

**Tasman Resource Management Plan  
Efficiency and Effectiveness Evaluation**

## **Chapter 9: Landscapes**

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**Lead author:** Ro Cudby

**Reviewed by:** Maxine Day

## Acronyms

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CEA	Coastal Environment Area
GIS	Geographic Information System
LiDAR	Light Detection and Ranging - technology that provides detailed contour data
LPA	Landscape Priority Area
MagiQ-BI/NCS	Two related Council information systems - used to manage data, including for resource consents and service requests, including complaints.
MHWS	Mean High Water Springs
NES-PF	National Environmental Standards for Plantation Forestry
NZCPS	New Zealand Coastal Policy Statement
NPS-ET	National Policy Statement on Electricity Transmission
ONFs	Outstanding Natural Features
ONLs	Outstanding Natural Landscapes
RMA	Resource Management Act
TRMP	Tasman Resource Management Plan
TRPS	Tasman Regional Policy Statement
WCO	Water Conservation Order

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## Executive Summary

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Chapter 9 of the TRMP addresses the protection or management of the District’s landscapes. This chapter is assessed in three broad topics:

1. Outstanding natural landscapes and features
2. Management of other valued landscapes, specifically –
  - coastal landscapes;
  - the St Arnaud and Takaka Hill landscape priority areas;
  - identified ridgelines.
3. Public viewpoints

A fourth broad landscape topic in TRMP Chapter 9, being the retention of rural landscape values, has been assessed in Chapter 7 – Rural Environment.

### Overall Conclusion

Overall, it is concluded that the landscape provisions in Chapter 9 are broadly in line with the requirements in the Resource Management Act 1991, but are significantly undermined by a lack of progress in identification of outstanding natural features and landscapes and other valued landscapes. Many of the objectives and policies are dated and no longer fit for purpose. In addition, there is not always internal consistency with provisions in other areas of the plan that could affect landscape outcomes – for example land disturbance and plantation forestry.

It is recommended that the landscape provisions are redeveloped to:

- Reflect recent key landscape case law, particularly the King Salmon and Davidson cases.
- Implement the New Zealand Coastal Policy Statement 2010 (for areas in the coastal environment) and other relevant instruments of national direction.
- Take into account any relevant planning document recognised by an iwi authority.
- Include identification of the region’s outstanding natural features and landscapes and other valued landscapes.
- Clearly state the outcomes sought for specific landscapes and include integrated objective/policy/rule sets to achieve these outcomes.
- Ensure integration with other parts of the Plan.

It is noted that in the forthcoming review, the Plan will be restructured to comply with the National Planning Standards and this will result in significant change to the format of landscape provisions, particularly those in the coastal environment.

More specific conclusions with respect to the efficiency and effectiveness of the provisions in Chapter 9 are summarized below.

### Outstanding Natural Features and Landscapes

Overall, the outcome of protecting outstanding landscapes and features from the adverse effects of subdivision, use or development has not been achieved through the Plan.

Although an extensive amount of landscape assessment work has been done in the Golden Bay and Northwest Coast areas during the past ten years<sup>1</sup>, outstanding natural features or landscapes have not yet been identified or mapped. This has left a very significant gap in the Plan.

Approximately two thirds of Tasman District's land area, and the vast majority of our natural areas, are held in public conservation land (mostly national parks) and administered by the Department of Conservation (DOC). This affords a high level of protection for natural features and landscapes via mechanisms outside the Resource Management Act.

For applications in the coastal environment, consents officers have resorted directly to the national direction in the New Zealand Coastal Policy Statement for guidance<sup>2</sup>. However, for areas outside the coast the strongest guidance is in Plan policies and objectives relating to other valued landscapes (see below) and rural character and amenity (refer Chapter 7).

Without identification of outstanding natural features and landscapes the Plan does not give effect to Policies 6.3 and 9.6 of the Tasman Regional Policy Statement or Policy 15 of the New Zealand Coastal Policy Statement. As such, it does not meet s75(3) of the RMA, which requires district plans to give effect to regional policy statements and the NZCPS.

## Other Valued Landscapes

### Coastal Landscapes

Overall the plan achieves a good level of management of already-modified coastal landscapes through its coastal environment area rules. However, the internal consistency between the objectives, policies and rules for management of modified coastal landscapes is weak. In addition, the coastal environment area is crudely defined as being generally 200 metres from mean high water springs. This is not in accordance with guidance in the NZCPS on the extent of the coastal environment. This means that in some instances people are required to obtain resource consent when their activity is unlikely to have adverse effects on coastal landscape values, which is inefficient and places an unreasonable burden on those applicants.

### St Arnaud and Tākaka Hill landscape Priority Areas

Overall the plan achieves a very good level of management of these landscape priority areas through zone and special area rules. However, the internal consistency between objectives, policies and rules for management of landscape priority areas is weak. This could reduce the efficiency and effectiveness of the provisions, particularly for discretionary and non-complying activities.

### Identified Ridgelines

The plan achieves a reasonable level of management where there are identified ridgelines. However:

- (1) the inaccurate mapping and lack of definition of 'ridgelines' leads to considerable problems with the implementation of associated rules;

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<sup>1</sup> See Appendix A

<sup>2</sup> For example, a publicly notified seven-lot subdivision proposal at Kaihoka Lakes Road, adjacent to the Whanganui Inlet, which was lodged in 2008 and granted in 2011.

- (2) it is not clear how the ridgelines in the plan were assessed or what the particular attributes are that indicate those ridgelines mapped in the plan warrant protection; and
- (3) the relative permissiveness of land disturbance rules elsewhere in the plan allows landforms to be significantly altered without resource consent.

These three issues significantly reduce the efficiency and effectiveness of the identified ridgeline provisions.

## Public Viewpoints

Due to the tenure of the land on which viewpoints are located (generally road reserve), provisions relating to them are largely ineffective. While protection of public viewpoints has generally been achieved, this seems to be largely due to management by road controlling authorities rather than the Plan itself.

## Recommendations

The following table contains recommendations on Chapter 9 objectives and policies. The recommendations are intended to inform the review of the TRMP. Refer to the body of this report for full analysis and detailed information from which these recommendations are drawn.

**Table 1: Recommendations**

Objective Set	Recommendations
<b>General Recommendations</b>	
All landscape objectives and policies.	<ol style="list-style-type: none"> <li>1. Align wording of objectives and policies with s6(b) of the RMA, recent case law and the New Zealand Coastal Policy Statement 2010 and other relevant national directions.</li> <li>2. Take into account any relevant planning document recognised by an iwi authority.</li> <li>3. Review all landscape provisions following identification of the region’s outstanding natural features and landscapes and other valued landscapes in the Tasman Landscape Study 2020 (pending).</li> <li>4. Use separate landscape and natural character objective/policy/rule sets.</li> <li>5. Consider identification of ‘amenity landscapes’<sup>3</sup> through the forthcoming Tasman Landscape Study. Develop provisions to protect and/or manage the identified amenity landscapes where required.</li> <li>6. Ensure integration with other chapter areas that can impact on landscape outcomes – including land disturbance, changes in vegetation cover (plantation forestry and/or removal of indigenous vegetation), subdivision, structures and signs provisions.</li> </ol>

<sup>3</sup> Areas with significant landscape value but which do not meet the recognised threshold for ‘outstanding’ and/or ‘natural’.

Objective Set	Recommendations
<b>Outstanding Natural Landscapes and Features</b>	
Objective 9.1.2 – part I Protection of the District’s outstanding landscapes and features from the adverse effects of subdivision, use or development	Implement identification of outstanding natural features and landscapes in the Plan so that this Objective can be achieved.
<b>Management of Other Valued Landscapes</b>	
Objective 9.1.2 – part II Management of other land, especially along the coast, to mitigate adverse visual effects.	<ol style="list-style-type: none"> <li>1. Retain the Coastal Environment Area overlay and associated landscape protection provisions in Chapter 18.11 for those parts of the coast not subject to ONFL or amenity landscape status, subject to: <ol style="list-style-type: none"> <li>a) Review of the landward extent of the CEA through the forthcoming Tasman Coast Natural Character Assessment and identification of this boundary in the planning maps;</li> <li>b) More specification in objectives and policies of the particular CEA landscape/seascape values to be protected or managed;</li> <li>c) Review of the CEA setback rules as they relate to very minor works such as small decks and swimming pools.</li> <li>d) Review consistency with land disturbance provisions.</li> </ol> </li> <li>2. Retain the intent St Arnaud Landscape Priority Area overlay, subject to following: <ol style="list-style-type: none"> <li>a) Consider moving all rules specific to this overlay into the Landscape Priority Area section in Chapter 18.2 (or its successor).</li> <li>b) Include more detail on the particular characteristics of this area that warrant protection.</li> <li>c) Re-assess the extent of the LPA and consider excluding DOC land as it is protected under Plan zone rules and separate legislation.</li> </ol> </li> <li>3. Retain the intent of the Tākaka Hill Landscape Priority Area overlay.</li> <li>4. Retain the non-notification conditions for the CEA and LPAs.</li> </ol>
Policy 9.1.3.1 Encourage land use changes such as plantation forestry and land disturbance to be managed to avoid or mitigate adverse effects on natural landform, natural features and visual amenity values.	Review – retain general intent of policy but update per general recommendations. Note: the NES-PF manages plantation forestry nationally and generally overrides Plan rules, though Plan stringency is allowed for outstanding natural features and landscapes and for unique and sensitive karst geology, provided these areas are identified in the Plan.
Policy 9.1.3.3 Ensure structures do not adversely affect skylines, ridgelines, shorelines of lakes, rivers & the sea, unity of landform, vegetation cover and views.	Review – retain general intent of policy subject to <ol style="list-style-type: none"> <li>a) updating per general recommendations;</li> <li>b) better defining ‘ridgeline’,</li> <li>c) consideration of whether additional rules are required to give effect to this policy</li> <li>d) review consistency with land disturbance provisions.</li> </ol>



Objective Set	Recommendations
<p>Policy 9.1.3.4 Discourage subdivision developments and activities which would significantly alter visual character of outstanding landscapes, including land adjoining Abel Tasman, Nelson Lakes and Kahurangi national parks.</p>	<p>Review – retain general intent of policy but update per general recommendations.</p>
<p>Policy 9.1.3.8 Encourage innovative roading and footpath design which uses carriageway width, alignment, and surface material to enhance the quality of design and visual appearance in the St Arnaud Landscape Priority Area.</p>	<p>Retain intent of policy.</p>
Public View Points	
<p>Objective 9.3.2 Protection and enhancement of public view points. Policy 9.3.3.1 Protection and enhancement of significant views from key viewpoints on tourist routes.</p>	<p>Remove – difficult to implement these provisions due to land tenure (road reserves) and permitted land uses.</p>

## 1. Purpose Statement

The purpose of this evaluation of the TRMP is to determine the effectiveness and efficiency of the provisions contained within it. It helps us understand if the TRMP provisions are doing what they're meant to do.

This evaluation process is a fundamental step in the policy review cycle and a requirement of the Resource Management Act. It informs good quality plan-making and helps maintain confidence and integrity in the process.

The results of this evaluation will inform the review of the Tasman Resource Management Plan.

### What do the terms mean?

**Effectiveness:** *“assess the contribution ... provisions make towards achieving the objectives and how successful they are likely to be in solving the problem they were designed to address”*

**Efficiency:** *“measures whether the provisions will be likely to achieve the objectives at the lowest total cost to all members of society, or achieves the highest net benefit to all of the society”*

(Ministry for the Environment s.32 Guidance)

## Key Evaluation Questions

### What we need to keep in mind:

- ✓ Are we focused on the right issues?
- ✓ Have we done what we said we'd do?
- ✓ Have we achieved what we said we'd achieve?
- ✓ How do we know our actions led to the outcome observed?
- ✓ Have we achieved that outcome at reasonable cost (could we have achieved it more cheaply)? (Enfocus, 2008)

## 2. Scope

### 2.1 District Plan Provisions Reviewed

Chapter 9 of the Plan addresses the protection or management of the District’s landscapes in terms of four broad areas, three of which are evaluated in this chapter. These areas are:

1. Protection of outstanding landscapes and features from the adverse effects of subdivision, use or development
2. Management of other valued landscapes, specifically –
  - coastal landscapes;
  - the St Arnaud and Takaka Hill landscape priority areas, and
  - identified ridgelines
3. Public viewpoints

The fourth broad area within Chapter 9 is the management of rural landscapes. This is assessed in Chapter 7: Rural Environment Effects of this report for reasons relating to Plan topic rationalisation and Plan restructuring in terms of the national planning standards.

Other areas not evaluated in this report include:

- Policies that address a number of matters specific to the Takaka-Eastern Golden Bay. These were incorporated in the plan via Plan Change 8 in 2010 and similar provisions are scattered throughout the plan. For efficiency they have all been evaluated in Chapter 6: Urban Development (subsection 6.11 – Takaka Eastern Golden Bay Settlement).
- Policies that relate to residential development in the wider St Arnaud area (i.e., outside the St Arnaud Landscape Priority Area overlay). These policies have been evaluated in Chapter 6: Urban Development (subsection 6.13 – Settlements Adjoining National Parks).
- Policies that relate to natural character. This topic is evaluated in Chapter 8 – Margins of Rivers, Lakes, Wetlands and the Coast
- Parts III, IV, V and VI of the TRMP. This evaluation is limited to district plan provisions in Part II of the TRMP, which cover Council territory landward of the coastal marine area. Landscape provisions seaward of the coastal marine area are evaluated in a separate report on the regional and regional coastal plans.

The specific provisions evaluated in/excluded from this report are:

**Table 2: Scope of Evaluation**

Chapter 9: Landscape			
Chapter	Objective	Policies	Comment
Chapter 9.1 Outstanding Landscapes and Natural Features	9.1.22.	9.1.3.1 – 9.1.3.9	Evaluated: <ul style="list-style-type: none"> <li>• Policies 9.1.3.1, 9.1.3.3 – 9.1.3.5 &amp; 9.1.3.8</li> </ul> Exclusions: <ul style="list-style-type: none"> <li>• Policy 9.1.3.2 – aerial structures on network utilities (evaluated in Chapter 15)</li> </ul>

			<ul style="list-style-type: none"> <li>• Policy 9.1.3.6 – activities in general rural area (evaluated in Chapter 7)</li> <li>• Policy 9.1.3.7 – Land disturbance in Coastal Environment Area (evaluated in Chapter 8)</li> <li>• Policy 9.1.3.9 – Takaka-Eastern Golden Bay area (evaluated in Chapter 6)</li> </ul>
<b>Chapter 9.2</b> Rural Landscape Values	9.2.2	9.2.3.1 – 9.2.3.6	Excluded (evaluated in Chapters 6 & 7)
<b>Chapter 9.3</b> Views from Key Viewpoints	9.3.2	9.3.3.1	Evaluated

## 2.2 Timeframe of Evaluation

April – November 2019

## 2.3 Summary of Methodology

Broadly, the methodology of this evaluation follows the Plan Outcomes Evaluation process. Plan Outcome Evaluation involves:

1. An examination of the outcomes being sought – what are the objectives trying to achieve?
2. Tracking how the plan has been designed to affect the outcomes – do the intentions in the objectives get carried through to the rules and methods? Are the provisions efficient?
3. Assessing if the provisions have been implemented – what evidence is there that the provisions are being applied to relevant activities?
4. Assessing relevant environmental trends and ‘on the ground’ data to conclude if the Plan has been successful in achieving its intentions. This includes consideration of the external factor influences such as legislative changes, national policy statements, case law, significant economic changes, demographics etc.

Throughout the evaluation, there is an emphasis on attributing the activities enabled or controlled by the TRMP on observed outcomes. However, attributing outcomes to the TRMP must always be viewed in the wider context of changes. These are noted where known, but it is beyond the scope of this evaluation to capture all of the changes and influences that affect outcomes in our communities and environment.

Limitations with the Plan outcome evaluation approach also arise where environmental outcome data is poor, or where there a multiple factors driving outcomes. Time, resourcing and quality of data also affects the comprehensiveness of the evaluation.

To address some of these limitations, the evaluation process has included a ‘rapid assessment’ technique. The technique draws on the combined knowledge and expertise of local TDC staff, residents, community leaders, and topic experts to create an understanding of plan implementation, efficiency and outcomes. The rapid assessment outputs are supplemented with:

- Environmental data or expert reports where available

- Council data (e.g. property and asset information, consenting and compliance database information, models)
- Mapping and imagery (e.g. GIS, aerial imagery, LiDAR)
- Information or reports prepared during plan change processes (e.g. s.32 Reports, Issues and Options papers, technical reports, submissions, community meetings)

For this topic the following data sources have been used:

**Table 3: Data Sources**

Data source/s	Details and Notes
Tasman GIS	<ul style="list-style-type: none"> <li>• TRMP zones</li> <li>• Identified ridgeline; public view point; landscape priority area; and coastal environment area layers</li> <li>• Aerial photography</li> </ul>
Rapid Assessment	<ul style="list-style-type: none"> <li>• Session held on 5 November 2019 with policy, resource consents and compliance staff.</li> </ul>
Community input	<ul style="list-style-type: none"> <li>• Outcomes of consultation during development of the Nelson-Tasman Future Development Strategy (Hill Young Cooper &amp; Resource Management Group, 2019a &amp; 2019b).</li> </ul>
External reports (commissioned by Council)	<ul style="list-style-type: none"> <li>• Tasman Resource Management Plan Policy Mapping (Leusink-Sladen, 2019)</li> <li>• Stage 1 of TRPS Efficiency and Effectiveness Review: Integrated Management (Mason, 2019)</li> <li>• Legal Report for Section 35 TRMP Review (Tasman Law, 2019)</li> </ul>
Council records (MagiQ-BR/NCS/databases)	<ul style="list-style-type: none"> <li>• MagiQ-BI – Resource consents data</li> <li>• NCS – Resource consents data</li> </ul>

## 2.4 Summary of Consultation

The following consultation has been undertaken during the preparation of this evaluation.

### 2.4.1 Tasman District Councillors

Two workshops with elected Councillors was held on 4 March and 20 May 2020 to discuss key issues and recommendations identified for this chapter. No additional issues were raised by Councillors at this workshop. Councillors provided feedback on the identified issues and these comments have been incorporated into the relevant sections of this report, where appropriate.

### 2.4.2 Tasman Environmental Policy Iwi Working Group

The iwi of Te Tau Ihu, as tāngata whenua, have a unique relationship with Tasman District Council. There are a number of legislative requirements which oblige us to engage more collaboratively with iwi and Māori - including provisions in the Resource Management Act, Local Government Act and Treaty of Waitangi settlement legislation. To support this a separate section 35 report with a focus on iwi/Māori provisions has been prepared. Please refer to that chapter for a record of consultation undertaken.

## 3. Effectiveness and Efficiency Evaluation

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### 3.1 Context

The legislation and national guidance relevant to landscapes is set out below.

#### 3.1.1 Legislation

##### Resource Management Act 1991

This Act is the main driver for landscape protection in district plans. The protection of outstanding natural features and landscapes from inappropriate subdivision, use and development must be recognized as a matter of national importance (s6(b)) and all decisions must have particular regard, amongst other things, to the maintenance and enhancement of amenity values (s7(c)), the quality of the environment (s7(f)) and any finite characteristics of natural and physical resources (s7(g)).

##### Conservation Act 1987

Many of the district's natural landscapes are held in public conservation land under the Conservation Act (and the enactments specified in Schedule 1, including the National Parks and Reserves Acts). The Department of Conservation manages this land for conservation<sup>4</sup> purposes (s6(a)). The National Parks 1980 requires parks to be preserved in perpetuity for, inter alia, their scenic values. The Reserves Act 1977 also contains a number of requirements in relation to protect and preservation of landscape values, depending on the particular reserve classification.

##### Treaty settlement legislation

Treaty settlement legislation includes statutory acknowledgements by the Crown of statements of association by relevant iwi of their particular cultural, spiritual, historical and traditional associations with statutory areas; and statements of coastal values made by relevant iwi and their particular values relating to coastal statutory areas.

Cultural heritage is one of the key 'associative' landscape values, so these statements are very important to landscape assessment and protection.

Four pieces of Treaty settlement legislation relate to the nine iwi within Tasman District:

- Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014
- Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Act 2014
- Ngāti Toa Rangitira Claims Settlement Act 2014
- Ngāi Tahu Claims Settlement Act 1998

There have been a number of legislative changes that affect the landscape management approach in the coastal marine area. However, as this evaluation is restricted to the landward parts of Tasman District, these changes are not further considered here.

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<sup>4</sup> 'Conservation' means the preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations (s2 Conservation Act 1987).

Tasman Law’s Legal Report for Section 35 TRMP Review sets out the chronology of RMA changes as they relate to plan making since the Plan was notified in 1996 (Tasman Law 2019,p. 2).

No other legislative changes since 1996 have had particular impact on the landscape provisions being evaluated in this report.

### 3.1.2 National Policy Statements

The *New Zealand Coastal Policy Statement 2010* (NZCPS) is the key national direction affecting the TRMP landscape management approach. The NZCPS took effect on 3 December 2010 when its predecessor, the NZCPS 1994, was revoked. The purpose of the NZCPS is to state policies in order to achieve the purpose of the RMA in relation to the coastal environment. Its implementation in lower order planning documents such as the TRMP is mandatory.<sup>5</sup> To date the Plan has not been amended to give effect to the NZCPS 2010. This has resulted in a ‘policy vacuum’ in the TRMP (and TRPS) with regard to, among other things, the mandatory landscapes requirements in section 6(b) and NZCPS Policy 15.<sup>6</sup>

The *National Policy Statement on Electricity Transmission 2008* recognises the national significance of the national grid and gives guidance to local decision makers in the management of the impacts of the transmission network on its environment. Policy 8 of the NPS-ET states that, in rural environments, planning and development of the transmission system should seek to avoid adverse effects on outstanding natural landscapes and areas of high amenity. This NPS-ET is currently under review.

### 3.1.3 National Environmental Standards

The *National Environmental Standards – Plantation Forestry* (NES-PF) are regulations made under the RMA. The NES-PF came into force on 1 May 2018. It sets out technical standards, methods or requirements relating to plantation forestry<sup>7</sup> and contains rules that apply across the country for certain specified activities. The objectives of the NES-PF are to:

- maintain or improve the environmental outcomes associated with plantation forestry activities;
- increase the efficiency and certainty of managing plantation forestry activities.

The NES-PF contains regulations relating to afforestation (planting new forests) pruning and thinning to waste (selective felling of trees where the felled trees remain on site, earthworks, river crossings, forest quarrying (extraction of rock, sand or gravel from within the plantation forest for the formation of forestry roads and infrastructure), harvesting, mechanical land preparation and replanting.

National environmental standard rules generally prevail over district or regional plan rules, except where more stringent plan rules are specifically allowed. Section 6 of the NES-PF contains the following exceptions where plan rules may be more stringent than the regulations:

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<sup>5</sup> *Environmental Defence Society Inc v New Zealand King Salmon Company Ltd* [2014] NZSC 38 (King Salmon) at [77], cited in *Tasman Law Report, Appendix 1, p. 6 and Appendix , pp.1-2.*

<sup>6</sup> *Friends of Nelson Haven and Tasman Bay Incorporated v Tasman District Council* [2018] NZEnvC 46 at [36], cited in *Tasman Law Report.*

<sup>7</sup> The regulations apply to any forest of at least one hectare that has been planted specifically for commercial purposes and will be harvested.

- If the rule gives effect to (among others) policy 15 (outstanding natural features and landscapes) of the New Zealand Coastal Policy Statement 2010.
- If the rule manages unique and sensitive karst geology, where its location is identified in a policy statement or plan (Regulation 6(3)(b)).

### 3.1.4 Water Conservation Orders

Water conservation orders (WCOs) may be applied over rivers, lakes, streams, ponds, wetlands or aquifers. A water conservation order may provide for protection of (among other things) the wild, scenic or other natural characteristics of that water body.

A WCO can prohibit or restrict a regional council issuing new water and discharge permits, although it cannot affect existing permits. Regional policy statements, regional plans and district plans cannot be inconsistent with the provisions of a WCO.

There are two WCOs in Tasman District and the outstanding wild and scenic characteristics of both of these water bodies are recognised in the WCOs:

- Buller River<sup>8</sup> and listed tributaries.
- Motueka River<sup>9</sup> and listed tributaries.

There is one current water conservation order application relating to protection of the Te Waikoropupū Springs and the Arthur Marble Aquifer. This application was made in 2015. The hearing for the application closed in August 2018 and at the time of writing the Special Tribunal were drafting their report to the Minister for the Environment.

### 3.1.5 Iwi Management Plans

Iwi management plans are lodged with Council by iwi authorities under the RMA. It is a requirement of the Act that regional policy statements and plans must take into account any relevant planning document recognized by an iwi authority.

Iwi Management Plans can be wide reaching in scope, for example an iwi management plan may document iwi worldview and aspirations for the management of resources, or a plan may focus on a single issue or resource. The following iwi management plans have been lodged with Council:

- Ngati Koata Trust Iwi Management Plan 2002
- Ngati Tama Environmental Management Plan 2018
- Ngati Kuia Pakohe Management Plan 2015

The Ngati Koata Trust and Ngati Tama plans contain provisions that seek to protect their cultural sites and values with respect to landscapes. The Ngati Kuia plan focuses specifically on the management of pakohe (argillite). These plans were not lodged with Council at the time the Plan was developed.

However, in developing Part IV of the Plan, regard was had to two eel management plans which had been prepared at that time: Te Waka a Maui me ona Toka Mahi Runa (South Island Eel Management Plan and Te Tau Ihu Mahi Tuna (Nelson Marlborough Eel Management Plan).

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<sup>8</sup> Water Conservation (Buller River) Order 2001, <http://www.legislation.govt.nz/regulation/public>

<sup>9</sup> Water Conservation (Motueka River) Order 2004, *ibid*.



### 3.1.6 Relevant Plan Changes

The TRMP has had a constant program of rolling reviews (variations and plan changes) since it was first notified. The changes have been introduced to address unintended outcomes, new issues, new priorities and legislative requirements. The plan changes relevant to this topic are outlined in the table below.

Where a plan change has been recently introduced (i.e. <3 years) its impact will be difficult to determine with any accuracy as:

- there may have been limited uptake of the plan provisions (i.e. not many activities undertaken that trigger the new rule set) and/or
- the impact of existing use rights and previously consented activities continue
- the impacts may not be highly visible until there is a cumulative uptake of the provision.

For those reasons, the implementation of plan changes less than 3 years old (from operative date) have not been fully assessed for effectiveness or efficiency.

**Table 4: Plan Changes Relevant to this Topic**

Plan Change or Variation	Description of Change and Key Matters
<p><b>Variation 1</b> Notified 1 February 1997 Operative 16 July 2011</p>	<p>Variation 1 covered a number of Plan areas. It was prepared in response to public concerns regarding inadequate consultation prior to the public notification of the proposed Plan on 25 May 1996. Key matters relevant to the topics in Chapter 9 of the Plan were:</p> <ul style="list-style-type: none"> <li>• Deletion of the Landscape Priority Areas and rules previously in Section 18.3.</li> <li>• New policy added to Chapter 9 requiring further investigation, in conjunction with interested parties, on the location and significance of outstanding and significant landscapes and natural features and the rules necessary to achieve appropriate protection of them.</li> </ul> <p><b>Variation 1 – decisions issued 26 February 2000 and 16 December 2000</b> Decisions relating to LPA matters issued by Council. Some limited reinstatement of LPAs (St Arnaud and Takaka Hill). Both decisions appealed by Friends of Nelson Haven and Tasman Bay Inc.</p> <p><b>Consent order and memorandum of understanding signed 2008 – landscapes</b> Consent order and memorandum of understanding signed between appellant <i>Friends of Nelson Haven and Tasman Bay Inc</i> and Council in relation to landscape matters. Council committed to further investigation and consultation on the location of outstanding natural features and landscapes and the rules necessary for their appropriate protection. It was agreed that this process would start with Golden Bay &amp; Northwest Coast landscapes.</p>
<p><b>Variation 5 –</b> Land Disturbance of Karst Terrain Notified 19 September 1998</p>	<p>Variation 5 recognised natural values in karst terrain and risks to those values from land disturbance activities. Plan provisions were amended to retain consistency with the land use provisions in the regional plan.</p>

<p><b>Variation 10 –</b> Extension of Coastal Environment Area Notified September 2001</p>	<p>Extension of Coastal Environment Area to cover full extent of Split Apply Rock (Tokongawa) rural residential subdivision.</p>
<p><b>Variation 32 –</b> Coastal Tasman Area Rural Residential Development Notified 20 December 2003</p>	<p>Specified land between Moutere River and northern edge of Waimea Plain rezoned to accommodate demand for rural residential growth. Introduced new Rural 3 Zone. New objective and policies introduced to Chapter 9 in relation to rural landscapes.</p>
<p><b>Variation 33 –</b> Land Disturbance in the Coastal Environment Notified 20 December 2003</p>	<p>Introduced additional controls on forms of land disturbance including vegetation removal in the Coastal Environment Area, and additional controls over development in the area of the Kina – Ruby Bay cliffs. Included policy for managing effects of land disturbance on landscape character and rural amenity value. Extended control on modification of the Kina-Ruby Bay cliffs area.</p>
<p><b>Variation 47 -</b> St Arnaud Landscape Priority Area Notified 11 March 2006 Operative– January 2007</p>	<p>This variation related to the removal of a small portion of the Landscape Priority Area overlay from a small block of land at the eastern edge of St Arnaud.</p>
<p><b>Variation 55 –</b> Design Guide for Coastal Tasman Area Notified 28 July 2007</p>	<p>Design guide for subdivision and development in the Coastal Tasman Area appended to Plan.</p>
<p><b>Variation 57 –</b> Tākaka-Eastern Golden Bay Settlement Policies Notified 28 July 2007</p>	<p>Objectives and policies articulating future settlement growth vision for the Tākaka-Eastern Golden Bay area. Focus on strategic growth planning for residential settlement. Included additional policies particular to Tākaka-Eastern Golden Bay in Chapters 9 (landscapes) and 10 (SNAs and cultural heritage).</p>
<p><b>Variation 59 –</b> Rural Landscape Objectives and Policies Notified 28 July 2007</p>	<p>Clarification that new objective and policies in Chapter 9 (Landscape) introduced in Variation 32 do relate to all the District’s rural landscapes.</p>
<p><b>Plan Change 68 –</b> Omnibus Amendments Notified 14 July 2018</p>	<p>Included overlay adjustment in the St Arnaud Landscape Protection Area.</p>

### 3.1.7 Relevant Case law

The Tasman Law report sets out some of the key legal themes and cases involving Tasman District Council since the TRMP was notified.

Local case law relating to landscape management includes:

- *Golden Bay Marine Farmers v Tasman District Council (2000s)*

A series of four reports in the 2000s to the Minister of Conservation on its inquiry on the aquaculture references to the proposed TRMP.

- *Friends of Nelson Haven and Tasman Bay Inc v Tasman District Council (2018)*  
Interim and final decisions on a private plan change in relating to spat catching farms in Wainui Bay.
- *Weatherwell-Johnson v Tasman District Council (1996)*  
Rezoning of Motupipi Hill for residential development
- *Friends of Nelson Haven and Tasman Bay Inc v Tasman District Council (2008)*  
Related to an appeal to Council's decision in Variation 1 to the PTRMP to remove all but two landscape priority areas from the Plan.
- *Carter Holt Harvey HBU Limited v Tasman District Council (2013)*  
Considered, inter alia, landscape matters in relation to the Moutere Inlet & Kina Peninsula.

See Appendix 2 of the Tasman Law Report for further details on these cases.

There is a considerable body of case law developed since 1996 in relation to landscape management in general that has influenced landscape assessment and decisions. Of particular relevance to an evaluation of the efficiency and effectiveness of TRMP landscape provisions are evolving understandings through case law of:

- the threshold for 'natural'
- the threshold for 'outstanding'
- the distinction between 'landscapes' and 'features'
- a more consistent approach to landscape assessment
- the extent and delineation of ONFL boundaries
- the impacts of the NZ King Salmon decision on landscape planning and assessment – for example, the need for plans to clearly articulate those attributes and values that make a landscape or feature outstanding and which need to be protected from inappropriate development.

See Appendix 3 of the Tasman Law Report for details on some of these key cases.

### 3.1.8 Department of Conservation's Statutory Plans

The vast majority of Tasman District's natural areas are held in public conservation land (mostly national parks) and administered by the Department of Conservation (DOC). This affords a high level of protection for natural features and landscapes.

The Conservation Act creates a hierarchy of statutory documents that guide DOC in managing New Zealand's natural and physical resources are:

1. The Conservation Act<sup>10</sup>
2. Conservation General Policy

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<sup>10</sup> And enactments specified in Schedule 1 including the National Parks Act 1980 and Reserves Act 1977.

3. Conservation management strategies, national park management plans and conservation management plans.

Conservation management strategies implement the national direction in the General Policy for Conservation and establish objectives for the integrated management of natural and historic resources, and for recreation, tourism and any other conservation purposes, on a regional level.

National park management plans are developed under the National Parks Act 1980. They are 10-year documents. National parks are required to be preserved in perpetuity for their intrinsic worth and for the benefit, use and enjoyment of the public. They are areas of New Zealand that contain scenery of such distinctive quality, ecological systems, or natural features so beautiful, unique or scientifically important that their preservation is in the national interest.

Conservation management plans are 10-year plans used to give iwi, as Treaty partners, a greater role in the management of public conservation land or to provide greater detail where there is a high level of use or complexity.

DOC's statutory plans in Tasman District are:<sup>11</sup>

- *Nelson/Marlborough Conservation Management Strategy 1996.*
- *Kahurangi National Park Management Plan 2001-2011*
- *Nelson Lakes National Park Management Plan 2003-2009*
- *Abel Tasman Foreshore Scenic Reserve Conservation management Plan 2012*
- *Farewell Spit Nature Reserve/Pūponga Recreation Reserve Conservation Management Plan 1990*
- *Te Waikoropū Springs Conservation Management Plan 2009*

## 3.2 Topic One – Outstanding Natural Features and Landscapes

### 3.2.1 Internal Consistency of Provisions

The first part of Objective 9.1.2 seeks the protection of outstanding natural features and landscapes from the adverse effects of subdivision, use or development of land.

Overall, the internal consistency between this objective and accompanying policies and rules is **weak**. While the outcome sought by this objective is clear, because ONLFs have not been identified, the Plan has not delivered on this outcome.

### 3.2.2 Evidence of Implementation

ONLFs have not been identified in the Plan and there are no rules relating specifically to them, therefore the ONLF objectives and policies have **not been implemented**.

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<sup>11</sup> Information retrieved from <https://www.doc.govt.nz/about-us/our-policies-and-plans/statutory-plans/statutory-planning-status-report/> on 29 October 2019.

### 3.2.3 Effectiveness

**Table 5: Analysis**

Objective	Analysis	Rating of Achievement
Protection of the District’s outstanding landscapes and features from the adverse effects of subdivision, use or development of land and management of other land, especially in the rural area and along the coast to mitigate adverse visual effects.	<p>Outstanding natural features and landscapes have not been identified or mapped in the TRMP. Because of this, the objective of protecting outstanding landscapes and features from the adverse effects of subdivision, use or development has not be achieved by the Plan.</p> <p>In addition, the non-identification of outstanding natural features and landscapes means that the TRMP does not give effect to Policies 6.3 and 9.6 of the Tasman Regional Policy Statement or Policy 15 of the New Zealand Policy Statement. As such, it does not meet s75(3) of the RMA, which requires district plans to give effect to regional policy statements and the NZCPS.</p> <p>There has been a high level of protection of the District’s natural features and landscapes where they are held in public conservation land. However, this is due to DOC management rather than the Plan itself.</p>	Has not achieved

## 3.3 Topic Two – Management of Other Valued Landscapes

### Introduction

‘Other valued landscapes’ are grouped into three categories in this report: *coastal landscapes*; *St Arnaud and Tākaka Hill landscape priority areas*; and *identified ridgelines*.

There are a number of other sensitive and important landscape features which the Plan recognises could be degraded by inappropriate development as an ‘issue’ (TRMP Issues 9.1.1.2 and 9.1.1.3). These landscapes include the Upper Buller Valley river terraces and “roche moutonnes” (a rock formation created by the passing of a glacier) and the landscape values of wetlands. However, there are no specific objectives or policies that manage development in these areas and so they are not further evaluated in this report. It is a general recommendation of this report that ‘amenity landscapes’ – that is landscapes that may warrant protection but which do not meet the threshold of ‘outstanding’ and/or ‘natural – are identified through the forthcoming Tasman Landscape Study.

### Coastal Landscapes

These Plan provisions seek to protect coastal land and seascape values – that is, what can be seen from the sea, coast and public areas on land. They do not seek to protect views or outlook from private properties.

The coastal landscapes provisions are regulated through the Coastal Environment Area (CEA) rules in Chapter 18 (special area rules) of the Plan. The Coastal Environment Area is generally the area 200 metres landward of the coastal marine area (i.e., mean high water springs) and it is shown on the planning maps as an overlay area.

As well as coastal landscape matters, the CEA rules also cover cultural heritage, coastal hazards, natural features and natural character matters.

## St Arnaud and Takaka Hill landscape Priority Areas

These two landscape priority areas are shown on the planning maps as an overlay and are regulated through the Landscape Priority Area rules in chapters 17 (zone rules) and 18 (special area rules) of the Plan.

### Identified Ridgelines

The main policy relating to ridgelines is broad, relating (among other things) to the effects of structures on skylines, ridgelines, the shorelines of lakes, rivers & the sea. However, the policy is regulated through rules that apply only to a small number of ridgelines which are identified on the planning maps.

### 3.3.1 Internal Consistency of Provisions

The second part of Objective 9.1.2 seeks the management of other land, especially in the rural area<sup>12</sup> and along the coast, to mitigate adverse visual effects.

Overall, the internal consistency between this objective and accompanying policies and rules is **moderate**. Observations specific to the four valued landscapes covered in the plan are as follows:

- There is a relatively clear line of site between coastal environment area land use rules, policies and objectives. However, there is a lack of detail on the particular landscape characteristics which are to be protected. There are no subdivision rules that implement this objective; though one of the issues being managed is ‘haphazard’ expansion of coastal settlements which can threaten landscape quality (Issue 9.1.1.2).
- Landscape priority area (LPA) rules for St Arnaud and Takaka are clear and offer a good level of protection. They are not supported by policies in Chapter 9 (with the exception of a policy relating to roading design in St Arnaud) and only indirectly supported by Objective 9.1.2.<sup>13</sup> This weakens the effectiveness of the LPA rules, particularly for discretionary and non-complying activities. The landscape characteristics of the two LPAs are described in Issue 9.1.1.3.
- There is a clear line of site between ridgeline rules and policies, but the lack of definition of ‘ridgeline’ in Chapter 2 (Definitions) of the Plan and poor mapping quality compromises the effectiveness of these provisions. Ridgeline management is only indirectly supported by Objective 9.1.2.

### 3.3.2 Evidence of Implementation

#### 3.3.2.1 Coastal Landscapes

Plan objectives in relation to coastal landscapes have been implemented via the Coastal Environment Area (CEA) overlay rules in Chapter 18.11 of the Plan. These rules relate almost exclusively to land use<sup>14</sup> and control a number of issues, only one of which is landscape.

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<sup>12</sup> Evaluated in Chapter 7 of this report.

<sup>13</sup> There is a set of policies in Section 6.13 – Settlements in and adjoining National Parks which provide some direction with regard to outcomes sought for the St Arnaud settlement itself, but they are not specific to landscape.

<sup>14</sup> With the exception of rules relating to specific controls for one site (record of title 782346) in Kaiteriteri.

Land use rules for the CEA are located in the following parts of the Plan.

Plan Section	Rules relate to	Issues Controlled (where relevant to this chapter evaluation)
Coastal Environment Area – Chapter 18.11	Building construction & alteration; Refuse disposal.	<ul style="list-style-type: none"> <li>• Obtrusiveness or dominance of buildings in the coastal landscape; including through height and setback</li> <li>• Protection of natural character</li> <li>• Protection of natural features</li> <li>• Management of potential landscape effects and contamination from disposal of refuse</li> </ul>
Rural 1-3 and Rural Residential – Chapters 17.5 – 17.8	Destruction or removal of indigenous forest/vegetation – including specific CEA controls	<ul style="list-style-type: none"> <li>• Protection of intrinsic ecological and biodiversity value.</li> <li>• ‘Visual character’</li> <li>• Soil stability</li> </ul>
Rural Industrial Zone – Chapter 17.12	PA Rule 17.12.2.1 contains a matter of discretion relating to screening of open operating and storage areas/buildings	Protection of coastal landscape values

A brief description of the CEA rules in Chapter 18.11 is included at Appendix D.

#### [Analysis of CEA Land Use Consents 1996-2018](#)

Based on information extracted from Council’s resource consent database (MagiQ-BI), between 1996 and 2018 at least **685** resource consents have been granted for non-compliance with district land use rules for the Coastal Environment Area in Chapter 18.11 of the Plan. Resource consent staff report that the actual number of resource consent applications for activities within the CEA is likely to be significantly higher than the data indicates.<sup>15</sup> Overall, the permitted activity rule for the CEA is clearly one of the most infringed land use rules in the Plan.

The distribution of CEA consents by year is shown in the graph below.

<sup>15</sup> For this report, resource consents data was extracted based on the description of the consented activity entered into Council’s resource consents data base. Where the description did not contain the words ‘Coastal Environment Area’ or ‘CEA’ (or words were spelled incorrectly), data could not be returned.

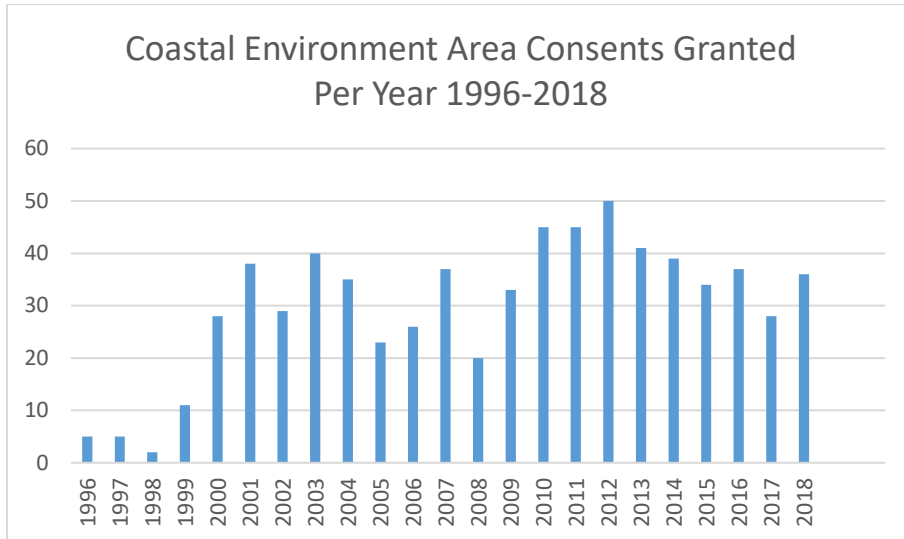


Figure 1

The distribution of resource consents by zone is shown in the graph below. Three quarters of the resource consents were for activities in the Residential and Rural Residential zones.

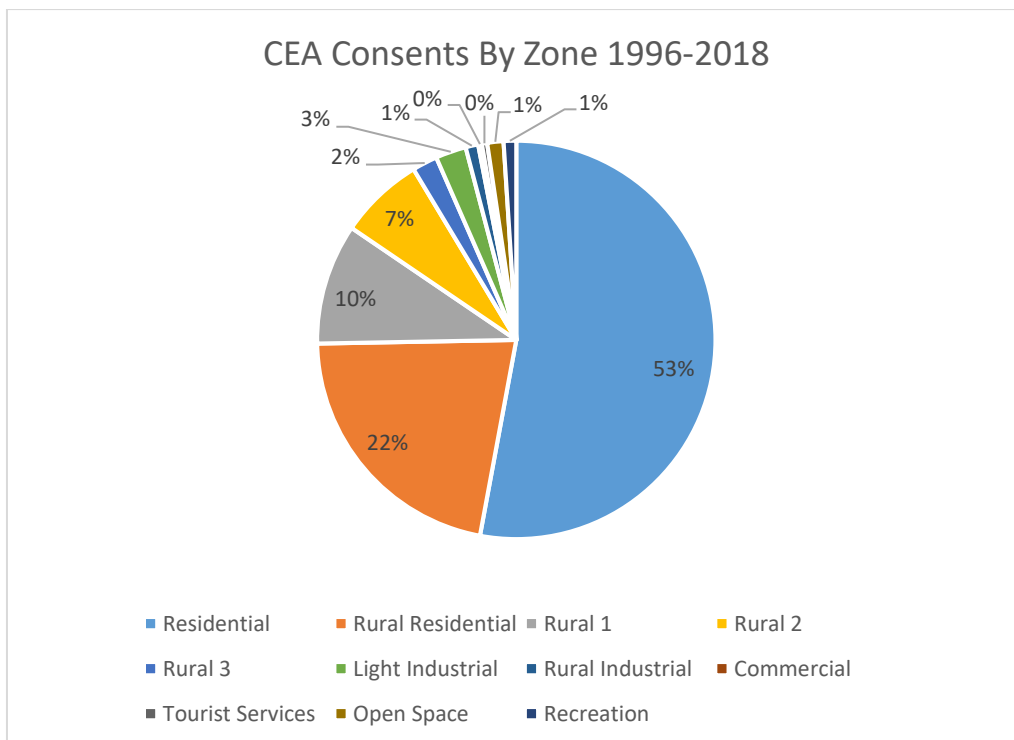
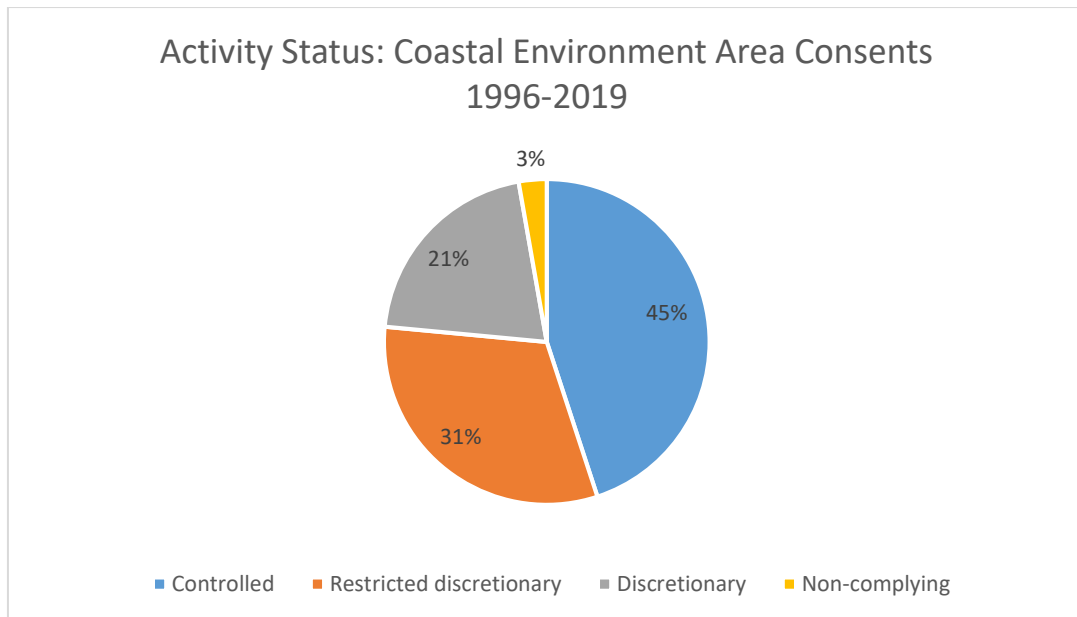


Figure 2

Most resource consents (45%) were for controlled activities. Approximately another third were for restricted discretionary activities. However, it must be noted that many of these consents also included resource consent for breaches of non-CEA rules – for example, many of the rural zone consents were for activities that also needed resource consent under their respective rural zone rules.





*Figure 3*

Most resource consents granted in the CEA include reasonably standard conditions to manage landscape/seascape effects – including restrictions on building colours and height.

Resource consent staff report that:

- The non-notification condition in the CEA controlled activity rule gives applicants certainty – particularly with regard to timeframes and costs – while still allowing the effective management of landscape effects through resource consent conditions.
- The current CEA boundary is not always logical and this decreases the efficiency of the CEA rules in some cases. The CEA boundary is generally 200 metres landward of the coastal marine area (i.e. 200 metres landward of mean high water springs). In some parts of the district, particularly in urban areas such as Motueka and Mapua, this results in allotments being subject to the CEA overlay even though they are not visible from the coast.
- There are some interpretation issues with the current permitted activity rule exemption for dwellings extended by less than 50 percent of the building footprint as at 1996. It is also noted that this rule has some equitability issues – if homeowners had a small dwelling as at 1996 then even a relatively small extension of their building could trigger the need to obtain resource consent.
- The CEA setback rules are not efficient or effective in the case where development involves small deck, very minor additions and/or swimming pools. These developments often require resource consent even though the landscape/seascape effects are negligible.

### **3.3.2.2 Landscape Priority Areas**

The Landscape Priority Area (LPA) overlay covers parts of the Residential, Rural 2, Central Business and Mixed Business zones in St Arnaud; and the Rural 2 zone at Takaka Hill.

Some areas adjacent to St Arnaud, including Tophouse/Wairau Saddle and Lake Rotoroa, are facing development pressures but are not in the Landscape Priority Area. There are policies relating to development in these areas in Chapter 6.13 (Settlements Adjacent to National Parks) of the Plan. If

these areas warrant protection for their landscape values this will be identified in the forthcoming Tasman District Landscape Study.

Plan objectives in relation to the St Arnaud and Takaka Hill LPAs have been implemented via rules in the subdivision rules in Chapter 16.3, zone rules in Chapter 17 and special area rules in Chapter 18.2 of the Plan. These rules seek to control the following matters in order to retain the landscape values of the two LPAs:

- Minimum allotment size in specified residential areas within St Arnaud<sup>16</sup>
- Size and location of buildings
- Design and appearance of buildings
- Retention of indigenous vegetation
- Character of the streetscape
- Land disturbance
- Plantation forestry

The special area rules in Chapter 18.2 require activities involving the construction of any new building, or extension of an existing building by more than 50 percent, to obtain resource consent as a controlled activity under Rule 18.2.3.1. Resource consent staff report that there are some interpretation issues with this rule as currently drafted. Like the CEA rule, this provision has equality issues – if homeowners had a small dwelling as at 1996 then even a relatively small extension of their building could trigger the need to obtain resource consent.

Rule 18.2.3.1 has a non-notification condition, meaning that applications must be decided without public or limited notification. Resource consent staff report that the non-notification condition gives applicants certainty – particularly with regard to timeframes and costs – while still allowing the effective management of landscape effects through resource consent conditions.

If activities do not meet special building setback, size and height requirements for the St Arnaud LPA in the Chapter 17 zone rules, or indigenous vegetation removal and plantation forestry controls in Chapter 18.2, then they require consent under separate rules and may be subject to notification depending on the level of effects.

#### [Analysis of LPA Land Use Consents 1996-2018](#)

Based on information extracted from Council's resource consent database (MagiQ-BI), between 1996 and 2018 at least **166** resource consents have been granted for non-compliance with district land use rules for LPAs. Of these, 159 were in the St Arnaud LPA and seven were in the Takaka Hill LPA.

The activity status for LPA consents was roughly one third each controlled, restricted discretionary and discretionary. A small number (3) were non-complying. Some of these consents also included breaches of non-LPA rules, for example standard residential zone building bulk and location requirements.

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<sup>16</sup> The Takaka LPA is zoned Rural 2, so minimum allotment size is already controlled via the Rural 2 requirements.

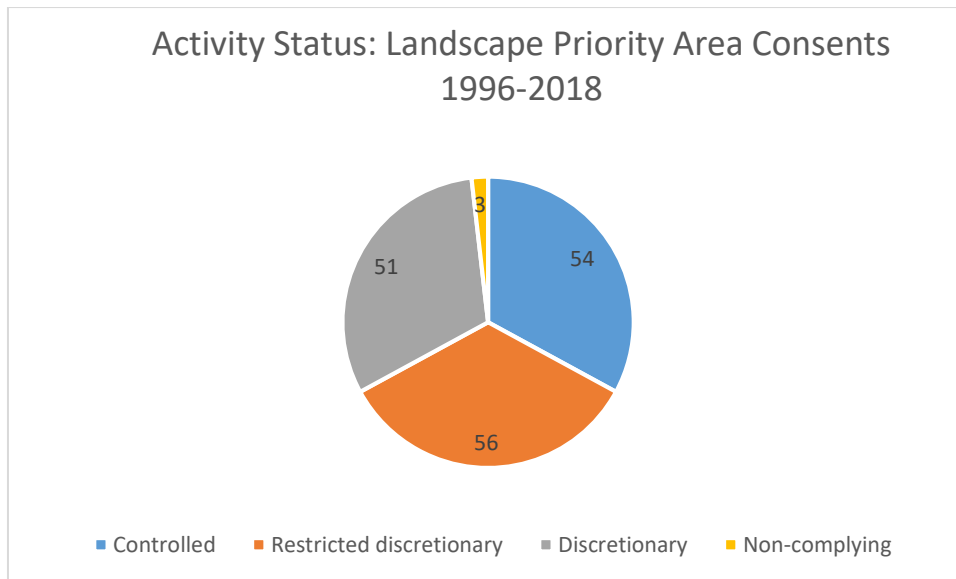


Figure 4

The distribution of LPA consents by year is shown in the graph below.

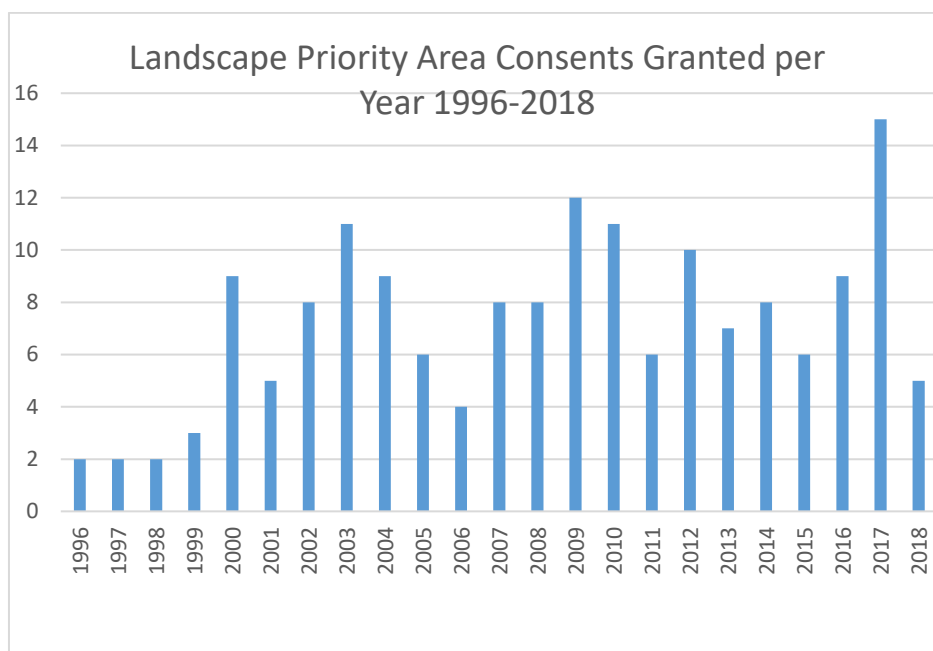


Figure 5

Most resource consents granted in LPAs included reasonably standard conditions to manage landscape effects – including restrictions on building colour, bulk and location and vegetation removal, along with restoration planting and vehicle crossing surface requirements.

Resource consent staff report that for controlled activities, the non-notification condition gives applicants certainty – particularly with regard to timeframes and costs – while still allowing the effective management of landscape effects through resource consent conditions.

### 3.3.2.3 Identified Ridgelines

Rules implementing the objectives and policies for identified ridgelines generally seek to regulate buildings and structures in these areas to reduce their visual effects.<sup>17</sup>

Based on information extracted from Council’s resource consent database (MagiQ-BI), between 1996 and 2018 at least **16** resource consents have been granted for non-compliance with district land use rules for identified ridgelines.

Council has not undertaken any monitoring of the permitted activity standards for identified ridgelines.<sup>18</sup>

Resource consent staff report that rule wording and mapping issues frustrate the effective and efficient implementation of the outcomes sought in terms of identified ridgelines. The main issue is that ‘ridgeline’ is not defined in Chapter 2 of the Plan and the extent of the ridgeline is not clear from planning maps. Resource consent and monitoring & enforcement staff also report that the relatively permissiveness of the earthworks provisions elsewhere in the Plan can reduce the effectiveness of ridgeline protection, as the landform can be significantly altered as a permitted activity.

Plan rules only apply to those ridgelines identified in the Plan. Over time the effects of large structures on other prominent ridgelines within the district has become more noticeable, for example along the Upper Tākaka and Motueka valleys, and in the Dovedale area. These effects are currently unregulated in the Plan.

### 3.3.3 Effectiveness

Objective	Analysis	Rating of Achievement
Management of other land, especially ... along the coast, to mitigate adverse visual effects.	Coastal landscapes	Partial achievement
	Landscape priority areas	Partial achievement
	Identified ridgelines	Partial achievement

## 3.4 Topic Three – Public Viewpoints

### 3.4.1 Internal Consistency of Provisions

This objective seeks to protect and enhance views from public viewpoints.

Overall, the consistency between this objective and accompanying policies and rules is **moderate**. (Leusink-Sladen, p. 16). This objective has one implementing policy and is only connected in a limited way to rules.

<sup>17</sup>Mitigation of land instability hazard is also a factor for the identified ridgeline at Ruby Bay,

<sup>18</sup> Rapid assessment with compliance staff. [check this]

### 3.4.2 Evidence of Implementation

Overall, public viewpoint provisions have not been implemented, though they appear to have been achieved due to reasons other than implementation of the Plan provisions.

There are eight 'public viewpoints' mapped in the TRMP: Wainui Bay (Abel Tasman monument); the Golden Bay Lookout near Puramahoi; at the top of Takaka Hill; Crusader Drive (overlooking Ruby Bay), Mapua Wharf; Grossi Point; the Spooners Range Lookout (on the Wakefield-Kohatu Highway); and Hope Saddle (on the Kohatu-Kawatiri Highway).

Rules that implement Objective 9.3.2 and 9.3.3.1 seek to:

- manage plantings and structures to prevent them interfering with views; and
- ensure buildings are set back at least 100 metres from public viewpoints.

Between 1996 and the present, Council records<sup>19</sup> show that no resource consents have been sought for non-compliance with the permitted activity standards relating to view points.

Council has not undertaken any monitoring of the permitted activity standards for viewpoints.<sup>20</sup>

There are a number of fundamental issues with the rules that affect the ability to administer them. These are as follows:

- One of the main problems with the implementation of Objective 9.3.2 and 9.3.3.1 is that the exact location of each 'viewpoint' is not clear from the planning maps or TRMP text. For example, at Hope Saddle the viewpoint is shown on the planning maps as being some way from the actual lookout location.

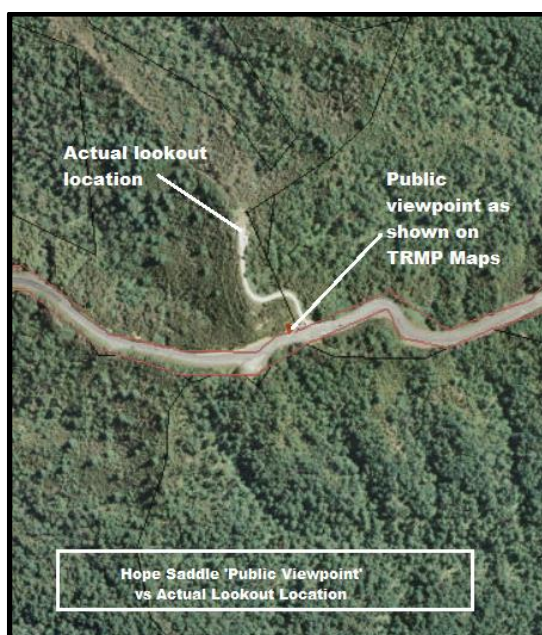


Figure 6

This makes it difficult to administer the rule sets, in particular the 100 metre building setback requirement.

<sup>19</sup> Search of resource consent databases; rapid assessment with consents staff.

<sup>20</sup> Rapid assessment with compliance staff.

- The vegetation management rule is vaguely worded: “Vegetation planted on or near to a viewpoint shown on the planning maps [must] not grow to a height that will obscure the view from the viewpoint”.
- The viewpoint rules only apply in the Rural 1, 2 & 3 zones. However, for at least four of the viewpoints, adjacent land (where buildings may be located) is within other zones.
- Four of the viewpoints are within designated state highways administered by the New Zealand Land Transport Agency. Section 176(2) of the RMA provides an exemption from district plan rules if activities within a designation are related to the designated purpose. In this case, the purpose is “state highway”. The provision of lookouts and rest areas within road reserve are part of the safe and efficient operation of the state highway network.

Although the public viewpoint provisions were intended to manage those viewpoints identified in the planning maps, resource consent staff did report one instance where viewpoint policy 9.3.3 was used to support a reserve contribution for a public lookout in a large subdivision near Mahana. Height controls were put on sections down from the lookout to protect the public outlook.

### 3.4.3 Effectiveness

Objective 9.1.3	Analysis	Rating of Achievement
Protection of views from public viewpoints	As noted, the poor quality mapping of the public viewpoints frustrates the provisions that implement this objective. While protection of public viewpoints has generally been achieved, this seems to be largely due to management by road controlling authorities rather than the Plan itself.	Has not been achieved. <sup>21</sup>

## 3.5 Evaluation Summary

The consistency of the landscape objectives and policies with land use and subdivision rules is variable, but overall is assessed as **moderate to weak**.

Landscape management is an area which requires “an integrated response approach across time, space and scale” (Leusink-Sladen, p. 4). This means that, by nature, the landscape management response approach covers multiple chapters of the Plan, including those parts that address the regional and regional coastal functions and responsibilities of Council. Landscape management also considerable cross-over with other key management issues – for example protection of natural character and significant natural areas. Landscape management provisions are included to various extents in every other chapter of Part II of the Plan.

The challenges in this are: firstly, ensuring that the scope and depth of coverage of each landscape management issue is comprehensive (but without unnecessary repetition) and; secondly, that each landscape management issue has clear line of sight between objectives, policies and rules.

Evaluation of landscape provisions in the Plan shows that:

1. The scope and depth of coverage of key landscape issues in Plan provisions is variable. In addition, there is unnecessary repetition in some areas (for example, rural landscapes provisions have been repeated in this chapter as well as Chapter 7).

<sup>21</sup> By effective Plan provisions.

2. Some key landscape issues are well provided for in rules, but do not have clear alignment with policies and objectives (for example, landscape priority areas).

The weakness in the internal consistency of the landscape provisions is largely a result of:

- the dated nature of the landscape provisions. In particular, landscape material in the Plan does not reflect the considerable shift in approach to landscape issues resulting from evolving case law;
- the lack of implementation of the NZCPS 2010;
- the lack of identification of ONLFs;
- incomplete information on the particular landscape characteristics/vulnerability to change of the other valued landscapes which the Plan seeks to protect;
- the general tendency of key resource management issues to appear to be 'scattered', with some subject to repetition throughout chapters, while others wind up with orphaned rules, policies or objectives (Leusink-Sladen, p.4);
- the general tendency in the Plan towards wordy objectives and policies that combine a range of key issues into a single provision;
- a tendency in the Plan to conflate 'natural features and landscapes' with 'natural character';
- a tendency in the Plan not to distinguish between 'natural' and non-natural (i.e. modified) landscapes.

Integration with and connection to Parts III-VI of the Plan (which contain objectives, policies and rules for the coastal marine area, rivers & lakes, water and discharges) may also be an issue, but assessment of this has not been undertaken to date (Leusink-Sladen, p. 4).

## Appendix A: Timeline of Past Tasman Landscape Studies and Policy Initiatives

Date	Study/initiative	Notes
1985	<i>St Arnaud Land Use Study</i> published.	A joint initiative by The Ministry of Works & Develop, Department of Scientific and Industrial Research, Department of Lands and Survey, Tourist and Publicity Department and officers of Waimea County Council. <i>St Arnaud Land Use Study</i> report was prepared for presentation to the Waimea County Council by this group.
31 March 1989	Review 4 of the Waimea County Council District Planning Scheme	Included amended Scheme Statement, Code of Ordinances and District Planning Maps to implement the <i>St Arnaud Land Use Study</i> .
February 1995	Planning Works Consultancy Ltd report <i>Tasman District Council Landscape Study</i> published.	Study commissioned by TDC as part of District Plan preparation with respect to s6(b) RMA.  Study used the 'Vamplan' technique to identify those landscapes in Tasman District with particularly significant regional or national importance. The Vamplan technique focuses on the visual resource and places high value on natural rather than cultural landscapes. The Study did not include land already protected – eg public conservation land; other scenic reserves; QEII covenants.
April 1995	<i>Landscape and Visual Effects</i> issues and options policy paper for preparation of the TRMP produced.	The purpose of this paper was to identify and assess significant issues and policy options in respect of: <ol style="list-style-type: none"> <li>1. adverse visual impacts from vegetation changes, buildings and structures and land disturbance in rural areas;</li> <li>2. identification of outstanding landscapes</li> <li>3. preservation of the natural character of the coastal environment, wetlands, lakes and rivers and their margins.</li> </ol>
25 May 1996	Proposed TRMP notified	The proposed plan identified certain parts of the district as LPAs. The LPAs were in effect an overlay which was applicable in addition to the zoning of these areas. Areas included in an LPA became subject to provisions specifically relating to landscape in: <ul style="list-style-type: none"> <li>• Chapter 9 – Landscape (objectives and policies)</li> <li>• Chapter 18.3 – Landscape Priority Area rules regulating the construction of buildings, forestry and roading.</li> </ul> FNHTB lodged an extension submission relating to Chapter 9, Chapter 18.3 and the LPAs identified in the planning maps.
1 February 1997	Variation 1 to proposed TRMP notified	Variation 1 removed LPAs from the planning maps and deleted the LPA Rules from Chapter 18 following strong opposition from some stakeholders during public consultation on the proposed plan (Eriksen, Berke, Crawford & Dickson, 2003, p. 269). A new policy was added to Chapter 9 with regard to undertaking further investigation, in conjunction with interested parties, on the location and significance of outstanding and significant landscapes and natural features and the rules necessary to achieve appropriate protection of them.



Date	Study/initiative	Notes
26 Feb 2000 & 16 Dec 2000	Decisions relating to LPA matters issued by Council.	Some limited reinstatement of LPAs (St Arnaud and Takaka Hill). Both decisions appealed by FNHTB.
2005	Boffa Miskell reports	Tasman District Coast Landscape character assessment
2008	Environment Court landscape appeals resolved via Memorandum of understanding	In resolving appeals to the Environment Court, Council committed in June 2008 through a Memorandum of Understanding with the Friends of Nelson Haven and Tasman Bay Incorporated to further investigation and consultation on the location of outstanding natural features and landscapes and the rules necessary for their appropriate protection. It was agreed that this process would start with Golden Bay & Northwest Coast landscapes.
2010	Large working group	<p>A meeting was held in 2010 with about 70 parties interested in the identification of ONFLs in Golden Bay &amp; Northwest Coast. A Large Working Group of about 30 people representing the diverse views of the community was subsequently formed and this group met four times during 2011-2012. Some members of the Large Working Group were concerned about the risk of increased regulation of land use arising from the ONFL project and its potential impact on the remote community. Others were concerned about the risks of not adequately looking after nationally and regionally significant landscapes.</p> <p>Recognising that they were not going to reach a shared view as a large group, a Small Working Group of eight was delegated the task of making recommendations to Council on the identification of ONFLs in Golden Bay and the Northwest Coast.</p>
2011-2016	Small working group landscape assessment – Golden Bay & Northwest Coast	<p>In 2011, a 'Small Working Group' (SWG) was convened to identify outstanding natural features and landscapes in Golden Bay and Northwest Coast.</p> <p>The SWG members all committed a significant amount of time and energy in this process. They represented a variety of community groups including Federated Farmers; Friends of Nelson Haven and Tasman Bay; Friends of Golden Bay; economic development interests; Manawhenua ki Mohua; Forest &amp; Bird; Northwest Coast farmers; and marine farming and wild fishing interests. Tasman District Council supported the process by providing a planning staff member and mapping services.</p> <p>The SWG members brought a vast amount of local knowledge to the project and went through a collaborative, iterative and rigorous process over three years to reach agreement on the recommendation of the six outstanding natural landscapes and ten outstanding natural features for protection. Additional landscape reports were commissioned from Andrew Craig (2002) and Graham Densem (2017) to support this work.</p> <p>The draft proposed plan change released in 2016 was based on the recommendations of the SWG.</p>

Date	Study/initiative	Notes
2016	Draft proposed plan change released for public feedback	<p>A draft proposed plan change was released for public feedback in July 2016 which:</p> <ul style="list-style-type: none"> <li>• identified six outstanding natural landscapes (ONLs) and ten outstanding natural features (ONFs) in the Golden Bay and Northwest Coast areas for protection;</li> <li>• amended landscape objectives and policies for the Tasman District; and</li> <li>• contained rules in relation to subdivision, land use, buildings and structures, earthworks and tracks, and vegetation removal in outstanding natural landscapes and features.</li> </ul>
2018	Wainui Bay decision	<p>In April 2018 an Environment Court decision on an application by Wainui Bay Spat Catching Group for a private Plan Change (PC61) in relation to spat catching and holding farms in Wainui Bay was released (<i>Friends of Nelson Haven and Tasman Bay Incorporated v Tasman District Council</i> [2018] NZEnvC 46).</p> <p>In this decision, the Court noted that it was hampered by the absence of strategic planning in the TRPS and TRMP implementing the New Zealand Coastal Policy Statement 2010, particularly in regard to landscape and natural character.</p>
2019	Tasman District Landscape Study commission	<p>In response to the Court's comments in the Wainui Bay decision, council widened the scope of the Landscape project to include assessment of the entire district. The Tasman District Landscape Study was commissioned in 2019.</p> <p>Previous landscape assessments in Golden Bay and Northwest Coast, and particularly the work of the Small Working Group, will continue to inform the process landscape identification and protection in these areas.</p>

## Appendix B: ‘Natural Character’, ‘Natural Features & Landscapes’ and ‘Amenity Landscapes’

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‘Natural character’ and ‘Natural features and landscapes’ are both listed in Part 2 of the RMA as matters which must be recognized and provided for as matters of national importance. These two matters are distinct, each having its own specific considerations in sections 6(a) and 6(b) respectively. It is also important to note that sections 6(a) and 6(b) of the RMA apply only to **natural** (i.e. largely unmodified) character, features and landscape.

The NZCPS implements the requirements in sections 6(a) and 6(b) of the RMA via policies 13 (natural character) and 15 (natural features and landscapes). The NZCPS specifically states that natural character is not the same as natural features and landscapes or amenity values (Policy 13(2)).

Appendix B sets out the requirements in the RMA, NZCPS and TRPS with respect to outstanding natural features and landscapes and natural character.

For the purposes of this report, ‘amenity landscapes’ refers to all modified (non-natural) landscapes which the TRMP seeks to protect or manage. This includes

- rural landscapes
- modified coastal landscapes
- identified ridgelines
- viewpoints, and
- the St Arnaud and Takaka Hill landscape priority areas.

The maintenance and enhancement of ‘amenity’ and the ‘quality of the environment’ are provided for in sections 7(c) and 7(f) of the RMA.

	RMA – entire district	NZCPS – only applies to coastal environment <sup>22</sup>	Tasman Regional Policy Statement <sup>23</sup>	TRMP Part II Implementation
<b>Natural character</b>	<p>Section 6(a): Preserve the natural character of:</p> <ul style="list-style-type: none"> <li>• The coastal environment</li> <li>• Wetlands</li> <li>• Lakes</li> <li>• Rivers &amp; their margins</li> </ul> <p>And protect them from inappropriate subdivision, use and development.</p>	<p>Policy 13: In order to preserve the natural character of the coastal environment and protect it from inappropriate subdivision, use and development:</p> <ul style="list-style-type: none"> <li>• In outstanding natural character areas → avoid adverse effects</li> <li>• In all other areas → <ul style="list-style-type: none"> <li>- avoid significant adverse effects</li> <li>- avoid, remedy or mitigate other adverse effects</li> </ul> </li> </ul> <p>Natural character must be assessed &amp; mapped, with (at a minimum) areas of high and outstanding character identified. Must identify areas where preserving natural character requires objectives/policies/rules and include these in the Plan. (Policy 13(1)(d))</p>	<p>Policies 6.3 &amp; 9.6 The Council will preserve</p> <ul style="list-style-type: none"> <li>• the natural character of wetlands, lakes, rivers and their margins (Policy 6.3(b)(i))</li> <li>• the natural character of the coastal environment (Policy 9.6)</li> </ul> <p>Including through policies and rules in the district plan. (Policies 6.3(ii)(d) &amp; 9.6(ii)(d))</p>	<p><b>NZCPS 2010 not given effect to →</b> areas of high and outstanding character not assessed or mapped</p> <p><b>TRPS given effect to<sup>24</sup> →</b> Chapter 8.2 Natural Character contains specific objectives and policies for the protection of natural character of the margins of lakes, rivers, wetlands and the coast. These provisions are Implemented in variety of rules including in relation to buildings, earthworks, riparian management, removal of indigenous vegetation, refuse disposal, fire risk management, use of vehicles and discharge of contaminants.</p>
<b>Natural features and landscapes</b>	<p>Section 6(b): Protect outstanding natural features and landscapes [ONLFs] from inappropriate subdivision, use and development.</p>	<p>Policy 15: In order to protect natural features and natural landscapes/seascapes from inappropriate subdivision, use and development:</p> <ul style="list-style-type: none"> <li>• In ONLFs → avoid adverse effects</li> <li>• For all other natural features and landscape areas → <ul style="list-style-type: none"> <li>- avoid significant adverse effects</li> <li>- avoid, remedy or mitigate other adverse effects</li> </ul> </li> </ul> <p>Natural features and landscapes of the coastal environment must be identified and assessed. Must identify areas where protection of ONLFs requires objectives/policies/rules and include these in the Plan. (Policy 15(d))</p>	<p>Policies 6.3 &amp; 9.6 The Council will protect and enhance ONLFs, including through policies and rules in the district plan. Criteria for determining 'significance' listed. These criteria also apply to areas of significant indigenous vegetation, significant habitats of indigenous fauna, and heritage sites and features. (Policies 6.3(ii)(d) &amp; 9.6(ii)(d))</p>	<p><b>NZCPS 2010 not given effect to →</b> areas of high and outstanding character not assessed or mapped</p> <p><b>TRPS given effect to →</b> TRMP Chapter 9.1 Outstanding landscapes and natural features and landscapes contains objectives and policies for the protection of ONLFs but these are not implemented through rules as ONLFs not identified or mapped in TRMP.</p>

<sup>22</sup> A district plan must give effect to the NZCPS and the TRPS (s75(3) RMA).

<sup>23</sup> Ibid.

<sup>24</sup> Though it is noted that because the TRPS does not give effect to the NZCPS 2010 as required by s62(3) RMA; the TRPS coverage of natural character matters is incomplete.

## Appendix C: The National Planning Standards 2019 and Landscape

Compliance with the planning standards means that future provisions relating to landscapes will need to be located in specified parts/chapters. In summary:

- ONLF provisions must be located in a Natural Features and Landscapes chapter within the Natural Environment Values domain.
- The approach to implementing the NZCPS 2010 must be located in a Coastal Environment chapter. However, provisions relating to ONLFs in the coastal environment can be located within the Natural Features and Landscapes chapter and cross referenced back to the Coastal Environment chapter.
- There are a number of options for coastal landscape provisions that do not relate to ONLFs. They could become an overlay within the Coastal Environment chapter; a single zone within the Zones chapters (which can apply to both seaward and landward areas); or a coastal precinct (which can apply to multiple zones).
- There are a number options for landscape priority areas. They could become a ‘valued landscape’ overlay within the Natural Features and Landscapes Chapter; a special purpose zone; or a precinct (precincts in non-coastal areas can only apply to one zone).
- Identified ridgelines and viewpoints could either be ‘valued landscapes’ overlays in the Natural Features and Landscapes chapter or a precinct applying to one zone chapter or section.

### Options for relabeling/restructuring of landscape provisions per the National Planning Standards:

Landscape Matter	Current TRMP Location	National Planning Standards Location
Outstanding Natural Features and Landscapes	<ul style="list-style-type: none"> <li>• Chapter 9: Landscapes</li> <li>• ONLFs rules and overlays not currently in the TRMP.</li> </ul>	Natural Features and Landscapes chapter of the Natural Environment Values Domain (mandatory direction 7(21)). NB: the approach to managing the coastal environment to give effect to the NZCPS must be in the Coastal Environment Chapter, with any ONLF provisions cross-referenced to the Natural Features and Landscapes chapter (mandatory direction 7(28)).
Coastal Environment Areas	<ul style="list-style-type: none"> <li>• Chapter 9: Landscapes</li> <li>• Chapter 18.11: Coastal Environment Areas</li> </ul>	Options: <ol style="list-style-type: none"> <li>1. An overlay<sup>1</sup> within the Coastal Environment topic chapter</li> <li>2. A single zone<sup>2</sup> within the Zones chapters. NB: a ‘coastal zone’ can apply to both seaward &amp; landward areas in combined plans</li> <li>3. A coastal precinct<sup>3</sup> (applies to multi-zones)</li> </ol>
Landscape Priority Areas	<ul style="list-style-type: none"> <li>• Chapter 9: Landscapes</li> <li>• Chapter 18.2: Landscape Priority Areas</li> </ul>	Options: <ol style="list-style-type: none"> <li>1. An ONLF or ‘valued landscapes’ overlay<sup>1</sup> located in Natural Features and Landscapes chapter of the Natural Environment Values Domain.</li> <li>2. A ‘special purpose’ zone<sup>2</sup>.</li> <li>3. A precinct<sup>3</sup> applying to one zone chapter or section.</li> </ol>
General rural landscapes	<ul style="list-style-type: none"> <li>• Chapter 7: Rural Environment Effects</li> <li>• Chapter 9: Landscapes</li> </ul>	The management of ‘valued and landscapes’ must be located in Natural Features and Landscapes chapter of the Natural Environment Values Domain (mandatory direction 7(21)).

Landscape Matter	Current TRMP Location	National Planning Standards Location
	<ul style="list-style-type: none"> <li>Chapter 17 – rural zones</li> </ul>	Specified provisions to manage general rural landscapes could be included within rural Zones.
Ridgelines & public viewpoints	<ul style="list-style-type: none"> <li>Chapter 9: Landscapes</li> <li>Chapter 17 – rural and residential zones</li> </ul>	Options: <ol style="list-style-type: none"> <li>An ONLF or ‘valued landscapes’ overlay<sup>1</sup> located in Natural Features and Landscapes chapter of the Natural Environment Values Domain.</li> <li>A precinct<sup>3</sup> applying to one zone chapter or section.</li> </ol>

<sup>1</sup> An overlay spatially identifies distinctive values, risks or other factors that require management.

<sup>2</sup> A zone spatially identifies and manages an area with common environmental characteristics or where environmental outcomes are sought, by bundling compatible activities or effects together, and controlling those that are incompatible.

<sup>3</sup> A precinct spatially identifies and manages an area where additional place-based provisions apply to modify or refine aspects of the policy approach or outcomes anticipated in the underlying zone(s). In combined plans with district plan and regional plan components, a precinct can be both seaward and landward of mean high water springs

## Appendix D: Chapter 18.11 Rules for the Coastal Environment Area

Rule	Description
18.11.2.1 – Permitted Land Use Activities	<p>All activities are permitted except:</p> <ol style="list-style-type: none"> <li>1. The disposal of refuse</li> <li>2. Construction of new buildings, or</li> <li>3. Extensions to existing buildings that: <ul style="list-style-type: none"> <li>– increase the ground floor area by more than 50%,</li> <li>– reduce the building setback to mean high water springs (MHWS), or</li> <li>– increase the existing building height (some zones excepted)</li> </ul> </li> </ol>
18.11.3.1 – Controlled Activities Building Construction or Alteration	<p>Construction or extension of a building is a controlled activity if it complies with conditions relating to</p> <ul style="list-style-type: none"> <li>– specified minimum setbacks to MHWS</li> <li>– specified height controls</li> </ul> <p>‘Landscape and seascape values’ are one of the matters of control for this rule. Further zone-specific restrictions on matters of control are:</p> <ul style="list-style-type: none"> <li>– In the Residential Zone – only materials, landscaping and colour of buildings can be considered</li> <li>– In the Light Industrial Zone – only landscaping and colour of buildings can be considered</li> </ul> <p>This rule states that all applications processed under this rule must be decided without limited or public notification.</p>
18.11.3.2 – Restricted Discretionary Activities Building Construction or Alteration	<p>All building construction or extension (that is not otherwise permitted or controlled) is a restricted discretionary activity.</p> <p>‘Landscape and seascape values’; are one of the matters of discretion for this rule.</p> <p>This rule does not have any non-notification provisions.</p>
18.11.4.1	All refuse disposal in the CEA is a non-complying activity.

## Appendix E: References

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