

HORIZONS REGIONAL COUNCIL - PROPOSED ONE PLAN GENERAL HEARING:

CHAPTER 7 LANDSCAPES & NATURAL CHARACTER

Preliminary Questions from Hearing Panel to be addressed during the Officer Report Presentations

Question	Response
<p>How does 7-7(a) reconcile “avoiding adverse effects” but “avoiding significant adverse cumulative effects” when under section 2 RMA cumulative effects are part of effects?</p>	<p>Fiona Gordon: Broadly, Policy 7-7(a) (i) requires avoidance of adverse effects, where reasonably practicable, and remediation or mitigation where avoidance is not reasonably practicable. In addition, Policy 7-7(a) (ii) requires that <i>significant adverse cumulative effects</i> are avoided.</p> <p>Significant adverse cumulative effects are a subset of ‘effects’ under s 2 RMA. The intention is that Policy 7-7 clause (i) would apply to all adverse effects including adverse cumulative effects, with the exception of <i>significant adverse cumulative effects</i>, which would be dealt with under clause (ii).</p> <p>As discussed in my Supplementary Report (paragraph 139 – 141) I consider that <i>significant adverse cumulative effects</i> can be distinguished from other effects that are non-cumulative and not significant. They can be expected to be enduring, incapable of remediation or mitigation and (probably) irreversible.</p> <p>The nature of <i>significant adverse cumulative effects</i> was discussed at the caucusing meeting a level of agreement was reached that <i>significant adverse cumulative effects</i> are of a particular nature. It was agreed to add some wording to the Principal Reasons and Explanations” to further clarify what is meant by <i>significant adverse cumulative effects</i>, and this is addressed in my Supplementary Report.</p>
<p>How does Policy 7-8 relate to similar Policies in Chapters 6 and 9 (especially policies 6-27 and 9-4 and 9-5)? Wouldn't it be better to have the decision making polices for coastal natural character in Chapter 9 only?</p>	<p>Helen Marr: Policy 6-27 is a policy which sets out how river and lake beds will generally be managed. It includes at (e) a cross reference to managing effects on natural character and public access in accordance with Chapter 7. This would seem an appropriate cross reference and not an undesirable overlap.</p> <p>Policies 9-4 sets out how activities in the coastal marine area will be managed. This refers to avoiding, remedying or mitigating effects on elements and process that contribute to natural character. This policy is limited to the CMA, identifies regionally important values and only provides general guidance about how effects on these should be managed (avoid remedy or</p>

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	mitigate). Policy 7-8 relating to natural character applies to the coastal environment (amongst other areas), does not identify values and gives a list of matters to take into account when making decisions. Because these policies deal with different aspects of landscape and natural character (general in chapter 7 and specific aspects of the CMA Chapter 9), and at different levels of detail (specific matters to consider in Chapter 7 and general duties in Chapter 9) I do not think that when read together there is an undesirable overlap. It would certainly be possible to separate natural character policies so that policies dealing with the CMA were only found in Chapter 9, but it may not help to achieve integrated management across the line of MHWS.
How is the overlap between Policy 7-9(b) and the Biodiversity provisions of chapters 7 and 12 to be reconciled?	Helen Marr: The only inconsistency I can see between these provisions is that Policy 7-9(b) asks decision makers to recognise the need to <i>protect</i> all the identified habitats, while the officers recommended biodiversity provisions refer to <i>protection</i> of rare habitats and threatened habitats, but for <i>maintenance and enhancement</i> of at risk habitats. This could be easily remedied by changing the wording of policy 7-9(b) to be consistent with the wording of the biodiversity provisions.
Is the reference to restoring natural character in Policy 7-8 on page 96 of the report (3 rd paragraph up from the bottom of the page) an error?	Fiona Gordon: The reference to restoring natural character is intentional, however, there is an error in the quote given. The quote given (on page 96) from Policy 7-8 is “restoration of natural character, where appropriate”. The quote from Policy 7-8 should read “...encouraging the natural character of these areas to be restored where appropriate...”
1. Section 42A Report of Mr Maassen	
(i) If appropriate at this stage please comment on the letter of Ms Jo-Anne Munro for Mighty River Power, in relation to your Report.	John Maassen has provided a response to Jo-Anne Munro in his Supplementary s42 Report and will be available to further address the Hearing Panel if necessary
2. Section 42A Report of Mr Anstey	

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(i) Could large-scale maps of all the attachments please be provided.	Larger maps are provided in A3 size and can be shown on powerpoint.
(ii) Please clarify exactly what is meant by "skyline" in relation to the Tararua and Ruahine Ranges in the notified Plan, what submitters mean by the term, and what you suggest it encompasses.	<p>Clive Anstey:</p> <p>Skyline</p> <p>(a) In the Proposed One Plan the skyline of the Tararua- Ruahine Ranges is not defined. The lack of a clear definition is compounded by the way in which 'skyline' is bound up as part of the entries in Schedule F Table F1 for the Tararua and Ruahine Forest Park. The mapped areas for each Forest Park encompasses only the land that is within the conservation estate. Although parts of it will include skyline features, the mapped area does not itself properly describe the 'skyline' as I would define it.</p> <p>(b) From the discussions of this matter at pre-hearing meetings, I surmise that submitters consider the 'skyline' embraces a broader concept than the mapped forest parks. However, I would prefer to leave it to submitters to clearly voice what it is that they consider within the concept of 'skyline'.</p> <p>(c) Ms Gordon has proposed a separate entry in Schedule F Table F1 for the 'skyline' and has proposed the following definition: <i>"the boundary between the land and sky as viewed from a sufficient distance from the foothills so as to see the contrast between the sky and the solid nature of the land at the crest of the highest points along ridges."</i> I support this definition and believe it is preferable to that in the operative Regional Policy Statement which only recognises the "highest ridge" rather than ridges. There is no one highest ridgeline along the top of either the Ruahine or Tararua Ranges; there are many high ridges and spurs any one of which can assume prominence from various viewing points (at a sufficient distance.)</p> <p>This is illustrated with reference to the 'skyline' above the Turitea Reserve immediately south of Pahiatua Track. An assessment of ridges and spurs reveals a series of 'highest points'. The main ridges and spurs include:</p> <ul style="list-style-type: none"> • The back ridge which rises from some 400 metres just south of the Pahiatua Track to around 620 metres, and then falls to Hardings Park. • A series of spurs running out from the back ridge, many of a similar height to the back ridge

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	<p>itself. A spur that runs parallel with and to the west of the back ridge ranges in height between 380 and 400 metres.</p> <ul style="list-style-type: none"> • A series of ridges and spurs in the middle of the reserve that range between 300 and 570 metres. • A series of ridges and spurs on the western side of the reserve (on private property) ranging between some 300 and 570 metres. Viewed from the Manawatu Plains these register as 'foothills'. • A long flat ridge (again on private property) above the Kahuterawa valley varying in height between 360 and 480 metres. • And of particular prominence, a spur running down from the back ridge to a 'foothills' ridge that ranges in height between 620 metres (at the back ridge) and falls to 500 metres (on a foothills ridge.) <p>If the integrity and coherence of the 'skyline' is to be protected then it is not sufficient to limit attention to the highest ridge as seen from the eastern side if the ranges; from the western side there is a dramatic interplay of ridges and spurs along the ranges, all of which have high points along their lengths that can assume prominence on the skyline.</p>
<p>(iii) With regard to the "proper landscape assessments" you see as essential to assist the causes of both community and energy companies (item 9, page 5), where does the statutory responsibility of the Regional Council lie in regard to provision of criteria and mapped information for districts (item 11, page 6), or this is in part a discretionary activity?</p>	<p>Fiona Gordon:</p> <p>The RMA specifies no statutory responsibility for either the provision of landscape assessment criteria or mapped information. However, there is a statutory obligation (section 62) for the Regional Council to identify the significant resource management issues for the region and to address these through the RPS by stating the objectives, policies and other methods proposed. The management of the Region's natural features and landscapes has been identified as a regionally significant issue and the POP provisions and recommended amendments provide a level of leadership by setting a policy framework that includes strong signals to address what has been identified as a regionally significant issue. The issue is one of policy leadership (by the Regional Council in exercising its powers and functions) rather than statutory obligation.</p> <p>The use of the Pigeon Bay based assessment criteria recommended by Clive Anstey and myself are intended to assist in the assessment of the region's landscapes in the future. It is anticipated that over time amendment of Schedule F may be required to reflect improved information on the region's landscapes, either directly from the outcomes of landscape assessments or from case by</p>

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<p>Please also expand on the final sentence in item 11, "The Regional Council <u>could be</u> involved....".</p>	<p>case analysis of a particular landscape and proposed activity. Changes to the Regional Policy Statement (RPS) (ie. Part I of the POP) may occur in two ways under the RMA:</p> <p>(a) via a change initiated by the Regional Council (RMA Schedule 1 Part 2 clause 21 (4), and RMA Schedule 1 Part 1), or</p> <p>(b) via a request for a change to the Regional Policy Statement from either a Minister of the Crown or a Territorial Authority in the Region (RMA Schedule 1 Part 2 clause 21 (3)).</p> <p>I understand that Schedule F, the list of Regionally Outstanding Natural Features and Landscapes) is considered to form part of the RPS (not the plan) and therefore any changes (amendments, alterations, etc) would occur via the processes stated above.</p> <p>Clive Anstey may wish to provide further comment regarding "proper landscape assessment" and can provide clarification of "the final sentence in item 11, "The Regional Council <u>could be</u> involved...." if still required.</p>
<p>3 Ms Gordon's Report</p>	
<p>(i) Are you satisfied that all items agreed to in pre-hearing meetings have been covered?</p>	<p>Fiona Gordon:</p> <p>I have reviewed all of the pre-hearing and caucusing meeting reports relevant to landscapes and natural character and I am satisfied that the items agreed to in the pre-hearing meetings have been covered, with the exception of:</p> <p><u>Pre-Hearing with Department of Conservation 12 March 2009</u> - it was agreed at the pre-hearing meeting with DOC that some landscapes warrant inclusion and should be added to Schedule F (specifically Whanganui River, potentially parts of the Moawhango Ecological Region). My Supplementary Report details the reasons why those landscapes have subsequently not been recommended for inclusion in the POP Schedule F.</p> <p><u>Pre-Hearing meeting on the 'Manganui o Te Ao River' held in Ruatiti on 15 May 2008</u> – a number of requests from Winston Oliver and Sue and Gary Deadman were listed and noted as "agreed to", however, the report states that " HRC will consult with its landscape experts and consider the best process and timeframe for remapping, as well as what recommendation it will make on this matter to the hearing panel." Clive Anstey has considered the submitters requests and recommended an amended Manganui O Te Ao map in his initial s42 Report. Subsequent correspondence with the</p>

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	<p>submitters has been considered by Clive Anstey and he addresses the outstanding issues in his supplementary report, and states that he is open to further discussion through the course of the hearing with these submitters on this matter.</p>
<p>(ii) Please comment on the differences between natural character and natural features.</p>	<p>Clive Anstey: Natural features, natural character, and outstanding natural landscapes are variations on a theme. A feature may have value in itself or it may contribute to the natural character of a place or landscape. Where the natural character predominates over the cultural dimension of a landscape, and the criteria generally accepted by the Environment Court are satisfied, then the landscape may be 'outstanding'.</p> <p>Research carried out over a series of years by Fairweather, Swaffield and Simmons (for example <i>Public Perceptions of Outstanding Natural Landscapes in the Auckland Region</i>, Research Report No. 273, John R Fairweather, Simon R Swaffield, David G Simmons. 2004.) has revealed that public preference identifies <i>natural character</i> as important in both our 'indigenous' and our 'cultural' landscapes.</p> <p>The 'wild nature' paradigm correlates with the indigenous and predominant natural elements and patterns. The 'cultured nature' paradigm is more accepting of exotic vegetation and productive rural uses, but shows a strong aversion to obvious signs of development and buildings or structures in the landscape.</p> <p>Considering pastoral slopes, the Environment Court has found that both wild nature and cultured nature are 'natural' in terms of considering natural character and natural landscapes. (A078/2008 Long Bay-Okura Great Park Society vs. North Shore City Council, para. 134.)</p> <p>The environment court has interpreted naturalness under the RMA to include:</p> <ul style="list-style-type: none"> • relatively unmodified and legible physical landform and relief • the landscape being uncluttered by structures &/or obvious human influence • the presence of water (lakes, rivers, sea) • the vegetation (especially native vegetation) and other ecological patterns. <p>Thus a landscape certainly need not be pristine to be a "natural landscape".</p>

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	<p>Considering the Region’s character, ‘outstanding natural landscapes’ are the expression of natural and cultural elements, patterns and processes that both characterise an area and distinguish one area from another.</p> <p>As the Court stated in the first Queenstown landscape decision [fn22 [2000] NZRMA 59 at para (105)]:</p> <p><i>“When considering the issue of outstanding natural landscapes we must bear in mind that some hillsides, faces and foregrounds are not in themselves outstanding natural features or landscapes, but looked at as a whole together with other features that are, they become part of a whole that is greater than the sum of its parts. To individual landowners who look at their house, pasture, shelterbelts and sheds and cannot believe that their land is an outstanding natural landscape we point out that the land is part of an outstanding natural landscape and questions of the wider context and of scale need to be considered.”</i></p> <p>One of the more significant challenges under the RMA is finding a sustainable balance between ‘nature’ and ‘culture’. The question we always face in land use decisions is, “to what extent can an increased level of cultural activity and use be accommodated without unduly affecting the long term sustainability of what society accepts as important?” The recognition of natural features and natural character is an acknowledgement of an underlying resilience and value in the natural systems and processes that sustain us.</p>
<p>(iii) Please comment in depth on integrated management of natural and physical resources and the place of landscapes, outstanding landscapes, natural character and natural features in this integrated management.</p>	<p>Clive Anstey:</p> <p>The RMA requires (section 30 (a)) <i>The establishment, implementation, and review of objectives, policies and methods to achieve integrated management of the natural and physical resources of the region.</i></p> <p>In my view it is the ‘landscape’, as understood by reference to relevant matters in the Act, that provides a summary expression of ‘integrated management’; our landscapes reflect who we are and what we value. The NZ Institute of Landscape Architects has been developing guidelines to promote a greater consistency in landscape assessment and evaluation. In the development of the draft there has been general agreement that in undertaking a landscape assessment all of biophysical features, sensory qualities, and associative values need to be addressed. The definitions of these are as follows:</p>

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	<p><u>Biophysical</u> features, patterns and processes may be natural or cultural in origin, and range from the geology and landform that shapes a landscape to the physical artefacts such as roads that mark human intervention.</p> <p><u>Sensory</u> qualities are biophysical phenomena as perceived and experienced by humans, such as the view of a scenic landscape, or the distinctive smell of the foreshore.</p> <p><u>Associative</u> meanings are cultural or social associations with particular landscape features, such as an historic settlement site, and associative activities are patterns of social activity that occur in particular parts of a landscape. Associative meanings engender a sense of attachment and belonging.</p> <p>The attached map and diagrams illustrate the various ‘matters’ identified in the Act and their relationships.</p> <p>1. <u>Distribution of Indigenous vegetation.</u> The map shows indigenous vegetation on both conservation and private land. The map illustrates the pattern of distribution and highlights the significance of what remains; beyond more inaccessible higher country our indigenous cover exists largely as ‘remnants’. Our indigenous vegetation has high biodiversity values (much of what we have is endemic to NZ) and is a defining feature of our unique landscapes and their identity.</p> <p>2. <u>Patterns of Land use</u> This simple diagram illustrates patterns of use as a reflection of our landscapes history of development. ‘Integrated’ development and use recognises and provides for a range of values essential to sustaining the quality and character of the landscapes we enjoy. Sustaining the quality of our soils, our water, and our air is ultimately synonymous with sustaining the quality and character of the landscapes we humans inhabit.</p> <p>3. <u>Layers of values and meanings.</u> The matters set out in sections 6 and 7 of the Act can be thought about as relating to ‘layers’ of resources and meanings. The challenge for ‘integrated and sustainable’ management is to recognise and provide for these various layers and their relationships. Their ‘summary expression’ is what we see and experience as ‘landscapes’. The management of change and development</p>

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	<p>under the Act must not only take account of discrete resources but also their relationships, each to the others identified. Sustainable changes in land use acknowledge the significance of what exists and are integrated within (rather than imposed upon) the landscape. The Act gives direction to 'resource sensitivity' to change- some areas are better able to accommodate changes in use than others.</p>
<p>(iv) p.18. What do you see as 'strong signals' as opposed to 'strong direction' in relation to the Regional Council's role in developing a methodology for landscape assessment?</p>	<p>Fiona Gordon:</p> <p>Broadly, in my view, 'strong direction' would be represented by a clear objective, clear instructions that specify particular courses of action that must/shall be undertaken in order to achieve that objective. In contrast, 'strong signals', in my view, would be represented by a clear objective, guidance on the general approach expected in order to achieve that objective, and guidance to assist decision making within that general approach. In short, 'strong direction' provides <u>instruction</u>, while 'strong signals' provide clear <u>guidance</u>.</p> <p>In terms of developing a methodology for landscape assessment, in my view, 'strong direction' would consist of an instruction set in policy that includes a specified process. Setting the instruction in policy would require a TA to 'give effect' to that Policy. In contrast, 'strong signals' would, in my view, consist of a more generally stated course of action, such as the recommendation I make in my report that a new Method be added that requires (a) the Regional Council and the Territorial Authorities to <u>collaboratively</u> develop and adopt a consistent methodology for landscape assessment, and (b) the Regional Council to provide specific resource information to assist TAs in their landscape assessments.</p>
<p>(v) p.45. Please comment further on the tension that is 'inherent in the RMA itself' and its relevance to the issues raised.</p>	<p>Fiona Gordon:</p> <p>The tension I state as being inherent within the RMA, put simply, is that which is created whereby there is a desire to <u>use and develop</u> the natural and physical resources and a desire to <u>protect or preserve</u> aspects of those natural and physical resources.</p> <p>In achieving sustainable management under s5 RMA there is a call to find an appropriate balance between the often competing pressures for use, development and protection that exist on the same natural and physical resources. The appropriate balance determined on a case by case basis will not always be to the benefit of all aspects of our environment (social, cultural, economic, aesthetic conditions and ecosystems, people and communities, and natural and physical resources).</p>

Question	Response
<p>(vi) p.53, (h) Cumulative adverse effects. It would be useful to have some examples of relevant case law</p>	<p>John Maassen has provided a relevant recent case and a paper authored by him which discusses cumulative effects.</p>
<p>(vii) p.59, (e) final paragraph. Is this approach to an objective consistent throughout the Plan?</p>	<p>Fiona Gordon:</p> <p>Objectives in the POP tended not to include the terms ‘inappropriate subdivision, use and development’. However, as presented in the POP Objective 7-2 (a) provides for absolute protection, as far as practicable. The absolute protection required in Objective 7-2(a) is not required under the RMA s6 and does not accurately reflect the intent of the POP Policy 7-7, and submitters request that the degree of protection be moderated. As requested by a number of submitters, I recommend the addition of the terms ‘inappropriate subdivision, use and development’ as a means to moderate the level of effects and to be more consistent with s6 RMA.</p>
<p>(viii) p.87, (b) Tourism. I note that this is one of a number of occasions when you have a 'minor' amendment. Are you satisfied that in each instance the panel would have the jurisdiction to accept the minor amendment, if it had a mind to do so? (Two other such instances are on page 90, 4.12.3, Retain or Delete, final paragraph; and page 91, Additional Matters:...)</p>	<p>Fiona Gordon:</p> <p>Tourism (p 87) – A submitter requests the inclusion of access for tourism purposes to Policy 7-8 (b). Tourism is essentially excluded from Policy 7-8 because the policy specifies “recreational purposes” only. I recommend the removal of the terms “recreational purposes” from Policy 7-8 (b) to address the submitter’s concerns, which in addition opens the policy 7-8(b) application to an umbrella of activities. I consider that this is a change within scope of the submitter’s request.</p> <p>In addition I recommend that the terms “provision of” are added to Policy 7-8(b) such that the policy reads “Provision of public access...”. I consider that this is more grammatically correct, as it is the <u>act of</u> providing access that can ‘recognise the need to protect...’. This amendment is within the scope of RMA Schedule 1 Part 1 clause 16(2).</p> <p>Method (p 90, 4.12.3) – A number of submitters request the deletion of this method in its entirety. In response, I recommend that the method be amended to indicate more clearly that the Regional Council’s interest in making submissions on resource consents will be triggered by the potential for <u>adverse</u> effects. My recommendation is an alternative form of relief to partly address the submitters’ concerns, short of deleting the Method. I consider that this alternative relief is within the original scope of the submissions. I would also note that in my Supplementary Report, I make an additional recommendation, in direct response to a submitter’s concern, to replace the term “will” to “may” to further clarify the intended application of the Method.</p>

Question	Response
	<p>Additional Matters (p 91) Method</p> <ul style="list-style-type: none"> – The Method clearly states a link back to Policy 7-8 (Natural Character), therefore I recommend that the Method is amended to include reference to “natural character”. This amendment is within the scope of RMA Schedule 1 Part 1 clause 16(2). – I recommend that the expression ‘outstanding landscape’ should be expanded to include ‘natural features’ in the Method. This is to ensure consistency with the recommended amendments to other provisions that are in direct response to submitters’ requests. This amendment is within the scope of RMA Schedule 1 Part 1 clause 16(2). – I recommend minor changes to the Method (eg. Numbering and the use of the term ‘Method’ to replace ‘Project’) to reflect the outcomes of the section 42 report by Andrea bell on the reconvened Land Hearing. This amendment is within the scope of RMA Schedule 1 Part 1 clause 16(2). <p><u>Scope for minor amendments to proposed policy statement of plan</u></p> <p>A local authority may make an amendment, without further formality, to its proposed policy statement or plan to alter any information, where such an alteration is of minor effect, or may correct any minor errors (RMA Schedule 1 Part 1 clause 16(2)).</p>
<p>(ix) p.132. Please use large scale maps to illustrate the 'mismatch' referred to and your recommendation.</p>	<p>Fiona Gordon:</p> <p>Put simply, the mismatch is between the mapped area (being the conservation estate of the Forest Parks) and the concept of ‘skyline’ which is much broader.</p> <p>Printed maps are provided A3 size and on powerpoint.</p>