

BEFORE THE ENVIRONMENT COURT

ENV

IN THE MATTER

the Resource Management
Act 1991 ("the Act")

AND

IN THE MATTER

of an appeal on the proposed
Kaipara District Plan pursuant
to clause 14(1) of the First
Schedule of the Act

BETWEEN

THE DIRECTOR-GENERAL
OF CONSERVATION

Appellant

AND

KAIPARA DISTRICT
COUNCIL

Respondent

**NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST DECISIONS
ON PROPOSED KAIPARA DISTRICT PLAN**

To: The Registrar
Environment Court
Auckland

I, Alastair Morrison, the Director-General of Conservation, appeal against decisions of the Kaipara District Council on the proposed Kaipara District Plan ("the proposed Plan").

1. I made a submission on that proposed plan.
2. I am not a trade competitor for purposes of section 308D of the Resource

Management Act 1991.

3. I received notice of the decisions on 3 October 2011.
4. The decisions were made by the Kaipara District Council.
5. The decisions that I am appealing, the reasons for the appeal and the relief sought are stated in the subsections below.
6. *Generally applying reasons for the appeal*
 - 6.1 The proposed Plan outcomes are supported.
 - 6.2 The objectives, policies and rules are insufficient to achieve those outcomes.
 - 6.3 The proposed Plan needs amendments and additions in order to give effect to the New Zealand Coastal Policy Statement 2010 and to the Regional Policy Statement for Northland.
 - 6.4 The relief sought in this appeal are necessary to recognise and provide for the matters of national importance listed in section 6 of the Act and to have particular regard to the other matters in section 7 of the Act.
 - 6.5 The changes sought in this appeal are necessary in order to achieve sustainable management of natural and physical resources.
 - 6.6 The changes sought are necessary, appropriate and sound resource management practice.
7. *Generally applying relief*
 - (a) Where the relief sought seeks specific wording, it shall be qualified by the words "or similar wording having the same effect".
 - (b) Where the relief sought identifies a specific location in the proposed Plan, it shall be qualified by the words "or such other location in the proposed Plan as may be appropriate".
8. *Indigenous Vegetation Clearance Rule*
 - 8.1 My submissions 135/62, 135/80, 135/82, 135/87 and 135/101 sought amendments to the indigenous vegetation clearance rule applying in each zone.
 - 8.2 The Council decision with respect to each of these submissions was to accept it in part.
 - 8.3 The specific provisions of the indigenous vegetation clearance rule that I am appealing are:
 - the lack of application of the indigenous vegetation clearance rule to indigenous vegetation lower than 6 metres in height (or lower than 3 metres in height within the Valued Natural Environments of Mangawhai Overlay); and

- the reduced level of control on indigenous vegetation clearance within Overlays where that indigenous vegetation is more than 100 metres from the coastal marine area
- 8.4 The indigenous vegetation clearance rule is an important method to achieve ecological outcomes identified in the Plan (for example outcome 12.8.2), recognise and provide for section 6(c) of the Act, give effect to policy 11 of the New Zealand Coastal Policy Statement 2010 and give effect to section 23 of the Regional Policy Statement for Northland. These provisions apply to all indigenous vegetation regardless of height.
- 8.5 There are areas of significant indigenous flora and significant habitats of indigenous fauna in the Kaipara District where the vegetation is lower than 3 -6 metres and hence are not protected by the indigenous vegetation clearance rule. One example is the extensive dune field vegetation on the southern end of Pouto Peninsula.
- 8.6 The level of protection provided to indigenous vegetation within the coastal environment should be same throughout all of the coastal environment. It is inconsistent with sustainable management to have a lesser standard of protection for coastal indigenous vegetation located more than 100 metres from the coastal marine area.
- 8.7 Hearing Report SR2 at 4.2.2.3 appears to resolve that the 100 metres from the coastal marine area restriction be deleted from the Plan. However the proposed Plan still includes the 100 metre restriction.
- 8.8 The relief sought is:
- (a) The inclusion of a further clause in rules 12.10.2(1), 13.10.2(1), 15A.10.2(1) and 15B.10.2(a):
- It is not part of a continuous area of predominantly indigenous vegetation over 5 hectares in area.
- (These are the indigenous vegetation clearance rules applying outside the Overlays.)
- (b) The inclusion of a further clause in rules 12.10.2(2), 12.10.2(3), 13.10.2(2), 13.10.2(3), 14.10.2(1), 14.2.10(2), 15A.10.2(2), 15A.10.2(3), 15B.10.2(2) and 15B.10.2(3):
- It is not part of a continuous area of predominantly indigenous vegetation over 1 hectare is area.
- (These are the indigenous vegetation clearance rules applying within the Overlays.)
- (c) The deletion of the words “and is not located within 100m of the Coastal Marine Area” from rules 12.10.2(2)(b), 12.10.2(3)(b), 13.10.2(2)(b), 13.10.2(3)(b), 14.10.2(1)(b), 14.10.2(2)(b), 15A.10.2(2)(b), 15A.10.2(3)(b), 15B.10.2(2)(b) and 15B.10.2(3)(b).
- (These are the indigenous vegetation clearance rules applying within the Overlays.)

9. *Development within the coastal environment*
- 9.1 My submissions 135/59, 135/84 and 135/98 seek the insertion of the same further rule in the Rural, Maori Purposes: Maori Land and Maori Purposes: Treaty Settlement Land zones. The inclusion of the rule in the Maori Purposes zones is a consequence of those two zones using the Rural zone as the basis for their provisions.
- 9.2 The proposed further rule would result in a restricted discretionary activity resource consent being required for most new buildings and building extensions in the Overlay areas within these zones. The proposed further rule provides for smaller scale buildings as a permitted activity.
- 9.3 The Council decision was to reject the submissions.
- 9.4 My submissions 135/60 135/85 and 135/99 sought the reduction of the permitted activity volume of earthworks in the East Coast, West Coast, and Harbours Overlays in any 12 month period from 1,000 cubic metres to 300 cubic metres.
- 9.5 The Council decision was to reject the submissions.
- 9.6 The Overlays, which identify sensitive areas of the District, essentially correlate with the coastal environment of the Kaipara district.
- 9.7 Within the coastal environment it is appropriate and necessary, in order to achieve the purpose of the Act, to control the effects of certain activities which can have adverse effects on natural character.
- 9.8 Buildings within the coastal environment and in other sensitive settings such as outstanding landscapes can have adverse effects if the building is inappropriate with respect to location, density, bulk and external appearance or in terms of mitigation measures. This potential for adverse effect can only be properly assessed on a case by case basis.
- 9.9 Similarly, earthworks that are inappropriate can have adverse effects on natural character and on ecological, amenity and landscape values.
- 9.10 Requiring a resource consent for buildings and for earthworks above a specified threshold in sensitive areas is consistent with the approach taken in the district plans of the adjoining districts.
- 9.11 The District Council will need to undertake further work with respect to controlling the effects of development within the coastal environment in order to give full effect to the New Zealand Coastal Policy Statement 2010. Notwithstanding, because of the high potential for adverse impacts, it is appropriate to include stricter controls on buildings and earthworks within the West Coast and East Coast Overlays in the proposed Plan.
- 9.12 The relief sought is:
- (a) Insert a further rule in sections 12.10, 15A.10 and 15B.10 providing for the erection or alteration of any building located in the East Coast and West Coast Overlays as a permitted activity in the following instances

- (a) any new building(s) not for human habitation provided that the gross floor area of any new building or buildings permitted under this rule, does not exceed 50m² or for human habitation provided that the gross floor area does not exceed 25m² and where that building will be visible from a viewing point on a public road, public reserve, coastal marine area or the foreshore that is within 500m of that building the exterior is coloured within the BS5252 standard colour palette range with a reflectance value of 30% or less or are constructed of natural materials which fall within this range; or
- (b) any alteration/addition to an existing building does not exceed 20% of the gross floor area of the building which is being altered or added to, provided that any alteration/addition does not exceed the height of the existing building or increase the floor area of the structure beyond 25m²; or
- (c) renovation or maintenance of any building.

and as restricted discretionary activity where the permitted activity rule is not met, with discretion reserved to the following matters:

- (i) the location of the building;
 - (ii) the size, bulk, and height of the building in relation to ridgelines and natural features;
 - (iii) the colour and reflectivity of the building;
 - (iv) the extent to which planting can mitigate visual effects;
 - (v) any earthworks and/or vegetation clearance associated with the building;
 - (vi) the location and design of associated vehicle access, manoeuvring and parking areas;
 - (vii) the extent to which the building and any associated overhead utility lines will be visually obtrusive;
 - (viii) the cumulative visual effects of all the buildings on the site;
 - (ix) the degree to which the landscape will retain the qualities that give it its naturalness, visual and amenity values.
 - (x) effects on hazards, including fire hazard
 - (xi) how the proposal contributes to the objectives, policies and outcomes for the relevant Overlay
- (b) Change the permitted activity earthworks limit applying within the East Coast and West Coast Overlays in rules 12.10.1(2), 15A.10.1(2) and 15B.10.2(2) from 1,000 cubic metres in any 12 month period to 300 cubic metres in any 12 month period.

10. *Integrated Development Rule*

- 10.1 The proposed Plan includes a rule in the Rural zone providing for subdivision described as Integrated Development. This rule provides for comprehensive once-off subdivision with an average lot size provision.
- 10.2 My submission 135/74 sought the amendment of the Integrated Development rule so that it included similar features and provisions as the equivalent (management plan) rule in the Far North District Plan. These submissions also sought the inclusion of a further issue, objectives and policies specifically on integrated development subdivision.
- 10.3 The Council's decision was that the submission be accepted in part.
- 10.4 My submission 135/69 sought amendments to the general rural subdivision rule, including seeking that applications under this rule for lots in the Overlays smaller

than 20 hectares be treated as non-complying activities.

- 10.5 The Council's decision was that the submission be accepted in part.
- 10.6 The integrated development rule provides a flexible approach to subdivision in the rural and coastal environment. There will need to be careful administration of the rule to ensure superior environmental results occur, the proposed Plan's outcomes achieved, and sustainable management achieved.
- 10.7 The Far North District Plan contains a similar provision (management plan subdivision) established through Environment Court mediation. Unlike the Kaipara District Plan version, the Far North's management plan subdivision rules include detailed explanation and policies to support decision making and assist applicants understand the outcomes that are desired
- 10.8 The purpose of integrated development subdivision is to facilitate the sustainable management of natural and physical resources in an integrated way. It should be a once off opportunity which results in superior outcomes to more traditional forms of subdivision, use or development. It provides the flexibility to create innovative and site specific proposals where the location, form and scale of the proposal complements sustainable environmental management consistent with the protection of natural character, landscape, amenity, heritage, and cultural values. Further policies, explanation and amendments to the assessment criterion and rule standards are necessary and appropriate in order to achieve this.
- 10.9 Integrated development subdivision can result in significant changes to the character of an area and have (positive and negative) impacts over a greater area. It is inappropriate and not good resource management practice to provide for integrated management subdivision as a restricted discretionary activity consent.
- 10.10 An incentive to use the Integrated Development rule arises when the Integrated Development consenting process is less onerous than the process to obtain consent for smaller lots using the general rural subdivision rule. Such an incentive can be provided if applications under the general rural subdivision rule for lots in the Overlays smaller than 20 hectares are treated as non-complying activities
- 10.11 The changes sought to this rule and the additions to sought to the Plan in relation to this rule are necessary and appropriate to achieve sustainable management, recognise and provide for matters of national importance, give effect to the New Zealand Coastal Policy Statement 2010 and the Regional Policy Statement for Northland and to attain the environmental outcomes in the proposed Plan.
- 10.12 The relief sought is:
- (a) The inclusion of a further issue in section 12.4 (Rural Issues):

While the cumulative effects of development in the coastal environment can and often do detract from its natural character, this is not inevitable. Subdivision, use and development can provide opportunities for restoration and rehabilitation of natural character, and the maintenance and enhancement of amenity (including legal public access to and along the coast), cultural, heritage, landscape and ecological values. More specifically, development can assist to achieve sustainable management because:

- (a) without an input of capital land management practices are unlikely to change in many locations, and subdivision is one way of generating such an input;
- (b) improved public access to the coast (including access for tangata whenua) is more likely with small lot subdivision which allows Council to take land for esplanade reserves and strips. Council generally cannot afford to acquire such access where land is subdivided in lots of greater than 4ha and compensation is payable if reserves are taken;
- (c) integrated and innovative subdivision design, especially on a catchment basis, can provide more environmentally sustainable results (but may not be viable in all locations);
- (d) trade offs are required. Improved access and management of natural resources can be at the expense of more built development.

Such development still needs careful development and controls because:

- (i) the process is not risk free. Care is needed at the time of consenting to ensure that environmental benefits occur through management plans and/or conditions to require such things as pest control and re-vegetation/plant control where appropriate;
- (ii) threats to natural character can arise from too intense development including the spread and intensification of built development with the subdivision of nearby properties (including development under the management plan provisions) and/or ongoing subdivision;

- (b) The inclusion of a further objective in section 12.5 of the proposed Plan:

To encourage innovative development and integrated management of effects between subdivision and land use which results in superior outcomes to more traditional forms of subdivision, use and development, for example the protection, enhancement and restoration of areas and features which have particular value or may have been compromised by past land management practices

- (c) The inclusion of two further policies in section 12.6 of the proposed Plan:

By ensuring that more intensive, innovative development and subdivision which recognises specific site characteristics is provided for through the integrated development subdivision rule where this will result in superior environmental outcomes.

By ensuring that subdivision, use and development shall preserve and where possible enhance, restore and rehabilitate the character of the applicable zone in regards to s6 matters, and shall avoid adverse effects as far as practicable by using techniques including:

- (a) clustering or grouping development within areas where there is the least impact on natural character and its elements such as indigenous vegetation, landforms, rivers, streams and wetlands, and coherent natural patterns;
- (b) minimising the visual impact of buildings, development, and associated vegetation clearance and earthworks, particularly as seen from public land and the coastal marine area;
- (c) providing for, through siting of buildings and development and design of subdivisions, legal public right of access to and use of the foreshore and any esplanade areas;
- (d) through siting of buildings and development, design of subdivisions, and provision of access that recognise and provide for the relationship of Maori with their culture, traditions and taonga including concepts of mauri, tapu, mana, wehi and karakia and the important contribution Maori culture makes to the character of the District

- (e) providing planting of indigenous vegetation in a way that links existing habitats of indigenous fauna and provides the opportunity for the extension, enhancement or creation of habitats for indigenous fauna, including mechanisms to exclude pests;
 - (f) protecting historic heritage through the siting of buildings and development and design of subdivisions.
- (d) Amend the type of consent required for an integrated development subdivision under rule 12.14.1 from a restricted discretionary activity to a discretionary activity.
- (e) Amend rule 12.14.1(4)(b) by adding a further sentence:

Any further subdivision of any lot contained within an approved integrated development plan shall be a non-complying activity.

- (f) Insert the following further assessment criteria in rule 12.14.1:
- the adequacy of the integrated development plan
 - the degree to which the integrated development plan gives effect to the NZ Coastal Policy Statement
 - the degree to which the integrated development plan gives effect to the Regional Policy Statement for Northland and is consistent with the Regional Coastal Plan for Northland
 - the District-wide objectives and policies the objectives and policies of this chapter and those for the particular zone or zones or overlays affected by the application; including, where relevant, the objectives and policies applying generally to the coastal environment and the rural environment
 - the degree to which the proposal represents better sustainable management of natural and physical resources of the land and surrounding environment; (and protects the productive potential of the land)
 - where the subdivision is all or partly within the coastal environment (and acknowledging that the integrated development provisions also apply elsewhere in the District) the degree to which the proposal preserves the natural character of the coastal environment, wetlands, and lakes and rivers and their margins and protects them from inappropriate subdivision, use and development and enhances the natural character of the coastal environment
 - whether landscape, visual and amenity value characteristics of the site are maintained, protected or enhanced and the degree to which regard is had of the Kaipara District Plan Review Landscape Technical Report 2010;
 - whether the proposals to ensure long-term protection and enhancement of indigenous flora and fauna are adequate and the need for conditions to ensure ongoing compliance with such proposals
 - the adequacy of proposals for rehabilitation or re-establishment of areas of indigenous flora, including the extent to which land which is steep or has stability issues or is of low value for food production is set aside for revegetation
 - the proposals to recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga;
 - the adequacy of any areas proposed to be vested as open space reserve(s)
 - effects of the subdivision on the use and management of public land in the vicinity of the site
 - the degree to which the proposal avoids natural hazards including fire hazards
 - whether the proposal has the potential to cause reverse sensitivity issues for existing activities or uses
 - whether bonds are necessary to assist in achieving the management plan

- the extent to which information and proposed management measures are provided by suitably qualified persons
 - the extent to which the proposal creates a large balance lot and protects and, if appropriate, restores it
 - the appropriateness of the location of building platforms and the associated building envelope
 - in particular whether further subdivision of all lots within the integrated development plan is prohibited through the use of relevant legal instruments
- (g) Amend rule 12.10.1 so that any application under that rule for lots in the Overlays smaller than 20 hectares requires a non-complying activity consent.

11. *Fire Safety Rule*

- 11.1 The proposed Plan includes a fire safety rule. The rule applies in all zones and overlays.
- 11.2 My submission 135/43 sought recognition of fire as a hazard in chapter 7 of the proposed Plan; including by inserting an issue, objective and policies about the fire hazard.
- 11.3 The Council decision was to reject this submission.
- 11.4 My submissions 135/63, 135/81, 135/83, 135/88, and 135/102 sought amendments to the fire safety rule.
- 11.5 The Council decision that these submissions be accepted in part.
- 11.6 The Department of Conservation is a rural fire authority within Kaipara District. Kaipara District Council is also a rural fire authority. All fire authorities have an interest in reducing wild fire risk. The wild fire risk in Kaipara District is more than minor.
- 11.7 A rule on fire safety is supported. However the amendments to the rule as a result of submissions do not address the fire hazard risk of locating dwellings, other buildings and access routes within scrub and shrublands.
- 11.8 There is a conflict between minimising the clearing of vegetation around buildings and along access routes for ecological, amenity and landscape reasons, and ensuring there is sufficient clearance of vegetation to reduce fire risk. This resource management conflict is best addressed through rules and the consent decision making process supported by specific policy guidance.
- 11.9 It is good practice and consistent with section 32 of the Act for plans to include objectives and policies to justify and set out the intent of rules.
- 11.10 The relief sought is:
- (a) The inclusion of the following further and policies and method (or similar) in chapter 7 of the proposed Plan:

To reduce fire hazard risk. Objective

By ensuring the fire risk is low for new residential buildings. Policy
By encouraging education on fire hazard and on fire risk reduction measures. Policy
Rule on fire safety. Method to be inserted in 7.7.1

- (b) The replacement of paragraph (d) in rules 12.10.26, 13.10.26, 14.10.26, 15A.10.25 and 15B.10.25:
- d) The building is located at least 20m away from the drip line of any trees in a naturally occurring or deliberately planted area of scrub or shrubland, woodlot or forest.
- (The underlined words show the changes sought to the rule.)
- (c) The consequential amendment of relevant assessment criteria to refer to scrub and shrublands as well as woodlots and forest.
- (d) The insertion of a further matter of discretion in rules 12.10.26, 13.10.26, 14.10.26, 15A.10.25 and 15B.10.25
the effects on amenity values, landscape values, heritage features and indigenous habitats and ecosystems, especially in the coastal environment and associated with rivers, lakes, wetlands and their margins

12. *Environmental Benefit Subdivision Policy*

- 12.1 The proposed District Plan includes an environmental benefit rule which provides for the creation of additional lots where certain valued features are protected.
- 12.2 My submission 135/40 sought the insertion of a policy specifically designed to provide detailed guidance to applicants and decision makers when considering applications made under this rule.
- 12.3 The Council decision was that the submission be rejected.
- 12.4 The policy on providing incentives to encourage voluntary protection of habitats (policy 6.6.5) does not provide guidance on when, and the level of, environmental benefit that should be provided in specific cases.
- 12.5 Sound principles for deciding when and the quantum of any environmental benefit are:
- recognition should be given of past good land management
 - there is a level of habitat protection and enhancement that may be necessary to avoid, remedy or mitigate the adverse effects of a proposal
 - environmental benefits should only be considered when one goes beyond the level required in order to avoid, remedy or mitigate the adverse effects of a proposal
 - environmental benefits should not generally be given for habitat enhancement and protection which is correcting the adverse effects of past land management

12.6 These principles should be included in the plan as a policy to guide decision makers and would-be applicants.

12.7 The relief sought is:

(a) The insertion of a further policy in section 6.6 of the proposed Plan:

- a) Environmental benefit will be favourably considered where;
 - i) the landowner has actively managed and protected ecological areas resulting in a demonstrable increase in ecological values.
 - ii) environmental enhancement and protection measures are offered that are in excess of the measures required in order to avoid, remedy or mitigate the adverse effects of the proposed subdivision, use or development ,
- b) Environmental benefit will generally not be considered where
 - i) the proposal is remedying or mitigating the past effects of land management by the applicant,
 - ii) the proposed measures are necessary to avoid, remedy or mitigate the adverse effects of the proposed subdivision, use or development
 - iii) the proposed protection and mitigation of an environmental feature does not apply to all of the feature on the property
- c) In considering the amount of environmental benefit consideration will be given to
 - i) the ecological, historic, cultural or landscape significance of the feature proposed for protection,
 - ii) the long term management regime proposed to provide long term protection
 - iii) the extent to which previous land management has increased environmental values of the feature

13. *Ecological Protection Policy*

13.1 My submission 135/39 sought the inclusion of further policies regarding the management of and control on cats and dogs to protect kiwi, dotterel and brown teal.

13.2 The Council decision was that the submission be accepted in part.

13.3 My submission 135/41 sought the amendment of policy 6.6.2.

13.4 The Council decision was that the submission be rejected.

13.5 The policies for ecological chapter do not provide any policy specifically on the protection of indigenous fauna and threatened species.

13.6 Cats and dogs can have significant adverse effects on indigenous fauna and threatened species, especially kiwi and important wader bird areas and vertebrate habitats.

13.7 It is necessary to include policy on the control of cats and dogs in the vicinity of high density kiwi habitats and other important bird habitats in order to give effect to policy 23.4.6 of the Regional Policy Statement for Northland and to ensure outcome 6.8.1 is achieved.

- 13.8 Policy 6.6.2 does not give effect to policy 23.4.6 of the Regional Policy Statement for Northland, which requires ecological values to be maintained.
- 13.9 Important policy considerations with respect to managing the effects of activities on ecological matters are given in the explanation to policy 6.6.2, not in the policy. This does not accord with sound resource management practice. Such guidance should be stated as a policy in order to properly assist decision makers and applicants.
- 13.10 The changes sought are necessary to help give effect to policy 11 of the New Zealand Coastal Policy Statement and to section 23 of the Regional Policy Statement for Northland.

13.10 The relief sought is:

- (a) The insertion of a further policy in section 6.6 of the proposed Plan:

By protecting significant indigenous fauna by:

- (a) ensuring that dogs (excluding working dogs), cats, possums, rats, mustelids and other pest species are not introduced into areas with populations of kiwi, dotterel and brown teal; and
- (b) in areas where dogs, cats, possums, rats, mustelids and other pest species are having adverse effects on indigenous fauna promoting their removal; and
- (c) in areas identified as known high density kiwi habitat, the Council will impose conditions, including conditions prohibiting the keeping of cats and dogs, in order to protect kiwi and their habitat.

- (b) The amendment of policy 6.6.2 as follows:

By managing the scale, intensity, and location of subdivision and land development activities in a way that ~~avoids, remedies or mitigates adverse effects on~~ maintains ecological values of areas of significant indigenous flora and significant habitats of indigenous fauna.

(The strikeout and underlining show the changes sought to the policy.)

- (c) The insertion of a further policy in section 6.6:

By minimising the disturbance of indigenous vegetation and habitats by:

- (a) seeking alternatives to the disturbance of habitats where practicable;
- (b) managing the scale, intensity, type and location of subdivision, use and development in a way that avoids and minimises adverse ecological effects;
- (c) ensuring that where any disturbance occurs it is undertaken in a way that, as far as practicable:
 - (i) minimises any edge effects;
 - (ii) avoids the removal of specimen trees;
 - (iii) does not result in linkages with other areas being lost
 - (iv) avoids adverse effects on threatened species;
 - (v) minimised disturbance of root systems of remaining vegetation; and
 - (iv) does not result in the introduction of exotic weed species or pest animals;
- (d) encouraging, and where appropriate, requiring active pest control and avoiding the grazing of such areas.

and the consequential amendment to the explanation to policy 6.6.2 to remove wording that is repeated in the above further policy.

14. *Coastal Policy Direction*

- 14.1 My submission 135/31 sought the insertion of further policies in chapter 4 of the proposed Plan on directing development to areas where the natural character of the coastal environment had been substantially modified and on preserving, enhancing and restoring natural character.
- 14.2 The Council decision was that the submission be rejected.
- 14.3 My submission 135/76 sought the identification of six further issues relating to the coastal environment in the Rural zone issues.
- 14.4 The Council decision was that the submission be accepted in part.
- 14.5 My submission 135/77 sought the insertion of four further objectives relating to the coastal environment in the Rural zone objectives.
- 14.6 The Council decision was that the submission be accepted in part.
- 14.7 My submission 135/78 sought the insertion of four further policies relating to the coastal environment in the Rural zone objectives.
- 14.8 The Council decision was that the submission be accepted in part.
- 14.9 The Kaipara District includes extensive land within the coastal environment or on the margins of lakes, rivers and wetlands.
- 14.10 However the proposed Plan does not adequately identify specific resource management issues associated with the sustainable management of the coastal environment and the margins of water bodies.
- 14.11 The range of objectives for the Rural zone is inadequate to address all relevant coastal environment resource management issues or to ensure the Plan's coastal environmental outcomes are achieved
- 14.12 Policies are necessary to give effect to the objectives. Policies are important for providing guidance to decision makers and for assisting applicants and others to understand best practice approaches to achieving sustainable management. Policies are also necessary and appropriate to address all the objectives, and ensure the plan's environmental outcomes will be achieved.
- 14.13 Further coastal environment policies need to be included in the proposed Plan in order to give effect to the New Zealand Coastal Policy Statement and the Regional Policy Statement for Northland and to meet the requirements of Part II of the Act.
- 14.14 Some of my submissions seeking the insertion of further coastal environment issues, objectives and policies nominate chapter 12 of the proposed Plan as the location for these further provisions.
- 14.15 In section 5.2 of my submission I also stated:

Note: Where the relief sought seeks specific wording, it shall be qualified by the words "or similar wording having the same effect". Where the relief sought identifies

a specific location in the proposed Plan, it shall be qualified by the words "or such other location in the proposed Plan as may be appropriate".

14.16 Chapter 4 is the chapter of the Plan specifically on Overlays. The coastal environment of the District is largely encompassed in the Overlays. It is appropriate to place issues, objectives and policies relating to the sustainable management of the coastal environment in this chapter instead of chapter 12.

14.17 The relief sought is:

(a) The insertion of further polices in section 4.5 of the proposed Plan:

By ensuring that subdivision, use and development is located in areas where the natural character has already been substantially modified.

By managing subdivision, use and development within the coastal environment so that remediation measures necessary as part of avoiding, remedying or mitigating adverse effects of the activity contribute to the restoration and enhancement of natural character of the coastal environment.

(b) The amendment of the policy 12.6.3 as follows:

By allowing greater intensity of development where this is offset by protection, restoration, enhancement or establishment of natural features, vegetation and open space, where they significantly contribute to the natural character of the coastal environment, as well as rural character and amenity.

(The underlined words show the changes sought to the policy.)

(c) The insertion of the following further issues in section 4.3:

The preservation of natural character requires that limitations be placed on further development in some of the District's coastal areas. Some areas already compromised by development are not necessarily appropriate for further development.

The nature of the natural character of the coastal environment of the District changes from place to place. The implication of this is that management measures designed to preserve the natural character need to be flexible so they can be tailored to suit particular parts of the coast.

The amenity, cultural, heritage, landscape and ecological values of the coastal environment can be reduced through inappropriate subdivision, use and development, including incompatible location of roads and accessways, transmission lines and other forms of infrastructure, and cumulative effects.

Activities having a functional need for a coastal location and access to the sea, such as wharves and boat haul-out facilities, can be important for the well being of the community. It is important that these activities are able to be established in a limited range of suitable locations, recognising that there is potential for conflict between activities with a functional need and other activities.

(d) The insertion of the following further objective in section 4.4 of the proposed Plan:

To preserve, and where appropriate in relation to other objectives, to restore, rehabilitate and enhance the natural character of the coastal environment, including its open space and amenity values.

- (e) The insertion of the following further policies in section 4.5 of the proposed Plan:

By only allowing appropriate subdivision, use and development in the coastal environment.

Appropriate subdivision, use and development is that where the activity generally:

- (a) recognises and provides for those features and elements that contribute to the natural character of an area that may require preservation, restoration or enhancement; and
- (b) is in a location and of a scale and design that minimises adverse effects on the natural character of the coastal environment; and
- (c) has adequate services provided in a manner that minimises adverse effects on the coastal environment and does not adversely affect the safety and efficiency of the roading network; and
- (d) avoids, as far as is practicable, adverse effects which are more than minor on heritage features, outstanding landscapes, cultural values, significant indigenous vegetation and significant habitats of indigenous fauna, amenity values of public land and waters and the natural functions and systems of the coastal environment; and
- (e) promotes the protection, and where appropriate restoration and enhancement, of areas of significant indigenous vegetation and significant habitats of indigenous fauna; and
- (f) recognises and provides for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga; and
- (g) where appropriate, provides for and, where possible, enhances public access to and along the coastal marine area; and
- (h) gives effect to the New Zealand Coastal Policy Statement and the Regional Policy Statement for Northland.

That sprawling or sporadic subdivision and development in the coastal environment be avoided through the consolidation of subdivision and development as far as practicable, within or adjoining built up areas, to the extent that this is consistent with the other objectives and policies of the Plan.

To ensure the adverse effects of land-based activities associated with maritime facilities including mooring areas and boat ramps are avoided, remedied or mitigated through the provision of adequate services, including where appropriate:

- (a) parking;
- (b) rubbish disposal;
- (c) waste disposal;
- (d) dinghy racks

15. *Reserve Management Units*

- 15.1 The proposed Plan identifies and maps public reserves, including public conservation land, as reserve Management Units.

- 15.2 My submission 135/117 was a schedule of corrections to the list of Reserve Management Units and the associated maps.
- 15.3 The Council decision was that the submission be accepted.
- 15.4 Notwithstanding that, the list of reserve Management Units and the associated maps in the revised proposed District Plan contain errors with respect to some public conservation land.
- 15.5 The relief sought is the correction of those errors.

16. *Setback from dune lakes*

- 16.1 My submissions 135/67, 135/91 and 135/105 sought amendments to the setback rules applying in the Rural and Maori Purposes zones. One of the amendments sought was that the 30 metre water setback apply from any dune lake regardless of size.
- 16.2 The Council decision was that the submission be accepted in part. With respect to a setback from dune lakes the submission was accepted in full.
- 16.3 The amendment to the rule to provide for this is, however, ambiguous. An appeal is necessary to get the rule re-worded so that it clearly states that there is a 30 metre water setback from any dune lake regardless of its size.
- 16.4 The relief sought is the amendment of clauses 12.10.7(1)(d), 15A.10.8(1)(d) and 15B.10.8(1)(d) as follows:

Lake/River – 30m from the banks of any dune lake, or from the banks of any other lake ~~whose~~ where the other lake has a bed ~~has~~ with an area of 8ha or more, or from the bank of any river or perennial stream whose bed has an average width of 3m or more;

(The strikeout and underlining show the changes sought to the rule.)

17. I attach the following documents to this notice:

- a copy of my submission (Attachment A)
- a copy of the relevant parts of the decision (Attachment B)
- a list of names and address of persons served with a copy of this notice. (Attachment C)

.....
[Chris Jenkins, Conservator Northland, Department of Conservation
being a person authorised to sign on behalf of the appellant]

.....
[date]

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