

AUCKLAND UNITARY PLAN
INDEPENDENT HEARINGS PANEL

Te Paepae Kaiwawao Motuhake o te Mahere Kotahitanga o Tāmaki Makaurau

**Report to Auckland Council
Hearing topic 019**

**Natural features, landscape and
character
July 2016**

Report to Auckland Council: Hearing Topic 019 - Natural features, Landscape and Character

Contents

1.	Hearing topic overview	2
1.1.	Topic description	2
1.2.	Summary of the Panel's recommended changes to the proposed Auckland Unitary Plan.....	3
1.3.	Overview	4
1.4.	Scope.....	6
1.5.	Documents relied on	6
2.	Changes to the text and/or maps.....	7
2.1.	Statement of issue.....	7
2.2.	Panel recommendation and reasons	7
3.	Consequential changes	15
3.1.	Changes to other parts of the plan	15
3.2.	Changes to provisions in this topic	15
4.	Reference documents	15
4.1.	General topic documents.....	15
4.2.	Specific evidence	16

1. Hearing topic overview

1.1. Topic description

Topic 019 addresses the regional policy, regional coastal plan and district plan provisions of the proposed Auckland Unitary Plan relating to:

Topic	PAUP reference	IHP reference
Natural features, landscape and character	J6.1 (Outstanding Natural Features Rules), J6.2 (Outstanding Natural Landscapes and Outstanding and High Natural Character Rules), Appendix 3.1 (Schedule for the Outstanding Natural Features Overlay), Appendix 3.2 (Schedule of Outstanding Natural Landscapes), Appendix 6.2 (Schedule Of Outstanding and High Natural Character – Coastal)	D10 Outstanding Natural Features Overlay and Outstanding Natural Landscapes Overlay D11 Outstanding Natural Character and High Natural Character Overlay E18 Natural character of the coastal environment E19 Natural features and natural landscapes in the coastal environment Schedule 6 – Outstanding Natural Features Overlay Schedule Schedule 7 – Outstanding Natural Landscapes Overlay Schedule Schedule 9 – Volcanic Viewshafts Schedule

Under the Local Government (Auckland Transitional Provisions) Act 2010, section 144 (8) (c) requires the Panel to set out:

the reasons for accepting or rejecting submissions and, for this purpose, may address the submissions by grouping them according to—

- (i) the provisions of the proposed plan to which they relate; or
- (ii) the matters to which they relate.

This report covers all of the submissions in the Submission Points Pathways report (SPP) for this topic. The Panel has grouped all of the submissions in terms of (c) (i) and (ii) and, while individual submissions and points may not be expressly referred to, all points have nevertheless been taken into account when making the Panel's recommendations.

1.2. Summary of the Panel's recommended changes to the proposed Auckland Unitary Plan

The following is a summary of the key changes recommended by the Panel.

- i. While most of the objectives and policies have been retained, certainly their intent, a number of the objectives and policies have been revised and others relocated to the overlay provisions (which generally address section 6, 7 and 8 matters) and to the Auckland-wide provisions. (See the Panel's Report to Auckland Council – Overview of recommendations July 2016 for an explanation of how the Panel has restructured the Plan.) This means that the provisions addressed in this report need to be read in conjunction with the other parts of the Plan, in particular Chapter B Regional policy statement, Chapter D Overlays and Chapter E Auckland-wide.
- ii. In relation to outstanding natural features, the following rule changes have been made:
 - a. discretionary activity status is amended to restricted discretionary status in activity tables;
 - b. a new rule requiring that the notification test for activities be subject to the normal requirements under the Resource Management Act;
 - c. "farming that is not otherwise controlled in this table" is added as a permitted activity in all categories for clarity;
 - d. existing and new forestry are distinguished so existing forestry activities are permitted on certain categories of outstanding natural features;
 - e. "conservation planting" is deleted (as it is addressed in the vegetation management provisions of the Plan (Section E15); and
 - f. all of the network utility rules have been moved to Section E26 Infrastructure.
- iii. In relation to areas of outstanding and high natural character the following rule changes have been made:
 - a. permitted buildings and structures may only be accessory to pastoral farming, cropping and other non-intensive forms of land production (excluding dwellings);
 - b. additions to a building or structure that were in existence on 30 September 2013 are permitted, provided that the addition is limited to no more than 50m² gross floor area;
 - c. buildings and structures including dwellings, not provided for as a permitted activity are discretionary activities in an area of outstanding natural character (rather than non-complying as notified);
 - d. temporary activities are provided for as a permitted activity;
 - e. all of the network utility rules have been moved to Section E26 Infrastructure;
 - f. new forestry is differentiated from existing forestry and where it is greater than two hectares it is amended from a discretionary activity to a restricted discretionary activity; and a new rule requiring that the notification test for

activities be subject to the normal requirements under the Resource Management Act 1991.

- iv. Changes to the assessment tables and schedules acknowledging that existing activities, in particular marine farms, are located in sensitive areas and that their existence is not causing adverse effects.
- v. Other changes were agreed through a process of direct discussion between Council and submitters (see section 4.1 below, Outcome of Direct Discussions - 17 April 2015) and the Council updated its maps accordingly. Some of these changes are addressed in more detail below.

1.3. Overview

The Panel acknowledges the importance of the provisions addressed in Topic 019, particularly as they relate to matters of national importance in section 6 of the Resource Management Act 1991, being:

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

(b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development: .

and

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

The following two "other matters" listed in section 7 of the Act are relevant:

(c) the maintenance and enhancement of amenity values:

and

(f) maintenance and enhancement of the quality of the environment:

Section 8 is also relevant and provides:

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

The New Zealand Coastal Policy Statement 2010 is also highly relevant in terms of the coastal environment. Section 62(3) of the Resource Management Act 1991 requires that the Unitary Plan must give effect to the New Zealand Coastal Policy Statement, and of particular note are Policies 13(1)(a) and 15(a) as they are directive, 'avoid' policies by virtue of their construction.

The Minister of Conservation presented legal submissions and evidence on this topic, and while generally supporting the objectives and policies, sought specific changes to some of

the rules. The Panel has recommended a set of rules, with the main changes set out above, but has also changed the format of some rules to ensure consistency across the Plan. While some of the specific wording has not been adopted, the Panel considers the changes made overall address the Minister's concerns.

The Panel also notes that the submissions from the Environmental Defence Society and the Royal Forest and Bird Protection Society (the Societies) supported the provisions proposed by Auckland Council (subject to the changes sought to the regional policy statement, and addressed by the Panel in other reports including 006 Natural resources, 008 Coastal environment, and 010 Heritage (natural)).

The Societies noted that the Council had undertaken an extensive analysis of the Auckland region and had identified and mapped outstanding areas, and had adopted an avoidance policy framework. This avoidance approach, in their view, ensures this bottom line is met through triggering a requirement for resource consent when the size or intensity of a proposed activity has the potential to have adverse effects on the outstanding characteristics and qualities of an area. The Panel considers the provisions it is recommending reflect the submissions made by the Societies.

Man O War Farms Limited and Clime Assets Management Limited opposed the way much of the mapping, in particular outstanding natural landscapes, had been undertaken. The submitter sought fundamental changes to the mapping to bring the Plan policies and mapping in to line if it were to give effect to the New Zealand Coastal Policy Statement. Legal submissions cited the King Salmon decision and its implication for how the Plan's mapping and policy approach were 'at odds' with each other.

Man O War Farms Limited and Clime Assets Management Limited submitted that when the mapping and policy were taken together, this would not allow key elements of basic farming activity within areas of mapped outstanding natural landscapes (submitted as being extensive on the submitter's land), and "would require resource consent applications to show that all adverse have been avoided" (paragraph 7 of the legal submissions).

Federated Farmers raised similar concerns as Man O War Farms Limited and Clime Assets Management Limited in relation to the impact on day-to-day farming operations.

While the Panel understand the concerns raised by the submitters, the Panel has not recommended fundamental changes to the methodology and approach to the mapping of outstanding natural landscapes, does not find there is a lack of alignment between the mapping and policy approach, and does not find that basic farming activities in the outstanding natural landscapes would require resource consents.

However, in response to these and other submitters the Panel has recommended a number of changes to the objectives and policies in the regional policy statement and the Plan which have an 'avoid' focus. The Panel is very aware of the New Zealand Coastal Policy Statement 'avoid' policies (particularly Policies 11, 13 and 15) and the implications of the King Salmon decision. The changes make clear what adverse effects are to be avoided, rather than simply stating that adverse effects are to be avoided. Changes have also been made to the assessment tables and schedules identifying that some activities exist within these sensitive areas, and that their presence does not cause adverse effects.

The Panel notes that considerable effort was put into this topic by all parties to agree and resolve as many issues as possible, including the objectives, policies and rules, as well as the spatial identification of the areas. This was done by mediation sessions as well as direct discussions. The Panel is aware that discussions also took place outside of these forums between Mr Reaburn (Council's planning expert), Mr Jamieson (Council's geological expert) and Mr Brown (Council's landscape expert) and a number of submitters on site specific matters.

Arising from those sessions, and as reported to the Panel at the hearing, the agreements reached were recorded in the Outcome of Direct Discussions - 17 April 2015 (see section 4.1 below). In making recommendations on these site-specific matters the Panel has relied on the Council to provide accurate, updated schedules and maps in accordance with its position at the time of its closing statement, reflecting any agreements reached with parties through mediation or any direct discussion processes, or at a later date if that was agreed by the Panel.

Following the mediation and direct discussions the remaining issues relate, in general, to site-specific cases rather than the effect of the overlays themselves. These are addressed below in this report. However there were still some outstanding matters and these are also addressed.

1.4. Scope

The Panel considers that the recommendations in section 1.2 above and the changes made to the provisions relating to this topic (see section 1.1 above) are within scope of submissions.

For an explanation of the Panel's approach to scope, see the Panel's Report to Auckland Council – Overview of recommendations July 2016.

1.5. Documents relied on

Documents relied on by the Panel in making its recommendations are listed below in section 4 Reference documents.

2. Changes to the text and/or maps

2.1. Statement of issue

Changes have been made to the text of the schedules which identify and explain the values of the scheduled items and the maps which spatially identify them. Many of the changes were agreed prior to the hearings. These were either through mediation, direct discussion or addressed in the Council's evidence.

Addressed below are those matters that were contested at the hearing, and for which, in some cases, the Council agreed to undertake further work to determine the extent to which the Council agreed or disagreed with the evidence of the submitter.

2.2. Panel recommendation and reasons

2.2.1. Aquaculture New Zealand

Aquaculture New Zealand sought an acknowledgment that existing marine farms were located within sensitive areas of outstanding and high natural character and that their existence was not causing adverse effects. This was an important issue for them given the 'avoid' emphasis in the New Zealand Coastal Policy Statement 2010, particularly Policies 13 and 15, and the implications of the King Salmon decision.

The Council set out this position at the hearing and Aquaculture New Zealand indicated that it accepted that the proposed amendment to the schedules would meet its concerns and provided a list of items to be amended in the assessment tables.

Mr Brown, Council's landscape expert, addressed that list and proposed the additions to Appendix 6.2 that were set out as tracked changes in Appendix A to the Council's closing remarks and the proposed additions to Appendix 3.2 (Schedule of outstanding natural landscapes). The full list of amendments is:

- i. ONL 40 Mahurangi East Regional Park
- ii. ONL 43 West Mahurangi Harbour
- iii. ONL44 Mahurangi – Waiwera
- iv. ONL 79 Waiheke Island Awaawaroa Bay & valley
- v. ONL 80 Waiheke Island South Coast headlands (Whau Point to Awaawaroa Bay)
- vi. ONL 88 Aotea, Great Barrier Island (Includes Kaikoura, Broken & Rakitu (Aria) Islands)
- vii. HNC 59 Cowan Bay HNC 60 Dyers Creek
- viii. HNC 74 Mahurangi Heads
- ix. HNC 80 Browns Bay
- x. HNC 82 Pukapuka Inlet
- xi. HNC 120 Putiki Bay
- xii. HNC 128 Taniwhanui Point

- xiii. HNC 148 Whites, Little, Sandy Bay, & Te Matuku Bay
- xiv. HNC 193 Oneura, Smokehouse & Wairahi Bay
- xv. HNC 195 Port Fitzroy
- xvi. HNC 197 Kaikoura Island – east
- xvii. ONC 200 Maunganui Point

The Panel understands these align with the request from Aquaculture New Zealand.

The Panel supports the Council's response to these submissions that acknowledges the presence of existing marine farming in the assessment tables (schedule of outstanding natural landscapes) and (schedule of outstanding natural character and high natural character - coastal).

2.2.2. Biomarine Limited and Westpac Mussels Distributors Limited (Westpac Mussels)

Biomarine Limited and Westpac Mussels Distributors Limited sought amendments to the extent of the overlays that overlay their operations in Mahurangi Harbour. Mr Lister, expert landscape architect for Biomarine Limited, set out that the extent of Outstanding Natural Landscape 43 and High Natural Character Area 80 should be adjusted so as to exclude his client's existing operations.

The Council's position remains as stated in Mr Brown's evidence in chief; that the seaward extent of mapping is appropriate. The Panel agrees with the Council.

For Westpac Mussels, Mr Hudson, expert landscape architect, maintained that the seaward extent of Outstanding Natural Landscapes 62 and 63 and High Natural Character 162 and 163 should be reduced.

Mr Brown set out that the seaward extent of these overlays is appropriate and the extent of these areas should remain as notified. He confirmed that the extent of these overlays must reach out that far into the coastal marine area, otherwise the whole overlay may be compromised, and that distance into coastal marine area still retains a connection with the land.

Mr Brown accepted that the seaward extent, if necessarily arbitrary, is pragmatic and noted that:

- i. these outstanding natural landscapes remain coastal landscape units which have a strong connection with the Firth of Thames;
- ii. as a result of the changes to the regional boundaries it is appropriate to make relevant changes to the assessment tables 20; and
- iii. the seaward boundaries proposed by Mr Hudson - of between 100m and 230m for both outstanding natural landscapes and high natural character areas - have the potential to substantially compromise the values of both Firth of Thames outstanding natural landscapes, in particular the residual naturalness and aesthetic value that is so central to the appeal of both stretches of coastline and their associated regional parks.

For the reasons set out above, the Panel agrees with the Council and has determined that those provisions are the most appropriate in terms of the efficiency and effectiveness of those provisions in section 32 and 32AA terms.

2.2.3. Ōrākei Point Sub precinct - outstanding natural feature

The submitter has sought that the boundaries of the outstanding natural feature at Ōrākei Point be amended so that the outstanding natural feature only applies to the cliff face and the open space zoned areas. At the hearing, Mr Jamieson, Council's expert acknowledged that there may be an area that should be removed from the overlay to acknowledge that Plan Change 260 would enable development to the extent that it will not qualify as an outstanding natural feature.

The Council has considered the extent of land that should be removed from the outstanding natural feature overlay and showed this on a map (Appendix 2 of the closing supplementary statement). The Panel agrees.

2.2.4. Frith Farms, Whangaripo Valley Road - outstanding natural landscape

Frith Farms' property on Whangaripo Valley Road is overlaid by Outstanding Natural Landscape 25 which is already in 20 titles and has Council-approved building platforms on 17 of those titles. Mr Brown, for the Council, produced a map of these titles with the overlay overtop and showing what impact development may have.

Mr Brown considered that from a landscape perspective, the addition of 17 to 20 new houses, and related domestic activity, to the margins of the outstanding natural landscape would result in the reduction of the area of outstanding natural landscape "by exacerbating the local landscape's transition from a rural / natural environment into one that is marked by the presence of a scattering of dwellings and related activities". He and Mr Reaburn, expert planner for the Council, accepted that development would likely impact the values of the outstanding natural landscape such that the boundary of it could be amended.

At the hearing, Ms Panther-Knight, expert planner for Frith Farms, provided evidence that the titles had been issued for these properties which indicates that the Plan should recognise that development on these building platforms will take place. Therefore the Council proposed, and the Panel agrees, that the extent of the outstanding natural landscape over this property be amended as shown in Appendix C of the closing supplementary statement.

2.2.5. 458 And 187 Okahukura Road, Taporā - outstanding natural feature

The extent of the mapping of this property as an outstanding natural feature was considered appropriate by Mr Jamieson. However given the submission of Better Living Landscapes at the hearing that the implementation of a resource consent on part of the property was underway, which will modify the dune system with significant sand/earthworks and affect the outstanding natural feature, the Council said it would revisit the mapping of the outstanding natural feature.

The Council confirmed in its closing supplementary statement that the earthworks have been completed. Accordingly it accepts that changes to the mapped extent of the outstanding natural feature are appropriate and shown in Appendix D to the closing remarks. The Panel agrees.

2.2.6. CIT Holdings Limited – St Heliers explosion crater - outstanding natural feature

CIT Holdings Limited sought amendments to Outstanding Natural Feature 194 to avoid 14-22 and 28-30 Waimarie Street, St Heliers.

The Council's position is that the outstanding natural feature overlay on CIT Holdings Limited's property on the St Heliers explosion crater should remain in place even where the resource consents that it holds are implemented. This was because the development enabled by the resource consents will not compromise the values of the overlay.

The Panel agrees with the Council, as to adjust the border of the outstanding natural feature would prevent the ridgeline, as a whole, from being appropriately managed.

2.2.7. 361B Ridge Road - outstanding natural landscape

Mr Kuzmanic appeared in respect of his property at 361B Ridge Road, Albany. While his submission did not address the outstanding natural landscape overlaying his property, it did address the significant ecological area which the Council has agreed can be removed.

The Council undertook to review the extent of the outstanding natural landscape. Mr Brown has considered this matter and recommended the outstanding natural landscape boundary be realigned to avoid the rural residential development that has occurred on and around the property. However he recommended the retention of part of the bush-clad escarpment that extends over the southern portion of the property. The proposed amendments are shown in Appendix E to the closing supplementary statement. The Panel agrees with this amendment to the outstanding natural landscape.

The Panel notes Mr Brown also identified also some further areas of bush as being appropriate to include in the outstanding natural landscape by way of a plan change in the future to follow the main vegetation limits.

The Panel notes that the change it recommends to the outstanding natural landscape is a consequential change given the removal of the significant ecological area.

2.2.8. 155 Whitmore Road - outstanding natural landscape

The submitter sought that Outstanding Natural Landscape 36 be amended to exclude an area of pasture. The Council (Mr Brown) partially agreed and that an amendment has been made as shown in Annexure 2 to Mr Brown's evidence in chief.

Mr Brown set out his view on the further removal of some of the outstanding natural landscape areas in his rebuttal evidence. He reviewed the outstanding natural landscape boundaries again, and it remained his view that the boundaries should remain as proposed.

Mr Brown accepts that although Ms Pegrum's evidence suggests that little native forest lies within the area she sought to have excluded from the outstanding natural landscape, his Annexure 23 – capturing the view from Bishop Lane – shows a stand of kahikatea-dominated bush in the immediate foreground that, together with puriri and other native remnants, are central to the vegetative sequence that runs down the valley towards the northern edge of the Sandspit Harbour and estuary. On this basis Mr Brown considered that the outstanding natural landscape should remain as he recommended.

The Panel has preferred the evidence of Mr Brown, and recommended retaining the balance of the outstanding natural landscape area.

2.2.9. New Zealand Transport Agency - Adjustments to Outstanding Natural Features 46 and 132

The New Zealand Transport Agency did not make a submission on the Schedule of Outstanding Natural Features, however it subsequently identified some outstanding natural features that it considers contain mapping errors. The Panel notes that a number of these have already been addressed but adjustments to Outstanding Natural Features 46 and 132 had yet to be finalised by the time the Council made its closing remarks.

The Council, in agreeing to the Agency's request, proposed an adjustment to Outstanding Natural Feature 46 to remove part of the carriageway to improve the precision of the map. That was shown in Appendix F to the closing statement.

The Council proposes no changes to Outstanding Natural Feature 132 at the North-Western Motorway at St Lukes. That is because it is expected that there will only be minor areas of the finished extent of the basalt road rock cuttings proposed by the New Zealand Transport Agency that might deviate from what is mapped in the Plan. The Panel agrees with this and, due to the uncertainty of the finished extent of the works and because the difference between what is mapped and the finished extent is likely to be slight, it is considered that any adjustments are more appropriately left for future plan changes.

2.2.10. Sanctuary Point - Howick Local Board

The Howick Local Board sought that Sanctuary Point be identified as an outstanding natural feature. However the Council received confirmation from the Howick Local Board that it is not in a position to provide any further information supporting the scheduling of Sanctuary Point.

On this basis the Panel has not recommended its inclusion.

2.2.11. Long Bay-Okura Great Park Society, Okura Environmental Group and the Todd Property Group Limited

The Long Bay-Okura Great Park Society and Okura Environmental Group sought that Outstanding Natural Landscape 54 be amended to include all land north of Vaughan's Stream and east of the ridgeline as defined by the Environment Court decision for the Long Bay Structure Plan.

On 1 March 2016 the Panel received a supplementary statement from Ms Bettany, convenor for the Long Bay-Okura Great Park Society. She outlined that the Long Bay-Okura Great Park Society and the Okura Environmental Group had attended the hearing for Topic 019 and sought that outstanding natural landscape 54 be amended to the line proposed by Ms Lucas, the submitters' landscape architect, as detailed in her evidence on outstanding natural landscapes in Appendix C.

Ms Bettany also set out that prior to the hearing, Ms Lucas had met with Mr Brown and agreed that the outstanding natural landscape line should extend beyond what Mr Brown had indicated previously. They both agreed that the outstanding natural landscape boundary should be extended.

However, notwithstanding the experts' agreement, the Council advised that it could not implement this amendment as the agreed boundary encroached on to land owned by the Todd Property Group Limited. This would breach the Panel's Procedural Minute 6 where a submitter seeks to schedule land which is privately owned by someone other than the submitter.

It was agreed at the hearing that Todd Property Group Limited and the submitters would meet to formalise the extent of the outstanding natural landscape proposed on Todd Property Group Limited's land. Ms Bettany has confirmed that the submitters and Todd Property Group Limited have reached an agreement regarding the outstanding natural landscape on Todd Property Group Limited land. The line agreed between the parties has been slightly amended compared to the line decided between Ms Lucas and Mr Brown.

The Panel agrees with the agreement reached between the parties.

2.2.12. Lake Pupuke - A and J Aitken

The submitter sought that the outstanding natural feature be limited at Lake Pupuke to the lakeside boundary of all lakeside properties, or that a 25m line be adopted.

Mr Reaburn's response, with which Mr Jamieson and Ms Absolum agree, is that the outstanding natural feature line has been arbitrarily determined. However the expert opinion of Mr Reaburn, Mr Jamieson and Ms Absolum is that the outstanding natural feature would be better positioned at the top of the surrounding tuff ring, and this would involve significantly more privately-owned land. The submitters would prefer that it be relocated to the lake edge.

Mr Reaburn advised that the provisions associated with the lakeside yard do have some overlap with the outstanding natural feature area; however, those can only in part protect the values of the outstanding natural feature. He set out that a 30m lakeside yard at Lake Pupuke has been included in relevant district plans/schemes since the 1960s, and is continued in the Unitary Plan (addressed in Topic 047 Lakes, Rivers and Streams). He further stated that a 30m width provides a setback for development from any esplanade reserves so that buildings do not dominate the open space nature of the reserve, and the lake itself. In this respect there is an overlap in landscape values of the outstanding natural feature, however, there are other important values of the outstanding natural feature that are not represented by the lakeside yard – including the landform and, it follows, the potential adverse effects on the landform arising from land modification including earthworks.

It was Mr Reaburn's opinion, one the Panel agrees with, that it is not appropriate to rely on the lakeside yard as a suitable replacement for the outstanding natural feature. The Panel agrees, and in section 32 and 32AA terms, retaining the overlay and not substituting it in preference to the yard requirement is the most appropriate planning mechanism.

2.2.13. Man O War Farms Limited and Clime Assets Management Limited

The Panel acknowledges the extensive and detailed legal submissions and evidence presented by the submitter and the Council. The Panel also understands the significance of the issue to the submitter. However, in summary, as set out in the overview section above, the Panel:

- i. has not recommended fundamental changes to the methodology and approach to the mapping of outstanding natural landscapes;

- ii. does not find there is a lack of alignment 'mismatch' between the mapping and policy approach; and
- iii. does not find that basic farming activities in the outstanding natural landscapes would require resource consents to be undertaken.

Man O War Farms Limited and Clime Assets Management Limited opposed the way much of the mapping of the outstanding natural landscapes had been undertaken and suggested that they needed to be revisited on the basis of the King Salmon decision. The submitters sought fundamental changes to the mapping to what they considered would bring the plan policies and mapping into line to give effect to the New Zealand Coastal Policy Statement 2010.

In relation to this issue there was a fundamentally different approach taken to the identification and mapping of the outstanding natural landscapes between the Council's expert landscape architect (Mr Brown) and the submitter's expert landscape architect (Ms Gilbert). Their approaches and opinions are fully set out in their evidence, and are not repeated here.

The implications of the approach advocated in the submitter's legal submissions and supported by Ms Gilbert, would have required a review of the methodology and approach to the identification of all the outstanding natural landscapes, and potentially a re-mapping of the outstanding natural landscapes. In essence, the submitter's position was that prior to the King Salmon decision, the Council's policy framework under Change 8 to the operative regional policy statement could be more tolerant or permissive of adverse effects from farming on outstanding natural landscapes. Legal submissions for the submitter set out that following the King Salmon decision, this tolerant or permissive policy was no longer available, and therefore the Unitary Plan provisions, which had 'carried over' Change 8, were not appropriate. It appears to the Panel, from the submitter's perspective, that this would mean the identification of outstanding natural landscapes would need to be cognisant of the policy approach to be applied.

Mr Brown addressed this matter at some length in his first and second rebuttal statements. It was his opinion that he considered the technical process of identifying outstanding natural landscapes as discreet from the management of outstanding landscapes after they have been defined. Mr Brown remained of the view that the identified outstanding natural landscapes (in Appendix 3.2 of the notified Plan) should remain, subject to the changes he proposed (and addressed elsewhere in this report).

In respect of the identification of the outstanding natural landscapes, the Panel agrees with Mr Brown, and the Council's position as set out their opening legal submissions and the closing statement. In section 32 and 32AA terms, the Panel has considered the options presented by both parties and finds the approach taken by the Council is most appropriate and effective in satisfying section 6(b) of the Resource Management Act 1991, and giving effect to the New Zealand Coastal Policy Statement 2010 (particularly Policy 15) and the provisions of the regional policy statement as recommended by the Panel.

Notwithstanding the above, the Panel has recommended a number of changes to the objectives and policies in the regional policy statement and the Plan which have an 'avoid' focus. The Panel is very aware of the New Zealand Coastal Policy Statement 'avoid' policies (particularly Policies 11, 13 and 15) and the implications of the King Salmon decision. The

nature of the changes made are to make clear what adverse effects are to be avoided, rather than simply stating that adverse effects are to be avoided. As set out earlier in this report, changes have also been made to the assessment tables and schedules identifying that some activities exist within these sensitive areas, and that their presence does not cause adverse effects. The section below on farming activities is also relevant.

2.2.14. Farming activities in the outstanding natural landscapes

Man O War Farms Limited and Clime Assets Management Limited submitted that when the mapping and policy were taken together, this would not allow key elements of basic farming activity within areas of mapped outstanding natural landscapes (submitted as being extensive on the submitter's land), and "would require resource consent applications to show that all adverse have been avoided" (paragraph 7 of the legal submissions). Federated Farmers also raised similar concerns about the imposition that the plan provisions would have on farming operations.

The Panel accepts that the overlay affects properties and how activities may be undertaken. However the controls on existing farming activities are limited and the Panel has sought to ensure that at least existing farming activities are permitted. A summary of the key amendments to the rules covered by this report are set out in section 1.2 above, however the Panel notes that other sections of the plan (e.g. earthworks and vegetation management) also affect how activities may be undertaken.

Some forestry and buildings are controlled as these are particular activities that may have adverse effects on natural character, features and landscape values. With respect to outstanding natural features, fencing and grazing is controlled in certain circumstances, however, the Panel has recommended a permitted activity confirming that all other farming activities not controlled by the activity table are permitted.

In areas of outstanding natural landscapes, outstanding natural character and high natural character, existing farming activities have been specifically provided for in the in the activity table, and new farming activities are not prevented. It is not the pastoral use of an overlay area with which the policies are concerned about, but the natural aspects of the area. In this respect, the Panel notes that if a farm exists in an overlay area, it has then been accepted as part of the environment notwithstanding the farming activities. The Panel also notes that in many cases of farming use, the pasture is included in the description of the areas in Schedule 7 Outstanding Natural Landscapes Overlay Schedule and Schedule 8 Outstanding Natural Character and High Natural Character Overlay Schedule.

The restriction on building size and its effect on farming activities is a matter that has been addressed in Mr Reaburn's evidence where he states at paragraph 9.16 of his rebuttal evidence:

I have given consideration as to whether larger buildings accessory to farming could be provided for, and have discussed this matter with Mr Brown. I cannot see the "effects" basis for buildings of a different size based on property size, as adverse effects on landscapes are not property size-related. However I do acknowledge that, on a limited basis (and one per 10ha seems appropriate), it will quite often be the case that 200m² farm buildings will be appropriate. That would provide, for instance, for a common building type such as a hay barn. I also agree with a point made by Andrew

Riddell in his evidence for the Minister of Conservation, that it is less likely for farm buildings to be located in prominent locations than, for instance, dwellings. My concern, however, is that buildings can become a focus for other activity, such as tracks, yards, vehicle storage etc which would not in themselves be controlled but could cross the “adverse effects on the landscape” threshold. These are the types of issues that are best resolved through looking at a specific case via a resource consent, and on that basis I consider the current 50m² permitted activity control is appropriate. I note that Mr Small addresses this matter in paragraph 3.4 of his rebuttal.

The Panel agrees and considers that the restricted discretionary activity status for some buildings is appropriate. The purpose of the restricted discretionary application process is to test the proposal against the requirement to avoid adverse effects on the natural characteristics and qualities of the overlay.

3. Consequential changes

3.1. Changes to other parts of the plan

There are no consequential changes to other parts of the Plan as a result of the Panel's recommendations on this topic.

3.2. Changes to provisions in this topic

There are no changes to provisions in this topic as a result of the Panel's recommendations on other hearing topics.

4. Reference documents

The documents listed below, as well as the submissions and evidence presented to the Panel on this topic, have been relied upon by the Panel in making its recommendations.

The documents can be located on the aupihp website (www.aupihp.govt.nz) on the hearings page under the relevant hearing topic number and name.

You can use the links provided below to locate the documents, or you can go to the website and search for the document by name or date loaded.

(The date in brackets after the document link refers to the date the document was loaded onto the aupihp website. Note this may not be the same as the date of the document referred to in the report.)

4.1. General topic documents

Panel documents

[019 - Submission Point Pathway - 7 May 2015](#) (25 August 2015)

[019 - Parties and Issues Report - 23 July 2015](#) (23 July 2015)

[019 - Mediation Joint Statement - outstanding natural features](#) (30 April 2015)

019 - Mediation Joint Statement - ONLs, ONC and HNC (19 June 2015)

019 - Mediation Joint Statement - Appendix 3.1, 3.2 and 6.2 (23 June 2015)

019 - Outcome of Direct Discussions - 17 April 2015 (16 June 2015)

Procedural Minute 6 (PDF 355KB)

Auckland Council marked up version

019 - Exec Summary - Auckland Council (Peter Reaburn) (22 April 2015)

019 - Exec Summary - Auckland Council MARKED UP VERSION (Peter Raeburn) Appendix A (ONLs, ONC & HNC areas) (23 April 2015)

019 - Exec Summary - Auckland Council MARKED UP VERSION (Peter Raeburn) Appendix B (ONLs, ONC & HNC areas) (23 April 2015)

Auckland Council closing statement

019 - Hrg - Auckland Council - CLOSING REMARKS (15 September 2015)

019 - Hrg - Auckland Council - CLOSING REMARKS - Attachment A (15 September 2015)

019 - Hrg - Auckland Council - CLOSING REMARKS - Attachment B (15 September 2015)

019 - Hrg - Auckland Council - SUPPLEMENTARY CLOSING REMARKS - Appendix A (5 October 2015)

019 - Hrg - Auckland Council - SUPPLEMENTARY CLOSING REMARKS - Appendix C (5 October 2015)

019 - Hrg - Auckland Council - SUPPLEMENTARY CLOSING REMARKS - Appendix D (5 October 2015)

019 - Hrg - Auckland Council - SUPPLEMENTARY CLOSING REMARKS - Appendix E (5 October 2015)

019 - Hrg - Auckland Council - SUPPLEMENTARY CLOSING REMARKS - Appendix F (5 October 2015)

4.2. Specific evidence

Auckland Council

019 - Hrg - Auckland Council - Legal submissions (26 August 2015)

019 - Hrg - Auckland Council (Stephen Brown) - Additional Annexure (Annexure 2 to EIC) - Rebuttal - LATE (20 August 2015)

019 - Hrg - Auckland Council (Stephen Brown) - ONLs, ONCs, HNCs - Annexures 18-33- Rebuttal - LATE (20 August 2015)

019 - Hrg - Auckland Council (Stephen Brown) - ONLs, ONCs, HNCs - Rebuttal - LATE (20 August 2015)

019 - Hrg - Auckland Council (Stephen Brown) - ONLs, ONCs, HNCs - Second Rebuttal Statement - LATE (24 August 2015)

[019 - Hrg - Auckland Council \(Peter Reaburn\) - ONFs - Rebuttal - LATE \(20 August 2015\)](#)

Alistair and Jennifer Aitken

[019 - Exec Summary - Alastair & Jenny Aitken \(22 April 2015\)](#)

[019 - Hrg - Alastair and Jennifer Aitken \(Alastair Aitken\) \(12 August 2015\)](#)

[019 - Hrg - Alastair and Jennifer Aitken \(Alastair Aitken\) - Attachment \(31 August 2015\)](#)

Aquaculture New Zealand

[019 - Exec Summary - Aquaculture New Zealand \(28 April 2015\)](#)

[019 - Hrg - Aquaculture New Zealand - letter to Panel \(29 July 2015\)](#)

[019 - Hrg - Awaawaroa and Awakiriapa Mussel Farms - Aquaculture New Zealand - \(Dennis John Scott\) - LATE \(10 August 2015\)](#)

[019 - Hrg - Awaawaroa and Awakiriapa Mussel Farms - Aquaculture New Zealand - \(Dennis John Scott\) - Annexures D J Scott - LATE \(10 August 2015\)](#)

Better Living Landscapes Limited

[019 - Hrg - Better Living Landscapes Ltd - 155 Whitmore Road Matakana \(5 August 2015\)](#)

[019 - Hrg - Better Living Landscapes Ltd - 155 Whitmore Road Matakana - Photos \(31 August 2015\)](#)

[019 - Hrg - Better Living Landscapes Ltd - 458 and 187 Okahukura Road \(5 August 2015\)](#)

[019 - Hrg - Better Living Landscapes Ltd - 458 and 187 Okahukura Road - Attachment \(31 August 2015\)](#)

[019 - Hrg - Better Living Landscapes Ltd - 458 and 187 Okahukura Road - Cultural Impact Report \(31 August 2015\)](#)

[019 - Hrg - Better Living Landscapes Ltd - 458 and 187 Okahukura Road - Report \(31 August 2015\)](#)

[019 - Hrg - Better Living Landscapes Ltd - 458 and 187 Okahukura Road - Report \(5 August 2015\)](#)

[019 - Hrg - Better Living Landscapes \(Karen Pegrume\) - Rebuttal to Stephen Brown \(27 August 2015\)](#)

Biomarine Limited

[019 - Hrg - Biomarine Limited \(1 September 2015\)](#)

[019 - Hrg - Biomarine Limited \(Gavin Lister\) \(5 August 2015\)](#)

[019 - Hrg - Biomarine Limited \(Gavin Lister\) - Attachment 1 \(5 August 2015\)](#)

[019 - Exec Summary - Biomarine Limited \(22 April 2015\)](#)

CIT Holdings Limited

[019 - Hrg - CIT Holdings Limited](#) (1 September 2015)

[019 - Hrg - CIT Holdings Limited \(Kay Panther-Knight\)](#) (5 August 2015)

[019 - Hrg - CIT Holdings Limited \(Shane Moore\)](#) (5 August 2015)

Environmental Defence Society

[019 - Hrg - Royal NZ Forest and Bird Society and Environmental Defence Society](#) (1 September 2015)

[019 - Hrg - EDS and F&B - Legal submissions](#) (26 August 2015)

[019 - Exec Summary - EDS and Forest and Bird](#) (28 April 2015)

Federated Farmers of New Zealand

[019 - Hrg - Federated Farmers - Legal submissions](#) (24 August 2015)

[019 - Hrg - Federated Farmers - Hearing summary and legal submissions](#) (10 August 2015)

[019 - Hrg - Fed Farmers - Opening representations](#) (27 August 2015)

[019 - Exec Summary - Federated Farmers](#) (23 April 2015)

Frith Farm

[019 - Hrg - Frith Farm](#) (1 September 2015)

[019 - Hrg - Frith Farm \(Anthony Frith\)](#) (5 August 2015)

[019 - Hrg - Frith Farm \(Anthony Frith\) - Rebuttal - LATE](#) (21 August 2015)

[019 - Hrg - Frith Farm \(Kay Panther-Knight\)](#) (5 August 2015)

Long Bay – Okura Great Park Society

[019 - Hrg - The Long Bay- Okura Great Park Society \(Chris Bettany\)](#) (10 August 2015)

[019 - Hrg - The Long Bay- Okura Great Park Society \(Chris Bettany\) - Appendix A](#) (10 August 2015)

[019 - Hrg - The Long Bay- Okura Great Park Society \(Chris Bettany\) - Appendix B](#) (10 August 2015)

[019 - Hrg - The Long Bay- Okura Great Park Society \(Chris Bettany\) - Appendix C](#) (10 August 2015)

[019 - Hrg - The Long Bay- Okura Great Park Society \(Di Lucas\)](#) (10 August 2015)

[019 - Hrg - Long Bay-Okura Great Parks Society and Okura Environmental Group \(Di Lucas\) - Hearing attachment](#) (3 September 2015)

019 - Hrg - The Long Bay - Okura Great Park Society (Di Lucas) - Attachments (10 August 2015)

019 - Hrg - The Long Bay - Okura Great Park Society and Okura Environmental Group - agreement with Todd Property Group (1 March 2016)

019 - Exec Summary - Long Bay - Okura Great Park Society (28 August 2015)

Man O War Farm Limited and Clime Asset Management Limited

019 - Hrg - Man O' War Farm Limited and Clime Asset Management Limited - legal submissions (28 August 2015)

019 - Hrg - Man O' War Farm Limited and Clime Asset Management Limited - Legal submissions (Attachment 1) (28 August 2015)

019 - Hrg - Man O' War Farm Limited and Clime Asset Management Limited - Legal submissions (Attachment 2) (28 August 2015)

019 - Exec Summary - Man O' War Farm Ltd (23 April 2015)

019 - Exec Summary - Man O' War Farm Ltd - Attachment 1 (23 April 2015)

019 - Hrg - Man O' War - Attachment (31 August 2015)

019 - Hrg - Man O' War - Closing submissions (2 September 2015)

019 - Hrg - Man O' War - Maps (31 August 2015)

019 - Hrg - Man O' War Farm Limited and Clime Asset Management Limited (Bridget Mary Gilbert) (5 August 2015)

019 - Hrg - Man O' War Farm Limited and Clime Asset Management Limited (Bridget Mary Gilbert) Annexure 1 (6 August 2015)

019 - Hrg - Man O' War Farm Limited and Clime Asset Management Limited (Bridget Mary Gilbert) Annexure 2 (6 August 2015)

019 - Hrg - Man O' War Farm Limited and Clime Asset Management Limited (Bridget Mary Gilbert) Annexure 3 (5 August 2015)

019 - Hrg - Man O' War Farm Limited and Clime Asset Management Limited (Bridget Mary Gilbert) Annexure 4 (5 August 2015)

019 - Hrg - Man O' War Farm Limited and Clime Asset Management Limited (Bridget Mary Gilbert) Annexure 5 (5 August 2015)

019 - Hrg - Man O' War Farm Limited and Clime Asset Management Limited (Bridget Mary Gilbert) Annexure 6 (5 August 2015)

019 - Hrg - Man O' War Farm Limited and Clime Asset Management Limited (Bridget Mary Gilbert) Annexure 7 (5 August 2015)

019 - Hrg - Man O' War Farm Limited and Clime Asset Management Limited (David Mansergh) (5 August 2015)

Minister of Conservation

019 - Hrg - Minister of Conservation - Legal submissions (27 August 2015)

019 - Hrg - Minister of Conservation (John Riddell) (5 August 2015)

019 - Hrg - Minister of Conservation (John Riddell) - Planning - Rebuttal (18 August 2015)

019 - Hrg - Minister of Conservation - Harrison v Whangarei District Council W034.05 (4 September 2015)

019 - Hrg - Minister of Conservation - Director-General of Conservation v Whangarei District Council A024.2006 (4 September 2015)

019 - Hrg - Minister of Conservation - Aqua King Ltd v Marlborough District Council W38.98 (4 September 2015)

019 - Exec Summary - Minister of Conservation (22 April 2015)

The New Zealand Transport Agency Limited

019 Hrg - The New Zealand Transport Agency (Lesley Hopkins) (5 August 2015)

019 Hrg - The New Zealand Transport Agency - Email (5 August 2015)

019 - Hrg - NZTA (Lesley Hopkins) - Summary statement (27 August 2015)

019 - Exec Summary - New Zealand Transport Agency (23 April 2015)

Westpac Mussels Distributors Limited

019 - Hrg - Westpac Mussel Farms - legal submissions (27 August 2015)

019 - Hrg - Westpac Mussel Farms (John Hudson) (5 August 2015)

019 - Hrg - Westpac Mussel Farms (John Hudson) (5 August 2015)

019 - Exec Summary - Westpac Mussels Distributors Ltd (23 April 2015)