

# Plan Change 87: Coastal Area

## Section 32 Evaluation Report

### Prior to Notification Part 7

This is **Part 7** of the section 32 (s32) evaluation report for the Rural Plan Changes. This part should be read in conjunction with the other **Parts 1 – 9**. The general introduction, statutory assessment and analysis of higher order policy documents are contained within **Part 1**. The Rural Area (RA) objectives, policies and performance standards are evaluated in terms of s32 within **Part 2**.

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# 1. Introduction

## 1.1 Purpose of the report

1. This report is in relation to Plan Change 87 (PC97) a proposal to introduce a new Coastal Area Overlay to the Operative District Plan (WDP). The report has been prepared in accordance with the requirements of Schedule 1 of the Resource Management Act 1991 (RMA) and incorporates an evaluation under section 32. Section 32 evaluations are iterative, and therefore the evaluation in this report constitutes the initial evaluation, with this being further revised throughout the plan change process.

## 1.2 Overview and background

2. The management of coastal environment in the Whangarei district is currently undertaken through the application of the Coastal Countryside Environment (CCE) in the WDP. This zone has similar rules to the Countryside Environment (CE). The CCE is slightly more restrictive in terms of minimum lot sizes for discretionary and non-complying subdivision, and the construction and alteration of a residential unit is permitted in the CE but is a restricted discretionary activity in the CCE to manage visual effects on the coastal environment.
3. The Whangarei Coastal Management Strategy (CMS) was adopted by Council in 2002. The CMS identified deficiencies with the CCE and its inconsistent application along the Whangarei coast. To address this WDC notified a plan change (PC95) in 2011 to redefine the inland boundary of the CCE.
4. Between the submission period and the PC95 hearing, the New Zealand Coastal Policy Statement 2010 (NZCPS) became operative. The purpose of the NZCPS is to set out policies to achieve sustainable management of the coastal environment. Policy 1 of the NZCPS defines what is included in the coastal environment. Regional and district plans and policy statements are required to give effect to the NZCPS, and Northland Regional Council (NRC) resolved to undertake a mapping project to identify the coastal environment for the Northland region. PC95 was subsequently withdrawn to await NRC's completion of this mapping.
5. In 2012 NRC notified their new Proposed Regional Policy Statement (PRPS) and it became partially operative on 9 May 2016. As part of the development of the RPS, NRC mapped the landward extent of the coastal environment as well as the parts of the coastal environment that display high and outstanding natural character. The intent of this area is to identify where the policies of the NZCPS apply with respect to land use and development, public access to the coast, reducing natural hazard risk, and protection of landscape, cultural and natural heritage values. The RPS was made partially operative in May 2016
6. Under Section 75 of the RMA, district plans must give effect to regional policy statements. Method 4.5.4 of the RPS directs Territorial Authorities (TA's) to notify a plan change to incorporate the coastal environment maps into district plans within 2 years of the RPS becoming operative. Policies and methods are also included in the RPS that direct TA's to manage the effects of subdivision and development on the coastal environment. This includes encouraging development

in areas where natural character has already been compromised, avoiding natural hazards with appropriate setbacks, and controls on earthworks and vegetation clearance.

7. Under the RMA a district plan must be reviewed at least every 10 years. WDC adopted the Rural Development Strategy (RDS) in 2013, which underpins the review of the parts of the WDP dealing with the rural area. Public consultation on the RDS identified issues and priorities for the management of the rural parts of the district, including the protection of primary production activities, productive land uses and rural industry, and the identification of appropriate areas for rural residential and residential development. Plan changes have been developed to implement the RDS (PC 85A-D). These plan changes propose to replace CE and CCE with a proposed Rural Production Environment (RPE), recognising that similar primary production activities occur in both rural and coastal areas.
8. PC87 proposed new Coastal Area (CA), High Natural Character Area (HNCA) and Outstanding Natural Character Area (ONCA) Overlays be added to the WDP Resource Area maps based on the RPS mapping of the coastal environment and areas of high natural character. The existing provisions of the CCE and Chapter 10 (The Coast) will be reviewed and where necessary replaced. PC87 will be notified concurrently with PC85A, RPE and PC114 Landscapes.
9. PC87 responds directly to the objectives, policies and methods in the RPS and the NZCPS, which the WDP is required to give effect to. It also satisfies Council's obligations to review the provisions of the WDP every 10 years as required by the RMA.

## **2. Summary of the resource management issues for CA**

10. The following provides a summary of the key resource management issues identified for the CA by the NZCPS and the RPS and through previous consultation.

### **2.1 Loss of natural character in the coastal environment**

11. Natural character is a term used to measure the natural features and qualities of an area. The natural character of an area exists on a continuum between pristine and highly natural (high natural character) to highly developed, built up environments (low natural character). Pristine areas with no human modification are very sensitive to human activities. Subdivision, new buildings and structures, vegetation clearance and earthworks within these areas have potential to adversely affect natural character values.
12. The coastal environment is a very important resource for the Whangarei community. Coastal landscapes and the natural character of the coast are a source of cultural and social identity, providing a unique sense of place and a source of intrinsic public value. The coastal environment also provides tangible economic benefits through tourism and as an attractive place to live work and play. The coastal environment and its elements and qualities are highly valued by the community. However due to the sensitivity of the coastal environment there are conflicts between stakeholders wishing to retain and protect high natural character values, and pressure for subdivision and development.

13. Natural character is often the main issue of concern for development in the coastal environment. However, there is uncertainty around what natural character is and how far inland the coastal environment extends. In the past this has led to costly challenges between developers, the community and councils over the interpretation and application of natural character and the coastal environment.
14. The RPS has now mapped the coastal environment and areas of outstanding and high natural character. This information can be used to direct development to areas where natural character is already compromised and restrict development in sensitive areas through the provisions of the WDP.

## **2.2 Loss of public access to the coast**

15. The ability to access the coast is important to New Zealanders. This ability is determined by the quantity of access points, the quality of the access, and knowledge that the access exists. Councils have the power to require land next to the coast to be available for public access through the subdivision process. However, Councils have limited powers to require public access to the coast.
16. Public access is encouraged in most circumstances where subdivision occurs alongside the coast or a water body, but there are exceptions where access is undesirable (such as for health and safety reasons, or to protect important and sensitive features e.g. waahi tapu or high value flora and fauna).
17. Also in some situations particular types of access may not be appropriate, e.g. vehicle access to beaches. While there is a desire to increase public access opportunities, there is also an argument that it is good to have places that are difficult to access – no public access via land, or where access is physically difficult where we can ‘get away from it all’. That is, we know that if we make the extra effort to get there, the chances are there will be no-one or at most only a few other people.

## **2.3 Coastal hazards**

18. Development in coastal areas is potentially at risk from a different range of hazards to the rest of the district. These include coastal erosion, coastal inundation, storm surges and tsunamis. The impacts of these hazard events are projected to increase over time due to increased development in at risk areas, and sea levels rise and climate change increasing the frequency and intensity of storms. WDC uses national guidance on rising sea levels to plan for coastal hazards, and maps and information are provided by NRC to show where development may be affected by hazards over a 50 and 100 year timeframe. It is WDC’s responsibility to manage new development so that the risk of damage to life and property is reduced over time. This issue is being addressed through Plan Change 90 - Coastal hazards.

### **3. Previous consultation**

#### **Whangarei Coastal Management Strategy 2002**

19. The CMS was adopted by council in 2002 following extensive consultation with the community. Coastal communities expressed a strong desire to direct future development to the existing coastal settlements, contain residential development within strong urban boundaries and restrict development between the coastal villages. This view was also widely supported in consultation for Whangarei Growth Strategy Sustainable Futures 30/50 (30/50). Areas considered appropriate for development over the next 20 years have been identified in structure plans for 10 coastal settlements adopted by Council in 2009.

#### **Regional Policy Statement**

20. NRC have been through an extensive process to identify the inland extent of the coastal environment, as well as parts of the coastal environment that were assessed as high and outstanding natural character areas. This study was progressed at the same time as the objectives and policies for the PRPS and also included non-statutory consultation on draft areas with affected landowners. The proposed areas were refined before the Schedule 1 process and were tested by the Environment Court on appeal. With some minor adjustments to zone boundaries these appeals were settled and are now beyond challenge. It is considered that the inland extent of the coastal environment and the boundaries of the high and outstanding natural character areas are therefore appropriate and meet the purpose of the RMA.

#### **Rural Development Strategy**

21. The RDS was adopted by Council in 2013 and underpins this review the rural zones of the WDP. The RDS recognises the important contribution that rural production activities make to the Whangarei economy and seeks to protect these activities from avoidable reverse sensitivity conflicts and compromise of production land. The RDS identifies that rural land should be prioritised for rural use over residential, which should be directed to the city fringe and rural and coastal villages. The feedback on the RDS lent towards a tightening of subdivision rules in the CE and CCE to protect rural activities, and the creation of new zones to cater for rural residential and residential activities in appropriate locations – the Rural Living (RLE), Rural Village (RVE) and Rural Urban Interface Environments (RUIE), the introduction of the RPE to manage productive rural (and coastal) land.

#### **Consultation on Draft PC87**

22. A draft version of PC87 was notified for comments in August and September 2015. The draft plan change was also presented to Te Karearea on 15 June, Ngatiwai Trust Board on 26 August, Te Huinga on 29 September, and the Tutukaka Coast Residents and Ratepayers Association on 10 October. A range of feedback was received which resulted in a tightening of the proposed rules for ONCA, more distinction between proposed rules relating to the HNCA and ONCA, tightened vegetation clearance proposed provisions, and a number of exemptions to allow minor earthworks and minor vegetation clearance.

## 4. WDP – Current management of the coastal environment

### 4.1 Objectives, policies and rules for the coastal environment

23. Chapter 10 of the WDP sets out issues, objectives, and policies relating to the coast. These apply mainly to the CCE but may also be relevant to other zones (including Living Environments, the Open Space Environment and the CE) where they are in close proximity to the coast. Additional relevant policies are contained within Chapter 6 - Built Form and Development and Chapter 8 – Subdivision. CE and CCE land use rules are contained in Chapter 38, with CE and CCE Subdivision standards in Chapter 73.
24. The Chapter 10 objectives and policies seek to protect the natural character of the coast, ensure public access to the coast is provided or enhanced where appropriate, consolidate development within built up areas preferably where they can be serviced by council infrastructure, recognise the relationship of tangata whenua with their ancestral lands and waters and sites of significance, and to manage the cumulative effects of coastal development on the coastal environment.
25. In 2006 the Environment Court ruled that construction of a residential unit in CCE was to be a restricted discretionary activity<sup>1</sup>. Matters for consideration are restricted to the location and visual effects of the proposed buildings. Until recently WDC only applied this rule to the construction of new residential units. In 2009 the Environment Court ruled that Rule 38.4.1 should also apply to extensions and alterations to residential units<sup>2</sup>. This means that even small alterations and accessory buildings now require resource consent to address the visual and landscape effects of the project. This is a significant barrier to people looking to improve their properties as the costs of resource consent applications can be out of proportion with the effects of the activity, and often exceed the cost of the proposed work.
26. The CCE has similar subdivision and development provisions to the CE. Both zones have a 20ha controlled activity minimum lot size. However at the DA level the average and minimum lot sizes for the CCE are more restrictive (CE 4ha average with minimum lot size 4,000m<sup>2</sup>; CCE average 10ha with minimum lot size 6,000m<sup>2</sup>). In arriving at the minimum lot size the Environment Court noted the following<sup>3</sup>:

*So what should the minimum CA lot sizes be? On balance, having particular regard to the jurisdictional constraints we face and strategic limitations of the plan's current coastal environment provisions, we prefer the evidence of the D-G's witnesses and find that the CCE should have a minimum lot size of 20 hectares where OLA, NLA and ONF overlays do not apply. This will provide a platform, if a rather crude one, that will keep the environment reasonably safe from harm until the council can conclude its current studies and initiate Plan Change(s) that encapsulate approaches to subdivision in these sensitive areas that better address the purpose and principles of the RMA, for instance through design-based or integrated catchment analysis/management techniques.*

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<sup>1</sup> Director General of Conservation v Whangarei District Council, [2006] NZEnvC A024

<sup>2</sup> Oman Holdings v Whangarei District Council, [2009] NZEnvC A39

<sup>3</sup> Director General of Conservation v Whangarei District Council, [2006] NZEnvC A024

27. In the land use rules there are more stringent permitted activity thresholds in the CCE for the heights of buildings, aerals and telecommunications heights, size of signs. Some activities (such as construction of a residential unit and mineral extraction) require resource consent as a controlled or restricted discretionary in the CCE but are permitted in the CE.
28. The RPS now identifies the coastal environment as well as the parts of the coastal environment that display outstanding or high natural character values. This allows the development of a targeted three tier approach to the management of the coastal environment with rules that are more stringent in areas sensitive to the effects of development while allowing a relaxation of the resource consent requirements in areas where the natural character values are already compromised. This is consistent with the RPS, but was not contemplated in the structure of the existing WDP objectives.
29. It is therefore considered necessary and appropriate to introduce a new set of objectives and the RPS coastal mapping to give effect to higher order documents (including the RPS) and achieve the purpose of the RMA. The consistency of PC87 with the RPS is evaluated in sections 6.2 and 6.5 of this report.

## **5. The proposed Plan Change**

30. PC87 seeks to introduce a new Coastal Area (CA) overlay (RA) into the WDP to manage the effects of subdivision and development on the coastal environment and includes:
  - New consolidated CA Chapter with objectives, policies and rules for the CA, including land use and subdivision provisions.
  - Amendments to the WDP Resource Area maps to denote the CA, High Natural Character Areas (HNCA) and Outstanding Natural Character Areas (ONCA).
  - Consequential changes to the WDP including the deletion of Chapter 10 – The Coast, and rules relating to land use and subdivision in the CE and CCE in Chapters 38 and 73 as part of PC85A).
31. PC87 includes a description of the proposed CA to identify the environmental expectations and outcomes sought in the coastal environment through the proposed objectives and policies.
32. PC 87 proposes that the CA overlay will be the coastal environment as defined by the RPS maps. The RPS maps developed by NRC define the coastal environment, for the whole of Northland using the criteria set out in Appendix 1 of the RPS. As the RPS is partially operative it is considered that adopting this mapping in the WDP is consistent with the NZCPS, the RPS and the purpose of the RMA.
33. As part of the mapping project NRC has also completed technical assessments to identify areas within the coastal environment that display high or outstanding natural character. The RPS policies and methods set out a tiered approach for the protection of the natural character of the coastal environment based on the sensitivity of the identified natural character areas. The rules proposed

in PC87 relating to the CA, HNCA and ONCA seek to manage the effects of subdivision and development in the coastal environment with restrictions depending on the quality of natural character identified.

34. NRC's coastal environment covers a range of WDP zones including CE and CCE, Open Space, Living and Business Environments. The proposed CA overlay applies to all underlying zones except where specified in a rule.

## **6. Section 32 analysis**

### **6.1 Appropriateness in terms of purpose of the RMA**

35. Council must evaluate in accordance with section 32 of the RMA, the extent to which each objective proposed in PC87 is the most appropriate way to achieve the purpose of the RMA. To confirm the appropriateness of the proposed objectives, sections 6.1-6.6 of this report assess whether the proposed objectives are the most appropriate way to achieve the purpose of the RMA, other higher order documents and the settled higher order objectives in the WDP.
36. The proposed objectives for PC87 are as follows:

<b>TABLE 1: REASON FOR PROPOSED COASTAL AREA OBJECTIVES</b>	
<b>Proposed CA Objective</b>	<b>Reason/Issue</b>
1.2.1 Identify and protect the natural character of the Coastal Area from inappropriate subdivision, use and development.	This objective reflects that preservation of natural character is a matter of national importance that should be taken into account when making decisions under the RMA.
1.2.2 Manage the cumulative effects of subdivision and development on the amenity, landscape, and ecological values of the Coastal Area.	This objective addresses the issue of cumulative effects of development in the coastal environment and gives effect to the RPS.
1.2.3 Identify and protect areas of the Coastal Area that display high or outstanding natural character values.	This objective supports mapping of areas of high and outstanding natural character, and provides for rules to manage those areas to protect identified areas of high or outstanding natural character. This gives effect to the RPS.
1.2.4 Avoid adverse effects on the characteristics and qualities of identified Outstanding Natural Character Areas.	This objective reflects the tiered policy approach set out in the RPS for managing the parts of the coastal environment identified as an ONCA.
1.2.5 Avoid significant adverse effects, and avoid, remedy or mitigate other adverse effects on the Coastal Area and identified High Natural Character Areas.	This objective reflects the tiered policy approach set out in the RPS for managing the parts of the coastal environment outside an ONCA (including HNCA).
1.2.6 Direct development to established coastal villages and areas with existing development while retaining the special values of undeveloped parts of the coast.	This objective supports development in areas that are already compromised, giving effect to Policy 7 of the NZCPS and Policy 5.1.2 of the RPS.
1.2.7 Maintain and enhance public access to and along coastal areas where appropriate.	Public access to the coast has been restricted in some areas due to coastal development. Maintaining and enhancing public access to the coast is a matter of national importance under section 6(d) of the RMA.
1.2.8 Avoid increasing the risk of social, environmental, and economic harm from coastal hazards.	This policy reflects the risk based approach promoted in the NZCPS and RPS to managing new development in areas subject to coastal hazards.
1.2.9 Protect and enhance natural defences against coastal hazards.	This objective recognises the role of sand dunes and wetlands in buffering development against natural hazard risk and gives effect to the RPS.
1.2.10 Encourage the enhancement and rehabilitation of the Coastal Area.	This objective recognises that subdivision and development can have positive effects and provides an opportunity to restore or enhance the natural character of the coastal environment. This objective gives effect to Policy 4.7.3 of the RPS.
1.2.11 Recognise existing development and regionally significant infrastructure which has a functional need to be located in the Coastal Area.	Major infrastructure and development are often located within the coastal environment. This objective recognizes existing development and the importance of significant infrastructure, a physical resource.
1.2.12 Recognise that the Coastal Area contains undeveloped Māori Land and make allowance for the special relationship of Māori to this ancestral land.	The objective provides for papakainga development on Maori land consistent with Plan Change 94B while still providing protection of natural character areas affected. Gives effect to Policy 8.3.2 of the RPS

37. Part 2 of the RMA provides the statutory framework for the sustainable management of natural and physical resources. Section 5 outlines the purpose and principles of the RMA. Section 6 lists matters of national importance that shall be recognised and provided for, and Section 7 lists other matters that all persons exercising functions and powers under the RMA it shall have particular regard to. Section 8 concerns matters relating to the principles of the Treaty of Waitangi. A number of these factors are directly relevant to PC87.

38. Table 2 below demonstrates that the proposed CA objectives achieve the purpose of the RMA. Some sections within Part 2 of the RMA are not relevant to PC87 or are specifically addressed by other Resource Area provisions within the WDP. With regard to section 8, consultation with Tangata Whenua has been undertaken as part of the plan change process and no matters have been identified that would indicate that PC87 is inconsistent with section 8.

**TABLE 2: LINKAGE OF PROPOSED CA OBJECTIVES WITH PART 2 OF THE RMA**

		Proposed Coastal Area Objectives											
		1.2.1	1.2.2	1.2.3	1.2.4	1.2.5	1.2.6	1.2.7	1.2.8	1.2.9	1.2.10	1.2.11	1.2.12
<b>Resource Management Act Part 2 Sections</b>	5(2)(a)	√	√	√	√	√	√	√	√	√	√	√	√
	5(2)(b)	√	√	√	√	√	√		√	√	√		
	5(2)(c)	√	√	√	√	√	√	√	√	√	√		
	6(a)	√	√	√	√	√	√		√	√	√		
	6(b)		√								√		
	6(c)	√	√								√		
	6(d)							√					
	6(e)							√					√
	7(b)						√		√		√	√	
	7(c)	√	√	√			√	√			√		
	7(f)	√	√	√	√	√	√		√	√	√	√	
	7(g)	√	√	√	√					√		√	
	7(i)								√	√			
8							√					√	

39. Having assessed the proposed objectives against Part 2 of the RMA it is considered that they are consistent with the purpose of the RMA and promote the sustainable management of natural and physical resources.

## 6.2 Appropriateness in relation to higher order documents

40. The provisions of higher order documents were considered in the formulation of the objectives and policies in PC87. Of particular relevance to PC87 are the NZCPS, the RPS, the Long Term Plan 2015 – 2025 (LTP), 30/50, and the CMS.
41. Part 1 of the Rural Plan Changes section 32 package provides an evaluation of the overarching objectives and policies for the Rural Area in relation to relevant higher order documents. Table 3 provides an overview of the proposed CA objectives' links to the relevant higher order documents.

**TABLE 3: LINKAGE OF PROPOSED CA OBJECTIVES WITH RELEVANT HIGHER ORDER DOCUMENTS**

		Proposed Coastal Area Objectives											
		1.2.1	1.2.2	1.2.3	1.2.4	1.2.5	1.2.6	1.2.7	1.2.8	1.2.9	1.2.10	1.2.11	1.2.12
Relevant Higher Order Documents	NZCPS	√	√	√	√	√	√	√	√	√	√	√	√
	RPS	√	√	√	√	√	√	√	√	√	√	√	√
	LTP						√	√					
	30/50	√	√				√	√	√				
	CMS	√	√	√			√	√	√	√	√	√	

### 6.3 New Zealand Coastal Policy Statement

42. The purpose of the NZCPS is to state policies regarding the management of natural and physical resources in the coastal environment to achieve the purpose of the RMA in relation to the coastal environment. Local authorities are required by the RMA to give effect to the NZCPS through their plans and policy statements.
43. The NZCPS emphasises ‘appropriate’ use of the coastal environment. Objectives focus on, for example, the protection of natural character and management of the coastal environment from inappropriate subdivision, use and development. NZCPS Objective 6 in particular recognises the need to enable people and communities to provide for their social, economic and cultural wellbeing and their health and safety, through subdivision, use and development of the coastal environment.
44. NZCPS Policy 1 relates to the extent and characteristics of the coastal environment. NRC has identified in the RPS the inland extent of the coastal environment. These maps have been through an extensive consultation and submission process and it is considered that the areas identified meet the purpose of the RMA and define the appropriate area where the provisions of the NZCPS should apply. The RPS maps have been adopted for PC87, however it is noted that there may be minor errors that can be corrected through the submission process.
45. NZCPS Policy 3 relates to the adoption of a precautionary approach towards proposed activities whose effects on the coastal environment are uncertain, unknown, or little understood, such as climate change, and sea level rise. This Policy is addressed by rules in PC90 – Coastal Hazards however the objectives (CA.1.2.8 and CA.1.2.9) are included in PC87 to allow consideration of the effects of climate change and natural hazards on new development at the time of subdivision.
46. NZCPS Policy 6 states that in relation to the coastal environment, consolidation of existing settlements and urban areas should be encouraged where this will contribute to the avoidance of

sprawling or sporadic patterns of settlement and urban growth. It is expected that this will be achieved through a combination of permissive and restrictive zoning as part of PCs 85, 86 and 87.

47. NZCPS Policy 6 also directs councils to consider controls on visual impacts of development, and setbacks from the coastal marine area to protect natural character, open space, public access and amenity values. The policy is addressed in PC87 through controls on building location and design, including colour controls, height limits and building setbacks.
48. NZCPS Policy 7 relates to strategic planning for the coastal environment. This policy will be given effect to by PC87 through a three tier approach to development in the CA based on existing natural character values. This approach seeks to direct development away from areas identified as outstanding natural character, and towards areas where natural character has been compromised by development. In areas identified as high natural character some forms of development may be appropriate when effects are considered. The provisions recognise that outstanding and high natural character areas are sensitive to adverse effects of subdivision and development, including cumulative effects, and that in the coastal environment development should be directed to other areas.
49. NZCPS Policy 13 addresses the preservation of natural character. This policy is reflected in the objectives, policies and methods that relate to identified high and outstanding natural character areas.
50. NZCPS Policy 14 relates to restoration of natural character. This Policy is reflected in the provisions of the RPS and this theme is carried through in to the objectives and policies of PC87. PC87 identifies that restoration can be achieved through the setting of conditions as part of the resource consent process. However if (financial) incentives are to be provided to encourage restoration or rehabilitation than this will need to be addressed under the LTP and annual plan process.

#### **6.4 Regional Policy Statement**

51. The RPS was made partially operative in May 2016. All appeals bar one are settled and all matters relating to PC87 are now beyond challenge. The appeals mainly related to the inland extent of the coastal environment and the boundaries of the high and outstanding natural character areas. The RPS provisions are quite prescriptive with regard to how subdivision and development should be managed in the coastal environment and contain much more guidance as to what should be included in district plans than the previous RPS. The RPS directs Councils when preparing district plans to:
  - Protect the qualities and characteristics that make up the natural character of the coastal environment from inappropriate subdivision use and development (Policy 3.14)
  - Maintain and/or improve the natural character of the coastal environment (Policy 3.15)
  - Include methods in district plans to manage the effects of subdivision and the development of land for the purposes of improving the overall quality of fresh and coastal waters (4.2.2)

- Where appropriate, require esplanade reserves and esplanade strips where they will contribute to maintaining or improving water quality (4.2.2)
- Promote new appropriately vegetated riparian buffer zones, including on esplanade reserves or esplanade strips (4.2.2)
- Consider the adoption of low impact urban design techniques to minimise the potential adverse effects of contaminants on receiving waters, such as using constructed and restored wetlands (4.2.2)
- Map the coastal environment, and areas of high and outstanding natural character within the coastal environment, as shown in the RPS (Method 4.5.4)
- Avoid adverse effects of subdivision use, and development on the characteristics and qualities which make up the outstanding values of areas of outstanding natural character, outstanding natural features and outstanding natural landscapes (Policy 4.6.1)
- In other areas avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of subdivision, use and development on natural character, natural features and natural landscapes (Policy 4.6.1)
- Include objectives policies, methods, or incentives to promote active management and rehabilitation and restoration of natural character (Method 4.7.4)
- Enable appropriate subdivision use and development in the coastal environment that:
  - Consolidates urban development within or adjacent to existing coastal settlements
  - Avoids sprawling or sporadic patterns of development
- Ensure sufficient development setbacks from the CMA to maintain and enhance public access, open space and amenity values and allows for the natural functioning of coastal processes and ecosystems (Policy 5.12)
- Promote water storage (including within constructed wetlands), water harvesting, and water conservation methods for new developments and changes in land use, and encourage retrofitting of existing buildings for the purposes of water conservation (Method 4.3.6)
- Avoid adverse effects of on threatened or at risk indigenous taxa, areas of indigenous vegetation and habitats of indigenous fauna (Policy 4.4.1)
- Include in the district plan methods to control the location intensity and form of subdivision, buildings and structures, earthworks and indigenous vegetation removal (Method 4.6.3)
- Recognise positive effects of pest control erosion control, water quality and habitat improvements the protection of biodiversity and outstanding natural features, and restoration of ecological corridors (Policy 4.7.1)

- Promote rehabilitation and restoration of natural character in wetlands rivers, lakes estuaries and their margins, undeveloped landforms between settlements, remnants of coastal vegetation, high natural character areas, and land adjacent to outstanding natural character areas, outstanding natural features, and outstanding natural landscapes. (Policy 4.7.3)
- Recognise the historical, cultural, and social importance of marae and papakāinga, and enable their ongoing use and development in regional and district plans (Policy 8.3.2).

52. The proposed provisions in PC87 give effect to the objectives, policies and methods of the RPS.

## 6.5 30/50

53. 30/50 provides an overarching framework that sets the direction of growth in the district, and informs the suite of planning documents required to fulfil the functions of local government. The 30/50 seeks to manage growth sustainably, focusing on consolidated growth adjacent to developed areas, infill development, a transition of development from urban to rural, and providing a choice of living styles and locations. The 30/50 notes that:

*Future development options are, and will continue to be, influenced by past development. A substantial amount of recent land development has occurred outside of the urbanised area of our main settlements. This type of development is often considered lifestyle development, and has been very popular in many parts of the district. This has led to an oversupply of lifestyle lots in many parts of the district. There are estimated to be around 6,000 vacant lots across the district, many of these in rural and coastal areas. The existing availability of this number of vacant lots scattered across the district will impact on efforts to create a more consolidated settlement pattern for a considerable period of time.*

54. The Implementation plan for 30/50 sets out steps to achieve the strategic direction. A number of these relate to the zoning of land and the district plan provisions. These include:

*4.4 Incorporate the provisions of the Whangarei Coastal Management Strategy and New Zealand Coastal Policy Statement 2010 (NZCPS) that relate to strategic land use planning into the District Plan so as to support the future settlement pattern, and associated infrastructure, outlined in the Whangarei Growth Strategy. In particular, policies 6 and 7 of the NZCPS relating to activities and strategic planning in the coastal environment need to be incorporated into the District Plan.*

55. PC87 is consistent with the key themes of consolidated development, infill, transition, and choice, and specifically gives effect to Policy 6 and 7 of the NZCPS as recommended by the 30/50 Implementation Plan.

## 6.6 Appropriateness in relation to the WDP

56. The proposed CA objectives (in conjunction with the Rural Plan Changes) will replace the provisions in Chapters 6 and 10. The proposed objectives have been assessed against the

anticipated environmental results expected in the WDP. Of relevance are the following anticipated environmental results:

- Land use and development is consistent with the preservation and/or enhancement of amenity values appropriate to each particular Environment
- A pattern of land use and development complementary to the character of the locality, whilst at the same time avoiding conflicts between incompatible land use activities.
- Sporadic, sprawling or ribbon development patterns of coastal development are avoided.
- A pattern of consolidated land use and development that allows for the efficient use and development of natural and physical resources, avoids sporadic subdivision and ribbon development, particularly along the coast, and ensures a density of development appropriate to the location
- The protection of the District's versatile soils, water quality, natural features, landscapes, open spaces, significant ecological areas, biodiversity, public access to coast, lakes and rivers, heritage, cultural and amenity values from inappropriate subdivision and development

57 It is considered that the proposed objectives in PC87 directly relate to, and give effect to the anticipated environmental results in the WDP

## **6.7 Effectiveness and efficiency of proposed policies and methods**

58. A section 32 assessment must determine whether the proposed provisions (policies and methods) are the most appropriate way to achieve the proposed objectives by undertaking a cost benefit analysis of the economic, social, environmental and cultural effects of the provisions including whether opportunities for economic growth and employment are reduced or increased. The risk of acting or not acting where uncertain information exists must also be considered.

## **6.8 Consideration of alternatives (zone or overlay)**

59. The PC87 proposals have been assessed against the status quo, continuing with the current management regime for the coastal environment. This option was rejected as it would not give effect to the NZCPS and the RPS. The higher order documents have been developed since the WDP was made operative, and contain much stronger guidance for managing subdivision and development in the coastal environment than the documents that guided the development of the WDP.

60. Alternative courses of action that were considered were:

- Replace the CCE zone boundaries with the RPS coastal environment mapping, but retain the existing CCE provisions.
- Replace the CCE with a new Environment (zone) consistent with the RPS coastal environment mapping but with new provisions.

- Replace the CCE with a Resource Area overlay consistent with the RPS coastal environment mapping with new provisions (Plan change option).

61. The RDS identified that activities taking place in the CE and CCE are very similar and could be covered by one zone (the proposed RPE). Where those activities occur in the coastal environment it is considered appropriate that extra provisions apply to recognise the special values and character of the coastal environment. The CA overlay, including the HNCA and ONCA are district wide provisions that address issues that occur over multiple underlying zones and do not follow property boundaries. The coastal environment as set out by NRC in the RPS is consistent with the format of the other Resource Area overlays in the WDP, such as the flood susceptible areas or landscape areas, and it was therefore considered most appropriate that the coastal environment should be managed by a CA Resource Area overlay in addition to the underlying zoning (the plan change option).

## 6.9 Mapping

62. Mapping of the coastal environment and the areas of high and outstanding natural character was defined by NRC as part of the RPS. This was subject to an extensive consultation process including submissions, hearings, and the Environment Court appeal. This mapping was done to provide a consistent approach to identifying the coastal environment and natural character areas for the whole of Northland.

63. Mapping of the coastal environment is based on biophysical factors rather than property boundaries. The extent of the inland boundary of the coastal environment was appealed to the Environment Court<sup>4</sup>. The decision issued contained the following relevant excerpts:

*[3] The appeals arose from decisions of the Northland Regional Council (the Council) in reviewing its Regional Policy Statement. The Council's response to the requirements of the New Zealand Coastal Policy Statement 2010 was to adopt a process using the elements described in Policy 1 of the NZCPS to define and map the Northland Coastal Environment.*

*[9] We were satisfied by the evidence presented by Mr G N Mortimer on behalf of the Council that the methodology and process used to map the Coastal Environment were thorough and contained a range of checks which provided a sound basis for defining the Coastal Environment in Northland. We noted that the mapping process included the development and use of a clear and legally robust methodology based on guidance from NZCPS Policy 1 and case law. We also accepted what constitutes the Coastal Environment will vary from place to place and according to the position from which the place is viewed and that as a result a degree of judgement was required rather than a formulaic approach.*

64. The RPS directs councils to implement the RPS maps in district plans within 2 years or at the first relevant plan change. It is not considered efficient or effective to re-litigate the settled mapping and as areas have been defined through the non-statutory and statutory consultations and subsequent

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<sup>4</sup> Crawford & McGarry v Northland Regional Council [2015] NZEnvC 181

hearing and Court processes very recently, it is considered that the mapping meets the purpose of the RMA, and should be adopted for PC87 to give effect to the RPS.

## **6.10 Proposed Coastal Area provisions**

65. The proposed CA provisions are assessed below. The proposed provisions are grouped into provisions relating to similar aspects and in each instance alternative options, such as maintaining the status quo or implementing more restrictive or less restrictive provisions, are considered. The following table demonstrates that the policies proposed for the CA implement the proposed CA objectives, and that the methods (rules and mapping) proposed for the CA implement the proposed CA policies.

<b>TABLE 4: LINKS BETWEEN COASTAL AREA OBJECTIVES, POLICIES AND METHODS</b>		
<b>Proposed CA Objective</b>	<b>Proposed CA Policy</b>	<b>Proposed CA Method</b>
1.2.1 Identify and protect the natural character of the Coastal Area from inappropriate subdivision, use and development.	CA.1.3.1, 1.3.2, 1.3.3, 1.3.6, 1.3.7, 1.3.8, 1.3.12, 1.3.13 and 1.3.17	CA.2.3, 3.1, 4.1 and 4.2 CA.5.1.1 and 5.1.2 Mapping
1.2.2. Manage the cumulative effects of subdivision and development on the amenity, landscape, and ecological values of the Coastal Area.	CA.1.3.1, 1.3.2, 1.3.4, 1.3.5, 1.3.6, 1.3.7, 1.3.10, 1.3.12, 1.3.13, 1.3.14, 1.3.15, 1.3.17, 1.3.19 and 1.3.20	CA.2.3, 3.1, 4.1 and 4.2 CA.5.1.1 and 5.1.2
1.2.3 Identify and protect areas of the Coastal Area that display high or outstanding natural character values.	CA.1.3.2, 1.3.3, 1.3.7, 1.3.8 and 1.3.14	CA.3.1, 4.1 and 4.2 CA.5.1.1 and 5.1.2 Mapping
1.2.4 Avoid adverse effects on the characteristics and qualities of identified Outstanding Natural Character Areas.	CA.1.3.2, 1.3.4, 1.3.7, 1.3.8 and 1.3.14	CA.4.1 and 4.2 CA.5.1.2 Mapping
1.2.5 Avoid significant adverse effects, and avoid remedy or mitigate other adverse effects, on the Coastal Area and identified High Natural Character Areas.	CA.1.3.1, 1.3.2, 1.3.4, 1.3.5, 1.3.6, 1.3.7, 1.3.8, 1.3.9, 1.3.10, 1.3.12, 1.3.14 and 1.3.17	CA.2.3 and 3.1 CA.5.1.1 Mapping
1.2.6 Direct development to established coastal villages and areas with existing development while retaining the special values of undeveloped parts of the coast.	CA.1.3.2, 1.3.6, 1.3.7 and 1.3.8	CA.2.2.1 CA.3.1, 4.1 and 4.2 CA.5.1 Mapping
1.2.7 Maintain and enhance public access to and along the coast where appropriate.	CA.1.3.11 and 1.3.12	CA.2.2.2, 2.3.3(c) and 2.3.4(b) CA.3.1.3(e)(i) and 3.1.4(b) CA.4.2.1(c)
1.2.8 Avoid increasing the risk of social, environmental, and economic harm from coastal hazards.	CA.1.3.16, 1.3.17 and 1.3.18	CA.2.3.3(a) and 2.3.4 CA.3.1.4 CA.4.2.1(d)(i) CA.5.1
1.2.9 Protect and enhance natural defences against coastal hazards.	CA.1.3.16 and 1.3.17	CA.2.3.3(a) and 2.3.4(e) CA.3.1.4(e) CA.4.2.1(d)(i)
1.2.10 Encourage the enhancement and rehabilitation of the Coastal Area.	CA.1.3.12, 1.3.13, 1.3.14, 1.3.15 and 1.3.20	CA.2.3.3 and 2.3.4 CA.3.1.3(e) and 3.1.4 CA.4.2.1
1.2.11 Recognise existing development and regionally significant infrastructure which has a functional need to be located in the Coastal Area.	CA.1.3.21 and 1.3.23	CA.2.2.1, 2.2.2 and 2.3.4(b) CA.3.1.3(e) CA.4.1.2 and 4.2.1
1.2.12 To recognise that the Coastal Area contains undeveloped Maori Land and make allowance for the special relationship of Maori to this ancestral land.	CA.1.3.22	CA.2.3.3(d) and 2.3.4(d) CA.3.1.3(e)(i) and 3.1.4(d) CA.4.1.3 and 4.2.1(d)(iv)

## 6.11 Eligibility rule

66. The following proposed provision and its appropriateness in achieving the CA objectives are evaluated below.

### **CA.2.1 Eligibility Rule**

1. *The rules below apply in addition to the rules of the underlying Environment. Where the standards are different between the underlying Environment and the Coastal Area the most restrictive rule will apply.*
67. The proposed eligibility rule establishes the planning framework for how the proposed CA provisions will be applied in conjunction with the underlying Environment rules. The provision is considered necessary to provide clarity to users of the WDP that the coastal provisions of the WDP are moving from the Environment layer to the Resource Area layer. Were the provision not stated the likelihood of misunderstanding of the new planning framework would increase and could lead to unnecessary consenting costs. The proposed eligibility rule is therefore considered to be efficient and effective in achieving the objectives of PC87.

### **6.12 Permitted Activities**

68. The following proposed provisions implement policies CA.1.3.12 and 1.3.21 relating to allowing the continuation of rural production activities in the CA.

#### **CA.2.2 Permitted Activities**

1. *Construction of non habitable buildings ancillary to rural production or network utility activities outside a High or Outstanding Natural Character Area is a permitted activity.*
  2. *Maintenance and minor upgrading of buildings and structures associated with public parks and reserves, network utilities, or community infrastructure is a permitted activity.*
  3. *Any other activity not requiring consent as a discretionary or non-complying activity is a permitted activity.*
69. The proposed provisions recognise the importance of rural production activities and seek to allow them to continue unencumbered by the resource consent process. These types of building are expected in the rural (coastal) environment, and are more likely to occur on working farms which are generally not identified as high or outstanding natural character areas. 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.

The permitted activity rules also recognize that public parks and reserves, network utilities, and community facilities are important to our coastal communities. Routine maintenance and minor upgrades are required from time to time to ensure that levels of service are met and maintained. These activities are therefore provided for as permitted activities.

<b>TABLE 5: PERMITTED ACTIVITIES</b>	
<b>Costs</b>	<b>Benefits</b>
<p><u>Environmental</u> Visual and landscape effects of barns, packing sheds, buildings on parks and reserves or cow sheds in the Coastal Area</p> <p><u>Economic</u> Permitted buildings in unmodified coastal areas may reduce neighbouring land values.</p> <p><u>Social</u> Farm buildings could potentially compromise valued unmodified areas</p> <p><u>Cultural</u> Potential for buildings or network utilities in the coastal environment to affect archaeological sites.</p>	<p><u>Environmental</u> Most areas where farming operations are occurring are by their nature highly modified environments that do not have high natural character values to protect. Protection of the environment by providing for preventative maintenance of network utilities.</p> <p><u>Economic</u> Will allow farmers to invest in farm improvements rather than costs associated with the resource consent process improving productivity. Savings to ratepayers as maintenance and minor upgrading of services and infrastructure are able to be carried out without the requirement for resource consent and associated costs.</p> <p><u>Social</u> Gives farmers flexibility to efficiently use the rural land resource. Allows for the maintenance and minor upgrading of community infrastructure.</p> <p><u>Cultural</u> None identified</p>
<b>Economic Growth and Employment Opportunities</b>	
<p>Permitting farm buildings will allow farmers and primary producers to make improvements to their farming operations to make them more efficient and viable in the long term. This provide opportunities for employment and economic growth in the farming, building, and agricultural and building supplies sectors.</p>	
<b>Efficiency</b>	<b>Effectiveness</b>
<p>Allowing farm buildings will allow farmers to respond quickly to changes in the agricultural climate with minimal costs.</p> <p>Allows for the efficient maintenance and upgrading of community facilities and network utilities when required.</p>	<p>The proposed provisions provide clear methods of managing building height and appearance in a manner which will contribute towards achieving the objectives of the CA by maintaining visual amenity and landscape values within the CA.</p>
<b>Risk of acting and not acting if there is uncertain or insufficient information</b>	
<p>The proposed provisions aim to avoid risks associated with the adverse effects that built development can have on sensitive landscapes in the CA while permitting farming activities to continue unhindered.. Therefore, the risk of acting is low. The risk of not providing permitted activity standards is low to moderate as the visual effects of buildings would not be controlled and could have adverse affects on the CA.</p>	

### 6.13 Residential units outside a HNCA or ONCA

70. The following proposed provisions implement policies CA.1.3.2, CA.1.3.4 and CA.1.3.5, relating to the visual impacts of buildings in the CA:

#### **CA.2.2 Discretionary Activities**

1. *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:*
  - a. *That exceeds a height of 8.5m, 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%.*

71. The construction or alteration of residential units in the CCE currently require resource consent as a restricted discretionary activity under the WDP. Discretion is restricted to the visual impacts of the building, and also address landscaping, building location, and how visible the building will be from public viewpoints.
72. The RPS has mapped areas of high and outstanding natural character. This presents an opportunity to have more restrictive rules in the most sensitive parts of the CA and less restrictions in other areas, rather than the generic approach currently taken in the current WDP (Rule 38.4.1) where all construction or alteration of a residential unit requires resource consent.
73. A review of consents granted for residential units in the CCE identified that conditions are generally applied that manage the colour and height of buildings.
74. The height of buildings is an important component in amenity considerations, and within a landscape context, the height of buildings can be a determining factor in how visually dominant a building is over the natural elements of its setting. Within the CCE the construction or alteration of a building no higher than 8.5m is provided for as a permitted activity. Where the building height exceeds 8.5m it triggers an assessment as a restricted discretionary activity.
75. The existing CCE height limit is proposed to be retained. However construction and alteration of residential units above this height level are proposed to be assessed as a discretionary activity. This will allow proposals to be assessed against the policies for the CA which seek to encourage buildings that are not visually dominant and blend in with their landscape setting.
76. Consideration was given to imposing a more restrictive height limit. However, this would not accurately reflect existing development in the CA. Additionally, the CA comprises a large area within the district and it is considered that imposing a highly restrictive building height limit, particularly outside of HNCA or ONCA where amenity levels are lower, may significantly hinder development potential.
77. Consideration was also given to imposing no height limit and instead relying on the underlying Environment height limit (which in most cases would be 10m in the proposed RPE). It is considered that this would not accurately reflect the expectations within the CA and could adversely affect the amenity and natural character values within the CA.
78. It is considered that the existing 8.5m height limit within the CCE and WDP Notable Landscape Area has operated efficiently and effectively. Having assessed alternatives, the proposed 8.5m height limit is considered the most appropriate method within the CA for managing building height outside of HNCA and ONCA.
79. Building reflectivity can have adverse effects on character and visual amenity where it is not consistent with or complementary to the visual appearance of the site and surrounding

environment. Currently there are no WDP provisions managing the reflectance value of building colour, however exterior colour for all residential units in the CCE is a matter that discretion is restricted to under rule 38.4.1 of the WDP.

80. The colour of an object is determined by its ability to absorb or reflect visible light. Light Reflectance Value (LRV) measures the amount of visible light reflected off a surface and is used to predict how light or dark a colour will appear.
81. The proposed values of 35% and 30% for exterior facades and roofs are commonly used for resource consent conditions for dwellings in the CCE assessed under Rule 38.4.1 of the WDP. Colours in this range are generally considered appropriate to the coastal environment while still providing a wide range of colour choices.
82. Consideration was given to retaining the status quo, where no reflectivity requirements are specified in the WDP and visual effects are managed on an individual basis through conditions of consent. It is considered more efficient and effective to provide for developments that can comply with the standard consent conditions relating to height and colour as a permitted activity, and to require a more site specific assessment of effects through the resource consent process for developments that do not meet the performance standards specified.
83. Consideration was given to having no height limits on building alterations and extensions, but rejected as it could lead to perverse outcomes if large extensions potentially have greater visual effects and adverse effects on natural character than the original residential unit.
84. 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.
85. PC87 proposes height limits and colour restrictions for extensions to residential units above which consent will be required. The rule only applies to areas outside HNCA and ONCA, and where the underlying environment is RPE. Applying colour and height restrictions was considered in other zones however the purpose of the underlying zoning is to facilitate built development (eg Living 1 Environment or RVE) extra controls were not considered necessary.
86. It is considered that the proposed provisions relating to residential units within the CA, but outside of HNCA and ONCA, are the most appropriate way of achieving the CA objectives and give effect to the RPS. The following table further assesses the appropriateness of the proposed provisions.

**TABLE 6: RESIDENTIAL UNITS OUTSIDE HNC or ONC AREAS**

Costs	Benefits
<p><u>Environmental</u></p> <p>Will decrease the development potential within some sites compared to the proposed building height of 10m within the RPE.</p> <p>Potential visual effects as colours of residential units are not managed on a case by case basis</p> <p><u>Economic</u></p> <p>Requirement for resource consents with associated cost to applicant if colour and height provisions are not met.</p> <p>Increased restrictions on development when compared to the less restrictive alternative.</p> <p><u>Social</u></p> <p>Restricts the colour choice for permitted Residential units compared to the status quo of no reflectance value provision.</p> <p><u>Cultural</u></p> <p>None identified.</p>	<p><u>Environmental</u></p> <p>The proposed height and reflectance value provisions will limit adverse effects on neighbouring properties and the wider coastal environment.</p> <p>Compared to the less restrictive proposed 10m building height in the RPE, the proposed 8.5m height limit reduces the risk of potential adverse effects due to lighting, shading, privacy, etc.</p> <p><u>Economic</u></p> <p>Many landowners will be able to build or redevelop their dwellings under the proposed provisions without incurring the costs of applying for resource consents.</p> <p>The proposed reflectance value provision relies on a measurable standard which will provide clarity for interpretation and implementation and may reduce consenting costs.</p> <p>Smaller extensions and alterations no longer resource consent.</p> <p><u>Social</u></p> <p>Well-being of landowners is protected through the proposed provisions as the height limit is similar to the existing provisions, and the reflectance value limit will mitigate adverse effects on visual amenity and landscape values. Landowners will be able to make minor extensions and alterations to their houses without having to enter the resource consent process.</p> <p>Maintains the amenity levels anticipated within the CA better than a less restrictive alternative would.</p> <p>Clear rules for ease of use and understanding.</p> <p><u>Cultural</u></p> <p>None identified.</p>
<p><b>Economic Growth and Employment Opportunities</b></p>	
<p>There is a low impact in terms of economic growth and employment associated with the proposed provisions. Building height and appearance provisions have a direct relationship to the amenity and character of an area. These controls have the ability to increase or decrease development costs associated with built development. Building costs do have an effect on overall economic growth. However, it is considered that the provisions present reasonable mitigation with a low cost implication.</p>	
Efficiency	Effectiveness
<p>The proposed provisions efficiently administer building height and appearance without being overly prescriptive and by providing clarity for the public. Consent will not be required for minor building works with minor adverse effects.</p>	<p>The proposed provisions provide clear methods of managing building height and appearance in a manner which will contribute towards achieving the objectives of the CA by maintaining visual amenity and landscape values within the CA.</p>
<p><b>Risk of acting and not acting if there is uncertain or insufficient information</b></p>	
<p>The proposed provisions aim to avoid risks associated with the adverse effects that built development can have on natural character. Therefore, the risk of acting is low.</p> <p>The risk of not acting is moderate as the height and reflectance value of residential units would not be controlled and could allow inappropriate development to occur that could have adverse affects on the CA and not give effect to the RPS.</p>	

## 6.14 Buildings within High Natural Character Areas

87. The following proposed provisions implement policies CA.1.3.1, CA.1.3.3, CA 1.3.4 and CA1.3.21 relating to the effects of buildings on natural character values.

### **CA.3.2 Discretionary Activities**

3. *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%.*
88. Under the RPS parts of the coastal environment have been identified as High Natural Character Areas. These areas are sensitive to built development and adverse effects on the high landscape, amenity, cultural, ecological and intrinsic values of the coastal environment. Policy 4.6.1 of the RPS seeks to manage adverse effects on the characteristics and qualities which make up the values of these areas.
89. The RPS policies seek to avoid significant adverse effects in areas of high natural character. Approximately 23% of the proposed coastal area has been identified as HNCA. In order to trigger an assessment of the effects of buildings on the characteristics and qualities of these areas it is appropriate to require a resource consent for visually prominent buildings in these areas, therefore they have been proposed as discretionary activities.
90. The height of buildings can have a significant effect on the prominence and visual impact of the building, particularly in areas that are dominated by natural elements. The proposed permitted activity criteria for HNCAs allows for construction or alteration of a building below a height of 5.5m. This provides for a single story building to be constructed without resource consent, with proposals for higher buildings a discretionary activity.
91. Building reflectivity can also have adverse effects on visual amenity and natural character where it is not consistent with or complementary to the visual appearance of the site and surrounding environment. Currently there are no WDP provisions managing the light reflectance value (LRV) of buildings. Considered was given to retaining the status quo and imposing no reflectivity requirement however rather than including LRV limits in conditions of consent as has been the current practice, it is considered more efficient and effective to state an acceptable baseline in the WDP, and only require consent for situations where these levels are proposed to be exceeded. Therefore it is considered appropriate to set a limit on the reflectance of buildings in HNCA to reserve the ability to assess applications that exceed this limit.
92. The proposed reflectance values of 35% and 30% for exterior facades and roofs respectively are commonly used values in conditions of consent for residential units in the coastal countryside. These limits are considered to provide an appropriate balance between protecting the elements

and characteristics that contribute to natural character values while still allowing landowners to select from a wide range of colour choices for their buildings.

93. The proposed provisions will impose a lower level of control over built development in HNCAs than in the ONCA where all buildings with a gross floor area over 50m<sup>2</sup> are proposed to be a discretionary activity. This recognises that a carefully designed building in an appropriate location on the site may be able to be constructed without adverse effects in an ONCA and gives effect to policy 4.6.1 of the RPS.
94. Consideration was given to not including building height or appearance provisions within HNCAs. However building height and reflectance value can potentially result in adverse effects on the natural character of an area. It is considered appropriate to include rules to manage these aspects and ensure that applications are appropriately assessed.
95. Consideration was also given to using the same height and appearance provisions as proposed under CA.2.3.1. This included exempting buildings other than residential units (such as farm buildings) from the height and colour controls. However as HNCAs are more sensitive to the effects of built development than the CA outside HNCA or ONCA and given that the visual effects of non habitable buildings on natural character values are very similar to that of a residential unit, it is considered appropriate to apply more stringent rules.
96. It is considered appropriate that the proposed provisions relating to buildings within HNCA are the most appropriate way of achieving the CA Objectives. The following table further assesses the appropriateness of the proposed provisions.

**TABLE 7: RESIDENTIAL UNITS WITHIN A HIGH NATURAL CHARACTER AREA**

<b>Costs</b>	<b>Benefits</b>
<p><u>Environmental</u> Will decrease the development potential compared to the underlying proposed building height of 10m within the RPE and the proposed 8.5m building height under CA.2.2.1.</p> <p><u>Economic</u> Requirement for resource consents with associated cost to applicant if provisions are not met. Increased restrictions on development when compared to the less restrictive alternative. Larger farm buildings may require resource consent.</p> <p><u>Social</u> Restricts the colour choice for buildings compared to the status quo of no reflectance value provisions.</p> <p><u>Cultural</u> None identified.</p>	<p><u>Environmental</u> The proposed height and reflectance value provisions for buildings will limit adverse effects onto neighbouring properties and the wider environment. Compared to the less restrictive alternative 10m and 8.5m building height limits, the proposed 5.5m height limit reduces the risk of potential adverse effects due to lighting, shading, privacy, etc. Encourages larger scale development to be located in more appropriate areas.</p> <p><u>Economic</u> The proposed reflectance value provision relies on a measurable standard which will provide clarity for interpretation and implementation and may reduce consenting costs.</p> <p><u>Social</u> Amenity, landscape and intrinsic values of HNCA will be protected and enhanced by the proposed provisions more so than they would through less restrictive alternatives. Clear rules for ease of use and understanding.</p> <p><u>Cultural</u> None identified</p>
<b>Economic Growth and Employment Opportunities</b>	
<p>There is a low impact in terms of economic growth and employment associated with the proposed provisions. Building height and appearance provisions have a direct relationship to the amenity and character of an area. These controls have the ability to increase or decrease development costs associated with built development. Building costs do have an effect on overall economic growth. However it is considered that the provisions present reasonable mitigation with a low cost implication.</p> <p>While the provisions may restrict development it is envisioned that they will encourage development in more appropriate areas.</p>	
<b>Efficiency</b>	<b>Effectiveness</b>
<p>The provisions efficiently administer building height and appearance without being overly prescriptive and by providing clarity for the public.</p>	<p>The proposed provisions provide clear methods of managing building height and appearance in a manner which will contribute towards achieving the objectives of the CA by maintaining natural character values within the CA.</p>
<b>Risk of acting and not acting if there is uncertain or insufficient information</b>	
<p>The proposed provisions aim to avoid risks associated with the adverse effects that built development can have on sensitive natural character areas. Therefore, the risk of acting is low. The risk of not acting is low to moderate as the reflectance value of buildings would not be controlled and could have adverse affects on the CA, especially within HNCA.</p>	

**6.15 Buildings within Outstanding Natural Character Areas**

97. The following proposed provisions implement policies CA.1.3.1, CA.1.3.3, CA 1.3.4 and CA1.3.21 relating to the effects of buildings on natural character values.

**CA4.1 Discretionary Activities**

1. *External alterations or extensions greater than 50m<sup>2</sup> gross floor area of an existing building within an Outstanding Natural Character Area.*
  2. *Construction of a building within an Outstanding Natural Character Area with a gross floor area that exceeds 50m<sup>2</sup>.*
98. Under the RPS parts of the coastal environment have been identified as areas of outstanding natural character. Policy 4.6.1 of the RPS seeks to avoid the adverse effects of subdivision use and development on the characteristics and qualities which make up the outstanding values of these areas.
99. Approximately 11% of the proposed CA in the Whangarei district has been identified as having outstanding natural character. This represents approximately 0.7% of the total district's land area. Areas of outstanding natural character are generally entirely natural or pristine areas and have very high landscape, amenity, and intrinsic, cultural and ecological values. These areas are generally unmodified and are highly sensitive to the effects of new built development.
100. The RPS reflects the strong policy wording of the NZCPS in relation to areas of outstanding natural character. The policy states that adverse effects on the characteristics and qualities of areas of outstanding natural character are to be avoided. In order to give effect to the NZCPS and the RPS the provisions relating to ONCAs must by necessity be quite restrictive. Nevertheless some carefully designed and located buildings may be able to be accommodated within areas of ONCA without causing adverse effects. It is therefore proposed that small buildings, or extensions to existing buildings below 50m<sup>2</sup> gross floor area be a permitted activity, and that larger buildings within these areas should be discretionary activities.
101. The overarching objectives and policies seek to protect primary production activities in rural and coastal areas. The proposed rules make an allowance for small buildings up to 50m<sup>2</sup> to be constructed as a permitted activity, as well as small (up to 50m<sup>2</sup>) extensions to an existing building. This recognises the primary production functions of the rural and coastal area, and that some buildings (such as pump sheds, public toilets, DoC huts) have a functional need to locate in certain locations. Land in the rural area is generally comprised of larger allotments with more capacity to absorb the effects of built development. It is noted that under the definitions in the WDP gross floor area does not include covered parking areas or loading and unloading bays and that the 50m<sup>2</sup> limit for buildings or extensions is consistent with the proposals for outstanding natural landscapes in Plan Change 114, and building restrictions in the Open Space Environment in the WDP.
102. Consideration was given to setting a maximum permitted activity height limit in ONCA however even a single story building may adversely effect natural character values within an ONCA and therefore should be assessed. While the proposed provision will result in additional consenting costs it will protect important environmental, social and cultural values. It is considered that the costs associated with the option of allowing for a permitted activity other than small farm or accessory buildings are too high and would not be consistent with the objectives of the CA.

103. Consideration was given to applying a more restrictive activity status such as non-complying or prohibited to buildings in ONCA. Both the HNCA and ONCA are new resource areas that have never been identified in the WDP planning maps previously. Pre notification consultation identified landowners who had recently bought property with the reasonable expectation that they would be able to build a residential dwelling. It is also recognised that a carefully designed building may be accommodated on lots with areas identified as ONCA without generating adverse effects. Discretionary activity status allows the effects of a proposal to be assessed against the objectives and policies for the CA as well as the receiving environment. The application can be declined if the effects on natural character are considered inappropriate or if the proposal is contrary to the objectives and policies.
104. It is noted that subdivision within an ONCA is proposed to be a non-complying activity. This recognises the existing landowners expectations and that investments may have already been made in providing building platforms and access ways for proposed buildings while signalling that further subdivision and development within ONCA is generally considered inappropriate.
105. Given the sensitivity of ONCA and the policy direction that applies to them it is considered that more restrictive provisions than those applying to HNCAs and the rest of the CA are appropriate. It is considered that the proposed provisions relating to buildings within ONCA are the most appropriate way of achieving the CA Objectives. The following table further assesses the appropriateness of the proposed provisions.

**TABLE 7: BUILDINGS WITHIN AN OUTSTANDING NATURAL CHARACTER AREA**

<b>Costs</b>	<b>Benefits</b>
<p><u>Environmental</u> Allowing farm buildings and small extensions as a permitted activity may generate adverse effects in ONCAs</p> <p><u>Economic</u> Requirement for resource consents with associated cost to applicant if provisions are not met. Increased restrictions on development when compared to less restrictive alternatives.</p> <p><u>Social</u> Restrictions on building size may reduce options for housing within ONCA</p> <p><u>Cultural</u> Restrictions on buildings may affect papakainga development projects.</p>	<p><u>Environmental</u> The proposed limits on building size will allow an assessment of adverse effects on natural character values for all but the smallest buildings to be undertaken through discretionary activity status. Encourages development to be located in more appropriate areas where there are alternatives. Reduced need for earthworks for building platforms and accessways in ONCA</p> <p><u>Economic</u> The proposed building size limits is a measurable standard which will provide clarity for interpretation and implementation and may reduce consenting costs. Highly valued areas of the coastline are protected from encroachment of built development.</p> <p><u>Social</u> Amenity, landscape and intrinsic values of ONCA that are valued by the community will be protected and enhanced by the proposed provisions more so than they would through less restrictive alternatives. Clear rules for ease of use and understanding.</p> <p><u>Cultural</u> None identified</p>
<b>Economic Growth and Employment Opportunities</b>	
<p>There is a low impact in terms of economic growth and employment associated with the proposed provisions. Identified areas of outstanding natural character make up less than 1% of the District's land area with many areas in public reserve land or in remote areas. ONCA Building size provisions have a direct relationship to the amenity and character of an area, these controls have the ability to increase or decrease development costs associated with built development. While the provisions may restrict development it is envisioned that they will encourage development in more appropriate areas and protect pristine areas that are highly valued for recreation and tourism.</p>	
<b>Efficiency</b>	<b>Effectiveness</b>
<p>The provisions set clear limits on building size in ONCA.</p>	<p>The proposed provisions provide clear methods of managing buildings in a manner which will contribute towards achieving the objectives of the CA by maintaining and enhancing natural character in the CA.</p>
<b>Risk of acting and not acting if there is uncertain or insufficient information</b>	
<p>The proposed provisions aim to avoid risks associated with the adverse effects that built development can have on sensitive natural character areas. Many of the properties identified with ONCA are in public ownership. Therefore, the risk of acting is low. The risk of not acting is moderate as the plan change would not give effect to the NZCPS or RPS and adverse affects on the natural character of the CA could occur.</p>	

## 6.16 Earthworks

106. The following proposed provisions implement policies CA.1.3.1, CA.1.3.14, CA.1.3.15, CA.1.3.16, CA 1.3.22 relating to the management of the effects of earthworks on natural character, water quality, sand dunes and the functional need for infrastructure located in the coastal environment:

### CA.2.3 Discretionary Activities

2. *Earthworks within the Coastal Area where:*
  - a. *The maximum volume of material disturbed or removed exceeds 500m<sup>3</sup>, or*
  - b. *The maximum face height of any cut and/or batter faces exceeds 2m.*
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.*

#### **CA3.1 Discretionary Activities**

2. *Earthworks within a High Natural Character Area where:*
  - c. *The maximum volume of material disturbed or removed exceeds 250m<sup>3</sup>, or*
  - d. *The maximum face height of any cut and/or batter faces exceeds 2m, and*
  - e. *The earthworks are not associated with:*
    - i. *The repair and maintenance of fences, utility connections, driveways, parking areas, effluent disposal systems, swimming pools, garden amenities, gardening, planting of any vegetation, walking or cycling tracks, farm and forestry tracks; or the burial of marine mammals; or*
    - ii. *Any legally established mineral extraction activity.*

#### **CA.4.2 Non-Complying Activities**

1. *Earthworks with a volume greater than 150m<sup>3</sup> within an Outstanding Natural Character Area, unless the work is directly associated with :*
    - a) *The repair and maintenance of fences, utility connections, driveways, parking areas, effluent disposal systems, swimming pools, or farm and forestry tracks; or*
    - b) *Garden amenities, gardening or the planting of any vegetation, or*
    - c) *The provision and maintenance of public walking or cycling tracks, or*
    - d) *Earthworks within sand dunes associated with:*
      - i. *A dune restoration project, or*
      - ii. *A weed or pest management program, or*
      - iii. *The provision and maintenance of public accessways, or*
      - iv. *The burial of marine mammals.*
107. Earthworks in the coastal environment can adversely affect amenity, landscape and ecological values and, particularly in coastal dunes, can reduce the protection that natural systems provide against coastal hazards. Earthworks also have the potential to exacerbate the effects of natural

hazards and must be carefully managed to avoid adverse downstream effects, particularly in areas susceptible to coastal flooding.

108. Under the WDP any earthworks within a Notable Landscape Area (which has a significant overlap with the proposed CA) are currently provided for as a permitted activity if the volume of earthworks does not exceed 500m<sup>3</sup> and the maximum face height of any cut and/or batter face does not exceed 2m. In the WDP Outstanding Landscape Area any earthworks are currently provided for as a permitted activity if the volume of earthworks does not exceed 500m<sup>3</sup>, the area does not exceed 250m<sup>2</sup>, the maximum face height of any cut and/or batter face does not exceed 2m and bare earth areas are revegetated to achieve 80% ground cover within 12 months of the earthworks being commenced. Earthworks over 5,000m<sup>3</sup> require resource consent under the Regional Water and Soil Plan.
109. Method 4.6.3 of the RPS directs district councils to include methods in their district plans to control the location and scale of earthworks (outside wetlands and the beds of lakes, rivers and the coastal marine area) to give effect to Policy 4.6.1. This Policy seeks to avoid adverse effects of subdivision use and development on the characteristics and qualities which make up the outstanding values of areas of outstanding natural character, and avoid significant adverse effects in other areas.
110. Within the CA (but outside HNCA or ONCA) it is proposed to use the same volume limits and maximum batter face height as the existing WDP Notable Landscape Areas. It is considered that the 500m<sup>3</sup> volume limit and the 2m face height limit have efficiently and effectively managed earthworks within these sensitive environments and is an appropriate method to retain for the CA to avoid significant adverse effects as required by the RPS.
111. The proposed limits will allow for minor earthworks associated with farm quarries, site preparation for buildings and the construction of accessways to be undertaken without consent for most sites within the CA. On steeper or elevated sites or for site preparation for larger homes and buildings more earthworks than the 500m<sup>3</sup> limit or 2m batter may be required. These activities can potentially generate significant adverse effects and requiring consent as a discretionary activity is considered appropriate in order to trigger an assessment of effects and the ability to apply suitable conditions of consent.
112. The proposed rule also excludes a number of activities with minor or positive effects where it is considered that the costs of applying and processing consents would be unjustified. This includes minor earthworks associated with gardening and maintenance of driveways, tracks and trails. There are also exceptions to allow for the provision of public accessways, dune care programs, weed and pest programs, and for the expeditious burial of marine mammals in the case of a whale stranding.
113. It is otherwise proposed to require consent as a discretionary activity for any earthworks within a HNCA and as a non complying activity for any earthworks within an ONCA. As these areas are more sensitive environments than elsewhere within the CA it is considered that more stringent rules are appropriate. The activity status classifications are proposed to reflect this and to give

effect to RPS Policy 4.6.1 requirement to avoid adverse effects in ONCA and avoid significant effects in HNCA.

114. One option considered for managing earthworks within HNCA and ONCA was to allow for permitted activity status where certain performance standards are met. However due to the high amenity and landscape values and potential susceptibility to coastal hazards within these areas, it is considered more appropriate that all earthworks within HNCA and ONCA be discretionary or non-complying activities (unless they fall within the minor exceptions) rather than to allow for permitted activities.
115. During pre-notification consultation comments were received from NRC and the Department of Conservation requesting that exemptions be provided for certain activities involving earthworks. The purpose of the proposed provisions is to manage adverse effects associated with earthworks, and the proposed exemptions are largely considered to have minor or beneficial effects. The exemptions have therefore been included in the proposed provisions.
116. It is considered that the proposed provisions relating to earthworks within the CA are the most appropriate way of achieving the CA objectives and giving effect to the RPS. The following table further assesses the appropriateness of the proposed provisions.

**TABLE 8: EARTHWORKS**

<b>Costs</b>		<b>Benefits</b>	
<p><u>Environmental</u> Will decrease development potential compared to the status quo and less restrictive alternatives.</p> <p><u>Economic</u> Requirement for resource consents with associated cost to applicant if provisions are not met. Resource consent required for earthworks (except for exemptions) within HNCA, ONCA and within sand dunes.</p> <p><u>Social</u> None identified.</p> <p><u>Cultural</u> None identified.</p>		<p><u>Environmental</u> Provisions aim to reduce the likelihood of coastal hazards associated with earthworks and protect and enhance amenity, landscape and ecological values within the CA. Reduce adverse effects of sedimentation in fresh and coastal water bodies Exemptions allow for appropriate dune restoration and management work.</p> <p><u>Economic</u> Reduces the costs associated with coastal hazards associated with earthworks. Provisions provide for exemptions to allow for suitable activities, such as farm forestry tracks and legally established mineral extraction activities, which can benefit economic wellbeing.</p> <p><u>Social</u> Enhances human safety better than the status quo or a less restrictive alternative. Provisions provide for exemptions to allow for suitable activities, such as gardening and walking tracks, which can benefit social wellbeing. Utilises similar performance standards as status quo to provide familiarity to WDP users.</p> <p><u>Cultural</u> Provisions help protect cultural values of CA while allowing for activities such as mammal burial.</p>	
<b>Economic Growth and Employment Opportunities</b>			
<p>The proposed provisions aim to manage earthworks within the CA while still allowing for works associated with activities such as farming and mineral extraction so as not to place undue restrictions on these industries. The proposed activity status provisions within HNCA and ONCA will result in the requirement for resource consent for most proposed developments are not considered to significantly affect economic growth and employment opportunities.</p>			
<b>Efficiency</b>		<b>Effectiveness</b>	
<p>The provisions are considered to be efficient when compared to the alternatives which could inflict significant environmental costs. Additionally the economic costs are reduced by the proposed provisions by allowing for appropriate exemptions.</p>		<p>The proposed provisions contribute towards achieving the objectives of the CA by avoiding increasing the risk of social, environmental and economic harm from coastal hazards associated with earthworks and by avoiding and/or mitigating significant adverse effects on the CA and identified HNCA and ONCA.</p>	
<b>Risk of acting and not acting if there is uncertain or insufficient information</b>			
<p>The proposed provisions aim to avoid risks associated with coastal hazards associated earthworks and effects on amenity and landscape values. Therefore the risk of acting is low.</p> <p>The risk of not acting is low to moderate as the status quo is more permissive and may allow for earthworks which adversely affect amenity, landscape and ecological values within the CA or may exacerbate natural hazards and the status quo does not give effect to the RPS.</p>			

## 6.17 Vegetation Clearance

117. The following proposed provisions implement policies CA.1.3.1, CA.1.3.10, CA.1.3.17 relating to the protection of indigenous vegetation in the CA.

### **CA.2.3 Discretionary Activities**

4. *The destruction or clearance of an area of predominantly indigenous vegetation exceeding 500m<sup>2</sup> in the Coastal Area; with the exception of vegetation clearance associated with:*
  - i. *Routine maintenance within 3m of existing buildings, or*
  - ii. *Operation, maintenance and repair of existing tracks, lawns, gardens, fences, drains and other lawfully established activities, or*
  - iii. *Pest plant removal and biosecurity works, or*
  - iv. *Vegetation removal for customary rights, or*
  - v. *Conservation planting, including planting for ecological restoration purposes.*

### **CA3.1 Discretionary Activities**

3. *The destruction or clearance of an area of predominantly indigenous vegetation exceeding 250m<sup>2</sup> within a High Natural Character Area; with the exception of vegetation clearance associated with:*
  - a. *Routine maintenance within 3m of existing buildings, or*
  - b. *Operation, maintenance and repair of existing tracks, lawns, gardens, fences, 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.*

### **CA.4.2 Non-Complying Activities**

2. *The clearance of more than 150m<sup>2</sup> of contiguous indigenous vegetation within an Outstanding Natural Character Area.*

118. Indigenous vegetation cover is an important component of natural character. Vegetation clearance can have significant adverse effects on amenity, landscape and ecological values and therefore is not desirable in the CA, particularly in HNCA and ONCA.

119. The proposed provisions within the CA utilise similar performance standards as the status quo within the Living Environments, CE and CCE. However the status quo provides for vegetation clearance within 5ha area of predominantly indigenous vegetation, or within 1ha area of predominantly indigenous vegetation over 6.0m in height, as a permitted activity where certain performance standards are met. One of the performance standards in the WDP are that the total clearance of indigenous vegetation within a site must be no more than 500m<sup>2</sup> where the clearance

is for the purpose of providing a house site and/or access to a house site or is to provide access to existing farming or forestry activities. Where the performance standards are not met consent is required as a discretionary activity.

120. CA.2.3.4 proposes similar limits to the existing provisions, with exemptions for minor works that may exceed the stated limits. However where the vegetation clearance is within a HNCA or ONCA the trigger for a resource consent is lower, being 250m<sup>2</sup> and 150m<sup>2</sup> respectively. This reflects that areas with high natural character values are more sensitive to change than the remainder of the coastal environment.
121. During pre-notification consultation, comment was received requesting that the exemption for the provision of a building platform be retained. Consideration was given to the option of retaining the status quo, including the 500m<sup>2</sup> limit for building sites and access. However in more sensitive natural character areas a lower limit was considered more appropriate.
122. Under the WDP vegetation clearance of indigenous vegetation within a Notable Landscape Area (which has a significant overlap with proposed CA) is currently provided for as a permitted activity where the clearance area is less than 1ha. Vegetation clearance may exceed 1ha, provided certain performance standards are met. Proposed provision CA.3.1.3 (a) is more stringent as the limit is proposed to be 250m<sup>2</sup>. This level of vegetation clearance is considered appropriate to provide for building platforms for smaller buildings anticipated in HNCA.
123. Within the WDP Outstanding Landscape Area the WDP indigenous vegetation clearance is currently a permitted activity where the trees are endangering human life or an existing structure, the clearance is for a new fence to exclude stock from the area, the clearance is beneath a canopy of production forest, or it is in accordance with Maori custom. It is proposed to provide more streamlined rules and require consent for any indigenous vegetation clearance over 150m<sup>2</sup> within an ONCA. The policy direction in the RPS is stronger in relation to ONCA than HNCA and states that adverse effects of subdivision and development are to be avoided on the outstanding characteristics and qualities of these areas. The level of permitted vegetation clearance proposed is consistent with the proposed rules in PC114 Landscape and the graduated limits between CA, HNCA, and ONCA also reflect the limits in the earthworks provisions. This recognises that vegetation clearance is likely to be a precursor to earthworks for providing access and building platforms in the CA.
124. Consideration was given to requiring resource consent for all vegetation clearance however it was noted in the pre notification consultation that there were some cases where it was desirable to allow a permitted level of vegetation clearance. This is reflected in the exemptions to rule CA2.3.4, and CA3.1.3. In general people living in the CA value areas of native vegetation and the risk of allowing a modest level of vegetation clearance was considered preferable to more restrictive provisions which may encourage landowners to remove vegetation before the provisions took effect, or to incrementally remove vegetation to circumvent rules in the future .

125. It is considered that the proposed provisions relating to indigenous vegetation clearance within the CA are the most appropriate way of achieving the CA objectives. The following table further assesses the appropriateness of the proposed provisions.

<b>TABLE 9: VEGETATION CLEARANCE</b>	
<b>Costs</b>	<b>Benefits</b>
<p><u>Environmental</u> Will decrease development potential compared to less restrictive alternatives.</p> <p><u>Economic</u> Requirement for resource consents with associated cost to applicant if provisions are not met. Resource consent required for most indigenous vegetation clearance within HNCA and ONCA.</p> <p><u>Social</u> None identified.</p> <p><u>Cultural</u> Indigenous vegetation clearance over 50m<sup>2</sup> in accordance with Maori custom is no longer a permitted activity.</p>	<p><u>Environmental</u> Provisions aim to enhance amenity, landscape and ecological values within the CA. Exemptions allow for appropriate restoration and biosecurity works.</p> <p><u>Economic</u> Provisions provide for small scale clearance activities in less sensitive natural character areas without requiring resource consents</p> <p><u>Social</u> Provisions provide for exemptions to allow for suitable activities, such as gardens and tracks, which can benefit social wellbeing. Utilises similar performance standards as status quo to provide familiarity to WDP users.</p> <p><u>Cultural</u> None identified.</p>
<b>Economic Growth and Employment Opportunities</b>	
<p>It is considered that the proposed provisions will not significantly impact economic growth and employment opportunities as the standards are similar to existing provisions. However the plan change will increase the area where restrictions on vegetation clearance will apply.</p>	
<b>Efficiency</b>	<b>Effectiveness</b>
<p>The provisions are considered to be efficient as they will utilise similar standards as the status quo to allow for familiarity and ease of understanding for WDP users and it is considered that the benefits outweigh the costs.</p>	<p>The proposed provisions contribute towards achieving the objectives of the CA by maintain and enhancing the amenity, landscape and ecological values within the CA.</p>
<b>Risk of acting and not acting if there is uncertain or insufficient information</b>	
<p>There is a risk that introducing rules that protect indigenous vegetation will give people incentives to incrementally remove indigenous vegetation., However in general people value areas of bush on their property for amenity reasons, erosion control and increased land values.</p> <p>Not including rules around vegetation clearance would leave coastal forests with no statutory protection and would not give effect to the RPS.</p>	

## 6.18 Subdivision

126. The following proposed provisions implement policies CA.1.3.2, CA.1.3.5, CA.1.3.6, CA.1.3.7, CA.1.3.8, CA.1.3.9, CA.1.3.10, CA.1.3.11, CA.1.3.12, CA.1.3.20 and CA.1.3.23 relating to subdivision activity.

### **CA.5.1 Eligibility Rules**

1. *Subdivision within a High Natural Character Area is a discretionary activity.*
2. *Subdivision within an Outstanding Natural Character Area is a non-complying activity.*

3. *All other subdivision proposals will be assessed against the following policies and the provisions of the underlying Environment.*

127. Subdivision within the CA will generally be managed by the subdivision provisions in the underlying environment. However it is proposed to classify subdivision in HNCA and ONCA as discretionary and non complying activities respectively. Under this approach subdivision proposals within a HNCA or ONCA will have a greater level of protection by triggering an assessment against the objectives and policies in Section CA.1.2 and CA.1.3 in addition to the policies of the underlying zoning.
128. If a subdivision proposal within the CA is identified as a controlled activity and does not fall within an HNCA or ONCA, the CA policies will not be considered in the assessment. It is expected that this will generally occur within Environments that provide for subdivision and development through a controlled activity (such as the Living 1 or proposed Rural Village Environment), and that development in these areas will generally be appropriate, consolidating new development in areas where natural character values are already compromised.
129. The NZCPS and RPS are prescriptive in their approach to subdivision and development in areas of high and outstanding natural character. These documents stipulate that adverse effects are to be avoided in areas of outstanding natural character, and that significant adverse effects are to be avoided, remedied or mitigated in areas of high natural character. The WDP is required to give effect to these higher order documents.
130. The proposed activity status recognise that subdivision and the resulting development that it facilitates is generally considered inappropriate in ONCA. In HNCA development may be appropriate given consideration of the scale and nature of the proposal and the sensitivity of the receiving environment. Conditions of consent may be imposed in these areas to maintain or improve natural character values through methods such as re-vegetation programs, weed and pest control, or conservation covenants.
131. It is considered that the proposed provisions relating to subdivision within the CA are the most appropriate way of achieving the CA objectives, while meeting the requirements of higher order documents. The following table further assesses the appropriateness of the proposed provisions.

<b>TABLE 10: SUBDIVISION</b>	
<b>Costs</b>	<b>Benefits</b>
<p><u>Environmental</u></p> <p>Controlled activity subdivision based on the underlying environment will not trigger an assessment against the CA policies provided the proposal is not HNCA or ONCA.</p> <p>Effects on the coastal environment will not be assessed unless the activity status is discretionary (HNCA) or non-complying (ONCA).</p> <p><u>Economic</u></p> <p>Requirement for resource consents as a discretionary or non-complying activity for subdivision in HNCA and ONCA.</p> <p><u>Social</u></p> <p>None identified</p> <p><u>Cultural</u></p> <p>None identified</p>	<p><u>Environmental</u></p> <p>Will limit sprawling subdivision within HNCA and ONCA and encourage development in areas where these values are already compromised.</p> <p>Applications that may result in adverse effects on natural character can be assessed against the appropriate policies and managed through conditions of consent, or declined.</p> <p><u>Economic</u></p> <p>The provisions provide for development in areas of the coast that have not been identified as HNCA or ONCA. This will allow the consolidation of development and the efficient</p> <p><u>Social</u></p> <p>Consolidated development can make social services in rural and coastal villages more viable.</p> <p>Provisions will protect the amenity and landscape values inherent to the HNCA and ONCA and which provide value to social wellbeing.</p> <p><u>Cultural</u></p> <p>Provisions will protect the cultural values inherent to the HNCA and ONCA better than the status quo.</p>
<b>Economic Growth and Employment Opportunities</b>	
<p>The provisions provide for subdivision as a controlled activity in areas outside HNCA or ONCA. This will allow development outside sensitive areas leading to economic growth and employment in the land development, infrastructure and construction industries. There also may be employment opportunities in weed and pest management where conditions of consent are imposed.</p>	
<b>Efficiency</b>	<b>Effectiveness</b>
<p>The mapping of natural character areas will allow provisions to be applied only in those relevant areas, rather than assessing effects on natural character values on a case by case basis throughout the whole CA.</p>	<p>The proposed provisions contribute towards achieving the objectives of the CA by protecting natural character values within the CA through the avoidance of inappropriate subdivision and development in HNCA and ONCA.</p>
<b>Risk of acting and not acting if there is uncertain or insufficient information</b>	
<p>The NRC mapping project has identified areas with high or outstanding natural character with a high level of certainty means that each proposal does not require an assessment of effects on natural character on a case by case basis.</p> <p>Not implementing rules that protect HNCA and ONCA areas would put the natural character values at risk and would not meet the purpose of the RMA or give effect to the RPS.</p>	

## 6.19 Papakainga

132. The following proposed provision implements policy CA.1.3.22 relating to papakainga development.

### **CA4.1 Discretionary Activities**

3. *Papakāinga development on ancestral Māori land within an Outstanding Natural Character*

Area.

133. Section 6(e) of the RMA specifically recognises the relationship of Maori and their culture and traditions to their ancestral land as a matter of national importance. Council is providing for this relationship by advancing Plan Change 94B Papakainga to the WDP. The plan change seeks to remove barriers to the development of ancestral Maori land by reducing duplication in processes between the Maori Land Court and the requirements of the WDP.
134. The RPS notes in Section 2.5 (Issues of Significance to Tangata Whenua):
- Māori land administration issues have led to under-development of that land. This lack of development has meant that Māori land is often highly valued by the wider community for its indigenous biodiversity, landscape, or amenity values, which may consequently further restrict development by tangata whenua. While the reasons for a lack of development on Māori land and returned Treaty settlement assets are complex, and many of the issues and solutions are outside the scope of the RPS, there are opportunities within the RMA framework to assist tangata whenua to realise the social, cultural and economic potential of their land. (p23)*
135. Much ancestral Maori land within the CA is undeveloped due to administrative, logistical and financial difficulties imposed by, or as a direct consequence of, Te Ture Whenua Maori Act. However, because of the ancestral relationship these are often the only areas where the hapu or whanau concerned can develop papakainga. Because this land has not been developed and has remained in or regenerated in native bush cover it often meets the criteria for identification as either a HNCA, ONCA or an outstanding landscape area, resulting in more barriers to development.
136. Pre notification consultation identified a view that restrictions on land use to protect landscape and natural character values disproportionately affected Maori landowners, and contradicted the work being done under PC94B.
137. It is expected that papakainga development could occur under the proposed provisions for the CA and HNCA, particularly when no subdivision provisions are triggered. However due to the strong policy wording in the RPS which seeks to avoid adverse effects on natural character, it would be difficult to gain consent to develop buildings in areas identified as ONCA. It was decided to include a provision with a supporting objective and policy to recognise that papakainga development may be appropriate within an ONCA to provide for the relationship between tangata whenua and their ancestral land. A discretionary activity status was selected, recognising that papakainga development may be appropriate depending on design, scale and location.
138. Consideration was given to making papakainga development a permitted or controlled activity in these areas however this would not give effect to the RPS which seeks to avoid adverse effects in ONCA. Controlled activity applications must be granted which does not allow Council any discretion should a papakainga development proposal demonstrably conflict with the objective of protecting such areas. The checks and balances provided by the discretionary resource consent application process allow for the aspirations of the Maori land owners to be balanced against the effects on the ONCA concerned.

139. Consideration was given to making papakainga housing non-complying however it was decided that while this activity status would give effect to the RPS this counteracted the enabling provisions for papakainga in other sections of the WDP. Discretionary activity status will provide an incentive for landowners to locate less sensitive parts of their property that can be developed for papakainga.
140. It is considered that the proposed provisions relating to papakainga development within the ONCA are the most appropriate way of achieving the CA objectives, while meeting the requirements of higher order documents. The following table further assesses the appropriateness of the proposed provisions.

<b>TABLE 11: PAPAKAINGA</b>	
<b>Costs</b>	<b>Benefits</b>
<p><u>Environmental</u> Adverse effects of built development on the character and qualities that make up the outstanding values of ONCA.</p> <p><u>Economic</u> Requirement for resource consents as a discretionary activity for papakainga in ONCA.</p> <p><u>Social</u> Perception of unfairness if papakainga is allowed within ONCA when development of European titles with similar effects is restricted.</p> <p><u>Cultural</u> Subdivision of Maori land will require consents if it is within a HNCA or ONCA. Because Maori land on the coast is often undeveloped it generally has high natural character values and is likely to be identified as HNCA or ONCA. Papakainga developments may therefore require resource consents.</p>	<p><u>Environmental</u> Applications that may result in adverse effects on natural character can be assessed against the appropriate policies and managed through conditions of consent, or declined.</p> <p><u>Economic</u> The provisions will allow for the development of Maori land.</p> <p><u>Social</u> Discretionary activity status will protect the amenity and landscape values inherent to the HNCA and ONCA and which provide value to social wellbeing.</p> <p><u>Cultural</u> Subdivision for papakainga will be a discretionary activity in ONCA rather than a non-complying activity. Provisions will recognise that papakainga development can occur in certain areas. Will allow Tangata Whenua to return to and live on their ancestral land.</p>
<b>Economic Growth and Employment Opportunities</b>	
The provisions provide for development of previously under utilised and unproductive land and could lead to opportunities in the construction and agriculture sectors.	
<b>Efficiency</b>	<b>Effectiveness</b>
Providing express provision within PC87 allows a more efficient approach than simply relying on a balancing of the provisions of PC94B and PC87 on a case by case basis	The proposed provisions contribute towards achieving the objectives of the CA by assessing the effects of papakainga development on natural character values.
<b>Risk of acting and not acting if there is uncertain or insufficient information</b>	
<p>Risk of not acting to allow for papakainga development is high as barriers to development of ancestral Maori land would remain in the WDP, notwithstanding that ONCA only applies to a small proportion of Maori land in the District. This approach may not meet the Council's obligations under the Treaty of Waitangi</p> <p>Risk of acting is that there is strong policy protecting ONCA and allowing anything other than modest papakainga developments would not meet the purpose of the RMA or give effect to the RPS.</p>	

## 7. Conclusion

141. PC87 has been developed to respond to the unique issues within the district's coastal environment and to protect areas that have been identified as high or outstanding natural character.
142. Pursuant to section 32 of the RMA, proposed CA objectives have been analysed against Part 2 of the RMA and the relevant provisions of higher order plans and policy documents. It is considered that the proposed objectives are the most appropriate way to achieve the purpose of the RMA and give effect to the RPS.
143. The proposed provisions (policies and methods) 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 section 32 of the RMA. It is considered that the proposed provisions represent the most efficient and effective means of achieving the proposed objectives, for addressing the underlying resource management issues relating to the district's coastal environment, and to give effect to the RPS.
144. It is considered that the level of analysis undertaken in this report is appropriate to the scale of the proposal.