

Hearing 20: Coastal Environment

Questions from the Hearing Panel

As foreshadowed by paragraph 12 of Minute 1, having read the Section 42A Report (and the associated specialist report by Mr Bentley) for the above, the Hearing Panel members have a number of questions that they would appreciate being answered by the Section 42A Report author(s) in writing prior to the hearings commencing.

Paragraph or Plan reference	Question
8.2	<p>In several other chapters the s42A officers have made recommendations for non-notification or limited notification rules with respect to breaches that would have limited scale of effect and would not have wider implications necessitating full public processes.</p> <p>Are there any rules in the CE chapter that you could support non-notification clauses for?</p>
10.6	<p>Policy 13 of the NZCPS is:</p> <p style="padding-left: 40px;">To preserve the natural character of the coastal environment and to protect <u>it from inappropriate subdivision, use, and development</u>:</p> <p>If we are to be consistent with that should Policy CE-P2 also include the words underlined above (which may be seen as a qualifier to outright protection)?</p>
10.14.4	<p><i>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.</i></p> <p>The word ‘enabling’ is however still used in other CE policies as well as the the (new) Policy P9, is this appropriate for those policies?</p> <p>Associated to that, is (new) P9 too permissive in that it refers to scale of the activity and not the effects, i.e. <i>“Enable activities that have a public benefit and are small in scale”</i></p>
11.15	<p>Will the rule contain a hyperlink to the definition of “Public Amenity” (to make it clear to readers that this term is defined and includes structures)?</p>
11.33	<p><i>ESAI and NCFE 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</i></p>

Paragraph or Plan reference	Question
	<p><i>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></p> <p>Can you please check if this advice is consistent with the s42A Report for Natural Character chapter (Hearing 13).</p>
12.3	<p>Would you consider that there may still be areas of uncertainty as to how the amended rule works, as the words to be inserted could be said to apply <u>only to a property (entirely) located within the CE overlay</u> rather than to the <u>portion of the property located within the overlay</u>?</p> <p>(If necessary we could discuss this at the hearing and use a whiteboard to illustrate the effect of the rule).</p>