

# **Section 42A Hearing Report**

## **Proposed Otago Regional Policy Statement 2021**

### **Chapter 8:**

### **CE – Coastal environment**

**Andrew Maclellan**



**27 April 2022**

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## 8. CE – Coastal Environment

### 8.1. Introduction

1. This section of the report assesses the provisions in the pORPS which establish the management framework which guide regional and territorial plans which apply to the coastal environment. The term ‘coastal environment’ is not defined in the RMA. However, Policy 1 of the NZCPS provides guidance on defining the extent and characteristics of the coastal environment. As a rule of thumb, the inland extent of the coastal environment extends to the first significant ridgeline. The seaward boundary is the twelve nautical mile limit of the territorial sea.
2. A number of activities occur within or affect the coastal environment including urban development, recreational activities, transport infrastructure, energy generation and transmission, food production and other farming activities, plantation forestry, rural industries and mineral extraction. Such activities can be important contributors to the existing and future health and well-being of communities so long as they are located and managed appropriately.
3. Poorly located or managed activities and development can have adverse effects that compromise the absorptive capacity of the receiving environment and impact on the values of the coastal environment such as natural character, biophysical processes, water quality, surf breaks, indigenous biodiversity and natural landscapes.
4. Otago’s coastal environment extends 480 kilometres from the Waitaki River in the north to Wallace Beach in the south and is highly valued by mana whenua. The coastal waters and processes are integral to the way of life tūpuna enjoyed, and the coastal environment supports significant mahika kai/kaimoana resources and wāhi tūpuna. This environment was traditionally important for settlement and travel and continues to provide for settlement and mahika kai and fisheries resources. Kaimoana is essential to coastal iwi and hapū relationships with the environment in particular, as part of the tikanga of food gathering and as indicators of the health of coastal environments.
5. The provisions assessed in this *CE – Coastal environment* chapter are:
  - CE–P1 – Links with other chapters
  - CE–P2 – Identification
  - CE–P3 – Coastal water quality
  - CE–P4 – Natural character
  - CE–P5 – Coastal indigenous biodiversity
  - CE–P6 – Natural features, landscapes and seascapes
  - CE–P7 – Surf breaks
  - CE–P8 – Public access

CE-P9 – Activities on land within the coastal marine area  
CE-P10 – Activities within the coastal marine area  
CE-P11 – Aquaculture  
CE-P12 – Reclamation  
CE-P13 – Kaitiakitaka  
CE-M1 – Identifying the coastal environment  
CE-M2 – Identifying other areas  
CE-M3 – Regional plans  
CE-M4 – District plans  
CE-M5 – Other incentives and mechanisms  
CE-E1 – Explanation  
CE-PR1 – Principal reasons  
CE-AER1  
CE-AER2  
CE-AER3  
CE-AER4  
CE-AER5  
CE-AER5  
CE-AER6  
CE-AER7

6. The structure of this section begins with an assessment of two ‘General Themes’; the first relating to duplication of NZCPS provisions, and the second concerning recognition of national infrastructure. Following this, the report considers the submissions on a provision-by-provision basis. The policies and methods on specific topics (water quality, natural character, indigenous biodiversity, etc) have been grouped together to ensure a consistent approach.

## 8.2. Author

7. My full name is Andrew Cameron Maclennan. I am an Associate at the firm Incite. I hold a Bachelor of Science in Land Planning and Development from Otago University and a Master of Resource Management from Massey University. I am an Associate Member of the New Zealand Planning Institute and a member of the Resource Management Law Association.
8. I have 9 years’ planning experience working in both local government and the private sector. During this time, I have worked policy planning roles, consent processing roles, and consent applicant roles. My policy planning experience includes working for a range of Councils drafting provisions for regional policy statements, regional plans, coastal plans, and district plans. I have also assisted with the drafting of associated section 32 evaluation reports, section 42A reports and reporting officer roles. I have experience participating in Environment Court processes such as expert conferencing, mediation, and hearings on plans reviews and plan changes. While I have a particular focus on coastal

environments and natural hazard management, I have a broad range of experience working on the development of indigenous biodiversity, coastal environment, natural hazards, landscapes, and urban planning provisions.

9. I have been involved in the review of the pORPS 2019 and the preparation of the pORPS since January 2020. I have assisted in the development of the CE - Coastal Environment Chapter, HAZ – Hazards and Risk Chapter, and the NFL – Natural Features and Landscapes Chapter, including assisting with provision drafting, the section 32 evaluation report, and this section 42A report.

### 8.3. General themes

10. A range of general submissions were made on this chapter that covered the duplication of the NZCPS, recognition of national infrastructure and integrated management and climate change. This section addresses all of those submission points.

#### 8.3.1. Duplication of the NZCPS

##### 8.3.1.1. Submissions

11. DCC<sup>1</sup> has submitted on a number of provisions, stating that they duplicate the direction within the higher order NZCPS, for example Policy 11. They request that these policies be deleted and replaced with a clear and direct cross-reference to the associated higher order provision to ensure all mandatory requirements are achieved. They also consider this drafting style will limit unnecessary repetition and complication.

##### 8.3.1.2. Analysis

12. I note that the drafting of the chapter seeks to avoid duplication of higher order provisions where there is information available to provide an Otago specific interpretation of the higher order policy direction. However, as highlighted in the section 32 report, the directive nature of some of the policies within the NZCPS provides little scope for the pORPS to consider additional or alternative management approaches. The limited region-specific information about some of the matters addressed within the NZCPS, for example Policy 11, means there is limited Otago-specific direction to guide the application of some policies. This is highlighted in CE-E1 to the policies which states:

*Some of the policies in the NZCPS are highly prescriptive and will be most effectively implemented through regional and district plans. In those cases, the policies in this RPS have included additional region-specific context where that is possible, but have not sought to restate the content of NZCPS policies with the expectation that those policies will be implemented by the regional and district plans.*

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<sup>1</sup> 00139.056, 00139.067, 00139.070, 00139.074 DCC

13. When drafting the pORPS, the option of referring to the detailed and directive provisions of the higher order NZCPS was suggested. At the policy level within the pORPS, it was considered that the interpretation and readability of the pORPS would be improved if these provisions were replicated in the pORPS rather than referred to. The justification for this was that at the policy level it was considered important to see all of the policy direction in one document, without having to refer to documents outside the pORPS. However, within the methods, it was considered appropriate that reference was made to detailed provisions within the NZCPS, for example policies 12, 19 and 20 relating to reclamation, and walking and vehicle access. I note that DCC do not provide any specific wording amendments regarding how these references are made.

#### 8.3.1.3. Recommendation

14. I recommend drafting is retained as notified.

#### 8.3.2. Recognition of national infrastructure

##### 8.3.2.1. Submissions

15. Transpower<sup>2</sup> seeks a range of amendments to the CE chapter that seek greater recognition of national grid activities. Transpower<sup>3</sup> seeks an amendment to CE-P1 that states that National Grid activities must be managed in accordance with the relevant provisions in the EIT-INF section of the pORPS and, in the event of any conflict between provisions, the provisions the EIT-INF section prevail. Similarly, Meridian<sup>4</sup> seeks that renewable electricity generation and electricity transmission activities must be managed in accordance with the EIT – EN – Energy and EIT – INF Infrastructure section of the pORPS.

16. Transpower<sup>5</sup> also seeks new clauses be added to the following three policies within the CE chapter:

- CE-P4 (Natural character),
- CE-P5 (Coastal indigenous biodiversity),
- CE-P6 (Natural features, landscapes and seascapes).

17. The additional clauses require that the development of the National Grid must 'seek to avoid adverse effects' on natural character areas, coastal indigenous biodiversity, and natural features, landscapes and seascapes, but the requirement to avoid adverse effects or avoid significant adverse effect would not apply to the development of the National Grid.

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<sup>2</sup> 00314.015, 00314.016, 00314.018 Transpower

<sup>3</sup> 00314.015 Transpower

<sup>4</sup> 00306.028 Meridian

<sup>5</sup> 00314.016, 00314.018 Transpower

18. Transpower considers, as drafted, Policies CE-P4, CE-P5, and CE-P6 are inconsistent with, and do not give effect to, Policy 8 of the NPSET that requires that the development of the National Grid should 'seek to avoid' adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity and existing sensitive activities, as opposed to 'avoid'. Transpower considers that the most succinct, effective and efficient way to respond to the need to give effect to the NPSET is to include a bespoke policy for the National Grid in the pORPS and in the event of conflict, this policy would prevail over policies in the CE section of the pORPS.
19. Waka Kotahi<sup>6</sup> also seeks an additional clause be added Policies CE-P4, CE-P5 and CE-P6, which states that the coastal environment can include nationally and regionally significant infrastructure and the operational and functional needs of this infrastructure shall also be provided for. The Te Waihanga also seeks a similar amendment to CE-P5<sup>7</sup>.

#### 8.3.2.2. Analysis

20. When considering the amendments to Policy CE-P1 suggested by both Transpower and Meridian, I agree in part with the suggested amendment. As discussed in more detail within the analysis of Policy CE-P1, I consider greater clarity needs to be provided within the pORPS as to the linkages between the CE chapter and the other chapters. As such, I have suggested an amendment to policy CE-P1 to clarify that where relevant, there are a number of chapters of the pORPS also apply within the coastal environment, unless expressly excluded. One of these chapters is the EIT chapter. However, I disagree with the submitters' suggestion that in the event of any conflict between provisions, the provisions the EIT-INF section prevail. I consider that the relevant provisions of the CE and EIT-INF chapters need to be read together and applied according to the terms in which they are expressed. Where provisions require a directive management approach, I consider this will prevail over the more general. As such, I disagree with the suggested amendment.
21. In relation to the amendments suggested by Waka Kotahi and Te Waihanga, I agree with the intent of the suggested amendment. I agree that coastal environment can include nationally and regionally significant infrastructure, and furthermore, I agree that the functional and operational needs of nationally and regionally significant infrastructure should be recognised and provided for. However, I disagree that this requires an amendment to Policies CE-P4, CE-P5 and CE-P6. I consider a better drafting solution is that an addition is made to Policy CE-P9 which relates to activities in land within the coastal environment. This is discussed further in section 8.18.3.
22. When considering the amendments suggested by Transpower I consider it is important to interrogate the language used in the higher order policy direction to determine which of the competing policy direction is more specific and directive.

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<sup>6</sup> 00305.013, 00305.014, 00305.015 Waka Kotahi

<sup>7</sup> 00321.038 Te Waihanga



23. First, Policy 11 of the NZCPS states:
- To protect indigenous biological diversity in the coastal environment:
- a. avoid adverse effects of activities on:  
[...]
  - b. avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on:  
[...]
24. Policy 13 of the NZCPS states:
1. To preserve the natural character of the coastal environment and to protect it from inappropriate subdivision, use, and development:
    - a. avoid adverse effects of activities on natural character in areas of the coastal environment with outstanding natural character; and
    - b. avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on natural character in all other areas of the coastal environment; including by:  
[...]
25. Policy 15 of the NZCPS states:
- To protect the natural features and natural landscapes (including seascapes) of the coastal environment from inappropriate subdivision, use, and development:
- a. avoid adverse effects of activities on outstanding natural features and outstanding natural landscapes in the coastal environment; and
  - b. avoid significant adverse effects and avoid, remedy, or mitigate other adverse effects of activities on other natural features and natural landscapes in the coastal environment; including by:  
[...]
26. Policy 8 of the NPS-ET states
- In rural environments, planning and development of the transmission system should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity and existing sensitive activities.
27. The language used within Policies 11, 13, and 15 of the NZCPS is directive, and requires the protection or preservation of specific areas of the coastal environment from inappropriate subdivision, use, and development, or in the case of Policy 11 protection of indigenous biological diversity in the coastal environment. These policies then detail how this protection is to occur, through the avoidance of adverse effects, or the

avoidance of significant effects. These policies do not contemplate a divergence from this strict avoidance requirement.

28. In contrast, Policy 8 of the NPSET requires that in rural environments, planning and development of the transmission system should seek to avoid adverse effects on particular areas and landscapes. I consider the language of Policy 8 of the NPS-ET that ‘development of the transmission system should seek to avoid’ is less directive than the language within Policies 11, 13, and 15 of the NZCPS.

29. If my interpretation of the directiveness of provision set out in the paragraph above is incorrect, I consider it is important to also note that Policy 8 of the NPS-ET applies within ‘rural environments’. Rural environments are not defined within the NPS-ET. There is however a definition of ‘Rural area’ within the pORPS which states:

Means any area of land that is not an urban area.

30. On this basis, I consider Policy 8 of the NPS-ET does not apply within the CMA or areas of the coastal environment that are urban.

31. Given my analysis above, I disagree that an additional clause should be added to Policies CE-P4, CE-P5, and CE-P6.

#### 8.3.2.3. Recommendation

32. No changes are recommended. However, changes discussed in the analysis above have been recommended to CE-P1 and CE-P9 below.

#### 8.3.3. Integrated management and climate change

##### 8.3.3.1. Submissions

33. Generally, Ngāi Tahu ki Murihiku,<sup>8</sup> Kāi Tahu Ki Otago<sup>9</sup> and Te Runanga o Ngāi Tahu<sup>10</sup> seek improved provision for the integrated management of land and freshwater and coastal waters in Otago. They also seek provision for customary fisheries mechanisms within the coastal environment chapter.<sup>11</sup>

34. Forest and Bird raise concern that policies within the Integrated management chapter cannot be relied upon to capture the precautionary approach and seek the following amendment to methods CE-M3 and CE-M4 to support the implementation of the coastal environment policies:<sup>12</sup>

*Territorial authorities must prepare or amend and maintain their district plans to:*

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<sup>8</sup> 00223.063 Ngāi Tahu ki Murihiku,

<sup>9</sup> 00226.013, 00226.015, 00226.016 Kāi Tahu Ki Otago

<sup>10</sup> 00234.013 Te Runanga o Ngāi Tahu

<sup>11</sup> 00226.019 Kāi Tahu Ki Otago, 00234.013 Te Runanga o Ngāi Tahu

<sup>12</sup> 00230.063, 00230.064 Forest and Bird

*(6) include provisions requiring the adoption of a precautionary approach to assessing the effects of activities in the coastal environment in accordance with IM–P15 where:*

*(a) there is scientific uncertainty, or*

*(b) there are potentially significant or irreversible adverse effects, Forest & Bird submission on Otago RPS, September 2021 29 of 73 or*

*(c) where coastal resources potentially vulnerable to effects from climate change,*

35. The issue of climate change has been raised by several submitters as a gap in the provisions.<sup>13</sup> Ngāi Tahu ki Murihiku seeks amendments to method CE-M3 highlighting climate change as a regionally significant issue which needs to be addressed.<sup>14</sup> Similarly, they seek amendment of CE-M4 to include direct reference to climate change impacts in the coastal environment.<sup>15</sup> Forest and Bird also seeks a similar addition to CE-M3(7) that requires a precautionary approach is taken in accordance with Policy 3(2) of the NZCPS.<sup>16</sup>
36. DCC seeks refinement of the RPS, requesting use of footnote references when provisions directly correlate to higher order documents.<sup>17</sup> They also highlight general issues across the coastal environment chapter with respect to drafting style.<sup>18</sup>
37. Three submitters seek clarification and amendments to account for the role of other legislative requirements, such as the Fisheries Act, and which relate directly to the coastal environment.<sup>19</sup> One submitter considers the coastal environment provisions should be integrated with all other systems and seeks amendments to the pORPS to reflect this.<sup>20</sup>
38. Otago Rock Lobster<sup>21</sup> submission include a general discussion on the submitters support for new legislation (and Oceans’ policy) to provide a high-level vision and non – statutory integration of goals and principles across marine statutes. The submitter also encourages the Council to work alongside fishing industry organisations and FNZ to understand New Zealand’s fisheries management regime and to give broad consideration to the most effective and efficient means of managing the adverse effects of fishing on marine

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<sup>13</sup> 00226.017 Kāi Tahu Ki Otago, 00234.013 Te Runanga o Ngāi Tahu, 00223.063, 00223.072, 00223.074, 00223.074, 00223.076 Ngāi Tahu ki Murihiku, 00137.056 DOC, 00139.071, 00139.063, 00139.071 DCC, 00230.042 Forest and Bird

<sup>14</sup> 00223.074 Ngāi Tahu ki Murihiku

<sup>15</sup> 00223.075 Ngāi Tahu ki Murihiku

<sup>16</sup> 00230.063, 00230.064 Forest and Bird

<sup>17</sup> 00139.056 DCC

<sup>18</sup> 00139.064 DCC

<sup>19</sup> 00124.025 Southern Inshore Fisheries, 00126.025 Harbour Fish, 00125.014, 00125.017, 00125.018 Otago Rock Lobster

<sup>20</sup> 00509.056 Wise Response

<sup>21</sup> 00125.005, 00125.006, 00125.007, 00125.008, 00125.009, 00125.016, 00125.019, 00125.020, 00125.021, 00125.022, 00125.026 Otago Rock Lobster

biodiversity. The only specific amendments to the pORPS are sought as a result of this submission points seek that the pORPS is amended to control the activities over which it has clear jurisdiction so as to avoid adverse effects on the values of the identified sites.

#### 8.3.3.2. Analysis

39. In relation to the submitters that seek improved provision for the integrated management of land and freshwater and coastal waters in Otago, I agree in part with the concerns raised. As set out in the section 8.10, I have suggested amendments to clarify that there are a number of other chapters within the pORPS that also have application to the coastal environment. I have also recommended an amendment to CE-M4(4) to ensure the integrated management to control land use activities which could cause direct or indirect effects on the coastal marine area.
40. In relation to the submitters that seek additional references to climate change, I note that there are already provisions managing climate change more broadly in Chapter IM – Integrated Management, and specific provision managing coastal hazards and climate change is considered within HAZ – Hazards and Risk. However, I agree that the addition to CE-M3(6) and CE-M4(7) requested by Forest and Bird would give effect to Policy 3(2) of the NZCPS and would assist in giving effect to the addition I have recommended within CE-O1.
41. In relation to the submissions seeking amendment to ensure the provisions of the pORPS relate to functions of regional councils and territorial authorities under the RMA. I consider this has been front of mind when drafting the provisions of the pORPS. I note that the provisions related to the management of indigenous biodiversity give effect to the Section 6(c) of the RMA and the provisions of the NZCPS. Therefore, I consider the provisions within the CE Chapter of the pORPS relate to functions listed within Section 30 and 31 of the RMA.

#### 8.3.3.3. Recommendation

42. I recommend amending CE-M3 as follows:

CE-M3 – Regional plans

Otago Regional Council must prepare or amend and maintain its *regional plans* no later than 31December 2028 to:

[...]

(6) include provisions requiring the adoption of a precautionary approach to assessing the *effects* of activities in the coastal environment in accordance with IM-P156<sup>22</sup> where:

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<sup>22</sup> Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00137.042 DOC, 00014.022  
John Highton

- (a) there is scientific uncertainty, or
- (b) there are potentially significant or irreversible adverse effects, or
- (c) coastal resources are potentially vulnerable to effects from climate change,<sup>23</sup>

43. I recommend amending CE-M4 as follows:

CE-M4 – District plans

*Territorial authorities* must prepare or amend and maintain their *district plans* to:

[...]

(6) include provisions requiring the adoption of a precautionary approach to assessing the *effects* of activities in the coastal environment in accordance with IM-P615<sup>24</sup> where:

- (a) there is scientific uncertainty, or
- (b) there are potentially significant or irreversible adverse effects, or
- (c) coastal resources are potentially vulnerable to effects from climate change.<sup>25</sup>

[...]

## 8.4. Definitions

44. A number of terms used in this section are used throughout the pORPS in their statutory context and for this reason are addressed in *Chapter 3: Interpretations: Definitions and Abbreviations*.

## 8.5. CE-O1 – Safeguarding the coastal environment

### 8.5.1. Introduction

45. As notified, CE-O1 reads:

CE-O1 – Safeguarding the coastal environment

The integrity, form, functioning and resilience of Otago's coastal environment is safeguarded so that:

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<sup>23</sup> 00230.063 Forest and Bird

<sup>24</sup> Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00137.042 DOC, 00014.022 John Highton

<sup>25</sup> 00230.064 Forest and Bird

- (1) the mauri of coastal water is protected, and restored where it has degraded,
- (2) coastal water quality supports healthy ecosystems, natural habitats, water-based recreational activities, existing activities, and customary uses, including practices associated with mahika kai and kaimoana,
- (3) the dynamic and interdependent natural biological and physical processes in the coastal environment are maintained or enhanced,
- (4) representative or significant areas of biodiversity are protected, and
- (5) surf breaks of national significance are protected.

#### 8.5.2. Submissions

46. Five submitters support the objective seek it be retained as notified.<sup>26</sup>
47. Thirteen submitters seek amendments, including three who raise concern that the objective does not adequately provide for the mauri of coastal water.<sup>27</sup>
48. Kāi Tahu Ki Otago and Te Runanga o Ngāi Tahu seek refinement of the coastal environment priorities and consider the health and wellbeing of coastal waters should be the foremost principle of any outcomes.<sup>28</sup> For this reason, they request the following provision be added:

*CE-O1 Te Mauri o te Moana*

*The mauri of Otago's coastal waters and their health and well-being is protected and restored where it is degraded, including through enhancing coastal water quality where it has deteriorated from what would be its natural condition.*

49. Furthermore, Kāi Tahu Ki Otago and Te Runanga o Ngāi Tahu request coastal management takes a more holistic, integrated and ecosystems approach, which also provides for the impacts of climate change. Specifically, Kāi Tahu Ki Otago seek the following amendment to CE-O1:

*Renumber and amend as follows:*

*CE-O1 O2 – Safeguarding the coastal environment Te Hauora o Te Tai o Arai-te-uru*

*The health, integrity, form, functioning and resilience of Otago's coastal environment is safeguarded, Otago's coastal ecosystems are sustained, and habitats of mahika kai and kaimoana are resilient and thriving, so that:*

<sup>26</sup> 00139.057 DCC, 00121.038 Ravensdown, 00122.008 Sanford, 00223.064 Ngāi Tahu ki Murihiku, 00014.027 John Highton

<sup>27</sup> 00226.131 Kāi Tahu Ki Otago, 00234.013 Te Ruanga o Ngāi Tahu, 00137.049 DOC

<sup>28</sup> 00226.014, 00226.130, 00226.131 Kāi Tahu Ki Otago, 00234.013, 00234.013 Te Ruanga o Ngāi Tahu

*(1) the mauri of coastal water is protected, and restored where it has degraded,*

*(2) coastal water quality supports healthy ecosystems, natural habitats, water-based recreational activities, existing activities, and customary uses, including practices associated with mahika kai and kaimoana,*

*(3) the ~~dynamic and~~ interdependent natural biological and physical processes in the coastal environment are maintained or enhanced, and it is recognised that the coastline is a dynamic and shifting environment,*

*(4) the health of coastal waters, coastal biodiversity, natural habitats and ecosystems are prioritised in all decision-making,*

*(5) the interconnectedness of wai Māori and wai tai, and the effects of terrestrial and freshwater uses and activities on coastal waters and ecosystems, are recognised and understood,*

*(46) representative or significant natural ecosystems and areas of biodiversity are protected, and*

*(57) the ongoing effects of climate change are identified and planned for ~~surf breaks of national significance are protected.~~*

50. DOC seeks to provide for the enhancement of mauri and requests the following amendment:

*the mauri of coastal water is protected and enhanced, and ~~restored~~ where it has become degraded it is restored.*

51. Four submitters raise concern that the objective does not give effect to the NZCPS.<sup>29</sup> Harbour Fish and Southern Inshore Fisheries seek phrasing amendments to align with this legislative instrument.<sup>30</sup>

52. Forest and Bird highlights concern for the lack of provision for freshwater and considers that the objective does not capture protection of indigenous biodiversity broadly enough. DOC seeks specific protection for areas of significant biodiversity as identified in APP2. Both submitters seek amendments to support clarification and interpretation.

53. The impact of climate change on the coastal environment is acknowledged by Te Runanga o Ngāi Tahu and Kāi Tahu Ki Otago who both request allowance to proactively manage its effects.

54. Two submitters seek additional protections for all biodiversity and surf breaks.<sup>31</sup> Two submitters seek further provision for existing activities including commercial fishing and

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<sup>29</sup> 00137.049 DOC, 00230.043, 00230.046 Forest and Bird, 00126.011, 00126.013 Harbour Fish, 00124.001, 00124.013 Southern Inshore Fisheries

<sup>30</sup> 00126.013 Harbour Fish, 00124.013 Southern Inshore Fisheries

<sup>31</sup> 00509.057 Wise Response Society, 00120.028 Yellow-eyed Penguin Trust

food production.<sup>32</sup> One submitter considers there is significant overlap between CE-O1 and CE-O2 and seeks distinction is made between the two for clarity.<sup>33</sup>

### 8.5.3. Analysis

55. I agree in part with Kāi Tahu Ki Otago and Te Runanga o Ngāi Tahu that the health and wellbeing of coastal waters, and the coastal environment should be the principal focus of any outcomes for the coastal environment. However, I disagree that a new objective is required to achieve this. I consider the same outcome can be achieved with an amendment to clause (1) which picks up on the drafting suggested by the submitter and ensures the mauri and health and well-being of coastal water is protected. I also agree with the addition of 'health' to the chapeau, as this builds on the theme of protecting the mauri of the coastal water. Given these recommended changes, I disagree that a new objective is required.
56. I agree in part with the amendment to CE-O1 that has been requested by Kāi Tahu Ki Otago and Ngāi Tahu. I support the introduction of a new clause that seeks greater recognition and understanding of the interconnectedness between the effects of terrestrial and freshwater activities and uses and I consider these amendments assist in giving effect to Section 3.5 Integrated management of the NPSFM.
57. I also agree that a reference to climate change is required within this objective. I note that there are existing provisions managing climate change more broadly are included within Chapter IM – Integrated Management, and specific provision managing coastal hazards and climate change is considered within HAZ – Hazards and Risk. However, I agree it is an important consideration when safeguarding Otago's coastal ecosystems. I agree with drafting of a new limb within the objective as proposed by the submitter. I disagree that 'coastal ecosystems', and 'habitats of mahika kai and kaimoana' need to be included within the chapeau as I consider the objective is broader than the management of these matters. I consider these matters are already acknowledged within clauses (2) to (5) of the objective. Therefore, I disagree an amendment is required.
58. I consider the amendments noted in the above paragraph will also resolve the concerns raised by DOC and Forest and Bird, and that there is a lack of provision for freshwater. In relation to the amendments requested by Forest and Bird, DOC and Kāi Tahu related to the protection of biodiversity within clause 4, I agree that the objective can be simplified to make clear the intention that areas of significant natural areas are protected. I also agree with Forest and Bird that there needs to be an addition made to the clause that identifies how areas of non-significant biodiversity is to be management. I note that Objective 1 of the NZCPS requires that the diversity of New Zealand's indigenous coastal flora and fauna is maintained and I consider this drafting should be added to the objective.

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<sup>32</sup> 00126.014 Harbour Fish, 00124.014 Southern Inshore Fisheries

<sup>33</sup> 00120.029 Yellow-eyed Penguin Trust



59. Finally, I disagree that amendments are required to provide for existing activities including commercial fishing and food production. I note that the goal of the objective is the safeguarding of the coastal environment, and I consider the suggested additions do not fit well within this objective.

#### 8.5.4. Recommendation

60. I recommend amending CE-O1 as follows:

CE-O1 – Safeguarding the coastal environment (Te Hauora o Te Tai o Arai-te-uru)<sup>34</sup>

The health,<sup>35</sup> integrity, form, functioning and resilience of Otago's coastal environment is safeguarded so that:

- (1) the mauri of *coastal water and its health and well-being*<sup>36</sup> is protected, and restored where it has *degraded*,
- (2) *coastal water* quality supports healthy ecosystems, natural habitats, water-based recreational activities, existing activities, and customary uses, including practices associated with mahika kai and kaimoana,
- (3) the dynamic and interdependent natural biological and physical processes in the coastal environment are maintained or enhanced,
- (4) the diversity of indigenous coastal flora and fauna is maintained, and areas of ~~representative~~ or significant indigenous biodiversity are protected, ~~areas of biodiversity are protected~~,<sup>37</sup> and
- (5) *surf breaks* of national significance are protected,<sup>z</sup>
- (6) the interconnectedness of wai Māori and wai tai, and the effects of terrestrial and freshwater uses and activities on coastal waters and ecosystems, are recognised and understood, and<sup>38</sup>
- (7) the ongoing effects of climate change within the coastal environment are identified and planned for.<sup>39</sup>

## 8.6. CE–O2 – Maintaining or enhancing highly valued areas of the coastal environment

### 8.6.1. Introduction

61. As notified, CE-O2 reads:

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<sup>34</sup> 00226.131 Kāi Tahu Ki Otago, 00234.015 Te Rūnanga o Ngāi Tahu

<sup>35</sup> 00226.131 Kāi Tahu Ki Otago

<sup>36</sup> 00226.130 Kāi Tahu Ki Otago

<sup>37</sup> 00137.049 DOC, 00230.046 Forest and Bird

<sup>38</sup> 00226.131 Kāi Tahu Ki Otago

<sup>39</sup> 00226.131 Kāi Tahu Ki Otago, 00234.015 Te Rūnanga o Ngāi Tahu

CE–O2 – Maintaining or enhancing highly valued areas of the coastal environment  
Public access, recreation opportunities, and *highly valued natural features and landscapes* in the coastal environment are maintained or enhanced.

#### 8.6.2. Submissions

62. Three submissions support of the whole objective and seek it be retained as notified.<sup>40</sup> Ten submitters seek amendment to the provision, including DOC who requests both maintenance *and* enhancement be required.<sup>41</sup>

63. Kāi Tahu Ki Otago<sup>42</sup> requests walking and vehicle access be differentiated to support implementation. They also request that natural features and landscapes be considered in a single objective for clarity or managed under associated provisions in the *Natural features and landscapes chapter*. Specifically, they seek the following amendment:

*Renumber and amend as follows:*

*CE–O2–O5 – Maintaining ~~or~~ and enhancing ~~highly valued areas of~~ access to and recreational use of the coastal environment.*

*Public walking access, and recreation opportunities, ~~and highly valued natural features and landscapes~~ in the coastal environment are maintained or enhanced and surf breaks of national importance are protected.*

64. Federated Farmers<sup>43</sup> opposes enhancing public access to areas of the coastal environment in private ownership and seeks the following amendment:

*Public Access to public areas, recreation opportunities, and ~~highly valued outstanding natural features and landscapes~~ in the coastal environment are maintained or enhanced.*

65. Several submitters consider reference to *highly valued natural features and landscapes* and *highly valued areas* do not reflect relevant descriptions and seek amendments to support clarification and interpretation.<sup>44</sup>

66. Three submitters query the intent of CE-O2, highlighting policy overlaps with other provisions.<sup>45</sup> Ngāi Tahu ki Murihiku specifically identifies that CE-O5(4) and CE-O3 (with amendments to clarify what is intended regarding highly valued natural features and landscapes, natural character, natural features, landscapes and seascapes) adequately achieves the purpose of CE-O2. All three seek amendments to support clarification.

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<sup>40</sup> 00139.058 DCC, 00122.009 Sanford, 00014.028 John Highton

<sup>41</sup> 00137.050 DOC

<sup>42</sup> 00226.132 Kāi Tahu ki Otago

<sup>43</sup> 00239.057 Federated Farmers

<sup>44</sup> 00121.039 Ravensdown, 00230.047 Forest and Brid, 00239.057 Federated Farmers, 00306.027 Meridian, 00124.015 Southern Inshore Fisheries, 00126.015 Harbour Fish

<sup>45</sup> 00226.132 Kāi Tahu Ki Otago, 00223.065 Ngāi Tahu ki Murihiku, 00120.030 Yellow-eyed Penguin Trust

### 8.6.3. Analysis

67. I agree with the submitters that consider the drafting of this objective has conflated highly valued natural features and landscapes and public access, which makes for a confusing objective. I agree that this objective can be re-drafted to focus on public access. I consider this can be done by removing reference to 'highly valued natural features and landscapes' from the objective. I note that Objective CE-O3 provides direction on the management of natural features, landscapes and seascapes within the coastal environment and therefore the amendment within CE-O2 will remove duplication. I also consider a consequential amendment is required to the title of the objective. Finally, I do not agree that walking and vehicle access needs to be differentiated at the objective level but it is appropriate that this be done within policy CE-P8 and the methods as set out in CE-M4.

### 8.6.4. Recommendation

68. I recommend amending CE-O2 as follows:

CE-O2 – Public access and recreation Maintaining or enhancing highly valued areas of the coastal environment

Public access, and recreation opportunities, ~~and highly valued natural features and landscapes~~<sup>46</sup> in the coastal environment are maintained or enhanced.

## 8.7. CE-O3 – Natural character, features and landscapes

### 8.7.1. Introduction

69. As notified, CE-O3 reads:

CE-O3 – Natural character, features and landscapes

Areas of natural character, natural features, landscapes and seascapes within the coastal environment are protected from inappropriate activities, and restoration is encouraged where the values of these areas have been compromised.

### 8.7.2. Submissions

70. In total 13 submissions were received, including three submitters who support the provision in its entirety and seek it be retained as notified.<sup>47</sup>

71. Two submitters seek general clarity regarding the intent of this objective and consider there is duplication with provisions in the *Natural features and landscapes* chapter.<sup>48</sup> Ngāi

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<sup>46</sup> 00121.039 Ravensdown, 00230.047 Forest and Brid, 00239.057 Federated Farmers, 00306.027 Meridian Energy, 00124.015 Southern Inshore Fisheries

<sup>47</sup> 00122.010 Sanford, 00014.029 John Highton, 00314.014 Transpower

<sup>48</sup> 00226.133 Kāi Tahu Ki Otago, 00223.066 Ngāi Tahu ki Murihiku

Tahu ki Murihiku states that the provision as drafted hinders interpretation and implementation. Four submissions seek further clarity regarding the term “inappropriate activities”.<sup>49</sup> DCC requests refinement of the objective wording to better describe the intended outcome and proposes replacing “inappropriate activities” with “adverse effects” to better align with CE-P6.

72. Two submitters consider the provision fails to provide sufficiently strong direction to support protection and restoration,<sup>50</sup> and DOC seeks the following amendment:

*...and ~~restoration is encouraged~~ restored where the values of those areas have been compromised.*

73. Three submitters state the provision fails to give effect to the NZCPS,<sup>51</sup> and Kāi Tahu Ki Otago<sup>52</sup> seeks the following amendment to align with the national direction:

*Renumber and amend as follows:*

*CE-~~03~~ 04 – Natural character, features and landscapes*

*Areas of natural character are preserved, and natural features, landscapes and seascapes within the coastal environment are protected from inappropriate activities, and restoration is encouraged where the values of these areas have been compromised.*

74. Port Otago<sup>53</sup> considers the policy as drafted goes beyond the requirement of the NZCPS, as it requires “protection” and “restoration” of natural character, natural features and landscapes and seascapes within all coastal environment areas and not just outstanding and high value natural character areas and outstanding landscapes as per Policy 13 and Policy 15 of the NZCPS. The submitter therefore seeks the following amendment:

*Areas of outstanding and high natural character, and outstanding natural features, landscapes and seascapes within the coastal environment are protected from inappropriate activities, and restoration is encouraged for other areas where ~~the~~ values ~~of these areas~~ have been compromised.*

### 8.7.3. Analysis

75. In relation to the potential overlap between CE-03 and the *NLF – Natural Features and Landscapes* chapter of the pORPS, I note the NFL- P6 states that:

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<sup>49</sup> 00139.059 DCC, 00126.016 Harbour Fish, 00124.016 Southern Inshore Fisheries, 00120.031 Yellow-eyed Penguin Society

<sup>50</sup> 00137.051 DOC, 00509.058 Wise Response Society

<sup>51</sup> 00226.133 Kāi Tahu Ki Otago, 00230.043, 00230.048 Forest and Bird, 00301.016 Port Otago

<sup>52</sup> 00226.133 Kāi Tahu Ki Otago

<sup>53</sup> 00301.016 Port Otago

*Natural features and landscapes located within the coastal environment are managed by CE-P6 and implementation of CE-P6 also contributes to achieving NFL-O1.*

76. I consider this clarifies that the identification of natural features and landscapes located within the coastal environment are managed within the Coastal Chapter but help to achieve NFL-01.
77. When considering whether “inappropriate activities” should be replaced with “adverse effects”, I note that using the term “inappropriate activities” at the objective level is consistent with the use of the term within Objective 2 of the NZCPS. I consider the policies within the CE chapter can provide greater clarity as to what may be considered an inappropriate activity. I also note that CE-P6 includes different policy tests for ‘outstanding’ and ‘all other’ natural features, landscapes or seascapes. CE-P6(2) states that:
- avoiding adverse effects of activities on outstanding natural features, landscapes or seascapes*
78. CE-P6(3) states that:
- avoiding significant adverse effects and avoiding, remedying, or mitigating other adverse effects of activities on other natural features and natural landscapes or seascapes*
79. Together these clauses reflect the requirements of Policy 15 of the NZCPS. Therefore, a requirement that all natural features, landscapes or seascapes will be protected from adverse effects goes beyond what is required by CE-O2, CE-P6, and Policy 15 of the NZCPS.
80. For similar reasons to those discussed above, I do not agree with the Port Otago submission that the objective as drafted goes beyond the requirement of the NZCPS. I consider that the objective level of the pORPS is an appropriate place to provide for the protection of all natural character areas, and natural features, landscapes and seascapes from inappropriate activities. It is then appropriate that the policy level provides greater specificity to manage areas with high and outstanding values.
81. Finally, I agree with submitters that seek the introduction of ‘preservation’ as this aligns with the drafting within Objective 2 of the NZCPS. I disagree with the suggestion that ‘encourage’ should be removed from the objective. I note that undertaking restoration is encouraged within Objective 2 of the NZCPS and ‘promoted’ within Policy 14 of the NZCPS. As such, I consider the reference to ‘encourage’ within the objective is appropriate.

#### 8.7.4. Recommendation

82. I recommend amending CE-O3 as follows:

### CE-03 – Natural character, features and landscapes

Areas of natural character, are preserved and<sup>54</sup> natural features, landscapes and seascapes within the coastal environment are protected from inappropriate activities, and restoration is encouraged where the values of these areas have been compromised.

## 8.8. CE–04 – Kāi Tahu associations with Otago’s coastal environment

### 8.8.1. Introduction

83. As notified, CE-04 reads:

#### CE–04 – Kāi Tahu associations with Otago’s coastal environment

The enduring cultural association of Kāi Tahu with Otago’s coastal environment is recognised and provided for, and *mana whenua* are able to exercise their kaitiaki role within the coastal environment.

### 8.8.2. Submissions

84. Three submitters support this provision and seek it be retained as notified,<sup>55</sup> and 4 submitters seek amendment to the provision.<sup>56</sup>

85. Two submitters seek amendments to ensure mandatory obligations are achieved. Specifically, DOC seeks the revision of the package of coastal environment provisions to ensure the values and interests of mana whenua are adequately provide for.<sup>57</sup> Forest and Bird requests the ‘association’ is replaced with ‘relationship’ to provide consistency with the NZCPS.

86. Kāi Tahu Ki Otago, Te Runanga o Ngāi Tahu, and Ngāi Tahu ki Murihiku seek better recognition of statutory acknowledgements.<sup>58</sup> Two submitters go further and request CE-04 be elevated in the objective framework to reflect awareness of cultural values and interests and seek the following amendment:

*Renumber and amend as follows:*

*CE-04 O3 - Kāi Tahu associations with Otago’s coastal environment Mana moana*

*The enduring cultural association of Kāi Tahu with Otago’s coastal environment is recognised and provided for, and mana whenua are able to:*

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<sup>54</sup> 00226.133 Kāi Tahu Ki Otago

<sup>55</sup> 00139.060 DCC, 00122.011 Sanford, 00014.030 John Highton

<sup>56</sup> 00226.134 Kāi Tahu Ki Otago, 00234.016 Te Runanga o Ngāi Tahu, 00223.063 Ngāi Tahu ki Murihiku, 00230.049 Forest and Bird, 00509.060 Wise Response

<sup>57</sup> 00137.047, 00137.048 DOC, 00230.049 Forest and Bird

<sup>58</sup> 00223.063 Ngāi Tahu ki Murihiku, 00226.134 Kāi Tahu ki Otago, 00234.016 Te Rūnanga o Ngāi Tahu

- (1) *exercise their rakatirataka role, manaakitaka and their kaitiaki role duty of care within the coastal environment, and*
- (2) *engage in customary fisheries, mahika kai and kaimoana practices.*<sup>59</sup>

87. Ngāi Tahu ki Murihiku seeks amendments which provide specifically for mana whenua to “exercise their rakatirataka and their kaitiaki role within the coastal environment, including mātaimai and taiāpure”.<sup>60</sup>

88. Wise Response<sup>61</sup> seek the following amendment:

*The enduring cultural association of Kāi Tahu with Otago’s coastal environment is recognised and provided for, and mana whenua are able to exercise their kaitiaki role within the coastal environment with the support of any other cultural group where appropriate.*

### 8.8.3. Analysis

89. I agree in part with the amendments suggested by Kāi Tahu and Ngāi Tahu. I support the re-naming of the objective as I consider the title of this objective needs to reflect Kāi Tahu associations with Te Tai o Arai-te-uru (the Otago Coast). I also support the addition of reference to rakatirataka and manaakitaka. However, I am less convinced that reference to customary fisheries, mahika kai and kaimoana need to be included within the objective. I note that these activities are recognised within CE-P13-Kaitiakitaka. Therefore, I do not agree that repetition within the objective is required.

90. In relation to whether ‘association’ is replaced with ‘relationship’ to provide consistency Objective 3 of the with NZCPS, I tentatively support the suggested amendment, but I would like to invite Kāi Tahu and Ngāi Tahu to provide advice on this matter, as ultimately this is describing their connection to Te Tai o Arai-te-uru (the Otago Coast) and therefore they would be best placed to describe this connection.

91. In relation to the submission from Wise Response, I am unclear what ‘other cultural group’ is referring to. Given the vague nature of the suggested amendment, I disagree the amendment is required.

### 8.8.4. Recommendation

92. I recommend amending CE-O4 as follows:

CE-O4 – Kāi Tahu associations with Otago’s coastal environment Mana moana<sup>62</sup>

The enduring cultural association of Kāi Tahu with Otago’s coastal environment is recognised and provided for, and *mana whenua* are able to exercise their kaitiaki

<sup>59</sup> 00226.014, 00226.134 Kāi Tahu Ki Otago, 00234.016 Te Runanga o Ngāi Tahu

<sup>60</sup> 00223.067 Ngāi Tahu ki Murihiku

<sup>61</sup> 00509.060 Wise Response

<sup>62</sup> 00226.134 Kāi Tahu Ki Otago

rakaitirataka role, manaakitaka and their kaitiaki duty of care<sup>63</sup> within the coastal environment.

## 8.9. CE–O5 – Activities in the coastal environment

### 8.9.1. Introduction

93. As notified, CE-O5 reads:

CE–O5 – Activities in the coastal environment

Activities in the coastal environment:

- (1) make efficient use of space occupied in the coastal marine area,
- (2) are of a scale, density and design compatible with their location,
- (3) are only provided for within appropriate locations and limits, and
- (4) maintain or enhance public access to and along the coastal marine area, including for customary uses.

### 8.9.2. Submissions

94. Three submissions support the provision as drafted and seek it be retained as notified,<sup>64</sup> however the majority of submitters seek amendments.

95. Four submitters consider the provision is too restrictive and is inconsistent with the NZCPS, particularly in relation to providing for appropriate locations for infrastructure where it has a functional or operation need to locate in that environment.<sup>65</sup> Aurora Energy seeks the following particular amendment to CE-O5 (3), noting consequential amendments will be required to CE-E1, CE-PR1, CE-AER1 and CE-AER6:

*(3) are only provided for within appropriate locations ~~and limits~~, or, in the case of infrastructure where there is a functional or operational need, and<sup>66</sup>*

96. Port Otago<sup>67</sup> seeks that clause (3) is removed, and that (4) is amended to ensure public access is able to be restricted for the purposes of health and safety.

97. Ngāi Tahu ki Murihiku<sup>68</sup> and Federated Farmers<sup>69</sup> seek to understand what is meant by the term ‘appropriate locations’, highlighting they may impact certain activities located

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<sup>63</sup> 00226.134 Kāi Tahu Ki Otago

<sup>64</sup> 00121.040 Ravensdown, 00122.012 Sanford, 00014.031 John Highton

<sup>65</sup> 00301.017 Port Otago, 00124.017 Southern Inshore Fisheries, 00126.017 Harbour Fish, 00315.021 Aurora Energy

<sup>66</sup> 00315.021, 00315.029 Aurora Energy

<sup>67</sup> 00301.017 Port Otago

<sup>68</sup> 00223.068 Ngāi Tahu ki Murihiku

<sup>69</sup> 00239.058 Federated Farmers



in these areas. Ngāi Tahu ki Murihiku also seeks clarification regarding the term 'limits' and considers amendments to improve connections to policies and methods are made.<sup>70</sup>

98. Kāi Tahu Ki Otago<sup>71</sup> and Forest and Bird<sup>72</sup> both seek amendments to provide for activities with a functional or operational need for locating in the coastal environment.

99. Two submitters seek amendments to prioritise the health of coastal waters.<sup>73</sup> Te Runanga o Ngāi Tahu seeks the following amendments:

*Renumber and amend as follows:*

*CE-~~05~~ 06 – Activities in the coastal environment*

*To enable activities to locate in the coastal environment due to functional or operational need, or to provide for the cultural, social or economic wellbeing of people or their health and safety, provided: ~~A activities in the coastal environment:~~*

*(1) any adverse effects on Ngāi Tahu on cultural values, including adverse effects on customary fisheries including mātaihai reserves and taiāpure, are avoided;*

*(2) any other adverse environmental effects are avoided, remedied or mitigated;*

*(~~13~~) ~~make efficient use~~ is made of space occupied in the coastal marine area,*

*(~~24~~) activities are of a scale, density and design compatible with their location and the need to manage adverse effects; and,*

*(3) are only provided for within appropriate locations and limits, and*

*(~~46~~) ~~maintain or enhance~~ public access to and along the coastal marine area, including for customary uses including mahika kai and kaimoana gathering is maintained or enhanced, except where public access needs to be restricted for reasons of health and safety or ecological or cultural sensitivity.<sup>74</sup>*

100. Three submitters seek amendments which seek to secure the natural environment.<sup>75</sup> Kāi Tahu Ki Otago seeks the following amendment in recognition of the need for management of adverse environmental effects:

*Renumber and amend as follows:*

*CE-~~05~~ 06 – Activities in the coastal environment*

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<sup>70</sup> 00223.068 Ngāi Tahu ki Murihiku

<sup>71</sup> 00226.135 Kāi Tahu ki Otago

<sup>72</sup> 00230.050 Forest and Bird

<sup>73</sup> 00230.050 Forest and Bird, 00234.017 Te Rūnanga o Ngāi Tahu

<sup>74</sup> 00234.017 Te Rūnanga o Ngāi Tahu

<sup>75</sup> 00226.135 Kai Tahu ki Otago, 00120.032 Yellow-eyed Penguin Trust, 00509.061 Wise Response Society

*Where required to locate in the coastal environment due to functional or operational need, or to provide for the cultural, social or economic wellbeing of people or their health and safety, A activities ~~in the coastal environment~~:*

- (1) avoid adverse environmental and cultural effects as a priority, including adverse effects on customary fisheries including mātaimai reserves and taiāpure,*
- (2) make efficient use of space occupied in the coastal marine area,*
- (3) are of a scale, density and design compatible with their location,*
- (4) are only provided for within appropriate locations and limits, and*
- (5) maintain or enhance public access to and along the coastal marine area, including for customary uses including mahika kai and kaimoana gathering.*<sup>76</sup>

101. Two submitters raise policy integration concerns, including DCC who considers the policy is too generalised and seeks amendments to enable managed retreat and a reduction in risk.<sup>77</sup> One submitter identifies ECO-P7 relies on CE-O5 for management and implementation to achieve ECO-O1, and as drafted CE-O5 does not give adequate effect to ECO-O1.<sup>78</sup> One submitter considers provision is required to meet national renewable energy and emissions reduction goals.<sup>79</sup>

### 8.9.3. Analysis

102. I disagree with the submitters who state that clause (3) of the objective is too restrictive and inconsistent with the NZCPS requirement to provide for the functional or operation needs of infrastructure. I note that clause (3) of the objective is reasonably broad and requires that activities are only provided for within appropriate locations and limits. Therefore, I consider this provides scope for infrastructure activities that have a functional or operation need to be located in the coastal environment. However, I do agree that the policies within the CE chapter need to provide greater clarity as to how infrastructure activities within the coastal environment are to be managed. This will be considered within the assessment of CE-P9 (section 8.18.3) and CE-P10 (section 8.19.3).

103. In relation to the suggestion from Port Otago that clause (4) should be amended to ensure public access is able to be restricted for the purposes of health and safety, I consider Te Runanga o Ngāi Tahu's insertion of clause (6) eloquently achieves this, as it acknowledges that there are particular locations or times where public access needs to be restricted. These locations and times are expanded on within CE-P8 and CE-M3(8) and CE-M4(7)

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<sup>76</sup> 00226.014, 00226.135 Kai Tahu ki Otago

<sup>77</sup> 00139.061 DCC

<sup>78</sup> 00124.017 Southern Inshore Fisheries

<sup>79</sup> 00509.061 Wise Response Society

104. In relation to the submitters who seek to understand what is meant by the term ‘appropriate locations’, I acknowledge that the term is very general. However, I also note that this is fleshed out within the policies within the CE chapter. The intention of the drafting is that the objective sets the outcomes sought and the policies implement the objective. Given this, I consider the policies are best placed to develop and clarify the term.
105. I disagree that clause (3) should be amended to require that activities have a functional or operational need for locating in the coastal environment. I note that within the NZCPS, this requirement relates to activities within the CMA rather than the whole of the coastal environment. To redraft clause (3) to accommodate this amendment would be extremely restrictive on many legitimate activities located within the coastal environment which encompasses such a large spatial area. I therefore I do not think this amendment to the objective is required.
106. In relation the suggestions from Te Runanga o Ngāi Tahu that the health of coastal water is prioritised, I note that this objective needs to be read in conjunction the other objectives within the chapter, particularly CE-O2, which ensures that coastal water quality is safeguarded. Therefore, I disagree that the addition is required.

#### 8.9.4. Recommendation

107. I recommend amending CE-O5 as follows:

CE-O5 – Activities in the coastal environment

Activities in the coastal environment:

- (1) make efficient use of space occupied in the *coastal marine area*,
- (2) are of a scale, density and design compatible with their location,
- (3) are only provided for within appropriate locations and limits, and
- (4) maintain or enhance public access to and along the *coastal marine area*, including for customary uses, except where public access needs to be restricted for reasons of health and safety or ecological or cultural sensitivity.<sup>80</sup>

#### 8.10. CE-P1 – Links with other chapters

##### 8.10.1. Introduction

108. As notified, CE-P1 reads:

CE-P1 – Links with other chapters

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<sup>80</sup> 00234.017 Te Rūnanga o Ngāi Tahu

Recognise that:

- (1) coastal hazards must be identified in accordance with CE-P2(4) and managed in accordance with the HAZ-NH – Natural hazards section of this RPS;
- (2) port activities must be managed in accordance with the TRAN – Transport section of this RPS; and
- (3) *historic heritage* must be managed in accordance with the HCV – Historical and cultural values section of this RPS.

#### 8.10.2. Submissions

109. In total 12 submissions were received including 2 submitters who consider the provision contributes little benefit to the overall policy framework.<sup>81</sup>

110. Several submitters consider the policy can be expanded to recognise links with other relevant chapters of the plan, including:

- Ecosystems and indigenous biodiversity,<sup>82</sup>
- Energy, infrastructure and transport,<sup>83</sup>
- Hazards and risks,<sup>84</sup>
- Heritage and historical values,<sup>85</sup>
- Natural features and landscapes,<sup>86</sup> and
- Land and freshwater.<sup>87</sup>

111. Kāi Tahu Ki Otago considers reframing the provision to highlight the integrated management approach taken would be beneficial and seeks the following amendment:<sup>88</sup>

*CE-P1 – ~~Links with other chapters~~ Integrated management/ki uta ki tai*

*~~Recognise that~~ Implement an integrated approach to managing Otago's coastal environment and ecosystems that:*

- (1) recognises the interactions ki uta ki tai between the terrestrial environment, fresh water, and the coastal marine area, including the migration of fish species between fresh and coastal waters,*

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<sup>81</sup> 00121.041 Ravensdown, 00510.012 The Fuel Companies

<sup>82</sup> 00137.052 DOC, 00139.062 DCC, 00226.136 Kai Tahu ki Otago, 00230.051 Forest and Bird, 00223.069 Ngāi Tahu ki Murihiku, 00120.033 Yellow-eyed Penguin

<sup>83</sup> 00139.062 DCC, 00306.028 Meridian, 00301.018 Port Otago, 00314.015 Transpower

<sup>84</sup> 00226.136 Kai Tahu ki Otago, 00301.018 Port Otago, 00314.015 Transpower

<sup>85</sup> 00226.136 Kai Tahu ki Otago, 00301.018, 00301.028 Port Otago, 00314.015 Transpower

<sup>86</sup> 00230.051 Forest and Bird

<sup>87</sup> 00223.069 Ngāi Tahu ki Murihiku

<sup>88</sup> 00226.136 Kai Tahu ki Otago

(2) takes an ecosystems approach to the management and use of coastal resources,

(3) manages the effects of the use and development of land and freshwater to maintain or enhance the health and well-being of coastal waters and the coastal environment,

(4) has regard to foreseeable climate change risks,

(5) recognises that:

(a) coastal ecosystems and indigenous biodiversity are also managed by the provisions in the ECO chapter,

~~(1)~~(b) coastal hazards must be identified in accordance with CE-P2(4) and managed in accordance with the HAZ–NH – Natural hazards section of this RPS;

~~(2)~~(c) port activities must be managed in accordance with the TRAN – Transport section of this RPS; and

~~(3)~~(d) *wāhi tūpuna* and historic heritage must be managed in accordance with the HCV – Historical and cultural values section of this RPS.

112. Two submitters consider the provision needs to clearly state that activities in the coastal marine area and wider coastal environment are not subject to any other provisions.<sup>89</sup> Port Otago cautions that inconsistencies between provisions in the coastal environment and other plan chapters affect their interpretation and application and seeks a review of relevant provisions to resolve issues.<sup>90</sup>

### 8.10.3. Analysis

113. I agree with the submitters that seek that this policy is expanded to include links to a broader range of chapters within the pORPS. I note that Section 2, clauses (6) to (8) of the National Planning Standards direct that:

*The Coastal environment chapter must set out the approach to managing the coastal environment and giving effect to the New Zealand Coastal Policy Statement.*

*Any specific provisions relating to the coastal environment which are located in other topic chapters must be cross-referenced in the Coastal environment chapter.*

*Excluding the provisions in Part 2, provisions that apply to the coastal marine area must be located in the Coastal marine area section.*

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<sup>89</sup> 00122.013 Sanford, 00230.051 Forest and Bird

<sup>90</sup> 00301.018 Port of Otago

114. Given this I agree that CE-P1 needs to be expanded to identify all chapters that are relevant to the management of activities within the coastal environment. These include:
- IM – Integrated management
  - AIR – Air
  - LF – Land and freshwater
  - ECO –Ecosystems and indigenous biodiversity
  - EIT – Energy, infrastructure and transport,
  - HAZ – Hazards and risks,
  - HCV – Heritage and historical values,
  - NFL – Natural features and landscapes, and
  - UFD – Urban form and development.
115. I also consider that, as drafted, CE-P1 provides a helpful signpost as to where the specific provisions related to natural hazards and port activities in the coastal environment are located within the pORPS. Therefore, I consider it is helpful to retain these explicit references. Given the reference to the HCV is more general, I consider the reference to this link is better placed with the other more general references.
116. In relation to the suggestion from Kāi Tahu Ki Otago that the provision should be reframed to highlight an integrated management, I agree in part with the suggested amendment. I agree that the chapeau of the policy should be re-drafted as proposed by the submitter. I consider the suggested drafting better articulates the intent of the policy, which is to implement an integrated approach to managing Otago’s coastal environment by highlighting the policy direction within other chapters of the pORPS. As such, I support the suggested amendment to the chapeau of the policy.
117. In relation to the other limbs the submitter seeks to include within the policy, I note that these concepts are already included within other parts of the pORPS in greater detail. IM – 02 and LF-WAI-P3 provide for integrated management/ ki uta ki tai, IM-P4 provides a strategic approach to ecosystem health, CE-P3 manages the adverse effects of activities that impact on the coastal water quality, including activities outside the coastal environment, IM – P8, IM – P9, and the provision within the HAZ – Hazards and risks chapter recognise and provide for climate change processes and risks. I consider the amendments to proposed to CE-P1 clarify that where relevant, the provisions within the other chapters of the pORPS apply within the coastal environment and therefore, the amendments Kāi Tahu Ki Otago are seeking are not required.
118. I support the amendments suggested by Port Otago that clarify that the cross-reference should apply to ‘commercial port activities’ (a defined term with the pORPS), and also that the cross-reference applies to EIT-TRAN-P23 within the EIT-TRAN chapter of the pORPS, as I consider these amendments add clarity to the pORPS.
119. Finally, in relation to the submitters who consider that the plan should clearly state that activities in the coastal marine area and wider coastal environment are not subject to any other provisions, I disagree that the framework for managing activities in the coastal

environment within the pORPS is that clear cut. While I agree that the activities in the coastal marine area and wider coastal environment will largely be directed by the provisions within the CE chapter, I also consider there is a range of relevant provisions in the other chapters of the pORPS that will also be relevant. The suggested additions to CE-P1 reflect this.

#### 8.10.4. Recommendation

120. I recommend that policy CE-P1 is amended as follows:

##### CE-P1 – Links with other chapters

Implement an integrated approach to managing Otago’s coastal environment which ~~R~~recognises<sup>91</sup> that:

(1) coastal hazards must be identified in accordance with CE-P2(4) and managed in accordance with the HAZ–NH – Natural hazards section of this RPS;

(2) *commercial*<sup>92</sup> port activities must be managed in accordance with EIT-TRAN-P23 ~~the TRAN – Transport section of this RPS~~<sup>93</sup>; and

(3) *historic heritage* must be managed in accordance with the HCV – Historical and cultural values section of this RPS.

(4) where relevant, the provisions within the following chapters of this RPS also apply within the coastal environment, unless expressly excluded:

- (a) IM – Integrated management,
- (b) AIR – Air,
- (c) LF – Land and freshwater,
- (d) ECO – Ecosystems and indigenous biodiversity,
- (e) EIT – Energy, infrastructure and transport,
- (f) HAZ – Hazards and risks,
- (g) HCV – Heritage and historical values,
- (h) NFL – Natural features and landscapes, and
- (i) UFD – Urban form and development.<sup>94</sup>

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<sup>91</sup> 00226.136 Kāi Tahu ki Otago

<sup>92</sup> 00301.018 Port Otago

<sup>93</sup> 00301.018 Port Otago

<sup>94</sup> 00137.052 DOC

## 8.11. CE-P2, CE-M1 & CE-M2 – Identification of the coastal environment

### 8.11.1. Introduction

121. As notified, CE-P2 reads:

#### CE-P2 – Identification

Identify the following in the coastal environment:

(1) the landward extent of the coastal environment, recognising that the coastal environment includes:

(a) the coastal marine area,

(b) islands within the *coastal marine area*,

(c) areas where coastal processes, influences or qualities are significant, including coastal lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands, and the margins of these,

(d) areas at risk from coastal hazards as identified in CE-P2(4),

(e) coastal vegetation and the habitat of indigenous coastal species including migratory birds,

(f) elements and features that contribute to the natural character, landscape, visual qualities or *amenity values*,

(g) items of cultural and *historic heritage* in the *coastal marine area* or on the coast,

(h) inter-related coastal marine and terrestrial systems, including the intertidal zone, and

(i) physical resources and built facilities, including *infrastructure*, that have modified the coastal environment,

(2) areas of *water* quality in the *coastal marine area* that are considered to have deteriorated so that it is having a significant adverse *effect* on ecosystems, natural habitats, or water-based recreational activities, or is restricting existing uses, such as aquaculture, shellfish gathering, and cultural activities such as mahika kai and harvesting of kaimoana,

(3) areas of *coastal water* where *takata whenua* have a particular interest,

(4) areas that are potentially affected by coastal hazards (including tsunami), giving priority to the identification of areas at high *risk* of being affected, and



- (5) the nationally significant *surf breaks* at Karitane, Papatowai, The Spit, and Whareakeake and any regionally significant *surf breaks*

122. As notified, CE-M1 reads:

CE-M1 – Identifying the coastal environment

Local authorities must:

(1) no later than 31 May 2023, work collaboratively to:

- (a) identify the landward extent of the coastal environment, in accordance with CE-P2(1),
- (b) map the landward extent of the coastal environment area in the relevant *regional* and *district plans*.

123. As notified, CE-M2 reads:

CE-M2 – Identifying other areas

*Local authorities* must work collaboratively together to:

- (1) identify areas and values of high and outstanding natural character within their jurisdictions in accordance with CE-P4(1), map the areas and describe their values in the relevant *regional* and *district plans*, and identify their capacity to accommodate change through use or development while protecting the values that contribute to the natural character of the area being considered high or outstanding,
- (2) identify areas and values of outstanding natural features, landscapes, and seascapes (in the coastal environment) within their jurisdictions in accordance with CE-P6(1), map the areas and describe their values in the relevant *regional* and *district plans*, and identify their capacity to accommodate change through use or development while protecting the values that contribute to the natural features, landscapes, and seascapes being considered outstanding,
- (3) identify areas and values of indigenous *biodiversity* within their jurisdictions in accordance with CE-P5, map the areas and describe their values in the relevant *regional* and *district plans*, and
- (4) prioritise identification under (1) – (3) in areas that are:
- (a) likely to face development or growth pressure over the life of this RPS, or
- (b) likely to contain outstanding natural character areas, outstanding natural features or landscapes, and areas of significant indigenous *biodiversity*, including the areas in the table below.

*Table 1: Areas likely to contain significant values*

Oamaru Harbour Breakwater	Te Whakarekaiwi
Moeraki Beach	Papanui Inlet
Moeraki Peninsula	Hoopers Inlet
Shag Point & Shag River Estuary	Kaikorai Estuary
Stony Creek Estuary	Brighton
Pleasant River Estuary	Akatore Creek Estuary
Hawksbury Inlet	Tokomairiro Estuary
Waikouaiti River Estuary	Wangaloa
Karitane Headland	Clutha River Mata-au, Matau Branch
Puketeraki	Nugget Point
Blueskin Bay	Surat Bay
Orokonui Inlet	Catlins Lake Estuary
Mapoutahi	Jacks Bay
Purakanui Inlet	Waiheke Beach
Aramoana	Tahakopa Estuary
Otago Harbour Historic Walls	Oyster Bay
Otakou & Taiaroa Head	Tautuku Estuary
Pipikaretu Point	Waipati Estuary & Kinakina Island

#### 8.11.2. Submissions

##### 8.11.2.1. CE–P2 – Identification

124. Four submitters support the policy as drafted and seek it be retained as notified.<sup>95</sup> Most submissions seek amendments.<sup>96</sup>

125. Three submissions consider the policy fails to give effect to the NZCPS and seek amendments to improve alignment with national direction.<sup>97</sup> This includes DOC who states the provision inadequately provides for significant indigenous taxa and ecosystems and seeks the following amendment of clause 1:

*(1) the landward extent of the coastal environment, recognising that the coastal environment includes:...*

*(x) Areas of significant indigenous taxa and ecosystems*

126. and the following amendment to clause 2:

*(2) areas of water quality in the coastal marine area that are considered to have deteriorated so that it is having a significant adverse effect on ecosystems, natural habitats, indigenous vegetation or fauna or water-based recreational activities, or is restricting existing uses, such as*

<sup>95</sup> 00121.042 Ravensdown, 00122.014 Sanford, 00315.022 Aurora, 00510.013 The Fuel Companies

<sup>96</sup> 00226.137 Kāi Tahu Ki Otago, 00139.063 DCC, 00137.053 DOC, 00230.052 Forest and Bird, 00236.054 Horticulture NZ, 00234.018 Te Runanga o Ngāi Tahu, Bronwyn Bain, 00126.018 Harbour Fish, 00124.018 Southern Inshore Fisheries, 00120.034, 00120.035 Yellow-eyed Penguin

<sup>97</sup> 00139.063 DCC, 00137.053 DOC, 00230.043, 00230.052 Forest and Bird

*aquaculture, shellfish gathering, and cultural activities such as mahika kai and harvesting of kaimoana,*<sup>98</sup>

127. One submitter considers the provision fails to identify significant natural areas in the coastal marine area.<sup>99</sup> Forest and Bird also considers the policy fails to identify or require the identification of a number of matters necessary to achieve the requirements of the NZCPS and seeks the following amendment:

*Identify the following in the coastal environment:*

*[...]*

*(6) Significant natural areas in accordance with Policy ECO-P2,*

*(7) Areas where preserving natural character requires objectives, policies and rules, and include those provisions,*

*(8) Identify coastal processes, resources or values that are under threat or at significant risk from adverse cumulative effects,*

*(9) Identifying areas and opportunities for restoration or rehabilitation of natural character,*

*(10) Identify areas and times where vehicle access is appropriate and where vehicles are otherwise restricted on beaches, foreshore and seabed and adjacent land.*<sup>100</sup>

128. DCC seeks improved alignment with national direction and amendments which recognise and provide for natural hazards and climate change.<sup>101</sup> Another submitter considers the policy fails to identify other coastal hazards and seeks specific amendment of clause (4) to reference sea level rise, coastal erosion, storm surges, and flooding.<sup>102</sup>

129. Kāi Tahu Ki Otago requests transposing clause 1 to an appendix for consistency. The submitter also seeks that the list of an amendment to CE-P2(2) to remove the term 'significant' and provide an extended list of matters. Additionally, the submitter seeks the following amendment to sub-clause 1(g) to support clarification and interpretation:

*(g) items of Kāi Tahu cultural association and historic heritage in the coastal marine area or on the coast,*<sup>103</sup>

130. Te Runanga o Ngāi Tahu seeks expansion of clause 3 to enable legislative environmental outcomes to be achieved and seeks the following amendment to provide clarity and aid interpretation:

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<sup>98</sup> 00137.053 DOC

<sup>99</sup> 00120.034 Yellow-eyed Penguin

<sup>100</sup> 00230.052 Forest and Bird

<sup>101</sup> 00139.063 DCC

<sup>102</sup> 00120.035 Yellow-eyed Penguin

<sup>103</sup> 00226.137 Kāi Tahu ki Otago

*(3) areas of coastal water where takata whenua have a particular interest, including Mātaitai, Taiapure, and any Settlement outcomes under Māori Commercial Aquaculture Claims Settlement Act 2004.*<sup>104</sup>

131. Three submitters seek amendments to recognise and provide for food production activities<sup>105</sup> and one submitter opposes all references to regionally significant surf breaks and seeks its deletion.<sup>106</sup>
132. One submitter considers mapping of the landward extent which identifies specified elements of the coastal environment is necessary to support the provision and seeks amendments accordingly.<sup>107</sup> The submitter considers mapping is required to locate, for example, sewage outlets, marine farms and areas protecting marine biodiversity.<sup>108</sup>

8.11.2.2. CE-M1 – Identifying the coastal environment

133. Kāi Tahu Ki Otago supports CE-M1 as drafted and seeks it be retained as notified.<sup>109</sup> DOC consider identification and mapping of the coastal environment at the RPS level is required to support consistency and effectiveness and seek amendments accordingly.<sup>110</sup>
134. Forest and Bird hold concerns about the accuracy with maps correctly depicting the full extent of the coastal environment and seek the following amendment:

Provide for case-by-case consideration of whether consented activities in the vicinity of the coast are or are not within that environment.<sup>111</sup>

8.11.2.3. CE-M2– Identifying other areas

135. ECan seek amendments to both CE-M1 and CE-M2 which direct local authorities to work in collaboration when identifying the ‘coastal environment’ and ‘other areas’.<sup>112</sup>
136. Kāi Tahu Ki Otago also raises integration concerns related to Table 2 located in CE-M2.<sup>113</sup> They note that the areas identified within Table 2 have come from Schedule 2.1 Coastal Protection Areas from the Regional Plan Coast. The submitter questions why these areas have been chosen for prioritisation given the age of the Coastal Plan and the fact that these are all in the CMA and do not include any land-based areas. Finally, they note that a comprehensive natural character and landscape study for Otago’s coastline was commissioned in 2015 by ORC and territorial authorities. They consider this study

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<sup>104</sup> 00234.018 Te Rūnanga o Ngāi Tahu

<sup>105</sup> 00236.054 Horticulture NZ, 00126.018 Harbour Fish, 00124.018 Southern Inshore Fisheries

<sup>106</sup> 00301.019 Port Otago

<sup>107</sup> 00241.001 Bronwyn Bain

<sup>108</sup> 00241.002 Bronwyn Bain

<sup>109</sup> 00226.151 Kāi Tahu ki Otago

<sup>110</sup> 0137.058 DOC

<sup>111</sup> 00230.061 Forest and Bird

<sup>112</sup> 00013.009, 00013.010 ECan

<sup>113</sup> 00226.152 Kāi Tahu ki Otago

provides a better starting point for compilation of such a list. They also note the incorrect spelling, of Pūrākaunui.

137. Five submissions seek amendment of Table 2.<sup>114</sup> Kāi Tahu Ki Otago, Port Otago and Waitaki DC seek to understand the rationale for prioritising areas listed. John Highton requests expansion of this list with the addition of two other areas. Two submitters requesting removal of specified locations from the method.<sup>115</sup> DCC highlight a typographic error in 'Table 2: Areas likely to contain significant values' and seek this be amended.<sup>116</sup>
138. Forest and Bird highlights possible duplication or confusion with separating the mapping of indigenous biodiversity in the coastal environment from mapped Significant Natural Areas and seek the following amendment:<sup>117</sup>

*Local authorities must work collaboratively together to:...*

*(1) identify areas and values of indigenous biodiversity within their jurisdictions in accordance with CE-P5, map the areas and describe their values in the relevant regional and district plans combined with mapped and described SNAs,*

### 8.11.3. Analysis

139. Submissions raise concern that CE-P2 fails to adequately give effect to the NZCPS. While this policy is titled 'Identification' I note that this is not the only policy within the CE chapter that requires the identification of specific areas. Policies CE-P4, CE-P5, and CE-P6 require the identification of natural character, biodiversity, natural features landscape and seascapes as required by Policies 11, 13 and 15 of the NZCPS. Therefore, I disagree that amendments are required to CE-P2 to give effect to the NZCPS. Furthermore, I note that chapters IM and HAZ provide direction on the management of natural hazards and climate change. Therefore, I disagree that amendments are required within CE-P2 to provide for these matters.
140. In relation to the DOC submission seeking an amendment to CE-P2 clause (2) which would include the addition of '*indigenous vegetation or fauna*', I disagree that this amendment is required, as I consider reference to ecosystems and natural habitats adequately addresses this submission point. I also note that this clause as drafted aligns with the Policy 21 of the NZCPS and do not agree that an amendment is required.
141. In relation to Forest and Bird's request to include an additional clause related to the identification of coastal processes, resources or values that are under threat or at

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<sup>114</sup> 00139.075 DCC, 00014.035 John Highton, 00125.030 Otago Rock Lobster, 00120.050 Yellow-eyed Penguin, 00140.016 Waitaki District Council, 00226.152 Kai Tahu Ki Otago

<sup>115</sup> 00420.015 Jim Hopkins, 00301.025 Port Otago

<sup>116</sup> 00139.075 DCC

<sup>117</sup> 00230.063 Forest and Bird

significant risk from adverse cumulative effects, I query whether this adds value to CE-P2. I believe any significant value would relate to water quality, culture, landscape, natural character or biodiversity which are captured within the suite of policies. Furthermore, I note that CE-M2 (4) requires the identification of character areas, outstanding natural features or landscapes, and areas of significant indigenous biodiversity. Also, the method specifically requires this identification process is to be prioritised in areas likely to face development or growth pressure, or a likely to contain significant values.

142. Regarding the Forest and Bird submission, I note that one of the matters for which they are seeking amendments relate to vehicle access. I disagree that this identification needs to be included within CE-P2. I note that Methods CE-M3(9) and CE-M4(8) require that vehicle access is controlled in the CMA in accordance with Policy 20 of the NZCPS. Therefore, I consider that this requirement is already included within the pORPS.
143. In relation to the Forest and Bird concern regarding duplication or confusion between the mapping of indigenous biodiversity in the coastal environment and mapped SNAs I agree that the pORPS needs to provide more clarity as to the relationship between these two types of mapping. I note that Section 6(c) of the RMA requires protection of all areas of significant indigenous vegetation and significant habitats of indigenous fauna, and the criteria set out within APP2 of the pORPS are the means of identifying these areas. Furthermore, I note that APP2 is drafted to assess both terrestrial and marine biodiversity as it includes several references to marine biodiversity and marine ecosystems. While I acknowledge that requiring an assessment of the matter included in CE-P5 and also an assessment of the APP2 will very likely identify a lot of the same ecosystems, I consider this will provide a 'belts and braces' approach to the identification of these areas. There is a cross reference within the ECO chapter which confirms that coastal indigenous biodiversity is managed by CE-P5, so I do not consider there needs to be any amendments to clarify the management approach.
144. In relation to DCC's request to include provision on the identification of enhancement and restoration opportunities to manage natural hazards in the coastal environment, I note that this is provided for generally within IM-P10 and IM-P11 which require the identification and implementation of climate change adaptation and mitigation methods and the enhancement of environmental resilience to the adverse effects of climate change. While I acknowledge these relate to the impacts of climate change more broadly, I consider implementing these provisions could include enhancement and restoration to manage natural hazards in the coastal environment.
145. Te Runanga o Ngāi Tahu seeks amendments to provide for recognised cultural values and interests including Mātaitai, Taiapure, and any Settlement outcomes under the Māori Commercial Aquaculture Claims Settlement Act 2004. I note that the CE-P2(3) is a non-exclusive list and therefore the identification of Mātaitai, Taiapure, and any Settlement outcomes can be identified under the current drafting. However, I agree that the amendments to CE-P2(3) will provide greater clarity as to the intention of the policy. Similarly, I support the submission from Kāi Tahu Ki Otago seeking an amendment to CE-

P2(1)(g) to as I consider is provides for a context specific interpretation of Policy 1 of the NZCPS.

146. Kāi Tahu Ki Otago additionally proposes that CE-P2(1) be made an appendix for consistency with other identification criteria. I accept this rationale, however there are other policies providing identification criteria in other chapters of the pORPS particularly where they do not provide additional information beyond their chapter scope. For this reason, I believe the identification criteria of the coastal environment should be retained in their current location. In relation removing 'significant' from CE-P2(2), I note that this drafting reflects the drafting within Policy 21 of the NZCPS in relation to identifying areas in the coastal environment where quality of water has deteriorated. I also note the requirements within CE-P3 provide for the management of water quality more broadly. Therefore I disagree an amendment is required.
147. In relation to the submitter seeking deletion of the identification of regionally significant surf breaks, this is considered within section 8.16. However, in brief, I consider there are recognised methods for identifying regionally significant surf breaks that have been used within other regional plans. Therefore, I disagree with the submission seeking the removal of that part of the subclause.
148. In relation to the submitter that seeks that 'food production and other farming activities' be included within CE-P2(1), I note that the matters listed within CE-P2(1) have been taken directly from Policy 1 of the NZCPS and relate to physical characteristics that help to identify the extent of the Coastal Environment. Therefore, I do not agree that including 'food production and other farming activities' assists in identifying the extent of the coastal environment and would deviate from the matters listed within Policy 1 of the NZCPS. Therefore, I disagree this amendment is needed.
149. In relation to the submitters seeking amendments to Method CE-M1 and CE-M2, I agree with the amendment suggested by the ECan that requires collaboration with local authorities in neighboring regions when identifying areas of the coastal environment.
150. Additionally, in relation to the submitters that query the source of Table 2, Kāi Tahu Ki Otago correctly notes that the table replicates those areas listed in Schedule 2.1 - Coastal Protection Areas of the Regional Plan Coast. Kāi Tahu Ki Otago also correctly advises this list only specifies areas within the CMA rather than the coastal environment more broadly. I agree with the suggestion that the more recent coastal study, which assesses the natural character and outstanding natural features and landscapes of Otago's coastal environment, provides a better starting point for the consideration of areas across the coastal environment as a whole (Moore, 2015a), (Moore, 2015b), (Moore, 2015c) . For this reason, I recommend amending Table 2 by reviewing the coastal study and listing areas which have been assessed as holding medium-high, high and outstanding values. I believe this broad approach provides a signal to users of the pORPS that further analysis of these area is required.

151. Finally, I disagree with proposed amendments to CE-M2 to include a timeframe. I note that timeframes have been included within the pORPS where possible to provide as much clarity as possible as to when the Otago Regional Council intends to complete certain work streams. These timeframes are linked to work programmes budgeted within the Otago Regional Council Long-Term Plan. Given the assessments required within CE-M2 have not been specifically budgeted for and also required collaboration with local authorities, I disagree that inserting a specific timeframe for these methods is appropriate. I note that these assessments will be required in order to assist with the drafting of the Regional Coastal Plan, CE-M3 requires that Otago Regional Council must prepare or amend and maintain its regional plans no later than 31 December 2028. Therefore, I consider including a timeframe within CE-M2 is not necessary.

#### 8.11.4. Recommendation

152. I recommend amending CE-P2(1)(g) as follows:

CE-P2 – Identification

Identify the following in the coastal environment:

(1) the landward extent of the coastal environment, recognising that the coastal environment includes:

[...]

(g) items of Kāi Tahu<sup>118</sup> cultural association<sup>119</sup> and *historic heritage* in the *coastal marine area* or on the coast,

[...]

153. I recommend amending CE-P2(3) as follows:

[...]

(3) areas of *coastal water* where *takata whenua* have a particular interest, including Mātaitai and Taiapure,<sup>120</sup>

[...]

154. I recommend amending CE-M1 chapeau as follows:

CE-M1 – Identifying the coastal environment

Local authorities must:

(1) no later than 31 May 2023, work collaboratively, including with local authorities in neighbouring regions,<sup>121</sup> to:

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<sup>118</sup> 00226.137 Kāi Tahu ki Otago

<sup>119</sup> 00226.137 Kāi Tahu ki Otago

<sup>120</sup> 00234.018 Te Runanga o Ngāi Tahu

<sup>121</sup> 00013.009 ECan



[...]

155. I recommend amending CE-M2 chapeau as follows:

CE-M2 – Identifying other areas

*Local authorities* must work collaboratively, with Kāi Tahu<sup>122</sup> and local authorities in neighbouring regions,<sup>123</sup> together to:

[...]

156. I recommend amending Table 2 as follows

Table 2: Areas likely to contain significant values

<u>Cape Wanbrow</u>	<u>Nugget Point</u>
<u>All Day Bay Lagoon</u>	<u>Sandy Bay</u>
<u>Te Hakapureirei Beach</u>	<u>False Islet</u>
<u>Moeraki Point and adjacent coast</u>	<u>Penguin Bay</u>
<u>Kātiki Point</u>	<u>Cosgrove Island</u>
<u>Kātiki Beach</u>	<u>Long Point</u>
<u>Shag Point (incl. Shag River estuary &amp; Cliffs between Shag and Stoney Rivers)</u>	<u>Tahakopa Bay</u>
<u>Cliffs south of Stoney Creek</u>	<u>Mahaka Point</u>
<u>Bobbys Head</u>	<u>Frances Pillars / Cathedral Caves</u>
<u>Cliffs south of Tavora</u>	<u>Makatī</u>
<u>Pleasant River spit</u>	<u>Waianakarua</u>
<u>Pleasant River estuary</u>	<u>Goodwood</u>
<u>Tumai</u>	<u>Pūrākaunui</u>
<u>Karitāne Headland</u>	<u>Lower Otago Harbour</u>
<u>Seacliff</u>	<u>Smaills / Tomahawk</u>
<u>Māpoutahi</u>	<u>Brighton</u>
<u>Potato Point</u>	<u>Taieri River Gorge</u>
<u>Heyward Point (incl. Long Beach &amp; Aramoana)</u>	<u>Outer Otago Peninsula</u>
<u>Harbour Islands / Portobello Peninsula</u>	<u>Southern Otago Peninsula</u>
<u>Taiaroa Head</u>	<u>Outer Otago Peninsula</u>
<u>Harington Point</u>	<u>Taieri Mouth</u>
<u>Pipikāretu</u>	<u>Akatore Coast</u>
<u>Okia (incl. Victory Beach &amp; Papanui Inlet)</u>	<u>Toko Mouth</u>
<u>Allans Beach / Hoopers Inlet</u>	<u>Wangaloa</u>
<u>Seal Point</u>	<u>Clutha Mouth</u>
<u>Boulder Beach</u>	<u>Kaka Point</u>
<u>St Clair cliffs</u>	<u>Jacks Bay / Penguin Bay</u>
<u>Kuri Bush</u>	<u>Hinahina</u>
	<u>Waipāti (incl. Waipāti Beach &amp; Waipāti Estuary)</u>

<sup>122</sup> 00226.149 Kāi Tahu ki Otago

<sup>123</sup> 00013.010 ECan

<u>Cape Saunders</u>	<u>Wallace Head</u>
<u>Sandfly Bay</u>	<u>Waitaki River mouth</u>
<u>Sandymount</u>	<u>Cape Wanbrow wave cut notch and platform</u>
<u>Highcliff / Pudneys Cliff</u>	<u>Bridge Point</u>
<u>White Island</u>	<u>Moeraki Boulders</u>
<u>Tunnel Beach</u>	<u>Warrington Spit / Rabbit Island</u>
<u>Green Island</u>	<u>Matanaka</u>
<u>Coutts Gully wetland</u>	<u>Karitāne Peninsula</u>
<u>Taieri Beach</u>	<u>Goat Island – Rakiriri</u>
<u>Akatore gorge</u>	<u>Quarantine Island</u>
<u>Akatore wetland</u>	<u>Pyramids</u>
<u>Quoin Point</u>	<u>Wharekākahu Island</u>
<u>Measly Beach</u>	<u>Lovers leap and the Chasm</u>
<u>Cannibal / Surat Bay</u>	<u>Blackhead organ pipes</u>
<u>Caitlins Lake</u>	<u>Chrystalls Beach</u>
<u>Caitlins Heads</u>	<u>Cooks Head Rock</u>
<u>Pūrākaunui Bay</u>	<u>Jacks Blowhole</u>
<u>Haywards Point</u>	<u>Tuhawaiki Island</u>
<u>Pillans Head</u>	<u>Cosgrove Island</u>
<u>Tahakopa River</u>	<u>Rainbow Isles</u>
<u>Tautuku (incl. Tautuku Peninsula (incl. Tautuku Bay &amp; Tautuku River)</u>	<u>Lake Wilkie</u>
<u>Lower Taieri River</u>	<u>Cathedral Caves</u>
<u>Moturata</u>	<u>Kinakina Island</u>

## 8.12. CE–P3, CE–M3 & CE–M5 – Coastal water quality

### 8.12.1. Introduction

157. As notified, CE-P3 reads:

CE–P3 – *Coastal water quality*

*Coastal water* quality is improved where it is considered to have deteriorated to the extent described within CE-P1(2), and otherwise managed, so that:

- (1) healthy coastal ecosystems, indigenous habitats provided by the coastal environment, and the migratory patterns of indigenous *coastal water* species are maintained or enhanced,
- (2) Kāi Tahu relationships with and customary uses of *coastal water* are sustained,
- (3) recreation opportunities and existing uses of *coastal water* are maintained or enhanced, and

(4) within identified areas where *takata whenua* have a particular interest, adverse *effects* on these areas and values are remedied or where remediation is not practicable, are mitigated

158. As notified, CE-M3 reads:

CE-M3 – Regional plans

Otago Regional Council must prepare or amend and maintain its *regional plans* no later than 31 December 2028 to:

(1) map areas of deteriorated *water* quality in the coastal environment, in accordance with CE-P2(2) and CE-P2(3),

[...]

(4) manage the discharge of contaminants into coastal water by:

(a) only enabling the use of small *mixing zones* before the *water* quality standards need to be met in the *receiving environment* and minimising adverse *effects* on the life-supporting capacity of *water* within any mixing zone,

(b) prohibiting the *discharge* of untreated human *sewage* directly to water in the coastal environment,

(c) prohibiting the *discharge* of treated human *sewage* directly to water in the coastal environment unless:

(i) there has been adequate consideration of alternative methods, sites and routes for undertaking the *discharge*, and

(ii) it can be demonstrated that the proposal has been informed by consultation with *tangata whenua* and the affected community, and

(d) reducing the *discharge* of sediment by:

(i) requiring that *subdivision*, use, or development will not increase sedimentation of the *coastal marine area* or other *coastal water*,

(ii) controlling the impacts of vegetation removal on sedimentation including the impacts of harvesting *plantation forestry*, and

(iii) reducing sediment loadings in runoff and in *stormwater* systems through controls on *land* use activities, and

(e) avoiding cross-contamination between *sewage* and *stormwater* systems where new systems are proposed and remedy

cross-contamination where they currently exist in established systems, and

(f) having particular regard to:

(i) the sensitivity of the receiving environment,

(ii) the nature of the *contaminants* to be *discharged*, the *contaminant* concentration thresholds not to be exceeded to achieve the required *water* quality in the receiving environment, and the risks if that concentration of *contaminants* is exceeded,

(iii) the capacity of the receiving environment to assimilate the *contaminants*, and

(iv) avoiding significant adverse *effects* on ecosystems and habitats after reasonable mixing,

[...]

(11) require stock to be excluded from the *coastal marine area*, adjoining intertidal areas and other *water bodies* and riparian margins in the coastal environment, and

159. As notified, CE-M5 reads:

CE–M5 – Other incentives and mechanisms

*Local authorities* are encouraged to consider the use of other mechanisms or incentives to assist in achieving Policies CE–P2 to CE–P12, including:

(1) identifying areas and opportunities within the coastal environment for restoration or rehabilitation,

[...]

(7) education and advice,

(8) research relevant to the *effects* of activities on:

(a) coastal network *infrastructure*,

(b) coastal values,

(c) coastal hazards,

(d) riparian vegetation cover or any *land* cover that contributes to supporting coastal values or mitigating coastal hazards, or

(e) areas particularly sensitive to *land* use changes,

## 8.12.2. Submissions

### 8.12.2.1. CE-P3 – Coastal water quality

160. In total 19 submissions related to CE-P3 were received and seek amendments. Several submissions seek general drafting amendments, including:

- Reviewing cross-references to CE-P1(2) which appear incorrect,<sup>124</sup> and
- Reviewing grammar.<sup>125</sup>

161. Forest and Bird seeks amendments to recognise activities undertaken beyond the coastal environment and which affect coastal water quality.<sup>126</sup> Harbour Fish and Southern Inshore Fisheries seek amendments to sub-clause (3) to recognise and provide for existing uses of coastal water, including commercial fishing.<sup>127</sup>

162. Kāi Tahu Ki Otago and Te Runanga o Ngāi Tahu<sup>128</sup> specifically highlight cultural values which need to be recognised and seek deletion of the policy as drafted and replacement with the following:

*CE–P3 – Coastal water quality/Te Hauora o Te Wai Tai*

*Manage activities either within, or that impact on, the coastal environment by:*

*(1) prioritising the health and well-being of coastal water and coastal ecosystems in all decision-making,*

*(2) involving Kāi Tahu in decision making in relation to coastal waters,*

*(3) setting appropriate water quality targets for coastal waters, including customary management areas and other areas used for kaimoana gathering, contact recreation and habitats of taoka species,*

*(4) actively enhancing areas of deteriorated coastal water described within CE-P2(2), including by the avoidance of adverse effects of activities on these areas,*

*(5) avoiding adverse effects on those areas of coastal water where mana whenua have a particular cultural interest, and*

*(6) managing effects on other areas of coastal waters so that water quality is maintained or enhanced.*

163. One submitter seeks a number of amendments, including:

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<sup>124</sup> 00226.138 Kāi Tahu Ki Otago, 00137.054 DOC, 00301.020 Port Otago, 00121.043 Ravensdown, 00223.070 Ngāi Tahu ki Murihiku, 00234.019 Te Runanga o Ngāi Tahu, 00122.015 Sanford, 00306.029 Meridian, 00124.019 Southern Inshore Fisheries, 00510.014 The Fuel companies, 00126.019 Harbour Fish

<sup>125</sup> 00139.064 DCC, 00226.138 Kāi Tahu Ki Otago, 00223.070 Ngāi Tahu ki Murihiku

<sup>126</sup> 00230.053, 00230.071 Forest and Bird

<sup>127</sup> 00126.020 Harbour Fish, 00124.020 Southern Inshore Fisheries

<sup>128</sup> 00226.014, 00226.138 Kāi Tahu Ki Otago, 00234.019 Te Rūnanga o Ngāi Tahu

- Amending clause (1) to maintain and enhance the range, extent and migratory patterns of indigenous coastal water species;
- Amending clause (2) to make particular reference to mahinga kai practices;
- Inserting an additional clause to recognise coastal waters that are safe for swimming; and
- Referencing assessment and monitoring methods to ensure water quality standards are met.<sup>129</sup>

#### 8.12.2.2. CE-M3 – Regional plans

164. Kāi Tahu ki Otago seeks several changes to CE-M3.<sup>130</sup> To summarise, in relation to water quality they submit that CE-M3 does not provide an appropriate framework for the development of a new regional coastal plan due to:

- Lengthy timeframes for plan development;
- Mapping but not managing areas of deteriorated water quality;
- Conflation of waters where mana whenua have a particular interest with deteriorated waters in clause 1;
- General omission of Kāi Tahu values or interests and lack of recognition of Settlements;
- Lack of management focus on effects on or outcomes for coastal water and ecosystems in general, with more of a focus on land-based values;
- Unclear policy framework for managing contaminants and sediments;
- Lack of direction to control vegetation modification or removal in the coastal marine area; and
- Default reference to the NZCPS in absence of appropriate policies.

165. To address some of these issues, Kāi Tahu ki Otago seeks the following amendment:<sup>131</sup>

*Otago Regional Council must prepare or amend and maintain its regional plans no later than 31 December ~~2028~~ 2025 to:*

*(1) map, and include policies and rules to manage, areas of deteriorated water quality in the coastal environment, in accordance with CE-P2(2) and CE-P3 and ~~CE-P2(3)~~,*

*(2) set water quality targets for coastal waters in accordance with CE-P3,*

*(3) map, and include policies and rules to manage, areas of coastal water where mana whenua have a particular cultural interest, including wāhi tūpuna,*

<sup>129</sup> 00120.036, 00120.037, 00120.038, 00120.039, 00120.049 Yellow-eyed Penguin

<sup>130</sup> 00226.153 Kāi Tahu ki Otago

<sup>131</sup> 00226.153 Kāi Tahu ki Otago

(4) recognise and map statutory acknowledgement areas, tōpuni and nohoaka identified in the NTCSA 1998, along with any customary fisheries

~~(5)(2)~~ map the areas and characteristics of, and access to, nationally and regionally significant surf breaks,

~~(6)(3)~~ require development to be set back from the coastal marine area where practicable to protect the functioning, resilience and health of coastal waters and ecosystems, natural character, open space, public access, cultural and amenity values of the coastal environment,

~~(7)(4)~~ manage the discharge of contaminants and sediments into coastal water, and disturbance of sediments within the coastal marine area, in accordance with policies CE-PXX, by:

(a) only enabling the use of small mixing zones before the

[...]

~~(8)(5)~~ control the use and development of the coastal marine area, in order to:

(a) as a priority, protect and enhance the functioning, resilience and health of coastal waters and coastal ecosystems,

(b) avoid adverse effects on areas of deteriorated water quality or areas of coastal waters where mana whenua have a particular cultural interest,

(c) avoid adverse effects on customary fisheries, mahika kai and kaimoana activities,

(d) preserve the natural character; natural landscapes, features, and seascapes; wāhi tūpuna and indigenous biodiversity of the coastal marine area in accordance with CE-P4, CE-P5, HCV-WT-P2 and CE-P6, and

(e) manage Otago's nationally and regionally significant surf breaks in accordance with CE-P7,

(9) control vegetation modification and removal in the coastal marine area, while allowing for mahika kai and kaimoana activities,

~~(10)(6)~~ include provisions requiring the adoption of a precautionary approach to assessing the effects of activities in the coastal environment in accordance with IM-P15 where:

(a) the activity may affect areas of deteriorated water quality,

- (b) the activity may affect areas of coastal waters where mana whenua have a particular cultural interest,
- (c) the activity may affect customary fisheries, mahika kai or kaimoana activities,
- (d) there is scientific uncertainty, or
- (e) there are potentially significant or irreversible adverse effects,

[...]

~~(16)(12) provide for and encourage activities undertaken for the primary purpose of enhancing coastal water quality, coastal habitats and ecosystems, customary fisheries, mahika kai and kaimoana activities, restoring natural character, features, landscapes, or seascapes in accordance with [new] CE-P1, CE-P3, CE-P4 and CE-P6~~

166. Ngāi Tahu ki Murihiku<sup>132</sup> seeks amendments which cease the direct discharge of wastewater to protect and restore the mauri of the coastal environment and request the following amendment to CE-M3(4):

*(c) prohibiting the discharge of treated human sewage directly to water in the coastal environment unless:*

*~~(i) — there has been adequate consideration of time is required to identify alternative methods, and resource those methods, sites and routes for undertaking the discharge in order to enable cessation of discharge to the coastal environment, and~~*

*(ii) it can be demonstrated that the proposal has been informed by consultation with tangata whenua and the affected community and is consistent with Objective CE-O1, ...*

167. DCC<sup>133</sup> and Ravensdown<sup>134</sup> seek amendments to method CE-M3(4) to improve the clarity of the reference of “mixing zone”. DCC considers the term “small mix-zone” is inaccurate and while Ravensdown states that scientific measurements determine a mixing zone size and further suggest it is generally accepted that there may be adverse effects on the life-supporting capacity of water within such zones.

168. DCC<sup>135</sup> seeks two additional amendments to method CE-M3(4):

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<sup>132</sup> 00223.074 Ngāi Tahu ki Murihiku

<sup>133</sup> 00139.076 DCC

<sup>134</sup> 00121.047 Ravensdown

<sup>135</sup> 00139.076 DCC



- the approach to managing wastewater overflows and discharges should be consistent with the approach taken in the Land and Freshwater chapter and seek corresponding amendments.
  - clarification of what is meant by, “cross-contamination between sewerage and stormwater systems” in CE-M3(4)(e).
169. Rayonier<sup>136</sup> seeks deletion of CE-M3(4)(d)(ii) stating the section 32 report provides no justification for its inclusion as it demonstrates no assessment of effects against the NES-PF. Similarly, City Forests<sup>137</sup> and Ernslaw One<sup>138</sup> seek this particular clause is amended to give effect to the NES-PF.
170. The Fuel Companies<sup>139</sup> consider control of contaminants at source is an effective and efficient means of minimising the potential for generation of contaminants and seek an additional clause to CE-M3(4) to promote awareness and actions to reduce contaminant discharges through source control.
171. Aurora Energy<sup>140</sup> raises concern that, as drafted, CE-M3 does not acknowledge that it is not always practicable to setback infrastructure from the coastal marine area and seeks amendments which provide for the functional and operational requirements in accordance with the effects management hierarchy.
172. One submitter considers CE-M3 should provide for the discovery as well as the mapping of areas of deteriorated water.<sup>141</sup> The submitter seeks amendments to recognise and manage the discharge of silt and contaminants from agricultural activities to the coastal environment. Finally, the submitter seeks a more flexible approach within CE-M3(11) to the exclusion of stock from the CMA, adjoining intertidal areas and other water bodies and riparian margins in the coastal environment.
173. Another submitter seeks a number of amendments to CE-M3 which control environmental inputs as well as the effects.<sup>142</sup>

#### 8.12.2.3. CE-M5 - Other incentives and mechanisms

174. One submitter considers amendments to CE-M5(8) necessary to include research relevant to the effects of activities on coastal water quality.<sup>143</sup> Furthermore, the submitter seeks an additional sub-clause which “facilitates the restoration, rehabilitation or creation of coastal habitats, when it will lead to the improvement of areas of deteriorated water quality”.

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<sup>136</sup> 00020.008 Rayonier

<sup>137</sup> 00024.004, 00024.006 City Forests

<sup>138</sup> 00412.009, 00412.019 Ernslaw One

<sup>139</sup> 00510.020 and 00510.020 The Fuel companies

<sup>140</sup> 00315.026, 00315.029 Aurora Energy

<sup>141</sup> 00014.036, 00014.037, 00014.038 John Highton.

<sup>142</sup> 00509.067 Wise Response Society

<sup>143</sup> 00226.155 Kāi Tahu ki Otago

### 8.12.3. Analysis

175. The following section begins with an analysis of CE-P3, and then considers the relevant methods of the pORPS that implement the policy.

#### 8.12.3.1. CE-P3 – Coastal water quality

176. Policy CE-P3 includes a cross-reference referring to waters that have been identified as deteriorated in accordance with CE-P1(2). Several submitters have correctly identified this is an error and should refer to CE-P2(2) and I recommend the policy reference is amended.

177. In relation to the grammar and format of the policy, Kāi Tahu Ki Otago states that it reads as an objective and provides little guidance for managing coastal water. DCC has similarly made general comments regarding the approach taken to policy drafting with DCC's preference that policies are drafted with a clear active directive. I agree with the submitters that the policy drafting of CE-P3 could be improved to align with best practice and as such I recommended re-drafting the provision, so it more clearly sets out a course of action.

178. In response to Forest and Bird's request to amend the provision to recognise activities beyond the coastal environment that may impact water quality, I agree in part with this suggested amendment. I consider this issue is largely addressed through other provisions of the pORPS. When reading all provisions together, it is clear that the approach of ki uta ki tai applies to managing the interconnection between land, freshwater and coastal water, with this specifically being identified in LF-VM-O7. Additionally, CE-P9 and CE-M3 set out further direction to manage activities on land that could affect the coastal environment, including via freshwater and to address specific discharge activities, which are not constrained to the coastal environment. However, I agree it would be helpful to acknowledge that this provision is not limited to only managing activities within the CMA. As such, I have suggested that an additional limb be added to the policy to clarify that the scope of the policy includes the management of activities outside the coastal marine area that have an effect on coastal water quality.

179. In relation to Harbour Fish and Southern Inshore Fisheries submissions, I do not agree that an amendment is required to provide for the explicit recognition for 'commercial fishing activity'. I consider this would be captured within 'existing uses'.

180. Kāi Tahu Ki Otago and Te Runanga o Ngāi Tahu seek a redraft of the policy to specifically highlight cultural values which need to be recognised. I note that some of the amendments suggested by the submitters are captured within the IM chapter. For example, IM-P2 requires the prioritisation of the life-supporting capacity of air, water, soil, and ecosystems and the health and safety of people. In addition, IM-P3(2) states that Kāi Tahu's relationship with natural resources is to be recognised and provided for by facilitating active participation of mana whenua in resource management decision making. Therefore, I disagree that clauses (1) and (2) need to be added to the CE-P3.

181. In relation to the suggested addition of clause (3) which would require setting appropriate water quality targets for coastal waters, including customary management areas and other areas used for kaimoana gathering, contact recreation and habitats of taoka species, I agree with the submitter that including water quality targets would assist in achieving CE-O1. I note that Policy 21 of the NZCPS gives priority to improving water quality where it has deteriorated to such an extent that it is having significant adverse effects. The guidance notes associated with Policy 21 of the NZCS note that:
- ‘The Board of Inquiry for the NZCPS noted that the water quality classifications listed under Schedule 3 of the RMA provide legislative guidance on what may be achieved in coastal waters that do not sustain activities such as contact recreation, cultural values or the cultivation of shellfish for human consumption. The Board considered that these water quality classifications should be considered minimum standards and applied to areas of deteriorated water accordingly.
- Although the use of water quality classifications is not a statutory requirement, current best practice for regional coastal plans includes the use of these classifications or, where they are not adequate or appropriate, the establishment of new classes and standards under section 69(2) of the RMA for waters identified as having deteriorated to such an extent that water quality is restricting existing activities or having other significant adverse effects.’
182. Given this I agree with the submission from Kāi Tahu Ki Otago that CE-P3 should include an additional limb that requires appropriate environmental limits for coastal water quality. ‘Environmental limits’ is a defined term within the pORPS , and I consider using this term with the coastal water context will help to ensure consistency between the LF and the CE chapters. I largely agree with the drafting proposed by Kāi Tahu Ki Otago, however I consider environmental limits should also be set for other indicators such as aquatic ecosystem health and sediment.
183. In relation to the suggested addition of clause (4), I consider that the drafting of the notified version of the policy includes direction that coastal water quality is to be improved where it is considered to have deteriorated, and clause (1) which support this direction by seeking to maintain and enhance coastal ecosystems.
184. In relation to the suggested addition of clause (5), I note this would address the management of adverse effects which is currently provided for in CE-P3(4). However, rather than ‘remedying or where remediation is not practicable, mitigating adverse effects’, which reflects the drafting within Policy 21(e) of the NZCPS, the amendment seeks to ‘avoid adverse effects’. I note the drafting within the Policy 21(e) of the NZCPS only relates to that management of coastal water where water quality has deteriorated. Therefore, I agree with the submitters that it is inappropriate to apply this drafting to a policy which applies to all areas of the coastal environment. As such, I agree with the inclusion of a new subclause as proposed by the submitters. I also consider that amendments could be made to this subclause to better link Policy CE-P2(3), which

requires the identification of the areas of coastal water where mana whenua have a particular interest. I also consider that ‘maintaining or enhancing’ water quality better achieves the enhancement aspect of Policy 21(e) of the NZCPS as it anticipates the enhancement of the water quality within these areas as opposed to just seeking to avoid adverse effects.

185. In relation to the requested addition of clause (6), I disagree this clause is required as I consider the current wording of clause (1) includes the full spectrum of ecosystems and habitats. Any areas not captured by clause (1) are managed by the requirement to improve coastal water quality where it is degraded.
186. The Yellow-eyed Penguin Trust seeks a number of changes to the policy which broadly seek more specificity in the clauses. I do not consider the changes requested are necessary because:
187. The range and extent of indigenous species is captured by the current wording of clause (1), specifically the requirement to maintain or enhance indigenous habitats.
188. Clause (2) captures the submitter’s concerns at a higher level by referring to Kāi Tahu uses of water, which may include mahinga kāi; and
189. Finally, in relation to swimmability, I consider clause (3) already captures this by referring to the need to maintain and enhance recreational opportunities. Any requirements for monitoring of water quality to ensure appropriate standards are achieved are relevant to the regional coastal plan implementation rather than the pORPS.

#### 8.12.3.2. CE-M3 – Regional plans

190. Kāi Tahu Ki Otago seeks a range of amendments to CE-M3. In relation to the change of date, as noted in section 8.11.3, the timeframes are linked to work programmes budgeted within the Otago Regional Council Long-Term Plan. Therefore, I cannot support the suggested amendment to the timeframe within CE-M3.
191. In relation to the suggested amendments to CE-M3(1) I disagree an amendment is required to specifically manage areas of deteriorated water quality in the coastal environment. I consider the management methods set out within CE-M3(4) require the management of discharges into coastal water and include a specific requirement to have particular regard to the sensitivity of the receiving environment.
192. In relation to the suggested addition of a new method requiring the setting of target for coastal water, as noted in the assessment above relating to CE-P3 – Coastal water quality, I agree that an addition clause should be added to CE-M3 that requires the setting of environmental limits for coastal water quality in accordance with CE-P3.
193. In relation to the suggested additions which seek the recognition, mapping and provisions to manage mapped areas of coastal water where mana whenua have a particular cultural interest and statutory acknowledgement areas, I agree in part with the suggested amendments. I agree that an additional method should be included requiring the

identification, protection, and improvement where degraded areas of coastal water where mana whenua have a particular cultural interest. I consider this drafting better aligns with the recommended amendments to CE-P13. I consider this additional clause can also incorporate the requirement to recognise and map statutory acknowledgement areas, tōpuni, nohoaka, and customary fisheries rather than including these as two separate limbs.

194. In relation to the suggested amendments to CE-M3(3), I note that this method gives effect to Policy 6(1)(i) of the NZCPS. I also note that term 'natural character' is very broad and includes natural elements, therefore I disagree that additions are required. In relation to the suggested addition of 'cultural values', I note that the definition of 'amenity values' in section 2 of the RMA includes cultural attributes. Therefore, I consider this amendment is not necessary.
195. In relation to the suggested amendments to CE-M3(4) I disagree that the suggested amendments are required within these methods. I consider the management of contaminants includes the management of sediment. I also consider that the methods are specifically related to managing the discharge of contaminants into coastal water and do not relate to the disturbance of sediments within the coastal marine area. I agree that there does need to be an amendment to the methods within the CE chapter that does require the management of sedimentation via seabed disturbance within the coastal marine area. I consider this could be included within CE-M3(5) as discussed in the following paragraph.
196. I agree in part with the amendments suggested to CE-M3(5). I agree that this method should ensure the use and development of the coastal marine area is controlled in a manner that maintains or enhances coastal water quality and improves coastal water quality where it is considered to have deteriorated in accordance with CE-P3. As such, I have suggested an amendment to CE-M3(5) to ensure that use and development of the coastal marine area is achieving CP-P3. I also agree with the suggested addition of wāhi tupuna and the related reference to HCV-WT-P2. I consider this amendment assists in giving effect to both HCV-WT-O1 and CE-02. In relation to whether a specific subclause should be added to refer to avoiding adverse effects on customary fisheries, mahika kai and kaimoana activities, I note that definition of 'Wāhi tupuna' within the pORPS states:
- Wāhi tūpuna
- means landscapes and places that embody the relationship of manawhenua and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taoka.
197. Given the definition of wāhi tupuna is reasonably broad, I consider any adverse effects on customary fisheries, mahika kai and kaimoana activities could be captured by the requirement that wāhi tupuna areas are safeguarded. If my understanding of the scope of the wāhi tūpuna definition is incorrect and there is rationale for including provision for customary fisheries, mahika kai and kaimoana activities separately, I suggest evidence be given at the hearing detailing the reason for a separate management approach.

198. In relation to the proposed method that seeks control of vegetation modification and removal in the coastal marine area, I consider that the requirement in M3(5)(a) adequately covers this and therefore I do not support this proposal.
199. Kai Tahu ki Otago also seeks that M3(6) be amended to require that a precautionary approach is adopted where the activity may affect:
- areas of deteriorated water quality,
  - areas of coastal waters where mana whenua have a particular cultural interest,
  - customary fisheries, mahika kai or kaimoana activities.
200. I consider the precautionary approach could be applied in each of these situations if ‘there is scientific uncertainty’ (M3(6)(a)), or ‘there are potentially significant or irreversible adverse effects (M3(6)(b))’. It is not clear from the submission why these additions are sought, therefore I disagree that an amendment is required. I also note that the s42A report for the IM Chapter has recommended that IM-P15 is merged with IM-P6, therefore I have suggested amending the reference to IM-P15 within CE-M3(6) to refer to IM-P6.
201. In relation to the amendment suggested by Kāi Tahu ki Otago to CE-M3(12), I agree that the method should provide for and encourage activities undertaken for the primary purpose of enhancing coastal water quality, coastal habitats and ecosystems, customary fisheries, mahika kai and kaimoana activities, and the relevant policy references. I consider this will assist with the implementation of CE-P1, CE-P3 and CE-P13.
202. In relation to Ngāi Tahu ki Murihiku’s submission on CE-M3(4)(c), I note that the drafting of this method has been taken directly from the Policy 23(2)(b) of the NZCPS and assists with the implementation of CE-P3 of the pORPS. Therefore, I disagree an amendment is required.
203. In response to the concerns of DCC and Ravensdown regarding references to “small mixing zones” in CE-M3(4)(a), I note that whatever term is used within the pORPS is going to contain an element of subjectivity that will need to be refined within the subsequent review of the coastal plan. Given this, I agree that the wording is currently uncertain, and that mixing zone extent is determined by a number of factors. To improve the legibility of the clause I recommend that the provision seeks that mixing zone extents shall be ‘minimised’ which provides slightly more direction as it requires a mixing zone to be reducing to the smallest possible point or degree which will be dependent on the nature and scale of the discharge.
204. I agree in part with DCC’s submission seeking that CE-M3(4) does not prohibit wastewater overflows into the CMA. The submitter seeks additional methods are included within the CE chapter which provide for progressively reducing the frequency and volume of wet weather overflows and minimising the likelihood of dry weather overflows. I understand that there are constructed overflows that discharge into the Otago Harbour and DCC holds resource consents for these. Given the nature of wastewater overflows and limitations in wastewater system design, I consider that it would be difficult to completely

avoid all overflows in the event of extreme weather or infrastructure failure. Therefore, I do consider that the pORPS should recognise these overflows into coastal water in a similar manner to that described in the Land and Freshwater chapter. In relation to the NZCPS, I consider that Policy 23 does provide strong guidance that the discharge of untreated sewage to the environment is to be avoided, however when read in combination with the other policies, it does not mean that such discharges must be classified as prohibited activities. On this basis, I recommend that CE-M3 is amended to recognise existing wastewater overflows but also provide direction that there must be progressive reductions in the volume and frequency of overflow events. I consider that the direction of prohibiting new discharges of untreated sewage in all other circumstances should be retained.

205. In relation to the cross-contamination between sewerage and stormwater systems, the policy intent is to avoid stormwater entering the wastewater system, which can lead to wastewater overflows and the discharge of untreated sewage into the environment.
206. To address the concerns raised by DCC, I recommend that CE-M3(4)(b) specifically recognises wastewater overflows and a new sub-clause is inserted to require progressively improvements to reduce the volume and frequency of overflow events, including as a result of stormwater inflows and infiltration. I also recommend that sub-clause 4(e) is amended to require that new systems are designed and managed to avoid any cross-connections. Based on this, I do not agree with Wise Response Society's request to prevent any discharge of untreated or treated sewerage to coastal water.
207. With regard to the relationship between the pORPS provisions and the NES-PF, Raynoir considers there is no justification for making provisions more stringent than the NES-PF while City Forests and Ernslaw One also consider that the NES-PF provides adequate protection for coastal water quality. CE-M3(d) requires regional plans to control the discharge of sediment from vegetation removal including from forestry harvesting activities. The NES-PF permits forestry harvesting subject to conditions, including the erosion susceptibility risk, sediment effects after reasonable mixing and setbacks including to the coastal marine area. Given the pORPS operates at a high level and does not set rules, I consider the wording of the current provision will enable specific consideration during the regional plan process whether there should be rules more stringent than the NES-PF and does not prescribe that all harvesting must be subject to resource consent.
208. In relation to promoting awareness and actions to reduce contaminant discharges through source controls, I agree that CE-M3 should recognise the importance of minimising contaminant sources. Through measures to avoid the source of contaminants within a discharge, there is less of a need to implement mitigation measures such as treatment to address potential effects. I therefore recommend that a new sub-clause is added to CE-M3(4) to encourage methods to reduce contaminant discharges through source control. I consider that this addresses the concern raised by the Fuel Companies and also broadly the issues raised by Wise Response Society.

209. Aurora Energy has raised concerns about the functional and operational need for infrastructure to be located in or near the CMA and seeks amendments to CE-M3 in accordance with the effects hierarchy to recognise this need. CE-M3(3) sets out a requirement for the regional plan to require development to be setback from the CMA where practicable. When this method is read in combination with the policies of the pORPS, I consider that when developing such rules, the functional and operational needs of infrastructure must be a consideration. Specifically, CE-P9, and the provisions of the EIT chapter recognise the importance of infrastructure which may need to be located in the coastal environment. I note that I have recommended an amendment to CE-P1 which provides greater clarity that the provisions within the EIT chapter also apply in the coastal environment where relevant. On this basis, I consider that no further changes to CE-M3 are necessary.

210. In response to Mr Highton's submission, I note the following:

- CE-M3 provides for the mapping of areas of deteriorated water quality in accordance with CE-P2 which refers to the identification of these areas. As noted by Mr Highton, this might require further water quality testing, however his suggested wording does not provide any greater clarity of how areas would be identified.
- While there are some particular activities noted in the method, the requirements to reduce sediment discharges apply more broadly to all activities, including agriculture, specifically in 4(d)(iii).
- Policy 21(d) of the NZCPS requires that where the quality of water in the coastal environment has deteriorated, priority must be given to excluding stock from the coastal marine area, adjoining intertidal areas and other water bodies and riparian margins in the coastal environment, within a prescribed time frame. In addition, the Resource Management (Stock Exclusion) Regulations 2020 require that stock are to be excluded from natural wetlands (which includes wetlands within the coastal marine area), and Regulation 54 of the NES-FM 2020 sets a non-comply activity status for vegetation clearance within, or within a 10 m setback from, a natural wetland. Finally, I note that CE-O1 seeks that the health, integrity, form, functioning and resilience of Otago's coastal environment is safeguarded. Given this, I consider it is appropriate that CE-M3(11) requires that stock area excluded from the coastal marine area, adjoining intertidal areas and other water bodies and riparian margins in the coastal environment.

#### 8.12.3.3. CE-M5 - Other incentives and mechanisms

211. In relation to Kai Tahu's request for amendments to CE-M5 to address water quality, I agree with the suggested amendments proposed for CE-M5(8) and consider that CE-M5(9) should amended to also provide for habitat restoration where it improves areas of deteriorated water quality.



8.12.4. Recommendation

212. I recommend amending CE-P2 as follows:

CE-P2 – Identification

Identify the following in the coastal environment:

(1) the landward extent of the coastal environment, recognising that the coastal environment includes:

[...]

(g) items of Kāi Tahu<sup>144</sup> cultural association<sup>145</sup> and *historic heritage* in the *coastal marine area* or on the coast,

[...]

(3) areas of *coastal water* where *takata whenua* have a particular interest, including Mātaitai and Taiapure,<sup>146</sup>

[...]

213. I recommend amending CE-M3 as follows:

CE-M3 – Regional plans

Otago Regional Council must prepare or amend and maintain its *regional plans* no later than 31December 2028 to:

(1) map areas of deteriorated *water* quality in the coastal environment, in accordance with CE-P2(2) ~~and CE-P2(3)~~,<sup>147</sup>

(1A) identify, protect, and improve where degraded, areas of coastal water where mana whenua have a particular cultural interest, including wāhi tupuna, statutory acknowledgement areas, tōpuni and nohoaka identified in the NTCSA 1998, and customary fisheries,<sup>148</sup>

(1B) set water quality targets for coastal waters in accordance with CE-P3,<sup>149</sup>

[...]

(4) manage the discharge of contaminants into coastal water to achieve environmental limits for water quality<sup>150</sup> by:

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<sup>144</sup> 00226.137 Kāi Tahu ki Otago

<sup>145</sup> 00226.137 Kāi Tahu ki Otago

<sup>146</sup> 00234.018 Te Runanga o Ngāi Tahu

<sup>147</sup> 00226.153 Kāi Tahu ki Otago

<sup>148</sup> 00226.153 Kāi Tahu ki Otago

<sup>149</sup> 00226.153 Kāi Tahu ki Otago

<sup>150</sup> Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00226.153 Kāi Tahu ki Otago

(a) ~~minimising the size of the *mixing zone* only enabling the use of small *mixing zones*~~<sup>151</sup> before the *water* quality standards need to be met in the *receiving environment* and minimising adverse *effects* on the life-supporting capacity of *water* within any mixing zone,

(b) prohibiting ~~any new~~ ~~the~~<sup>152</sup> *discharge* of untreated human *sewage* directly to water in the coastal environment,

(bb) requiring the implementation of methods to progressively reduce the volume and frequency of existing discharges of untreated human sewage from reticulated wastewater system in the event of a system failure or overloading the system, including by minimising stormwater inflows and infiltration into wastewater systems,<sup>153</sup>

(bc) encouraging methods and actions to reduce contaminant discharges at source,<sup>154</sup>

[...]

(e) designing installing, operating and maintaining new reticulated wastewater systems to avoid cross-contamination between *sewage* and *stormwater* systems ~~where new systems are proposed~~ and remedying cross-contamination where ~~they~~ it currently exists in established systems, and<sup>155</sup>

[...]

(5) control the use and development of the *coastal marine area*, in order to:

(a) preserve the coastal water quality; natural character; natural landscapes, features, and seascapes; wāhi tūpuna and indigenous *biodiversity* of the *coastal marine area* in accordance with CE-P3, CE-P4, CE-P5, and CE-P6 and HCV-WT-P2<sup>156</sup>, and

[...]

(12) provide for and encourage activities undertaken for the primary purpose of enhancing coastal water quality, coastal habitats and ecosystems, customary fisheries, mahika kai and kaimoana activities,

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<sup>151</sup> 00139.076 DCC

<sup>152</sup> 00139.076 DCC

<sup>153</sup> 00139.076 DCC

<sup>154</sup> 00510.020 Fuel Companies

<sup>155</sup> 00139.076 DCC

<sup>156</sup> 00226.153 Kāi Tahu ki Otago

and<sup>157</sup> restoring natural character, features, landscapes, or seascapes in accordance with CE-P3<sup>158</sup>, CE-P4, CE-P5, and CE-P6<sup>159</sup>, and CE-P13<sup>160</sup>.

214. I recommend amending CE-M5 as follows:

CE-M5 – Other incentives and mechanisms

*Local authorities* ~~are encouraged to~~ shall<sup>161</sup> consider the use of other mechanisms or incentives to assist in achieving Policies CE-P2 to CE-P12~~3~~,<sup>162</sup> including:

[...]

(8) research relevant to the *effects* of activities on:

[...]

(f) coastal water quality, or<sup>163</sup>

(g) coastal habitats and ecosystems,<sup>164</sup>

(9) facilitating the restoration, rehabilitation or creation of coastal habitats, particularly when it:

[...]

(d) benefits mahika kai and kaimoana species or customary fisheries areas, or<sup>165</sup>

(e) will lead to the improvement of areas of deteriorated water quality, and<sup>166</sup>

[...]

8.13. CE-P4, CE-M2 – Natural character

8.13.1. Introduction

215. As notified, CE-P4 reads:

CE-P4 – Natural character

Identify, preserve and restore the natural character of the coastal environment by:

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<sup>157</sup> 00226.153 Kāi Tahu ki Otago

<sup>158</sup> 00226.153 Kāi Tahu ki Otago

<sup>159</sup> 00226.153 Kāi Tahu ki Otago

<sup>160</sup> 00226.153 Kāi Tahu ki Otago

<sup>161</sup> 00137.060 DOC

<sup>162</sup> Clause 16(2), Schedule 1, RMA

<sup>163</sup> 00226.155 Kai Tahu Ki Otago

<sup>164</sup> 00226.155 Kāi Tahu ki Otago

<sup>165</sup> 00226.155 Kāi Tahu ki Otago

<sup>166</sup> 00226.155 Kai Tahu Ki Otago

- (1) identifying areas and values of high and outstanding natural character which may include matters such as:
  - (a) natural elements, processes and patterns,
  - (b) biophysical, ecological, geological and geomorphological aspects,
  - (c) natural landforms such as headlands, peninsulas, cliffs, dunes, *wetlands*, estuaries, reefs, *freshwater springs* and *surf breaks*,
  - (d) the natural movement of *water* and sediment,
  - (e) the natural darkness of the night sky,
  - (f) places or areas that are wild or scenic,
  - (g) a range of natural character from pristine to modified,
  - (h) experiential attributes, including the sounds and smell of the sea, and their context or setting,
- (2) avoiding adverse *effects* on natural character in areas identified as having outstanding natural character,
- (3) avoiding significant adverse *effects* and avoiding, remedying or mitigating other adverse *effects* on natural character outside the areas in (2) above,
- (4) encouraging de-reclamation of redundant reclaimed land where it would restore the natural character and resources of the *coastal marine area* and provide for more public open space, and
- (5) promoting *activities* and restoration projects that will restore natural character in the coastal environment where it has been reduced or lost.

216. As notified, CE-M2 reads:

CE-M2 – Identifying other areas

*Local authorities* must work collaboratively together to:

- (1) identify areas and values of high and outstanding natural character within their jurisdictions in accordance with CE-P4(1), map the areas and describe their values in the relevant *regional* and *district plans*, and identify their capacity to accommodate change through use or development while protecting the values that contribute to the natural character of the area being considered high or outstanding,

[...]

8.13.2. Submissions

8.13.2.1. CE-P4 – Natural character

217. Forest and Bird supports the provision as drafted and seeks it be retained as notified,<sup>167</sup> provided amendments to CE-P2 are implemented and methods are added to give effect to Policy 14 of the NZCPS.
218. Kāi Tahu ki Otago state that clause (4) of the policy related to de-reclamation appears out-of-place within the policy.<sup>168</sup> The submitter seeks that this clause be moved to CE-P12, as there may be other reasons for de-reclamation (such as open space, as set out within Policy 10 of the NZCPS). The submitter also states that enhancement of natural character should come via rehabilitation as well as restoration, with restoration not always being possible (as set out within Policy 14 of the NZCPS). Finally, highlights the long-established relationship between Kāi Tahu ki Otago and the coast and seeks the following amendments to recognise and provide for this:<sup>169</sup>
- (4) encouraging de-reclamation of redundant reclaimed land where it would restore the natural character and resources of the coastal marine area and provide for more public open space, and*
- ~~(5)~~(4) promoting activities and ~~restoration~~ projects that will restore or rehabilitate natural character in the coastal environment where it has been reduced or lost, while*
- (5) recognising the enduring ancestral relationship of mana whenua with the coast and providing for mana whenua settlement and cultural use of Native Reserves and Te Ture Whenua Māori land.*
219. Sanford highlights the policy only identifies areas of outstanding or high natural character and neglects a requirement to map or schedule these areas.<sup>170</sup> The submitter considers this oversight will impact many resource consent applications which will need to provide an assessment to determine their impact on such areas, and requests amendments to clarify identification. One submitter considers underwater landforms should also be identified in sub-clause (1)(c).<sup>171</sup>
220. DCC<sup>172</sup> and Federated Farmers<sup>173</sup> raise concern regarding the directive policy language. Regarding the term “avoid” DCC considers it best practice to take a weighting or balancing approach to enable lower order documents to appropriately manage resource consent

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<sup>167</sup> 00230.054 Forest and Bird

<sup>168</sup> 00226.139 Kāi Tahu ki Otago

<sup>169</sup> 00226.139 Kāi Tahu ki Otago

<sup>170</sup> 00122.016 Sanford

<sup>171</sup> 00120.040 Yellow-eyed Penguin

<sup>172</sup> 00139.065 00139.066 DCC

<sup>173</sup> 00239.059 Federated Farmers

processes and seeks clarification of circumstances when avoidance does not apply.<sup>174</sup> Federated Farmers considers the direction to avoid adverse effects goes further than legislative requirements of the NZCPS and seeks its deletion.

221. Federated Farmers also raises concern about the appropriateness of restoring attributes which may be lost to the impacts of climate change and seeks deletion of clause (1)(h).<sup>175</sup> Further, the submitter cautions that in the absence of defined terms for “redundant” and “de-reclamation”, clause (4) is difficult to understand and seeks clarification.
222. Some submitters seek general amendments to take account of other matters, including:
- Revising clause structure and content;<sup>176</sup>
  - Removing reference to “high and outstanding”;<sup>177</sup>
  - Inserting provisions to provide for nationally and regionally significant infrastructure;<sup>178</sup> and
  - Inserting provisions which support the achievement of renewable energy and emission reduction goals.<sup>179</sup>
223. DCC seek that a new provision is included within the CE section to manage the effects of wilding conifers on the natural character of the coastal environment.<sup>180</sup>
224. One submitter considers further guidance is required to protect the natural character of the coastal environment and seeks amendments to CE-P4 to support clarification and interpretation.<sup>181</sup>

### 8.13.3. Analysis

225. Forest and Bird seeks that CE-P2 requires the identification of areas where natural character is to be preserved. These changes have not been recommended on the basis that CE-P4 as well as CE-M2 require the identification of these areas and as such do not need to be repeated in CE-P2. No further changes to CE-P4 are necessary to address the submitter’s concerns.
226. In response to the submission from Kāi Tahu Ki Otago seeking amendments CE-P4, I agree that de-reclamation may be encouraged for other purposes as described in Policy 10 of the NZCPS and therefore I recommend that CE-P12 is amended to capture both reclamation and de-reclamation. I also agree that enhancement of natural character may come from restoration projects and rehabilitation works which is consistent with Policy 14 of the NZCPS and as such I recommend adopting the changes. In relation to the new

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<sup>174</sup> 00139.065 DCC

<sup>175</sup> 00239.059 Federated Farmers

<sup>176</sup> 00226.139 Kāi Tahu Ki Otago, 00239.059 Federated Farmers (not on SODR)

<sup>177</sup> 00126.021 Harbour Fish, 00124.021 Southern Inshore Fisheries

<sup>178</sup> 00314.016 Transpower, 00315.023 Aurora Energy

<sup>179</sup> 00509.062 Wise Response

<sup>180</sup> 00139.135 DCC

<sup>181</sup> 00509.062 Wise Response (not on SODR)

limb suggested by Kāi Tahu, I disagree that this amendment is required. I note that the policy relates to the identification, preservation and restoration of natural character of the coastal environment. Therefore, I do not consider the proposed amendment is appropriate within this policy. For completeness, I note that the IM-P3 recognises and provides for mana whenua cultural values.

227. In response to Sanford's suggested amendments to CE-P4(1), I consider that the pORPS provisions already address the issue raised. CE-M2(1) requires that areas of high and outstanding character are identified and mapped in accordance with CE-P4 and as such no further changes are necessary.
228. Wise Response request an addition to the policy that would require new activities to result in a 'net ecological gain and be consistent with prevailing national renewable energy and emission reduction goals'. The submitter has provided only limited justification as to why these additions are required when identifying, preserving, and restoring the natural character of the coastal environment. Therefore, I am unable to support this request.
229. DCC and Federated Farmers have raised concerns regarding the use of avoidance language in CE-P4, with a particular concern that the provision goes beyond the NZCPS. I note that clauses (2) and (3) specify the avoidance of particular adverse effects in a manner that is entirely consistent with Policy 13 of the NZCPS. For this reason, I consider no amendments are appropriate.
230. In response to Federated Farmers' other concerns:
- The method to implement CE-P4(4) and (5) in order to enhance natural character is found in CE-M3(12) which only seeks to provide and encourage these activities. The method does not set out an absolute requirement and matters such as the overall merits and longevity of such restoration projects are expected to be considered when provisions for these activities are being proposed.
  - Deletion of sub-clause (1)(h) is not appropriate as this matter is identified in the NZCPS. The deletion of this sub-clause would result in the identification not giving effect to Policy 13 of the NZCPS.
  - Sub-clause (4) is recommended to be added to CE-P12 and reflect the requirements of the NZCPS.
231. Harbour Fish and Southern Inshore seek to remove reference to "high and outstanding" in the policy but have provided no reasons for this deletion or alternative wording amendments. I consider it would be inappropriate to make the changes requested as the amendments would not achieve the requirements of the NZCPS.
232. Wise Response requests an addition to the policy that would require new activities to result in a 'net ecological gain and be consistent with prevailing national renewable energy and emission reduction goals'. The submitter has provided limited justification as to why these additions are required when identifying, preserving, and restoring the

natural character of the coastal environment. I consider that the amendments to CE-P4 are not necessary as they do not relate to the policy's subject matter.

#### 8.13.4. Recommendation

233. I recommend relocating CE-P4(4) to CE-P12 as follows:

CE-P4 – Natural character

Identify, preserve and restore the natural character of the coastal environment by:

[...]

(4) encouraging de-reclamation of redundant reclaimed *land* where it would restore the natural character and resources of the *coastal marine area* and provide for more public open space, and<sup>182</sup>

CE-P12 – Reclamation and de-reclamation<sup>183</sup>

Manage reclamation and de-reclamation by:<sup>184</sup>

[...]

(1B) Encouraging de-reclamation of redundant reclaimed land where it would restore natural character, resources of the coastal marine area, and provide for more public open space.<sup>185</sup>

234. I recommend amending CE-P4(5) as follows:

(5) promoting *activities* and ~~restoration~~<sup>186</sup> projects that will restore or rehabilitate<sup>187</sup> natural character in the coastal environment where it has been reduced or lost.

### 8.14. CE-P5, CE-M2, CE-M3, CE-M4 & CE-M5 – Coastal indigenous biodiversity

#### 8.14.1. Introduction

235. As notified, CE-P5 reads:

CE-P5 – Coastal indigenous *biodiversity*

Protect indigenous *biodiversity* in the coastal environment by:

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<sup>182</sup> 00226.139 Kāi Tahu ki Otago

<sup>183</sup> 00226.147 Kāi Tahu ki Otago

<sup>184</sup> 00226.147 Kāi Tahu ki Otago

<sup>185</sup> 00226.147 Kāi Tahu ki Otago

<sup>186</sup> 00226.139 Kāi Tahu ki Otago

<sup>187</sup> 00226.139 Kāi Tahu ki Otago



(1) identifying and avoiding adverse effects on the following ecosystems, vegetation types and areas:

- (a) indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists,
- (b) taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened,
- (c) indigenous ecosystems and vegetation types in the coastal environment that are threatened or are naturally rare,
- (d) habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare,
- (e) areas containing nationally significant examples of indigenous community types, and
- (f) areas set aside for full or partial protection of indigenous *biodiversity* under other legislation, and

(2) identifying and avoiding significant adverse *effects* and avoiding, remedying or mitigating other adverse *effects* on the following ecosystems, vegetation types and areas:

- (a) areas of predominantly indigenous vegetation in the coastal environment,
- (b) habitats in the coastal environment that are important during the vulnerable life stages of indigenous species,
- (c) indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable,
- (d) areas sensitive to modification, including estuaries, lagoons, coastal *wetlands*, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh,
- (e) habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes,
- (f) habitats, including areas and routes, important to migratory species, and
- (g) ecological corridors, and areas important for linking or maintaining biological values identified under this policy.

236. As notified, CE-M2 reads:

CE-M2 – Identifying other areas

*Local authorities* must work collaboratively together to:

[...]

(3) identify areas and values of indigenous *biodiversity* within their jurisdictions in accordance with CE–P5, map the areas and describe their values in the relevant *regional* and *district plans*, and

[...]

237. As notified, CE-P3(5) reads:

CE–M3 – Regional plans

Otago Regional Council must prepare or amend and maintain its *regional plans* no later than 31 December 2028 to:

[...]

(5) control the use and development of the *coastal marine area*, in order to:

(a) preserve the natural character; natural landscapes, features, and seascapes; and indigenous *biodiversity* of the *coastal marine area* in accordance with CE–P4, CE–P5 and CE–P6, and

[...]

238. As notified, CE-M4 reads:

CE–M4 – District plans

Territorial authorities must prepare or amend and maintain their district plans to:

(1) control the location, density and form of subdivision in the coastal environment (outside the coastal marine area),

(2) control the location, scale and form of buildings and structures in the coastal environment (outside the coastal marine area),

(3) control the location and scale of earthworks and vegetation planting, modification and removal in the coastal environment (outside the coastal marine area),

[...]

239. As notified, CE-M5 reads:

CE–M5 – Other incentives and mechanisms

*Local authorities* are encouraged to consider the use of other mechanisms or incentives to assist in achieving Policies CE–P2 to CE–P12, including:

(1) identifying areas and opportunities within the coastal environment for restoration or rehabilitation,

[...]

(4) funding assistance for restoration projects (for example, through Otago Regional Council's ECO Fund),

[...]

(7) education and advice,

(8) research relevant to the *effects* of activities on:

(a) coastal network *infrastructure*,

(b) coastal values,

(c) coastal hazards,

(d) riparian vegetation cover or any *land* cover that contributes to supporting coastal values or mitigating coastal hazards, or

(e) areas particularly sensitive to *land* use changes,

(9) facilitating the restoration, rehabilitation or creation of coastal habitats, particularly when it:

(a) encourages the natural regeneration of indigenous species,

(b) buffers or links ecosystems, habitats and areas of significance that contribute to ecological corridors, or

(c) maintains or enhances the provision of indigenous ecosystem services, and

#### 8.14.2. Submissions

##### 8.14.2.1. CE-P5 – Coastal indigenous biodiversity

240. Three submitters support this policy as drafted and seek it be retained as notified,<sup>188</sup> however Forest and Bird note that it is necessary to ensure that the effects management hierarchies are not applied within the coastal environment.<sup>189</sup>

241. The majority of submitters seek amendments, including two submitters who request amendments to the policy to require 'enhancement' of indigenous biodiversity.<sup>190</sup> Several submitters also seek associated cross-references to the significance criteria for indigenous biodiversity set out in APP2.<sup>191</sup> They consider this would assist in clarifying the relationship between the ECO chapter and the CE chapter.

242. Kāi Tahu Ki Otago seeks amendments to clarify the policy intent and integrate management of ecosystems in the coastal environment into the ECO chapter.<sup>192</sup> In

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<sup>188</sup> 00230.055 Forest and Bird, 00122.017 Sanford, 00510.015 The Fuel companies

<sup>189</sup> 00230.072 Forest and Bird

<sup>190</sup> 00137.055 DOC, 00120.041 Yellow-eyed Penguin Society

<sup>191</sup> 00137.055 DOC, 00120.042 Yellow-eyed Penguin Society, 00230.038 Forest and Bird

<sup>192</sup> 00226.140 Kāi Tahu ki Otago

particular they seek a hierarchy of preference related to ‘avoiding, remedying or mitigating’, similar to ECO-P6.

243. Federated Farmers seek extensive amendments to the policy to respond to concerns that the policy.<sup>193</sup>
- Exceeds the requirements of the NZCPS, which risks confusion and limits implementation,
  - Requires unnecessary identification of specified adverse effects,
  - Unnecessarily refers to the New Zealand Threat Classification System and the International Union for Conservation of Nature and Natural Resources, and
  - Fails to provide for necessary amendments following notification of the National Policy Statement for Indigenous Biodiversity.
244. One submitter considers key stakeholders can provide increased understanding of what significant habitats occupy areas of the coastal environment and seeks greater consultation with governmental, commercial, customary and recreational fishing bodies.<sup>194</sup>
245. One submitter states that measures to protect biodiversity must consider evidence of actual threats to biodiversity from particular sources activities, including threats from land-based activities.<sup>195</sup> They also seek that the pORPS retains two provisions within the PORPS19 that relate to identifying and protecting significant ecological areas within the coastal environment<sup>196</sup>. Two submitters seeks amendments that require a net environmental gain for remaining indigenous biodiversity.<sup>197</sup>
246. Two submitter seek amendments to clause (1) which require additional identification and avoidance of adverse effects related to habitat fragmentation, deforestation and invasion of alien species,<sup>198</sup> and general species.<sup>199</sup>
247. One submitter considers sub-clause (2)(d) should include reference to seafloor habitats.<sup>200</sup> Another submitter considers that once habitats of particular importance have been identified, it is critical to carry out an evidence-based analysis of any adverse effects to each habitat.<sup>201</sup>
248. One submitter considers specific locations require protection and remediation.<sup>202</sup>

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<sup>193</sup> 00239.060 Federated Farmers

<sup>194</sup> 00125.027 Otago Rock Lobster

<sup>195</sup> 00125.003 Otago Rock Lobster

<sup>196</sup> 00120.027 Yellow-eyed Penguin Trust

<sup>197</sup> 00509.063 Wise Response, 00120.041 Yellow-eyed Penguin Trust

<sup>198</sup> 00509.059 Wise Response

<sup>199</sup> 00120.043 Yellow-eyed Penguin Trust

<sup>200</sup> 00120.044 Yellow-eyed Penguin Trust

<sup>201</sup> 00125.004 Otago Rock Lobster

<sup>202</sup> 00014.032 John Highton

8.14.2.2. CE–M2 – Identifying other areas, CE–M3 – Regional plans & CE–M4 – District plans

249. Several submitters seek amendments which include providing:

- Opportunity for further discussion with the fishing industry groups before finalisation of the pORPS, in order to retain protection of significant habitats in the coastal environment within CE-M2<sup>203</sup> and CE-M3<sup>204</sup> and
- Control of domestic dogs and wild cats within CE-M3 and CE-M4.<sup>205</sup>

8.14.2.3. CE-M5 – Other incentives and mechanisms

250. Kāi Tahu ki Otago seeks amendments to CE-M5 as follows:<sup>206</sup>

- Clause (8) to include research relevant to the effects of activities on “coastal habitats and ecosystems”, and
- Clause (9) to facilitate the restoration, rehabilitation or creation of coastal habitats, particularly when it “benefits mahika kai and kaimoana species or customary fisheries areas”.

8.14.3. Analysis

251. Regarding the NZCPS, many raise issue that CE-P5 has not been contextualised to the Otago environment. Additionally, there are questions regarding whether the policy is more stringent than the requirements of the NZCPS. As highlighted in the section 32 report, the directive nature of Policy 11 of the NZCPS provides little scope for the pORPS to consider additional or alternative management approaches. There is currently limited region-specific information about the matters addressed by Policy 11, meaning there is limited Otago-specific direction to guide the application of Policy 11. As drafted, CE-P5 largely replicates Policy 11 of the NZCPS and revision of wording risks failure to achieve legislative requirements.

252. In relation to the submitters that seek an amendment to the policy requiring the enhancement of indigenous biodiversity in the coastal environment, I note that the amendment suggested to CE-P1 highlights that the provisions of the ECO chapter, where relevant, also apply to biodiversity in the coastal environment. Given this, I note that ECO-02 relates to restoring or enhancing indigenous biodiversity, and this is supported by ECO-P8 which relates to the enhancement of indigenous biodiversity. As such, I disagree that an amendment is required to Policy CE-P5.

253. Federated Farmers seeks substantial revision of the policy which would result in the policy not giving effect to the direction of the NZCPS. They also request provision is made for amendments to CE-P5 on gazettal of NPS-IB. This NPS works together with the NZCPS

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<sup>203</sup> 00125.028 Otago Rock Lobster

<sup>204</sup> 00125.029 Otago Rock Lobster

<sup>205</sup> 00509.067, 00509.068 Wise Response Society

<sup>206</sup> 00226.155 Kāi Tahu ki Otago

to manage indigenous biodiversity in the terrestrial coastal environment. In its draft form the NPS-IB states that the NZCPS prevails where conflicts arise. Given the NPS-IB is not currently gazetted I consider amendments ahead of national advice would be premature. Once the NPS-IB is gazetted, I consider it is more appropriate that any amendments to the pORPS can be undertaken through a variation of plan change process,

254. Several submitters seek greater clarification as to how CE-P5 relates to the provisions within the ECO chapter. Kāi Tahu Ki Otago requests changes to move provisions related to indigenous biodiversity and ecosystems in the coastal environment into the *ECO - Ecosystems and indigenous biodiversity* chapter. As set out in section 8.10.3, the National Planning Standards direct that any specific provisions relating to the coastal environment which are located in other topic chapters must be cross-referenced in the Coastal environment chapter.
255. Given this I consider the provisions that require the identification and protection of biodiversity in the coastal environment should be retained within the CE – Coastal environment chapter. However, I agree that the links between the indigenous biodiversity provisions within the CE Chapter and the indigenous biodiversity provisions in the ECO chapter need to be clarified. I have recommended an amendment to CE-P1 to provide these links to other chapters.
256. Other submissions on CE-P5 request explicit links to APP2 – Significance criteria for indigenous biodiversity be included within the policy. I agree with this amendment. I note that the significance criteria within APP2 has clearly been drafted to capture coastal environments as it includes a range of references to ‘marine ecosystems’, ‘intertidal and subtidal habitats’, and ‘coastal marine biogeographic region’. As such, I consider including reference to APP2 within CE-P5 will assist with integration between the CE chapter and the ECO chapter. I acknowledge that there will be a reasonable amount of overlap between the significance criteria within APP2 and the matters listed within CE-P5(a). However, I consider this is a ‘belts and braces’ approach to the identification of indigenous biodiversity within the coastal environment that gives effect to both Section 6(c) of the RMA and also Policy 11(a) of the NZCPS. I note that amendment have also been recommended within the ECO chapter to clarify that the management approach to SNA’s within the coastal environment will be directed by CE-P5(a) rather than the management framework set out within the ECO chapter. I also understand clear linkages will also be identified through e-Plan which will further enhance usability for readers of the pORPS.
257. In relation to the submission seeking amendment to CE-M3, I disagree additional amendment are required to specific control domestic dogs and wild cats. I consider this will be controlled where appropriate by district plans. In relation to the submission seeking further discussion with the fishing industry groups before finalisation of the pRPS, I consider there will be opportunity for fishing industry groups to appear at the hearing to discuss the protection of significant habitats in the coastal environment before the finalisation of the pORPS. I also note that the pORPS set the framework for managing the

coastal environment which is then implement through district and regional plans. Therefore, further discussion can also be undertaken through the review of these documents.

258. In relation to the submission seeking amendment to CE-M5, I agree that specific amendments should be made to this method to provide greater detail as to when further research could be undertaken to assist in achieving CE-P5.

#### 8.14.4. Recommendation

259. I recommend amending CE-P5(1) as follows:

CE-P5 – Coastal indigenous *biodiversity*

Protect indigenous *biodiversity* in the coastal environment by:

(1) identifying and avoiding adverse effects on the following ecosystems, vegetation types and areas:

[...]

(g) significant natural areas identified in accordance with APP2, and<sup>207</sup>

260. I recommend amending CE-M5 as follows:

CE-M5 – Other incentives and mechanisms

*Local authorities* ~~are encouraged to~~ shall<sup>208</sup> consider the use of other mechanisms or incentives to assist in achieving Policies CE-P2 to CE-P1~~23~~,<sup>209</sup> including:

[...]

(8) research relevant to the *effects* of activities on:

[...]

(g) coastal habitats and ecosystems,<sup>210</sup>

(9) facilitating the restoration, rehabilitation or creation of coastal habitats, particularly when it:

(a) encourages the natural regeneration of indigenous species,

(b) buffers or links ecosystems, habitats and areas of significance that contribute to ecological corridors, ~~or~~

(c) maintains or enhances the provision of indigenous ecosystem services, ~~and~~

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<sup>207</sup> 00137.055 DOC, 00120.042 Yellow-eyed Penguin Society

<sup>208</sup> 00137.060 DOC

<sup>209</sup> Clause 16(2), Schedule 1, RMA

<sup>210</sup> 00226.155 Kāi Tahu ki Otago

(d) benefits mahika kai and kaimoana species or customary fisheries areas, or<sup>211</sup>

## 8.15. CE-P6 & CE-M3 – Natural features, landscapes and seascapes

### 8.15.1. Introduction

261. As notified, CE-P6 reads:

CE-P6 – Natural features, landscapes and seascapes

Protect natural features, landscapes and seascapes in the coastal environment by:

- (1) identifying their areas and values in accordance with APP9,
- (2) avoiding adverse *effects* of activities on outstanding natural features, landscapes or seascapes,
- (3) avoiding significant adverse *effects* and avoiding, remedying, or mitigating other adverse *effects* of activities on other natural features and natural landscapes or seascapes, and
- (4) promoting restoration or enhancement of natural features, landscapes and seascapes where they have been reduced or lost.

262. As notified, CE-M3 reads:

CE-M3 – Regional plans

Otago Regional Council must prepare or amend and maintain its *regional plans* no later than 31 December 2028 to:

[...]

(5) control the use and development of the *coastal marine area*, in order to:

- (a) preserve the natural character; natural landscapes, features, and seascapes; and indigenous *biodiversity* of the *coastal marine area* in accordance with CE-P4, CE-P5 and CE-P6, and

[...]

### 8.15.2. Submissions

#### 8.15.2.1. CE-P6 – Natural features, landscapes and seascapes

263. One submitter supports this provision as drafted and seek it be retained as notified.<sup>212</sup>

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<sup>211</sup> 00226.155 Kāi Tahu ki Otago

<sup>212</sup> 00510.016 The Fuel Companies



264. DCC requests review of the directive nature of this policy which has the potential to conflict with other policies and would benefit from a more qualified effects management approach.<sup>213</sup>
265. Meridian and Transpower consider CE-P6 is inconsistent with national direction.<sup>214</sup> Specifically, Meridian considers the policy as drafted goes beyond the requirements of the RMA and seeks the following amendment:
- Protect outstanding natural features, landscapes and seascapes in the coastal environment by:*
- (1) identifying outstanding natural features, landscapes and seascapes, including their areas and values, in accordance with APP9,*
- (2) ~~avoiding adverse effects of activities on~~ protect outstanding natural features, landscapes or seascapes from inappropriate subdivision, use, and development,*
- (3) ~~avoiding significant adverse effects and~~ avoiding, remedying, or mitigating ~~other~~ adverse effects of activities on other natural features and natural landscapes or seascapes, and*
- (4) offsetting or compensating for significant residual adverse effects after avoidance, remediation, and mitigation; and*
- ~~(4)~~(5) promoting restoration or enhancement of outstanding natural features, landscapes and seascapes where they have been reduced or lost.*
266. Transpower consider the policy to be inconsistent with the RMA, Policy 15 of the NZCPS and Policy 8 of the NPSET and seek amendment to provide for activities related to the development of the National Grid.<sup>215</sup> Similarly Waka seeks amendments to provide for the functional and operational needs of infrastructure are recognised and provided for.
267. Forest and Bird and Sanford consider the policy needs the support of methods or amendment to Appendix 9 to capture the direction of Policy 15(c) of the NZCPS which requires at a minimum identification of natural features and natural landscapes of the coastal environment by land typing, soil characterisation and landscape characterisation and having regard to the values it sets out.<sup>216</sup>
268. Harbour Fish and Southern Inshore Fisheries highlight Policy 15 of the NZCPS only references “seascapes” in the body of the text, not the title, and seeks amendments accordingly.<sup>217</sup>

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<sup>213</sup> 00139.068 DCC

<sup>214</sup> 00306.030 Meridian, 00314.018 Transpower

<sup>215</sup> 00314.018 Transpower

<sup>216</sup> 00230.056 Forest & Bird, 00122.018 Sanford

<sup>217</sup> 00126.022, 00126.023 Harbour Fish, 00124.022, 00124.023 Southern Inshore Fisheries

269. Kāi Tahu Ki Otago and Ngāi Tahu ki Murihiku seek amendments which reflect the values and interests of Maori.<sup>218</sup> Kāi Tahu Ki Otago also requests the following amendment to either CE-P6 or NFL-P2 and NFL-P3:<sup>219</sup>

*recognising the enduring ancestral relationship of mana whenua with the coast and providing for mana whenua settlement and cultural use of Native Reserves and Te Ture Whenua Māori land.*

270. Three submitters seek amendments to clarify the relationship of CE-P6 provisions to those contained within the Natural Features and Landscapes chapter.<sup>220</sup>

### 8.15.3. Analysis

271. In relation to the submitters who consider additions are required to APP9, I note that Policy 15(c) of the NZCPS sets out direction to identify and assess the natural features and natural landscapes of the coastal environment by land typing, soil characterisation and landscape characterisation and having regard to a number of factors which are reflected in APP9 of the pORPS. The terms “land typing” and “soil characterisation” are defined in the NZCPS as follows:

Land typing: Describes land types which form the basis over which land cover, land use and association information are addressed as the basis for land characterisation.

Landscape characterisation: Utilises the land typing base and overlay with land cover, land use and associations affecting or affected by coastal processes.

272. The guidance notes for implementing Policy 15 state that land typing, soil characterisation and landscape characterisation are tools used by landscape practitioners to bring together the features of an area which make it distinct from its neighbours (Department of Conservation, 2013). This step is therefore the initial definition of the geographic unit which is then assessed based on the matters captured in Policy 15(c)(i) to (x). I consider the requirements within APP9 of the pORPS effectively duplicate the assessment required by in Policy 15(c)(i) to (x) of the NZCPS. However, I agree that an addition is required to CE-P6(1) to acknowledge that this identification needs to include an assessment by land typing, soil characterisation and landscape characterisation.

273. To capture this part of the identification methodology, Sanford seeks that CE-P6(1) is amended to require that natural features, landscapes and seascapes are identified and mapped at an appropriate scale. Forest and Bird seeks amendments to similarly capture this. I consider that the scale at which natural features, landscapes and seascapes are captured should be acknowledged in order to give effect to the NZCPS, however I

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<sup>218</sup> 00226.141 Kai Tahu ki Otago, 00223.071 Ngāi Tahu ki Murihiku

<sup>219</sup> 00226.141 Kai Tahu ki Otago

<sup>220</sup> 00139.068 DCC, 00230.056 Forest & Bird, 00226.141 Kāi Tahu ki Otago

consider that this is best addressed in CE-M2(2). I recommend that CE-M2(2) is amended to require the identification and mapping of these areas at an appropriate scale.

274. Harbour Fish and Southern Inshore Fisheries seek that the title of CE-P6 is amended to remove the term “seascapes” as it is not in the title of Policy 15 of the NZCPS. Both Policy 15 of the NZCPS and CE-P6 relate to the identification and management of effects on seascapes and therefore to ensure clarity, it is recommended to retain the heading as it was notified.

275. In relation to Kāi Tahu and Nāi Tahu ki Murihiku’s suggestion that an additional matter be added to CE-P6, I consider the suggested additional limb is best analysed in two parts. The first part of the suggested drafting states:

*recognising the enduring ancestral relationship of mana whenua with the coast*

276. I note that subsection (i) within APP9 (the appendix within the pORPS that sets out the identification criteria for outstanding and highly valued natural features, landscapes and seascapes) states:

*Cultural and spiritual values for Kāi Tahu, identified by working, as far as practicable, in accordance with tikanga Māori, including their expression as cultural landscapes and features.*

277. Therefore, I consider this provides enough scope to recognising the enduring ancestral relationship of mana whenua with the coast in this assessment of ONL/Fs in the coastal environment.

278. In relation to the second aspect of the drafting, which states:

*providing for mana whenua settlement and cultural use of Native Reserves and Te Ture Whenua Māori land*

279. I consider that this is best addressed within the MW-Mana whenua chapter. I note that MW-P4 requires that Kāi Tahu are able to protect, develop and use land and resources within native reserves and land held under Te Ture Whenua Māori Act 1993 in a way consistent with their culture and traditions and economic, cultural and social aspirations. Therefore, I disagree that the suggested amendment is required. I also note that CE-M2(2) requiring the assessment of the capacity of features and landscapes to accommodate use and development. I consider this assessment can also include an assessment to determining the capacity of these sites to accommodate appropriate customary uses. Finally, as noted in section 8.22.3, I have also suggested an amendment to CE-M2 that states that local authorities must work collaboratively, with Kāi Tahu and local authorities in neighbouring regions to identify ONL’s and ONF’s. I consider this amendment will achieve the relief sought by the submitter.

280. With regard to the relationship between the CE chapter and the NFL chapter, I consider that no further amendments are necessary. NFL-P6 is clear that natural features, landscapes and seascapes are managed in the CE chapter.

#### 8.15.4. Recommendation

281. I recommend amending CE-P6 as follows:

CE-P6 – Natural features, landscapes and seascapes

Protect natural features, landscapes and seascapes in the coastal environment by:

(1) identifying their areas and values, at minimum by land typing, soil characterisation and landscape characterisation,<sup>221</sup> in accordance with APP9,

282. I recommend amending CE-M2(2) as follows:

CE-M2 – Identifying other areas

*Local authorities* must work collaboratively, with Kāi Tahu<sup>222</sup> and local authorities in neighbouring regions,<sup>223</sup> together to:

[...]

(2) identify, at an appropriate scale,<sup>224</sup> areas and values of outstanding natural features, landscapes, and seascapes (in the coastal environment) within their jurisdictions in accordance with CE-P6(1), map the areas and describe their values in the relevant *regional* and *district plans*, and identify their capacity to accommodate change through use or development while protecting the values that contribute to the natural features, landscapes, and seascapes being considered outstanding,

[...]

#### 8.16. CE-P7 & CE-M3 – Surf breaks

##### 8.16.1. Introduction

283. As notified, CE-P7 reads:

CE-P7 – Surf breaks

Manage Otago's nationally and regionally significant surf breaks so that:

(1) nationally significant surf breaks are protected by avoiding adverse effects on the surf breaks, including on access to and use and enjoyment of them, and

(2) the values of and access to regionally significant surf breaks are maintained.

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<sup>221</sup> 00230.056 Forest & Bird, 00122.018 Sanford

<sup>222</sup> 00226.149 Kāi Tahu ki Otago

<sup>223</sup> 00013.010 ECan

<sup>224</sup> 00122.018 Sanford

284. As notified, CE-M3 reads:

CE–M3 – Regional plans

Otago Regional Council must prepare or amend and maintain its *regional plans* no later than 31 December 2028 to:

[...]

(2) map the areas and characteristics of, and access to, nationally and regionally significant *surf breaks*,

[...]

(5) control the use and development of the *coastal marine area*, in order to:

[...]

(b) manage Otago’s nationally and regionally significant *surf breaks* in accordance with CE–P7,

[...]

8.16.2. Submissions

8.16.2.1. CE–P7 – Surf breaks

285. Kāi Tahu ki Otago supports this policy as drafted and seeks it be retained as notified.<sup>225</sup> Four submitters seek amendments.<sup>226</sup>

286. DCC requests terminology clarification and queries whether a provision for surf breaks of regional significance is necessary.<sup>227</sup>

287. Forest and Bird considers the policy as drafted will lead to adverse effects inconsistent with Policy 13 of the NZCPS and seeks an additional sub-clause to “avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on surf breaks”.<sup>228</sup> One submitter considers all surf breaks should be ranked equally and seeks amendments that require nationally and regionally significant surf breaks be protected equally.<sup>229</sup>

288. Port Otago considers the policy as drafted has the potential to affect port operations and seeks deletion of provisions which provide for surf breaks of regional significance.<sup>230</sup>

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<sup>225</sup> 00226.142 Kāi Tahu ki Otago

<sup>226</sup> 00139.069 DCC, 00230.057 Forest and Bird, 00301.021 Port Otago, 00509.064 Wise Response

<sup>227</sup> 00139.069 DCC

<sup>228</sup> 00230.057 Forest and Bird

<sup>229</sup> 00509.064 Wise Response

<sup>230</sup> 00301.021 Port Otago

#### 8.16.2.2. CE-M3 – Regional Plans

289. In relation to Method CE-M3(2) Port of Otago opposes the inclusion of regionally significant surf breaks, as they are not provided for by any higher order legislative documents and seeks their deletion from this provision.<sup>231</sup>

#### 8.16.3. Analysis

290. In relation to the concerns raised by Port Otago seeking that the removal of reference to regionally significant surf breaks, I agree that there is no explicit higher order policy direction that requires the identification and management of regionally significant surf breaks. However, this does not restrict the ability for the pORPS to set up the framework to manage regionally significant surf breaks if this was considered to be the most appropriate way to achieve the objectives of the pORPS.
291. When considering whether there are other methods within the pORPS to assist with the management of surf breaks that are not identified as nationally significant, I note that Policy 13 of the NZCPS, which relates to the preservation of natural character areas in the coastal environment, states that the identification of natural character may include surf breaks. Therefore, in a general sense there is a mechanism within CE – P4 of the pORPS to identify and preserve surf breaks within the region that are not identified as nationally significant within Schedule 1 of the NZCPS. However, there is a growing body of research that highlights the need to provide greater protection of surf breaks within the RMA framework. This research has also developed a methodology for identifying surf breaks of regional significance (Atkin, Bryan, Hume, Mead, & Waiti, 2019). Given the protection provided to the surf breaks of national significance only protects a small fraction of the surf breaks in the Otago region, I consider a specific policy setting up a framework for identification and management of regionally significant surf breaks will assist in achieving both CE-O3 and CE-O5(4) as the policy as drafted sets up a framework that requires the maintenance of both the values of this surf break and also the access to them.
292. In relation to the submission from Forest and Bird, I disagree that the addition of a specific provision managing regionally significant surf breaks may create an inconsistency with Policy 13 of the NZCPS. I consider CE-P4 and CE-P7 can apply in tandem. If an area of the coastal environment is identified as an outstanding natural character area, then the management frame set out within CE-P4 will apply. However, I note that the identification and management of regionally significant surf breaks may apply to additional areas of the coastal environment that may contain a more modified natural character but may be highly valued by the community. In relation to the concern raised by DCC in relation to how ‘surf breaks of regional significance’ to be defined, I note that the research that has been undertaken by the Aotearoa New Zealand Association for Surfing Research, as referenced, provides a methodology for identifying surf breaks of regional significance that has been used by a number of coastal plans within New Zealand

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<sup>231</sup> 00301.026 Port Otago

to identify surf breaks of regional significance. Given the assessment above, I recommend that the policy be amended as notified.

8.16.4. Recommendation

293. I recommend CE-P7 is retained as notified.

294. I recommended CE-M3(2) and CE-M(5)(b) are retained as notified.

8.17. CE-P8 & CE-M3 – Public access

8.17.1. Introduction

295. As notified, CE-P8 reads:

CE-P8 – Public access

Maintain or enhance public access to and along the *coastal marine area*, unless restricting public access is necessary:

- (1) to protect public health and safety,
- (2) to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna,
- (3) to protect dunes, estuaries and other sensitive natural areas or habitats,
- (4) to protect places or areas containing *historic heritage* of regional or national significance,
- (5) to protect places or areas of significance to *takata whenua*, including *wāhi tapu* and *wāhi tūpuna*,
- (6) for defence purposes in accordance with the Defence Act 1990,
- (7) for temporary activities or special events, or
- (8) to ensure a level of security consistent with the operational requirements of a lawfully established activity.

296. As notified, CE-M3 reads:

CE-M3 – Regional plans

Otago Regional Council must prepare or amend and maintain its *regional plans* no later than 31 December 2028 to:

[...]

- (3) require development to be set back from the *coastal marine area* where practicable to protect the natural character, open space, public access and *amenity values* of the coastal environment,

[...]

(8) provide for walking access to and along the *coastal marine area* in accordance with Policy 19 of the NZCPS,

(9) control vehicle access to and along the *coastal marine area* in accordance with Policy 20 of the NZCPS,

[...]

297. As notified, CE-M4 reads:

CE–M4 – District plans

Territorial authorities must prepare or amend and maintain their district plans to:

[...]

(5) provide for the establishment of esplanade reserves and esplanade strips,

[...]

(7) provide for walking access to the coastal marine area in accordance with Policy 19 of the NZCPS,

(8) control vehicle access to the coastal marine area in accordance with Policy 20 of the NZCPS,

[...]

(10) provide access to nationally and regionally significant surf breaks, and

[...]

8.17.2. Submissions

8.17.2.1. CE–P8 – Public access

298. Six submitters support the provision as drafted and seek it be retained as notified.<sup>232</sup>

299. Kāi Tahu Ki Otago requests amending the policy to differentiate walking and vehicle access, recognising the legislative direction to control vehicle access where necessary.<sup>233</sup> Additionally they seek amendments to correct specific references to cultural values and interests and have requested the following amendment:

*Maintain or enhance public walking access to and along the coastal marine area, and control vehicular access, unless restricting public access is necessary:*

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<sup>232</sup> 00304.008 NZDF, 00301.022 Port Otago, 00121.044 Ravensdown, 00122.019 Sanford, 00314.019 Transpower, 00510.017 The Fuel Companies

<sup>233</sup> 00226.143 Kāi Tahu ki Otago



[...]

(5) to protect places or areas of significance to ~~takata~~ mana whenua, including wāhi tūpuna, wāhi tapu and wāhi taoka, ~~tūpuna~~<sup>234</sup>

300. Forest and Bird also requests restricting walking access in specified situations, echoing the concerns raised by Kāi Tahu Ki Otago and further seek amendments to capture considerations for long term availability of access.<sup>235</sup> Specifically, Forest and Bird seek the following amendments:

*Maintain or enhance public walking access to, ~~and~~ along and adjacent to the coastal marine area, unless restricting public access is necessary:*

[...]

(8) During bird breeding and roosting to protect indigenous species, or

(9) to ensure a level of security consistent with the operational requirements of a consented ~~lawfully established~~ activity

*Apart from emergency vehicles, vehicle access and use on beaches, foreshore and seabed is only provided for at:*

(1) identified locations required for boat launching, as the only practicable means of access to private property or public facilities, or for the operation of existing commercial activities,

(2) Identified areas and times for recreational vehicular use.<sup>236</sup>

301. Federated Farmers cautions that certain activities can pose risks to health and safety and biosecurity and seeks amendments to acknowledge restriction may be necessary.<sup>237</sup>

302. One submitter considers CE-P8 should also recognise and provide for protection of the functioning of ecosystems and biodiversity,<sup>238</sup> and another submitter raises concern about plantings close to water bodies which restrict access and seeks amendments to control such activities.<sup>239</sup>

#### 8.17.2.2. CE-M3 – Regional plans

303. Forest and Bird who seeks insertion of the following new sub-clauses to CE-M3:<sup>240</sup>

*Otago Regional Council must prepare or amend and maintain its regional plans no later than 31 December 2028 to:*

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<sup>234</sup> 00226.143 Kāi Tahu ki Otago

<sup>235</sup> 00230.058 Forest and Bird

<sup>236</sup> 00230.058 Forest and Bird

<sup>237</sup> 00239.061 Federated Farmers

<sup>238</sup> 00120.045 Yellow-eyed penguin,

<sup>239</sup> 00014.033 John Highton

<sup>240</sup> 00230.063 Forest and Bird

(XX) *Control, permit or otherwise restrict vehicle access to beaches, foreshore and the seabed,*

8.17.2.3. CE-M4 – District plans

304. DCC considers CE-M4(7) and CE-M4(8) should be deleted, as walking and vehicle access is generally achieved through other methods outside of the District Plan.<sup>241</sup>
305. Kāi Tahu ki Otago seeks improved contextualisation by amending cross-references in CE-M3 (8), CE-M3 (9), CE-M4 (7) and CE-M4 (8) to CE-P8 rather than Policy 19 and Policy 20 of the NZCPS.<sup>242</sup>

8.17.3. Analysis

306. In relation to the submitters seeking amendments to the policy to differentiate between the walking access and vehicle access, I agree that the policy should be amended to better reflect the policies Policy 19 and Policy 20 of the NZCPS. I agree with the submitters that walking access should be maintained or enhanced, and vehicle access should be controlled. I also agree that there are situations where both walking and vehicle access need to be restricted. As such, I have suggested a slight redrafting of the policy to make it clear how the two forms of access are to be managed.
307. In response to Kāi Tahu Ki Otago requests to correct references to places or areas of significance to mana whenua in CE-P8 subclause (5), I agree this amendment is appropriate and aligns with the description of the resources of significance to Kāi Tahu set out within the MW chapter.
308. I agree with the amendment suggested by Forest and Bird seeking public walking access to, along and adjacent to the coastal marine area to be maintained and enhanced. I consider this wording gives effect to Policy 19 of the NZCPS. However, I disagree that additions are required to the policy to identify boat launching locations or identified area times for recreational vehicular use of the CMA. I consider these controls are established within CE-M3(8) and (9) and CE-M4(7) and (8) which include reference to Policies 19 and 20 of the NZCPS. For the same reason, I disagree that amendments to method CE-M3 are required.
309. Several submitters seek additional subclauses be added to CE-P8 which relate to protecting biodiversity, bird breeding and roosting sites or controlling plantings close to water bodies. I consider the requirement to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna within subclause (2), and the requirement to protect dunes, estuaries and other sensitive natural areas or habitats within subclause (3), will ensure the protection of biodiversity and bird breeding and

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<sup>241</sup> 00139.077 DCC

<sup>242</sup> 00226.153, 00226.154 Kāi Tahu ki Otago

roosting areas. I consider that control of planting activities is better managed through district and regional plans.

310. Finally, I disagree that an additional subclause is required within CE-P8 as requested by Federated Farmers. I agree that there cannot be access provided to the CMA across private land without landowner permission. However, I consider this is a commonly understood private property right and I do not think that this needs to be included within the CE-P8.

#### 8.17.4. Recommendation

311. I recommend amending CE-P8 as follows:

CE-P8 – Public access

~~Maintain or enhance~~ Manage public walking and vehicle access to, and along and adjacent to the coastal marine area by unless restricting public access is necessary:

- (1A) maintaining or enhancing public walking access,
- (1B) controlling vehicle access, and
- (1C) restricting public walking and vehicle access where necessary:
  - (a) to protect public health and safety,
  - (b) to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna,
  - (c) to protect dunes, estuaries and other sensitive natural areas or habitats,
  - (d) to protect places or areas containing *historic heritage* of regional or national significance,
  - (e) to protect places or areas of significance to *mana whenua*, including wāhi tapua, wāhi tapu and *wāhi taoka*,
  - (f) for defence purposes in accordance with the Defence Act 1990,
  - (g) for temporary activities or special events, or
  - (h) to ensure a level of security consistent with the operational requirements of a lawfully established activity.
- (1) to protect public health and safety,
- (2) to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna,

(3) to protect dunes, estuaries and other sensitive natural areas or habitats,

(4) to protect places or areas containing *historic heritage* of regional or national significance,

(5) to protect places or areas of significance to *takata mana whenua*, including wāhi tapua, wāhi tapu and *wāhi tūpuna*,

(6) for defence purposes in accordance with the Defence Act 1990,

(7) for temporary activities or special events, or

(8) to ensure a level of security consistent with the operational requirements of a lawfully established activity.<sup>243</sup>

312. I recommend retaining CE-M3(3), CE-M3(8), and CE-M3(9) as notified.

313. I recommend retaining CE-M4(5), CE-M4(7), and CE-M4(8) as notified.

## 8.18. CE-P9 & CE-M4 – Activities on land within the coastal environment

### 8.18.1. Introduction

314. As notified, CE-P9 reads:

CE-P9 – Activities on *land* within the coastal environment

The strategic and co-ordinated use of *land* within the coastal environment is achieved by:

(1) avoiding sprawling or sporadic patterns of *subdivision*, use and development,

(2) considering the rate at which built development should be enabled to provide for the reasonably foreseeable needs of population growth without compromising the values of the coastal environment,

(3) recognising the importance of the provision of *infrastructure* to the social, economic and cultural well-being of people and communities,

(3) maintaining or enhancing public access to the coastal environment, and

(4) considering where activities that maintain the character of the existing built environment should be encouraged, and where activities resulting in a change in character would be acceptable

315. As notified, CE-M4 reads:

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<sup>243</sup> 00226.143 Kāi Tahu Ki Otago, 00230.058 Forest and Bird

## CE–M4 – District plans

Territorial authorities must prepare or amend and maintain their district plans to:

- (1) control the location, density and form of subdivision in the coastal environment (outside the coastal marine area),
- (2) control the location, scale and form of buildings and structures in the coastal environment (outside the coastal marine area),
- (3) control the location and scale of earthworks and vegetation planting, modification and removal in the coastal environment (outside the coastal marine area),

[...]

- (9) recognise takata whenua needs for papakāika, marae and associated developments within the coastal environment and make appropriate provision for them,

[...]

- (11) provide for and encourage activities undertaken for the primary purpose of restoring natural character, features, or landscapes in accordance with CE–P4 and CE–P6.

### 8.18.2. Submissions

#### 8.18.2.1. CE–P9 – Activities on land within the coastal environment

316. While five submitters support the provision in its entirety and seek it be retained as notified,<sup>244</sup> the majority seek amendments relating to a range of issues. These include:

- Amending to give effect to national direction;<sup>245</sup>
- Amending to provide for natural hazards including the impacts of climate change;<sup>246</sup> and
- Amending to recognise and provide for existing activities and those with a functional need to locate in the coastal environment.<sup>247</sup>

317. Kāi Tahu Ki Otago raises concern that this policy does not meet all requirements of the NZCPS and request the following amendment:<sup>248</sup>

*The strategic and coordinated use of land within the coastal environment is achieved by:*

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<sup>244</sup> 00301.023 Port Otago, 00121.045 Ravensdown, 00314.020 Transpower, 00305.016 Waka Kotahi, 00230.059 Forest and Bird

<sup>245</sup> 00226.144 Kāi Tahu Ki Otago, 00139.071 DCC, 00315.024 Aurora Energy

<sup>246</sup> 00139.071 DCC, 00137.056 DOC, 00223.072 Nāi Tahu ki Murihiku

<sup>247</sup> 00239.062 Federated Farmers, 00236.055 Horticulture NZ, 00122.020 Sanford

<sup>248</sup> 00226.144 Kāi Tahu Ki Otago

*(1) identifying areas where particular activities and uses are inappropriate,*

*(2)~~(1)~~ avoiding sprawling or sporadic patterns of subdivision, use and development,*

*(3)~~(2)~~ considering the rate at which built development should be enabled to provide for the reasonably foreseeable needs of population growth without compromising the values of the coastal environment,*

*(4) controlling the location, density, scale and form of buildings, structures, earthworks, mining and other activities in the coastal environment, ...*

*[...]*

*(6) recognising takata whenua needs for papakāika, marae and associated developments within the coastal environment and making appropriate provision for them, and*

*(7) avoiding the adverse visual impacts of development on sensitive areas, including headlands and prominent ridgelines.*

318. The Fuel Companies seek an amendment to the provision to recognise potential reverse sensitivity effects on regionally and nationally significant infrastructure and major hazard facilities<sup>249</sup>. One submitter believes greater direction is required when considering land use on the coast.<sup>250</sup>

#### 8.18.2.2. CE-M4 – District Plans

319. DOC<sup>251</sup> and Kāi Tahu ki Otago<sup>252</sup> consider integrated management requires district plans to recognise and control activities on land outside the coastal marine area that can have downstream effects on the coastal environment (sediment, sewage, nutrients etc). As such, DOC seeks the following amendment:<sup>253</sup>

*(x) control land use activities which could cause direct or indirect effects on the coastal environment.*

320. Also relevant to activities on land in the coastal environment is method CE-M4(1), CE-M4(2) and CE-M4(3) which direct local authorities to amend their plans to implement the actions required. DCC is unclear about the expected application of subclauses (1) to (3) and seeks clarification.<sup>254</sup> They also caution against controlling “vegetation planting” (subclause (3)) as they consider it will be difficult to enforce. This is echoed by Federated

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<sup>249</sup> 00510.018 The Fuel Companies

<sup>250</sup> 00509.065 Wise Response

<sup>251</sup> 00137.059 DOC

<sup>252</sup> 00226.154 Kāi Tahu ki Otago

<sup>253</sup> 00137.059 DOC

<sup>254</sup> 00139.077 DCC

Farmers who also opposes subclause (2), which controls matters that relate to private property. Instead, Federated Farmers requests “control” is replaced by “manage”.<sup>255</sup>

321. Three other submitters seek amendment to CE-M4 to recognise and provide for:
- Water supplies and accessibility for emergency services,<sup>256</sup> and
  - the operational and functional requirements of infrastructure in accordance with the effects management hierarchy,<sup>257</sup> and
  - a reduction in contaminant discharges through source control, for example building materials.<sup>258</sup>

### 8.18.3. Analysis

322. Several submitters seek amendments to CE-P9 to give effect to national direction. Kāi Tahu Ki Otago seeks amendments to give effect to Policy 6(1)(d), (1)(h), (1)(i) and Policy 7 of the NZCPS. The matters identified by the submitters have been addressed in other provisions of the pORPS and as the provisions of the pORPS are to be read together, I consider there is no need to repeat these requirements.<sup>259</sup>
323. In response to DCC who state it is unclear why it is necessary to separately analyse demand and capacity just for the coastal environment which does not align with the NPS-UD I disagree this requirement is included with CE-P9. I note that when read as a whole CE-P9(1) requires consideration of the rate at which built development should be enabled ‘without compromising the values of the coastal environment’. I consider this is the key aspect of the which is separate form the requirements within the NPS-UD to identify capacity.
324. With regard to submissions seeking amendment to CE-P9 to recognise and provide for natural hazards, including climate change, CE-P1 identifies that coastal hazards are to be identified in accordance with CE-P2 but are managed in accordance with the HAZ-NH chapter of the pORPS. A number of provisions in the HAZ-NH chapter address the concerns of DCC.<sup>260</sup> Given CE-P1 identifies this link, I do not consider any further amendments are necessary.
325. In relation to the submissions from Federated Farmers and Hort NZ seek recognition of food production and pastoral farming activities. I agree in part with the suggested amendment. I consider the intent of the policy is to set a framework for managing the activities broadly. However, I also note that farming and food production activities are commonly undertaken within of the coastal environment and contribute to the social,

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<sup>255</sup> 00239.063 Federated Farmers

<sup>256</sup> 00219.015 FENZ

<sup>257</sup> 00315.027 Aurora Energy

<sup>258</sup> 00510.020 The Fuel Companies

<sup>259</sup> MW-P4, CE-M4, UFD-P9, CE-P2, CE-P6, CE-M2, CE-M3, CE-P4, CE-P8

<sup>260</sup> HAZ-NH-O2, HAZ-NH-P2, HAZ-NH-P4, HAZ-NH-P10

economic and cultural well-being of people and communities. Therefore, I support the suggested amendment.

326. In relation to the submission from the Fuel Companies, I note that the suggested amendment to Policy CE-P1 would clarify that the relevant provision of the EIT chapter apply within the coastal environment. Therefore, I consider no additional amendments necessary as policy EIT-INF-P15 will apply.
327. In relation to the amendment requested by Aurora which seek amendments to give effect to Policy 6(2)(c). As noted in section 8.3.2, I agree that there needs to be recognition of the functional and operational needs of nationally and regionally significant infrastructure, in order to give effect to Policy 6(1)(a) of the NZCPS. I consider CE-P9 is the appropriate provision within the pORPS to do this as it can then be read alongside the more directive provisions within the CE chapter without providing an explicit carve out for the functional and operational needs of nationally and regionally significant infrastructure as requested by a number of submitters.
328. Wise Response Society seeks amendments to provide greater direction in the policy on matters to consider when determining if development within the coastal environment is appropriate. I consider that the amendments are addressed more specifically in other provisions of the pORPS which will be considered when developing rule frameworks within Regional and District Plans, therefore do not need to be repeated in this policy.
329. DOC and Kāi Tahu ki Otago consider there is a lack of an integrated approach to managing effects of land based activities and downstream impacts on the coastal marine area and seek amendments to CE-M4. I agree that CE-M4 should provide further guidance regarding the potential interconnections between land use outside of the coastal environment and impacts on ecology or water quality within the coastal environment. I therefore recommend that CE-M4 is amended to require territorial authorities to control the use of land which may affect the coastal environment.
330. DCC has raised concerns regarding the implementation of CE-M4 and states that it is unclear if sub-clauses (1), (2) and (3) will be addressed in a single set of provisions. Sub-clauses (1), (2) and (3) relate to controlling subdivision, buildings/structures, earthworks and vegetation planting, modification and removal. As to whether these matters will be addressed in district plans in multiple provisions or a single framework, I consider that this is up to the territorial authorities and will depending on how other aspects of the pORPS and the RMA are implemented through the plan. I do not consider that it is appropriate to amend the pORPS to direct how territorial authorities give effect to these requirements in their plans.
331. With regard to controlling planting vegetation, DCC states that the Dunedin 2GP controls vegetation clearance near the coast, and that consent is required for forestry and sometimes shelterbelts and woodlots in areas subject to the natural coastal character overlay. There is no other controlling of vegetation planting and any controls would be difficult to enforce. Requirements for controlling the planting, modification and removal



of vegetation are not unique and commonly apply throughout New Zealand. It is not clear why DCC considers these activities in the coastal environment would be difficult to manage and how this differs from other locations where these activities are already controlled. CE-M4 requires these controls to achieve the policies of the CE section, primarily CE-P4, CE-P5 and CE-P6, therefore it is considered this will not be dissimilar to the current management approach already adopted Dunedin 2GP controls. For these reasons, I consider no further amendments are necessary.

332. FENZ seeks that CE-M4(1) is amended to facilitate necessary access for emergency services and water supplies for firefighting. I note that CE-P1 has been amended to clarify that the provisions of the UFD chapter apply. I consider there is provision with the UFD chapter that requires the appropriate servicing of developments. These provisions within the UFD chapter will need to be given effect to within district plan. I consider this level of detail is better placed within district plans. Therefore, I disagree an amendment is required within the CE Chapter.

333. As discussed in section 8.3.2.28.3.2, I have supported an amendment from Waka Kotahi that recognises and provides for the functional and operational needs of nationally and regionally significant infrastructure.

#### 8.18.4. Recommendations

334. I recommend amending CE-P9 as follows:

CE-P9 – Activities on *land* within the coastal environment

The strategic and co-ordinated use of *land* within the coastal environment is achieved by:

[...]

(2A) recognising and providing for the functional and operational needs of *nationally significant infrastructure* and *regionally significant infrastructure* where appropriate,<sup>261</sup>

(3) recognising the importance of the provision of *infrastructure, food production, and pastoral farming activities*<sup>262</sup> to the social, economic and cultural well-being of people and communities,

[...]

335. I recommend amending CE-M4 as follows:

CE-M4 – District plans

*Territorial authorities* must prepare or amend and maintain their *district plans* to:

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<sup>261</sup> 00305.013, 00305.014, 00305.015 Waka Kotahi

<sup>262</sup> 00239.062 Federated Farmers, 00236.055 Horticulture

[...]

(3A) achieve the integrated management of, and control over, land use activities which could cause direct or indirect effects on the coastal marine area,<sup>263</sup>

[...]

336. I recommend CE-M4(1), CE-M4(2), CE-M4(3), CE-M4(9) and CE-M4(11) are retained as notified.

## 8.19. CE-P10 & CE-M3 – Activities within the coastal marine area

### 8.19.1. Introduction

337. As notified, CE-P10 reads:

CE-P10 – Activities within the *coastal marine area*

Use and development in the *coastal marine area* must:

- (1) enable multiple uses of the *coastal marine area* wherever reasonable and practicable,
- (2) maintain or improve the integrity, form, function and *resilience* of the *coastal marine area*, and
- (3) have a functional or operational need to be located in the coastal marine area, or
- (4) have a public benefit or opportunity for public recreation that cannot practicably be located outside the *coastal marine area*

338. As notified, CE-M3 reads:

CE-M3 – Regional plans

Otago Regional Council must prepare or amend and maintain its *regional plans* no later than 31 December 2028 to:

[...]

(3) require development to be set back from the *coastal marine area* where practicable to protect the natural character, open space, public access and *amenity values* of the coastal environment,

[...]

(5) control the use and development of the *coastal marine area*, in order to:

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<sup>263</sup> 00137.059 DOC, 00226.154 Kāi Tahu ki Otago

- (a) preserve the natural character; natural landscapes, features, and seascapes; and indigenous *biodiversity* of the *coastal marine area* in accordance with CE–P4, CE–P5 and CE–P6, and
- (b) manage Otago’s nationally and regionally significant *surf breaks* in accordance with CE–P7,

[...]

- (12) provide for and encourage activities undertaken for the primary purpose of restoring natural character, features, landscapes, or seascapes in accordance with CE–P4 and CE–P6.

#### 8.19.2. Submissions

- 339. Six submitters support the provision as drafted and seek it be retained as notified.<sup>264</sup>
- 340. Forest and Bird raises concern that this policy presumes development in the coastal environment without consideration of the efficiency of the use.<sup>265</sup> Kāi Tahu Ki Otago supports the provision but requests amendment to better reflect the requirements of the NZCPS, particularly recognition of cultural interests and values, and the requirement for activities to take place in ‘appropriate locations’.<sup>266</sup>
- 341. Yellow-eyed Penguin seeks amendments to sub-clause (2) which recognise and provide for the protection of indigenous biodiversity when considering use and development of coastal activities.<sup>267</sup>
- 342. Three submitters seek amendments to sub-clause (1) as they consider the policy is more restrictive than the intent of the NZCPS controls.<sup>268</sup> Fulton Hogan seeks removal of the reference to the mandatory requirement to enable multiple uses and instead provide for multiple uses,<sup>269</sup> and Harbour Fish<sup>270</sup> and Southern Inshore Fisheries<sup>271</sup> seek amendments which recognise the potential contributions to the social, economic and cultural wellbeing of people from use and development of the coastal marine area.
- 343. Aurora raises concerns with the conjunctive nature of the policy.<sup>272</sup> They note that even if they can demonstrate a functional and operational need to locate in that environment it may not be able to maintain or improve the integrity, form, function and resilience of the coastal marine area.

<sup>264</sup>00139.072 DCC, 00121.046 Ravensdown, 00122.021 Sanford, 00314.021 Transpower, 00305.017 Waka Kotahi, 00510.019 The Fuel Companies

<sup>265</sup> 00230.060 Forest and Bird

<sup>266</sup> 00226.145 Kāi Tahu ki Otago

<sup>267</sup>00120.046 Yellow-eyed Penguin

<sup>268</sup> 00322.013 Fulton Hogan, 00126.012, 00126.024 Harbour Fish, 00124.024 Southern Inshore Fisheries

<sup>269</sup> 00322.013 Fulton Hogan

<sup>270</sup> 00126.024 Harbour Fish

<sup>271</sup> 00124.024 Southern Inshore Fisheries

<sup>272</sup> 00315.025 Aurora

### 8.19.3. Analysis

344. Kāi Tahu Ki Otago is concerned that the policy, as currently drafted, presumes development in the coastal environment without reference to these developments being undertaken in 'appropriate locations'. I note that this policy needs to be read in conjunction with the other provision within the pORPS that relate to the management of values including biodiversity, natural character, landscapes, surf breaks, heritage, coastal water quality. I consider that these policies need to be read in conjunction with CE-P10 to determine what are 'appropriate locations.' Similarly, in relation to the submission from Yellow-eyed Penguin, I note that Policy CE-P10 needs to be read in conjunction with Policy CE-P5 which requires the protection of indigenous biodiversity within the coastal environment.
345. In relation to the amendments proposed by Kāi Tahu Ki Otago, which seek to introduce 'the health of coastal waters and ecosystems' into subclause (2), I agree in part with the suggested amendment. I consider the drafting of this limb is intended to include a high-level requirement that activities need to be undertaken in a manner that maintains the function of the CMA. I consider the addition of 'health' within this policy provides a link to the suggested amendment to Objective CE-01 which also includes the goal of safeguarding the health, integrity, form, functioning and resilience of Otago's coastal environment. Therefore, I support the inclusion of 'health' within this policy. I disagree that coastal water and ecosystems needs to be included as I consider this is inherent in the drafting of the policy.
346. In relation to Forest and Bird's suggested amendment, I disagree the proposed amendment will assist the drafting of the policy. I consider the intent of subclause (1) is to ensure multiple uses of the coastal marine area are enabled wherever reasonable and practicable. I consider the suggested drafting confuses the subclause as it is unclear what 'efficiency' is related to, i.e. efficiency of space, efficiency of resource use.
347. In relation to the submitters that have raised concerns with the restrictiveness of the policy, I agree in part with their concerns. I agree with the submission from Aurora that Policy 6(2)(c) of the NZCPS acknowledges that there are activities that have a functional need to be located in the coastal marine area, and requires these are provided for in appropriate places. Therefore, I consider that when the CE Chapter is read as a whole, there are a range of environments where use and development will likely be inappropriate. Therefore, in the less sensitive areas of the coastal environment, I consider it is appropriate to enable activities which have a functional or operational need to be located with the coastal environment. Given this I agree with the removal of the 'and' from subclause (2) so subclauses within the policy are not conjunctive.
348. I disagree the amendment suggested by Fulton Hogan will change the intent of the policy. I consider 'enabling' or 'providing for' multiple uses of the coastal marine area create a similar outcome. Therefore, I disagree the amendment is required.

#### 8.19.4. Recommendations

349. I recommend amending CE-P10 as follows:

CE-P10 – Activities within the *coastal marine area*

Use and development in the *coastal marine area* must:

- (1) enable multiple uses of the *coastal marine area* wherever reasonable and practicable,
- (2) maintain or improve the health,<sup>273</sup> integrity, form, function and *resilience* of the *coastal marine area*, ~~and~~<sup>274</sup>
- (3) have a *functional need*<sup>275</sup> or *operational need* to be located in the *coastal marine area*, or
- (4) have a public benefit or opportunity for public recreation that cannot practicably be located outside the *coastal marine area*.

350. I recommend CE-M3(3) is retained as notified.

#### 8.20. CE-P11 & CE-M3 – Aquaculture

##### 8.20.1. Introduction

351. As notified, CE-P11 reads:

CE-P11 – Aquaculture

Provide for the development and operation of *aquaculture activities* within appropriate locations and limits, taking into account:

- (1) the need for high quality *water* required for an *aquaculture activity*,
- (2) the need for *land*-based facilities and infrastructure required to support the operation of *aquaculture activities*, and
- (3) the potential social, economic and cultural benefits associated with the operation and development of *aquaculture activities*.

352. As notified, CE-M3 reads:

CE-M3 – Regional plans

Otago Regional Council must prepare or amend and maintain its *regional plans* no later than 31 December 2028 to:

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<sup>273</sup> 00226.145 Kāi Tahu Ki Otago

<sup>274</sup> 00315.025 Aurora

<sup>275</sup> Clause 16(2), Schedule 1, RMA

[...]

(7) identify areas appropriate for aquaculture and the forms and limits associated with providing for aquaculture that will enable achievement of objectives CE–O1 to CE–O5,

[...]

#### 8.20.2. Submissions

##### 8.20.2.1. CE-P11 - Aquaculture

353. Sanford supports the inclusion of this provision and seeks it be retained as notified.<sup>276</sup> Seven submitters raise concerns regarding the issue of location and adverse environmental effects.<sup>277</sup>
354. DOC considers the policy as drafted requires greater contextualisation and seeks amendments to provide specific direction on the locations that may be appropriate or inappropriate for aquaculture.<sup>278</sup> This would include effects on indigenous species, habitats and ecosystems, and biosecurity.
355. Three submitters raise concerns regarding environmental effects.<sup>279</sup> Kāi Tahu Ki Otago considers inshore aquaculture poses substantial environmental and cultural risks and seeks preference for offshore aquaculture activities as detailed in the following amendment:<sup>280</sup>

Only allow ~~Provide for~~ the development and operation of aquaculture activities within appropriate locations and limits, with a preference for avoiding inshore locations, taking into account:

*(1) the environmental effects of aquaculture including effects on water quality, effects on species and ecosystems contained in the pelagic and benthic zones, and risks to biosecurity from disease or introduced pest species,*

*(2) the cultural effects of aquaculture, including effects on mahika kai and kaimoana practices, and customary fisheries, including mātaimai reserves and taiāpure,*

*(3) the need for high quality water required for an aquaculture activity*

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<sup>276</sup> 00122.001, 00122.022 Sanford

<sup>277</sup> 00226.146 Kāi Tahu Ki Otago, 00139.073 DCC, 00137.057 DOC, 00509.066 Wise Response, 00120.047 Yellow-eyed Penguin, 00234.020 Te Rūnanga o Ngāi Tahu, 00014.034 John Highton

<sup>278</sup> 00137.057 DOC

<sup>279</sup> 00139.073 DCC, 00014.034 John Highton, 00226.146 Kāi Tahu ki Otago

<sup>280</sup> 00226.146 Kai Tahu Ki Otago

*(4) the need for land-based facilities and infrastructure required to support the operation of aquaculture activities, and*

*(5) the potential social, economic and cultural benefits associated with the operation and development of aquaculture activities.*

356. Similarly, Te Runanga o Ngāi Tahu seeks amendments which provide for Ngāi Tahu aquaculture interests and seeks the following amendments:<sup>281</sup>

*Provide for the development and operation of aquaculture activities within appropriate locations and limits, taking into account:*

*(1) the need for high quality water required for an aquaculture activity,*

*(2) the need for land-based facilities and infrastructure required to support the operation of aquaculture activities, and*

*(3) whether the aquaculture development sought is being carried out by Kāi Tahu and has been identified as a Settlement outcome; and*

*(4) the potential social, economic and cultural benefits associated with the operation and development of aquaculture activities.*

357. One submitter raises concern about the effect of aquaculture on water quality.<sup>282</sup> Another submitter raises concern about the limited protection of indigenous ecosystems and monitoring of impacts.<sup>283</sup> Both submitters seek amendments to reflect these priorities.

#### 8.20.2.2. CE-M3 – Regional plans

358. Regarding the methods which support the achievement of CE-P11, Kāi Tahu ki Otago seeks amendments to the notified CE-M3(7), allowing for “an appropriate level of cultural and environmental effects...” associated with providing for aquaculture.<sup>284</sup> Te Runanga o Ngāi Tahu seeks the following amendment to CE-M3:<sup>285</sup>

*Otago Regional Council must prepare or amend and maintain its regional plans no later than 31 December 2028 to: [...]*

*(13) Allocate areas of aquaculture for Kāi Tahu consistent with Settlement outcomes under Māori Commercial Aquaculture Claims Settlement Act 2004.*

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<sup>281</sup> 00234.020 Te Rūnanga o Ngāi Tahu

<sup>282</sup> 00509.066 Wise Response

<sup>283</sup> 00120.047, 00120.048 Yellow-eyed penguin

<sup>284</sup> 00226.153 Kāi Tahu ki Otago

<sup>285</sup> 00234.022 Te Rūnanga o Ngāi Tahu

### 8.20.3. Analysis

359. In relation to the submitters that suggested amendments to the policy to ensure that values of the coastal environment are protected, I note that the effects of an aquaculture activities will also need to comply with the provisions of the pORPS that relate to coastal water quality, biodiversity, landscape, natural character. Therefore, I disagree that specific amendment is required within CE-P11 which would repeat the requirement to manage these values within the coastal environment. However, I do agree in part with the drafting suggested by Kai Tahu, which provides direction on the management of effects that are specific to aquaculture activities that are not considered within the broader suite of policies within the pORPS. These relate to biosecurity effects, and the effects on mahika kai, customary fisheries, mātaihai reserves and taiāpure.
360. I disagree with the suggestions from Te Runanga o Ngāi Tahu that additional subclauses and methods should be added to that provide for or allocate areas of aquaculture for Kāi Tahu consistent with Settlement outcomes under Māori Commercial Aquaculture Claims Settlement Act 2004. As far as I am aware, there are no aquaculture settlement areas identified within the Otago CMA. Therefore, I consider it is inappropriate to include a method within the pORPS that requires the regional plan allocate areas of aquaculture for Kāi Tahu consistent with settlement outcomes under Māori Commercial Aquaculture Claims Settlement Act 2004. If aquaculture settlement areas are identified within the Otago CMA, I note that Section 104 of the RMA requires the consideration of other regulations when considering an application for resource consent. I consider this provides decision makers with the ability to have regard to settlement outcomes if they are relevant.

### 8.20.4. Recommendation

361. I recommend amending CE-P11 as follows:

#### CE-P11 – Aquaculture

Provide for the development and operation of *aquaculture activities* within appropriate locations and limits, taking into account:

- (1A) risks to biosecurity from disease or introduced pest species,<sup>286</sup>
  - (1B) the effects of aquaculture on cultural values, including effects on mahika kai and kaimoana practices, and customary fisheries, including mātaihai reserves and taiāpure,<sup>287</sup>
- (1) the need for high quality *water* required for an *aquaculture activity*,

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<sup>286</sup> 00226.146 Kai Tahu Ki Otago

<sup>287</sup> 00226.146 Kai Tahu Ki Otago



- (2) the need for *land*-based facilities and infrastructure required to support the operation of *aquaculture activities*, and
- (3) the potential social, economic and cultural benefits associated with the operation and development of *aquaculture activities*.

362. I recommend CE-M3(7) is retained as notified.

## 8.21. CE-P12 & CE-M3(10) – Reclamation

### 8.21.1. Introduction

363. As notified, CE-P12 reads:

#### CE-P12 – Reclamation

Avoid reclamation in the *coastal marine area*, unless:

- (1) *land* outside the *coastal marine area* is not available for the proposed activity,
- (2) the activity to be established on the reclamation can only occur immediately adjacent to the *coastal marine area*,
- (3) there are no practicable alternative methods of providing for the activity, and
- (4) the reclamation will provide significant regional or national benefit.

364. As notified, CE-M3 reads:

#### CE-M3 – Regional plans

Otago Regional Council must prepare or amend and maintain its *regional plans* no later than 31 December 2028 to:

[...]

- (10) manage reclamation activities in accordance with CE-P12, and when *reclamation* is considered suitable in accordance with CE-P12, have particular regard to the matters listed in Policy 10(2) and (3) of the NZCPS,

### 8.21.2. Submissions

#### 8.21.2.1. CE-P12 – Reclamation

365. Port Otago and Waka Kotahi support this policy as drafted and seek it be retained as notified.<sup>288</sup>

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<sup>288</sup> 00301.024 Port Otago, 00305.018 Waka Kotahi

366. Kāi Tahu Ki Otago seeks amendment of policy content and submit the following amendment.<sup>289</sup>

*CE–P12 – Reclamation and De-reclamation*

*Avoid reclamation in the coastal marine area, and encourage de-reclamation of redundant reclaimed land where it would restore the natural character, resources and functioning of the coastal marine area and provide for more public open space. ,unless:*

*(1) land outside the coastal marine area is not available for the proposed activity,*

*(2) the activity to be established on the reclamation can only occur immediately adjacent to the coastal marine area,*

*(3) there are no practicable alternative methods of providing for the activity, and*

*(4) the reclamation will provide significant regional or national benefit.*

367. To support this amendment, Kāi Tahu Ki Otago seeks consequential amendments to CE-M3(10).<sup>290</sup>

8.21.2.2. CE-M3 – Regional plans

368. One submission seeks amendments to CE-M3(10) to support achievement of CE-P12:

*(14)(10) avoid reclamation and manage de-reclamation activities in accordance with CE–P12, and when reclamation is considered suitable in accordance with CE–P12, have particular regard to the matters listed in Policy 10(2) and (3) of the NZCPS,*<sup>291</sup>

8.21.3. Analysis

369. In relation to the suggestion from Kāi Tahu ki Otago that this policy encourages de-reclamation of redundant reclaimed land, I agree with the intent of this suggested amendment. As noted in the analysis of submissions on CE-P4, I agree that CE-P12 should be amended to capture both reclamation and de-reclamation. However, I disagree that reclamation needs to be avoided in all situations. I note that Policy 12 of the NZCPS provides for situations where reclamations can be considered. These situations are reflected in the proposed drafting of CE-P12.

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<sup>289</sup> 00226.147 Kāi Tahu ki Otago

<sup>290</sup> 00226.153 Kāi Tahu ki Otago

<sup>291</sup> 00226.153 Kāi Tahu ki Otago

8.21.4. Recommendation

370. I recommend amending CE-P12 as follows to address both reclamation and de-reclamation:

CE-P12 – Reclamation and de-reclamation<sup>292</sup>

Manage reclamation and de-reclamation by:<sup>293</sup>

(1A)            Avoiding<sup>294</sup> reclamation in the *coastal marine area*, unless:

~~(1)(a)~~ (a) *land* outside the *coastal marine area* is not available for the proposed activity,

~~(2)(b)~~ (b) *the* activity to be established on the reclamation can only occur immediately adjacent to the *coastal marine area*,

~~(3)(c)~~ (c) there are no practicable alternative methods of providing for the activity, ~~and~~

~~(4)(d)~~ (d) the reclamation will provide significant regional or national benefit, and

(1B) Encouraging de-reclamation of redundant reclaimed land where it would restore natural character, resources of the coastal marine area, and provide for more public open space.<sup>295</sup>

371. I recommend CE-M3(10) is retained as notified.

8.22. CE-P13 – Kaitiakitaka

8.22.1. Introduction

372. As notified, CE-P13 reads:

CE-P13 – Kaitiakitaka

Recognise and provide for the role of Kāi Tahu as kaitiaki of the coastal environment by:

(1) involving *mana whenua* in decision making and management processes in respect of the coast,

(2) identifying, protecting, and improving where degraded, sites, areas and values of importance to Kāi Tahu within the coastal environment, and managing these in accordance with tikaka,

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<sup>292</sup> 00226.147 Kāi Tahu ki Otago

<sup>293</sup> 00226.147 Kāi Tahu ki Otago

<sup>294</sup> 00226.147 Kāi Tahu ki Otago

<sup>295</sup> 00226.147 Kāi Tahu ki Otago

- (3) providing for customary uses, including mahika kai and the harvesting of kaimoana,
- (4) incorporating the impact of activities on customary fisheries in decision making, and
- (5) incorporating mātauraka Maōri in the management and monitoring of activities in the coastal environment.

#### 8.22.2. Submission

373. Sanford supports this provision as drafted and seeks this be retained as notified.<sup>296</sup> Kāi Tahu Ki Otago seeks greater recognition of cultural interests and values through a review of the policy framework to recognise the importance and influence of Kaitiakitaka.<sup>297</sup> They seek the following amendments:

*Renumber and amend as follows:*

*CE-P13-P1 – Rakatirataka and Kaitiakitaka*

*Recognise and ~~provide for~~ give practical effect to Kāi Tahu rakatirataka and the role of Kāi Tahu as kaitiaki of the coastal environment by:*

- (1) facilitating partnership with, and actively involving mana whenua in decision making and management processes in respect of the coast,*
- (2) sustaining the environmental, social, cultural and economic relationships of Kāi Tahu with Te Tai o Arai-te-uru,*
- (3) identifying, protecting, and improving where degraded, sites, areas, waters and values of importance to Kāi Tahu within the coastal environment, and managing these in accordance with tikaka,*
- (4) providing for customary uses, including mahika kai and the harvesting of kaimoana,*
- (5) incorporating the impact of activities on customary fisheries, including mātaitai reserves and taiāpure, in decision making, and*
- (6) incorporating mātauraka Maōri in the management and monitoring of activities in the coastal environment.*

374. Kāi Tahu ki Otago caution that the methods supporting achievement of CE-P13 generally omit acknowledgement and reference to Kāi Tahu values or interest, this comment is echoed by Te Rūnanga o Ngāi Tahu.<sup>298</sup>

<sup>296</sup> 00122.023 Sanford

<sup>297</sup> 00226.018, 00226.148 Kāi Tahu ki Otago

<sup>298</sup> 00234.013 Te Rūnanga o Ngāi Tahu

375. Kāi Tahu ki Otago<sup>299</sup> seek that a new method be included within the CE chapter which helps to implement CE-P13 as follows:

*CE – M1 – Mana whenua/mana moana involvement*

*Otago Regional Council must partner with Kāi Tahu in coastal management by:*

- (1) implementing the actions in MW – M2, MW – M3 and MW – M4,*
- (2) actively identifying and pursuing opportunities for mana whenua to be involved in coastal governance, including through use of available mechanisms such as transfers of functions (under section 33 of the RMA 1991) and supporting the establishment of mātaimai reserves and taiāpure,*
- (3) implementing actions to foster the development of mana whenua capacity to contribute to the Council’s decision – making processes, including resourcing,*
- (4) supporting mana whenua initiatives that contribute to maintaining or improving the health and well-being of coastal water and ecosystems, and*
- (5) providing relevant information to mana whenua for the purposes of (1), (2), (3) and (4).*

### 8.22.3. Analysis

376. I agree in part with the amendments proposed by Kāi Tahu ki Otago. I note that providing for Kāi Tahu rakatirataka within the CE chapter aligns with the environmental management perspectives and values of Kāi Tahu listed in MW section of the pORPS. Therefore, I support the inclusion of rakatirataka within both the title of the policy and the text. I also support the suggested amendment to the chapeau of this policy from ‘Recognise and provide for’ to ‘Recognise and give practical effect’ as I consider this more directive language is appropriate to give effect to Section 6(e) of the RMA. Finally, I agree to an amendment to subclause (5), that refers to mātaimai reserves and taiāpure. I consider a slight drafting amendment is required, as I understand mātaimai reserves and taiāpure are not necessarily a subset of customary fishing but instead a method of protecting a particular area or species. As such, I do not agree ‘including’ is required in the policy.

377. In relation to the additional subclause (2) set out in the paragraph above, I question how this is to be achieved within the context of the pORPS. I note that the other subclauses within the policy detail particular actions that will be undertaken to recognise and give practical effect to Kāi Tahu rakatirataka and the role of Kāi Tahu as kaitiaki of the coastal environment, but I am not clear how the methods of the pORPS will achieve the broad

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<sup>299</sup> 00226.156 Kāi Tahu ki Otago

outcomes sought by the proposed amendment. As such, I disagree this amendment is required. I also disagree that 'waters' need to be included within subclause (2). I consider the reference to 'areas and values of importance to Kāi Tahu' will include areas of coastal water.

378. Finally, I disagree that the policy should be re-numbered CE-P1. From a practical perspective, if this policy was renumbered, this would require the renumbering of all of the other policies in the CE chapter, all of the references within the methods section, and all of the cross references to other chapters. I note that the ordering of the policies within the chapter have no bearing on the weight given to a policy. If the hearing panel did consider it was important rearrange the policies within the CE chapter to help set the scene of the chapter, I consider it would be more practical to swap CE-P1 with CE-P13 to reduce the number of cross references that would need to be amended.

379. In relation to the additional method sought by Kāi Tahu, I agree that a method of this nature is missing from the drafting of the CE chapter. However, I also consider the focus of the method should be linked to the drafting of CE-O4 Mana moana and CE-P13 – Kaitiakitaka. I with note that the content of proposed clause (1) appears to be captured within MW-M2, MW-M3, and M4. Therefore, I disagree these references are required within the CE chapter. I have suggested an alternative method to that sought by Kāi Tahu which reflect the content of CE-O4 Mana moana and CE-P13 – Kaitiakitaka. I also consider a consequential amendment should be made to CE-M2 to acknowledge that local authorities must collaboratively, with Kāi Tahu and local authorities in neighbouring regions when identifying natural character areas, ONL's and ONF's and SNA's within the coastal environment.

#### 8.22.4. Recommendation

380. I recommend that the policy is amended as follows:

CE-P13 – Rakatirataka and<sup>300</sup> Kaitiakitaka

Recognise and give practical effect to Kāi Tahu rakatirataka and ~~provide for~~<sup>301</sup> the role of Kāi Tahu as kaitiaki of the coastal environment by:

(1) facilitating partnership with, and actively<sup>302</sup> involving *mana whenua* in decision making and management processes in respect of the coast,

(2) identifying, protecting, and improving where degraded, sites, areas and values of importance to Kāi Tahu within the coastal environment, and managing these in accordance with tikaka,

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<sup>300</sup> 00226.148 Kāi Tahu ki Otago

<sup>301</sup> 00226.148 Kāi Tahu Ki Otago

<sup>302</sup> 00226.148 Kāi Tahu Ki Otago

(3) providing for customary uses, including mahika kai and the harvesting of kaimoana,

(4) incorporating the impact of activities on customary fisheries, mātaimai reserves and taiāpure<sup>303</sup> in decision making, and

(5) incorporating mātauraka Maōri in the management and monitoring of activities in the coastal environment.

381. I recommend that a new method is added to the CE chapter as follows:

CE – M1a - Mana whenua/ mana mona involvement

*Local authorities* must partner with Kāi Tahu in coastal management by:

(1) actively identifying and pursuing opportunities for mana whenua to exercise their rakatirataka role, manaakitaka and their kaitiaki duty of care kaitiaki role within the coastal environment.

382. I recommend the chapeau of CE-M2 is amended as follows:

CE-M2 – Identifying other areas

*Local authorities* must work collaboratively, with Kāi Tahu and local authorities in neighbouring regions, together to:

## 8.23. CE–E1 – Explanation

### 8.23.1. Introduction

383. As notified, CE-E1 reads:

CE–E1 – Explanation

The provisions in this chapter recognise that the coastal environment is a finite resource with a range of values that need to be preserved. The policies within the chapter are designed to protect the coastal environment from inappropriate activities. The coastal environment is also recognised as dynamic and the policies, in association with others in the ORPS, seek to prevent increasing *risks* to life, *infrastructure* and property.

The policies in this chapter require the identification and management of a range of values within the coastal environment. They also set out a number of environmental bottom lines that give effect to the requirements of the NZCPS. Provided these environmental bottom lines are achieved, the chapter also acknowledges that there are a range of activities including port activities, aquaculture, and appropriately designed and located *subdivision*, use and development that can be undertaken within the coastal environment. The policies

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<sup>303</sup> 00226.148 Kāi Tahu Ki Otago

also provide specific direction on how activities in the coastal environment are to be undertaken. The balance of protective and enabling policies within this chapter are designed to implement the objectives by requiring that activities in the coastal environment are undertaken in a manner that preserves or restores the values of the coastal environment.

Kāi Tahu tūpuna had an extensive knowledge of the coastal environment and weather patterns, passed from generation to generation. This knowledge continues to be held by whānau and hapū and is regarded as a taoka. The seasonal lifestyle of Kāi Tahu led to their dependence on the resources of the coast. This enduring relationship with the coastal environment, arising from long whakapapa associations and the use of tikaka to guide resource management practices, is manifested in the rakatirataka and *kaitiakitaka* responsibilities that Kāi Tahu hold as *mana whenua*.

Some of the policies in the NZCPS are highly prescriptive and will be most effectively implemented through *regional* and *district plans*. In those cases, the policies in the pORPS have included additional region-specific context where that is possible, but have not sought to restate the content of NZCPS policies with the expectation that those policies will be implemented by the *regional* and *district plans*.

In addition to the policies in this chapter, the values of the coastal environment are recognised and provided for in the following chapters of the pORPS where they provide direction on the management of the coastal environment or activities within the coastal environment:

- ECO – Ecosystems and indigenous biodiversity
- LF – Land and freshwater
- EIT – Energy, infrastructure and transport
- HCV – Historical and cultural values
- NFL – Natural features and landscapes
- HAZ – Hazards and risks

#### 8.23.2. Submissions

384. Port Otago<sup>304</sup> opposes the explanation text as drafted, as they consider it undermines the directive for port activities in CE-P1(2) and potentially conflicts with the provisions for all activities taking place in the coastal environment.

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<sup>304</sup> 00301.027 Port of Otago



385. Forest and Bird<sup>305</sup> seeks amendments to the text to clearly articulate and clarify the purpose of the chapter. These amendments include:
- Refining the text to ensure it provides certainty that mandatory obligations are met,
  - Making consequential changes to the explanation to reflect other amendments, and
  - Clarifying the relationship of the coastal environment chapter with provisions in other chapters that apply in the coastal environment.
386. Heritage NZ<sup>306</sup> considers it is important that the pORPS is consistent with the RMA which uses the term “historic heritage” and suggests changing references to “historical and cultural values” to “Historic heritage and cultural values” to achieve consistency.

#### 8.23.3. Analysis

387. I agree in part with the comments of Port Otago and Forest and Bird with respect to referencing other chapters. I acknowledge the wording of the explanation as currently drafted duplicates much of CE-P1 and risks confusion in its interpretation. I also understand that it does not clearly reflect the interconnectedness between the coastal environment and the land and freshwater where coastal waters are the receiving environment for freshwater. I therefore consider drafting amendments are required to provide certainty and include a cross-reference to CE-P1.
388. I acknowledge concerns raised by Forest and Bird that the use of the words ‘balance of’ may potentially undermine the directive policies of the NZCPS and consider amending the text for clarity is appropriate.
389. In relation to the submission from Heritage New Zealand I note that any reference to ‘historic heritage’ have been removed from the CE-E1 as a result of an amendment to CE-P1. Therefore, no change is required.

#### 8.23.4. Recommendation

390. I recommend amending CE-E1 as follows:

##### CE-E1 – Explanation

The provisions in this chapter recognise that the coastal environment is a finite resource with a range of values that need to be preserved. The policies within the chapter are designed to protect the coastal environment from inappropriate activities. The coastal environment is also recognised as dynamic and the policies, in association with others in the ORPS, seek to prevent increasing *risks* to life, *infrastructure* and property.

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<sup>305</sup> 00230.066 Forest and Bird

<sup>306</sup> 00123.005 Heritage NZ

The policies in this chapter require the identification and management of a range of values within the coastal environment. They also set out a number of environmental bottom lines that give effect to the requirements of the NZCPS. Provided these environmental bottom lines are achieved, the chapter also acknowledges that there are a range of activities including port activities, aquaculture, and appropriately designed and located *subdivision*, use and development that can be undertaken within the coastal environment. The policies also provide specific direction on how activities in the coastal environment are to be undertaken. The ~~balance~~ combination<sup>307</sup> of protective and enabling policies within this chapter are designed to implement the objectives by requiring that activities in the coastal environment are undertaken in a manner that preserves or restores the values of the coastal environment.

Kāi Tahu tūpuna had an extensive knowledge of the coastal environment and weather patterns, passed from generation to generation. This knowledge continues to be held by whānau and hapū and is regarded as a taoka. The seasonal lifestyle of Kāi Tahu led to their dependence on the resources of the coast. This enduring relationship with the coastal environment, arising from long whakapapa associations and the use of tikaka to guide resource management practices, is manifested in the rakatirataka and *kaitiakitaka* responsibilities that Kāi Tahu hold as *mana whenua*.

Coastal waters can be influenced by activities which are undertaken beyond the coastal environment. This interconnectedness between coastal and freshwater environments means provisions contained within the LF – Land and freshwater chapter may also need to be considered to manage the coastal environment.<sup>308</sup>

Some of the policies in the NZCPS are highly prescriptive and will be most effectively implemented through *regional* and *district plans*. In those cases, the policies in the pORPS have included additional region-specific context where that is possible, but have not sought to restate the content of NZCPS policies with the expectation that those policies will be implemented by the *regional* and *district plans*.

In addition to the policies in this chapter, the values of the coastal environment are recognised and provided for in a number of other ~~the following~~ chapters of the ORPS, as set out in CE-P1. ~~where they provide direction on the management of the coastal environment or activities within the coastal environment:~~

- ECO – Ecosystems and indigenous biodiversity
- LF – Land and freshwater

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<sup>307</sup> 00230.066 Forest and Bird

<sup>308</sup> 00230.066 Forest and Bird

- EIT – Energy, infrastructure and transport
- HCV – Historical and cultural values
- NFL – Natural features and landscapes
- HAZ – Hazards and risks<sup>309</sup>

## 8.24. CE–PR1 – Principal reasons

### 8.24.1. Introduction

391. As notified, CE-PR1 reads:

#### CE–PR1 – Principal reasons

The coastal environment includes the *coastal marine area*, islands within the *coastal marine area* and the area landward of the line of mean high-water springs. The landward extent of the coastal environment is determined by the natural and physical elements, features and processes set out in Policy 1(2) of the NZCPS. The importance of the coastal environment is reflected in the statutory resource management framework, particularly as identified in sections 6 and 7 of the RMA 1991 and as set out in the NZCPS.

A number of activities occur within or affect the coastal environment including urban development, recreational activities, transport infrastructure, port activities, *infrastructure*, energy generation and transmission, food production and other farming activities, *plantation forestry*, rural industry and *mineral* extraction. These activities can be important contributors to the existing and future health and well-being of communities. However, poorly located or managed activities can have adverse *effects* that compromise the values of the coastal environment such as natural character, biophysical processes, *water* quality, *surf breaks*, indigenous *biodiversity* and natural landscapes.

The coastal environment is highly valued by Kāi Tahu *mana whenua*, with a number of areas in the coastal environment recognised in statutory acknowledgments in the NTCSA 1998. The marine environment is a moving force, a reminder of the power of Takaroa. The *coastal waters* and processes were integral to the way of life *tūpuna* enjoyed, and the coastal environment supports significant mahika kai/kaimoana resources and *wāhi tūpuna*. This environment was traditionally important for settlement and travel and continues to provide for settlement and mahika kai and fisheries resources. Kaimoana is essential to coastal iwi and hapū relationships with the *environment* and in particular as part of the tikaka of food gathering and as indicators of the health of coastal environments.

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<sup>309</sup> 00301.027 Port Otago, 00230.066 Forest and Bird

The *coastal waters* are a *receiving environment* for *freshwater*, *gravels*, *sediment* and *contaminants* from the terrestrial landscape - of particular concern are the significant *discharges* of sediments, transported by *rivers* and waterways, that have a smothering effect on the benthic systems of the coastal area, including the important kelp beds. The interconnection of the *land* and sea environments is central to the *ki uta ki tai* ('mountains to the sea') philosophy. This interconnection requires careful consideration in managing the *effects of land* use activities.

Other chapters of the Regional Policy Statement are also relevant for managing the coastal environment as land-based activities can have a significant *effect* on the health of the marine environment. Sediment, *contaminants* and litter that are carried by waterways or pipes into the sea affect *water* quality and the ecological health of the coastal environment.

Implementation of the provisions in this chapter will occur primarily through *regional* and *district plan* provisions, however *local authorities* may also choose to adopt additional non-regulatory methods to support the achievement of the objectives.

#### 8.24.2. Submissions

392. One submitter supports CE-PR1 as drafted and seeks it be retained as notified.<sup>310</sup>
393. Four submitters consider amendments are required to recognise and reference a range of matters, including:
- Climate change,<sup>311</sup>
  - Disposal of wastewater and stormwater,<sup>312</sup>
  - Lack of sediments coming down the Clutha River/Mata-Au,<sup>313</sup>
  - Infrastructure with a functional and operational need to be located in the coastal environment,<sup>314</sup> and
  - Food production.<sup>315</sup>
394. Two submitters seek amendments to clarify what is meant in the last paragraph by "local authorities may also choose to adopt additional non-regulatory methods to support the achievement of the objectives".<sup>316</sup>

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<sup>310</sup> 00322.014 Fulton Hogan

<sup>311</sup> 00223.076 Ngāi Tahu ki Murihiku

<sup>312</sup> 00139.078 DCC

<sup>313</sup> 00139.078 DCC

<sup>314</sup> 00315.028 Aurora Energy,

<sup>315</sup> 00236.053 Horticulture NZ

<sup>316</sup> 00126.026 Harbour Fish, 00124.026 Southern Inshore Fisheries

### 8.24.3. Analysis

395. While I agree managing the impacts of climate change is a principal reason for the development of the provisions contained within this pORPS, I note that the impacts of climate change in the Otago coastal environment are managed by the provisions located in the HAZ–Hazards and risks chapter of the pORPS, and more broadly within the provisions of the IM–Integrated management chapter. For this reason, I consider reference to climate change within the principal reason of this chapter is not required.
396. In relation to the submission from DCC seeking, to include reference to disposal of wastewater and stormwater in the list of activities which occur within or affect the coastal environment, I consider these activities are already captured by the reference to ‘infrastructure’. As such, I disagree the amendment is required.
397. With reference to lack of sediment being transported down the Clutha River/Mata-Au, I understand this is a management issue for catchments of this type. However, I consider amendments suggested are beyond the scope of the CE chapter, as the lack of sediment being transported down the Clutha River/Mata-Au is considered with the LF -Chapter.
398. Regarding the submission from Aurora Energy, I acknowledge certain types of infrastructure have a functional or operational need to be located in the coastal environment, which is acknowledged with the CE chapter. However, I do not agree this level of detail is required within CE–PR1 – Principal reason.
399. In relation to the submission from Harbour Fish that seeks an addition that references the non-regulatory methods used by Council to achieve the objectives, I disagree this amendment is required. I consider the intention of the principal reasons section is to list the reasons for the provisions, rather than listing references the provisions themselves.

### 8.24.4. Recommendation

400. I recommend CE–PR1 is retained as notified.

## 8.25. CE-AER1

### 8.25.1. Introduction

401. CE-AER1 describes the first anticipated environmental result from implementing the provisions in this chapter.
402. As notified, CE-AER1 reads:

**CE–AER1** The values of the coastal environment are not adversely affected or lost because of inappropriate uses of the *natural and physical resources* in the coastal environment.

#### 8.25.2. Submissions

403. Federated Farmers supports CE-AER1 as drafted and seeks it be retained as notified.<sup>317</sup>

Four submitters seek amendments, which:

- Provide certainty to reflect the protection requirement of the NZCPS,<sup>318</sup>
- Remove or specify “inappropriate uses”,<sup>319</sup> and
- Remove reference to adverse effects.<sup>320</sup>

#### 8.25.3. Analysis

404. I consider the purposes of the Anticipated Environmental Results is to state the result that will be achieved if the objective and policies are implemented or if the expected change has occurred over the life of the policy statement. Therefore, I disagree with the amendments Forest and Bird is seeking, as I consider the wording amendments are too general to add clarity.

#### 8.25.4. Recommendation

405. I recommend CE-AER1 is retained as notified.

### 8.26. CE-AER2

#### 8.26.1. Introduction

406. CE-AER2 describes the second anticipated environmental result from implementing the provisions in this chapter.

407. As notified, CE-AER2 reads:

**CE–AER2** There is no reduction in the extent of identified areas of high and outstanding natural character in the coastal environment.

#### 8.26.2. Submissions

408. Four submitters seek amendments to CE-AER2 which include:

- Provide for improvement where degradation has occurred,<sup>321</sup>
- Recognise the functional and operational needs of nationally and regionally significant infrastructure,<sup>322</sup>

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<sup>317</sup> 00239.065 Federated Farmers

<sup>318</sup> 00230.067 Forest & Bird

<sup>319</sup> 00126.027 Harbour Fish, 00124.027 Southern Inshore Fisheries

<sup>320</sup> 00322.015 Fulton Hogan

<sup>321</sup> 00230.068 Forest & Bird

<sup>322</sup> 00305.019 Waka Kotahi

- Remove reference to “high and outstanding”.<sup>323</sup>

### 8.26.3. Analysis

409. Regarding CE–AER2, I note Fish and Game considers improvement is also appropriate, however I consider this is captured within CE–AER3.

410. In relation to the submitters seeking an addition to CE-AER2 to provide for nationally and regionally significant infrastructure, I note that directive avoid policies within both the NZCPS and the CE chapter are clear that natural character in the coastal environment is to be preserved. Therefore, I disagree with the amendment would achieve the anticipated environmental results sought by these policies.

411. Policy 13 of the NZCPS requires preserving the natural character of the coastal environment. Policy 13(1)(a) and (b) of the NZCPS distinguishes between natural character in areas with outstanding natural character and all other areas. Policy 13(c) requires areas of high natural character be mapped or at least identified. To remove the reference to “high and outstanding” would be inconsistent with both the outcomes the pORPS sets out to achieve and direction of the NZCPS.

### 8.26.4. Recommendation

412. I recommend CE-AER2 is retained as notified.

## 8.27. CE-AER3

### 8.27.1. Introduction

413. CE-AER3 describes the third anticipated environmental result from implementing the provisions in this chapter.

414. As notified, CE-AER3 reads:

**CE–AER3** Areas where natural character has been reduced or lost are restored.

### 8.27.2. Submission

415. One submitter supports CE-AER3 as drafted and seeks it be retained as notified.<sup>324</sup> Two submitters consider it goes beyond the purpose of legislative requirements and seeks further clarification and removal of the reference to “restored”.<sup>325</sup>

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<sup>323</sup> 00124.028 Southern Inshore Fisheries, 00126.028 Harbour Fish

<sup>324</sup> 00230.069 Forest & Bird

<sup>325</sup> 00126.029 Harbour Fish, 00124.029 Southern Inshore Fisheries

### 8.27.3. Analysis

416. The submissions of Harbour Fish and Southern Inshore Fish state CE–AER3 goes beyond legislative requirements and seeks the removal of the word “restored”. I note that Policy 14 of the NZCPS promotes the restoration or rehabilitation of the natural character of the coastal environment. As stated in section 8.7, I consider the amendments the submitters are seeking would fail to meet the outcomes the pORPS sets out to achieve and statutory obligations.

### 8.27.4. Recommendation

417. I recommend CE-AER3 is retained as notified.

## 8.28. CE-AER4

### 8.28.1. Introduction

418. CE-AER4 describes the fourth anticipated environmental result from implementing the provisions in this chapter.

419. As notified, CE-AER4 reads:

**CE–AER4** There is an improvement in the quality of *water* in areas identified as having deteriorated *water* quality.

### 8.28.2. Submission

420. One submitter supports the provision as drafted and seeks it be retained as notified.<sup>326</sup> One submitter seeks its refinement, replacing the word “deteriorated” with “degraded” to be consistent with national legislation (NPSFM).<sup>327</sup>

### 8.28.3. Analysis

421. I disagree an amendment to CE-AER4 is required. I note that CE-P2(2), CE-P3, and Policy 21 of the NZCPS all refer to ‘deteriorated’. I consider the language within CE-AER4 should be consistent with this language.

### 8.28.4. Recommendation

422. I recommend CE-AER4 is retained as notified.

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<sup>326</sup> 00230.070 Forest & Bird

<sup>327</sup> 00239.066 Federated Farmers



## 8.29. CE-AER5

### 8.29.1. Introduction

423. CE-AER5 describes the fifth anticipated environmental result from implementing the provisions in this chapter.

424. As notified, CE-AER5 reads:

**CE–AER5** The quality of *coastal water* supports healthy coastal ecosystems and provides for contact recreation and customary uses.

### 8.29.2. Submissions

425. Two submitters raise concerns that CE-AER5 does not provide for commercial fishing or food production and seek amendments to provide for such activities.<sup>328</sup>

### 8.29.3. Analysis

426. Harbour Fish and Southern Inshore Fish also seek a revision to CE–AER5, providing for commercial fishing and food production. To make such amendments would conflict with the purpose of Anticipated Environmental Results, which I understand is provide an indication of the anticipated environmental outcomes from the combined effect of the policy framework contained in policy statement.

### 8.29.4. Recommendation

427. I recommend CE-AER5 is retained as notified.

## 8.30. CE-AER6

### 8.30.1. Introduction

428. CE-AER6 describes the sixth anticipated environmental result from implementing the provisions in this chapter.

429. As notified, CE-AER6 reads:

**CE–AER6** New building and development in the coastal environment is consistent with the character of the area and avoids or minimises *risks* from *natural hazards* to people and communities.

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<sup>328</sup> 00126.030 Harbour Fish, 00124.030 Southern Inshore Fisheries

#### 8.30.2. Submissions

430. Federated Farmers seeks amendments to CE-AER6 to focus attention on “significant” risks to people and communities from natural hazards, which is more consistent with the requirements of the RMA.<sup>329</sup>

#### 8.30.3. Analysis

431. I agree in part with the submission from Federated Farmers on CE–AER6, I note that HAZ-NH-P10 requires that increasing the risk from coastal hazards should be avoided. As such to ensure that anticipated environmental outcome sought by HAZ-NH-P10 is achieved, I consider an amendment is required to provide better reflect this outcome.

#### 8.30.4. Recommendation

432. I recommend amending CE-AER6 as follows:

**CE-AER6** New building and development in the coastal environment is consistent with the character of the area and avoids increasing the or ~~minimises~~<sup>330</sup> risks from *natural hazards* to people and communities.

### 8.31. CE-AER7

#### 8.31.1. Introduction

433. CE-AER7 describes the seventh anticipated environmental result from implementing the provisions in this chapter.

434. As notified, CE-AER7 reads:

**CE–AER7** The public have improved access to, along, and adjacent to the *coastal marine area*.

#### 8.31.2. Submissions

435. Federated Farmers seeks amendments to CE-AER7 to better recognise the rights of private property owners in relation to public access.<sup>331</sup>

#### 8.31.3. Analysis

436. As noted previously, I understand the role of Anticipated Environmental Results is to give plan readers an indication of the likely outcomes of the provisions contained in the plan. CE-AER7 provides this role when read together with the other relevant parts of this

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<sup>329</sup> 00239.067 Federated Farmers

<sup>330</sup> 00239.067 Federated farmers

<sup>331</sup> 00239.068 Federated Farmers

chapter. I therefore disagree the amendments Federated Farmers are seeking to CE-AER7 are required.

8.31.4. Recommendation

437. I recommend CE-AER7 is retained as notified.

8.32. New provisions

438. Several submitters seek additional provisions be added to this chapter. This section has grouped these to address these matters.

8.32.1. New objective

8.32.1.1. Submissions

439. Sanford requests the insertion of an objective to explicitly provide for the sustainable resource use and development to align with the NZCPS as follows:<sup>332</sup>

*CE-O6*

*To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development, recognising that:*

*(1) the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits;*

*(2) some uses and developments which depend upon the use of natural and physical resources in the coastal environment are important to the social, economic and cultural wellbeing of people and communities;*

*(3) functionally some uses and developments can only be located on the coast or in the coastal marine area;*

*(4) the coastal environment contains renewable energy resources of significant value;*

*(5) the protection of habitats of living marine resources contributes to the social, economic and cultural wellbeing of people and communities;*

*(6) the potential to protect, use, and develop natural and physical resources in the coastal marine area should not be compromised by activities on land;*

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<sup>332</sup> 00122.007 Sanford

(7) *the proportion of the coastal marine area under any formal protection is small and therefore management under the Act is an important means by which the natural resources of the coastal marine area can be protected; and*

(8) *historic heritage in the coastal environment is extensive but not fully known, and vulnerable to loss or damage from inappropriate subdivision, use, and development.*

#### 8.32.1.2. Analysis

440. I disagree that this additional objective is required. I consider the concepts included within the suggested objective are already present within the drafting of the pORPS. I note that the EIT and UD chapters contain a range of objectives that enable people and communities to provide for their social, economic, and cultural wellbeing. I also note that CE-P1 has been updated to clarify that the provisions of the EIT and UFD chapters, where relevant, apply within the coastal environment. Therefore, when the whole of the pORPS is read together, I disagree the suggest objective is required.

#### 8.32.1.3. Recommendation

441. No change

#### 8.32.2. New policies and methods

##### 8.32.2.1. Submissions

442. Forest and Bird, DOC, and Federated farmers<sup>333</sup> have sought amendments to the chapeau of CE-M5 seeking the replacement of ‘are encouraged to consider’ with ‘shall consider’ or some variation of this relief, as they consider the chapeau should be more directive.

443. Forest and Bird seek a range of general amendments to the CE provisions to ensure:

- that a precautionary approach is adopted in accordance with Policy 3 of the NCPS,<sup>334</sup>that the values of SNA’s, ONCA’s, and ONL’s and ONF’s are recorded<sup>335</sup>
- wetland protection achieve the requirements of the NZCPS.<sup>336</sup>
- the impact of hard protection structures can have on the coastal habitats and coastal ecosystems is recognised<sup>337</sup>

444. Kāi Tahu ki Otago seeks amendments to better recognise and provide for customary fisheries, mahika kai and kaimoana practices, and better recognise and protect areas

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<sup>333</sup> 00230.065 Forest and Bird, 00137.060 DOC, and 00239.064 Federated Farmers

<sup>334</sup> 00230.041 Forest and Bird

<sup>335</sup> 00230.039 and 00230.040 Forest and Bird

<sup>336</sup> 00230.044 Forest and Bird

<sup>337</sup> 00230.023b Forest and Bird

special to mana whenua, such as wāhi tūpuna, statutory acknowledgements and tōpuni.<sup>338</sup>

445. Kāi Tahu ki Otago raises concern that the policies do not provide guidance on activities that directly modify the land, freshwater, and coastal marine area interface.<sup>339</sup> Such activities include:

- artificial openings or any other modification of river mouths, lagoons and estuarine systems, including the impacts on native species migration,
- mining, quarrying and earthworks in the coastal environment, particularly within or in proximity to the coastal marine area,
- activities affecting freshwater flows such as damming and overallocation,
- damming or diversion of coastal water within river mouths, estuaries or other locations in the coastal marine area,
- any other activities that affect the natural migration of diadromous indigenous species,
- natural hazard mitigation activities, noting a lack of integration between the HAZ and the CE provisions.

446. Te Runanga o Ngāi Tahu seeks the insertion of a new policy to manage discharge of contaminants into coastal waters to support mahinga kai and a healthy coastal water and requests the following:<sup>340</sup>

*Discharge of contaminants into Te Tai o Ārai Te Uru Coastal water quality will be improved by:*

- (a) in time, ceasing all wastewater discharges into Te Tai o Ārai Te Uru*
- (b) avoiding adverse effects from discharge originating in terrestrial, freshwater or marine environments.*
- (c) cessation of wastewater infiltration into stormwater systems.*
- (d) attenuation and treatment of stormwater prior to discharge into coastal waters.*

447. Kāi Tahu Ki Otago requests<sup>341</sup> the following addition to the Methods:

*Mana whenua/mana moana involvement*

*Otago Regional Council must partner with Kāi Tahu in coastal management by:*

- (1) implementing the actions in MW-M2, MW-M3 and MW-M4,*
- (2) actively identifying and pursuing opportunities for mana whenua to be involved in coastal governance, including through use of available*

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<sup>338</sup> 00226.019 Kāi Tahu ki Otago

<sup>339</sup> 00226.150 Kāi Tahu Ki Otago

<sup>340</sup> 00234.021 Te Runanga o Ngāi Tahu

<sup>341</sup> 00226.156 Kāi Tahu Ki Otago

*mechanisms such as transfers of functions (under section 33 of the RMA 1991) and supporting the establishment of mātaihai reserves and taiāpure,*

*(3) implementing actions to foster the development of mana whenua capacity to contribute to the Council's decision-making processes, including resourcing,*

*(4) supporting mana whenua initiatives that contribute to maintaining or improving the health and well-being of coastal water and ecosystems, and*

*(5) providing relevant information to mana whenua for the purposes of (1), (2), (3) and (4).*

448. Furthermore, the submitter requests a commitment to coastal monitoring and seeks the inclusion of the following new method:<sup>342</sup>

*Monitoring*

*Otago Regional Council must:*

*(1) establish a long-term monitoring programme for coastal waters and coastal ecosystems that incorporates cultural health monitoring,*

*(2) record information (including monitoring data) about the state of coastal waters and coastal ecosystems and the challenges to their health and well-being,*

*(3) regularly prepare reports on the matters in (1) and (2) and publish those reports, and*

*(4) take action where the results of monitoring show that this is necessary to achieve the objectives of this policy statement.*

449. DOC and Bain Bronwyn also recognise a need to provide for monitoring and reporting on methods implementation for effectiveness and seeks a similar amendment.<sup>343</sup>

8.32.2.2. Analysis

450. I agree with the submission from Forest and Bird, DOC, and Federated farmers, seeking an amendment to the chapeau of CE-M5. I agree that 'encouraged' can be removed from the chapeau and replaced with 'shall'. I consider this amendment ensures the method is more directive.

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<sup>342</sup> 00226.157 Kāi Tahu Ki Otago

<sup>343</sup> 00137.061 DOC, 00241.003 Bain Bronwyn

451. In response to the submission from Forest and Bird, I note that there are existing provisions within the CE chapter<sup>344</sup> or the HAZ-NZ section<sup>345</sup> that provide for each of these matters. Therefore, I disagree amendment are required.
452. In relation to the concern raised by Kāi Tahu Ki Otago that the CE chapter does not provide guidance on activities that directly modify the land, freshwater, and coastal marine area interface, I disagree this is the case. I note that the drafting of the CE chapter largely follows the framework set within the NZCPS which focusing on the protecting the important areas and values of the coastal environment. It does not take an approach of providing specific policy direction for each activity which may adversely affect the values of the coastal environment. I consider the provisions of the CE chapter that provide protection to a range of values and areas in the coastal environment is appropriate and ensures that activities such as opening river mouths, mining, quarrying, damming, are adequately managed within requiring activity specific policies. Therefore, I disagree this additional policy is required.
453. In relation to the Kāi Tahu Ki Otago request for a new policy on discharges of contaminates and sedimentation, I note that CE-P3 and CE-M3(5) provides directive guidance on managing the discharge of contaminants into coastal water, including requirements to reduce the discharge of sediment. As such, I disagree a new policy is required.
454. Kāi Tahu Ki Otago also seeks a new method which sets out the partnership between Kāi Tahu Ki Otago and the Otago Regional Council. I note that an amendment to policy CE-P1 clarifies that the relevant provisions within the IM chapter also apply within the coastal environment. Method IM-M2 states that local authorities (which includes the Otago Regional Council) must partner with Kāi Tahu Ki Otago to ensure mana whenua involvement in resource management. As such, I disagree that an additional method or cross reference to the methods within the IM chapter is required.
455. Finally, I agree with both Kāi Tahu Ki Otago and DOC that an additional method is required within the CE chapter the requires the Otago Regional Council to establishing a long-term monitoring programme in the coastal environment. LF-FW-M9 already requires that the Otago Regional Council must establish a long-term monitoring programme for every Freshwater Management Unit (FMU) and some these FMUs extend into the CMA. Therefore, parts of the CMA will already be captured by the monitoring requirements of LF-FW-M9. However, to ensure consistency with the LF-FW chapter, I agree it is important that an additional monitoring method is included within the CE chapter.

#### 8.32.2.3. Recommendation

456. I recommend the chapeau of CE-M5 is amended as follows:

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<sup>344</sup> Precautionary approach CE-M3(6) and CE-M4(6), SNA's, ONCA's, ONL/F's, wetland protection, CE0M2(1), CE-M2(2), CE-M2(3).

<sup>345</sup> HAZ-NH-P7 – hard protection structures.

## CE-M5 – Other incentives and mechanisms

*Local authorities are encouraged to shall*<sup>346</sup> consider the use of other mechanisms or incentives to assist in achieving Policies CE-P2 to CE-P12~~3~~,<sup>347</sup> including:

457. I recommend that a new method is added to the CE-chapter as follows:

### CE–M6 – Monitoring

Otago Regional Council must:

- (1) establish a long-term monitoring programme for coastal waters and coastal ecosystems that incorporates cultural health monitoring,
- (2) record information (including monitoring data) about the state of coastal waters and coastal ecosystems and the challenges to their health and well-being,
- (3) regularly prepare reports on the matters in (1) and (2) and publish those reports, and
- (4) take action where the results of monitoring show that this is necessary to achieve the objectives of this policy statement.

## 8.32.3. New Anticipated environmental results

### 8.32.3.1. Submissions

458. Ngāi Tahu ki Murihiku seek two additional AER's related to protecting and restoring the mauri of the coastal environment where it has been degraded, and supporting customary uses, ensure and mana whenua are able to exercise their kaitiaki role within the coastal environment.<sup>348</sup>

### 8.32.3.2. Analysis

459. I agree with the submission from Ngāi Tahu ki Murihiku that two additional AER's related to protecting and restoring the mauri of the coastal environment where it has been degraded, and customary uses are support ensure and mana whenua are able to exercise their kaitiaki role within the coastal environment. I consider these AER's accurately identify the anticipated environmental outcome sought by CE-O1 and CE-O5.

### 8.32.3.3. Recommendation

460. I recommend the addition of two new AER's as follows:

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<sup>346</sup> 00137.060 DOC

<sup>347</sup> Clause 16(2), Schedule 1, RMA

<sup>348</sup> 00223.077 Ngāi Tahu ki Murihiku



**CE-AER 8** The mauri of the coastal environment is protected, and restored where it has been degraded.<sup>349</sup>

**CE-AER 9** Customary uses, including practices associated with mahika kai and kaimoana, are supported, and mana whenua exercise their kaitiaki role within the coastal environment.<sup>350</sup>

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<sup>349</sup> 00234.014 Ngāi Tahu ki Murihiku

<sup>350</sup> 00234.014 Ngāi Tahu ki Murihiku

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