
Form 5: Submission on notified proposal for policy statement or plan, change or variation

Pursuant to clause 6 of the First Schedule of the Resource Management Act 1991

To: Hutt City Council

Name of submitter: Director-General of Conservation (the Director-General)

1. This is a submission on the following proposed plan:

Proposed Lower Hutt District Plan

2. I could not gain an advantage in trade competition through this submission.
3. The Director-General represents relevant aspects of public interest and has interest in the proposal that is greater than the interest the general public. The Director-General has all the powers reasonably necessary to enable the Department of Conservation to perform its functions¹. The Conservation Act 1987 (the CA) sets out the Department's functions which include (amongst other things) management of land and natural and historic resources for conservation purposes, preservation so far as is practicable of all indigenous freshwater fisheries, protection of recreational freshwater fisheries and freshwater fish habitats and advocacy for the conservation of natural resources and historic heritage². Section 2 of the CA defines 'conservation' to mean 'the preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations'.
4. The specific provisions of the proposal that my submission relates to, and the detailed decisions sought, are set out in **Attachment 1** to this submission.
5. I seek the following decision from the Council:

¹ Refer section 53 Conservation Act 1987.

² Conservation Act 1987, section 6.

- a. That the particular provisions of Proposed Plan that I support, as identified in Attachment 1, are retained;
 - b. That the amendments, additions and deletions to Proposed Plan sought in Attachments 1 are made; and
 - c. Further or alternative relief to like effect to that sought in 4. a. and 4. b. above.
6. The decisions sought in this submission are required to ensure that the Proposed Lower Hutt District Plan:
 - a. Gives effect to the New Zealand Coastal Policy Statement 2010, the National Policy Statement for Indigenous Biodiversity 2023 (incorporating amendments made in October 2024) and the National Policy Statement for Freshwater Management 2020 (incorporating amendments made in October 2024);
 - b. Recognises and provides for the matters of national importance listed in section 6 of the Act and has particular regard to the other matters in section 7 of the Act;
 - c. Promotes the sustainable management of natural and physical resources; and
 - d. The changes sought are necessary, appropriate and sound resource management practice.
7. I wish to be heard in support of my submission, and if others make a similar submission, I will consider presenting a joint case with them at the hearing.



Angus Hulme-Moir
Manager Operations
Kāpiti Wellington
Department of Conservation
Acting pursuant to delegated authority on behalf of Penny Nelson, Director-General of Conservation

Date: 2 May 2025

Note: A copy of the Instrument of Delegation may be inspected at the Director-General's office at Conservation House Whare Kaupapa Atawhai, 18/32 Manners Street, Wellington 6011

Address for service:

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ATTACHMENT 1
PROPOSED LOWER HUTT DISTRICT PLAN
SUBMISSION BY THE DIRECTOR-GENERAL OF CONSERVATION

The Chapters that my submission relates to are set out in the table below. My submissions are set out immediately following these headings, together with the reason and the decision I seek from the Council.

The decision that has been requested may suggest new or revised wording for identified sections of the proposed plan. This wording is intended to be helpful but alternative wording of like effect may be equally acceptable. Text quoted from Proposed Plan is shown in *Italics*. The wording of relief sought shows new text as underlined and original text to be deleted as ~~strikethrough~~.

Unless specified in each-submission point, my reasons for supporting are that the provisions are consistent with the purposes of the Act.

| PLAN PROVISION | SUPPORT/ OPPOSE | REASON | RELIEF SOUGHT |
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| All provisions | | | |
| <p>General comment on all chapters in the Plan that relate, or that in the D-G's view need to be amended to relate, to the management of effects on indigenous biodiversity, including but not necessarily limited to:</p> <ul style="list-style-type: none"> • Infrastructure • Renewable Electricity Generation • Ecosystems and Indigenous Biodiversity • Natural Character • Natural Features and Landscapes • Coastal Environment • Relevant zone chapters, particularly for rural zones and the Open Space Zone | Oppose in part | <p>The proposed Plan provisions do not manage the clearance of indigenous vegetation except within residential zones, the Natural Open Space Zone, Outstanding Natural Features and Landscapes, Coastal Natural Character overlays and coastal and riparian margins. This leaves indigenous biodiversity in large parts of the city, which contain extensive areas of indigenous vegetation, unprotected from clearance. Of particular concern are: the Coastal Environment outside CNC overlays and coastal margins; rural zones; and the Open Space Zone.</p> <p>In addition, the proposed provisions either do not provide a framework (via activity status rules, matters of discretion, objectives and policies), or provide a limited framework, for the assessment and management of the potential effects on biodiversity of a wide range of large-scale activities, such as new road or rail infrastructure, utilities, renewable electricity generation, mining, landfills and rural industry.</p> <p>Finally, in areas where indigenous biodiversity does have some protection, the proposed provisions do not differentiate – in terms of the proposed management approach – between areas of significant indigenous vegetation or significant habitats of indigenous fauna, and other indigenous biodiversity. Although the Plan does not identify areas of significant indigenous vegetation or significant habitats of indigenous fauna, ecological assessments undertaken as part of resource consent processes may determine that an area is significant. In these cases, plan provisions should provide for these areas to be managed appropriately, in line with higher order documents.</p> <p>As a result, the D-G considers that the proposed plan does not give effect to the RMA, the NPSIB or the Greater Wellington RPS.</p> | Amendments to Plan provisions are sought as required to address the concerns raised by the D-G. For some provisions, further detail is provided in specific submission points below. |

| PLAN PROVISION | SUPPORT/ OPPOSE | REASON | RELIEF SOUGHT |
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| <p>General comment on all indigenous vegetation removal provisions that contain lists of types of vegetation removal that are exempt from controls. This includes policies and rules in the following chapters:</p> <ul style="list-style-type: none"> • Infrastructure • Ecosystems and Indigenous Biodiversity • Natural Character • Natural Features and Landscapes • Coastal Environment | Support with amendments | <p>It is noted that there are discrepancies between the lists of exemptions in rules that manage indigenous vegetation removal, across different chapters. For example, the removal of pest plants is permitted in most environments, but not in ONLs; this appears to be unintentional. To aid implementation and reduce confusion, the D-G requests that these lists be made consistent across the Plan, unless the differences are justified.</p> <p>In addition, the D-G notes that, in order to effectively and efficiently protect indigenous vegetation, the types of clearance that are not subject to resource consent requirement should be stated clearly, in a way that minimises room for interpretation. Many of the exemptions are already expressed in this way, e.g. clearance “within Xm from the external wall of an existing building”, but some are less clear, e.g. “for the removal of pest plants”. In the case of pest plant removal, it is unclear how much ‘collateral damage’ in terms of removal of non-pest vegetation, would be acceptable to remove the pests.</p> | <p>Review all indigenous vegetation removal provisions and amend as necessary to:</p> <ul style="list-style-type: none"> • ensure that lists of exemptions are consistent across all chapters, unless the differences are justified; and • clarify exemptions to reduce room for interpretation. |

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| Part 1 – Introduction and General Provisions/ How the Plan Works/ General approach | | | |
| <p><i>Legal effect of rules:</i> <i>This is a proposed plan, and not all rules have legal effect. In general, rules will only have legal effect once council makes a decision on submissions relating to the rule, and the time for making appeals has expired. Rules that are appealed will not take effect until the appeal is resolved.</i></p> <p><i>However, the Act provides for some rules to take immediate legal effect...</i></p> | Oppose | Under RMA section 86B, rules that do not have immediate legal effect begin to have legal effect from the date that the decision on any submissions relating to the rule is made and publicly notified. Legal effect begins from that date even if the decision on submissions relating to the rule is then appealed. | Amend “Legal effect of rules” text to reflect RMA section 86B. |
| | | | |
| Part 1 – Introduction and General Provisions/ Interpretation/Definitions | | | |
| Biodiversity compensation | Support | The D-G supports the notified definition, which gives effect to the NPSIB and RPS. | Retain as notified |
| Biodiversity offsetting | Support | The D-G supports the notified definition, which gives effect to the NPSIB and RPS. | Retain as notified |
| Indigenous vegetation | Support | The D-G supports the notified definition, which gives effect to the NPSIB. | Retain as notified |
| Overlap between definitions of “restoration” and “conservation” | Oppose | Note that these two definitions overlap, which may lead to confusion regarding how an activity is provided for, particularly in any zone or overlay where the two land use activities are subject to differing rules. For example, in coastal ONLs and in ONFs, <i>Restoration and enhancement activities</i> are permitted, but <i>Conservation activities</i> are restricted discretionary. (See the related submission point on these rules, below). | <p>Amend provisions to resolve this issue, for example by:</p> <ul style="list-style-type: none"> Amending either or both definitions to remove the overlap; and/or Amending rules so that activities involving restoration, and activities involving conservation, are treated in a consistent way within the same zone/overlay. |

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| <ul style="list-style-type: none"> Provisions that refer to “indigenous vegetation removal” or “removal of indigenous vegetation” New definition requested for vegetation clearance | Support with amendments | <p>The D-G considers that a definition of “vegetation removal” or “vegetation clearance” is necessary, in order to clarify the meaning of proposed provisions that manage “indigenous vegetation removal”. Without a definition, there may be doubt over the meaning of these rules, and inconsistency in their implementation. Defining this term is necessary to ensure that the Greater Wellington RPS is given effect to, via the implementation of rules that manage indigenous vegetation removal/clearance.</p> <p>For consistency with language used in the Greater Wellington RPS, it is requested that provisions that refer to “indigenous vegetation removal” be amended to refer to “indigenous vegetation clearance”, and that a definition of “vegetation clearance” be added to the Plan as shown to the right.</p> | <p>1. Amend all provisions in the Plan as follows, as relevant:</p> <ul style="list-style-type: none"> Removal of indigenous vegetation <u>Indigenous vegetation clearance</u> Indigenous vegetation removal <u>clearance</u> <p>2. Add the following definition of “vegetation clearance”, taken from the GWRPS but with amendments to update the RPS’s reference to the NESPF, which is now the NES Commercial Forestry, and to clarify that the exemption for removal of individual shrubs or trees only applies when these are not part of a larger area of vegetation:</p> <p><u>The clearance or destruction of woody vegetation (exotic or native) by mechanical or chemical means, including felling vegetation, spraying of vegetation by hand or aerial means, hand clearance, and the burning of vegetation.</u></p> <p><u>Vegetation clearance does not include:</u></p> <ul style="list-style-type: none"> <u>any vegetation clearance, tree removal, or trimming of vegetation associated with the Electricity (Hazards from Trees) Regulations 2003.</u> <u>any vegetation clearance or vegetation disturbance covered by the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017.</u> <u>any vegetation clearance associated with the repair and maintenance of existing roads and tracks.</u> <u>the removal of a standalone shrub or tree, or</u> <u>the removal of a standalone clump of trees or shrubs no larger than 20m².</u> |

| PLAN PROVISION | SUPPORT/ OPPOSE | REASON | RELIEF SOUGHT |
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| Part 2 – District-Wide Matters/Strategic Direction | | | |
| <i>NESD-O1: The health and wellbeing of Te Awa Kairangi / the Hutt River is restored and protected, and the River is recognised as the heart of the city.</i> | Support | The D-G supports NESD-O1 as notified as it gives effect to the NPSFM and the RMA. | Retain as notified. |
| <i>NESD-O2: Protect the values of the city's significant water bodies, including Te Awa Kairangi / the Hutt River, Wainuiomata River and Waiwhetū Stream.</i> | Support | The D-G supports NESD-O2 as notified as it gives effect to the NPSFM and the RMA. | Retain as notified. |
| <i>NESD-O3: Protect and enhance the natural character, natural features and landscapes, ecosystems and indigenous biodiversity of the city.</i> | Support | The D-G supports NESD-O3 as notified as it gives effect to the NZCPS, NPS-IB, and the RMA. | Retain as notified. |
| <i>NESD-O4: Mouri Motu, Mouri Tangata, Mouri Ora. Protecting and strengthening the mouri of the Harbour Islands and their ecosystems to revitalise and enhance the health and well-being of people and communities involved with the Islands, and be life-sustaining for all.</i> | Support | The D-G supports NESD-O4 as notified as it gives effect to the NZCPS, NPS-IB, and the RMA. | Retain as notified. |

| PLAN PROVISION | SUPPORT/ OPPOSE | REASON | RELIEF SOUGHT |
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| Part 2 – District-Wide Matters/Energy, Infrastructure and Transport/Infrastructure | | | |
| <p><i>INF-P5 Adverse effects of infrastructure</i></p> <p><i>INF-P6 Consideration of the adverse effects of infrastructure</i></p> | Oppose in part | <p>The D-G notes that INF-P5 contains an <i>avoid, remedy or mitigate, as far as practicable</i> effects test that applies to <u>all</u> adverse effects of infrastructure, including those on <i>identified features and values within any specified overlay</i> – i.e. any ONFL or CNC area.</p> <p>In addition, INF-P6 requires that decision-makers: <i>have regard to...</i></p> <p><i>6. Where located in a specified overlay, the degree to which the identified features and values of locations in the overlay, or site or area of significance will be protected from adverse effects and preserved, including with consideration to whether adverse effects on these values and features are avoided due to being:</i></p> <ul style="list-style-type: none"> <i>a. No more than minor or transitory, or</i> <i>b. Remedied, mitigated or offset.</i> <p>The tests in INF-P5 and INF-P6 differ from, and are generally less protective than, those in the specific policies proposed to manage infrastructure in more sensitive environments, including coastal and riparian margins (INF-P10), coastal natural character areas (INF-P11) and ONFLs (INF-P12). Having policies with different tests for adverse effects applying to the same activity in the same area could lead to confusion and inconsistent implementation.</p> | Amend infrastructure policies so that multiple policies with different effects tests do not apply to management of the adverse effects of infrastructure within a single area. |

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| <i>INF-P8 Upgrading and developing the National Grid</i> | Support with amendments | <p>The D-G notes that:</p> <ul style="list-style-type: none"> Both within and outside the coastal environment, RMA sections 6b and 6c apply in relation to protection of outstanding natural features and landscapes, and of areas of significant indigenous vegetation and significant habitats of indigenous fauna. Policies 11, 13 and 15 of the NZCPS are relevant to the management of effects of all activities on indigenous biodiversity, natural character, and natural features and landscapes in the coastal environment. Policy 8 of the NPS Electricity Transmission applies to development and upgrade of the National Grid in ONLs and “areas of high natural character” (areas of outstanding natural character, and indigenous biodiversity, are not mentioned in this NPS). <p>The text in INF-P8 that would require “avoiding adverse effects” on the identified values of ONFs and Outstanding Coastal Natural Character (CNC) areas is supported.</p> <p>However, the policy should provide a better balance in giving effect to both the NZCPS and the NPSET. In particular, it contains no specific protection for indigenous biodiversity, including in the coastal environment.</p> | Amend INF-P8 to achieve a better balance in giving effect to the RMA, NZCPS and NPSET, in particular by strengthening the policy in relation to the management of effects on indigenous biodiversity, and the management of effects on natural character and landscape values in the coastal environment. |

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| <i>INF-P10 Upgrading and developing infrastructure in coastal margins or riparian margins</i> | Support with amendments | The D-G considers that, in order to give effect to the RMA, the policy should be amended to manage the potential adverse effects of infrastructure-related indigenous vegetation removal on coastal and riparian margins. | Amend INF-P10 as follows: <i>Provide for new or upgraded infrastructure in coastal margins and riparian margins where:</i> <ol style="list-style-type: none"> 1. <i>There is a functional need or operational need for the infrastructure to be in that location, and</i> 2. <i>Either:</i> <ol style="list-style-type: none"> a. <i>It is located on a bridge or other structure, or</i> b. <i>Is located in road reserve, or</i> c. <i>Related buildings, structures, <u>indigenous vegetation clearance</u> or earthworks are of a scale and design that will minimise adverse effects on coastal or riparian environments.</i> |
| <i>INF-P11 Upgrading and developing infrastructure in coastal natural character areas</i> | Support | The D-G supports INF-P11 as notified as it gives effect to the RMA and NZCPS Policy 13. | Retain as notified. |
| New policy requested | Support | The D-G considers that the requested policy is required to give effect to the RMA, NPSIB and RPS. | Add a new policy to the Infrastructure section to manage the effects of upgrading and developing infrastructure on indigenous biodiversity. |

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| INF rules (as a whole) | Oppose in part | <p>The D-G notes that the proposed activity statuses and performance standards for several different types of new infrastructure do not provide for effects on biodiversity to be assessed and managed via the resource consent process, unless these are proposed within residential zones, the Natural Open Space Zone, outstanding natural features or landscapes, or coastal natural character overlays (these are the areas within which indigenous vegetation clearance rules apply).</p> <p>Under the proposed rules, effects on biodiversity would not be considered for (for example) new railways or roads, new substations, or new electricity distribution lines, unless within one of the zones/overlays identified above, despite the fact that these types of infrastructure have the potential to adversely affect biodiversity values outside these areas (for example in rural or open space zones).</p> <p>Therefore, the proposed provisions do not give effect to the RMA or NPSIB.</p> | Amend activity status rules and performance standards as necessary, to ensure that resource consent is required, and effects on biodiversity are appropriately managed, for infrastructure activities that are of a scale or location that creates the potential for this type of effect. |

| PLAN PROVISION | SUPPORT/ OPPOSE | REASON | RELIEF SOUGHT |
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| INF rules (as a whole) | Oppose in part | <p>The D-G notes that infrastructure activities are exempt from provisions in the Natural Character, Natural Landscapes and Features, Coastal Environment and Earthworks chapters, and that these chapters contain controls on development (including buildings, structure, earthworks and indigenous vegetation clearance) occurring within ONFLs, coastal natural character (CNC) overlays, and coastal and riparian margins.</p> <p>In the case of ONFLs and CNC overlays, proposed infrastructure rules appear to have been designed to fill the gaps left by these exemptions, because they contain specific controls on buildings, structures, earthworks and indigenous vegetation clearance associated with infrastructure, for these areas.</p> <p>However, this has not been done in the case of coastal and riparian margins; the infrastructure chapter does not contain any specific controls for buildings, structures, earthworks and vegetation clearance in these areas. It appears that this may have been unintentional, given the proposed wording of related policy INF-P10.</p> | Amend INF rules to appropriately manage buildings, structures, earthworks and indigenous vegetation clearance associated with infrastructure within coastal and riparian margins. |

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| Cross reference between INF and ECO sections | Oppose in part | <p>At the beginning of the INF rules section, the Plan states: <i>Operating, maintaining, repairing, upgrading, developing and decommissioning of infrastructure is excluded from all provisions in area-specific and other district-wide chapter, except for:</i> ... <i>c. Provisions for the removal of indigenous vegetation in the Natural Open Space Zone and residential zones (located in the Ecosystems and Indigenous Biodiversity chapter)</i></p> <p>As set out below, the D-G requests the addition of provisions managing indigenous vegetation clearance in other zones, including the rural and open space zones, in order to give effect to relevant higher order documents and to implement the Act's requirements. These new provisions should be cross-referenced from the INF section.</p> | <p>Amend statement at beginning of INF rules section as follows: <i>c. Provisions for the removal of indigenous vegetation in the Natural Open Space Zone and residential zones (located in the Ecosystems and Indigenous Biodiversity chapter)</i></p> |
| <i>INF-R9 New underground pipelines, including electricity and gas distribution and three waters, excluding electricity and gas transmission</i> | Oppose in part | The <i>rule description</i> for this rule (shown in the left-hand column) is difficult to decipher. | Amend the wording of the rule description for INF-R9, for clarity. |

| PLAN PROVISION | SUPPORT/ OPPOSE | REASON | RELIEF SOUGHT |
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| Part 2 – District-Wide Matters/ Energy, Infrastructure and Transport/Renewable Electricity Generation | | | |
| <i>REG-O2 Providing for renewable electricity generation</i> | Support | The D-G supports this objective, as an appropriate statement of the balance sought to be achieved between providing for renewable electricity generation activities and managing their effects. | Retain as notified. |
| <i>REG-P2 Consideration of the adverse effects of renewable electricity generation activities</i> <i>REG-P5 Upgrading and developing renewable electricity generation activities</i> | Oppose in part | <p>The D-G notes that REG-P2 requires that decision-makers: <i>have regard to...</i></p> <p><i>9. Where located in a specified overlay, the degree to which the identified features and values of locations in the overlay, or site or area of significance will be protected from adverse effects and preserved, including with consideration to whether adverse effects on these values and features are avoided due to being:</i></p> <ul style="list-style-type: none"> <i>a. No more than minor or transitory, or</i> <i>b. Remedied, mitigated or offset.</i> <p>In addition, REG-P5 requires <i>minimising adverse effects on landscape, visual and amenity values</i> in the case of all community-scale and large-scale REG and <i>avoiding, remedying or mitigating... to the extent practicable</i> any other adverse effects on the environment, including <i>effects on landscape, visual and amenity values ... and effects on indigenous biodiversity and the intrinsic values of ecosystems.</i></p> <p>The tests in REG-P2 and REG-P5 differ from, and are generally less protective than, those in the specific policies proposed to manage REG in more sensitive environments, including coastal and riparian margins (REG-P7), coastal natural character areas (REG-P8) and ONFLs (REG-P9). Having policies with different tests for adverse effects applying to the same activity in the same area could lead to confusion and inconsistent implementation.</p> | Amend REG policies so that multiple policies with different effects tests do not apply to management of the adverse effects of REG within a single area. |

| PLAN PROVISION | SUPPORT/ OPPOSE | REASON | RELIEF SOUGHT |
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| <i>REG-P4 Renewable electricity generation investigation activities</i> | Support with amendments | The D-G generally supports this policy, as it gives effect to the RMA and relevant higher order documents including the NZCPS and NPSREG, but requests amendments to recognise that the scale of earthworks and indigenous vegetation clearance are also relevant to potential adverse effects. | Amend REG-P4 as follows: <i>Provide for renewable electricity generation investigation activities, while:</i> ... 4. <i>Avoiding, remedying or mitigating other adverse effects, to the extent practicable, including by:</i> a. <i>Limiting the size <u>scale</u> of any structures, <u>earthworks or indigenous vegetation clearance</u> required for the activities,</i> b. <i>Restricting the duration of the activities, and</i> c. <i>Restoring the site to pre-works conditions after removal of the activities.</i> |
| <i>REG-P7 Upgrading and developing renewable electricity generation activities in coastal margins and riparian margins</i> | Support with amendments | The D-G generally supports this policy, as it gives effect to the RMA and relevant higher order documents including NPSREG, but requests amendments to align with similar policy INF-P10 (incorporating amendments to that policy requested in this submission), which applies to infrastructure in coastal and riparian margins. | Amend REG-P7 as follows: <i>Provide for new or upgraded renewable electricity generation activities in coastal margins and riparian margins where:</i> 1. <i>There is a functional need or an operational need for the activity to be in that location, and</i> 2. <i>Adverse effects on coastal margins and riparian margins are minimised <u>Related buildings, structures, indigenous vegetation clearance or earthworks are of a scale and design that will minimise adverse effects on coastal or riparian environments.</u></i> |

| PLAN PROVISION | SUPPORT/ OPPOSE | REASON | RELIEF SOUGHT |
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| <i>REG-P8 Upgrading and developing renewable electricity generation activities, in coastal natural character areas</i> | Support with amendments | The D-G generally supports this policy, as it gives effect to the RMA and relevant higher order documents including NZCPS and NPSREG, but requests an amendment to clarify that all clauses of the policy must be met. | <p>Amend REG-P8 as follows:</p> <p><i>Provide for new or upgraded renewable electricity generation activities in High and Very Coastal Natural Character Areas and Outstanding Coastal Natural Character Areas where:</i></p> <ol style="list-style-type: none"> <i>1. There is a functional need or an operational need for the activity to be in that location and there are no practicable alternative locations or solutions,</i> <i>2. Adverse effects on the identified values of Outstanding Coastal Natural Character Areas are avoided,</i> <i>3. Significant adverse effects on the identified values of High and Very High Coastal Natural Character Areas are avoided, <u>and</u></i> <i>4. Other adverse effects on coastal natural character are avoided, remedied or mitigated.</i> |

| PLAN PROVISION | SUPPORT/ OPPOSE | REASON | RELIEF SOUGHT |
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| <p><i>REG-R4 Upgrading, developing and operating small-scale renewable electricity generation activities – Freestanding structures</i></p> <p><i>REG-R6 Community-scale renewable electricity generation activities not otherwise provided for [i.e. those that are not roof-mounted]</i></p> <p>The related definitions of small and community scale REG are:</p> <p><i>Small scale REG means systems or equipment that generate electricity from renewable sources for the purpose of using electricity on a particular site (single household, business premise or network utility) with or without exporting back into the distribution network.</i></p> <p><i>Community scale REG means systems or equipment that generate electricity from renewable sources for the purpose of supplying electricity to a group of individuals, an immediate community, or exporting back into the distribution network.</i></p> | Oppose in part | <p>The D-G notes that the proposed activity statuses and performance standards for new free-standing small-scale REG activities (REG-R4), and for new free-standing community-scale REG activities (REG-R6) do not provide for effects on biodiversity to be assessed and managed via the resource consent process, unless the REG activity is proposed within an outstanding natural feature or landscape, or a coastal natural character overlay. In ONFLs and CNCs, the activity status for larger structures (those that do not meet performance standards) will generally be discretionary or non-complying, meaning that any relevant effect may be considered. For some areas, rules in other chapters are also relevant; within the residential zones, the Natural Open Space Zone, and coastal and riparian margins, indigenous vegetation clearance associated with the REG activity will be managed under ECO-R2 or NATC-R3.</p> <p>Outside landscape and coastal character overlays, coastal and riparian margins, and residential and natural open space zones, it appears that effects on biodiversity are not proposed to be managed, regardless of the scale of the structures associated with the activity, as long as the activity comes within the definition of small-scale or community-scale REG (as relevant). These definitions are broad, and could cover potentially very large infrastructure, particularly in the case of community-scale REG.</p> <p>These types of infrastructure have the potential to adversely affect biodiversity values outside the areas in which protection applies (for example in rural or open space zones).</p> <p>Therefore, the proposed provisions do not give effect to the RMA, NPSIB or RPS, or to proposed District Plan objective REG-O1.</p> | Amend definitions, activity status rules and/or performance standards as necessary, to ensure that resource consent is required and effects on biodiversity are appropriately managed for small-scale and community-scale REG activities that are of a scale or location that creates the potential for this type of effect. |

| PLAN PROVISION | SUPPORT/ OPPOSE | REASON | RELIEF SOUGHT |
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| Part 2 – District-Wide Matters/Natural Environment Values/Ecosystems and Indigenous Biodiversity | | | |
| <i>ECO-01 Ecosystems and indigenous biodiversity</i> | Support with amendments | Amendments to this objective are sought to give effect to the objective of the NPSIB. | Amend as follows: <i>Indigenous biodiversity in Lower Hutt is maintained, and where practicable, restored or enhanced <u>so that there is at least no overall loss in indigenous biodiversity.</u></i> |
| New objective requested | Support | A new objective is sought to give effect to the RMA, the objective of the NPSIB, and Policy IE.1 of the RPS. This new objective would link to proposed policy ECO-P5. | Add new objective as follows: <u>Recognise and provide for the relationship of tangata whenua and their culture and traditions with indigenous vegetation and fauna.</u> |
| <i>ECO-P1 Protecting indigenous biodiversity in rural environments</i> <i>ECO-P2 Protecting indigenous biodiversity in urban environments</i> <i>ECO-P3 Indigenous vegetation removal in the Natural Open Space Zone and residential zones</i> <i>ECO-P4 Managing the adverse effects from indigenous vegetation removal</i> | Oppose | <p>As set out in the general submission point at the start of this table, the D-G does not consider that notified provisions for the management of effects on indigenous biodiversity give effect to higher order documents, including the RMA, NPSIB and RPS.</p> <p>Specifically, proposed policies ECO-P1 to ECO-P4 do not give effect to RMA s6c, NPSIB provisions including the objective, Policy 8 and clause 3.16, and RPS policies 24, 24B, 24C, 24CC and 24D.</p> | <p>Delete ECO-P1 to ECO-P4 and replace with the new policies that give effect to the management approach required by:</p> <ul style="list-style-type: none"> • RPS policies 24B and 24D for indigenous ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna • RPS policies 24C and 24CC for indigenous biodiversity in the coastal environment • NPSIB policy 8 and clause 3.16 for effects on indigenous biodiversity in all other areas. |
| <i>ECO-P5 Restoring and increasing indigenous biodiversity</i> | Support | The D-G supports this policy as notified, as it gives effect to higher order documents including the RMA section 6c, NPSIB and Policy IE.1 of the RPS. | Retain as notified. |

| PLAN PROVISION | SUPPORT/ OPPOSE | REASON | RELIEF SOUGHT |
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| <i>ECO-R2 Indigenous vegetation removal with respect to all zones other than Residential and Natural Open Space zones</i> | Oppose | <p>The D-G is concerned that the Proposed Plan permits unconstrained indigenous vegetation clearance in all zones other than residential zones and the Natural Open Space Zone.</p> <p>This leaves large areas of indigenous vegetation unprotected, including in rural zones and the Open Space Zone.</p> <p>Given there are no SNAs or equivalents in the Proposed Plan, indigenous vegetation clearance rules become even more important, particularly in giving effect to RMA s6c and RPS policies 23 and 24, as they are a tool that allows areas proposed for clearance to be assessed and appropriately managed via the resource consent process. However, even where an area of vegetation is not found to meet significance criteria, effects on biodiversity should still be managed in accordance with the effects management hierarchy, to give effect to the NPSIB.</p> | <p>Amend ECO-R2 to manage indigenous vegetation clearance in other zones that contain indigenous vegetation, including in particular the rural zones and the Open Space Zone.</p> <p>Performance standards for indigenous vegetation clearance in these zones, with respect to the types of clearance that should be exempt from control, and the maximum permitted area of clearance for other types of vegetation, should be informed by appropriate expert evidence.</p> <p>Where performance standards are breached, an assessment of ecological effects should be required, in accordance with Appendix ECO-App1 (incorporating the amendments to that appendix requested in this submission).</p> |

| PLAN PROVISION | SUPPORT/ OPPOSE | REASON | RELIEF SOUGHT |
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| <i>ECO-R2 Indigenous vegetation removal with respect to indigenous vegetation removal in the Natural Open Space Zone</i> | Support with amendments | <p>The D-G supports requirement for resource consent in the Natural Open Space Zone for indigenous vegetation clearance other than the types specified in the permitted activity rule. The list of types of clearance that are always permitted is generally considered appropriate, although see our point above requesting that all IVC exemptions in the Plan be reviewed to ensure that lists of exemptions are consistent across all chapters, unless the differences are justified, and to ensure clarity and minimise room for interpretation.</p> <p>It is noted that, if the amendments requested by the D-G above in relation to the substitute of “removal” with “clearance” and the addition of an RPS-based definition of “vegetation clearance”, the following types of clearance would also be exempt from this rule (via exemption from the definition):</p> <ul style="list-style-type: none"> • any vegetation clearance, tree removal, or trimming of vegetation associated with the Electricity (Hazards from Trees) Regulations 2003 • any vegetation clearance or vegetation disturbance covered by the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017 • any vegetation clearance associated with the repair and maintenance of existing roads and tracks • the removal of a standalone shrub or tree, or • the removal of a standalone clump of trees or shrubs no larger than 20m². | <p>Retain largely as notified, but with amendments:</p> <ul style="list-style-type: none"> • as necessary to address the D-G’s broad point on all IVC exemptions, above; and • to avoid duplication of exemptions between ECO-R2 and the vegetation clearance definition requested in the D-G’s submission. |
| <i>ECO-M1 Restoring indigenous biodiversity</i> | Support | <p>This method includes a list of areas where restoration of indigenous biodiversity will be prioritised. The list reflects the content of clause 3.21(2) of the NPSIB, and is supported by the D-G.</p> | Retain as notified. |

| PLAN PROVISION | SUPPORT/ OPPOSE | REASON | RELIEF SOUGHT |
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| New rules requested, to implement ECO-M1 | Support | <p>NPSIB 3.21(3) states that “Local authorities must consider providing incentives for restoration in priority areas referred to in subclause (2), and in particular where those areas are on specified Māori land, in recognition of the opportunity cost of maintaining indigenous biodiversity on that land.”</p> <p>The D-G notes that proposed District Plan rules do not contain specific incentives for restoration, such as opportunities for additional residential or other development rights in rural zones where indigenous biodiversity is proposed to be restored. The s32 material does not appear to indicate that incentives of this kind have been considered.</p> | Consider amending plan rules to provide specific incentives for restoration, such as opportunities for additional residential or other development rights in rural zones where indigenous biodiversity is proposed to be restored and protected. |
| <i>Appendix ECO-App1 – Ecological impact reports</i> | Support with amendments | <p>In order for indigenous vegetation clearance rules to have the capacity to provide for appropriate protection of any areas of significant indigenous vegetation or significant habitats of indigenous fauna that are proposed to be cleared, the D-G notes that the information requirements set out in Appendix ECO-App1 must include an assessment of the significance of the indigenous biodiversity in the area, in accordance with Appendix 1B of the RPS.</p> <p>This is required in order to give effect to RMA s6c and policies 23, 24, 24B and 24D of the RPS.</p> | Amend the information requirements set out in Appendix ECO-App1 so that they require an assessment of whether the area proposed to be cleared qualifies as an area with significant indigenous biodiversity, under Appendix 1B of the RPS. |
| <i>Appendix ECO-App2 – Principles for biodiversity offsetting</i> | Support | The D-G supports this appendix as notified as it gives effect to the NPS-IB. | Retain as notified. |
| <i>Appendix ECO-App3 – Principles for biodiversity compensation</i> | Support | The D-G supports this appendix as notified as it gives effect to the NPS-IB. | Retain as notified. |

| PLAN PROVISION | SUPPORT/ OPPOSE | REASON | RELIEF SOUGHT |
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| Part 2 – District-Wide Matters/Natural Environment Values/Natural Character | | | |
| <i>NATC-O1 Natural character of coastal margins and riparian margins</i> | Support | The D-G supports NATC-O1 as notified as it gives effect to RMA s6a. | Retain as notified. |
| <i>NATC-P1 Customary harvesting within coastal margins and riparian margins</i> | Support | The D-G supports NATC-P1 as notified as it gives effect to the RMA. | Retain as notified |
| <i>NATC-P2 Restoration and enhancement within coastal margins and riparian margins</i> | Support | The D-G supports NATC-P2 as notified as it gives effect to the RMA. | Retain as notified |
| <i>NATC-P3 Indigenous vegetation removal within coastal margins and riparian margins</i> | Oppose | It appears that policies NATC-P3 and NATC-P4 both apply to indigenous vegetation removal in coastal and riparian margins, where consent is required. This has the potential to create confusion, given that different effects tests apply within each policy. | Delete NATC-P3. |
| <i>NATC-P4 Appropriate use and development within coastal margins and riparian margins</i> | Support | The D-G supports NATC-P4 as notified as it gives effect to the RMA. | Retain as notified. |
| Rules for land use activities in coastal and riparian margins, as they apply to conservation activity. | Oppose | Conservation is not listed as a permitted activity in coastal and riparian margins. Therefore, it appears to be a restricted discretionary activity, under NATC-R4. Conservation, as defined in the proposed plan, is an appropriate activity in these areas, and is consistent with proposed objective NATC-O1. | Amend rules for land use activities in coastal and riparian margins so that conservation activities are permitted in these areas. |
| <i>NATC-R3 Indigenous vegetation removal within coastal margins and riparian margins</i> | Support | The D-G supports this rule as it gives effect to the RMA. | Retain as notified. |

| PLAN PROVISION | SUPPORT/ OPPOSE | REASON | RELIEF SOUGHT |
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| Part 2 – District-Wide Matters/Natural Environment Values/Natural Features and Landscapes | | | |
| <i>NFL-O1 Outstanding Natural Features and Landscapes</i> | Support | The D-G supports NFL-O1 as notified as it gives effect to the NZCPS and the RMA. | Retain as notified. |
| <i>NFL-P1 Identification of Outstanding Natural Features and Landscapes</i> | Support | The D-G supports NFL-P1 as notified as it gives effect to the NZCPS and the RMA. | Retain as notified. |
| Rules for land use activities in ONFLs, as they apply to conservation activity. | Oppose | <p>Conservation is not listed as a permitted activity in ONFLs. Therefore, it appears to be a restricted discretionary activity, under NFL-R4, within ONLs in the Coastal Environment, and within ONFs both inside and outside the Coastal Environment.</p> <p>Conservation, as defined in the proposed plan, is an appropriate activity in these overlays, and is consistent with proposed objective NFL-O1.</p> | Amend rules for land use activities in ONFLs so that conservation activities are permitted in these areas. |
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| Part 2 – District-Wide Matters/Natural Environment Values/Public Access | | | |
| <i>PA-O1 Maintenance and enhancement of public access</i> | Support | The D-G supports PA-O1 as notified as it gives effect to the NZCPS and the RMA. | Retain as notified. |
| <i>PA-O2 Managing adverse effects of public access</i> | Support | The D-G supports PA-O2 as notified as it gives effect to the NZCPS and the RMA. | Retain as notified. |
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| Part 2 – District-Wide Matters/General District-Wide Matters/Coastal Environment | | | |
| <i>CE-O1 Coastal Environment</i> | Support with amendments | The D-G notes that an amendment to this objective is needed to give effect to the RMA s6a, NZCPS Policy 13 and RPS Objective 4. | <p>Amend CE-O1, as follows:</p> <p><i>The natural character within the landward extent of the coastal environment is maintained protected and, where appropriate, restored or enhanced.</i></p> |

| PLAN PROVISION | SUPPORT/ OPPOSE | REASON | RELIEF SOUGHT |
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| <i>CE-O2 High, Very High and Outstanding Coastal Natural Character Areas</i> | Support | The D-G supports CE-O2 as notified as it gives effect to the NZCPS and RPS. | Retain as notified. |
| <i>CE-O7 Natural Systems and Features</i> | Support with amendments | The D-G supports this objective as a means of giving effect to NZCPS Policy 26; amendments are requested to better align with the language used in that policy. Amendments to rules are also requested, to give effect to this objective and NZCPS Policy 26 – see submission point on rule CE-R3, below. | Amend CE-O7, as follows: <i>Natural Systems and features that reduce the susceptibility of people, buildings and infrastructure from damage from coastal hazards are created, retained protected, restored or and enhanced.</i> |
| <i>CE-P1 Identification of the Coastal Environment</i> | Support with amendments | The D-G requests that this policy be amended to indicate how the coastal environment mapped in the Plan has been identified, to provide clarity for plan users and in order to give effect to NZCPS Policy 1 and RPS Policy 4. | Amend CE-P1 to include the criteria used to identify the landward extent of the coastal environment. |
| <i>CE-P2 Identification of Coastal Natural Character Areas</i> | Support with amendments | The D-G requests that this policy be amended to indicate how Coastal Natural Character Areas have been identified, to provide clarity for plan users and in order to give effect to NZCPS Policy 13. | Amend CE-P2 to include the criteria used to identify Coastal Natural Character Areas. |
| <i>CE-P3 Customary Harvesting in the Coastal Environment</i> | Support | The D-G supports CE-P3 as notified as it gives effect to the RMA and RPS. | Retain as notified |

| PLAN PROVISION | SUPPORT/ OPPOSE | REASON | RELIEF SOUGHT |
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| <i>CE-P4 Restoration of Natural Character in the Coastal Environment</i> | Support with amendments | The D-G supports the intent of the policy but notes that there are other possible approaches to restoration and rehabilitation that are not listed in the policy. Therefore, the insertion of the term “including” is requested. An amendment to clause 1.d is requested to indicate that riparian and coastal margins should be protected where restored, in accordance with NZCPS Policy 14.c.v. | <i>CE-P4 Provide for:</i> 1. <i>The restoration or rehabilitation of natural character values within the landward extent of the coastal environment <u>including</u> by:</i> a. <i>Recognising the values present that could be enhanced,</i> b. <i>Encouraging natural regeneration of indigenous species, including where practical the removal of pest species,</i> c. <i>Rehabilitating dunes or other natural coastal features or processes,</i> d. <i>Restoring or and protecting riparian margins and coastal margins...</i> |
| <i>CE-P5 Indigenous Vegetation Removal in the Coastal Environment</i> | Oppose | It appears that policies CE-P5 and CE-P6 both apply to indigenous vegetation removal in the Coastal Environment, where consent is required. This has the potential to create confusion, given that different effects tests apply within each policy. The D-G does not consider that CE-P5 as currently worded appropriately gives effect to relevant higher order documents, including NZCPS Policy 13 and RPS policies 35, 36 and 37 in relation to natural character, and NZCPS Policy 11 and RPS policies 24C and 24CC in relation to indigenous biodiversity. | Delete this policy, so that indigenous vegetation removal in the Coastal Environment is managed via CE-P6, including amendments requested in this submission, with respect to effects on natural character. (New policies requested by this submission in the ECO chapter would manage this activity with respect to effects on indigenous biodiversity.) |
| <i>CE-P6 Use and Development in the Coastal Environment</i> | Support with amendments | The D-G supports the aspects of the policy that relate to CNC areas, although it is requested that clause CE-P6.2.b.ii be amended so that it refers to any proposed indigenous vegetation clearance, as well as any proposed earthworks, building platforms and buildings or structures. | Amend CE-P6.b.ii as follows: <i>ii. Any proposed <u>indigenous vegetation clearance</u>, earthworks, building platforms and buildings or structures are of a scale and prominence that respects the identified values and the design and development integrates with the existing landform and dominant character of the area...</i> |

| PLAN PROVISION | SUPPORT/ OPPOSE | REASON | RELIEF SOUGHT |
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| <i>CE-P7 Mining, Quarrying and Forestry Activities</i> | Support | The D-G considers that this policy gives effect to the RMA, NZCPS and RPS. | Retain as notified. |
| <i>CE-P10 Natural Systems and Features</i> | Support with amendments | The D-G supports this policy as a means of giving effect to NZCPS Policy 26; amendments are requested to better align with the language used in that policy. Amendments to rules are also requested, to give effect to related Objective CE-O7 and NZCPS Policy 26 – see submission point on rule CE-R3, below. | Amend CE-P10 as follows: Maintain <i>Protect, restore and enhance natural systems and features where they will reduce the existing risk posed by coastal hazards to people, buildings and infrastructure.</i> |
| <i>CE-R2 Restoration</i> | Support | The D-G considers that this rule gives effect to the NZCPS and RPS. | Retain as notified. |
| <i>CE-R3 Indigenous vegetation removal in the Coastal Environment</i> | Support with amendments | <p>As set out in the first submission point, the existing provisions in the proposed Plan do not protect indigenous biodiversity from the effects of indigenous vegetation clearance in the Coastal Environment outside CNC areas, ONFLs and coastal and riparian margins, unless the underlying zoning is Residential or Natural Open Space.</p> <p>In addition, there is inadequate protection for coastal vegetation, as a type of natural defence from coastal hazards. Even in the areas where rules for indigenous vegetation clearance are proposed, there is no requirement for the assessment of potential effects on the risk from coastal hazards when these rules are breached.</p> <p>The D-G considers this to be a significant gap in the proposed plan's protection for indigenous biodiversity and management of risk from coastal hazards. The absence of IVC rules in the Coastal Environment outside certain areas, combined with the absence of SNAs in the plan, leaves indigenous biodiversity in a sizeable stretch of the Coastal Environment south of Eastbourne unprotected.</p> <p>There do not appear to be any rules in the plan that could help to give effect to:</p> <ul style="list-style-type: none"> Policy 11 of the NZCPS in relation to the protection of indigenous biodiversity in the Coastal Environment (outside Residential or Natural Open Space zones, CNC areas, ONFLs and coastal and riparian margins), or Policy 26 of the NZCPS, in relation to providing for protection of coastal vegetation, as a type of natural defence from coastal hazards. | <p>Amend CE-R3, and/or other Plan rules as appropriate, to apply performance standards to indigenous vegetation clearance throughout the Coastal Environment (not just in CNC areas), and to manage potential effects on indigenous biodiversity and on risk from coastal hazards when these standards are breached.</p> <p>Performance standards for indigenous vegetation clearance in the Coastal Environment, with respect to the types of clearance that should be exempt from control, and the maximum permitted area for other types of clearance, should be informed by appropriate expert evidence.</p> <p>Where performance standards are breached:</p> <ul style="list-style-type: none"> an assessment of ecological effects should be required, in accordance with Appendix ECO-App1 (incorporating the amendments to that appendix requested in this submission), and an assessment of effects on the risk from coastal hazards to people, buildings and infrastructure should be required, in order to give effect to proposed objective CE-O7 and proposed policy CE-P10. |

| PLAN PROVISION | SUPPORT/ OPPOSE | REASON | RELIEF SOUGHT |
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| <i>CE-R3.2</i> <i>CE-S1</i> Relating to Indigenous vegetation removal in High or Very High CNCs | Support | The D-G considers that this rule gives effect to the NZCPS and RPS. | Retain as notified (although note that the details of the exemptions in CE-S1 may need to be modified in response to broad submission points on the content of all exemptions to IVC clearance rules across the Plan – see relevant points in the ‘all provisions’ section above). |
| <i>CE-R3.3</i> Relating to Indigenous vegetation removal in Outstanding CNCs | Support | The D-G considers that this rule gives effect to the NZCPS and RPS. | Retain as notified (although note that the details of the exemptions in CE-R3.3 may need to be modified in response to broad submission points on the content of all exemptions to IVC clearance rules across the Plan – see relevant points in the ‘all provisions’ section above). |
| <i>CE-R3.4</i> <i>CE-R3.5</i> <i>CE-R3.6</i> Relating to the activity statuses, and where relevant matters of discretion, for Indigenous vegetation removal in High, Very High and Outstanding CNC areas that contravenes permitted activity standards. | Support with amendments | The D-G notes that there is no mention of effects on indigenous biodiversity in these rules. | Amend these rules to include the following statement from ECO-R2.4 or similar: <u>Information requirements:</u> <u>Applications for activities which will have more than minor adverse effects on indigenous biodiversity, are required to be supported by a report that:</u> i. <u>Is prepared by a suitably qualified ecologist and, as required, any other person with suitable expertise, such as someone with expertise in mātauranga Māori,</u> ii. <u>Includes the detail set in Appendix ECO-App1 – Ecological impact reports, and</u> iii. <u>Is commensurate with the scale and significance (to indigenous biodiversity) of the proposal.</u> |
| Rules for land use activities in the coastal environment, as they apply to conservation activity. | Oppose | <p>Conservation is not listed as a permitted activity in the Coastal Environment. Therefore, it appears to require consent, under CE-R4, in all CNC areas – with discretionary activity status applying in HVHCNCs and non-complying status applying in OCNCs.</p> <p>Conservation, as defined in the proposed plan, is an appropriate activity in the CNC areas, and is consistent with proposed objectives CE-O1 and CE-O2. A performance standard could be applied, as for Restoration under CE-R2, if it was considered that some types of conservation activity should require consent.</p> | Amend rules for land use activities in the Coastal Environment so that conservation activities are permitted in CNC areas. |

| PLAN PROVISION | SUPPORT/ OPPOSE | REASON | RELIEF SOUGHT |
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| <i>CE-R5 Quarrying activities, Mining activities and Plantation forestry in the Coastal Environment</i> | Support with amendments | The D-G supports this rule, which gives effect to Policies 11 and 13 of the NZCPS. However, it is noted that there is no mention of effects on indigenous biodiversity in CE-R5.1. | Amend CE-R5.1 to include the following statement from ECO-R2.4 or similar: <u>Information requirements:</u> <i><u>Applications for activities which will have more than minor adverse effects on indigenous biodiversity, are required to be supported by a report that:</u></i> i. <i><u>Is prepared by a suitably qualified ecologist and, as required, any other person with suitable expertise, such as someone with expertise in mātauranga Māori,</u></i> ii. <i><u>Includes the detail set in Appendix ECO-App1 – Ecological impact reports, and</u></i> iii. <i><u>Is commensurate with the scale and significance (to indigenous biodiversity) of the proposal.</u></i> |
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| Part 2 – District-Wide Matters/General District-Wide Matters/Earthworks | | | |
| <i>EW-R13 Earthworks within coastal margins and riparian margins</i> | Support | The D-G supports this rule as it gives effect to the RMA. | Retain as notified. |
| <i>EW-R14 Earthworks within High and Very High Coastal Natural Character Areas</i> | Support | The D-G supports this rule, which gives effect to Policies 11 and 13 of the NZCPS. | Retain as notified. |
| <i>EW-R15 Earthworks within Outstanding Coastal Natural Character Areas</i> | Support | The D-G supports this rule, which gives effect to Policies 11 and 13 of the NZCPS. | Retain as notified. |