

FORM 7 NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST DECISION ON PROPOSED POLICY  
STATEMENT OR PLAN OR CHANGE OR VARIATION

**To**

The Registrar  
Environment Court  
Auckland

1. CEP Services Matauwhi Limited appeals against decisions of the Northland Regional Council on the proposed Regional Plan for Northland (“proposed Plan”). The proposed Plan sets out objectives, policies and rules to address use, development and protection in the coastal marine area, and in relation to water quantity and quality and natural hazards in water bodies and on land.
2. CEP Services Matauwhi Limited was a submitter on that proposed Plan.
3. CEP Services Matauwhi Limited is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
4. CEP Services Matauwhi Limited received notice of the decision on 3 May 2019.
5. The decision was made by the Northland Regional Council.
6. The decisions that CEP Services Matauwhi Limited is appealing are set out in the following sections of this Notice of Appeal, grouped under the following resource management themes:
  - section 7 – *Outstanding Natural Landscapes*;
  - section 8 – *Indigenous biodiversity*;
  - section 9 – *Mangrove management*;
  - section 10 – *Historic heritage on land*;
  - section 11 – *Consistency with national policy statements and the Regional Policy Statement*.

The proposed Plan numbering used in the Notice of Appeal is the numbering used in the decisions version of the proposed Plan, unless otherwise noted.

7. *Outstanding Natural Landscapes*
  - 7.1 The decisions being appealed are the decisions
    - (i) to not include mapped outstanding natural landscapes in the proposed Plan;

- (ii) to not include rules relating to activities occurring in outstanding natural landscapes in the proposed Plan; and
- (iii) to not include adequate objectives and policies with respect to outstanding natural landscapes.

7.2 The relevant relief sought in the CEP Services Matauwhi Limited submission<sup>1</sup> are

- (i) the relief set out in paragraphs 13 and 27 of the submission; and
- (ii) the relief set out in rows 25, 26, 27, 30, 31, 40, 41, 42, 44, and 70 of the appendix to the submission.

These relief appear to have been refused in full or in part.

7.3 It is a matter of national importance under section 6(b) of the Resource Management Act 1991 (“the Act”) to recognise and provide for the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development.

7.4 Further, effect must be given to the New Zealand Coastal Policy Statement 2010 (“Coastal Policy Statement”) and the Regional Policy Statement for Northland (“Regional Policy Statement”).

7.5 Policy 15 of the Coastal Policy Statement sets out a directive to avoid adverse effects on outstanding natural features and outstanding natural landscapes in the coastal environment. The proposed Plan does not give effect to this directive with respect to outstanding natural landscapes.

7.6 Policy 4.6.1 of the Regional Policy Statement sets out the intention that adverse effects on the characteristics and values of outstanding natural landscapes in the coastal environment are avoided and that there are no significant adverse effects on the characteristics and qualities of outstanding natural landscapes outside the coastal environment.

7.7 The proposed Plan does not give effect to these directives with respect to outstanding natural landscapes, and does not include any mapped outstanding natural landscapes.

7.8 The Regional Policy Statement includes mapped outstanding natural landscapes on the land. However, outstanding natural landscapes were not mapped for the coastal marine area.

7.9 Although objective F.1.11 and policy D.2.15 of the proposed Plan set out the policy direction of avoiding adverse effects of activities on outstanding natural seascapes in the coastal marine area, this policy direction is not supported by mapped outstanding natural seascapes or any specific rules about activities within outstanding natural seascapes.

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1 The Regional Council did not assign a unique submission number to each submission point, so it is necessary to refer to the relevant paragraphs from the CEP Services Matauwhi Limited submission and/ or the relevant row number in the table of submission points that is the appendix to the submission.

7.10 There is no policy guidance provided in the proposed Plan with respect to avoiding adverse effects of activities on outstanding natural landscapes.

7.11 The relief sought is

- (i) the insertion of the outstanding natural landscapes as mapped in the Regional Policy Statement as a further map layer in the proposed Plan;
- (ii) the identification of outstanding natural landscapes (including seascapes) in the coastal marine area, and their inclusion in the proposed Plan maps;
- (iii) in the interim until the identification of outstanding natural landscapes in the coastal marine area is completed and introduced into the proposed Plan by plan change or variation, the inclusion of maps in the proposed Plan showing all parts of the coastal marine area that are within 1,000 metres of an outstanding natural landscape referred to in 7.11(i); with this 1,000 metre area being referred to as “Outstanding Natural Landscape Buffer”;
- (iv) in all the rules listed below, the addition of “Outstanding Natural Landscape Buffer” as a further identified mapped area.<sup>2</sup>

C.1.1.12, structures for scientific research, monitoring or education purposes, matters of control;

C.1.1.21, structures in Mooring and General Marine Zones;

C.1.1.22, hard protection structures;

C.1.1.23, hard protection structures associated with regionally significant or core local infrastructure;

C.1.1.27, structures within a significant marine area;

C.1.2.5, existing swing mooring outside a Mooring Zone;

C.1.2.6, relocation of a mooring by the Harbour Master;

C.1.2.13, new moorings in significant areas;

C.1.3.1, re-consenting aquaculture (not finfish);

C.1.3.2, re-consenting aquaculture in a significant area, including listing in the matters of discretion;

C.1.3.3, realignment of existing aquaculture, matters of discretion;

C.1.3.4, extensions to authorised aquaculture, including listing in the matters of discretion;

C.1.3.6, aquaculture outside significant areas and development zones;

C.1.3.9, extensions to existing aquaculture;

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<sup>2</sup> Note that a similar change is sought to the mangrove removal rules, see relief 9.14 of this Notice of Appeal

- C.1.3.10, marae-based aquaculture in significant areas and development areas;
  - C.1.3.12, small scale and short duration aquaculture in significant areas and development zones;
  - C.1.3.14, aquaculture in significant areas and development zones;
  - C.1.5.10, beach scraping, including listing in the matters of discretion;
  - C.1.5.11, deposition of material for beneficial purposes, matters of discretion;
  - C.1.5.12, dredging, deposition and disturbance activities;
  - C.1.6.3, reclamation for regionally significant infrastructure;
  - C.1.6.4, reclamation; and
  - C.1.8, coastal works general conditions, conditions 9 and 11.
- (v) in all the rules listed below, the addition of “Outstanding Natural Landscape” as a further mapped area
- C.2.1.8, construction and installation of structures, at 3).g), 4).e), 5).c), and 7).b);
  - C.2.1.10, freshwater structures;
  - C.2.1.12, new flood defense;
  - C.2.1.13, structures in significant area;
  - C.2.1.14, new flood defence in significant areas;
  - C.3.1.2, small dam;
  - C.3.1.6, river channel diversion; and
  - C.3.1.9, damming or diversion of water in a significant wetland or significant area.
- (vi) the replacement of clause 1(d) of Objective F.1.11 with
- outstanding natural landscapes (including seascapes) in the coastal marine area and in freshwater bodies
- (vii) the amendment of the table in section 1) of policy D.2.15 as shown in relief 11.8(i) of this Notice of Appeal.
- (viii) the amendment of policy D.5.2 by inserting “Outstanding Natural Landscape Buffer” in part 2 of the policy.
- (ix) the amendment of policy D.5.11 by inserting “Outstanding Natural Landscape Buffer” in part 6 of the policy.

- (x) the amendment of policy D.5.24 by inserting “Outstanding Natural Landscape Buffer” in part 4 of the policy.
- (xi) Such other amendments are as necessary and appropriate to ensure consistency within the Plan and to achieve the purpose of the Act with respect to outstanding natural landscapes.

8. *Indigenous biodiversity*

- 8.1 The decisions being appealed are decisions to not provide adequate protection in the rules for indigenous biodiversity that meets the criteria for “significance” set out in Appendix 5 of the Regional Policy Statement.
- 8.2 The relevant relief sought in the CEP Services Matauwhi Limited submission are:
  - (i) the relief set out in paragraph 20 of the submission; and
  - (ii) the relief set out in rows 25, 27, 30, 31,33, 34, 39, 40, 41, 42, 43, 57, 58, 72 and 76 of the appendix to the submission.

These relief appear to have been refused in full or in part.

- 8.3 It is a matter of national importance under section 6(c) of the Act to recognise and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.
- 8.4 Further, effect must be given to policy 11 of the Coastal Policy Statement and policy 4.4.1 of the Regional Policy Statement. These are indigenous biodiversity policies.
- 8.5 Objective F.1.3 in the proposed Plan sets out the intention to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna.
- 8.6 Policy D.2.16 is a policy on managing adverse effects on indigenous biodiversity. It identifies the policy intent to avoid adverse effects on areas of indigenous vegetation and habitats of indigenous fauna in the coastal environment that are assessed as significant. It also identifies the policy intent that adverse effects should be no more than minor on areas of indigenous vegetation and habitats of indigenous fauna outside the coastal environment that are assessed as significant. This policy direction is consistent with policy 11 of the Coastal Policy Statement and policy 4.4.1 of the Regional Policy Statement.
- 8.7 The proposed Plan includes mapped 'Significant Ecological Areas' and 'Significant Bird Areas' which are acknowledged in policy D.2.16 are being a subset of areas of significant indigenous vegetation and significant habitats of indigenous fauna within the region.
- 8.8 The mapped 'Significant Ecological Areas' and 'Significant Bird Areas' are confined to the coastal marine area, notwithstanding that the proposed Plan also includes controls on activities within water bodies, and on activities that can affect water quantity, water quality and natural hazards.

- 8.9 There are considerably more areas in the coastal marine area that are “significant” in terms of the criteria for significant in the Regional Policy Statement. Likely further areas include Areas of Outstanding and High Natural Character, and areas zoned Marine 1 [Preservation] under the operative Regional Coastal Plan for Northland.
- 8.10 Until the mapping of significant indigenous biodiversity is completed and comprehensive, and/or 'significant' areas are identified in the rules in some other way, the proposed Plan is deficient and fails to adequately recognise and provide for matter of national importance 6(a) of the Act, and does not give effect to policy 11 of the Coastal Policy Statement or the biodiversity policies in the Regional Policy Statement, or to objective F.1.3 or policy D.2.16 of the proposed Plan.
- 8.11 There is an inability, with permitted and controlled activities, to ensure adverse effects on significant indigenous biodiversity in the coastal marine area are avoided. With controlled activities, what is applied for must be given consent. This consideration significantly limits the extent to which consent conditions can be imposed to avoid adverse effects on indigenous biodiversity. It is sound resource management practice to in a standard in permitted and controlled activities that ensures an activity does not occur in an area with significant indigenous biodiversity.
- 8.12 An exception to the above arises with the mapped layer “Significant Marine Mammal and Seabird Areas” because this covers all of the coastal marine area. The appropriate approach in the rules to be ensuring that adverse effects are avoided on marine mammals and seabirds is to ensure that permitted and controlled activities in the coastal marine area will not have adverse effects on marine mammals, and that a matter of discretion for restricted discretionary activities in the coastal marine area be “effects on marine mammals and seabirds”.
- 8.13 It also follows the identification of further, currently unmapped significant ecological areas or significant bird areas should be established by applying the 'significance' criteria to all indigenous biodiversity in the coastal marine area except marine mammals and seabirds.
- 8.15 The relief sought is:
- (i) in the following rules where the phrase “Significant Ecological Area” and/or “Significant Bird Area” occurs, the replacement of that phrase with “Significant Ecological Area or Significant Bird Area or any other area that meets the criteria for 'significance' given in Appendix 5 of the Regional Policy Statement for Northland for any indigenous biodiversity other than marine mammals or seabirds”.<sup>3</sup>

C.1.2.6, relocation of a mooring by the Harbour Master;

C.1.3.1, re-consenting aquaculture (not finfish);

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3 Note that a similar change is sought to the mangrove removal rules, see relief 9.14 of this Notice of Appeal

C.1.3.2, re-consenting aquaculture in a significant area, including listing in the matters of discretion;

C.1.3.3, realignment of existing aquaculture, matters of discretion;

C.1.3.4, extensions to authorised aquaculture, including listing in the matters of discretion;

C.1.3.6, aquaculture outside significant areas and development zones;

C.1.3.9, extensions to existing aquaculture;

C.1.3.10, Marae-based aquaculture in significant areas and development areas;

C.1.3.12, small scale and short duration aquaculture in significant areas and development zones;

C.1.3.14, aquaculture in significant areas and development zones;

C.1.5.1, use of vehicles on beaches and other activities that disturb the foreshore and seabed;

C.1.5.3, removal of nuisance plant debris;

C.1.5.5, cleaning of pipe outlets;

C.1.5.7, clearing tidal stream mouths;

C.1.5.10, beach scraping, in the matters of discretion;

C.1.5.11, deposition of material for beneficial purposes, matters of discretion;

C.1.5.12, dredging, deposition and disturbance activities;

C.1.6.3, reclamation for regionally significant infrastructure;

C.1.6.4, reclamation;

C.1.7.2, in-water cleaning of vessel hull and niche areas;

C.1.7.3, in-water cleaning of vessel hull and niche areas, structures and barges, and

C.1.8, coastal works general conditions, conditions 9 and 11.

- (ii) insert “Significant Ecological Area or Significant Bird Area or any other area that meets the criteria for 'significance' given in Appendix 5 of the Regional Policy Statement for Northland for any indigenous biodiversity other than marine mammals or seabirds” in the following rules:

C.1.1.21, structures in Mooring and General Marine Zones, in section 1) of the rule;

- C.1.1.22, hard protection structures, as a new clause 6) to the rule;
  - C.1.1.23, hard protection structures associated with regionally significant or core local infrastructure, as a new clause 7) of the rule;
  - C.1.1.27, structures within a significant marine area, as a new clause 7) of the rule;
  - C.1.2.5, existing swing mooring outside a Mooring Zone in section 7) of the rule; and
  - C.1.2.13, new moorings in significant areas, as a new clause 6) of the rule.
- (iii) changing the following controlled activity rules to restricted discretionary activity rules, with the matters of control becoming the matters of discretion, and including “effects on indigenous biodiversity” as a further matter of discretion:
- C.1.1.12, structures for scientific research, monitoring or education purposes; and
  - C.1.5.9, maintenance dredging;
- (iv) the amendment of policy D.2.18 by inserting “or any other area that meets the criteria for 'significance' given in Appendix 5 of the Regional Policy Statement for Northland” in part 2 of the policy.
- (v) the amendment of policy D.5.2 by inserting “any area that meets the criteria for 'significance' given in Appendix 5 of the Regional Policy Statement for Northland” in part 2 of the policy.
- (vi) the amendment of policy D.5.11 by inserting “any area that meets the criteria for 'significance' given in Appendix 5 of the Regional Policy Statement for Northland” in part 6 of the policy.
- (vii) the amendment of policy D.5.24 by inserting “any area that meets the criteria for 'significance' given in Appendix 5 of the Regional Policy Statement for Northland” in part 4 of the policy.
- (viii) inserting a further matter of control in all controlled activity rules applying in the coastal marine area
- effects on marine mammals and seabirds
- (ix) inserting a further matter of discretion in all restricted discretionary activity rules applying in the coastal marine area
- effects on marine mammals and seabirds
- (x) Such other amendments are as necessary and appropriate to ensure consistency within the Plan and to achieve the purpose of the Act with respect to indigenous biodiversity.

9. *Mangrove management*

- 9.1 The decisions being appealed are decisions to retain two permitted activity rules and one controlled activity rules providing for the clearance of mangroves, the decision to not identify further special areas in the rules, the decision to not insert a non-complying activity rule on mangrove clearance within special areas, and decisions on policies D.2.16, on indigenous biodiversity and D.5.26 on mangrove removal.
- 9.2 The relevant relief sought in the CEP Services Matauwhi Limited submission are:
- (i) the relief set out in paragraph 20 and 27 of the submission; and
  - (ii) the relief set out in rows 35, 36, 37, 38, 44, 57 and 77 of the appendix to the submission.
- 9.3 The mangrove is an indigenous plant species.
- 9.4 The sustainable management of mangroves includes:
- recognising and providing for the protection of mangroves where these are identified as meeting the 'significance' criteria in the Regional Policy Statement;
  - the directive to avoid adverse effects when the mangroves meet the criteria set out in policy 11(a) of the Coastal Policy Statement and of policy 4.4.1(1) of the Regional Policy Statement;
  - the directive to avoid significant adverse effects when the mangroves meet the criteria set out in policy 11(b) of the Coastal Policy Statement and of policy 4.4.1(2) of the Regional Policy Statement.
- 9.5 The rules should reflect these requirements with respect to indigenous vegetation, including mangroves.
- 9.6 Permitted activity rules C.1.4.1, mangrove seedling removal, and C.1.4.2, minor mangrove removal, do not limit the clearance of mangroves that are, in whole or in part, areas of significant indigenous vegetation or significant habitats of indigenous fauna. It is not possible, with these rules, to give effect to the avoid adverse effects/avoid significant adverse effects (as the case may be) directives from policy 11 of the Coastal Policy Statement and policy 4.4.1 of the Regional Policy Statement.
- 9.7 Controlled activity rule C.1.4.3, mangrove removal, does seek to limit the extent of clearance of mangroves within significant ecological areas and outstanding natural character areas. It provides for the renewal of previous consents for mangrove clearance when those coastal permits expire. The rule lists several of 'special area' considerations as matters of control under the rule.
- 9.8 Any mangrove clearance application under this rule must have consent granted for it. This means that it is not possible to manage mangrove removal to an appropriate degree, given the policy direction stated in policy 11 of the Coastal Policy Statement and policy 4.4.1 of the Regional Policy Statement.

- 9.9 While some mangrove removal may be appropriate, especially for safety reasons and to allow use of consented structures, it is inappropriate to provide for mangrove removal as a permitted or controlled activity where the mangroves are within a special area, such as Significant Ecological Area, Significant Bird Area, Outstanding Natural Landscape, High Natural Character Area, or Outstanding Natural Character Area.
- 9.10 Given the avoid adverse effects on indigenous biodiversity policy direction from policy 11 of the Coastal Policy Statement and policy 4.4.1 of the Regional Policy Statement, it is a sound resource management practice to provide general mangrove removal as a non-complying activity where it is proposed to occur within a special area or any area where the criteria for 'significance' in Appendix 5 of the Regional Policy Statement is met.
- 9.11 Policy D.5.26 sets out circumstances when mangrove removal may be appropriate.
- 9.12 This policy requires several amendments in order for the policy to properly reflect the policy direction from the Coastal Policy Statement and the Regional Policy Statement.
- 9.13 Clause i) of policy D.2.16.b) improperly seeks to limit the application of policy 11(b)(i) of the Coastal Policy Statement.
- 9.14 The relief sought is:
- (i) The insertion of a further clause in permitted activity rules C.1.4.1 and C.1.4.2, controlled activity rule C.1.4.3, and discretionary activity rule C.1.4.5
    - X(a) The pulling, cutting, removal or pruning of mangroves does not occur in a mapped (refer | Maps | Ngā mahere matawhenua):
      - 1) Significant Ecological Feature, or
      - 2) Significant Bird Area, or
      - 3) Outstanding Natural Feature, or
      - 4) Outstanding Natural Landscape Buffer, or
      - 5) Area of Outstanding Natural Character, or
      - 6) Area of High Natural Character, or
      - 7) Historic Heritage Area, or
      - 8) Site or Area of Significance to Tangata Whenua; or
    - (b) is any other area that meets the criteria for 'significance' given in Appendix 5 of the Regional Policy Statement for Northland for any indigenous biodiversity other than marine mammals or seabirds.
  - (ii) The insertion of a new non-complying activity rule where mangrove removal occurs in any of the areas identified in relief 9.14(i).

- (iii) The amendment of clause b)i) of policy D.2.16, Managing adverse effects on indigenous biodiversity, by deleting the words “other than areas of mangroves to be pruned or removed for one of the purposes listed in D.5.26”.
- (iv) The amendment of policy D.5.26 as follows:
  - (a) the insertion of the words “where that displacement is not the result of climate change” immediately after the words “intertidal flats” in clause aa) of the policy; and
  - (b) the insertion of the words “where the removal is the minimum necessary and there is no practicable alternative that does require the removal of mangroves” after “may be granted when it is necessary to maintain, restore, or improve one or more of the following” in section 1) of the policy.
- (v) Such other amendments are as necessary and appropriate to ensure consistency within the Plan and to achieve the purpose of the Act with respect to mangrove management.

#### 10. *Historic heritage on land*

- 10.1 The decisions being appealed against is the decision to not extend the rules relating to mapped historic areas or sites in the coastal marine area to also apply when there are historic areas on the land in the vicinity of the proposed coastal activity, and the decisions to not identify land-based historic heritage on the 'special area' maps in the proposed Plan.
- 10.2 The relevant relief sought in the CEP Services Matauwhi Limited submission are:
  - (i) the relief set out in paragraph 23 of the submission;
  - (ii) the relief set out in rows 7, 20, 21, 22, 23<sup>4</sup> and 24 of the appendix to the submission.

The decisions appear to be to reject all the relief sought except for the relief set out in paragraph 23 of the submission, which appears to be rejected in part.

- 10.3 The protection of historic heritage is to be recognised and provided for in matter of national importance 6(f) of the Act, and given effect to via policy 17 of the Coastal Policy Statement and policy 4.6.2 of the Regional policy Statement.
- 10.4 Decisions on submissions, including the submission by CEP Services Matauwhi Limited, has resulted in a new policy in the proposed Plan – policy D.2.17, managing adverse effects on land-based values and infrastructure.
- 10.5 This policy includes the intention to recognise that adverse effects of use and development in the coastal marine area may extent to, among other things, significant

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4 The rule referred to in this submission is incorrectly identified as C.1.1.1. It is rules C.1.1.1 to C.1.1.10 that are the subject of this submission. The Regional Council was advised of this at the hearing of the submission.

historic heritage areas or values. The policy supplements policy D.2.14, managing adverse effects on historic heritage.

10.6 The Far North District Plan identifies significant heritage areas or values by including heritage precincts in its plan. Several of these heritage precincts abut the coastal marine area:

- The Strand Heritage Precinct, Russell
- Christ Church Heritage Precinct, Russell
- Wellington Street Heritage Precinct, Russell
- Mangonui Heritage Precinct
- Kohukohu Heritage Precinct
- Rawene Heritage Precinct
- Kerikeri Basin Heritage Precinct

10.7 Zones in the coastal marine area abutting these heritage precincts are Mooring, Coastal Commercial and General Marine. There is historic heritage recorded in the coastal marine area abutting parts of the Mangonui, Kohukohu and Rawene Heritage Precincts and all of the Kerikeri Basin Heritage Precinct.

10.8 A similar level of information is not available in the Whangarei or Kaipara District Plans.

10.9 There is significant potential for adverse effects on the land-based historic heritage from the use and development in those adjoining coastal marine areas. This is acknowledged in the relevant policies. The rules, however, do not ensure that the historic heritage policies can be adequately considered.

10.10 There is a risk where alterations to, or new structures, are provided for as a permitted activity or as a controlled activity, as this does not allow the proper consideration of the actual and potential adverse effects on significant historic heritage values on land. This risk arises particularly with rules applying in the Coastal Commercial Zone.

10.11 The relief sought is:

(i) The inclusion in the maps of all historic precincts, areas or places abutting the coastal marine area that are shown in the Far North, Whangarei, or Kaipara District Plan maps. This additional map layer should be identified as “Historic Heritage Adjacent to the Coastal Marine Area”

(ii) The insertion of a further clause:

The activity is not within a Coastal Commercial Zone that abuts any area shown as “Historic Heritage Adjacent to the Coastal Marine Area” in the maps.

in all of the following rules

C.1.1.1, existing structures;

C.1.1.2, minor structures in Coastal Commercial Zone, Marsden Point Port Zone and the Whangārei City Centre Zone;

C.1.1.5, signs;

C.1.1.11, additions and alterations to structures in the Coastal Commercial Zone or Marsden Point Port Zone; and

C.1.1.14, existing authorised structures in a Coastal Commercial Zone, Marsden Point Port Zone or Marina Zone.

- (iii) The deletion of the words “in the coastal marine area” from clause 2 of objective F.1.11.
- (iv) Such other amendments are as necessary and appropriate to ensure consistency within the Plan and to achieve the purpose of the Act with respect to historic heritage on land.

11. *Consistency with policies in national policy statements and regional policy statement*

11.1 The decisions being appealed are the decisions to delete a policy on the application of policies in the Regional Policy Statement to non-complying activities, and to a decision to not include policies from the Coastal Policy Statement in the proposed Plan.

11.2 The relevant relief sought in the CEP Services Matauwhi Limited submission are:

- (i) the relief set out in paragraph 9 of the submission;
- (ii) the relief set out in row 54 of the appendix to the submission.

The decision appears to be to reject the submissions in part.

11.3 An implication of having to give effect to the Coastal Policy Statement and the Regional Policy Statement is that policies in the proposed Plan should reflect the content of the policies in the Coastal Policy Statement and the Regional Policy Statement, and not omit important parts of those policies.

11.4 Several of the policies in the proposed Plan incompletely reflect the policy guidance from the Coastal Policy Statement and the Regional Policy Statement, and therefore provide incomplete guidance for decision makers on resource consent applications under the proposed Plan. These include

- policy D.2.15 which omits the policy guidance from policy 15 of the Coastal Policy Statement and from policy 4.6.1 of the Regional Policy Statement on outstanding natural landscapes both within and outside the coastal environment, and on other landscapes and natural features;
- policy D.2.16, which provides an incomplete account of policy 4.4.1(5) of the Regional Policy Statement;

- policy D.2.17, which limits consideration of adverse effects that extend beyond the boundary of the coastal marine area to effects on significant values; and
- policies D.6.1 and D.6.2, which provide an incomplete list of considerations with respect to hard protection structures set out in policies 7.1.6 and 7.2.2 of the Regional Policy Statement.

11.6 There is no policy guidance provided in the proposed Plan with respect to several policies in the Coastal Policy Statement or the Regional Policy Statement, despite there being rules addressing the matters covered in the policies.

- policy 4.8.1 of the Regional Policy Statement;
- policy 10 of the Coastal Policy Statement; and
- policy 18 of the Coastal Policy Statement.

11.7 It is sound resource management practice to ensure a plan contains all relevant policy direction from national and regional policy statements.

11.8 The relief sought is:

(i) The amendment of the table in policy D.2.15 as follows:

Place/value	Location of the place	Effects to be avoided
Areas of outstanding natural character Outstanding natural features	<del>Coastal marine area and fresh waterbodies in the coastal environment.</del>	Adverse effects on the characteristics, qualities and values that contribute to make the place outstanding.
Outstanding natural landscapes (including seascapes)	Coastal <del>environment</del> <u>marine-area</u> .	
Natural character <u>Natural landscapes</u> <u>Natural features</u>	The coastal <u>environment</u> <del>marine area</del> and freshwater bodies.	Significant adverse effects on the characteristics, qualities and values that contribute to natural character, <u>natural landscapes, and/or natural features</u> .
<u>Outstanding natural landscapes</u> Outstanding natural features	<del>Fresh waterbodies</del> outside the coastal environment.	Significant adverse effects on the characteristics, qualities and values that contribute to make the natural <u>landscape or feature</u> outstanding.

- (ii) the insertion of a further clause in part 3 of policy D.2.16:
  - recognising that there may be more than minor cumulative adverse effects from minor or transitory adverse effects
- (iii) the replacement of the start of part 5 of policy D.2.16 with:
  - it may be appropriate, outside the coastal environment, to offset or compensate for any residual adverse effects on biodiversity values:
- (iv) the deletion of the word “significant” from the “significant areas and values including:” in part 1 of policy D.2.17.
- (v) the amendment of policy D.6.1 by the inclusion of two further clauses in the policy:
  - Priority will be given to the use of non-structural measures over the use and construction of hard protection structures when managing hazard risk.
  - Hard protection structures, when considered necessary to protect private assets, should not be located on public land unless there is significant public or environmental benefit in doing so.
- (vi) the amendment of policy D.6.2 by replacing the words “of one metre by 2115 (100 years)” with the words “, using the latest national guidance and best available information on the likely effects of climate change on the region or district.”
- (vii) insert Regional Policy Statement policy 4.8.1, Demonstrate the need to occupy space in the common marine and coastal area, or a policy to like effect, in section D.5 of the proposed Plan.
- (viii) insert Coastal Policy Statement policy 10 on reclamations, or a policy to like effect, in section D.5 of the proposed Plan.
- (ix) insert Coastal Policy Statement policy 18 on public open space, or a policy to like effect, in section D.5 of the proposed Plan.
- (x) Such other amendments are as necessary and appropriate to ensure consistency within the Plan and to achieve the purpose of the Act with respect to consistency with policies in national policy statements and the Regional Policy Statement.

12. The following documents are attached to this notice:
- (a) a copy of the CEP Services Matauwhi Limited submission;
  - (b) the decisions in relation to part 7 of this Notice of Appeal – *Outstanding Natural Landscapes*;
  - (c) the decisions in relation to part 8 of this Notice of Appeal – *Indigenous biodiversity*;
  - (d) the decisions in relation to part 9 of this Notice of Appeal – *Mangrove management*;
  - (e) the decisions in relation to part 10 of this Notice of Appeal – *Historic heritage on land*;
  - (f) the decisions in relation to part 11 of this Notice of Appeal – *Consistency with policies in national policy statements and regional policy statement*;
  - (g) a list of names and addresses of persons to be served with a copy of this notice.

.....  
Andrew Riddell, sole director of CEP Services Matauwhi Limited

.....  
date

address for service: 36 Matauwhi Road  
Russell 0202

telephone: 022 12 66 232  
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contact person: Andrew Riddell, sole director, CEP Services Matauwhi Limited