

IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHU

Decision No. [2025] NZEnvC 366

IN THE MATTER of the Resource Management Act 1991

AND appeals under clause 14 of the First
Schedule to the Act

BETWEEN AURORA ENERGY LIMITED,
NETWORK WAITAKI LIMITED &
POWERNET LIMITED (and eight
other appellants as set out in the
Schedule)

(ENV-2024-CHC-24)

Appellants

AND OTAGO REGIONAL COUNCIL

Respondent

Environment Judge P A Steven – sitting alone under s279 of the Act

In Chambers at Christchurch

Date of Consent Order: 7 November 2025

CONSENT ORDER

A: Under s279(1)(b) RMA,¹ the Environment Court, by consent, orders that:

¹ Resource Management Act 1991.



- (1) the following appeal points are allowed subject to the amendment of provisions in the ‘CE – Coastal environment’ (CE) chapter of the proposed Otago Regional Policy Statement (Non-freshwater) 2021 (PORPS) as set out in **Annexure 1**, attached to and forming part of this Order:
 - (a) Aurora Energy Limited, Network Waitaki Limited and PowerNet Limited’s appeal points in relation to:
 - (i) CE-O5 – Activities in the coastal environment;
 - (ii) CE-P4 – Natural character; and
 - (iii) CE-P9 – Activities on land within the coastal environment.
 - (b) Dunedin City Council’s appeal point in relation to:
 - (i) CE-M3 – Regional plans.
 - (c) Royal Forest and Bird Protection Society of New Zealand Incorporated’s appeal points in relation to:
 - (i) CE-O1A – Te Mauri o te Moana;
 - (ii) CE-O1 – Safeguarding the coastal (Te Hauora o Te Tai o Arai Te Uru);
 - (iii) CE-O3 – Natural character features and landscapes;
 - (iv) CE-O5;
 - (v) CE-P2 – Identification;
 - (vi) CE-P3 – Coastal water quality;
 - (vii) CE-P7 – Surf breaks;
 - (viii) CE-P8 – Public access;
 - (ix) CE-P9;
 - (x) CE-P10 – Activities within the coastal marine area;
 - (xi) CE-M3;
 - (xii) CE-M4 – District plans; and
 - (xiii) CE-AER1.
 - (d) Rayonier Matariki Forests, City Forests Limited, Ernslaw One Limited and Port Blakely NZ Limited’s appeal points in relation to:

- (i) CE-P3;
 - (ii) CE-M3; and
 - (iii) CE-M4.
- (e) Cain Whānau’s appeal points in relation to:
- (i) CE-O1;
 - (ii) CE-O3;
 - (iii) CE-O4;
 - (iv) CE-O5;
 - (v) CE-P3;
 - (vi) CE-P4;
 - (vii) CE-P5;
 - (viii) CE-P6;
 - (ix) CE-P8;
 - (x) CE-P9;
 - (xi) CE-P10;
 - (xii) CE-P12 – Reclamation and de-reclamation;
 - (xiii) CE-P13 – Rakatirataka and katiakitaka;
 - (xiv) CE-M1A – Mana whenua/mana moana involvement;
 - (xv) CE-M2 – Identifying other areas;
 - (xvi) CE-M3;
 - (xvii) CE-M4;
 - (xviii) CE-E1 – Explanation;
 - (xix) CE-PR1 – Principal reasons; and
 - (xx) CE-AER9.
- (f) Transpower Limited’s appeal point in relation to:
- (i) CE-O5.
- (g) Te Rūnanga o Moeraki & ors’ appeal points in relation to:
- (i) CE-O5;
 - (ii) CE-P1A;
 - (iii) CE-P2;
 - (iv) CE-P3;
 - (v) CE-P4;

- (vi) CE-P5;
 - (vii) CE-P6;
 - (viii) CE-P7;
 - (ix) CE-P8;
 - (x) CE-P9;
 - (xi) CE-P10;
 - (xii) CE-P11 – Aquaculture;
 - (xiii) CE-P12;
 - (xiv) CE-P13; and
 - (xv) CE-PX (new policy sought relating to discharges to coastal environment).
- (h) New Zealand Transport Agency – Waka Kotahi’s appeal point in relation to:
- (i) CE-P5.
- (i) Environmental Defence Society Incorporated’s appeal point in relation to:
- (i) CE-O5.
- (2) the appeals in respect of the CE chapter, definitions and other provisions of the PORPS addressed in this Order, are otherwise dismissed.

B: Under s285 RMA, there is no order as to costs.

REASONS

Introduction

[1] This proceeding concerns appeals filed against parts of the decisions by the Otago Regional Council (ORC) on the proposed Otago Regional Policy Statement (Non-freshwater) 2021 (PORPS) in relation to provisions in the ‘CE – Coastal environment’ (CE) chapter located in the ‘Part 3 – Domain and Topics’ section.

[2] The following persons filed appeals seeking amendments to the provisions in the CE chapter:

- (a) Aurora Energy Limited, Network Waitaki Limited and PowerNet Limited – electricity distribution businesses (EDBs);
- (b) Dunedin City Council (DCC);
- (c) Royal Forest and Bird Protection Society of New Zealand Incorporated (Forest & Bird);
- (d) Rayonier Matariki Forests, City Forests Limited, Ernslaw One Limited and Port Blakely NZ Limited (Forestry Appellants);
- (e) Cain Whānau;
- (f) Transpower New Zealand Limited (Transpower);
- (g) Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga, Te Ao Marama Incorporated on behalf of Waihopai Rūnaka, Te Rūnanga o Ōraka Aparima, Te Rūnanga o Awarua and Te Rūnanga o Ngāi Tahu (Kāi Tahu);
- (h) New Zealand Transport Agency – Waka Kotahi (NZTA); and
- (i) Environmental Defence Society Incorporated (EDS).

CE-O1A – Te Mauri o te Moana

[3] Objective CE-O1A was appealed by Forest & Bird.

[4] Forest & Bird’s appeal sought an amendment to replace the wording “Otago’s coastal water” with “water in the coastal environment”.

[5] Forest & Bird’s position was that water in the coastal environment may include freshwater and coastal water (including brackish and saline). It therefore considers the chapeau should reference “water in the coastal environment” rather than the narrow subset of “coastal water”.

[6] The following persons gave notice of an intention to join this part of Forest & Bird's appeal pursuant to s274 RMA:

- (a) the Director-General of Conservation (DGC);
- (b) Kāi Tahu;
- (c) the Forestry Appellants; and
- (d) Port Otago Limited (POL).

Resolution

[7] The parties have proposed to amend CE-O1A as follows (amendments henceforth show additions in underline and deletions in strikethrough):

CE-O1A – Te Mauri o te Moana

The health of Otago's water in the coastal environment ~~coastal water~~ is:

- (a) protected from inappropriate activities so as to protect the health and well-being of the wider environment and the mauri of coastal waters, and
- (b) restored where it is degraded, including through enhancing coastal water quality where it has deteriorated from its natural condition.

[8] The agreed amendments respond to Forest & Bird's appeal point by better representing the types of water that exist in Otago's coastal environment.

[9] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss 5, 6(a) and 7(f).

CE-O1 – Safeguarding the coastal environment (Te Hauora o Te Tai o Arai Te Uru)

[10] Objective CE-O1 was appealed by Forest & Bird.

[11] Forest & Bird's appeal sought an amendment to remove the word

“significant” from clause (4). Forest & Bird’s position was that the objective failed to capture protection of indigenous biodiversity generally, which is a broad concept including as set out under Policy 11 and Objective 1 of the New Zealand Coastal Policy Statement (NZCPS). The provisions of the NZCPS were not limited to protecting only “significant” indigenous biodiversity.

[12] The following persons gave notice of an intention to join this part of Forest & Bird’s appeal pursuant to s274 RMA:

- (a) the DGC;
- (b) the EDBs;
- (c) DCC;
- (d) Kāi Tahu;
- (e) Meridian Energy Limited (Meridian);
- (f) Cain Whānau;
- (g) the Forestry Appellants;
- (h) Otago and Central South Island Fish and Game Councils (Fish & Game); and
- (i) POL.

Resolution

[13] The parties have proposed to amend CE-O1 as follows:

CE-O1 – 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 so that:

- (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 significant or representative indigenous biodiversity and sites of biological importance are protected,

(5) surf breaks of national significance are protected,

(6) the interconnectedness of wai Māori and wai tai is protected, and the effects of terrestrial and fresh water uses and activities on coastal waters and ecosystems, are recognised and understood, and

(7) the ongoing effects of climate change within the coastal environment are identified and planned for.

[14] The parties consider that the agreed amendments better reflect Objective 1 and Policy 11 of the NZCPS. The addition of “or representative” and “and sites of biological importance” widen the application of the objective to more types of indigenous biodiversity, as sought by Forest & Bird.

[15] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss 5, 6(a), 6(c), 7(d) and 7(f).

CE-O4 – Mana moana

[16] Objective CE-O4 was appealed by Cain Whānau.

[17] Cain Whānau’s appeal sought an amendment to insert the words “and owners of Māori freehold land” alongside all instances of “mana whenua” throughout the PORPS. The relief was sought on the basis that it is owners of Māori freehold land who have and exercise rakatirataka over their land.

[18] Separately, Cain Whānau sought relief with respect to any provisions in the

PORPS that apply to or affect Māori land, to ensure owners of Māori land can protect, occupy, subdivide, develop, and use their resources (inclusive of land, freshwater, coastal water and coastal marine area) to benefit their social, economic, cultural, educational, recreational, and environmental wellbeing as their secondary alternate relief.

[19] Further, Cain Whānau’s appeal sought any similar, alternative, consequential and/or other relief as necessary to address the issues raised in its appeal.

[20] The following persons gave notice of an intention to join this part of Cain Whānau’s appeal pursuant to s274 RMA:

- (a) Kāi Tahu;
- (b) Meridian;
- (c) Queenstown Lakes District Council (QLDC);
- (d) the EDBs;
- (e) Forest & Bird; and
- (f) POL.

Resolution

[21] The parties have proposed to amend CE-O4 as follows:

CE-O4 – Mana moana

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

- (1) exercise their rakatirataka role, manaakitaka and their kaitiaki duty of care within the coastal environment, and
- (2) engage in customary fishing and other mahika kai.

[22] The agreed amendments to the chapeau respond to Cain Whānau’s appeal point to broaden the provision from “mana whenua” to “Kāi Tahu” (which may incorporate owners of Māori freehold land, who are not included within the definition of “mana whenua” in s2 of the Act), so that they can express rakatirataka, manaakitaka and kaitiakitaka in relation to their own whenua. Given the provision refers to the Kāi Tahu relationship with Otago’s coastal environment, it was agreed that a reference to Kāi Tahu (as opposed to “owners of Māori freehold land” alongside “mana whenua”) would provide clearer and more consistent direction.

[23] The change from “able” to “enabled” is in response to Cain Whānau’s secondary relief, to reflect (in part) the “enabling” approach taken to the expression of rakatirataka throughout the PORPS, including Policy ‘MW-P4 – Use of Native Reserves and Māori land’ as confirmed by the court.²

[24] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss 6(e), 7(a) and 8.

CE-O5 – Activities in the coastal environment

[25] Objective CE-O5 was appealed by the following parties:

- (a) the EDBs;
- (b) Transpower;
- (c) EDS;
- (d) Forest & Bird;
- (e) Kāi Tahu; and
- (f) Cain Whānau.

² [2025] NZEnvC 107.

EDBs

[26] The EDBs' appeal sought an amendment to clause (3) to insert "and operational need" after "functional need". The EDBs' position was that it has become common practice in New Zealand to refer to both functional needs and operational needs when referring to the constraints of infrastructure. Although "operational need" was not included in the NZCPS, the EDBs consider that its inclusion would not be contrary to the NZCPS and would continue to give effect to that document.

[27] The following persons gave notice of an intention to join this part of the EDBs' appeal pursuant to s274 RMA:

- (a) POL;
- (b) Meridian;
- (c) the DGC;
- (d) Forest & Bird;
- (e) QLDC;
- (f) EDS;
- (g) Fish & Game;
- (h) Kāi Tahu;
- (i) DCC
- (j) Z Energy Limited, BP Oil New Zealand Limited and Mobil Oil New Zealand Limited (Fuel Companies); and
- (k) Queenstown Airport Corporation (QAC).

Transpower

[28] Transpower's appeal sought an amendment to clause (3) to insert "or operational need" after "functional need". Transpower's position was that the amendment is necessary to ensure that both terms, which the PORPS provides separate definitions for, are included in the objective. Transpower considered that this will ensure consistency with other provisions of the PORPS that refer to both

functional and operational need. Transpower noted that the National Policy Statement for Electricity Transmission (NPS-ET) gives express recognition to the operational requirements of the National Grid.

[29] The following persons gave notice of an intention to join this part of Transpower's appeal pursuant to s274 RMA:

- (a) the Forestry Appellants;
- (b) Meridian;
- (c) the DGC;
- (d) Forest & Bird;
- (e) QLDC;
- (f) EDS;
- (g) Fish & Game;
- (h) Kāi Tahu;
- (i) the Fuel Companies;
- (j) the EDBs; and
- (k) Beef + Lamb New Zealand Limited (Beef + Lamb).

EDS

[30] EDS's appeal sought an amendment to delete from clause (3) "acknowledging that some activities have" and replace it with "where there is" thereby requiring an activity have a functional need to be located in the coastal environment. EDS's position was that the NZCPS only provides for activities that have a functional need to be located within the coastal environment, be located there.

[31] The following persons gave notice of an intention to join this part of EDS's appeal pursuant to s274 RMA:

- (a) QLDC;
- (b) Cain Whānau;

- (c) NZTA;
- (d) Meridian;
- (e) the DGC;
- (f) Forest & Bird;
- (g) Fish & Game;
- (h) Kāi Tahu;
- (i) POL;
- (j) the Fuel Companies;
- (k) the EDBs;
- (l) Beef + Lamb;
- (m) Federated Farmers of New Zealand Incorporated (FFNZ);
- (n) QAC.

Forest & Bird

[32] Forest & Bird's appeal sought amendments to clause (1) to require activities to have a functional need to locate in the coastal marine area and insert a new clause as follows:

(x) maintain and improve the quality of water in waterbodies and coastal water

[33] Forest & Bird's position was that CE-O5 does not give effect to Policy 6 of the NZCPS or the NZCPS provisions concerning water quality, including Objective 1 and Policy 21.

[34] The following persons gave notice of an intention to join this part of Forest & Bird's appeal pursuant to s274 RMA:

- (a) the DGC;
- (b) Kāi Tahu;
- (c) the EDBs;
- (d) Beef + Lamb;
- (e) Transpower;

- (f) Meridian;
- (g) Fish & Game;
- (h) POL;
- (i) QLDC;
- (j) DCC;
- (k) the Fuel Companies;
- (l) Cain Whānau;
- (m) the Forestry Appellants;
- (n) FFNZ; and
- (o) QAC.

Kāi Tahu

[35] The Kāi Tahu appeal sought to insert a new clause into CE-O5 as follows:

(5) avoid adverse effects on customary fisheries, including management areas such as mātaihai reserves and taiāpure

[36] The Kāi Tahu position was that the proposed amendment to CE-O5 ensures that development in the coastal environment also enables takata whenua to provide for their own cultural wellbeing, including protecting customary fisheries. Kāi Tahu considers the proposed amendment is necessary to better give effect to Objectives 3 and 6 of the NZCPS, to provide for the outcomes of Fisheries Settlements, as well as to better recognise and provide for the takata whenua relationship with their fisheries under ss 6(e), 7(a) and 8 RMA.

[37] The following persons gave notice of an intention to join this part of the Kāi Tahu appeal pursuant to s274 RMA:

- (a) the DGC;
- (b) Forest & Bird;
- (c) POL;
- (d) QLDC;

- (e) DCC;
- (f) the EDBs;
- (g) FFNZ;
- (h) Meridian;
- (i) Fish & Game;
- (j) the Forestry Appellants;
- (k) the Fuel Companies;
- (l) Beef + Lamb; and
- (m) QAC.

Cain Whānau

[38] Cain Whānau’s appeal sought relief with respect to any provisions in the PORPS that apply to or affect Māori land, to ensure owners of Māori land can protect, occupy, subdivide, develop, and use their resources (inclusive of land, freshwater, coastal water and coastal marine area) to benefit their social, economic, cultural, educational, recreational, and environmental wellbeing as their secondary alternate relief.

[39] Prior to mediation, Cain Whānau gave notice that it sought to insert a new clause into CE-O5, pursuant to its secondary relief, as follows:

(6) occur in a way that enables the use and development of native reserves and Māori land

[40] Cain Whānau’s position was that the addition of clause (6) is required to provide for the use of Māori land and native reserves in accordance with s6(e) RMA and is consistent with the confirmed changes to MW-P4, and will ensure that activities in the coastal environment do not constrain or otherwise compromise that ability.

[41] The following persons gave notice of an intention to join this part of Cain Whānau’s appeal pursuant to s274 RMA:

- (a) Kāi Tahu;
- (b) Meridian;
- (c) QLDC;
- (d) Transpower;
- (e) the EDBs;
- (f) DCC;
- (g) the Forestry Appellants;
- (h) Forest & Bird; and
- (i) POL.

Resolution

[42] The parties have proposed to amend 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, acknowledging that some activities have a functional need to be located in the coastal environment, ~~and~~
- (4) maintain or enhance public access to and along the coastal marine area, including for customary uses, such as mahika kai, except where public access needs to be restricted for reasons of health and safety or ecological or cultural sensitivity,
- (5) do not compromise the health and abundance of customary fisheries, including within mātaihai reserves and taiāpure, and
- (6) do not compromise the ability of Kāi Tahu to develop, use and protect native reserves and Māori land.

[43] The parties have agreed to amend the objective as sought by Kāi Tahu, albeit in amended form. The parties consider the agreed amendment is consistent with s61(2)(iii) RMA which requires that when preparing a Regional Policy Statement, the Council must have regard to “regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Māori customary fishing)”.

[44] The parties advised that the reference to “do not compromise” falls within the range of in-scope outcomes between the approach sought in the appeal, which would require avoidance of all effects on customary fisheries, and the Decisions Version which did not include any specific wording in the objective to address effects on customary fisheries. Reference to “the health and abundance” of customary fisheries aligns with the underlying intent behind the Kāi Tahu appeal, which was to preserve the values of those fisheries for future generations from the effects of other activities in the coastal environment.

[45] The parties advised that the agreed amendments to the objective also ensure activities in the coastal environment do not compromise the ability of Kāi Tahu to use or develop Māori land, which is consistent with ss 6(e), 7(a) and 8 RMA, as sought by Cain Whānau.

[46] They also advised that the amendments are consistent with the enabling approach for the use and development of native reserves and Māori land as sought by Cain Whānau and Kai Tahu in relation to the ‘MW – Mana Whenua’ (MW) chapter.

[47] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss 5, 6(e), 7(a), 7(b), 7(f), 7(g) and 8.

CE-P3 – Coastal water quality

[48] Policy CE-P3 was appealed by Forest & Bird and the Forestry Appellants.

Forest & Bird

[49] Forest & Bird's appeal sought to insert two new clauses into CE-P3, as follows:

(x) requiring that stock are excluded from the coastal marine area, adjoining intertidal areas and other water bodies and riparian margins in the coastal environment, within a prescribed time frame

(x) require that development will not result in a significant increase in sedimentation in the coastal marine area prioritise avoiding the establishment of new activities in areas subject to risk from the effects of climate change, unless those activities reduce, or are resilient to, those risks.

[50] Forest & Bird's position was that the clauses were required for CE-P3 to give effect to the NZCPS.

[51] The following persons gave notice of an intention to join this part of Forest & Bird's appeal pursuant to s274 RMA:

- (a) the DGC;
- (b) the Forestry Appellants;
- (c) FFNZ;
- (d) Cain Whānau;
- (e) the EDBs;
- (f) Kāi Tahu;
- (g) QLDC;
- (h) Beef + Lamb;
- (i) DCC;
- (j) Fish & Game;

- (k) POL;
- (l) QAC; and
- (m) Meridian Energy.

Kāi Tahu

[52] The Kāi Tahu appeal sought amendments to CE-P3 to “give priority to” restoring coastal water quality. The Kāi Tahu position was that the amendment would better give effect to Policy 21 of the NZCPS and would be a more appropriate means of achieving the CE chapter objectives.

[53] The following persons gave notice of an intention to join this part of the Kāi Tahu appeal pursuant to s274 RMA:

- (a) the DGC;
- (b) Forest & Bird;
- (c) FFNZ;
- (d) Meridian;
- (e) the EDBs;
- (f) QLDC;
- (g) Beef + Lamb;
- (h) DCC;
- (i) Cain Whānau;
- (j) the Forestry Appellants;
- (k) POL; and
- (l) QAC.

Forestry Appellants

[54] The Forestry appeal sought the deletion of clause (5) from CE-P3. The Forestry Appellants’ position was that clause (5) (in tandem with other objectives and policies in the CE chapter) regulates the effects of land use activities well upstream of the coastal environment to an extent beyond that provided for in the

NZCPS. They also considered that the provision contained an unwarranted extension of commercial forestry regulation beyond the National Environmental Standards for Commercial Forestry (NES-CF), without any evidence to support more stringent regulation.

[55] The following persons gave notice of an intention to join this part of the Forestry appeal pursuant to s274 RMA:

- (a) Kāi Tahu;
- (b) Forest & Bird;
- (c) the DGC;
- (d) Fish & Game; and
- (e) Meridian.

Resolution

[56] The parties have proposed to amend CE-P3 as follows:

CE-P3 – Coastal water quality

Manage water quality in the coastal environment by:

(1A) restoring coastal water quality where it is considered to have deteriorated to the extent described within CE-P2(2),

(1) maintaining or enhancing healthy coastal ecosystems, indigenous habitats provided by the coastal environment, indigenous vegetation and fauna, and the migratory patterns of indigenous coastal water species,

(2) sustaining Kāi Tahu relationships with and customary uses of coastal water,

(3) maintaining or enhancing recreation opportunities and existing uses of coastal water,

(5) controlling activities outside the coastal marine area that have an effect on

coastal water quality, including by managing the effects of commercial forestry activities on coastal water quality in accordance with the NES-CF, unless additional stringency is justified.

(6) maintaining or enhancing water quality within areas of coastal water identified in CE-P2(3) where mana whenua have a particular cultural interest, and

(7) setting appropriate limits and targets for coastal water quality, including for ecosystem health, habitats of taoka species, sediment, contact recreation and safe kaimoana gathering.

[57] The agreed amendments in clause (5) respond to the Forestry Appellants' appeal point. The parties have agreed that the addition to clause (5) recognises that commercial forestry activities effects on water are generally managed by the NES-CF, except where additional stringency is justified, consistent with s32(4) of the Act.

[58] No amendments to CE-P3 were agreed between the parties in response to the Kāi Tahu or Forest & Bird's appeal points.

[59] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss 5, 7(b) and 7(f).

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

[60] Policy CE-P9 was appealed by the following parties:

- (a) the EDBs;
- (b) EDS;
- (c) Forest & Bird;
- (d) Cain Whānau; and
- (e) Kāi Tahu.

EDBs

[61] The EDBs’ appeal sought to introduce a new Policy ‘EIT-INF-PXXA – Managing effects of electricity distribution infrastructure within the coastal environment’ to introduce a bespoke effects management policy for the electricity distribution network in the coastal environment that would apply to the electricity distribution network instead of CE-P9.

[62] The EDBs’ position was that CE-P9 is the sole policy dealing with activities in the coastal environment, but it does little to direct the effects management that is required to achieve the objectives of the chapter, beyond repeating the NZCPS. Through submissions and expert evidence, the EDBs’ appeal sought to introduce a “carve-out” provision with respect to its activities in the coastal environment.

[63] The following persons gave notice of an intention to join this part of the EDBs’ appeal pursuant to s274 RMA:

- (a) the DGC;
- (b) Forest & Bird;
- (c) EDS;
- (d) DCC;
- (e) Fish & Game;
- (f) Kāi Tahu;
- (g) QLDC;
- (h) the Fuel Companies;
- (i) Transpower;
- (j) Meridian; and
- (k) QAC.

EDS

[64] EDS’s appeal sought amendments to clause (2A) to clarify that only activities with a functional need to be located within the coastal environment

should locate there. EDS's position was that the NZCPS only allows activities that have a functional need to be located in the coastal environment, and the PORPS should reflect this.

[65] The following persons gave notice of an intention to join this part of EDS's appeal pursuant to s274 RMA:

- (a) the DGC;
- (b) Forest & Bird;
- (c) Cain Whānau;
- (d) the EDBs;
- (e) the Fuel Companies;
- (f) NZTA;
- (g) Fish & Game;
- (h) Kāi Tahu;
- (i) QLDC;
- (j) Beef + Lamb;
- (k) Meridian;
- (l) the Forestry Appellants;
- (m) POL; and
- (n) Transpower.

Forest & Bird

[66] Forest & Bird's appeal sought amendments to clause (2A) similar to EDS, to ensure only activities with a functional need can be located within the coastal marine area. Its appeal also sought amendments to clause (4) to require development be set back from the coastal marine area and adjoining areas. Forest & Bird's position was that CE-P9 failed to give effect to the NZCPS.

[67] The following persons gave notice of an intention to join this part of Forest & Bird's appeal pursuant to s274 RMA:

- (a) the DGC;
- (b) DCC;
- (c) Cain Whānau;
- (d) the EDBs;
- (e) Transpower;
- (f) NZTA;
- (g) Beef + Lamb;
- (h) Fish & Game;
- (i) Kāi Tahu;
- (j) QLDC;
- (k) the Fuel Companies;
- (l) Meridian;
- (m) QAC;
- (n) the Forestry Appellants; and
- (o) POL.

Cain Whānau

[68] Cain Whānau’s appeal sought to insert “and owners of Māori freehold land” alongside all references to “mana whenua”.

[69] As set out in the MW chapter consent memorandum dated 14 March 2025, the parties agreed that the rights and interests of owners of Māori freehold land, in respect to their land, should be recognised in specific circumstances, alongside Kāi Tahu as mana whenua.

[70] The parties to the appeal have agreed that CE-P9 is an instance where the context required amendments to recognise the rakatirataka of owners of Māori freehold land alongside Kāi Tahu, as follows:

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

(7) enabling mana whenua, and owners of Māori freehold land in relation to their land, to provide for their cultural and social needs for papakāinga, marae and associated developments and make appropriate provision for them.

[71] Further, for the CE chapter, Cain Whānau identified CE-P9 as requiring amendment to give effect to their secondary alternate relief.

[72] The following persons gave notice of an intention to join this part of Cain Whānau's appeal pursuant to s274 RMA:

- (a) QLDC;
- (b) Transpower;
- (c) Meridian;
- (d) DCC;
- (e) Forest & Bird;
- (f) the EDBs;
- (g) Kāi Tahu;
- (h) the Forestry Appellants; and
- (i) POL.

Kāi Tahu

[73] The Kāi Tahu appeal sought amendments to the policies in the CE chapter to reflect the approach sought to be taken in other parts of the PORPS, including the MW chapter, to, inter alia, enable the use of Māori land and Native Reserves.

[74] Prior to the mediation, and in collaboration with Cain Whānau, Kāi Tahu sought that clause (7) be replaced with the following:

(7) enabling the use of Native Reserves and Māori Land by mana whenua and owners of Māori freehold land in accordance with MW-P4.

[75] The parties advised that the proposed amendments are consistent with MW-P4 as confirmed by the court.³ In short, Kāi Tahu considered the proposed amendments reflected a more appropriate approach to the recognition of rakatirataka in respect of native reserves and Māori land.

[76] The following persons gave notice of an intention to join this part of the Kāi Tahu appeal pursuant to s274 RMA:

- (a) Cain Whānau;
- (b) DCC;
- (c) the Forestry Appellants;
- (d) Meridian;
- (e) Transpower;
- (f) the EDBs;
- (g) Fish & Game;
- (h) Forest & Bird;
- (i) Oceana Gold (New Zealand) Limited (OGL);
- (j) POL;
- (k) QAC; and
- (l) QLDC.

Resolution

[77] The parties have proposed to amend 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:

- (1) encouraging the consolidation of existing coastal settlements and urban areas where this will contribute to the avoidance or mitigation of sprawling or sporadic

³ [2025] NZEnvC 107.

patterns of settlement and urban growth,

(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,

(2A) recognising ~~and providing for~~ the functional needs and operational needs of infrastructure,

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

(4) requiring development to be set back from the coastal marine area and other ~~coastal~~ water bodies in the coastal environment where practicable and reasonable, to protect the natural character, open space, public access and amenity values of the coastal environment,

(5) 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,

(6) taking into account the ongoing effects of climate change and coastal hazard risk;

(7) enabling the use of Native Reserves and Māori Land by mana whenua and owners of Māori freehold land in accordance with MW-P4.

~~(7) enabling mana whenua to provide for their cultural and social needs for papakāinga, marae and associated developments and make appropriate provision for them.~~

[78] The parties advised that the deletion of “and providing for” in clause (2A) narrows the scope of the policy, which addresses the relief sought by EDS.

[79] The addition to clause (4) responds to Forest & Bird’s appeal point. The parties have agreed that the amendment is appropriate to ensure consistency with

the change to CE-O1A, and it recognises that water bodies in the coastal environment may contain fresh or brackish water.

[80] The parties agreed that the replacement of clause (7) responds to Kāi Tahu and Cain Whānau’s concerns that the policy did not adequately provide for the use of Māori land and native reserves and is consistent with MW-P4.

[81] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss 5, 6(a), 6(e), 7(a), 7(aa), and 8.

CE-P10 – Activities within the coastal marine area

[82] Policy CE-P10 was appealed by Forest & Bird and EDS.

Forest & Bird

[83] Forest & Bird’s appeal sought the deletion of “or operational need” from clause (3). Forest & Bird’s position was that the inclusion of “operational need” does not give effect to the NZCPS.

[84] The following persons gave notice of an intention to join this part of Forest & Bird’s appeal pursuant to s274 RMA:

- (a) the DGC;
- (b) the EDBs;
- (c) Meridian;
- (d) Cain Whānau;
- (e) the Fuel Companies;
- (f) Transpower;
- (g) QLDC;
- (h) NZTA;
- (i) Kāi Tahu;

- (j) DCC;
- (k) Fish & Game;
- (l) QAC; and
- (m) POL.

EDS

[85] Similar to Forest & Bird’s appeal, EDS’s appeal sought the deletion of “or operational need” from clause (3). EDS’s position was also that the inclusion of “operational need” did not give effect to the NZCPS.

[86] The following persons gave notice of an intention to join this part of EDS’s appeal pursuant to s274 RMA:

- (a) the DGC;
- (b) Forest & Bird;
- (c) the Fuel Companies;
- (d) the EDBs;
- (e) Cain Whānau;
- (f) Transpower;
- (g) NZTA;
- (h) Meridian;
- (i) Kāi Tahu;
- (j) the Forestry Appellants;
- (k) QLDC;
- (l) Fish & Game;
- (m) QAC; and
- (n) POL.

Resolution

[87] The parties have proposed to amend CE-P10 as follows:

CE-P10 – Activities within the coastal marine area

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

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

[88] The parties consider that the agreed amendments better reflect Policy 6 of the NZCPS. The addition of the qualifiers at the start of each clause also better aligns the requirements of the NZCPS.

[89] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss 5, 6(a), 7(b), 7(c) and 7(f).

CE-P11 – Aquaculture

[90] Policy CE-P11 was appealed by Kāi Tahu.

[91] The Kāi Tahu appeal sought to insert a new clause, as follows:

(4) whether the aquaculture development sought is being carried out by Kāi Tahu and has been identified as an outcome of settlements under the Māori Commercial Claims Aquaculture Settlement Act 2004

[92] The Kāi Tahu position was that the proposed amendment CE-P11 was required to provide for settlement outcomes under Te Tiriti o Waitangi and the

Māori Commercial Claims Aquaculture Settlement Act 2004.

[93] The following persons gave notice of an intention to join this part of the Kāi Tahu appeal pursuant to s274 RMA:

- (a) Cain Whānau;
- (b) the DGC;
- (c) POL;
- (d) QLDC;
- (e) Meridian;
- (f) the EDBs;
- (g) DCC;
- (h) Fish & Game;
- (i) the Forestry Appellants; and
- (j) QAC.

Resolution

[94] The parties have proposed to amend CE-P11 as follows:

CE-P11 – Aquaculture

Provide for the development and operation of aquaculture activities taking into account policies CE-P3 to CE-P12, and:

- (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, ~~and~~ and
- (4) aquaculture settlement outcomes in accordance with MW-P2(8A) and MW-M5(4).

[95] The parties consider that the agreed amendments acknowledge the importance of providing for aquaculture settlement outcomes under the Māori Commercial Claims Aquaculture Settlement Act 2004 by cross-referencing the relevant MW policy and method that are directly related to those outcomes. The parties have agreed that it is appropriate to cross-reference the provisions where the direction is provided within the PORPS, rather than repeat that direction in CE-P11.

[96] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss 5, 6(e), 7(a), 7(aa) and 8 RMA as well as the Māori Commercial Claims Aquaculture Settlement Act 2004.

CE-P12 – Reclamation and de-reclamation

[97] Policy CE-P12 was appealed by Kāi Tahu.

[98] The Kāi Tahu appeal sought to insert a new clause into CE-P12, as follows:

(e) There will be no adverse effects on:

i. the natural and ecological functioning of the coastal environment,

ii. coastal water quality, and

iii. customary fisheries, mahika kai areas, wāhi tūpuna or areas of coastal water where mana whenua have a particular interest.

[99] Further relief was sought to clarify the meaning of “significant national or regional benefit”, and in relation to the conjunctive nature of the policy.

[100] The Kāi Tahu appeal also sought any such further, alternative or consequential amendments to give effect to this relief.

[101] The Kāi Tahu position was that some areas such as Otago Harbour have had a surfeit of reclamation to the point where natural functioning, ecosystems and mahika kai habitats have been severely degraded. This has detrimentally affected the Kāi Tahu relationship to the moana, contrary to the requirements of s6(e) of the Act. Kāi Tahu considers that merely restating Policy 10 of the NZCPS, as CE-P12 does, provides no regional guidance for when reclamation is appropriate, nor where the cumulative effects should preclude further reclamation.

[102] The following persons gave notice of an intention to join this part of the Kāi Tahu appeal pursuant to s274 RMA:

- (a) Cain Whānau;
- (b) the DGC;
- (c) Forest & Bird;
- (d) the EDBs;
- (e) DCC;
- (f) Meridian;
- (g) QLDC;
- (h) QAC;
- (i) Fish & Game;
- (j) the Forestry Appellants; and
- (k) POL.

Resolution

[103] The parties have agreed not to make any changes to CE-P12.

[104] However, they have proposed an amendment to Method ‘CE-M3 – Regional plans’, to make it clear that in addition to CE-P12, all of the other policies in the CE chapter apply to the management of reclamation and de-reclamation activities.

[105] The parties consider that the amendments are appropriate and consistent

with the NZCPS, in particular Policies 10, 13, 15, Objective 3 and Policy 2.

[106] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss 5, 6(a), 6(b), 6(e), 7(a), and 8.

CE-P13 – Rakatirataka and kaitiakitaka

[107] Policy CE-P13 was appealed by Kāi Tahu and Cain Whānau.

Kāi Tahu

[108] The Kāi Tahu appeal sought to insert a new clause into CE-P13 to enable mana whenua and Māori freehold landowners to lead approaches to the management of effects on their whenua. The Kāi Tahu position was that there was a lack of cross-referencing to other CE provisions and insufficient provision for the expression of rakatirataka.

[109] The following persons gave notice of an intention to join this part of the Kāi Tahu appeal pursuant to s274 RMA:

- (a) Cain Whānau;
- (b) DCC;
- (c) the Forestry Appellants;
- (d) Meridian;
- (e) Transpower;
- (f) the EDBs;
- (g) Fish & Game;
- (h) Forest & Bird;
- (i) OGL;
- (j) POL;
- (k) QAC; and
- (l) QLDC.

Cain Whānau

[110] Cain Whānau’s appeal sought similar amendments to the Kāi Tahu appeal point on this policy, pursuant to its secondary relief. Cain Whānau’s position was that Māori freehold landowners should be able to express rakatirataka over their own land.

[111] The following persons gave notice of an intention to join this part of Cain Whānau’s appeal pursuant to s274 RMA:

- (a) Kāi Tahu;
- (b) Meridian;
- (c) QLDC;
- (d) Transpower;
- (e) the EDBs;
- (f) DCC;
- (g) the Forestry Appellants;
- (h) Forest & Bird; and
- (i) POL.

Resolution

[112] The parties have proposed to amend CE-P13 as follows:

Recognise and 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) 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,

(3) providing for customary uses, including mahika kai and the harvesting of kaimoana,

(4) incorporating the impact of activities on customary fisheries, mātaihai reserves and taiāpure in decision making, and

(5) incorporating mātauraka Māori in the management and monitoring of activities in the coastal environment, and

(6) having regard to the principles of the Treaty of Waitangi, and the purpose of the redress provided for in the NTCSA, including redress arising from the Ancillary Claims and SILNA by:

(a) enabling mana whenua, and owners of Māori freehold land in relation to their land, to lead approaches to the management of the effects of use and development of Native Reserves and Māori land in accordance with mātauraka and tikaka, and

(b) acknowledging that effects of the use and development of Native Reserves and Māori land, including on the matters otherwise provided for in CE-P4, CE-P5, CE-P6 and CE-P9(4), may be appropriate on that land.

[113] The agreed addition of clause (6) responds to Kāi Tahu and Cain Whānau's appeal points. The parties consider that the amendments better enable Māori freehold landowners to manage the effects of use and development on their land and is consistent with MW-P4.

[114] Clause 6(b) provides guidance on how the use and development of Māori land interacts with, and are to be reconciled with, the other matters in the specified CE policies.

[115] The parties consider that the amendments are appropriate and are consistent with the NZCPS, in particular, Objective 3 and Policy 2.

[116] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss 5, 6(e), 7(a), 7(aa),

(b) and 8.

CE-PX (new policy sought relating to discharges to the coastal environment)

[117] The Kāi Tahu appeal sought a new policy to ensure the appropriate management of discharges into the coastal environment.

[118] The Kāi Tahu position was that discharges to the coastal environment should be managed, consistent with the principle of ki uta ki tai, and in line with Policies ‘LF-FW-P15 – Stormwater discharges’ and ‘LF-FW-P16 – Discharges’ containing animal effluent, sewage, greywater and industrial and trade waste of the PORPS, which govern discharges to freshwater.

[119] The following persons gave notice of an intention to join this part of the Kāi Tahu appeal pursuant to s274 RMA:

- (a) Cain Whānau;
- (b) the DGC;
- (c) Forest & Bird;
- (d) Beef + Lamb;
- (e) the Forestry Appellants;
- (f) Meridian;
- (g) the Fuel Companies;
- (h) the EDBs;
- (i) FFNZ;
- (j) Fish & Game;
- (k) OGL;
- (l) POL;
- (m) QAC; and
- (n) QLDC.

Resolution

[120] The parties have proposed to insert two new policies as follows:

CE-P14 – Discharges of wastewater, sewage, greywater, animal effluent, and industrial and trade waste in the coastal environment

Minimise the adverse effects of discharges of wastewater, sewage, greywater, animal effluent, and industrial and trade waste in the coastal environment by:

(1) recognising and providing for Kāi Tahu values, and having particular regard to the effects of discharges of wastewater and sewage on those values, in resource-management decision-making,

(2) in relation to discharges to coastal water from activities on land:

(a) not allowing the new direct discharge of untreated wastewater, sewage, animal effluent, and industrial and trade waste to coastal water,

(b) phasing out existing direct discharges of treated and untreated wastewater, sewage, animal effluent, or industrial and trade waste to coastal water to the extent practicable,

(c) requiring new discharges of treated wastewater, sewage, animal effluent, and industrial and trade waste to be to land and not to coastal water, unless,

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

(ii) the adverse effects associated with a discharge to land are demonstrably greater than a discharge to coastal water, or

(iii) the adverse effects associated with a discharge to coastal water are significantly less than, and replace, an existing discharge(s).

(d) requiring that all discharges containing sewage or industrial and trade waste are discharged into a reticulated wastewater system, where one is made

available by its operator, unless alternative treatment and disposal methods will result in improved outcomes for coastal water,

(e) requiring implementation of methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring from reticulated wastewater systems, and

(f) promoting source control as a method for reducing contaminants in discharges,

(3) in relation to discharges to fresh water in the coastal environment, applying LF-FW-P16,

(4) in relation to discharges from ports and other relevant marine facilities:

(a) requiring operators of ports, marinas, and other relevant marine facilities to:

(i) provide for the collection of wastewater and sewage from vessels,

(ii) manage the safe containment and disposal of waste and other residues from vessel maintenance; and

(b) where appropriate, providing for the establishment of facilities for the collection of sewage and other wastes from recreational and commercial boating.

CE-P15 – Discharges of stormwater in the coastal environment

Minimise the adverse effects of discharges of stormwater, including from a reticulated system, in the coastal environment by:

(1) requiring integrated catchment management plans for management of stormwater in urban areas,

(2) requiring all stormwater to be discharged into a reticulated system, where one is made available by its operator, unless alternative treatment and disposal methods will result in the same or improved outcomes for coastal water,

(3) implementing methods to progressively reduce unintentional stormwater inflows to wastewater systems,

(4) promoting source control as a method for reducing contaminants in stormwater discharges and the use of good practice guidelines for managing stormwater, and

(5) in relation to discharges of stormwater to fresh water in the coastal environment, applying LF-FW-P15.

[121] The parties have also proposed a consequential amendment to ‘EIT-TRAN-P23 – Commercial port activities’ to include cross-references to the new policies.⁴

[122] The Decisions Version of the PORPS did not include a policy directly managing the discharge of contaminants and sediments to water in the coastal environment. Instead, CE-P3 was implemented through CE-M3(4). The parties consider that the agreed new policies address this gap by providing the regional policy-level guidance necessary to give effect to Policies 22 and 23 of the NZCPS and to achieve CE-O1A and CE-O1. In contrast, the ‘LF – Land and Freshwater’ (LF) chapter includes explicit policy direction on discharges to freshwater, within provisions such as LF-FW-P15 and LF-FW-P16. The parties advised that, without equivalent policy direction for the coastal environment, the PORPS risked inconsistency between the coastal and freshwater domains.

[123] The content of the agreed new policies draws on the direction within CE-M4(3), Policies 22 and 23 of the NZCPS, and also the equivalent policy direction in the LF chapter. Consequential amendments have also been agreed to CE-M3(4) to remove duplication of matters now provided for in the agreed new policies.

[124] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss 5, 6(a) and 7(f),

⁴ [2025] NZEnvC 323 at [216].

as well as the National Policy Statement for Freshwater Management 2020, and the NZCPS.

CE-M3 – Regional plans

[125] Method CE-M3 was appealed by the following persons:

- (a) Forest & Bird;
- (b) DCC;
- (c) the Forestry Appellants;
- (d) Kāi Tahu; and
- (e) Cain Whānau.

Forest & Bird

[126] Forest & Bird’s appeal sought to reinstate reference to “regionally significant surf breaks” in clauses (2) and (5b) and amend clause (3) to reference adjoining intertidal areas and other water bodies. Forest & Bird also sought to insert two new clauses, as follows:

(x) include other mapping as set out in the CE Policies

(x) control, permit or otherwise restrict vehicle access to beaches, foreshore and the seabed

[127] Forest & Bird’s position was that the method did not give effect to Policy 20 of the NZCPS, and the other amendments were required to capture the amendments Forest & Bird sought to the CE policies.

[128] The following persons gave notice of an intention to join this part of Forest & Bird’s appeal pursuant to s274 RMA:

- (a) Cain Whānau;
- (b) the EDBs;

- (c) DCC;
- (d) Kāi Tahu;
- (e) the Fuel Companies;
- (f) Meridian;
- (g) QLDC;
- (h) the DGC;
- (i) Fish & Game;
- (j) the Forestry Appellants;
- (k) QAC; and
- (l) POL.

DCC

[129] DCC's appeal sought amendments to CE-M3(4) to address issues with the clause. DCC's position was that the CE-M3(4) was too restrictive and unworkable for large public wastewater and stormwater networks that are regionally significant infrastructure.

[130] The following persons gave notice of an intention to join this part of DCC's appeal pursuant to s274 RMA:

- (a) the EDBs;
- (b) the Fuel Companies;
- (c) Forest & Bird;
- (d) Kāi Tahu;
- (e) the Forestry Appellants; and
- (f) QAC.

Forestry Appellants

[131] The Forestry appeal sought an amendment to CE-M3(4)(d)(ii) to exclude harvesting undertaken in accordance with the NES-CF. The Forestry Appellants' position was that there was no reason for more stringent regulation of harvesting

in the Otago region beyond the regulation provided for in the NES-CF.

[132] The following persons gave notice of an intention to join this part of the Forestry appeal pursuant to s274 RMA:

- (a) DCC;
- (b) the DGC;
- (c) Kāi Tahu;
- (d) EDS;
- (e) Forest & Bird;
- (f) Meridian; and
- (g) Fish & Game.

Cain Whānau

[133] Cain Whānau’s appeal sought to insert a new clause (5) and amend clause (3) as follows:

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

(3) excluding Native Reserves and Māori Land, require development to be set back from the coastal marine area and other coastal water where practicable to protect the natural character, open space, public access and amenity values of the coastal environment,

(4) ...

(5) enable the use of Native Reserves and Māori land by mana whenua and owners of Māori freehold land in accordance with MW-P4, and recognise rakatirataka over this land by enabling mana whenua, and owners of Māori freehold land in relation to their land, to lead approaches to manage any adverse effects of such use on the environment.

[134] Cain Whānau’s position was that owners of Māori freehold land should be

able to use and develop their land and manage any adverse effects in accordance with mātauraka and tikaka, to implement the policy direction sought in MW-P4, CE-P9 and CE-P13.

[135] The following persons gave notice of an intention to join this part of Cain Whānau’s appeal pursuant s274 RMA:

- (a) Kāi Tahu;
- (b) Meridian;
- (c) QLDC;
- (d) Transpower;
- (e) the EDBs;
- (f) DCC;
- (g) the Forestry Appellants;
- (h) Forest & Bird; and
- (i) POL.

Resolution

[136] The parties have proposed to amend CE-M3 as follows:

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),

(1A) identify, manage, and improve where degraded, areas of coastal water where mana whenua have a particular interest, including wāhi tūpuna, statutory acknowledgement areas, tōpuni and nohoaka identified in the NTCSA, and customary fisheries,

(1B) set water quality limits and targets for coastal waters in accordance with CE-

P3,

(2) map the areas and characteristics of, and access to, surf breaks of national significance,

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

(4) manage the discharge of contaminants into coastal water to achieve limits or targets for water quality by:

(a) using the smallest mixing zone necessary to achieve the required water quality standards in the receiving environment; and minimise adverse effects on the life-supporting capacity of water within any mixing zone,

(ab) managing discharges of wastewater, sewage, greywater, animal effluent, and industrial and trade waste in the coastal environment in accordance with CE-P14,

(ac) managing discharges of stormwater in the coastal environment in accordance with CE-P15,

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

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

~~(bb) encouraging methods and actions to reduce contaminant discharges at source;~~

~~(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~~ excluding the impacts of harvesting ~~plantation~~ commercial forestry, and

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

(da) controlling the impacts of harvesting commercial forestry, in accordance with the NESCF, unless additional stringency is justified,

~~(e) designing, installing, operating and maintaining new reticulated wastewater systems to avoid cross-contamination between wastewater and stormwater systems and remedying cross-contamination where it currently exists 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,

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

(a) manage coastal water quality; preserve and restore natural character; and protect natural features and landscapes (including seascapes), wāhi tūpuna and indigenous biodiversity of the coastal marine area in accordance with CE-P3, CE-P4, CE-P5, CE-P6 and HCV-WT-P2, and

(b) manage Otago's surf breaks of national significance in accordance with CE-P7,

(6) include provisions requiring the adoption of a precautionary approach to assessing the effects of activities in the coastal environment in accordance with IM-P6 where:

(a) there is scientific uncertainty or a lack of relevant knowledge, or

(b) there are potentially significant or irreversible adverse effects, or

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

(7) identify areas that may be appropriate for aquaculture,

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

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

(10) manage reclamation and de-reclamation activities in accordance with CE-P12, in addition to the other matters in CE-P1A to P11 and P13, 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,

(11) require stock to be excluded from the coastal marine area, adjoining intertidal areas and coastal water and riparian margins in the coastal environment, 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, and restoring natural character, features and landscapes (including seascapes) in accordance with CE-P3, CE-P4, CE-P5, CE-P6, and CE-P13, and

(13) identify any aquaculture settlement areas gazetted under the Māori Commercial Aquaculture Claims Settlement Act 2004.

[137] The agreed amendments to clause (4) of CE-M3 respond to the introduction of the agreed new policies related to discharges to the coastal environment (Policies CE-P14 and CE-P15) by removing duplication.

[138] The parties consider that deletion of 4(e) responds to DCC’s appeal point and makes the method more workable for water infrastructure.

[139] The amendments to 4(d)(ii) and the addition of 4(da) responds to the Forestry Appellants’ appeal point, regarding the NES-CF managing discharges from commercial forestry.

[140] The parties have also agreed it would be helpful to include a definition for “commercial forestry” from the NES-CF as a consequential amendment to the agreed amendments to CE-P3(5), CE-M3(d) and (da), and M4(3) and (3AA), as follows:

Commercial forestry	has the same meaning as in regulation 3 of the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017 (as set out in the box below) means exotic continuous-cover forestry or plantation forestry
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[141] The parties consider that the amendments are within the jurisdiction of the

court and give effect to the relevant parts of the Act, including ss 5, 6(a) and 7(f).

CE-M4 – District plans

[142] Method CE-M4 was appealed by the following persons:

- (a) Forest & Bird;
- (b) the Forestry Appellants; and
- (c) Cain Whānau.

Forest & Bird

[143] Forest & Bird’s appeal sought to reinstate reference to “regionally significant surf breaks” in clause (10), and amend clause (8) to include “permit or otherwise restrict”, and insert a new clause as follows:

(x) include other mapping as set out in the CE Policies.

[144] Forest & Bird’s position was that clause (8) required broadening to reflect the terminology in Policy 20 of the NZCPS, and the other amendments were required to capture the amendments Forest & Bird sought to the CE policies.

[145] The following persons gave notice of an intention to join this part of Forest & Bird’s appeal pursuant to s274 RMA:

- (a) the DGC;
- (b) Meridian;
- (c) Cain Whānau;
- (d) the EDBs;
- (e) DCC;
- (f) Kāi Tahu;
- (g) QAC;
- (h) Fish & Game;

- (i) the Forestry Appellants; and
- (j) POL.

Forestry Appellants

[146] The Forestry appeal sought amendments to clarify that commercial forestry is not captured by CE-M4(3). The Forestry Appellants were concerned that district councils might impose greater controls on commercial forestry than those required under the NES-CF and these were not justified.

[147] The following persons gave notice of an intention to join this part of the Forestry appeal pursuant to s274 RMA:

- (a) DCC;
- (b) the DGC;
- (c) Kāi Tahu;
- (d) Forest & Bird;
- (e) Meridian;
- (f) Fish & Game; and
- (g) EDS.

Cain Whānau

[148] As part of its secondary relief, Cain Whānau sought amendments to CE-M4 to insert a new clause as follows:

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

(9) enable the use of Native Reserves and Māori Land by mana whenua and owners of Māori freehold land in accordance with MW-P4, and recognise rakatirataka over this land by enabling mana whenua, and owners of Māori freehold land in relation to their land, to lead approaches to manage any adverse effects of such use on the environment.

[149] Cain Whānau’s position was that owners of Māori freehold land should be able to use and develop their land, and manage any adverse effects, in accordance with mātauraka and tikaka.

[150] The following persons gave notice of an intention to join this part of Cain Whānau’s appeal pursuant to s274 RMA:

- (a) Kāi Tahu;
- (b) Meridian;
- (c) QLDC;
- (d) Forest & Bird;
- (e) the Forestry Appellants;
- (f) the EDBs;
- (g) DCC; and
- (h) POL.

Resolution

[151] The parties have agreed to amend CE-M4 as follows:

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, mining, and vegetation planting, modification and removal in the coastal environment (outside the coastal marine area), excluding commercial forestry activities,
- (3A) achieve the integrated management of, and control over, land use activities

which could cause direct or indirect effects on the coastal marine area in accordance with CE-P1A,

(3AA) in relation to commercial forestry activities, manage the location and scale of earthworks, and vegetation planting, modification and removal in the coastal environment, in accordance with the NESCF, unless additional stringency is justified,

(4) require resource consent for uses of land on reclamations that have occurred after the date this RPS becomes operative,

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

(6) include provisions requiring the adoption of a precautionary approach to assessing the effects of activities in the coastal environment in accordance with IM-P6 where:

(a) there is scientific uncertainty or a lack of relevant knowledge, or

(b) there are potentially significant or irreversible adverse effects,

(c) coastal resources are potentially vulnerable to the effects of climate change.

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

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

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

(9) enable the use of Native Reserves and Māori land by mana whenua and owners of Māori freehold land in accordance with CE-P9(7), and recognise rakatirataka over this land by enabling mana whenua, and owners of Māori freehold land in relation to their land, to lead approaches to manage any adverse effects of such

use on the environment in accordance with CE-P13(6).

(10) provide access to surf breaks of national significance, and

(11) provide for and encourage activities undertaken for the primary purpose of enhancing coastal water quality, coastal habitats and ecosystems, customary fisheries and other mahika kai activities restoring natural character, features, or landscapes in accordance with CE-P1, CE-P3, CE-P4, CE-P6 and CE-P13.

[152] The proposed amendment to clause (3) and the addition of clause (3AA) respond to the Forestry Appellants' appeal point. The parties consider that these amendments reflect the NES-CF and are consistent with s32(4) of the Act.

[153] The proposed addition of clause (9) responds to Cain Whānau's appeal point. The parties have agreed that the amendments better enable owners of Māori land and native reserves, including Māori freehold landowners, to manage the effects of use and development on their land, and to use their land in accordance with mātauraka and tikaka.

[154] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss 5, 6(e), 7(f), and 8.

Other relevant matters

[155] QAC has not signed the consent memorandum requesting this Order. It has subsequently confirmed with the court that it has no interest in any appeal points addressed in this Order.⁵

Consideration

[156] I have read and considered the consent memorandum of the parties dated

⁵ By way of email to the court dated 16 October 2025.

7 October 2025 which proposes to resolve all appeal points on the CE chapter of the PORPS, and other relevant definitions and provisions as set out in ‘A:’ at the commencement of this Order.

[157] The parties advise that no appeals on the non-freshwater planning instruments of the PORPS are fully resolved as a result of this Order.

[158] The parties advise that there are no outstanding appeal points on the CE chapter as a result of this Order.

[159] The parties advise that all matters proposed for the court’s endorsement fall within the court’s jurisdiction and conform to the relevant requirements and objectives of the Act including, in particular, Pt 2.

Outcome

[160] All parties to the proceeding have executed the memorandum requesting the orders. On the information provided to the court, I am satisfied that the orders will promote the purpose of the Act so I will make the orders sought.



P A Steven
Environment Judge



Schedule

ENV-2024-CHC-25	Dunedin City Council
ENV-2024-CHC-26	Royal Forest and Bird Protection Society of New Zealand Incorporated v ORC
ENV-2024-CHC-27	Rayonier Matariki Forests, City Forests Limited, Ernslaw One Limited and Port Blakely NZ Limited
ENV-2024-CHC-30	Cain Whānau
ENV-2024-CHC-35	Transpower New Zealand Limited
ENV-2024-CHC-36	Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga, Te Ao Marama Incorporated on behalf of Waihopai Rūnaka, Te Rūnanga o Ōraka Aparima, and Te Rūnanga o Ōraka Aparima, and Te Rūnanga o Awarua and Te Rūnanga o Ngāi Tahu
ENV-2024-CHC-38	New Zealand Transport Agency – Waka Kotahi
ENV-2024-CHC-40	Environmental Defence Society Incorporated

Annexure 1

Amend definitions:

<u>Ecological integrity</u>	<u>has the same meaning as in clause 1.6 of the National Policy Statement for Indigenous Biodiversity 2023 (as set out below)</u> <u>means the extent to which an ecosystem is able to support and maintain its:</u> <u>(a) composition (being its natural diversity of <i>indigenous species, habitats, and communities</i>); and</u> <u>(b) structure (being its biotic and abiotic physical features); and</u> <u>(c) functions (being its ecological and physical processes).</u>
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Effects management hierarchy (in relation to indigenous biodiversity)	means an approach to managing the adverse effects of an activity of <i>indigenous biodiversity</i> that requires that: (a) adverse effects are avoided where practicable; then (b) where adverse effects cannot be avoided, they are minimised where practicable; then (c) where adverse effects cannot be minimised, they are remedied where practicable; then (d) where more than minor residual adverse effects cannot be avoided, minimised, or remedied, <i>biodiversity offsetting</i> is provided where possible; then (e) where <i>biodiversity offsetting</i> of more than minor residual adverse effects is not possible, <i>biodiversity compensation</i> is provided; then (f) if <i>biodiversity compensation</i> is not appropriate, the activity itself is avoided, unless the activity is <i>regionally significant infrastructure</i> and <i>nationally significant infrastructure</i> that is either <i>renewable electricity generation</i> or the <i>National Grid</i> then: (g) if compensation is not appropriate to address any residual adverse effects: <u>(ia) for the <i>National Grid</i>:</u> (i) the activity must be avoided if the residual adverse effects are significant; but (ii) if the residual adverse effects are not significant, the activity must be enabled if the national significance and benefits of the activity outweigh the residual adverse effects <u>(iia) for <i>renewable electricity generation</i>, consider whether the activity should be allowed, including by considering whether the national significance and benefits of the activity outweigh the residual adverse effects.</u>
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<u>Established activity</u>	has the same meaning as in clause 3.15 of the National Policy Statement for Indigenous Biodiversity 2023 (as set out below) <u>means an activity (including maintenance, operation, and upgrade) that:</u> <u>(a) is in, or affects, an SNA; and</u> <u>(b) is not a new subdivision, use, or development.</u>
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Significant natural area	has the same meaning as in the Interpretation section of the National Policy Statement for Indigenous Biodiversity 2023 (except that a reference to Appendix 2 rather than Appendix 1) as set out below: means: (a) any area that, after the commencement date, is notified or included in a <i>regional plan</i> or <i>district plan</i> as an SNA following an assessment of the area in accordance with Appendix 2APP2; and (b) any area that, on the commencement date, is already identified in a policy statement or plan as an area of significant <i>indigenous vegetation</i> or significant <i>habitat</i> of indigenous fauna (regardless of how it is described); in which case it remains as an <i>significant natural area</i> unless or until a suitably qualified ecologist engaged by the relevant <i>local authority</i> determines that it is not an area of significant <i>indigenous vegetation</i> or significant <i>habitat</i> of indigenous fauna.
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Amend abbreviation:

Abbreviation	Full Terms
<u>SILNA</u>	<u>South Island Landless Natives Act 1906</u>

Amend objectives:

ECO-O1 – *Indigenous biodiversity*

Otago's *indigenous biodiversity* is healthy and thriving and, at a minimum, any overall decline in condition, quantity and diversity is halted.

ECO-O3 – Kaitiakitaka and stewardship

~~Mana whenua~~ Kāi Tahu exercise their rakatirataka and role as kaitiaki of Otago's *indigenous biodiversity*, and Otago's communities are recognised as stewards, who are responsible for:

- (1) te hauora o te koiora (the health of *indigenous biodiversity*), te hauora o te taoka (the health of species and ecosystems that are taoka), and te hauora o te taiao (the health of the wider *environment*), while
- (2) providing for te hauora o te takata (the health of the people).

ECO-O4 – Social, economic and cultural well-being

While achieving ECO-O1, ECO-O2 and ECO-O3, the social, cultural, and economic well-being of people and communities now and in the future is provided for.

Amend policies:

ECO-P7 – Coastal and freshwater indigenous biodiversity

~~Indigenous biodiversity in the coastal environment is managed by CE-P5 in addition to all objectives and policies of the ECO chapter except ECO-P3, ECO-P4, ECO-P5A and ECO-P6. This chapter applies to all forms of *indigenous biodiversity* except that:~~

- (1) ECO-P2 only applies to *land* covered by *water*, *water bodies*, or *freshwater* ecosystems that are not within a *natural inland wetland* if those areas are contained within a wider *significant natural area* identified in accordance with ECO-M2, and
- (2) ECO-P3, ECO-P4, ECO-P5A, ECO-P6, and ECO-P13 do not apply in the coastal environment or to *land* covered by *water*, *water bodies*, or *freshwater* ecosystems.

ECO-P2 – Identifying *significant natural areas* and taoka

Except as provided for by ECO-P7, identify and map:

- (1) the areas of significant *indigenous vegetation* or significant *habitat* of indigenous fauna that qualify as *significant natural areas* using the assessment criteria in APP2 and in accordance with ECO-M2, and
- (2) where appropriate, *indigenous species* and ecosystems that are taoka, including those identified by *mana whenua* as requiring protection, in accordance with ECO-M3.

ECO-P3 – Protecting *significant natural areas* and taoka

~~Outside the coastal environment, and e~~Except as provided for by ECO-P4, ~~and ECO-P5A, and ECO-P7~~ protect *significant natural areas* and indigenous species and ecosystems that are taoka by:

- (1) protect *significant natural areas* by first avoiding the following adverse effects that result in:
 - (aa) loss of ecosystem representation and extent,
 - (ab) disruption to sequences, mosaics, or *ecosystem function*,
 - (ac) fragmentation of *significant natural areas* or the loss of buffers or connections within an SNA,
 - (ad) a reduction in the function of the *significant natural area* as a buffer or connection to other important *habitats* or ecosystems, or
 - (ae) a reduction in the population size or occupancy of *Threatened or At Risk (declining) species* that use an *significant natural area* for any part of their life cycle, and
- (2) protect *indigenous species* and ecosystems that are taoka by first avoiding adverse effects that result in ~~(b)~~ any loss of taoka values identified by *mana whenua* as requiring protection under ECO-P2(2), and
- (2A) after (1) and (2), applying the *effects management hierarchy (in relation to indigenous biodiversity)* to areas and values other than those covered by ECO-P3(1), and
- (3) prior to *significant natural areas* and *indigenous species* and ecosystems that are taoka being identified and mapped in accordance with ECO-P2, adopt a precautionary approach towards activities in accordance with IM-P6(2).

ECO-P4 – Provision for specified new activities

~~Outside of the coastal environment~~Except as provided for by ECO-P7, maintain Otago's *indigenous biodiversity* by following the sequential steps in the *effects management hierarchy (in relation to indigenous biodiversity)* when making decisions on plans, applications for *resource consent* or notices of requirement for the following activities in *significant natural areas*, or where they may adversely affect *indigenous species* and ecosystems that are taoka (but are not *specified highly mobile fauna*) that have been identified by *mana whenua* as requiring protection:

- (1) except as provided for in (1AA), new *subdivision*, use or development for the purpose of the construction development, operation, maintenance or upgrade of *specified infrastructure* that provides significant national or regional public benefit that has a *functional need* or *operational need* to locate within the relevant *significant natural area(s)* or where they may adversely affect *indigenous species* or ecosystems that are taoka, and there are no practicable alternative locations,
- (1AA) the development, operation, maintenance or upgrade of *renewable electricity generation* that provides significant national or regional public benefit that has a *functional need* or *operational need* to locate within the relevant *significant natural*

area(s) or where they may adversely affect indigenous species or ecosystems that are taoka, and alternative sites, methods and designs have been considered under EIT-EN-P6,

- (1A) new subdivision, use or development for the purpose of the development, operation and maintenance of mineral extraction activities that provides a significant national public benefit that could not otherwise be achieved within New Zealand and that have a functional need or operational need to locate within the relevant significant natural area(s) or where they may adversely affect indigenous species or ecosystems that are taoka, and there are no practicable alternative locations,
- (1B) new subdivision, use or development for the purpose of the development, operation and maintenance of aggregate extraction activities that provides a significant national or regional benefit that could not otherwise be achieved within New Zealand and that have a functional need or operational need to locate within the relevant significant natural area(s) or where they may adversely affect indigenous species or ecosystems that are taoka, and there are no practicable alternative locations, and
- ~~(1C) the operation or expansion of any coal mine that was lawfully established before August 2023 that has a functional need or operational need to locate within the relevant significant natural area(s) or where they may adversely affect indigenous species or ecosystems that are taoka, and there are no practicable alternative locations; except that, after 31 December 2030, this exception applies only to such coal mines that extract coking coal,~~
- ~~(2) the development of papakāika, marae and ancillary facilities associated with customary activities on Native reserves and Māori land,~~
- (2A) the sustainable use of mahika kai and kaimoana (seafood) by mana whenua;
- ~~(3) the use of Native reserves and Māori land to enable mana whenua to maintain their connection to their whenua and enhance social, cultural or economic well-being,~~

ECO-P5A – Managing adverse effects of established activities on significant natural areas

~~Outside of the coastal environment~~ Except as provided for by ECO-P7, enable established activities ~~the maintenance, operation, and upgrade of established activities~~ (excluding activities managed under ECO-P3 and ECO-P4), where the effects of the activity, including cumulative effects, on a significant natural area:

- (1) are no greater in intensity, scale, or character over time than at 4 August 2023, and
- (2) do not result in the loss of extent or degradation of ecological integrity of a significant natural area, subject to ECO-P12.

ECO-P6 – Maintaining indigenous biodiversity

~~Outside of the coastal environment~~ Except as provided for by ECO-P7, and excluding areas

protected under ECO-P3, manage Otago's *indigenous biodiversity* by all of the following:

- (1) applying the *effects management hierarchy (in relation to indigenous biodiversity)* to manage significant adverse *effects* on *indigenous biodiversity* and recognising and providing for the protection of significant *indigenous biodiversity* values identified under ECO-M2(4), and
- (2) requiring the *maintenance of indigenous biodiversity* for all other adverse *effects* of any activity, and
- (3) notwithstanding (1) and (2) above, for *regionally significant infrastructure* and *nationally significant infrastructure* that is either *renewable electricity generation* or the *National Grid*, avoid, remedy or mitigate adverse *effects* to the extent practicable, and
- (4) when significant *indigenous biodiversity* values are identified under ECO-M2(4), protecting those values in *district plans*.

ECO-P10 – Integrated approach

Manage *indigenous biodiversity* and the *effects* on it from *subdivision*, use and development in an integrated way, which means:

- (1) ensuring any permitted or controlled activity in a *regional plan* or *district plan* rule does not compromise the achievement of ECO-O1,
- (2) recognising the interactions *ki uta ki tai* (from the mountains to the sea) between the *terrestrial environment*, *fresh water*, and the *coastal marine area*, including:
 - (a) the migration of fish species between *fresh* and *coastal waters*, and
 - (b) the *effects* of *land* use activities on coastal biodiversity and ecosystems,
- (2A) acknowledging that *climate change* will affect *indigenous biodiversity* and managing activities which may exacerbate the *effects* of *climate change*,
- (3) providing for the coordinated management and control of *subdivision*, use and development, as it affects *indigenous biodiversity* across administrative boundaries,
- (4) working towards aligning strategies and other planning tools required or provided for in legislation that are relevant to *indigenous biodiversity*,
- (5) recognising the critical role of people and communities in actively managing the remaining *indigenous biodiversity* occurring on private *land*, and
- (6) adopting regulatory and non-regulatory regional pest management programmes (including, where necessary, in relation to *wilding conifers*).

ECO-P11 – Resilience to climate change

Promote the *resilience* of *indigenous biodiversity* to *climate change*, including at least by:

- (1) allowing and supporting the natural adjustment of *habitats* and ecosystems to the changing climate, and
- (2) considering the *effects* of *climate change* when making decisions on:
 - (a) *restoration* proposals, and

- (b) managing and reducing new and existing biosecurity risks, and
- (3) maintaining and promoting the enhancement of the connectivity between ecosystems, and between existing and potential *habitats*, to enable migrations so that species can continue to find viable niches as the climate changes, and
- (4) recognising the role of *indigenous biodiversity* in mitigating and adapting to the *effects of climate change*.

ECO-P12 – *Plantation forestry activities*

Manage:

- (1) the adverse *effects* of *plantation forestry activities* in any existing *plantation forest* on any *significant natural area* in a manner that:
 - (a) maintains *indigenous biodiversity* in the *significant natural area* as far as practicable, while
 - (b) provides for *plantation forestry activities* to continue, and
- (2) over the course of consecutive rotations of production, any part of a *significant natural area* that is within an area of an existing *plantation forest* that is planted, or is intended to be, *replanted* in trees for harvest in the manner necessary to maintain the long-term populations of any *Threatened or At Risk (declining) species* present in the area, and
- (3) the maintenance of *indigenous biodiversity* under ECO-P6 in a way that provides for *plantation forestry activities* to continue.

ECO-P13 – Managing *indigenous biodiversity* on native reserves and *Māori land*

In relation to native reserves and *Māori land* outside the coastal environment, recognise and give practical effect to Kāi Tahu rakatirataka and *kaitiakitaka* by:

- (1) enabling *mana whenua*, and owners of *Māori freehold land* in relation to their *land*, to lead approaches to the management of the *effects* of use and development of native reserves and *Māori land* on *indigenous biodiversity*, in accordance with *mātauraka* and *tikaka*,
- (2) applying *mātauraka* and *tikaka* to protect identified taoka and *SNAs*, and maintain and restore *indigenous biodiversity*:
 - (a) to the extent practicable,
 - (b) in a manner appropriate to the particular native reserve or *Māori land*, and
 - (c) having regard to the principles of the Treaty of Waitangi, and the purpose of the redress provided for in the NTCSA, including redress arising from the Ancillary Claims and SILNA, and
- (3) recognising that there are circumstances where the use and development of native reserves and *Māori land*, as provided in MW-P4, will prevail over the *indigenous biodiversity values* of that *land*, and

- (4) recognising that this policy applies instead of ECO-P3 to ECO-P6 in relation to native reserves and *Māori land*.

Amend methods:

ECO-M2 – Identification of *significant natural areas*

Local authorities must:

- (1) in accordance with the statement of responsibilities in ECO-M1, identify the areas and *indigenous biodiversity* values of *significant natural areas* as required by ECO-P2, and
- (2) map ~~and~~ (including verification wherever practicable) ~~verify~~ the areas and include the *indigenous biodiversity* values identified under (1) in the relevant *regional plans* and *district plans* ~~no later than 31 December 2030,~~
- (3A) 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 plans* and *district plans*, and
- (3) recognise that *indigenous biodiversity* spans jurisdictional boundaries by:
 - (a) working collaboratively to ensure the areas identified by different *local authorities* are not artificially fragmented when identifying *significant natural areas* that span jurisdictional boundaries, and
 - (b) ensuring that *indigenous biodiversity* is managed in accordance with this RPS,
- (4) until *significant natural areas* are identified and mapped in accordance with (1) and (2), require ecological assessments to be provided with applications for *resource consent*, plan changes and notices of requirement that identify whether affected areas are *significant natural areas* in accordance with APP2, and
- (5) in the following areas, prioritise identification under (1)
 - (a) intermontane basins that contain *indigenous vegetation* and *habitats*,
 - (b) areas of dryland shrubs,
 - (c) areas which include braided *river systems*, including the Makarore, Mātakitaki and Lower Waitaki Rivers,
 - (d) areas of montane tall tussock grasslands, and
 - (e) limestone habitats, and
- (6) ~~when~~ when identifying *significant natural areas*, ensuring that:
 - (a) if the values or extent of a proposed *significant natural area* are disputed by the landowner, the *local authority*:
 - (i) conducts a physical inspection of the area,
 - (ii) or, if a physical inspection is not practicable, uses the best information available to it at the time, and

- (b) if requested by a *territorial authority*, the *regional council* will assist the *territorial authority* in undertaking its district-wide assessment, and
 - (c) where a *territorial authority* has identified a *significant natural area* ~~prior to 4 August 2023, and prior to 4 August 2027~~, a suitably qualified ecologist is engaged by the *territorial authority* to confirm that the methodology originally used to identify the area as a *significant natural area*, and its application, is consistent with the assessment approach in APP2 in accordance with any timeframes specified in the NPSIB, and
 - (d) if a ~~*territorial*~~ *local* authority becomes aware (as a result of a *resource consent* application, notice of requirement or any other means) that an area may be an area of significant *indigenous vegetation* or significant *habitat* of indigenous fauna that qualifies as a *significant natural area*, the ~~*territorial*~~ *local* authority:
 - (i) conducts an assessment of the area in accordance with APP2 as soon as practicable, and
 - (ii) if a new *significant natural area* is identified as a result, includes it in the next appropriate plan or plan change notified by the ~~*territorial*~~ *local* authority, and
 - (e) when a *territorial authority* does its 10-yearly plan review, it assesses its district in accordance with ECO-P2 and APP2 to determine whether changes are needed, and
- (7) allow an area of Crown-owned land to qualify as a *significant natural area* without the need for the assessment required by ECO-P2, using APP2, if:
- (a) the *land* is managed by the Department of Conservation under the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act, and
 - (b) the *territorial authority* is reasonably satisfied, after consultation with the Department of Conservation, that all or most of the area would qualify as a *significant natural area* under APP2, and
 - (c) the area is:
 - (i) a large and more-or-less contiguous area managed under a single protection classification (such as a national park), or
 - (ii) a large, compact, and more-or-less contiguous area under more than one classification (such as adjoining reserves and a conservation park), or
 - (iii) a well-defined landscape or geographical feature (such as an island or mountain range), or
 - (iv) a scientific, scenic or nature reserve under the Reserves Act 1977, a sanctuary area, ecological area, or wildlife management area under the Conservation Act 1987, or an isolated part of a national park.

ECO-M4 – Regional plans

Otago Regional Council must prepare or amend and maintain its *regional plans* to:

- (1) ~~if the requirements of ECO-P3 to ECO-P6 can be met~~, provide for the use of *lakes* and *rivers*, and their *beds*, including:

- (a) activities undertaken for the purposes of *pest* control or maintaining or enhancing the *habitats* of indigenous fauna, and
 - (b) the maintenance and use of existing *structures* that are lawfully established (including *infrastructure*), and
 - (c) *infrastructure* that has a *functional need* or *operational need* to be sited or operated in a particular location,
- (1A) manage the clearance or modification of *indigenous vegetation*, while allowing for *mahika kai* and kaimoana (seafood) activities (including through the development, in partnership with *mana whenua*, of provisions for *mahika kai* and kaimoana activities that may provide an alternative approach to *effects* management than the policies in this ECO chapter (in accordance with ECO-M4D),
- ~~(2) require:~~
- ~~(a) resource consent applications to include information that demonstrates that the sequential steps in the effects management hierarchy (*in relation to indigenous biodiversity*) have been followed, and~~
 - ~~(b) that consents are not granted if the sequential steps in the effects management hierarchy (*in relation to indigenous biodiversity*) in ECO-P6 have not been followed, and~~
- (3) provide for activities undertaken for the purpose of restoring or enhancing the *habitats* of indigenous fauna, and-
- (4) recognise that where access to and use of *indigenous biodiversity* by any person would require access to or through private *land*, such access is subject to the consent of the landowner.

ECO-M4D – Native reserves and *Māori land*

Local authorities must:

- (1) work in partnership (which includes acting in good faith) with *mana whenua* and owners of native reserves and *Māori land* to develop, and include in *district plans* and *regional plans* objectives, policies, and methods that may include providing an alternative approach to *effects* management for *indigenous biodiversity* than the policies in this ECO chapter (excluding ECO-P13CE-P5), and. ~~These objectives, policies and methods will seek, to the extent practicable to,:~~
 - ~~(a) maintain and restore indigenous biodiversity on native reserves and *Māori land*, and~~
 - ~~(b) protect *significant natural areas* and identified *taoka* on native reserves and *Māori land*, and~~
- (2) ensure that objectives, policies, and methods developed under (1~~6~~):
 - (a) enable new occupation, use, and development of ~~nature~~ native reserves and *Māori land* to support the social, cultural, and economic wellbeing of *mana whenua* and owners of *Māori* freehold *land*, and
 - (b) enable the provision of new *papakāika*, marae and ancillary community facilities, dwellings, and associated *infrastructure*, and

- (c) enable alternative approaches to, or locations for, new occupation, use and development that avoid, minimise, or remedy adverse *effects* on *significant natural areas* and identified taoka on native reserves and *Māori land*, and enable options for offsetting and compensation, and
- (d) recognise and be responsible to the fact there may be no or limited alternative location for *mana whenua* and owners of Māori freehold land to occupy, use, and develop their *lands*, and
- (e) recognise that there are circumstances where development will prevail over *indigenous biodiversity*, and
- (f) recognise and be responsive to any recognised historical barriers *mana whenua* and owners of Māori freehold land have faced in occupying, using, and developing their ancestral *lands*.

ECO-M5 – District plans

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

- (1) ~~if the requirements of ECO-P3 to ECO-P6 are met~~, provide for the use of *land* and the surface of *water bodies* including:
 - (a) activities undertaken for the purposes of *pest* control or maintaining or enhancing the *habitats* of indigenous fauna, and
 - (b) the maintenance and use of existing *structures* (including *infrastructure*), and
 - (c) *infrastructure* that has a *functional* or *operational need* to be sited or operated in a particular location,
- (2) manage the clearance or modification of *indigenous vegetation*, while allowing for *mahika kai* activities (including through the development, in partnership with *mana whenua*, of provisions for *mahika kai* activities that may provide an alternative approach to *effects* management than the policies in this ECO chapter),
- (3) promote the establishment of *esplanade reserves* and *esplanade strips*, particularly where they would support ecological corridors, buffering or connectivity between *significant natural areas*, or access to *mahika kai*,
- (4) require:
 - (a) *resource consent* applications to include information that demonstrates that the sequential steps in the *effects management hierarchy (in relation to indigenous biodiversity)* have been followed, and
 - (b) that consents are not granted if the sequential steps in the *effects management hierarchy (in relation to indigenous biodiversity)* have not been followed, and
- (5) provide for activities undertaken for the purpose of restoring or enhancing the *habitats* of indigenous fauna, ~~and~~
- (7) require buffer zones adjacent to *significant natural areas* where it is necessary to protect the *significant natural area* (subject to LF-FS-P16A), and
- (8) recognise that where access to and use of *indigenous biodiversity* by any person would require access to or through private *land*, such access is subject to the consent of the landowner.

ECO-M7B – Information requirements

Local authorities must:

- (1) require that, in relation to an application for a *resource consent* for an activity that would have more than minor adverse *effects* on *indigenous biodiversity*, the application is not considered unless it includes a report that:
 - (a) is prepared by a suitably qualified ecologist and, as required, any other person with suitable expertise, such as someone with expertise in *mātauraka Māori*; and
 - (b) complies with subclause (2); and
 - (c) is commensurate with the scale and significance (to *indigenous biodiversity*) of the proposal.
- (2) ensure the report required within ~~ECO-M2(4A)~~ ECO-M7B(1) above must:
 - (a) include a description of the existing ecological features and values of the site, including those in APP2 if applicable; and
 - (b) include a description of the adverse *effects* of the proposal on *indigenous biodiversity* and how those *effects* will be managed; and
 - (c) identify any *effects* on identified taoka; and
 - (d) identify the ecosystem services associated with *indigenous biodiversity* at the site; and
 - (e) include an assessment of the *ecological integrity* and connectivity within and beyond the site; and
 - (f) include *mātauraka Māori* and *tikaka Māori* assessment methodology, where relevant; and
 - (g) if *biodiversity offsetting* is proposed, set out:
 - (i) a detailed plan of what is proposed, including a quantified loss and gain calculation, the currency used in the calculation, and the data that informs the calculation and plan; and
 - (ii) a description of how the relevant principles in APP4 have been addressed; and
 - (iii) an assessment of the likely success of the plan in achieving a net gain in biodiversity values; and
 - (h) if *biodiversity compensation* is proposed, set out:
 - (i) a detailed plan of what is proposed; and
 - (ii) a description of how the relevant principles in Appendix 4 of this National Policy Statement have been addressed; and
 - (iii) an assessment of the likely success of the plan in achieving its outcomes; and
- (3) after a report is prepared in accordance with (1) and (2), assess the area in accordance with APP2 as soon as practicable.

Amend principal reasons:

ECO-PR1 – Principal reasons

The health of New Zealand's *indigenous biodiversity* has declined significantly since the arrival of humans and remains under significant pressure. *Mahika kai* and taoka species, including their abundance, have been damaged or lost through resource use, *land* use change and development in Otago. The provisions in this chapter seek to address this loss and pressure through providing direction on managing the effects of *land* use, development, and subdivision activities on how *indigenous biodiversity* is to be managed.

The provisions in this chapter assist in maintaining, protecting and restoring *indigenous biodiversity* by:

- (1) stating the outcomes sought for ecosystems and *indigenous biodiversity* in Otago,
- (2) requiring identification and protection of *significant natural areas* and *indigenous species* and ecosystems that are taoka, and
- (3) directing how *indigenous biodiversity* is to be maintained.

This chapter will assist with achieving the outcomes sought by *Te Mana o te Taiao – Aotearoa New Zealand Biodiversity Strategy 2020*. Implementation of the provisions in this chapter will occur primarily through *regional plan* and *district plan* provisions, however *local authorities* may also choose to adopt additional non-regulatory methods to support the achievement of the objectives.

Amend appendices:

APP2 – Criteria for identifying areas that qualify as *significant natural areas* (SNAs)

This appendix sets out the criteria for identifying significant *indigenous vegetation* or significant *habitats* of indigenous fauna in a specific area, so that the area qualifies as an *SNA*.

The assessment must be done using the assessment criteria in Appendix 1 and in accordance with the following principles:

- (a) partnership: *territorial authorities* engage early with *mana whenua* and landowners and share information about *indigenous biodiversity*, potential management options, and any support and incentives that may be available:
- (b) transparency: *territorial authorities* clearly inform *mana whenua* and landowners about how any information gathered will be used and make existing information, draft assessments and other relevant information available to *mana whenua* and relevant

landowners for review:

- (c) quality: wherever practicable, the values and extent of natural areas are verified by physical inspection; but if a physical inspection is not practicable (because, for instance, the area is inaccessible, or a landowner does not give access) the *local authority* uses the best information available to it at the time:
- (d) access: if a physical inspection is required, permission of the landowner is first sought and the powers of entry under section 333 of the Act are used only as a last resort:
- (e) consistency: the criteria in Appendix 1 are applied consistently, regardless of who owns the *land*:
- (f) boundaries: the boundaries of areas of significant *indigenous vegetation* or significant *habitat* if indigenous fauna are determined without regard to artificial margins (such as property boundaries) that would affect the extent or *ecological integrity* of the area identified.

1 What qualifies as an SNA

- (1) An area qualifies as an SNA if it meets any one of the attributes of the following four criteria:
 - (a) representativeness:
 - (b) diversity and pattern:
 - (c) rarity and distinctiveness:
 - (d) ecological context.
- (2) If an area would qualify as an SNA solely on the grounds that it provides *habitat* for a single indigenous fauna species that is At Risk (declining), and that the species is widespread in at least three other regions, the area does not qualify as an SNA unless:
 - (a) the species is rare within the region or *ecological district* where the area is located;
or
 - (b) the protection of the species at that location is important for the persistence of the species as a whole.
- (3) If an area would qualify as an SNA solely on the grounds that it contains one or more indigenous flora species that are *Threatened or At Risk (declining)*, and those species are widespread in at least three other regions, the area does not qualify as an SNA unless:
 - (a) the species is rare within the region or *ecological district* where the area is located;
or
 - (b) the protection of the species at that location is important for the persistence of the species as a whole.

2 Context for assessment

- (1) The context for an assessment of an area is:
 - (a) its *ecological district*; and
 - (b) for the rarity assessment only, its *ecological district*, its region and the national context.

3 Manner and form of assessment

- (1) Every assessment must include at least:
 - (a) a map of the area; and
 - (b) a general description of its significant attributes, with reference to relevant criteria (as specified below); and
 - (c) a general description of the *indigenous vegetation*, indigenous fauna, *habitat*, and ecosystems present; and
 - (d) additional information, such as the key threats, pressures, and management requirements; and
 - (e) for SNAs in areas of Crown-owned land referred to in clause 3.8(8), the conservation management strategy or plan or national park management plan that applies to the area.
- (2) An assessment under this appendix must be conducted by a suitably qualified ecologist (which, in the case of an assessment of a geothermal ecosystem, requires an ecologist with geothermal expertise).

A Representativeness criterion

- (1) Representativeness is the extent to which the *indigenous vegetation* or *habitat* of indigenous fauna in an area is typical or characteristic of the *indigenous biodiversity* of the relevant *ecological district*.
- (2) Significant *indigenous vegetation* has *ecological integrity* typical of the *indigenous vegetation* of the *ecological district* in the present-day environment. It includes seral (regenerating) *indigenous vegetation* that is recovering following natural or induced disturbance, provided species composition is typical of that type of *indigenous vegetation*.
- (3) Significant indigenous fauna *habitat* is that which supports the typical suite of indigenous animals that would occur in the present-day environment. *Habitat* of indigenous fauna may be indigenous or exotic.
- (4) Representativeness may include commonplace *indigenous vegetation* and the *habitats* of indigenous fauna, which is where most *indigenous biodiversity* is present. It may also include degraded *indigenous vegetation*, ecosystems and *habitats* that are typical of what remains in depleted *ecological districts*. It is not restricted to the best or most representative examples, and it is not a measure of how well that *indigenous vegetation* or *habitat* is protected elsewhere in the *ecological district*.
- (5) When considering the typical character of an *ecological district*, any highly developed *land* or built-up areas should be excluded.
- (6) The application of this criterion should result in identification of *indigenous vegetation* and *habitats* that are representative of the full range and extent of ecological diversity across all environmental gradients in an *ecological district*, such as climate, altitude, landform, and soil sequences. The ecological character and pattern of the *indigenous vegetation* in the *ecological district* should be described by reference to the types of *indigenous vegetation* and the landforms on which it occurs,

Attributes of representativeness

- (7) An area that qualifies as an *SNA* under this criterion has at least one of the following attributes:
- (a) *Indigenous vegetation* that has *ecological integrity* that is typical of the character of the *ecological district*:
 - (b) *habitat* that supports a typical suite of indigenous fauna that is characteristic of the *habitat* type in the *ecological district* and retains at least a moderate range of species expected for that *habitat* type in the *ecological district*.

B Diversity and pattern criterion

- (1) Diversity and pattern is the extent to which the expected range of diversity and pattern of biological and physical components within the relevant *ecological district* is present in an area.

Key assessment principles

- (2) **Diversity of biological components** is expressed in the variation of species, communities, and ecosystems. Biological diversity is associated with variation in physical components, such as geology, soils/substrate, aspect/exposure, altitude/depth, temperature, and salinity.
- (3) **Pattern** includes changes along environmental and landform gradients, such as ecotones and sequences.
- (4) **Natural areas** that have a wider range of species, *habitats* or communities or wider environmental variation due to ecotones, gradients, and sequences in the context of the *ecological district*, rate more highly under this criterion.

Attributes of diversity and pattern

- (5) An area that qualifies as a *significant natural area* under this criterion has at least one of the following attributes:
- (a) at least a moderate diversity of *indigenous species*, vegetation, *habitats* of indigenous fauna or communities in the context of the *ecological district*:
 - (b) presence of indigenous ecotones, complete or partial gradients or sequences.

C Rarity and distinctiveness criterion

- (1) Rarity and distinctiveness is the presence of rare or distinctive indigenous taxa, *habitats* of indigenous fauna, *indigenous vegetation* or ecosystems.

Key assessment principles

- (2) **Rarity** is the scarcity (natural or induced) of indigenous elements: species, *habits*, vegetation, or ecosystems. Rarity includes elements that are uncommon or threatened.
- (3) **The list of Threatened and At Risk species** is regularly updated by the Department of Conservation. Rarity at a regional or *ecological district* scale is defined by regional or district lists or determined by expert ecological advice. The significance of nationally listed Threatened and At Risk species should not be downgraded just because they are common within a region or *ecological district*.
- (4) **Depletion of indigenous vegetation or ecosystems** is assessed using *ecological districts* and *land* environments.

- (5) **Distinctiveness** includes distribution limits, type localities, local endemism, relict distributions and species ecological or scientific features.

Attributes of rarity and distinctiveness

- (6) An area that qualifies as an SNA under this criterion has at least one of the following attributes:
- (a) provides *habitat* for an *indigenous species* that is listed as *Threatened or At Risk (declining)* in the New Zealand Threat Classification System lists:
 - (b) an *indigenous vegetation* type or an *indigenous species* that is uncommon within the region or *ecological district*:
 - (c) an *indigenous species* or plant community at or near its natural distributional limit:
 - (d) *indigenous vegetation* that has been reduced to less than 20 per cent of its prehuman extent in the *ecological district*, region, or land environment:
 - (e) *indigenous vegetation* or *habitat* of indigenous fauna occurring on naturally uncommon ecosystems:
 - (f) the type locality of an *indigenous species*:
 - (g) the presence of a distinctive assemblage or community of *indigenous species*:
 - (h) the presence of a special ecological or scientific feature.

D Ecological context criterion

- (1) Ecological context is the extent to which the size, shape, and configuration of an area within the wider surrounding landscape contributes to its ability to maintain *indigenous biodiversity* or affects the ability of the surrounding landscape to maintain its *indigenous biodiversity*.

Key assessment principles

- (2) Ecological context has two main assessment principles:
- (a) the characteristics that help maintain *indigenous biodiversity* (such as size, shape, and configuration) in the area; and
 - (b) the contribution the area makes to protecting *indigenous biodiversity* in the wider landscape (such as by linking, connecting to or buffering other natural areas, providing 'stepping stones' of *habitat* or maintaining *ecological integrity*).

Attributes of ecological context

- (3) An area that qualifies as an SNA under this criterion has at least one of the following attributes:
- (a) at least moderate size and compact shape, in the context of the relevant *ecological district*:
 - (b) well-buffered relative to remaining *habitats* in the relevant *ecological district*:
 - (c) provides an important full or partial buffer to, or link between, one or more important *habitats* of indigenous fauna or *significant natural areas*:
 - (d) important for the natural functioning of an ecosystem relative to remaining *habitats* in the *ecological district*; and

- (e) an area that is important for maintaining a population of indigenous fauna during a critical part of their lifecycle, ~~(either seasonally or permanently), e.g. for feeding, resting, nesting, breeding, spawning or refuges from predation.~~

APP3 – Principles for *biodiversity offsetting*

These principles apply to the use of *biodiversity offsets* for adverse *effects* on *indigenous biodiversity*. An applicant is to comply with principles 1 to 6 and have regard to the remaining principles as appropriate.

- (1) **Adherence to *effects management hierarchy*:** A *biodiversity offset* is a commitment to redress more than minor residual adverse *effects* and should be contemplated only after steps to avoid, minimise, and remedy adverse *effects* are demonstrated to have been sequentially exhausted.
- (2) **When *biodiversity offsetting* is not appropriate:** *Biodiversity offsets* are not appropriate in situations where *indigenous biodiversity* values cannot be offset to achieve a net gain. Examples of an offset not being appropriate include where:
 - (a) residual adverse *effects* cannot be offset because of the irreplaceability or vulnerability of the *indigenous biodiversity* affected;
 - (b) *effects* on *indigenous biodiversity* are uncertain, unknown, or little understood, but potential *effects* are significantly adverse or irreversible;
 - (c) there are no technically feasible options by which to secure gains within an acceptable timeframe;
 - (d) the loss from an *ecological district* of ~~any individuals of~~ Threatened *taxa*, other than kanuka (*Kunzea robusta* and *Kunzea serotina*), under the New Zealand Threat Classification System (~~Townsend et al, 2008~~ Rolfe et al, 2022); or
 - (e) the likely worsening of the conservation status of any Threatened or At Risk *indigenous biodiversity* as listed under the New Zealand Threat Classification System (~~Townsend et al, 2008~~ Rolfe et al, 2022); or
 - (f) the removal or loss of *ecological integrity* ~~health~~ and *resilience* of a naturally uncommon ecosystem type that contains ~~is associated with~~ *indigenous vegetation* or *habitat* ~~for~~ ~~of~~ indigenous fauna.
- (3) **Net gain:** This principle reflects a standard of acceptability for demonstrating, and then achieving, a net gain in *indigenous biodiversity* values. Net gain is demonstrated by a like-for-like quantitative loss/gain calculation of the following, and is achieved when the *indigenous biodiversity* values at the offset site are equivalent to or exceed those being lost at the impact site:
 - (a) types of *indigenous biodiversity*, including when *indigenous species* depend on introduced species for their persistence; and
 - (b) amount; and
 - (c) condition (structure and quality).
- (4) **Additionality:** A *biodiversity offset* achieves gains in *indigenous biodiversity* above and beyond gains that would have occurred in the absence of the offset, such as gains that are additional to any minimisation and remediation undertaken in relation to the adverse

effects of the activity.

- (5) **Leakage:** *Biodiversity offset* design and implementation avoids displacing hard to other *indigenous biodiversity* in the same or any other location.
- (6) **Long-term outcomes:** A *biodiversity offset* is managed to secure outcomes of the activity that last at least as long as the impacts, and preferably in perpetuity. Consideration must be given to long-term issues around funding, location, management and monitoring.
- (7) **Landscape context:** *Biodiversity offsetting* is undertaken where this will result in the best ecological outcome, preferably close to the impact site or within the same *ecological district*. The action considers the landscape context of both the impact site and the offset site, taking into account interactions between species, *habitats* and ecosystems, special connections, and *ecosystem function*.
- (8) **Time lags:** The delay between loss of, or effects on, *indigenous biodiversity* values at the impact site and the gain or maturity of *indigenous biodiversity* at the offset site is minimised so that the calculated gains are achieved within the consent period or, as appropriate, a longer period (but not more than 35 years).
- (9) **Science and mātauraka Māori:** The design and implementation of a *biodiversity offset* is a documented process informed by science and mātauraka Māori.
- (10) **Mana whenua and stakeholder participation:** Opportunity for the effective and early participation of *mana whenua* and stakeholders is demonstrated when planning *biodiversity offsets*, including their evaluation, selection, design, implementation, and monitoring.
- (11) **Transparency:** The design and implementation of a *biodiversity offset*, and communication of its results to the public, is undertaken in a transparent and timely manner.

APP4 – Principles for *biodiversity compensation*

These principles apply to the use of *biodiversity compensation* for adverse effects on *indigenous biodiversity*. An applicant is to comply with principles 1 to 6 and have regard to the remaining principles as appropriate.

- (1) **Adherence to effects management hierarchy:** *Biodiversity compensation* is a commitment to redress more than minor residual adverse effects, and should be contemplated only after steps to avoid, minimise, remedy, and offset adverse effects are demonstrated to have been sequentially exhausted.
- (2) **When *biodiversity compensation* is not appropriate:** *Biodiversity compensation* is not appropriate where *indigenous biodiversity* values are not able to be compensated for. Examples of *biodiversity compensation* not being appropriate include where:
 - (a) the *indigenous biodiversity* affected is irreplaceable or vulnerable;
 - (b) effects on *indigenous biodiversity* are uncertain, unknown, or a little understood, but potential effects are significantly adverse or irreversible;
 - (c) there are no technically feasible options by which to secure a proposed net gain within acceptable timeframes;

- (d) the loss from an *ecological district* of Threatened taxa, other than kanuka (*Kunzea robusta* and *Kunzea serotina*), under the New Zealand Threat Classification System (Townsend et al, 2008 Rolfe et al, 2022); or,
 - (e) removal or loss of viability of the *habitat* of a Threatened *indigenous species* of fauna or flora under the New Zealand Threat Classification System (Townsend et al, 2008 Rolfe et al, 2022),
 - (f) the removal or loss of ecological integrity health and *resilience* of a naturally uncommon ecosystem type that contains ~~is associated with~~ *indigenous vegetation* or *habitat* ~~for~~ of indigenous fauna,
 - (g) the likely worsening of the conservation status of any Threatened or At Risk *indigenous biodiversity* listed under the New Zealand Threat Classification System (Townsend et al, 2008 Rolfe et al, 2022).
- (3) **Scale of *biodiversity compensation*:** The *indigenous biodiversity* values lost through the activity to which the *biodiversity compensation* applies are addressed by positive *effects* to *indigenous biodiversity* (including when *indigenous species* depend on introduced species for their persistence), that outweigh the adverse *effects*.
 - (4) **Additionality:** *Biodiversity compensation* achieves gains in *indigenous biodiversity* above and beyond gains that would have occurred in the absence of the compensation, such as gains that are additional to any minimisation and remediation or offsetting undertaken in relation to the adverse *effects* of the activity.
 - (5) **Leakage:** *Biodiversity compensation* design and implementation avoids displacing harm to other *indigenous biodiversity* in the same or any other location.
 - (6) **Long-term outcomes:** *Biodiversity compensation* is managed to secure outcomes of the activity that last as least as long as the impacts, and preferably in perpetuity. Consideration must be given to long-term issues around funding, location, management, and monitoring.
 - (7) **Landscape context:** *Biodiversity compensation* is undertaken where this will result in the best ecological outcome, preferably close to the impact site or within the same *ecological district*. The action considers the landscape context of both the impact site and the compensation site taking into account interactions between species, *habitats*, and ecosystems, spatial connections, and *ecosystem function*.
 - (8) **Time lags:** The delay between loss of, or effects on, *indigenous biodiversity* values at the impact site and the gain or maturity of *indigenous biodiversity* at the compensation site is minimised so that the calculated gains are achieved within the consent period or, as appropriate, a longer period (but not more than 35 years)
 - (9) **Trading up:** When trading up forms part of *biodiversity compensation*, the proposal demonstrates that the *indigenous biodiversity* gains are demonstrably greater or higher than those lost. The proposal also shows the values are not to *Threatened or At Risk (declining)* species or to species considered vulnerable or irreplaceable.
 - (10) **Financial contributions:** A financial contribution is only considered if:
 - (a) there is no effective option available for delivering biodiversity gains on the ground; and
 - (b) it directly funds an intended biodiversity gain or benefit that complies with the rest of these principles.
 - (11) **Science and mātauraka Māori:** The design and implementation of *biodiversity*

compensation is a documented process informed by science, and mātauraka Māori.

- (12) **Mana whenua and stakeholder participation:** Opportunity for the effective and early participation of *mana whenua* and stakeholders is demonstrated when planning for *biodiversity compensation*, including its evaluation, selection, design, implementation, and monitoring.
- (13) **Transparency:** The design and implementation of *biodiversity compensation*, and communication of its results to the public, is undertaken in a transparent and timely manner.
- (14) **Achievability:** Demonstrate The *biodiversity compensation* outcome is ~~demonstrably~~ achievable.

