

Proposed Selwyn District Plan



Section 42A Report

Report on submissions and further submissions

Coastal Environment

Jon Trewin

2nd June 2022

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List of submitters and further submitters addressed in this report

Submitter ID	Submitter Name	Abbreviation
DPR-0032	Christchurch City Council	CCC
DPR-0142	New Zealand Pork Industry Board	NZ Pork
DPR-0157	Kevin and Bonnie Williams	The Williams
DPR-0207	Selwyn District Council	SDC
DPR-0209	Manmeet Singh	
DPR-0212	Ellesmere Sustainable Agriculture Incorporated	ESAI
DPR-0260	Canterbury Regional Council (Environment Canterbury)	CRC
DPR-0298	Trices Road Re-zoning Group	Trices Road
DPR-0301	Upper Waimakariri/Rakaia Group	UWRG
DPR-0353	Horticulture New Zealand	Hort NZ
DPR-0358	Rolleston West Residential Limited	RWRL
DPR-0363	Iport Rolleston Holdings Limited	IRHL
DPR-0367	Orion New Zealand Limited	Orion
DPR-0371	Christchurch International Airport Limited	CIAL
DPR-0372	Dairy Holdings Limited	DHL
DPR-0374	Rolleston Industrial Holdings Limited	RIHL
DPR-0379	Jill Thomson	
DPR-0384	Rolleston Industrial Developments Limited	RIDL
DPR-0388	Craigmore Farming Services Limited	CFSL
DPR-0407	Royal Forest & Bird Protection Society of New Zealand Inc.	Forest & Bird
DPR-0414	Kāinga Ora - Homes & Communities	Kāinga Ora
DPR-0422	Federated Farmers of New Zealand - North Canterbury	NCFF
DPR-0427	Lou Sanson, Director-General of Conservation	DoC
DPR-0439	Rayonier Matariki Forests	
DPR-0446	Transpower New Zealand Limited	Transpower
DPR-0453	Midland Port, Lyttelton Port Company Limited	LPC
DPR-0456	Four Stars Development & Gould Developments Ltd	Four Stars & Gould
DPR-0461	Dunweavin 2020 Ltd	Dunweavin
DPR-0492	Kevler Development Ltd	
DPR-0493	Gallina Nominees Ltd & Heinz-Wattie Ltd Pension Plan	Galina & Heinz-Wattie
DPR-0565	Shelley Street Holdings Ltd	SSH

Please refer to **Appendix 1** to see where each submission point is addressed within this report.

Abbreviations

Abbreviations used throughout this report are:

Abbreviation	Full text
APP	Appendix
CE	Coastal Environment
CMUZ	Commercial and Mixed Use Zone
CRPS	Canterbury Regional Policy Statement 2013
DPZ	Dairy Processing Zone
EI	Energy and Infrastructure
EIB	Ecosystems and Indigenous Biodiversity
EW	Earthworks
GIZ	General Industrial Zone
GRUZ	General Rural Zone
GRZ	General Residential Zone
HH	Historic Heritage
IMP	Mahaanui Iwi Management Plan 2013
NATC	Natural Character
NPS-REG	National Policy Statement on Renewable Electricity Generation
NPS-ET	National Policy Statement on Electricity Transmission
NES-F	National Environmental Standards for Freshwater
NES-PF	National Environmental Standards for Plantation Forestry
NFL	Natural Features and Landscapes
NH	Natural Hazards
NPS	National Planning Standards
NZCPS	New Zealand Coastal Policy Statement
ONL	Outstanding Natural Landscapes
PDP	Proposed Selwyn District Plan
PORTZ	Port Zone
RESZ	Residential Zone
RMA	Resource Management Act 1991
SASM	Sites and Areas of Significance to Maori
SD	Strategic Directions
TRAN	Transport
VAL	Visual Amenity Landscapes

1. Purpose of report

- 1.1 This report is prepared under s42A of the RMA in relation to the Coastal Environment Chapter in the PDP. The purpose of this report is to provide the Hearing Panel with a summary and analysis of the submissions received on this topic and to make recommendations on either retaining the PDP provisions without amendment or making amendments to the PDP in response to those submissions.
- 1.2 The recommendations are informed by both the technical information provided by Mr Bentley of Boffa Miskell Ltd. (see **Appendix 3**) and the evaluation undertaken by myself as the planning author. In preparing this report I have had regard to the s42A report on Strategic Directions prepared by Mr Love, the Overview s42A report that addresses the higher order statutory planning and legal context, also prepared by Mr Love, the Part 1 s42A report prepared by Ms Tuilaepa, the Energy and Infrastructure s42A report prepared by Ms Barker, the Natural Hazards s42A report prepared by Ms Carruthers, the Earthworks s42A report prepared by Mr Mayes and the Transport, General Rural Zone and Natural Features and Landscapes s42A reports, authored by myself.
- 1.3 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.

2. Qualifications and experience

- 2.1 My full name is Jon Trewin. I am employed by the Council as a Strategy and Policy Planner. My qualifications include a MSc in Development Planning from Reading University, UK.
- 2.2 I have 15 years' experience as a resource management planner, with this including working in the UK and New Zealand on a variety of policy and planning related work concerning natural resource management, transport planning, economic development and land use planning.
- 2.3 I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 and that I have complied with it when preparing this report. 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 Hearings Panel.

3. Scope of report and topic overview

- 3.1 This report considers the submissions and further submissions that were received in relation to the Coastal Environment (CE) Chapter. It is recommended that this report be read in conjunction with the S42a reports mentioned in paragraph 1.2 above as there is an element of cross referencing and overlap.
- 3.2 Recommendations are made to either retain provisions without amendment, or delete, add to or amend the provisions. All recommended amendments are shown by way of strikeout and underlining in **Appendix 2** to this Report. Footnoted references to a submitter number, submission point and the abbreviation for their title provide the scope for each recommended change. Where it is considered that an amendment may be appropriate but it would be beneficial to hear further

evidence before making a final recommendation, this is made clear within the report. Where no amendments are recommended to a provision, submissions points that sought the retention of the provision without amendment are not footnoted.

- 3.3 Clause 16(2) 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. A number of alterations have already been made to the PDP using cl.16(2) and these are documented in reports available on the Council's website. Where a submitter has requested the same or similar changes to the PDP that fall within the ambit of cl.16(2), then such amendments will continue to be made and documented as cl.16(2) amendments and identified by way of a footnote in this s42A report.

4. Statutory requirements and planning framework

Resource Management Act 1991

- 4.1 The PDP must be prepared in accordance with the Council's functions under section 31 of the RMA; Part 2 of the RMA; the requirements of sections 74 and 75, and its obligation to prepare, and have particular regard to, an evaluation report under section 32 of the RMA, any further evaluation required by section 32AA of the RMA; any national policy statement, the New Zealand Coastal Policy Statement, national planning standards; and any regulations¹. Regard is also to be given to the CRPS, any regional plan, district plans of adjacent territorial authorities, and the IMP.
- 4.2 A number of provisions have been included in the CE Chapter in response to the requirements in Part 2 of the RMA, including the preservation of the natural character of the coastal environment and their protection from inappropriate subdivision, use and development (6a) and the need to protect areas of significant indigenous vegetation and habitats of indigenous fauna (6b).
- 4.3 As set out in the '[Overview' Section 32 Report](#), and '[Overview' s42a Report](#), there are a number of higher order planning documents and strategic plans that provide direction and guidance for the preparation and content of the PDP. These documents are discussed in more detail within this report where relevant to the assessment of submission points. This report also addresses any definitions that are specific to this topic, but otherwise relies on the s42A report that addresses definitions more broadly (the Part 1 s42a report).
- 4.4 The assessment of submission points is made in the context of the Section 32 reports already undertaken with respect to this topic, being:
- [Strategic Directions](#)
 - [Coastal Environment](#)
- 4.5 All recommended amendments to provisions since the initial s32 evaluation was undertaken must be documented in a subsequent s32AA evaluation, where they are of a scale that alters the original S32 conclusions. This has been undertaken for each sub-topic addressed in this report. Where amendments have been made but no s32AA has been included, the amendments have been assessed as being within scope of the conclusions of the original s32 evaluation.

¹ Section 74 RMA

New Zealand Coastal Policy Statement 2010

- 4.6 The NZCPS came into force in 2010. The objectives and policies in the NZCPS closely reflect the Council's obligations under s5 and all aspects of s6 of the RMA. The NZCPS recognises the need to balance preservation and protection with enabling people to undertake land uses and development for economic, cultural and social reasons. However, activities need to be appropriately located and managed, recognising that some activities can only be located in the coastal environment.
- 4.7 Policy 1 of the NZCPS sets out how the extent of the Coastal Environment is determined, while recognising that this will vary from region to region and locality to locality due to the high variability of coastal characteristics and values. This has provided the basis upon which the coastal environment of Selwyn has been defined in the Coastal Environment Study. Policy 2 provides guidance on implementing the Council's obligations under the Treaty of Waitangi. Policy 4 acknowledges the need for the integrated management of the boundary between the land component of the coastal environment and the Coastal Marine Area (CMA) working with DOC and CRC. Other policies:
- direct that a precautionary approach should be adopted when considering activities whose effects may be uncertain, unknown or little understood but potentially significantly adverse (Policy 3);
 - seek to manage the potential effects of built development, whilst recognising the need for public open space and walking access (Policies 6, 18 and 19);
 - seek the effective management of hazard risk (Policies 25-27) , protecting indigenous biological diversity (Policy 11) and natural features and landscapes (Policy 15) and, preserving and restoring natural character (Policy 13).
- 4.8 The District Plan must give effect to the NZCPS as it applies to the landward portion of the coastal environment. It is noted that there is currently very little development in the Selwyn coastal environment, and therefore it is considered that Policies 13, 14 and 15 of the NZCPS will be of particular relevance. In brief, these seek to:
- preserve the natural character of the coastal environment and protect it from inappropriate subdivision, use and development;
 - promote restoration or rehabilitation of the natural environment of the coastal environment;
 - protect the natural features and natural landscapes (including seascapes) of the coastal environment from inappropriate subdivision, use, and development.

National Policy Statement - Renewable Electricity Generation and National Policy Statement Electricity Transmission

- 4.9 The National Policy Statement on Renewable Electricity Generation sets out the objectives and policies for managing renewable electricity generation, and the National Policy Statement on Electricity Transmission sets out the objectives and policies for managing electricity transmission. Both documents must be given effect to through district and regional planning documents. The PDP gives effect to these documents primarily through the EI Chapter however there is cross referencing throughout the plan to other chapters as required, including CE.

National Environmental Standard – Plantation Forestry

- 4.10 The NES-PF came into force on 1 May 2018 and puts in place standards for forestry activities. The NES-PF outlines which forestry activities across the District are permitted, and which are subject to securing resource consent (as specified by the regulations), except that under clause 6(1), a rule in a district plan may be more stringent than the NES-PF if the rule gives effect to any of policies 11, 13, 15 and 22 of the NZCPS.
- 4.11 Policy 13 of the NZCPS relates to the preservation of natural character and therefore more stringent rules can be applied to plantation forestry for the purposes of preserving natural character values.

National Planning Standards

- 4.12 As set out in the PDP Overview s42A Report, the Planning Standards were introduced to improve the consistency of council plans and policy statements. The Planning Standards were gazetted and came into effect on 5 April 2019. The PDP must be prepared in accordance to the Planning Standards.
- 4.13 The Planning Standards requires that if a district has a coastline, a Coastal Environment chapter must be provided that:
- a. Sets out the approach to managing the coastal environment and giving effect to the NZCPS;
 - b. Sets out provisions for implementing the local authority's functions and duties in relation to the coastal environment, including coastal hazards; and
 - c. Provides cross-references to any other specific coastal provisions that may be located within other chapters.

5. Procedural matters

- 5.1 At the time of writing this s42A report there have not been any pre-hearing conferences, clause 8AA meetings or expert witness conferencing in relation to submissions on this topic.
- 5.2 SUB-R25 relating to subdivision within the coastal environment is dealt with through this hearing stream rather than the Subdivision Hearing Stream.

6. Consideration of submissions

Overview of submissions

- 6.1 17 submissions were received in relation to this Chapter and 16 further submissions with approximately 82 submission points and 105 further submission points made. Out of the original submission points, 42 were supportive and requested that particular provisions be retained as notified. The other submission points requested amendments or deletion of particular provisions.
- 6.2 The main changes sought by submitters were:
- 6.2.1 Providing for important infrastructure in situations where there is a functional or operational need to locate in a particular area.
 - 6.2.2 Amending rules to be more enabling of structures and earthworks.
 - 6.2.3 Making changes to better align with higher order planning direction such as the CRPS or NZCPS.

- 6.2.4 Providing clarity on situations where the coastal environment overlay applies over only part of a site.
- 6.2.5 Reconciling provisions applying to coastal hazards (in the natural hazards chapter) and provisions applying to natural character (in this chapter).

Structure of this report

- 6.3 This report has been structured in accordance with the CE Chapter and follows that sequence. Definitions are addressed firstly given they are relevant to the entire CE Chapter followed by general submissions on the CE Chapter as a whole, followed by the provisions within the PDP. The provisions include objectives, policies, rules, rule requirements, matters of control or discretion (no submissions were made on these) and schedules. Requested new provisions have been addressed subsequent to related provisions. Where an amendment is recommended the applicable s32AA assessment (if required) will follow on from the Recommendations section for that issue.

7. Definitions

Submissions

- 7.1 Three submissions points and eight further submission points were received in relation to the definitions.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0353	Hort NZ	060	Support	Insert as follows: Ancillary rural earthworks 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 (as declared by Ministry for Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993).
DPR-0142	NZ Pork	FS024	Support	Allow in full
DPR-0212	ESAI	FS013	Support in Part	Allow in part with 'irrigation infrastructure works' added.
DPR-0372	DHL	FS033	Support	Accept the submission.
DPR-0388	CFSL	FS005	Support	Accept the submission.
DPR-0407	Forest & Bird	FS475	Oppose in Part	Reject the submission
DPR-0407	Forest & Bird	FS485	Oppose	Reject the submission
DPR-0379	Jill Thomson	026	Oppose	Amend as follows: 'A shallow lake at the termination of a river, separated from the sea by a bank of sand or shingle and includes coastal lakes which may be in the coastal marine area.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
				or 'Hapua: A shallow lake at the termination of a river, separated from the sea by a bank of sand or shingle and includes coastal lakes which may be in the coastal marine area, or an estuary, fjord, inlet, harbour or embayment.
DPR-0427	DoC	018	Neither Support Nor Oppose	Insert a new definition of 'coastal environment' consistent with the definition of 'coastal environment' in the CRPS.
DPR-0407	Forest & Bird	FS184	Support	Accept the submission
DPR-0301	UWRG	FS160	Support	Allow in full

Analysis

- 7.2 HortNZ² seek a definition of 'Ancillary Rural Earthworks' being a specific earthworks activity to provide for earthworks undertaken as part of normal operations on a horticultural property (or other farm), so that this activity can be specifically provided for in the PDP. This matter was addressed through the Earthworks Hearing Stream where I note that the S42a report recommended the relief for this definition and accompanying rule changes is rejected for the following reasons:
- 7.2.1 The volume requirements, specifically exclude those related to building consents as well as cultivation and works for fence posts. While it is anticipated that works are required in the General Rural Zone beyond these activities, the permitted volume is intended to provide for this while ensuring that the effects of large scale works can be appropriately managed.
- 7.2.2 The Operative District Plan contains volume requirements, measured on a per project basis. Despite this, the number of resources consents applied for, relating to general rural earthworks, is minimal. This suggests that volume requirements will not create an unnecessary burden in applying for resource consents.
- 7.2.3 Hort NZ refers to the Proposed Waikato District Plan to exemplify how the activity should be managed. It is noted that that this plan is still at the hearings stage and therefore could be subject to change. The definition used in that plan includes activities excluded from the definition of earthworks in the PDP
- 7.3 I agree with this reasoning and the author's recommendation that a definition is not required and also recommend that this submission point is rejected. In addition, I note that in the more sensitive coastal environment and areas of high, very high or outstanding natural character clearly defined earthwork thresholds (with some clearly defined exceptions) are particularly important.
- 7.4 Jill Thomson³ opposes the definition of 'hapua' as she considers the definition of coastal marine area precludes hapua as a coastal lake from being in the coastal marine area. She seeks that either reference to the coastal marine area is deleted or the insertion of '...or an estuary, fjord, inlet, harbor or embayment' into the definition. I understand that the submitter's concern is that this may exclude Te Waihora/Lake Ellesmere which is not considered to be in the coastal marine area. Te

² DPR-0353:060 HortNZ

³ DPR-0379:026 Jill Thomson

Waihora/Lake Ellesmere a brackish lake is sometime considered to be a hapua. A more all-encompassing description for a hapua could be coastal lakes within the 'coastal environment', which indicates the area where the sea has an influence on the land and other factors related to the coast, as described in the NZCPS 2010, Policy 1. This would avoid the definition of hapua being bound by the strict RMA definition of coastal marine area. I therefore recommend the submission point is accepted in part.

- 7.5 DoC⁴ seek that the definition of 'Coastal Environment' which is defined in the CRPS (and also the NZCPS) is included in the PDP. The PDP has generally avoided using terms from other documents which may be subject to change, the exception being the NPS (which contains mandatory form for certain definitions), the RMA and NES's where the PDP is managing an activity in a way that is more stringent than an NES (and an NES permits a more stringent approach). The PDP has not for example sought to define 'natural character' or 'outstanding landscape' as these are both designated from criteria in the NZCPS and case law. It is also of note that the PDP clearly delineates the coastal environment making reference to NZCPS Policy 1 less important (as it is clear where it applies). I recommend that this submission point is rejected.

Recommendations and amendments

- 7.6 I recommend, for the reasons given above, that the Hearings Panel:
- a) Amend the definition of 'hapua' as shown in **Appendix 2** to provide better clarity.
- 7.7 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.
- 7.8 The scale of change does not require a s32AA evaluation.

8. General Submissions on the CE Chapter

Submissions

- 8.1 Seven submissions points and 28 further submission points were received in relation to the CE Chapter in general (including the overview).

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0358	RWRL	415	Oppose	Insert the following words, or words to the like effect, to all controlled and restricted discretionary activity rules: Applications shall not be limited or publicly notified, on the basis of effects associated specifically with this rule and the associated matters of control or discretion.
DPR-0456	Four Stars & Gould	FS022	Support	Accept submission
DPR-0414	Kāinga Ora	FS126	Support	Not specified
DPR-0453	LPC	FS053	Support in Part	Accept in Part
DPR-0032	CCC	FS201	Oppose in Part	Do not limit notification where neighbouring properties, communities, or the wider district are potentially directly affected and

⁴ DPR-0427:018 DoC

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
				<i>the adverse effects are potentially more than minor or where the Act requires notification.</i>
DPR-0371	CIAL	FS053	Support in Part	Accept in Part
DPR-0298	Trices Road	FS932	Support	Accept submission
DPR-0363	IRHL	435	Oppose	Insert the following words, or words to the like effect, to all controlled and restricted discretionary activity rules: Applications shall not be limited or publicly notified, on the basis of effects associated specifically with this rule and the associated matters of control or discretion.
DPR-0456	Four Stars & Gould	FS051	Support	Accept submission
DPR-0414	Kāinga Ora	FS155	Support	Not specified
DPR-0453	LPC	FS149	Support in Part	Accept in Part
DPR-0032	CCC	FS230	Oppose in Part	<i>Do not limit notification where neighbouring properties, communities, or the wider district are potentially directly affected and the adverse effects are potentially more than minor or where the Act requires notification.</i>
DPR-0371	CIAL	FS151	Support in Part	Accept in Part
DPR-0298	Trices Road	FS961	Support	Accept submission
DPR-0422	NCCF	FS208	Support in Part	<i>Allow the submission on controlled activity. Disallow the submission point that notification is not required for all restricted discretionary applications.</i>
DPR-0374	RIHL	481	Oppose	Insert the following words, or words to the like effect, to all controlled and restricted discretionary activity rules: Applications shall not be limited or publicly notified, on the basis of effects associated specifically with this rule and the associated matters of control or discretion.
DPR-0456	Four Stars & Gould	FS085	Support	Accept submission
DPR-0414	Kāinga Ora	FS189	Support	Not specified
DPR-0453	LPC	FS082	Support in Part	Accept in Part
DPR-0032	CCC	FS268	Oppose in Part	<i>Do not limit notification where neighbouring properties, communities, or the wider district are potentially directly affected and the adverse effects are potentially more than minor or where the Act requires notification.</i>
DPR-0371	CIAL	FS082	Support in Part	Accept in Part
DPR-0298	Trices Road	FS995	Support	Accept submission
DPR-0384	RIDL	514	Oppose	Insert the following words, or words to the like effect, to all controlled and restricted discretionary activity rules:

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
				Applications shall not be limited or publicly notified, on the basis of effects associated specifically with this rule and the associated matters of control or discretion.
DPR-0456	Four Stars & Gould	FS119	Support	Accept submission
DPR-0414	Kāinga Ora	FS223	Support	Not specified
DPR-0453	LPC	FS115	Support in Part	Accept in Part
DPR-0032	CCC	FS303	Oppose in Part	Do not limit notification where neighbouring properties, communities, or the wider district are potentially directly affected and the adverse effects are potentially more than minor or where the Act requires notification.
DPR-0371	CIAL	FS115	Support in Part	Accept in Part
DPR-0298	Trices Road	FS1022	Support	Accept submission
DPR-0212	ESAI	088	Oppose in Part	Amend the last sentence of the fourth paragraph to read: Generally, the hinterland is highly modified and intensive farming activities often extends close to the edge of the backshore.
DPR-0422	NCFF	FS121	Support	Accept
DPR-0422	NCFF	217	Oppose in Part	Amend as follows: Generally, the hinterland is highly modified and intensive farming often extends close to the edge of the backshore.
DPR-0427	DoC	070	Support in Part	Retain the rules set out in the Coastal Environment Chapter, except where specific amendments are sought.
DPR-0407	Forest & Bird	FS236	Support	Accept the submission
DPR-0301	UWRG	FS211	Support	Allow in full

Analysis

- 8.2 RWRL, IRHL, RIHL and RIDL⁵ seek non-notification clauses for each rule and rule requirement with a controlled or restricted discretionary activity consistent with relief sought by these submitters across the PDP. I do not consider sweeping exemptions to notification requirements to be sound planning practice as there may be occasions when activities give rise to adverse effects where specific parties or the community should be consulted. This would be tested under s.95 RMA on a case by case basis depending on the circumstances of any resource consent application. I recommend that the request for blanket non-notification clauses is rejected, notwithstanding that in some specific cases I may recommend notification clauses for other reasons.
- 8.3 ESAI⁶ and NCFF⁷ consider that intensive farming is the incorrect terminology here and is not consistent with the definitions of intensive production in the plan. In ESAI's opinion there are few

⁵ DPR-0358:400 RWRL, 0363:425 IRHL, 0374:471 RIHL, 0384:504 RIDL

⁶ DPR-0212:088 ESAI

⁷ DPR-0422:217 NCFF

intensive farming operations, if any, located close to the backshore of the coastal area and the area is generally unsuitable for such farming activities. ESAI seek that the last sentence of the fourth paragraph of the overview is amended to read: *Generally, the hinterland is highly modified and intensive farming activities often extends close to the edge of the backshore*. NCFF seek the deletion of the entire sentence. I prefer ESAI's relief to NCFF's and agree with the submitter's reasoning. I recommend the submission point from ESAI is accepted and NCFF is accepted in part.

- 8.4 DoC⁸ seeks that the rules in the CE Chapter are retained as notified except where specific amendments are sought. I recommend this submission point is accepted in part as not all amendments sought are recommended to be accepted.

Recommendation and amendments

- 8.5 I recommend, for the reasons given above, that the Hearings Panel amend the Overview, as set out in **Appendix 2**.
- 8.6 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.
- 8.7 The scale of change does not require a s32AA evaluation.

9. Objectives

CE-O1

Submissions

- 9.1 Five submissions points and two further submission points were received in relation to CE-O1.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0260	CRC	134	Support	Retain as notified
DPR-0353	Hort NZ	197	Support	Retain as notified
DPR-0422	NCFF	218	Support	Retain as notified
DPR-0427	DoC	064	Support	Retain as notified
DPR-0407	Forest & Bird	FS230	Support	Accept the submission
DPR-0301	UWRG	FS205	Support	Allow in full
DPR-0446	Transpower	111	Support	Retain as notified

Analysis

- 9.2 CRC⁹, HortNZ¹⁰, NCFF¹¹, DoC¹², Transpower¹³ seek that the objective is retained as notified. As no amendments have been sought, I recommend that the submissions points are accepted.

Recommendation

- 9.3 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.

⁸ DPR-0427:070 DoC

⁹ DPR-0260:134 CRC

¹⁰ DPR-0353:197 HortNZ

¹¹ DPR-0422:218 NCFF

¹² DPR-0427:064 DoC

¹³ DPR-0446:111 Transpower

- 9.4 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

CE-O2

Submissions

- 9.5 Two submissions points and two further submission points were received in relation to CE-O2.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0260	CRC	135	Support	Retain as notified
DPR-0427	DoC	065	Support	Retain as notified
DPR-0407	Forest & Bird	FS231	Support	Accept the submission
DPR-0301	UWRG	FS206	Support	Allow in full

Analysis

- 9.6 CRC¹⁴ and DoC¹⁵ seek that the objective is retained as notified. As no amendments have been sought, I recommend that the submissions points are accepted.

Recommendation

- 9.7 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.
- 9.8 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

10. Policies

CE-P1

Submissions

- 10.1 Three submissions points and one further submission points were received in relation to CE-P1.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0353	Hort NZ	200	Support	Retain as notified
DPR-0367	Orion	033	Support	Retain as notified
DPR-0407	Forest & Bird	FS602	Oppose	Reject aspects of the submission which do not directly relate to electricity lines and services as critical infrastructure.
DPR-0422	NCCF	219	Support	Retain as notified

Analysis

- 10.2 HortNZ¹⁶, Orion¹⁷ and NCCF¹⁸ seek that the policy is retained as notified. As no amendments have been sought, I recommend that the submissions points are accepted.

Recommendation

- 10.3 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.

14 DPR-0260:135 CRC

15 DPR-0427:065 DoC

16 DPR-0353:200 HortNZ

17 DPR-0367:033 Orion

18 DPR-0422:219 NCCF

- 10.4 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

CE-P2

Submissions

- 10.5 Two submissions points and three further submission points were received in relation to CE-P2.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0260	CRC	136	Support	Retain as notified
DPR-0427	DoC	066	Oppose in Part	Amend as follows: Preserve <u>and protect</u> the natural character qualities and values of areas within the terrestrial part of the coastal environment that have:
DPR-0422	NCCF	FS019	Oppose	Disallow the submission point.
DPR-0407	Forest & Bird	FS232	Support	Accept the submission
DPR-0301	UWRG	FS207	Support	Allow in full

Analysis

- 10.6 DoC¹⁹ state that the policy does not give effect to NZCPS Policy 13 and the requirement to preserve and protect natural character. I agree that the wording does not appear to give effect to the NZCPS in that the wording 'protect' is included in Policy 13 and I therefore recommend that 'protect' is also included in CE-P2.
- 10.7 CRC²⁰ seek that the policy is retained as notified. As I am recommending amendments, I recommend that the submission point is accepted in part.

Recommendations and amendments

- 10.8 I recommend, for the reasons given above, that the Hearings Panel, as set out in Appendix 2:
- a) Amend CE-P2 to include the word 'protect'.
- 10.9 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in Appendix 1.
- 10.10 The scale of change does not require a s32AA evaluation.

CE-P3

Submissions

- 10.11 Six submissions points and 10 further submission points were received in relation to CE-P3.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0260	CRC	138	Support	Retain as notified
DPR-0353	Hort NZ	196	Oppose in Part	Amend as follows: ... 2. Avoid significant adverse effects and manage other adverse effects of activities on natural

¹⁹ DPR-0427:066 DoC

²⁰ DPR-0260:136 CRC

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
				character in all other areas of Selwyn's coastal environment; including by: ... h. enabling existing farming operations, <u>including ancillary rural earthworks</u> , where these do not conflict with identified natural character values.
DPR-0212	ESAI	FS002	Support	<i>Allow in full</i>
DPR-0407	Forest & Bird	FS489	Oppose	<i>Reject the submission</i>
DPR-0367	Orion	034	Support	Retain as notified
DPR-0407	Forest & Bird	FS603	Oppose	<i>Reject aspects of the submission which do not directly relate to electricity lines and services as critical infrastructure.</i>
DPR-0407	Forest & Bird	056	Support in Part	Amend as follows: ... 2. Avoid significant adverse effects and manage other adverse effects of activities on natural character in all other areas of Selwyn's coastal environment; including by: ... d. retaining and enhancing areas of indigenous vegetation <u>and habitats of indigenous fauna</u> ;
DPR-0439	Rayonier	FS017	Oppose	<i>Decline</i>
DPR-0422	NCFF	FS078	Oppose	<i>Disallow the submission point. Retain as notified.</i>
DPR-0301	UWRG	FS134	Support	<i>Allow in full</i>
DPR-0427	DoC	067	Oppose	Amend as follows: 1. Avoid adverse effects of activities on natural character in areas of Selwyn's coastal environment that have been identified as having outstanding natural character as described in CESCHED2, <u>including by:-</u> a. only enabling activities and development in areas with outstanding natural character that have an operational or functional need to locate in these areas; or have a public benefit and are small in scale; and 2. Avoid significant
DPR-0212	ESAI	FS006	Oppose	<i>Disallow in full</i>
DPR-0422	NCFF	FS020	Oppose	<i>Disallow the submission point. Retain the notified provision.</i>
DPR-0407	Forest & Bird	FS233	Support	<i>Accept the submission</i>
DPR-0301	UWRG	FS208	Support	<i>Allow in full</i>
DPR-0446	Transpower	112	Oppose	1. <u>Except as provided by CE-PX, avoid</u> Avoid adverse effects of activities on natural character in areas of Selwyn's coastal environment that have been identified as having outstanding natural character as described in CE-SCHED2, including by; 2. <u>Except as provided by CE-PX, avoid</u> Avoid significant adverse effects and manage other adverse effects of activities on natural character in all other areas of Selwyn's coastal environment; including by:

Analysis

- 10.12 HortNZ²¹ seek that ‘ancillary rural earthworks’ are specifically included in clause ‘h’ of the policy. I recommend this submission point is rejected as I am recommending that the submitter’s broad relief seeking to include ‘ancillary rural earthworks’ in the PDP is also rejected for reasons discussed in Section 7 (Definitions) above [7.2].
- 10.13 Forest and Bird²² seek the addition of ‘habitats of indigenous fauna’ to clause ‘2d’. I recommend this submission point is accepted as it is consistent with terminology used elsewhere in the PDP.
- 10.14 DoC²³ seek that clause ‘1a’ is deleted as small scale activities are unlikely to have adverse effects on natural character and other policies in the PDP provide for the operational and functional need of important infrastructure. I recommend this submission point is accepted in part for the following reasons:
- 10.14.1 An issue identified in the EI Chapter through submissions and addressed in the reporting officer’s right of reply report (including through legal advice) was that the more directive policy in NFL could effectively ‘override’ or ‘conflict’ with the more enabling policy in the EI Chapter. This would restrict the consideration of development applications for important infrastructure and is not what is intended in the PDP. To avoid this unintended outcome, there is a need to include wording in the NFL Chapter to ensure consistency with the EI Chapter. This also has implications for the CE Chapter which already restricts development to that with a functional or operational need to locate in that area. The removal of this wording and reliance on other policies as proposed by the submitter could lead to unintended consequences on the scope of assessment for applications for important infrastructure.
- 10.14.2 However the wording at present in 1a does not refer to ‘important infrastructure’ and therefore it is open to interpretation whether this might include other activities that could claim to have an ‘operational’ or ‘functional’ need to locate in areas of outstanding natural character (the focus of CE-P3 1a). Whilst it is unlikely in Selwyn, this may include commercial activities that for example straddle the land and coastal marine area. I believe this is inappropriate in areas of outstanding natural character where NZCPS Policy 13 requires that adverse effects are to be avoided.
- 10.14.3 Transpower (through relief sought in DPR-0446:123) are seeking a bespoke stand-alone policy for the National Grid recognising operation and locational need. I tend to agree with Transpower that a stand-alone policy (though for all important infrastructure, not just the National Grid) within the CE Chapter would provide a clearer link with the intent of the EI Chapter and an integrated approach to managing the effects of important infrastructure. I therefore recommend that there is as a separate policy within the CE Chapter policy framework that mirrors that wording in EI-P2. The functional or operational requirements of other activities may be a relevant consideration but in my opinion do not require any particular policy imperative. Given the strong directive in NZCPS Policy 13 to avoid adverse

²¹ DPR-0353:196 HortNZ

²² DPR-0407:056 Forest and Bird

²³ DPR-0427:067 DoC

effects on outstanding natural character in particular, I do not consider it appropriate to consider the functional or operational need of other activities in these areas²⁴.

10.14.4 The current wording of 1a references 'enabling' activities however enabling is a more permissive term than the rule framework allows for the upgrading or new establishment of important infrastructure, particularly in more sensitive areas of the coastal environment and I recommend it not be used in this context. This is also inconsistent with the word 'avoid' used in the NZCPS and the general understanding around the meaning of this word as determined by case law at the time of writing. It is noted that an overall assessment of whether a particular proposal is appropriate will need to be determined on a case by case basis having regard to the direction of higher order documents, various case law and Part 2 of the RMA.

10.14.5 Whilst I agree that small scale activities are unlikely to have more than minor adverse effects on natural character, I consider that it is appropriate to signal that the PDP is enabling of these (noting that public amenity and ancillary structures are permitted, subject to rule requirements being met). However for reasons of clarity, I recommend this is also signaled in a separate policy within this Chapter.

10.15 Transpower²⁵ oppose CE-P3 and the requirement to 'avoid' effects in certain circumstances. They seek that there are exceptions provided to this approach where the activity is associated with the National Grid. I recommend this submission point is accepted in part. I agree in part with the submitter's relief (DPR-0446:123) seeking a stand-alone policy, although to provide for important infrastructure in general rather than just the National Grid. This is to ensure consistency with the approach in the EI Chapter and for an integrated plan approach and is also a compromise with the relief sought by DoC above to delete that part of the policy entirely, by instead limiting its application to important infrastructure.

10.16 CRC²⁶ and Orion²⁷ seek that the policy is retained as notified. As I am recommending amendments, I recommend these submission points are accepted in part.

Recommendations and amendments

10.17 I recommend, for the reasons given above, that the Hearings Panel amend CE-P3.1, as set out in **Appendix 2** to:

- a) delete clause 'a' and insert new policies to provide for important infrastructure and public amenity activities.
- b) insert 'habitats of indigenous fauna' into clause 'd'.

10.18 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in Appendix 1.

10.19 The scale of change does not require a s32AA evaluation.

²⁴ Other policies in the NZCPS also seek the avoidance of adverse effects including Policy 11 (indigenous biodiversity) and Policy 15 (natural features and landscapes).

²⁵ DPR-0446:112 Transpower

²⁶ DPR-0260:138 CRC

²⁷ DPR-0367:034 Orion

CE-P4

Submissions

10.20 Three submissions points and two further submission points were received in relation to CE-P4.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0260	CRC	137	Support	Retain as notified
DPR-0427	DoC	068	Support	Retain as notified
DPR-0407	Forest & Bird	FS234	Support	Accept the submission
DPR-0301	UWRG	FS209	Support	Allow in full
DPR-0446	Transpower	113	Oppose	Amend as follows: <u>Except as provided by CE-PX, Avoid avoid</u> the clearance of indigenous vegetation within those areas, habitats and taxa listed in CE-SCHED4.

Analysis

10.21 Transpower²⁸ oppose CE-P4 and the requirement to avoid effects in certain circumstances. They seek that there are exceptions provided to this approach where the activities are associated with the National Grid. As discussed in CE-P3 above, I recommend this submission point is accepted in part. I agree in part with the submitter's relief (DPR-0446:123) seeking a stand-alone policy, although to provide for important infrastructure in general rather than just confined to the National Grid. This is to ensure consistency with the direction in the EI Chapter and for an integrated plan approach.

10.22 CRC²⁹ and DoC³⁰ seek that the policy is retained as notified. As I am not recommending amendments, I recommend that the submission point are accepted.

Recommendation

10.23 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.

10.24 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

CE-P5

Submissions

10.25 Two submissions points and two further submission points were received in relation to this subtopic.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0260	CRC	139	Support in Part	Amend CE-P5.1 as follows: Significant Natural Areas identified on the Planning Maps and listed in EIBSCHED4 that are outside of areas, habitats and taxa listed in CE-SCHED4
DPR-0212	ESAI	FS001	Oppose	Disallow in full
DPR-0422	NCFF	FS035	Oppose	Retain CE-P5 as notified.

²⁸ DPR-0446:113 Transpower

²⁹ DPR-0260:137 CRC

³⁰ DPR-0427:068 DoC

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0446	Transpower	121	Oppose	Amend as follows: <u>Except as provided by CE-PX, avoid</u> Avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on:

Analysis

10.26 CRC³¹ seek an amendment to CE-P5.1 to give effect relief sought by the submitter in the EIB Chapter which would have the effect that the EIB rules apply to all Significant Natural Areas as defined, not just those listed in EIB-SCHED4. If the Hearings Panel for EIB are minded to accept the substantive amendment as requested by the submitter then I recommend this submission point is accepted for what would be a consequential amendment to CE-P5.1.

10.27 Transpower³² seek that there are exceptions provided to this approach where the activities are associated with the National Grid. I recommend this submission point is accepted in part for reasons discussed in CE-P3 and CE-P4 above.

Recommendation

10.28 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.

10.29 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

CE-P6

Submissions

10.30 Two submissions points and three further submission points were received in relation to CE-P6.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0260	CRC	140	Support	Retain as notified
DPR-0427	DoC	069	Oppose	Amend as follows: <u>Enable, opportunities to restore and rehabilitate natural character and promote opportunities to enhance natural character</u>
DPR-0422	NCFE	FS021	Oppose	<i>Disallow the submission point. Retain the notified provision.</i>
DPR-0407	Forest & Bird	FS235	Support	<i>Accept the submission</i>
DPR-0301	UWRG	FS210	Support	<i>Allow in full</i>

Analysis

10.31 DoC³³ seek that the policy is amended to better give effect to Objective 8.2.4 of the CRPS and to broaden the policy to restore and enhance values to give effect to Policy 14 of the NZCPS. Policy 14

³¹ DPR-0260:139 CRC

³² DPR-0446:121 Transpower

³³ DPR-0427:069 DoC

of the NZCPS lists enhancement of the habitats of indigenous species as a possible approach to the restoration or rehabilitation of areas of the coastal environment. Objective 8.2.4 of the CRPS seeks the restoration or enhancement of natural, ecological, cultural, amenity, recreational and historic heritage values of the coastal environment. I agree that is appropriate to promote the enhancement of natural character in the coastal environment and recommend the relief sought is accepted as this is consistent with the intent of higher order planning direction.

10.32 CRC³⁴ seek that the policy is retained as notified. As I am recommending amendments, I recommend this submission point is accepted in part.

Recommendations and amendments

10.33 I recommend, for the reasons given above, that the Hearings Panel, as set out in **Appendix 2**:

a) Amend CE-P6 to include enhancement of natural character values.

10.34 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

10.35 The scale of change does not require a s32AA evaluation.

CE-P7

Submissions

10.36 One submission point was received in relation to CE-P7.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0260	CRC	141	Support	Retain as notified

Analysis

10.37 CRC³⁵ seek that the policy is retained as notified. As I am not recommending amendments, I recommend that the submission point is accepted.

Recommendation

10.38 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.

10.39 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

CE-Proposed New Policy

Submissions

10.40 One submission point and one further submission point were received in relation to new policies in CE.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0446	Transpower	123	Oppose	Insert new Policy CE-PX <u>1. Seek to avoid adverse effects of the development of the National Grid on natural character values in</u>

³⁴ DPR-0260:140 CRC

³⁵ DPR-0260:141 CRC

				<p><u>areas of Selwyn's coastal environment that have been identified as having outstanding natural character as described in CE-SCHED2;</u></p> <p><u>2. Avoid, or where this is not practicable, remedy or mitigate adverse effects on:</u></p> <p><u>a. natural character in all other areas of Selwyn's coastal environment;</u></p> <p><u>b. areas, habitats and taxa listed in CE-SCHED4;</u></p> <p><u>c. Significant Natural Areas identified on the Planning Maps and listed in EIB-SCHED4 that are outside of areas, habitats and taxa listed in CE-SCHED4;</u></p> <p><u>d. the Rakaia river mouth, Te Waihora/Lake Ellesmere and Coopers Lagoon/Muriwai, which are important breeding, feeding and resting places for wetland and coastal birds;</u></p> <p><u>e. habitats of indigenous species that are important for recreational, commercial, traditional or cultural purposes; and</u></p> <p><u>f. corridors and areas important for linking or maintaining ecological values.</u></p>
DPR-0422	NCCF	FS148	Support in part	Conditionally allow submission point.

Analysis

10.41 Transpower³⁶ in conjunction with relief sought for exceptions to be provided to policies where effects are to be 'avoided' for activities associated with the National Grid seek a stand-alone policy to provide for activities associated with the National Grid. As discussed above under CE-P3, I recommend the relief sought is accepted in part through the insertion of a new policy and amendments to CE-P3 although this is recommended to provide for important infrastructure in general rather than just confined to the National Grid.

Recommendations and amendments

10.42 I recommend, for the reasons given above, that the Hearings Panel:

a) Insert a new policy to provide for important infrastructure.

10.43 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

10.44 The scale of change does not require a s32AA evaluation.

11. Rules

CE-R1 Mahinga Kai

Submissions

11.1 Two submissions points and two further submission points were received in relation to CE-R1.

³⁶ DPR-0446:123 Transpower

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0422	NCFF	220	Support	Retain as notified
DPR-0427	DoC	139	Support	Retain as notified
DPR-0407	Forest & Bird	FS304	Support	Accept the submission
DPR-0301	UWRG	FS281	Support	Allow in full

Analysis

- 11.2 NCFF³⁷ and DoC³⁸ seek that the rule is retained as notified. As no amendments have been sought, I recommend that the submissions points are accepted.

Recommendation

- 11.3 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.
- 11.4 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

CE-R2 Plantation Forestry, Horticultural Planting, Woodlot, Shelterbelt Activity

Submissions

- 11.5 Eight submissions points and 11 further submission points were received in relation to CE-R2.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0032	CCC	026	Support	Retain as notified
DPR-0407	Forest & Bird	FS027	Support	Accept the submission
DPR-0212	ESAI	089	Oppose	Delete as notified
DPR-0032	CCC	FS068	Oppose	Retain as notified
DPR-0353	Hort NZ	198	Support	Retain as notified
DPR-0422	NCFF	221	Oppose	Delete as notified
DPR-0032	CCC	FS069	Oppose	Retain as notified
DPR-0407	Forest & Bird	FS027	Oppose in part	Reject the submission
DPR-0427	DoC	071	Support	Retain CE-R2.1 as notified
DPR-0407	Forest & Bird	FS237	Support	Accept the submission
DPR-0301	UWRG	FS212	Support	Allow in full
DPR-0427	DoC	072	Support	Retain CE-R2.2 as notified
DPR-0407	Forest & Bird	FS238	Support	Accept the submission
DPR-0301	UWRG	FS213	Support	Allow in full
DPR-0427	DoC	073	Support	Retain CE-R2.3 as notified
DPR-0407	Forest & Bird	FS239	Support	Accept the submission
DPR-0301	UWRG	FS214	Support	Allow in full
DPR-0439	Rayonier	011	Oppose in Part	Amend to refer to Plantation Forestry Activity as defined in the NESPF.
DPR-0422	NCFF	FS147	Support	Allow submission point.

Analysis

- 11.6 ESAI³⁹ and NCFF⁴⁰ both seek the rule is deleted as in their view, plantation forestry is controlled by the NES-PF, horticulture is an accepted and highly productive land use within Selwyn District and

³⁷ DPR-0422:220 NCFF

³⁸ DPR-0427:139 DoC

³⁹ DPR-0212:89 ESAI

⁴⁰ DPR-0422:221 NCFF

woodlots and shelterbelts are necessary in areas subject to high wind, erosion and contribute to positive outcomes. In addition they state that these activities already take place legitimately in those areas.

- 11.7 The direction in the NZCPS Policy 13 is to preserve and protect natural character, to avoid adverse effects on outstanding natural character and avoid significant adverse effects on natural character in other areas of the coastal environment. The PDP takes a graduated approach to managing natural character in the Coastal Environment recognising the direction in the NZCPS. Plantings proposed in outstanding natural character or the highly important Te Waihora/Lake Ellesmere High Natural Character area are a non-complying activity and in areas of very high natural character, a discretionary activity. I consider this is consistent with the NZCPS and is appropriate. For all other areas within the coastal environment, the rule mandates a restricted discretionary activity. The inclusion of plantation forestry in the rule is consistent with the NES-PF which allows district plans to be more stringent where the matter relates to Policy 13 of the NZCPS.
- 11.8 In considering whether the rule could be more lenient in other areas of the coastal environment (that are not very high or outstanding natural character or Te Waihora/Lake Ellesmere), it could be possible to further separate out 'high' natural character from the rest of the coastal environment. Plantings in the rest of the coastal environment outside of 'high' natural character could then be a permitted activity. This has been done with earthworks in CE-R5 where a distinction is made between mapped natural character (including high) and areas outside of mapped natural character but still in the coastal environment. The thresholds for earthworks in the latter case are much more permissive – essentially the same as that for GRUZ in terms of volume permitted. The main issue however with plantings is the potential for cumulative effects, which are less able to be controlled, than earthworks or buildings/structures where area/volume or density controls apply. The absence of mapped natural character does not mean its complete absence, rather that there is natural character which falls below the threshold to be considered as 'high' with the risk of cumulative adverse effects remaining. Adding an additional rule category to CE-R2 would also introduce a level of complexity that is not necessary relative to the scope of the issue and area affected. I therefore consider that a restricted discretionary activity is appropriate and recommend the submission points are rejected.
- 11.9 Rayonier⁴¹ seek that the rule is amended to align to refer to 'Plantation Forestry Activity' as defined by the NES-PF. I recommend this submission point is accepted in part to the extent that I recommend that CE-R2 is amended to clarify that this only applies to the establishment of new and expansion of existing plantation forestry. This would clearly link it to afforestation and bring it into line with the wording of GRUZ-R24, with any other plantation forestry activity managed through the NES-PF where the provisions exist on their own terms.
- 11.10 CCC⁴² and HortNZ⁴³ seek that the rule is retained as notified. DoC⁴⁴ seek that CE-R2.1 -2.3 is retained as notified. As I am recommending amendments I recommend these submission points are accepted in part.

41 DPR-0439:011 Rayonier

42 DPR-0032:036 CCC

43 DPR-0353:198 HortNZ

44 DPR-0427:71-73 DoC

Recommendation

11.11 I recommend, for the reasons given above, that the Hearings Panel, as set out in **Appendix 2** amend:

- a) CE-R2 to recognise that the rule is managing the establishment and expansion of plantation forestry (and horticultural planting, woodlots and shelterbelts).

11.12 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

11.13 The scale of change does not require a s32AA evaluation.

CE-R3 Buildings and Structures

Submissions

11.14 Ten submissions points and 7 further submission points were received in relation to CE-R3.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0032	CCC	039	Support	Retain as notified
DPR-0032	CCC	040	Support	Retain as notified
DPR-0032	CCC	041	Support	Retain as notified
DPR-0207	SDC	039	Support	Amend as follows: 1. Public Amenity Buildings
DPR-0207	SDC	040	Oppose in part	Amend as follows: 7. Buildings and/or structure, other than Public Amenity Buildings, or Ancillary Structures
DPR-0422	NCCF	FS145	Support	Allow the submission point.
DPR-0367	Orion	035	Support in part	Amend as follows: 7. Building and/or structure, other than Public Amenity Buildings, Where: ... c. The structure is a network utility pole with a maximum height of 8m.
DPR-0407	Forest & Bird	FS604	Oppose	Reject aspects of the submission which do not directly relate to electricity lines and services as critical infrastructure.
DPR-0422	NCCF	222	Support	Retain as notified
DPR-0427	DoC	074	Support	Retain CE-R3.1, CE-R3.2, CE-R3.4 and CE-R3.5 as notified
DPR-0407	Forest & Bird	FS240	Support	Accept the submission
DPR-0301	UWRG	FS215	Support	Allow in full
DPR-0427	DoC	075	Oppose	Make amendments to the Proposed Plan to address to the overlap in provisions and ensure that effects on natural character and effects of natural hazard risk are appropriately considered.
DPR-0407	Forest & Bird	FS241	Support	Accept the submission
DPR-0301	UWRG	FS216	Support	Allow in full
DPR-0422	NCCF	FS022	Neutral	That any development or changes to the general rural zone provides the opportunity for FFNZ involvement.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0446	Transpower	124	Oppose	Amend as follows: 9. Except as provided for by X, when When compliance with CE-R3.7.b. is not achieved: NC X. When a building or structure for the National Grid does not comply with CE-R3.7.b: DIS

Analysis

- 11.15 SDC⁴⁵ seek that CE-R3.1 is amended to delete 'buildings' from public amenity so that this will effectively include 'structures', as per the definition of public amenity in the PDP. I recommend this submission point is accepted as the intent of the rule is to permit all public amenity.
- 11.16 SDC⁴⁶ seek that CE-R3.7 is amended to exclude ancillary structures from this rule alongside 'public amenity' as this is addressed in CE-3.4. I agree and recommend this submission point is accepted for reasons of clarity.
- 11.17 Orion⁴⁷ seek an exemption for network utility poles with a maximum height of 8m in the Coastal Environment Overlay. Under EI-R6, Orion would be able to repair, maintain or operate network utility poles without the need to comply with this rule and associated height requirement CE-REQ1. This would include the replacement of poles that have reached the end of their life with a similar substitute. EI-R11 and EI-19, however which regulate the upgrading and expansion of network utility structures, require compliance with CE-R3 and CE-REQ1 which appear to effectively limit the height of any upgrade of the pole structure to 4m. This would apply where the pole structure is located outside of the road corridor.
- 11.18 Mr Bentley has however opined that a height limit of up to 8m is generally appropriate in the Coastal Environment. I note that the definition of 'ancillary structure' includes poles up to a height of 8m and 1m in diameter which is permitted under CE-R3.4. I consider this would apply to Orion's infrastructure. Where this is breached, the submitter could leverage operation and functional requirements through a resource consent application which would be assessed against effects on natural character and other values. I therefore recommend the submission point is accepted in part as the relief sought already appears to be present in the PDP.
- 11.19 DoC⁴⁸ state that the planning maps show the coastal inundation overlay overlapping with the coastal environment overlay. They submit that there are very limited areas of the coastal environment that are not identified as being at risk of coastal inundation and that it is inefficient and ineffective that the coastal environment chapter permits buildings, subject to standards, while the natural hazards chapter manages new buildings as either discretionary or non-complying activities. In the submitter's opinion amendments are required to address the overlaps in provisions.
- 11.20 I agree with the submitter that there are areas of significant overlap around the open coast portion of the Selwyn District between the Rakaia River and the area to the west of Te Waihora/Lake

⁴⁵ DPR-0207:039 SDC

⁴⁶ DPR-0207:040 SDC

⁴⁷ DPR-0367:035 Orion

⁴⁸ DPR-0427:075 DoC

Ellesmere between the coastal inundation/erosion layers and mapped areas of natural character. NZCPS Policy 13 requires the identification of at least high natural character in the coastal environment and the avoidance of significant adverse effects on natural character (avoiding adverse effects on outstanding natural character). NZCPS Policy 24 requires the identification of coastal hazards areas and Policy 25 requires avoiding increasing the risk of harm from coastal hazards. The PDP gives effect to both of these requirements through mapping and provisions however I accept that the natural hazard provisions are (in some instances) more directive (as they need to be) than the natural character provisions. From a practical standpoint, where there are overlaps, the provisions need to be read together and the more restrictive provisions will apply.

- 11.21 I note as an aside that the location of the coastal hazards provisions was the subject of a submission by Kainga Ora (DPR- 0424:53 – 56, 58, 60, 62, 64-66) who requested they be placed in the coastal environment chapter. The right of reply for the Natural Hazard Hearing recommended against this as the coastal inundation overlay extends inland beyond the coastal environment layer and the causes of coastal hazards are not solely the result of coastal processes.
- 11.22 Overall I recommend the submission point is rejected as a degree of overlap between different overlays reflects the nature of the PDP, the NPS and the requirement to give effect to higher order policy direction.
- 11.23 Transpower⁴⁹ submit that the rule does not give effect to the NPS-ET or CRPS and that there should be an exclusion from this rule and non-complying activity status for buildings and structures associated with the National Grid (where the activity should be a discretionary activity). I recommend this submission point is rejected. The EI Chapter permits the repair, maintenance and operation of network utilities both above ground and underground (EI-R6) without requiring compliance with CE-R3. The establishment of a new, or expansion of an existing electricity transmission line, is already provided for through EI-R20 as a discretionary activity⁵⁰. If a resource consent was required under the CE Chapter the submitter could leverage operation and functional requirements through a resource consent application which would be assessed against effects on natural character and other values.
- 11.24 CCC⁵¹ and NCCF⁵² seek that the rule is retained as notified. DoC⁵³ seeks that CE-R3.1, 3.2, 3.4 and 3.5 is retained as notified. As I am recommending amendments, I recommend these submission points are accepted in part.

Recommendation and amendments

- 11.25 I recommend, for the reasons given above, that the Hearings Panel, as set out in **Appendix 2** amend
- a) CE-R3.1 to delete 'Buildings' from 'Public Amenity Buildings'.
 - b) CE-R3.7 to exclude 'ancillary structures'.
- 11.26 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

⁴⁹ DPR-0446:124 Transpower

⁵⁰ Please note, changes have been recommended to this approach by the author of the right of reply report to the EI Chapter.

⁵¹ DPR-0032:039-041 CCC

⁵² DPR-0422:222 NCCF

⁵³ DPR-0427:075 DoC

11.27 The scale of change does not require a s32AA evaluation.

CE-R4 Mineral Extraction

Submissions

11.28 One submission point was received in relation to CE-R4.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0032	CCC	042	Support	Retain as notified

Analysis

11.29 CCC⁵⁴ seek that the rule is retained as notified. As no amendments have been sought, I recommend that the submission point is accepted.

Recommendation

11.30 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.

11.31 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

CE-R5 Earthworks

Submissions

11.32 Ten submissions points and 11 further submission points were received in relation to CE-R5.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0032	CCC	043	Support	Retain as notified
DPR-0212	ESAI	090	Oppose in Part	Amend CE-R5.2.b as follows: b. are for the purpose of installation of underground network utilities and ancillary structures, <u>or, underground water conveyance and/or rural production infrastructure; or</u>
DPR-0422	NCFF	FS122	Support	Allow the submission point.
DPR-0212	ESAI	091	Oppose in Part	Amend CE-R5.3.c to read: c. are for the purpose of installation of underground network utilities and ancillary structures, <u>underground water conveyance and/or rural production infrastructure</u> , excluding access roads; or
DPR-0422	NCFF	FS123	Support	Allow the submission point.
DPR-0212	ESAI	092	Oppose in Part	Delete reference to 'Prohibited' Activity Status in CE-R5.8
DPR-0260	CRC	142	Support	Retain as notified
DPR-0353	Hort NZ	199	Oppose in Part	Amend as follows: 2. The earthworks are outside of Outstanding Natural Character, Very High Natural Character and High Natural Character areas; and a.

⁵⁴ DPR-0032:042 CCC

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
				b. are for the purpose of installation of underground network utilities and ancillary structures; or c. <u>are ancillary rural earthworks, or</u> e. <u>d.</u>
DPR-0212	ESAI	FS003	Support	Allow in full
DPR-0407	Forest & Bird	FS490	Oppose	Reject the submission
DPR-0422	NCFF	223	Oppose in Part	Amend as follows: 2. b. are for the purpose of installation of underground network utilities and ancillary structures <u>or, underground irrigation infrastructure;</u> or c. <u>are ancillary rural earthworks; or</u> e. d. any fill, excavation or removal is no more than: i. 250m ³ per hectare; and ii. 250m ² per hectare 3. c. are for the purpose of installation of underground utility networks and ancillary structures, <u>underground irrigation infrastructure,</u> excluding access roads; or...'
DPR-0212	ESAI	FS004	Support	Allow in full
DPR-0407	Forest & Bird	FS139	Oppose	Reject the submission
DPR-0422	NCFF	224	Oppose in Part	Delete reference to 'Prohibited' Activity Status in CE-R5.8 and make any required consequential amendments.
DPR-0407	Forest & Bird	FS140	Oppose	Reject the submission
DPR-0427	DoC	077	Oppose in Part	Amend as follows: 7. Earthworks, other than earthworks subject to CE-R5.4 Where:; b. stopbanks or drains that existed on 27 June 1986; and or c. earthworks associated with the maintenance of outlets of rivers, streams, drains and stopbanks that existed on 27 June 1986.
DPR-0407	Forest & Bird	FS243	Support	Accept the submission
DPR-0301	UWRG	FS218	Support	Allow in full
DPR-0427	DoC	078	Support	Retain CE-R5.8 as notified.
DPR-0407	Forest & Bird	FS244	Support	Accept the submission
DPR-0301	UWRG	FS219	Support	Allow in full

Analysis

- 11.33 ESAI⁵⁵ and NCCF⁵⁶ state that it is important that provision is made for irrigation, water conveyance and rural production infrastructure installation in order to achieve environmental outcomes and directives for efficient water use and farming activity. Whilst irrigation would be classified as a network utility under this rule there may be other farming infrastructure consisting of pipes, cables and drains which are not classed as such. I consider that it is reasonable to permit earthworks for this type of activity particularly as the effects are likely to be minor and the activity is ancillary to the purpose of the underlying zoning which enables rural production. This is also consistent with my recommendations in the S42a report for Natural Features and Landscapes where a similar point was made by submitters. I therefore recommend these submission points are accepted in part to permit earthworks for underground infrastructure and amend 5.2b and 5.3c accordingly.
- 11.34 ESAI⁵⁷ and NCCF⁵⁸ seek the deletion of 'prohibited activity status' from 5.8 on the basis that a prohibited status should only apply to activities or effects that have the potential for catastrophic environmental outcomes. The submitters are not persuaded that this status should apply to an earthworks standard in a plan. Whilst Te Waihora/Lake Ellesmere is a very sensitive and renowned habitat I agree that there may be an unanticipated need to undertake earthworks in areas subject to the Te Waihora/Lake Ellesmere overlay and which are not covered by the remit of 5.7. In addition, policy in the CE Chapter does not support a prohibition approach (CE-P5 requires that significant adverse effects are avoided and other effects avoided, remedied or mitigated in relation to Te Waihora/Lake Ellesmere) and CE-R4 (Mineral Extraction) appears to be less restrictive by providing a consenting pathway for mineral extraction (albeit as a non-complying activity) in all sensitive areas of natural character in the coastal environment. A prohibited activity status would only align with the policy direction if it was reasonably certain that any earthworks not listed would in all cases result in significant adverse effects or other effects that couldn't be avoided, remedied or mitigated.
- 11.35 Te Waihora/Lake Ellesmere is covered by a National Water Conservation Order 1990 (the Order) which places restrictions on the use of water in the Lake including lake opening and closing, damming and draining and granting of water rights. This will need to be read in conjunction with the PDP to determine whether a resource consent can be even be granted.
- 11.36 I therefore recommend that the prohibited activity status is deleted and 5.7 which is a non-complying activity applies to all earthworks (other than permitted in 5.4) within the Te Waihora/Lake Ellesmere high natural character overlay, noting that any activity must satisfy the requirements of the PDP and the Order, which will narrow the scope of where a resource consent can be granted.
- 11.37 DoC⁵⁹ seek that there is a minor correction in 7.b changing 'and' to 'or'. I recommend this submission point is rejected as I am recommending that clauses 7.a –c are deleted as a consequential change to deleting the prohibited activity status in 7.8. DoC⁶⁰ also seek that 5.8 is retained as notified but as I am recommending this part of the rule is deleted, I recommend this submission point is rejected.

55 DPR-0212:090-091 ESAI

56 DPR-0422:223 NCCF

57 DPR-0212:092 ESAI

58 DPR-0422:224 NCCF

59 DPR-0427:077 DoC

60 DPR-0427:078 DoC

11.38 HortNZ⁶¹ and NCCF⁶² seek the exclusion of ‘ancillary rural earthworks’ from needing to comply with earthwork area and volume thresholds in the Chapter. I recommend these submission points are rejected for reasons discussed under Definitions (Section 7).

11.39 CCC⁶³ supports 5.3.a and seeks its retention as it complements the Christchurch District Plan. CRC⁶⁴ seek that the entire rule is retained as notified. I recommend these submission points are accepted in part as I am recommending amendments.

Recommendations and amendments

11.40 I recommend, for the reasons given above, that the Hearings Panel amend CE-R5 as set out in **Appendix 2** as follows:

- a) Amend CE-R5.2 and 5.3 to permit earthworks associated with underground infrastructure.
- b) Delete CE-R5.7 (clauses a-c) and 5.8.

11.41 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

11.42 The scale of change requires a s32AA evaluation.

Section 32AA evaluation

Effectiveness and efficiency

11.43 The changes proposed promote plan efficiency as they recognise that existing infrastructure which is in place needs to be maintained and repaired and that it is appropriate that this be enabled in the PDP. In addition it is appropriate to permit the installation of underground infrastructure where this will have minimal effects on the natural character of the area in which it is situated.

Costs and Benefits

11.44 The benefits of the changes proposed would be to permit a wider range of repair and maintenance activities and avoid the costs of resource consent. This would also promote the efficiency of infrastructure activities by enabling repair and maintenance to occur more quickly and/or with more certainty. The change also aligns in a consistent manner, the installation of underground network utility infrastructure with other underground infrastructure that might be required for rural production purposes.

Risk of acting or not acting

11.45 Not acting would mean that necessary repair and maintenance activity and installation of underground infrastructure would be subject to more costs through the resource consent process and through associated delays.

61 DPR-0353:199 HortNZ

62 DPR-0422:223 NCCF

63 DPR-0032:043 CCC

64 DPR-0260:142 CRC

Conclusion

11.46 The changes proposed will promote the overall approach to infrastructure in the PDP which is to enable repair and maintenance activities. This is more efficient than requiring resource consent in most cases because as the infrastructure is already in place, the effects are known and are not as significant as the establishment of or expansion of infrastructure. The installation of underground infrastructure (including network utilities which is already permitted) is unlikely to lead to long term impacts on natural character values and the change will provide a consistent approach to the undergrounding of infrastructure in sensitive areas.

SUB-R25 Subdivision and the Coastal Environment

Submissions

11.47 Six submissions points and 14 further submission points were received in relation to SUB-R25.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0212	ESAI	085	Oppose	Amend the activity status for SUB-R25.1 to Controlled
DPR-0212	ESAI	086	Oppose	Amend the activity status for SUB-R25.2 to Controlled
DPR-0212	ESAI	087	Oppose	Amend the activity status for SUB-R25.3 to Discretionary
DPR-0260	CRC	128	Support	Retain as notified
DPR-0298	Trices Road	FS033	Oppose in part	Reject submission
DPR-0492	Kevler	FS722	Oppose	Reject submission
DPR-0493	Gallina & Heinz-Wattie	FS049	Oppose	Reject submission in part being the amendments sought and the notified provisions sought to be retained
DPR-0461	Dunweavin	FS535	Oppose	Reject submission
DPR-0157	The Williams	FS923	Oppose in part	Reject in part the amendments sought.
DPR-0209	Manmeet Singh	FS531	Oppose	Reject the submission in part.
DPR-0414	Kāinga Ora	119	Support	Retain as notified
DPR-0565	SSH	FS056	Support in part	Support the submission subject to amendments to the MDRZ boundary at Rolleston to include properties on the east side of George Street including no. 30 George Street & any other amendments/changes to the relevant provisions as are consistent with enabling our MDH proposal.
DPR-0298	Trices Road	FS145	Oppose in part	Reject submission
DPR-0157	The Williams	FS185	Oppose in part	Reject the submission in part
DPR-0209	Manmeet Singh	FS375	Oppose in part	Reject the submission in part
DPR-0492	Kevler	FS541	Oppose in part	Reject the submission in part
DPR-0493	Gallina & Heinz-Wattie	FS165	Oppose in part	Reject the submission in part
DPR-0461	Dunweavin	FS172	Oppose in part	Reject submission

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0422	NCFF	214	Support in Part	<p>Amend as follows:</p> <p>Activity Status: DIS <u>RDIS</u></p> <p>1. Subdivision in the General Rural Zone. This rule does not apply to any subdivision under <u>SUB-R12 or SUB-R15</u>.</p> <p>2. Subdivision of General Land in the Māori Purpose Zone. This rule does not apply to any subdivision under <u>SUB-R12 or SUB-R15</u>.</p> <p><u>Matters for discretion:</u></p> <p>3. The exercise of discretion in relation to <u>SUB-R25.1. and SUB-R25.2 is restricted to the following matters:</u></p> <p><u>a. CE-MAT2 Buildings and Structures</u></p> <p><u>b. CE-MAT3 Building and Structure Height</u></p> <p><u>c. CE-MAT4 Building and Structure Footprint and Site Coverage</u></p> <p><u>d. CE-MAT5 Building and Structure Appearance</u></p> <p>Activity status when compliance not achieved:</p> <p>3. <u>4.</u> When compliance with any of SUB-R25.1. or SUB-R25.2. is not achieved: NCDIS</p>
DPR-0407	Forest & Bird	FS137	Oppose	Reject the submission

Analysis

11.48 ESAI⁶⁵ does not support the discretionary or non-complying activity status applied to SUB-R25 (Subdivision and the Coastal Environment) as in their view, there are large areas of land within the Coastal Environment Overlay which are held in certificates of title that contain land only partly covered by this overlay. They consider that it is unreasonable to attribute a discretionary status for subdivision of land that might only be partially be covered by such an overlay. ESAI advocate for a controlled activity status for 25.1 and 25.2 and discretionary activity status for 25.3.

11.49 NCFF⁶⁶ seek that the activity status is amended to restricted discretionary activity status for 25.1 and 25.2 and also seek a discretionary activity status for 25.3. as they support the tiered planning approach which requires a more stringent consenting process for sites within identified overlays of the coastal environment. However, they do not support the discretionary status defaulting to non-complying and the application to boundary adjustment subdivision.

11.50 I recommend these submission points are accepted in part for the following reasons:

11.50.1 I tend to agree with the submitters that the requirement for a default discretionary activity status, just because the site is within the coastal environment is unduly onerous. Rules on use and development outside of mapped natural character already account for the increased sensitivity of the coastal environment by restricting building and structure dimensions and the types of activity can take place.

11.50.2 In a practical sense, many areas of the coastal environment not covered by a natural character overlay are covered by other restrictive overlays including SASM, Coastal

⁶⁵ DPR-0212:085-087 ESAI

⁶⁶ DPR-0422:214 NCFF

Inundation/Coastal Erosion and ONL. The areas where subdivision, use and development can occur solely through the rules of the underlying zone are likely to be few.

11.50.3 Requiring a non-complying activity status in areas of mapped natural character is not required in my opinion as rules on use and development are suitably restrictive to give effect to direction in higher order planning documents (NZCPS, CRPS) as well as policy in the CE Chapter of the PDP. I note that subdivision in ONL which overlaps with some areas of mapped natural character is a discretionary activity. Whilst it is not necessary for rules managing the effects of activities on different overlays to be the same, the requirements under the NZCPS on managing effects on natural character and natural features and landscape are similar enough in my opinion that subdivision could be managed as a discretionary activity.

11.50.4 I therefore recommend that SUB-R25 is rearranged to delete the discretionary activity status for subdivision in the coastal environment outside of mapped natural character (reverting to the underlying zoning activity status, unless another more restrictive overlay applies) and that subdivision in mapped natural character is amended from non-complying to a discretionary activity status.

11.51 CRC⁶⁷ and Kainga Ora⁶⁸ seek that the entire rule is retained as notified. I recommend these submission points are accepted in part as I am recommending amendments.

Recommendations and amendments

11.52 I recommend, for the reasons given above, that the Hearings Panel amend SUB-R25 as set out in **Appendix 2** as follows:

a) Delete SUB-R25.1 and 25.2, renumber 25.3 to 25.1 and amend from non-complying to discretionary activity status.

11.53 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

11.54 The scale of change requires a s32AA evaluation.

Section 32AA evaluation

Effectiveness and efficiency

11.55 The amendment is more effective than the notified provisions as it recognises that subdivision in areas of the Coastal Environment where restrictive overlays do not apply is likely to be appropriate and can be managed effectively through the underlying zone rules on subdivision (noting that density requirements apply on residential development in the rural zone). In areas where natural character is ranked as 'high' or greater, a discretionary activity is appropriate as whilst the activity confers potential development rights, these development rights are carefully managed through the provisions in the CE Chapter (as well as other parts of the PDP).

⁶⁷ DPR-0260:128 CRC

⁶⁸ DPR-0414:119 Kainga Ora

Costs and Benefits

- 11.56 The benefits of the change will overall be minor as there are a number of restrictions on subdivision, use and development in the Coastal Environment in Selwyn. Many areas of the coastal environment not covered by a natural character overlay are covered by other restrictive overlays including SASM, Coastal Inundation/Coastal Erosion and ONL. The areas where subdivision, use and development can occur solely through the rules of the underlying zone are likely to be few

Risk of acting or not acting

- 11.57 Risks of not acting are minor due to the constraints that must be overcome to develop in the Coastal Environment however there may potentially be increased costs and uncertainty where subdivision is proposed in the Coastal Environment under the current proposed rules.

Conclusion

- 11.58 Overall whilst the change is a minor one it is appropriate as it recognises that the underlying zone rules are sufficient to manage subdivision in the Coastal Environment outside of mapped natural character areas. In mapped natural character areas, a discretionary activity enables broad consideration of the appropriateness of subdivision activity, noting that use and development are carefully managed. It also aligns with the approach for ONL where the requirements under the NZCPS on managing the effects of subdivision on natural character and natural features and landscape do not warrant significant differences.

12. Rule Requirements

CE-REQ3 Building coverage by buildings and structures

Submissions

- 12.1 Two submissions points and two further submission points were received in relation to CE-REQ3.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0212	ESAI	093	Oppose in Part	Amend as follows: 1. The maximum area of a site, <u>where the building or structure is fully or partially located within the Coastal Environment Overlay area</u> , that can be covered
DPR-0422	NCFF	225	Oppose in Part	Amend as follows: 1. The maximum area of a site, <u>where the building or structure is fully or partially located within the Coastal Environment Overlay area</u> , that can be covered
DPR-0212	ESAI	FS005	Support	Allow in full
DPR-0407	Forest & Bird	FS141	Oppose	Reject the submission

Analysis

- 12.2 ESAI⁶⁹ and NCCF⁷⁰ oppose CE-REQ3 as, in their view, many sites are not fully covered by the Coastal Environment Overlay and as such this requirement may be difficult to implement in practice. They consider that the requirement should be clear as to what it intends e.g. minimisation of buildings and structures in the coastal environment overlay areas.
- 12.3 If the building is in the Coastal Environment then the building coverage rules of the Coastal Environment Overlay will apply (taking into account the site area covered by the overlay) and if the building is outside of the overlay then the building coverage requirements of the underlying zone apply (GRUZ or MPZ) taking into account the whole site area. To take a practical example, a 1ha+ in area site that is zoned as GRUZ (with no Coastal Environment Overlay) up to 5% of the site area may be covered in buildings. In instances where part of the site is covered with the Coastal Environment Overlay both GRUZ and CE rule requirements must be satisfied. A building in the Coastal Environment Overlay must not contribute to exceeding 5% of the total site area but also must not be more than 2000m² (within the Coastal Environment Overlay) or 500m² for every 20ha of site area (that is within the Coastal Environment Overlay). An amendment and note may be helpful to explain this and therefore I recommend the submission points are accepted in part.

Recommendations and amendments

- 12.4 I recommend, for the reasons given above, that the Hearings Panel amend CE-REQ3 as set out in **Appendix 2** as follows:
- a) Amend the rule requirement and insert a note to provide greater clarity on how the building coverage rules are to apply.
- 12.5 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.
- 12.6 The scale of change does not require a s32AA evaluation.

13. Schedules

CE-SCHED1 Coastal Environment Qualities and Values

Submissions

- 13.1 Two submissions points and two further submission points were received in relation to CE-SCHED1.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0032	CCC	024	Support	Retain as notified
DPR-0427	DoC	079	Support	Retain as notified
DPR-0407	Forest & Bird	FS245	Support	Accept the submission
DPR-0301	UWRG	FS220	Support	Allow in full

69 DPR-0212:093 ESAI
70 DPR-0422:225 NCCF

Analysis

- 13.2 DoC⁷¹ and CCC⁷² seek that the schedule is retained as notified. As no amendments have been sought, I recommend that the submission points are accepted.

Recommendation

- 13.3 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.
- 13.4 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

CE-SCHED2 Outstanding Natural Character Areas Natural Character Qualities and Values**Submissions**

- 13.5 One submissions point and two further submission points were received in relation to CE-SCHED2.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0427	DoC	080	Support	Retain as notified
DPR-0407	Forest & Bird	FS246	Support	Accept the submission
DPR-0301	UWRG	FS221	Support	Allow in full

Analysis

- 13.6 DoC⁷³ seek that the schedule is retained as notified. As no amendments have been sought, I recommend that the submission point is accepted.

Recommendation

- 13.7 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.
- 13.8 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

CE-SCHED3 High and Very High Natural Character Areas Natural Character Qualities and Values**Submissions**

- 13.9 Two submissions points and two further submission points were received in relation to CE-SCHED3.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0032	CCC	025	Support	Retain as notified
DPR-0427	DoC	081	Support	Retain as notified
DPR-0407	Forest & Bird	FS247	Support	Accept the submission
DPR-0301	UWRG	FS222	Support	Allow in full

71 DPR-0032:024 CCC

72 DPR-0427:079 DoC

73 DPR-0427:080 DoC

Analysis

13.10 DoC⁷⁴ and CCC⁷⁵ seek that the schedule is retained as notified. As no amendments have been sought, I recommend that the submission points are accepted.

Recommendation

13.11 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.

13.12 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

CE-SCHED4 Coastal Environment Indigenous Vegetation Areas, Habitat and Taxa**Submissions**

13.13 One submissions point and two further submission points were received in relation to CE-SCHED4.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0427	DoC	082	Support	Retain as notified
DPR-0407	Forest & Bird	FS248	Support	Accept the submission
DPR-0301	UWRG	FS223	Support	Allow in full

Analysis

13.14 DoC⁷⁶ seeks that the schedule is retained as notified. As no amendments have been sought, I recommend that the submissions point is accepted.

Recommendation

13.15 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.

13.16 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

14. Conclusion

14.1 For the reasons set out in the Section 32AA evaluations and included throughout this report, I consider that the amended provisions will be efficient and effective in achieving the purpose of the RMA, the relevant objectives of this plan and other relevant statutory documents.

74 DPR-0032:025 CCC

75 DPR-0427:081 DoC

76 DPR-0427:082 DoC