



Proposed Ōpōtiki District Plan

# Section 32 Evaluation Report

## Chapter 10 -Coastal Settlement Zone

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## 1. Introduction

The Coastal Settlement Zone contains the pockets of residential settlement that are located along the coastal fringe. The settlements included in the Coastal Settlement Zone are Kutarere, residential areas around the Ohiwa Harbour, residential enclaves along the Waiotahi coastal fringe, Paerata Ridge and Appleton Road, residential areas of Tirohanga and Omaio, Te Kaha, Whanarua Bay, Waihau Bay and Oruaiti. The amenity values that comprise the Zone are a mixture of residential and coastal amenity values.

The coastal areas of the district have not yet experienced strong residential development pressures it is likely that the demand for residential activity in coastal areas may increase. It is possible that this potential growth in residential activity may occur within the life of this Plan.

A range of characteristics make up this environment including, access to the coast, views of the coast and overall natural character. It is this natural character that requires protection and preservation from inappropriate subdivision, use, and development. Consolidation of coastal settlements is supported so as to reduce impacts of development and to limit urban sprawl and to maintain the overall quality of the coastal environment.

The majority of settlements within the Coastal Settlement Zone are small concentrations of residential activity, with the exception being Te Kaha a more established coastal township. The Zone boundary encompasses what residential activity presently exists and also incorporates an allowance made in some of the settlements for potential residential expansion. The areas for residential expansion include parts of Paerata Ridge, Te Kaha, and Waihau Bay.

As with the Coastal Zone, the Coastal Settlement Zone is susceptible to natural hazards. The hazards that have the potential to occur in the coastal settlement areas of the district include coastal erosion - landslides and rockfalls, coastal inundation including storm surge, sea level rise and tsunamis. As a result of increased residential activities the effects of natural hazards in these Zones are heightened. The natural hazards chapter which applies across all zones provides the rule framework to be applied where areas are identified as being within an area susceptible to natural hazards.

It is important to manage the effects of activities within the coastal settlement areas of the district so that the natural and physical resources of the surrounding coastal and rural environments are not depreciated.

Some non-residential activities occur in these settlements. These provide local employment and services. Non-residential activities are appropriate within these settlements when the adverse effects are similar to, or less than, those created by the residential activities.

Characteristics that contribute to the character of the Zone include:

- Small clusters of coastal urban areas
- High importance placed on landscape and views from structures
- Proximity to coastline

- Feeling of community identity associated with residential areas
- Heavy emphasis on the coastline and its natural character
- Access to coastal foreshore
- Adjoining areas with high ecological, scientific, historical, and cultural value
- Minimal intrusion from signage
- Variety of building design
- Predominantly residential activities with some retail and commercial activities
- Provision of on-site vehicle parking and manoeuvrability area
- Rural and semi-rural residential activities

Section 32 of the RMA requires Council to carry out an evaluation before a plan is publicly notified and before making a decision on submissions. The evaluation must examine whether each objective is the most appropriate way to achieve the purpose of the RMA and whether, having regards to their efficiency and effectiveness, the policies and other methods including rules are most appropriate or achieving the objectives. The evaluation must take into account the benefits and costs of policies, rules or other methods, as well as the risk of acting or not acting if there is uncertain or insufficient information about the subject. This report provides the required evaluation of the objectives, policies and methods including rules relating to activities in the Coastal Settlement Zone.

## 2. Legislative Framework

### 2.1. Resource Management Act 1991 (RMA)

Section 5 of the RMA sets out the purpose of the RMA as follows:

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*
  - (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
  - (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
  - (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment*

Section 6 (a)(d)(e) of the RMA sets out Matters of national importance as follows:

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:*

- (a) *The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate, subdivision, use and development*

- (d) The maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers*
- (e) The relationship of Māori and their culture and traditions with their ancestral lands, waters, sites, waahi tapu, and other taonga.*

## **2.2. NZ Coastal Policy Statement 2010 (NZCPS)**

The NZCPS guides local authorities in their day to day management of the coastal environment. The purpose is to state policies in order to achieve the purpose of the RMA in relation to the coastal environment of New Zealand. The preamble of the statement provides the following description:

*“The coastal environment has characteristics, qualities and uses that mean there are particular challenges in promoting sustainable management:*

- The coastal environment varies in nature and extent around the country;*
- most existing towns and cities are in or close to a coastal location;*
- the coastal environment contains established infrastructure connecting New Zealand internally and internationally such as ports, airports, railways, roads and submarine cables;*
- natural and physical resources important to the economic and social wellbeing of the nation and communities, such as high quality coastal water, fresh water, renewable energy, and minerals are found within the coastal environment, including in areas with high natural character, landscape and amenity values;*
- the natural and recreational attributes of the coast and its attraction as a place to live and visit combine with an increasingly affluent and mobile society to place growing pressure on coastal space and other resources;*
- activities inland can have a major impact on coastal water quality;*
- activities in the coastal environment are susceptible to the effects of natural hazards such as coastal erosion and tsunami, and those associated with climate change;*
- there is continuing and growing demand for coastal space and resources for commercial activities as diverse as aquaculture and sand mining; and*
- the coast has particular importance to tangata whenua, including as kaitiaki.*

*The coastal environment is facing the following key issues:*

- The ability to manage activities in the coastal environment is hindered by a lack of understanding about some coastal processes and the effects of activities on them;*
- loss of natural character, landscape values and wild or scenic areas along extensive areas of the coast, particularly in areas closer to population centres or accessible for rural residential development;*
- continuing decline in species, habitats and ecosystems in the coastal environment under pressures from subdivision and use, vegetation clearance, loss of intertidal areas, plant and*

*animal pests, poor water quality, and sedimentation in estuaries and the coastal marine area;*

- *demand for coastal sites for infrastructure uses (including energy generation) and for aquaculture to meet the economic, social and cultural needs of people and communities;*
- *poor and declining coastal water quality in many areas as a consequence of point and diffuse sources of contamination, including stormwater and wastewater discharges;*
- *adverse effects of poor water quality on aquatic life and opportunities for aquaculture, mahinga kai gathering and recreational uses such as swimming and kayaking;*
- *loss of natural, built and cultural heritage from subdivision, use, and development;*
- *compromising of the open space and recreational values of the coastal environment, including the potential for permanent and physically accessible walking public access to and along the coastal marine area;*
- *continuing coastal erosion and other natural hazards that will be exacerbated by climate change and which will increasingly threaten existing infrastructure, public access and other coastal values as well as private property; and*
- *the use of vehicles on beaches causing ecological damage and creating conflicts with other recreational uses and values of the coastal environment.”*

The most relevant policies of NZCPS that relate to the Coastal Settlement Zone are:

<b>Objective</b>	<b>NZCPS Objective</b>	<b>Policies</b>	<b>Relevance to the Coastal settlement zone</b>
2	<p>To preserve the natural character of the coastal environment and protect natural features and landscape values through:</p> <ul style="list-style-type: none"> <li>• recognising the characteristics and qualities that contribute to natural character, natural features and landscape values and their location and distribution;</li> <li>• identifying those areas where various forms of subdivision, use, and development would be inappropriate and protecting them from such activities; and</li> <li>• encouraging restoration of the coastal environment.</li> </ul>	Policy 13	The zone provisions need to provide a framework that preserves the natural character of the coastal environment. Specific provisions regarding natural features and landscape values are provided for within Chapter 13 Landscapes and Vegetation.
3	To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment by:	Policy 2 Policy 6	Zone framework needs to ensure the principles of the Treaty are taken into account so as to ensure activities within the zone recognise the relationship tangata whenua have in the management of the Coastal Settlement Zone.

	<ul style="list-style-type: none"> <li>• recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources;</li> <li>• promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act;</li> <li>• incorporating mātauranga Māori into sustainable management practices; and</li> <li>• recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua.</li> </ul>		
6	<p>To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development, recognising that:</p> <ul style="list-style-type: none"> <li>• the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits;</li> <li>• some uses and developments which depend upon the use of natural and physical resources in the coastal environment are important to the social, economic and cultural wellbeing of people and communities;</li> <li>• functionally some uses and developments can only be located on the coast or in the coastal marine area;</li> <li>• the coastal environment contains renewable energy resources of significant value;</li> <li>• the protection of habitats of living marine resources contributes to the social, economic and cultural wellbeing of people and communities;</li> <li>• the potential to protect, use, and develop natural and physical resources in the coastal marine area should not be compromised by activities on land;</li> <li>• the proportion of the coastal</li> </ul>	Policy 6 Policy 13	This objective directs local authorities to identify areas where use and development are appropriate, therefore the purpose of the Coastal Settlement Zone is consistent with this objective as it identifies areas where residential activities can occur with the appropriate controls.

	<p>marine area under any formal protection is small and therefore management under the Act is an important means by which the natural resources of the coastal marine area can be protected; and</p> <ul style="list-style-type: none"> <li>• historic heritage in the coastal environment is extensive but not fully known, and vulnerable to loss or damage from inappropriate subdivision, use, and development.</li> </ul>		
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### 2.3. Regional Policy Statement (RPS)

Section 74 of the RMA requires that the District Plan must give effect to the Operative RPS.

Objective	RPS Objective	Policies	Relevance to the Coastal settlement zone
2	Preservation, restoration and where appropriate, enhancement of the natural character and ecological functioning of the coastal environment	CE1B CE2B CE8B	Identification of the coastal environment provides a confined area where activities need to be managed
4	Enable subdivision, use and development of the coastal environment in appropriate locations	CE1B CE2B CE8B	The design and layout of residential dwellings in order to manage the overall amenity of the Coastal Settlement Zone.

### 2.4. Proposed Regional Coastal Environment Plan (PRCEP)

Section 74 (2)(a)(ii) of the RMA requires the District Plan to have regard to a proposed regional plan, and a District Plan cannot be inconsistent with the provisions of a regional plan.

The purpose of the PRCEP is to enable Regional Council to promote the sustainable management of the natural and physical resource of the Bay of Plenty coastal environment. The Plan includes the entire coastal environment. The Plan deals with resource management issues that cross the land/water divide and include objectives, policies and methods that apply to both the sea and land areas of the coast. The overall objective is to achieve integrated management of natural and physical resources.

The Regional Council cannot make rules that apply on land to provide for public access or historic or cultural heritage. These matters are regulated by the District Plan and have been included as part of this review process. Therefore activities within the coastal environment as defined in planning maps will need to comply with both District plan and the PRCEP.

## 3. Key Issues

The key issues to be addressed in relation to activities in the Coastal Settlement Zone are:

#	Issue
1	Sporadic subdivision and development pressure can adversely affect the natural character of the coast, particularly where there is fragmented ad hoc development of an area.
2	The natural character of the coast line is adversely affected by activities which destroy or modify habitats and vegetation, natural features and landscapes, and drainage of coastal wetlands.
3	Coastal areas are of importance to tangata whenua for spiritual, historical, or cultural purposes, and these need to be provided for.
4	Sites within the zone need to be of sufficient size, so that where on-site effluent treatment is required there will be no adverse effects on the site, adjoining sites, and particularly on the coastal environment.
5	There are areas within the Coastal Settlement Zone that area susceptible to natural hazards, particularly flooding and erosion associated with coastal processes. The location of activities can increase the effects of natural hazards.
6	In some areas adjoining the coast it is difficult to provide appropriate infrastructure and services to the community.

#### 4. Summary of Plan Provisions

The issues, objectives, policies, rules and other provisions and their relationship in the Proposed District Plan are set out in the following table.

Issues	Objective(s)	Policies	Rules	Other Methods
10.1.1	10.2.1	10.2.1.1, 10.2.1.3, 10.2.1.6	10.3 Activity status, 10.4 & 10.5 Assessment criteria 10.6 Zone Standards	
10.2.2	10.2.1	10.2.1.1, 10.2.1.3, 10.2.1.6	10.3 Activity status, 10.4 & 10.5 Assessment criteria 10.6 Zone Standards	Chapter 13
10.2.3	10.2.2	10.2.2.1-3	10.3 Activity status 10.4 & 10.5 Assessment criteria	
10.2.4	10.2.1	10.2.1.2, 10.2.1.5	10.6.8, 10.6.9	
10.2.5	10.2.1	10.2.1.1, 10.2.1.2	10.6.6	
10.2.6	10.2.1	10.2.1.1, 10.2.1.1, 10.2.1.4, 10.2.1.5	10.6.8, 10.6.9	

#### 5. Changes Made to Operative District Plan Approach

The Operative District Plan has a stand-alone chapter for activities within the Coastal Settlement Zone. The majority of the chapter is still relevant and has been carried through into the Proposed Plan.

The Operative District Plan also included introductions at the beginning of the Coastal Settlement Zone section. This has been removed and included in this evaluation report, where relevant.

## 6. Evaluation – Appropriateness of Objectives

6.1. Objectives are to be assessed as to whether they are the most appropriate to achieve the purpose of the RMA. ‘Most appropriate’ has been interpreted to mean ‘suitable’.

	<b>Objectives</b>	<b>Appropriateness</b>
10.2.1	Planned and cohesive development of coastal settlement areas where inappropriate subdivision, use and development is avoided and the distinctive natural character is preserved.	Addresses Issues 10.1.1-6 Section 5: The objective will achieve the purpose of the RMA by appropriately managing the use and development of coastal land as a physical resource so as to provide for people and communities social well-being.
10.2.2	To recognise and provide for tangata whenua relationships with the coastal environment.	Addresses Issue 10.1.3 It is vital to the purpose of the Act to provide for people and communities cultural well-being and therefore this objective is appropriate.

6.2. These objectives are considered to be the most appropriate methods of achieving the purpose of the RMA as they recognise the matters set out in Part 2 of the RMA, they give effect to the relevant objectives and policies in the RPS, and they will guide the appropriate management of activities within the Coastal Settlement Zone.

## 7. Evaluation – Achieving the Objectives

### 7.1. Section 32(1)(b) Requirements

Section 32(1)(b) of the RMA requires examination of whether the provisions (being policies, rules and other methods) in the Proposed Plan are the most appropriate way to achieve the objectives. The appropriateness must be considered in relation to:

- “(i) identifying other reasonably practicable options for achieving the objectives; and*
- (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
- (iii) summarising the reasons for deciding on the provisions”.*

The assessment must be at a level of detail that corresponds to the scale and significance of the environmental, economic, social and cultural effects of the Proposed Plan. The Operative District Plan contains an existing chapter, Chapter 18, to address the effects of activities in the Coastal Settlement Zone. As set out in section 5 above, the approach taken in the Proposed District Plan is to amend the provisions only where necessary to:

- Clarify the provisions;
- Improve consistency across the Plan;
- Respond to new statutory requirements, such as through a national or regional policy statement;
- Delete unnecessary text; and/or
- Update references.

The provisions need to be examined in more detail only where there are new statutory requirements through a national policy statement or regional policy statement, or a change in activities or the way they are managed .

In this case, a detailed re-examination of the plan provisions is not considered to be necessary because the plan provisions (being policies and rules) have not materially changed and are generally well understood and accepted as appropriate mechanisms to achieve environmental outcomes sought through the District Plan.

## 7.2. Reasonably Practicable Options

In terms of reasonably practicable options, as discussed in 7.1 above, the plan provisions have been generally carried forward. The reasonably practicable options are therefore considered to be:

Options	Response
Do nothing	<ul style="list-style-type: none"> <li>▪ No policy or rule in the plan.</li> <li>▪ Rely on other non-statutory methods as set out in the chapter.</li> <li>▪ BOPRC plan provisions address the issue and duplication is unnecessary.</li> </ul>
Status quo	<ul style="list-style-type: none"> <li>▪ Carry forward the policy or rule without change or with only minor amendment.</li> </ul>
New policy or provision	<ul style="list-style-type: none"> <li>▪ Address an issue that is not addressed or is ineffective in the operative plan.</li> <li>▪ Give effect to a new requirement in a NPS or RPS.</li> <li>▪ Align with plans or other statutory documents.</li> </ul>

The plan provisions have been generally carried forward with amendments to clarify and improve consistency across the plan and with other documents. The status of activities and standards to be applied are well known to the community and well understood.

The “Do Nothing” option has not been selected as it is not acceptable where a policy or rule is required to achieve the purpose of the RMA and the objectives set out above. Either the status quo (with or without minor amendments for clarification), or a new provision have been assessed as reasonably practicable options.

## 7.3. Policies and methods

### Efficiency and Effectiveness

In assessing the efficiency and effectiveness of the proposed provisions, the RMA requires the Council to “*identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for:*

- (i) *economic growth that are anticipated to be provided or reduced; and*
- (ii) *employment that are anticipated to be provided or reduced”.*

If practicable, the benefits and costs referred should be quantified.

## Efficiency

The proposed policies will be efficient in achieving the objectives as they give clear direction for potential activities in the Coastal Settlement Zone and guidance for decision makers.

## Effectiveness

### Objective 10.2.1

<b>Issue Relationship</b>	10.1.1-6
<b>Objective 10.2.1</b>	Planned and cohesive development of coastal settlement areas where inappropriate subdivision, use and development is avoided and the distinctive natural character is preserved.
<b>Policies</b>	<p>10.2.1.1 Consolidation of existing coastal settlement areas to avoid inappropriate and sprawling subdivision, use and development.</p> <p>10.2.1.2 Restrict development where adequate infrastructure and services are not, nor are likely to be, available.</p> <p>10.2.1.3 To manage adverse noise, glare, signage, and other on-site effects.</p> <p>10.2.1.4 To ensure that the effects of activities located within the zone do not adversely affect the safety and efficiency of the transport network.</p>
<b>Methods</b>	<p>Methods to give effect to the policies relate to:</p> <ul style="list-style-type: none"> <li>Retaining the zone to allow for consolidated development and activities consistent with the purpose of the zone.</li> <li>Zone standards controlling building setbacks, height and distance to adjoining properties.</li> <li>Larger minimum site areas for sites that are not reticulated to enable On-site Effluent Treatment Systems to be provided on-site.</li> <li>Requirements for buildings to be setback from Mean High Water Springs (MWHS).</li> </ul>
<b>Benefits</b>	
<b>Environmental Benefits</b>	<p>Provides clear guidance through objectives and policies, rules and zoning to provide residential style areas within the coastal environment.</p> <p>Provides certainty for plan users</p> <p>Coordinated development will support better provision of infrastructure services and encouraging limited development outside of these areas and therefore there will be an overall economic benefit.</p>
<b>Economic Benefits</b>	
<b>Social Benefits</b>	
<b>Cultural Benefits</b>	
<b>Costs</b>	
<b>Environmental Costs</b>	Costs compliance with zone standards and consenting costs where

<b>Economic Costs</b>	zone standards cannot be met.
<b>Social Costs</b>	
<b>Cultural Costs</b>	
<b>Risk of Acting or Not Acting</b>	<p>Some activities may be limited where in adequate provision of services are not available or increased costs for individuals to provide their own on-site services.</p> <p>The risk of not acting may lead to development within the coastal environment that could reduce natural character, and cause development that is sporadic and uncoordinated. There may be consequentially loss of social and economic opportunities.</p> <p>The risk of not acting is not consistent with achieving the purpose of the RMA, and especially section 5 and 6.</p> <p>There is sufficient information known about the consequences.</p>
<b>Overall Assessment</b>	The inclusion of the policy is supported as enabling the purpose of the RMA to be achieved, including sections 5 and 6 matters.

### Objective 10.2.2

<b>Issue Relationship</b>	10.1.3
<b>Objective 10.2.2</b>	To recognise and provide for tangata whenua relationships with the coastal environment.
<b>Policies</b>	<p>10.2.2.1 Where activities in the zone affect the relationship tangata whenua have with their cultural <b>sites</b> and traditions, activities are to avoid, and where not practicable, remedy or mitigate adverse effects.</p> <p>10.2.2.2 To recognise only tangata whenua can identify and evidentially substantiate their relationship and that of their culture and traditions with their ancestral lands, water, <b>sites</b>, waahi tapu and other taonga.</p> <p>10.2.2.3 To recognise tangata whenua needs for Papakāinga housing, <b>marae</b> and associated developments.</p>
<b>Methods</b>	<ul style="list-style-type: none"> <li>Controlled activity status for Papakāinga housing to provide tangata whenua housing options on their land.</li> <li>Provision of marae, urupa as permitted activities</li> <li>Policies and objectives that must be considered when making application of resource consent – in particular activities that are considered non-complying.</li> </ul>
<b>Benefits</b>	
<b>Environmental Benefits</b>	The policies give effect to section 8 – Treaty of Waitangi of the Resource Management Act, they also give to section 6 – other matters by providing for tangata whenua relationship with their
<b>Economic Benefits</b>	
<b>Social Benefits</b>	

<b>Cultural Benefits</b>	<p>taonga.</p> <p>The ability of tangata whenua to continue their way of live, to undertake their cultural practices.</p> <p>Controls activities that may otherwise affect cultural values within the zone.</p> <p>Allows housing choice for tangata whenua and for many an opportunity to live on their own whenua.</p>
<b>Costs</b>	
<b>Environmental Costs</b>	<p>Potential costs to applicant to ensure applications for resource consents to demonstrate compliance with policies and objectives.</p> <p>Some activities maybe limited where they compromise tangata whenua relationships, or affect waahi tapu and other taonga.</p> <p>No specific cultural costs are identified.</p>
<b>Economic Costs</b>	
<b>Social Costs</b>	
<b>Cultural Costs</b>	
<b>Risk of Acting or Not Acting</b>	<p>The risk of not acting may lead to development that may impact on the relationships tangata whenua have with the coastal environment. Not acting may also lead to the inability of tangata whenua not being able to live and undertake their cultural practices.</p> <p>The risk of not acting is not consistent with achieving the purpose of the RMA especially section 6 and 8.</p>
<b>Overall Assessment</b>	<p>The inclusion of the policy is supported as enabling the purpose of the RMA to be achieved including sections 5, 6 and 8 matters.</p>