

IN THE MATTER

of the Resource Management Act 1991 (the
Act)

AND

IN THE MATTER

of the proposed Waikato District Plan (Stage
1) – Hearing 21B - Landscapes

**STATEMENT OF EVIDENCE OF JOHN ANDREW RIDDELL FOR THE DIRECTOR-GENERAL
OF CONSERVATION**

20 AUGUST 2020

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1. Introduction

1.1 My name is John Andrew Riddell.

1.2 I hold the qualification of Bachelor of Resource and Environmental Planning with First Class Honours. I am a member of the New Zealand Planning Institute.

Experience

1.3 I am currently self-employed, operating under the company name CEP Services Matauwhi Limited.

1.4 I have been practising as a resource management planner on a part-time basis since 1989 and a full-time basis since 1993. Until November 1998 I was self-employed, although I did work for Nugent Consultants Limited on a part time basis from 1993 until 1996. Between November 1998 and June 2013 I was employed by the Department of Conservation (the **Department**).

1.5 A significant portion of my resource management work has involved assessing draft and proposed regional policy statements and regional and district plans, preparing submissions and giving evidence on policy statement and plan content, participating in mediation on appeals over proposed policy statements and plans, and giving evidence to the Environment Court on provisions of policy statements and plans.

1.6 In the last five years I have given advice and/or evidence and/or participated in mediation and expert conferencing on the following proposed policy statements and plans:

- Auckland Unitary Plan;
- proposed Thames-Coromandel District Plan;

- Bay of Plenty Coastal Environment Plan;
- draft Gisborne Water and Soil Plan;
- Northland Regional Policy Statement;
- Whangarei District Plan Changes;
- draft Far North District Plan; and
- Regional Coastal Plan – Kermadec and Subantarctic Islands.

1.7 A comprehensive list of the policy statements and plans I have been involved in (comments, submissions, evidence, mediation, and/or appeals) since 1998 is given in the footnote.¹

1.8 In addition to this policy statement and plan work I have experience in preparing, assessing, submitting and giving evidence on resource consents.² This includes evidence to the Environment Court on applications for coastal subdivision, tidal power generation, the taking of groundwater, and mangrove removal. I have processed resource consent applications for Far North District Council.

¹I have prepared reports on financial contributions that were part of the preparation of the Far North District Plan and the Waitakere City District Plan. I have provided evidence on, and/or provided planning advice for appeal negotiations and mediation on: the Auckland City District Plan - Isthmus section, Far North District Plan, Bay of Islands District Scheme (which included a coastal plan component), Whangarei District Plan (including several plan changes), Kaipara District Plan, Kaikoura District Plan, Northland Regional Policy Statements (there have been two), Regional Water and Soil Plan for Northland, Regional Coastal Plan for Northland and plan changes to that plan, the draft Gisborne Water and Soil Plan, the Auckland Unitary Plan, the proposed Thames-Coromandel District Plan, the Regional Coastal Plan – Kermadec and Subantarctic Islands, and the Bay of Plenty Coastal Environment Plan. I was one of co-authors of the *Sustainable Development Plan for Kororipo-Kerikeri Basin*, October 2005. This was a management plan prepared under the Reserves Act for the combined reserve land at Kororipo-Kerikeri Basin administered by the Department of Conservation and the Far North District Council.

²Applications that I have prepared include applications for a mangrove boardwalk, discharges from fish processing facilities, indigenous vegetation clearance, earthworks, boat ramp, jetties, boat slip, buildings in the coastal marine area, houses in flood hazard areas, aerial pest control (1080 and brodifacoum), medical centre, restaurant, huts on public conservation land, and several houses and other structures.

Involvement in preparation of the Director-General's submission and appeal on the Proposed Waikato District Plan

1.9 I have been asked by the Director-General of Conservation (the **Director-General**) to provide evidence in regard to the Director-General's submissions and further submissions on the Proposed Waikato District Plan (the **Proposed Plan**).

1.10 I was engaged on this matter in early September 2019. I was not involved in the preparation of the Director-General's submission and further submission on the Proposed Plan.

Code of Conduct

1.11 I have read and agree to comply with the Code of Conduct for Expert Witnesses produced by the Environment Court (2014). My qualifications and experience as an expert are set out above. Other than those matters identified within my evidence as being from other experts, I confirm that the issues addressed in this statement of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

2. APPROACH TAKEN IN EVIDENCE

2.1 This evidence covers the following matters under consideration in Hearing 21B - Landscapes:³

- including a schedule of Outstanding Natural Landscapes and Outstanding Natural Features recording important characteristics and qualities for each landscape or feature unit;
- supporting the need for a natural character assessment for wetlands, lakes, rivers and their margins;

³Noting that this Landscapes topic includes consideration of natural character and of the coastal environment, in addition to landscapes and natural features.

- including the Waikato River as an Outstanding Natural Landscape and/or Outstanding Natural Feature and/or Outstanding Natural Character and/or High Natural Character;
- including Geopreservation Index sites as Outstanding Natural features;
- amending objectives and policies relating to natural character to recognise the different policy directives applying to outstanding and high natural character areas;
- amending policy 3.5.3 relating to coastal dune systems;
- commenting on the submissions seeking that designated areas are excluded from landscape, natural feature, and natural character overlays;
- commenting on the submission seeking an increase in the permitted activity areas and volumes for earthworks in landscape and natural character areas;
- aligning the coastal marine area boundary in the Proposed Plan with that in the Waikato Regional Policy Statement (**Regional Policy Statement**).

2.2 Before addressing the submission points identified above, I discuss the overarching policy guidance that applies.

2.3 I have read the landscapes hearing report required by section 42A of the Act on these matters.⁴

2.4 In this statement, I use the numbering from the Proposed Plan unless noted otherwise.

⁴In this evidence I refer to that report as the Hearing 21B report.

3. RELEVANT POLICY GUIDANCE

- 3.1 In this section I briefly summarise discuss the directly relevant planning guidance from Part 2 of the Act, the New Zealand Coastal Policy Statement 2010 (**Coastal Policy Statement**), and the Regional Policy Statement

Part 2 of the Act

- 3.2 There are two matters of national importance of direct relevance for this hearing which must be recognised and provided for in the Proposed Plan:

Section 6

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

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

- 3.3 Three points to note from these provisions are:

- (i) clause (a) is concerned about the natural character of wetlands, rivers, lakes and their margins as well as the natural character of the coastal environment;

- (ii) clause (a) refers to all natural character, not just outstanding (or high) natural character; this is in contrast to clause (b) which is specific to outstanding natural features and landscapes; and
- (iii) the management issue is the protection of those areas and landscapes from inappropriate subdivision, use and development.

3.4 Sections 6(e), 7(a) and 8 of the Act are of particular relevance to the question of whether the Waikato River and its margins should be identified as a special area:⁵

- (i) section 6(e) concerns recognising and providing for “the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:”;
- (ii) particular regard is to be had to section 7(a): “kaitiakitangi”; and
- (iii) section 8 requires all persons exercising powers and functions under the Act to take into account the principles of Te Tiriti o Waitangi.

Coastal Policy Statement

3.5 The Proposed Plan has to give effect to national policy statements, including the New Zealand Coastal Policy Statement.

3.6 The primary policies to consider in this hearing are policies 13 and 15 of the Coastal Policy Statement.

⁵I discuss this further in section 6 of this evidence.

- 3.7 The most important provisions from these two policies are the “avoid adverse effects of activities” directives with respect to protecting outstanding natural character,⁶ outstanding natural features, and outstanding natural landscapes from inappropriate subdivision, use and development.
- 3.8 Policies 13(1)(a) and 15(a) of the Coastal Policy Statement essentially define inappropriate subdivision, use and development as any activity that does not avoid adverse effects on natural character or landscape values within any outstanding natural character area or outstanding natural feature or landscape within the coastal environment.
- 3.9 “Avoid” directives have an element of priority over other policy directives from national policy statements.
- 3.10 When assessing whether an activity avoids adverse effects on outstanding natural character or on outstanding natural features or on outstanding natural landscapes, it is important to be clear on what precisely the adverse effects apply to.
- 3.11 Objective 2 of the Coastal Policy Statement is:

Objective 2

To preserve the natural character of the coastal environment
and protect natural features and landscape values through:

- recognising the characteristics and qualities that contribute to natural character, natural features and landscape values and their location and distribution;
- identifying those areas where various forms of subdivision, use, and development would be inappropriate and protecting them from such activities; and
- encouraging restoration of the coastal environment.

⁶There is also a requirement to recognise and provide for the preservation of natural character.

3.12 In my opinion, it follows that the “avoid” directives in policies 13 and 15 of the Coastal Policy Statement can be operationalised by avoiding the effects of activities on the *characteristics and qualities* of the particular outstanding natural character area or outstanding natural feature or outstanding natural landscape.⁷

3.13 In relation to infrastructure, the policy directive in the Coastal Policy Statement is pitched at recognition of the importance of that infrastructure to the social, economic and cultural well-being of people and communities.⁸

Regional Policy Statement

3.14 The Regional Policy Statement must also be given effect to.

3.15 The landscape specific objective in the Regional Policy Statement is generally worded, with the only extra it adds to section 6(c) is that it states it is the values of the outstanding natural features and outstanding natural landscapes that are to be protected from inappropriate subdivision, use and development.⁹

3.16 The natural character specific objective – 3.22 – just repeats section 6(a) of the Act.

3.17 Policy 12.1 states:

Identified values and characteristics of outstanding natural features and landscapes (including seascapes) of regional or district significance are protected from adverse effects, including cumulative effects, arising from inappropriate subdivision, use and development.

⁷This makes the worksheets for the outstanding area important as the source of the definitive information on the particular characteristics and qualities of the particular outstanding value area. This is covered further in paragraphs 4.1 to 4.9 of this evidence, in relation to whether there should be schedules of the outstanding areas included in the Proposed Plan.

⁸See policy 6(1)(a) of the Coastal Policy Statement.

⁹Objective 3.20, Regional Policy Statement.

- 3.18 Implementation method 12.1.1 sets out the directive that adverse effects of activities of the values and characteristics of outstanding natural landscapes and outstanding natural features are to be avoided within the coastal environments.
- 3.19 Outside the coastal environment such adverse effects are to avoided if possible.¹⁰
- 3.20 Policy 12.2 is a lengthy policy on preserving natural character. The policy applies to activities in the coastal environment, wetlands, lakes and rivers and their margins. Where the natural character is outstanding, adverse effects on that natural character are to be avoided.
- 3.21 Method 12.2.1 sets out, at length, how district and regional plans shall give effect to policy 12.2. Particularly relevant from this method are, in summary, the following considerations:

ensuring activities are appropriate to the level of natural character present (12.2.1.c));

recognising different levels of natural character within the coastal environment and inland water bodies and their margins (but only map areas of high and outstanding natural character in the coastal environment) (12.2.1.a) and b));

have particular regard to protecting special values of inland water bodies, estuaries and bays, beaches and dune systems (12.2.1.d).i))

have particular regard to maintaining or enhancing indigenous biodiversity and functioning of ecosystems (12.2.1.d).iii)).

¹⁰Clause 12.1.1.a).ii) is “outside of the coastal environment, avoiding adverse effects of activities on the values and characteristics of outstanding natural features and landscapes, and if avoidance is not possible remedy or mitigate the adverse effects.”

- 3.22 In summary, the consistent policy direction in the Coastal Policy Statement and the Regional Policy Statement is that outstanding value natural character areas, and outstanding value natural features and landscapes are to be protected by avoiding adverse effects on the characteristics and qualities of those areas. This avoid adverse effects directive has priority over other policy guidance in these policy statements.

Proposed Plan

- 3.23 I discuss particular provisions of the Proposed Plan in the rest of this evidence. In this section I give a brief overview of the landscape and natural character provisions, in terms of policy directives from Part 2 of the Act, the Coastal Policy Statement and the Regional Policy Statement.
- 3.24 There is one objective and three policies with respect to outstanding natural features and landscapes.¹¹
- 3.25 The objective is just a summary of the requirement from section 6(b) of the Act.
- 3.26 The policies variously refer to recognising values and qualities and attributes of outstanding natural features and landscapes.
- 3.27 In my opinion, these three policies understate the “avoid adverse effects” directives applying to outstanding natural features and landscapes.
- 3.28 Section 3.5 of the Proposed Plan sets out one objective and three policies on natural character.
- 3.29 Objective 3.5.1 is an incomplete summary of section 6(a) of the Act. It omits the preservation of natural character requirement from section 6(a), and only addresses high and outstanding value natural character areas in the coastal environment.

¹¹In section 3.3, objective 3.3.1, policies 3.3.2, 3.3.3 and 3.3.4.

3.30 Policy 3.5.2 sets out an incomplete list of characteristics and qualities that make up natural character, compared to those set out in policy 13(2) of the Coastal Policy Statement.

3.31 Policy 3.5.3 on protecting the natural character qualities of the coastal environment does reflect the 'avoid adverse effects/avoid significant adverse effects' directive from the Coastal Policy Statement and from the Regional Policy Statement, although, in my opinion, this is not set out very clearly.

4. SCHEDULE OF OUTSTANDING NATURAL FEATURES AND LANDSCAPES

Submission 585.36 by Director-General of Conservation,
paragraphs 294 - 312 of Hearing 21B report

4.1 The Director-General's submission seeks the reinstatement of schedules for outstanding natural features and landscapes "to better recognise the individual attributes¹² that make specific areas outstanding".

4.2 The staff report recommends that the submission be accepted, and that new schedules be added to Proposed Plan for outstanding natural features and landscapes.

4.3 I agree with this recommendation for the following reasons.

4.4 Policy 3.3.3 commences with the words

Ensure that the attributes of identified Outstanding Natural
Features and Outstanding Natural Landscapes are protected
by ...

4.5 In my opinion, good resource management practice is to include at least summaries of the landscape and natural feature worksheets in a district plan so that readers of the district plan, would-be applicants, and consent

¹²i.e. the particular characteristics and qualities of the outstanding value area.

processing staff have a common statement of the important attributes for any particular outstanding natural feature or landscape to work from.

- 4.6 The appropriateness of any particular subdivision, use or development proposal, and the question of whether there are adverse effects on outstanding natural features and landscapes in the coastal environment requires consideration of the actual and potential effects on the attributes (characteristics and qualities) of the particular landscape or feature.
- 4.7 There is then practical benefit to including a schedule of outstanding natural features and landscapes in the Proposed Plan.
- 4.8 Further, I note that the Proposed Plan already includes such information with respect to historic heritage items, and Maaori sites of significance.
- 4.9 For completeness it would be appropriate to include a further schedule setting out the important characteristics and qualities of mapped high and outstanding natural character areas, and similarly for significant amenity landscapes.

5. NATURAL CHARACTER ASSESSMENTS

Further submission FS1293.11 by Director-General of Conservation in support of submission 81/24 by Waikato Regional Council; paragraphs 516 to 522 of Hearing 21B report.

- 5.1 The submission by Waikato Regional Council seeks that a natural character assessment is undertaken for wetlands, rivers, lakes and their margins.
- 5.2 The Director-General supports this as a means of ensuring that section 6(a) of the Act is given effect to.
- 5.3 The Hearing 21B report recommendation in relation to is submission is to accept the submission in part.

- 5.4 This is a somewhat misleading recommendation because further natural character assessment, additional to that already undertaken, is rejected on the grounds of (unquantified) cost,¹³ process and on the assertion that the Proposed Plan's natural character objective and policies and rules provide for the preservation of the natural character of wetlands, and rivers and lakes and their margins, and the protection of them from inappropriate subdivision, use and development.
- 5.5 The District Council has undertaken a natural character assessment for the coastal environment that identifies high and outstanding value natural character areas.
- 5.6 Matter of national importance 6(a), policy 13 of the Coastal Policy Statement, policy 12.2 and method of implementation 12.2.1 of the Regional Policy Statement, and Proposed Plan objective 3.5.1 and policies 3.5.3 and 3.5.3 all provide policy guidance that applies more widely than just outstanding and high natural character areas in the coastal environment.
- 5.7 Policy 3.5.4 of the Proposed Plan is specific to protecting the natural character of wetlands, and lakes and rivers and their margins. The policy sets out particular ways that natural character qualities will be protected from inappropriate subdivision, use and development including considering the location, form and scale of development, minimising indigenous vegetation clearance and earthworks, consolidating development and “requiring appropriate setbacks from wetlands, lakes and rivers”.
- 5.8 However policy 12.2 of the Regional Policy Statement goes further – it sets out when adverse effects on the natural character of inland water bodies and their margins should be avoided and where further development may be appropriate.¹⁴

¹³Paragraph 520 of the Hearing 21B report states: “I do accept that there would be value in a district wide analysis of natural character, however this would be an enormous and costly exercise that I do not consider justified in the context of the current review process. “

¹⁴This is discussed further below.

- 5.9 Method of implementation 12.2.1 of the Regional Policy Statement includes the need to have particular regard to protecting the special [natural character] values of inland water bodies.¹⁵
- 5.10 I consider that, to be effective, this policy guidance with respect to freshwater bodies and their margins first requires the identification of the particular natural character characteristics and qualities.
- 5.11 This can either be on an as-needed case by case basis or from a district -wide survey.
- 5.12 In my opinion, the district-wide survey approach has significant advantages in terms of prior understanding by would-be applicants and by Council staff of the relevant characteristics and qualities to address with any development proposal, and in terms of providing a district-wide view of natural character values.
- 5.13 Having a district-wide view of natural character values¹⁶ provides important context for assessing any specific application, as well as ensuring the base-line information is available to implement policy 3.5.4 of the Proposed Plan.
- 5.14 I acknowledge that the cost of a district-wide natural character survey would be the major factor in favour of leaving the assessment to a case by case basis.
- 5.15 However, if the identification of the natural character characteristics and qualities occurs on a case by case basis, a more restrictive and cautionary approach would need to be taken to rules relating to activities within wetlands and within the margins of rivers and lakes.
- 5.16 This is because the Council then has to rely on the resource consent process to retain the ability to meaningfully recognise and provide for the

¹⁵Method 12.2.1.d).i) of the Regional Policy Statement.

¹⁶It is useful to have information of natural character in an area even if it is not ranked as outstanding or high, as that aids decisions on appropriate types and levels of development in that area.+

preservation of natural character in these area, and the protection of that natural character from inappropriate subdivision, use and development.

- 5.17 For these reasons, I disagree with the recommendation in the Hearing 21B report.

6. WAIKATO RIVER

Further submission 1293/18 by the Director-General in support of Submission 286/14 by Waikato-Tainui, paragraphs 472 to 510 of the Hearing 21B report.

- 6.1 Waikato-Tainui is seeking that all of the Waikato River is identified in the Proposed Plan as outstanding natural landscape and as an outstanding natural feature, and that a natural character assessment is conducted for the Waikato River to identify any areas of high or outstanding natural character.

- 6.2 The Director-General's further submission stated:

The Director-General supports the intent of this submission point and appropriate mapping of the Waikato River as an Outstanding Natural Feature and Outstanding Natural Landscape to afford it adequate protection under the plan.

- 6.3 The staff recommendation is accept the submission in part. This is because parts of the Waikato River are included in outstanding natural features and landscapes.

- 6.4 In my opinion, this is an instance where matter of national importance 6(e) of the Act,¹⁷ other matter 7(a) of the Act and section 8 of the Act need to be considered as well as matter of national importance 6(b).

- 6.5 The 21B Hearing report, at page 148, reproduces a narrative of the importance of the Waikato River by the Iwi Reference Group.

¹⁷6(e) is: the relationship of Maori and their culture and traditions with their ancestral lands, waters, sites, waahi tapu, and other taonga.

- 6.6 At pages 153 to 155 of the Hearing 21B report the Vision and Strategy for the Waikato River is reproduced from the Waikato River Settlement Act 2010.
- 6.7 I consider that these narratives/vision/strategy confirms the need to include special provisions in the Proposed Plan to recognise and provide for the relationship of Maaori and their culture and traditions with their ancestral lands, waters, sites, waahi tapu, and other taonga, and to help give effect to the Vision and Strategy for the Waikato River.
- 6.8 I accept that the landscape architect's assessment may be that identifying all of the Waikato River and its margins may not meet the threshold for either outstanding natural landscape or outstanding natural feature, the strong cultural associations notwithstanding.¹⁸
- 6.9 In my opinion, if all of the Waikato River within the Waikato District is not identified as outstanding natural feature or landscape, my recommendation would be to add a further overlay to the Proposed Plan for the area covered by the Vision and Strategy for the Waikato River, with objectives, policies and rules designed to help implement the objectives set out in Schedule 2 of the Waikato River Settlement Act 2010 as well as recognising and providing for section 6(e) of the Act.¹⁹

7. GEOPRESERVATION INDEX SITES

Further submissions FS1293.1 and FS1293.2, in support of Submissions 8.2 and 8.3 by the Geopreservation Society of New Zealand, paragraphs 294 to 309 of the Hearing 21B report.

- 7.1 The Geopreservation Society identifies thirty geological sites and landforms that it is seeking as included in the Proposed Plan as outstanding natural

¹⁸On this point I note the landscape architect's statement "Overall the Waikato River is undoubtedly a culturally significant feature within the Waikato Region's landscape and in turn the Waikato District's landscape."; the first sentence in section 5 of "Technical Response to Submissions on Landscape Classifications of the Waikato River", appendix 7 to the Hearing 21B report.

¹⁹This may require a plan variation, if the all of the area is not identified as outstanding natural feature or outstanding natural landscape.

features. The Society also identifies ten sites it is seeking to be identified as important geological sites and landforms in the Proposed Plan.

7.2 The Director-General supports these submissions.

7.3 The Hearing 21B report recommends rejecting the submission seeking the important geological sites and landforms. It also recommends accepting just one of the thirty geological sites and landforms the Geopreservation Society is seeking be included as outstanding natural features.²⁰

7.4 The reasoning given for the recommendation to reject the submissions is

- the Regional Policy Statement does not direct the District Council to schedule geological sites on the basis of geological values alone;
- new, geological site specific objectives, policies and rules would be required; and
- most of the sites do not meet the (landscape) criteria for Outstanding Natural Features.

7.5 I disagree with those recommendations, and agree with the reasons set out in the submission by the Geopreservation Society for including the identified geological sites and landforms in the Proposed Plan.

7.6 It is now almost a standard feature of district plans to include the geological sites and landforms nominated by the Geopreservation Society as outstanding natural features. The exclusion of such sites from this Proposed Plan is unusual.

7.7 In my opinion, the approach to outstanding natural features that has been taken in the Proposed Plan is one that identifies outstanding natural

²⁰The Hearing 21B report also notes that some of the listed geological sites are already included in the Proposed Plan as a carry-over from the Franklin District Plan. Appendix 3 to the Hearing 21B report includes, in section 4, a table which shows that twelve of the identified sites were included in the Franklin District Plan.

landscape features. This, in part, is the result of the Regional Policy Statement setting out the same methodology for identifying outstanding natural landscapes and outstanding natural features.²¹ In part it is also because the outstanding natural features in the Proposed Plan were identified as part of a district-wide landscape survey.

- 7.8 Section 6(b) of the Act refers to outstanding natural features and landscapes. It does not require natural features to be a subset of natural landscapes.
- 7.9 I consider that a natural feature can be a feature for reasons other than landscape values.
- 7.10 For example a natural feature could be a geological feature in a natural state.
- 7.11 In that regard I defer to the Geopreservation Society over which natural geological features are of outstanding value.
- 7.12 In my opinion, the geological sites and landforms identified in the Geopreservation Society's submission should be identified in the Proposed Plan as sought by the submission.
- 7.13 I note that one of reasons given in the Hearing 21B report for rejecting the submission of the Geopreservation Society is to do with the need, if the geological sites are added to the Proposed Plan, to also include objectives, policies and rules to protect those outstanding natural features from inappropriate subdivision, use and development. A fairness concern was expressed.²²

²¹See 12B of the Regional Policy Statement

²²"Even if this were to occur, this would require a new framework of objectives, policies and rules, and the identification of geopreservation sites on the planning maps. However, this detail has not been developed or made available to the public input through the statutory process for the PWDP. I consider that this creates a situation of prejudice that disadvantages potentially affected parties, namely landowners whose properties contain these geopreservation sites." From paragraph 299 of the Hearing 21B report.

- 7.14 The submission by the Geopreservation Society did seek “more policies and rules” and provided assessment criteria. I consider that this is sufficient, and no situation of prejudice arises.

8. NATURAL CHARACTER OBJECTIVES AND POLICIES

Further submission FS1293.12 by the Director-General in support of Submission 81/26 by Waikato Regional Council, paragraphs 206 to 228 of the Hearing 21B report.

Submission 585.3 by Director-General on objective 3.5.1m paragraphs 211 to 213 of Hearing 21B report.

- 8.1 The Waikato Regional Council's submission seeks that the provisions of the Proposed Plan are amended to recognise that there is a different policy approach to high and outstanding natural character areas. The submitter cites policy 12.2 and method 12.2.1 of the Regional Policy Statement in support of the submission.
- 8.2 The Director-General's submission seeks that natural character objective 3.5.1 be amended to apply to all natural character in the coastal environment, not just high and outstanding natural character areas. This submission cites section 6(a) of the Act and policy 13 of the Coastal Policy Statement as justifying the sought-for change to the objective.
- 8.3 The Hearing 21B report assessment of these submission is:
- (a) to recommend accepting in part the Waikato Regional Council submission, to the extent of changes made to the objective and policies in response to other submissions; and
 - (b) to recommend rejecting the Director-General's submission on objective 3.5.1 on the grounds that the objective gives effect to policy 13 of the Coastal Policy Statement and to

policy 12.2 and method 12.2.1 of the Regional Policy Statement.

8.4 Considering the policy guidance I have set out earlier in this statement, I would expect the natural character objective and policies to include:

- something on preservation of natural character;
- something about protection from inappropriate subdivision, use and development;
- statements about avoiding adverse effects on [the characteristics and qualities of] outstanding natural character; and
- statements about avoiding significant adverse effects on other natural character, including areas of high natural character.

Objective 3.5.1

8.4 Objective 3.5.1 states:

3.5.1 Objectives – Natural Character

- (a) The high and Outstanding Natural Character of the coastal environment is protected from inappropriate subdivision, use and development.
- (b) The natural character of wetlands, and lakes and rivers and their margins are protected from inappropriate subdivision, use and development.

8.5 This objective is a partial repeat of matter of national importance 6(a) of the Act.

8.6 It is, in my opinion, deficient in two ways. First, part (a) only applies to high and Outstanding Natural Character areas. This can readily be corrected by deleting the words “high and Outstanding” from the objective, as sought in the Director-General's submission.

8.7 Second, there is no reference to preserving natural character. I am not sure that it is within the ambit of the submissions being discussed here to add references to preservation of natural character.²³

Policies 3.5.2 and 3.5.3 and 3.5.4

8.8 These policies set out how the Proposed Plan will give effect to policy 13 of the Coastal Policy Statement and policy 12.2 and implementation method 12.2.1 of the Regional Policy Statement.

8.9 I set out in the table below what I consider are the important components of the Coastal and Regional Policy Statement natural character policy guidance that needs to be given effect to, and review how that is done in policies 3.5.2, 3.5.3 and 3.5.4 of the Proposed Plan.

Coastal Policy Statement/ Regional Policy Statement	Proposed Plan	Amendment Needed?
Preserve natural character and protect it from inappropriate subdivision, use and development.	Does not include any policy statement about preservation of natural character.	Yes, potentially to objective and policies 3.5.3 and 3.5.4.
Avoid adverse effects in Outstanding Natural Character areas. ²⁴	Covered in policy 3.5.3(a) (iii) if one assumes that avoiding development where it would “damage, diminish or compromise	The “avoidance” statement 3.5.3(a)(iii) could be restated as the first clause in this policy to reflect the over-riding

²³In the Coastal Policy Statement, objective 2 and policy 13 refer to preserving natural character.

²⁴Policy 13(1)(a) Coastal Policy Statement, Policy 12.2.a) Regional Policy Statement.

Coastal Policy Statement/ Regional Policy Statement	Proposed Plan	Amendment Needed?
	natural character” has the same effect in practice as saying avoid adverse effects on natural character.	nature of “avoidance” over other management actions. Policy 3.5.4 does not distinguish between freshwater bodies within the coastal environment and inland freshwater bodies, so omits the “avoid adverse effects/avoid significant adverse effects” that applies to the natural character of freshwater bodies within the coastal environment. This should be added.
Avoiding significant adverse effects of activities on all other natural character in the coastal environment. ²⁵	Avoiding significant adverse effects is included in policy 3.5.3, although it does not 'tie' the avoiding significance adverse effects to effects on natural character. The avoid significant adverse effects is not stated in policy 3.5.4 with	Extend 3.5.3 to apply to all natural character in the coastal environment, amend 3.5.3(a)(ii) and insert a further clause in 3.5.4 about freshwater bodies in the coastal environment.

²⁵Policy 12.2.b) from the Regional Policy Statement only identifies no significant adverse effects as applying where natural elements/influences are dominant. This is not a complete reflection of what is stated in policy 13(1)(b) of the Coastal Policy Statement.

Coastal Policy Statement/ Regional Policy Statement	Proposed Plan	Amendment Needed?
	respect to freshwater bodies in the coastal environment.	
Assess natural character of all the coastal environment of the district, including mapping of at least high and outstanding natural character. ²⁶	Policy 3.5.2(b) covers the mapping of high and outstanding natural character.	Amend 3.5.2(b) and 3.5.3 to apply to all natural character in the coastal environment.
Stating the general characteristics and qualities that make up natural character. ²⁷	Policy 3.5.2(a) sets out factors that contribute to natural character. However important aspects of natural character identified in the Coastal and Regional policy Statement are omitted, and 'landscape' is wrongly included.	Amend policy 3.5.2(a) to more accurately reflect general characteristics and qualities of natural character identified in the Coastal Policy Statement and Regional Policy Statement.

8.10 I identify my recommended amendments to objective 3.5.1 and policies 3.5.2, 3.5.3 and 3.5.4 below, using the common convention of underlining identifying additional wording and strike-through identifying deleted wording.

²⁶Policy 13(1)(c) Coastal Policy Statement. Incompletely repeated (i.e. mapping high and outstanding natural character only stated) in method 12.2.1.b)

²⁷Objective 2 first bullet point and Policy 13(2) Coastal Policy Statement, Table 12-3 Regional Policy Statement

- 8.11 The Hearing 21B report also recommends changes to the policies set out below. I identify those changes I agree with by use of **blue type**.

3.5.1 Objectives – Natural Character

Preserve natural character of the coastal environment and of freshwater bodies, including by protecting:

- (a) ~~The high and Outstanding~~ Natural Character of the coastal environment ~~is protected~~ from inappropriate subdivision, use and development. and
- (b) ~~The~~ natural character of wetlands, and lakes and rivers and their margins ~~are protected~~ from inappropriate subdivision, use and development.

3.5.2 Policies – Recognising natural character

- (a) Recognise that there is a range of natural character from pristine to modified and that the following characteristics and qualities ~~natural elements, patterns, processes and experiential qualities~~ which contribute to natural character include:
 - (ia) natural elements, patterns and processes;
 - (i) areas or waterbodies, including the extent to which these are in their natural states or close to their natural state;

- (ii) coastal or freshwater landforms, geology and geomorphology and landscapes;
- (iii) coastal or freshwater physical processes, including the natural movement of water and sediment;
- (iv) vegetation and cover, habitat value and biodiversity;
- (v) biological processes and patterns;
- (vi) water flows and levels, and water quality; ~~and~~
(via) the natural darkness of the night sky;
(vib) transient and dynamic attributes;
(vic) places or areas that are wild or scenic;
(vii) the experience of the above elements, patterns and processes; and
(viii) the context or setting.
- (b) ~~Include Recognise the natural character qualities of the~~ following areas within the coastal environment ~~and identified on the planning maps~~ and in a schedule to the District Planas:
 - (i) an Outstanding Natural Character Area areas; and
 - (ii) high (and very high) natural character areas a High Natural Character Area.

3.5.3 Policy – Protecting the natural character qualities of the coastal environment

- (a) Protect natural character in the coastal environment, including the characteristics and qualities of outstanding and high natural character areas in the coastal environment from inappropriate subdivision, use and development by:
 - (i) managing the adverse effects of subdivision, use and development on natural character of the coastal environment;
 - (ia) avoiding subdivision, use and development within areas of outstanding natural character, where it would damage, diminish or compromise natural character;
 - (ii) avoiding significant adverse effects of subdivision, use and development on natural character in all other areas of the coastal environment;
 - ~~(iii) avoiding subdivision, use and development within areas of outstanding natural character, where it would damage, diminish or compromise natural character;~~
 - (iv) avoiding activities that damage the **stability** of **identified** coastal dune systems;²⁸
 - (v) requiring appropriate building setbacks from riparian and coastal margins;
 - (vi) ensuring that activities are carried out in a way that maintains or enhances water quality in the coastal environment;

²⁸This clause, particularly the highlighted words, is the subject of further discussion in the next section of this evidence.

- (vii) enabling and concentrating development within existing settlements to avoid development sprawling along the coastline;
- (viii) recognising historic farming operations that continue today while meeting (ia) and (ii) of this policy;
- (ix) avoiding the establishment of new plantation forestry.

3.5.4 Policy – Protecting the natural character of wetlands, and lakes and rivers and their margins

- (a) Protect the natural character qualities of wetlands, and lakes and rivers and their margins from inappropriate subdivision, use and development by:
 - (ia) avoiding adverse effects of activities on outstanding natural character freshwater bodies and their margins;²⁹
 - (ib) avoiding significant adverse effects on the natural character of other freshwater bodies and their margins, including where natural elements/influences are dominant;
 - (i) ensuring that location, intensity, scale and form of subdivision, use and development are appropriate;
 - (ii) minimising, to the extent practicable, indigenous vegetation clearance and modification (including earthworks, disturbance and structures);

²⁹Policy 12.2.a) sets out an avoid adverse effects requirement for all areas of outstanding natural character, whether within the coastal environment or not.

- (iii) encouraging any new activities to consolidate within, and around, existing developments or where the natural character and landscape values have already been compromised, to avoid development sprawling; and
- (iv) requiring appropriate setbacks of activities from wetlands, lakes and rivers.

9. POLICY 3.5.3(A)(IV)

Submission 585.4 by the Director-General of Conservation, paragraphs 217 and 218 of the Hearing 21B report.

9.1 Clause (a)(iv) of policy 3.5.3 states:

- (iv) avoiding activities that damage the stability of identified coastal dune systems.

9.2 The Director-General is seeking the replacement of the word “stability” with ‘functioning’ and the deletion of “identified” from the policy clause.

9.3 The staff recommendation with respect to this submission is that it be accepted.

9.4 When discussing this submission I rely on the evidence of Graham La Cock on the dynamic nature of dune systems.

9.5 Graham La Cock confirms, in his evidence that functioning dune systems are dynamic systems.

9.6 He discusses the natural processes applying to dunes in the short and long term, and demonstrates that a basic characteristic of a dune system is its dynamic nature.

9.7 Clause (a)(iv) as currently written is effectively seeking that protect an unnatural fixed dune system. Such an approach cannot be protecting natural character, as the Coastal and Regional Policy Statements require.

9.8 Further, there is nothing in section 6(a) of the Act or in the Coastal or Regional Policy Statements that limits the protection of natural character to explicitly identified areas; in this case specific areas of coastal dune systems.³⁰ That protection applies to all natural character in the coastal environment.

9.9 Therefore I agree with the changes sought by the Director-General:

- (iv) avoiding activities that damage the ~~stability~~ functioning of identified coastal dune systems.

10. EXCLUDING DESIGNATED AREAS

Further submissions FS1293.49, FS1293.50 and FS1293.51 by the Director-General opposing Submissions 742.186, 742.187, and 742.188 by New Zealand Transport Agency, paragraphs 406 to 414, 467 and 468, and 526 and 527 in the Hearing 21B report.

Further submissions FS1293.62 and FS1293.63 by the Director-General opposing Submissions 835.2 and 835.3 by Kiwirail, paragraphs 342 to 350 and 524 and 525 in Hearing 21B report.

10.1 These submissions seek the removal of any outstanding natural features, outstanding natural landscape or outstanding natural character overlays from any existing areas designated by New Zealand Transport Agency or by Kiwirail.

10.2 The Director-General opposes these submissions on the grounds that such areas have special values, regardless of whether they are within an existing designation or not.

10.3 The Hearing 21B report recommendations are:

³⁰Policy 13(2) of the Coastal Policy Statement sets out matters that relate to natural character, including natural processes, geological and geomorphological processes, natural landforms such as dunes, and the natural movement of sediment.

- (a) reject the submission by Kiwirail seeking removal of the Whangamarino wetland Outstanding Natural Feature from their designated rail corridor;
- (b) accept in part the submission by New Zealand Transport Agency regarding the Outstanding Natural Feature being removed from a portion of the Waikato Expressway;
- (c) reject the New Zealand Transport Agency submission regarding Outstanding Natural Landscape because there is no overlap of these areas with their designated transport routes; and
- (d) reject the New Zealand Transport Agency and Kiwirail submissions regarding Outstanding Natural Character area because there is no overlap of these areas and their designated transport routes.

10.4 I agree with these recommendations.

11. PERMITTED ACTIVITY EARTHWORKS IN OUTSTANDING VALUE AREAS

Further submission FS1293.58 by the Director-General opposing Submission 749/84 by Housing New Zealand, paragraphs 245 to 248 of the Hearing 21B report.

11.1 Housing New Zealand/Kāinga Ora seeks changes to Residential Zone area and volume permitted activity standards³¹ to apply within Outstanding Natural Features, Outstanding Natural Landscapes, and Outstanding Natural Character areas.

11.2 The Director-General opposes this.

³¹An increase in the permitted activity area of earthworks from 50 square metres to 250 square metres, and a decrease in the permitted activity volume of earthworks from 250 cubic metres to 50 cubic metres.

11.3 The Hearing 21B report recommendation is amend the thresholds as sought by Housing New Zealand/Kāinga Ora.

11.4 I agree with that recommendation, noting that this change only applies in the Residential Zone.

12. COASTAL MARINE AREA BOUNDARY AT PORT WAIKATO

Submission 585.34 by the Director-General, paragraphs 731 to 737 of the Hearing 21B report.

12.1 The Director-General is seeking alignment of the coastal environment line at Port Waikato with that shown in the Waikato Regional Coastal Plan.

12.2 The Hearing 21B report notes that the coastal marine area boundary was incorrectly mapped in the Regional Policy Statement, and that the coastal marine area boundary be extended up the Waikato River to the actual coastal marine area boundary.

12.3 This would not result in the land adjoining this extension being identified as coastal environment, however. At paragraph 737 of the Hearing 21B report, the process for adjusting the land portion of the coastal environment is set out.

12.4 I support that process being followed to ensure the coastal environment shown in the Proposed Plan aligns with actual coastal marine area boundary.



Andrew Riddell

20 August 2020