

BEFORE THE PANEL OF INDEPENDENT HEARINGS COMMISSIONERS

UNDER the Resource Management Act 1991 (**Act**)

AND

IN THE MATTER of the Proposed Waikato Regional Coastal Plan (**Proposed Plan**)

**STATEMENT OF REBUTTAL EVIDENCE OF DAVID FREDERICK SERJEANT
ON BEHALF OF ENVIRONMENTAL DEFENCE SOCIETY INC**

**PLANNING
10 FEBRUARY 2025**

1. INTRODUCTION

- 1.1 My full name is David Frederick Serjeant.
- 1.2 My current employment details and relevant qualifications and experience are set out in my primary statement of evidence.
- 1.3 I prepared a primary statement of evidence dated 8 November 2024. I attended expert conferencing for the planners session on 4 December 2024.
- 1.4 I confirm that I have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note 2023. I have complied with the Code of Conduct in preparing this evidence and agree to comply with it while giving evidence. Except where I state that I am relying on the evidence of another person, this written evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in this evidence.
- 1.5 My evidence will address the following:
 - (a) ECO-P4 AND ECO-P5
 - (b) ECO-P2 and SIBA-B recognition
 - (c) SIBA-B Significant adverse effects
 - (d) Fishing Controls
 - (e) Integrated Management – IM-O1
 - (f) West Coast Marine Mammal Sanctuary
 - (g) AQA-P2AB and AQA-P3;
 - (h) AQA-P18 and AQA-P19; and
 - (i) DD - General Standards and Terms and DD-P8

2. ECO-P4 AND ECO-P5

- 2.1 My primary evidence addresses these two policies commencing at [5.10] with a focus on functional and operational need and the effects management

hierarchy for specified use and development. These matters were the subject of a significant amount of discussion at expert conferencing and subsequently in the s42A Addendum on the ECO chapter by Ms Palmer.

- 2.2 The redrafted ECO-P4 provides two separate policy pathways for:
- a) New regionally significant infrastructure (**RSI**) set out in ECO-P4(7); and
 - b) Construction of the National Grid, a range of activities relating to existing RSI, and limited other activities set out in ECO-P4(8).
- 2.3 I agree with the differentiation of activities for the two separate pathways for the reasons set out in the s42A Addendum by Ms Palmer. Essentially ECO-P4(8) provides an easier pathway by not requiring functional need to be demonstrated by those activities in (b) above. I think that this addresses the concerns expressed at expert conferencing by planning experts on behalf of Transpower NZ and existing activities such as Taharoa Ironsands Ltd over difficulties demonstrating functional need.
- 2.4 My residual concerns lie with the reference to 'land-based' alternatives only, and to the omission of the reference to ECO-P2 values in relation to new RSI pursuant to Policy ECO-P4(7)(a) and (c).
- 2.5 Ms Palmer justifies the limitation to considering only land-based alternatives in ECO-P4(7)(b) and ECO-P4(8)(b) on the basis that this follows the approach taken in the Auckland Unitary Plan (AUP). I have reviewed the relevant sections of the AUP and find that these references require consideration of land-based alternatives, but do not limit alternatives to those on land.
- 2.6 For example Policy AUP F2.16.3(3) in relation to structures states:

(3) Limit the impacts from structures associated with infrastructure by:

*(a) requiring an assessment of any practicable alternative sites, routes or designs where it is likely that the proposed structure will result in any significant adverse effect on the environment, **including land-based alternatives**, to demonstrate that the chosen option is appropriate taking into account the purpose and use of the structure and that the adverse effects will be avoided to the extent practicable, and will otherwise be remedied or mitigated;*

[my emphasis]

- 2.7 In my opinion, the way in which consideration of land-based alternatives are referred to in the above ECO-P4 clauses makes it unclear if consideration of more acceptable CMA alternatives that are not ECO-P1 or ECO-P2 areas is required.
- 2.8 I am also concerned about the omission of reference to ECO-P2 matters in Policy ECO-P4(7)(a) and (c) in relation to new RSI for the reasons set out in my primary evidence on the failure to recognise ECO-P2 in various policies and rules. This makes it appear as though a more stringent test applies to use and development in ECO-P2 areas compared with ECO-P1 areas. Such an approach is not consistent with Policy 11 of the NZCPS. In fact, it adopts a reverse approach.
- 2.9 When considering what activities might be affected by the coincidence of areas subject to ECO-P2 and ECO-P4(7), I note that such ECO-P2 areas largely comprise the region's harbours on each coastline (Marokopa, Kawhia, Aotea, Raglan, Port Waikato, Manaia, Te Kouma, Coromandel, Colville, Whangapoua, Whitianga, Tairua, Opoutere and Whangamata (with the remainder being SIBA -A)).
- 2.10 In the context of the Waikato Region it is difficult to identify what a new RSI could be, but it might include cables or wires for new energy transmission that were not classed as being part of the National Grid or new water infrastructure for a local authority if this were not just an upgrade. It would not include the National Grid or any existing RSI which are addressed under ECO-P4(8) and which must give consideration to the values in the ECO-P2 areas listed above. A new RSI under ECO-P4(7) must also demonstrate that there is no land-based alternative and when it comes to addressing ECO-P5 must ensure that adverse effects on the values in ECO-P1 and ECO-P2 are avoided, remedied or mitigated. Consequently, it appears to me that the inclusion of ECO-P2 in ECO-P4(7) is a consistent and logical precursor for the methodology that follows in ECO-P5.
- 2.11 My primary evidence raised several concerns with ECO-P5. Of these I continue to disagree with the wording on ECO-P5(2) in relation to short term residual adverse effects and to the option for financial contributions for the reasons previously stated.

- 2.12 To elaborate briefly on short term effects, if such effects are time-limited, following which there are minor residual effects on the values of the indigenous biodiversity in question, then I consider that is acceptable (for example, a temporary plume from a discharge or minor changes to the foreshore or seabed that self-remediate over the tidal cycle) however, the wording is uncertain on what short term means and the extent of effect acceptable for that term.
- 2.13 Further, in my view, the syntax of the financial contribution provision emphasises its inappropriateness. Reading down from the header clause the provision reads:

[Residual adverse effects] “are:...

e. In exceptional circumstances, financial contributions may be considered.”

- 2.14 What does this mean? It conveys the vague idea that in some way money, albeit in exceptional circumstances, can be considered to offset residual adverse effects. I made the observation in my primary statement that there is no consideration in the NPS-IB for financial contributions, to which I would add that the NZCPS does not contemplate financial contributions in the mitigation hierarchy. Financial contributions could potentially be applied to offsetting however in the JWS Ecosystems and Indigenous Biodiversity, the ecologists recorded that such offsetting is rare, challenging and aspirational. I remain opposed to the provision.

ECO-P2 and SIBA-B recognition

- 2.15 A key submission by EDS was the subject of my primary evidence at [4.25] identifying that SIBA-B areas also need to be adequately protected to be consistent with NZCPS Policy 11b. Annexure A to my primary evidence identifies those provisions in the Proposed Plan where I considered amendments are needed to achieve this. To focus more clearly on this list I have produced a specific addendum to my rebuttal statement (called Annexure A/Rebuttal to avoid confusion). Annexure A/Rebuttal contains my residual list of recommended amendments.

SIBA-B Significant adverse effects

- 2.16 I supported the inclusion of a definition of ‘significant adverse effects’ relating to SIBA-B values, to provide guidance on the meaning of “significant effects” in terms of NZCPS Policy 11b, at [5.9] of my primary statement. My support was based on the concerns expressed by Dr Kelly in his evidence, and his suggested definition was contained in my Annexure A.
- 2.17 Ms Palmer does not support the inclusion of a definition, noting that the NZCPS provides no guidance on the matter and Ms Webb considers it is inappropriate. Nevertheless, I note that the Department of Conservation Guidance Note for Policy 11 of the NZCPS¹ recommends “*that plans list criteria to assess ‘significance’ of an adverse effect.*”
- 2.18 The suggested definition, recommended by Dr Kelly, made reference to the magnitude of effect based on the applicable summary table in the EIANZ guidelines. However, this did not find favour at expert conferencing, apparently due to some reservations amongst the ecologists about the guidelines themselves.
- 2.19 Conversely, I note that in November 2024, the EIANZ guidelines were updated with an addendum that applies to certain values in the coastal marine area.² Assessments prepared using those guidelines have supported evidence to the Environment Court already on several nationally significant projects, including the East-West link project which was the subject of the Supreme Court decision.³ In my view, the use of the guidelines to support ecological assessments in recent proceedings gives them some provenance.
- 2.20 As a planning exercise, I consider the Proposed Plan should take all opportunities to resolve areas of uncertainty and improve future practice, including defining methods where possible. I note that the Proposed Plan does define what ‘significant adverse effects’ means in the context of historic

¹ Department of Conservation (2019) *NZCPS 2010 guidance note Policy 11: Indigenous biological diversity (biodiversity)*.

² Roper-Lindsay, J., Fuller, S.A., Hooson, S., Sanders, M.D., and Ussher, G.T. (2018). *Ecological Impact Assessment. EIANZ guidelines for use in New Zealand: terrestrial and freshwater ecosystems*. 2nd edition. Updated as of 12 November 2024 to include Addendum Module 1 “*Assigning Ecological Value to Marine Benthic Habitats*”

³ *Royal Forest and Bird Protection Society of New Zealand Incorporated v New Zealand Transport Agency* [2024] NZSC 26

heritage (at HH-P1 (1) and (2)). I also note that *Te Tangi a te Manu - Aotearoa New Zealand Landscape Assessment Guidelines* can be relied upon for assessments in terms of natural character and natural features and landscapes. Consequently, the absence of a definition which assists with methodology remains an omission in the plan. Consequently, I continue to support the proposed definition and I consider it would provide for greater certainty and consistency if a definition were included in the Proposed Plan to clarify what the “significance” threshold means in relation to SIBA-B values.

Fishing controls – ECO-RX

- 2.21 In my primary evidence from [9.4] I address the Council’s s 32 analysis and rationale for omitting fishing controls in the Proposed Plan. In my view, lack of evidence (as suggested by the reporting planner) is not a barrier to implementing appropriate controls to manage adverse effects of fishing on biodiversity values. I maintain that position.
- 2.22 Ms Palmer has indicated that EDS’s proposed ECO-RX rule would frustrate the implementation of biosecurity and aquaculture rules. On reflection, I have considered the implementation concerns raised by Ms Palmer and reviewed similar fishing controls applying to marine protection areas in the Northland Regional Plan (e.g. section C.1.10).
- 2.23 I note that Rule C.1.10.2 of the Northland Regional Plan prohibits “*the temporary or permanent damage or destruction or removal of fish, aquatic life or seaweed in a Te Hā o Tangaroa Protection Area*”. There is a related permitted activity rule (rule C.1.10.1) which specifies exemptions from the no-take restriction. The exemptions provide for relatively low risk activities such as marine biosecurity investigations, wildlife rescue and monitoring or enforcement.
- 2.24 The rules in the Northland Regional Plan are accompanied by an advice note, which clarifies that they do not apply to aquaculture activities and cross-references to the relevant aquaculture provisions.
- 2.25 In my opinion, further amendments such as a similar advice note could be implemented in the Proposed Plan to address Ms Palmer’s concerns.

Integrated Management – IM-O1

- 2.26 Commencing at [4.4] of my primary evidence I address integrated management, concluding at [4.16] seeking that “*and between terrestrial and coastal environments*” be added to the end of IM-O1 in order to ensure the section has an objective that makes this link. The section 42A Addendum on Integrated Management does not support this addition.
- 2.27 For the reasons set out in my primary evidence, where I noted the direction in NZCPS Policy 4 Integration and WRPS IM-O1, I maintain that this link is required to adequately recognise and provide for integrated management in accordance with the higher order planning documents and RMA.

West Coast Marine Mammal Sanctuary

- 2.28 The Council remains of view that this does not need to be a SIBA-A. But provides no real reason [see ECO Addendum at [145]] other than that there is a raft of provisions that address potential effects on marine mammals. But the s 42A Addendum report stops short of saying why, when an MMS is clearly a SIBA-A in terms of the relevant RPS criteria, it is not mapped accordingly. In supporting a mapping approach, I fully recognise that unlike a benthic SIBA-A, marine mammals are migratory and not always present in the mapped area. However, I consider the mapping approach is most effective in ensuring that those persons undertaking activities in areas which marine mammals are potentially present are aware of their responsibilities under the Proposed Plan.
- 2.29 In my opinion, one possible variation to the standard SIBA-A recognition for the MMS would be a bespoke sub-category for the MMS based on the gazetted information for marine mammals on both coasts. This would address the Council’s concerns related to applying the standard SIBA-A status to a large area of the CMA while ensuring the important values of marine mammals on the west coast are better recognised.

AQA-P2AB and AQA-P3

- 2.30 In response to the submissions of Aquaculture NZ and Coromandel Marine Farming Association the s42A Addendum report has recommended the addition of Policy AQA-P2AB:

Recognise existing aquaculture outside of the significant areas listed in AQA-P2 as an appropriate use.

- 2.31 This policy appears as a companion policy for Policy AQA-P2AA which states:

Existing aquaculture activities located within an area listed in AQA-P2 are considered to be within an inappropriate area for existing aquaculture activities. Resource consent may be granted if adverse effects on the attributes and values of the areas identified as inappropriate can be avoided.

- 2.32 Both policies respond to the relevant objective AQA-O4:

Existing aquaculture activities are provided for where adverse effects can be appropriately managed.

- 2.33 I do not support the addition of AQA-P2AB as I consider it is both redundant and potentially in conflict with AQA-P2AA. In the context of a resource consent, AQA-P2AA establishes a test for the applicant in terms of avoiding certain adverse effects. In the absence of that test it is premature to deem the activity appropriate.

- 2.34 In terms of planning provisions, if we included a policy for every activity that was supposedly in the 'right' place, our planning documents would be replete with much unnecessary information.

- 2.35 In my opinion AQA-P2AA responds fully and appropriately to AQA-O4 and AQA-P2AB is unnecessary.

- 2.36 In relation to AQA-P3, I continue to support the retention of this policy. While I acknowledge that the matters referred to are also addressed elsewhere in the Proposed Plan, the AQA chapter comprises a largely self-contained set of provisions when it comes to activities in the CMA (for example structures). On that basis I consider that it is desirable for aquaculture activities to have a specific policy that brings these considerations together, including the reference to SIBA-B areas. Without this policy directed at avoiding significant

adverse effects of aquaculture on SIBA-B areas, it is difficult to see how the aquaculture provisions give effect to Policy 11(b) of the NZCPS.

AQA – P18 and AQA-P19

- 2.37 In the s42A Addendum report at [131] Mr Phizacklea has recommended the deletion of policies AQA-P18 and AQA-P19 in response to concerns raised by aquaculture interests.
- 2.38 I note that Policy AQA-P18 lists minimum information requirements for assessments of environmental effects associated with aquaculture consents. Policy AQA-P19 provides guidance on monitoring effects of aquaculture activities. In my view, the advice note suggested by Mr Phizacklea is not an appropriate approach because it refers to guidance in a separate document. This makes it difficult for the plan reader to understand what (if any) information requirements apply.
- 2.39 Ms Giles (council ecologist) has addressed the benefits of retaining these policies and suggested some amended wording for clarity.
- 2.40 In my view, retaining the requirements within the policy framework is appropriate and necessary and I support Ms Giles' amended wording. I have included this in Annexure A/Rebuttal.

DD - General Standards and Terms and Policy DD-P8

- 2.41 At [6.2] of my primary evidence I opposed the deletion of Standard 1c as notified on the basis that it addresses the same values as Standard 2 and should be combined for clarity. The s42A DD Chapter Addendum maintains the deletion. The amendment to Standard 2 focuses on shoreline habitat (mangroves, seagrass, saltmarsh and bird roosting and nesting areas) which fails to recognise that the chapter deals not just with disturbance but also deposition, including the dumping of dredgings at sea. Consequently, I maintain my view that the standards should be generally as notified, with the additional reference to shellfish beds as set out in my primary evidence and as noted in Annexure A/Rebuttal.

- 2.42 I note that Mr Phizacklea has recommended making amendments to policy DD-P8 including the addition of “or operational need” to the criteria in DD-P8(2). This policy applies to reclamation.
- 2.43 As already outlined above I consider the inclusion of an operational need test should be accompanied by specific policy direction requiring consideration of alternative sites outside of SIBA. In other words, it is not sufficient to satisfy the test by showing that there are no alternative land based alternatives. Therefore, I recommend amendments to clarify that the operational need test can only be met if the reclamation needs to occur “*in the particular location*” within the CMA. In my opinion, this approach aligns better with the different policies in the NZCPS (e.g. Policy 6, Policy 10 and Policy 11) because it establishes the narrowest pathway for activities in SIBA. I have included this amendment in Annexure A/Rebuttal].

3. CONCLUSION

- 3.1 The Council has resolved many of the matters raised in my primary evidence. However, I consider that the matters I have raised in this rebuttal evidence and the amendments I have recommended in Addendum A/Rebuttal are necessary to give effect to the higher order policy directives and achieve better consistency with the purpose of the RMA and the sustainable management of the Waikato CMA.

10 February 2025

David Frederick Serjeant

**ANNEXURE A/REBUTTAL
RECOMMENDED AMENDMENTS/WORDING FOR PWRCP**

PWRCP provision	Reason for requested amendments	Requested amendments annotated as follows: <ul style="list-style-type: none"> The notified PWRCP text is the base text shown as plain black font (no strike through or underline). The Council's s 42A amendments are shown in coloured blue or red font with <u>underline</u> or striketrough and amendments made in the s42A Addendum are shown in coloured green font. EDS's requested amendments are shown in black font with striketrough or <u>underlined</u>. Additional changes (subsequent to my primary evidence) are shown in coloured orange font.
Interpretation	New definition of "benthic access areas"	<u>Means an area specifically identified in schedule DD-X to provide for specified bottom contact fishing methods that are otherwise prohibited by rule DD-RX.</u>
Interpretation	New definition of "significant effects on SIBA-B values"	<u>Means an effect that has a moderate or greater magnitude of effect, to be determined in accordance with the magnitude rankings of Table 8 of Ecological Impact Assessment (EcIA) EIANZ guidelines for use in New Zealand: terrestrial and freshwater ecosystems</u> <u>2nd EDITION May 2018</u>
IM-O1	This key objective on integrated management needs to address both the land and CMA	Resources and activities in the coastal environment are managed in an integrated manner that recognises the inter-relationships between resources and people <u>and between terrestrial and coastal environments.</u>
AQA-P2AB	Delete. New policy inserted in s42A AQA Addendum considered redundant and unnecessary.	AQA-P2AB Existing aquaculture outside of significant areas Recognise existing aquaculture outside of the significant areas listed in AQA-P2 as an appropriate use.

AQA-P3	Retain as notified	<p><u>AQA-P3 Avoidance of adverse effects from aquaculture activities</u></p> <p><u>Require aquaculture activities to avoid significant adverse effects, and avoid, remedy or mitigate other adverse effects on:</u></p> <ol style="list-style-type: none"> <u>1. Navigation safety and recreational use of the coastal marine area</u> <u>2. The operation of existing marine farms</u> <u>3. Historic heritage sites identified in Schedule 5</u> <u>4. Sites or areas of significance to Māori identified in Schedule 6</u> <u>5. SIBA-B that meet the criteria in policy 11(b) of the NZCPS 2010 identified in Schedule 7B</u> <u>6. Marine mammals, seabirds and shorebirds and their habitats</u> <u>7. Regionally significant surf breaks identified in Schedule 8B and their swell corridors</u>
AQA-P6	Retain “ <i>and review of consent conditions</i> ” as the CMA is highly dynamic and it is appropriate to have clear direction providing an option to review conditions	<p><u>AQA-P6 Flexibility in aquaculture to respond to climate change, innovation and best practices, farming methods or locations</u></p> <p>Enable<u>Provide for</u> aquaculture activities to respond to climate change, innovation and best practices, through providing a flexible operating environment <u>and review of consent conditions</u>. This may include allowing new farming methods within existing consented space, <u>or enabling suitable alternative locations for existing aquaculture activities, and allowing for new species.</u></p>
AQA-P13	Retain as notified	<p><u>AQA-P13 New aquaculture activities to be developed in a staged manner</u></p> <p><u>Consider requiring new aquaculture activities to be developed in a staged manner, where:</u></p> <ol style="list-style-type: none"> <u>1. New species are being introduced and any adverse effects are not known and are potentially significant; or</u> <u>2. New technology is being proposed and the adverse effects from such technology are uncertain and potentially significant; or</u>

		<p>3. <u>The sensitivity of the receiving environment to aquaculture activities warrants a precautionary approach.</u></p> <p><u>A staged approach will require:</u></p> <p>4. <u>Baseline environmental information, which may include benthic or marine mammal surveys</u></p> <p>5. <u>A Development Plan detailing the stages appropriate to the scale of the aquaculture activity being applied for</u></p> <p>6. <u>An Environmental Monitoring Plan including environmental limits and triggers against which to assess environmental change to inform decisions on the progression of further stages of the aquaculture development.</u></p> <p>7. <u>Identification of actions to be undertaken to avoid, remedy or mitigate effects that exceed the environmental limits or triggers, through resource consent conditions or within the Environmental Monitoring Plan that forms part of any granted consent.</u></p>
AQA-P18	Retain with amendments as recommended by Ms Giles rebuttal evidence for the Council.	<p><u>AQA-P18 Information requirements for aquaculture applications</u></p> <p>Require <u>resource consent</u> applications for commercial aquaculture activities to include, but not be limited to, the following information <u>to include information in their an assessment of environmental effects that addresses, as a minimum, the following potential effects and risks: among other matters, the management of:</u></p> <p><u>1. Effects on the benthic environment and indigenous biodiversity values, including any biogenic habitats, reefs and threatened and at-risk marine species</u></p> <p><u>2. Effects on water quality</u></p> <p><u>3. Effects of changes in hydrodynamic conditions and associated effects on surfbreaks</u></p> <p><u>4. Effects on marine mammals</u></p> <p><u>5. Effects on seabirds, shorebirds and wading birds</u></p> <p><u>6. Effects of genetic interactions of the proposed species to be farmed with wild populations</u></p> <p><u>7. Biosecurity risks from the introduction and spread of marine pests, harmful aquatic organisms, and disease</u></p> <p><u>8. Effects on landscape and natural character</u></p> <p><u>9. Effects on amenity values</u></p> <p><u>10. Effects on navigation safety</u></p> <p><u>11. Effects on public access</u></p> <p><u>12. Effects on cultural values</u></p> <p><u>13. Cumulative effects.</u></p>

		<ol style="list-style-type: none"> 1. A nNavigation safety and lighting plan and maintenance programme, with approval in principle from the Harbourmaster 2. A Risks to marine mammals and seabirds interaction management plan 3. A bBiosecurity risksmanagement plan, which includes including how the operation of the farmactivity will address the requirements of AQA-P9 4. Any relevant requirements of AQA-P19Environmental Monitoring Plan.
AQA-P19	Retain as recommended by Ms Giles rebuttal evidence for the Council.	<p><u>AQA-P19 Environmental monitoring of aquaculture activitiesD</u></p> <p><u>Provide for appropriate environmental monitoring of effects and risks listed in AQA-P18 (1) to (7) relevant to the activity for which resource consent is being sought, and any relevant guidelines identified by the consenting authority or provide information and reasoning that monitoring of specific environmental effects and risks is not necessary.</u></p> <p><u>Monitoring of aquaculture activities should:</u></p> <ol style="list-style-type: none"> 1. Directly relate to the actual or potential adverse effects of the aquaculture activity on the environment 2. Be proportionate to the nature, scale and intensity of the predicted effects of the aquaculture activity 3. Be proportionate to the nature and sensitivity of the receiving environment 4. Reflect the current level of scientific knowledge and certainty on the predicted effects of the aquaculture activity. <p><u>Advisory note:</u></p> <ol style="list-style-type: none"> 1. Waikato Regional Council guidelines for monitoring of non-fed aquaculture should be referred to in preparing an Environmental Monitoring Plan. 2. All effects and risks listed in AQA-P18 (1) – (7) need to be considered for potential environmental monitoring but do not necessarily require monitoring. If environmental monitoring is not considered necessary, supporting information and reasoning must be provided.
AQA-R1	<p>Addition of SIBA-Bs is warranted given the values therein for this controlled activity.</p> <p>If standards cannot be</p>	<p>AQA-R1 Aquaculture scientific trials and research</p> <p>Activity status: CON</p> <p>Aquaculture activities undertaken for scientific experiments or trials to research or investigate one or more of the following:</p> <ol style="list-style-type: none"> 1. The suitability of an area for aquaculture activities 2. Species of fish, aquatic life, or seaweed 3. Aquaculture structures 4. Aquaculture techniques or methods. <p>[Not reproduced in full]</p>

	achieved discretionary consent is required	<p>Where: ...</p> <p>2. The activity is not located within:</p> <ol style="list-style-type: none"> an area of outstanding natural character identified in Schedule 3; or any wāhi tapu area identified in Schedule 5 or 6, or through an iwi management plan or similar document; <u>or</u> a SIBA-A <u>or SIBA-B</u> identified in Schedule <u>7</u> 7A; or
AQA-R2	<p>Addition of SIBA-Bs is warranted given the values therein for this restricted discretionary activity</p> <p>If standards cannot be achieved non-complying consent is required</p>	<p><u>AQA-R2 Spat catching and retention (spat farming)</u></p> <p>Activity status: RD<u>ARDIS</u></p> <p>The erection, placement, use of, and occupation of space by structures, ropes, buoys and lines for spat catching and retention purposes, including the maintenance, repair, replacement and removal of any structure, and any associated discharge of contaminants or deposition of material to the coastal marine area, and any disturbance of the foreshore or seabed.</p> <p><u>Where:</u></p> <ol style="list-style-type: none"> The activity is not located within either: an area of outstanding natural character identified in Schedule 4, or , or a SIBA-A <u>or SIBA-B</u> identified in Schedule <u>7</u> 7A.
DD-P4	<p>Addition of SIBA-Bs is warranted given the values therein for this policy.</p>	<p><u>DD-P4 Temporary disturbance and deposition by New Zealand Defence Force activities</u></p> <p>Allow for disturbance and deposition in the coastal marine area associated with temporary activities undertaken by the New Zealand Defence Force, except in any:</p> <ol style="list-style-type: none"> Outstanding natural character area identified in Schedule 4 Site or area of significance to Māori identified in Schedule 6 SIBA-A <u>or SIBA-B</u> identified in Schedule <u>7</u> 7A. Nationally significant surf break identified in Schedule 8A.

		<u>In which case temporary activities shall only be allowed where the activities will have minor or temporary effects, and have a functional need to occur in an area identified in Schedule 4, 6, 7A, or 8A.</u>
DD-P8	Amend. New 'operational need' test inserted in s42A DD Addendum. Further amendments necessary to ensure adequate consideration is given to sites outside of SIBA areas	<p>DD P8 Appropriate circumstances for reclamation</p> <p>Consider allowing reclamation where all of the following criteria are met:</p> <ol style="list-style-type: none"> 1. There are no practicable alternative ways of providing for the activity, including locating it on land outside the coastal marine area 2. There is a functional or <u>operational</u> need to be located <u>in the particular location, or adjacent to, the coastal marine area</u> 3. The reclamation will provide significant regional or national benefit
DD-P11	Addition of SIBA-Bs is warranted given the values therein for this policy.	<p>DD-P11 Prospecting, exploration or mining in the coastal marine area</p> <p>Disturbance of the foreshore and seabed for prospecting, exploration or mining is inappropriate. Resource consent will not be granted to remove sand, shell, shingle or any other natural material within any outstanding natural character <u>area</u> identified in Schedule 4, <u>any marine mammal sanctuary</u>, or any SIBA-A <u>or SIBA-B</u> identified in Schedule <u>7 7A</u>.</p>
DD General Standards	Standards 1 and 2 to retain reference to SIBA-A in 1.	<ol style="list-style-type: none"> 1. There is no disturbance of, or damage <u>or destruction of</u> to: <ol style="list-style-type: none"> a. any historic heritage site identified in Schedule 5, except where Heritage New Zealand Pouhere Taonga approval has been obtained, <u>or</u> b. any site or area of significance to Māori identified in Schedule 6 c. any habitat within a SIBA-A identified in Schedule 7A and does not result or potentially result in harm to any <u>threatened species</u> 2. The activity does not take place in, or involve disturbance, result in damage or destruction <u>in</u> of shellfish beds, <u>areas vegetated by mangroves, seagrass or saltmarsh, or bird foraging roosting and nesting areas.</u> during nesting season unless otherwise allowed by the rule.

	Additional words in Standard 2 to ensure plan reader is aware that the DD rule does not provide for vegetation removal.	2b. Any removal of vegetation associated with the maintenance of infrastructure is kept to the minimum necessary for the activity and complies with relevant rules in the ECO - Ecosystems and indigenous biodiversity chapter.
DD-R3	Additional protection for significant indigenous biodiversity is required. Amended (6) is proposed to prevent temporary military training activities occurring within SIBAs.	<p>DD-R3 Temporary military training activities</p> <p>Activity status: PER</p> <p>Temporary military training activities in the coastal marine area for defence purposes.</p> <p><u>Where:</u></p> <ol style="list-style-type: none"> 1. The activity complies with the General Standards and Terms for activities in the DD - Disturbances and deposition chapter 2. If the activity involves weapons firing, a At least 10 working days advance written notice is given to Waikato Regional Council and the relevant iwi authority, describing the activity and the area within which the activity is to occur 3. The activity does not exclude public use or access except where it is necessary to protect public health and safety or where public access would be in conflict with the Defence Act 1990 4. Any restrictions on public access are publicly notified in advance and by notice placed at the boundary of the site in a publicly accessible location for the duration of the activity 5. The activity occurs for less than 3031 days in any calendar year. 6. <u>The activity does not occur in any SIBA-A area identified in Schedule 7A 7 and does not result or potentially result in harm to any threatened or at-risk species.</u> <p><u>Advisory note:</u></p> <p><i>Nothing in this rule permits the discharge of contaminants into the environment.</i></p>
DD-R12	Addition of SIBA-Bs is warranted given	DD-R12 Prospecting, exploration or mining in areas of outstanding natural character or significant indigenous biodiversity

	the values therein	Activity status: PR Disturbance of the foreshore and seabed in any area of outstanding natural character identified in Schedule 4, or a SIBA-A area identified in Schedule 7A associated with prospecting, exploration or mining of sand, shell, shingle, petroleum products or other natural material												
DD-R29	Addition of SIBA-Bs is warranted given the values therein	Activity status: NC Reclamation or drainage of the foreshore or seabed in the coastal marine area in an area of outstanding natural character identified in Schedule 4, or a SIBA-A or SIBA-B identified in Schedule 7A .												
DD-RX	New prohibition on specified bottom-contact fishing activities outside of identified benthic access areas	Insert rule into the DD Chapter that prohibits <i>any dredging, trawling that makes contact with the seabed, and Danish seining, in the east coast Waikato Coastal Marine Area, except in identified benthic access areas.</i>												
DD Schedule	New schedule necessary to identify benthic access areas where new rule DD-RX does not apply	Insert details of benthic access areas as a new schedule to the DD Chapter. The coordinates and areas reflect those set out in Option 4 within the Waikato CMA as referred to in Dr Kelly's evidence in chief. E.g. <table border="1" data-bbox="712 938 1825 1197"> <thead> <tr> <th><u>Benthic access areas</u></th><th><u>Area</u></th><th><u>Coordinates</u></th></tr> </thead> <tbody> <tr> <td><u>Area 1</u></td><td><u>Refer map, schedule X.</u></td><td>[to be confirmed]</td></tr> <tr> <td><u>Area 2</u></td><td><u>Refer map, schedule X.</u></td><td>[to be confirmed]</td></tr> <tr> <td><u>Area 3</u></td><td><u>Refer map, schedule X.</u></td><td>[to be confirmed]</td></tr> </tbody> </table>	<u>Benthic access areas</u>	<u>Area</u>	<u>Coordinates</u>	<u>Area 1</u>	<u>Refer map, schedule X.</u>	[to be confirmed]	<u>Area 2</u>	<u>Refer map, schedule X.</u>	[to be confirmed]	<u>Area 3</u>	<u>Refer map, schedule X.</u>	[to be confirmed]
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ECO-P4	Amendments necessary to clarify scope of application (e.g. it includes SIBA-	ECO-P4 Provide for use and development that may impact indigenous biodiversity [Not reproduced in full] 7. Any c Consideration of activities listed in ECO-P4(1) may only occur where:												

	B areas) and to require consideration of alternatives outside of SIBA areas	<p>a. There is a functional and operational need <u>to undertake</u> for the activity to be undertaken in areas listed in ECO-P1, <u>or where threatened and at risk species listed in ECO-P1 may be adversely affected, or ECO-P2</u>; and</p> <p>b. There are no practical <u>practicable</u> alternative land-based locations, <u>including on land</u>; and</p> <p>c. The avoidance of effects required by ECO-P1 <u>and ECO-P2</u> is not possible.</p>
ECO-P5	Values in ECO-P1 referred to need to be the same as listed, for clarity.	<p>ECO-P5 Requirements when assessing a proposal under ECO-P4</p> <p>Ensure the following when considering use and development under ECO-P4:</p> <p>1. Adverse effects <u>on the values in ECO-P1 and ECO-P2</u> are:</p> <p>a. avoided to the extent practicable, having regard to the activity's technical and operational requirement; <u>and</u></p> <p>b. <u>If</u> adverse effects that cannot be avoided, they are remedied or mitigated to the extent practicable; <u>and</u></p> <p>c. <u>If adverse effects cannot be remedied, they are mitigated to the extent practicable.</u></p> <p>2. Where more than minor residual adverse effects on the values of any SIBA-A identified in Schedule 7A, or on threatened and at-risk marine mammal and bird species identified in ECO-P1(2) and ECO-P1(3), and significant residual adverse effects on areas identified in ECO-P2 that cannot be avoided, remedied or mitigated, these are offset in a manner consistent with the principles in Schedule 7C.</p> <p>4. — 5. Significant More than minor residual adverse effects on values of any SIBA-A identified in Schedule 7, or on threatened and at-risk marine mammal and bird species identified in ECO-P1(2) and ECO-P1(3) that cannot be offset are avoided.:</p> <p>a. — avoided; or</p> <p>b. — only experienced over a short term; or</p> <p>c. — acceptable given the positive effects of the proposal on indigenous biodiversity values; or</p> <p>d. — in exceptional circumstances, financial contributions may be considered</p> <p>5. 3. Clauses (2) and (3) do not apply to the National Grid.</p>
ECO-P12	Retain as notified.	<p>ECO -P12 Avoiding disturbance and other activities in vulnerable ecologically significant areas</p> <p>Within identified vulnerable ecologically significant marine areas, activities that disturb the foreshore and seabed or adversely affect the indigenous biodiversity values must be avoided</p>
ECO-RX	New no-take rule.	<p>1. Insert rule into the ECO Chapter that <u>prohibits the catching, taking or harvesting of plants and / or animals from within SIBA-As except:</u></p>

	Suggested alternatives have been provided in the legal submissions for clarity	<p>(a) <u>For areas covered by the Hauraki Gulf / Tīkapa Moana Marine Protection Act (once enacted); and</u></p> <p>(b) <u>For areas established under the Marine Reserves Act 1971.</u></p> <p>2. Insert a related advisory note to clarify that <u>“By operation of s 10(d) of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, this rule does not prevent customary (non-commercial fishing) provided for in regulations made in accordance with Part 9 of the Fisheries Act 1996 or regulations 50-52 of the Fisheries (Amateur Fishing) Regulations 2013.”</u></p> <p>3. <u>Insert related advisory notes to clarify that the no-take/harvesting rule does not apply to aquaculture and biosecurity activities that comply with all requirements in the AQA and BIO chapters.</u></p>
ECO-M1	Amend in reliance on Dr Kelly’s evidence, which recommends the deletion of the words “ <i>vulnerable to disturbance activities</i> ”; and inclusion of additional provisions	<p><u>ECO-M1 Identifying vulnerable ecological areas</u></p> <p>Waikato Regional Council will identify ecologically significant marine areas vulnerable to disturbance activities where there is sufficient information to support the protection of these areas and</p> <ul style="list-style-type: none"> • <u>Work with tangata whenua, central government, local authorities, stakeholders and communities to identify areas of significant indigenous biodiversity in order to address the limited information available for much of the region’s CMA;</u> • <u>Require information gathering on potential presence of significant indigenous biodiversity.</u>
Schedule 7A SIBA-A	Amend Schedule 7A.	Include the established Marine Mammals Sanctuary (MMS) on the West Coast in Schedule 7A.