Appendix B Statutory Framework

Natural Character, landscape and visual matters

New Zealand Coastal Policy Statement 2010

Objective 2

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

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

Policy 6 Activities in the coastal environment

(1) In relation to the coastal environment:

...

(i) set back development from the coastal marine area and other water bodies, where practicable and reasonable, to protect the natural character, open space, public access and amenity values of the coastal environment; and

....

Policy 13 Preservation of natural character

- (1) To preserve the natural character of the coastal environment and to protect it from inappropriate subdivision, use, and development:
 - (a) avoid adverse effects of activities on natural character in areas of the coastal environment with outstanding natural character; and
 - (b) avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on natural character in all other areas of the coastal environment; including by:
 - (c) assessing the natural character of the coastal environment of the region or district, by mapping or otherwise identifying at least areas of high natural character; and
 - (d) ensuring that regional policy statements, and plans, identify areas where preserving natural character requires objectives, policies and rules, and include those provisions.

- (2) Recognise that natural character is not the same as natural features and landscapes or amenity values and may include matters such as:
 - (a) natural elements, processes and patterns;
 - (b) biophysical, ecological, geological and geomorphological aspects;
 - (c) natural landforms such as headlands, peninsulas, cliffs, dunes, wetlands, reefs, freshwater springs and surf breaks;
 - (d) the natural movement of water and sediment;
 - (e) the natural darkness of the night sky;
 - (f) places or areas that are wild or scenic;
 - (g) a range of natural character from pristine to modified; and
 - (h) experiential attributes, including the sounds and smell of the sea; and their context or setting

Policy 14 Restoration of natural character

Promote restoration or rehabilitation of the natural character of the coastal environment, including by:

- (a) identifying areas and opportunities for restoration or rehabilitation;
- (b) providing policies, rules and other methods directed at restoration or rehabilitation in regional policy statements, and plans;
- (c) where practicable, imposing or reviewing restoration or rehabilitation conditions on resource consents and designations, including for the continuation of activities; and recognising that where degraded areas of the coastal environment require restoration or rehabilitation, possible approaches include:
 - (i) restoring indigenous habitats and ecosystems, using local genetic stock where practicable; or
 - (ii) encouraging natural regeneration of indigenous species, recognising the need for effective weed and animal pest management; or
 - (iii) creating or enhancing habitat for indigenous species; or
 - (iv) rehabilitating dunes and other natural coastal features or processes, including saline wetlands and intertidal saltmarsh; or
 - (v) restoring and protecting riparian and intertidal margins; or
 - (vi) reducing or eliminating discharges of contaminants; or
 - (vii) removing redundant structures and materials that have been assessed to have minimal heritage or amenity values and when the removal is authorised by required permits, including an archaeological authority under the Historic Places Act 1993; or

- (viii) restoring cultural landscape features; or
- (ix) redesign of structures that interfere with ecosystem processes; or
- (x) decommissioning or restoring historic landfill and other contaminated sites which are, or have the potential to, leach material into the coastal marine area.

Policy 15 Natural features and natural landscapes

To protect the natural features and natural landscapes (including seascapes) of the coastal environment from inappropriate subdivision, use, and development:

- (a) avoid adverse effects of activities on outstanding natural features and outstanding natural landscapes in the coastal environment; and
- (b) avoid significant adverse effects and avoid, remedy, or mitigate other adverse effects of activities on other natural features and natural landscapes in the coastal environment; including by:
- (c) identifying and assessing the natural features and natural landscapes of the coastal environment of the region or district, at minimum by land typing, soil characterisation and landscape characterisation and having regard to:
 - (i) natural science factors, including geological, topographical, ecological and dynamic components;
 - (ii) the presence of water including in seas, lakes, rivers and streams;
 - (iii) legibility or expressiveness—how obviously the feature or landscape demonstrates its formative processes;
 - (iv) aesthetic values including memorability and naturalness;
 - (v) vegetation (native and exotic);
 - (vi) transient values, including presence of wildlife or other values at certain times of the day or year;
 - (vii) whether the values are shared and recognised;
 - (viii) cultural and spiritual values for tangata whenua, identified by working, as far as practicable, in accordance with tikanga Māori; including their expression as cultural landscapes and features;
 - (ix) historical and heritage associations; and
 - (x) wild or scenic values;
- (d) ensuring that regional policy statements, and plans, map or otherwise identify areas where the protection of natural features and natural landscapes requires objectives, policies and rules; and
- (e) including the objectives, policies and rules required by (d) in plans.

Bay of Plenty Regional Policy Statement

Objective 2

Preservation, restoration and, where appropriate, enhancement of the natural character and ecological functioning of the coastal environment.

Policy CE 2B: Managing adverse effects on natural character within the coastal environment

Preserve the natural character of the coastal environment and protect it from inappropriate subdivision, use and development by including provisions in regional and district plans, and when making decisions on resource consents to:

- (a) Avoid adverse effects of activities on the attributes that comprise natural character in areas of the coastal environment with outstanding natural character as identified in the maps and tables in Appendix I and J;
- (b) Avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on the attributes comprising the natural character in all other areas of the coastal environment, recognising that areas identified in maps in Appendix I as having high or very high natural character can be especially sensitive to the adverse effects of inappropriate subdivision, use and development; and
- (c) Recognise that open coastal water in the region is of at least high natural character.

Policy CE 8B: Ensuring subdivision, use and development is appropriate to the natural character of the coastal environment

When assessing the effect of subdivision, use and development on the natural character of the coastal environment, particular regard shall be given to:

- (a) The level of natural character as shown in Maps in Appendix I, as described in Appendix J, and the level of protection to be afforded by Policy CE 2B;
- (b) The criteria contained in Set 1 of Appendix F to further refine natural character for resource consents or site-specific mapping;
- (c) Maintaining coastal margins in a natural state and protecting the natural values of beaches and dune systems, including their ability to reduce the impacts of coastal hazards such as tsunami and storm surge;
- (d) The appropriateness of the introduction or accumulation of man-made modifications recognising activities that are:
 - (i) planned (consented, zoned or designated);
 - (ii) provided for in reserve management plans; or
 - (iii) identified in Appendix C, D and E; or (iv) lawfully established;
- (e) The provisions of Customary Marine Title Management Plans;

- (f) Subject to Policy CE 2B avoiding significant adverse effects and avoiding, remedying or mitigating (including, where appropriate, through provision of buffers) other adverse effects on:
 - (i) Visually, ecologically or culturally sensitive landforms, including ridgelines, coastal cliffs, beaches, headlands, and peninsulas and visually prominent public open space;
 - (ii) Estuaries, lagoons, wetlands and their margins (saline and freshwater), dune lands, rocky reef systems and areas of eelgrass and salt marsh;
 - (iii) Terrestrial and marine ecosystems;
 - (iv) Natural patterns of indigenous and exotic vegetation and processes that contribute to the landscape and seascape value of the area; and
 - (v) Regionally significant surf breaks and their swell corridors, including those at Matakana Island and the Whakatāne Heads;
- (g) Encouraging efficient use of occupied space through intensification and clustering of developments, rather than sprawling, sporadic or unplanned patterns of settlement and urban growth;
- (h) Setting buildings and structures back from the coastal marine area and other waterbodies where necessary, practicable and appropriate to protect natural character, open space, public access and amenity values of the coastal environment, while recognising some structures may have a functional need to be located in the coastal environment, for which a setback would be inappropriate.

Objective 18

The protection of historic heritage and outstanding natural features and landscapes from inappropriate subdivision, use and development

Objective 19

The preservation of the natural character of the region's coastal environment (including coastal marine areas) wetlands, lakes and rivers and their margins

Policy MN 1B: Recognise and provide for matters of national importance

- (a) Identify which natural and physical resources warrant recognition and provision for as matters of national importance under section 6 of the Act using criteria consistent with those contained in Appendix F of this Statement;
- (b) Recognise and provide for the protection from inappropriate subdivision, use and development of those areas, places, features or values identified in accordance with (a) in terms of natural character, outstanding natural features and landscapes, and historic heritage;

Policy MN 3B: Using criteria to assess values and relationships in regard to section 6 of the Act

Include in any assessment required under Policy MN 1B, an assessment of:

- (a) Natural character, in relation to section 6(a) of the Act, on the extent to which criteria consistent with those in Appendix F set 1: Natural character are met;
- (b) Whether natural features and landscapes are outstanding, in relation to section 6(b) of the Act, on the extent to which criteria consistent with those in Appendix F set 2: Natural features and landscapes are met;
- (c) ...

Policy MN 7B: Using criteria to assist in assessing inappropriate development

Assess, whether subdivision, use and development is inappropriate using criteria consistent with those in Appendix G, for areas considered to warrant protection under section 6 of the Act due to:

- (a) Natural character;
- (b) Outstanding natural features and landscapes;
- (c) Significant indigenous vegetation and habitats of indigenous fauna;
- (d) Public access;
- (e) Māori culture and traditions; and
- (f) Historic heritage.

Policy MN 8B: Managing effects of subdivision, use and development

Avoid and, where avoidance is not practicable, remedy or mitigate any adverse effects of subdivision, use and development on matters of national importance assessed in accordance with Policy MN 1B as warranting protection under section 6 of the Act.

Appendix F – Criteria for assessing matters of national importance

Appendix G – Criteria applicable to Policy MN 7B

Appendix I - Coastal environment and natural character maps

<u>Appendix J – Natural character attributes</u>

Bay of Plenty Regional Coastal Environment Plan

Objective 2

Protect the attributes and values of:

(a) Outstanding natural features and landscapes of the coastal environment;

(b) Areas of high, very high and outstanding natural character in the coastal environment;

from inappropriate subdivision, use, and development, and restore or rehabilitate the natural character of the coastal environment where appropriate.

Policy NH 1

In relation to the natural heritage of the coastal environment, activities may be considered appropriate if they contribute to the restoration and rehabilitation of natural heritage or cultural values associated with natural heritage (including kaimoana resources and cultural landscape features), or if:

- (3) They:
 - (a) Are compatible with the existing built environment and level of modification to the environment. This includes but is not limited to:
 - Modification that is anticipated as a permitted or controlled activity in an operative District or City Plan; and
 - ii. Urban development activities and associated provision of quality open spaces in Urban Growth Areas contained in the Regional Policy Statement where urban development has been provided for in that area in the relevant District or City Plan, and the development is consistent with the Urban and Rural Growth Management Policies (UG policies) of the RPS; and
 - (b) Are compact, and do not add to sprawl or sporadic development;and
 - (c) Have a functional need to be located in or near the coastal environment in general, or in or near a specific part of the coastal environment and no reasonably practicable alternative locations exist; and
 - (d) Are of an appropriate form, scale and design to be compatible with the existing landforms, geological features and vegetation or will only have temporary and short-term effects on such features; and
 - (e) Will not, by themselves or in combination with effects of other activities, have significant adverse effects on the natural processes or ecological functioning of the coastal marine area; or
 - (f) Involve the operation, maintenance, or upgrading of existing regionally significant infrastructure; and
- (4) They will not have unacceptable adverse effects on the values and attributes of an Outstanding Natural Feature and Landscape (ONFL), an area of

Outstanding Natural Character (ONC) or an Indigenous Biological Area A (IBDA A) identified in Policy NH 5;

Except that clauses (1)(a), (b), (d) and (e) of Policy NH 1 do not apply for the National Grid.

Policy NH 5

Adverse effects must be avoided on the values and attributes of the following areas:

- (a) Outstanding Natural Character areas (as identified in Appendix I to the RPS);
- (b) Outstanding Natural Features and Landscapes (as identified in Schedule 3);
- (c) Any Indigenous Biological Diversity Area A (as identified in Schedule 2, Table 1); and

Adverse effects must be avoided on taxa that meet the criteria listed in Policy 11(a)(i) or (ii) of the NZCPS.

A summary of values and attributes for areas of Outstanding Natural Character is provided in Appendix J to the RPS. Values and attributes for Indigenous Biological Diversity Area A and Outstanding Natural Features and Landscapes are set out in Schedules 2 and 3 to this Plan respectively.

Policy NH 6

When assessing the extent and consequence of any adverse effects on the values and attributes of the areas listed in Policy NH 5 and identified in Schedules 2 and 3 to this Plan and Appendix I to the RPS:

- (d) Recognise the existing activities that were occurring at the time that an area was assessed as having Outstanding Natural Character, being an Outstanding Natural Feature and Landscape or an Indigenous Biological Diversity Area A;
- (e) Recognise that a minor or transitory effect may not be an unacceptable adverse effect; Recognise the potential for cumulative effects that are more than minor;
- (f) Have regard to any restoration and enhancement of the affected attributes and values, and
- (g) Have regard to the effects on the tangata whenua cultural and spiritual values of ONFLs, working, as far as practicable, in accordance with tikanga Māori.

Policy NH 7

Consider providing for subdivision, use and development proposals that will adversely affect the values and attributes associated with the areas listed in Policy NH 5 where:

(a) After an assessment of a proposal in accordance with Policy NH 6, transient or minor adverse effects on the attributes and values are found to be

(b) The proposal:

- (i) Relates to the operation, maintenance, or protection of existing regionally significant infrastructure or upgrading regionally significant infrastructure provided that the scale and intensity of any long term adverse effects of the proposal are the same or similar as those arising from the existing infrastructure; or
- (ii) Relates to the construction, operation, maintenance, protection or upgrading of the National Grid; or
- (iii) Relates to the provision of access to offshore islands, or use and development, as set out in Schedule 15 to this Plan; or
- (iv) Relates to the operation, maintenance and protection of an existing River Scheme or Land Drainage Scheme; or
- (v) Relates to the continuation of a use that was lawfully established on or before 22 June 2014, provided there has been no change to the scale and significance of effects associated with an activity; or
- (vi) Provides for the restoration or rehabilitation of indigenous biodiversity, natural features and landscapes or the natural character of the coastal environment in a manner that maintains or enhances the values and attributes associated with the areas listed in Policy NH 5; or
- (vii) Provides for public walking, cycling or boating access to and along the coastal marine area in a manner that maintains or enhances the values and attributes associated with the areas listed in Policy NH 5.

Policy NH 8

Significant adverse effects must be avoided, and other adverse effects avoided, remedied or mitigated, on the values and attributes of:

- (a) Any Indigenous Biological Diversity Area B (as identified in Schedule 2, Table 2); and
- (b) Natural features and natural landscapes (including seascapes) in the coastal environment that are not listed as outstanding in Schedule 3.

Policy NH 9

Significant adverse effects on natural character in areas that are not identified as outstanding in Appendix I to the RPS are to be avoided, and other adverse effects avoided remedied or mitigated.

Policy NH 19

The guidelines contained in Schedule 4 Management Guidelines for Natural Features and Landscapes should be considered during the development of a proposal to undertake an activity in the coastal environment unless more specific provisions apply in a relevant district or city plan. These guidelines will be taken into account during the consideration of resource consent applications to undertake activities in the coastal marine area.

Policy NH 20

Subdivision, use and development in the coastal environment should consider the use of design techniques, materials and colours that assist in avoiding significant adverse effects on natural character values and attributes. Markers or high visibility materials may be required to provide for safety where relevant. Development in the coastal environment may require set-back from beaches and sand dunes to avoid significant adverse effects on natural character.

Policy NH 21

Planting associated with remediation or mitigation of effects on natural heritage should use appropriate native species, and give preference to the use of eco-sourced native plants. The introduction of exotic plants into areas of Outstanding Natural Character (as identified in Appendix I to the RPS) or an Indigenous Biological Diversity Area A is inappropriate. The introduction of exotic plants into an Indigenous Biological Diversity Area B (as identified in Schedule 2 of the Plan), is inappropriate except where consistent with Policy BS 1.

Policy NH 23

In the consideration of resource consents, maintain identified view shafts of the outstanding natural features and landscapes identified in Schedule 3 Outstanding Natural Features and Landscapes.

Policy NH 24

To maintain or enhance natural heritage values by encouraging landowners and the community to:

- (a) Maintain or improve water quality in wetlands, estuaries and harbours, while recognising that wetlands themselves are natural water filtering systems;
- (b) Maintain or improve the hydrological regime, including enhancing water quantity and flows, providing for flood retention, connectivity and fluctuations of water levels;
- (c) Maintain or improve aquatic and terrestrial indigenous biodiversity;
- (d) Maintain or enhance cultural values;
- (e) Maintain or enhance amenity values;
- (f) Retain natural landforms;

- (g) Covenant or otherwise protect significant landscape and natural character areas; and
- (h) Enhance ecological interconnections that are necessary to sustain indigenous species, including migratory routes.

Policy CH 10

Require any new hard protection structures to be:

- (a) Located landward of the coastal marine area, where the primary purpose of the structure is to protect private property;
- (b) Designed and constructed by a suitably qualified and experienced professionals;
- (c) <u>Designed to avoid as far as practicable any adverse effects on beach amenity</u> and natural character, and to ensure public access to and along the coastal marine area is not restricted, and enhanced where practicable;
- (d) Designed to incorporate the use of 'soft' protection options, such as beach re-nourishment and planting, where practical;
- (e) Designed to withstand coastal processes, including the potential effects of sea level rise, in accordance with the projections set out in Policy CH 5;
- (f) Designed to avoid any significant adverse effects at either end of the structure or on neighbouring land; and
- (g) Subject to a management plan which as a minimum outlines long-term responsibilities for the structure, including anticipated maintenance methods, timing and funding over the design life of the structure, and the thresholds for any adaptation actions that may be required over 100 years.

Schedule 4 - Management guidelines for natural features and landscapes

S4.2 DUNELANDS

S4.2.1 Natural Character

Guidelines:

- (a) Protect natural duneland landforms from inappropriate use and development.
- (b) Protect and enhance existing wetlands as part of the duneland visual continuum.
- (c) Discourage the installation of aerial utilities and service corridors on dunelands and spits.

Explanation/Principal Reasons

Dunelands have a characteristic landform pattern which is a typical visual component of the natural character of the coastal environment. Duneland wetlands are an important, sensitive element within the duneland continuum, deserving special protection. The flat character of dunelands and their typical flat plains hinterland means that there is little immediate visual backdrop and generally few opportunities for the visual integration of structures, including aerial utilities.

S4.2.2 Foredunes

Guidelines:

- (a) Protect foredunes from subdivision and development.
- (b) Protect foredunes from intensive pastoral farming and forestry landuses (note that this guideline does not apply to duneland which is landward of the foredune).
- (c) Explanation/Principal Reasons Foredunes are particularly sensitive components of the coastal environment. They are prone to rapid degradation and require protection to retain their natural character. Their characteristic landform pattern is an important visual component of the coastal environment.

S4.2.3 Backdunes

Guideline:

(a) Protect backdunes and spits from visually inappropriate subdivision, use and development.

Explanation/Principal Reasons

Degraded dunelands can be rehabilitated through the sensitive planting of appropriate native species. The establishment of good intact vegetative cover on dunelands improves their stability as well as their visual integrity.

Bay of Plenty Regional Natural Resources Plan

IM O2 (Objective 10)

Stewardship of natural resources which:

- (a) Sustains the life-supporting capacity of soil, water and ecosystems.
- (b) Maintains, and where appropriate, protects cultural, ecological, amenity, natural character and landscape values through management practices that avoid, remedy or mitigate adverse effects.

IM P7 (Policy 31)

To promote the adoption of the stewardship of soil and water resources, ecosystems, and cultural, amenity, natural character and landscape values.

LM O1 (Objective 9)

Land use and land management practices are appropriate to the environmental characteristics and limitations of the site, and avoid, remedy or mitigate adverse effects on the life-supporting capacity of soil resources, the receiving environment and heritage values.

Western Bay of Plenty District Plan (Operative)

The area is identified an Outstanding Landscape Feature (Natural Feature/Landscape - S24 - Open Coastal Landscape Landward Edge Protection Yard).

Chapter 5 - Natural Environment

5.2.1 Objectives

3. Preservation of the natural character of the <u>District's</u> coastal environment (including the coastal marine area), rivers, lakes, and their margins.

5.2.2 Policies

9. The adverse effects of inappropriate subdivision, use and <u>development</u> on the natural character of the coastal environment, <u>wetlands</u>, rivers, lakes, and their margins should be avoided. Where avoidance is not practicable, such effects should be appropriately remedied or mitigated.

Chapter 6 - Landscape

6.2.1 Objectives

The unique visual quality and character of the <u>District's</u> outstanding natural features, landscapes and <u>viewshafts</u> are protected from inappropriate subdivision, use and <u>development</u>.

6.2.2 Policies

 Within areas identified as being outstanding natural features and landscapes, landscape character should be protected and enhanced by managing the adverse effects of inappropriate land use and <u>development</u> activities.

6.6.1.3 Within Identified Natural Features and Landscapes [Matters of Discretion]

- a. The extent to which the development will maintain, enhance, or avoid adverse effects on, the integrity of the landform and skyline profile. Factors that will be considered include:
 - (a) Reflectivity standards relating to the colour and finish of buildings/structures (see British Standard BS 5252);
 - (b) The height of buildings/structures taking into account the

- surrounding landscape;
- (c) Whether building form or works positively respond to the natural landform contour;
- (d) The extent of landform modification and whether the finished landform appears natural;
- (e) The ability to mitigate effects through landscape planting using native plant species within a timeframe not exceeding five years;
- (f) The guidelines identified in the 'WBOPDC Landscape Review –
 Assessment of Landscape Management Requirements for the
 Tauranga Harbour Margins and Wairoa River Valley' by Boffa
 Miskell (October 2008).In particular, the management objectives
 and descriptions of landform elements on pages 32 and 35 and
 recommended planning methods for rural areas (plains/river flats,
 rolling hills/slops, scarp/cliff and plateau) on page 36.
- b. The extent to which native vegetation removal can be avoided having regard to the nature and scale of the proposed activity. For subdivision and buildings/structures, native vegetation should not be removed except where there is no alternative for building/structure location or access. Subdivision should locate house sites and access outside existing stands of native vegetation.
- c. The extent and location of earthworks having regard to the nature and scale of the proposed activity. For subdivision and buildings/structures, earthworks shall generally not exceed that required for the building(s)/structure(s), vehicle access and turning, and outdoor living court(s).
- d. The ability to retain a natural appearance following site earthworks and vegetation removal. All disturbed ground should be contoured to be sympathetic to the natural landform and revegetated with species appropriate to the context and use of the site.
- $e. \quad \textit{The extent of proposed planting on re-contoured slopes steeper than 1 in 4}.$
- f. The extent of visual effects of any works and network utilities.
- g. The extent to which Significant Ecological Features within the visual landscape are avoided, maintained or enhanced (See Section 5).
- h. The extent to which the location and design of access tracks and roads follow the natural contours, minimise any cut at ridgelines, and mitigate any impact by regrassing/planting. Work should take account of weather and planting times.
- i. The extent to which new lot boundaries and fencing follows natural ground contours. Fences should not be located on the top of ridgelines and where

- practical should be incorporated into the landform feature within the lot.

 Water courses, areas of native bush and wetlands should not be dissected by subdivision or development.
- j. The extent to which production forestry is in general accordance with any applicable industry code of practice. Particular regard shall be given to the following matters:
 - i. Avoiding geometric and unnatural shapes and unnatural orderliness;
 - ii. Attention to the shape and line of the production forest to blend into the landscape;
 - iii. Avoiding disruption to the skyline;
 - iv. Avoiding vertical lines that divide a landscape;
 - v. Oversowing clear-felled areas with grasses or replanting as soon as possible after felling;
 - vi. Avoiding areas of high visual profile, particularly around the Tauranga Harbour margin (excluding Matakana Island) and the Wairoa River valley.

Chapter 8 - Natural Hazards

8.2.1 Objectives

2. Protection of the existing natural character of the coastal environment and other natural features having recognised ecological, landscape or other significance to the <u>District</u>.

8.2.2 Policies

- 5. Ensure that where hazard protection works are necessary their form, location and design are such as to avoid or mitigate potential adverse environmental effects.
- Encourage the conservation and enhancement of natural features such as sand dunes and <u>wetlands</u> which have the capacity to protect existing developed land.

Chapter 18 – Rural

18.2.1 Objectives

- 5. Maintain the rural character and amenity values associated with the low density rural environment.
- 6. Protection and enhancement of ecological, landscape, cultural, heritage and other features located in the rural environment which are of value to the wider community.