

Proposed Marlborough Environment Plan

Topic 5: Natural Character

Hearing dates: 26 – 28 February and 1 March 2018

S42A Report Writer: James Bentley and Maurice Dale

Conflicts of Interest: None

Interim decision: None

(Note: A list of conflicts of interest which arose during the process are available to view on the Marlborough District Council Website)

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List of Abbreviations

BML	Boffa Miskell Limited
CMA	Coastal Marine Area
CTA	Coastal Terrestrial Area
HALF	High Amenity Landscape and Feature
HNC	High Natural Character
PMEP	Proposed Marlborough Environment Plan
MDC	Marlborough District Council
MHWS	Mean High Water Spring mark
MPI	Ministry for Primary Industries
MSRMP	Marlborough Sounds Resource Management Plan
NPSET	National Policy Statement on Electricity Transmission
NPSFM	National Policy Statement for Freshwater Management 2014
NPSREG	National Policy Statement for Renewable Electricity Generation
NZCPS	New Zealand Coastal Policy Statement 2010
ONC	Outstanding Natural Character
ONF	Outstanding Natural Feature
ONL	Outstanding Natural Landscape
ONFL	Outstanding Natural Feature and Landscape
RMA	Resource Management Act 1991
VHNC	Very High Natural Character
WARMP	Wairau/Awatere Resource Management Plan

Submitter abbreviations

AQNZ	Aquaculture New Zealand
EBCS	East Bay Conservation Society
EDS	Environmental Defence Society Incorporated
DOC	Department of Conservation
KCSRA	Kenepuru and Central Sounds Residents' Association
FNHTB	Friends of Nelson Haven and Tasman Bay Incorporated
Fish and Game	Nelson Marlborough Fish and Game
Forest & Bird	Royal Forest and Bird Protection Society NZ
MFA	Marine Farming Association Incorporated
MFIA	Marlborough Forest Industry Association Incorporated
NZTA	New Zealand Transport Agency
Pernod	Pernod Ricard Winemakers New Zealand Limited
Port Clifford	Port Clifford Limited
PMNZ	Port Marlborough New Zealand Limited
QCSRA	Queen Charlotte Sound Residents Association
NZTA	New Zealand Transport Agency
Te Ātiawa	Te Ātiawa o Te Waka-a-Māui

Structure of Decisions

1. It is important that the topic decision is read as a whole together with the tracked change version of the Plan. The decision on each topic contains the reasons for the Panel's decisions. These comprise either adoption of the reasoning and recommendations of the original Section 42A Report or the replies to evidence, or a specific reasoning by the Panel¹.
2. The tracked change version of the relevant PMEP provisions forms an integral part of the decision. The source of the change in terms of the topic that the subject matter was dealt with is clearly identified in the track changes version of the plan. This records all amendments (additions and deletions) to the notified PMEP provisions made by the Panel.
3. Where the PMEP provisions **remain as notified**, it is because:
 - (a) The Panel has decided to retain the provision as notified for reasons set out in this decision; or
 - (b) The Panel adopted the reasoning and recommendation of the Section 42A Report Writer to retain the provision as notified as recommended in the Reply to Evidence; or
 - (c) The Panel adopted the reasoning and recommendation of the Section 42A Report to retain the provision as notified in the original Section 42A report.
4. Where there is a **change to a provision** within the plan it is because:
 - (a) The Panel has amended a provision for reasons set out in this decision in response to a submission point which the Section 42A report writer(s) does not recommend in their reports; or
 - (b) The Panel adopted the reasoning and recommendation of the Section 42A Report Writer to change the provision to that recommended in the Reply to Evidence; or
 - (c) The Panel adopted the reasoning and recommendation of the Section 42A Report Writer to change the provision to that recommended in the original Section 42A report; or

¹ (The only exception to that approach relates to the Noise section of the Nuisance topic where the reasoning and recommendations in the responses to Minutes 54 and 59 may have been adopted, rather than the reasoning and recommendations in the Section 42A Report or the Reply to Evidence report. The reasons for that difference in that topic are dealt with in detail at the commencement of the Noise section of the Nuisance topic decision. In respect of that topic the approach to understanding of the individual submission point decisions addressed in paragraphs 13.3 to 13.5 below should be adjusted accordingly to apply references to the Section 42A Report and/or Reply to Evidence in those paragraphs as being references to the responses to Minutes 54 & 59 for that Nuisance topic.)

- (d) A consequential change has been necessary following on from a decision in either a), b) or c).
5. Where there is a **different recommendation** between the Section 42A Report and the Reply to Evidence (i.e., the recommendation by the Section 42A report writer(s) has changed as a result of hearing the evidence of submitters), unless the Panel decision specifically adopts the original report's reasoning and recommendations, the reasoning and recommendations in the (later) reply to evidence has been adopted and it must be taken to prevail.
 6. There are limited circumstances where the Panel has taken the opportunity to give effect to national policy statements or implement national environmental standards. Where this occurs the relevant decision clearly sets out the nature of the change and the reason for the change.
 7. Finally, there are limited circumstances where the Panel has decided that **alternative relief** is more appropriate than that requested by the submitters, but still within the scope of the relief sought. This is recorded in the Panel's decision.

Natural Character

Introduction

8. The introduction to the chapter identifies that natural character includes natural elements, patterns, processes and experiential attributes of an environment. It then lists 'key components' of the natural character of the coastal environment. Freshwater bodies and their margins are included which 'collectively combine to create the natural character of the overall environment'.²
9. Submissions include those who seek to amend the introduction to delete the description of the components that contribute to natural character;³ amend the description of the components that make up natural character to include the components listed in NZCPS Policy 13(2);⁴ and amend the introduction to provide a clear outline and explanation of what is addressed in the chapter with reference to s 6(a) RMA, NZCPS Policy 13 Preservation of natural character and Policy 14 Restoration of natural character.⁵

Section 42A Report

10. It is acknowledged in the report that the list of attributes in the PMEP does not fully align with those of the coastal environment set out in Policy 13(2) of the NZCPS. They are also inconsistent with the attributes considered in the natural character assessment reports for Marlborough's coastal environment and rivers, which capture the attributes in NZCPS Policy 13(2). The report recommends that the definition and listed attributes are amended to achieve appropriate alignment consistent with NZCPS Policy 13(2) (changes detailed below). While the attributes of natural character are also listed in Policy 6.1.1 PMEP, it is recommended they are also identified in the introduction to provide clarity for plan users at the start of the chapter.
11. The report writer recommended that the introduction to Chapter 6 be amended as follows:

Natural character is the term used to describe the degree of naturalness in an area, and includes the natural elements, patterns, processes and experiential ~~qualities~~ attributes of an environment. The natural character of the coastal environment, and freshwater bodies and their margins, is comprised of a number of ~~key components~~ attributes which include:

• ~~coastal or freshwater landforms and landscapes (including seascape);~~

² Section 42A Report (Dale), page 12.

³ EDS (698.37).

⁴ FNHTB (716.55).

⁵ Forest & Bird (715.120).

- ~~coastal or freshwater physical processes (including the movement of water and sediments);~~
- ~~biodiversity (including individual indigenous species, their habitats and communities they form);~~
- ~~biological processes and patterns;~~
- ~~water flows and levels, and water quality; and~~
- ~~the ways in which people experience the natural elements, patterns and processes.~~
- Abiotic systems - physical processes, geomorphology, topography, landform, and water quantity/quality;
- Biotic systems - species, communities, habitats, and ecological processes;
- Experiential attributes - the ways in which people, including tangata whenua, experience the elements, patterns and processes.

Collectively, these combine to create the overall natural character of the environment. The degree of natural character present in an area is commonly described on a continuum. Some environments have very high natural character due to the lack of human induced modification and may even be in a natural state. In other areas, there may be little natural character remaining due to extensive human modification.

This chapter provides the basis from which to determine the degree of natural character present, the classification of areas of natural character, and management of natural character to recognise and provide for section 6(a) of the Resource Management Act 1991, and give effect to policies 13 and 14 of the New Zealand Coastal Policy Statement 2010 (NZCPS), and National Policy Statement for Freshwater Management 2017 (NPSFM). The chapter includes objectives, policies, and methods to guide activities within both coastal and river environments. The natural character characteristics that have been identified are included in Appendix 2 (coastal), Appendix 5 (freshwater) and specific areas of high, very high, and outstanding natural character are identified on the planning maps in Volume 4. The difference between areas of high natural character and very high coastal natural character is one of degree on the spectrum of assessment of natural character rather than one of legal effect.

Provisions included elsewhere in the Marlborough Environment Plan (MEP) ~~target~~ address the individual components of natural character and provide direction on how adverse effects on particular ~~values~~ characteristics can be managed. These include:

- Chapter 5 - Allocation of Public Resources
- Chapter 7 - Landscape
- Chapter 8 - Indigenous Biodiversity

- Chapter 9 - Public Access and Open Space
- Chapter 13 - Use of the Coastal Environment
- Chapter 15 - Resource Quality (Water, Air, Soil)

This chapter does not address the natural character of wetlands. The natural character of wetlands has been established through an integrated process of assessing wetland values. Provisions to preserve the natural character of wetlands are included in Chapter 8 – Indigenous Biodiversity.

~~However, there is a need for this management to be integrated in order to preserve natural character in coastal and freshwater environments. This ensures that the management of the individual components of natural character is co-ordinated to achieve a common end in the context of Section 6(a) of the Resource Management Act 1991 (RMA), of the New Zealand Coastal Policy Statement 2010 (NZCPS) and of the National Policy Statement for Freshwater Management 2014 (NPSFM).~~

Consideration

12. Neither the RMA nor the NZCPS Policy 13 provides policy makers with a definition of ‘natural character’.
13. The Section 42A Report (Bentley) defines the term:

Natural Character is the term used to describe the natural elements of all coastal environments. The degree or level of natural character within an environment depends on:

1. *the extent to which the natural elements, patterns and processes occur; and*
2. *the nature and extent of modification to the ecosystems and landscape/seascape.*

The degree of natural character is highest where there is least modification.

The effect of different types of modification upon natural character varies with context and may be perceived differently by different parts of the community.⁶

14. The definition adopted for natural character is the definition that was agreed to at a DOC-run workshop in 2011, which involved a wide range of resource management practitioners, local authorities and government bodies. The definition endorsed at that meeting is a slight variation of the original definition outlined by the Ministry for the Environment in 2002.⁷

⁶ Section 42A Report, page 7.

⁷ Section 42A Report, page 8. Department of Conservation, cited in NZCPS 2010 Guidance Note: Preservation of natural character, page 11.

15. Dr Steven considered that a simpler definition is valid:

*Natural character is the expression of natural elements, natural patterns and natural processes in the landscape or coastal environment, rated according to the degree of modification through human agency.*⁸

16. The characteristics of natural character are, however, found in NZCPS Policy 13(2) which predates many of the studies identifying what constitutes natural character. The policy provides:

(2) Recognise that natural character is not the same as natural features and landscapes or amenity values and may include matters such as:

- (a) natural elements, processes and patterns;**
- (b) biophysical, ecological, geological and geomorphological aspects;**
- (c) natural landforms such as headlands, peninsulas, cliffs, dunes, wetlands, reefs, freshwater springs and surf breaks;**
- (d) the natural movement of water and sediment;**
- (e) the natural darkness of the night sky;**
- (f) places or areas that are wild or scenic;**
- (g) a range of natural character from pristine to modified; and**
- (h) experiential attributes, including the sounds and smell of the sea; and their context or setting.**

17. The word ‘may’ in the introduction to NZCPS Policy 13(2) indicates that any assessment of the listed characteristics and experiential attributes is discretionary and invites an identification of those most relevant – or not. Nor does the recognition or observation of the aspects of natural character include ‘natural features’, ‘natural landscapes’ or ‘amenity values’. NZCPS Policy 13(2) deliberately says so.

18. The report writer (Dale) includes the words ‘attributes’, ‘naturalness’ and ‘experiential qualities’ in his amendments to the text of the Introduction from the submissions requesting some of these changes.⁹

19. The Supreme Court in the *King Salmon* case emphasised that greater rigour is needed in the assessment of natural character of the coastal environment supported by a precise and critical use of language.¹⁰ These findings have relevance in this case.

⁸ FNHTB, Michael Steven Evidence, paragraph 73.

⁹ Section 42A Report, Report on submissions and further submissions Topic 5: Natural Character – Issues, Objectives, Policies, and Methods, page 13.

¹⁰ *Environmental Defence Society Inc v The New Zealand King Salmon Company Limited (2014) NZSC 38.*

Experiential attributes

20. Dr Steven in his evidence on natural character was concerned with the use of the subclause in NZCPS Policy 13(2)(h) ‘the experiential attributes of the smells and sound of the sea and their context or settings’ in the Natural Character chapter. He considers the only valid examples for the assessment of natural character are those that derive from the first part of the definition he cites above, that is, ‘the expression of natural elements, patterns and processes ... in the coastal environment rated according to the degree of modification through human agency’.¹¹
21. In terms of the phrase ‘the experiential attributes ...’ the report writer considers the range of factors to be considered under this category of natural character has been interpreted too loosely and uncritically to the point where assessments of natural character are almost indistinguishable from assessment of landscape.¹² The report writer considers that sounds and smell have no tangible physical presence as such, although they are still able to be perceived or experienced. But in his opinion they exist only as collateral characteristics of more tangible natural phenomena (in some of the other provisions in NZCPS Policy 13(2)) ‘and are not the objective analysis of elements of natural character’.¹³
22. Addressing the wording of the phrase ‘experiential attributes’ in NZCPS Policy 13(2)(h), the Panel considers the wording applied in the subclause appears opaque (and may require further explanation in the future) but is relevant to natural character to be regarded in its own right wherever it applies. It relates to the marine ecological components of natural character.
23. The expert evidence on this issue comes from Andrew Baxter on behalf of the Minister of Conservation. Mr Baxter has been in DOC’s Biodiversity Group and has over 35 years’ experience in coastal/marine science and management.¹⁴
24. Mr Baxter identifies the phrase ‘experiential attributes’ was not included in the nine biogeographic areas of natural character outlined in Davidson et al (2011)¹⁵ but was assessed for the surface of the water and the land/sea interface elsewhere in Boffa Miskell et al (2014):

71. *While the coastal marine area extends out to the edge of the territorial sea (the 12 mile limit), information on seabed ecology is generally greatest close to shore and decreases appreciably with distance offshore. The strong connection between*

¹¹ FNHTB, Michael Steven Evidence, paragraph 80.

¹² FNHTB, Michael Steven Evidence, paragraph 82.

¹³ FNHTB, Michael Steven Evidence, paragraph 84.

¹⁴ Minister of Conservation, Andrew Baxter Evidence (Marine Ecological Components of Natural Character), paragraphs 70-80.

¹⁵ Davidson RJ; Duffy CAJ; Gaze P; Baxter A; du Fresne S; Courtney S; Hamphill P. *Ecologically Significant Marine Sites in Marlborough, New Zealand* (September 2011). Coordinated by Davidson Environmental Ltd, Marlborough District Council and Department of Conservation. Published by Marlborough District Council.

the land and the sea is also a pivotal feature in terms of defining the natural character of the coast. The ... study therefore focused on the marine environment closer to shore, specifically:

- *All enclosed waters of the Marlborough Sounds*
- *The outer Marlborough Sounds bounded by the main headlands and offshore islands and stacks;*
- *Out to 2 km offshore from the outer coast (including from offshore islands and stacks around the outer Sounds).*

72. *The criteria are not independent of each other and many are closely linked. For example, horizontal and vertical biotic patterns are closely interlinked and are influenced by sedimentation and human activities such as trawling, dredging and aquaculture. Notwithstanding these linkages, it was helpful to consider them separately to ensure the multi-dimensional nature of natural character was fully considered and assessed. However, it also meant that the assessment of an area's overall rating could not be an additive numerical approach, but rather required a broad qualitative judgement across all the criteria.*¹⁶

25. Special marine community assemblages and transition zones between natural character areas such as representative habitats and communities are also to be considered as they add to the overall physical picture of the natural character community.¹⁷
26. Sedimentation levels in fact may be a natural feature, for example, adjacent to naturally erodible shorelines.
27. We have noted that it is optional as to whether or not NZCPS Policy 13(2)(h) (or another sub-provision) is included in the application of the definition of natural character, due to the 'may' being taken into account through the level of 'modification', a word that exists in Policy 13(2). Andrew Baxter's example of the recovery from modification is of the altered shallow subtidal and intertidal marine communities following from the introduction of speed controls and removal of the fast ferries, together with the maximum wake criteria introduced in 2000. The Cook Strait ferries no longer adversely affect the subtidal and intertidal marine areas of the

¹⁶ Minister of Conservation, Andrew Baxter Evidence (Marine Ecological Components of Natural Character), paragraphs 71-72.

¹⁷ Minister of Conservation, Andrew Baxter Evidence (Marine Ecological Components of Natural Character), paragraphs 16, 74, 80. See also Natural Character of the Marlborough Coast. Defining and Mapping the Marlborough Coastal Environment. Appendix 6, Technical Marine Methodology. MDC and others (2014).

shipping routes along the Marlborough Sounds. Ferry effects now appear to be mostly limited to the intertidal zone in exposed bolder sites.

28. Further evidence of experiential attributes is provided by the report writer (Bentley) in addressing the technical mapping and text of the natural character characteristics of the coastal environment. These were clearly set out in the response to Minute 55.
29. The word 'attribute' has been referred to as 'belonging to' or 'a characteristic quality', and in this way is part of experiential natural character.¹⁸ Thus the word 'attributes' too has limited application. It is not a word to qualify all other aspects of natural character as occurs in some of the references suggested in submissions or reports on this topic. A consequential change is required to address abiotic and biotic as 'characteristics' and not inclusively as 'attributes'.

Decision

30. We accept from both Mr Baxter and Mr Bentley's technical mapping exercise (to come) that experiential attributes are the third factor in the overall consideration of natural characteristics.

Naturalness

31. The Environment Court in a number of cases addresses 'naturalness' which is not defined, at least in the evidence before us. Most of the cases in which it features address landscape issues.¹⁹
32. In Mr Baxter's evidence, however, he expressed the opinion that in the context of natural character, biotic patterns which are close to a natural state (that is, 'higher naturalness: less influenced by human pressures') would have a higher natural character.²⁰
33. The Panel concluded from the case law at least that 'naturalness' is part of a spectrum requiring perceptual evaluation of landscape, whereas ecologists interpret natural character naturalness in terms of indigenous attributes. As one authority puts it, 'naturalness' is

A measure of the degree of human modification of a landscape/seascape or ecosystem expressed in terms of:

- i) ecological naturalness (indigenous nature);*
- ii) landscape naturalness (perceptions of nature).²¹*

¹⁸ New Zealand Pocket Oxford Dictionary, 4th Edition, Oxford Press, page 65.

¹⁹ *High Country Rosehip Orchards Limited v Mackenzie District Council* [2011] NZ EnvC 387.

²⁰ Minister of Conservation, Andrew Baxter Evidence (Marine Ecological Components of Natural Character), paragraph 17.

²¹ Marlborough Coastal Study (2014), page 4.

34. In the Panel's opinion this approach provides for the term 'naturalness' to be used both in relation to the Natural Character and Landscape chapters. In the introduction to this chapter it is the term used to describe the degree of naturalness in an area which co-relates to all three systems of natural character recommended in the report writer's original three amended bullet points.

Decision

35. Accordingly, we retain the word 'naturalness' in the introduction to this chapter.

Values

36. The phrase 'natural character values' also appears in the report writer's (Dale) amended Introduction to Chapter 6 in the third paragraph. In the context of NZCPS Policy 13(2) Preservation of natural character, the word 'values' does not apply to natural character at all. This is in spite of the fact that Appendix 2 of Volume 3 of the PMEP leads with a heading 'Appendix 2: Values contributing to high, very high and outstanding coastal natural character'.
37. Dr Steven describes 'values' as follows:

*Values are not inherent in the biophysical environment ... Values have their origin in shared community or societal beliefs. Value refers to worth, merit or importance of something. Values cannot be observed directly but only through their expression ...*²²

38. The Panel accepts this observation.
39. In NZCPS Policy 13(2) the word 'values' is associated with 'amenity values', but only to the extent it excludes it as well as a reference to natural features and landscapes, requiring recognition that 'natural character' is not the same as either of those three references.
40. The reference to the term 'values' is relevant to NZCPS Policy 15 and is clearly distinct from consideration of the preservation of natural character. Nor are they part of the characteristics that identify natural character. That reference provides for those natural features and natural landscapes and amenity values of an area that contribute to people's appreciation. The term 'values' arises in an evaluative not descriptive sense, which is how natural character is identified.

²² FNHTB, Michael Steven Evidence, paragraph 44.

Consideration

41. The Panel addressed as a consequential amendment to the word ‘values’ the word ‘characteristics’ as the most appropriate replacement as the identification of natural character is a descriptive exercise.
42. The word ‘characteristic’ replaces the word ‘values’ throughout the remainder of this document.

Decision

43. Amend the Introduction to read:

‘Natural character’ is the term used to describe the degree of naturalness in an area, and includes the natural elements, patterns, processes and experiential attributes of an environment. The natural character of the coastal environment, and freshwater bodies and their margins, is comprised of a number of ~~key components~~ attributes which include:

- ~~coastal or freshwater landforms and landscapes (including seascape);~~
- ~~coastal or freshwater physical processes (including the movement of water and sediments);~~
- ~~biodiversity (including individual indigenous species, their habitats and communities they form);~~
- ~~biological processes and patterns;~~
- ~~water flows and levels, and water quality; and~~
- ~~the ways in which people experience the natural elements, patterns and processes.~~
- Abiotic systems - physical processes, geomorphology, topography, landform and water quantity/quality;
- Biotic systems – species, communities, habitats and ecological processes; and
- Experiential attributes – The way in which people, including tangata whenua, experience natural elements, patterns and processes.

Collectively, these combine to create the overall natural character of the environment. The degree of natural character present in an area is commonly described on a continuum. Some environments have very high natural character due to the lack of human induced modification and may even be in a natural state. In other areas, there may be little natural character remaining due to extensive human modification.

This chapter provides the basis from which to determine the degree of natural character present;

- the classification of areas of natural character;

- the management of natural character to recognise and provide for section 6(a) of the Resource Management Act 1991;
- to give effect to Policies 13 and 14 of the New Zealand Coastal Policy Statement 2010 (NZCPS);
- to the National Policy Statement for Freshwater Management 2017 (NPSFM).

The chapter includes objectives, policies, and methods to guide activities within both coastal and river environments.

The natural character characteristics that have been identified are included in Appendix 2 (coastal), Appendix 5 (freshwater). Specific areas of high, very high, and outstanding natural character are identified on the planning maps in Volume 4. The difference between areas of high natural character and very high coastal natural character is one of degree on the spectrum of assessment of natural character rather than one of legal effect.

Provisions included elsewhere in the Marlborough Environment Plan (MEP) ~~target~~ address the individual components of natural character and provide direction on how adverse effects on particular ~~values~~ characteristics can be managed. These include:

- Chapter 5 - Allocation of Public Resources
- ~~Chapter 7 - Landscape~~
- Chapter 8 - Indigenous Biodiversity
- Chapter 9 - Public Access and Open Space
- Chapter 13 - Use of the Coastal Environment
- Chapter 15 - Resource Quality (Water, Air, Soil).

This chapter does not address the natural character of wetlands. The natural character of wetlands has been established through an integrated process of assessing wetland values. Provisions to preserve the natural character of wetlands are included in Chapter 8 – Indigenous Biodiversity.

~~However, there is a need for this management to be integrated in order to preserve natural character in coastal and freshwater environments. This ensures that the management of the individual components of natural character is co-ordinated to achieve a common end in the context of Section 6(a) of the Resource Management Act 1991 (RMA), of the New Zealand~~

~~Coastal Policy Statement 2010 (NZCPS) and of the National Policy Statement for Freshwater Management 2014 (NPSFM).~~

Issue 6A

Resource use and changes in resource use can result in the degradation of the natural character of the coastal environment, and of lakes, rivers and their margins.

44. One submitter supports the retention of Issue 6A.²³ Another seeks to amend the issue to better align with the wording of s 6(a) RMA by recognising that ‘inappropriate subdivision use and development’ causes degradation instead of ‘Resource use and changes in resource use’ in the opening words.²⁴ Other submitters seek to replace the word ‘degradation’ with ‘modification’ and reflect this change throughout the chapter;²⁵ another seeks to amend the description to clarify that NZCPS Policies 13 and 14 provide further direction and guidance and restoration of natural character within the coastal environment;²⁶ yet another seeks amendment to recognise the natural character of wetlands.²⁷

Section 42A Report

45. The submissions seeking replacement of the term ‘degradation’ with ‘modification’ are supported in the Section 42A Report on the basis that resource use does not automatically constitute ‘degradation’ which implies a value judgement or negative attitude to change. ‘Modification’ instead is identified as a word inherent throughout Chapter 6 which recognises that natural character may range from pristine to modified.

Consideration

46. In relation to the request for greater alignment with s 6(a) RMA, resource management issues in regional and district plans are not required to restate the RMA’s provisions. They are intended to identify a local problem to be resolved in order to promote the purpose and principles of the RMA, although reference to s 6(a) is considered appropriate to provide greater alignment. The inclusion of submitter reference to ‘inappropriate use and development’, which concerns degradation, is unnecessary. The issue as written provides an appropriate description on what may impact on natural character degradation with no change.

²³ East Bay Conservation Society (100.15).

²⁴ FNHTB (716.56).

²⁵ AQNZ (401.44), MFA (42644), Ted and Shirley Culley (447.2), Sanford Ltd (1140.10).

²⁶ Forest & Bird (715.121).

²⁷ Fish and Game (509.105).

47. NZCPS Policies 13 and 14 nevertheless provide further guidance on the preservation of natural character as sought by Forest & Bird. It is appropriate to recognise the national policy context (NZCPS) more explicitly in Issue 6A's description.²⁸

Decision

48. For the reasons provided, we accept the recommendations of the Section 42A Report. Issue 6A and its accompanying explanation are amended as follows:

Issue 6A – Resource use and changes in resource use can result in the ~~degradation~~ modification of the natural character of the coastal environment, and of lakes, rivers and their margins.

*Section 6(a) of the RMA requires the Council to ~~preserve~~ recognise and provide for the preservation of the natural character of the coastal environment, wetlands, and lakes, rivers and their margins and to protect this natural character from inappropriate subdivision, use and development. The NZCPS sets a similar objective for the coastal environment. Policies 13 and 14 of the NZCPS and the NPSFM provide more specific direction on the preservation and restoration of natural character in the coastal environment, and lakes and rivers respectively.*²⁹

The entire coastal environment and all freshwater bodies possess some or all of the ~~components~~ characteristics of natural character (natural elements, patterns, processes and experiential attributes, and therefore all hold some degree of natural character. The extent of human-induced modification has a significant influence on the level of natural character that exists in the coastal environment and adjacent to freshwater bodies. Some environments will have high natural character due to the lack of human-induced modification and may even be in a natural state. In other areas, there will be little remaining natural character due to extensive human-induced modification of the environment. ...

Objective 6.1

Establishing the degree of natural character in the coastal environment and in lakes and rivers and their margins.

49. A number of submissions seek to retain the objective as notified.³⁰ Others seek an assessment of natural character and the evaluation of the degree;³¹ identification of areas and values of natural character which require preservation in the coastal environment and in wetlands,

²⁸ Section 42A Report, pages 14-15.

²⁹ For the purposes of interpreting the NZCPS 2010 Policy 13(2): 'elements, patterns and processes' means: biophysical, ecological, geological and geomorphological aspects; natural landforms such as headlands, peninsulas, cliffs, dunes, wetlands, reefs, freshwater springs and surf breaks; and the natural movement of water and sediment'.

³⁰ Federated Farmers (425.80), DOC (479.51), QCSRA (504.18), KiwiRail (873.13), Trustpower (1201.63), Judy and John Hellstrom (688.37).

³¹ EDS (698.38).

lakes, rivers and their margins;³² identification of areas of high natural character in the coastal environment;³³ amendment of the objective to refer to the 7 range scale for rating natural character;³⁴ application of the objective to only selected rivers, or rivers, lakes and coastal environment at risk;³⁵ amendment of the objective to define the extent of acceptable modification;³⁶ identification of the biological features that contribute to natural character and the community's acceptance of a level of modification;³⁷ and provision of a definition of 'degree of natural character'.³⁸

Section 42A Report

50. The report writer identifies that 'The DOC guidance note on Policy 7 of the NZCPS recognises that cumulative effects in the coastal environment are better addressed through a strategic planning approach, including the identification of environmental limits and integrated management of the impact of different and/or numerous similar activities. It also, however, recognises that addressing cumulative adverse effects can be challenging, as they can arise from direct and indirect influences. Management responses need to consider all sources, and an approach that tackles only a fraction of the problem will be ineffective and lack credibility. The guidance notes that the management responses need to be practicable and will vary according to the significance of the issue and resources available.'³⁹
51. The submissions seek greater prescription of the way in which natural character is identified and measured in the PMEP, and do not meet the purpose of the objective, that is, do not establish 'degrees' of natural character. But a resource management objective is intended to be a statement of what is to be achieved through the resolution of a particular issue. How it is achieved is the role of supporting policies. It is therefore inappropriate to further describe the process for establishing the degree of natural character, or for the identification of identified areas which would introduce a degree of specificity as to how the objective is to be achieved.

Consideration

52. As to the request for amendment of Objective 6.1 to include reference to the seven-point scale, the Panel supports the view of the report writer in that it is inappropriate to reference

³² Forest & Bird (715.22).

³³ Nelson Forests Ltd (90.175).

³⁴ FNHTB (716.57).

³⁵ MFIA (962.40), Nelson Forests Ltd (990.1175).

³⁶ MFA (426.45), AQNZ (401.45).

³⁷ Sanford Ltd (1140.11).

³⁸ Marguerete Osborne (243.2).

³⁹ Section 42A Report, page 17.

this scale. It is a methodology to **rate** various degrees of natural character and should not form part of an objective.⁴⁰

53. A number of submissions also effectively seek inclusion in 'policy' of the degree of modification or change to natural character providing an acceptable threshold of the limits to change. The Section 42A Report explores this concept at some length in a number of paragraphs concluding that while there is merit in this approach, it would require significant research to provide an answer.⁴¹
54. No changes to Objective 6.1 are recommended.
55. The process for establishing the degree of natural character and the identification of specific areas is considered later in this decision when addressing natural character.

Decision

56. Objective 6.1 is retained as notified for the reasons set out by the Section 42A Report.

Policy 6.1.1

Recognise that the following natural elements, patterns, processes and experiential qualities contribute to natural character:

- (a) areas of water bodies in their natural state or close to their natural state;**
- (b) coastal or freshwater landforms and landscapes (including seascape);**
- (c) coastal or freshwater physical processes (including the natural movement of water and sediments);**
- (d) biodiversity (including individual indigenous species, their habitats and communities they form);**
- (e) biological processes and patterns;**
- (f) water flows and levels and water quality; and**
- (g) the experience of the above elements, patterns and processes, including unmodified, scenic and wilderness qualities.**

57. Four submissions support the policy as notified.⁴² Seven others all seek various changes to the list of characteristics that contribute or may contribute to natural character.⁴³ They include those that seek greater alignment with the list of characteristics in Policy 13(2) NZCPS; limiting the scope of the attributes to only the natural, physical and biological and how they are

⁴⁰ The request by FNHTB for the seven-point scale methodology to be inserted was repeated in respect of some of the following policies to Objective 6.1. The Panel's view is consistent that methodologies for evaluations are not appropriate to be included in objectives or policies.

⁴¹ See Section 42A Report, final paragraph, page 17.

⁴² DOC (479.52), DC Hemphill (648.13), Forest & Bird (715.123), Trustpower Ltd (1201.64).

⁴³ Nelson Forests Ltd (990.176).

perceived; or expanding the list to include additional characteristics, including cultural and spiritual values.⁴⁴

Section 42A Report

58. As set out in the introduction to the chapter, the list of characteristics in the PMP does not fully align with those of the coastal environment as set out in Policy 13(2) NZCPS. Also they are inconsistent with those characteristics considered in the natural character assessment reports for Marlborough's coastal environment and rivers. It is recommended that the listed characteristics and attributes are amended to achieve an appropriate alignment with the NZCPS and assessment reports. This will ensure they are also consistent with the recommended amendments to the Introduction (above).

Consideration

59. The Panel agrees that the list of characteristics does not accurately reflect NZCPS Policy 13(2) and that it is useful to reword (a)-(b) to focus on abiotic and biotic qualities as suggested in the evidence of Andrew Baxter for the Minister of Conservation.⁴⁵
60. Initially, cultural and spiritual values were considered by the report writer as not an attribute of natural character, but instead as an associative value of landscape character. They are captured in the assessment of Marlborough's values and identification of outstanding and significant landscapes in Chapter 7. We consider that this is an evaluation relevant to NZCPS Policy 15(c)(viii).
61. The evidence of Ian Shapcott for Te Ātiawa⁴⁶ and Tanya Stevens of Te Rūnanga o Kaikōura and Te Rūnanga o Ngāi Tahu⁴⁷ (Ngāi Tahu) at the hearing, however, prompted the report writer to reconsider that cultural qualities may be an experiential [perceptual] quality [attribute] of natural character, that is, there are different ways in which tangata whenua perceive the natural environment. As a result, the report writer recommended clause (c) of the policy to read:

⁴⁴ Federated Farmers (425.81), AQNZ (401.46), MFA (426.46), NZ Fish and Game (509.107), EDS (716.58), FNHTB (698.39), Sanford Ltd (1140.13), Te Ātiawa o Te Waka-a-Māui (1186.51).

A further submission by Ngāti Koata Elkington whanau in support of Te Ātiawa but expanding the scope of its original submission with a range of additional amendments, was received. Under the RMA, submissions cannot achieve this and therefore have been unable to be recommended.

⁴⁵ Minister of Conservation, Andrew Baxter Evidence, pages 7-16.

⁴⁶ Section 42A Report, Reply to Evidence, pages 1-2.

⁴⁷ Te Ātiawa (1186.51), Statement of Evidence 2.2.1, paragraph 18, Ngāi Tahu (501.22). Tanya Stevens, Statement of Evidence, paragraph 28.

(c) Experiential attributes – the ways in which people, including Marlborough’s tangata whenua iwi, perceive⁴⁸ the natural environment.

62. The Panel does not accept the report writer’s recommendation. We consider the tangata whenua iwi’s submissions, for example, relate to the landscape cultural and spiritual values of NZCPS Policy 15(viii).

Decision

63. Policy 6.1.1 is amended as follows:

Policy 6.1.1 – Recognise that the following natural elements, patterns, processes and experiential ~~attributes~~ qualities contribute to natural character:

(a) Abiotic systems – physical processes, geomorphology, topography, landform and water quantity/quality;

(b) Biotic systems – species, communities, habitats and ecological processes; and

(c) Experiential attributes - – The way in which people experience natural elements, patterns and processes.

~~(a) areas or water bodies in their natural state or close to their natural state;~~

~~(b) coastal or freshwater landforms and landscapes (including seascape);~~

~~(c) coastal or freshwater physical processes (including the natural movement of water and sediments);~~

~~(d) biodiversity (including individual indigenous species, their habitats and communities they form);~~

~~(e) biological processes and patterns;~~

~~(f) water flows and levels and water quality; and~~

~~(g) the experience of the above elements, patterns and processes, including unmodified, scenic and wilderness qualities.~~

This policy describes those matters ~~that considered to~~ contribute to the natural character of coastal and river environments. This provides MEP users with a clear understanding of the meaning of natural character.

⁴⁸ The word ‘perception’ is defined as ‘an act or facility of perceiving’. The New Zealand Oxford Pocket Dictionary, *The Future of New Zealand English*, Fourth Edition, Oxford, page 835.

Policy 6.1.2

The extent of the coastal environment is identified in the Marlborough Environment Plan to establish the areas of land and coastal marine area to which management may need to be applied in order to protect the natural character of the coastal environment from inappropriate subdivision, use and development.

64. Two submissions support the policy as notified.⁴⁹ Others seek: the policy to recognise mapping of the coastal environment in consultation with landowners, the community and tangata whenua and move the policy to the coastal environment chapter;⁵⁰ move the policy to the coastal environment chapter and amend the description to clearly explain how the identification of the coastal environment is necessary for implementing the NZCPS not just s 6(a) RMA;⁵¹ add reference in the policy (in the last sentence of the explanation) to it being more difficult to define the extent of the south coast of the coastal environment to that adopted in adjoining regions, and consistency is required.⁵²

Section 42A Report

65. Policy 6.1.2 directly relates to the implementation of Objective 6.1 – establishing the degree of natural character in the coastal environment. Forest & Bird’s request to amend the description to clearly explain the identification of the extent of the coastal environment for implementing the NZCPS is appropriate.⁵³ The Section 42A Report recommends that the policy include a reference to this document.⁵⁴
66. Other submissions are not recommended. Consultation with Federated Farmers is provided for in the RMA First Schedule process and is a required first step in the plan review process; this provides appropriate input into decision-making on the final form of the PMEP provisions. Inclusion of the reference to the management of commercial forestry within Policy 6.1.2 would not align with its purpose. The exclusion of commercial forestry from the identified extent of the coastal environment would also not be appropriate. The extent of the coastal environment over land reflects those areas of Marlborough that either have interface with or are influenced by coastal processes.
67. Inter-regional consistency in the identification of the extent of the coastal environment is dependent on how it is measured by each council. The Section 42A Report identifies that regional consistency is unlikely to achieve the goal sought by FNHTB. Instead, the report writer

⁴⁹ EBCS (100.16), DOC (479.53).

⁵⁰ Federated Farmers (425.82).

⁵¹ Forest & Bird (715.124).

⁵² FNHTB (716.59).

⁵³ Forest & Bird (715.124)

⁵⁴ Section 42A Report, pages 18-21.

identifies the practice used to identify the coastal environment in the PMEP aligns with that used in the adjoining Canterbury Region and Tasman District (all undertaken by Boffa Miskell).⁵⁵

Consideration

68. The submission of Forest & Bird to include reference to the NZCPS as recommended in the Section 42A Report is accepted. It recognises that identification of the extent of the coastal environment is necessary to give it effect for implementing the NZCPS.

Decision

69. The wording of the final paragraph of Policy 6.1.2 is amended as follows:

... The landward extent of Marlborough's coastal environment is mapped in the MEP. Establishing the extent of the coastal environment defines the areas in which activities may need to be managed in a particular way to preserve the natural character of this environment in accordance with Section 6(a) of the RMA, and relevant policies of the NZCPS. This will provide resource users and the community with certainty as to the spatial area to which the natural character and other provisions of the NZCPS apply.

Policy 6.1.3

Determine the degree of natural character in both the coastal marine and coastal terrestrial components of the coastal environment by assessing:

- (a) the degree of human-induced modification on abiotic systems and landforms, marine and terrestrial biotic systems and experiential qualities; and**
- (b) natural character at a range of scales.**

70. Two submissions seek the retention of the policy as notified.⁵⁶ Others mainly relate to the (a) and (b) provisions of the policy either seeking to delete the words in (a) 'assessing the degree of human induced modification on abiotic systems and landforms, marine and coastal terrestrial biotic systems and experiential qualities; and (b) categorising natural character at a range of scales';⁵⁷ a request to add in 'the factors in Policy 6.1.1' and (b) categorising natural character at a range of scales together with evaluate the degree of natural character;⁵⁸ amend the policy (or add a new one) to include guidance on the values that contribute to natural character and establishing areas with high and very high natural character;⁵⁹ modify (a) by

⁵⁵ Section 42A Report, page 21.

⁵⁶ DOC (479.54), NZ Forest Products Holdings Ltd (996.12).

⁵⁷ AQNZ (401.48), MFA (426.48).

⁵⁸ EDS (698.40).

⁵⁹ Forest & Bird (715.125).

replacing 'abiotic and biotic systems' etc with 'natural elements, patterns and natural processes' and (b) 'referring to the 7-point scale range of natural character'.⁶⁰

Section 42A Report

71. Policy 6.1.3 addresses how the degree of natural character is to be determined to assist in implementing Objective 6.1. The policy creates some confusion among the submitters for using different terminology from that used in Policy 6.1.1. FNHTB seek inclusion of reference to the 7 point rating for assessing natural character which we have already referred to elsewhere. MFA and AQNZ reference assessing natural character at a range of scales that reflects the mapping in the plan detailed at Figure 6.2 Natural Character Assessment Scale at 5 scales in the PMEP.⁶¹ This analysis was undertaken at a range of scales from broad at the Marlborough Sounds or South Marlborough level to a more detailed bay-like level. As a result, natural character can be perceived at different levels and different scales, depending on the level of information available.
72. The confusion as to what characteristics form the basis for the assessment of natural character is found in the Natural Character of the Marlborough Coast (2014) Defining and Mapping the Marlborough Coastal Environment report⁶² which considered the degree of human modification on 'abiotic and marine biotic systems' and experiential qualities as currently recognised in Policy 6.1.3. The Section 42A Report recommends that to address this problem, Policy 6.1.3 be amended to cross refer to the characteristics in Policy 6.1.1 as proposed in the EDS submission. Basically, as written (a) and (b) in Policy 6.1.3 of the PMEP are said to be inconsistent with the matters in Policy 6.1.1.

Consideration

73. The reference to the 'range of scales' referred to by FNHTB seeks inclusion of the 7 point rating system which is asserted to determine the degree of natural character (very low to very high).⁶³ The PMEP at Figure 6.2 instead involves a Natural Character Assessment Scale of 5 levels utilising a geographic land systems approach which uses different scales of reference – Levels 1-5. These focus from the broad regional scale to a detailed local one. The intent of the reference in part (b) of the policy (natural character at a range of scales) is to recognise the Natural Character Assessment Scale in Figure 6.2. The natural character mapping used in the PMEP has occurred at Level 3 of this scale for Coastal Terrestrial Areas and Coastal Marine Areas.

⁶⁰ FNHTB Counsel Submissions, paragraphs 9-10. Michael Steven Evidence, paragraph 75.4.

⁶¹ PMEP, Chapter 6 Natural Character, page 6-4.

⁶² Identified in Section 42A Report, pages 20-21.

⁶³ Section 42A Report, pages 16-18.

74. There is recognition nevertheless that identification of the extent of the coastal environment is necessary to give effect to the NZCPS. For what appears to have happened is that since the NZCPS was released, various other references have emerged from the scientists, landscape architects and others which have been adopted as description of natural character abiotic systems and terrestrial biotic systems, and as experiential attributes. This has created confusion on experiential attributes in Policy 13(2)(h) NZCPS for some of the users of the NZCPS.
75. In addition to this confusion, the Panel observed through the hearing that experiential attributes can be confused with abiotic and biotic systems. Biotic and abiotic systems are physical components of natural character, but so are experiential attributes which relate to marine ecology. To avoid confusion, the Panel believes that these two matters should be separated in the statement of the policy. This is easily achieved by removing experiential attributes from 6.1.3(a) and including it as a separate 6.1.3(b) (making the existing (b) (c)).
76. The Section 42A Report recommendation to remedy that situation is accepted. The reference to specific areas of natural character identified in the planning maps of Volume 4 as ‘high’ or ‘very high’ natural character, as we pointed out at the beginning of this chapter of the report, relates to the 7 point rating system identified by landscape architects and is one of degree on the spectrum rather than one of legal effect.

Decision

77. The policy and explanation is amended as follows:

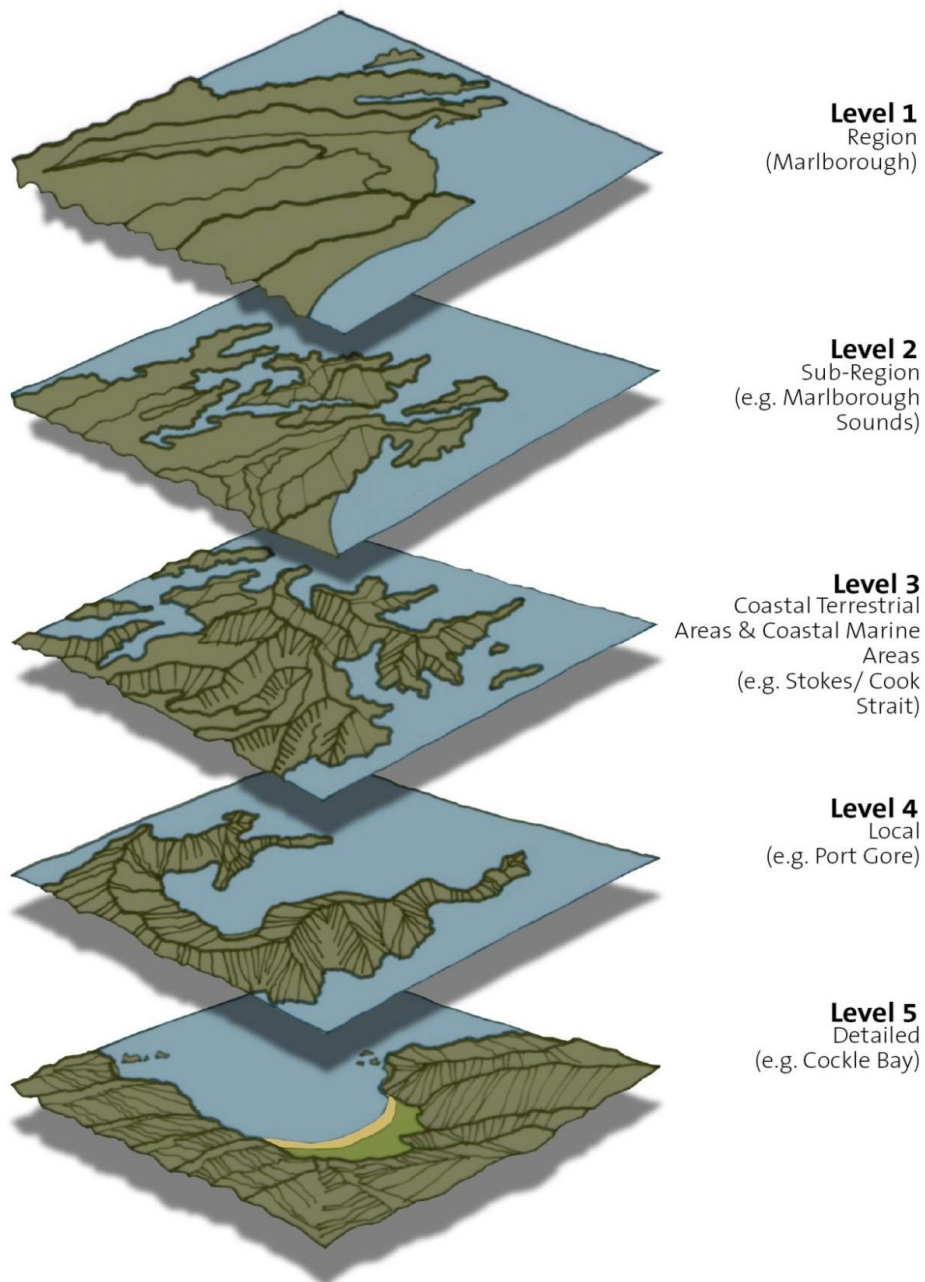
Policy 6.1.3 – Determine the degree of natural character in both the coastal marine and coastal terrestrial ~~components~~ areas of the coastal environment by assessing:

- (a) *the degree of human-induced modification on abiotic and biotic systems ~~and landforms, marine and terrestrial biotic systems and experiential qualities~~, including those listed in Policy 6.1.1;*
- (b) *the way in which people experience the natural elements, patterns and processes; and*
- (c) *natural character at a range of scales.*

The natural character of the coastal environment can vary significantly from place to place. An evaluation of the degree of natural character in Marlborough’s coastal environment has been undertaken. This comprised an assessment of the extent of human-induced modification in the coastal marine area and on land within the coastal environment. To assist this process, Marlborough’s coastal environment was divided into nine distinct coastal marine areas and 17

distinct coastal terrestrial areas based on land typology. For each area, abiotic systems and landforms biotic systems and experiential attributes were assessed. Freshwater values within the coastal environment were identified in the coastal terrestrial areas.

The analysis of natural character was undertaken at a range of scales from broad (i.e. at the Marlborough Sounds or South Marlborough level) through to a more detailed scale, which in some cases was bay-level assessment. As a result, natural character can be perceived at different levels and different scales, depending on the level of information that is available. The scales at which the assessments have been undertaken can be seen in Figure 6.2.



Figure

6.2: Natural Character Assessment Scale

Appendix 2 identifies the ~~values~~-characteristics that contribute to high and very high coastal natural character in each of the discrete natural character areas (reaching Levels 4 to 5 on the assessment scale). The difference between areas of high natural character and very high coastal natural character is one of degree on the spectrum of assessment rather than one of legal effect. The ~~values~~-characteristics for areas with outstanding coastal natural character are also included within Appendix 2.

Policy 6.1.4

Identify those areas of the coastal environment that have high, very high or outstanding natural character.

78. Five submitters seek that the policy be retained as notified.⁶⁴ Others seek that Policy 6.1.4 be deleted on the basis that it duplicates Policy 6.1.3; or make it clear that areas below the threshold of having high natural character are still subject to management objectives and policies of Chapter 6;⁶⁵ the policy be amended to identify and map those areas of the coastal environment that have high, very high or outstanding natural character;⁶⁶ the policy be amended to make it clear that areas classified below high are only excluded from the PMEP maps on practicality grounds and that policies on natural character in the PMEP also apply to those areas;⁶⁷ the policy be amended to read ‘Identify those areas classified that are ‘valued by the community as high and outstanding natural character’;⁶⁸ the second paragraph of the explanation to refer to a 7 range rating of natural character.⁶⁹

Section 42A Report

79. The report writer considers that rather than deleting Policy 6.1.4 because it duplicates Policy 6.1.3, the policy builds on the evolution of the degree of natural character under Policy 6.1.3 by emphasising identification of those areas which exhibit high, very high or outstanding natural character. Deletion of the policy would make the PMEP inconsistent with Policy 13(1)(c) NZCPS. The Section 42A Report recommends against deleting the policy.
80. As to Clova Bay’s request, NZCPS Policy 13(1)(c) does not require mapping of areas which fall below the threshold of having *at least* high natural character. It is also clear that other Chapter 6 objectives and policies apply more broadly beyond those areas identified as having outstanding, very high or high natural character. In particular, Policy 6.2.2 requires significant

⁶⁴ Michael and Kristen Gerard (424.14), DOC (479.55), DC Hemphill (648.14), Flaxbourne Settlers Association (712.101), AQNZ (401.49), MFA (426.49).

⁶⁵ EDS (698.41).

⁶⁶ Clova Bay Residents Association (152.1).

⁶⁷ Ibid

⁶⁸ Sanford Ltd (1140.15).

⁶⁹ FNHTB (716.61).

adverse effects of subdivision use and development on coastal natural character to be avoided so as to give effect to Policy 13(1)(b) NZCPS. Thus the policy makes it clear that other natural character policies apply to these areas which have less than high natural character, and amendment is unnecessary.

81. Sanford's request that the identification of areas of outstanding and high natural character only include those valued by the community would not be consistent with s 6(a) RMA or Policy 13 NZCPS. Further, it is relevant to note that the assessment of the degree of natural character has taken into account existing uses and modifications present.⁷⁰
82. The minor wording change sought that identified areas be 'mapped' in the PMEP is recommended to be included.

Consideration

83. The Section 42A Report recommends the wording change sought by EDS to map the relevant areas of natural character discussed in the policy.⁷¹ The Panel accepts this change for the reasons given.
84. The Section 42A Report's response to Sanford is important because it foreshadows how the relevant final mapping and text will be addressed later in Chapter 7. The minor wording change sought to identify areas are 'mapped' is recommended to be accepted.

Decision

85. Policy 6.1.4 is amended to read as follows:

Policy 6.1.4 – Identify and map those areas of the coastal environment that have high, very high or outstanding natural character.

Policy 6.1.5

Determine the degree of natural character in and adjacent to lakes and rivers by assessing the degree of human-induced modification to the following:

- (a) channel shape and bed morphology;**
- (b) flow regime and water levels;**
- (c) water quality;**
- (d) presence of indigenous flora and fauna in the river channel;**
- (e) absence of exotic flora and fauna;**
- (f) absence of structures and other human modification in the river channel/lake;**

⁷⁰ Section 42A Report, pages 24-25.

⁷¹ Section 42A Report, pages 24-25.

- (g) vegetation cover in the riparian margin;**
- (h) absence of structures and other human modification in the riparian margin; and**
- (i) the experience of the above elements, patterns and processes including unmodified, scenic and wilderness qualities.**

86. Several submitters seek to retain the policy as notified.⁷² Two seek to have the policy deleted.⁷³ Others seek to amend the policy to read *'Evaluate the degrees of natural character n and adjacent to lakes and rivers by assessing the degree of human-induced modification to the factors in Policy 6.1.1;*⁷⁴ the policy to include the level of mauri assessed through a cultural health assessment;⁷⁵ the policy to include 'streams that would normally flow all year if not adversely affected by high take during the peak summer period';⁷⁶ the policy to improve readability of NZCPS Policy 13(2) (b), (f) and (h);⁷⁷ the policy to ensure that natural character is determined firstly by identification of the elements, patterns and processes that contribute to natural character in lakes and rivers and then establish to what degree these have been modified by human activity;⁷⁸ the policy to provide certainty as to the extent of 'modification' (replace 'adjacent') and focus on a list of rivers rather than all watercourses;⁷⁹ the explanation to clarify if the list of matters in the policy are guidance on the values identified in Appendix 5 of the PMEP, and whether the policy provides guidance on determining areas of outstanding natural character or add a new policy to achieve this.⁸⁰

Section 42A Report

87. Policy 6.1.5 sets out how the natural character of lakes, rivers and their margins will be determined in implementing Objective 6.1. As in the case for Policy 6.1.3, it is apparent from the submissions that the use of different terminology to describe the characteristics which are assessed to determine the degree of natural character in Policies 6.1.1 and 6.1.5 has created confusion as to what attributes form the basis for assessment. The report writer recommends that to resolve the confusion, Policy 6.1.5 be amended to cross-refer to the characteristics in Policy 6.1.1 as identified by EDS.
88. For the submitters seeking clarity around what is meant by 'adjacent to lakes and rivers', it is acknowledged the word 'adjacent' creates uncertainty in terms of the policy's application. The

⁷² DOC (479.56), KiwiRail (873.14), NZ Forest Product Holdings Ltd (996.12).

⁷³ Coatbridge Ltd (356.7), Federated Farmers (425.83).

⁷⁴ EDS (698.42).

⁷⁵ Te Rūnanga o Ngāti Kūia (501.22), Statement of Evidence, paragraphs 4-14.

⁷⁶ QCSRA (504.19).

⁷⁷ Trustpower (1201.57)

⁷⁸ MFIA (962.43). Fish and Game (509.108).

⁷⁹ Nelson Forests Ltd (990.178).

⁸⁰ Forest & Bird (715.28).

report writer recommends the wording be changed to refer to the ‘margins of rivers’ to align with standard RMA terminology and the wording of Objective 6.1.

89. Several forest industries’ submissions to restrict the scope of the policy to a list of selected rivers are not consistent with s 6(a) RMA; it would predetermine what rivers should be assessed without first understanding what natural character attributes exist.
90. In answer to Forest & Bird’s submission to amend the explanation to clarify whether the list of matters in the policy are guidance on the values as identified in Appendix 5, or whether the policy provides guidance on determining areas of outstanding natural character, the report identifies that Appendix 5 includes a broader range of values (rivers) which includes reference to the degree of assessed natural character. It is acknowledged by the report writer that Policy 6.1.5 could be clearer and changes to its description are recommended below.

Consideration

91. The Panel accepts the word ‘adjacent’ in the policy introduces uncertainty in terms of its application. It is appropriate to better align it within the recognised terms of the RMA and replace the word with ‘within the margins of’. Further, we accept the policy is unclear because it confuses attributes of natural character with the process of determining the degree of natural character. We also accept modification to the policy and the explanation as recommended in the Section 42A Report.⁸¹

Decision

92. Policy 6.1.5 is amended as follows:

Policy 6.1.5 – Determine the degree of natural character in and ~~adjacent to~~ within the margins of lakes and rivers by assessing the degree of human-induced modification on abiotic and biotic systems, and experiential attributes including those listed in Policy 6.1.1 to the following:

(a) — ~~channel shape and bed morphology;~~

(b) — ~~flow regime and water levels;~~

(c) — ~~water quality;~~

(d) — ~~presence of indigenous flora and fauna in the river channel;~~

(e) — ~~absence of exotic flora and fauna;~~

(f) — ~~absence of structures and other human modification in the river channel/lake;~~

(g) — ~~vegetation cover in the riparian margin;~~

⁸¹ Section 42A Report, pages 25-27.

~~(h) — absence of structures and other human modification in the riparian margin; and~~
~~(i) — the experience of the above elements, patterns and processes including unmodified, scenic and wilderness qualities attributes.~~

The natural character of rivers can vary significantly from place to place. An evaluation of the degree of natural character in Marlborough's rivers has been undertaken, involving the assessment of a range of natural ~~The matters identified in (a) to (i) are those elements, patterns, processes and experiential~~ qualities attributes that contribute to the natural character of Marlborough's lakes and rivers and their margins. The extent to which these have been modified by human activities will determine the degree of natural character. ~~Where the matters in (a) to (i) have not been modified or have been only been slightly modified, then the natural character will be assessed as being very high. As the degree of human-induced modification of the river and its margins increases, the degree of natural character will reduce from high, through moderate, low and finally, very low (where the river environment has been heavily modified). The degree of natural character is identified as part of the range of values identified for Marlborough's rivers in Appendix 5.~~

Policy 6.1.6

Identify those rivers or parts of rivers that have high or very high natural character.

93. Two submissions support the policy as notified⁸² while two seek its deletion.⁸³ Others seek amending the policy to include mapping of those rivers or their parts with high or very high natural character;⁸⁴ including a requirement that weeds on the conservation estate/reserves need to be controlled;⁸⁵ the policy to explain that it applies outside the coastal environment as Policies 13 and 14 NZCPS would capture any rivers and wetlands within that environment; amend a complementary policy to provide guidance on the values used to determine the maps identified in Appendix 5;⁸⁶ the explanation to the policy to refer to a 7 range rating of natural character.⁸⁷

Section 42A Report

94. Inclusion of reference to the control of weeds on the conservation estate does not align with the purpose of the policy which is to focus on the identification of areas of high or very high natural character to assist in implementing Objective 6.1. Management of exotic weeds is

⁸² DOC (489.57), Forest & Bird (496.1).

⁸³ Coatbridge Ltd (356.6), Federated Farmers (425.84).

⁸⁴ EDS (698.4).

⁸⁵ Murray Chapman (348.2).

⁸⁶ Forest & Bird (715.129).

⁸⁷ FNHTB (716.162).

more effectively addressed through regulatory mechanisms, including the Regional Pest Management Plan prepared under the Biosecurity Act 1993.

95. Although there is no specific requirement for the Council to identify rivers that have high or very high natural character, Council has undertaken an assessment to determine the natural character characteristics of a number of Marlborough's rivers, both inside and outside the coastal environment, in order to recognise and provide for Section 6(a) of the RMA. This provision allows a more targeted regime in recognition of their relatively higher degree of naturalness. In so doing, it avoids the implementation of a generic management regime across all rivers.
96. For the same reason it is not recommended to identify lakes and rivers with values less than high. Otherwise a more generic approach risks imposing too high a regulatory regime on the lesser lakes and rivers. It is not recommended that the approach sought by Coatbridge and Federated Farmers is approved.
97. Further information on a range of characteristics for Marlborough's rivers, including natural character, is set out in Appendix 5.
98. The minor wording change sought by EDS to include 'and map' is recommended to be included and is accepted by the Panel.

Decision

99. Policy 6.1.6 is amended as follows:

Policy 6.1.6 – Identify and map those rivers or parts of rivers that have high or very high natural character.

Objective 6.2

Preserve the natural character of the coastal environment, and lakes and rivers and their margins, and protect them from inappropriate subdivision, use and development.

This objective meets the expectations of s 6(a) of the RMA, which establishes that preservation of natural character is a matter of national importance.

100. Three submissions seek to retain the objective as notified.⁸⁸ Others seek to delete and replace the objective to incorporate several identified place-based objectives for identified areas;⁸⁹ to amend the objective to read 'Preserve the characteristics and qualities that contribute to the natural character of the environment ...';⁹⁰ amend the objective to reference preserving the

⁸⁸ DOC (479.58), DC Hemphill (648.15), Forest & Bird (715.130).

⁸⁹ FNHTB (716.63)

⁹⁰ Trustpower (1201.59)

values of the natural character rather than avoiding changes to that character, recognising ongoing use and developments lawfully established;⁹¹ amend the objective to recognise that some essential activities need to be located in the coastal environment;⁹² provide for an explanation to include reference to activities consistent with underlying zoning and existing land uses will be considered appropriate;⁹³ delete the explanation to the objective;⁹⁴ apply the objective to a set of rivers (not all rivers);⁹⁵ the objective should also refer to the 'enhancement' of natural character.⁹⁶

Section 42A Report

101. The report acknowledges that many existing, lawfully established activities are located in the coastal environment, that margins have been modified, and that there is a functional need for these activities to be located there.
102. Objective 6.2 is intended to set out the aim of the Plan as a result of managing subdivision, use and development within the identified natural character overlays and more generally outside those areas in addressing Issue 6A. It mirrors some of the wording in s 6(a) RMA. In this regard, it does not further articulate how the RMA is to be applied to managing matters at the local level.
103. It is recognised that the preservation of natural character should be linked to the natural character attributes and systems existing rather than require the absolute preservation of natural character in a more generic sense. The objective should be qualified to require the 'preservation' of attributes and systems that contribute to the natural character of an area, as indicated in the submissions of Trustpower and Sanford Ltd.⁹⁷
104. KCSRA tabled evidence at the hearing which suggested that the objective be amended to 'preserve and enhance the natural character'. But the report writer points out that enhancement of natural character is not recognised within s 6(a) RMA which merely requires preservation and is not recognised either in NZCPS Objective 2. It is otherwise provided for in Policy 6.2.6. The addition of 'and enhance' into the objective is not recommended at this point.

⁹¹ Sanford Ltd (1140.16).

⁹² Port Clifford Ltd (1041.10).

⁹³ Federated Farmers (525.85).

⁹⁴ PMNZ (433.15).

⁹⁵ Nelson Forests Ltd (990.179), MFIA (962.44).

⁹⁶ KCSRA Andrew Caddie Evidence, section B2.

⁹⁷ Section 42A Report, pages 29-31.

Consideration

105. The Panel supports the reasoning in the Section 42A Report: 'Resource management objectives in Regional and District plans are intended to be a statement of what is intended to be achieved through the resolution of a particular issue.' They are not intended to state how the objective should be achieved, which is the role of the supporting policies. The report writer points out it is 'inappropriate' to include recognition of existing modification in the objective which would introduce specificity as to how it is to be achieved.
106. As identified earlier, the word 'values' in NZCPS Policy 13(2) is qualified by the word 'amenity'. 'Amenity values' is disjunctive from natural features and landscapes and is defined in s 2 RMA Interpretation as meaning:

those natural or physical qualities or characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes

107. The word 'values' does not qualify natural character and features, and this is made clear in NZCPS Policy 13(2) so it is not useful terminology to apply to issues arising from Objective 6.2.
108. Given the restoration policies that follow the objective, the Panel considers that reference to 'promoting' the restoration of natural character, is an apposite amendment to the objective to give effect to NZCPS Policy 14 Restoration of natural character as proposed by KCSRA.

Decision

109. Objective 6.2 is amended as follows

Objective 6.2 – Preserve and promote the restoration of the natural character of the coastal environment, and lakes and rivers and their margins, and protect them from inappropriate subdivision, use and development.

This objective meets the expectations of Section 6(a) of the RMA, which establishes that preservation of natural character is a matter of national importance. Policy 14 of the NZCPS requires the Council to promote the restoration of the natural character of the coastal environment. The Council also considers it appropriate to promote the restoration of the natural character of lakes and rivers and their margins.

Policy 6.2.1

Avoid the adverse effects of subdivision, use or development on areas of the coastal environment with outstanding natural character values and on lakes and rivers and their margins with high and very high natural character values.

110. Five submissions support the policy as notified.⁹⁸ There are numerous other submissions which seek a wide range of changes. It is appropriate here to provide the summary provided by the Section 42A Report which captures their intent.
111. The range of submitters includes those that seek qualification that the avoidance of adverse effects required by the policy only extends to those characteristics and qualities which contribute to areas of outstanding natural character or be limited to 'inappropriate' subdivision, use and development. Others seek to include more explicit exemptions for regionally significant infrastructure, or essential activities; or further enablement of activities consistent with underlying zoning and existing land uses; or enable effects to be remedied or mitigated rather than avoided. Several submissions seek that the reference to lakes, rivers and their margins within high or very high natural character areas either be removed or qualified, including by requiring only 'significant' effects be avoided.⁹⁹ Other submissions seek more specifics as to the activities being managed.¹⁰⁰

Section 42A Report and consideration

112. The Section 42A Report identifies a number of important issues with which the Panel agrees.¹⁰¹
- Requiring avoiding 'all effects' on lakes, rivers and their margins that have 'high or very high natural character' is too high a threshold and may place too high a regulatory requirement for these environments given there is no national policy direction which requires adverse effects to be avoided on lakes and rivers with high or very high qualities.
 - It is recommended instead to require that 'significant' adverse effects on lakes and rivers with high natural values be avoided, rather than 'all effects'.¹⁰² This policy puts the natural character of rivers on a par with areas of high and very high natural character in the coastal environment under the first part of NZCPS Policy 13(1)(b).

⁹⁸ DOC (479.59), Forest & Bird (496.2), Forest & Bird (715.131), QCSRA (504.20), Judy and John Hellstrom (688.39).

⁹⁹ Section 42A Report, pages 31-32.

¹⁰⁰ Trustpower (1201.60) seeks reference to NPSET Policy 8 and the National Grid.

¹⁰¹ Section 42A Report, pages 31-34.

¹⁰² Pernod (1039.75).

- The Section 42A Report also recommends deleting the reference to lakes, rivers and their margins in Policy 6.2.1 and their inclusion with Policy 6.2.2 which currently addresses areas of high and very high natural character in the coastal environment.¹⁰³
- It is not necessary to include reference to avoiding adverse effects of inappropriate subdivision, use and development as this forms part of the overall Objective 6.2. It is important to note that activities consistent with underlying zonings and existing land activities are already located within the identified natural character areas.
- Other PMEP policies provide direction as to the extent to which activities are appropriate within the coastal environment and within lakes, rivers and their margins in the overall sense of supporting the sustainable management purpose of the RMA.¹⁰⁴
- Transpower’s reference to including National Grid and NPSET issues is recommended to be addressed in Policy 6.2.4 as being the most appropriate location for this issue.

Decision

113. Policy 6.2.1 is amended as follows:

Policy 6.2.1 – Avoid the adverse effects of subdivision, use or development on ~~areas of the coastal environment with outstanding natural character values and on lakes and rivers and their margins with high and very high natural character values~~ the characteristics that contribute to areas of the coastal environment with outstanding natural character.

Where the natural character of the coastal environment is outstanding, Section 6(a) of the RMA indicates that this level of preservation should be retained, particularly when coupled with the similar direction in Policy 13 of the NZCPS. This means that any adverse effects on natural character ~~values~~ characteristics should be avoided. That is not to say that no subdivision, use or development can occur within the coastal environment - activities may not adversely affect the natural character of the surrounding environment, or may include features or benefits that maintain the existing levels of natural character.

~~For freshwater bodies there is also a requirement in Section 6(a) to preserve the natural character of wetlands, lakes and rivers and their margins and to protect this natural character from inappropriate subdivision, use and development. Having regard to Policy 6.1.5, the Council has assessed the values of rivers and lakes and their level of significance in order to give effect to Section 6(a). In undertaking this assessment, the Council has determined that~~

¹⁰³ Section 42A Report generally.

¹⁰⁴ Section 42A Report, page 33.

~~where the freshwater values are high or very high, then adverse effects on these values should be avoided.~~

Policy 6.2.2

Avoid significant adverse effects of subdivision, use or development on coastal natural character, having regard to the significance criteria in Appendix 4.

114. Several submitters support the policy as notified.¹⁰⁵ One submission seeks to include its deletion¹⁰⁶ on the basis that it replicates Policy 6.2.1; another seeks that it be amended to apply only to freshwater bodies rather than the coastal environment or areas of high or very high natural character.¹⁰⁷ Another seeks to amend the policy to read ‘Where natural character is assessed as being very high or high, avoid adverse effects of subdivision, use and development that would result in a lower level of natural character; another seeks to avoid, remedy or mitigate significant adverse effects of subdivision, use or development on natural character’.¹⁰⁸
115. Other submissions seek to include more explicit exemptions for regionally significant infrastructure;¹⁰⁹ to avoid significant adverse effects on subdivision, use and development except where the activity is necessary to enable construction, maintenance, operations and upgrade of regionally significant infrastructure.¹¹⁰ Another submission seeks to make it clear that the avoidance of significant effects includes avoidance of significant cumulative effects;¹¹¹ amend the policy to avoid significant adverse effects of inappropriate subdivisions.¹¹²

Section 42A Report

116. Policy 6.2.2 is intended to provide the basis for the management of subdivision, use and development in areas of the coastal environment other than those addressed by Policy 6.1.1. In such areas significant effects are to be avoided having regard to a list of criteria in Appendix 4 Criteria for Determining Significant Adverse Effects. Policy 6.2.3, which is discussed next, builds on Policy 6.2.2 in setting a threshold as to what is deemed to be a significant adverse effect for the purposes of Policy 6.2.2.¹¹³

¹⁰⁵ DOC (479.60), Forest & Bird (496.3), Judy and John Hellstrom (688.40), Forest & Bird (715.132).

¹⁰⁶ Federated Farmers (428.88).

¹⁰⁷ AQNZ (401.52) MFA (426.52).

¹⁰⁸ FNHTB (716.65).

¹⁰⁹ Port Clifford Ltd (1041.12).

¹¹⁰ NZTA (1002.23).

¹¹¹ KCSRA (868.4).

¹¹² PMNZ (433.17), Transpower (1198.14).

¹¹³ Section 42A Report, pages 35-36. This report also responds again to submissions requesting enabling of electricity transmission and renewable electricity transmission (NPSET and NPSREG – refer infrastructure and cumulative effects). The answers to these lie with other policies (post).

117. The report writer in setting out these facts identifies there is confusion as to the scope of Policy 6.2.2, and its relationship with Policy 6.1.1. Policy 6.1.2 is intended to give effect to the requirement in NZCPS Policy 13(1)(b) (first part) to ‘avoid significant adverse effects outside those areas with outstanding natural character. The current wording makes that unclear. It is also acknowledged that the requirement to otherwise avoid, remedy or mitigate other adverse effects’ (the second part of NZCPS Policy 13(1)(b))¹¹⁴ is not reflected in this policy. Changes are recommended to address both these aspects. At page 36 in the S42A Report, there is a related recommended change to Policy 6.2.2.
118. Inclusion of explicit reference to cumulative effects as requested by KCSRA is unnecessary as the term ‘adverse effects’ encapsulates any adverse cumulative effects. No change on this point is recommended.¹¹⁵

Consideration

119. The Section 42A Report writer has disentangled the confusion identified under this policy. There are two parts to Policy 13(1)(b) NZCPS. There is the requirement to avoid significant adverse effects on natural character in the first part of the policy; the second part of the policy requires avoidance, remedy or mitigation of ‘other adverse effects’ in all ‘other’ areas of the coastal environment.
120. This policy clarifies the hierarchy for Policy 6.2.1 in terms of managing adverse effects.

Decision

121. The policy is amended as follows:

Policy 6.2.2 – Avoid the significant adverse effects of subdivision, use or development, and otherwise avoid, remedy or mitigate adverse effects on the characteristics that contribute to coastal natural character, having regard to the significance criteria in Appendix 4, within:

(a) all areas of the coastal environment outside of areas of outstanding natural character;
and

(b) lakes and rivers, and their margins of high and very high natural character.

The degree of adverse effects on coastal natural character is an important consideration under Policy 13(1)(b) of the NZCPS. Where the extent of change in the coastal environment from

¹¹⁴ The Section 42A Report (Dale) outlines the three directions relating to effects in NZCPS Policy 13 in the third paragraph, page 11.

¹¹⁵ Section 42A Report, page 36.

subdivision, use or development causes significant adverse effects on natural character, the NZCPS states those effects should be avoided.

For freshwater bodies there is also a requirement in Section 6(a) to preserve the natural character of wetlands, lakes and rivers and their margins and to protect this natural character from inappropriate subdivision, use and development. Having regard to Policy 6.1.5, the Council has assessed the attributes of rivers and lakes and their level of significance in order to give effect to Section 6(a). In undertaking this assessment, the Council has determined that where the freshwater attributes are high or very high, then significant adverse effects on these attributes should also be avoided.

There is therefore a threshold in these areas beyond which remediation and/or mitigation of ~~those~~ adverse effects is not an appropriate management option. That threshold will be determined on a case-by-case basis through the resource consent or plan change process. The significance of the adverse effect will depend on the nature of the proposal, the natural character context within which the activity is proposed to occur and the degree of change to the attributes that contribute to natural character in that context. Where adverse effects are not assessed as significant, then adverse effects should otherwise be avoided, remedied, or mitigated.

In addition to using information in the appendices on the degree of natural character at particular locations, consideration should also be given to other chapters of the MEP, which help to inform how adverse effects should ~~can~~ be avoided. For example, the policies in Chapter 7 - Landscape, Chapter 8 - Indigenous Biodiversity and Chapter 13 - Use of the Coastal Environment, target the individual components of natural character and therefore provide a framework on how to avoid significant adverse effects on natural character characteristics.

Policy 6.2.3

Where natural character is classified as high or very high, avoid any reduction in the degree of natural character of the coastal environment or freshwater bodies.

122. The intent of the policy is to establish a threshold for the extent of further changes made in areas of the coastal environment, lakes, rivers and their margins with high or very high natural character. Any activity that would reduce the natural character to a classification below that existing is considered to be a 'significant' adverse effect which is required to be avoided.¹¹⁶

¹¹⁶ Section 42A Report, page 38.

123. Eight submitters support the retention of the policy as notified. Five submitters seek it be deleted on the basis that it does not assist in meeting the requirements with s 6(a) RMA, aligning with the NZCPS, or overlapping with the requirements in Policy 6.2.1.¹¹⁷
124. Other submissions ranged from: requesting the insertion of the word ‘significant’ before that of ‘reduction’¹¹⁸ and inserting the words ‘remedy’ or ‘mitigate’ any adverse effects;¹¹⁹ inserting the words ‘where practicable’ and the ‘characteristics and qualities that contribute to ...’ ending with the sentence ‘Where adverse effects cannot be avoided, ensure that the adverse effects are remedied or mitigated’;¹²⁰ reviewing the riparian natural character overlay to ensure provision is made for the appropriate use of natural and physical resources;¹²¹ removing all references to freshwater bodies;¹²² inserting the words ‘except where the activity is necessary to enable the maintenance, construction, operation and upgrade of regionally significant infrastructure’;¹²³ applying the policy more widely including all areas irrespective of the classification of natural character;¹²⁴ amending the policy to define what is meant by ‘classified’ and applying the policy to all areas of natural character.¹²⁵

Section 42A Report

125. The report acknowledges there is some overlap of Policy 6.2.3 with Policies 6.2.1 and 6.2.2. The report writer considers the intent of the policy is that it provides a threshold by which any activity that causes a reduction in the ‘classification’ of an area of high or very high natural character is considered to be a significant adverse effect both under Policy 6.2.1 and Policy 6.2.2. He suggests that Policy 6.2.3 be amended to read *Where natural character is classified as high or very high, avoid any reduction in the degree classification of natural character ~~of the coastal environment or freshwater bodies~~ to a lower classification.*¹²⁶
126. But the words ‘avoid any reduction in the *degree* of natural character’ promises a higher threshold where any reduction is a significant adverse effect. This would be inconsistent with s 6(a) RMA or the first part of NZCPS Policy 13(1)(b).

Consideration

¹¹⁷ AQNZ (401.55), MFA (426.54), Federated Farmers (425.88), Ngāti Kuia (501.23), DC Hemphill (648.16).

¹¹⁸ Pernod (1039.76), Totaranui Ltd (223.15).

¹¹⁹ PMNZ (433.18), Port Clifford Ltd (1041.18), NZ Forest Product Holdings Ltd (996.12), Totaranui Ltd (223.15).

¹²⁰ Trustpower Limited (1201.61).

¹²¹ Marlborough Forest Industry Association (962.46).

¹²² Nelson Forests Ltd (990.81).

¹²³ NZTA (1002.24).

¹²⁴ Clova Bay Residents Association (152.19).

¹²⁵ KCSRA (868.4).

¹²⁶ Section 42A Report, page 39.

127. The Panel was concerned, however, about the implications for Policy 6.2.3 at the inclusion of the recommended amended wording requiring any reduction in ‘classification’ of natural character from very high to high or high to moderate.
128. Evidence presented for the Minister of Conservation considered that this amended wording would change the reference from any reduction in the ‘degree’ of natural character to any reduction in the ‘classification’ of natural character.
129. Mr Ensor for the Minister points out that ‘this amendment essentially defines a significant effect on natural effect or natural character (in terms of Policy 6.2.2) as an effect that causes the natural character classification of an area to be reduced (for example, from very high to high). There is no basis for such an approach in either s 6(a) RMA or Policy 13 NZCPS, and the plan’s approach is contrary to them both’.
130. Further, Mr Baxter for the Minister in his evidence explains that, while a 7 point classification scale has been applied to rank natural character along a continuum from very low to very high, each classification contains a band or degrees within it. Accordingly, the degree natural character could reduce within the band as a result of subdivision, use or development, without changing the overall classification. Any reduction should be assessed so that adverse effects can be avoided where appropriate.¹²⁷
131. Questions of the scale at which natural character has been mapped also needs consideration. Mr Baxter stated: ‘Because marine natural character was of necessity mapped at a broad scale, under the recommended changes to Policy 6.2.3 there is potential for localised areas of high or very high natural character to be compromised without triggering a change in the broader overall classification for the larger area. If localised areas of high or very high natural character would be adversely affected, these effects should be considered in a resource consent process.’¹²⁸
132. The report writer, recognising from the evidence the unforeseen impact of the suggested amendment to Policy 6.2.3, recommends that it should be deleted. His reasons are listed as follows:

Accept that the effect of the change is that any activity having a significant adverse effect on values which does not reduce the classification of the site below the current

¹²⁷ Minister of Conservation, Timothy Ensor, Evidence-in-Chief, paragraph 71. Counsel’s submissions, paragraphs 33-37.

¹²⁸ Andrew Baxter, Statement of Evidence, paragraphs 98-102.

high classification would not be prevented. Therefore the policy would not achieve requirements of section 6(a) or give effect to Policy 13 of the NZCPS.

However, reverting to the proposed MEP wording would mean that any reduction of the degree of natural character is to be avoided which would elevate areas of high and very high natural character on the same level as those areas within outstanding natural character. That would be overly onerous and would also not give effect to Policy 13 of the NZCPS.

Furthermore, Policy 6.2.1, 6.2.2 and 6.2.4 (as recommended to be amended) adequately specify how adverse effects are to be managed based on the classification of natural character areas in the MEP, and accordingly the policy is redundant in terms of ensuring the adverse effects on natural character from subdivision, use, and development are managed.

Given the above, Policy 6.2.3 could be deleted.¹²⁹

133. The Panel sought a response from the report writer as to whether the deletion of this policy would have any wider implication for the PMEP and whether it would leave a policy gap in what is clearly a tight sequence of the natural character protective policies.¹³⁰
134. We were assured in response that a sequential amendment to Policy 6.2.4 will ensure that adverse effects on the elements, processes and experiential qualities that contribute to natural character are had regard to when assessments against policies 6.2.1 and 6.2.2 are made.¹³¹
135. We accept the recommendation of the report writer, based on the evidence of the Minister of Conservation witnesses.

Decision

136. Policy 6.2.3 is deleted.

¹²⁹ Section 42A Report, Reply to Evidence, pages 9-10.

¹³⁰ Memorandum in response to questions from the Panel, Maurice Dale

¹³¹ Minister of Conservation, D van Mierlo Counsel acting, paragraphs 33-37.

Policy 6.2.4

Where resource consent is required to undertake an activity within coastal or freshwater environments with high, very high or outstanding natural character, regard will be had to the potential adverse effects of the proposal on the elements, patterns, processes and experiential qualities that contribute to natural character.

137. This policy addresses activities in those areas that have already been modified by past and present resource use to implement Objective 6.2. The policy gives consideration to the attributes of natural character through resource consents.
138. Many submitters support the policy as notified;¹³² others oppose the policy or consider it should be deleted;¹³³ others seek to omit freshwater bodies;¹³⁴ seek to apply the policy to all areas (lakes, rivers and their margins) of natural character to give effect to s 6(a) RMA;¹³⁵ seek to enable non-regulatory methods primarily, and only use regulatory methods where the adverse effects will be significant and long term;¹³⁶ amend the policy to include reference that modified landscapes include any past and present farming activities;¹³⁷ amend the policy to list requirements for resource consent applications in areas of high, very high or outstanding natural character;¹³⁸ amend the policy to refer to Policies 6.2.1 and 6.2.2;¹³⁹ and to apply to all areas of natural character;¹⁴⁰ insert a policy to include reference to the necessity of the activity to locate in the coastal and freshwater environment.¹⁴¹

Section 42A Report

139. The report identifies that the policy is process related, requiring that adverse effects or attributes that contribute to natural character are to be considered when resource consent for a new activity is applied for.¹⁴² It is accepted that s 6(a) (the preservation principle) requires assessment of resource consent activities be made whenever the degree of natural character is high, very high or outstanding.
140. The policy is consistent with the overall natural character management approach in policies 6.1.1 and 6.1.2. Limiting the policy to areas of very high or outstanding natural character in the coastal environment, providing certain exemptions for certain activities, or broadening its

¹³² Kevin Loe (454.5), DOC (479.62), Flaxbourne Association (712.68), NZTA (1002.25), Z Energy (1244.19).

¹³³ AQNZ (401.54), MFA (426.55), Forest & Bird (469.5).

¹³⁴ Federated Farmers (425.88).

¹³⁵ Fish and Game (509.113)

¹³⁶ Nelson Forests Ltd (990.82).

¹³⁷ Forest & Bird (715.134).

¹³⁸ EDS (698.44), DC Hemphill (648.16), KCSRA (868.7).

¹³⁹ Forest & Bird (715.134)

¹⁴⁰ KCSRA (868.7).

¹⁴¹ Port Clifford Ltd (1041.14).

¹⁴² Section 42A Report, page 40.

application to all areas of natural character would not align with the management approach in the identified policies and would not be consistent with s 6(a) RMA or the national policy directive of the NZCPS and NPSFM.¹⁴³ Also, requiring a list of information requirements for applications for resource consents should sit outside the PMEP as guidance.

141. No change to the policy is recommended in the original report.

Consideration

142. Various submitters provided evidence on this policy at the hearing. As a result, various changes have been accepted as identified in the report writer's Reply to Evidence.¹⁴⁴

143. In response to NZTA's concerns,¹⁴⁵ it is accepted on the basis of the submitter's legal submissions that case law has determined that minor or transitory adverse effects may be appropriate in the coastal environment and need not be avoided in the context of Policy 13(2)(a) NZCPS. It is considered appropriate therefore that the policy is expanded to encompass these effects.¹⁴⁶

144. In addition, arising out of Ainslie McLeod's evidence for Transpower in respect of Policy 6.2.2, the report recognises that NPSET creates mandatory requirements in respect of the company's infrastructure. Policy 8 NPSET requires that planning and development of the transmission system should 'seek to avoid' adverse effects (as opposed to an absolute requirement to avoid those effects). Explicit response to the National Grid needs therefore to be incorporated into this policy.¹⁴⁷

145. It is appropriate also to reference the functional and operational needs of regionally significant infrastructure in recognition of its importance to the social and economic wellbeing of Marlborough.¹⁴⁸ As identified in the *King Salmon* case:¹⁴⁹

Objective 6 (NZCPS) states that the protection of the values of the coastal environment does not preclude use and development in appropriate places and farms, and within appropriate places.

¹⁴³ National Policy Statement Freshwater.

¹⁴⁴ Section 42A Report, Reply to Evidence, page 7.

¹⁴⁵ NZTA, Karen Baverstock, Statement of Evidence, paragraph 9.

¹⁴⁶ AQNZ and MFA, Legal Submissions, paragraph 154.

¹⁴⁷ Trustpower Ainslie McLeod Statement of Evidence, paragraph 15.

¹⁴⁸ *Royal Forest & Bird Protection Society of NZ Incorporated v Bay of Plenty Regional Council* [2017] NZEnvC 045, [40]-[47].

¹⁴⁹ *Environmental Defence Society Inc v The New Zealand King Salmon Company Limited* (2014) NZSC 38.

146. The word ‘appropriate’ is acknowledged and that its meaning is varied by context and scale. Infrastructure is a discretionary activity in the PMEP and any adverse effect may be subject to mitigation or remedy.
147. The Panel accepts on the basis of a number of the submissions and the evidence that the recommendations of the report writer set out in the Reply to Evidence that Policy 6.2.4 should be amended.

Decision

148. Policy 6.2.4 is amended as follows:

Policy 6.2.4 – Where resource consent is required to undertake an activity within coastal or freshwater environments with high, very high or outstanding natural character:

- (a) ~~regard will be had~~ have regard to the potential adverse effects of the proposal on the elements, patterns, processes and experiential attributes ~~qualities~~ that contribute to natural character;*
- (b) in the case of the development of the National Grid, seek to avoid adverse effects on the characteristics that contribute to natural character;*
- (c) recognise that minor or transitory adverse effects may not need to be avoided;*
- (d) recognise the functional and operational requirements of regionally significant infrastructure. ...*

Policy 6.2.5

Recognise that development in parts of the coastal environment and in those rivers and lakes and their margins that have already been modified by past and present resource use activities is less likely to result in adverse effects on natural character.

149. Policy 6.2.5 recognises standard natural character assessment practice - that areas which are modified generally have greater potential to absorb additional change than those less modified.¹⁵⁰
150. Twelve submissions support the policy as notified. Eleven submitters seek the policy’s deletion. One submitter seeks to ensure that the plan provides for loading of log barges in the coastal area as a permitted activity;¹⁵¹ another seeks an amendment to include a reference that modified landscapes include many farming land use activities;¹⁵² a further submission seeks recognition of those areas that are zoned for particular activities such as the Port, Port

¹⁵⁰ Section 42A Report, page 41-42.

¹⁵¹ Ernslaw One Ltd (505.6).

¹⁵² Federated Farmers (425.90).

Landing and Marina Zones are less likely to result in adverse effects on natural character;¹⁵³ and another to amend the policy to enable the ongoing use of primary production activities;¹⁵⁴ a further submission seeks to give effect to s 6(a) RMA to ensure that the natural character of lakes, rivers and their margins be preserved and protected from inappropriate use and development.¹⁵⁵

Section 42A Report

151. Inclusion of specific port, marine or primary production land uses would introduce unnecessary specificity in the policy. This is not warranted. The relief sought by Ernslaw One Ltd seeking loading of marine barges in the coastal marine area will be addressed in Chapter 11 Coastal Environments. No changes are recommended.
152. To those submitters concerned with promoting new development in already modified areas, restoration of degraded natural character would not be advanced in such places, Policy 6.2.5 does not stand alone and must be considered in the light of other policies under Objective 6.2. The policy is not an unfettered directive either as to the scale of acceptable effects (Policies 6.2.1-6.2.2). The policy requires that standard natural character assessment practice applies - that modified areas generally have greater potential to absorb further development.
153. Policy 6.2.6 too requires consideration of the potential to enhance natural character in considering appropriateness (or otherwise) of subdivision, use and development. Meanwhile, Policy 6.2.7 addresses cumulative effects.
154. The overall approach of the policy is consistent with Policy 13 NZCPS and s 6(a) RMA.
155. It is recommended that Policy 6.2.5 be retained.

Consideration

156. Policy 6.2.5 requires to be considered in resource consent applications. The wording of the policy shifts focus away from quality natural character areas to other parts of the coastal environment. This brings into play the requirement provided in the second part of Policy 13(1)(b) NZCPS which provides the ability to 'avoid, remedy or mitigate' other adverse effects (that is, other than significant effects) on natural character in 'all other areas of the coastal environment'.

Decision

157. Policy 6.2.5 is retained as notified.

¹⁵³ PMNZ (433.20).

¹⁵⁴ NZ Forest Product Holdings Ltd (996.12).

¹⁵⁵ Fish and Game (509.114).

Policy 6.2.6

In assessing the appropriateness of subdivision, use or development in coastal or freshwater environments, regard shall be given to the potential to enhance natural character in the area subject to the proposal.

158. Several submissions sought to retain the policy as notified.¹⁵⁶ Others seek its deletion.¹⁵⁷ Other submissions seek: to make it clear that opportunities to restore or enhance natural character include checking applications for resource consent renewals where ‘significant’ cumulative adverse effects exist;¹⁵⁸ to amend the policy where ‘appropriate’ regard be given to enhance natural character of the area;¹⁵⁹ to amend the policy to include ‘restoration’ of natural character;¹⁶⁰ to amend the explanation to the policy to remove ‘landscapes’;¹⁶¹ to amend the policy to recognise the existing uses in the area;¹⁶² and to amend the policy to recognise commercial forestry has the potential to enhance natural character.¹⁶³

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159. The policy provides the potential to enhance or restore natural character as a result of subdivision, use and development. It enables demarcation of the beneficial effects of proposals and whether a proposal will preserve overall natural character to achieve Objective 6.2.
160. The scope of Policy 6.2.6 is intended to include ‘restoration’ in the policy as a subset of ‘enhancement’ to give effect to NZCPS Policy 14, and therefore it is not necessary to include specific reference to the term ‘restoration’.
161. The policy does, however, not accurately define the attributes that comprise natural character. It is reasonable to amend its description in response to the submission of FNHTB (that is, with the deletion of the word ‘landscape’), and other consequential changes are recommended.
162. Limiting application of the policy to ‘where practicable’ as to outstanding natural features or landscapes ‘or recognise existing activities’ is not consistent with s 6(a) RMA or NZCPS Policies 13 and 14.

¹⁵⁶ AQNZ (401.57), MFA (426.57), DOC (479.64), Port Clifford (1041.16).

¹⁵⁷ Marlborough Chamber of Commerce (961.11), MFIA (962.48).

¹⁵⁸ Clova Bay Residents Association (152.17), Judy and John Hellstrom (688.49), Forest & Bird (715.13), KCSRA (868.9).

¹⁵⁹ Federated Farmers (425.91).

¹⁶⁰ Fish and Game (509.115).

¹⁶¹ FNHTB (716.68).

¹⁶² Sanford Ltd (1140.17).

¹⁶³ NZ Forestry Products Holdings Ltd (996.12)

163. The inclusion of references to particular activities such as commercial forestry that enhance natural character introduces a level of specificity that does not accurately define the attributes that comprise natural character.¹⁶⁴

Consideration

164. We suggest that ‘enhancement’ is not a subset of restoration in terms of NZCPS Policy 14. Restoration (or rehabilitation in the policy) is the overarching, encompassing provision which covers off a raft of issues including ‘enhancement’ – NZCPS Policy 14(c)(i)-(x). At Policy 14(c)(iii) the provision provides for creating an ‘enhancing’ habitat for indigenous species, so it is limiting in that sense. In this it is a subset of the word ‘restoration’. We are therefore persuaded that Forest & Bird’s submission and that of KCSRA is the correct approach; opportunities for restoration arise on resource use applications and reflects the amendment made to Objective 6.2.

Decision

165. Policy 6.2.6 is amended to read as follows:

Policy 6.2.6 – In assessing the appropriateness of subdivision, use or development in coastal or freshwater environments, regard shall be given to the potential to restore ~~enhance~~ natural character in the area subject to the proposal.

It may be possible to improve the natural character of coastal environments and freshwater bodies through appropriate subdivision, use and development of natural resources. Any improvement to the ~~landscape, natural processes, biodiversity, water flows or quality~~ natural elements, patterns, processes and those experiential attributes incorporated into the proposal will be considered in this regard. ~~Enhancement~~ Restoration of natural character is particularly desirable where the coastal environment and freshwater bodies have been substantially modified by past resource use activities. Restoration ~~Enhancement~~ in this context is to be used in its broadest term and can include ~~restoration~~ enhancement and rehabilitation. However, for the purposes of this policy it does not include addressing the effects of a proposal. Any actions proposed by an applicant or imposed by the consent authority (through consent conditions) begin the process of remedying past resource use impacts on natural character. The policy also implements Policy 14 of the NZCPS.

¹⁶⁴ Section 42A Report, pages 43-44.

Policy 6.2.7

In assessing the cumulative effects of activities on the natural character of the coastal environment, or in or near lakes or rivers, consideration shall be given to:

- (a) the effect of allowing more of the same or similar activity;
- (b) the result of allowing more of a particular effect, whether from the same activity or from other activities causing the same or similar effect; and
- (c) the combined effects from all activities in the coastal or freshwater environment in the locality.

166. Several submissions support the policy as notified.¹⁶⁵ Two submissions oppose.¹⁶⁶ One submitter seeks an amendment to read 'Recognition should be given to the extent of cumulative effects from existing modifications in the environment'.¹⁶⁷ Other submitters seek the description to the policy to refer to cumulative 'adverse' effects.¹⁶⁸ An amendment to include reference to acceptable limits of cumulative effects based on thresholds identified in policy or guidelines developed by stakeholders makes it clear it applies to consenting existing activities and makes it clear the policy is relevant when considering other policies in the PMP.¹⁶⁹

Section 42A Report and consideration

167. Although individual activities may not adversely affect the natural character of the coastal environment or freshwater bodies, when combined with the effects of similar activities or other activities with similar effects, the activities may collectively have cumulative adverse effects on natural character.
168. This policy describes how the cumulative effects of activities on the natural character of the coastal environment or freshwater bodies will be considered. For the coastal environment specifically, any consideration of cumulative effects should take into account 'scale' and may need to include consideration of the intactness of the coastal terrestrial and coastal marine natural character areas.
169. Policies 6.2.1-6.2.2 primarily establish the way in which the adverse effects of subdivision, use and development are to be managed. Policy 6.2.7 provides that in assessing cumulative adverse effects under the umbrella of these policies, consideration may be given to the effect

¹⁶⁵ Michael and Kristen Gerard (424.16), DOC (479.65), Fish and Game (509.116), Judy and John Hellstrom (688.46), Port Clifford Ltd (1041.17).

¹⁶⁶ MFIA (962.49), Nelson Forests Ltd (980.184).

¹⁶⁷ AQNZ (401.58), MFA (426.58).

¹⁶⁸ EDS (698.45).

¹⁶⁹ Clova Bay Residents Association (152.16), KCSRA (868.10).

of allowing more of a same or similar activity, more of a particular effect, and the combined effects of all activities.

170. Deletion of the policy requested by the forestry industry would not be consistent with s 6(a) RMA or NZCPS Policy 13. The reworded policy suggested, in the report writer's opinion, does not provide a greater degree of clarity for plan users as to how cumulative effects should be considered.
171. With respect to Clova Bay and KCSRA submissions, the report writer acknowledges that inclusion in the Plan of acceptable limits of cumulative effects through policy or guidelines could provide an acceptable threshold of modification and provide greater certainty for applications in responding to ss 6(b), 7(c) RMA and NZCPS Policy 7 Strategic Planning. There is therefore merit in such an approach but a significant amount of work would be required, given the breadth of research and consultation that would be required to achieve a robust and workable management approach system. It is not recommended to include such policy or guidance in the PMP at this time.
172. KCSRA suggest that cumulative effects be amended to enable declining consent renewals to be an enhancement to meet NZCPS Policy 14. But we consider that s 3 RMA by definition of 'effects' enables cumulative effects to be avoided. We are therefore not persuaded by this argument.

Decision

173. Policy 6.2.7 remains as notified.

Policy 6.2.8

Require land use activities to be set back from rivers, lakes and the coastal marine area in order to preserve natural character.

174. Several submissions seek to retain the policy as notified.¹⁷⁰ A number seek its deletion.¹⁷¹ Others again require land use activities that do not have a functional or operational need to be set back or clearly state what land use activities need to be set back;¹⁷² only 'new' activities be set back;¹⁷³ exemption be made for national significant infrastructure that needs to

¹⁷⁰ DOC (479.66), Te Rūnanga o Ngāti Kuia (501.25), Fish and Game (509.117), Judy and John Hellstrom (688.47).

¹⁷¹ Federated Farmers (425.92), Tempello Partnership (429.9), DC Hemphill (648.24), MFIA (962.50), Nelson Forests (990.185), Sally and Tim Wadworth (1221.7).

¹⁷² PMNZ (433.21), Port Clifford Ltd (1041.18), Michael and Kristen Gerard (424.17).

¹⁷³ KiwiRail Holdings Ltd (873.16).

traverse lakes, rivers or the coastal marine area;¹⁷⁴ setbacks occur only in areas with high, very high or significant natural character.¹⁷⁵

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175. Policy 6.2.8 supports the implementation of Objective 6.2 in recognition that the closer the activity, the greater potential for modification of the values that contribute to natural character. The policy provides the supporting basis for the setback rules in Volume 2 including those requiring setback of buildings and structures from the Riparian Natural Character Management Area.
176. The policy affirms the requirement in s 6(a) RMA to preserve natural character and is supporting NZCPS Policy 6(1)(i) requiring setbacks where ‘practicable and reasonable’, and Policy 13 Preservation of natural character. The concern of the Council is not to impose an unreasonable regulatory burden on land use including regionally significant infrastructure located within or over the beds and margins of rivers, lakes and coastal marine areas.
177. To this end, the report writer recommends a new addition to the policy which clarifies that those activities have a ‘functional’ need to be located in the areas identified. An amended policy is provided as follows with the addition of the words following natural character: ‘... other than the extent that land use activities have a functional need to be located in those areas’¹⁷⁶
178. A witness for the Minister of Conservation, however, considers that reference to ‘functional needs’ be deleted and substituted with the following: ‘Require land use activities to be set back from rivers, lakes and the coastal marine area where this is required to preserve natural character.’¹⁷⁷
179. The report writer accepts that the term ‘functional’ is open to interpretation and that many activities could claim to have a functional need to locate in these areas, including those that may degrade natural character. He also accepts the policy should recognise the appropriateness of an activity in terms of effects of natural character as opposed to referring to functional need or necessity, with the exception of regionally significant infrastructure in recognition of its importance to the social and economic wellbeing of Marlborough.

¹⁷⁴ Transpower (1198.15), Trustpower (1201.62).

¹⁷⁵ Fonterra (1251.28).

¹⁷⁶ Section 42A Report, pages 47-48.

¹⁷⁷ Minister of Conservation, Tim Ensor Evidence, paragraph 6.2.

180. The report writer considers in his reply to the evidence of some of those submitters¹⁷⁸ inclusion of reference to 'operational' need is also appropriate in order to recognise the characteristics or constraints of an activity including regionally significant infrastructure. He recommends the policy be further amended to read:¹⁷⁹

'Require land use activities to be set back from rivers, lakes and the coastal marine area where this is required ... recognising the functional and operational requirements of regionally significant infrastructure.'

181. The Panel agrees with that approach.

Decision

182. Policy 6.2.8 is amended as follows:

Policy 6.2.8 – Require land use activities to be set back from rivers, lakes and the coastal marine area ~~in order~~ where practicable and reasonable to preserve natural character while recognising the functional and operational requirements of regionally significant infrastructure.

Policy 6.2.9

Encourage and support private landowners, community groups and others in their efforts to restore the natural character of the coastal environment, wetlands, lakes and rivers.

183. A number of submissions support the policy as notified,¹⁸⁰ one opposes.¹⁸¹ Other submissions seek minor amendments to include business groups,¹⁸² enhancement in addition to restoration of natural character,¹⁸³ and reference to supporting NZCPS Policy 14.¹⁸⁴

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184. The report recommends as appropriate the minor amendments be included in the policy as sought below.¹⁸⁵

Consideration

¹⁷⁸ Federated Farmers Darryl Sycamore, paragraphs 22-25; PMNZ Louise Taylor Evidence, paragraph 41; Transpower Ainslie McLeod, paragraph 21; Trustpower Nicola Foran Evidence, paragraph 5.28.

¹⁷⁹ Section 42A Report, Reply to Evidence, pages 11-12.

¹⁸⁰ Michael and Kristen Gerard (424.18), Federated Farmers (425.93), John Hickman (455.26) George Mehlopt (456.26), DOC (479.67), Judy and John Hellstrom (688.491), Forest & Bird (715.39).

¹⁸¹ Marlborough Chamber of Commerce (961.12).

¹⁸² AQNZ (401.59), MFA (426.59).

¹⁸³ Fish and Game (509.118).

¹⁸⁴ FNHTB (716.69).

¹⁸⁵ Section 42A Report, page 49.

185. We consider too that specific reference should be made too to Marlborough’s tangata whenua iwi. We do not agree that the inclusion of the word ‘enhanced’ in this policy is appropriate as it is a subset of restoration in the NZCPS.

Decision

186. Policy 6.2.9 and its explanation are amended as follows:

Policy 6.2.9 – Encourage and support Marlborough’s tangata whenua iwi, private landowners, community groups, businesses and others in their efforts to restore the natural character of the coastal environment, wetlands, lakes and rivers.

Not all of the responses to preserving natural character need to be achieved through regulatory methods, particularly when restoring natural character in parts of the coastal environment and in wetlands, lakes and rivers already significantly modified by historic human activity. This policy acknowledges the significant efforts of Marlborough’s tangata whenua iwi, private landowners, community groups, businesses and others to restore natural character in modified coastal and aquatic environments. The Council will seek to support existing restoration initiatives and will encourage new restoration initiatives to be established, in order to give effect to Policy 14 of the NZCPS. Given that natural character consists of a range of abiotic, biotic and experiential attributes, methods elsewhere in the MEP targeting an improvement in the quality of the environment will also contribute to the restoration of natural character.

Methods of implementation

Method 6.M.1

Regional and district rules

187. The methods of implementation set out the means by which the objectives and policies are implemented. They include activities to be regulated to encompass subdivision; erection and placement of structures, especially location, scale, density and appearance; land disturbance; indigenous vegetation; removal and the planting of certain species of exotic trees.

Consideration

188. No changes are recommended by the report writer, and submissions seeking otherwise are rejected by the Panel. A consequential change to Method 6.M.1 arose from the policy amendment to Policy 6.2.8 as a Method was required to give effect to that policy change.

189. Decisions on other topics also influence this method, that in part seeks to manage what in the Panel's view, is the very real threat to Marlborough's coastal natural character posed by wilding pines.
190. Through the course of the hearing the Panel heard evidence on the community initiatives to control wilding pines in the Marlborough Sounds. Those community efforts would appear to be making a meaningful difference to improving the landscape and coastal natural character and those efforts should therefore be applauded.
191. As a result of the NESPF alignment process, the rules restricting the planting of particular species that the method establishes were amended so that they no longer applied to commercial forestry. In its consideration on Topic 22: Forestry, the Panel agreed with the recommendation of the report writer to delete all of the remaining rules from the MEP that restrict the planting of specific wilding tree species. This was on the basis that the rules would duplicate the requirements for unwanted organisms under the Biosecurity Act 1993.
192. As a result of both the NESPF alignment process and the above decision, the last bullet point of 6.M.1 is deleted.

Decision

193. Method 6.M.1 is amended by the addition of the following paragraph

As necessary, apply district or regional rules to activities that have the potential to threaten identified attributes that contribute to natural character, particularly areas with high, very high and outstanding natural character. The status of activities will depend on the severity of the threat and range from permitted activity standards through to prohibited activities. Activities to be regulated include:

- *subdivision;*
- *erection and placement of structures, especially location, scale, density and appearance;*
- *land disturbance;*
- *indigenous vegetation removal.;*~~and~~
- ~~*The planting of certain species of exotic tree.*~~

A permitted activity standard will be used to establish an appropriate setback for structures and activities from rivers and the coastal marine area in order to preserve natural character.

Anticipated environmental results (AER)

194. The anticipated environmental results in Chapter 6 set out the outcome expected through the implementation of objectives, policies and rules relating to natural character in the PMEP and the way effectiveness in achieving that outcome will be monitored.

[New] 6.AER.2

195. Following the decision to include restoration in Objective 6.2, the Panel decided that a new AER is warranted.

Decision

196. A new AER is inserted as follows:

Anticipated environmental result	Monitoring effectiveness
<p><u>6.AER.2</u></p> <p><u>The natural character of Marlborough’s coastal environment and of lakes, rivers and their margins is restored where it has already been degraded.</u></p>	<p><u>The number of successful restoration projects undertaken by Marlborough’s tangata whenua iwi, private landowners, community groups, businesses and others to restore natural character.</u></p> <p><u>The abiotic systems, biotic systems and experiential attributes that contribute to the natural character of the coastal environment are enhanced in areas where restoration projects and efforts have occurred, as measured by reassessment of Marlborough’s natural character.</u></p>