

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

Decision No. [2022] NZEnvC 200

IN THE MATTER

of the Resource Management Act 1991

AND

appeals under clause 14(1) of the First
Schedule of the Act

BETWEEN

DIRECTOR-GENERAL OF
CONSERVATION

(ENV-2018-CHC-243)

KIWIRAIL HOLDINGS LIMITED

(ENV-2018-CHC-252)

FEDERATED FARMERS OF
NEW ZEALAND LIMITED

(ENV-2018-CHC-254)

ROYAL FOREST AND BIRD
PROTECTION SOCIETY OF NEW
ZEALAND INCORPORATED

(ENV-2018-CHC-287)

Appellant

AND

DUNEDIN CITY COUNCIL

Respondent

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

In Chambers at Christchurch

Date of Consent Order: 7 October 2022

DUNEDIN 2GP – BIODIVERSITY AND RAIL – CONSENT ORDER



CONSENT ORDER

A: Under s279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

- (1) the changes shown in Appendix 1 be made;
- (2) that the parts of the appeal by the Director-General of Conservation (DCC Reference numbers 83, 85 and 87) are resolved and that the appeal is otherwise dismissed;
- (2) that the parts of the appeal by KiwiRail Holdings Limited (DCC Reference numbers 229, 230, 232, 233, 400 and 401) are resolved and that the appeal is otherwise dismissed;
- (4) that the parts of the appeal by Federated Farmers of New Zealand Incorporated (DCC Reference numbers 175 and 184) are resolved and that the remaining parts of the appeal remain to be dealt with at a later date; and
- (5) that the parts of the appeal by Royal Forest and Bird Protection Society of New Zealand Incorporated (DCC Reference numbers part 264, 277, 279, 284, 286, 287, 288, 289, 290, 291, 295, 296, 297 and 299) are resolved and that the remaining parts of the appeal remain to be dealt with at a later date.

B: Under s285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] This proceeding concerns four appeals by the Director-General of

Conservation, Federated Farmers of New Zealand, KiwiRail Holdings Limited and Royal Forest and Bird Protection Society of New Zealand Incorporated,¹ regarding the proposed Dunedin City Second Generation District Plan (“2GP”). Specifically, the order responds to the bundle of two consent memoranda filed 29 October 2021,² which together propose amendments to resolve the Biodiversity and Coastal Character Batch 1 topic and the Management of Rail topic (‘Biodiversity and Rail Bundle’).

[2] The appeals relate to a range of inter-related provisions in the 2GP, including vegetation clearance, biodiversity and natural character and the coast and riparian margin, and management of rail, including rail infrastructure near the coast and water bodies. Dunedin City Council (‘the Council’) therefore requests that the consent memoranda are considered together as a related group of appeals, known as the Biodiversity and Rail Bundle, in the following order:

- (a) Biodiversity and Coastal Character, which relates to DOC, Federated Farmers, and Forest and Bird’s appeals, allocated DCC reference numbers 83, 85, 87, 175, 184, part 264, 277, 279, 284, 286, 287, 288, 289, 290, 291, 295, 296, 297 and 299; and
- (b) Transportation (Management of Rail), which relates KiwiRail’s appeal, allocated DCC reference numbers 229, 230, 232, 233, 400 and 401.

[3] The Council filed the original consent documents for these matters on 29 October 2021. Upon review of the agreement, the court queried whether the parties had a common understanding between Forest and Bird, Federated Farmers and the Council, as to what amounts to vegetation clearance that results in “significant degradation”. As the parties did not appear to share a common

¹ ENV-2018-CHC-243, ENV-2018-CHC-252, ENV-2018-CHC-254 and ENV-2018-CHC-287, respectively.

² Biodiversity and Coastal Character memorandum dated 20 April 2021; Transportation (Management of Rail) memorandum dated 22 September 2020.

understanding of this term, the definition of vegetation clearance was set down for further mediation. Consent documents resolving this matter, and therefore the Biodiversity and Rail Bundle in its entirety, were filed on 22 July 2022.³ They are to be read with the documents filed on 29 October 2021, and do not alter or affect the rest of the agreement recorded in the earlier memoranda.

[4] I have read and considered the appeals, the memoranda of the parties, and the memoranda of counsel dated 29 October 2021 and 22 July 2022, which detail the agreements reached by parties on the above matters. I have also read and considered the affidavits of Ms Lightbourne,⁴ Ms Macleod⁵ and Ms James,⁶ who have satisfied me that the amendments sought to resolve the Biodiversity and Rail Bundle are appropriate, and granting the relief sought by this order will not impact the resolution of any other proceeding.

Other relevant matters

[5] A number of parties have given notice of an intention to become parties under s274 of the Resource Management Act 1991 and have signed the memorandum setting out the relief sought.

[6] The parties to the appeals agree that costs should lie where they fall and accordingly no order for costs is sought.

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

³ Vegetation clearance consent memorandum dated 22 July 2022.

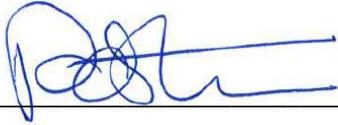
⁴ Affidavit of E M Lightbourne, affirmed 29 October 2021.

⁵ Affidavit of J E Macleod, affirmed 29 October 2021.

⁶ Affidavit of K E S James, affirmed 9 August 2022.

Outcome

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



P A Steven
Environment Judge



Appendix 1

Section 1.3 Activities managed by this Plan (Nested Tables)

1.3.1 City-wide activities

Transportation Activities Category

Activities	Sub-Activities
Operation, repair and maintenance of the roading network	
<u>Operation, repair and maintenance of the rail network {KiwiRail 229}</u>	
New roads or additions or alterations to existing roads	
....	

Section 1.4 Definitions

Designated Rail Corridor

Land that is designated for railway purposes. {KiwiRail 233}

Grazing

The use of land for the keeping of livestock, where not part of farming.

This definition only applies to rules for “grazing” as a land use activity in the rural activities category. It does not cover any other use of the word, which should rely on the broader dictionary definition.

Grazing is an activity in the rural activities category. **{Forest and Bird 264}**

Improved pasture

An area of land where exotic pasture species have been deliberately sown or maintained for the purpose of pasture production, and species composition and growth has been modified and is being managed for livestock grazing. **{Forest and Bird 264}**

Industry

The use of land and buildings for any of the following:

- manufacturing, assembly, processing, storage, repair, maintenance, and packing of goods and materials, including machinery or vehicles
- transport facilities including distribution centres, collection points, courier depots and bus depots (except where passengers are picked up or dropped off)
- depots for the storage and dispatch of vehicles, equipment, and/or materials, and the administration and dispatch of workers using these in the field
- laboratory or factory-based research
- waste management facilities including refuse transfer and recycling stations
- property and equipment maintenance services
- vehicle repair and testing stations; and
- wholesale.

For the sake of clarity, this definition includes:

- any ancillary offices and staff facilities;
- the use of rail sidings as part of industry; and
- the generation of energy from the combustion of biomass waste that is the by-product of industry.

This definition excludes:

- bakeries ancillary to food and beverage retail...
- activities otherwise defined as working from home; ~~and~~
- direct 'customer facing' retail sales, which is provided for under the definition of retail and included in 19.3.3 activity status table as 'retail ancillary to industry'; and
- activities otherwise defined as operation, repair and maintenance of the rail network. {KiwiRail 229}

Level Crossing

Any place where a railway line crosses a road, driveway or vehicle track on the same level. **{KiwiRail 230}**

Mob-stocking

Grazing of land by means of confining livestock in high densities in a restricted area resulting in the removal of all or most available vegetation. {Forest and Bird 264}

No Net Loss

No overall net reduction in indigenous biodiversity values, as measured by type, amount and condition. **{Forest and Bird 277}**:

Operation, Repair and Maintenance of the Rail Network

The use of the railway for the operation of trains and the maintenance and minor upgrade of rail undertaken within land designated for railway purposes.

For the sake of clarity this includes:

- re-sleeping, re-railing, re-ballasting;
- grouting or repairs to the tunnel linings or rock faces;
- laying of new communications cables, power cables, installing signalling equipment or associated upgrades;
- routine maintenance of the track and rail structure, including in tunnels such as rail grinding, tamping, aligning the track and ballast cleaning;
- replacement of existing equipment such as signal boxes;
- installation of safety related signage and signals; and
- installation of bells and lights and/or half arm barriers at level crossings. **{KiwiRail 229}**

Transportation Activities

The category of activities that consists of:

- operation, repair and maintenance of the roading network
- operation, repair and maintenance of the rail network **{KiwiRail 229}**
- new roads or additions or alterations to existing roads
- passenger transportation hubs; and
- heliports

Travel Modes

Travel modes include but are not limited to the following:

- walking
- cycling
- private motor vehicles (e.g. cars, motorcycles)
- rail **{KiwiRail 229}**
- public transport services (e.g. buses)
- helicopters
- freight moving (e.g. trucks); and
- horse-riding.

Vegetation Clearance

~~The removal, over-planting, crushing, spraying, burning, or any other activity that destroys or directly results in extensive failure of an area of vegetation. Any activity that destroys, removes or damages vegetation including by any of the following:~~

- cutting, crushing or burning
- drainage, irrigation or other activities that result in changes to hydrology or soils or landforms
- cultivation, over-planting, application of seed of exotic pasture or mob-stocking; or
- application of chemicals.

This definition excludes: the grazing of improved pasture other than by mob-stocking; the maintenance of amenity or landscape plantings, gardens and lawns; the maintenance and harvesting of shelterbelts and small woodlots; and the maintenance and harvesting of plantation trees as part of forestry. **{Forest and Bird 264}**

Indigenous vegetation clearance is managed as a sub-activity of vegetation clearance.

Vegetation clearance is an activity in the site development activities sub-category, which is in the development activities category.

Section 2 Strategic Directions

Policy 2.2.3.1

Protect areas of significant indigenous vegetation and/or significant habitats of indigenous fauna, including by:

- ~~promoting the protection of~~ identifying these areas for protection in a schedule as Areas of Significant Biodiversity Value (ASBVs), where they meet the criteria in Policy 2.2.3.2;
- promoting the additional legal protection of these areas through QEII covenants, and/or other legal covenants; and
- assessment rules which require the consideration of significance as part of the assessment of effects on biodiversity values. **{Forest and Bird 279}**

Policy 2.2.6.1

Protect people from noise, light or offensive emissions that may create adverse effects on health or well-being through rules that:

- a. encourage heavier industrial activities into industrial zones, which have lenient noise limits and do not allow residential or other noise sensitive activities in these zones;
- b. require adequate separation distances between noise sensitive activities and activities that may generate excessive noise in the rural zones;
- c. require acoustic insulation of buildings containing noise sensitive activities in mixed use environments and near to railway lines, state highways and airports **{KiwiRail 229}**
- d. ...

Policy 2.3.1.5

Identify key transportation-routes, and protect the safety and efficiency of these ~~roads~~ routes from inappropriate subdivision or development through: **{KiwiRail 229}**

- a. rules that control the location and design of access points; ~~and~~
- b. rules that require minimum on-site car parking and loading requirements;
- c. rules that require a minimum setback for forestry, shelterbelts and small woodlots from higher order roads and the designated rail corridor **{KiwiRail 229}**;
- d. rules that require acoustic insulation for noise sensitive activities in identified areas **{KiwiRail 229}**;
- e. rules that require minimum separation distance of vehicle crossings from level crossings; **{KiwiRail 229}**
- f. rules that require a minimum setback for buildings and structures from the designated rail corridor; and **{KiwiRail 233}**
- g. rules that manage access to temporary events via uncontrolled level crossings. **{Kiwirail 229}**

Policy 2.7.2.1

Support the safe and efficient operation of the multi-modal land transport network through rules that:

- a. provide for transportation activities;
- b. manage the location, scale and design of high trip generators;
- c. manage the location, number and design of vehicle accesses;
- d. require on-site vehicle loading where vehicle loading on-street could compromise the safety and efficiency of the transport network;
- e. require on-site car parking where necessary to enable adequate accessibility and to avoid or adequately mitigate adverse effects on the safety and efficiency of the transport network;

- f. manage the design of parking, loading and access areas; ~~and~~
- g. require minimum separation distance of vehicle crossings from level crossings;
- h. require a minimum setback for forestry, shelterbelts and small woodlots from higher order roads and the designated rail corridor; {KiwiRail 229}
- i. require clear sightlines where roads, driveways and vehicle tracks cross an operational rail network via a level crossing; {KiwiRail 229}
- j. require a minimum setback for buildings and structures from the designated rail corridor; and {KiwiRail 233}
- k. manage access to temporary events via uncontrolled level crossings. {KiwiRail 229}

Section 4 Temporary Activities

Policy 4.2.1.1

Require temporary activities to be designed and operated to minimise, as far as practicable, adverse effects on:

- a. the amenity of surrounding properties; ~~and~~
- b. people’s health and safety; and
- c. the safety and efficiency of the transport network. {KiwiRail 229}

4.3.2 Activity status table – temporary activities

1.	Performance standards that apply to all temporary activities		a. Development standards b. Light spill
	Activity	Activity status	Performance standards
1.
9.	Temporary events – small scale	P	a. Maximum Duration, Frequency, and Site Restoration b. Hours of operation c. Noise d. <u>Access {Kiwirail 229}</u>
10.	Temporary events – large scale	RD	a. Maximum Duration, Frequency, and Site Restoration b. Hours of operation

			c. Noise d. <u>Access {Kiwirail 229}</u>
--	--	--	---

Rule 4.4 Notification

1. With respect to resource consent applications for the following activities, Kiwirail (or relevant authority) will be considered an affected person in accordance with section 95E of the RMA where its written approval is not provided:

1. contravention of the access performance standard (Rule 4.5.X). {Kiwirail 229}

X. Activities All other activities {Kiwirail 229} are subject to the normal tests for notification in accordance with sections 95A-95G of the RMA.

Rule 4.5.1

1. Any temporary building or structure, or earthworks or site development activity associated with temporary activities must meet the maximum height, height in relation to boundaries, setbacks, hazard exclusion areas, vegetation clearance standards, and earthworks performance standards of the zone in which they are located, except:

a. temporary signs

b. setbacks from coast and water bodies, provided the building or structure is set back from the coast or water bodies a minimum of 5m; ~~and~~

c. any temporary building or structure associated with construction are exempt from meeting performance standards for maximum height, height in relation to boundary, and boundary setbacks provided they are erected for no more than 90 days; and

d. any structure associated with mobile trading or military exercises is exempt from meeting the performance standard for setback from designated rail corridor. {Kiwirail 229}

Rule 4.5.X Access

1. Temporary events that generate more than 100 vehicle movements per day must not rely solely on an uncontrolled level crossing for access.

2. Activities that contravene this performance standard are restricted discretionary activities. {Kiwirail 229}

4.7.2 Assessment of all performance standards contraventions

Performance standard		Matters of discretion	Guidance on the assessment of resource consents
3.	Hours of operation	...	<p><i>Relevant objectives and policies:</i></p> <p>i. Objective 4.2.1</p> <p>ii. Temporary activities are designed and operated in a way that minimises, as far as practicable, effects on:</p> <ol style="list-style-type: none"> 1. the amenity of surrounding properties; and 2. people's health and safety (Policy 4.2.1.1.a & b). <p>...</p>
4.	Maximum duration, frequency, and site restoration	...	<p><i>Relevant objectives and policies:</i></p> <p>i. Objective 4.2.1</p> <p>ii. Temporary activities are designed and operated in a way that minimises, as far as practicable, effects on:</p> <ol style="list-style-type: none"> 1. the amenity of surrounding properties; and 2. people's health and safety (Policy 4.2.1.1.a & b). <p>...</p>

X.	Access {KiwiRail 229}	a. <u>Effects on the safety and efficiency of the transport network {KiwiRail 229}</u>	<u>Relevant objectives and policies:</u> i. <u>Objective 4.2.1</u> ii. <u>Temporary activities are designed and operated to minimise, as far as practicable, adverse effects on the safety and efficiency of the transport network (Policy 4.2.1.1.c) {KiwiRail 229}</u>
----	-----------------------	--	--

Section 6 Transportation Changes

Section 6.1 Transportation - Introduction

This section of the Plan manages other key elements of the transport network, including the operation and development of roads, and the establishment of passenger transportation hubs and heliports. ~~Railways are principally managed via designations.~~

This section also manages the effects of activities on the functioning of the transport network. Provisions are intended to encourage the accessibility of land use activities by a range of travel modes (including car, walking, cycling, rail and public transport), and to ensure that activities are located and designed in a way that facilitates the safe and efficient operation of the transport network. These provisions are linked to performance standards located in management and major facility zone sections, including minimum car parking and minimum vehicle loading requirements, and design standards for parking and loading areas and vehicle access.

Rail forms an integral part of Dunedin’s transport network. Rail infrastructure including lines is provided for and managed through designations as well as various provisions within the Plan that enable the operation, repair and maintenance of the rail network. The Plan also uses performance standards to ensure that activities adjacent to the railway corridor are designed, located and maintained in such a way as to avoid adverse effects on the safe and efficient operation of the rail network. These standards include requirements for forestry and shelterbelts as well as buildings and structures to be set back from the rail network to ensure the safe and efficient operation of the railway and maintain people’s health and safety and a requirement for acoustic insulation for noise

sensitive activities near to the railway line to protect people from noise from the railway. {KiwiRail 229}

Policy 6.2.1.1

Enable the operation, repair and maintenance of the roading network and the operation, repair and maintenance of the rail network. {KiwiRail 229}

Policy 6.2.3.X

Require new buildings, new structures, and additions and alternations to be set back an adequate distance from the designated rail corridor to minimise, as far as practicable, the risk of objects or people crossing over or onto the rail corridor as a result of use or maintenance of the building or structure. {KiwiRail 233}

Policy 6.2.4.6

Require sufficient visibility to be available:

- a. at vehicle crossings, to minimise, as far as practicable, the likelihood of unsafe vehicle manoeuvres; and
- b. where a road, driveway or vehicle track crosses an operational rail network via a level crossing, to maintain the safety of road and rail users. **{KiwiRail 230}**

6.3.2 Activity status of transportation activities

<u>Transportation Activity</u>		Activity status	Performance Standards
1.	Operation, repair and maintenance of the roading network	P	a. Design and location – road signs
<u>X.</u>	<u>Operation, repair and maintenance of the rail network {KiwiRail 229}</u>	<u>P</u>	<u>a. Noise {KiwiRail 229}</u> <u>b. Light spill {KiwiRail 229}</u>
2.	New roads or additions or alterations to existing roads	RD	
3.	New roads or additions or alterations to existing roads	RD	a. Design and location – road signs

	where part of an approved subdivision consent		b. Setback from scheduled tree
4.	Passenger transportation hubs	D	
5.	Heliports	D	

Rule 6.4 Notification

1. The NZ Transport Agency will be considered an affected person in accordance with section 95B of the RMA where its written approval is not provided with respect to the following applications for resource consent:
 1. high trip generators on state highways;
 2. any new vehicle accesses onto state highways; and
 3. a subdivision that proposes to have access onto a state highway.

x. The relevant requiring authority for rail will be considered an affected person in accordance with section 95B of the RMA where its written approval is not provided with respect to the following applications for resource consent:

y. _____ contravention of the setback from the designated rail corridor performance standard (Rule 6.7.4). {KiwiRail 233}

2. With respect to resource consent applications for the following activities, Manawhenua will be considered an affected person in accordance with s95B of the RMA where their written approval is not provided:
 1. all restricted discretionary activities that list 'effect on cultural values of Manawhenua' as a matter for discretion; and
 2. discretionary and non-complying activities in a **wāhi tūpuna mapped area** where the activity is identified as a threat to the **wāhi tūpuna mapped area** in Appendix A4.
3. All other activities are subject to the normal tests for notification in accordance with sections 95A-95G of the RMA.

Rule 6.6.3.10 Sightlines to level crossings

- a. ~~Vehicle accesses~~ Driveways, vehicle tracks and roads that cross an operational rail network via a level crossing must maintain clear

sightlines with the sight line triangles shown in Appendix 6B, Figure 6B.18. **{KiwiRail 230}**

- b. Activities that contravene this performance standard are restricted discretionary activities.

Note 6.6.3A – General Advice

...

6. Under Section 73 of the Railways Act 2005, permission must be obtained from KiwiRail Holdings Limited (or relevant authority) to allow access across the rail network. All level crossings, new and existing, require a current and valid Deed of Grant to be in place to allow access across the rail corridor. Early consultation with KiwiRail should be undertaken for any subdivision or development proposals seeking access across a railway. **{KiwiRail 230}**

Rule 6.7.4 Setback from Designated Rail Corridor

1. In the residential, commercial and mixed use, industrial and recreation zones, new buildings, new structures, and additions and alterations must be set back a minimum of 4m from the boundary of the designated rail corridor, unless the railway track is underground. **{KiwiRail 233}**

2. Except that this standard does not apply to:

- a. buildings or structures that are less than 10m² in area and under 2m in height;
- b. fences;
- c. network utility operation as defined in section 166 of the RMA;
- d. signs attached flat to the façade of buildings and structures;
- e. decks that are 1m or less above ground level; or
- f. activities within 4m of the boundary of the designated rail corridor in the following locations:
 - 1. the eastern boundary of the site at 382 South Road (Sec 2 SO 23278), Dunedin
 - 2. the north-western boundary of the site at 378 South Road (Part Lot 6 Deeds 67), Dunedin
 - 3. the eastern boundary of the site at 5 Strathallan Street (Crown Land Block LXXIII SO 14451), Dunedin
 - 4. the western boundary of the site at 1 Paterson Road (Lot 1 DP 403630) and the eastern boundary of the site at 2 Paterson Road (Part Lot 2 Deeds 319), Wingatui

5. the eastern boundary of the site at 266 Gladstone Road North (Lot 1 DP 24334), and the western boundary of the site at 270 Gladstone Road North (Sec 106 Block SO 19326 East Taieri SD)
6. the western boundary of the site at 714 Kaikorai Valley Road (Lot 1 DP 24411), Burnside
7. the northern boundaries of the sites at 11 and 12 Catherine Street, (Lot 3 DP 2963 & Lot 2 DP 1408)) Caversham
8. the western boundary of the site at 7 Samuel Street (Part Lot 10 Block VI Deeds 128) and the western and south eastern boundaries of the site at 6 Neville Street (Lot 1 DP 21976), South Dunedin
9. the north-eastern boundaries of the sites at 2, 4 and 6 Gill Street (Sec 7 Block IX SO 14312, Sec 8 Block IX SO 14312 and Sec 9 Block IX SO 14312), Waikouaiti; and
10. any boundary of the Hillside Depot designation (D423). {KiwiRail 233}

3. Activities that contravene this performance standard are restricted discretionary activities. {KiwiRail 233}

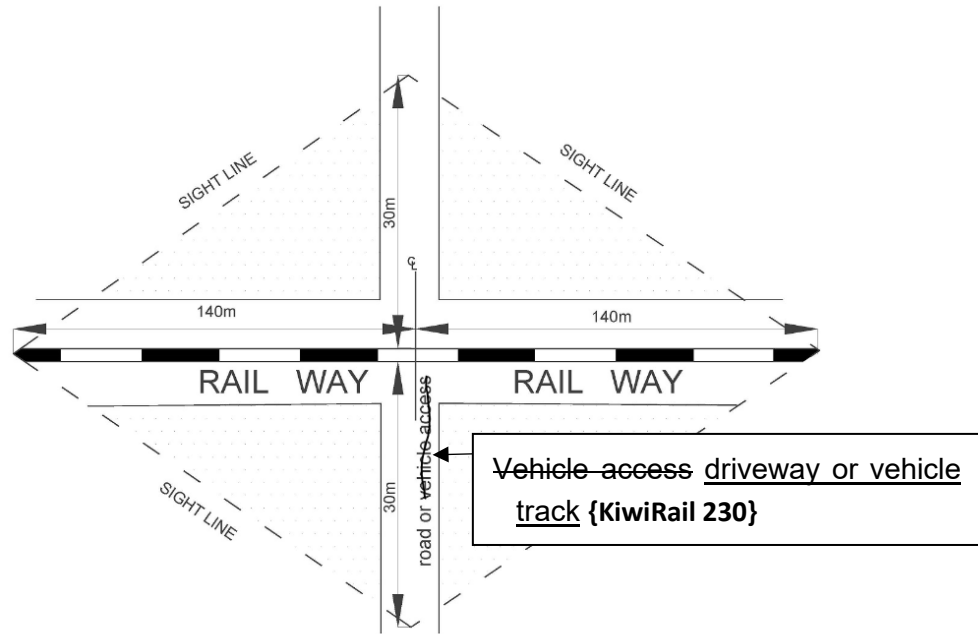
Rule 6.10.5 Assessment of parking, loading and access standards performance standards contraventions			
Performance Standard		Matters of discretion	Guidance on the assessment of resource consents
7.	Vehicle access design and location <ul style="list-style-type: none"> • Sightlines to level crossings (Rule 6.6.3.10) 	a. Effects on the safety and efficiency of the transport network	<i>Relevant objectives and policies:</i> <ol style="list-style-type: none"> i. Objective 6.2.4 ii. Sufficient visibility is available: <ol style="list-style-type: none"> 1. Where a vehicle access driveway, vehicle track or road crosses an operational rail network via a level crossing to maintain the safety of road and rail users (Policy 6.2.4.6.b) {KiwiRail 230}

6.10.6 Assessment of general performance standards contraventions		
Performance standard	Matters of discretion	Guidance on the assessment of resource consents
X. <u>Setback from designated rail corridor</u> {KiwiRail 233}	a. <u>Effects on the safety and efficiency of the transport network</u> {KiwiRail 233}	<u>Relevant objectives and policies:</u> i. <u>Objective 6.2.3</u> ii. <u>New buildings, new structures and additions and alterations are set back an adequate distance from the designated rail corridor to minimise, as far as practicable, the risk of objects or people crossing over or onto the rail corridor as a result of use or maintenance of the building or structure (Policy 6.2.3.X)</u> {KiwiRail 233}

Rule 6.12.3 Assessment of discretionary transportation activities	
Activity	Guidance on the assessment of resource consents
2. New roads or additions or alterations to existing roads	<p><i>Relevant objectives and policies:</i></p> <p>a. Objective 6.2.1 and 6.2.4</p> <p>b...d</p> <p>e. Sufficient visibility is available where a vehicle access <u>driveway, vehicle track</u> or road crosses an operational rail network via a level crossing, to maintain the safety of the road and rail users (Policy 6.2.4.6.b). {KiwiRail 230}</p> <p><i>General assessment guidance</i></p> <p>f-g...</p>

		<p>h. Council will require new roads, <u>driveways or vehicle tracks</u> that cross an operational rail network via a level crossing to maintain clear sightlines within the sight line triangles....</p>
--	--	---

Figure 6B.18, Appendix 6B



Section 8A Earthworks

Rule 8A.5.1.1 General

The following earthworks are always considered earthworks - small scale:

- post holes for the erection of fences;
- post holes for permitted or approved buildings or signs;
- driving of piles for building foundations;
- earthworks in the Port Zone;
- earthworks in the rural or rural residential zones, outside flood hazard overlay zones, associated with burying material infected by unwanted organisms as declared by the Ministry for Primary Industries' Chief Technical Officer or an emergency declared by the Minister for Primary Industries under the Biosecurity Act 1993;

- f. earthworks subject to an approved building consent, except in the rural or rural residential zones or where they are located more than 1.8m from the building;
- g. earthworks for the erection of new fences or the construction of walking tracks or vehicle tracks, where the fence or track is associated with a permitted land use or city-wide activity, provided that the earthworks:
 - i. do not result in a change in finished ground level that exceeds 1m; and
 - ii. do not exceed 2m in width if located in an ASBV or ONF, ONCC, HNCC or NCC overlay zone, or 3m in width outside these areas.
- h. earthworks ancillary to the operation, repair and maintenance of the roading network;
- x. earthworks ancillary to the operation, repair and maintenance of the rail network; {KiwiRail 232}
- i. earthworks ancillary to forestry; and
- j. earthworks ancillary to the operation, repair, minor upgrading and maintenance of existing network utilities.

Rule 8A.5.4

1. Earthworks over 600mm in height or depth must be set back from: property boundaries, foundations of buildings, structures greater than 10m² footprint, and the top or toe of any cliff, the following minimum distances:
 - a. Earthworks not supported by retaining walls:
 - i. a distance at least equal to the maximum height of the fill, as measured from the toe of the fill (see Figure 8A.5.4A);
 - ii. a distance at least equal to 1.5 times the maximum depth of the cut, plus 300mm, as measured from the toe of the cut (see Figure 8A.5.4A); and
 - iii. 300mm, as measured from the crest of any cut (see Figure 8A.5.4A).
 - b. Retaining walls supporting a cut or fill must be set back a distance at least equal to the height of the retaining walls (see Figure 8A.5.4B), except:

- i. retaining walls supporting a cut that have been granted building consent are exempt from this standard.
 - c. Earthworks ancillary to network utility activities, earthworks ancillary to the operation, repair and maintenance of the roading network, earthworks ancillary to the operation, repair and maintenance of the rail network and earthworks ancillary to forestry are exempt from the setback from property boundary, buildings, structures and cliffs performance standard. **{KiwiRail 229}**
2. Activities that contravene this performance standard are restricted discretionary activities.

Section 9 Public Health and Safety

Rule 9.3.5.1 Light Spill

- c. This standard does not apply to light spill from the headlights of motor vehicles or trains, or from street lighting. **{KiwiRail 229}**

Rule 9.3.6 Noise

Land use activities, public amenity activities, network utility activities, ~~and~~ temporary activities and the operation, repair and maintenance of the rail network must not exceed the following noise emission limits: **{KiwiRail 229}**

...

7. Except, the following activities are exempt from this standard:
- a. noise generated by port activities in the Port Zone (see Rule 30.5.4);
 - b. noise generated by aircraft within the Dunedin International Airport Zone;
 - c. noise generated by events in the Stadium Zone (see Rule 32.5.6);
 - d. noise generated by aircraft within the Taieri Aerodrome Zone between the hours of 7.00am - 10.00pm;
 - e. noise generated as part of normal residential activities, other than from building utilities;
 - f. noise associated with early childhood education and schools between the hours of 8.00am - 6.00pm;
 - g. sport and recreation not involving the use of motor vehicles, amplified sound, or firearms;
 - h. vehicles operating on public roads ~~or trains on rail lines (including at railway yards, railway sidings or stations and level crossing warning devices)~~;

- x. operation of the rail network (including trains on rail lines at railway yards, railway sidings or stations, and level crossing warning devices);
- y. repair and maintenance of the rail network that complies with the limits for construction noise in Rule 4.5.4.1.a
- i. ...

Section 10 Natural Environment

Objective 10.2.2

In the coastal environment natural character is preserved and biodiversity values are protected. Outside the coastal environment, the ~~The~~ biodiversity values and natural character of ~~the coast and~~ riparian margins are maintained and enhanced. **{Forest and Bird, 287}**

Policy 10.2.2.2

Require buildings, structures, storage and use of hazardous substances, network utility activities, and earthworks - large scale to be set back from the coast and water bodies an adequate distance to enable:

- a. in the coastal environment, natural character to be preserved and biodiversity values to be protected or, where this is not practicable in the case of network utility activities, natural character and biodiversity values to be maintained or enhanced; and
- b. outside the coastal environment, the biodiversity and natural character values of ~~coastal and~~ riparian margins to be maintained or enhanced. **{Forest and Bird, 287}**

Policy 10.2.2.4

Only allow indigenous vegetation clearance in the **coastal environment mapped area** where natural character values are preserved and biodiversity values of ~~the coast~~ are maintained or enhanced protected. **{Forest and Bird, 287}**

Policy 10.2.2.6

Only allow activities adjacent to water bodies and the coast where;

- a. in the coastal environment, natural character is preserved and biodiversity values are protected or, where this is not practicable in the case of

network utility activities, natural character and biodiversity values are maintained or enhanced; and

- b. outside the coastal environment, the biodiversity values and natural character of the coast and riparian margins are maintained or enhanced. {Forest and Bird, 287}:

Policy 10.2.2.8

Only allow natural hazard mitigation earthworks and natural hazard mitigation structures where ~~significant adverse effects on the biodiversity and natural character values of coastal and riparian margins are avoided or minimised as far as practicable;~~

- a. in the coastal environment, natural character is preserved and biodiversity values are protected; or
- b. outside the coastal environment, the biodiversity values and natural character of riparian margins are maintained or enhanced; or
- c. where there are no practicable alternatives, effects are adequately mitigated. {Forest and Bird, 287}

Objective 10.2.3

Areas of outstanding natural coastal character (ONCC), high natural coastal character (HNCC), and natural coastal character (NCC) are protected from inappropriate use and development; and ~~their~~ the values of ONCCs and HNCCs, as identified in Appendix A5, are preserved or enhanced; and the values of NCCs, as identified in Appendix A5, are maintained or enhanced. {Federated Farmers, 175}:

Policy 10.2.3.7

Only allow subdivision activities ~~in~~ on a property that contains {Forest and Bird, 288} Outstanding Natural Coastal Character (ONCC), High Natural Coastal Character (HNCC) and Natural Coastal Character (NCC) overlay zones where the subdivision ~~is designed to~~ design will {Forest and Bird, 288} ensure that any future land use or development will:

- a. preserve or enhance, on an on-going basis, the natural character values of ONCCs and HNCCs identified in Appendix A5;
- b. maintain or enhance, on an on-going basis, the natural character values of NCCs identified in Appendix A5; and

- c. will be in accordance with policies 10.2.3.1, 10.2.3.2, 10.2.3.3, 10.2.3.4, 10.2.3.5 and 10.2.3.6. **{Federated Farmers 175}**

Rule 10.3.2 Vegetation Clearance

10.3.2.1 Indigenous vegetation clearance – small scale thresholds

- a. The following types of indigenous vegetation clearance are always considered indigenous vegetation clearance – small scale:
- i. clearance that is part of conservation activity involving vegetation clearance and replacement with indigenous species;
 - ii. clearance, ~~for the erection,~~ **{Director-General of Conservation, 83}** maintenance or alteration of fences (including gates);
 - iii. clearance for the maintenance (but not extension) of existing network utilities, irrigation infrastructure, tracks, drains, structures, roads or fire breaks;
 - iv. clearance for the construction of tracks (associated with permitted land use or city-wide activities ~~only~~) up to provided that:
 1. 2m in width the clearance does not take place in ASBVs, ONFs, ONCCs, HNCCs and NCCs; and
 2. outside ASBVs, ONFs, ONCCs, HNCCs and NCCs the clearance is no more than 3m in width outside these areas; **{Director-General of Conservation, 85; Forest and Bird, 264}**
- X. clearance for the erection of fences (including gates) associated with permitted land use or city-wide activities provided that:
1. the clearance does not take place in an ASBV, ONF, ONCC, HNCC or NCC, unless it is for fencing required for stock exclusion under national regulations or regional rules and the clearance:
 1. meets Rule 10.3.2.2 (protected areas) and Rule 10.3.2.3 (protected species); and
 2. is no more than 4.5m in width, on slopes of over 10 degrees; or
 3. is no more than 3m in width, on slopes of 10 degrees or less;
 2. outside ASBVs, ONFs, ONCCs, HNCCs and NCCs, the clearance:
 1. meets Rule 10.3.2.2 (protected areas) and Rule 10.3.2.3 (protected species); and
 2. is no more than 3m in width; or
 3. if fencing is required for stock exclusion under national regulations or regional rules, and takes place on slopes

of over 10 degrees, the clearance is no more than 4.5m in width, including any track associated with the fence (for the sake of clarity, the width of clearance provided for in this rule may not be added to the width of clearance provided for in Rule 10.3.2.1.a.iv.2);

{Director-General of Conservation, 83}

- v. clearance that is consistent with or provided for as part of a conservation management strategy, conservation management plan, reserve management plan or covenant established under the Conservation Act 1987 or any other Act specified in the First Schedule of the Conservation Act 1987;
- vi. clearance for the purpose of the sustainable customary harvest of food or resources undertaken by manawhenua, in accordance with tikaka Māori; **{Forest and Bird 264}**
- ~~vii.~~ ~~vi.~~ clearance that is required to remove material infected by unwanted organisms as declared by Ministry for Primary Industries' Chief Technical Officer, or to respond to an emergency declared by the Minister for Primary Industries under the Biosecurity Act 1993;
- ~~viii.~~ ~~vii.~~ clearance of a pest plant listed in Appendix 10B;
- ~~ix.~~ ~~viii.~~ vegetation clearance incidental to existing forestry activity where the clearance involves an understorey of indigenous vegetation, or is for the maintenance of forestry access or firebreaks;
- ~~x.~~ ~~ix.~~ clearance that is necessary to maintain the flow of water free from obstruction or for natural hazard mitigation activities;
- ~~xi.~~ ~~x.~~ clearance that is incidental to the harvesting or maintenance of trees as part of forestry, provided that all vegetation that is felled within 10m of a water body must be felled away from the water body, and that the forestry is conducted in accordance with recognised industry environmental codes of practice;
- ~~xi.~~ ~~vegetation clearance of an area of Manuka that is adversely affected by Manuka Blight caused by Eriococcus orariensis (outside ASBVs, ONFs, ONCCs, HNCCs and NCCs only);~~ **{Director-General of Conservation, 87}**
- xii. vegetation clearance of stands of matagouri-dominant shrubland that contain no matagouri individuals greater than 1.5m tall and that contain no more than one other non-matagouri indigenous shrub species; and
- xiii. clearance of indigenous vegetation from areas that, within the last ~~40~~ 15 **{Federated Farmers, 184}** years, have been ~~cultivated or~~ **{Forest and Bird, 264}** lawfully cleared of such vegetation (outside ASBVs, ONFs, ONCCs, HNCCs and NCCs only), provided that the clearance is associated with a permitted land use or city-wide activity.

- b. All indigenous vegetation clearance that occurs in an ASBV, ONF, ONCC, HNCC, or NCC and is not included in Rule 10.3.2.1.a is considered indigenous vegetation clearance – large scale.
- c. All other indigenous vegetation clearance must not exceed the following maximum areas on any site, over the time period indicated, to be considered indigenous vegetation clearance – small scale:
...
- d. For the purposes of Rule 10.3.2.1.c:
 - i. if the area of indigenous vegetation to be cleared straddles two zones, the lesser maximum area will apply;
 - ii. the area to be cleared will be measured from stems at ground level; and
 - iii. the time period will be measured as the total clearance over the indicated number of calendar years.
- e. All indigenous vegetation clearance that does not meet this standard is considered indigenous vegetation clearance – large scale, which is:
 - i. a non-complying activity in ASBVs, ONCCs and HNCCs;
 - ii. a restricted discretionary activity in NCCs, ONFs, rural zones and rural residential zones.

10.3.2.2 Protected areas (vegetation clearance)

- a. Vegetation clearance must not occur within:
 - i. 20m of any wetland identified in Appendix A1.2 as an Area of Significant Biodiversity Value; or
 - ii. the following minimum setbacks from the coast and water bodies:

	Activity	Minimum setback from mean high water springs	Minimum setback from any water body (except where <u>Rule 10.3.2.2.a.i applies</u>) {Forest and Bird 264}
1.	Indigenous vegetation clearance in the rural, rural residential and recreation zones	20m	20m from any water body with a clearly defined bed of at least 3m in width; 5m from any other water body

2.	All vegetation clearance in the rural, rural residential, recreation and Ashburn Clinic zones	5m	5m
----	---	----	----

- b. Indigenous vegetation clearance must not occur within:
 - i. any coastal environment mapped area; or
 - ii. any wetland in the rural, rural residential and recreation zones.

- c. For the purposes of Rule 10.3.2.2.a, setbacks will be measured as follows:
 - i. for water bodies other than wetlands, setbacks will be measured from the bank of the water body at the point of its annual fullest flow or annual highest level without overtopping its bank (see Figure 10.3.3A and Figure 10.3.3B under Rule 10.3.3 Setback from Coast and Water Bodies); and
 - ii. for wetlands, setbacks will be measured from the edge of the wetland.
{Forest and Bird 264}

- d. Except that Rule 10.3.2.2.a and Rule 10.3.2.2.b do not apply to vegetation clearance that is:
 - i. part of conservation activity involving vegetation clearance and replacement with indigenous species;
 - ii. for the ~~erection~~, **{Director-General of Conservation, 83}** maintenance or alteration of fences (including gates);
 - X. clearance for the erection of fences (including gates) provided that if the vegetation clearance involves indigenous vegetation clearance:
 - 1. the indigenous vegetation clearance is no more than 3m in width; or
 - 2. the indigenous vegetation clearance is for fencing on slopes of over 10 degrees required for stock exclusion under national regulations or regional rules provided that the clearance is no more than 4.5m in width, including any track associated with the fence (for the sake of clarity, the width of clearance provided for in this rule may not be added to the width of clearance provided for in Rule 10.3.2.2.d.iv).
{Director-General of Conservation, 83}
 - iii. for the maintenance (but not extension) of existing network utilities, irrigation infrastructure, tracks, drains, structures, roads, or fire breaks;
 - iv. ~~clearance~~ for the construction of tracks ~~up to~~, provided that any indigenous vegetation clearance is no more than 2m in width; **{Forest and Bird, 264}**

- v. consistent with or provided for as part of a conservation management strategy, conservation management plan, reserve management plan or covenant established under the Conservation Act 1987 or any other Act specified in the First Schedule of the Conservation Act 1987;
 - vi. clearance for the purpose of the sustainable customary harvest of food or resources undertaken by manawhenua, in accordance with tikaka Māori; {Forest and Bird 264}
 - vii. ~~vi.~~ clearance required to remove material infected by unwanted organisms as declared by Ministry for Primary Industries' Chief Technical Officer, or to respond to an emergency declared by the Minister for Primary Industries under the Biosecurity Act 1993;
 - viii. ~~vii.~~ clearance of a pest plant listed in Appendix 10B;
 - ix. ~~viii.~~ necessary to maintain the flow of water free from obstruction or for natural hazard mitigation activities;
 - x. ~~ix.~~ in the case of Rule 10.3.2.2.a, separated from mean high water springs or the water body by a formed legal road;
 - xi. ~~x.~~ incidental to the harvesting or maintenance of trees as part of forestry, provided that all vegetation that is felled within 10m of a water body must be felled away from the water body, and that the forestry is conducted in accordance with recognised industry environmental codes of practice; or
 - xii. ~~xi.~~ clearance of non-indigenous plant species and replanting within 3 months with indigenous or non-indigenous plant species, not on the pest plant list in Appendix 10B, that will attain at least the same height and coverage as the plants that have been cleared
- e. Activities that contravene this performance standard are restricted discretionary activities.

Note 10.3.2.2A - Other requirements outside of the District Plan

1. The Resource Management (National Environmental Standards for Freshwater) Regulations 2020 manage vegetation clearance within, and within a 10m setback of, wetlands. Under regulation 54, vegetation clearance that is within, or within a 10m setback from, a wetland is a non-complying activity, unless the vegetation clearance is for a purpose specifically exempted from control, under regulation 37, or for a purpose specifically provided for as either permitted (where specified conditions are met) or restricted discretionary, under regulations 38 to 51. These purposes include: the customary harvest of food or resources undertaken in accordance with tikanga Māori, natural wetland restoration, scientific research, construction or maintenance of a wetland utility structure (e.g. boardwalk, maimai), construction of 'specified infrastructure' (as defined in the

NPS for Freshwater Management 2020) and maintenance or operation of specified or other infrastructure, harvest of sphagnum moss, arable or horticultural land use, and natural hazard works. {Forest and Bird, 264}

Note 10.3.2.2B – General advice

1. In relation to measuring setbacks from wetlands, where there is uncertainty, the DCC will refer to the wetland delineation protocol to establish the location of the wetland edge. The protocol can be viewed here:

[https://www.landcareresearch.co.nz/uploads/public/Discover-Our-Research/Biodiversity/Species-ecosystem-services/Restoring-wetland-ecosystem-functioning/vegetation tool wetland delineation.pdf](https://www.landcareresearch.co.nz/uploads/public/Discover-Our-Research/Biodiversity/Species-ecosystem-services/Restoring-wetland-ecosystem-functioning/vegetation%20wetland%20delineation.pdf). {Forest and Bird, 264}

Rule 10.3.3 Setback from Coast and Water Bodies

In all zones, other than the Harbourside Edge Zone, St Clair Neighbourhood Destination Centre, Dunedin Hospital Zone, Dunedin International Airport Zone, Mercy Hospital Zone, Moana Pool Zone, Otago Museum Zone, Port Zone and Wakari Hospital Zone, new buildings and structures, additions and alterations, earthworks - large scale, storage and use of hazardous substances, and network utility activities must be set back a minimum of:

1. 20m from mean high water springs (MHWS); and
2. 20m from any wetland identified in Appendix A1.2, Schedule of Areas of Significant Biodiversity Value (ASBV);
3. 20m from any water body with a clearly defined bed of at least 3m in width in the rural zones;
4. 5m from any water body with a clearly defined bed less than 3m in width in the rural zones; and
5. 5m from any water body with a clearly defined bed in all other zones;
6. Except, the following are exempt from this standard:
 - a. natural hazard mitigation activities;
 - b. hydro generators - small scale in the rural and industrial zones;
 - c. network utility poles and masts for the purposes of supporting lines across a water body;
 - d. network utility structures - small scale in existing roads that comply with Rule 5.5.2;

- e. the operation, repair, minor upgrading and maintenance of existing network utilities;
 - f. river flow recording facilities;
 - g. navigational aids;
 - h. maimai and whitebait stands on the surface of water;
 - i. post and wire fences;
 - j. bridges, causeways, culverts and fords; **{KiwiRail 232}**
 - k. jetties, boat ramps, and wharves;
 - l. signs;
 - m. structures with a maximum footprint of 10m² associated with port activities in the Industrial Port Zone;
 - n. bird hides, viewing structures and viewing platforms with a maximum footprint of 10m² and maximum height of 2m, and boardwalks;
 - o. earthworks associated with the operation, repair and maintenance of the existing roading network;
 - p. irrigation pipes of any size, and other irrigation or stock water structures such as intake structures with a maximum footprint of 2m²;
 - q. earthworks required for any of the activities in (a) - (p) above; ...
7. For the purposes of this standard, setbacks will be measured from the bank of the water body at the point of its annual fullest flow or annual highest level without overtopping its bank (see Figure 10.3.3A and Figure 10.3.3B).
8. Activities that contravene this performance standard are restricted discretionary activities.

10.4.2 Assessment of controlled development activities			
Activity		Matters of control	Guidance on the assessment of resource consents
1.	In the NCC Overlay Zone: New buildings greater than 60m ² footprint on a landscape	a. Size, design and appearance of buildings	<i>Relevant objectives and policies:</i> i. Objective 10.2.3 ii. Large buildings on landscape building platforms in the Natural Coastal Character Overlay Zone (NCC) are of a size, design and appearance that ensures that adverse effects on the natural character values, as identified in Appendix A5, are avoided or, if

	building platform		<p>avoidance is not practicable, no more than minor (Policy 10.2.3.8).</p> <p>...</p> <p><i>Conditions that may be imposed include:</i></p> <p>iv. Restrictions on the size and design of buildings, including height, footprint, colour, and materials <u>and lighting</u>. {Forest and Bird 290}</p> <p>...</p>
2.	<p>In the ONL or SNL overlay zones:</p> <p>New buildings greater than 60m² footprint on a landscape building platform</p>	<p>a. Size, design and appearance of buildings</p>	<p><i>Relevant objectives and policies:</i></p> <p>i. Objective 10.2.5</p> <p>ii. Large buildings on landscape building platforms in the outstanding natural landscape (ONL) and significant natural landscape (SNL) overlay zones are of a size, design and appearance that ensures that adverse effects on the landscape values of the ONL or SNL, as identified in Appendix A3, are avoided or, if avoidance is not practicable, adequately mitigated (Policy 10.2.5.11).</p> <p>...</p> <p><i>Conditions that may be imposed include:</i></p> <p>iv. Restrictions on the size and design of buildings, including height, footprint, colour, and materials <u>and lighting</u>. {Forest and Bird 290}</p> <p>...</p>

10.5.3 Assessment of contraventions of performance standards in the Natural Environment section

Activity		Matters of discretion	Guidance on the assessment of resource consents
1.	All performance standards	a. Positive effects on biodiversity values or the natural character of the coast	<p>Relevant objectives and policies:</p> <ul style="list-style-type: none"> i. Objectives 10.2.1, 10.2.2, 10.2.3 ii. Conservation activity is encouraged in all zones (Policy 10.2.1.5). <p>X. <u>Conservation activity is encouraged in coastal and riparian margins (Policy 10.2.2.1). {Forest and Bird, 299}</u></p> <p><u>General assessment guidance:</u></p> <p>Y. <u>In assessing positive effects on biodiversity values, Council will take into account the extent to which indigenous vegetation and habitats are proposed to be retained or restored in a way that contributes to increased resilience, buffering and/or connectivity. {Forest and Bird, 284}</u></p> <p><i>Potential circumstances that may support a consent application include:</i></p> <p>...</p>
2.	Esplanade reserves and strips	a. Effects on biodiversity values and natural character values of riparian margins and the coast	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> i. <u>Objective 10.2.1, {Forest and Bird, 299}</u> Objective 10.2.2 ii. ...

4.	Protected areas (vegetation clearance)	a. Effects on biodiversity values and the natural character values of riparian margins and the coast	<p><i>Relevant objectives and policies:</i></p> <p>i. Objective 10.2.1, Objective 10.2.2.</p> <p>ii. ...</p> <p>iii...</p> <p>iv. In the coastal environment mapped area, the natural character values <u>are preserved</u> and biodiversity values of the coast <u>are maintained or enhanced</u> <u>are protected</u> (Policy 10.2.2.4). {Forest and Bird, 287}</p> <p>...</p>
10.	Setback from coast and water bodies	a. Effects on biodiversity values and natural character of riparian margins and the coast	<p>Relevant objectives and policies</p> <p>i. Objectives <u>10.2.1, {Forest and Bird, 299}</u> 10.2.2</p> <p>ii. Buildings, structures, storage and use of hazardous substances, network utility activities, and earthworks - large scale are set back from the coast and water bodies an adequate distance to:</p> <p>1. <u>in the coastal environment, preserve natural character and protect biodiversity values, or where this is not practicable in the case of network utility activities maintain or enhance natural character and biodiversity values; and</u></p> <p>2. <u>outside the coastal environment maintain or enhance biodiversity values and natural character values of coastal and riparian</u></p>

			<p>margins (Policy 10.2.2.2). {Forest and Bird, 287}</p> <p>iii. ...</p>
--	--	--	---

10.5.4 Assessment of contraventions of performance standards in other sections

Activity		Matters of discretion	Guidance on the assessment of resource consents
1.	All performance standard contraventions	a. Positive effects on biodiversity values or the natural character of the coast	<p>Relevant objectives and policies:</p> <p>i. Objective 10.2.1, 10.2.2, 10.2.3</p> <p>ii. Conservation activity is encouraged in all zones (Policy 10.2.1.5).</p> <p><u>iii. Conservation activity is encouraged in coastal and riparian margins (Policy 10.2.2.1). {Forest and Bird, 299}</u></p> <p><u>General assessment guidance:</u></p> <p>iv. <u>In assessing positive effects on biodiversity values, Council will take into account the extent to which indigenous vegetation and habitats are proposed to be retained or restored in a way that contributes to increased resilience, buffering and/or connectivity. {Forest and Bird 284}</u></p>

			<p><i>Potential circumstances that may support a consent application include:</i></p> <p>...</p>
--	--	--	--

10.6.3 Assessment of restricted discretionary activities			
Activity		Matters of discretion	Guidance on the assessment of resource consents
1	All restricted discretionary activities that are linked to Section 10.6	a. Positive effects on biodiversity values or the natural character of the coast	<p><i>Relevant objectives and policies:</i></p> <p>i. Objectives 10.2.1, 10.2.2, 10.2.3</p> <p>ii. Conservation activity is encouraged in all zones (Policy 10.2.1.5).</p> <p>iii. <u>Conservation activity is encouraged in coastal and riparian margins (Policy 10.2.2.1). {Forest and Bird, 299}</u></p> <p><u><i>General assessment guidance:</i></u></p> <p>iv. <u>In assessing positive effects on biodiversity values, Council will take into account the extent to which indigenous vegetation and habitats are proposed to be retained or restored in a way that contributes to increased resilience, buffering and/or connectivity. {Forest and Bird 284}</u></p> <p><i>Potential circumstances that may support a consent application ...</i></p>
6	<p>In the ONCC or HNCC overlay zones:</p> <ul style="list-style-type: none"> Shelterbelts and small woodlots 	a. Effects on natural character of the coast	<p><i>Relevant objectives and policies:</i></p> <p>i. Objective 10.2.3</p> <p>ii. ...</p>

	<ul style="list-style-type: none"> • Earthworks - large scale (that exceed scale thresholds for an ONCC, HNCC) • Network utility structures – large scale (amateur radio configurations only) • Network utility structures - small scale • Public artworks - large scale • General subdivision 		<p>iii. Subdivisions are designed to ensure <u>The design of the subdivision and</u> any future land use or development will:</p> <ol style="list-style-type: none"> 1. preserve or enhance, on an on-going basis, the natural character values identified in Appendix A5; and 2. will be in accordance with policies 10.2.3.1, 10.2.3.2, 10.2.3.3 and 10.2.3.4 (Policy 10.2.3.7). {Forest and Bird, 288} <p>...</p>
7	<p>In the NCC Overlay Zone:</p> <ul style="list-style-type: none"> • Crematoriums • Forestry • Indigenous vegetation clearance - large scale • All restricted discretionary 	<p>a. Effects on natural character of the coast</p>	<p><i>Relevant objectives and policies</i></p> <p>i. Objectives <u>10.2.1</u>, {Forest and Bird, 299} 10.2.3</p> <p>ii. ...</p>

	<p>buildings and structures activities that are linked to Section 10.6</p> <ul style="list-style-type: none"> • Earthworks - large scale (that exceed the scale thresholds for an NCC) 		
8	<p>In the NCC Overlay Zone:</p> <ul style="list-style-type: none"> • Public Artworks - large scale • Network utility poles and masts - small scale • Wind generators - small scale • Hydro generators - small scale • Solar panels - small scale 	<p>a. Effects on natural character of the coast</p>	<p><i>Relevant objectives and policies:</i></p> <p>i. Objectives <u>10.2.1, {Forest and Bird, 299}</u> 10.2.3</p> <p>ii. ...</p>
9	<p>In the NCC Overlay Zone:</p>	<p>a. Effects on natural</p>	<p><i>Relevant objectives and policies</i></p>

	General subdivision	character of the coast	<p>i. Objective 10.2.3</p> <p>ii. Subdivisions are designed to ensure <u>The design of the subdivision and any future land use or development will:</u> {Forest and Bird 288}</p> <p>1. preserve <u>maintain</u> {Federated Farmers 175} or enhance, on an on-going basis, the natural character values identified in Appendix A5; and</p> <p>2. will be in accordance with policies 10.2.3.5 and 10.2.3.6 (Policy 10.2.3.7).</p> <p>...</p>
--	---------------------	------------------------	---

Rule 10.7 Assessment of Discretionary Activities

Rule 10.7.1 Introduction

1. Discretionary activities will be assessed in accordance with section 104 and 104B of the RMA meaning Council may grant or refuse the application, and, if granted, may impose conditions.
2. Rule 10.7.2 provides guidance on how a consent application for the listed discretionary activities will be assessed, ~~including:~~ but do not limit that assessment. They include: **{Forest and Bird, 299}**
 - a. relevant objectives and policies that will be considered as a priority with respect to s104(1)(b)(vi);
 - b. ...

10.7.2 Assessment of discretionary activities		
Activity	Guidance on the assessment of resource consents	
1.	All discretionary activities that are linked to Section 10.7, including but not limited	<p><i>Relevant objectives and policies (priority considerations):</i></p> <p>a. Objectives 10.2.1 – 10.2.5</p>

	<p>to the activities listed below</p>	<p>b. Objective 2.2.3</p> <p>c. ...</p> <p>d. ...</p> <p>e. Activities adjacent to water bodies and the coast:</p> <p>1. <u>in the coastal environment, preserve natural character and protect biodiversity values or, where this is not practicable in the case of network utility activities, maintain or enhance natural character and biodiversity values; and</u></p> <p>2. <u>outside the coastal environment, maintain or enhance the biodiversity values and natural character of the coast and riparian margins (Policy 10.2.2.6). {Forest and Bird 287}</u></p> <p>...</p> <p><i>General assessment guidance</i></p> <p>...</p> <p><u>X. In assessing positive effects on biodiversity values, Council will take into account the extent to which indigenous vegetation and habitats are proposed to be retained or restored in a way that contributes to increased resilience, buffering and/or connectivity. {Forest and Bird 284}</u></p> <p>...</p>
2.	<p>Natural hazard mitigation earthworks</p> <p>Natural hazard mitigation structures</p>	<p>Relevant objectives and policies (priority considerations)</p> <p>a. Objectives 10.2.2, 10.2.4</p> <p>b. ...</p>

		<p>c. Significant adverse effects on the biodiversity and natural character values of coastal and riparian margins are avoided or minimised as far as practicable</p> <p><u>Natural hazard mitigation earthworks and natural hazard mitigation structures are only allowed where:</u></p> <p><u>i. in the coastal environment, natural character is preserved and biodiversity values are protected; or</u></p> <p><u>ii. outside the coastal environment, the biodiversity values and natural character of riparian margins are maintained or enhanced; or</u></p> <p><u>iii. where there are no practicable alternatives, effects are adequately mitigated. {Forest and Bird 287}</u> (Policy 10.2.2.8).</p> <p><i>General assessment guidance:</i></p> <p>...</p>
--	--	--

Rule 10.8.1 Introduction

1. Non-complying activities will be assessed in accordance with section 104, 104B and 104D of the RMA meaning Council may grant or refuse the application, and, if granted, may impose conditions.
2. Rule 10.8.2 provides guidance on how a consent application for the listed non-complying activities will be assessed, including: but do not limit that assessment. They include: **{Forest and Bird, 299}**
 - a. relevant objectives and policies that will be considered as a priority with respect to s104(1)(b)(vi); and
 - b. ...

<p>10.8.2 Assessment of all non-complying activities</p>

Activity		Guidance on the assessment of resource consents
1	All non-complying activities that are linked to Section 10.8, including but not limited to the activities listed below	<p><i>Relevant objectives and policies (priority considerations):</i></p> <p>...</p> <p>e. Activities adjacent to water bodies and the coast:</p> <p>i. <u>in the coastal environment, preserve natural character and protect biodiversity values or, where this is not practicable in the case of network utility activities, maintain or enhance natural character and biodiversity values; and</u></p> <p>ii. <u>outside the coastal environment, maintain or enhance the biodiversity values and natural character of the coast and riparian margins (Policy 10.2.2.6). {Forest and Bird 287}</u></p> <p><i>General assessment guidance:</i></p> <p>...</p> <p><u>X. In assessing positive effects on biodiversity values, Council will take into account the extent to which indigenous vegetation and habitats are proposed to be retained or restored in a way that contributes to increased resilience, buffering and/or connectivity. {Forest and Bird, 284}</u></p>

10.9.2 Vegetation Clearance

1. Council may request a report by an suitably qualified or experienced ecologist or ~~similarly qualified person~~ for applications where resource consent is required

for vegetation clearance and will normally require a report if the application involves clearance of indigenous vegetation.

Where requested the report should include:

- a. a description of the indigenous vegetation present, including a species list;
- b. a description of the indigenous wildlife present ~~and~~ or known to use the site;
- c. ... **{Forest and Bird 296}**

Section 15 Residential Zones

Rule 15.3.4 Development Activity Status Table

2.	Performance standards that apply to all buildings and structures activities	<ul style="list-style-type: none"> a. Boundary setbacks b. Building length c. Fire fighting d. Height in relation to boundary e. Maximum height f. Setback from coast and water bodies g. Setback from National Grid h. <u>Setback from designated rail corridor</u> {KiwiRail 233}
----	---	--

15.6.13.X Setback from designated rail corridor

New buildings, new structures and additions and alterations must comply with Rule 6.7.4. {KiwiRail 233}

15.10.4 Assessment of development performance standard contraventions		
Performance Standard	Matters of discretion	Guidance on the assessment of resource consents

X.	<u>Setback from designated rail corridor</u>	a. <u>Effects on the safety and efficiency of the transport network</u>	<u>See Rule 6.10.6 {KiwiRail 233}</u>
----	--	---	---------------------------------------

Section 18 Commercial and Mixed Use Zones

Rule 18.3.6 Development Activity Status Table

2.	Performance standards that apply to all buildings and structures activities	a. Fire fighting b. Height in relation to boundary c. Height d. Number, location and design of ancillary signs e. Setback from coast and water bodies f. Setback from National Grid g. Building colour <u>h. Setback from designated rail corridor {KiwiRail 233}</u>
----	---	--

18.6.16.X Setback from designated rail corridor

New buildings, new structures and additions and alterations must comply with Rule 6.7.4. {KiwiRail 233}

18.9.4 Assessment of development performance standard contraventions		
Performance Standard	Matters of discretion	Guidance on the assessment of resource consents

X.	<u>Setback from designated rail corridor</u>	a. <u>Effects on the safety and efficiency of the transport network</u>	<u>See Rule 6.10.6 {KiwiRail 233}</u>
----	--	---	---------------------------------------

Section 19 Industrial Zones

Rule 19.3.4 Development Activity Status Table

2.	Performance standards that apply to all buildings and structures activities	a. Boundary setbacks b. Maximum Height c. Height in relation to boundary d. Number, location and design of ancillary signs e. Setback from coast and water bodies f. Setback from National Grid g. <u>Setback from designated rail corridor {KiwiRail 233}</u>
----	---	--

19.6.9.X Setback from designated rail corridor

New buildings, new structures and additions and alterations must comply with Rule 6.7.4. {KiwiRail 233}

19.9.4 Assessment of development performance standard contraventions

Performance Standard		Matters of discretion	Guidance on the assessment of resource consents
X.	<u>Setback from designated rail corridor</u>	a. <u>Effects on the safety and efficiency of the transport network</u>	<u>See Rule 6.10.6 {KiwiRail 233}</u>

Section 20 Recreation Zone

Rule 20.3.4 Development Activity Status Table

2.	Performance standards that apply to all buildings and structures activities	<ul style="list-style-type: none"> a. Boundary setbacks b. Height in relation to boundary c. Maximum Height d. Number, location and design of ancillary signs e. Setback from coast and water bodies f. Setback from National Grid g. <u>Setback from designated rail corridor</u>{KiwiRail 233}
----	---	---

20.6.10.X Setback from designated rail corridor

New buildings, new structures and additions and alterations must comply with Rule 6.7.4. {KiwiRail 233}

20.9.4 Assessment of development performance standard contraventions

Performance Standard		Matters of discretion	Guidance on the assessment of resource consents
X.	<u>Setback from designated rail corridor</u>	a. <u>Effects on the safety and efficiency of the transport network</u>	<u>See Rule 6.10.6 {KiwiRail 233}</u>

Amendments to numbering

Make any consequential amendments to the numbering of Plan provisions, as required.

