

Part 4
Proposed Plan Change 87
Coastal Area

Section 42A Hearing Report

AUTHORS

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1.0 Introduction

1. This is **Part 4** of the section 42A (**s42A**) evaluation report. This part should be read in conjunction with the other **Parts 1 – 12**. The evaluation of general topics is contained within **Part 1** of the s42A report.
2. This report has been prepared in accordance with s42A of the Resource Management Act 1991 (**RMA**) and forms the Hearing Report for the Whangarei District Council's (**WDC**) Proposed Plan Change 87 (**PC87**). This report provides consideration of the proposed provisions, recommendations in relation to submissions and, where appropriate, the report cross-references the section 32 (**s32**) report, further expert evidence, analysis of any background material and legislative discussions.
3. This s42A report has been prepared by Evan James Cook. Mr Cook's qualifications statement follows:
 - I am a qualified planner holding the qualifications of Bachelor of Tourism and Masters of Planning from the University of Otago. I have been a full member of the New Zealand Planning Institute since September 2016 and have been a member of the Institute since 2008.
 - I have worked as a planner in the Northland region since November 2007. My planning experience includes 11 months with a Whangarei based consultancy. This role involved preparing applications for subdivision and land use resource consents, writing and presenting planning evidence at resource consent hearings, assessments of environmental effects, reviewing conditions of consents and preparing change of conditions applications, preparing conservation assessments, preparing weed and pest management plans, and making submissions on resource consents and proposed District Plan changes.
 - I commenced employment with Whangarei District Council's Policy and Monitoring Department as Policy Planner (Coastal) in October 2008 and have been employed as a Senior Policy Planner since September 2015. My current role includes carrying out background research for District Plan changes, preparation of plan change documents and Section 32 reports, presenting at council meetings, workshops and plan change hearings, consultation with the community on council projects and proposals, making recommendations on submissions, the development of structure plans and plan changes to implement the Whangarei Coastal Management Strategy, making submissions on proposed legislation and regional and national policy documents, and liaising with the public, other Council departments and other agencies on resource management and coastal issues.
 - I am familiar with the Environment Court's Code of Conduct for expert witnesses and have taken it into account in the preparation of this statement of evidence. I consider that the evidence is within my area of expertise and agree to comply with the Code of Conduct in presenting this evidence to the Court. I confirm that the evidence on planning matters that I present is within my areas of expertise and I am not aware of any material facts which might alter or detract from the opinions I express. I have read and agree to comply with the

Code of Conduct for expert witnesses as set out in the Environment Court Consolidated Practice Note 2014. I have also read and am familiar with the Resource Management Law Association / New Zealand Planning Institute “Role of Expert Planning Witnesses” paper. The opinions expressed in this evidence are based on my qualifications and experience, and are within my area of expertise. If I rely on the evidence or opinions of another, my evidence will acknowledge that position.

- I confirm that I am familiar with the coastal area of the Whangarei District, I have completed site visits to the relevant properties requesting rezoning.

4. Mr Cook records that he owns a property, Part Lot 4 DP 25340 Cove Road, Waipu Cove, notified in PC87 as Coastal Area and High Natural Character Area. Melissa Ivy McGrath, has prepared the section of this report dealing with the identification of his property as High Natural Character.

5. Ms McGraths qualifications statement:

- I am a qualified planner. I hold a Masters in Resource Management and am a Full Member of the New Zealand Planning Institute. I have worked within the district plan team at WDC for the past nine years, being the District Plan Team Leader for the past three years.
- I have been employed in various resource management positions in local government and private companies since 2003. My predominant experience has been in statutory policy and resource consent planning in the Whangarei and Auckland regions. My experience includes processing and reporting on resource consent applications, district plan formulation and policy advice for the Far North District and Whangarei District Councils, preparation of Assessment of Environmental Effects, monitoring and compliance of consent conditions.
- I confirm that the evidence on planning matters that I present is within my areas of expertise and I am not aware of any material facts which might alter or detract from the opinions I express. I have read and agree to comply with the Code of Conduct for expert witnesses as set out in the Environment Court Consolidated Practice Note 2014. I have also read and am familiar with the Resource Management Law Association / New Zealand Planning Institute “Role of Expert Planning Witnesses” paper. The opinions expressed in this evidence are based on my qualifications and experience, and are within my area of expertise. If I rely on the evidence or opinions of another, my evidence will acknowledge that position.
- I confirm that I am familiar with the coastal area of the Whangarei District, I have completed site visit to Part Lot 4 DP 25340 Cove Road, Waipu Cove.

6. A comprehensive description of the background to PC87, a chronology of events relevant to the proceedings of PC87 and overview of the Rolling Review process and statutory considerations is included in **Part 1** of the s42A report.

2.0 Description of the Plan Change as Notified

7. A comprehensive description of the background to PC87 is included in Section 3.0 of Part 7 of the s32 report [**Appendix A of Part 1** of the s42A report].
8. Rather than duplicate the background section from the s32 report, the following key points are made in summary.
9. PC87 proposes changes to the planning maps to replace the Coastal Countryside Environment (**CCE**) with a new Coastal Area (**CA**) Overlay. Within the new CA, areas of High Natural Character (**HNC**) and Outstanding Natural Character (**ONC**) are identified. The extents of these areas were identified in the new Regional Policy Statement for Northland (**RPS**) which was made (partly) operative in May 2016. PC87 also introduces new provisions to give effect to the RPS with land use and subdivision rules that apply to the CA and the HNC and ONC areas. These provisions are proposed to replace Chapter 10 – The Coast (objectives and policies for the coastal environment), and Chapters 38 and 73 which contain land use and subdivision rules respectively for the Coastal Countryside Environment in the Operative Whangarei District Plan (**WDP**).
10. PC87 was notified in August 2016 and contained objectives, policies and rules to manage subdivision, buildings and structures, earthworks and vegetation clearance – activities which have the potential to adversely affect the natural character of the coastal environment. The rules take a tiered approach to managing effects on the natural character of the coast based on the hierarchy set out in the RPS and New Zealand Coastal Policy Statement 2010 (**NZCPS**) with restrictions depending on the quality of natural character identified. In areas identified as ONC the plan change seeks to avoid adverse effects on the characteristics and qualities that make up natural character. Outside the ONC areas significant adverse effects are to be avoided, and other adverse effects are to be avoided remedied or mitigated.
11. The proposed CA covers a range of WDP Environments (zones) including the Countryside Environment (**CE**) and CCE (that are proposed to be replaced through PC 85A-D and PC87) and the Open Space, Living and Business Environments. The proposed CA overlay applies to all underlying zones except where specified in a rule.
12. The proposed plan change text that was notified is included in **Appendix B of Part 1** of the s42A report..

3.0 Purpose of Report

13. This report considers submissions received in relation to PC87. It has been prepared in accordance with s42A of the RMA to assist the Commissioners with deliberations on submissions and further submissions in respect of PC87.
14. The report includes recommendations to the Commissioners to accept, accept in part or reject individual submissions. Where appropriate, it also includes recommended changes to the plan change provisions. In response to submissions, we have in every instance considered efficiency, effectiveness and appropriateness and our recommendations represent the most appropriate response in accordance with section 32AA of the RMA (**s32AA**). Depending on the complexity of the change proposed, the s32AA assessment then follows in a separate table underneath or an

overall discussion. In accordance with section 32AA(1)(c), the assessment of each change has been undertaken at a level of detail that corresponds to the scale and significance of the proposed changes

15. When making its decision, WDC is required under Clause 10 of the First Schedule of the RMA to give reasons for allowing or not allowing any submissions (grouped by subject matter or individually). The decisions of the council may also include consequential alterations arising out of submissions and any other relevant matters it considered relating to matters raised in submissions.

4.0 Structure of the Report

16. The report has been structured to provide an assessment of the submissions and further submissions received by WDC, arriving at a recommendation to the Hearing Commissioners.
17. All submissions received have been categorised based on which plan change they are most applicable to. Several submissions have been assessed in **Part 1** of the s42A report as they either address broad topics or relate to multiple plan changes.
18. Once allocated to a plan change, each submission point has then been grouped thematically based on topic. As some submissions relate to multiple topics, cross references to the discussion and recommendation sections of other topics have been included. Topic headings for the submissions assessed under PC87 are as follows:
 - A. General Submissions
 - B. Definitions
 - C. Description and Expectations
 - D. Objectives
 - E. Policies
 - F. Landuse Rules
 - G. Subdivision Rules
 - H. Mapping
19. While all further submissions have been acknowledged in the submission tracking spreadsheet [see **Attachment 1** of **Part 1** of the s42A report], responses have not been written for all further submission for the following reasons. The further submissions generally:
 - Sought to emphasise the content of the corresponding original submission;
 - Did not present new or additional evidence;
 - Stated either support or opposition to the original submissions of other submitters.
20. The assessment of submissions generally follows the following format:
 - Submission information – Matters raised in the submissions with a brief outline of relief sought and reasons for relevant submissions.

- Discussion – discusses responses to the relief sought.
- Recommendation – outlines a recommendation to the Commissioners in response to the relief sought.

21. Any recommended changes to the notified text as a result of submissions are attached to this report [see **Attachment 2C** of **Part 1** of the s42A report]. Any recommended additions to the notified text are shown as underlined and deletions as strike-through. Any out of scope changes are also highlighted in yellow.

5.0 Consideration of Submissions

A. General Submissions

Submission Information

General Support

22. The Department of Conservation (**DoC**)¹ seeks that the plan change is retained subject to specific amendments contained elsewhere in the submission and discussed below.
23. The New Zealand Refining Co Ltd (**NZRC**)² supports in principle the PC87 policy objective of protecting Whangarei's coastal areas from inappropriate use and development.
24. Northland Regional Council (**NRC**)³ generally supports the three-step hierarchy across all land use rules to reflect the varying level of protection required - e.g. the CA generally (most permissive), HNC (moderate protection) and ONC (most protection). NRC Support the suite of objectives and policies that seek to protect HNC and ONC areas, and consider that the intent of the plan change is generally consistent with the RPS, specifically policies 4.5.1 and 4.5.2 and policy 4.6.1 as well as direction in the NZCPS.
25. Keith Salmon⁴ supports the protection of HNC areas.
26. Patuharakeke Hapu⁵ generally supports the objectives and policies in the CA chapter as they align with the provisions of the Patuharakeke Hapu Management Plan, section 5.6 Subdivision and Development.
27. Margaret Hicks⁶ notes that section CA 1 - 4 is for the most part a welcome addition to the planning portfolio, although several amendments are proposed.
28. Kevin and Lianne McMahon⁷ generally support the plan change and seeks that the plan change as notified is retained and is not varied to encourage smaller lot sizes.
29. Travis Bull⁸ supports the plan change in that it does not erode any current environmental protections that exist and in some ways may assist those protections by way of discouraging

¹ 78/15

² 158/1

³ 121/1 and 3

⁴ 194/1

⁵ 238/1

⁶ 517/1

⁷ 531/2

⁸ 502/1

inappropriate development (intense urban subdivision and factory farming). This is subject to the submitter being able to alter the boundaries of their existing allotments.

30. The General Trust Board of the Diocese of Auckland⁹ supports the removal of framework management plans.

General Opposition

31. Royal Forest and Bird Protection Society (**Forest and Bird**)¹⁰ considers that PC87 fails to give effect to important aspects of the RPS and the NZCPS which seek to ensure that environmental bottom lines are not compromised. The framework of rules are not as comprehensive or specific as they need to be and anything not covered by those rules defaults to permitted activity status. There is a notable absence of prohibited activities and non-complying activity status is rarely invoked. In a number of instances the proposed changes fail to create a rational hierarchy of activity status for the same type of activity at different intensities or scale. PC87 does not go far enough to ensure that indigenous biodiversity will be maintained and do not provide adequate protection for areas of ecologically significant indigenous vegetation and habitats of indigenous fauna. PC87 does not sufficient to protect the natural character of the coastal environment and coastal wetlands, lakes and rivers from inappropriate use and development. The objectives and policies are too focused on subdivision and residential development and do not give sufficient attention to the need to manage the effects of other types of land use. The submitter seeks that:

- The provisions of PC87 be retained, deleted or amended to address the matters set out in this submission so as to provide for the sustainable management of natural and physical resources in the District and achieve the purpose of the RMA; and
- Such further, consequential or alternative relief as may be necessary to address the concerns raised and relief sought in this submission.

Minor Amendments

32. Far North District Council (**FNDC**)¹¹ seeks consistency with higher order documents by replacing the term 'Coastal Area' with 'Coastal Environment' where it appears in PC87.

Compensation

33. André & Robin LaBonté¹² seek amendments to PC87 to include compensation for landowners (either monetarily and/or by way of an environmental benefit offset at the time of subdivision) even if the natural features have been previously identified by Council and no formal protection by the landowner has occurred.

⁹ 255/3

¹⁰ 467/1

¹¹ 410/1

¹² 430/4

34. Trevor Shaw¹³ questions the fairness of the HNC on the basis that land use restrictions are a cost to the landowner but the benefit is enjoyed by the wider public. The submission asks that the added costs should be passed on to the public if the public want these restrictions on private land.

Non-statutory

35. Mary Wilson¹⁴ supports the plan change generally but also seeks that the vehicle access via the race course is closed and other initiatives are taken to prevent dunes destruction and that urgent measures are put in place to prevent further erosion on the cliff face on the western side of One Tree Point.
36. Justin Nops¹⁵ submits that that rural beaches should stay rural and offer seclusion and privacy to the public.

Discussion

37. I acknowledge and generally support the submissions supporting the plan change structure and the various sections and provisions of PC87. However, changes to the notified plan change wording and zoning have been recommended in response to other submissions requesting amendments.
38. In response to the Forest and Bird submission it appears that their major concerns are that PC87 does not go far enough to ensure that indigenous biodiversity will be maintained and do not provide adequate protection for areas of ecologically significant indigenous vegetation and habitats of indigenous fauna. As outlined in **Part 1** of the s42A report a further plan change is programmed as part of the WDP rolling review to identify and protect these natural resources.
39. In response to the FNDC submission, I agree that it would be ideal to use terms consistent with higher order documents. It was determined however that the term 'Area' be used because the underlying zones in the WDP are known as 'Environments' (e.g. the Living 1 Environment). Because the CA is a resource area this terminology was preferred to avoid confusion, and to identify that the CA is a district wide resource area. In my opinion it would be preferable that the term coastal environment was used to describe the resource area, and the word environment was removed from the zone names. While the zones remain Environments, I am recommending that the term Coastal Area remain for WDP consistency.
40. In relation to concerns raised by Forest and Bird around the default permitted activity status, this is addressed in **Topic E** of **Part 1** of the s42A report. Further amendments are proposed to the underlying Environments as well the CA provisions to address any gaps that this approach leaves.
41. In response to submissions regarding compensation, these issues are also addressed in **Topic C** of **Part 1** of the s42A report. I agree with Ms McGrath's recommendations in that report.

¹³ 469/6

¹⁴ 70/1 - 4

¹⁵ 538/2

42. In relation to the submission from J Nops, the identification and protection of HNC and ONC areas, along with provisions which seek to consolidate development may address his concerns however I am not recommending any changes based on this submission.
43. M Wilson requests that capital works are undertaken to protect dunes and the One Tree Point cliffs. I consider that this submission is out of the scope of PC87.

Recommendation

44. I recommend that the Commissioners:
- **Accept** submission points 158/1, 121/1 and 3, 194/1, 238/1 and 255/3.
 - **Accept in part** submission points 467/1, 517/1, 531/2 and 502/1.
 - **Reject** submission points 70/1-4, 78/15, 410/1, 430/4, 469/6 and 538/2.

B. Definitions

Submission Information

45. FNDC¹⁶ seeks that a definition is prepared for ‘Rural Production’ or ‘Rural Production Activities’ so the effects of enabled buildings in the CA can be understood before they are given an activity status.

Discussion

46. I agree with FNDC’s submission that a definition assists in clarifying what is allowed as a permitted activity. This is addressed in **Topic O of Part 1** of the s42A report where a definition for “rural production activities” has been recommended, I concur with Ms McGrath’s recommendations. The rule will allow farming operation to continue unimpeded by the WDP rules provided they are not within a HNC or ONC area, and can meet the permitted activity standards for the underlying Environment and any other resource areas that apply. I recommend that rule CA2.2.1 be altered to reference the definition of “rural production activities”.

Recommendation

47. I recommend that the Commissioners **accept** submission point 410/3 and make the following change:

CA.2.2. Permitted Activities

1. Construction of non habitable buildings ancillary to ~~rural production~~ rural production activities or network utility activities outside a High or Outstanding Natural Character Area is a permitted activity.

¹⁶ 410/3

C. Descriptions and Expectations

Submission Information

48. Four¹⁷ submission points were made seeking amendments to the Description and Expectations section of the CA chapter, requesting the following relief:
- That the last sentence of the second paragraph is replaced with “This includes the requirement to avoid adverse effects on ONC areas.” to ensure consistency with the NZCPS.
 - Amendments to more appropriately recognise and provide for the ongoing operation, maintenance and upgrade of existing developments, activities and uses in the CA and those activities which have a functional need to locate there.
 - Amendment to recognise that mineral extraction activities, and the Portland Cement plant, have a functional need to be located within the CA.
 - Amendment to recognise historic heritage in the CA.

Discussion

49. I agree that the suggested change to the second paragraph of CA.1.1 would better reflect the language of the NZCPS and RPS and provide better guidance to WDP users. Federated Farmers New Zealand (**FFNZ**) further submission suggests that inappropriate subdivision use and development is also referenced. This term and the RMA provisions are included in the next paragraph and in my opinion this addition is unnecessary.
50. I agree that it is important to recognise that there is existing industrial development located in the CA. The National Institute of Water and Atmospheric Research Ltd (**NIWA**) submission does not provide suggested wording. GBC Winstone (**GBC**) submission does however with specific reference to their plant at Portland. I do not agree that the description should reference specific industries such as GBC’s Portland plant. In my opinion it should refer to industrial activities more generally. I recommend that alternative wording is used in the first paragraph to recognise the presence of existing industrial developments located within the CA.
51. I consider that the Description and Expectations provide enough information to inform WDP users that the coast contains historic heritage values and archaeological sites. If plan users identify that historic heritage or archaeological sites are an issue on their property I consider that these matters are covered adequately in the new Historic Heritage chapter of the WDP. The HNZTP submission is addressed in **Topic J** of **Part 1** of the s42A report, and I concur with Ms McGrath’s recommendations. I agree with using the term historic heritage for consistency through the WDP and agree with part of the relief sought where HNZPT suggests that historic heritage values should be considered with the other special values of the coast.

¹⁷ FNDC 410/2 - NIWA 542/1 - GBC 250/33 - HNZTP 248/23

Recommendation

52. I recommend that the Commissioners:

- **Accept** submission 410/2.
- **Accept in part** submission points 250/33 and 542/1 and 248/23 and make the recommended changes below.

CA.1.1 Descriptions and Expectations

...

Over the years, the Coastal Area has been substantially modified, with coastal forests, dune vegetation and indigenous wetlands being largely replaced by productive land, ~~and residential development~~ and industrial developments that rely on their proximity to the coast for their ongoing operations.

Due to pressure for residential development it is important that the Coastal Area is managed to ensure that its use and development does not exceed the capacity of the environment to absorb any adverse effects, and that the amenity, landscape, ecological, historic heritage and natural character values that make it special are not compromised. This includes requirements to avoid ~~significant~~ adverse effects on outstanding natural character areas.

...

D. Objectives

Objective CA.1.2.1 – Submission Information

53. Radio NZ¹⁸ supports objective CA.1.2.1 and seeks that it is retained as notified.

54. Transpower New Zealand¹⁹ seeks the following specific amendment to objective CA.1.2.1 to focus on the attributes and values that contribute to natural character:

1. *Identify and protect the natural character attributes and values of the CA from inappropriate subdivision, use and development.*

55. FFNZ²⁰ supports objective CA.1.2.1 as it is consistent with Section 6(a) of the RMA in that protection is from inappropriate subdivision, use and development. However, the submitter notes the significant overlap between objectives CA.1.2.1 and 3 and suggests that they are combined.

Objective CA.1.2.1 – Discussion

56. I acknowledge Radio NZ's submission in support of the objective, I am however, recommending minor amendments to the wording.

57. Transpower's submission recognises that the degree of naturalness in the coast varies with some places more sensitive to change than others. The wording in objective 3.14 of the RPS is slightly different and refers to protection of the 'qualities and characteristics that make up the natural

¹⁸ 462/5

¹⁹ 476/2

²⁰ 253/30 and 31

character of the coastal environment'. I recommend that the wording of the RPS be adopted in the objective and consider that this will both give effect to the RPS and be consistent with the relief sought by the submitter.

58. FFNZ suggest that objectives 1 and 3 overlap and seeks that they are combined. I agree with DOC's further submission that these objectives should remain separate. Objective CA.1.2.1 reflects the RMA in that it recognises that all parts of the CA have some degree of natural character that should be protected from inappropriate subdivision and development, whereas objective CA.1.2.3 specifically relates to, and provides for greater protection of areas of high and outstanding natural character.

Objective CA.1.2.1 – Recommendation

59. I recommend that the Commissioners **reject** submission points 432/9, 462/5, 253/30 and 31 and 476/2 but make the recommended changes below:

CA.1.2 Objectives

1. Identify and protect the qualities and characteristics that contribute to the natural character of the Coastal Area from inappropriate subdivision, use and development.

Objective CA.1.2.2 – Submission Information

60. Forest and Bird²¹ seeks the following specific amendment to objective CA.1.2.2:

2. *Manage the cumulative effects of subdivision, use and development on the amenity, landscape, and ecological values of the Coastal Area.*

Objective CA.1.2.2 – Discussion

61. I agree with this amendment as it is consistent with the language of the NZCPS.

Objective CA.1.2.2 – Recommendation

62. I recommend that the Commissioners **accept** submission point 467/1 and recommend that the following wording be added to the proposed provisions:

CA.1.2 Objectives

2. Manage the cumulative effects of subdivision, use and development on the amenity, landscape, and ecological values of the Coastal Area.

Objective CA.1.2.3 – Submission Information

63. Transpower²² seeks the following specific amendment to objective CA.1.2.3 to focus on the attributes and values that contribute to natural character:.

²¹ 467/1

²² 476/2

3. *To identify and protect ~~areas~~ the attributes and values of the Coastal Area that display high or outstanding natural character values.*

64. DoC²³ supports the objective but seeks clarification of the relationship between objective CA.1.2.3 and the sites identified through the RPS.

Objective CA.1.2.3 – Discussion

65. In my opinion the suggested wording in Transpower's submission changes the focus of the objective and does not make sense. The objective has a different focus to objective CA.1.2.1, and specifically seeks to protect those parts of the CA with high or outstanding natural character values. This implies that an assessment of the attributes and values has already been made.
66. In relation to the DoC submission, I agree with the further submission from FFNZ that it is unclear what the submitter's concern is. To clarify, the RPS identified the coastal environment and the high and outstanding natural character areas within it. The RPS also directs that these areas be identified in the WDP maps and that policies and rules be developed to protect them. This is proposed to be achieved through objective CA.1.2.3 and its implementation through the policies, rules, and maps in PC 87. I note that there has been an opportunity to make changes to the HNC and ONC mapping through the submission process.

Objective CA.1.2.3 – Recommendation

67. I recommend that the Commissioners:
- **Reject** submission point 476/2.
 - **Accept in part** submission point 78/16.

Objective CA.1.2.4 – Submission Information

68. DoC²⁴ seeks that objective CA.1.2.4 is retained as notified.
69. FFNZ²⁵ seeks the following specific amendment to objective CA.1.2.4:

4. *Avoid significant adverse effects on the characteristics and qualities of identified Outstanding Natural Character Areas.*

Objective CA.1.2.4 – Discussion

70. DoC's submission is acknowledged and I support retaining the objective as notified.
71. I consider that FFNZ's proposed wording is inconsistent with the tiered approach of the NZCPS and the RPS which clearly seek to avoid adverse effects on areas of ONC and avoid significant adverse effects in other areas of the coast.

Objective CA.1.2.4 – Recommendation

72. I recommend that the Commissioners:

²³ 78/16

²⁴ 78/17

²⁵ 253/32

- **Accept** submission point 78/17.
- **Reject** submission point 253/32.

Objective CA.1.2.5 – Submission Information

73. DoC²⁶ requests minor amendments to objective CA.1.2.5 to ensure that the objective gives effect to policy 13.1(b) of the NZCPS.
74. Landowners Coalition²⁷ seeks the following specific amendment to objective CA.1.2.5:
5. *Avoid significant adverse effects, and ~~avoid~~ remedy or mitigate other adverse effects, on the Coastal Area and identified High Natural Character Areas.*

Objective CA.1.2.5 – Discussion

75. I support DoC’s amendment to ensure that the objective refers to effects on the natural character of the CA, rather than the CA itself. In my opinion this is consistent with the NZCPS. I do not support the Landowners Coalition Inc submission which seeks to remove the option of avoiding adverse effects on natural character in other areas of the coast. In my opinion applicants should seek to avoid adverse effects on natural character in the first instance, and if adverse effects are unavoidable, options to remedy or mitigate should be explored.

Objective CA.1.2.5 – Recommendation

76. I recommend that the Commissioners:
- **Reject** submission point 431/7.
 - **Accept** submission point 78/18 and make the recommended changes below:

CA.1.2 Objectives

5. Avoid significant adverse effects, and avoid remedy or mitigate other adverse effects on the natural character of the Coastal Area and identified High Natural Character Areas.

Objective CA.1.2.6 – Submission Information

77. Landowners Coalition Inc²⁸ requests that objective CA.1.2.6 is deleted.
78. FFNZ²⁹ notes that the term ‘special values’ in objective CA.1.2.6 is undefined and recommend greater clarity.

Objective CA.1.2.6 – Discussion

79. I agree with the evaluation in the s32 report³⁰ that objective CA.1.2.6 supports consolidated development in areas that are already compromised, giving effect to policy 7 of the NZCPS, policy

²⁶ 78/18

²⁷ 431/7

²⁸ 431/7

²⁹ 253/33

³⁰ Pages 9 – 16.

5.1.2 of the RPS, and the purpose of the RMA. No information has been provided by the Landowners Coalition to justify deleting the provision.

80. I agree with FFNZ that the term ‘special values’ is unclear and open to interpretation. Some of the values of the coast that are important to the community are described in the Description and Expectation section of the CA chapter. These are wider than just natural character values, and include a range social, cultural and economic benefits enjoyed by the community. I recommend that the word ‘special’ be deleted to allow consideration of the range of values that are relevant to each situation when decisions are made on resource consents.

Objective CA.1.2.6 – Recommendation

81. I recommend the Commissioners:

- **Reject** submission point 431/7.
- **Accept** submission point 253/33 and recommend the following change:

CA.1.2 Objectives

- 6 Direct development to established coastal villages and areas with existing development while retaining the ~~special~~ values of undeveloped parts of the coast.

Objectives CA.1.2.7 and CA.1.2.8 – Submission Information

82. KiwiRail Holdings Limited (KiwiRail)³¹ seeks to retain objective CA.1.2.7 as notified. FFNZ³² supports objective CA.1.2.7.
83. DoC³³ seeks to retain objective CA.1.2.8 as notified.
84. FFNZ³⁴ seeks that objective CA.1.2.8 is amended by adding the “phrase as far as practicable”.

Objectives CA.1.2.7 and CA.1.2.8 – Discussion

85. I support KiwiRail’s and FFNZ’s submissions and retention of objective CA.1.2.7.
86. I also support DoC’s submission on objective CA.1.2.8. I do not support FFNZ’s proposed amendment. Including the phrase “as far as practicable” significantly weakens the objective in my opinion and as noted in DoC’s further submission, would be inconsistent with policy 25 of the NZCPS.

Objectives CA.1.2.7 and CA.1.2.8 – Recommendation

87. I recommend that the Commissioners:

³¹ 429/11

³² 253/34

³³ 78/19

³⁴ 253/35

- **Accept** submission points 428/11, 253/34 and 78/19.
- **Reject** submission point 253/35.

Objective CA.1.2.10 – Submission Information

88. FFNZ³⁵ seeks to retain objective CA.1.2.10 as notified.

Objective CA.1.2.10 – Discussion

89. I acknowledge FFNZ's submission in support of this objective.

Objective CA.1.2.10 – Recommendation

90. I recommend that the Commissioners **accept** submission 253/36.

Objective CA.1.2.11 – Submission Information

91. Four submissions³⁶ support objective CA.1.2.11 and seek that it be retained as notified.

92. GBC³⁷ seeks that objective CA.1.2.11 be amended as follows:

11. *Recognise and provide for existing development, regionally significant rural industry and other business activities within the Strategic Rural Industry Environment, regionally significant mineral extraction activities and regionally significant infrastructure which has a functional need to be located in the Coastal Area.*

93. NIWA³⁸ supports the proposed insertion of the words 'and provide for' but opposes the part of the amendment sought where a specific industry or environment was identified.

94. NZTA³⁹ seeks an amendment to objective CA.1.2.11 to include the following wording:

11. *Recognise existing development and regionally significant infrastructure which has a functional and operational need to be located in the Coastal Area.*

Objective CA.1.2.11 – Discussion

95. I acknowledge the submissions made in support of this objective I consider however that some proposed amendments may improve the objective in its provision for existing infrastructure. NIWA's further submission highlights problems with the relief sought by GBC and NZTA. I agree with NIWA that specific industries should not be singled out. The NZTA submission would require an activity to have both a functional and an operational need to be located in the Coastal Area. In my opinion the relief sought by NIWA is the most appropriate wording.

³⁵ 253/36

³⁶ 429/11, 462/6, 253/36 and 158/3

³⁷ 250/34

³⁸ X-504

³⁹ 453/19

Objective CA.1.2.11 – Recommendation

96. I recommend that the Commissioners:

- **Reject** submission points 429/11, 462/6, 253/36 and 158/3.
- **Accept in part** submission points 250/34 and 453/19.
- **Accept** further submission X-504, and recommend the following change:

CA.1.2 Objectives

11. Recognise and provide for existing development and regionally significant infrastructure which has a functional or operational need to be located in the Coastal Area

Objective CA.1.2.12 – Submission Information

97. Patuharakeke Hapu⁴⁰ strongly supports objective CA.1.2.12.

Objective CA.1.2.12 – Discussion

98. I acknowledge this submission. This objective recognises the constraints to developing Māori land and that the reason many parts of the coast are undeveloped because they are held in multiple ownership. The objective provides support for papakāinga development on ancestral Māori land.

Objective CA.1.2.12 – Recommendation

99. I recommend that the Commissioners **accept** submission point 238/2.

New Objectives – Submission Information

100. Radio New Zealand (**Radio NZ**)⁴¹ requests a new objective to address reverse sensitivity effects on infrastructure and network utilities.

101. The General Trust Board of the Diocese of Auckland⁴² requests the following new objective to provide for subdivision and development within the CA.

Provide for low density residential development, non-residential activities and subdivision within the Coastal Area.

New Objectives – Discussion

102. In relation to Radio NZ's submission, I consider that reverse sensitivity effects are best managed through provisions in the underlying Environments. These provisions will apply in addition to the Resource Area provisions. The CA provisions are intended to manage effects on the CA rather than land use conflicts between activities. In my opinion introducing reverse sensitivity provision to the Resource Area would create unnecessary duplication in the WDP.

⁴⁰ 238/2

⁴¹ 462/7

⁴² 255/5

103. In relation to the submission from the General Trust Board of the Diocese of Auckland, I consider that the proposed provisions, in combination with the underlying zoning provisions provide appropriately for subdivision and development in the CA. I do not support the introduction of the requested objectives as it conflicts with other objectives.

New Objective – Recommendation

104. I recommend that the Commissioners **reject** submission points 462/7 and 255/5.

E. Policies

Policy CA.1.3.1 – Submission Information

105. FFNZ⁴³ supports policy CA.1.3.1.

106. FNDC⁴⁴ requests that policy CA.1.3.1 is layered to accommodate the different tests in the NZCPS and the RPS as they relate to ONC and all other natural character in the coastal environment. The submission also recognises that all buildings can have adverse effects on natural character, not just residential buildings.

Policy CA.1.3.1 – Discussion

107. I acknowledge FFNZ's submission in support of the policy. I agree with the submission from FNDC however that all buildings can have adverse effects on natural character. I recommend that the word "residential" be removed from the policy so that it applies to all buildings that do not meet the standards for permitted activities. The policy applies to all parts of the CA. I do not consider that layering of the policy is required. I am however recommending changes to policy CA.1.3.3 to reflect the different tests for High and Outstanding Natural Character Areas in the RPS.

Policy CA.1.3.1 – Recommendation

108. I recommend that the Commissioners:

- **Reject** submission point 253/37.
- **Accept in part** submission point 410/14 and recommend that the following change to the proposed provision:

CA.1.3 Policies

1. To design development to avoid, remedy or mitigate adverse effects on the natural character of the Coastal Area by managing the visual effects of ~~residential~~ buildings, and minimising indigenous vegetation clearance and earthworks.

⁴³ 253/37

⁴⁴ 410/14

Policies CA.1.3.3 and CA.1.3.4 – Submission Information

109. DoC⁴⁵ seeks amendments to policy CA.1.3.3 to provide a policy direction that is consistent with what is sought by objective CA.1.2.3 by amending as such:

3. *To maintain natural character values by locating and designing buildings to avoid adverse ~~impacts~~ effects on ~~High~~ or ~~ONC~~ Areas and to avoid significant adverse effects on HNC Areas.*

110. FNDC⁴⁶ suggest that policy CA.1.3.4 be reworded to include all buildings.

Policies CA.1.3.3 and CA.1.3.4 – Discussion

111. I support the DoC submission as in my opinion the proposed wording better reflects the requirement to avoid adverse effects on High and Outstanding Natural Character Areas contained in the RPS.

112. In relation to FNDC's submission I agree that all buildings can have adverse effects on natural character I consider however that the visual effects of non-habitable buildings can be considered against other policies, particularly policies CA.1.3.1 and 3. I consider that policy CA.1.3.4 as notified provides appropriately for the assessment of residential buildings that do not meet permitted activity standards and are classed as discretionary activities in CA.2.3.1.

Policies CA.1.3.3 and CA.1.3.4 – Recommendation

113. I recommend that the Commissioners:

- **Reject** submission point 410/15.
- **Accept** submission point 78/20 and recommend that the following change to the proposed provision:

CA.1.3 Policies

- 3 To maintain natural character values by locating and designing buildings to avoid adverse ~~impacts~~ effects on ~~High~~ or Outstanding Natural Character Areas and to avoid significant adverse effects on High Natural Character Areas.

Policy CA.1.3.5 and CA.1.3.6 – Submission Information

114. FNDC⁴⁷ requests that the term 'where practicable' be removed from policy CA.1.3.5 as this significantly weakens the policy.

115. Phillip Dobson⁴⁸ requests that the restrictions on buildings on ridgelines and headlands in policy CA.1.3.5 is removed

⁴⁵ 78/20

⁴⁶ 410/15

⁴⁷ 410/16

⁴⁸ 407/4

116. Landowners Coalition⁴⁹ requests that all references to visual effects are removed and that policies 5 and 6 be deleted.

Policy CA.1.3.5 and CA.1.3.6 – Discussion

117. I agree with FNDC that that the term ‘where practicable’ significantly weakens the policy. Accepting the relief sought however would in my opinion make the policy too strong and inflexible, particularly given recent case law⁵⁰ on the use of the term ‘avoid’ in policy. Although I consider locating buildings and structures in prominent locations to be undesirable, there may be instances where buildings or structures have a functional need to be located on ridgelines (e.g. water tanks). In some cases there may be no alternative location in which a residential unit can be constructed on a small property.

118. In relation to the Landowners Coalition and Dobson submissions, I consider that the visual impacts of buildings can have significant adverse effects on natural character values. In my opinion controlling building locations is an appropriate method for avoiding and minimising adverse effects on natural character. In my view this is an important factor in the design of coastal subdivisions and selecting the locations of building platforms. Removing the policy would in my opinion not give effect to policies 6 and 13 of the NZCPS and the various sections of the RPS that reference visual effects.

119. I suggest that the readability of policy CA.1.3.5 could be improved by removing the word ‘of’ from the policy. This appears to be a typographical error.

Policy CA.1.3.5 – Recommendation

120. I recommend that the Commissioners **reject** submission points 410/16, 407/4 and 431/8, but make the following changes:

CA.1.3 Policies

5 To protect natural landforms in the Coastal Area by avoiding where practicable locating of buildings, buildings platforms, and structures on ridgelines, skylines, shorelines and prominent headlands.

Policy CA.1.3.7 – Submission Information

121. Landowners Coalition⁵¹ requests that policy CA.1.3.7 be amended to remove the word ‘significantly’.

122. Patuharakeke Hapu⁵² questioned the wording of policy CA.1.3.7 seeking clarification of what defines ‘significantly compromised’.

⁴⁹ 431/8

⁵⁰ RJ Davidson Family Trust v Marlborough District Council [2017] NZHC 52.

⁵¹ 431/8

⁵² 238/3

123. KiwiRail⁵³ supports the policy and seeks that it be retained as notified.

Policy CA.1.3.7 – Discussion

124. I acknowledge the submitters' concerns around use of the term 'significantly compromised' however I consider that the term is appropriate in the context of this policy. The policy as notified provides for resource consent planners to make an assessment on the appropriateness of a development based on the natural character values of the receiving environment. I consider that areas that are dominated by built development rather than natural elements could be considered to be significantly compromised. In my opinion the policy will encourage consolidated development and discourage development in HNC and ONC.

125. I disagree with the Landowners Coalition submission to remove the word significant. In my opinion natural character has been compromised to some degree in all areas of the CA apart from areas identified as ONC. Accepting this submission would facilitate development in all areas of the CA except ONC areas.

126. I acknowledge the submission from KiwiRail in support of the policy.

Policy CA.1.3.7 – Recommendation

127. I recommend that the Commissioners:

- **Reject** submission points 238/2 and 431/8.
- **Accept** submission point 429/11.

Policy CA.1.3.10 – Submission Information

128. Patuharakeke Hapu⁵⁴ notes that cultural values are only referenced in policy CA.1.3.8 and suggests that this could also be a consideration in policy CA.1.3.10.

129. FNDC⁵⁵ seeks an amendment to policy CA.1.3.10 to replace "natural features or areas with high biodiversity, landscape, or conservation values" with "the characteristics and qualities that contribute to the areas natural character values".

Policy CA.1.3.10 – Discussion

130. Having regard to the submission from Patuharakeke Hapu, and considering the high concentration of cultural and archaeological sites in the CA, I consider that it may be appropriate to reference cultural values in the policy.

131. In relation to FNDC's submission I consider that the policy is wider than just effects on natural character. I do not support the proposed change.

⁵³ 429/11

⁵⁴ 238/4

⁵⁵ 410/17

Policy CA.1.3.10 – Recommendation

132. I recommend that the Commissioners:

- **Reject** submission point 410/17.
- **Accept in part** submission point 238/4, and recommend that the following wording be added to the proposed provision:

CA.1.3 Policies

10 To design new allotments and building platforms that avoid impacts on natural features or areas with high biodiversity, landscape, or conservation, cultural or historic heritage values.

Policy CA.1.3.11 – Submission Information

133. KiwiRail⁵⁶ and Robin Lieffring⁵⁷ support the policy and seek that it be retained as notified.

Policy CA.1.3.11 – Discussion

134. I acknowledge the submission from KiwiRail in support of the policy. In my opinion the policy should be retained.

Policy CA.1.3.11 – Recommendation

135. I recommend that the Commissioners **accept** submission points 429/11 and 183/10.

Policies CA.1.3.12 – 14 and 17 – Submission Information

136. FFNZ⁵⁸ states that the WDP needs to be clear about what constitutes ‘remnant native vegetation’ in policy CA.1.3.12, and supports the inclusion of the term ‘as far as practicable’ in policy CA.1.3.14.

137. Robin Lieffring⁵⁹ fully supports policy CA.1.3.12(c) and (d).

138. Landowners Coalition⁶⁰ requests that policy CA.1.3.13 should be achieved by introducing positive policy incentives.

139. FNDC⁶¹ requests that the words “far as practicable” are removed from policy CA.1.3.14 to ensure consistency with the NZCPS.

140. GBC⁶² requests that policy CA.1.3.17 be amended as follows:

17. *To protect indigenous vegetation which contributes to the character and visual quality of the Outstanding Natural Character or High Natural Character Coastal Area and protects against natural hazards.*

⁵⁶ 429/11

⁵⁷ 183/10

⁵⁸ 253/38 and 39

⁵⁹ 183/10

⁶⁰ 431/8

⁶¹ 410/18

⁶² 250/35

Policies CA.1.3.12 – 14 and 17 – Discussion

141. I acknowledge the submission of FFNZ on policy CA.1.3.12 and agree that the term ‘remnant native vegetation’ could be ambiguous. I suggest a change in the wording to ‘remnants of indigenous vegetation’ to inform applicants that areas of bush should be protected, and allow fencing conditions that exclude stock from native vegetation to be placed on subdivision consents.
142. I acknowledge and support R Lieffering’s support for revegetation of land, and weed and pest management programs in policy CA.1.3.12.
143. Regarding the Landowners Coalition submission to policy CA.1.3.13 on positive policy incentives, it is unclear from the submission exactly what is requested. The policy provides for the setting of resource consent conditions for landscaping to improve natural character values and the screening of buildings. I consider that incentives are an appropriate method of achieving positive environmental results. These must however be funded through the LTP and annual plans.
144. FFNZ have submitted in support of the term ‘as far as practicable’ being included in policy CA.1.3.14. FNDC have submitted that the term should be removed as it is inconsistent with the NZCPS and including those terms significantly weakens the policy. The policy seeks to avoid adverse effects of earthworks scarps, and encourages re-vegetation. The policy provides guidance for the setting of resource consent conditions for earthworks consents. Having considered the provisions of the NZCPS, and in particular policies 13 and 14, I agree with FNDC’s submission that the NZCPS does not include ‘as far as practicable’ in policy 13 in relation to managing HNC areas. Policy 14 considers the effects of earthworks in a wider context that just HNC and HNC areas in that it also references coastal landscapes. NZCPS policy 14 covers restoration of natural character and it does include wording around imposing or reviewing restoration or rehabilitation conditions on resource consents ‘where practicable’. I consider that including the words ‘as far as practicable’ will provide for a pragmatic approach to be taken to managing the effects of earthworks. I also note that the policy includes a typographical error and recommend that the word ‘as’ be added to the policy to improve readability.
145. GBC proposes that policy CA.1.3.17 be narrowed to only refer to indigenous vegetation within HNC and HNC areas. I consider that indigenous vegetation outside these areas make an important contribution to the natural character of the coast and that there should be some protection through policies, for indigenous vegetation outside the identified natural character areas.

Policies CA.1.3.12 – 14 and 17 – Recommendation

146. I recommend that the Commissioners:
- **Reject** submission points 410/18, 431/8, and 250/35.
 - **Accept** submission points 253/38 and 39 and 183/10 and recommend the following changes:

CA.1.3 Policies

12 To recognise opportunities for environmental enhancement and improvements in natural

character at subdivision stage by:

a. ...

b. Excluding stock from remnants of native vegetation, the coastal marine area and riparian margins.

...

14 To ensure that adverse visual effects of earthworks scarps on Outstanding Natural Character Areas are avoided and that the significant adverse visual effects on High Natural Character Areas and coastal landscapes are avoided, remedied or mitigated as far as practicable, by encouraging re-vegetation of earthworks scarps.

Policy CA.1.3.21 – Submission Information

147. FNDC⁶³ requests a definition for ‘rural production activities’ or alternatively to reword policy CA.1.3.21 to enable ‘appropriate’ rural production activities in the CA by allowing the building of non-habitable buildings that are consistent with that working landscape.
148. FFNZ⁶⁴, and Egg Producers Federation of New Zealand⁶⁵ strongly support policy CA.1.3.21.
149. Forest and Bird⁶⁶ seeks that buildings ancillary to rural production activities are assessed in the same way as any other type of development.

Policy CA.1.3.21 – Discussion

150. **Part 1** of the s42A report proposes to introduce a definition for Rural Production Activities, this is discussed in relation to the CA in **Topic B** of **Part 4** of the s42A report.
151. I do not support the submission from Forest and Bird. All buildings are proposed to be assessed the same when they are proposed within areas identified as HNC or ONC. These areas generally have an absence of built development and introducing any built development into predominantly natural areas may have adverse effects on natural character values. The remainder of the CA covers a range of Environments, including those that cater for rural production activities, heavy industrial activities, residential development, and even the Whangarei CBD. As a package the suite of plan changes seek to consolidate development in areas of existing development, and provide for and protect rural production activities in the RA. This includes providing support for buildings ancillary to rural production activities as a permitted activity. I consider that subject to the proposed amendments recommended in this report, the proposed provisions (in combination with the underlying Environment rules) will manage development in a way that achieves these outcomes and fulfils the requirements of higher order documents.

Policy CA.1.3.21 Recommendation

152. I recommend that the Commissioners:

⁶³ 410/19

⁶⁴ 253/40

⁶⁵ 409/9

⁶⁶ 467/4

- **Accept in part** submission point 410/19.
- **Accept** submission points 253/40 and 409/9.
- **Reject submission** point 467/4.

Policy CA.1.3.22 – Submission Information

153. Patuharakeke Hapu⁶⁷ strongly supports policy CA.1.3.22.
154. Landowners Coalition⁶⁸ requests that policy CA.1.3.22 be deleted.

Policy CA.1.3.22 – Discussion

155. WDC prepared PC94B to set the framework to allow papakāinga development to proceed, and to remove barriers to development of multiply Māori owned land. I note that PC94B is subject to an appeal from the Landowners Coalition. It was acknowledged as part of PC94B that a high proportion of Māori land is on the coast and that restrictions on development in the WDP in the CA will have a disproportionate effect on Māori.
156. Policy CA.1.3.22 seeks to provide policy support for papakāinga development on ancestral Māori land. In my opinion it is appropriate that the CA provisions recognise and provide for papakāinga development in these areas. I acknowledge that papakāinga development can potentially have the same effects on natural character as other forms of coastal development. There are however barriers to development of ancestral Māori land that are not present on land in European title. In my opinion papakāinga development should be a discretionary activity in the HNC and ONC areas to allow consideration of environmental effects in these areas.

Policy CA.1.3.22 – Recommendation

157. I recommend that the Commissioners:
- **Accept** submission point 238/2.
 - **Reject submission** point 431/8.

Policy CA.1.3.23 – Submission Information

158. NZRC⁶⁹ support policy CA.1.3.23 and seek that it be retained subject to the following amendment to the wording:

23. *To recognise that there can be a functional need to locate, operate, maintain and expand infrastructure in certain locations in the CA proximate to existing infrastructure.*

159. NIWA supports this submission in part and requests the following alternative wording:

⁶⁷ 238/2

⁶⁸ 431/8

⁶⁹ 158/4

23. *To recognise that there can be a functional need to locate, operate, maintain and expand infrastructure, commercial and industrial developments and facilities in certain locations in the CA proximate to existing infrastructure developments and facilities.*

160. NZTA⁷⁰ and Radio NZ⁷¹ also support policy CA.1.3.23 and seek that it is retained as notified.

161. GBC⁷² requests that policy CA.1.3.23 be amended as follows:

23. *To recognise that there can be a functional need to locate:*

i) infrastructure in certain locations in the Coastal Area proximate to existing infrastructure; and

ii) Strategic Rural Industry and Mineral Extraction Activities in Coastal Areas.

iii) To enable the further development of the existing Strategic Rural Industry Environment by allowing the building and use of non-habitable buildings.

Policy CA.1.3.23 – Discussion

162. I recognise that industrial and commercial activities operate within the CA. The various amendments sought by the submitters all seek to highlight that industrial and commercial activities may also have a functional need to operate in the CA. I do not support the proposed amendments sought by NZRC and NIWA in my opinion it is appropriate to recognise the functional need to ‘operate’ and ‘maintain’ industrial and commercial activities however ‘expand’ is permissive resulting the potential risk of significant adverse effects to the CA. In my opinion it is not necessary to identify particular industrial activities as sought by GBC, as activities must comply with all Environment and Resource Area rules and the proposed wording would lead to duplication of the SRIE chapter.

Policy CA.1.3.23 – Recommendation

163. I recommend that the Commissioners:

- **Reject** submission points 453/20, 462/8 and 250/35.
- **Accept in part** submission point 158/4.
- **Accept** further submission X-503 and recommend that the following wording be added to the proposed provision:

CA.1.3 Policies

23. To recognise that there can be a functional need to locate, operate and maintain infrastructure, commercial and industrial activities in certain locations in the CA proximate to existing infrastructure, commercial and industrial activities.

⁷⁰ 453/20

⁷¹ 462/8

⁷² 250/35

New Policies – Submission Information

164. Radio NZ⁷³ requests an additional policy as follows:

To protect existing infrastructure and network utilities from adverse reverse sensitivity effects.

165. Transpower NZ⁷⁴ requests two new policies as follows:

To recognise and provide for existing transmission lines, including their operation, maintenance, upgrading and development, in the Coastal Area.

To ensure that new transmission lines are only located within areas of HNC or ONC where there is a functional, technical or operational need to be located in or traverse these areas, it is not practicable to locate them outside of these areas, and any significant adverse effects are outweighed by the overall benefits of the proposal.

166. Forest and Bird⁷⁵ requests that additional policies are introduced to control vehicles on beaches and to identify and protect indigenous vegetation and habitat that is of ecological significance, including nesting areas of coastal bird species. Landowners Coalition Incorporated⁷⁶ and FFNZ⁷⁷ oppose the relief sought considering that the focus should be on protecting 'significant' indigenous vegetation and habitat for indigenous fauna.

167. The General Trust Board of the Diocese of Auckland⁷⁸ requests a new policy as follows:

To provide for low density residential development, non-residential activities and subdivision within the CA and manage any visual effects.

168. NZDF⁷⁹ seeks a new policy that provides for temporary military training activities (TMTA) in the CA.

New Policies – Discussion

169. In relation to the submissions from Radio NZ and The General Trust Board of the Diocese of Auckland I consider that these issues are best addressed in the provisions for the underlying zoning.

170. The submissions from Transpower, Forest and Bird and NZDF are addressed in **Part 1** of the s42A report. I agree with Ms McGrath's assessment and recommendation.

New Policies – Recommendation

171. I recommend that the Commissioners **reject** submission points 462/9, 476/3, 476/2, 476/3, 255/6 and 450/16.

⁷³ 462/9

⁷⁴ 476/3

⁷⁵ 467/2 and 3

⁷⁶ X-392

⁷⁷ X-647

⁷⁸ 255/6

⁷⁹ 450/16

General Policies – Submission Information

172. Robin Lieffering⁸⁰ partially supports the policies and notes that restrictions on building colours has been effective in the short term but the lack of effective monitoring regimes has led to a loss of effectiveness of these policies. The submitter asks if there is a way to include monitoring policies imposed on land owners and Council.

General Policies – Discussion

173. I acknowledge the support for the restriction on building colours. In my view if monitoring is required for specific resource consents this should be managed through the resource consent process through conditions of consent. Monitoring of plan efficiency and effectiveness is also undertaken by WDC as part of the S 35(2A) review every 5 years.

General Policies – Recommendation

174. I recommend that the Commissioners **accept in part** submission point 183/8.

F. Landuse Rules

General – Submission Information

175. DoC⁸¹ considers the provisions are generally appropriate to ensure the CA objectives can be achieved and seek that CA.2 and CA.3 are retained as notified.

176. NRC⁸² recommends WDC consider the following:

- Consider using a similar approach to that used in PC114 LAN3.2, which provides controlled activity status for earthworks, vegetation clearance and built development on building platforms identified by a landscape assessment and approved by way of a subdivision consent (noting that this should include provision for access).
- Rules relating to minimum floor levels for new development in the coastal environment to be included as per the draft plan change.
- Carefully considering rules around structures that are not 'buildings'.

177. FNDC⁸³ seeks amendments to the rules in sections CA.2, CA.3 and CA.4 to:

- Incorporate rules addressing location, scale and cumulative effects to ensure development does not occur in prominent locations and there is not a proliferation of buildings on any one site.
- To give effect to the NZCPS and the RPS, specifically addressing the activity status for buildings in ONC and HNC areas where the tests are to avoid the adverse effects and to avoid significant adverse effects and avoid, remedy or mitigate all other effects respectively.

⁸⁰ 183/8

⁸¹ 78/21 and 23

⁸² 121/4 - 6

⁸³ 410/4 and 5

178. GBC⁸⁴ seeks amendments to the provisions in CA.2.3 Discretionary Activities, Rules 2, 3 and 4 to specifically exclude Mineral Extraction Activities and Strategic Rural Industries located within the CA.
179. Landowners Coalition⁸⁵ seeks that CA.4.1.1, CA.4.1.2, CA.4.1.3 and CA.4.2.1 are deleted.
180. DoC⁸⁶ seeks controls for earthworks and vegetation clearance to provide for network utilities and other structures within ONC areas.

General Submissions – Discussion

181. I acknowledge the submission from DoC in general support of the land use rules. I have however recommended changes to the proposed rules to better address cumulative effects of buildings, earthworks and vegetation clearance.
182. In relation to NRC's submission, I consider that it is preferable to bundle subdivision and landuse consents together and consider landscape effects of future buildings and building platforms as part of the subdivision application. If resource consent is required because the permitted activity standards cannot be achieved on existing vacant allotments, natural character effects can be considered under the discretionary provisions including an assessment against the relevant CA policies.
183. FNDC requests changes to manage the cumulative effects of buildings. I consider that the frequency of buildings is managed appropriately through the underlying zoning. I consider that the permitted activity standards are appropriate to manage effects on HNC and ONC while retaining some flexibility for landowners. If the Commissioners are of a mind to require resource consents for all buildings in the HNC and ONC areas, I recommend that a discretionary status would be appropriate to allow consents to be declined and appropriate conditions to be set.
184. In relation to the submission point regarding coastal hazards, consideration was given to including new minimum floor levels in the CA provisions. Given the wording of the RPS, my opinion is that the minimum floor levels would fit well within the CA chapter. Legal advice to WDC has indicated that introducing such a significant change at this stage of the plan change process would require a Variation to allow stakeholders an opportunity to comment. WDC is developing a coastal hazards plan change (PC90) to give effect to the RPS, and National Guidance is also being developed in this area which may influence proposed plan provisions. I therefore consider that minimum floor levels should be considered as part of PC90.
185. In relation to GBC's submission I disagree that mineral extraction activities and strategic rural industries should be exempt from the CA provisions. This type of activity has the potential to have significant effects on the CA and the CMA and I consider that it is appropriate that the CA rules apply.

⁸⁴ 250/38

⁸⁵ 431/9

⁸⁶ 78/24

186. I do not support the Landowners Coalition submission which seeks to delete rules that apply in ONC areas. In my view removing these rules would not give effect to the NZCPS or the RPS.
187. The permitted activity provision for maintenance and minor upgrading of buildings and structures associated with public parks, reserves, network utilities etc is appropriate in my opinion because:
- a. These buildings and structures have acknowledged public benefit; and
 - b. The term 'minor upgrading' has a defined meaning in the WDP, applicable only to network utility operations, that means that more than minor or transitory adverse effects should not arise.

General - Recommendation

188. I recommend that the Commissioners:

- **Accept in part** 78/21 and 23.
- **Reject** submission points 121/4 – 6, 250/38, 410/4 and 5, 78/24 and 431/9.

Eligibility Rule CA.2.1.1 – Submission Information

189. GBC⁸⁷ request the following additional rule under CA.2.1:

2. Any mineral extraction activity that is located within a Mineral Extraction Area shall be assessed in accordance with the Mineral Extraction rules and any activity within the Strategic Rural Industry Environment shall be assessed in accordance with the Strategic Rural Industry Environment rules.

190. The General Trust Board of the Diocese of Auckland⁸⁸ support CA.2.1.1 as it provides clear direction that the underlying Environment rules apply and that the most restrictive rule applies, but request that a new rule be added to CA.2.1 to state that the provisions only apply to the area subject to the CA Overlay as identified on the proposed planning maps.

Eligibility Rule CA.2.1.1 – Discussion

191. I agree that there is a conflict within the proposed CA rules between protecting the CA and providing for the on-going operation of existing SRI and mineral extraction activities. In my opinion it is consistent with NZCPS policy 6.1.e and RPS 4.6.1 to recognise that Mineral Extraction Areas⁸⁹ and SRIE are areas of existing activities which have need to be located near the mineral physical resource. I note that amendments to the proposed MIN chapter have been recommended by Ms Clarke in **Part 3** of the s42A report. These amendments include additional policy relating to CA and HNC and ONC, I concur with Ms Clarkes recommendation.
192. I do not support including an additional rule in CA.2.1 to state that the provisions only apply to the area subject to the CA Overlay as identified on the proposed planning maps. The rules contained in CA.2 already state that the rules apply to activities in the CA.

⁸⁷ 250/36

⁸⁸ 255/1 and 7

⁸⁹ Note: Part X of the s42A Report recommends renaming of Mineral Extraction Areas to Quarrying Resource Areas.

Eligibility Rule CA.2.1.1 – Recommendation

193. I recommend that the Commissioners:

- **Accept** submission points 255/1 and 250/36 and make the amendments below:

CA2.1 Eligibility Rules (New Rules)

2. Any mineral extraction activity that is located within a Quarrying Resource Area shall be assessed in accordance with the Quarrying Resource Area rules.
3. Any activity within the Strategic Rural Industry Environment shall be assessed in accordance with the Strategic Rural Industry Environment rules.

- **Reject** submission point 255/7.

Permitted Activities Rules CA.2.2.1 – CA.2.2.3 – Submission Information

194. Landowners Coalition,⁹⁰ FFNZ⁹¹ and KiwiRail⁹² support CA.2.2.1.

195. Forest and Bird⁹³ opposes rule CA.2.2.1 as it fails to impose limits on the scale and intensity of permitted activity buildings.

196. GBC⁹⁴ seeks to provide for buildings ancillary to mineral extraction activities as a permitted activity by amending CA2.2.1.

197. NZDF⁹⁵ requests that CA.2.2.3 is retained to permit any activity in the CA that does not require consent as a discretionary or non-complying activity.

198. Landowners Coalition Incorporated⁹⁶ seeks an amendment to CA.2.2.3 to permit the construction of a new residential building and the renovation of an existing dwelling.

Permitted Activities Rules CA.2.2.1 – CA.2.2.3 – Discussion

199. In relation to the submissions regarding CA.2.2.1 I agree with the analysis in the s32 assessment⁹⁷. This rule recognises the importance of rural production activities and seeks to allow them to continue unencumbered by the resource consent process. I consider that the benefits of allowing rural production activities to operate unencumbered by the resource consent process outweigh the risk of adverse effects on the CA. This rule continues the status quo in the CCE, where only residential units require resource consent. The addition of a new definition for rural production activities will assist in clarifying when buildings meet the permitted activity standards.

200. I agree with NZDF's submission in support of CA 2.2.3 as it clarifies that if an activity is not identified as a discretionary or non-complying activity it is a permitted activity. Given that this

⁹⁰ 431/9

⁹¹ 253/41

⁹² 429/12

⁹³ 467/5

⁹⁴ 250/37

⁹⁵ 450/17

⁹⁶ 431/9

⁹⁷ Pages 20 -21.

provision would apply a permitted activity status to buildings ancillary to mineral extraction activities in the CA, I do not consider that amendments are necessary as a result of GBC's submission.

201. I do not agree with the Landowners Coalition's proposed amendments to make new residential units and extensions a permitted activity. In my opinion CA.2.3.1 allows for most residential units in the CA to be constructed as a permitted activity. It is appropriate in my opinion that new residential units and external alterations that exceed the permitted activity standards in CA.2.3.1 be assessed to manage effects on natural character values.

Permitted Activities Rules CA.2.2.1 – CA.2.2.3 – Recommendation

202. I recommend that the Commissioners:

- **Accept** submission points 431/9, 253/41, 450/17 and 429/12.
- **Reject** submission points 250/37, 431/9 and 467/5.

Buildings Rules CA.2.3.1 and CA.3.1.1 – Submission Information

203. Keryl Cooney⁹⁸ requests that Council delete any reference to colour controls and allow property owners to deal with the effects of climate change as they choose.

204. Phillip Dodson⁹⁹ requests that the roof colour requirements are removed.

205. Landowners Coalition¹⁰⁰ requests that CA.2.3.1(a) – (c) be deleted and that new residential buildings and the renovation of an existing dwelling is a permitted activity and that CA.3.1.1 be amended to change the maximum height limit for permitted activities from 5.5m to 6.5m.

206. Trevor Shaw¹⁰¹ opposes the height limit in CA.3.1.1(a) and the colour restrictions in CA.3.1.1(b) and (c) as these are unreasonable restrictions on the landowner.

207. Radio NZ¹⁰² seeks an additional matter of assessment in CA.2.3.1 as follows:

Proximity of the residential unit to existing infrastructure or network utilities and the risk of adverse reverse sensitivity effects.

208. DoC¹⁰³ seeks an amendment to CA.2.3 to ensure that construction or external alteration within areas subject to coastal hazards require consent so that objective CA.1.2.8 can be achieved. NIWA¹⁰⁴ opposes this submission, considering that alterations or replacements of existing buildings should not be subject to the same rules as greenfield subdivision in coastal hazard areas. FFNZ¹⁰⁵ also opposes the submission in part as it would apply to non-habitable farm buildings.

⁹⁸403/1

⁹⁹ 407/5

¹⁰⁰ 431/9

¹⁰¹ 469/4 and 469/5

¹⁰² 462/10

¹⁰³ 78/22

¹⁰⁴ X-372

¹⁰⁵ X-518

208. NZDF¹⁰⁶ seeks an amendment to rule CA.3.1.1 so that the restrictions on buildings applies to permanent buildings only.
209. FFNZ¹⁰⁷ seeks clarification of what the status would be for replacement of existing buildings within an ONC when they reach an age requiring significant work or complete replacement.
210. Anthony Lynaird and Sarah Hirst¹⁰⁸ seek an amendment to CA.2.3.1 to add “(d) or if the ONL is within a Living 3 environment”. My interpretation is that the submitter meant to refer to the ‘ONC’ rather than the ‘ONL’.

Buildings Rules CA.2.3.1 and CA.3.1.1 – Discussion

211. In regard to the submissions opposing colour controls and maximum height limits on buildings, my opinion is that these controls are appropriate to manage visual effects while still allowing a substantial residential unit to be constructed as a permitted activity. There are a range of colours available which meet the proposed standards for light reflectivity values. No rationale is provided in the submission for increasing the height limit in CA.3.1.1.
212. In regard to Radio NZ’s submission, as stated earlier in this report, I consider that potential reverse sensitivity effects are more appropriately dealt with in the underlying Environment provisions.
213. In regard to DoC’s submission on coastal hazards, WDC is developing PC90 to manage risk in areas subject to coastal hazards through controls on buildings within identified coastal hazard areas. Until that plan change is notified, I consider that it is appropriate to have objectives and policies relating to coastal hazards in the CA to allow consideration of effects for discretionary and non-complying activities and subdivision consents.
214. In regard to the NZDF’s submission, the definition of ‘building’ in the WDP includes temporary buildings and structures. This means that under the proposed provisions temporary buildings within an HNC area would be classified as a discretionary activity if they are greater than 5.5m in height, or do not meet the LRV standards. The submission is unclear on how long a building can be in place for it to be considered as a temporary building. It could be argued that all buildings are temporary, given they can be removed at some point in the future. In my view this could create a permitted baseline that undermines the plan provisions for managing effects within a HNC area.
215. **Part 1** of the s42A report addresses temporary military training activities (**TMTA**). If the Commissioners are of a mind to provide for TMTA within a HNC area, I recommend that any new rule refer specifically to ‘buildings ancillary to temporary military training activities’ rather than permitting all temporary buildings.
216. In response to FFNZ request for clarification around the activity status for replacement of buildings within an ONC area, in my opinion provided that the building is legally established and the scale and nature of the building is not increased existing use rights under s10 of the RMA

¹⁰⁶ 450/19

¹⁰⁷ 253/44

¹⁰⁸ 440/1

would apply. The rules also provide for extensions to existing buildings as a permitted activity up to 50m², above this level buildings within an ONC area would be considered as a discretionary activity. In my opinion this rule will be triggered very rarely given that the one of the criteria for an area to be considered as ONC is an absence of built development.

217. In response to the submission from Anthony Lynaird and Sarah Hirst, I do not support providing exemptions for the Living 3 Environment as the qualities of the ONC should still be protected in the Living 3 Environment.

Buildings Rules CA.2.3.1 and CA.3.1.1 – Recommendation

218. I recommend that the Commissioners **reject** submission points 403/1,407/5, 431/9, 469/4 and 5, 78/22, 440/1 and 450/19.

Earthworks Rules CA.2.3.2, CA.2.3.3 and CA.3.1.2 – Submission Information

219. NIWA¹⁰⁹ opposes the restriction on earthworks within the CA (rule CA.2.3.2) seeking that it be amended to specifically exempt earthworks associated with any legally established use within the Business 4 Environment.
220. NZRC¹¹⁰ seeks an amendment to rules CA.2.3.2 and CA.2.3.3 to clarify precisely what is envisaged by these provisions, concerned that these rules are ambiguous as it is unclear whether the earthworks volumes relate to single instances or represent an aggregate volume.
221. Shane and Tania Nielsen¹¹¹ seek that CA.2.3.2(b) be deleted or amended to allow for reasonable development of a house site to allow for basements by increasing height or creating exclusion to house sites.
222. Anthony N Lynaird & Sarah J Hirst¹¹² seek an amendment to the thresholds for earthworks in CA.2.3.2(a) to increase the maximum volume of material removed to 750m³ and amendment to the thresholds for earthworks in CA.2.3.2(b) to increase the maximum face height of any cut and batter faces to 2.5m.
223. Patuharakeke Hapu¹¹³ supports the exception for earthworks within sand dunes in CA.2.3.3(d) for the burial of marine mammals.
224. FFNZ¹¹⁴ supports CA.3.1.2(c) and CA.3.1.3(b) which enables several common activities related to farming. FFNZ also supports CA.4.2.1 which exempts repair and maintenance of fences, farm and forestry tracks and planting of any vegetation.
225. Forest and Bird¹¹⁵ opposes all earthworks rules as follows:
- Rule CA.2.3.3(c) as provision of new public access through dunes should be a discretionary activity.

¹⁰⁹ 542/2

¹¹⁰ 158/5

¹¹¹ 359/1

¹¹² 440/2

¹¹³ 238/5

¹¹⁴ 253/41 and 45

¹¹⁵ 467/6 and 8

- Rule CA.3.1.2 as the extent of authorised earthworks associated with legally established mineral extraction is specified in relevant consents and any additional earthworks in a HNC area need to be assessed as a non-complying or prohibited activity to be consistent with directions in the NZCPS.
- Rule CA.4.2 should be recast to provide a more specific hierarchy of activity status at varying scales. Permitted clearance and earthworks should be strictly constrained to ensure any resulting adverse effects would be no more than minor and any other clearance or earthworks should be assessed as either a discretionary or non-complying activity.

226. NZDF¹¹⁶ seeks an amendment to CA.2.3.3 and/or the definition for earthworks to provide for very minor or temporary changes to the shape of sand dunes.

227. FNDC¹¹⁷ requests the following in relation to earthworks:

- The removal of the permitted activity status in CA.4.2.1, provided through CA.2.2.3, for earthworks in ONC areas where it is for the purpose of a building platform and access.
- Provision for minimal earthworks in ONC areas where it is strictly for the repair and maintenance of existing buildings and structures, tracks, fences and other lawfully established activities.
- Amendment to CA.4.2.1 to add a frequency for earthworks “in any 12 month period within a site”.

Earthworks Rules CA.2.3.2, CA.2.3.3 and CA.3.1.2 – Discussion

228. I acknowledge and agree with the submissions from Patuharakeke Hapu and FFNZ regarding the exceptions to the earthworks rules to provide for cultural practices and common rural production activities.

229. In regard to NIWA’s submission regarding exempting Business 4 land from the CA earthworks provisions. In my opinion this will benefit owners and operators in a discrete area where the Business 4 Environment is identified within the CA (Ruakaka, Marsden Point and in Whangarei City). These are generally already highly modified environments that often contain regionally significant activities which in my view should be supported. There are currently no earthworks provisions in the Business 4 Environment so allowing the submission would maintain the status quo, with earthworks volumes being managed by the Regional Plan. I support amending CA2.3.2 to provide an exception for activities within the Business 4 Environment. I also support the exception to this rule also apply to SRIE as it in my opinion is a very similar Environment and many of the same rules apply. This would apply to GBC’s plant at Portland.

230. In regard to the Nielson, and Lynaird and Hirst submissions I consider that the proposed earthworks provisions provide appropriately for the development of a house site with access as a permitted activity on most sites. If a greater volume of earthworks is required, in my opinion

¹¹⁶ 450/18

¹¹⁷ 410/8 - 11

this would signify a very large building is proposed, or the site is on a slope. In both cases, my opinion is that it is appropriate that a resource consent requirement is triggered to allow the consideration of effects as a discretionary activity.

231. I do not support Forest and Bird's submission that the provision of public access ways should be a discretionary activity. In my opinion providing public access ways through dunes can reduce the impact on the dune systems and vegetation by directing foot traffic to specific access points. I note that the exception only applies to public accessways, not private coastal access. Applying the discretionary activity status to public accessways would in my view discourage an activity that has significant environmental benefits.
232. I also disagree with Forest and Bird submission that earthworks within a HNC area and a Mineral Extraction Area should be a non-complying or prohibited activity. In my view this would be unjustified as a heavy handed approach in a heavily modified environment. I generally agree with the s32 assessment on CA.4.2¹¹⁸. No alternative wording or justification is provided by Forest and Bird for the suggested activity status.
233. In regard to NZDF's submission I agree that some minor earthworks to sand dunes may be acceptable to provide for TMTA in the CA. I consider that these activities will happen very rarely and TMTA enables staff to be appropriately trained to provide an efficient and effective response in emergencies.
234. In regard to FNDC's submission, I disagree that a 150m³ threshold combined with limited associations (as listed in clauses a- d) for earthworks will not avoid adverse effects within an ONC area. I note that rule CA.4.2.1 threshold is consistent with the proposed thresholds for PC114 ONL.
235. FNDC have raised a concern about cumulative effects of earthworks, requesting an amendment to introduce a frequency of 12 months to rule CA.4.2.1. NZRC have raised similar concerns with regard to whether or not the rule applies to the aggregate of earthwork volumes. In my opinion rule CA.4.2.1 appropriately allows for a one-off opportunity to undertake earthworks (up to 150m³ in volume). The amendment sought by FNDC would allow the opportunity to undertake earthworks up to 150m³ annually for the life of the District Plan, potentially equating to 1,500m³ of earthworks assuming a 10 year District Plan lifetime. In my opinion this volume of earthworks would have the potential to cause significant effects to the ONC.

Earthworks Rules CA.2.3.2, CA.2.3.3 and CA.3.1.2 – Recommendation

236. I recommend that the Commissioners:

- **Accept submission** points 238/5, 253/41 and 45 and 542/2.
- **Reject** submission points 359/1, 440/2, 467/6 – 8, 158/5 and 410/8 – 11.
- **Accept** submission points 542/2 and 450/18 and recommend the following changes to the proposed provisions:

¹¹⁸ Pages 30 – 34.

CA.2.3 Discretionary Activities

2. Earthworks within the CA but outside a Business 4 Environment or Strategic Rural Industry Environment, where:
- 3 Earthworks within sand dunes, with the exception of earthworks associated with:
 - a. ...
 - e. A temporary military training activity.

Indigenous Vegetation Rules CA.2.3.3 and CA.3.1.3 – Submission Information

237. Patuharakeke Hapu¹¹⁹ supports the exception in CA.2.3.4(d) for vegetation removal for customary purposes.
238. FFNZ¹²⁰ supports CA.2.3.4(b) and CA.3.1.3(b) which enables a number of common activities related to farming.
239. Margaret Hicks¹²¹ recommends the following:
- The clearing of any native vegetation from estuary banks and beds or cliff tops in the CA or any vegetation removal from the face of dunes should be prohibited activities.
 - The removal of non-native trees in areas vulnerable to erosion should be a restricted discretionary activity.
 - No-one should be able to facilitate erosion or flood susceptibility because of vegetation clearance including in the exercise of Maori customary rights. No customary right should be able to compromise the structural integrity of the land.
240. Robin Loeffering¹²² seeks the removal of CA.2.3.4(d) and CA.3.1.3(d). These rules should be recast with standards which ensure adverse effects on indigenous biodiversity are no more than minor and any other indigenous vegetation clearance should be assessed as a non-complying activity.
241. Landonwers Coalition¹²³ seeks an amendment to CA.2.3.4(a) to allow routine maintenance 20m from an existing building.
242. NZTA¹²⁴ seeks inclusion of the following in CA.2.3.4:

Routine maintenance for the safe operation of the transport network.

243. Forest and Bird¹²⁵ opposes rules CA.2.3.4 and CA.3.1.3 as these should be recast with standards which ensure adverse effects on indigenous biodiversity are no more than minor and any other

¹¹⁹ 238/5

¹²⁰ 253/42

¹²¹ 517/4 – 6

¹²² 183/11 and 12

¹²³ 431/9

¹²⁴ 453/22

¹²⁵ 467/7 and 9

indigenous vegetation clearance should be assessed as a discretionary activity. Forest and Bird¹²⁶ also oppose rule CA.4.2.2 stating that it should be recast to provide a more specific hierarchy of activity status at varying scales.

244. Anthony N Lynaird & Sarah J Hirst¹²⁷ seek an amendment to add an additional matter to rule CA.3.1.3 to provide for up to 500m² of vegetation clearance to provide for an approved dwelling and an addition to CA.4.2.2 to add an exception to allow for vegetation clearance where the clearance is for building a dwelling in the Living 3 Environment.
245. FNDC¹²⁸ seeks an amendment to the threshold for permitted vegetation clearance in CA.4.2.2, provided through CA.2.2.3, for vegetation clearance in ONC areas where it is strictly for the repair and maintenance of existing buildings and structures, tracks, fences and other lawfully established activities. FNDC requests that rule CA.4.2.2 is amended to add a frequency for indigenous vegetation clearance “in any 12-month period within a site’.

Indigenous Vegetation Rules CA.2.3.3 and CA.3.1.3 – Discussion

246. I acknowledge and agree with the submissions from Patuharakeke Hapu and FFNZ regarding the exceptions to the vegetation clearance rules to provide for cultural practices and common rural production activities. I consider it is unlikely that vegetation removal for customary practices will compromise the structural integrity of the land or have significant effects on biodiversity or natural character.
247. Vegetation clearance and land disturbance activities on erosion prone land is managed by the Regional Plan. The WDP manages the effects of vegetation clearance in terms of effects on amenity and biodiversity. It is expected that vegetation clearance rules in sensitive areas will be provided through the Biodiversity plan change, as discussed in **Part 1** of the s42A report.
248. The Landowners Coalition seek to extend the distance from a building that routine maintenance can be undertaken from 3m to 20m. No justification is provided in the submission for this increase. I agree with **Part 7** of the s32 report¹²⁹ and consider that 3m from buildings is appropriate to provide for vegetation removal for health and safety purposes.
249. NZTA have proposed wording to allow vegetation clearance for routine maintenance for the safe operation of the transport network. In my opinion the relief sought has the potential to result in adverse effects on HNC or ONC. The transportation network is extensive and vegetation clearance associated with road maintenance could potentially result in large areas of being cleared. I do not support the proposed amendment to rule CA.2.3.1.
250. In response to Forest and Bird’s submission, (not withstanding the amendments recommended below), I agree with the assessment in the s32 analysis¹³⁰ in regard to the activity status and

¹²⁶ 467/10

¹²⁷ 440/3 and 4

¹²⁸ 410/7

¹²⁹ Pages 35 – 37.

¹³⁰ Pages 35 – 37.

permitted activity thresholds for the CA, HNC and ONC areas. The submission does not provide an alternative s32 analysis or proposed alternative wording.

251. I do not support the proposed amendments proposed by Lynaird and Hirst which seek to increase the permitted thresholds for vegetation clearance in the HNC and ONC areas. In my opinion the rules provide for sufficient vegetation clearance to provide for dwellings in each resource area overlay.
252. FNDC's submission regarding vegetation clearance is unclear. It appears however that the submitter is suggesting that vegetation clearance in the ONC up to the non-complying threshold of 150m² should not be provided for as permitted activity. Like my opinion about the proposed threshold for earthworks, I disagree that a 150m² threshold for vegetation clearance will not avoid adverse effects within an ONC area. I note that rule CA.4.2.2 threshold is consistent with the proposed thresholds for PC114 ONL.
253. FNDC have raised a concern about cumulative effects of vegetation clearance, requesting an amendment to introduce a frequency of 12 months to rule CA.4.2.2. In my opinion rule CA.4.2.2 appropriately allows for a one-off opportunity to undertake vegetation clearance (up to 150m² in area). The amendment sought by FNDC would allow the opportunity to undertake vegetation clearance up to 150m² annually for the life of the District Plan, potentially equating to 1,500m² of clearance assuming a 10year District Plan lifetime. In my opinion this area of vegetation clearance would have the potential to cause significant effects to the ONC.

Indigenous Vegetation Rules CA.2.3.3 and CA.3.1.3 – Recommendation

254. I recommend that the Commissioners:

- **Accept** submission points 238/5 and 253/42.
- **Reject** submission points 183/11 and 12, 517/4 – 6, 431/9, 440/3 and 4, 467/7, 9 and 10, 410/7 and 453/22.
- **Accept** submission point 453/22 and recommend the following changes to the proposed provisions:

Papakāinga Rules CA.4.1.3 – Submission Information

255. FNDC¹³¹ recommends a change to the activity status for Papakāinga development in HNC areas to enable Council to influence an application so it can be satisfied that the obligations in the NZCPS and RPS are met.
256. Patuharakeke Hapu¹³² supports discretionary activity status for papakāinga within an ONC area.

¹³¹ 410/13

¹³² 238/5

Papakāinga Rules CA.4.1.3 – Discussion

257. I agree with the submission from FNDC that Papakāinga development should be a discretionary activity within HNC areas. I also acknowledge the support of Patuharakeke for discretionary activity status for papakāinga development within an ONC area.

Papakāinga Rules CA.4.1.3 – Recommendation

258. I recommend that the Commissioners:

- **Accept** submission point 238/5.
- **Accept** submission point 410/13 and recommend that the following change to the proposed provision:

CA.3.1 Discretionary Activities

4. Papakāinga development on ancestral Māori land within a High Natural Character Area.

New Land Use Rules – Submission Information

259. NZRC¹³³ seeks that the new CA should not override the Oil Refinery Overlay. Part CA1.1 be amended to specifically state that the Oil Refinery Overlay takes precedence over the CA Resource Area Overlay. The Explanation section of Chapter 49 should also be amended.

260. FFNZ¹³⁴ suggests a rule be included to allow for emergency works and drain clearance as permitted activities, similar to that recently included in the Proposed Auckland Unitary Plan.

261. John Beauregard¹³⁵ seeks a rule to make consents for harvesting forests in the CA publicly notified.

New Land Use Rules– Discussion

262. In regard to the submission from NZRC I disagree that the CA overlay should not apply in the Oil Refinery Overlay. The CA overlay applies across all underlying zones. I note however, that I have recommended that the CA earthworks rules do not apply to the Business 4 Environment. In my opinion it is unlikely that any of the other rules in the CA provisions will be triggered by activities at the Oil Refinery.

263. In relation to FFNZ's submission to permit emergency works and drain clearance I consider that this is already adequately provided for under Section 330 of the RMA and additional rules in the CA are not required.

264. In regard to John Beauregard's submission, no rules are proposed to manage forestry harvesting activities. I consider that matters relating to water quality is best addressed by Regional Council in their Regional Plans.

¹³³ 158/2

¹³⁴ 253/43

¹³⁵ 518/1

New Land Use Rules - Recommendation

265. I recommend that the Commissioners **reject** submission points 158/2, 253/43 and 518/1.

G. Subdivision Rules

Submission Information

266. The General Trust Board of the Diocese of Auckland¹³⁶ supports CA5.1 as it clearly states that the underlying Environment provisions apply for subdivision that are not within a HNC or ONC area

267. FNDC¹³⁷ seeks that the proposed subdivision provisions are retained.

268. Landowners Coalition¹³⁸ seeks that CA.5.1.1 and 5.1.2 are deleted.

269. Anthony Lynaird and Sarah Hirst¹³⁹ seek an amendment to the subdivision rules to make subdivision within an "ONL area" a restricted discretionary activity if the underlying zone is a Living Environment. My interpretation is that the submitter meant to refer to the 'ONC area'.

Discussion

270. I acknowledge and agree with the submitters supporting the proposed subdivision provisions.

271. The Landowners Coalition seeks to delete the provisions that determine the activity status for subdivision in HNC and ONC areas. The activity status is the mechanism to trigger an assessment of the proposal against the CA policies and objectives. If the submission was accepted all subdivision in the CA would default to the underlying Environment. In my opinion this could result in subdivision in areas of the CA with high or outstanding natural character values that do not consider effects on these values. I consider that accepting the submission would not give effect to the NZCPS or the RPS.

272. In response to the submission from Anthony Lynaird and Sarah Hirst, I do not support providing exemptions for the Living Environments as the qualities of the ONC should still be protected in the Living Environment.

Recommendation

273. I recommend that the Commissioners:

- **Accept** submission points 255/2 and 410/12.
- **Reject** submission points 431/10 and 440/5

¹³⁶ 255/2

¹³⁷ 410/12

¹³⁸ 431/10

¹³⁹ 440/5 – x569

H. Mapping

General Mapping Discussion

274. Mapping of the CA, HNC and ONC was undertaken as part of development of the RPS. The RPS directs the district councils to incorporate the RPS maps into the WDP and establish rules to manage development in these areas.
275. Policy 4.5.1 of the RPS contemplates refinement of the maps in accordance with method 4.5.4, following further detailed assessment, provided the refinement is undertaken using the attributes and criteria listed in Appendix 1 of the RPS. This is to ensure a consistent approach is adopted where such changes are proposed.
276. Assessment of and recommendations in response to submissions against the mapping of CA, HNC and ONC have taken into account the RPS method 4.5.4 and Appendix 1.

General Mapping – Submission Information

277. Three submitters¹⁴⁰ support the changes to proposed planning maps generally or in relation to their own properties.
278. Four submitters¹⁴¹ expressed concerns about the reduction in size of the area identified for coastal protection.
279. Margaret Hicks¹⁴² raised issues in relation to Resource Area Map 57. It should be noted that the area of the outlet of the Ruakaka estuary is a dynamic feature of the landscape and is constantly changing. Both WDC and NRC need to identify all coastal land, land that is in reality coastal not just selected areas that suit. The coastal limits of the Ruakaka area need to be re-aligned to include land already developed within the dune system. This should also include land adjoining the Ruakaka estuary that is subject to significant tidal activity. An area extending from Mair Road to Marsden Point should be identified as HNC as should an area on the Ruakaka Ridge parallel with Marsden Point Road.
280. Landowners Coalition¹⁴³ objects to any changes to the RPS maps that enlarge the CA.
281. NRC¹⁴⁴ have suggested that the CA mapping be amended to reflect the RPS maps, with areas of 'outstanding' natural character in the WDP maps are identified with an orange colour (they are currently green) and 'high' natural character areas are identified by a green colour (they are currently orange/brown).

General Mapping – Discussion

282. I acknowledge the support for the proposed planning maps.

¹⁴⁰ 15/2, 120/2, 441/2

¹⁴¹ 183/7, 200/3, 201/21, 477/5

¹⁴² 517/2, 3 and 7

¹⁴³ 431/17

¹⁴⁴ 121/2

283. I note the concerns registered by submitters about the reduction in size of the area identified for coastal protection. Although the area proposed for CA are smaller than the existing CCE I my opinion identifying areas of the coast as HNC and ONC areas allow protection to be targeted to the most sensitive areas. The areas identified in the RPS went through a robust process and in my opinion the protection provided for through the CA policy and rule framework is stronger than the existing CCE provisions. Adopting the RPS maps will give effect to the RPS.
284. In relation to Margaret Hicks submissions, the cadastre used in the planning maps follows legal boundaries and does not change with changes to the river mouth. In terms of additional areas for protection identified by the submitter, I do not support making large changes to the RPS maps as they have already been through a robust consultation process, including challenge in the Environment Court.
285. The Landowners Coalition objects to any mapping changes that enlarge the CA. Some mapping changes are recommended below however they generally reduce the size of the CA at the margins.
286. The new additional resource area layers (the CA, ONC and HNC areas) are proposed to be identified on separate maps to the rest of the WDP resource areas so problems with clashing colours on the planning maps should be able to be avoided.

General Mapping – Recommendation

287. I recommend that the Commissioners:

- **Accept** submission points 15/2, 120/2, 441/2
- **Reject** submission points 183/7, 200/3, 201/21, 477/5, 517/2, 3 and 7 and 431/7.
- **Accept** submission point 121/2 and that the colours on the WDP planning maps are amended to match the RPS maps.

Corrections to CA Mapping – Submission Information

288. Two submitters¹⁴⁵ with property within the Living 1 Environment at George Point Rd, Onerahi object to the proposed CA on their properties and seek that it is removed.
289. The General Trust Board of the Diocese of Auckland¹⁴⁶ requests that the CA is removed from 88 Church Street frontage.
290. Phillip and Marion Freeman¹⁴⁷ request that the CA applied to a corner of 55 Woodland Heights Drive be removed.

Corrections to CA Mapping – Discussion

291. The following section recommends some changes to the mapping of the CA and HNC. Most of the changes are based around pragmatic adjustments on the margins of properties where a very

¹⁴⁵ 34/1, 41/1

¹⁴⁶ 255/4

¹⁴⁷ 346/2

small part of the property is identified or it is unclear what topographical feature the boundary is based on.

292. In regard to the submissions relating to George Point Road, removing the CA from this area would in my opinion be a significant change contrary to the RPS. The properties are zoned Living 1 Environment, therefore there will be relatively minor restrictions on the properties in terms of CA earthworks and vegetation clearance rules.
293. 88 Church Road Onerahi is in an urban area and is zoned Living 1 Environment. A small area on the front boundary of the property is identified as CA, although it is unclear what the boundary is based on. I support the removal of the CA overlay from the property, as in my opinion there is little benefit in including such a small area of the property in the CA in a highly developed area.
294. In relation to the Freemans' submission, the CA has been applied over a portion of their property along the front boundary. Again, it is unclear what the boundary is based on. The property is proposed to be zoned RPE and contains an existing dwelling and a large shed. Given the underlying zoning in my opinion it is unlikely that the property will be developed further in a way that affects the CA. It is my opinion that retaining the CA on the submitters property will not achieve any environmental benefit.

Corrections to CA Mapping – Recommendation

295. I recommend that the Commissioners:
- **Reject** submission points 34/1 and 41/1.
 - **Accept** submission points 255/4 and 346/2 and recommend that the CA be removed from Part Allot 27 TN OF Grahamtown and Lot 2 DP 185362 as displayed in recommended Coastal Area Maps 15, 16, 46 and 48.

HNC Mapping – Submission Information, Discussion and Recommendation

296. The following submissions have been made in regard to HNC mapping. This table includes discussion of the submission and my recommendations to the Commissioners [A submission made by Alastair Cook in relation to my property is addressed by Melissa Ivy McGrath in the following section]:

Name	Relief	Discussion	Recommendation
Barry Skelton ¹⁴⁸	Delete HNC for 53 Ritchie Road.	Property is in CA with a sliver of HNC on the corner. I support the removal of HNC.	Accept the submission and remove HNC overlay from 53 Ritchie Rd.
Michelle Palma & Henare Cameron ¹⁴⁹	That Lot 2 DP 454698 be re-designated RPE, CA only.	Property is CA with a small sliver of HNC on the southern boundary where the accessway to the property is located. I support the removal of NHC	Accept the submission and remove HNC from Lot 2 DP 454698.

¹⁴⁸ 5/1
¹⁴⁹ 50/1

Michael and Hazel Smith ¹⁵⁰	Our property at 29 Kiteone Rd has been incorrectly labelled as a HNC area and this should be removed.	The property is partially within the CA but is not identified as HNC. No change is required to achieve the relief sought.	Reject the submission.
Christopher Ellis ¹⁵¹	That 10 Kukupa Place Matapouri is not included within the HNC area within the new CA.	The property is a residential section with an existing dwelling. The property was part of a large area of native bush however recent aerial photographs show that this bush area has been cleared. In my opinion the proposed does not contain HNC.	Accept the submission and remove HNC from 10 Kukupa Place.
Neil and Moira Dobbs ¹⁵²	We seek the proposed Resource Areas be removed, except for the "HNC" on those boundaries described within the WDC Operative Planning Map 52B pertaining to 'ONL'.	Large proportion of the property is identified as ONL in the operative WDP resource area maps. Property is within the proposed CA. The proposed ONL expands the boundaries of the existing ONL. The Outstanding Landscapes and Natural Character areas were defined using different criteria based on different attributes and values. In my opinion it is inappropriate to base the boundaries of the HNC on the area identified as ONL and the HNC mapping is appropriate.	Reject the submission.
Christine Birss ¹⁵³	Objects to HNC at Langs Beach PID 103843.	The property is identified as within the CA but is not subject to the HNC overlay. The submission also refers to a 3.66 ha property although the location is unclear from the submission.	Reject the submission.
Philipp Kartheus ¹⁵⁴	Remove the classification of HNC from the property [PID 162336].	The property appears to be adjacent to the landward boundary of the HNC but this does not cover the submitter property.	Reject the submission.
Kevin & Pamela Gillespie ¹⁵⁵	Unless specific areas identified areas which are not of high importance included in general classification. Review maps and emphasise important areas.	It is unclear what the submitter is requesting and what property the submission relates to. The submission does not provide sufficient information to make an assessment or recommendation to accept the submission.	Reject the submission.

¹⁵⁰ 234/1

¹⁵¹ 254/1

¹⁵² 118/6 and 119/6

¹⁵³ 263/1

¹⁵⁴ 377/2

¹⁵⁵ 417/2

André & Robin LaBonté ¹⁵⁶	That WDC and/or NRC are required to carry out a formal survey of the proposed ONL and HNC areas on our property. That identified ONLs and HNC areas are not effectively taken by the Councils such that those features can no longer be used as an Environmental Benefit at the subdivision stage.	Consideration of Environmental Benefit Lots are discussed in Part 1 of the s42A report. HNC areas have been assessed on a District wide basis in the development of the RPS. The HNC designation along the coast in this area consistently covers a thin strip of land slightly inward from MHWS. To maintain consistency with adjacent properties along the coast HNC should remain. Additionally, there is an ONF identified within the site which would impose restrictions even if the HNC were removed.	Reject the submission.
Grant Faber ¹⁵⁷	The CA boundary should follow the visible ridge line from seaward and be re-aligned to match the ONC boundary. (In the area of PID 70169).	The proposed mapping is consistent with the RPS mapping. The CA and ONC have different mapping criteria and therefore, while an area may not be considered ONC it can still be appropriate for CA.	Reject the submission.
AK and AJ Lewis ¹⁵⁸	Remove part of the HNC zoning on our property (3A2 block, Bland Bay) because the NRC maps relating to their proposed RPS in 2013 show the removal of part of the HNC zoning from the property.	The proposed HNC mapping within the site is not consistent with the RPS mapping.	Accept the submission.

HNC Mapping – Submission Information, Discussion and Recommendation [Author: Melissa Ivy McGrath]

297. The following submissions have been made in regard HNC mapping. This table includes discussion of the submission and my recommendations to the Commissioners:

Alastair Cook ¹⁵⁹	Amend the HNC Area so that the boundary is the west side of Cove Rd, and does not extend to Pt Lot 4 DP 25340.	The property is a residential section with existing dwelling and other buildings. I support the relief sought by the submitter. In my opinion the HNC area should follow the boundary of the bush line and not extend over Cove Rd.	Accept the submission and amend the HNC Area so that the boundary is the west side of Cove Rd.
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¹⁵⁶ 430/3

¹⁵⁷ 44/1

¹⁵⁸ 543/1

¹⁵⁹ 350/1

ONC Mapping – Submission Information

298. Mary Wilson¹⁶⁰ requests that Wildlife refuges at Ruakaka and Waipu be included in areas of HNC and ONC.

ONC Mapping – Discussion

299. HNC and ONC have been identified using approved criteria in the RPS. Wildlife refuges are in public ownership and protected under other provisions such as the Conservation Act. These areas may obtain greater protection under the Biodiversity Plan change as discussed in **Part 1** of the s42A report.

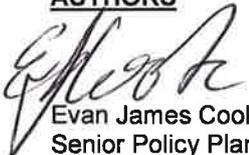
ONC Mapping – Recommendation

300. I recommend that the Commissioners **reject** submission point 70/2

6.0 Conclusions and Recommendations

301. After carefully considering the submissions and further submissions received in relation to each topic, I recommend that Plan Change 87 be amended to the extent detailed in the preceding sections of this report and as illustrated in **Attachment 2C** of **Part 1** of the s42A report. I further recommend that those submissions and further submissions that request the recommended changes be accepted in whole or in part be accepted, and that all other submissions be declined.

AUTHORS


Evan James Cook
Senior Policy Planner


Melissa Ivy McGrath
Team Leader, District Plan

¹⁶⁰ 70/2