

Coastal Overview: Chapter 4: Coastal Environment

1.0 Introduction

- 1.1 The section 42A report I have prepared considers submissions received on the provisions of Chapter 4: Coastal Environment and the District Plan Maps.
- 1.2 For the purposes of this Coastal Overview, I will identify the major issues raised by submitters in relation to Chapter 4: Coastal Environment, but then concentrate on the areas of cross-over with other chapters of the Proposed District Plan.
- 1.3 Following the withdrawal of the coastal hazard provisions in 2014, Chapter 4 now primarily addresses the following matters:
- the extent of the coastal environment
 - the preservation of natural character in the coastal environment
 - the maintenance and enhancement of public access to and along the coast

2.0 Major themes

- 2.1 There were a large number of submissions and further submissions received on Chapter 4. The major themes can be categorised as:
- 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

Identification of the coastal environment

- 2.2 The principal submission in relation to the extent of the coastal environment was from Frank and Vicki Boffa, seeking that the extent of the coastal environment should be defined as the immediate coastal edge or margin. Submissions on the extent of the coastal environment were also received from the Department of Conservation and Rob Crozier and Joan Allin.
- 2.3 Further technical work has been carried out with a view to reconsidering and redefining the extent of the coastal environment, and to ensure consistency with the operative Regional Policy Statement, as requested in submissions. The findings from this review are outlined in the Landscape and Coastal Environment Addendum report prepared by Isthmus Group Limited. An outline of the methodology by which this work was undertaken will be provided at the principal hearing for Chapter 4. For the purposes of this Coastal Overview I note that the extent of the coastal environment has been redefined.

Areas of outstanding natural character

- 2.4 Submission 485 Frank and Vicki Boffa seeks that Kapiti Island and its associated islands be classified as outstanding rather than high natural character, and that the entire coastal margin (that has not been developed for residential or commercial purposes) and the seascape out to 12 nautical miles be identified as outstanding natural features and landscapes.

Identification, protection and restoration of natural character

- 2.5 A number of submitters requested amendments of the wording of Policies 4.2, 4.3 and 4.4 to better reflect the New Zealand Coastal Policy Statement and the now operative Regional Policy Statement. Other submitters opposed the policies in their entirety and sought that they be deleted.

Public access

- 2.6 A similar approach is taken by submitters to Policy 4.5, and part (b) of Policy 4.3 in relation to public access.
- 2.7 In addition, submitters seek that a new rule be inserted into the PDP to provide for appropriate activities to occur within the coastal environment, such as the erection of access bollards, public amenity structures and surf-lifesaving clubs and facilities. Eighty-four submitters also seek that the Council considers the development of a 'high specification walkway, similar to the walkway constructed at the Poplar Road end of the Esplanade in Raumati South'.

Protection of natural dunes

- 2.8 Policies 4.6 and 4.7 are relevant to the protection of natural dunes. Concern from submitters opposed to Policy 4.6 relates to the wording 'natural shoreline movement will be accommodated'. The main concern for submitters in relation to Policy 4.7 relate to the wording 'and enabled to migrate inland in response to shoreline retreat'. Submitters identify issues in relation to enabling people to protect private property under this policy.
- 2.9 The issue of rules relating to vegetation clearance on dunes is one of the matters where a cross-over occurs, between Chapters 3 and 4. I return to this matter later.

Stream and river maintenance

- 2.10 Submitters seek amendments to Policy 4.6, or its deletion, in relation to its effect on stream and river maintenance. Eight submissions seek permitted activities related to stream and river maintenance and clearance.
- 2.11 The issue of earthworks for steam and river maintenance is one of the matters where a cross-over occurs, between Chapters 3, 4 and 9. I return to this matter later.

Private property rights

- 2.12 A number of submitters raise concerns with restrictions on property use as a result of the provisions of the PDP, particularly in relation to the ability to protect and maintain property.

Coastal yard requirements

- 2.13 Eight submitters seek the retention of the 7.5m coastal yard in the Te Horo Beach Residential Zone. This matter crosses over with Chapter 5 Living Environment but has been addressed through the section 42A report on that chapter, where a recommendation has been made to reinstate the coastal yard provisions as requested by the submitters.

General coastal environment issues

- 2.14 A number of submitters are opposed to the whole of Chapter 4 and seek its deletion. A significant number of submitters have also commented on the consistency of the Chapter 4 provisions with the RMA and the NZCPS 2010.

- 2.15 Various submitters have also requested the inclusion of provisions to enable activities in the coastal environment.

3.0 Cross-over issues

- 3.1 Working with the Reporting Officers for the section 42A reports for other chapters relevant to the coastal environment, and with the author of the coastal overview report, we have identified four issues that cross-over Chapter 4 and other chapters:
- Dune management
 - Stream and river maintenance
 - Plantation forestry
 - Operative District Plan coastal hazard provisions
- 3.2 There is also an issue with overlaps between controls within outstanding natural features and landscapes, ecological sites and areas of outstanding natural character and areas of high natural character that has been identified as we have worked together.

Dune management

- 3.3 In discussion with the Reporting Officer for Chapter 3 Natural Environment (ecological sites and indigenous vegetation) I understand that the framework of rules is as follows. Rule 3A.1.3 of Chapter 3 permits the trimming of any indigenous vegetation located within an ecological site listed in Schedule 3.1 or the trimming of a key indigenous tree listed in Schedule 3.2 or a rare and threatened vegetation species listed in Schedule 3.3. Where this rule is not met, indigenous vegetation modification in these areas falls to a restricted discretionary activity under Rule 3A.3.1A.
- 3.4 Rule 3A.1.5 permits the modification of indigenous vegetation within the rural zones (including the Rural Dunes Zone), unless it is within an ecological site listed in Schedule 3.1, a rare and threatened vegetation species listed in Schedule 3.3, or within 20m of a water body or the coastal marine area. Where the conditions of this rule are not met, indigenous vegetation modification falls to a discretionary activity under Rule 3A.4.2, although it is noted that Rule 3A.3.1, which is unspecified as to its application in relation to location, also covers indigenous vegetation modification within 20m of the coastal marine area, and classifies it as a restricted discretionary activity. This is an overlap issue that has been identified by the Chapter 3 Reporting Officers in the merging of their three reports.
- 3.5 A number of exemptions providing for indigenous vegetation modification and trimming apply throughout these rules.
- 3.6 Rule 4A.2.1 of Chapter 4 classifies earthworks and vegetation on dunes undertaken for the purpose of dune restoration, and the associated removal of non-native plant species, as a controlled activity. Rule 4A.3.1 classifies buildings on land in the coastal environment which has been identified as having high natural character as being a restricted discretionary activity. Rule 4A.4.1 classifies buildings on land in the coastal environment which has been identified as having outstanding natural character as being a discretionary activity.
- 3.7 There are therefore some instances where activities permitted under Chapter 3 will require consent under the rules in Chapter 4 if vegetation trimming or modification is taking place as part of dune restoration, and other instances where dune restoration work that would be a controlled activity in Chapter 4 would be a restricted discretionary activity in Chapter 3 (for example where trimming of indigenous vegetation as part of a dune restoration activity occurs in an ecological site or is a rare and threatened species, but can't meet the conditions of permitted rule 3A.1.3).

Stream and river maintenance

- 3.9 The Coastal Overview section 42A report notes that Rule 9B.1.6 permits flood protection, erosion control and natural hazard mitigation measures in the Open Space Zone and flood mitigation works in the River Corridor Zone. Where the Coastal Environment overlay lies over the top of these zones, and the works are proposed in an area of outstanding natural character or an area of high natural character, Rules 4A.4.4 and 4A.3.1 would require consent for earthworks as a discretionary or restricted discretionary activity respectively.

Plantation forestry

- 3.10 At section 3.10 of the section 42A report for Chapter 3 Natural Environment, the report author responds to submission 511.6 Mari Housiaux and recommends that new Rule 3A.4.9 applies to plantation forestry in the coastal environment in areas of outstanding natural character and areas of high natural character. There is no equivalent rule in Chapter 4.

Operative District Plan coastal hazard provisions

- 3.11 The section 42A Coastal Overview report notes that there is a need to clarify the application of operative District Plan coastal hazard provisions and Proposed District Plan provisions. In Chapter 4 Coastal Environment the issue relates to rules controlling buildings and earthworks in areas of outstanding natural character and areas of high natural character.

Overlapping controls in identified areas

- 3.12 Rule 3A.1.8 permits small buildings within outstanding natural features and landscapes, subject to controls on their location with respect to dominant dunes.
- 3.13 In three locations – Waiorongomai Dunes ONF, Otaki River Mouth ONL and Whareroa Dunelands ONF – the small buildings permitted by Rule 3A.1.8 will require consent under Chapter 4 in some or all of the ONF/ONL, as they are located within areas of high natural character in the coastal environment.
- 3.14 The Reporting Officer for Chapter 3 Natural Environment (ecological sites and indigenous vegetation) has also identified instances where ecological sites and areas of high natural character overlap, and consents may therefore be required for activities that would be permitted under Chapter 3.

4.0 Resolution of issues

Dune vegetation

- 4.1 In my opinion, the limited application of Rule 4A.2.1 (as it only relates to dune restoration activities) means that it is not inappropriate for the cross-over to remain. In order to continue to maintain the function of dunes it is appropriate that controls on earthworks are imposed. The vegetation clearance provisions of the rule are in place more because they are part of the restoration activity than because vegetation removal on dunes per se needs to be controlled. Overall vegetation management of dunes can continue to be managed by the rules in Chapter 3 identified above. The net result of the provisions as currently written will be that, within 20m of the coastal marine area consent will be required for modification of indigenous vegetation, modification within ecological sites, or of key indigenous trees or rare or threatened vegetation species will require consent, and vegetation clearance on dunes as part of dune restoration activities will require consent. The instances where vegetation clearance on dunes will be permitted are likely to be very limited under this framework.

Stream and river maintenance

- 4.2 The Coastal Overview section 42A report recommends that the cross-over issue of providing exemptions for earthworks for stream and river maintenance activities is resolved by including an exception for works permitted under Rules 9B.1.4, 9B.1.6 and 9B.1.8. With apologies to the Hearing Panel this matter was not picked up in the preparation of the section 42A report for Chapter 4. A consistent approach should be taken to earthworks for stream and river maintenance within Chapter 3 and Chapter 4. The section 42A report for Chapter 4 will need to be updated to reflect this change.

Plantation forestry

- 4.3 The inclusion of areas of outstanding natural character and areas of high natural character in Rule 3A.4.9 appropriately addresses the submission point relating to plantation forestry. Both the section 42A report for Chapter 3 Natural Environment and the section 42A report for Chapter 4 Coastal Environment recommend that the two chapters are combined. This would remove the minor difficulty of rules relating to activities in the coastal environment being included in a chapter other than Chapter 4 and would resolve the cross-over issue.

Operative District Plan coastal hazard provisions

- 4.4 The recommendation in the Coastal Overview section 42A report for resolving the interaction between the PDP and the operative District Plan coastal hazard provisions is to amend the rules of Chapter 4 Coastal Environment to make it clear that in relation to buildings, the rules of the operative District Plan apply. Rules 4A.3.1 and 4A.4.4 need to either be amended by including in the description of the activity words such as 'Buildings, except as provided for by rules relating to the building restriction lines in the Kapiti Coast District Plan 1999, and earthworks...', or addressed consistently for all chapters through the integration hearing scheduled for later this year. Seawalls of under 1.5m will remain permitted activities as they do not meet the definition of building and so do not fall within Rules 4A.3.1 and 4A.4.4 of the PDP. My preference, having reviewed the opening statement from the Reporting Officer for the Coastal Overview section 42A report would be for the matter to be addressed consistently through all PDP chapters through the integration hearing later this year.

Overlapping controls in identified areas

- 4.5 No submissions sought amendments to Rule 4A.3.1 and there is therefore no scope to address the cross-over for buildings in outstanding natural features and landscapes, and areas of high natural character. However, as it will only occur in very restricted locations I do not consider that it is a significant issue.
- 4.6 As noted by the Reporting Officer for Chapter 3 Natural Environment (ecological sites and indigenous vegetation) the requirement for consents for activities within areas of outstanding natural character and areas of high natural character that partially overlap with ecological sites is not considered to be inappropriate.

5.0 Implications for other chapters

- 5.1 The implication for other chapters of the discussion of cross-over issues above is the need to address the interaction between the operative District Plan coastal hazard provisions and the PDP consistently across all chapters that it affects.
- 5.2 As part of preparing this overview I have reviewed the currently recommended changes to Objective 2.4 Coastal environment (contained in the Chapter 2 Reporting Officer's response). The amended policies contained in section 4 of the section 42A report for Chapter 4 Coastal Environment are consistent with Objective 2.4 and do not require any further changes to be made to it at this time.

5.3 I have also considered whether any of the policies contained in Chapter 4 Coastal Environment should be transferred into the new Chapter 2A that has been recommended by the Reporting Officer for Chapter 5 Living Environment. As the policies in Chapter 4 are specific to the coastal environment, which covers a relatively restricted area of the district, I do not consider them to be district-wide policies suitable for inclusion in Chapter 2A.

Frances Lojkine
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