Submission on Proposed Kaipara District Plan

Form 5 Submission on publically notified proposal for policy statement or plan, change or variation

Clause 6 of Schedule 1, Resource Management Act 1991

To: Kaipara District Council - District Plan Review

Date received: 30/06/2025

Submission Reference Number #:116

This is a submission on the following proposed plan (the **proposal**): Proposed Kaipara District Plan

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I wish to be heard: No
I am willing to present a joint case: No

Could you gain an advantage in trade competition in making this submission?
- **No**

If you have answered yes to the above question, are you directly affected by an effect of the subject matter of the submission that:
(a) adversely affects the environment; and
(b) does not relate to trade competition or the effects of trade competition
- **No**

Submission points

Point 116.1

Section: Earthworks

Provision:

Overview

Support / Amend / Oppose: Amend

Submission:

The Proposed Kaipara District Plan (PKDP) proposes a simple approach to managing the effects of earthworks across the District. The PKDP also sets aside the responsibilities of KDC and Northland Regional Council with respect to management of earthworks effects. It notes that NRC have primary responsibility in managing the effects of earthworks on freshwater, the coastal environment, natural hazards and soil. However, the PKDP appears to miss the importance of the Kaipara Harbour, Mangawhai Estuary and their catchments to the communities that live there. The importance of these water bodies is primarily a local issue, as well as a regional issue. As such, the earthworks objectives, policies and standards should reflect these values.

The lack of any enforceable standards relating to erosion and sediment control is likely to result in large-scale sediment runoff, given that the PKDP permits up to 2,500m^2 of earthworks in any zone. Resource consents under the PKDP will not be necessary for the vast majority of works, so there is likely to be less "checks and balances" in place on earthworks proposals as a result due to a lack of Council involvement in oversight or consenting. This exposes the District to the potential of large areas of earthworks being undertaken with little to no erosion and sediment control in place as there is no enforceable standard that applies.

I am not aware of any prosecutions or enforcement action undertaken by Kaipara District Council in the recent past relating to erosion and sediment control or earthworks, so it is reasonable to expect that this is likely to continue in the future, without a major change in policy direction by the Council and its elected members. Further, in my experience, the implementation of best practice erosion and sediment control in the Kaipara District is far from consistent, if present at all in some cases.

Sediment runoff and sedimentation are known to be the biggest contaminant sources to both the Kaipara Harbour and the Mangawhai Estuary - indeed, this is the case for all of New Zealand due to our topography, high rainfall and exposure to the Southern Ocean, Tasman Sea and Pacific Ocean.

Sediment damages aquatic ecosystems, reduces flood resilience and supports the spread of mangrove forests. All three of these issues are key considerations to Kaipara in the years to come. Despite the controls on earthworks in the Proposed Northland Regional Plan, the reality is that should the PKDP earthworks rules proceed as notified, most earthworks will be undertaken without any Council involvement at all.

Should this be the case, at the very least, there should be an enforceable standard set in the District Plan rules to ensure that there is a clear expectation that best practice erosion and sediment controls are implemented during earthworks to prevent sediment discharges, and following earthworks, to ensure that soil is stabilised against ongoing erosion.

The proposed controls in the PKDP do not achieve an enforceable standard in this context. Reference to best practice should be made. Increasingly, best practice is being recognised as the Auckland Council's 'Guidance Document 2016/005 Erosion and Sediment Control Guideline for Land Disturbing Activities (GD05)'. This should be referenced in the PKDP with respect to earthworks activities.

Relief sought

There should be an enforceable standard set in the District Plan rules to ensure that there is a clear expectation that best practice erosion and sediment controls are implemented during earthworks to prevent sediment discharges, and following earthworks, to ensure that soil is stabilised against ongoing erosion.

The proposed controls in the PKDP do not achieve an enforceable standard in this context. Reference to best practice should be made. Increasingly, best practice is being recognised as the Auckland Council's 'Guidance Document 2016/005 Erosion and Sediment Control Guideline for Land Disturbing Activities (GD05)'. This should be referenced in the PKDP with respect to earthworks activities.

Point 116.2

Section: Earthworks

Sub-section: Policies

Provision:
Manage the adverse effects of earthworks by ensuring:

1. Earthworks occur in a coordinated and integrated manner;
2. The scale of the earthworks is consistent with the scale and form of development anticipated within the zone;
3. The stability of land is maintained, including the stability of adjoining land, infrastructure, buildings and structures;
4. The area, height or depth, location and slope of the earthworks are of an appropriate scale that will ensure the following potential adverse effects are minimised:
    a. Visual amenity as a result of cut or fill faces and retaining structures;
    b. Dust from the site;
    c. The alteration of natural landforms and features; and,
    d. The safe and efficient operation of the transport network and on local amenity values as a result of traffic movements; and
5. The area where earthworks have occurred is reinstated in a timely manner to minimise adverse effects on land stability and the visual amenity of the surrounding area;
6. Earthworks do not occur in locations where this would result in significant adverse effects on cultural or ecological values; and
7. Adverse effects on cultural values are avoided or appropriately managed where sensitive material is discovered (including human remains and archaeological sites) during earthworks.

Support / Amend / Oppose: Amend

Submission:

As a policy, managing the effects of earthworks should extend to ensuring that best practice erosion and sediment controls are in place both during earthworks (to manage erosion and sediment discharges) and after earthworks, to ensure that disturbed ground is stabilised against ongoing erosion.

Relief sought

Add a point 8. to the text as follows:

8. Best practice erosion and sediment control methods are utilised during and after all earthworks activities.

Point 116.3

Section: Earthworks

Sub-section: Standards

Provision:

1. For the duration of the earthworks, measures must be implemented to:
    a. Prevent silt or sediment entering the stormwater system, overland flow paths or roads; and
    b. Prevent the creation of a dust nuisance.
2. **Activity status when compliance not achieved:** Restricted Discretionary
3. **Matters over which discretion is restricted:**
    a. Refer to EW-R1.

Support / Amend / Oppose: Amend

Submission:

The lack of any enforceable standard will result in sediment discharges occurring. The point that notes: "Prevent silt or sediment entering the stormwater system, overland flow paths or roads;..." in itself is unachievable, even through the provision of the very best in best practice erosion and sediment control. When best practice is used, some sediment is still discharged even after going through a chemically treated Sediment Retention Pond built and operated in accordance with the best practice guidelines.

A focus on utilising best practice erosion and sediment controls (deemed to be in generally in accordance with Auckland Council's GD05 guideline) should be referenced. This would ensure that an enforceable standard of erosion and sediment control is in place.

A note referencing these guidelines could be added to the rule.

Relief sought

Change EW-S4 to read:

1. For the duration of the earthworks, measures must be implemented to:

a. Achieve best practice erosion and sediment control, to minimise silt or sediment entering the stormwater system, overland flow paths or roads; and

b. Prevent the creation of a dust nuisance.

Note: Best practice erosion and sediment control measures are generally deemed to be in accordance with Auckland Council 'Guidance Document 2016/005 Erosion and Sediment Control Guideline for Land Disturbing Activities (GD05)' or similar design.

Point 116.4

Section: Earthworks

Sub-section: Standards

Provision:

1. As soon as practicable, but not later than six months after the completion of earthworks or stages of earthworks, the earthworks area must be stabilised.
2. **Activity status when compliance not achieved:** Restricted Discretionary
3. **Matters over which discretion is restricted:**
    a. Refer to EW-R1.

Support / Amend / Oppose: Amend

Submission:

While the intent of the standard is good, again, not having an enforceable standard to refer to means that the word "stabilised" could be interpreted differently to different people. This may be interpreted by one person as stabilised against surface erosion, while to another (and more commonly understood) it may mean that it is geotechnically stable.

In order to ensure that there is an enforceable standard and that the outcome of the standard is clear, the wording should be amended to ensure that the soil surface is the key item to be stabilised, and this refers to erosion of the soil surface.

Reference to the GD05 guidelines would achieve this. Alternately, creating a definition link for "stabilised" may also assist, based on accepted best practice wording. Two options are presented below.

Relief sought

Either;

Option 1

Change the wording of EW-S5 to:

1. As soon as practicable, but not later than six months after the completion of earthworks or stages of earthworks, the earthworks area must be stabilised to prevent ongoing erosion of the soil surface.

Note: Best practice erosion and sediment control measures are generally deemed to be in accordance with Auckland Council 'Guidance Document 2016/005 Erosion and Sediment Control Guideline for Land Disturbing Activities (GD05)' or similar design.

OR

Option 2

Create a definition link for the word "stabilised" to the following text:

An area inherently resistant to erosion such as rock, or rendered resistant by the application of aggregate, geotextile, vegetation, mulch or an approved alternative. Where vegetation is to be used on a surface that is not otherwise resistant to erosion, the surface is considered stabilised once an 80% vegetation cover has been established.