

Before the Independent Hearing Panel appointed by the Northland Regional Council

UNDER the Resource Management Act 1991 (“the Act”)

And

IN THE MATTER OF APP.040213.01.01 by Mangawhai Historic Wharf Trust to place, use and occupy space in the coastal marine area with a wharf facility inclusive of a wharf, a building, a gangway, pontoon and piles.

APP.040213.02.01 by Mangawhai Historic Wharf Trust to disturb the foreshore in the coastal marine area during the construction of the wharf facility.

BY **THE MANGAWHAI HISTORIC WHARF TRUST**
Applicant

STATEMENT OF EVIDENCE OF LINDA ELIZABETH KIRK

On behalf of the DIRECTOR-GENERAL OF CONSERVATION / TE TUMUAKI AHUREI

(Submitter No: 176)

(PLANNING)

DATED 11 September 2020

Department of Conservation

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1. INTRODUCTION

- 1.1 My full name is Linda Elizabeth Kirk.
- 1.2 I am employed at the Department of Conservation/Te Papa Atawhai (DOC) as an RMA Planner. I have worked in this position since 26 March 2018, providing planning advice and assistance in resource consent applications as well as planning matters. This includes providing expert planning evidence for Environment Court matters.
- 1.3 I hold a Master of Philosophy (Resource and Environmental Planning) from Massey University (2002). From the University of Canterbury, I hold a Master of Arts with Distinction (Thesis: "*Coastal Management and Planning and New Zealand*") (1994), Bachelor of Arts Second Class Honours (Division One) (1993) and Bachelor of Science (1992), all majoring in Geography.
- 1.4 I have over 20 years' experience in local government, with approximately 14 years in resource management planning and policy. I was contracted as an Environment Advisor for He Mahi Poha, the Environmental Entity for Te Rūnanga o Kaikoura (2015-2016), and Senior Environment Advisor for Te Rūnanga o Ngāi Tahu (2013-2014). I was employed by Environment Canterbury for 14 years (1999-2013), starting as a Senior Resource Management Planner in 1999-2005, and was involved in the development of the Canterbury Natural Resources Regional Plan. I held a range of senior positions at Environment Canterbury from 2005-2013 as a Portfolio/Programme Manager with oversight of five portfolios/programmes.
- 1.5 I have provided input from a local government perspective to the Ministry for the Environment in the development of the Resource Management (National Environmental Standards for Air Quality) Regulations 2004 and was a local government member of the NZCPS 2010 Implementation Steering Group that provided advice in the preparation of the New Zealand Coastal Policy Statement 2010 guidance notes.
- 1.6 I have been asked to prepare expert planning evidence for the Director-General of Conservation/Te Tumuaki Ahurei (Director-General), on Mangawhai Historic Wharf Trust's (the Applicant) application

APP.040213.01.01 (containing sub-applications APP.040213.01.01 and APP.040213.01.02):

- (a) to place, use and occupy space in the coastal marine area with a wharf facility inclusive of a wharf, a building, a gangway, pontoon and piles; and
- (b) to disturb the foreshore in the coastal marine area during the construction of the wharf facility.

1.7 While I am employed by the Department of Conservation, and the Department has an advocacy function under the Conservation Act 1987, my role in preparing this statement of evidence is as an independent planning expert. In my role with the Department, I am required to ensure that my advice is in accordance with recognised standards of integrity and professional competence. As well as having a duty to the Hearing Panel (and I have noted below that I agree to abide by the Environment Court Code of Conduct for Expert Witnesses), I also have a duty to my profession.

1.8 In providing this evidence, I have been authorised by the Department of Conservation (DOC) to provide any evidence that is within my planning expertise which goes outside the Department's advocacy function.

1.9 I was not involved in the preparation of the Director-General's submission.

2. CODE OF CONDUCT

2.1 Although this is not an Environment Court hearing, I confirm that I have read the code of conduct for expert witnesses as contained in the Environment Court's Practice Note 2014 ("the Code"). I have complied with the Code when preparing my written statement of evidence, and will continue to do so when I give oral evidence before the Hearing Panel.

2.2 The data, information, facts and assumptions I have considered in forming my opinions are set out in my evidence to follow. The reasons for the opinions expressed are also set out in the evidence to follow.

- 2.3 Unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
- 2.4 DOC has authorised me to provide evidence on behalf of the Director-General of Conservation and to do so in an independent capacity in accordance with the Code.

3. SCOPE

- 3.1 I have been asked to provide evidence in relation to the statutory considerations raised in the Director-General's submission (Submission No. 176).
- 3.2 The Director-General's submission focused primarily on the effects of the construction and ongoing use of the proposed wharf on the New Zealand fairy tern/tara iti (*Sternula nereis davisae*) (fairy tern), including cumulative impacts of human activity in the Mangawhai Harbour on the fairy tern.
- 3.3 The purpose of this evidence is to determine whether or not all relevant provisions of the statutory documents have been assessed or if there are any other matters that may be relevant to enable the consent authority to determine the application in accordance with section 104 and s104D of the Resource Management Act 1991 (RMA).
- 3.4 In preparing this evidence, I have read and considered the following documents:
- (a) Mangawhai Historic Wharf Charitable Trust's Application APP.040213.01.01;
 - (b) Section 42A Northland Regional Council Staff Report (s42A Officer's Report);
 - (c) Director-General's submission (Submission No. 176);
 - (d) Statement of evidence prepared for the Director-General by Dr Tony Beauchamp;
 - (e) Statement of evidence prepared for the Mangawhai Historic Wharf Trust by Mr Vishal Chandra;
 - (f) Regional Policy Statement for Northland 2016 (RPS);
 - (g) Regional Coastal Plan for Northland 2004 (RCP);

- (h) Proposed Regional Plan for Northland – Working Draft Appeals Version - 5 July 2019 (PRP); and
- (i) New Zealand Coastal Policy Statement 2010 (NZCPS);
- (j) Resource Management Act 1991 (RMA) - Part 2, sections 104 and 104D;
- (k) “*Te Uri o Hau Kaitiakitanga o te Taiao*” (iwi management plan for Te Uri o Hau); and
- (l) Kaipara District Council, July 2020, “*Draft Mangawhai Spatial Plan*”.

4. EXECUTIVE SUMMARY

- 4.1 The Director-General’s submission and ecological evidence from Dr Beauchamp on the wharf proposal in Mangawhai Harbour has raised concerns about potential significant adverse effects on the Nationally Critical Threatened New Zealand fairy tern/tara iti (*Sternula nereis davisae*) (fairy tern), among other matters.
- 4.2 The wharf proposal is within the *Marine 1 (Protection) Management Area* under the Regional Coastal Plan for Northland (RCP). The Marine 1 (Protection) Management Area is applied to those areas within Northland’s coastal marine area identified as being Areas of Important Conservation Value.
- 4.3 This raises concerns about whether or not all relevant provisions of the statutory documents have been assessed or if there are any other matters that may be relevant to enable the consent authority to determine the application in accordance with section 104 and s104D of the Resource Management Act 1991 (RMA).
- 4.4 The RMA and New Zealand Coastal Policy Statement 2010 (NZCPS) provide a strong directive national planning framework for the preservation and protection of various matters, including threatened species, from inappropriate subdivision, use, and development of the coastal environment. This is given effect to by the regional planning framework through the Regional Policy Statement for Northland 2016 (RPS), Regional Coastal Plan for Northland 2004 (RCP) and the Proposed Regional Plan for Northland – Working Draft Appeals Version - 5 July 2019 (PRP).

4.5 Appendix 1 to my evidence provides a summary of all relevant statutory provisions that I consider the consent authority must have regard to, subject to Part 2 of the RMA, when considering this application to construct and use the proposed wharf.

4.6 I consider that:

- (a) all relevant provisions of the statutory documents have not been adequately assessed either by the Applicant, nor in the s42A Officer's Report;
- (b) the Applicant has not fully assessed the potential adverse effects of the proposal in concluding that the adverse effects will be no more than minor; and
- (c) the Applicant has not demonstrated that the proposal is not contrary to the objectives and policies in the relevant plans, and therefore has not demonstrated that either of the gateway tests in s104D are met, as required, to enable consent to be granted.

5. SUMMARY OF WHARF PROPOSAL

5.1 The application is to place, use and occupy space in the coastal marine area of Mangawhai Estuary with a wharf facility, including a shelter with seating and information display and a floating pontoon at the head of the wharf. This will be located at the eastern end of Moir Street, Mangawhai.

5.2 This has been assessed as a non-complying activity, and a consent duration of 35-years is sought.

5.3 The coastal marine area at the location is identified by the RPS and PRP maps as having high natural character values as well as significant bird area and a significant marine mammal and seabird area under the PRP. The location is within a Marine 1 (Protection) Management Area of the RCP (refer Map 3 in Appendix 2).

5.4 The Mangawhai sandspit located further to the north-east of the proposed wharf is identified by the RPS as an outstanding natural feature (ONF), an

outstanding natural landscape (ONL) and has outstanding natural character values. The Mangawhai sandspit has also been identified as an ONF by the PRP maps (refer Maps 1 and 2 in Appendix 2 respectively).

6. STATUTORY FRAMEWORK

Section 104(1) of the Resource Management Act 1991 (RMA)

- 6.1 Section 104(1) of the RMA (set out below) provides the framework for my planning evidence, from which I have identified relevant provisions that I consider to be applicable for consideration of this application in accordance with s104(b). These provisions are set out in Appendix 1.

s104(1) of the RMA:

“(1) When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to—

- (a) any actual and potential effects on the environment of allowing the activity; and*
- (ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*
- (b) any relevant provisions of—*
 - (i) a national environmental standard;*
 - (ii) other regulations;*
 - (iii) a national policy statement;*
 - (iv) a New Zealand coastal policy statement;*
 - (v) a regional policy statement or proposed regional policy statement;*
 - (vi) a plan or proposed plan; and*
- (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.”*

- 6.2 My evidence will consider the planning matters from both the Applicant's application (that being Appendix 3 of the AEE), Mr Chandra's Statement of Evidence (Planning) for the Applicant, and the s42A Officer's Report. Rather than go through each provision or matter raised in Appendix 1, I will focus on the key matters (see paragraph 6.3) where, in my opinion, have

not been considered or require further consideration from the Hearing Panel.

- 6.3 After setting out and discussing the key planning matters, I make some further observations regarding matters in sections 104 and 104D, and Part 2 of the RMA.

Key Matters for Consideration

- 6.4 The following are key matters that, in my opinion, require consideration of in the decision of this application:
- (a) All effects that may arise from the placement, use and occupation of space in the coastal marine of the wharf. For example:
 - (i) Effects of the construction of the proposed wharf;
 - (ii) Effects of the use of the proposed wharf;
 - (iii) Consequential effects as a result of the presence of the proposed wharf:
 - (1) the potentially significant adverse effects on indigenous biodiversity, such as the nationally critical threatened fairy tern which may occur because of increased public access and recreational use arising from people using the wharf in the foraging area of the New Zealand fairy tern.
 - (iv) Cumulative effects, including but not limited to adverse effects on indigenous biodiversity:
 - (1) in particular, the foraging area of the New Zealand fairy tern such that the species may have been adversely affected by mangrove removal in the harbour, and the anticipated future population growth in the Mangawhai district which may also lead to increased recreational activities in the foraging area as

well as at the Mangawhai wildlife refuge area on Mangawhai sandspit.

- (b) Consideration of alternatives
- (c) Precedent: would the granting of this consent create an expectation that future applications for activities for development in the harbour would be treated alike, and be granted? The assessment criteria for structures in the RCP may be relevant here.

New Zealand Coastal Policy Statement 2010 (NZCPS)

- 6.5 The consent authority must have regard to the NZCPS when considering an application for a resource consent.
- 6.6 The NZCPS has a strong directive planning framework for the preservation and protection of various matters from inappropriate subdivision, use, and development of the coastal environment. Matters include:
 - (a) indigenous biological diversity (biodiversity): Policy 11 – protect and avoid adverse effects on indigenous taxa that are listed as threatened or at risk, with the fairy tern being footnoted as an example;
 - (b) natural character: Policy 13 – preserve;
 - (c) natural features and natural landscapes: Policy 15 – protect; and
 - (d) historic heritage: Policy 17 – protect.
- 6.7 Policy 3 directs that a precautionary approach is adopted “*towards proposed activities whose effects on the coastal environment are uncertain, unknown, or little understood, but potentially significantly adverse.*” In my opinion, based on Dr Beauchamp’s evidence, the potentially significant adverse effects on indigenous biodiversity, such as the nationally critical threatened fairy tern which may occur as consequential effects from increased recreational use arising from people using the wharf in the foraging area of the fairy tern, directs that a precautionary approach is

taken in the consideration of this application. This is supported with the direction of the preservation and protection policies in the NZCPS as noted in paragraph 6.5.

- 6.8 In terms of relevant planning provisions, I agree with both the Applicant's planning assessment and the s42A Officer's Report, in that Objectives 1-6 of the NZCPS are relevant. However, I also consider that New Zealand's international obligations in Objective 7 may also be applicable as a result of the wider coastal environment containing the foraging habitat for fairy terns as well as the Mangawhai Sandspit being a protected Wildlife Refuge Area under the Wildlife Act 1953. As a result, the United Nations (1992) "*Convention of Biological Diversity*" may be applicable. There may be others.
- 6.9 In terms of relevant planning provisions, I agree with both the Applicant's planning assessments and the s42A Officer's Report, in that Policies 1-3, 6, 11, 13, 18 and 19 of the NZCPS are relevant.
- 6.10 In addition, I consider that the following policies are relevant:
- (a) Policy 4: Integration
 - (i) The intended use of the wharf is for increased recreational/amenity benefits that may result in attracting more people to recreate not only on the wharf, but also in the wider coastal environment, including the foraging area of the nationally critically threatened species, the New Zealand fairy tern, as discussed in Dr Beauchamp's evidence. Therefore, it is appropriate for coordinated management of control of activities within the coastal environment and working collaboratively with other bodies and agencies.
 - (ii) The "*Draft Mangawhai Spatial Plan*" does anticipate population growth within the wider district so integrated management of natural and physical resources should be considered.

(b) Policy 5: Land or waters managed or held under other Acts. The following Acts apply to the wider coastal environment in Mangawhai Harbour:

(i) Reserves Act 1997

(1) Public Conservation Land and protected area: Mangawhai Government Purpose Wildlife Refuge Reserve at Mangawhai Sandspit. The potential consequential adverse effects from the ongoing use of the proposed wharf on the foraging area of the fairy tern is of concern as raised by Dr Beauchamp's evidence.

(ii) Wildlife Act 1953

(1) Protected Area: Mangawhai Heads Wildlife Refuge is at Mangawhai Sandspit. The potential consequential adverse effects from the ongoing use of the proposed wharf on the foraging area of the fairy tern is of concern as raised by Dr Beauchamp's evidence.

(iii) Conservation Act 1987

(1) Mangawhai Harbour Marginal Strip No 3 is a fixed marginal strip on land adjacent to the proposed wharf at the coastal end of Moir Street. This will require a concession from the Department of Conservation if the applicant wishes to use this area during the construction phase of the wharf, for example, storage of materials or equipment. I do not know if that is the intention of the applicant or not.

(iv) Te Uri o Hau Claims Settlement Act 2002

(1) Statutory Acknowledgement – Mangawhai Harbour coastal area. While the application does contain a cultural impact assessment, this appears to focus only on the construction of the

proposed wharf itself, not the potential effects arising from the use of the proposed wharf. For example, it is unknown if Te Uri o Hau were made aware of the wider potential consequential effects from increased recreational use arising from people using the wharf on indigenous biodiversity, such as the foraging area of the fairy tern as raised in Dr Beauchamp's evidence. This is of concern as Te Uri o Hau are tangata whenua and kaitiaki and this may not reflect "*Te Uri o Hau Kaitiakitanga o te Taiao*" (the iwi management plan for Te Uri o Hau).

- (c) Policy 15: Natural features and natural landscapes
 - (i) For example, Policy 15(c)(vi): "*identifying and assessing the natural features and landscapes of the coastal environment ... and having regard to transient values, including presence of wildlife or other values at certain times of the day or year*". The potential consequential effects from the ongoing use of the proposed wharf on the foraging area of the fairy tern is of concern as raised by Dr Beauchamp's evidence. Policy 15 is to protect the natural features and landscape of the coastal environment from inappropriate subdivision, use and development.
- (d) Policy 17: Historic heritage identification and protection. This is a 'protect' policy and all matters need to be considered. For example, the location of the proposed wharf is at a historic site and will need appropriate heritage protection authority for any works to be undertaken; facilitating and integrating management of historic heritage that spans the line of mean high water springs; and any other matters, including conservation conditions.

6.11 In general, I agree with the s42A Report assessment of the matters that were considered.

6.12 The matters I do not agree with from the Applicant's planning assessment are:

- (a) NZCPS, Objective 1 - There is a change in the function of the wharf from the "historic wharf" which was used for commercial activities, to recreational/amenity activities. This change in function may increase the recreational use of the wider coastal environment, including consequential effects on the foraging area of the fairy tern as a result of increased volume of human activities both on and off the water.
- (b) NZCPS, Objective 3 and Policy 2 – as noted above in paragraph 6.9(b)(iv), while the application does contain a cultural impact assessment, this appears to focus only on the construction of the proposed wharf itself, not the potential effects arising from the use of the proposed wharf. For example, it is unknown if Te Uri o Hau were made aware of the wider potential consequential effects from increased recreational use arising from people using the wharf on indigenous biodiversity, such as the foraging area of the fairy tern as raised in Dr Beauchamp's evidence. This is of concern as Te Uri o Hau are tangata whenua and kaitiaki and this may be in conflict to the relevant iwi management plan – "*Te Uri o Hau Kaitiakitanga o te Taiao*".
- (c) NZCPS, Policy 1(e) – "*habitat of indigenous coastal species including migratory birds*" has not been assessed by the Applicant's planning assessment.
- (d) NZCPS, Policies 3, 6 and 11 – the effects of the consequential use of the structure on the wider coastal environment, including the foraging area of the fairy tern, has not been assessed in the Applicant's planning assessment. This may result in reduced values of the coastal environment and adverse effects on indigenous biodiversity, which would be in conflict to these policies. In my opinion, I consider these potential adverse effects must be considered.

Regional Policy Statement for Northland (RPS)

- 6.13 The consent authority must have regard to the RPS when considering an application for a resource consent.
- 6.14 As noted in section 1.5 of the RPS, *“the RPS is about the integrated management of Northland’s natural and physical resources.”*
- 6.15 In my opinion, the RPS gives effect to the NZCPS and continues to provide for the strong directive planning framework for the preservation and protection of various matters from inappropriate subdivision, use, and development of the coastal environment, as outlined in paragraph 6.5 above. This can be seen from the relevant planning provisions in Appendix 1 and as identified in the following paragraphs.
- 6.16 In terms of relevant planning provisions, I agree with:
- (a) both the Applicant’s planning assessments and the s42A Officer’s Report, in that Objectives 3.4, 3.10 and Policies 4.4.1, 4.6.1, 4.6.2 and 4.8.1 of the RPS are relevant;
 - (b) the Applicant’s planning assessment that Objectives 3.8, 3.12 and 3.15 and Policies 4.8.3 and 5.1.2 of the RPS are relevant;
 - (c) the s42A Officer’s Report in that Objective 3.14 of the RPS is relevant.
- 6.17 In addition, I consider that the following RPS provisions are relevant:
- (a) Policy 4.5.1 - Identification of the coastal environment, outstanding natural features and outstanding natural landscapes and high and outstanding natural character
 - (b) Policy 4.5.2 - Application of the Regional Policy Statement – Maps
 - (c) Part 9: Environmental Results Anticipated
 - (i) 4.4 Maintaining and enhancing indigenous ecosystems and species
 - (ii) 4.5 Identifying the coastal environment and significant natural character, features / landscapes and historic

- (iii) 4.6 Managing effects on natural character, features / landscapes and heritage resources
- (iv) 4.8 Efficient use of coastal water space
- (v) 8.1, 8.2 and 8.3 Tangata Whenua
- (d) Appendix 1 - Mapping methods
- (e) Appendix 2 – Regional development and design guidelines
- (f) Appendix 4 – Outstanding natural features
- (g) Appendix 5 - Areas of significant indigenous vegetation and significant habitats of indigenous fauna in terrestrial, freshwater and marine environments

6.18 In general, I agree with the s42A Report and the Applicant's planning assessment of the matters that were considered, except for those identified in the next paragraph.

6.19 The matters I do not agree with from the Applicant's planning assessment are:

- (a) Objective 3.7 Regionally significant infrastructure. The proposed wharf is not regionally significant infrastructure as identified under Appendix 3 of the RPS. Therefore, this provision is irrelevant for this application.
- (b) Objective 3.8 Efficient and effective infrastructure. There is no assessment of the consideration of "*optimising the use of existing infrastructure*" in the planning assessment as sought by Objective 3.8(a).
- (c) Objective 3.12 Tangata whenua role in decision-making. As noted above in paragraph 6.9(b)(iv), while the application does contain a cultural impact assessment, this appears to focus only on the construction of the proposed wharf itself, not the potential consequential effects arising from the use of the proposed wharf.

(d) Objective 3.15 Active Management. In my opinion, objective 3.15(d) is also a relevant consideration.

(i) Policy 15 seeks to maintain and /or improve the listed matters, including significant habitats of indigenous fauna (including those within estuaries and harbours). The potential consequential effects from the ongoing use of the proposed wharf on the foraging area of the fairy tern is of concern as raised by Dr Beauchamp's evidence.

(ii) The Regional development and design guidelines in Appendix 2 of the RPS list matters for new use and developments, including point (m):

Appendix 2(m): "Protect significant ecological areas and species, and where possible enhance indigenous biological diversity (refer to 'Maintaining and enhancing indigenous ecosystems and species' for more details and guidance)"

(iii) Appendix 5 of the RPS provides the criteria for the identification of significant habitats of indigenous fauna which meets one or more of the criteria. Both the representativeness and the rarity/distinctiveness criteria refer to "ecological sites" for habitat of indigenous fauna, including habitats that support one or more indigenous taxa that are threatened which the fairy tern, is one example of as discussed in Dr Beauchamp's evidence.

6.20 In relation to the "note" to 5.1.2 Policy – Development in the coastal environment, in my opinion, there has not been an adequate assessment undertaken by either the Applicant's planning assessment nor the s42A Officer's Report. This can be seen from the planning provisions that I consider relevant in Appendix 1, some of which have been assessed, and others have not been assessed.

"Note: in determining the appropriateness of subdivision, use and development, all policies and methods in the Regional Policy

Statement must be considered, particularly policies relating to natural character, features and landscapes, heritage, natural hazards, indigenous ecosystems and fresh and coastal water quality.”

Regional Coastal Plan for Northland (RCP)

- 6.21 The consent authority must have regard to the RCP when considering an application for a resource consent.
- 6.22 As noted in section 2.1 of the RCP, *“the purpose of the RCP is to assist the Northland Regional Council, in conjunction with the Minister of Conservation, to promote the sustainable management of the natural and physical resources in relation to the coastal marine area.”*
- 6.23 In my opinion, while the RCP was developed and made operative under the 1994 version of the NZCPS, I consider that the RCP is not inconsistent with the NZCPS 2010. The RCP continues to provide a strong directive planning framework for the preservation and protection of various matters from inappropriate subdivision, use, and development of the coastal environment, as outlined in paragraph 6.5 above. This can be seen from the relevant planning provisions in Appendix 1 and as identified in the following paragraphs.
- 6.24 In terms of relevant planning provisions, I agree with:
- (a) both the Applicant’s planning assessments and the s42A Officer’s Report, in that:
 - (i) Objectives 7.3, 8.3, 10.3.1, 12.3.1, 13.3, 16.3, 17.3, 25.3.1 and 25.3.2; and
 - (ii) Policies 7.4.2, 8.4.1, 10.4.1, 12.4.3, 16.4.2, 16.4.3, 16.4.4, 17.4.3, 17.4.4, 17.4.8, 25.4.1 and 25.4.4of the RCP are relevant; and
 - (b) the Applicant’s planning assessments that Objectives 10.3.2, 15.3.1, and 15.3.2 and Policies 7.4.1, 16.4.1, 25.4.3, 25.3.3 and 25.4.5 of the RCP are relevant.

6.25 In Appendix 1, I have identified all relevant provisions that I consider relevant, in particular, the following RCP provisions which, in my opinion, have not been an adequately assess by either the Applicant's planning assessment nor the s42A Officer's Report. I consider that the assessment of the application must assess all matters and effects that have been raised as concerns above (and shall not be repeated here), including integrated management:

(a) 6.3 OBJECTIVE

The development of an integrated coastal resource management regime which recognises areas of differing levels of subdivision, use, development and conservation value.

(b) 9.2.3 OBJECTIVE

The protection of significant habitats of indigenous fauna within Northland's coastal marine area.

(c) 11.3 OBJECTIVE

The management of the natural and physical resources within Northland's coastal marine area in a manner that recognises and respects the traditional and cultural relationships of tangata whenua with the coast.

(d) 6.4 POLICIES

7. Where adverse effects of activities that are external to a Marine Management Area impact on the values of that area, then the objectives and policies of that Marine Management Area shall be taken into account.

(e) 7.4 POLICIES

3. Within Marine 1 and Marine 2 Management Areas and the rules that apply to each of those, identify what subdivision, uses and developments may be appropriate taking into consideration the actual or potential effects on natural

character as required by, amongst others, Policy 1.1.1 of the New Zealand Coastal Policy Statement¹.

4. Subject to Policies 1 and 2 above, through the use of rules in this Plan, to provide for appropriate subdivision, use and development in areas where natural character has already been compromised, including within Marine 3, Marine 4, Marine 5, and Marine 6 Management Areas.

5. To ensure a consistent approach to the assessment of the natural character of Northland's coastal marine area.

6. To promote an integrated approach to the preservation of the natural character of Northland's coastal environment as a whole.

(f) 9.2.4 POLICIES

1. To identify habitats or habitat areas of indigenous fauna that have moderate, moderate high, high or outstanding value within Northland's coastal marine area and protect these from adverse effects of subdivision, use and development.

3. In processing coastal permit applications for subdivision, use and development within all Marine Management Areas, require specific assessment of the actual and potential effects of the proposed subdivision, use or development on any significant habitat in the vicinity and, if significant, particular consideration be given to either:

(a) declining consent to the application; or

(b) requiring as a condition of the permit, mitigation and/or remedial measures to be instituted.

(g) 10.4 POLICIES

2. Where appropriate, to provide for the restriction of public access where this is necessary to protect areas of significant

¹ NZCPS 1994

indigenous vegetation, significant habitats of indigenous fauna and sites of Maori cultural value.

(h) 16.4 POLICIES

1. *To adopt a permissive approach toward recreational activities in Marine 1 and Marine 2 Management Areas, except where these:*
 - (a) require associated structures; or*
 - (b) cause adverse environmental effects, including those resulting from discharges of contaminants, excessive noise, and disturbance to significant indigenous vegetation and significant habitats of indigenous fauna; or*
 - (c) obstruct public access to and along the coastal marine area; or*
 - (d) endanger public health and safety; or*
 - (e) compromise authorised uses and developments of the coastal marine area; or*
 - (f) adversely affect the amenity values of the area.*

(i) 17.4 POLICIES

7. *In assessment of coastal permit applications to promote the integrated management of structures and their associated activities where these traverse the landward coastal marine area boundary.*
9. *In Marine 1, 2, 3 and 4 Management Areas to restrict the presence of buildings and signs within the coastal marine area.*

- (j) Part VI: RULES and Other matters identified in Appendix 1, such as Section 5 “*Philosophical Approach*” are also matters that I consider relevant for consideration in this application. This includes, but not limited to, “adopting a cautious approach to use and development” that would support the Precautionary Approach of Policy 3 of the NZCPS.
- (i) All matters, including the general performance standards and assessment criteria, methods of*

implementation, schedules, appendices and Map B26 (in Appendices 1 and 2 of this evidence and set out above) give effect to NZCPS 2010 policies, including but not limited to, Policies 4 and 11 in relation to integrated management and indigenous biodiversity.

6.26 In general, I agree with the s42A Report and the Applicant's planning assessment of the RCP matters that were considered, except for those identified in the next paragraph.

6.27 The matters I do not agree with from the s42A Report and the Applicant's planning assessment of the RCP matters that were considered are:

- (a) [Paragraph 10.4.8] Section 25 – Marine 1 (Protection) Management Area (M1PMA):
 - (i) The Applicant has not considered alternative sites nor considered whether other structures could provide the increased recreational/amenity values that are being sought.
 - (ii) The Applicant has not adequately assessed ecological effects that may arise on indigenous fauna in relation to Objective 25.3.1 (the protection of the important conservation values identified within Marine 1 (Protection) Management Areas). As identified in Policy 25.4.1, the consent authority will give priority to avoiding adverse effects on the important conservation values in Appendix 9 associated with an area within in M1PMA. For example, Criteria 5 and 6 are of relevance here:

5. Marine Mammals and Birds

Areas including or near any:

- (a) ...
- (b) *habitats of endangered, vulnerable, rare or threatened bird species;*
- (c) ...

6. Ecosystems, flora and fauna habitats

An area that contains a significant or threatened ecosystem or plant or animal species.

6.28 In my opinion, it is important that the protective direction of the planning framework in the RCP in relation to Marine 1 (Protection) Management Areas (Objectives 25.3(1) and 25.3(2)) applies to recreational use of the coastal marine area (Policy 16.4, Rules 31.3.2(a) and (c) and other methods/matters identified in Appendix 1).

6.29 These methods include Rules 31.3.2(a) and (c), which do not appear to be mentioned in the Applicant's planning assessment or evidence, or the s42A Officer's Report . I have highlighted in **yellow** the relevant matters regarding disturbance of threatened bird species:

31.3.2 RECREATIONAL ACTIVITY

Rule	Activity	Terms/ Standards/ Conditions	Classification	References
a	All recreational activity on foreshore areas, including the use of recreational vehicles and the launching and retrieval of boats and other craft that does not: (i) endanger public safety; or (ii) require associated structures; or (iii) require exclusive occupation of space; or (iv) result in any discharge or deposition of contaminants on to the foreshore, seabed or into adjacent coastal waters.	On the condition that the activity does not: (i) cause permanent physical damage to the foreshore; or (ii) result in the destruction of indigenous vegetation, including mangroves, eelgrass or saltmarsh, or beds of edible shellfish; or (iii) disturb the roosting, feeding or breeding of indigenous or migratory bird species. The activity shall comply with all relevant standards listed in section 31.3.13	Permitted	16.5.1
b	All recreational activity on foreshore areas, including the use of recreational vehicles and the launching and retrieval of boats and other craft other than at authorised boat ramps, which is not otherwise a permitted activity under Rule 31.3.2(a) by virtue of the fact that the activity: (i) requires associated structures; or (ii) requires exclusive occupation of space; or (iii) is likely to result in a discharge or deposition of contaminants on to the foreshore, seabed or into adjacent coastal waters.	On the condition that the activity does not: (i) cause permanent physical damage to the foreshore; or (ii) result in the destruction of indigenous vegetation, including mangroves, eelgrass or saltmarsh, or beds of edible shellfish; or (iii) disturb the roosting, feeding or breeding of indigenous or migratory bird species; or (iv) endanger public safety.	Discretionary	16.5.2

	<p>Any recreational activity on foreshore areas, including the use of recreational vehicles and the launching and retrieval of boats and other craft, which is not otherwise a permitted activity under Rule 31.3.2(a) nor otherwise a discretionary activity under Rule 31.3.2(b) by virtue of the fact that the activity:</p> <p>(i) causes permanent physical damage to the foreshore or seabed; or</p> <p>(ii) results in the destruction of indigenous vegetation including mangroves, eelgrass or saltmarsh, or beds of edible shellfish; or</p> <p>(iii) disturbs the roosting, feeding or breeding of indigenous or migratory bird species; or</p> <p>(iv) endangers public safety.</p>		Prohibited	16.5.2
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(Note – I have omitted the 4th column of the table in the RCP as it has no content)

6.30 Rule 31.3.2 specifies that:

- For a recreational activity to be undertaken on foreshore areas as a permitted activity, it must not disturb the roosting, feeding or breeding of indigenous or migratory bird species such as fairy terns (31.3.2(a)); and
- Any such activity which disturbs the roosting, feeding or breeding of indigenous or migratory bird species, is prohibited (31.3.2(c)). No resource consent can be granted for such an activity.

6.31 In my opinion, this sends a very clear message that recreational activities resulting in the disturbance of threatened birds are to be avoided at all costs.

Proposed Regional Plan for Northland – Appeals Version (PRP)

6.32 The consent authority must have regard to the PRP when considering an application for a resource consent.

6.33 As noted in section A of the PRP, the PRP “*is a combined regional air, land, water and coastal plan.*”

6.34 In my opinion, the PRP continues to provide a strong directive planning framework for the preservation and protection of various matters from inappropriate subdivision, use, and development of the coastal environment, as outlined in paragraph 6.5 above. This can be seen from the relevant planning provisions in Appendix 1 and as identified in the following paragraphs.

6.35 In terms of relevant planning provisions, I agree with both the Applicant's planning assessments and the s42A Officer's Report, in that the following PRP provisions are relevant:

- (a) Objectives F.1.2, F.1.3, F.1.4, F.1.7 and F.1.11; and
- (b) Policies D.1.4, D.2.2, D.2.4, D.2.11, D.2.14-D.2.18 inclusive, D.4.1 and D.5.22.

6.36 In Appendix 1, I have identified all relevant provisions that I consider relevant, in particular the following PRP provisions which, in my opinion, have not been assessed in the s42A Officer's Report, nor by the Applicant. I consider that the assessment of the application must assess all matters and effects that have been raised as concerns above (and shall not be repeated here):

- (a) *Objective F.1.8 Tangāta whenua role in decision-making*
Tangata whenua's kaitiaki role is recognised and provided for in decision-making over natural and physical resources.
- (b) *Objective F.1.10 Improving Northland's natural and physical resources*
Enable and positively recognise activities that contribute to improving Northland's natural and physical resources.
- (c) *Policy D.1.1 When an analysis of effects on tangata whenua and their taonga is required*
A resource consent application must include in its assessment of environmental effects an analysis of the effects of an activity on tangata whenua and their taonga if one or more of the following is likely:
 - 1) *adverse effects on mahinga kai or access to mahinga kai, or*

- 2) *any damage, destruction or loss of access to wāhi tapu, sites of customary value and other ancestral sites and taonga with which Māori have a special relationship, or*
- 3) *adverse effects on indigenous biodiversity in the beds of waterbodies or the coastal marine area where it impacts on the ability of tangata whenua to carry out cultural and traditional activities, or*

...

- 6) *adverse effects on protected customary rights, or*
- 7) *adverse effects on sites and areas of significance to tangata whenua mapped in the Regional Plan*
(refer I Maps |Ngā mahere matawhenua).

(d) *Policy D.1.2 Requirements of an analysis of effects on tangata whenua and their taonga*

If an analysis of the effects of an activity on tangata whenua and their taonga is required in a resource consent application, the analysis must:

- 1) *include such detail as corresponds with the scale and significance of the effects that the activity may have on tangata whenua and their taonga, and*
- 2) *have regard to (but not be limited to):*
 - a) *any relevant planning document recognised by an iwi authority (lodged with the Council) to the extent that its content has a bearing on the resource management issues of the region, and*
 - b) *the outcomes of any consultation with tangata whenua with respect to the consent application, and*
 - c) *statutory acknowledgements in Treaty Settlement legislation, and*
- 3) *follow best practice, including requesting, in the first instance, that the relevant tangata whenua undertake the assessment, and*
- 4) *specify the tangata whenua that the assessment relates to, and*
- 5) *be evidence-based, and*
- 6) *incorporate, where appropriate, mātauranga Māori, and*

- 7) *identify and describe all the cultural resources and activities that may be affected by the activity, and*
- 8) *identify and describe the adverse effects of the activity on the cultural resources and cultural practices (including the effects on the mauri of the cultural resources, the cultural practices affected, how they are affected, and the extent of the effects), and*
- 9) *identify, where possible, how to avoid, remedy or mitigate the adverse effects on cultural values of the activity that are more than minor, and*
- 10) *include any other relevant information.*

(e) Policy D.1.5 Places of significance to tangata whenua

For the purposes of this Plan, a place of significance to tangata whenua:

- 1) *is in the coastal marine area, or in a water body, where the values which may be impacted are related to any of the following:*
 - a) *...*
 - c) *aquatic ecosystems and indigenous biodiversity, and*
 - ...*

(f) Policy D.2.1 Rules for managing natural and physical resources

Include rules to manage the use, development and protection of natural and physical resources that:

- 1) *are the most efficient and effective way of achieving national and regional resource management objectives, and*
- 2) *are as internally consistent as possible, and*
- 3) *use or support good management practices, and*
- 4) *minimise compliance costs, and*
- 5) *enable use and development that complies with the Regional Policy Statement for Northland and the objectives of this Plan, and*
- 6) *focus on effects and, where suitable, use performance standards.*

- (g) Other relevant matters include, but not limited to:
- (i) rules in C.1 Coastal activities such as C.1.1 General structures, C.1.8 Coastal works general conditions in relation to structures and disturbance, lighting and noise.
 - (ii) maps containing relevant layers for 'Coastal', and 'Natural, historic and cultural heritage – fresh and coastal waters'. Refer to Map 5 in Appendix 2, the Mangawhai Harbour contains the following map layers:

- **Layers: Coastal**

- *General Marine Zone*
- *Significant Ecological Areas*
- *Significant Bird Areas*
- *Significant Marine Mammal and Seabird Areas*

- **Layers: Natural, historic and cultural heritage – fresh and coastal waters**

- *Sites and areas of significance to tangata whenua*
- *Outstanding natural features*
- Natural character:
 - *Outstanding natural character*
 - *High natural character*
- Historic heritage:
 - *Historic heritage areas*
 - *Historic heritage sites*

6.37 In general, I agree with the s42A Report assessment of the PRP matters that were considered.

6.38 In addition to the effects assessed in the s42A Report for Policy D.2.17 and Objective F.1.11, in my opinion, I consider that there may be consequential effects on the significant areas and values such as those on Mangawhai Sandpit Wildlife Refuge Area as a result of the proposed wharf increasing the volume of recreational users of the wider area as put forward in Dr

Beauchamp's evidence, as well as the projected population increase in the Managawhai district².

Section 104D matters

- 6.39 I agree with the analysis of s104D in the s42A Officer's Report. I also consider that the Applicant has not demonstrated that the s104D gateway tests can be met in respect of the objectives and policies of the operative Regional Coastal Plan. Please refer to my discussion on Policy 16.4 and the resulting Prohibited Activity Rule 31.3.2(c) which gives effect to the Policy at paragraphs 6.28 to 6.31 above.
- 6.40 In my opinion, it would be very unusual for a proposal which encourages activity that is prohibited under the Plan to be considered as being consistent with (or not contrary to) the objectives and policies of the Plan. This is a conclusion that can be reasonably reached in respect of the expert evidence of Dr Beauchamp.
- 6.41 I consider that the Applicant has not demonstrated that the *proposal is not contrary to the objectives and policies in the relevant plans. Therefore, the Applicant has not established that the proposal satisfies the gateway test in s104D, without which, the Council cannot grant consent.* I disagree with the Applicant's planning assessment and Mr Chandra's conclusions in this regard, and I agree with the conclusions in the s42A Officer's Report.

Section 104(6) discretion

- 6.42 I note for completeness that s104(6) of the RMA provides the Panel with a discretion to decline consent where it does not have adequate information to make a determination:

104(6) A consent authority may decline an application for a resource consent on the grounds that it has inadequate information to determine the application.

² Kaipara District Council, July 2020, "*Draft Mangawhai Spatial Plan*"

- 6.43 If the Panel is uncertain about the potential effects notwithstanding the expert evidence, it may exercise its discretion to decline the application under s104(6) on the basis that there is not adequate information to make a determination.

Part 2 RMA matters

- 6.44 I agree with the assessment in the s42A Officer's Report, for the reasons the Officer sets out, that an assessment of the application against the provisions of Part 2 of the RMA is not required.

7. CONCLUSION

- 7.1 In conclusion, in my opinion, I do not consider all relevant provisions of the statutory documents have been adequately assessed either by the Applicant nor the s42A Officer's Report.
- 7.2 In my opinion, the statutory framework is highly directive requiring the protection of threatened species.
- 7.3 There is uncertainty around the potential effects of the wharf proposal. For example, Dr Beauchamp's expert evidence on the effects of the wharf proposal on fairy terns considers that adverse effects will potentially be significant and Dr Beauchamp considers that the Applicant's evidence does not demonstrate that adverse effects will be no more than minor.
- 7.4 As discussed within the evidence and summarised in Appendix 1, I consider there are many other matters that may be relevant to enable the consent authority to determine the application in accordance with section 104 and s104D of the Resource Management Act 1991 (RMA).
- 7.5 In my opinion, I consider that the Applicant has not demonstrated that the proposal is not contrary to the objectives and policies in the relevant plans. Therefore, the Applicant has not established that the proposal satisfies the gateway test in s104D, without which, the Council cannot grant consent. I disagree with Mr Chandra's conclusions in this regard, and I support the conclusions in the s42A Officer's Report.

- 7.6 If the Panel is uncertain about the potential effects notwithstanding the expert evidence, it may exercise its discretion to decline the application under s104(6) on the basis that there is not adequate information to make a determination.

A handwritten signature in blue ink, appearing to read 'L. Kirk', is positioned above the printed name.

Linda Elizabeth Kirk

11 September 2020

APPENDIX 1: Relevant Planning Provisions

KEY

Relevant planning provisions identified by:

- Both the Applicant’s planning assessment in Appendix 3 of the application and the s42A Officer’s Report
- Only Applicant’s planning assessment in Appendix 3 of the application and/or Mr Chandra’s statement of evidence
- Only the s42A Officer’s Report
- Kirk all other additional planning provisions

Statutory Document	Objectives	Policies	Rules	Other methods/matters
New Zealand Coastal Policy Statement (NZCPS)	<ul style="list-style-type: none">Objective 1: Coastal environment and ecosystems;Objective 2: Natural character, natural features and landscape values;Objective 3: Treaty of Waitangi and tangata whenua;Objective 4: Public access and recreation;Objective 5: Coastal hazard risk;Objective 6: Social, economic and cultural wellbeing;Objective 7: International obligations³	<ul style="list-style-type: none">Policy 1: Extent and characteristics of the coastal environment;Policy 2: The Treaty of Waitangi, tangata whenua and Maori;Policy 3: Precautionary approach;Policy 4: Integration;Policy 5: Land or waters managed or held under other Acts;Policy 6: Activities in the coastal environment;Policy 11: Indigenous biological diversity (biodiversity);Policy 13: Preservation of Natural Character;Policy 15: Natural features and natural landscapes;Policy 17: Historic heritage identification and protection;Policy 18: Public open space;Policy 19: Walking access		
Regional Policy Statement for Northland	<ul style="list-style-type: none">Objective 3.4: Indigenous ecosystems and biodiversityObjective 3.8: Efficient and effective infrastructureObjective 3.10: Use and allocation of common resourcesObjective 3.12: Tangata whenua role in decision-making	<ul style="list-style-type: none">4.4.1 Policy – Maintaining and protecting significant ecological areas and habitats4.5.1 Policy – Identification of the coastal environment, outstanding natural features and outstanding natural landscapes and high and outstanding natural character4.5.2 Policy – Application of the Regional Policy Statement – Maps4.6.1 Policy – Managing effects on the characteristics and qualities natural character, natural features and landscapes4.6.2 Policy – Maintaining the integrity of heritage resources		<p>PART 9: ENVIRONMENTAL RESULTS ANTICIPATED</p> <p>Objective 3.4</p> <p>4.4 Maintaining and enhancing indigenous ecosystems and species</p> <p>8. A progressive increase in the area of indigenous ecosystems and habitats on private land, in water bodies, and in the coastal marine area under protection.</p> <p>9. No increase in the number of regionally threatened species in Northland as a result of subdivision, use and development.</p>

³ For example, United Nations 1992, “Convention on Biological Diversity” may apply

Statutory Document	Objectives	Policies	Rules	Other methods/matters
	<ul style="list-style-type: none"> • Objective 3.14: Natural character, outstanding natural features, outstanding natural landscapes and historic heritage • Objective 3.15: Active management 	<ul style="list-style-type: none"> • 4.7.1 Policy – Promote active management • 4.8.1 Policy – Demonstrate the need to occupy space in the common marine and coastal area • 4.8.3 Policy – Coastal permit duration • 5.1.1 Policy – Planned and coordinated development • 5.1.2 Policy – Development in the coastal environment 		<p>Objective 3.14</p> <p>4.5 Identifying the coastal environment and significant natural character, features / landscapes and historic heritage resources</p> <p>10. The Regional Policy Statement – Maps of Outstanding natural landscapes and features, high and outstanding natural character areas and the coastal environment provide a consistent basis for appropriate management of these resources.</p> <p>11. Policy 4.5.3 provides a consistent basis for assessing, recording and appropriate management of historic heritage.</p> <p>Objective 3.14</p> <p>4.6 Managing effects on natural character, features / landscapes and heritage</p> <p>12. The integrity of Outstanding natural landscapes, outstanding natural features and outstanding natural character are not subject to inappropriate degradation over the life of the Regional Policy Statement.</p> <p>13. The coastal environment, landscape and natural character of Northland remains a primary attraction for visitors.</p> <p>14. Heritage features that meet the criteria in Policy 4.5.3 are added regularly into plans and no significant reduction in the number of such features in plans occurs due to modification / destruction.</p> <p>15. Cultural / heritage impact assessments are required in consent processes where heritage features are potentially affected and the information they provide is reflected in decisions and/or conditions of consent.</p> <p>Objective 3.10</p> <p>4.8 Efficient use of coastal water space</p> <p>21. All new structures and in the common marine and coastal area are an efficient use of the space.</p> <p>Objective 3.12</p> <p>8.1, 8.2 and 8.3 Tangata Whenua</p> <p>41. Tangata whenua values and their kaitiaki role are considered in all resource management decisions.</p> <p>42. Improved working relationships with iwi and hapū to achieve mutually acceptable environmental outcomes.</p> <p>Appendix 1 - Mapping methods</p> <ul style="list-style-type: none"> • Landscape assessment criteria • Natural character assessment criteria • Coastal environment assessment criteria • Outstanding natural features <p>Appendix 2 – Regional development and design guidelines</p> <p>New subdivision, use and development should:</p>

Statutory Document	Objectives	Policies	Rules	Other methods/matters
				<p>(k) Be directed away from 10-year and 100-year flood areas and high risk coastal hazard areas (refer to 'Natural hazards' for more details and guidance); and</p> <p>(l) Seek to maintain or improve outstanding landscape and natural character values and provide for the protection of significant historic and cultural heritage from inappropriate subdivision, use and development (refer to 'Land, Water and Common Resources' for more details and guidance); and</p> <p>(m) Protect significant ecological areas and species, and where possible enhance indigenous biological diversity (refer to 'Maintaining and enhancing indigenous ecosystems and species' for more details and guidance); and</p> <p>(n) Maintain and improve public access to and along the coastal marine area, lakes and rivers; and</p> <p>(o) Avoid or mitigate adverse effects on natural hydrological characteristics and processes (including aquifer recharge), soil stability, water quality and aquatic ecosystems, including through low impact design methods where appropriate; and</p> <p>(p) Adopt, where appropriate, sustainable design technologies such as the incorporation of energy-efficient (including passive solar) design, low-energy street lighting, rain gardens, renewable energy technologies, rainwater storage and grey water recycling techniques; and</p> <p>(q) Be designed to allow adaptation to the projected effects of climate change (refer to 'Natural Hazards' for more details and guidance); and</p> <p>(r) Consider effects on the unique tangata whenua relationships, values, aspirations, roles and responsibilities with respect to the site of development; and ...</p> <p>(t) Take into account adopted regional / sub-regional growth strategies;</p> <p>Appendix 4 – Outstanding natural features</p> <p>Appendix 5 - Areas of significant indigenous vegetation and significant habitats of indigenous fauna in terrestrial, freshwater and marine environments</p>
Regional Coastal Plan for Northland	<p>6. MARINE MANAGEMENT AREAS</p> <p>6.3 OBJECTIVE The development of an integrated coastal resource management regime which recognises areas of differing levels of subdivision, use, development and conservation value.</p> <p>7. PRESERVATION OF NATURAL CHARACTER</p>	<p>6. MARINE MANAGEMENT AREAS</p> <p>6.4 POLICIES</p> <p>1. To define areas, within Northland's coastal marine area, which are considered to have important conservation value as Marine 1 (Protection) Management Areas and manage</p>	<p>PART VI: RULES</p> <p>31.3 MARINE 1 (PROTECTION) MANAGEMENT AREA</p> <p>31.3.1 MARINE MANAGEMENT AREA STATEMENT Marine 1 Management Areas are those identified as being areas of important conservation value. The priority in these areas will be the protection of those</p>	<p>5. PHILISOPHICAL APPROACH</p> <p>5.1 USE OF THE COAST AS PUBLIC SPACE</p> <p>5.2 IWI PERSPECTIVE</p> <p>5.3 RECOGNITION OF EXISTING USES</p> <p>5.4 ADOPTING A CAUTIOUS APPROACH TO USE AND DEVELOPMENT</p> <p>5.5 CROSS BOUNDARY ISSUES</p> <p>6.5 METHODS OF IMPLEMENTATION</p> <p>1. For the purposes of this Plan, Northland's coastal marine area extends from the landward boundary</p>

Statutory Document	Objectives	Policies	Rules	Other methods/matters						
	<p>7.3 OBJECTIVE The preservation of the natural character of Northland's coastal marine area, and the protection of it from inappropriate subdivision, use and development.</p> <p>8. NATURAL FEATURES AND LANDSCAPES</p> <p>8.3 OBJECTIVE The identification, and protection from inappropriate subdivision, use and development of outstanding natural features and landscapes which are wholly or partially within Northland's coastal marine area.</p> <p>9. PROTECTION OF SIGNIFICANT INDIGENOUS VEGETATION AND THE HABITATS OF SIGNIFICANT INDIGENOUS FAUNA</p> <p>9.2 HABITATS OF INDIGENOUS FAUNA</p> <p>9.2.3 OBJECTIVE The protection of significant habitats of indigenous fauna within Northland's coastal marine area.</p> <p>10. PUBLIC ACCESS 10.3 OBJECTIVES 1. The maintenance and enhancement of public access to and along Northland's coastal marine area except where restriction on that access is necessary.</p> <p>2. The integrated management of vehicular use of beaches, including access to and along the coastal marine area, between administrative agencies, non-governmental agencies and communities.</p> <p>11. RECOGNITION OF AND PROVISION FOR MAORI AND THEIR CULTURE AND TRADITIONS</p> <p>11.3 OBJECTIVE</p>	<p>them in such a manner that the conservation values of the individual areas are protected.⁴</p> <p>7. Where adverse effects of activities that are external to a Marine Management Area impact on the values of that area, then the objectives and policies of that Marine Management Area shall be taken into account.</p> <p>7. PRESERVATION OF NATURAL CHARACTER</p> <p>7.4 POLICIES</p> <p>1. In assessing the actual and potential effects of an activity to recognise that all parts of Northland's coastal marine area have some degree of natural character which requires protection from inappropriate subdivision, use and development.</p> <p>2. As far as reasonably practicable to avoid the adverse environmental effects including cumulative effects of subdivision, use and development on those qualities which collectively make up the natural character of the coastal marine area including: (a) natural water and sediment movement patterns; (b) landscapes and associated natural features; (c) indigenous vegetation and the habitats of indigenous fauna; (d) water quality; (e) cultural heritage values, including historic places and sites of special significance to Maori; (f) air quality;</p> <p>and where avoidance is not practicable, to mitigate adverse effects and provide for remedying those effects to the extent practicable.</p> <p>3. Within Marine 1 and Marine 2 Management Areas and the rules that apply to each of those, identify what subdivision, uses and developments may be appropriate taking into consideration the actual or potential effects on natural character as required by, amongst others, Policy 1.1.1 of the New Zealand Coastal Policy Statement.</p> <p>4. Subject to Policies 1 and 2 above, through the use of rules in this Plan, to provide for appropriate subdivision, use and development in areas where natural character has already been compromised, including within Marine 3, Marine 4, Marine 5, and Marine 6 Management Areas.</p>	<p>important conservation values identified as occurring within each particular area.</p> <p>31.3.2RECREATIONAL ACTIVITY - a All recreational activity on foreshore areas, including the use of recreational vehicles and the launching and retrieval of boats and other craft that does not: (i) endanger public safety; or (ii) require associated structures; or (iii) require exclusive occupation of space; or (iv) result in any discharge or deposition of contaminants on to the foreshore, seabed or into adjacent coastal waters.</p> <p>Terms/ Standards/ Conditions: On the condition that the activity does not: (i) cause permanent physical damage to the foreshore; or (ii) result in the destruction of indigenous vegetation, including mangroves, eelgrass or saltmarsh, or beds of edible shellfish; or (iii) disturb the roosting, feeding or breeding of indigenous or migratory bird species.</p> <p>The activity shall comply with all relevant standards listed in section 31.3.13</p> <p>Classification: Permitted</p> <p>- b All recreational activity on foreshore areas, including the use of recreational vehicles and the launching and retrieval of boats and other craft other than at authorised boat ramps, which is not otherwise a permitted activity under Rule 31.3.2(a) by virtue of the fact that the activity:</p>	<p>of Mean High Water Spring out to the 12 nautical mile limit. The agreed cross-river boundaries for Northland's coastal marine area are shown in Appendix 1. The coastal marine area has been divided up under the following six zones or Marine Management Areas: • Marine 1 (Protection)</p> <p>...</p> <p>The Marine 1 (Protection) Management Area is applied to those areas within Northland's coastal marine area identified as being Areas of Important Conservation Value. The priority in these areas will be the protection of those significant described values specifically identified as occurring within each particular area. The boundaries and values of these areas are summarised in Appendix 6. For more specific boundary location information contact the Northland Regional Council.</p> <p>Schedules:</p> <p>SCHEDULE 1: EXISTING STRUCTURES (PERMITTED)</p> <p>SCHEDULE 2: EXISTING STRUCTURES (CONTROLLED)</p> <p>Appendices:</p> <p>APPENDIX 1: CROSS-RIVER COASTAL MARINE AREA BOUNDARIES</p> <p>APPENDIX 5: INFORMATION REQUIREMENTS FOR COASTAL PERMIT APPLICATIONS</p> <p>APPENDIX 6: MARINE MANAGEMENT AREA BOUNDARIES</p> <p>MARINE 1 (PROTECTION) MANAGEMENT AREAS (page 556)</p> <table><tr><th>NAME</th><th>AREA</th><th>VALUES</th></tr><tr><td>Mangawhai Estuary</td><td>The entire Coastal Marine Area identified within Mangawhai Harbour including an area extending outside the harbour</td><td>Protected areas, coastal wetlands, marine mammals, birds, ecosystems and habitat values. Inter-tidal areas, shellbanks and estuary provide important significant habitat for</td></tr></table>	NAME	AREA	VALUES	Mangawhai Estuary	The entire Coastal Marine Area identified within Mangawhai Harbour including an area extending outside the harbour	Protected areas, coastal wetlands, marine mammals, birds, ecosystems and habitat values. Inter-tidal areas, shellbanks and estuary provide important significant habitat for
NAME	AREA	VALUES								
Mangawhai Estuary	The entire Coastal Marine Area identified within Mangawhai Harbour including an area extending outside the harbour	Protected areas, coastal wetlands, marine mammals, birds, ecosystems and habitat values. Inter-tidal areas, shellbanks and estuary provide important significant habitat for								

⁴ “The **Marine 1 (Protection) Management Area** is applied to those areas within Northland's coastal marine area identified as being Areas of Important Conservation Value. The priority in these areas will be the protection of those significant described values specifically identified as occurring within each particular area. The boundaries and values of these areas are summarised in Appendix 6. For more specific boundary location information contact the Northland Regional Council.” (source: RCP, 6.5.1 Methods of Implementation)

Statutory Document	Objectives	Policies	Rules	Other methods/matters			
	<p>The management of the natural and physical resources within Northland's coastal marine area in a manner that recognises and respects the traditional and cultural relationships of tangata whenua with the coast.</p> <p>12. CULTURAL HERITAGE VALUES</p> <p>12.3 OBJECTIVE 1. The recognition and protection of sites, buildings and other structures, places or areas of cultural heritage value within Northland's coastal marine area.</p> <p>13. WATER QUALITY</p> <p>13.3 OBJECTIVE The maintenance, and where practicable, enhancement of water quality within Northland's coastal marine area.</p> <p>15. NATURAL HAZARD MANAGEMENT</p> <p>15.3 OBJECTIVES 1. The avoidance, remediation, or mitigation of the adverse effects of natural hazards on coastal subdivision, use and development.</p> <p>2. The avoidance, remediation, or mitigation of the adverse effects of subdivision, use and development on the exacerbation of natural hazards in the coastal marine area.</p> <p>PART V: USE AND DEVELOPMENT POLICY</p> <p>16. RECREATION</p> <p>16.3 OBJECTIVE Provision for recreational uses of the coastal marine area while avoiding, remedying, and mitigating the adverse effects of recreational activities on other users and the environment.</p> <p>17. STRUCTURES</p> <p>17.3 OBJECTIVE</p>	<p>5. To ensure a consistent approach to the assessment of the natural character of Northland's coastal marine area.</p> <p>6. To promote an integrated approach to the preservation of the natural character of Northland's coastal environment as a whole.</p> <p>7. To promote, where appropriate, the restoration and rehabilitation of the natural character of the coastal marine area where it has been significantly degraded.</p> <p>8. NATURAL FEATURES AND LANDSCAPES</p> <p>8.4 POLICIES 1. To recognise and provide for the protection from inappropriate subdivision, use and development of outstanding landscape values, such as those identified in the landscape assessment studies that have been commissioned by district councils of the Northland region of the following areas:</p> <ul style="list-style-type: none">• ...• Mangawhai sandspit• ... <p>2. To recognise and provide for the protection from inappropriate subdivision, use and development of landforms and/or geological features of international, national or regional importance which are wholly or partially within Northland’s coastal marine area.</p> <p>3. To identify and protect from inappropriate subdivision, use and development any other regionally outstanding features and landscapes within Northland's coastal marine area in a co-ordinated and consistent manner.</p> <p>4. To promote the identification and protection of outstanding natural features and landscapes immediately adjacent to Northland's coastal marine area in a co-ordinated and consistent manner.</p> <p>9. PROTECTION OF SIGNIFICANT INDIGENOUS VEGETATION AND THE HABITATS OF SIGNIFICANT INDIGENOUS FAUNA</p> <p>9.2 HABITATS OF INDIGENOUS FAUNA</p> <p>9.2.4 POLICIES 1. To identify habitats or habitat areas of indigenous fauna that have moderate, moderate high, high or outstanding value within Northland's coastal marine area and protect these from adverse effects of subdivision, use and development.</p>	<p>(i) requires associated structures; or</p> <p>(ii) requires exclusive occupation of space; or</p> <p>(iii) is likely to result in a discharge or deposition of contaminants on to the foreshore, seabed or into adjacent coastal waters.</p> <p>Terms/ Standards/ Conditions: On the condition that the activity does not::</p> <p>(i) cause permanent physical damage to the foreshore; or</p> <p>(ii) result in the destruction of indigenous vegetation, including mangroves, eelgrass or saltmarsh, or beds of edible shellfish; or</p> <p>(iii) disturb the roosting, feeding or breeding of indigenous or migratory bird species; or</p> <p>(iv) endanger public safety.</p> <p>Classification: Discretionary</p> <p>- c Any recreational activity on foreshore areas, including the use of recreational vehicles and the launching and retrieval of boats and other craft, which is not otherwise a permitted activity under Rule 31.3.2(a) nor otherwise a discretionary activity under Rule 31.3.2(b) by virtue of the fact that the activity:</p> <p>(i) causes permanent physical damage to the foreshore or seabed; or</p> <p>(ii) results in the destruction of indigenous vegetation including mangroves, eelgrass or saltmarsh, or beds of edible shellfish; or</p> <p>(iii) disturbs the roosting, feeding or breeding of indigenous or migratory bird species; or</p> <p>(iv) endangers public safety.</p> <p>Classification: Discretionary</p> <p>31.3.13 GENERAL PERFORMANCE STANDARDS The following standards shall apply to all specified permitted,</p>	<table><tr><td></td><td>entrance, excluding the specific MM4 Area as indicated in the Coastal Plan Maps, Map Sheet B26.</td><td>international migratory and NZ endemic wading and wetland birds, including some threatened species and an endangered sub-species.</td></tr></table> <p>APPENDIX 9: CRITERIA USED TO DETERMINE AREAS OF IMPORTANT CONSERVATION VALUE</p> <p><i>Part I – Criteria used to determine those areas of important conservation value identified in the Plan as Marine 1 Management Areas</i></p> <p>The Council has used the following criteria to determine those areas of important conservation value identified in the Plan as Marine 1 Management Areas. The criteria are based on the criteria contained in Schedule 2 of the Draft New Zealand Coastal Policy Statement. In addition to these criteria, a new criteria has been inserted (1. Tangata Whenua Customary Rights) to ensure that Customary Rights found to exist in an area being considered for change of status to Marine 1 (Protection) Management Area are not abrogated, or diminished, if the area is made a Marine 1 (Protection) Management Area.</p> <p>1. Tangata Whenua Customary Rights Where any court or tribunal given competent jurisdiction by Government, or subsequent Appellate Courts, has determined the existence and nature of Customary Rights, the potential adverse effects on the exercise of those customary rights should be established prior to the area identified being proposed as a Marine 1 (Protection) Management Area in the Regional Coastal Plan.</p> <p>2. Maori cultural values Areas of significance identified by the tangata whenua in accordance with tikanga Maori, including waahi tapu, urupa, tauranga waka and mahinga maataitai.</p> <p>3. Protected areas Where there are protected areas below Mean High Water Springs: Any gazetted marine reserve, marine mammal sanctuary, marine park or other marine protected area, including adequate buffer areas. A notified marine reserve, marine mammal sanctuary, marine park or other marine protected area may be considered, including adequate buffer areas.</p> <p>Where there are protected areas above Mean High Water Springs: Where there are formally protected areas above mean high water springs, consideration may be given to including the adjoining area below mean high water springs to protect the values for which the area is protected.</p>		entrance, excluding the specific MM4 Area as indicated in the Coastal Plan Maps, Map Sheet B26.	international migratory and NZ endemic wading and wetland birds, including some threatened species and an endangered sub-species.
	entrance, excluding the specific MM4 Area as indicated in the Coastal Plan Maps, Map Sheet B26.	international migratory and NZ endemic wading and wetland birds, including some threatened species and an endangered sub-species.					

Statutory Document	Objectives	Policies	Rules	Other methods/matters
	<p>The provision for appropriate structures within the coastal marine area while avoiding, remedying or mitigating the adverse effects of such structures.</p> <p>22. DREDGING AND DREDGING SPOIL DISPOSAL</p> <p>22.3 OBJECTIVE Provision for capital and maintenance dredging that is needed for the establishment and operation of appropriate facilities in the coastal marine area (such as Marinas and Ports), while avoiding, remedying, or mitigating the adverse effects of such dredging and any associated spoil disposal in the coastal marine area.</p> <p>25. MARINE 1 (PROTECTION) MANAGEMENT AREA</p> <p>25.3 OBJECTIVES</p> <p>1. The protection of the important conservation values identified within Marine 1 (Protection) Management Areas including their ecological, cultural, historic, scientific, scenic, landscape and amenity values.</p> <p>2. Subdivision, use, and development in Marine 1 (Protection) Management Areas occurring without adverse effects on the areas' important values and natural character.</p> <p>3. To achieve local community involvement in the identification and protection of the important conservation values (as identified in Appendix 9), and the preservation of the natural character, of areas within the Marine 1 (Protection) Management Area.</p>	<p>2. To provide for the restoration and enhancement, where necessary, of significant habitats of estuarine and marine fauna, in Marine 1 and Marine 2 Management Areas.</p> <p>3. In processing coastal permit applications for subdivision, use and development within all Marine Management Areas, require specific assessment of the actual and potential effects of the proposed subdivision, use or development on any significant habitat in the vicinity and, if significant, particular consideration be given to either: (a) declining consent to the application; or (b) requiring as a condition of the permit, mitigation and/or remedial measures to be instituted.</p> <p>10. PUBLIC ACCESS</p> <p>10.4 POLICIES</p> <p>1. To promote, and where appropriate, facilitate improved public access to and along the coastal marine area where this does not compromise the protection of areas of significant indigenous vegetation, significant habitats of indigenous fauna, Maori cultural values, public health and safety, or security of commercial operations.</p> <p>2. Where appropriate, to provide for the restriction of public access where this is necessary to protect areas of significant indigenous vegetation, significant habitats of indigenous fauna and sites of Maori cultural value.</p> <p>12. CULTURAL HERITAGE VALUES</p> <p>12.4 POLICIES</p> <p>3. In assessing the potential effects of a proposed activity to identify whether an activity will have an adverse effect on a known site, building, place or area of cultural heritage value within the coastal marine area or on adjoining land.</p> <p>15. NATURAL HAZARD MANAGEMENT</p> <p>15.4 POLICIES</p> <p>1. To promote a consistent and co-ordinated approach toward managing coastal erosion and other natural hazards in Northland, including the identification and protection of natural systems which are a natural defence against erosion and inundation.</p> <p>2. In consideration of coastal permit applications as far as practicable, to ensure that use and development, including coastal works, structures and reclamations within the coastal marine area: (a) are located and designed so as to avoid risk of damage by natural hazards; and,</p>	<p>controlled, restricted discretionary and discretionary activities, and to all non-complying activities, listed in the Marine 1 (Protection) Management Area: (a) Noise generated as a result of activity within the coastal marine area shall comply with the following standards: (i) the activity shall not cause excessive noise as defined in section 326 of the Resource Management Act; and (ii) any construction or maintenance activity near coastal subdivisions or other urban areas shall comply with the noise standards of the district council which is responsible for the use of the adjoining land.</p> <p>(b) All lighting associated with activities in the coastal marine area shall not by reason of its direction, colour or intensity, create: (i) a hazard to navigation and safety; or (ii) a hazard to traffic safety on wharves, ramps, and adjacent roads; or (iii) a nuisance to other users of the surrounding coastal marine area or adjacent land.</p> <p>(c) Discharges to water shall, after reasonable mixing, comply with the relevant receiving water quality standards and shall not contain any contaminants which could cause: (i) the production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials. (ii) any conspicuous change in the colour or visual clarity of the receiving waters. (iii) any emission of objectionable odour. (iv) accumulation of debris on the foreshore or seabed underlying or adjacent to the discharge point.</p>	<p>4. Wetlands, Estuaries and Coastal Lagoons Any wetland, estuary, or coastal lagoon in the coastal marine area which is of national or international importance, including those: (a) necessary to act as buffer zones; (b) that are important spawning grounds or nurseries for marine and freshwater species; (c) where related catchments, marginal land and tidal flats have been minimally modified; (d) strategically situated to act as stepping stones for migratory species along coastal tracts.</p> <p>5. Marine Mammals and Birds Areas including or near any: (a) marine mammal breeding or haul-out site; (b) habitats of endangered, vulnerable, rare or threatened bird species; (c) important roost sites, or feeding areas of wading birds.</p> <p>6. Ecosystems, flora and fauna habitats An area that contains a significant or threatened ecosystem or plant or animal species.</p> <p>7. Outstanding Natural Landscapes and Features A part of the coastal marine area that forms part of an outstanding natural landscape or seascape, or contains an outstanding natural feature.</p> <p>8. Historic Places Historic places of national or outstanding significance (including archaeological sites adjoining mean high water springs), including places where the values relate to the coastal marine area as well as to the land.</p> <p>9. Coastal landforms and associated processes Representative examples of nationally significant or outstanding coastal landforms and their associated sediment transport systems and sources including: (a) Submerged landforms (e.g. fiords, drowned river valleys, banks, reefs, moraines and drowned shorelines); (b) Erosional landforms including those that have been carved out of the land by the sea (e.g. shore platforms and submarine canyons); (c) Geologically rare or unusual features of very high quality.</p> <p>B SERIES MAP</p> <ul style="list-style-type: none"> B26 Mangawhai Harbour RCP Legend

Statutory Document	Objectives	Policies	Rules	Other methods/matters
		<p>(b) cause minimal interference with natural sediment transport processes.</p> <p>PART V: USE AND DEVELOPMENT POLICY</p> <p>16. RECREATION</p> <p>16.4 POLICIES</p> <p>1. To adopt a permissive approach toward recreational activities in Marine 1 and Marine 2 Management Areas, except where these:</p> <ul style="list-style-type: none"> (a) require associated structures; or (b) cause adverse environmental effects, including those resulting from discharges of contaminants, excessive noise, and disturbance to significant indigenous vegetation and significant habitats of indigenous fauna; or (c) obstruct public access to and along the coastal marine area; or (d) endanger public health and safety; or (e) compromise authorised uses and developments of the coastal marine area; or (f) adversely affect the amenity values of the area. <p>2. In consideration of coastal permit applications, subject to relevant protection policies within this Plan, to provide for new uses and developments within Marine 1, Marine 2, and Marine 4 Management Areas which maintain or enhance recreational opportunities within the coastal marine area.</p> <p>3. In consideration of coastal permit applications within all Marine Management Areas, to ensure that uses and developments which occupy coastal space or utilise coastal resources, do not unnecessarily compromise existing recreational activities.</p> <p>4. Within Marine 1, Marine 2 and Marine 4 Management Areas, to help ensure that the use of recreational vessels and vehicles does not create a public nuisance within the coastal environment, or compromise the health and safety of other users, or result in adverse effects on the environment of the coastal marine area.</p> <p>17. STRUCTURES</p> <p>17.4 POLICIES</p> <p>1. To provide for the continued lawfully established use of existing authorised structures within Northland's coastal marine area.</p> <p>2. Within all Marine Management Areas, to provide for:</p> <ul style="list-style-type: none"> (a) the authorisation of appropriate existing unauthorised structures and to facilitate (b) the removal of all other unauthorised existing structures which do not meet those specified criteria. 	<p>(v) any significant adverse effects on aquatic life or public health.</p> <p>(d) Any modification of the contour of the foreshore caused during any authorised construction or maintenance activity other than dredging shall be restored as soon as practicable after the completion of the construction or maintenance activity.</p> <p>(e) Unless expressly authorised to do so by a coastal permit, structures within the coastal marine area shall not unduly impede safe navigation within natural drainage channels or unduly restrict the flow of flood waters within such channels.</p> <p>31.3.4 STRUCTURES</p> <ul style="list-style-type: none"> • m The erection of any new structure and the occupation of space for and use of any new structure (other than those structures provided for as permitted, controlled, discretionary or prohibited activities). <p>Classification: Non-complying</p> <ul style="list-style-type: none"> • o The erection, placement and occupation of space for and alteration, or maintenance and repair of navigation aids which have the approval of the Maritime Safety Authority or the Harbourmaster and is not otherwise a permitted activity under Rule 31.3.4(l). <p>Terms/ Standards/ Conditions: The term of the coastal permit shall be up to 25 years. The activity shall comply with all relevant standards listed in section 31.3.13</p> <p>Classification: Controlled</p>	

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		<p>3. Within all Marine Management areas, to consider structures generally appropriate where:</p> <p>(a) there is an operational need to locate the structure within the coastal marine area; and</p> <p>(b) there is no practical alternative location outside the coastal marine area; and</p> <p>(c) multiple use is being made of structures to the extent practicable; and</p> <p>(d) any landward development necessary to the proposed purpose of the structure can be accommodated; and</p> <p>(e) any adverse effects are avoided as far as practicable, and where avoidance is not practicable, to mitigate adverse effects to the extent practicable.</p> <p>A structure that does not meet all of the considerations listed above may also be an appropriate development, depending on the merits of the particular proposal.</p> <p>4. Notwithstanding Policy 3, within Marine 1 and Marine 2 Management Areas, to assess applications for new structures, with particular reference to the nature of and reasons for the proposed structures in the coastal marine area and to any potential effects on the natural character of the coastal marine area, on public access, and on sites or areas of cultural heritage value.</p> <p>7. In assessment of coastal permit applications to promote the integrated management of structures and their associated activities where these traverse the landward coastal marine area boundary.</p> <p>8. In assessment of coastal permit applications to require that all structures within the coastal marine area are maintained in good order and repair and that appropriate construction materials are used.</p> <p>9. In Marine 1, 2, 3 and 4 Management Areas to restrict the presence of buildings and signs within the coastal marine area.</p> <p>22. DREDGING AND DREDGING SPOIL DISPOSAL</p> <p>22.4 POLICIES</p> <p>1. Within Marine 1, Marine 2, Marine 4 and Marine 6 Management Areas, to restrict capital dredging except where the dredging activity is associated with a marina or port development, and in making such exceptions, integrate where appropriate, in accordance with sections 102 and 103 of the Act, any required consent process for associated dredging spoil disposal.</p> <p>4. Within Marine 2, Marine 4, Marine 5 and Marine 6 Management Areas, to provide for maintenance dredging of navigation channels and around wharves, and where</p>	<ul style="list-style-type: none"> • s The placement of signs by any statutory authority directly relating to information and safety matters concerning the coastal marine area; or as required by or in terms of any coastal permit, or the Building Act 1991. <p>Terms/ Standards/ Conditions: The activity shall comply with all relevant standards listed in section 31.3.13</p> <p>Classification: Permitted</p> <ul style="list-style-type: none"> • t The erection or placement of a new building or houseboat <p>Classification: Non-complying</p> <p>31.3.13 GENERAL PERFORMANCE STANDARDS The following standards shall apply to all specified permitted, controlled, restricted discretionary and discretionary activities, and to all non-complying activities, listed in the Marine 1 (Protection) Management Area:</p> <p>(a) Noise generated as a result of activity within the coastal marine area shall comply with the following standards:</p> <p>(i) the activity shall not cause excessive noise as defined in section 326 of the Resource Management Act; and</p> <p>(ii) any construction or maintenance activity near coastal subdivisions or other urban areas shall comply with the noise standards of the district council which is responsible for the use of the adjoining land.</p>	

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		<p>appropriate, in accordance with sections 102 and 103 of the Act, to integrate any required consent process for associated dredging spoil disposal.</p> <p>25. MARINE 1 (PROTECTION) MANAGEMENT AREA</p> <p>25.4 POLICIES</p> <p>1. The Council and Consent Authorities will give priority to avoiding adverse effects on the important conservation values (as identified in Appendix 9) associated with an area within any Marine 1 (Protection) Management Area when considering the subdivision, use, development and protection of the Northland Region's Coastal Marine Area.</p> <p>2. The Northland Regional Council will consider additional means of protecting the important conservation values identified in the Marine 1 (Protection) Management Areas beyond the scope of the Resource Management Act 1991, and encourage other agencies including the Department of Conservation, Ministry of Fisheries and Iwi Authorities to do the same.</p> <p>3. When considering any coastal permit application within the Marine 1 (Protection) Management Area, to implement the policies in the New Zealand Coastal Policy Statement and in Part IV (Protection Policy) of the Regional Coastal Plan for Northland which are consistent with the purpose of this Marine Management Area.</p> <p>4. Subdivision, use and development proposals within the Marine 1 (Protection) Management Area will be considered appropriate where;</p> <p>(a) the proposal gives rise to a demonstrable public benefit; and</p> <p>(b) there are no practical alternative locations available outside the Marine 1 (Protection) Management Area; and</p> <p>(c) the level of adverse effects on the important conservation values identified as occurring within that particular area are no more than minor.</p> <p>5. Where the natural character of the coastal marine area is likely to be adversely affected by the effects of activities, the Council and Consent Authorities shall promote and where appropriate require restoration and rehabilitation of natural character within the Marine 1 (Protection) Management Area. Such provision may include financial contributions sought under Section 108 of the Resource Management Act 1991.</p>	<p>(b) All lighting associated with activities in the coastal marine area shall not by reason of its direction, colour or intensity, create:</p> <p>(i) a hazard to navigation and safety; or</p> <p>(ii) a hazard to traffic safety on wharves, ramps, and adjacent roads; or</p> <p>(iii) a nuisance to other users of the surrounding coastal marine area or adjacent land.</p> <p>...</p> <p>(d) Any modification of the contour of the foreshore caused during any authorised construction or maintenance activity other than dredging shall be restored as soon as practicable after the completion of the construction or maintenance activity.</p> <p>(e) Unless expressly authorised to do so by a coastal permit, structures within the coastal marine area shall not unduly impede safe navigation within natural drainage channels or unduly restrict the flow of flood waters within such channels.</p> <p>32 ASSESSMENT CRITERIA</p> <p>This section sets out matters in respect of which the Council may exercise its discretion when making decisions on coastal permit applications.</p> <p>• 32.1 GENERAL CRITERIA</p> <p>The primary criteria for assessing applications for coastal permits are the relevant provisions of the Resource Management Act, New Zealand Coastal Policy Statement and the Regional Policy Statement which in turn require regard to be had to the objectives and policies within this Plan. These criteria are intended to assist the consent authority and applicants in determining the actual and potential effects of activities which are subject to consent</p>	

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			<p>requirements under section 26 of this Plan.</p> <p>Additional general assessment criteria which will be applied in the consideration of applications for discretionary activities and non-complying activities within all marine management areas are set out below:</p> <ol style="list-style-type: none"> 1. The reasons for and operational requirements of the proposed use or development within the coastal marine area and the extent to which alternative options to a location within the coastal marine area have been considered. 2. The extent to which existing facilities of a similar scale and nature to the proposed use or development are: <ol style="list-style-type: none"> (a) located in the vicinity of the site of the proposed use or development especially on land; and, (b) are fully utilised or otherwise not able to satisfy the potential demand for such use or development. 3. The extent to which the proposal will add to the cumulative adverse effects of use and development on the coastal environment, including those associated with similar existing uses or developments within the same locality. 4. The extent to which cumulative effects on the coastal environment can be minimised. 5. The extent to which the proposal will avoid sprawling, sporadic or ad hoc use or development in the coastal environment. 6. The extent to which the proposed activity is consistent with the planning provisions of the adjacent land (where there are associated land-based requirements) 7. The extent to which the proposed use or development will maintain or enhance public 	

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			<p>access to and along the coastal marine area, or to land, with consideration being given to the adverse effects such access would have on the natural character of the coastal environment.</p> <p>8. The extent to which the proposed activity will maintain or enhance recreational opportunities in the coastal marine area or on adjacent land.</p> <p>9. The extent to which the proposal may require dredging, reclamation, impoundment, and/or foreshore protection works and structures, and the likely effectiveness of any provisions to avoid, mitigate, or remedy actual or potential adverse environmental effects caused by such activities.</p> <p>10. Any effects of the proposed activity on those in the neighbourhood and, where relevant, on the wider community, including any socio-economic and cultural effects.</p> <p>11. The effect of the proposed activity on the natural character of the site or area within which the activity is proposed and the measures to be undertaken to ensure that natural character will be preserved, particularly in relation to:</p> <ul style="list-style-type: none"> (a) the topography or bathymetry within the site or area; (b) the natural substrate composition within the site or area; (c) the natural water and sediment movement patterns; (d) the biodiversity of the site or area; (e) the biological productivity of the area; (f) patterns of distribution and abundance of aquatic plants and animals within the site or area; 	

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			<p>(g) natural migration or movement of fish and other mobile species.</p> <p>12. The extent to which the proposed development may provide, where appropriate, for the restoration or rehabilitation of the degraded natural character of an area.</p> <p>13. Where the proposed activity is situated near an identified area of outstanding landscape value, as identified in section 8 of this Plan, the extent to which the proposed activity will compromise the landscape values of that area.</p> <p>14. Where the proposed activity is situated near an identified landform or geological feature considered to be an outstanding natural feature, as identified in Appendix 3, the extent to which the proposed activity will damage or otherwise adversely affect that feature including effects resulting from enhanced public access, and the likely effectiveness of any proposed measures to avoid or mitigate adverse effects.</p> <p>15. For applications within Marine 1 (Protection) Management Areas, the effects of the proposal on the important conservation values (as identified in Appendix 9) pertaining to the particular area and the measures proposed to be undertaken to ensure that these values will be protected.</p> <p>16. The potential effect of the proposed activity on saltmarshes, mangroves, eelgrass, seaweed and other forms of significant indigenous vegetation and the likely effectiveness of any proposed measures to avoid or mitigate adverse effects.</p> <p>17. The extent to which the proposed activity will damage or otherwise modify any significant habitat of indigenous fauna within the</p>	

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			<p>site or area, including effects resulting from enhanced public access, and the likely effectiveness of any proposed measures to avoid or mitigate adverse effects.</p> <p>18. The extent to which the proposed activity will restrict public access and the likely effectiveness of any proposed measures to avoid or mitigate adverse effects, including the provision of alternative routes or points of public access.</p> <p>19. The extent to which the proposed activity will adversely affect any site building, place or area of cultural heritage value within the site or area of the proposed activity, including effects resulting from enhanced public access, and the likely effectiveness of any proposed measures to avoid or mitigate adverse effects.</p> <p>20. The extent to which the effects of an activity can be addressed through remediation measures.</p> <p>21. The extent to which the proposed activity adversely affect natural systems acting as a defence against natural hazards and the extent to which the activity has potential to require future hazard protection works.</p> <p>22. The extent to which provision is made to maintain or enhance water quality.</p> <p>23. The location of the proposed activity in relation to navigation channels, ski lanes, and protected anchorages and the extent to which the proposed activity will adversely affect the use of these areas.</p> <p>24. Whether use of the proposed activity will require facilities such as carparking or refuse disposal facilities and the extent to which these are provided for, or are available on land.</p> <p>25. The extent to which an activity will impact on land and areas held under the</p>	

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			<p>Conservation Act 1987 and other land and areas administered by the Department of Conservation . <i>Note: For maps showing the location of these lands and areas, contact the Regional Council or the Department of Conservation.</i></p> <ul style="list-style-type: none"> • 32.2 ADDITIONAL CRITERIA FOR SPECIFIC ACTIVITIES <ul style="list-style-type: none"> • 32.2.1 STRUCTURES (EXCLUDING SWING AND PILE MOORINGS) <ol style="list-style-type: none"> 1. Within Marine 1 and Marine 2 Management Areas, whether the proposed structure will be the only structure or the first of its type or the first of any significant size, within an estuary, embayment, or unmodified stretch of coastline and whether the approval of the proposed structure is likely to lead to additional proposals for structures or other types of use and development. ... 5. The extent to which public access to and along the coastal marine area is maintained or enhanced through the use of the proposed structure. 6. The degree of multiple use proposed. 7. The use to which the proposed structure is to be put and the appropriateness of that use in the proposed locality. 8. Whether the proposed structure is the appropriate size to avoid, remedy or mitigate adverse effects (the hierarchy of “avoidance” then “mitigation” then “remediation” shall be interpreted in accordance with Policy 3.2.2 of the NZCPS, 1994) on the coastal 	

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			<p>environment, taking into account its location and proposed function.</p> <p>9. The method of construction employed.</p> <p>10. The extent to which adverse visual effects are considered and the likely effectiveness of any mitigation measures proposed. In particular in relation to proposed buildings, consideration will be given to building height, roof pitch, size and orientation of glazing, colours of external surfaces, and the interrelationship with any existing buildings, towards minimising adverse visual effects.</p> <p>Where the structure is located in the Marine 5 Management Area, consideration will be given to the operational requirement for structures in that area when applying this criterion.</p> <p>11. With the exclusion of Marine 5 (Port Facilities) Management Area, whether the proposed structure will compromise the recreational use of the site and the surrounding area.</p> <p>12. Whether the proposed structure will be located in an area known to be prone to erosion and, if so, the extent to which alternatives to erecting or using the structure have been considered, including for structures associated with erosion control.</p> <p>13. The extent to which the proposed structure will create erosion or siltation and the likely effectiveness of any avoidance or mitigation measures proposed.</p> <p>...</p>	

Statutory Document	Objectives	Policies	Rules	Other methods/matters
			<p>15. The extent to which sea-level rise has been taken into account in the location and design of the proposed structure.</p> <p>16. The necessity for any proposed alteration or extension of an existing structure and the extent to which the proposed alteration or extension will increase adverse effects, including those on adjoining land.</p>	
Proposed Regional Plan for Northland – Appeals Version	<p>F.1.2 Water quality</p> <p>F.1.3 Indigenous ecosystems and biodiversity</p> <p>F.1.4 Enabling economic well-being</p> <p>F.1.7 Use and development in the coastal marine area</p> <p>F.1.8 Tangāta whenua role in decision-making</p> <p>F.1.10 Improving Northland's natural and physical resources</p> <p>F.1.11 Natural character, outstanding natural features, historic heritage and places of significance to tangāta whenua</p>	<p>D.1 Tangata whenua Policy</p> <p>D.1.1 When an analysis of effects on tangata whenua and their taonga is required</p> <p>D.1.2 Requirements of an analysis of effects on tangata whenua and their taonga</p> <p>D.1.3 Affected persons</p> <p>D.1.4 Managing effects on places of significance to tangata whenua</p> <p>D.1.5 Places of significance to tangata whenua</p> <p>D.2 General Policy</p> <p>D.2.1 Rules for managing natural and physical resources</p> <p>D.2.2 Social, cultural and economic benefits of activities</p> <p>D.2.3 Climate change and development</p> <p>D.2.4 Adaptive management</p> <p>D.2.11 Marine and freshwater pest management</p> <p>D.2.12 Resource consent duration</p> <p>D.2.13 Recognising other plans and strategies</p> <p>D.2.14 Managing adverse effects on historic heritage</p> <p>D.2.15 Managing adverse effects on natural character, outstanding natural landscapes and outstanding natural features</p> <p>D.2.16 Managing adverse effects on indigenous biodiversity</p>	<p>C.1 Coastal activities</p> <p>C.1.1 General Structures</p> <p>C.1.1.4 Aids to navigation – permitted activity</p> <p>C.1.1.5 Signs – permitted activity</p> <p>C.1.1.15 Works to a Historic Heritage Site within the scope of a historic heritage management plan – restricted discretionary activity</p> <p>C.1.1.25 Removal, alteration, extension, demolition, partial demolition or replacement of a Historic Heritage Site – non-complying activity</p> <p>C.1.1.27 Structures within a significant area – non-complying Activity</p> <p>The erection, reconstruction, placement, alteration, extension, replacement, maintenance, repair, removal or demolition of a structure in the coastal marine area and any occupation of the common marine and coastal area by the structure that is in a mapped (refer I Maps Ngā mahere matawhenua):</p> <p>1) Nationally Significant Surfbreak, or</p>	<p>G.2 Statutory acknowledgements for Te Uri o Hau⁵</p> <ul style="list-style-type: none"> - Mangawhai marginal strip - Mangawhai Harbour <p>Maps</p> <ul style="list-style-type: none"> • Layers: Coastal <ul style="list-style-type: none"> - General Marine Zone - Significant Ecological Areas - Significant Bird Areas - Significant Marine Mammal and Seabird Areas • Layers: Natural, historic and cultural heritage – fresh and coastal waters <ul style="list-style-type: none"> - Sites and areas of significance to tangata whenua - Outstanding natural features - Natural character: <ul style="list-style-type: none"> ▪ Outstanding natural character ▪ High natural character - Historic heritage: <ul style="list-style-type: none"> ▪ Historic heritage areas ▪ Historic heritage sites

⁵ Northland Regional Council, 2018, “Te Ture Whakamana ngā Iwi o Taitokerau: Statutory acknowledgements in Northland - Oct 2018”

Statutory Document	Objectives	Policies	Rules	Other methods/matters
		<p>D.2.17 Managing adverse effects on land-based values and infrastructure</p> <p>D.2.18 Precautionary approach to managing effects on significant indigenous biodiversity</p> <p>D.4 Land and water D.4.1 Maintaining overall water quality</p> <p>D.5 Coastal D.5.22 Dredging, disturbance and deposition activities</p> <p>D.5.26 Mangrove removal – purpose</p> <p>D.5.27 Mangrove removal – adverse effects</p>	<p>2) Regionally Significant Anchorage, or</p> <p>3) Outstanding Natural Feature in the coastal marine area, or</p> <p>4) Area of Outstanding Natural Character in the coastal marine area, or</p> <p>5) Historic Heritage Area, or</p> <p>6) Site or Area of Significance to tangata whenua, and is not a permitted, controlled, restricted discretionary or discretionary activity in section C.1.1 of this Plan, and the use of the structure are non-complying activities.</p> <p>For the avoidance of doubt this rule covers the following RMA activities:</p> <ul style="list-style-type: none"> • Erection, reconstruction, placement, alteration, extension, replacement, maintenance, repair, removal, demolition of a structure in, on, under or over any foreshore or seabed and any incidental disturbance of the foreshore or seabed (s12(1) and s12(3)). • Occupation of the common marine and coastal area with a structure (s12(2)). • Use of a structure in the coastal marine area (s12(3)). <p>C.1.5 Dredging, disturbance and disposal</p> <p>C.1.5.1 Use of vehicles on beaches and other activities that disturb the foreshore and seabed – permitted activity</p> <p>C.1.5.9 Maintenance dredging – controlled activity</p> <p>C.1.5.10 Beach scraping – restricted discretionary activity</p> <p>C.1.5.12 Dredging, deposition and disturbance activities – discretionary activity</p> <p>C.1.5.14 Other dredging, deposition and disturbance activities</p>	

Statutory Document	Objectives	Policies	Rules	Other methods/matters
			<p>– non-complying</p> <p>C.1.8 Coastal works general conditions</p> <ul style="list-style-type: none"> • Structures and disturbance <p><i>Note: Work affecting archaeological sites is subject to an authority process under the Heritage New Zealand Pouhere Taonga Act 2014. If any activity could modify, damage or destroy any archaeological site(s), an authority (consent) from Heritage New Zealand must be obtained for the work to proceed lawfully.</i></p> <p>1) Prior to undertaking activities on private land, including land owned by a territorial authority, written approval must be obtained from the landowner and provided to the Regional Council's Compliance Manager upon request.</p> <p>2) Structures must at all times:</p> <ul style="list-style-type: none"> a) be maintained in good order and repair, and b) except for culverts, not impede fish passage between fresh water and coastal water..., and c) not cause a hazard to navigation. <p>3) Maintenance, alteration or addition to a structure must not result in a weakening of the structural integrity or strength of the structure.</p> <p>4) Restrictions on public access along and through the coastal marine area beyond the footprint of the structure, during construction or disturbance for reasons of public health and safety, must not last more than seven days unless an alternative access route or controlled access is provided.</p>	

Statutory Document	Objectives	Policies	Rules	Other methods/matters
			<p>5) Disturbance, construction, alteration, addition, maintenance or removal activities must only be carried out during the hours between sunrise and sunset or 6.00am and 7.00pm, whichever occurs earlier, and on days other than public holidays. The exceptions to this are:</p> <p>a) the requirement to undertake emergency remedial work such as if a structure is damaged by a natural hazard event, and</p> <p>b) maintenance of regionally significant infrastructure, where the maintenance is required to be undertaken outside these times to minimise disruption to the services provided by the regionally significant infrastructure, and</p> <p>c) the removal of nuisance marine plant debris under Rule C.1.5.3.</p> <p>6) Upon the completion of a new structure, the structure owner must notify in writing (including a scale plan of the completed works) the Regional Council's Compliance Manager.</p> <p>7) All machinery, equipment and materials used for the activity must be removed from the foreshore and seabed at the completion of the activity. Additionally, vehicles and equipment must be in a good state of repair and free of any fuel or oil leaks. Refuelling must not be carried out in the coastal marine area and for the duration of the activity, no vehicle or equipment is to be left in a position where it could come into contact with coastal water.</p> <p>8) There must be no damage to shellfish beds in mapped Significant Ecological Areas (refer I Maps Ngā mahere matawhenua) and no damage to saltmarsh or seagrass</p>	

Statutory Document	Objectives	Policies	Rules	Other methods/matters
			<p>meadows, except as necessary for the installation of an aid to navigation under Rule C.1.1.4.</p> <p>9) Any visible disturbance of the foreshore or seabed must be remedied or restored within 48 hours of completion of works in a mapped (refer I Maps [Ngā mahere matawhenua):</p> <ul style="list-style-type: none"> a) Area of Outstanding Natural Character Area, or b) Outstanding Natural Feature, or c) Site or Area of Significance to tangata whenua, or d) Significant Ecological Area. <p>10) There must be no disturbance of indigenous or migratory bird nesting or roosting sites.</p> <p>11) Outside outstanding natural character, outstanding natural feature or significant ecological areas, any visible disturbance of the foreshore or seabed must be remedied or restored within seven days.</p> <p>12) The structure or activity must not:</p> <ul style="list-style-type: none"> a) cause permanent scouring or erosion of banks, or b) cause or exacerbate flooding of other property, or c) materially reduce the ability of a river to convey flood flows into the coastal marine area (including as a result of debris accumulating against structures). <p>13) Any discharge must not:</p> <ul style="list-style-type: none"> a) occur for more than five consecutive days, and for more than 12 hours per day, or b) cause any of the following effects in the receiving waters beyond the zone of reasonable mixing: <ul style="list-style-type: none"> i. the production of conspicuous oil or grease films, scums or foams, of 	

Statutory Document	Objectives	Policies	Rules	Other methods/matters
			<p>floatable or suspended materials, or</p> <p>ii. any conspicuous change in the colour or visual clarity, or</p> <p>iii. an emission of objectionable odour.</p> <p>Lighting</p> <p>21) All lighting (excluding navigation lighting) associated with activities in the coastal marine area must not, by reason of its direction, colour or intensity, create:</p> <p>a) a hazard to navigation and safety, or a hazard to traffic safety, wharves, ramps and adjacent roads, or</p> <p>b) a nuisance to other users of the surrounding coastal marine area or adjacent land.</p> <p>Noise</p> <p>22) Noise from any activity within the coastal marine area (except for construction noise and noise from helicopters) must comply with <i>Table 4</i> noise standards at the notional boundary of any noise sensitive activity:</p> <p>a) noise must be measured in accordance with <i>New Zealand Standard. Acoustics – Measurement of environmental sound (NZS 6801:2008)</i> and assessed in accordance with <i>New Zealand Standard. Acoustics – Environmental noise (NZS 6802:2008)</i>, and</p> <p>b) construction activities shall be managed in accordance with, and meet the noise limits set out in <i>Tables 5 and 6</i> below, and</p> <p>c) ...</p> <p>23) The <i>Table 4</i> and Condition 22(c) noise limits do not apply to the following:</p> <p>a) noise generated by navigational aids, safety signals, warning devices, and emergency pressure relief valves, and</p>	

Statutory Document	Objectives	Policies	Rules	Other methods/matters
			<p>...</p> <p>c) commercial firework displays.</p> <p>C.8 Land use and disturbance activities</p> <p>C.8.3 Earthworks</p> <p>C.8.3.1 Earthworks – permitted activity</p> <p>C.8.3.2 Earthworks - controlled activity</p> <p>C.8.3.3 Earthworks in a flood hazard area - controlled activity</p> <p>C.8.3.4 Earthworks – discretionary activity</p> <p>C.8.4.3 Vegetation clearance – discretionary activity</p>	

APPENDIX 2: MAPS

Map 1: Regional Policy Statement for Northland - Natural Character and Outstanding Natural Landscape in Mangawhai Harbour

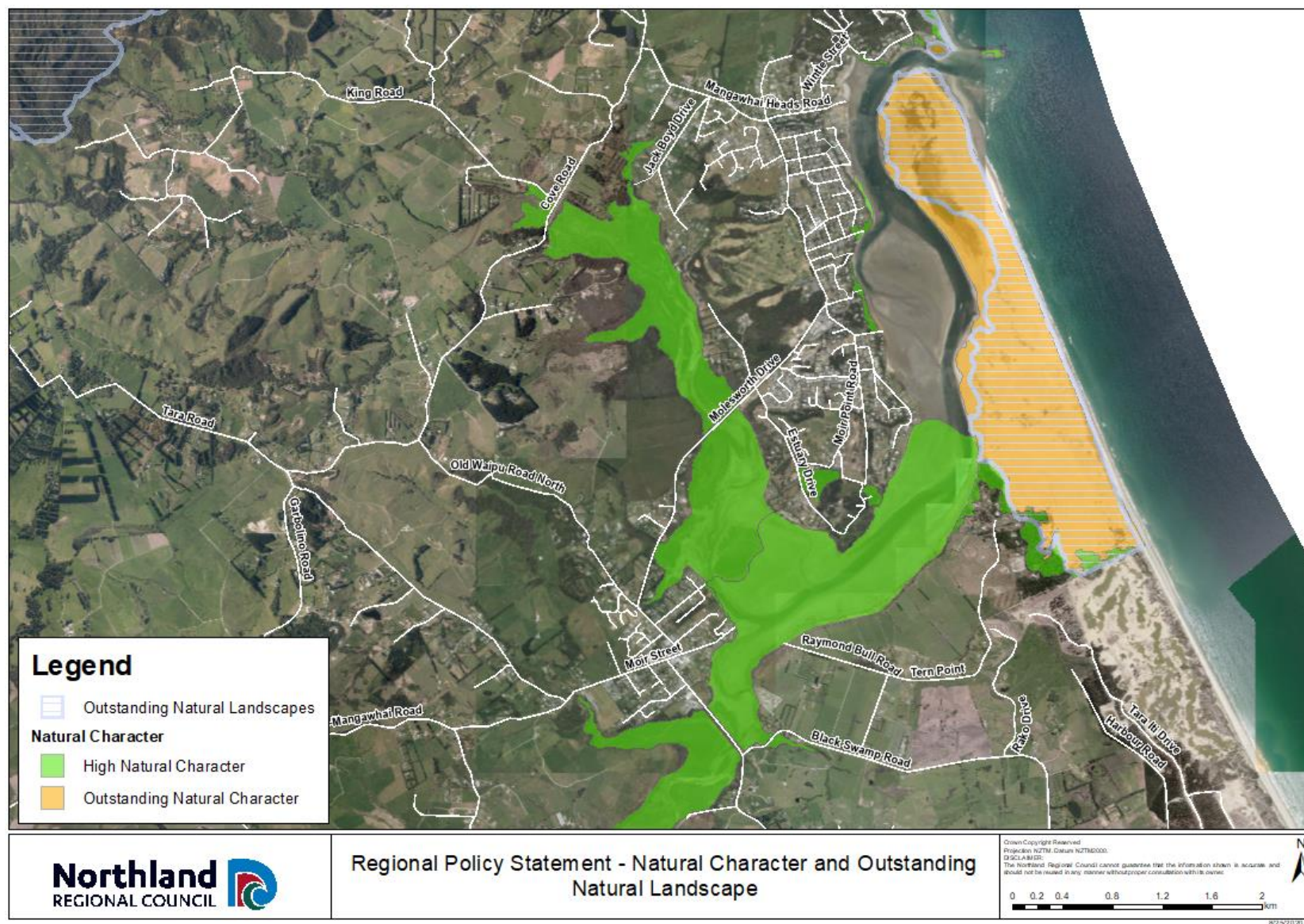
Map 2: Proposed Regional Plan for Northland - Natural Character and Outstanding Natural Features in Mangawhai Harbour

Map 3: Map B26 Mangawhai Harbour from the Regional Coastal Plan for Northland

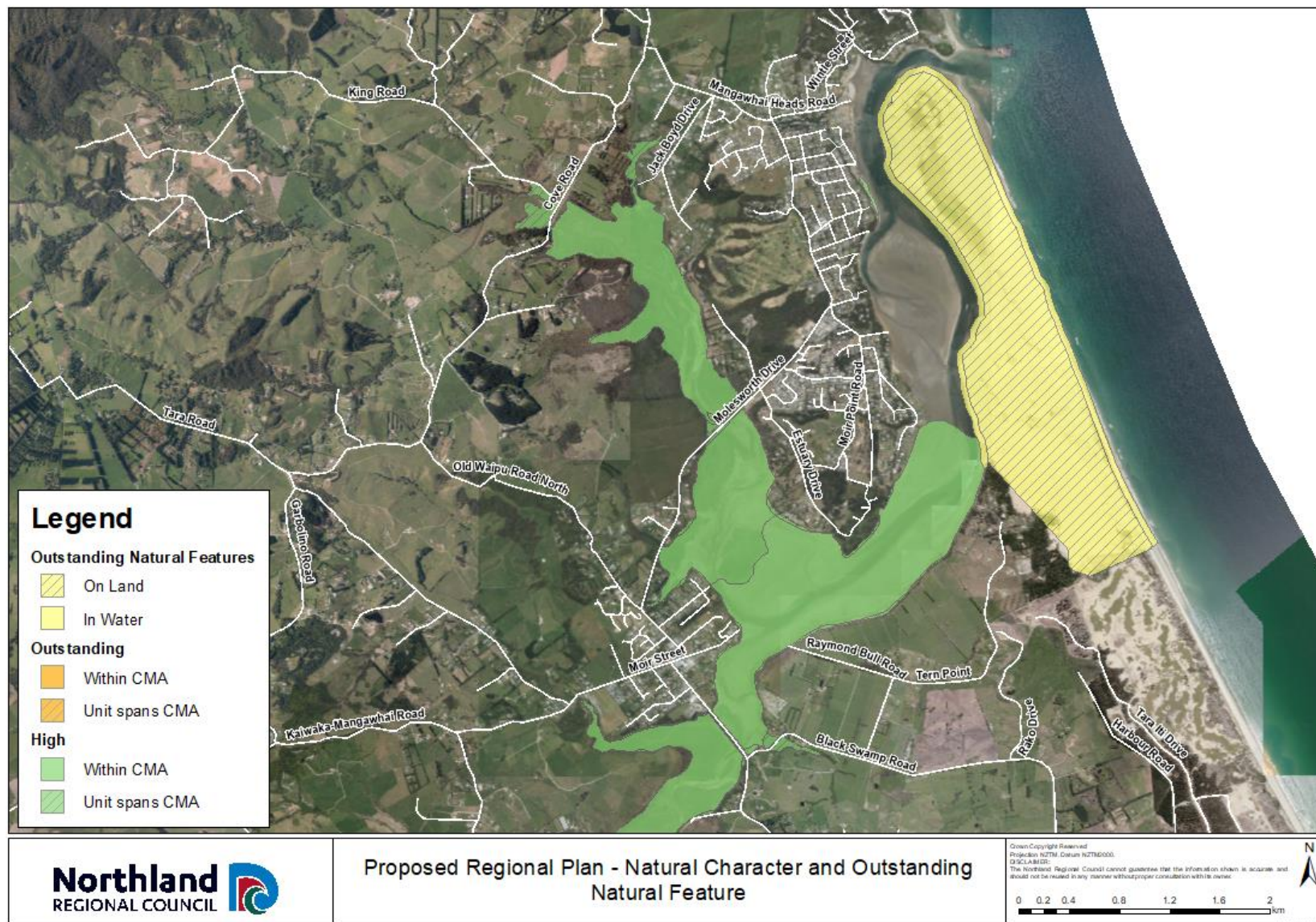
Map Legend from Northland Regional Coastal Plan

Map 4: Mangawhai Marginal Strip Reserve

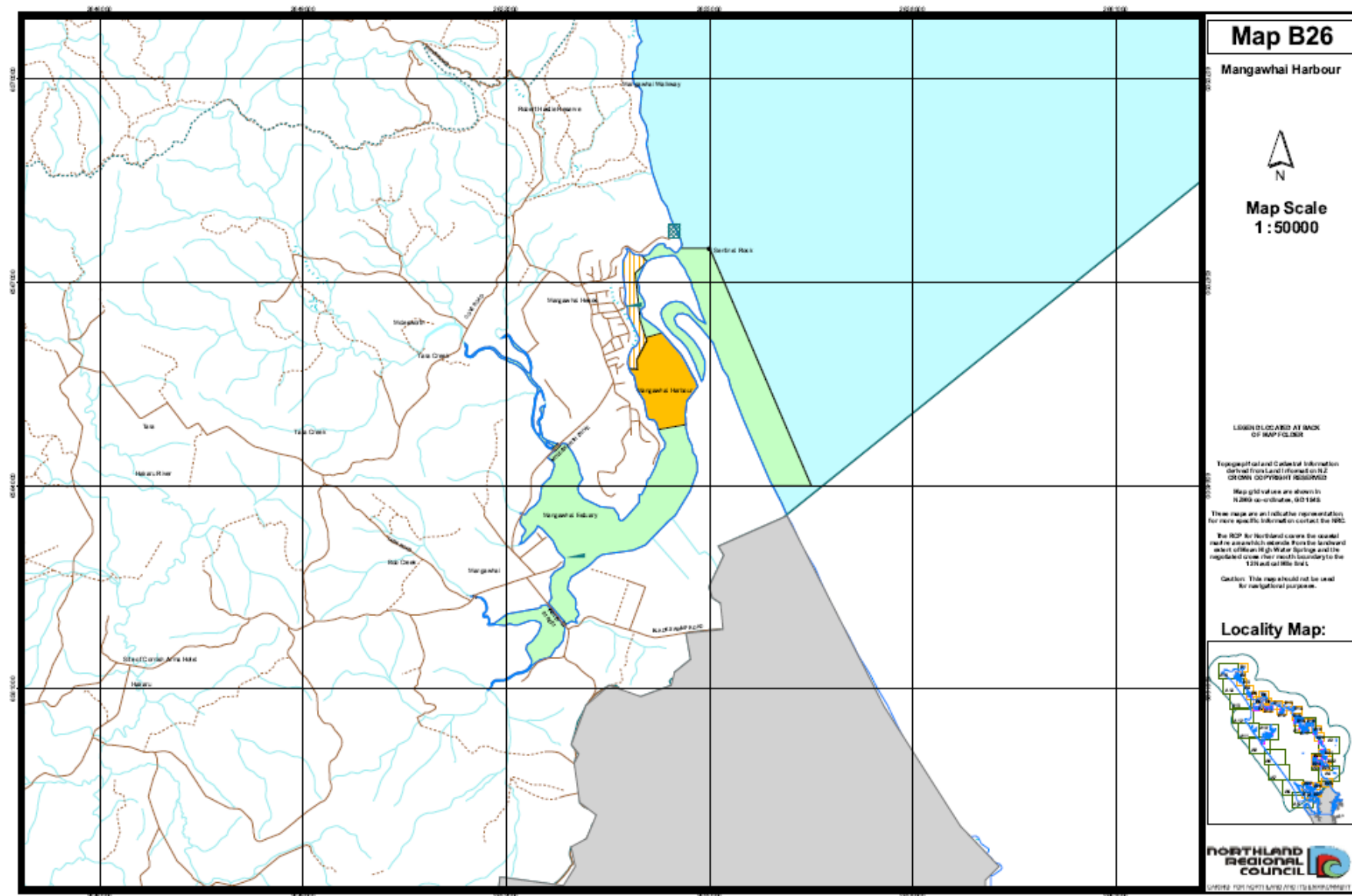
Map 5: Proposed Regional Plan for Northland (Appeals Version) – Coastal Map Layer showing Significant Ecological and Bird Areas



Map 1: Regional Policy Statement for Northland - Natural Character and Outstanding Natural Landscape in Mangawhai Harbour
(source: s42A Officer's Report, page 48)













































Map 2: Proposed Regional Plan for Northland - Natural Character and Outstanding Natural Features in Mangawhai Harbour
(source: s42A Officer's Report, page 47)

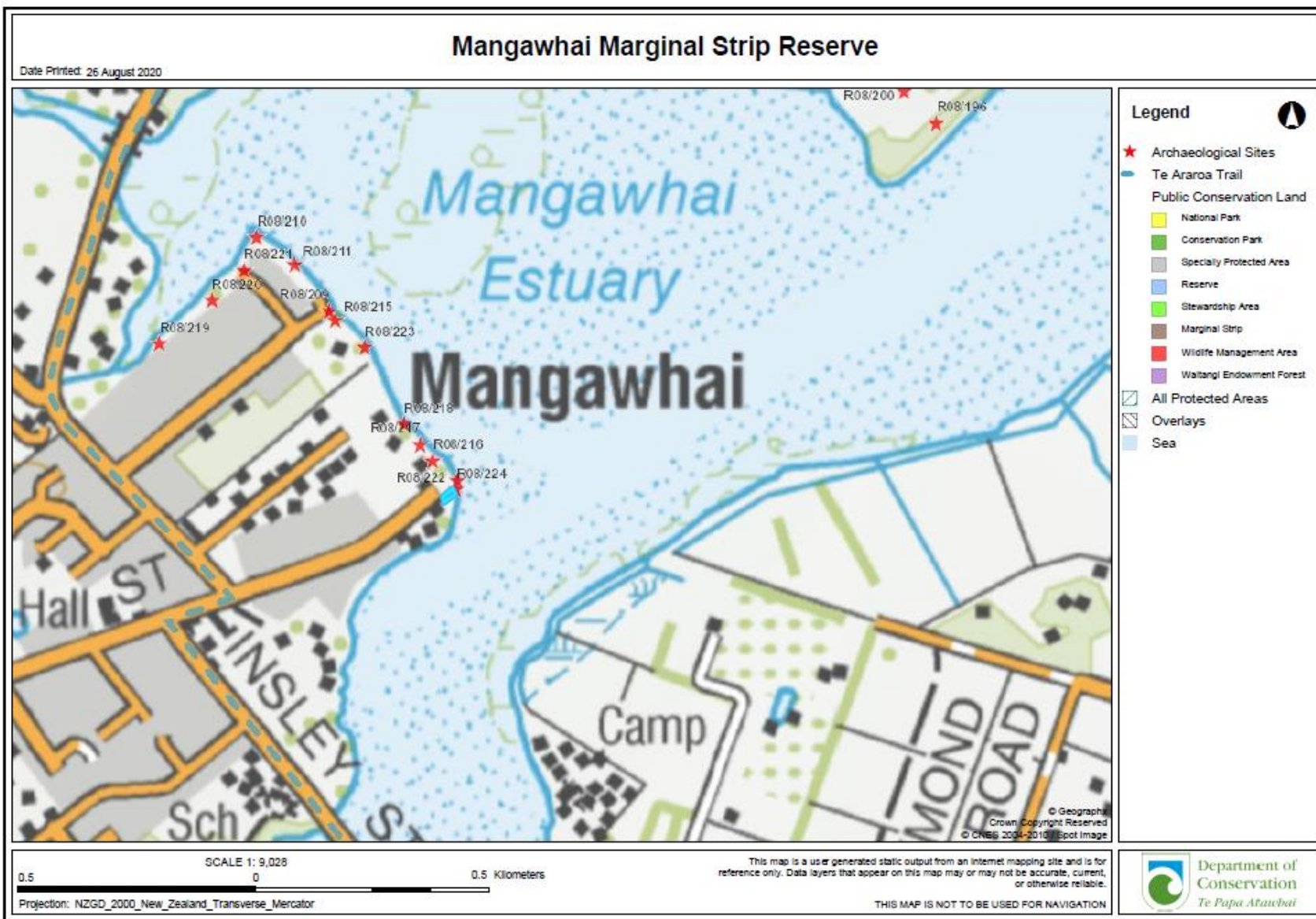


Map 3: Map B26 Mangawhai Harbour from the Regional Coastal Plan for Northland (map legend follows on next page)

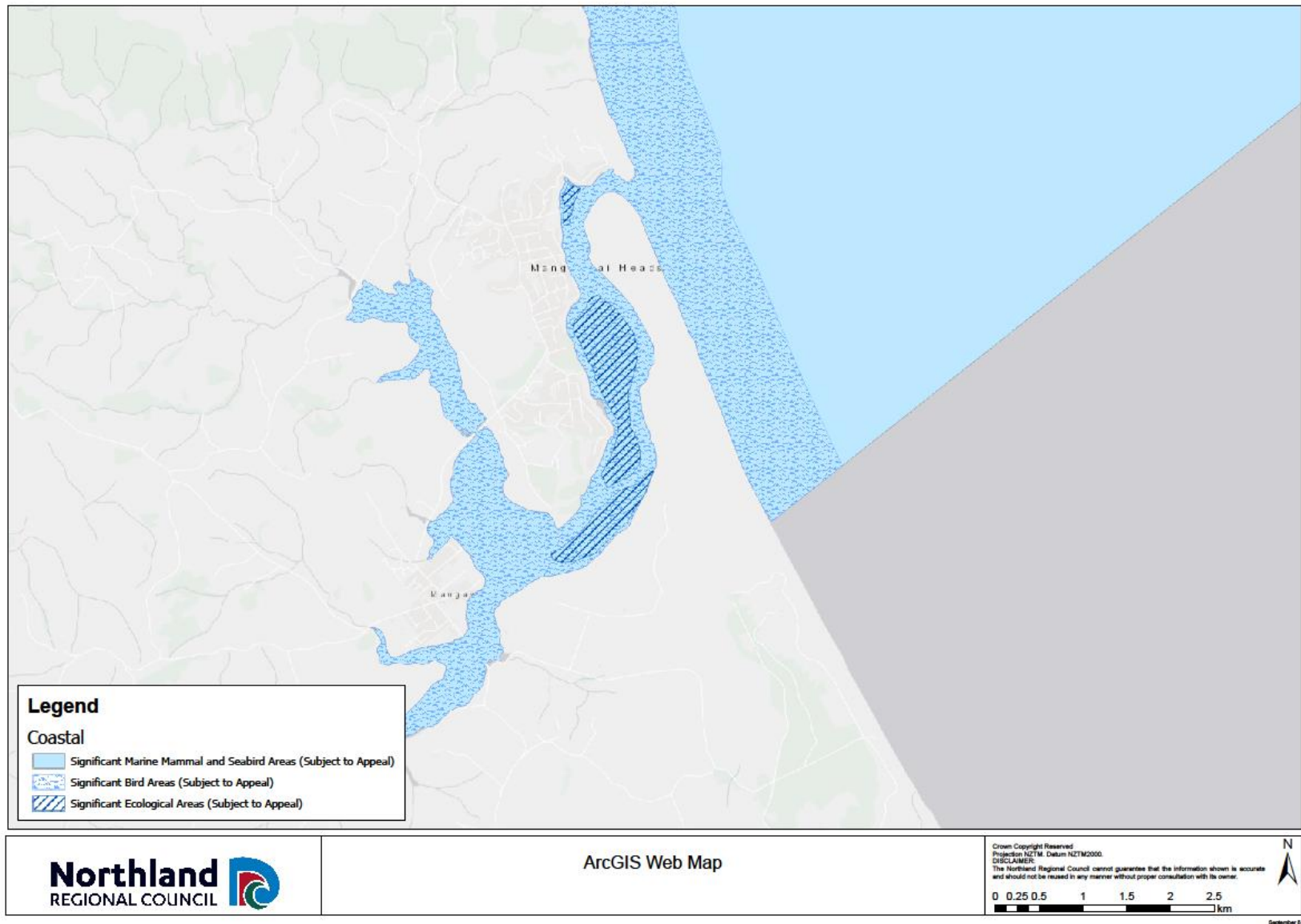
Northland Regional Coastal Plan Map Legend

	Regional Boundary Line		Cliff Edge
	TLA Boundary		Track & Walkway
	State Highway		River
	Road		Coastal Marine Area Boundary
	Aircraft Beacon		Surfing Area
	Boat Ramp		Land outside NRC Region
	Jetty/Wharf		Prohibited Anchorage Area
	Pontoon		Skilane
	Grid Point		Marine 1 (Protection) Management Area
	Slip		Marine 2 (Conservation) Management Area
	Protected Anchorage		Marine 3 (Marine Farms) Management Area
Beacon			Coastal Permitted Marine Farms (Post 20 December 1994)
	lit		Marine 4 (Controlled Mooring) Management Area
	unlit		Marine 4 (Discretionary Mooring) Management Area
Buoy			Marine 5 (Port Facilities) Management Area
	lit		Marine 6 (Wharves) Management Area
	unlit		Cultural Water Quality
Bridge		Water Quality	
	Foot Traffic		CA
	Train		CB
	Vehicle		CN
	Powerline		Mixing Zones For Major Dishcharge
	Underwater Cable		
	Underwater Pipe		

Map Legend from Northland Regional Coastal Plan



Map 4: Mangawhai Marginal Strip Reserve



Map 5: Proposed Regional Plan for Northland (Appeals Version) – Coastal Map Layer showing Significant Ecological and Bird Areas