

**Part 4**  
**Proposed Plan Change 87**  
**Coastal Area**

**Right of Reply – Council Reporting  
Planner**

AUTHOR

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## 1.0 Introduction

1. This is Part 4 of the Right of Reply (ROR) report. This part should be read in conjunction with the other Parts 1 – 12. This ROR has been prepared by Evan James Cook on behalf of the Whangarei District Council (WDC) in response to particular matters raised at the hearings for Proposed Plan Change 87 – Coastal Area (PC87) to the Operative Whangarei District Plan (WDP).
2. My Statement of Qualifications and Experience is provided in **Part 4** of the section 42A (**s42A**) evaluation report<sup>1</sup>. The opinions expressed in this ROR 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.

## 2.0 Purpose and Structure of Report

3. This ROR addresses issues that were raised through evidence and in the hearing of submissions. The content and structure of the s42A report has been used with new sections written in **blue** text. Paragraph numbering within section 3 follows the original s42A number for the s42A content. **Part 8** of the s42A report grouped submissions by topics 'A' to 'M'. This ROR addresses evidence and information presented by a number of submitters in relation to the following topics:

- A. General Submissions

[Nick Beveridge on behalf of Royal Forest and Bird Protection Society](#)

- B. Definitions

- C. Description and Expectations

[Catherine Clark on behalf of Golden Bay Cement/Winstones Aggregates](#)

- D. Objectives

[Jamie Swan on behalf of Transpower New Zealand](#)

[Andrew Riddell on behalf of the Director-General of Conservation](#)

- E. Policies

[Michael Day on behalf of Northland Regional Council](#)

[Andrew Riddell on behalf of the Director-General of Conservation](#)

[Jamie Swan on behalf of Transpower New Zealand](#)

[Chris Simmons on behalf the New Zealand Refining Company](#)

[Frank Newman on behalf of the Landowners Coalition](#)

[Phillip Mitchell on behalf or NIWA](#)

- F. Landuse Rules

[Catherine Clark on behalf of Golden Bay Cement/Winstones Aggregates](#)

[Reina England on behalf of the General Trust Board of the Diocese](#)

[Chris Simmons on behalf the New Zealand Refining Company](#)

[Phillip Mitchell on behalf or NIWA](#)

[Andrew Riddell on behalf of the Director-General of Conservation](#)

[Michael Day on behalf of Northland Regional Council](#)

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Catherine Hepplethwaite on behalf of the New Zealand Transport Agency  
Anthony Lynaird & Sarah Hirst  
Margaret Hicks

G. Subdivision Rules

Nick Beveridge on behalf of Royal Forest and Bird Protection Society

H. Mapping

Andre and Robin Labonte

4. With respect to Topic B I no substantively new material or evidence is before me (than what was included in the original submissions) that prompts me to provide additional comment or revise my original recommendations.
5. Any changes that I recommend as a result of the ROR are highlighted in **green** in the revised track change version of the plan change provisions which are included as **Attachment 1**. Proposed changes previously recommended in the s42A report are still indicated with ~~strikethroughs~~ representing recommended deletions and underlined writing representing recommended additions.

### 3.0 Consideration of Submissions and Further Consideration of Evidence

#### A. General Submissions

##### Submission Information

##### **General Support**

22. The Department of Conservation (**DoC**)<sup>2</sup> 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**)<sup>3</sup> supports in principle the PC87 policy objective of protecting Whangarei's coastal areas from inappropriate use and development.
24. Northland Regional Council (**NRC**)<sup>4</sup> 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 Salmon<sup>5</sup> supports the protection of HNC areas.

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<sup>2</sup> 78/15

<sup>3</sup> 158/1

<sup>4</sup> 121/1 and 3

<sup>5</sup> 194/1

26. Patuharakeke Hapu<sup>6</sup> 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 Hicks<sup>7</sup> 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 McMahon<sup>8</sup> 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 Bull<sup>9</sup> 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 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 Auckland<sup>10</sup> supports the removal of framework management plans.

### **General Opposition**

31. Royal Forest and Bird Protection Society (**Forest and Bird**)<sup>11</sup> 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**

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<sup>6</sup> 238/1

<sup>7</sup> 517/1

<sup>8</sup> 531/2

<sup>9</sup> 502/1

<sup>10</sup> 255/3

<sup>11</sup> 467/1

32. Far North District Council (**FNDC**)<sup>12</sup> seeks consistency with higher order documents by replacing the term 'Coastal Area' with 'Coastal Environment' where it appears in PC87.

### **Compensation**

33. André & Robin LaBonté<sup>13</sup> 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.
34. Trevor Shaw<sup>14</sup> 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 Wilson<sup>15</sup> 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 Nops<sup>16</sup> 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

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<sup>12</sup> 410/1

<sup>13</sup> 430/4

<sup>14</sup> 469/6

<sup>15</sup> 70/1 - 4

<sup>16</sup> 538/2

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.
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.

#### Evidence and Hearing Information

- A.1 Nick Beveridge on behalf of Forest and Bird addressed the hearing via phone link and tabled evidence in relation to their submission points.

#### Right of Reply Discussion

- A.2 Mr Beveridge had not had an opportunity to view the S42A report and was not aware of the reporting officer's recommendations on his submissions. In my opinion Mr Beveridge did not present any substantive new evidence that has caused me to reconsider my S42A recommendations.

#### Right of Reply Recommendation

- A.3 I stand by the S42A recommendations.

## **B. Definitions**

#### Submission Information

45. FNDC<sup>17</sup> 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.

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<sup>17</sup> 410/3

### 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.

## C. Descriptions and Expectations

### Submission Information

48. Four<sup>18</sup> 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

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<sup>18</sup> FNDC 410/2 - NIWA 542/1 - GBC 250/33 - HNZTP 248/23

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.

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.

...

### Evidence and Hearing Information

- C.1 Catherine Clark presented planning evidence on behalf of GBC at the hearing. Ms Clark seeks a specific reference to the Portland cement plant in the description and expectations.

### Right of Reply Discussion

- C.2 I disagree with Ms Clark that a specific business should be singled out in the description and expectations section of the chapter which is intended to set out what is generally expected within the Coastal Area. No new evidence was provided that has changed my opinion in this regard.

### Right of Reply Recommendation

- C.3 I stand by the S42A recommendation.

## **D. Objectives**

### Objective CA.1.2.1 – Submission Information

53. Radio NZ<sup>19</sup> supports objective CA.1.2.1 and seeks that it is retained as notified.
54. Transpower New Zealand<sup>20</sup> 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. FFNZ<sup>21</sup> 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 NZs 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 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

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<sup>19</sup> 462/5

<sup>20</sup> 476/2

<sup>21</sup> 253/30 and 31

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.

Evidence and Hearing Information

- D.1 Mr Swan presented evidence to the hearing on behalf of Transpower New Zealand.

Right of Reply Discussion

- D.2 Mr Swan agreed with the proposed amendment above and considers that it achieves the relief sought by Transpower.

Right of Reply Recommendation

- D.3 I stand by my S42A recommendation.

Objective CA.1.2.2 – Submission Information

60. Forest and Bird<sup>22</sup> 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.

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<sup>22</sup> 467/1

### Objective CA.1.2.3 – Submission Information

63. Transpower<sup>23</sup> seeks the following specific amendment to objective CA.1.2.3 to focus on the attributes and values that contribute to natural character:
3. *To identify and protect ~~areas~~ the attributes and values of the Coastal Area that display high or outstanding natural character values.*
64. DoC<sup>24</sup> 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.

### Evidence and Hearing Information

- D.4 Mr Swan presented evidence to the hearing on behalf of Transpower New Zealand. Mr Swan proposed new wording of Objective 1.3.3 as follows:

*Identify and protect the quality and characteristics that contribute to areas of the Coastal Area ~~that display~~ high or outstanding natural character values in the Coastal Area.*

### Right of Reply Discussion

- D.5 In my opinion Objective 1.3.3 sets out the District Plan approach to managing the natural character of the coast. Specifically, it directs council to identify the parts of the coast that display

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<sup>23</sup> 476/2

<sup>24</sup> 78/16

high or outstanding natural character values, and then apply rules to protect the values of these areas in accordance with Objective 1.3.1.

- D.6 Mr Swans proposed wording would in my opinion result in significant overlaps with Objective 1.3.1 which seeks to protect the quality and characteristics that contribute to natural character values.

Right of Reply Recommendation

- D.7 I stand by my 42A recommendation.

Objective CA.1.2.4 – Submission Information

68. DoC<sup>25</sup> seeks that objective CA.1.2.4 is retained as notified.

69. FFNZ<sup>26</sup> 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:

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

Objective CA.1.2.5 – Submission Information

73. DoC<sup>27</sup> 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 Coalition<sup>28</sup> 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

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<sup>25</sup> 78/17

<sup>26</sup> 253/32

<sup>27</sup> 78/18

<sup>28</sup> 431/7

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.

Evidence and Hearing Information

D.8 Mr Riddell presented evidence on behalf of DoC at the hearing. DoC seek the following amendment to Objective CA.1.2.5.

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

Mr Riddell considers that his recommended change from “and” to “including” is required to give effect to policy 13(1)b of the NZCPS. The word “and” is unclear and it may be interpreted that the policy applies only to areas that are both within the CA as well as being identified as a HNCA.

Right of Reply Discussion

D.9 in my opinion it was not the intent of the policy to apply only to areas identified as both CA and HNCA. The policy should apply to all areas of the CA apart from identified ONCA. I agree with Mr Riddell on this submission point and recommend that wording is amended accordingly.

Right of Reply Recommendation

D.10 That the Commissioners **accept** submission point 78/18 and amend the wording of CA.1.2.5 as follows:

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

Objective CA.1.2.6 – Submission Information

77. Landowners Coalition Inc<sup>29</sup> requests that objective CA.1.2.6 is deleted.

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<sup>29</sup> 431/7

78. FFNZ<sup>30</sup> 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 report<sup>31</sup> that objective CA.1.2.6 supports consolidated development in areas that are already compromised, giving effect to policy 7 of the NZCPS, policy 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)<sup>32</sup> seeks to retain objective CA.1.2.7 as notified. FFNZ<sup>33</sup> supports objective CA.1.2.7.

83. DoC<sup>34</sup> seeks to retain objective CA.1.2.8 as notified.

84. FFNZ<sup>35</sup> 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

<sup>30</sup> 253/33

<sup>31</sup> Pages 9 – 16.

<sup>32</sup> 429/11

<sup>33</sup> 253/34

<sup>34</sup> 78/19

<sup>35</sup> 253/35

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:

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

Objective CA.1.2.10 – Submission Information

88. FFNZ<sup>36</sup> 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 submissions<sup>37</sup> support objective CA.1.2.11 and seek that it be retained as notified.

92. GBC<sup>38</sup> 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. NIWA<sup>39</sup> 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. NZTA<sup>40</sup> 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.

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<sup>36</sup> 253/36

<sup>37</sup> 429/11, 462/6, 253/36 and 158/3

<sup>38</sup> 250/34

<sup>39</sup> X-504

<sup>40</sup> 453/19

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.

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

Evidence and Hearing Information

D.11 Ms Clark presented planning evidence on behalf of GBC at the hearing. Ms Clark seeks changes to the wording of CA.1.2.11 as follows:

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

Right of Reply Discussion

D.12 The recommended amendment in the S42A report includes a reference to operational needs as a result of NZTA's submission. This partially satisfies the relief sought by GBC. I consider that the reference in the objective to existing development and regionally significant infrastructure provides adequate policy support for industrial type development in the Coastal Area such as GBC's Portland site.

Right of Reply Recommendation

D.13 I stand by my S42A recommendation.

Objective CA.1.2.12 – Submission Information

97. Patuharakeke Hapu<sup>41</sup> 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

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<sup>41</sup> 238/2

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**)<sup>42</sup> requests a new objective to address reverse sensitivity effects on infrastructure and network utilities.
101. The General Trust Board of the Diocese of Auckland<sup>43</sup> 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.
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. FFNZ<sup>44</sup> supports policy CA.1.3.1.
106. FNDC<sup>45</sup> 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.

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<sup>42</sup> 462/7

<sup>43</sup> 255/5

<sup>44</sup> 253/37

<sup>45</sup> 410/14

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.

Policies CA.1.3.3 and CA.1.3.4 – Submission Information

109. DoC<sup>46</sup> 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. FNDC<sup>47</sup> 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

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<sup>46</sup> 78/20

<sup>47</sup> 410/15

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.

Evidence and Hearing Information

- E.1 Mr Day presented evidence at the hearing on behalf of NRC. In Mr Day’s opinion the amended wording of Policy CA.1.3.3 in the S42A report better reflects the requirements of the RPS.
- E.2 Mr Riddell presented evidence on behalf of DoC at the hearing. Mr Riddell seeks an amendment to policy CA.1.3.4 to apply the policy to all buildings rather than just residential buildings.
- E.3 Mr Swan presented evidence to the hearing on behalf of Transpower New Zealand. Mr Swan does not consider that Policy CA.1.3.3 gives effect to the NPSET because it requires buildings to “avoid” rather than “seek to avoid” adverse effects.

Right of Reply Discussion

- E.4 In relation to Mr Riddell’s evidence I remain of the view in the S42A that the visual effects of non-habitable buildings can be considered against policies CA.1.3.1 and CA.1.3.3 in conjunction with the provisions of the underlying Environment. This maintains the status quo for non-residential buildings in the Coastal Countryside and Countryside Environments which are currently permitted activities, and recognises that some buildings ancillary to primary production activities have a functional need to have certain exterior colours. I note that the rules for buildings that apply in HNCA and ONCA refer to all buildings.
- E.5 Regarding the evidence from Transpower New Zealand, it is my opinion policy CA.1.3.3 gives effect to the NZCPS and the RPS which are very directive in their approach to managing the adverse effects of buildings in ONCAs. The wording of these policy statements does not give policy makers a “choice” on how effects are to be dealt with – they are to be avoided in ONCA and significant effects are to be avoided in HNCA.
- E.6 The wording of the NPSET is less prescriptive in my opinion, in fact the phrase used in the preamble is ‘guidance’. Policy 8 specifies that in the rural environment when planning and developing the transmission system people should seek to avoid adverse effects on areas of high

natural character. The NPSET is silent on ONCA, therefore the NZCPS policies which specifically relate to protection of ONCA should take precedence in my opinion.

E.7 The following section of the NPSET contains guidance for territorial authorities in developing policy to provide for the national grid.

*“In developing policies for a district’s outstanding landscapes and natural features, as well as areas of high landscape amenity, **some recognition and provision for transmission lines should be made [my emphasis]**, particularly where such areas are already traversed by transmission lines or have a reasonably foreseeable potential to be traversed. It may be appropriate for a district plan to specifically address provision for transmission lines in these areas, if particularly relevant, or at least be explicit about the values that make these areas significant.”*

E.8 In my opinion Policy CA.1.3.23 provides appropriate recognition of infrastructure, and provision for infrastructure operators to maintain, operate, and expand the national grid. I note that there are no existing transmission lines that traverse ONCA or HNCA within the District. Transpower have not provided any specific evidence to suggest that they intend to carry out new developments within a currently identified natural character area. There is an existing transmission line within the CA between Ruakaka and Marsden Point Oil Refinery. I would expect that any new transmission lines would only be required following significant new development.

E.9 Having reviewed the LAN provisions I recommend a change in wording of the Policy CA.1.3.3 to ensure consistency across the plan changes, and to ensure that the RPS is given effect to. The recommended wording is shown below.

*Policy Right of Reply Recommendation*

E.10 I recommend that the commissioners **accept in part** submission 78/20 amend Policy CA.1.3.3 as follows:

CA.1.3 Policies
<del>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. To avoid adverse effects on Outstanding Natural Character Areas and to avoid significant adverse effects on other parts of the Coastal Area by locating and designing buildings to maintain natural character values.</del>

*Policy CA.1.3.5 and CA.1.3.6 – Submission Information*

114. FNDC<sup>48</sup> requests that the term ‘where practicable’ be removed from policy CA.1.3.5 as this significantly weakens the policy.

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<sup>48</sup> 410/16

115. Phillip Dobson<sup>49</sup> requests that the restrictions on buildings on ridgelines and headlands in policy CA.1.3.5 is removed
116. Landowners Coalition<sup>50</sup> 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 law<sup>51</sup> 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 here 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.

Evidence and Hearing Information

- E.11 NZRC made a further submission against FNDCs submission on CA.1.3.5 and Mr Simmons presented submissions at the hearing. NZRC agree with the recommended amendment to the policy in the S42A report and consider that the amended policy is consistent with the NZCPS Policy 6(1)h.
- E.12 Mr Newman presented a statement on behalf of the Landowners Coalition.

<sup>49</sup> 407/4

<sup>50</sup> 431/8

<sup>51</sup> RJ Davidson Family Trust v Marlborough District Council [2017] NZHC 52.

### Right of Reply Discussion

E.13 Mr Newman did not provide any new information in his statements that have resulted in me changing my recommendation. I stand by the discussion and recommendation in the S42A report.

### Right of Reply Recommendation

E.14 I stand by the S42A recommendation.

### Policy CA.1.3.7 – Submission Information

121. Landowners Coalition<sup>52</sup> requests that policy CA.1.3.7 be amended to remove the word 'significantly'.
122. Patuharakeke Hapu<sup>53</sup> questioned the wording of policy CA.1.3.7 seeking clarification of what defines 'significantly compromised'.
123. KiwiRail<sup>54</sup> 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.

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<sup>52</sup> 431/8

<sup>53</sup> 238/3

<sup>54</sup> 429/11

Policy CA.1.3.10 – Submission Information

128. Patuharakeke Hapu<sup>55</sup> 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. FNDC<sup>56</sup> 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.

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. KiwiRail<sup>57</sup> and Robin Lieffring<sup>58</sup> 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.

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<sup>55</sup> 238/4

<sup>56</sup> 410/17

<sup>57</sup> 429/11

<sup>58</sup> 183/10

Policies CA.1.3.12 – 14 and 17 – Submission Information

136. FFNZ<sup>59</sup> 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 Lieffering<sup>60</sup> fully supports policy CA.1.3.12(c) and (d).
138. Landowners Coalition<sup>61</sup> requests that policy CA.1.3.13 should be achieved by introducing positive policy incentives.
139. FNDC<sup>62</sup> requests that the words “far as practicable” are removed from policy CA.1.3.14 to ensure consistency with the NZCPS.
140. GBC<sup>63</sup> 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.*

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

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<sup>59</sup> 253/38 and 39

<sup>60</sup> 183/10

<sup>61</sup> 431/8

<sup>62</sup> 410/18

<sup>63</sup> 250/35

managing HNC areas. Policy 14 considers the effects of earthworks in a wider context that just ONC 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 ONC 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: <ul style="list-style-type: none"> <li>a. ...</li> <li>b. Excluding stock from remnants <u>of</u> native vegetation, the coastal marine area and riparian margins.</li> </ul>
	...
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 <u>as</u> far as practicable, by encouraging re-vegetation of earthworks scarps.

Evidence and Hearing Information

E.15 Mr Riddell presented evidence on behalf of DoC at the hearing in relation to their further submission in support of FNDC's proposed amendments to CA.1.3.14. Doc considers that the words as far as practicable should be removed from Policy CA1.3.14.

Right of Reply Discussion

E.16 I stand by the discussion in the S42A report in relation to this matter and do not propose any changes.

Right of Reply Recommendation

E.17 I stand by the S42A recommendation.

#### Policy CA.1.3.21 – Submission Information

147. FNDC<sup>64</sup> 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. FFNZ<sup>65</sup>, and Egg Producers Federation of New Zealand<sup>66</sup> strongly support policy CA.1.3.21.
149. Forest and Bird<sup>67</sup> 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:
  - **Accept in part** submission point 410/19.
  - **Accept** submission points 253/40 and 409/9.
  - **Reject submission** point 467/4.

#### Evidence and Hearing Information

- E.18 Mr Riddell presented evidence on behalf of DoC at the hearing in relation to their further submission in support of FNDC and the Royal Forest and Bird Society's proposed amendments to CA. 1.3.21. Mr Riddell seeks the following amendment to CA.1.3.21:

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<sup>64</sup> 410/19

<sup>65</sup> 253/40

<sup>66</sup> 409/9

<sup>67</sup> 467/4

*To enable the continuation of Rural Production Activities in the Coastal Area by allowing the building of non habitable buildings associated with rural production activities ~~rural production buildings~~ subject to standards being applied on building scale and reflectivity.*

Right of Reply Discussion

- E.19 As outlined earlier in this report I disagree with Mr Riddell's view that non habitable buildings in the CA require controls on for building scale and reflectivity. I stand by the discussion in the S42A report in relation to this matter.
- E.20 I recommend that as a consequential change reflecting the new definition of Rural Production Activities, the term should be capitalised. In my opinion the wording of the policy should be amended for consistency with other provisions by replacing the word building with construction and, I recommend these amendments as set out below.

Right of Reply Recommendation

- E.21 I recommend the commissioners **accept in part** submission 410/19 and amend Policy 1.3.21 as follows.

To enable the continuation of Rural Production Activities in the Coastal Area by allowing the <del>building</del> <u>construction</u> of non habitable <u>buildings ancillary to Rural Production Activities</u> <del>rural production buildings</del> .
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Policy CA.1.3.22 – Submission Information

153. Patuharakeke Hapu<sup>68</sup> strongly supports policy CA.1.3.22.
154. Landowners Coalition<sup>69</sup> 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.

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<sup>68</sup> 238/2

<sup>69</sup> 431/8

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. NZRC<sup>70</sup> 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:

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. NZTA<sup>71</sup> and Radio NZ<sup>72</sup> also support policy CA.1.3.23 and seek that it is retained as notified.

161. GBC<sup>73</sup> 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

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<sup>70</sup> 158/4

<sup>71</sup> 453/20

<sup>72</sup> 462/8

<sup>73</sup> 250/35

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.

Evidence and Hearing Information

E.22 Ms Clark presented planning evidence on behalf of GBC at the hearing. Ms Clarks seeks changes to the wording of Policy CA.1.3.23 as follows:

*To recognise and provide for the functional or operational need to locate develop locate, operate and maintain:*

- i) Existing infrastructure, commercial and industrial activities in certain locations proximate to existing infrastructure commercial and industrial activities;*
- ii) Strategic Rural Industries including allowing the building and use of non-habitable buildings'*
- iii) Mineral extraction of regionally significant mineral resources; in the Coastal Area.*

E.23 Mr Simmons on behalf of NZRC presented submissions at the hearing in support of their submission. NZRC considers that the word expand should be included in the Policy.

E.24 Mr Mitchell on behalf of NIWA presented evidence at the hearing in support of their further submission in support of NZRC.

Right of Reply Discussion

E.25 I have reviewed the policies of the NZCPS and the RPS in relation to regionally significant infrastructure. In my opinion these policy documents direct territorial authorities to recognise the importance of infrastructure in the coastal environment, however they do not provide explicit policy support for the expansion of infrastructure.

E.26 The RPS seeks to optimise the use of existing infrastructure through Objective 3.8, and the need to 'upgrade' infrastructure is referenced in a number of provisions (Methods 5.1.5, 5.2.4 and 7.1.9). In my opinion the RPS seeks to provide for the upgrading of infrastructure but stops short

of permitting the expansion. I have considered the dictionary definitions of these terms. Upgrade is defined as 'to improve or enhance the quality or value of', where expand is 'to increase or grow in extent, bulk, scope, etc'.

E.27 Given the wording of the RPS and operational considerations outlined by the submitters at the hearing, along with the fact that the CA overlay covers both business and industrial zones, I recommend an amendment to the policy to ensure that the ability to upgrade infrastructure (and commercial and industrial activities) is provided for within the CA.

#### Right of Reply Recommendation

E.28 I recommend that the Commissioners accept in part submissions 158/4 and X-503 make the following amendment to Policy CA.1.3.23.

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

#### New Policies – Submission Information

164. Radio NZ<sup>74</sup> requests an additional policy as follows:

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

165. Transpower NZ<sup>75</sup> 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 Bird<sup>76</sup> 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 Incorporated<sup>77</sup> and FFNZ<sup>78</sup> 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 Auckland<sup>79</sup> requests a new policy as follows:

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<sup>74</sup> 462/9

<sup>75</sup> 476/3

<sup>76</sup> 467/2 and 3

<sup>77</sup> X-392

<sup>78</sup> X-647

<sup>79</sup> 255/6

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

168. NZDF<sup>80</sup> 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.

Evidence and Hearing Information

- E.29 Mr Riddell presented evidence on behalf of DoC at the hearing in relation to their further submission in support of the Royal Forest and Bird Society who seek a policy to control vehicles on beaches. Mr Riddell also presented evidence in relation to their further submission opposing Transpower's submission in part, and seeking an amendment if it is included to ensure that any adverse effects are avoided.
- E.30 Mr Swan presented submissions on behalf of Transpower seeking and additional two policies to give effect to the NESET.

Right of Reply Discussion

- E.31 No new information was provided at the hearing or raised in evidence that has changed my opinion that vehicles on beaches are more appropriately dealt with by a bylaw.
- E.32 I stand by the discussion in Part 1 of the S42 report in relation to Transpower's submissions and consider that the NTW Chapter in the District Plan adequately provides for the NESET

Right of Reply Recommendation

- E.33 I stand by my original recommendations.

General Policies – Submission Information

172. Robin Lieffering<sup>81</sup> 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

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<sup>80</sup> 450/16

<sup>81</sup> 183/8

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. DoC<sup>82</sup> 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. NRC<sup>83</sup> 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. FNDC<sup>84</sup> 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.

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<sup>82</sup> 78/21 and 23

<sup>83</sup> 121/4 - 6

<sup>84</sup> 410/4 and 5

178. GBC<sup>85</sup> 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 Coalition<sup>86</sup> seeks that CA.4.1.1, CA.4.1.2, CA.4.1.3 and CA.4.2.1 are deleted.
180. DoC<sup>87</sup> 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.
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.

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<sup>85</sup> 250/38

<sup>86</sup> 431/9

<sup>87</sup> 78/24

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.

#### Evidence and Hearing Information

F.1 Mr Riddell on behalf of Doc presented evidence in support of their further submission supporting FNDC's submission requesting controls on buildings to address cumulative effects.

#### Right of Reply Discussion

F.2 In regards to the evidence provided by Mr Riddell I stand by the S42A discussion in relation to the CA and HNCA, however I have recommended changes to the provisions in the ONCA to avoid cumulative adverse effects. This issue is discussed in more detail in relation to the rules on buildings, earthworks and vegetation clearance below in **Section F** of this report.

#### Right of Reply Recommendation

F.3 I stand by the S42A recommendations.

#### Eligibility Rule CA.2.1.1 – Submission Information

189. GBC<sup>88</sup> 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 Auckland<sup>89</sup> 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.

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<sup>88</sup> 250/36

<sup>89</sup> 255/1 and 7

### 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 Areas<sup>90</sup> 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.

### 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.

### Evidence and Hearing Information

- F.4 Ms Clarke presented evidence on behalf of Golden Bay Cement at the hearing and suggests amendments the proposed eligibility rules.
- F.5 Mr Simmons on behalf of NZRC presented submissions at the hearing seeking to exempt their activities from the coastal area provisions.
- F.6 The General Trust Board of the Diocese did not appear at the hearing but tabled a statement of evidence prepared by Ms England. Ms England recommends WDC adopt an eligibility rule to clarify that for properties that are not fully within the CA, the overlay only applies to the part of the site that is shown on the planning maps.

### Right of Reply Discussion

- F.7 In relation to the evidence from GBC, the 42A report recommended accepting the eligibility rules sought by GBC in order resolve the conflict that exists between enabling Environment zones (SREI, MEA) and the protection provided by the Resource Areas. Ms L Clark has recommended a further amendment to GBC's originally proposed eligibility rule to clarify that the CA rules do

<sup>90</sup> Note: Part X of the s42A Report recommends renaming of Mineral Extraction Areas to Quarrying Resource Areas.

not apply in SRIE or QRA. I support this clarification but have proposed slightly different wording to reference the Coastal Area correctly and improve readability.

F.8 I have also recommended in the Eligibility Rules section below that this be applied to the Oil Refinery Overlay.

F.9 I have reconsidered my position in relation to the General Trust Board of the Diocese's submission, as a result of the statement of evidence by Ms England. I consider that the issues her statement has raised have merit and some additional guidance would assist with interpretation of the Plan. My opinion is that problems with plan interpretation are wider than the Coastal Area overlay, and should apply to the interpretation for all district wide resource areas that cross property boundaries.

F.10 The introduction to the plan contains a section to assist plan users and I consider that a paragraph to clarify this may aid plan users and avoid confusion when interpreting the relationship between plan provisions.

### *2.3 Presumptions and Interpretation*

*At any point in time the Council's information bases and justification for its policies may be incomplete. Chapter structure and format may vary from section to section as and when a review takes place. For interpretation purposes (resource consent processing) no one procedure shall take precedence.*

F.11 I recommend that a section be added to this paragraph along the lines of the example provided by Ms England, with small amendments to reflect the terms used in the WDP.

F.12 I also recommend changes to the subdivision rules in Section G below to clarify the intent of the rules for properties that are partially within the CA.

F.13 In relation to NZRC evidence, I accept that the Oil Refinery is regionally significant infrastructure and is an existing highly modified industrial site. In order to provide for the ongoing operation of the refinery I recommend that a similar eligibility rule be added to the CA provisions to allow then to continue operating in accordance with the Oil Refinery Overlay provisions unencumbered by the CA provisions.

### *Right of Reply Recommendation*

F.14 I recommend that the Commissioners **accept in part** submission 158/2 and 250/36 and make the following amendments to CA.2.1

#### CA. 2.1.1 Eligibility Rules

2. Any mineral extraction activity that is located within a Quarrying Resource Area shall not be subject to the rules for the Coastal Area Land Use rules

3. Any activity within the Strategic Rural Industry Environment shall not be subject to the rules for the Coastal Area Land Use rules

4. Any activity within the Oil Refinery Overlay Area shall not be subject to the rules for the Coastal Area Land Use rules

F.15 I recommend that the Commissioners **accept in part** submission 255/7 and add the following wording to section 2.3 of the WDP:

Where a rule for a resource area overlay, scheduled overlay, environment, or precinct controls an activity by reference to a proportion or percentage of the site, the control will be limited to that part of the site to which the resource area overlay, scheduled overlay, environment, or precinct applies.

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

194. Landowners Coalition,<sup>91</sup> FFNZ<sup>92</sup> and KiwiRail<sup>93</sup> support CA.2.2.1.
195. Forest and Bird<sup>94</sup> opposes rule CA.2.2.1 as it fails to impose limits on the scale and intensity of permitted activity buildings.
196. GBC<sup>95</sup> seeks to provide for buildings ancillary to mineral extraction activities as a permitted activity by amending CA2.2.1.
197. NZDF<sup>96</sup> 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 Incorporated<sup>97</sup> 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 assessment<sup>98</sup>. 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 provision would apply a permitted activity status to buildings ancillary to mineral extraction

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<sup>91</sup> 431/9

<sup>92</sup> 253/41

<sup>93</sup> 429/12

<sup>94</sup> 467/5

<sup>95</sup> 250/37

<sup>96</sup> 450/17

<sup>97</sup> 431/9

<sup>98</sup> Pages 20 -21.

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.

Evidence and Hearing Information

- F.16 Mr Beveridge on behalf of Forest and Bird addressed the hearing via phone link and tabled evidence in relation to their submission points.
- F.17 Mr Mitchell presented evidence to the hearing on behalf of NIWA and seeks a permitted activity status for commercial and industrial activity outside high or outstanding natural character areas, and for the maintenance and minor upgrading of buildings associated with commercial or industrial activities.
- F.18 Mr Riddell presented evidence on behalf of DoC at the hearing in relation to their further submission in relation to permitted activity standards for the construction or external alteration of non habitable buildings ancillary to rural production activities in CA.2.2.1.

Right of Reply Discussion

- F.19 In relation to NIWA's submissions, the CA provisions are silent on commercial or industrial activities therefore under CA.2.2.3 they are permitted by default. Commercial and industrial activities are managed through the underlying Environments, which contain controls on bulk and location, and hours of operation et al. appropriate to each zone. If a commercial or industrial activity is assessed as a discretionary or non-complying activity it can be assessed against the objectives and policies of the CA provisions. In my opinion this is an appropriate approach and I do not consider any changes are required as a result of the submission.
- F.20 DoC seeks changes to the permitted activity standards in rule CA2.2.1 to manage the size of non habitable buildings, buildings ancillary to rural production activities in the CA through a maximum gross floor area of 200m<sup>2</sup>. DoC also seek height and colour controls for these buildings.
- F.21 I disagree with Mr Riddell on the requirement for a permitted activity standards for non-residential buildings in the CA.
- F.22 In my view the amendments proposed by Mr Riddell are too restrictive. This type of building will in my opinion almost always be located in the RPE, in highly modified landscapes on working farms, which are unlikely to be identified as HNCA and ONCA.

F.23 Mr Riddell notes in his evidence that buildings and structures ancillary to non-intensive forms of rural production are generally not located in highly visible or obtrusive locations. I agree with this opinion based on my own experiences.

F.24 The proposed permitted activity rule CA.2.2.1 only applies to the CA outside HNCA and ONCA. The rules for buildings in HNCA and ONCA as proposed apply to all buildings, and the underlying Environments also contain rules to manage bulk and location of buildings. The rules for the RPE contain provisions to manage the size of these buildings, for instance the 10m height limit proposed by Mr Riddell already exists in the RPE. The appropriate maximum floor area for buildings in the RPE is addressed in Ms McGraths evidence in **Part 7**.

F.25 The higher order objectives of the RA seek to enable rural production activities. In my opinion placing more restrictive controls on new buildings ancillary to farming would not be an efficient or effective way of achieving these objectives. I agree with the analysis in the S32 report on this topic which states.

*It is considered that the benefits of allowing farming activities to operate unencumbered by the resource consent process outweigh the risk of adverse effects on the coastal environment. This rule continues the status quo in the CCE, where only residential units require resource consent.*

Right of Reply Recommendation

F.26 I stand by my S42A recommendations.

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

203. Keryl Cooney<sup>99</sup> 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 Dodson<sup>100</sup> requests that the roof colour requirements are removed.

205. Landowners Coalition<sup>101</sup> 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 Shaw<sup>102</sup> 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 NZ<sup>103</sup> 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. DoC<sup>104</sup> 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.

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<sup>99</sup>403/1

<sup>100</sup> 407/5

<sup>101</sup> 431/9

<sup>102</sup> 469/4 and 469/5

<sup>103</sup> 462/10

<sup>104</sup> 78/22

NIWA<sup>105</sup> 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. FFNZ<sup>106</sup> also opposes the submission in part as it would apply to non-habitable farm buildings.

208. NZDF<sup>107</sup> seeks an amendment to rule CA.3.1.1 so that the restrictions on buildings applies to permanent buildings only.
209. FFNZ<sup>108</sup> 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 Hirst<sup>109</sup> 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

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<sup>105</sup> X-372

<sup>106</sup> X-518

<sup>107</sup> 450/19

<sup>108</sup> 253/44

<sup>109</sup> 440/1

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 would apply. The rules also provide for extensions to existing buildings as a permitted activity up to 50m<sup>2</sup>, 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.

*Evidence and Hearing Information*

- F.27 Mr Mitchell presented evidence to the hearing on behalf of NIWA. Mr Mitchell recommended an additional 'Criterion' to Rule CA.2.3.1 to address reverse sensitivity effects on existing lawfully established activities as follows:

*Construction or external alteration of a Residential Unit within both the Coastal Area and the Rural Production Environment but outside a High or Outstanding Natural Character Area:*

...

*d. Proximity of the residential unit to existing commercial or industrial development, facilities, infrastructure or network utilities and the risk of adverse reverse sensitivity effects.*

- F.28 Mr Riddell presented evidence on behalf of DoC at the hearing in relation to their further submissions supporting more restrictive permitted activity standards for buildings in the CA, HNCA and ONCA in CA.2.3.1, CA.3.1.1, and CA.4.1.
- F.29 Mr Riddell also recommends a maximum gross floor area of 50m<sup>2</sup> for residential buildings in the CA and HNCA, and 25m<sup>2</sup> in the ONCA as a permitted activity. Mr Riddell recommends including a maximum gross floor area of 200m<sup>2</sup> for other buildings in the CA, 100m<sup>2</sup> in the HNCA, and 25m<sup>2</sup> in the ONCA, as well as controls on the number of buildings permitted on site. Mr Riddell recommends that more than one building per site should be a discretionary activity in HNCA and non-complying in the ONCA.
- F.30 Mr Riddell also recommended reflectivity controls on all buildings, and controls on the height and frequency of buildings.

### Right of Reply Discussion

- F.31 In relation to Mr Mitchells suggested amendments, I do not consider the relief sought by NIWA is workable in this situation. Mr Mitchells amendment reads as an assessment criteria for residential units, however, the other bullet points in this rule are not assessment criteria but are triggers for a discretionary activity status. Each of the clauses in the proposed rule contains a measurable limit, for example the 8.5m height limit. If a residential unit does not breach the 8.5m height limit it is a permitted activity. Otherwise it is a discretionary activity and requires consent.
- F.32 The issue with Mr Mitchell's criterion is that it does not contain a measurable limit or value plan users can use to determine whether the residential unit is a permitted or discretionary activity. No information is before me to suggest what is an appropriate setback distance between a residential unit and NIWAs facilities, or from commercial or industrial developments, facilities and infrastructure in general as suggested in the submission.
- F.33 I note that there are reverse sensitivity setbacks applied to specific industrial developments identified as SREI and MEA. I remain of the view that reverse sensitivity setbacks are more appropriately dealt with in the underlying zoning rules, for instance a setback from the Business 4 Environment. In my opinion introducing such a rule to the Business 4 Environment at this stage of the plan change process is outside the scope of this Plan Change.
- F.34 There has not been any assessment on the impacts of such a rule requiring consent in the vicinity of commercial or industrial development. Considering the definitions of commercial activities, industrial activities and network utilities in the District Plan, such a requirement would in my view have wide ranging effects on consenting requirements for the CA, far beyond the NIWA site. I remain of the view that this issue is best managed through the application of the underlying environments, with rules to manage reverse sensitivity effects at the interface between the zones.
- F.35 Mr Riddell's recommended changes to CA2.2.1 have been discussed in relation to the permitted activity building rules for non residential buildings in Section F.18 above. I disagree with Mr Riddell on the requirement for controls on gross floor area and reflectivity controls for non residential buildings in the CA. I note that within a ONCA and HNCA all buildings are assessed under the same provisions.
- F.36 I agree with Mr Riddell that residential buildings have far greater potential to have adverse impacts on the natural character of the coastal environment due to their prevalence in the CA and through their location in highly visible and obtrusive positions.
- F.37 Applying a discretionary activity to residential units would have the advantage of providing the ability for resource consents to be declined based on inappropriate locations. It would also allow applications to be assessed against the CA objectives and policies, in particular, CA.1.3.5.
- F.38 Mr Riddell suggests that the construction or external alteration of residential buildings exceeding 50m<sup>2</sup> should be a discretionary activity. Including a maximum gross floor area of 50m<sup>2</sup> would in my opinion result in a requirement for almost all new residential buildings in the CA to obtain a resource consent. I note that due to the wording of the Residential Units definition in the WDP

Mr Riddell's proposed rule would also apply to extensions of existing buildings or the construction of ancillary buildings such as garages to require resource consent as a discretionary activity.

F.39 I agree with the S32 report (Paragraph 84) which considered but rejected continuing to require resource consents for external alterations. Paragraph 84 is reproduced below:

*Consideration was given to continuing to require resource consent for all alterations to residential units in the coastal environment. This option was rejected as being too onerous outside the ONCA and HNCA as the visual effects of an alteration is usually a small increase of an effect that already exists (the existing residential unit), rather than a new effect. It is considered that the costs and delays associated with requiring resource consent for minor building work may discourage development and investment in property, and encourage illegal building work.*

F.40 In my opinion it would be uncommon for a residential unit in the CA to fall underneath the 50m<sup>2</sup> limit proposed by Mr Riddell which would result in most residential units (and alterations and extensions) requiring resource consent as a discretionary activity. I consider this requirement unnecessarily restrictive given the wider approach to the plan change which seeks to target consent requirements to HNCA and ONCA, and provides an incentive to avoid modifying these areas. In my opinion this would not be an efficient or effective method of achieving the objectives and policies for the CA.

F.41 The RPS directs district councils to avoid adverse effects on ONCA and avoid significant effects on High Natural Character Areas and the rest of the CA.

F.42 Natural character areas are generally natural areas which are sensitive to built development. ONCA areas are generally pristine areas without any human modification. Introducing buildings into a ONCA will in my view generate adverse effects on the qualities and characteristics that contribute to the natural character values of the ONCA and the rules should therefore seek to avoid these activities.

F.43 Introducing built development into an HNCA may have adverse effects on natural character values however I consider that significant adverse effects will be avoided through the application of the proposed discretionary activity rules for height, and reflectivity. Where a consent is required, other adverse effects can be managed appropriately through the resource consent process.

F.44 In my opinion it is unlikely that rural landowners will seek to construct farm buildings within areas of HNCA or ONCA unless there is a functional need for the building in this location. This would mainly apply to buildings such as pump sheds, or large water tanks. Whether the building is a residential building or not is in my view irrelevant when considering the effects of the building on a HNCA or ONCA and I consider that one set of rules that cover both residential buildings and other buildings is appropriate.

F.45 Mr Riddell draws comparisons between the proposed rules for Outstanding Natural Landscape provisions in the Far North and Kaipara District Plans, and Landscape and Natural Character rules in the AUP. In my view the comparison with the AUP natural character rules are the most

relevant, although I consider that it is important that the ONL/ONF provisions align with the ONCA considering the policy guidance in the RPS.

- F.46 I consider that the proposed maximum gross floor areas in the AUP are appropriate to avoid adverse effects in ONCA, and avoid significant adverse effects from buildings in HNCA. I support the changes recommended by Mr Riddell in term of the gross floor area limits for HNCA and ONCA. In my view the 50m<sup>2</sup> gross floor area limit for extensions to existing buildings in the ONCA is still appropriate as an extension is not introducing built development to a previously pristine area.
- F.47 I agree with Mr Riddell that controls on the frequency of buildings is appropriate in ONCA. The underlying environment provisions generally require consent for more than one residential unit per site, however there is no limit on the number of other buildings until the maximum gross floor area, or impervious surface provisions are reached. In my opinion the rules as proposed contain a loophole where multiple 50m<sup>2</sup> buildings could be constructed as a permitted activity. In my opinion the addition of a rule to manage the frequency of buildings will provide for buildings that have a functional need to be located in an ONCA and will assist in ensuring that adverse cumulative effects are avoided in ONCA.
- F.48 I also consider that it is appropriate to introduce a height control in the ONCA. In my view the 5.5m height limit as proposed by Mr Riddell is appropriate.

Right of Reply Recommendation

- F.49 That the commissioners **accept in part** submission 78/22 and make the following amendments to the rules to section CA.3.1 and CA.4.1.

CA3.1. Discretionary Activities

1. Construction or External Alteration of a building within a High Natural Character Area:
  - a. That exceeds a height of 5.5m, or
  - b. With exterior facades (excluding joinery) coloured or painted with a colour with a light reflectance value greater than 35%, or
  - c. With a roof colour with a light reflectance value greater than 30%, or
  - d. That exceeds 50m<sup>2</sup> gross floor area.

CA4.1 Non-Complying Activities

- 2 Construction of a building within an Outstanding Natural Character Area with a gross floor area that exceeds 50m<sup>2</sup>.
  - a. With a gross floor area that exceeds 25m<sup>2</sup>, or
  - b. That exceeds a height of 5.5m, or
  - c. Where it is not the only building on the site

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

219. NIWA<sup>110</sup> 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. NZRC<sup>111</sup> 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 Nielsen<sup>112</sup> 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 Hirst<sup>113</sup> seek an amendment to the thresholds for earthworks in CA.2.3.2(a) to increase the maximum volume of material removed to 750m<sup>3</sup> 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 Hapu<sup>114</sup> supports the exception for earthworks within sand dunes in CA.2.3.3(d) for the burial of marine mammals.
224. FFNZ<sup>115</sup> 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 Bird<sup>116</sup> 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.
  - 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. NZDF<sup>117</sup> 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.

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<sup>110</sup> 542/2

<sup>111</sup> 158/5

<sup>112</sup> 359/1

<sup>113</sup> 440/2

<sup>114</sup> 238/5

<sup>115</sup> 253/41 and 45

<sup>116</sup> 467/6 and 8

<sup>117</sup> 450/18

227. FNDC<sup>118</sup> 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 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 access ways, not private coastal access. Applying the discretionary activity status to public access ways 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

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<sup>118</sup> 410/8 - 11

unjustified as a heavy handed approach in a heavily modified environment. I generally agree with the s32 assessment on CA.4.2<sup>119</sup>. 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 150m<sup>3</sup> 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 150m<sup>3</sup> in volume). The amendment sought by FNDC would allow the opportunity to undertake earthworks up to 150m<sup>3</sup> annually for the life of the District Plan, potentially equating to 1,500m<sup>3</sup> 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:

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.

Evidence and Hearing Information

F.50 Mr Beveridge on behalf of Forest and Bird addressed the hearing via phone link and tabled evidence in relation to their submission points. Mr Beveridge recommends that the provision of

<sup>119</sup> Pages 30 – 34.

public access ways through sand dunes should be a discretionary activity, and that earthworks provisions should be more restrictive.

- F.51 Mr Simmons on behalf of NZRC presented submissions to the hearing in support of their submission and seek an advice note to clarify whether the earthworks rule relates to a single instance or an aggregate volume of earthworks over the life of the project.
- F.52 Mr Day on behalf of NRC presented evidence at the hearing supporting FNDC's submission to include a control over the frequency of earthworks.
- F.53 Mr Mitchell presented evidence to the hearing on behalf of NIWA seeking exemptions for earthworks within the Business 4 Environment, and within HNCA and ONCA for the purpose of repair and maintenance of existing underground pipelines.
- F.54 Mr Riddell presented evidence on behalf of DoC seeking a number of changes to the earthworks rules. Mr Riddell seeks changes so that earthworks within sand dunes require that the original dune form should be reinstated as far as practicable after earthworks are completed.
- F.55 Mr Riddell also recommends a cut and batter limit for earthworks in ONCA and considers that the exception to the earthworks rules are unnecessary (with the exception of the burial of marine mammals) and that these types of activities could be carried out under the permitted activity thresholds of 250m<sup>3</sup> and 150m<sup>3</sup> for HNCA and ONCA respectively.
- F.56 Mr Lynaird and Ms Hirst presented a statement in support of their submission seeking to increase the limits for permitted earthworks.

#### Right of Reply Discussion

- F.57 I disagree with Mr Beveridge and consider that the provision of public access ways will result in positive effects on the dune stability, coastal ecology and protection from coastal hazards by directing foot traffic to appropriate locations to avoid erosion and damage to sand binding dune vegetation. Mr Beveridge did not present any new information at the hearing that has changed my opinion on these matters.
- F.58 In relation to NZRC and NRC's submissions on the frequency of earthworks, I have considered whether it is most appropriate to apply the limits, per project, within a temporal period (e.g. 12 months) or cumulatively over the life of the plan, as suggested by DoC. I consider that applying the earthwork limits either per project or for every 12 months would open up the potential for adverse cumulative effects on the qualities and characteristics of natural character areas. In order to provide for activities such as preparing house sites, or access, while avoiding cumulative effects on natural character values I recommend that the limits should apply over the life of the plan.
- F.59 In relation to NIWA's submissions on the exemptions for earthworks rules in the Business 4 Environment I have recommended that this change be accepted in my S42A recommendation, with a slight change to the wording proposed by Mr Mitchell. I stand by the S42A recommendation on this matter. NIWA also seek amendments to the rules for earthworks within sand dunes, HNCA and ONCA to allow for the maintenance and minor upgrading of existing pipeline infrastructure.

- F.60 NIWAs pipeline run from their site, through the sand dunes and into the CMA where they are used to provide sea water to the aquaculture facility. I acknowledge that this infrastructure is essential to NIWAs operations and are the reason for their location in this area. The area of sand dunes that the pipeline passes through is owned by DoC and is identified as a HNCA and is also an OLA. Rule CA.2.3.3 provides controls for earthworks within sand dunes with exceptions for some activities considered to have positive effects. Rule CA.2.3.3 applies to the whole CA, including areas of HNCA and ONCA however the permitted limits of earthworks volumes apply differently to each area. I do not support NIWAs proposed amendments to exempt the repair and maintenance of existing underground pipelines from the 250m<sup>3</sup> and 150m<sup>3</sup> limits for earthworks within the HNCA and ONCA.
- F.61 I am comfortable recommending the relief sought in relation to CA.2.3.3 however I question whether there is scope to make changes to the OLA based on the content of NIWA's submission. It is unclear why Mr Mitchell is seeking changes to the ONCA provisions as they do not seem to affect their site. I am unaware of any other operators of underground pipelines that would benefit from the inclusion of this rule.
- F.62 In relation to DoC's submission I do not agree with Mr Riddell's proposed amendments to CA2.3.3, specifically the phrase 'original dune form'. Many dune systems in Northland are already heavily modified from what I would consider their 'original dune form', for example through the introduction of pest animals and plants.
- F.63 I agree with the evidence presented by NIWA on this matter. In the case of a dune restoration program, the provision public access ways, or weed or pest management programs, the purpose of the activity is to alter the existing dune form to a more natural state, or protect the existing dune form. The repair and maintenance of existing pipelines and TMTA are slightly different in that there may be an acceptable adverse transitory effect. In my opinion providing for these activities is desirable for the efficient use of existing infrastructure and defence purposes respectively. I consider that these activities are appropriate provided that the dunes are restored to their previous form after the activity is complete. I am recommending amended wording so that the repair of pipelines and TMTA are permitted, but that there is a requirement to restore the dunes back into the same or similar form to that which existed prior to the earthworks being undertaken.
- F.64 In relation to DoCs submission on cut and batter faces I consider that the CA provisions also apply to the HNCA's and ONCA's so the rule set out in CA.2.3.2b already applies. To reduce duplication in the plan I suggest that CA.3.1.2 for HNCA be deleted.
- F.65 In relation to Mr Riddell's recommendation to remove the exceptions to the earthworks rule, I accept that these common earthworks activities could be undertaken under the maximum permitted volumes in most cases. These exceptions were supported by other submitters and in my opinion the proposed rules provide more clarity for plan users who wish to undertake minor earthwork activities and maintenance, unencumbered by the resource consent process.

F.66 In relation to information presented by Mr Lyniard and Ms Hirst I stand by the discussion and recommendations in the S42A report and recommend that DoCs further submission in opposition to their proposed changes be accepted.

Right of Reply Recommendation

F.67 I recommend that the Commissioners **accept in part** submission 410/9 and make the following amendments:

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|-------|---|
| 2.3.3 | Earthworks within the Coastal Area <u>but outside a Business 4 Environment or a Strategic Rural Industry Environment</u> , where:   |
| a.    | The maximum volume of material disturbed or removed exceeds 500m <sup>3</sup> over the life of the District Plan,   |
| 3.1.2 | Earthworks within a High Natural Character Area where:  |
| a.    | The maximum volume of material disturbed or removed exceeds 250m <sup>3</sup> <u>over the life of the District Plan, and</u> <del>er</del>  |
| 4.2.2 | Earthworks within an Outstanding Natural Character Area with a volume greater than 150m <sup>3</sup> <u>over the life of the District Plan</u> , unless where the work is directly associated with: |

F.68 I recommend that the Commissioners **accept in part** submission 450/18 and further submission X-372 and amend the wording to CA 2.3.3 as follows:

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|----|--|
| 3. | Earthworks within sand dunes, with the exception of earthworks associated with:  |
| a. | A dune restoration project, or   |
| b. | A weed or pest management program, or  |
| c. | The provision and maintenance of public accessways, or   |
| d. | The burial of marine mammals, <u>or</u>  |
| e. | <u>A temporary military training activity or the maintenance, minor upgrading or replacement of existing lawfully established pipeline infrastructure, provided that the dunes are returned to the same form to that which existed prior to the earthworks being undertaken.</u> |

F.69 I recommend that the Commissioners **reject** further submission X-562 and recommend the following amendment to delete CA3.1.2(b)

- |    |  |
|----|--|
| 2. | Earthworks within a High Natural Character Area where:   |
| a. | The maximum volume of material disturbed or removed exceeds 250m <sup>3</sup> <u>over the life of the District Plan, and</u> <del>er</del> |
| b. | <u>The maximum face height of any cut and/or batter faces exceeds 2m, and</u>  |

F.70 I stand by the S42A recommendation in regard to submission 440/2 and recommend that DoCs further submission X-569 be accepted.

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

237. Patuharakeke Hapu<sup>120</sup> supports the exception in CA.2.3.4(d) for vegetation removal for customary purposes.
238. FFNZ<sup>121</sup> supports CA.2.3.4(b) and CA.3.1.3(b) which enables a number of common activities related to farming.
239. Margaret Hicks<sup>122</sup> 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 Lieffering<sup>123</sup> 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 Coalition<sup>124</sup> seeks an amendment to CA.2.3.4(a) to allow routine maintenance 20m from an existing building.
242. NZTA<sup>125</sup> seeks inclusion of the following in CA.2.3.4:

Routine maintenance for the safe operation of the transport network.

243. Forest and Bird<sup>126</sup> 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 indigenous vegetation clearance should be assessed as a discretionary activity. Forest and Bird<sup>127</sup> 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 Hirst<sup>128</sup> seek an amendment to add an additional matter to rule CA.3.1.3 to provide for up to 500m<sup>2</sup> 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.

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<sup>120</sup> 238/5

<sup>121</sup> 253/42

<sup>122</sup> 517/4 – 6

<sup>123</sup> 183/11 and 12

<sup>124</sup> 431/9

<sup>125</sup> 453/22

<sup>126</sup> 467/7 and 9

<sup>127</sup> 467/10

<sup>128</sup> 440/3 and 4

245. FNDC<sup>129</sup> 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 report<sup>130</sup> 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 analysis<sup>131</sup> in regard to the activity status and 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 150m<sup>2</sup> should not be provided for as permitted activity. Like my opinion about the proposed threshold for earthworks, I disagree that a 150m<sup>2</sup> threshold for vegetation clearance will not avoid

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<sup>129</sup> 410/7

<sup>130</sup> Pages 35 – 37.

<sup>131</sup> Pages 35 – 37.

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 150m<sup>2</sup> in area). The amendment sought by FNDC would allow the opportunity to undertake vegetation clearance up to 150m<sup>2</sup> annually for the life of the District Plan, potentially equating to 1,500m<sup>2</sup> 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:

#### Evidence and Hearing Information

- F.71 Mr Beveridge on behalf of Forest and Bird addressed the hearing via phone link and tabled evidence in relation to their submission points. Mr Beveridge emphasised his submission points in relation to potential cumulative effects on indigenous vegetation.
- F.72 Mr Day on behalf of NRC presented evidence at the hearing supporting FNDC's submission to include a control over the frequency of vegetation clearance.
- F.73 Mr Riddell on behalf of DoC presented evidence at the hearing. Mr Riddell recommends that the limits on vegetation clearance should be cumulative over the life of the plan in order to avoid adverse effects on indigenous biodiversity and habitat. He considers that the rule exempting lawfully established activities is a very wide ranging and uncertain.
- F.74 Ms Hoppelthwaite presented evidence on behalf of the New Zealand Transport Agency. NZTA seeks an addition to CA 2.3.4 to permit routine maintenance for the safe operation of the transport network. In Ms Hoppelthwaites view existing roads fall within the ambit of a lawfully established activity under CA2.3.4(b), however if the rule is not intended to cover existing roads NZTA seek a specific exemption to provide for vegetation clearance.
- F.75 Mr Lynaird and Ms Hirst presented a statement in support of their submission seeking to increase the limits for permitted vegetation clearance within an HNCA from 250m<sup>3</sup> to 500m<sup>2</sup>, and to permit vegetation clearance when ONCA is on an underlying Living 3 Environment.
- F.76 Ms Hicks presented information to the hearing in support of her submission. No new information was provided that has prompted me to change my recommendations.

### Right of Reply Discussion

- F.77 In relation to Forest and Bird and NRC's submissions on the frequency of indigenous vegetation clearance, I have considered whether it is most appropriate to apply the limits, per project, within a temporal period (e.g. 12 months) or cumulatively over the life of the plan, as suggested by DoC. I consider that applying the vegetation clearance limits either per project or for every 12 months would open up the potential for adverse cumulative effects on the qualities and characteristics of natural character areas. I accept the reasoning put forward by Mr Riddell and recommend that to avoid cumulative effects on natural character the limits should apply over the life of the plan. My recommendation uses slightly different wording to what Mr Riddell has proposed.
- F.78 In relation to the exceptions to the vegetation clearance rules, I agree with Mr Riddell that the term other lawfully established activities is very wide ranging and uncertain. I am recommending that that the term be removed from CA2.3.4 b, and CA3.1.3 b.
- F.79 Given the previous amendments I consider that it is appropriate to include provision for vegetation clearance for the maintenance of the transport network. I am recommending an additional exception to the vegetation clearance rule as sought by NZTA.
- F.80 In relation to information presented by Mr Lyniard and Ms Hirst I consider that the amended limits proposed to CA.3.1.3 will potentially have significant impacts on the qualities and characteristics that contribute to HNCA's. In relation to their proposed amendment to CA.4.2 for vegetation clearance within ONCA I do not consider that this would be sufficient to avoid adverse effects on natural character values. I stand by the recommendations in the S42A report in relation to this matter.

### Right of Reply Recommendation

- F.81 I recommend that the Commissioners **accept** 453/22 and **accept in part** 467/7 X-562 and X-572 and make the following amendments to CA.2.3.3 and CA.3.1.3.

1. The destruction or clearance of an area of predominantly indigenous vegetation in the Coastal Area exceeding 500m<sup>2</sup> per site over the life of the District Plan unless the vegetation clearance is associated with:
  - a. Routine maintenance within 3m of existing buildings, or
  - b. Operation, mMaintenance and repair of existing tracks, lawns, gardens, fences, and drains and other lawfully established activities, or
  - c. Pest plant removal and biosecurity works, or
  - d. Vegetation removal for customary rights, or
  - e. Conservation planting, including planting for ecological restoration purposes, or
  - f. Routine maintenance for the safe operation of the transport network.
  
3. The destruction or clearance of an area of predominantly indigenous vegetation within a High Natural Character Area exceeding 250m<sup>2</sup> over the life of the District Plan; with the exception of vegetation clearance associated with:
  - a. Routine maintenance within 3m of existing buildings, or
  - b. Operation, mMaintenance and repair of existing tracks, lawns, gardens, fences, and drains

and other lawfully established activities, or

Papakāinga Rules CA.4.1.3 – Submission Information

255. FNDC<sup>132</sup> 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 Hapu<sup>133</sup> supports discretionary activity status for papakāinga within an ONC area.

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.

Farm Quarry Rules CA.3.1.5 Hearing Information

- F.82 Kerry Thomas presented to the hearing on behalf of FFNZ seeking an increase in the permitted volume for farm quarries from 250m<sup>3</sup> to 500m<sup>3</sup>.

Farm Quarry Rules CA.3.1.5 Discussion

- F.83 Rule CA.3.1.5 was introduced to the CA chapter as a consequential amendment to the MIN chapter. In my opinion increasing the permitted activity volume 500m<sup>3</sup> of material from an HNCA is likely to have significant adverse effects on the characteristics and qualities that contribute to the natural character values of the area. Permitting the same level of quarrying activity in the CA and HNCA provides no incentive to landowners to avoid creating adverse effects in the high value area. I do not support this proposed amendment.

Farm Quarry Rules CA3.1.5 Recommendation

- F.84 I recommend that this submission point be rejected.

<sup>132</sup> 410/13

<sup>133</sup> 238/5

### New Land Use Rules – Submission Information

259. NZRC<sup>134</sup> 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. FFNZ<sup>135</sup> 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 Beauregard<sup>136</sup> 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.

### New Land Use Rules - Recommendation

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

### Evidence and Hearing Information

- F.85 NZRC presented evidence at the hearing reiterating their view that the CA should not apply to the refinery site.

### Right of Reply Discussion

- F.86 I have considered whether NZRC should be subject to the CA overlay given the existing environment and operations, and have concluded that given they are identified in the RPS as part of the coastal environment, it is appropriate that the CA should apply. I have also considered how the chapter should provide support for existing regionally significant infrastructure with functional or operational reasons to be located in the CA. I have concluded that the addition of an eligibility rule is the most appropriate option, similar to what is recommended in the S42A report to provide for GBC at Portland as discussed in Section F above.

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<sup>134</sup> 158/2

<sup>135</sup> 253/43

<sup>136</sup> 518/1

### Right of Reply Recommendation

F.87 I recommend the Commissioners **accept** submission 158/2 and amend CA.2.1 Eligibility Rules with the following wording:

#### CA.2.1 Eligibility Rule

4 Any activity within the Oil Refinery Overlay Area shall not be subject to the rules for the Coastal Area Land Use rules

### **G. Subdivision Rules**

#### Submission Information

266. The General Trust Board of the Diocese of Auckland<sup>137</sup> 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. FNDC<sup>138</sup> seeks that the proposed subdivision provisions are retained.
268. Landowners Coalition<sup>139</sup> seeks that CA.5.1.1 and 5.1.2 are deleted.
269. Anthony Lynaird and Sarah Hirst<sup>140</sup> 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

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<sup>137</sup> 255/2

<sup>138</sup> 410/12

<sup>139</sup> 431/10

<sup>140</sup> 440/5 – x569

### Evidence and Hearing Information

- G.1 Forest and Bird addressed the hearing via phone link and tabled evidence in relation to their submission points. They sought a new subdivision rule to establish that subdivision within 100m of a Schedule 6 area is a non-complying activity to provide for public notification where the effects are likely to be more than minor. This has been addressed in Section k of Part 1 to this report
- G.2 No other substantively new material or evidence was presented in regard to subdivision however, as mentioned in relation to The General Trust Board of the Diocese of Auckland, several submitters have highlighted the need to clarify how the subdivision rule would be applied when only part of a subdivision was within an HNCA or ONCA.

### Right of Reply Discussion

- G.3 If the whole of a property is within a HNCA or ONCA, the current proposed rule is framed appropriately. If this is not the case, then the status of the whole subdivision proposal would be potentially affected including those parts outside the HNCA or ONCA.
- G.4 In my opinion the wording set out below is preferable as it will create an incentive to include the whole of an environmental feature such as HNCS or ONCS on a site to be retained within the same allotment. Having the whole feature in the ownership of only one landowner reduce the potential for multiple buildings within a feature and will provide for easier management and enhancement of the feature, through for instance weed and pest management programs.

### Right of Reply Recommendation

- G.5 I recommend the following amendments to CA5.1.1 and CA.5.1.2 and the addition of a Guidance Note as shown below.

1. Subdivision where a proposed boundary is within a High Natural Character Area is a discretionary activity.
2. Subdivision where a proposed boundary is within an Outstanding Natural Character Area is a non-complying activity.
- 3.

#### CA.5.2 Guidance Note

1. For the purposes of CA.5.1 a proposed boundary does not include the boundary of the parent allotment.

## **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 submitters<sup>141</sup> support the changes to proposed planning maps generally or in relation to their own properties.
278. Four submitters<sup>142</sup> expressed concerns about the reduction in size of the area identified for coastal protection.
279. Margaret Hicks<sup>143</sup> 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 Coalition<sup>144</sup> objects to any changes to the RPS maps that enlarge the CA.
281. NRC<sup>145</sup> 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.
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.

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<sup>141</sup> 15/2, 120/2, 441/2

<sup>142</sup> 183/7, 200/3, 201/21, 477/5

<sup>143</sup> 517/2, 3 and 7

<sup>144</sup> 431/17

<sup>145</sup> 121/2

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 submitters<sup>146</sup> 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 Auckland<sup>147</sup> requests that the CA is removed from 88 Church Street frontage.

290. Phillip and Marion Freeman<sup>148</sup> 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 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.

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<sup>146</sup> 34/1, 41/1

<sup>147</sup> 255/4

<sup>148</sup> 346/2

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 <sup>149</sup>	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 <sup>150</sup>	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.
Michael and Hazel Smith <sup>151</sup>	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 <sup>152</sup>	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.

<sup>149</sup> 5/1

<sup>150</sup> 50/1

<sup>151</sup> 234/1

<sup>152</sup> 254/1

Neil and Moira Dobbs <sup>153</sup>	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 <sup>154</sup>	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 <sup>155</sup>	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 <sup>156</sup>	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.
André & Robin LaBonté <sup>157</sup>	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 <b>Part 1</b> 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	Reject the submission.

<sup>153</sup> 118/6 and 119/6

<sup>154</sup> 263/1

<sup>155</sup> 377/2

<sup>156</sup> 417/2

<sup>157</sup> 430/3

		restrictions even if the HNC were removed.	
Grant Faber <sup>158</sup>	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 <sup>159</sup>	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.

*Evidence and Hearing Information*

H.1 Andre and Robin Labonte presented a statement to the hearing. No substantive new information in relation to the portion of their property that has been identified as HNCA was presented that has prompted me to change my original recommendations.

*Right of Reply Discussion*

H.2 I stand by the discussion in the S42A.

*Right of Reply Recommendation*

H.3 I stand by the 42A recommendation.

*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 <sup>160</sup>	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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<sup>158</sup> 44/1

<sup>159</sup> 543/1

<sup>160</sup> 350/1

#### ONC Mapping – Submission Information

298. Mary Wilson<sup>161</sup> 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

### **4.0 Conclusions and Recommendations**

6. After carefully considering the evidence received in relation to each topic, I recommend that PC887 be amended to the extent detailed in the preceding sections of **Part 4** of the ROR and as illustrated in **Attachment 2C** of **Part 1** of the ROR.
7. The revised provisions [**Attachment 2C** of **Part 1** of the ROR] have been detailed and compared against viable alternatives in terms of their costs, benefits, efficiency and effectiveness and risk in accordance with the relevant clauses of s32AA. Overall, it is considered that the revised provisions represent the most efficient and effective means of achieving the RMA and PC87.

#### **AUTHOR**



Evan James Cook  
Senior Policy Planner

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<sup>161</sup> 70/2