

BEFORE THE PROPOSED KAPITI COAST DISTRICT PLAN HEARINGS PANEL

IN THE MATTER OF The Resource Management Act 1991

AND

IN THE MATTER OF The Proposed Kapiti Coast District Plan

CLOSING STATEMENT BY REPORTING OFFICER FOR COASTAL ENVIRONMENT
HEARING 8 – 11 AUGUST 2016 AND 21 SEPTEMBER 2016

1.0 Introduction

- 1.1 I have considered the evidence and submissions of submitters during the course of this Hearing and make the comments contained in this closing statement in response.
- 1.2 Section 2.0 of this closing statement provides a brief chronology of the hearing and the expert conferencing that occurred in relation to the definition of the extent of the coastal environment. Attendees at both the hearing and the expert conferencing are listed. Section 2.0 also identifies evidence or statements that were tabled at the hearing, but where submitters did not attend in person.
- 1.3 Section 3.0 of this closing statement focuses on the specific issues raised by submitters in evidence in relation to Chapter 4 provisions. Provisions are considered in numerical order, starting with relevant definitions and then working through Chapter 4 from the introduction to the rules, before changes to the planning maps are considered.
- 1.4 Section 4.0 of this closing statement discusses a matter raised by Mr Russell Spratt in email correspondence to the Council on 22 September 2016.
- 1.5 Section 5.0 of this closing statement responds to specific questions raised by the Hearings Panel that are not addressed in the responses under Section 3.0.
- 1.6 An updated track change version of definitions and Chapter 4 is also attached to this closing statement (Attachment 1). Changes are identified in the following way:

Changes contained in the section 42A report version:	black
Changes recommended as a result of expert conferencing:	green
Further changes recommended in response to evidence:	blue

Recommended deletions are identified as struckthrough and additions are underlined.

- 1.7 In addition, I have undertaken a final check of Chapter 4 in terms of identification of defined terms, as requested by submitters such as Ms Allin. Each of these terms has now been identified in *orange italics* in Attachment 1 where they were not originally identified. For ease of reading, I have not identified those changes in the text within this closing statement.

2.0 Coastal Environment Hearing and Expert Conferencing

- 2.1 The Coastal Environment Hearing was held at Kapiti Coast District Council from Monday 8 August to Wednesday 10 August 2016, and at Kapiti Sports Turf on Thursday 11 August 2016.
- 2.2 The following submitters appeared on Monday 8 August 2016:
- Director-General of Conservation (Submitter 202): Teal Crossan, Graeme La Cock and Helen Marr, with Christopher Rendall appearing in support
 - Coastal Ratepayers United (Submitter 378): Katherine Moody and Paul Dunmore
 - Salima Padamsey (Submitter 358)
 - Richard Bull (Submitter 479)
- 2.3 On Tuesday 9 August 2016 the following submitters appeared before the Hearings Panel:
- Mari Hosiaux, supported by John Gibsone (Submitter 511)
 - Peter Katz (Submitter 711)
 - Christopher Butler (Submitter 575)
 - Ian Jensen (Submitter 275)
- 2.4 The following submitters appeared on Wednesday 10 August 2016:
- Paul Dunmore (Submitter 743)

- Greater Wellington Regional Council (Submitter 411): Caroline Watson, with Dr Jamie Steer appearing in support
- 2.5 A statement of evidence was also provided by Joan Allin, who was unable to attend the hearing in person. Written submissions on behalf of the North Otaki Beach Residents Group on provisions concerning coast and coastal hazards was also received.
- 2.6 At the conclusion of submitter presentations on Wednesday 10 August 2016, the Hearings Panel requested that Mr Frank Boffa be contacted to see whether he could appear before the Hearings Panel to allow questions to be asked in relation to his submission. Mr Boffa had provided a submission on the extent of the coastal environment, a topic which had been the subject of a significant portion of the evidence presented to the Hearings Panel. Mr Boffa was available, and so the Coastal Environment hearing reconvened on Thursday 11 August 2016. Mr Boffa appeared and Ms Watson from Greater Wellington Regional Council also attended, although was not questioned further by the Hearings Panel.
- 2.7 After questioning Mr Boffa on Thursday 11 August 2016, the Hearings Panel determined that there was sufficient disagreement between expert witnesses that expert conferencing on the definition of the extent of the coastal environment would be of assistance. Expert conferencing was directed by the Hearings Panel on 19 August 2016 by Hearings Panel Minute 13 (Attachment 2). Hearings Panel Minute 13 posed a number of questions for experts to respond to, to provide assistance to the Hearings Panel.
- 2.8 Expert conferencing on the extent of the coastal environment occurred on 5 September 2016 at the Greater Wellington offices. The conferencing session was facilitated by Mr Mark St Clair of Hill Young Cooper. Attendees at the expert conferencing were:
- Frances Lojkine Consultant planner for Kapiti Coast District Council
 - Lisa Rimmer Isthmus Group, landscape architect
 - Brad Coombes Isthmus Group, landscape architect (by phone)
 - Helen Marr Consultant planner for Department of Conservation
 - Graeme La Cock Department of Conservation, ecologist
 - Christopher Rendall Department of Conservation, planner
 - Lucy Harper Greater Wellington, planner
 - Jamie Steer Greater Wellington, ecologist
- 2.9 An agreed statement from the experts was produced (Attachment 3) and provided to the Hearings Panel on 5 September 2016.
- 2.10 The Coastal Environment hearing was reconvened at Kapiti Coast District Council on Wednesday 21 September 2016 for presentation of the expert conferencing statement and questioning of the experts by the Hearings Panel. Present on 21 September 2016 were:
- Frances Lojkine Consultant planner for Kapiti Coast District Council
 - Lisa Rimmer Isthmus Group, landscape architect
 - Helen Marr Consultant planner for Department of Conservation
 - Graeme La Cock Department of Conservation, ecologist
 - Christopher Rendall Department of Conservation, planner
 - Lucy Harper Greater Wellington, planner
 - Jamie Steer Greater Wellington, ecologist
- Mr Frank Boffa also attended and was asked to provide a response to the expert conferencing statement. A memorandum from Coastal Ratepayers United was also received in response to the expert conferencing statement.
- 2.11 The hearing on Chapter 4 Coastal Environment concluded on Wednesday 21 September 2016. On 22 September 2016 an email was received from Mr Russell Spratt, requesting that evidence presented by Mr Spratt to the Chapter 3 hearing be

considered by the Hearings Panel in relation to Chapter 4 as well, insofar as it relates to the recommendation contained in the section 42A report for Chapter 4 that Kāpiti Island be identified as an Area of Outstanding Natural Character.

- 2.12 All of the evidence and statements outlined above have been considered in preparing this closing statement.

3.0 Issues raised in evidence and statements

- 3.1 This section of my closing statement responds to issues raised in the evidence and statements provided to the Hearings Panel as part of the Coastal Environment hearing. I only cover issues or evidence in this closing statement where I have not already considered them in my opening statement or where my opinion has altered. Issues are addressed in the order in which they appear in the notified Proposed District Plan (the PDP), commencing with definitions and concluding with the planning maps.

Definitions

- 3.2 The submission from the Director-General of Conservation supported the explanation of the approach to the mapping of the coastal environment in the PDP. As a result of other submissions, the section 42A report recommended that the extent of the coastal environment be significantly reduced, to be more aligned with the area where coastal influences are dominant. In response, the Director-General of Conservation considered that the changes recommended would mean that the PDP would not give effect to the New Zealand Coastal Policy Statement 2010 (the NZCPS) (paragraph 22, evidence of Ms Helen Marr) and recommended changes to both the definition of Coastal environment and to Policy 4.1. This matter was the subject of discussion at the expert conferencing on 5 September 2016.
- 3.3 The expert conferencing statement records the agreement of experts, including me, to recommend a change to the definition of Coastal environment as follows:
- Coastal environment** means the 'dominant coastal environment' area mapped in the District Plan Maps and any area that meets the criteria listed in Policy 4.1, to which the objective and policies of the New Zealand Coastal Policy Statement is are relevant. ~~This includes all areas of sand dunes (and interdune wetlands) and coastal escarpments.~~
- 3.4 The statement from Mr Boffa in response requests that any reference in the District Plan to the Coastal Environment line not include reference to the 'dominant coastal environment'.
- 3.5 The memorandum from Coastal Ratepayers United (CRU) also considers that the reference to the 'dominant coastal environment' is unhelpful, and that '*A mapped line that omits the vast majority of the coastal environment in the District provides no certainty to users of the Plan, and indeed may be actively misleading to users.*' CRU questions the scope to include a 'dominant coastal environment' line when this has not been requested by any submitter.
- 3.6 Turning first to the matter of scope, in my opinion the Director-General of Conservation's submission supporting the explanation of the approach to the mapping of the coastal environment provides sufficient scope for the requests made in Ms Marr's evidence. Mr and Mrs Boffa's submission requested the redrawing of the coastal environment line closer to the coast, and obviously has scope. CRU's submission stated that the objectives, policies and rules relating to development in the coastal environment are overly restrictive (third paragraph under 2. CRU's Primary Concerns in the submission). In my opinion this can be considered to provide sufficient scope for both the evidence presented by CRU at the hearing and for the memorandum provided in response to the expert conferencing.
- 3.7 I have considered the statement of Mr Boffa and the memorandum from CRU. I note that the definition of Coastal environment outlined in the expert conferencing statement is an accurate statement of what the experts consider the mapped line contained in the section 42A report represents. While the explicit reference to 'dominant coastal environment' is not a common approach in plan mapping, the combination of the definition, amendments to Policy 4.1 (discussed below) and the plan maps will allow a reader of the District Plan to understand the matters that need to be considered when making a consent application.

- 3.8 I therefore recommend that the definition of 'Coastal environment' contained in the PDP be amended as follows:

Coastal environment means the 'dominant coastal environment' area mapped in the District Plan Maps and any area that meets the criteria listed in Policy 4.1, to which the objective and policies of the New Zealand Coastal Policy Statement is are relevant. This includes all areas of sand dunes (and interdune wetlands) and coastal escarpments.

Chapter 4: Introduction and section 4.1 Coastal Environment

- 3.9 At paragraphs 134, 136, 141 and 143 of her evidence, Joan Allin makes some specific suggestions for amendments to the introductory section of the Coastal Environment chapter. I concur that these amendments would be appropriate.

- 3.10 I therefore recommend that the following amendments be made to the introductory sections of Chapter 4:

Section 4.1: Natural character ~~in~~ of the coastal environment

The preservation of natural character in the *coastal environment* and its protection from inappropriate subdivision, use and development is a matter of national importance ~~in~~ (section 6(a) of the Resource Management Act 1991 (RMA)). Policy 13 of the NZCPS ~~requires~~ provides guidance on the preservation of ~~areas of high~~ natural character in the coastal environment and its protection from inappropriate subdivision, use and development, including by the identification of areas of outstanding natural character and areas of high natural character. Policy 14 of the NZCPS promotes the restoration or rehabilitation of natural character of the coastal environment including identifying areas for restoration, providing policies and methods in the District Plan and through imposing conditions on resource consents and designations ~~subdivision and development proposals.~~ The policy suggests possible restoration approaches for degraded areas.

These policies have been given effect to by identifying and mapping areas of outstanding natural character and areas of high natural character in the *coastal environment* which are shown on the Natural Environment Maps, to enable protection from inappropriate subdivision, use and development and promotion of restoration to occur as part of future development of these areas.

Public access

The maintenance and enhancement of public access to and along the coastal marine area is a matter of national importance in the RMA. Policy 19 of the NZCPS requires that councils recognise the public expectation of and need for walking access to and along the coast and that Councils avoid, remedy or mitigate any loss of public walking access as a result of subdivision, use or development and identify opportunities to enhance or restore public walking access.

Land uses

Policy 6 of the NZCPS recognises that the provision of infrastructure, the supply and transport of energy including the generation and transmission of electricity, and the extraction of minerals, are activities important to the social, economic and cultural well-being of people and communities. The NZCPS Policy 6 also encourages consolidation of existing coastal settlements and urban development, in existing urban areas, within the *coastal environment*, ~~outside of areas subject to coastal hazard risks, rather than allowing development to extend into areas which have high natural character, heritage or amenity values.~~ Coastal yards apply to Te Horo, Peka Peka and Waikanae Beaches, not only for the amenity of the Living Zones but also to assist in retaining the natural character and amenity of the beach (see Chapter 5 Living Zones).

Management Approach

There are particular features which sit within this *coastal environment* which have also been mapped. These more detailed ~~sensitive natural~~ features include:

- areas of *outstanding natural character and* areas of high natural character;
- ecological sites; and
- outstanding natural *landscapes* or *significant special* amenity landscapes;

~~Additional features which have been mapped are:~~

- ~~Ecological domains. This includes the salt zone ecological domain. The salt zone ecological domain covers the area of land where coastal processes presently predominate and includes all land within approximately 500 metres of the sea.~~
- ~~dominant ridgelines and dominant dunes are also mapped to prevent buildings locating on the dune ridges and to keep building heights below ridgelines.~~

Policy 4.1 – Identify Coastal Environment extent

- 3.11 The Director-General of Conservation’s submission requested that amendments be made to Policy 4.1(a) and (c), and that a new sub-clause (e) be added. Evidence presented by Helen Marr for the Director-General of Conservation confirmed the amendments requested to Policy 4.1(a) and (c), and noted that, by making these amendments, Policy 4.1 would contain the elements from Policy 1 of the NZCPS that were previously missing, while still ensuring that Policy 4.1 gave effect to Policy 4 of the Wellington Regional Policy Statement (the RPS). Ms Marr did not support the Director-General of Conservation’s submission to include new sub-clause (e).
- 3.12 The expert conferencing undertaken on 5 September 2016 recommended that Policy 4.1 be amended as follows to give effect to the agreement between the experts:

Policy 4.1 – Identify Coastal Environment extent

The extent of the coastal environment is identified as being any area meeting any one or more of and mapped in the District Plan, using the following criteria:

- aa) areas mapped in the District Plan as being part of the ‘dominant coastal environment’
- a) areas or landforms dominated by coastal vegetation or habitat of indigenous coastal species;
 - b) landform affected by active coastal processes, excluding tsunami;
 - c) landscapes elements or features, including coastal escarpments, that contribute to the natural character, landscape, visual quality or amenity value of the coast; and
 - d) sites, structures, places or areas of historic heritage value adjacent to, or connected with, the coast, which derive their heritage value from a coastal location.

- 3.13 All experts at the expert conferencing undertaken on 5 September 2016 also agreed that the RPS and NZCPS policies in relation to the extent of the coastal environment can be read together. In my opinion this confirms that the wording of Policy 4.1 of the District Plan does not need to exactly mirror the wording of Policy 4 of the RPS in order to give effect to it.
- 3.14 Mr Boffa noted in his statement to the Hearings Panel at the reconvened hearing on 21 September 2016 that he considered that the changes recommended to Policy 4.1 as a result of the expert conferencing add a layer of confusion that is not helpful. With respect, I disagree. Policy 4.1 as amended by expert conferencing will result in a clear process for consent applicants – first consult the District Plan maps to see whether the area affected by the proposed activity is mapped as being part of the dominant coastal environment, then consider the other criteria listed in Policy 4.1 to see whether the area affected by the proposed activity includes any of the characteristics listed in parts a) to d). If it does, then the site is within the coastal environment, and the other policies contained in Chapter 4 will be relevant to any consideration of the consent application.

- 3.15 Noting that the section 42A report did not recommend any changes to Policy 4.1, but that I concur with the subsequent expert conferencing statement, I therefore recommend that Policy 4.1 be amended as follows:

Policy 4.1 – Identify Coastal Environment extent

The extent of the coastal environment is identified as being any area meeting any one or more of and mapped in the District Plan, using the following criteria:

- aa) areas mapped in the District Plan as being part of the 'dominant coastal environment'
- a) areas or landforms dominated by coastal vegetation or habitat of indigenous coastal species;
 - b) landform affected by active coastal processes, excluding tsunami;
 - c) landscapes elements or features, including coastal escarpments, that contribute to the natural character, landscape, visual quality or amenity value of the coast; and
 - d) sites, structures, places or areas of historic heritage value adjacent to, or connected with, the coast, which derive their heritage value from a coastal location.

- 3.16 Ms Allin (at paragraph 250 of her evidence) provides a suggestion as to how the coastal environment should be defined. In my opinion the approach as discussed above would address the concerns raised by Ms Allin.

- 3.17 I note that the Chapter 8 lead recommended changes to the extent of the coastal environment in his closing statement, in response to submissions to that chapter. I recommend that the Hearings Panel considers whether the amendments recommended for Policy 4.1 are sufficient to achieve the same result.

Policy 4.2 – Identify natural character

- 3.18 Ms Watson, appearing for Greater Wellington, requested that a broader coastal significance zone be identified, with the ability to identify areas of high and outstanding natural character in this zone. She also noted that a framework of provisions should be developed to manage effects on these areas (paragraph 4.2.8 of Ms Watson's evidence).
- 3.19 I consider that the amendments to the definition of Coastal environment and to Policy 4.1 arising from the expert conferencing (and outlined above) should address Ms Watson's first request. As Greater Wellington supported the identification and definition of the coastal environment in the PDP, it is my opinion that there is sufficient scope within the Greater Wellington submission for their involvement in the discussions around the extent of the coastal environment. However, Greater Wellington's submission supported Policy 4.2 and did not request any further provisions to manage effects on areas of high natural character. In my opinion therefore, there is no scope within the submission from Greater Wellington in relation to Ms Watson's second request.

Policy 4.3 – Areas of outstanding natural character (new policy in section 42A report)

- 3.20 Ms Watson, for Greater Wellington, requested that new Policy 4.3 be deleted and instead used as part of the explanation to Policy 4.2 (see paragraph 4.3.9 of Ms Watson's evidence).
- 3.21 In my opinion there is value in retaining Policy 4.3 in order to clearly distinguish why areas of outstanding natural character are different from areas of high natural character.

Policy 4.4 – Activities in the coastal environment, including in areas of outstanding natural character (new policy in section 42A report) and Policy 4.5 – Protection of natural character

- 3.22 Ms Marr, for the Director-General of Conservation, identified a series of problems with the drafting of Policies 4.4 and 4.5 in the section 42A report (see paragraphs 47 – 49 of Ms Marr’s evidence). Ms Watson, for Greater Wellington, similarly requested revision of Policy 4.4 to provide more direction for plan users and consent officers (see paragraph 4.3.11 of Ms Watson’s evidence).
- 3.23 Having considered Ms Marr’s suggested amendments to the two policies, I concur that her solution will provide more certainty for plan users, while still achieving the intent sought by the section 42A report. Deleting proposed new Policy 4.4 and amending Policy 4.5 will also address Ms Watson’s request for greater certainty.
- 3.24 Ms Allin (at paragraph 300 of her evidence) requests that Policy 4.4 should be deleted. As outlined above in response to the evidence of Ms Marr, I concur.
- 3.25 At paragraph 310 of her evidence, Ms Allin recommends a number of changes to Policy 4.5 (as numbered in the section 42A report). I agree that those changes are appropriate and add further clarity to the policy.
- 3.26 I therefore recommend that Policies 4.4 and 4.5 in the section 42A report version of Chapter 4 are amended as follows:

Policy 4.4 – Activities in the coastal environment, including in areas of outstanding natural character

Manage activities in the coastal environment to preserve natural character by:

- a) avoiding adverse effects of activities on natural character in areas of the coastal environment with outstanding natural character;
- b) avoiding significant adverse effects and avoiding, remedying or mitigating other adverse effects of activities on natural character in all other areas of the coastal environment.

Policy 4.35 – Protection Preservation of natural character

Preserve Areas of outstanding natural character and areas of high natural character in the coastal environment, significant coastal features and habitats will be protected by and protect it from inappropriate subdivision, use and development, including by:

- aa) avoiding adverse effects of activities on natural character in areas of outstanding natural character;
- ab) avoiding significant adverse effects, and avoiding, remedying or mitigating other adverse effects of activities on natural character in all other areas of the coastal environment;
- a) reinstating dunes which function as natural buffers for as much of the coast as where practicable;
- b) providing managed public access ways to the beach and foreshore and avoiding limiting damage to dune from unmanaged access;
- c) avoiding regulating encroachment of permanent structures and private uses onto the beach or public land;
- d) removing existing unnecessary structures and associated waste materials from the beach;
- e) preventing managing new activities which have adverse effects on natural character values;
- f) retaining a natural beach and foreshore including a dry sand beach where practicable possible.

Policy 4.6 – Restore natural character (Policy 4.4 as notified)

- 3.27 Ms Allin (at paragraph 318 of her evidence) notes that the focus of Policy 14 of the NZCPS is on promoting the restoration of natural character, and that Policy 4.6 should

be similarly framed. At paragraph 316 she also notes that she considers that much of the policy would be inappropriate to Living Zones.

3.28 I concur that Policy 4.6 should be more closely aligned with Policy 14 of the NZCPS with reference to promoting the restoration of natural character. However, I do not agree that the other changes requested by Ms Allin are necessary. The policy will be focused on promoting restoration, and the phrase 'where practicable' has already been recommended for inclusion in response to a submission from Ms Allin. In my opinion this provides sufficient latitude for officers processing resource consent applications to determine which parts of Policy 4.6 might be applicable in any given situation.

3.29 I therefore recommend that the following changes are made to Policy 4.6:

Policy 4.46 – Restore natural character

~~Subdivision and development in the coastal environment will support~~ Promote restoration of ~~the~~ natural character ~~of the coastal environment~~ through, ~~where practicable~~:

Policy 4.7 – Amenity and public access (Policy 4.5 as notified)

3.30 Ms Watson, for Greater Wellington, notes that while the table of recommendations in the Chapter 4 section 42A report recommends that the Greater Wellington submission in relation to Policy 4.7 is accepted, the amendment was not carried through to the track change version of Chapter 4 (see paragraph 4.7.4 of Ms Watson's evidence). I acknowledge that this error needs to be corrected.

3.31 Ms Allin (at paragraphs 320 and 322 of her evidence) requests that the reference to the coastal environment be retained in the policy. Having reconsidered the policy I concur, and consider that its original removal was an inadvertent error associated with removing specific reference to subdivision and development.

3.32 I therefore recommend that Policy 4.7 be amended as follows:

Policy 4.57 – Amenity and public access

~~Subdivision and development in the coastal environment will m~~Maintain and enhance amenity values ~~in the coastal environment~~, such as open space and scenic values, ~~provide~~ opportunities for recreation and the enjoyment of the coast, including ~~the~~ enjoyment of a high tide dry beach by the public, ~~and P~~Public access to and along the coast ~~will be maintained and enhanced while minimising any significant adverse effects on the public's use and enjoyment of the coast~~.

Policy 4.8 – Natural coastal processes (Policy 4.6 as notified)

3.33 Both Ms Marr for the Director-General of Conservation (paragraphs 60-61 of her evidence), and Ms Watson for Greater Wellington (paragraph 4.6.4 of her evidence) raise concerns with the amendments in the section 42A report to Policy 4.8. I acknowledge the concerns raised by both submitters, however, I also note the concerns raised by other submitters about the original wording of the policy.

3.34 Having considered again all of the matters raised by submitters, I consider that it would be possible to amend Policy 4.8 to address the concerns, by retaining the reference to 'accommodating' natural shoreline movement, but inserting a 'where practicable' after it, to recognise the point made by a number of submissions about the ability to address shoreline movement in areas where substantial buildings and infrastructure exist. I also recommend deleting the reference to 'some or a combination of' from the introduction to the policy, which may make it clearer that the listed options are only some of the available options.

3.35 I therefore recommend that Policy 4.8 is amended as follows:

Policy 4.68 – Natural coastal processes

Natural shoreline movement will be ~~accommodated~~ ~~addressed~~ where practicable and the resilience of coastal communities will be increased by using ~~the~~ best practice coastal management options, including ~~some~~ a strategic approach involving one or a combination of the following:

- a) dune management;
- b) inlet management;
- c) engineering measures.

- 3.36 In my opinion, scope for this change is provided by the submissions that opposed Policy 4.6 as notified and expressed concern about natural shoreline movement being accommodated, and the submissions that supported the policy as notified.

Policy 4.9 – Natural dunes (Policy 4.7 as notified)

- 3.37 Ms Marr, for the Director-General of Conservation, identified concern with the amendments contained in the section 42A report for Policy 4.9 (see paragraph 60 of Ms Marr's evidence). In general I consider that the amendments recommended in the section 42A report remain appropriate, but I acknowledge that noting the role of dunes as a buffer would further clarify the policy.

- 3.38 Ms Allin (at paragraphs 333 – 336 of her evidence) notes that the reference to dunes acting as a buffer for coastal hazard effects should be retained, which I consider would be consistent with my recommendations in relation to Ms Marr's evidence.

- 3.39 Ms Allin also requests that further amendments are made to recognise the other functions or values of natural dune systems. Policy 4.9 was originally included in the PDP to focus on the role of dunes in buffering against coastal hazards. On this basis I do not consider that the further amendments suggested by Ms Allin are appropriate.

- 3.40 I therefore recommend that Policy 4.9 is amended as follows:

Policy 4.79 – Natural dunes

Natural dune systems will be protected and enhanced (including through restoration) as a buffer for coastal hazard effects and natural dune function will be enabled to migrate inland in response to shoreline retreat where practicable.

Notes under heading Rule 4A.0 Applicability of Rules 4.A.1 – 4.A.5

- 3.41 Ms Allin notes (at paragraphs 338 – 351 of her evidence) that the meaning of Note 2 under the heading Rule 4A.0 Applicability of Rules 4.A.1 – 4.A.5 is not clear. Having considered her evidence and reconsidered the rules that the note refers to, I concur that a number of the rules in Chapter 4 apply outside areas of outstanding natural character and areas of high natural character, and Note 2 is therefore not correct.

- 3.42 Acknowledging the error, I therefore recommend that Note 2 is removed, as reflected in the track change version attached to this closing statement, and shown as follows:

[2] — Activities that are not in areas of outstanding natural character or areas of high natural character in the coastal environment are subject to the zone rules in other chapters of the District Plan.

Rule 4A.3.1

- 3.43 Ms Allin (at paragraphs 107 – 113 of her evidence) points out that there is scope within Submission 451 to address the overlap issue identified for rules relating to buildings within areas that are both areas of high natural character in the coastal environment (under Chapter 4) and either outstanding natural features or outstanding natural landscapes (under Chapter 3).

- 3.44 For three of the four areas affected by the overlap – the Waiorongomai Dunes ONF, the Otaki River Mouth ONL and the Whareroa Dunelands ONF, in my opinion there is merit in recognising that they are in the coastal environment and so more stringent rules should apply. This would be consistent with Policies 13 and 15 of the NZCPS in relation to avoiding adverse effects on areas of outstanding natural character and outstanding natural features and landscapes, but would require adjustment of Rule 3A.1.8 to exclude these areas from the permitted activity rule. The overlap in relation to the Kāpiti Island ONL is discussed in section 4.0 of this closing statement.
- 3.45 This matter will need to be considered as part of the integration hearing, so that Chapters 3 and 4 can be appropriately aligned. I have therefore not recommended any further changes to Chapter 4 at this stage.

Rules 4A.4.4 and 4A.5.2

- 3.46 Ms Allin (at paragraphs 59 and 60 of her evidence) outlines problems with the rule cascade for areas of high natural character in the coastal environment, which have been exacerbated with the introduction of the rule for areas of outstanding natural character.
- 3.47 I concur that there is a problem with the cascade, which was inadvertent. In order to address the issue I therefore recommend that the request outlined in paragraph 106 of Ms Allin’s evidence, that Rule 4A.5.4 be deleted, be accepted. It is my understanding that, as part of the integration hearing, a recommendation will be made that Chapters 3 and 4 of the PDP be combined (as was done in the Submitter Engagement Version of the PDP). As part of this, I understand that a ‘catch-all’ discretionary activity rule would be included, which would then apply to those activities that could not comply with Rule 4A.4.4. I have therefore not included a discretionary activity rule in the track change version of Chapter 4 attached, although I can do should the Hearings Panel choose not to integrate Chapters 3 and 4 through the integration hearing. The section 42A report recommended the inclusion of reference to restricted discretionary activities in Rule 4A.4.1. If accepted, this amendment would provide a ‘catch-all’ rule for activities in areas of high natural character, with the recommended removal of Rule 4A.5.4.
- 3.48 I therefore recommend that Rule 4A.5.4 be deleted, as shown in the track change version of Chapter 4 attached to this closing statement, and shown as follows:

4A.5 Non-Complying Activities	
<i>The following activities are non-complying activities.</i>	
Non-Complying Activities	Reference
1. Subdivision of land which has an area of high natural character where the subdivision exceeds one or more of the restricted discretionary standards in Rule 4A.3.2.	Policy 4.3
2. Buildings, structures and earthworks on land in the coastal environment which has been identified as having high natural character in District Plan Maps which do not comply with one or more of the permitted activity or restricted discretionary activity standards.	Policies 4.3 & 4.4

- 3.49 I note that Ms Allin also raises concerns with standard 1 of Rule 4A.4.4, particularly in relation to whether Rule 8.1.11 is retained in the Open Space chapter (see paragraphs 73 – 85 of her evidence). As part of the Coastal Overview presentation day, the chapter lead for Chapter 8 recommended that a version of Rule 8.1.11 be included in the Open Space chapter.

Stream clearing

3.50 At the Coastal Overview presentation day I noted that a number of submitters had requested a permitted activity for earthworks associated with stream and river mouth clearance activities, and that I considered this would be appropriate in areas of high natural character, but not in areas of outstanding natural character. I also noted that I needed to confirm wording with the chapter leads for Chapters 3, 8 and 9, so that we presented a consistent amendment. Ms Allin also raises this issue in her evidence (see paragraphs 100(b) and 105).

3.51 Having checked the approach in Chapters 3, 8 and 9 I now recommend the following amendment to Rules 4A.3.1 and 4A.4.1:

Rule 4A.3.1:

Buildings and earthworks on land in the coastal environment which has been identified as having *high natural character* in District Plan Maps, [except earthworks associated with activities permitted under Rules 9B1.4, 9B1.6 and 9B1.8.](#)

Rule 4A.4.1:

Activities which do not comply with one or more of the permitted activity or controlled activity or [restricted discretionary](#) activity standards, [except earthworks associated with activities permitted under Rules 9B1.4, 9B1.6 and 9B1.8.](#)

Planning maps and Schedule 4.1

3.52 Ms Watson, for Greater Wellington, raised a concern about whether there has been a reduction in the extent of areas of high and outstanding natural character as a result of the recommendation in the section 42A report to move the coastal environment line closer to the coast (see paragraph 4.2.4 of Ms Watson's evidence).

3.53 Areas of outstanding natural character in the coastal environment were not included in the PDP and have only been identified as part of the response to submissions, so the recommended alteration of the coastal environment line will have no effect on these areas.

3.54 In terms of the areas of high natural character that were originally included within the coastal environment under the PDP, I have compared the notified version of Schedule 4.1 with the attachment to the Chapter 3 section 42A report that shows the outstanding natural features and outstanding natural landscapes. I have also conferred with Lisa Rimmer of Isthmus Group. Our understanding is that areas that were classified as areas of high natural character under the PDP have now been confirmed as either outstanding natural features or outstanding natural landscapes through the work done for Chapter 3.

3.55 Both Paul Dunmore (for CRU, page 3 of his presentation) and Joan Allin (see paragraph 292 of Ms Allin's evidence) requested that the following be removed from areas of high natural character:

- areas with existing seawalls or other coastal hazard mitigation measures; and
- areas from which buildings, structures or infrastructure are apparent, including seaward of all Living Zones and commercial areas; and
- river and stream mouths from which buildings, structures or infrastructure are apparent, including the mouth of the Mangaone Stream.

3.56 To assist the Hearings Panel, a specific assessment of this request by Isthmus Group is attached as Attachment 4. Based on this assessment I recommend that the changes requested by Paul Dunmore and Joan Allin are not accepted.

3.57 Salima Padamsey, in her oral presentation to the Hearings Panel, requested that all of the areas of high natural character in the coastal environment be removed from the PDP. Scope for this request is provided in her submission, through her statement that the objectives, policies and rules of Chapter 4 are too restrictive. Joan Allin (at

paragraphs 65 and 66 of her evidence) also notes that all of the protection overlays need to be reconsidered, and that the areas of high natural character that have been identified are particularly inappropriate. The overall opposition to Chapter 4 of the PDP expressed in the submission from Joan Allin and Rob Crozier provides scope for the comments in her evidence.

- 3.58 I refer the Hearings Panel to the technical reports prepared by Isthmus Group throughout the PDP process. It remains my opinion that the areas of high natural character as identified in the section 42A report are appropriate.
- 3.59 Mari Hosiaux, in response to questions from the Hearings Panel, confirmed that she considered that the Te Hapua wetland complex should be included in the coastal environment. As Ms Hosiaux's submission supported the mapping of the area contained within the PDP, which identified the Te Hapua wetland complex within the coastal environment, in my opinion there is sufficient scope for her request to the Hearings Panel. The amendments to the definition of the coastal environment arising from the expert conferencing, and recommended by me for inclusion in Chapter 4 as discussed in paragraphs 3.2 – 3.8 and 3.11 – 3.16 above, mean that any features of the Te Hapua wetland complex that result in it being classified as part of the coastal environment will now be taken into account in consent applications. The Te Hapua wetland complex was not identified in the PDP as an area of high natural character in the coastal environment, and so the earthworks restrictions that apply to those areas did not apply to it. I continue to rely on the technical reports prepared by Isthmus Group throughout the PDP process, which did not identify the Te Hapua wetland complex as an area of high natural character in the coastal environment.
- 3.60 Ian Jensen, in his presentation to the Hearings Panel, appeared to be opposed to the Te Hapua wetland complex being identified as either being within the coastal environment or being identified as an area of outstanding natural character. Mr Jensen did not submit on Chapter 4, and his submission contains no plan-wide submission points that would provide him with the scope to comment on the extent of the coastal environment or the classification of the Te Hapua wetland complex on the planning maps.
- 3.61 On the basis of the discussion above, I confirm my recommendation in the section 42A report, that the mapped extent of the coastal environment, areas of outstanding natural character and areas of high natural character should be as outlined in Appendix 5 to the section 42A report. In order to reflect the changes recommended in this closing statement to the definition of 'coastal environment' and Policy 4.1, I recommend that the legend in the planning maps is altered as follows:

Extent of the [Dominant](#) Coastal Environment (see [Policy 4.1](#) for full extent of the [Coastal Environment](#))

[Dominant](#) Coastal Environment

- 3.62 Schedule 4.1 should also be updated to reflect the maps contained in Appendix 5 of the section 42A report.

4.0 Waiorua Bay, Kāpiti Island

- 4.1 The Hearings Panel will be aware of correspondence received from Russell Spratt of Waiorua Bay, Kāpiti Island subsequent to the reconvened coastal environment hearing relating to the identification of his family's land as part of an area of high natural character.
- 4.2 For clarity, I note that Schedule 4.1 of the PDP did identify Kāpiti Island, including the land at Waiorua Bay, as an area of high natural character. I acknowledge that this was not identified on the notified planning maps, and I therefore recommend that the Hearings Panel consider the material that Mr Spratt provided on 22 September 2016.

- 4.3 Consideration of Mr Spratt's request needs to be undertaken in conjunction with responses from the Chapter 3 chapter leads in relation to his requests concerning activities in outstanding natural landscapes and within ecological sites on Kāpiti Island. Both Chapter 3 chapter leads have recommended that the rules for those areas remain as written and that consents still be required for activities on the land at Waiorua Bay.
- 4.4 The only other submission that was received in relation to the classification of Kāpiti Island as an area of high natural character was the submission from Frank and Vicki Boffa that requested that Kāpiti Island be classified as an area of outstanding natural character. In recognition of the more developed nature of the privately owned land, Isthmus Group and the section 42A report recommended that the majority of Kāpiti Island be classified as an area of outstanding natural character, but that some areas, including the land at Waiorua Bay, be left as an area of high natural character.
- 4.5 I have discussed at paragraphs 3.43 – 3.45 my recommendations with respect to the overlap between the permitted building rule under Chapter 3 and the earthworks and building rule under Chapter 4 for the three other areas of overlap, noting that the matter should be addressed in the integration hearing. In the case of the area of high natural character identified on Kāpiti Island and the concern raised by Mr Spratt I make the same recommendation in terms of considering the matter at the integration hearing. Because the area of land identified as an area of high natural character on Kāpiti Island covers more private land than the areas of high natural character identified elsewhere in the Kapiti Coast District, I recommend that the Hearings Panel consider, as part of the integration hearing, aligning Rule 3A.1.8 and Rule 4A.4.1 so that buildings to the dimensions permitted in Rule 3A.1.8 are permitted in the area of high natural character on Kāpiti Island.
- 4.6 As I recommend that the matter is considered further at the integration hearing, I have not recommended specific wording in this closing statement.

5.0 Tangata whenua

Consultation with tangata whenua

- 5.1 In response to my opening statement at the Coastal Environment hearing, Commissioner Pomare asked me a further series of questions about consultation with tangata whenua.
- 5.2 As requested, a copy of the notes from the discussion with Te Ohu Taio on 13 October 2015 is attached to this closing statement (Attachment 5).
- 5.3 In July 2012, as part of consultation on the outstanding natural landscapes, Ngati Toa provided feedback on the values of Kāpiti Island. A copy of that feedback is attached to this closing statement (Attachment 6). This was incorporated into the assessment sheet for the Kāpiti Island Outstanding Natural Landscape in the PDP (see pages 3-99 to 3-104 of the notified Chapter 3).
- 5.4 On 17 April 2012 Jim Ebenhoh and James Kilbide of Kapiti Coast District Council met with the Waiorua Trust to discuss the District Plan Review and how this related to land management on Kāpiti Island. A copy of the minutes from that meeting is attached (Attachment 7), but I note that the classification of Kāpiti Island as an area of high natural character does not appear to have been discussed at this meeting.

Tangata whenua objectives and policies in the NZCPS and Wellington RPS

- 5.5 Commissioner Pomare also asked me questions in response to my opening statement at the Coastal Environment hearing, about objectives relating to tangata whenua in the NZCPS and the RPS that would be relevant to the District Plan.
- 5.6 In terms of the NZCPS, Objective 3 is relevant:

To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment by:

- recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources;
- promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act;
- incorporating mātauranga Māori into sustainable management practices; and
- recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua.

5.7 I note that my involvement in Chapter 4 from January 2016 means that the PDP provisions where tangata whenua input or recognition would have been anticipated had already been notified and had been subject to ongoing discussion as part of the development of the Submitter Engagement Version of the PDP.

5.8 In terms of recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources, and promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act, I note the process of tangata whenua engagement that Kapiti Coast District Council ran from 2010, including the development of *Te Haerenga Whakamua: A Review of the District Plan Provisions for Maori*. In my opinion this is one way in which Objective 3 of the NZCPS can be given effect to.

5.9 In terms of recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua, I note the Nga Hapu o Otaki submission (Submission 232) and its reference to tangata whenua input into the cultural values contained in each of the landscape assessment sheets. While further characteristics of the coastal environment that are of special value to tangata whenua are not specifically identified, I note that both of the submissions received from tangata whenua were supportive of the provisions in Chapter 4. If Chapters 3 and 4 of the PDP are combined as recommended, I also note that Policy 3.15, which specifically relates to tangata whenua, would then apply to the coastal environment as well.

5.10 In the RPS, the following objectives are identified for 'resource management with tangata whenua':

Objective 23

The region's iwi authorities and local authorities work together under Treaty partner principles for the sustainable management of the region's environment for the benefit and wellbeing of the regional community, both now and in the future.

Objective 24

The principles of the Treaty of Waitangi are taken into account in a systematic way when resource management decisions are made.

Objective 25

The concept of kaitiakitanga is integrated into the sustainable management of the Wellington region's natural and physical resources.

Objective 26

Mauri is sustained, particularly in relation to coastal and fresh waters.

Objective 27

Mahinga kai and natural resources used for customary purposes, are maintained and enhanced, and these resources are healthy and accessible to tangata whenua.

Objective 28

The cultural relationship of Maori with their ancestral lands, water, sites, wahi tapu and other taonga is maintained.

- 5.11 In my opinion, Objectives 23 and 25 will have been given effect to through the existing consultation with tangata whenua and the development of *Te Haerenga Whakamua: A Review of the District Plan Provisions for Maori* in 2012.
- 5.12 Objective 24 will need to be considered by the Hearings Panel when making its decisions on the PDP.
- 5.13 Objectives 26 and 27 will be relevant to the Kapiti Coast, as far as they relate to land resources. A number of these matters will be covered by Chapter 3 of the PDP, and integrating Chapter 3 and Chapter 4 will help to give effect to those objectives in a more comprehensive way.
- 5.14 From the documentation available to me, in my opinion Objective 28 was given effect to in part through the development of the landscape and natural character assessment sheets and the incorporation of tangata whenua values into them, and through the ongoing consultation with tangata whenua during the development of the PDP.
- 5.15 While the PDP is required to give effect to both the NZCPS and the RPS, I also note that decision makers would, under section 104 of the RMA, have to have regard to the objectives listed above when making decisions on consent applications in the coastal environment.

Frances Lojkine
18 November 2016