

# **SECTION 42A REPORT**

Report on submissions and further submissions on the  
Proposed Waikato district plan

## **Hearing 27D: Coastal Hazards**

Report prepared by: Kelly Nicolson

Date: 31 March 2021

### **Part I – Policies, Rules and Definitions**



## TABLE OF CONTENTS

1	Introduction .....	7
2	Scope of Report.....	8
3	Consideration of submissions received.....	10
4	Chapter 15.1: Introduction .....	11
5	High Risk Coastal Hazards .....	12
6	Section 15.9 – High Risk Coastal Hazard (Erosion) Area Rules .....	15
7	Rule 15.9.1 – Permitted Activities .....	16
8	Rule 15.9.2 – Discretionary Activities .....	23
9	Rule 15.9.3 – Non-Complying Activities.....	27
10	Rule 15.10 – High Risk Coastal Hazard (Inundation) Area.....	29
11	Rule 15.10.1 – Permitted Activities .....	32
12	Rule 15.10.2 – Discretionary Activities .....	39
13	Rule 15.10.3 – Non-Complying Activities.....	42
14	Coastal Sensitivity Areas .....	46
15	Policy 15.2.1.16 – Development in the Coastal Sensitivity Areas.....	46
16	Policy 15.2.1.17 – Setbacks from the coast .....	49
17	Rule 15.7 – Coastal Sensitivity Areas - Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Open Coast).....	51
18	Rule 15.7.1 – Permitted Activities .....	54
19	Rule 15.7.2 – Restricted Discretionary Activities .....	60
20	Rule 15.7.3 – Discretionary Activities.....	64
21	Rule 15.8 – Coastal Sensitivity Area (Inundation).....	65
22	Rule 15.8.1 – Permitted Activities .....	66
23	Rule 15.8.2 – Restricted Discretionary Activities .....	73
24	Rule 15.8.3 – Discretionary Activities.....	76
25	Protection from coastal hazard, including hard protection structures - Introduction .....	78
26	Chapter 15.2 – New Policy under Objective 15.2.1 .....	79
27	Policy 15.2.1.7 - Soft hazard protection .....	80
28	.....	<b>Error! Bookmark not defined.</b>
	Policy 15.2.1.8 – Hard protection works.....	85
29	Policy 15.2.1.9 Natural features and buffers providing natural hazard protection .....	91
30	Chapter 15 – General (Raglan Collective).....	94
31	Rule 15.7 – Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Open Coast). 100	
32	Rule 15.8 – Coastal Sensitivity Areas - Coastal Sensitivity Area (Inundation).....	106
33	Rule 15.9 – High Risk Coastal Hazard (Erosion) Area .....	109

34	Rule 15.10 – High Risk Coastal Hazard (Erosion) Area .....	113
35	Adaptive Management Planning and Development on Maaori Land.....	117
36	Hazardous Facilities .....	122
37	15.14 - Definitions .....	125

**List of submitters and further submitters addressed in this report**

<b>Original Submitter</b>	<b>Submission number</b>
Auckland Waikato Fish and Game	2156
Jane Bethell	2176
Counties Power	2123
Andreas Broring	2049
Louise Davis	2182
Russell Davis	2118
Joyce Elisabeth Davis-Goff	2047
Department of Conservation	2108
Kate Dermer	2073
Grant Faulkner	2144
Federated Farmers of New Zealand	2173
Fire and Emergency New Zealand	2103
Barry Wayne Ford	2052
Howard, Helen, and Forlong family	2131
Brent Fowler	2005
Dominic Friskney	2077
Vianney Friskney	2160
Susanne Juliane Giessen-Prinz	2048
Steve & Jan Godley	2142
Wayne Green	2174
Chris & Sue Harris	2128
Heritage New Zealand Pouhere Taonga	2107
Geoff Hutchison	2126
Kainga Ora Homes and Communities	2094
Sally Lark	2111

<b>Further Submitter</b>	<b>Submission number</b>
<i>Counties Power</i>	<i>FS3021</i>
<i>Department of Conservation</i>	<i>FS3012</i>
<i>Federated Farmers new Zealand</i>	<i>FS3030</i>
<i>Heritage New Zealand Pouhere Taonga</i>	<i>FS3013</i>
<i>Horticulture New Zealand</i>	<i>FS3027</i>
<i>Kainga Ora - Homes and Communities</i>	<i>FS3033</i>
<i>Mercury NZ Limited</i>	<i>FS3034</i>
<i>Ministry of Education</i>	<i>FS3011</i>
<i>Rangitahi Limited</i>	<i>FS3005</i>
<i>Raglan Collective Incorporated Society</i>	<i>FS3016</i>
<i>Shand Properties Limited</i>	<i>FS3020</i>
<i>Spark New Zealand Trading Limited</i>	<i>FS3002</i>
<i>Transpower New Zealand Ltd</i>	<i>FS3003</i>
<i>Waikato Regional Council</i>	<i>FS3031</i>

Mark Mathers	2187
Eric Messick	2055
Jeremy, Nicola O'Rourke, and O'Rourke family	2127
Peninsula Farm Ltd	2158
Adam Marsh for Raglan Collective on behalf of Adam Marsh & Carol McColl	2133
Jacqui Graham for Raglan Collective on behalf of Jacqui Graham & Julie Nelson	2134
Jacqui Graham on behalf of The Raglan Collective Incorporated Society	2135
Steve & Pamela Thackray on behalf of The Raglan Collective Incorporated Society	2132
Kate & Andrew Dermer & McGregor on behalf of The Raglan Collective Incorporated Society	2170
Rangitahi Limited	2115
Graham & Ingrid Rusbatch	2122
Spark New Zealand	2040
Tainui Hapu Environmental Management Committee & Tainui o Tainui Charitable Trust	2097
Te Kopua Trust & Te Kopua 2b3 Incorporation	2175
Te Whaanga 2B3B2 & 2B1 Ahu Whenua Trust	2096
Maria Timmermans	2063
Kevin Vince	2060
Hayden Vink	2168
Jason Vink	2169
Waikato Regional Council	2102
Waikato-Tainui Te Kauhanganui Incorporated	2151
Lorraine Webber, John Lenihan, Michael Rodger, Alex KirbyLo	2157

WEL Networks Limited	2106
Aaron West	2181
Chris, Kathryn, and Williams family	2130
Ruth Walden	2054
Alex Staheli	2087

***Please refer to Appendix I to see where each submission point is addressed within this report.***

# I Introduction

## I.1 Qualifications and experience

1. My name is Kelly Nicolson. I am employed by Waikato District Council as a Policy Planner in the Resource Management Policy team.
2. I hold a Bachelor of Social Science, majoring in Resource and Environmental Planning (REP) and Geography from the University of Waikato (2007).
3. I have been employed in planning roles at the Waikato District Council for the past 13 years.
4. I was initially employed as a consent planner within the Resource Consent team in 2008 and gained experience in the processing a variety of land use and subdivision consents.
5. I transitioned into my current role as policy planner within the Planning and Strategy team in August 2011. In this role I have been either responsible for or involved in:
  - The Tamahere Structure Plan and subsequent Plan Change 3 and the Tuakau Structure Plan.
  - Changes to district plan required as a result of the incorporation of the National Environmental Standard for Assessing and Managing Contaminants in Soil.
  - The review of the Waikato district plan from the outset of the process where my focus was on developing the objective and policy framework and the preparation of the Section 32 reports for the Amenity, Agricultural Research Sites, Tamahere Business Zone, Contaminated Land and Natural Hazards and Climate Change topics.
  - Summarising submissions and further submissions.
  - Preparation of this s42A report.

## I.2 Code of Conduct

6. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 and have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
7. I am authorised to give this evidence on the Council's behalf to the hearings commissioners.

## I.3 Conflict of Interest

8. To the best of my knowledge I confirm that I have no real or perceived conflict of interest.

## I.4 Preparation of this report

9. As the author of this report, my role is to assess all submissions and associated evidence and make recommendations to the commissioners.
10. Scope of evidence relates to evaluation of submissions and further submissions received in relation to the provisions for Coastal Hazards.
11. The data, information, facts, and assumptions I have considered in forming my opinions are set out in my evidence. Where I have set out opinions in my evidence, I have given reasons for those opinions. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

12. In preparing this report I rely on expert advice sought from Bronwen Gibberd (4D Environmental Ltd) and Jim Dahm (Eco Nomos Ltd) with regards to assessing and determining the spatial extent of coastal hazard areas. Expert evidence is included in Appendix I of this report.

## 2 Scope of Report

### 2.1 Matters addressed by this report

13. This report is prepared in accordance with section 42A of the RMA and considers submissions that were received by the Council on the proposed provisions for the management of coastal hazard risk within the Proposed Waikato district plan (PWDP).
14. The proposed regulatory framework for this topic is contained in Chapters 1 and 15 of the PWDP. There is one strategic objective for natural hazards and climate change in Chapter 1.12.8(d). All other objectives and policies for this topic are contained in 15.2, rules are contained in 15.7 – 15.10 and coastal hazard spatial extents are shown on the planning maps.
15. Objectives and provisions focus on reducing risk and increasing awareness of natural hazards and mitigating and adapting to the effects of climate change. Provisions focus on controlling buildings, earthworks, infrastructure and subdivision on land that is currently at risk of coastal erosion or inundation based on current sea level (high risk areas), and on land potentially at risk of coastal erosion or inundation based on 1m of sea level rise over the next 100 years (coastal sensitivity areas). The provisions in Chapter 15 apply in addition to the rules for the underlying zone and any other applicable overlay areas.

### 2.2 Overview of the topic / chapter

16. The purpose of the provisions contained within Chapter 15 is to set the parameters for which buildings, earthworks, infrastructure and subdivision can occur on land identified as being at risk, or potentially at risk of coastal natural hazards.
17. Detailed mapping of coastal hazard areas based on contour data and slope analysis has been carried out for coastal sites within the urban boundaries of Raglan and Port Waikato and on Maaori Freehold Land along the Whaanga Coast between Raglan and Whale Bay. These areas identify both high hazard areas and coastal sensitivity areas.
18. A more generic approach has been used for mapping in rural areas within the Aotea Harbour, Whaingaroa Harbour, Waikato River mouth and the open coastline (west coast). These areas are called coastal sensitivity areas and shown as either a 100m wide area (measured from the shoreline) within the harbours and river mouth and a 200m wide area along the open coastline.
19. The eastern coastline at Miranda has not been mapped in the PWDP as this area has been included in the Wharekawa Coast 2120 coastal hazard review currently being undertaken by Hauraki District Council.
20. The provisions contained within Chapter 15 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. This approach 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.



### 2.3 Statutory requirements

21. There are a number of policy documents that have helped to guide the development of the coastal hazard provisions.
22. The statutory considerations that are relevant to the content of this report are largely set out in the opening legal submissions by counsel for Council (23 September 2019) and the opening planning submissions for Council (23 September 2019, paragraphs 18-32). The opening planning submissions from the Council also detail the relevant iwi management plans (paragraphs 35-40) and other relevant plans and strategies (paragraphs 41-45). The following sections identify statutory documents with particular relevance to this report. The relevance and application of these documents is set out in more detail in sections 1.5 (Tables 1 and 2), 2.1 and 2.2 of the section 32 Report.
23. This report refers to the following documents:
  - National Planning Standards
  - National Policy Statements
    - Te Ture Whaimana o Te Awa o Waikato – Vision and Strategy for the Waikato River
    - NZ Coastal Policy Statement
  - Waikato Regional Policy Statement
  - Waikato Regional Plan
  - Waikato Regional Coastal Plan
  - Iwi Management Plans
    - Waikato-Tainui Environmental Plan (Tai Tumu Tai Pari Tai Ao)
    - Maniapoto Environmental Management Plan
  - Catchment Management Plan for Port Waikato
  - Future Proof Growth Strategy and Implementation Plan – Section 8.13.
24. The National Planning Standards seek to provide a standard format for district plans across New Zealand. The Hearings Panel has indicated that it wishes to adopt National Planning Standards approaches where possible during the current hearings. This report considers the content of the National Planning Standards where relevant and recommends changes to the format of objectives, policies and rules to be consistent with the format set out in the planning standards (10 – Format Standard).
25. Section 32 of the RMA requires that the objectives of the proposal be examined for their appropriateness in achieving the purpose of the RMA, and the provisions (policies, rules or other methods) of the proposal to be examined for their efficiency, effectiveness and risk. Section 32 reports were published when the Proposed Waikato district plan (PWDP) Stage 2 was notified in July 2020. This report updates that earlier analysis in “section 32AA evaluations” where material changes to the plan are recommended.

### 2.4 Procedural matters

26. At the time of writing this s42A report there has been no further consultation following notification, including pre-hearing conferences or meetings with submitters, and no dispute resolution or mediation pursuant to Clause 8AA.

## 3 Consideration of submissions received

### 3.1 Overview of submissions

27. There were 49 submitters, 272 submission points, 14 further submitters and 103 further submission points received in relation to coastal hazards.
28. The submissions addressed in this report cover a range of matters, however there are number of common themes throughout the submissions. These are summarised below:
- Protection of historic heritage from natural hazards;
  - Methodology for mapping high-risk hazard areas and coastal sensitivity areas;
  - Adaptive management approach for land potentially affected by current coastal erosion and /or inundation and future hazards resulting from future sea level rise;
  - Infrastructure and utilities in hazard areas;
  - Construction of new coastal protection structures and ongoing maintenance of existing coastal protection structures;
  - Management of current and future coastal hazard risk on Maaori Freehold Land;
  - Hazardous facilities within the high risk hazard areas.
29. This report addresses each original submission point in turn and makes recommendations to accept or reject submissions and further submissions accordingly throughout the report.
30. How the plan-wide submissions affect this chapter (and cross reference to the s42A which addresses this: “All of Plan” submissions were addressed in Hearing Report 2, on the council website. Hearing report 5 on definitions might also be relevant.)

### 3.2 Further submissions

31. I address the further submissions together with the primary submissions they relate to.

### 3.3 Structure of this report

32. This report generally addresses the submissions in sections related to the relevant plan provision, in the order that these appear in Chapter 15. Some submissions raise issues common to two or more plan provisions, and I have grouped these in some report sections. This approach was considered to be more efficient for submitters and decision makers than having it align with the structure of Chapter 15, avoiding repetitious discussion of issues under individual rules.
33. The largest group of ‘issue-specific’ submissions relates to coastal hazard protection (soft and hard protection methods). These submissions are mostly related to the wording within the policies and rules that implement the NZCPS and WRPS. Rather than assess these submissions and further submissions separately, it is more efficient to address them all together in one section of the report.
34. There is a small number of submissions requesting a less restrictive regulatory framework for development on Maaori Freehold Land. These submissions generally focus on the development of intergenerational adaptive management plans as a tool for managing the changing hazard environment over many generations. These submissions are specific to Maaori Freehold Land and are best addressed separately.
35. Another small group of submissions are on the provisions relating to hazardous facilities. These submissions refer to matters covered in Stage I hearings and are addressed separately.
36. The submissions relating to the mapped hazard overlay areas are grouped as they relate to planning maps. These submissions have been analysed by Mrs Bronwen Gibberd (4D

Environmental Ltd) and Mr Dahm (Eco Nomos Ltd) and as such it is more efficient for the report writer to address these as a separate group.

37. The remaining submissions are on policies and rules for either the high risk hazard areas or the coastal sensitivity areas. I considered it would be more efficient to analyse submissions and further submissions on high coastal hazards in one section of the report and submissions and further submissions on coastal sensitivity areas in another. These two sections are structured so that they follow the same order in which each provision appears in Chapter 15.
38. The structure of the report groups provisions under the following broad headings:
- Introduction
  - High Risk Coastal Hazard Areas
  - Coastal Sensitivity Areas
  - Defences against Coastal Hazards
  - Development on Maori Freehold Land
  - Hazardous facilities
  - Definitions
  - Mapped overlay areas.

### 3.4 Amendments to plan text

39. Where amendments to plan text are recommended, the relevant text is presented after the recommendations with new text in red underlined, and deleted text in ~~red struck through~~. All recommended amendments are brought together in Appendix 2.

## 4 Chapter 15.1: Introduction

### 4.1 Introduction

40. One submission was received seeking to add to the introductory text in Chapter 15.1. These are listed in the following table.

Submission Point	Submitter	Support/ Oppose	Summary of Submission
2135.1	The Raglan Collective Incorporated Society		<b>Add</b> to Section 15.1 Introduction a paragraph explaining that increased resilience to coastal hazards and projected changes in climatic conditions will include repair, maintenance and replacement of existing coastal protection structures in Raglan where longstanding subdivisions rely on them.
<i>FS3012.15</i>	<i>Department of Conservation</i>	<i>Oppose</i>	<i>The Director-General does not support hard protection coastal structures as a central tool for defence against coastal hazards. The NZCPS encourages locating infrastructure outside of coastal hazard areas, managed retreat and natural defences as alternatives for hard protection structures. Alternatives to hard</i>

			protection structures must therefore be explored and Stage 2 provisions should reflect this in giving effect to the NZCPS.
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## 4.2 Analysis

41. The Raglan Collective Incorporated Society [2135.1] has sought to include additional text in Chapter 15.1 – Introduction, stating that increased resilience to coastal hazards and the projected effects of climate change will include the repair, maintenance and replacement of existing coastal protection structures in Raglan where longstanding development relies on them. This submission was opposed by the *Department of Conservation* [FS3012.15] on the grounds that, in giving effect to the NZCPS, the district plan provisions should not encourage hard protection structures as a central tool for defence against coastal hazards, but rather encourage the exploration of alternatives.
42. I do not agree that the introductory text should include any preference for the repair, maintenance and replacement of existing coastal protection structures as a central tool for increasing resilience to natural hazards. Chapter 15 provides for repair and maintenance of lawfully-established structures as a permitted activity and any new structures (including extensions to existing structures) as a discretionary activity where the full extent of effects associated with coastal protection structures can be assessed. I recommend that the submission by The Raglan Collective Incorporated Society [2135.1] be rejected and the further submission by *Department of Conservation* [FS3012.15] be accepted.

## 4.3 Recommendations

43. For the reasons given above, it is recommended that the hearings panel:
- (a) **Reject** the submission from The Raglan Collective Incorporated Society [2135.1];
  - (b) **Accept** the further submission from the *Department of Conservation* [FS3012.15];

## 4.4 Recommended amendments

44. No amendments recommended for this section.

## 4.5 Section 32AA Evaluation

45. No s32AA evaluation required.

# 5 High Risk Coastal Hazards

## 5.1 Introduction

46. High risk coastal hazard areas are areas along the western coastline of the district where there is a significant risk to activities and development from either coastal erosion or coastal flooding in the short term (i.e. within the lifespan of the district plan) with existing sea levels and coastal processes. These areas were assessed and the spatial extents identified by Focus Resource Management Group through detailed assessments based on shoreline geomorphology and the impacts of the coastal processes operating at or near the shoreline.
47. High risk coastal hazard areas are generally located within urban-zoned areas in Port Waikato, Raglan and the residential enclave at Whale Bay. These areas have been identified on the planning maps as the High Risk Coastal Hazard (Inundation) Area and the High Risk Coastal Hazard (Erosion) Area. Detailed assessment of the high risk areas was confined to mainly

urban areas where exposure to risk is higher due to the higher density of more vulnerable land uses such as residential development.

48. Policies and rules for high risk areas adopt a more stringent approach to new subdivision, use and development, especially for the more vulnerable activities that cannot practicably avoid or mitigate risk. Provision has been made for development deemed to be less vulnerable, such as 'small-scale' utilities, accessory/ farm buildings without floors, maintenance and repairs of legally-established coastal protection structures and small-scale earthworks. All other activities that are deemed to be more vulnerable to risk require a thorough assessment through resource consent as either discretionary or non-complying activities.

## 5.2 Policies – High Risk Coastal Hazards

49. Policy 15.2.1.1 – New development, Policy 15.2.1.2 – Changes to existing land use activities and development, Policy 15.2.1.3 – New emergency services and hospitals and Policy 15.2.1.4 – New infrastructure and utilities, are specific to activities and development in areas of significant risk. Rules that regulate buildings, earthworks, infrastructure and subdivision in high-risk coastal hazard areas are contained in Chapter 15, Sections 15.9 and 15.10.

## 5.3 New policy 15.2.1.2B: Natural hazard-sensitive land uses in high risk areas

50. One submission was received seeking the addition of a new policy to manage natural hazard-sensitive land uses in areas at significant risk from natural hazards within the coastal environment.

Submission Point	Submitter	Support/ Oppose	Summary of Submission
2102.18	Waikato Regional Council		<p><b>Add</b> a new Policy 15.2.1.2B as follows:</p> <p><u>15.2.1.2.B - Natural hazard sensitive land uses in areas at significant risk from natural hazards within the coastal environment</u></p> <p><u>(a) Avoid locating natural hazard sensitive land uses in areas at significant risk from natural hazards including High Risk Coastal Hazard (Inundation) and High-Risk Coastal Hazard (Erosion), unless risk assessment demonstrates that the risk of social, environmental and economic harm is not increased.</u></p>
FS3012.7	Department of Conservation	Support	<i>The Director-General supports the addition of this policy to provide additional clarity.</i>
FS3030.8	Federated Farmers new Zealand	Oppose	<i>FFNZ considers the creation of further policy direction proposed in 15.2.1.2B does nothing beyond that which is achieved in Policy 15.2.1.2 and is not required to achieve Objective 15.2.1. The directive to assess a range of risk reduction options and avoid any development that would increase risk to people's well-being, the environment and property will be effective in managing activities that are sensitive to natural hazards.</i>

FS3033.8	Kainga Ora - Homes and Communities	Oppose	<i>Kainga Ora opposes this submission. In its submission, Kainga Ora supports the notified approach – with elevated status for land use development located in hazard areas, enabling a consenting process to consider merits of development in a specific location. As drafted, this Policy approach applies another layer of regulation by identifying some land uses as being more sensitive than others.</i>
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#### 5.4 Analysis

51. Waikato Regional Council [2102.18] has sought the addition of a new policy to address ‘natural hazard-sensitive land uses’ in areas at significant risk from natural hazards within the coastal environment (High-Risk Coastal Hazard (Erosion) Area and High-Risk Coastal Hazard (Inundation) Area). This submission is supported by the Department of Conservation [FS3012.7] to provide additional clarity and is opposed by Federated Farmers New Zealand [FS3030.8] and Kainga Ora - Homes and Communities [FS3033.8] on the basis that natural hazard sensitive land uses are already provided for in Policy 15.2.1.2.
52. The Waikato Regional Council has also made a similar submission seeking the addition of a new policy to address sensitive land uses in areas of significant risk from natural hazards outside the coastal environment (in the High-Risk Flood Area) under submission [2102.17] and is seeking to support these policies with a new definition for ‘Natural Hazard-Sensitive Land Use’ under submission [2102.19].
53. The new policy for sensitive land uses outside the coastal environment relates to the high-risk flood area and has been considered and reported on by Mrs Carter under the river hazard topic. Although addressed in separate reports, Mrs Carter and I have discussed this during the assessment of submissions on our respective topics to ensure that an integrated approach is taken to these closely-related submissions.
54. The inclusion of this policy has been sought to specifically manage activities and development that are potentially more vulnerable to the adverse effects associated with coastal hazard events, and where they are less able to manage risk through emergency response. WRC considers that this will provide more directive management of natural hazards risks and increasing resilience by having greater control over where different land uses are located. Waikato Regional Council also consider the new policy is necessary to give effect to the policy direction of the New Zealand Coastal Policy Statement (NZCPS).
55. There are four proposed policies that specifically refer to land use and development in areas of significant risk from natural hazards. Three of these policies are relevant to this submission and each include scope to manage sensitive land use and development in areas of significant risk. Policy 15.2.1.1 applies to new development, Policy 15.2.1.2 applies to changes to existing land use and development; while Policy 15.2.1.3 refers to avoiding locating new emergency services and hospitals in areas of significant risk. In combination, these three policies address any sensitive land uses as described in the new definition proposed by WRC [2102.19]. I believe there is sufficient scope within this group of existing policies to satisfy the submitter’s concerns and that a new policy is unnecessary. On this basis I recommend the submission by the Waikato Regional Council [2102.18] be rejected and that the further submission by the Department of Conservation [FS3012.7] be rejected and that further submissions by Federated Farmers New Zealand [FS3030.8] and Kainga Ora - Homes and Communities [FS3033.8] be accepted.

## 5.5 Recommendations and amendments

56. For the reasons outlined above, it is recommended that the hearings panel:
- (a) **Reject** the submission from Waikato Regional Council [2102.18];
  - (b) **Reject** the further submission from the *Department of Conservation*[FS3012.7];
  - (c) **Accept** the further submission from *Federated Farmers New Zealand* [FS3030.8];
  - (d) **Accept** the further submission from *Kainga Ora - Homes and Communities* [FS3033.8].

## 5.6 Recommended Amendments

57. There are no amendments recommended in this section.

## 5.7 Section 32AA Evaluation

58. No s32AA evaluation required.

# 6 Section 15.9 – High Risk Coastal Hazard (Erosion) Area Rules

## 6.1 Introduction

59. Section 15.9 contains all the rules for land use, development and subdivision within the High-Risk Coastal Hazard (Erosion) Area. I have set this section out in three separate tables for the Permitted (15.9.1), Discretionary (15.9.2) and Non-Complying (15.9.3) activity rules.
60. Provisions in this section are structured in a way that enables less vulnerable activities and development, where the risk from erosion can be avoided or mitigated, while more restrictive regulatory methods apply to activities and development that are more vulnerable to risk, and where proposals for this type of development require careful consideration through the resource consent process.

## 6.2 Submissions

61. One submission was received seeking to delete Section 15.9 in its entirety. This is set out in the following table.

Submission Point	Submitter	Support/ Oppose	Summary of Submission
2063.2	Maria Timmermans		<b>Delete</b> Rule 15.9 High Risk Coastal Hazard (Erosion) Area.
FS3031.100	Waikato Regional Council	<i>Oppose</i>	<i>Provisions are needed to support the mapped High Risk Coastal Hazard (Erosion) Area.</i>

## 6.3 Analysis

62. Maria Timmermans [2063.2] seeks to delete Section 15.9 in its entirety, as she believes that day trippers are causing the erosion at Maraetai Bay in Port Waikato by creating new paths across the dunes that cause the lowering of the reserve. Ms Timmermans believes that this is an issue that Council should address rather than restricting development on private property. There is no High-Risk Coastal Hazard (Erosion) Area proposed for Maraetai Bay, as there is currently no significant risk of erosion along the southern section of the bay. The rules in

Section 15.9 therefore do not apply to the reserve or the private properties adjacent to the reserve at Maraetai Bay.

63. This submission is opposed by *Waikato Regional Council [FS3031.100]* on the basis that provisions are required to support the mapped High Risk Coastal Hazard (Erosion) Area.
64. I agree with Waikato Regional Council. In any case, deleting the rules would not address the issue described by the submitter, which is best addressed outside the district plan through council reserve management. I recommend that the submission by Maria Timmermans [2063.2] be rejected.

#### 6.4 Recommendations

65. For the reasons outlined above, it is recommended that the hearings panel:
- Reject** the submission from Maria Timmermans [2063.2];
  - Accept** the further submission from the *Waikato Regional Council [FS3031.100]*.

#### 6.5 Recommended Amendments

66. There are no amendments recommended in this section.

#### 6.6 Section 32AA Evaluation

67. No s32AA evaluation required.

## 7 Rule 15.9.1 – Permitted Activities

68. Section 15.9.1 includes four permitted activity rules that allow for some construction, maintenance or repairs relating to farm and accessory buildings, utilities, coastal protection structures and associated earthworks.

### 7.1 Submissions

69. Eight submissions were received seeking to either add to, or amend the rules in Section 15.9.1. These are set out in the table below. The submissions received on Rule 15.9.1 P3 for coastal protection structures is addressed in Section 33 of this report.

Submission Point	Submitter	Support/ Oppose	Summary of Submission
2102.28	Waikato Regional Council		<b>Add</b> to Policy 15.9.1 P1 High Risk Coastal Hazard (Erosion) Area - Permitted Activities to include an activity specific condition as follows: <u>The structure is constructed and located to ensure that if damaged within a 1% AEP hazard event the structure will be contained within the site.</u>
FS3030.15	Federated Farmers new Zealand	Oppose	While supporting WRC's proposed Policy 15.2.1.4A, as worded, FFNZ oppose the proposed addition to Policy 15.9.1 P1 as it fails to provide for an acceptable level of risk as is necessary for farming businesses. The rule would deal with non-habitable structures, often in a productive rural environment where such buildings are a necessity. FFNZ consider it would be unreasonable for those constructing farm buildings to prove their structure would be contained



			<i>within the site within a 1% AEP hazard event. The proposed rule does not reflect the risk based approach of chapter 15 overall or the intent of relief sought FFNZ's original submission.</i>
FS3033.16	<i>Kainga Ora - Homes and Communities</i>	<i>Oppose</i>	<i>Kainga Ora opposes this submission. Kainga Ora considers that the rule is unworkable as drafted as it relies on speculation as to what will happen in the event of a hazard event.</i>
2173.63	Federated Farmers of New Zealand		<b>Amend</b> Rule 15.9.1 P1 as follows: (1) Construction of an accessory building <del>without a floor</del> ; and (2) Construction of a farm building <del>without a floor</del> . AND Any consequential amendments that may be required.
FS3027.20	<i>Horticulture New Zealand</i>	<i>Support</i>	<i>Support to the extent that it is consistent with the intent of submissions points HortNZ has made on other parts of the Plan.</i>
FS3031.151	<i>Waikato Regional Council</i>	<i>Oppose</i>	<i>By restricting buildings to those without a floor, the district plan is providing guidance as to the acceptable level of risk in this location and therefore what can be built without any further assessment. Buildings with a floor will need to be built to an appropriate floor level which requires an assessment to be undertaken.</i>
2040.9	Spark New Zealand Trading Limited		<b>Amend</b> Rule 15.9.1 P2 (2) to cover both new and upgrading (to the extent it is not minor upgrading) of infrastructure and utilities. P2(2) should be amended to read: <u>Operation, construction, replacement, repair, maintenance, minor upgrading or upgrading of New</u> telecommunication lines, poles, cabinets and masts/poles supporting antennas.
FS3034.8	<i>Mercury NZ Limited</i>	<i>Support</i>	<i>Mercury supports policy which allows for the provision of infrastructure within a flood plain or high risk flood area only where such infrastructure has a functional need to be so located. Mercury seeks to ensure also that the functional and operational requirements of the Lower Waikato Flood Scheme are not compromised.</i>
2106.19	WEL Networks Limited		<b>Amend</b> Rule 15.9.1 P2 as follows: (1) Repair, maintenance or minor upgrading of existing utilities <u>and associated earthworks</u> . (2) New telecommunication <u>and electricity</u> lines, poles, cabinets and masts/ poles supporting antennas <u>and associated earthworks</u> .

FS3021.16	Counties Power	Support	As stated by WEL Networks Ltd, unreasonably limiting new electricity infrastructure and associated earthworks has the potential to limit essential electricity infrastructure in these areas.
2102.59	Waikato Regional Council		<b>Amend</b> Permitted Activity Rule 15.9.1 P2 to include an activity specific condition for activities relating to operation, construction, upgrading, minor upgrading, replacement, repair and maintenance of utilities as follows: The works do not involve coastal protection structures even where associated with flood management infrastructure including stopbanks and erosion protection structures associated with flood management where owned or operated by the Waikato Regional Council, the Waikato District Council or the Crown.  Note: The original submission refers to P3 but WRC confirmed was meant to be P2
2106.20	WEL Networks Limited		<b>Amend</b> Rule 15.9.1 P4, subject to amendments to Rule 15.9.1 P2 as follows: Earthworks for an activity listed in Rule 15.9.1 P1 <u>and</u> P3, including the maintenance and repair of access tracks.
FS3021.17	Counties Power	Support	As stated by WEL Networks Ltd. an exclusion for / network utility activities from Rule 15.9.1 P4 is required as the installation of cables and pole foundations require depths greater than 0.5m for health and safety purposes.
2173.65	Federated Farmers of New Zealand		<b>Amend</b> Rule 15.9.1 P4 as follows: Earthworks for (a) an activity listed in Rule 15.9.1 P1 – P3, including the maintenance and repair of access tracks; <u>or</u> (b) <u>Ancillary Rural earthworks.</u> AND Any consequential amendments that may be required.
FS3027.23	Horticulture New Zealand	Support	Support to the extent that it is consistent with the intent of submissions points HortNZ has made on other parts of the Plan.
2115.7	Rangitahi Limited		<b>Add</b> new Rule 15.9.1 P5 to Rule 15.9.1 - High Risk Coastal Hazard (Erosion) Area – Permitted Activities to include provision for the construction of a new building, additions to an existing lawfully established building, relocation of an existing building and associated earthworks as a Permitted Activity with the following Activity-specific conditions: <u>P5 The construction of a new building, additions to an existing lawfully</u>

			<p><u>established building, relocation of an existing building and associated earthworks must be undertaken in accordance with:</u></p> <p>(a) <u>A geotechnical report or similar professional report accepted by Council through a previous resource consent application; and</u></p> <p>(b) <u>Any conditions of a previous resource consent or subdivision consent associated with the site relating to stability or geotechnical matters.</u></p>
FS3031.121	Waikato Regional Council	Oppose	<p><i>This is inconsistent with Policy 15.2.1.1 which requires avoidance of new uses and development in the High Risk Coastal Hazard (Erosion) Area where they increase the risk to people's safety, wellbeing and property.</i></p>

## 7.2 Analysis

70. Waikato Regional Council **[2102.28]** has requested an additional activity-specific condition to Rule 15.9.1 PI to ensure that the construction of an accessory building or farm building without a floor is constructed and located so that the structure is contained within the site if damaged during a 1% Annual Exceedance Probability (AEP) hazard event. This submission is opposed by Federated Farmers NZ **[FS3030.15]** and *Kainga Ora - Homes and Communities* **[FS3033.16]** on the basis that the proposed amendment would require an unreasonable level of speculation to determine what would happen to the building during a 1% AEP hazard event.
71. The amendments as requested would result in the need for an additional upfront assessment that confirm the permitted activity status for the building. It would be extremely difficult to predict the erosion rates of any particular shoreline type during a storm event of a specified magnitude. Any assessment would require a large degree of speculation, as many assumptions would need to be made and how the building may respond. I believe it would be unreasonable to require this information as a condition for a permitted activity, therefore recommend the Waikato Regional Council **[2102.28]** be rejected and that the further submissions by Federated Farmers NZ **[FS3030.15]** and *Kainga Ora - Homes and Communities* **[FS3033.16]** be accepted.
72. Federated Farmers NZ **[2173.63]** seeks to amend Rule 15.9.1 PI to remove the requirement for the building to have no floor. This submission was supported by *Horticulture New Zealand* **[FS3027.20]** and opposed by *Waikato Regional Council* **[FS3031.151]**.
73. The rule as proposed allows for a restricted level of development within high-risk hazard areas, as it is recognised that at times farm or accessory buildings may be necessary in these areas and this need can be provided for where risk is mitigated through restrictions on the building design. For example, a hay shed may need to be located in a high-risk hazard area to enable efficient farming operations, and this type of building can be more easily be repaired, relocated or demolished if the need arises. The requirement for buildings to have no floor restricts the use of the buildings to uses such as storing hay, farm equipment or vehicles such as a carport and not used for more vulnerable activities such as residential accommodation.
74. An accessory building with a floor could potentially be utilised for residential purposes such as a sleepout (note that the definition for accessory building in Chapter 13 of the Proposed District Plan does not explicitly preclude the use of the building for residential purposes). The risk to people and property increases where a building is constructed with a floor. The rule framework reflects the issues around buildings with constructed floors by ensuring that any

activity that has the potential to increase risk is appropriately assessed through the resource consent process, including technical site investigations and possible structural design components to mitigate risk to satisfy Policy 15.2.1.1. I therefore recommend that the submission by Federated Farmers NZ [2173.63] be rejected and that the further submission by Horticulture New Zealand [FS3027.20] also be rejected and that the further submission by the Waikato Regional Council [FS3031.151] be accepted.

75. Spark NZ Trading Ltd [2040.9] have sought amendments to Rule 15.9.1 P2 (2) to permit both new, and upgrading (to the extent it is not minor upgrading) of existing, infrastructure and utilities. This submission is supported by *Mercury NZ Ltd* [FS3034.8], however this further submission refers to provision for infrastructure within a flood plain or high-risk flood area only where such infrastructure has a functional need to be thus located.
76. In addition, WEL Networks Ltd [2106.19] seek to have all earthworks associated with activities listed in P2(1) and P2(2) provided for as a permitted activity. As a consequential amendment, WEL Networks Ltd [2106.20] also seeks to amend Rule 15.9.1 P4 such that restrictions on earthworks do not apply to P2. This submission is supported by *Counties Power* [FS3021.16] on the basis that limiting new electricity infrastructure and associated earthworks has the potential to limit essential electricity infrastructure in these areas.
77. The amendments sought by Spark NZ Trading Ltd [2040.9] and WEL Networks Ltd [2106.19] would effectively permit all activities associated with existing utilities and the construction of new utilities and any earthworks associated with those activities, regardless of their size, scale, location or adverse effects. This change would effectively preclude any assessment of the impacts that coastal erosion may have on these activities, as well as an assessment of the adverse impacts that the activity will have on vulnerable areas of the coastline that have been identified as currently at high risk of erosion.
78. WEL Networks' [2106.19] suggests that the high-risk coastal hazard (erosion) areas cover a significant portion of existing residential and road areas within Raglan, and that the limitations in Rule 15.9.1 P2 unreasonably restrict new electricity infrastructure and associated earthworks within these areas, with the potential to limit WEL Networks' ability to supply these residential areas with essential electricity infrastructure. I note that the high-risk erosion areas within Raglan are generally located directly adjacent to the coastal margin, and for the most part are not located within road reserve.
79. Given the nature and vulnerability of the high-risk coastal erosion areas, I believe it is reasonable to ensure that a robust and independent assessment of the impacts of proposals for new utilities and associated earthworks can be carried out through a resource consent process to ensure that natural hazard risk is adequately assessed and if necessary mitigated. This approach aligns with policy direction set out in Policy 15.2.1.4. For this reason, I recommend that the relief sought by Spark NZ Trading Ltd [2040.9] be rejected and the submission [2106.19] by WEL Networks Ltd, in so far as it relates to earthworks, also be rejected.
80. WEL Networks Ltd [2106.19] also seeks to amend Rule 15.9.1 P2 (2) to include 'electricity' lines, poles, cabinets and masts/poles supporting antennas similar to those provided for in the rule for telecommunication infrastructure. I agree that electricity lines and the supporting structures listed in P2 will have the same or similar effects to new telecommunications lines and supporting structures and that these should be provided for in 15.9.1 P2(2). On this basis I recommend the submission [2106.19] by WEL Networks Ltd be accepted in so far as it relates to electricity lines poles, cabinets and masts/poles supporting antenna.
81. Waikato Regional Council [2102.59] request an amendment to Rule 15.9.1 P2 to include an activity-specific condition that excludes coastal protection structures, even where these structures are associated with flood management infrastructure, including stopbanks and

erosion protection structures associated with flood management where owned or operated by Waikato Regional Council, Waikato District Council or the Crown.

82. Rule 15.9.1 P2 as proposed, includes flood management infrastructure, including stopbanks and erosion protection structures associated with flood management where owned or operated by Waikato Regional Council, Waikato District Council or the Crown by way of the definition for 'Utilities' in Chapter 15.14. It would appear that the definition will allow for some coastal protection structures to be permitted under Rule 15.9.1 P2. The relief sought addresses this anomaly. It ensures that these structures are not provided for under 15.9.1 P2, and are assessed under the correct Rule 15.9.1 P3 or 15.9.2 D4. I do not consider it necessary to include reference to the ownership of the structure as this is not a relevant consideration when managing environmental effects. As such I recommend the submission by Waikato Regional Council **[2102.59]** be accepted in part and that Rule 15.9.1 P2 be amended accordingly.
83. WEL Networks Ltd **[2106.20]** seek to amend earthworks Rule 15.9.1 P4 as a consequence of the amendment sought under **[2106.19]**, which seeks that all earthworks relating to the activities listed in P2 be permitted. This submission is supported by *Counties Power* **[FS3021.17]** due to the installation of cables and pole foundations requiring depths of greater than 0.5m for health and safety reasons. The relief sought would effectively permit any earthworks associated with the activities permitted by rules 15.9.1 P2 regardless of their size, scale, location or adverse effects. This change would effectively preclude any assessment of the impacts that coastal erosion may have on these activities as well as an assessment of the adverse impacts that the activity will have on areas of the coastline that have been identified as currently at high risk of erosion. Earthworks that exceed the maximum values provided for within 15.9.1 P4 would not be appropriate without an assessment of the impacts. On this basis I recommend the panel reject the submission by WEL Networks Ltd **[2106.20]** and the further submission by *Counties Power* **[FS3021.17]**.
84. Federated Farmers of New Zealand **[2173.65]** seek to amend Rule 15.9.1 P4 to include ancillary rural earthworks. This submission is supported by *Horticulture New Zealand* **[FS3027.23]**. It is worth noting here that the High Risk Coastal Hazard (Erosion) Areas have mostly been mapped in urban areas (the exception being the Rural-Zoned land around Te Kopua and the Wainui Stream in Raglan), so the provisions in Chapter 15.9 will not apply to the vast majority of rural farmland along the coastal margins.
85. Ancillary rural earthworks is defined in Chapter 13 of the Proposed District Plan. It includes earthworks associated with the maintenance and construction of facilities typically associated with farming and forestry, but does not explicitly limit its scope or scale. The amendments to the definition for ancillary rural earthworks in Hearing 5 recommended the removal of any reference to forestry, as this activity is covered by the National Environmental Standards for Plantation Forestry (NES-PF) and would otherwise introduce an unnecessary regulatory duplication. Other amendments recommended in Hearing 5 include adding a number of other farm-related activities to the list of activities. This list is not exhaustive, as it states 'includes but is not limited to' the listed activities. The restrictive nature of P4 - Earthworks reflects the vulnerable nature of the land identified as being subject to coastal erosion and allowing for a potentially greater degree of earth-disturbing activities that may exacerbate the erosion process. I recommend that submission by Federated Farmers of New Zealand **[2173.65]** be rejected and the further submission by *Horticulture New Zealand* **[FS3027.23]** be rejected.
86. Rangitahi Limited **[2115.7]** seek the addition of a new rule to permit the construction of a new building, additions to an existing lawfully-established building, the relocation of an existing building and any associated earthworks, where these activities are in accordance with technical reports approved by council through previous resource consents. This submission is opposed by the *Waikato Regional Council* **[FS3031.121]** as the approach is considered to be inconsistent with Policy 15.2.1.1 which requires avoidance of new uses and development in the High Risk

Coastal Hazard (Erosion) Area where the risk to people's safety, wellbeing and property will increase.

87. A new rule in the form proposed would apply everywhere in the High Risk Coastal Hazard (Erosion) Areas. The rule would be reliant on geotechnical investigations that may or may not have considered coastal hazards and the effects of climate change including sea level rise over a 100 year timeframe. As a permitted activity there would be no opportunity to assess the adequacy of the report in relation to proposed development that may not have been considered at the time the report was prepared. There would also not be any opportunity to consider appropriate mitigation or adaptable measures to address the effects of climate change over time. I do not consider the relief sought to be consistent with the policy direction in Chapter 15.2 requiring natural hazard risk to be appropriately identified and assessed, nor do I think it achieves the objective for a resilient community. On these grounds I recommend the submission from Rangitahi Limited [2115.7] be rejected and the further submission by Waikato Regional Council [FS3031.121] be accepted.

### 7.3 Recommendations

88. For the reasons outlined above, it is recommended that the hearings panel:
- (a) **Reject** the submission from Waikato Regional Council [2102.28];
  - (b) **Accept** the further submission from *Federated Farmers New Zealand* [FS3030.15];
  - (c) **Accept** the further submission from *Kainga Ora - Homes and Communities* [FS3033.16];
  - (d) **Reject** the submission from *Federated Farmers NZ* [2173.63];
  - (e) **Reject** the further submission from *Horticulture New Zealand* [FS3027.20];
  - (f) **Accept** the further submission from *Waikato Regional Council* [FS3031.151];
  - (g) **Reject** the submission from *Spark NZ Trading Ltd* [2040.9];
  - (h) **Reject** the further submission from *Mercury NZ Ltd* [FS3034.8];
  - (i) **Accept in part** the submission from *WEL Networks Ltd* [2106.19];
  - (j) **Accept in part** further submission from *Counties Power* [FS3021.16];
  - (k) **Accept in part** the submission from *Waikato Regional Council* [2102.59];
  - (l) **Reject** the submission from *WEL Networks Ltd* [2106.20];
  - (m) **Reject** the further submission from *Counties Power* [FS3021.17];
  - (n) **Reject** the submission from *Federated Farmers of New Zealand* [2173.65];
  - (o) **Reject** the further submission from *Horticulture New Zealand* [FS3027.23];
  - (p) **Reject** the submission from *Rangitahi Ltd* [2115.7];
  - (q) **Accept** the further submission from *Waikato Regional Council* [FS3031.121].

### 7.4 Recommended amendments

89. Recommended amendments to Rule 15.9.1 P2 to satisfy the relief sought by Waikato Regional Council [2102.59] and WEL Networks [2106.20] are as follows:

Activity	Activity-Specific Conditions
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P2	1) Repair, maintenance or minor upgrading of existing utilities 2) New telecommunications <u>and electricity</u> <sup>1</sup> lines, poles, cabinets and masts/poles supporting antennas.	(a) <u>The works do not involve coastal protection structures.</u> <sup>2</sup>
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## 7.5 S32AA Evaluation

### Rule 15.9.1 P2(a)

90. The s32 report 'Natural hazards and climate change' (2020) evaluates the rules for coastal protection structures. No additional evaluation of the amended text under s32AA is required, because the s32 evaluation of the original text adequately covers and justifies the proposed amendment to correct a drafting anomaly that allowed for coastal protection structures to be permitted under one rule and discretionary under another.

### Rule 15.9.1 P2(2)

91. The s32 report 'Natural hazards and climate change' (2020) evaluates this rule. No additional evaluation of the amended text under s32AA is required. The original text, evaluated under the s32 adequately covers and justifies the amendment as proposed which is only to provide for new electricity infrastructure of the same or similar scale to the Telecommunications infrastructure and do not change the scope or application of the rule beyond what was originally intended. These amendments are considered to improve the effectiveness and efficiency of the rule in achieving Objectives 15.2.1 and is consistent with direction in Policy 15.2.1.4.

## 8 Rule 15.9.2 – Discretionary Activities

92. Discretionary activities under rule 15.9.2 address earthworks, the relocation or replacement of an existing building within the same site, new coastal protection structures, new utilities and upgrading of existing utilities and subdivision.

### 8.1 Submissions

93. Eight submissions were received seeking to either retain or amend the discretionary activity rules in Section 15.9.2. Note that submissions received on Rule 15.9.2 D4 for coastal protection structures are addressed in Section 33 of this report.

Submission Point	Submitter	Support/ Oppose	Summary of Submission
2107.24	Heritage New Zealand Pouhere Taonga		<b>Retain</b> the full discretionary activity status of Rule 15.9.2 DI – D7.

<sup>1</sup> WEL Networks [2106.20]

<sup>2</sup> Waikato Regional Council [2102.59]

2173.66	Federated Farmers of New Zealand		<b>Retain</b> Rule 15.9.2 D1 conditional on the outcome of relief sought at Rule 15.9.1 P4 – (submission [2173.65]).
2174.2	Wayne Green		<b>Retain</b> rule 15.9.2 D2.
2174.3	Wayne Green		<b>Amend</b> rule 15.9.2 D3 to remove restriction on gross floor area.
2173.67	Federated Farmers of New Zealand		<b>Amend</b> Rule 15.9.2 D3(1) as follows: Replacement of an existing <u>habitable</u> building within the same site where... <b>AND</b> Any consequential amendments that may be required.
FS3031.152	Waikato Regional Council	Oppose	<i>The inclusion of all buildings in this rule rather than just habitable buildings is intended to ensure that there is adequate assessment of the need to locate a building in this area based the level of risk. It also serves as an indication to applicants of the level of risk of building in these areas so that they can judge the level of investment they wish to make given the risk. The rule could exclude buildings under at certain size such as 15m2 to allow for minor structures such as garden sheds.</i>
2102.36	Waikato Regional Council		<b>Amend</b> Rule 15.9.2 D5 - High Risk Coastal Hazard (Erosion) Area – Discretionary activities to include specific reference to infrastructure and utilities as follows: D5 - Construction of new <u>infrastructure and</u> utilities not provided for in Rule 15.9.1 P2. <b>AND</b> <b>Amend</b> Rule 15.9.2 D6 as follows: D6 - Upgrading of existing <u>infrastructure and</u> utilities not provided for in Rule 15.9.1 P2.
2106.21	WEL Networks Limited		<b>Retain</b> Rule 15.9.2 D5 and D6, subject to the amendment sought to Rule 15.9.1 P2.
2106.22	WEL Networks Limited		<b>Retain</b> Rule 15.9.2 D7 (2) as proposed.
FS3021.18	Counties Power	Support	<i>As stated by WEL this provides for subdivision to create a utility allotment without any unnecessary restrictions noting that subdivision associated with utility will default to Chapter 14 provisions.</i>



## 8.2 Analysis

94. Heritage New Zealand Pouhere Taonga [2107.24] supports the full discretionary activity status in Rules 15.9.2 D1 to D7. I recommend that the submission be accepted in part, subject to the recommended amendment to 15.9.2 D3.
95. Federated Farmers of New Zealand [2173.66] supports Rule 15.9.2 D1, conditional on the outcome of their relief sought to Rule 15.9.1 P4 (submission [2173.65]) seeking ancillary rural earthworks to be included as a permitted activity. I have recommended that submission [2173.65] be rejected, based on the broad scope of ancillary rural earthworks as defined in Chapter 13 of the PDP and the vulnerability of high-risk erosion areas. On this basis, I recommend Federated Farmers of New Zealand submission [2173.66] be rejected.
96. Wayne Green [2174.2] supports the retention of Rule 15.9.2 D2 as proposed, but seeks amendments to Rule 15.9.2 D3 [2174.3] to remove any restriction on the gross floor area of the replacement building.
97. Rule 15.9.2 D3 currently provides a restricted discretionary consenting pathway for existing development to be redeveloped in a lower-risk location within the same property. This rule is similar to 15.9.2 D2, which provides for the relocation of an existing building within the same property. D2 and D3 both effectively provide for existing level of risk to be reduced, but also recognise that redevelopment will not always be completely free from future risk. For this reason there is also a requirement for the new building to be no larger than the existing building, and to reduce future risk to the new building by designing it to be adaptable (i.e. relocatable). Any proposal to increase the size of the building beyond what currently exists will need to apply for consent under 15.9.3 NC1. This approach is consistent with, and gives effect to, the policy direction set out in Policy 15.2.1.1 - New development in areas at significant risk from natural hazards and Policy 15.2.1.2 – Changes to existing land use and development in areas at significant risk from natural hazards. In each case the policies require any increase in risk to people's safety, well-being and property to be avoided. Consequently I recommend accepting submission [2174.2] and rejecting submission [2174.3].
98. Federated Farmers of New Zealand [2173.67] seek to amend Rule 15.9.2 D3(1) so that the rule only applies to habitable buildings. This submission was opposed by the *Waikato Regional Council* [FS3031.152] based on the rule's intention to ensure that an adequate assessment can be carried out for all buildings and to allow applicants to judge the level of investment given the level of risk.
99. The rule currently applies to habitable and non-habitable buildings and provides a consenting pathway for an existing building within an area exposed to a high-risk erosion hazard to be replaced or relocated, as long as it results in the building being sited in a less hazardous location and designed to have the option to relocate the building in the future if required. This rule gives effect to Policies 15.2.1.1 and 15.2.1.2, and in each case the policies require any increase in risk to people's safety, well-being and property to be avoided. The policy framework does not provide for an increase in risk to certain types of property, i.e. non-habitable buildings.
100. Rule 15.9.1 P1 does allow for accessory buildings or farm buildings without a floor up to 40m<sup>2</sup> to be constructed as a permitted activity. Rule 15.9.2 D3(b) requires buildings to be relocatable on a suspended timber floor. This condition excludes any garage with a concrete floor, which will default to a non-complying activity under 15.9.3 NC1. I would appear that there is an anomaly within the rules where a non-habitable building may need to be assessed under a more stringent consenting pathway. I therefore recommend an amendment to 15.9.2 D3(b) to remove the requirement for the building to be constructed on a suspended timber floor. This change will provide for buildings that require a floor at ground level, such as a garage, as a discretionary activity, while still having to demonstrate that the building is relocatable. On this basis, I recommend that submission [2173.67] be accepted in part with

recommended amendments to the rule set out in Section 8.4 below, and the further submission by *Waikato Regional Council [FS3031.152]* be accepted in part.

101. Waikato Regional Council **[2102.36]** seeks to amend Rules 15.9.2 D5 and D6 to include specific reference to infrastructure, to ensure that the rule applies to infrastructure as well as utilities.
102. The term infrastructure was specifically excluded from Chapter 15 due to the broad nature of the definition in Chapter 13 of the Proposed District Plan. The definition for Utility in Chapter 15.14 was developed specifically so that certain utilities can be provided for within the permitted, restricted discretionary or discretionary activity rules in Chapter 15. This approach ensures that each rule within Chapter 15 only applied to the utilities listed in the definition in Chapter 15.14. All other infrastructure will be provided for under Chapter 14. There may be some infrastructure and utilities that will be duplicated in both definitions. Where this occurs provisions in Chapter 14 and 15 will apply. Conversely the utilities rules set out in Chapter 15 only apply to the utilities as defined in Chapter 15.14. I consider the approach taken, to be appropriate and therefore recommend submission **[2102.36]** be rejected and that Rules 15.9.2 D5 and D6 be retained as notified
103. WEL Networks Ltd **[2106.21]** seek to retain Rules 15.9.2 D5 and D6 subject to the outcome of the relief sought to Rule 15.9.1 P2. I have recommended rejecting the submission by WEL Networks submission **[2106.19]** seeking earthworks associated with utilities provided for in Rule 15.9.1 P2 to be permitted. Consequently, I recommend WEL Networks Ltd **[2106.21]** be rejected.
104. WEL Networks Ltd **[2106.22]** seek to retain 15.9.2 D7 (2) as proposed. This submission was supported by *Counties Power [FS3021.18]*. I recommend that the WEL Networks submission **[2106.22]** be accepted and *Counties Power further submission [FS3021.18]* be accepted.

### 8.3 Recommendations

105. For the reasons outlined above, it is recommended that the hearings panel:
- (a) **Accept in part** the submission from Heritage New Zealand Pouhere Taonga **[2107.24]**;
  - (b) **Reject** Federated Farmers of New Zealand **[2173.66]**;
  - (c) **Accept** the submission from Wayne Green **[2174.2]**;
  - (d) **Reject** the submission from Wayne Green **[2174.3]**;
  - (e) **Accept in part** the submission from Federated Farmers of New Zealand **[2173.67]**;
  - (f) **Accept in part** the further submission from *Waikato Regional Council [FS3031.152]*;
  - (g) **Reject** the submission from Waikato Regional Council **[2102.36]**;
  - (h) **Reject** the submission from Wel Networks Ltd **[2106.21]**;
  - (i) **Accept** the submission from WEL Networks Ltd **[2106.22]**;
  - (j) **Accept** the further submission from *Counties Power [FS3021.18]*.

### 8.4 Recommended amendments

106. Recommended amendments to Rule 15.9.2 D3 to satisfy the relief sought by Federated Farmers **[2173.67]** are as follows:

D3	1) Replacement of an existing building within the same site where:
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	<p>(a) The replacement building is located landward of the existing building that it replaces; and</p> <p>(b) The replacement building is relocatable <del>on a suspended timber floor</del>; and</p> <p>(c) The gross floor area of the replacement building is no larger than the existing building that it replaces.<sup>3</sup></p>
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### 8.5 Section 32AA evaluation

107. The s32 report 'Natural hazards and climate change' (2020) evaluates this rule. No additional evaluation of the amended text under s32AA is required, because the s32 evaluation of the original text adequately covers and justifies the minor amendment now proposed, to correct a drafting anomaly.

## 9 Rule 15.9.3 – Non-Complying Activities

108. Non-complying activities include construction of a new building or additions to an existing building not provided for as a permitted or discretionary activity, subdivision not provided for as a discretionary activity, and emergency facilities and hospitals.

### 9.1 Submissions

109. Three submissions were received seeking to amend NC2, retain NC3 and add a new rule NC4. The following submissions were made:

Submission Point	Submitter	Support/ Oppose	Summary of Submission
2115.6	Rangitahi Limited		<b>Amend</b> rule 15.9.3 NC2 - High Risk Coastal Hazard (Erosion) Area – Non Complying Activities so that subdivision to create one or more additional vacant lot(s) within the Rangitahi Peninsula Zone be a Restricted Discretionary activity under Chapter 15.
2103.37	Fire and Emergency New Zealand		<b>Retain</b> Section 15.9, subject to minor amendment to 15.9.3 NC3 to change “emergency services facilities” to “emergency service facilities.”
2102.21	Waikato Regional Council		<b>Add</b> new Rule 15.9.3 NC4 - High Risk Coastal Hazard (Erosion) Area – Non-Complying Activities as follows: <u>NC4 Natural Hazard Sensitive Activities</u>
FS3011.3	Ministry of Education	Oppose	<i>The submitter considers that this new rule will manage the establishment of new land uses and change of land uses that accommodate activities that are more sensitive to natural hazards in high hazard areas. For the reasons set out in</i>

<sup>3</sup> Federated Farmers [2173.67].

			<i>submitter point number 2102.20 above, the Ministry oppose this new rule.</i>
<i>FS3030.11</i>	<i>Federated Farmers New Zealand</i>	<i>Oppose</i>	<i>Oppose as consequent relief to FFNZ response to WRC submission points 2102.17, 2102.18 and 2102.19.</i>
<i>FS3033.11</i>	<i>Kainga Ora - Homes and Communities</i>	<i>Oppose</i>	<i>Kainga Ora opposes this submission. Kainga Ora considers it appropriate to apply a non-complying activity status for new buildings within a high-risk coastal hazard area given the “avoid” policy approach. However, the potential adverse effects of altering an existing building within a high-risk coastal hazard area are discrete and well understood - meaning it is possible to identify appropriate matters of discretion. Therefore, Kainga Ora seeks a Restricted Discretionary Activity for such an activity as this provides better certainty for Plan users as to the nature of effects that need to be assessed.</i>

## 9.2 Analysis

110. Rangitahi Limited **[2115.6]** seek to amend the activity status for Rule 15.9.3 NC2 so that subdivision that creates one or more additional lots within a high-risk coastal erosion area is a restricted discretionary activity.
111. The submission requests amendments to reduce the activity status of Rule 15.9.3 NC2 to allow for subdivision in the High Risk Coastal Hazard (Erosion) Area as a restricted discretionary activity in the Rangitahi Peninsula Zone. Rule 15.9.3 NC2 refers to subdivision that creates one or more lots that cannot comply with Rule 15.9.3 D7 due to the new lots being either completely within the High-Risk Coastal Hazard (Erosion) Area, or the building platforms for the new lots are within the High-Risk Coastal Hazard (Erosion) Area. This submission requests this amendment on the basis that detailed geotechnical investigations were carried out and submitted to Council as part of the subdivision consents for the Rangitahi Peninsula, and that these investigations have resulted in the identification of hazard areas being included on new title plans and conditions for building in these areas are stipulated in a consent notice registered on the title.
112. Although detailed technical investigations were carried out as part of the subdivision development, the degree to which coastal hazards were taken into account or the methodology used to identify high-risk coastal erosion areas are not clear from the literature. The technical investigations have identified areas where development cannot occur, and although these areas may coincide with the high-risk erosion areas shown on the planning maps, Rangitahi Limited were not able to provide computer shapefiles for these areas or to qualify the technical information underpinning them at the time this report was written - as a result we could not carry out any meaningful comparison. I would suggest that Rangitahi Limited provide further evidence to support the relief sought, but in the absence of this evidence I recommend that Rangitahi Limited submission **[2115.6]** be rejected.
113. Fire and Emergency New Zealand **[2103.37]** seek a minor amendment to NC3 to more accurately align the terminology in the rule with the definition for ‘Emergency Service Facility’ in Chapter 15.14. I agree that the use of a defined term in the rules should be precise, therefore recommend that amending the rule to refer to ‘Emergency Service Facility’ be accepted.

114. Waikato Regional Council [2102.21] request a new non-complying activity (NC4) to regulate 'Natural Hazard Sensitive Activities'. The *Ministry of Education* [FS3011.3], *Federated Farmers NZ* [FS3030.11] and *Kainga Ora - Homes and Communities* [FS3033.11] oppose this submission.
115. As discussed above in Section 5.4 in response to the Waikato Regional Council submission [2102.18] requesting the addition of a new policy to address Natural Hazard Sensitive Activities, I do not consider it necessary to specifically regulate Natural Hazard-Sensitive Activities. Activities that fall into this category (as defined by Waikato Regional Council submission [2102.19]), are already regulated through the proposed policies and rules. I recommend that submission [2102.21] be rejected and further submissions from *Ministry of Education* [FS3011.3], *Federated Farmers NZ* [FS3030.11] and *Kainga Ora - Homes and Communities* [FS3033.11] be accepted.

### 9.3 Recommendations

116. For the reasons outlined above, it is recommended that the hearings panel:
- (a) **Reject** the submission from Rangitahi Limited [2115.6],
  - (b) **Accept** the submission from Fire and Emergency New Zealand [2103.37];
  - (c) **Reject** the submission from Waikato Regional Council [2102.21];
  - (d) **Accept** the further submission from *Ministry of Education* [FS3011.3];
  - (e) **Accept** the further submission from *Federated Farmers New Zealand* [FS3030.11];
  - (f) **Accept** the further submission from *Kainga Ora - Homes and Communities* [FS3033.11].

### 9.4 Recommended amendments

117. The recommended amendment to Rule 15.9.3 NC3 to satisfy the relief sought by Fire and Emergency New Zealand is as follows:

NC3 Emergency services facilities-and hospitals.<sup>4</sup>

### 9.5 S32AA evaluation

118. This is a minor grammatical change and no evaluation under s32AA is required, because the s32 evaluation of the original text adequately covers and justifies the minor amendment now proposed, to correct an inconsistency in terminology.

## 10 Rule 15.10 – High Risk Coastal Hazard (Inundation) Area

119. Section 15.10 contains all the rules for land use, development and subdivision within the High Risk Coastal Hazard (Inundation) Area. It is structured as three separate tables for each of the Permitted (15.10.1), Discretionary (15.10.2) and Non-Complying (15.10.3) activity rules.
120. The provisions in this section are structured similar to Section 15.9 - High Risk Coastal Hazard (Erosion) Area, such that they provide less regulation for less vulnerable activities and development in areas where it is deemed that risk can be avoided or mitigated, while more restrictive regulatory controls apply to activities and development that are either more vulnerable to risk or cannot easily avoid or mitigate risk. The restrictive nature of these rules

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<sup>4</sup> Fire and Emergency New Zealand [2103.37].

reflects the vulnerability of development along the coastal margins where coastal inundation has been identified as a significant risk.

### 10.1 Submissions

121. Five submissions were received seeking to either retain, amend or delete Section 15.10 High Risk Coastal Hazard (Inundation) Area. These are set out in the following table.

Submission Point	Submitter	Support/ Oppose	Summary of Submission
2103.38	Fire and Emergency New Zealand		<b>Retain</b> Section 15.10 as proposed.
2111.1	Sally Lark		<b>Delete</b> 15.10 - High Risk Coastal Hazard (Inundation) Area.
<i>FS3031.120</i>	<i>Waikato Regional Council</i>	<i>Oppose</i>	<i>Provisions are needed to support the mapped High Risk Coastal Hazard (Inundation) Area.</i>
2144.1	Grant Faulkner		<b>Delete</b> Chapter 15.10 High Risk Coastal Hazard (Inundation) Area for 22 Centreway Road, Port Waikato.
2168.1	Hayden Vink		<b>Amend</b> section 15.10 – High Risk Coastal Hazard (Inundation) – so that there are sub-categories within each overlay, with different rules based on actual risk, e.g.: High-Risk Coastal Hazard (Inundation) Area – Open Coast; High Risk Coastal Hazard (Inundation) Area – Harbour; High Risk Coastal Hazard (Inundation) Area – Tidal Inlet.
2169.1	Jason Vink		<b>Amend</b> section 15.10 – High Risk Coastal Hazard (Inundation) – so that there are sub-categories within each overlay, with different rules based on actual risk, e.g.: High-Risk Coastal Hazard (Inundation) Area – Open Coast'; High Risk Coastal Hazard (Inundation) Area – Harbour; High Risk Coastal Hazard (Inundation) Area – Tidal Inlet.

### 10.2 Analysis

122. Fire and Emergency New Zealand **[2103.38]** seek to retain section 15.10 as proposed. I support this submission and recommend that it be accepted by the panel.
123. Sally Lark **[2111.1]** seeks to have the entire Section 15.10 deleted. The submission suggests that the restrictive nature of the rules will have a severe impact on both property owners and the wider community at Port Waikato. This submission is opposed by the Waikato Regional Council **[FS3031.120]**, on the basis that provisions are required to support mapped hazard areas.
124. Areas identified as being at risk from inundation under current coastal processes and sea level require regulatory controls through policies and rules to ensure that risk to current and future landowners is managed to acceptable levels. I recommend that the submission from Sally Lark

[2111.1] be rejected and the further submission from Waikato Regional Council [FS3031.120] be accepted.

125. Grant Faulkner [2144.1] requests that the rules in Section 15.10 do not apply to his property at 22 Centreway Road, Port Waikato, noting in his submission that his property is located a sufficient distance from the coast to mitigate erosion, and that it should be permitted to construct additional small dwellings with a floor, e.g. storage/shed.
126. The submitter's property is in the High-Risk Coastal Hazard (Inundation) Area, but portions of his property are elevated above the level used to define the high risk area. The remainder of the property is below this level and therefore potentially vulnerable to some flooding during an extreme storm surge event. The mapped overlay areas for this property have been assessed in the Section 42A Report – Hearing 27D Coastal Hazards Part 2 Maps - Section 1.3.2. The rules within 15.10 should still apply to the portion of the property identified within the high risk area. Accessory buildings without a floor are provided as a permitted activity but any building with a floor, especially where could be used for a residential activity, should be assessed through a resource consent to identify the level of risk and consider appropriate mitigation methods as required. Consequently I recommend the submission by Grant Faulkner [2144.1] be rejected
127. Hayden Vink [2168.1] and Jason Vink [2169.1] have sought to introduce sub-categories within each overlay area, with rules based on actual risk, for example introducing high-risk coastal hazard inundation areas for the open coast, the harbour and the tidal inlet.
128. The issues raised by these submissions are already addressed in the plan, as the rules are based on the relevant risk in each of the mapped hazard areas. Detailed mapping analysis focused on urban areas within the west coast towns of Raglan and Port Waikato. These include both the high-risk coastal hazard areas and the coastal sensitivity areas. The decision to restrict mapping of high-risk areas to urban-zoned land was based on the premise that the degree of risk is higher in areas where there is a higher density of development, greater development pressures and where there is a higher likelihood of damage to property or harm to people occurring during a significant storm event.
129. All mapped areas have taken into account the various shoreline characteristics and the coastal processes that they are exposed to.
130. In rural areas the inundation mapping was based on areas that would be inundated with up to 1m of sea level rise. These areas have been identified on the planning maps as the Coastal Sensitivity Area (Inundation). This approach has taken into account the future sea level, in combination with the coastal processes that drive the extent of coastal inundation inland. Much of the open coast is characterised by high coastal cliffs which are not prone to inundation. Where low lying areas do exist along the open coast there is either no or low levels of development or no development pressure, so the risk of damaging property or harming people is low and inundation extents were not mapped. The methodology for mapping the coastal overlay areas have introduced sub-categories based on risk, and as such currently provide the relief sought. On this basis, I recommend that the submissions by Hayden Vink [2168.1] and Jason Vink [2169.1] be rejected.

### 10.3 Recommendations

131. For the reasons outlined above, it is recommended that the hearings panel:
- (a) **Accept** the submission from Fire and Emergency New Zealand [2103.38];
  - (b) **Reject** the submission from Sally Lark [2111.1];
  - (c) **Accept** the further submission from the *Waikato Regional Council* [FS3031.120];
  - (d) **Reject** the submission from Grant Faulkner [2144.1];

- (e) **Reject** the submission from Hayden Vink [2168.1];
- (f) **Reject** the submission from Jason Vink [2169.1].

#### 10.4 Recommended amendments

132. There are no amendments recommended in this section.

#### 10.5 Section 32AA Evaluation

133. No s32AA evaluation required.

## 11 Rule 15.10.1 – Permitted Activities

134. This section includes four permitted activity rules that allow for some construction, maintenance or repairs relating to farm and accessory buildings, utilities, coastal protection structures and associated earthworks.

### 11.1 Submissions

135. Eleven submissions were received seeking amendments to the rules in Section 15.10.1. These are set out in the table below. Note that submissions received on Rules 15.10.1 P3 for coastal protection structures are addressed in Section 34 of this report.

Submission Point	Submitter	Support/ Oppose	Summary of Submission
2005.2	Brent Fowler		<b>Amend</b> Rule 15.10.1 to permit additions to existing buildings in line with rule 15.7.1
2102.29	Waikato Regional Council		<b>Add</b> to Policy 15.10.1 P1 High Risk Coastal Hazard (Inundation) Area - Permitted Activities to include an activity specific condition as follows: <u>The structure is constructed and located to ensure that if damaged within a 1% AEP hazard event the structures will be contained within the site.</u>
FS3030.16	Federated Farmers new Zealand	Oppose	<i>While supporting WRC's proposed Policy 15.2.1.4A, as worded, FFNZ oppose the proposed addition to Policy 15.10.1 P1 as it fails to provide for an acceptable level of risk as is necessary for farming businesses. The rule would deal with non-habitable structures, often in a productive rural environment where such buildings are a necessity. FFNZ consider it would be unreasonable for those constructing farm buildings to prove their structure would be contained within the site within a 1% AEP hazard event. The proposed rule does not reflect the risk based approach of chapter 15 overall or the intent of relief sought FFNZ's original submission.</i>



FS3033.17	Kainga Ora - Homes and Communities	Oppose	<i>Kainga Ora opposes this submission. Kainga Ora considers that the rule is unworkable as drafted as it relies on speculation as to what will happen in the event of a hazard event.</i>
2122.4	Graham & Ingrid Rusbatch		<b>Amend</b> rule 15.10.1 PI - High Risk Coastal Hazard (inundation) Area - Permitted Activities to allow the construction of an accessory building and farm building with a floor.
FS3031.123	Waikato Regional Council	Oppose	<i>By restricting buildings to those without a floor, the district plan is providing guidance as to the acceptable level of risk in this location and therefore what can be built without any further assessment. Buildings with a floor will need to be built to an appropriate floor level which requires an assessment to be undertaken.</i>
2173.68	Federated Farmers of New Zealand		<b>Amend</b> Rule 15.10.1 PI as follows: (1) Construction of an accessory building <del>without a floor</del> ; and (2) Construction of a farm building <del>without a floor</del> . AND Any consequential amendments that may be required.
FS3027.22	Horticulture New Zealand	Support	<i>Support to the extent that it is consistent with the intent of submissions points HortNZ has made on other parts of the Plan.</i>
FS3031.153	Waikato Regional Council	Oppose	<i>By restricting buildings to those without a floor, the district plan is providing guidance as to the acceptable level of risk in this location and therefore what can be built without any further assessment. Buildings with a floor will need to be built to an appropriate floor level which requires an assessment to be undertaken.</i>
2040.10	Spark New Zealand Trading Limited		<b>Amend</b> Rule 15.10.1 P2 (2) to cover both new and upgrading of infrastructure and utilities. <b>Amend</b> P2(2) to read: <u>Operation, construction, replacement, repair, maintenance, minor upgrading or upgrading of New telecommunication lines, poles, cabinets and masts/poles supporting antennas.</u>
2106.23	WEL Networks Limited		<b>Amend</b> Rule 15.10.1 P2 as follows: (1) Operation, repair, maintenance or minor upgrading of existing utilities <u>and associated earthworks.</u> (2) New telecommunication <u>and electricity</u> lines, poles, cabinets and

			masts/poles supporting antennas and associated earthworks.
FS3021.19	Counties Power	Support	<i>15.10.1 P2 Part of the Counties Power network falls within the High Risk Coastal Hazard areas, namely Port Waikato. The rule does not include reference to electrical infrastructure, yet these are similar in nature to new telecommunications lines, poles, cabinets and masts/ poles supporting structures proposed under Rule 15.10.1 (P2) (2). New infrastructure may be required to traverse though these hazard areas to serve new or existing developments within or outside the High Coastal Hazard (Inundation) Area.</i>
2123.7	Counties Power Limited		<b>Amend</b> rule 15.10.1 P2 - High Risk Coastal Hazard (Inundation) Area to include new electricity distribution lines, poles, cabinets, masts/poles and supporting structures as permitted activities.
2102.59	Waikato Regional Council		Amend Permitted Activity Rule 15.10.1 P2 to include an activity specific condition for activities relating to operation, construction, upgrading, minor upgrading, replacement, repair and maintenance of utilities as follows: The works do not involve coastal protection structures even where associated with flood management infrastructure including stopbanks and erosion protection structures associated with flood management where owned or operated by the Waikato Regional Council, the Waikato District Council or the Crown
2040.11	Spark New Zealand Trading Limited		<b>Amend</b> Rule 15.10.1 P4 such that it does not apply to utility trenches/bore holes or pole foundations for utilities.
FS3021.2	Counties Power	Support	<i>As stated by Spark this rule includes earthworks controls for activities enabled by other rules in this hazard area including network utilities under P2. The rule limits excavation to a 0.5m depth. This may result in minor foundation works for poles or trenches that don't meet the permitted activity standards and require resource consents for activities that are likely to have nil or negligible effects.</i>
2106.24	WEL Networks Limited		<b>Amend</b> Rule 15.10.1 P4, subject to the amendments to Rule 15.10.1 P2 as follows: Earthworks for an activity listed in Rule

			15.10.1 P1 and P3, including the maintenance and repair of access tracks.
FS3021.20	Counties Power	Support	15.10.1 P4 As stated by WEL Networks Ltd. an exclusion for network utility activities from Rule 15.10.1 P4 is required as the installation of cables and pole foundations require depths greater than 0.5m for health and safety purposes.
2173.70	Federated Farmers of New Zealand		<b>Amend</b> Rule 15.10.1 P4 as follows: Earthworks for (a) an activity listed in Rule 15.10.1 P1 – P3, including the maintenance and repair of access tracks; or (b) Ancillary Rural earthworks. AND Any consequential amendments that may be required.
FS3027.24	Horticulture New Zealand	Support	Support to the extent that it is consistent with the intent of submissions points HortNZ has made on other parts of the Plan.

## 11.2 Analysis

136. Brent Fowler [2005.2] seeks to amend Rule 15.10.1 P1 to allow for additions to an existing building similar to the allowances in Rule 15.7.1 P1 - Coastal Sensitivity Area (Erosion).
137. Rule 15.7.1 P1 permits additions to an existing building of up to 15m<sup>2</sup> for areas where there is not an immediate risk from erosion. This allows for small scale additions where the risk is considered to be negligible without resource consent. The High Risk Coastal Hazard (Inundation) Area identifies an area where there is a current risk from inundation which will only increase over time with increasing sea level. Allowing for additions to residential buildings within this area without appropriate assessment of risk would be inconsistent with the policy direction in the WRPS Policy 13.2 which discourages development within high risk areas where these would be vulnerable to a natural hazard event, including habitable structures. The amendment would also be inconsistent with Policies 15.2.1.1 and 15.2.1.2 where the level of risk needs to be determined through appropriate assessment. I therefore recommend Brent Fowler submission [2005.2] be rejected.
138. Waikato Regional Council [2102.29] has requested an additional activity-specific condition to Rule 15.10.1 P1 to ensure that the construction of an accessory building or farm building without a floor is constructed and located to ensure that the structure is contained within the site if damaged during a 1% AEP hazard event. This submission is opposed by *Federated Farmers NZ [FS3030.16]* and *Kainga Ora - Homes and Communities [FS3033.17]* on the basis that the proposed amendment would require an unreasonable level of speculation on what could happen to the building during a 1% AEP hazard event.
139. This submission is equivalent to submission [2102.28] by the Waikato Regional Council requesting similar relief to Rule 15.9.1 P1 discussed in Section 7.2 above. The relief sought would necessitate an additional upfront assessment to confirm the permitted activity status for the building. Any assessment would require a large degree of speculation as many assumptions would need to be made in relation to the dynamics of a storm event and how the building may respond during the event. I do not agree with any requirement for technical or speculative information prior to confirming a permitted activity status and therefore recommend that the relief sought by the Waikato Regional Council submission [2102.29] be

rejected and the further submissions from Federated Farmers NZ [FS3030.16] and Kainga Ora - Homes and Communities [FS3033.17] be accepted.

140. Graham & Ingrid Rusbach [2122.4] and Federated Farmers of New Zealand [2173.68] have both sought amendments to Rule 15.9.1 P1 to allow the construction of farm and accessory buildings with floors within the high risk coastal inundation area. These submissions were opposed by Waikato Regional Council [FS3031.123] and supported by *Horticulture New Zealand* [FS3027.22].
141. Federated Farmers' submission highlights issues that may affect farming operations. It is therefore worth noting that the High Risk Coastal Hazard (Inundation) Area does not apply to the vast majority of properties operating as farms. High hazard areas were only assessed and mapped in urban areas. As a result the rules in Chapter 15.10 will have little or no effect on rural farmland. However, in the rare event that a farming property does include an identified high hazard area, this rule will apply.
142. The rule recognises that at times farm or accessory buildings may be required in high hazard areas and this need can be provided for where risk is mitigated through specific restrictions to the building design. The requirement for buildings to have no floor restricts the use of the building to uses such as storing hay, farm equipment or vehicles such as a carport and not used for more vulnerable activities such residential accommodation (note that the definition for accessory building in Chapter 13 of the Proposed District Plan does not explicitly preclude the use of an accessory building for residential purposes). A building with a floor is also likely to be a more costly investment.
143. The rule framework reflects the issues around buildings with constructed floors by ensuring that any activity that has the potential to increase risk is appropriately assessed through the resource consent process, including technical site investigations and possible structural design components to mitigate risk and to satisfy Policy 15.2.1.1. On this basis I recommend the submission by Graham & Ingrid Rusbach and Federated Farmers NZ and further submission by Horticulture NZ be rejected and the further submissions by Waikato Regional Council be accepted.
144. Spark New Zealand Trading Limited [2040.10] seek to merge P2(1) and (2) whilst including the construction, replacement and upgrading of utilities.
145. WEL Networks Limited submission [2106.23] seeks to permit earthworks associated with all activities listed in P2 (1) and (2). WEL Networks [2106.23] and Counties Power Limited [2123.7] seek to amend P2(2) so that it also allows for new electricity distribution lines. This request to allow for electricity distribution lines to be included in P2(2) is supported by *Counties Power further submission* [FS3021.19].
146. In response to the submissions above I would first like to address the amendments sought by Spark NZ Trading Ltd [2040.10], the first part of the WEL Networks Ltd submission [2106.23]. These amendments would effectively introduce a provision to permit all activities associated with existing utilities and the construction of new utilities and any earthworks associated with those activities regardless of their size, scale, location or adverse effects. This change would effectively preclude any assessment of the impacts that coastal inundation may have on these activities as well as an assessment of the adverse impacts that the activity will have on areas of the coastline that have been identified as currently at high risk of inundation.
147. Given the nature and vulnerability of the high risk coastal inundation areas, I believe it is reasonable to ensure that a robust and independent assessment of the impacts of proposals for new utilities and associated earthworks can be carried out through a resource consent process so that natural hazard risk is adequately assessed and avoided or mitigated where necessary. This approach aligns with policy direction set out in Policy 15.2.1.4. I recommend

Spark NZ Trading Ltd submission **[2040.10]** be rejected and the submission **[2106.23]** by WEL Networks Ltd in so far as it relates to earthworks be rejected.

148. In regards to the second part of WEL Networks Ltd submission **[2106.23]** and Counties Power Limited submission **[2123.7]** that seek to amend Rule 15.9.1 P2 (2) to include 'electricity' lines, poles, cabinets and masts/poles supporting antennas, I agree that the electricity infrastructure as described is similar in nature to those provided for in the rule for telecommunication infrastructure. I consider the effects of the telecommunications and electricity infrastructure to be the same or similar and for this reason I recommend the submission **[2106.23]** by WEL Networks Ltd in so far as it relates to electricity infrastructure be accepted and the submission by Counties Power **[2123.7]** be accepted and the further submission from *Counties Power* **[FS3021.19]** be accepted.
149. Waikato Regional Council **[2102.59]** request an amendment to Rule 15.10.1 P2 to include an activity-specific condition that excludes coastal protection structures even where these structures are associated with flood management infrastructure, including stopbanks and erosion protection structures associated with flood management where owned or operated by Waikato Regional Council, Waikato District Council or the Crown.
150. This submitter seeks an identical amendments to Rule 15.9.1 P2. As with the analysis for Rule 15.9.1 P2, 15.10.1 P2 also, includes flood management infrastructure including stopbanks and erosion protection structures associated with flood management where owned or operated by the Waikato Regional Council, the Waikato District Council or the Crown by way of the definition for 'Utilities' in Chapter 15.14. The definition will allow for some coastal protection structures to be assessed under Rule 15.10.1 P2 rather than P3 or D4. The submitter seeks relief to addresses this anomaly and ensure that these structures are appropriately assessed under either 15.10.1 P3 for repairs and maintenance to existing lawfully established structures, or 15.10.2 D3 for any new structure.
151. The amended text as proposed is restricted to including only those structures in the ownership of the Regional Council, the District Council or the Crown. I do not think the ownership should be of concern when considering environmental effects and therefore recommend the submission Waikato Regional Council **[2102.59]** only be accepted in part and that rule 15.10.1 P2 be amended as set out in Section 11.4 below.
152. Spark New Zealand Trading Ltd **[2024.11]** seek to amend Rule 15.10.1 P4 so that it does not apply to utility trenches/bore holes or pole foundations for utilities. Given the nature and vulnerability of the high risk coastal inundation areas, it is of my view that earthworks above the limits set out in Rule 15.10.1 P2 should be assessed through a robust and independent assessment by way of the resource consent process. This ensures that the impacts of proposed earthworks on the vulnerable coastal areas are adequately assessed and if necessary avoided or mitigated. I therefore recommend the submission from Spark New Zealand Trading Ltd **[2024.11]** be rejected.
153. WEL Networks Limited **[2106.24]** are seeking to amend Rule 15.10.1 P4, subject to the proposed amendments to Rule 15.10.1 P2 that seek to include earthworks associated with utilities as a permitted activity **[2106.23]**. I have recommended that WEL Networks Ltd submission **[2106.23]** be rejected in so far as it relates to permitting earthworks associated with utilities and on this basis recommend WEL Networks Limited submission **[2106.24]** be rejected.
154. Federated Farmers of New Zealand **[2173.70]** seek to include ancillary rural earthworks as a permitted activity in Rule 15.10.1 P4. This submission is supported by *Horticulture New Zealand* **[FS3027.24]**.
155. It is worth noting here that the High Risk Coastal Hazard (Inundation) Areas have mostly been mapped in urban areas (the exception being the Rural Zoned land around Te Kopua and the

Wainui Stream in Raglan), so the provisions in Chapter 15.10 will not apply to the vast majority of rural farmland along the coastal margins.

156. Submissions on the definition for ancillary rural earthworks were included in the rural topic in Hearing 18 and amendments were recommended. I am not convinced that ancillary rural earthworks as defined in Chapter 13 of the Proposed District Plan or as defined in the amended version is an appropriate activity in high risk coastal hazard areas. The definition as proposed includes earthworks associated with the maintenance and construction of facilities typically associated with farming and forestry but does not explicitly limit its scope or scale. The amendments to the definition recommended the removal of any reference to forestry as this activity is covered by the NES-PF that would otherwise introduce an unnecessary regulatory duplication. Other recommended amendments expanded the number of farm related activities to the list. It is important to note that the list of activities under the definition is not exhaustive as it explicitly states that it is not limited to the listed activities. In addition a further recommended amendment would see the definition include the burying of material infected by unwanted organisms as declared by the Ministry for Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993, which would be inappropriate in a high risk coastal inundation area. The restrictive approach taken by P4 reflects the vulnerability of the high risk inundation area and allowing a broad range of earth disturbing activities is likely to exacerbate the hazard risk. For this reason I recommend the panel reject the submission from Federated Farmers of New Zealand [2173.70] and the further submission by *Horticulture New Zealand* [FS3027.24].

### 11.3 Recommendations

157. For the reasons outlined above, it is recommended that the hearings panel:
- (a) **Reject** the submission from Brent Fowler [2005.2];
  - (b) **Reject** the submission from Waikato Regional Council [2102.29];
  - (c) **Accept** the further submission from *Federated Farmers new Zealand* [FS3030.16];
  - (d) **Accept** the further submission from *Kainga Ora - Homes and Communities* [FS3033.17];
  - (e) **Reject** the submission from Graham & Ingrid Rusbatch [2122.4];
  - (f) **Accept** the further submission from *Waikato Regional Council* [FS3031.123];
  - (g) **Reject** the submission from Federated Farmers of New Zealand [2173.68];
  - (h) **Reject** the further submission from *Horticulture New Zealand* [FS3027.22];
  - (i) **Accept** the further submission from *Waikato Regional Council* [FS3031.153];
  - (j) **Reject** the submission from Spark New Zealand Trading Limited [2040.10];
  - (k) **Accept in part** the submission from WEL Networks Limited submission [2106.23];
  - (l) **Accept** the further submission from *Counties Power* [FS3021.19];
  - (m) **Accept** the submission from Counties Power Limited [2123.7];
  - (n) **Accept in part** the submission from Waikato Regional Council [2102.59];
  - (o) **Reject** the submission from Spark New Zealand Trading Limited [2040.11];
  - (p) **Reject** the further submission from *Counties Power* [FS3021.2];
  - (q) **Reject** the submission from WEL Networks Limited [2106.24];
  - (r) **Reject** the further submission from *Counties Power* [FS3021.20];
  - (s) **Reject** the submission from Federated Farmers of New Zealand [2173.70];

(t) **Reject** the further submission from *Horticulture New Zealand* [FS3027.24].

#### 11.4 Recommended amendments

158. Recommended amendments to Rule 15.10.1 P2 to satisfy the relief sought by Waikato Regional Council [2102.59] and WEL Networks [2106.20] are as follows:

Activity		Activity-Specific Conditions
P2	1) Repair, maintenance or minor upgrading of existing utilities 2) New telecommunications <u>and electricity<sup>5</sup></u> lines, poles, cabinets and masts/poles supporting antennas.	(a) <u>The works do not involve coastal protection structures.<sup>6</sup></u>

#### 11.5 Section 32AA Evaluation

##### Rule 15.10.1 P2(a)

159. The s32 report 'Natural hazards and climate change' (2020) evaluates the rules for coastal protection structures. No additional evaluation of the amended text under s32AA is required, because the s32 evaluation of the original text adequately covers and justifies the proposed amendment to correct a drafting anomaly that allowed for coastal protection structures to be permitted under one rule and discretionary under another.

##### Rule 15.10.1 P2(2)

160. The s32 report 'Natural hazards and climate change' (2020) evaluates this rule. No additional evaluation of the amended text under s32AA is required. The original text, evaluated under the s32 adequately covers and justifies the amendment as proposed which is only to provide for new electricity infrastructure of the same or similar scale to the Telecommunications infrastructure and do not change the scope or application of the rule beyond what was originally intended. These amendments are considered to improve the effectiveness and efficiency of the rule in achieving Objectives 15.2.1 and is consistent with direction in Policy 15.2.1.4.

## 12 Rule 15.10.2 – Discretionary Activities

161. Discretionary activities address earthworks, the relocation or replacement of an existing building within the same site, new coastal protection structures, new utilities and upgrading of existing utilities and subdivision.

### 12.1 Submissions

162. Six submissions were received seeking to either retain, amend, delete or add to the discretionary activity rules in Section 15.9.2. These are set out in the following table. Note that submissions received on Rules 15.10.2 D3 for coastal protection structures are addressed in Section 34.2 of this report.

<sup>5</sup> WEL Networks [2106.23] and Counties Power Limited [2123.7].

<sup>6</sup> Waikato Regional Council [2102.59].

Submission Point	Submitter	Support/ Oppose	Summary of Submission
2173.71	Federated Farmers of New Zealand		<b>Retain</b> Rule 15.10.2 D1, subject to outcome of relief sought at Rule 15.10.1 P4 (submission point 2173.83).
2173.72	Federated Farmers of New Zealand		<b>Amend</b> Rule 15.10.2 D2(1) as follows: Replacement and relocation of an existing <u>habitable</u> building within the same site where... <b>AND</b> Any consequential amendments that may be required.
FS3031.154	Waikato Regional Council	Oppose	<i>The inclusion of all buildings in this rule rather than just habitable buildings is intended to ensure that there is adequate assessment of the need to locate a building in this area based the level of risk. It also serves as an indication to applicants of the level of risk of building in these areas so that they can judge the level of investment they wish to make given the risk. The rule could exclude buildings under at certain size such as 15m2 to allow for minor structures such as garden sheds.</i>
2122.1	Graham & Ingrid Rusbatch		<b>Amend</b> rule 15.10.2 D2 - High Risk Coastal Hazard (Inundation) Area, Discretionary Activities, to be a permitted activity where the replacement of the building is under insurance. <b>And</b> <b>Add</b> into the rule, assurance of the owner's permitted right to replace the building as it is.
2102.35	Waikato Regional Council		<b>Amend</b> Rule 15.10.2 D4 - High Risk Coastal Hazard (Inundation) Area – Discretionary activities to include specific reference to infrastructure and utilities as follows: D4 - Construction of new <u>infrastructure and</u> utilities not provided for in Rule 15.10.1 P2. <b>And</b> <b>Amend</b> Rule 15.10.2 D5 as follows: D5 - Upgrading of existing <u>infrastructure and</u> utilities not provided for in Rule 15.10.1 P2.
2123.8	Counties Power Limited		<b>Delete</b> rule 15.10.2 D4 - High Risk Coastal Hazard (Inundation) Area Discretionary Activities - upgrading of existing utilities not provided for in Rule 15.10.1 P2; <b>And</b> <b>Amend</b> rule 15.10.1 P2 - High Risk Coastal Hazard (Inundation) Area to include new electricity distribution lines, poles, cabinets,



			masts/poles and supporting structures as permitted activities.
2106.25	WEL Networks Limited		<b>Retain</b> Rule 15.10.2 D4 and D5 subject to the amendment sought to 15.10.1 P2.

## 12.2 Analysis

163. Federated Farmers of New Zealand [2173.71] supports Rule 15.10.2 D1, conditional on the outcome of their relief sought to Rule 15.10.1 P4 to include ancillary rural earthworks as a permitted activity [2173.65]. I have recommended that submission [2173.65] to be rejected based on the broad scope of ancillary rural earthworks as defined in Chapter 13 of the PDP and the vulnerability of high risk erosion areas. I therefore recommend that [2173.71] be rejected.
164. Federated Farmers of New Zealand [2173.72] seek to amend Rule 15.10.2 D2(1) so that the rule only applies to habitable buildings. This submission was opposed by *Waikato Regional Council* [FS3031.154] based on the intention of the rule being to ensure that an adequate assessment of all buildings can be carried out, and to allow applicants to judge the level of investment given the level of risk. The rule currently applies to habitable and non-habitable buildings and provides a less restrictive consenting pathway for the relocation or replacement of an existing building within the same site so long as there is no increase ground floor area of the building. The rule ensures that any building constructed on a site at high risk of inundation is adequately assessed and any increase in risk to people's safety and well-being and property is avoided as required under Policies 15.2.1.1 and 15.2.1.2.
165. I would also like to highlight that if the rule only applied to habitable buildings then any relocation or replacement of a non-habitable building not provided for as a permitted activity would be a non-complying activity. I am not sure that the relief sought would satisfy the submitter's concerns. I recommend submission [2173.67] be rejected and that the further submission by *Waikato Regional Council* [FS3031.154] be accepted.
166. Graham & Ingrid Rusbatch [2122.1] seek to amend Rule 15.10.2 D2 to provide for the replacement of the building that is cover by insurance as a permitted activity, expressing concern that if their house was to burn down they should be able to rebuild it without requiring a resource consent. In such a case the building would be covered by existing use rights so long as it meets the relevant conditions under Section 10B RMA and is rebuilt within the timeframes specified in Section 10 RMA. In my view the conditions for existing use rights satisfy the submitters concerns and satisfies the relief sought. I do not think amendments to the rule is necessary and recommend that the submission by Graham & Ingrid Rusbatch [2122.1] be rejected.
167. *Waikato Regional Council* [2102.35] seek to amend Rule 15.10.2 D4 to include specific reference to infrastructure and utilities. This matter has been addressed in the previous section regarding the request for the same amendment to Rule 15.9.2 D5 under submission [2102.36]. I refer the panel to the discussion and recommendations outlined for submission [2102.36] in Section 8.2. Similar to those recommendations I believe that the current District Plan rule framework addresses the concerns of the submitter. I therefore recommend submission [2102.35] be rejected.
168. Counties Power Limited [2123.8] seek to delete rule 15.10.2 D4 (as a consequential amendment based on accepting the relief sought by [2123.7] to amend 15.10.1 P2 to include new electricity distribution lines, poles, cabinets, masts/poles and supporting structures as permitted activities). I have addressed submission [2123.7] in Section 11.2, paragraph 148 above and recommended accepting the relief sought. However, deleting Rule 15.10.2 D4 will

provide no consenting pathway for utilities not provided for as a permitted activity. I therefore recommend rejecting the submission from Counties Power Limited [2123.8].

169. WEL Networks Limited [2106.25] seek to retain Rules 15.10.2 D4 and D5 subject to the amendment sought to 15.10.1 P2. The submitter requested that 15.10.1 P2 include electricity lines, poles, cabinets and masts/poles supporting antennas, and I recommended that this submission be accepted. This will satisfy the subjectivity of submission [2106.25]. Accordingly, I recommend that this submission be accepted.
170. For the reasons outlined above, it is recommended that the hearings panel:
- (a) **Reject** the submission from Federated Farmers of New Zealand [2173.71];
  - (b) **Reject** the submission from Federated Farmers of New Zealand [2173.72];
  - (c) **Accept** the further submission from *Waikato Regional Council* [FS3031.154];
  - (d) **Reject** the submission from Graham & Ingrid Rusbatch [2122.1];
  - (e) **Reject** the submission from Waikato Regional Council [2102.35];
  - (f) **Reject** the submission from Counties Power Limited [2123.8];
  - (g) **Accept** the submission from WEL Networks Limited [2106.25].

### 12.3 Recommended amendments

171. No amendments are recommended in this section.

### 12.4 Section 32AA Evaluation

172. No s32AA evaluation required.

## 13 Rule 15.10.3 – Non-Complying Activities

173. Non-complying activities include construction of a new building or additions to an existing building not provided for as a permitted or discretionary activity, subdivision not provided for as a discretionary activity, and emergency facilities and hospitals.

### 13.1 Submissions

174. Five submissions were received seeking to amend Rule 15.10.3, amend NCI and add a new rule as NC4. These are set out in the following table:

Submission Point	Submitter	Support/ Oppose	Summary of Submission
2005.1	Brent Fowler		<b>Amend</b> Rule 15.10.3 to allow for building in a High Risk Coastal Hazard (Inundation) Area as a Restricted Discretionary Activity in line with the Coastal Sensitivity Area Rule 15.7.2.
FS3031.1	Waikato Regional Council	Oppose	<i>This is inconsistent with Policy 15.2.1.1 which requires avoidance of new uses and development in the High Risk Coastal Hazard (Inundation) Area where they increase the risk to people's safety, wellbeing and property.</i>
2168.2	Hayden Vink		<b>Amend</b> rule 15.10.3, so that the construction of a new building within the area is a Restricted

			Discretionary Activity instead of the currently proposed Non- Complying Activity.
FS3031.137	Waikato Regional Council	Oppose	<i>15.10.3 This is inconsistent with Policy 15.2.1.1 which requires avoidance of new uses and development in the High Risk Coastal Hazard (Inundation) Area where they increase the risk to people's safety, wellbeing and property. A non-complying status ensures adequate consideration of risk.</i>
2169.2	Jason Vink		<b>Amend</b> rule 5.10.3 so that the construction of a new building within the area is a Restricted Discretionary Activity instead of the currently proposed Non- Complying Activity.
FS3031.138	Waikato Regional Council	Oppose	<i>This is inconsistent with Policy 15.2.1.1 which requires avoidance of new uses and development in the High Risk Coastal Hazard (Inundation) Area where they increase the risk to people's safety, wellbeing and property. A non-complying status ensures adequate consideration of risk.</i>
2144.3	Grant Faulkner		<b>Delete</b> Rule 15.10.3(a)(NC1) High Risk Coastal Hazard (Inundation), Non- Complying Activities.
2102.22	Waikato Regional Council		<b>Add</b> new Rule 15.10.3 NC4 - High Risk Coastal Hazard (Inundation) Area – Non- Complying Activities as follows: <b>NC4 Natural Hazard Sensitive Activities</b>
FS3011.4	Ministry of Education	Oppose	<i>The submitter considers that this new rule will manage the establishment of new land uses and change of land uses that accommodate activities that are more sensitive to natural hazards in high hazard areas. For the reasons set out in submitter point number 2102.20 above, the Ministry oppose this new rule.</i>
FS3033.3	Kainga Ora - Homes and Communities	Oppose	<i>Kainga Ora opposes this submission. Kainga Ora agrees that the current approach is overly onerous. As addressed in Kainga Ora's submission, it is more appropriate for Council to initially undertake the identification of areas subject to liquefaction risk – as with the other natural hazards identified within this proposed plan change – and provide a framework to appropriately manage the risk to people's safety, wellbeing and property. This approach is considered to be 'best practice' by Kainga Ora in that it does not place the burden of hazard identification entirely on the landowner. Further, Kainga Ora consider it appropriate to apply any liquefaction provisions to land susceptible to liquefaction, rather than to specific activities – noting while the potential adverse effects of liquefaction on an activity/ies varies depending on their vulnerability / sensitivity to liquefaction, the risk</i>

			<i>of liquefaction on land is constant. This further emphasises the need for an initial identification of areas</i>
FS3030.12	<i>Federated Farmers new Zealand</i>	Oppose	<i>Oppose as consequent relief to FFNZ response to WRC submission points 2102.17, 2102.18 and 2102.19.</i>
FS3033.12	<i>Kainga Ora - Homes and Communities</i>	Oppose	<i>Kainga Ora opposes this submission. Kainga Ora considers it appropriate to apply a non-complying activity status for new buildings within a high-risk coastal hazard area given the “avoid” policy approach. However, the potential adverse effects of altering an existing building within a high-risk coastal hazard area are discrete and well understood - meaning it is possible to identify appropriate matters of discretion. Therefore, Kainga Ora seeks a Restricted Discretionary Activity for such an activity as this provides better certainty for Plan users as to the nature of effects that need to be assessed.</i>

### 13.2 Analysis

175. Brent Fowler [2005.1] seeks to amend the activity status of Rule 15.10.3 to allow for building in a High Risk Coastal Hazard (Inundation) Area as a Restricted Discretionary Activity, similar to Rule 15.7.2 in the Coastal Sensitivity Area (Erosion). Hayden Vink [2168.2] and Jason Vink [2169.2] also seek to reduce the activity status for the construction of a new building within the High Risk Coastal Hazard (Inundation) Area to a Restricted Discretionary Activity. Waikato Regional Council [FS3031.1], [FS3031.137] and [FS3031.138] oppose the amendment proposed by these submitters. Grant Faulkner [2144.3] has sought to delete Rule 15.10.3 NCI.
176. I do not support the amendments to reduce the activity status to a restricted discretionary activity or to delete the rule in its entirety. The current rule framework for the High Risk Coastal Hazard (Inundation) Area follows a risk based approach where rules are more permissive for activities that are either less vulnerable to natural hazards or are able to practicably mitigate the risk. Conversely the rules are more restrictive where the risk to people and property is considered to be high. The High Risk Coastal Hazard (Inundation) Area is an area where coastal inundation risk is already evident under current coastal conditions and sea level but the hazard is expected to increase over time with projected sea level rise.
177. However, I acknowledge that in some areas the depth of flooding may not currently be significant, but flood risk is expected to increase over time with projected sea level rise. I do think that the construction of new buildings or additions to an existing building currently provided for under Rule 15.10.3 NCI can be effectively regulated as a discretionary activity. I believe that full discretion is warranted to ensure there is scope to address all potential current and future risk in areas where the risk is likely to increase over time. This will allow for the full range of options available to mitigate the risk to new proposals to be considered. This approach ensures any new buildings proposed can be assessed through a robust process and any increase in risk is avoided. I recommend that the panel accept in part the submissions by Brent Fowler [2005.1], Hayden Vink [2168.2], Jason Vink [2169.2] and further submissions by the Waikato Regional Council [FS3031.1], [FS3031.137] and [FS3031.138] and amend the rule as set out in Section 13.4 below and to reject the submission by Grant Faulkner [2144.3].

178. Waikato Regional Council [2102.22] request a new non-complying activity (NC4) to regulate 'Natural Hazard-Sensitive Activities'. This submission has been opposed by further submissions from Ministry of Education [FS3011.4], Federated Farmers NZ [FS3030.12] and Kainga Ora - Homes and Communities [FS3033.3] and [FS3033.12].
179. As discussed above in Section 5.4 in response to the Waikato Regional Council submission [2102.18] requesting the addition of a new policy to address Natural Hazard Sensitive Activities, and in Section 9.2 in response to submission [2102.21], I consider that it is not necessary to specifically regulate Natural Hazard Sensitive Activities as activities that fall into this category (as defined by Waikato Regional Council submission [2102.19]), are already regulated through the proposed policies and rules. I recommend the submission by the Waikato Regional Council [2102.22] be rejected and that further submissions by the Ministry of Education [FS3011.4], Federated Farmers NZ [FS3030.12] and Kainga Ora - Homes and Communities [FS3033.3] and [FS3033.12] be accepted.

### 13.3 Recommendations

180. For the reasons outlined above, it is recommended that the hearings panel:
- (a) **Accept in part** the submission from Brent Fowler [2005.1];
  - (b) **Accept in part** the further submission from Waikato Regional Council [FS3031.1];
  - (c) **Accept in part** the submission from Hayden Vink [2168.2];
  - (d) **Accept in part** the further submission from Waikato Regional Council [FS3031.137];
  - (e) **Accept in part** the submission from Jason Vink [2168.2];
  - (f) **Accept in part** the further submission from Waikato Regional Council [FS3031.138];
  - (g) **Reject** the submission from Grant Faulkner [2144.3];
  - (h) **Reject** the submission from Waikato Regional Council [2102.22];
  - (i) **Accept** the further submission from Ministry of Education [FS3011.4];
  - (j) **Accept** the further submission from Kainga Ora - Homes and Communities [FS3033.3];
  - (k) **Accept** the further submission from Federated Farmers new Zealand [FS3030.12];
  - (l) **Accept** the further submission from Kainga Ora - Homes and Communities [FS3033.12].

### 13.4 Recommended amendments

181. Recommended amendments to change the activity status of Rule 15.10.3 NC1. Strikeout 15.10.3 NC1 and include the rule as a discretionary activity in Rule 15.10.2 D7. This amendment is to satisfy in part the relief sought by Brent Fowler [2005.1], Hayden Vink [2168.2] and Jason Vink [2169.2] as follows:

182. 15.10.3 Non-Complying Activities

<del>NC1</del>	<del>Construction of a new building or additions to an existing building, not provided for in Rule 15.10.1 P1 – P2 or Rule 15.10.2 D2 – D5.</del>
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183. 15.10.2 Discretionary Activities

<u>D7</u>	<u>Construction of a new building or additions to an existing building, not provided for in Rule 15.10.1 P1 – P2 or Rule 15.10.2 D2 - D5.</u>
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### **13.5 Section 32AA Evaluation**

184. The s32 report 'Natural hazards and climate change' (2020) evaluates the rules for buildings within the High Risk Coastal Hazard (Inundation) Area. The change as proposed is to reduce the activity status of Rule 15.10.3 NCI to a discretionary activity. The content of the rule has not changed. The s32 evaluation of the original text adequately covers and justifies the amendment to the rule as proposed as a discretionary activity status.
185. A Section 32AA evaluation is not considered necessary. The recommended amendment still allows for a full assessment of all risk associated with a proposed activity. The amendment allows for those cases where risk can be effectively mitigated and still gives effect to the relevant policy framework within Chapter 15.2, specifically Policies 15.2.1.1 and 15.2.1.2. The amendment as proposed still applies the same risk based approach that was assessed in the original s32 report.

## **14 Coastal Sensitivity Areas**

### **14.1 Introduction**

186. The coastal sensitivity areas are areas along the western coastline of the district that may be vulnerable to coastal flooding or erosion over the next 100 years to 2120, assuming 1m of sea level rise. These areas were assessed and the spatial extents identified by Focus Resource Management Group through detailed modelling based on shoreline geomorphology, the impacts of the coastal processes operating at or near the shoreline with up to 1m of sea level rise. Coastal sensitivity areas are not areas where coastal hazards have been identified, but rather where further detailed investigation is required prior to new development or intensification of land use.
187. Policies and rules for coastal sensitivity areas regulate new subdivision, use and development, providing the opportunity to carry out site-specific assessments based on technical expertise to assess future risk and ensure that new development is adaptable to future coastal hazards. These are Policies 15.2.1.16 and 15.2.1.17 and Rules 15.7 and 15.8.
188. Rules require a restricted discretionary resource consent to ensure that when new development is proposed, a site-specific hazard assessment is carried out. The assessment is required to determine a number of factors such as the suitability of the site for the proposed use, how the site may be affected by climate change over time, timeframes or triggers for the relocation of development, if applicable, measures to reduce risks identified in the coastal hazard assessment, including the structural design of the building, building materials, as well as setting of minimum floor levels if the site is, or is likely to be, subject to inundation.

## **15 Policy 15.2.1.16 – Development in the Coastal Sensitivity Areas**

### **15.1 Introduction**

189. In summary, Policy 15.2.1.16 provides for control of subdivision, use and development in Coastal Sensitive Areas, by supported by site-specific risk assessment and designed to minimise risks.

### **15.2 Submissions**

190. Seven submissions were received seeking to either retain or amend Policy 15.2.1.16. These submissions are set out in the table below.

Submission Point	Submitter	Support/ Oppose	Summary of Submission
2094.11	Kainga Ora Homes and Communities		<b>Retain</b> Policy 15.2.1.16 - Development in the Coastal Sensitivity Areas as notified
2103.16	Fire and Emergency New Zealand		<b>Retain</b> Policy 15.2.1.16 as proposed.
2173.18	Federated Farmers of New Zealand		<b>Retain</b> Policy 15.2.1.16 – Development in the Coastal Sensitivity Areas as notified.
2102.74	Waikato Regional Council		<b>Amend</b> Policy 15.2.1.16 - Development in the Coastal Sensitivity Areas as follows: (a) In Coastal Sensitive Areas <del>identified on the planning maps</del> , control subdivision, use and development by ensuring that the subdivision, use or development is: (i) [...] (ii) designed, constructed and located to <del>minimise</del> <u>not increase</u> the level of risk to people, property and the environment.
2107.12	Heritage New Zealand Pouhere Taonga		<b>Amend</b> Policy 15.2.1.16(a)(ii) as follows: Designed, constructed and located to minimise the level of risk to people, property and the environment, <u>including on historic heritage and sites and areas of significance to Maaori.</u>
2118.3	Russell Davis		<b>Amend</b> Policy 15.2.1.16 Development in the Coastal Sensitivity Areas.
2135.5	Jacqui Graham on behalf of The Raglan Collective Incorporated Society		<b>Amend</b> Policy 15.2.1.16 – Development in the Coastal Sensitivity Areas – to reflect new policy under sub 2135.2.
FS3012.19	Department of Conservation	Oppose	<i>The Director-General does not support hard protection coastal structures as a central tool for defence against coastal hazards. The NZCPS encourages locating infrastructure outside of coastal hazard areas, managed retreat and natural defences as alternatives for hard protection structures. Alternatives to hard protection structures must therefore be explored and Stage 2 provisions should reflect this in giving effect to the NZCPS.</i>

### 15.3 Analysis

191. Kainga Ora Homes and Communities **[2094.11]**, Fire and Emergency New Zealand **[2103.16]**, and Federated Farmers of New Zealand **[2173.18]** all seek to retain Policy 15.2.1.16 - Development in the Coastal Sensitivity Areas - as notified. I recommend that the panel accept in part these submissions to the extent that the policy has been amended in response to submissions below.
192. Waikato Regional Council **[2102.74]** have sought to amend Policy 15.2.1.16(a) to remove reference to the 'areas identified on the planning maps', as this is already stated in the definition for Coastal Sensitivity Area (Erosion and Inundation). The submission also seeks to introduce the term 'not increase the level of risk' rather than 'minimise the level of risk' to ensure that terminology used in the policy is consistent with the NZCPS Policy 25 - Subdivision, use, and development in areas of coastal hazard risk. The policy direction set out in NZCPS Policy 25(a) refers to avoiding an increase in risk in areas potentially affected by coastal hazards over at least the next 100 years. In my opinion Policy 15.2.1.16(a) as proposed using the term 'minimise' is sufficient to give effect to the NZCPS and I recommend the submission by the Waikato Regional Council **[2102.74]** be rejected.
193. Heritage New Zealand Pouhere Taonga **[2107.12]** seek to amend Policy 15.2.1.16(a)(ii) to include consideration of historic heritage and sites and areas of significance to Maaori when developing in Coastal Sensitivity Areas. The submitter proposes that the policy should include reference to historic heritage and sites and areas of significance to Maaori to ensure that minimising risk to these are addressed at the time of subdivision, use and development. In considering this submission I have referred to the definition of 'Environment' in section 2 of the RMA. I note that this definition is broad and includes ecosystems and their constituent parts, including people and communities; and all natural and physical resources; and amenity values; and the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters. Historic heritage and sites and areas of significance to Maaori are physical resources and therefore already addressed by the policy as proposed and therefore recommend the submission be rejected.
194. Heritage New Zealand Pouhere Taonga **[2107.12]** argue that the proposed amendments are required to give effect to RMA s6(e) and (f). I believe that the policies in Chapters 2 and 7 and the rules to protect historic heritage and sites and areas of significance to Maaori in each of the zone chapters sufficiently provide the relief sought. For this reason I consider that including reference to historic heritage and sites and areas of significance to Maaori within the policy unnecessary and recommend the submission from Heritage New Zealand Pouhere Taonga **[2107.12]** be rejected.
195. Russell Davis **[2118.3]** seeks amendments to Policy 15.2.1.16 by providing a list in the Proposed District Plan of possible strategies and measures to mitigate coastal hazards.
196. I do not support the requested amendments. Plan users may consider a list to be an exhaustive list of acceptable options. This could unnecessarily limit innovative new approaches. Mitigation measures should be designed based on the specific characteristics of each property, the existing or proposed development and the coastal processes and potential hazards affecting the site. In addition, any list contained in the district plan may not keep up with new research and technology into coastal hazard mitigation measures. For these reasons I recommend the panel reject this submission.
197. The Raglan Collective Incorporated Society **[2135.5]** seeks consequential amendments to Policy 15.2.1.16 that reflect the relief sought under submission **[2135.2]** (discussed in Section 26.1 of this report) seeking a new policy under Objective 15.2.1. The new policy is to provide



for the repair, maintenance and replacement of some existing coastal protection structures in Raglan where longstanding subdivisions rely on them. This submission is opposed by the *Department of Conservation [FS3012.19]*. I consider this to be contrary to the policy direction in the WRPS and the NZCPS and therefore recommend the submission by the Raglan Collective Incorporated Society [2135.5] be Rejected and the further submission by the *Department of Conservation [FS3012.19]* be accepted.

#### 15.4 Recommendations

198. For the reasons outlined above, it is recommended that the hearings panel:

- (a) **Accept in part** the submission from Kainga Ora Homes and Communities [2094.11];
- (b) **Accept in part** the submission from Fire and Emergency New Zealand [2103.16];
- (c) **Accept in part** the submission from Federated Farmers of New Zealand [2173.18];
- (d) **Reject** the submission from Waikato Regional Council [2102.74]
- (e) **Reject** the submission from Heritage New Zealand Pouhere Taonga [2107.12]
- (f) **Reject** the submission from Russell Davis [2118.3];
- (g) **Reject** the submission from The Raglan Collective Incorporated Society [2135.5]
- (h) **Accept the** further submission from *Department of Conservation [FS3012.19]*.

#### 15.5 Recommended amendments

199. **Policy 15.2.1.16 - Development in the Coastal Sensitivity Areas**

- (a) In Coastal Sensitive Areas ~~identified on the planning maps~~,<sup>7</sup> control subdivision, use and development by ensuring that the subdivision, use and development by ensuring that the subdivision, use and development is:
  - (i) supported by a detailed site specific risk assessment, which includes measures to address the effects of climate change; and
  - (ii) designed, constructed and located to minimise the level or risk to people, property and the environment.

#### 15.6 Section 32AA evaluation

200. The deletion of the reference to the Planning Maps is a minor grammatical change to remove duplication of the words in the definition of Coastal Sensitivity Area, and requires no s32AA evaluation.

## 16 Policy 15.2.1.17 – Setbacks from the coast

201. Policy 15.2.1.17 provides:

Avoid increasing the risk from coastal hazards by requiring new built development to be set back from the coastal edge, unless there is a functional or operational need for facilities to be located at or near the coast.

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<sup>7</sup> Waikato Regional Council [2102.74].

## 16.1 Submissions

202. Six submissions were received seeking to amend, retain or delete Policy 15.2.1.17. These are set out in the following table:

Submission Point	Submitter	Support/ Oppose	Summary of Submission
2094.12	Kainga Ora Homes and Communities		<b>Retain</b> Policy 15.2.1.17 - Setbacks from the coast as notified
2103.17	Fire and Emergency New Zealand		<b>Retain</b> Policy 15.2.1.17 as proposed.
2173.19	Federated Farmers of New Zealand		<b>Retain</b> Policy 15.2.1.17 – Setbacks from the coast as notified.
2102.75	Waikato Regional Council		<b>Amend</b> Policy 15.2.1.17 - Setbacks from the coast to address the concerns the submitter has with the way the numbers for the setbacks have been determined.
2126.1	Geoff Hutchison		<b>Delete</b> Policy 15.2.1.17 - Setbacks from the coast. <b>And</b> <b>Amend</b> the Coastal Sensitivity Area (Erosion) - Map 23.3 - Raglan West, to remove the area from the property at 2 Mara Kai Lane Raglan. This is addressed in Map section below

## 16.2 Analysis

203. Kainga Ora Homes and Communities [2094.12], Fire and Emergency New Zealand [2103.17] and Federated Farmers of New Zealand [2173.19] all support Policy 15.2.1.17 and seek to retain it as notified. I recommend that the panel accept these submissions.
204. Waikato Regional Council [2102.75] supports provision for coastal setbacks but questions the manner in which the setback distances in the proposed plan have been derived, especially where coastal hazard areas often extend further landward. The submitter considers that the application of the policy should be further considered and that Policy 15.2.1.17 be amended to allow provision for these setback distances to be amended or increased.
205. Policy 15.2.1.17 provides guidance for development to be setback from the coast to avoid increasing risk but does not specify a setback distance as an appropriate distance will be determined by site specific characteristics and the type of development proposed. The policy also makes exception for development that has a functional or operational need to be located at or nearer to the coast recognising that there are certain types of development that can't be setback. The policy does allow for an appropriate setback distance to be assessed through the resource consent process. I believe that the policy already satisfies the concerns that the submitter has and on that basis I recommend that submission [2102.75] by the Waikato Regional Council be rejected.
206. Geoff Hutchison [2126.1] has sought the deletion of Policy 15.2.1.17 and the removal of the Coastal Sensitivity Area (Erosion) from his property on the northeastern end of Rangitahi Peninsula in Raglan. The submitter disagrees with the projected sea level rise of 1m over the

next 100 year period, and does not believe that his property is at risk of erosion to the degree shown on the planning maps.

207. Policy 15.2.1.17 supports the rules for development within coastal sensitivity areas by stipulating that new development is located a sufficient distance from the coast to mitigate coastal hazard risk. I consider this policy necessary to achieve Objective 15.2.1 and should be retained. I recommend submission [2126.1] in so far as it relates to Policy 15.2.1.17 be rejected.
208. Mr Hutchison's request to remove the Coastal Sensitivity Area (Erosion) from his property has been addressed in Hearing Report 27D: Coastal Hazards Part - 2 Maps. I refer to Section I.14.2 for the analysis on this part of the submission.

### 16.3 Recommendations

209. For the reasons outlined above, it is recommended that the hearings panel:
- (a) **Accept** the submission from Kainga Ora Homes and Communities [2094.12];
  - (b) **Accept** the submission from Fire and Emergency New Zealand [2103.17];
  - (c) **Accept** the submission from Federated Farmers of New Zealand [2173.19];
  - (d) **Reject** the submission from Waikato Regional Council [2102.75];
  - (e) **Reject** the submission from Geoff Hutchison [2126.1].

### 16.4 Recommended amendments

210. There are no recommended amendments in this section.

### 16.5 Section 32AA Evaluation

211. No s32AA evaluation required.

## 17 Rule 15.7 – Coastal Sensitivity Areas - Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Open Coast)

### 17.1 Introduction

212. The coastal sensitivity area (erosion) is an area that has been identified as being potentially at risk of erosion, assuming an increase in sea level of 1m over the next 100 years. National and regional policy directs district plans to have regard to the effects of climate change over this timeframe and to ensure that adequate allowance is made for changes when developing or redeveloping potentially affected land.

### 17.2 Submissions

213. Seven submissions were received seeking to retain, amend, delete or add to Section 15.7.

Submission Point	Submitter	Support/ Oppose	Summary of Submission
2103.35	Fire and Emergency		<b>Retain</b> Section 15.7 as proposed.

	New Zealand		
2060.1	Kevin Vince		<b>Add</b> to Section 15.7 Coastal Sensitivity Area (Open Coast) so that operating vehicles on sand dunes and below high tide mark is regulated and enforced on Karioitahi Beach.
2077.1	Dominic Friskney		<b>Delete</b> rules in Section 15.7 Coastal Sensitivity Area (erosion).
<i>FS3031.103</i>	<i>Waikato Regional Council</i>	<i>Oppose</i>	<i>The rules are appropriate for the associated risk (subject to amendments requested in original submission).</i>
2160.1	Vianney Friskney		<b>Delete</b> Chapter 15.7 Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Open Coast).
2118.4	Russell Davis		<b>Amend</b> section 15.7 Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Open Coast).
2102.73	Waikato Regional Council		<b>Amend</b> the provisions under 15.7 and associated policies 15.2.1.16 and 15.2.1.17 to address the concerns raised in the submission on these provisions.
2157.2	Lorraine Webber, John Lenihan, Michael Rodger, Alex KirbyLo		<b>Revisit</b> the current 100m setback in Rule 26.49A Coastal Zone Rules, Coastal building setbacks in ODP.

### 17.3 Analysis

214. Fire and Emergency New Zealand [2103.35] support the rules as proposed and seek to retain Section 15.7. I recommend accepting this submission.
215. Kevin Vince [2060.1] seeks to add a new rule to Section 15.7 Coastal Sensitivity Area (Open Coast) to regulate the operation of vehicles on Karioitahi Beach and enable the regulation of these activities to be enforced. The operation of vehicles on the beach is not a matter to be regulated in the district plan but rather should be addressed through other mechanisms such as a bylaw and signage. On this basis I recommend this submission be rejected.
216. Dominic Friskney [2077.1] and Vianney Friskney [2160.1] have sought to have all of Section 15.7 deleted. *Waikato Regional Council* [FS3031.103] oppose submission [2077.1].
217. Areas identified as being at potentially at risk as a result of future sea level rise require regulatory controls through policies and rules to ensure risk to current and future landowners is managed to acceptable levels. For this reason I recommend submissions [2077.1] and [2160.1] be rejected and accept the further submission by the *Waikato Regional Council* [FS3031.103].

218. Russell Davis [2118.4] seeks to amend Section 15.7 but does not specify amendments. The original submission does however seek to have the Proposed District Plan include a list of potential mitigation strategies and measures (possibly listed in the appendices) that can be used to mitigate coastal hazards.
219. As discussed in relation to Mr Davis' submission [2118.3] under Policy 15.2.1.16, I do not agree with the relief sought. For these reasons I recommend the panel reject this submission.
220. Waikato Regional Council [2102.73] seek to amend the provisions under 15.7 and associated Policies 15.2.1.16 and 15.2.1.17 to address the concerns raised in the submission on these provisions. No details have been provided setting out the relief sought. I would invite the Waikato Regional Council to submit further details with regards to the relief sought as part of further evidence. In the absence of further evidence I recommend that the submission be rejected.
221. Lorraine Webber, John Lenihan, Michael Rodger, Alex KirbyLo [2157.2] have reservations about the way in which the Coastal Sensitivity Areas for erosion and inundation have been determined, and believe that these are highly likely to be overly conservative. The submission has requested that the current operative Coastal Zone Rule 26.49A requiring buildings to be set back 100m from the coast be revisited.
222. Detailed mapping of coastal sensitivity areas outside urban areas was not carried out as the information required to map the entire coastlines based on the site specific characteristic of this wide expanse of shoreline would have been time and cost prohibitive. The pressure for development within rural areas is low relative to urban areas and the current operative rules have required much of the development in rural areas to be set well back from MHWS. The Coastal Sensitivity Area (Erosion) identifies a 100m sensitivity area within the estuary environment and a 200m area along the open coast which are, as outlined by the submitter, in some areas overly conservative. Proposals for new development within this overlay area may require resource consent where current and future hazard risk can be assessed and mitigation measures identified to ensure development remains resilient in the face of sea level rise.
223. The 100m setback distance and the coastal sensitivity area buffer allow for similar matters to be considered, however the proposed rules are less restrictive compared to the setback rules in the operative plan and in my view, provide more direction and certainty with regards to the required assessments and possible mitigation. Conversely, the current rules for the Coastal Zone require controlled activity resource consent for the construction of a building but this defaults to a non-complying activity if it is within 100m from MHWS. This has been an effective but blunt regulatory instrument to ensure development is setback from the coast, where as the proposed regulatory approach allows for the consideration of site specific information relating to coastal hazards including the effects on the stability of the coastal margins due to climate change. The submitter is welcome to provide evidence as to why they consider the 100m setback more appropriate. In the absence of evidence I recommend the submission be rejected.

#### 17.4 Recommendations

224. For the reasons outlined above, it is recommended that the hearings panel:
- (a) **Accept** the submission from Fire and Emergency New Zealand [2103.35];
  - (b) **Reject** the submission from Kevin Vince [2060.1];
  - (c) **Reject** the submission from Dominic Friskney [2077.1]

- (d) **Accept** the further submission from *Waikato Regional Council* [FS3031.103];
- (e) **Reject** the submission from Vianney Friskney [2160.1]
- (f) **Reject** the submission from Russell Davis [2118.4];
- (g) **Reject** the submission from The Waikato Regional Council [2102.73];
- (h) **Reject** the submission from Lorraine Webber, John Lenihan, Michael Rodger, Alex KirbyLo [2157.2].

### 17.5 Recommended amendments

225. No amendments recommended in this section.

### 17.6 Section 32AA Evaluation

226. No s32AA evaluation required.

## 18 Rule 15.7.1 – Permitted Activities

### 18.1 Submissions

227. Twelve submissions were received seeking to retain, amend or add new rules to the permitted activity rules in Section 15.7.1. These submissions are set out in the following table.

Submission Point	Submitter	Support/ Oppose	Summary of Submission
2115.4	Rangitahi Limited		<p><b>Add</b> new to Rule 15.7.1- Permitted Activities, to make provision for the construction of a new building or additions to an existing lawfully established building within the Coastal Sensitivity Area (Erosion) as a Permitted Activity. This being subject to the following Activity specific conditions:</p> <p><u>The new building or additions to an existing lawfully established building must be constructed in accordance with:</u></p> <p>(a) <u>A geotechnical report or similar professional report accepted by Council through a previous resource consent application; and</u></p> <p>(b) <u>Any conditions of a previous resource consent or subdivision consent associated with the site relating to stability or geotechnical matters.</u></p>
2122.2	Graham & Ingrid Rusbach		<p><b>Add</b> new rule to 15.7.1 - Coastal Sensitivity Area (erosion) and Coastal Sensitivity Area (Open Coast) Permitted Activities to allow for the replacement of an existing building that is under insurance.</p>
2097.4	Tainui Hapu Environmental		<p><b>Amend</b> Rule 15.7.1 P1 to increase gross floor area to 30m<sup>2</sup>.</p>

	Management Committee & Tainui o Tainui Charitable Trust		
2142.3	Steve & Jan Godley		<b>Amend</b> Rule 15.7.1 P1 (building additions limited by gross floor area) to clarify the difference that size makes.
2173.55	Federated Farmers of New Zealand		<b>Amend</b> Rule 15.7.1 P1(a) as follows: The gross floor area of all additions to <del>the</del> <u>habitable</u> building from [date this rule becomes operative] do not exceed a total of 15m <sup>2</sup> . AND Any consequential amendments that may be required.
FS3027.16	Horticulture New Zealand	Support	Support to the extent that it is consistent with the intent of submissions points HortNZ has made on other parts of the Plan.
FS3031.147	Waikato Regional Council	Oppose	The inclusion of all buildings in this rule rather than just habitable buildings is intended to ensure that there is adequate assessment of the need to locate a building in this area based the level of risk. It also serves as an indication to applicants of the level of risk of building in these areas so that they can judge the level of investment they wish to make given the risk.
FS3034.105	Mercury NZ Limited	Support	It is appropriate to identify natural hazard risk within the plan for the purposes of ensuring that land use and development decisions are cognisant of flood risk. Mercury supports land use intensification and development in appropriate areas, and where mitigation of natural hazard risk has been appropriately considered and addressed.
2173.56	Federated Farmers of New Zealand		<b>Amend</b> Rule 15.7.1 P2 as follows: (1) Construction of an accessory <del>building without a floor</del> ; (2) Construction of a farm building <del>without a floor</del> . AND Any consequential amendments that may be required.
FS3027.17	Horticulture New Zealand	Support	Support to the extent that it is consistent with the intent of submissions points HortNZ has made on other parts of the Plan.
FS3031.148	Waikato Regional Council	Oppose	By restricting buildings to those without a floor, the district plan is providing guidance as to the acceptable level of risk in this location and therefore what can be built without any further assessment. Buildings with a floor will need to be

			<i>built to an appropriate floor level which requires an assessment to be undertaken.</i>
2122.3	Graham & Ingrid Rusbatch		<b>Amend</b> rule 15.7.1 P2 - Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Open Coast) Permitted activities to allow the construction of an accessory building and farm building with a floor.
FS3031.122	Waikato Regional Council	Oppose	<i>By restricting buildings to those without a floor, the district plan is providing guidance as to the acceptable level of risk in this location and therefore what can be built without any further assessment. Buildings with a floor will need to be built to an appropriate floor level which requires an assessment to be undertaken.</i>
2040.7	Spark New Zealand Trading Limited		<b>Retain</b> Rule 15.7.1 P3
2106.15	WEL Networks Limited		<b>Retain</b> Rule 15.7.1 P3 as proposed.
2173.57	Federated Farmers of New Zealand		<b>Retain</b> Rule 15.7.1 P3 as notified.
2102.37	Waikato Regional Council		<b>Amend</b> Rule 15.7.1 P3 - Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Open Coast) - Permitted Activities to confirm the activity does not apply to new construction.
FS3003.12	Transpower New Zealand Ltd	Oppose	<i>As notified, Rule 15.7.1 provides for construction of utilities as a permitted activity, noting the activity would be subject to the rules in the relevant zone chapters as well as those in Chapter 14 Infrastructure and Energy. Transpower supports the risk-based approach within Stage 2 of the Proposed Waikato district plan which provides a relationship between the level of risk, the activity and whether such risks are considered acceptable or not. A restricted discretionary activity status for new utilities within the Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Open Coast) would not reflect the risk-based approach and is therefore opposed.</i>
2102.59	Waikato Regional Council		<b>Amend</b> Permitted Activity Rule 15.7.1 P3 to include an activity specific condition for activities relating to operation, construction, upgrading, minor upgrading, replacement, repair and maintenance of utilities as follows: <u>“The works do not involve coastal protection</u>



			structures even where associated with flood management infrastructure including stopbanks and erosion protection structures associated with flood management where owned or operated by the Waikato Regional Council, the Waikato District Council or the Crown”.
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## 18.2 Analysis

228. Rangitahi Limited [2115.4] have sought to add a new rule to make provision for the construction of a new building or additions to an existing lawfully-established building within the Coastal Sensitivity Area (Erosion) a Permitted Activity. The submitter seeks to add activity-specific conditions that stipulate that the works are to be in accordance with previously-approved geotechnical reports and other resource consent conditions approved by Council relating to stability or geotechnical issues associated with the site on which the building is proposed. A new rule in the form proposed would apply everywhere in Coastal Sensitivity Area (Erosion). The rule would be reliant on geotechnical investigations that may or may not have considered coastal hazards and the effects of sea level rise over a 100 year timeframe. As a permitted activity there would be no opportunity to assess the adequacy of the report in relation to the proposed development that may not have been considered at the time the report was prepared. There would also not be any opportunity to considered appropriate mitigation or adaptable measures to address the effects of climate change over time. I do not consider the relief sought to be consistent with the policy direction where natural hazard risk is appropriately identified and assessed nor do I think it achieves the objective for a resilient community. On these grounds I recommend the submission be rejected.
229. Graham & Ingrid Rusbatch [2122.2] seek the addition of a new rule to allow for the replacement of an existing building that is insured, expressing concern that if their house was to burn down they should be able to rebuild it without requiring a resource consent. Mr and Mrs Rusbatch have also sought to amend Rule 15.10.2 D2 for the same reason, which I have responded to under that rule, explaining that in a case such as this the building would be covered by existing use rights so long as it meets the relevant conditions under Section 10B RMA and is rebuilt within the timeframes specified in Section 10 RMA. In my view the conditions for existing use rights currently provide the situation described in the submission and as such a new rule in the district plan is not required. In my view the relief sought is an unnecessary addition to the rules and recommend the submission be rejected.
230. Tainui Hapu Environmental Management Committee & Tainui o Tainui Charitable Trust [2097.4] and Steve & Jan Godley [2142.3] seek amendments to 15.7.1 P1. Tainui Hapu Environmental Management Committee & Tainui o Tainui Charitable Trust have requested that the gross floor area be increased to 30m<sup>2</sup>, while Steve & Jan Godley have requested clarification on the difference that size makes.
231. Rule 15.7.1 P1 was included to allow for an exemption from resource consent for one off additions to an existing building. The gross floor area (GFA) stated in the rule is an arbitrary figure but ensures the additions are of a minor nature and don't present a significant increase in risk. I consider the 15m<sup>2</sup> GFA to be appropriate and recommend rejecting submissions seeking that it be increased.
232. Federated Farmers of New Zealand [2173.55] seek amendments to Rule 15.7.1 P1, requesting that the rule only apply to habitable buildings. This submission was supported by *Horticulture New Zealand* [FS3027.16] and *Mercury NZ Ltd* [FS3034.105] and opposed by

- Waikato Regional Council [FS3031.147]*. It appears that the relief sought is to exempt additions to non-residential buildings from the size restriction. I am not convinced that this would be the case. The relief sought would only ensure that non-residential buildings are excluded from the exemption in 15.7.1 P1 but would continue to be subject to 15.7.1 P2 and 15.7.2 RD1. I recommend rejecting Federated Farmers of New Zealand submission [2173.55], *Horticulture New Zealand* further submission [FS3027.16] and *Mercury NZ Ltd [FS3034.105]* and accepting the further submission from *Waikato Regional Council [FS3031.147]*.
233. Federated Farmers of New Zealand [2173.56] and Graham & Ingrid Rusbatch [2122.3] have sought to delete the conditions within Rule 15.7.1 that require accessory buildings and farm buildings to have no floor. *Horticulture NZ [FS3027.17]* support submission [2173.56] and *Waikato Regional Council [FS3031.148]* and [FS0331.122] opposed both submissions.
234. The purpose of this rule is to allow for some building works to be exempt from resource consent where the risk is considered to be acceptable. If the requirement for the buildings to have no floor was to be removed it would then allow any farm or accessory building, regardless of scale, value or location to be constructed without any consideration of future risk to that building. I have already discussed this matter in previous sections of the report in relation to similar submissions, where I have outlined that the requirement for an accessory building to have no floor ensures the use of the building will not be used for residential purposes (the definition for an accessory building does not preclude the use of the building for residential purposes). The amendments as requested could then allow for a building which could be used for accommodation. I believe the amendments would introduce a conflict with Rule 15.7.2 RD1.
235. Although I do agree that functional farm or accessory buildings may not be substantially at risk from the effects of climate change in the short term, I am not convinced that the amendments as proposed have provided a satisfactory alternative. I am open to considering further evidence but in the absence of that I recommend rejecting Federated Farmers of New Zealand submissions [2173.56] and Graham & Ingrid Rusbatch [2122.3], rejecting the further submission *Horticulture NZ [FS3027.17]* and accepting *Waikato Regional Council* further submissions [FS3031.148] and [FS0331.122].
236. Spark New Zealand Trading Limited [2040.7], WEL Networks Limited [2106.15] and Federated Farmers of New Zealand [2173.57] have all sought to retain Rule 15.7.1 P3 as notified. I recommend that the submissions by Spark New Zealand Trading Limited [2040.7], WEL Networks Limited [2106.15] and Federated Farmers of New Zealand [2173.57] be accepted.
237. *Waikato Regional Council [2102.37]* have requested confirmation that Rule 15.7.1 P3 does not apply to new construction and seek amendments but do not provide details on the relief sought. *Transpower New Zealand Ltd [FS3003.12]* oppose *Waikato Regional Council*, on the basis that any restrictions that would result in requiring a resource consent would not follow a risk-based approach, but *Transpower* did not expand on this opinion.
238. Rule 15.7.1 P3 permits the construction, upgrading, minor upgrading, replacement, repair and maintenance of utilities. These activities are not considered to pose a high risk in coastal sensitivity areas as these areas are not currently subject to coastal hazard risk but which may be at risk in the future. Mitigation of future risk can be addressed through risk assessments carried out by the utilities service providers. I think it is worth noting here that the activities listed in the rule are still subject to relevant rules in other parts of the plan. I recommend rejecting the submission by the *Waikato Regional Council [2102.37]* and accepting further submission *Transpower New Zealand Ltd [FS3003.12]*.
239. *Waikato Regional Council [2102.59]* seek to add an activity-specific condition to Rule 15.7.1 P3 to state:

“The works do not involve coastal protection structures even where associated with flood management infrastructure including stopbanks and erosion protection structures associated with flood management where owned or operated by the Waikato Regional Council, the Waikato District Council or the Crown.”

240. I agree with excluding coastal protection structures from 15.7.1 P3 as the rule allows for coastal protection structures by way of the definition for Utility in Chapter 15.14. The rule currently introduces a conflict (and potential loophole) with Rule 15.7.3 D1, which provides for the construction of new coastal protection structure as a discretionary activity. I do not consider it necessary to include reference to the ownership of the structure as this is not a relevant consideration when managing environmental effects. As such I recommend the submission by Waikato Regional Council [2102.59] be accepted in part.

### 18.3 Recommendations

241. For the reasons outlined above, it is recommended that the hearings panel:

- (a) **Reject** the submission from Rangitahi Limited [2115.4];
- (b) **Reject** the submission from Graham & Ingrid Rusbatch [2122.2];
- (c) **Reject** the submission from Tainui Hapu Environmental Management Committee & Tainui o Tainui Charitable Trust [2097.4];
- (d) **Reject** the submission from Steve & Jan Godley [2142.3];
- (e) **Reject** the submission from Federated Farmers of New Zealand [2173.55];
- (f) **Reject** the further submission from *Horticulture New Zealand* [FS3027.16];
- (g) **Accept** the further submission from *Waikato Regional Council* [FS3031.147];
- (h) **Reject** the further submission from *Mercury NZ Limited* [FS3034.105];
- (i) **Reject** the submission from Federated Farmers of New Zealand [2173.56];
- (j) **Reject** the further submission from *Horticulture New Zealand* [FS3027.17];
- (k) **Accept** the further submission from *Waikato Regional Council* [FS3031.148];
- (l) **Reject** the submission from Graham & Ingrid Rusbatch [2122.3];
- (m) **Accept** the further submission from *Waikato Regional Council* [FS3031.122];
- (n) **Accept** the submission from Spark New Zealand Trading Limited [2040.7];
- (o) **Accept** the submission from WEL Networks Limited [2106.15];
- (p) **Accept** the submission from Federated Farmers of New Zealand [2173.57];
- (q) **Reject** the submission from Waikato Regional Council [2102.37];
- (r) **Accept** the further submission from *Transpower New Zealand Ltd* [FS3003.12];
- (s) **Accept in part** the submission from Waikato Regional Council [2102.59].

### 18.4 Recommended amendments

242. Recommended amendments to Rule 15.7.1 P3 to satisfy the relief sought by Waikato Regional Council [2102.59] are as follows:

Activity	Activity-Specific Conditions
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P3	Construction, upgrading, minor upgrading, replacement, repair and maintenance of utilities.	(a) <u>The works do not involve coastal protection structures.</u> <sup>8</sup>
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### 18.5 Section 32AA Evaluation

243. The s32 report 'Natural hazards and climate change' (2020) evaluates this rule. No additional evaluation of the amended text under s32AA is required, because the s32 evaluation of the original text adequately covers and justifies the minor amendments now proposed, which are to correct an oversight in the notified text.

## 19 Rule 15.7.2 – Restricted Discretionary Activities

### 19.1 Submissions

244. Six submissions were received seeking to retain, amend or add new rules to the restricted discretionary activity rules in Section 15.7.2. These submissions are set out in the following table.

Submission Point	Submitter	Support/ Oppose	Summary of Submission
2173.58	Federated Farmers of New Zealand		<b>Retain</b> Rule 15.7.2 Restricted Discretionary Activities as notified.
2182.3	Louise Davis		<b>Amend</b> Rule 15.7.2 Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Open Coast), Restricted Discretionary Activities to permit ancillary dwelling up to 30m <sup>2</sup> .
FS3031.156	Waikato Regional Council	Oppose	<i>In these areas there is a need to undertake a site specific assessment so permitted activity standard is not appropriate.</i>
2055.3	Eric Messick		<b>Amend</b> Rule 15.7.2 RDI to permit ancillary dwellings up to 30m <sup>2</sup> .
FS3031.96	Waikato Regional Council	Oppose	<i>In these areas there is a need to undertake a site specific assessment so permitted activity standard is not appropriate.</i>
2102.76	Waikato Regional Council		<b>Amend</b> Rule 15.7.2 RDI - Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Open Coast) - Restricted Discretionary Activities as follows: Construction of a new building or additions to an existing building <u>and</u>

<sup>8</sup> Waikato Regional Council [2102.59].

			establishment of a natural hazard sensitive land use not provided for in Rule 15.7.1 PI-P3 and not listed in Rule 15.7.3 DI.
FS3033.20	Kainga Ora - Homes and Communities	Oppose	<i>Kainga Ora opposes this submission. In its submission, Kainga Ora supported the notified approach – with elevated status for land use development located in hazard areas, enabling a consenting process to consider the merits of a particular development in a specific location. This approach acknowledges the proposed design and location of residential activities within a site that is subject to a natural hazard can be considered and, where it is demonstrated that such risks can be appropriately avoided, remedied or mitigated, the activity can be provided for.</i>
2107.20	Heritage New Zealand Pouhere Taonga		<b>Amend</b> Rule 15.7.2 RD1 - Matter of Discretion (f) as follows: (f) <u>The adverse effects to people and property and Historic heritage and sites of significance to Maaroï and overall vulnerability from the establishment of the new building or additions to an existing building and any mitigation measures to reduce risk.</u>
2102.34	Waikato Regional Council		<b>Add</b> new Rule 15.7.2 RD2 - Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Open Coast) as follows: <u>New Infrastructure and utilities, including any as sociated earthworks Discretion is restricted to:</u> (a) <u>The functional and/or operational need to locate within the hazard area;</u> (b) <u>The risk of adverse effects to other people, property and the environment including; risk to public health and safety; impacts on public access associated with the proposed activity;</u> (c) <u>The management or regulation of other people and property required to mitigate natural hazard risks resulting from the location of the infrastructure;</u> (d) <u>Any exacerbation of an existing natural hazard or creation of a new natural hazard as a result of the structure; and</u> (e) <u>The ability to relocate or remove structures.</u>
FS3002.5	Spark New Zealand Trading Limited	Oppose	<i>As earthworks are not referred to in 15.7.1 PI-P4, it is assumed that they are not regulated in the Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Open Coast), and that only the</i>

			<i>actual land uses are regulated (earthworks are specifically referred to in the rules for some other natural hazard areas). Spark is concerned the amendment proposed to the RDA provision with specific reference to earthworks associated with infrastructure and utilities, whilst intended to accommodate infrastructure and utilities that are not otherwise permitted in the natural hazard area, could have the unintended consequence of requiring resource consent for earthworks for otherwise permitted utilities provided for in P3, including telecommunications.</i>
FS3012.9	Department of Conservation	Support	<i>The Director-General supports the addition of this rule as consistent with the NZCPS.</i>
FS3003.11	Transpower New Zealand Ltd	Oppose	<i>As notified, Rule 15.7.1 provides for construction of utilities as a permitted activity, noting the activity would be subject to the rules in the relevant zone chapters as well as those in Chapter 14 Infrastructure and Energy. Transpower supports the risk-based approach within Stage 2 of the Proposed Waikato district plan which provides a relationship between the level of risk, the activity and whether such risks are considered acceptable or not. A restricted discretionary activity status for new utilities within the Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Open Coast) would not reflect the risk-based approach and is therefore opposed.</i>

## 19.2 Analysis

245. Federated Farmers of New Zealand [2173.58] support Rule 15.7.2 and seek to retain it as notified. I recommend this submission be accepted.
246. Louise Davis [2182.3] and Eric Messick [2055.3] seek to amend Rule 15.7.2 RDI to enable ancillary dwellings up to 30m<sup>2</sup> to be permitted. The Waikato Regional Council [FS3031.156] and [FS3031.96] opposes submission [2182.3] on the basis that site specific assessments are required so a permitted activity status is not appropriate. In my opinion any building containing a residential activity should be assessed in areas identified to potentially be at risk from coastal hazards in the future. The resource consent process is the appropriate process for this purpose and this accords with the policy direction in the Waikato Regional Policy Statement and the New Zealand Coastal Policy Statement. I therefore recommend that the submission from Louise Davis [2182.3] and Eric Messick [2055.3] be rejected and the further submissions [FS3031.156] and [FS3031.96] from the Waikato Regional Council be accepted.
247. Waikato Regional Council [2102.76] have sought to amend the scope of Rule 15.7.2 RDI to include the establishment of a natural hazard sensitive land use. This submission was opposed by Kainga Ora - Homes and Communities [FS3033.20].
248. The Waikato Regional Council made similar submissions to include a new rule for natural hazard sensitive land uses in rules 15.8.2 [2102.77], 15.9.3 [2102.21] and 15.10.3 [2102.22] as well as including a new policy as 15.2.1.2B for Natural Hazard Sensitive Land Uses in areas of

significant natural hazards within the coastal environment [2102.18] and a new definition for natural hazard sensitive land use in chapter 15.14 [2102.19]. I recommend these submissions be rejected on the basis that sensitive activities are already provided for under the proposed regulatory framework and do not need to be explicitly provided for within the policies or rules (see Section 5.4 for more in-depth analysis for submission [2102.18]). Consequently, I recommend that the submission by the Waikato Regional Council [2102.76] be rejected and the further submission by *Kainga Ora - Homes and Communities* [FS3033.20] be accepted.

249. Heritage New Zealand Pouhere Taonga [2107.20] have sought to amend the matters of discretion in Rule 15.7.2 RD1 (f) to include historic heritage and sites of significance to Maaori as a matter that discretion is restricted to. Matter of discretion (f) refers to the adverse effects to people and property and the overall vulnerability from the establishment of the new development in relation to natural hazards and includes reference to measures to reduce risk. I do not consider that this is the correct place to consider effects on historic heritage and sites of significance to Maaori from natural hazard risk. Unless redevelopment of a heritage building was proposed, these items would not trigger a rule within the Chapter 15. Historic heritage and sites of significance to Maaori are addressed in other parts of the plan and I would suggest that it would not be a relevant matter to be assessed under this rule. I recommend that Heritage New Zealand Pouhere Taonga [2107.20] be rejected.
250. Waikato Regional Council [2102.34] have sought to add a new restricted discretionary activity rule (15.7.2 RD2) to provide for new Infrastructure and utilities and any associated earthworks as a restricted discretionary activity 15.7.2 RD2. This submission was opposed by *Spark New Zealand Trading Limited* [FS3002.5] and *Transpower New Zealand Ltd* [FS3003.11] and supported by the *Department of Conservation* [FS3012.9].
251. Under the proposed rule structure, the construction, upgrading, minor upgrading, replacement, repair and maintenance of utilities are permitted under 15.7.1 P3 and earthworks assessed under the earthworks rules contained in the relevant underlying zone chapter. The construction of new utilities and the upgrading, minor upgrading, replacement, repair and maintenance of utilities are also subject to the rules set out in Chapter 14 and any relevant zone chapter.
252. Utilities service providers provided feedback in response to the draft version of Chapter 15 maintaining that they continually assess the risk to their own assets in any given location to ensure they remain resilient. Coastal sensitivity areas do not present any immediate risk from hazards but are identified as an area within which new development and activities are to have regard to the potential long-term impacts of climate change, including sea level rise. Unlike the high risk coastal hazards areas, the sensitivity areas are generally located away from the more vulnerable areas of coastline. In accordance with the risk based approach, the establishment of new and management of existing utilities pose a low risk in coastal sensitivity areas and as a result regulation of these has taken a more permissive approach. I recommend the submission by the Waikato Regional Council [2102.34] be rejected and that the further submissions by *Spark New Zealand Trading Limited* [FS3002.5] and *Transpower New Zealand Ltd* [FS3003.11] be accepted and that the further submission by the *Department of Conservation* [FS3012.9] be rejected.

### 19.3 Recommendations

253. For the reasons outlined above, it is recommended that the hearings panel:
- (a) **Accept** the submission from Federated Farmers of New Zealand [2173.58];
  - (b) **Reject** the submission from Louise Davis [2182.3];

- (c) **Accept** the further submission from *Waikato Regional Council* [FS3031.156];
- (d) **Reject** the submission from Eric Messick [2055.3];
- (e) **Accept** the further submission from *Waikato Regional Council* [FS3031.96];
- (f) **Reject** the submission from *Waikato Regional Council* [2102.76];
- (g) **Accept** the further submission from *Kainga Ora - Homes and Communities* [FS3033.20];
- (h) **Reject** the submission from *Heritage New Zealand Pouhere Taonga* [2107.20];
- (i) **Reject** the submission from *Waikato Regional Council* [2102.34];
- (j) **Accept** the further submission from *Spark New Zealand Trading Limited* [FS3002.5];
- (k) **Reject** the further submission from *Department of Conservation* [FS3012.9];
- (l) **Accept** the further submission from *Transpower New Zealand Ltd* [FS3003.11].

#### 19.4 Recommended amendments

254. There are no amendments in this section.

#### 19.5 Section 32AA Evaluation

255. No s32AA evaluation required.

## 20 Rule 15.7.3 – Discretionary Activities

### 20.1 Submissions

256. One submission was received seeking to amend the discretionary activity rule 15.7.3 D2 in Section 15.7.3. This submission is set out in the following table.

Submission Point	Submitter	Support/ Oppose	Summary of Submission
2115.5	Rangitahi Limited		<b>Amend</b> Rule 15.7.3 D2 - Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Open Coast) – Discretionary Activities, so that subdivision to create one or more additional vacant lot(s) within the Rangitahi Peninsula Zone be a Restricted Discretionary activity under Chapter 15.

### 20.2 Analysis

257. Rangitahi Limited [2115.5] seek to amend Rule 15.7.3 D2 so that subdivision to create one or more additional vacant lot(s) within the Rangitahi Peninsula Zone is a Restricted Discretionary activity under Chapter 15. The current policies relating to subdivision outside of high risk hazard areas and within coastal sensitivity areas do not indicate that development should be avoid in these areas. Policies refer to providing appropriate assessments to identify natural hazard risk and to provide adequate measures to avoid, remedy or mitigate risk. I am not opposed to request to amend the rule to a restricted discretionary activity as this may be appropriate for coastal sensitivity areas. However the submitter has not proposed any matters that discretion



be restricted to and if the proposed amendments will continue to be consistent with the relevant policies. I invite the submitter to provide further evidence to support their submission, including matters of discretion and to confirm alignment between a restricted discretionary activity rule and the current policy framework. In the absence of further evidence I recommend the panel reject the submission.

### 20.3 Recommendations

258. For the reasons outlined above, it is recommended that the hearings panel:

- (a) **Reject** the submission from Rangitahi Limited [2115.5].

### 20.4 Recommended amendments

259. There are no amendments in this section.

### 20.5 Section 32AA Evaluation

260. No s32AA evaluation required.

## 21 Rule 15.8 – Coastal Sensitivity Area (Inundation)

### 21.1 Submissions

261. Four submissions were received seeking to retain, amend or delete Section 15.8. These submissions are set out in the following table.

Submission Point	Submitter	Support/ Oppose	Summary of Submission
2103.36	Fire and Emergency New Zealand		<b>Retain</b> Section 15.8 as proposed.
2160.2	Vianney Friskney		<b>Delete</b> Chapter 15.8 Coastal Sensitivity Area (Inundation).
2077.2	Dominic Friskney		<b>Delete</b> rules in section 15.8 Coastal Sensitivity Area (Inundation).
FS3031.104	Waikato Regional Council	Oppose	<i>The rules are appropriate for the associated risk (subject to amendments requested in original submission).</i>
2102.73	Waikato Regional Council		<b>Amend</b> the provisions under 15.8 and associated policies 15.2.1.16 and 15.2.1.17 to address the concerns raised in the submission on these provisions.

### 21.2 Analysis

262. Fire and Emergency New Zealand [2103.36] support the rules and seek to retain Section 15.8 as proposed. I recommend the panel accept this submission.

263. Vianney Friskney [2160.2] and Dominic Friskney [2077.2] have sought to have all of Section 15.8 deleted. Waikato Regional Council [FS3031.104] have opposed the relief sought on the basis that the rules in section 15.8 are appropriate for the associated level of risk. The

coastal sensitivity area erosion has been identified as an area that may be affected by an erosion hazard in the future. It is necessary to have regulatory controls to achieve Objectives 15.2.1 and 15.2.3 by ensuring provision support current and future landowners to be able to adapt over time to the effects of climate change over the next 100 years. I recommend submissions [2077.1] and [2160.1] be rejected.

264. Waikato Regional Council **[2102.73]** seek to amend the provisions under 15.8 and associated Policies 15.2.1.16 and 15.2.1.17 to address the concerns raised in the submission on these provisions. No details have been provided setting out the relief sought. I would invite the Waikato Regional Council to submit further details with regards to the relief sought as part of further evidence. In the absence of further evidence I recommend that the submission be rejected.

### 21.3 Recommendations

265. For the reasons outlined above, it is recommended that the hearings panel:

- (a) **Accept** the submission from Fire and Emergency New Zealand [2103.36];
- (b) **Reject** the submission from Vianney Friskney [2160.2];
- (c) **Reject** the submission from Dominic Friskney [2077.2];
- (d) **Accept** the further submission from *Waikato Regional Council* [FS3031.104];
- (e) **Reject** the submission from the Waikato Regional Council [2102.73].

### 21.4 Recommended amendments

266. There are no amendments in this section.

### 21.5 Section 32AA Evaluation

267. No s32AA evaluation required.

## 22 Rule 15.8.1 – Permitted Activities

### 22.1 Submissions

268. Twelve submissions were received seeking to retain, amend or delete Section 15.8.1. These submissions are set out in the following table.

Submission Point	Submitter	Support/ Oppose	Summary of Submission
2094.40	Kainga Ora Homes and Communities		<b>Retain</b> Rule 15.8.1 PI as notified
2063.1	Maria Timmermans		<b>Delete</b> Rule 15.8.1 Coastal Sensitivity Area (Inundation) - Permitted Activities.
FS3031.99	Waikato Regional Council	Oppose	<i>Consider that it is appropriate to restrict the floor area of any additions that can occur as a permitted activity.</i>
2052.1	Barry Wayne Ford		<b>Amend</b> 15.8.1 Coastal Sensitivity Area (inundation).

2142.1	Steve & Jan Godley		<b>Amend</b> Rule 15.8.1 P1 Coastal Sensitivity Area (Inundation), Permitted Activities to reflect size of additions to be determined by need.
2173.59	Federated Farmers of New Zealand		<b>Amend</b> Rule 15.8.1 P1(a) as follows: The gross floor area of all additions to the <u>habitable</u> building from [date this rule becomes operative] do not exceed a total of 15m <sup>2</sup> . AND Any consequential amendments that may be required.
FS3027.18	Horticulture New Zealand	Support	Support to the extent that it is consistent with the intent of submissions points HortNZ has made on other parts of the Plan.
FS3031.149	Waikato Regional Council	Oppose	The inclusion of all buildings in this rule rather than just habitable buildings is intended to ensure that there is adequate assessment of the need to locate a building in this area based the level of risk. It also serves as an indication to applicants of the level of risk of building in these areas so that they can judge the level of investment they wish to make given the risk.
2094.41	Kainga Ora Homes and Communities		<b>Retain</b> Rule 15.8.1 P2 (1) as notified
2173.60	Federated Farmers of New Zealand		<b>Amend</b> Rule 15.8.1 P2 as follows: (1) Construction of an accessory building <del>without a floor</del> ; (2) Construction of a farm building <del>without a floor</del> . AND Any consequential amendments that may be required.
FS3027.19	Horticulture New Zealand	Support	15.8.1 P1 and P2 Support to the extent that it is consistent with the intent of submissions points HortNZ has made on other parts of the Plan.
FS3031.150	Waikato Regional Council	Oppose	By restricting buildings to those without a floor, the district plan is providing guidance as to the acceptable level of risk in this location and therefore what can be built without any further assessment. Buildings with a floor will need to be built to an appropriate floor level which requires an assessment to be undertaken.
2040.8	Spark New Zealand Trading Limited		<b>Retain</b> Rule 15.8.1 P3

2106.17	WEL Networks Limited		<b>Retain</b> Rule 15.8.1 P3 as proposed.
FS3021.15	Counties Power	Support	<i>Counties Power supports provision for the construction, upgrading, minor upgrading, replacement, repair, or maintenance of utilities as a permitted activity as it enables to carry out its functions without undue restrictions.</i>
2102.38	Waikato Regional Council		<b>Amend</b> Rule 15.8.1 P3 - Coastal Sensitivity Area (Inundation) - Permitted Activities to confirm the activity does not apply to new construction.
FS3003.13	Transpower New Zealand Ltd	Oppose	<i>Rule 15.8.1 P3 as notified provides for construction of utilities as a permitted activity, noting the activity would be subject to the rules in the relevant zone chapters as well as those in Chapter 14 Infrastructure and Energy. Transpower supports the risk-based approach within Stage 2 of the Proposed Waikato district plan which provides a relationship between the level of risk, the activity and whether such risks are considered acceptable or not. A restricted discretionary activity status for new utilities within the Coastal Sensitivity Area (Inundation) would not reflect the risk-based approach and is therefore opposed.</i>
2102.59	Waikato Regional Council		<b>Amend</b> Permitted Activity Rule 15.8.1 P3 to include an activity specific condition for activities relating to operation, construction, upgrading, minor upgrading, replacement, repair and maintenance of utilities as follows: <u>The works do not involve coastal protection structures even where associated with flood management infrastructure including stopbanks and erosion protection structures associated with flood management where owned or operated by the Waikato Regional Council, the Waikato District Council or the Crown</u>
2173.61	Federated Farmers of New Zealand		<b>Retain</b> Rule 15.8.1 P4 as notified.

## 22.2 Analysis

269. Kainga Ora Homes and Communities [2094.40] support Rule 15.8.1 P1 and seek to retain it as notified. I recommend this submission be accepted.
270. Maria Timmermans [2063.1] has sought to delete Rule 15.8.1 due to the restrictions that the rules impose in relation to development on the submitter's property. This submission is

opposed by *Waikato Regional Council [FS3031.99]* on the basis that provisions restricting the floor area of additions is appropriate.

271. The rules set out in 15.8.1 provide for some permitted activities where resource consent is not required. These activities are considered to be of a minor nature and not at significant risk when considering future coastal inundation. In my opinion the rules are appropriate and should be retained.
272. I do note that there is no Coastal Sensitivity Area (Inundation) proposed for Maraetai Bay and therefore rule 15.8.1 does not apply to the submitter's property. This area has been identified as a High Risk Coastal Hazard (Inundation) Area due to the low lying nature of parts of the beach and adjacent land (mainly at the eastern end of the beach) and the rules set out in Section 15.10 apply to development in these mapped areas. This overlay just touches the northern boundary of the submitter's property so the rules in that section would not have any effect on any future development on the property.
273. This area, along with the most of Port Waikato township and the sand spit, have also been identified as a Coastal Sensitivity Area (Erosion) due to the potential for sea level rise to aggravate erosion over the long term. In this case the rules in Section 15.7 also apply. Ms Timmermans has not submitted on Section 15.7 or Section 15.10 but I suspect these are the rules she had intended her submission to apply to. That being the case I do not think that deleting the permitted activity rules in 15.7.1 would address her concerns. The two rules that would apply to the submitter's property (P1 and P2(2)) allow some activities such as minor additions to an existing building and accessory buildings without floors as permitted activities. If these rules were to be deleted then all building works would require resource consent. I recommend the submission by Maria Timmermans be rejected and *Waikato Regional Council [FS3031.99]* be accepted.
274. Barry Wayne Ford **[2052.1]** seeks to amend Rule 15.8.1 but does not provide any details on the relief sought. In his submission Mr Ford refers to the mapped inundation area and wants to know what impact the mapped area will have on his and his neighbours' properties. Mr Ford's property is at 66 Wallis Street in Raglan adjacent to the Whaingaroa Harbour and is currently fully developed with a house and garage as is the neighbouring properties. The property is subject to the High Risk Coastal Hazard (Erosion) Area, Coastal Sensitivity Area (Inundation) and the Coastal Sensitivity Area (Erosion). The rules as proposed require resource consents for new buildings, redevelopment or additions to existing buildings, coastal protection structures and subdivision. If Mr Ford intends to redevelop his property in the future in the areas where the Coastal Sensitivity Areas (Inundation) and (Erosion) apply, then he would need to apply for a resource consent under 15.7.2 RDI where his proposal would be assessed in terms of the matters of discretion listed in the rule. These rules are appropriate and I recommend that the submission by Barry Wayne Ford **[2052.1]** be accepted.
275. Steve & Jan Godley **[2142.1]** seek to amend Rule 15.8.1 P1 to allow for the size of any additions to buildings to be determined by need. Federated Farmers of New Zealand **[2173.59]** seek to amend Rule 15.8.1 P1(a) to refer to habitable buildings only. Submission **[2173.59]** is supported by *Horticulture New Zealand [FS3027.18]* and opposed by *Waikato Regional Council [FS3031.149]*.
276. The coastal sensitivity areas have been identified based on the extent of a particular hazard with up to 1m of sea level rise over the next 100 years. I acknowledge that these areas are not current hazard areas, but the risk of, in this case coastal flooding, is likely to become more frequent over time. It is important to plan for this increase in risk through mitigation and or adaptation measures when new development is planned. This approach is in accordance with

the directive under Policy 25 of the NZCPS, Policies 13.1 and 13.2 of the WRPS and gives effect to proposed policies 15.2.1.16 and 15.2.1.17.

277. The proposed policies and rules have provided for development where the future risk can be assessed and options for reducing future risk can be considered through a resource consent. This enables risk reduction options to be included in resource consent through conditions that may require actions in the future to mitigate or adapt to future hazards. This approach also enables the Council to monitor changes over time and enforce conditions if and when required. New building development has been provided as a restricted discretionary activity. Rules 15.1 P1 and 15.1 P2 are the exceptions to the rule. However, P1 allows for an exemption of a one off minor addition to an existing building. The gross floor area stated in the rule allows a minor increase in the size of an existing building which is considered to not significantly increase overall risk. Allowing for additions to be based on need as suggested by Steve and Jan Godley would potentially allow for substantial additions to an existing building to be permitted and would undermine the policy direction provided by the NZCPS, WRPS, would be inconsistent with proposed policies 15.2.1.16 and 15.2.1.17 and would conflict with Rule 15.8.2 RD1.
278. Federated Farmers have requested that the rule only apply to habitable buildings. I assume this is to exempt additions to non-residential buildings from the size restriction. I am not convinced that this would be the case. The relief sought would only ensure that non-residential buildings are excluded from the exemption in 15.7.1 P1 and would be subject to 15.7.1 P2 and 15.7.2 RD1. I recommend that the panel reject submissions Steve & Jan Godley [2142.1] and Federated Farmers of New Zealand [2173.59] and reject the further submission from *Horticulture New Zealand* [FS3027.18] and accept the further submission by the *Waikato Regional Council* [FS3031.149].
279. Kainga Ora Homes and Communities [2094.41] seek to retain Rule 15.8.1 P2 (1) as notified. I recommend this submission be accepted.
280. Federated Farmers of New Zealand [2173.60] seek to amend 15.8.1 P2 to remove the condition requiring the accessory or farm building to have no floor. This submission is supported by *Horticulture New Zealand* [FS3027.19] and opposed by *Waikato Regional Council* [FS3031.150].
281. The purpose of this rule is to allow for some building works to be exempt from resource consent where the risk is considered to be relatively low. If the requirement for the buildings to have no floor was to be removed it would then allow any farm or accessory building regardless of scale, value or location to be constructed without any consideration of future risk to that building. I have already discussed this matter in previous sections in relation to similar submissions, where I have outlined that the requirement for an accessory building to have no floor ensures the use of the building will not be used for residential purposes (the definition for an accessory building does not preclude the use of the building for residential purposes). The amendments as requested could then allow for a building which could be used for accommodation and I believe the amendments would introduce a conflict with Rule 15.7.2 RD1.
282. Although I do agree that functional farm or accessory buildings may not be substantially at risk from the effects of climate change in the short term, it is important to avoid any activities that may be exposed to increasing risk in the future. It is also important to ensure that development does not prevent the landward migration of coastal habitats as sea level rises.

283. I am not completely convinced that the amendments as proposed have provided a satisfactory alternative to the proposed rule that will achieve objective 15.2.1 and the direction set out in the relevant policies. I am open to hearing further evidence on this matter but in the absence of this I recommend the submission by Federated Farmers of New Zealand **[2173.60]** and further submission by *Horticulture New Zealand* **[FS3027.19]** be rejected and the further submission by the *Waikato Regional Council* **[FS3031.150]** be accepted.
284. Spark New Zealand Trading Limited **[2040.8]** and WEL Networks Limited **[2106.17]** both support Rule 15.8.1 P3 as notified, with *Counties Power* **[FS3021.15]** supporting submission **[2106.17]**. I support these submissions to retain Rule 15.8.1 P3 and recommend the relief sought by Spark New Zealand Trading Limited **[2040.8]**, WEL Networks Limited **[2106.17]** be accepted in part, to the extent that the rule is retained with amendments made under another submission, and that the further submission by *Counties Power* **[FS3021.15]** be accepted.
285. Waikato Regional Council **[2102.38]** seek an amendment to P3, and while not providing details of the amendments sought, the submission requests confirmation that it does not apply to new construction. This submission appears to relate to Waikato Regional Council submission **[2102.94]** addressed in a later section of this report, seeking a new RDA rule for new infrastructure and utilities. Submission **[2102.38]** is opposed by *Transpower New Zealand Ltd* **[FS3003.13]**.
286. Rule 15.8.1 P3 allows for the construction, upgrading, minor upgrading, replacement, repair and maintenance of utilities in a coastal sensitivity area. These activities have been provided for as a permitted activity as they are not considered to pose a major risk in coastal sensitivity areas. Feedback from utilities service providers on the draft Proposed District Plan suggested that, prior to development of any new utilities, the risk to the development is fully assessed. Utilities often consist of a significant financial investment that, unlike residential and other privately owned development, cannot be on-sold. These activities are still subject to the bulk and location rules within applicable zone chapters. I consider it appropriate to provide for these activities as a permitted activity and recommend the relief sought by Waikato Regional Council **[2102.38]** be rejected and the further submission by *Transpower New Zealand Ltd* **[FS3003.13]** be accepted.
287. Waikato Regional Council **[2102.59]** also seek to amend Rule 15.8.1 P3 to include an activity-specific condition to exclude coastal protection structures, even where associated with flood management infrastructure including stopbanks, and erosion protection structures associated with flood management, where owned or operated by Waikato Regional Council, Waikato District Council or the Crown.
288. Rule 15.8.1 P3 as proposed, permits construction, upgrading, minor upgrading, replacement, repair or maintenance of utilities. Utility is defined to include flood management infrastructure including stopbanks and erosion protection structures associated with flood management where owned or operated by the Waikato Regional Council, the Waikato District Council or the Crown. P3 therefore permits some new coastal protection structures. This conflicts with Rule 5.8.3 D1, which provides for new coastal protection structures as a discretionary activity. The relief sought addresses this anomaly and ensures that new coastal protection structures are not provided for as a permitted activity and are assessed under the appropriate rule. I agree with the addition of an activity specific condition excluding coastal protection structures from Rule 15.8.1 P3 but I do not consider it necessary to include any reference to the ownership of the structures as this detail has no relevance and therefore only partially support the proposed amendment. I therefore

recommend the submission by the Waikato Regional Council [2102.59] be accepted in part and that rule 15.8.1 P3 be amended accordingly.

289. Federated Farmers of New Zealand [2173.61] have sought that Rule 15.8.1 P4 be retained as notified. I support this submission and recommend it be accepted.

### 22.3 Recommendations

290. For the reasons outlined above, it is recommended that the hearings panel:

- (a) **Accept** the submission from Kainga Ora Homes and Communities [2094.40];
- (b) **Reject** the submission from Maria Timmermans [2063.1];
- (c) **Accept** the further submission from *Waikato Regional Council* [FS3031.99];
- (d) **Reject** the submission from Barry Wayne Ford [2052.1];
- (e) **Reject** the submission from Steve & Jan Godley [2142.1];
- (f) **Reject** the submission from Federated Farmers of New Zealand [2173.59];
- (g) **Reject** the further submission from *Horticulture New Zealand* [FS3027.18];
- (h) **Accept** the further submission from *Waikato Regional Council* [FS3031.149];
- (i) **Accept** the submission from Kainga Ora Homes and Communities [2094.41];
- (j) **Reject** the submission from Federated Farmers of New Zealand [2173.60];
- (k) **Reject** the further submission from *Horticulture New Zealand* [FS3027.19];
- (l) **Accept** the further submission from *Waikato Regional Council* [FS3031.150];
- (m) **Accept in part** the submission from Spark New Zealand Trading Limited [2040.8], to the extent that the rule be retained with amendments made under another submission;
- (n) **Accept** in part the submission from WEL Networks Limited [2106.17], to the extent that the rule be retained with amendments made under another submission;
- (o) **Accept** the further submission from *Counties Power* [FS3021.15];
- (p) **Reject** the submission from Waikato Regional Council [2102.38];
- (q) **Accept** the further submission from *Transpower New Zealand Ltd* [FS3003.13];
- (r) **Accept** the submission from Waikato Regional Council [2102.59];
- (s) **Accept in part** the submission from Federated Farmers of New Zealand [2173.61].

### 22.4 Recommended amendments

291. Amend Rule 15.8.1 P3 to include an activity-specific condition to exclude coastal protection structures.

	Activity	Activity specific conditions
P3	Construction, upgrading, minor upgrading,	<del>Nil</del> <u>Excludes coastal protection structures.<sup>9</sup></u>

<sup>9</sup> Waikato Regional Council [2102.59]



	replacement, repair or maintenance of utilities.	
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## 22.5 Section 32AA Evaluation

292. The s32 report 'Natural hazards and climate change' (2020) evaluates this rule. No additional evaluation of the amended text under s32AA is required, because the s32 evaluation of the original text adequately covers and justifies the minor amendments now proposed, which are to correct an error in the notified text.

## 23 Rule 15.8.2 – Restricted Discretionary Activities

### 23.1 Submissions

293. Eight submissions were received seeking to retain, amend or add a new rule to Section 15.8.2. These submissions are set out in the following table.

Submission Point	Submitter	Support/ Oppose	Summary of Submission
2142.2	Steve & Jan Godley		<b>Retain</b> Rule 15.8.2 Coastal Sensitivity Area (Inundation), Restricted Discretionary Activities.
2173.62	Federated Farmers of New Zealand		<b>Retain</b> Rule 15.8.2 Restricted Discretionary Activities as notified.
2182.4	Louise Davis		<b>Amend</b> Rule 15.8.2 to permit ancillary dwelling up to 30m <sup>2</sup> so long as ancillary building is on property but not in the inundation zone.
2055.4	Eric Messick		<b>Amend</b> Rule 15.8.2 RD1 to permit ancillary dwellings up to 30m <sup>2</sup> outside inundation zone.
2094.42	Kainga Ora Homes and Communities		<b>Retain</b> Rule 15.8.2 RD1 except for the amendments sought below <b>AND</b> <b>Amend</b> Rule 15.8.2 RD1 as follows: Construction of a new building, <u>or reconstruction of</u> , or addition to, an existing building not provided for in Rule 15.8.1 PI – P3 and not listed in Rule 15.8.3 DI.
2102.77	Waikato Regional Council		<b>Amend</b> Rule 15.8.2 RD1 Coastal Sensitivity Area (Inundation) - Restricted Discretionary Activities as follows: Construction of a new building or addition to an existing building <u>and</u> <u>establishment of a natural hazard sensitive land use</u> not provided for in Rule 15.8.1 PI- P3 and not listed in Rule 15.8.3 DI.
FS3033.21	Kainga Ora - Homes and Communities	Oppose	<i>Kainga Ora opposes this submission. In its submission, Kainga Ora supports the notified approach – with elevated status for land use</i>

			development located in hazard areas, enabling a consenting process to consider the merits of a particular development in a specific location. This approach acknowledges the proposed design and location of residential activities within a site that is subject to a natural hazard can be considered and, where it is demonstrated that such risks can be appropriately avoided, remedied or mitigated, the activity can be provided for.
2107.22	Heritage New Zealand Pouhere Taonga		<b>Amend</b> Rule 15.8.2 RD1 - Matter of Discretion (f) as follows: (f) The adverse effects to people and property <u>and Historic heritage and sites and areas of significance to Maaori</u> and overall vulnerability from the establishment of the new building or additions to an existing building and any mitigation measures to reduce risk.
2102.94	Waikato Regional Council		<b>Add</b> new Rule 15.8.2 RD2 - Coastal Sensitivity Area (Inundation) as follows: <u>New Infrastructure and utilities, including any associated earthworks</u> <u>Discretion is restricted to:</u> (a) <u>The functional and/or operational need to locate within the hazard area;</u> (b) <u>The risk of adverse effects to other people, property and the environment including: risk to public health and safety; impacts on public access associated with the proposed activity;</u> (c) <u>The management or regulation of other people and property required to mitigate natural hazard risks resulting from the location of the infrastructure;</u> (d) <u>Any exacerbation of an existing natural hazard or creation of a new natural hazard as a result of the structure; and</u> (e) <u>The ability to relocate or remove structures.</u>
FS3002.6	Spark New Zealand Trading Limited	<b>Oppose</b>	As earthworks are not referred to in 15.8.1 P1-P4, it is assumed that they are not regulated in the Coastal Sensitivity Area (Inundation), and that only the actual land uses are regulated (earthworks are specifically referred to in the rules for some other natural hazard areas). Spark is concerned the amendment proposed to the RDA provision with specific reference to earthworks associated with infrastructure and utilities, whilst intended to accommodate infrastructure and utilities that are not otherwise permitted in the natural hazard area,

			<i>could have the unintended consequence of requiring resource consent for earthworks for otherwise permitted utilities provided for in P3, including telecommunications.</i>
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## 23.2 Analysis

294. Steve & Jan Godley [2142.2] and Federated Farmers of New Zealand [2173.62] seek to retain Rule 15.8.2. I recommend the panel accept the submissions from Steve & Jan Godley [2142.2] and Federated Farmers of New Zealand [2173.62].
295. Louise Davis [2182.4] and Eric Messick [2055.4] have both sought to amend Rule 15.8.2 to permit an ancillary dwelling up to 30m<sup>2</sup>, as long as the ancillary building is on property but not in the inundation zone. Any building outside the Coastal Sensitivity Area (Inundation) will not be regulated under Chapter 15.8 and therefore the proposed rules already address the relief sought in terms of this chapter. Any relevant zone rules will still apply to buildings outside of the Coastal Sensitivity Area (Inundation), including an ancillary dwelling. I therefore recommend the panel reject the submissions from Louise Davis [2182.4] and Eric Messick [2055.4].
296. Kainga Ora Homes and Communities [2094.42] support Rule 15.8.2 RDI but seek to amend the rule to include the 'reconstruction' of an existing building in the rule. The submitter wants the rule to specifically address the reconstruction of a building in the same location and of a similar size and scale. I would think that including this activity as a RDA would be ultra vires as it is specifically provided for under Section 10 RMA. Where not provided for under Section 10 RMA, the term construction would provide for the reconstruction of a building. In which case the relief sought by Kainga Ora Homes and Communities [2094.42] is unnecessary and I recommend this submission be rejected.
297. Waikato Regional Council [2102.77] seek to amend Rule 15.8.2 RDI to include the establishment of a 'natural hazard-sensitive land use' not provided for in Rule 15.8.1 PI- P3 and not listed in Rule 15.8.3 DI. This submission is opposed by *Kainga Ora - Homes and Communities [FS3033.21]*. This submitter has also sought to include a new rule for natural hazard sensitive land uses in Chapter 15.7.2 [2102.76], 15.9.3 [2102.21] and 15.10.3 [2102.22] as well as including a new policy as 15.2.1.2B for Natural Hazard Sensitive Land Uses in areas of significant natural hazards within the coastal environment [2102.18] and a new definition for natural hazard sensitive land use in chapter 15.14 [2102.19]. I have recommended these submissions be rejected on the basis that sensitive activities are already provided for under the current proposed regulatory framework and do not need to be explicitly provided for. Please refer to the discussion on this in Section 5.4 of this report. Consequently I recommend the submission from Waikato Regional Council [2102.77] be rejected and further submission from *Kainga Ora - Homes and Communities [FS3033.21]* be accepted.
298. Heritage New Zealand Pouhere Taonga [2107.22] seek to amend Rule 15.8.2 RDI Matter of discretion (f) to include historic heritage and sites and areas of significance to Maaori as a matter that discretion is restricted to. Matters addressing the protection of historic heritage and sites and areas of significance to Maaori are addressed in other sections of the Proposed District Plan, namely Chapters 2 and 7 and the rules pertaining to historic heritage and sites and areas of significance to Maaori in the relevant zone chapters. I consider it unnecessary to address the protection of historic heritage and sites of significance to Maaori when assessing a new building in a Coastal Sensitivity Area when other sections of the Proposed District Plan already address these and recommend the submission from Heritage New Zealand Pouhere Taonga [2107.22] be rejected.
299. Waikato Regional Council [2102.94] seek to add a new restricted discretionary activity rule to 15.8.2 such that new Infrastructure and utilities, including any associated earthworks, is a restricted discretionary activity. This submission is opposed by *Spark New Zealand Trading*

*Limited [FS3002.6]*. I recommend the submission by the Waikato Regional Council [2102.94] be rejected. Please refer to my reasons in the discussion on the Waikato Regional Council submission [2102.38] in Section 22.2, paragraphs 285 and 286 above. Consequently I recommend that the submission from Waikato Regional Council [2102.94] be rejected and that the further submission from *Spark New Zealand Trading Limited [FS3002.6]* be accepted.

### 23.3 Recommendations

300. For the reasons outlined above, it is recommended that the hearings panel:

- (a) **Accept** the submission from Steve & Jan Godley [2142.2];
- (b) **Accept** the submission from Federated Farmers of New Zealand [2173.62];
- (c) **Reject** the submission from Louise Davis [2182.4];
- (d) **Reject** the submission from Eric Messick [2055.4];
- (e) **Reject** the submission from Kainga Ora Homes and Communities [2094.42];
- (f) **Reject** the submission from Waikato Regional Council [2102.77];
- (g) **Accept** the further submission from *Kainga Ora - Homes and Communities [FS3033.21]*;
- (h) **Reject** the submission from Heritage New Zealand Pouhere Taonga [2107.22];
- (i) **Reject** the submission from Waikato Regional Council [2102.94];
- (j) **Accept** the further submission from *Spark New Zealand Trading Limited [FS3002.6]*.

### 23.4 Recommended amendments

301. There are no amendments in this section.

### 23.5 Section 32AA Evaluation

302. No s32AA evaluation required.

## 24 Rule 15.8.3 – Discretionary Activities

### 24.1 Introduction

303. Rule 15.8.3 provides discretionary activity status for coastal protection structures and subdivisions in the Coastal Sensitivity Area (Inundation).

### 24.2 Submissions

304. Two submissions were received seeking to amend or retain Rule 15.8.3 D2. These submissions are set out in the following table.

Submission Point	Submitter	Support/ Oppose	Summary of Submission
2106.18	WEL Networks Limited		<b>Retain</b> Rule 15.8.3 D2 as proposed.
FS3021.14	Counties Power	Support	15.8.3 D2 As stated by WEL this provides for subdivision to create a utility allotment without any unnecessary restrictions noting that

			<i>subdivision associated with utility will default to Chapter 14 provisions.</i>
2094.43	Kainga Ora Homes and Communities		<p><b>Amend</b> the activity status of Rule 15.8.3 D2 from Discretionary to Restricted Discretionary Activity.</p> <p>AND</p> <p><b>Add</b> the following matters of discretion:</p> <p><u>(a)The effects of the hazard on the intended use of the site or sites created by the subdivision.</u></p> <p><u>(b)The vulnerability of the uses to coastal hazard events.</u></p> <p><u>(c)Whether the location and design of the development, including building platforms, are located to avoid the hazard.</u></p> <p><u>(d)The extent to which changes to the landform for the subdivision are necessary.</u></p>

### 24.3 Analysis

305. WEL Networks Limited [2106.18] seek to retain Rule 15.8.3 D2 as proposed. This is supported by *Counties Power [FS3021.14]*. I recommend accepting this the submission by WEL Networks Limited [2106.18] and accepting the further submission from *Counties Power [FS3021.14]*.
306. Kainga Ora Homes and Communities [2094.43] seek to amend Rule 15.8.3 D2 so that the activity status for subdivision is a Restricted Discretionary activity and includes matters of discretion listed in the submission. The submission seeks a rule structure similar to the discretionary activity subdivision rule in High Risk Coastal Hazard Areas, where the focus is on the location of the building platform.
307. Although I am not opposed in principle to the rule being amended to restricted discretionary activity, I am of the opinion that the matters of discretion as proposed are not sufficient to address all future risk especially with regards to the level of uncertainty with regards to projected sea level rise. This subdivision rule will apply across all subdivision proposals regardless of the scale. Once a subdivision is completed, each new lot can be developed and therefore the effects on any future development should be considered through the subdivision consent process. The rules regulating building within a coastal sensitivity area include provision for site specific assessments and where applicable to ensure development can be relocated or removed in the future. These building rules apply to existing allotments. In my opinion when creating new lots within this overlay area the new lots should be assessed through a more rigorous assessment process to ensure that the development isn't exacerbating future risk.
308. It is not clear from the submission whether the relief sought is consistent with the policy direction in Chapter 15.2, specifically with regards to the Policies 15.2.3.1 -5. I invite the submitter to provide further evidence on the matters outlined above. In the absence of further evidence I recommend that the submission from Kainga Ora Homes and Communities [2094.43] be rejected.

### 24.4 Recommendations

309. For the reasons outlined above, it is recommended that the hearings panel:
- (a) **Accept** the submission from WEL Networks Limited [2106.18];
  - (b) **Accept** the further submission from *Counties Power [FS3021.14]*;

(c) **Reject** the submission from Kainga Ora Homes and Communities [2094.43].

#### **24.5 Recommended amendments**

310. There are no amendments recommended for this section.

#### **24.6 Section 32AA Evaluation**

311. No s32AA evaluation required.

## **25 Protection from coastal hazard, including hard coastal protection structures**

### **25.1 Introduction**

312. Protection from coastal hazards range from natural features and buffers (referred to as soft hazard protection), such as beaches and dune systems, through to engineered hard protection structures such as seawalls, rock revetments or groynes. There are three policies in Chapter 15.2 relevant to the range of coastal protection, including:

- Policy 15.2.1.7 – Protection from risks of coastal hazards – recognises the importance of natural features and buffers and soft hazard protection works;
- Policy 15.2.1.8 – Limitations on hard protection works for coastal hazard mitigation - provides guidance for hard protection structures and works when they are deemed necessary to protect existing development. It recognises that where an adaptive management strategy has been prepared that identifies a coastal protection structure as a means to manage coastal hazards, then any proposed new structure should be consistent with the strategy; and
- Policy 15.2.1.9 – Natural features and buffers providing natural hazard protection - outlines the importance of protecting, maintaining and potentially enhancing the integrity of natural features and buffers that provide for protection from natural hazards (including coastal hazards) and sea level rise.

313. These three policies are given effect to by permitted and discretionary activity rules in sections 15.7 to 15.10. The rules provide for the maintenance and repair of existing, legally-established coastal protection structures as a permitted activity. The construction of new coastal protection structures is provided for as a discretionary activity (note that a proposal for a new coastal protection structure that straddles Mean High Water Springs (MHWS), will likely require a joint resource consent under the Waikato District Plan and the Waikato Regional Coastal Plan).

### **25.2 Submissions**

314. Over 80 submissions were received in relation to coastal protection. These include a number of submissions by The Raglan Collective Incorporated Society (representing a group of land owners in a residential enclave near the eastern end of Wallis Street and also in Lorenzen Bay in Raglan) where the land is protected by existing seawalls. Individual members of the Raglan Collective also submitted. They seek to amend provisions to allow for the repair, maintenance and upgrade and, in some cases replacement, of existing hard protection structures where longstanding development depends on them (note that many of the existing sea walls around Raglan that protect private property predate the RMA and may have been constructed at a time when consent was not required).

315. Some of these submissions also anticipate that an adaptive management planning process may be carried out for some areas in Raglan in the future, and that the intent of that process will be to identify areas where existing properties are at risk from coastal hazards, now and in the future. The adaptive management planning process is not directed by provisions in the district plan, however the outcomes of an approved adaptive management plan/strategy may assist with future land use planning through resource consents and/or future plan changes.
316. I have responded to the submissions made on the policies in section 15.2.1 and then grouped the submissions together where they seek to address similar matters within the rules in sections 15.7, 15.8, 15.9 and 15.10.

## 26 Chapter 15.2 – New Policy under Objective 15.2.1

317. One submission was received seeking the addition of a new policy. One further submissions were received in opposition.

New Policy under Objective 15.2.1 – Resilience to natural hazard risk			
2135.2	Jacqui Graham on behalf of The Raglan Collective Incorporated Society		<b>Add</b> a new policy under Objective 15.2.1 - Resilience to natural hazard risk - that provides for repair, maintenance and replacement of some existing coastal protection structures in Raglan where longstanding subdivisions rely on them; And <b>Any</b> consequential amendments to policies to reflect this policy.
FS3012.16	Department of Conservation	Oppose	<i>The Director-General does not support hard protection coastal structures as a central tool for defence against coastal hazards. The NZCPS encourages locating infrastructure outside of coastal hazard areas, managed retreat and natural defences as alternatives for hard protection structures. Alternatives to hard protection structures must therefore be explored and Stage 2 provisions should reflect this in giving effect to the NZCPS.</i>

### 26.1 Analysis

318. The Raglan Collective Incorporated Society **[2135.2]** seeks to include a new policy that provides for repair, maintenance and replacement of some existing coastal protection structures in Raglan where longstanding subdivisions rely on them. The relief sought is opposed by the *Department of Conservation* **[FS3012.16]** on the basis that it is inconsistent with the policy direction set by the New Zealand Coastal Policy Statement, which discourages the use of hard protection structures as a first line of defence and encourages alternatives.
319. In responding to this submission I have separated it into two parts; (1) providing for maintenance and repair of existing coastal protection structures and (2) providing for the replacement of existing coastal protection structures. As it stands, Chapter 15 already provides for the maintenance and repair of lawfully established coastal protection structures through permitted activity rules 15.7.1 P4, 15.8.1 P4, 15.9.1 P3 and 15.10.1 P3.
320. In regard to replacement, the plan does provide for new coastal protection structures (including extension, upgrading or replacement of existing structures) as a discretionary activity, with Policies 15.2.1.7 and 15.2.1.8 providing guidance for assessment under these

rules. In my opinion the addition of a new policy as proposed is not necessary as the activity is already provided for through appropriate policies and rules and for these reasons I recommend that the Raglan Collective Incorporated Society submission [2135.2] be rejected and the further submission by the Department of Conservation [FS3012.16] be accepted.

## 26.2 Recommendations

321. For the reasons outlined above, it is recommended that the hearings panel:

- (a) **Reject** the submission from the Raglan Collective Incorporated Society [2135];
- (b) **Accept** the further submission from the *Department of Conservation* [FS3012.16].

## 26.3 Recommended amendments

322. No amendments are recommended for this section.

## 26.4 Section 32AA Evaluation

323. No s32AA evaluation required.

# 27 Policy 15.2.1.7 - Soft hazard protection

## 27.1 Introduction

324. Policy 15.2.1.7 recognises the importance of natural features and buffers and soft hazard protection works for natural hazard mitigation.

## 27.2 Submissions

325. Thirteen submissions were received seeking to amend or retain Policy 15.2.1.7. Two further submissions were received.

Policy 15.2.1.7 – Protection from risks of coastal hazards			
2103.7	Fire and Emergency New Zealand		<b>Retain</b> Policy 15.2.1.7 as proposed.
2106.3	WEL Networks Limited		<b>Retain</b> Policy 15.2.1.7 as proposed.
2151.12	Waikato-Tainui Te Kauhanganui Incorporated		<b>Retain</b> Policy 15.2.1.7 - Protection from risks of coastal hazards.
2173.9	Federated Farmers of New Zealand		<b>Retain</b> Policy 15.2.1.7 – Protection from risks of coastal hazards as notified.
2102.48	Waikato Regional Council		<b>Amend</b> Policy 15.2.1.7 - Protection from risks of coastal hazards as follows: (a) Recognise the importance of natural features and buffers, and soft hazard protection



			<p>works, and prefer them wherever practicable over hard protection structures.</p> <p><u>(b) Provide for the landward movement of natural coastal systems which function as coastal hazard defences; and</u></p> <p><u>(c) Where where new hazard mitigation measures and/or works are required to protect people, property infrastructure and the environment from the risks of coastal hazards, consider first the use of enhancement and support of natural features and soft engineering solutions.</u></p>
FS3013.5	Heritage New Zealand Pouhere Taonga	Oppose	<p>HNZPT considers that the amendments sought by the submitter could negate the matters sought for inclusion by HNZPT to avoid adverse effects on Matters of National Importance. While HNZPT generally supports the approach the Natural and soft protection measures, some soft protection measures such as the inappropriate type of dune planting could have adverse impacts on Maori sites and areas of significance from archaeological perspective.</p>
2107.9	Heritage New Zealand Pouhere Taonga		<p><b>Amend</b> Policy 15.2.1.7(a) as follows:</p> <p>(a) Recognise the importance of natural features and buffers, and soft hazard protection works, and prefer them wherever <u>appropriate and</u> practicable over hard protection structure, where new hazard mitigation measures and / or work are required to protect people, property infrastructure and the environment <u>including historic heritage and sites and areas of significance to Maaori</u> from the risks of coastal hazards.</p>
2108.8	Department of Conservation		<p><b>Amend</b> Policy 15.2.1.7(a) - Protection from risks of coastal hazards as follows:</p> <p>(a) <del>Recognise</del> <u>Provide for</u> the importance of natural features and buffers, and soft hazard protection works, and prefer them <del>wherever practicable</del> over hard protection structures, where new hazard mitigation measures and/or works are required to protect people, property infrastructure and the environment from the risks of coastal hazards.</p> <p><b>OR</b></p> <p>Any alternative relief that may be appropriate</p>
2118.2	Russell Davis		<p><b>Amend</b> Policy 15.2.1.7 Protection from risks of coastal hazards.</p>

2118.5	Russell Davis		<b>Add</b> to the plan a lists all strategies to mitigate natural hazards (possibly as an appendix).
2135.3	Jacqui Graham on behalf of The Raglan Collective Incorporated Society		<b>Amend</b> Policy 15.2.1.7 – Protection from risks of coastal hazard to reflect new policy under sub OS2135.2.
<i>FS3012.17</i>	<i>Department of Conservation</i>	<i>Oppose</i>	<i>The Director-General does not support hard protection coastal structures as a central tool for defence against coastal hazards. The NZCPS encourages locating infrastructure outside of coastal hazard areas, managed retreat and natural defences as alternatives for hard protection structures. Alternatives to hard protection structures must therefore be explored and Stage 2 provisions should reflect this in giving effect to the NZCPS</i>
2128.6	Chris & Sue Harris		<b>Amend</b> policy 15.2.1.7 - Protection from risks of coastal hazard to give further clarification on what situations determine the preference for hard hazard protection or soft hazard protection.
2133.1	Adam Marsh for Raglan Collective on behalf of Adam Marsh & Carol McColl		<b>Amend</b> Policy 15.2.1.7 Protection from risks of coastal hazards - generally to provide that situation and need determine the preference for hard hazard protection or soft hazard protection.
2134.1	Jacqui Graham for Raglan Collective on behalf of Jacqui Graham & Julie Nelson		<b>Amend</b> policies and rules as set out in Raglan Collective submission #2135, to allow maintenance, repair and upgrade (short of replacement) of existing coastal protection structures in the Wallis Street and Lorenzen Bay areas, having regard to the medium term intention for the development of adaptive management strategies.
2176.2	Jane Bethell		<b>Amend</b> Policy 15.2.1.7 - Protection from risks of coastal hazards to allow for hard protection where there will be minimal or no effect or transferred risk to other property.

### 27.3 Analysis

326. Fire and Emergency New Zealand [2103.7], WEL Networks Limited [2106.3], Waikato-Tainui Te Kauhanganui Incorporated [2151.12] and Federated Farmers of New Zealand [2173.9] all seek to retain Policy 15.2.1.7 as notified. I recommend submissions from Fire and Emergency New Zealand [2103.7], WEL Networks Limited [2106.3], Waikato-Tainui Te

- Kauhanganiu Incorporated **[2151.12]** and Federated Farmers of New Zealand **[2173.9]** be accepted.
327. Waikato Regional Council **[2102.48]** supports the preference and maintenance for natural systems as coastal hazard defences set out in Policy 15.2.1.7, but seeks some amendments to improve the policy by including reference to recognising the importance of natural systems, providing for their continued function and indicating a preference for 'soft' engineering solutions where further intervention is required. *Heritage New Zealand Pouhere Taonga* **[FS3013.5]** opposes this submission on the basis that the natural and soft protection measures, such as inappropriate dune planting, could have adverse impacts on Maaori sites and areas of significance from an archaeological perspective.
328. The relief sought in my mind provides no additional value to the policy, which already provides for the importance of natural systems and buffers and soft protection over hard protection options. The amendments as proposed refer to the landward migration of natural coastal systems as directed by the NZCPS and the consideration of enhancing and supporting natural features. It is of my opinion that the proposed amendments are already adequately addressed in Policies 15.2.1.9, 15.2.3.2 and 15.2.3.4 and do not need to be duplicated here. I also note here that the submitter has sought amendments to Policy 15.2.1.9 to address the same issue (see Waikato Regional Council **[2102.51]** in Section 29.3 below) and I have recommended that amendment be accepted. On this basis I recommend the submission by the Waikato Regional Council **[2102.48]** be rejected and the further submission by Heritage New Zealand Pouhere Taonga **[FS3013.5]** be accepted.
329. Heritage New Zealand Pouhere Taonga **[2107.9]** have sought amendments to Policy 15.2.1.7(a) to recognise that in some instances, particularly in relation to historic heritage and sites and areas of significance to Maaori, a soft protection option may not be appropriate.
330. In my view including reference to historic heritage and sites and areas of significance to Maaori to the policy is an unnecessary additional text. The reference to the term environment includes all natural and physical resources by way of the broad definition in the RMA. Any effects on historic heritage and sites and areas of significance to Maaori can rely on rules elsewhere in the plan and will determine if the works are appropriate. I also do not agree with amending the policy to include consideration of whether preference to natural features and buffers and soft protection is 'appropriate'. I am of the view that this term adds unnecessary subjectivity to the policy. I recommend Heritage New Zealand Pouhere Taonga submission **[2107.9]** be rejected.
331. Lou Sanson, Director General of Department of Conservation **[2108.8]** has sought to amend Policy 15.2.1.7(a) so that it refers to providing for the importance of natural features and buffers rather than just recognising them. The submission also seeks to delete the reference to 'wherever practicable' within the policy so that the policy is more consistent with the direction set out in Policy 26 NZCPS. I do not support this change. I consider that the wording of the policy gives effect to NZCPS Policies 25 and 26, which are not directive but speak of discouraging hard protection structures and "providing where appropriate" for natural defences. District plans are therefore given latitude in approaches and wording. I note also that NZCPS Policy 27(1)(c) recognises some circumstances where hard protection structures are the only practical means of protection. I am also of the opinion that Policy 15.2.1.9 provides for the relief sought by encouraging the protection, maintenance and where appropriate the enhancement of natural features and buffers. I recommend that Department of Conservation **[2108.8]** be rejected.
332. Russell Davis **[2118.2]** seeks to amend Policy 15.2.1.7 and **[2118.5]** to include lists all strategies to mitigate natural hazards in NZ (possibly as an appendix to the plan). The submitter does not provide any direction on the amendments sought to Policy 15.2.1.7 but does suggest in submission point **[2118.5]** that all potential coastal protection mitigation

measures and strategies could be listed in the appendices. While I am not clear what the submitter has in mind, I would note that coastal hazard risks are changing due to climate change, and responses will need to be tailored to the needs of individual sites. It is not practical or desirable to conclusively list measures and strategies, and I recommend that submissions [2118.2] and [2118.5] from Russell Davis be rejected.

333. The Raglan Collective Incorporated Society [2135.3] seeks to amend Policy 15.2.1.7 to reflect the new policy that has been requested under submission point [2135.2] (the new policy seeks to include provision for the maintenance, repair and replacement of coastal protection structures). This submission is opposed by the *Department of Conservation* [FS3012.17], on the basis that the relief sought is inconsistent with the NZCPS, which does not support hard protection structures being the first line of defence against coastal hazards.
334. The submissions by Chris & Sue Harris [2128.6], Adam Marsh & Carol McColl [2133.1], Jacqui Graham & Julie Nelson [2134.1], Jane Bethell [2176.2] and The Raglan Collective Incorporated Society [2135.3] generally seek amendments to include provision to maintain, repair, upgrade and/or replace existing coastal protection structures in Wallis Street and Lorenzen Bay in Raglan, and to allow for these activities as an interim measure prior to any adaptive management strategy that recognises existing coastal protection structures as the most appropriate option for mitigating current and future risk to coastal properties. Further submission [FS3012.17] from the *Department of Conservation* opposes submission [2134.1] on the basis that hard protection structures should not be used as a central tool for the defence against natural hazards, and that alternatives should be explored.
335. Policy 15.2.1.7 outlines the preference for natural features and buffers and soft protection works over hard protection structures and gives effect to the policy direction set by the WRPS Policies 13.1(g) and 13.2(f) and NZCPS Policy 25(e). In my view Policy 15.2.1.7 should not give preference to hard protection structures including in anticipation of the outcome of any non-statutory adaptive management strategy or plan that has not yet been developed or adopted. The amendments sought would be inconsistent with the WRPS and the NZCPS and I therefore recommend the submissions by Chris & Sue Harris [2128.6], Adam Marsh & Carol McColl [2133.1], Jacqui Graham & Julie Nelson [2134.1], Jane Bethell [2176.2] and The Raglan Collective Incorporated Society [2135.3] be rejected and that *Department of Conservation* further submission [FS3012.17] be accepted.

#### 27.4 Recommendations

336. For the reasons outlined above, it is recommended that the hearings panel:
- (a) **Accept** the submission from Fire and Emergency New Zealand [2103.7];
  - (b) **Accept** the submission from WEL Networks Limited [2106.3];
  - (c) **Accept** the submission from **Accept** the submissions from Waikato-Tainui Te Kauhanganui Incorporated [2151.12];
  - (d) **Accept** the submission from Federated Farmers of New Zealand [2173.9];
  - (e) **Reject** the submission from Waikato Regional Council [2102.48];
  - (f) **Accept** the further submission from *Heritage New Zealand Pouhere Taonga* [FS3013.5];
  - (g) **Reject** the submission from *Heritage New Zealand Pouhere Taonga* [2107.9];
  - (h) **Reject** the submission from the *Department of Conservation* [2108.8];
  - (i) **Reject** the submission from Russell Davis [2118.2] and [2118.5];
  - (j) **Reject** the submission from Chris & Sue Harris [2128.6];
  - (k) **Reject** the submission from Adam Marsh & Carol McColl [2133.1];

- (l) **Reject** the submission from Jacqui Graham & Julie Nelson [2134.1];
- (m) **Reject** the submission from Jane Bethell [2176.2];
- (n) **Reject** the submission from The Raglan Collective Incorporated Society [2135.3];
- (o) **Accept** the further submission from *Department of Conservation* [FS3012.17].

## 27.5 Recommended amendments

337. No amendments are recommended in this section.

## 27.6 Section 32AA Evaluation

338. No s32AA evaluation required.

# 28 Policy 15.2.1.8 – Limitations on hard protection works for coastal hazard mitigation

## 28.1 Introduction

339. Policy 15.2.1.8 provides parameters for new hard protection structures.

## 28.2 Submissions

340. Thirteen submissions were received seeking to amend or retain Policy 15.2.1.8. Three further submissions were received.

Policy 15.2.1.8 – Limitations on hard protection works for coastal hazard mitigation			
2173.10	Federated Farmers of New Zealand		<b>Retain</b> Policy 15.2.1.8 – Limitation on hard protection works for coastal hazard mitigation as notified.
2103.8	Fire and Emergency New Zealand		<b>Retain</b> Policy 15.2.1.8 as proposed.
2106.4	WEL Networks Limited		<b>Retain</b> Policy 15.2.1.8 as proposed.
2107.10	Heritage New Zealand Pouhere Taonga		<b>Retain</b> Policy 15.2.1.8.
2108.9	Department of Conservation		<b>Retain</b> Policy 15.2.1.8 as notified.
2102.49	Waikato Regional Council		<b>Amend</b> Policy 15.2.1.8(a) - Limitations on hard protection works for coastal hazard mitigation as follows:  (a) Ensure that where new hard protection structures and works are <del>necessary</del> <u>proposed</u> to

			<p>protect existing development on public or privately-owned land from coastal hazards <u>that the following is achieved, they are appropriately assessed and controlled and:</u></p> <p>(i) <u>they provide a demonstrated significant have primarily a public and/or environmental benefit when located on public land;</u></p> <p>(ii) <u>they are effective considering a range of coastal hazard events including the effects of climate change and the activities or development they are designed to protect;</u></p> <p>(iii) <u>the economic, social and environmental benefits outweigh costs; and</u></p> <p>(iii) <u>the economic, cultural and/or social importance of the physical resources to be protected are identified and transition mechanisms and timeframes for moving to more sustainable approaches are provided and reflected in the tenure of the proposal; and</u></p> <p>(iv) <u>do risk is not transferred or increase risk to other people, property, infrastructure, the natural environment, historic heritage or Maori Sites and Areas of Significance.;</u></p> <p>(v) <u>structures are located as far landward as practicable;</u></p> <p>(vi) <u>public access both to and along the coastal area and to the coastal marine area are provided for;</u></p> <p>(vii) <u>the temporary nature or tenure of the structure is considered with respect to actual and potential adverse effects associated with the structure on coastal processes, values and the natural environment over the life of the structure and opportunities to remove, relocate or adapt a structure;</u></p> <p>(viii) <u>the ongoing cost of maintenance of the structure; and</u></p> <p>(ix) <u>residual coastal hazard risk and how risks are to be managed with reference to civil defence or other relevant plans.</u></p>
FS3013.6	Heritage New Zealand Pouhere Taonga	Support in part	<i>HNZPT considers that the amendments sought by the submitter could negate the matters sought for inclusion by HNZPT to avoid adverse effects on Matters of National Importance</i>
2102.50	Waikato Regional Council		<b>Amend</b> Policy 15.2.1.8(b) and (c) – Limitations on hard protection works for coastal hazard mitigation as follows:

			<p>...</p> <p>(b) <u>Encourage the development of Ensure that when new hard protection structures are to be located in an area where an adaptive management strategy strategies which consider limited tenure and best practice design and location where coastal protection structures are identified as desirable and identify longer term risk reduction options available to a community has been prepared to manage coastal hazards, they are consistent with that strategy.</u></p> <p>(c) <u>Where adaptive management strategies have been prepared in accordance with 15.2.1.8 (b) regard should be had to these strategies through a plan change or resource consent process.</u></p>
FS3013.7	Heritage New Zealand Pouhere Taonga	Support	HNZPT supports the proposed additions that adaptive management plans are given effect through a statutory process as this would ensure the consideration of historic heritage at the time of works
2151.13	Waikato-Tainui Te Kauhanganui Incorporated		<b>Amend</b> Policy 15.2.1.8 - Limitations on hard protection works for coastal hazard mitigation to include Maaori Sites and Areas of Significance.
2073.1	Kate Dermer		<b>Amend</b> policies and rules as set out in Raglan Collective submission #2135, to allow maintenance, repair and upgrade (short of replacement) of existing coastal protection structures in the Wallis Street and Lorenzen Bay areas, having regard to the medium term intention for the development of adaptive management strategies. <b>And</b> <b>Amend</b> Policy 15.2.1.8 (b) to provide for protection of properties until adaptive management plans are adopted, including sea walls at Wallis St and Lorenzen Bay, Raglan.
2128.3	Chris & Sue Harris		<b>Amend</b> policy 15.2.1.8 - Limitation on hard protection works for coastal mitigation to expand policy scope to enable upgrading/future proofing where hard structures already exist.
2133.2	Adam Marsh for Raglan Collective on behalf of Adam Marsh & Carol McColl		<b>Amend</b> Policy 15.2.1.8 - Limitation on hard protection works for coastal mitigation - to enable upgrading/ future proofing where hard structures already exist.

2135.4	Jacqui Graham on behalf of The Raglan Collective Incorporated Society		<p><b>Amend</b> Policy 15.2.1.8 – Limitations on hard protection works for coastal hazard mitigation to reflect new policy under submission 2135.2.</p> <p>OS 2135.2</p> <p>Add a new policy under Objective 15.2.1 - Resilience to natural hazard risk - that provides for repair, maintenance and replacement of some existing coastal protection structures in Raglan where longstanding subdivisions rely on them;</p> <p><b>And</b></p> <p>Any consequential amendments to policies to reflect this policy.</p>
FS3012.18	Department of Conservation	Oppose	<p><i>The Director-General does not support hard protection coastal structures as a central tool for defence against coastal hazards. The NZCPS encourages locating infrastructure outside of coastal hazard areas, managed retreat and natural defences as alternatives for hard protection structures. Alternatives to hard protection structures must therefore be explored and Stage 2 provisions should reflect this in giving effect to the NZCPS</i></p>
2176.3	Jane Bethell		<p><b>Amend</b> Policy 15.2.1.8 – Limitations on hard protection works for coastal hazard mitigation to allow for hard protection where there will be minimal or no effect or transferred risk to other property.</p>

### 28.3 Analysis

341. Federated Farmers of New Zealand [2173.10], Fire and Emergency New Zealand [2103.8], WEL Networks Limited [2106.4], Heritage New Zealand Pouhere Taonga [2107.10] and the Department of Conservation [2108.9] all seek to retain Policy 15.2.1.8 as notified. I recommend that these submissions be accepted in part on the basis that the recommended amendments to the structure and content of Policy 15.2.1.8(a) and (c) sought by Waikato Regional Council under submission point [2102.49] and [2102.50] and presented in the track changed version in Section 28.5 below be accepted.
342. Waikato Regional Council [2102.49] support the inclusion of Policy 15.2.1.8(a) that outlines the limitations on the use of hard protection structures, but seek amendments to identify important considerations where consent for a structure is required, to strengthen the assessment framework, and allow for consideration of design and location and the management of effects over time where subject to the effects of climate change.
343. The amendments provide for a more comprehensive set of guidelines for the assessment of coastal protection structures. I agree with the inclusion of the amendments to the policy with the some minor adjustments to the proposed text.
344. The changes I would make to the submitted text are indicated in the Amendments section below. The salient changes are: In reference to (iii) and to be consistent with Policy 27 NZCPS, I consider reference to an assessment of the economic, social and environmental cost and benefits be retained. Proposed new para (iv) is vague and at best unrealistic. I consider in



practice it would encourage short-term considerations to trump longer-term effects and I reject that amendment. The grammar of (v) needs to be improved. I also consider that under (vi) public access should only be provided where the structure is located on public land. The Panel might also consider whether public access to the coast is covered in other plan chapters and need not be duplicated here. The proposed new para (viii), like new (iv) would tend to encourage short-term thinking, which is undesirable. In practice, a consent with limited direction and a frame for removal of hard protection works in the future is likely to be controversial and difficult if not impossible to implement. I do not support (viii), which would encourage applications along those lines. Consequently I recommend that the submission from Waikato Regional Council **[2102.49]** be accepted in part.

345. The amendments sought by Waikato Regional Council are supported in part by *Heritage New Zealand Pouhere Taonga* **[FS3013.6]** due to concern that the amendments could negate the matters sought for inclusion by HNZPT to avoid adverse effects on historic heritage. *Heritage New Zealand Pouhere Taonga* support is on the basis that related provisions are included for the protection and consideration of historic heritage at the time of any physical works. In my opinion, this matter is already sufficiently addressed within Policy 15.2.1.8(a)(iv) and elsewhere in the district plan, and will not be negated by the amendments sought under submission **[2102.49]**. Consequently I recommend submission **[2102.49]** by the Waikato Regional Council be accept in part to the extent set out in Section 28.5 below and recommend the further submission by Heritage New Zealand Pouhere Taonga **[FS3013.6]** be rejected.
346. Waikato Regional Council **[2102.50]** seek further amendments to Policy 15.2.1.8 by adding additional subsections to acknowledge the work being carried out in the district on the development of adaptive management strategies as a tool for mitigating coastal hazard risk over time. The amendments to the policy seek to encourage development of adaptive management strategies where these consider best practice design and location of coastal protection structures where these structures are considered desirable, and where the limited tenure and long term risk reduction options are identified. Additions also specify the use of the plan change and resource consent processes to implement the outcomes adopted in an adaptive management strategy. *Heritage New Zealand Pouhere Taonga* **[FS3013.7]** supports the proposed additions that specify that adaptive management plans be given effect through a statutory process, as this would ensure the consideration of historic heritage at the time of works.
347. In my view, the amendment to subsection (b) doesn't add any value as adaptive management strategies are non-statutory documents and development of these strategies is not guided by district plan policy. I therefore recommend rejecting the suggested amendments to the text in subsection (b). The inclusion of subsection (c) as proposed provides a useful link between the processes set out by the district plan and the outcomes included in an adaptive management strategy that have been agreed to by a community and key stakeholders and adopted by the relevant regulatory authorities. It also provides support to Policy 15.2.3.2(iv).
348. For the reasons set out above I recommend the submission by Waikato Regional Council **[2102.50]** and the further submission by Heritage New Zealand Pouhere Taonga **[FS3013.7]** be accepted in part to the extent that the panel reject amendments under subsection (b) and accept the addition of subsection (c).
349. Waikato-Tainui Te Kauhanganui Incorporated **[2151.13]** seek to amend Policy 15.2.1.8 to include reference to Maaori Sites and Areas of Significance. Policy 15.2.1.8(a)(iv) already includes reference to Maaori Sites and Areas of Significance. I consider that the policy already provides the relief sought by Waikato-Tainui Te Kauhanganui Incorporated and that no change under this submission is necessary. I recommend that Waikato-Tainui Te Kauhanganui Incorporated submission **[2151.13]** be accepted.

350. Kate Dermer [2073.1], Chris & Sue Harris [2128.3] and Adam Marsh & Carol McColl [2133.2] seek amendments to Policy 15.2.1.8 to allow maintenance, repair and upgrade (short of replacement) of existing coastal protection structures in the Wallis Street and Lorenzen Bay areas, having regard to the medium term intention for the development of adaptive management strategies and to provide for protection of properties until adaptive management plans are adopted, including sea walls at Wallis St and Lorenzen Bay, Raglan.
351. The outcomes sought under these submissions are contrary to the policy direction set by the WRPS and NZCPS. It is not the intension of Policy 15.2.1.8 to give preference to hard protection structures including in anticipation of the outcome of any non-statutory adaptive management strategy or plan that has not yet been developed or adopted. The amendments sought would be inconsistent with Policies 13.1(g) and 13.2(f) of the WRPS and Policy 25(e) of the NZCPS that require district plan policy to discourage hard protection structures and to promote the use of alternatives. On this basis I recommend the panel reject the submissions from Kate Dermer [2073.1], Chris & Sue Harris [2128.3] and Adam Marsh & Carol McColl [2133.2].
352. The Raglan Collective Incorporated Society [2135.4] seeks consequential amendments to Policy 15.2.1.8 in light of the new policy sought under submission [2135.2] (which seeks to provide for repair, maintenance and replacement of some existing coastal protection structures in Raglan where longstanding subdivisions rely on them). This submission is opposed by the *Department of Conservation* [FS3012.18] on the basis that the relief sought is contrary to the policy direction set out in the NZCPS. I recommend that Raglan Collective Incorporated Society [2135.4] be rejected for the reasons given for submission [2135.2] in Section 26.1 paragraphs 318 to 320 of this report and that the further submission by the *Department of Conservation* [FS3012.18] be accepted.
353. Jane Bethell [2176.3] seeks to amend Policy 15.2.1.8 to allow for hard protection where there will be minimal or no effect or transferred risk to other property. Policy 15.2.1.8 and other provisions for coastal protection structure do provide a consenting pathway for new coastal protection structures (including the extension, upgrading and or replacement of existing coastal protection structures) as a discretionary activity where the effects of the structure can be fully assessed. Providing for new coastal protection structures as a permitted activity is contrary to the policy direction set out in the WRPS and the NZCPS. I therefore recommend the panel reject submission [2176.3].

#### 28.4 Recommendations

354. For the reasons outlined above, it is recommended that the hearings panel:
- (a) **Accept in part** the submission from Federated Farmers of New Zealand [2173.10]; Fire and Emergency New Zealand [2103.8]; WEL Networks Limited [2106.4]; Heritage New Zealand Pouhere Taonga [2107.10]; and the Department of Conservation [2108.9] to the extent that the policy be retained, subject to amendments made under the Waikato Regional Council submission [2102.49];
  - (b) **Accept in part** the submission from Waikato Regional Council [2102.49], to the extent shown in the amended text to Policy 15.2.1.8(a) in Section 28.5 below;
  - (c) **Reject** the further submission from *Heritage New Zealand Pouhere Taonga* [FS3013.6];
  - (d) **Accept in part** the submission from Waikato Regional Council [2102.50], to the extent shown in the amended text in Section 28.5 below;
  - (e) **Accept in part** the further submission from *Heritage New Zealand Pouhere Taonga* [FS3013.7];
  - (f) **Accept** the submission from Waikato-Tainui Te Kauhanganui Incorporated [2151.13];

- (g) **Reject** the submission from Kate Dermer [2073.1];
- (h) **Reject** the submission from Chris & Sue Harris [2128.3];
- (i) **Reject** the submission from Adam Marsh & Carol McColl [2133.2];
- (j) **Reject** the submission from The Raglan Collective Incorporated Society [2135.4];
- (k) **Accept** the further submission from *Department of Conservation* [FS3012.18];
- (l) **Reject** the submission from Jane Bethell [2176.3].

## 28.5 Recommended amendments

355. Amend Policy 15.2.1.8(a) - Limitations on hard protection works for coastal hazard mitigation - as follows:

- (a) Ensure that where **new** hard protection structures and works are **necessary proposed** to protect existing development on public or privately-owned land from coastal hazards **that the following is achieved, they are appropriately assessed and controlled and:**
  - (i) **they** have primarily a public and/or environmental benefit when located on public land;
  - (ii) **they** are effective **considering a range of coastal hazard events including the effects of climate change and the activities or development they are designed to protect;**
  - (iii) the economic, social and environmental benefits outweigh costs; and
  - (iv) risk to people, property, infrastructure, the natural environment, historic heritage or Maori Sites and Areas of Significance is not transferred or increased;
  - (v) **structures are located as far landward as practicable;**
  - (vi) **public access both to and along the coastal area and to the coastal marine area are provided for where the structure is located on public land.<sup>10</sup>**

356. Amend Policy 15.2.1.8(b) - Limitations on hard protection works for coastal hazard mitigation by including the following subsections:

- (b) Ensure that when new hard protection structures are to be located in an area where an adaptive management strategy has been prepared to manage coastal hazards, they are consistent with that strategy;
- (c) **Where adaptive management strategies have been prepared, plan change or resource consent processes should have regard to these strategies.<sup>11</sup>**

## 28.6 Section 32AA Evaluation

# 29 Policy 15.2.1.9 Natural features and buffers providing natural hazard protection

## 29.1 Introduction

357. Policy 15.2.1.9 encourages the protection, maintenance and enhancement of natural features and buffers for natural hazard protection.

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<sup>10</sup> Waikato Regional Council [2102.49].

<sup>11</sup> Waikato Regional Council [2102.50].

## 29.2 Submissions

358. Ten submissions were received seeking to add to, amend or retain Policy 15.2.1.9. Two further submissions were received, one in support of retaining the policy as notified, and one retaining a neutral position.

Policy 15.2.1.9 – Natural features and buffers providing natural hazard protection			
2103.9	Fire and Emergency New Zealand		<b>Retain</b> Policy 15.2.1.9 as proposed.
FS3034.42	Mercury NZ Limited	Support	<i>It is appropriate to identify natural hazard risk within the plan for the purposes of ensuring that land use and development decisions are cognisant of flood risk. Mercury supports land use intensification and development in appropriate areas, and where mitigation of natural hazard risk has been appropriately considered and addressed.</i>
2107.11	Heritage New Zealand Pouhere Taonga		<b>Retain</b> Policy 15.2.1.9.
2108.10	Department of Conservation		<b>Retain</b> Policy 15.2.1.9 as notified.
2149.2	Horticulture New Zealand		<b>Retain</b> Policy 15.2.1.9 - Natural features and buffers providing natural hazard protection.
2173.11	Federated Farmers of New Zealand		<b>Retain</b> Policy 15.2.1.9 – Natural features and buffers providing natural hazard protection as notified.
2053.27	Mercury NZ Limited		<b>Retain</b> Policy 15.2.1.9.
FS3031.38	Waikato Regional Council	Neutral	<i>WRC acknowledges that there may be some need for refinement of the mapping. WRC will continue to work with Waikato District Council through this process to do so.</i>
2156.1	Auckland Waikato Fish and Game		<b>Retain</b> Policy 15.2.1.9 - Natural features and buffers providing natural hazard protection.
2102.51	Waikato Regional Council		<b>Add</b> to Policy 15.2.1.9 Natural features and buffers providing natural hazard protection, new para (b) as follows:  (a) ...  <u>(b) In giving effect to (a) have regard to the need for natural systems to adapt and respond to</u>

			<u>natural coastal processes including the effects of climate change.</u>
2128.4	Chris & Sue Harris		<b>Amend</b> policy 15.2.1.9 - Natural features and buffers providing natural hazard protection to include provision to maintain and enhance integrity of hard structures that provide current defence.
2133.3	Adam Marsh for Raglan Collective on behalf of Adam Marsh & Carol McColl		<b>Amend</b> Policy 15.2.1.9 - Natural features and buffers providing natural hazard protection - to allow work to maintain and enhance integrity of hard structures that provide current defence.

### 29.3 Analysis

359. Fire and Emergency New Zealand [2103.9], Heritage New Zealand Pouhere Taonga [2107.11], the Department of Conservation [2108.10], Horticulture New Zealand [2149.2], Federated Farmers of New Zealand [2173.11], Mercury NZ Limited [2053.27] and Auckland Waikato Fish and Game [2156.1] all seek to retain Policy 15.2.1.9 as notified. Mercury NZ Limited [FS3034.42] support submission [2103.9] to retain the policy while Waikato Regional Council [FS3031.38] retain a neutral position in relation to submission [2053.27]. I recommend that the submissions from Fire and Emergency New Zealand [2103.9], Heritage New Zealand Pouhere Taonga [2107.11], the Department of Conservation [2108.10], Horticulture New Zealand [2149.2], Federated Farmers of New Zealand [2173.11], Mercury NZ Limited [2053.27] and Auckland Waikato Fish and Game [2156.1] and further submission from Mercury NZ Limited [FS3034.42] be accepted in part, on the basis that the addition of subsection (b) requested in the submission point [2102.51] from the Waikato Regional Council is accepted, and that further submission from Waikato Regional Council [FS3031.38] be accepted.
360. Waikato Regional Council [2102.51] supports Policy 15.2.1.9, but consider that there is an opportunity to provide better alignment with, and support to, Policy 15.2.3.2 in relation to providing for the inland migration of indigenous biodiversity. The addition of a new subsection (b) to Policy 15.2.1.9 requires regard to natural systems being able to adapt and respond to natural coastal processes, including the effects of climate change when giving effect to subsection (a). I agree that the additional subsection provides better alignment between the policies seeking to protect, maintain and potentially enhance the integrity of natural features and buffers. I recommend the panel accept the submission from the Waikato Regional Council submission [2102.51].
361. Chris & Sue Harris [2128.4] and Adam Marsh & Carol McColl [2133.3] seek to amend Policy 15.2.1.9 to include provision to maintain and enhance the integrity of hard structures that provide current defence. The amendments sought have no relevance to Policy 15.2.1.9 as hard protection structures are manmade structures and do not relate to the matters set out under this policy. These submitters have proposed amendments to Policies 15.2.1.7 and 15.2.1.8 seeking similar relief and those policies are more relevant to the relief sought. I recommend that the panel reject the submissions from Chris & Sue Harris [2128.4] and Adam Marsh & Carol McColl [2133.3] on the grounds that maintaining and enhancing the integrity of hard protection structures has no relevance to Policy 15.2.1.9.

## 29.4 Recommendations

362. For the reasons outlined above, it is recommended that the hearings panel:

- (a) **Accept in part** submissions by Fire and Emergency New Zealand [2103.9], Heritage New Zealand Pouhere Taonga [2107.11], the Department of Conservation [2108.10], Horticulture New Zealand [2149.2], Federated Farmers of New Zealand [2173.11], Mercury NZ Limited [2053.27] and Auckland Waikato Fish and Game [2156.1], and further submissions by *Mercury NZ Limited [FS3034.42]* and *Waikato Regional Council [FS3031.38]*, to the extent that the policy be amended by submission [2102.51], which includes the addition of subsection (b) as shown in Section 29.5 below;
- (b) **Accept** the submission from Waikato Regional Council [2102.51];
- (c) **Reject** the submission from Chris & Sue Harris [2128.4];
- (d) **Reject** the submission from Adam Marsh & Carol McColl [2133.3].

## 29.5 Recommended amendments

363. Amend Policy 15.2.1.9 – Natural features and buffers providing natural hazard protection by including the following subsections:

- (a) Protect, maintain and, where appropriate, enhance the integrity of natural features and buffers which provide a natural defence against the effects of natural hazards and sea level rise, including natural ponding areas, coastal dunes, intertidal areas, wetlands, waterbody margins, riparian/coastal vegetation and floodways.
- (b) In giving effect to (a) have regard to the need for natural systems to adapt and respond to natural coastal processes including the effects of climate change.<sup>12</sup>

## 29.6 S32AA Evaluation

364. The section 32 report ‘Natural Hazards and Climate Change’ (2018) evaluates this policy. No additional evaluation of the amended text under section 32AA is required, because the section 32 evaluation of the original text adequately covers and justifies the minor amendments now proposed.

365. These amendments do not change the general scope or application of the policy but add guidance to decision-makers as to matters to be considered in assessing applications. This will improve the effectiveness and efficiency of the policy to achieve the objectives specifically Objectives 15.2.3.

# 30 Chapter 15 – General (Coastal Protection Structures and Adaptive Management Strategies)

## 30.1 Submissions

366. Fifteen submissions were received generally requesting amendments to coastal hazards provisions in Chapter 15. These are summarised in the table below.

General
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<sup>12</sup> Waikato Regional Council [2102.51].

2127.1	Jeremy, Nicola O'Rourke, and O'Rourke family		<b>Amend</b> policies and rules as set out in Raglan Collective submission #2135, to allow maintenance, repair, and upgrade (short of replacement) of existing coastal protection structures in the Wallis Street and Lorenzen Bay areas, having regard to the medium term intention for the development of adaptive management strategies.
2128.1	Chris & Sue Harris		<p><b>Amend</b> relevant Objectives, policies and rules in the High Risk Coastal Hazard Areas and Coastal Sensitivity Areas to support the development and implementation of site specific adaptive management plans, including such a plan for Wallis Street and the lower part of Lorenzen Bay Road as well as 8, 8A and 8B Cambrea Road, which implements, as soon as practicable, Option 2 of the Focus, 2020: Waikato District Council Hazard Assessment report (Section 32 Appendix 5(f)), namely:</p> <ul style="list-style-type: none"> <li>(a) Replacement of the existing structures with a well-engineered seawall capable of providing long term protection.</li> <li>(b) Consideration of a design that recovers some of the natural character lost with construction of the structures built in the past.</li> <li>(c) Consideration of a design that allows for possible public access or similar public benefit.</li> </ul> <p><b>And</b>  <b>Amend</b> Objectives, policies and rules in the High Risk Coastal Hazard Areas and Coastal Sensitivity Areas that provide for maintenance, repair, upgrade /improvement and replacement of existing seawalls in the Wallis Street area and the lower part of Lorenzen Bay Road as well as 8, 8A and 8B of Cambrae Rd as a permitted activity, or controlled activity having regard to the long term intentions above.</p>
2128.2	Chris & Sue Harris		<p><b>Retain</b> provision for the development of adaptive management strategies.</p> <p><b>And</b>  <b>Retain</b> provision to enable protection of property prior to adaptive management plans being adopted.</p>
2128.7	Chris & Sue Harris		<b>Amend</b> policies and rules as set out in Raglan Collective submission #2135, to allow maintenance, repair and upgrade (short of replacement) of existing coastal protection structures in the Wallis Street and Lorenzen Bay areas, having regard to the medium term

			intention for the development of adaptive management strategies.
2130.1	Chris, Kathryn, and Williams family		<b>Amend</b> policies and rules as set out in Raglan Collective submission #2135, to allow maintenance, repair and upgrade (short of replacement) of existing coastal protection structures in the Wallis Street and Lorenzen Bay areas, having regard to the medium term intention for the development of adaptive management strategies.
2130.2	Chris, Kathryn, and Williams family		<b>Delete</b> any provision requiring the removal ad hoc structures over time and live with erosion if this means the removal of sea walls protecting our property. <b>And Supports</b> the remedies set out in the Raglan Collective submission #2135.
2131.1	Howard, Helen, and Forlong family		<b>Amend</b> policies and rules as set out in Raglan Collective submission #2135, to allow maintenance, repair and upgrade (short of replacement) of existing coastal protection structures in the Wallis Street and Lorenzen Bay areas, having regard to the medium term intention for the development of adaptive management strategies.
2132.1	Steve & Pamela Thackray on behalf of The Raglan Collective Incorporated Society		<b>Amend</b> policies and rules as set out in Raglan Collective submission #2135, to allow maintenance, repair and upgrade (short of replacement) of existing coastal protection structures in the Wallis Street and Lorenzen Bay areas, having regard to the medium term intention for the development of adaptive management strategies.
2133.5	Adam Marsh for Raglan Collective on behalf of Adam Marsh & Carol McColl		<b>Amend</b> policies and rules as set out in Raglan Collective submission #2135, to allow maintenance, repair and upgrade (short of replacement) of existing coastal protection structures in the Wallis Street and Lorenzen Bay areas, having regard to the medium term intention for the development of adaptive management strategies.
2047.1	Joyce Elisabeth Davis-Goff		<b>Amend</b> policies and rules as set out in Raglan Collective submission #2135, to allow maintenance, repair and upgrade (short of replacement) of existing coastal protection structures in the Wallis Street and Lorenzen Bay areas, having regard to the medium term intention for the development of adaptive management strategies.



			<p>And</p> <p><b>Amend</b> provisions in Chapter 15: Natural Hazards and Climate Change to allow for protection of the property at 58a Wallis Street, Raglan prior to adoption of any adaptive management strategies developed in partnership with stakeholders.</p>
2048.1	Susanne Juliane Giessen-Prinz		<p><b>Amend</b> policies and rules as set out in Raglan Collective submission #2135, to allow maintenance, repair and upgrade (short of replacement) of existing coastal protection structures in the Wallis Street and Lorenzen Bay areas, having regard to the medium term intention for the development of adaptive management strategies.</p> <p>And</p> <p><b>Amend</b> provisions in Chapter 15: Natural Hazards and Climate Change to allow for protection of the property at 56 and 58 Wallis Street, Raglan prior to adoption of any adaptive management strategies developed in partnership with stakeholders.</p>
2049.1	Andreas Broring		<p><b>Amend</b> policies and rules as set out in Raglan Collective submission #2135, to allow maintenance, repair and upgrade (short of replacement) of existing coastal protection structures in the Wallis Street and Lorenzen Bay areas, having regard to the medium term intention for the development of adaptive management strategies.</p> <p>And</p> <p><b>Amend</b> provisions in Chapter 15: Natural Hazards and Climate Change to allow for protection of the property at 56 and 58 Wallis Street, Raglan (including by sea walls) prior to adoption of any adaptive management strategies developed in partnership with stakeholders.</p>
2170.1	Kate & Andrew Dermer & McGregor on behalf of The Raglan Collective Incorporated Society		<p><b>Amend</b> policies and rules as set out in Raglan Collective submission #2135, to allow maintenance, repair and upgrade (short of replacement) of existing coastal protection structures in the Wallis Street and Lorenzen Bay areas, having regard to the medium term intention for the development of adaptive management strategies.</p>
2181.1	Aaron West		<p><b>Delete</b> Section 32 – Appendix 5(f) 7.7.3 Coastal Hazards Assessment, Wallis Street, Management Options and Recommendation, Option 1.</p>

2181.2	Aaron West		<b>Retain</b> Section 32 – Appendix 5(f) 7.7.3 Coastal Hazards Assessment, Wallis Street, Management Options and Recommendation, Option 2.
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### 30.2 Analysis

367. Jeremy, Nicola O'Rourke and O'Rourke family [2127.1], Chris & Sue Harris [2128.1], [2128.2] and [2128.7], Chris, Kathryn, and Williams family [2130.1] and [2130.2], Howard, Helen and Forlong family [2131.1], Steve & Pamela Thackray [2132.1], Adam Marsh & Carol McColl [2133.5], Joyce Elisabeth Davis-Goff [2047.1], Susanne Juliane Giessen-Prinz [2048.1], Andreas Broring [2049.1], and Kate & Andrew Dermer & McGregor [2170.1] all seek to amend the plan as set out in the Raglan Collective Incorporated Society submission [2135]. Submission [2135] seeks that the district plan provide for the maintenance, repair and upgrade (short of replacement) of coastal protection structures in the Wallis Street and Lorenzen Bay areas, having regard to the medium term intention for the development of adaptive management strategies. Chris & Sue Harris [2128.1] have sought to also include improvements and replacement of existing sea walls as either a permitted or controlled activity, while having regard to such matters as structural design, coastal character and considerations of public benefits, such as providing for public access.
368. This group of submitters have properties along the eastern end of Wallis and in Lorenzen Bay in Raglan. Sea walls adjacent to these properties have been in place for many years, probably predating land use planning legislation and controls. Photos of the structures are included in submissions 2127 and 2128.
369. This group of submitters have highlighted their concerns that the provisions in the Proposed District Plan will limit their scope to protect their properties over time. These submissions all seek to include provision for a site specific adaptive management strategy that will enable property to continue to be defended by the existing sea walls and to maintain, repair and upgrade these as and when required. The relief sought does not stipulate that provisions should only apply to structures on private property or only to lawfully established structures. I note that in some cases the existing sea walls are adjacent to public reserve and in many cases there will be no legal records for the ad hoc sea walls around Wallis Street and Lorenzen Bay. For this reason I will work on the basis that this group of submissions seek amendments to enable the maintenance, repair and upgrade of the coastal protection structures currently protecting private properties regardless of the legal status of the structure or ownership.
370. The proposed plan does provide for repairs and maintenance to existing lawfully established hard protection structures as a permitted activity in rules 15.7.1 P4, 15.8.1 P4, 15.9.1 P3 and 15.10.1 P3. These rules acknowledge that there are existing lawfully established coastal protection structures and that the maintenance and repair of these existing structures will not modify the environment or increase effects beyond what is consented. Maintenance and repair works will still need to comply with other provisions in the plan such as earthworks and noise and may still require consent under the Waikato Regional Plan.
371. The relief sought is not consistent with the NZCPS direction for the management of coastal hazard risk, including the use of hard protection structures. The NZCPS generally discourages the reliance on hard protection structures and similar engineering interventions in relation to protecting private property. NZCPS Policy 27 includes the explicit requirement to recognise and consider the environmental and social costs of hard protection structures for the protection of private property, which can only be assessed through a resource consent. Although the NZCPS does not preclude the use of hard protection structures to protect property in all circumstances, it does encourage exploring alternative options such as natural defences and managed retreat and not relying on hard protection structures as a first option. The submissions in this case are seeking to upgrade existing coastal protection structures

without the requirement for a consent to assess the impacts of the upgrade and in my opinion this is not consistent with the direction set by the NZCPS.

372. In giving effect to the NZCPS, Chapter 15 provisions require any proposal to construct a new coastal protection structure (including the extension, upgrade or replacement of an existing structure) to be assessed through a discretionary resource consent under rules 15.7.3 D1, 15.8.3 D1, 15.9.2 D4 and 15.10.2 D3. The resource consent process enables the assessment of the social, environmental and economic costs and benefits while also providing the opportunity for alternative options to be explored. The policies in Chapter 15 provide guidance when assessing discretionary activity rules. Policy 15.2.1.7 indicates a preference for alternatives to hard coastal protection structures, while Policy 15.2.1.8 acknowledges that in some instances hard protection structures are necessary and includes matters that should be considered when carrying out assessments. There are no prohibited activity rules that would preclude landowners from applying for consent to construct a new coastal protection structure.
373. I consider that it is appropriate for any new coastal protection structure (including extension, upgrading or replacement of existing structures) to be assessed through the resource consent process where the effects can be assessed. This applies regardless of any proposed future non-statutory adaptive management strategy. I therefore recommended that the submissions from Jeremy, Nicola O'Rourke, and O'Rourke family [2127.1], Chris & Sue Harris [2128.1], [2128.2] and [2128.7], Chris, Kathryn, and Williams family [2130.1] and [2130.2], Howard, Helen, and Forlong family [2131.1], Steve & Pamela Thackray [2132.1], Adam Marsh & Carol McColl [2133.5], Joyce Elisabeth Davis-Goff [2047.1], Susanne Juliane Giessen-Prinz [2048.1], Andreas Broring [2049.1], Kate & Andrew Dermer & McGregor [2170.1] be rejected.
374. The submissions listed above also seek to amend objective, policies and rules to support the development of site-specific adaptive management plans.
375. Chris & Sue Harris [2128.1 and 2128.2] request that site specific adaptive management plans be carried out as soon as practicable, that implement Option 2 of the Coastal Hazard Assessment Report by Focus Resource Management Group (2020) (see Section 7.7.3 of the Coastal Hazards Assessment in Appendix 5(f) of the Section 32 report). The development of an adaptive management plan is a non-regulatory processes that is not directed by the district plan. The district plan can however help to implement the outcomes of an approved adaptive management strategy or plan. I recommend that the submission from Chris & Sue Harris [2128.1 and 2128.2], (in so far as it relates to the request that site specific adaptive management plans be carried out as soon as practicable that implement Option 2 of the Coastal Hazard Assessment Report by Focus Resource Management Group (2020)) be rejected on the basis that the relief sought is not a district plan matter and is therefore out of scope.
376. Aaron West [2181.1 and 2181.2] seeks to delete one of the management options listed in Section 7.7.3 of the Coastal Hazards Assessment in Appendix 5(f) of the Section 32 report. Section 7.7.3 refers to management options and recommendations for coastal erosion around the Wallis Street residential enclave. It strongly recommends a site-specific adaptive management plan be developed for this area and provides two broad options for the management of the risk of erosion over time. Both options recognise that the area is currently armoured by a variety of existing ad hoc sea walls. Option 1 considers the removal of ad hoc structures over time and to live with erosion, while Option 2 considers accepting shoreline protection and upgrading these as and when required. Submission [2181.1] seeks to delete Option 1 and submission [2181.2] seeks to retain Option 2. In my view both of these options are legitimate considerations when assessing the long term management of coastal erosion risk and should be retained. I recommend the panel reject submission [2181.1] and accept submission [2181.2] from Aaron West.

377. Chris, Kathryn, and Williams's family [2130.2] have also requested that any provisions that require the removal of ad hoc structures over time be deleted. The Proposed district plan does not contain any provision to remove ad hoc structures and therefore I believe that the Proposed District Plan already satisfies the relief sought. However, I suspect this submission is also seeking to delete Option I set out in Section 7.7.3 of the Coastal Hazards Assessment in Appendix 5(f) of the Section 32 report. On that basis I recommend the submission from Chris, Kathryn, and Williams family [2130.2] be rejected for the same reasons that are outlined in response to Aaron West's submission [2181.1] paragraph 376 above.

### 30.3 Recommendations

378. For the reasons outlined above, it is recommended that the hearings panel:
- (a) **Reject** the submission from Jeremy, Nicola O'Rourke, and O'Rourke family [2127.1]
  - (b) **Reject** the submission from Chris & Sue Harris [2128.1];
  - (c) **Reject** the submission from Chris & Sue Harris [2128.2];
  - (d) **Reject** the submission from Chris & Sue Harris [2128.7];
  - (e) **Reject** the submission from Chris, Kathryn, and Williams family [2130.1];
  - (f) **Reject** the submission from Chris, Kathryn, and Williams family [2130.2];
  - (g) **Reject** the submission from Howard, Helen, and Forlong family [2131.1];
  - (h) **Reject** the submission from Steve & Pamela Thackray [2132.1];
  - (i) **Reject** the submission from Adam Marsh & Carol McColl [2133.5];
  - (j) **Reject** the submission from Joyce Elisabeth Davis-Goff [2047.1];
  - (k) **Reject** the submission from Susanne Juliane Giessen-Prinz [2048.1];
  - (l) **Reject** the submission from Andreas Broring [2049.1];
  - (m) **Reject** the submission from Aaron West [2181.1];
  - (n) **Accept** the submission from Aaron West [2181.2];
  - (o) **Reject** the submission from Kate & Andrew Dermer & McGregor [2170.1].

### 30.4 Recommended amendments

379. There are no amendments recommended in this section.

### 30.5 Section 32AA Evaluation

380. No s32AA evaluation required.

## 31 Rule 15.7 – Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Open Coast)

### 31.1 Submissions

381. Eight submissions were received seeking to amend, retain or add to Rule 15.7. These submissions are set out in the following table.

**Rule 15.7 – Coastal Sensitivity Areas - Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Open Coast)**

2158.1	Peninsula Farm Ltd		<b>Amend</b> Rule 15.7 Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Open Coast) to allow property owner of 7 Nihinihi Avenue, Raglan to strengthen and maintain existing sea wall.
2158.2	Peninsula Farm Ltd		<b>Amend</b> Rule 15.7 Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Open Coast) to allow property owner of 9 Nihinihi Avenue, Raglan to strengthen and maintain seawall if Waikato District Council will not do so for any reasons
2135.10	Jacqui Graham on behalf of The Raglan Collective Incorporated Society		<b>Amend Rule</b> 15.7 to provide for maintenance, repair and upgrade/ improvement (short of replacement) of existing coastal protection structures in the Wallis Street and Lorenzen Bay areas in the Coastal Sensitivity Area (Erosion), as a permitted activity, or controlled activity having regard to the medium term intention for the development and implementation of site specific adaptive management plans.
FS3012.24	Department of Conservation	Oppose	<i>The Director-General does not support hard protection coastal structures as a central tool for defence against coastal hazards. The NZCPS encourages locating infrastructure outside of coastal hazard areas, managed retreat and natural defences as alternatives for hard protection structures. Alternatives to hard protection structures must therefore be explored and Stage 2 provisions should reflect this in giving effect to the NZCPS.</i>
2135.6	Jacqui Graham on behalf of The Raglan Collective Incorporated Society		<b>Amend</b> Rule 15.7 by adding for Wallis Street and Lorenzen Bay properties a controlled activity to implement any adaptive management plans developed by the council and/or owners of two or more properties, including: <ul style="list-style-type: none"> <li>· Replacement of the existing structures with a well-engineered structure capable of providing long term protection.</li> <li>· Consideration of a design that recovers some of the natural character lost with construction of the structures built in the past.</li> <li>· Consideration of a design that allows for possible public access or similar public benefit.</li> </ul>
FS3012.20	Department of Conservation	Oppose	<i>The Director-General does not support hard protection coastal structures as a central tool for defence against coastal hazards. The NZCPS encourages locating infrastructure outside of coastal hazard areas, managed retreat and natural defences as alternatives for hard protection structures. Alternatives to hard protection structures must therefore be explored and Stage 2</i>

			<i>provisions should reflect this in giving effect to the NZCPS.</i>
2102.52	Waikato Regional Council		<b>Amend</b> Section 15.7 Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Open Coast) to add new rules that provide for the beach nourishment and dune stabilisation as a permitted activity subject to specific conditions and discretionary activity where these conditions are not achieved.
2102.57	Waikato Regional Council		<b>Amend</b> Rule 15.7.1 P4 by adding activity specific conditions applicable to maintenance and repair of coastal protection structures as follows: <u>(1) The work must maintain the structure or building in a good and safe condition.</u> <u>(2) The work must not change the area occupied by the structure.</u>
FS3012.12	Department of Conservation	Support	<i>The Director-General supports the addition of this clarification to the identified rules.</i>
2107.21	Heritage New Zealand Pouhere Taonga		<b>Retain</b> the full discretionary activity status of Rule 15.7.3 DI.
2102.58	Waikato Regional Council		<b>Add</b> new Discretionary Activity rule to Section 15.7.3 to confirm the status of extensions to existing coastal protection structures as follows: <u>Extension (including repair or maintenance that increases the area occupied by the structure) or alteration of existing lawfully established hard protection structures not provided for in Rule 15.X.1 PX</u>
FS3012.13	Department of Conservation	Support	<i>The Director-General supports the addition of this clarification to the identified rules.</i>

### 31.2 Analysis

382. Peninsula Farm Ltd [2158.1 and 2158.2] seek to allow the property owner of 7 Nihinihi Avenue, Raglan to strengthen and maintain existing sea wall if WDC won't carry out the works. Maintenance and repair of existing lawfully established coastal protection structures are permitted activities under Rule 15.7.1 P4. Any works that are more than just maintaining or repairing will require resource consent under Rule 15.7.3 DI. The question of who may carry out works is outside the scope of the district plan, as it relates to ownership. I recommend the submission from Peninsula Farm Ltd [2158.1 and 2158.2] be rejected.
383. The Raglan Collective Incorporated Society [2135.10] seek to amend Rule 15.7 to provide for maintenance, repair and upgrade/improvement (short of replacement) of existing coastal protection structures in the Wallis Street and Lorenzen Bay areas in the Coastal Sensitivity Area (Erosion), as a permitted activity or controlled activity, having regard to the medium

term intention for the development and implementation of site-specific adaptive management plans. This submission is opposed by the *Department of Conservation* [FS3012.24] on the basis that prior to any decision to construct hard protection structures, alternatives must be explored and the rules in the plan should reflect this in giving effect to the NZCPS. The relief sought under submission has already been addressed under other similar submissions in Section 30.2 and for same reasons outlined in that section I recommend the submission from The Raglan Collective Incorporated Society [2135.10] be rejected and *Department of Conservation* [FS3012.24] be accepted.

384. The Raglan Collective Incorporated Society [2135.6] also request that Rule 15.7 be amended to allow properties at Wallis Street and Lorenzen Bay to implement the outcome of any adaptive management plans developed by the council and/or owners of two or more properties, through a controlled activity rule that includes:
- the replacement of an existing structure with a well-engineered structure capable of providing long term protection;
  - consideration of a design that recovers some of the natural character lost with construction of the structures built in the past, and
  - consideration of a design that allows for possible public access or similar public benefit.
385. The *Department of Conservation* [FS3012.20] opposes this submission on the basis that prior to any decision to construct hard protection structures, alternatives must be explored and the rules in the plan should reflect this in giving effect to the NZCPS.
386. I acknowledge the intent of this submission to give some certainty around the implementation of an approved adaptive management plan where options may require resource consent. I also acknowledge that an adaptive management plan should explore all practicable options to reduce risk over time, including options such as managed retreat, and may be somewhat consistent with Policies 15.2.1.7 and 15.2.1.8. However, the adaptive management planning process is a non-statutory process and does not have to include an assessment equivalent to those carried out under the RMA and district plan. The consenting process allows for a full assessment of effects based on a specific proposal, the full details of which are unlikely to be considered through the adaptive management process. For this reason it would be inappropriate to consider including provision for a controlled activity (where consent must be granted), based on an option agreed to by way of a non-statutory adaptive management plan and therefore I recommend the submission from The Raglan Collective Incorporated Society [2135.6] be rejected.
387. Waikato Regional Council [2102.52] seeks to add new rule to Chapter 15.7 that provides for the beach nourishment and dune stabilisation as a permitted activity, subject to specific conditions and a new discretionary activity rule where these conditions are not achieved. The submission did not include any specific conditions. Waikato Regional Council [2102.56] also seeks new definitions for beach nourishment and dune stabilisation to support the relief sought under [2102.52], as well as corresponding rules in Chapter 15.8 [2102.53], 15.9 [2102.54] and 15.10 [2102.55].
388. Currently the Proposed district plan does not regulate activities such as beach nourishment or dune stabilisation through the rules in Chapter 15, but does include the protection, maintenance and enhancement of natural features and buffers at the policy level. These activities would be regulated by the earthworks rules in each zone chapter where applicable. In most zones, beach nourishment of any significant scale would be a restricted discretionary activity under earthworks rules. Planting of dune is not currently a regulated activity under the district plan.
389. I agree that the current regulatory framework may not be appropriate to address these activities and that there may be merit in including new rules for beach nourishment and dune

stabilisation. However, I do not agree that any activity that either reshapes the dune systems or deposits materials onto the beach should be provided for as a permitted activity. I note that the Waikato Regional Coastal Plan regulates beach nourishment on the foreshore and seabed as a controlled activity under Rule 16.6.15. Section 17.7.4 of the Waikato Regional Coastal Plan also acknowledges that an integrated approach should be taken in conjunction with territorial authorities when managing activities at the interface between the coast and the land and in my view this would require a consistent level of regulation under both plans. Using an integrated approach is also consistent with Section 75(4)(b) RMA which requires district plans to not be inconsistent with Regional Plans for any matters specified in Section 30(1) RMA (which includes the avoidance or mitigation of natural hazards (Section 30(1)(c)(iv) and Section 30(1)(d)(v)).

390. Beach nourishment is provided for under the Regional Coastal Plan for the purpose of mitigating natural hazards but recognises that there may be adverse effects of this activity and as such, controls the activity with control being reserved over a number of matters to ensure adverse effects are minimised. In my opinion any new rules for these activities should be considered through a resource consent as a controlled activity at a minimum. Any new rule would require further consideration with regards to the matters of control to address potential adverse effects.
391. I have reviewed how these activities are addressed in other district plans, and I noted two examples. The Whakatane district plan permits beach replenishment, planting and restoration works where associated with an approved Regional Coastcare programme, while Auckland Unitary Plan applies full discretion to activities that deposit material on any beach above MHWS and modify sand dunes and vegetation on sand dunes within 40m of MHWS.
392. The submitter may wish to provide further evidence to support a permitted activity status for beach nourishment and dune stabilisation. In the absence of further evidence, I recommend the submission from the Waikato Regional Council [2102.52] be rejected. If the panel consider instead that these activities can be provided for as a controlled activity, additional time will be required to draft appropriate matters of control.
393. Waikato Regional Council [2102.57] seeks to amend Rule 15.7.1 P4 by adding activity-specific conditions applicable to maintenance and repair of coastal protection structures to specify that (1) the work must maintain the structure or building in a good and safe condition; and (2) the work must not change the area occupied by the structure. The *Department of Conservation* [FS3012.12] supports submission [2102.57]. Note that submission [2102.57] also seeks the same amendment to Rules 15.8.1 P4, 15.9.1 P3 and 15.10.1 P3.
394. With regards to condition (1) I think it would be difficult to determine compliance with a permitted activity condition that will rely on a judgement that the proposed works will maintain the structure or building in a good and safe condition prior to the work being carried out. This condition reads more like a matter of control or matter of discretion that could be determined through a resource consent.
395. With regards to condition (2) I think an activity specific condition to specify no change the area occupied by the structure has merit as it would help to clarify the parameters intended by the rule. However, I think this can be addressed through the amendments that the submitter has requested to Rule 15.7.3 D1 (see submission point [2102.58] below). I therefore recommend the panel reject the submission from the Waikato Regional Council [2102.57] and the further submission from the *Department of Conservation* [FS3012.12].
396. Heritage New Zealand Pouhere Taonga [2107.21] seeks to retain the full discretionary activity status of Rule 15.7.3 D1. I recommend that submission [2107.21] be accepted to the extent that the full discretionary activity status is retained but the rule is amended by submission [2102.58] as set out in Section 31.4 below.



397. Waikato Regional Council [2102.58] seeks to add a new discretionary activity rule to 15.7.3 to provide for an extension to existing lawfully-established coastal protection structures. This submission is supported by the *Department of Conservation* [FS3012.13]. I agree that Rule 15.7.3 D1 as proposed does not make it clear that ‘new construction’ also includes any work carried out on an existing coastal protection structure that increases the area occupied by the structure or any upgrades to or replacement of an existing structure and this omission may result in some confusion with respect to the scope of the rule. I therefore support the relief sought under submission [2102.58] but believe that the amendments requested can be accommodated within 15.7.3 D1 and no new rule is required. For these reasons I recommend that submission Waikato Regional Council [2102.58] and further submission *Department of Conservation* [FS3012.13] be accepted in part and Rule 15.7.3 D1 be amended accordingly. Note that submission [2102.58] also seeks identical amendments to Rules 15.8.3, 15.9.2 and 15.10.2 and I have recommended the same amendments as has been recommended to Rule 15.7.3 D1.

### 31.3 Recommendations

398. For the reasons outlined above, it is recommended that the hearings panel:

- (a) **Reject** the submission from Peninsula Farm Ltd [2158.1];
- (b) **Reject** the submission from Peninsula Farm Ltd [2158.2];
- (c) **Reject** the submission from The Raglan Collective Incorporated Society [2135.10];
- (d) **Accept** the further submission from *Department of Conservation* [FS3012.24];
- (e) **Reject** the submission from The Raglan Collective Incorporated Society [2135.6];
- (f) **Accept** the further submission from *Department of Conservation* [FS3012.20];
- (g) **Reject** the submission from Waikato Regional Council [2102.52];
- (h) **Reject** the submission from Waikato Regional Council [2102.57];
- (i) **Reject** the further submission from *Department of Conservation* [FS3012.12];
- (j) **Accept** the submission from Heritage New Zealand Pouhere Taonga [2107.21];
- (k) **Accept in part** the submission from Waikato Regional Council [2102.58];
- (l) **Accept in part** the further submission from *Department of Conservation* [FS3012.13].

### 31.4 Recommended amendments

399. Recommended amendments to Rule 15.7.3 D1 as follows:

D1	Construction of a new coastal protection structure, <u>or any extension to, or upgrade or replacement of an existing coastal protection structure.</u> <sup>13</sup>
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### 31.5 Section 32AA Evaluation

400. The s32 report ‘Natural hazards and climate change’ (2020) evaluates this rule. No additional evaluation of the amended text under s32AA is required. The original text, evaluated under the s32 adequately covers and justifies the amendment as proposed which is only considered necessary to clarify the scope of the rule as originally intended.

<sup>13</sup> Waikato Regional Council [2102.58].

## 32 Rule 15.8 – Coastal Sensitivity Areas - Coastal Sensitivity Area (Inundation)

### 32.1 Submissions

401. Six submissions were received seeking to amend, retain or add to Rule 15.8. These submissions are set out in the following table.

Rule 15.8 – Coastal Sensitivity Areas - Coastal Sensitivity Area (Inundation)			
2102.53	Waikato Regional Council		<b>Amend</b> Section 15.8 Coastal Sensitivity Area (Inundation) to add new rules that provide for the beach nourishment and dune stabilisation as a permitted activity subject to specific conditions and discretionary activity where these conditions are not achieved.
2135.11	Jacqui Graham on behalf of The Raglan Collective Incorporated Society		<b>Amend</b> Rule 15.8 to provide for maintenance, repair and upgrade/ improvement (short of replacement) of existing coastal protection structures in the Wallis Street and Lorenzen Bay areas in the Coastal Sensitivity Area (Inundation), as a permitted activity, or controlled activity having regard to the medium term intention for the development and implementation of site specific adaptive management plans.
FS3012.25	Department of Conservation	Oppose	<i>The Director-General does not support hard protection coastal structures as a central tool for defence against coastal hazards. The NZCPS encourages locating infrastructure outside of coastal hazard areas, managed retreat and natural defences as alternatives for hard protection structures. Alternatives to hard protection structures must therefore be explored and Stage 2 provisions should reflect this in giving effect to the NZCPS.</i>
2135.7	Jacqui Graham on behalf of The Raglan Collective Incorporated Society		<b>Amend</b> Rule 15.8 by adding for Wallis Street and Lorenzen Bay properties a controlled activity to implement any adaptive management plans developed by the council and/or owners of two or more properties, including: <ul style="list-style-type: none"> <li>· Replacement of the existing structures with a well-engineered structure capable of providing long term protection.</li> <li>· Consideration of a design that recovers some of the natural character lost with construction of the structures built in the past.</li> <li>· Consideration of a design that allows for possible public access or similar public benefit.</li> </ul>

FS3012.21	Department of Conservation	Oppose	<i>The Director-General does not support hard protection coastal structures as a central tool for defence against coastal hazards. The NZCPS encourages locating infrastructure outside of coastal hazard areas, managed retreat and natural defences as alternatives for hard protection structures. Alternatives to hard protection structures must therefore be explored and Stage 2 provisions should reflect this in giving effect to the NZCPS.</i>
2102.57	Waikato Regional Council		<b>Amend</b> Rules 15.8.1 P4 by adding activity specific conditions applicable to maintenance and repair of coastal protection structures as follows: (1) The work must maintain the structure or building in a good and safe condition. (2) The work must not change the area occupied by the structure.
FS3012.12	Department of Conservation	Support	<i>The Director-General supports the addition of this clarification to the identified rules.</i>
2107.23	Heritage New Zealand Pouhere Taonga		<b>Retain</b> the full discretionary activity status of Rule 15.8.3 DI.
2102.58	Waikato Regional Council		<b>Add</b> new Discretionary Activity rule to Section 15.8.3 to confirm the status of extensions to existing coastal protection structures as follows: Extension (including repair or maintenance that increases the area occupied by the structure) or alteration of existing lawfully established hard protection structures not provided for in Rule 15.X.1 PX
FS3012.13	Department of Conservation	Support	<i>The Director-General supports the addition of this clarification to the identified rules.</i>

### 32.2 Analysis

402. Waikato Regional Council [2102.53] seeks to add a new rule to Chapter 15.8 that provides for the beach nourishment and dune stabilisation as a permitted activity, subject to specific conditions and a new discretionary activity where these conditions are not achieved. The submission did not include any specific conditions. The Waikato Regional Council, submission number [2102.56] also seeks new definitions for beach nourishment and dune stabilisation to support the relief sought. The submitter has sought an identical amendment to the corresponding Rule 15.7, (see Section 31.2 above where I have provided in-depth discussion on this matter in paragraphs 387 to 392 in relation to submission 2102.52). For the same reasons given in Section 31.2 paragraphs 387 to 392 for submission [2102.52], I recommend the submission from the Waikato Regional Council [2102.53] be rejected.
403. The Raglan Collective Incorporated Society [2135.11] seek to amend Rule 15.8 to provide for maintenance, repair and upgrade/improvement (short of replacement) of existing coastal

protection structures in the Wallis Street and Lorenzen Bay areas in the Coastal Sensitivity Area (Erosion), as a permitted activity or controlled activity, having regard to the medium term intention for the development and implementation of site-specific adaptive management plans. This submission is opposed by the *Department of Conservation* [FS3012.25] on the basis that prior to any decision to construct hard protection structures, alternatives must be explored and the rules in the plan should reflect this in giving effect to the NZCPS. This submission seeks identical amendments to Rule 15.7 in submission [2135.6] in Section 31.2. For the same reasons set out in the analysis in Section 31.2, I recommend the submission from The Raglan Collective Incorporated Society [2135.11] be rejected and the further submission from the *Department of Conservation* [FS3012.25] be accepted.

404. The Raglan Collective Incorporated Society [2135.7] also request that Rule 15.8 be amended to allow properties at Wallis Street and Lorenzen Bay to implement the outcome of any adaptive management plans developed by the council and/or owners of two or more properties, through a controlled activity rule that includes the replacement of an existing structure with a well-engineered structure capable of providing long term protection; consideration of a design that recovers some of the natural character lost with construction of the structures built in the past, and consideration of a design that allows for possible public access or similar public benefit. This submission requests the same amendments to Rule 15.7 under submission [2135.6] (addressed in Section 31.2). The *Department of Conservation* [FS3012.21] opposes this submission, on the basis that prior to any decision to construct hard protection structures, alternatives must be explored, and the rules in the plan should reflect this in giving effect to the NZCPS. For the same reasons as outlined in Section 31.2 for submission [2135.6], I recommend the submission from The Raglan Collective Incorporated Society [2135.7] be rejected and that further submission from *Department of Conservation* [FS3012.21] be accepted.
405. Waikato Regional Council [2102.57] seeks to amend Rule 15.8.1 P4 by adding activity-specific conditions applicable to maintenance and repair of coastal protection structures to specify that (1) the work must maintain the structure or building in a good and safe condition and (2) the work must not change the area occupied by the structure. The *Department of Conservation* [FS3012.12] supports submission [2102.57]. This submission is identical to the relief sought for Rule 15.7.1 P4 and I have recommended that that submission be rejected (see Section 31.2 paragraphs 393 and 394 above). For the same reasons as outlined in Section 31.2, paragraphs 393 to 394 above, I do not support the proposed amendments to Rule 15.8.1 P4 and recommend that the submission from the Waikato Regional Council [2102.57] and the further submission from the *Department of Conservation* [FS3012.12] be rejected.
406. Heritage New Zealand Pouhere Taonga [2107.23] seeks that the full discretionary activity status of Rule 15.8.3 DI be retained. I recommend this submission be accepted to the extent that DI remains a discretionary activity but is amended by submission [2102.58] and set out in Section 32.4 below.
407. Waikato Regional Council [2102.58] seeks to add a new discretionary activity rule to 15.8.3 to provide for an extension to existing lawfully-established coastal protection structures. This submission is supported by the *Department of Conservation* [FS3012.13]. The relief sought is identical to the amendments requested for Rule 15.7.3 discussed in Section 31.2 paragraph 397. I recommended that the submission from the Waikato Regional Council [2102.58] and further submission from the *Department of Conservation* [FS3012.13] be accepted in part for the same reasons as I have outlined in Section 31.2 paragraph 397 above and that Rule 15.8.3 DI be amended accordingly.

### 32.3 Recommendations

408. For the reasons outlined above, it is recommended that the hearings panel:
- (a) **Reject** the submission from Waikato Regional Council [2102.53];

- (b) **Reject** the submission from The Raglan Collective Incorporated Society [2135.11];
- (c) **Accept** the further submission from the *Department of Conservation* [FS3012.25];
- (d) **Reject** the submission from The Raglan Collective Incorporated Society [2135.7];
- (e) **Accept** the further submission from the *Department of Conservation* [FS3012.21];
- (f) **Reject** the submission from Waikato Regional Council [2102.57];
- (g) **Reject** the further submission from the *Department of Conservation* [FS3012.12];
- (h) **Accept** the submission from Heritage New Zealand Pouhere Taonga [2107.23];
- (i) **Accept in part** the submission from Waikato Regional Council [2102.58];
- (j) **Accept in part** the further submission from the *Department of Conservation* [FS3012.13].

### 32.4 Recommended amendments

409. Recommended amendments to Rule 15.8.3 D1 as follows:

D1	Construction of a new coastal protection structure, <u>or any extension to, or upgrade or replacement of an existing coastal protection structure.</u> <sup>14</sup>
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### 32.5 Section 32AA Evaluation

410. The s32 report 'Natural hazards and climate change' (2020) evaluates this rule. No additional evaluation of the amended text under s32AA is required. The original text, evaluated under the s32 adequately covers and justifies the amendment as proposed which is only considered necessary to clarify the scope of the rule as originally intended.

## 33 Rule 15.9 – High Risk Coastal Hazard (Erosion) Area

### 33.1 Submissions

411. Six submissions were received seeking to amend, retain or add to Rule 15.9. These submissions are set out in the following table.

Rule 15.9 – High Risk Coastal Hazard (Erosion) Area			
2102.54	Waikato Regional Council		<b>Amend</b> Section 15.9 High Risk Coastal Hazard (Erosion) Area to add new rules that provide for the beach nourishment and dune stabilisation as a permitted activity subject to specific conditions and discretionary activity where these conditions are not achieved.
FS3013.8	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose</i>	<i>HNZPT is concerned that the activities proposed as permitted activities could have adverse effects on historic heritage. The proposed permitted activities are undefined terms and the same submitter proposes new definitions.</i>

<sup>14</sup> Waikato Regional Council [2102.58].

2135.12	Jacqui Graham on behalf of The Raglan Collective Incorporated Society		<b>Amend</b> Rule 15.9 to provide for maintenance, repair and upgrade/ improvement (short of replacement) of existing coastal protection structures in the Wallis Street and Lorenzen Bay areas in High Risk Coastal Hazard (Erosion) Area, as a permitted activity, or controlled activity having regard to the medium term intention for the development and implementation of site specific adaptive management plans.
FS3012.26	Department of Conservation	Oppose	<i>The Director-General does not support hard protection coastal structures as a central tool for defence against coastal hazards. The NZCPS encourages locating infrastructure outside of coastal hazard areas, managed retreat and natural defences as alternatives for hard protection structures. Alternatives to hard protection structures must therefore be explored and Stage 2 provisions should reflect this in giving effect to the NZCPS</i>
2135.8	Jacqui Graham on behalf of The Raglan Collective Incorporated Society		<b>Amend</b> Rule 15.9 by adding for Wallis Street and Lorenzen Bay properties a controlled activity to implement any adaptive management plans developed by the council and/or owners of two or more properties, including: <ul style="list-style-type: none"> <li>· Replacement of the existing structures with a well-engineered structure capable of providing long term protection.</li> <li>· Consideration of a design that recovers some of the natural character lost with construction of the structures built in the past.</li> <li>· Consideration of a design that allows for possible public access or similar public benefit.</li> </ul>
FS3012.22	Department of Conservation	Oppose	<i>The Director-General does not support hard protection coastal structures as a central tool for defence against coastal hazards. The NZCPS encourages locating infrastructure outside of coastal hazard areas, managed retreat and natural defences as alternatives for hard protection structures. Alternatives to hard protection structures must therefore be explored and Stage 2 provisions should reflect this in giving effect to the NZCPS.</i>
2173.64	Federated Farmers of New Zealand		<b>Retain</b> Rule 15.9.1 P3 High as notified.
FS3027.21	Horticulture New Zealand	Support	<i>Support to the extent that it is consistent with the intent of submissions points HortNZ has made on other parts of the Plan.</i>

2102.57	Waikato Regional Council		<b>Amend</b> Rules 15.9.1 P3 by adding activity specific conditions applicable to maintenance and repair of coastal protection structures as follows: <u>(1) The work must maintain the structure or building in a good and safe condition.</u> <u>(2) The work must not change the area occupied by the structure.</u>
FS3012.12	Department of Conservation	Support	The Director-General supports the addition of this clarification to the identified rules.
2102.58	Waikato Regional Council		<b>Add</b> new Discretionary Activity rule to Section 15.9.3 to confirm the status of extensions to existing coastal protection structures as follows: <u>Extension (including repair or maintenance that increases the area occupied by the structure) or alteration of existing lawfully established hard protection structures not provided for in Rule 15.X.1 PX</u>
FS3012.13	Department of Conservation	Support	The Director-General supports the addition of this clarification to the identified rules.

### 33.2 Analysis

412. Waikato Regional Council **[2102.54]** seeks to add a new rule to 15.9 that provides for the beach nourishment and dune stabilisation as a permitted activity, subject to specific conditions and a new discretionary activity where these conditions are not achieved. The submission did not include any specific conditions. This submission is opposed by *Heritage New Zealand Pouhere Taonga* **[FS3013.8]** on the basis that the activities proposed as permitted activities could have adverse effects on historic heritage. Waikato Regional Council, submission number **[2102.56]**, also seeks new definitions for beach nourishment and dune stabilisation to support the relief sought. The submitter has sought the identical amendment to the rules 15.7 and 15.8 in Section 31.2 **[2102.52]** and Section 32.2 **[2102.53]** respectively. I have provided in-depth discussion on this matter previously with regards to this matter in Section 31.2, paragraphs 387 to 392. I recommend submission from the Waikato Regional Council **[2102.54]** be rejected for the same reasons outlined in Section 31.2 and 32.2 in relation to submissions 2102.52 and 2102.53, and that further submission from *Heritage New Zealand Pouhere Taonga* **[FS3013.8]** be accepted.
413. The Raglan Collective Incorporated Society **[2135.12]** seek to amend Rule 15.9 to provide for maintenance, repair and upgrade/improvement (short of replacement) of existing coastal protection structures in the Wallis Street and Lorenzen Bay areas in the Coastal Sensitivity Area (Erosion), as a permitted activity, or controlled activity having regard to the medium term intention for the development and implementation of site-specific adaptive management plans. This submission is opposed by the *Department of Conservation* **[FS3012.26]** on the basis that prior to any decision to construct hard protection structures, alternatives must be explored and the rules in the plan should reflect this in giving effect to the NZCPS. This submission seeks identical amendments to Rule 15.7 in submission **[2135.6]** (Section 31.2) and Rule 15.8 in submission **[2135.11]** (Section 32.2). For the same reasons outlined in Section 31.2, I recommend submission from The Raglan Collective Incorporated Society **[2135.12]** be rejected and further submission from the *Department of Conservation* **[FS3012.26]** be accepted.

414. The Raglan Collective Incorporated Society [2135.8] also request that Rule 15.9 be amended to allow properties at Wallis Street and Lorenzen Bay to implement the outcome of any adaptive management plans developed by the council and/or owners of two or more properties, through a controlled activity rule that includes the replacement of an existing structure with a well-engineered structure capable of providing long term protection; consideration of a design that recovers some of the natural character lost with construction of the structures built in the past, and consideration of a design that allows for possible public access or similar public benefit. This submission requests the same amendments to Rules 15.7 and 15.8 (addressed in the previous section of this report). The *Department of Conservation* [FS3012.22] opposes this submission on the basis that prior to any decision to construct hard protection structures, alternatives must be explored, and the rules in the plan should reflect this in giving effect to the NZCPS. For the same reasons as outlined in Section 31.2, paragraph 384 to 386 [2135.6] and 32.2, paragraph 404 [2135.7] above, I recommend submission from The Raglan Collective Incorporated Society [2135.8] be rejected and further submission from the *Department of Conservation* [FS3012.22] be accepted.
415. Federated Farmers of New Zealand [2173.64] seeks to retain Rule 15.9.1 P3 as notified. This submission is supported by *Horticulture New Zealand* [FS3027.21]. I recommend the submission from Federated Farmers of New Zealand [2173.64] and further submission from *Horticulture New Zealand* [FS3027.21] be accepted.
416. Waikato Regional Council [2102.57] seeks to amend Rule 15.9.1 P3 by adding activity-specific conditions applicable to maintenance and repair of coastal protection structures to specify that (1) the work must maintain the structure or building in a good and safe condition; and (2) the work must not change the area occupied by the structure. The *Department of Conservation* [FS3012.12] supports submission [2102.57], on the basis that it adds clarification to the rule. This submission is identical to the relief sought for Rules 15.7.1 P4 and 15.8.1 P4. For the same reasons as outlined in Section 31.2, paragraphs 393 to 395 above, [2102.57]), I do not support the proposed amendments to Rule 15.9.1 P3 and recommend the submission from the Waikato Regional Council [2102.57] and further submission from the *Department of Conservation* [FS3012.12] be rejected.
417. Waikato Regional Council [2102.58] seeks to add a new discretionary activity rule to 15.9.2 to provide for an extension to existing lawfully-established coastal protection structures. This submission is supported by the *Department of Conservation* [FS3012.13]. The relief sought is identical to the amendments requested for Rules 15.7.3 and 15.8.3. I recommended that submission from the Waikato Regional Council [2102.58] and further submission *Department of Conservation* [FS3012.13] be accepted in part for the same reasons as I have outlined in Section 31.2 paragraph 397 above and that Rule 15.9.2 D4 be amended accordingly.

### 33.3 Recommendations

418. For the reasons outlined above, it is recommended that the hearings panel:
- (m) **Reject** the submission from Waikato Regional Council [2102.54];
  - (n) **Accept** the further submission from *Heritage New Zealand Pouhere Taonga* [FS3013.8];
  - (o) **Reject** the submission from The Raglan Collective Incorporated Society [2135.12];
  - (p) **Accept** the further submission from the *Department of Conservation* [FS3012.26];
  - (q) **Reject** the submission from The Raglan Collective Incorporated Society [2135.8];
  - (r) **Accept** the further submission from the *Department of Conservation* [FS3012.22];
  - (s) **Accept** the submission from Federated Farmers of New Zealand [2173.64];
  - (t) **Accept** the further submission from *Horticulture New Zealand* [FS3027.21];



- (u) **Reject** the submission from Waikato Regional Council [2102.57];
- (v) **Reject** the further submission from the *Department of Conservation* [FS3012.12];
- (w) **Accept in part** the submission from Waikato Regional Council [2102.58];
- (x) **Accept in part** the further submission from the *Department of Conservation* [FS3012.13].

### 33.4 Recommended amendments

419. Recommended amendments to Rule 15.9.2 D4 as follows:

D4	Construction of a new coastal protection structure, <u>or any extension to, or upgrade or replacement of an existing coastal protection structure.</u> <sup>15</sup>
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### 33.5 Section 32AA Evaluation

420. The s32 report 'Natural hazards and climate change' (2020) evaluates this rule. No additional evaluation of the amended text under s32AA is required. The original text, evaluated under the s32 adequately covers and justifies the amendment as proposed which is only considered necessary to clarify the scope of the rule as originally intended.

## 34 Rule 15.10 – High Risk Coastal Hazard (Inundation) Area

### 34.1 Submissions

421. Six submissions were received seeking to amend, retain or add to Rule 15.10. These submissions are set out in the following table.

Rule 15.10 – High Risk Coastal Hazard (Inundation) Area			
2102.55	Waikato Regional Council		<b>Amend</b> Section 15.10 High Risk Coastal Hazard (Inundation) Area to add new rules that provide for the beach nourishment and dune stabilisation as a permitted activity subject to specific conditions and discretionary activity where these conditions are not achieved.
FS3012.10	Department of Conservation	Support	<i>The Director-General generally agrees with this submission point in that natural defences are important tools protection against coastal hazards. The term 'dune stabilisation' should be amended to 'dune restoration' or similar to ensure it captures the level of instability associated with the functioning of dune systems.</i>
FS3013.10	Heritage New Zealand Pouhere Taonga	Oppose	<i>HNZPT is concerned that the activities proposed as permitted activities could have adverse effects on historic heritage.</i>

<sup>15</sup> Waikato Regional Council [2102.58].

2135.13	Jacqui Graham on behalf of The Raglan Collective Incorporated Society		<b>Amend</b> Rule 15.10 to provide for maintenance, repair and upgrade/ improvement (short of replacement) of existing coastal protection structures in the Wallis Street and Lorenzen Bay areas in High Risk Coastal Hazard (Inundation) Area, as a permitted activity, or controlled activity having regard to the medium term intention for the development and implementation of site specific adaptive management plans.
FS3012.27	Department of Conservation	Oppose	<i>The Director-General does not support hard protection coastal structures as a central tool for defence against coastal hazards. The NZCPS encourages locating infrastructure outside of coastal hazard areas, managed retreat and natural defences as alternatives for hard protection structures. Alternatives to hard protection structures must therefore be explored and Stage 2 provisions should reflect this in giving effect to the NZCPS.</i>
2135.9	Jacqui Graham on behalf of The Raglan Collective Incorporated Society		<b>Amend</b> Rule 15.10 by adding for Wallis Street and Lorenzen Bay properties a controlled activity to implement any adaptive management plans developed by the council and/or owners of two or more properties, including: <ul style="list-style-type: none"> <li>· Replacement of the existing structures with a well-engineered structure capable of providing long term protection.</li> <li>· Consideration of a design that recovers some of the natural character lost with construction of the structures built in the past.</li> <li>· Consideration of a design that allows for possible public access or similar public benefit.</li> </ul>
FS3012.23	Department of Conservation	Oppose	<i>The Director-General does not support hard protection coastal structures as a central tool for defence against coastal hazards. The NZCPS encourages locating infrastructure outside of coastal hazard areas, managed retreat and natural defences as alternatives for hard protection structures. Alternatives to hard protection structures must therefore be explored and Stage 2 provisions should reflect this in giving effect to the NZCPS.</i>
2173.69	Federated Farmers of New Zealand		<b>Retain</b> Rule 15.10.1 P3 as notified.
2102.57	Waikato Regional Council		<b>Amend</b> Rules 15.7.1 P4, 15.8.1 P4, 15.9.1 P3 and 15.10.1 P3 by adding activity specific conditions applicable to maintenance and repair of coastal protection structures as follows: (1) <u>The work must maintain the structure or</u>

			<u>building in a good and safe condition.</u> <u>(2) The work must not change the area occupied by the structure.</u>
FS3012.12	Department of Conservation	Support	The Director-General supports the addition of this clarification to the identified rules.
2102.58	Waikato Regional Council		<b>Add</b> new Discretionary Activity rule to Section 15.10.3 to confirm the status of extensions to existing coastal protection structures as follows: <u>Extension (including repair or maintenance that increases the area occupied by the structure) or alteration of existing lawfully established hard protection structures not provided for in Rule 15.X.1 PX</u>
FS3012.13	Department of Conservation	Support	The Director-General supports the addition of this clarification to the identified rules.

### 34.2 Analysis

422. Waikato Regional Council **[2102.55]** seeks to add a new rule to 15.10 that provides for the beach nourishment and dune stabilisation as a permitted activity, subject to specific conditions and a new discretionary activity where these conditions are not achieved. The submission did not include any specific conditions. This submission is opposed by *Heritage New Zealand Pouhere Taonga* **[FS3013.10]**, on the basis that the activities proposed as permitted activities could have adverse effects on historic heritage. The submission is supported by the *Department of Conservation* **[FS3012.10]** on the basis that natural defences are important tools for protection against natural hazards. The Department of Conservation further considers that the term ‘dune stabilisation’ should be amended to ‘dune restoration’ or a similar term to ensure it that captures the level of instability associated with the functioning of dune systems. Waikato Regional Council also seeks new definitions for beach nourishment and dune stabilisation to support this submission under submission point **[2102.56]**. The submitter has also requested this amendment in sections 15.7, 15.8 and 15.9 above (see submissions **[2102.52, 2102.53 and 2102.54]**). For the same reasons as outlined in the in the discussion on the corresponding rules in Section 31.2, paragraphs 387 to 392, I recommend submission from the Waikato Regional Council **[2102.55]** and further submission *Department of Conservation* **[FS3012.10]** be rejected, and further submission *Heritage New Zealand Pouhere Taonga* **[FS3013.10]** be accepted.
423. The Raglan Collective Incorporated Society **[2135.13]** seek to amend Rule 15.10 to provide for maintenance, repair and upgrade/improvement (short of replacement) of existing coastal protection structures in the Wallis Street and Lorenzen Bay areas in the Coastal Sensitivity Area (Erosion), as a permitted activity, or controlled activity, having regard to the medium term intention for the development and implementation of site-specific adaptive management plans. This submission is opposed by the *Department of Conservation* **[FS3012.27]** on the basis that prior to any decision to construct hard protection structures, alternatives must be explored, and the rules in the plan should reflect this in giving effect to the NZCPS. This submission seeks identical amendments to Rule 15.7 in submission **[2135.6]** (Section 31.2) and Rule 15.8 in submission **[2135.11]** (Section 32.2) and 15.9 in submission **[2135.12]** (Section 33.2). For the same reasons outlined in Section 31.2, I recommend submission The Raglan Collective Incorporated Society **[2135.13]** be rejected and *Department of Conservation* **[FS3012.27]** be accepted.

424. The Raglan Collective Incorporated Society [2135.9] also request that Rule 15.10 be amended to allow properties at Wallis Street and Lorenzen Bay to implement the outcome of any adaptive management plans developed by the council and/or owners of two or more properties, through a controlled activity rule that includes the replacement of an existing structure with a well-engineered structure capable of providing long term protection; consideration of a design that recovers some of the natural character lost with construction of the structures built in the past, and consideration of a design that allows for possible public access or similar public benefit. This submission requests the same amendments to Rule 15.7, 15.8 and 15.9 (addressed in the previous sections of this report). The *Department of Conservation* [FS3012.23] opposes this submission on the basis that prior to any decision to construct hard protection structures, alternatives must be explored and the rules in the plan should reflect this in giving effect to the NZCPS. For the same reasons set out in the analysis in Section 31.2, I recommend the submission from The Raglan Collective Incorporated Society [2135.9] be rejected and *Department of Conservation* [FS3012.23] be accepted.
425. Federated Farmers of New Zealand [2173.69] seeks to retain Rule 15.10.1 P3 as notified. I recommend this submission be accepted.
426. Waikato Regional Council [2102.57] seeks to amend Rule 15.10.1 P3 by adding activity-specific conditions applicable to maintenance and repair of coastal protection structures to specify that (1) the work must maintain the structure or building in a good and safe condition; and (2) the work must not change the area occupied by the structure. The *Department of Conservation* [FS3012.12] supports submission [2102.57] on the basis that it adds clarification to the rule. This submission is identical to the relief sought for Rules 15.7.1 P4, 15.8.1 P4 and 15.9.1 P3 discussed in the previous sections of this report and in depth in Section 31.2, paragraphs 393 to 395. For the same reasons as outlined for Rules 15.7.1 P4 in Section 31.2, paragraphs 393 to 395 above I do not support the proposed amendments to Rule 15.10.1 P3 and recommend submission from the Waikato Regional Council [2102.57] be rejected and the further submission from the *Department of Conservation* [FS3012.12] be rejected.
427. Waikato Regional Council [2102.58] seeks to add a new discretionary activity rule to 15.10.2 to provide for an extension to existing lawfully-established coastal protection structures. This submission is supported by the *Department of Conservation* [FS3012.13]. The relief sought is identical to the amendments requested for Rules 15.7.3, 15.8.3 and 15.9.2 under the same submission number [2102.58]. I recommended that submission Waikato Regional Council [2102.58] and further submission *Department of Conservation* [FS3012.13] be accepted in part for the same reasons that I have outlined in Section 31.2 paragraph 397 above and that Rule 15.10.2 D3 be amended accordingly.

### 34.3 Recommendations

428. For the reasons outlined above, it is recommended that the hearings panel:
- (a) **Reject** the submission from Waikato Regional Council [2102.55];
  - (b) **Reject** the further submission from *Department of Conservation* [FS3012.10];
  - (c) **Accept** the further submission from *Heritage New Zealand Pouhere Taonga* [FS3013.10];
  - (d) **Reject** the submission from The Raglan Collective Incorporated Society [2135.13];
  - (e) **Accept** the further submission from the *Department of Conservation* [FS3012.27];
  - (f) **Reject** the submission from The Raglan Collective Incorporated Society [2135.9];
  - (g) **Accept** the further submission from the *Department of Conservation* [FS3012.23];
  - (h) **Accept** the submission from Federated Farmers of New Zealand [2173.69];
  - (i) **Reject** the submission from Waikato Regional Council [2102.57];

- (j) **Reject** the further submission from the *Department of Conservation* [FS3012.12];
- (k) **Accept in part** the submission from Waikato Regional Council [2102.58];
- (l) **Accept in part** the further submission from the *Department of Conservation* [FS3012.13].

#### 34.4 Recommended amendments

429. Recommended amendments to Rule 15.10.2 D3 as follows:

D4	Construction of a new coastal protection structure, <u>or any extension to, or upgrade or replacement of an existing coastal protection structure.</u> <sup>16</sup>
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#### 34.5 Section 32AA evaluation

430. The s32 report 'Natural hazards and climate change' (2020) evaluates this rule. No additional evaluation of the amended text under s32AA is required. The original text, evaluated under the s32 adequately covers and justifies the amendment as proposed which is only considered necessary to clarify the scope of the rule as originally intended.

## 35 Adaptive Management Planning and Development on Maaori Freehold Land

#### 35.1 Submissions

431. Eight submissions were received seeking to amend Rules in 15.7, 15.8, 15.9 and 15.10 to provide for intergenerational adaptive management plans, and to permit development of Maaori Freehold Land where development is in accordance with a site-specific adaptive management plan. These submissions are set out in the following table.

Submission Point	Submitter	Support/ Oppose	Summary of Submission
2175.1	Te Kopua Trust & Te Kopua 2b3 Incorporation		<p><b>Amend</b> Chapter 15.7 Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Open Coast) to provide for intergenerational adaptive management plans AND</p> <p><b>Amend</b> Chapter 15.7 Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Open Coast) to enable development on Maaori freehold land as a permitted activity or via a less tiresome planning process so long as development is in accordance with a site- specific adaptive management plan AND</p> <p><b>Amend</b> Chapter 15.7 Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Open Coast) to enable tangata whenua to sustainable manage their land in the face of a changing climate</p>

<sup>16</sup> Waikato Regional Council [2102.58].

2097.3	Tainui Hapu Environmental Management Committee & Tainui o Tainui Charitable Trust		<b>Amend</b> Rule 15.7.2 to allow tangata whenua to develop and implement intergenerational adaptive management and enable tangata whenua to manage Maori Freehold Land in the face of climate change.
2097.6	Tainui Hapu Environmental Management Committee & Tainui o Tainui Charitable Trust		<b>Amend</b> Rule 15.7.2 to permit developments which meet the RDI criteria.
FS3034.34	Mercury NZ Limited	Oppose	<i>It is appropriate to identify natural hazard risk within the plan for the purposes of ensuring that land use and development decisions are cognisant of flood risk. Mercury supports land use intensification and development in appropriate areas, and where mitigation of natural hazard risk has been appropriately considered and addressed.</i>
FS3031.113	Waikato Regional Council	Oppose	<i>RD is appropriate. There would need to be an assessment of the adequacy of the measures proposed to address the matters of discretion which a permitted activity status would not allow for.</i>
2175.2	Te Kopua Trust & Te Kopua 2b3 Incorporation		<b>Amend</b> Chapter 15.8 Coastal Sensitivity Area (Inundation) to provide for intergenerational adaptive management plans AND <b>Amend</b> Chapter 15.8 Coastal Sensitivity Area (Inundation) to enable development on Maori freehold land as a permitted activity or via a less tiresome planning process so long as development is in accordance with a site- specific adaptive management plan AND <b>Amend</b> Chapter 15.8 Coastal Sensitivity Area (Inundation) to enable tangata whenua to sustainably manage their land in the face of a changing climate.
2175.3	Te Kopua Trust & Te Kopua 2b3 Incorporation		<b>Amend</b> Chapter 15.9 High Risk Coastal Hazard (Erosion) Area to provide for intergenerational adaptive management plans. AND <b>Amend</b> Chapter 15.9 High Risk Coastal Hazard (Erosion) Area to enable

			development on Maori freehold land as a permitted activity or via a less tiresome planning process so long as development is in accordance with a site- specific adaptive management plan. AND <b>Amend</b> Chapter 15.9 High Risk Coastal Hazard (Erosion) Area to enable tangata whenua to sustainable manage their land in the face of a changing climate.
2175.4	Te Kopua Trust & Te Kopua 2b3 Incorporation		<b>Amend</b> Chapter 15.10 High Risk Coastal Hazard (Inundation) Area to provide for intergenerational adaptive management plans AND <b>Amend</b> Chapter 15.10 High Risk Coastal Hazard (Inundation) Area to enable development on Maori freehold land as a permitted activity or via a less tiresome planning process so long as development is in accordance with a site- specific adaptive management plan AND <b>Amend</b> Chapter 15.10 High Risk Coastal Hazard (Inundation) Area to enable tangata whenua to sustainable manage their land in the face of a changing climate
2097.7	Tainui Hapu Environmental Management Committee & Tainui o Tainui Charitable Trust		<b>Amend</b> Rule 15.10.3 to permit new buildings to be established in the High Risk Coastal Hazard (Inundation) Area when an appropriate adaptive management plan is in place.
FS3031.114	Waikato Regional Council	Oppose	<i>This is inconsistent with Policy 15.2.1.1 which requires avoidance of new uses and development in the High Risk Coastal Hazard (Erosion) Area where they increase the risk to people's safety, wellbeing and property.</i>
2096.1	Te Whaanga 2B3B2 & 2B1 Ahu Whenua Trust		No specific decision sought

### 35.2 Analysis

432. Te Kopua Trust & Te Kopua 2b3 Incorporation - submissions **[2175.1]**, **[2175.2]**, **[2175.3]** and **[2175.4]** - seek to amend Chapter 15.7 Coastal Sensitivity Area (Erosion), Chapter 15.8 Coastal Sensitivity Area (Inundation), Chapter 15.9 High Risk Coastal Hazard (Erosion) Area and Chapter 15.10 High Risk Coastal Hazard (Inundation) Area respectively, to provide for intergenerational adaptive management plans, and to permit development on Maaori freehold

- land, as long as development is in accordance with a site-specific adaptive management plan, and to enable tangata whenua to sustainably manage their land in the face of a changing climate.
433. Tainui Hapu Environmental Management Committee & Tainui o Tainui Charitable Trust **[2097.3]** also seek to amend Rule 15.7.2 to allow tangata whenua to develop and implement intergenerational adaptive management and enable tangata whenua to manage Maaori Freehold Land in the face of climate change.
434. Tainui Hapu Environmental Management Committee & Tainui o Tainui Charitable Trust **[2097.6]** seek to amend Rule 15.7.2 to permit development if it meets the criteria set out in Rule 15.7.2 RDI. This submission is opposed by *Mercury NZ Ltd* **[FS3034.34]** and *Waikato Regional Council* **[FS3031.113]**, on the basis that natural hazard risk should be assessed and that an RDA status is appropriate to enable an assessment of the adequacy of any measures proposed to address matters of discretion.
435. Tainui Hapu Environmental Management Committee & Tainui o Tainui Charitable Trust **[2097.7]** seek to amend Rule 15.10.3 to permit new buildings in the High Risk Coastal Hazard (Inundation) Area when an appropriate adaptive management plan is in place. This submission is opposed by *Waikato Regional Council* **[FS3031.114]**, on the basis that it is inconsistent with Policy 15.2.1.1, which requires avoidance of new uses and development in the High Risk Coastal Hazard (Erosion) Area where they increase the risk to people's safety, wellbeing and property.
436. Te Whaanga 2B3B2 & 2B1 Ahu Whenua Trust **[2096.1]** supports the submissions by Tainui Hapu Environmental Management Committee and Tainui o Tainui, Te Kopua 2B3 Incorporation and Te Kopua Trust.
437. The matters outlined in submissions **[2175.1]**, **[2175.2]**, **[2175.3]** and **[2175.4]** and **[2097.3]**, **[2097.6]** and **[2097.7]** were discussed between Council officers and representatives Te Kopua Trust & Te Kopua 2b3 Incorporation and Tainui Hapu Environmental Management Committee & Tainui o Tainui Charitable Trust during consultation on the draft Proposed district plan. My understanding from those discussions is that the amendments sought would enable long desired development aspirations for the Maori Freehold Land at Te Kopua to be permitted (in terms of Chapter 15.) Proposals centred on development being permitted, if it is consistent with an approved adaptive management plan, which would include comprehensive and detailed information on the proposed development of the whole site. Discussions at that time suggested that the adaptive management plan would identify all natural hazard risk through a site specific risk assessment, and include mitigation measures and/or adaptive pathways to address the impacts of climate change on the proposed development.
438. Maori Freehold Land is unique in that Tangata Whenua have an enduring relationship with their land. Ownership spans many generations and there are specific legal structures for its management. The unique nature of Maori Freehold Land is recognised and provided in Section 6(e) RMA, throughout the Waikato Regional Policy Statement<sup>17</sup> and the NZCPS<sup>18</sup>, and I believe there may be a special case to be considered with regards to how natural hazard risk, and the effects of climate change is managed on Maori Freehold Land.
439. The Te Kopua Maori land blocks are affected by the coastal sensitivity areas and the high risk areas for both erosion and inundation. The proposed rules provide for buildings in high coastal hazard areas as a Non-Complying Activity. I have recommended the rule be redrafted as a

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<sup>17</sup> Waikato Regional Policy Statement - see Objective 3.9, Relationship of t̄ngata whenua with the environment; Policy 4.3 Tangata Whenua and Policy 10.2 Relationship of Maaori to taonga.

<sup>18</sup> New Zealand Coastal Policy Statement – see Objective 3, Policy 2 and Policy 6(d).



discretionary activity, see analysis in 13.2 and amended Rule 15.10.1 D7 in Section 13.4). Buildings are provided for as a Restricted Discretionary Activity within Coastal Sensitivity Areas, with matters of discretion focussing on the identification of site specific hazard risk, the vulnerability of people and property from natural hazards and appropriate mitigation measures and adaptive pathways approaches to reduce risk.

440. While I understand the submitters' aspirations to develop the land at Te Kopua, new plan provisions would be needed to prescribe the content of adaptive management plans and a development and approval mechanism for these that fits within the RMA framework. I am not aware of a district plan precedent for this.
441. There are currently no specific policies or rules to support an approach that would enable development as a permitted activity when in accordance with a site specific adaptive management plan, that has carried out an appropriate level of assessment to ensure that development is resilient over the long term.
442. The submitters have not provided any detail on how this approach could be implemented. I would therefore like to invite the submitters to provide further evidence on how the adaptive management planning process would work within a permitted activity framework. In the absence of further evidence I recommend that the existing regulatory framework is retained in terms of Maori Freehold Land and the submissions from Te Kopua Trust & Te Kopua 2b3 Incorporation [2175.1], [2175.2], [2175.3] and [2175.4] and Tainui Hapu Environmental Management Committee & Tainui o Tainui Charitable Trust [2097.3], Tainui Hapu Environmental Management Committee & Tainui o Tainui Charitable Trust [2097.6] and Tainui Hapu Environmental Management Committee & Tainui o Tainui Charitable Trust [2097.7] and Te Whaanga 2B3B2 & 2B1 Ahu Whenua Trust [2096.1] be rejected and the further submissions from *Mercury NZ Ltd* [FS3034.34] and *Waikato Regional Council* [FS3031.113] and [FS3031.114] be accepted.
443. If the panel are of a mind to pursue the approach requested in these submissions, then additional time will be required to allow for an appropriate regulatory framework to be developed. The panel also has the option to make a recommendation to the district council on this topic for further research and engagement.

### 35.3 Recommendations

444. For the reasons outlined above, it is recommended that the hearings panel:
- (a) **Reject** the submission from Te Kopua Trust & Te Kopua 2b3 Incorporation [2175.1];
  - (b) **Reject** the submission from Te Kopua Trust & Te Kopua 2b3 Incorporation [2175.2];
  - (c) **Reject** the submission from Te Kopua Trust & Te Kopua 2b3 Incorporation [2175.3];
  - (d) **Reject** the submission from Te Kopua Trust & Te Kopua 2b3 Incorporation [2175.4];
  - (e) **Reject** the submission from Tainui Hapu Environmental Management Committee & Tainui o Tainui Charitable Trust [2097.3];
  - (f) **Reject** the submission from Tainui Hapu Environmental Management Committee & Tainui o Tainui Charitable Trust [2097.6];
  - (g) **Accept** the further submission from *Mercury NZ Limited* [FS3034.34];
  - (h) **Accept** the further submission from *Waikato Regional Council* [FS3031.113];
  - (i) **Reject** the submission from Tainui Hapu Environmental Management Committee & Tainui o Tainui Charitable Trust [2097.7];
  - (j) **Accept** the further submission from *Waikato Regional Council* [FS3031.114];

(k) **Reject** the submission from Te Whaanga 2B3B2 & 2B1 Ahu Whenua Trust [2096.1].

### 35.4 Recommended amendments

445. There are no amendments recommended in this section.

### 35.5 Section 32AA Evaluation

446. No s32AA evaluation required.

## 36 Hazardous Facilities

### 36.1 Submissions

447. One submission was received seeking to add new rules for hazardous facilities. This submission and further submissions are set out in the table below.

Submission Point	Submitter	Support/ Oppose	Summary of Submission
2102.79	Waikato Regional Council		<b>Add</b> new rule to include hazardous facilities as a discretionary activity in - <ul style="list-style-type: none"> <li>· 15.6.3 D5 - Defended Area (Residual Risk);</li> <li>· 15.7.3 D5 - Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Open Coast);</li> <li>· 15.8.3 D5 - Coastal Sensitivity Area (Inundation);</li> <li>· 15.9.2 D10 - High Risk Coastal Hazard (Erosion) Area;</li> <li>· 15.10.2 D9 - High Risk Coastal Hazard (Inundation) Area.</li> </ul>
FS3020.44	Shand Properties Limited	Support	<i>Shand Properties Limited support the request to include rules within the relevant areas to control the ability of hazardous facilities. However, does not suggest that a Discretionary activity resource consent shall be obtained for the construction/operation of any industrial activity that may be located within the Defended Area overlay where hazardous substances are stored. For example, a trucking depot in a defended area, where diesel is stored on site would trigger a resource consent for a Discretionary activity under the PDP rules as notified.</i>
FS3027.43	Horticulture New Zealand	Oppose	<i>HortNZ does not accept the use of 'hazardous facility' as currently defined in the Proposed Plan. HortNZ's position on hazardous facilities is set out in our submission to PWDP Stage 1 and in the evidence of Ms Wharfe to Hearing 8A Hazardous Substances/Contaminated Land. In summary, the proposed definition of hazardous facility would include a tractor or quad bike with a spray tank with agrichemicals and hence would make the whole farm a hazardous facility. This would be prohibitive for day-to-day on-farm practice and is considered</i>

			<i>unnecessary given existing regulations under the Health and Safety and New Organism Act 1996 and Health and Safety at Work regulations.</i>
FS3030.22	<i>Federated Farmers new Zealand</i>	Oppose	<i>FFNZ position is outlined in the submission point re Policy 15.2.1.14. Note the term hazardous facility has been signalled for significant change by the Hearing Panel in response to Stage 1 – Hearing 8A Hazardous Substances proceedings. Given we oppose the policy direction as notified we also oppose WRC's suggested inclusion of this rule.</i>
FS3034.148	<i>Mercury NZ Limited</i>	Support	<i>It is appropriate to identify natural hazard risk within the plan for the purposes of ensuring that land use and development decisions are cognisant of flood risk. Mercury supports land use intensification and development in appropriate areas, and where mitigation of natural hazard risk has been appropriately considered and addressed.</i>

### 36.2 Analysis

448. Waikato Regional Council **[2102.79]** seek to add a new rule to regulate hazardous facilities in each of the coastal sensitivity areas and high risk coastal hazard areas as a discretionary activity. The submission also requested that the activity be regulated as a discretionary activity in the Defended Area (addressed in Hearing 27C under the River Topic s42a report). *Mercury NZ Limited [FS3034.148]* and *Shand Properties Limited [FS3020.44]* support having rules to regulate hazardous facilities, however Shand Properties is concerned with how discretionary activity rules will apply to industrial activities within the Defended Area overlay. This concern does not extend to the coastal hazard overlay areas. *Horticulture New Zealand [FS3027.43]* and *Federated Farmers New Zealand [FS3030.22]* oppose the submission, on the grounds that they do not agree with the term ‘hazardous facility’ as defined in the Proposed District Plan. Federated Farmers points out that the term has been signalled for significant change by the Hearings Panel following the proceeding in Hearing 8A, with the panel considering replacing the term ‘hazardous facility’ with the defined term ‘major hazardous facility’.
449. Chapter 15 currently regulates hazardous facilities in the Floodplain Management Area (which include the High Risk Flood Area) as a discretionary activity, supported by Policy 15.2.1.14 - Hazardous substances located within floodplain and flood ponding areas. These provisions relied on the definition for hazardous facilities in the notified version of the plan. There is currently no provision for hazardous facilities in the coastal sensitivity areas and high risk coastal hazard areas and no policy guidance for hazardous facilities in relation to the coastal overlay areas.
450. At the time of drafting Chapter 15, Council considered that rules for hazardous facilities under the zone chapters sufficiently addressed any risk, as it appeared that in all of the zones that of relevance to Chapter 15, the activity was a non-complying activity. Any rules to regulate the activity within Chapter 15.7 – 15.10 were considered an unnecessary duplication.
451. Given the possibility of a revised framework for hazardous substances and new definition for “major hazardous facility” under consideration by the Hearings Panel, further consideration will need to be given to regulating the hazardous facilities within the coastal hazard overlay areas where these activities are not covered by the draft definition for ‘major hazardous facility’.

452. I have discussed this matter with the author of the H27C Flood hazards report, (Mrs Carter) in relation to submissions on Policy 15.2.1.14 and Rule 15.4. We considered that a revised definition for “hazardous facility” should be considered to address activities that are not captured under the definition for ‘major hazardous facility’ but which may be vulnerable to natural hazards and therefore inappropriate in areas subject to natural hazards. This would also require new rules within Chapter 15 or potentially within the Hazardous Substances chapter to regulate the activities that fall under the revised definition. Policy 15.2.1.14 may also need to be expanded to include the coastal hazard areas to ensure that the location and storage of hazardous substances within those areas do not create an unacceptable risk. With this in mind Mrs Carter has included an alternative amendment to Policy 15.2.1.14 that refers to all areas affected by natural hazards within her S42a report for the river topic.
453. The Waikato Regional Council’s request for new rules to regulate hazardous facilities within defined coastal hazard areas is consistent with the policy framework in the WRPS (Policy 13.1, 13.2 and Implementation method 13.2.6), given the potential for additional risk from hazardous substances in areas subject to coastal hazards.
454. WRPS Method 13.2.6 provides in part:
- “Regional and district plans shall ensure that: a) Subdivision, use and development can only occur in a floodplain with an annual exceedance probability of 1% (where the floodplain does not match the definition of being a High Risk Flood Zone) or in an identified potential coastal hazard area (not being a High Risk Coastal Hazard) area where:*
- ... (vi) any hazardous substance stored as part of the development, or during the construction, or found on or near to the site, will not create a hazard;”*
455. I am aware of the Hearing Commissioners’ Minute of 25 June 2020, which indicates that generally only Major Hazard Facilities should be controlled throughout the district. I consider that additional controls should be considered in natural hazard areas. I note guidance from the Ministry for the Environment<sup>19</sup> that controls under the RMA may be justified in sensitive receiving environments, such as wetlands or drinking water sources. I would add land subject to natural hazard risks as another example. The additional risk in natural hazard areas is that containment facilities are at a higher risk of being disrupted than in other places.
456. In my view the discretionary activity status would be appropriate for any new rules regulating a hazardous facility within high risk coastal hazard areas and in coastal sensitivity areas. Any new rules would need to be either supported by the proposed definition for hazardous facilities or an amended version. For the reasons outlined above I would like to recommend that the submission from the Waikato Regional Council [2102.79] be accepted in part and that a new rule regulating a hazardous facility as a discretionary activity is included in 15.7.3 D3 Coastal Sensitivity Area (Erosion) and (Open Coast), 15.8.3 D3 Coastal Sensitivity Area (Inundation), 15.9.2 D8 High Risk Coastal Hazard (Erosion) Area and 15.10.2 D8 High Risk Coastal Hazard (Inundation) Area, and that the further submissions by *Horticulture New Zealand* [FS3027.43] and *Federated Farmers New Zealand* [FS3030.22] be rejected and further

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<sup>19</sup> “Hazardous Substances under the RMA”, Ministry for the Environment (2019): <https://www.qualityplanning.org.nz/sites/default/files/2019-07/managing-hazardous-substances.pdf>

submissions from *Mercury NZ Limited* [FS3034.148] and *Shand Properties Limited* [FS3020.44] be accepted in part.

457. I also recommend that the proposed definition for hazardous facilities doesn't change at this point, but accept that the Panel, in the course of their deliberations on hazardous substances, may wish to consider whether the definition needs some modification to exclude substances that do not pose a risk in natural hazard areas. If the panel are of a mind to accept this recommendation then I would also recommend accepting the amended Policy 15.2.1.14 'alternative option' provided by Mrs Carter in her report for Hearing 27C – Flood Hazards.

### 36.3 Recommendations

458. For the reasons outlined above, it is recommended that the hearings panel:

- (a) **Accept in part** the submission from Waikato Regional Council [2102.79];
- (b) **Accept in part** the further submission from *Shand Properties Limited* [FS3020.44];
- (c) **Reject** the further submission from *Horticulture New Zealand* [FS3027.43];
- (d) **Reject** the further submission from *Federated Farmers New Zealand* [FS3030.22];
- (e) **Accept in part** the further submission from *Mercury NZ Limited* [FS3034.148].

### 36.4 Recommended amendments

459. Recommended new rule for a hazardous facility to be added to section 15.7.3 D3 as follows:

D3	<u>A hazardous facility<sup>20</sup></u>
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460. Recommended new rule for a hazardous facility to be added to section 15.8.3 D3 as follows:

D3	<u>A hazardous facility<sup>21</sup></u>
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461. Recommended new rule for a hazardous facility to be added to section 15.9.2 D8 as follows:

D8	<u>A hazardous facility<sup>22</sup></u>
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462. Recommended new rule for a hazardous facility to be added to section 15.10.2 D8 as follows:

D8	<u>A hazardous facility<sup>23</sup></u>
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### 36.5 Section 32AA evaluation

463. The s32 report 'Natural hazards and climate change' (2020) does not include any evaluation on the recommended rules in the high risk coastal hazard areas. However at the time of drafting Chapter 15 it was anticipated that this activity would be regulated under the zone rules and the zone provision were consider sufficient to satisfy the WRPS policy direction. The policies and rules regulating a hazardous facility in the flood plain have been addressed

<sup>20</sup> Waikato Regional Council [2102.79].

<sup>21</sup> Waikato Regional Council [2102.79].

<sup>22</sup> Waikato Regional Council [2102.79].

<sup>23</sup> Waikato Regional Council [2102.79].

within the s32 report. I consider the current s32 report addresses the intent for hazardous facilities to be regulated in all areas subject to coastal hazards and that additional evaluation of the amended text under s32AA is not required. The original text, evaluated under the s32 adequately covers and justifies the amendments as proposed, considering that this amendment is only considered necessary to address the gap in the rules presented by the possible changes to the rules for hazardous facilities in the zone chapters set out in the Hearing Commissioners' Minute of 25 June 2020.

## 37 15.14 - Definitions

### 37.1 Submissions

464. Ten submissions were received seeking to retain or amend proposed definitions or add new definitions. These submissions are set out in the following table.

Submission Point	Submitter	Support/ Oppose	Summary of Submission
2173.73	Federated Farmers of New Zealand		<b>Retain</b> the definition of Coastal Sensitivity Area (Erosion) definition in Chapter 15.14 Definitions, subject to appropriate refinement through the Schedule 1 process.
2094.54	Kainga Ora Homes and Communities		<b>Retain</b> the definition of "Coastal Sensitivity Area (Erosion)" in section 15.14, and relocate definition to Chapter 13 of PWDP.
2094.55	Kainga Ora Homes and Communities		<b>Retain</b> the definition of "Coastal Sensitivity Area (Inundation)" in section 15.14, and relocate definition to Chapter 13 of PWDP.
2094.62	Kainga Ora Homes and Communities		<b>Retain</b> the definition of "High risk coastal hazard (Erosion) area" in section 15.14, and relocate definition to Chapter 13 of PWDP.
2173.80	Federated Farmers of New Zealand		<b>Retain</b> the definition of High Risk Coastal Hazard (Erosion) Area in Chapter 15.14 Definitions, subject to appropriate refinement through the Schedule 1 process.
2094.63	Kainga Ora Homes and Communities		<b>Retain</b> the definition of "High risk coastal hazard (inundation) area" in section 15.14, and relocate definition to Chapter 13 of PWDP.
2173.81	Federated Farmers of New Zealand		<b>Retain</b> the definition of High Risk Coastal Hazard (Inundation) Area in Chapter 15.14 Definitions, subject to appropriate refinement through the Schedule 1 process

2102.10	Waikato Regional Council		<p><b>Amend</b> Chapter 15.14 - Definitions to enable a site-specific investigation to be utilised under the following definitions:</p> <ul style="list-style-type: none"> <li>· High Risk Coastal Hazard (Erosion) Area</li> <li>· High Risk Coastal Hazard (Inundation) Area</li> <li>· Coastal Sensitivity Area (Inundation)</li> <li>· Coastal Sensitivity Area (Open Coast)</li> </ul>
FS3005.1	Rangitahi Limited	Oppose	<p>Rangitahi agrees that site-specific assessments would improve the accuracy of the mapped overlays. However, Rangitahi opposes any changes to the definitions which might result in additional unmapped areas being affected by the coastal natural hazard provisions in the pWDP due to the uncertainty that this would create for landowners and plan users.</p>
FS3012.3	Department of Conservation	Supports	<p>The Director-General supports the proposed amendment to allow a site-specific assessment for the definitions which ensures best available information can be utilised where more up to date information may be available outside of what is identified in the planning maps. This approach aligns with giving effect to the New Zealand Coastal Policy Statement 2010 (NZCPS) and achieving sustainable management.</p>
FS3016.3	Raglan Collective Incorporated Society	Support	<p>Site-specific assessment should be available for coastal hazards.</p>
2102.56	Waikato Regional Council		<p><b>Add</b> two new definitions to Chapter 15.14 Definitions as follows:</p> <p><b>Beach Nourishment</b>  <u>The deposition of any sand, shingle, shell, or other natural material for enhancing or maintaining natural beach or shoreline systems.</u></p> <p><b>Dune Stabilisation</b>  <u>Soft engineering works to stabilise dunes. Includes: revegetation; wind fencing; and dune reshaping. Excludes: coastal protection structures.</u></p>
FS3013.9	Heritage New Zealand Pouhere Taonga	Oppose	<p>HNZPT is concerned that the activities proposed as permitted activities could have adverse effects on historic heritage. The proposed permitted activities are undefined terms and the same submitter proposes new definitions.</p>

FS3012.11	Department of Conservation	Supports	The Director-General generally agrees with this submission point in that natural defences are important tools for natural defence against coastal hazards and definitions provide additional clarity. The term 'dune stabilisation' should be amended to 'dune restoration' or similar to ensure it captures the level of instability associated with the functioning of dune systems.
2102.60	Waikato Regional Council		<p><b>Add</b> new definition for Coastal Protection Structure by considering the definition suggested as follows:</p> <p><b>Coastal protection structure</b>  <u>Means any hard protection structure (as defined in the New Zealand Coastal Policy Statement) located on land or within the Coastal environment.</u></p> <p>Note:</p> <p>NZCPS definition of <b>Hard protection structure:</b>  Includes a seawall, rock revetment, groyne, breakwater, stop bank, retaining wall or comparable structure or modification to the seabed, foreshore or coastal land that has the primary purpose or effect of protecting an activity from a coastal hazard, including erosion.</p>

### 37.2 Analysis

465. Federated Farmers of New Zealand [2173.73, 2173.80 and 2173.81] seek to retain the definitions of Coastal Sensitivity Area (Erosion), High Risk Coastal Hazard (Erosion) Area and High Risk Coastal Hazard (Inundation) Area, subject to appropriate refinement through submissions. I recommend the submission from Federated Farmers of New Zealand [2173.73, 2173.80 and 2173.81] be accepted.
466. Kainga Ora Homes and Communities [2094.54, 2094.55, 2094.62 and 2094.63] also seek to retain the definition of Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Inundation), High risk coastal hazard (Erosion) area and High risk coastal hazard (inundation) area, and relocate all definitions to Chapter 13 of PWDP. I recommend the submission from Kainga Ora Homes and Communities [2094.54, 2094.55, 2094.62 and 2094.63] be accepted.
467. Waikato Regional Council [2102.10] seek to amend definitions for high risk coastal hazard areas and coastal sensitivity areas to enable a site-specific investigation to be utilised under those definitions. This submission is opposed by Rangitahi Limited [FS3005.1] and supported by Department of Conservation [FS3012.3] and Raglan Collective Incorporated Society [FS3016.3]. The Waikato Regional Council have raised concern that there are no details provided within the definitions around the types of coastal processes or hazard events that underpin the areas shown on the planning maps, or that they do not provide for the ability to rely on more detailed site specific assessments to determine the extent of each mapped. The submission



refers to the definition for flood risk where numerical values are contained within the definition for the flood plain management area and high risk flood area.

468. I disagree with the relief sought. It is not useful to try to compare flood risk areas with coastal hazard areas. The high risk coastal hazard areas and the coastal sensitivity areas have been mapped based on more complex criteria including shoreline characteristics, geology and exposure to coastal processes. It would not be practical to try to provide the methodology for detailed site specific mapping within a definition. On this basis I recommend the submission by the Waikato Regional Council **[2102.10]** be rejected and that the further submission from Rangitahi Limited [FS3005.1] be accepted and further submissions from the Department of Conservation **[FS3012.3]** and Raglan Collective Incorporated Society **[FS3016.3]** be rejected.
469. Waikato Regional Council **[2102.56]** have sought to include two additional definitions in Chapter 15.14 for Beach Nourishment and Dune Stabilisation. The submitter requests that beach nourishment include the deposition of any sand, shingle, shell, or any other natural material for enhancing or maintaining natural beach or shoreline systems; and that dune stabilisation include soft engineering works to stabilise dunes, such as revegetation, wind fencing and dune reshaping, but excludes coastal protection structures. *Heritage New Zealand Pouhere Taonga* **[FS3013.9]** opposes the relief sought due to concerns that the definitions define activities that the submitter has proposed as permitted activities, and these could have adverse effects on historic heritage. The *Department of Conservation* **[FS3012.11]** supports the relief sought on the basis that natural defences are important tools for natural defence against coastal hazards and definitions provide additional clarity. Under the same further submission, the submitter seeks consideration of the term 'dune restoration' as opposed to 'dune stabilisation', to ensure that the term captures the level of instability associated with the functioning of dune systems.
470. The Waikato Regional Council has also sought to include beach nourishment and dune stabilisation as permitted activities in Rules 157.1, 15.8.1, 15.9.1 and 15.10.1 under submission points [2102.52], [2102.53], [2102.54] and [2102.55] respectively. I recommend that the panel reject submission [2102.56] to be consistent with my recommendation to the new rules sought by [2102.52], [2102.53], [2102.54] and [2102.55] as the proposed new definitions will be unnecessary in the absence of the rules for the defined activities. I have suggested that the submitter provide further evidence to support submissions [2102.52], [2102.53], [2102.54] and [2102.55]. In the absence of additional evidence I recommended the panel reject submission [2102.56] and *further submission* [FS3012.11] and accept *further submission* [FS3013.9].
471. Waikato Regional Council **[2102.60]** seek to include a new definition for Coastal Protection Structure by considering the definition to mean any hard protection structure (as defined in the New Zealand Coastal Policy Statement) located on land or within the Coastal environment. I Note that the NZCPS definition for hard protection structures includes a seawall, rock revetment, groyne, breakwater, stop bank, retaining wall or comparable structure or modification to the seabed, foreshore or coastal land that has the primary purpose or effect of protecting an activity from a coastal hazard, including erosion.
472. The submitter seeks to clarify the range of structures to which the policies and rules apply and also seek that the term only apply to locations on land or within the coastal environment. The rules for coastal protection structures were drafted in accordance with the policy direction set out in the NZCPS and as such had intended to regulate the types of structures included in the NZCPS definition and as such I would be comfortable with a new definition for coastal protection structures referencing the NZCPS definition for hard protection structures. In my opinion the additional text to clarify the location of the structures is unnecessary. The district plan only has jurisdiction landward of Mean High Water Springs and as such the policies and rules will automatically only apply to any part of any structure listed

in the definition that is located landward of Mean High Water Springs. For these reasons I recommend the panel accept in part submission [2102.60].

### 37.3 Recommendations

473. For the reasons outlined above, it is recommended that the hearings panel:

- (f) **Accept** the submission from Federated Farmers of New Zealand [2173.73];
- (g) **Accept** the submission from Federated Farmers of New Zealand [2173.80];
- (h) **Accept** the submission from Federated Farmers of New Zealand [2173.81];
- (i) **Accept** the submission from Kainga Ora Homes and Communities [2094.54];
- (j) **Accept** the submission from Kainga Ora Homes and Communities [2094.55];
- (k) **Accept** the submission from Kainga Ora Homes and Communities [2094.62];
- (l) **Accept** the submission from Kainga Ora Homes and Communities [2094.63];
- (m) **Reject** the submission from *Waikato Regional Council* [2102.10];
- (n) **Accept** the further submission from *Rangitahi Limited* [FS3005.1];
- (o) **Reject** the further submission from *Department of Conservation* [FS3012.3];
- (p) **Reject** the further submission from *Raglan Collective Incorporated Society* [FS3016.3].
- (q) **Reject** the submission from *Waikato Regional Council* [2102.56];
- (r) **Accept** the further submission from *Heritage New Zealand Pouhere Taonga* [FS3013.9];
- (s) **Reject** the further submission from *Department of Conservation* [FS3012.11];
- (t) **Accept in part** the submission from *Waikato Regional Council* [2102.60].

### 37.4 Recommended amendments

474. Recommended new definition for Coastal Protection Structures to be added to the definitions section 15.14 is as follows:

475. **Coastal protection structure**  
Means any hard protection structure as defined in the New Zealand Coastal Policy Statement.<sup>24</sup>

### 37.5 Section 32AA evaluation

476. The s32 report 'Natural hazards and climate change' (2020) does not include any evaluation on the recommended definition. However the proposed rules for coastal protection structures were drafted in accordance with the NZCPS policy direction, which refers to hard protection structures as defined in the NZCPS. The rules were drafted to regulate the structures listed in the NZCPS definition. The policies and rules regulating coastal protection structures have been addressed within the s32 report. No additional evaluation of the amended text under s32AA is required. The original text, evaluated under the s32 adequately covers and justifies the amendment as proposed as this amendment is only considered necessary to clarify the scope of the policies and rules as originally intended.

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<sup>24</sup> Waikato Regional Council [2102.60].

## 38 Conclusion

477. In conclusion, I consider that the submissions on Chapters 15.2, 15.7, 15.8, 15.9, 15.10 and 15.14 set out in Part I – Policies, Rules and Definitions, and Part – Maps, should be accepted, accepted in part or rejected, as set out in Appendix I – Table of Submissions, for the reasons set out in this report.
478. I recommend that provisions in Chapter 15 be amended as set out in Appendix 2 – Amended Plan Provisions, for the reasons set out in this report.
479. I have recommended that the mapped overlay areas be amended based on the expert evidence and recommendations by Mrs Bronwen Gibberd (4D Environmental Ltd) and Mr Dahm (Eco Nomos Ltd) in the report titled Waikato District Coastal Hazards – Response to Submissions, on Waikato District Plan Stage 2: Coastal Hazard Area Maps (March 2021) in Appendix 4 of this report.
480. I consider that the recommended amendments to provisions will be efficient and effective in achieving the purpose of the RMA, the relevant objectives of this plan and other relevant statutory documents, for the reasons set out in the Section 32AA evaluations undertaken and included in relevant Sections of this report.