

PART II:

BACKGROUND

This part explains the purpose of the Regional Water and Soil Plan. It also sets out the statutory and administrative resource management frameworks within which this Plan is required to operate. It also includes a description of the iwi perspective of resource management.

2. INTRODUCTION

2.1 TRANSITIONAL PROVISIONS

Until the notification of this Plan, Northland's water and land resources have been managed under the provisions of the Transitional Regional Plan and the controls in the *Resource Management Act 1991* relating to the use of water, discharges of contaminants into the environment, certain uses of river and lake beds and restrictions on the use of land.

The Transitional Regional Plan comprises various instruments that were in force before the commencement of the *Resource Management Act 1991*. These instruments include:

1. The Final Classification of the Bay of Islands, under the *Water and Soil Conservation Act 1967*,
2. General Authorisations for the Use of Natural Water, under the *Water and Soil Conservation Act 1967*,
3. A Bylaw for the Protection of Watercourses and Defences against Water, under the *Soil Conservation and Rivers Control Act 1941*, and
4. A Notice relating to Clearance of Vegetation and Disturbance of Land Surfaces, under Section 34(2) of the *Soil Conservation and Rivers Control Amendment Act 1959*. The notice relating to clearance of vegetation and disturbance of land made under Section 34(2) of the *Soil Conservation and Rivers Control Amendment Act 1959* lapsed in January 1995.

These instruments were converted into rules for permitted and discretionary activities under the *Resource Management Act 1991*.

The Transitional Regional Plan has ceased to have any legal status as this Plan is now fully operative.

2.2 PURPOSE OF THE PLAN

The *Resource Management Act 1991* came into force on 1 October 1991. The Act aims to promote the sustainable management of New Zealand's natural and physical resources through, among other things, a framework of Policy Statements and Plans. This includes the preparation of Regional Plans where the following circumstances or considerations arise or are likely to arise (Section 65):

- (a) *Any significant conflict between the use, development, or protection of natural and physical resources or the avoidance or mitigation of such conflict:*
- (b) *Any significant need or demand for the protection of natural and physical resources or of any site, feature, place, or area of regional significance:*
- (c) *Any threat from natural hazards or any actual or potential adverse effects of the storage, use, disposal, or transportation of hazardous substances which may be avoided or mitigated:*

- (d) *Any foreseeable demand for or on natural and physical resources:*
- (e) *Any significant concerns of tangata whenua for their cultural heritage in relation to natural and physical resources:*
- (f) *The restoration or enhancement of any natural and physical resources in a deteriorated state or the avoidance or mitigation of any such deterioration:*
- (g) *The implementation of a national policy statement or New Zealand coastal policy statement:*
- (h) *Any use of land or water that has actual or potential adverse effects on soil conservation or air quality or water quality:*
- (i) *Any other significant issue relating to any function of the regional council under this Act.*

The purpose of this Regional Water and Soil Plan is to assist the Northland Regional Council (the Council) to promote the sustainable management of the water and soil resources in Northland.

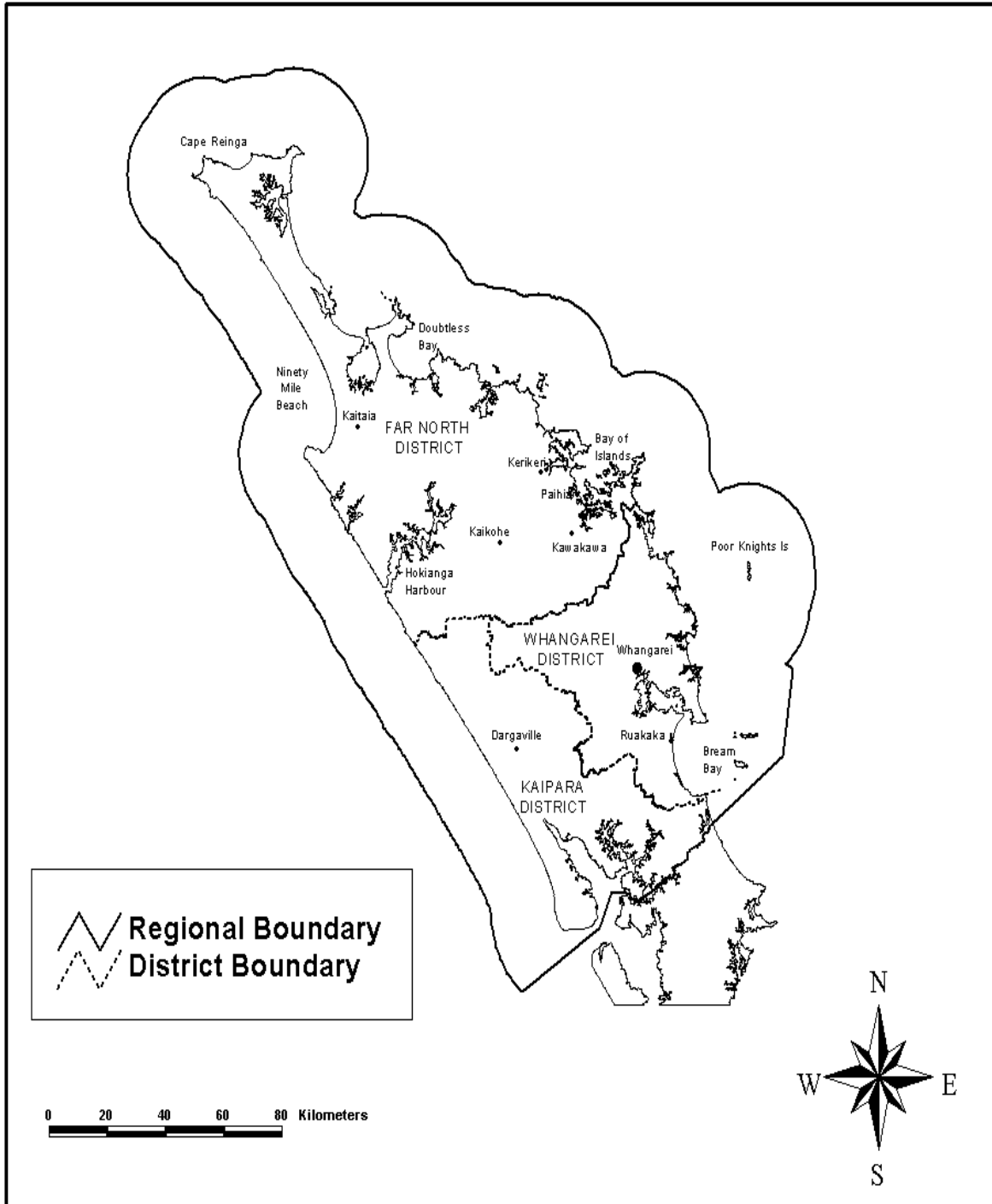
2.3 PLAN AREA COVERAGE

This Plan covers the land and water resources of the Northland region. This extends northwards of a line between the Oruawhoro arm of the Kaipara Harbour and a point just south of the Mangawhai Harbour on the East Coast, and extends inland from Mean High Water Springs (MHWS) and the agreed cross-river boundaries that are outlined in the Regional Coastal Plan.

By contrast, the area around Northland's coast from Mean High Water Springs (MHWS) to the 12 nautical mile (19.2 kilometre) limit of New Zealand's territorial sea is the "Coastal Marine Area" and is covered by the Regional Coastal Plan. The Northland "region" is generally depicted in Figure 4. Whilst the Regional Water and Soil Plan controls discharges and land disturbance activities, it is the Regional Coastal Plan that controls discharges and land disturbance activities within the coastal marine area.

Within the region, there are three District Councils: the Far North District Council, the Kaipara District Council and Whangarei District Council.

FIGURE 4: NORTHLAND REGION



2.4 PLAN PREPARATION PROCESS

This Plan was prepared following a process of public consultation in accordance with the requirements of the First Schedule to the Act. A discussion paper entitled, '*Towards Regional Plans for Water, Soil and Air Management*' was prepared and released in December 1992. It was widely circulated to interested parties and the general public. The discussion paper set out the legislative framework for preparing this Plan, provided an overview of the water, soil and air issues within the region, and asked for submissions on the direction of future water, soil and air management in Northland.

A total of 95 submissions were received on the discussion paper. These were considered and, where appropriate, used in the preparation of a working draft of Section I of the Regional Water and Soil Plan, which dealt with discharges and land management. The working draft of Section I was circulated in September 1994 to those who had previously made submissions on the discussion paper and comments were again sought. Thirty responses were received and were used to refine the working draft to produce Section I of the Proposed Regional Water and Soil Plan.

Following notification of Section I, preparation began on Section II. Section II principally addressed water quantity management, the management of the beds of rivers and lakes, and integrated catchment management. A consultation draft of Section II was circulated to statutory organisations and other relevant organisations prior to its notification as a proposed variation in June 1997. This consultation included meetings with District Councils to ensure the Regional Plan and District Plans are integrated effectively.

Both Section I and Section II have been regularly reviewed during the preparation process by a subcommittee of the Regional Council, comprising Councillors, iwi representatives, farming and environmental interests.

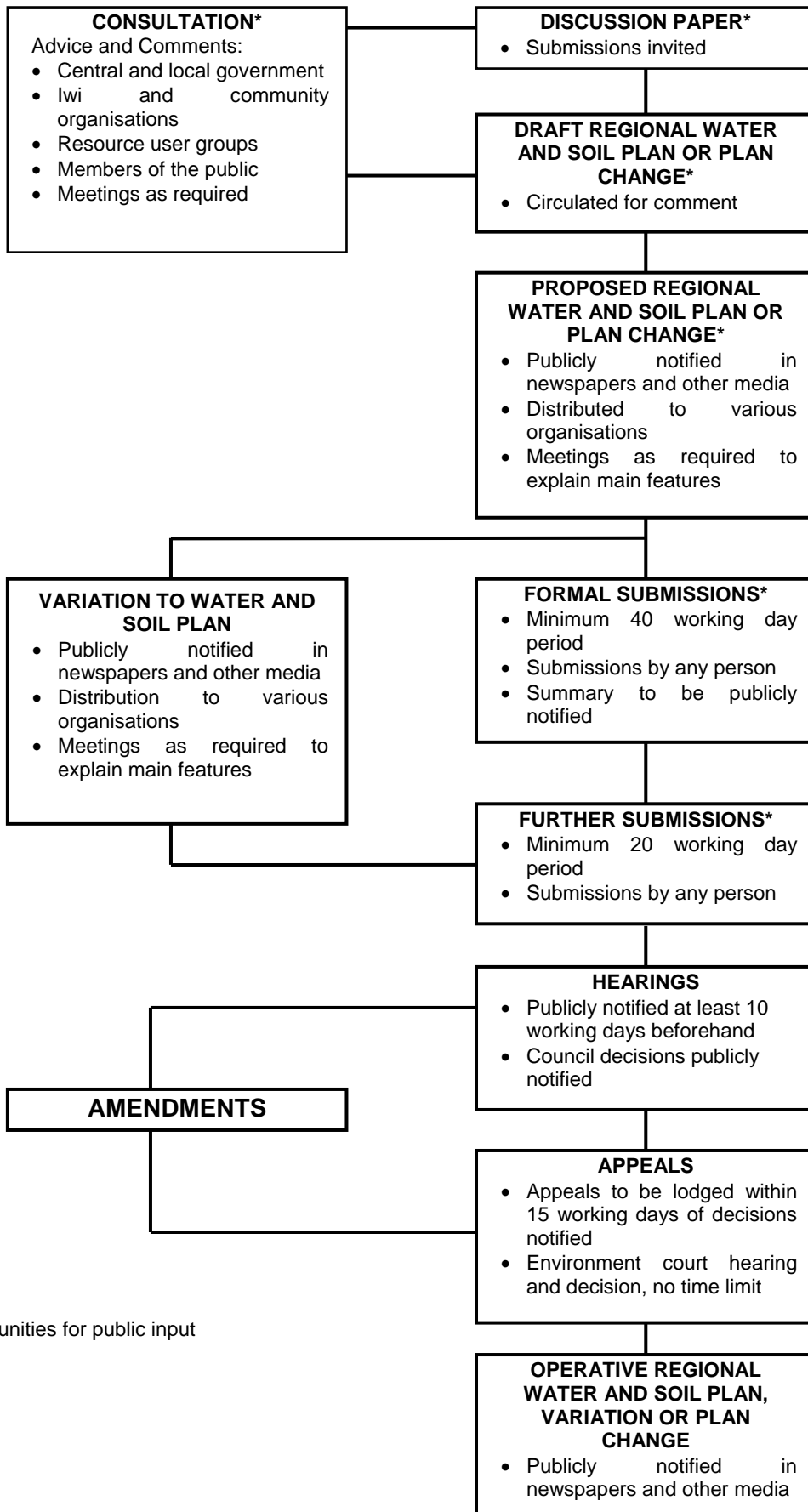
The proposed variation amalgamated Section II with Section I. It also involved some amendments to the Section I to produce a well integrated document.

Formal public hearings have been held on Section I and on the Variation to include Section II of the Plan. Decisions were made on the submissions in light of evidence presented at these hearing and the information provided in the submissions. These decisions were released in November 1998. Any submitter had the right to make appeals to the Environment Court within 15 working days of receiving the decisions.

The preparation process up until the release of decisions on submissions on the Proposed Regional Water and Soil Plan is depicted in Figure 5, together with the other statutory steps required to be undertaken before this Plan was made operative.

Subsequent to the Regional Water and Soil Plan being made fully operative on 28 August 2004 the Council will undertake plan changes and variations as required. These will follow the same process as established in Figure 5.

FIGURE 5: PROCESS FOR PREPARATION OF A REGIONAL WATER AND SOIL PLAN



* Opportunities for public input

2.5 PLAN STRUCTURE

The structure of the remainder of this Plan is as follows:

Section 3 explains the purpose and principles of the *Resource Management Act* 1991, and various Policy Statements and Plans that the Act requires to be produced.

Section 4 outlines the iwi perspective on resource management.

PART III – MANAGEMENT APPROACH

Section 5 sets out the general approach being taken to implement the policies and achieve the objectives specified in this Plan.

PART IV – RESOURCE POLICY

Section 6 sets out the objectives, policies and methods of implementation to be used to recognise and provide for Maori, their Culture and Traditions.

Section 7 sets out the objectives, policies and methods of implementation for the underlying Water Quality Management of Northland’s water resources.

Section 8 sets out the objectives, policies and methods of implementation for the Management of Contaminant Discharges to Land or Water.

Section 9 sets out the objectives, policies and methods of implementation for the Surface Water Quantity Management of Northland’s surface water resources.

Section 10 sets out the objectives, policies and methods of implementation for the Groundwater Management of Northland’s groundwater resources.

Section 11 sets out the objectives, policies and methods of implementation for the Use of River and Lake Beds, and Development on Floodplains.

Section 12 sets out the objectives, policies and methods of implementation for the Management of Land Disturbance Activities.

Section 13 sets out the objectives, policies and methods of implementation for Integrated Catchment Management in Northland.

PART V – RULES

Section 14 sets out how to use the rules.

Sections 15 to 23 set out rules for Contaminant Discharges to Land and Water.

Section 24 sets out rules for taking, use, damming and diversion of Surface Water.

Section 25 sets out rules for taking, use and diversion of Groundwater.

Section 26 sets out rules for Bore Construction.

Section 27 sets out rules for Drainage and River Control Activities.

Section 28 sets out rules for Dams.

Section **29** sets out rules for Structures in, on, under or over the Beds of Rivers or Lakes.

Section **30** sets out rules for the Introduction of Plants into the Bed of Rivers or Lakes.

Section **31** sets out rules for Other Activities which Disturb the Bed of Rivers or Lakes.

Sections **32** to **34** set out rules for Land Disturbance Activities.

Sections **35** and **36** set out the Information Requirements and Assessment Criteria to be used in respect of applications for resource consents. These Requirements and Criteria support the rules and are designed to assist users of this Plan by describing the information that should be submitted with an application and the matters which the Council is likely to take into account in assessing an application. The Requirements and Assessment Criteria are more specific than, but are in accordance with, Section 88 and the Fourth Schedule to the Act.

PART VI – ADMINISTRATIVE ISSUES

Section **37** provides details of the Procedures which relate to the Processing of Resource Consent Applications.

Section **38** provides details of key administrative issues including Council charges and Transfer of Powers and sets out objectives, policies and methods of implementation for the use of bonds and financial contributions.

PART VII – PLAN EFFECTIVENESS

Section **39** details the Environmental Results expected as a direct result of the implementation of this Plan.

Section **40** sets out the Processes for Monitoring, Changing or Reviewing this Plan to help ensure that the environmental results expected are achieved.

Part VIII – DEFINITIONS

Section **41** contains the Definitions.

2.6 KEY TERMS

Throughout this Plan, the terms "issue", "objective", "policy", "method of implementation" and "rule" are used.

For the purposes of this Plan, the following definitions are used:

Issue:	A matter of concern over existing or potential effects of the protection, use or development of natural and physical resources within the Northland region.
Objective:	A measurable aim or an end result to which efforts are directed.
Policy:	A specific statement that guides or directs decision making. A policy indicates a commitment to a general course of action in working towards an objective.

Method of Implementation:
Rule: A practical action by which a policy is put into effect.
A specific requirement to which a person or persons using or developing the region's resources must conform.

A rule may be applied generally or in relation to a specific type of use or development. The provision of rules is important because Sections 13, 14 and 15 of the *Resource Management Act* 1991 generally prohibits activities relating to water, river and lake beds and discharges of contaminants unless expressly allowed by a rule in a regional plan or by a resource consent. In Section 9 of the Act, however, land use activities are allowed unless the activity contravenes a rule in a regional plan. Sections 68, 69 and 70 of the Act set out what may or may not be included in a rule for regional plans.

Rules contained within this Plan include permitted, controlled, restricted discretionary, discretionary, non-complying and prohibited activities. These terms are defined in Section 14.01.

3. POLICY FRAMEWORK

3.1 INTRODUCTION

The policy framework for managing natural and physical resources under the Act consists of a system of Policy Statements and Plans which involve all levels of government - national, regional, and district. The key elements in this system are:

1. The Purpose and Principles of the *Resource Management Act* 1991.
2. The New Zealand Coastal Policy Statement.
3. A Regional Policy Statement for each region (compulsory).
4. A Regional Coastal Plan for each region (compulsory).
5. Regional Plans (voluntary).
6. District Plans for each district (compulsory).

The voluntary Regional Plans may cover specific management issues. The relationship of each of these statutory documents to the Regional Water and Soil Plan is illustrated in Figure 6.

3.2 PURPOSE AND PRINCIPLES OF THE RESOURCE MANAGEMENT ACT

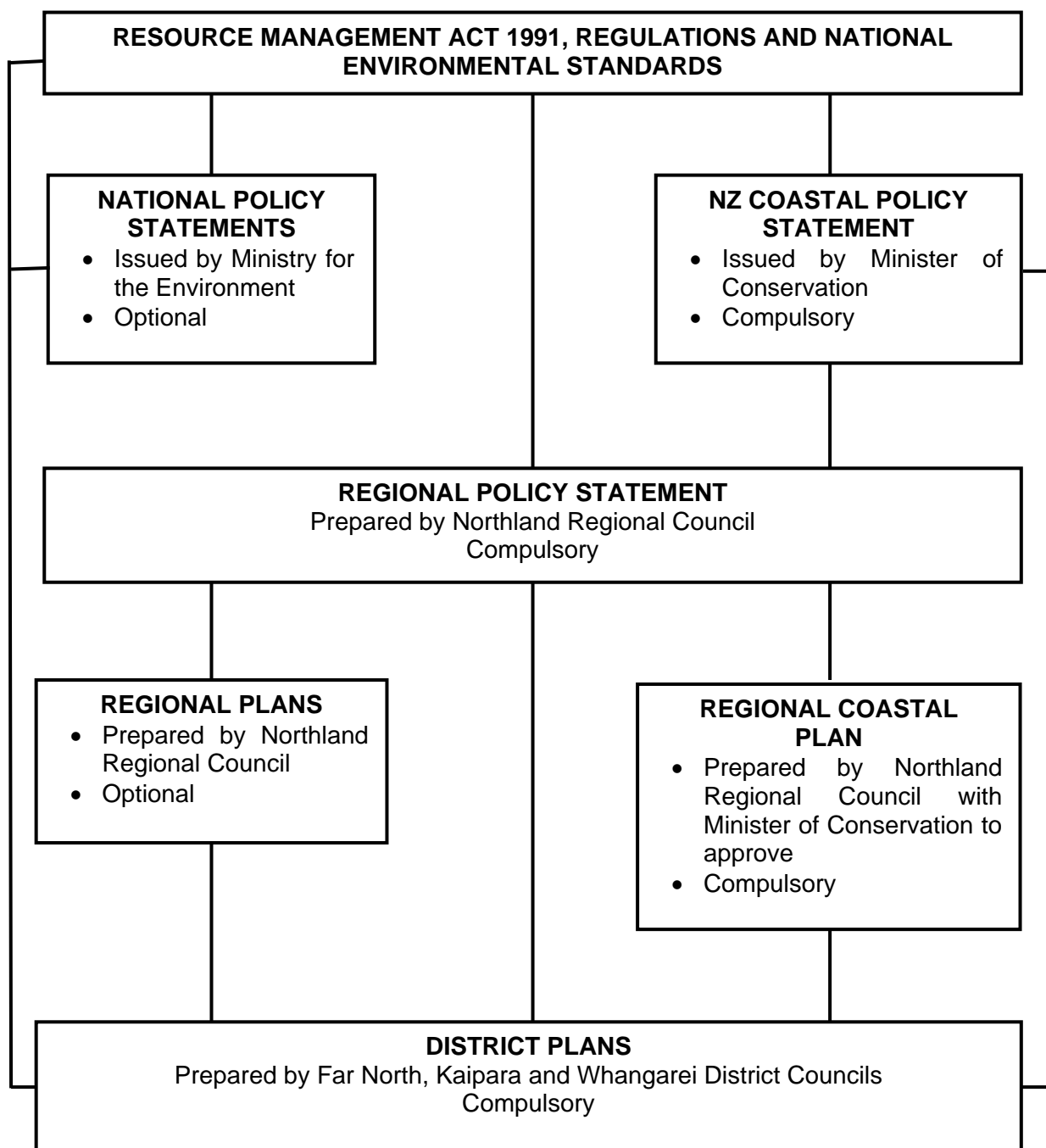
The purpose of the Act is to promote the sustainable management of the natural and physical resources of the region. Sustainable management of natural and physical resources is defined in the Act as meaning:

Managing the use, development, and protection of natural and physical resources in a way or at a rate, which enables people and communities to provide for their social, economic and cultural well being and for their health and safety while -

- (a) *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) *Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) *Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

Section 6, 7 and 8 of the Act specify a set of principles which are binding on all persons who exercise functions and powers under the Act and which, therefore, must be reflected in any Policy Statement or Plan prepared under the Act, and considered when making decisions on resource consent applications.

FIGURE 6: POLICY STATEMENTS AND PLANS



Section 6 of the Act requires that this Plan gives recognition to, and provision for, the following matters which are considered to be of national importance:

- (a) *The preservation of the natural character of [...] wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
- (b) *The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (c) *The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (d) *The maintenance and enhancement of public access to and along lakes and rivers:*
- (e) *The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*
- (f) *The protection of historic heritage from inappropriate subdivision, use and development.*

Section 7 of the Act requires that this Plan is developed, and is implemented and administered, with particular regard to:

- (a) *Kaitiakitanga:*
- (aa) *The ethic of stewardship;*
- (b) *The efficient use and development of natural and physical resources:*
- (ba) *The efficiency of the end use of energy:*
- (c) *The maintenance and enhancement of amenity values:*
- (d) *Intrinsic values of ecosystems: [...]*
- (f) *Maintenance and enhancement of the quality of the environment:*
- (g) *Any finite characteristics of natural and physical resources:*
- (h) *The protection of the habitat of trout and salmon: [...]*

Finally, Section 8 of the Act requires that all persons exercising functions and powers under this Act, in relation to managing the use, development and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

3.3 NEW ZEALAND COASTAL POLICY STATEMENT

Under the Resource Management Act, the Minister of Conservation is required to prepare a New Zealand Coastal Policy Statement (NZCPS). The purpose of a NZCPS is:

To state policies in order to achieve the purpose of this Act in relation to the coastal environment of New Zealand.

The NZCPS sets the national framework for managing the natural and physical resources in the coastal environment (which includes some of the area covered by this Plan). The Act requires that there must at all times be at least one recommended New Zealand Coastal Policy Statement, and that the Regional

Coastal Plan and any other Regional Plans, District Plans and Policy Statements must not be inconsistent with it.

Following the preparation process set out in the *Resource Management Act 1991*, which included public submissions and detailed consideration by a Board of Inquiry, the first New Zealand Coastal Policy Statement was issued by notice in the Gazette on 5 May 1994. Regard has been given where appropriate to the policies contained in the NZCPS in the preparation of this Plan.

3.4 REGIONAL POLICY STATEMENT

As required under the Act, the Council has prepared a Regional Policy Statement (RPS). The RPS provides an overview of resource management issues within Northland. It sets out the general objectives, policies and methods to be used in the Northland region to achieve integrated resource management.

The Act requires that when preparing or changing regional plans, a Regional Council must have regard to any proposed or operative Regional Policy Statement for the region. This Plan must not be inconsistent with the operative Regional Policy Statement.

The Regional Policy Statement for Northland was publicly notified in October 1993 and was made fully operative on 15 July 2002. The policies in the RPS, as amended by decisions and consent orders were used in the preparation of the Regional Water and Soil Plan.

3.5 OTHER REGIONAL PLANS

The Regional Water and Soil Plan must not be inconsistent with any other regional plan.

As well as this Regional Plan, the Council also has a Regional Air Quality Plan and a Regional Coastal Plan. These Plans cover the management of air discharges and coastal resources respectively. The policies and rules within these Plans must not be inconsistent with those in this Plan. They also play an important role in dealing with cross-boundary issues such as the management of land developments which affect coastal water or air quality.

3.6 DISTRICT PLANS

District councils are also required to prepare plans under the *Resource Management Act 1991*. The purpose of district plans is to assist district councils to carry out their functions in order to achieve the purpose of the Act. Of particular relevance to this Plan is the district councils' function to control the use of land, including subdivision.

A district plan cannot be inconsistent with either the New Zealand Coastal Policy Statement, the Regional Policy Statement or any regional plan.

3.7 CROSS BOUNDARY ISSUES

Integrated management of air, land, and water resources is one of the aims of the *Resource Management Act 1991*. To achieve this requires recognition that in order to address fresh water and land-based issues, consideration of the inter-relationships between land, water, the coastal environment and air (cross media boundary issues) may be required.

To effectively address these 'cross-boundary' issues, there needs to be a close linkage between the policy statements and plans produced under the Act, namely the New Zealand Coastal Policy Statement, the Regional Policy Statement, the Regional Coastal Plan, other regional plans, relevant regional plans and Policy Statements prepared by Auckland Regional Council, and District Plans.

The southern boundary of the Northland Region borders with the Auckland Region. The boundary runs along the Oruawharo arm of the Kaipara Harbour before following a catchment boundary to the east coast to the south of Mangawhai. In the process of preparing this Plan, the Council has consulted with the Auckland Regional Council on potentially conflicting management approaches to resource matters, with a view to establishing, as far as practicable, a consistent approach to addressing these matters.

With regard to the integration of resource management above and below the Mean High Water Mark, there are a number of options for dealing with such issues within the planning framework of the Act:

1. Specific reference to the relevant policies of the New Zealand Coastal Policy Statement;
2. Specific reference to the relevant policies of the Regional Policy Statement;
3. Identification of necessary linkages between this Plan, the Regional Coastal Plan and the Regional Air Quality Plan; and
4. Where appropriate, identification of the responsibilities of District Councils under the Act.

In regard to the latter method, it is considered vital to this approach that a good working relationship is established and maintained between the Council and the three District Councils within the region. It is these Councils who are generally responsible for the management of the use, development or protection of land and the actual and potential effects, including effects on amenity, heritage or intrinsic values.

3.8 STATUTORY ACKNOWLEDGEMENTS

Pursuant to Section 63 of the *Te Uri o Hau Claims Settlement Act 2002*, the Northland Regional Council is mandated to attach this information to the Regional Water and Soil Plan to formally recognise the Te Uri o Hau statutory acknowledgment areas.

A “statutory acknowledgment” is the crown’s acknowledgment of statutory areas which can be either; land, a landscape feature, a lake, a river or wetland, or a specific part of the coastal marine area, which is vested in the Crown and is of

particular significance to Te Uri o Hau for either cultural, spiritual, historic or traditional reasons.

The statutory areas are set out in Schedules 5 to 10 of the *Te Uri o Hau Claims Settlement Act 2002*.

The purpose of this statement is to first recognise the Northland Regional Council's statutory obligations under the *Te Uri o Hau Claims Settlement Act 2002* to acknowledge the statutory acknowledgment of the crown. Second, Pursuant to Section 63 (2)(b) of the *Te Uri o Hau Claims Settlement Act 2002* this statement is for public information only and is neither part of the Plan nor subject to the provisions of the First Schedule to the *Resource Management Act 1991*.

4. IWI PERSPECTIVE

Tangata whenua take a holistic approach to the management of the environment and its resources. Tangata whenua consider therefore that water, soil and air are all integral elements of the environment and must be managed as one, rather than separate entities.

They therefore consider that any discharge of contaminants into water, no matter how well treated, reduces the water's ability to sustain life, thereby reducing its mauri or life force.

Land, Papatuanuku, is recognised by the tangata whenua as the mother, who provides life for all living things from the waters within her. From her, life is derived. To her, the waste of life and the body devoid of life is to be returned. Tangata whenua therefore consider land disposal to be the only acceptable method of waste disposal.

Water (Wai) is mostly valued for its sacred life giving properties "*Ko te wai te ora o nga mea katoa*". Tangata whenua consider that all water is a taonga. The mauri is contained in this taonga. They believe that water must remain pure and uncontaminated in order to continue to protect, preserve and sustain life for future generations.

Tangata whenua use water for different purposes. "Waiora" is water in its purest form, usually rainwater which is caught before it touches the earth. It is usually used for ritual purposes. "Wai Maori" is fresh water or drinking water from springs. Because of its contact with humans, it is used for everyday purposes. "Waimate" or "Waikura" are stagnant or polluted waters no longer capable of sustaining life.

As a partner to the Treaty of Waitangi, Maori are given special recognition in ss.6(e), ss.7(a) and s.8 of the Act. All persons exercising powers and functions under the Act, including the Council, are required to have regard to these matters (see Section 6 of this Plan).

For the purposes of this Plan, complying with these requirements of the Act is considered to include the Council:

1. Being fully informed as to the requirements of the *Resource Management Act 1991* in regard to Maori values;
2. Being fully informed as to the meaning and application of the Treaty principles as developed by the Waitangi Tribunal, the Court of Appeal and the Environment Court;
3. In decision-making, requiring information on the application of the Treaty principles to individual proposals for resource protection, use, and development, and weighing this information against other matters under consideration; and, subject to the constraints of current legislation;
4. The allowance for the right of each iwi to indicate its own customary, traditional, and cultural preferences for water management within its rohe (tribal territories);

5. Ensuring that the spiritual, social, and economic connections between tangata whenua as kaitiaki and water and land resources are protected.