



SECTION 42A REPORT COASTAL ENVIRONMENT

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List of Abbreviations

List of Submitters and Abbreviations of Submitters' Names

Submitter Number	Abbreviation	Full Name of Submitter
S364	DOC	Director-General of Conservation (Department of Conservation)
S368	FNDC	Far North District Council
S421	Federated Farmers	Northland Federated Farmers of New Zealand
S512	FENZ	Fire and Emergency New Zealand
S363	Foodstuffs	Foodstuffs North Island Limited
S436	Fish and Game	Northland Fish and Game
S511	Forest and Bird	Royal Forest and Bird Protection Society of New Zealand
S159	HortNZ	Horticulture New Zealand
S421	Federated Farmers	Northland Federated Farmers of New Zealand
S359	NRC	Northland Regional Council
S344	Paihia Properties	Paihia Properties Holdings Corporate Trustee Limited and UP Management Ltd
S454	Transpower	Transpower New Zealand Limited
S425	Twin Coast Cycle Trail	Pou Herenga Tai Twin Coast Cycle Trail Charitable Trust
S282	Telco Companies	Chorus New Zealand Limited, Spark New Zealand Trading Limited, Spark TowerCo Limited, Vodafone New Zealand Limited
S521	Vision Kerikeri	Vision Kerikeri (Vision for Kerikeri and Environs, VKK)
S356	NZTA	Waka Kotahi NZ Transport Agency
S458	Woolworths	Woolworths New Zealand Limited

Note: This table contains a list of submitters relevant to this topic which are abbreviated and does not include all submitters relevant to this topic. For a summary of all submitters please refer to Section 5.1 of this report (overview of submitters). Appendix 2 to this Report also contains a table with all submission points relevant to this topic.

Other abbreviations

Abbreviation	Full Term
CMA	Coastal Marine Area
FNDC	Far North District Council
GRZ	General Residential Zone
HNC	High Natural Character
LIZ	Light Industrial Zone
MHWS	Mean High Water Springs
MUZ	Mixed Use Zone
NES-CF	National Environmental Standards for Commercial Forestry 2027
NES-F	National Environmental Standards for Freshwater 2020
NES-TF	National Environmental Standards for Telecommunication Facilities 2016
NPS	National Policy Statement
NPS-ET	National Policy Statement for Electricity Transmission 2008



NPS-IB	National Policy Statement for Indigenous Biodiversity 2023
NZCPS	New Zealand Coastal Policy Statement 2010
ODP	Operative Far North District Plan
ONC	Outstanding Natural Character
ONF	Outstanding Natural Feature
ONL	Outstanding Natural Landscape
PDP	Proposed Far North District Plan
RMA	Resource Management Act 1991
RPS	Northland Regional Policy Statement 2016
SPZ	Special Purpose Zone
STZ	Settlement Zone



1 Executive summary

1. The Far North Proposed District Plan (PDP) was publicly notified in July 2022. The Coastal Environment chapter is located in the District-Wide section of the PDP.
2. There are 643 original submission points on the Coastal Environment topic, including 66 submissions in support, 176 supporting in part, three with a neutral position and 319 in opposition¹. There are also 1,237 further submission points on those original submissions. The submissions cover a wide range of issues and viewpoints, with the majority of submissions requesting a range of amendments to the Coastal Environment provisions, that certain provisions are deleted, along with requests to amend or delete the mapping of the Coastal Environment, High Natural Character (HNC) and Outstanding Natural Character (ONC) overlays. While there appears to be a general level of support for managing the coastal environment in a different manner to the balance of the Far North District to account for its special values and character, submitters often differ in how this should best be achieved.
3. The submissions can largely be categorised into several key themes:
 - a. The direction of the Coastal Environment chapter and the degree to which it gives effect to higher order documents, particularly the New Zealand Coastal Policy Statement 2010 (NZCPS) and the Northland Regional Policy Statement 2016 (RPS).
 - b. General concerns that the provisions in the Coastal Environment are overly restrictive, particularly in existing urban areas/zones where growth is intended to be consolidated.
 - c. The relationship between the Coastal Environment chapter and other key chapters in the PDP, including zone chapters and other overlay chapters (in particular the Natural Features and Landscapes chapter).
 - d. The move away from how the coastal environment was managed under the ODP through the coastal zones and whether particular provisions or concepts from the ODP should be retained in the PDP.
 - e. General comments and requested amendments to the objectives and policies of the Coastal Environment chapter.
 - f. General comments and requested amendments to the rules and standards of the Coastal Environment chapter; and

¹ 79 submissions were recorded as not stating a position.



- g. Issues raised with the mapping of the coastal environment, HNC and ONC overlays in the coastal environment.
4. This report has been prepared in accordance with section 42A of the Resource Management Act 1991 (RMA) and outlines recommendations in response to the issues raised in submissions. This report is intended to both assist the Hearings Panel to make decisions on the submissions and further submissions on the PDP and also provide submitters with an opportunity to see how their submissions have been evaluated, and to see the recommendations made by officers prior to the hearing.
5. The key changes recommended in this report relate to:
 - a. Amendment to the objectives and policies to better give effect to higher order documents, improve clarity and remove duplication with the Natural Features and Landscapes chapter.
 - b. Changes to policies to make it clear that the focus is to manage effects on the characteristics, and qualities and values that make ONC areas outstanding.
 - c. Amendments to objectives, policies, rules and standards to better provide for land use and development in existing urban areas. This includes new policy direction on when development is appropriate in existing urban areas and amending the controls on building coverage and height in more built-up coastal settlements so these are less restrictive.
 - d. Amendments to the policy direction relating to farming activities.
 - e. Amending the policy direction to make it clearer how land use and subdivision within Māori Purpose Zone and Treaty Settlement Land is to be enabled.
 - f. Significant changes to CE-R1, CE-R2, CE-R3 and the associated standards to make the provisions less restrictive in some areas, to remove unnecessary requirements, and provide for additional activities where appropriate while ensuring adverse effects on the coastal environment are appropriately managed.
 - g. Amending CE-R6 so it only applies to afforestation for commercial forestry (and not any plantation forestry activity).
 - h. Deleting redundant policies and rules (CE-P9, CE-R2, CE-R5).
 - i. Amending SUB-R20 and SUB-R1 so the rules only applies if additional allotments are created within the coastal environment or a ONC area.



2 Introduction

2.1 Author and qualifications

6. My Jerome Wyeth. I am a Technical Director – Planning at SLR Consulting based in Whangarei.
7. I hold the qualification of Bachelor of Science (Geography) and Masters of Science (Geography), with First Class Honours. I am a Full member of the New Zealand Planning Institute.
8. I have over 20 years of experience in resource management and planning with roles in central government, local government and the private sector. My primary area of work is policy planning for local and central government, and I am the New Zealand Policy Portfolio Lead at SLR Consulting. I have worked on a number of district and regional plans at various stages of the RMA Schedule 1 process and have prepared planning evidence for local authority and Environment Court hearings on a range of resource management issues.
9. I have been closely involved in the development and implementation of numerous national direction instruments under the RMA (national policy statements and national environmental standards), from the policy scoping stage through to policy decisions and drafting, the preparation of section 32 evaluation reports and implementation guidance. This includes close involvement in national direction instruments relating to highly productive land, climate change, renewable electricity generation and transmission, indigenous biodiversity and plantation forestry.
10. I have been working with the Far North District Council (FNDC) on the PDP since 2021. My involvement in the PDP initially involved refining certain chapters in response to submissions on the draft district plan and preparing the associated section 32 evaluation reports. I was then involved in leading other PDP topics and undertaking a consistency/quality assurance review of the plan prior to notification working closely with the FNDC team. Since mid-2023, I have been working with the FNDC PDP team analysing submissions and am the reporting officer for a number of PDP topics.
11. I was not involved in the development of the Coastal Environment chapter prior to notification and was engaged by FNDC to be the reporting officer for this topic in early 2024.

2.2 Code of Conduct

12. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of



expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

13. I am authorised to give this evidence on the Council's behalf to the Proposed District Plan hearings commissioners ("Hearings Panel").

2.3 Expert Advice

14. In preparing this I rely on expert advice of Melean Absolum Limited (MAL), landscape architect, who has prepared a report on the Coastal Environment, Natural Features and Landscapes, and Natural Character provisions (the 'MAL Report'). The expert advice is provided as **Appendix 3** of this report.

3 Scope/Purpose of Report

15. This report has been prepared in accordance with section 42A of the RMA to:
 - a. Assist the Hearings Panel in making their decisions on the submissions and further submissions on the Proposed District Plan; and
 - b. Provide submitters with an opportunity to see how their submissions have been evaluated and the recommendations on their submission points prior to the hearing.
16. This report responds to submissions on the Coastal Environment chapter in the PDP.
17. Wherever possible, I have provided a recommendation to assist the Hearings Panel.

4 Statutory Requirements

4.1 Statutory documents

18. I note that the Coastal Environment section 32 evaluation report provides detail of the relevant statutory considerations applicable to the coastal environment topics, including key provisions in the NZCPS and RPS. As such, it is not necessary to repeat the detail of the relevant RMA sections and full suite of higher order documents here.
19. However, it is important to highlight the higher order documents which have been subject to change since notification of PDP which must be given effect to. I have also provided a brief summary of the key provisions in the NZCPS and RPS that are pertinent to the consideration of submissions on the Coastal Environment chapter.

4.1.1 Resource Management Act



20. The Government, elected in October 2023, repealed both the Spatial Planning Act 2023 and Natural and Built Environment Act 2023 on the 22 of December 2023 and reinstated the RMA as Zealand's primary resource management policy and plan making legislation. The Government has indicated that the RMA will ultimately be replaced, with work on replacement legislation to begin in 2024. The Government has indicated that this replacement legislation will be introduced to parliament this term of government (i.e. before the next central government election in 2026). However, at the time of writing, details of the new legislation and exact timing are unknown. The RMA continues to be in effect until new replacement legislation is passed.

4.1.2 National Policy Statements

4.1.2.1 National Policy Statements Gazetted since Notification of the PDP

21. The PDP was prepared to give effect to the National Policy Statements that were in effect at the time of notification (27 July 2022). This section provides a summary of the National Policy Statements, relevant to the Coastal Environment chapter that have been gazetted since notification of the PDP. As District Plans must be "prepared in accordance with" and to "give effect to" a National Policy Statement, the implications of the relevant National Policy Statements on the PDP must be considered.
22. The National Policy Statement for Indigenous Biodiversity (NPS-IB) came into effect on 4 August 2023, after the PDP was notified for public submissions. The objective of the NPS-IB is to maintain indigenous biodiversity so there is at least no overall loss in indigenous biodiversity from the commencement date of the NPS-IB. The objective is supported by 17 policies. Part 3 of the NPS-IB sets out what must be done to give effect to the NPS-IB objective and policies. I note that the NPS-IB will be primarily given effect to through the Ecosystems and Indigenous Biodiversity chapter, which is also being considered in Hearing 4. I am also the reporting officer of that topic. The presence, extent and integrity of indigenous biodiversity is also relevant to the protection and restoration of natural character and natural landscapes in the coastal environment, which I consider further in the analysis of provisions below.
23. The National Policy Statement for Highly Productive Land (NPS-HPL) took effect on 17 October 2022. The NPS-HPL has a single objective: Highly productive land is protected for use in land-based primary production, both now and for future generations. The objective is supported by nine policies and a set of implementation requirements setting out what local authorities must do to give effect to the objective and policies of the NPS-HPL, including restrictions on urban rezoning, rural lifestyle rezoning, subdivision and inappropriate development on highly productive land. I note that the NPS-HPL will be primarily given effect to through the suite of Rural Zones in the PDP and the Subdivision



chapter, which are being considered in Hearing 9 and 17 respectively. The NPS-HPL is not considered further in this report.

4.1.3 National Environmental Standards

24. The National Environment Standards for Commercial Forestry 2017 (NES-CF), which amend the NES-PF, came into effect on 3 November 2023. In addition to regulating the effects of plantation forestry, the NES-CF now regulates “exotic continuous-cover forestry”, which is commercial forestry not intended to be harvested (i.e. carbon forestry). As such, the NES-CF now applies to all types of forestry deliberately established for commercial purposes (permanent indigenous forestry is not regulated under the NES-CF). In addition to bringing exotic continuous-cover forestry within scope, the changes in the NES-CF:
- a. Allow plan rules to be more stringent or lenient to manage afforestation relating to both types of forestry².
 - b. Introduce a range of operational changes, including a new permitted activity standard for managing forestry slash at harvest and new requirements around management of wilding trees.

4.1.4 National Planning Standards

25. The National Planning Standards outline the structure and format of district plans, which the PDP must give effect to. The District-Wide Matters Standard in the National Planning Standards requires that, where a district has a coastline, a Coastal Environment chapter must be included in the plan that:
- a. *Sets out the approach to managing the coastal environment and giving effect to the NZCPS.*
 - b. *Sets out provisions for implementing the local authorities functions and duties in relation to the coastal environment, including coastal hazards.*
 - c. *Provides cross-references to any other specific coastal provisions that may be located within other chapters.*
26. The Coastal Environment chapter has been prepared in accordance with these requirements.

4.1.5 Treaty Settlements

² Regulation 6(4A) of the NES-CF.



27. There have been no further Deeds of Settlement signed to settle historic Treaty of Waitangi Claims against the Crown, in the Far North District, since the notification of the PDP.

4.1.6 Iwi Management Plans – Update

28. Section 74 of the RMA requires that a local authority must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority.
29. When the PDP was notified in July 2022, Council had 14 hapū/iwi management planning documents which had been formally lodged with Council, as listed in the PDP section 32 overview report. Council took these management plans, including the broader outcomes sought, into account in developing the PDP. Of the 14 hapū/iwi management planning documents, only two have been revised since notification of the PDP –
 - a. Ngā Tikanga mo te Taiao o Ngāti Hine' the Ngāti Hine Environmental Management Plan
 - b. Ahipara Takiwā Environmental Management Plan

Ngā Tikanga mo te Taiao o Ngāti Hine' the Ngāti Hine Environmental Management Plan

30. Ngā Tikanga mo te Taiao o Ngāti Hine' the Ngāti Hine Environmental Management Plan was in draft form at the time of the notification of the PDP. This was updated, finalised and lodged with the Council in 2022, after notification of the PDP in July 2022. In respect of the Coastal Environment chapter the Ngāti Hine Environmental Management Plan provides the following direction:
 - a. *Objective 2.2(1): Water is a sacred resource and a taonga of special significance to Ngāti Hine and therefore requires our absolute protection.*
 - b. *Objective 2.2(2): The mauri of water is protected and enhanced in ways which enable Ngāti Hine to provide for our physical, social, economic and cultural wellbeing.*
 - c. *Objective 2.2(3): The protection and enhancement of water, soil and air, on an integrated catchment basis that considers all flow-on effects.*
 - d. *Objective 2.2(4): All mātaihai sites and reserves in our rohe are managed, monitored and enhanced by Ngāti Hine.*
 - e. *Objectives 2.2(8) and (9): To protect areas or sites of customary value, as determined by Ngāti Hine by: The effective*



identification and definition of areas and sites of customary value by Ngāti Hine.

- f. *Objective 2.2(10): The implementation of robust systems within Council and other external stakeholders, groups and entities to ensure ongoing protection is paramount.*
- g. *Policy 2.2(1): To ensure that no hierarchical values will be placed on water bodies within any external stakeholders, entities and groups planning documents in terms of protection.*
- h. *Policy 2.2(4): All activities concerning or potentially affecting water bodies within a catchment will be managed on an integrated catchment basis.*
- i. *Policy 2.2(7): Management to reduce the amount of pollution going into our oceans.*
- j. *Policy 3.7(2): 2. All public access policies and plans prepared by statutory agencies must recognise the rights of access that Ngāti Hine have:*
 - a. *to all wahi tapu,*
 - b. *for the harvesting and collection of kaimoana and mahinga kai,*
 - c. *to our fisheries, and*
 - d. *to taonga prized for traditional, customary and cultural uses.*

Ahipara Takiwā Environmental Management Plan

31. The Ahipara Takiwā Environmental Management Plan was in draft form at the time of the notification of the PDP. This was updated, finalised and lodged with Council in 2023, after notification of the PDP in July 2022. In respect of the Coastal Environment chapter, the Environmental Management Plan provides direction in relation to the following:

3.9.4 Objectives relating to Water courses

- a. *Objective PO3. Sand dunes are restored and native species flourish.*
- b. *Objective PO6. Breeding grounds for birds are protected.*
- c. *Objective PO15. Subdivision and other land developments ensure there is no discharge of pollutants or sewage to the beach.*



- d. *Objective PO16. Traditional resource management practices such as taiāpure, rāhui and mātaītai are implemented and adhered to as part of exerting our kaitiakitanga.*

3.9.5 Policies relating to whenua ki uta.

- e. *Policy PP3. To encourage land use activities to apply set back distances and / or buffers for protection of wetland, coastal and riparian habitats (e.g. fertiliser application, herbicide application, land based effluent disposal and the like).*
- f. *Policy PP13. That traditional management methods of tapu, rāhui. taiāpure and mataītai are promoted and respected.*
- g. *Policy PP14. To oppose inappropriate development of coastal land.*
- h. *Policy PP15. To require restrictions on vehicle access and use of the beach at sensitive locations including mahingā kai and sites with high pedestrian visitor usage.*
- i. *Policy PP21. Discourage subdivisions and buildings in culturally significant and highly visible landscapes or which would have significant adverse effects on biodiversity.*
- j. *PP25. To require public foot access along riverbanks and the coast to be maintained.*

4.2 Whakamaoritia/ Objectives relating to Access.

- k. *All public access policies and plans prepared by statutory agencies must recognise the rights of access that the Ngā Hapū o Ahipara have:*
 - a. *to all wahi tapu,*
 - b. *for the harvesting and collection of kaimoana and mahinga kai,*
 - c. *to our fisheries, and*
 - d. *to taonga prized for traditional, customary, and cultural use.*

- 32. These updated iwi management plans are considered through this report, to the extent relevant and within the scope of submissions on relevant provisions (which can vary depending on the provision).

4.2 Section 32AA evaluation

- 33. This report uses 'key issues' to group, consider and provide reasons for the recommended decisions on similar matters raised in submissions.



Where changes to the provisions of the PDP are recommended, these have been evaluated in accordance with section 32AA of the RMA.

34. Where applicable, the section 32AA further evaluation for each key issue considers:
 - a. Whether the amended objectives are the best way to achieve the purpose of the RMA.
 - b. The reasonably practicable options for achieving those objectives.
 - c. The environmental, social, economic and cultural benefits and costs of the amended provisions.
 - d. The efficiency and effectiveness of the provisions for achieving the objectives.
 - e. The risk of acting or not acting where there is uncertain or insufficient information about the provisions.
35. The section 32AA further evaluation for recommended amendments to the PDP also contains a level of detail that corresponds to the scale and significance of the anticipated effects of the changes that have been made. Recommendations on editorial, minor and consequential changes that do not change the policy intent are not evaluated under section 32AA of the RMA in this report.

4.3 Procedural matters

36. No correspondence or meetings with submitters was undertaken for this topic therefore there are no procedural matters to consider for this hearing.

5 Consideration of submissions received

5.1 Overview of submissions received.

37. There are 643 original submission points on the Coastal Environment topic, including 66 submissions in support, 176 supporting in part, 3 with a neutral position and 319 in opposition³. There were also 1,237 further submission points received.
38. The main submissions on the Coastal Environment chapter are from:
 - a. Central and local government, namely Northland Regional Council (S359) and DOC (S364).

³ 79 submissions were recorded as not stating a position.



- b. Non-governmental organisations, such as Forest and Bird (S511), Kapiro Conservation Trust (S442), Northland Fish and Game (S436) and Our Kerikeri Community Charitable Trust (S338).
 - c. Iwi groups, such as Haititaimarangai Marae Kaitiaki Trust (S394) and Matauri X Incorporation (S396).
 - d. Infrastructure providers such as Top Energy Limited (S483) and Twin Coast Cycle Trail (S425).
 - e. The primary production sector, such as Federated Farmers (S421), HortNZ (S159), and Summit Forests New Zealand Limited (S148).
 - f. A group of large landowners in the coastal environment with some common interests, being Bentzen Farm Limited (S167) P S Yates Family Trust (S333), Setar Thirty Six Ltd (S168), The Shooting Box Ltd (S187), Mataka Station Residents Association (S230), and Mautauri Trustee Limited (S243).
 - g. Other individual submitters, such as John Andrew Riddell (S431) and Sarah Ballentyne and Dean Agnew (S386).
39. The key issues identified in this report are set out below:
- a. Key Issue 1: General submissions on the Coastal Environment chapter
 - b. Key Issue 2: Characteristics and qualities of the coastal environment
 - c. Key Issue 3: Overview
 - d. Key Issue 4: Coastal Environment objectives
 - e. Key Issue 5: Policies – general comments
 - f. Key Issue 6: CE-P1
 - g. Key Issue 7: CE-P2 and CE-P3
 - h. Key Issue 8: Other policies – CE-P4 to CE-P10
 - i. Key Issue 9: Rules – general comments
 - j. Key Issue 10: CE-R1
 - k. Key Issue 11: Standard CE-S1 and general comments
 - l. Key Issue 12: CE-S2 – Colour and Materials
 - m. Key Issue 13: CE-R2 – Repair and maintenance



- n. Key Issue 14: CE-R3 – Earthworks or indigenous vegetation clearance
 - o. Key Issue 15: CE-R4 - Farming
 - p. Key Issue 16: CE-R5 – Demolition of buildings and structures
 - q. Key Issue 17: CE-R6 – Plantation Forestry
 - r. Key Issue 18: CE-R7 to CE-R9: Mineral extraction, landfill, managed fill or clean fill
 - s. Key Issue 19: SUB-R20 and SUB-R21 – Subdivision in the Coastal Environment
 - t. Key Issue 20: MHWS setback rules
 - u. Key Issue 21: ONC, HNC and coastal environment mapping
 - v. Key Issue 22: Definitions.
40. Section 6.2 of this report constitutes the main body of the report and provides an analysis and recommendations on the decisions requested in submissions. Due to the large number of submissions received and the repetition of issues, as noted above, it is not efficient to respond to each individual submission point raised in the submissions. Instead, this part of the report groups similar submission points together under key issues and provisions in the Coastal Environment chapter. This thematic response assists in providing a concise response to, and recommended decisions on, submission points on the Coastal Environment chapter.

5.2 Officer Recommendations

- 41. A copy of the recommended plan provisions for the Coastal Environment chapter is provided in **Appendix 1 – Recommended provisions.**
- 42. A full list of submissions and further submissions on the Coastal Environment chapter is provided in **Appendix 2 – Recommended Decisions on Submissions.**
- 43. A copy of the expert advice from MAL is provided in **Appendix 3 – MAL Landscape Report.**

5.2.1 Key Issue 1: General submissions on Coastal Environment Chapter

Overview

Provision(s)	Officer Recommendation(s)
N/A	Recommendations on general submissions are made in relation to specific provisions in the Key Issue sections below



Analysis of Submissions on Key Issue 1: General submissions on Coastal Environment Chapter

Matters raised in submissions

44. NFS Farms Limited (S151.003) support the HNC overlay on their land to acknowledge the significant ecological and landscape qualities of the land and to protect and enhance natural assets and indigenous vegetation, and requests that the provisions be retained as notified.
45. Vision Kerikeri (S522.028), Our Kerikeri Community Charitable Trust (S338.042) and Carbon Neutral NZ Trust (S529.041), Kapiro Residents Association (S427.029) and Vision Kerikeri (S527.024) raise concerns that the coastal zones in the ODP have been replaced by the Coastal Environment chapter in the PDP, which only covers a "*narrow coastal fringe*". and the submitters are concerned that this approach will remove many of the protections for coastal areas required under the RMA and NZCPS. To address this concern, the submitters request amendments to the planning maps to include all coastal areas visible from marine areas "*so that coastal landscapes, coastal character and coastal environments will be protected appropriately.*"
46. Scrumptious Fruit Trust (S568.004) requests that the PDP is amended to provide for a sperate coastal settlement zone. Scrumptious Fruit Trust considers that the precious coastal habitats and environments in Northland justify more nuanced zoning controls. The submitter considers that this zoning should apply in coastal margins where there is a mix of settlements and holiday home developments, such as Taupo Bay, to protect the natural environment, such as controls on lighting and reflective materials. The Ipipiri Nature Conservancy Trust (S11.002) supports the Coastal Environment chapter in part but raises concerns that the HNC and ONC overlay provisions may restrict the work of the Trust to improve public access to the coastal environment of Elliot Bay Farm, which they have recently purchased. The Trust is seeking clarification of, or amendment to, these ONC and HNC overlay provisions to allow the Trust to continue to undertake activities within the Farm, including to upgrade an existing public camping area and associated facilities, construct highly quality walking tracks and undertake restoration work, stock exclusion fencing etc.
47. NRC (S359.039) requests amendments to the PDP to consider including controls on exotic carbon forestry within the coastal environment, ONC, ONF, and areas of elite soils to protect the values of these resources and to manage nuisance such as shading, plant pest spread and fire risk.
48. Federated Farmers (S421.180) raise a number of concerns with the Coastal Environment chapter, including:
 - a. The coastal environment overlay has captured large areas of farmland, and it is important to allow everyday farming activities to continue to occur.



- b. The HNC overlay is unnecessary and should be deleted from the PDP as section 6 RMA obligations are already being met through the coastal environment, ONC and indigenous biodiversity rules to protect these areas from inappropriate subdivision, use and development.
49. Twin Coast Cycle Trail (S425.011) supports the Coastal Environment chapter in part, acknowledging the sensitivity of the coastal environment. However, the Twin Coastal Cycle Trail requests amendments to the Coastal Environment chapter to specifically provide for the maintenance, operation and upgrade of regionally significant infrastructure, such as the Trail.
50. Robert Adams (S150.001) supports the coastal environment overlay in principal but raises a number of concerns, which are primarily focused on the controls on buildings and structures in CE-R1 (height limit, restrictions on buildings, restrictions on building colours and materials in urban areas). To address these concerns, Robert Adams requests that the coastal environment overlay provisions do not apply to urban areas and houses at Long Beach in the Rural Lifestyle Zone.
51. John Andrew Riddell (431.026) requests that the Coastal Environment chapter is retained subject to amendments sought in his submission (which are not specified in this submission point).
52. Pacific Eco-Logic (S451.017) and Kapiro Conservation Trust (S442.161) raise concerns that there are no non-regulatory methods in the Coastal Environment chapter. The submitters request a new non-regulatory methods section which includes a commitment to monitor and report on natural character, incentives to protect and restore natural character, and priorities for the restoration of natural character.
53. Top Energy (S483.170, S483.171) raises a broader concern as to how the Coastal Environment chapter interacts with other district-wide chapters in the PDP, such as the Infrastructure chapter. Top Energy considers that it appears that the default activity status in the Coastal Environment is permitted due to the lack of a "catch-all" rule in the Coastal Environment chapter, but this is not clear. To address this concern, Top Energy requests a clear statement within the Coastal Environment chapter that activities within the coastal environment are permitted unless otherwise specified by a rule and to clarify the interrelationship between other PDP chapters. Foodstuffs North Island Limited (S363.035), Ngā Tai Ora - Public Health Northland (S516.083) raise similar concerns that there is no catch-all rule in the coastal environment chapter for "*activities not otherwise listed*" and the approach to default activity status varies between overlay chapters which could cause confusion to plan users. They also raise concerns that applying a default permitted activity status in all overlay chapters could have unintended consequences. To address this concern, these submitters request that all overlay chapters insert a rule for "activities not otherwise listed" consistent with the zone chapters.



54. Paihia Properties Holdings Corporate Trustee Limited and UP Management Ltd (S344.032) raise similar concerns to those noted above about the default activity status of activities not listed. They consider that the relationship between the coastal environment and zone rules is unclear due to the complicated nature of commercial activities and lack of definition. The submitter requests amendments to clarify the default activity status between the overlay and zone rules.
55. A large number of submitters from the Mataka Residents Association are requesting a special purpose zone for the "Mataka Precinct Station" in accordance with the Mataka Station. These submitters are also requesting numerous consequential amendments Coastal Environment chapter (and other PDP chapters) to "*recognise the proposed Mataka Station Precinct provisions and the existing resource consent which provides for dwellings and buildings/structures on the Lots within the Mataka Scheme as well as the continuation of farming activities.*" Those submitters include (in relation to the Coastal Environment overview) Mataka Residents' Association Inc (S230.002), Whale Bay Limited (S233.002), Tryphena Trustees Limited, David Haythornwaite (S226.003), Laurie Pearson (S229.002), Tobias Groser (S232.002) and a large number of other individual submitters.
56. Forest and Bird (S511.089, S511.090) and Kapiro Conservation Trust (S442.108, S442.109) request amendments to numerous provisions in the Coastal Environment chapter to refer to "*land use, subdivision and development*" (not just land-use and subdivision), noting that this wording is consistent with the NZCPS.
57. Fish and Game (S436.006) requests provisions that provide for the building of maimai on wetlands or near a lake or river as a permitted activity. The Fish and Game consider that the right to build, tag and use maimai is a fundamental part of duck hunting in New Zealand.

Analysis

58. The provisions in the Coastal Environment chapter apply to the coastal environment overlay in the PDP. The coastal environment overlay in the PDP gives effect to the RPS, which has mapped the extent of the coastal environment in the Northland Region using a methodology aligned with the criteria in Policy 1 in the NZCPS (extent and characteristics of the coastal environment). I understand that the Coastal Environment overlay covers approximately 12.3% of the Far North District, the HNC overlay covers 3.8%, and the ONC overlay covers 2% of the District.
59. As such, I do not recommend any amendments to the planning maps in response to the submissions of Vision Kerikeri, Our Kerikeri Community Charitable Trust and Carbon Neutral NZ Trust. I consider that the coastal environment overlay more effectively gives effect to these higher order documents compared to the coastal zones in the ODP. The extent of the coastal environment overlay is also based on a more specific set of criteria



from the NZCPS rather than all coastal areas visible from the CMA which has no statutory basis.

60. For similar reasons, I do not consider that a separate coastal settlement in the PDP is necessary or appropriate as requested by Scrumptious Fruit Trust. As detailed throughout this report, the Coastal Environment chapter contains a range of controls to manage the effects of land use and development on the natural character of the coastal environment, including controls on building height and colour. These controls apply in coastal settlements such as Taupo Bay, which is located entirely within the coastal environment overlay, in addition to the underlying zone provisions.
61. In terms of the submission from Ipipiri Nature Conservancy Trust seeking to ensure the provisions in the Coastal Environment chapter do not constrain maintenance, operation and restoration activities at Elliot Bary Farm and campground, the intent is that the provisions in the Coastal Environment will enable routine, low-risk activities such as these to be undertaken without resource consent. Specifically, the controls on buildings and structures and earthworks and vegetation clearance discussed below (e.g. CE-R1 and CE-R3) are intended to allow minor upgrades of existing buildings and structures and for earthworks and vegetation clearance maintenance of walking tracks etc. However, more stringent controls are applied in the ONC and HNC overlays to give effect to the clear higher order direction to avoid certain adverse effects, as discussed above. I therefore recommend that this submission is accepted in part based on my recommendations to CE-R1 and associated standards below.
62. In terms of the submission from NRC, I agree that there should be controls on carbon farming like there are for plantation forestry to manage potential adverse effects on the coastal environment (including on natural character). As outlined in Section 4 above, the NES-PF has been amended following notification of the PDP. The scope of the NES-PF has been extended to cover the wider effects of carbon forestry through the amendments in the NES-CF which came into force in late 2023. The regulations now cover "*exotic continuous-cover forestry*", which is commercial forestry not intended to be harvested (i.e. carbon forestry), in addition to "*plantation forestry*" (currently referenced in CE-R6 and defined in the PDP). The regulations now also allow plan rules to be more stringent or lenient to manage afforestation relating to both types of forestry⁴.
63. I therefore recommend that CE-R6 is amended to apply to "*afforestation*" of "*commercial forestry*" and new definitions are included in the PDP to align with the relevant definitions in the NES-CF. This will respond to the requested relief by NRC and also ensure the PDP is in accordance with the NES-CF as required by section 74(1)(f) of the RMA. My recommended

⁴ Regulation 6(4A) of the NES-CF.



amendments to CE-R6 are outlined in more detail under Key Issue 17 (CE-R6) below.

64. In terms of the submission from Federated Farmers, I address the more specific provisions in the Coastal Environment chapter relating to farming activities in the sections below (including CE-P6 and CE-R4). However, in terms of the request from Federated Farmers to delete the HNC overlay from the PDP, I recommend that this is rejected. The basis of this request from Federated Farmers appears to be that identifying areas of HNC is inconsistent/not necessary to meet obligations under section 6(a) of the RMA as this does not use such classifications – rather this requires the *"preservation of natural character of the coastal environment, wetlands, lakes, and rivers and their margins and the protection of them from inappropriate subdivision, use and development"*.
65. While I accept that point, I do not support the relief sought for the following reasons:
 - a. Whether an activity is inappropriate in terms of section 6(a) of the RMA relates back to the natural character attributes that are to be preserved or protected.
 - b. The NZCPS sets a standard for inappropriate subdivision, use and development through the clear direction in Policy 13 to avoid adverse effects on ONC area and avoid significant adverse effects in all other areas of the coastal environment.
 - c. Policy 13(1)(c) requires local authorities to assess natural character of the coastal environment by mapping or otherwise identifying *"at least areas of high natural character"* to help protect and preserve natural character.
 - d. The RPS takes the approach of differentiating between ONC, HNC and other natural character in the coastal environment, which the PDP gives effect to. Many other RMA planning documents adopt the same approach, and it is a common and well tested planning response to give effect to the direction in section 6(a) of the RMA and Policy 13 of the NZCPS to protect the natural character of the coastal environment inappropriate subdivision, use and development. It is also generally accepted as best practice as it helps to provide certainty to all parties on the different natural character values in the coastal environment and the threshold of adverse effects that applies when assessing subdivision and land use proposals within the coastal environment.
66. In terms of the request from Twin Coastal Cycle Trail for the Coastal Environment chapter to specifically provide for the maintenance, operation and upgrade of regionally significant infrastructure, I note that the intent of the PDP (and the National Planning Standards) is that the Infrastructure



chapter generally contains the specific provisions relating to infrastructure (including regionally significant infrastructure). This avoids the need to repeat infrastructure provisions across all the various district-wide and area-specific chapters in the PDP. In this respect, I note that there is clear policy direction in the Infrastructure chapter relating to the development, operation, maintenance and upgrading of regionally significant infrastructure and this policy direction will be considered further in Hearing 12.

67. However, infrastructure provisions are included in other PDP chapters where necessary/appropriate. This includes the Coastal Environment chapter which recognises the need to maintain, operate and upgrade "*network utilities*" through the rules (CE-R2 and CE-R3 in particular) as discussed further below. I am also recommending amendments to CE-R1 to provide for upgrades of existing infrastructure as a permitted activity subject to appropriate standards (discussed under Key Issue 10). I consider that this will address the relief sought by the Twin Coast Cycle Trail at least in part.
68. I address the specific concerns from Robert Adams with the controls on buildings and structures in "urban" zones in relation to CE-O3, CE-P5 and CE-R1 under Key Issues 4, 8 and 10 below. I recommend a number of amendments in terms of how the provisions in the Coastal Environment chapter apply to "*urban*" zones with the intent of generally making these provisions less restrictive. I therefore recommend this submission point is accepted in part based on my recommendations to the coastal environment rules below.
69. It is unclear what specific relief is sought from John Andrew Riddell by requesting that the Coastal Environment chapter is retained "*subject to amendments sought*" in his submission. However, I do respond to numerous submission points from John Andrew Riddell on the Coastal Environment chapter throughout this report and therefore recommend that this submission point is accepted in part.
70. The intent of the Coastal Environment chapter (and other PDP chapters) is to implement the objectives and policies through regulatory rules rather than non-regulatory methods, as requested in the submissions of Pacific Eco-Logic and Kapiro Conservation Trust. In my opinion, it is more effective and efficient for district plans to focus on regulatory methods which can better give effect to directive policies (e.g. the NZCPS "*avoidance policies*"⁵) rather than listing non-regulatory methods, which are often poorly implemented and can add unnecessary "*clutter*" in district plans. Non-regulatory methods also often require dedicated resources from the Council, which is outside the scope of this report to address. Accordingly, I do not recommend any amendments in response to these submissions.

⁵ Policy 11, 13 and 15 of the NZCPS.



71. In terms of the submission points from Top Energy, Foodstuffs North Island, Ngā Tai Ora - Public Health Northland, Paihia Properties Holdings Corporate Trustee Limited and UP Management Ltd, I note that the intent of the Coastal Environment chapter (and other overlay chapters in the PDP) is to focus on controlling land use and activities that have the potential to adversely affect the values of the particular overlay. This is primarily achieved through controls on buildings, structures, earthworks and indigenous vegetation clearance along with some specific controls on higher risk activities, such as mineral extraction. There are no additional controls/rules for activities that are unlikely to adversely the characteristics, qualities and values of the coastal environment (e.g. restoration, conservation activity). These overlay controls apply **in addition** to the underlying zone provisions. This means that there is no need for a default activity status (permitted or discretionary) in the Coastal Environment chapter and the zone provisions will apply as applicable. I consider that this is sufficiently explained through the "how the plan works" section of the PDP and it is unnecessary to explain this through every overlay chapter and/or add a default rule for "activities not listed in this chapter" simply to clarify this point. Accordingly, I do not recommend any amendments in response to these submission points from Top Energy, Foodstuffs North Island Limited and Ngā Tai Ora - Public Health Northland.
72. In terms of the submitters requesting amendments to the Coastal Environment chapter to recognise Mataka station, I note that the merits of the Mataka Precinct Station SPZ will be considered by the reporting officer in the rezoning topic (Hearing 19) currently scheduled for August 2025. However, regardless of whether the request for a Mataka Precinct Station SPZ is accepted or rejected, in my opinion it is not necessary or appropriate for the Coastal Environment chapter to specifically recognise the Mataka Station through the provisions in any case. The Coastal Environment chapter is a district-wide chapter that manages activities in the coastal environment more broadly and does not specifically recognise specific zones⁶ or address site-specific issues.
73. Further, I note that the provisions in the Coastal Environment chapter will not affect existing resource consents for dwellings at Mataka Station and the proposed provisions already provide for the continuation of farming activities (which also have existing use rights, subject to meeting the tests under section 10 of the RMA). Accordingly, I recommend that all submissions from the members of the Mataka Residents Association seeking amendments to the Coastal Environment chapter to provide for this potential special purpose zone are rejected.
74. In terms of the requested amendment from Forest and Bird and Kapiro Conservation Trust to refer to "*subdivision, use and development*" to be

⁶ Acknowledging that the CE-R1 does differentiate between different zones for the purposes of managing the adverse effects of buildings and structures in the coastal environment as discussed further below under Key Issue 10.



consistent with the NZCPS, I note that the PDP deliberately and consistently refers to “*land use and subdivision*” throughout the provisions. My understanding is that this relates to land use and subdivision being the types of proposals/resource consent applications that are assessed under the PDP. While “*development*” is not specifically referred to, I consider that “*land use*” is broad enough to capture “*development*”. The definition of “*use*” in the RMA includes a range of development activities. I accept that “*subdivision, use and development*” is more consistent with the language in the NZCPS, and in some instances the RMA. However, I recommend that the relevant coastal environment provisions retain the reference to “*land use and subdivision*” for the reasons above and to ensure internal consistency in wording within the PDP.

75. I do not consider that the Coastal Environment chapter needs to specifically provide for the building of maimai as a permitted activity as sought by Fish and Game. Firstly, I consider that this activity will be primarily managed through the Natural Character chapter in the PDP which includes specific controls on buildings and structures near waterbodies. Secondly, I am recommending amendments to CE-R1 below which relates to buildings and structures in the coastal environment which would enable the building of maimai (which Fish and Game state are no more than 10m²) as a permitted activity in the coastal environment.

Recommendations

76. For the reasons above, I recommend that general submissions on the Coastal Environment chapter are accepted, accepted in part and rejected as set out in **Appendix 2**. I do not recommend any specific amendments to the Coastal Environment chapter as a result of these general submissions with the exception of my recommendation to amend CE-R6 to apply to “*afforestation*” of “*commercial forestry*” with new definitions included in the PDP to align with the relevant definitions in the NES-CF (discussed in more detail under Key Issue 17).

Section 32AA evaluation

77. I do not recommend any amendments to the provisions as a result of these general submissions and more specific recommendations on plantation forestry are evaluated below under Key Issue 17. On this basis, no further evaluation is required in my opinion.

5.2.2 Key Issue 2: Characteristics and qualities of the coastal environment

Overview

Provision(s)	Officer Recommendation(s)
Numerous	Amend to refer to “ <i>characteristics, qualities and values</i> ” of the coastal environment

Analysis of Submissions on Key Issue 2: Characteristics and qualities of the coastal environment



Matters raised in submissions

78. A large group of submitters request amendments to CE-P2 and CE-P3 to recognise that some overlays in APP-1 reference "*values*" and therefore both policies should be amended to refer to "*characteristics, values and qualities...*". Those submitters include Wendover Two Limited (S222.060, S222.061), Bentzen Farm Limited (S167.068, S167.069) and Setar Thirty Six Limited (S168.068, S168.069).
79. Forest and Bird (S511.098, S511.099) and Kapiro Conservation Trust (S422.117, S422.118) raise questions and concerns with CE-P2, CE-P3 and APP1 (Mapping methods and criteria) as the criteria in APP1 differ in terms of how they refer to values (ONL and ONF) and characteristics (coastal environment). The submitters request amendments to clarify the relationship between all the elements of APP-1 and CE-P2 and CE-P3 to make sure the applicable values, characteristics and qualities are protected and preserved as required.
80. In contrast, DOC (S364.063) requests that the words "*characteristics and qualities*" are deleted from CE-P2 and CE-P3 to recognise the coastal environment has intrinsic value and is not just valuable for its characteristics and qualities.

Analysis

81. Submitters have questioned the reference to the "*characteristics and qualities*" of the coastal environment, which is a phrase used in numerous provisions in the Coastal Environment chapter and also in the Natural Character and Natural Features and Landscapes chapters in the PDP. The main issues to consider in my opinion are:
 - a. Whether the reference to "characteristics and qualities" appropriately captures the full range of values, qualities and criteria in APP1, which have been used to identify the extent of the coastal environment and ONL and ONC (as requested by Forest and Bird and Kapiro Conservation Trust).
 - b. Whether the terms are necessary (as requested by DOC).
 - c. Alignment with higher order provisions in the NZCPS and RPS.
82. Firstly, I note that there are a range of criteria and terms in APP1 that have been used, including:
 - a. Criteria to identify ONL (natural science factors, aesthetic values, experimental values);



- b. Criteria to identify ONF⁷;
 - c. The natural character assessment criteria⁸; and
 - d. The extent of the coastal environment (area/characteristics)⁹.
83. These criteria are all derived from the NZCPS and the mapping of these areas in the RPS. Arguably, the references to “*characteristics and qualities*” in CE-P2 and CE-P3 do not fully cover the field of criteria used.
84. In considering the most appropriate wording for the relevant provisions, it is useful, in my opinion, to consider the wording of the higher order provisions that the Coastal Environment chapter gives effect to, as well as comparable planning documents. These are summarised below.

Provision	Wording (bold added for emphasis)
NZCPS, Objective 2	<i>“...recognising the characteristics and qualities that contribute to natural character, natural features and landscape values and their location and distribution;</i>
NZCPS, Policy 13	<i>To preserve the natural character of the coastal environment and to protect it from inappropriate subdivision, use, and development...</i>
RPS, Objective 3.14(a)	<i>“...The qualities and characteristics that make up the natural character of the coastal environment...”</i>
RPS, Policy 4.6.1(1)	<i>“...the characteristics and qualities which make up the outstanding values of areas of outstanding natural character, outstanding natural features and outstanding natural landscapes.”</i>
Whangarei District Plan, CE-P1	<i>“...Avoiding adverse effects on the qualities and characteristics of areas identified as Outstanding Natural Character Areas;</i> <i>2. Avoiding significant adverse effects and avoid, remedy, or mitigate other adverse effects on the qualities and characteristics of natural</i>

⁷ Criteria are summarised in Appendix 1 and listed in full in the assessment of ONF for the Far North District which is referenced in Appendix 1: [1 \(isoplan.co.nz\)](http://isoplan.co.nz)

⁸ These criteria mirror Policy 13(2) in the NZCPS with some additional guidance on what is ONC, HNC and where natural character is less than high.

⁹ The criteria are based on Policy 1 of the NZCPS with some additional guidance for each characteristic based on the RPS mapping methodology.



	<i>character, natural features and natural landscapes outside Outstanding Natural Character Areas;</i>
Proposed Regional Plan for Northland, Policy D.2.17.	"...on the characteristics, qualities and values that ...make the Natural Character or landscape outstanding"

85. There is clearly some variation in the wording used across the relevant planning document but a reasonable degree of consistency in terms of the reference to "*characteristics and qualities*".
86. I have discussed this with the reporting officer for the Natural Character and Natural Features and Landscapes chapter topic and we consider the most effective approach is to consistently refer to "*characterises, qualities and values*" in the relevant provisions, consistent with the approach adopted in the Proposed Regional Plan for Northland. In my opinion, this wording is preferable as it aligns with the references to "*contributing values*" in SCHED7 (HNC) and SCHED 8(ONC) in addition to the characteristics and qualities of the coastal environment referenced in APP1. This wording will therefore make it clear the full range of characteristics, qualities, values and criteria in APP1, SCHED7 and SCHED8 need to be considered when assessing effects on the characteristics, qualities and values of the coastal environment.
87. In terms of CE-P2, I also recommend that this is amended to focus on avoiding adverse effects on the characteristics, qualities and values that make an area have ONC (or make it an ONL and ONF¹⁰), consistent with the direction in the RPS. In my opinion, it is the specific characteristics, qualities and values that make an area have ONC that should be the focus and subject to the strong "*avoid adverse effects*" direction in CE-P3, not any other characteristics, qualities and values that may also be present.

Recommendation

88. For the reasons above, I recommend that submissions relating to the references to "characteristics and qualities" of the coastal environment are accepted and rejected as set out in **Appendix 2**.
89. I recommend that the relevant provisions in the Coastal Environment chapter are amended to refer to "*characteristics, qualities and values*" of the coastal environment.
90. I recommend that CE-P2 is amended as follows:

¹⁰ Note I am recommending amendments to the scope of CE-P2 in relation to ONL and ONF under in Key Issue 3 below.



“Avoid adverse effects of land use and subdivision on the characteristics, ~~and~~ qualities and values that make an area an outstanding natural character area in ~~of~~ the coastal environment. ...”

Section 32AA evaluation

91. My recommendations to refer to “*characteristics, qualities and values*” of the coastal environment throughout the relevant CE provisions are primarily to clarify intent and improve alignment with the criteria, values, and characteristics in APP1, SCHED7 and SCHED8. Equally, my recommended amendments to CE-P2 to refer to avoiding adverse effects on the characteristics, qualities and values that qualify an area as having outstanding natural character are consistent with the original policy intent. I also consider that the amendments provide more certainty and clarity on the adverse effects that need to be avoided, consistent with the direction in the NZCPS and RPS. Accordingly, I consider that my recommended amendments will achieve the relevant objectives in a more effective and efficient manner than the notified wording in terms of section 32AA of the RMA.

5.2.3 Key Issue 3: Overview

Overview

Provision(s)	Officer Recommendation(s)
Coastal environment overview	Amendments to clarify relationship with Natural Features and Landscapes and Natural Character chapters

Analysis of Submissions on Key Issue 3: Overview

Matters raised in submissions

92. Forest and Bird (S511.088) and Kapiro Conservation Trust (S442.107) support the Coastal Environment overview in part but raise concerns that the scope of the chapter is unclear in terms of whether it covers ONL and ONF. This is because the coastal environment policies refer to ONL and ONF (CE-P2 and CE-P3) but there are no corresponding rules. The submitters request amendments to clarify that the Coastal Environment chapter covers the characteristics and values of the Coastal Environment and that the rules for ONL and ONF are located in the Natural Features and Landscapes chapter.
93. FNDC (S368.035) request minor amendments to the Coastal Environment overview to correct grammar by referring to “District’s” coastline and “community’s” health, safety and well-being.

Analysis

94. In terms of the submissions from Forest and Bird and from Kapiro Conservation Trust, I agree that the relationship between the Coastal



Environment chapter and the Natural Features and Landscape chapters is somewhat unclear and duplicative in terms of how these manage adverse effects on ONL and ONF within the coastal environment. The key overlay/duplication relates to CE-P3 and NFL-P2 as follows:

CE-P2: *Avoid adverse effects of land use and subdivision on the characteristics and qualities of the coastal environment identified as:*

- a. *Outstanding natural character;*
- b. *ONL;*
- c. *ONF.*

NFL-P2: *Avoid adverse effects of land use and subdivision on the characteristics and qualities of ONL and ONF within the coastal environment.*

95. It is clear that the notified wording of CE-P2 and NFL-P2 duplicates the direction in Policy 15 of the NZCPS and Policy 4.4.1 of the RPS to avoid adverse effects on ONF and ONL within the coastal environment. I have discussed this overlap with the reporting officer for the Natural Features and Landscape chapter and we consider that it is most efficient and clear for plan users for all the provisions relating to ONL and ONF to be located in the Natural Features and Landscape chapter. I therefore recommend that this overlap is addressed in the Coastal Environment chapter through:
 - a. Amending CE-P2 to remove references to ONL and ONF.
 - b. An amendment to the overview section to include the following sentence at the end of the third paragraph "*The Natural Features and Landscape chapter includes objectives, policies and rules relating to ONL and ONF in the coastal environment and this chapter manages adverse effects on other natural features and landscapes in the coastal environment*".
96. I recommend that the submission from FNDC on the overview of the Coastal Environment chapter is accepted and the first sentence of the second paragraph is amended to refer to "*District's*" and the last sentence of the second paragraph is amended to refer to "*while ensuring the community's health, safety and wellbeing of communities*".

Recommendation

97. For the reasons above, I recommend that submissions on the Coastal Environment overview chapter are accepted, accepted in part and rejected as set out in **Appendix 2**. I recommend that the overview section is amended to clarify the relationship of the Coastal Environment chapter with the Natural Features and Landscape chapter in relation to ONF and ONL and other natural features and landscapes in the coastal environment.

Section 32AA evaluation



98. The amendments I recommend above are minor amendments to clarify the relationships between PDP chapters, to remove duplication between CE-P2 and NFL-P2 and to address grammatical errors with no change in policy intent. Accordingly, no further evaluation is required under section 32AA of the RMA in my opinion.

5.2.4 Key Issue 4: Coastal Environment objectives

Overview

Provision(s)	Officer Recommendation(s)
CE-O1	Retain with minor amendments
CE-O2	Retain with minor amendments
CE-O3	Amend to achieve more appropriate outcomes in urban areas

Analysis of Submissions on Key Issue 4: Coastal Environment objectives

Matters raised in submissions

General submissions on objectives

99. Russell Protection Society (S179.068) supports the coastal environment objectives and requests that these are retained as notified. Russell Protection Society considers that the coastal environment and natural character overlays are important in the PDP given that the coastal zones in the ODP have been removed. The submitter sees particular value in protecting the natural character values of the Russell Peninsular and to control subdivision and ribbon development within the coastal environment.
100. A number of submitters support the coastal environment objectives in part but request additional objectives. This includes:
- a. Kapiro Conservation Trust (S442.156) and Pacific Eco-Logic (S451.012) who consider the coastal environment objectives are incomplete in that they do not address the protection, active management, and restoration of indigenous biodiversity as part of protecting the natural character of the coastal environment. The submitters request additional objectives to provide for this.
 - b. Haititaimarangai Marae Kaitiaki Trust (S394.043) requests an additional objective as follows: "*Land use and subdivision in the coastal environment recognises and provides for tangata whenua culture, traditions and their ancestral relationships*".
 - c. John Andrew Riddell (S431.027) requests a new objective as follows: "*To minimise adverse effects from activities in the coastal environment that cross the coastal marine area boundary*".



d. Transpower (S454.096) requests a new objective as follows:
"Infrastructure that has a functional or operational need to locate in the Coastal Environment is provided for".

101. The Paihia Property Owners Group (S565.002) support the objectives in part, but request amendments to promote more enabling and appropriate provisions as they relate to urban areas such as Paihia. The Paihia Property Owners Group raises concerns that there is a lack of evidence to support the *"suggested"* rules for development in urban zones in Appendix 1 of the section 32 evaluation report. More specifically, the Paihia Property Owners Group is concerned with the controls in CE-R1 and considers that there is a lack of evidence/localised assessments to determine that these rules are appropriate in a highly modified urban area such as Pahia.

Submissions on CE-O1, CE-O2 and CE-O3

102. Sarah Ballantyne and Dean Agnew (S386.009) and Willowridge Developments Limited (S250.013) support CE-O1 and request that it be retained as notified as it aligns with section 6(a) of the RMA and the RPS.

103. A group of submitters, including Setar Thirty-Six Limited (168.066), Bentzen Farm Limited (167.066), Matauri Trustee Limited (243.084), Shooting Box Limited (187.058), Wendover Two Limited (222.058) and P S Yates Family Trust (S333.059), raise the same concerns that CE-O1 lacks specificity on the outcome sought and, together with CE-O2, fails to take into account the full scope of resources in the coastal environment and the range of existing and potential new sustainable land uses in the coastal environment (including opportunities for restoration). The submitters request that the two objectives are replaced with a specific objective that is intended to provide a clear and specific outcome for resources in the coastal environment that gives effects to the NZCPS (detailed wording for this replacement objective is set out in these submissions).

104. Waiau Bay Farm Limited (S463.051) oppose CE-O1 and request that it be deleted. Waiau Bay Farm Limited raises a number of concerns with CE-O1 including:

- a. It is almost identical to NATC-O1.
- b. It restates section 6(a) with the addition of a vague reference to *"long-term"* and a superfluous reference to *"current and future generations"*.
- c. It envisages outright protection and preservation without recognition that some activities may not be inappropriate.

105. Federated Farmers (S421.181) raise concerns that CE-O1 is inconsistent with section 6(a) of the RMA and needs to be amended to protect natural character from *"inappropriate subdivision, use and development"* and not to protect natural character from all activities as currently worded.



106. John Andrew Riddell (431.068) requests that all objectives and policies are amended to refer to "*intrinsic and natural values*" where there is a reference to "*protection for current and future generations*". I note that this submission is only applicable to CE-O1 where the notified objective includes a reference to "*protection for current and future generations*".
107. Waiaua Bay Farm Limited (S463.052) are also concerned that the wording of clause (b) in CE-O2 could create a barrier to the approval of an activity in any undeveloped part of the coastal environment. To address this concern, Waiaua Bay Farm Limited request that the word "*consistent*" is replaced with "*compatible*". NZTA (S356.094) also consider that clause (b) in CE-O2 is unclear and request that this clause be deleted. Conversely, HortNZ (S159.071) support CE-O2 as the submitter considers that direction to ensure land use is consistent with surrounding land use is appropriate.
108. Matauri X Incorporation (S396.020) supports clause (e) in CE-O2 but raises concerns that there are no specific provisions to implement this part of the objective. Matauri X Incorporation consider that additional provisions are necessary to recognise the expectation that tangata whenua will develop their landholdings.

Analysis

General submissions on coastal environment objectives

109. In terms of the requests for new objectives:
 - a. I note that CE-O1 and CE-O2 already address the management, restoration and enhancement of natural character of the coastal environment and there are a range of provisions relating to restoration of indigenous biodiversity in the Ecosystems and Indigenous Biodiversity chapter. Therefore, while I agree with the outcomes sought in the additional objectives requested by Kapiro Conservation Trust and Pacific Eco-Logic, I consider that these are unnecessary, and it is more desirable in my opinion to have a succinct set of objectives that are clear on the outcomes sought that do not duplicate objectives in the Ecosystems and Indigenous Biodiversity chapter.
 - b. Similarly, I do not consider that an additional objective relating to effects that cross the CMA boundary is necessary as requested by John Andrew Riddell. This is more a specific matter which I consider is more appropriately addressed through the coastal environment policies discussed below.
 - c. In terms of the additional objective sought by Transpower, Transpower has advised Council that they will not be pursuing a number of submission points. This includes the submission point referenced above requesting a new objective in the Coastal Environment chapter relating to the operational need and functional need for infrastructure. This is because the relief that Transpower is



requesting is intended to be primarily addressed by provisions specific to the National Grid in the Infrastructure chapter. Accordingly, I recommend that this submission point from Transpower is rejected.

- d. In terms of the submission from Haititaimarangai Marae Kaitiaki Trust, I agree with the general intent of the relief sought to better give effect to section 6(e) of the RMA. However, rather than a new objective, I consider that this can be more efficiently achieved through an amendment to CE-O2(e), which (as notified) relates to the needs of tangata whenua but is overly focused on ancestral use of whenua Māori in my opinion. I therefore recommend that this submission point is accepted in part and CE-O2(e) is amended as follows: *"recognises and provides for the relationship of tangata whenua needs for with their ancestral lands in the coastal environment use of whenua Māori."*
- e. Matauri X Incorporation raises a wider issue in that CE-O2(e) is not supported by specific provisions to implement the desired outcome and does not recognise the expectation from Māori that they will develop their landholdings. In response, I note that this objective is supported by CE-P7, which is specific to use of land in the Māori Purpose Zone and Treaty Settlement Overlay and I recommend amendments to CE-P7 below under Key Issue 7. CE-P7 is also to be read together with the policy direction in those chapters, which broadly seek to enable Māori to use and develop their land. I therefore recommend that this submission point is accepted in part to the extent that my recommended amendments to CE-P7 below addresses the relief.

Submissions on CE-O1, CE-O2 and CE-O3

110. A group of submitters, including Setar Thirty-Six Limited and Bentzen Farm Limited, request that CE-O1 and CE-O2 are replaced with a single objective to address perceived concerns with the two objectives and to be clearer in the outcomes sought. While I agree with the intent of these submissions, in my opinion the wording for the replacement objective sought by the group of submitters is overly detailed and broad in coverage, listing 11 different outcomes to be achieved through a single objective. I also consider that some of the wording is unclear (e.g. protecting indigenous biodiversity "in relation to the values present") and that some matters in the requested objective are best addressed in other PDP chapters (e.g. indigenous biodiversity, public access). I also prefer the more succinct drafting approach for CE-O1 and CE-O2 as notified in the PDP and therefore recommend these submissions are rejected. However, I do recommend some amendments to CE-O1 and CE-O2, which may address the relief sought by this group of submitters to some extent.
111. In terms of the other submissions on CE-O1, I agree with Federated Farmers and Waiaua Bay Farm Limited that the wording can be improved to be



clearer on the outcome sought. I also consider that the wording could be more aligned with section 6(a) to recognise that not all activities are inappropriate in the coastal environment when preserving and protecting natural character. The reference to "identify" in the objective also seems redundant in my view as this is more of a means of achieving the objective (i.e. by identifying ONC, HNC and the coastal environment overlays). I therefore recommend that these submissions are accepted in part and CE-O1 is amended as follows:

"The natural character of the coastal environment is identified and managed to ensure its long-term preservation and protection from inappropriate land use and subdivision for current and future generations".

112. For the reasons outlined above, I do not consider that it is necessary or appropriate to reference "*intrinsic and natural values*" within CE-O1 as requested by John Andrew Riddell as that would detract from the primary focus of the objective to give effect to section 6(a) of the RMA and Policy 13 of the NZCPS.
113. I agree with Waiaua Bay Farm Limited and NZTA that there could be interpretation issues with CE-O2(b) and this could potentially be overly restrictive and interpreted as not allowing for any change in land use within the coastal environment, which is not the intent. I consider that the request from Waiaua Bay Farm Limited to replace "*consistent*" with "*compatible*" is an appropriate solution to address this potential risk and recommend that CE-O2(b) is amended accordingly. I have also identified that clause (a) of CE-O2 essentially duplicates CE-O1, which could cause potential interpretation issues. I therefore recommend that clause (a) is deleted from CE-O2.
114. While there are no specific submission points on CE-O3, there are numerous submissions points raising concerns with how the provisions in the Coastal Environment chapter will unnecessarily restrict development in 'urban' zones and requesting a range of amendments to address this concern. For example, the submission point from Paihia Property Owners Group seeking more enabling and appropriate provisions as they relate to urban areas such as Paihia is particularly relevant and provides scope to recommend changes to CE-O3 in my opinion.
115. As discussed further below, I consider that the application of the provisions in the Coastal Environment chapter to "urban" zones (particularly CE-R1) needs some refinement and this also extends to the outcome sought for urban zones in the coastal environment in CE-O3. I also consider that CE-O3 can be better aligned with the NZCPS which anticipates development and change in existing urban/built up areas and the need to allow for development in the coastal environment to provide for the social, economic



and cultural well-being of people and communities¹¹ and similar direction in RPS¹². Accordingly, I recommend that CE-O3 is amended as follows:

"Land use and subdivision in the coastal environment within urban zones areas is consolidated and provides for social, economic and cultural well-being of people and communities without compromising other coastal environment values. is of a scale that is consistent with existing built development."

Recommendation

116. For the reasons above, I recommend that submissions on the coastal environment objectives are accepted, accepted in part and rejected as set out in **Appendix 2**.

117. I recommend that the CE-O1, CE-O2 and CE-O3 are amended as follows:

CE-O1: *The natural character of the coastal environment is identified and managed to ensure its long-term preservation and protection from inappropriate land use and subdivision for current and future generations".*

CE-O2: *Land use and subdivision in the coastal environment:*

- a. preserves the characteristics and qualities of the natural character of the coastal environment;*
- b. is consistent compatible with the surrounding land use;*
- c. does not result in urban sprawl occurring outside of existing urban areas zones;*
- d. promotes restoration and enhancement of the natural character of the coastal environment; and*
- e. recognises and provides for the relationship of tangata whenua needs for with their ancestral lands in the coastal environment use of whenua Māori."*

CE-O3: *Land use and subdivision in the coastal environment within urban zones areas is consolidated and provides for the social, economic and cultural well-being of people and communities without compromising other coastal environment values. is of a scale that is consistent with existing built development."*

Section 32AA evaluation

118. The amendments to CE-O1 result in an objective that is more aligned with section 6(a) of the RMA to recognise that not all activities are inappropriate in the coastal environment when preserving and protecting natural character. I also consider that my recommended amendments to CE-O1 will

¹¹ In particular, Objective 3, Policy 6(1)(b), 6(1)(f), Policy 7(1)(f) in the NZCPS.

¹² In particular, Policy 4.6.1(1)(b)(iii) in the RPS.



make the objective more efficient and effective by removing redundant terms and refocusing the objective on the clear outcome sought.

119. My recommended amendments to CE-O2 are a combination of removing redundant wording (e.g. clause (a) that largely repeats CE-O1) and amending particular terms and phrases to better reflect the policy intent, for the reasons set out in the analysis above. I also consider that the amendment to clause (e) is more aligned with section 6(e) of the RMA with respect to the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.
120. My recommended amendments to CE-O3 are intended ensure that the wording is better aligned with both the NZCPS and RPS (as set out in the analysis above) and refocus the outcome sought for existing urban areas to provide for consolidated, appropriate development in the coastal environment consistent with my recommended amendments to CE-R1 in respect of urban zones (covered in more detail in Key Issue 10 below).
121. In my view, my recommended amendments to all three objectives will be more effective and efficient to achieve the purpose of the RMA, as these will provide more efficient drafting that is clearer on the outcomes sought for the coastal environment, and more aligned with the relevant matters of national importance in section 6 the RMA and higher order direction in the NZCPS and RPS.

5.2.5 Key Issue 5: Policies – general comments

Overview

Provision(s)	Officer Recommendation(s)
CE-P1 to CE-P10	Specific recommendations on the individual policies are provided in Key Issue 5, Key Issue 6 and Key Issue 7 below

Analysis of Submissions on Key Issue 5: Policies – general comments

Matters raised in submissions

122. Russell Protection Society (S179.069) supports the coastal environment policies and requests that these are retained as notified. Russell Protection Society considers that the coastal environment and natural character overlays are very important in the PDP given that the coastal zones in the ODP have been removed, in particular to protect the natural character of the Russell Peninsular and to control subdivision and development in the coastal environment.
123. John Andrew Riddell (S431.034) requests a new policy consistent with Policy 5.1.2 of the RPS. John Andrew Riddell (431.035, 431.036, 431.038) also requests additional policies consistent with Policy 10.4.1, Policy 10.4.7, Policy 10.4.12 and Policy 10.6.4.3 of the ODP.



124. Kapiro Conservation Trust (S442.157) and Pacific Eco-Logic (S451.013) support the coastal environment policies in part but consider that the policies need to be expanded to cover all important components of natural character and to better give effect to Policies 11, 13 and 14 of the NZCPS. More specifically, the submitters request additional policies relating to protecting indigenous biodiversity, including coastal forests, coastal shrublands, coastal cliffs communities, coastal and freshwater wetlands and dunelands, coastal wetlands (including saltmarsh, salt meadow/herb field and freshwater wetlands) and providing for coastal ecosystems (such as saltmarsh, salt meadow and floodplain wetlands) to migrate inland as sea level rises.
125. NRC (S359.001) supports the coastal environment policies in part, but notes there are often difficulties in ensuring marine activities have the required supporting land-based facilities. To address this, NRC request policies in the PDP coastal environment and infrastructure chapters that enable subdivision, land use and development that is compatible with and, where practicable, complements use and activities in the CMA.
126. Transpower (S454.099) requests a new policy as follows:
- “Enable infrastructure that has a functional and operational need to locate in the Coastal Environment.”*
127. Transpower considers that this policy is needed to clearly provide for critical infrastructure, such as the National Grid, and give effect to the NPS-ET.
128. The Paihia Property Owners Group (565.002) support the coastal environment policies in part, but raise similar concerns as those outlined above that the provisions are overly restrictive in urban zones. To address this concern, the Paihia Property Owners Group requests amendments to the coastal environment policies to promote more enabling and appropriate provisions in urban areas such as Paihia.
129. Haititaimarangai Marae Kaitiaki Trust (394.045) oppose the policies in the Coastal Environment chapter on the basis that adverse effects on cultural values must be managed appropriately, not just considered. To provide for this relief, Haititaimarangai Marae Kaitiaki Trust request a new policy in the coastal environment chapter as follows:
- “Avoid significant adverse effects and remedy or mitigate other adverse effects on cultural values.”*

Analysis

130. There are requests for new policies from John Andrew Riddell to better align with the RPS and ODP and also from Kapiro Conservation Trust and Pacific Eco-Logic to better give effect to Policies 11, 13 and 15 of the NZCPS. A broad level, I consider that the policies in the Coastal Environment chapter appropriately give effect to the relevant NZCPS policies (including Policy 13 and 15) and the RPS (including Policy 4.6.1) subject to the recommendations



in this report. I also note that Policy 11 of the NZCPS is to be given effect to through Ecosystems and Indigenous Biodiversity chapter which I consider further in the section 42A report for that topic. I therefore do not consider that the additional policies sought by these submitters are necessary and there are benefits in keeping the provisions in this chapter focused and succinct in my opinion.

131. I acknowledge the issue raised by NRC about the needed for land-based facilities to support activities in the CMA. However, this does not warrant an additional policy in my view. It is also not appropriate in my view to enable any subdivision, land use or development that is compatible with or complements the use of, or activities in, the CMA as implied in the NRC submission. Therefore, I consider the relief sought by NRC can be more effectively and efficiently be achieved through including this as a matter to consider where relevant under CE-P10. My recommended wording for this new clause in CE-P10 is "*the extent to which the land use and subdivision complements activities in the coastal marine area*".
132. In terms of the new policy requested by Transpower, as noted above, Transpower has subsequently contacted Council to advise that it is no longer pursuing numerous submission points (including this one) as their primary relief is intended to be addressed through specific National Grid policies in the Infrastructure chapter. Accordingly, I recommend that this submission point is rejected.
133. I acknowledge the concerns from the Paihia Property Owners Group and other submitters about the application of the coastal environment provisions in urban areas and recommend amendments to CE-O3, CE-P5 and CE-R1 that are broadly in line with the relief sought. Accordingly, I recommend that this submission is accepted in part.
134. I acknowledge the concerns from Haititaimarangai Marae Kaitiaki Trust and relief sought for a specific policy relating to avoiding adverse effects on cultural values. However, it is important to look at the relevant provisions in PDP as a whole when considering effects on cultural values. The PDP includes a specific Tangata Whenua chapter in Part 1, which sets out a range of objectives and policies relating to tangata whenua interests and values. Of particular relevance is TW-P6 which sets out a range of matters to consider when assessing the effects of land use and subdivision on the relationship of tangata whenua with their ancestral lands, water, sites, wāhi tapu and other taonga.
135. I understand that the intent of the PDP is to consolidate the direction relating tangata whenua values in the Tangata Whenua chapter¹³ to help avoid unnecessary duplication of these provisions across every chapter of the PDP

¹³ Also of particular relevance is the sites and areas of significance to Māori chapter which sets out specific direction to protect these sites and areas, and the Māori Purpose Zone and Treaty Settlement Overlay chapters which set out specific provisions relating to Māori land and Treaty Settlement Land respectively.



and ensure a consistent approach is taken to recognise and provide for tangata whenua interests and values. For this reason, TW-P6 is referenced in district-wide and areas specific chapters. This includes CE-P10(i) in the Coastal Environment, which requires consideration of the following when assessing resource consent applications “*any historical, spiritual or cultural association held by tangata whenua, with regard to the matters set out in Policy TW-P6* “. For these reasons, I consider that the relief sought by Haititaimarangai Marae Kaitiaki Trust is addressed to a large extent by this policy, and I do not recommend an additional policy as sought by this submission.

Recommendation

136. For the reasons above, I recommend that general submissions on the coastal environment policies are accepted, accepted in part and rejected as set out in **Appendix 2**.
137. I recommend that CE-P10 is amended through the additional clause: “*the extent to which the land use and subdivision complements activities in the coastal marine area*”.

Section 32AA evaluation

138. I consider that the additional clause in CE-P10 is an effective way to recognise the need for land-based facilities to support activities in the CMA and to provide a link between activities being managed by district and regional councils respectively. It is also efficient from a drafting perspective as it utilises an existing policy as opposed to creating a new policy, which is not warranted for the scale of the issue, in my view. I therefore consider my recommended amendments are an appropriate way to achieve the relevant objectives in accordance with section 32AA of the RMA.

5.2.6 Key Issue 6: CE-P1

Overview

Provision(s)	Officer Recommendation(s)
CE-P1	Retain as notified

Analysis of Submissions on Key Issue 6: CE-P1

Matters raised in submissions

139. NZTA (S356.096) supports CE-P1 and requests that it be retained as notified. Sarah Ballantyne and Dean Agnew (386.010) and Willowridge Developments Limited (250.014) support CE-P1 and request that it is retained as notified as the submitters consider that the policy aligns with Policy 4.5.1 and Method 4.5.4 in the RPS.
140. Federated Farmers (421.182) opposes CE-P1 in relation to the mapping of HNC and requests that the policy be amended to remove references to HNC.



Analysis

141. CE-P1 provides direction to identify the extent of the coastal environment and areas of ONC and HNC using the assessment criteria in APP1 – Mapping methods and criteria. The submissions on CE-P1 are generally in support and the only submission point on CE-P1 that requires further analysis is from Federated Farmers. As discussed under Key Issue 1, I consider that it is appropriate for the PDP to identify HNC areas in the coastal environment to meet obligations in section 6(a) of the RMA and give effect to the clear direction in the NZCPS and RPS. Accordingly, I recommend that this submission point from Federated Farmers is rejected.

Recommendation

142. I recommend that the submission point from Federated Farmers is rejected and the other three submission points on CE-P1 are accepted and the policy is retained as notified.

Section 32AA evaluation

143. I do not recommend any amendments to CE-P1 and therefore no further evaluation is required under section 32AA of the RMA.

5.2.7 Key Issue 7: CE-P2 and CE-P3

Overview

Provision(s)	Officer Recommendation(s)
CE-P2	Retain with minor amendments
CE-P3	Retain with minor amendments

Analysis of Submissions on Key Issue 7: CE-P2 and CE-P3

Matters raised in submissions

144. NZTA (S356.096) supports Policy CE-P2 and requests that it be retained as notified. Federated Farmers (S421.183) support CE-P2 in part but request amendments to be consistent with sections 6(a) and 6(b) of the RMA to avoid adverse effects from "*inappropriate*" activities, not all activities.
145. NZTA (S356.097) considers that the wording of CE-P3 is unclear and it would be more consistent with the NZCPS to simply refer to "*natural character in all other areas of the coastal environment*" rather than referring to the characteristics and qualities of the coastal environment "*not identified as*" ONC, ONL and ONF.
146. Transpower (S454.097, S454.098) requests an amendment to CE-P2 and CE-P3 so that these policies are "*subject to I-PX*", which is intended to refer to a new policy specific to the National Grid that Transpower are seeking to insert into the Infrastructure chapter. Transpower considers that this relief is required to ensure the PDP gives effect to the NPS-ET.



147. DOC (S364.064) requests that Policy CE-P3 is amended to be consistent with Policies 13 and 15 of the NZCPS by referring to avoiding adverse effects "*on the natural character, natural features, and natural landscapes (including seascapes) characteristics and qualities of the coastal environment*". DOC makes the same submission point on a number of provisions in the Coastal Environment chapter which are addressed here for consistency.
148. Waiaua Bay Farm Limited (463.053) oppose CE-P3 on the basis it is inappropriate to require all significant adverse effects to be avoided in the coastal environment outside ONC areas. Outside ONC areas, Waiaua Bay Farm Limited considers that proposals should be able to be assessed on their merits rather than requiring outright avoidance. To provide for this relief, Waiaua Bay Farm Limited request that the start of CE-P3 be amended to state "*Manage any adverse effects...*" rather than "*avoid*".

Analysis

149. CE-P2 and CE-P3 direct that certain adverse effects on areas in the coastal environment that are identified as ONC, ONL and ONF are avoided. These are key policies in the Coastal Environment chapter to give effect to the clear direction in the NZCPS (Policies 13 and 15) and the RPS (Policy 4.6.1). As notified, CE-P2 requires adverse effects to be avoided on ONC, ONL and ONF areas in the coastal environment. CE-P3 applies to the coastal environment outside these overlays and requires significant adverse effects to be avoided and all other adverse effects to be avoided, remedied or mitigated. The wording in these two policies largely mirrors the higher order policies referred to above.
150. However, as discussed under Key Issue 3, CE-P2 directly duplicates the policy direction in NFL-P2 to avoid adverse effects on ONL and ONF in the coastal environment. I have discussed this overlap with the reporting officer for the Natural Features and Landscape chapter and we consider that the most efficient and clear option for plan users is for all provisions relating to ONL and ONF to be located in the Natural Features and Landscape chapter. We also recommend amendments to these policies to make it clear that the direction to avoid adverse effects is focused on the characteristics, qualities and values that qualify an area as having outstanding natural character, not any other characteristics, qualities and values that may also be present. I therefore recommend that CE-P2 is amended as follows:

"Avoid adverse effects of land use and subdivision on the characteristics, ~~and~~ qualities and values that make an area an outstanding natural character area in ~~of~~ the coastal environment identified as outstanding natural character; ~~ONL, ONF.~~"

151. The recommended amendments to CE-P2 also have implications for the wording of CE-P3. Although, I recommend that the policy direction relating to ONL and ONF is moved to the Natural Features and Landscapes chapter, it is important that CE-P3 retains the focus on managing adverse effects on natural character and natural landscapes and features not identified as



outstanding to give effect to Policies 13(1)(b) and 15(b) of the NZCPS and Policy 4.6.1(1)(b) of the RPS. I agree with DOC and NZTA that the drafting of CE-P3 can be improved to clarify this direction, confirm where the policy applies and improve alignment with the NZCPS. I therefore recommend that CE-P3 is amended as follows:

"Avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of land use and subdivision on the characteristics, ~~and~~ qualities and values of natural character areas and natural features and landscapes in of the coastal environment not identified as an: outstanding natural character area; ONL; or ONF."

152. In terms of the submission from Federated Farmers, I do not recommend any amendment to refer to avoiding adverse effects from "inappropriate" activities. In my opinion, the NZCPS has already identified inappropriate activities in Policy 13(1)(a) and (b) being those activities that have adverse effects on ONC and significant adverse effects on natural character in all other areas of the coastal environment. Adding an additional qualifier to refer to avoiding adverse effects from "*inappropriate land use and subdivision*" in CE-P2 and CE-P3 is inconsistent with the clear direction in the NZCPS and RPS and would weaken the interpretation of these key policies in my opinion. I therefore recommend that this submission point is rejected.
153. I understand the intent of the relief sought by Transpower to ensure that the Infrastructure chapter provides a "*one-stop-stop*" policy framework for the National Grid, including policy direction on how to manage the effects of this infrastructure in the coastal environment¹⁴. The merits of this National Grid policy requested by Transpower, including the extent to which it prevails over other PDP policies, will be considered in Hearing 13 (Energy, Infrastructure and Transport).
154. Regardless of the recommendations on this National Grid policy requested by Transpower, I consider that it is more appropriate to address the relationship between the Coastal Environment policies (and other overlay policies) and the Infrastructure chapter within the Infrastructure chapter rather than adding the words "*Subject to I-Px*" in CE-P2 and CE-P3 and numerous other provisions in the PDP. This is a more efficient and effective drafting approach in my opinion, and I am aware of National Grid specific policies in other RMA plans that adopt a similar approach. Accordingly, I do not recommend any amendments in response to the submissions from Transpower, noting that the more substantive relief sought will be considered in Hearing 13.

¹⁴ The key submission points from Transpower are S454.043 and S454.044 which request a new policy with direction on how to manage adverse effects on ONC, HNC, ONL and ONF within and outside the coastal environment.



155. In terms of the submission from Waiaua Bay Farm Limited, I consider that my recommended amendment to CE-P3 above clarifies that the direction is to “*avoid significant adverse effects on natural character in all other areas of the coastal environment*”, consistent with the direction in Policy 13(1)(b) of the NZCPS. This makes it clear the policy direction relates to avoiding significant adverse effects on natural character of the coastal environment outside ONC areas, not avoiding all activities per se. I anticipate that this amended wording will enable a wider range of activities, particularly in more developed/unnatural areas, given the natural character and landscape values of those areas will already be more modified and less vulnerable/susceptible to the “*significant adverse effects*” threshold. I consider my recommended amendments are more appropriate to give effect to higher order documents compared to the “*manage adverse effects*” wording sought by Waiaua Bay Farm Limited and therefore recommend that this submission point is rejected.

Recommendation

156. For the reasons above, I recommend that submissions on CE-P2 and CE-P3 are accepted, accepted in part and rejected as set out in **Appendix 2**. I recommend that the policies are amended as follows:

CE-P2: *Avoid adverse effects of land use and subdivision on the characteristics, and qualities and values that make an area an outstanding natural character area in of the coastal environment identified as outstanding natural character; ~~ONL, ONF.~~*

CE-P3: *Avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of land use and subdivision on the characteristics, and qualities and values of natural character areas and natural features and landscapes in of the coastal environment not identified as an:*

- a. *Outstanding natural character area;*
- b. *ONL; or*
- c. *ONF.”*

Section 32AA evaluation

157. My recommended amendments to CE-P2 and CE-P3 will improve the effectiveness of the policies by clarifying that it is the characteristics, qualities and values that qualify an area as having outstanding natural character that need to be assessed when complying with the direction to avoid the adverse effects of land use and subdivision on ONC in the coastal environment. Removing the reference to ONL and ONF from CE-P2 is also more efficient in my view as it reduces duplication and allows for all policy direction relating to ONL and ONF to be considered in the same chapter.
158. I also consider that the amendments to both CE-P2 and CE-P3 better align with the higher order policy direction in the NZCPS and the RPS, as discussed in the analysis above. As such, I consider that the recommended



amendments to CE-P2 and CE-P3 are appropriate to achieve the relevant objectives in terms of section 32AA of the RMA.

5.2.8 Key Issue 8: Other policies – CE-P4 to CE-P10

Overview

Provision(s)	Officer Recommendation(s)
CE-P4	Retain as notified
CE-P5	Amend to be clearer on outcome sought and avoid duplication
CE-P6	Amend to be clearer on outcome sought and avoid duplication
CE-P7	Amend to be clearer on outcome sought and avoid duplication
CE-P8	Retain as notified
CE-P9	Delete
CE-P10	Amend to simplify chapeau and add additional matters to consider

Analysis of Submissions on Key Issue 8: Other policies – CE-P4 to CE-P10

Matters raised in submissions

CE-P4 – Preserving the visual qualities, character and integrity of coastal environment

159. DOC (S364.065) supports CE-P4 on the basis that it is consistent with Policy 6 in the NZCPS and requests that the policy be retained as notified.
160. Kapiro Residents Association (S427.013), Our Kerikeri Community Charitable Trust (S338.037, S338.038) Carbon Neutral NZ Trust (S529.021) and other submitters support CE-P4 on the basis that future urban growth needs to be compact, and that sprawling development has a range of adverse environmental effects (higher emissions, loss of productive land, undermines character and amenity etc.).
161. John Andrew Riddell (S431.028) requests amendments to clause b) in CE-P4 to refer to "*avoiding sprawling or sporadic patterns of development in the rural coastal environment.*"
162. Waiaua Bay Farm Limited (S463.054) opposes CE-P4 on the basis that it appears to disregard the presence of special purpose zones in the PDP, some of which are intended to provide for development outside existing urban areas/settlements. To address this concern, Waiaua Bay Farm Limited requests amendments to clause a) of CE-P4 to also refer to "*or in locations provided for in Special Purpose Zones*" and to clause b) to refer to "*or unplanned sporadic patterns of development*".

CE-P5 – Enabling land use and subdivision in urban zones



163. John Andrew Riddell (S431.029) requests amendments to CE-P5 to replace “enable” with “provide for” and amend clause b) to identify what characteristics and qualities cannot be compromised by land use and subdivision. John Andrew Riddell makes the same submission point on CE-P6 (S431.030) and CE-P7 (S431.031).

CE-P6 – Enabling farming activities

164. Sarah Ballantyne and Dean Agnew (S389.011) support CE-P6 and request that it be retained as notified. The submitters support the recognition of farming activities in the coastal environment on the basis that farming activities contribute to the established values of the coastal environment.
165. A group of submitters, including Wendover Two Limited (S222.062) and Bentzen Farm Limited (S167.070), request amendments to CE-P6 to delete both clauses a) and b) on the basis that these are unnecessary. The submitters note that farming is a typical activity in the coastal environment within the Far North District and, in many cases, actually defines its character. The submitters consider that the qualifiers in CE-P6 are better managed through direction to protect specific overlays (e.g. the HNC overlay).
166. Pacific Eco-Logic (S451.014) and other submitters support CE-P6 in part but request amendments to clarify the definition of farming and to recognise that farming can have adverse effects on the natural character of the coastal environment in the Far North District.
167. HortNZ (S159-072) request an amendment to clause b) to also refer to farming activities being consistent with the “surrounding land use” not just being consistent with, and not compromising, characteristics and qualities.
168. Federated Farmers (S421.184) opposes CE-P6 and requests that it is amended to specifically provide for new and existing farming activities to occur in the coastal environment as a right. Federated Farmers consider that the wording of CE-P6 as notified would only enable existing farming activities and it is important to enable farming to diversify and change within the broader definition of “farming” in the PDP.
169. Waiaua Bay Farm Limited (S463.055) raise similar concerns that the qualifiers in CE-P6 are overly restrictive and problematic for farming activities and the wording in the notified policy indicates that farming activities need to be avoided whenever natural character is compromised. Waiaua Bay Farm Limited also raises concerns that CE-P6 is more restrictive/inconsistent with CE-R4, which permits farming outside ONC and HNC areas. Accordingly, Waiaua Bay Farm Limited requests that CE-P6 is deleted or amended to actually enable farming in the coastal environment.
170. Summit Forests New Zealand Limited (S148.032) raises concerns that CE-P6 is limited to farming and fails to provide for the wider range of primary production activities. More specifically, Summit Forests New Zealand Limited



raises concerns that plantation forestry is not provided for in the policy given that it already exists within the coastal environment and should be recognised as a legitimate part of the coastal environment landscape. Summit Forests New Zealand Limited also raises concerns that there is no justification for CE provisions being more stringent than the NES-CF. To address these concerns, Summit Forests New Zealand Limited requests that CE-P6 is amended to replace "*farming*" activities with "*primary production activities*" (which is defined in the PDP and in the National Planning Standards).

171. Manulife Forest Management (NZ) Ltd (S160.025) requests the same relief as Summit Forests New Zealand Limited on the basis that only referring to farming is not fair or equitable for other primary production activities, the fact there are large tracts of forestry in the coastal environment, and because plantation forestry is a valuable tool in the coastal environment to prevent erosion.

CE-P7 – Māori Purpose Zoned Land

172. There is only one specific submission point allocated to Policy CE-P7 from John Andrew Riddell (S431.031) as outlined above.

CE-P8 – Restoration and Enhancement of Natural Character

173. A group of submitters, including P S Yates Family Trust (S333.062) and Setar Thirty Six Limited (S168.070), support CE-P8 and request that it be retained as notified. The submitters note that natural character of the coastal environment is, in many instances, significantly modified or degraded and it is appropriate that the PDP encourages restoration and enhancement to give effect to the NZCPS.
174. DOC (S364.068) supports CE-P8 in part, but requests that the reference to "*enhancement*" is replaced with "*rehabilitation*" to be better aligned with Policy 14 in the NZCPS.

CE-P9 – Prohibit Land Use and Development

175. Haititaimarangai Marae Kaitiaki Trust (S394.044) supports CE-P9 in part but considers that each characteristic or quality of ONL and ONF should be protected. To provide for this relief, Haititaimarangai Marae Kaitiaki Trust requests an amendment to refer to "*any of*" the characteristics and qualities.
176. Waiaua Bay Farm Limited (S463.056) is opposed to CE-P9 insofar as it would prohibit its landscape maintenance activities and the upgrade and development of structures in the Totara Forest. This concern relates to ONC 80 applying to part of the Waiaua Bay Farm site. To address this concern, Waiaua Bay Farm Limited requests that CE-P9 is deleted or ONC 80 is deleted from Schedule 8.



177. A group of submitters, including Bentzen Farm Limited (S167.072) and Matauri Trustee Limited (S243.090), oppose CE-P9 and request that it is deleted. The submitters note that CE-P9 is not implemented by any rules and is inconsistent with the clear direction in CE-P2, which the submitters consider better gives effect to the NZCPS.
178. Federated Farmers (S421.185) is also opposed to CE-P9 and requests that it be deleted. Federated Farmers raise concerns that the policy is inconsistent with section 6 of the RMA as:
 - a. It appears to prohibit all land use and subdivision from ONC areas; and
 - b. It is overly restrictive and does not provide for appropriate subdivision and land use to occur within ONC areas.

CE-P10 – Consideration of the following matters

179. Sarah Ballantyne and Dean Agnew (S386.012), Willowridge Developments Limited (250.015) and a number of other submitters support the general approach of the PDP to provide a list of matters that need to be considered for resource consent applications, but request amendments to CE-P10 for consistency and clarity. The amendments requested by the submitters are:
 - a. An addition to clause d) to refer to integrating the building and structure into *“the wider landscape and maintenance of any significant ridgelines”*.
 - b. The deletion of clause l) relating to coastal waters as this is considered to fall within regional councils’ functions.
 - c. An amendment to clause m) to also refer to *“including ecological enhancement and /or restoration”*.
180. Pacific Eco-Logic (S451.015) and Kapiro Conservation Trust (S442.159) support CE-P10 in part but consider that it does not address all the matters needed to protect the natural character of the coastal environment. The submitters request that 11 additional matters be added to CE-P10 covering a range of issues, including indigenous biodiversity, natural character values, risks to vulnerable wildlife such as pet ownership, noise and lighting, long-term vehicle use etc. John Andrew Riddell (S431.032) requests an additional matter in CE-P10 to refer to *“any cumulative effects”*.
181. Waiaua Bay Farm Limited (S463.059) opposes CE-P10 on the basis that the matters are assessment criteria that are inappropriate to include in a policy and do not achieve the coastal environment objectives. To address these concerns, Waiaua Bay Farm Limited requests that CE-P10 is deleted or, if necessary, the assessment criteria are relocated to rules and standards.
182. A group of submitters, including Bentzen Farm Limited (S167.073) and Shooting Box Limited (S187.063), oppose CE-P10 for similar reasons, stating



this is not a policy but a method of assessment/assessment criteria. The submitters consider that non-complying and discretionary activity applications should be assessed against objectives and policies for the Coastal Environment, which should be a clear expression of a desired outcome. Comparatively, the submitters consider that CE-C10 does not specify a clear outcome. Accordingly, the submitters request that CE-P10 is deleted.

Analysis

CE-P4 – Preserving the visual qualities, character and integrity of coastal environment

183. Policy CE-P4 seeks to preserve the visual qualities of the coastal environment by:

a. "Consolidating land use and subdivision around existing urban centres and rural settlements; and

b. Avoiding sprawl or sporadic patterns of development."

184. The majority of submissions support CE-P4 in full or in part in terms of the broad direction to consolidate development around existing urban areas and settlements and to avoid sprawl and sporadic development to avoid adverse visual effects and be consistent with Policy 6(c) in the NZCPS.

185. I do not agree with John Andrew Riddell that clause b) in CE-P4 should be limited to the rural environment as I consider that unnecessary sprawl and sporadic development should also be avoided around, and within, coastal urban areas. I also note that the direction in Policy 6(c) of the NZCPS is not limited to sporadic development in rural areas within the coastal environment. Accordingly, I recommend that this submission is rejected.

186. While I understand the concern of Waiaua Bay Farm Limited in relation to planned development within special purpose zones, I do not consider that any amendments are required to address the relief sought. This is because I do not consider that development anticipated within a special purpose zone would be considered "*sprawl or sporadic development*" for the purposes of CE-P4. There are a number of special purpose zones in the PDP that are within the coastal environment where a level of development is anticipated by the provisions. Some level of development within these zones would not be inconsistent with the direction in CE-P4, in my opinion. Accordingly, I do not recommend any amendments to CE-P4 in response to this submission.

CE-P5 – Land use and subdivision in urban zones

187. CE-P5 provides direction to enable land use and development in "*urban*" zones within the coastal environment where:



- a. *There is adequacy and capacity of available or programmed development infrastructure; and*
 - b. *The use is consistent with, and does not compromise the characteristics and qualities."*
188. While there are only four original submission points specifically on CE-P5, there are numerous submissions on the approach to managing development in urban zones within the coastal environment. I am recommending some key changes to CE-R1 (buildings and structures) in response to these submissions. Corresponding amendments to CE-P5 are required in my opinion. I consider there is clear scope in submissions to make such recommendations.
189. While I support the intent of CE-P5, there are four key issues to be resolved in my opinion:
 - a. The direction in clause b) be "consistent with, and not compromise" the characteristics and qualities of the coastal environment.
 - b. The PDP definition of "urban".
 - c. The relevance of development infrastructure in clause a).
 - d. The need to enable development in the coastal environment within urban areas in appropriate locations and forms consistent with the direction in the NZCPS.
190. Firstly, in terms of clause b), I have discussed the direction to be consistent with, and not compromise, characteristics and qualities with the reporting officer for the Natural Features and Landscape topic, which contains provisions that use similar wording. We consider that this wording is problematic as:
 - a. It potentially conflicts with the direction in CE-P2 and CE-P3 to avoid certain adverse effects as it implies a different threshold of effects. For example, the direction to "not compromise" characteristics and qualities could be interpreted as allowing for more than minor adverse effects but less than significant adverse effects.
 - b. It introduces new language and thresholds for adverse effects which are not in the NZCPS or RPS provisions relating to natural character and natural landscapes and features in the coastal environment.
191. I also consider that clause b) in CE-P5 does not sufficiently recognise that the natural character values are already highly compromised in more built-up urban areas in the Far North District, such as Paihia. The direction to ensure that proposed land use or development is "consistent" with the existing characteristics and qualities in an existing urban area could be interpreted as not allowing for any increase in the scale of the development,



which I consider is overly restrictive in these more built-up urban areas. I therefore recommend that clause b) in CE-P5 is deleted.

192. I consider that this recommendation responds to the submission point from John Andrew Riddell on CE-P5 (and CE-P6 and CE-P7) in part. In my opinion, it is not feasible or appropriate to reference the specific characteristics and qualities that cannot be compromised, as requested by the submitter. This is because the relevant characteristics and qualities of the coastal environment will vary depending on location and need to be assessed on a case-by-case basis.
193. I discuss the PDP definition of "urban" in the context of CE-R1 (Key Issue 10) below. I recommend that the definition is deleted from the rule and that a more nuanced approach is adopted to better reflect the nature of the underlying zone. Equally, I consider that referring to the definition of "urban" is problematic in the context of CE-P5¹⁵ and recommend that the hyperlinked definition is removed from the policy. I note that the definition of "*urbar*" is a wider issue for the PDP as it is used throughout the PDP but not always in the context that the "*urbar*" definition was intended to be used. It may benefit from further consideration in Hearing 18 (Interpretation) and Hearing 20 (General / Sweep Up / Integration).
194. Similar to the reference to development infrastructure in the definition of "*urbar*", I also consider that clause a) in CE-P5 is unnecessary. This is because I consider that availability of development infrastructure has limited/no relevance to the appropriateness of land use and development within the coastal environment in terms of the characteristics, qualities and values to be protected. Rather, the availability and capacity of development infrastructure is a more relevant consideration when assessing the proposal under the underlying zone or subdivision provisions. For example, I note that SUB-O3 and SUB-P6 directly relate to the adequacy of infrastructure servicing to support the proposed development. In my opinion, the Coastal Environment chapter is more appropriately focused on protecting its characteristics and qualities by avoiding and managing adverse effects as directed in the relevant provisions. I therefore consider that clause a) in CE-P5 is unnecessary and recommend that it is deleted.
195. Based on the above issues, I consider that CE-P5 needs to be revised to be clearer on the outcomes sought for land use and subdivision in urban areas and to be better aligned with the direction in the NZCPS discussed above in relation to CE-O3. In particular, I consider that there is a need to recognise that development in the coastal environment can occur in appropriate locations and forms (Objective 6 of the NZCPS) and to recognise that a change in natural character is acceptable in some urban areas (Policy 6(f) of the NZCPS). I therefore recommend CE-P5 is amended as follows:

¹⁵ Reasons include the notified definition of "urban" in the PDP not covering all zones that are arguably urban, unclear reference to existing or planned development capacity, and inconsistencies with similar terms in higher order instruments.



Enable land use and subdivision in urban areas zones within the coastal environment by recognising that a change in character may be acceptable in some existing urban areas to provide for the social, economic and cultural well-being of people and communities. ~~where:~~

- ~~a. there is adequacy and capacity of available or programmed development infrastructure; and~~*
- ~~b. the use is consistent with, and does not compromise the characteristics and qualities.~~*

CE-P6 – Enabling farming activities

196. Policy CE-P6 seeks to enable farming activities in the coastal environment where:
- a. "The use forms part of the values that established the natural character of the coastal environment; or*
 - b. The use is consistent with, and does not compromise the characteristics and qualities".*
197. CE-P6 needs to be read together with the definition of farming in the PDP which is
- "means the use of land for the purpose of agricultural, pastoral, horticultural or apiculture activities, including accessory buildings, but excludes mining, quarrying, plantation forestry activities, intensive indoor primary production and processing activities. Note: this definition is a subset of primary production".*
198. The intent of this definition is to exclude certain primary production activities captured by the broader PDP (and National Planning Standards) definition of primary production¹⁶ where these activities can have greater adverse environment effects than farming (e.g. mineral extraction).
199. The more specific submissions on CE-P6 broadly support the intent but raise concerns about the application and interpretation of clauses a) and b) and the policy being limited to farming rather than primary production more generally. In my opinion, there are some key issues within CE-P6 to resolve:
- a. The direction to be consistent with, and not compromise, characteristics and qualities in clause b).
 - b. The purpose of clause a) in CE-P6.
 - c. The intent, scope and practical implementation of the policy.

¹⁶ Defined in the National Planning Standards and the PDP.



- d. Integration with the corresponding coastal environment rules (CE-R4, CE-R6, CE-R7, CE-R8).
200. Firstly, the wording in clause b) in CE-P6 is the same wording used in CE-P5 and I recommend it be deleted for the same reasons as I have given above. In this respect I share the concerns of some submitters that the direction to be "*consistent*" could be interpreted as not allowing for any change in existing farming activities and could preclude new farming activities altogether. This is not the intent and could be overly restrictive given the nature of farming activities and the importance of these activities within the Far North District. It is also not consistent with the overall intention of the chapter, which is to enable farming activities provided they are located outside ONC and HNC areas.
201. I also consider that clause a) is problematic. My understanding is that the intent of clause a) is to recognise that there are existing farming activities within the coastal environment that contribute to its natural character. These existing areas of farming form part of the natural character of the coastal environment, but also mean that the area is unlikely to be ONC or HNC¹⁷. Several submissions emphasised that farming activities actually define the natural character of the coastal environment in some areas. However, it is unclear how the direction to "enable" existing farming activities that form part of coastal natural character is intended to be applied in practice. In my view, it would be clearer and more effective to recognise that existing farming activities form part of the natural character of the coastal environment and allow these existing farming activities to continue.
202. However, this raises broader questions about the scope and purpose of CE-P6. My understanding is that the intent of CE-P6 is broadly to:
- a. Recognise that farming activities form part of the existing natural character of the coastal environment in some parts of the Far North District and allow for these existing activities to continue (clause a).
 - b. Recognise that new farming activities may be appropriate in the coastal environment (clause b), which is reflected in CE-R4 which permits farming activities outside ONC and HNC areas.
 - c. Provide some distinction between farming and other primary production activities, which are generally not appropriate in the coastal environment (as reflected in CE-R6, CE-R7, CE-R8).
203. This general intent of the controls on farming activities is discussed in section 4.1 of the MAL Report where it is acknowledged that farming forms a large part of the coastal environment outside ONC, HNC and urban areas and that a distinction between farming and other "*primary production activities*" (as defined in the PDP) is appropriate within the coastal environment overlays.

¹⁷ This is reflected in APP1 which states that "*Areas where natural character is less than high generally means one or more of the following: Mostly modified land cover (e.g. pasture, plantations) ...*".



On this basis, I consider that CE-P6 has value but requires amendments to address the issues identified above and to better achieve the policy intent. Accordingly, I recommend that CE-P6 is amended to read:

Enable farming activities within the coastal environment where by:

- a. Recognising that existing farming activities form part of the coastal environment and allowing for these activities to continue without undue restriction; and*
- b. Only allowing new farming outside outstanding and high natural character areas where appropriate.*
- ~~c. the use forms part of the values that established the natural character of the coastal environment; or~~*
- ~~d. the use is consistent with, and does not compromise the characteristics and qualities.~~*

204. In terms of the submission from Summit Forests New Zealand Limited raising concerns that CE-P6 does not extend to other primary production activities, I consider that it is appropriate for CE-P6 to retain the focus on “farming” for the reasons outlined above. This is because afforestation for commercial forestry can potentially have significant adverse effects on the natural character of the coastal environment, which is best assessed through a resource consent process with reference to the direction to avoid and manage adverse effects in CE-P2 and CE-P3 in my view. I also recommend amendments to CE-R6 in terms of how it applies to plantation forestry as outlined above under Key Issue 3 (Coastal Environment Objectives) and discussed in more detail below under Key Issue 14 (CE-P6).

CE-P7 – Māori Purpose Zone and Treaty Settlement Overlay Land

205. The only submission point allocated to CE-P7 is from John Andrew Riddell requesting amendments to identify what characteristics and qualities of the coastal environment are not to be compromised, which I have addressed above.
206. However, I consider that clause b) in CE-P7 has the same issues as the corresponding clauses in CE-P5 and CE-P6 discussed above and recommend that it is deleted for the same reasons.
207. In my opinion, there are also issues with clause a) in CE-P7 that need to be addressed and I consider that there is scope within more general submissions from Haititaimarangai Marae Kaitiaki Trust and Matauri X Incorporation above to make these recommendations. Specifically, I consider that the direction in CE-P7 is too restrictive in terms of only enabling the use of Māori Purpose Zone and Treaty Settlement Overlay land where “*this is consistent with the ancestral use of that land*”. This direction in CE-P7 is inconsistent with the policy direction in Māori Purpose Zone and Treaty Settlement Overlay, which seeks to enable a broader range of activities with the zone and overlay where adverse effects can be avoided, remedied or mitigated.



208. I therefore recommend that CE-P7 is amended as follows:

Enable Provide for the use and development of Māori Purpose zoned land and Treaty Settlement land in the coastal environment by recognising that adverse effects on natural character may be acceptable to support the social, economic and cultural wellbeing of tangata whenua, where:

- a. *the use is consistent with the ancestral use of that land*
- b. *the use does not compromise any identified characteristics and qualities.*

209. In my opinion, this wording is consistent with the intent of notified CE-P7 but will help avoid potential conflict with CE-P2 and CE-P3 in terms of managing adverse effects (i.e. "avoid" certain adverse effects v "not compromise" characteristics and qualities). It will also help to improve alignment with the general policy direction in the Māori Purpose Zone and Treaty Settlement Overlay chapters.

CE-P8 – Restoration and Enhancement of Natural Character

210. The submissions on CE-P8 support the policy in full or in part, with DOC being the only submitter requesting an amendment to refer to "rehabilitation" rather than "enhancement". I agree that the wording sought by DOC is more consistent with Policy 14 of the NZCPS. However, the intent of CE-P8 is also to refer to the **enhancement** of existing natural character (which may already have high values) rather than limit the policy to the **restoration** or **rehabilitation** of natural character that has been degraded, which is the focus of Policy 14 of the NZCPS. I therefore recommend that the notified wording of CE-P8 to refer to "*restoration and enhancement*" is retained, and the submission of DOC is rejected.

CE-P9 – Prohibit Land Use and Development

211. While some submitters support CE-P9, the majority oppose the policy for a range of valid reasons. I agree with the submissions from Bentzen Farm Limited, Matauri Trustee Limited and others that CE-P9 is not necessary and overlaps/conflicts with CE-P2, which better gives effect to the NZCPS. It also introduces new unnecessary and debatable terms (i.e. "destruction" of characteristics and qualities).

212. My understanding of the likely intent of CE-P9 is to provide policy support for prohibited activity rules CE-R8 and CE-C9. However, this is not necessary in my opinion as it is clear that new mineral extraction activities and landfills in the coastal environment are inappropriate and would directly conflict with the clear direction to avoid certain adverse effects in CE-P2 and CE-P3. Accordingly, I recommend that submissions requesting that CE-P9 is deleted are accepted.

CE-P10 – Consideration of the following matters



213. Submitters both support and oppose CE-P10, which sets out a range of matters to be considered as relevant when assessing resource consent applications, with some submitters requesting the policy be deleted or moved to rules as assessment criteria. I note that CE-P10 functions as a “consideration” policy, which is an approach that has been adopted consistently at the end of the policies across the PDP chapters to provide a consistent way of ensuring all relevant matters can be assessed when resource consent is required under the relevant chapter. I consider that this is an appropriate drafting approach to achieve consistency across the PDP and recommend that CE-P10 is retained on that basis.
214. However, I have identified two drafting issues with the chapeau of CE-P10 which are equally applicable to other “consideration” policies in the PDP:
- a. It includes a statement of the outcome sought (i.e. “*preserve and protect natural character of the coastal environment*”) which both duplicates and slightly conflicts with earlier policies (CE-P2 and CE-P3).
 - b. It is unnecessarily lengthy (i.e. “*manage land use and subdivision...to address effects of the activity...including consideration of...*”) which makes the intended application of the policy somewhat confusing in my opinion.
215. I consider that these issues can be easily addressed by simplifying the chapeau of CE-P10 to be much clearer on its intended purpose as follows:
- “Consider the following matters where relevant when assessing and managing the effects of land use and subdivision on the coastal environment...”*
216. I note that this recommendation has broader implications for other corresponding “consideration” policies in the PDP, which may be considered by reporting officers where relevant. It may also be beneficial to consider through Hearing 20 as a wider plan integration/drafting issue.
217. In terms of the specific requests for additions or amendments to CE-P10, my recommendations are as follows:
- a. I support the requested amendment to clause d) from Sarah Ballantyne and Dean Agnew and others to refer to “*integrating the building, structure or activity into the wider landscape*”. However, I do not consider the additional words “*and maintenance of any significant ridgelines*” is necessary or appropriate as this strays into the outcome sought and I expect effects on any significant ridgelines would be considered regardless as part of the assessment of effects.
 - b. I disagree with Sarah Ballantyne and Dean Agnew and others that clause l) relating to improving the qualities of coastal waters should be deleted on the basis that this is a regional council function. I



acknowledge that regional councils are responsible for activities in the CMA but land use activities above MHWS can have a significant impact on coastal waters. This is recognised in Policy 4 of the NZCPS (Integration). However, I do consider that the wording of clause l) could be improved to capture both positive and adverse effects and recommend it is amended as follows:

"potential effects of land use and subdivision on the coastal marine area and ability to improve the overall quality of coastal waters".

- c. I support an addition to m) relating to ecological enhancement and/or restoration as requested by Sarah Ballantyne and Dean Agnew and others, but I recommend it is amended to refer to *"...including restoration and enhancement"*. I prefer this more generic wording as it is better aligned with other provisions in the PDP and would capture all forms of restoration (i.e. ecological, natural character etc.).
- d. I consider that the 11 additional matters requested by Pacific Eco-Logic and Kapiro Conservation Trust are generally unnecessary as these are largely already addressed and this would make CE-P10 overly lengthy and confusing. I also consider that some of the matters requested by the submitters are generally better located in the Ecosystems and Indigenous Biodiversity chapter. However, I do consider that a more explicit reference to natural character and indigenous biodiversity values as sought by the submitters would be useful in CE-P10. I recommend that this is achieved through a new clause as follows:

"the effects on the characteristics and qualities of the coastal environment, including natural character and natural landscape values and the quality and extent of indigenous biodiversity".

- e. I note that the requested clause from Pacific Eco-Logic and Kapiro Conservation Trust to refer to *"any cumulative effects"* is arguably already addressed by the PDP (and RMA) definition of "effect" which includes "any cumulative effect". However, given the importance of cumulative effects in the coastal environment, I recommend that this is given more explicit consideration in CE-P10. In my view, this is most efficiently achieved through an amendment to clause b) as follows:

"the temporary or permanent nature of any adverse effects, including any cumulative effects".

Recommendation

218. For the reasons set out above, I recommend that submissions on CE-P4 to CE-P10 are accepted, accepted in part and rejected as set out in **Appendix**



2. I recommend that the policies are amended as set out above and in **Appendix 1**.

Section 32AA evaluation

219. I consider that my recommended amendments to policies CE-P5 to CE-P7, CE-P9 and CE-P10 will provide more effective and efficient drafting to achieve the relevant objectives when compared to the notified version of the policies in the PDP. In particular, the drafting is more efficient for CE-P5, P6 and P7 as it removes duplication (either with other policies or with the content of objectives) and more effective as it clarifies the intent of the policy direction and helps avoid the risk of internal inconsistencies and conflicts between the policies, for the reasons set out in the analysis above.
220. I consider that the deletion of CE-P9 is appropriate as it is more consistent with the NZCPS and its deletion removes potential conflict with CE-P2, as discussed above. Finally, the amendments to CE-P10 will achieve a more efficiently drafted chapeau that more effectively explains the intended purpose of the policy. The additions/amendments to the sub-clauses CE-P10 clarify the intention of some of the clauses (particularly b), d), l) and m)) in a manner that is consistent with wider PDP drafting of similar clauses and the new clause relating to natural character and indigenous biodiversity values provides stronger links with the Ecosystems and Indigenous Biodiversity chapter.
221. As such, I consider that the recommended amendments to CE-P5 to CE-P7, CE-P9 and CE-P10 are appropriate, effective and efficient way to achieve the relevant objectives in terms of section 32AA of the RMA.

5.2.9 Key Issue 9: Rules – general comments

Overview

Provision(s)	Officer Recommendation(s)
Rules CE-R1 to CE-R9	Retain and amend as outlined in relation to specific rules under Key Issues 9-15.

Analysis of Submissions on Key Issue 8: Rules - general comments

Matters raised in submissions

222. Russell Protection Society (S179.070) supports the coastal environment rules, noting that these rules are important given the PDP does not include coastal zones like the ODP. The submitter considers that it is especially important that these overlays provide adequate protection to the headlands framing Russell and the natural coastal escarpments that characterise the balance of the Russell Peninsula.
223. Kapiro Conservation Trust (S442.162) and Pacific Eco-Logic (S451.018) raise concerns that the coastal environment rules may not adequately protect isolated mature kowhai, puriri and pohutukawa trees that are in landscapes



that did not meet the threshold to be identified as having HNC or ONC in the PDP. To address this concern, the submitters request a new rule that requires resource consent to fell or significantly prune these trees or, alternatively, add these trees to Schedule 1 in the PDP.

224. There are a significant number of general comments opposing the coastal environment rules on the basis that the rules are overly restrictive in urban areas. For example:
- a. Good Journey Limited (S82.011) raises concerns that the rules apply a generic set of restrictions which are unwarranted in an urban environment, are not supported by adequate evaluation under section 32 of the RMA and will result in unnecessary consent requirements. Good Journey Limited requests that the coastal environment rules are amended to delete requirements for resource consent for building additions exceeding 20% in GFA, buildings exceeding 5m in height, and any requirements relating to specific colours and reflectivity in urban areas.
 - b. The Paihia Property Owners Group (S330.003) raises similar concerns that there is insufficient justification to apply the coastal environment rules in highly modified urban environments such as Paihia. The submitter requests that the rules are amended to promote more enabling and appropriate provisions as they relate to urban areas such as Paihia. The Paihia Property Owners Group (S565.004) also raise a broader concern that there is not sufficient technical evidence in Appendix 1 of the section 32 evaluation report¹⁸ to support the application of the rules in the coastal environment.
 - c. Bayswater Inn Ltd (S29.005) is concerned that the coastal environment rules have introduced new restrictions on subdivision and development that are illogical and unreasonable within existing urban areas. Bayswater Inn Ltd requests amendments to the coastal environment rules within urban areas relating to building size and height and vegetation clearance.
225. Woolworths New Zealand Limited (S458.003) identifies a gap in CE-R1 when there is non-compliance with the GFA threshold as it does not specify the activity status in the coastal environment outside HNC and ONC overlays. Woolworths New Zealand Limited also requests a restricted discretionary activity pathway where there is non-compliance with the GFA threshold as a discretionary activity consent is overly onerous. Paihia Properties Holdings Corporate Trustee Limited and UP Management Ltd (S344.018) raise similar concerns with the blanket discretionary (or non-complying status) for activities within a HNC area and request a restricted discretionary activity status, with targeted matters of discretion when compliance is not achieved.

¹⁸ Refer: [MELEAN ABSOLUM LIMITED \(fndc.govt.nz\)](https://www.fndc.govt.nz/)



226. A group of submitters, including P S Yates Family Trust (S33.066) Setar Thirty-Six Limited (S168.074) and Shooting Box Limited (S187.065), raise concerns with the rule relating to repair and maintenance (CE-R2), which is discussed further under Key Issue 10 below. For example, the submission of P S Yates Family Trust states there is no need for the rule as repair and maintenance would otherwise be permitted under the respective rules relating to the buildings, earthworks and indigenous vegetation clearance, and that unintended consequences will result from the rule. For example, the submitters note that the rule as drafted could require a discretionary activity consent for the repair and maintenance of an existing residential unit as this is not specifically provided for in the rule, potentially triggering costly and unnecessary consent processes.
227. This group of submitters also raise concerns about the need to obtain discretionary or non-complying activity consent for a new dwelling regardless of whether the dwelling is associated with an approved subdivision. The submitters note that subdivisions have generally been carefully designed and have detailed consent conditions and consent notices on the titles to manage the effects of buildings. Further, landowners have purchased lots on the understanding that their right to build a house on them is protected. To address these concerns, the submitters request a new controlled activity rule for dwellings on approved building platform or buildable area on a site for which a subdivision consent was granted after 1 January 2000 with conditions that preclude public or limited notification.
228. The Telco Companies (S282.018, S282.019) raise concerns that new telecommunication facilities are not expressly provide for in the rules and this will limit the development of telecommunication coverage in the Far North District given the large extent of the coastal environment (including coastal settlements). To address this concern, the Telco Companies request that telecommunication facilities are exempt from needing to comply with the coastal environment rules.
229. Top Energy Limited (S483.174) raises concerns that the provisions relating to network utilities and regionally significant infrastructure have been removed. Top Energy considers that that there need to be provisions to enable the upgrading of infrastructure, given it is already present in the coastal environment, and to ensure a resilient supply of electricity to coastal communities. To provide for this relief, Top Energy requests a new permitted activity rule for the upgrade of electricity network utilities subject to compliance with standards controlling location, GFA increase, height and additional poles and towers.
230. NRC (S359.031) raise concerns that the coastal environment rules may lead to unintended consequences as all new fencing requires resource consent. NRC requests an amendment to allow new fencing when this is required for protection or enhancement of soil conservation treatments, water bodies and wetlands and in line with the national regulations for stock exclusion and/or regional plan rules.



231. Waiaua Bay Farm Limited (S463.040) request a new restricted discretionary activity rule to provide for the construction of walking tracks in HNC areas. Waiaua Bay Farm Limited note that large areas of the Kauri Cliffs SPZ area located in the HNC overlay and their initial plans for a walking trail network with the zone indicate that these tracks will intersect with the HNC overlay. Waiaua Bay Farm Limited consider that it is appropriate to provide a restricted discretionary activity consenting pathway given the purpose of the Kauri Cliffs SPZ and their efforts to protect, maintain and enhance many HNC overlay areas over the years, and the submitter requests specific matters of discretion for this rule.
232. Summit Forests New Zealand Limited (S148.034) raise similar concerns to those noted above, namely that the coastal environment rules fail to provide for plantation forestry that already exists in the coastal environment and is a legitimate part of the landscape. Summit Forests New Zealand Limited request that the rules are amended to provide for plantation forestry in the coastal environment as a permitted activity subject to the provisions of the NES-PF (now NES-CF). PS Olsen Limited (S91.015) raises similar concerns and also raises broader concerns about how the rules might apply to earthworks and replanting. They request amendments to the rules to treat primary production activities consistently and to delete irrelevant matters of discretion for earthworks.
233. Lucklaw Farm Ltd (S550.001) raise concerns with the current level of vehicle usage in and around the foreshore and coastal marine area and seek better protection of these areas through more restrictive rules on vehicle use. The submitter notes that the current bylaw is restricted to Coopers Beach and requests a comprehensive rule in the PDP that sets out standards for vehicle access on beaches and restricts use of the foreshore and seabed by vehicles except for specific purposes.
234. Nicole Wooster (S259.022) requests that the rules are amended to provide for road upgrades as a permitted activity or, alternatively, alter the location of the coastal environment mapping to exclude a piece of road on her property (S259.023). Nicole Wooster notes that this road on their property has never been maintained by Council and is concerned that there would be a requirement to obtain a resource consent if there was a need to upgrade the road to provide improved access.
235. Vaughan Norton-Taylor (S50.006) opposes the coastal environment chapter as everything is discretionary not permitted and this disregards options for development.
236. In addition to general submissions on the coastal environment rules, there are three submissions on the advice notes above the rule table. Forest and Bird (S511.097) and Kapiro Conservation Trust (S442.116) raise concerns that Advice Note 3 only refers to the earthworks chapter whereas it should refer to the Ecosystems and Indigenous Biodiversity chapter given the



relevant rules relate to earthworks and indigenous vegetation clearance. The submitters request specific amendments to provide for this relief.

Analysis

237. Firstly, I do not recommend any amendments to the Coastal Environment chapter in response to the relief sought by Kapiro Conservation Trust and Pacific Eco-Logic for rules to protect isolated mature kowhai, puriri and pohutukawa trees. While I appreciate these individual trees may have natural character and ecological values, it is appropriate in my view for the Coastal Environment chapter to focus on the protection of natural character through:
- a. The mapping of ONC and HNC areas; and
 - b. Assessment of the effects on natural character when resource consent is required under the rules (which would allow for effects on these individual trees to be assessed if relevant).
238. I also note that the protection of specific trees is addressed through the Notable Trees chapter in the PDP and the Ecosystems and Indigenous Biodiversity chapter addresses the protection of indigenous biodiversity more generally.
239. I acknowledge the concerns from submitters about the application of the coastal environment rules in urban areas being overly restrictive. I address this issue in more detail in relation to CE-R1 below and make a number of recommendations, which are broadly in line with the relief sought from Good Journey Limited and other above. I therefore recommend that these submissions are accepted in part.
240. In terms of the submissions raising concerns with CE-R2 relating to repair and maintenance, I address these submissions below under Key Issue 13 (CE-R2) where I recommend that this rule is deleted

Activity status when compliance is not achieved

241. I agree that the notified drafting of CE-R1 is unclear in terms of the activity status of a building or structure outside a HNC or ONC area when the 300m² threshold is not complied with. My understanding of the intent is that the activity status should be discretionary outside ONC areas and non-complying within ONC where PER-1 is not complied with.
242. However, submitters have also sought a restricted discretionary activity status when the permitted activity standards are not complied with. I consider that this is appropriate for buildings or structures outside ONC and HNC areas which are greater than 300m² as:



- a. The relevant effects to assess when the permitted activity conditions are not complied with are well understood and can be efficiently addressed through a reference to the matters to consider in CE-P10.
 - b. A restricted discretionary activity consenting process is generally more efficient for applicants and Council processing planners, while still ensuring that the relevant effects are considered under section 104C of the RMA and when imposing consent conditions.
 - c. Outside ONC areas (and ONL and ONF), the policy direction in CE-P3 is to avoid significant adverse effects and avoid, remedy and mitigate other adverse effects on the characteristics, qualities and values of the coastal environment. In many instances, I expect that proposed activities in the coastal environment will be able to comply with this policy direction and a restricted discretionary pathway enables these effects to be considered and appropriately managed. Conversely, a more stringent non-complying activity status is appropriate within ONC areas given the direction to avoid adverse effects on these areas in CE-P2.
243. In terms the matters of discretion, I consider that it is appropriate to refer back to CE-10 as this sets out a range of matters to be considered where relevant when assessing the effects of an activity on the coastal environment. I have also recommended that CE-P10 is expanded to include reference to "*effects on the characteristics, qualities and values of the coastal environment*" as discussed under Key Issue 8 above which provides future assurance that the relevant effects can be considered through a reference to CE-P10.
244. However, through discussions with the reporting officer for the Natural Features and Landscapes topic, we have identified a potential gap in the ability to consider positive effects under the new restricted discretionary activity rules we are recommending. This relates to the proposed reference to CE-P10 as the key matter of discretion given this is focused on managing the effects of the activity on the coastal environment rather than the positive effects of the activity per se¹⁹. This may create some uncertainty about the ability to consider the positive of activity when resource consent is required under the new recommended restricted discretionary rule.
245. To avoid this risk, I recommend that the matters of discretion also include reference to "*the positive effects of the activity*" which is consistent with the recommendation of the reporting officer for the Natural Features and Landscapes topic. I acknowledge that this recommendation has wider implications for how positive effects are referenced within the matters of discretion for the relevant restricted discretionary rules (as any

¹⁹ I also note that many of these "consider the following matters" policies include a standard consideration to "*the permanent or temporary nature of any adverse effects*". This precludes consideration of positive effects which is included in the RMA and PDP definition of "*effect*".



inconsistencies could lead to interpretation issues). In my view, this wider rule drafting issue for the PDP should be considered further in Hearing 20 (General / miscellaneous / sweep up)

New buildings on approved building platform

246. I acknowledge the concerns of submitters about the potential implications of CE-R1 for new buildings where there is an existing subdivision consent with an approved platform. I agree that a requirement to obtain a discretionary activity or non-complying consent in this situation would be overly onerous and inappropriate. I therefore agree with the general relief sought by these submitters for a new controlled activity rule for new buildings within a building platform approved as part of an existing subdivision consent.
247. I have discussed CE-R1 with the reporting officer for the Natural Features and Landscape topic where the same relief is being requested for the equivalent rule. I have also sought landscape advice on this issue, which is addressed in section 4.12 of the MAL Report. Based on this advice, I recommend CE-R1 is amended to provide a new controlled activity rule for new buildings on an approved building platform subject to the following conditions/requirements:
- a. The approved building platform forms part of an existing subdivision consent (i.e. it has not lapsed or expired).
 - b. The new building must be a residential unit.
 - c. An expert landscape assessment was undertaken as part of existing subdivision consent to ensure landscape effects were carefully considered at the time of subdivision.
 - d. The matters of control include a reference to CE-10, which allows the consideration of any adverse effects of the characteristics, qualities and values of the coastal environment, including natural character and natural landscapes.
248. I therefore recommend a new controlled activity rule within CE-R1 as follows:

A residential unit on a defined building platform, where the defined building platform has been identified through an expert landscape assessment and approved as part of an existing subdivision consent.

The matters of control are:

- a. *the matters in CE-10.*

Upgrading infrastructure, telecommunication facilities and fencing



249. In terms of the submissions from the Telco Companies, I agree that the coastal environment rules as notified are overly restrictive for telecommunication facilities, which often have less adverse effects than other regionally significant infrastructure (due to the scale and nature of the infrastructure). A more stringent approach for telecommunication facilities across the wider coastal environment is also inconsistent with the National Environmental Standards for Telecommunication Facilities 2016 (NES-TF) which sets out where plan rules can be more stringent (subpart 5 of the NES-TF).
250. Subpart 5 of the NES-TF allows more stringent district plan rules to apply to telecommunication facilities where these relate to the protection of ONL and ONF, areas of significant indigenous vegetation and significant habitats of indigenous fauna, visual amenity landscapes, and places adjoining the CMA (and other matters). However, the NES-TF does not expressly allow plan rules to be more stringent to protect ONC and HNC areas in the coastal environment, which is a gap in the regulations in my view in terms of meeting obligations under section 6(a) of the RMA and Policy 13 of the NZCPS²⁰. So, while I would support more stringent rule applying to telecommunication facilities in ONC and HNC areas, in my view there is no clear statutory basis to do so as this would create a rule that conflicts with the NES-TF (as the NES-TF does not allow plan rules to be more stringent in relation to these areas).
251. The scope of the NES-TF is largely limited to the road reserve and “rural zones” (as defined in the NES-TF). Therefore, the PDP can apply more stringent rules for telecommunication facilities not regulated under the NES-TF. However, in my view, this is not an effective or efficient approach as:
- a. A 5m height limit across the border coastal environment is overly restrictive for telecommunication facilities (and is far too low to meet the technical requirements of these facilities to provide telecommunication coverage).
 - b. The Infrastructure chapter already includes rules for telecommunication facilities not regulated under the NES-TF which limits these to 15m or 25m depending on the underlying zone.
 - c. There would be limited additional protections to ONC and HNC areas as I understand that these are primarily located in rural zones.
252. On this basis, I recommend that the relief sought by the Teleco Companies is accepted and telecommunication facilities are excluded from CE-S1 (maximum height and structures).
253. In terms of the submission from Top Energy requesting a specific rule for the upgrading of infrastructure, I recognise that there is a need to allow for

²⁰ This compares to Regulation 6 in the NES-CF for example.



the essential operation, maintenance and upgrade of infrastructure within the coastal environment. However, upgrading electricity lines and other infrastructure can also involve quite substantial changes in the nature, scale and height of this infrastructure, with the potential for significant adverse effects in sensitive landscapes such as ONC and HNC areas.

254. I note that the requested rule from Top Energy appears to incorporate some (but not all) of I-R3 (Upgrading of existing above ground network utilities) in the Infrastructure chapter. It is unclear why certain permitted activity standards have been requested by Top Energy and not others. In my opinion, it would be more efficient and appropriate to cross-reference that rule within the Coastal Environment chapter rather than repeat it while also imposing additional controls to ensure that adverse effects of upgrading infrastructure within the coastal environment are appropriately managed.
255. To respond to this submission, I have sought landscape advice on the appropriateness of I-R3 in the coastal environment, which is addressed in section 4.2 of the MAL Report. This advice concludes that the upgrading of infrastructure within sensitive environments like ONC and HNC areas should be assessed through a resource consent process to ensure effects on natural character values can be appropriately assessed and managed. Elsewhere in the coastal environment, the MAL Report recommends additional controls on the upgrading of infrastructure to manage adverse effects, in order for it to be a permitted activity. Those additional controls include a maximum height limit for replacement infrastructure of 10m (or the height of the existing structure) and a condition restricting the use of "pi poles". I support these recommendations and recommend that CE-R1 is amended accordingly through a new permitted activity condition for the upgrade of existing network utilities.
256. I consider that this recommendation will also address the relief sought from Nicole Wooster relating to the upgrades of existing roads at least in part as it enables this upgrading to be undertaken as a permitted activity subject to controls on the size of the upgrade. I also recommend corresponding amendments to CE-R3 to enable earthworks and vegetation clearance associated with the upgrade of existing network utilities.
257. I acknowledge concerns from NRC that CE-R1 as notified could potentially create unnecessary consenting requirements for stock exclusion fencing, which is important in my opinion to enable to meet requirements in other national and regional regulations. This is not the intent but is a consequence of CE-R1 focusing on coverage for buildings or structures, which is potentially problematic for fencing giving its linear and sometimes extensive nature. Accordingly, for the avoidance of doubt, I recommend that CE-R1 is amended to provide for fencing for stock exclusion as a permitted activity without being subject to the coverage thresholds for structures.

Other issues



258. I acknowledge the concerns about the application of the coastal environment rules to plantation forestry and consider this issue in more detail under Key Issue 17 (CE-R6 – Plantation Forestry).
259. In terms of the concerns about vehicle access in the coastal environment, my understanding is that vehicle access is managed through regional rules below MHWS and by-laws above MHWS. Therefore, I do not consider that it is appropriate or efficient to consider new restrictions on vehicle access to the coastal environment through the PDP. I do not recommend any amendments to the Coastal Environment chapter in response to this submission.
260. I do not recommend any amendments in response to the submission as from Vaughan Norton-Taylor as there are a number of permitted activity rules in the Coastal Environment chapter.
261. I consider that an amendment to advice note 3 above the rule table to also refer to the indigenous vegetation clearance thresholds in the Ecosystems and Indigenous Biodiversity chapter may be useful for some plan users, although not an essential change in my opinion. I therefore recommend that the submissions of Forest and Bird and Kapiro Conservation Trust are accepted, and advice note 3 is amended accordingly. However, I also recommend that the second part of the advice note, which states that the more stringent rule prevails, is deleted as this does not apply to permitted activity rules.

Recommendation

262. For the reasons set out above, I recommend that the general submissions on the coastal environment rules are accepted, accepted in part and rejected as set out in **Appendix 2**.
263. I recommend that CE-R1 is amended in response to these submissions to:
- a. Amend the default activity status when compliance with the permitted activity rules is not achieved to restricted discretionary activity (outside ONC and HNC areas) with the matters of discretion being the matters in CE-P10 (which includes consideration of effects on the characteristics, qualities and values of the coastal environment) and the positive effects of the activity.
 - b. Include a new controlled activity rule for a residential unit on an approved building platform in an existing subdivision consent that includes an expert landscape assessment with matters of control being the matters in CE-P10.
 - c. Include a new permitted activity condition that provides for:
 - i. The upgrading of existing infrastructure permitted under I-R3 in the Infrastructure chapter with additional controls on



height (10m or same height of existing structure), size (no greater than 20% of GFA of existing structure) and restrictions on use of pi poles.

ii. New fencing for the purposes of stock exclusion.

d. Provide an exemption to CE-S2 (Maximum height) for telecommunication facilities.

264. I recommend that CE-S2 (Maximum height) is amended to provide an exemption for telecommunication facilities.

265. These specific amendments are shown in the marked-up amendments the Coastal Environment chapter in **Appendix 1**. I also recommend that advice note 3 above the rule table is amended as follows:

The Earthworks chapter and Ecosystem and Indigenous Biodiversity rules apply 'in addition' to the earthworks and indigenous vegetation clearance rules in this overlay chapter, not instead of. In the event of a conflict between the earthworks chapter and this chapters earthworks rules, the most stringent rule will apply.

Section 32AA evaluation

266. A section 32AA evaluation has been completed for CE-R1 under Key Issue 10 below and is not repeated here. An advice note is not a provision that requires a section 32AA evaluation.

5.2.10 Key Issue 10: CE-R1

Overview

Provision(s)	Officer Recommendation(s)
Rule CE-R1	Amend rule to refine the zones it applies to and to refine the thresholds and standards

Analysis of Submissions on Key Issue 10: Rule CE-R1

Matters raised in submissions

267. There are a large number of submissions on CE-R1, with most of those submissions raising concerns with the rule and requesting amendments.

268. As discussed above, a key concern relates to the controls on buildings and structures in "urban" zones, which is covered by PER-1 of CE-R1. For example, Foodstuffs North Island Limited (S363.014) and Paihia Properties Holdings Corporate Trustee Limited and UP Management Ltd (S344.013) are concerned that PER-1 places unnecessary restrictions on urban areas such as Paihia where the amenity and natural character of the coastal environment has already been compromised.



269. To address this concern, the submitters request an amendment to CE-R1 to exclude land zoned MUZ, RSZ and LIZ or any equivalent commercial zone, to enable development to occur in accordance with the underlying zone provisions. Paihia Properties Holdings Corporate Trustee Limited and UP Management Ltd (S344.016) also request similar relief to provide a permitted activity tier for new buildings within an existing commercial area of a coastal township and a restricted discretionary status for proposals that do not comply with the permitted activity standards as opposed to a blanket discretionary activity status.
270. Trent Simpkin (S283.003) and Tristan Simpkin (S287.001) oppose CE-R1 on the basis that the 300m² threshold is too restrictive as there are many houses being built above this size and requiring resource consent will just slow these projects down. The submitters request that the 300m² building coverage threshold is deleted from CE-R1.
271. William Goodfellow (S493.008) Phillip Thorton (S4967.006), Eric Kloet (S491.005) and numerous other individual submitters raise a range of concerns with CE-R1, including controls on building coverage, building height, colour and reflectivity of buildings, and request that all limitations on new buildings in the coastal environment be deleted. These submitters are concerned that the controls and limitations in CE-R1 would limit the reasonable development of their land to an extent that is unnecessarily onerous and inconsistent with the purpose of the RMA.
272. Suzanne Linda Ashmore (S169.002) and Cavalli Properties Limited (S177.002) consider that there is no need to restrict development any more than the underlying zone outside HNC and ONC overlays in the coastal environment and request amendments to CE-R1 to provide for this relief. These submitters raise the same concerns and request the same relief for several of the coastal environment rules.
273. Kingheim Limited (S461.002) raises more specific concerns with the building coverage restrictions in CE-R1. They argue that, given the other controls on building colour and materials which effectively mitigate the adverse effects of buildings, there should be no reason to require resource consent simply based on building size. Accordingly, Kingheim Limited requests that the building coverage restrictions in CE-R1 are deleted. New Zealand Maritime Parks Ltd (S251.007) also raises concerns that the building coverage restrictions are overly onerous and inappropriate in urban zones and have not been sufficiently evaluated in the section 32 evaluation report. New Zealand Maritime Parks Ltd requests that CE-R1 is amended to:
- a. Delete the building coverage restriction in urban areas or amend it to align with the underlying zone.
 - b. Incorporate a restricted discretionary activity status for activities that do not comply with the standards and are outside areas of HNC and ONC, rather than a blanket discretionary activity status.



274. Sarah Ballantyne and Dean Agnew (S386.013) and Willowridge Developments Limited (S250.017) support CE-R1 in part but request several amendments to better reflect the varied environments of the underlying zones. The submitters raise concerns that the intent of the PDP is to encourage development in urban areas but the restrictions in CE-R1 will limit development capacity in these areas. Outside urban areas, the submitter also considers that the controls in CE-R1 are overly restrictive. To address these concerns Sarah Ballantyne and Dean Agnew requests the same relief as New Zealand Maritime Parks Ltd above and also request amendments to PER-2 to delete condition (1) and amend condition (2) to better reflect the different values in each zone.
275. FNHL (S320.009) requests an amendment to PER-1 so that it does not apply to FNHL landholdings to better reflect existing, consented and proposed land uses. FNHL requests that this is achieved through an 800m² threshold for *"the OMDA, and the Mixed Use Zone at the Opuia Marina, Marine Business Park, Commercial Estate, and Colenzo Triangle"*.
276. Waitoto Development Limited (S263.032) request that CE-R1 is amended to not apply to Orongo Bay SPZ as it negates the purpose of the SPZ. Peter Malcolm (S414.001) requests an amendment to PER-1 to also include the Rural Lifestyle Zone within PER-1 in CE-R1.
277. Richard G A Palmer (S248.003) requests an increase to the building coverage threshold in PER-2 from 25m² to 150m², noting this would provide for a modest house.
278. Federated Farmers (S421.186) raise concerns with PER-2 in CE-R1 being too restrictive. Federated Farmers requests that the GFA in PER-2 be increased to 250m², noting that 25m² is too restrictive and not fit-for-purpose for ancillary farm buildings. Federated Farmers also requests that the condition requiring buildings to be located outside ONC overlay is deleted as this does not recognize the functional need of farm buildings to be located where they are needed.
279. HortNZ (S159.073) also requests more enabling provisions for rural production buildings in the coastal environment given farming is a permitted activity. To provide for this relief, HortNZ requests that the building coverage threshold in PER-2 be increased from 25m² to 100m², with an exception for artificial crop protection. HortNZ (S159.074) also requests a specific permitted activity rule for artificial crop protection.
280. Omata Estate (S548.003) are concerned that PER-2 will limit the ability to develop their site. Omata Estate consider that it is more effective and efficient to amend CE-R1 to provide for the establishment of new buildings or structures outside of urban zones (and not within HNC or ONC) as a restricted discretionary activity with associated matters of discretion and assessment criteria.



281. A group of submitters, including Bentzen Farm Limited (S167.074) and Matauri Trustee Limited (243.092), raise concerns that CE-R1 fails to recognise the existence of residential units in the coastal environment and considers that PER-2 needs to be amended to enable buildings that are not ancillary to farming. The submitters request that CE-R1 is amended to:
- a. Enable buildings not ancillary to farming up to 50m² as a permitted activity.
 - b. Change the activity status to restricted discretionary activity when the standards are not complied with, including a list of requested matters.
282. Northland Planning and Development 2020 Limited (S502.016) and Waitangi Limited (S503.014) raise concerns that the application of PER-2 is too restrictive given it applies to a range of rural and other zones. The submitters consider that the rule should be less restrictive for buildings ancillary to farming (50m²) and provision should be made for buildings not ancillary to farming (25m²) such as sheds, garages and buildings associated with recreation and sport activities.
283. Waiaua Bay Farm Limited (S463.060) are concerned that the thresholds in PER-2 in CE-R1 are impossible for them to comply with and are inappropriate in the context of the Kauri Cliffs SPZ given the range of activities that exist, or can reasonably be anticipated, in the Golf Living, Golf Playing or Lodge subzones. To address this concern, Waiaua Bay Farm Limited requests an amendment to CE-R1 and the relevant standards to state that the Kauri Cliffs SPZ provisions prevail over the coastal environment rules.
284. Top Energy (S483.172) oppose CE-R1 on the basis that no provision has been made to allow for new network utilities of an appropriate scale within the coastal environment. Top Energy notes that buildings are sometimes required for the electricity network and requests that PER-2 is amended to also provide for buildings ancillary to network utilities.
285. The New Zealand Defence Force (S217.025) requests an amendment to provide for temporary military training activities as a permitted activity. The submitter considers that due to the temporary nature of these activities it is appropriate that any buildings or structures ancillary to temporary military training activities are permitted.
286. Nicole Wooster (S259.012) requests clarification as to whether existing cemeteries are captured under CE-R1 or whether existing use rights apply. To address this concern, the submitter requests an amendment to CE-R1 to provide for the continued operation of existing cemeteries in a coastal environment or for Council to confirm that this is covered by existing use rights.

Analysis



287. CE-R1 provides controls on new buildings and structures and extensions and alterations to existing buildings and structures. As notified, CE-R1 includes four permitted activity conditions:
- a. **PER-1** – requires new buildings in “*urbari*”²¹ zones to be no greater than 300m² and be located outside ONC and HNC areas.
 - b. **PER-2** – requires new buildings outside “*urbari*” zones to be ancillary to farming (excluding a residential unit), no greater than 25m² and outside ONC areas.
 - c. **PER-3** – requires extensions and alterations to existing buildings and structures to be no greater than 20% of the GFA of the existing building or structure.
 - d. **PER-4** - requires all buildings and structures to comply with CE-S1 and CE-S2. These standards are addressed below this section as they only apply under this permitted activity condition.
288. The restrictions on buildings and structures in CE-R1 have attracted significant opposition in submissions, particularly in terms of how the rule applies to urban zones in PER-1 but also outside urban zones in PER-2.
289. I am aware that the rationale for these rules, both within and outside “*urbari*” zones, has been informed by the original landscape advice from MAL in Appendix 1 of the section 32 evaluation report²². However, I agree with the broad sentiment in submissions that CE-R1 is likely to be overly restrictive in some areas and further analysis is required to determine:
- a. How the rule should apply to “*urbari*” and non-urban zones.
 - b. How the rule should apply to more built-up urban areas.
 - c. The appropriate building coverage thresholds within and outside “*urbari*” zones.
 - d. Whether PER-2 should be limited to buildings ancillary to farming.
290. The table below provides a summary of controls on building coverage in CE-R1 compared to the underlying zoning, the extent of the zone within the coastal environment overlay, and the coastal settlements located within those zones. This table illustrates that CE-R1 has the potential to constrain

²¹ Defined in the PDP as “*means an area of land zoned either: a. General Residential b. Kororareka Russell Township c. Mixed Use d. Light Industrial that currently has adequacy and capacity of available development infrastructure or is signalled to receive at a minimum reticulated wastewater infrastructure, in the Long Term Plan or the 30 Year Infrastructure Strategy. NOTE: Land zoned Heavy Industrial in some parts of the District may not have access to, or be programmed to receive, adequate development infrastructure so is not included within this definition.*”

²² Refer pg. 6-8: [MELEAN ABSOLUM LIMITED \(fndc.govt.nz\)](https://www.fndc.govt.nz/)



future development across a range of PDP zones and a range of coastal settlements.

Zone	CE-R1 controls	Zone coverage standard	Area (ha) within CE overlay	Coastal settlements within zone
Mixed use	300m ²	10% of site must be permeable	72.4	Ahipara, Cable Bay, Coopers Beach, Haruru, Kohukohu, Mangonui, Omapere, Opononi, Opuā, Pahia and Waitangi, Rawene, Russell / Kororāreka, Taipa, Whangaroa
Light Industrial ²³	300m ²	10% of site must be permeable	22	Coopers Beach, Mangonui, Opuā
Residential	300m ²	Max 50% of the site impermeable	710	Ahipara, Cable Bay, Coopers Beach, Haruru, Hihi, Kohukohu, Mangonui, Omapere, Opononi, Opuā, Pahia and Waitangi, Rangiputa, Rawene, Russell / Kororāreka, Taipa, Tapeka Point, Te Haumi, Tokerau & Whatuwhiwhi, Whangaroa
Rural	25m ²	Max 12.5% – 35% of the site impermeable	39,436	Settlement ²⁴ – Whangaroa
Māori Special Purpose Zone	25m ²	Urban – max 50% of site impermeable Rural – max 25% of site impermeable	Urban - 38 Rural -17,087	Haruru, Omapere, Pahia and Waitangi, Rawene, Whangaroa
Other Special Purpose Zone	25m ²	Kororāreka (max 35% of site impermeable) Hospital (N/A) Orongo Bay (max 300m ² impermeable)	Kororāreka -75 Hospital - 2.7 Orongo Bay – 4.7	Russell / Kororāreka, Rawene,

²³ There is no land zoned Heavy Industrial in the Coastal Environment Overlay.

²⁴ The other rural zones (Rural Production, Rural Lifestyle, Rural Residential) are not considered further here as a 5m height limit for buildings and structures in the rural parts of the coastal environment is considered appropriate given the natural character values will generally be higher.



291. In responding to submissions on CE-R1, I consider that there are three main issues to respond to, along with a range of “other issues”, as follows:
- a. Issue 1 – the “urban” zones captured under PER-1 in CE-R1.
 - b. Issue 2 – the application of PER-1 to more built-up urban areas.
 - c. Issue 3 – the controls on buildings and structures outside urban areas in PER-2.

Issue 1 – the ‘urban’ zones captured under PER-1 in CE-R1

292. As noted above, PER-1 in CE-R1 applies to “urban” zones, which is defined in the PDP as including four zones that have existing or planned adequate development infrastructure. Through analysis of submissions on CE-R1, I have identified a number of issues with the definition of “urban” in the PDP (some of which I have already discussed in relation to CE-P5 in Key Issue 7 above):
- a. The definition seems incomplete in its coverage as there are some “*urbari*” zones that seem to be omitted, being Oronga Bay SPZ, Hospital SPZ and Māori Purpose Zone – Urban. There are also other special purpose zones where future development is anticipated that could be considered for inclusion in PER-1 in CE-R1 (otherwise the more stringent thresholds in PER-2 apply).
 - b. The term “urban” is used in the PDP in a range of contexts, such as to describe character and types of land-uses, not just to refer to “urban” zones as implied in the definition.
 - c. It is unclear how the adequacy of development infrastructure is a relevant consideration for managing the effects of development on the characteristics and qualities coastal environment.
 - d. The definition is not aligned with higher order documents, which refer to urban zones more broadly (e.g. the definition of “*urban zoning*” in the NPS-HPL) or use different terminology (e.g. “*urban environment*” under the NPS-UD).
293. I have also discussed the purpose and necessity of the definition of “*urbari*” with FNDC and there seems to be no clear reason to retain or use the definition of “*urbari*” in the context of CE-R1 or the Coastal Environment more generally. I therefore recommend that the reference to urban zones is deleted from PER-1 and PER-2 in CE-R1 and the rule is amended to be more targeted to the zones it applies to. I also recommend that the definition of “*urbari*” is not hyperlinked as a relevant definition in CE-O3 and CE-P5 (noting that is a wider issue for the PDP).



294. In terms of the substance of the rule, I recommend that PER-1 in CE-R1 is expanded to cover Oronga Bay Zone, Hospital Zone, and Māori Purpose Zone – Urban so these more urban zones are not subject to the stringent thresholds in PER-2 in CE-R1. I also recommend that the Kauri Golf SPZ – Golf Living Sub-Zone is incorporated into PER-1 in CE-R1 as it is clear some development is anticipated within this subzone. I note that this recommendation is supported from a landscape perspective in the MAL Report (section 4.13 in the MAL Report). However, I do not recommend that the Rural Lifestyle Zone is added to PER-1 as clearly that it is rural zone which is less modified and developed compared to the more developed zones controlled under PER-1 in CE-R1.

Issue 2 – the application of PER-1 in CE-R1 to more built-up urban areas

295. As noted above, landscape advice has been sought from MAL to help respond to relevant submissions on the PDP relating to the Coastal Environment. This advice includes specific consideration of the controls in CE-R1 in terms of how they apply to more built-up urban areas given the significant number of submissions on this issue.
296. The advice of MAL concludes that the 300m² building coverage control in PER-1 of CE-R1 is appropriate in the majority of the coastal settlements in the Far North District, *“but a more nuanced response to a handful of locations is appropriate, given that larger and taller buildings already exist and have already impacted on natural character values”*. The six coastal towns/settlements where a more nuanced approach is recommended in the MAL Report are:
- a. Coopers Beach;
 - b. Mangonui;
 - c. Opuā;
 - d. Paihia & Waitangi;
 - e. Rawene; and
 - f. Russell / Kororareka.
297. In these areas, the MAL Report recommends that the 300m² building coverage control be retained for GRZ areas but that the building coverage control from the underlying zoning be relied on for other “urban’ zones” (i.e. MUZ, LIZ, Kororareka Russell Township). Based on the recommendations under Issue 1, this would also apply to areas zoned Oronga Bay SPZ, Hospital SPZ, and Māori Purpose Zone – Urban within these six coastal towns/settlements.
298. I support the recommendation in the MAL Report to provide a more nuanced approach to controls on buildings and structures in the coastal environment



and it addresses some of the significant concerns in submissions about the application of CE-R1 to more built-up urban areas. In my view, this recommendation appropriately recognises that these urban areas are already highly modified with generally low natural character values. It recognises that applying additional building coverage controls would likely result in constraints on development and consenting costs with limited benefits in terms of protecting the characteristics and qualities of the coastal environment. It also supports the general approach of the PDP to consolidate further development around existing towns/settlements, consistent with the clear direction in the NZCPS and RPS.

299. I therefore recommend that CE-R1 is amended to not apply any controls on building coverage to these six urban zones located in the six coastal towns/settlements listed above. **Appendix 4** provides a series of maps showing where the areas where this recommended exemption to CE-R1 applies to help submitters understand the effect of this recommended change.

Issue 3 – The controls outside urban areas under PER-2 in CE-R1

300. The advice in the MAL Report also considers the controls on building coverage in PER-2, which apply outside the “urban” zones referred to in PER-1. This advice concludes that the building coverage controls can be increased provided the differentiation between buildings ancillary to farming and residential units is maintained. The MAL Report recommends an increase in the maximum permitted building coverage in PER-2 from 25m² to 100m² (outside HNC and ONC) and 50m² (in HNC areas). MAL also recommends a maximum building coverage of 25m² in a ONC area.
301. I support these recommendations to ensure PER-2 in CE-R1 is not overly restrictive. I also support setting the permitted activity thresholds at levels that gives effect to the clear direction in the NZCPS and RPS relating to protecting the natural character and natural landscapes in the coastal environment. I therefore recommend that PER-2 in CE-R1 is amended to adopt the thresholds recommended in the MAL report.
302. In terms of the recommended differentiation between buildings ancillary to farming and residential units in the MAL Report, I understand that the key concern from a landscape perspective relates to the more modified, complicated nature of residential units and the features typically associated with residential units such developed gardens, decks etc. I consider that this intent can be more effectively captured by amending PER-2 to require that the building or structure “...*is not used for a residential activity*” noting that residential activity is defined in the PDP (and National Planning Standards) as “*means the use of land and building(s) for people’s living accommodation*”.
303. I consider this is a clearer way to achieve the intent, which also has the benefit of:



- a. Ensuring the rule captures all forms of residential activities which may be a “*minor residential unit*”, “*residential unit*” or other forms of accommodation such as “*visitor accommodation*”.
- b. Does not inappropriately apply to/restrict other buildings and structures which are similar in nature, scale and effects to farm buildings. For example, a storage shed associated with a community facility or boat shed.

Other issues with CE-R1

304. In terms of the submission from Omata Estate, I consider that my recommendations above address their relief at least in part by providing more flexibility for buildings controlled under PER-2 in CE-R1 (increasing the building coverage threshold and not restricting the rule to ancillary farming buildings). In terms of the submission from Nicole Wooster, I note that existing use rights under section 10 of the RMA would apply to existing cemeteries. I also anticipate that the scale of structures and buildings within cemeteries would generally be permitted under CE-R1.
305. In terms of the submission from the New Zealand Defence Force, I note that the PDP includes a specific permitted activity rule (TA-R2) for temporary training activities in the Temporary Activities chapter. I therefore consider that the relief sought by the submitter is already provided for within this chapter.

Recommendation

306. For the reasons above, I recommend that submissions on CE-R1 are accepted, accepted in part and rejected as set out in **Appendix 2**. I recommend that CE-R1 is amended as follows:
 - a. **PER-1** is amended to:
 1. Remove the reference to urban zones and instead apply the rule to:
 - i. General Residential Zone; and
 - ii. Mixed Use Zone, Light Industrial Zone, Māori Purpose Zone – Urban, Oronga Bay Zone, Hospital Zone, and Kauri Cliff SPZ - Golf Living Sub-Zone with an exception for the following settlements (where the building coverage control for the underlying zone will apply): Coopers Beach, Mangonui, Opua, Paihia and Waitangi, Rawene, and Russell / Kororareka.
 2. Require compliance with CE-S1 and CE-S2 (rather than this being a separate standard as PER-4 to improve interpretation of the rule).
 - b. **PER-2** is amended to:
 1. Apply to the zones not referred to in PER-1 and require that buildings and structures:
 - i. Are not used for a residential activity.



- ii. Have a GFA of no greater than 25m² in ONC, 50m² in HNC and 100m² in other areas of the coastal environment.
 - 2. Require compliance with CE-S1 and CE-S2 (rather than this being a separate standard as PER-4 to improve interpretation of the rule).
 - c. **PER-3** is amended to require extensions and alterations to existing buildings and structures to comply with CE-S1 (not CE-S2).
 - d. **PER-4** is replaced with a new permitted activity condition that permits fencing and upgrading of existing network utilities as outlined under Key Issue 9.
307. As outlined under Key Issue 9, I also recommend that the activity status when compliance is not achieved with the relevant permitted and controlled activity standards in CE-R is amended to be:
- a. Restricted discretionary (outside ONC and HNC areas) with the matters of discretion restricted to the matters in CE-P10 and positive effects.
 - b. Discretionary within HNC areas.
 - c. Non-complying within ONC areas.
308. These amendments to CE-R1 are shown in **Appendix 1** rather than repeated here for simplicity.

Section 32AA evaluation

309. My recommended amendments to CE-R1 are intended to address numerous concerns raised in submissions about the controls applying to buildings and structures in the coastal environment being overly stringent, particularly in urban areas. I consider that my recommended amendments to CE-R1 are more effective in striking a balance between the need to protect the natural character and landscape values of the coastal environment while also recognising the need for urban areas in the coastal environment to develop and change over time.
310. In particular, the recommended amendments to CE-R1 seek to provide a more nuanced approach, recognising that different coastal towns and settlements have varying levels of coastal natural character with some being highly modified and able to tolerate different levels of built form change. In this respect, I consider that the recommended amendments will be more effective in applying targeted permitted activity conditions for the scale of buildings and structures based on the underlying zone and the existing level of natural character in the coastal environment. This will also be more efficient by avoiding unnecessary controls and costs being applied to development in more built-up coastal settlements in the Far North District. Overall, I consider that my recommended amendments to CE-R1 will be more effective and efficient in achieving the relevant objectives in the PDP than the notified rule and are therefore appropriate in terms of section 32AA of the RMA.



5.2.11 Key Issue 11: Standard CE-S1 and general comments

Overview

Provision(s)	Officer Recommendation(s)
CE-S1	Amend to refine the zones the standard applies to and remove reference to " <i>nearest ridgeline, headline or peninsula</i> "

Analysis of Submissions on Key Issue 11: Standard CE-S1 and general comments

Matters raised in submissions

General submissions on CE Standards

311. Russell Protection Society (S179.071) generally supports the standards in the Coastal Environment chapter. The submitter considers that the coastal environment overlay is important to help define the boundaries of Russell and to protect the headlands and the natural coastal escarpments that characterise the Russell Peninsula.
312. Waitoto Development (S263.035, S263.036, S263.037) request that standards CE-S1 to CE-S3 do not apply to the Orongo Bay SPZ.
313. A number of other submitters such as Paihia Property Owners Group (S330.004), Good Journey (S82.012) and Bayswater Inn (S29.008) request that the coastal environment overlay is removed from established urban areas or, alternatively, the coastal environment standards are amended to be more enabling and appropriate in urban areas.

CE-S1 – Maximum height

314. There are a substantial number of submissions on CE-S1 relating to the maximum height of buildings and structures. The majority of submitters oppose CE-S1 and request an increase in the permitted height limits and/or deletion of the standard.
315. FNDC (S368.003) supports CE-S1 in part but requests that the reference to urban zones be deleted from this standard if further investigation shows that it is appropriate in the coastal environment. FNDC's rationale is that this standard affects several built-up urban areas across the Far North District and further investigation is required to determine whether urban zones should be excluded from this standard, given the sliding scale of "natural character" and the already built-up nature of existing urban areas.
316. Russell Protection Society (S179.080) supports CE-S1 in part but raises similar concerns relating to the application of CE-S1 in urban zones where the underlying zone permitted height limit is more permissive and requests that the standard is amended as it applies within urban areas.



317. Waiaua Bay Farm (S463.065) is also concerned with the generic 5m permitted height limit in all parts of coastal environment, noting that it is a substantial change in the PDP and is likely to heavily constrain the ability of landowners to use and develop their land. Waiaua Bay Farm is concerned that this will constrain/undermine the Kauri Cliffs SPZ Zone and requests that CE-S1 is amended to exclude the Kauri Cliffs SPZ.
318. Various submitters have raised concerns that CE-S1 is at odds with the permitted height limits of the underlying zone, particularly the height limits of the MUZ. For example, Leisa Henwood (S285.001), Josh Henwood (S256.003) and Terry Henwood (S289.001) request that CE-S1 be amended to 8.5m or 10m to align with the maximum height limits in the MUZ.
319. Bruce and Kim Rogers (S293.003) consider that CE-S1 is prohibitive as the permitted standard in the MUZ Area B is 10m and a 5m height limit for a two-story building with 3.4m high floors is not practicable. To address this concern the submitter requests that CE-S1 is amended to be consistent with the MUZ-S1, Area B which is 10m. Ed and Inge Amsler (S341.012) are also concerned that the 5m height limit in CE-S1 is at odds with the residential and commercial intent of the MUZ and request that CE-S1 be amended to increase the 5m height limit in urban areas.
320. Paihia Properties (S344.014) consider that CE-S1 places unnecessary restrictions on buildings in urban areas such as Paihia, where the amenity and character of the coastal environment has already been compromised. Consistent with their relief sought on CE-R1, the submitter requests that CE-S1 is amended to exclude land that is zoned MUZ, RSZ and LIZ or any equivalent commercial zone, to enable development to occur in accordance with the underlying zone provisions.
321. Multiple submitters seek that the maximum height be amended from 5m to 8m. For example:
- a. Richard Palmer (S248.004), Trent Simpkin (S283.001), Paul Hayman (S210.001) and Tristan Simpkin (S287.003) are concerned that a maximum height of 5m for any standard house or building is difficult to achieve without large excavations, especially when most of the land in the coastal environment is sloping.
 - b. David Truscott (S476.004) is concerned that the CE-S1 height limit of 5m conflicts with the adopted Rawene Design Guidelines where two-storey buildings are recommended. He requests that CE-S1 increases the maximum height to 8m to be consistent with Rawene HHA Part A.
 - c. Waitangi Limited (S503.016) and Northland Planning and Development (S502.018) consider that amending CE-S1 to an 8m height limit would enable more farm buildings to be able to comply with this standard, especially as the coastal environment overlay covers a large area of the rural environment where there is a



functional need to establish sheds for machinery and general farm buildings that often exceed 5m in height.

322. Two submitters request an increase in the maximum height limit from 5m to 6m, being:
- a. Lynley Newport (S123.001), who requests that the maximum height be increased to 6m, suggesting that this small change will not increase the risk of visual impact.
 - b. IDF Developments (S253.006), who are concerned that the 5m height limit will restrict building design and layout options and request that the height limit be increased to 6m.
323. A number of submitters also raise concerns with the reference in CE-S1 to *"the nearest ridgeline, headland or peninsula"*. For example:
- a. IDF Developments (S253.006) request removal of the reference to *"the nearest ridgeline, headland or peninsula"* as this terminology is uncertain and should be removed.
 - b. Sarah Ballantyne and Dean Agnew (S386.014) request that CE-S1 is deleted or the reference to ridgeline, headland or peninsula be removed as these terms are not defined and may cause interpretation issues.
 - c. Lynley Newport (S123.001) is concerned about interpretation of the nearest ridgeline, headland or peninsula, raising questions as to whether the nearest ridgeline, headland or peninsula is on another property, or more than 1km away.
324. New Zealand Maritime Parks (S251.008) consider that CE-S1 inadequately acknowledges the heights of existing buildings in established urban areas. The submitter notes that there are many existing buildings within the Opuia industrial park that exceed 5m and have a functional and operational need to be this size (i.e., marine services accommodating large boats and equipment). Willowridge Developments (S250.018) raise similar concerns in relation to CE-S1 in MUZ and Industrial zones. As such, New Zealand Maritime Parks and Willowridge Developments request that the height limits in CE-S1 are tailored to each zone.
325. A number of submitters, including Ian Jepson (S494.011), Vaughan Norton-Taylor (S536.008), William Goodfellow (S493.011), Philip Thornton (S496.009), Mark Wyborn (S497.009), Ricky Faesen Kloet (S495.007) and Chris Sharp (S350.001) oppose CE-S1 and consider that the standard is overly onerous. These submitters request that limitations on the height of new buildings located within the coastal environment in CE-S1 be deleted.
326. A group of submitters, including Matauri Trustee (S243.097), Wendover Two (S222.071) and the Shooting Box (S187.068), request that CE-S1 be



deleted. These submitters are concerned that the maximum height specified of 5m may or may not be appropriate in all circumstances and is best determined at building consent stage. Further, the submitters consider that requirement to not exceed the height of the “nearest ridgeline, headland or peninsula” lacks precision and measurability as a permitted activity standard and consider that these factors are better taken into account at resource consent stage.

Analysis

327. The maximum height limit for buildings and structures in CE-S1 has attracted significant opposition in submissions, particularly as it applies to urban areas. As notified, it would limit the height of new buildings and structures to 5m above ground level, the height of extensions to the same height as the existing building, with a requirement for both new buildings and extensions to “not exceed the height of the nearest ridgeline, headland or peninsula”.
328. Based on the submissions on CE-S1 above, I consider that there are two main issues to respond to:
- a. Issue 1 – the application of the 5m height limit to all zones and coastal settlements in the Far North District.
 - b. Issue 2 – the requirement to not exceed the height of “nearest ridgeline, headland or peninsula”.

Issue 1 – applying 5m height limit to all zones and coastal settlements

329. I agree with the broad sentiment in submissions that the blanket 5m height limit for all buildings and structures across the coastal environment has some issues. In particular, I agree that further analysis is required to determine how the standard should apply to urban areas as requested by FNDC, given the spectrum of natural character values across the Far North District and potential to undermine the purpose of the underlying zone.
330. The table below provides a summary of maximum height limits in a number of key zones in the PDP and the coastal settlements within the different zones to help understand the potential impact of CE-S1. The table illustrates that CE-S1 would limit height of new buildings across numerous coastal settlements in the Far North District, with the biggest impacts in more built-up urban areas zoned MUZ or LIZ.

Zone	Height limit	Coastal settlements within zone
Mixed use	12m Pahia Area A (8.5m) Pahia Area B (10m)	Ahipara, Cable Bay, Coopers Beach, Haruru, Kohukohu, Mangonui, Omapere, Opononi, Opuā, Pahia and Waitangi, Rawene, Russell / Kororāreka, Taipa, Whangaroa
Light Industrial	12m	Coopers Beach, Mangonui, Opuā



Residential	8m	Ahipara, Cable Bay, Coopers Beach, Haruru, Hihi, Kohukohu, Mangonui, Omapere, Opononi, Opuā, Pahia and Waitangi, Rangiputa, Rawene, Russell / Kororāreka, Taipa, Tapeka Point, Te Haumi, Tokerau & Whatuwhiwi, Whangaroa
Rural	8-12m ²⁵	Settlement ²⁶ – Whangaroa
Māori Special Purpose Zone	Urban (11m) Rural (12m)	Haruru, Omapere, Pahia and Waitangi, Rawene, Whangaroa
Other Special Purpose Zones	Kauri Cliffs (8-9) Kororāreka (7.2) Hospital (12m) Orongo Bay (12m)	Russell / Kororāreka, Rawene,

331. The appropriateness of CE-S1 from a landscape and natural character perspective is assessed in the report from MAL. This advice considers the appropriateness of the building height restrictions, noting that this standard works in tandem with the controls on building coverage to “*ensure future development protects important landscape and coastal values*”. In short, the MAL report recommends that the additional CE-S1 building height restrictions need not apply in the same zones and six coastal settlements discussed above in relation to CE-R1²⁷, along with the Orongo Bay SPZ. Elsewhere, MAL recommends that the 5m height limit is retained to restrict permitted development to a single storey as this is considered to be appropriate to protect identified landscape and coastal values.
332. I support these recommendations from MAL to provide a more nuanced approach to controls on the height of buildings and structures in the coastal environment to address concerns in submissions about the application of CE-S1 to more built-up urban areas. In my view, this recommendation appropriately recognises that these urban areas are already highly modified with generally low natural character values. It recognises that applying additional building coverage controls would likely result in constraints on development and consenting costs with limited benefits in terms of protecting the characteristics and qualities of the coastal environment. It also supports the general approach of the PDP to consolidate further development around existing towns/settlements, consistent with the clear direction in the NZCPS and RPS.
333. I recommend that CE-S1 is amended to adopt these recommendations. **Appendix 4** provides a series of maps showing where the areas where this

²⁵ All rural zones, including Settlement, are 8m and Rural Production is 12m.

²⁶ The other rural zones (Rural Production, Rural Lifestyle, Rural Residential) are not considered further here as a 5m height limit for buildings and structures in the rural parts of the coastal environment is considered appropriate given the natural character and landscape values will generally be higher.

²⁷ Coopers Beach, Mangonui, Opuā, Pahia and Waitangi, Rawene, and Russell / Kororareka.



recommended exemption to CE-S2 applies to help submitters understand the effect of this recommended change.

Issue 2 – not exceed the height of nearest ridgeline, headland or peninsula

334. I agree with the general concerns of submitters that the requirement in CE-S1 for buildings and structures to “*not exceed the height of the nearest ridgeline, headland or peninsula*” is problematic as a permitted activity standard for a range of reasons. I have discussed the workability and effectiveness of this requirement in CE-S1 from a landscape perspective with MAL and this is addressed in section 4.3 of the MAL Report. In summary, MAL concludes:

Having been involved with the protection of ridgelines from inappropriate development for several decades, I am concerned that successfully including consideration of this complex matter as a standard for permitted activities is going to be difficult. Rather than adjusting the notified provision, I would recommend that consideration of the relationship of new development, either in the CE or in an ONL, with the local landform be a matter of discretion to be considered as part of a resource consent.

335. I support this recommendation and recommend that this is achieved through a new matter to consider in CE-P10 as follows: “*the visual effect of the building, structure or activity on nearby ridgelines, headlands or peninsula*”. This will ensure that these effects can be considered and managed where relevant when resource consent is required for non-compliance with CE-S1.

Recommendation

336. For the reasons above, I recommend that submissions on CE-S1 are accepted, accepted in part and rejected as set out in **Appendix 2**. I recommend that CE-S1 is amended as follows:

1. *The maximum height of any new building or structure above ground level is 5m and must not exceed the height of the nearest ridgeline, headland or peninsula; and*
2. *Any extension to a building or structure must not exceed the height of the existing building above ground level or exceed the height of the nearest ridgeline, headland or peninsula.*

This standard does not apply to:

1. *Telecommunication facilities;*
2. *The Oronga Bay Zone and the Kororāreka Russell Township zone.*
3. *The Mixed-Use Zone, Light Industrial Zone, Māori Purpose Zone – Urban, and Hospital Zone within the following settlements:*
 - a. *Coopers Beach;*
 - b. *Mangonui;*
 - c. *Opuā;*
 - d. *Paihia & Waitangi; and*



e. Rawene.

Section 32AA evaluation

337. Similarly to the section 32AA evaluation for CE-R1 above, I consider that my recommended amendments to CE-S1 achieve a better balance between protecting the characteristics and values of the coastal environment and allowing an appropriate scale of built form in areas with lower natural character. The removal of the 5m height limit and reliance on the underlying zone for the Kororāreka Russell Township zone and the six more developed coastal settlements in the Far North District will allow the scale of built development envisaged for these areas to be realised, while still ensuring that development is limited to a single storey as a permitted activity elsewhere in the coastal environment.
338. The removal of the reference to exceeding the height of the nearest ridgeline, headland or peninsula will ensure that CE-S1 is a more efficient, certain and workable permitted activity standard, both for applicants seeking to understand if they are a permitted activity and for FNDC assessing compliance with permitted standards. However, the effects on ridgelines, headlands or peninsulas will remain a key consideration when assessing non-compliance with CE-S1 through my recommendation for a new matter to be included under CE-P10, which I consider to be a more appropriate and effective. Overall, I consider that my recommended amendments to CE-S1 will be more effective and efficient in achieving the relevant objectives in the PDP than the notified standard and are therefore appropriate in terms of section 32AA of the RMA.

5.2.12 Key Issue 12: CE-S2 – Colour and Materials

Overview

Provision(s)	Officer Recommendation(s)
CE-S2	Amend to only apply standard to new buildings and refine requirements

Analysis of Submissions on Key Issue 12: CE-S2 – Colour and Materials

Matters raised in submissions

339. A group of submitters, including P.S. Yates Family Trust (S333.070) and Setar Thirty Six (S168.078), request that CE-S2 is amended to allow for natural materials that typically sit well in a coastal environment. To provide for this relief, the submitters request an amendment to condition 2 in CE-S2 to allow for a “*a natural finish stone or timber*” in addition to be finished with the reference colour palette.
340. Mark Wyborn (S497.010), Ian Jepson (S494.012) and other individual submitters consider that the imposition of controls through CE-S2 constrains the reasonable use and development of properties within the coastal environment unfairly and unnecessarily. As such, the submitters request that



the controls in CE-S2 that impose limitations on the exterior finishes of buildings within the coastal environment be deleted.

341. Paihia Properties (S344.015) considers that CE-S2 places unnecessary restrictions on development in urban areas in the coastal environment such as Paihia where amenity and natural character has already been compromised. Paihia Properties request that CE-S2 is amended to exclude land zoned MUZ, RSZ, LIZ or any equivalent commercial zone in the PDP to enable development in more urban areas to be undertaken in accordance with the underlying zone provisions.
342. Woolworths (S458.004) raise concerns with the paint colour and reflectivity requirements specified under CE-S2. More specifically, Woolworths raise concerns that its standard "pawpaw green" colour can meet the light reflective value standard, but it is not in the generic Resene colour palette, which means any repainting of its existing stores would require resource consent as a discretionary activity. Woolworths consider that this is unnecessary for a paint colour that is used and accepted nationwide with no known visual effects. Consequently, Woolworths request the CE-S2 is amended to only restrict the reflectivity value and not require a finish in accordance with a pre-approved colour palette (i.e. BS5252 standard colour palette).
343. Waitangi Limited (S503.017) and Northland Planning and Development (S502.019) raise similar concerns with the reference to the Resene BS5252 colour range in CE-S2(2). More specifically, the submitters consider that this colour range created in 2008 is outdated and provides an unfair trade advantage to Resene. Waitangi Limited consider that the requirement of a light reflection value of no greater than 30% will achieve the intention of this standard and will remove the need for consent for other branded products such as Coloursteel, which also have a light reflection value of less than 30% (as well as many other products). To address this concern, Waitangi Limited request that CE-S2(2) is deleted, or alternatively that CE-S2(2) is amended to state that "*if painted have an exterior finish within ... or equivalent product.*"
344. Trent Simpkin (S283.002) and Tristan Simpkin (S287.002) are concerned that there is no allowance for timber, or concrete, steel, or aluminium finishes in condition 2 of CE-S2 as the reference to the BS5252 colour palette implies that the exterior surface has to be painted. The submitters note that it is beneficial in many coastal areas to use natural products like timber cladding with stained finishes. To address this concern, these submitters request an amendment to CE-S2(2) to state at the beginning of the clause "*if the exterior surface is painted, it must...*" to allow for situations when the exterior surface of the building is not painted.
345. Nicole Wooster (S259.013) considers that CE-S2(2) is impractical to comply with as bridges, boat ramps and wharves would be regulated by this standard but are difficult/impossible to paint. Additionally, Nicole Wooster is



concerned that graves and associated headstones within cemeteries may be inadvertently captured by CE-S2. To address these concerns, she requests that CE-S2 be amended to "*practically regulate*" graves, bridges, wharfs and boat ramps or provide for their natural finish.

Analysis

346. CE-S2 (Colours and materials) is a standard referenced in CE-R1 and requires the exterior surfaces of buildings and structures to:
- a. *Be constructed of materials and/or finished to achieve a reflection value of no greater than 30%.*
 - b. *Have an exterior surface of within Group A, B or C as defined in the BS5252 standard colour palette.*
347. I understand the intent of the standard to manage adverse effects of buildings and structures on the values of the coastal environment. However, there are some practical issues with CE-S2 that need to be addressed, in my opinion, which have been highlighted in submissions. Those issue are:
- a. The application of CE-S2 to existing buildings.
 - b. The application of CE-S2 in urban areas with controls on the colour of buildings through the heritage chapters in PDP²⁸.
 - c. The reference to the BS5252 standard colour palette and application to exterior finishes that are not painted.
 - d. The application of CE-S2 to structures.
348. I have sought advice from MAL on these matters, which is outlined in section 4.4 of the MAL report. In summary, the MAL report:
- a. Recommends that the colour controls within Heritage Area Overlays should prevail over the colour controls in CE-S2 as many of the heritage overlay areas include numerous buildings that are white or nearly white, therefore imposing controls that would prevent the use of these colours would be inappropriate. This recommendation applies to the coastal settlements of Hihī, Kohukohu, Mangonui, Paihia, Rawene and Russell / Kororāreka, which are all subject to a Hertiage Area overlay.
 - b. Acknowledges that applying CE-S2 to the extension or alteration of existing buildings as notified may be unnecessarily constraining and may not lead to a good outcome (i.e. if the existing building does

²⁸ These standards generally require buildings and structures "*to be finished with the following paint ranges or equivalent: resene heritage colours; resene whites and neutrals; and resene colour range BS5252 (A01-C40 range)*".



not comply with the colour standard, then there is no point requiring the extension to comply).

- c. Agrees with submitters that CE-S2 should allow for the use of natural materials on external surfaces and that it is not appropriate to require all external surfaces to be painted (which was not the intent).
- d. Acknowledges that structures such as bridges and boat ramps will generally be constructed from natural materials and therefore not visually intrusive. The exception is use of galvanised steel in structures. However, this gradually darkens and dulls as it ages and therefore need not comply with the colour standards.

349. MAL also agrees with submitters that the reference to the use of the Resene BS5252 colour chart in the hyperlink from CE-S2 (and NFL-S2) is not appropriate as:

- a. Resene are not the only paint manufacturer who produce paint that complies with the standards.
- b. The original BS5252 includes a whole range of colours which any paint manufacturer should be able to provide.
- c. The key requirement in CE-S2 is that any colours used in these sensitive landscapes should have a reflectance value no greater than 30% and be drawn from Groups A, B or C within the BS5252 colour chart.

350. To address this issue, MAL has prepared an alternative colour chart which is recommended for use instead of the BS5252 hyperlink in CE-S2 (and NFL-S2). I consider that this will effectively address concerns from submitters about the reference to the Resene BS5252 colour chart and recommend that the hyperlink is amended to link to the alternative colour chart provided in the MAL report.

351. I agree with these recommendations in the MAL Report to respond to issues raised in submissions and to make the standard more workable and less onerous in certain circumstances while retaining the general intent. That includes amending the standard, so it only applies to new buildings (not extensions to existing buildings or structures) and not applying the standard within relevant Heritage Area overlays in the coastal environment. I also agree with the suggestions from submitters to amend clause b) in CE-2 so that this standard only applies when a building is to be painted (unpainted materials would only need to comply with clause a).

Recommendation

352. For the reasons above, I recommend that submissions on CE-S2 are accepted, accepted in part and rejected as set out in **Appendix 2**. I recommend that CE-S2 is amended as follows:



The exterior surfaces of new buildings or structures shall:

- a. be constructed of natural materials and/or finished to achieve a reflectance value no greater than 30%.
- b. if the exterior surface is painted, have an exterior finish within Groups A, B or C as defined within the BS5252 standard colour palette.

This standard does not apply to: the following Heritage Area overlays: Kohukohu, Mangonui, Paihia, Rawene and Russell / Kororāreka.

Section 32AA evaluation

- 353. I consider that my recommended amendments to CE-S2 are appropriate in accordance with section 32AA of the RMA as these will make the standard more workable and efficient while also retaining the intent to manage the effects of new buildings on the natural character of the coastal environment. These amendments will also provide better alignment with existing controls on buildings in Heritage Area overlays and avoid unnecessary additional restrictions on the colour of buildings in these areas.

5.2.13 Key Issue 13: CE-R2 – Repair and maintenance

Overview

Provision(s)	Officer Recommendation(s)
CE-R2	Delete

Analysis of Submissions on Key Issue 13: CE-R2 – Repair and maintenance

Matters raised in submissions

- 354. Federated Farmers (S421.187), Top Energy (S483.173) and Waiau Bay Farm (S463.061) support CE-R2 and request that it be retained as notified. In particular, Top Energy supports the repair or maintenance of network utilities as a permitted activity.
- 355. A number of submitters request additional activities to be permitted under CE-R2. For example, HortNZ (S159.075) requests that CE-R2 is amended to include "*structures ancillary to primary production activities*".
- 356. Waitangi Limited (S503.015) and Northland Planning and Development (S502.017) request the addition of other activities/structures in CE-R2, including carparking areas, board walks, boat ramps, and buildings or structures. The rationale for this requested relief is:
 - a. The additional activities/structures are similar in nature to others described within CE-R2 and are common within the coastal environment.



- b. The additional activities/structures require ongoing maintenance and repair to ensure there are no adverse effects on the surrounding environment.
 - c. It is unnecessary and onerous for resource consent to be required for repair and maintenance of such these activities/structures, if the size, scale and materials used are like for like.
357. Trent Simpkin (S283.004) opposes CE-R2 on the basis that the intent of the rule is unclear and can be interpreted in multiple ways. To address this concern, Trent Simpkin requests that the rule is amended to express the intent of the rule more clearly.
358. Waitoto Development (S263.033) considers that CE-R2 should not apply to the Orongo Bay SPZ and requests that CE-R2 is amended to provide for this relief.
359. Kingheim Limited (S461.003) request that CE-R2 is deleted as it is unnecessarily restrictive. Kingheim Limited is concerned that the "like for like" wording in the rule may mean that any slight change to existing fences, roads, network utilities, driveways and access, walking and cycling tracks and farming tracks will trigger the need for resource consent.
360. As noted above under Key Issue 8, a group of submitters oppose CE-R2 as they consider it is unnecessary, including Bentzen Farm (S167.076), Matauri Trustee (S243.094) and Setar Thirty Six (S168.075). The submitters note there does not need to be a rule for repair and maintenance, which would be otherwise permitted under the respective coastal environment rules.

Analysis

361. CE-R2 has one permitted activity condition as follows:

The repair or maintenance of the following activities where they have been lawfully established and where the size, scale and materials used are like for like:

1. roads
2. fences
3. network utilities
4. driveways and access
5. walking tracks
6. cycling tracks
7. farming tracks.

362. I note there are similar rules for "repair and maintenance" in the Natural Feature and Landscapes chapter and the Natural Character chapter. I have discussed the repair and maintenance rules with the reporting officer for those topics and our view in that these rules do not serve a clear purpose or achieve what was presumably intended, which is to provide some leniency towards repair and maintenance of the listed activities. Rather the rule



appears to do the opposite and has a number of other issues as outlined below.

363. The chapeau of CE-R2 refers to the “following activities” – which means the rule **does not** apply to the repair and maintenance of other buildings and structures in the coastal environment (e.g. the repair and maintenance of a residential unit, farming shed, commercial building). The “General approach” chapter in Part 1 of the PDP sets out how the rules in the overlay chapters (such as Coastal Environment) work:

Some of the Overlay chapters only include rules for certain types of activities (e.g. natural character, natural features and landscapes or coastal environment). If your proposed activity is within one of these overlays, but there are no overlay rules that are applicable to your activity, then your activity can be treated as a permitted activity under the Overlay Chapter unless stated otherwise.

364. What this means is that only those activities in CE-R2 need to comply with PER-1 to be permitted with the key requirement being that they (**my emphasis added**) “...lawfully established and where the size, scale and materials used are **like for like**.” This means the repair and maintenance of buildings and structures **not** listed are a permitted activity under CE-R2 with no restrictions on the size, scale and materials used, which does not appear to be the intent. I also consider that “like for like” is a subjective and potentially problematic test to apply as a permitted activity standard for the activities listed in CE-R2. This could inadvertently restrict these common activities in the coastal environment rather than enable them.
365. Therefore, while there is some support in submissions for CE-R2, I agree with the submissions of Bentzen Farm, Matauri Trustee and others that the rule is unnecessary as the activity it is seeking to manage would otherwise be permitted under the relevant overlay and zone rules. For the coastal environment chapter, this includes CE-R1 and CE-R3 and associated standards which collectively capture the key effects associated with any repair, maintenance, operation or upgrade of any of the activities listed in CE-R2. Accordingly, I recommend that these submissions are accepted and CE-R2 is deleted.
366. For the above reasons, I have not assessed the requests for additional activities to be added to the list of activities permitted under CE-R2. However, I have assessed these additional activities in the context of CE-R3, PER-1 (earthworks and vegetation clearance) which, as notified, refers back to CE-R2.

Recommendation

367. For the reasons set out above, I recommend CE-R2 is deleted and the submissions on this rule are accepted, accepted in part or rejected as set out in **Appendix 2**.



Section 32AA evaluation

368. I consider that my recommendation to delete CE-R2 is an appropriate, efficient and effective way to achieve the relevant PDP objectives as this better achieves the policy intent to enable the repair and maintenance or common/essential activities and structures in the coastal environment. It also avoids the risk of interpretation issues associated with subjective “*like for like*” considerations in a permitted activity standard which could be debatable and potentially overly onerous.

5.2.14 Key Issue 14: CE-R3 – Earthworks or indigenous vegetation clearance

Overview

Provision(s)	Officer Recommendation(s)
CE-R3	Amend to incorporate other activities into PER-2
CE-S3	Amend thresholds and apply these separately to earthworks and indigenous vegetation clearance

Analysis of Submissions on Key Issue 14: CE-R3 – Earthworks or indigenous vegetation clearance

Matters raised in submissions

CE-R3 – Earthworks or indigenous vegetation clearance

369. Three submitters support CE-R3. Pacific Eco-Lodge (S451.016) and Kapiro Conservation Trust (S442.160) support CE-R3 but request an amendment clarifying that any “*natural wetland*” includes riparian margins. John Andrew Riddell (S431.040) also supports CE-R3 but requests an amendment so that the rule does not apply to urban zones.
370. FENZ support CE-R3 in part but request an addition to the list of permitted activities to permit indigenous vegetation clearance where it is necessary to prevent “*damage to property*” and “*to create and/or maintain firebreaks to manage fire risk*”. The relief sought by FENZ is intended to ensure CE-R3 enables actions required by FENZ emergency personnel under the Fire and Emergency New Zealand Act 2017.
371. Top Energy (S483.175) generally supports CE-R3, particularly PER-1(2) which relates to safe and reasonable clearance for existing overhead power lines. However, Top Energy requests that CE-R3 is amended to provide for earthworks and vegetation clearance associated with the upgrading of existing infrastructure as a permitted activity.
372. HortNZ (S159.076) requests an amendment to CE-R3 to permit earthworks or indigenous vegetation clearance where “*The earthworks are ancillary to rural earthworks*”. HortNZ consider that this amendment would enable the ongoing productive use of land in rural environments while also supporting earthworks and vegetation clearance for biosecurity purposes.



373. A group of submitters, including P.S. Yates Family Trust (S333.068) and Setar Thirty Six (S168.076), request that CE-R3 is amended to provide more exceptions for normal farming and rural practices, which are typically part of the coastal environment. The submitters emphasise that farming activities are typically part of the coastal environment and not providing for such activities would impose significant consent cost and risks on landowners, particularly given the broad definition of earthworks in the PDP (based on the National Planning Standards). To address this concern, the submitters request that CE-R3 is amended to make exceptions for a range of other activities, including:
- a. Vegetation clearance required to establish or maintain a firebreak within 20m of a dwelling.
 - b. Cultivation (for earthworks only) or domestic gardens.
 - c. Ecosystem protection, rehabilitation or restoration works.
 - d. To maintain an operational farm (including the maintenance or reinstatement of pasture where the vegetation to be cleared is less than 15 years old and less than 6m in height) or operate a plantation forestry activity.
 - e. Vegetation clearance to maintain an existing driveway to a dwelling, within 5m of that driveway.
 - f. Vegetation clearance as a strip of no more than 3.5m wide to construct new fences for the purpose of stock control or boundary delineation.
 - g. Vegetation clearance within the legal width of an existing formed road.
374. This group of submitters also consider that the activity status when compliance is not achieved should be restricted discretionary rather than discretionary activity on the basis the potential adverse effects are well understood and can be addressed through targeted matters of discretion. The submitters consider that CE-P10 provides the necessary matters of discretion with two additional matters relating to:
- a. Whether locating the activity within the ONF or ONL area is required to enable reasonable residential or farming use of the lot.
 - b. Whether the location is on a previously approved building platform.
375. This group of submitters also requests a non-notification clause for CE-R3 given this is a technical assessment against a defined set of matters to avoid unnecessary consent cost and risk burden on landowners.



376. Lynley Newport (S122.001) considers that the provisions of CE-R3, particularly the non-complying activity status when PER-2 is not complied with, are overly restrictive and conflict with the provisions in the Ecosystems and Indigenous Biodiversity and Natural Hazards chapters. Lynley Newport requests an amendment to CE-R3 to also reference the range of activities provided for under IB-R1 and to be a discretionary activity when any of the standards are not complied with.
377. Waiaua Bay Farm (S463.062) considers that CE-R3 is highly restrictive and that the default to non-complying activity status where PER-2 is not complied with is overly onerous. The submitter considers that this is a particular issue in the context of Waiaua Bay Farm's regular activities as well as for the future residential subdivision of land anticipated in the Golf Living subzone of the Kauri Cliffs SPZ. Waiaua Bay Farm request that PER-2 in CE-R3 is amended to permit earthworks or indigenous vegetation clearance in the Golf Living, Golf Playing or Lodge subzones of the Kauri Cliffs SPZ. Where compliance is not achieved with PER-2 in the Kauri Cliffs SPZ, Waiaua Bay Farm request that the activity status be a discretionary activity rather non-complying.
378. Waitoto Development (S263.034) considers that CE-R3 should not apply to the Orongo Bay SPZ and request that CE-R3 is amended to not apply to the Orongo Bay SPZ.
379. DOC (S364.071) considers that CE-R3 does not adequately give effect to Policy 11 of the NZCPS and requests that CE-R3 is deleted or, alternatively clarify how the rule gives effect to Policy 11 of the NZCPS. DOC also requests clarity on the reference to vegetation clearance for "*biosecurity reasons*" in CE-R3. More specifically, DOC wish to clarify who this would apply to (e.g., the public, or specific organisations/entities) and whether this would enable an unlimited amount of indigenous vegetation to be cleared as a permitted activity. To address this concern, DOC requests that, if appropriate, a definition of "*biosecurity reasons*" is inserted in the PDP, which could limit the application of this rule for biosecurity purposes to the control of "*pests*" and "*unwanted organisms*" as defined in the Biosecurity Act 1993.
380. Forest and Bird (S511.100) and Kapiro Conservation Trust (S442.119) oppose CE-R3 as they consider that there is a risk this rule will lead to contradictions with the rules in the Ecosystems and Indigenous Biodiversity and Earthworks chapters (although they note that the rules are more stringent for ONC and HNC overlays). If CE-R3 is not deleted, Forest and Bird and Kapiro Conservation Trust request that the rule is amended to include conditions that ensure compliance with the Ecosystems and Indigenous Biodiversity and Earthworks rules or increase the stringency of CE-R3.
381. Federated Farmers (S421.188) oppose CE-R3 on the grounds that it contains unnecessary duplication of other PDP provisions and request that it be deleted.



CE-S3 – Earthworks or indigenous vegetation clearance

382. Forest and Bird (S511.104) and Kapiro Conservation Trust (S442.123) support strict limitations on indigenous vegetation clearance and earthworks in HNC and ONC areas. However, the submitters note that CE-S3(3) in particular appears to override the Ecosystems and Indigenous Biodiversity provisions in regard to SNAs and request that this be addressed so the most stringent standard applies.
383. Similarly, Vision Kerikeri (S527.025, 026) and Carbon Neutral NZ (S529.150) consider that CE-S3 allows an excessively large area of earthworks and/or indigenous vegetation clearance in areas that are not HNC or ONC and request that these thresholds are reduced. These submitters also request an amendment to the advice note under CE-S3 which incorrectly refers to a 10m setback distance in the NES-F to recognise that some activities require regional consent within 100m of a natural wetland under the NES-F.
384. Nicole Wooster (S259.011) is unclear if earthworks associated with an existing cemetery would be permitted as the rules do not provide for it as an activity. She requests that CE-S3 is amended to ensure operations of an existing cemetery are provided for in the rule, or that Council confirm that this activity is covered by existing use rights.
385. Mark Wyborn (S497.011) and a number of other submitters request that the provisions limiting the extent and height of cut and fill of earthworks to 1m be deleted as these controls make the reasonable use and development of property unfairly and unnecessarily constrained.
386. Tapuaetahi Incorporation (S407.001) supports CE-S3 in part but considers that the rule is not reasonable in the context of a working farm. Tapuaetahi Incorporation request that CE-S3(3) is amended to increase the total area of earthworks from 400m² to 2,500m². IDF Developments (S253.007) also oppose the 400m² limitation on earthworks and indigenous vegetation clearance in the coastal environment and the 1m cut or fill depth limitation and request that these standards be deleted. IDF Developments considers that the proposed provisions work against the enabling intent of the Rural Production Zone, especially as earthworks and indigenous vegetation clearance “*go hand in hand*” with a productive farming environment.
387. Waiaua Bay Farm (S463.066) request that, if their primarily relief to delete the ONC80 layer from the Totara Forest is not accepted, then CE-S3(2) and (3) are amended to apply per calendar year. Waiaua Bay Farm considers that is a more appropriate measure as the 10 year threshold is a highly conservative approach and the adverse effects of earthworks can be managed with appropriate management plans. A group of submitters, including Bentzen Farm (S167.081), also request that CE-S3 is amended to apply the thresholds per calendar year rather than over 10 years.
388. Northland Planning and Development (S502.020) and Waitangi Limited (S503.018) raise a similar concern as Waiaua Bay Farm but only in relation



to earthworks as they consider earthworks are difficult to monitor through aeriels. They request an amendment to CE-S3(1) to refer to "*for indigenous vegetation clearance - ...*" at the beginning and amend CE-S3(2) to refer to per calendar year rather than 10 years.

389. Lynley Newport (S122.002) also raises the issue of the Coastal Environment provisions conflicting with the Ecosystems and Indigenous Biodiversity chapter and requests that the latter be referenced in CE-S3. Lynley Newport also considers that CE-S3 is too restrictive and the non-complying activity status for any indigenous vegetation clearance in an ONC is limiting and potentially conflicts with the objectives and policies of the Natural Hazards chapter regarding wildfire. To address this concern, Lynley Newport requests an amendment to CE-S3(1) to enable up to 50m² indigenous vegetation clearance in ONC areas, increase the total earthworks area from 400m² to 500m² under CE-S3(2), and increase the maximum cut height or fill depth to 1.5m under CE-S3(3).

Analysis

390. There are a significant number of submissions on the controls and standards for earthworks and indigenous vegetation clearance in the coastal environment in CE-R3 and CE-S3. The key issues to consider in submissions broadly relate to:
- a. Requests for additional activities to be permitted/exempt under PER-1 of CE-R3.
 - b. The thresholds for earthworks and indigenous vegetation clearance.
 - c. Activity status when standards not complied with.
 - d. Alignment/duplication of controls with those in the Ecosystem and Indigenous Biodiversity chapter.
 - e. Other issues.
391. I address the submissions on CE-R3 and CE-S3 below under each of these key issues.

Additional activities

392. Firstly, as noted above, I recommend that CE-R2 is deleted. As a consequence of this, the list of activities under CE-R2 is moved to PER-1 rather than cross referenced. This list permits earthworks and indigenous vegetation clearance associated with the repair and maintenance of a range of activities and structures (roads, network utilities, tracks) which I generally support, but consider that the list can be refined as outlined below.
393. Numerous submitters on CE-R3 request that additional activities be added to the permitted activity standard in PER-1 meaning that they would not be



subject to standards for earthworks and indigenous vegetation clearance in PER-2. The table below provides a summary of the requested activities and amendments to the existing listed activities and my assessment of the appropriateness of listing these activities in PER-1 of CE-R3. This assessment has been informed by the MAL Report for some activities and also through discussions with the reporting officer for the Natural Features and Landscape topic to ensure consistency.

Activity	Analysis
Vegetation clearance required to manage fire risk/maintain firebreaks (FENZ, P S Yates Family Trust etc.)	<p>I agree with the intent of this request. However, I recommend adopting the wording used in IB-R1 which achieves the same intent in a more clear and certain manner: <i>to create or maintain a 20m setback from a building used for a vulnerable activity (excluding accessory buildings) to the edge of the indigenous vegetation area, or</i></p> <p>I also note that PER-1 already permits vegetation clearance where “<i>necessary to address a risk to public health and safety</i>”. Arguably, this already allows vegetation clearance for fire breaks. However, I agree with its inclusion to provide certainty.</p>
Upgrading of existing infrastructure (Top Energy)	As discussed under Key Issue 9, I recommend a new permitted activity rule for the upgrading of existing infrastructure subject to compliance with standards. For the same reasons, I consider that there should be some allowance for earthworks and clearance associated with the upgrading of infrastructure to be undertaken as a permitted activity, but only outside HNC and ONC areas.
Earthworks ancillary to rural earthworks (HortNZ)	I do not support this request as it is unclear, very broad and would potentially enable a significant volume of earthworks to be undertaken in the rural areas of the coastal environment with no controls.
Cultivation ²⁹ (for earthworks only) or domestic gardens (P S Yates Family Trust etc.)	The definition of earthworks excludes cultivation, so it is unclear to me why the submitters are requesting this relief. I also consider that the thresholds in CE-S3 should be sufficient for domestic gardening. I therefore do not support this request as it seems unnecessary.
Ecosystem protection, rehabilitation or restoration works (P S Yates Family Trust etc.)	While I support the general intent, this request is broad and it’s unclear why these activities would need to be exempt from the vegetation clearance and earthworks thresholds. I therefore consider that there is insufficient rationale/evidence to support this request.
To maintain and operate a farm (including maintenance or	Again, this request is very broad and would potentially result in significant adverse effects on natural character and landscape values in the coastal environment (particularly ONC and HNC areas). Accordingly, I do not support this request.

²⁹ Defined as in PDP and National Planning Standards as “*means the alteration or disturbance of land (or any matter constituting the land including soil, clay, sand and rock) for the purpose of sowing, growing or harvesting of pasture or crops.*”



<p>reinstatement of pasture where the vegetation to be cleared is less than 15 years old and less than 6m in height) or operate a plantation forest (P S Yates Family Trust etc.)</p>	<p>I also note that indigenous vegetation clearance and earthworks associated with plantation forestry (and now carbon farming) is regulated through the NES-CF. Therefore, there is no need to specifically exclude clearance and earthworks associated with plantation forest from CE-R3 in my view.</p>
<p>Vegetation clearance to maintain an existing driveway to a dwelling, within 5m of that driveway (P S Yates Family Trust etc.)</p>	<p>The rule already provides for this (driveways and access).</p>
<p>Vegetation clearance as a strip of no more than 3.5m wide to construct new fences for the purpose of stock control or boundary delineation (P S Yates Family Trust etc.)</p>	<p>I agree with the addition of this activity. Fences are necessary and there is often little flexibility on where they are located. A 3.5m width of vegetation clearance in most instances is unlikely to result in adverse effects on natural character and landscape values above the adverse effect thresholds. A 3.5m threshold for clearance for new fencing is also supported in the landscape advice in the MAL Report. I recommend the following wording which is consistent with in IB-R1, PER-1 but with a smaller overall width consistent with the recommendations in the MAL report:</p> <p><i><u>for the construction of a new fence where the purpose of the new fence is to exclude stock and/or pests from the area of indigenous vegetation provided that the clearance does not exceed 3.5m in width along the fence line, or</u></i></p>
<p>Required for vegetation clearance within the legal width of an existing formed road (P S Yates Family Trust etc.)</p>	<p>The rule already provides for this.</p>
<p>Activities permitted under IB-R1 (Lynley Newport)</p>	<p>I have recommended some amendments above to align with the corresponding standards in IB-R1. However, it is not appropriate to simply replicate that list in the coastal environment chapter in my view as the two chapters are regulating indigenous vegetation clearance for different reasons/effects (ecology v natural character and landscape values).</p>
<p>Biosecurity purposes (DOC)</p>	<p>I consider that the intent of this clause sound but agree with DOC that it would benefit of being more specific to the control</p>



	<p>of "pest"³⁰ which has an established meaning in the Biosecurity Act 1993 and in Pest Management Plans. I therefore recommend that this clause is amended as follows "<i>clearance for biosecurity purposes to control pests</i>".</p>
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Thresholds for earthworks or indigenous vegetation clearance

394. The thresholds for earthworks and indigenous vegetation clearance in CE-R3 apply to activities that are not provided for under PER-1 of CE-R3 discussed above. As notified, CE-S3 requires that earthworks or indigenous vegetation clearance:
- a. Must not occur in ONC (no volume is permitted).
 - b. Not exceed 50m² for 10 years from notification of the PDP in HNC area.
 - c. Not exceed 400m² for 10 years from notification of the PDP (outside ONC and HNC areas).
395. Where these permitted activity thresholds are not met, CE-R3 would require resource consent as a non-complying activity.
396. At a broad level, I share the concerns of submitters that these standards may be overly restrictive, and I also have some concerns about the workability and enforceability of thresholds that apply over a 10-year period following notification of the PDP.
397. The appropriateness of these standards from a landscape perspective is considered in section 3.3 of the MAL Report. This assessment raises concerns with CE-R3 applying the same timeframe for the permitted activity thresholds for indigenous vegetation clearance and earthworks given the different nature of these activities and potential risk of cumulative loss from annual clearance of indigenous vegetation. For these reasons, MAL recommends that the indigenous vegetation clearance thresholds notified in CE-S3 are retained, but she would support these being recalculated to apply per calendar year.
398. MAL does support an increase in the earthworks thresholds noting that the risk of this activity being undertaken regularly/annually is much lower and because these areas can be quickly remediated/revegetated. MAL supports an increase in the earthworks thresholds to 50m² within any 12 month period in an HNC area and 100m² in the coastal environment outside either ONC or HNC areas. MAL recommends that the resource consent requirement for any

³⁰ Defined in Biosecurity Act 1993 as "*pest means an organism specified as a pest in a pest management plan*".



earthworks in a ONC area is retained given the sensitivity of these areas to this activity.

399. On this basis, I recommend that the earthworks standards are amended to:
- a. Apply over a calendar year and adopt the thresholds in the MAL Report outlined above.
 - b. Require screening of exposed faces "...*visible from a public place*". This recommendation is to better achieve the intent and align with the recommendation to the corresponding standard in the Natural Features and Landscape chapter in response to submissions.
400. In terms of the indigenous vegetation clearance thresholds, the advice in the MAL Report is clear these should not be increased. Therefore, the question is what timeframe these should apply over. A longer timeframe allows for flexibility and a larger amount to be undertaken as a one-off, but this makes determining non-compliance much more challenging. Given the small volumes of indigenous vegetation clearance that can be supported from a landscape perspective as a permitted activity, I recommend that the 10-year period is retained by amended to refer to "*any 10-year period*" recognising that the rule may well be in force longer than 10 years from notification of the PDP. I acknowledge this may make the rule more complex by applying different timeframes for the earthworks and indigenous vegetation clearance thresholds. However, applying the same indigenous vegetation clearance thresholds over a calendar year would make these overly restrictive and potentially unworkable in my view (resource consent required when over 5m² to 40m² per year).
401. Based on the landscape advice in section 4.14 of the MAL Report, I do not recommend any amendments to the threshold of 1m for any cut height or fill depth. This is because of the harsher climatic conditions in the coastal environment which can make it harder to revegetate cut surface.

Activity status when standards not complied with

402. In terms of the activity status when PER-2 in CE-R3 is not complied with, I agree with submitters that a blanket non-complying status is inappropriate, particularly as the effects to be managed are reasonably well understood. For the same reasons as outlined in relation to CE-R1, I recommend that the non-complying activity status in CE-R3 is retained when compliance is not achieved in HNC and ONC areas and the rule is amended to apply a restricted discretionary activity status when compliance is not achieved elsewhere in the coastal environment. I recommended that the matters of discretion in CE-R3 include the range of matters listed under CE-P10 with the addition of the following matter requested by submitters "*whether the activity is on a previously approved building platform*".
403. I also recommend a consequential amendment to clause (f) in CE-P10 to ensure mitigation measures can be considered as follow: "*the need for and*



location of earthworks or indigenous vegetation clearance and proposed mitigation measures".

Duplication/alignment with the Ecosystem and Indigenous Biodiversity chapter

404. A number of submitters have raised issues about potential inconsistency and overlap with indigenous vegetation clearance rules in the Ecosystem and Indigenous Biodiversity chapter. I acknowledge that there is some overlap in the rules that might apply to a particular activity with different requirements and thresholds. However, it is important to emphasise that the purpose of the indigenous vegetation clearance rules in each chapter are different:
- a. The Coastal Environment indigenous vegetation clearance rules are focused on protecting the natural character and landscape values of the coastal environment.
 - b. The Ecosystem and Indigenous Biodiversity indigenous vegetation clearance rules are focused on protecting the range of ecological values associated with areas of indigenous vegetation (including being a habitat for indigenous species).
405. I have however considered where there is potential for better alignment between the indigenous vegetation clearance rules in these two chapters, which primarily relates to the list of permitted activities in PER-1 in CE-R3 and the corresponding rule IB-R1 in the Ecosystem and Indigenous Biodiversity chapter. As outlined in the table above, I consider that there is potential for improved alignment between CE-R3 and IN-R1 in relation to clearance associated with firebreaks and for new fencing. I have also recommended an amendment to advice note 3 above to specifically reference the Ecosystem and Indigenous Biodiversity chapter. Accordingly, I recommend that submissions on this issue are accepted in part.

Other issues

406. I recommend that the reference to allowing indigenous vegetation clearance and earthworks where "*necessary to ensure the health and safety of the public*" in CE-R4 is amended to be aligned with the corresponding clause in IB-R1 in the Ecosystems and Indigenous Biodiversity chapter. I consider that this is appropriate both for consistency reasons and also because the wording in IB-R1 is more specifically focused on addressing an "*immediate risk*" to public health and safety. I consider that there is scope within the submissions from DOC and Forest and Bird to make this recommendation as they are seeking greater certainty on when indigenous vegetation clearance and earthworks is permitted.
407. I do not agree with the requests to exclude Orongo Bay SPZ from CE-R3 or delete the standard relating to cut in fill in CE-R3. The submitters have not provided sufficient reasoning or evidence to support these amendments and I recommend that these submissions are rejected. Earthworks associated



with an existing cemetery would be captured by CE-R3, although this would be permitted where the earthworks or clearance relates to roads and access etc. and where the thresholds in CE-S3 are complied with.

408. I recommend that the advice note in CE-S3 relating to the NES-F is deleted as it is unnecessary. The Natural Character chapter in the PDP includes rules relating to earthworks and vegetation clearance within "*lake, wetland and river margins*" and the relationship with the NES-F is considered in more detail in that chapter and in the Natural Character section 42A report also being considered in Hearing 4.

Recommendation

409. For the reasons above, I recommend that submissions on CE-R3 and CE-S3 are accepted, accepted in part and rejected as set out in **Appendix 2**. I recommend that CE-R3 and CE-S3 are amended as set out below. I also recommend that the activity status when compliance with CE-R3 PER-1 and PER-2 is not achieved is amended to a restricted discretionary activity outside natural character areas (with a non-complying activity status retained in these areas). I also recommend a consequential amendment to CE-P-10 to amend matter f) as follows: *the need for and location of earthworks or indigenous vegetation clearance and proposed mitigation measures*":

CE-R3 PER-1

The earthworks or indigenous vegetation clearance is:

1. required for operation, repair or maintenance of existing lawfully established; ~~permitted under CE-R2 Repair or Maintenance.~~
 - a. fences;
 - b. network utilities;
 - c. tracks, driveways, roads and access ways;
 - d. formed carparks;
 - e. board walks;
 - f. boat ramps;
2. required to provide for safe and reasonable clearance for existing overhead power lines;
3. to address an immediate risk to the health and safety of the public or damage to property necessary to ensure the health and safety of the public;
4. clearance for biosecurity reasons to control pests;
5. for the sustainable non-commercial harvest of plant material for rongoā Māori;
6. to create or maintain a 20m setback from a building used for a vulnerable activity (excluding accessory buildings) to the edge of the indigenous vegetation area;
7. for the construction of a new fence where the purpose of the new fence is to exclude stock and/or pests from the area of indigenous vegetation provided that the clearance does not exceed 3.5m in width; or
8. for any upgrade of existing above ground network utilities;



- a. outside high natural character and outstanding natural character areas; and
- b. permitted by rule CE-R1 PER-4.

CE-S3

1. ~~earthworks or indigenous vegetation clearance~~ must (where relevant):
 - a. not occur in outstanding natural character areas;
 - b. not exceed a total area of 50m² within a calendar year for 10 years from the notification of the District Plan in an area of high natural character;
 - c. not exceed a total area of 4100m² within a calendar year for 10 years from the notification of the District Plan in an area outside high or outstanding natural character areas;
 - d. not exceed a cut height or fill depth of 1m; and
 - e. screen any exposed faces visible from a public place.
2. indigenous vegetation clearance must:
 - a. not occur in outstanding natural character areas;
 - b. not exceed a total area of 50m² within any 10-year period in an area of high natural character;
 - c. not exceed a total area of 400m² within any 10-year period in an area outside high or outstanding natural character areas.

~~**Note:** The NESF requires a 10m setback from any natural wetland in respect of earthworks or vegetation clearance and may require consent from the Regional Council.~~

Section 32AA evaluation

410. I consider that my recommended amendments to CE-R3 and CE-S3 are appropriate under section 32AA of the RMA as:
 - a. The amendments clarify and expand on when earthworks and indigenous vegetation clearance can be undertaken for specific purposes which is generally for essential, established and/or low-risk activities.
 - b. The amendments refine how the thresholds apply to earthworks and indigenous vegetation clearance based on the landscape advice in the MAL report. This will help make the standards more workable and efficient while also ensuring these are effective to manage potential adverse effects on natural character and landscape values.

5.2.15 Key Issue 15: CE-R4 – Farming

Overview



Provision(s)	Officer Recommendation(s)
CE-R4	Retain as notified

Analysis of Submissions on Key Issue 15: CE-R4 – Farming

Matters raised in submissions

411. Waiaua Bay Farm (S463.063) supports CE-R4 and request that it is retained as notified. Waiaua Bay Farm considers that it is appropriate to require resource consent for farming activities proposed in HNC or ONC areas.
412. Federated Farmers (S421.189) supports the right of existing farming activities to occur as permitted activities within the coastal environment and also wants to ensure that existing farming activities in HNC and ONC areas are also permitted under CE-R4. HortNZ (S159.077) requests an amendment to CE-R4 PER-1 so that it only applies to a new farming activity. Within areas of HNC, HortNZ requests that CE-R4 is amended to provide for farming as a controlled activity and to provide for farming within ONC areas as a restricted discretionary activity. HortNZ also requests that the definition of “farming” in the PDP is amended to be “rural production” activities.
413. IDF Developments (S253.005) oppose CE-R4 and raise concerns that CE-R4 is effectively taking land away from rural production activities. Accordingly, IDF Developments request that CE-R4 is deleted.
414. A group of submitters, including Wendover Two (S222.070), Bentzen Farm (S167.078), are concerned that CE-R4 is not consistent with the policy direction in CE-P6 to enable farming activities and will impose significant compliance costs on existing farms, which is not efficient or effective. In particular the submitters are concerned that farming will require a discretionary activity consent in HNC areas and non-complying consent in ONC areas. The submitters also raise concerns that the rule is not effective nor efficient as the effects on the coastal environment are better managed through controls on earthworks, vegetation clearance and buildings, rather than the activity of farming.
415. To address their concerns, the submitters request that CE-R4 is deleted so the underlying zoning rules apply. Alternatively, these submitters request that CE-R4 is amended so that farming is a permitted activity in all areas of the coastal environment including ONC and HNC areas.
416. Bentzen Farm (S167.110) also raises more specific concerns about the coastal environment provisions failing to recognise and provide for farming activities and subsequent concerns about where the coastal environment overlay applies to parts of their property that are actively farmed. The submitter requests that the CE overlay is deleted from Bentzen Farms Property if their relief sought relating to the CE provisions and farming activities is not accepted.

Analysis



417. As discussed in relation to CE-P6 (Key Issue 8), my understanding of the intent of the provisions relating to farming activities in the Coastal Environment is threefold: 1) to recognise that existing farming activities form part of the coastal environment; 2) to signal that new farming activities may be appropriate in the coastal environment outside ONC and HNC areas; 3) distinguish between farming activities and other primary production activities that have greater potential for adverse effects on the values of coastal environment. I support this intent and recommend amendments to CE-P6 to better achieve the intent.
418. I do not consider that CE-R4 imposes unreasonable restrictions on farming activities as suggested by some submitters as existing farming activities within the coastal environment are not affected by the rule (subject to existing use rights), and new farming activities or a change in the scale and nature of the farming activity is also permitted under CE-R4. Further, my understanding from the MAL Report (section 4.1) is that there is very instances of farming within a ONC or HNC area and therefore my expectation is that CE-R4 will not impose any undue restrictions on existing farming activities in these areas.
419. For these reasons, I support the intent of CE-R4 and recommend it is retained as notified. However, I have identified what I understand to be an error in the drafting of the rule where it could potentially require a discretionary activity consent for any farming activity outside an ONC area. I therefore recommended that this part of CE-R4 is amended to refer to "*inside a high natural character area*" which I consider is correcting a minor error in accordance with Clause 16, Schedule 1 of the RMA.
420. I do not support the requests from submitters to permit farming in ONC and HNC. As noted in section 4.1 of the MAL Report, farming activities have the potential to have significant adverse effects on ONC and HNC therefore MAL supports the retention on rules controlling these activities in those areas in addition to the general controls on earthworks and indigenous vegetation clearance. I agree and note that this request would undermine the purpose CE-R4. For the same reasons, I do not support the controlled activity (HNC) and restricted discretionary activity (ONC) rules for farming as this would signal that new farming activities are appropriate which is not the intent and inconsistent with the direction in CE-P6. It is also important to note that existing farming activities are able to operate under existing use rights therefore some of the concerns expressed in submissions are overstated in my view.
421. In terms of the submission from HortNZ requesting that the definition of farming be changed to rural production activities, I understand that there are submission points on the definition of farming, and these will be considered in Hearing 18 as part of the interpretation and mapping topic.

Recommendation



422. For the reasons above, I recommend that submissions on CE-R4 are accepted, accepted in part and rejected as set out in **Appendix 2** and CE-R4 is retained as notified.

Section 32AA evaluation

423. I do not recommend any amendments to CE-R4 and therefore no further evaluation is required under section 32AA of the RMA.

5.2.16 Key Issue 16: CE-R5 – Demolition of buildings and structures

Overview

Provision(s)	Officer Recommendation(s)
CE-R5	Delete

Analysis of Submissions on Key Issue 16: CE-R5 – Demolition of buildings and structures

Matters raised in submissions

424. Waiaua Bay Farm (S463.064) support CE-R5 to provide a clear permitted activity status for the demolition of buildings in the coastal environment. Accordingly, Waiaua Bay Farms requests that CE-R5 is retained as notified.
425. Forest and Bird (S511.101) and Kapiro Conservation Trust (S442.120) support CE-R5 in part, but request amendments to the rule to also require the removal of demolition materials from the site.

Analysis

426. While the submissions on CE-R5 are generally in support, I consider that there is no clear purpose or benefit to the rule. As discussed above in relation to Key Issue 1 (General submissions), the district-wide/overlay chapters are intended to control activities and adverse effects of particular concern that are related to the particular values of the overlay, with the underlying zone provisions also applying.
427. In this respect, I consider that there are three key issues with CE-R5 as notified in the PDP:
- It is unclear what adverse effects it is intended to address as the demolition of buildings in the coastal environment is only likely to improve natural character by removing a modified/built structure³¹.
 - The rule has the potential to lead to interpretation issues for other overlay/district-wide PDP chapters that do not include a similar rule.

³¹ Noting that there are separate rules managing the alteration and demolition of heritage buildings and structures located in the coastal environment.



- c. There are no conditions associated with the permitted activity rule and no activity status for non-compliance. Therefore, it is unclear to me how this rule is intended to be implemented in practice.

428. Accordingly, I recommend that CE-R5 is deleted. While there are no submission points specifically requesting that, I consider that this change could be made as an amendment of minor effect under Clause 16, Schedule 1 of the RMA. This is because the change would be neutral, i.e. a building can still be demolished in the coastal environment as a permitted activity with no conditions. However, deletion of the rule means this outcome is achieved in a more efficient manner with less risk of potential interpretation issues. The change would also be consistent with the outcome requested by most submitters.

Recommendation

429. For the reasons above, I recommend that CE-R5 is deleted as an amendment under clause 16 of Schedule 1.

Section 32AA evaluation

430. While a section 32AA evaluation is not strictly required as the effect of my recommended amendment is the same, I consider my recommendation to delete CE-R5 is a more appropriate option than retaining the rule as the same outcome is achieved in a more effective and efficient manner (i.e. less regulation and risk of interpretation issues).

5.2.17 Key Issue 17: CE-R6 – Plantation Forestry

Overview

Provision(s)	Officer Recommendation(s)
CE-R6	Amend rule to focus on “afforestation” and expand scope to cover carbon farming (“commercial forestry”)

Analysis of Submissions on Key Issue 17: CE-R6 – Plantation Forestry

Matters raised in submissions

- 431. Nicole Wooster (S259.016) supports CE-R6 in part but requests clarity as to whether the intent is to only apply to exotic plantation forestry or if the rule also covers indigenous plantation forestry. Nicole Wooster requests that CE-R6 is amended to ensure that only exotic plantation forestry requires resource consent.
- 432. John Andrew Riddell (S431.041) requests that DIS-1 in CE-R6 is amended so that plantation forestry needs to be located outside HNC areas in addition to ONC areas, otherwise resource consent is required as non-complying activity.



433. Summit Forests New Zealand (S148.033) oppose CE-R6 and request that the rule is deleted. The submitter considers that where plantation forestry already exists within the coastal environment, it should be provided for as a permitted activity subject to the provisions of the NES-PF (now NES-CF).
434. Manulife Forest Management (NZ) (S160.026) also oppose CE-R6 and consider that the discretionary activity status for plantation forestry and plantation forestry activities in the coastal environment is onerous. Manulife Forest Management note the benefits of established production forestry in the coastal environment for the prevention of erosion. Accordingly, Manulife Forest Management request that CE-R6 is deleted.
435. PF Olsen (S91.014) opposes CE-R6 for similar reasons as other forestry submitters. PF Olsen requests that CE-R6 be deleted or amended to only apply to the afforestation of land in the coastal environment or to those plantation forest activities that have the potential to impact natural character. PF Olsen also considers that any plantation forestry activities regulated through the rule should be permitted or controlled activity with appropriate permitted activity conditions or matters of control.

Analysis

436. I consider that amendments are required to CE-P6 to respond to three key issues:
- a. To capture “carbon forestry” as requested in the submission by NRC, which is discussed under Key Issue 1 (General submissions).
 - b. To align with the amendments to the NES-PF (now the NES-CF) that came into effect after the PDP was notified. The amendments in the NES-CF include extending its scope to cover carbon forestry (referred to as “exotic continuous-cover forestry”) and to allow for plan rules to be more stringent to manage “afforestation” more generally³².
 - c. To address issues with the current drafting of CE-R6 in that it could potentially cover existing plantation forestry and any plantation forestry activity (e.g. earthworks, harvesting etc. as defined in the NES-CF). In my view, this is overly onerous and conflicts with the NES-CF, which is a higher order document that has an extensive range of controls that are targeted to the specific effects of different plantation forestry activities.
437. To address these issues, I recommend that CE-P6 is amended to apply to “*afforestation*” for “*commercial forestry*” with new definitions included in the PDP to align with the NES-CF, being “afforestation”, “commercial forestry” and “exotic continuous-cover forest”. In practical terms, this would mean a discretionary activity consent would be required for any new (exotic) carbon forestry and new plantation forestry in the coastal environment (or non-

³² Regulation 6(4A) of the NES-CF.



complying in a ONL), which in my opinion is an appropriate response to ensure potential adverse effects can be appropriately managed. The NES-CF would then manage all other “commercial forestry activities” regulated in the NES-CF (earthworks, harvesting etc.), which is consistent with the scheme of the NES-CF and the general relief sought in submissions from the forestry sector. I therefore recommend that these submissions are accepted in part.

438. I do not recommend that DIS-1 in CE-R6 is amended to also refer to HNC areas as requested by John Andrew Riddell (i.e. to require a non-complying activity consent for commercial forestry in HNC areas). In my opinion, a non-complying status is appropriate in ONC areas to give effect to the clear direction in CE-P2 to avoid adverse effect on these areas whereas a discretionary activity status is appropriate outside ONC areas. This still enables CE-P3 and other relevant matters to be considered through the resource consent process. It also allows for resource consent to be declined where afforestation is proposed in a HNC environment and there is likely to be significant adverse effects on the coastal environment.

Recommendation

439. For the reasons above, I recommend that the submissions on CE-R6 are accepted, accepted in part or rejected as set out in **Appendix 2**.
440. I recommend that CE-R6 is amended as follows:
- “~~Plantation forestry and plantation forestry activity~~ Afforestation for commercial forestry”.*
441. I also recommend new definitions are added to the PDP for “afforestation”, “commercial forestry” and “exotic continuous-cover forestry”³³ that are aligned with the NES-CF.
442. Additionally, I recommend consequential amendments to Advice Note 2 above the coastal environment rules as follows:

The National Environmental Standards for Plantation Forestry Commercial Forestry 2017 (NES-PCF) regulates ~~plantation commercial forestry~~ and Regulation 6 of the NES-PF allows plan rules to be more stringent to give effect to Policy 13 of the NZCPS and to manage afforestation. This chapter contains more stringent rules for ~~plantation forestry activities~~ afforestation, earthworks and indigenous vegetation clearance to protect natural character of coastal environment and prevails over the NES-PF regulations.

Section 32AA evaluation

³³ Note that the PDP already includes a definition for plantation forestry based on the NES-CF definition.



443. The changes I recommend are intended to better align with new direction in the NES-CF and address the adverse effects of carbon farming in the coastal environment alongside plantation forestry. The changes also focus on addressing the adverse effects of concern (i.e. new commercial forestry in the coastal environment) rather than potentially applying CE-R6 to all commercial forestry activities regulated under the NES-CF (which would result in conflict with the NES-CF and potentially significant consenting/compliance costs). In my view, these recommended amendments will be more effective in achieving the objectives as requiring resource consent for any new commercial forestry will more effectively target the adverse effects of concern in the coastal environment. The amendments will also be more efficient in achieving the objectives by avoiding duplication/conflict with the NES-CF and removing/reducing unnecessary controls, constraints and compliance costs on existing commercial forestry.

5.2.18 Key Issue 18: CE-R7 to CE-R9: Mineral extraction, landfill, managed fill or clean fill

Overview

Provision(s)	Officer Recommendation(s)
CE-R7, CE-R8, CE-R9	Retain as notified

Analysis of Submissions on Key Issue 18: CE-R7 to CE-R9: Mineral extraction, landfill, managed fill or clean fill

Matters raised in submissions

444. Forest and Bird (S511.102, S511.103) and Kapiro Conservation Trust (S442.121, S442.122) support CE-R8 and CE-R9 and request that the rules are retained as notified. The submitters support the prohibited activity status for mineral extraction, land fill, managed fill, or clean fill.
445. John Andrew Riddell (S431.042) requests that DIS-1 in CE-R7 is amended so that the activity is located outside a HNC areas in addition to ONC areas, otherwise resource consent is required as non-complying activity.
446. As with the coastal environment rules above, Suzanne Ashmore (S169.008, S169.009, S169.010) and Cavalli Properties (S177.008, S177.009, S177.010) request that CE-R7, CE-R8 and CE-R9 are amended so that they only apply to parts of the coastal environment that are identified as a ONC, ONL, or ONF. These submitters consider that where there is no ONC, ONL or ONF overlay, CE-R7 to CE-R9 place unnecessary constraints on development that would otherwise be permitted by the rules in the underlying zone.

Analysis

447. There are limited submissions on CE-R7, CE-C8 and CE-R9, which indicates a broad level of support for the rules and acceptance that these activities are inappropriate in the coastal environment.



448. I do not recommend that DIS-1 in CE-R7 is amended to also refer to HNC areas, as requested by John Andrew Riddell, which would mean extension to existing mineral extraction activities would require a non-complying activity consent in those areas. My reasons are the same as those outlined in relation to CE-R6 above.
449. I also do not recommend that the rules are amended to only apply in ONC, ONL or ONF overlays, as requested by Suzanne Ashmore and Cavalli Properties. In my view, the activities listed in CE-R8 and CE-R9 are inappropriate in all areas of the coastal environment, not just those areas with outstanding values and a prohibited activity status for these activities is appropriate. I also consider that a discretionary activity status is appropriate under CE-R7 for the extension of a lawfully established mineral extraction activity. This recognises the existing nature of the activity but still allows for proposals to be declined when it would result in adverse effects that need to be avoided under CE-P2 and CE-P3.

Recommendation

450. For the reasons above, I recommend that submissions on CE-R7, CE-R8 and CE-R9 are accepted and rejected as set out in **Appendix 2** and the rules are retained as notified.

Section 32AA evaluation

451. I do not recommend any amendments to CE-R7, CE-C8 and CE-R9 therefore no further evaluation is required under section 32AA of the RMA.

5.2.19 Key Issue 19: SUB-R20 and SUB-R21 – Subdivision in the Coastal Environment

Overview

Provision(s)	Officer Recommendation(s)
SUB-R20, SUB-21	Amend to make it clear the rules only apply when a new allotment is created in coastal environment and ONC overlays

Analysis of Submissions on Key Issue 19: SUB-R20 and SUB-R21 – Subdivision in the Coastal Environment

Matters raised in submissions

452. DOC (S364.061, S364.062) supports SUB-R20 and SUB-R21 and requests that the rules be retained as notified.
453. A group of submitters, including Bentzen Farm (S167.062, 063) and Wendover Two (S222.056, 057), support SUB-R20 and SUB-R21 in part but request an amendment so that the rules apply to the parts of a lot subject to an overlay, not the entire lot. These submitters note that the coastal environment or ONC overlay may only be on a small portion of many sites



and consider that subdivision of the balance of the site not covered by the overlay should be able to occur in accordance with the standard subdivision provisions, i.e. not be subject to SUB-R20 and SUB-R21.

454. Northland Planning and Development (S502.087) request an amendment to clarify if the site or part of the site is located within the coastal environment overlay, the activity status is discretionary activity regardless of the lot size.
455. John Andrew Riddell (S431.089) requests that SUB-R20 is amended so that the controls on subdivision within the coastal environment do not apply to urban areas.
456. Waiaua Bay Farm (S463.050) opposes SUB-R20 on the basis that the rule is generic, too blanket in its application and disregards the "*orderly and planned subdivision of land in the Special Purpose Zones*". Waiaua Bay Farm requests that the rule is amended to not apply in the Kauri Cliffs SPZ.
457. Ed and Inge Amsler (S341.014) oppose SUB-R20 and consider that subdivision in the coastal environment should be based on the underlying zone provisions for minimum allotment sizes.
458. Sarah Ballantyne and Dean Agnew (S386.016, S386.017) and Willowridge Developments (S250.011) oppose SUB-R20 on the basis that it is overly restrictive, especially for sites within the RPROZ and request that the rule is deleted. The submitters acknowledge that the NZCPS requires the avoidance of adverse effects of subdivision on the natural character of the coastal environment, but they consider that this could be achieved through appropriate matters of control/discretion or assessment criteria elsewhere in the subdivision provisions, i.e., in SUB-R13 or SUB-P11. The submitters request that the provisions are reviewed, to address these concerns.

Analysis

459. SUB-R20 and SUB-R21 are located in the Subdivision chapter but are addressed within this section 42A report as the rules relate to subdivision within the coastal environment (SUB-R20 – discretionary activity) and a ONC (SUB-R21- non-complying activity). The rules provide a more stringent activity status for subdivision than in the underlying zone, recognising the greater potential for adverse effects on the coastal environment resulting from subdivision (particularly the associated land-use activities that subdivision typically enables). This approach has also been applied to the Natural Features and Landscapes and Wetland, Lakes and River Margins overlays.
460. I support the activity status for subdivision in SUB-R20 and SUB-R21 as this will enable the full range of relevant matters to be considered, including directive policies in the Coastal Environment chapter to avoid certain adverse effects. I also consider that a non-complying activity status for subdivision within a ONC overlay is appropriate to send a strong signal that this should be avoided. This general approach is appropriate in my view regardless of



the underlying zone, whether that be RPROZ, a SPZ, or an urban zone as requested in some submissions.

461. The main issue to consider in submissions, in my opinion, is how SUB-R20 and SUB-R21 apply to sites where the coastal environment or ONC overlay only relates to part of the site. This is not clear from the wording of the rules in my view, which refer to **(my emphasis added)** "***Subdivision of a site within the Coastal Environment (excluding Outstanding Natural Character Areas)***" and "***Subdivision of a site within Outstanding Natural Character Areas in the Coastal Environment***" respectively. My interpretation of this wording is that the rules apply to any site containing a coastal environment or ONC overlay regardless of whether the subdivision itself would affect one of those overlays and whether the new allotment is created entirely outside these overlays.
462. In my opinion, SUB-R20 and SUB-R21 should only apply where the subdivision itself would affect a coastal environment or ONC overlay to recognise situations where these overlays only cover a small portion of a site. It also incentivises the creation of new allotments away from these overlays, which is exactly the intent of the rules, through the use of a more stringent activity status. I consider that this can best be achieved through an amendment to the rules as follows:

"SUB-R20: Subdivision creating one or more additional allotments of a site within the Coastal Environment (excluding Outstanding Natural Character Areas)

"SUB-R21: Subdivision creating one or more additional allotments of a site within Outstanding Natural Character Areas in the Coastal Environment".

Recommendation

463. For the reasons above, I recommend that submissions on SUB-R20 and SUB-R21 are accepted and rejected as set out in **Appendix 2**. I recommend that the rules are amended as set out above.

Section 32AA evaluation

464. I consider that my recommended amendments to SUB-R20 and SUB-R21 are appropriate to achieve the objectives in accordance with section 32AA of the RMA. My recommended amendments retain the intent to ensure all relevant adverse effects can be considered when subdivision is proposed in the coastal environment while ensuring the rules do not unintendedly apply to land not subject to the coastal environment, HNC or ONC overlays thereby achieving the desired outcome in a more efficient manner.

5.2.20 Key Issue 20: MHWS setback rules

Overview



Provision(s)	Officer Recommendation(s)
Standard S4 in Residential, Rural, Commercial and Mixed Use, Industrial and Open Space and Recreation, Horticulture, Horticulture Processing Facilities, Kororāreka Russell Township and Māori Purpose Zones, Moturoa Island and Quail Ridge Zones	<ul style="list-style-type: none"> • Move all MHWS standards into the Coastal Environment chapter • Fix typo “constricts” to “constraints” where applicable • Add in exemption for formed public roads

Analysis of Submissions on Key Issue 20: MHWS setback rules

Matters raised in submissions

465. Through the initial analysis of submissions on the PDP, it was determined that all the MHWS setback standards in the zone chapters should be moved to the Coastal Environment chapter for consistency and efficiency reasons. This is also consistent with PDP approach to setbacks to waterbodies which are addressed through the Natural Character chapter rather than within each zone chapter. As such, submissions relating to specific MHWS setbacks in zone chapters are considered in this report.

Submissions that request the same relief for multiple zones

466. FNDC (S368.047 to S368.061) notes a typo in standard S4 (MHWS setback) in the matters of discretion for all the Residential, Rural, Commercial and Mixed Use, Industrial and Open Space and Recreation zones as well as the Horticulture, Horticulture Processing Facilities, Kororāreka Russell Township, and Māori Purpose Zones. To address this issue, FNDC requests the following amendment to correct this:

“...Natural hazard mitigation and site ~~constricts~~ constraints;...”

467. Northland Planning and Development (S502.061-075, S502.052, S502.055, S502.058) request that an additional clause is added to the MHWS setback standard of the Residential, Rural, Commercial and Mixed Use, Industrial and Open Space and Recreation zones as well as some Special Purpose Zones (Carrington Estate, Horticulture, Horticulture Processing Facilities, Kororāreka Russell Township, Māori Purpose Zone, Moturoa Island, Orongo Bay and Quail Ridge SPZ) to allow for buildings and structures associated with certain activities within the MHWS setback. The submitter considers that the proposed amendment would provide consistency with NATC-R1, which controls buildings and structures within a wetland, lake or river margin. The requested wording for this additional permitted activity rule is as follows:

“The building or structure, or extension or alteration to an existing building within the xm setback from MHWS is required for:”



1. Restoration and enhancement purposes; or
2. Natural hazard mitigation undertaken by, or on behalf of, the local authority; or
3. a post and wirefence for the purpose of protection from farm stock; or
4. Lighting poles by, or on behalf of, the local authority; or
5. Footpaths and or paving no greater than 2m in width; or
6. Boundary fences or walls no more than 2m in height above ground level.

468. Waitangi Limited (S503.035, S503.036) requests the same relief for RPROZ-S4 and MUZ-S4 as Northland Planning and Development.

Rural Zones

469. A group of submitters, including P S Yates Family Trust (S333.093) and Matauri Trustee (S243.123), support RPROZ-S4 (setbacks from MHWS) and consider that it is an appropriate setback standard for buildings in the rural zone.
470. Nicole Wooster (S259.018) notes that it is not uncommon in the rural environment for a farm to have coastal water access where wharfs and boat ramps exist for private use which the MHWS setback rule does not provide for. Nicole Wooster requests an exemption for these types of activities to address this concern.
471. IDF Developments (S253.004) requests amendments to the MHWS setback standard, based on the existing exemption in the ODP where the setback provision does not apply to legally formed and maintained roads between the property and the CMA. The submitter considers RPROZ-S4 should be amended to reflect this and should also be extended to areas promoted as (or existing) esplanade reserves, crown grants, or similar landholdings.
472. A number of submitters oppose RPROZ-S4 and request that it be deleted, including Mark Wyborn (S497.012), Philip Thornton (S496.012), William Goodfellow (S493.014), Ian Jepson (S494.014), Eric Kloet (S491.007), Owen Burn (S490.007), Ironwood Trust (S492.007), and Ricky Kloet (S495.011). These submitters request this relief on the basis that the standard unnecessarily constrains development.

Mixed-use Zone and Industrial Zones

473. Two submitters support MUZ-S4 as notified, being Brownie Family Trust (S74.040) and Russell Protection Society (S179.050).



474. Ed and Inge Amsler (S341.010) raise concerns that there is no rationale provided as to why the existing exemption for legally formed roads under the ODP has not been carried over to MUZ-S4 in the PDP. The submitters request that the setback is deleted for 46-48 Marsden Road, Paihia and that the exemption in the ODP to setbacks where there is a legally formed road between the property and MHWS is inserted into MUZ-S4.
475. Far North Holdings (S320.017) requests an amendment to MUZ-S4 to exempt Marine Exemption Areas from the standard.
476. Paihia Properties (S344.035) request consequential amendments to the standards that reflect their relief sought in relation to MUZ-R1.
477. Puketona Business Park (S45.026) and Ngawha Generation (S432.041) support the LIZ standards, including the MHWS setback in LIZ-S4. However, Ngawha Generation note that their support for the standards is "*subject to any necessary amendments based on the definition of relevant terms previously identified*".

Special Purpose Zones

478. Two M Investments (S317.031) support HZ-S4 as notified and considers that it provides for the operation of existing and future horticultural activities without the potential for new activities disrupting or hindering horticultural activity.
479. Russell Protection Society (S179.034) support KRT-S4 and requests that it be retained as notified.
480. John Riddell (S431.017) is concerned that the proposed standards do not ensure adequate recognition and protection of the historic heritage and character and amenity of Kororāreka Russell Township and are more onerous than necessary, especially given the existing Design Guidelines for the area. The submitter requests that KRT-S4 is amended to the following matters of discretion for KRT-R1:
 - a. *The extent of building area and the scale of the building and the extent to which they are compatible with both the built and natural environments in the vicinity;*
 - b. *Consistency with the Kororāreka/Russell Design Guidelines.*
481. John Andrew Riddell (S431.138³⁴, S431.023) also requests that all MHWS setback rules (including KRT-S4 above) are amended so that any building or

³⁴ Note that the summary of this submission point only mentions Quail Ridge SPZ, however the scope of the submission point in the original submission is much broader and applies to "*the amendment of all rules relating to setback of buildings or structures from the coastal marine area...*".



structure setback less than 20 metres from the CMA is a non-complying activity.

Analysis

482. Firstly, I agree with FNDC that the typo identified in the standard S4 matters of discretion is an error and should be amended as per their submission.
483. As notified, the PDP included the MHWS setback standards of 26m and 30m within each zone, which are shown in the table below (excluding some Special Purpose Zones). I understand these MHWS setback standards in the PDP are largely based on the ODP, with the exception of the Mixed-Use and Industrial Zone setbacks increasing from 20m to 26m³⁵.

26m	30m
General Residential Settlement Zone Mixed Use Zone Light Industrial Zone Heavy Industrial Zone Open Space Kororareka Township Māori Purpose Moturoa Island Quail Ridge	Rural Production Rural Lifestyle Rural Residential Horticulture Horticulture Processing Facilities

484. Requiring buildings and structures to be set back from MHWS is standard practice in district plans to provide for a range of benefits, including providing for public access and protecting natural character. There is also clear direction in Policy 6(1)(i) of the NZCPS to set back development from the CMA where practicable and reasonable as follows "*Within the coastal environment ... set back development from the coastal marine area and other water bodies, where practicable and reasonable, to protect the natural character, open space, public access and amenity values of the coastal environment*".
485. The main issues to consider in submissions are therefore not whether to retain the MHWS setback standards but rather whether they need to be amended to:
- a. Achieve consistent setback distances across the various zones.

³⁵ Rule 12.7.6.1.1 in the ODP which requires buildings and impervious surfaces to be setback "(a) a minimum of 30m in the Rural Production, Waimate North, Rural Living, Minerals, Recreational Activities, Conservation, General Coastal, South Kerikeri Inlet and Coastal Living Zones; (b) a minimum of 26m in the Residential, Coastal Residential and Russell Township Zones; (c) a minimum of 20m in the Commercial and Industrial Zones."



- b. Provide exemptions for certain types of activities, including the exemption for legally formed roads in the PDP.
- c. Refine or add to the matters of discretion.
- d. Apply a non-complying activity status within a 20m setback to MHWS.

MHWS setback distance

486. With respect to the MHWS setback distance (26m in urban and special purpose zones, 30m in rural zones), I note that most submitters either support the MHWS setbacks or oppose them in principle. The only submitters that specifically commented on the notified setback distance were in support, i.e. Matauri Trustee and PS Yates Family Trust in support of RPROZ-S4, Two M Investments in support of HZ-S4 and Russell Protection Society in support of KRT-S4.
487. I consider that the notified MHWS setback distances are appropriate for their respective zones. I support a slightly larger setback of 30m in rural zones as this reflects the generally larger lot sizes and reduced need for physical structures or buildings in these zones. In my view, the 30m MHWS set back in rural zones strikes the right balance between coastal protection without undue restriction on productive land uses. I support a 26m setback in urban zones and relevant special purpose zones³⁶ as I consider it a sufficient distance to provide for an esplanade reserve/strip, plus additional land for access to the CMA within the site and providing a buffer between the esplanade and buildings/structures. As such, I recommend that the MHWS setback distances are retained as notified.

Exemptions

488. In terms of the submission from Northland Planning and Development (and equivalent submissions from Waitangi Limited), in my view it is not appropriate to allow for a range of activities within the MHWS setback standard simply for consistency with the corresponding rule in the Natural Character chapter. The submitter has not sufficiently demonstrated why the list of requested activities have a functional need or operational need to be located in close proximity to MHWS or that the adverse effects on the coastal environment from these activities within the MHWS setback is appropriate. I therefore do not support the list of activities being permitted within the MHWS setback as requested by Northland Planning and Development.
489. However, I do consider that some exemptions for essential activities close to MHWS are appropriate, as currently provided for in the PDP. In particular, I agree with the request from IDF Developments (and others) for an

³⁶ Not all special purpose zones have a MHWS setback given their geographic location e.g. the Ngawha Innovation and Enterprise Park.



exemption for legally formed and maintained roads between a property and MHWS.

490. I do not support the following requests for exemptions:
- a. Nicole Wooster's request for exemptions for wharfs and boat ramps. While these structures will inevitably be located in the MHWS setback (and below MHWS), they can also have adverse effects above and below MHWS that are appropriately assessed through a resource consent process in my view.
 - b. Far North Holdings' request for an exemption for Marine Exemption Areas. A Marine Exemption Area is a concept from the ODP that has not been carried over into the PDP. I understand that the submitter is seeking that the Marine Exemption Area (and associated provisions) be reinstated in the PDP as part of a Bay of Islands Marina Development Area and that this is being considered as part of Hearing 18. Therefore, this broader relief is best considered through that hearing which may have consequential amendments to other PDP provisions if this relief is accepted.

Activity status and matters of discretion

491. After reviewing Paihia Properties (S344.035) submission, my understanding is that the submitter is referring to the restricted discretionary activity status for infringements of MUZ-S1 to S9 as an example of activity status being inconsistent when compared to MUZ-R1, as opposed to asking for any specific amendments to the standards (including MUZ-S4). As such, I do not consider that any changes are required to MUZ-S4 resulting from this submission.
492. With respect to the Ngawha Generation submission, the LIZ provisions will be heard in Hearing 10 so it is not yet known whether any changes will be made to those provisions. However, as the MHWS standards are recommended to be consolidated into the CE chapter, I consider it unlikely that any amendments from the LIZ hearing will necessitate consequential changes to the MHWS setback standards.
493. John Andrew Riddell has requested that the KRT-S4 matters of discretion be amended to align with the matters listed for KRT-R1, namely to refocus them on compatibility with the surrounding built and natural environment and consistency with the Kororāreka/Russell Design Guidelines. I disagree with this position for two reasons. Firstly, the purpose of the MHWS setback is not to ensure adequate recognition and protection of the historic heritage and character and amenity of Kororāreka Russell Township (as asserted by the submitter). Rather, the purpose of the standard is (among other things) to manage adverse effects on natural character, coastal hazards and stormwater effects associated with built development in close proximity to MHWS, as well as ensuring that public access to the CMA is maintained. As such, I consider that the notified matters of discretion are fit for purpose.



Secondly, the matters of discretion are consistent across all zones where they are applied and I consider it appropriate to maintain this consistency within the new standard in the Coastal Environment chapter.

Non-complying activity status within 20m of the CMA

494. With respect to John Andrew Riddell’s submission requesting that any building or structure setback less than 20 metres from the CMA is a non-complying activity, I assume in this context the submitter is referring to 20m from MHWS as the boundary between the CMA and land managed under the PDP. While I agree that buildings and structures are not desirable within 20m of MHWS, I consider that the range of matters of discretion set out in the various MWHS setback rules are sufficient to allow Council to assess adverse effects on natural character, natural hazard risk, stormwater, public access and potential mitigation options (landscaping, screening, planting, building design etc). I acknowledge that a non-complying activity status sends a strong signal but I also note that, in some cases, the first 20m from MHWS will already be, or be in the process of becoming, an esplanade reserve or strip, which will prevent most built development from occurring. As such, I do not recommend any change as a result of any of the John Andrew Riddell submission points.

Recommendation

495. I recommend that all MHWS setback standards are moved from the zone chapters to the Coastal Environment chapter to provide a consolidated, consistent setback standard. I recommend that the MHWS setback standards are retained with a minor amendment to reinstate the exemption from the ODP relating to “*where there is a legally formed and maintained road between the property and the CMA*”.

Section 32AA evaluation

496. I consider that my recommended amendments to the MHWS setback standards are appropriate in terms of section 32AA of the RMA as they retain the policy intent in a more efficient way through a single consolidated and consistent MHWS setback standard in the Coastal Environment chapter.

5.2.21 Key Issue 21: ONC, HNC and coastal environment mapping

Overview

Provision(s)	Officer Recommendation(s)

Analysis of Submissions on Key Issue 21: ONC, HNC and coastal environment mapping

Matters raised in submissions

General Submissions on ONC, HNC and Coastal Environment Mapping



497. DOC (S364.080, S364.082) support the approach of the PDP to identify, map and protect the natural character of the coastal environment in accordance with Policy 13 and 14 of the NZCPS.
498. Living Waters (303.002, S303.003) supports the inclusion of Schedules 7 and 8 in the PDP but considers that many of the unique identifier numbers and dates from the RPS data have been transcribed incorrectly, making it difficult and confusing to “dig into” the underlying information. Living Waters gives the example of HNC187 which has been given the identifier of 1-Oct instead of 01/10. The submitter request that these administrative errors are re-formatted correctly in the appropriate date format.
499. Pacific Eco-Logic (S451.024, S451.025) and Kapiro Conservation Trust (S442.168, S442.169, S442.042) support Schedules 7 and 8 but consider that the natural character mapping for a few locations, particularly in the Bay of Islands, should be updated due to land use changes, vegetation succession and more detailed information/imagery that has occurred since 2012. The submitters request that the mapping is amended to include additional locations that should be more highly ranked and remove some locations that have been cleared since 2012.
500. Federated Farmers (S421.141) do not support the separation of ONC and HNC into separate overlays and consider that is not consistent with section 6(a) of the RMA, which does not separate natural character out into categories. Federated Farmers. Federated Farmers requests that Schedules 7 and 8 be deleted and combined into a single schedule for natural character.
501. Lucklaw Farm Limited (S551.004) has concerns with the accuracy and spatial extent of the ONC and HNC areas mapped within the PDP, specifically those identified within the “subject site” and the adjoining Puwheke Beach. To address this concern, Lucklaw Farm Limited requests that ground-truthing is undertaken to ensure the PDP maps accurately reflect the features onsite recognising Policy 4.5.2 and Method 4.5.4 (2) in the RPS.
502. Yvonne Sharp (S90.001, S90.002) and Brian Steere (S508.002) oppose the coastal environment overlay over built-up areas, particularly Opito Bay and are concerned that the “blanket approach” to the overlay disregards long established settlements. Yvonne Sharp requests that Opito Bay is removed from the coastal environment overlay. Alternatively, the submitter requests that sublayers are created which have regard to differing levels of development within the coastal environment. Chris Sharp (S313.002) opposes the coastal environment overlay applying to the Doves Bay area for the same reasons as Yvonne Sharp and requests it is deleted from this area.
503. Good Journey (S82.008) opposes the coastal environment overlay over the geographic area spanned by Ngāti Kahu Road on the western edge of Taipa to the Oruaiti River to the east, encompassing the settlements of Taipa, Cable Bay, Coopers Beach, and Mangonui. Good Journey considers that the



coastal environment overlay mapping over these areas is not supported by appropriate analysis and does not meet the provisions of section 32 or Part 2 of the RMA.

Coastal Environment Overlay Mapping

504. Two submitters support the coastal environment overlay, either generally or in relation to their properties as follows:
- a. The Brownie Family Trust (S74.003) support the coastal environment overlay as notified.
 - b. NFS Farms (S151.004) supports the coastal environment overlay as applied along the coastal margins and in the gullies close to the coast on the properties at 123 and 127 Rangitane Road, Kerikeri as this recognises the significant ecological and landscape qualities of this land.
505. Three submitters support the coastal environment overlay and request that additional areas be included in the mapped extent of the coastal environment, as below:
- a. Russell Landcare Trust (S276.018) and John Riddell (S431.047) are concerned that the mapping of the coastal environment in the RPS, which the PDP mapping is based on, does not adequately recognise the extent of the coastal environment. The submitters request inclusion of the extent of the Kaimaumau Wetland within the coastal environment overlay extent as the Environment Court has confirmed that all of the wetland is part of the coastal environment not just the thin strips shown in the NRC maps.
 - b. Haititaimarangai Marae Kaitiaki Trust (S394.062) consider that Carrington Estate meets many of the criteria specified in APP-1 for the coastal environment. The submitter considers that the connectivity of this location and Karikari Moana "*is obvious and well known in terms of Haititaimarangai Mara / Te Whānau Moana and Te Rorohuri mātauranga.*" Haititaimarangai Marae Kaitiaki Trust therefore requests that the coastal environment overlay maps be amended to include the Carrington Estate zone and consequent amendments to the zone provisions so that they align with the provisions in the Coastal Environment chapter.
506. The remaining submitters on the coastal environment overlay generally oppose the application of the overlay as it applies to all or part of their properties for a number of reasons as follows:
- a. Muriwhenua Inc. (S420.006) request that the coastal environment overlay is deleted from their land, being Te Hapua 42 Block (title identifier 517692, affecting land at Te Hapua Road and Waharua Road, Te Hapua) and Section 1 SO Plan 470881, Mokaikai Block (title identifiers 726749, NA1A/1450, NA2108/28 and NA738/244,



affecting land at Te Hapua). The submitter also requests that the coastal environment overlay exclude land requested to be zoned Māori Development Rural that is within 500 metres of MHWS, and the sites currently used for housing or business activity.

- b. Matauri Trustee (S243.128) request the deletion of the coastal environment overlay where it applies to 2118 Wainui Road, Matauri Bay along the southeastern boundary. The submitter reasons for this relief is that this part of their property has no relationship with the coastal environment and the mapping of their property as being part of the coastal environment does not satisfy the attributes and criteria in the RPS.

Outstanding Natural Character and High Natural Character Overlays

507. There are a substantial number of submissions requesting removal of the HNC overlay from all or part of submitters properties.
508. Summit Forests (S148.035, S148.054, S148.056) oppose the HNC, ONC and CE overlays on existing plantation forestry land and request they are removed from these areas as the provisions in the Coastal Environment chapter do not provide for primary production activities in a equitable manner.
509. Mark Wyborn (S497.001) requests that the HNC overlay be removed from parts of the submitter's property (illustrated in their submission) as the submitter considers that these areas do not have high natural characteristics and therefore the HNC overlay should not limit the use and development of this land in a manner that is consistent with its residential use.
510. Paihia Properties (S344.017) request that the HNC overlay shown over the spatial extent outlined in their submission is deleted as it does not accurately reflect the existing landform and vegetation of the subject site.
511. Waiaua Bay Farms (S463.057, S463.058) raise concerns that part of their property is proposed to be incorporated in the ONC overlay. The submitter requests that the mapping notation shown on 151 Tepene Tablelands Road, Matauri Bay is deleted, or alternatively that Policy CE-P9 is deleted so that landscape maintenance activities and the upgrade and development of structures in the Totara Forest are not prohibited. Further, Waiaua Bay Farms considers that ONC80 does not have "*near to pristine indigenous land cover*" as there are numerous "*human features*" within and abutting the area which present clearly apparent visual modifications. The submitter notes that, while the Totara Forest is "*undoubtedly a pleasant area*", it does not "*provide a very strong experience of naturalness.*" Accordingly, Waiaua Bay Farms request that ONC80 be deleted from Schedule 8.
512. Ricky Kloet (S495.001) opposes the overlay over the western end of Motuarohia Island (Lot 6 DP 488661) and requests that it be removed from their property. The submitter considers that the overlay does not reflect the



environment, which is *"largely developed with holiday homes with domestic infrastructure."*

513. Ian Jepson (S494.002), Owen Burn (S490.001), William Goodfellow (S493.002), and Ironwood Trust (S492.001) request that the HNC overlay be removed from their properties at Lot 3 DP 48494, Orokawa 3A1, land parcels on Rawhiti Rd, Jacks Bay and Waipiro Bay, respectively. The submitters consider that the HNC overlay does not reflect the state of their properties as they currently are, which is a modified human landscape.
514. Ecochic Properties (S574.001) are concerned that the HNC overlay recorded against 48 Taupo Bay Road has been placed in error, outlining that there is no justification for the overlay and no native vegetation on the property. Ecochic Properties request that the HNC overlay is deleted from their property.
515. Dandy Developments (S142.002) requests that 458A Hihi Road is removed from HNC151.
516. Eric Kloet (S491.001) opposes the HNC overlay at Waipohutukawa Bay (Lots 5 and 18 DP 391213). The submitter requests that the HNC overlay is deleted from these properties as he considers that these properties are within a developed and modified human landscape. The submitter considers that the associated HNC controls will make the reasonable use and development of their properties unfairly and unnecessarily constrained.
517. Victoria Yorke and Andre Galvin (S530.002, S567.002) note that they have approximately 3ha of remnant forest and 3.9ha of land where their property was once used as a quarry. The submitter supports the HNC overlay on the remnant forest but is seeking that HNC409 be removed from the 3.9ha of historic quarry area and for this area to be rezoned residential.
518. Denis and Jennifer Whooley (S75.002) consider that the photograph of 2195 Waikare Road, Russell that has been used to map the HNC and ONC on their property is *"woefully out of date"* and does not reflect several kilometres of roading within the overlay, acres of land clearance, buildings on the property, and resource consents for buildings not yet constructed. Consequently, the submitter request that HNC452 and ONC109 be deleted from 2195 Waikare Road.
519. The Shooting Box (S187.097) request that areas of planted gardens and low value manuka/kanuka on their properties at Part Lot 1 DP 53930, Lot 1 DP 97835 and Lot 1 DP 71896 are excluded from the HNC overlay. Setar Thirty Six (S168.152) request that the HNC overlay is deleted from the areas of open grass and gardens at their property, legally described as Lot 1 DP 36233. P S Yates Family Trust (S333.110) request removal of the open grassed areas on their properties at 1 and 23 Kokinga Point Road, Rawhiti from the HNC overlay.



520. Margaret Ridge (S258.001) opposes the mapping boundaries for HNC439 and requests that the pastoral areas within this HNC are removed so that resource consent is not required for stock grazing.
521. Amanda Kennedy, Julia Kennedy Till and Simon Till (S353.001) support the HNC mapping in part but request amendments to some parts of the HNC overlay, which applies to Lot 1 DP 197131 and Lot 1 DP 189675. The reason for the requested changes from the submitter is that this better aligns with the existing development and underlying characteristics and qualities of the site. The submitter also considers that the relief sought is more consistent with high order RMA policies and plans and is more consistent with the purpose and principles of the RMA.
522. Lucklaw Farm (S551.002, S551.003) raises concerns with the accuracy and spatial extent of the ONC and HNC mapped area, specifically those parts of the overlays within the subject site and adjoining Puwheke Beach. The submitter requests that the accuracy of the mapped HNC areas is reviewed and amended, including written clarification from NRC with respect to the discrepancies.

Analysis

General submissions on mapping

523. Living Water has helpfully identified errors in the "unique ID" in Schedule 7 and Schedule 8 where this has unintentionally changed to a date. I suspect that this is likely to be due to a formatting error when inputting the schedules into Excel or similar. This has resulted in multiple errors, and I recommend that these are reviewed and amended accordingly which can be done as an amendment under Clause 16, Schedule 1 of the RMA in my view.
524. Pacific Eco-Logic and Kapiro Conservation Trust requests updates to Schedule 7 and 8 in include additional locations and remove others. However, these submissions do not provide sufficient details on where these areas are and how they meet, or no longer meet, the criteria in the RPS for ONC or HNC as required under Method 4.5.4(2) in the RPS. I therefore make no recommendations in relate to these more general submission points.
525. I have addressed Federated Farmers concern with separate ONC and HNC overlays under Key Issue 1 (General submissions) and the recommendation applies here (i.e. retain separate ONC and HNC overlays to give effect to the NZCPS and RPS and meet obligations under section 6(a) of the RMA).
526. I do consider that it is necessary, practicable or appropriate for Council to undertake detailed ground truthing of all ONC and HNC areas as requested by Lucklaw Farm Limited. The inclusion of ONC and HNC overlays in the PDP gives effect to the RPS and the methodology for this mapping is detailed through the Northland Regional Mapping process³⁷. I acknowledge that the

³⁷ Refer: [Mapping worksheets and methodology - Northland Regional Council \(nrc.govt.nz\)](https://www.nrc.govt.nz/mapping-worksheets-and-methodology).



RPS provides for more detailed assessment/refinement of the RPS maps through the following provisions:

- a. Policy 4.5.2 - *“suitably qualified assessment at a site or property-specific level can be used to demonstrate lesser (or greater) sensitivity to particular subdivision, use and development proposals given the greater resolution provided”.*
- b. Method 4.5.4(2) - RPS maps of ONC and HNC areas may be changed in district plans provided the changes are *“(i) Undertaken using the attributes and criteria listed in Appendix 1; and (ii) Shown in the regional or district plan”.*

527. However, my interpretation of these provisions and understanding of the intent of the RPS is that there is no expectation that territorial authorities undertake detailed ground truthing of all ONC and HNC areas mapped through the RPS. Rather, the intent is to allow for more site-specific assessments to be undertaken in accordance with the RPS criteria when this is demonstrated to be appropriate on a case-by-case basis. In my view, the onus should be on the landowner to demonstrate that the ONC or HNC maps are not accurate rather than expecting Council to verify the RPS maps which have been subject to a public Schedule 1 RMA process.

528. We have sought landscape advice on the more specific site-specific mapping requests, and these are addressed within the MAL Report with the recommendations summarised below. In this respect, I note that the more site-specific relief from Lucklaw Farm Limited in relation to the *“subject site”* is addressed within the MAP report and below. In reviewing this submission, I have identified some potential issues with the mapping in terms of how the PDP overlay mapping of ONC, HNC and ONF extends into the coastal environment overlay boundary/MHWS.

529. I do not recommend any amendments in response to the submissions from Yvonne Sharp, Brian Steere, Chris Sharp or Good Journey raising general concerns with the extent of coastal environment overlay. The submitters have not provided any specific evidence to support recommended changes to the coastal environment overlay or demonstrated how the areas referred to do not meet the criteria for the coastal environment in the RPS and APP1 – Mapping methods and criteria in the PDP.

Site-specific submissions on mapping

530. Section 2.3 in the MAL Report (Appendix 3) provides advice and recommendations on site specific submissions on the mapping of the coastal environment overlay, ONC areas and HNC areas. This advice is summarised below in relation to the relevant submission point along with my recommendation in response.

Submission	MAL assessment	Recommendation
Coastal Environment Overlay		



Submission	MAL assessment	Recommendation
S420.006 Muriwhenua Incorporated	Generally, the MAL Report does not support the removal of this overlay, as it has been carefully identified as part of the Northland Regional Mapping Project. Given the wide-reaching nature of the submission, it is better to address this submission point as part of a more comprehensive response to the request for the new precinct.	I do not recommend that the coastal environment overlay is amended in response to this submission. However, I note that the broader relief sought by Muriwhenua Incorporated (i.e. for a bespoke Māori Purpose Settlement Zone) will be considered through the rezoning topic (Hearing 19).
S243.128 Matauri Trustee Limited	The MAL Report can support this submission point but only to a "very small extent." The MAL Report recommends that the majority of the land identified by the submitter, remains within the coastal environment overlay but is of the opinion that the small triangular area to the west of the entry drive could be removed from the coastal environment overlay as it is on the other side of the ridge crest.	Accept in part - amend the coastal environment overlay to exclude the small triangular area west of the drive entry shown in the MAL Report.
S431.047 John Riddell	The MAL Report considers the Environment Court decision mentioned by the submitter ³⁸ and notes that, while the Environment Court decision is somewhat ambiguous, it concludes that the Reserve Area is within the coastal environment. The MAL Report therefore supports the submission point and suggests that at least that whole of the Conservation Area and Scientific Reserve Areas should be included in the coastal environment overlay.	Amend the coastal environment overlay as recommended in the MAL Report to be consistent with the Environment Court Decision.
ONC and HNC areas		
S148.054 Summit Forests NZ	In principle, the MAL Report agrees with the request of Summit Forests to remove the ONC and HNC overlays from areas of existing plantation forestry. The MAL Report considers that plantation forestry areas do not display natural character values worthy of	Amend to remove areas of existing commercial forestry from the ONC and HNC overlay from the five areas specified in the MAL Report.

³⁸ The decision is not cited in the submission, but the MAL report assumes it is *Burgoyne v Northland Regional Council* [2019] NZEnvC 28.



Submission	MAL assessment	Recommendation
	protection. The MAL Report has identified five areas where the ONC and HNC overlays appears to be over plantation forestry and supports the removal of the overlays from these areas.	
S497.001 Mark Wyborn	The MAL Report does not support the removal of the overlays from the submitter's property as the area identified on the submission map corresponds with the edge of HNC370 as there is no ONC overlay on the property.	No change recommended to HNC 370.
S344.017 Paihia Properties	The submitter request removal of HNC426 overlay from their adjacent properties below the 12m contour. The MAL Report outlines that the difference between the edge of the HNC line and the 12m contour identified by the submitter, appears to be minimal and the development potential of the site will not be impeded to any extent by the presence of the HNC overlay. Given this and the value of the indigenous vegetation on the site, the MAL Report does not support the submission.	No change recommended to HNC 426.
S463.056 Waiaua Bay Farm	The MAL Report considers that it is appropriate for the ONC to be over the Kauri Cliffs Golf Course given the importance of the stand of mature indigenous vegetation. However, given the comprehensiveness of the submission and changes sought to the Zone itself by the submitter, the MAL Report suggests a more comprehensive response to the submission is required.	No change recommended to ONC 80. However, the more general relief sought can be considered further through hearings on the Kauri Cliffs SPZ.
S333.110 P S Yates Family Trust	The MAL Report observes that the grassed areas at 1 and 23 Kokinga Point Road are less natural vegetation patterns and therefore it is unlikely for these areas to be appropriate in the HNC overlay. The MAL Report considers that it is appropriate to trim the two overlays to remove the grassed areas.	Amend ONC99 and HNC339 to remove the grassed areas at 1 and 23 Kokina Point Road, Rawhiti as outlined in the MAL Report.
S495.001 Ricky Kloet	The MAL Report does not support removal of the HNC 331 from Lot 6 DP 48861 at the western end of Motuarohia Island. The MAL Report	No change recommended to HNC 331.



Submission	MAL assessment	Recommendation
	opposes the removal of the HNC as it is identified in the RPS and due to the importance of this of pest free indigenous vegetation.	
S490.001 John Bayley	From the HNC description and the available aerial information, the MAL Report concludes that the HNC overlay is appropriate, where it covers the vegetation to the north of the dwelling and curtilage. The MAL Report does not support this submission point.	No change recommended to HNC 345.
S494.002 Ian Jepson	The MAL Report does not support removal of the HNC overlay from 17B Jacks Bay Road as the site is identified in the RPS and the indigenous vegetation is of importance.	No change recommended to HNC 400.
S491.001 Ironwood Trustees Ltd.	The MAL Report does not support the removal of the HNC overlay over the properties identified by the submitter. The MAL Report considers that the upper portions of the residential sections on the northern headland are not covered by the HNC overlay and are free of associated constraints and the coastal vegetation further down the slope is of importance. In relation to HNC 405, the MAL Report considers that the HNC is warranted due to the importance of the native wetland vegetation and the area which is part of a community pest control area.	No change recommended to HNC 392 and HNC 405.
S574.001 Ecochic Properties	Following review of the submitter's property, the MAL Report considers that the submitter is correct in their claim that the HNC overlay has gone beyond the line of vegetation to the rear of the property and should be trimmed back to the boundary. The MAL Report supports this submission point.	Amend HNC 170 to remove the property at 48 Taupo Bay Road, and align the HNC overlay to the boundary of the property.
S142.002 Dandy Developments	The MAL Reports examines the boundaries of the property on Council's Property and Land maps and confirms that the HNC does not encroach onto the submitters land. The MAL Report therefore does not support this submission point.	No change recommended to HNC 151.
S491.001 Eric Kloet	After examining the PDP maps, the MAL Report confirms that there are no HNC	No change recommended.



Submission	MAL assessment	Recommendation
	<p>areas over the submitter's property. This submission point is not supported by the MAL Report.</p>	
<p>S493.002 William Goodfellow</p>	<p>The submitter requests removal of the HNC overlay from parts of their properties. The site was visited by MAL in March 2024 which confirmed that the cleared areas referred to by the submitter have been revegetated. The HNC overlays are confined to the steep coastal edges and more vegetation. Given this, the MAL Report does not support this submission point.</p>	<p>No change recommended to HNC 318 and HNC 339.</p>
<p>S530.002 Victoria Yorke and Andre Galvin</p>	<p>The MAL Report supports this submission in part and suggests that there is some justification for the removal/alteration of part of HNC422 at the southern end of the subject property. However, the MAL Report does not consider that the removal of the HNC overlay is justified over the other areas of the submitters' property.</p>	<p>Amend HNC 422 as per the mapped outline in the MAL Report. No change recommended to the other areas of HNC 422 on the property requested to be changed by the submitter.</p>
<p>S75.002, 003 Denis and Jennifer Whooley</p>	<p>The MAL Report assesses the submitters request using Google Maps and NRC aerials compared to those provided by the submitter. The MAL Report finds that the property appears to be covered in native vegetation with a series of tracks and building sites cut into the vegetative cover. The MAL Report also notes that there is one dwelling and building, and a short wharf on the northern side of the southern peninsula of the property. The MAL Report agrees in principle with the removal of the ONC and HNC overlays from the cleared and built areas but does not recommend that this extends beyond these areas.</p>	<p>Amend ONC 109 and HNC 452 to remove the cleared and developed areas on the submitters' property at 2195 Waikare Road, Russell as recommended tin the MAL Report.</p>
<p>S187.097 The Shooting Box</p>	<p>The MAL Report has observed the aerial photograph and overlay of HNC on the submitter's adjacent properties at the intersection of Rawhiti Road and Kokinga Point Road. The MAL Report concludes that there are some very small areas of grass within HNC 339 and it is appropriate to trim these grassed areas from the overlay as these</p>	<p>Amend HNC339 to remove the grassed areas as recommended in the MAL Report.</p>



Submission	MAL assessment	Recommendation
	do not exhibit sufficiently natural values to be worthy of protection.	
S258.001 Margaret Ridge	The MAL Report supports the removal of HNC 439 from lawfully established areas of grazing in principle, but it is not clear in the submission which property is being referred to by the submitter.	No change recommended HNC 439 but this can be reconsidered with further evidence of the existing grazed areas on a specific property.
S168.152 Setar Thirty Six	The submitter requests the exclusion of areas of open grass and gardens from the overlay on their property at Lot 1 DP 36233. The MAL Report considers it is appropriate to trim the boundary of HNC 324 to the edge of the indigenous vegetation.	Amend HNC 324 to exclude the lawn area so that the boundary extends to the edge of the indigenous vegetation as recommended in the MAL Report.
S353.001 Amenda Kennedy, Julia Jennedy Till and Simon Till	The MAL Report does not consider that a conclusion can be reached on this submission until further information is provided by the submitters.	No change recommended at this point of time. The submitter indicates that they may bring landscape evidence to the hearing and this submission point can be considered further at that time.
S551.003 Lucklaw Farm	These submitters suggest that there are inaccuracies between the HNC areas shown on the PDP maps and those shown in the RPS around Puwheke Beach. The MAL Report cannot reconcile the differences between the two maps.	My understanding is that the PDP map of ONC 44 has been trimmed to align with the existing vegetation whereas extend the coastal environment overlay mapping extends to MHWS. In my view, the boundary of ONC 44 should align with the boundary of the coastal environment overlay consistent with the RPS. I note that this appears to be a wider mapping issue in terms of how some of these overlays align with the coastal environment overlay and MHWS.



Recommendation

531. For the reasons above, I recommend that submissions relating to ONC, HNC and coastal environment overlay mapping are accepted, accepted in part and rejected as set out in **Appendix 2**.

Section 32AA evaluation

532. I consider that the recommended amendments to the ONC, HNC and coastal environment overlay mapping are appropriate, efficient and effective to achieve the objectives in accordance with section 32AA of the RMA. The recommended amendments do not impact on the management of ONC, HNC and coastal environment values, rather these amendments concern overlays when these do not meet the relevant criteria in the RPS and APP-1 in the PDP based on the landscape assessments and recommendations outlined in the MAL Report.

5.2.22 Key Issue 22: Definitions

Overview

Provision(s)	Officer Recommendation(s)
Coastal environment definition	Retain as notified

Analysis of Submissions on Key Issue 22: Definitions

Matters raised in submissions

533. Forest and Bird (S511.002) and Kapiro Conservation Trust (S442.022) support the definition of coastal environment in the PDP and request that it be retained as notified.

534. Sarah Ballantyne and Dean Agnew (S386.029) raise concerns that “*ridgeline, headland and peninsula*” are not defined terms and are somewhat subjective terms to include in a permitted activity standard. The submitters request definitions of ridgeline, headland and peninsula to address this concern. If the intent is to protect the skyline with the Coastal Environment, the submitters consider that it could be reworded to refer to the “*height of the tallest/highest surrounding ridgeline, headland or peninsula*”.

Analysis

535. The definition of “*coastal environment*” is supported by two original submissions along with the further submissions on those original submissions and no further analysis is required. I have also addressed the concerns from Sarah Ballantyne and Dean Agnew in relation to the reference to “*ridgeline, headland and peninsula*” in the analysis on CE-S1. No further commentary is therefore required here, and I recommend that this



submission point is accepted in part to the extent that they are satisfied with the recommendations to CE-S1 above (Key Issue 11).

Recommendation

536. I recommend that the submissions on the coastal environment definitions are accepted or accepted in part for the reasons outlined above. I am also recommending new definitions for “afforestation”, “commercial forestry” and “exotic continuous-cover forestry” to support by recommended amendments to CE-R4 outlined above.

Section 32AA evaluation

537. I recommend no changes to the coastal environment definitions therefore no further evaluation is required under section 32AA of the RMA.

6 Conclusion

538. This report has provided an assessment of submissions received in relation to the Coastal Environment chapter. The primary amendments that I have recommended relate to:

- a. Amendments to the objectives and policies to better give effect to higher order documents, improve clarity and remove duplication with the Natural Features and Landscapes chapter.
- b. Changes to policies to make it clear that the focus is to manage effects on the characteristics, and qualities and values that make ONC areas outstanding.
- c. Amendments to objectives, policies, rules and standards to better provide for land use and development in existing urban areas. This includes new policy direction on when development is appropriate in existing urban areas and amending the controls on building coverage and height in more built-up coastal settlements so these are less restrictive.
- d. Amendments to the policy direction relating to farming activities.
- e. Amending the policy direction to make it clearer how land use and subdivision within Māori Purpose Zone and Treaty Settlement Land is to be enabled.
- f. Significant changes to CE-R1, CE-R2, CE-R3 and the associated standards to make the provisions less restrictive in some areas, to remove unnecessary requirements, and provide for additional activities where appropriate while ensuring adverse effects on the coastal environment are appropriately managed.
- g. Amending CE-R6 so it only applies to afforestation for commercial forestry (and not any plantation forestry activity).



- h. Deleting redundant policies and rules (CE-P9, CE-R2, CE-R5).
- i. Amending SUB-R20 and SUB-R1 so the rules only applies if additional allotments are created within the coastal environment or a ONC area.

539. Section 5.2 of this report considers and provides recommendations on the decisions requested in submissions. I consider that the submissions on the Coastal Environment chapter should be accepted, accepted in part, rejected or rejected in part, as set out in my recommendations of this report and in **Appendix 2**.

540. I recommend that provisions for the Coastal Environment matters be amended as set out in the Coastal Environment in **Appendix 1** below for the reasons set out in this report

Recommended by: Jerome Wyeth, Technical Director – Planning, SLR Consulting

Approved by: James R Witham – Team Leader District Plan, Far North District Council.

Date: 8 July 2024