

Proposed Horowhenua District Plan

Coastal Environment Hearing: 18 April 2013

Reporting Officer Response – 23 April 2013

Response to Commissioner's Questions

Q: Para 12 on page 67 identifies the relationship and potential conflict between the recommended rules for new buildings in the Strathnaver Coastal Natural Character Area Overlay in Proposed Plan and those that relate to the Coastal Environment Landscape Domain as are part of Plan Change 22. The Commissioners have asked for guidance regarding any changes that may be necessary (or helpful) to clarify how the relationship of these two sets and how the rules would apply?

The section 42A Report identifies that there is potential for a parcel of land to be within the Strathnaver Coastal Natural Character Area Overlay and also the Coastal Environment Landscape domain. As per the recommendations of the Section 42A report there would be a restricted discretionary activity rule that applies to new buildings in the Strathnaver Coastal Natural Character Area Overlay, while a restricted discretionary rule (19.3.7) resulting from Plan Change 22 would also apply for new buildings (over 5 metres in height) in the Coastal Environment. The two rules are for slightly different purposes and while they trigger the same activity status, there are different standards between the two rules (i.e. some exemptions are provided for as part of the Coastal Environment Domain rule)

The same situation could also arise for land parcels in the Muhunua West Forest Park Overlay. I recommend that it is appropriate that the same approach discussed below be applied to this area also. I note a difference between these two areas (Strathnaver Coastal Natural Character Area and Muhunua West Forest Park) is that the recommended rules for the Muhunua West Forest Park Overlay would enable buildings as a permitted activity.

In my opinion the Proposed Plan rules for the Strathnaver Coastal Natural Character Area Overlay would make more sense to override the rules from Plan Change 22. The key difference between the two rules is that the Plan Change 22 rules permit the following:

- (i) Buildings, additions and alterations that do not exceed 5 metres in height.
- (ii) Buildings, additions and alterations that do not exceed 5 metres in height and are on a dune or part of a dune that is no greater than 10m from toe to summit.
- (iii) Primary production buildings.
- (iv) Buildings for temporary activities.

The Proposed Plan rule is more onerous in that it requires all buildings to obtain resource consent within the Strathnaver Coastal Natural Character Area Overlay. This requirement is primarily to manage the impact of those buildings on the natural character of the Coastal Environment. I acknowledge that buildings with heights of less than 5 metres could still through their siting and design, adversely affect the natural character of the Coastal Environment. The matters of discretion included for the rule relating to buildings on the Strathnaver Coastal Natural Character Area Overlay would in my opinion address all the

matters that would have been considered as part of the Plan Change 22 rule as well as the additional matter of natural character.

In terms of the Muhunua West Forest Park Overlay the Proposed Plan rules are more relaxed than the rules from Plan Change 22. This is because buildings are provided for as permitted activity due to the comprehensive and site specific management plan that forms part of the subdivision consent for this site. I am satisfied that it would be appropriate for the Proposed Plan rules to also apply to this overlay instead of the more general rules from Plan Change 22.

To make it clear which rules should apply to these sites I recommend that an exemption be made to Rule 19.3.7 (Subdivision and Buildings in Individual Landscape Domains) for sites located within the Strathnaver Coastal Natural Character Area Overlay and the Muhunua West Forest Park Overlay. To assist plan users I recommend that a cross-reference to the applicable rules be included in the list of rule exemptions. The amendment would result in an additional exemption (v) being added to 19.3.7(b) as follows:

Rule 19.3.7 Subdivision and Buildings in Individual Landscape Domains

- (b) Any subdivision within the Foxton Dunefields, Moutoa-Opiki Plains, Tararua Terraces, Levin-Koputaroa, Levin-Ohau, Kuku and Manakau Downlands Landscape Domains that does not comply with any of the conditions for Controlled Activities in Rule 19.7.3, provided that the conditions for Restricted Discretionary Activities in Rule 19.8.17 are met. (Refer Rule 19.8.16)
- (c) Buildings within those parts of the Coastal Environment and Coastal Lakes, Landscape Domains that are not Outstanding Natural Features and Landscapes except for:
 - (i) Buildings, additions and alterations that do not exceed 5 metres in height.
 - (ii) Buildings, additions and alterations that do not exceed 5 metres in height and are on a dune or part of a dune that is no greater than 10m from toe to summit.
 - (iii) Primary production buildings.
 - (iv) Buildings for temporary activities. (Refer Rule 19.8.8)
 - (v) Buildings within the Waikawa Beach - Strathnaver Coastal Natural Character Area Overlay (Refer Rule 19.3.X) and the Muhunua West Forest Park Overlay (Refer Rule 19.1.X)

For the purposes of this Rule, Primary Production Building means any building used principally to support primary production activities. This shall include buildings used for storage and management of stock but shall exclude buildings used in total or in part for residential activities.

- (d) Buildings within those parts of the Hill Country Landscape Domain that are not Outstanding Natural Features and Landscapes except for:
 - (i) Buildings, additions and alterations that do not exceed 5 metres in height and that are located 30 metres vertically below a ridge or hilltop, measured from the roofline of the house.

- (ii) Primary production buildings.
- (iii) Buildings for temporary activities. (Refer Rule 19.8.9)

For the purposes of this Rule, Primary Production Building means any building used principally to support primary production activities. This shall include buildings used for storage and management of stock but shall exclude buildings used in total or in part for residential activities.

Scope

I now turn to the issue of scope. Plan Change 22 was notified on 5 September 2009. The decision on this plan change was notified 7 September 2012. Five appeals were lodged with the Environment Court against the decision. As the Plan Change was not operative at the time the Proposed Plan was notified so the provisions of Plan Change 22 (whether specifically subject to appeal points or not) were not open to submissions as part of the Proposed Plan. The provisions of Plan Changes 20, 21 and 22 were identified in the Proposed Plan as greyed out to indicate they were not open to submissions but shown in the Plan so that the Proposed Plan framework and integration of the Plan Change was clear. Therefore I do not consider that through making a decision on the Proposed Plan there is scope to amend the rules relating to Plan Change 22 in this process.

This change would need to be made as part of a later plan change which officers see as being necessary to smoothly integrate and achieve consistency between the current Plan Changes 20, 21 and 22 and the Proposed Plan.

I am also of the opinion that the recommended change would not be deemed to have a minor effect, or be correcting a minor error thereby ruling out the option of making the change under Clause 16 of the First Schedule.

From past experience in dealing with matters of this nature I consider that it would be helpful for the Hearing Panel to indicate in their decision the prioritisation of the rules for the Strathnaver Coastal Natural Character Area Overlay and Muhunua West Forest Park Overlay over Rule 19.3.7 being the rule relating to the Coastal Environment and Coastal Lakes Landscape Domains. The decision could also signal to Council officers that this matter be addressed once the Plan Change 22 provisions become operative.

This would provide some guidance for the interim period prior to a plan change being prepared to resolve this potential inconsistency and rule conflict.

Response prepared by David McCorkindale

Dated: 23rd April 2013