but not rakatirataka. However, MW2.1.6 Rakatirataka, states that the Crown apology to Kāi Tahu recorded in the Ngāi Tahu

Claims Settlement Act 1998 explicitly recognises the rakatirataka of Kāi Tahu within its takiwa. MW2.1.6 states that in the context of the RMA, rakatirataka includes the active involvement of mana whenua in resource management decision-making processes, including the appointment of commissioners on hearing panels. Rakatirataka is also recognised through the planning framework that enables Kāi Tahu to maintain customary practices and to use their ancestral land in a way that supports their identity and wellbeing.

- 8.6.5 Based on the mana whenua provisions (MW2.1.5 and MW2.1.6), I note that both rangatirataka and kaitiakitaka are not unqualified, rather they are expressed in defined ways. I note that the current wording of CE-O3 is very broad, and therefore the unqualified additional rangatirataka and kaitiakitaka requirements requested by the submitter would equally be broad. In their broad application, in my opinion the CE Chapter rules would not fully implement CE-O3 as amended, and I note that Te Rūnanga o Ngāi Tahu has not also sought to change the detailed rules accordingly. I also note that the SASM chapter applies to most of the CE and that SASM-P1 seeks to recognise and provide for the exercise of rangatirataka by Kāti Huirapa in decisions made in relation to SASMs. For these reasons I do not support the proposed broad and unqualified additions in CE-O3. However, I do support the qualified additions of rangatirataka and kaitiakitaka that are consistent with MW2.1.5 and MW2.1.6, as expressed through MW2.2.5. Accordingly, I recommend that this submission is accepted in part.

### **Conclusions and recommendations**

- 8.6.6 I recommend that the submission from Te Rūnanga o Ngāi Tahu [185.42] is accepted in part.

- 8.6.7 Amend CE-O3 as follows:

The relationship of mana whenua / Kāti Huirapa with, and their cultural values, traditions and ancestral lands and waters in, the coastal environment are recognised and provided for and Kāti Huirapa are able to exercise kaitiakitaka and rakatirataka in accordance with MW2.2.5.

- 8.6.8 In terms of a s32AA assessment, I consider that this change improves internal consistency within the PDP as CE-O3 is more clearly aligned with MW2.2.5. This will improve clarity and application of the PDP and is more consistent with RMA s8. Accordingly, this amendment is the most appropriate for achieving the purpose of the Act.

## **8.7 Coastal Environment – Objective CE-O4 – Coastal hazards**

- 8.7.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME            | SUBMISSION POINT NUMBER(S) |
|---------------------------|----------------------------|
| Southern Proteins Limited | 140.14                     |
| Forest and Bird           | 156.145                    |
| Dir. General Conservation | 166.101                    |

|      |         |
|------|---------|
| ECan | 183.114 |
|------|---------|

**Submissions**

- 8.7.2 There were four submission seeking changes to CE-O4.
- 8.7.3 Southern Proteins Limited [140.14] considers the reference in the objective relates to major hazard facilities via the defined term 'unacceptable risks' and this narrows the focus of the objective which they assume is in error. They seek to remove the defined term 'unacceptable risks'.
- 8.7.4 Forest and Bird [156.145] considers the objective does not capture natural hazard climate response and adaption. They seek the deletion of CE-O4 or the following amendments:
- People, ~~buildings and structures~~ are protected from unacceptable risks arising from coastal hazards, whilst taking account of climate change, through location and design of buildings and infrastructure, considering responses such as managed retreat for existing development.*
- 8.7.5 The Dir. General Conservation [166.101] supports this objective as it gives effect to Objective 5 and Policy 25 of the NZCPS to avoid increasing the risk of social, environmental and economic harm from coastal hazards. However, the submitter considers it necessary to amend the objective to take into account the effects of climate change as required by Objective 5 of the NZCPS. They seek the following amendments:
- People, buildings and structures are protected from unacceptable risks arising from coastal hazards and the effects of climate change.*
- 8.7.6 ECan [183.114] considers this objective could be better drafted to reflect Objective 5 of the NZCPS, including recognition of the impacts of climate change.

**Analysis**

- 8.7.7 Regarding the Southern Proteins [140.14] submission, I agree that is not the intent of the objective and the reference to 'unacceptable risks' should not be hyperlinked. I therefore recommend that this submission is accepted.
- 8.7.8 Regarding the Forest and Bird [156.145] submission, I accept that the objective, and indeed the policies, do not reference climate change specifically, however this is not strictly necessary as climate change is built into the hazard assessments and modelling. However, I agree this would be appropriate. Regarding a reference to managed retreat, in my opinion this is a method to achieve CE-O4. As such, I do not think it is necessary to refer to it in the objective. Finally, CE-O4 and the chapter, are concerned with protecting buildings and structures, not just people, from unacceptable risk so I do not support the recommended wording which changes this focus. Overall, I recommend this submission is accepted in part.
- 8.7.9 Regarding the Dir. General Conservation [166.101] and ECan [183.114] submissions, I consider it appropriate to reference climate change in the objective given it is a significant contributor to natural hazard risk. However, I prefer slightly different wording and I do not



consider it necessary to repeat all of NZCPS Objective 5, which in my opinion includes methods. I therefore recommend accepting these submissions in part.

### **Summary of recommendations**

8.7.10 I recommend that the submission from Southern Proteins [140.14] is accepted.

8.7.11 I recommend that the submissions from Forest and Bird [156.145], the Dir. General Conservation [166.101] and ECan [183.114] are accepted in part.

8.7.12 Remove the hyperlink from “unacceptable risks” in Objective CE-O4.

8.7.13 Amend CE-O4 as follows:

People, buildings and structures are protected from unacceptable risks arising from coastal hazards, including those exacerbated by climate change.

8.7.14 In terms of a s32AA assessment, I consider that the existing s32 continues to apply as the recommended change simply introduces an example of coastal hazards.

## **8.8 Coastal Environment – Objective CE-O5 – Natural features and buffers**

8.8.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME            | SUBMISSION POINT NUMBER(S) |
|---------------------------|----------------------------|
| Forest and Bird           | 156.146                    |
| Dir. General Conservation | 166.102                    |

### **Submissions**

8.8.2 There were two submission seeking changes to CE-O5 and two submissions in support.

8.8.3 Forest and Bird [156.146] notes that the NZCPS Objective 5 requires the protection of natural features, and it is not clear if being “used for coastal hazard management” is appropriate wording. They seek the following amendments:

*CE-O5 Natural ~~defence features~~ and buffers to coastal hazards  
Natural ~~defences~~, features and buffers to coastal hazards are protected, restored,  
and retained. Natural defences and buffers are used for coastal hazard management  
in preference to natural hazard mitigation works, wherever appropriate.*

8.8.4 The Dir. General Conservation [166.102] supports the intent of this objective but considers it necessary to amend the wording to make it clearer and to give effect to Objective 5 and Policies 25 & 26 of the NZCPS, and in particular the discouragement of hard protection structures and the promotion of alternatives such as natural defences. They seek the following amendments:

**CE-O5 ~~Natural Features~~ Natural Defences and buffers**

~~Natural features~~ Natural defences and buffers are retained and used for coastal hazard management, in preference to ~~natural hazard mitigation works~~ hard engineering natural hazard mitigation, wherever appropriate.

### Analysis

- 8.8.5 Regarding Forest and Bird [156.146] and the Dir. General Conservation [166.102] submissions, I agree that NZCPS Objective 5 refers to protecting and restoring natural defences and that it would be appropriate to amend CE-O5 accordingly to refer to natural defences and these outcomes. I also consider that referring explicitly to hard engineering is consistent with the NZCPS. My recommended amended wording draws on both these submissions. I therefore recommend these submissions are accepted in part.

### Conclusions and recommendations

- 8.8.6 I recommend that the submissions from Forest and Bird [156.146] and the Dir. General Conservation [166.102] are accepted in part.
- 8.8.7 Amend CE-O5 as follows:
- CE-O5 ~~Natural Features~~ Natural Defences and buffers  
~~Natural features~~ Natural defences and buffers are protected, restored or enhanced ~~retained~~  
 and used for coastal hazard management, in preference to ~~natural hazard mitigation works~~  
 hard engineering natural hazard mitigation works, wherever appropriate.
- 8.8.8 In terms of a s32AA assessment, I consider that the changes better align the objective with NZCPS Objective 5. Accordingly, I consider the changes are the most appropriate to achieve the higher order planning framework and the Act.

### 8.9 Coastal Environment – Objective CE-O6 – Existing urban activities

- 8.9.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME    | SUBMISSION POINT NUMBER(S) |
|-------------------|----------------------------|
| Forest and Bird   | 156.147                    |
| Fenlea Farms      | 171.20                     |
| Silver Fern Farms | 172.80                     |

### Submissions

- 8.9.2 There were three submissions seeking changes to CE-O6 and five submissions in support.
- 8.9.3 Forest and Bird [156.147] considers the Timaru Port is already captured by the RSI provisions in the EI chapter and that not all existing activities can be assumed to be appropriate or even lawfully established. The submitter considers that when considering “appropriate” under the NZCPS, this is in the context of what is to be protected. They seek the following amendments:

*Recognise that parts of the coastal environment are highly modified by existing urban activities, and that these activities may not be inappropriate, including the Port of Timaru, and provide for these ongoing activities.*

- 8.9.4 Fenlea Farms [171.20] opposes CE-O6 as it does not protect existing rural activities and seeks to amend CE-O6 to recognise existing rural activities and to provide for these activities or include a new objective for this.
- 8.9.5 Silver Fern Farms [172.80] considers that the objective fails to recognise existing activities located outside the urban environment but within highly modified parts of the mapped "coastal environment" - such as the Pareora processing site, where substantial industrial development is present within the proposed Coastal Environment Overlay. They seek the following amendments:

*CE-O6 Existing ~~urban~~ activities*

*Recognise and provide for existing activities located in highly modified parts of the coastal environment ~~that parts of the coastal environment are highly modified by existing urban activities, including the Port of Timaru, and provide for these ongoing activities.~~*

### **Analysis**

- 8.9.6 Regarding all three submissions, I understand that the objective is principally focussed on urban activities in urban zoned areas of the coastal environment as these are highly modified environments, but may also cover other existing urban-type activities in the rural zone. It does not seek to enable all existing activities, including rural activities, as these may not be within highly modified environments. I consider focusing on highly modified environments is the correct approach, rather than seeking to protect existing use rights per se (which already have statutory protection under the RMA). I also consider it is appropriate to continue to provide for these activities in highly modified environments. I note that I have elsewhere recommended a changed approach to "urban areas"<sup>52</sup> such that Silver Fern Farms' GIZ-zoned Pareora processing site would now be an existing "urban zoned area" and therefore provided for under a permitted pathway for natural hazards. Consequently, I recommend a minor change to CE-O6 to refer to "urban zoned areas". This approach would support recognising Silver Fern Farms GIZ-zoned Pareora processing site as being highly modified. Consistent with the Forest and Bird submission, I consider that the reference to the Port of Timaru is no longer necessary as it is located within an urban zoned area.
- 8.9.7 Accordingly, I recommend that the submission from Fenlea Farms [171.20] is rejected, while the submissions from Silver Fern Farms [172.80] and Forest and Bird [156.147] are accepted in part.

---

<sup>52</sup> In response to Silver Fern Farms [172.85] and other submitters, such as Rangitata Dairies [44.2] and various submissions from Waipopo Huts Trust and Te Kotare Trust and Silver Fern Farms [177.22], Alliance Group [73.19] and Tosh Prodanov [117.1].

**Conclusions and recommendations**

- 8.9.8 I recommend that the submission from Fenlea Farms [171.20] is rejected.
- 8.9.9 I recommend that the submissions from Silver Fern Farms [172.80] and Forest and Bird [156.147] are accepted in part.
- 8.9.10 Amend CE-O6 as follows:  
CE-O6 Existing urban activities
- 8.9.11 Recognise that parts of the coastal environment are highly modified, including by existing urban activities in urban zoned areas, ~~including the Port of Timaru~~, and provide for these ongoing activities.
- 8.9.12 In terms of a section 32AA assessment, this change is minor and does not change the intent or meaning of the provision.

**8.10 Coastal Environment – New Objective**

- 8.10.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME | SUBMISSION POINT NUMBER(S) |
|----------------|----------------------------|
| KiwiRail       | 187.68                     |

**Submissions**

- 8.10.2 KiwiRail [187.68] seeks an amendment to this chapter to provide a linkage to Objective EI-O2 to ensure RSI can be located in sensitive environments (such as the coastal environment) where there is a functional or operational need to be in that location. They seek to amend the objectives of the CE chapter to provide for RSI in sensitive areas.

**Analysis**

- 8.10.3 I note that CE-P11(1) specifically covers RSI and refers to EI-P2 (in addition, CE-R7 and CE-R8 expressly cover RSI in the coastal environment). As such, there is a policy linkage to the EI chapter within the CE chapter. However, I accept that there is no specific RSI guidance at the objective level in the CE chapter and I consider this would be helpful given the policies and rules in the chapter that cover RSI. I therefore recommend that a new objective is included as set out below, referencing EI-O2 as the relevant objective in the EI chapter. I note that EI-O2 and EI-P2 seek to appropriately manage RSI in the coastal environment and that both these EI provisions were assessed as part of the EI, TRAN SW s42A report in Hearing Stream E, with amendments recommended. I consider the recommended amendments continue to appropriately manage RSI in the coastal environment. Accordingly, I recommend that this submission is accepted.

**Conclusions and recommendations**

8.10.4 I recommend that the submissions from KiwiRail [187.68] is accepted.

8.10.5 Add the following objective to the CE chapter:

**CE-O8 Regionally Significant Infrastructure and Lifeline Utilities**

The adverse effects of Regionally Significant Infrastructure and Lifeline Utilities are managed in accordance with EI-O2.

8.10.6 In terms of s32AA assessment, this new objective supports the policies that link through to the EI chapter. It is consistent with the notified PDP approach for RSI and simply seeks to provide that link. As such, the existing s32 assessment will continue to apply.

**8.11 Coastal Environment – CE-P2 Identifying areas of high coastal natural character**

8.11.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME  | SUBMISSION POINT NUMBER(S) |
|-----------------|----------------------------|
| Forest and Bird | 156.150                    |

**Submissions**

8.11.2 One submission sought amendments to CE-P2 while four submissions were in support.

8.11.3 Forest and Bird [156.150] states that there is no requirement in the policy to map areas of natural character and recommends that CE-P2 is amended as follows:

*Identify **and map** the natural character of the areas within the terrestrial part of Timaru's coastal environment that have high natural character in accordance with the matters set out in CE-P5 below and describe these in SCHED14 - Schedule of attributes/qualities of coastal high natural character areas.*

**Analysis**

8.11.4 My interpretation of this policy is that the areas are identified and this can be done via maps, descriptions, or both. The PDP has done this via the HNCA Overlay on the planning map. While I consider 'identifying' in this instance is mapping, I am comfortable adding a reference to mapping to CE-P2 and therefore recommend that this submission is accepted.

**Conclusion and recommendations**

8.11.5 I recommend that the submission from Forest and Bird [156.150] is accepted.

8.11.6 Amend CE-P2 as follows:

Identify and map the natural character of the areas within the terrestrial part of Timaru's coastal environment that have high natural character in accordance with the matters set out in CE-P5 below and describe these in SCHED14 - Schedule of attributes/qualities of coastal high natural character areas.

- 8.11.7 In terms of a s32AA assessment, this change is minor and does not change the intent of the provision. Accordingly, the existing s32 assessment will continue to apply.

## 8.12 Coastal Environment – CE-P3 Identifying coastal hazards

- 8.12.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME            | SUBMISSION POINT NUMBER(S) |
|---------------------------|----------------------------|
| Lineage Logistics         | 107.7                      |
| Dir. General Conservation | 166.108                    |
| Forest and Bird           | 156.151                    |
| PrimePort                 | 175.44                     |
| Timaru District Holdings  | 186.24                     |

### Submissions

- 8.12.2 Five submission sought amendments to CE-P3 while one submission was in support.
- 8.12.3 Lineage Logistics [107.7] consider that Policy CE-P3 should recognise the predicted timeframes and uncertainty associated with predicted coastal inundation.
- 8.12.4 The Dir. General Conservation [166.108] supports this policy and the identification of coastal hazards, however considers that the policy needs to take into account the effects of climate change in line with the NZCPS Objective 5 and Policy 24 and the RMA Part 2, Section 7. They seek the following amendments:

*Identify Coastal Hazard Areas on the planning maps, and take a risk-based approach taking account of climate change, to the management of subdivision, use and development based on the following: [...].*

- 8.12.5 Forest and Bird [156.151] considers the policy does not give effect to NZCPS policy 24 and 25 and requests the deletion of CE-P3 and replacement with policies that give effect to these NZCPS policies.
- 8.12.6 PrimePort [175.44] and Timaru District Holdings [186.24] consider the policy does not recognise that activities within the Port of Timaru have a functional and operational requirement to locate in the Coastal Environment, and this requirement should be a matter for consideration in the risk-based approach. They seek to amend CE-P3 as follows:

[...]

3. the impact on the wider community from the loss of, or damage to, the activity or use; and

4. a functional or operational need to locate in a Coastal Hazard Area.

### **Analysis**

8.12.7 Regarding the Lineage Logistics [107.7] submission, I acknowledge that there are long timeframes and uncertainty associated with predicted coastal inundation. However, the NZCPS requires at least a 100-year timeframe and uncertainty is built into the modelling and risk assessments. I therefore do not consider any changes are required and that this submission should accordingly be rejected.

8.12.8 Regarding the Dir. General Conservation [166.108] submission, climate change will be taken into account as part of assessing the natural hazard risk, however I agree that given the significance of climate change to coastal hazards, it is appropriate to specifically include a reference to it in the Policy. I therefore recommend that this submission is accepted.

8.12.9 Regarding the Forest and Bird [156.151] submission, I note that this policy is about identifying natural hazard risk (NZCPS Policy 24) rather than how this is responded to (NZCPS Policy 25). I consider that the additional reference to climate change I have recommended in response to the Dir. General Conservation [166.108] submission appropriately responds to NZCPS Policy 24 and Forest and Bird's submission. I therefore recommend that this submission is accepted in part.

8.12.10 Regarding the PrimePort [175.44] and Timaru District Holdings [186.24] submissions, while I agree that a functional or operational need is an appropriate consideration, this is already included in CE-P13 for RSI. In my opinion CE-P3 is focussed on identifying coastal hazards through a risk-based approach which determines risk as a result of natural hazard consequences x likelihood. As such I recommend that these submissions are rejected.

### **Conclusion and recommendations**

8.12.11 I recommend that the submission from the Dir. General Conservation [166.108] is accepted.

8.12.12 I recommend that the submission from Forest and Bird [156.151] is accepted in part.

8.12.13 I recommend that the submissions from Lineage Logistics [107.7] PrimePort [175.44] and Timaru District Holdings [186.24] are rejected

8.12.14 Amend CE-P3 as follows:

Identify Coastal Hazard Areas on the planning maps, and take a risk-based approach taking account of climate change, to the management of subdivision, use and development based on the following: [...].

8.12.15 In terms of a s32AA assessment, this change is minor and does not change the intent of the provision. Accordingly, the existing s32 assessment will continue to apply.

### 8.13 Coastal Environment – CE-P4 Role of natural features and vegetation

8.13.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME            | SUBMISSION POINT NUMBER(S) |
|---------------------------|----------------------------|
| Forest and Bird           | 156.152                    |
| Dir. General Conservation | 166.109                    |
| ECan                      | 183.118                    |

#### Submissions

8.13.2 Three submissions sought amendments to CE-P4 while two submissions were in support.

8.13.3 Forest and Bird [156.152] considers that while this policy appears to be giving effect to NZCPS policy 26 and 27, it also adds in words such as 'topographical' that were not present in the objective and it also uses a different test to that set out in the NZCPS i.e., a practicable test for restoration. They seek the following amendments:

*Protect ~~and~~ maintain, restore or enhance natural defences such as topographic features and vegetation beaches, estuaries, wetlands, intertidal areas, coastal vegetation, dunes and barrier islands, that assist in avoiding or mitigating the risk to human life and significant existing development property from coastal hazards, and where practicable restore such features and vegetation; and protects significant biodiversity, cultural or historic heritage or geological values from coastal hazards.*

8.13.4 The Dir. General Conservation [166.109] supports this policy as it is consistent with the NZCPS Policy 26. However, it considers that an amendment is needed to clarify that the wording relates to natural defences. The submitter also considers that 'protect and maintain' would also include the management of natural defences to be able to retreat due to the effects of climate change. They seek the following amendments:

*Protect and maintain natural defences including natural topographic features and vegetation, that assist in avoiding or mitigating the risk to human life and property from coastal hazards, and where practicable restore such features and vegetation.*

8.13.5 ECan [183.118] considers this Policy contributes to the implementation of NZCPS Policy 26. However, the NZCPS Policy is to "Provide where appropriate for the protection, restoration or enhancement ..." while the TDC Policy is "Protect and maintain ... where practicable restore ...." The Policy does not provide for "enhancement" as the NZCPS Policy does. They seek to include "enhancement" within the policy.

#### Analysis

8.13.6 Regarding the submissions, I agree that it is appropriate to include "enhance" in the policy as this is included in NZCPS Policy 26. I also recommend applying "where appropriate" to 'protection, restoration and enhancement', consistent with NZCPS Policy 26. I also agree



with referring to natural defences and including a new supporting definition of natural defences. With these changes, I consider CE-P4 better gives effect to NZCPS Policy 26.<sup>53</sup> I do not consider that the additional matters included in the Forest and Bird submission are required given that I have proposed including a new definition for natural defences and the other matters (e.g. biodiversity) are addressed in other chapters of the PDP (e.g. the ECO chapter) as already discussed in my report. Given my recommended amendments set out below draw from but are not exactly consistent with any of the three submissions, I recommend these are all accepted in part.

### **Conclusion and recommendations**

8.13.7 I recommend that the submission from Forest and Bird [156.152], the Dir. General Conservation [166.109] and ECan [183.118] are accepted in part.

8.13.8 Amend CE-P4 as follows:

Protect, and maintain, restore or enhance natural defences where appropriate, including natural topographic features and vegetation, that assist in avoiding or mitigating the risk to human life and property from coastal hazards, and where practicable restore such features and vegetation.

8.13.9 Add a new definition of “natural defences” as follows.

Natural defences include dunes, beaches, estuaries, wetlands, intertidal areas, coastal vegetation, natural ponding areas and water body margins. It excludes artificial water races and drainage infrastructure such as swales and stormwater management areas.

8.13.10 In terms of a s32AA assessment, these changes provide greater alignment with the higher order NZCPS Policy 26. Accordingly, they are the most appropriate for achieving the purpose of the Act.

## **8.14 Coastal Environment – CE-P5 Coastal natural character matters**

8.14.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME         | SUBMISSION POINT NUMBER(S) |
|------------------------|----------------------------|
| Forest and Bird        | 156.153                    |
| Te Rūnanga o Ngāi Tahu | 185.43                     |

<sup>53</sup> Natural defences are specified in NZCPS Policy 26(2) to include beaches, estuaries, wetlands, intertidal areas, coastal vegetation, dunes and barrier islands.

### Submissions

8.14.2 Two submission sought amendments to CE-P5 while two submissions were in support.

8.14.3 Forest and Bird [156.153] notes NZCPS policy 13(2) says natural character may include the listed matters in CE-P5. However, NZCPS, policy 13(2) is not an exclusive list, but CE-P5 is an exclusive list. They seek the following amendments:

*Recognise that ~~the following matters contribute to~~ the coastal natural character of the terrestrial part of Timaru's coastal environment may include matters such as:*

8.14.4 Te Rūnanga o Ngāi Tahu [185.43] consider that the attributes/qualities of the Coastal Natural Character includes its cultural values as identified in the Objectives for this chapter. The submitter considers this should be provided for in the policy recognising these matters. They seek the following amendments:

1. *natural elements, processes and patterns; and [...]*
9. the relationship and values of Kāti Huirapa.

### Analysis

8.14.5 Regarding the Forest and Bird [156.153] submission, I note this list comes from NZCPS Policy 13 which states that the list is not exhaustive. While it seems extensive, I consider it appropriate to clarify that it is not an exhaustive list (as the submitter proposes). I therefore recommend that this submission is accepted.

8.14.6 Regarding the Te Rūnanga o Ngāi Tahu [185.43] submission, I disagree that attributes/qualities of the Coastal Natural Character includes the relationship and values of Kāti Huirapa because this policy is about natural character, not social or cultural character or other associative values. I note that the relationship of Kāti Huirapa's relationship with the coastal environment is already covered in CE-P6. I therefore recommend that this submission is rejected.

### Conclusions and recommendations

8.14.7 I recommend that the submission from Forest and Bird [156.153] is accepted.

8.14.8 I recommend that the submission from Te Rūnanga o Ngāi Tahu [185.43] is rejected.

8.14.9 Amend CE-P5 as follows:

Recognise that ~~the following matters contribute to~~ the coastal natural character of the terrestrial part of Timaru's coastal environment include matters such as:

8.14.10 I consider that the original s32 continues to apply as this change is minor and simply seeks to more accurately draft the provision as intended and to give effect to the higher order NZCPS Policy 13.

**8.15 Coastal Environment – CE-P7 Coastal natural character matters**

8.15.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME  | SUBMISSION POINT NUMBER(S) |
|-----------------|----------------------------|
| Forest and Bird | 156.155                    |

**Submissions**

8.15.2 One submission sought amendments to CE-P7 while four submissions were in support. Forest and Bird [156.155] considers this policy does not give effect to NZPCS policy 14 and also that it uses the word enhancement, rather than restore or rehabilitate. They seek the following amendments:

*~~Enable~~ Promote and encourage restoration or rehabilitation of the coastal natural character of the coastal environment and require consideration of opportunities for restoration or rehabilitation ~~enhancement~~ where a proposal has an adverse effect on coastal natural character qualities.*

**Analysis**

8.15.3 I agree that NZCPS Policy 14 refers to “promote” rather than “enable” and “restoration or rehabilitation” rather than “enhancement”. As such I accept that this policy should be amended to more closely align with NZCPS Policy 14. Accordingly, I recommend that this submission is accepted.

**Conclusions and recommendations**

8.15.4 I recommend that the submission from Forest and Bird [156.155] is accepted.

8.15.5 Amend CE-P7 as follows:

~~Enable~~ Promote and encourage restoration or rehabilitation of the coastal natural character of the coastal environment and require consideration of opportunities for restoration or rehabilitation ~~enhancement~~ where a proposal has an adverse effect on coastal natural character qualities.

8.15.6 In terms of a s32AA assessment, I consider that these changes are minor and simply seek to give effect to the higher order NZCPS Policy 14. I consider they are the most appropriate for achieving CE-O1, CE-O2 and the purpose of the Act.

## 8.16 Coastal Environment – CE-P8 Maintain and/or enhance the quality of the coastal environment

8.16.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME         | SUBMISSION POINT NUMBER(S) |
|------------------------|----------------------------|
| ECan                   | 183.122                    |
| Te Rūnanga o Ngāi Tahu | 185.45                     |

### Submissions

8.16.2 Two submissions sought amendments to CE-P8.

8.16.3 ECan [183.122] considers the drafting of this policy uses very permissive language ("enable"), whereas the structure of the NZCPS, particularly in relation to Policy 7, is to consider how and when to provide for development in the coastal environment, and to identify where development is inappropriate. They seek the following amendments:

*Outside of urban areas, ~~enable-ensure~~ subdivision, use and development ~~where it maintains and/or~~ enhances the following qualities that contribute to the quality, and the public's enjoyment of the coastal environment:*  
[...]

8.16.4 Te Rūnanga o Ngāi Tahu [185.45] supports this policy, but submits that the attributes of the coastal environment as documented in the Schedules are also a consideration. They seek the following amendments:

*Outside of urban areas, enable subdivision, use and development where it maintains and/or enhances the following qualities that contribute to the quality, and the public's enjoyment of the coastal environment:*

*1. expansive views of the coastal marine area and skyline; and [...]*

*8. a dark night sky*

*9. the attributes/ values that are identified in any overlay relating to the site*

### Analysis

8.16.5 Regarding the ECan [183.122] submission, I have reviewed NZCPS Policy 7 and also NZCPS Policy 6 and consider on balance that the amendments recommended by ECan are more aligned with the NZCPS and its objectives for the coastal environment, together with the supporting CE chapter rules (for example CE-R4.2 which requires resource consent for large buildings and CE-R11 which requires consent for subdivision). I therefore recommend that this submission is accepted. In doing so I note that 'enable...where' is the more usual PDP drafting style, however I am comfortable departing from this to align with the NZCPS.

- 8.16.6 Regarding Te Rūnanga o Ngāi Tahu [185.45], I agree that the attributes / values identified in the applicable overlays relating to the site are relevant considerations. I note that these are already separately managed in other chapters of the PDP, however in this instance I agree that a reference to these helps integration. I therefore recommend that this submission is accepted.

### **Conclusions and recommendations**

- 8.16.7 I recommend that the submissions from ECan [183.122] and Te Rūnanga o Ngāi Tahu [185.45] are accepted.

- 8.16.8 Amend CE-P8 as follows:

Outside of urban zoned areas, ~~enable~~ensure subdivision, use and development ~~where it~~ maintains ~~and~~/or enhances the following qualities that contribute to the quality, and the public's enjoyment of the coastal environment:

[...]

9. the attributes/ values that are identified in any overlay relating to the site.

- 8.16.9 In terms of a s32AA assessment, the substantive changes better give effect to the higher order NZCPS Policies 6 and 7 and provide stronger across chapter links. I consider they are the most appropriate for achieving CE-O1, CE-O2 and the purpose of the Act.

## **8.17 Coastal Environment – CE-P9 Anticipated activities**

- 8.17.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME    | SUBMISSION POINT NUMBER(S) |
|-------------------|----------------------------|
| Forest and Bird   | 156.156                    |
| Silver Fern Farms | 172.85                     |
| ECan              | 183.123                    |

### **Submissions**

- 8.17.2 Three submissions sought amendments to CE-P9 while four submissions supported it.
- 8.17.3 Forest and Bird [156.156] considers this policy does not give reflect the NZCPS, particularly policy 6, and that it should be deleted.
- 8.17.4 Silver Fern Farms [172.85] does not support this policy as it disregards the significant extant of industrial development that is outside the defined "urban areas". They note that a Specific Height Control Overlay (35m maximum permitted height limit) is proposed to apply to the Submitter's Pareora processing site and therefore consider it appropriate to amend CE-P9 to reflect that significant development is anticipated at the site. They seek the following amendment:

*Enable activities that are of a scale and type that:*

1. *will maintain the coastal natural character qualities identified in CE-P8 or if located within urban areas or a General Industrial Zone, are consistent with the anticipated qualities of the applicable zone.*

8.17.5 ECan [183.123] considers that the drafting of this policy uses very permissive language ("enable"), whereas the structure of the NZCPS, particularly in relation to Policy 7, is to consider how and when to provide for development in the coastal environment, and to identify where development is inappropriate. They seek the following amendments:

~~Enable~~ Provide for activities that are a scale and type that: [...]

### **Analysis**

8.17.6 Regarding the Forest and Bird [156.156] submission, I consider this policy does give effect to the NZCPS, and particularly 6(b) covering built development and infrastructure where this does not compromise values of the coastal environment and Policy 6(f) on maintaining the character of the existing built environment. I therefore recommend that this submission is rejected.

8.17.7 Regarding the Silver Fern Farms [172.85] submission, my understanding was that this policy was intended to apply to urban zoned areas, rather than "urban areas" as defined in the PDP. I agree with the submitter that the GIZ zone at Pareora is significant and existing. I agree that this should be considered as urban under CE-P9(2). Consistent with other related recommendations, I recommend that CE-P9 is amended to refer to "urban zoned areas" and that this submission is accepted in part.

8.17.8 Regarding the ECan [183.123] submission, consistent with my assessment of ECan [183.122] for CE-P8, I have reviewed NZCPS Policy 7 and also reviewed NZCPS Policy 6 and consider on balance that the amendments recommended by ECan are more aligned with the NZCPS and its objectives for the coastal environment, together with the supporting CE chapter rules (for example CE-R4.2 which require resource consent for large buildings and CE-R11 which requires consent for subdivision). I therefore recommend that this submission is accepted.

### **Conclusions and recommendations**

8.17.9 I recommend that the submission from ECan [183.123] is accepted.

8.17.10 I recommend that the submission from Silver Fern Farms [172.85] is accepted in part.

8.17.11 I recommend that the submission from Forest and Bird [156.156] is rejected.

8.17.12 Amend CE-P9 as follows:

~~Enable~~ Provide for activities that are of a scale and type that:

1. will maintain the coastal natural character qualities identified in CE-P8; or
2. if located within urban zoned areas, are consistent with the anticipated qualities of the applicable zone.

8.17.13 In terms of a s32AA assessment, the substantive change better gives effect to the higher order NZCPS Policies 6 and 7. I consider they are the most appropriate for achieving CE-O1, CE-O2, CE-O6 and the purpose of the Act.

## 8.18 Coastal Environment – CE-P10 Preserving the natural character of the Coastal Environment

8.18.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME  | SUBMISSION POINT NUMBER(S) |
|-----------------|----------------------------|
| Forest and Bird | 156.157, 156.149           |
| Transpower      | 159.84                     |
| Fonterra        | 165.90                     |
| Fenlea Farms    | 171.21                     |
| Alliance Group  | 173.86                     |
| ECan            | 183.124                    |
| Hort NZ         | 245.74                     |

### ***Matters raised by submitters***

8.18.2 Eight submissions sought amendments to CE-P10 while three submissions supported it.

8.18.3 Forest and Bird [156.157] considers this policy does not reflect the NZCPS, policy 13 in full (e.g. there is no mention of ONC). The submitter considers the Council needs to identify both ONC and HNC areas in the CE. The submitter considers there should be at least three classifications of natural character in the coastal environment, i.e., ONC, HNC and other natural character. The submitter seeks to delete CE-P13 and add a new policy in accordance with NZCPS Policy 13. While classified under 'New Policies' in **Appendix 2**, Forest and Bird [156.149] similarly sought for a new policy to give effect to NZCPS Policy 13 and to map and include ONCs in a schedule.

8.18.4 Transpower [159.84] supports the explicit cross reference to Policy EI-P2 and considers that providing the direction in respect of the RSI and natural character in the CE in one place avoids duplication and the potential for conflict. The submitter also seeks the inclusion of a further cross-reference to a proposed new policy EI-PX which is contained in Transpower's submission on the EI Chapter. The proposed CE-P10 amendment is as follows:

*Enable subdivision, use and development outside of areas of coastal high natural character that:*

*x. is regionally significant infrastructure that can demonstrate that adverse effects are managed in accordance with EI-P2 Managing adverse effects of Regionally Significant Infrastructure and other infrastructure and EI-Px Managing the effects of the National Grid.*

1. avoids significant adverse effects; and
2. avoids, remedies or mitigates any other adverse effects on the qualities that contribute to the natural character of the Coastal Environment; while recognising that:
  - a. in rural zoned areas, buildings and structures for non-intensive primary production and residential activities may be appropriate depending on their size, scale and nature;
  - b. for existing urban areas, development will likely be appropriate where it is consistent with the anticipated character and qualities of the zone; and
  - ~~c. for infrastructure, the development is in accordance with EI-P2 Managing adverse effects of Regionally Significant Infrastructure and other infrastructure.~~

8.18.5 Fonterra [165.90] supports the recognition that some activities have a functional need to locate in areas within the coastal environment and seek to add “rural industry” to that list as follows:

*Enable subdivision, use and development outside of areas of coastal high natural character that: [...]*

1. Avoids, remedies or mitigates any other adverse effects on the qualities that contribute to the natural character of the Coastal Environment; while recognising that:
    - (a) in rural zoned areas, buildings and structures for non-intensive primary production, rural industry and residential activities may be appropriate depending on their size, scale and nature;
- [...]

8.18.6 Fenlea Farms [171.21] opposes CE-P10 as intensive farming can be managed appropriately within a coastal environment through matters of control or discretion and should not be automatically NC. They seek the following amendments:

*Enable subdivision, use and development outside of areas of coastal high natural character that:*

1. avoids significant adverse effects; and
2. avoids, remedies or mitigates any other adverse effects on the qualities that contribute to the natural character of the Coastal Environment; while recognising that:
  - a. in rural zoned areas, buildings and structures for ~~non-intensive~~ primary production and residential activities may be appropriate depending on their size, scale and nature;

*and*

*Any alternative relief that would address the submitters concerns.*

8.18.7 Alliance Group [173.86] considers this policy is generally consistent with NZCPS Policy 13 (preservation of natural character), however seek minor amendments to improve the precision of the policy as follows:



*Enable subdivision, use and development outside of areas of coastal high natural character that:*

1. *avoids significant adverse effects on areas within the Coastal Environment Area Overlay; and*
2. *avoids, remedies or mitigates any other adverse effects on the qualities that contribute to the natural character of areas within the Coastal Environment Area Overlay; while recognising that:*  
[...]

8.18.8 ECan [183.124] considers the drafting of this policy uses very permissive language ("enable"), whereas the structure of the NZCPS, particularly in relation to Policy 7, is to consider how and when to provide for development in the coastal environment, and to identify where development is inappropriate. They seek the following amendments:

*~~Enable-Manage~~ subdivision use and development outside of areas of coastal high natural character so that it:*  
[...]

8.18.9 Hort NZ [245.74] supports the recognition that in rural zoned areas, buildings and structures for non-intensive primary production and residential activities may be appropriate depending on their size, scale and nature. They consider there is also a need to recognise that primary production land use is also appropriate in the coastal environment. They seek the following amendments:

*Enable subdivision, use and development outside of areas of coastal high natural character that:*

1. *avoids significant adverse effects; and*
2. *avoids, remedies or mitigates any other adverse effects on the qualities that contribute to the natural character of the Coastal Environment; while recognising that:*
  - a. *in rural zoned areas, primary production activities, buildings and structures for non-intensive primary production and residential activities may be appropriate depending on their size, scale and nature;*
[...]

## **Assessment**

8.18.10 Regarding the Forest and Bird [156.157] and [156.149] submissions, in my opinion this policy does reflect the NZCPS policy 13 - there are no ONC areas not because CE-P10 is deficient but because there are no character areas identified that meet the threshold for an ONC. This is set out in Ms Pfluger's evidence in response to submission [156.157]. I therefore recommend that these submissions are rejected.

8.18.11 Regarding the Transpower [159.84] submission, I note that I have recommended amendments to EI-P2 and an additional EI-PX policy (in response to a separate Transpower's submission) in my EI, TRAN and SW s42A report. On this basis I am comfortable including a

cross reference to these policies in CE-P10. Accordingly, I recommend that this submission is accepted.

8.18.12 Regarding the Fonterra [165.90] and HortNZ [245.74] submissions seeking to include a reference to rural industry and primary production, I note that Rural Industry<sup>54</sup> would encompass activities such as horticultural / agricultural / aquaculture packing sheds and processing of products for distribution (e.g. meat and milk factories, sawmills) while Primary Production Activities<sup>55</sup> would encompass activities such as mining and quarrying. In her evidence in response to these submissions Ms Pfluger states that while farming is a land use that already occurs within the coastal environment, there are few instances where rural industry occurs within this area in the Rural Zone and that, along with mining and quarrying (as part of primary production), these activities are likely to have adverse effects on the natural character of the coastal environment. She considers that these activities would only be appropriate if they are of a limited scale, leading to very localised effects and that consideration should also be given to the effects on adjacent areas of HNC which are more sensitive to natural character effects.

8.18.13 I note that CE-R13 would permit primary production and rural industry outside of HNC areas, depending on the status of these activities in the underlying zone. Based on this and Ms Pfluger's advice I consider that CE-P12 should be amended to include rural industry as well as a reference to proximity to areas of HNC. As I am recommending alternative wording to that proposed by the submitters, I recommend these submissions are accepted in part.

8.18.14 Regarding the Fenlea Farms [171.21] submission, given Ms Pfluger's advice on activity scale and that there are no restrictions on intensive primary production in the CE rules, I consider that "non-intensive" could be deleted from CE-P11 as per the submitter's request. As I am recommending alternative wording to that proposed by the submitter, I recommend this submission is accepted in part.

8.18.15 Regarding the Alliance Group [173.86] submission, I do not consider these additions are necessary as the chapter is limited to the Coastal Environment Overlay. Accordingly, I recommend that this submission is rejected.

8.18.16 Regarding the ECan [183.124] submission, consistent with my assessment for similar submissions, I agree that a 'manage' approach is more consistent with the NZCPS's overall

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<sup>54</sup> "Rural Industry" means an industry or business undertaken in a rural environment that directly supports, services, or is dependent on primary production. The following definition is taken from the Standard Instrument – Principal Local Environmental Plan. Rural industry means the handling, treating, production, processing, storage or packing of animal or plant agricultural products for commercial purposes, and includes any of the following: agricultural produce industries, livestock processing industries, composting facilities and works (including the production of mushroom substrate), sawmill or log processing works, stock and sale yards, the regular servicing or repairing of plant or equipment used for the purposes of a rural enterprise."

<sup>55</sup> Primary production activities means: a. any aquaculture, agricultural, pastoral, horticultural, mining, quarrying or forestry activities; and b. includes initial processing, as an ancillary activity, of commodities that result from the listed activities in a); c. includes any land and buildings used for the production of the commodities from a) and used for the initial processing of the commodities in b); but d. excludes further processing of those commodities into a different product.

approach to activities within the coastal environment and would be more consistent with the rules applying to this area. I therefore recommend that this submission is accepted.

### **Conclusions and recommendations**

8.18.17 I recommend that the submissions from ECan [183.124] and Transpower [159.84] are accepted.

8.18.18 I recommend that the submissions from Fonterra [165.90], HortNZ [245.74] and Fenlea Farms [171.21] are accepted in part.

8.18.19 I recommend that the submissions from Forest and Bird [156.157] and [156.149] and Alliance Group [173.86] are rejected.

8.18.20 Amend CE-P10 as follows:

~~Enable-Manage~~ subdivision, use and development outside of areas of coastal high natural character so that:

1. it avoids significant adverse effects; and
2. it avoids, remedies or mitigates any other adverse effects on the qualities that contribute to the natural character of the Coastal Environment; while recognising that:
  - a. in rural zoned areas, rural industry, buildings and structures for non-intensive primary production and residential activities may be appropriate depending on their size, scale and nature and proximity to areas of High Natural Character;
  - [...]
  3. regionally significant infrastructure that can demonstrate that adverse effects are managed in accordance with EI-P2 Managing adverse effects of Regionally Significant Infrastructure and other infrastructure and EI-PX Managing the effects of the National Grid.

8.18.21 In terms of a s32AA assessment, the substantive changes better give effect to the higher order NZCPS Policy 7. New clause 4 seeks to provide a link to the EI provisions, thereby achieving stronger integration. I consider they are the most appropriate for achieving CE-O1, CE-O2, CE-O6, proposed CE-O8 and the purpose of the Act.

## **8.19 Coastal Environment – CE-P11 Preserve the natural character qualities of areas with Coastal High Natural Character**

8.19.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME            | SUBMISSION POINT NUMBER(S) |
|---------------------------|----------------------------|
| Forest and Bird           | 156.158                    |
| Transpower                | 159.85                     |
| Dir. General Conservation | 166.114                    |
| Fenlea Farms              | 171.22                     |

|                   |        |
|-------------------|--------|
| Silver Fern Farms | 172.86 |
| Alliance Group    | 173.87 |

### Submissions

8.19.2 Six submissions sought amendments to CE-P11.

8.19.3 Forest and Bird [156.158] considers this policy does not give effect to NZCPS, for example the EI Chapter elevates many forms of infrastructure to RSI. They seek to delete CE-P11 and create a new policy in accordance with NZCPS policy 13.

8.19.4 Transpower [159.85] supports the explicit cross-reference to Policy EI-P2 and considers that providing the direction in respect of regionally significant infrastructure and natural character in the coastal environment in one place, avoids duplication and the potential for conflict. The submitter also seeks the inclusion of a further cross-reference similar to their submission for CE-P10 as follows:

*Only allow subdivision, use and development in areas of Coastal High Natural Character where:*

*1. for infrastructure, the development is in accordance with EI-P2 Managing adverse effects of Regionally Significant Infrastructure and other infrastructure and EI-Px Managing the effects of the National Grid; and*  
*[...]*

8.19.5 The Dir. General Conservation [166.114] supports the intent of this policy but seeks amendments to ensure that all adverse effects of activities on natural character in areas of the coastal environment with ONC are avoided. This gives effect to Policy 13 of the NZCPS and Policy 8.3.4 of the CRPS. They seek the following amendments:

*Only allow subdivision, use and development in areas of Coastal High Natural Character where:*

*1. for infrastructure, the development is in accordance with EI-P2 Managing adverse effects of Regionally Significant Infrastructure and other infrastructure; and*

*2. for other activities:*

*a. avoids ~~significant~~ adverse effects; ~~and avoids, remedies or mitigates all other adverse effects~~ on the identified natural character qualities; and*

*~~b.~~ demonstrates that it is appropriate by ensuring that the area of Coastal High Natural Character continues to:*

*~~a~~ recognise and provide for the on-going natural physical processes that have created the Coastal Environment; and*

*[...].*

8.19.6 Fenlea Farms [171.22] opposes CE-P11 as it does not recognise that a number of activities may be appropriate depending on their size, scale and nature. They seek to extend CE-P11(2) to include in "rural zoned areas, buildings and structures for primary production

*(including intensively farmed stock) and residential activities may be appropriate depending on their size, scale and nature” and any alternative relief that would address the submitters concerns.*

- 8.19.7 Silver Fern Farms [172.86] and Alliance Group [173.87] consider that this policy is generally consistent with NZCPS Policy 13 (Preservation of natural character) but seek minor amendments to improve the precision of the policy noting for example that the Coastal HNC Overlay applies to land immediately adjacent to highly modified industrial and urban sites and that the reference in sub-clause (iii) to a sense of remoteness will not be universally applicable to all areas in the Coastal HNC Overlay. They seek the following amendments:

*Only allow subdivision, use and development ~~in areas of the~~ Coastal High Natural Character Overlay where:*

*1. for infrastructure, the development is in accordance with EI-P2 Managing adverse effects of Regionally Significant Infrastructure and other infrastructure; and*

*2. for other activities:*

*a. the activity avoids significant adverse effects on the identified natural character qualities of the area in the Coastal High Natural Character Overlay; and*

*b. avoids, remedies or mitigates all other adverse effects on the identified natural character qualities; and*

*c. demonstrates that it is appropriate by ensuring that the area of Coastal High Natural Character continues to:*

*d. recognise and provide for the on-going natural physical processes that have created the Coastal Environment; and*

*i. retain the integrity of landforms and geological features; and*

*ii. retain a sense of remoteness and wildness where these are existing qualities; and*

*iii. [...]*

### **Analysis**

- 8.19.8 Regarding the Transpower [159.85] submission, similar to [159.84], this submission refers to an additional cross reference – “EI-PX Managing the effects of the National Grid”. I note that I have recommended amendments to EI-P2 and an additional EI-PX policy (in response to a separate Transpower’s submission) in my EI, TRAN and SW s42A report. On this basis I am comfortable including a cross reference to these policies in CE-P11. Accordingly, I recommend that this submission is accepted.

- 8.19.9 Regarding the Forest and Bird [156.158] submission, I note that NZCPS Policy 6(a) seeks to recognise that the provision of infrastructure is important to the social, economic and cultural well-being of people and communities while NZCPS Policy 13(1)(b) seeks to avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on natural character in all other areas of the coastal environment. In my opinion CE-P11 gives effect to these provisions (e.g. CE-P11(2)(a) and (b)), and CE-P11(1) via EI-P2 and EI-PX). I therefore recommend that this submission is rejected.

8.19.10 Regarding the Dir. General Conservation [166.114] submission, there are no identified areas of ONC and therefore the amendments proposed by the Dir. General Conservation are not needed. I therefore recommend that this submission is rejected.

8.19.11 Regarding the Fenlea Farms [171.22] submission, based on Ms Pfluger's advice in response to Fenlea Farms Limited (171.26), I understand that HNC overlay areas are either immediately adjacent to the coastal interface or to river mouths and lagoons and that these areas are considered to be more sensitive to intensive farming practices including irrigation. Under [171.22] Ms Pfluger states that since areas of HNC contain notable natural character values that differentiate them from other parts of the CE, she considers it preferable for buildings and structures to be located outside of identified HNC. While these areas are not ONC, they have a lower ability to absorb change and the presence of larger-scale buildings has the potential to impact on the biophysical and perceptual aspects of their natural character. I note the CE-R4.3 only permits very small buildings in the HNC overlay (see my assessment of submissions on CE-R4.3 later in this report). Given Ms Pfluger's advice and the scale of buildings provided for under CR-4.3, I do not consider it appropriate or necessary to include in CE-P11 that buildings and structures for primary production (including intensively farmed stock) and residential activities may be appropriate depending on their size, scale and nature and I therefore recommend that this submission is rejected.

8.19.12 Regarding the Silver Fern Farms [172.86] and Alliance Group [173.87] submissions, I consider that some of the suggested amendments clarify the interpretation of the policy. While I understand that an HNC area adjacent to a modified industrial or urban site may have a reduced sense of openness, the HNC itself is still relatively remote and wild. I consider that if it was not then it would not meet the threshold for being an HNC. I therefore recommend minor amendments in response to this submission to improve clarity only. Accordingly, I recommend that these submissions are accepted in part.

8.19.13 In addition to the amendments recommended in response to the above matters, under RMA 16(2) I also recommend that clause d. is renumbered to clause i. as this clause hangs under clause c., with the remaining clauses renumbered accordingly.

### **Conclusions and recommendations**

8.19.14 I recommend that the submission from Transpower [159.85] is accepted.

8.19.15 I recommend that the submissions from Silver Fern Farms [172.86] and Alliance Group [173.87] are accepted in part.

8.19.16 I recommend that the submissions from Forest and Bird [156.158], the Dir. General Conservation [166.114] and Fenlea Farms [171.22] are rejected.

8.19.17 Renumber clause d. to clause i and renumber the subsequent clauses accordingly. Amend CE-P11 as follows:

Only allow subdivision, use and development in areas of Coastal High Natural Character where:

1. for infrastructure, the development is in accordance with EI-P2 Managing adverse effects of Regionally Significant Infrastructure and other infrastructure and EI-PX Managing the effects of the National Grid; and

2. for other activities:

a. the activity avoids significant adverse effects on the identified natural character qualities of the Coastal High Natural Character area; and

[....]

8.19.18 In terms of a s32AA assessment, the changes seek to provide a link to the new EI provisions, thereby achieving stronger integration, while the changes to clause 2 simply provide greater precision. I consider they are the most appropriate for achieving CE-O1, CE-O2, proposed CE-O8 and the purpose of the Act.

## **8.20 Coastal Environment – CE-P12 Coastal Hazard Areas (excluding Regional Significant Infrastructure)**

8.20.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| <b>SUBMITTER NAME</b>  | <b>SUBMISSION POINT NUMBER(S)</b> |
|------------------------|-----------------------------------|
| Lineage Logistics      | 107.8                             |
| Southern Proteins      | 140.15                            |
| Hilton Haulage         | 168.7                             |
| North Meadows          | 190.10                            |
| Forest and Bird        | 156.159                           |
| Silver Fern Farms      | 172.87                            |
| Te Rūnanga o Ngāi Tahu | 185.46                            |

### **Submissions**

8.20.2 Nine submissions sought amendments to CE-P12 while one submission supported it. <sup>56</sup>

8.20.3 Lineage Logistics [107.8] opposes CE-P12.2 as it is inconsistent with Section 6(h) of the Act, which refers to the management of significant risks, however CE-P12 seeks to avoid an increase of any risk, even de minimis or temporary. They seek to delete Policy CE-P12.2 and replace it with wording that focuses on unacceptable risk or such other alternative or additional relief as may be appropriate to give effect to the intent of this submission.

8.20.4 Southern Proteins [140.15], Hilton Haulage [168.7] and North Meadows [190.10] consider that use of the term “avoid” in Clause 2 of this policy sets a high threshold and the term

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<sup>56</sup> This includes submissions from PrimePort [175.47] and Timaru District Holdings [186.27] assessed under the Port specific section.

“increase” is not quantified. They consider that potentially, no new buildings could establish in the Sea Water Inundation Overlay in accordance with this policy. They seek the following amendments:

1. *In non-urban areas, avoid subdivision, use and development within the Coastal Erosion Overlay and Sea Water Inundation Overlay where there is a new or increased risk of loss of life, or significant damage to structures or property;*
2. *Within existing urban areas, ~~manage avoid increasing~~ the risk of social, economic, or environmental harm from coastal natural hazards.*

8.20.5 Forest and Bird [156.159] considers that the policy should also direct where new development should occur and seek it is amended to give effect to the NZCPS.

8.20.6 Silver Fern Farms [172.87] considers an unqualified policy directive to avoid activities in the Sea Water Inundation and Coastal Erosion Overlays is likely to be problematic given the scale of existing industrial development present at their site in Pareora. They consider that RMA s6(h) requires “the management of significant risks from natural hazards” and it is considered that an “avoidance” policy setting may cause inadvertent issues at a project consenting level, for even minor proposals. They seek to amend CE-P12 to require the avoidance of unacceptable natural hazard risk to life and property; and the management of other risks.

8.20.7 Te Rūnanga o Ngāi Tahu [185.46] notes that part of the MPZ is within the Sea Water Inundation Overlay. They consider this policy prevents the development of the MPZ on Māori Land which is against the function of the zone and does not recognise the statement in section 2.2.4 of the plan that restrictions by government about flood protection, etc that have prevented Kāti Huirapa from expressing rakatirataka on their ancestral land. They seek the following amendments:

*In non-urban areas ~~(except the Māori Land)~~, avoid subdivision, use and development within the Coastal Erosion Overlay and Sea Water Inundation Overlay where there is a new or increased risk of loss of life, or significant damage to structures or property; [...]*

### **Assessment**

8.20.8 Regarding the Forest and Bird [156.158] submission, I consider NZCPS Policy 25 is the most relevant for natural hazards considerations in the coastal environment. I do not think this policy requires district plans to direct where new development should occur, rather it is focussed on risk management in the first instance, which could result in some locations being unsuitable. I consider this approach is the correct approach. I therefore recommend that this submission is rejected.

8.20.9 Regarding Lineage Logistics [107.8], Southern Proteins [140.15], Hilton Haulage [168.7], North Meadows [190.10] and Silver Fern Farms [172.87], I agree that RMA s6(h) requires “the management of significant risks from natural hazards”. However, NCZPS Policy 25 expressly states that “*In areas potentially affected by coastal hazards over at least the next 100 years: a. avoid increasing the risk of social, environmental and economic harm from*



coastal hazards" and CE-P12(2) is an exact copy of clause (a). As the District Plan must give effect to the NZCPS I consider this policy position is correct. I note that in his evidence (paragraph 17), Mr Todd draws the same conclusion. Accordingly, I recommend that these submissions are rejected.

8.20.10 Regarding the submission from Te Rūnanga o Ngāi Tahu [185.46], as set out in my Waipopo Huts assessment earlier in this report, in my opinion the MPZ could be regarded as urban zoned land as it is intended for urban activities to occur on it. Given this, CE-P12(1) and its avoidance requirement would not apply, rather CE-P12(2) would apply with its mitigation approach. I therefore consider the requested amendment is not necessary, however clarification of what are "urban areas" is required, noting that this term is already defined and widely used for other purposes throughout the PDP and that there is an overlay on the planning map for urban areas. I therefore recommend that within the CE chapter, references to urban areas for natural hazards matters instead refer to "urban zoned areas", with these defined as meaning all zones with the exception of the General Rural, Rural Production, Rural Lifestyle, Future Urban and all Open Space and Recreation zones. I therefore recommend that this submission is accepted in part. Consequentially, CE-P12 and all other CE (and NH chapter provisions) would need amending to refer to "urban zoned areas".

#### **Conclusions and recommendations**

8.20.11 I recommend that the submission from Te Rūnanga o Ngāi Tahu [185.46] is accepted in part.

8.20.12 I recommend that the submissions from Forest and Bird [156.158], Lineage Logistics [107.8], Southern Proteins [140.15], Hilton Haulage [168.7], North Meadows [190.10] and Silver Fern Farms [172.87] are rejected.

8.20.13 Amend CE-P12 as follows:

1. In non-urban zoned areas, avoid subdivision, use and development within the Coastal Erosion Overlay and Sea Water Inundation Overlay where there is a new or increased risk of loss of life, or significant damage to structures or property;
2. Within existing urban zoned areas, avoid increasing the risk of social, economic, or environmental harm from coastal natural hazards.

8.20.14 Add the following definition:

Urban zone or urban zoned areas: for the purpose of the Natural Hazard and Coastal Environment chapters, means all zones with the exception of the General Rural, Rural Production, Rural Lifestyle, Future Urban, and any Open Space and Recreation zones that do not share at least 50% of their boundary with a qualifying urban zone.

8.20.15 In terms of a s32AA assessment, I consider this approach is generally consistent with the higher order CRPS Policy 11.3.1 in relation to managing activities within urban areas subject to natural hazards and therefore better gives effect to it. The changes are the most appropriate for achieving CE-O4, CE-O6 and the purpose of the Act.

## 8.21 Coastal Environment – CE-P13 Regionally Significant Infrastructure in Coastal Hazard Areas

8.21.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME            | SUBMISSION POINT NUMBER(S) |
|---------------------------|----------------------------|
| Forest and Bird           | 156.160                    |
| Dir. General Conservation | 166.116                    |

### Submissions

8.21.2 Two submissions sought amendments to CE-P13 while four submissions supported it.

8.21.3 Forest and Bird [156.160] considers that the policy does not accurately reflect the NZCPS and should be amended as follows:

~~Only allow~~ Discourage Regionally Significant Infrastructure, including the Port of Timaru, and only consider allowing Regionally significant infrastructure in areas subject to coastal hazards where:

1. there is a functional or operational need for it to locate there; and
2. It will not create more than minor adverse coastal hazard effects on adjoining or surrounding land.

8.21.4 The Dir. General Conservation [166.116] supports this policy as it is consistent with the NZCPS but requests that it is amended to clarify that the activity does not create or exacerbate natural hazards. They seek the following amendments:

*Only allow Regionally Significant Infrastructure, including the Port of Timaru, in areas subject to coastal hazards where:*

1. [...].
2. It will not create ~~more than minor adverse~~ or exacerbate adverse coastal hazard effects on adjoining or surrounding land.

### Analysis

8.21.5 Regarding the Forest and Bird [156.160] submission, I consider the wording as notified already discourages RSI from establishing in coastal hazard areas and is an appropriate construction for the policy. I do not consider their suggested wording changes are necessary. I therefore recommend that this submission is rejected.

8.21.6 Regarding the Dir. General Conservation [166.116] submission, I agree that it is relevant to consider exacerbating adverse effects. However, in my opinion this is already included as it would be an example of an adverse effect. I also note the wording proposed by the Dir. General Conservation removes the “more than minor” qualifier which I consider is important

to retain. Noting the submissions in support from infrastructure providers, I consider CE-P13 should be retained as notified. Accordingly, I recommend that this submission is rejected.

### **Conclusion and recommendations**

8.21.7 I recommend that the submissions from Forest and Bird [156.160] and the Dir. General Conservation [166.116] are rejected.

8.21.8 No changes are recommended to CE-P13, noting that as result of my earlier recommendations on the PORTZ, CE-P13 is recommended to be amended to exclude the Port of Timaru. No s32AA assessment is required.

## **8.22 Coastal Environment – CE-P14 Hard engineering natural hazard mitigation within the Coastal Environment**

8.22.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME         | SUBMISSION POINT NUMBER(S) |
|------------------------|----------------------------|
| Tosh Prodanov          | 117.3                      |
| Forest and Bird        | 156.161                    |
| Silver Fern Farms      | 172.88                     |
| Alliance Group Limited | 173.88                     |

### **Submissions**

8.22.2 Four submissions sought amendments to CE-P14 while two submissions supported it.

8.22.3 Tosh Prodanov [117.3] considers hard engineering must be done decades in advance - it cannot be left until the risk is immediate. Hence the submitter requests to remove 'immediate' from CE- P14 as follows:

*Only allow hard engineering natural hazard mitigation within the coastal environment that reduces the risk of natural hazards when:*

*[...]*

*3. where managed retreat has not been adopted and there is an **immediate** risk to life or property from the natural hazard;*

*[...]*

8.22.4 Forest and Bird [156.161] considers that the policy does not accurately reflect the NZCPS and should be deleted and replaced with a policy that better reflects NZCPS Policy 27.

8.22.5 Silver Fern Farms [172.88] considers that when read in conjunction with the policy requirement to 'only allow...', it appears that CE-P14.4 will operate as a de-facto prohibition of any hard engineering works located seaward of a foreshore, dune system, estuary etc. The submitter considers this undesirable as in some instances, it may be necessary for hard engineering mitigation to replace natural defences. This policy would weigh against that

outcome being realised. The submitter considers that references in sub-clause (4) to natural “systems” appear superfluous, given the focus of the policy is on the interplay between engineering and natural “defences” against coastal erosion and that sub-clause (5) appears to unnecessarily repeat the preceding sub-clause. The submitter considers it is unclear what additional policy guidance of value is provided by (5) compared to (4). The submitter seeks to ensure CE-P14 does not inappropriately foreclose the ability to use engineering measures to mitigate coastal hazards and remove duplication between (4) and (5).

- 8.22.6 Alliance Group Limited [173.88] considers a minor amendment to clause 2 is warranted to recognise that changes to the coastal environment natural hazard profile may be acceptable in some cases - for example where some degree of new or increased coastal hazard risk is outweighed by the benefits of the natural hazard mitigation project. They seek the following amendments:

*Only allow hard engineering natural hazard mitigation within the coastal environment that reduces the risk of natural hazards when:*

*[...]*

*2. the construction of hard engineering measures will not increase the risk from coastal hazards on adjacent properties that are not protected by the hard engineering measures unless the potential increased natural hazard risks can be appropriately avoided or mitigated;*

### **Analysis**

- 8.22.7 Regarding the submission by Tosh Prodanov [117.3], I agree that the reference to immediate risk to life or property can be inconsistent with the fact that in most cases hard engineering must be done decades in advance and cannot be left until the risk is immediate. However, there are some instances, such as with cliff collapse caused by erosion, that there is an immediate danger that must be responded to. On balance I consider that this clause should be amended to refer to “a demonstrated clear risk” to life or property. This phrasing is consistent with the notified PDP in that it requires certainty that the hazard will occur, but it need not be immediate. In his evidence (paragraph 23) Mr Todd supports this change stating “*compliance with this clause clearly places the onus on the applicant for any hard engineering works to demonstrate a clear risk with an associated degree of certainty, within a reasonable timeframe to allow for the planning and implementation of the works.*” I therefore recommend that this submission is accepted in part.
- 8.22.8 Regarding the Forest and Bird [156.161] submission, NZCPS Policy 27 identifies a range of hazard reduction options in addition to hard engineering, whereas CE-P14 is only concerned with hard engineering. In relation to hard protection structures, NZCPS Policy 27(1)(c) and 27(1)(d) seek to recognise that hard protection structures may be the only practical means to protect existing infrastructure and recognising and considering the environmental and social costs of permitting hard protection structures to protect private property. These matters are reflected in CE-P14(1) and CE-14(5).

8.22.9 NZCPS Policy 27 also: focuses on approaches to risk management that reduce the need for hard protection structures and similar engineering interventions (27(2)(a)); takes into account the nature of the coastal hazard risk and how it might change over at least a 100-year timeframe, including the expected effects of climate change (27(2)(b)); and evaluates the likely costs and benefits of any proposed coastal hazard risk reduction options (27(2)(c)). These are reflected in the subclauses of CE-P14 and the modelling that has identified the coastal hazard overlays.

8.22.10 NZPS Policy 27 also states where hard protection structures are considered to be necessary, the form and location of any structures must be designed to minimise adverse effects on the coastal environment (27(3)), and hard protection structures, where considered necessary to protect private assets, should not be located on public land if there is no significant public or environmental benefit in doing so (27(4)). I consider that CE-P14 clauses 1, 4 and 5 seek to manage adverse effects and I note that hard engineering cannot be constructed on public land without approval from the Councils or the Crown. I accept that CE-P14 is not entirely aligned with the NZCPS in terms of wording and direction, however I consider it is sufficiently aligned to give effect to its general direction on hard engineering. I therefore recommend that this submission is rejected.

8.22.11 Regarding the Silver Fern Farms [172.88] submission, in his evidence on this submission Mr Bosserelle agrees that hard engineering structures for coastal hazard mitigation will have a de-facto prohibition and aside from Port area and already heavily populated area considers this is a good and sustainable view. However, he considers it may be impractical that hard engineering structures are only allowed if they avoid the modification of natural defences. Mr Bosserelle considers that while natural defences and nature-based solutions to hazard mitigation are a primary defence against coastal hazard and especially coastal inundation and should be protected, existing natural defences may be insufficient (especially considering they may not be appropriate with sea level rise considerations). Mr Bosserelle considers that restrictions as implied by CE-P14(4) could also prevent the use of more hybrid-hard engineering that modify the natural defence to blend / enhance natural defences (e.g. flood walls integrated in the core of a dune ridge). Accordingly, Mr Bosserelle supports 'softening' clause 4. I accept Mr Bosserelle's advice on CE-P14 and recommend clause 4 is amended by replacing "avoid" with "minimise". In his evidence on hard engineering (paragraph 19) Mr Todd recommends amending Objective NH-O3 - Natural Hazard Mitigation Works, by adding the words "where practicable", noting this would strengthen the consistency with CE-P14. I note I have already recommended adding "where practical" in response to PrimePort [175.28] and Timaru District Holdings [186.14].

8.22.12 Regarding the duplication across clauses 4 and 5, the focus of clause 4 is on the function of natural defences for coastal hazards, whereas clause 5 covers other adverse effects that may arise from their modification, e.g. on natural character, biodiversity, and cultural effects. As such, I consider there is no duplication across these clauses, especially with my recommended amendment to enable some modification under the amended clause 4. However, to avoid this confusion I have recommended some minor amendments to clause 5. Overall, I recommend that this submission is accepted in part.

8.22.13 Regarding the Alliance Group [173.88] submission, in his evidence on this submission (paragraph 22) Mr Todd does not support the proposed change as it allows (by policy) the transfer of risk to adjacent properties, which may not be supported by the adjacent property owner. I accept Mr Todd's advice for coastal hazards and note that my recommended amendments in response to the Silver Fern Farms [172.88] submission also responds in part to the Alliance Group's concerns.<sup>57</sup> Accordingly, I recommend that this submission is accepted in part.

### **Conclusions and recommendations**

8.22.14 I recommend that the submissions from Tosh Prodanov [117.3], Silver Fern Farms [172.88] and Alliance Group Limited [173.88] are accepted in part.

8.22.15 I recommend that the submission from Forest and Bird [156.161] is rejected.

8.22.16 Amend CE-P14 as follows:

#### **CE-P14 Hard engineering natural hazard mitigation works<sup>58</sup> within the Coastal Environment**

Only allow hard engineering natural hazard mitigation works within the coastal environment that reduces the risk of natural hazards when:  
[...]

3. where managed retreat has not been adopted and there is ~~an immediate~~ a demonstrated clear risk to life or property from the natural hazard;

4. it minimises ~~avoids~~ the modification or alteration of natural defences and systems in a way that would compromise their function as natural defences; and

5. other significant adverse effects on natural defences and systems from those measures are avoided, and any ~~other~~ non-significant adverse effects are avoided, remedied or mitigated.

8.22.17 In terms of a s32AA assessment, the changes seek to provide greater drafting clarity to achieve the intent of the provision and provide some flexibility to support more mitigation options. I consider they provide greater efficiency and effectiveness and are the most appropriate for achieving CE-O5 and the purpose of the Act.

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<sup>57</sup> In doing so I note that I have recommended changes to NH-P9(2)(d) in response to submissions to enable natural hazard mitigation works where these 'avoid or acceptably mitigate' any increased risk or new risk from flooding on human life and property on the basis that the wording in NH-P9 is not limited to hard engineering or adjacent properties and applies to a greater range of natural hazards, i.e. it is not limited to coastal hazards.

<sup>58</sup> Clause 16(2)

**8.23 Coastal Environment – CE-R2 Plantation forestry**

8.23.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME  | SUBMISSION POINT NUMBER(S) |
|-----------------|----------------------------|
| Forest and Bird | 156.163                    |

**Submissions**

8.23.2 Forest and Bird [156.163] queries whether HNC is actually ONC. If it is ONC, the submitter considers that forestry should not be permitted in this overlay. The submitter also considers it is difficult to see how afforestation should be a permitted activity in the coastal environment without significant controls. They seek to amend CE-R2.1 to require a discretionary consent for afforestation and replanting and keep CE-R2.2 as NC.

**Analysis**

8.23.3 There are no ONCs in the coastal environment, and plantation forestry is NC in the HNC overlay, but permitted in the coastal environment elsewhere. In her evidence (in response to this submission) Ms Pfluger states that large-scale plantation forestry can have adverse effects on natural character, including areas that are located adjacent to the areas of afforestation. This includes the potential spread of wilding trees, as well adverse effects on the natural patterns and processes during harvest. She considers that while small woodlots and farm-scale forestry would not have significant adverse effects, large-scale plantations may. She considers that an RDIS activity status would be appropriate in the coastal environment with matters of discretion that ensure that the natural elements patterns and processes of the coastal environment are protected. This should take into account the values described in the Coastal Study for each coastal character area, and in particular for identified HNC areas (including those that lie adjacent to application site and may be affected).

8.23.4 I accept Ms Pfluger's advice and recommend that plantation forestry is RDIS in the coastal environment (and remains NC within the HNC) as set out in my recommended amendments below. In doing so I note that under clause 6 of the National Environment Standard for Commercial Forestry (NES-CF), District Plans can be more stringent in order to give effect to NZCPS Policy 13, which requires (under 13.1.1) the avoidance of significant adverse effects and to avoid, remedy or mitigate other adverse effects of activities on natural character in all other areas of the coastal environment (i.e. outside of areas of outstanding natural character). I also note that in the proposed WDP, new plantation forestry is NC in the CE while it is RDIS in the SDP. I therefore recommend that this submission is accepted in part.

**Conclusion and recommendations**

8.23.5 I recommend that the submission from Forest and Bird [156.163] is accepted in part.

8.23.6 Amend CE-R2.1 as follows:

**CE-R2 Plantation forestry**

**1. Coastal Environment Area Overlay****Activity status: ~~Permitted~~ Restricted Discretionary****Matters of discretion are restricted to:****1. any adverse impacts on the identified matters contained in CE-P4, CE-P5, CE-P6, CE-P7, CE-P8, CE-P10 and CE-P11.****Activity status when compliance not achieved: Not applicable**

8.23.7 In terms of a s32AA assessment, the changes seek to more appropriately manage plantation forestry within a sensitive environment. I consider they are the most appropriate for achieving CE-O1, CE-O2 and the purpose of the Act.

**8.24 Coastal Environment – CE-R4 Buildings and structures and extensions (excluding Regionally Significant Infrastructure and fences)**

8.24.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| <b>SUBMITTER NAME</b>         | <b>SUBMISSION POINT NUMBER(S)</b> |
|-------------------------------|-----------------------------------|
| Silver Fern Farms             | 172.89                            |
| Peter Bonifacio               | 36.9                              |
| Lineage Logistics             | 107.9                             |
| Simo Enterprises              | 148.3                             |
| The New Zealand Defence Force | 151.15                            |
| Fenlea Farms                  | 171.23                            |
| PrimePort                     | 175.50                            |
| Timaru District Holdings      | 186.28                            |
| ECan                          | 183.125                           |
| Te Rūnanga o Ngāi Tahu        | 185.47                            |
| Paul Smith                    | 204.3                             |

***Submissions***

8.24.2 There were eleven submissions seeking amendments to CE-R4 and six submissions in support.

8.24.3 Silver Fern Farms [172.89] consider that minor developments at the submitter's Pareora processing site will be subject to a restricted discretionary consenting pathway under Rule CE-R4(2) for buildings > 150 m<sup>2</sup> because the site is not in a defined "urban area". The Submitter does not support this rule given the scale of existing development and value of the investment in this site. They seek the following amendment:



1. A permitted activity status under Rule CE-R4.1 for the GIZ portion of the submitters Pareora site that are also located in the proposed Coastal Environment Overlay; and
  2. A restricted discretionary consenting pathway under Rule CE-R4.4 for GIZ parts of the site also located in the proposed Sea Water Inundation Overlay.
- 8.24.4 Peter Bonifacio [36.9] opposes CE-R4 as it is obscure and there is no justification for why the restrictions are in place and seeks more clarity and justification for why the restrictions are in place.
- 8.24.5 Lineage Logistics [107.9] oppose CE-R4.4 as all of the submitter's buildings are within the Sea Water Inundation Overlay within the urban area and are controlled under this rule which is too restrictive (the Lineage Properties are zoned Special Purpose Zone). They consider that the restricted discretionary activity status combined with CE-P12, which seeks to avoid development which results in an increase in risk, means resource consents are likely to be declined. They seek the following (the relief sought in the original submission refers to CE-R12 but I have assessed it on the basis of referring to CE-R4.4 as this is the Plan provision initially referenced and it clearly refers to CE-R4):
1. Delete **CE-R4(4)** in its entirety; or
  2. Include an appropriately worded exemption **CE-R4** for development within the Port Zone.
  3. Replace **CE-R4** with a rule which enables appropriate development of properties within the Port Zone; or
  4. Such other alternative or additional relief as may be appropriate to give effect to the intent of this submission.
- 8.24.6 Simo Enterprises [148.3] opposes the rules of the Sea Water Inundation Overlay that restrict new buildings or extensions to a maximum ground floor area per site of 25m<sup>2</sup> over a 10-year period. The submitter states that non-compliance with this would need to prove a functional or operational need, which is arbitrary at best, and unnecessarily restrictive, therefore the submitter seeks the following amendments to CE-R4.4:
1. Remove 25m<sup>2</sup> limit on new buildings or extensions (PER-1).
  2. Enable development within Industrial Land if flood modelling can be provided and buildings can be demonstrated to be safe.
  3. If residential dwellings are provided this could be above ground floor area within appropriate zones.
  4. Remove 10-year period parameter criteria.
  5. Remove matter of discretion point 3.
- 8.24.7 The New Zealand Defence Force [151.15] requests an exclusion for temporary military training exercises (TMTA) in the Coastal Erosion Overlay as the majority of buildings and structures will be temporary and therefore have a low vulnerability to coastal erosion. They seek the following amendments:

**CE-R4 Buildings and structures and extensions (excluding Regionally Significant Infrastructure and fences)**

[...]

**6. Coastal Erosion Overlay****Activity Status: Restricted Discretionary Where****RDIS-1***The activity includes an addition to an existing building or structure only; and***RDIS-2***The extension has a maximum floor area of 25m<sup>2</sup> established in any continuous 10-year period from 22 September 2022; or***RDIS-3***The extension is not to accommodate a natural hazard sensitive activity. The following activities are excluded from this rule:**1. Buildings and structures associated with Temporary Military Training Activities that will not be in place more than 31 consecutive days, excluding set-up and pack-out activities.*

- 8.24.8 Fenlea Farms [171.23] oppose CE-R4.3 with any standards as to the height of buildings and structures, site coverage and building and structure external materials. They oppose CE-R4.4 and CE-R4.5 including any definitions that relate to the application of these rules as it relates to 158 Prattley Road. In particular, they consider that CE-R4.3.1 (within the Coastal HNC Overlay) unnecessarily limits maximum ground floor areas and where unable to meet the permitted activity rule, the activity will be an NC activity. The submitter considers it is more appropriate for buildings/extensions to meet ground floor levels, obtain Flood Risk Certificates, or meet other specific built form standards, and this should be sufficient protection. Regarding, CE-R4.4 and CE-R4.5 relating to the Sea Water Inundation Overlay within urban areas and outside of urban areas respectively, the submitter notes that Objective CE-O6 seeks to ensure ongoing activities in the CE and this rule stands in the way of this. They consider that owners of rural properties develop and improve efficiency in farming operations and a maximum ground floor limit of 25m<sup>2</sup> for 10 years does not recognise the nature of business or farming operations. They state that PER-2 does not allow extensions or new buildings that accommodate a natural hazard sensitive activity, which prevents the construction of any habitable dwellings. They seek the following amendments:

**Under CE-R4.3 Coastal High Natural Character Overlay:**

1. *Remove the maximum ground floor areas for new buildings or extensions within and outside urban areas on the basis there are sufficient alternative protections in place;*
2. *Include built form standards for buildings within the overlay;*
3. *Amend so that failure to meet the permitted activity rule results in a controlled activity;*

**Under CE-R4.4. Sea Water Inundation Overlay within urban areas:**

1. Remove maximum ground floor areas for new buildings or extensions (PER-1) on the basis there are sufficient alternative protections in place;
4. Remove the 10-year period out in PER-1;
5. significantly reduce the 10-year period set out in PER-1;
6. Amend the CE-R4.4 to permit buildings with one or more habitable rooms.

**Under CE-R4.5 Sea Water Inundation Overlay outside of urban areas:**

1. Remove maximum ground floor areas for new buildings or extensions (PER-1) on the basis there are sufficient alternative protections in place;
2. Remove the 10-year period out in PER-1;
3. Significantly reduce the 10-year period set out in PER-1;
4. Amend CE-R4.5 impose a restricted discretionary activity status if unable to meet the permitted activity rule on the basis that the same matters of discretion contained in CE- R4.4 can be applied to areas outside urban areas;
5. Amend CE-R4.5 to permit buildings with one or more habitable rooms.

*Any alternative relief that would address the submitters concerns. [Note no specific relief sought on related definitions.*

- 8.24.9 PrimePort [175.50] and Timaru District Holdings [186.28] state that the provision for buildings and structures as a permitted activity in urban areas of the coastal environment under CE-R4.1 is appropriate. However, they consider that the requirement for buildings to be able to be made completely watertight may not be able to be economically achieved and that provided the materials of the building below the required minimum floor level are resilient and hazardous substances are not stored below that level (addressed via Rule HS-R1 PER-2), that should be sufficient to mitigate adverse effects from seawater inundation. They seek to retain CE-R4.1 as notified and the following amendments to CE-R4.4:

[...]

**PER-4**

That part of the building below the minimum finished floor level as stated in a Flood Risk Certificate issued in accordance with NH-S1 is constructed of flood durable materials ~~that will be water tight and any openings below this level must be capable of being sealed mechanically~~

- 8.24.10 ECan [183.125] notes as the rules do not currently have legal effect, the date should reflect the date the Plan becomes operative. ECan also notes the rule does not address whether an area is subject to high hazard, and there is no policy response that directs how high hazards are to be addressed. ECan considers it is not clear why 25m<sup>2</sup> is used as the threshold for additions in this chapter, while 30m<sup>2</sup> is used for additions in the Natural Hazards flooding provisions. ECan is concerned that under PER-[1]2, large and/or high value buildings will be allowed, as they do not meet the 'natural hazard sensitive activity' definition, and there is no obvious mechanism to control their use after they have been built. ECan is also concerned that under PER 4 any building can be constructed within areas subject to seawater

inundation so long as it is made of watertight materials. ECan considers that if the rule is to facilitate development at the port, the rule could apply to just the port area/zone. They seek the following amendments

1. Amend CE-R4.4, CE-R4.5 and CE-R4.6 to be consistent with the approach for activities in the NH chapter, in particular high hazard activities, in order to give effect to Policy 11.3.1 and Policy 11.3.2 and the NZCPS; and
2. If Port specific activities require a more generous approach, include an appropriate new rule in CE-R4.4 that provides for Port Activities; and
3. Amend CE-R4.4, CE-R4.5 and CE-R4.6 by updating the date in PER-1 to be consistent with the date the plan becomes operative; and
4. Amend CE-R4.4, CE-R4.5 and CE-R4.6 by including provisions in any new rule for the conversion of existing buildings to a natural hazard sensitive activity.

8.24.11 Te Rūnanga o Ngāi Tahu [185.47] considers this rule prevents the development of Māori Land in the MPZ which is against the function of the zone and does not recognise the statement in section 2.2.4 of the plan that restrictions by government about flood protection etc. that have prevented Kāti Huirapa from expressing rakatirataka on their ancestral land. The submitter considers Māori Land should be exempt from this rule. They seek to exclude activities on Māori land from this rule.

8.24.12 Paul Smith [204.3] considers the requirements of the Sea Water Inundation Overlay are too restrictive given the underlying GIZ of 86 Sheffield Street. The submitter considers that non-compliance with the rules would need to prove a functional or operational need, which is arbitrary at best. The submitter seeks the following amendments to CE-R4.4:

1. *Remove 25m<sup>2</sup> limit on new buildings or extensions (PER-1), with respect to sites within the Seawater inundation overlay, enable development within Industrial Land if flood modelling can be provided and buildings can be demonstrated to be safe, and not for residential purposes.*
2. *Remove 10-year period parameter criteria.*
3. *Remove matter of discretion point 3.*

8.24.13 I also note that Forest and Bird's various submissions on the EI chapter are also of relevance to CE-R4.

### **Analysis**

8.24.14 Regarding the Silver Fern Farms [172.89] submission, as per my recommendation in response to Te Rūnanga o Ngāi Tahu [185.46], I have recommended that a new definition of 'urban zoned areas' is developed for the CE Chapter that would make the submitters Pareora site 'urban'. With this change I consider that buildings and structures in the GIZ portion of the site would be permitted under CE-R4.1 as requested, if they meet the standards. I also consider that a restricted discretionary activity pathway would exist under CE-R4.4 for the GIZ parts of the site located in the proposed Sea Water Inundation Overlay that do not meet the permitted activity standards. Accordingly, I recommend that this submission is accepted. I note that this change would also respond in part to the submission by Paul Smith [204.3], as

a new definition of “urban zoned areas” would make the submitter’s Sheffield Street GIZ zoned site urban. With this change, non-compliance with the permitted standards defaults to a restricted discretionary consent rather than NC and there is no need to demonstrate a functional or operational need.

8.24.15 Regarding the Peter Bonifacio [36.9] submission, I appreciate that the provisions are complicated, but I consider they are justified due to natural character issues and natural hazards. As such I recommend that this submission is rejected.

8.24.16 Regarding Te Rūnanga o Ngāi Tahu [185.47], I have addressed this matter as part of my assessment of the Waipopo Huts, which is located on Māori land and zoned MPZ. My recommendation for Waipopo Huts applies to all MPZ land and I have not addressed this further here.

8.24.17 Regarding the New Zealand Defence Force [151.15] submission, I accept that for TMTA, buildings and structures will be temporary and therefore have a low vulnerability to coastal erosion. I also understand that these exercises are important. I am therefore comfortable with the requested amendments, although consider these need to be located underneath the activity status statement to apply to the whole of CE-R4.6. Accordingly, I recommend that this submission is accepted in part.

8.24.18 Regarding the Fenlea Farms [171.23] submission on CE-R4.3.1, in her evidence under this submission number Ms Pfluger states that given the higher sensitivity of areas with high natural character she considers it appropriate to limit buildings that are enabled in these areas to small structures with a maximum floor area. Buildings of 10m<sup>2</sup> would allow for small pump sheds or cabins, but would require consent for all larger buildings. While Ms Pfluger considers it important to ensure that the effects on natural character are assessed in HNC areas, it is less likely that that small to medium-sized buildings would have the potential for significant adverse effects on the natural elements, patterns and processes. She considers it could be an option to add another tier for buildings of up to 150m<sup>2</sup> in size as an RDIS activity with the same matters of discretion as CE-R4.2. I accept Ms Pfluger’s advice on this. In doing so I agree with Ms Pfluger that it is necessary that the Council has the ability to decline applications where significant adverse effects on natural character values may occur and therefore a controlled activity status would not be appropriate. Accordingly, I recommend that the Fenlea Farms [171.23] submission is accepted in part.

8.24.19 Regarding the requested changes to CE-R4.4, CE-R4.5 and CE-R4.6, from various submitters (Fenlea Farms [171.23], Lineage Logistics [107.9], Simo Enterprises [148.3], PrimePort [175.50], Timaru District Holdings [186.28], ECan [183.125] and Paul Smith [204.3], in his evidence on Lineage Logistics [107.9], Mr Bosserelle considers that some development in the sea water inundation overlay in the PORTZ should be allowed to ensure the economic viability of the region. However, he considers that a restricted discretionary activity pathway is required to avoid development that increases the risk to people in the medium to long term. He also supports the use of Port specific rules to enable adaptive management.

8.24.20 In his evidence on Simo Enterprises [148.30] and Fenlea Farms [171.23], Mr Bosserelle states that the Sea Water Inundation Overlay extends a significant way inland and may, in first instance appear restrictive. However, in most areas, the Sea Water Inundation Overlay and the Flood Assessment Area Overlay are overlapping and the restrictions are relatively consistent. He considers that having a consistent 30m<sup>2</sup> limit for both the sea water and flood assessment may help making the rules more uniform and simplify the application of the rules. In addition, the Flood Assessment Area Overlay allows new buildings outside of urban areas under a restricted discretionary pathway but not for the sea water assessment. Mr Bosserelle considers this distinction seems inconsistent and may unnecessarily prevent farming development where these involve buildings and structures in areas of productive land. Mr Bosserelle considers that RDIS activity consent would allow buildings with suitable restrictions (e.g. adequate floor levels, etc) but could additionally prevent building in areas currently exposed to sea water inundation at present sea levels. This could allow some restricted development that could be put in place to prevent development in unnecessarily hazardous area.

8.24.21 I consider that the approach within the Flood Assessment Overlay and Sea Water Inundation Overlay are inconsistent because under the CRPS any area subject to sea water inundation is automatically “High Hazard”, irrespective of the level of sea water inundation, and these provisions have been developed in response to that higher order direction. As such, I consider this distinction is required, and I note ECan [183.125] has submitted seeking amendments to CE-R4.4, CE-R4.5 and CE-R4.6 to give effect to Policy 11.3.1 and Policy 11.3.2 and the NZCPS. I consider amendments are however justified to ensure CE-R4.4 CE-R4.5 and CE-R4.6 only apply to Natural Hazard Sensitive Activities, rather than all structures. Accordingly, I recommend that these CE-R4 sub-rules are split from CE-R4.1, CE-R4.2 and CE-R4.3 (as a new rule CE-RX) and are focused on natural hazard sensitive activities (buildings). Accordingly, I recommend that these submissions are accepted in part.

8.24.22 Regarding the PrimePort [175.50] and Timaru District Holdings [186.28] requested relief specifically, I also note this matter was addressed earlier in my section on the Port where I recommended Port specific natural / coastal hazard provisions be inserted into the chapters.

8.24.23 Regarding the ECan [183.125] submission specifically, I agree that 25m<sup>2</sup> should be replaced with 30m<sup>2</sup> for the reasons provided by the submitter. I agree the legal effect date should reflect the date the Plan becomes operative. Regarding high hazard vs not high hazard responses, this is addressed through the reference to within urban areas and outside of urban areas and the different status of activities in these locations when high hazard. I also note my recommended changes to NH-S1 that a recommended floor level will not be provided for high hazard areas outside of urban zoned areas. Regarding high value buildings and the “natural hazard sensitive activity” definition, I have recommended amending this definition (in response to ECan submissions) and I note that CE-R4 also applies outside of natural hazard overlays (e.g. CE-R4.1, CE-R4.2 and CE-R4.3) and as such CE-R4 is seeking to manage a range of adverse effects. Regarding CE-R4.4 PER-4 and water tight materials, this standard attempted to recognise development within existing urban areas, not just the Port, noting that there are large areas of industrial land within the Sea Water Inundation Overlay.

On balance I consider that the approach in CE-R4.4 PER-4 should be limited to the PORTZ. This means that for the remainder of the District, the approach in the Sea Water Inundation Overlay would be the same as the approach for natural hazard sensitive activities in the Flood Assessment Overlay contained in the NH Chapter. I support this greater consistency, noting that I recommend the NH and CE Chapters be combined and that the Sea Water Inundation Overlay is subsumed into the Flood Assessment Overlay. Accordingly, I recommend that CE-R4.4 PER-4 is deleted.

8.24.24 Regarding amending CE-R4.4, CE-R4.5 and CE-R4.6 to be further consistent with the NH chapter and give effect to Policy 11.3.1 and Policy 11.3.2 and the NZCPS, and in particular for high hazard activities, the CRPS definition of “high hazard” includes any land subject to sea water inundation, or coastal erosion over the next 100 years. Applying CRPS Polic 11.3.1, would mean that any natural hazard sensitive activity in the Sea Water Inundation Overlay or Coastal Erosion Overlay should be avoided if located in non-urban areas, or avoided or mitigated within urban areas. I note that in response to an ECan submission I have recommended amending the PDP definition of “High hazard” which requires flooding from any source (including sea water inundation) to meet a depth / velocity threshold, rather than just any quantum of sea water inundation which is the current CRPS high hazard definition (however any land subject to coastal erosion over the next 100 years remains high hazard). Noting that the PDP must give effect to the CRPS and the recommended amended definition of High Hazard, I have recommended changes to CE-R4.4, CE-R4.5 and CE-R4.6 as set out in Appendix 1, in addition to the changes recommended above. Overall, I recommend that ECan [183.125] is accepted in part.

8.24.25 Whilst they are not submissions on CE-R4, regarding Forest and Bird’s various submissions on the EI / TRAN chapters in relation to restricting infrastructure in the coastal environment, I consider that CE-R4 as recommended to be amended adequately manages non-RSI infrastructure in the coastal environment, noting that it is permissive in already modified urban areas, applies a threshold in rural areas of the coastal environment and more restrictive thresholds in the HNC overlay. I consider this is generally consistent with Ms Pfluger’s advice in the second half of her evidence that responds to the Forest and Bird’s EI / TRAN submissions.

### **Conclusions and recommendations**

8.24.26 I recommend that the submission from Silver Fern Farms [172.89] is accepted.

8.24.27 I recommend that the submissions from the New Zealand Defence Force [151.15], Simo Enterprises [148.3], Fenlea Farms [171.23], Lineage Logistics [107.9], Paul Smith [204.3], PrimePort [175.50], Timaru District Holdings [186.28] and ECan [183.125] are accepted in part.

8.24.28 I recommend that the submission from Peter Bonifacio [36.9] is rejected.

8.24.29 Given the extensive recommended changes, I consider these are best assessed in situ. Accordingly, I recommend that CE-R4 is amended as set out in **Appendix 1**. For clarity, I have

separated the natural hazards component of the rule (shown as proposed CE-RX) from the coastal environment and HNC components (retained as CE-R4).

8.24.30 In terms of a s32AA assessment, I consider that the changes better achieve CE-O1, CE-O2, CE-O4 and CE-O6 as they are more precise in their management of natural hazard sensitive buildings and activities that adversely affect coastal qualities. Accordingly, they are more efficient and effective. The changes in relation to natural hazard risk better respond to the level of certainty available in the modelling. Overall, I consider the amendments are the most appropriate for achieving the relevant objectives and the purpose of the Act.

## **8.25 Coastal Environment – CE-R5 Earthworks, excluding: earthworks for natural hazard mitigation works; and any land disturbance**

8.25.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME    | SUBMISSION POINT NUMBER(S) |
|-------------------|----------------------------|
| Forest and Bird   | 156.165 [and 156.66]       |
| Silver Fern Farms | 172.90                     |
| Fenlea Farms      | 171.24                     |

### **Submissions**

8.25.2 Three submissions sought amendments to CE-R5 while four supported it.

8.25.3 Forest and Bird [156.165] consider that earthworks for underground utilities can be quite big depending on the method of installation. They seek to amend CE-R5 by requiring all earthworks to be at least within 2 metres of the PER-1 activities and deleting PER-2.

8.25.4 Silver Fern Farms [172.90] supports providing a permitted activity pathway for minor earthworks with a discretionary consenting pathway for larger earthworks proposals in the coastal HNC Overlay. However, the submitter seeks amendment to clarify a specific timescale as the submitter considers that the earthworks quantum specified are a per-year allowance and if not, the rule would incorrectly require all earthworks to proceed via discretionary consent applications once the initial 100m<sup>2</sup> and 100m<sup>3</sup> allowances are expended. They seek the following amendments:

**PER-3** Any other earthworks do not exceed the following quantum per calendar year:  
[....]

8.25.5 Fenlea Farms [171.24] opposes CE-R5 as it limits the volume of earthworks for permitted activities and does not recognise pre-existing rural activities which may already involve a greater level of earthworks. The submitter considers the activity status when compliance is not achieved should be controlled, on the basis that the Council can effectively manage earthworks within this area with restricted discretion. They seek to amend CE-R5 to increase the permitted earthworks threshold from 100m<sup>3</sup> and 100m<sup>2</sup> to at least 2000m<sup>3</sup> and 2000m<sup>2</sup>



and change the activity status when compliance cannot be achieved under this rule is changed from discretionary to controlled.

### **Analysis**

- 8.25.6 Regarding the submissions by Forest and Bird [156.165], I agree that earthworks for underground utilities can be quite big depending on the method of installation, but note that network utilities are a necessary part of the coastal environment. In her evidence under this submission point Ms Pfluger states that given this rule applies to HNC areas that are potentially sensitive to earthworks, she agrees with the submission regarding the requirement for proximity to fence lines, roads and tracks where previous disturbance has taken place (i.e. within 2 metres). This would mean that modifications through earthworks can be contained in already modified parts of HNCs which should be incentivised. I accept Ms Pfluger's advice and agree that there should be a distance restriction for the maintenance and repair of existing fence lines, roads and access tracks and other earthworks.
- 8.25.7 In her advice in response to Forest and Bird's EI submissions, Ms Pfluger has also recommended limiting PER-2 to maintenance, repairs and upgrading, with new underground network utilities being RDIS. Based on Ms Pfluger's advice I consider that PER-2 should be limited to repairs and maintenance, with upgrading and new infrastructure needing to meet the volume and area thresholds under PER-3. I favour including upgrades with new infrastructure as the definition of upgrade has no limitations on scale and the HNC is a sensitive environment. If the upgrading involves only minor earthworks, such as for telecommunications, then PER-3 may provide for it, or CE-R6 land disturbance. Noting my recommendation to limit PER-2 to repairs and maintenance and Ms Pfluger's advice over ensuring modifications are contained in already modified parts of the HNC, I consider that PER-1 and 2 can be merged as these both deal with repairs and maintenance. Accordingly, I recommend that this submission is accepted in part.
- 8.25.8 In response to Forest and Bird's EI-R5 submission [156.66] which sought to exclude vehicle access tracks from the CE and ONLs, Ms Pfluger has stated that parts of Timaru's CE have been substantially modified in the past and in these areas permitted activity status for access tracks is likely to be appropriate, if they comply with the earthworks rules/ standards. However, she understands that vehicle access tracks can be up to 6m wide, which could lead to cumulative effects if multiple tracks were to be located in the CE. She recommends that the width should be limited to 4m to ensure that they have limited impact on landscape and natural character values. Ms Pfluger also considers that the identified HNC areas within the CE and ONLs are more sensitive to change due to their elevated natural character and landscape values, and in these areas she supports vehicle access tracks being considered through a consent pathway. I accept Ms Pfluger's advice on this and therefore recommend that the Forest and Bird [156.66] submission is accepted in part and that a new rule CE-RY is included to cover vehicle access tracks for network utilities.
- 8.25.9 Regarding the Silver Fern Farms [172.90] submission, in her evidence under this submission point Ms Pfluger states that given the sensitivity of HNC areas, the cumulative effects of

ongoing expansion of earthworks each calendar year could lead to significant adverse effects. She acknowledges that earthworks may be appropriate in some areas, but this would require assessment of natural character effects through a consenting process. I agree that cumulative effects could be significant, however I consider that the standard should be applied on a per calendar year basis as this is easier to apply and monitor and is appropriate given the small permitted scales. I therefore recommend that this submission is accepted.

8.25.10 Regarding the Fenlea Farms [171.24] submission, in her evidence under this submission point Ms Pfluger notes that this rule applies only to the HNC overlay and that the majority of HNC areas are located very close to waterbodies or the coastal interface which requires limiting permitted earthworks to small areas. She considers that, given the effects of larger-scale earthworks on natural patterns and processes have the potential to be significant (including drainage and changes to native coastal vegetation), it is appropriate to set a maximum for permitted earthworks. Ms Pfluger considers that the limit proposed by the submitter is substantial and earthworks of this scale are not appropriate as a permitted activity within the HNC overlay. She states that given that CE-R5 only applies to areas of HNC which are more sensitive, a discretionary activity status for any earthworks exceeding the proposed size/ volume (100m<sup>2</sup>/ m<sup>3</sup>) is suitable to provide Council the ability to decline consent in areas where adverse natural character effects cannot be mitigated. I accept Ms Pfluger's opinion on this matter. I also do not consider a controlled activity status would be appropriate as it may be necessary for resource consent applications to be declined. I therefore recommend that this submission is rejected.

### **Conclusions and recommendations**

8.25.11 I recommend that the submission from Silver Fern Farms [172.90] is accepted.

8.25.12 I recommend that the submission from Forest and Bird [156.165] is accepted in part.

8.25.13 I recommend that the submission from Fenlea Farms [171.24] is rejected.

8.25.14 Amend CE-R5 as follows:

Earthworks, excluding:

1. earthworks for natural hazard mitigation works; ~~and~~
2. any land disturbance; and
3. Earthworks for access tracks for network utilities under CE-RY.

#### **PER-1**

The earthworks are for the purpose of maintenance and repair of existing fence lines, roads or tracks, underground network utilities and ancillary structures and are located within 2m of the fence line, road or track;<sup>59</sup> or

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<sup>59</sup> Forest and Bird [156.165],

**PER-2**

The earthworks are for the purpose of installation of underground network utilities and ancillary structures; or

**PER-3**

Any other earthworks do not exceed the following quantum per calendar year:<sup>60</sup>  
[...]

8.25.15 Add a new rule CE-RY as follows:

**CE-RY Vehicle access tracks for network utilities, including ancillary access tracks, outside of urban zoned areas**

**1 Coastal Environment**

**Activity status: Permitted**

**Where:**

**PER-1**

The vehicle access track is not wider than 4m.

**Activity Status when compliance is not achieved: Restricted Discretionary**

**Matters of Discretion for PER-1 are restricted to:**

any adverse impacts on the identified matters contained in CE-P4, CE-P5, CE-P6, CE-P7, CE-P8, CE-P10.

**2 Coastal High Natural Character Area Overlay**

**RDIS-1**

The vehicle access track is located within the Coastal High Natural Character Area Overlay.

**Matters of Discretion for PER-1 and RDIS-1 are restricted to:**

any adverse impacts on the identified matters contained in CE-P4, CE-P5, CE-P6, CE-P7, CE-P8, and CE-P11.

8.25.16 In terms of a s32AA assessment, I consider that the changes better achieve CE-O1 and CE-O2 as they are more precise in their management of activities that adversely affect coastal qualities. Accordingly, they are more efficient and effective. Overall, I consider the amendments are the most appropriate for achieving the relevant objectives and the purpose of the Act.

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<sup>60</sup> Silver Fern Farms [172.90]

**8.26 Coastal Environment – CE-R6 land disturbance**

8.26.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME          | SUBMISSION POINT NUMBER(S) |
|-------------------------|----------------------------|
| Forest and Bird         | 156.166                    |
| South Rangitata Reserve | 206.8                      |

**Submissions**

- 8.26.2 One submission sought amendments to CE-R6 while six supported it (including one seeking clarification).
- 8.26.3 Forest and Bird [156.166] considers it is difficult to ascertain what this sort of activity permits and seeks to delete CE-R6.
- 8.26.4 South Rangitata Reserve [206.8] considers there is a range of work that could be undertaken at the Rangitata Reserve that would prolong the life of the Huts. The submitter supports CE-R6 subject to clarification that a range of essential works within the Reserve are facilitated under this rule.

**Analysis**

- 8.26.5 Regarding Forest and Bird [156.166], land disturbance is a defined activity and is distinguishable from earthworks as it does not permanently alter the profile, contour or height of the land. It is therefore appropriate to occur within areas subject to sea water inundation as it does not alter water flow. Maintaining water flow is also a critical component of natural character, as is maintaining the existing land profile. I note that any loss of indigenous vegetation is covered by the EIB chapter. Whilst I agree that land disturbance could involve both large and small volumes / areas, in the absence of evidence identifying issues from this rule in more detail, I consider this activity is able to be determined and is, on balance, appropriate in the CE and overlays. I therefore recommend that this submission is rejected. Should evidence be provided that more clearly identifies the issues I may revisit this recommendation.
- 8.26.6 Regarding the South Rangitata Reserve [206.8] submission, while land disturbance is a defined activity in the PDP, I am unclear what the range of works the submitter refers to entail and I am therefore not able to clarify that their essential works are facilitated under this rule. Whilst there is ambiguity in the submission and relief sought, as I am not recommending any changes to CE-R6 as a result of this submission in support of CE-R6, on balance I recommend that it is accepted.

**Conclusions and recommendations**

- 8.26.7 I recommend that the submission from Forest and Bird [156.166] is rejected.

8.26.8 I recommend that the submission from South Rangitata Reserve [206.8] is accepted.

8.26.9 No amendments are recommended and therefore no s32AA assessment is required.

## 8.27 Coastal Environment – CE-R7 Regionally Significant Infrastructure - maintenance and upgrade

8.27.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME           | SUBMISSION POINT NUMBER(S) |
|--------------------------|----------------------------|
| Forest and Bird          | 156.167                    |
| PrimePort                | 175.52, 175.62FS           |
| Timaru District Holdings | 186.30                     |
| ECan                     | 183.126                    |
| Te Rūnanga o Ngāi Tahu   | 185.48                     |

### Submissions

8.27.2 Five submissions sought amendments to CE-R7 while six supported it.

8.27.3 Forest and Bird [156.167] consider this rule should be just for maintenance and operation and not cover increases in the size of infrastructure or upgrades that increase scale and footprint of the activity. They seek to delete the upgrade reference from CE-R7 and create a new rule for upgrades where increases in the size of an activity is a restricted discretionary activity.

8.27.4 Similar to their submission on CE-R4, PrimePort [175.52] and Timaru District Holdings [186.30] consider that the requirement for buildings to be able to be made completely watertight is unhelpfully onerous and may not be able to be economically achieved. They consider that provided the materials of the building below the required minimum floor level are resilient and hazardous substances are not stored below that level (addressed via Rule HS-R1 PER-2), that should be sufficient to mitigate adverse effects from seawater inundation. They seek the following amendment:

#### **PER-5**

*That part of the building below the minimum finished floor level as stated in a Flood Risk Certificate issued in accordance with NH-S1 is constructed of flood durable materials ~~that will be watertight and any openings below this level must be capable of being sealed mechanically.~~*

8.27.5 Te Rūnanga o Ngāi Tahu [185.48] considers the extent of any impact on cultural values should be a matter of discretion for all the activities requiring consent in this overlay given the significance of the coastal environment on Kāti Huirapa values. They seek the following amendment to CE-R7.1 for the Coastal Erosion overlay and Sea Water Inundation Overlay:

*4. the extent to which the proposal creates natural hazard risks on adjacent properties and any risk to human life; and*

*5. the extent to which the proposal results in an increased risk of economic, cultural, social or environmental harm.*

8.27.6 ECan [183.126] notes that the date in CE-R7.1 standards should reflect the date that the plan becomes operative, as the rule does not currently have legal effect. ECan is also concerned that the proposed rule would allow new buildings as a permitted activity if they are less than 200m<sup>2</sup>, or they do not accommodate a natural hazard sensitive activity, or they are built above the flood level (noting that there may not be any flooding issues, but could be significant erosion issues), or they are watertight. ECan considers that many of these types of activities that fall within these thresholds as a permitted activity should require some form of assessment. In addition, the rule does not appear to address risk to any of those activities from coastal erosion, which is identified in the CRPS as a high hazard. ECan seeks to amend CE-R7 to be consistent with the approach for activities in the NH Chapter, in particular high hazard activities in order to give effect to Policy 11.3.1 and the NZCPS, and update the date in PER-1 to be consistent with the date the plan becomes operative and include provisions in any new rule for the conversion of existing buildings to a natural hazard sensitive activity. I note that PrimePort [175.62FS] submitted in opposition to this as the Port is within the Sea Water Inundation Overlay and must be able to maintain and upgrade its facilities.<sup>61</sup>

### **Analysis**

8.27.7 Regarding the Forest and Bird [156.167] submission, in her evidence under this submission, Ms Pfluger supports the PDP's approach to limit upgrading within HNC (CE-R7.2) areas to 10% within a continuous 10-year period, but seeks to include a maximum of 200m<sup>2</sup> for this. I accept Ms Pfluger's advice on this, noting that RSI can be large. Accordingly I recommend the inclusion of this maximum area. For the coastal environment area within existing urban areas, Ms Pfluger supports no restrictions on maintenance and upgrades, which is the current CE-R7 approach. I accept her advice.

8.27.8 For the coastal environment areas outside of existing urban zoned areas (and HNC areas), Ms Pfluger recommends to permit upgrades where this does not increase the building or structure envelope by more than 25% within a continuous 10-year period (up to a maximum area of 1000m<sup>2</sup>). This is more restrictive than the existing CE-R7 which contains no restrictions for these activities in these locations. I note that CRPS Policy 8.3.6 seeks to provide for the efficient and effective development, operation, maintenance, and upgrade of RSI whilst still avoiding, remedying or mitigating adverse effects on that environment. As such, a balance is needed between providing for RSI, whilst still managing its adverse effects in the coastal environment. On balance I accept Ms Pfluger's advice and recommend the changes set out below, noting that the submitters in support of CE-R7 were the four telecommunications submitters who are unlikely to exceed the 25% / 1000m<sup>2</sup> 10-year

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<sup>61</sup> As addressed in my Port section, specific provisions are recommended for the PORTZ.

building or structure upgrade limit and KiwiRail who may or may not depending on the nature of the upgrade.<sup>62</sup> I therefore recommend that this submission is accepted in part. I note that Forest and Bird made a number of submissions on the EI provisions seeking to restrict various types of infrastructure in the coastal environment. The majority of these related to underground infrastructure or above ground water systems, which in my opinion, are captured by the recommended amendments to CE-R5 earthworks, CE-R7 and CE-R8 (see below).

8.27.9 Regarding the PrimePort [175.52] and Timaru District Holdings [186.30] submissions, this matter was addressed earlier in my section on the Port where I recommended Port specific natural / coastal hazard provisions be inserted into the chapters. Accordingly, I recommend that these submissions are accepted in part.

8.27.10 Regarding the submission from Te Rūnanga o Ngāi Tahu [185.48], the proposed matter of discretion has been applied by the submitter to CE-R7.1 which covers RSI in natural hazards overlays. Given the issues relate to natural hazards, I consider that the matters of discretion should target the natural hazards issues arising, rather than be more general and covering economic, cultural, social or environmental harm. While I understand the significance of the coastal environment on Kāti Huirapa values, this rule is about natural hazards impacts on the activities being proposed and the consequences of not meeting the standards in relation to natural hazards impacts. I therefore do not agree with including a matter of discretion to consider economic, cultural and social matters as requested. Accordingly, I recommend that this submission is rejected. In doing so I note that for CE-R7.2 in the HNC (and my recommended CE-R7.3 in the coastal environment), the matters of discretion refer to Policy CE-P6 which covers Kāti Huirapa values and as such there is already an existing (and proposed) reference to Kāti Huirapa values for this rule.

8.27.11 Regarding the ECan [183.126] submission, I agree that the dates in the CE-R7.1 standards PER-1 and PER-2 should reflect the date that the plan becomes operative. I also agree that the conversion of existing buildings to a natural hazard sensitive activity should be included and I consider this can be done by adding in building conversions into the definition of “natural hazard sensitive activity” as covered in my assessment of this definition. Regarding the extent to which many of the activities that fall within these thresholds as a permitted activity should require some form of assessment, I note that CE-R7 applies to maintenance and upgrades, not new RSI and that the RSI is already located within these coastal hazard areas and presumably serves an important function. I consider that the PDP standards attempt to identify a threshold below which the risk from natural hazards are unlikely to be significant. However, I agree with ECan that PER-1 and PER-4 are too lenient within the Coastal Erosion Overlay as they are focused on responding to the Sea Water Inundation Overlay. Accordingly, I have recommended some changes to disapply these permitted activity standards to the Coastal Erosion Overlay. I note that in his evidence under RSI (paragraph 25), Mr Todd supports my recommended changes. Consistent with my

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<sup>62</sup> BP Oil, et al [196.72] submitted in support of the rule in the natural hazards overlays only.

assessment under CE-R4 (now CE-RX) PER-4, I also recommend that PER-5 referring to being constructed of water tight materials is deleted. I note that these changes may benefit from further refinement through evidence (from ECan and RSI providers), which I can address in my Reply Report if required. Accordingly, I recommend that this submission is accepted in part.

### **Conclusions and recommendations**

8.27.12 I recommend that the submissions from and Te Rūnanga o Ngāi Tahu [185.48] are rejected.

8.27.13 I recommend that the submissions from Forest and Bird [156.167], PrimePort [175.52], Timaru District Holdings [186.30] and ECan [183.126] are accepted in part.

8.27.14 Amend CE-R7 as follows:

#### **Regionally Significant Infrastructure - maintenance and upgrade**

##### **1**

##### **Coastal Erosion overlay**

##### **Sea Water Inundation Overlay**

**Activity status: Permitted**

**Where:**

##### **PER-1**

A new building or building extension is located outside of the Coastal Erosion Overlay and has a collective maximum additional ground floor area per site of 200m<sup>2</sup> in any continuous 10-year period from 22 September 2022 [insert plan operative date];<sup>63</sup> or

##### **PER-2**

Any upgrading does not increase the building or structure coverage by more than 10% within a continuous 10-year period from 22 September 2022 [insert plan operative date]; or

##### **PER-3**

The ground floor of the new building or extension is not to accommodate a natural hazard sensitive building activity; or

##### **PER-4**

The building or extension is located outside of the Coastal Erosion Overlay and ~~The building or extension~~ has a finished floor level equal to or higher than the minimum floor level as stated in a Flood Risk Assessment Certificate issued in accordance with NH-S1;  
or

##### **PER-5**

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<sup>63</sup> ECan [183.126]



~~That part of the building below the minimum finished floor level as stated in a Flood Risk Certificate issued in accordance with NH-S1 is constructed of materials that will be water tight and any openings below this level must be capable of being sealed mechanically.~~

**Matters of discretion are restricted to:**

[...]

5. The risk to the building or structure taking into account:

- a. The nature of the building structure or activity, including its materials and ability to be relocated;
- b. The anticipated lifespan of the building, structure or activity
- c. The level of certainty of the projected future shoreline, including whether the erosion is very likely within a medium term as opposed to more uncertain over a longer-term period.

**2**

**Coastal Environment outside of urban zoned areas**

**Activity status: Permitted**

**Where:**

**PER-1**

Any upgrading does not increase the building or structure envelope by more than 25% within a continuous 10-year period, up to a maximum of 1000m<sup>2</sup>.

**Activity status when compliance not achieved: Restricted Discretionary**

**Matters of discretion are restricted to:**

1. any adverse impacts on the identified matters contained in CE-P4, CE-P5, CE-P6, CE-P7, CE-P8, and CE-P10; and
  2. the extent to which the building or structure has a functional need or operational need for its location; and
- the extent of any positive benefits that will result from the proposal.

**2 3**

**Coastal High Natural Character Area Overlay**

**Activity status: Permitted**

**Where:**

**PER-1**

Any upgrading does not increase the building or structure envelope by more than 10% within a continuous 10-year period, up to a maximum of 200m<sup>2</sup>.

8.27.15 In terms of a s32AA assessment, I consider that the changes provide greater clarity for the application of the provisions and better achieve CE-O1, CE-O2, CE-O4, CE-O6 and CE-O8 as they are more precise in their management of RSI and activities that adversely affect coastal qualities. Accordingly, they are more efficient and effective. The changes in relation to natural hazard risk better respond to the level of certainty available in the modelling.

Overall, I consider the amendments are the most appropriate for achieving the relevant objectives and the purpose of the Act.

## 8.28 Coastal Environment – CE-R8 Regionally Significant Infrastructure - New

8.28.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME           | SUBMISSION POINT NUMBER(S) |
|--------------------------|----------------------------|
| Forest and Bird          | 156.168                    |
| PrimePort                | 175.53                     |
| Timaru District Holdings | 186.31                     |
| ECan                     | 183.127                    |

### Submissions

8.28.2 Four submissions sought amendments to CE-R8 while seven supported it.

8.28.3 Similar to its submission on CE-R7, Forest and Bird [156.168] considers constructing RSI in the coastal environment as a permitted activity is inappropriate and in relation to CE-R8.2, considers that the appropriateness of this depends on whether these areas are meant to be ONC or the lesser high natural character. They seek to delete CE-R8.1 and amend CR-R8.2 from discretionary to NC.

8.28.4 Similar to their submission on CE-R4 and CE-R7, PrimePort [175.53] and Timaru District Holdings [186.31] consider that the requirement for buildings to be able to be made completely watertight is unhelpfully onerous and may not be able to be economically achieved. They consider that provided the materials of the building below the required minimum floor level are resilient and hazardous substances are not stored below that level (addressed via Rule HS-R1 PER-2), that should be sufficient to mitigate adverse effects from seawater inundation. They seek the following amendment:

#### **PER-4**

*That part of the building below the minimum finished floor level as stated in a Flood Risk Certificate issued in accordance with NH-S1 is constructed of flood durable materials ~~that will be watertight and any openings below this level must be capable of being sealed mechanically.~~*

8.28.5 Similar to their submission on CE-R7, ECan [183.127] notes that the date in CE-R8.1 should reflect the date that the plan becomes operative, as the rule does not currently have legal effect. ECan is also concerned that the proposed rule would allow new buildings as a permitted activity if they are less than 200m<sup>2</sup>, or they do not accommodate a natural hazard sensitive activity, or they are built above the flood level (noting that there may not be any flooding issues, but could be significant erosion issues), or they are watertight. They consider that many of these types of activities that fall within these thresholds as a

permitted activity should require some form of assessment. In addition, the rule does not appear to address risk to any of those activities from coastal erosion, which is identified in the CCRPS as a high hazard. ECan seeks to amend CE-R8.1 to be consistent with the approach for activities in the NH chapter, in particular high hazard activities, in order to give effect to Policy 11.3.1 and the NZCPS and update the date in PER-1 to be consistent with the date the plan becomes operative and include provisions in any new rule for the conversion of existing buildings to a natural hazard sensitive activity.

### **Analysis**

- 8.28.6 Regarding the Forest and Bird [156.168] submission, as per my analysis of CE-R7, RSI is vital for the community's health safety and wellbeing and I note that CRPS Policy 8.3.6 seeks to provide for the efficient and effective development, which includes new RSI, whilst still avoiding, remedying or mitigating adverse effects on the coastal environment, and as such adverse effects still need to be considered and responded to. I note that within the HNC new RSI is fully discretionary, which I consider is appropriate. However, within the coastal environment outside of HNC areas new RSI is permitted, irrespective of whether it is located within a modified or unmodified area and its scale (unless it is also within a hazard overlay). I consider that this may be inappropriate for character reasons in unmodified areas, depending on the type and scale of the new RSI. In her evidence under this submission Ms Pfluger considers it acceptable to permit new RSI in existing urban areas, which are already highly modified, but limit new RSI in unmodified areas to buildings or structures with a floor area of less than 200m<sup>2</sup>. On balance I accept Ms Pfluger's advice and recommend the changes set out below, noting that the 7 submitters in support of CE-R7 were the four telecommunications submitters who are unlikely to exceed the 200m<sup>2</sup> 10-year building or structure area limit and KiwiRail, Transpower and BP, et al who may or may not depending on the nature of their proposals. I note that evidence from these submitters may help refine this rule further.
- 8.28.7 As for CE-R7, I note that Forest and Bird made a number of submissions on the EI provisions seeking to restrict various types of infrastructure in the CE. The majority of these related to underground infrastructure or above ground water systems, which in my opinion, are captured by the recommended amendments to CE-R5 earthworks, CE-R7 and this rule.
- 8.28.8 Regarding the PrimePort [175.53] and Timaru District Holdings [186.31] submissions, this matter was addressed earlier in my section on the Port where I recommended Port specific natural / coastal hazard provisions be inserted into the chapters. Accordingly, I recommend that these submissions are accepted in part.
- 8.28.9 Regarding the ECan [183.127] submission, I agree that the standards in CE-R8.1 should reflect the date that the plan becomes operative. I also agree that the conversion of existing buildings to a natural hazard sensitive activity should be included and I consider this can be done by adding in conversions into the definition of "natural hazard sensitive activity" as covered in my assessment of this definition. Consistent with my assessment under CE-R4 (now CE-RX) PER-4, and under CE-R7 PER-5, I also recommend that PER-5 referring to being

constructed of water tight materials is deleted, with this approach being limited to the PORTZ.

8.28.10 Regarding the other matters raised in ECan's submission, the standards attempt to identify a threshold below which the risk from natural hazards are unlikely to be significant. I note that ECan considers many of the activities that fall within these thresholds as a permitted activity should require some form of assessment. ECan also considers that the risk to RSI in areas subject to coastal erosion has not been addressed. In his evidence on RSI (paragraph 25), Mr Todd has recommended that new RSI in the Coastal Erosion Overlay should be RDIS and to include an additional matter of discretion to enable consideration of the certainty of the projected shoreline erosion (in his paragraph 15). I accept Mr Todd's advice. This change will make RSI require an assessment in the Coastal Erosion overlay, consistent with ECan's submission. In doing so I also recommend excluding community land drainage infrastructure, established community-scale irrigation and stockwater infrastructure, and any building or structure that has a footprint less than 30m<sup>2</sup> as these activities are either unlikely to be significantly affected by erosion or can be easily relocated if required.

8.28.11 With regard to the remaining RSI standards within the Sea Water Inundation Overlay, I note that the standards require RSI to be small to mid-sized buildings (less than 200m<sup>2</sup>), or not natural hazard sensitive, or meet the required floor level in a Flood Assessment certificate. I consider these provisions strike an appropriate balance between managing the flood risks to RSI and enabling this important infrastructure. As I have recommended some amendments as a result of this submission but not others, I recommend that this submission is accepted in part. As for CE-R7 I note that these changes may benefit from further refinement through evidence (from ECan and RSI providers), which I can address in my Reply Report if required.

### **Conclusions and recommendations**

8.28.12 I recommend that the submission from Forest and Bird [156.168] is accepted in part.

8.28.13 I recommend that the submissions from PrimePort [175.53], Timaru District Holdings [186.31] and ECan [183.127] are accepted in part.

8.28.14 Amend CE-R8 to refer to the date that the plan becomes operative and as follows:

#### **Regionally Significant Infrastructure - New**

##### **~~Coastal Erosion Overlay~~**

##### **1 Sea Water Inundation Overlay**

##### **Activity status: Permitted**

##### **Where:**

##### **PER-1**

A new building or extension has a maximum ground floor area per site of 200m<sup>2</sup> in any continuous 10-year period from ~~22 September 2022~~ [insert plan operative date]; or

**PER-2**

The ground floor of the new building or extension is not to accommodate a natural hazard sensitive building activity; or

**PER-3**

The building or extension has a finished floor level equal to or higher than the minimum floor level as stated in a Flood Risk Assessment Certificate issued in accordance with NH-S1; ~~or~~

**PER-4**

~~That part of the building below the minimum finished floor level as stated in a Flood Risk Certificate issued in accordance with NH-S1 is constructed of materials that will be water tight and any openings below this level must be capable of being sealed mechanically.~~

**2 Coastal Erosion Overlay****Activity status: RDIS****Except that this shall not apply to:**

- 1. Community land drainage infrastructure;**
- 2. Established community-scale irrigation and stockwater infrastructure; or**
- 3. Any building or structure that has a footprint less than 30m<sup>2</sup>.**

**Matters of discretion are restricted to:**

- 1 Whether there is an operational or functional need for the location;**
- 2. The risk to the building or structure taking into account:**
  - a. The nature of the building, structure or activity, including its materials and ability to be relocated;**
  - b. The anticipated lifespan of the building, structure or activity**
  - c. The level of certainty of the projected future shoreline, including whether the erosion is very likely within a medium term as opposed to more uncertain over a longer-term period.**

**Activity Status: Not Applicable****3****Coastal Environment outside of urban zoned areas****Activity status: Permitted****Where:****PER-1**

Any upgrading does not increase the building or structure envelope by more than 200m<sup>2</sup> within a continuous 10-year period.

**Activity status when compliance not achieved: Restricted Discretionary****Matters of discretion are restricted to:**

- 1. any adverse impacts on the identified matters contained in CE-P4, CE-P5, CE-P6, CE-P7, CE-P8, and CE-P10; and**

2. the extent to which the building or structure has a functional need or operational need for its location; and
3. the extent of any positive benefits that will result from the proposal.

[...]

8.28.15 In terms of a s32AA assessment, I consider that the changes provide greater clarity for the application of the provisions and better achieve CE-O1, CE-O2, CE-O4, CE-O6 and CE-O8 as they are more precise in their management of RSI and activities that adversely affect coastal qualities. Accordingly, they are more efficient and effective. The changes in relation to natural hazard risk better respond to the level of certainty available in the modelling. Overall, I consider the amendments are the most appropriate for achieving the relevant objectives and the purpose of the Act.

## **8.29 Coastal Environment – CE-R9 Natural hazard mitigation works, including earthworks - maintenance, replacement and upgrading**

8.29.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME | SUBMISSION POINT NUMBER(S) |
|----------------|----------------------------|
| PrimePort      | 175.54                     |
| ECan           | 183.128                    |

### ***Submissions***

8.29.2 Two submissions sought amendments to CE-R9 while two supported it.

8.29.3 PrimePort [175.54] undertakes natural hazard mitigation works within/adjoining the Port Zone and considers Rule CE-R9 needs to make similar provision for Port maintenance of existing works.

[....]

#### **PER-4**

**The activity is undertaken by PrimePort and is within or adjacent to the Port Zone and is required to protect the ongoing operation of the Port.**

8.29.4 ECan [183.128] makes a number of comments regarding this rule and CE-R12 and requests multiple changes consistent with their submission on NH-R3 (to either amend CE-R9 or to create a new rule that provides for all earthworks and vegetation clearance associated with existing public flood and erosion protection works operation, maintenance, repair, replacement and upgrading to ensure consistency of approach across hazard mitigation works). ECan suggests amending the title for clarity as the earthworks reference is confusing and considers CE-R9 and CE-R12 can be combined so that any natural hazard mitigation works are addressed in a single rule by the addition of another permitted activity standard

for new natural hazard mitigation works and new matters of discretion. ECan also seeks an advisory note regarding ECan's responsibilities in the CMA. They seek to change the "natural hazard mitigation works" terminology or change the definition of "natural hazard mitigation works" in accordance with the submission made on that definition. They also request the Council consider how best to identify the relationship between this permitted activity rule and any other rules that could be interpreted to cover activities that are an integral part of this activity such as associated earthworks and incidental vegetation removal, to ensure clarity and certainty for Plan users. They seek to reword CE-R9 as follows:

***CE-R9 Natural hazard mitigation works, ~~including earthworks~~ maintenance, replacement and upgrading***

*This rule does not apply to natural hazards mitigation works only involving the planting of vegetation*

*Advisory note: that works in the coastal marine area i.e. below mean high water springs and/or work within the beds of lakes and rivers are within the jurisdiction of the Regional Council and will require resource consents unless a Regional Plan provides a permitted activity for them.*

***Activity status: Permitted Where:***

***PER-3 1***

*The activity is undertaken by or on behalf of the Crown, Canterbury Regional Council or the Timaru District Council.*

***PER-2***

*The natural hazard mitigation works are for operation, maintenance, replacement or upgrading; and*

***PER-13***

*The natural hazard mitigation works is within 25m of the existing alignment or location vertically and horizontally; and*

***PER-24***

*The footprint of the natural hazard mitigation works is not increased by more than 25%; and.*

***Activity status where compliance not achieved with PER-2: Restricted Discretionary Where RDIS-1***

*The works are undertaken by or on behalf of the Crown, Regional Council or the Council.*

***Matters of discretion are restricted to:***

- 1. the likely effectiveness of the natural hazard mitigation works and the need for them; and*
- 2. the extent of any adverse social, cultural and environmental effects, including on any sensitive environments; and*
- 3. any adverse effects from diverting or blocking overland flow path(s), including upstream and downstream flood risks; and*
- 4. any increased flood risk for people, property, or public spaces; and*

5. the extent to which alternative locations and options for the natural hazard mitigation works have been considered and the merits of those; and  
6. any positive effects of the proposal on the community;.  
7. any relevant matter in the New Zealand Coastal Policy Statement 2010.  
**Activity status where compliance not achieved with RDIS-1: Discretionary**

**Activity status where compliance not achieved with PER-1 or PER-3 or PER-4: Restricted Discretionary**

Matters of discretion are restricted to:

1. the likely effectiveness of the natural hazard mitigation works and the need for them; and
2. the extent of any adverse social, cultural and environmental effects, including on any sensitive environments; and
3. any ~~potential~~ adverse effects ~~of from~~ diverting or blocking overland flow path(s), including upstream and downstream flood risks; and
4. any increased flood risk for people, property, or public spaces; and
5. the extent to which alternative locations and options for the natural hazard mitigation works have been considered and the merits of those; and
6. any positive effects of the proposal on the community.

**Analysis**

- 8.29.5 Regarding the ECan [183.128] submission, I note that ECan similarly sought to facilitate their flood control schemes by seeking amendments to NH-R3 and NH-R9. Consistent with my recommendation on NH-R3, I have discussed this matter with the responsible s42A author for the ECO, NATC, NFL and SASM chapters and consider that this approach can be adopted within CE-R9, as these other district wide chapters already contain exclusions for natural hazard mitigation works. To achieve this, I recommend adding to the relevant matters of discretion in CE-R9 an express requirement to consider the environmental effects on significant natural areas, natural character areas, riparian margins, sites and areas of significance to Māori and ONFs / ONLs, and adding a statement to the rules introduction that the ECO, NATC, NFL and SASM chapters do not apply to CE-R9. Also, consistent with my recommendations on NH-R3 and NH-R9, I recommend merging CE-R9 and CE-R12, with some minor differences to the ECan wording for workability. Accordingly, I recommend that this submission is accepted in part.
- 8.29.6 In his evidence in response to PrimePort's [175.54] submission, Mr Bosserelle agrees that the port has special status and considers that hazard mitigation maintenance is likely required for the port operation and that mitigation needs to be upgraded as sea-level rises to maintain a similar level of protection (see Mr Bosserelle's general statement on the Port). This matter was discussed with PrimePort as part of the development of PORTZ-specific provisions. As part of these discussions a specific standard was agreed with PrimePort as identified earlier in the Port specific section of my report. The agreed standard was an RDIS standard in NH-R9 where new hazard mitigation works are undertaken by or on behalf of the Port of Timaru and are located within 310m of PREC7. The same recommendation would



apply to the equivalent rule CE-R12 (new hazard mitigation works) in the CE chapter. Given my recommendation to combine CE-R9 and CE-R12 in response to ECan's submission, I recommend that the amendment responding to PrimePort's submission is made to the amended CE-R9 below. As this is a different response than requested in the submission, I recommend that this submission is accepted in part.

### **Conclusion and recommendations**

8.29.7 I recommend that the submissions from ECan [183.128] and PrimePort [175.54] are accepted in part.

8.29.8 Given the extensive recommended changes, including combining CE-R9 with CE-R12, I consider these are best assessed in situ. Accordingly, I recommend that CE-R9 is amended as set out in **Appendix 1** and CE-R12 is deleted.

8.29.9 Amend the CE Rules note as follows:

[...]

For the purposes of CE-R9 Natural hazard mitigation works, the rules in the ECO, NATC, NFL and SASM chapters do not apply.

8.29.10 In terms of a s32AA assessment, the majority of the changes to CE-R9 are a result of the merging of CE-R9 and CE-R12 and are therefore only structural changes. Other changes simply provide greater clarity around the application of the provisions. The key substantive change is covering the ECO, NATC, NFL and SASM provisions in this rule. The key differences are that CE-R9 includes permitted activity standards for upgrades, whereas the respective ECO, NATC, NFL and SASM chapters were focussed on maintenance and repairs. I consider this change is the most appropriate for collectively achieving CE-O1, CE-O2, CE-O3, CE-O4, CE-O5, CE-O6, together with ECO-O1, NATC-O1, NFL-O1 and SASM-O3. Accordingly, I consider the changes are the most appropriate to achieve the purpose of the Act.

### **8.30 Coastal Environment – CE-R11 Subdivision**

8.30.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME         | SUBMISSION POINT NUMBER(S) |
|------------------------|----------------------------|
| Bruce Spiers           | 66.53                      |
| ECan                   | 183.129                    |
| Fenlea Farms           | 171.25                     |
| Te Rūnanga o Ngāi Tahu | 185.49                     |

### **Matters raised by submitters**

8.30.2 Four submissions sought amendments to CE-R11.

8.30.3 Bruce Spiers [66.53] considers that subdivision rules should all be in one place in the plan. He seeks to delete CE-R11 and if necessary, develop appropriate objectives, policies, rules, standards, activity status, matters of control and discretion, for subdivision in the Coastal Environment area, Sea Water Inundation Overlay, Coastal High Natural Character Area and Coastal Erosion Overlay areas, in the Subdivision chapter of the PDP.

8.30.4 ECan [183.129] considers that intensification within the Sea Water Inundation Overlay having a restricted discretionary activity status does not reflect the high hazard status prescribed in the CRPS and considers this should be NC or fully discretionary. ECan notes that there is no consideration for minimum floor levels for hazard sensitive activities in the Sea Water Inundation Overlay and if restricted discretionary activity status is retained, RDIS standards should be included to require compliance with minimum floor levels, and access, with default to an NC activity status if not complied with. ECan seeks the following amendments if the preferred relief to change the activity status is not accepted:

**2. Sea Water Inundation Overlay Activity status: Restricted Discretionary Where:**

**RDIS-1**

A Flood Assessment Certificate for the subdivision is issued in accordance with NH-S1; and

**RDIS-2**

Proposed building platforms and access to them (to be secured by way of a consent notice) are not subject to high hazard flooding as stated in a Flood Assessment Certificate issued under RDIS-1.

**Activity status when compliance is not achieved: NC Not applicable**

8.30.5 Fenlea Farms [171.25] seeks to delete CE-R11 Matter of discretion 3 (the extent to which future building or structure has a functional need or operational need for its location) within the Sea Water Inundation Overlay, as this restriction is likely to impact the erection of habitable dwellings in connection with existing urban or non-urban purposes within this overlay which should be permitted on the basis that built form standards are met. The submitter considers it should also refer to existing rural activities.

8.30.6 Te Rūnanga o Ngāi Tahu [185.49] considers that cultural effects should be a matter of discretion as it is a part of the social construct we live in and within the definition of environment. Specifically stating cultural effects will provide clarity of the issue to the plan user. They seek the following amendments:

***Matters of discretion are restricted to:***

*[...]*

1. the extent of any adverse social, cultural and environmental effects, including on any sensitive environments;

2. the potential of any adverse effects on the spiritual and cultural values and beliefs of Kāti Huirapa, including measures to avoid, remedy or mitigate adverse effects.

*[...]*

**Analysis**

- 8.30.7 Regarding the Bruce Spiers [66.53] submission, I agree that the subdivision rules should be located in the subdivision chapter as this is where most plan users would expect to find them. In response to submissions on NH-R8 Subdivision, I recommended deleting NH-R8 and inserting a new rule in the Subdivision Chapter to cover the natural hazards overlays of both NH-R8 and CE-R11. I consider the remaining coastal environment and ONC matters can also be located within the subdivision chapter as a separate subdivision rule.<sup>64</sup> I therefore recommend that this submission is accepted.
- 8.30.8 Regarding the ECan [183.129] submission, I agree that areas subject to sea water inundation are exposed to significant risk and note that a restricted discretionary status with no standards is more permissive than other recently reviewed district plans. For example, subdivision is a restricted discretionary activity under the WDP where standards for building platforms and being located outside of a high hazard area are met, while subdivision is a fully discretionary or an NC activity (depending on zone) in the SDP. I consider a requirement to meet minimum building floor levels (as opposed to identifying a building platform) on a subdivision consent is onerous as buildings may not be designed and are not being applied for as part of the subdivision application. However, I agree that building platforms should be identified and that these should be located outside of high hazard areas. Noting the risks associated with sea water inundation, that the overlay is relatively confined to coastal areas and the requirements in the NZCPS Policy 25(b) to avoid redevelopment of change in land use that would increase the risk from coastal hazards, in my opinion it would be appropriate to make subdivision in high hazard areas non complying if there is no building platform located outside of the high hazard areas. However, I do not support requiring building access to also be outside of sea water inundation areas, noting that this inundation may be infrequent and has forewarning.<sup>65</sup> I consider this recommended amendment responds to the majority of ECan's requested amendments. I therefore recommend that this submission is accepted in part.
- 8.30.9 Regarding the Fenlea Farms [171.25] submission, in his evidence under this submission, Mr Bosserelle states that Matter of Discretion 3 is about assessing whether a future building or structure has a functional need or operational need for its location and that having this matter deleted would remove the need to mount an argument to get a building approved. However, in his opinion sometimes buildings and structures need to be located in seawater inundation areas for operational and functional reasons and the subdivision facilitates this. Mr Bosserelle considers that CE-R11 is in place in order to comply with the NZCPS and avoid increasing risk in areas susceptible to sea water inundation present and future and that therefore Matter of Discretion 3 is justified. I accept Mr Bosserelle's advice. I consider that functional and operational need in this hazard area is a relevant consideration. Sometimes

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<sup>64</sup> I understand that the s42A report for subdivision (Hearing E) recommended shifting all subdivision rules to the subdivision chapter.

<sup>65</sup> I note that the Draft 2024 CRPS included requirements for access in floodable areas, but also that this was subject to considerable debate.

subdivision is purposefully undertaken to enable new buildings or structures and these have to be located within the overlay (for example subdivision for utilities). I therefore consider Matter of Discretion 3 is appropriate and accordingly recommend that this submission is rejected. I have therefore retained this matter of discretion in my amended SUB-RX for natural hazard areas in my assessment of NH-R8.

8.30.10 Regarding Te Rūnanga o Ngāi Tahu's [185.49] submission, subdivision within the coastal environment already requires assessment against a number of policies including CE-P6 which covers Kāti Huirapa values and CE-P8 which covers environmental matters, and as such I do not agree with adding the proposed matters of discretion to CE-R11.1. The other RDIS component of CE-R11 is for the Sea Water Inundation Overlay (CE-R11.2) and as per my previous analysis, cultural effects are not relevant to the consideration of natural hazard risk (outside of the MPZ). I also consider they would not be appropriate to apply to areas of HNC as these are special areas identified for natural character purposes, not cultural purposes and in any case I note subdivision is fully discretionary in the HNC (CE-R11.3) while it is non-complying in the Coastal Erosion Overlay (CE-R11.4). I therefore recommend that this submission is rejected.

### **Conclusions and recommendations**

8.30.11 I recommend that the submission from Bruce Spiers [66.53] is accepted.

8.30.12 I recommend that the submission from ECan [183.129] is accepted in part.

8.30.13 I recommend that the submissions from Fenlea Farms [171.25] and Te Rūnanga o Ngāi Tahu [185.49] are rejected.

8.30.14 Amend CE-R11 as set out in **Appendix 1**. Given the changes recommended to split out the character overlays from the hazards overlays (addressed under NH-R8 / NH-RX), these changes are best assessed in situ with reference to the amended NH-R8 / NH-RX.

8.30.15 In terms of a s32AA assessment, the recommended changes to CE-R11 are structural only, combining CE-R11.1 and CE-R11.3, covering CE-R11.2 and CE-R11.4 in the new NH-RX and shifting the rule to the subdivision chapter. As such, I consider that the existing s32 continues to apply.

### **8.31 Coastal Environment – CE-R12 Natural hazard mitigation works, including Earthworks - New**

8.31.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME    | SUBMISSION POINT NUMBER(S) |
|-------------------|----------------------------|
| Forest and Bird   | 156.169                    |
| Silver Fern Farms | 172.92                     |
| Alliance Group    | 173.93                     |

|                         |         |
|-------------------------|---------|
| ECan                    | 183.130 |
| South Rangitata Reserve | 206.9   |

### Submissions

- 8.31.2 Four submissions sought amendments to CE-R12 while four supported it.
- 8.31.3 Forest and Bird [156.169] opposes CE-R12 as there are no matters for discretion for effects on indigenous biodiversity. They seek to add “effects on indigenous biodiversity” as Matter of Discretion 6.
- 8.31.4 Silver Fern Farms [172.92] and Alliance Group [173.93] consider an NC consent pathway for private natural hazard mitigation is inappropriate given the investment in their sites and seeks a discretionary activity for this. The submitters consider this would be consistent with the activity status for activities in the Coastal Environment Overlay (CE-R9) and natural hazard mitigation works undertaken by the Crown or a Council (CE- R12, RDIS-1) to allow the Submitter to protect their assets.
- 8.31.5 Similar to their submission on CE-R9, ECan [183.130] recommends that all natural hazard mitigation works are addressed under a single rule (CE-R9), which would result in this rule becoming redundant. Depending on whether CE-R12 and CE-R9 are combined, the assessment matters for new hazard mitigation works should be the same as for CE-R9 for operation, maintenance and upgrade of hazard mitigation works. ECan also seeks to add an advisory note to the effect that works in the coastal marine area i.e. below mean high water springs and/or work within the beds of lakes and rivers are within the jurisdiction of the Regional Council and will require resource consents unless a Regional Plan provides a permitted activity for them. Consistent with their other submissions ECan seeks to change the definition of natural hazards mitigation works.
- 8.31.6 South Rangitata Reserve [206.9] considers there needs to be a planned approach involving affected parties to any mitigation measures and is concerned if this rule would result in a layer of costly bureaucracy, especially for some minor works. The submitter supports CE-R12, but only on the basis it will not result in additional compliance costs.

### Analysis

- 8.31.7 Regarding the Forest and Bird [156.169] submission, whilst I agree that indigenous biodiversity is an important matter, I note that the Matters of Discretion in CE-R12 refer to policies CE-P4 to CE-P11 and I note that some of these expressly refer to ecological matters (e.g. CE-P4, CE-P5(2), CE-P7, CE-P8(7), CE-P11(2)(d)(iii)). I also note that the provisions of the EIB chapter apply to activities involving indigenous vegetation clearance. As such I do not agree with the submitter and recommend that their submission is rejected.
- 8.31.8 Regarding the Silver Fern Farms [172.92] and Alliance Group [173.93] submissions, in his assessment of Silver Fern Farms [172.92], Mr Bosserelle states that mitigation measures are difficult to achieve especially at a property level. He considers that for coastal erosion, mitigation measures should be restricted to the Port and council/regional agencies. He

considers that for sea water inundation, small protection measures may be effective on the edge of the overlay where the inundation depth is small (less than 0.50 m) and where the mitigation measures do not increase the inundation or erosion hazard in neighbouring properties, and the mitigation measures are fit for purpose. Mr Bosserelle 'somewhat' agrees that the status for when compliance is not achieved may be changed to discretionary in the Sea Water Inundation Overlay, but remains non-complying within the coastal erosion overlay. In his evidence (paragraph 28) Mr Todd agrees that that this rule is inconsistently restrictive on private natural hazard mitigation works on coastal hazard areas and prefers a discretionary activity status (as opposed to NC) for private works. Given the slightly conflicting technical advice, I consider that a discretionary activity status is more appropriate for both the Sea Water Inundation Overlay and Coastal Erosion Overlay when the works are not undertaken by the Crown, ECan or the Council. This enables the activities to be considered on their merits.

8.31.9 Regarding the ECan [183.130] submission, as per my assessment of CE-R9, I agree that CE-R9 and CE-R12 can be combined. I agree with adding an advisory note regarding coastal marine area and beds of lakes and rivers works being within the jurisdiction of the Regional Council, however I prefer adding this to the chapter introduction as it applies more widely than just this rule (e.g. it also applies to CE-R14) and I note that the Timaru District Council also has jurisdiction for some activities in the beds of lakes and rivers. I also agree with changing the definition of natural hazards mitigation works. Accordingly, I recommend that this submission is accepted in part.

8.31.10 Regarding the South Rangitata Reserve [206.9] submission, I consider that these provisions may result in increased compliance costs, however this has been justified by the chapter s32 and higher order planning framework. As such, the conditional submission in support is more likely to be a submission in opposition. As I am recommending deleting CE-R12 as a result of an earlier recommendation, it is not clear whether this submission should be accepted or rejected. On balance I recommend that this submission is rejected given CE-R12's recommended deletion and the stated submitter support.

### ***Conclusions and recommendations***

8.31.11 I recommend that the submissions from Forest and Bird [156.169] and South Rangitata Reserve [206.9] are rejected.

8.31.12 I recommend that the submissions from Silver Fern Farms [172.92] and Alliance Group [173.93] are accepted.

8.31.13 I recommend that the submission from ECan [183.130] is accepted in part.

8.31.14 Amend the chapter introduction by inserting the following text at the introduction end as follows:

Activities within the coastal marine area, i.e. below mean high water springs, are within the jurisdiction of the Canterbury Regional Council, while activities within the beds of lakes and

rivers are within the jurisdiction of both the Canterbury Regional Council and the Council and may require resource consent from the Canterbury Regional Council.

8.31.15 As set out under my assessment of CE-R9, merge CE-R9 and CE-R12 and delete CE-R12 as set out in **Appendix 1**.

8.31.16 In terms of a s32AA assessment, my assessment under CE-R9 applies to this change. The proposed addition of the introductory text simply adds clarity for the application of the chapter.

### **8.32 Coastal Environment – CE-R13 Primary Production not otherwise specified in this chapter**

8.32.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME    | SUBMISSION POINT NUMBER(S) |
|-------------------|----------------------------|
| Fenlea Farms      | 171.26                     |
| Federated Farmers | 182.172                    |
| Peter Bonifacio   | 36.10                      |

#### ***Submissions***

8.32.2 Two submissions sought amendments to CE-R13, one requested further consideration, while one supported it.

8.32.3 Fenlea Farms [171.26] opposes CE-R13 as the submitter considers the rules relating to farming, nutrients and water application are for the Canterbury Regional Council and are contained in the Canterbury Land and Water Regional Plan and that primary production, including irrigation and intensive primary production can be managed under the regional rules. The submitter considers the provisions contained in CE-P11 can be achieved by proper management of intensively farmed stock. The submitter seeks to: amend CE-R13 to provide for primary production including intensively farmed stock as a permitted activity within this overlay; amend CE-R13 so it does not exclude irrigation or intensive primary production; and provide primary production (including intensively farmed stock) as a controlled activity.

8.32.4 Federated Farmers [182.172] considers that existing lawfully established farming activities located in these overlays within the coastal environment must be permitted to continue by the PDP. The submitter considers it is important to ensure that existing farmland is preserved and allowed to continue for future generations with a balance needing to be achieved with the maintenance of the existing values formed by the coastal area. The submitter seeks to provide for existing farming activities (including farm quarries) and farmland as permitted activities within the coastal environment.

8.32.5 Peter Bonifacio [36.10] considers that although the Milford Lagoon has already been retired from farming, the effect of this rule is significant in potentially reducing the value of the land.

The submitter requests the Council consider the impact of the rule CE-R13 on the value of the land and subsequent impact on the landowner.

### **Analysis**

- 8.32.6 Regarding the Fenlea Farms [171.26] and Federated Farmers [182.172] submissions, in her evidence under these submission numbers Ms Pfluger states that CE-R13 applies to the Coastal HNC Area Overlay and that land within this overlay has been identified for its high natural character. She considers that most of these areas are either immediately adjacent to the coastal interface or to river mouths and lagoons and that these areas are more sensitive to intensive farming practices, including irrigation. Ms Pfluger considers that existing activities have modified the natural character in the past and it is appropriate to allow for existing activities to continue, even if they are within an HNC, however, expansion should require assessment of the natural character effects within the HNC overlay given the sensitivity of these areas. In addition, intensive farming and irrigation can be problematic in terms of effects on natural character in these environments near the coastal and freshwater interface. Ms Pfluger considers that the notified activity status (Discretionary) is appropriate.
- 8.32.7 I accept Ms Pfluger's opinion. Whilst I am concerned about requiring a discretionary activity consent for new pastoral and agricultural farming, I note that the HNC areas are very limited in extent and existing use rights will apply to farming already occurring in them. I also note that within the wider coastal environment, there are no restrictions proposed on primary production. On balance, I therefore recommend that these submissions are rejected. Should evidence be provided to demonstrate why existing primary production is no longer able to occur within HNC areas I may revisit this recommendation
- 8.32.8 Regarding the Peter Bonifacio [36.10] submission, I note that the rule only applies in the HNC and would not affect existing farming operations which would be able to continue. Given this, and the requirement for the Council to identify and manage the HNC under the NZCPS, I consider CE-R13 is appropriate. As the Council did consider the matters raised, I recommend that this submission is accepted.

### **Conclusions and recommendations**

- 8.32.9 I recommend that the submission from Peter Bonifacio [36.10] is accepted.
- 8.32.10 I recommend that the submissions from Fenlea Farms [171.26] and Federated Farmers [182.172] are rejected.
- 8.32.11 No amendments are recommended and therefore no s32AA assessment is required.

### **8.33 Coastal Environment – CE-R14 Quarrying/Mining Activity (excluding for natural hazard mitigation works or reclamation within or adjacent the Port Zone)**

- 8.33.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:



| SUBMITTER NAME  | SUBMISSION POINT NUMBER(S) |
|-----------------|----------------------------|
| Forest and Bird | 156.171                    |
| Road Metals     | 169.32                     |
| Fulton Hogan    | 170.32                     |
| ECan            | 183.131                    |

### Submissions

8.33.2 Four submissions sought amendments to CE-R14.

8.33.3 Forest and Bird [156.171] considers mining is unacceptable within the CE and should be a prohibited activity while quarrying should remain NC.

8.33.4 Road Metals [169.32] and Fulton Hogan [170.32] opposes CE-R14 as the submitters consider the NC status of this activity does not suitably recognise the importance of aggregate resources and the way they are spatially located. The submitter also notes that the term 'quarrying' is not defined but 'quarrying activity' is. They seek the following amendments:

**CE-R14 ~~Quarrying~~/Mining/~~Quarrying~~ Activity (excluding for natural hazard mitigation works or reclamation within or adjacent the Port Zone)**

Activity status: ~~NC Restricted Discretionary~~

**Matters of discretion are restricted to:**

1. the extent to which the proposal results in an increased risk of economic, social or environmental harm;
2. whether the proposal includes hazard mitigation;
3. measures to avoid, remedy or mitigate adverse effects on areas of Coastal High Natural Character
4. the functional need for the mine/quarry to be in this location;
5. the extent of any positive benefits that will result from the proposal; and 6. the extent to which the proposal creates natural hazard risks on adjacent properties; and
- the extent to which the proposal creates natural hazard risks on adjacent properties.

8.33.5 ECan [183.131] considers that to add clarity regarding when these works require resource consent from the Regional Council rather than the District Council, an advisory note would be useful. ECan also suggests amending the reference to natural hazard mitigation works or amending the definition, in line with their submission on the definition of this term, will provide greater clarity about the activities this rule applies to.

### Analysis

8.33.6 Regarding the Road Metals [169.32] and Fulton Hogan [170.32] submissions, in her evidence under Road Metals [169.32] Ms Pfluger notes that Rule CE-R14 applies to both the CE and HNC overlays and that there are areas in the CE that have low or moderate natural character. She considers that these areas have a higher ability to absorb change than HNC

areas which provide higher values and recommends to differentiate between these two overlays. While she considers it appropriate to maintain the stricter NC activity status for any quarrying (commercial and farm quarries) in HNC areas, Ms Pfluger considers RDIS may be sufficient to protect the natural character in the coastal environment outside the HNC overlay if it was to occur in areas that are already substantially modified and effects are localised. Ms Pfluger considers that larger commercial quarries (rather than small-scale farm quarries) would lead to higher effects and therefore considers farm quarries that are restricted in size and scale (under 500m<sup>2</sup>), be enabled as permitted activities. Ms Pfluger considers that larger farm quarries and commercial quarries are appropriately assessed as RDIS activities in the coastal environment. However, the matters of discretion need to ensure that adverse effects on coastal natural character in general are avoided, remedied, or mitigated (rather than just effects on adjacent HNC). The potential for enhancement of natural character should also be encouraged through the matters of discretion.

- 8.33.7 I accept Ms Pfluger's evidence and recommend the changes set out below. These changes respond to the submitter's relief sought but do not respond entirely to it. Accordingly, I recommend that these submissions are accepted in part.
- 8.33.8 Regarding the Forest and Bird [156.171] submission, while I consider mining is most likely unacceptable, the definition of mining could include very small-scale activities and I therefore do not support a prohibited activity status. I also note that CE-R14 applies to all of the coastal environment, i.e. not just to areas of HNC. In her evidence under submission [245.74], Ms Pfluger considers it is unlikely that commercial mining or quarrying would be an appropriate land use if they occur at a larger scale. However, very localised, farm-scale extraction of gravel or sand may be appropriate if natural character values of the coastal environment, including adjacent HNC areas, are not adversely affected. Given this, I prefer providing for small farm quarries as permitted outside of HNC areas as per my recommendation to the Road Metals [169.32] and Fulton Hogan [170.32] submissions assessed above. I therefore recommend that this submission is accepted in part.
- 8.33.9 Regarding the ECan [183.131] submission, I have already recommended amending the definition of natural hazard mitigation works in accordance with ECan's submissions and including a statement on jurisdiction within the introduction. Accordingly, I recommend that this submission is accepted in part.

### **Conclusions and recommendations**

- 8.33.10 I recommend that the submissions from Road Metals [169.32], Fulton Hogan [170.32], Forest and Bird [156.171] and ECan [183.131] are accepted in part.
- 8.33.11 Amend CE-R14 as follows:

**CE-R14 ~~Quarrying~~/Mining / Quarrying Activity (excluding for natural hazard mitigation works or reclamation within or adjacent the Port Zone)**

**1. Coastal Environment Area Overlay**

**Activity status: Permitted**

**Where:****PER-1**

The activity is a farm quarry and is less than 500m<sup>2</sup>.

**Activity status when compliance not achieved: Restricted discretionary****Matters of discretion are restricted to:**

1. any adverse impacts on the identified matters contained in CE-P4, CE-P5, CE-P6, CE-P7, CE-P8, CE-P10 and CE-P11;
2. the extent to which the works will result in adverse cumulative effects; and
3. the extent to which the activity results in the enhancement of natural character.

**2. Coastal High Natural Character Area Overlay****Coastal Environment Area Overlay**

**Activity status: Non-complying**

**Activity status when compliance not achieved: Not applicable**

8.33.12 In terms of a s32AA assessment, the proposed changes refine the provisions to enable small farm quarries outside of the HNC overlay, and thereby better recognise the existing activities that occur in the coastal environment. I consider that this change is the most appropriate for achieving CE-O1 and CE-O2 and the purpose of the Act.

**8.34 Coastal Environment – CE-S1 Height of buildings and structures**

8.34.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| <b>SUBMITTER NAME</b> | <b>SUBMISSION POINT NUMBER(S)</b> |
|-----------------------|-----------------------------------|
| ECan                  | 183.4                             |

***Submissions***

8.34.2 Seven submissions supported CE-S1, while none sought amendments. However, ECan [183.4] made a general submission that across the whole plan, references to "height" of buildings or structures do not make reference to where height is measured from, and seek to ensure that height for buildings and structures is measured from "ground level", which is a national planning standard term, with consistent expression of height rules across the plan.

***Analysis***

8.34.3 I agree with ECan that where the height is referred to, the default approach should be that it is measured from ground level. I note that in some chapters such as the CMUZ chapters, the relevant standard includes a note that height shall be measured from the existing ground level prior to any works commencing. I consider this is the intent for the CE chapter and that

a similar note should be included for all height rules (except where the height reference is to a specified zone height limit as this will already specify where height is to be measured from). I therefore recommend that this submission is accepted.

### **Conclusions and recommendations**

8.34.4 I recommend that the submission from ECan [183.4] is accepted.

8.34.5 Add the following note to CE-S1:

Note: Height shall be measured from the existing ground level prior to any works commencing.

8.34.6 In terms of a s32AA assessment, I consider the existing s32 continues to apply as this change is simply an explanatory note.

### **8.35 Coastal Environment – CE-S2 Site coverage**

8.35.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| <b>SUBMITTER NAME</b> | <b>SUBMISSION POINT NUMBER(S)</b> |
|-----------------------|-----------------------------------|
| Silver Fern Farms     | 172.94                            |
| ECan                  | 183.132                           |

### **Submissions**

8.35.2 Two submissions sought amendments to CE-S2 while five supported it.

8.35.3 Silver Fern Farms [172.94] states that the GIZ applies to land outside of “the urban area” and it would be inappropriate to constrain significant industrial enterprises with existing highly modified sites, due to their location. They seek the following amendments:

#### ***CE-S2 Site coverage***

*The building and structure within the overlay shall not exceed a maximum floor area of: [...]*

*unless*

*3. if the building and structure is to be located within the urban area or the General Industrial Zone, it shall be as per the applicable zone rules and standards.*

8.35.4 ECan [183.132] considers that it is not clear how this standard relates to the requirement for all buildings to be not more than 150m<sup>2</sup> under rule CE-R4. ECan recommends that the lower limit apply. ECan also notes that the definition of site coverage under the plan also includes impervious surfaces, which are not addressed by the rule. ECan seeks to clarify the relationship of Standard CE-S2 with Rule CE-R4 and apply the lower threshold and review the

rule with reference to impervious surfaces as per the definition of "site coverage", and include appropriate standards.

### **Analysis**

- 8.35.5 Regarding the Silver Fern Farms [172.94] submission, as addressed under various submissions (for example Rangitata Dairies [44.2] and various submissions from Waipopo Huts Trust and Te Kotare Trust) I have recommended an amendment to "urban areas" for the CE chapter. This amendment would include the GIZ as an "urban zoned area" where the zone provisions would apply, and therefore this amendment responds to the submitter's request. I therefore recommend that this submission is accepted in part.
- 8.35.6 Regarding the ECan [183.132] submission, CE-S2 refers to total building and structure coverage on a site, whereas CE-R4 refers to each individual building. As such, there is no conflict between the provisions. However, to avoid confusion I recommend that CE-S2 is amended to clarify this. I also recommend CE-S2 is amended to clarify that it applies to buildings and structure coverage rather than site coverage which includes impervious surfaces. I note that impervious surfaces are not expressly addressed in the WDP or the SDC coastal environment provisions. Accordingly, I recommend that this submission is accepted in part.

### **Conclusions and recommendations**

- 8.35.7 I recommend that the submissions from Silver Fern Farms [172.94] and ECan [183.132] are accepted in part.
- 8.35.8 Amend CE-S2 as follows:

#### **Site coverage by buildings and structures**

##### Coastal Environment Overlay

The combined building and structure coverage of a site within the overlay shall not exceed a maximum ~~floor~~ area of:

1. 500m<sup>2</sup> for sites that are less than 20ha in area; and
2. 500m<sup>2</sup> for every 20ha of site area for sites larger than 20ha in area, or a maximum of 2,000m<sup>2</sup> per property (whichever is the lesser); unless
3. if the building and structure is ~~to be~~ located within the an urban zoned area, in which case it shall be as per the applicable zone rules and standards.

- 8.35.9 In terms of a s32AA assessment, I consider the existing s32 continues to apply as these changes simply clarify the intended application of the standard.

### 8.36 Coastal Environment – CE-S3 Building and structure external materials

8.36.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME    | SUBMISSION POINT NUMBER(S) |
|-------------------|----------------------------|
| Silver Fern Farms | 172.95                     |
| Alliance Group    | 173.96                     |

#### **Submissions**

8.36.2 Two submissions sought amendments to CE-S3 while two supported it.

8.36.3 Silver Fern Farms [172.95] and Alliance Group [173.96] support a permitted status for new buildings and structures, although they also seek an amendment to clarify that the rule does not apply to interior surfaces as follows:

*CE-S3 Building and structure external materials Coastal Environment Overlay  
With the exception of the Port Zone, all external cladding and roofing of buildings and structures must be finished in materials with a maximum reflectance value of 30%.*

#### **Analysis**

8.36.4 In my opinion this rule is intended to only apply to external cladding and roofing. I therefore consider the recommended amendment provides greater clarity and accordingly I recommend these submissions are accepted.

#### **Conclusions and recommendations**

8.36.5 I recommend that the submissions from Silver Fern Farms [172.95] and Alliance Group [173.96] are accepted.

8.36.6 Amend CE-S3 as follows:

CE-S3 Building and structure external materials Coastal Environment Overlay  
With the exception of the Port Zone, all external cladding and roofing of buildings and structures must be finished in materials with a maximum reflectance value of 30%.

8.36.7 In terms of a s32AA assessment, I consider the existing s32 continues to apply as these changes simply clarify the intended application of the standard.

### 8.37 Coastal Environment – CE Planning Maps

8.37.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME | SUBMISSION POINT NUMBER(S) |
|----------------|----------------------------|
|----------------|----------------------------|

|                 |       |
|-----------------|-------|
| Forest and Bird | 156.4 |
| Paul Smith      | 204.1 |

### **Submissions**

- 8.37.2 Two submissions sought amendments to the extent of CE overlay while one supported it.
- 8.37.3 Forest and Bird [156.4] considers that the mapping of the coastal environment is inadequate and should be reassessed to appropriately apply Policy 1 of the NZCPS. The submitter considers the coastal environment should extend 1km or more landward.
- 8.37.4 Paul Smith [204.1] supports the intention of the Coastal Environment Overlay, but seeks this overlay be removed from the submitter's property at 86 Sheffield Street as the restrictions within the overlay contradict the underlying General Industrial Zone.

### **Analysis**

- 8.37.5 Regarding the Forest and Bird [156.4] submission, in her evidence under this submission, Ms Pfluger states that the RMA does not define the "coastal environment", however its extent needs to be considered in order to respond to Policy 1 of the NZCPS 2010. This recognises that the extent and characteristics of the coastal environment will vary from location to location. Ms Pfluger states that there is no minimum measurement for the extent of the coastal environment and a rigorous methodology, which has been applied in a number of other coastal environment assessments throughout the country, has been applied in the 2020 Timaru Landscape and Coastal Study. The development of the methodology to determine the extent of the coastal environment was guided by all of the identified characteristics, with particular consideration to item (c) of Policy 1(2) of the NZCPS 2010 'where coastal processes, influences or qualities are significant'. The full methodology for the CE delineation is outlined on pages 78 ff of the Study.
- 8.37.6 Ms Pfluger notes that the majority of the Timaru District, apart from areas where waterways extend towards the coast, contains either pastoral farming or settlements, including transport and other infrastructure which has substantially modified the coastal hinterland and its associated elements/ patterns/processes, confining the identified coastal environment to a relatively narrow strip near the interface. Ms Pfluger considers a narrow area of coastal environment is appropriate if the hinterland is flat and the coastal processes are not significant. I accept Ms Pfluger's advice and therefore recommend that this submission is rejected.
- 8.37.7 Regarding the Paul Smith [204.1] submission, as shown on Figure 2 in Ms Pfluger's evidence under this submission number, only a very small area in the southern corner of 86 Sheffield Street falls within the coastal environment overlay. Ms Pfluger considers it is appropriate to remove this area as it appears to be a mapping refinement as the area that was intended to be captured under the coastal environment overlay extends to the south-east of the property. I accept Ms Pfluger's advice and therefore recommend that this submission is accepted.

**Conclusions and recommendations**

8.37.8 I recommend that the submission from Forest and Bird [156.4] is rejected.

8.37.9 I recommend that the submission from Paul Smith [204.1] is accepted.

8.37.10 Amend the planning maps to remove the coastal environment overlay on the 86 Sheffield Street.

8.37.11 In terms of a s32AA assessment, as this is a very small mapping change I consider that the original s32 still applies.

**8.38 Coastal Environment – CE Coastal Erosion Overlay**

8.38.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME | SUBMISSION POINT NUMBER(S) |
|----------------|----------------------------|
| ECan           | 183.133                    |
| PrimePort      | 175.67FS                   |

**Submissions**

8.38.2 ECan [183.133] considers, that the Coastal Erosion Overlay is based on the Jacobs future shoreline modelling, but because Caroline Bay and South Beach are both accreting, the erosion overlay does not exist (South Beach) or is well beyond the current shoreline (Caroline Bay). Therefore, ECan considers that the potential storm erosion/short term erosion which is still a hazard on these beaches is not represented. ECan seeks to amend the overlay by moving the overlay landward at Caroline Bay to include short term storm demand and including a coastal erosion overlay at South Beach to include short term storm demand. ECan notes that it can assist in determining appropriate positions for the requested mapping change.

8.38.3 In a further submission PrimePort 175.67FS opposed ECan's submission as the extent of the overlay changes was not known and could adversely affect Port operations.

**Analysis**

8.38.4 ECan has provided the GIS files to the Council with the information alluded to in their submission, together with background information to support the revised layer. I understand that the coast at Caroline Bay and at South Beach between the Port breakwater and Patiti Point has been historically accreting which means the projected shorelines are seaward of the current shoreline and therefore do not reflect short term erosion that can occur during coastal storms. Accretion is likely to continue over the next 100 years at Caroline Bay while at South Beach accretion will continue to a point where it "fills up" against the Port breakwater.



8.38.5 The requested amended coastal erosion line is shown in Figure 3 below. For Caroline Bay, ECan has incorporated the entire width of the dune system which is actively being shaped by coastal processes. The location of the new overlay also recognises the importance of maintaining these dunes as a natural buffer to coastal hazards. For South Beach, ECan has followed the path of the haul road/path along the length of the beach which generally corresponds with the landward extent of debris lines (e.g. driftwood) of previous coastal storms. The presence of a debris line indicates active storm wave runup processes. This is also generally where the coastal vegetation characteristics give way to bare ground or landscaped features.

Figure 3 – Recommended Coastal Erosion Line

### Recommended amendment to Proposed Timaru District Plan Coastal Erosion Overlay



8.38.6 In his evidence under this submission point, Mr Bosserelle agrees with ECan's proposed amended Coastal Erosion Overlay. In his evidence (paragraph 30) Mr Todd also agrees with the amended overlays and supports ECan's [183.133] submission. Given that the location of the recommended erosion overlay is generally within the area of the beach and dune system, and noting the clarity of ECan's submission on this matter, I do not consider any person would be prejudiced from introducing this change. I also note that Primeport was a further submitter on this submission and has the ability to comment further through evidence.

### **Conclusions and recommendations**

8.38.7 I recommend that the submission from ECan [183.133] is accepted.

8.38.8 Amend the coastal erosion layer as per Figure 3.

8.38.9 In terms of a s32AA assessment, as this is a small mapping change which corrects a mapping omission in an area clearly affected by coastal hazards I consider that the original s32 still applies.

### **8.39 Coastal Environment – CE Coastal High Natural Character Areas overlay**

8.39.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME    | SUBMISSION POINT NUMBER(S) |
|-------------------|----------------------------|
| Federated Farmers | 182.170                    |
| Fenlea Farms      | 171.17                     |

### **Submissions**

8.39.2 Two submissions sought to delete this overlay while one submitter supported it.

8.39.3 Federated Farmers [182.170] considers it is important that the PDP provides for everyday agricultural activities to occur in the coastal environment and therefore considers it is appropriate to delete areas of HNC and references to this area. The submitter considers that without the HNC layer, the District Plan still meets the Council's obligations under the NZCPS.

8.39.4 Fenlea Farms [171.17] seeks to delete the Coastal HNC Area Overlay off their site at 158 Prattley Road.

### **Analysis**

8.39.5 In response to the Federated Farmers [182.170] submission, Ms Pfluger (under submission [182.169]) states that under NZCPS Policy 1 the Council has an obligation to identify the extent of the coastal environment and to "assess the natural character of the coastal environment by mapping or otherwise identifying at least areas of high natural character"

(NZCPS 13(1)(c)). Councils also have an obligation to identify ONC areas to satisfy Policy 13(1)(a). The Council has undertaken this work as set out in the 2020 Landscape and Coastal Study. Given this is a requirement under the NZCPS, Ms Pfluger does not think it is open to the Council to delete these areas from the PDP, unless they do not qualify as HNC based on evidence. I note that no evidence challenging the HNC is included as part of the submission. I therefore recommend that this submission is rejected.

- 8.39.6 Regarding Fenlea Farms [171.17], in her assessment of this submission Ms Pfluger identifies that the HNC area is mostly limited to waterbodies and their margins. She considers that the waterbodies on the submitter's property appear to surround some grazed land (approx. 500m x 150m) which is currently included in the HNC overlay and that since the natural character of this land may be lower than on the margins of the waterbodies, it could be considered appropriate to remove this area from the HNC overlay if evidence is provided to support this. In the absence of any evidence / photos, the only change Ms Pfluger recommends to the HNC area is the exclusion of the bridge near the boundary of the northern arm (see yellow line below in Figure 3) which represents a man-made modification that has likely changed the natural processes in this area.

Figure 3 – 158 Pratley Road



- 8.39.7 I accept Ms Pfluger's advice on this matter and recommend that the area north of the yellow bridge is excluded from the overlay. I note that should adequate evidence be provided, other HNC overlay areas could be removed from this site. Accordingly, I recommend that this submission is accepted in part.

#### **Conclusion and recommendations**

- 8.39.8 I recommend that the submission from Federated Farmers [182.170] is rejected.
- 8.39.9 I recommend that the submission from Fenlea Farms [171.17] is accepted in part.
- 8.39.10 Amend the HNC overlay on 158 Pratley Road as set out in Figure 3.



8.39.11 As this is a very small mapping change I consider the original s32 assessment continues to apply.

#### 8.40 Coastal Environment – Sea water inundation overlay

8.40.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME           | SUBMISSION POINT NUMBER(S) |
|--------------------------|----------------------------|
| Port Bryson              | 104.2                      |
| Silver Fern Farms        | 172.158                    |
| Hilton Development Trust | 205.2                      |
| Fenlea Farms             | 171.15                     |

#### **Submissions**

8.40.2 Five submissions sought to remove this overlay from specified properties.<sup>66</sup>

8.40.3 Port Bryson [104.2] sought to remove the Sea Water Inundation Overlay from 16A, 16D, 16E Hilton Highway as the PDP does not provide evidence as to how the risk of sea water inundation has been calculated and the most recent modelling indicates that sea levels will have less than minor change over the next 50 and 100 year time frames.

8.40.4 Silver Fern Farms [172.158] sought to remove the Sea Water Inundation Overlay off 111 The Avenue, Pareora, or amend the provisions to provide for activities at this address in a similar fashion to the provision made for industry in defined “urban areas”. The submitter considers that there is no meaningful recognition in the s.32 evaluation of the implications of restricting the significant industrial development within the coastal environment at the submitter’s site (and other sites in and out of urban areas). In addition, the submitter considers there has been no consideration of providing for established industry outside of Timaru in a similar fashion to the approach taken towards existing activities within defined urban areas.

8.40.5 Hilton Development Trust [205.2] seeks to remove the Sea Water Inundation Overlay from 18 Hilton Highway. The submitter considers that the proposed District Plan does not offer any evidence as to how the sea water inundation risk has been calculated and that the most recent modelling includes that sea levels will have less than minor change in the next 50 and 100 year time frames.

8.40.6 Fenlea Farms [171.15] seeks to delete the Sea Water inundation Overlay from 158 Prattley Road, as per their supplied map copied below in Figure 4 and amend the Planning Maps.

*Figure 4 - 158 Prattley Road, Timaru*

<sup>66</sup> The Waipopo Huts Trust [189.6] submission in opposition has been considered separately in the Waipopo Huts section.

**Analysis**

- 8.40.7 Regarding the Port Bryson [104.2] submission, in his evidence in response to this submission, Mr Bosserelle considers that the Sea Water Inundation Overlay has been built based on simulation of the flooding caused by a 1%AEP (100-year ARI) event with 1.2m SLR. These properties are shown to be affected by sea water inundation in the future and therefore Mr Bosserelle does not recommend they are removed from the Sea Water Inundation Overlay. I accept Mr Bosserelle's advice. Accordingly, I recommend that this submission is rejected.
- 8.40.8 Regarding the Hilton Development Trust [205.2] submission, in his evidence on this submission Mr Bosserelle states that the property is affected by coastal inundation for a 1% AEP with 1.2m SLR. While it is only partially affected he does not recommend that the property is removed from the overlay. I accept Mr Bosserelle's advice. Accordingly, I recommend that this submission is rejected.
- 8.40.9 Regarding the Fenlea Farms [171.15] submission, in his evidence on this submission, Mr Bosserelle states that 158 Prattley Road was previously partially inundated in 2001, and the area over the south and east part of the property is estimated to be inundated in a 1%AEP storm at present day and in almost its entirety in a 1% AEP storm with a 0.4m SLR. In light of such significant hazards he does not recommend that the 158 Prattley Road property be removed from the Sea Water Inundation Overlay. I accept Mr Bosserelle's advice. Accordingly, I recommend that this submission is rejected.
- 8.40.10 Regarding the Silver Fern Farms [172.158] submission, in his evidence on this submission Mr Bosserelle does not support removing it from the overlay. I accept his advice. I note that Mr Bosserelle states the property sits on the edge of the Sea Water Inundation Overlay and could meet the requirements stated in CE-R4.4. In response to submissions (for example Rangitata Dairies [44.2] and various submissions from Waipopo Huts Trust and Te Kotare Trust), I have recommended that a separate natural hazard definition of "Urban Zoned Areas" is developed which would include the GIZ zone. This recommendation would meet the submitter's alternative relief in full. Accordingly, I recommend that this submission is accepted.

**Conclusions and recommendations**

8.40.11 I recommend that the submission from Silver Fern Farms [172.158] is accepted.

8.40.12 I recommend that the submissions from Port Bryson [104.2], Hilton Development Trust [205.2] and Fenlea Farms [171.15] are rejected.

8.40.13 No changes are recommended and therefore no s32AA assessment is required.

**8.41 Coastal Environment – CE SCHED14 - Schedule of attributes - qualities of coastal high natural character areas**

8.41.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME         | SUBMISSION POINT NUMBER(S) |
|------------------------|----------------------------|
| Forest and Bird        | 156.186                    |
| Te Rūnanga o Ngāi Tahu | 185.41                     |

**Submissions**

8.41.2 Two submissions sought amendments to this schedule, while one submission supported it.

8.41.3 Forest and Bird [156.186] support the inclusion of all coastal high natural character areas and seek to add more coastal high natural character areas as they become known to the schedule.

8.41.4 Te Rūnanga o Ngāi Tahu [185.41] supports the schedule, however requests minor changes to improve clarity and ensure that all cultural values are given the appropriate weight. They seek to amend SCHED14 so the attributes / values of these areas cross reference the SASM references to ensure that the cultural values are fully recognised and protected as required by case law for landscape assessments.

**Analysis**

8.41.5 Regarding the Forest and Bird [156.186] submission, as set out in Ms Pfluger's evidence under this submission point, the Landscape and Coastal Study has undertaken a comprehensive assessment of the natural character values within the coastal environment of the District. Based on this assessment all areas that would currently qualify as HNC (i.e. areas in the coastal environment that display high natural character) have been identified and included in SCHED14. If any specific omissions of areas that contain high natural character values have been identified by the submitter, additional evidence regarding the natural character of these additional areas would be required to assess the values under the same methodology that was applied to the remainder of the District's coastal environment. In the absence of this additional evidence I recommend that this submission is rejected.

8.41.6 Regarding the submission from Te Rūnanga o Ngāi Tahu [185.41], while I accept that the coastal environment is important for Kati Huripa, I note that the schedule already refers to cultural matters (e.g. the reference to the Rangitata River having special importance for Ngāi Tahu and the Ōrakipaoa wetland has been identified as a Ngāi Tahu statutory acknowledgement area). As the SASM provisions (and other provisions such as the EIB chapter) apply in addition to the coastal environment provisions, I do not consider it necessary to cross reference to these and I consider it clearer that that this schedule remains focussed on the matters identified, as these link back to the technical evidence. I therefore recommend that this submission is rejected.

**Conclusions and recommendations**

8.41.7 I recommend that the submissions from Forest and Bird [156.186] and Te Rūnanga o Ngāi Tahu [185.41] are rejected.

8.41.8 No changes are recommended and therefore no s32AA assessment is required.

## 8.42 Coastal Environment – Infrastructure within the CE not already covered

8.42.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME  | SUBMISSION POINT NUMBER(S) |
|-----------------|----------------------------|
| Forest and Bird | 156.73, 156.74             |

### Submissions

8.42.2 Forest and Bird made a number of submissions on the EI and TRAN chapters seeking to include restrictions on infrastructure in the CE ([156.63, 156.64, 156.65, 156.66, 156.67, 156.69, 156.70, 156.71, 156.72, 156.73, 156.74]). In my EI, TRAN and DWP s42A report (Hearing Stream E), I recommended that these submissions be rejected as the CE Chapter (and all other District Wide Chapters) also applied to activities covered in the EI and TRAN provisions and there were infrastructure-specific provisions within the CE Chapter (CE-R7 and CE-R8 for RSI and CE-R4 for buildings and structures which would cover other infrastructure, as well as CE-R5 for earthworks). As such, there was no need to add in infrastructure restrictions into the EI and TRAN provisions.

### Analysis

8.42.3 I have assessed these EI / TRAN Chapter submissions in my assessment of CE-R4, CE-R5, CE-R7 and CE-R8 with reference to advice from Ms Pfluger. However, I consider that the following submissions need additional assessment in the CE Chapter as while RSI is covered by CE-R7 and CE-R8, I consider these particular activities would benefit from tailored rules:

- EI-R32 the installation, operation, maintenance, upgrading and removal of a solar cell or any array of solar cells for a small-scale renewable electricity generation Forest and Bird [156.73]; and
- EI-R33 the installation, operation, maintenance, upgrading and removal of a small-scale wind turbine/s for small-scale renewable electricity generation Forest and Bird [156.74].

8.42.4 Ms Pfluger has assessed these submissions under the respective submission numbers. In summary, her advice is as follows:

- EI-R32 (the installation, operation, maintenance, upgrading and removal of a solar cells) - maintenance and removal, as well as minor upgrades, are likely to have no adverse effects on the natural character of the coastal environment due to the existing level of modification associated with existing solar cells / arrays. Permitted activity status is appropriate for these activities. In addition, Ms Pfluger considers that installation of solar cells on and immediately adjacent to existing buildings would cluster new modifications in areas that already contain structures which would lead to minimal additional effects. For the installation of new solar arrays in the coastal environment, the landscape and natural character effects would depend on the exact location, design



and scale of the proposal. This would, in her view, be appropriately assessed through a resource consent process with RDIS activity status, taking these effects into account. In the more natural HNCs that are more sensitive to change, electricity generation (solar and wind of any scale) should be avoided, unless it is associated with existing buildings/ structures;

- EI-R33 (the installation, operation, maintenance, upgrading and removal of a small-scale wind turbine/s) - HNC areas are mostly confined to a narrow strip of coastal land and river mouths/ lagoons where natural processes predominate which makes them unsuitable for energy generation infrastructure. However, other parts of the coastal environment that are more modified, such as those within and near settled areas, may be able to absorb this change. Given the low or moderate natural character of these parts of the coastal environment, Ms Pfluger considers there may be potential to locate small-scale energy generation infrastructure if effects on natural character, including those that may impact adjacent HNC areas, are managed adequately. The identified HNC areas are unlikely to be suitable for installation of wind turbines as this would detract from their natural character values. However, parts of Timaru township and adjacent commercial/ industrial areas also fall within the coastal environment. These areas have not been identified as HNC areas and these areas may provide opportunities for small-scale electricity generation. It is, however, acknowledged that the height of wind turbines means that their landscape/ visual/ natural character effects are often perceived well beyond the site they are located in. This should be taken into account through a consenting process.

8.42.5 I generally accept Ms Pfluger's advice. I consider that solar and wind renewable electricity generation activities can be appropriately managed, and therefore provided for, in existing urban areas, but can have adverse effects on other parts of the coastal environment and HNC areas. Solar arrays are more acceptable on existing buildings than as standalone arrays, while for wind turbines their scale and visibility from high natural character areas needs to be managed. I consider that these activities are not adequately addressed by the existing CE chapter rules for RSI (CE-R7 and CE-R8) nor the earthworks rule (CE-R5). On the basis of Ms Pfluger's advice I recommend that these Forest and Bird [156.73], [156.74] submissions are accepted in part, and additions are made to the CE chapter to expressly cover solar and wind electricity generation as set out below. I note that these proposed rules may benefit from further refinement through the hearing process in response to provided evidence.

### ***Conclusions and recommendations***

8.42.6 I recommend that the Forest and Bird [156.73], [156.74] submissions are accepted in part.

8.42.7 Add the following two new rules to the CE chapter:

#### **CE-RZ Upgrading of existing, or installation of new solar cells or an array of solar cells**

##### **1 Coastal Environment**

##### **Activity Status: Permitted**

**Where:**

**PER-1**

The activity is located on a building; and

**PER-2**

The activity is within an urban zoned area; and

**PER-3**

CE-S1 and CE-S3 are complied with.

**Activity status when compliance not achieved with PER-1 or PER-3: Restricted Discretionary**

**Matters of discretion are restricted to:**

Any adverse impacts on the identified matters contained in CE-P5, CE-P6, CE-P7, CE-P8, CE-P9, and CE-P10.

**Activity status when compliance not achieved with PER-2: Restricted Discretionary**

**2 High Natural Character Area Overlay**

**Activity status: Discretionary**

**Where:**

**DIS-1**

The activity is located on a building; and

**DIS-2**

CE-S1 and CE-S3 are complied with.

**Activity status when compliance not achieved: Non-Complying**

**CE-RA Upgrading an existing wind turbine or installation of a new wind turbine, for electricity generation**

**1 Coastal Environment**

**Activity status: Permitted**

**Where:**

**PER-1**

The activity meets the definition of Small Scale Renewable Electricity Generation; and

**PER-2**

The activity is located within an urban zoned area; and

**PER-3**

The activity is not visible from a High Natural Character area; and

**PER-4**

CE-S1 and CE-S3 are complied with.

**Activity status when compliance not achieved with PER-1 or PER-2: Discretionary**

**Activity status when compliance not achieved with PER-3 or PER-4: Restricted  
Discretionary**

**Matters of discretion are restricted to:**

Any adverse impacts on the identified matters contained in CE-P5, CE-P6, CE-P7, CE-P8, CE-P9 and CE-P10.

**2 High Natural Character Area Overlay**

**Activity status: Discretionary**

**Where:**

**DIS-1**

CE-S1 and CE-S3 are complied with.

Activity status when compliance not achieved with DIS-1: Non-Complying

- 8.42.8 In terms of s32AA assessment, I consider these changes provide a more targeted approach for solar arrays and wind turbines in the varied coastal environment, improving the efficiency of the approach for these activities whilst still achieving CE-O1, CE-O2, CE-O6 and CE-O8. Accordingly, I consider the approach is the most appropriate for achieving the purpose of the Act.

## **9. Drinking Water Protection**

### **9.1 DWP Overview**

- 9.1.1 In this section I have addressed the sections in the following order: Definitions; General and Introduction; Objectives; Policies; Rules; Planning Maps / Overlays.

## 9.2 DWP – General and DWP-P2

9.2.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME         | SUBMISSION POINT NUMBER(S)  |
|------------------------|-----------------------------|
| TDC                    | 42.41 and 42.42 (on DWP-P2) |
| Maze Pastures          | 41.1                        |
| Road Metals            | 169.1FS                     |
| Fulton Hogan           | 170.1FS                     |
| Silver Fern Farms      | 172.26FS                    |
| Te Rūnanga o Ngāi Tahu | 185.5FS                     |
| Hort NZ                | 245.4FS                     |
| NZ Pork                | 247.1FS                     |
| Maze Pastures          | 41.1FS                      |
| Milward Finlay Lobb    | 60.13FS                     |
| Dairy Holdings         | 89.1FS                      |
| Port Blakely           | 94.1FS                      |

### Submissions

9.2.2 TDC [42.41] is concerned that these rules address a limited (incomplete) set of land use activities that could pose a risk to drinking water supplies, including supply sources. The submitter considers the rules should include controls on a greater range of activities in the Drinking Water Protection Area Overlay. TDC seeks to amend the rules or provide additional rules that create a non-complying activity status, within DWPAs, for the following activities:

- Hazardous facilities;
- Earthworks;
- Composting facilities;
- Buildings that require septic/sewage facilities;
- Offal pits;
- Silage storage;
- Vegetation clearance;
- Exotic tree planting/plantation forestry;
- Intensive primary production.

9.2.3 In their submission [42.42], TDC seeks to include the above list of activities in DWP-P2 and amend the policy to reflect a non-complying activity status and activities to be avoided within Drinking Water Protection Areas.

9.2.4 Maze Pastures [41.1] supports that there is no restriction on rural land use or rural industry in the Drinking Water Protection area overlay and seeks to retain this.

**Analysis**

9.2.5 I note that there are a number of further submitters in opposition to the TDC submissions. Issues raised include:

- The earthworks provisions are onerous and should include a threshold for the depth or volume so only activities are covered that actually represent a risk to groundwater (Road Metals [169.1FS] and Fulton Hogan [170.1FS]);
- There is no s32 justification for the approach and a non-complying activity status is a substantial burden (Silver Fern Farms [172.26FS]);
- A non-complying status is a significant burden and the NES-DW only applies to Regional Council functions (Te Rūnanga o Ngāi Tahu [185.5FS]);
- A non-complying consent would be required for horticulture such as planting trees and this is not effects based (Hort NZ [245.4FS]);
- No analysis is provided to support the assertion that these activities pose a risk to drinking water or that the risk cannot be avoided, remedied or mitigated, nor is there any s32 justification (NZ Pork [247.1FS]);
- The drinking water protection rules should be consistent with the LWRP (Maze Pastures [41.1FS] and Milward Finlay Lobb [60.13FS]);
- It is not appropriate for existing activities or their expansion to be automatically classified as a non-complying activity in a DWPA Overlay (Dairy Holdings [89.1FS]);
- The PDP should not impose restrictions greater than the NES-PF unless there is jurisdiction and justification (Port Blakely [94.1FS]).

9.2.6 In his evidence (**Appendix 6**), Mr Hall states that the provision of potable drinking water supplies to communities is a key role and responsibility for the Council (paragraph 7). Under the Water Services Act 2021 (WSA) the Council must ensure that the drinking water supplied is safe (section 21(1)) and complies with the drinking water standards (section 22(1)). The requirements around the provision of these supplies are heavily regulated and the Council must continually adapt to ensure the water supplies provided meet relevant regulations and standards. Mr Hall states that the provision of reticulated community networks needs to be carefully managed, to ensure the safe and efficient delivery of this service district wide (paragraph 8). Accordingly, there needs to be careful management of the abstraction, treatment and delivery of water to the necessary standard for community supplies.

9.2.7 Mr Hall notes that if a water supply is compromised for any reason, the Council is unable to simply provide an alternative and that there are often significant constraints applied to the water supply, such as Boil Water Notices or the carting of tankered or bottled water to a site, and in most instances the solutions involve costly changes to the abstraction or treatment which takes a considerable period of time to implement (paragraph 9).

- 9.2.8 Mr Hall also explains the progression of a drinking water supply from a domestic self-supplier to supplying more than one property, which then becomes a Very Small Community, or a Self-supplied Building, noting that this is not uncommon and also needs to be considered in the management of Drinking Water Protection Areas (DWPA) (paragraph 11).
- 9.2.9 Mr Hall states that even when Council is not providing an individual property with a water supply (such as when it is supplied by a private bore), when something goes wrong, there is often an expectation that the Council will provide a solution to individual landowners (paragraph 12), Mr Hall provides examples of this in paragraphs 13 and 14. To maintain an efficient network, Mr Hall considers that community water supplies cannot expand in an unsustainable or cost prohibitive way to accommodate compromised private supplies. For these reasons Mr Hall considers that where risks to water supplies exist it is appropriate that the Council seeks to implement controls to manage those risks and that this applies to both community drinking water supply and private bores (paragraph 12). He therefore recommends that submissions seeking to remove private bores from the application of the PDP rules are rejected.
- 9.2.10 Mr Hall also explores the overlapping roles of regional and territorial councils (paragraphs 23 to 30), including identified shortcomings in the LWRP and concludes that the Council is entitled to also control land use activities that may affect drinking water quality (paragraph 30). Mr Hall also provides examples of land use activities affecting or potentially affecting water quality (paragraphs 31 to 41). Finally, Mr Hall provides advice on the TDC submission seeking to include additional activities as non-complying within the vicinity of community and private water supply bores. Mr Hall agrees with Mr Thomas's evidence (contained at **Appendix 7**), that the listed activities represent a generally appropriate approach to managing potential risk to drinking water supplies (paragraph 49).
- 9.2.11 I accept Mr Hall's advice on these matters. I consider that if Regional Council / District Council duplication is sufficiently justified then it is acceptable, and that Mr Hall has provided evidence demonstrating why it is justified in principle for the Council to manage land use activities for drinking water protection.
- 9.2.12 In his evidence (contained at **Appendix 7**), Mr Thomas explains the background to the DWPA, including their legislative support, relevant guidelines and what they are trying to achieve (section 5). In section 6 Mr Thomas comments on the management of activities in the DWPA, stating that typically the activities that may be of concern within a DWPA are those that involve some form of contaminated discharge that could enter groundwater or where the activity may remove some of the strata overlying the pumped aquifer, which would remove some of the protection from surface influences (paragraph 6.3). One approach is to manage the discharge (i.e. the pathway between the source and the receptor) itself, but the most robust approach is to remove the source or manage the source (paragraph 6.4).
- 9.2.13 Mr Thomas has also considered the approach of using a non-complying activity status for the listed activities included in the TDC submissions (section 7). Mr Thomas states (paragraph

7.4) that the list of activities is relatively wide ranging, and in his opinion the approach of specifying activities within a DWPA where a consent is required is consistent with an approach of managing the source of a contaminant risk to a supply. Mr Thomas assesses each of the activities proposed to be added in the TDC submission and recommends some refinement to these to provide greater clarity and better target the rule to the identified issues (section 9).

- 9.2.14 I accept the advice of Mr Hall and Mr Thomas that the Council has the ability to manage drinking water quality under the PDP and that it is appropriate to do so. I also accept that there is sufficient justification to manage the activities listed in the TDC submissions [42.41 and 42.42] once refined on the basis of Mr Thomas section 9 evidence.
- 9.2.15 I am mindful of the various further submissions questioning the justification for the proposed new rule. Based on the s32 justification for intervention in drinking water protection matters and the evidence of Mr Hall and Mr Thomas, on balance I consider that there is sufficient justification to include provisions relating to Community Drinking Water Supplies in the PDP. I also consider that the refined rules and definitions (as set out in Mr Thomas's evidence) more appropriately target the provisions to the identified risks, and in doing so, respond to the further submissions on requested earthworks and tree planting rules. Accordingly, I recommend that the TDC [42.41] submission is accepted in part.
- 9.2.16 In terms of TDC's specific submission on DWP-P2, while I accept that additional activities should be included in the chapter, I do not favour including a list of activities in DWP-P2, noting that these can instead be included in the rules. However, based on Mr Thomas's advice, I recommend amending DWP-P2 to be clearer that the protection of drinking water supplies is achieved by avoiding activities that limit the ability to provide safe drinking water. In my opinion, use of the term 'avoiding' better aligns with the PDP's existing non-complying activity status for activities such as industrial and with TDC's proposed additional activities. I also recommend removing the reference to 'potential effects' as this is extremely broad. Accordingly, I recommend that the TDC [42.42] submission is accepted in part.
- 9.2.17 Regarding the Maze Pastures [41.1] submission, as the chapter does not restrict rural land uses per se, but does seek to restrict rural industry under DWP-R5 which I am recommending remains, I recommend that this submission is accepted in part.
- 9.2.18 In terms of refining the list of activities in the TDC [42.41] submission occurring in the DWP Overlay, Mr Thomas has set out recommended refinements in his evidence (section 9) as summarised below:
- Industrial activities – exclude existing industrial activities within industrial zoned land (addressed under DWP-R5);
  - Earthworks – limit the application of the rule to bores within the DWPA that are less than 50m deep and to earthworks that is more than 250m<sup>2</sup> and where there is less than 1 m of separation between the base of the earthworks and the highest seasonal groundwater level;

- Composting facilities – limit the application of the rule to composting facilities that are buildings, grounds and equipment used for the receiving of organic material, manufacture of compost, storage and disposal of more than 20 m<sup>3</sup> of composted material, but do not include domestic composting activities, or where compost is stored on an impervious surface and stormwater runoff is appropriately collected and treated;
- Buildings that require septic sewerage facilities – change this activity to a restricted discretionary activity (from non-complying);
- Offal pits – limit the application of the rule to a simple pit or trench dug into the ground for disposing of animal parts or an animal which has died or been killed on the farm, but which does not include burial of a single animal provided this complies with the following conditions:
  - a. The dead animal results from agricultural production on the same property; and
  - b. The dead animal is buried in a pit which does not contain any water, and is immediately and completely covered by sufficient soil or plant material so as to prevent discharge of odour to air, or other nuisance; and
  - c. The burial location is not within any area or zone identified in a proposed or operative district plan for residential, commercial or industrial purposes; and
  - d. The burial site is at least 50m from any:
    - i. surface water body; or
    - ii. bore used for water abstraction; or
    - iii. property boundary.
- silage storage – limit the application of the rule to silage storage of more than 20 m<sup>3</sup> where contaminants are able to leach into the ground, and exclude wrapped silage and storage of silage on an impervious surface where stormwater runoff is appropriately collected and treated;
- Vegetation clearance – limit the application of the rule to the removal of vegetation by physical, mechanical, chemical or other means but exclude:
  - a. cultivation for the establishment of, or harvesting of, crops or pasture;
  - b. clearance for the establishment or maintenance of utilities or structures;
  - c. removal of a species listed in the Biosecurity NZ Register of Unwanted Organisms or the Canterbury Pest Management Strategy;
  - d. clearance for the purposes of maintaining existing fence lines, vehicle tracks, firebreaks, drains, ponds, dams or crossings;
  - e. domestic gardening and the maintenance of amenity planting;
  - f. clearance by, or on behalf of, the Canterbury Regional Council for the purposes of maintaining the flood-carrying capacity of a river;
  - g. exotic vegetation clearance by the Department of Conservation or Land Information New Zealand for the purposes of pest management and maintenance of public access; and
  - h. vegetation clearance by chemical means where this is more than 50m from a drinking water supply bore.
- Exotic tree planting / plantation forestry – exclude this activity from the chapter

9.2.19 I accept Mr Thomas's advice on which activities to include in the DWP chapter and the recommended refinements.



**Conclusions and Recommendations**

9.2.20 I recommend that the submissions from TDC [42.41 and 42.42] and Maze Pastures [41.1] are accepted in part.

9.2.21 Amend DWP-P2 as follows:

**Protect drinking water supplies**

Protect drinking water supplies ~~from~~ by avoiding land use and subdivision activities that ~~have the potential to~~ negatively affect their water quality.

9.2.22 Add new rules to the DWP Chapter (DWP-RX Earthworks and DWP-R6 various listed activities) to respond to the recommended amendments above. Given the complexity of the rules this is best considered in situ as set out in **Appendix 1**.

9.2.23 Include the following definitions:

**Composting facilities**

For the purposes of the DWP Chapter, means: buildings, grounds and equipment used for the receiving of organic material, manufacture of compost, storage and disposal of more than 20 m<sup>3</sup> of composted material, but does not include domestic composting activities or where compost is stored on an impervious surface and stormwater runoff is appropriately collected and treated.

**Offal pits**

For the purposes of the DWP Chapter, means: a simple pit or trench, dug into the ground for disposing of animal parts or an animal which has died or been killed on the farm, but does not include burial of a single animal provided this complies with the following conditions:

- a. The dead animal results from agricultural production on the same property; and
- b. The dead animal is buried in a pit which does not contain any water, and is immediately and completely covered by sufficient soil or plant material so as to prevent discharge of odour to air, or other nuisance; and
- c. The burial location is not within any area or zone identified in a proposed or operative district plan for residential, commercial or industrial purposes; and
- d. The burial site is at least 50 m from any:
  - i. surface water body; or
  - ii. bore used for water abstraction; or
  - iii. property boundary.

**Silage storage**

For the purposes of the DWP Chapter, means: silage storage of more than 20 m<sup>3</sup> where contaminants are able to leach into the ground, and excludes wrapped silage and storage of silage on an impervious surface where stormwater runoff is appropriately collected and treated.

**Vegetation clearance**

For the purposes of the DWP Chapter, means: the removal of vegetation by physical, mechanical, chemical or other means but excludes:

- a. cultivation for the establishment of, or harvesting of, crops or pasture;
- b. clearance for the establishment or maintenance of utilities or structures;

- c. removal of a species listed in the Biosecurity NZ Register of Unwanted Organisms or the Canterbury Pest Management Strategy;
- d. clearance for the purposes of maintaining existing fence lines, vehicle tracks, firebreaks, drains, ponds, dams or crossings;
- e. domestic gardening and the maintenance of amenity planting;
- f. clearance by, or on behalf of, the Canterbury Regional Council for the purposes of maintaining the flood-carrying capacity of a river;
- g. exotic vegetation clearance by the Department of Conservation or Land Information New Zealand for the purposes of pest management and maintenance of public access; and
- h. vegetation clearance by chemical means where this is more than 50m from a drinking water supply bore.

9.2.24 In terms of a s32AA assessment, I consider the recommended amendment to DWP-P2 simply clarifies how the drinking water is to be 'protected', rather than changing the focus or approach of the policy. Accordingly, I consider the original s32 continues to be applicable. With regard to the additional activities and supporting definitions, I consider these help protect drinking water supplies and therefore achieve DWP-O1. Based on the technical evidence I consider the approach is justified under an efficiency and effectiveness assessment and appropriately responds to the level of uncertainty over adverse effects arising from different activities. Overall, I consider the amendments are the most appropriate for achieving DWP-O1 and the purpose of the Act.

### 9.3 DWP Chapter – DWP-R2 - Subdivision not connected to a community sewage system

9.3.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME      | SUBMISSION POINT NUMBER(S)                     |
|---------------------|--|
| TDC                 | 42.81  |
| Milward Finlay Lobb | 60.29  |
| Bruce Speirs        | 66.29 and 66.54                                |
| Rooney, et al       | 174.61, 191.61, 249.61, 250.61, 251.61, 252.61 |
| Waipopo Huts        | 189.45   |

#### Submissions

9.3.2 TDC [42.81] considers that there is an inconsistency between the rule heading and the associated RDIS-1. The heading refers to a 'community sewage system', while RDIS-1 refers to a 'community wastewater treatment system'. The submitter considers this different terminology is confusing for plan users and should be changed to be consistent within the rule. Also, the repetition between the rule heading and RDIS-1 should be deleted. The submitter seeks an amendment to the heading of DWP-R2 as follows:

*DWP-R2 Subdivision not connected to a community ~~sewage wastewater treatment~~ system AND delete ~~Where: RDIS-1 The subdivision is connected to a community wastewater treatment system~~*

- 9.3.3 Likewise, Milward Finlay Lobb [60.29] and Bruce Speirs [66.29] consider that there is inconsistency in the wording of DWP-R2 and RDIS-1. The submitters seek an amendment as follows:

***Activity status: Restricted Discretionary Where: RDIS-1***

*The subdivision is not connected to a community wastewater treatment system. [...]*

- 9.3.4 Bruce Speirs [66.54] considers that when subdivision is given considerable prominence and significance in resource management, it makes sense to have all rules involving subdivision in one place in the plan. The submitter seeks to move DWP-R2 Subdivision not connected to a community sewage system and associated objectives and policies to the Subdivision Chapter of the PDP.
- 9.3.5 Rooney, et al [174.61, 191.61, 249.61, 250.61, 251.61, 252.61] oppose DWP-R2 applying to all subdivisions, stating that DWP-R2 should not apply to boundary adjustment subdivisions or subdivisions not intended for use where a wastewater disposal is required.
- 9.3.6 Waipopo Huts [189.45] opposes DWP-R2 and seeks the recognition of mana whenua interests in the occupation of ancestral land and formation of a thriving, sustainable and self-sufficient Māori community on Māori Trust land. The submitter seeks an amendment to recognise the special case of the submitter's 36 properties at Waipopo Huts and allow for subdivision of their lands as a controlled activity.

### ***Analysis***

- 9.3.7 Regarding the TDC [42.81] submission, I agree that there is inconsistency in the rule and the RDIS wording in how they refer to community sewage systems. I also consider the rule structure does not work as it does not matter whether RDIS-1 is complied with or not. I recommend that these matters are corrected and accordingly I recommend that this submission is accepted. I note that this resolves the matters identified by Millward Finlay Lobb [60.29] and Bruce Spiers [66.29]. Accordingly, I recommend that their submissions are accepted in part.
- 9.3.8 Regarding the submission from Bruce Spiers [66.54], I consider this is a style choice. My preference is that this rule is relocated to the Subdivision Chapter, and I therefore recommend that this submission is accepted.
- 9.3.9 Regarding the Rooney, et al submissions [174.61, 191.61, 249.61, 250.61, 251.61, 252.61], whilst boundary adjustment could result in result in a new activity establishing within the DWPA, I consider that this is low risk and note that the activity rules already capture the key activities likely to cause adverse effects. Accordingly, I recommend that this submission is accepted.

- 9.3.10 Regarding the Waipopo Huts submission [189.45], whilst I appreciate the concerns raised, drinking water protection is a life safety matter which affects all those who take potable water from the affected bore(s). I do not consider Waipopo Huts concerns should override these health risks. Accordingly, I recommend that this submission is rejected.

**Conclusion and recommendations**

- 9.3.11 I recommend that the submissions from TDC [42.81], Bruce Speirs [66.54] and Rooney, et al [174.61, 191.61, 249.61, 250.61, 251.61, 252.61] are accepted.
- 9.3.12 I recommend that the submissions from Millward Finlay Lobb [60.29], Bruce Spiers [66.29] are accepted in part.
- 9.3.13 I recommend that the submission from Waipopo Huts Trust [189.45] is rejected.
- 9.3.14 I recommend that DWP-R2 is amended as follows and relocated to the subdivision chapter, along with consequential amendments to tie in with the subdivision chapter:

**DWP-R2 SUB-RX Subdivision not connected to a community sewage wastewater treatment system, except that this shall not apply to boundary adjustments where no additional lots are created**

**DWPA - for Community Drinking Water Supply**

**DWPA - within 50m from a private drinking water supply**

**Activity status: Restricted Discretionary**

**~~Where:~~**

**~~RDIS 1~~**

~~The subdivision is connected to a community wastewater treatment system~~

~~[...]~~

- 9.3.15 In terms of a s32AA assessment, these recommended amendments involve corrections to make the rule work as intended and the exclusion of boundary adjustment subdivisions. I consider the former changes do not require a s32AA assessment. For the boundary adjustment change, I consider this change still achieves the objective but that it is more efficient and effective as I consider increased risk arising from these types of subdivisions is low and therefore, they do not require the same level of management. Accordingly, I consider the recommended amendment is the most appropriate way to achieve DWP-O1 and the purpose of the Act.

**9.4 DWP Chapter - Rules - DWP-R3 Mining or quarrying**

- 9.4.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME | SUBMISSION POINT NUMBER(S) |
|----------------|----------------------------|
| ECan           | 183.142                    |

**Submissions**

- 9.4.2 ECan [183.142] considers clarification is needed to make it clear that gravel extraction within the beds of lakes and rivers is under the jurisdiction of the Regional Council. Mining can include gravel extraction. The submitter seeks an advisory note is added to DWP-R3, to the effect that works in the beds of lakes and rivers are within the jurisdiction of the Regional Council and will require resource consents unless a Regional Plan provides a permitted activity for them.

**Analysis**

- 9.4.3 I agree that ECan has jurisdiction for gravel extraction within the beds of lakes and rivers, however, I note that the Council also has jurisdiction for drinking water matters in these areas. I therefore recommend that this submission is accepted in part to clarify the situation.

**Conclusions and Recommendations**

- 9.4.4 I recommend that the submission from ECan [183.142] is accepted in part.

- 9.4.5 Amend DWP-R3 as follows:

**DWP-R3 Mining or quarrying, including prospecting and exploration**

[...]

Note: works in the beds of lakes and rivers are also within the jurisdiction of the Canterbury Regional Council and may require resource consent from that Council.

- 9.4.6 In terms of a s32AA assessment, this is not required as the amendment simply involves a note stating jurisdictional matters.

**9.5 DWP Chapter - Rules - DWP-R5 Industrial Activities Including Rural Industry**

- 9.5.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME         | SUBMISSION POINT NUMBER(S) |
|------------------------|----------------------------|
| Fonterra               | 165.96                     |
| Silver Fern Farms      | 172.99                     |
| Te Rūnanga o Ngāi Tahu | 185.54                     |

**Submissions**

- 9.5.2 Fonterra [165.96] does not consider it appropriate for existing activities, or the expansion of existing activities, which have had no impact on drinking water supply, to be classified as a non-complying activity. The submitter seeks to delete DWP-R5 Industrial activities including rural industry or alternatively, if this requested relief sought is not granted, exclude the proposed SRIZ from the rule.<sup>67</sup>
- 9.5.3 Silver Fern Farms [172.99] submits that the DWPA maps two DWPA areas on highly modified parts of the submitter's existing Pareora processing site and that there is no analysis presented in the s32 report about the reasons for applying the DWPA overlay to the site. The submitter seeks that the DWPA-mapped areas be deleted, or that if this relief is not granted, the submitter would oppose the non-complying status under this rule, insofar as it applies to the Pareora site (see also its submission [172.155]).
- 9.5.4 Te Rūnanga o Ngāi Tahu [185.54] submits that the purpose of a MPZ is to enable the development of iwi land. However, this overlay restricts the ability to use this land. This is contradictory to the Manawhenua Chapter and is not consistent with rakatirataka. The submitter seeks to amend DWP-R5 Industrial activities so that the non-complying status of Industrial and Rural Industry activities does not apply on Māori Land within the MPZ.

**Analysis**

- 9.5.5 Regarding the Fonterra [165.96] and Silver Fern Farms [172.99] submissions, Mr Thomas (paragraphs 9.6 to 9.9 of his evidence) has assessed the appropriateness of industrial activities requiring a non-complying consent in industrial zones (he also responded to these submissions specifically in paragraphs 8.6 to 8.11). Mr Thomas considers that while not all industrial and rural industrial activities will pose a risk to drinking water supply, some may, particularly where they occur within 50m of a private supply, or within a community drinking water protection zone. However, he considers the requirements for Self-supplied Buildings and Water Suppliers under the Water Services Act 2021 will afford a level of water quality protection to facilities such as those operated by the submitters. Mr Thomas considers it is reasonable that existing Industrial Activities within Industrial Zoned land be exempt from the non-complying activity status and that the non-complying Industrial Activity rule would only apply to new industry proposed to be established within the DWPA [outside of industrial zones]. I accept Mr Thomas evidence, noting that the submitters' sites are zoned or otherwise expressly identified for industrial activities and that these are existing activities. Accordingly, I recommend that these submissions are accepted.
- 9.5.6 Regarding the Te Rūnanga o Ngāi Tahu [185.54] submission, whilst I appreciate the concerns raised, in my opinion drinking water protection is a life safety risk and needs to be managed appropriately and consistently. Noting the evidence of Mr Hall and Mr Thomas, I do not

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<sup>67</sup> The SRIZ is a special rural industrial zone sought by Fonterra.

support a general disapplying of these rules on Māori land. Accordingly, I recommend that this submission is rejected.

### **Conclusions and Recommendations**

9.5.7 I recommend that the submissions from Fonterra [165.96] and Silver Fern Farms [172.99] are accepted.

9.5.8 I recommend that the submission from Te Rūnanga o Ngāi Tahu [185.54] is rejected.

9.5.9 Amend DWP-R5 as follows:

Industrial activities including rural industry which are located outside of an Industrial zone, or industrial precinct, or a special purpose zone for rural industry.  
[...]

9.5.10 In terms of a s32AA assessment, based on the technical evidence I consider the recommended amendment appropriately refines the approach to industrial activities and is therefore more efficient, whilst still responding to the risks associated with the activity. Overall, I consider the amendment is the most appropriate for achieving DWP-O1 and the purpose of the Act.

## **9.6 DWP Chapter - APP6 - Table 1 - Groundwater community drinking water supply protection distances**

9.6.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| SUBMITTER NAME      | SUBMISSION POINT NUMBER(S) |
|---------------------|----------------------------|
| Milward Finlay Lobb | 60.60                      |

### **Submissions**

9.6.2 Milward Finlay Lobb [60.60] is concerned that while the numbers referenced in this provision are taken from the LWRP which are based on the best science at the time, ECan are continuously updating their modelling and these figures may change. By putting exact figures in the district plan, a plan change is required to amend the PDP if ECan updates their values/modelling. The submitter seeks to remove the figures and reference the LWRP instead.

### **Analysis**

9.6.3 Mr Thomas responds to this submission in his evidence (paragraphs 8.12 to 8.14) stating that he generally agrees with this approach, and that it allows for a methodology to define DWPA around new drinking water sources in the future that is consistent with that in other areas of Canterbury. He also notes ECan's further submission in support [183.2FS]. Whilst I consider scientific accuracy is important, I note that if the LWRP is referenced instead, then

technically it is the LWRP version at the date the PDP becomes operative that is the version referenced, and not future versions. As such, the figures will not evolve as requested. Accordingly, I recommend that this submission is rejected.

### **Conclusions and Recommendations**

9.6.4 I recommend that the submission from Milward Finlay Lobb [60.60] is rejected.

9.6.5 No amendments are recommended and therefore no s32AA assessment is required.

## **9.7 DWP Chapter – Planning Maps – Drinking Water Protection Area Overlay**

9.7.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

| <b>SUBMITTER NAME</b>    | <b>SUBMISSION POINT NUMBER(S)</b> |
|--------------------------|-----------------------------------|
| Waipopo Huts             | 189.10                            |
| Fulton Hogan             | 170.7                             |
| Barkers Fruit Processors | 179.2                             |
| Silver Fern Farms        | 172.155                           |

### **Submissions**

9.7.2 Waipopo Huts [189.10] opposes the DWPA Overlay as it means new or replacement dwellings, buildings and structures will be non-complying activities on the submitter's properties. The submitter considers a more permissive planning regime is appropriate to honour the historical commitment the Crown made to enabling Māori to carry out their needs and wants; to reflect the fact Waipopo is now mostly in permanent residential use, not holiday huts; and that the flood risk has been overstated. The submitter seeks to delete the Drinking Water Protection Area overlay across the submitter's 36 properties at Waipopo Huts and/or amend related rules affecting the use and development of the land.

9.7.3 Fulton Hogan [170.7] submits that the bore mapped on 470 Pleasant Point Highway is not used for drinking water purposes and accordingly seeks to delete this DWPA Overlay from the Planning Maps.

9.7.4 Barkers Fruit [179.2] state that there are two bores which supply the site water for industrial and domestic use - one is shown on the Planning Maps as a private drinking water supply and the other is not shown. The submitter considers that the additional bore (located at 72 Shaw Road, Geraldine and shown on the aerial photo under this submission point in **Appendix 2**) should be included as a new DWPA. The submitter also seeks to amend the classification of its DWPA to Community Drinking Water Supply (as opposed to private drinking water supply) if this is deemed necessary.

9.7.5 Consistent with its submission on DWP-R5, Silver Fern Farms [172.155] notes that the mapped locations of DWPA on its 111 The Avenue, Pareora site relate to two bores used to supply drinking water to staff. The submitter considers it is inappropriate to apply a non-



complying status to the long-established industrial activity on this site and requests these DWPO be deleted; or that this well-established industrial activity is not inadvertently made subject to a non-complying activity status due to the presence of the bores.

### **Analysis**

- 9.7.6 Regarding the Waipopo Huts [189.10] submission, consistent with my response to similar submissions, whilst I appreciate the concerns raised, in my opinion drinking water protection is a life risk and needs to be managed appropriately and consistently. I therefore do not support disapplying these rules on Māori land. Accordingly, I recommend that this submission is rejected.
- 9.7.7 Regarding the Fulton Hogan [170.7] submission, in his evidence (paragraph 8.15 to 8.17) Mr Thomas agrees that where a bore is no longer used for drinking water, and that there is no plan to use it for drinking water in the future, it could be deleted from the current DWPA. I accept Mr Thomas's advice and accordingly recommend that this submission is accepted.
- 9.7.8 Regarding the Barkers Fruit [179.2] submission, the PDP seeks to include all private and community drinking water supply bores. Given the use of the second bore I recommend it is included on the planning map as a DWPA. Accordingly, I recommend that this submission is accepted.
- 9.7.9 Regarding the Silver Ferns Farms [172.155] submission, consistent with my advice in response to their submission on DWP-R5, I recommend that the site is excluded from the application of DWP-R5. This change responds to the submitter's alternative relief and accordingly I recommend that this submission is accepted.

### **Conclusions and Recommendations**

- 9.7.10 I recommend that the submission from Waipopo Huts [189.10] is rejected.
- 9.7.11 I recommend that the submissions from Fulton Hogan [170.7], Barkers Fruit Processors Limited [179.2] and Silver Ferns Farms [172.155] are accepted.
- 9.7.12 I recommend that the Drinking Water Protection Area Overlay from 470 Pleasant Point Highway is deleted from the Planning Maps.
- 9.7.13 I recommend that a Drinking Water Protection Area Overlay is added to 72 Shaw Road, Geraldine.
- 9.7.14 I consider that the original s32 assessment continues to apply as the recommended amendments are simply mapping changes that respond to the circumstances of the identified bores.

## **10. Conclusions**

- 10.1.1 Submissions have been received both in support of and in opposition to the NH, CE and DWP chapters of the PDP.

10.1.2 Having considered all the submissions and reviewed all relevant statutory and non-statutory documents, I recommend that the PDP should be amended as set out in **Appendix 1** of this report.


10.1.3 For the reasons set out in the Section 32AA evaluation included throughout this report, I consider that the recommended amended objectives and provisions are the most appropriate means to achieve the purpose of the Resource Management Act 1991 (RMA) where it is necessary to revert to Part 2, and otherwise give effect to higher order planning documents.

**Recommendations:**

10.1.4 I recommend that:

- a. The Hearing Commissioners accept, accept in part, or reject submissions (and associated further submissions) as outlined in **Appendix 2** of this report; and
- b. The PDP is amended in accordance with the changes recommended in **Appendix 1** of this report.

**Signed:**

| Name and Title     |  | Signature  |
|--------------------|--|--|
| Andrew Willis      |  |  |
| Consultant Planner |  |  |