

COROMANDEL PROPERTY OWNERS ALLIANCE INCORPORATED

SUBMITTER NO. 143

SUBMISSION ON THE NATURAL CHARACTER VARIATION OF THE THAMES COROMANDEL PROPOSED DISTRICT PLAN

HEARING PRESENTATION - 26 FEBRUARY 2016

Submitted by:-

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On behalf of Coromandel Property Owners Alliance Incorporated

The Coromandel Property Owners' Alliance Incorporated (CPOA) is made up of residents and ratepayers from all areas of the Thames Coromandel District and all walks of life. Many of our members are from rural areas, where the Natural Character Overlays sit, and so are directly affected by Variation 1.

CPOA thanks the Hearings Panel for the opportunity to be heard regarding our submission on the Natural Character provisions in Variation 1.

INTRODUCTION

1. CPOA's concerns are not about property owners just wanting to do what they like with their own land. It's about reasonable use that is being eroded. It's about an unfair and unreasonable burden being placed on one sector of the District's population. It's also about the impacts on the economic, social and cultural well-being of these people and the communities they represent.
2. We appreciate that Council staff are trying to provide for reasonable use in the policies and rules. That is acknowledged and appreciated, however we continue to have significant concerns.
3. Much of that concern relates to the extensive coverage of the natural character overlays over privately owned land. It is important to remember that these areas are not conservation parks or public reserves. They have not been voluntarily covenanted. The owners have an expectation of being able to use their land and the resources on it, to a reasonable degree. In particular, we believe there is a problem with areas of ONC, due to the policy requirement to avoid adverse effects and essentially prevent any modification (RPS 12.3 Explanation), and yet not render the land incapable of reasonable use.
4. We have spoken before about the value of the good will of these property owners in the Biodiversity section, and this good will is being put at risk through the Variation 1 provisions.

5. More than any other section of the PDP, Variation 1 has highlighted these issues. Those who work with, respect and care for the natural environment now find they are being discriminated against with more onerous policies and rules.

SECTION 32 EVALUATION

In our original submission we raised concerns from within the Section 32 Evaluation for Variation 1. These concerns sit at the foundation of the whole Variation, and therefore our request was a general one – that Variation 1 be revised to address our concerns. Probably the right thing to do would be to withdraw the whole Variation and start afresh. However, at the very least there are components of the S32 Evaluation that should be revisited and corrected. Much of our submission reflects this request to revise the Variation in light of issues that we believe have not been addressed adequately in the S32 Evaluation. We did not wish to just ask for the wording in the S32 evaluation to be amended, as that is meaningless if it does not also translate to revision of the policies and methods.

This part of our submission was not included in the summary of submissions, as so we would like to revisit some points here. Please refer to our original submission for further detail.

1. Scale and Significance

The S32 Evaluation gives the Variation a “medium-Low” scale and significance, stating that 2.1% of the District’s properties are affected. Yet close to 30% of the privately owned land area of the Coastal Environment is captured within the overlays, or nearly 40% from Coromandel north.

Table 1 – Who will be affected? Only total numbers of properties were reported (2.1%), which sounds like a small impact, however from a resource management point of view, this is misleading.

- Geographic scale of impacts – was not analysed at all. As above, a significant percentage of rural land is affected, including productive land.
- Type of effect – positive effects are assumed, and negative effects are dismissed as being ‘perceived’, when in fact they are real.

S32 point 46 states that ‘the rules do not cover large areas of land that is being used productively’. This is incorrect - the overlays do cover large areas of pastoral farmland, and also include houses, farm buildings, domestic gardens, orchards, pine plantations. CPOA considers this inclusion of farmland both highly significant and inappropriate. We wonder if this statement indicates that the extent of the mapping has not been well understood. We note that Further Submissions from the Mercury Bay Branch of Forest and Bird also show a belief that farmland ie. grassed areas (and forestry), would not be classified as having high natural character (points 149.75, 149.77, 149.72, 149.91). If the effects on land that is being used productively has not been understood, this clearly would affect the level of significance it is given, the policy and rule provisions following on, and also the nature of submissions from people who do not have overlays on their properties.

2. Costs and benefits

It is implied that people's economic, social and cultural well-being is to be provided for outside of the overlays, i.e. where natural character is degraded. Further, it is implied that reasonable use is only conditionally provided for, i.e. where adverse effects on natural character values and characteristics are avoided (para 39, Table 2). CPOA believes that these implications have led to provisions that do not adequately meet the requirements of the RMA.

It is also assumed that people who have an overlay on their property also have suitable land outside of the overlay for land use activities. This is heavily relied on throughout the Variation provisions, and is demonstrably inaccurate.

Costs

Costs to property owners were mentioned but not analysed and include –

- Unknown and significant costs of resource consents, especially where professional reports are required.
- Unknown costs and requirements related to monitoring (ref. Table 3)
- Loss of business efficiency and adaptability, and alternative income streams
- Loss of property value
- Loss of use of parts or all of the property
- Unknown costs and requirements related to future use of the Maps by other parties (S32 Report, para 44).
- Social – potential loss of family and community intactness, if additional accommodation requirements cannot be met on site. Potentially future generations could be excluded from the area due to costs, lack of jobs, lack of accommodation.
- Cultural – this is far more than that related to Iwi, although the impacts on Iwi are significant. Various cultures within our rural communities include traditional farming family groups, community/multiple property ownership models, holiday havens “getting away from it all”, and others.

Benefits

- From an economic point of view there is a disconnect between those who benefit and those who bear the cost of these provisions. As per our original submission, we believe the major focus on tourism at the exclusion of other industries is inappropriate.
- For landowners with overlays identified on their property, *certainty* is listed as a benefit. We are not sure how that is the case when the nature of Restricted Discretionary and Discretionary consents brings with it much *uncertainty* about costs of activities and whether in fact they will be allowed (e.g. one dwelling per lot). This is especially so where the overlays are incorrectly placed over productive farm land.

3. Other reasonably practical options

CPOA acknowledges that Council has legal obligations under the RMA, however we suggest that increasing regulatory control is not necessarily the best, and is definitely not the only method to achieve the RMA requirements.

It is disappointing that there is minimal consideration of voluntary and non-regulatory methods. There is a concern that environmental benefits may, in part, be reduced due to the loss of good will of property owners who currently and willingly invest heavily in restoration/enhancement activities on their properties.

The take home message for property owners, is that it does not pay to restore or enhance natural character on your land, as it will lead to increased costs and restrictions. In this respect there is a real risk that Variation 1 provisions in their current form could actually become counter-productive.

One reasonably practical option available to Council, the lack of which has been extensively criticised, is the use of genuine engagement and collaboration with affected property owners. CPOA submits that it is both appropriate and desirable for Council to work with property owners in the identification and management of areas of high and outstanding natural character.

Requested Outcome

1. We request that there be further S32 Evaluation of –
 - a. The Scale and Significance of the provisions of Variation 1.
 - b. The costs and benefits – especially costs, actual and potential, to individuals, families, communities and industries.
Analysis of impacts on industry needs to be balanced.
 - c. Issues related to loss of reasonable use, and the unfair and unreasonable burden that Variation 1 places on property owners.
 - d. Voluntary, non-regulatory methods, collaboration with owners, incentives.
2. We request the removal of the words “perceived” and “alleged” when discussing negative effects on property owners.

OVERLAY MAPS

CPOA’s submission is that the accuracy of identification of areas of high and outstanding natural character of the coastal environment is the single most important issue for Variation 1.

CPOA opposes the extent of the overlays as notified. We believe that the policies and rules would be more appropriate if the overlays were confined to areas of truly “outstanding” and “high” natural character.

CPOA believes that the process and methodology for the identification of areas of HNC and ONC is flawed, and consequently we oppose the maps as notified. It is unclear how the scoring was arrived at, and on what basis the thresholds of ‘high’ and ‘outstanding’ were decided.

CPOA has a number of concerns regarding the process and methodology which include:-

1. The primarily desktop evaluation process with inadequate field investigation.
2. The interpretation and application of the WRPS criteria in some areas.

3. Differences between the Beca and Brown NZ methodologies.
4. The lack of clear and appropriate thresholds in the scoring mechanism, and the lack of evidence for how each unit reached a threshold.
5. Apparent inconsistencies (at different sites) in the natural character assessment.
6. The highly subjective language of the assessments.
7. In some areas, an apparent 'broad-brush' approach that appears more like a landscape assessment than a natural character assessment. We note at least 12 natural character units that appear to have replaced the Amenity Landscape units with much the same footprint.

Application on the Ground

1. Farmland and other modified land is included in HNC, and some ONC overlays. This appears to be at odds with the RPS criteria, particularly the clauses on Vegetation Cover and Type, and Land Uses/Activities/Structures.
2. ONC – The RPS states that outstanding means “pristine” (Oxford Dictionary: “in its original condition”), and also uses the word “unmodified”.
Not “near to pristine”, as stated in S7A. This introduces a subjective state that is based on opinion. What is “near”? How “near”?

CPOA believes that the people of this District have a right to have consistent, clear, understandable, objective, accurate application of assessment criteria. It should be easy for the lay person to see and understand why certain areas are identified as high or outstanding natural character. People’s properties are their most valuable asset, for many it is their livelihood, their retirement plan, and their families’ future.

For CPOA, getting the maps right is a bottom line. This is the case regardless of the outcome of policies and rules, which can easily be altered or added to in the future.

Requested Outcome

1. Withdraw the Natural Character Maps. Conduct a full re-assessment using clear and agreed thresholds that accurately reflect the higher order policies, and are transparent and easily understood.
2. Collaborate with affected property owners in the assessment process, including agreement on the process and people involved in the assessment.

This would include:-

3. Revise the notified maps to remove farmland and other modified/productive land from the overlays.
4. Revise the notified maps to ensure only pristine or truly outstanding (in its original condition) land is included in ONC overlays.
5. Ensure both ONC and HNC overlays accurately reflect the RPS criteria.

Beca Natural Character Assessment Document, 29 October 2015

P. 4 includes reference to the identification of the Coastal Environment Line. CPOA opposes the inclusion of these matters in the Variation 1 documents, as it is not part of Variation 1, and has been addressed prior.

Beca Natural Character Assessment Sheets - Marine areas

While we understand that the overlays for the purposes of the PDP do not include the marine areas that form part of the mapped overlay, we oppose their inclusion in the Assessment Sheets, which form part of the background information for Variation 1.

Requested Outcome

1. Delete references to the identification of the CEL, especially the “key characteristics/attributes”.
2. Delete that part of the mapped overlays that extend beyond the TCDC jurisdiction into the marine areas, from the Beca assessment sheets.

SECTION 7A

1. SCOPE OF SECTION 7A

Title and 7A.1 Background

CPOA submitted that the title of S7A should be amended to read “Natural Character of the Coastal Environment”. This point was rejected in the Staff Report. However, we believe there is still confusion about the scope of S7A. We note that a number of submitters have requested that S7A also include provisions related to areas outside of the overlays as well as outside of the Coastal Environment line, e.g. to include wetlands, rivers and their margins. CPOA opposed this, and submits that S7A is specifically part of the suite of sections of the PDP related to mapped overlays. We also note that the natural character overlay is specifically in response to the NZCPS, so does not include inland water bodies. The management of water bodies outside of the overlays is addressed in the underlying Area and Zone provisions, and this is appropriate. There is no policy requirement to map natural character outside of the Coastal Environment. Property owners looking at provisions affecting land that is not included in one of the overlays have no reason to look in S7A, so it would be easy for owners and Council staff alike to overlook requirements.

We note the comments in the Staff Report in paras 45,46, which states that

“...a large portion of our wetlands and natural character of rivers is contained within the revised 2015 Coastal Environment. The District has many rivers reaching far into the interior of the District and submitters on the Proposed District Plan told the Council that they did not support identification of natural character that far inland.”

We disagree with these comments, in that submitters on the PDP opposed the Coastal Environment line extending inland, this was not a reference to natural character. The requirements under the RMA for these components of natural character are appropriately addressed within the Area and Zone sections.

CPOA submits that there needs to be further clarification that S7A only applies to the Coastal Environment, and specifically the high and outstanding natural character overlays, to avoid ongoing confusion.

Requested Amendments

1. The Title of S7A be amended to read “Natural Character of the Coastal Environment”, or alternatively “Natural Character Overlay”, to clarify that the provisions only apply to the identified areas of High and Outstanding natural character of the Coastal Environment.
2. S7A.1 Paragraph 1, last sentence – modify to read “...*The RPS also contains specific methods relating to the identification of natural character in the Coastal Environment; ensuring...*”
3. Paragraph 2, second sentence (tracked changes version) – modify to read “This is reflected in the Natural Character Overlays by the identification of areas of outstanding and high natural character of the Coastal Environment.”

2. 7A1.1 What is Natural Character (of the Coastal Environment)?

CPOA supports the use of the RPS assessment criteria, and the proposed corrections to these in S7A1.1 in Appendix 1 Tracked Changes. It is important that the assessment criteria are consistent with those of the higher order policies, and are correct.

CPOA submitted that the definition of natural character in S7A needed to show a clearer association with being ‘coastal’. This was not addressed in the Staff Report, and in fact was further diminished in importance by the proposed changes in the Tracked Changes Appendix 1.

In adopting a definition of natural character of the coastal environment for the PDP, the wording of a definition agreed at a National workshop in 2011 was used. This definition was also first developed at a Ministry for the Environment’s workshop in 2002. However, in Appendix 1, the primary sentence of the definition was deleted.

CPOA opposes this change, and submits that, if this definition is to be included in S7A, it should be used in its entirety, to ensure the context and meaning is correct. The deleted sentence reads “*Natural Character is the term used to describe the natural elements of all coastal environments. The degree or level (of natural character) within an environment depends on:...*”

CPOA believes that the intent of the NZCPS, and also the RPS assessment criteria, is that values and characteristics of natural character of the coastal environment have a high association with being ‘coastal’. Examples from the RPS S12C assessment criteria include:-

- An emphasis in several clauses on inter-tidal areas.
- Habitat value – examples given are “*gannets, seals, penguins*”.
- The “*feeling of being at the seaside*”
- “*Interaction with other parts of the coastline*”.

We believe that the association with coastal qualities should be made more explicit, and that this should also transfer through to the appropriate application of the assessment criteria in the mapping process.

CPOA submitted in relation to the explanations of what is “outstanding” or “high” natural character.

We oppose the use of the term “near to pristine” in describing outstanding natural character. The RPS, and other background documents, are *very clear* that ONC is that which is “pristine” or “unmodified”, not “near to” or “largely” unmodified. We submit that the interpretation of ONC must be correct, and set at a high threshold, ie. “pristine” , in order to align correctly with higher order policies.

CPOA opposes in part the suggested description of areas of HNC in Appendix 1, in that it places an emphasis on the presence of human modification and development. We consider this to be misleading, as the emphasis should be on the areas being predominantly natural.

Requested Amendments

1. Title S7A1.1 – Modify to read “*What is Natural Character of the Coastal Environment?*”
2. Retain the sentence “*Natural Character is the term used to describe the natural elements of all coastal environments. The degree or level (of natural character) within an environment depends on:...*” - so that the definition quoted is described accurately.
3. S7A1.1 (Appendix 1) First sentence – delete “(or near to pristine)”.
4. S7A1.1 (Appendix 1) Immediately following Assessment Criteria Table – modify to read: “a continuum from very low (highly modified) to outstanding (pristine). An overall evaluation is then made to determine whether (*delete ‘on balance’*) an area is high or outstanding...”
 - “Areas of Outstanding Natural Character are pristine (*delete “near to”*). They exhibit a combination....”
 - “Areas of High Natural Character are predominantly natural. They comprise a predominance of natural elements, patterns and processes (as per the RPS criteria).”
Delete rest of clause.

3. S7A.2 Issues

3.1 Issue 1

CPOA requested modification of Issue 1 to clarify that the listed activities do not necessarily degrade the values and characteristics of natural character. We consider the amendments suggested in Appendix 1 go part way to clarify this, but also create ambiguity as it could be read that the activities listed are now considered “inappropriate”. For example, it could be interpreted that any building or structure would be inappropriate if there are none at this point in time. As readers and users of the Plan, we request amendment to avoid the possibility of misinterpretation and lack of clarity.

CPOA also notes that Issue 1 is closely aligned with the RPS P12.3.1, which gives guidance on activities that should be considered with respect to ‘appropriateness’. We submitted that 1.d) (creating scars) and 1.f) (people’s perception and appreciation) should be deleted as they were not reflective of higher order policies, or covered by other clauses, or too subjective to be included as an issue statement. These submission points were rejected, but we believe they remain valid.

Regarding 1.f), we do not agree with the Staff Report para 52. While perceptual values may form part of an assessment of effects, in accordance with RPS 12C, we submit that it is certain activities that can affect these perceptual values, and that is the issue. The potential for perceptual values to be affected is addressed in the main sentence of Issue 1. The rest of the list 1.a) to e), relates to specific activities, which could subsequently affect perceptual values. In particular, the reference to “*people’s appreciation*” is considered inappropriate, as this is not part of the natural character assessment.

CPOA, as discussed above, opposes the inclusion of wetlands, rivers and their margins in S7, unless of course they form part of an overlay within the Coastal Environment. These areas belong in the underlying Area/Zone sections, for the reasons outlined above.

CPOA suggests that all of these points would be addressed by deleting the list of activities from Issue 1 altogether. They are repeated more appropriately in Policy 1a. The Issue is about the potential for degradation. To address these points related to activities in Objective 1 and Policy 1a is clearer and more in line with the RPS Policy 12.3.1.

Requested Amendments

1. Retain the words “inappropriate” and “can”, to clarify that activities do not degrade natural character in all cases.
2. Modify the wording as follows, to further clarify:
“Inappropriate subdivision, use and development can degrade the values and characteristics of the natural character of the coastal environment (delete rest of sentence and Issue).
3. If No. 2 not accepted –
 - 3.1 Modify Issue 1 to read:
“Inappropriate subdivision, use and development can degrade the values and characteristics of the natural character of the coastal environment, particularly when undertaking activities that...”
 - 3.2 Delete 1.d) as it is covered by 1.c) and is not reflective of higher order policies.
 - 3.3 Delete 1.f) as it is covered by main issue sentence, is too subjective and is not reflective of higher order policies.

3.2 Proposed New Issue

CPOA requested a new issue to acknowledge that the Coastal Environment is a productive environment, and it is largely where people wish to locate for living, working and recreating. This also relates to submission no. 144.4 which sought a new issue to address the economic, social and cultural impacts of the natural character provisions, and which CPOA supported. Both of these points are relevant, given that around 30% of the land within the CEL is currently covered by a natural character overlay, and north of Coromandel/Whangapoua, it is close to 40%. CPOA submits that these are important issues for the sustainable management of resources. They relate back to issues we have raised in the S32 Evaluation, and particularly the lack of analysis or acknowledgment of the effects on economic, social and cultural well-being.

We also refer to Section 7 (Coastal Environment) of the PDP, tracked changes version. Section 7, Issue 1 and Objective 1 (new first bullet point) does address these points, and we request that the same be applied to the natural character overlays. They read:-

S7 Issue 1 – “The protection, preservation, restoration and enhancement of the special values and characteristics of the Coastal Environment....need to be carefully balanced with meeting people’s inherent interest in using the Coastal Environment as a place to work, live and play”.

And

S7.3 Objective 1 – “Subdivision, use and development in the Coastal Environment...enables people and communities to provide for the social, economic and cultural wellbeing and their health and safety”.

The HNC and ONC overlays as they are currently mapped, cover large areas of the Coastal environment, and include total coverage of many individual properties. There is therefore, a serious concern around the ability of the provisions to provide for some people’s social, economic and cultural wellbeing, and for their health and safety. The nature of the overlay areas being ‘singled out’ for more restrictive provisions, can create the perception that these areas should not be modified or used at all, and also create significant extra costs related to activities that require consents. CPOA believes that, in order to address these matters, the addition of a new ‘Issue’ would clarify the intent and provide recourse for those who need to locate activities within an overlay.

We note the NZCPS Objective 6, which reads:-

“To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development, recognising that:

- the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits;*
- some uses and developments which depend upon the use of natural and physical resources in the coastal environment are important to the social, economic and cultural wellbeing of people and communities;...”*

Many of our members, and also other submitters, have expressed concerns about the lack of certainty around activities such as, for example, One dwelling per lot, two or more dwellings (relevant to large farming operations, extended families and multiple ownership models), and other buildings such as farm buildings. For many property owners, the only appropriate or possible place for locating buildings is within an overlay, and this needs to be allowed for without creating an unreasonable burden.

Requested Amendments

1. Add an Issue 2 to read:-

“ The introduction of additional rules and restrictions relating to natural character may undermine the ability of people and communities to provide for their social, economic and cultural well-being and for their health and safety. Or similar.

4. S7A.3 Objectives and Policies

4.1 Objective 1

CPOA supports the addition of the words “Coastal Environment” and “inappropriate” to Objective 1. This adds clarity, and more appropriately reflects the intent of higher order policies.

4.2 Policy 1a

CPOA requested deletion of Policy 1a clause d), related to the vulnerability of the ecosystem and its representation in the District. While we acknowledge the importance of protecting vulnerable ecosystems, this has not been evaluated during the natural character assessment, so there is no evidenced baseline from which to assess the effects of an activity. In addition, we believe that these issues are already addressed through the Biodiversity section of the PDP.

Requested Amendments

1. Other than 1a clause d) above, we support the tracked changes in Policy 1a. We particularly support the addition of Policy 1a clause i), related to functional necessity. This would help to address our suggested new Issue 2 as above.

4.3 Policy 1b

CPOA opposed the words “designed, located and managed to”... avoid adverse effects on ONC, on the basis that they were unnecessary. We note that not all activities would require particular design, location or management requirements and therefore it could be misleading.

Requested Amendments

1. Delete the words “designed, located and managed to”...

4.4 Policy 1c

CPOA submits that natural elements/influences may not be dominant now in some HNC overlays, and therefore the requirement to remain so becomes unachievable. This is an issue for the mapping section.

CPOA submitted that in Policy 1c, the word “should” is more appropriate than “shall”, and better reflects the intent of the RPS P12.3. This provides some flexibility to allow for reasonable use, and also for when there is a functional need for activities to locate within an overlay.

Requested Amendments

1. Change “shall” to “should” In Policy 1c.

4.5 New Objective 2

This relates to extending the opportunities for restoration and rehabilitation to also include areas within the ONC or HNC overlays.

CPOA supports this in principle, but we oppose the wording of the new Objective and Policy. As written, they imply that consent for subdivision and development would be conditional on areas being set aside for legal protection, AND enhancement or restoration. Legal protection, or the requirement to ‘set aside’ areas of land, is not required by the NZCPS or the RPS. Rather, *opportunities* for restoration or rehabilitation is to be encouraged or promoted. The decision to set aside some land for legal protection may be one of the tools used where added benefits are gained from restoration etc, but should not be mandatory to achieve the same level of development as could be gained if the properties did not contain these overlays. Further, consent for activities within the overlays must not be conditional on protection, restoration or rehabilitation unless the District Plan has some form of compensation in the form of additional development rights.

Requested Amendments

1. Objective 2 – amend to read: “Opportunities for the protection, or restoration or rehabilitation of natural character within the natural character overlays are promoted through subdivision and development.”
2. Policy 2a – amend to read: “Subdivision and development that protects or enhances or restores...should be promoted”.

4.6. Policy for Section 24 Rural Area and Section 7 Coastal Environment

CPOA supports the amendments in the tracked changes Appendix 1, with the exception of the deletion of “should be”. We believe “should be” is more appropriate and gives some flexibility regarding the application of the policy, depending on the context and effects of the activity concerned.

Requested Amendments

1. In new Policies for S24 Rural Area and S7 Coastal Environment, retain the words “should be” promoted.

SECTION 32A NATURAL CHARACTER RULES

DISCUSSION

Our submission on Variation 1 is at a number of levels. This section contains our preferred approach to rules for the overlays generally, as well as detailed submissions on specific rules. Neither negates the over-riding issue of the need for accuracy of the maps, so that the rules are applied correctly and fairly.

Reference to rules only applying to the overlay and not the whole site.

This is referred to in the Staff Report paras 73 (R1 & 11), 80 (R2 & 12), 86 (R6 & 16), 94 (R9). CPOA and others have submitted that in many cases it is not possible or practical to locate activities outside of the overlay, and many properties are in fact completely covered by a NC overlay. We appreciate that some submitters have asked for clarification of how these rules apply, however

there are significant issues for property owners related to reasonable use and the burden of costs, and these are not addressed through the theoretical ability to site activities outside of the overlay.

Requests to exempt farmland from the overlay or the rules.

This is reflective of the fact that farmland is modified land that is being used for productive purposes. Therefore a) it is not 'predominately natural' and is not maintainable without significant human intervention, and b) the ability to carry out certain activities is essential to the ongoing operation of that farmland. The issues relate to the accuracy of the mapping, and also reasonable use of already modified land.

Existing use rights.

Staff report para 76 states that none of the rules "*diminish existing use rights and relate only to new proposed activities*". CPOA has commented in earlier submissions that existing use rights do not give adequate protection to property owners, and cannot be relied on. We also surmise that, while a property owner may be able to continue farming (for example), existing use rights would not extend to the need to build a new haybarn or woolshed, and this is not provided for in Rules 1 and 11. Therefore there is potential uncertainty regarding the viability of the whole farming operation if the cost of infrastructure becomes prohibitive. CPOA submits that this is a legitimate and real concern, and while the need for new or replacement buildings is an occasional one, it is a genuine potential threat to the viability of existing activities. Also existing use rights only have a minimal time span – if the activity is not repeated every year then existing use rights do not apply (eg. cultivating paddocks).

Use of Discretionary status

CPOA questions the extent of the use of Discretionary status for activities in natural character overlays, particularly for ONC areas. Aside from the provisions of the underlying zone, the overlays are to do with the preservation of the values and characteristics of natural character. As such, we question the need for full discretionary status, when discretion should be confined to the effects of the proposed activity on natural character. Just because the policy requirements are more strict for ONC does not mean that there has to be a higher activity status applied just to "send a stronger signal". – see Staff report para 87. These areas exist without having had such requirements and there is no evidence that in this District the extent of natural character has been reducing in recent times.

An unnecessary and overly onerous degree of control over activities increases the costs and uncertainties for property owners, which in turn negatively impacts on economic, social and cultural well-being, and reasonable use.

Non-Notified Consents

CPOA supported a submission requesting resource consents to be non-notified. This has been rejected, however we still believe that this would be appropriate for at least some activities. A notified consent application significantly increases costs, and we believe this would contribute to an unfair and unreasonable burden on some property owners. One dwelling per lot in particular would be appropriate as a non-notified consent, if in fact it is not give a Controlled activity status as per our submission.

Providing for some resource consents to be non-notified would be one small way that Council could acknowledge and mitigate (in part) the effects on the property owners affected by these overlays.

Submission to adopt the underlying zone rules:-

CPOA submitted that the rules for HNC, and in part ONC, should be the same as those of the underlying zone. There is no evidence of a need to create multiple lists of more onerous rules. First there should be an evaluation made as to whether current and/or proposed rules would achieve the higher level policy requirements, and if not where specific changes are needed. Predominantly the underlying zone would be Rural/Coastal. In the NZCPS there is no difference in the policy treatment between high natural character and less than high. It is only the RPS that has a rather general comment stating that Plans shall ensure activities are appropriate with respect to the level of natural character.

CPOA believes that the underlying zone rules would be appropriate for areas of HNC, and in part for ONC also. Thus, those activities that are Permitted or Controlled would be treated the same as in the underlying zone, and those that are Restricted Discretionary or more would have a level of assessment made regarding natural character that is in keeping with the particular overlay. This would streamline and simplify the rule structure while still allowing for an appropriate level of assessment of the effects on natural character.

CPOA appreciates that some of our submission points have been accepted, in particular in relation to Rules 1.1c) and 11.1c) (5m from a water body), and the deletion of “structures” from Table 1, which enables structures such as water tanks and fences to be sited on ridgelines. We support the general provision for farming activities (except buildings are not provided for), and for ecosystem restoration works.

SPECIFIC RULES

1. Rule 1 and 11 Any other activity

CPOA supports the changes in Appendix 2 of the staff report, specifically deletion of R1.1c) and deletion of “and structures” from Table 1.

R1.1a) and 1b) – CPOA opposed the size restrictions for buildings related to ‘Any other activity’, and requested they be deleted, to then rely on the standards in Table 1, or alternatively the underlying zone standards as discussed above. The staff report has rejected this request. We note there were multiple similar submissions, all concerned about the size restrictions, particularly for farm buildings, and suggesting a range of alternative options. In reviewing S56 (Rural Zone) provisions, we understand that this R1 and 11 would almost exclusively relate to Farming. Our submission is that these rules do not adequately provide for farming, and could seriously impact on the economic viability of farming operations. The presence, location, and size requirements of farm buildings are governed by their function, and they generally are not built if they are not necessary. Applying a restricted discretionary resource consent requirement would place an unnecessary and unreasonable burden on property owners, for no real environmental benefit.

The size restrictions on buildings (as a permitted activity) are so small that such buildings would serve no purpose. Every larger building would require an extensive application costing more than the actual building in many cases. The uncertainty of the outcome combined with time delays would seriously undermine the usability and saleability of these properties.

Requested Amendments

1. Delete Rule 1.1a), 1.1b), 11.1a) and 11.1b).

2. Rule 2 and 12 Clearing indigenous vegetation

CPOA supports the proposed changes in Appendix 2 for Rules 2.1 a) to c) and 12.1 a) to c), and the retention of clause d), with the exception of a minor modification outlined below, for the sake of accuracy.

Rules 2.1e) and 12.1e) are both problematic (volume limit per natural character area), in that many natural character overlay units cover multiple properties, and as read in Appendix 2 the volume limits would now be shared between multiple sites. In addition, many properties are completely covered within a NC overlay, and do not have any other options for sourcing firewood. For those with ONC areas, limiting annual firewood volume to 3m³ is insufficient.

Area limits proposed are also problematic and unreasonable, given that some properties/overlays cover very large areas, and some may be as small as a residential section.

CPOA stands by our original submission that volume limits for domestic firewood are unnecessary. There is no evidence that natural character is being degraded by the cutting of firewood for personal use, and in fact we know that the Coromandel has an increasing coverage of indigenous vegetation. Cutting firewood for personal domestic use would likely have less impact than other permitted activities listed.

CPOA also submitted that other activities were required in R2.1 and 12.1, in line with the permitted activities in Section 29 (tracked changes version), to cater for both reasonable use and health and safety. Our submission point was not addressed specifically but was not acted on. We have reviewed these provisions from S29 for the Rural Area. We submit that all of these provisions are necessary to achieve the purpose of the RMA and to provide for reasonable use of property. Further, we believe that they would not cause adverse effects on the values and characteristics of natural character in either HNC or ONC areas.

For ease of reference, S29 tracked changes version is repeated here:-

Section 29 - RULE 2 Clearing vegetation in the Rural Area or Conservation Zone

1. Clearing vegetation in the Rural Area or in the Conservation Zone is a permitted activity provided:

b) It is for replanting, managing, maintaining or harvesting existing plantation forestry including under-storey clearance and fire break maintenance or fire risk management; or

- c) It is necessary to avoid loss of life, injury or serious damage to property; or*
- d) The area to be cleared is existing domestic garden, or pasture or horticulture that was established prior to notification of the District Plan on 13 December 2013; or*
- e) It is for the collection of material for traditional Maori cultural practices; or*
- f) It is for ecosystem restoration or enhancement works (e.g. beachcare, removing pest trees, pest control); or*
- g) It is within 10 m of an existing dwelling, or within the building footprint of a proposed dwelling with resource consent or building consent or an approved building platform; or*
- h) It is to create a driveway of no more than 3.5 m wide from an existing formed road to a dwelling specified in g) above; or*
- i) It is a strip of no more than 3.5 m wide for land survey work, tracks or fences; or*
- j) It is within the legal width of an existing formed road (which includes road reserve); or*
- k) It is no more than 5m³ of wood from trees or 50m² of other vegetation per site, per year; or*
- l) It no more than 5 m either side of lawfully established network utility infrastructure (excluding an existing formed road); and*
 - i) it is for the purpose of maintaining and operating the network utility infrastructure; and*
 - ii) it is undertaken or commissioned by the network utility operator; and*
- m) It is not within 10 m of a permanent waterbody wider than 1 m, unless the work is authorised by the Waikato Regional Council; and*
- n) It is not protected by a conservation covenant registered or encumbered with the Council, or Queen Elizabeth II National Trust, or Nga Whenua Rahui, unless the covenant provides for the clearance.*

Rule 2.2 and 12.2 – clearance for a building platform.

In line with our submission to adopt the permitted activities of the underlying zone, CPOA submits that vegetation clearance for a consented building platform should be permitted. Vegetation clearance rules should not be allowed to ‘frustrate’ a consent application for a dwelling. Given the scale of natural character overlays across the District, and the many buildings already present in areas deemed to be of high natural character, vegetation clearance for a building site will not adversely impact the values and characteristics of natural character, in our opinion. We note, in the staff report para 81, the intention to tie vegetation clearance to the same activity status as one dwelling per lot. We do not disagree with this intention, and refer to our submission for One Dwelling per Lot as a Controlled activity within the overlay areas.

Requested Amendments

1. Adopt the underlying zone rules for indigenous vegetation clearance.
- OR
2. Amend R2.1c) and R12.1c) to read – “...or an operational driveway or farm track or...”
3. Amend R2.1e) and R12.1e) to read – “it is for personal domestic firewood” – or similar.
4. Amend or delete R2.2 and R12.2 to be in line with the underlying zone/Area rules, including clearance for a building platform.
5. Retain or apply restricted discretionary status for activities that are not permitted or controlled, for both HNC and ONC areas.

3. Rule 3 and 13 – Earthworks

CPOA supports the removal of the requirement to be more than 5m from a permanent water body. Regional Council standards related to earthworks and water ways ensure that water bodies are protected from the effects of earthworks, whether or not resource consent is required.

CPOA supports the proposed changes in Appendix 2 for Rules 3.1 a)-c) and 13.1 a)-c), and the retention of clause d), with the exception of a minor modification outlined below, for the sake of accuracy.

CPOA supports the provision for ecosystem protection/restoration works.

CPOA stands by our original submission, to adopt the underlying zone rules for HNC areas, and in part for ONC areas.

We have reviewed the underlying zone provisions. Rather than providing for farming and ecosystem activities specifically, these are provided for under the threshold allowances. Bearing in mind that the HNC overlay in particular covers large areas of farmland, these thresholds should be retained for HNC areas. A lower threshold could be applied to ONC areas, which would still allow small-scale earthworks while avoiding adverse effects on the values and characteristics of natural character.

CPOA has also supported other submissions pointing out that farming operations need the provision for new tracks and fencelines at times. It is unclear whether this is covered under clause d) (general provision for farming). It would be covered by adopting the underlying zone provisions, otherwise we submit that these activities must be accepted as part of the operational farming activity included in clause d).

Requested Amendments

1. Adopt the underlying zone rules for Earthworks. Add specific volume and cut height thresholds for ONC areas. See CPOA original submission – suggest 200m³, 1.5m cut/fill.
2. Amend R3.1c) and R13.1c) to read – “...or an operational driveway or farm track or...”
3. Delete R3.2 and R13.2 as earthworks for a building platform would be covered by the underlying zone thresholds, and if not would default to R3.3 or R13.3.
4. Retain or apply restricted discretionary status for activities that are not permitted or controlled, for both HNC and ONC areas.

4. Rule 5 and 15 Solar Panel

Renewable energy options need to be encouraged. In line with our submission generally, we believe these rules should adopt those of the underlying zone (permitted). If a size restriction must be applied to ONC areas, we submit that 50m² would be more appropriate to enable adequate power generation for domestic use.

Requested Amendments

1. Adopt the underlying zone status.
2. For ONC only, where the solar panel is not attached to a building, set a size limit of 50m².

5. Rule 6 and 16 One dwelling per lot

CPOA stands by our original submission that one dwelling per lot should be no more than a Controlled activity, including within a natural character overlay. The staff report para 86 notes that there were a large number of submitters who expressed opposition to this rule. Property owners need to have certainty that they, or a prospective buyer, will be able to build a house on a title of land as of right, with appropriate conditions. RD status does not give this certainty.

The staff report also relies heavily on the premise that a dwelling can or should be sited outside of the overlay. However many property owners do not have this option. There is also a very real risk that people will automatically be expected to site a dwelling outside of the overlay, even if this is not an appropriate or desirable site for a dwelling. For example, an owner or buyer of a coastal property would expect to site a house within proximity of a beach or coastline. This is a reasonable expectation that should be allowed for.

At this point in time we do not know what the Panel's decisions are around one dwelling per lot in the underlying zone, in the Coastal Environment. We wish to note here that our previous further submissions have supported one dwelling per lot being either Permitted or Controlled, and we continue to maintain that position. If the natural character rules were to adopt the underlying zone rules, we would wish to see this activity to be either Permitted or Controlled.

Under Rule 6 CPOA also submitted that a Minor Unit and Accessory Building should be provided for, as a Controlled or Permitted activity respectively. These issues have not been addressed in the staff report. Provision for a Minor Unit would complement the natural character overlays, in that it would allow for small-scale tourism accommodation in areas where visitors would benefit from the natural character features, and would provide an alternative source of income for property owners who may otherwise be restricted in their use of property.

Requested Amendments

1. Amend R6.1 and 16.1 to a Controlled activity, with standards in Table 1.
2. Add a Minor Dwelling as a Controlled activity, also with standards in Table 1.

6. Rule 3A and 13A New Rule

CPOA supports the proposed new rule providing for the operation, minor upgrading or removal of an electricity or telecommunication line as a permitted activity.

7. Rule 7 and 17 Wind Turbine

The environmental impact of wind turbines on natural character needs to be balanced with the economic and social well-being of communities, and also the environmental gains through encouraging renewable energy generation. The functional need to locate wind turbines where they need to be, ie. exposed to the wind, should be a consideration for these rules. Restricted Discretionary status for both HNC and ONC areas would allow for appropriate assessment of effects.

Requested Amendments

1. Amend R7.1 and 17.1 to a Restricted Discretionary activity, without a maximum kilowatt or height restriction.

8. Rule 8 and 18 Activities other than subdivision

CPOA acknowledges the sensitivities around tall structures in natural character areas, so we would submit that where these activities are not already Discretionary in the underlying zone, that restricted discretionary status would allow for the appropriate assessment of effects on natural character. We oppose full discretionary status, or non-complying status for ONC, on the basis of the natural character overlay.

Requested Amendments

1. Amend R8 and R18 to Restricted Discretionary.

9. Rule 8 and 18 Subdivision

CPOA supports the use of the underlying Zone rules for subdivision in the HNC and ONC overlay areas, as a general principle (Staff report, para 89).

Specifically we understand this to mean the following:-

- Subdivision creating one or more additional lots is Discretionary
- Subdivision creating one or more conservation lots Restricted Discretionary
- Subdivision for environmental benefit lots is Restricted Discretionary (Rural Lifestyle only).

However, we note that 'Subdivision creating one or more additional lots' has not been taken out of R8 and 18, so in ONC it still remains as a non-complying status. CPOA opposes this.

The current provisions for the promotion of rehabilitation and/or restoration of natural character are narrow, and the underlying zone provisions only provide a very limited opportunity through Conservation Lots. CPOA considers this a lost opportunity to provide real incentives to property owners to restore and enhance natural character. For 'promotion' to be genuine, it must have real benefits (a 'win-win').

Section 38, Rule 8 – Subdivision creating one or more conservation lots

This is limited to the identified "Priority Areas" of Figure 1. Some of these areas correlate with HNC and ONC overlays, but it is doubtful how many of these areas realistically would end up being protected or restored through this mechanism. 14 or even 10 hectares is a large chunk of coastal land to have to retire, maintain and legally protect to achieve one additional lot, and may be a big disincentive. There are also glaring gaps representing other lost opportunities, on many other overlay areas, and especially at the northern tip of the Coromandel, where there are no Priority areas mapped at all, and therefore no incentives or mechanism to promote the protection or restoration of natural character, in areas that could arguably benefit the most.

Section 38, Rule 10 Subdivision for environmental benefit lots – Rural Lifestyle Zone only.

The effectiveness of this rule in promoting the protection or restoration of natural character is negligible, since there is no or almost no land zoned Rural Lifestyle in these overlay areas. Its inclusion seems to be a token gesture, and the ability to take advantage of these incentives will be almost non-existent, in relation to natural character of the Coastal Environment.

Requested Amendments

1. Delete 'Subdivision creating one or more additional lots' from S32A Rules 8 and 18, so that it also defaults to S38 (Rule 9 for Rural Zone) in the underlying zone provisions.
2. S38 Rule 10 – allow Environmental Benefit lots in all Rural areas, not just Rural Lifestyle, and not restricted to those areas on the map.
3. S38 – allow provision for Conservation lots similar to the existing Operative District Plan as described by Edens & Sharp at previous Hearings.

10. Rule 9 and 18 Two or more dwellings per lot

CPOA submitted that two or more dwellings per lot should adopt the underlying zone rules. This is on the understanding that the status would be no more than Restricted Discretionary, and this is consistent with our Further Submission on S56 Rural Zone (Coastal Environment). Again, it is not the activity per se that may have adverse effects on natural character, so we oppose making this a non-complying activity, or even full Discretionary. A RD status gives the opportunity for an appropriate assessment of the effects on the overlay concerned, whether this is HNC or ONC. RD status for this activity provides for rural families to accommodate extended family and/or farm workers, in areas where there may not be other alternative accommodation.

Requested Amendments

1. Amend Two or more Dwellings per Lot to a Restricted Discretionary status, for both HNC and ONC areas.

SECTION 32A.5 - ASSESSMENT STANDARDS

1. Table 1

CPOA supports the removal of the word "structure" from Table 1.4, allowing for water tanks, fences etc. to be sited on ridgelines.

2. Table 2

CPOA made a number of submissions and further submission on Table 2. While we stand by our previous submissions, the following are key points we wish to address here:-

Table 2.1a) and 2.3a) - necessity

CPOA supports the deletion of the necessity test. We agree with the Staff Report para 99, that necessity is irrelevant to the assessment of effects on natural character.

Table 2.1b) and 2.3b) - location

CPOA also supported a submission requesting the deletion of these clauses regarding whether the activity could be located outside the overlay. For the same reasons as the necessity test, we believe that it is the effects on natural character that is to be assessed, not the location per se.

2.1h) and 2.3g) - re a buffer for wetlands, rivers

CPOA requested that these clauses be deleted. Our reasons are –

- Water bodies are already protected through regional council policies and standards.
- The effects on water bodies and their margins would also be assessed under several other clauses of Table 2.1 and 2.3.
- Earthworks and vegetation clearance close to water bodies in this context would most likely be related to driveways, culverts, bridges and the like, where the terrain and the nature of the activity itself may make it impractical to provide a buffer. The other clauses of Table 2 provide sufficient scrutiny to encourage the siting of activities away from water bodies where possible. We would be concerned if the lack of ability to provide a buffer resulted in an activity being denied.

Requested Amendments

1. Delete matters 2.1a) and 2.3a) as per Staff Report.
2. Delete matters 2.1b) and 2.3b)
3. Delete matters 2.1h) and 2.3g)

NOTE – the requested outcomes or amendments expressed above also extend to other consequential changes that may be required throughout the Plan as a result of CPOA’s submissions and evidence.

THANK YOU