

APPLICATION FORM [Amended September 2019]

Form 9

APPLICATION FOR RESOURCE CONSENT Section 88, Resource Management Act 1991

To: **The Northland Regional Council**

We, **Far North Holdings Limited, PO Box 7, Opuia**, apply for the following types of resource consent:

Coastal and Discharge Permits and Land Use Consent associated with the construction of a maritime servicing area

The activities to which the application relates are as follows:

Coastal Permits for:

- capital dredging;
- maintenance dredging;
- disposal of dredging spoil;
- reclamation of an area in the common marine and coastal area;
- erection of new hard protection structures [seawall];
- removal of structures [boat ramp, dinghy racks];
- erection of new structures [concrete ramp, timber jetty and ramp, pontoon with gangway, dinghy racks, stormwater outlet pipes];
- removal of mangroves.

Land Use Consent for:

- land disturbance activities in coastal riparian area.

The site at which the proposed activity is to occur is as follows:

The site is located on the western shore of the Kawakawa River south of the Bay of Islands Marina Boatyard and affects an area of seabed in the common marine and coastal area and adjacent land. Prior to being divested under the Marine and Coastal (Takutai Moana) Act of 2011 the area to be reclaimed had the legal description Part Lot 1, DP 183896. The reclamation area adjoins Lot 1, DP 199153.

The full name and address of each owner or occupier (other than the applicant) of the site to which the application relates are as follows:

Both of the areas described above are Crown Land.

There are other activities that are part of the proposal to which this application relates.

The attached Planning Report identifies those items which are permitted.

The following additional resource consents are needed for the proposed activity and have been applied for.

Application is being made separately to the Far North District Council for consent for access and stormwater management.

We attach an assessment of the proposed activity's effect on the environment that –

- (a) includes the information required by clause 6 of Schedule 4 of the Resource Management Act 1991; and
- (b) addresses the matters specified in clause 7 Schedule 4 of the Resource Management Act 1991; and
- (c) includes such detail as corresponds with the scale and significance of the effects that the activity may have on the environment.

Refer to attached Planning Report

We attach an assessment of the proposed activity against the matters set out in Part 2 of the Resource Management Act 1991.

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Refer to attached Planning Report

We attach an assessment of the proposed activity against any relevant provisions of a document referred to in section 104(1)(b) of the Resource Management Act 1991, including the information required by clause 2(2) of Schedule 4 of that Act.

Refer to attached Planning Report

I attach information that shows the area proposed to be reclaimed, including its location and the position of all new boundaries. No portion of the area is to be set aside as an esplanade reserve or esplanade strip.

Refer to attached Planning Report and drawings

We attach the following further information required to be included in this application by the District Plan, the Regional Plan, the Resource Management Act 1991, or any regulations made under that Act.

<u>Document</u>	<u>Prepared by:</u>
Planning Report, including Assessment of Environmental Effects	Bay of Islands Planning Limited
Layout and Design Drawings	Haigh Workman Limited
Ecological Assessment of a Proposed Vehicle Turning Area at Opuā Marina	Northland Ecology

The following reports/documents are included in the amended application:

<u>Document</u>	<u>Prepared by:</u>
Site Suitability Report [15119B, September 2019]	Haigh Workman Limited
Engineering Drawings [15119]	Haigh Workman Limited
Noise Assessment [Rp001 20190467, 13 June 2019]	Marshall Day Acoustics
Assessment of Ecological Effects [Aa4046, September 2019]	4Sight Consulting
Assessment of Landscape, natural character and visual amenity effects [19066_01, 16 September 2019]	Simon Cocker Landscape Architecture
Opuā Marine Servicing and Oyster Landing Facility - Economic Impacts [FNH003.17] 2017	m.e consulting
Copy of email in support, Appendix A	Te Kahui Kaitiaki o Ngāti Manu mo te Awatapu o Taumarere

Date: 30th September 2019

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J. V. Kemp
Principal
Bay of Islands Planning Limited
authorised to sign on behalf of Far North Holdings Limited

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PURPOSE OF APPLICATION

1. This application seeks to to reclaim an area of seabed adjacent to the Bay of Islands Boatyard, commonly known as Ashby's, to accommodate barging activities and a landing facility for marine farming operations. The applicant, Far North Holdings Limited, wishes to provide the facility for activities which previously made use of an existing barge dock in Opuia. This needs to be relocated as the recently constructed extension to the Marina renders the activities utilising the barge dock incompatible with the increased recreational usage of the wider area, especially the public boat ramp centrally located between the two portions of the marina.
2. The dock serves marine farms in the Waikare Inlet as well as catering for barging operations associated with dredging and construction activities, including maintenance of existing structures, on islands or locations not accessible by road within the Bay.
3. Consent for the existing barge dock was originally granted by NRC in 1999 under NLD99 8385 (16) with an expiry date of 30 May 2014. This was renewed in 2014 as the Marina extension had not been approved at that stage and continued operation of the facility was essential, but will be surrendered when a replacement facility is available. With the marina extension in operation, there is now some urgency to relocate the activities to an appropriate location. Limited use of the existing barge dock is still possible but some activities are of necessity being conducted out of Auckland which has significant cost implications for those dependent on such services.
4. An application was previously made to relocate the facility near Colenso Triangle in conjunction with an application for a terminal building for the Bay of Islands Vintage Railway but the reclamation component of the application was declined. The applicants initially appealed the decision but subsequently withdrew that component of the application. This application proposes an alternative location on the southern side of the Boatyard. Iwi and other parties opposing the Colenso Triangle application indicated that a location in the general vicinity of this site would be acceptable.
5. This site provides an opportunity for provision of a barge dock and landing facility for marine commercial activities with the same advantages as the current location: good accessibility to State Highway 11 and the wider roading network, good water access to and from the areas it serves, and the ability to get marine farm produce under refrigeration as soon as possible. Its location removes the risks associated with the current juxtaposition of commercial barging activities next to a public recreational boat launching ramp while at the same time consolidating maritime industry usage of a part of the coastal marine area already dedicated for such use.
6. The application area sits below a tree clad bluff below the residential development on Lyons and Kennedy Streets. It is traversed by the Pou Herenga Tai [Twin Coast] cycle trail which terminates in Baffin Street where a small parking area is provided. Realignment of the trail is required as land at the base of the bluff is limited and provision of road access and vehicle turning space for the proposed facilities necessitates diversion of part of the Trail.
7. As a result of the withdrawal of the Colenso Triangle application, the advanced state of works on the marina extension and the inability of other facilities in Opuia to accommodate the full docking needs for barge activities, processing of this consent is urgently required. Various specialist reports supporting the application are currently under preparation and will be forwarded separately when available. Through work undertaken for other applications in the vicinity for the Marina and Boatyard, the applicant does however have a significant understanding of the conditions likely to apply at this site and the application has been formulated on the anticipation that similar findings will apply once the specialist reports are available. The consultants undertaking the reports have advised that the work done to date has not identified any significant adverse effects which cannot be avoided, remedied or mitigated.

LAND STATUS

- Figure 1** shows the location of the area in relation to Baffin Street and the Boatyard and delineates the two 'sites' affected by the application, both of which are Crown Land although the site within the coastal marine area has a certificate of title. The landward site, which comprises the steep bush clad hillside located below the Lyons and Kennedy Streets, was gazetted in 1999 as land not required for railway purposes and has subsequently been added to the land bank for treaty settlements. This does not preclude development on the land, which may not be used for settlement redress and if it is may not be given to the party who requested its inclusion in the land bank through the Protection Mechanism process. The applicant has received indications that provision of access though the site would not be opposed.

Figure 1



Source: Far North Maps

- The applicant is in the process of discussing the proposal with tangata whenua now that plans are available.

SITE DESCRIPTION

- The relationship of the site to the overall maritime development in Opuā, including the new reclamation and second stage of the Marina, is shown on **Figure 2**.

Figure 2 Aerial View



Source: Google Maps 2019 imagery

11. The shore line is formed essentially by the embankment for the old railway line to Opuia, with that part of the line being currently the end of Pou Herenga Tai, the Twin Coast Cycle Trail.
12. Access to the Boatyard is gained from Baffin Street with Boatyard activities and 'parking' of boats occupying the area beside the boundary fence along the cycle trail. The trail also provides access from the car parking area to a small public boat ramp and dinghy racks at the far end of the Boatyard which facilitate access to the swing moorings located south of the Boatyard.

Figure 3 Existing Cycle Trail and Dinghy Launching Facilities



Source: Far North Maps 2015 imagery

PROPOSAL

13. The proposed structures are shown on the concept drawings prepared by Haigh Workman Limited. The area of the proposed reclamation comprises a rectangular area at the southern end of the Boatyard with a small triangular extension along the curved end of the existing reclamation. This flat 'wharf' area, which has a total hardstand area of 1700m², provides three 'docks' for loading and unloading barges. A 20 metre wide concrete ramp to be used solely by marine contractors adjoins the southern end of the reclamation.
14. The reclamation will be supported by a pile or rock wall. Dredging of an area of 1200m² is required 'in front' of the three dock areas to provide sufficient depth for the barges. The depth of the dredged area will be -3.1m OTP datum requiring removal of spoil in the order of 600m³ which will be placed within the reclamation unless it is found to have significant levels of contamination. Initial results indicate this is unlikely although specific management measures may be required. The rest of the 'fill' material for the reclamation will be sourced from other approved construction projects being undertaken by the applicant.
15. Road access will be gained from Baffin Street by means of a 6.5m shared access road along the Boatyard boundary accommodating the cycle trail and the commercial vehicles using the proposed facilities. The slope above was formed previously but a retaining wall 85 metres long with a typical height of 2.5 metres will be constructed at the toe of the slope. At the southern end of the proposed facilities, a turning loop to provide sufficient manoeuvring space for trucks will be constructed with six parking spaces for the oyster farmers within the road loop. The cycle trail will be diverted around the landward side of the loop before connecting back to the existing alignment where the shoreline extends around a small headland. The barge dock operators already park on Baffin Street as the barges are currently utilising Pier K of the marina. At the southern end of the road loop, a timber jetty, gangway and pontoon will be

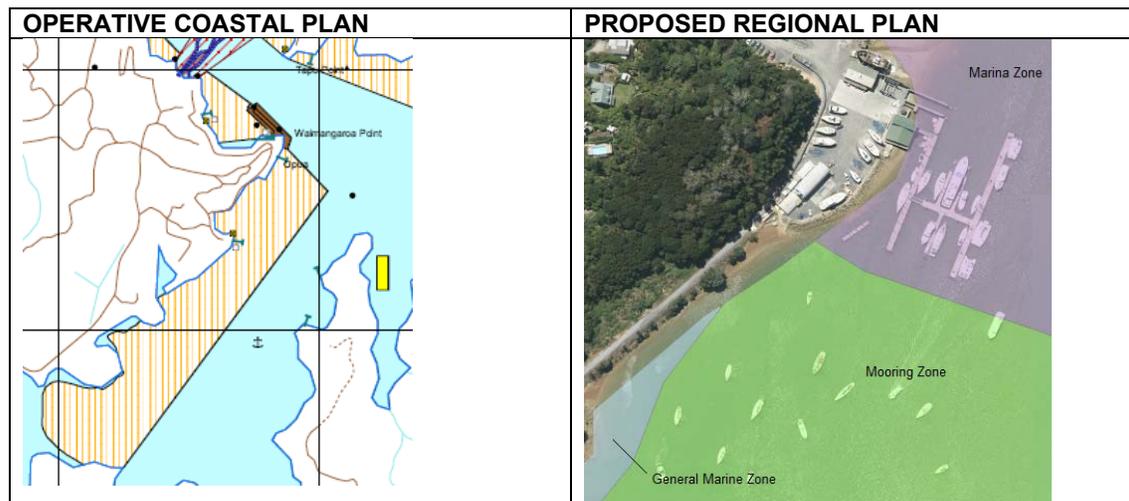
provided for use by mooring owners together with dinghy racks as replacement for the existing facilities at the end of the Boatyard. The pontoon at the end of this jetty will provide an 'out of service' mooring location for the Minerva steamship but no embarking or disembarking of passengers.

16. Two or three swing moorings will need to be removed from the vicinity of the reclamation and the jetty to allow room for the structures and the manoeuvring of vessels using the docking facilities. The applicant will liaise with the owners and with NRC staff as to how this will be accomplished. Depending on the outcome, physical removal by the applicant may be required and if necessary can be added in to the application during processing. This activity is treated similarly to removal of structures and will be permitted or controlled depending on whether there is a need to use heavy machinery. The likely effects are similar to those of removing structures and dredging which are in any event covered within the application.
17. Details of the works required, construction methods and design parameters are provided in the specialist reports encompassing engineering, noise, marine ecology and water quality, and landscape aspects. The management measures required to address potential effects will be brought together into a Construction Management Plan to be submitted to Council prior to commencement of works.

RESOURCE CONSENT REQUIREMENTS

18. The proposal requires a number of consents under both the Operative Coastal Plan for Northland [CP], the Proposed Regional Plan for Northland [PRP], and the Far North District Plan [FNDC]. A separate application to FNDC will be made in respect of earthworks, noise and visual amenity. The PRP was notified in September 2017 but has now reached the stage where decisions have been released and the application is therefore based on that version.
19. Under the CP the area is included in the Marine 4 [Moorings] Management Area which extends for a considerable distance south of the site as shown by the yellow hatching on **Figure 3**.
20. The PRP applies zonings to the coastal marine area similar to the Management Areas in the Coastal Plan. The area affected by this application is mostly in the Mooring Zone but extends around the corner of the existing Boatyard reclamation into the Marina Zone applied to the Marina and its extension. A portion of the site at the southern of the proposed development is in the General Marine Zone but this only affects part of the new timber jetty. [**Figure 3**]

Figure 3 Regional Plan Zonings



Source: Northland Regional Council On Line Maps

21. The requirements arising under each of the Plans are assessed separately below.

Operative Coastal Plan

22. The proposal involves a number of activities which are subject to rules as summarised in **Table 1**. It should be noted that 'structures' encompasses the concrete boat ramp, timber jetty and ramp, gangway, pontoon and stormwater outlet pipes.

Table 1

Activity	Rule	Status	Comment
Removal of structures	31.6.3 (b)	Controlled	Status is dependent on methods used and would be permitted if use machinery such as pneumatic drills was not required. As the status of the overall consent is 'higher' than controlled, and any works on the ramp will be in the context of the overall reclamation, application is made 'for completeness'.
Capital Dredging	31.6.7(b)	Discretionary	Discretionary, standards in 36.1.6.11 can be achieved.
Dredging spoil disposal	31.6.7(d)	Discretionary	Discretionary, standards in 36.1.6.11 can be achieved.
Maintenance Dredging	31.6.7(a)	Controlled	Subject to matters of control and standards in 36.1.6.11
Reclamation [including seawall]	31.6.4(b)	Non-complying	Non-complying as not associated with a marina or public amenities
Structures	31.6.3(l)	Discretionary	New structures which are not Restricted Coastal Activities
Stormwater discharge	31.6.5(b)	Permitted	The stormwater management system includes an interceptor system
Mangrove removal	Not covered	Discretionary [innominate]	Rule 31.6.10(a) does not apply and there is no other relevant rule.

Proposed Regional Plan

23. **Table 2** lists the equivalent status of activities under the proposed Plan and the factors which determine that status. The affected area is subject to three separate zonings, but the only activities which are 'zone dependent' are the various structures and the relocation of moorings. The latter is accomplished entirely within the Mooring Zone. Some of the structures span both the Mooring Zone and the General Marine Zone both of which are covered by the same rule. The mix of zonings does not therefore affect the number or status of the required consents.

24. The PRP also incorporates an approach of bundling rules so that only one consent is required for the main activity. The matters included are identified under the activity heading in column one of **Table 2** for clarity.

Table 2

Activity	Rule	Status	Determinants
Removal of structures	C.1.1.10	Permitted	Meets conditions of complying with Coastal Works General Conditions and not being a Historic Heritage site
Structures [includes construction and placement, occupation of space and use and any incidental seabed disturbance]	C.1.1.21	Discretionary	The rule applies to both the Moorings and general Marine Zones. The structures do not meet the rules for permitted or controlled activities and are not non-complying as they do have a functional need to be in the coastal marine area.
Hard Protection Structures [includes construction and placement, occupation of space and use and any incidental seabed disturbance]	C.1.1.22	Discretionary	Definition of reclamation no longer includes the associated seawall.
Maintenance Dredging [includes disturbance of seabed and any associated discharge of water or sediment]	C.1.5.9	Controlled	No other rule applies
Capital Dredging [includes associated destruction, damage, or disturbance of foreshore or seabed; deposition of material in, on or under seabed; discharge of water or sediment incidental to the activity]	C.1.5.12	Discretionary	No significant area classifications apply so is not non-complying
Reclamation [includes associated destruction, damage, or disturbance of seabed; use of reclamation, discharge of sediment incidental to activity and the reclamation]	C.1.6.4	Discretionary	Not unlawful, not for regionally significant infrastructure and no significant area classifications apply
Stormwater discharge [diversion and discharge into water from an impervious area or by way of collection system]	C.6.4.2	Permitted	Not from public network and not from high risk industrial or trade premises. Although port activities are included in the definition of such premises, the activity must also involve storage, use or generation of hazardous substances which is not the case in this proposal
Earthworks [includes earthworks, damming and diversion of associated stormwater and discharge of stormwater]	C.8.3.4	Discretionary	Part of the works falls within the coastal riparian area defined as 10 metres from MHWS

PLANNING REPORT [Amended September 2019]

Activity	Rule	Status	Determinants
Removal of mangroves	C.1.4.5	Discretionary	The mangroves exceed the height limit in Rule C.1.4.1 and no other rules are applicable.

25. The overall status of the application is non-complying because of the status of the reclamation under the Regional Coastal Plan.

STATUTORY REQUIREMENTS

26. The sections of the Resource Management Act relevant to the consideration and determination of these applications are 104, 104 D(1), 105, and 107.
27. Section 104 of the RMA states that when considering an application for a resource consent, “the consent authority must, subject to Part II, have regard to –
- (a) *any actual and potential effects on the environment of allowing the activity; and*
 - (ab) *any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*
 - (b) *any relevant provisions of –*
 - (i) *a national environment standard;*
 - (ii) *other regulations;*
 - (iii) *a national policy statement;*
 - (iv) *a New Zealand Coastal Policy Statement;*
 - (v) *a regional policy statement or proposed regional policy statement;*
 - (vi) *a plan or proposed plan; and*
 - (c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.”*
28. Items not considered relevant to this application are (ab) and (b)(ii) and (iii). The remaining items are addressed in the following sections headed Assessment of Environmental Effects, and Policy Context, which are followed by a review of Part II Matters. The relevant plans are the Operative Coastal Plan for Northland and the Proposed Regional Plan. No other regulations or plans are considered to be pertinent to the proposal and there are no orders of relevance to the site or the applications. In respect of other matters, Northland Regional Council has placed a condition on the consent for the extension of the Opuā Marina to the effect that the existing consent for the barge dock within the marina area must be surrendered within a month of the completion of the marina facilities. While this is still some way off, it is essential that an alternative location for the barge dock is available before such surrender is required.
29. The Policy Context section considers the objectives and policies of the New Zealand Coastal Policy Statement, the Regional Policy Statement, the Operative Regional Coastal Plan for Northland, and the Proposed Regional Plan. As railway land falls under HAIL, a PSI report under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health is also being prepared for submission to FNDC.
30. In terms of plan provisions, the Coastal Plan require all activities to comply with General Performance Standards while discretionary and non-complying activities are also subject to assessment under criteria contained in section 32 of the Plan which includes both general criteria applicable to all applications and specific criteria for particular activities such as

dredging or placement of structures. In contrast, the PRP contains General Coastal Works Conditions applicable to permitted and controlled activities only, based on the premise that activities requiring a higher level of consent would likely be in breach of such conditions, but does not contain assessment criteria as such. As the PRP now has considerable more weight than the PRP it is not proposed to address the CP assessment criteria in detail, particularly as there is considerable overlap between the different sets, for example key issues such as public access to the coast appear frequently. Such key issues are also common to the objectives and policies of the two plans. Consequently the approach adopted in this report is to not address the assessment criteria and performance standards directly but to use them within relevant sections of the AEE to guide assessment of effects. Those key issues which are addressed through objectives and policies will also be examined in that section as a detailed review of the policy context has been provided given the non-complying status of the proposal.

31. Section 104 D(1) of the RMA applies to non-complying activities and states that:

"Despite any decision made for the purpose of section 95A(2)(a) in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—

(a) the adverse effects of the activity on the environment (other than any effect to which section 104(3) (a)(ii) applies) will be minor; or

(b) the application is for an activity that will not be contrary to the objectives and policies of—

(i) the relevant plan, if there is a plan but no proposed plan in respect of the activity;

or

(ii) the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity;

or

(iii) both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity."

32. These requirements are sometimes referred to as 'gateway' tests and the function of this part of the Act is to determine jurisdiction for granting consent. If either of these gateway tests is met, the authority must then assess the proposal against the provisions of section 104 to make a determination as to whether consent should be granted. Conclusions in respect of these tests are presented after the review of the Part 2 considerations.

33. Sections 105 and 107 of the RMA are also relevant to regional discharge permit consents. Section 105 requires consideration of:

(a) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and

(b) the applicant's reasons for the proposed choice; and

(c) any possible alternative methods of discharge, including discharge into any other receiving environment.

In addition subclause (2) requires the consent authority, in respect of applications for reclamations, to consider whether an esplanade reserve or strip is warranted.

The matters to be considered in respect of section 105 are addressed in relation to the requirements of the plans and through the AEE.

34. Section 107 of the RMA states that a Consent Authority cannot grant a consent which would allow the discharge of contaminants or water in a manner which would give rise to any of a list of specified effects. That list of possible effects forms the basis of item (c) of the General Performance Standards within the Coastal Plan and will be addressed in that context.

CONSULTATION

35. The need to relocate the barge dock activities was made apparent during the consenting process for the Marina extension and was widely canvassed when the Colenso Triangle applications were considered. A number of the opposing parties to the reclamation at Colenso Triangle expressed a view that the vicinity of this application site would be suitable. The applicant is undertaking consultation with those parties now that a design is available for discussion. An email of support from Te Kahui Kaitiaki o Ngati Manu mo te Awatapu o Taumarere is attached at **Appendix A**.
36. In accordance with section 62(3) of the Marine and Coastal Area (Takutai Moana) Act 2011, those parties who have made applications for Customary Marine Title affecting this area have also been notified of our intention to lodge this application.

ASSESSMENT OF ENVIRONMENTAL EFFECTS

OVERVIEW

37. As required by section 88 of the Act, an application for resource consent must contain an Assessment of Environmental Effects prepared in accordance with the Fourth Schedule. The assessment which follows is set out in accordance with the items in Clauses 6 and 7 of the Schedule.
38. This assessment provides an overall evaluation of environmental effects in respect of all of the component activities, and relies on data obtained from previous applications in the vicinity. The assessment will be confirmed through the specialist reports which are under preparation.
39. For this proposal, in spatial terms the local environment encompasses the land area of the site and the coastal elements within it, the adjoining coastal waters and seabed, the railway corridor/existing cycle track, and the residential development sited above the application area. It should be noted that no classifications relating to significant or outstanding values or features have been applied to the site or its vicinity in either the Regional Policy Statement or the Proposed Regional Plan.
40. Components of the wider environment which might also be affected include the Kawakawa River, the Waikare Inlet viewed as a resource for marine farming, Opuia itself and the wider area of the Bay of Islands viewed as an overall harbour system, as a recreational resource, as an historic locality of national and international significance, as an area of cultural significance, and as a tourism resource. In terms of assessing socio-economic impact the wider environment encompasses the Far North District and the Bay of Islands as well as some regional and even national level considerations in respect of aquaculture.
41. Values and attributes which may be affected, either positively or adversely, include natural character, ecology, biophysical elements and coastal processes, water quality, visual amenity, values associated with residential and recreational activities, other social and economic factors, heritage values, and cultural values and interests.
42. The assessment of effects therefore requires a complex evaluation of both construction and operational effects and outcomes in relation to different components of the environment at the local, district and higher levels where appropriate.

CLAUSE 6, INFORMATION REQUIRED IN ASSESSMENT OF ENVIRONMENTAL EFFECTS

Item (a)

If it is likely that an activity will result in any significant adverse effect on the environment, a description of any possible alternative locations or methods for undertaking the activity:

43. No **significant** adverse effects are anticipated to arise from any of the activities included in the application as demonstrated in the rest of this assessment. However as Policy 10 of the NZ Coastal Policy Statement requires that reclamation be the only practicable method of providing the activity, the issue of alternative methods, including consideration of alternative locations, will be addressed in the later section addressing policy considerations and can take account of the level of adverse effects as assessed in the rest of this AEE.

Item (b)

An assessment of the actual or potential effect on the environment of the proposed activity:

44. As described in the overview above, an assessment of the possible effects of the different activities against the components of the environment and the relevant values of the locality is required. The assessment encompasses the following topics:
- Dredging activities;
 - Reclamation and seawall;
 - Removal of structures;
 - New structures;
 - Earthworks in riparian area;
 - Removal of mangroves;
 - Operational factors;
 - Visual impact;
 - Public access;
 - Socio-economic aspects;
 - Cultural and spiritual values; *and*
 - Cumulative effects.

Dredging

45. The expected effects of capital dredging encompass the physical changes to the seabed resulting from the removal of the material, effects on water movement, effects on biota which may be displaced or covered over by deposition of the spoil, alteration of the nature of the seabed and its habitat value for re-establishment of biota, release of pollutants from the disturbance of sediment, effects on water clarity and effects on water quality. The RCP also recognises that dredging can have positive effects through improved access to the coastal marine area, particularly in ports and marinas.
46. The applicant has undertaken significant amounts of capital dredging in the area to the north of this site in relation to the marina and its extension and conditions at this location are considered to be similar. Previous reports¹ concluded that while inevitably the immediate effects of the dredging are more than minor in that the biota which depend on the affected area of seabed will be lost, the affected marine invertebrate species are however common, relatively abundant and diverse, and are neither significant nor unusual in terms of rarity or biodiversity. Similar conclusions have been made in respect of this site in that recolonisation of the dredged area by the same species will occur rapidly, resulting in long term effects which are assessed to be very low [para. 4.2.2 of Foresight report].
47. The material to be dredged adjoins the Boatyard and may have raised levels of copper and zinc contamination as a result of 'historic' practices undertaken at the yard. The results of sampling showed no pollution by cadmium, chromium, copper, lead, nickel or zinc and the Foresight report concludes that there will be no significant risk of release of these pollutants. Localised elevated levels of arsenic and Tributyltin [TBT] were recorded in the sediments to

¹ "Opua Marina: Stage 2 Expansion Ecological and Water Quality Assessment", Poynter & Associates Environmental Ltd.

be dredged but additional elutriate tests showed there is no water quality risk from mobilisation of these substances.

48. The dredged sediments will be placed within the reclamation and the contamination 'contained within it by the reclamation bed material, the seawall, additional material above it and the top layer hardstand. The marina material was found to be quite cohesive allowing it to remain relatively intact during transportation reducing the quantity of sediment loss. With the smaller scale of dredging required for this site and the small distance over which the material is to be moved, the low level of sediments likely to 'escape' into the water column is not anticipated to give rise to adverse effects on contaminant levels elsewhere as there will be rapid dilution.
49. These scale and proximity factors allow the works to be undertaken quickly and with the use of good practice methods, together with the natural flushing capacity of the tidal system, the risks of sediment loss and turbidity affecting areas beyond the works site are likely to be low as confirmed in the conclusions in section 4.4 of the Foresight report.
50. The effects of the capital dredging work are therefore considered to be no more than minor apart from the initial loss of marine invertebrate species. That effect is viewed as reversible however as recolonisation of the dredged area outside the reclamation footprint will occur rapidly.
51. With regard to maintenance dredging, potential effects are considered to be less than minor. The existing marina has not required any maintenance dredging to date and the Richardson Stevenson Report² for the extension postulated a likely requirement of once per 20 years. The area affected by this application is small compared to the Marina.
52. Maintenance dredging is a controlled activity under the Proposed Regional Plan with the matters over which control is reserved including methods, timing, effects on coastal processes including stability of seabed and shorelines, discharge, effects on biodiversity and health of aquatic ecosystems, navigation and safety, effects on significant values and features and effects on tangata whenua and their taonga.
53. The small scale and infrequency of maintenance dredging will not give rise to significant effects on the seabed, shorelines [which in any event will largely comprise the new seawall], or coastal processes and any discharge will be minimal for the same reasons discussed in relation to capital dredging. Similarly effects on biodiversity and aquatic ecosystems may be more than minor in respect of any seabed biota lost though the removal of material but is reversible. The purpose of maintenance dredging is usually to retain safe navigation depths and accessibility but there may be short term effects arising from the presence of the dredging barge during the actual operation. These effects will be no more than minor and management of the works and other associated operational factors such as the methods and timing can best be achieved through having a condition of consent requiring the applicant to inform NRC in advance of any maintenance dredging operation together with the necessary information in respect of matters such as methods, implications for navigation, timing and duration etc. On this basis, potential effects of maintenance dredging are also considered to be no more than minor.

Reclamation

54. Potential negative effects of reclamation, which are unavoidable and irreversible, include burial of the foreshore and seabed with consequent loss of biota and habitat, effects on the coastal marine area in the immediate vicinity of the reclamation, exclusion of water based users from the affected area, visual impact, reduced tidal flushing leading to reductions in water flow, changes to natural patterns, sediment accretion or erosion, reduction in water quality, increased human activity and potential pollution from activities establishing on the reclaimed land. This section considers the effects of the construction of the reclamation while

² "Resource Consent Application Opuia Marina Extension – Stage 2 Bay of Islands" Richardson Stevens September 2013

effects of the 'end result' on matters such as public access and visual impact are addressed in subsequent items in respect of the whole development.

55. The dredging, seawall construction and reclamation will be undertaken using best practice methods appropriate to the scale of the project, the nature of the site and its location. The area is not considered to be erosion prone and the reclamation will be 'bunded' by a seawall which will protect it from potential erosion problems. Sea level rise has been taken into account in the design. The determinants of the size of the reclamation are not so much the management of adverse effects but rather the practicable accommodation of the required docking facilities within a space which extends the existing Boatyard reclamation in a manner which integrates the new facility with those existing uses in terms of both function and amenity. This has been achieved with adverse effects which are considered to be no more than minor.
56. With appropriate compaction and drainage the use of the dredged material within the reclamation is suitable in physical terms and the anticipated physical and chemical nature of the material is likely to be suitable in terms of contaminants. Dewatering during construction and the associated discharge will be managed to avoid adverse effects
57. The Foresight Report concludes that the intertidal habitat and associated biota have no significant values and do not warrant imposition of restrictions on use of machinery or access to the shore. The subtidal area was shown to have the same qualities as previously documented in the vicinity and is dominated by common species.
58. Changes to tidal flows and sediment transport capacity are likely to be minimal given the scale of this proposal and the characteristics of the Kawakawa River with the existing sediment transport capacity rates being relatively high.
59. Decant water and stormwater discharge from the reclamation works would be filtered through the use of geotextile cloth and the seawall resulting in only the very finest particles being released. Such material is unlikely to settle locally and, given the natural fluctuations in turbidity which occur in the Kawakawa River system as a result of activities in the upper catchment are unlikely to give rise to any adverse effects. The Foresight report concludes that there is very low potential for the reclamation construction to generate unacceptable levels of turbidity beyond the site and that any sedimentation or turbidity effects beyond the works area will be minor, localised and not significant in terms of ecology or water quality.
60. Based on the above the effects of constructing the reclamation are expected to be less than minor.

Removal of Structures

61. Removal of the dinghy racks will not result in adverse effects as they are above MHWS. The small concrete boat ramp will however be affected by the reclamation and if it is removed rather than buried under the reclamation the effects in terms of the coastal marine area would be similar to those of dredging. Operational effects associated with its removal will be covered in later sections relating to the overall development.

Structures

62. Apart from the seawall which is essentially part of the reclamation, the new structures are the concrete boat ramp, timber jetty and ramp, gangway and floating pontoon and stormwater outlets. Given their location out of the main channel 'behind' various components of the Boatyard and marina facilities, the essentially straight line nature of the shoreline at this location and the alignment of the edge of the reclamation with the existing reclaimed areas, their presence is considered unlikely to precipitate any appreciable effects on water movement. Piles supporting the timber jetty are widely spaced and the small headland to the south shelters it from any water movement parallel to the shore

63. In ecological terms, the structures will create new habitat. For the Marina extension, the Ecological Report predicted that a *"moderately diverse community"* would develop. Bird and fish species would not be affected to any significant extent, fish movements would not be impeded and while a small intertidal feeding area would be lost, there would also be more perching areas for birds. It is anticipated that similar conclusions would apply to this area particularly as the scope of this development is much less than that of the Marina extension.
64. Potential effects of structures as expressed through the criteria in the CP can also relate to principles governing occupation of space in the CMA such as appropriateness, avoidance of exclusive use where possible and effects on the local environment. Appropriateness of the structures will be addressed in detail in the Policy section but is rooted in the need to cater for the long term presence and operation of the oyster farm activities in Waikare Inlet, which have themselves just been affirmed as appropriate in the Hearing Commissioners' Recommendations on the Proposed Regional Plan, and the demand for marine contracting services in the Bay Of Islands. Establishing the facilities in this location sits well within the context of Opuā's overall maritime functions, and represents an effective concentration of marine use.

Earthworks

65. As the access and existing cycle trail run parallel to the shore close to MHWS, they are located in the coastal riparian area with the main risks of adverse effects being weakening of the stability of the shore line and loss of sediment to coastal waters. Best practice sediment and erosion control methods will be used to manage the earthworks and a Sediment and Erosion Control Plan will be formulated prior to commencement of works.
66. The earthworks involve land which has already been modified for construction of the railway, a facility which also depends on stability. As most of the access track runs beside the existing Boatyard reclamation and the new reclamation, and will be formed from cutting down the cycle trail to bedrock, the shoreline will not be weakened. The retaining wall at the toe of the slope provides stability for the bluff above which has already been cut back in the past and only minor vegetation clearance at the toe of the slopes is required. The effects of the earthworks are therefore considered to be less than minor when managed appropriately which can be required through conditions of consent.

Removal of Mangroves

67. The Foresight Report identified a few small/ juvenile mangroves along with pneumatophores on the lower shore and within the rock retaining wall which will require removal for the construction of the facilities. The report concludes that the loss of these few specimens *"is not significant relative to the extensive mangrove habitat present in the Kawakawa river Estuary"*.

Operational Effects

68. The likely anticipated operational effects would encompass construction noise and traffic, operational noise and traffic generated by the development, temporary loss of the cycle trail and stormwater management.
69. With respect to the construction phase, traffic generation would be limited to truck movements bringing plant and materials and would be low in number. Access is gained from Baffin Street with movement through the maritime industrial area and no movement of vehicle through residential areas other than those houses on Franklin street which is effectively the only road into the industrial area.

70. The Marshall Day report identified six sensitive receivers within 130 metres of the site and concluded that construction noise and vibration would generally comply with the relevant limits in the Monday to Saturday 'daytime' period. One dwelling would however be subject to a one decibel exceedance when drilled piling occurs near the foreshore. The report recommends measures for managing this effect which can be incorporated into the proposed Construction Management Plan.
71. In terms of operational noise, the report concludes that the levels are likely to remain the same as the existing noise levels but that at times of high activity there will be an exceedance of the District Plan standards at the boundary of one property. Consent will be sought for this under the consent application to the Far North District but is not considered to give rise to adverse effects as the affected boundary is at the foot of a steep vegetated hillside and no change in amenity effects are anticipated at the actual dwelling.
72. Overall, the Marshall Day Report concludes that noise and vibration effects are considered 'reasonable' in terms of s.16 of the Resource Management Act.
73. The Opuia end of the cycle trail will be inoperable during the construction phase as there is insufficient easy grade land to provide a safe detour. While this will be an inconvenience for trail users it is temporary in duration. Furthermore, the section of the trail north of Kawakawa has been subjected to numerous detours and inconveniences as a result of works on the railway line and bridge and tunnel repairs.
74. Potential discharges of contaminants associated with the activities on the reclamation could adversely affect water quality, human health, gathering of kai moana, recreational activities and general amenity values and give rise to accumulation of heavy metals in sediments and marine organisms. Stormwater management from the hardstand is based on the use of a Stormwater 360 interceptor system which is capable of removing sediments, oils and grease, heavy metals and organics which will result in less than minor adverse effects from the discharge of the treated stormwater to the coastal marine area. This is confirmed by the Foresight report which concludes that there will be no adverse effects arising from the stormwater discharges from the reclamation and that local water quality targets will be maintained.
75. Overall operational effects of the proposal are therefore considered to be no more than minor.

Visual Impact

76. The landscape and visual amenity assessment will provide more detailed analysis of effects on landscape, natural character and visual amenity. In terms of landscape effects the report notes low to moderate levels of sensitivity as a consequence of the modified nature of the coastal margin and that the proposal will not form a prominent element within the landscape, is appropriate and will result in low potential adverse effects. Natural character effects are also considered to be low when considered within the wider context of the site.
77. Visual amenity effects have been analysed in relation to various viewer groups, particularly the occupants of the nearby dwellings. Although the closest house will experience a change in midground outlook, the report notes that the site is zoned Industrial in the District Plan and could accommodate permitted development up to 12 metres in height. Given that this expectation exists, the potential adverse visual amenity effect that will be experienced by occupants of this dwelling, and the other two nearest houses, will be low to moderate, and that for other viewer groups the effects will be low or very low.
78. In terms of the RMA equivalent of these descriptors as set out in Appendix 1 of the report, the potential visual amenity effects of the proposal are minor or less than minor.

Public access

79. Currently public access at the affected location comprises access *to* the water via the small boat ramp while access *along* the shoreline is by means of the Cycle Trail. Public access to the Boatyard is restricted for safety and security reasons.
80. Loss of space for public access and use must be considered in a local and wider context. The area to be occupied by the reclamation and the facilities does not comprise pristine 'unoccupied' waters, rather it is an unprepossessing stretch of river bank adjoining an area intensively used for maritime activities. In the context of the inner Bay of Islands there are many other more attractive parts of the shoreline which can be easily accessed, not to mention the beaches and high value scenic areas available throughout Northland.
81. Currently, the water access is expected to be limited to mooring holders launching dinghies to access their vessels on the swing moorings offshore. This is more expedient in terms of time and distance than using the public ramp in the marina. Use of the rest of the affected shoreline is not expected to be major given its character and the many opportunities available elsewhere. Those wishing to walk along the coast and access the more natural undeveloped parts of the shoreline to the south can do so via the Cycle Trail.
82. The proposal facilitates continuation of both these activities. Mooring owners will have further to walk to reach the new timber jetty but will enjoy all tide access from the pontoon compared to more difficult low tide conditions at the existing ramp and their existing dinghy racks will be repositioned closer to the jetty. There will be some disruption for them during construction as with the walking access via the Cycle Trail but this will be temporary. In the long term, the restored access will be safely segregated from the activities on the hardstand and access road.
83. Uncontrolled public access to the reclamation will not be available for safety and security reasons similar to the current restrictions on access to the Boatyard as the aim of the project is provision of a secure and dedicated operating area for the oyster farmers and maritime barge operator.
84. Potential adverse effects on public access to the coastal marine area are therefore considered to be less than minor and the new jetty may be considered an improvement.

Socio-Economic Aspects

85. The facilities are required to accommodate existing activities which already contribute to the social and economic components of the local and wider scale environment. Aquaculture is a significant contributor to the national economy and continued sustainable growth in this sector, particularly at regional level, is supported by government which also recognises the need to support the industry with appropriate land based infrastructure. The benefits of the industry include not just the export value of the product but also provision of employment and its associated community benefits.
86. The existing aquaculture activities in Waikare Inlet have been authorised and established for a considerable time and the Proposed Regional Plan confirms that their continued operation is appropriate. Their location is dependent on the water quality of in the Inlet, which in turn relates to the low level of development on its shores. By the same token, the lack of good road accessibility to the Inlet hampers speedy transportation and refrigeration of the product. Barging to the maritime hub at Opuia is an effective means of landing the oysters in terms of both distance from the source and accessibility to the roading network and is an established activity by virtue of their previous use of the barge dock replaced by marina activities.
87. Barging transportation of other goods and services such as dredging plant and construction materials is also a social and economic necessity within an area such as the Bay of Islands where many sites are more easily, if not solely, accessible by water. If such services are not

available locally, the cost of relying on services based in Whangarei or even Auckland would be a significant imposition on the costs of development or maintenance activities such as dredging.

88. The availability of the barging and oyster landing facilities at Opua therefore has a more than minor beneficial effect in terms of socio-economic parameters.

Cultural and Spiritual Values

89. As identified in the Cultural Impact Assessment prepared for the Marina extension, the physical environmental effects of concern to tangata whenua encompass: water quality in terms of both contamination by sewerage and anti-fouling materials and also consequent effects on biodiversity, spawning, migratory species and the ability to collect kai moana; alterations to tidal flows and sedimentation; and cultural implications of moving soil through dredging and reclamation.
90. This proposal does not require sewerage, there would be no maintenance of the barges at the docking area given that there are properly designed facilities available in the adjoining Boatyard. The reclamation and dredging activities are small in size, are located in the lee of the existing Marina and Boatyard developments on a stretch of shoreline out of the main central channel. Adverse effects on biodiversity, including spawning and migration, are therefore limited to the loss of biota during construction but these are anticipated to be common species capable of rapid recovery after completion of the development.
91. In respect of the less tangible aspects of cultural values the applicant believes that the relationships with Iwi and hapu which have evolved from the consent processes related to the existing marina result in mutual benefits, respect kaitiakitanga, and protect the mauri of the Taumarere River. Parties who opposed the previous application to site the facilities at Colenso triangle intimated during that process that use of this area would be preferable.
92. The potential adverse effects of the proposal on cultural and spiritual values are therefore considered to be less than minor.

Cumulative Effects

93. Cumulative adverse effects occur when the effects of an approved activity combine with effects of other existing activities and /or other effects likely to arise over time to create an overall adverse effect.
94. For this proposal there are a number of conclusions and facts which support the opinion that adverse cumulative effects will not arise. Firstly this assessment has not identified any adverse effects which are more than minor.
95. The proposal has a good degree of compliance with the Form and Development guidelines in the regional Policy Statement including matters such as:
 - connecting well with existing development and making use of opportunities for urban intensification to minimise the need for urban development in greenfield areas;
 - maintaining and improving public access to and along the coastal marine area;
 - allowance for the projected effects of climate change;
 - considering effects on tangata whenua relationships, values, aspirations, roles and responsibilities.
 - managing the use of resources carefully, through environmentally responsive and sustainable design solutions;
 - formulating the proposal utilising a collaborative approach that acknowledges the contributions of many different disciplines and perspectives.

96. The application can be viewed as urban consolidation and replaces the previously unsuccessful greenfield proposal. It retains activities and functions which have previously operated within the Opuā maritime hub and places no additional burden on infrastructure as it is self supporting in terms of stormwater treatment and discharge and the associated traffic movements have already occurred when the original dock was in use. Public access will be restricted over the small area of reclaimed land for safety and security reasons, but the existing access to the wider Bay of Islands area through the existing dinghy launching arrangements will be improved through use of the new jetty and access along the coast via the Cycle Trail will be retained.
97. Tangata whenua values have been considered in general based on the CIA prepared for the Marina and consultation is being initiated with parties who opposed the previous application. Responsive design solutions to stormwater management and effects of climate change have been incorporated and a multi-disciplinary approach has been used.
98. The proposal also has a functional need to be located in the coastal marine area and has been demonstrated as being appropriate at this location in terms of effects, zonings and objectives and policies.
99. The analysis above gives confidence that potential cumulative and long term effects will not be adverse, and that compatibility with adjacent uses will be achieved.

Summary of Item (b) considerations

100. The consideration of actual and potential adverse effects of the proposal has not identified any adverse effects which will be more than minor.

Item (c)

If the activity includes the use of hazardous substances and installations, an assessment of any risks to the environment that are likely to arise from such use:

101. The proposed activities do not involve the use or storage of hazardous substances.

Item (d)

If the activity includes the discharge of any contaminant, a description of -
(i) The nature of the discharge and the sensitivity of the proposed receiving environment to adverse effects; and
(ii) Any possible alternative methods of discharge, including discharge into any other receiving environment:

102. Discharges are limited to stormwater. This has already been considered in the section on operational effects (stormwater) under item 6(1) (b) above.

Item (e)

A description of the mitigation measures (including safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce the actual or potential effect:

103. Contained in specialist reports and item 1(b) above where appropriate.

Item (f)

Identification of the persons affected by the proposal, the consultation undertaken, if any, and any response to the views of any person consulted.

104. The need to relocate the barge dock activities was made apparent during the consenting process for the Marina extension and was widely canvassed when the Colenso Triangle applications were considered. A number of the opposing parties to the reclamation at Colenso Triangle expressed a view that the vicinity of this application site would be suitable. The applicant is undertaking consultation with those parties now that a design is available for discussion. In accordance with section 62(3) of the Marine and Coastal Area (Takutai Moana) Act 2011, those parties who have made applications for Customary Marine Title affecting this area have also been notified of our intention to lodge this application.

Item (g)

If the scale or significance of the activity's effects are such that monitoring is required, a description of how and by whom the effects will be monitored if the activity is approved:

105. As no significant adverse effects have been identified it is anticipated that monitoring requirements will be determined through consent conditions.

Item (h)

If the activity will, or is likely to, have adverse effects that are more than minor on the exercise of a protected customary right, a description of possible alternative locations or methods for the exercise of the activity (unless written approval for the activity is given by the protected customary rights group).

106. No determinations for recognition agreements pertaining to this area have been recorded on the Ministry of Justice's web site. Those groups who have applied for Customary Marine Title have been informed of the application.

CLAUSE 7, MATTERS THAT MUST BE ADDRESSED BY ASSESSMENT OF ENVIRONMENTAL EFFECTS

Item (a)

Any effect on those in the neighbourhood and, where relevant, the wider community including any social, economic or cultural effects:

107. Social economic and cultural matters have been discussed under 6(1)(b) above and will be covered in the relevant specialist reports. Access, traffic and parking aspects fall within the ambit of the application to the district Council but are not anticipated to generate adverse effects as the uses are already accommodated within the overall industrial area.

Item (b)

Any physical effect on the locality, including any landscape and visual effects:

108. Landscape, visual and stormwater drainage effects have been assessed above under Clause 1(d).

Item (c)

Any effects on ecosystems, including effects on plants or animals and any physical disturbance of habitats in the vicinity:

109. No indigenous vegetation is affected by the works in the coastal riparian area. Based on studies for other activities in the vicinity it is anticipated that the works within the coastal marine

area will not have adverse effects on biota in the works area other than the initial removal of those affected by the dredging and reclamation. Covered in Clause 1 (d). Refer also to ecologist's report.

110. In terms of biosecurity, the applicant has been actively involved in the development of management proposals for Northland and is committed to operating its facilities in accordance with the Northland Regional Pest and Maritime Pathway Management Plan.

Item (d)

Any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations:

111. Other than the 'construction' and drainage aspects discussed in other sections of this AEE, the possible adverse effects identified in the Regional Coastal Plan include effects on natural character and loss of space available for public use. The site has not been classified as having high or outstanding natural character in the RPS. Effects on the biological components and physical coastal processes have already been addressed and it is unlikely that the experiential aspects of natural character would apply to any significant degree at this location.
112. In the context of this location, the effects of the reclamation on natural character are therefore considered to be minimal.
113. Numerous archaeological assessments have been conducted in the Opuia locality at various times as summarised in the Report submitted with the Marina extension application.³ No sites have been identified on the area affected by this application which has mostly already been modified by the construction of the railway and by filling of the area where the turnaround loop will be sited. The applicant will however commission a ground check of the works area prior to commencement of construction.

Item (e)

Any discharge of contaminants into the environment, including any unreasonable emission of noise, and options for the treatment and disposal of contaminants:

114. There are no discharges of contaminants other than stormwater which has already been considered.

Item (f)

Any risk to the neighbourhood, the wider community, or the environment through natural hazards or the use of any hazardous substances or hazardous installations:

115. As no hazardous substances or installations are involved, this item does not apply.

SUMMARY

116. A range of potential effects have been assessed, reviewed and considered within this Planning Report and the supporting documents. The activity will have some effects which are recognised as temporary during the construction / implementation stage with other effects being long term positive contributions to the community. Potential adverse effects are assessed to be no more than minor.

³ "Archaeological Assessment of the Proposed Stage 2 Opuia Marina, Opuia Bay of Islands", Northern Archaeological Research, June 2014

POLICY CONTEXT

Overview

117. As a non-complying activity, the application is required to be assessed in relation to the objectives and policies of a hierarchy of documents ranging from the national level Coastal Policy Statement to the individual regional and district plans. Relevant items from these documents are discussed below under their separate headings.

New Zealand Coastal Policy Statement 2010

Objectives

118. This document aims to achieve the purpose of the Resource Management Act in respect of the Coastal Environment. It contains 7 objectives and a number of policies grouped under 29 headings. All seven objectives are addressed briefly in **Table 4** as much of the detail will be elaborated in respect of the provisions of lower order documents, while the subsequent **Table 5** addresses those policies considered applicable to this particular proposal.

Table 4

OBJECTIVE	COMMENTS
<p>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:</p> <ul style="list-style-type: none"> ▪ 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. 	<p>The reports prepared for this application, and for other earlier applications for the marina and other maritime activities undertaken by the applicants, have added considerably to the knowledge base pertaining to this inner part of the Bay of Islands and how its natural, biological and physical processes can be affected by development. For this proposal the reports have shown that the proposal does not affect any areas with representative or significant values related to biodiversity, and that coastal processes and water quality will be maintained and potentially enhanced through better management of contaminants.</p>
<p>2 To preserve the natural character of the coastal environment and protect natural features and landscape values through:</p> <ul style="list-style-type: none"> ▪ 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. 	<p>Implementation of this objective and associated policies requires regional councils to identify areas of outstanding and high natural character which has been done in the Regional Policy Statement discussed in Table 7. This area does not fall into these categories. The findings of the attached reports support that 'non-classification'. Given the history of modification of the general area for maritime and railway activities and the lack of significant values, the development is considered appropriate at this location, particularly since appropriate infrastructure is available and it contributes to consolidation of activities as opposed to opening up of a new area.</p>

OBJECTIVE	COMMENTS
<p>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:</p> <ul style="list-style-type: none"> ▪ 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. 	<p>The applicant will discuss the proposal with those parties who objected to the previous application.</p>
<p>4 To maintain and enhance the public open space qualities and recreation opportunities of the coastal environment by:</p> <ul style="list-style-type: none"> ▪ 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. 	<p>The actual shoreline at this locality has limited open space and recreational value given its proximity to the Boatyard and the 'undistinguished' nature of the shoreline and its topography. Maintaining the public access currently afforded by the cycle track can be achieved around the rear of the facility and this linkage to other more attractive areas is the most appropriate method for providing for public access at this location.</p> <p>Effects of climate change are not considered likely to create access problems at this locality.</p>
<p>5 To ensure that coastal hazard risks taking account of climate change, are managed by:</p> <ul style="list-style-type: none"> ▪ locating new development away from areas prone to such risks; ▪ considering responses, including managed retreat, for existing development in this situation; and ▪ protecting or restoring natural defences to coastal hazards. 	<p>The reclamation will be designed to take account of the effects of climate change.</p>

OBJECTIVE	COMMENTS
<p>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:</p> <ul style="list-style-type: none"> ▪ 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; ▪ historic heritage in the coastal environment is extensive but not fully known, and vulnerable to loss or damage from inappropriate subdivision, use, and development. 	<p>This objective can be viewed as providing the ability to balance appropriate development needing to be accommodated in a coastal location with protectionist requirements for both significant natural values as well as cultural and heritage values. Achieving such a balance underpins the zonings used in the Plan which support use of this location as discussed in relation to other objectives.</p>
<p>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.</p>	<p>New Zealand has entered into a number of Multilateral Environmental Agreements related to the protection of the marine environment. These are all predicated on the principles of sustainable management including intergenerational equity, avoidance of environmental damage and pollution, and pursuit of common purposes. The analysis of other objectives and policies demonstrates how sustainable management is achieved.</p>

Policies

119. Of the 29 policy headings set out in the NZCPS, six are considered to be of particular relevance to this application, namely Activities in the Coastal Environment, Reclamation, Harmful Aquatic Organisms, Public Open Space, Walking Access and Discharge of Contaminants which are assessed individually below. The two most relevant items, which are strongly inter-related, are policies 6 and 10.

Policy 6

120. Policy 6 covers activities in the coastal environment with clause 1 providing a set of 'principles' for accommodating development in the coastal environment while the matters in clause 2 refer more specifically to the coastal marine area.

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, 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;
 - (j) where appropriate, buffer areas and sites of significant indigenous biological diversity, or historic heritage value.

121. Clause 1 has not been addressed in detail but certain key items are relevant. A barge dock such as is proposed facilitating transport of goods and materials can be viewed as infrastructure and the policy recognises the importance of infrastructure to the wellbeing of people and communities. The policy also promotes the consolidation of existing coastal settlements and the landscape assessment has shown that the resulting change in character is acceptable given the District Plan's industrial zoning of the site and that the impact on visual amenity is very low for the majority of receptors and low to moderate for the three residential properties closest to the site. Setting the development back from the coastal marine area is not feasible given the functional need for the activity to take place in the CMA as elaborated under Clause 2 as addressed below.

Policy 6 Activities in the coastal environment

(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;

(d) recognise that activities that do not have a functional need for location in the coastal marine area generally should not be located there;

(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.

122. As an entity, the Bay of Islands is an area accommodating residential use, holiday accommodation, facilities and attractions for visitors, recreational use as well as marine farming, all of which may depend on barging services for their functioning in the case of marine farms and for construction, repair or maintenance work in respect of other activities. Infrastructure in the form of boat ramps, jetties and wharves, whether public or private, also require construction, repair or maintenance. The appropriateness of having a barge dock in Opua has already been established through the 1999 consent for the original facility and its renewal in 2014 pending the completion of the Stage 2 Marina Extension which necessitated its removal from its original site, the latter application having been subject to consideration under the current NZCPS. Through allowing cost efficient access to such facilities and cost efficient transportation of equipment and materials, the barge dock does contribute to social and economic wellbeing of the Bay of Islands community in particular and may also facilitate services to other areas. Item (a) is therefore attained by the proposal.
123. As a consolidation of an existing area devoted to maritime industry, the activity does not compromise the values of the coastal marine area referred to in item (b). Furthermore the existing activities related to public access are retained and in the case of the accessibility to moorings enhanced through the provision of the all tide jetty.
124. The proposed activities undeniably have a functional need to be located in the coastal marine area and the site, as evaluated in terms of the relevant planning documents and the accompanying specialist assessments of effects, is considered appropriate. The discussion of clause 1 of this policy referred to the consolidation of existing development and this links to the promotion of efficient use in item (d). By continuing to share the barge dock, the marine services and aquaculture activities ensure efficient use of the structure, given the seasonal nature of the aquaculture activities. In respect of the consolidation principle in clause 1, shared use of facilities as envisaged in this application makes good sense.
125. Public access to and use of the actual barge dock and associated hardstand is not appropriate for safety and operational reasons but the application makes significant improvements to the existing small scale access afforded by the small ramp and dinghy racks through provision of an all tide access timber jetty.
126. The proposal is therefore considered to be consistent with the relevant parts of Policy 6.

Policy 10

127. Policy 10 covers reclamation and is the main policy consideration in respect of reclamation activities under the Proposed Regional Plan. It is set out in sections below.

10 Reclamation and de-reclamation

- (1) Avoid reclamation of land in the coastal marine area, unless:
- (a) land outside the coastal marine area is not available for the proposed activity;
 - (b) the activity which requires reclamation can only occur in or adjacent to the coastal marine area;
 - (c) there are no practicable alternative methods of providing the activity; and
 - (d) the reclamation will provide significant regional or national benefit.

128. With respect to Clause 1, it is useful to start with item (b). The activity “*which requires reclamation*” can only occur in or adjacent to the coastal marine area as it essentially comprises a transfer of material between road transport vehicles and water-borne transport vessels or *vice versa*. Item (a) would only be relevant if an existing waterside area could meet the operational requirements of the activity which primarily depend on some kind of structure, or ‘hard sea edge’ to provide stability for safe and effective loading and unloading. The transport of the materials required by the activities is most efficiently undertaken by barges which are vessels with particular requirements which do not sit well with use of conventional wharf type structures because of the height differential even at high tides. Existing practices used by the operators involve cranes, hiabs on trucks or fork lifts accessing the end of the barge via boat ramps. Manoeuvring space for vehicles on land is also therefore essential. For continued operation in the Bay of Islands, Opuā, as a centre of maritime industry, is the obvious location but the removal of the existing barge dock and the unsuitability of the Opuā Wharf, which is already ‘oversubscribed’ in terms of users and is constrained in terms of access and manoeuvring areas, means that there is no suitable existing hard edge area available in Opuā. ‘Landing’ facilities outside Opuā are generally piers or jetties with floating pontoons rather than ‘solid’ wharf construction such as Opuā and are not suitable for these activities, or have a non-industrial focus such as the wharf and associated structures in Paihia. The only large scale ramps which could accommodate part of the activities are the ferry ramps at Opuā and Okiato, but use of these for other activities is totally inappropriate as it would be difficult to schedule loading and unloading between ferry arrivals and departures, particularly in the busy summer months, and there is no room on land for manoeuvring or waiting. Item (a) is therefore satisfied.

129. Item (c) refers to practicable alternative *methods* of providing the activity. Since in reality the activity essentially involves loading/unloading of material for transport over expanses of water the only possible alternative methods would be use of ships as opposed to barges, use of helicopters, or construction of another pier or wharf.

130. The former is unrealistic as there are no suitable ships plying in the area, Opuā wharf would be the only suitable loading area but is still subject to capacity and access constraints, loading plant and machinery would be problematic, and the receiving destinations would not be able to cope with unloading. Helicopters would be extremely if not prohibitively expensive particularly if specialised heavy payload craft were required.

131. Construction of a new wharf would need to meet similar *locational* criteria as the type of construction proposed in the application. The following analysis therefore considers those criteria in the first instance before comparing the two methods. The criteria encompass location relative to the receiving or originating point of the materials transfer, good sea access, good road access, space onshore to provide sufficient operating area and support facilities, compatibility with public access to the coast particularly for recreational activities, establishment costs, land tenure, and avoidance of adverse environmental effects on coastal values, including visual impact, cultural aspects, land use compatibility, and coastal processes.

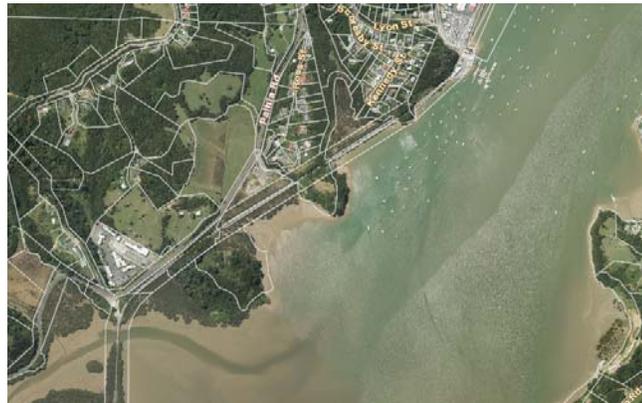
132. For the aquaculture activities the imperatives in terms of location are short transit from farms to shore and easy access to the roading network to enable speedy refrigeration of the product. Given the fixed location of the farms in the Waikare Inlet, the lack of road access to its shores, and the long travel distance to the State Highway network, this effectively means the shore line between Kawakawa and Paihia best meets the road accessibility requirements, and Opuā the shortest transit. The coastline between Opuā and Paihia is unsuitable as the aquaculture operators would have to cross the Veronica Channel which is the busiest part of the inner Bay with ferry traffic, vessels entering or exiting the port and marina, and other recreational vessels originating upstream from both the Kawakawa River and the Waikare Inlet. Like Opuā wharf, existing facilities are intensively used, and even if existing space were available, introducing an industrial activity into Paihia is also contrary to its heritage character and tourism hub function and would not sit well with Policy 6.
133. While the barging services have slightly differing locational requirements, it should be reiterated that only one location is being considered for both activities in accordance with the principles discussed earlier in relation to Policy 6, particularly item 2(e). The key drivers for determining appropriate locations for the barge dock are good access to the roading network, good onshore space for loading and unloading, vehicle manoeuvring and laydown of materials, and good accessibility to navigable waters. While their destinations are diverse and could include parts of the inner Bay including Waikare Inlet, much of the focus of their activities will lie in the outer Bay making short transit to the Veronica Channel a key factor. While the aquaculture activities involve harvesting during high tide conditions, all tide access is more important for the general barging activities.
134. The road access constraints determine the same best 'starting point' locations discussed above, as it would be inefficient and uneconomic for example to deliver building materials by a torturous road journey to the upper parts of the Waikare Inlet and then face a lengthy sea journey to deliver them to a construction site on one of the islands in the outer Bay. While the increased costs would fall to the party undertaking the construction there are hidden costs to other users of the roads and likely adverse effects on special values pertaining to the Waikare Inlet as a whole. If the construction site has a public good element such as a boat ramp or is related to tourism, the increased costs will also impinge on the end users. It should also be noted at this point that the facilities have been based in Opuā for some time and already contribute to its traffic whereas establishment of the activities in a non-urban location is more likely to have adverse effects on other users. The arguments ruling out Paihia because of its character and functions still apply to the general barging activities.
135. In relation to sites between Opuā and Kawakawa, navigability becomes a significant factor. The extract from Navigation chart NZ 5124 reproduced below as **Figure 4** shows that beyond the confluence of the Whangae and Kawakawa Rivers there is a decrease in navigable depth. While the oyster farm activities may be practicable at high tides given that some are located in similar 'green' areas on the chart, the barging activities will be constrained beyond the confluence point and as with Colenso Triangle, dredging of a channel between the shore and deeper water will be necessary if any sites were available along this stretch of shore.
136. **Figure 5** provides visual indications of the constraints on navigation along the shore between Opuā and the mouth of the Whangae River in low tide conditions.
137. **Figure 4** also shows the roading network in relation to the shoreline between the Whangae river and Opuā. While state Highway 11 [Paihia Road] is very close, the availability of land to provide the necessary shore based facilities is limited to the Colenso triangle site, which has effectively been removed from consideration as a result of the previous application being withdrawn, and accessibility is severely reduced by the intervening ex-railway corridor which now accommodates the cycle trail and which will in future accommodate railway activities again as far as the approved new terminus at Colenso Triangle.

Figure 4



Source: NZ Navigation Chart NZ 5124

Figure 5

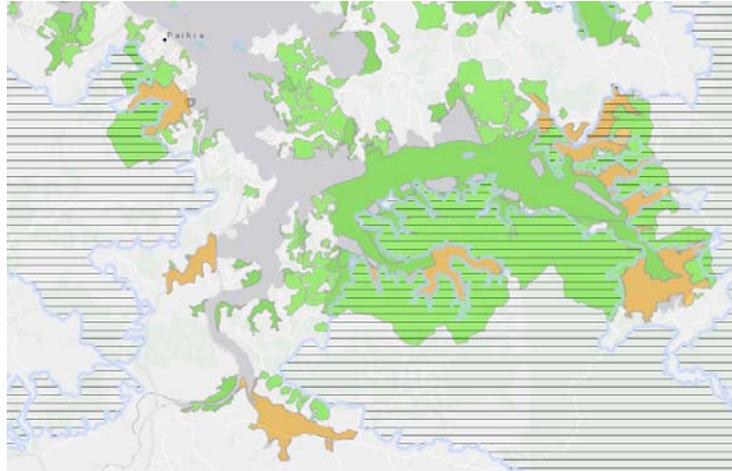


Source: Far North Maps, 2015 imagery

138. In addition to accessibility, land ownership and tenure are also important in identifying viable sites. While the current site and the land adjacent to the previous application site are owned or occupied currently by the applicant, other areas along this stretch of coastline are not. Some of the more remote alternatives put forward in relation to the previous application may have been owned by individual aquaculture operators with whom tenure arrangements could have been made but were also subject to issues in relation to private or shared access.
139. Access to the coastal edge in this locality is also constrained by the need to traverse the railway corridor and the cycle trail. With the proposed terminus having been approved for development on the Colenso Triangle site, crossing to the south of the terminus will be heavily constrained when train movements are re-instated. Access to the embayment north of the Colenso Triangle site would be extremely difficult given the elevated ridges on both sides and the wetland area behind the railway corridor. These areas also are severely disadvantaged by the lack of on-shore space to support the activities.

140. In addition to the land and water access issues, other locations on this stretch of coastline will also be subject to the same disadvantages as those identified for the previous application at Colenso Triangle, namely reduction in recreational opportunities, ecological effects especially in relation to mangroves, visual impact and adverse effects on public use of the coast for access and recreation. Although neither the current or previous application site were mapped in the Regional Policy Statement as having Outstanding or High Natural Character, other parts of the coastline do as shown in **Figure 6**, which also shows how the whole Waikare Inlet is affected by both natural character and outstanding landscape classifications.

Figure 6



Source: NRC, Online Maps, Regional Policy Statement

141. While this 'sieve map' approach to identifying suitable locations focusses down to Opuia and the application site, the question of alternative methods, i.e. pier/wharf versus reclamation remains. The proposed reclamation is considered to be very economical, providing 1700m² of usable hardstand together with 80 metres of usable hard sea edge 20 metres from shore accommodating three vessels at the 'cost' of a dredging area of 1200m² and dredging volume of 600m³. Although a pier would have two sides, the shortest length for accommodating 2 vessels on one side would be 50 metres, i.e. it would extend a minimum of 20 metres further seaward of the reclamation but would in reality be longer if water at the landward end is not dredged. The depth of water attained at the edge of the reclamation after dredging is currently reached at about 50 metres from the shore. Assuming a 10 metre width on each side of the structure with the berths 30 metres from the shore would give a dredging volume of about 200m³ while having the first berth only 15 metres from shore would increase the volume to about 830m³. Under these scenarios the length of the structure would vary from 65 to 80 metres which with an assumed surface width of 10 metres would result in a large structure. Given that the scenarios result in an unusable length of pier of 15 to 30 metres, as allowing other activities with shallower depth requirements to use the inner end would not be compatible with the barge loading activities for safety reasons, erection of such a structure does not make economic sense in respect of construction costs or on-going maintenance costs.
142. A pier wharf arrangement has a number of other significant disadvantages compared to the reclamation. Opuia wharf is about 15 metres wide and the barge operator has advised that use of that structure is constrained by having to reverse vehicles on to the wharf. Accessing a pier or wharf essentially necessitates a right-angled turning movement which would be totally impractical to achieve given the constraints on the initial section of the access. The reclamation with its lengthy 'road frontage' allows large trucks to 'slip' as opposed to turn onto the hardstand and there is sufficient room to manoeuvre into position for loading/unloading. Exiting is made easy by the turnaround. A pier or wharf does not provide such manoeuvring space.

143. The size of the structure is also likely to generate more adverse visual impact than the reclamation in that its outward projection and length would make it more visible to the nearby dwellings, its scale engenders a different character than the finger pier arrangements at the Marina and Boatyard, and views from the water and opposite shore would be more obvious as opposed to the reclamation which extends along the shore and blends into the background.
144. Although reclamation removes a portion of seabed, the pier or wharf will introduce changes, primarily through reduction in light, which may adversely affect some species but provide habitat for others.
145. Based on the above the reclamation is considered to be the most practicable method of providing for the activity in terms of item 1(c) with less adverse effects.
146. In respect of Item 1(d), an Economic Impact Assessment was provided in support of the proposed activities in respect of the Colenso triangle application and this is considered to be still valid for the purposes of consideration of this proposal. The supplementary s42A Report for that application accepted the findings that both components of the application gave rise to regional economic benefits, but the Commissioner's decision records that while no evidence contradicting the EIA was presented, the value of the benefits of the oyster farming component would be less and hence not significant regionally as if the facility was not available they would land the product elsewhere but at an increased cost to themselves. This argument is somewhat specious as it does not consider the possibility that the oyster farmers might go out of business if they were unable to find an alternative or if the costs of using an alternative, which could mean new barges or greater travel distance, were too high. There are current problems in the wider area with aquaculture operators using public boat ramps to land their product. Having an established landing facility with no adverse effects on public access and recreational activities helps to reduce the occurrence of such incompatible activities. The Commissioner's decision also makes no allowance for *increased* production from the Inlet. As noted in the EIA, the consented farms within the Inlet are not matching the peak output achieved in 2001 prior to the farms being closed as a result of pollution, but the farmers anticipate reaching those levels in the near future as recovery continues. While the hearings process on the new regional Plan has not made allowance for additional consented areas to be provided in the Inlet it does make allowance for existing areas to be relocated which could also result in increased output in future.
147. While the EIA acknowledges that as the majority of Northland's oyster farming occurs within the Far North District and that consequently the significant share of the economic impact fall to the District, it is too simplistic to argue that the benefit is not contributing to the regional economy. The 2015 tai Tokerau Growth Study⁴ describes the Northland economy as a small regional economy which is underperforming and notes the disparity between the concentration of activities based on primary industries in the Far North and Kaipara Districts while manufacturing and service industries are primarily based in and near Whangarei. Aquaculture is identified as one of the opportunities for growth: *"There is also the potential to scale up oyster and mussel production in the region to take advantage of expected growing demand over the long-term and based on available space that is estimated to be productive and able to be developed."* Achieving 'full' production in the Waikare Inlet would contribute to this opportunity and acceptance of this report would indicate that it has regional benefit.
148. In any event the test in item (d) is whether the **reclamation** provides significant regional or national benefit, not whether every component activity does. If the barging operations do provide significant regional economic benefit, the test is met. Additional uses only strengthen the degree of compliance with the principles of Policy 6 and the regional plans, especially consolidation of development and multiple use of structures.
149. The proposed reclamation is therefore considered to meet the 'tests' of clause 1.

⁴ Tai Tokerau Northland Growth Study – Opportunities Report 2015 Ministry for Primary Industries

10 Reclamation and de-reclamation

(2) Where a reclamation is considered to be a suitable use of the coastal marine area, in considering its form and design have particular regard to:

- (a) the potential effects on the site of climate change, including sea level rise, over no less than 100 years;
- (b) the shape of the reclamation, and where appropriate, whether the materials used are visually and aesthetically compatible with the adjoining coast;
- (c) the use of materials in the reclamation, including avoiding the use of contaminated materials that could significantly adversely affect water quality, aquatic ecosystems and indigenous biodiversity in the coastal marine area;
- (d) providing public access, including providing access to and along the coastal marine area at high tide where practicable, unless a restriction on public access is appropriate as provided for in policy 19;
- (e) the ability to remedy or mitigate adverse effects on the coastal environment;
- (f) whether the proposed activity will affect cultural landscapes and sites of significance to tangata whenua; and
- (g) the ability to avoid consequential erosion and accretion, and other natural hazards.

150. The reclamation has been designed to co-exist with the land based facilities, sea level rise has been taken into account, and the design of the seawall and the reclamation will ensure that erosion and accretion do not occur. The shape is the minimum necessary to accommodate the requirements and forms a sympathetic extension to the existing Boatyard reclamation in terms of visual amenity.

151. The Assessment of Ecological Effects demonstrates that the materials used in the reclamation will not have significant adverse effects on the coastal marine area in respect of the factors listed in item (c). Public access to the Coastal Marine Area continues to be available in terms of the cycle trail and the new jetty and pontoon with dinghy facilities which replace the existing facilities for accessing moorings, but will be restricted in terms of the loading and docking areas for safety reasons. The assessment of effects has not identified any adverse effects on the coastal environment which cannot be avoided, remedied or mitigated. The value of the area to tangata whenua has and continues to be discussed through the liaison activities the applicant undertakes with local Iwi in respect of their activities in Opuia. An email of support from Arapeta Hamilton on behalf of Te Kahui Kaitiaki o Ngati Manu mo te Awatapu o Taumarere is attached as **Appendix A**.

152. The proposed reclamation is able to satisfy clause 10(2) in terms of form and design.

10 Reclamation and de-reclamation

(3) In considering proposed reclamations, have particular regard to the extent to which the reclamation and intended purpose would provide for the efficient operation of infrastructure, including ports, airports, coastal roads, pipelines, electricity transmission, railways and ferry terminals, and of marinas and electricity generation.

153. The proposal caters for a particular form of marine transport reliant on a coastal structure and good road access and is therefore a type of infrastructure. Consolidation of the activity within a port 'environment' but with separation from other port activities while meeting its particular requirements for a hard sea edge and manoeuvring and laydown space on land is the most effective way of accommodating the activity while avoiding adverse effects on the coastal environment.

154. In respect of Policy 11 reproduced below, the site has not been identified in the RPS or the PRP as having any *significant* biodiversity values and this has been confirmed by the findings of the attached reports. The shoreline vegetation does however contain some specimens of pohutukawa and a few mangroves and pneumatophores which require removal. The revegetation planting proposed in the landscape and visual impact assessment report will include pohutukawa. The mangroves are isolated specimens but require consent for their removal as they are too big to be removed as a permitted activity and are not associated with an established structure. The Assessment of Ecological Effects concludes that removal of the mangroves is not significant due to the scale and size and the extensive areas of mangrove habitat available in other parts of the Kawakawa River estuary.
155. With respect to Policy 12, Harmful aquatic organisms, the applicant manages a number of facilities in Opuia, including the Marina, which operates under the Clean Marina Programme, and has been actively involved in the formulation of the Northland Regional Pest and Marine Pathways Plan 2017-2027. Their commitment to these initiatives will allow the operation and maintenance of the proposed facilities and the construction activities to take account of these matters and this can be supplemented by appropriate conditions of consent.

11 Indigenous biological diversity (biodiversity)

To protect indigenous biological diversity in the coastal environment:

(a) avoid adverse effects of activities on:

(i) indigenous taxa that are listed as threatened 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;

(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.

12 Harmful aquatic organisms

12(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 to be released or otherwise spread, and include conditions in resource consents, where relevant, to assist with managing the risk of such effects occurring.

12 (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;

156. The site does not have either Outstanding or High Natural Character as identified in the RPS and there are no such areas in the immediate vicinity which could be adversely affected. Both the Assessment of Ecological Effects and the Visual Impact Assessment have addressed natural character with the conclusion that the potential adverse effects will be less than minor.

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:

- (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.

13(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.

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.

157. The site and its environs have already been modified to a significant extent, firstly by the construction of the railway and subsequently by the development of the Boatyard and adjacent activities. While the balance of the site does not lend itself to large scale restoration of natural character, weed control and enhancement planting as proposed will contribute to improving the existing degree of natural character.

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.

158. The only natural feature is the bluff behind the site but as shown in the ecological assessment the vegetation is dominated by weed species. The proposed works are located at the toe of the slope and in landscape terms, will have minimal effect on how the bluff is viewed from other areas and from the water,

17 Historic heritage identification and protection

Protect historic heritage in the coastal environment from inappropriate subdivision, use, and development by:

- (a) identification, assessment and recording of historic heritage, including archaeological sites;
- (b) providing for the integrated management of such sites in collaboration with relevant councils, heritage agencies, iwi authorities and kaitiaki;
- (c) initiating assessment and management of historic heritage in the context of historic landscapes;
- (d) recognising that heritage to be protected may need conservation;
- (e) facilitating and integrating management of historic heritage that spans the line of mean high water springs;
- (f) including policies, rules and other methods relating to (a) to (e) above in regional policy statements, and plans;
- (g) imposing or reviewing conditions on resource consents and designations, including for the continuation of activities;
- (h) requiring, where practicable, conservation conditions;
- (i) considering provision for methods that would enhance owners' opportunities for conservation of listed heritage structures, such as relief grants or rates relief.

159. The Opuā area and the Kawakawa River have significant value to tangata whenua and this has been recognised in the Marina consents and the on-going liaison between the applicant and iwi. Appendix a contains an email of support from Te Kahui Kaitiaki o Ngāti Manu mo te Awatapu o Taumarere [Arapeta Hamilton].

18 Public open space

Recognise the need for public open space within and adjacent to the coastal marine area, for public use and appreciation including active and passive recreation, and provide for such public open space, including by:

- a) ensuring that the location and treatment of public open space is compatible with the natural character, natural features and landscapes, and amenity values of the coastal environment;
- b) taking account of future need for public open space within and adjacent to the coastal marine area, including in and close to cities, towns and other settlements;
- c) maintaining and enhancing walking access linkages between public open space areas in the coastal environment;
- d) considering the likely impact of coastal processes and climate change so as not to compromise the ability of future generations to have access to public open space; and
- e) recognising the important role that esplanade reserves and strips can have in contributing to meeting public open space needs.

160. The overall development of Opuā makes allowance for public access along the shoreline. In particular, the extension of the Marina afforded an opportunity to provide a focus within the open area on the reclamation contributing space for community use. The non-recreational functioning of the Boatyard and its environs necessitates protecting the public from the operations on the landing area however and current public access is limited to the walkway along the cycle trail and the ramp and dinghy racks at the end of the Boatyard catering for access to the nearby moorings. Given the relative unattractiveness of the shoreline at this area, the cycle trail is at this point merely a means of accessing other more attractive areas of shoreline to the south and the proposed development does not change that. The new timber jetty and pontoon and associated dinghy racks replaces the existing facilities so there is no loss of accessibility other than the short stretch of shoreline 'removed' by the reclamation.

19 Walking Access

- (1) Recognise the public expectation of and need for walking access to and along the coast that is practical, free of charge and safe for pedestrian use;
- (2) Maintain and enhance public walking access to, along and adjacent to the coastal marine area, [details omitted];
- (3) Only impose a restriction on public walking access to, along or adjacent to the coastal marine area where such a restriction is necessary:
- (a) to protect threatened indigenous species; or
 - (b) to protect dunes, estuaries and other sensitive natural areas or habitats; or
 - (c) to protect sites and activities of cultural value to Māori; or
 - (d) to protect historic heritage; or
 - (e) to protect public health or safety; or
 - (f) to avoid or reduce conflict between public uses of the coastal marine area and its margins; or
 - (g) for temporary activities or special events; or
 - (h) for defence purposes in accordance with the Defence Act 1990; or
 - (i) to ensure a level of security consistent with the purpose of a resource consent; or
 - (j) in other exceptional circumstances sufficient to justify the restriction.
- (4) Before imposing any restriction under (3), consider and where practicable provide for alternative routes that are available to the public free of charge at all times.

161. As recognised in the comments on Policy 18 above, the relocated cycle trail/walkway fulfils this expectation. Control of access to the reclamation area is necessary for security and safety purposes as provided for under clause 3(e).

23 Discharge of contaminants

- 23(5)** In managing discharges from ports and other marine facilities:
- (a) require operators of ports and other marine facilities to take all practicable steps to avoid contamination of coastal waters, substrate, ecosystems and habitats that is more than minor;
 - (b) require that the disturbance or relocation of contaminated seabed material, other than by the movement of vessels, and the dumping or storage of dredged material does not result in significant adverse effects on water quality or the seabed, substrate, ecosystems or habitats;
 - (c) require operators of ports, marinas and other relevant marine facilities to provide for the collection of sewage and waste from vessels, and for residues from vessel maintenance to be safely contained and disposed of; and
 - (d) consider the need for facilities for the collection of sewage and other wastes for recreational and commercial boating.

162. Activities on the hardstand created by the reclamation are limited to loading and unloading between barges and trucks and a limited amount of storage related to the marine contractor's activities. The stormwater interceptor system will ensure that contaminants are not discharged into coastal waters.

Summary

163. This review of the applicability of the objectives and policies of the NZCPS has demonstrated that the proposal is an appropriate development in this particular part of the coastal environment and that it can be managed sustainably.

Regional Policy Statement

164. **Table 6** sets out the objectives and policies of the RPS considered most relevant to this project.

Table 6

OBJECTIVE / POLICY	PERFORMANCE OF THE APPLICATION
Objective 3.5 - Enabling economic wellbeing	
<p>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.</p>	<p>Both of the proposed activities make significant contributions to the local and regional economies and help to sustain business and investment. The very nature of the Bay of Islands and the ways in which the area is used necessitates use of marine contractor services and barging activities which if not locally available imposes considerable financial and timing constraints on those requiring such services. Authorised aquaculture activities in the Waikare Inlet are also important in economic terms and are dependent on effective transportation of product.</p>
Policy 4.8.1 – Demonstrate the need to occupy space in the common marine and coastal area	
<p><i>(1) Only consider allowing structures, the use of structures and other activities that occupy space in the common marine and coastal area where:</i> <i>(a) They have a functional need to be located in the common marine and coastal area, unless the structure, use or activity is consistent with Policy 4.8.1(2);</i> <i>(b) It is not feasible for the structure, the use or the occupation of space to be undertaken on dry land (land outside the common marine and coastal area), unless it is consistent with Policy 4.8.1(2);</i> <i>(c) It is not feasible to use an existing authorised structure; and</i> <i>(d) The area occupied is the minimum necessary to provide for or undertake the intended use.</i> <i>(2) Occupation of space, and structures (and their use) that are contrary to Policy 4.8.1(1) (a) and (b) may be appropriate where they will make a significant positive contribution to the local area or the region.</i> <i>(3) If the public are excluded from using a structure or common marine and coastal area, the exclusion is for the minimum time and covers the minimum area necessary to provide for or undertake the intended use and/or to ensure the health and safety of the public.</i></p>	<p>The proposal is considered to meet 1(a) and (b). The functional need for occupation of space for the activities is unquestionable. In terms of (c), use of existing structures or facilities is not a practicable option, as the existing authorised facility has been restricted by construction of the Marina extension and temporary arrangements such as mooring oyster barges at one of the marina piers hampers the efficient operation of the marina. Conducting activities at the Opuā wharf, which is already intensively used is hampered by access and manoeuvring constraints. Although the proposal is not therefore contrary to items 1 (a) and (b), it also satisfies clause 2 in terms of its positive economic contribution to the local area and regions as discussed in relation to Objective 3.5. The exclusion of the public from the operational area is justified for health and safety reasons but also has minimal effect on the ability of the public to gain access along the coastal marine which is achieved at this locality by the cycle trail/walkway. A short area of actual shoreline will no longer be accessible but its current recreational value is limited to the existing facilities related to the offshore moorings which will be replaced and enhanced by the proposed new jetty and pontoon.</p>
Policy 4.8.4 – Private use of common marine and coastal area	
<p><i>Recognise activities which provide a net gain in environmental and / or public benefit from persons occupying space in the common marine and coastal area.</i></p>	<p>The outcome of the proposal is that direct access to a short stretch of coastline, the existing character of which can best be described as unprepossessing, and some facilities for owners of offshore moorings will be lost. The latter will be replaced and enhanced by the new timber jetty and pontoon while access along the coast will be retained through the cycle trail and walkway. This means there is a very slight loss of accessibility to a small stretch of shore which is of questionable value, to be set against the considerable economic benefits to the public arising from the availability of cost-effective barging services and the efficient operation of marine farms.</p>

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OBJECTIVE / POLICY	PERFORMANCE OF THE APPLICATION
Policy 4.8.5 – Aquaculture	
<p><i>Aquaculture will be provided for in appropriate places in the coastal environment, recognising the relevant considerations may include:</i></p> <p><i>(a) The need for high water quality for aquaculture activities;</i></p> <p><i>(b) The need for land-based facilities associated with marine farming; and</i></p> <p><i>(c) The potential for aquaculture to enhance social, economic and cultural wellbeing of communities within Northland and nationally.</i></p>	<p>Aquaculture activities in Waikare Inlet have been authorised and established for a considerable time and are dependent on its water quality which in turn relates to the low level of development on its shores. By the same token, the lack of good road accessibility to the Inlet hampers transportation of the produce. The economic value of the oysters is dependent on good access to road transportation and rapid refrigeration which use of this site facilitates.</p>
Policy 5.1.1 – Planned and co-ordinated development	
<p><i>Subdivision, use and development should be located, designed, and built in a planned and co-ordinated manner which:</i></p> <p><i>(a) Is guided by the ‘Regional Form and Development Guidelines’ in Appendix 2;</i></p> <p><i>(b) Is guided by the ‘Regional Urban Design Guidelines’ in Appendix 2 when it is urban in nature;</i></p> <p><i>(c) Recognises and addresses potential cumulative effects of subdivision, use, and development, and is based on sufficient information to allow assessment of the potential long-term effects;</i></p> <p><i>(d) Is integrated with the development, funding, implementation, and operation of transport, energy, water, waste, and other infrastructure;</i></p> <p><i>(e) Should not result in incompatible land uses in close proximity and avoids the potential for reverse sensitivity; and</i></p> <p><i>(g) Maintains or enhances the sense of place and character of the surrounding environment except where changes are anticipated by approved regional or district council growth strategies and/or district or regional plan provisions.</i></p>	<p>Matters in the Form and Development Guidelines which have either been taken into account in formulating the proposal or which are achieved through its implementation include:</p> <ul style="list-style-type: none"> • connecting well with existing development and making use of opportunities for urban intensification to minimise the need for urban development in greenfield areas; • maintaining and improving public access to and along the coastal marine area; • Allowance for the projected effects of climate change; • considering effects on tangata whenua relationships, values, aspirations, roles and responsibilities. • managing the use of resources carefully, through environmentally responsive and sustainable design solutions; • formulating the proposal utilising a collaborative approach that acknowledges the contributions of many different disciplines and perspectives. <p>The development has been planned in the context of the existing activities and associated land based facilities and integration of infrastructure. This gives confidence that potential cumulative and long term effects will not be adverse, and that compatibility with adjacent uses will be achieved.</p> <p>The defining characteristic of Opuia is its role as a maritime hub and this proposal is in keeping with that character.</p>
Policy 5.1.2 – Development in the coastal environment	

OBJECTIVE / POLICY	PERFORMANCE OF THE APPLICATION
<p><i>Enable people and communities to provide for their wellbeing through appropriate subdivision, use, and development that:</i></p> <p><i>(a) Consolidates urban development within or adjacent to existing coastal settlements and avoids sprawling or sporadic patterns of development;</i></p> <p><i>(b) Ensures sufficient development setbacks from the coastal marine area to;</i></p> <p><i>(i) maintain and enhance public access, open space, and amenity values; and</i></p> <p><i>(ii) allow for natural functioning of coastal processes and ecosystems;</i></p> <p><i>(c) Takes into account the values of adjoining or adjacent land and established activities (both within the coastal marine area and on land);</i></p> <p><i>(d) Ensures adequate infrastructure services will be provided for the development; and</i></p> <p><i>(e) Avoids adverse effects on access to, use and enjoyment of surf breaks of national significance for surfing.</i></p>	<p>These matters are achieved by the proposal. It consolidates maritime activities within a maritime hub and has functional links with other maritime and marine based activities in the vicinity. Amenity values are maintained and an appropriate level of public access is provided for. Natural functioning of the Kawakawa River is not affected, and provision of infrastructure services for stormwater management will be of a high standard.</p>

165. The analysis of the provisions of the Regional Policy Statement for Northland demonstrates that the activity gives effect to a number of the objectives and policies relating to use and development. Although not considered in detail, it is apparent from the conclusions of the Assessment of Environmental Effects, which in turn are based on the wide range of specialist reports integral to the application, that the proposal is not contrary to other objectives and policies of the document related to environmental factors such as water quality, natural character and biodiversity values.

RCP OBJECTIVES AND POLICIES

166. The policies of interest in the RCP relate to the main activities of the application: dredging, reclamation, structures, discharges, water quality, recreational activities, tangata whenua and public access. Policies on natural character and biodiversity have not been included as the Assessment of Environmental Effects has demonstrated that the character and values of the site do not depend on these factors and the proposed works do not affect the biota in the locality.

Dredging

167. The application involves capital dredging and makes provision for future maintenance dredging. The relevant objective and policies are set out below.

22.3 OBJECTIVE

Provision for capital and maintenance dredging that is needed for the establishment and operation of appropriate facilities in the coastal marine area (such as Marinas and Ports), while avoiding, remedying, or mitigating the adverse effects of such dredging and any associated spoil disposal in the coastal marine area.

22.4 POLICIES

1. Within Marine 1, Marine 2, Marine 4 and Marine 6 Management Areas, to restrict capital dredging except where the dredging activity is associated with a marina or port development, and in making such exceptions integrate where appropriate, in accordance with sections 102 and 103 of the Act, any required consent process for associated dredging spoil disposal.
4. Within Marine 2, Marine 4, Marine 5 and Marine 6 Management Areas, to provide for maintenance dredging of navigation channels and around wharves, and where appropriate, in accordance with sections 102 and 103 of the Act, to integrate any required consent process for associated dredging spoil disposal.
7. To promote land-based disposal of dredging spoil from both capital and maintenance dredging of the coastal marine area, where this better meets the purpose of the Act.

168. The proposal meets the objective as the the proposal is appropriate as previously discussed and no spoil disposal will occur within the coastal marine area . In respect of the zone related policies, there is a requirement for the work to be associated with a marina or port development. Port is not defined in the Plan but dictionary definitions commonly refer to a facility or town with a facility for loading and unloading of ships. Both of the activities proposed at the new reclamation involve loading and unloading and can therefore be considered port relate
169. The specialist reports and the AEE show how the processes used will comply with best practice and that the likely effects have been avoided, remedied or mitigated to an appropriate minor level. The proposal therefore gives effect to the dredging objectives and policies.

Reclamation

170. The reclamation objectives and policies relevant to the proposed activities are:

18.3 OBJECTIVE

The avoidance, remediation or mitigation of the adverse effects of reclamation and impoundment of Northland's coastal marine area.

18.4 POLICIES

1. To restrict new reclamations and impoundments of the coastal marine area by ensuring that only those reclamations and impoundments proceed which:
 - (a) are associated with uses and developments which have an operational need to be located within the coastal marine area; and
 - (b) are of the minimum area for the proposed use; and

(c) have no practical land-based alternative; and
(d) avoid adverse effects as far as practicable, and where avoidance is not practicable, mitigate adverse effects and provide for remedying those effects to the extent practicable.
A reclamation or impoundment that does not meet all of the considerations listed above may also be an appropriate development, depending on the merits of the particular proposal.
2. In considering coastal permit applications to ensure that the creation and formation of a reclamation within the coastal marine area does not result in the escape of contaminants which are likely to, or have the potential to, adversely affect the coastal marine area.

171. The AEE and specialist reports have demonstrated that potential adverse effects can be satisfactorily avoided, remedied or mitigated. As discussed previously in relation to Policy 4.8.1 of the Regional Policy Statement, the reclamation can meet these provisions in all respects. This facility has an operational need to be within the Coastal Marine Area; is of minimum size to accommodate the activities; is being located in what can be described as the most suitable land based site ; and has effects that can be avoided remedied or mitigated. In addition the reclamation is incorporating a sophisticated stormwater management system which will avoid any discharge of contaminants to coastal waters.

Structures

172. The principal structures included in the application are the seawall 'containing' the reclamation, the boat ramp and the timber jetty and associated gangway and pontoon. As the seawall and boat ramp are integral to the development of the reclamation, they are covered by the matters discussed above. Consideration of the objectives and policies for structures which have been identified below as being relevant to the application reinforces the earlier conclusions that the proposal is appropriate, represents the best location, has a legitimate operational need for location in the coastal marine area, is fully integrated with provision of land based facilities and does not generate significant adverse effects.

17.3 OBJECTIVE

The provision for appropriate structures within the coastal marine area while avoiding, remedying or mitigating the adverse effects of such structures.

17.4 POLICIES

17.4.3. Within all Marine Management areas, to consider structures generally appropriate where:

- (a) there is an operational need to locate the structure within the coastal marine area; and
- (b) there is no practical alternative location outside the coastal marine area; and
- (c) multiple use is being made of structures to the extent practicable; and
- (d) any landward development necessary to the proposed purpose of the structure can be accommodated; and
- (e) any adverse effects are avoided as far as practicable, and where avoidance is not practicable, to mitigate adverse effects to the extent practicable.

6. Notwithstanding Policy 3, within Marine 4 Management Areas, to provide for the requirements of commercial and recreational vessels for permanent moorings and related structures and facilities.

Explanation. Under the Act, permanent moorings are structures. Like marine farming and port operations, the use of commercial and recreational vessels in the coastal marine area requires these and other similar structures

Discharges

173. The objective and policy related to discharges seek to avoid the effects of contaminant discharges and where this is not practicable remedy or mitigate adverse effects.

19.3 OBJECTIVE

The avoidance of the effects of discharges of contaminants to Northland's coastal water and the remediation or mitigation of any adverse effects of those discharges of contaminants to coastal waters, which are unavoidable.

19.4 POLICY

4. To ensure that the individual and cumulative effects of authorised discharges to the coastal marine area do not compromise the maintenance and enhancement of coastal water quality.

174. There are no discharges of sewage or treated wastewater associated with the application. As described in the AEE, discharge of decant water and stormwater from construction of the reclamation, and stormwater from the completed development will all be treated prior to discharge to coastal waters, ensuring that coastal water quality is not compromised.

Mangrove removal

175. Policy 9.1.4.2 provides for the removal of mangroves where they affect authorised activities or in item (e) *"where it can be demonstrated that the removal or trimming of mangroves better meets the purpose of the Act"*. The specialist reports and the AEE have demonstrated that the removal of the few existing specimens in the area will have very low environmental effects and facilitates the proposed development which does not give rise to any significant adverse environmental effects and which is considered to be appropriate in terms of the policies of the NZCPS.

Water Quality

13.3 OBJECTIVE

The maintenance, and where practicable, enhancement of water quality within Northland's coastal marine area.

13.4 POLICIES

2. As far as practicable, to identify any parts of the coastal marine area which are, or which have the potential to be, significantly degraded by use and development and institute appropriate remedial action giving priority to areas of high use by the general public.

176. The existing water quality conditions within the area and the potential discharges resulting from the proposal have been addressed within the specialist reports with the conclusion was that there will be no adverse effects.

Tangata Whenua

177. The objective and policies related to the interests of tangata whenua are:

11.3 OBJECTIVE

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

11.4 POLICIES

(1) To recognise and, as far as practicable, provide for the concerns and cultural perspective of tangata whenua with respect to the protection of natural and physical resources (especially seafood) in the coastal marine area.

(2) To recognise and, as far as practicable, provide for the concerns and cultural perspectives of tangata whenua in regard to the disposal of waste into water.

(4) To investigate options for involving tangata whenua in monitoring the effects of use, development and protection of resources within the coastal marine area.

178. The applicant believes that these have been attained. The values of tangata whenua in respect of water quality, other natural resources and the disposal of waste are shared by the applicant. Their management of the Marina involves on-going liaison with tangata whenua and the use of a fund for enhancing the biophysical condition of the Kawakawa River and other facilities operated by the applicant in the vicinity are managed to contribute to the maintenance of water quality.

Public Access

179. The importance of public access to the coast and coastal marine area is enshrined in the matters of national importance in section 6 of the Resource Management Act and in Objective 4 of the New Zealand Coastal Policy Statement 2010. Relevant RCP objectives and policies are:

10.3 OBJECTIVES

1. The maintenance and enhancement of public access to and along Northland's coastal marine area except where restriction on that access is necessary.

10.4 POLICIES

1. To promote, and where appropriate, facilitate improved public access to and along the coastal marine area where this does not compromise the protection of areas of significant indigenous vegetation, significant habitats of indigenous fauna, Maori cultural values, public health and safety, or security of commercial operations.

3. Where appropriate, to provide for the restriction of public access to protect public health and safety, for defence purposes or for the security of commercial operations.

180. This has already been addressed in respect of the CPS and RPS with the conclusion that the need to restrict access to the short stretch of coastline incorporating the loading and unloading for public health and safety reasons is justifiable but is compensated by the improved facilities for accessing the off-shore moorings and the maintenance of access along the coast by means of the cycle trail/walkway.

Summary

181. The preceding paragraphs provide a comprehensive assessment of the performance of the proposal against the objectives and policies of the Operative Regional Coastal Plan for Northland. The conclusions to be drawn from the analysis are that the proposed development is totally aligned with the aims of the RCP and that its implementation and future management also accord with the objectives and policies.

PRP OBJECTIVES AND POLICIES

Objectives

182. This document contains some 13 Objectives which derive from the National Policy Statement on Freshwater Management and from the RPS. Although aimed at freshwater management Objective F.1.2 refers to minimising sedimentation of coastal waters. As addressed in the AEE and attached specialist reports, management of the dredging and reclamation activities will ensure that there is no significant loss of sediment to coastal waters.
183. Objectives F.1.4 on enabling economic well being is identical to Objective 3.5 of the RPS which has been discussed earlier with the conclusion that the proposal contributes to achievement of the objective.
184. Use and development in the coastal marine area is required under Objective F.1.7 to be located so that it:
- 1) makes efficient use of space occupied in the common marine and coastal area, and
 - 2) is of a scale, density and design compatible with its location, and
 - 3) recognises the need to maintain and enhance public open space and recreational opportunities, and
 - 4) is provided for in appropriate places and forms, and within appropriate limits.
- These matters are also considered to be attained by the proposal

Policies

185. An assessment against the policies is contained in **Table 7**.

Table 7

POLICY	PERFORMANCE OF THE APPLICATION
Policy D.1.1 When an analysis of effects on tangata whenua and their taonga is required	
A resource consent application must include in its assessment of environmental effects an analysis of the effects of an activity on tangata whenua and their taonga if one or more of the following is likely: <ol style="list-style-type: none"> 1) adverse effects on mahinga kai and access to mahinga kai, or 2) any 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, or 3) adverse effects on indigenous biodiversity where it impacts on the ability of tangata 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 Tangata Whenua mapped in the Regional Plan (refer to 'Maps'). 	Such an assessment is not considered necessary as the AEE and the specialist reports have not identified any adverse effects on the listed items.
D.2.2 Social, cultural and economic benefits of activities	
Regard must be had to the social, cultural and economic benefits of a proposed activity, recognising significant benefits to local communities, Māori and the region	This relates to Objective 3.5 of the RPS and Objective F.1.4 of the PRP and has

POLICY	PERFORMANCE OF THE APPLICATION
including local employment and enhancing Māori development, particularly in areas of Northland where alternative opportunities are limited.	already been addressed with favourable conclusions.
D.2.11 Marine and freshwater pest management	
<p>Manage the adverse effects from marine pests, and pests within the beds of freshwater bodies, by:</p> <ol style="list-style-type: none"> 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. 	As discussed earlier the applicant is committed to using best practice in respect of marine pest management at the facilities they operate.
D.2.12 Resource consent duration	
<p>When determining the expiry date for a resource consent, have particular regard to:</p> <ol style="list-style-type: none"> 1) security of tenure for investment (the larger the investment, then generally the longer the consent duration), and 2) the administrative benefits of aligning the expiry date with other resource consents for the same activity in the surrounding area or catchment, and 3) certainty of effects (the less certain the effects, the shorter the consent duration), and 4) whether the activity is associated with regionally significant infrastructure (generally longer consent durations for regionally significant infrastructure), and 5) the following additional matters where the resource consent application is to re-consent an activity: <ol style="list-style-type: none"> a) the applicant's past compliance with the conditions of any previous resource consent or relevant industry guidelines or codes of practice (significant previous non-compliance should generally result in a shorter duration), and b) the applicant's voluntary adoption of good management practice (the adoption of good management practices that minimise adverse environmental effects could result in a longer consent duration). 	The applicant is the consent holder for the operation of the Boatyard and Marina and a number of other maritime activities in the locality. As consents for the Boatyard are currently being renewed the duration can be linked to those activities.
D.2.17 Managing adverse effects on land-based values and infrastructure	
<p>When considering an application for a resource consent for an activity in the coastal marine area or in, on or under the bed of a freshwater body, recognise that adverse effects may extend beyond the coastal marine area or the freshwater body to:</p> <ol style="list-style-type: none"> 1) significant areas and values including: <ol style="list-style-type: none"> a) Areas of outstanding and high natural character, and 	As demonstrated in the AEE and the specialist reports the effects of the proposed activities are not anticipated to extend beyond the coastal marine boundary to any areas with the listed significant values.

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POLICY	PERFORMANCE OF THE APPLICATION
<p>b) Outstanding natural landscapes, and c) Outstanding natural features, and d) Historic heritage, and e) Areas of significant indigenous biodiversity, and f) Places of significance to tangata whenua, and 2) land-based infrastructure including: a) toilets, and b) car parks, and c) refuse facilities, and d) boat ramps, and e) boat and dinghy storage, and 3) decision-makers should have regard to: a) the nature and scale of these effects when deciding whether or not to grant consent for activities in the coastal marine area or on the beds of freshwater bodies, and b) the need to impose conditions on resource consents for those activities in order to avoid, remedy or mitigate these adverse effects.</p>	<p>Land based facilities are included within the application and the associated application to the Far North District Council concomitant with what is required for the activities and their current use of facilities in Opuia related to the existing barge dock.</p>
<p>D.4.1 Maintaining overall water quality</p>	
<p>When considering an application for a resource consent to discharge a contaminant into water: 1) have regard to the need to maintain the overall quality of water including the receiving water’s physical, chemical and biological attributes and associated water quality dependent values, and 2) have regard to the coastal sediment quality guidelines in H.3 Water quality standards and guidelines, and 3) generally not grant a proposal if it will, or is likely to, exceed or further exceed a water quality standard in H.3 Water quality standards and guidelines.</p>	<p>The AEE and the specialist reports have demonstrated how water quality will be protected during the construction stages and operation of the completed facilities so that potential adverse effects can be avoided, remedied or mitigated.</p>
<p>D.4.26 Land preparation, earthworks and vegetation clearance</p>	
<p>When assessing an application for a resource consent for an earthworks, vegetation clearance or land preparation activity and any associated discharge of a contaminant, ensure that the activity: 1) will be done in accordance with established good management practices, and 2) avoids significant adverse effects, and avoids, remedies or mitigates other adverse effects on: a) drinking water supplies, and b) areas of high recreational use, and c) aquatic ecosystem health, aquatic species, and receiving environments that are sensitive to sediment or phosphorus accumulation.</p>	<p>Consent is required for earthworks in the coastal riparian area. These works will be undertaken in accordance with best practice and the applicant will prepare a sediment and erosion control plan. The works will not affect drinking water supplies or areas of high recreational use and the sediment and stormwater runoff control measures will ensure that there are minimal adverse effects on aquatic ecosystem health or aquatic species.</p>
<p>D.5.1 Aquaculture – benefits</p>	
<p>Recognise and enable the significant benefits that existing and new aquaculture can provide to local communities, Māori and the region, including: 1) social, cultural and economic benefits, including local employment and enhancing Māori development (for example, by involvement in the aquaculture industry), particularly in areas of Northland where alternative opportunities are limited, and</p>	<p>The proposals facilitates continued operation of the existing aquaculture activities in the Waikare Inlet without giving rise to adverse effects that are more than minor and therefore results in social and economic benefits for the local community as well as for Northland.</p>

POLICY	PERFORMANCE OF THE APPLICATION
<p>2) supplementing natural fish and shellfish stocks by an alternative source of fish and shellfish, and 3) providing improved information about water quality, and 4) the significant opportunity marae-based aquaculture provides for Māori to enhance their wellbeing (through improving traditional customary kaimoana provision for marae), and 5) as a method Māori can use for the management and enhancement of Māori oyster reserves (as defined in the Fisheries (Auckland and Kermadec Amateur Fishing) Regulations 1986).</p>	
<p>D.5.12 New moorings in Mooring Zones with limited shorebased facilities</p>	
<p>Manage moorings in Mooring Zones with limited shore-based facilities by: 1) recognising that shore-based facilities to serve moorings are limited or at capacity in the following mooring areas: <i>[Table 16 not reproduced but includes Opua Basin in the list]</i> 2) only granting coastal permits for moorings in these locations if the applicant can demonstrate that: a) adequate parking and dinghy storage is available to serve the existing moorings and the proposed mooring at all times of the year, or b) adequate parking, toilet facilities, refuse disposal and dinghy storage are provided at all times of the year on private property near the proposed mooring, and 3) where an applicant demonstrates provision of adequate parking, toilet facilities, refuse disposal and dinghy storage at private property in accordance with clause 2), the coastal permit must include a condition precluding the transfer of the mooring unless the services for the mooring will be provided from a property owned by the transferee.</p>	<p>The proposal includes replacement of the shore based facilities affected by the application.</p>
<p>D.5.20 Reclamation</p>	
<p>Recognise the potential benefits of reclamations when they are undertaken to: 1) maintain or repair an authorised reclamation, or 2) carry out rehabilitation or remedial works, or 3) create or enhance habitat for indigenous species where degraded areas of the coastal environment require restoration or rehabilitation.</p>	<p>The proposed reclamation is not intended to achieve any of the listed purposes which in isolation appear to leave something of a vacuum in terms of reclamation policies when compared with the following two policies relating to dredging. The section 42A Report which recommended inclusion of this policy makes it clear however that this only applies to minor activities and those linked to restoration or rehabilitation of degraded areas and that the main policy governing reclamation is Policy 10 of the CPS which has previously been examined in detail, with favourable conclusions.</p>
<p>D.5.22 Dredging, disturbance and deposition activities Dredging, disturbance and deposition activities should not: 1) cause long-term erosion within the coastal marine area or on adjacent land, and</p>	<p>The dredging activities are relatively minor given the scale of the reclamation and will not give rise to the effects described.</p>

POLICY	PERFORMANCE OF THE APPLICATION
2) cause damage to any authorised structure.	
D.5.23 Benefits of dredging, disturbance and deposition activities	
<p>Recognise that dredging, disturbance and deposition activities may be necessary:</p> <ol style="list-style-type: none"> 1) for the continued operation of existing infrastructure, or 2) for the operation, maintenance, upgrade or development of regionally significant infrastructure, or 3) to maintain or improve access and navigational safety within the coastal marine area, or 4) for beach re-nourishment or replenishment activities, or 5) to protect, restore or rehabilitate ecological or recreational values, or 6) when it is undertaken in association with the deposition of material for beneficial purposes, including the restoration or enhancement of natural systems and features that contribute towards reducing the impacts of coastal hazards. 	<p>The existing barge dock can be considered as existing infrastructure facilitating authorised activities in the coastal marine area. The continued operation of those activities requires an alternative location and hence the dredging activities must be considered beneficial in that respect.</p>
D.5.27 Mangrove removal – adverse effects	
<p>When considering resource consents for mangrove removal, have regard to a range of potential adverse effects, in particular:</p> <ol style="list-style-type: none"> 1) effects on ecological values including: <ol style="list-style-type: none"> a) disturbance, displacement or loss of fauna and habitat, and b) disturbing or displacing birds classified as Threatened or At Risk in the New Zealand Threat Classification System, particularly within Significant Bird Areas, and c) disturbing ecological sequences, or corridors, and d) removal of a buffer to sensitive ecological areas, and e) disturbance of the foreshore and seabed, including compaction, sediment redistribution, and mangrove biomass deposition, and 2) increased risk of coastal erosion where mangroves provide a buffer against coastal processes causing erosion, and 3) effects on tangata whenua cultural values, and 4) amenity impacts from removal and disposal including noise, smoke, odour and visual impacts, and 5) short and long-term effects on local sediment characteristics and hydrodynamics, and 6) changes to natural character. 	<p>The assessment of Ecological Effects concludes that the removal of the very small number of mangroves, which are too large to be dealt with as a permitted activity, but too few in number and extent to constitute a viable mangrove habitat, as not having any significant adverse effect given the extensive mangrove habitat further upstream.</p>
D.6.1 Appropriateness of hard protection structures	
<p>New hard protection structures may be considered appropriate when:</p> <ol style="list-style-type: none"> 1) alternative responses to the hazard (including soft protection measures, restoration or enhancement of natural defences against coastal hazards and abandonment of assets) are demonstrated to be impractical or have greater adverse effects on the environment, or 2) they are the only practical means to protect: <ol style="list-style-type: none"> a) existing or planned regionally significant infrastructure, or b) existing core local infrastructure, or 	<p>The purpose of the application is provision of a new barge dock which in turn requires space for loading and unloading activities. Locations outside Opua have been ruled out for various reasons and while this location is appropriate in terms of the significant factors of consolidation of activities in a modified area and accessibility, provision of the necessary hardstand space can only be accommodated in practical terms by reclamation which in</p>

POLICY	PERFORMANCE OF THE APPLICATION
<p>c) concentrations of existing vulnerable development, and d) they provide a better outcome for the local community, district or region, compared to no hard protection structure, and the works form part of a long-term hazard management strategy, which represents the best practicable option for the future.</p>	<p>turn requires a seawall to prevent erosion. Provision of this 'hard protection structure' is therefore considered appropriate in these particular circumstances.</p>
<p>D.6.2 Design and location of hard protection structures</p>	
<p>New hard protection structures must: 1) be located as far landward as possible in order to retain existing natural defences against coastal hazards as much as possible, and 2) be designed and constructed by a suitably qualified and experienced professional, and 3) incorporate the use of soft protection measures where practical, and 4) be designed to take into account the nature of the coastal hazard risk and how it might change over at least a 100-year time-frame, including the projected effects of a sea level rise of one metre by 2115 (100 years).</p>	<p>The seawall and reclamation are being designed in accordance with these requirements, refer to specialist reports..</p>

Overall summary

186. As the overall status is non-complying, albeit only under the Operative Coastal Plan which now has significant less weight than the PRP, this analysis of the policy context has been comprehensive and demonstrates that in overall terms the proposal is consistent with both the higher level policies in the Coastal Policy Statement and the Regional Policy Statement as well as those of the two plan versions.

OVERVIEW

187. Part II of the Resource Management Act contains the purpose and principles of the Act, comprising the overall purpose of achieving sustainable management as set out in Section 5, matters of national importance which must be recognised and provided for in all activities conducted under the Act, the matters in Section 7 which must be given particular regard and the principles of the Treaty of Waitangi which must be taken into account.

SUSTAINABLE MANAGEMENT

188. The purpose of the Resource Management Act is set out in Section 5 of the Act which states:

(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 wellbeing 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;
- (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.

189. This Planning Report has endeavoured to show that the proposed development is indeed sustainable. Through the specialist reports the issues of effects on the physical environment, biodiversity, cultural values and social and economic wellbeing have all been addressed leading to the conclusion that the proposal result in significant net benefits to the community.

MATTERS OF NATIONAL IMPORTANCE

190. The relevant matters of national importance in s.6 are the preservation of the natural character of the coastal environment and its protection from inappropriate subdivision use and development, the maintenance and enhancement of public access to and along the Coastal Marine Area and the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.

191. As the natural character of the reclamation area has not been assessed as being so high in terms of either physical features or biodiversity values as to warrant protection, and the various regional policy and planning documents have not identified the site as possessing any significant values, those parts of s6 do not apply.

192. The question of public access has been addressed in the application and is maintained and improved.

193. The applicant believes that the use and development of the area is appropriate as discussed in depth in relation to the NZCPS and that proposal recognises and provides for the relationship of local Iwi with this locality.

SECTION 7 MATTERS

194. The items of relevance in s.7 are considered to be efficient use and development of natural and physical resources, maintenance and enhancement of amenity values and the overall quality of the environment. All of these factors are considered to be attained by the application. The earlier discussion demonstrated how the proposal provides benefits for the community as a whole without adverse effects on the remainder of the coastal environment.

195. Section 7 also refers to kaitiakitanga and the ethic of stewardship. These concepts are the focus for enhancing the mauri, health and vitality of the Taumarere River being matters which were common in the consideration of the Opuia Stage 2 Marina Extension.

TREATY OF WAITANGI

196. Section 8 of the Resource Management Act requires that 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).
197. Matters of interest to tangata whenua, in particular water quality, effects on the taonga of living organisms, the implications for kai moana gathering and biosecurity have been addressed in the specialist reports and the operation of the activities will embody a high standard of environmental management which will ensure that these concerns are addressed.
198. On this basis, account of the principles of the Treaty of Waitangi has been taken in both the formulation of the proposal and in its on-going implementation.

SUMMARY

199. Based on the assessment above, the proposal is considered to attain the main purpose of the Resource Management Act as set out in section 5 through achieving sustainable management of the marina extension site, and to accord with the relevant principles of the other sections of Part II.

REVIEW OF SECTION 104 PROVISIONS

200. Section 104 of the RMA states that when considering an application for a resource consent, *“the consent authority must, subject to Part II, have regard to –*
- (a) any actual and potential effects on the environment of allowing the activity; and*
 - (b) any relevant provisions of –*
 - i. a national environmental standard;*
 - ii. other regulations;*
 - iii. a national policy statement;*
 - iv. a New Zealand Coastal Policy Statement;*
 - v. a regional policy statement or proposed regional policy statement;*
 - vi. a plan or proposed plan; and*
 - (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.”*
201. A comprehensive Assessment of Environmental Effects covering all aspects of the applications has been provided. It concludes that adverse effects are no more than minor, cumulative adverse effects will not arise, and there are many positive effects of benefit to both the local and wider community.
202. There are no matters of relevance under items (i) to (iii) of sub-clause (b). Relevant policies in the New Zealand Coastal Policy Statement and the operative Regional Policy Statement for Northland have been evaluated and have been found to provide support for the proposal.
203. The objectives and policies and assessment criteria in the Regional Coastal Plan and the Proposed Regional Plan for Northland have been examined in detail. These are also supportive of the proposal.

SECTION 107

204. The requirements of section 107 are set out in the General Performance Standards in the Regional Coastal Plan for Northland which were used to identify matters included in the assessment of potential effects under Clause 6(1)(b) with the conclusion that these would be no more than minor.

SECTION 105

205. This section is relevant to the coastal permit applications in respect of the discharges and the consideration as to whether an esplanade reserve or strip is required. The discharge matters have been addressed in the AEE which incorporates the standards and criteria in the RCP. The applicant does not propose provision of an esplanade strip to facilitate public access along the water frontage of the reclamation for obvious reasons of safety and security and considers there to be no need for esplanade provisions given that the public can access the timber jetty and can walk along the coast via the Cycle Trail.

PROVISIONS OF SECTION 104 D (1)

206. Non-complying activities are required to pass one of the 'gateway' tests contained in section 104 D(1) of the RMA, which states that:

"Despite any decision made for the purpose of section 95A(2)(a) in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—

(a) the adverse effects of the activity on the environment (other than any effect to which section 104(3) (a)(ii) applies) will be minor; or

(b) the application is for an activity that will not be contrary to the objectives and policies of—

(i) the relevant plan, if there is a plan but no proposed plan in respect of the activity;

or

(ii) the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity;

or

(iii) both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity."

207. These requirements are sometimes referred to as 'gateway' tests and the function of this part of the Act is to determine jurisdiction for granting consent. If either of these gateway tests is met, the authority must then assess the proposal against the provisions of section 104 to make a determination as to whether consent should be granted.

Assessment of Environmental Effects

208. The Environment Court has stated in reference to this part of the Act [*Living Earth Limited v Auckland Regional Council*] that "In this context, minor means lesser or comparatively small in size or importance; and the judgment is to be made taking the adverse effects as a whole." The Assessment of Environmental Effects concluded that the effects of the proposal on the environment are considered to be either positive or if adverse no more than minor. On balance this would satisfy the first gateway test of section 104 D (1).

Objectives and Policies of the Relevant Plans

209. The evaluation of the relevant objectives and policies of the Regional Plans concluded that in overall terms these are attained by the proposal to the best extent practicable.

Summary

210. On the basis of the above evaluation, the requirements of s. 104D (1) are considered to be met. This allows Council to determine whether to grant consent under section 104.

CONCLUSIONS

211. Far North Holdings Limited seeks consent to enable the continued provision of barge docking facilities for aquaculture operators and marine contracting services serving the Bay of Islands. These facilities are required to replace a consented barge dock affected by the extension of the Opua Marina. The continued operation of the facility generates positive effects for both the local community within the Bay of Islands and for aquaculture operators based in the Waikare Inlet.
212. The application encompasses a number of activities requiring consent under the operative and proposed regional plans. Overall its status under the Operative Regional Coastal Plan is non-complying in respect of the proposed reclamation, solely because the activity is not associated with a Marina. Under the Proposed Regional Plan the overall status of the application is discretionary. The proposed plan has reached the stage where decisions have been notified but the time period for lodging appeals has not expired. Application under both plan versions is therefor necessary but the Proposed Regional Plan carries significant more weight at this stage.
213. The performance standards and assessment criteria in the Regional Coastal Plan and the Proposed Regional Plan have contributed to the matters assessed in the AEE with the conclusion that these can be met. No persons are considered to be adversely affected. Potential adverse effects on the environment have been assessed to be no more than minor and there are significant benefits accruing to the community.
214. The policy context pertaining to the application has been examined in detail incorporating the provisions of the NZ Coastal Policy Statement, the Regional Policy Statement and the two plan versions. The proposal is considered to sit well within this policy framework
215. The purpose and principles of Part II of the Act have been assessed with the conclusion that the proposal contributes to sustainable management of resources in accordance with the overall purpose and principles of the Act in Section 5 as it *"enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety"* while avoiding adverse effects on the environment. The site possesses no significant ecological, physical or heritage values which would invoke consideration under section 6 and public access to and along the coast is maintained. While the general area is of great value to tangata whenua, those who opposed a previous application to locate the facilities elsewhere have indicated a preference for this locality. Section 7 matters which are furthered by the activity include the efficient use and development of natural and physical resources.
216. The proposal has been considered against the statutory requirements of various section of the resource Management Act with the conclusions that the gateway tests of section 104D allow Council to grant consent and that consideration of the provisions of section 104 allows Council to make a favourable determination.

Email Correspondence

-----Original Message-----

From: a Hamilton <arapetahamilton@gmail.com>

Sent: Friday, 2 August 2019 4:11 p.m.

To: Kylie Cox <Kylie@fnhl.co.nz>

Subject: Re: Resource Consent - Support

Kia ora Kylie

This email is to confirm Te Kahui Kaitiaki o Ngati Manu mo te Awatapu o Taumarere is supporting the application for Resource Consent for the Commercial Boat Ramp for the Oyster Farmers at Opuia .

Naku nei

Arapeta Hamilton

Project Manager Te Kahui