

WAIKATO DISTRICT COUNCIL

Hearings of Submissions on the Proposed Waikato District Plan

Report and Decisions of Independent Commissioners

Decision Report 29C: Natural Hazards and Climate Change – Coastal Hazards

17 January 2022

Commissioners

Dr Phil Mitchell (Chair)

Mr Paul Cooney (Deputy Chair)

Councillor Jan Sedgwick

Councillor Janet Gibb

Ms Linda Te Aho

Mr Dynes Fulton

Mr Weo Maag

Contents

1	Introduction	3
2	Hearing arrangement and evidence presented.....	3
3	Overview of issues raised in submissions	4
4	Matters raised at the hearing.....	5
5	Panel decisions	14
6	Conclusion	18

Glossary of Terms

Waikato District Council	Council
The Waikato District Plan Hearings Panel	Panel
Proposed Waikato District Plan	PDP
Stage 2 Natural Hazards and Climate Change	Stage 2

1 Introduction

- 1.1 This report addresses the subject matter of the Stage 2 Natural Hazards and Climate Change provisions (Stage 2) of the Proposed Waikato District Plan (PDP), specifically the coastal hazard provisions and all related submissions received by the Waikato District Council (Council). This report should be read alongside Decision Report 29 which sets out the background and process followed for Stage 2.
- 1.2 The coastal hazard provisions contained within the PDP apply to land that lies within the mapped High Risk Coastal Hazard and Coastal Sensitivity overlay areas. The provisions have been developed using a risk-based approach, which provides a less restrictive development pathway for activities and development that can practicably mitigate risk or are less vulnerable to risk, while activities that are more vulnerable to risk or that may exacerbate risk are more restrictive and will require a more comprehensive assessment of risk.
- 1.3 By way of background, the mapped coastal hazard areas in the PDP are as follows. These include two coastal erosion and two coastal flood areas for developed sites in Raglan and Port Waikato, specifically:
- a) *High risk coastal erosion/inundation areas: which identify the areas where there is significant risk from coastal erosion or inundation with existing sea level and coastal processes in the short term (within the lifespan of the District Plan); and*
 - b) *Coastal erosion / inundation sensitivity areas: which identify additional areas potentially vulnerable to coastal erosion/inundation over the period to 2120, assuming sea level rise of 1.0 m.*

Coastal sensitivity areas have been identified on the PDP planning maps for the rural estuarine shoreline of Port Waikato, Raglan Harbour and Aotea Harbour, specifically:

- a) *Coastal sensitivity area (inundation): defined as all areas below 5.0 m above MSL to provide for coastal inundation and the potential landward migration of estuarine ecosystems with future sea level rise; and*
- b) *Coastal sensitivity area (erosion): defined as 100 m from the shoreline.*

Finally, a single coastal sensitivity area (open coast) defined as 200 m from the shoreline for the open coast of the Waikato District has been included on the planning maps.

2 Hearing arrangement and evidence presented

- 2.1 The specific hearing for the Stage 2 provisions was held between 10 and 12 May 2021 via Zoom. All of the relevant information pertaining to the subject matter of this hearing (i.e., the section 42A report, legal submissions, and evidence) is contained on Council's website.
- 2.2 The following parties presented evidence to the Hearings Panel (Panel):

Table 2: Hearing appearances

Submitter	Representative
-----------	----------------

Council	Ms Kelly Nicolson (author of Section 42A report) and Ms Bronwen Gibberd
Ruth and Shane Walden and Jane Lee-Smith	Mr Mark Mitchell
Alex Staheli and Viki Stokes [2087]	Mr Alex Staheli
Lorraine Webber	In person
Brett Beamsley	In person
Horongarara Community Group	Mr Andrew Wilson
Andrew Wilson	In person
Trish Waugh	In person
Mark Mathers	In person
Waikato Regional Council	Mr James Beban and Ms Sarah Gunnel
Rangitahi Limited	Ms Brianna Parkinson (Legal Counsel), Mr Kenneth Read and Mr Ben Inger
Graham and Ingrid Rusbatch	Mr Graham Rusbatch
Te Kopua Trust and Te Kopua 2b3 Incorporation	Ms Darcel Rickard
Sherry Coulson (Peninsula Farms Ltd)	Ms Sherry Coulson
The Raglan Collective Society	Mr Tom Bennion (Legal Counsel), Ms Julie Nelson, Ms Susanne Giessen-Prinz and Ms Joyce Davis-Goff
Chris and Sue Harris	Mr Chris Harris
Chris Williams on behalf of Chris, Kathryn, and Williams family	Mr Chris Williams

3 Overview of issues raised in submissions

- 3.1 In the section 42A report, Ms Kelly Nicolson set out the full list of submissions on the coastal hazard provisions. The section 42A report is supported by a specialist coastal hazard report prepared by Ms Bronwen Gibberd which focused on modelling and mapping.
- 3.2 In brief, the key matters of relief sought by the submitters include:
- a) Protection of historic heritage from natural hazards;
 - b) Methodology for mapping high-risk hazard areas and coastal sensitivity areas;
 - c) Adaptive management approach for land potentially affected by current coastal erosion and / or inundation and future hazards resulting from future sea level rise;
 - d) Infrastructure and utilities in hazard areas;

- e) Construction of new coastal protection structures and ongoing maintenance of existing coastal protection structures;
 - f) Management of current and future coastal hazard risk on Maaori Freehold Land; and
 - g) Hazardous facilities within the high risk hazard areas.¹
- 3.3 Given the number of submissions received we have structured the following sections thematically and included the analysis and recommendations of the section 42A report with the relevant submission points.

4 Matters raised at the hearing

Infrastructure and utilities

- 4.1 The section 42A report stated that submissions by telecommunications and electricity providers sought that telecommunication and electricity lines, poles, cabinets and supporting structures be a permitted activity in high risk coastal hazard areas as well as coastal sensitivity areas.
- 4.2 The section 42A report agreed with these requests on the basis that this type of infrastructure is minor in scale, and as service providers are required to assess and mitigate the risk associated with their own assets in order to continue security of supply, Ms Nicolson considered the activity to pose a low risk.²
- 4.3 Mr Chris Horne tabled planning evidence on behalf of Spark New Zealand Trading Limited (Spark). Mr Horne's evidence recommended that 'upgrading' be added to rules 15.9.1 P2 and 15.10.1 P2.³ Mr Horne considered that upgrading of existing telecommunications equipment should have the same status as new telecommunications equipment.⁴
- 4.4 Mr James Beban and Ms Sarah Gunnell presented their joint evidence on behalf of the Waikato Regional Council (WRC). Mr Beban and Ms Gunnell considered that a restricted discretionary activity status is more appropriate for new utilities in the Coastal Sensitivity Areas and recommended that a new rule be included in the PDP.
- 4.5 In her rebuttal section 42A report, Ms Nicolson recommended accepting the submission of Spark as the notified rules already allow for new telecommunications lines, poles, cabinets and masts/poles supporting antennas without any standards. Mr Horne recommended that the rule also include *the operation, replacement, repair, maintenance, minor upgrading or upgrading of the same equipment*.⁵

Rangitahi Peninsula

- 4.6 The section 42A report summarised submissions received on the mapped hazard areas on the Rangitahi Peninsula. In particular, the Coastal Sensitivity Area Erosion and the

¹ Section 42A Report Hearing 27D: Coastal Hazards, dated 31 March 2021, Paragraph 28.

² Opening Statement Hearing 27D: Coastal Hazards, dated 10 May 2021, Paragraph 10.

³ Evidence in Chief of Mr Chris Horne on behalf of Spark New Zealand Trading Limited, dated 16 April 2021, Paragraph 23.

⁴ Ibid.

⁵ Rebuttal Section 42A Report Hearing 27D: Coastal Hazards, dated 3 May 2021, Paragraph 29.

associated rules are considered by Rangitahi Limited as being a duplication of the current mechanisms for addressing coastal hazard risk on Rangitahi Peninsula.

- 4.7 Ms Nicolson noted that the proposed rules applying to building in the Coastal Sensitivity Area (Erosion) require a restricted discretionary resource consent so that future risk resulting from climate change can be assessed at a site specific level, and where applicable, adaptive measures or other mitigation methods can be addressed through conditions of consent.⁶
- 4.8 The section 42A report stated that the subdivision consents for the Rangitahi Peninsula development included an assessment of coastal hazards but did not specifically consider future sea level rise. Specific design zones were identified based on the hazard assessment and closely align with the extent of the proposed Coastal Sensitivity Area Erosion.
- 4.9 Ms Nicolson summarised that geotechnical considerations for building within the specific design zone are implemented by way of a consent notice attached to the record of title for each lot subject to this zone; and that the submitter considered that this mechanism satisfactorily addresses any issues with regards to future erosion resulting from climate change.⁷
- 4.10 Ms Nicolson considered that the consent notice mechanism would not be sufficient to address future risk, particularly with regards to any adaptive measures that may be appropriate for any given site. Thus, the section 42A report recommended no change to the notified rules.⁸
- 4.11 Ms Brianna Parkinson presented legal submissions on behalf of Rangitahi Limited. In summary, Ms Parkinson covered the following points:
- a) Agreed matters, in terms of amendments recommended in the section 42A report to:
 - b) The mapping of the High Risk Erosion Area;
 - c) New rules 15.7.2 RD2 and 15.8.2 RD2 to classify subdivision in the Coastal Sensitivity Areas as a restricted discretionary activity;
 - d) Changes to Rules 15.9.2 D7 and 15.10.2 D6 so they do not apply to additional lots which are located entirely outside a High Risk Coastal Hazard Area; and
 - e) That Rangitahi Limited sought permitted activity status for the construction of new buildings and additions to existing buildings in the Rangitahi Peninsula Zone where the lot subject to the Coastal Sensitivity Area (Erosion) overlay was created by a subdivision consent granted prior to the date of decisions on the PDP.⁹
- 4.12 Mr Kenneth Read presented geotechnical evidence on behalf of Rangitahi Limited. Mr Read prepared the geotechnical reports for the Rangitahi Precinct B and D resource consents in 2018. Mr Read's evidence concluded that:

⁶ Opening Statement Hearing 27D: Coastal Hazards, dated 10 May 2021, Paragraph 18.

⁷ Ibid Paragraph 20.

⁸ Ibid Paragraph 20.

⁹ Legal submissions on behalf of Rangitahi Limited, dated 12 May 2021, Paragraph 8.

- a) Whilst sea level rise and climate change are not addressed specifically in the reports prepared to date, the combined effects of the various studies of coastal erosion, and slope stability have been to delineate specific design zones that at least mirror the proposed revised Coastal Sensitivity Area (Erosion); and
 - b) The geotechnical design requirements for 'specific design zones' developed on a site specific basis will also ensure that the residential development in Precincts A, B and D is resilient against geotechnical risks that may result from climate change.¹⁰
- 4.13 Mr Ben Inger presented planning evidence on behalf of Rangitahi Limited. Mr Inger described the previous structure planning process and private plan change to the Operative Waikato District Plan.
- 4.14 In summary, Mr Inger's evidence recommended that a new permitted activity rule be included in the PDP to allow the construction of new buildings and additions to existing buildings in the Coastal Sensitivity Area (Erosion) on lots in the Rangitahi Peninsula Zone, which were created by a subdivision consent granted prior to the date of decisions on the PDP.
- 4.15 Mr Inger considered that a further consenting process would be unnecessary and inefficient and that his recommended permitted activity rule reflects that coastal hazard risks have been appropriately addressed through the resource consents which Rangitahi Limited has obtained.¹¹
- 4.16 In the section 42A report opening statement, Ms Nicolson recommended no change to the notified rules.¹²

Adaptive management planning and development on Maaori Freehold Land

- 4.17 The section 42A report stated that the proposed rules for both high risk and coastal sensitivity areas apply equally across general land and Maaori Freehold Land. Ms Nicolson summarised submissions from the owners of the Te Kopua Maori land blocks in Raglan which sought that development on their land be a permitted activity if it is consistent with an approved adaptive management plan.
- 4.18 Ms Nicolson noted that previous engagement with these submitters suggested that an adaptive management plan would include comprehensive and detailed information on the proposed development of the whole site, including a site specific risk assessment, mitigation measures and or adaptive pathways to address the impacts of climate change with respect to the proposed development. These submitters highlighted the unique nature of Maaori Freehold Land and the enduring relationship that Tangata Whenua have with their land, as ownership spans many generations.
- 4.19 The section 42A report author agreed that there may be a special case with regards to how natural hazard risk and the effects of climate change can be managed on Maaori Freehold Land. However, Ms Nicolson did not recommend any changes to the notified

¹⁰ Evidence in Chief of Kenneth Read on behalf of Rangitahi Limited, dated 16 April 2021, Paragraph 35.

¹¹ Evidence in Chief of Ben Inger on behalf of Rangitahi Limited, date 16 April 2021, Paragraph 40.

¹² Opening Statement Hearing 27D: Coastal Hazards, dated 10 May 2021, Paragraph 20.

rules in respect to this issue, as there was insufficient detail in the submission to fully consider how this mechanism would work in practice.

- 4.20 Ms Darcel Rickard presented the submission of Te Kopua Trust and Te Kopua 2b3 Incorporated. Ms Rickard sought planning provisions for an adaptive management approach which would apply to Maori Freehold Land. Ms Rickard noted that there are specific provisions in the Operative Waikato District Plan which apply to Maori Freehold Land.
- 4.21 Ms Rickard noted that an Adaptive Management Plan would need to be developed and could include triggers relating to inundation and erosion. Ms Rickard considered that additional hazard mapping may be required.

Coastal protection

- 4.22 The section 42A report set out submissions in relation to hard and soft coastal protection structures, these included submissions:
- a) Seeking to amend provisions to allow for the repair, maintenance and upgrade protection structures; and
 - b) Replacement of existing hard protection structures.
- 4.23 Ms Nicolson noted that the policies are clear in their intent and although hard protection structures are not encouraged as a first option for defence against coastal hazards, there is recognition within Policy 15.2.1.8 that in some cases they may be the most appropriate method for protection against coastal hazards. In this case, the policy provides guidance for assessment of these structures.
- 4.24 The section 42A report stated that rules permit minor repairs and maintenance but require discretionary consent for upgrading, replacement and construction of new structures. Ms Nicolson considered that this ensures that matters in Policy 15.2.1.8 can be appropriately considered and addressed. The section 42A report recommended that the discretionary activity rules for these structures be retained as notified.
- 4.25 Ms Sherry Coulsen presented her submission with respect to her sites at 7 and 9 Nihinihi Avenue, Raglan. Ms Coulsen raised concerns regarding the maintenance of seawalls in front of her sites. These seawalls are not in Ms Coulsen's ownership and she considered they are owned by Council.
- 4.26 During our questioning, it was recommended that Ms Coulsen contact Council to discuss the maintenance of these seawalls, as we cannot direct that Council to undertake works on the seawalls.
- 4.27 Mr Chris Williams and Mrs Kathryn Williams introduced the joint presentation of the Raglan Collective Society (Collective). Mr Tom Bennion then presented legal submissions on behalf of the Collective.
- 4.28 Mr Bennion submitted that the Collective sought:
- a) Amendments to the objectives and policies to explicitly recognise that historic seawalls be retained on properties in longstanding Raglan Harbour suburbs where no realistic alternatives to the walls exists; and

- b) Where such walls need to be replaced, discretion be limited to determining whether the design maintains and improves public access, amenity, historic values and whether the seawall otherwise improves the urban coastal environment.¹³
- 4.29 In addition to the above, Mr Bennion also submitted that private seawalls may not have been included in the high risk coastal erosion and flood area modelling.
- 4.30 Ms Julie Nelson and Ms Jacqui Graham presented their submission with respect to their site at 54 Wallis Street, Raglan. They hold consent to repair Council's seawall adjoining their site. Ms Nelson also challenged the flood hazard mapping which has been applied to their site. They supported the development of an adaptive management plan.
- 4.31 Ms Susanne and Mr Andreas Giessen-Prinz presented their submission with regard to their sites at 56 and 58 Wallis Road. Ms Giessen-Prinz also presented Ms Joyce Davis-Goff submission for 58A Wallis Street. The seawall adjoining their sites has been constructed using various methods. They have made minor repairs to the seawalls following storm events. They sought the ability to maintain and erect seawalls to protect their property.
- 4.32 Mr Chris Williams and Mrs Kathryn Williams presented their submission regarding their site at 60 Wallis Street. They set out the history of their site, connection to Raglan and supported the relief sought by the Collective.
- 4.33 Mr Chris Harris and Mrs Sue Harris presented their submission with respect to their site at 52A Lorenzen Bay Road. Mr Harris provided further context of the seawalls along the coastline adjoining neighbouring properties. Mr Harris also presented photos on past flooding events. They supported the development and investment in an adaptive management plan.
- 4.34 In response to our questioning, Mr Bennion clarified that the Collective sought a controlled activity status rule for replacement of seawalls.
- 4.35 With respect to the submissions of the Collective, Ms Nicolson recommended that the discretionary activity rules for these structures be retained as notified. However, she noted that whilst the adaptive management planning process is not directed by provisions in the PDP, she considered that Policy 15.2.1.8 allows for the content of an adaptive management strategy to be taken into consideration when assessing proposals for hard protection structures.

Modelling data

- 4.36 Dr Brett Beamsley presented his submission with respect to his site at 41 Rose Street. He raised concerns that the modelling data which has informed the PDP hazard mapping is over six years old. He also stated that Kawhia Harbour data has been used for Raglan Harbour, which he disagreed with.
- 4.37 Dr Beamsley concluded that Council has been overly conservative in defining the coastal hazard mapping in the PDP. In response to our questioning regarding the way forward, Dr Beamsley suggested a level which he considered could be applied to the Raglan Harbour.

¹³ Legal submissions on behalf of the Raglan Collective Society, dated 12 May 2021, Paragraph 5.

- 4.38 Ms Gibberd addressed these points in her rebuttal evidence. She noted that the property at 41 Rose Street is not within the High Risk Coastal Hazard Area (Inundation), but a small portion is affected by the Coastal Sensitivity Area (Inundation). She considered that Dr Beamsley may have misinterpreted the coastal overlay maps, as he has also referred to the High Risk Coastal Hazard Area (Inundation) while discussing figures and levels that relate to the Coastal Sensitivity Area (Inundation).¹⁴
- 4.39 Ms Gibberd stated that she understood Dr Beamsley’s concern that the 3.0 m MVD-53 level does not directly represent a 1% AEP event. However, she considered that simply applying the statistically calculated 1% AEP level would not reflect the limitations of the relatively short available data record, potential errors in the elevation dataset or wave run-up effects.¹⁵

Coastal hazard mapping

Te Akau South – Horongarara Peninsula

- 4.40 An additional local scale assessment of coastal hazards for the residential area at Te Akau South was undertaken following the receipt of submissions on the Coastal Erosion Hazard mapping of the Te Akau South Horongarara Peninsula. Ms Gibberd stated that this additional study replaced the generic 100 metre-wide rural coastal sensitivity area with slope-based high risk and coastal sensitivity areas equivalent to those applied on other cliff coastlines in Raglan Harbour. This assessment reduced the width of the Coastal Sensitivity Area (Erosion) but resulted in some residential properties being affected by the High Risk Coastal Hazard Area (Erosion) (refer to Figure 1).

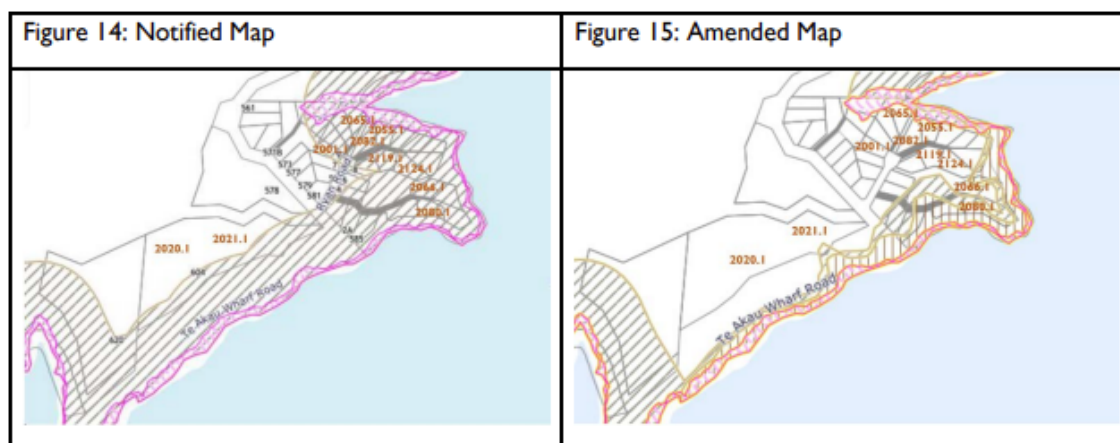


Figure 1: Notified and Recommended Coastal Sensitivity Area (Erosion) and High Risk Coastal Hazard Area (Erosion) extents

- 4.41 Ms Gibberd noted that the hazard assessment highlighted the limited available information and the potential for site specific field measurements to refine the hazard areas further. Ms Gibberd stated that the Horongarara Community Group and several individual property owners have provided evidence within which they request time for a more detailed geotechnical investigation to be completed (at their cost) to further refine this area and reduce the impact on the properties where possible. Ms Gibberd

¹⁴ Rebuttal Evidence of Bronwen Gibberd, dated 3 May 2021, Paragraph 5.3.

¹⁵ Ibid Paragraph 5.20.

considered that further field investigations at a property scale could prove useful and may support a reduction in the width of the coastal hazard overlays.

- 4.42 The Horongarara Community Group, Ms Trish Waugh and Mr Andrew Wilson, requested that they be given additional time to carry out a site-specific investigation of coastal erosion risk for five properties on the Horongarara Peninsula. This request was accepted by the Panel and we address the matter further from paragraph 5.17 of this Decision.

General - High Risk Coastal Hazard Area (Erosion)

- 4.43 Mr Mark Mitchell presented geotechnical engineering evidence on behalf of the Walden Family Trust who own a property at 39 Bayview Road, Raglan. Mr Mitchell's evidence raised the following matters:

- a) That a site-specific amendment be made to the High Risk Coastal Hazard Area (Erosion) to reflect extensive engineering works that have been undertaken on the property at 39 Bay View Road;
- b) That a 1V:2H slope is too conservative for defining the High Risk Coastal Hazard Area (Erosion) on cliff coastlines in Raglan Harbour; and
- c) That the High Risk Coastal Hazard Area (Erosion) be renamed to Coastal Hazard (Erosion) Area.

- 4.44 Ms Gibberd's rebuttal evidence stated that in response to submissions on the PDP and based on further field measurements, she has recommended adjusting the High Risk Coastal Hazard Area (Erosion) to reflect a steeper slope of 1V:1.5H. Ms Gibberd stated that this has significantly reduced the width of the High Risk Coastal Hazard Area (Erosion) on the property at 39 Bay View Road.

- 4.45 Ms Gibberd noted that based on Mr Mitchell's evidence, she considered he may have been unaware that amendments to the mapped extents have been recommended in the section 42A report. She considered these amendments may go some way to alleviating the concerns of Mrs Walden and Mr Mitchell without the need for any change in the name of the hazard overlay area.

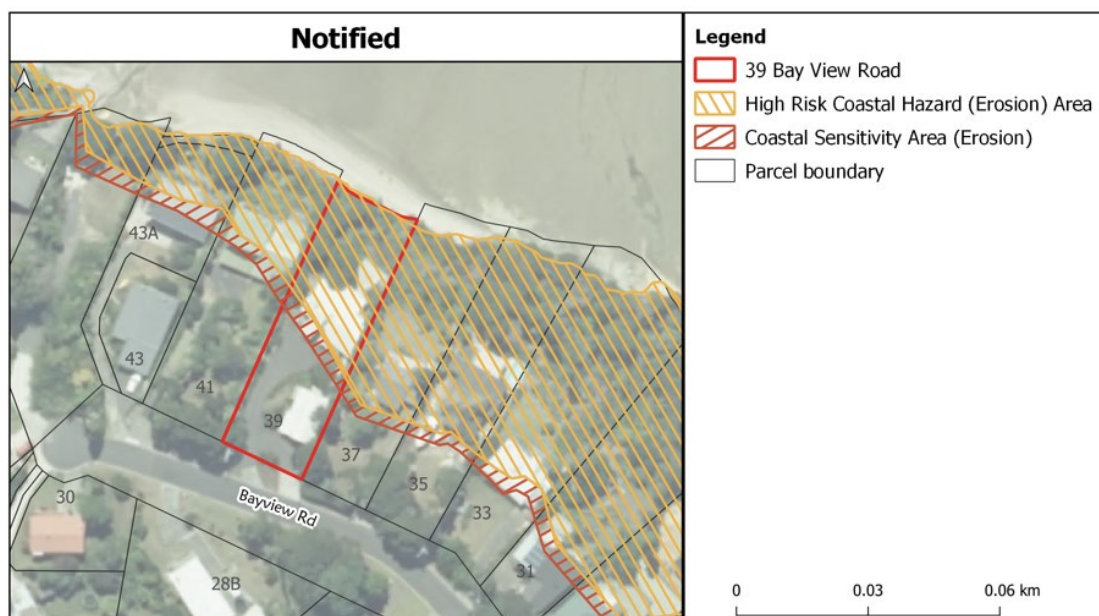


Figure 2: Notified Coastal Sensitivity Area (Erosion) and High Risk Coastal Hazard Area (Erosion) extents

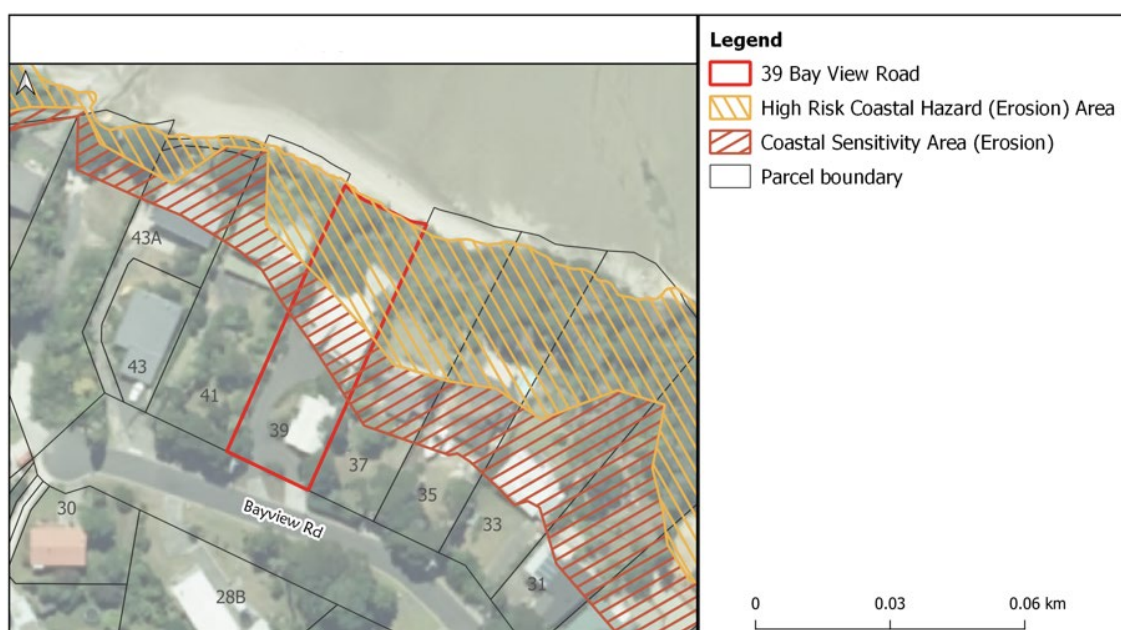


Figure 3: Recommended Coastal Sensitivity Area (Erosion) and High Risk Coastal Hazard Area (Erosion) extents

- 4.46 Mr Alex Staheli presented their submission on behalf of Mrs Viki Stokes and himself. In summary they had requested that the High Risk Coastal Hazard (Erosion) Area and the Coastal Sensitivity Area (Erosion) be removed from the property at 29 Lily Street.
- 4.47 In the rebuttal section 42A report response, Ms Nicolson noted that Ms Gibberd and Mr Dahm carried out a technical review of the mapped areas and recommended that the high Risk Coastal Hazard (Erosion) Area on the property at 29 Lily Street be amended to reflect a 1V:1.5H stable slope. No changes were recommended to the Coastal Sensitivity Area (Erosion).

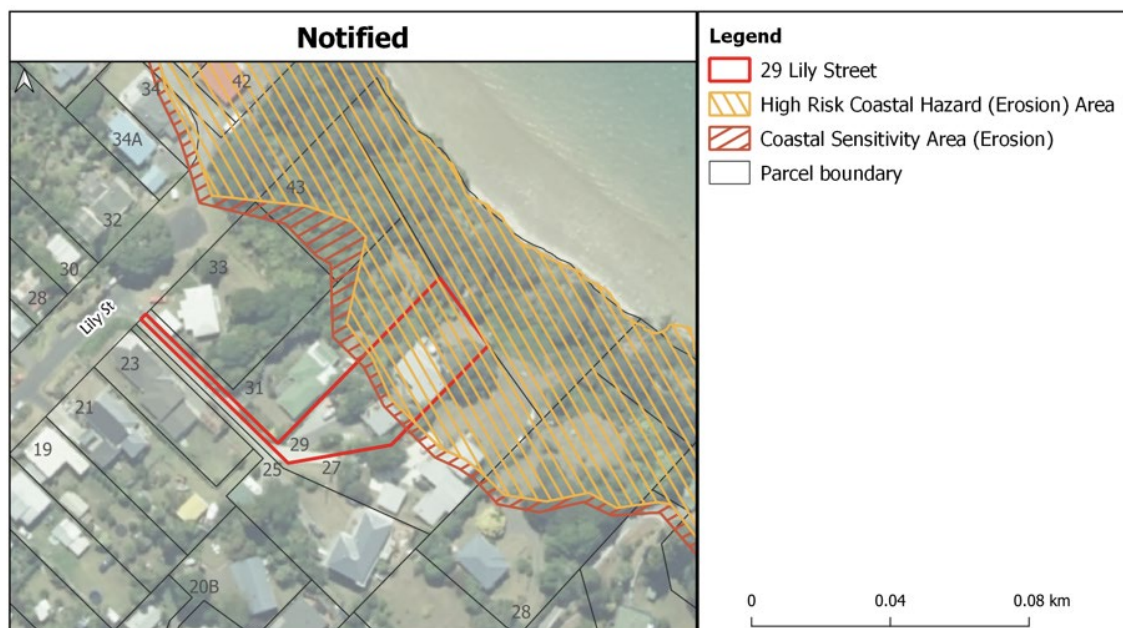


Figure 4: Notified Coastal Sensitivity Area (Erosion) and High Risk Coastal Hazard Area (Erosion) extents



Figure 5: Recommended Coastal Sensitivity Area (Erosion) and High Risk Coastal Hazard Area (Erosion) extents

- 4.48 Ms Nicolson recommended that the submission be accepted in part based on the recommendations of the technical review.
- 4.49 In the hearing, Mr Staheli reiterated that their main concern related to the High Risk Coastal Hazard (Erosion) Area being located over their dwelling.

Other

- 4.50 Ms Lorraine Webber presented her submission with respect to her property at 4316 State Highway 23, Raglan. The site is subject to the Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Inundation).
- 4.51 Ms Webber sought a detailed approach to the mapping over their site for the Coastal Sensitivity Area (Erosion), as has been undertaken for the Raglan township area. She expressed concerns regarding an ‘automated’ approach.
- 4.52 Mr Mark Mathers presented his submission with respect to his property at 536 Wainui Road, Raglan. The site is subject to the Coastal Sensitivity Area (Open Coast). Mr Mathers stated that there is no section 32A analysis for the 200 m setback across his property.
- 4.53 Mr Graham Rusbatch presented the submission on behalf of himself and Mrs Ingrid Rusbatch. Their site is located at 160 Maunsell Road, Port Waikato and subject to the High Risk Coastal Hazard (Inundation) Area and Coastal Sensitivity Area (Erosion).
- 4.54 Mr Rusbatch raised concerns regarding if his building was to burn down, whether existing use rights will apply. We recommended that Mr Rusbatch speak with Council in terms of existing use rights and sought that the section 42A report author provide clarification on this matter in her closing remarks statement.

Other and general agreement with the Section 42A report recommendations

- 4.55 Mr Beban and Ms Gunnell on behalf of WRC recommended that appropriate matters of control be drafted to support beach nourishment and dune stabilisation as controlled activities in alignment with the suggestions of the section 42A report.
- 4.56 Ms Alec Duncan tabled a letter on behalf of Fire and Emergency New Zealand. In summary, Ms Duncan generally supported the recommendations of the section 42A report.¹⁶
- 4.57 Ms Carolyn McAlley tabled planning evidence on behalf of Heritage New Zealand Pouhere Taonga. In summary, Ms McAlley supported the recommendations of the section 42A report.¹⁷
- 4.58 Ms Alec Duncan also tabled a letter on behalf of the Ministry of Education. In summary, Ms Duncan supported the recommendations of the section 42A report that the submission from WRC [2102.22] be rejected.¹⁸

5 Panel decisions

- 5.1 The section 42A report addressed 272 separate submissions points and 103 further submissions points on Stage 2 the PDP. The section 42A author analysed these and made a recommendation for each submission to be accepted or rejected by us, along

¹⁶ Letter from Ms Alec Duncan regarding Fire and Emergency New Zealand – Letter to be tabled at Hearing 27: Natural Hazards and Climate Change, dated 13 April 2021.

¹⁷ Evidence in Chief of Ms Carolyn McAlley on behalf of Heritage New Zealand Pouhere Taonga, dated 16 April 2021, Paragraph 4.

¹⁸ Letter from Ms Alec Duncan regarding Ministry of Education – Waikato District Plan Review - Letter to be Tabled at Hearing 27: Natural Hazards and Climate Change, dated 13 April 2021.

with some changes to the PDP text and planning maps. The author made additional comments in their closing remarks.

- 5.2 Given the sheer volume of submissions, we do not attempt to address every submission point individually and instead focus on them thematically by reference to the key changes sought by submitters.

Infrastructure and utilities

- 5.3 On behalf of Spark, Mr Horne's evidence recommended that 'upgrading' be added to rules 15.9.1 P2 and 15.10.1 P2,¹⁹ which Ms Nicolson recommended to accept.
- 5.4 We agree with Mr Horne and Ms Nicolson given that the PDP already provides for new infrastructure as a permitted activity.

Rangitahi Peninsula

- 5.5 Mr Inger's evidence recommended that a new permitted activity rule be included in the PDP to allow construction of new buildings and additions to existing buildings in the Coastal Sensitivity Area (Erosion) on lots in the Rangitahi Peninsula Zone, which were created by a subdivision consent granted prior to the date of decisions on the PDP.
- 5.6 Mr Inger considered that a further consenting process would be unnecessary and inefficient. Mr Inger also considered that his recommended permitted activity rule reflects that coastal hazard risks have been appropriately addressed through resource consents Rangitahi Limited that has obtained.²⁰ In the section 42A report opening statement, Ms Nicolson recommended no changes be made to the notified rules regarding this point.²¹
- 5.7 We agree with Mr Inger that because these effects have been recently assessed through a resource consent process, there is no need to undertake a further consent process to assess the same effects. Given this, we have amended the PDP to include a permitted activity rule for the Rangitahi Peninsula zoned area.

Adaptive management planning and development on Maaori Freehold Land

- 5.8 Ms Darcel Rickard sought planning provisions be included in the PDP for an adaptive management approach which would apply to Maaori Freehold Land. Ms Rickard noted that an Adaptive Management Plan would need to be developed and could include triggers relating to inundation and erosion.
- 5.9 Whilst we agree there is merit in this approach, we consider that coastal hazards affect all land. Given this, and in the absence of specific details with respect to the adaptive management approach and any triggers, we have not amended the PDP to include this approach.
- 5.10 We agree that further work could be undertaken by Te Kopua Trust in collaboration with Council to include such an approach in the PDP by way of a plan change; however, we cannot direct this.

Coastal protection

¹⁹ Evidence in Chief of Mr Chris Horne on behalf of Spark New Zealand Trading Limited, dated 16 April 2021, Paragraph 23.

²⁰ Evidence in Chief of Ben Inger on behalf of Rangitahi Limited, date 16 April 2021, Paragraph 40.

²¹ Opening Statement Hearing 27D: Coastal Hazards, dated 10 May 2021, Paragraph 20.

- 5.11 The Collective sought that an activity status for the replacement of seawalls be amended from a discretionary activity to either a controlled or restricted discretionary activity. Mr Bennion submitted that Council's assessment could be limited to:
- a) Whether the design maintains and improves public access;
 - b) Amenity;
 - c) Historic values; and
 - d) Whether the seawall otherwise improves the urban coastal environment.
- 5.12 We note that the PDP permits minor repairs and maintenance but requires discretionary consent to upgrade, replace and or construct new structures. Ms Nicolson considered the discretionary activity status ensures that matters in Policy 15.2.1.8 can be appropriately considered and addressed. The section 42A report recommended that the discretionary activity rule be retained as notified.
- 5.13 We agree with Mr Bennion that the activity status for the replacement of seawalls be amended to a restricted discretionary activity. We had concerns regarding Mr Bennion's proposal for a controlled activity status, of which Council must grant consents subject to conditions, whereas an application for a restricted discretionary activity can be declined. We find that the effects for coastal protection structures are well understood and can be expressed as matters for discretion. We note that Policy 15.2.1.8 contains specific detail on what should be addressed as part of an application, and we have included these as matters for discretion in the PDP. We consider this amendment effectively achieves Objective 15.2.1.
- 5.14 We thank the Raglan Collective Society for their comprehensive hearing presentation, but we note that their relief sought went beyond making decisions on the PDP text and mapping. We cannot direct the Council to maintain or replace seawalls, nor can we direct Council to engage with the Collective to develop an adaptive management strategy.

Modelling data

- 5.15 Dr Brett Beamsley raised concerns that the modelling data which has informed the PDP hazard mapping is over six years old. Ms Gibberd considered that simply applying the statistically calculated 1% AEP level as recommended by Dr Beamsley would not reflect the limitations of the relatively short available data record, potential errors in the elevation dataset or wave run-up effects.
- 5.16 We prefer the evidence of Ms Gibberd and agree that the presence of coastal hazard overlays should not prevent appropriate ongoing use and development, but it is critical to recognise that coastal inundation hazard is expected to increase over time.

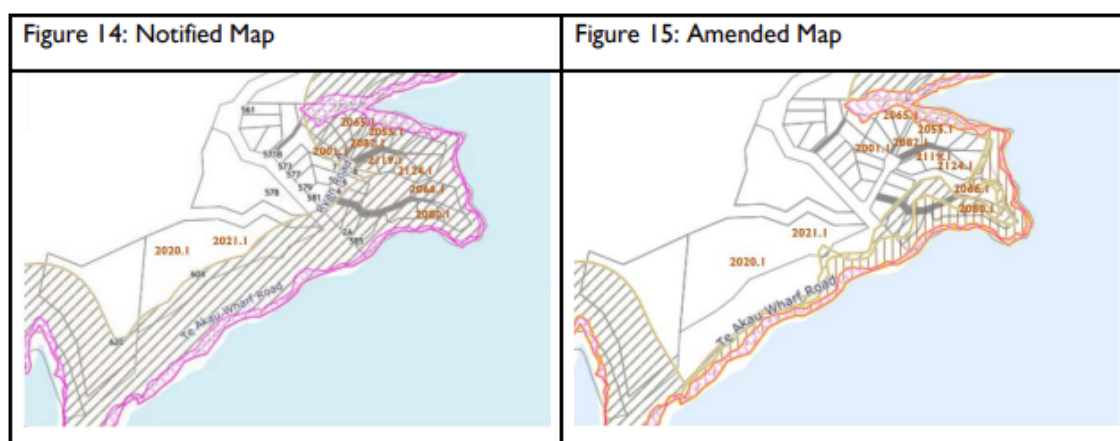
Mapping

Te Akau South – Horongarara Peninsula

- 5.17 Following the request for additional time by the Horongarara Community Group submitters, a final Slope Stability Assessment report²² was filed with us on 23 September 2021. This report recommended that:

²² Slope Stability Assessment Horongarara Point Te Akau South Raglan, Michael Carter, dated 23 September 2021.

- a) The Coastal Sensitivity Area (Erosion) overlay be amended to the extent defined by the FOS 1.5 boundary on Figure K.1 in the Slope Stability Assessment report; and
 - b) The High Risk Coastal Hazard Area (Erosion) overlay be amended to the extent defined by the FOS 1 boundary displayed in Figure K.1 in the Slope Stability Assessment report.²³
- 5.18 Given the highly technical nature of the report, we requested that Council arrange for the report to be peer reviewed. The peer review identified several matters to be addressed by the author and recommended that the extents of the High Risk Coastal Hazard (Erosion) Area and the Coastal Sensitivity Area (Erosion) should be retained as recommended in the section 42A report.
- 5.19 We issued a direction on 17 November 2021 to the Horongarara Community Group submitters and offered the opportunity for Raglan Geotech Limited to respond to the peer review.
- 5.20 Mr Michael Carter of Raglan Geotech Limited provided a response to the peer review on 30 November 2021 (Mr Andrew Wilson, on behalf of the submitters also provided a separate response on 2 December 2021). Mr Carter's response set out areas of disagreement with the peer review and recommended that this review be disregarded.²⁴
- 5.21 Given the divergence between the expert reviews, we have decided to rely on the recommendation of the section 42A report and have retained the mapping as recommended (refer to Figure 6).
- 5.22 We would like to acknowledge the submitters and the effort they have invested in this matter. As set out in our direction to the submitters, time was a limiting factor in terms of potentially resolving this matter as part of our Decision. In recognition of this, we suggest that the submitters and Council continue working together on the unresolved matters. We consider that resolution could potentially be reached if an independent expert is brought in to mediate caucusing or a future process.



²³ Slope Stability Assessment Horongarara Point Te Akau South Raglan, Michael Carter, dated 23 September 2021, page 64.

²⁴ Response by Raglan Geotech to Tonkin and Taylor Specific Peer Review (27 09 2021) of the Horongarara Slope Stability Assessment, Raglan Geotech (23 09 2021), Michael Carter, dated 28 November 2021, sections 10, 11 and 12.

Figure 6: Recommended Coastal Sensitivity Area (Erosion) and High Risk Coastal Hazard Area (Erosion) extents

General - High Risk Coastal Hazard Area (Erosion)

- 5.23 Mr Mitchell presented evidence and Mr Staheli sought site specific amendments to the extent of the High Risk Coastal Hazard Area (Erosion).
- 5.24 Ms Gibberd and Mr Dahm carried out a technical review of the mapped areas and recommended that the High Risk Coastal Hazard (Erosion) Area be amended to reflect a 1V:1.5H stable slope.
- 5.25 At the hearing, we noted that submitters generally agreed with the amended mapping, where the High Risk Coastal Hazard Area (Erosion) no longer applied over their dwellings.
- 5.26 Given this, we accept the recommendation of Ms Nicolson, Ms Gibberd and Mr Dahm to amend the High Risk Coastal Hazard (Erosion) Area. We accept in part the evidence of Mr Mitchell and submission of Mr Staheli. We have amended the PDP planning maps to reflect the mapping extent recommended by Ms Gibberd.

Coastal Sensitivity Area (Erosion)

- 5.27 In terms of the Coastal Sensitivity Area (Erosion) mapping, a refined approach was undertaken in urbanised areas, and a broad approach (100m buffer) was applied to rural areas.
- 5.28 With respect to the broader approach, several submitters sought that the Coastal Sensitivity Area (Erosion) be amended or deleted given the arbitrary distance of 100 m in which the mapping was applied in the PDP.
- 5.29 In rural coastal areas, where the 100 m Coastal Sensitivity Area (Erosion) has been applied, we find that coastal erosion should be considered in land use consent and subdivision applications, in which we have included a specific matter of discretion to require this assessment. Given this approach, we have deleted the Coastal Sensitivity Area (Erosion) mapping from the PDP in rural coastal areas where a 100 m buffer was applied arbitrarily.
- 5.30 Given the higher risk to people and property within urbanised areas, and where more detailed modelling and assessments have been undertaken, we agree with the inclusion of the Coastal Sensitivity Area (Erosion) on the planning maps for these locations.

Coastal Sensitivity Area (Open Coast)

- 5.31 Several submitters sought that the Coastal Sensitivity Area (Open Coast) be amended or deleted given the arbitrary distance of 200 m in which the mapping was applied in the PDP. For the same reasons set out above, we have deleted the Coastal Sensitivity Area (Open Coast) from the PDP, and also included a specific matter of discretion to require this assessment in land use and subdivision consents.

6 Conclusion

- 6.1 The Panel accepts the section 42A report and the evidence filed by the submitters, collectively forming the section 32AA assessment informing this Decision.
- 6.2 Overall, the Panel is satisfied that the coastal hazard provisions as amended will provide a suitable framework for avoiding or mitigating risks from natural hazards on people, property, infrastructure and the environment from subdivision, use and development of land.

For the Hearings Panel



Dr Phil Mitchell, Chair

Dated: 17 January 2022