

**BEFORE THE INDEPENDENT HEARINGS PANELS APPOINTED TO HEAR AND MAKE
RECOMMENDATIONS ON SUBMISSIONS AND FURTHER SUBMISSIONS ON PROPOSED CHANGE 1
TO THE REGIONAL POLICY STATEMENT FOR THE WELLINGTON REGION**

UNDER Schedule 1 of the Resource Management
Act 1991 (the Act)

IN THE MATTER OF Hearing Submissions and Further
Submissions on Proposed Change 1 to the
Regional Policy Statement for the
Wellington Region

**STATEMENT OF REBUTTAL EVIDENCE OF
DR IAIN NICHOLAS DAWE
ON BEHALF OF WELLINGTON REGIONAL COUNCIL**

HEARING STREAM 7 -

SMALL TOPICS, WRAP-UP AND VARIATION 1

[NATURAL CHARACTER]

8 April 2024

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INTRODUCTION

- 1 The Change 1 amendments to natural character pertain to one provision, Policy 3: Protecting high natural character in the coastal environment. Policy 3 is a regulatory provision that is required to be given effect to by district and regional plans. As notified, the Change 1 version of the Policy resulted in a matter for consideration in the policy ((P3(c)), relating to the consideration of social values, being deleted in order to bring it in line with direction under Policy 13 of the New Zealand Coastal Policy Statement 2010 (NZCPS) that addresses coastal natural character assessments.
- 2 Two submitters provided written evidence on the topic of natural character that this report addresses:
 - Murray John Brass on behalf of the Director-General of Conservation / Tumuaki Ahurei, and;
 - Maggie Rose Burns on behalf of Rangitāne o Wairarapa.
- 3 Recommended amendments to provisions in this evidence are shown in blue underline and ~~strikeout~~. Red underlined and ~~strikeout~~ text shows amendments brought through from the S42A report recommendations. Black underlined and ~~strikeout~~ text shows the notified proposed RPS Change 1 amendments to the operative version.
- 4 A Section 32AA assessment of the recommended changes arising from this rebuttal evidence can be found in Appendix 1 attached to this evidence.
- 5 The full wording changes to the policy from notification to s42A recommendations and including those recommended in this rebuttal evidence can be viewed in Appendix 2.

QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT

- 6 My qualifications and experience are set out in paragraphs 16-26 the section 42A Natural Character report dated 11 March 2024. I repeat the confirmation given in that report that I have read and agree to comply with the Code of Conduct for Expert Witnesses.

RESPONSES TO EXPERT EVIDENCE

Murray Brass on behalf of Director-General of Conservation

- 7 Mr Brass wrote in support of the changes that were recommended in the s42A report as a result of the submissions, stating that the proposed additions provide clearer links to the

higher-level direction contained in section 6 of the Resource Management Act 1991 (RMA) and the NZCPS.

8 Mr Brass also confirmed support for recommendations in the s42A report that replacing instances of “and/or” in Policy 3 with “and”, as this better reflects the construction and intent of the provisions.

9 I acknowledge the support provided by Mr Brass on behalf of Director-General of Conservation.

Maggie Burns on behalf of Rangitāne o Wairarapa

10 Ms Burns seeks two amendments to Policy 3. The first to include specific reference that councils will partner with mana whenua/tangata whenua when undertaking coastal natural character assessments. The second, to delete reference to Policy 13 of the NZCPS and just retain reference to the NZCPS as a whole.

Partnership with mana whenua/tangata whenua

11 Ms Burns sets out a clear case for why Policy 3 should explicitly reference partnering with mana whenua/tangata whenua when undertaking coastal natural character assessments.

12 Ms Burns contends that adding specific reference to ‘partnership with tangata/mana whenua’ into Policy 3 will make it clear that partnership is expected and ensure there is no ambiguity as to whether partnership is anticipated in the process of natural character identification.

13 Ms Burns goes on to say that that this will also ensure consistency with other issue-specific policies in the RPS that specifically direct a partnership approach with mana whenua/tangata whenua. For example, partnership is explicitly referenced in Policy 12, relating to management of surface water bodies and Policy IE.1, for management of indigenous biodiversity.

14 As discussed in my s42A evidence, the intention and expectation is that mana whenua would be involved in any natural character assessment undertaken to give effect to this Policy as strongly advised in guidelines such as “Te Tangi a te Manu-Aotearoa New Zealand Landscape Assessment Guidelines, New Zealand Institute of Landscape Architects, 2022” used when undertaking natural character assessments. There are also other provisions in the RPS that set up the direction and expectation for the involvement of mana whenua/tangata whenua in assessment processes such as these that naturally cover

areas and values of significance to mana whenua (such as Policy 49 that addresses recognising and providing for matters of significance to tangata whenua).

- 15 However, I accept the arguments put forward by Ms Burns in her evidence that these other provisions are not explicit in their direction to work with mana whenua/tangata whenua with regard to natural character and recognising that there are other issue specific policies in the RPS that direct a partnership approach, **I recommend amending Policy 3 as follows:**

“Policy 3: Protecting high natural character in the coastal environment – district and regional plans

District and regional plans shall include policies, rules and/or methods to protect high natural character in the coastal environment from inappropriate subdivision, development and/or use. In partnership with mana whenua/tangata whenua, Nnatural character should be assessed considering the following matters, with a site determined as having high natural character when the landscape is slightly modified or unmodified, the land-cover is dominated by indigenous vegetation and/or the vegetation cover is natural and there are no apparent buildings, structures or infrastructure:”

Explanation to Policy 3

- 16 Ms Burns also seeks relief in the explanation to Policy 3 that, where it references giving effect to Policy 13 of the NZCPS, this be deleted and that it refer more generally as giving effect to the whole NZCPS.
- 17 Specific amendments were recommended to the explanation in the s42A report in response to submitter requests to provide a clear line of sight between this Policy and higher-order statutory direction under the RMA and the NZCPS. The aim of the policy explanation is to provide a succinct reason for the policy’s inclusion in the RPS and a brief explanation of what it is trying to achieve and its implementation. Removing reference to Policy 13 of the NZCPS reduces some of this clarity. The RPS is required to give effect to the NZCPS and just stating this in the explanation does not provide any further clarity to the interpretation of Policy 3.
- 18 **Therefore, I recommend rejecting this request.**

DATE:

8 April 2024

Dr Iain Nicholas Dawe

Greater Wellington Regional Council

Appendix 1 - Section 32AA Assessment

This assessment is for the recommended change to the coastal natural character Policy 3 as outlined in paragraph 15 of this report.

Table 1: Amendment to Policy 3 (to include specific reference to partnership with mana whenua/tangata whenua)

<p>Policy 3: Protecting high natural character in the coastal environment – district and regional plans</p> <p>District and regional plans shall include policies, rules and/or methods to protect high natural character in the coastal environment from inappropriate subdivision, development and/or use. In partnership with mana whenua/tangata whenua, Nnatural character should be assessed considering the following matters, with a site determined as having high natural character when the landscape is slightly modified or unmodified, the land-cover is dominated by indigenous vegetation and/or the vegetation cover is natural and there are no apparent buildings, structures or infrastructure:</p>	
<p>Effectiveness and efficiency</p>	<ul style="list-style-type: none"> • The proposed inclusion of partnering with mana whenua/tangata whenua provides unambiguous direction of the expectation to directly involve mana whenua in the process and ensures that it applies to all coastal natural character assessments undertaken at a local level by Local Authorities in the region. This will ensure a consistent approach to how mana whenua/tangata whenua are engaged around the region. • This amendment means that justification for engaging with mana whenua/tangata whenua does not rely on other provisions in the RPS or related guidance documents, but is contained wholly within the relevant policy.
<p>Costs/Benefits</p>	<ul style="list-style-type: none"> • It is not expected that there will be any significant costs associated with this change as it aligns it with the original intent of the policy. • However, requiring partnership with mana whenua has the potential to increase time and resource costs to complete coastal natural character assessments, recognising that many iwi are under resourced to be involved in local government processes. • The benefit is that involving mana whenua provides a more robust

	<p>assessment that is less likely to be questioned or challenged by mana whenua in a schedule 1 RMA process to incorporate any outcomes in a district or regional plan.</p>
<p>Risk of acting or not acting</p>	<ul style="list-style-type: none"> • The risk of not acting is that coastal natural character assessments may miss important mana whenua/tangata whenua values and knowledge if they are not closely involved in the assessment from the beginning. As a result, this may reduce successful implementation of the policy and its requirement under the NZCPS. • A potential risk of the amendment is that mana whenua/tangata whenua do not have the time, capacity or resource to be involved in these assessments which could lead to long delays in their undertaking and implementation.
<p>Recommendation about more appropriate action</p>	<ul style="list-style-type: none"> • I consider the revised wording is the most appropriate response as it improves understanding of the intent and implementation of the policy and ensures it is applied equally around the region. This allows for a more consistent application of the policy, which will be more appropriate in achieving the purpose of the RMA.