

ESPLANADE RESERVES, ESPLANADE STRIPS AND ESPLANADE PRIORITY MAPPING

FNDC Proposed District Plan Hearing 5 - August 2024

Statement by Vision Kerikeri, Our Kerikeri Community Trust, Carbon Neutral Trust, and Kapiro Conservation Trust

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GENERAL COMMENTS

1. Support for esplanade reserves and improved provisions

Our groups support policies and rules that will require the creation of esplanade reserves/strips along the coast and water bodies when consents are granted for subdivision, land use and other forms of development. Esplanade reserves can provide improved connectivity, recreational opportunities, and greater protection of conservation values.

In addition to the important principle of public access, there is increasing need to provide much greater connectivity and options for active transport, especially walkways and cycleways. It is particularly important to create esplanade in all urban and general residential zones (e.g. along the south bank of Kerikeri River), even if the Council has to compensate landowners.

2. Cost of creating and maintaining esplanade reserves

We recognise that councils have to pay compensation to landowners for esplanade reserves when land is subdivided into lots of 4 hectares or more, and also in cases where the width of esplanade land is greater than 20 metres (RMA s237E, s237F).

We recognise that esplanade reserves also normally create extra costs for Council (ratepayers) for the on-going maintenance - for activities such as weed control, revegetation, fencing, and any walkways/cycleways created. However we consider that the creation of esplanade is absolutely essential for (a) urban and general residential zones in particular, and also for (b) enabling connections and walkways/cycleways between urban centres (e.g. along the waterways that link Kerikeri and Waipapa centres).

We wish to emphasise that part of this cost may be covered by community groups. For example, community groups made very substantial contributions to the cost of restoring Wairoa Stream margins in the vicinity of the Mill Lane industrial area and through Alderton Park residential subdivision. The stream was restored, a walkway was created, native planting, weed control and maintenance have been carried out by volunteers led by Rod Brown of Vision Kerikeri. The total value to date is \$437,000. Volunteers have contributed labour amounting to \$245,000. The balance is from contributions or donations from businesses, individuals and organisations. Only \$26,000 has been contributed by FNDC. Volunteer groups may be willing to contribute volunteer time to support other essential walkways or cycleways where FNDC has enabled public access. There is increasingly a willingness for the community to partner with Council to get things done if Council seizes opportunities and is a willing partner.

3. Esplanade associated with lots less than 4ha

Our submissions supported the following statements in the s32 report on public access (management approach section):

- 'Far North District Council... requires esplanade reserves where new sites are created adjacent to lakes, rivers or the coastal marine area' (p.3)
- 'Rules and standards within the Subdivision chapter, requiring the creation of an esplanade reserve with a minimum width of 20m (in accordance with section 230 of the RMA), where

subdivision involves the creation of one or more allotments less than 4ha' adjacent to relevant waterways (p.3)

In particular, we support the following objectives, policies and rules in the notified PDP:

- ❖ Public access chapter policies PA-P1 to PA-P5
- ❖ Subdivision chapter:
 - SUB-O4, SUB-P7 and SUB-S8.
 - The application of standard SUB-S8 to all zones (as stated in the PDP), and the inclusion of SUB-S8 in rules SUB-R1, SUB-R3, SUB-R5 and SUB-R6.

AREAS THAT NEED TO BE STRENGTHENED

However, several aspects of the esplanade provisions need to be strengthened, as outlined below.

4. Land use consents and esplanade

The PDP *requires* the creation of esplanade reserves in relation to consents for subdivision, but not consents for land use. The PDP only *encourages the voluntary creation* of esplanade for land use activities (Policy PA-P5).

However, we note that land use applications (without involving subdivision) sometimes include major new developments such as retirement villages. Esplanade is important in such cases.

S42 report notes that esplanade reserves for land use activities can only be taken as a financial contribution (under RMA s108(9)), and the PDP lacks rules for financial contributions.

- ❖ We consider that the requirement for esplanade reserve should apply to land use applications (not just subdivision). In particular, it should be obligatory in consents for retirement villages and similar developments that occur without subdivision.
- ❖ Our comments in section 6 below address the financial contributions issues.

5. Creation of esplanade associated with lots of 4ha or more

Various sections of the RMA (s77, s230, s237F) specifically allow councils to require esplanade land as a condition of subdivision consent when lots of 4 ha or more are created, as follows –

'A territorial authority may include a rule in its district plan which provides that in respect of any allotment of 4 hectares or more created when land is subdivided, esplanade reserves or esplanade strips, of the width specified in the rule, shall be set aside or created, as the case may be, under section 230(5).' (RMA s77(2))

We support this approach. However, the s42 report (para. 125) considers it would not be appropriate to adopt this approach since the PDP lacks rules for financial contributions.

- ❖ As stated in our submissions, our group seeks PDP policies/rules that require esplanade when subdivision creates lots of 4ha or more (as allowed under RMA s77, s230 etc) when any of the following situations applies:
 - a third party provides funds to compensate the landowner for the land. A community group, for example, might wish to raise funds to compensate the landowner.
 - as part of a development agreement or development contributions or financial contributions.

The next section addresses development and financial contributions.

6. Need for financial and/or development contributions

Current ODP rules on financial contributions:

The current ODP Rule 14.6.1 requires the following financial contributions –

The Council will require a financial contribution of an esplanade reserve or strip in the following circumstances:

(i) where lots less than 4ha in area are created along the edge of the coastal marine area, or along the bank of any river with a bed having an average width of 3m or more, or along the margin of any lake whose bed has an area of 8ha or more an esplanade reserve or strip will be required;

(ii) where lots 4ha or greater in area are created along the edge of the coastal marine area or along the bank of any river with a bed having an average width of 3m or more, or along the margin of any lake whose bed has an area of 8ha or more an esplanade reserve or strip may be required (s237F of the Act requires the Council to pay compensation to the landowner unless otherwise agreed between the parties that this is not necessary);

(iii) where any land use requires a resource consent for an activity or activities and the Council considers it necessary to require an esplanade reserve or strip for any of the purposes outlined in s229 of the Act, an esplanade reserve or strip may be required;

(iv) when considering whether to take an esplanade reserve or strip, and the location, type and extent of that reserve or strip, the Council shall give priority to riparian areas identified as an Esplanade Priority Area (as shown on the Zone Maps), or where they meet the criteria under Policy 14.4.9.

Urgent need for policies on financial and/or development contributions:

The FNDC has not required development contributions or financial contributions for a long time, apart from the ODP requirements relating to esplanade and car parking.

Vision Kerikeri and Our Kerikeri Trust have, for a long time, urged the council to reinstate comprehensive development contributions and/or financial contributions as a matter of urgency.

Our submissions on the PDP called for the PDP to include provisions for meaningful contributions to address the need for, and cost of, infrastructure. Without this, the full burden of cost for infrastructure linked to new development falls on Council (ratepayers) and/or national government agencies (taxpayers).

The S42 report (para 54) states that the Council is currently investigating the appropriateness of contributions in some form, in response to a resolution made by Council to develop a draft financial contributions chapter.

Our groups strongly support the development of a PDP financial contributions chapter, and we urge the Council to give this matter much greater urgency to ensure that a financial contributions chapter will be introduced into the PDP at the earliest opportunity (preferably by a plan variation before decisions on submissions are made).

- ❖ We seek a placeholder in the PDP for future comprehensive requirements for financial contributions, as we stated during Hearing 1.
- ❖ We continue to urge FNDC to urgently develop a policy for financial contributions and incorporate financial contributions in the PDP (via variation or plan change) to provide for esplanade reserves and strips and all other relevant infrastructure.

7. Other methods for creating esplanade

In the meantime, pending adoption of financial or development contributions for the points in section 5 and 6 above, the PDP policies could, at minimum, specifically encourage other methods such as -

Voluntary contribution: RMA s237F requires the council to compensate the landowner for esplanade associated with larger lots - unless the landowner agrees not to take compensation, as a voluntary action.

In addition, s200(1) of the Local Government Act 2002 allows landowners to provide a reserve voluntarily, and s200(2) allows councils to accept voluntary contributions for reserves that are not

included in a development contribution:

'This subpart does not prevent a territorial authority from accepting from a person, with that person's agreement, additional contributions for reserves...'

Third party funding: In addition, s200(1)(c) of LGA 2002 allows for a *third party* to fund a reserve (provided that the reserve is not included in a development contribution):

'a third party has funded or provided, or undertaken to fund or provide, the same reserve...'

This potentially opens the door for a benefactor or community group to raise funds for specific parcels of esplanade land.

8. Esplanade and protection of areas with significant ecological values

We recognise that in some situations, particularly outside urban zones, esplanade can serve an important role in protecting areas with significant ecological values.

s32 report (p.3) notes that policies to protect riparian/coastal areas should not compromise natural character or indigenous biodiversity. We agree.

We consider that PDP provisions on the protection of indigenous biodiversity is not sufficient at present – particularly the aspects identified in Appendix 5 of the Regional Policy Statement (please refer to our submission at Hearing 4).

The s42 report considers that the PDP chapter on biodiversity will provide sufficient protection for areas with significant ecological values. We disagree.

- ❖ We seek provisions in this chapter that will actively protect areas with significant ecological values. This could be achieved by the following type of amendment to PA-O2, for example –
~~'Public and customary access to and along the coastal marine area and waterbodies assists with the management of~~ is managed in a way that addresses natural hazards, and supports the preservation of natural character, indigenous biodiversity, historic heritage, cultural and landscape values.'

9. Removal of Esplanade Priority from PDP Planning Maps

We believe that the existing Esplanade Priority Areas in ODP maps have been productive. The s42 report indicates that, in many cases, the Priority Areas have now become esplanade. However, further work remains to be done. The s42 report (para. 72, Table 1) estimates that approx. 30% of mapped Esplanade Priority Areas have not yet been activated (30% of 22,924m of Esplanade Priority Area length).

Esplanade Priority was introduced in ODP maps to assist in identifying the desired locations for new or expanded esplanade reserves and to indicate council priorities (s32 report on public access p.21 and ODP rule 14.6.1). We consider that Esplanade Priority on maps is also helpful in cases where Council planners are required to assess a consent application that breaches the esplanade provisions in standard SUB-S8, for example.

The s32 report on public access implies that the available options are either requirements for esplanade reserves in the subdivision chapter or esplanade priority areas on maps. However, we consider it is not an either/or situation; these two provisions are not mutually exclusive. As noted above, we strongly support the requirement for creating esplanade reserves in the subdivision chapter and we consider that the indication of esplanade priority on maps would provide useful additional guidance for landowners and council planners.

We seek -

- ❖ Esplanade Priority areas in Kerikeri should continue to be included in DP maps, because this area is experiencing rapid growth and esplanade reserves play an important role in improving connectivity, active transport and green corridors.

- ❖ Esplanade priority mapping helps to provide transparent, consolidated land use/planning information for Council staff, landowners, developers and others
- ❖ Esplanade Priority area should also be included for any other communities in the district that wish to identify Esplanade Priority areas.

10. Comments on s32 and s42 reports on esplanade priority mapping

Council's key reasons for removing the "esplanade priority" mapping are stated in s32 report, para 4.3.1:

- There is a lack of certainty regarding the appropriateness and location of currently identified esplanade priority areas. Council's preference is to rely on general requirements for esplanade priority areas (s 230 RMA) through standards in the "Subdivision" chapter.
- Council has limited resourcing currently available to purchase the esplanade reserves using development contributions (outside requirements during subdivision).
- There are opportunities to review public access more strategically using other methods outside the District Plan, including the KK/Waipapa Spatial Plan which is currently being developed.

Lack of certainty & appropriateness.

The uncertainty about appropriateness and location of the currently identified Esplanade Priority areas was not explained in the s32 report. The s42 report (para. 69) indicates that this refers to a large number of sites having been 'activated' during the life of the ODP.

In fact, Esplanade Priority mapping has served us well. Inspection of the ODP Zone maps (which are now quite dated) shows that there has been good progress in public access. This has also been confirmed by the s42 report maps.

Many of the esplanade priority areas of the ODP have now been acquired as Esplanade Reserves. Notably along Wairoa Stream/Orchard Estate boundary which has enabled the Wairoa Stream public walkway and wildlife corridor to take place; the Wairoa Stream/Arvida boundary currently in progress; the Dalton tributary along which a track has been formed linked to the Wairoa Stream public Walkway, and along part of the Kerikeri Inlet near Blacks Rd.

We consider that there is no significant uncertainty about appropriate locations for Esplanade Priority mapping.

Examples of adverse effects of removing Esplanade Priority from PDP maps

Important examples where further Esplanade Reserves are essential for continuity. We consider that Esplanade Priority mapping is necessary for the areas that do not yet have esplanade – the gaps are clearly visible on the s42 report analysis (Appendix 3.1) and maps (Appendix 3.2).

- **Kerikeri River.** Bing property - this is essential for continuity of public access along the Kerikeri River right bank linking Fairy Pools Reserve to Tuatahi Place.
- **Wairoa Stream.** From Limelight Lane to Shepherds Rd there is a gap in Esplanade Reserves. This is the next section of Wairoa Stream track extension planned by Friends of Wairoa Stream after completing the section along Arvida to Limelight Lane in 2024.
Other gaps: a section of true right bank upstream from about Alderton Park and a section of true left bank downstream of Kerikeri Primary School.
- **Waipapa Stream** - there is a "gap" on the southside (right bank) near Silkwood Lane.
- **Puketotara Stream.** There is a gap in esplanade reserves along Puketotara stream between Golf View Road and Access Road. Nearly all the true right bank is otherwise designated as open space or natural open space, which is important for a cycle way/walkway from Fairway Drive to Access Road.
- **Okura stream** - esplanade priority is desirable.
- **Kerikeri Inlet:** there are small discontinuities (gaps) in Esplanade Reserves on both banks.

Council's s32 report favours use of other methods including negotiating with landowners and the KK/Waipapa spatial plan. Certainly, negotiating with land owners can succeed but the spatial plan is an uncertain number of years away and opportunities to fill in "gaps" are likely to be lost.

Negotiating esplanade has indeed worked with Orchard Estate and Arvida and one hopes also with the Bing property where there is an informal well used track. However, each of these new land owners had a river or stream frontage clearly marked on the ODP Zone Plans as "Esplanade Priority" and was properly informed about Council's interest.

Gaps are an important issue. We note the s32 report (table, p.22-23) identified a cost associated with the PDP's new approach and missed opportunities to deal with gaps: 'Missed opportunities to join the gaps (long term) in the public access network could result in poor outcomes for the community.'

Retention of Esplanade Priority should not be problematic

Retaining Esplanade Priority mapping in the PDP, for locations not already implemented, does not seem to represent a difficulty, since it only represents an indication of interest by FNDC - not a compulsion to acquire an esplanade reserve.

As an example, for unknown reasons, Council did not implement Esplanade Priority (see ODP Zone Map 87) for the tributary stream (Te Tahawai) in the section between near Hall Road to Maraenui Drive. This opportunity for public access has now been lost through subdivision.

Effect of removing Esplanade Priority mapping

By removing Esplanade Priority areas from the planning/zone maps, Council would fail to indicate to landowners, developers and others that Council has an interest in a stream boundary. Failure to indicate the Council's interest could result in the consenting planner (or those undertaking monitoring), or a future landowner being unaware that there is Council interest, especially if there are frequent staff changes at Council.

It is more efficient for all parties to have **visual access** to consolidated land use and planning information **which is, or should be, a primary purpose of Council mapping.**

It is not acceptable to have existing Esplanade areas concealed in certificates of title or to have to refer to a secondary source such as WAC maps. We currently have a case in point at 69A Cobham Road where the current land owner, Council staff and Vision Kerikeri were all unclear about the reserve status because the reserve strip was not shown on the Council map and there appeared to be a break in the Wairoa Stream track.¹ Identifying the precise status of the land used up additional time and energy on the part of Council staff and all parties.

Conclusion: As a result of the above issues, the existing Esplanade may not be properly considered by planners and landowners, and gaps in the present network of Esplanade Reserves may not be acquired, and opportunities lost, making it difficult or impossible to achieve continuous connectivity for a walkway or cycleway. Continuous access is essential for providing effective networks for active modes of transport.

Benefits of Esplanade Priority areas

Experience has demonstrated the benefits of Esplanade Priority areas on maps. They have played a constructive role in expanding the length of esplanade along waterways.

Today we have the riparian walking track along Wairoa Stream only because Councils in the past had the foresight to create Esplanade reserves. A similar opportunity would exist along other streams if the "gaps" are closed, of which Esplanade Priority would be an indication.

Finally, we note that the s32 report on public access (p.21) recognised Esplanade priority areas as a 'Benefit': 'Esplanade priority areas assist to identify the desired location for new and expanded esplanade reserves'.

¹ FNDC Request for Service RFS 4037858.

SUMMARY

We support PDP policies and rules that require the creation of esplanade reserves and strips associated with subdivision. In particular we support -

- ❖ Public access chapter policies PA-P1 to PA-P5
- ❖ Subdivision chapter:
- ❖ SUB-O4, SUB-P7 and SUB-S8.
- ❖ The application of standard SUB-S8 to all zones (as stated in the PDP), and the inclusion of SUB-S8 in rules SUB-R1, SUB-R3, SUB-R5 and SUB-R6.

We seek strengthened / additional provisions for esplanade:

- ❖ PDP provisions should require esplanade when consents are issued for land use, for example, for retirement villages that do not entail subdivision.
- ❖ PDP provisions should require esplanade when subdivision creates lots of 4ha or more (as allowed under RMA s77, s230, etc.) when any of the following applies, for example:
 - a third party agrees to provide funds to compensate the land owner, or
 - as part of a development agreement or development contributions or financial contributions.
- ❖ We urge FNDC to urgently implement a policy for financial contributions and incorporate financial contributions in the PDP to provide for infrastructure and esplanade areas.
- ❖ In the meantime we seek a placeholder in the PDP for future comprehensive requirements for financial contributions, as we stated during Hearing 1.
- ❖ We seek provisions in this chapter that will actively protect areas with significant ecological values. This could be achieved by the following type of amendment to PA-O2, for example:
'Public and customary access to and along the coastal marine area and waterbodies ~~assists with the management of~~ is managed to address natural hazards, and support the preservation of natural character, indigenous biodiversity, historic heritage, cultural and landscape values.'

Esplanade priority mapping:

- ❖ Esplanade Priority mapping in Kerikeri should continue to be included in DP maps, because this town is experiencing rapid growth and esplanade reserves play an important role in improving connectivity, active transport and green corridors.
- ❖ Esplanade priority mapping helps to provide transparent, consolidated land use/planning information for Council staff, landowners, developers and others
- ❖ Esplanade Priority mapping should also be included for any other townships or communities in the district that wish to identify Esplanade Priority areas.