

**Before the Hearings Panel  
At Wellington City Council**

**Under** Schedule 1 of the Resource Management Act 1991

**In the matter of** the Proposed Wellington City District Plan

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**Stream 8 Reporting Officer Right of Reply of Jamie Sirl on behalf of Wellington  
City Council**

**Date: 7 June 2024**

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## **INTRODUCTION:**

1 My full name is James (Jamie) Grant Sirl. I am employed as a Senior Planning Advisor in the District Planning Team at Wellington City Council (the Council).

2 I have prepared this Reply in respect of the matters in Hearing Stream 8 raised during the hearing, and in particular to those directed by the Panel in Minute 49.

3 I have listened to submitters in Hearing Stream 8, read and considered their evidence and tabled statements, and referenced the written submissions and further submission relevant to the Hearing Stream 8 topics.

4 The Coastal Environment, Natural Character, and Public Access 42A Report section 1.2 sets out my qualifications and experience as an expert in planning.

5 I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023, as applicable to this Independent Panel hearing.

6 Any data, information, facts, and assumptions I have considered in forming my opinions are set out in the part of the evidence in which I express my opinions. Where I have set out opinions in my evidence, I have given reasons for those opinions.

## **SCOPE OF REPLY**

7 This reply follows Hearing Stream 8 held from 29 April to 2 May 2024. *Minute 49: Stream 8 Hearing Follow Up* requested that the Council submit a written reply to specific matters contained in the Minute. The Minute requires this response to be supplied by 7 June 2024.

8 The Reply includes:

- Discussion and recommendations in response to the specific matters and questions raised in Minute 49 (in the order and using the numbering of Minute 49); and
- Additional matters that I would like to bring to the Panel's attention.

## RESPONSE TO MATTERS RAISED IN MINUTE 49

9 I respond to the further advice sought by the Panel with respect to the Coastal Environment chapter and associated schedules, mapping and appendices as follows.

**5. Secondly, can both Reporting Officers please provide revised text to capture the intention advised to us that the objectives, policies, and rules of both the CE and NFL Chapter do not apply to Renewable Electricity Generation (REG) and Infrastructure. We query also whether Airport and Port activities within their respective Special Purpose Zones should be treated in the same way as other infrastructure in this regard.**

10 I consider that the best place to emphasise that the Infrastructure and Renewable Electricity Generation chapters are standalone self-contained chapters and how they work with the rest of the Plan is best contained in the Infrastructure and Renewable Electricity Generation chapters, and the General section of the Plan.

11 However, I consider that the following statement would provide complete clarity with respect to the Coastal Environment chapter and recommend that this is included in the introduction to the Coastal Environment chapter as provided in Appendix A to this reply. I have now included these amendments in the body of the introduction itself (paragraphs 10 and 11), as opposed to the 'Other relevant District Plan provisions' section as I consider that this reduces the potential for interpretation issues with respect to SUB and EW chapters where similar statements are not included.

*The Coastal Environment chapter provisions do not apply to Infrastructure located within the Coastal Environment (unless specifically stated within a INF-CE rule or standard for example, as a matter of discretion).*

*The Coastal Environment chapter provisions do not apply to renewable energy generation activities located within the Coastal Environment (unless specifically stated within a renewable electricity generation rule or standard for example, as a matter of discretion).*

12 I do not consider that it would be appropriate to treat Airport and Port activities within their respective Special Purpose Zones in the same way as Infrastructure provided for in the INF

and INF-CE chapter. This is because the Special Purpose Zones have not been drafted in a way that gives effect to, or reconciles where necessary, the direction of the NZCPS in the same way the INF-CE and REG chapters have. Put another way, the Special Purpose Zones are not standalone chapters like the INF-CE and REG chapters that incorporate matters addressed in overlay chapters of the Plan e.g. Coastal Environment and Natural Hazards. I also note the Coastal Environment chapter already provides a specific consenting pathway for these zones – at least with respect to coastal and riparian margins.

**6(a) Options available to reduce the need for assessment of coastal values in urban areas the subject of the Coastal Environment overlay at locations where there are few/no apparent ‘coastal’ values**

- 13 Firstly, I note that the Natural Character Evaluation report prepared by Boffa Miskell<sup>1</sup> is the most appropriate evidence base for determining areas where there are **‘few/no apparent ‘coastal’ values’**. Secondly, I note that there is a more enabling consenting pathway in coastal and riparian margins that are highly modified within the Coastal Environment chapter (CE-P6, CE-R8 and CE-R15). Therefore, I focus my response to this query on how the need for an assessment of coastal values could be reduced (as required under CE-R7 and CE-R12) for proposals in urban areas subject to the Coastal Environment Overlay.
- 14 CE-R7 only relates to the activities outside of areas of high natural character and coastal or riparian margins. Similarly, CE-R12 only relates to the construction of, or additions and alterations to, buildings and structures outside of areas of high natural character and coastal or riparian margins. It is these two rules that create the requirement for proposed activities and development outside of areas of high natural character and coastal or riparian margins to consider the adverse effects on the Coastal Environment resulting from proposals where they do not comply with the permitted activity requirements of the underlying zone.
- 15 The Panel’s concern as I understand it is that given the extent to which the Coastal Environment Overlay applies to urban areas, an assessment of effects on natural character will be required for activities and development that is not permitted in the underlying zone

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<sup>1</sup> [Boffa Miskell Limited 2016. Wellington and Hutt City Coastal Study: Natural Character Evaluation of the Wellington City and Hutt City Coastal Environment. Report prepared by Boffa Miskell Limited for Greater Wellington Regional Council, Wellington City Council and Hutt City Council.](#)

in areas where there are few/no apparent 'coastal' values. The concern is that this may result in an inefficient and unnecessary resource consent process, particularly where an expert landscape assessment was requested to be provided.

16 I remain of the view that for applications that require consideration of natural character values where there are low/no natural character values, an applicant should simply be able to explain that without the need for a landscape assessment. The Boffa Miskell Natural Character Evaluation report provides an appropriate resource to inform an applicant's consideration of natural character of the wider area a site is located in. Similarly, if an activity is in an area that the Boffa Miskell Natural Character Evaluation report highlights as having 'moderate' natural character values, the level of detail required will be commensurate with the adverse effects of the proposal on existing natural character. This approach is often required through a resource consent application and assessment process. I also reiterate that this approach simply introduces effects on natural character as an additional matter of discretion requiring assessment and does not result in the need for a resource consent when there was not already the need for one.

17 However, following direction from the Panel and having considered this matter further, I outline an alternative option for the Panel's consideration as follows.

#### **Alternative option**

- **Do not manage activities and development outside of areas of high natural character and coastal or riparian margins through rules in the Coastal Environment chapter; and**
- **Rely on the underlying zone policies, rules and standards, and the matters of discretion and assessment criteria within these rules and standards, including the Design Guides, in combination with earthworks rules.**

18 This option would leave the management of adverse effects to the underlying zone, with CE-R7 and CE-R12 deleted from the Coastal Environment chapter.

19 I note that this option would result in no specific consideration of how an activity or building may adversely affect the natural character of the coastal environment where outside of the

coastal and riparian margin and high coastal natural character areas. However, potential adverse effects associated with buildings (e.g. bulk and dominance effects, amenity effects) are addressed under the zone-based provisions and other relevant rules (e.g. earthworks rules provide for an assessment of effects on landform and visual effects). In my opinion this alternative option would still give effect to the NZCPS.

- 20 Where development is occurring in less modified areas, i.e. areas with some remaining natural character, I note that larger-scale development in residential zones (e.g. multi-unit housing developments) or centres zones would be assessed against either the [Residential Design Guide \(isoplan.co.nz\)](https://isoplan.co.nz/resources/residential-design-guide/) or the [Centres and Mixed Use Design Guide \(isoplan.co.nz\)](https://isoplan.co.nz/resources/centres-and-mixed-use-design-guide/). Design outcome O1. and O2. are of most relevance to natural character, along with guidance point G1. Although not specifically referencing the coastal environment, the guidance point requires the consideration of relevant characteristics including 'natural features, including topography, landform, valued established vegetation, and water bodies'.
- 21 As areas of the General Rural Zone (GRUZ) within the Coastal Environment are more likely to have moderate levels of natural character, compared to urban areas of the city, I have also considered this matter with respect to the GRUZ. I note that new residential buildings are subject to the Rural Design Guide. The provisions of the GRUZ, combined with the Rural Design Guide, clearly manage residential development in this zone to maintain a rural landscape and character.
- 22 Taking an example of a permitted building in the GRUZ such as a large shed (e.g. 8m high and 400m<sup>2</sup>), as notified (and subject to s42A recommendations), CE-R12 would require any proposal for a rural building that did not comply with the relevant standards (GRUZ-S1, S2, S5, and S7) to consider the adverse effects on the natural character of the coastal environment (CE-P2.3 - s42A report version). Arguably, the relevant assessment criteria for the non-compliance with a specific standard will adequately address any adverse effect of the building on the natural character of the coastal environment. I also note that many GRUZ rules elevate to a Discretionary activity status where permitted activity requirements are not achieved. Notably, the NOSZ rules operate in a similar way.
- 23 So, although there would be no requirement in the GRUZ or NOSZ for a specific assessment of adverse effects on natural character within the Coastal Environment if CE-R12 were to

be deleted, full discretion would generally be available to a decision-maker when considering adverse effects from a proposal that does not comply with the permitted zone rules.

24 I note that this general approach of relying on underlying zone provisions to manage adverse effects on natural character outside of high coastal natural character areas and coastal and riparian margins is in place in other districts. The Porirua District Plan, Waikato District Plan, and New Plymouth District Plan (NPDP) are three recently reviewed plans that essentially leave it to the underlying zone.

25 However, I further note that the NPDP (under appeal) manages adverse effects on natural character within the rural and open space zones within the Coastal Environment in a slightly nuanced way. The Coastal Environment chapter specifies building height and GFA standards that apply in rural and open space zones in the Coastal Environment Overlay. Non-compliance with either of these standards elevates the activity status of the proposal to discretionary, with the associated guidance on adverse effects on natural character of these non-compliances limited to policy direction which is very general. Having considered this approach in the context of the WCC PDP, in my opinion it would provide no added value to the management of adverse effects already achieved through the general rural and open space zones.

26 Consequently, while my opinion as outlined in the s42A report<sup>2</sup> was that the notified approach was appropriate on the basis that it gives effect to of the NZCPS, I am now of the opinion that the alternative approach of relying on the underlying zones without the need for CE-R7 and CE-R12 would also be an acceptable option, albeit one that is less explicit with respect to consideration of the Coastal Environment.

27 If the Panel were minded to prefer the option that relies solely on the underlying zones to maintain natural character within the Coastal Environment outside of high coastal natural character areas and coastal and riparian margins, I suggest that this would be best achieved by deleting CE-R7 and CE-R12.

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<sup>2</sup> Section 42A Report – Coastal Environment, Natural Character and Public Access, paras. 73 and 74

### **Other reasonably practicable options considered**

28 I have considered whether much more specific matters of discretion would address the issue raised by the Panel.

29 Firstly, there is no evidence available to me that supports identification of a subset area within the Coastal Environment Overlay. As such I cannot recommend an approach to managing specific parts of the Coastal Environment Overlay not otherwise in a high coastal natural character area or coastal or riparian margin, such as areas in close proximity to the coastal margin.

30 I have also considered an option that includes much more specific matters of discretion to CE-R7 and CE-R12, either by way of amendments to CE-P2 or new matters of discretion for the restricted discretionary parts of these rules.

31 In my opinion, aside from landform modification, which is managed by the earthworks provisions, the potential adverse effects with respect to natural character in urban areas will be limited to:

- Buildings or structures of a size, or development of a scale, not anticipated by the zone where visible from the coastline; and
- Large scale removal of existing vegetation.

32 With respect to buildings and development, as detailed at paragraphs 19 to 23 above, arguably the underlying zone provisions provide for adequate consideration of any non-compliance with permitted rules and standards, albeit with no specific direction with respect to adverse effects on natural character of the coastal environment.

33 With respect to the restrictions on the removal of vegetation, there are no zone rules or Coastal Environment rules that apply outside high coastal natural character areas and coastal and riparian margins. The SNA overlay and ECO chapter rules will protect the most important areas of indigenous vegetation, noting however that SNA provisions and mapping do not apply to residential zones. Consequently, I consider there to be little value in a specific matter of discretion as the effects of vegetation clearance within the coastal



environment (but outside of high coastal natural character areas and coastal and riparian margins).

34 Following further consideration of the option of introducing specific matters of discretion to CE-R12 in particular to provide additional clarity to Plan users on the potential adverse effects that that need to be assessed, I consider that this highlights the underlying issue with the notified approach – which is the lack of clarity of the potential impacts on natural character within the Coastal Environment from development in urban areas with few/no apparent ‘coastal’ values. I have not been able to identify more specific matters of discretion that would apply generally (i.e. to the wider Coastal Environment) and provide greater clarity for Plan users on the potential adverse effects that need to be assessed.

**6(b) How the area of NOSZ around the Airport margin intended to be treated the same way as the Airport Zone should be described, noting any consultation he has had on this point with Ms O’Sullivan**

35 I consider that the most effective and accurate way of identifying this area of the coastal margin is to include a mapped area in the ePlan, identified under the Map Layers and Legend in the ePlan maps. The area proposed is included in Appendix B. The term ‘Moa Point Road Seawall Area’ used as the title of the mapped area can then be used within the associated provisions. I note this approach is not uncommon, with the Plan’s reference to the specific control ‘non-residential activity frontage’ being a term that is not defined, but is mapped. This approach will also reduce the text within rules that refer to this area making for a more user-friendly Plan. I note that there are consequential amendments to the NOSZ that will be required for consistency.

36 Ms O’Sullivan was provided an initial draft map of the area, with Ms O’Sullivan’s feedback incorporated into the final mapped area where I agreed. I then provided a final draft of the mapped area to Ms O’Sullivan and to Ms Weeber in acknowledgement that it was Ms Weeber’s evidence that initiated the refinement of the area. Ms Weeber provided confirmation that this area was appropriate in her view. A record of this correspondence is included in Appendix B to this Reply.

**6(c) Review of the headings of Rules, as to whether they correctly and clearly describe the relevant activity**

- 37 A table that sets out a comparison of the Coastal Environment chapter (excluding the coastal hazards provisions) rule and standard titles is included in Appendix C.
- 38 The key observation is that the general reference to the 'coastal environment' could be removed on the basis that all of the rules and standards of the chapter only apply to the coastal environment. However, although I consider that this would simplify the rules, it would be inconsistent with how rules have been titled throughout the plan and may create confusion if these rules were to be viewed outside of the context of the chapter.
- 39 The formatting and numbering have been assessed with changes recommended and included in Appendix A to improve consistency and interpretation. I consider that these changes are minor amendments and can be made under Clause 16(2) of Schedule 1 of the Act as the amendments do not materially change how the rules and standards are applied.
- 40 The use of conjunctives within the rules and standards has been reviewed and I confirm that they are correct with respect to how the rules are intended to apply. Mostly notably, as raised by the Panel with Ms O'Sullivan, I consider the amendments to CE-R5, CE-R6 and CE-S1 clearly apply to high coastal natural character areas and coastal and riparian margins (i.e. both those margins that are within and outside of high coastal natural character areas).

#### **6(d) Introduction to the Coastal Environment Chapter**

##### **(i) whether the final sentence added to the fourth paragraph on page 1 should refer to 'wind' turbines, quarries (rather than quarrying) and to the National Grid**

- 41 Yes, I consider that these amendments would improve clarity and better recognise the existing infrastructure within the coastal environment. These amendments are included in Appendix A to this reply.

##### **(ii) whether the location of the additional text in the second full paragraph on page 2 needs to be changed to remove the inference that ONFL areas have been identified consequent on NZCPS Policies**

- 42 In my opinion it is not necessary to revise the paragraph as I do not consider there is a concerning inference present. The second sentence of this paragraph clearly states that

ONFL have been identified in accordance with the RPS. Although the requirement for and method of the identification of ONFL is detailed in the RPS, I consider that the identification of ONFL within the Coastal Environment gives effect to Policy 15 of the NZCPS. Policy 15 of the NZCPS relates to natural features and natural landscapes (including seascapes) of the coastal environment, and the [s32 evaluation for Natural Features and Landscapes](#) specifically references Policy 15 of the NZCPS.

**(iii) how the discussion of the framework of the chapter on page 3 should be amended to reflect the addition of the NOSZ areas on the margins of the Airport, again noting any consultation on this subject with Ms O’Sullivan**

43 I recommend that the term ‘Moa Point Road Seawall Area’ is referenced within the Coastal Environment chapter introduction as provided in Appendix A to this reply.

44 I have consulted Ms O’Sullivan on this approach and text. I agreed with Ms O’Sullivan’s feedback that a concise approach is optimal, and I have revised accordingly.

**6(e) In relation to CE-O1, query the duplicated reference in the first line to natural character**

45 It appears that the intent is to address both natural character and the qualities that contribute to natural character. However, in my opinion there is no material difference between the two. If the objective is seeking to maintain natural character as a ‘whole’, there is no need to maintain the ‘parts’ being the qualities that contribute to natural character. I note that the NZCPS and RPS do not differentiate between the two. Having further considered this objective in light of Ms O’Sullivan’s presentation at the hearing, I agree with Ms O’Sullivan that as CE-O1 directly relates to natural character amending the title of this objective to ‘Natural character within the Coastal Environment’ would better reflect the outcomes being sought by the objective. Recommended amendments are included in Appendix A to this Reply. A s32AA is not considered necessary as the change is simply seeking to reduce duplication and improve clarity, resulting in no material change in the outcome sought by the objective.

**6(f) In relation to CE-P2, query whether sub-policy 1 imposes unnecessary constraints on non-residential activities, and in relation to residential activities, whether it provides any policy direction not already addressed by sub-policy 2;**

46 In my opinion, the intent of sub-policy 1 is to enable intensification within existing urban areas, signalling that change is anticipated and appropriate in established urban areas. Urban areas include a range of zones, including residential and commercial zones. Whereas sub-policy 2 directs that any additional urban sprawl in proximity of the coastline beyond the existing urban areas is inappropriate. I consider there to be a subtle difference.

47 With respect to whether sub-policy 1 imposes unnecessary constraints on non-residential activities, I suggest that it is more that it may impose unnecessary constraints on rural activities which are not going to locate in existing urban areas. A solution, as discussed during the stream 8 hearing is to revise the 'and' to an 'or' which would better recognise that rural activities will not be able to comply with sub-point 1 but will be able to comply with sub-point 2.

I have also reconsidered the wording of the sub-policy recommended to be included in CE-P2. Although the proposed wording '*Avoids any significant adverse effects on the natural character of the coastal environment and avoids, remedies or mitigates any other adverse effects on the natural character of the coastal environment*' is consistent with the NZCPS and RPS, I have reflected on whether such strong avoidance language is appropriate in a 'provide for' policy. I consider that there is no need to reference the avoidance of significant adverse in this policy as this level of potential adverse effects is much more applicable to, and addressed through the policies relating to, high coastal natural character areas. I have provided alternative wording in Appendix A, that essentially achieves the same outcome, for the Panel's consideration.

48 As discussed in the hearing, a reordering of the sub-policies is recommended to improve clarity of how the policy is intended to apply. Revised text is included in Appendix A to this Reply. Also, I highlight to the Panel that SUB-P23 was intended to mirror CE-P2, and suggest that any amendments to CE-P2 should be reflected in consequential amendments to SUB-P23 to retain consistency between the two policies.

**6(g) Please discuss in greater detail the scope to broaden CE-P5(2)(f) and CE-P7(2)(d) as recommended**

49 Having reviewed the recommended amendments to CE-P5 and CE-P7, I agree that the amendments are beyond the scope of submissions as the amendments broaden the sub-policy to mitigation measures in general which is not sought by submitters. Consequently, revised text is included in Appendix A to this Reply.

**6(h) In relation to the revised CE-P10, we request that Mr Sirl address whether the previously suggested 'avoid' policy needs to be qualified, and whether the reference to quarries should be specific to new quarries (as Ms Whitney for Horokiwi Quarry suggested)**

50 As discussed in the stream 8 hearing, the intended recommended amendments to CE-P10 were not included in the Appendix A to my rebuttal evidence. As noted in paragraph 42 of my rebuttal evidence, I agree that amendments to CE-P10 should refer to new quarrying, mining, and plantation forestry activities. In my opinion, there is no need for a qualification such as 'unless adverse effects on natural character within the coastal environment are minor' on the basis that this approach has not been applied throughout the PDP with respect to avoid policies where any qualification is relatively specific (with the exception of NFL-P7.3 and 7.4) i.e. there are a number of unqualified avoid policies (SASM-P6, ECO-P6, NFL-P8.2. CCZ-P3) throughout the PDP that have an associated non-complying activities status rule.

51 Consequently, recommended amendments to CE-P10 are included in Appendix A to this Reply.

**6(i) In relation to CE-R6, clarify the mismatch between paragraph 349 of the Section 42A Report and Appendix A**

52 The recommended amendments set out in paragraph 349 of the Section 42A Report were omitted from the Appendix A to the Section 42A Report in error. This omission (which similarly applies to CE-R5 as outlined in paragraph 342 of the Section 42A Report) was noted in paragraph 30 of my rebuttal evidence and rectified in the Appendix A to my rebuttal. The intention is for CE-R5 and CE-R6 to be amended to also apply to coastal and riparian margins

as a consequential amendment to give effect to the recommended amendments to CE-P8. However, I note a slight discrepancy between the recommendation in paragraph 349 of the Section 42A Report and the Appendix A to my rebuttal which has added to the confusion. I include my final recommended amendments to CE-R5 and CE-R6 (that reflect paragraphs 342 and 349 of the Section 42A Report) in the Appendix A to this Reply.

**6(j) In relation to CE-R6, CE-R9 and CE-R15 could Mr Sirl please provide discussion of the merits and scope for the inclusion of the proposed Section 88 information requirements; and**

**6(o) Can Mr Sirl please address the scope to add the suggested new APPX in greater detail.**

53 In my opinion, the merit for inclusion of a specific Section 88 information requirement is twofold. Firstly, to provide clarity for Plan users when a landscape assessment will be required and the information that is required to be provided. The proposed Appendix provides greater recognition of the Natural Character Evaluation report prepared by Boffa Miskell, and the information contained with respect to natural character present in the coastal environment. Secondly, the information requirement has been introduced to those rules that are considered to address activities and development that are most likely to have the potential to adversely impact those parts of the Coastal Environment with the highest levels of remaining natural character intact, or where restoration is of greatest relevance i.e. the high coastal natural character areas and coastal and riparian margins.

54 In terms of scope, I consider that this approach is an alternative way to partly achieve the relief sought by submitters (GWRC [351.26, 351.32, 351.33, 351.351, 351.352, 351.353 and 351.355], Forest and Bird [345.290, 345.417 and 345.418]) who similarly sought a greater level of protection beyond the identified high coastal natural character areas. In my opinion, considered together, the proposed s88 information requirements and appendix better recognise the Boffa Miskell report and assist in achieving the general outcomes sought by these submitters.

**6(k) In relation to CE-R12 and R14, we query whether the suggested sub-rule 2(b) is required, and if so, whether as currently framed, that wording leaves a gap where rules with an activity status other than RDA apply**

55 I have reconsidered the recommendations within the s42A Report and agree that the proposed amendments result in a gap for activities in the underlying zones that have an activity status other than restricted discretionary. I recommend that following additional revision to the wording of CE-R12.1a and CE-R14.1a as outlined in Appendix A to this Reply, the proposed sub-rule 2b is not required for either of these rules. I note that this matter is also relevant to CE-R7, CE-R8, and CE-R15, which are recommended to be amended slightly to achieve consistency of wording throughout the chapter.

**6(l) Query whether the cross reference in recommended CE-R15 to CE-P7 achieves the intent, or whether the relevant matter of discretion needs to be stated more clearly;**

56 Firstly, I note that CE-P7 is a matter of discretion for CE-R15.2 as notified. The recommended amendments contained in the s42A report simply sought to reduce confusion that could result from the title and chapeau of CE-P7 stipulating that this policy does not apply to the zones that CE-R15 applies to. I also note that I discuss this matter in my rebuttal evidence.

57 Having considered this matter further, in my opinion it would be clearer if CE-P7 as a matter of discretion for CE-R15.2 was replaced by specific matters of discretion. The submissions of Kainga Ora and WIAL provide broad scope to amend or delete CE-P7, and I consider that this extends to deletion of aspects of CE-P7 that are unnecessary matters of discretion for activities considered under CE-R15.2. I have considered the relevance and appropriateness of the matters contained in CE-P7 as matters of discretion for CE-R15.2 as set out in Table 1., with my conclusions translated to amendments to CE-R15 included in Appendix A to this reply.

<b>Table 1. Assessment of the appropriateness of CE-P7 as a matter of discretion for CE-R15.2</b>	
<b>Aspect of CE-P7</b>	<b>Assessment of the appropriateness</b>
<p><i>1. Any significant adverse effects on the natural character of the coastal environment are avoided and any other adverse effects on the natural character of the coastal environment are avoided, remedied or mitigated</i></p>	<p>This is generally consistent with the NZCPS and is appropriate as a matter of discretion. However, I suggest that the wording can be simplified as a matter of discretion for CE-R15.2.</p>

<p>2. <i>It can be demonstrated that:</i></p> <p>a. <i>Any proposed earthworks, building platform, building or structure are able to integrate with the existing landform, do not dominate the natural character of the area and do not limit or prevent public access to, along or adjacent to the coast and waterbodies</i></p>	<p>As earthworks in coastal and riparian margins are managed by the Earthworks chapter, earthworks should not be referenced here. The landform and integration aspects are of less relevance in these areas that are already highly modified and adequately addressed. I also consider that public access is adequately addressed by way of the PA policies referenced as matters of discretion.</p>
<p>b. <i>There is a functional or operational need for the activity to locate within the coastal or riparian margin;</i></p>	<p>I consider that this is an appropriate matter of discretion to ensure that this more enabling consenting pathway for modified coastal and riparian margins allows for the consideration of operational and functional needs of activities that can be located elsewhere.</p>
<p>c. <i>There are no reasonably practical alternative locations that are outside of the coastal or riparian margins or are less vulnerable to change</i></p>	<p>The consideration of reasonably practical alternative locations is not necessary in my view as this relates more to protecting natural character of those parts of the coastal margin that are less modified compared to the zones provided for under CE-R15.2 which are generally highly modified with low levels of natural character.</p>
<p>d. <i>Restoration or rehabilitation planting of indigenous species will be incorporated, where practicable, to mitigate any adverse effects on natural character.</i></p>	<p>Although the presence of indigenous vegetation in highly modified coastal and riparian margins is limited, I consider this matter appropriate as it encourages restoration of natural character where it can be incorporated. However, I consider that it can be included as part of a general 'adverse effects' matter of discretion and does not need to be a specific matter.</p>



**6(m) In relation to CE-S1:**

**(i) Does the heading of that standard need to be expanded, consequential on amendments to relevant rules, to refer to coastal and riparian margins;**

58 Yes. This amendment is included in Appendix A to this reply.

**(ii) Should the wording be 'contiguous' or 'continuous'?**

59 Continuous. This ensures that vegetation removal is limited within a fluid 12-month period of time, as opposed to a fixed 12-month calendar year, or the (unlikely) scenario that the standard is misinterpreted to apply to the duration of the specific vegetation removal works.

**(iii) Can Mr Sirl please advise on the consistency of the existing CE-S1 reference to infrastructure with his position on references to infrastructure (and REG) elsewhere in the chapter;**

60 CE-S1 does not explicitly reference infrastructure, but CE-S1.1b refers to public roads. In my opinion, as the legal road network falls with the definition of infrastructure, then any vegetation trimming or removal should be addressed through the INF and INF-CE provisions as necessary. This amendment has been included in Appendix A to this Reply.

**(iv) What submission provides scope to reduce the distance specified in S1(1)(c) to less than 10m, and can Mr Sirl advise what separation distance FENZ recommends?**

61 Having considered this matter further, I consider that broad scope for a change to CE-S1(1)(c) to less than 10 m is provided by Director-General of Conservation [385.68 and 385.69] who seeks that the rule be better aligned with Policy 11 of the NZCPS.

62 FENZ guidance for rural homes is to clear thick vegetation within 10 metres of windows, remove dead or dying trees, and to prune all large trees and remove all branches at least 2

metres from the ground<sup>3</sup>. It is not clear to me that this guidance is evidence-based with respect to fire risk as it relates to established indigenous vegetation. However, due to a lack of evidence that a distance of less than 10 m is adequate, I consider that providing for a 10 m separation distance is appropriate for habitable buildings and for simplicity, all buildings as requested by Forest and Bird.

**6(n) Can Mr Sirl please review Mr Insull's submission and advise whether amendments are required to coastal environment provisions to address issues that may not have been correctly summarised in the summary of submissions;**

63 I have considered Mr Insull's submission and in my opinion no further amendments are required to the coastal environment provisions beyond those recommended in the Section 42A report.

64 However, I do note the addition of Te Rimurapa to the title of the Sinclair Head high coastal natural character area as recommended in paragraph 117 of the Section 42A report, which was omitted from the Appendix A. This change has been reflected in the Appendix A to this Reply.

#### **ADDITIONAL MATTERS**

##### **Coastal Margin Area – definition and mapping**

65 On the matter of whether mapping of the Coastal Margin Area is appropriate due to the dynamic nature of Mean High Water Springs, I agree with Ms O'Sullivan who advised that the certainty achieved by mapping is preferable compared to reliance on the definition. The matter of whether the definition or mapped area takes precedence was also raised during the hearing. In my opinion, the mapped area is intended to determine how the rules of the Plan apply and consequently takes precedence. To avoid any misapplication of the definition I suggest the following revision to the definition of Coastal Margin Area:

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<sup>3</sup> [Rural home fire safety checklist | Fire and Emergency New Zealand](#)

<b>COASTAL MARGIN</b>	means all land within a horizontal distance of 10 metres landward from the coastal marine area <a href="#">as mapped within the District Plan.</a>
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**CE-P8**

66 In response to Ms O’Sullivan’s assertion that *‘the proposed deletion of “infrastructure” from clause 3 of CE-P8 potentially creates some significant consenting challenges for the Southern Seawall Renewal project<sup>4</sup>*, I note that seawalls are not treated as infrastructure and that the Coastal Environment chapter provisions do not apply to infrastructure activities within the coastal environment which are addressed under the INF and INF-CE chapters. I also note that indigenous vegetation removal related to infrastructure within SNAs is managed by the INF-ECO chapter. I do not consider that reference to infrastructure in CE-P8 is appropriate. Furthermore, I suggest it may not resolve the issue highlighted by Ms O’Sullivan.

67 In my opinion, should the Panel be minded to agree with Ms O’Sullivan’s concerns with respect to CE-P8, I suggest that inclusion of the term ‘hard engineering hazard mitigation structure (seawalls)’ in place of where ‘infrastructure’ is referenced in the notified version of CE-P8 would be a more effective alternative to that proposed by Ms O’Sullivan.

**Reference to PA-P1 as a matter of discretion**

68 PA-P1 is a policy that addresses activities in coastal and riparian margins. PA-P1 is a matter of discretion for rule CE-R12.2, which explicitly relates to buildings and structures outside of coastal and riparian margins. Hence the policy is redundant under the rule and I recommend that PA-P1 is removed as a matter of discretion under Clause 16 of Part 1 Schedule 1 of the Act as a minor correction that has no material change to the assessment of this rule.

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<sup>4</sup> Written response to Panel Minute 49 of Kirsty O’Sullivan on behalf of Wellington International Airport Limited, dated 10 May 2024.

### **CE-P3**

69 I note a minor revision to the recommended amendment to CE-P3 to refer to 'natural character' values to avoid any misinterpretation.

### **NATURAL CHARACTER**

#### **7(a) Is there merit in generalising the reference to the NES-FW to provide for potential regulatory change?**

70 In my opinion, should there be a future regulatory change Council can revise the Plan if necessary following the appropriate process.

#### **7(b) Query whether NATC-P1(5) is consistent with the approach taken to public access provisions, or alternatively needs to be softened (perhaps by use of a maintenance test) and/or needs to be qualified to allow minor works within the riparian margin?**

71 In my opinion, the maintenance of existing public access tracks is highly unlikely to have adverse effect on ecological values. Under PA-O2 the Plan seeks that any adverse effects of future provision of public access does not have a negative impact on existing values including natural character and indigenous biodiversity. I do not consider there to be any inconsistency. I note that NATC-P1 is a matter of discretion for NATC-R5 which provides for the construction of structures within riparian margins, such as a bridge for a walkway. I consider that it is reasonably plausible that a bridge over a stream could be constructed without adversely affecting ecological values of the margin. I also note that indigenous vegetation removal and trimming within high coastal natural character areas and coastal and riparian margins (as per my recommendation) is necessary for the safe operation of public access tracks and is provided for under CE-R6 and CE-S1.

#### **7(c) Is NATC-R5 consistent with the approach taken in the Natural Hazard Chapter, given the overlap between natural hazard provisions governing stream corridors and riparian margins?**

72 I consider that there is no inconsistency that is of concern as the chapters manage different issues. I also note that the 10 m riparian margin from the edge of a stream will generally

extend beyond the stream corridor overlay (which is commonly found to be 5 m each side from the centre of the stream). Consequently, there will be parts of the riparian margin where the natural hazard flood hazard provisions do not apply.

## **PUBLIC ACCESS**

### **8(a) Please advise how it is recommended that the apparent inconsistency of language as between the Introduction in the Objectives and Policies vis a vis references to the 'coast' and 'coastal environment' should be addressed?**

73 In a broad sense, the term Coastal Environment should only be used when the matter relates to the entire area of the Coastal Environment Overlay, and where the matter only applies to a specific part of this area then another more specific term, or qualification, is needed. Consequently, I consider that as the intention is not for public access to be provided to the entire Coastal Environment Overlay area as the reference to the Coastal Environment in the Public Access chapter introduction suggests, I recommend that the reference within the Introduction should be to the coast, or alternatively to the coastal margin area, which is defined in the Plan. I consider that this change can be made under Clause 16 of Part 1 Schedule 1 of the Act.

74 With respect to the provisions of the Public Access chapter:

- a. **PA-O1:** no scope within submissions to change. Regardless, I do not consider use of the term 'coast' to be overly problematic as it is an easily understood term. If there were concerns with interpretation, use of the Plan-defined term coastal margin area would achieve the same outcome in my opinion.
- b. **PA-O2:** no scope to revise the reference to the coastal environment. Nevertheless, having considered this aspect of PA-O2 I suggest that the reference to the coastal environment could be deleted as it's not a 'value' and the other values capture those issues relevant to the coastal environment. Regardless, I do not consider this reference to the coastal environment to be problematic with respect to overall consistency of terminology used throughout the NATC chapter.

- c. **PA-P1:** With respect to the reference to 'coast' in the PA-P1 chapeau, I consider that this does not present an issue and is consistent with PA-O1 as PA-P1 refers specifically to coastal and riparian margins.
- d. **PA-P2:** Reference to the coastal environment in PA-P2.2 should be to the 'coast' or 'coastal margin area'. However, there is no scope within submissions to make this change.
- e. **PA-P3:** Reference to the coast is fine in my opinion, as is the reference to coastal marine area in PA-P3.6. Regardless, there is no scope within submissions to amend this policy.

**8(b) Should PA-P1 be subject to PA-P3?**

75 I consider that the two policies serve different, and not inconsistent, purposes. PA-P1 seeks to enable activities that maintain or enhance public access. PA-P3 provides direction on when restriction of public access may be appropriate. In my view, PA-P1 as a matter of discretion does not exclude a scenario where public access is prevented e.g. for one of the matters provided for in PA-P3, it simply provides policy support for activities that do not limit public access. I note that many of the rules that have PA-P1 as a matter of discretion also have PA-P3.

## **Appendix A – Tracked Changes to Coastal Environment, Natural Character, Public Access chapters and Schedule 12**

Note: **Red underline** and **strike-out**: show final recommended additions and deletions to the notified Coastal Environment, Natural Character, and Public Access chapters, and Schedule 12 as recommended in the Section 42A Report dated 27 March 2024, updated by the Statement of Supplementary Planning Evidence of Jamie Sirl dated 19 April 2024, and confirmed in the Right of Reply of Jamie Sirl dated 7 June 2024.

**Appendix B – Proposed mapped area for the Moa Point Road Seawall Area and correspondence with Wellington International Airport Limited (Kirsty O’Sullivan) and Guardians of the Bays (Yvonne Weeber)**



**Appendix C - Table – Comparison of recommendations on Coastal Environment chapter Rules and Standards**

Notes:				
<p>1. Column 3 combines recommendations in the S42A Report (27 March 2024) and Supplementary Statement of Evidence (19 April 2024), including changes not captured in the Appendix A document appended to the evidence</p> <p>2. The words ‘in the coastal environment’ technically could be removed from the rules on the basis that this reference is redundant (i.e. the CE chapter rules only apply to development in the Coastal Environment). Noting that the removal of the words ‘in the coastal environment’ has not been included in Appendix A to this Reply.</p> <p>3. Recommend consistent list format (use of numbers not bullet points) and capitalisation</p>				
Rule	Notified Title	S42A Title (as amended by Supplementary Statement of Evidence 19 April 2024)	Right of Reply – Reformatted titles (with potential deletion of ‘coastal environment’ references shown)	Scope for changes
<b>Land use activities</b>				
CE-R1	Customary harvesting by tangata whenua within the coastal environment	Customary harvesting by tangata whenua within the coastal environment	Customary harvesting by tangata whenua <del>within the coastal environment</del>	Not required. Clause 16.
CE-R2	Restoration and enhancement activities within the coastal environment: 1. Outside of high coastal natural character areas; and	Restoration and enhancement activities within the coastal environment: 1. Outside of high coastal natural character areas; and	Restoration and enhancement activities <del>within the coastal environment:</del> 1. Outside of high coastal natural character areas; and	Not required. Clause 16.

	2. Outside of coastal and riparian margins.	2. Outside of coastal and riparian margins.	2. Outside of coastal and riparian margins.	
<b>CE-R3</b>	Restoration and enhancement activities within the coastal environment:  1. Within high coastal natural character areas; or  2. Within coastal or riparian margins.	Restoration and enhancement activities within the coastal environment:  1. Within high coastal natural character areas; or  2. Within coastal or riparian margins.	Restoration and enhancement activities <del>within the coastal environment:</del>  1. Within high coastal natural character areas; or  2. Within coastal or riparian margins.	Not required. Clause 16.
<b>CE-R4</b>	Vegetation trimming or removal within the coastal environment, outside of high coastal natural character areas	Vegetation trimming or removal within the coastal environment:  • outside of high coastal natural character areas; and  • outside of coastal or riparian margins.	Vegetation trimming or removal <del>within the coastal environment:</del>  <u>1.</u> <del>Outside of high coastal natural character areas; and</del> <u>2.</u> <del>Outside of coastal or riparian margins.</del>	Not required. Clause 16.
<b>CE-R5</b>	Exotic vegetation trimming or removal within the coastal environment, within high coastal natural character areas but outside of a significant natural area	Exotic vegetation trimming or removal within the coastal environment:  • within High Coastal Natural Character Areas; or  • within the coastal margin or a riparian margin.	Exotic vegetation trimming or removal: <del>within the coastal environment,</del>  <u>1.</u> <del>Within high coastal natural character areas; or</del> <u>2.</u> <u>Within coastal or riparian margins.</u>	Not required. Clause 16.  Noting the scope for the additional of coastal or riparian margins is addressed in the Section 42A report.

		Note: as recommended in paragraph 342 of s42A report which was incorrectly omitted from the associated Appendix.		
<b>CE-R6</b>	Indigenous vegetation trimming or removal within the coastal environment, within high coastal natural character areas but outside of significant natural area	<p>Indigenous vegetation trimming or removal within the coastal environment:</p> <ul style="list-style-type: none"> <li>• within High Coastal Natural Character Areas; or</li> <li>• within the coastal margin or a riparian margin.</li> </ul> <p>Note: as recommended in paragraph 349 of s42A report which was incorrectly omitted from the associated Appendix.</p>	<p>Indigenous vegetation trimming or removal: <del>within the coastal environment,</del></p> <ol style="list-style-type: none"> <li>1. <del>w</del><u>W</u>ithin high coastal natural character areas; <del>or</del></li> <li>2. <u>Within coastal or riparian margins</u></li> </ol>	<p>Not required. Clause 16.</p> <p>Noting the scope for the additional of coastal or riparian margins is addressed in the Section 42A report.</p>
<b>CE-R7</b>	<p>Any activity not otherwise listed as permitted, restricted discretionary, discretionary or non-complying within the coastal environment but:</p> <ul style="list-style-type: none"> <li>• Outside of high coastal natural character areas; and</li> </ul>	Any activity not otherwise listed as permitted, restricted discretionary, discretionary or non-complying within the coastal environment but:	<p>Any activity not otherwise listed as permitted, restricted discretionary, discretionary or non-complying <del>within the coastal environment but:</del></p> <ol style="list-style-type: none"> <li>1. Outside of High coastal natural character areas; and</li> </ol>	Not required. Clause 16.

	<ul style="list-style-type: none"> <li>• Outside of coastal or riparian margins.</li> </ul>	<ul style="list-style-type: none"> <li>• Outside of high coastal natural character areas; and</li> <li>• Outside of coastal or riparian margins.</li> </ul>	<ol style="list-style-type: none"> <li>2. Outside of coastal or riparian margins.</li> </ol>	
<b>CE-R8</b>	Any activity not otherwise listed as permitted, restricted discretionary or non-complying within the coastal environment, within coastal or riparian margins	Any activity not otherwise listed as permitted, restricted discretionary or non-complying within the coastal environment, within coastal or riparian margins	Any activity not otherwise listed as permitted, restricted discretionary or non-complying <del>within the coastal environment</del> , within coastal or riparian margins	Not required. Clause 16.
<b>CE-R9</b>	Any activity not otherwise listed as permitted, restricted discretionary or discretionary within the coastal environment, within high coastal natural character areas	Any activity not otherwise listed as permitted, restricted discretionary or discretionary within the coastal environment, within high coastal natural character areas	Any activity not otherwise listed as permitted, restricted discretionary or discretionary <del>within the coastal environment</del> , within high coastal natural character areas	Not required. Clause 16.
<b>CE-R10</b>	Extension of existing mining and quarrying activities within the coastal environment	Extension of existing mining and quarrying activities within the coastal environment	Extension of existing mining and quarrying activities <del>within the coastal environment</del>	Not required. Clause 16.
<b>CE-R11</b>	New quarrying and mining activities and new plantation forestry within the coastal environment	New quarrying and mining activities and new plantation forestry within the coastal environment	New quarrying and mining activities and new plantation forestry <del>within the coastal environment</del>	Not required. Clause 16.
<b>Buildings and structures activities</b>				
<b>CE-R12</b>	Construction, addition or alteration of buildings and structures, within the coastal environment: <ul style="list-style-type: none"> <li>• Outside of high coastal natural character areas; and</li> <li>• Outside of coastal and riparian margins.</li> </ul>	Construction, addition or alteration of buildings and structures, within the coastal environment: <ul style="list-style-type: none"> <li>• Outside of high coastal natural character areas; and</li> <li>• Outside of coastal and riparian margins.</li> </ul>	Construction, addition or alteration of buildings and structures, <del>within the coastal environment</del> : <ol style="list-style-type: none"> <li>1. Outside of high coastal natural character areas; and</li> <li>2. Outside of coastal and riparian margins.</li> </ol>	Not required. Clause 16.

<b>CE-R13</b>	Construction, addition or alteration of buildings and structures within the coastal environment, within high coastal natural character areas	Construction, addition or alteration of buildings and structures within the coastal environment, within high coastal natural character areas	Construction, addition or alteration of buildings and structures <del>within the coastal environment</del> , within high coastal natural character areas	Not required. Clause 16.
<b>CE-R14</b>	Additions and alterations to existing buildings and structures within in the coastal environment: <ul style="list-style-type: none"> <li>• Within coastal or riparian margins</li> </ul>	Additions and alterations to existing buildings and structures within in the coastal environment: <ul style="list-style-type: none"> <li>• Within coastal or riparian margins</li> </ul>	Additions and alterations to existing buildings and structures within <del>in the coastal environment</del> : <ul style="list-style-type: none"> <li>• <del>Within</del> coastal or riparian margins</li> </ul>	Not required. Clause 16.
<b>CE-R15</b>	Construction of new buildings and structures within in the coastal environment and within coastal or riparian margins	Construction of new buildings and structures within in the coastal environment and within coastal or riparian margins	Construction of new buildings and structures within <del>in the coastal environment and within</del> coastal or riparian margins	Not required. Clause 16.
<b>Standards</b>				
<b>CE-S1</b>	Indigenous vegetation trimming or removal within in the coastal environment and within high coastal natural character areas	Indigenous vegetation trimming or removal within in the coastal environment and within high coastal natural character areas	Indigenous vegetation trimming or removal: <del>within in the coastal environment and</del> <ol style="list-style-type: none"> <li>1. <del>W</del>within high coastal natural character areas: <u>and</u></li> <li>2. <u>Within coastal or riparian margins.</u></li> </ol>	Consequential change as a result of recommended amendments to CE-P8, CE-R4, CE-R5 and CE-R6 which provide partial relief to, Forest and Bird [345.310, 345.333], GWRC [351.209], and Yvonne Weeber [340.48].
<b>CE-S2</b>	New buildings and structures within the coastal environment and within high coastal natural character areas	New buildings and structures within the coastal environment and within high coastal natural character areas	New buildings and structures <del>within the coastal environment and</del> within high coastal natural character areas	Not required. Clause 16.