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**Forest & Bird**  
GIVING NATURE A VOICE

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### Submission on Proposed Opotiki District Plan 2016

This submission was prepared by Eastern Bay of Plenty Branch on behalf of the Royal Forest and Bird Protection Society NZ Inc ('the Society').

Specific submission points are detailed below, many of which are provisions which the Society endorses. Where changes are sought, the Society requests that any consequential changes to give effect to the submission points are included.

There are two over-riding issues which the Society considers have not been sufficiently addressed in the plan: natural character including controls on setbacks and earthworks in the coastal zone, ONFLs and significant biodiversity areas; and access of vehicles to beaches.

#### Implementation of New Zealand Coastal Policy Statement Policy 20<sup>1</sup>

The Council is not currently complying with NZCPS Policy 20. The current by-law is very limited in scope. This policy puts a responsibility on councils to control vehicle use on beaches, foreshore, seabed, *and adjacent public land* where damage to environmental values, including "peaceful enjoyment of the beach environment" *might* occur. The use of the word "might" indicates that it is not necessary to show that damage of the type listed in (a) to (g) *will* occur before control is justified under the Policy.

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<sup>1</sup> Policy 20: Vehicle access

1. Control use of vehicles, apart from emergency vehicles, on beaches, foreshore, seabed and **adjacent public land** where:
  - a. damage to dune or other geological systems and processes; or
  - b. harm to ecological systems or to indigenous flora and fauna, for example marine mammal and bird habitats or breeding areas and shellfish beds; or
  - c. danger to other beach users; or
  - d. disturbance of the peaceful enjoyment of the beach environment; or
  - e. damage to historic heritage; or
  - f. damage to the habitats of fisheries resources of significance to customary, commercial or recreational users; or
  - g. damage to sites of significance to tangata whenua;**might** result.
2. Identify the locations where vehicular access is **required** for boat launching, or as the only practicable means of access to private property or public facilities, or for the operation of existing commercial activities, and make appropriate provision for such access.
3. Identify any areas where and times when **recreational** vehicular use on beaches, foreshore and seabed **may be permitted**, with or without restriction as to type of vehicle, without a likelihood of any of (1)(a) to (g) occurring.[my emphasis]

The presumption of the policy is to restrict rather than to allow. Section (3) is a fairly limited exception, in that permitted use within specified areas will only be justified if there is no likelihood of (a) to (g) occurring – again it is not necessary to show that such damage *will* occur. Controlling vehicles is mandatory in some situations.

Sections 2 and 3 of the Policy require spatial identification of areas where access is required, and where it may be permitted.

The PRCEP says (Policy RA5(b)) that District Councils should restrict or prohibit vehicle use on foreshore, beaches and adjacent public land on dunes, bird roosting areas, shorebird nesting areas and any areas identified in Schedule 2, Table 1 Indigenous Biological Diversity Area A. That provision is also a section 30(1)(ga) matter.

Overall, the provisions referred to above support the control of vehicles in *all* bird roosting and shorebird nesting areas. In the remainder of the coastal environment it would be appropriate to undertake a process involving community collaboration to identify where vehicles should be controlled consistent with RPS Method 71<sup>2</sup>.

There are legal limitations of bylaws in addressing biodiversity issues, rather than public safety and nuisance<sup>3</sup>. Councils do have powers under s 106 of the Reserves Act 1977 (RA) to make bylaws for the protection of the environment. However it is not clear that all public land adjacent to the coast falls within the scope of the Reserves Act, and whether any reserves extend to mean high water. Any beach area not part of a reserve would not be covered by RA bylaws.

Under (s) 22AB (1) (f) of the Land Transport Act 1998 Road controlling authorities may make certain bylaws but are *not required to* in order to comply with planning documents such as the NZCPS, whereas plans are required to give effect to the NZCPS.

To date the councils have relied upon beach bylaws to control vehicle activity in the coastal environment. However a major flaw in particular that enforcement requires a district court prosecution which is a complex, lengthy and expensive process, and instant fines (infringement notices) cannot be imposed<sup>4</sup>.

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<sup>2</sup> Method 71: Identify coastal vehicle access requirements and restrictions

In collaboration with road controlling authorities, and the community, identify Bay of Plenty Regional Council areas of the Coastal Environment where:

- a) control of vehicle use is required under NZCPS Policy 20(1),
- b) vehicle access is required under NZCPS Policy 20(2),
- c) vehicle use is permissible under NZCPS Policy 20(3).

Note: Appropriate access control methods include managing access through bylaws, regional and district plans, control of reserve access points or user-agreements. Implementation responsibility: Regional, city and district councils.

<sup>3</sup> Section 145 of Local Government Act does not give powers to make by-laws for damage to the environment, historic heritage or sites of significance to tangata whenua.

<sup>4</sup> An order-in-council could be sought to enable infringement notices under bylaws but this is a complicated bureaucratic process achieved through bylaws offences being made infringement offences by Regulation through an order in Council (LGA ss 244, 245 and 259 which require the Minister to promote the infringement offence regulations). The only bylaw in the Bay of Plenty which includes infringement offences is the Maritime Safety Bylaw<sup>4</sup>. RMA Infringement Notices are able to be imposed with a \$300 infringement fine for offences under s 9 (land) and \$500 for offences under s 12 (coastal marine area). Infringement fines go to the council if issued by a council officer.

## RMA s32

S32 of the RMA requires an evaluation of the extent to which each objective is the most appropriate to achieve the purpose of the Act and whether the policies, rules and methods are the most appropriate (efficient and effective) for achieving the objectives. The use of bylaws to implement the NZCPS is inefficient as it relies on a cumbersome process of enforcement. Implementation under the RMA allows for more cost-effective and efficient enforcement, including the ability for third parties to take enforcement action. In addition the 2012 amendment to the LGA requires “*performance of regulatory functions in a way that is most cost-effective for households and businesses*” (s 10). This puts a new light on the advantages of infringement offences as an enforcement tool. Therefore there is justification for controls in the district plan to give effect to the NZCPS and the RPS as required by law.

### Decision sought

Vehicle access to the coast, except for management search and rescue, life saving and emergency purposes is prohibited in the following locations: Ohiwa Harbour, Ohiwa Spit, Ohiwa (Bryans) Beach, Waiotahi Spit, Waiotahi Estuary, Waiotahi Beach, Waiau Beach, Motu River bed, and Whangapararua Beach and river mouth.

### **Natural character in the Coastal and Ohiwa Harbour Zones, ONFLs and significant biodiversity areas**

Opotiki District has an extensive coastline which is sensitive to adverse effects of development as well as a risk from natural hazards. Much of the district has outstanding natural character and/or natural features, and significant indigenous biodiversity. It is important that development is cogniscent of these values, appropriately located and carried out. Key management tools to achieve this are controls on building setbacks and earthworks.

Given that a considerable amount of time and effort in similar issues has recently been concluded in the Whakatane District, involving many stakeholders who are also submitting on this plan, the Society strongly recommends that consistency between the two adjoining plans be paramount in decision-making.

### Decision sought

Consistency with the PWDP is adopted for coastal setbacks and earthworks provisions in those zones and for ONFLs and significant biodiversity sites.

## **Chapter 1**

### 1.5.2.7 Significant Resource Management Issues

This refers to “rezoning land for residential development where there is demand” but there does not seem to be any further reference to that issue including rationale or evidence suggesting a need for that, and Opotiki does not meet the definition for medium or high growth urban areas as defined in the National Policy Statement on Urban Development Capacity 2016 (NPS UDC), nor is this likely in the life of the Proposed Plan.

The NPS UDC requires housing and business land to be serviced with the necessary infrastructure. This imposes a financial constraint additional to constraints of natural hazard risk, and threats to outstanding and significant natural character, landscape and biodiversity which are likely to conflict with any public “demand” for residential development in the coastal environment.

Decision sought  
Delete Item 7.

#### 1.6.3.4 Marine Services Zone

The last sentence is about the Harbour Industrial Zone. As the rules do not provide for aquaculture and servicing in the MSZ, it should not be said they can establish there provided there is no conflict with the purpose of the MSZ.

Decision sought  
Delete the last sentence.

#### 1.6.3.7 Rural Zone

Forestry should be included as it is a permitted activity in the zone.

#### 1.6.3.9 Coastal Settlement Zone

This is referred to as “Coastal Residential” in the maps. The zone name should be consistent.

1.9.2 refers to controls on network utilities for landscape reasons including earthworks however the assessment criteria in Chapter 17 do not refer to earthworks.

Decision sought  
Amend 17.5 to add criteria for earthworks in the Coastal Zone.

### **Chapter 3 Town Centre Zone**

#### Objective 3.2.4 and Policy 3.2.4.1

These provisions that address the relationship between the township and the river are supported.

Retain.

### **Chapter 5 Marine Services Zone**

#### Policy 5.2.1.6

Forest and Bird supports avoiding, remedying and mitigating adverse effects on amenity values but the policy approach to ecological values in the zone is not adequate. Part of the Zone overlaps with the IBDA Site B117 Waioeka Estuary in the Proposed Regional Coastal Environment Plan (PRCEP) Map 28b. Any development of the site that adversely affects ecological values should be avoided, remedied or mitigated, or otherwise offset.

Decisions sought

- Split ecological values into a separate policy as follows:  
*5.2.1.6 Control the location and design of commercial/retail activities within the zone to ensure that the qualities and characteristics of the zone are maintained and that adverse amenity effects are avoided or mitigated ~~and ecological values are enhanced where practicable.~~*
- *5.2.1.6a Avoid, remedy or mitigate adverse effects on ecological values. Any residual adverse effects are to be offset to result in no net loss and preferably a net indigenous biodiversity gain consistent with the Business and Biodiversity Offsets Programme (BBOP) principles for offsetting.*

- Advice Note  
Principles for Offsetting are set out in Schedule 13 of the Regional Coastal Environment Plan.

#### 5.2.1.9

Change 'the' marina to 'a' marina.

### 5.3.2 Permitted Activities

#### 5.3.2.3 Buildings and activities accessory to a Permitted Activity

Other permitted activities in the zone (5.3.2.1.9-20) are able, by way of this provision, to place buildings in the zone subject only to the zone standards, but not subject to any design and appearance controls that a controlled activity is required to meet.

This permissiveness of buildings would appear to be potentially in conflict with the objectives and policies of the zone to achieve good design and high amenity values. On the contrary it is likely to result in a hotch potch of buildings. Whilst the intention is that the overall marina will incorporate/provide the buildings where these *activities* above will take place, this cannot be assumed, and therefore the planning controls need to ensure that an ad hoc approach doesn't result in unintended outcomes.

Decision Sought

Buildings accessory to Permitted Items 9-20 to be Controlled Activities.

#### 5.3.3.1.3 Controlled Activities and 5.4.1 Matters for Control

Whilst the Society appreciates the intention to provide certainty for marina development through Controlled Activity Status, it is not confident that the matters of control (or matters of discretion should the status be elevated to RD) encompass all likely effects to be considered. A large development requires an overall judgement. It is not an appropriate status where there is an overlay.

In any case, given the strong policy support for a marina, having a limited consenting pathway is not necessary.

Decisions sought

- Add to 5.4.1.2.1 effects "on the coastal environment".
- Change a marina development to be a Discretionary Activity with a corresponding inclusion of the relevant matters of control as assessment criteria.
- Include as an assessment criterion mitigation and offsetting measures where the development overlaps the Biodiversity site.

### 5.3.4 Restricted Discretionary Activities

5.3.4.1 The Society does not understand why breaching of only some standards results in Restricted Discretionary Status. Surely breaching of any standards should require some kind of discretionary assessment?

Decision sought

Amend rules 5.3.4.1 so that any failure to meet the zone standards results in a Restricted Discretionary status. Some further criteria may be required.

### 5.3.5 Discretionary Activities

5.3.5.1.3 The Society supports Activities not in Accordance with the Structure Plan being a Discretionary Activity.

Decision sought  
Retain.

### Zone Standards

In addition to screening waste, there needs to be a standard requiring any food waste to be stored in sealed containers so as to not facilitate vermin populations and increase the risk of rats 'hitch-hiking' on boats from the marina to offshore islands or other high biodiversity sites.

Decision sought  
Include a standard as in the submission, either associated with 5.5.4.1 or 5.5.9.1.

## **Chapter 7 Harbour Industrial Zone**

Note that the Maps (5b) refer to Reserve Sensitivity Buffer. Is this supposed to be Reverse Sensitivity?

### 7.1 Issues

The important issue with this zone is ensuring that there is an adequate buffer on the margins to protect natural character and biodiversity for consistency with the NZCPS and the RPS. There needs to be a much larger buffer to Huntress Creek including good control of organic waste from fish processing or other similar activities, to prevent a build up of predator pests such as rats and cats in the area.

Decision sought  
Add 7. Potential for increased threats to and adverse effects on indigenous species in adjacent wetland areas.

### Objectives and Policies

Objective 7.2.1 and Policy 7.2.1.1 are supported in addressing impacts on landscape and natural character.

Objective 7.2.2 and Policy 7.2.2.1

These provisions to give priority to uses that require location in the zone is supported.

Objective 7.2.3 and Policies 7.2.3.1 and 7.2.3.3

These provisions, including use of buffer zones, are supported.

Decision sought

Retain Objective 7.2.1 and Policy 7.2.1.; Objective 7.2.2 and Policy 7.2.2.1; and Objective 7.2.3 and Policies 7.2.3.1 and 7.2.3.3 .

### 7.3.2 Permitted Activities

#### 7.3.2.1.1 Buildings and activities accessory to a Permitted Activity

As with the Marine Services Zone, most of the other permitted activities in the zone (7.3.2.1.) are able to place buildings in the zone subject only to the zone standards, but not subject to any design and appearance controls that a controlled activity is required to meet.

This permissiveness of buildings would appear to be potentially in conflict with the objectives and policies of the zone to minimise adverse effects on landscape and natural character values. While the *activities* themselves should be permitted, planning controls on the buildings need to ensure that an ad hoc approach doesn't result in unintended outcomes especially given that the zone is in the coastal environment (subject to the NZCPS) and adjacent to significant natural heritage sites.

Decision Sought

Buildings accessory to Permitted Activities to be Controlled Activities.

#### 7.4.1. Assessment Criteria for Controlled Activities

These are supported.

Decision sought

Retain

#### Activity Status 7.3.4 and 7.3.5.

In 7.3.4.1.2 industries not specifically Permitted, Controlled, Restricted Discretionary [there are none] or non-complying are Discretionary but in 7.3.5 Non-complying activities are those not Discretionary or any of those statuses. This is confusing.

Decision Sought

Delete the words "Restricted Discretionary or Non-complying" from 7.3.4.1.

#### Zone Standards

7.5.1.1 The requirement for consistency with the Structure Plan is supported.

Decision sought

Retain

#### 7.5.1.3 Height

It would be preferable to have a graduated height regime in this zone, especially where no screening is possible because of the wharf operations area. Intuitively, heights of buildings visible from the wharf would be lower as presumably there will be no landscape screening in this area. Higher buildings should be screened from the town by taller trees. In the absence of screening, reflective building materials/colours could address the issue.

It should be remembered that this zone is located in the coastal environment, therefore screening from all sides is desirable.

Decisions sought

- Clarify the height standards for the zone, taking landscape and natural character values into account. As some taller buildings are required in this zone, and some cannot be screened for operational reasons, a reflectivity standard for such buildings that are visible from the town should be considered.

- Provide for a screened buffer on the boundary adjoining the Rural zone e.g. shelter belt or other tall vegetation.

#### 7.5.2.1 Yards

There is no setback from the rural zone, but the rural zone has a 5m setback. Is this intentional?

Decision sought

Reconsider the setbacks from roads and the rural zone.

#### 7.5.4.3 Lighting

Lighting can be a hazard to sea birds. The requirement for lighting not to overspill the site boundaries is supported but there needs to be a specific requirement to screen Huntress Creek from lighting on the site. Lighting should not penetrate the ecological buffer zone.

Decision sought

Amend 7.5.4.3 Lighting and glare

*All exterior security lighting shall be designed, installed, and maintained so that the light emitted does not overspill site boundaries or ecological buffer zones and cause light pollution, or cause distraction or glare which could affect traffic safety on adjacent roads.*

#### 7.7.1 Structure Plan

There is no standard for the buffer zone. There should be standards for what the buffer is to achieve e.g.

- a permanent, physical buffer to prevent entry to the biodiversity area from the site
- a permanent vegetated buffer in coastal indigenous species sourced from the Opotiki Ecological District

The buffers need to be more extensive in width and extend around the western boundary of the site.

Decision Sought

Extend the buffer on the western side of the site and include a standard as above.

## **Chapter 8 Rural Zone**

### 8.1 Issues

Issues 2 and 10 are virtually the same.

#### Decision sought

Combine Issues 2 and 10.

An issue not addressed is the effect of rural subdivision on biodiversity, as new residents bring domestic pets and new garden plants that can escape to natural areas. This is already a significant, ongoing problem around Ohiwa where residents and people buying into the existing coastal settlements are known to dump their garden cuttings on the edge of the harbour.

Decisions sought

Add another issue and policy to implement it:



- Issue: “Rural-residential activities can intensify pest effects on natural heritage”;
- Policy: “Ensure that new residential activities do not enable the introduction of pests into sites of significant indigenous biodiversity.”

Objective 8.2.1 and Policies 8.2.1.2-4 are supported.

Decision sought

Retain

Policies 8.2.1.1 and 8.2.1.5 are essentially the same.

Decision sought

Delete 8.2.1.5 and amend 8.2.1.1 to read

Recognise the Rural Zone as a working rural environment and ensure that residential or sensitive activities do not result in reverse sensitivity effects on rural production activities and infrastructure.

Policies 8.2.3.3 and 8.2.3.4 are supported.

Decision sought

Retain

### 8.3.2 Controlled Activities

8.3.2.6 Papakainga up to 50 sites

This is equivalent to a small settlement.

### 8.4.1 Matters for Control

These are supported although it is not certain whether some sites have the capacity for 50 households.

Decisions sought

- Change status to Restricted Discretionary and move relevant matters for control to Restricted Discretionary Assessment Criteria.
- Include an additional criterion “whether the site has the capacity for the number of dwellings”.

8.3.3.1.4 and 8.3.4.1.4 Keeping of Goats is both Restricted Discretionary and Discretionary.

The Society supports retaining the status quo which is Discretionary. Consequential changes are required for the assessment criteria.

### 8.5.1.4 Assessment Criteria

Note a similar provision is located at 11.5.1.2 with slightly different wording. The wording should be the same for each chapter.

There are no criteria for other discretionary activities.

Decisions sought

- Retain 8.3.4.1.4, 8.6.14 and 8.6.15.
- Delete 8.3.3.1.4.
- Move 8.5.1.4 to a new Discretionary section 8.6 and standardise the wording of 8.5.1.4 and 11.5.1.2.

## Zone Standards

8.6.4.3 setbacks from waterbodies is supported however 8.6.4.3.2 is uncertain.

Decision sought

Retain provisions but change 'may' to 'is' in 8.6.4.3.2.

8.7.1.7 Other methods includes "To develop" public open spaces. This might be contrary to a reserve management plan. It would be more appropriate to phrase this "To manage"...

Decision sought

Amend as above.

## **Chapter 9 Coastal Zone**

### Introduction

The Coastal Zone does not encompass all of the land in the district that is in the coastal environment as mapped in the RPS. This complicates the application of provisions of the NZCPS e.g. Kutarere and Waiotahi on Maps 4 B and 4C. It also results in inconsistencies with the provisions in the PWDP in relation to the Ohiwa Harbour Zone, where accessory buildings are restricted discretionary.

There are other gaps for earthworks and control of vehicles in the coastal environment which are addressed further elsewhere.

Decision sought

Amend the zone maps so that all of the rural land in the coastal environment is zoned coastal or Ohiwa Harbour Zone.

Issue 9.1.6 This is incomplete.

Decision sought

Amend to read "*Sporadic and inappropriate subdivision, use and development pressure can depreciate the natural character and biodiversity values of the coast.*"

### Objective 9.2.1 Natural character

The Council is statutorily required to protect ("preserve" s 6(a)) the natural character of the coast, regardless of whether a particular area is enjoyed by the public.

Decision sought

Delete all words after "coastal environment".

Policy 9.2.1.1 is supported.

Decision sought

Retain

### Policy 9.2.1.2

The phrase "as far as practicable" is an unwarranted qualification of the provisions of s6 of the Act and not consistent with the NZCPS.

Decision sought

Delete the words "as far as practicable".

### Objective 9.2.2

The intent of the objective is supported but it is not fully consistent with the NZCPS Policy 13 to avoid adverse effects on outstanding areas of natural character and avoid significant adverse effects on all natural character.

Decision sought

Rewrite objective consistent with NZCPS Policy 13.

Policy 9.2.2.1 is written as an issue and the repetition of “managed” is unhelpful.

Decision sought

Amend to the following or similar wording:

~~The location of Residential activities within the zone need to be managed~~ should be located to ensure that adverse effects on the amenity values, the quality of the environment, and the natural and physical resources of the District are managed-avoided, remedied or mitigated.

Policies 9.2.2.3 and 9.2.2.5 are supported.

Policy 9.2.2.7 is repetitive of 9.2.2.5 *Manage subdivision, use and development within the Coastal Zone to ensure that it is planned and appropriate, and so that it preserves the natural character of the zone.*

Decision sought

Retain 9.2.2.3 and 9.2.2.5 and delete 9.2.2.7

Policy 9.2.2.6 This is supported but the phrase “as far as practicable” does not give clear guidance.

Decision sought

Amend to read

“To manage the effects of the subdivision and use of land on natural character in the coastal environment through avoiding ad hoc development outside of existing settlements, and requiring landscaping and setbacks for new buildings and structures.”

### Permitted Activities

9.3.2.1.1 The deer and goat farming provisions (including fencing standards) should be copied over from Chapter 8 or cross-referenced.

#### 9.3.2.1.3 Buildings

The setback (50m) and provisions for accessory buildings should be tailored for those which are in the coastal environment and those outside of it. In the Proposed Whakatane District Plan (PWDP), buildings within the Coastal Zone are Discretionary (accessory buildings Restricted Discretionary), and in Rural Ohiwa buildings in the coastal environment including accessory buildings are Restricted Discretionary. However the PWDP has additional measures to justify the RD status that are not present in the PODP.

It is questioned why Item 17 is included – it would seem irrelevant whether a building was constructed in a factory or on site.

Buildings (includes activities 3 and 15-17 and accessory buildings) in the coastal environment to be Discretionary with the exception of marae which should be Controlled.

#### Controlled Activities

For reasons outlined above, papakainga should be Restricted Discretionary activities in the Coastal and Ohiwa Harbour zones where they are located in the coastal environment.

#### Matters of Control

9.4.1.3, 9.4.1.4 and 9.4.1.7 are supported.

Decision sought

Retain

#### Earthworks

There is a gap in the rules in the Coastal Zone addressing earthworks. This activity should require a discretionary consent in the coastal environment.

9.4.1.4 Earthworks should have a threshold in the coastal environment and require discretionary consent.

Decisions sought

- Include an earthworks threshold in the coastal environment and require discretionary consent.
- Include criteria addressing reinstatement and/or revegetation.

#### Discretionary Activities

9.3.5.1.15 Production Forestry should only be Discretionary within the coastal environment line and ONFLs.

Decision sought

Amend as per submission.

#### 9.4 Matters of Control

9.4.1.3 should include Restriction on vehicle access to the coast.

#### Zone standards

##### 9.6.1.1.2 Site coverage for non-residential

A blanket 100% site coverage does not necessarily meet the requirements of the NZCPS in the coastal environment. Site coverage should be limited or otherwise authorised through a case by case assessment involving landscaping and reflectivity mitigation.

Decision sought

Review 9.6.1.1.2 to a level that would have minor effect and is supported by landscape advice.

##### 9.6.2.3 Setbacks

The setbacks in the plan are inconsistent. In other parts of the plan the setback is 50m (9.3.2.1.3).

The next part of the standard “*Buildings located between 25m-50m from MHWS may require site landscaping to mitigate the visual effects from the seaward side*” is uncertain for a standard and should say “shall” instead of “may”.

Decisions sought

- Standardise the setbacks based on natural character, landscape and natural hazards in the coastal environment.
- Change “may” to “shall”.

9.6.3.1 Screening from storage areas is supported however additional provisions are required in relation to 9.6.2.3

Decision sought

Retain but include criteria for landscaping.

#### 9.6.12 Coastal Hazard Assessment

This is uncertain for a standard and should require all new lots must have a safe building envelope (unless the lot is for access or utilities etc).

Decision sought

Require that all new lots have a safe building envelope.

#### 9.6.13 Setback for forestry

This provision provides for setbacks from a roadway, which does not seem to be required in other zones. It doesn’t address property boundaries, nor, more significantly, any setback from the CMA. Given that forestry harvesting can result in erosion and landscape effects, this should be considered in relation to the coastal environment.

Decision sought

Ensure consistency of setbacks for forestry across all zones and require setbacks for new and replanting from the CMA boundary in the coastal environment.

#### 9.7 Other Methods

9.7.1.1 is supported.

9.7.1.4 This is unclear. Aspects of vegetation clearance and earthworks should require control under the district plan. Saltmarsh grazing is prohibited under Rule DD17 in the coastal plan. The phrase “allowing for existing uses in specific cases” is unclear.

Decisions sought

- Re word “Support the regional council in its statutory role of controlling ....etc”.
- Delete “while allowing for existing uses in specific cases.”

#### 9.7.1.5

Rules are required for grazing saltmarsh and wetland. This should be non-negotiable.

Decision sought

Reword as follows:

“Seek support from DoC and regional council to provide assistance to landowners to fence wetlands and other indigenous vegetation.”

## **Chapter 10 Coastal Settlement Zone**

Objective 10.2.1 The word ‘distinctive’ as a qualification of natural character to be preserved is not appropriate as NZCPS requires consideration of all natural character in the coastal environment.

Decision sought

Delete the word ‘distinctive’.

### Policy 10.2.1.1

This policy implements the NZCPS and is supported .  
Policies 10.2.1.6 and 7 are supported.

Decision sought

Retain these policies.

### 10.3.1.1 Permitted Activities

10.3.1.1.1 All buildings and accessory buildings should be controlled in the coastal environment.

Decision sought

Amend so that all buildings and accessory buildings are Controlled Activities in the coastal environment.

### 10.3.2 Controlled Activities

10.3.2.1.1 This provision is limited to natural hazards, but all new buildings within 50m or other appropriate distance should be a Discretionary Activity consistent with the Coastal Zone for natural character reasons. The Controlled Activity Matters of Control can be used for discretionary consents.

It is not clear what the activity status is for buildings within a hazard zone (Restricted Discretionary?) and there are no criteria relating to natural hazards.

Decision sought

Change 10.3.2.1.1 to Discretionary and relocate criteria.

Clarify activity status and criteria for buildings in natural hazard zones or cross-reference to Chapter 18.

### 10.6.2.3 Setbacks from waterways and coast

As above for consistency setbacks from CMA should be 50m or other appropriate distance.

Decision sought

Standardise the setbacks based on natural character, landscape and natural hazards.

### 10.6.8

A hazard assessment should be required if location within hazard zone (cf 11.7.13 and 9.6.12.1).

Decision sought  
Require a hazard assessment if location within hazard zone.

#### 10.8 Expected Environmental Results

A is supported.

Decision sought  
Retain.

### **Chapter 11 Ohiwa Harbour Zone**

The choice of photograph of wheel tracks on a beach is unfortunate.

Decision sought  
Delete photo.

11.1.1.1 Issue 1 should be more explicit as to the “values”. Ohiwa Harbour and its surrounds has very high ecological values. This is clear in Issues 1, 3, and 5 in the Operative Plan.

Decision sought  
Rewrite issue 1 to reflect the high ecological values in the zone.

#### 11.2 Objectives and Policies

Some of these provisions need amending for consistency with the NZCPS.

Decisions sought

- Re word as follows:  
Objective 11.2.1 “Preserve the natural character and protect the outstanding natural landscape values of the Harbour environment.”
- New Policy  
Recognize that Ohiwa Harbour is an Outstanding Natural Feature and Landscape with Outstanding Natural Character and that activities on land surrounding the harbour can adversely affect these values.

#### Policy 11.2.1.1

*To avoid ~~as far as practicable~~ the adverse effects of activities such as buildings, earthworks and tracking, especially on skylines and ridges, that will adversely affect the qualities and characteristics of the Ōhiwa Harbour landscape.*

11.2.1.3 is supported. Note that the word ‘Zone’ is omitted.

Decision sought  
Insert the word ‘zone’ and retain policy.

Policy 11.2.1.4 This policy is weak and gives no direction.

Decision sought  
Delete.

### Objective 11.2.2

This is supported but should also refer to the land.

Decision sought

Retain and add “and its surrounds” at the end.

Policies 11.2.2.1 – 11.2.2.3 are supported.

Note the word ‘zone’ should be included in 11.2.2.1

Decision sought

Retain

### Rules

This chapter should be more consistent with the Proposed Whakatane District Plan especially Chapter 17.

### Permitted Activities

11.3.2.1.4 Building setbacks in the coastal environment should be consistent throughout the coastal zones. For consistency with the coastal zone this should be a discretionary activity. All buildings, including accessory buildings, even if accessory to a permitted activity, should be subject to a consenting regime.

Decision sought

Buildings within 50 m or other appropriate distance of the CMA should be discretionary, but **all** buildings in the *coastal environment* should be Restricted Discretionary for consistency with the Proposed Whakatane District Plan (PWDP), including accessory buildings.

### Controlled Activities

11.3.3.1.1 and 2 As above.

Decision sought

Buildings within 50 m or other appropriate distance of the CMA should be discretionary, but all buildings in the *coastal environment* should be Restricted Discretionary for consistency with the PWDP. See 11.3.5.1.

### Restricted Discretionary Activities

11.3.4.1 The goat farming rules are supported for the protection of indigenous biodiversity.

### Discretionary Activities

11.3.5.1 As above. Buildings within 25 m of MHWS should be non-complying.

Decision sought

Retain.

### 11.3.5.3 Ohiwa Spit Coastal Overlay

This is a highly hazardous area and an important buffer for nesting waders.

Buildings in the overlay should be non-complying.

Decision sought

Change activity status to non-complying.



#### 11.3.7.1 Prohibited Activities

These are supported.

Decision sought

Retain.

#### Assessment Criteria

Criteria for buildings in the coastal environment should have similar assessment criteria to those for the Rural Ohiwa Zone in the PWDP.

Amend as per submission.

#### 11.4.1.1 Controlled Activity Matters of Control

As above.

Decision sought

Assessment criteria should be consistent with PWDP controls for Rural Ohiwa Zone.

#### 11.4.1.3 Earthworks

Criteria should assess whether earthworks will adversely affect indigenous vegetation and should also require reinstatement or revegetation.

Decision sought

Amend consistent with PWDP criteria for Rural Ohiwa Zone and include earthworks effects on indigenous vegetation and require reinstatement or revegetation.

#### 11.5.1.1 Restricted Discretionary Criteria

11.5.1.1.2 should also consider visibility from Ohiwa Harbour

Decision sought

Amend as follows:

*2. Visibility from the road, public places, including from Ohiwa Harbour and other residential areas;*

#### 11.5.1.2 Goat Farming

The criteria are supported but we note that this provision is worded slightly differently from 8.5.14. There does not appear to be any rationale for this.

Decision sought

Ensure wording of 11.5.1.2 and 8.5.15 is the same.

#### 11.6.1 Discretionary Criteria

11.6.1.4 "Foreground vegetative backdrop" is contradictory and unclear.

Decision sought

Amend to read "Foreground vegetative screening"

#### Zone Standards

11.7.1.1 The site coverage standard is supported.

Decision sought  
Retain site coverage limits.

#### 11.7.1.2 Height

The standard is consistent with managing effects on natural character and is supported.

Decision sought  
Retain.

#### 11.7.3.3 Building setback

As above, the setbacks should be consistent through all coastal zones.

Decision sought  
Standardise the setbacks based on natural character, landscape and natural hazards.

#### 11.7.9.2 and 17.7.9.3 Signs

Limits on sign size and location are supported.

Decision sought  
Retain.

#### 11.7.13 Coastal Hazards

As for 9.6.12 This is uncertain for a standard and should state that all new lots must have a safe building envelope (unless the lot is for access or utilities etc) and new buildings in the hazard zone should require a hazard assessment.

We note that the wording in these 2 chapters is slightly different.

Decision sought  
Require that all new lots must have a safe building envelope and new buildings in the hazard zone should require a hazard assessment.

#### 11.8.1.5 Other methods

As for Chapter 9 above.

Decision sought  
Reword as follows:

*“Seek support from DoC and regional council to provide assistance to landowners to fence wetlands and other indigenous vegetation.”*

### **Chapter 12 Surface Water Activities**

#### 12.1.1 Should this read

*1. Incompatible surface of water activities on the same stretch of water may compromise safety and limit ~~disturbance~~ public access.*

Policy 12.2.1.2 is supported.

Decision sought  
Retain

Objective 12.2.2 and policies 12.2.2.1 and 12.2.2.3 are supported.

Decision sought

Retain these provisions.

#### 12.3.4 Restricted Discretionary Activities

These activities should be fully discretionary.

Decision sought

Change to Discretionary status.

#### 12.3.5 Discretionary Activities

These provisions are supported.

Decision sought

Retain.

#### Assessment Criteria

12.5.1. Provision of sanitation should be a matter of control for temporary events.

Decision sought

Include control over sanitation.

12.6.1.1 We note the heading is incorrect.

### **Chapter 13 Landscape and Vegetation**

The title of this chapter, whilst a continuation of the Operative Plan, is something of a misnomer. The plan only controls indigenous vegetation.

Decision sought

Rename 'Landscape and Indigenous Habitats'.

Issue 13.1.4.3 Insert a comma after the word "species".

Objective 13.2.1 and Policy 13.2.1.1 are supported.

Decision sought

Retain.

#### Policy 13.2.1.2

The NZCPS requires avoidance without qualification in the coastal environment.

Decision sought

Re word as follows or similar:

*13.2.1.2 Adverse effects of inappropriate subdivision, use, and development, including buildings, structures and earthworks, on the values of outstanding natural landscapes are avoided in the coastal environment, and outside the coastal environment, avoided, and where avoidance is not practicable, remedied or mitigated.*

Policy 13.2.1.3 This policy is opposed. Existing uses are protected under the Act subject to s 10. This provision goes further than s10. Activities such as grazing or forestry in significant biodiversity sites or ONFLS can have significant adverse effects. Chapter 8 Rural zone has an extensive list of permitted activities. This chapter addresses significant and outstanding landscapes and indigenous biodiversity and therefore should not be endorsing activities that may be degrading these values.

13.2.1.4 This policy should refer to the ONFLS “identified on planning maps”.

Reword *“Change in vegetation patterns as a result of land use change associated with new activities such as production forestry or other crops is managed to minimise adverse effects on natural contours and avoid straight lines to maintain or enhance the landscape values of ~~identified~~ natural features and landscapes identified on the Planning Maps and schedule 13.9.1 and 2.”*

Policy 13.2.1.5

*Development of multiple-owned Māori land is enabled through compliance with performance standards to protect outstanding natural features and landscapes.*

This policy is problematic. The intent to provide for use of multiple-owned Māori land is understood. However the performance standards apply to **all** land, including Maori land. To do otherwise is not effects-based. Plan provisions are enabling for papakainga in Chapter 8 (Policies 8.2.4.1 and 2 and Rules 8.3.2.6 and 7).

Decision sought  
Delete this policy

Objective 13.2.2 This objective is not opposed and the Society welcomes the broad approach taken to indigenous vegetation.

Decision sought  
Retain

Policy 13.2.2.1 qualifies s 6(c) beyond that contemplated by the Act.

Decision sought

Rewords as follows:

*13.2.2.1 To protect significant indigenous vegetation and habitats of indigenous fauna, where significance is assessed in accordance with the criteria in Appendix 13.9.3, ~~by avoiding adverse effects of inappropriate subdivision, land use, or development and, where avoidance is not practicable, adverse effects are remedied or mitigated.~~*

Policy 13.2.2.2

This policy is mixing two different issues – where restoration should occur, and priorities for protection.

Decisions sought

- Reword 13.2.2.2 as follows
- Where avoidance of adverse effects is not possible, ~~Where appropriate, to require restoration and rehabilitation of significant indigenous vegetation and habitats of indigenous fauna on or off the site, where avoidance of adverse effects is not possible,~~

*giving priority to the ~~sites~~ habitats and ecosystems listed in 13.9.4 and by reference to the criteria in ~~Appendix 13.9.3~~*

- And add a new policy:

“Discourage adverse effects on the habitats and ecosystems in Appendix 13.9.4.”

Policy 13.2.2.3 The policy is supported.

However a policy is needed to support the goat and deer farming provisions.

Decision sought

Retain 13.2.2.3 and add a policy “Avoid adverse effects of deer and goat farming through application of goat farming management areas and fencing standards for farmed deer.”

Policies 13.2.2.3 -13.2.2.10 are supported.

Decision sought

Retain

13.2.3 Objective Wetlands and Policies 13.2.3.1 and 2 are supported.

Decision sought

Retain

Policies 13.2.3.3 and 13.2.3.4

S6(a) requires preservation of the margins of wetlands, from inappropriate subdivision and use. However s 6(c) also requires the protection of significant wetlands. Wetlands in the district are very depleted and there should be no net loss of wetlands, and preferably a net gain.

Decision sought

Delete both policies and replace with the following:

“To discourage adverse effects on wetlands, and maintain or enhance the overall extent of wetlands including but not limited to conditions on resource consents requiring restoration or rehabilitation of wetlands, on or off-site.”

Objective 13.2.4.1 and Policies 13.2.4.1 and 2 are supported.

Decision sought

Retain.

Permitted Activities

13.3.2.1.1 Existing activities. This needs amending consistent with s 10.

Decision sought

Reword “Existing lawfully established rural production activities including production forestry of the same scale, intensity and character as at the time the plan was proposed (insert date).”

13.3.2.1.6 The 12 month provision is not appropriate as the removal of indigenous vegetation under this rule should be for limited minor clearance only.

Decision sought

Delete “in any 12 month period” in (b) and (c).

#### 13.3.2.1.8 Agriforestry

Clarify that the permitted activity is harvesting of manuka that has been *planted* for commercial use, not from the wild.

See also 13.3.4.1.6.

Decision sought

Amend as per submission.

#### 13.3.2.1.9 and 13.4.2 Earthworks in ONFLs

The threshold for ONFLs is too permissive, especially in the coastal environment.

Decision sought

Change the status of this activity to Discretionary and move the relevant parts of the standard to the discretionary criteria.

13.3.2.1.11 and 13 The cross-reference should be to 13.4.3, not 13.4.4.

#### Controlled Activities

##### 13.3.2.1.2 Walking and cycle tracks

There should be a maximum specified width over which the activity status should be Restricted Discretionary.

Decision sought

- Add to 13.3.2.1.2 Walking and cycle tracks up to 1.5 m wide ....
- Change status beyond this width to Restricted Discretionary.

##### 13.3.3.1.3 and 4

These activities should be Discretionary (non-complying in the coastal environment) because of the greater threat to these habitats and for consistency with the NZCPS.

Decision sought

13.3.3.1.3 and 4 to be Discretionary, and non-complying in the coastal environment.

#### Discretionary Activities

##### 13.3.4.1.1 Clearance of pohutukawa

This provision from the operative plan arrived at after considerable negotiation, is supported.

Decision sought

Retain.

##### 13.3.4.1.6

Production forestry including manuka production should not displace indigenous ecosystems.

Decision sought

Production forestry including manuka production on dunes, or within an area of indigenous vegetation greater than 1 ha should be a Discretionary Activity.

13.3.4.1.9 should specify indigenous vegetation. Removal of exotic species should be permitted.

Amend as above.

#### 13.3.5 Prohibited Activities

These provisions are supported for the protection of indigenous biodiversity.

Decision sought

Retain

#### 13.4.1 Performance Standards

It is not clear what the activity status is where the standards are not met. It would be preferable if they were incorporated into the rules.

Decision sought

Include the pohutukawa provisions in the operative plan and include 13.4.1.1.1 as assessment criterion.

13.4.2.1 (see 13.3.2.1.6 above) should apply as Discretionary criteria.

#### 13.4.2 Controlled Activity Criteria

These are supported and should be retained.

#### 13.6 Restricted Discretionary Criteria

These should apply to Discretionary Activities – there are no criteria for Discretionary activities.

13.6.3.3 should be moved to the ONFL provisions.

An additional criterion is required: the need for pest control.

Decision sought

Amend as per submission.

#### 13.9 Appendices

##### 13.9.1 and 2

Each Feature should be numbered on the Planning Maps.

The descriptions should be reviewed e.g. the Lottin Point description doesn't capture the essence of the values i.e. the open farmland allows the dramatic landform to be clearly seen. In this regard, inclusion of the values would support the classification of each site.

Not all of the areas shown as ONFLs on the maps are listed e.g. Hiwarau, Uretara and Hokianga Islands (Map 4) and the descriptions are not correctly matched.

The plan does not reflect fully the advice from Boffa Miskell, especially for earthworks.

Decisions sought

- Appendices 13.9.1 and 13.9.2 are reviewed and amended for accuracy and completeness.
- Include the values information as well.

- Amend the ONFL rules including earthworks to incorporate the landscape recommendations.

13.9.3 The bullets should be replaced by the numbering from the RPS. The last bullet point under viability and sustainability is repeated.

#### **Chapter 14 Heritage**

Objective 14.2.1 and Policy 14.2.1.3 are supported.

Decision sought

Retain.

14.3.3.1.2 Controlled Activities is supported.

Decision sought

Retain

Discretionary and Non-complying Activities

14.3.5.2 and 14.3.6.1.3 should also refer to Appendix 14.9.2 (notable trees).

#### **Chapter 15 Subdivision**

Issue 15.1.12 is supported.

Decision sought

Retain

15.2 Objectives and Policies

Objective 15.2.1 and Policy 15.2.1.2 and 15.2.1.6 are supported.

Decision sought

Retain

Policy 15.2.1.5

The use of the word 'manage' gives no guidance and there are no rules which are related to the policy apart from the minimum lot size of 4 ha (see further submissions below).

Decision sought

To ~~manage the effects of~~ restrict new small lot subdivision for rural residential purposes in sensitive rural and coastal environments.

Objective 15.2.3 and Policy 15.2.3.3 are supported.

Decision sought

Retain

Policy 15.2.3.1

S 229 of the Act provides for esplanade reserves for mitigating natural hazards, as well as the purposes in this policy.

Decision sought

Include natural hazards in this policy.



#### Policy 15.2.3.2

This policy is contradictory. How can a network be established if it ceases where values are not 'high', and how are high values defined? There may be areas in the district where, because of topography, it is not practicable to provide public access.

Decision sought

Reword the policy to require esplanade reserves or strips except where there are topographical constraints, or where it may impede conservation values.

#### Policy 15.2.3.4

This policy may be ultra vires in its reference to stock management. Such an exclusion could only apply to a strip under s237C and Schedule 10.

Decision sought

Amend for consistency with the Act.

### 15.3 Activity Status

15.3.4.1 In the Coastal and Ohiwa Harbour Zones, subdivision should be discretionary rather than restricted discretionary so that each application can be considered on a case by case basis and "in the round". This would also be consistent with the NZCPS and the PWDP.

Decision sought

Change status in Coastal and Ohiwa Harbour Zones to Discretionary.

#### 15.3.4.10 Discretionary status for ONFLs and ONCs is supported.

Decision sought

Retain

### Table Gap – Significant Indigenous Habitats

There is a gap in that it is not clear what the Activity status is for sites meeting the criteria in 13.9.3. The Standard in 15.5.12 is the basis for such a rule.

Decision sought

Include another row in the table for subdivision of sites meeting the criteria in 13.9.3 being Discretionary.

### 15.4 Subdivision Standards

15.4.2.2.4 is not a standard – it consists of assessment criteria.

Decision sought

Relocate 15.4.2.2.4 to 15.8 Discretionary criteria.

#### 15.4.2.3

This rule is highly likely to be exploited, as it was in Whakatane District resulting in virtually every property along the Thornton Coast being subdivided into lifestyle lots.

Decision sought

Delete 15.4.2.3 and replace with a minimum lot size of 4 ha in the Coastal and Ohiwa Harbour Zones.

15.4.2.4 is supported. We note that the word 'be' should be replaced with the word 'contain'.

#### 15.4.3 Protection Lots

15.4.3.1 is unworkable as a 2000m<sup>2</sup> for 2000m<sup>2</sup> would end up with a small settlement for some sites.

Three additional lots can be created for the protection of less than a hectare. These provisions conflict with 15.4.3.3.2 and create perverse outcomes.

Whilst Protection Lots are seen as an incentive for protection significant areas, they generate additional small sites that may have adverse effects such as fragmenting rural land. In the coastal environment, small sites have adverse effects on natural character.

Protection lots encourage subdivision and creation of lots frequently in places where they are not appropriate e.g. in proximity to natural heritage sites. Human habitation brings predators – rats, mice, cats and dogs into areas where they may have been less prevalent. It also brings weeds closer to natural areas through escaping garden plants. Experience in the former Rodney District showed that the sites “protected” actually declined from encroachment.

Protection Lots also require discretion. Because many significant habitats cross property boundaries, discretion is required to assess the area to be protected in relation to the total size of the site, and the total size of the feature.

#### Decisions sought

1. Delete 15.4.3 and replace with a regime that requires protection of **all** of a feature if the feature is a wetland, coastal habitat, or in the Opotiki Ecological District.
2. Where the feature does not meet 1 above, 90% or more of the feature is to be protected. A higher minimum lot size should be considered for such features.
3. Require the protected feature to be entirely within 1 lot or otherwise on the parent lot.
4. The lot containing the protected feature must contain an approved building site and access exclusive of the area to be protected.
5. Only 1 additional lot can be created.
6. The activity is a Discretionary Activity.
7. Conditions of consent should require stock proof fencing and permanent legal protection, as well as a required management plan to ensure the ongoing protection of the feature. (Incorporate 15.5.12).

15.5.11.1 These appear to be assessment criteria/matters for control as 15.5.11.1.2 requires an exercise of discretion.

#### Decision sought

Move to assessment criteria.

15.5.13 This should be a standard condition of consent on all subdivisions and should be included in assessment criteria for all activity statuses.

#### Decision sought

Amend as above.

#### 15.6.1.2

Subdivision involving heritage features should not be Controlled Activities.

Decision sought

Remove to Discretionary Criteria and add Fencing and pest management plan.

#### 15.6.1.3 As above.

Subdivisions in coastal zones, ONFLs or requiring esplanade reserves/strips should be discretionary.

Decision sought

Remove to Discretionary Criteria

#### 15.6.1.7 As above.

Subdivision involving features meeting the criteria in 13.9.3 should not be Controlled Activities. However where those criteria are not met, these criteria are supported.

Decision sought

Include also in Discretionary Criteria where the site has values identified according to criteria in 13.9.3.

#### 15.8 Assessment Criteria for Discretionary Activities

See preceding submission points.

Otherwise these are supported, except that 15.8.1.1.13 should delete the word 'noxious' and replace it with 'pest' as the Biosecurity Act no longer uses the term 'noxious.'

#### 15.9. Subdivision in Ohiwa Harbour Zone

These provisions are supported except that 5 (a) is unclear – should it read “Specifying the location”?

#### 15.10 Esplanade Reserves

15.10.1.1-4 are supported.

Decision sought

Retain

#### 15.10.1.1.5.4

The extent to which there is public recreational use is only possible to ascertain where there currently is such use, and if there is no public access, that is not possible.

Public recreational use can only be determined by public notification of an application for waiver.

Decision sought

Amend as follows:

Public recreational use of the land as determined through public notification.

#### 15.10.1.6.2 and 4

The security of private property per se is not a valid reason for waiving a requirement for an esplanade reserve or strip.

As above, only public notification can determine the extent of public benefit. RPS Policy MN 6B sets out the criteria for restricting access.

We note that it may be helpful to add waiver of esplanade reserve/strip to the table in 15.3.4 and Discretionary in all zones.

Decisions sought

- Require waivers to be a discretionary activity.
- Delete 15.10.1.6.2 and replace with "Waiving of the requirement for an esplanade reserve or strip will only be considered subject to RPS Policy MN6B".

## **Chapter 16 Financial Contributions**

These provisions are supported. However the main concern is the limit of their application to subdivision consents. Under these provisions, a marina or marine industrial development would pay no financial contributions.

Decisions sought

- Reword 16.3.1.1 as follows: " A condition may be imposed on a subdivision or land use consent..."
- Amend 16.3.2.3 as follows "Financial contributions in the form of land required as a condition of consent ~~a subdivision...~~"
- 16.3.10.2 Clarify that the \$ amount is an example and not the total that will be charged.
- Add to 16.5 "D. Adverse environmental effects can be offset".

## **Chapter 17 Network Utilities**

### Objective 17.2.1

This objective is problematic because the restriction to significant adverse effects is not appropriate.

Decision sought

Delete the word 'significant'.

### Objective 17.2.2

The word 'management' does not give adequate guidance to decision-makers.

The wording should refer specifically to the coastal environment, consistent with the NZCPS.

Decision sought

Change 'management' to 'control' and amend as follows:

~~Management~~ Control of the potential adverse effects of network utilities on sensitive environments, particularly in areas of high landscape value including the coastal environment. such as in the District's coastal areas.

### 17.3.1.2.1 and 3, 17.3.1.3, 17.3.1.4 Also 17.3.3.2

The 50m setback for a permitted activity should be revisited and the provisions related to the coastal environment line for consistency with the NZCPS and 1.9.2 zone statement.

There is no height standard for the Ohiwa Harbour Zone.

#### 17.3.4 and 17.5 Discretionary Activities and Assessment Criteria

The repetition of the assessment criteria is confusing.

Decision sought

Delete 17.3.4.6 and relocate 17.4 to follow 17.3.3.2

#### 17.5 Assessment Criteria

Add effects of earthworks on landscape values (see submission on 1.9.2).

Add effects on significant indigenous vegetation and habitats of significant indigenous species. Criteria could be cross-referenced to Chapter 13.

17.5.6 Add the words “technical and/or physical” before “constraints”.

### **Chapter 18 Natural Hazards**

Issues 18.1.5 and 9 are supported.

Decision sought

Retain

Objective 18.2.1 and Policies 18.2.1.1-6 are supported.

Decision sought

Retain.

Policy 18.2.2.3 is unclear.

Reword “Where residential [and/or business] land use activities are threatened by a coastal hazard...”

#### 18.3.2 Controlled Activities

The use of the word ‘may’ is confusing. If it is a Controlled activity, consent **will** be given.

If there is a discretion, then these activities should be Restricted Discretionary.

Decision sought

Amend to restricted Discretionary if discretion is to be applied otherwise change ‘may’ to ‘can’ or ‘will’.

#### 18.3.3.2 (6) (b) and 18.3.3.3

It is not appropriate that a third party dictate activity status.

Decision sought

Any development within the Coastal hazard lines shown on the planning maps in the Operative RCEP should be Restricted Discretionary.

18.3.4.1 Is supported.

Decision sought

Retain

#### 18.4 Assessment criteria

There are no criteria for Restricted Discretionary, Discretionary and Non-complying activities.

18.6.1.3 should be an assessment criterion. It is not an ‘Other Method’.

Decision sought

Amend 18.4 to include criteria for Restricted Discretionary, Discretionary and Non-complying activities.

18.4.1.5 Add 'Effects on significant indigenous biodiversity.'

## **Chapter 19 Definitions**

### Commercial activity

Using the defined term in the definition is circular.

Re write as follows:

*Means service [business] activities offered to the public for reward, including but not limited to professional offices, commercial offices, banks, finance houses, real estate agents, travel agents, but does not include motor vehicle servicing and repair.*

### Commercial operations

Re write as follows:

*Means, in reference to the surface of water, includes ~~commercial~~ [business] operations for tourism, entertainment, motorised recreation, or the transportation of cargo or people for reward.*

Alternatively use the word "business".

### Community Activity

Means the use of land and buildings which provides social and cultural services and facilities for the general public in respect of education, religion, Community facilities and leisure, and may be associated with health clinics, schools, churches, probation and periodic detention centres.

### Disturbance

The figure 3.5 m is used in Chapter 13. Change definition to match rule (3.5m).

### Height

It is important that the word "lowest" qualify "ground level", as ground level can vary, and should be measured at the lowest point. Otherwise it allows for a rolling height and taller buildings than anticipated.

*Means, in relation to buildings, the vertical distance between the lowest ground level and the highest part of the building ~~at the point of measurement~~, but shall not apply to chimneys, flag poles, aerials, dish antennae 1.5 metres or less in diameter where they are fixed to the building, or street lighting standards, single poles, and pylons.*

### Production Forestry

It is not clear what "other products" are. For clarity add "Processing of timber and associated products is excluded".

### Sensitive Activities

For clarity suggest

*Means activities which suffer adverse effects typically associated with some lawful activities. Activities considered to be sensitive include but are not limited to residential activities, visitor*

*accommodation, entertainment facilities, any childhood education centre, school, or education, healthcare ~~facilities~~ and community facilities.*

### Signs

We consider this definition could be problematical. Either vehicles should be excluded altogether, or exclude commercial vehicles painted in company logos, but include signs parked on trailers and limit the time they can be parked in a public place.

### Site area

We consider that this means that a driveway in a front site is not part of the site area. Is this intended? Suggest

*Means:*

- 1. In relation to rear sites, means the site area exclusive of land used for access.*
- 2. In relation to front sites, means the total site area, ~~exclusive of land used for access.~~*

### Temporary recreation

This term does not seem to be used in the plan and should be deleted.

### Yard

The words *“provided that the eaves of a building may project over any yard by not more than 0.6 metres or one quarter of the width of the yard, whichever is the greater”* constitute a rule and should not be in the definition. Include in the relevant rules.

### **Maps**

In addition to submission points above relating to maps, the following changes are sought:  
General Maps 1-3 to show ecological district boundaries.

Map 3 Natural Form – it is not clear what the pale green denotes.

The Society wishes to be heard.