

**BEFORE THE ENVIRONMENT COURT**  
**AT AUCKLAND**  
**I MUA I TE KŌTI TAIAO O AOTEAROA**

**ENV-2021-**

**IN THE MATTER**

of the Resource Management Act 1991

**AND**

**IN THE MATTER**

of appeals under Clause 14 of Schedule 1  
of the Act

**BETWEEN**

**BAY OF ISLANDS MARITIME PARK  
INCORPORATED**

**ROYAL FOREST AND BIRD  
PROTECTION SOCIETY OF NEW  
ZEALAND INCORPORATED**

Appellants

**AND**

**NORTHLAND REGIONAL COUNCIL**

Respondent

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**AGREED STATEMENT OF FACTS – PLANNING**

**21 June 2021**

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**Background matters**

1. The planners have read the evidence of the other expert witnesses.

**The proposal**

2. The appellants (Bay of Islands Maritime Park Incorporated (**BOI Maritime Park**) and Royal Forest and Bird Protection Society of New Zealand (**Forest and Bird**)), Ngāti Kuta ki te Rawhiti hapū (**Ngāti Kuta**) and Te Uri o Hikihiki hapū seek provisions in the proposed Regional Plan for Northland (**Proposed Plan**) to protect areas in the Bay of Islands and Mimiwhangata from the potential adverse effects of fishing activities.
3. BOI Maritime Park, Forest and Bird and Ngāti Kuta, and Te Uri o Hikihiki seek to introduce objectives, policies and rules based on the Protection Areas” spatial layer, attached as **Appendix 1**.
4. The provisions sought by the appellants and Ngāti Kuta were included as Appendix A of Mr Peter Reaburn’s evidence in chief and the provisions sought by Te Uri o Hikihiki were included as Appendix 2 to Dr Mark Bellingham’s evidence in chief and are in the process of being updated.

**Proposed marine protected areas**

5. The proposed marine protection areas are subject to other spatial layers in the Proposed Plan. These layers include:
  - a. Significant Ecological Areas (**SEA**);
  - b. Significant Bird Areas (**SBA**);
  - c. High Natural Character (**HNC**);
  - d. Outstanding Natural Character (**ONC**);
  - e. Outstanding Natural Features (**ONF**); and
  - f. Outstanding Natural Landscapes (**ONL**) – as part of Topic 17 in the Proposed Plan, Northland Regional Council (**Council**) has proposed draft ONL maps within the coastal marine area of the proposed marine protection areas.
6. Maps of the extent of these layers are attached as **Appendix 2**.

7. These layers and their associated objectives, policies and rules do not relate to the effects of fishing activities.

**Planning Framework**

8. All planners agree that the following planning documents and provisions are relevant to the proposed marine protected areas:
9. Resource Management Act 1991
  - a. Section 5 Purpose;
  - b. Section 6 Matters of national importance;
  - c. Section 7 Other matters;
  - d. Section 8 Treaty of Waitangi;
  - e. Section 30 Functions of regional councils under this Act;
  - f. Section 32AA Requirements for undertaking and publishing further evaluations;
  - g. Section 63 Purpose of regional plans;
  - h. Section 66 Matters to be considered by regional council (plans); and
  - i. Section 67 Contents of regional plans.
10. Fisheries Act 1996
  - a. Section 5 Application of international obligations and Treaty of Waitangi (Fisheries Claims) Settlement Act 1992; and
  - b. Section 6 Application of Resource Management Act 1991.
11. New Zealand Coastal Policy Statement 2010

*Objectives*

- a. Objective 1;
- b. Objective 2;
- c. Objective 3;
- d. Objective 4;
- e. Objective 6; and

## f. Objective 7.

*Policies*

- a. Policy 2: The Treaty of Waitangi, tangata whenua and Māori heritage;
- b. Policy 3: Precautionary approach;
- c. Policy 4: Integration;
- d. Policy 5: Land or waters managed or held under other Acts;
- e. Policy 6: Activities in the coastal environment;
- f. Policy 7: Strategic planning;
- g. Policy 11: Indigenous biological diversity (biodiversity);
- h. Policy 12: Harmful aquatic organisms;
- i. Policy 13: Preservation of natural character;
- j. Policy 14: Restoration of natural character; and
- k. Policy 15: Natural features and natural landscapes.

## 12. Regional Policy Statement for Northland 2016

*Issues*

- a. Issue 2.2 Indigenous ecosystems and biodiversity;
- b. Issue 2.3 Economic potential and social wellbeing;
- c. Issue 2.5 Issues of significance to tangata whenua – participation in resource management;
- d. Issue 2.6 Issues of significance to tangata whenua – natural and physical resources; and
- e. Issue 2.8 Natural character, features / landscapes and historic heritage.

*Objectives*

- a. Objective 3.4 Indigenous ecosystems and biodiversity;
- b. Objective 3.5 Enabling economic wellbeing;
- c. Objective 3.12 Tangata whenua role in decision-making;

- d. Objective 3.14 Natural character, outstanding natural features, outstanding natural landscapes and historic heritage; and
- e. Objective 3.15 Active management.

*Policies*

- a. Policy 4.4.1 Maintaining and protecting significant ecological areas and habitats;
- b. Policy 4.4.2 Supporting restoration and enhancement;
- c. Policy 4.5.1 Identification of the coastal environment, outstanding natural features and outstanding natural landscapes and high and outstanding natural character;
- d. Policy 4.5.2 Application of the Regional Policy Statement – Maps;
- e. Policy 4.5.3 Assessing, identifying and recording historic heritage;
- f. Policy 4.6.1 Managing effects on the characteristics and qualities natural character, natural features and landscapes;
- g. Policy 4.7.1 Promote active management;
- h. Policy 4.7.2 Supporting landowner and community efforts;
- i. Policy 4.7.3 Improving natural character;
- j. Policy 6.1.1 Regional and district plans;
- k. Policy 6.1.2 Precautionary approach;
- l. Policy 6.1.3 Transferring council functions;
- m. Policy 8.1.1 Tangata whenua participation;
- n. Policy 8.1.2 The regional and district council statutory responsibilities;
- o. Policy 8.1.3 Use of Mātauranga Māori;
- p. Policy 8.1.4 Māori concepts, values and practices; and
- q. Policy 8.3.1 Kaitiaki role.

*Methods*

- a. Method 4.4.3 Statutory plans and strategies; and

b. Method 4.4.5 Advocacy and education.

13. Proposed Regional Plan for Northland (May 2021 Appeals Version)

*Objectives*

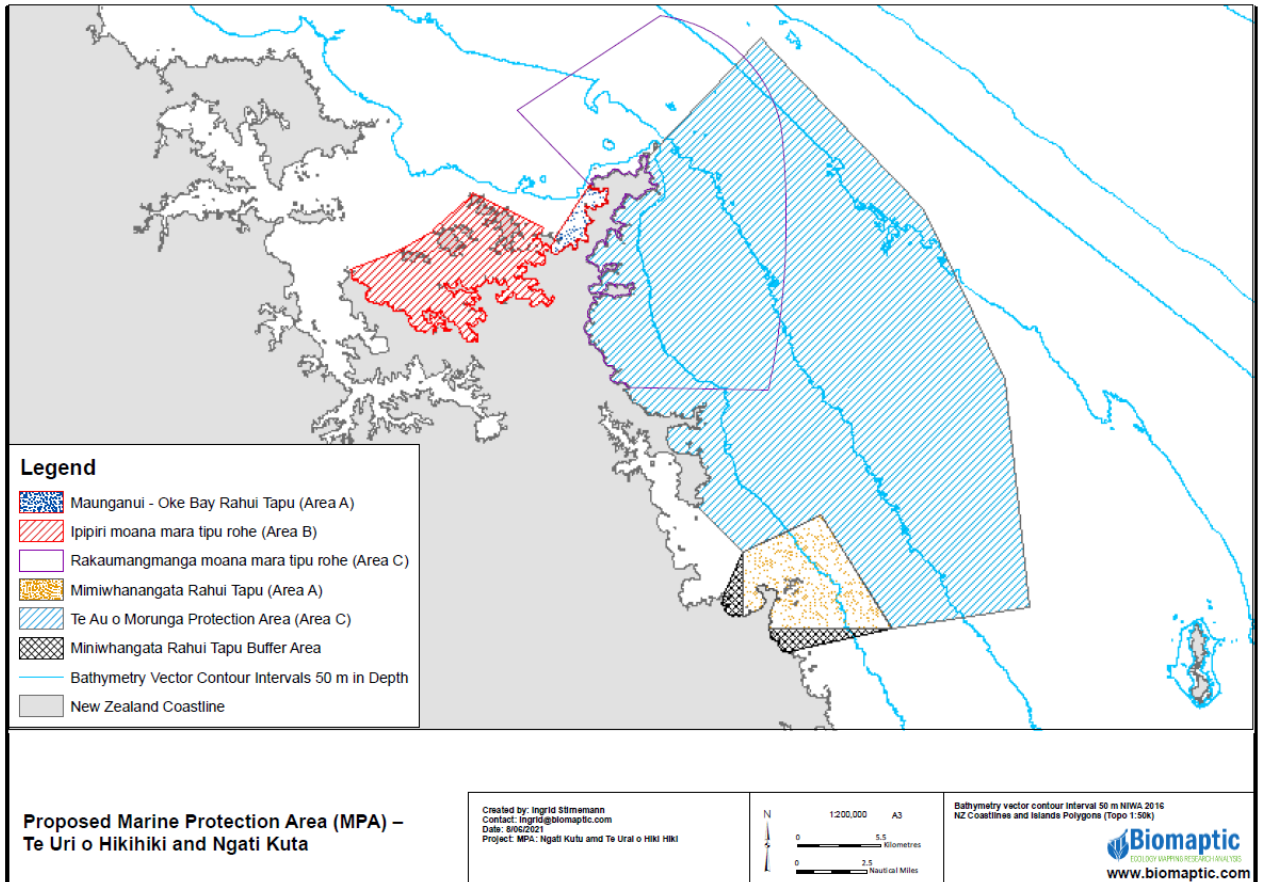
- a. Objective F.1.3 Indigenous ecosystems and biodiversity;
- b. Objective F.1.5 Enabling economic well-being;
- c. Objective F.1.9 Tangata whenua role in decision-making;
- d. Objective F.1.11 Improving Northland's natural and physical resources; and
- e. Objective F.1.12 Natural character, outstanding natural features, historic heritage and places of significance to tangata whenua.

*Policies*

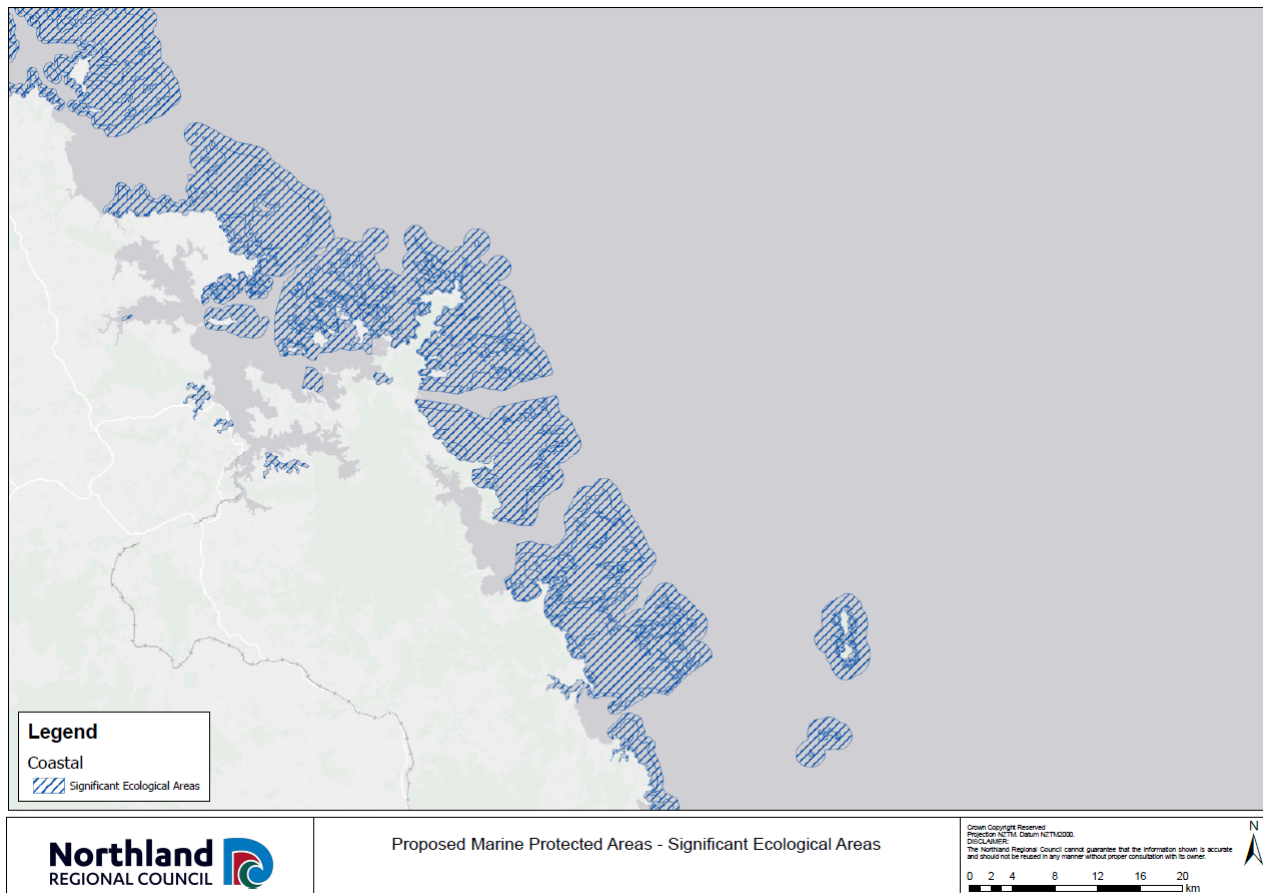
- a. Policy D.1.1 When an analysis of effects on tangata whenua and their taonga is required;
- b. Policy D.1.2 Requirements of an analysis of effects on tangata whenua and their taonga;
- c. Policy D.1.4 Managing effects on places of significance to tangata whenua;
- d. Policy D.1.5 Places of significance to tangata whenua;
- e. Policy D.2.1 Rules for managing natural and physical resources;
- f. Policy D.2.2 Social, cultural and economic benefits of activities;
- g. Policy D.2.13 Marine and freshwater pest management;
- h. Policy D.2.17 Managing adverse effects on natural character, outstanding natural landscapes and outstanding natural features;
- i. Policy D.2.18 Managing adverse effects of activities on indigenous biodiversity; and
- j. Policy D.2.20 Precautionary approach to managing effects on indigenous biodiversity.

14. The provisions of these documents are set out in full in **Appendix 3**.

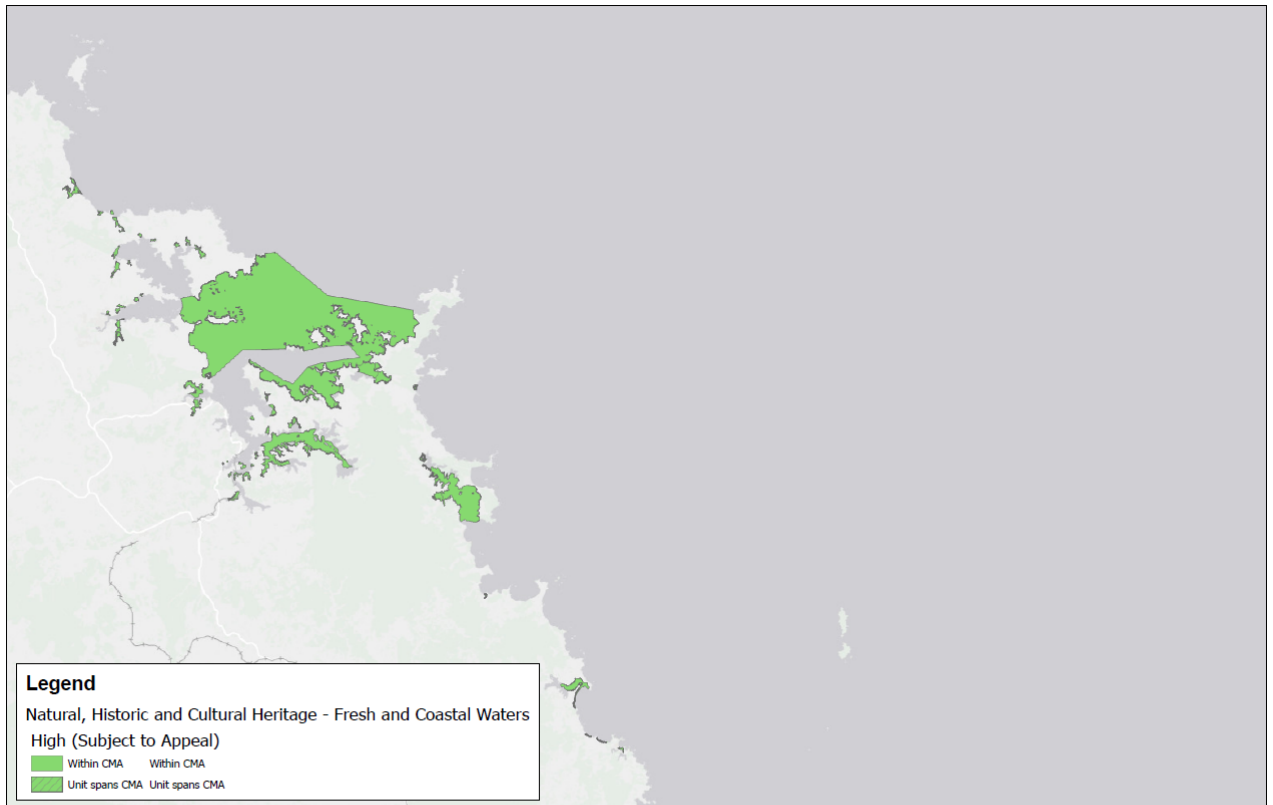
Appendix 1 – Proposed Te Hā o Tangaroa Protection Areas



### Appendix 2 – Proposed Plan spatial layers

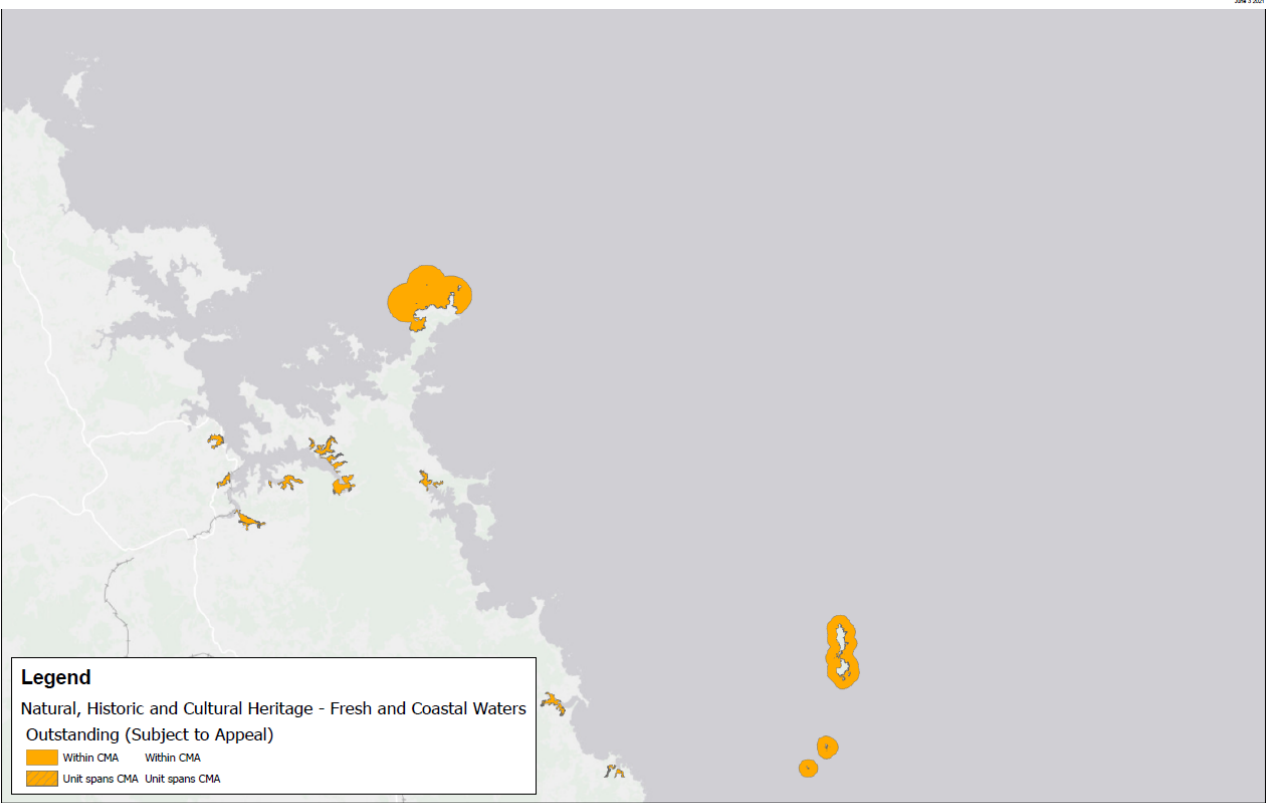






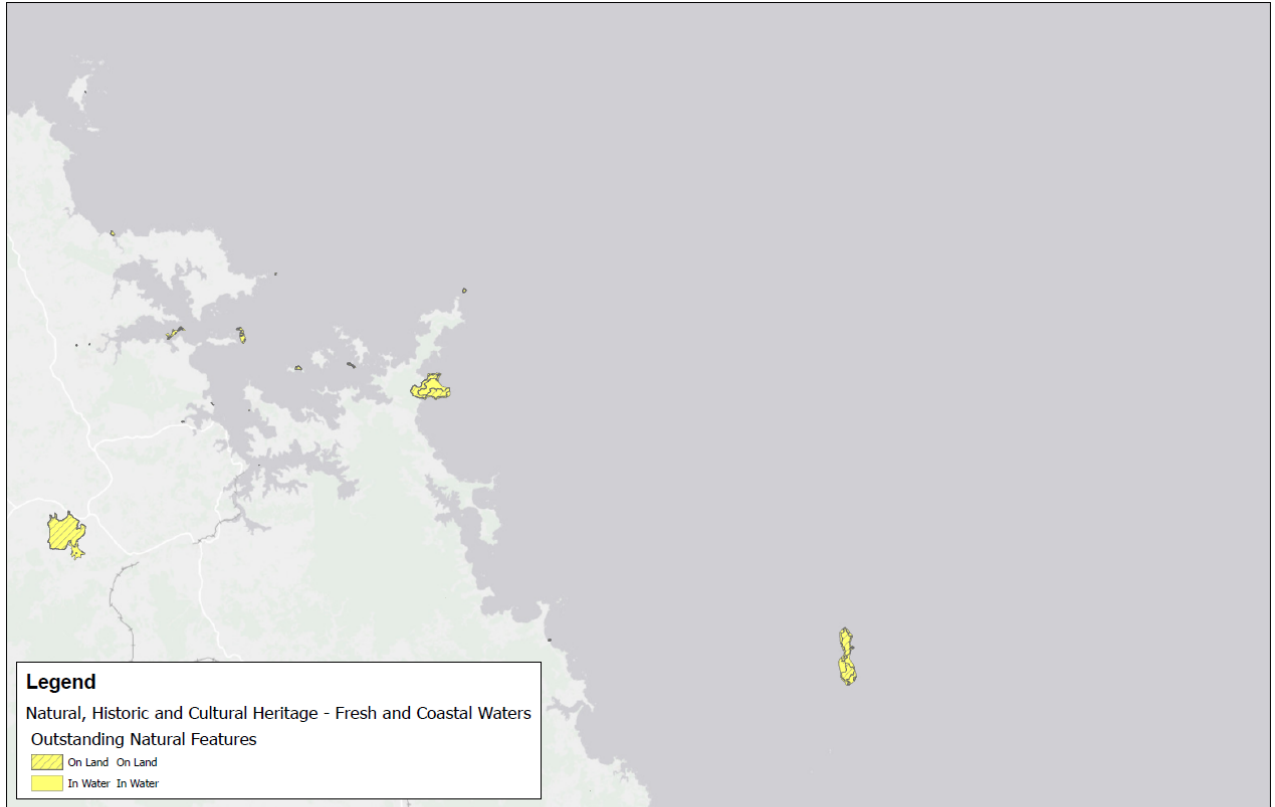
Proposed Marine Protected Areas - High Natural Character

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Proposed Marine Protected Areas - Outstanding Natural Character

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Proposed Marine Protected Areas - Outstanding Natural Features

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June 3 2021



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Proposed Marine Protected Areas - Outstanding Natural Landscapes in the CMA (Draft)

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## Appendix 3 – Relevant planning provisions

### Resource Management Act 1991

#### 5 Purpose

(1) The purpose of this Act is to promote the sustainable management of natural and physical resources.

(2) In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—

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

#### 6 Matters of national importance

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:
- (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:
- (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:
- (d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:
- (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:
- (f) the protection of historic heritage from inappropriate subdivision, use, and development:
- (g) the protection of protected customary rights:
- (h) the management of significant risks from natural hazards.

#### 7 Other matters

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

- (a) kaitiakitanga:
  - (aa) the ethic of stewardship:
  - (b) the efficient use and development of natural and physical resources:

- (ba) the efficiency of the end use of energy:
- (c) the maintenance and enhancement of amenity values:
- (d) intrinsic values of ecosystems:
- (e) *[Repealed]*
- (f) maintenance and enhancement of the quality of the environment:
- (g) any finite characteristics of natural and physical resources:
- (h) the protection of the habitat of trout and salmon:
- (i) the effects of climate change:
- (j) the benefits to be derived from the use and development of renewable energy

### **8 Treaty of Waitangi**

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

### **30 Functions of regional councils under this Act**

(1) Every regional council shall have the following functions for the purpose of giving effect to this Act in its region:

- (a) the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the natural and physical resources of the region:
- (b) the preparation of objectives and policies in relation to any actual or potential effects of the use, development, or protection of land which are of regional significance:
- (ba) the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in relation to housing and business land to meet the expected demands of the region:
- (c) the control of the use of land for the purpose of—
  - (i) soil conservation:
  - (ii) the maintenance and enhancement of the quality of water in water bodies and coastal water:
  - (iii) the maintenance of the quantity of water in water bodies and coastal water:
  - (iiia) the maintenance and enhancement of ecosystems in water bodies and coastal water:
  - (iv) the avoidance or mitigation of natural hazards:
  - (v) *[Repealed]*
- (ca) the investigation of land for the purposes of identifying and monitoring contaminated land:
- (d) in respect of any coastal marine area in the region, the control (in conjunction with the Minister of Conservation) of—
  - (i) land and associated natural and physical resources:

- (ii) the occupation of space in, and the extraction of sand, shingle, shell, or other natural material from, the coastal marine area, to the extent that it is within the common marine and coastal area:
  - (iii) the taking, use, damming, and diversion of water:
  - (iv) discharges of contaminants into or onto land, air, or water and discharges of water into water:
  - (iva) the dumping and incineration of waste or other matter and the dumping of ships, aircraft, and offshore installations:
  - (v) any actual or potential effects of the use, development, or protection of land, including the avoidance or mitigation of natural hazards:
  - (vi) the emission of noise and the mitigation of the effects of noise:
  - (vii) activities in relation to the surface of water:
- (e) the control of the taking, use, damming, and diversion of water, and the control of the quantity, level, and flow of water in any water body, including—
- (i) the setting of any maximum or minimum levels or flows of water:
  - (ii) the control of the range, or rate of change, of levels or flows of water:
  - (iii) the control of the taking or use of geothermal energy:
- (f) the control of discharges of contaminants into or onto land, air, or water and discharges of water into water:
- (fa) if appropriate, the establishment of rules in a regional plan to allocate any of the following:
- (i) the taking or use of water (other than open coastal water):
  - (ii) the taking or use of heat or energy from water (other than open coastal water):
  - (iii) the taking or use of heat or energy from the material surrounding geothermal water:
  - (iv) the capacity of air or water to assimilate a discharge of a contaminant:
- (fb) if appropriate, and in conjunction with the Minister of Conservation,—
- (i) the establishment of rules in a regional coastal plan to allocate the taking or use of heat or energy from open coastal water:
  - (ii) the establishment of a rule in a regional coastal plan to allocate space in a coastal marine area under Part 7A:
- (g) in relation to any bed of a water body, the control of the introduction or planting of any plant in, on, or under that land, for the purpose of—
- (i) soil conservation:
  - (ii) the maintenance and enhancement of the quality of water in that water body:
  - (iii) the maintenance of the quantity of water in that water body:
  - (iv) the avoidance or mitigation of natural hazards:
- (ga) the establishment, implementation, and review of objectives, policies, and methods for maintaining indigenous biological diversity:
- (gb) the strategic integration of infrastructure with land use through objectives, policies, and methods:

(h) any other functions specified in this Act.

(2) A regional council and the Minister of Conservation must not perform the functions specified in subsection (1)(d)(i), (ii), and (vii) to control the taking, allocation or enhancement of fisheries resources for the purpose of managing fishing or fisheries resources controlled under the Fisheries Act 1996.

(3) However, a regional council and the Minister of Conservation may perform the functions specified in subsection (1)(d) to control aquaculture activities for the purpose of avoiding, remedying, or mitigating the effects of aquaculture activities on fishing and fisheries resources.

(4) A rule to allocate a natural resource established by a regional council in a plan under subsection (1)(fa) or (fb) may allocate the resource in any way, subject to the following:

(a) the rule may not, during the term of an existing resource consent, allocate the amount of a resource that has already been allocated to the consent; and

(b) nothing in paragraph (a) affects section 68(7); and

(c) the rule may allocate the resource in anticipation of the expiry of existing consents; and

(d) in allocating the resource in anticipation of the expiry of existing consents, the rule may—

(i) allocate all of the resource used for an activity to the same type of activity; or

(ii) allocate some of the resource used for an activity to the same type of activity and the rest of the resource to any other type of activity or no type of activity; and

(e) the rule may allocate the resource among competing types of activities; and

(f) the rule may allocate water, or heat or energy from water, as long as the allocation does not affect the activities authorised by section 14(3)(b) to (e).

(5) In this section and section 31,—

**business land** means land that is zoned for business use in an urban environment, including, for example, land in the following zones:

(a) business and business parks:

(b) centres, to the extent that this zone allows business uses:

(c) commercial:

(d) industrial:

(e) mixed use, to the extent that this zone allows business uses:

(f) retail

**development capacity**, in relation to housing and business land in urban areas, means the capacity of land for urban development, based on—

(a) the zoning, objectives, policies, rules, and overlays that apply to the land under the relevant proposed and operative regional policy statements, regional plans, and district plans; and

(b) the capacity required to meet—

(i) the expected short and medium term requirements; and

(ii) the long term requirements; and

(c) the provision of adequate development infrastructure to support the development of the land

**development infrastructure** means the network infrastructure for—

- (a) water supply, wastewater, and storm water; and
- (b) to the extent that it is controlled by local authorities, land transport as defined in section 5(1) of the Land Transport Management Act 2003.

### **32AA Requirements for undertaking and publishing further evaluations**

(1) A further evaluation required under this Act—

- (a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the changes); and
- (b) must be undertaken in accordance with section 32(1) to (4); and
- (c) must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and
- (d) must—
  - (i) be published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement or a national planning standard), or the decision on the proposal, is notified; or
  - (ii) be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.

(2) To avoid doubt, an evaluation report does not have to be prepared if a further evaluation is undertaken in accordance with subsection (1)(d)(ii).

(3) In this section, proposal means a proposed statement, national planning standard, plan, or change for which a further evaluation must be undertaken under this Act.

### **63 Purpose of regional plans**

(1) The purpose of the preparation, implementation, and administration of regional plans is to assist a regional council to carry out any of its functions in order to achieve the purpose of this Act.

(2) Without limiting subsection (1), the purpose of the preparation, implementation, and administration of regional coastal plans is to assist a regional council, in conjunction with

the Minister of Conservation, to achieve the purpose of this Act in relation to the coastal marine area of that region.

**66 Matters to be considered by regional council (plans)**

(1) A regional council must prepare and change any regional plan in accordance with—

- (a) its functions under section 30; and
- (b) the provisions of Part 2; and
- (c) a direction given under section 25A(1); and
- (d) its obligation (if any) to prepare an evaluation report in accordance with section 32; and
- (e) its obligation to have particular regard to an evaluation report prepared in accordance with section 32; and
- (ea) a national policy statement, a New Zealand coastal policy statement, and a national planning standard; and
- (f) any regulations.

(2) In addition to the requirements of section 67(3) and (4), when preparing or changing any regional plan, the regional council shall have regard to—

- (a) any proposed regional policy statement in respect of the region; and
- (b) the Crown's interests in the coastal marine area; and
- (c) any—
  - (i) management plans and strategies prepared under other Acts; and
  - (ii) *[Repealed]*
  - (ia) relevant entry on the New Zealand Heritage List/Rārangī Kōrero required by the Heritage New Zealand Pouhere Taonga Act 2014; and
  - (iii) regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Māori customary fishing); and
  - (iv) *[Repealed]*
  - (v) relevant project area and project objectives (as those terms are defined in section 9 of the Urban Development Act 2020), if section 98 of that Act applies,—
    - to the extent that their content has a bearing on resource management issues of the region; and
- (d) the extent to which the regional plan needs to be consistent with the regional policy statements and plans, or proposed regional policy statements and proposed plans, of adjacent regional councils; and
- (e) to the extent to which the regional plan needs to be consistent with regulations made under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012; and

(2A) When a regional council is preparing or changing a regional plan, it must deal with the following documents, if they are lodged with the council, in the manner specified, to



the extent that their content has a bearing on the resource management issues of the region:

(a) the council must take into account any relevant planning document recognised by an iwi authority; and

(b) in relation to a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, the council must, in accordance with section 93 of that Act,—

(i) recognise and provide for the matters in that document, to the extent that they relate to the relevant customary marine title area; and

(ii) take into account the matters in that document, to the extent that they relate to a part of the common marine and coastal area outside the customary marine title area of the relevant group.

(3) In preparing or changing any regional plan, a regional council must not have regard to trade competition or the effects of trade competition.

### **67 Contents of regional plans**

(1) A regional plan must state—

(a) the objectives for the region; and

(b) the policies to implement the objectives; and

(c) the rules (if any) to implement the policies.

(2) A regional plan may state—

(a) the issues that the plan seeks to address; and

(b) the methods, other than rules, for implementing the policies for the region; and

(c) the principal reasons for adopting the policies and methods; and

(d) the environmental results expected from the policies and methods; and

(e) the procedures for monitoring the efficiency and effectiveness of the policies and methods; and

(f) the processes for dealing with issues—

(i) that cross local authority boundaries; or

(ii) that arise between territorial authorities; or

(iii) that arise between regions; and

(g) the information to be included with an application for a resource consent; and

(h) any other information required for the purpose of the regional council's functions, powers, and duties under this Act.

(3) A regional plan must give effect to—

(a) any national policy statement; and

(b) any New Zealand coastal policy statement; and

(ba) a national planning standard; and

(c) any regional policy statement.

(4) A regional plan must not be inconsistent with—

- (a) a water conservation order; or
- (b) any other regional plan for the region; or
- (c) *[Repealed]*

(5) A regional plan must record how a regional council has allocated a natural resource under section 30(1)(fa) or (fb) and (4), if the council has done so.

(6) A regional plan may incorporate material by reference under Part 3 of Schedule 1.

## **Fisheries Act 1996**

### **5 Application of international obligations and Treaty of Waitangi (Fisheries Claims) Settlement Act 1992**

This Act shall be interpreted, and all persons exercising or performing functions, duties, or powers conferred or imposed by or under it shall act, in a manner consistent with—

- (a) New Zealand's international obligations relating to fishing; and
- (b) the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.

### **6 Application of Resource Management Act 1991**

(1) No provision in any regional plan or coastal permit is enforceable to the extent that it provides for—

- (a) the allocation to 1 or more fishing sectors in preference to any other fishing sector of access to any fisheries resources in the coastal marine area; or
- (b) the conferral on any fisher of a right to occupy any land in the coastal marine area or any related part of the coastal marine area, if the right to occupy would exclude any other fisher from fishing in any part of the coastal marine area.

(2) Subsection (1) does not—

- (a) prevent a regional council from taking into account the effects of aquaculture activities on fishing or fisheries resources when carrying out its functions under section 30(1)(d) of the Resource Management Act 1991; or
- (b) prevent any coastal permit authorising aquaculture activities from being granted.

(3) In this section,—

**fishing sector** means—

- (a) commercial fishers:
- (b) recreational fishers:
- (c) Maori non-commercial customary fishers:
- (d) [Repealed]
- (e) other fishers authorised under this Act to take fish, aquatic life, or seaweed

**occupy** has the same meaning as in section 2(1) of the Resource Management Act 1991.

(4) [Repealed]

## **New Zealand Coastal Policy Statement 2010**

### **Objective 1**

To safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems, including marine and intertidal areas, estuaries, dunes and land, by:

- maintaining or enhancing natural biological and physical processes in the coastal environment and recognising their dynamic, complex and interdependent nature;
- protecting representative or significant natural ecosystems and sites of biological importance and maintaining the diversity of New Zealand's indigenous coastal flora and fauna; and
- maintaining coastal water quality, and enhancing it where it has deteriorated from what would otherwise be its natural condition, with significant adverse effects on ecology and habitat, because of discharges associated with human activity.

### **Objective 2**

To preserve the natural character of the coastal environment and protect natural features and landscape values through:

- recognising the characteristics and qualities that contribute to natural character, natural features and landscape values and their location and distribution;
- identifying those areas where various forms of subdivision, use, and development would be inappropriate and protecting them from such activities; and
- encouraging restoration of the coastal environment.

### **Objective 3**

To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment by:

- recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources;
- promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act;
- incorporating mātauranga Māori into sustainable management practices; and
- recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua.

### **Objective 4**

To maintain and enhance the public open space qualities and recreation opportunities of the coastal environment by:

- recognising that the coastal marine area is an extensive area of public space for the public to use and enjoy;
- maintaining and enhancing public walking access to and along the coastal marine area without charge, and where there are exceptional reasons that mean this is not practicable providing alternative linking access close to the coastal marine area; and
- recognising the potential for coastal processes, including those likely to be affected by climate change, to restrict access to the coastal environment and the need to ensure that public access is maintained even when the coastal marine area advances inland.

**Objective 6**

To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development, recognising that:

- the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits;
- some uses and developments which depend upon the use of natural and physical resources in the coastal environment are important to the social, economic and cultural wellbeing of people and communities;
- functionally some uses and developments can only be located on the coast or in the coastal marine area;
- the coastal environment contains renewable energy resources of significant value;
- the protection of habitats of living marine resources contributes to the social, economic and cultural wellbeing of people and communities;
- the potential to protect, use, and develop natural and physical resources in the coastal marine area should not be compromised by activities on land;
- the proportion of the coastal marine area under any formal protection is small and therefore management under the Act is an important means by which the natural resources of the coastal marine area can be protected; and
- historic heritage in the coastal environment is extensive but not fully known, and vulnerable to loss or damage from inappropriate subdivision, use, and development.

**Objective 7**

To ensure that management of the coastal environment recognises and provides for New Zealand's international obligations regarding the coastal environment, including the coastal marine area.

**Policy 2 The Treaty of Waitangi, tangata whenua and Māori heritage**

In taking account of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi), and kaitiakitanga, in relation to the coastal environment:

- a. recognise that tangata whenua have traditional and continuing cultural relationships with areas of the coastal environment, including places where they have lived and fished for generations;
- b. involve iwi authorities or hapū on behalf of tangata whenua in the preparation of regional policy statements, and plans, by undertaking effective consultation with tangata whenua; with such consultation to be early, meaningful, and as far as practicable in accordance with tikanga Māori;
- c. with the consent of tangata whenua and as far as practicable in accordance with tikanga Māori, incorporate mātauranga Māori<sup>1</sup> in regional policy statements, in plans, and in the consideration of applications for resource consents, notices of requirement for designation and private plan changes;
- d. provide opportunities in appropriate circumstances for Māori involvement in decision making, for example when a consent application or notice of requirement is dealing with cultural localities or issues of cultural significance,

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<sup>1</sup> Mātauranga Māori: as defined in the Glossary.

- and Māori experts, including pūkenga<sup>2</sup>, may have knowledge not otherwise available;
- e. take into account any relevant iwi resource management plan and any other relevant planning document recognised by the appropriate iwi authority or hapū and lodged with the council, to the extent that its content has a bearing on resource management issues in the region or district; and
    - i. where appropriate incorporate references to, or material from, iwi resource management plans in regional policy statements and in plans; and
    - ii. consider providing practical assistance to iwi or hapū who have indicated a wish to develop iwi resource management plans;
  - f. provide for opportunities for tangata whenua to exercise kaitiakitanga over waters, forests, lands, and fisheries in the coastal environment through such measures as:
    - i. bringing cultural understanding to monitoring of natural resources;
    - ii. providing appropriate methods for the management, maintenance and protection of the taonga of tangata whenua;
    - iii. having regard to regulations, rules or bylaws relating to ensuring sustainability of fisheries resources such as taiāpure, mahinga mātaītai or other non commercial Māori customary fishing; and
  - g. in consultation and collaboration with tangata whenua, working as far as practicable in accordance with tikanga Māori, and recognising that tangata whenua have the right to choose not to identify places or values of historic, cultural or spiritual significance or special value:
    - i. recognise the importance of Māori cultural and heritage values through such methods as historic heritage, landscape and cultural impact assessments; and
    - ii. provide for the identification, assessment, protection and management of areas or sites of significance or special value to Māori, including by historic analysis and archaeological survey and the development of methods such as alert layers and predictive methodologies for identifying areas of high potential for undiscovered Māori heritage, for example coastal pā or fishing villages.

### **Policy 3 Precautionary approach**

- (1) Adopt a precautionary approach towards proposed activities whose effects on the coastal environment are uncertain, unknown, or little understood, but potentially significantly adverse.
- (2) In particular, adopt a precautionary approach to use and management of coastal resources potentially vulnerable to effects from climate change, so that:
  - a. avoidable social and economic loss and harm to communities does not occur;
  - b. natural adjustments for coastal processes, natural defences, ecosystems, habitat and species are allowed to occur; and
  - c. the natural character, public access, amenity and other values of the coastal environment meet the needs of future generations.

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<sup>2</sup> Pūkenga: as defined in the Glossary.

**Policy 4 Integration**

Provide for the integrated management of natural and physical resources in the coastal environment, and activities that affect the coastal environment. This requires:

- a. co-ordinated management or control of activities within the coastal environment, and which could cross administrative boundaries, particularly:
  - i. the local authority boundary between the coastal marine area and land;
  - ii. local authority boundaries within the coastal environment, both within the coastal marine area and on land; and
  - iii. where hapū or iwi boundaries or rohe cross local authority boundaries;
- b. working collaboratively with other bodies and agencies with responsibilities and functions relevant to resource management, such as where land or waters are held or managed for conservation purposes; and
- c. particular consideration of situations where:
  - i. subdivision, use, or development and its effects above or below the line of mean high water springs will require, or is likely to result in, associated use or development that crosses the line of mean high water springs; or
  - ii. public use and enjoyment of public space in the coastal environment is affected, or is likely to be affected; or
  - iii. development or land management practices may be affected by physical changes to the coastal environment or potential inundation from coastal hazards, including as a result of climate change; or
  - iv. land use activities affect, or are likely to affect, water quality in the coastal environment and marine ecosystems through increasing sedimentation; or
  - v. significant adverse cumulative effects are occurring, or can be anticipated.

**Policy 5 Land or waters managed or held under other Acts**

- (1) Consider effects on land or waters in the coastal environment held or managed under:
  - a. the Conservation Act 1987 and any Act listed in the 1st Schedule to that Act; or
  - b. other Acts for conservation or protection purposes; and, having regard to the purposes for which the land or waters are held or managed:
  - c. avoid adverse effects of activities that are significant in relation to those purposes; and
  - d. otherwise avoid, remedy or mitigate adverse effects of activities in relation to those purposes.
- (2) Have regard to publicly notified proposals for statutory protection of land or waters in the coastal environment and the adverse effects of activities on the purposes of that proposed statutory protection.

**Policy 6 Activities in the coastal environment**

- (1) In relation to the coastal environment:
- a. recognise that the provision of infrastructure, the supply and transport of energy including the generation and transmission of electricity, and the extraction of minerals are activities important to the social, economic and cultural well-being of people and communities;
  - b. consider the rate at which built development and the associated public infrastructure should be enabled to provide for the reasonably foreseeable needs of population growth without compromising the other values of the coastal environment;
  - c. encourage the consolidation of existing coastal settlements and urban areas where this will contribute to the avoidance or mitigation of sprawling or sporadic patterns of settlement and urban growth;
  - d. recognise tangata whenua needs for papakāinga<sup>3</sup>, marae and associated developments and make appropriate provision for them;
  - e. consider where and how built development on land should be controlled so that it does not compromise activities of national or regional importance that have a functional need to locate and operate in the coastal marine area;
  - f. consider where development that maintains the character of the existing built environment should be encouraged, and where development resulting in a change in character would be acceptable;
  - g. take into account the potential of renewable resources in the coastal environment, such as energy from wind, waves, currents and tides, to meet the reasonably foreseeable needs of future generations;
  - h. consider how adverse visual impacts of development can be avoided in areas sensitive to such effects, such as headlands and prominent ridgelines, and as far as practicable and reasonable apply controls or conditions to avoid those effects;
  - i. set back development from the coastal marine area and other water bodies, where practicable and reasonable, to protect the natural character, open space, public access and amenity values of the coastal environment; and
  - j. where appropriate, buffer areas and sites of significant indigenous biological diversity, or historic heritage value.
- (2) Additionally, in relation to the coastal marine area:
- a. recognise potential contributions to the social, economic and cultural wellbeing of people and communities from use and development of the coastal marine area, including the potential for renewable marine energy to contribute to meeting the energy needs of future generations:
  - b. recognise the need to maintain and enhance the public open space and recreation qualities and values of the coastal marine area;
  - c. recognise that there are activities that have a functional need to be located in the coastal marine area, and provide for those activities in appropriate places;

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<sup>3</sup> Papakāinga: as defined in the Glossary.



- d. recognise that activities that do not have a functional need for location in the coastal marine area generally should not be located there; and
- e. promote the efficient use of occupied space, including by:
  - i. requiring that structures be made available for public or multiple use wherever reasonable and practicable;
  - ii. requiring the removal of any abandoned or redundant structure that has no heritage, amenity or reuse value; and
  - iii. considering whether consent conditions should be applied to ensure that space occupied for an activity is used for that purpose effectively and without unreasonable delay.

### **Policy 7 Strategic planning**

- (1) In preparing regional policy statements, and plans:
  - a. consider where, how and when to provide for future residential, rural residential, settlement, urban development and other activities in the coastal environment at a regional and district level, and:
  - b. identify areas of the coastal environment where particular activities and forms of subdivision, use and development:
    - i. are inappropriate; and
    - ii. may be inappropriate without the consideration of effects through a resource consent application, notice of requirement for designation or Schedule 1 of the Act process;

and provide protection from inappropriate subdivision, use, and development in these areas through objectives, policies and rules.
- (2) Identify in regional policy statements, and plans, coastal processes, resources or values that are under threat or at significant risk from adverse cumulative effects. Include provisions in plans to manage these effects. Where practicable, in plans, set thresholds (including zones, standards or targets), or specify acceptable limits to change, to assist in determining when activities causing adverse cumulative effects are to be avoided.

### **Policy 11 Indigenous biological diversity (biodiversity)**

To protect indigenous biological diversity in the coastal environment:

- a. avoid adverse effects of activities on:
  - i. indigenous taxa<sup>4</sup> that are listed as threatened<sup>5</sup> or at risk in the New Zealand Threat Classification System lists;
  - ii. taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;
  - iii. indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare<sup>6</sup>;

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<sup>4</sup> Taxa: as defined in the Glossary.

<sup>5</sup> Examples of taxa listed as threatened are: Maui's dolphin, Hector's dolphin, New Zealand fairy tern, Southern New Zealand dotterel.

<sup>6</sup> Naturally rare: as defined in the Glossary.

- iv. habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;
  - v. areas containing nationally significant examples of indigenous community types; and
  - vi. areas set aside for full or partial protection of indigenous biological diversity under other legislation; and
- b. avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on:
- i. areas of predominantly indigenous vegetation in the coastal environment;
  - ii. habitats in the coastal environment that are important during the vulnerable life stages of indigenous species;
  - iii. indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh;
  - iv. habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes;
  - v. habitats, including areas and routes, important to migratory species; and
  - vi. ecological corridors, and areas important for linking or maintaining biological values identified under this policy.

#### **Policy 12 Harmful aquatic organisms**

- (1) Provide in regional policy statements and in plans, as far as practicable, for the control of activities in or near the coastal marine area that could have adverse effects on the coastal environment by causing harmful aquatic organisms<sup>7</sup> to be released or otherwise spread, and include conditions in resource consents, where relevant, to assist with managing the risk of such effects occurring.
- (2) Recognise that activities relevant to (1) include:
  - a. the introduction of structures likely to be contaminated with harmful aquatic organisms;
  - b. the discharge or disposal of organic material from dredging, or from vessels and structures, whether during maintenance, cleaning or otherwise; and whether in the coastal marine area or on land;
  - c. the provision and ongoing maintenance of moorings, marina berths, jetties and wharves; and
  - d. the establishment and relocation of equipment and stock required for or associated with aquaculture.

#### **Policy 13 Preservation of natural character**

- (1) To preserve the natural character of the coastal environment and to protect it from inappropriate subdivision, use, and development:

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<sup>7</sup> Harmful aquatic organisms: as defined in the Glossary.

- a. avoid adverse effects of activities on natural character in areas of the coastal environment with outstanding natural character; and
- b. avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on natural character in all other areas of the coastal environment;

including by:

- c. assessing the natural character of the coastal environment of the region or district, by mapping or otherwise identifying at least areas of high natural character; and
  - d. ensuring that regional policy statements, and plans, identify areas where preserving natural character requires objectives, policies and rules, and include those provisions.
- (2) Recognise that natural character is not the same as natural features and landscapes or amenity values and may include matters such as:
- a. natural elements, processes and patterns;
  - b. biophysical, ecological, geological and geomorphological aspects;
  - c. natural landforms such as headlands, peninsulas, cliffs, dunes, wetlands, reefs, freshwater springs and surf breaks;
  - d. the natural movement of water and sediment;
  - e. the natural darkness of the night sky;
  - f. places or areas that are wild or scenic;
  - g. a range of natural character from pristine to modified; and
  - h. experiential attributes, including the sounds and smell of the sea; and their context or setting.

#### **Policy 14 Restoration of natural character**

Promote restoration or rehabilitation of the natural character of the coastal environment, including by:

- a. identifying areas and opportunities for restoration or rehabilitation;
- b. providing policies, rules and other methods directed at restoration or rehabilitation in regional policy statements, and plans;
- c. where practicable, imposing or reviewing restoration or rehabilitation conditions on resource consents and designations, including for the continuation of activities; and recognising that where degraded areas of the coastal environment require restoration or rehabilitation, possible approaches include:
  - i. restoring indigenous habitats and ecosystems, using local genetic stock where practicable; or
  - ii. encouraging natural regeneration of indigenous species, recognising the need for effective weed and animal pest management; or
  - iii. creating or enhancing habitat for indigenous species; or
  - iv. rehabilitating dunes and other natural coastal features or processes, including saline wetlands and intertidal saltmarsh; or
  - v. restoring and protecting riparian and intertidal margins; or

- vi. reducing or eliminating discharges of contaminants; or
- vii. removing redundant structures and materials that have been assessed to have minimal heritage or amenity values and when the removal is authorised by required permits, including an archaeological authority under the Historic Places Act 1993; or
- viii. restoring cultural landscape features; or
- ix. redesign of structures that interfere with ecosystem processes; or
- x. decommissioning or restoring historic landfill and other contaminated sites which are, or have the potential to, leach material into the coastal marine area.

### **Policy 15 Natural features and natural landscapes**

To protect the natural features and natural landscapes (including seascapes) of the coastal environment from inappropriate subdivision, use, and development:

- a. avoid adverse effects of activities on outstanding natural features and outstanding natural landscapes in the coastal environment; and
- b. avoid significant adverse effects and avoid, remedy, or mitigate other adverse effects of activities on other natural features and natural landscapes in the coastal environment;

including by:

- c. identifying and assessing the natural features and natural landscapes of the coastal environment of the region or district, at minimum by land typing, soil characterisation and landscape characterisation and having regard to:
  - i. natural science factors, including geological, topographical, ecological and dynamic components;
  - ii. the presence of water including in seas, lakes, rivers and streams;
  - iii. legibility or expressiveness—how obviously the feature or landscape demonstrates its formative processes;
  - iv. aesthetic values including memorability and naturalness;
  - v. vegetation (native and exotic);
  - vi. transient values, including presence of wildlife or other values at certain times of the day or year;
  - vii. whether the values are shared and recognised;
  - viii. cultural and spiritual values for tangata whenua, identified by working, as far as practicable, in accordance with tikanga Māori; including their expression as cultural landscapes and features;
  - ix. historical and heritage associations; and
  - x. wild or scenic values;
- d. ensuring that regional policy statements, and plans, map or otherwise identify areas where the protection of natural features and natural landscapes requires objectives, policies and rules; and
- e. including the objectives, policies and rules required by (d) in plans.

## **Regional Policy Statement for Northland 2016**

### **Issue 2.2 Indigenous ecosystems and biodiversity**

The key pressures on Northland's indigenous terrestrial, freshwater, and coastal marine ecosystems and species are:

- (a) Elevated levels of fine sediments, nutrients, and faecal pathogens in freshwater bodies, estuaries, and harbours, mainly from diffuse run-off and leaching from land use for primary production, eroding beds and banks of streams and rivers, historical human induced erosion, and in some areas discharges of untreated and poorly treated wastewater and stormwater.
- (b) Pest species, including terrestrial, aquatic and marine pest plants, animals and organisms, and some domestic cats and dogs;
- (c) Modification and loss of wetlands, including by drainage and diversion of water within and adjoining wetlands and as a result of stock access; and
- (d) Fragmentation, loss and isolation of populations and communities of indigenous species due to habitat loss, land use changes and vegetation clearance.

### **Issue 2.3 Economic potential and social wellbeing**

Northland has not effectively and sustainably managed its natural and physical resources to fully realise its economic potential and social wellbeing. Limiting factors include:

- (a) Common natural resources not being used and allocated efficiently, particularly where there is significant demand;
- (b) Subdivision, use and development, particularly residential development, that compromise either:
  - (i) existing and future productive activities and use of land; or
  - (ii) regionally significant infrastructure;
- (c) Regionally significant infrastructure not available or sufficient to support development and community needs;
- (d) Poor security of energy supply;
- (e) Degraded state and availability of natural resources;
- (f) Regulation and compliance costs deterring investment; and
- (g) Unjustified and inconsistent application of the Resource Management Act 1991 in district and regional plans.

**Issue 2.5 Issues of significance to tangata whenua – participation in resource management**

The following issues have been identified by iwi authorities as regionally significant as they relate to tangata whenua participation in resource management:

- (a) There is inadequate provision for the early and effective participation of tangata whenua as partners in regional council resource management decision-making processes affecting natural and physical resources;
- (b) The lack of recognition and provision for the sustainable management of Māori land and returned Treaty settlement assets by tangata whenua;
- (c) Current use of Māori land may not provide for the sustainable social, cultural, economic and environmental wellbeing of tangata whenua. In particular, the importance and role of marae and papa kāinga has not been acknowledged in the past by the regional and district councils;
- (d) Mātauranga Māori is not sufficiently recognised and used in the ongoing management and monitoring of natural and physical resources; and
- (e) The inclusion of Māori concepts, values and practices within resource management processes is frequently limited and ineffective.

**Issue 2.6 Issues of significance to tangata whenua – natural and physical resources**

The following issues have been identified by iwi authorities as regionally significant as they relate to the state of, and pressures on, natural and physical resources:

- (a) The decline of the mauri of natural resources (in particular water and land). (See also Issue 2.1 – Fresh and coastal water);
- (b) The decline of mahinga kai, particularly kai moana harvesting sites, is impacting on the ability of tangata whenua to feed their whanau and manaaki manuhiri. (See also Issue 2.1 – Fresh and coastal water);
- (c) Some tangata whenua in rural areas are drinking untreated water from streams and rivers. (See also Issue 2.1 – Fresh and coastal water);
- (d) Land use and development can lead to damage, destruction and loss of access to wāhi tapu, sites of customary value and other ancestral sites and taonga which Māori have a special relationship with. (See also Issue 2.8 – Significant natural areas, features / landscapes and historic heritage);
- (e) The loss of indigenous biodiversity, particularly where it negatively impacts on the ability of tangata whenua to carry out cultural and traditional activities. (See also Issue 2.2 – Indigenous ecosystems and

biodiversity);

(f) The impacts of climate change. (See also Issue 2.7 – Natural hazards);  
and

(g) The use of genetic engineering and the release of genetically modified organisms to the environment

### **Issue 2.8 Natural character, features / landscapes and historic heritage**

Many of Northland's natural features and landscapes, natural character, and historic heritage have been compromised and remain at risk as a result of:

(a) The impacts of inappropriate subdivision, use and development. The primary activities of concern are built development, earthworks, significant water extractions / discharges to water, vegetation clearance and coastal structures;

(b) A lack of active management; and

(c) Inconsistent identification and protection.

### **Objective 3.4 Indigenous ecosystems and biodiversity**

Safeguard Northland's ecological integrity by:

a) Protecting areas of significant indigenous vegetation and significant habitats of indigenous fauna;

b) Maintaining the extent and diversity of indigenous ecosystems and habitats in the region; and

c) Where practicable, enhancing indigenous ecosystems and habitats, particularly where this contributes to the reduction in the overall threat status of regionally and nationally threatened species.

### **Objective 3.5 Enabling economic wellbeing**

Northland's natural and physical resources are sustainably managed in a way that is attractive for business and investment that will improve the economic wellbeing of Northland and its communities

### **Objective 3.12 Tangata whenua role in decision-making**

Tangata whenua kaitiaki role is recognised and provided for in decision-making over natural and physical resources.

**Objective 3.14 Natural character, outstanding natural features, outstanding natural landscapes and historic heritage**

Identify and protect from inappropriate subdivision, use and development;

- (a) The qualities and characteristics that make up the natural character of the coastal environment, and the natural character of freshwater bodies and their margins;
- (b) The qualities and characteristics that make up outstanding natural features and outstanding natural landscapes;
- (c) The integrity of historic heritage.

**Objective 3.15 Active management**

Maintain and / or improve;

- (a) The natural character of the coastal environment and fresh water bodies and their margins;
- (b) Outstanding natural features and outstanding natural landscapes;
- (c) Historic heritage;
- (d) Areas of significant indigenous vegetation and significant habitats of indigenous fauna (including those within estuaries and harbours);
- (e) Public access to the coast; and
- (f) Fresh and coastal water quality

by supporting, enabling and positively recognising active management arising from the efforts of landowners, individuals, iwi, hapū and community groups.

**Policy 4.4.1 Maintaining and protecting significant ecological areas and habitats**

(1) In the coastal environment, avoid adverse effects, and outside the coastal environment avoid, remedy or mitigate adverse effects of subdivision, use and development so they are no more than minor on:

- (a) Indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists;
- (b) Areas of indigenous vegetation and habitats of indigenous fauna, that are significant using the assessment criteria in Appendix 5;
- (c) Areas set aside for full or partial protection of indigenous biodiversity under other legislation.

(2) In the coastal environment, avoid significant adverse effects and avoid, remedy, or mitigate other adverse effects of subdivision, use and development on:

- (a) Areas of predominantly indigenous vegetation;



(b) Habitats of indigenous species that are important for recreational, commercial, traditional or cultural purposes;

(c) Indigenous ecosystems and habitats that are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass, northern wet heathlands, coastal and headwater streams, floodplains, margins of the coastal marine area and freshwater bodies, spawning and nursery areas and saltmarsh.

(3) Outside the coastal environment and where clause (1) does not apply, avoid, remedy or mitigate adverse effects of subdivision, use and development so they are not significant on any of the following:

(a) Areas of predominantly indigenous vegetation;

(b) Habitats of indigenous species that are important for recreational, commercial, traditional or cultural purposes;

(c) Indigenous ecosystems and habitats that are particularly vulnerable to modification, including wetlands, dunelands, northern wet heathlands, headwater streams, floodplains and margins of freshwater bodies, spawning and nursery areas.

(4) For the purposes of clause (1), (2) and (3), when considering whether there are any adverse effects and/or any significant adverse effects:

(a) Recognise that a minor or transitory effect may not be an adverse effect;

(b) Recognise that where the effects are or maybe irreversible, then they are likely to be more than minor;

(c) Recognise that there may be more than minor cumulative effects from minor or transitory effects.

(5) For the purpose of clause (3) if adverse effects cannot be reasonably avoided, remedied or mitigated then it may be appropriate to consider the next steps in the mitigation hierarchy i.e. biodiversity offsetting followed by environmental biodiversity compensation, as methods to achieve Objective 3.4.

#### **Policy 4.4.2 Supporting restoration and enhancement**

Support voluntary efforts of landowners and community groups, iwi and hapū, to achieve Objective 3.15.

#### **Policy 4.5.1 Identification of the coastal environment, outstanding natural features and outstanding natural landscapes and high and outstanding natural character**

The areas identified in the Regional Policy Statement - Maps will form Northland's:

- (a) Coastal environment;
- (b) High and outstanding natural character areas within the coastal environment (except where the coastal marine area beyond harbours / estuaries remain unclassified); and
- (c) Outstanding natural features and outstanding natural landscapes.

Where following further detailed assessment, an area in the Regional Policy Statement – Maps has been amended in accordance with Method 4.5.4, and the amended area is operative in the relevant district or regional plan, it shall supersede the relevant area in the Regional Policy Statement – Maps.

#### **Policy 4.5.2 Application of the Regional Policy Statement – Maps**

The Regional Policy Statement Maps of high and outstanding natural character and outstanding natural features and outstanding natural landscapes identify areas that are sensitive to subdivision, use and development. The maps of these areas identify where caution is required to ensure activities are appropriate. However, suitably qualified assessment at a site or property-specific level can be used to demonstrate lesser (or greater) sensitivity to particular subdivision, use and development proposals given the greater resolution provided.

#### **Policy 4.5.3 Assessing, identifying and recording historic heritage**

Historic heritage resources (areas, places, sites, buildings, or structures either individually or as a group) are identified taking into account one or more of the following criteria:

- (a) Archaeological and / or scientific importance: the resource contributes significantly to our understanding of human history or archaeological research;
- (b) Architecture and technology: the structure or building is significant due to design, form, scale, materials, style, period, craftsmanship, construction technique or other unique element / characteristic;
- (c) Rarity: the resource or site is unique, uncommon or rare at a district, regional or national level;
- (d) Representativeness: the resource is an excellent example of its class in terms of design, type, use, technology, time period or other characteristic;
- (e) Integrity: the resource retains a high proportion of its original characteristics and integrity compared with other examples in the district or region;

- (f) Context: the resource forms part of an association of heritage sites or buildings which, when considered as a whole, become important at a district, regional or national scale;
- (g) People and events: the resource is directly associated with the life or works of a well-known or important individual, group or organisation and / or is associated with locally, regionally or nationally significant historic events;
- (h) Identity: the resource provides a sense of place, community identity or cultural or historical continuity;
  - (i) Tangata whenua: the resource place or feature is important to tangata whenua for traditional, spiritual, cultural or historic reasons; and
  - (j) Statutory: the resource or feature is recognised nationally or internationally, including: a World Heritage Site under the World Heritage Convention 1972; is registered under the Historic Places Act 1993; or is recognised as having significant heritage value under a statutory acknowledgement or other legislation.

**Policy 4.6.1 Managing effects on the characteristics and qualities natural character, natural features and landscapes**

(1) In the coastal environment:

- a) Avoid adverse effects of subdivision use, and development on the characteristics and qualities which make up the outstanding values of areas of outstanding natural character, outstanding natural features and outstanding natural landscapes.
- b) Where (a) does not apply, avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of subdivision, use and development on natural character, natural features and natural landscapes. Methods which may achieve this include:
  - (i) Ensuring the location, intensity, scale and form of subdivision and built development is appropriate having regard to natural elements, landforms and processes, including vegetation patterns, ridgelines, headlands, peninsulas, dune systems, reefs and freshwater bodies and their margins; and
  - (ii) In areas of high natural character, minimising to the extent practicable indigenous vegetation clearance and modification (including earthworks / disturbance, structures, discharges and extraction of water) to natural wetlands, the beds of lakes, rivers

and the coastal marine area and their margins; and

(iii) Encouraging any new subdivision and built development to consolidate within and around existing settlements or where natural character and landscape has already been compromised.

(2) Outside the coastal environment avoid significant adverse effects and avoid, remedy or mitigate other adverse effects (including cumulative adverse effects) of subdivision, use and development on the characteristics and qualities of outstanding natural features and outstanding natural landscapes and the natural character of freshwater bodies. Methods which may achieve this include:

- a) In outstanding natural landscapes, requiring that the location and intensity of subdivision, use and built development is appropriate having regard to, natural elements, landforms and processes, including vegetation patterns, ridgelines and freshwater bodies and their margins;
- b) In outstanding natural features, requiring that the scale and intensity of earthworks and built development is appropriate taking into account the scale, form and vulnerability to modification of the feature;
- c) Minimising, indigenous vegetation clearance and modification (including earthworks / disturbance and structures) to natural wetlands, the beds of lakes, rivers and their margins.

(3) When considering whether there are any adverse effects on the characteristics and qualities<sup>9</sup> of the natural character, natural features and landscape values in terms of (1)(a), whether there are any significant adverse effects and the scale of any adverse effects in terms of (1)(b) and (2), and in determining the character, intensity and scale of the adverse effects:

- a) Recognise that a minor or transitory effect may not be an adverse effect;
- b) Recognise that many areas contain ongoing use and development that:
  - (i) Were present when the area was identified as high or outstanding or have subsequently been lawfully established
  - (ii) May be dynamic, diverse or seasonal;
- c) Recognise that there may be more than minor cumulative adverse effects from minor or transitory adverse effects; and
- d) Have regard to any restoration and enhancement on the characteristics and qualities of that area of natural character, natural features and/or natural landscape.

**Policy 4.7.1 Promote active management**

In plan provisions and the resource consent process, recognise and promote the positive effects of the following activities that contribute to active management:

- a) Pest control, particularly where it will complement an existing pest control project / programme;
- b) Soil conservation / erosion control;
- c) Measures to improve water quality in parts of the coastal marine area where it has deteriorated and is having significant adverse effects, or in freshwater bodies targeted for water quality enhancement;
- d) Measures to improve flows and / or levels in over allocated freshwater bodies;
- e) Re-vegetation with indigenous species, particularly in areas identified for natural character improvement;
- f) Maintenance of historic heritage resources (including sites, buildings and structures);
- g) Improvement of public access to and along the coastal marine area or the margins of rivers or lakes except where this would compromise the conservation of historic heritage or significant indigenous vegetation and / or significant habitats of indigenous fauna;
- h) Exclusion of stock from waterways and areas of significant indigenous vegetation and / or significant habitats of indigenous fauna;
- i) Protection of indigenous biodiversity values identified under Policy 4.4.1, outstanding natural character, outstanding natural landscapes or outstanding natural features either through legal means or physical works;
- j) Removal of redundant or unwanted structures and / or buildings except where these are of historic heritage value or where removal reduces public access to and along the coast or lakes and rivers;
- k) Restoration or creation of natural habitat and processes, including ecological corridors in association with indigenous biodiversity values identified under Policy 4.4.1, particularly wetlands and / or wetland sequences;
- l) Restoration of natural processes in marine and freshwater habitats.

**Policy 4.7.2 Supporting landowner and community efforts**

Support landowners, iwi, hapū, and community efforts to actively manage or improve key aspects of the environment especially where there is willing collaboration between participants and those efforts are directed at one or more of

the activities in Policy 4.7.1.

**Policy 4.7.3 Improving natural character**

Except where in conflict with established uses promote rehabilitation and restoration of natural character in the manner described in Policy 4.7.1 in the following areas:

- (a) Wetlands, rivers, lakes, estuaries, and their margins;
- (b) Undeveloped or largely undeveloped natural landforms between settlements, such as coastal headlands, peninsulas, ridgelines, dune systems;
- (c) Areas of high natural character;
- (d) Land adjacent to outstanding natural character areas, outstanding natural features, and outstanding natural landscapes;
- (e) Remnants of indigenous coastal vegetation particularly where these are adjacent to water or can be linked to establish or enhance ecological corridors; and
- (f) The areas or values identified in Policy 4.4.1 (protecting significant areas and species).

**Policy 6.1.1 Regional and district plans**

Regional and district plans shall:

- (a) Only contain regulation if it is the most effective and efficient way of achieving resource management objective(s), taking into account the costs, benefits and risks;
- (b) Be as consistent as possible;
- (c) Be as simple as possible;
- (d) Use or support good management practices;
- (e) Minimise compliance costs and enable audited self-management where it is efficient and effective;
- (f) Enable the aspects of subdivision, use and development that complies with the Regional Policy Statement; and
- (g) Focus on effects and where suitable use performance standards.

**Policy 6.1.2 Precautionary approach**

Adopt a precautionary approach towards the effects of climate change and introducing genetically modified organisms to the environment where they are scientifically uncertain, unknown, or little understood, but potentially significantly

adverse.

**Policy 6.1.3 Transferring council functions**

Transfer and delegate regional and district council functions (as provided by sections 33 and 34 of the Resource Management Act 1991(RMA)) where it would result in increased efficiencies and / or effectiveness in achieving resource management objectives.

**Policy 8.1.1 Tangata whenua participation**

The regional and district councils shall provide opportunities for tangata whenua to participate in the review, development, implementation, and monitoring of plans and resource consent processes under the Resource Management Act 1991.

**Policy 8.1.2 The regional and district council statutory responsibilities**

The regional and district councils shall when developing plans and processing resource consents under the Resource Management Act 1991 (RMA):

- (a) Recognise and provide for the relationship of tangata whenua and their culture and traditions with their ancestral land, water, sites wāhi tapu, and other taonga;
- (b) Have particular regard to kaitiakitanga; and
- (c) Take into account the principles of the Treaty of Waitangi including partnership.

**Policy 8.1.3 Use of Mātauranga Māori**

The regional and district councils shall provide opportunities for the use and incorporation of Mātauranga Māori into decision-making, management, implementation, and monitoring of natural and physical resources under the Resource Management Act 1991.

**Policy 8.1.4 Māori concepts, values and practices**

Relevant Māori concepts, values and practices will be clarified through consultation with tangata whenua to develop common understandings of their meaning and to develop methodologies for their implementation.

**Policy 8.3.1 Kaitiaki role**

The regional and district councils shall support tangata whenua to have a kaitiaki role in the management of their land, resources, and other taonga.

**Method 4.4.3 Statutory plans and strategies**

(1) Subject to Method 4.4.3(3), within two years after the Regional Policy Statement becomes operative the regional council will amend regional plans to the extent needed to ensure the plans implement Policy 4.4.1 for water bodies (including wetlands), in, on, or under the beds of rivers and lakes, and in the coastal marine area. Principal methods include:

- (a) Freshwater objectives and associated environmental flows and / or levels and freshwater quality limits, and regulatory methods to achieve them, such as controls on discharges and the use of land;
- (b) Coastal water quality classifications and associated water quality standards, and regulatory methods to achieve them, such as controls on discharges and the use of land;
- (c) Controls on use and development of beds of lakes, rivers, and wetlands;
- (d) Controls on use and development of the coastal marine area; and
- (e) Controls on use and development that could have adverse effects by causing aquatic pest species to be released or otherwise spread.

(2) Subject to Method 4.4.3(3), within two years after the Regional Policy Statement becomes operative the district councils shall amend district plans to the extent needed to ensure the plans implement Policy 4.4.1 on land outside of the beds of rivers and lakes, wetlands, and the coastal marine area.

Methods of implementation include:

- (a) Controls on the disturbance of land and the clearance of vegetation; and
- (b) Controls on the introduction or keeping of species with recognised pest potential.

(3) In implementing Policy 4.4.1 regional and district plans shall:

- (a) Allow activities undertaken for the purposes of pest control or habitat maintenance or enhancement;
- (b) Consider biodiversity offsets in appropriate circumstances;
- (c) Allow the maintenance and use of existing structures including infrastructure; and
- (d) Not unreasonably restrict the existing use of production land, including Forestry.

**Method 4.4.5 Advocacy and education**

The regional and district councils should promote voluntary efforts to achieve Objective 3.4 Methods include:



- (a) Providing advice on voluntary mechanisms for protecting significant ecological areas and species;
- (b) Liaising with relevant agencies when developing strategies, research proposals, or undertaking investigations related to the management and protection of ecological areas and species; and
- (c) Assisting organisations with investigations into the establishment of national parks, marine and other reserves, and advocating related initiatives to central government.

## **Proposed Regional Plan for Northland (Appeals Version May 2021)**

### **Objective F.1.3 Indigenous ecosystems and biodiversity**

In the coastal marine area and in fresh waterbodies, safeguard ecological integrity by:

- 1) protecting areas of significant indigenous vegetation and significant habitats of indigenous fauna, and
- 2) maintaining regional indigenous biodiversity, and
- 3) where practicable, enhancing and restoring indigenous ecosystems and habitats to a healthy functioning state, and reducing the overall threat status of regionally and nationally Threatened or At Risk species, and
- 4) preventing the introduction of new marine or freshwater pests into Northland and slowing the spread of established marine or freshwater pests within the region.

### **Objective F.1.5 Enabling economic well-being**

Northland's natural and physical resources are managed in a way that is attractive for business and investment that will improve the economic well-being of Northland and its communities

### **Objective F.1.9 Tangata whenua role in decision-making**

Tangāta whenua's kaitiaki role is recognised and provided for in decision-making over natural and physical resources.

### **Objective F.1.11 Improving Northland's natural and physical resources**

Enable and positively recognise activities that contribute to improving Northland's natural and physical resources.

### **Objective F.1.12 Natural character, outstanding natural features, historic heritage and places of significance to tangata whenua**

(amendments as approved by the Court in its Topic 11 decision dated 1 April 2021)

Protect from inappropriate use and development:

- 1) the characteristics, qualities and values that make up:
  - a) outstanding natural features in the coastal marine area and in fresh waterbodies, and
  - b) areas of outstanding and high natural character in the coastal marine area and in fresh waterbodies within the coastal environment, and
  - c) natural character in fresh waterbodies outside the coastal environment, and
  - d) outstanding natural landscapes in the coastal marine area, and
- 2) the integrity of historic heritage in the coastal marine area, and
- 3) the values of places of significance to tangāta whenua in the coastal marine area and freshwater bodies.

**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 tangāta 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 tangāta whenua to carry out cultural and traditional activities, or
- 4) the use of genetic engineering and the release of genetically modified organisms to the environment, or
- 5) adverse effects on tāiapure, mataitai or Māori non-commercial fisheries, or
- 6) adverse effects on protected customary rights, or
- 7) adverse effects on sites and areas of significance to tangāta whenua mapped in the Regional Plan (refer I Maps |Ngā mahere matawhenua).

**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 tangāta 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 tangāta 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 tangāta 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 tangāta whenua undertake the assessment, and
- 4) specify the tangāta 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.

**Policy D.1.4 Managing effects on places of significance to tangata whenua**

Resource consent for an activity may generally only be granted if the adverse effects from the activity on the values of Places of Significance to tangāta whenua in the coastal marine area and water bodies are avoided, remedied or mitigated so they are no more than minor.

**Policy D.1.5 Places of significance to tangata whenua**

For the purposes of this Plan, a place of significance to tangāta 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) soil conservation, or
  - b) quality and quantity of water, or
  - c) aquatic ecosystems and indigenous biodiversity, and
- 2) is:
- a) a historic heritage resource, or
  - b) ancestral land, water, site, wāhi tapu, or other taonga, and
- 3) is either:
- a) a Site or Area of Significance to tangāta whenua, which is a single resource or set of resources identified, described and contained in a mapped location, or
  - b) a Landscape of Significance to tangāta whenua, which is a collection of related resources identified and described within a mapped area, with the relationship between those component resources identified, and
- 4) has one or more of the following attributes:
- a) historic associations, which include but are not limited to:
    - i. stories of initial migration, arrival and settlement, or
    - ii. patterns of occupation, including permanent, temporary or seasonal occupation, or
    - iii. the sites of conflicts and the subsequent peace-making and rebuilding of iwi or hapū, or
    - iv. kinship and alliances built between areas and iwi or hapū, often in terms of significant events, or
    - v. alliances to defend against external threats, or
    - vi. recognition of notable tupuna, and sites associated with them, or
  - b) traditional associations, which include but are not limited to:
    - i. resource use, including trading and trading routes between groups (for instance – with

minerals such as matā/obsidian), or

ii. traditional travel and communication linkages, both on land and sea, or

iii. areas of mana moana for fisheries and other rights, or

iv. use of landmarks for navigation and location of fisheries grounds, or

v. implementation of traditional management measures, such as rāhui or tohatoha

(distribution), or

c) cultural associations, which include but are not limited to:

i. the web of whanaungatanga<sup>147</sup> connecting across locations and generations, or

ii. the implementation of concepts such as kaitiakitanga and manākitanga, with specific

details for each whanau, hapū and iwi, or

d) spiritual associations which pervade all environmental and social realities, and include but are not limited to:

i. the role of the atua Ranginui and Papatūānuku, and their offspring such as Tangaroa

and Tāne, or

ii. the recognition of places with connection to the wairua of those with us and those who have passed away, or

iii. the need to maintain the mauri of all living things and their environment, and

5) must:

a) be based on traditions and tikanga, and

b) be endorsed for evidential purposes by the relevant tangāta whenua community, and

c) record the values of the place for which protection is required, and

d) record the relationship between the individual sites or resources (landscapes only), and

e) record the tangāta whenua groups determining and endorsing the assessment, and

f) geographically define the areas where values can be adversely affected.

#### **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. Policy D.2.2 Social, cultural and economic benefits of activities

#### **Policy D.2.13 Marine and freshwater pest management**

Manage the adverse effects from marine pests, and pests within the beds of freshwater bodies, by:

- 1) recognising that the introduction or spreading of pests within the coastal marine area and freshwater bodies could have significant and irreversible adverse effects on Northland's environment, and
- 2) recognising that the main risk of introducing and spreading pests is from the movement of vessels, structures, equipment, materials, and aquaculture livestock, and
- 3) decision-makers applying the precautionary principle when there is scientific uncertainty as to the extent of effects from the introduction or spread of pests, and
- 4) imposing conditions on resource consents requiring that best practice measures are implemented so that risk of introducing or spreading pests is effectively managed as a result of the consented activity.

#### **Policy D.2.17 Managing adverse effects on natural character, outstanding natural landscapes and outstanding natural features**

*(amendments as determined by the Court in CEP Services Ltd v Northland Regional Council [2021] NZEnvC 039, but subject to the Court's final approval)*

Manage the adverse effects of activities on natural character, outstanding natural landscapes and outstanding natural features by:

- 1) avoiding adverse effects of activities as follows:

**Table 15: Adverse effects to be avoided**

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

<u>Natural character</u>		
Outstanding natural features	Fresh waterbodies outside the coastal environment.	Significant adverse effects on the characteristics, qualities and values that contribute to <u>natural character</u> or which make the natural feature <u>or landscape</u> outstanding.
<u>Outstanding natural landscapes</u>		

- 2) recognising that, in relation to natural character in water bodies and the coastal environment (where not identified as outstanding natural character), appropriate methods of avoiding, remedying or mitigating adverse effects may include:
  - a) ensuring the location, intensity, scale and form of activities is appropriate having regard to natural elements and processes, and
  - b) in areas of high natural character in the coastal environment ~~marine area~~, minimising to the extent practicable indigenous vegetation clearance and modification (seabed and foreshore disturbance, structures, discharges of contaminants), and
  - c) in fresh water, minimising to the extent practicable modification (disturbance, structures, extraction of water and discharge of contaminants), and
- 3) recognising that, in relation to outstanding natural features in water bodies outside the coastal environment, appropriate methods of avoiding, remedying or mitigating adverse effects may include:
  - a) requiring that the scale and intensity of bed disturbance and modification is appropriate, taking into account the feature's scale, form and vulnerability to modification of the feature, and
  - b) requiring that proposals to extract water or discharge contaminants do not significantly adversely affect the characteristics, qualities and values of the outstanding natural feature, and
- 4) recognising that uses and development form part of existing landscapes, features and water bodies and have existing effects.

#### **Policy D.2.18 Managing adverse effects of activities on indigenous biodiversity**

*(amendments as approved by the Court in CEP Services Ltd v Northland Regional Council [2021] NZEnvC 039)*

Manage the adverse effects of activities on indigenous biodiversity by:

- 1) in the coastal environment:
  - a) avoiding adverse effects on:
    - i. indigenous taxa that are listed as Threatened or At Risk in the New Zealand Threat Classification System lists, and
    - ii. the values and characteristics of areas of indigenous vegetation and habitats of indigenous fauna that are assessed as significant using the assessment criteria in Appendix 5 of the Regional Policy Statement, and
    - iii. areas set aside for full or partial protection of indigenous biodiversity under other legislation, and
  - b) avoiding significant adverse effects and avoiding, remedying or mitigating other adverse effects on:
    - i. areas of predominantly indigenous vegetation, and

ii. habitats of indigenous species that are important for recreational, commercial, traditional or cultural purposes, and

iii. indigenous ecosystems and habitats that are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, intertidal zones, rocky reef systems, eelgrass, northern wet heathlands, coastal and headwater streams, spawning and nursery areas and saltmarsh, and

2) outside the coastal environment:

a) avoiding, remedying or mitigating adverse effects so they are no more than minor on:

i. indigenous taxa that are listed as Threatened or At Risk in the New Zealand Threat Classification System lists, and

ii. areas of indigenous vegetation and habitats of indigenous fauna, that are significant using the assessment criteria in Appendix 5 of the Regional Policy Statement, and

iii. areas set aside for full or partial protection of indigenous biodiversity under other legislation, and

b) avoiding, remedying or mitigating adverse effects so they are not significant on:

i. areas of predominantly indigenous vegetation, and

ii. habitats of indigenous species that are important for recreational, commercial, traditional or cultural purposes, and

iii. indigenous ecosystems and habitats that are particularly vulnerable to modification, including wetlands, wet heathlands, headwater streams, spawning and nursery areas, and

3) recognising areas of significant indigenous vegetation and significant habitats of indigenous fauna include:

a) Significant Ecological Areas, and

b) Significant Bird Areas, and

c) Significant Marine Mammal and Seabird Areas, and

4) recognising damage, disturbance or loss to the following as being potential adverse effects:

a) connections between areas of indigenous biodiversity, and

b) the life-supporting capacity of the area of indigenous biodiversity, and

c) flora and fauna that are supported by the area of indigenous biodiversity, and

d) natural processes or systems that contribute to the area of indigenous biodiversity, and

5) assessing the potential adverse effects of the activity on identified values of indigenous biodiversity, including by:

a) taking a system-wide approach to large areas of indigenous biodiversity such as whole estuaries or widespread bird and marine mammal habitats, recognising that the scale of the effect of an activity is proportional to the size and sensitivity of the area of indigenous biodiversity, and

b) recognising that existing activities may be having existing acceptable effects, and

c) recognising that minor or transitory effects may not be an adverse effect, and



- d) recognising that where effects may be irreversible, then they are likely to be more than minor, and
  - e) recognising that there may be more than minor cumulative effects from minor or transitory effects, and
- 6) recognising that appropriate methods of avoiding, remedying or mitigating adverse effects may include:
- a) careful design, scale and location proposed in relation to areas of indigenous biodiversity, and
  - b) maintaining and enhancing connections within and between areas of indigenous biodiversity, and
  - c) considering the minimisation of effects during sensitive times such as indigenous freshwater fish spawning and migration periods, and
  - d) providing adequate setbacks, screening or buffers where there is the likelihood of damage and disturbance to areas of indigenous biodiversity from adjacent use and development, and
  - e) maintaining the continuity of natural processes and systems contributing to the integrity of ecological areas, and
  - f) the development of ecological management and restoration plans, and
- 7) recognising that significant residual adverse effects on biodiversity values can be offset or compensated:
- a) in accordance with the Regional Policy Statement for Northland Policy 4.4.1, and
  - b) after consideration of the methods in (6) above, and
- 8) recognising the benefits of activities on biodiversity values that:
- a) restore, protect or enhance ecosystems, habitats and processes, ecological corridors and indigenous biodiversity, and
  - b) improve the public use, value or understanding of ecosystems, habitats and indigenous biodiversity.

**Policy D.2.20 Precautionary approach to managing effects on indigenous biodiversity**

*(amendments as determined by the Court in CEP Services Ltd v Northland Regional Council [2021] NZEnvC 039, but subject to the Court's final approval)*

~~Where there is scientific uncertainty about the adverse effects of activities on:~~

~~1) species listed as Threatened or At Risk in the New Zealand Threat Classification System including those identified by reference to the Significant Bird Area and Significant Marine Mammal and Seabird Area maps (refer Maps), or~~

~~2) any values ranked high by the Significant Ecological Areas maps (Refer Maps), then the greatest extent of adverse effects reasonably predicted by science, must be given the most weight.~~

Decision makers adopt a precautionary approach where the adverse effects of proposed activities are uncertain, unknown or little understood, on:

- 1) indigenous biodiversity, including significant ecological areas, significant bird areas and other areas that are assessed as significant under the criteria in Appendix 5 of the Regional Policy Statement; and

- 2) the coastal environment where the adverse effects are potentially significantly adverse, particularly in relation to coastal resources vulnerable to the effects of climate change.