

Chapter 4: Coastal Environment

Section 42A Report Overview

1.0 Introduction

- 1.1 The section 42A report I have prepared considers submissions received on Chapter 4: Coastal Environment and the District Plan Maps.
- 1.2 There were 416 submissions and 41 further submissions received on Chapter 4, which seek a range of outcomes, including the complete deletion of the chapter. There are also a number of consequential changes arising from submissions on the whole PDP and on other chapters that I have considered and included in the amendments to the text of Chapter 4 in Section 4 of the section 42A report as best I can with the information available at the time of writing my report. I note that it is possible (and likely) that further amendments will be appropriate as the hearing progresses, including matters relating to achieving the integration of provisions across the various chapters of the PDP.

2.0 Report Structure

- 2.1 The first two sections of the report provide an introduction, including an overview of the content and the key issues in contention, and the relevant statutory documents considered in my assessment of the submissions: namely the New Zealand Coastal Policy Statement 2010 (the NZCPS) and the Wellington Regional Policy Statement.
- 2.2 Section 3 of the report identifies the matters raised in submissions, sets out my recommendations to accept, accept in part or reject points made in submissions (and the related further submissions) and details my recommendations to amend the PDP as an outcome of my assessment.
- 2.3 For efficiency, the submissions and further submissions on Chapter 4 have been grouped using an issues and provisions-based approach in accordance with section 10(3) of Schedule 1 to the Resource Management Act 1991 (RMA), into the following 10 sub-topics:
- General coastal environment issues;
 - Identification of the coastal environment;
 - Areas of outstanding natural character;
 - Identification and protection of natural character;
 - Restoration of natural character;
 - Public access;
 - Protection of natural dunes;
 - Stream and river maintenance;
 - Private property rights;
 - Coastal yard requirements.
- 2.4 Section 4 of my report includes a tracked changes version of Chapter 4 that shows my recommended amendments to the provisions and to the Planning Maps.
- 2.5 Section 5 of the report contains a summary of the submissions considered in my report (including related further submissions), my recommendation in relation to each point, and reasons.
- 2.6 There are 6 appendices attached to the report, principally technical reports prepared as part of the development of and consideration of submissions on Chapter 4.

3.0 Overview of Chapter 4

- 3.1 Chapter 4 primarily implements Objective 2.4 – Coastal environment.

- 3.2 Section 4.1 provides an introduction to the Coastal Environment and outlines a number of matters to provide context to the policies and rules that follow. Section 4.1.1 then contains 7 policies relating to:
- Identification of the extent of the coastal environment;
 - Identification, protection and restoration of natural character;
 - Amenity and public access;
 - Natural coastal processes and dunes.
- 3.3 There is one schedule to Chapter 4 as notified, which identifies the extent of the coastal environment and areas of high natural character.
- 3.4 The rules in Chapter 4 that remained following the withdrawal of the coastal hazard provisions in 2014 relate to:
- Earthworks and vegetation clearance on dunes for the purposes of dune restoration;
 - Subdivision of land adjacent to the coast;
 - Subdivision of land which includes areas of high natural character;
 - Buildings and earthworks on land which has been identified as having high natural character.
- 3.5 The policies and rules in Chapter 4 function as an overlay over zoning covered in other chapters of the PDP, such as Chapter 5: Living Environment and Chapter 7: Rural Environment. As such, where an activity is covered by rules in both Chapter 4 and another chapter of the PDP, the more stringent rule applies.

4.0 Key Issues in Contention

- 4.1 With regard to the submissions I address in my section 42A report, I consider that the following are the key issues in contention:
- Identification of the extent of the coastal environment
 - Areas of outstanding natural character
 - Identification and protection of natural character
 - Restoration of natural character
 - Public access
 - Natural dune management
 - Stream and river maintenance
 - Protecting private property rights

- 4.2 In addition there are a number of submissions that express more general coastal issues.

5.0 Changes recommended to address matters raised in submissions

- 5.1 Some of the key changes I have recommended to be made to Chapter 4 and the relevant PDP Maps, to address matters raised in submissions, are:
- Revision of the extent of the coastal environment to confine it to closer to the coast, recognising the variety of factors that contribute to the extent of the coastal environment in any given location;

- Inclusion of Kāpiti Island and the Waikanae River mouth as areas of outstanding natural character, with attendant policies and rules;
 - Amendments to ensure the clarity and workability of Chapter 4 policies while ensuring their alignment with the relevant objectives in Chapter 2 (as well as higher order resource management documents and legislation).
- 5.2 Technical work by Isthmus Group Limited has informed the recommendations in my report in respect of the extent of the coastal environment and the inclusion of areas of outstanding natural character. Mr Brad Coombes from Isthmus Group Limited will provide a brief overview presentation of that work following my overview.
- 5.3 I note that the Submitter Engagement Version of the PDP (June 2015) proposed that Chapter 3 and Chapter 4 be integrated, and that this approach was supported in the Coastal Overview s42A report. I would support this approach, as the matters that are currently covered by Chapter 4 relate primarily to the natural character of the coastal environment and to natural features and processes; matters that all fit within the ambit of Chapter 3.

6.0 Matters arising from the Coastal Overview presentation day

- 6.1 Three matters have arisen from the Coastal Overview presentation day held on 13 July 2016:
- Commissioner Pomare asked me to provide further information on work that had been done to understand and incorporate the views of tangata whenua in relation to Chapter 4;
 - I identified an issue that required resolution in Chapter 4 relating to the way the section 42A report addressed submissions requesting permitted activities for stream and river maintenance;
 - I suggested possible wording for rules in Chapter 4 in relation to the ODP provisions that will remain in force. Subsequent to the Coastal Overview presentation day, and with reference to the evidence filed by submitters in relation to this matter, I have considered this matter further.

Tangata whenua

- 6.2 In responding to Commissioner Pomare's question from the Coastal Overview presentation day it is important for me to note that I did not become the reporting officer for Chapter 4 until after submissions had closed, the Submitter Engagement Version had been developed, and further consultation had occurred. I can therefore only comment on the documents I have available to me that record what happened before I became involved in the PDP.
- 6.3 Submissions on the PDP were received from Ngā Hapu o Otaki (Submitter 232) and Te Runanga o Toa Rangatira Inc (Submitter 150). Both of these submissions are attached to this statement. Both submissions provide an explanation of the involvement of tangata whenua in the preparation of the PDP. Both submissions provide support in principle for a number of policies in the PDP, including some in Chapter 4. Those policies in Chapter 4 that are supported in principle include those that support the restoration of coastal dunes, and those that relate to identifying, protecting and restoring natural character. No opposition was expressed to any policies or rules in Chapter 4.
- 6.4 Tangata whenua are recorded as attending the prehearing meeting for Chapter 4 held on 27 March 2015, but there are no specific matters outlined in the prehearing meeting notes relating to any tangata whenua concerns. An undertaking was made at this meeting that Council would provide iwi with appropriate material in a way that would

enhance their involvement (including briefings) at critical points up to end of May 2015 and beyond, and that the Council would work closely with iwi on Kāpiti Island issues.

- 6.5 On 1 September 2015 a report was provided to the Kāpiti Island Co-Management Committee to update them on the provisions in the PDP that are relevant to Kāpiti Island. The Kāpiti Island Co-Management Committee comprises Department of Conservation staff and Ngati Toa representatives. The report summarised the provisions and maps that were notified in the PDP relevant to Kāpiti Island, and outlined the changes that had been recommended in the Submitter Engagement Version of the PDP as a result of analysis of submissions.
- 6.6 On 13 October 2015 Council officers held a workshop with Te Ohu Taio to discuss Chapter 4, including providing an introduction to the chapter and the submissions received on it. Some concern was expressed at this workshop that cultural values had not been included in the assessment for areas of outstanding natural character, and Te Ohu Taio expressed an interest in further discussions with Isthmus Group Limited in relation to this. Council officers have advised me that, as a result, Te Ohu Taio gave further consideration to cultural values as expressed in the Landscape and Coastal Environment Addendum Report, and in May 2016 recommended amendments regarding tangata whenua values. Those recommendations were incorporated without alteration, into the final Addendum Report.
- 6.7 On 6 November 2015 Council officers presented to the Kāpiti Island Reserves Committee Meeting to update the co-management partners for Kāpiti Island on the provisions in the PDP that are relevant, including the provisions of the Chapter 4: Coastal Environment pertaining to Kāpiti Island, and information on the Rural and Natural Environment chapters.

Stream and river maintenance

- 6.8 At the Coastal Overview presentation day, I noted to the Hearing Panel that an amendment needed to be made to the section 42A report in relation to stream and river maintenance, as an inconsistent approach had been taken in Chapters 3 and 4 to referencing the permitted activities in Chapter 9.
- 6.9 The PDP rules as notified made earthworks within areas of high natural character in the coastal environment a restricted discretionary activity, subject to conditions, and non-complying if these conditions could not be complied with. As a result of the introduction of areas of outstanding natural character in response to submissions, I have also recommended the inclusion of rules in relation to earthworks in these areas.
- 6.10 The net effect of the rules as currently written in the section 42A report would be that consent would be likely to be required for stream and river maintenance works permitted by rules in Chapter 9 within areas of outstanding natural character and areas of high natural character. The identification of areas of high natural character on the planning maps attached to my section 42A report make it clear that the rules as written would have significant implications for stream and river maintenance activities at the mouths of these waterbodies.
- 6.11 Cross-references to the Chapter 9 rules was identified as a matter for integration in the Coastal Overview s42A report, but the Chapter 4 s42A report does not reflect this.
- 6.12 Since the Coastal Overview presentation day I have discussed the matter further with the reporting officer for Chapter 3, and with Isthmus Group Limited. While acknowledging the desirability of providing for stream and river maintenance works, I am conscious that the PDP must give effect to the NZCPS 2010, and particularly in reference to this discussion, Policy 13. Policy 13(1)(a) states that adverse effects on areas of outstanding natural character in the coastal environment are to be avoided. After discussion with Isthmus Group Limited, I am not convinced that it is possible to give effect to Policy 13(1)(a) by allowing earthworks for stream and river maintenance

as a permitted activity in areas of outstanding natural character. The area affected by this in Chapter 4 would be the newly identified area of outstanding natural character at the Waikanae River mouth. Isthmus Group has advised that maintenance of existing activities could be expected to avoid adverse effects, but that new activities could not. It is therefore appropriate to continue to require resource consent for new activities in this area.

- 6.13 The rules in Chapter 4 relating to earthworks in areas of high natural character should however be revisited to address the inconsistency with Chapter 3, and to provide for stream and river maintenance as a permitted activity (by cross-reference to the rules in Chapter 9), as requested by a number of submitters. Isthmus Group has advised me that the effects of these sorts of activities would not be sufficiently significant as to require a consent in the relatively constrained circumstances that are outlined in the rules in Chapter 9 (i.e. that the works are undertaken by Council, Greater Wellington or the Department of Conservation).
- 6.14 The evidence of Joan Allin has expressed some significant reservations about the current drafting of the rules relating to areas of high natural character and areas of outstanding natural character. As a result I would like to consider the approach of the Chapter 3 author in her overview statement to addressing the issue, the drafting difficulties raised by Ms Allin, and any other drafting issues raised by submitters during the hearing. I can then fully address the matter in my closing statement and provide suggested drafting for the Hearing Panel's consideration.

Interrelationship between the ODP and the PDP

- 6.15 The matter of the interrelationship between the ODP provisions relating to coastal hazards and the PDP rules was addressed at the Coastal Overview presentation day.
- 6.16 There is an acknowledged issue, further elaborated on and developed in Ms Allin's evidence, with the remaining rules in Chapter 4 and their reference to 'buildings' and 'structures' within areas of high natural character, and how these would relate to the provisions that are to remain operative for the time being in the ODP. At the Coastal Overview presentation day I suggested wording for the Chapter 4 rules in an attempt to resolve the issue for that chapter (and that chapter alone).
- 6.17 In light of the evidence filed by submitters for this hearing, I wish to advise the Hearing Panel to disregard my suggested wording from the earlier presentation at this stage. The Hearing Panel will no doubt be alive to the issue and my understanding is that it will be considered again at the overall integration hearing later this year.

7.0 Issues I would like to draw to the Panel's attention

Submissions on coastal hazards

- 7.1 The Part A s42 report provides (at paragraphs 122-137) discussion of the withdrawal of the coastal hazard provisions in 2014. A significant number of the 416 submissions received on Chapter 4 related at least in part (and sometimes completely) to the coastal hazard provisions. The Council annotated the summary of submissions to note those parts of submissions that either partially or wholly referred to the coastal hazard provisions. My approach to those submissions in the s42A report has therefore been not to provide specific assessment in section 5 of the report.

Section 5 of section 42A report

- 7.2 Because of the number of submissions that related partly or wholly to the coastal hazard provisions, developing the table contained in section 5 of the s42A report was a relatively complex task. The first compilation of the table contained multiple duplicating submissions and a significant number where the only submission point left was support for other submitters.

7.3 For efficiency, and to try to address the withdrawal of the coastal hazard provisions and not cause further confusion by including coastal hazard related submission points in the table in section 5 of the s42A report, I did not provide a specific response to every submission point in the table. It is important to emphasise however that each of the submissions received has been evaluated in the preparation of the s42A report, and in the analysis and discussion contained in section 3 of the report.