

**CANTERBURY REGIONAL COUNCIL AND CHRISTCHURCH CITY
COUNCIL**

**CRC242267, CR242268, CRC242269 AND CDC242269
RMA/2023/3243**

DECISION OF HEARING PANEL

IN THE MATTER OF:	The Resource Management Act 1991 and A joint hearing for the Southshore and South New Brighton Estuary Edge Project
APPLICANT:	Christchurch City Council
SITE:	South New Brighton Park and Southshore spit estuarine margins, coastal marine area, and adjoining land
PROPOSAL:	To undertake works along the Avon-Heathcote Ihutai Estuary edge to construct erosion and inundation protection structures.
REFERENCES:	Canterbury Regional Council CRC242267, CR242268, CRC242269 AND CDC242269 Christchurch City Council RMA/2023/3243
HEARING DETAILS:	The publicly notified applications were heard by a Hearing Panel consisting of Independent Commissioners Gina Sweetman (Chair), Amy Robinson and Juliane Chetham, under authority delegated by the Canterbury Regional and Christchurch City Councils, on Monday 8th to Wednesday 12th December 2025 at the New Brighton Church, 28 Union Street, New Brighton, Christchurch. The Panel visited the site during the course of the hearing. The hearing was adjourned on 12th December 2025 and closed on 14th January 2026.
DECISION SUMMARY:	Consent is approved for the reasons given in this decision and subject to the appended conditions of consent.

**HEARING
ATTENDANCE**

The following people attended and presented evidence at the hearing:

For the Applicant, Christchurch City Council (the Applicant)

- Mr. Andrew Green, Counsel
- Ms. Liz Wansborough, Counsel
- Mr. David Little, Applicant Project Sponsor
- Mr. Richard Reinen-Hamill, Consultant Coastal Engineer
- Ms. Sue McManaway, Consultant Landscape Planner
- Dr. Leigh Bull, Consultant Ecologist
- Dr. Tommaso Alestra, Consultant Ecologist¹
- Ms. Jessica Bould, Consultant Planner

For Canterbury Regional Council / Environment Canterbury (ECan):

- Ms. Olivia Murray, Consents Planner
- Mr. Bruce Gabites, Senior Scientist
- Ms. Melanie Burns, Senior Scientist – Coastal Water Quality and Ecology

For Christchurch City Council (CCC):

- Ms. Janice Carter, Consultant Planner
- Mr. Andrew Crossland, Ornithologist
- Mr. Jeremy Head, Consultant Landscape Architect
- Dr. Shane Orchard, Consultant Ecologist²

Submitters:

- Mr. Aaron Minson
- M. Maria Smolar and Ms. Annette Bolton for Southshore Residents Association (SSRA)
- Ms. Marie Graham
- Dr. Lesley Bolton-Ritchie and Mr. Kit Doudney for the Avon Ihutai Estuary Trust
- Mr. Bruce Tait
- Mr. Leon Minson and Ms. Yuki Streeter and other children from the Southshore community
- Ms. Toni Minson
- Mr. Nick Yuki
- Mr. Simon Watts
- Mrs. Diane Douglas
- Mr. Tim Sintes
- Ms. Jan Sintes
- Mr. Damon Mangos
- Mr. Joseph Radford
- Ms. Katherine Morris
- Mr. Nigel Collings
- Ms. Susan Carbines
- Ms. Amy Orme
- A Smith and L Stowers-Smith
- Mr. Bernard Calder
- Mr. David Low

Others in attendance:

Ms. Alison Cooper from ECan provided hearing support. Ms. Nicola Duke (Principal Consent Planner at ECan) also attended the hearing.

¹ We note we had excused Dr. Alestra; however, he was present at the hearing and we did question him

² Dr. Orchard was not present at the hearing; however, we did pose a question to him

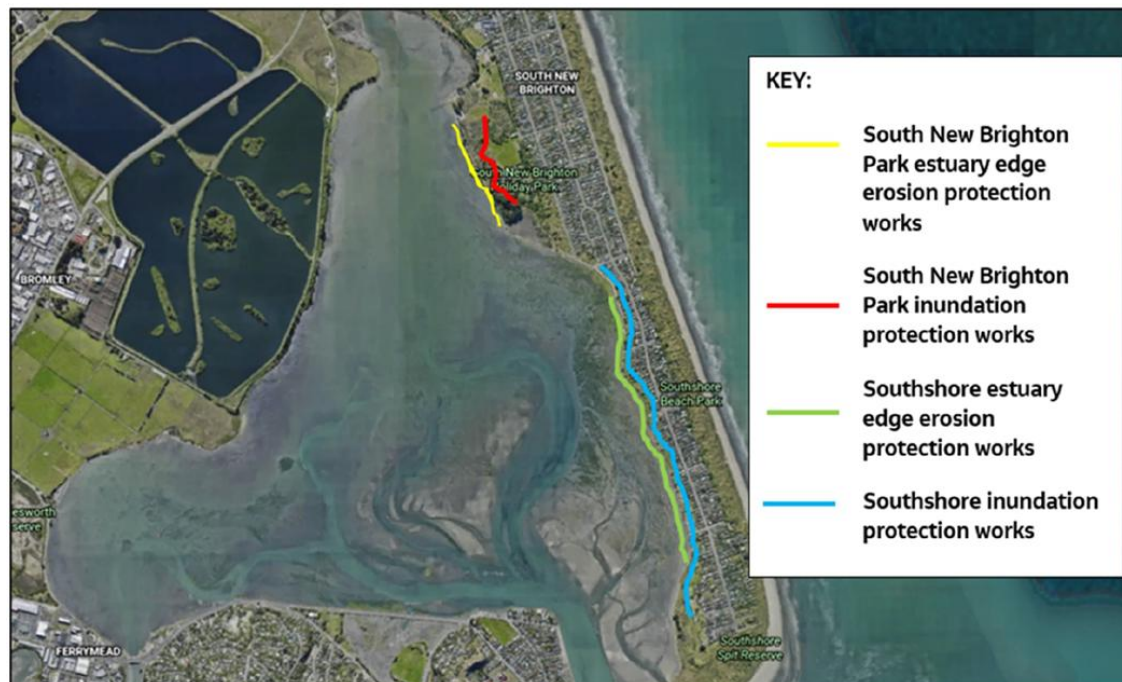
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1 Description of the proposal

1. The Application is described in:
 - a) Section 4 of the Applicant's Assessment of Environmental Effects (AEE) dated 4 December 2023
 - b) Further information provided by the Applicant to ECan dated March 2024, June 2024, July 2024, October 2024, 19 December 2024, November 2024 and 5 November 2025
 - c) Further information provided by the Applicant to CCC dated 19 February 2025, 6 May 2025, 29 May 2025 and 5 November 2025
 - d) Paragraphs 15 to 61 of the ECan s42A report and
 - e) Paragraphs 8 to 18 of the CCC s42A report
 - f) The Applicant's hearing evidence
 - g) Closing submissions for the Applicant in the Reply dated 19 December 2025
2. For the purpose of brevity, we adopt the description of the proposal outlined in the documents above. In summary, the Application that we are deciding on is to establish inundation and erosion protection features along the estuarine margins of South New Brighton Park (SNBP) and the Southshore Spit for a 20-year period. The primary purpose is to restore the level of flood and erosion protection to pre-earthquake standards, so as to safeguard both public assets and private residential properties. The 20-year term is sought to provide immediate security, while providing the Applicant and the community the time to develop long-term climate adaptation strategies through the Applicant's Coastal Hazards Adaptation Planning programme³.
3. The indicative project locations are shown in Figure 1 below:

Figure 1: Indicative Project Locations⁴



³ Statement of evidence of David Little

⁴ Sourced from CCC s42A report and Application documents.

4. The inundation and coastal erosion protection features generally include an inundation bund, ranging from 0.3m to 1.0m above ground level, and erosion protection structures including a cobble beach, soft edge beach, rock revetment and gabion baskets. All existing erosion protection structures would be removed. The bund would integrate a shared path in the SNBP, extending down the Southshore estuary coast. The main aspects of the proposal are⁵:
 - a) Approximately 1,580 metres of coastal erosion protection structures at Southshore, from Godwit Street to south of Tern Street in the form of engineered cobble beaches and rock revetments.
 - b) Approximately 560 metres of coastal erosion protection structures at SNBP in the form of gabion baskets and engineered cobble beaches. A soft edge beach area trial is proposed along the estuary margin at SNBP as an alternative to a cobble beach.
 - c) Approximately 2,050 metres of inundation bund at Southshore, with a 3m wide shared user track formed along the bund crest and tying into an existing inundation bund along Caspian Street and into high ground south of Tern Street.
 - d) Approximately 640 metres of inundation bund at SNBP, tying into high ground at its northern and southern extents.
 - e) The inundation bunds would be designed to a crest level of 11.5m Christchurch Drainage Datum (CDD) allowing for 100mm settlement to achieve a long-term crest level of 11.4m CDD, providing an allowance of 280mm freeboard above the 2% AEP extreme estuary level of 11.12m CDD adopted. The bunds will range in height from 0.3m to 1m above existing ground level.
 - f) Erosion protection works would be designed to a design RL of 11.3m, with the exception of 44 Rocking Horse Road, which requires a lowered path of 10.4m RL
 - g) Reclamation of approximately 1,455m³² and declamation of approximately 2,706m², resulting in a net declamation of approximately 1,251m² of land. The soft edge beach would further change these figures to 1,444m² of reclamation, 2,790m² of declamation and a net declamation of 1,346m²
 - h) Alteration to road ends at Caspian, Godwit, Heron, Penguin, Plover and Tern Streets as required to implement the Erosion Protection and Inundation Bund features.
 - i) Provision of stormwater swales with connection to existing stormwater pipe assets along Ebbitide Street.
 - j) A specific design for the revetment/bund and walkway addressing private property at 44a Rocking Horse Road.
 - k) Removal of 2,441 trees located within council reserve at SNBP and in SP(FLR) zone at Southshore and replacement planting of 4,882 trees.
 - l) Other vegetation clearance on land and within the CMA, with approximately 0.17 ha of saltmeadow proposed to be removed
 - m) Earthworks both on land and within the CMA.
 - n) A stockpile at 80 Owles Terrace.
 - o) A construction duration of between 12 and 15 months for Southshore and around 5 months for SNBP.
5. It was clarified through the course of the hearing that there would be eleven pedestrian access points to the estuary after completion of the works, comprising:
 - a) Two new formal stepped access points located at the end of Godwit Street and 30m south of Tern Street, each with option for stairs or a ramp or both
 - b) Informal access points at the cobble beach and at the location of the soft edge beach

⁵ Sourced from CCC s42A report, ECan s42A report, Applicant's hearing evidence

- c) Seven existing access points being:
 - An existing jetty over an outfall, with stepped access at Estuary Road;
 - An existing jetty over an outfall, with stepped access at Caspian Street;
 - An existing jetty over an outfall at Tern Street;
 - An existing jetty over an outfall at Plover Street;
 - An existing jetty over an outfall at Penguin Street;
 - An existing jetty over an outfall between Heron and Godwit Streets (located near to 44A Rocking Horse Road); and
 - An existing jetty over an outfall north of Mermaid Place. A proposed new ramp access over the outfall has been removed, but the existing structure would remain⁶.
6. All other existing access points would be removed.

2 The Site and Background

- 7. The site, surrounding area and background are described in Sections 2 and 3 of the Applicant's Assessment of Environmental Effects (AEE), the Landscape Assessment prepared by Boffa Miskell dated 27 November 2023 and in paragraphs 62 to 65 of ECan's s42A report and paragraphs 21 to 28 of the CCC's s42A report. For the sake of brevity, we adopt these descriptions.
- 8. We visited the site on a number of occasions through the hearing process. Our understanding of the site and surrounding area was improved by the evidence presented to us and the photos and videos provided by submitters through the hearing.
- 9. Of particular note are:
 - a) The project site sits within a low-lying coastal environment between the Avon Heathcote Ihutai Estuary and the Pacific Ocean and encompasses:
 - To the north, the western edge of SNBP. SNBP is a large recreational space and houses the Pleasant Point Yacht Club and its associated boat ramp
 - To the south, the eastern edge of the estuary extending from SNBP to approximately 184 Rocking Horse Road, and incorporating sites in Southshore from Ebbitide Street along the Estuary Edge, including sites on Penguin Street, Plover Street, Tern Street, Heron Street, Rocking Horse Road, and a remote stockpile site at 80 Owles Terrace
 - b) The southern part of the site is within a narrow strip of former residential land between Godwit Street and Tern Street, which was cleared following the Canterbury Earthquake Sequence (CES). This land was "red-zoned" and is now publicly accessible and primarily used for recreation. The exception to this is 44A Rocking Horse Road which remains in private ownership.
 - c) There are numerous informal coastal protection structures already in place within the site, which historically used to provide access to the estuary from private property. Most of these were damaged by the CES and are in a state of disrepair due to ongoing erosion and subsidence. Structural failures have contributed to repeated inundation, allowing saltmeadow habitat to establish in previously dry areas.
 - d) The remnants of gabion baskets and reno mattresses at SNBP no longer provide protection.

⁶ Paragraph 3.5 of Closing submissions for the Applicant

- e) There is an existing inundation bund along the Southshore edge between the estuary and retained housing, established by Toitū Te Whenua Land Information New Zealand (LINZ) to address subsidence from the CES.
 - f) The CES decreased the area of estuary covered at high and low tides, increasing the area exposed by mid tide. The uplift also resulted in less wave energy in shallower depths and shorter inundation at high tide.
 - g) Geology within the area consists of sand of fixed and semi-fixed dunes and beaches, sands are loose to medium dense.
 - h) The tidal range of the estuary is up to 2.1m
 - i) The estuary is listed as a Canterbury Wetland and contains areas of saltmarsh meadows and seagrass beds.
 - j) The site is within the rohe of Te Ngāi Tuāhuriri Rūnanga and mana whenua are represented by Te Ihutai Ahuwhenua Trust.
10. We also note the following relevant notations from the relevant district and regional plans:
- a) The proposed works are located within an Area of Significant Natural Value under the Regional Coastal Environment Plan (RCEP)
 - b) The site is zoned Open Space Community Parks Zone, Open Space Coastal Zone, Specific Purpose (Flat Land Recovery) Zone, and very small areas of the Residential Suburban Zone (access legs only) in the Christchurch District Plan (the District Plan), and the stockpile site is zoned Specific Purpose (Ōtākaro Avon River Corridor).
 - c) The site is also zoned Conservation 1A in the Christchurch City Plan, with a very small part being Living 1 Zone
 - d) The following overlay and map notations in the District Plan apply:
 - High Flood Hazard Management Area
 - Fixed Minimum Floor overlay within a Flood Management Area
 - Flood Management Area
 - Liquefaction Management Area
 - Coastal Environment
 - Avon Heathcote Estuary/Te Ihutai and Environs Site of Ecological Significance (Site reference SES/LP/14 in Appendix 9.1.6.1)
 - ONF36.0 Outstanding Natural Feature - Te Ihutai / Avon-Heathcote Estuary (ONF36.0, as defined in Appendix 9.2.9.1.1(a)(viii))
 - Area of at least High Natural Character in the Coastal Environment - Te Ihutai /Avon-Heathcote Estuary (HNC34.0 as identified in Appendix 9.2.9.8 of the District Plan
 - Natural Character in the Coastal Environment (NCCE1.0 as identified in Appendix 9.2.9.2.9 of the District Plan)
 - Ngā Wai Coast ID 78 Te Ihutai (as identified in Appendix 9.5.6.4 of the District Plan)
 - Ngā Wai Coast ID 96 Te Tai o Mahaanui (as identified in Appendix 9.5.6.4 of the District Plan)
 - Ngā Tūranga Tūpuna (44 Raekura ki Matuku Takotako, 52 Te Kai a Te Karoro, 53 Te Karoro, 63 Te Ihutai; as identified in Appendix 9.5.6.4 of the District Plan)

3 Relevant Planning Provisions and Reasons for Consent

11. On page 38 of the AEE, the Applicant records that the Project relies on the following two global consents that it holds:

- a) RMA/2021/2094 - A global resource consent under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011 ('NES-CS'); and
 - b) RMA/2021/2059 - A global resource consent enabling tree removals in parks and trees under the District Plan.
- 12. The ECan s42A report also sets out in paragraph 95 that the Applicant has received written approval from CCC to discharge stormwater into the CCC Reticulated network under the CCC global stormwater consent CRC252242.
- 13. The reasons for consent for the two Applications are set out in Section 6 of the AEE, paragraphs 71 to 161 of the ECan s42A report and paragraphs 44 and 46 of the CCC s42A report. We summarise these below.

Environment Canterbury Application

National Environmental Standard for Freshwater 2020 (NES-F)

- 14. The Applicant and ECan agree that the areas of works to be undertaken landward of the CMA boundary are where natural inland wetlands may be located and therefore the NES-F applies.
- 15. The following consents are a discretionary activity under Regulation 45 of the NES-F:
 - a) A section 9 (Land Use) permit to use land for earthworks and vegetation clearance within a 10 m setback from a natural inland wetland.
 - b) A section 15 (Discharge) permit to discharge water within 10 m of a natural inland wetland and the discharge of contaminants to land.

Canterbury Land and Water Regional Plan (LWRP)

- 16. The use of land to excavate materials over the Coastal Confined Gravel System Aquifer where there is less than 1m of undisturbed material between the deepest part of the excavation and Aquifer 1 is a restricted discretionary activity under Rule 5.176
- 17. The clearance of more than 10% of vegetation of the riparian margin area is a restricted discretionary activity under Rule 5.169
- 18. The discharge of contaminants associated with the re-use of contaminated soil where the volume of discharge exceeds 10m³ per day and the application rate exceeds 10mm per day and the discharge is from or into contaminated or potentially contaminated land is a discretionary activity under Rule 5.100

Canterbury Air Regional Plan (CARP)

- 19. The discharge of contaminants to air from the handling and outdoor storage of bulk solid materials is proposed within 100m/200m of a sensitive activity wāhi tapu, wāhi taonga or place of significance to Ngāi Tahu that is identified in an Iwi Management Plan is a discretionary activity under s87B(1)(a) of the RMA, as it is not a permitted activity under Rules 7.35, 7.36 or 7.47 – 7.62 of the CARP.

Regional Coastal Environment Plan for the Canterbury Region (RCEP)

- 20. The erection or placement of a structure within an Area of Significant Natural Value is a non-complying activity under Rule 8.4(c)

21. The disturbance of material on the foreshore or seabed within an Area of Significant Natural Value is a non-complying activity under Rule 8.9.
22. The deposition of material on the foreshore or seabed within an Area of Significant Value and where the volume of material is greater than 100m³ is a non-complying activity under Rule 8.14
23. The long-term occupation of the erosion and inundation protection structures in the CMA is a discretionary activity under Rule 8.23
24. The reclamation of the CMA by more than 100m³ of material is a non-complying activity under Rule 8.28

Summary

25. The Applicant requires the following four resource consents:
 - a) CRC242267 (s9): to use land for earthworks and vegetation clearance within 10m of a natural inland wetland;
 - b) CRC242268 (s12): to disturb the foreshore and seabed, deposit material on the foreshore and seabed, erect a structure, occupy the Coastal Marine Area, and reclaim the Coastal Marine Area.
 - c) CRC242269 (s15): to discharge water within 10m of a natural inland wetland; and
 - d) CRC251999 (s15): to discharge contaminants to air.

Christchurch City Council Application

26. The Christchurch District Plan 2017 (CDP) and the coastal hazard provisions of the Christchurch City Plan 2005 (CCP) apply to the Application.
27. The following controlled activity consent is required:
 - a) Under Rule 18.4.1.2 new buildings and structures (including stop banks) for the purposes of flood and/or bank erosion mitigation and/or protection, undertaken by the Council, the CRC, or the Crown in the Open Space Community Parks Zone
28. The following restricted discretionary activity consents are required:
 - a) Under Rule 5.4.1.5:
 - Earthworks (filling and excavation) that are not a permitted activity under Rule 5.4.1.1 P11 (which only permits filling and excavation associated with the maintenance of flood protection works; the proposed activity is new flood protection works) and 5.4.1.1 P13 (volume of earthworks).
 - Stockpiling at 80 Owles Terrace which exceeds the permitted standard specified in Rule 5.4.1.1 P18.
 - b) Under Rule 8.9.2.3 the stockpiling at Owles Terrace which is located in the Specific Purpose (Ōtākaro Avon River Corridor) Zone exceeds 100m³ within a 12 month period
 - c) Under Rule 8.9.2.3 earthworks are to occur within 20m of coastal hazard mitigation works
 - d) Under 13.11.4.1.3 the location of hazard management or mitigation works within an Outstanding Natural Feature, an area of High Natural Character in the coastal environment, and a Site of Ecological Significance (SES/LP/14)

- e) Under Rule 18.9.1.3 the planting of exotic vegetation or native plants of non-local origin for replacement planting purposes, that are not captured by the activity specific standards in 18.9.1.1 P8 or P10
 - f) Under Rule 18.9.1.3 indigenous vegetation clearance in the Open Space Coastal Zone.
29. The following discretionary activity consents are required:
- a) Under Rule 8.9.2.4 the proposed works exceed the nil volume limit of earthworks within ONF 36.0
 - b) Under Rule 9.2.6.1 any building within an Area of Natural Character in the Coastal Environment
 - c) Under Rule 14.4.1.4.a the construction of flood protection/coastal erosion protection works in the Residential Suburban Zone.
30. The following non-complying consents are required:
- a) Under Rule 5.4.6.3 new buildings within the High Flood Hazard Management Overlay
 - b) Under Rule 8.9.2.5 the modification, alteration or removal of sand dunes and vegetation on sand dunes within 50 metres of Mean High Water Springs
 - c) Under Rule 9.1.4.1.5 the clearance of indigenous vegetation which does not meet the activity specific standards
 - d) Under Rule 9.2.4.1 any building located within ONF 36.0
 - e) Under Rule 9.2.6.1 any building located within areas of at least high natural character (HNC34)
 - f) Under Rule 13.11.4.15 Public amenities including the proposed walking track and playground in the Specific Purpose (Flat Land Recovery) Zone
 - g) Under Rule 18.9.1.5 the flood protection / coastal erosion protection works.

Activity Status

31. The Applicant and the two Councils applied a bundling approach and approached the Applications as non-complying activities. We accept their advice and proceed on the basis of the Applications being non-complying activities.

4 Statutory Framework

32. We are considering these Applications under the RMA as it stood at the time of their lodgement in December 2023.
33. Section 104D of the RMA sets out what are known as the “gateway tests” or particular restrictions which apply to granting consent to non-complying activities. Specifically:
- (1) *Despite any decision made for the purpose of notification in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—*
 - (a) *the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or*
 - (b) *the application is for an activity that will not be contrary to the objectives and policies of—*
 - (i) *the relevant plan, if there is a plan but no proposed plan in respect of the activity; or*

- (ii) *the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or*
 - (iii) *both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.*
 - (2) *To avoid doubt, section 104(2) applies to the determination of an application for a non-complying activity.*
34. That is, if it can be found that either the adverse effects will be minor (or less) or the application will not be contrary to the district or regional plan, we are able to grant consent to a non-complying activity. We highlight here that in the assessment under s104D(1)(b) we are limited to considering the objectives and policies of the District and Regional Plans only, even if those have yet to be amended to give effect to any relevant higher level planning instruments or any legislative changes.
35. Should we find that the Application can pass either of the gateway tests under s104D of the RMA, s104 of the RMA sets out the matters we must have regard to when considering the application, the relevant parts of which are set out below:

104 Consideration of applications

- (1) *When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2 and Section 77M, have regard to—*
 - (a) *any actual and potential effects on the environment of allowing the activity; and*
 - (ab) *any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*
 - (b) *any relevant provisions of—*
 - (i) *a national environmental standard:*
 - (ii) *other regulations:*
 - (iii) *a national policy statement:*
 - (iv) *a New Zealand coastal policy statement:*
 - (v) *a regional policy statement or proposed regional policy statement:*
 - (vi) *a plan or proposed plan; and*
 - (c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*
- (2) *When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.*
- ...
- (3) *A consent authority must not, —*
 - (a) *when considering an application, have regard to—*
 - (i) *trade competition or the effects of trade competition; or*
 - (ii) *any effect on a person who has given written approval to the application:*
 - (c) *grant a resource consent contrary to—*
 - (i) *section 107, 107A, or 217:*
 - (ii) *an Order in Council in force under section 152:*

(iii) any regulations:

- (4) *A consent authority considering an application must ignore subsection (3)(a)(ii) if the person withdraws the approval in a written notice received by the consent authority before the date of the hearing, if there is one, or, if there is not, before the application is determined.*
- (5) *A consent authority may grant a resource consent on the basis that the activity is a controlled activity, a restricted discretionary activity, a discretionary activity, or a non-complying activity, regardless of what type of activity the application was expressed to be for.*
- (6) *A consent authority may decline an application for a resource consent on the grounds that it has inadequate information to determine the application.*
- (7) *In making an assessment on the adequacy of the information, the consent authority must have regard to whether any request made of the applicant for further information or reports resulted in further information or any report being available.*

36. Section 105 of the RMA sets out matters relevant to certain applications, in this instance being the discharge permits sought from ECan:

- (1) *If an application is for a discharge permit or coastal permit to do something that would contravene section 15 or section 15B, the consent authority must, in addition to the matters in section 104(1), have regard to—*
 - (a) *the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and*
 - (b) *the applicant's reasons for the proposed choice; and*
 - (c) *any possible alternative methods of discharge, including discharge into any other receiving environment.*
- (2) *If an application is for a resource consent for a reclamation, the consent authority must, in addition to the matters in section 104(1), consider whether an esplanade reserve or esplanade strip is appropriate and, if so, impose a condition under section 108(2)(g) on the resource consent.*

37. Section 107 of the RMA sets out restrictions on the grant of certain discharge permits:

- (1) *Except as provided in subsection (2), a consent authority shall not grant a discharge permit or a coastal permit to do something that would otherwise contravene section 15 or section 15A allowing—*
 - (a) *the discharge of a contaminant or water into water; or*
 - (b) *a discharge of a contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water; or*
 - (ba) *the dumping in the coastal marine area from any ship, aircraft, or offshore installation of any waste or other matter that is a contaminant,—*
if, after reasonable mixing, the contaminant or water discharged (either by itself or in combination with the same, similar, or other contaminants or water), is likely to give rise to all or any of the following effects in the receiving waters:
 - (c) *the production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials;*
 - (d) *any conspicuous change in the colour or visual clarity;*
 - (e) *any emission of objectionable odour;*
 - (f) *the rendering of fresh water unsuitable for consumption by farm animals:*

- (g) *any significant adverse effects on aquatic life.*
- (2) *A consent authority may grant a discharge permit or a coastal permit to do something that would otherwise contravene section 15 or section 15A that may allow any of the effects described in subsection (1) if it is satisfied—*
 - (a) *that exceptional circumstances justify the granting of the permit; or*
 - (b) *that the discharge is of a temporary nature; or*
 - (c) *that the discharge is associated with necessary maintenance work—and that it is consistent with the purpose of this Act to do so.*
- (3) *In addition to any other conditions imposed under this Act, a discharge permit or coastal permit may include conditions requiring the holder of the permit to undertake such works in such stages throughout the term of the permit as will ensure that upon the expiry of the permit the holder can meet the requirements of subsection (1) and of any relevant regional rules.*

5 Procedural Matters

Applications

- 38. We are deciding on two Applications, those made to ECan referenced CRC242267, CRC242268, CRC242269 and CRC251999 (the ECan Application) and to CCC referenced RMA/2023/3243 (the CCC Application). ECan and CCC made separate notification decisions on the two Applications.
- 39. The details of the ECan Application are set out in paragraph 25 above.

Documentation

- 40. Documentation of all evidence, information, presentations, minutes, joint witness statements and legal submissions relating to the hearing are held by ECan.

Written approvals, notification and submissions

- 41. The ECan Application was publicly notified on 28 April 2025. Two hundred and ninety-nine submissions were received, of which three opposed and 296 supported the Application.
- 42. The submissions in opposition were from the Department of Conservation (DoC), the Avon-Heathcote Estuary Ihutai Trust (AHEIT) and Kenneth and Maureen Green, and raised the following concerns:
 - a) The loss of estuary habitat through coastal squeeze, use of cobble beaches and reduced ecosystem functionality, and increased access onto the intertidal soft sediments⁷
 - b) Coastal squeeze reducing areas of saltmarsh and soft sediment habitat and requesting monitoring⁸
 - c) Reduced erosion and flood risks⁹.
- 43. DoC subsequently advised following notification of the CCC Application that the Director-General's concerns were generally satisfied, subject to recommended conditions.

⁷ AHEIT

⁸ DoC

⁹ Kenneth and Maureen Green

44. Submissions in support raised the following matters:
- a) Earthquake damage has caused deterioration; hence the proposed protection works are vital for the area
 - b) The stabilisation of the land within the proposed area is needed to control further erosion
 - c) The protection of the community from flooding is required and the proposed bund will provide the expected protection
 - d) The proposed protection works will provide safe and accessible estuary edge and the creation of recreational spaces will allow connection with nature
 - e) The works will include planting of vegetation to improve and naturalise the estuary edge and will provide a net ecological gain¹⁰.
45. The CCC Application was publicly notified on 7 August 2025. One hundred and eighty-two submissions were received, of which 11 were in opposition, five were neutral and 166 were in support. The CCC s42A report sets out the reasons for opposition and support and a neutral stance. The s42A report summarises the submitters' matters of concern as falling into the following key issues:
- a) The community's need for coastal hazard protection/ flood mitigation
 - b) Provision of public access to the estuary
 - c) Removal of Tern Street Jetty
 - d) Archaeological impacts
 - e) Cultural impacts
 - f) Ecological impacts – birds, seagrass, saltmarsh, salt meadow, lizards and tree removals
 - g) Alternatives to rock revetments, e.g., nature-based solutions
 - h) The need for on-going monitoring
 - i) On-going communication during construction
 - j) Dog control
 - k) Appropriate signage for dog control, way finding and cultural narrative
 - l) Design preferences and location of paths, seating, community garden and location of trees near property boundaries
 - m) Construction effects including noise, and traffic and access.
46. We found the ECan and CCC s42A submission summaries helpful.
47. The Applicant provided written approvals from the following persons:
- a) 44A Rocking Horse Road
 - b) 168A Rocking Horse Road
 - c) 172D Rocking Horse Road
 - d) 1/184B Rocking Horse Road
 - e) Pleasant Point Yacht Club Inc.
 - f) South Brighton Holiday Park
48. We note that there was disagreement between the Applicant and Ms. Murray with respect to the validity of the approvals obtained from 1/184B Rocking Horse Road and the South Brighton Holiday Park. While Ms. Murray did not consider them to be valid in her notification report, she has included them as written approvals in her s42A report. Applicant's Counsel addresses this in paragraphs 3.3 to 3.9 of opening submissions,

¹⁰ ECan s42A report

concluding that they should be treated as valid. We have accepted these as written approvals for the purpose of our consideration of the Applications. We also note that both parties submitted in support of the Applications.

49. While not in the prescribed form, the Application also included correspondence in support of the project from Te Ihutai Ahuwhenua Trust¹¹.

Directions

50. We issued Minute 1 on 4 August 2025 providing notice of a joint hearing and the constitution of the Hearing Panel. It also recorded that CCC had yet to publicly notify the Application and that a hearing date was yet to be set. This Minute and all our subsequent Minutes are available from ECan.
51. We issued Minute 2 on 6 October 2025 which notes a change in Panel composition and sets out the hearing date, the hearing process, details and procedures. We note that the Panel composition changed again following this Minute.

Officers' recommendations

52. We received the ECan and CCC s42A reports by 14 November 2025. Both Ms. Murray for ECan and Ms. Carter for CCC recommended that the Applications be granted, subject to recommended conditions of consent. Their reasons and recommendations are set out in their respective s42A reports. We found both s42A reports to be comprehensive and helpful.

Evidence, Hearing, appearances and site visit

53. The Applicant's Evidence was circulated by 21 November 2025.
54. On 2 December 2025, we received a Memorandum of Counsel for the Applicant seeking our indication as to whether any of the Applicant's witnesses could be excused from presenting oral evidence at the hearing, in the interest of efficient hearing management.
55. We issued Minute 3 on the same date, excusing four of the Applicant's witnesses and advising we would be amenable to the Councils advising us whether they sought to excuse any of their witnesses. In the same Minute, we requested that the Applicant and Councils planners confer over the draft conditions in advance of the hearing, noting it would be helpful that any joint witness statement prepared could be provided before the hearing commenced.
56. We received some evidence, information and presentations from submitters attending the hearing by the dates set out in Minute 2. We received other evidence, information and presentations from submitters at the hearing.
57. We received the Applicant's legal submissions on 4 December 2025. We did not receive a joint witness statement from the expert planners before the commencement of the hearing.

¹¹ Email correspondence from Te Ihutai Ahuwhenua Trust dated 13 November 2024, provided in RFI Response dated 19 February 2025 and 6 May 2025

58. The Hearing was held on Monday 8 to Wednesday 10 December 2025 at the New Brighton Union Church, 28 Union Street, New Brighton. We have recorded attendance at the Hearing earlier in this decision.
59. We heard from the Applicant on Day 1, adjourning after morning tea for a site visit and further adjourning after hearing the last of the Applicant's witnesses. We note that even though we had excused Dr. Alestra, he did attend the hearing, and we did ask questions of him. The opening legal submissions for the Applicant identified that there were few matters remaining in contention.
60. Matters traversed with the Applicant's counsel and experts through our questioning included:
- a) The relationship between sections 6(c) and 6(d) of the RMA in respect to significant indigenous biodiversity and public access; offsetting access 30m from seagrass habitats
 - b) The number of access points existing and proposed and the form and acceptability of those access points
 - c) Engagement with the Ihutai Ahuwhenua Estuary Trust, potential impact on cultural values due to the reduced number of access points and whether further engagement is required
 - d) Whether a community garden forms part of the proposal
 - e) The types of works that would occur within the Coastal Marine Area, including some minor estuary bed work for the soft edge beach
 - f) The applicant's position that the Councils' recommended Bird Management Plan was not warranted
 - g) Engagement with the local community
 - h) Sediment transport from the soft edge beach
 - i) Cobble movement from cobble beaches
 - j) Response to the AHEIT submission
 - k) Whether the landscape assessment takes into account all aspects of landscape guidance under Te Tangi a te Manu
 - l) The applicant's position that there would be a change in the use of the soft edge beach, but the overall effects are acceptable. The rock groynes would create a new pattern but it would allow some natural processes to continue and is a step toward a natural option
 - m) Bird flight initiation distances and whether 45m or 100m was appropriate
 - n) The applicant's position that the Mermaid Place access is inappropriate as it is close to a roosting area
 - o) Confirmation there is no seagrass near the proposed soft edge beach
 - p) That the cobble beach and soft edge beach will have a gentle slope and easier access
 - q) Confirmation that the Penguin Street access was not included as it is a sensitive habitat with a dense area of saltmarsh
 - r) Reinstating the jetty at Tern Street would be out of scope as it was not included within the Applications as notified
 - s) Agreement with Ms. Carter's approach that the existing structures form part of the existing environment. They have been in place for an unspecified period of time and it would be hard to imagine or assess the area without them there.
61. We subsequently undertook a further site visit after the Applicant closed their case.

62. We heard from submitters on Day 2. In total, 19 submitters and their support people presented to us. The themes of what we heard from submitters covered:
- a) A strong desire for the works to proceed as soon as possible
 - b) They have been waiting many years for these works to occur; this has caused a lot of upset and distress to people, impacting on people's wellbeing
 - c) The positive impacts the works will have for the community
 - d) The land was artificially lowered through the works following the CES, and the works will reduce flooding
 - e) The number, form and safety of access points
 - f) That there is already unlimited access to the estuary; the proposal will not increase the amount of access
 - g) Ensuring people do not have to go too far to access the estuary
 - h) Seeking reinstatement of the jetty at Tern Street
 - i) That the cobble beach is too far away for launching watercrafts
 - j) The provision of handrails on the proposed access points
 - k) All people of all abilities should have access to the estuary
 - l) That accretion is occurring along the beach adjacent to the sea/ocean
 - m) Requested amendments to the conditions applying to the cobble beach
 - n) Improving the health of the estuary
 - o) Improvements in the natural restoration and growth of the seagrass beds
 - p) That seagrass is thriving and has adapted; there would be little impact from access given watercraft can only be launched at high tide when it is underwater
 - q) It is the sandy, rather than muddy, parts of the estuary that people access
 - r) There should be limited access for dogs and people to the estuary beds; access encourages people with dogs to access the estuary, and dogs chase the birds
 - s) It is very rare to see a dog unattended in the estuary
 - t) Dogs are now prohibited from the estuary
 - u) The AHEIT do not represent the local community
 - v) The main way people access the estuary is at high-tide on watercraft. People used to walk along the estuary along low tide before the CES and red zoning and removal of the private properties. Now people walk along the red zone area
 - w) People love this area and no one wants to leave
 - x) The estuary will continue to evolve; it acts as a drain for the City
 - y) The new shared access will provide equitable access to all
 - z) Alternative design options for some aspects of the proposal
63. We enjoyed the presentation from local schoolchildren led by Leon Minson and Yuki Streeter, who talked about what they like about the estuary and area. We received some additional written material from submitters which forms part of the Hearing record.
64. At the conclusion of Day 2, we asked the Applicant and Councils to respond to following questions after submitter presentations on Day 3:
- a) To the Applicant: Exactly what accesses are being applied for?
 - b) To all:
 - o Do we have scope to increase the number of accesses we were advised of yesterday morning to the number that were originally notified, and / or change the form of the accesses?
 - o Has the magnitude of potential adverse effects on seagrass been over-stated or given more weight than it should have been, taking into account what we have heard from submitters about how the estuary is used?

- What is the measurement from the original jetty location at the end of Tern Street to the seagrass? Where did the 30m buffer for seagrass come from?
65. We undertook another site visit during Day 2.
66. We heard from the final two submitters on Day 3. Additional matters to those raised on Day 2 included:
- a) The current situation where existing structures are under disrepair is dangerous
 - b) The estuary is a safe zone to teach water skills
 - c) There should be consultation over the types of trees to be protected and removed, and replacement plantings.
67. We subsequently received the planners' joint witness statement (JWS) and heard responses from Ms. Burns, Dr. Orchard¹² and Dr. Alestra to some of our questions posed at the end of Day 2.
68. The planners' JWS covered:
- a) Condition formatting, with the agreed format of conditions for each resource consent agreed;
 - b) Updates and refinements to conditions to reflect good drafting practice, planning expertise, technical expert advice for the purpose of strengthening consent conditions;
 - c) Discussion on new conditions proposed in relation to the following matters:
 - Limiting active working fronts along the project area to mitigate impacts on avifauna;
 - Setting out the objectives and requirements of a Monitoring and Adaptive Management Plan (MAMP).
69. It also identified that:
- a) Conditions relating to avifauna, whether the Bird Management Plan is required and appropriate times in relation to tides for construction works to reduce the impact on birds were still in contention.
 - b) A cultural narrative condition was still being prepared.
70. Appended to the JWS was a record of agreed issues, areas of disagreement and reasons and any reservations, agreed and disagreed conditions and the Applicant's proposed avifauna management conditions. We noted this JWS as being a work in progress.
71. In summary, the partial responses to our questions to the Applicant and Councils¹³ from Ms. Burns, Dr. Orchard and Dr. Alestra were:
- a) The 30m offset of access points from seagrass came from the Applicant in response to a request for further information, with the intent to maximise the separation from sensitive environments.
 - b) The location of jetties over existing stormwater outfalls is not an issue
 - c) The original 29 access points had no regard to the habitats
 - d) Two of the proposed access points were removed due to proximity to seagrass

¹² Response via email

¹³ We heard from the Applicant's and Councils' expert witnesses, but not the final responses from the Applicant's Counsel and planner and the two Councils' planners.

- e) Seagrass is declining world-wide and almost died out in the estuary in the 1920s due to industrial activities. The seagrass beds are the largest in the Canterbury Region; and are only located in five other places in the region
- f) Concern that people may drag things across the high-tide area, impacting on seagrass
- g) The proposed Tern Street jetty would have shaded the seabed and affected seagrass, which would have an unacceptable effect. As such it was removed and the access point moved 90m to the south to satisfy the 30m buffer

72. We then heard from CCC and ECan officers.

Christchurch City Council

- 73. Mr. Crossland spoke to a written statement addressing matters in dispute between him and Dr. Bull. This included setting out the results from surveys he had undertaken within six weeks prior to the Hearing, the timing of work activities, noting the estuary as being an internationally important bird habitat, his position on a 100m disturbance buffer, the reduction in formal access points, the soft edge beach proposal, coastal squeeze and why he considered a Bird Management Plan was necessary and appropriate. After our noting the presence of numerous black swans, he advised us that these are a native species, arriving naturally¹⁴ in New Zealand about 1,000 years ago. Lake Ellesmere is their normal habitat.
- 74. Mr. Head spoke to a written statement, which outlined his opinion that:
 - a) The soft edge beach would be an improvement compared to what was originally proposed
 - b) The proposed access will benefit the general public as well as local residents, noting the original 29 access points were largely informal and adjoining private property, with no public benefit
 - c) The proposed access points would be safety-compliant, provided improved public access, and better protect natural values
 - d) Handrails on the access points are essential for safety and accessibility reasons.
- 75. Ms. Carter talked to notes she had taken, which were subsequently provided to us and form part of the Hearing record. She advised that:
 - a) Any seagrass conditions should be solely in the ECan conditions,
 - b) Based on legal advice from the Council's counsel¹⁵, we have scope to increase the number of access points to four, as notified, but we do not have scope to reinstate the jetty as was originally proposed in the Application as lodged as it was removed prior to public notification
 - c) The soft edge beach comes within the scope of the notified Application, with effects similar to the cobble beach, and that any effects of the soft edge beach are acceptable
 - d) Conditions requiring a Bird Management Plan are appropriate, so that there is a complete picture of what is required by them.

Environment Canterbury

¹⁴ Rather than being an introduced species

¹⁵ Memo titled "RMA/2023/3243 Legal advice on scope – Southshore and South New Brighton Estuary Edge Project to Janice Carter from Cedric Carranceja dated 9 December 2025

76. Mr. Gabites spoke to a written statement, which covered a range of matters including:
- a) The height of the bund would provide protection for at least 20 years, even with sea level rise and ground level changes
 - b) The use of a storm scenario of a 1-in-50 year estuary water level event occurring concurrently with a 1-in-50 year wave event as a design level for the inundation bund to is overly conservative for a design period of 20 years
 - c) The selection of the rock revetment along the majority of the Southshore estuary shoreline appears excessive given the conditions that are to be mitigated against, and a slightly 'softer' engineered cobble beach along the Southshore estuary coastline would also provide sufficient protection against coastal erosion for this area
 - d) The proposed erosion protection structures and alignment of the inundation bund for Southshore run contrary to the New Zealand Coastal Policy Statement (NZCPS) policies 25, 26 and 27. NZCPS Policy 25 requires areas potentially affected by coastal hazards to be assessed over at least the next 100 years with clause (d) encouraging infrastructure to be located away from areas of hazard risk where practicable, and clause (e) specifying that hard protection structures are to be discouraged while also promoting the use of natural defenses
 - e) Relocating the Southshore bund 5m or more landward would reduce the requirement for erosion protection structures to be installed, and would increase the space and therefore time for natural coastal, estuarine and ecological processes, including sea level rise impacts associated with climate change and ground level changes to occur without impacting on the level of inundation protection afforded to the local community for the next 20 years
 - f) A more naturalised estuary edge would be more conducive for launching and retrieving small personal watercraft and provide numerous opportunities for access to the estuary.
77. We had noted that Mr. Gabites in both his primary technical report and written statement proposed an alternative option to what the Applicant had applied for. It is the Applicant's proposal that we must consider.
78. We then heard from Ms. Burns who reconfirmed that the 30m seagrass separation distance had come from the Applicant. She advised she was open for flexibility to address submitter concerns, particularly in relation to the location of the access point 90m to the south of Tern Street.
79. Finally, we heard from Ms. Murray who spoke to a written statement. She advised:
- a) She did not disagree with Ms. Bould's evidence regarding access points
 - b) She agreed with Ms. Burns' statement about amendments to the Tern Street access
 - c) She considered access points were limited to what was notified, and either ramps or steps were in scope. Changing an access to a jetty would not be in scope
 - d) A balanced approach is required when considering s6(a) and s6(d) and NZCPS matters regarding natural character, public access and indigenous species. The 30m seagrass setback provides that necessary balance
 - e) Having considered the matter of the existing structures further, she now considers them to form part of the existing environment.
80. Both Ms. Carter and Ms. Murray continued to recommend that the Applications should be granted, subject to conditions of consent.

81. Following hearing from the Councils' officers and at request from the Applicant to provide a written Reply, we adjourned the hearing.
82. We took our own notes through the Hearing. A recording of the Hearing is available from ECan.

Post-hearing

83. We issued Minute 4 on 12 December 2025. This Minute recorded our adjournment of the Hearing and set out the 16 matters that we considered still needed to be addressed by the Applicant in their final Reply. These matters were:
- a) The provision of a final set of plans showing what Council as applicant wants consented (remove elements not being built)
 - b) A response to our question of what was sought (scope)
 - c) A reconciliation of the differences on access numbers and locations
 - d) A discussion on the consideration of matters relating to Section 6(a)(c)(d) and(e) RMA / Policy 19 NZCPS matters
 - e) How consultation on cultural design and storytelling for the proposal is proposed to be addressed through conditions
 - f) A response to the request that cobbles that have moved through wave processes be relocated back to the cobble beds
 - g) Whether Mr Reinen-Hamill's suggestions with regard to monitoring have been incorporated into the draft conditions
 - h) Whether topping up sand in the soft edge beach is within scope
 - i) The sequencing of the soft edge beach
 - j) Whether the launching area at Mermaid Place is part of what is being sought
 - k) A table comparing the Applicant's and CCC's different conditions on avifauna / Bird Management Plan
 - l) A response to the Chair's question about the use of a non-complying activity status in such circumstances
 - m) Whether the proposed signage condition could be expanded to address cultural narrative and to provide more detail on how users should or should not access the estuary
 - n) A diagram on how management plans fit together
 - o) Plans showing setbacks (45m/100m) from construction zones to bird feeding /roosting habitats
 - p) A finalised set of conditions which includes areas of disagreement between the planners for the Applicant and Councils, including clear reasons for those disagreements.
84. We directed that the Reply be provided by 17 December 2025. Following a request for a short extension, we received the Reply on 19 December 2025. The Reply traversed all 16 matters raised through our Minute 4. It included as Appendix 1 a final version of the Landscape Plans prepared by Boffa Miskell dated 16 December 2025. This is the version of the Landscape Plans that we have considered in our decision-making. Appendix 3 included meeting minutes from a hui with Te Ihutai Ahuwhenua Estuary Trust. The Reply also included final sets of the recommended conditions of consent for both Applications.
85. Particular relevant matters included:

- a) Confirmation of the number of proposed formal and informal access points and existing access points to be retained
- b) Agreement with the CCC that there is no scope to reinstate the Tern Street jetty, the number of access points could be increased back to four through a consent condition but only where there was an adverse effect arising, and that access points could be ramps or steps. However, the Applicant's view was the Panel would not have the jurisdiction to impose a condition requiring access reinstatement as there is no adverse effect arising
- c) The soft edge beach concept is in scope as it does not change the footprint, the character, scale or intensity of effects, construction and maintenance effects are within the footprint and acceptable and can be managed. It would also be a positive change
- d) The Project provides for and recognises all of the relevant matters of national importance. The Project does not conflict with any of these matters, nor are the matters themselves in conflict with one another. The conditions proposed ensure that all matters are provided for and able to be appropriately reconciled with one another.
- e) There is no need for further consultation on cultural design and storytelling, as this has already occurred and no further conditions are required
- f) Additional signage conditions have been included to address cultural narrative and more detail on estuary access
- g) The proposed conditions adequately and appropriately provide for remediation with respect to the movement of cobbles and no additional measures are required to provide for relocation of cobbles that may have moved through wave processes
- h) That a Bird Management Plan is not necessary
- i) Dr. Bull agrees that the proposed 100m setback to nesting and roosting birds is appropriate and the 45m setback used in her Avifauna Assessment is not intended for a construction setback.
- j) Notwithstanding the non-complying activity status under both regional and district plans, the Applicant's planner and the two reporting planners all agree that the Project is not contrary to the objectives and policies of the relevant plans and will not have more than minor effects on the environment.

Close of the Hearing

86. Having reviewed all the information in front of us and deemed it sufficient to make a decision, we closed the Hearing on 14 January 2026.

Approach to this decision

87. We have taken what we call an "exceptions" approach to this decision. That is, our decision follows s113(3) of the RMA in that we adopt all or part of the AEE, the Applicant's evidence, legal submissions and Reply, the Councils' s42A Reports and subsequent evidence, unless we refer to it separately within this decision.
88. Our decision focusses on the matters that remained in contention between parties at the time of the Hearing, and the evidence, information, submissions, joint witness statement presented before, during and after the hearing.

89. We note that none of the submitters who appeared before us sought the consent be declined. All submitters who appeared before us and the vast majority of submissions on both Applications sought that consent be approved.
90. However, there were elements of the Applications where changes were sought:
- a) In line with their submission, the AHEIT sought the most amendments to the Applications, focused on improving ecological outcomes. Changes requested were in respect to concerns about:
 - Cobble beaches
 - Reclamation of the intertidal soft sediment habitat
 - Potential increase in human traffic on the intertidal flats
 - The cumulative effects of the completed estuary edge modifications
 - b) Mr. Gabites did not support the proposed erosion protection structures and alignment of the inundation bund for Southshore. He recommended that these be located five metres or more further landward of the existing LINZ bund wherever possible, reducing the requirement for erosion protection structures, and to increase the space and time for natural coastal, estuarine and ecological processes, including sea level rise impacts associated with climate change and ground level changes to occur without impacting on the level of inundation protection afforded to the local community for the next 20 years. We address this in our decision¹⁶.
 - c) Mr. Collings suggested a different approach to protection measures, proposing a hard-edge seawall similar to those he had observed in the United States.
 - d) Mr. Calder proposed a revised design for the Southshore edge with one permanent structure more inland and requested that the hard-edge revetment between Penguin and Tern Streets be permanent. He also considered additional wetland improvements should occur.
 - e) Many submitters considered that additional access points should be provided.

7 SECTION 104 ASSESSMENT

Section 104D(1)(a) and 104(1)(a) Effects on the Environment Assessment

91. As we have set out earlier, a non-complying resource consent may only be granted if it meets one of the two tests under s104D. In considering the effects on the environment, we firstly address the magnitude of any adverse effects so as to determine if they are no more than minor (s104D(1)(a)), then secondly, if we find them to be acceptable (s104(1)(a)). In considering the magnitude of any adverse effect, we have considered any mitigation offered or agreed to by the Applicant.

Existing environment

92. By the conclusion of the hearing, the Applicant and both Councils all agreed that the existing environment is as it is well described in the two s42A reports and the AEE. In particular, it was agreed that it includes the unlawful / unauthorised structures present within the Coastal Environment and Coastal Marine Area. We accept this advice and consider it is appropriate to assess the Applications against the environment as it currently exists.

¹⁶ Officer's summary of Evidence of Bruce Gabites

Permitted baseline

93. Given the nature of these Applications and their non-complying activity status, we find the permitted baseline to be of little assistance to us. We have therefore disregarded it.

Effects in contention

94. Our analysis of the application and evidence (including the offered and proposed mitigation measures), the two s42A Reports and the submissions identify the following as being relevant effects arising from the Applications:
- a) Ecological values and coastal water quality
 - b) Coastal processes
 - c) Natural hazards
 - d) Landscape, visual and amenity values
 - e) Recreational values and public access
 - f) Cultural values
 - g) Archaeological and heritage values
 - h) Arboricultural effects
 - i) Navigation and safety
 - j) Discharge of contaminants and contaminated land
 - k) Earthworks within 10m of a wetland
 - l) Air quality
 - m) Earthworks
 - n) Traffic
 - o) Noise and vibration
 - p) Positive effects
95. Following hearing from Submitters and receiving the additional evidence, comments and closing right of reply and concluding the Hearing process, we consider that the outstanding matters in contention that require our specific consideration are:
- a) Effects on avifauna
 - b) Effects on seagrass
 - c) Effects on recreation and public access
 - d) Effects on cultural values
 - e) Nature and location of the proposed works, including
 - o Cobble beach
 - o Soft edge trial
96. We address these matters in turn with a focus on the evidence, submissions and presentations presented before, during or after the hearing.
97. Where we have not addressed a matter raised in submission or at the hearing, it is because we consider that Ms. Murray and Ms. Carter have already adequately addressed these matters in their s42A reports and the Applicant has also adequately traversed them in their evidence, and we have adopted their recommendations. Our decision therefore needs to be read in conjunction with those reports and evidence. In that regard, in respect of s104D(1)(a) we find that any adverse effects in respect to all other relevant effects will be less than minor or negligible. In respect of s104(1)(a), we find any effects arising from these matters to be acceptable. We do not address them further.
98. However, we do want to expressly acknowledge the positive effects that would arise from the granting of consent to the Applications. We accept that the proposed works will result in a reduction of coastal hazard risk to Southshore and South New Brighton communities.

There will be increased resilience against estuary shoreline erosion and stormwater inundation from the erosion protecting and bunding. Those same measures will also help stabilise the land and park edges. The derelict dilapidated and in some cases, unsafe existing structures will be removed, improving public amenity. There will also be potential ecological gains from habitat restoration components. The work on land will provide new recreational opportunities and improve public access along the estuary edge. Public access would be rationalised. And, as we read in submissions and heard from many submitters at the hearing, the works proceeding will benefit the local community who have been waiting for some time for them to occur, improving their health, safety and mental wellbeing. They will also provide for the ongoing relationship of the community with the estuary. We have considered these positive effects when considering whether the effects are acceptable under s104(1)(a) and in making our decision.

Effects on avifauna

99. We heard evidence on potential effects of the proposal on avifauna from Andrew Crossland for the consent authorities and Dr Leigh Bull for the applicant. There was general agreement amongst the experts, with the exception of whether a Bird Management Plan should be required as a condition of consent and the setback distance proposed in condition 38 of the Applicant's draft conditions appended to the Reply. We focus on these two matters of contention.
100. There was disagreement between the two experts regarding whether or not a Bird Management Plan (BMP) is required to mitigate adverse effects on avifauna.
101. Dr. Bull's position was that adverse effects on birds can be adequately managed by the Applicant's proposed conditions, and that requiring a BMP adds an unnecessary layer of bureaucracy.
102. Mr. Crossland's position was that the effects on avifauna are more appropriately managed via a BMP. One of the primary reasons put forward to support this was a BMP would provide for ease of use by contractors undertaking the work, as all of the relevant information would be compiled into one document rather than being scattered throughout conditions.
103. The Councils' planners agreed with Mr. Crossland's position and considered that the requirement of a BMP would be consistent with the Applicant's management plan approach utilised to manage other effects associated with the project.
104. We were persuaded that requiring a BMP would be beneficial during implementation. We consider that the applicant already has the information, it simply needs to be compiled into a succinct document addressing all matters relating to avifauna. We have therefore imposed a condition in this regard.
105. The experts did not agree on an appropriate setback distance from construction works to minimise disturbance on avifauna utilising the estuary for feeding, loafing and roosting.
106. The setback or buffer distance describes an invisible boundary beyond which all bird species are unlikely to react to disturbance¹⁷ (noting that different species have different tolerance levels to disturbance).

¹⁷ Mr Crossland's Avifauna memorandum, May 2025, page 23.

107. Mr. Crossland's position was that a 100m buffer distance is routinely used in Canterbury by agencies such as ECan and CCC to manage effects on shorebirds, and that this distance is supported in scientific literature.
108. In her evidence and at the Hearing, Dr. Bull considered that a 45m buffer distance was appropriate based on trials undertaken by Greater Wellington Regional Council and her own observations of flight initiation distances at the site. However, she did agree that a 100m setback from nesting birds was appropriate.
109. Dr. Bull also recommended a 50m setback in her original assessment to avoid impacts of construction disturbance on Australasian bittern, grey duck and marsh crake that are present but not breeding in the saltmarsh rushland at the end of Jellicoe Street.
110. However, the Applicant's Reply noted that *"Dr Bull agrees that the proposed 100m setback to nesting and roosting birds is appropriate and the 45m setback used in her Avifauna Assessment is not intended for a construction setback"*.
111. The bird plans provided as part of the Applicant's Reply show high density feeding areas between the 45m and 100m extents, and all roosting sites depicted are inshore from 45m.
112. We did not hear commentary from submitters on this matter.
113. While we respect Dr Bull's expertise in this area, we choose to adopt a precautionary approach and consider that imposing a consistent single buffer distance will be easier for implementation. As such, we find that 100m is an appropriate buffer distance to impose in the conditions of consent.
114. Overall, we find that subject to the conditions of consent, any adverse effects on avifauna will be minor, or less, and any effects overall will be acceptable.

Effects on seagrass

115. Potential effects on seagrass identified related to disturbance and mortality through construction of the revetment and removal of existing structures, coastal squeeze, and trampling impacts due to public accessing the estuary.¹⁸
116. At the time of the Hearing, there was no material disagreement between the ecologists regarding the high significance of seagrass bed habitats at Southshore, or that effects would be managed to an acceptable level, having been resolved through design amendments including the reduction of proposed reclamation and access points and imposition of recommended conditions such as a Seagrass and Saltmarsh Management Plan (SSMP).¹⁹
117. The key reason effects on seagrass remained contentious was due to the link between seagrass beds and decisions on appropriate setbacks and the ultimate number of formal access points to be provided. It was for this reason we put questions to the ecologists at the hearing to provide further clarity on the matter. We also touch on this in the subsequent section.

¹⁸ Summarised in CCC s42A at 101, ECan s42A at 188

¹⁹ See CCC s42A at 107, ECan s42A at 195

118. On the subject of potential trampling/ disturbance effects to seagrass in relation to formal access points, Dr. Orchard for the Councils cautioned that it is important to recognise that seagrass is an adventive species that readily shifts around. To that end he noted that the proposed 30m setback was somewhat arbitrary. In the round, he placed more weight on effects on the overall distribution of seagrass - including potential future habitat and inferred an appropriate balance between provision of access and protection of seagrass habitat had been achieved by the proposal.²⁰
119. Dr. Alestra confirmed the 30m setback was proposed by the Applicant as a result of the request for further information process. He maintained his position that there would be negligible effects of disturbance with what is now proposed in terms of public access provision in comparison to the existing baseline (e.g. 29 existing accesses).
120. We note the relevant conditions, agreed to by all parties as per the planner's JWS and included in the Applicant's Reply require preparation of an SSMP²¹ and the erection of educational signage providing information on ecological values of the Avon/Heathcote-Ihutai Estuary including sensitive habitats, protected species, restoration areas and how users can minimise their effects.²²
121. The Panel accepts the evidence of Dr. Orchard and Dr. Alestra, that seagrass is inherently mobile, and taking into account mitigation through changes to the design, a reduced number of formal accesses and imposition of the relevant conditions, are satisfied that any adverse effects on seagrass will be negligible to very low and that effects overall are acceptable.

Effects on recreation and public access

122. Mr. Little's evidence provided a helpful summation of the Project's aims to resolve longstanding community uncertainty and vulnerability following the CES by replacing a deteriorating ad-hoc shoreline in a cohesive way to protect private and public assets. Benefits to recreation and public access include removal of contaminated debris and unsafe structures and improvement to the quality of public open space.²³ Over the course of the Hearing and during our site visits the Panel could readily see the benefits that will arise from the removal of existing structures, and the proposed protection works for recreation and public access.
123. However, the number of access points to be provided to the estuary remained contentious due to competing demands for recreational access and ecological concerns, as well as uncertainty about exactly what access was proposed.
124. Southshore resident submitters were united in their views on the importance of access to the estuary for community relationships, identity and connections, and their wellbeing.
125. While Southshore resident submitters were overwhelmingly in support of the Project, their concerns lay primarily with the reduction of new access points from those originally proposed, and in particular the removal of the Tern St Jetty. We heard from submitters about the need to provide high tide access for small craft such as kayaks and paddle boards.

²⁰ Response via email

²¹ Condition 24 of the revised ECan set in the Reply

²² Condition 43 of the revised ECan set and condition 55 of the revised CCC set in the Reply

²³ Evidence of Mr Little, at para 11.2

126. Furthermore, because of changes to the accesses sought throughout the application process, differing numbers and types (e.g. existing, formal, informal) and inconsistencies in various evidence there was confusion as to exactly how many were to be provided. We therefore requested clarification of this matter.²⁴
127. In Reply the Applicant confirmed that the proposal will result in at least 11 access points available to members of the public following implementation of the proposed activity, comprised a combination of formal defined access points, informal access points, and existing access points which will be retained.²⁵
128. Mr. Little's evidence was that currently there are an estimated 29 uncontrolled access points to the estuary. While 11 marks a reduction from the approximate total number of existing access points, many of the existing ones were constructed to provide access from private properties (now red-zoned). Many of these are in a state of disrepair and will be removed as part of the Proposal. The Applicant contends that the access to be provided and/or retained provides an appropriate balance of ensuring continued public access to the estuary, while also removing ad hoc access.²⁶
129. As for the removal of Tern St Jetty, for the reasons set out above in relation to seagrass effects, we accept that this was necessary. Moreover, as advised by Counsel for the Applicant, and agreed by both Councils, we do not have scope to reinstate the jetty as was originally proposed in the Application as lodged as it was removed prior to public notification. We observed the existing jetty structure over an outfall at Tern Street, which is to be retained. In Reply, the Applicant confirmed that a new formal access point with an option for stairs, a ramp or combination of both, is to be constructed approximately 30m south of Tern Street, along with another new formal access at the end of Godwit Street. We note here that the final landscape plans provided with the Reply do not show this amended location for the Tern Street access.
130. The cobble beach and the soft edge beach present further options for the community to access the estuary.
131. Having confirmed that seven jetty structures are to be retained over outfalls along Southshore²⁷, in conjunction with the two new formal access points and cobble and soft edge beaches, we are satisfied that sufficient public access for a variety of recreational uses is provided for.
132. Overall, we concur with the Applicant and Councils' that the Project maintains an appropriate balance between continued public access by reinstating coastal protection structures and enhancing the ability of the community to use and enjoy the estuary and protecting natural character and ecological values. We have accepted the relevant condition agreed in the planners' JWS (condition 3 CRC242268 (s12)) with minor edits to reinforce the 30m setback agreed by the Applicant's and Councils' ecologists.
133. At this juncture we also mention issues arising around the provision of handrails.

²⁴ Minute 4

²⁵ See para 5 above

²⁶ Para 3.8 Reply

²⁷ See Appendix Two of Reply

134. In their submission, AHEIT sought the removal of handrails from any stepped accesses to be provided to minimise the impact of people on the Open Space Coastal Zone and Outstanding Natural Feature. They observed that *“the presence of handrails is a very visible and open invitation to access the estuary; although we are in favour of people accessing the estuary we also believe that it is a privilege to do so. We also believe that people wanting to access the estuary should be physically fit and able to do so without artificial aids...”*
135. Community submitters, such as Mr. Minson and the SSRA responded that to remove railings and to limit estuary access to only able-bodied people, would conflict with established global evidence on nature-based wellbeing, universal design, and participatory conservation, noting that when communities are welcomed into natural spaces, they develop attachment, advocacy and guardianship. They pointed to international examples of coastal restoration projects where successful ecological outcomes increased when physical access was designed safely, e.g. rails reduce trampling, support controlled movement, minimise off-path wandering, and provide stability for older people, disabled users, injured walkers and children.²⁸
136. Mr. Head agreed that handrails are essential for safety and accessibility reasons. He confirmed that proposed new, formal access points would be safety-compliant, and with the other informal and retained / upgraded access points would provide an improved and safe level of public access, while better protecting natural values.²⁹ We agree.
137. We do not comment on this any further, other than to say we are confident the Applicant will provide handrails as necessary to comply with the Building Code and any other legislation relevant to health and safety and accessibility.
138. Overall, we find that the effects on recreation and public access to be acceptable.

Effects on cultural values

139. We acknowledge that the Applicant has engaged appropriately with the mandated mana whenua entities, written support was provided by Te Ihutai Ahuwhenua Trust, and no submissions were received from any mana whenua parties.
140. Our questions around cultural values arose through a potential concern that a reduction in access points may have been inconsistent with plan provisions, the Mahaanui Iwi Management Plan 2013, and agreed outcomes of engagement with Te Ihutai Ahuwhenua Trust.
141. Further information provided in Reply demonstrates the contribution of mana whenua to the development of landscape concept and management plans and that these elements have been retained in the Proposal.³⁰
142. In addition to existing conditions protecting cultural heritage values (e.g. cultural induction and accidental discovery protocols), during planners’ conferencing other conditions have been drafted; namely conditions 55 and 56 of the revised CCC set submitted with the Reply. These have been included as agreed conditions to address the cultural narrative and to provide further guidance on access to the estuary and mahinga kai values. Condition 56

²⁸ Evidence of SSRA at 13.3 and 13.5 and Aaron Minson at 14.2

²⁹ Supplementary evidence of Mr Head dated 10 December 2025

³⁰ Reply at 7.9 and Appendix 1 and 3

anchors the interpretation elements agreed with mana whenua to three key points identified on Plans 1, 3 and 6 of the approved Landscape Plans and includes an advice note to support engagement with mana whenua in that process.

143. As such, we agree with the planners that any effects are acceptable, and the Proposal is consistent with the relevant provisions of the planning documents, Iwi Management Plan and Section 6(e) of the RMA.

Nature and location of the proposed works, including the cobble beach and soft edge trial

144. As we have outlined earlier, contention remained through the Hearing on the location and form of the proposed inundation and erosion protection features and the effects that these may have on coastal processes and ecological outcomes. We have set out these concerns earlier in paragraph 90 of this decision. We also queried whether there was scope for the soft edge trial within what was publicly notified.
145. Apart from Mr. Gabites in respect to the location and form of the proposed inundation and erosion protection features, there was agreement between the Applicant's and Councils' experts in respect of these matters.
146. We accept the advice from the Applicant's Counsel and planner and the Councils' two planners that the soft edge trial is within scope of the Applications as notified. We did not receive any evidence to the contrary. We find that the soft edge beach is a positive change to the proposed Applications as it provides a more naturalised approach and reduces adverse effects. If successful, it will provide greater consistency with Policy 10 of the NZCPS by reducing the amount of reclamation in the CMA.
147. We have considered Mr. Gabites' evidence and the submissions of the AHIT, Mr. Collings and Mr. Calder in respect to alternative design and location options. The AHIT, Mr. Collings and Mr. Calder did not provide any technical evidence to support their submissions and implementing their suggestions would require a redesign of substantial elements of the proposal which would change the nature of the Application and would potentially result in unknown effects and be out of scope of the Application. Without any technical evidence, we note their suggestions, but do not take them any further.
148. In summary, Mr. Gabites' conclusions in his report appended to the s42A reports confirm that the proposed features will provide protection to the community. He concludes that impacts on coastal processes during construction and once the works are complete will be less than minor due to the relatively low energy environment present and that end effects will be negligible. However, he goes on to say, which he reiterated in evidence at the hearing, that the features are overly conservative or excessive in nature and have been designed with longer than a 20-year period in mind. He went on to propose alternative design options and the relocation of the Southshore bund inland. In paragraphs 116 and 117 he sets out his opinion that the proposed features are contrary to NZCPS policies 25 and 27 which encourage infrastructure to be located away from areas of hazard risk, discourage hard protection structures, and promote the use of natural defences. In his concluding paragraph he sets out his opinion that:

My overall perception of the information that has been provided is that the coastal inundation and erosion protection works that have been proposed and requested by the local community and the location of these works along the Southshore coastline are predominantly done for reasons that are not to do with

the current coastal processes or the potential future coastal hazards and impacts that may affect this area.

149. Both Councils' planners addressed Mr. Gabites concerns in their s42A reports. Ms. Carter stated that what Mr. Gabites proposed would be a very different project to the Application as submitted and notified and would have different effects and different submitter views were likely. She also accepted that the Applicant had undertaken a multi-criteria analysis in respect to its choice of protection works. Ms. Murray acknowledged that Mr. Gabites sought amended design specifications, the effects of the proposed bund were acceptable and would not exacerbate coastal processes or hazards. Ms. Murray supported Mr. Gabites in part with his evaluation of Policies 25 and 27 NZCPS, considering that the proposal was inconsistent with, rather than contrary to, them because of the use of harder engineered structures rather than softer engineered structures.
150. Ms. Carter addressed Policies 25 and 27 in depth in her s42A report where she states at paragraph 300:
- The focus of Policy 25 is on encouraging redevelopment or change in land use that would reduce risk, and avoiding increasing the risk of social, environmental and economic harm. Given the level of protection that will be afforded to adjoining properties from this proposal, over the 20-year design life I consider that there is minimal tension with Policy 25. The community is not currently at a trigger point where removal of existing homes or abandonment is required and the proposal provides time to make important decisions on its future, while providing a level of protection in the shorter term. While hard protection structures are 'discouraged' in favour of natural defences, these are not required to be avoided. The proposal does not offend policy 25 when read together with the provisions of Policy 27 (which considers existing development) particularly given the limited design life and consent period of the proposed works.*
151. Ms. Bould did not specifically address this matter in evidence. Mr. Reinen-Hamill addressed Mr. Gabites concerns in paragraphs 11.3 and 11.4 of his evidence. He concurs with Mr. Gabites that with the proposed designs, erosion is unlikely over the next 20 years, as well as being resilient to wave run-up. In respect of the relocation of the bund, he identified that there are areas where this would affect private properties, and erosion would be expected to continue along the portions of the coastal edge. There could also be potential for contaminants, including asbestos, to enter the CMA. His opinion was that the 20-year timeframe of the consent to develop a more comprehensive strategy to address all issues at play is prudent.
152. We acknowledge Mr. Gabites' concerns about the nature and location of the proposed features. However, we prefer the evidence of Ms. Murray and Ms. Carter that the amendments sought would change the nature of the Applications as notified and may result in unknown potential effects beyond their scope. We also accept the Applicant's evidence that they have undertaken multi-criteria analysis of different options, in discussion with the community, and landed on the Proposal as effectively an interim approach to allow a more comprehensive strategy to be developed. We are very mindful of the time already taken to get to this point of a decision on these Applications and the impact that this has had on the community. In our view, sending the Applications back now to be revised is not an appropriate response to a community seeking to move forward. Further, we are satisfied on the basis of the evidence before us that any adverse effects arising from the proposed features would be negligible and are overall acceptable.

153. The AHMET's submission included suggested amendments to the conditions, and in particular, in respect to cobble beach monitoring to address their concerns of the cobbles affecting estuary ecology. Mr. Reinen-Hamill addressed this in evidence, explaining that high energy conditions would be required for cobbles to move, which is not the case here. He further explained that the conditions proposed by the AHMET may result in more disturbance to the estuary bed.
154. Noting Mr. Reinen-Hamill's comments, we consider that there is little difference between the condition amendments sought by the AHMET and the conditions appended to the Applicant's Reply. We find that there are appropriate checks and balances to monitor and manage any potential effects associated with the cobble beach, so that any effects are acceptable.

Conclusion – Section 104D(1)(a) and Section 104(1)(a) Effects on the Environment

155. Based on our evaluation above, we find that the overall adverse effects arising from the proposal are no more than minor. Accordingly, having found that any adverse effects will not be more than minor, the Applications can proceed to be considered under s104 of the RMA.
156. In respect of s104(1)(a) we find that, subject to the conditions of consent for both Applications, any effects are acceptable. We also find that there will be significant positive effects arising from the Applications.

Section 104(1)(ab) Ensuring Positive Effects Through Offsets and Compensation Assessment and Conclusion

157. The applicant did not offer or agree to any measures for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity. In our view, there are no adverse effects that warrant any offsetting or compensation beyond what is already proposed through the Applications and set out in the conditions of consent.

Section 104D(1)(b) and 104(1)(b) Relevant Planning Documents Assessment

158. While we have already found that any adverse effects arising would be no more than minor in respect of s104D(1)(a) of the RMA and that the Application can proceed to be considered under s104, we have also considered the Application in respect of 104D(1)(b).
159. As outlined earlier, only the Regional and District Plans are relevant considerations under s104D(1)(b).
160. Ms. Bould, Ms. Murray and Ms. Carter all agreed that the Applications were not contrary to any relevant objectives or policies of the Regional and District Plans. We did not receive any evidence which directly challenged their conclusions. We accept and adopt the three planners' advice and find that the Applications are not contrary to the Regional and District Plans. We therefore turn now to s104(1)(b).
161. In accordance with section 104(1)(b)(i)-(iv) of the RMA, we have had regard to the relevant standards, policy statements and plan provisions of the following documents:

- National Policy Statement for Natural Hazards 2025 (NPS-NH)
- National Policy Statement for Infrastructure 2025 (NPS-I)
- National Policy Statement on Freshwater Management 2020
- National Policy Statement for Indigenous Biodiversity 2023
- NZCPS
- NES-F
- The Canterbury Regional Policy Statement
- LWRP
- CARP
- RCEP
- CDP
- CCP

162. Ms. Bould, Ms. Murray and Ms. Carter traversed all but the first two of these planning documents in detail in their respective evidence³¹. The Application also includes a thorough evaluation in the AEE and through further information provided. The three planners all agreed that the Applications are overall consistent with the relevant provisions in these planning documents. We note that there was contention from submitters and Mr. Gabites for ECan in respect to elements of these documents. We have addressed these through our earlier evaluation of matters in contention. Having done so, we accept and adopt the planners' conclusions that the Applications are overall consistent with the relevant provisions in these planning documents. We now turn to the first two planning documents.
163. The NPS-NH and NPS-I were approved by the Governor General on 15 December 2025 and came into force on 15 January 2025, the day after we closed the hearing. As they are now in force, we are required to have regard to them. However, as we had closed the hearing, we did not receive any evidence on either NPS. Accordingly, we have carefully reviewed both documents.
164. The proposed works fall within the definition of infrastructure in the NPS-I, as being included as additional infrastructure, being flood hazard and protection works carried out by, or on behalf, of a local authority. The NPS-I has one objective and 11 policies which we have reviewed. The objective of the NPS-I is to:
- (a) *ensure the national, regional and local benefits of infrastructure are provided for;*
 - (b) *enable infrastructure to support the social, economic and cultural wellbeing of people and communities and their health and safety;*
 - (c) *enable infrastructure to support the development and change of urban and rural environments to meet the diverse and changing needs of present and future generations;*
 - (d) *ensure infrastructure is well-functioning, resilient and compatible, as far as practicable, with other activities; and*
 - (e) *ensure infrastructure is delivered in a timely and efficient manner while managing adverse effects from or on infrastructure.*
165. We are satisfied that the Applications are consistent with the NPS-I for the reasons we have already traversed in this decision.

³¹ The two s42A reports and the statement of evidence of Jessica Bould

166. The NPS-NH applies to a number of natural hazards, the relevant ones being flooding, coastal erosion and coastal inundation. It contains one objective, six policies and four implementation clauses. The objective is “natural hazard risk to people and property associated with subdivision, use and development is managed using a risk-based proportionate approach”. Having reviewed the objective and policies and considered them in light of the approach taken by the Applicant and all relevant evidence, and our earlier findings on effects, we find that the Applications are consistent with the NPS-NH.

Conclusion – Sections 104D(1)(b) Regional and District Plans and section 104(1)(b) Relevant Planning Documents

167. Overall, we find that the Applications are not contrary to the regional and district plans and are, as a whole, consistent with the relevant planning instruments.

Section 104(1)(c) Other Matters

168. We accept and adopt Ms. Murray and Ms. Carter’s evidence in respect to other relevant matters. We find that the Applications are generally consistent with the Mahaanui Iwi Management Plan, the Canterbury Water Management Strategy and South New Brighton Reserves Management Plan.
169. The AHJET’s submission addressed the Estuary Management Plan 2020-2030, prepared by the AHJET and footnoted to the submission. Having reviewed the elements of the Plan quoted by AHJET in their submission and the evidence before us, we are satisfied that the Applications are generally consistent with these elements of the Plan.

Sections 105 and 107

170. We accept and adopt Ms. Murray and Ms. Bould’s evaluation and evidence in respect to sections 105 and 107 of the RMA. We find that the relevant matters under s105 have been considered and that there are no reasons under s107 as to why consent should not be granted.

Subject to Part 2

171. It is now well-established in RMA practice that decision-makers on resource consents should generally not need to seek recourse to considering Part 2 if a plan has been competently prepared having regard to Part 2.
172. In legal submissions, Counsel for the Applicant submitted that “although the assessment under s104 had been largely determinative, and the planning instruments are considered to give full effect to Part 2 of the RMA, it is appropriate to confirm that this application is consistent with the purpose and principles of the RMA”. Ms. Bould also took this approach in her statement of evidence. Both Councils planners did briefly assess the Applications against Part 2, in both cases concluding that the purpose of the RMA was achieved. Ms. Carter in particular considered the coastal hazard aspects of the proposal against sections 6(h) and 7(i) and Part 2 overall because the City Plan coastal hazard provisions are still in legal effect and have yet to be reviewed.
173. We did not receive any evidence or submissions that directly raised Part 2. We also did not receive any evidence that any of the relevant planning documents had not been

competently prepared, while noting Ms. Carter's evidence about the City Plan coastal hazard provisions. Having reviewed the new NPS-NH, we are satisfied that it does not raise any matters that would require recourse to Part 2.

174. We find that the proposal achieves Part 2 of the RMA.

Section 123 duration of consent

175. There was no disagreement that a 20-year duration for the structures and 10-years for all construction-phase related activities for the ECan Application was appropriate. We agree.

Section 108 Conditions

176. We have carefully reviewed the recommended conditions of consent applying to both the ECan and CCC consents. We thank the three planners for their efforts to agree to a single set of recommended conditions, the exception being in relation to avifauna which we have addressed in this decision.

177. We have already identified in our decision where we have made changes to the recommended conditions provided in the Applicant's Reply as a result of evidence before us, such as the inclusion of the Bird Management Plan in the CCC conditions. Having carefully reviewed all the recommended conditions, we have made several amendments to provide greater clarity and certainty of implementation. At a high level, these amendments include:

- a) Adding expiry dates for all the ECan consents
- b) Amendments to management plan conditions to achieve a consistent approach for their provision, purpose, certification, implementation and amendments
- c) Moving and amending some conditions under the four ECan consents so that they sit within the relevant consent (for example conditions relating to activities outside the coastal marine area moved to the s9 RMA consent)
- d) Ensuring that it is clear in the CCC consent that works consented are only those above mean high water springs
- e) Amending the accidental discovery of archaeological material conditions in the ECan consents to remove the requirement that the consent holder must follow the Heritage New Zealand Pouhere Taonga Act, as this is a legal requirement regardless
- f) Revising recommended conditions 26 and 27 of CRC242268 and conditions 34 and 35 of the CCC consent to provide a clearer process to determine the success or not of remediation works under the Saltmeadow Remediation Plan and then next steps where it has not been successful. We note that in amending conditions 26 and 27 of CRC242268 we relocated the condition to be new conditions 15 to 18 of CRC242267
- g) Removing the signage condition from CRC242268 as this is an unnecessary duplication of the CCC condition, and such signage falls within the CCC's jurisdiction
- h) Introducing the requirement for a spill response plan in recommended condition 23 of the CCC consent, which appears to have been an inadvertent omission given such a plan is referenced in condition 10
- i) Amending the saltmarsh grassland conditions in the CCC consent to provide better clarity of purpose and implementation.

178. Subject to the amendments we have made, we are satisfied that the conditions of consent are adequate and appropriate to address the concerns expressed by the submitters and potential adverse effects arising from the activities on the site.

8 Overall Conclusion and Reasons

179. For the reasons contained in this decision, we find that the Applications meet both tests under s104D(1)(a) and (1)(b) of the RMA and can proceed to be granted under s104.
180. We are satisfied that any effects arising from the Applications are acceptable under section 104(1)(a). We also find that the proposed works will result in significant positive effects for the local community as set out in paragraph 98 of this decision.
181. We are also satisfied that the Applications are consistent with the relevant objectives, policies and assessment criteria contained in the relevant planning documents, and that overall, the proposal achieves and sits comfortably with Part 2 of the RMA.
182. For this reason, we grant consent to both Applications.
183. Finally, we record our appreciation of the time and energy that all parties brought to the Hearing and in making submissions on the Applications when notified. It was clear to us in hearing from submitters that the local community has a strong connection to and passion for the Avon-Heathcote Ihutai Estuary. We consider that the Applicant has put forward a proposal that has struck the right balance of addressing all the different values expressed through the RMA, the relevant planning documents and submitter concerns. We consider the conditions of consent that we have imposed provide a more robust framework for the successful implementation of the Applications.

9 Grant of Consent

Pursuant to the authority delegated to us by the Canterbury Regional Council and Christchurch City Council and pursuant to sections 104, 104D, 105 and 107 of the RMA, for the reasons given in this decision, we grant consent to the Applications by Christchurch City Council referenced:

- CRC242267, CR242268, CRC242269 and CRC251999 by the Canterbury Regional Council; and
- RMA/2023/3243 by the Christchurch City Council



Commissioner Amy Robinson



Commissioner Gina Sweetman (Chair)



Commissioner Julianne Chetham

Date: 2 February 2026