

UNDER

the Resource Management Act 1991 ('the Act')

IN THE MATTER

the proposed Far North District Plan ('the proposed District Plan')

AND

IN THE MATTER

of submissions on that proposed District Plan

STATEMENT OF EVIDENCE OF JOHN ANDREW RIDDELL

HEARING 4 – NATURAL ENVIRONMENT VALUES

AND COASTAL ENVIRONMENT

22 JULY 2024

A. INTRODUCTION

1 My name is John Andrew Riddell.

Qualifications

2 I hold the qualification of Bachelor of Resource and Environmental Planning with First Class Honours.

Experience

3 I have been practising as a resource management planner for over 30 years, on a part-time basis since 1989 and a full-time basis since 1993. Until November 1998 I was self-employed, although I did work for Nugent Consultants Limited on a part time basis from 1993 until 1996. Between November 1998 and June 2013 I was employed by the Department of Conservation. Since then, until very recently, I operated as consultant planner for my company CEP Services Matauwhi Limited.

4 My experience includes providing evidence and advice on the provisions of plans and policy statements provisions, participating in mediation and negotiations over policy statement and plan provisions, and presenting evidence to the Environment Court on matters under appeal.

5 In terms of resource consents, my experience covers limited processing of consent applications for the Far North District Council, reviewing consent applications for the Department of Conservation, giving evidence on notified applications at council hearings, giving evidence to the Environment Court on applications, and preparing resource consent applications for a range of activities, including a medical centre, jetties and slipways, discharges from fish processing factories, houses, huts, 1080 and brodifacoum aerial pest control

operations, indigenous vegetation clearance, wetland weir structures, water takes, treated wastewater discharges, and earthworks.

- 6 Much of my resource management work has been in Northland, although it has extended to Auckland, Thames-Coromandel, Bay of Plenty, Gisborne, sub-Antarctic islands, Waikato and Kaikōura.
- 7 Directly relevant to my evidence on my submission on the proposed Far North District Plan is the background knowledge I have from my active participation in
- submissions and appeals¹ on earlier district plans for the Far North, including the Second Review of the Bay of Islands District Scheme, the first draft District Plan (which was withdrawn and replaced) and the current operative Far North District Plan ('the operative District Plan);
 - submissions and appeals on the current and preceding Regional Policy Statements for Northland and the current Regional Plan for Northland;
 - whilst employed by Department of Conservation, commenting on many resource consent applications located in the coastal environment of the Far North and/or where Far North indigenous biodiversity values were relevant;
 - preparing resource consent applications for private clients in the Far North.
- 8 Whilst employed by the Department of Conservation I participated in meetings with the District Council over the development of this proposed district plan and prepared comments for the Department on the early draft of the proposed District Plan.

¹ This includes a joint appeal lodged with my wife on zoning heritage matters in Kororāreka/Russell not relevant to the scope of Hearing 4.

Code of Conduct

- 9 I have read the Code of Conduct for Expert Witnesses produced by the Environment Court (2014) and undertake to follow it for this hearing. My qualifications as an expert are set out above. Other than those matters identified within my evidence as being from other experts, I confirm that the issues addressed in this brief of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.
- 10 It is important to note that this evidence is presented to support my own submissions and further submissions on the natural environment values and coastal environment provisions in the proposed District Plan. I consider that what I say in this evidence is my professional opinion. However, it is up to the Hearing Panel to decide what weight to give to this evidence.
- 11 I record that I live on a freehold property in Kororāreka. The proposed District Plan zoning for the property is Kororāreka Russell Township zone, with a Coastal Environment and a Part D Kororāreka Russell Part D overlay. A portion of the property is Coastal Flood Hazard 1, 2 and 3.
- 12 I am also providing evidence in relation to submission S150.001 by Robert Adams.²

Two other points to note

- 13 There are three typos to note in my primary submission³
- S431.108, clause 42(j) of submission – the reference should be to PER-2 of rule IB-R4, not IB-R3;

² Robert Adams is the Licensed Building Practitioner and Licensed Designer for the current renovation and repair of our house.

³ My recollection is that I have previously informed the District Council of these typos. However I have not yet found an email confirming this.

- S431.163, clause 46(k) of submission – the reference should be to policy 12.1.4.6, not 12.14.6;
 - S431.102, clause 42(d) of submission – the reference should be to clause a of policy IB-P5, not clause b.
- 14 I also note that it appears that Hearing 4 does not include any assessment of submissions on coastal hazard area rules CE-R10, CE-R11, CE-R12 and CE-R16. I have lodged submissions⁴ on these rules and expect that these submissions will be heard at a later hearing, possibly Hearing 14?

Approach taken my evidence

- 15 My evidence is presented in the following order
- a brief outline of my understanding of the relevant provisions of the Resource Management Act and resource management documents
 - submissions on objectives and policies, starting with
 - submissions seeking the inclusion of some operative Northland Regional Policy Statement and Far North District Plan objectives and policies related to coastal environment, indigenous biodiversity and landscapes and natural features
 - then addressing submissions on policies relating to
 - the use of 'provide for' v 'enable' in policies
 - intrinsic values
 - 'characteristics and qualities'
 - cumulative effects
 - sprawling or sporadic development in the coastal environment
 - significant indigenous biodiversity values
 - followed by submissions on rules

⁴ S431.044, 045 and 046.

- the extent to when coastal environment rules should apply in urban environments, including submission S150.001 by Robert Adams
- rules on the setback from the coastal marine area
- cumulative vegetation clearance limits
- Rule IB-R1

16 In this evidence I refer to the versions of the proposed District Plan chapters with the officers' recommended amendments are the base documents for my assessment.

B. RELEVANT RESOURCE MANAGEMENT PROVISIONS

17 In terms of setting out briefly my understanding of the resource management provisions of particular relevance to the development of a district plan I reproduce paragraphs 7 and 8 from my submission, then add some further resource management documents of relevance.

18 Extract from submission:

6. District plans are one instrument to achieve the sustainable management purpose of the Act.
7. As such, there are requirements set out in the Act and in supporting documents that the proposed District Plan must meet, including
 - achieving the sustainable management purpose of the Act;
 - recognising and providing for the matters of national importance set out section 6 of the Act;
 - having particular regard to the other matters set out in section 7 of the Act;
 - taking into account the principles of Te Tiriti o Waitangi;
 - addressing the functions of territorial authorities (section 31 of the Act)
 - giving effect to national policy statements, including the New Zealand Coastal Policy Statement (“Coastal Policy Statement”); and
 - giving effect to the Regional Policy Statement for Northland (“Regional Policy Statement”).

8. Further, district plans should follow and adopt good resource management practice, and be internally consistent. Good resource management practice includes ensuring that objectives and policies are clear, certain and directive.
- 19 Other national policy statements of relevance include the National Policy Statement on Indigenous Biodiversity which was issued after submissions on the proposed District Plan had closed.
- 20 It is common ground that it is the provisions as they are now that are relevant, and to not speculate on what changes there might or might not be to resource management legislation and to guiding documents.⁵

Inclusion of objective and policies from operative District Plan and regional policy statement

- 21 The objectives and policies in the operative Regional Policy Statement for Northland and the operative Far North District Plan have been developed by a comprehensive process including Environment Court mediation and hearings. These objectives and policies reflect a comprehensive statement of the relevant provisions and requirements from the Act, from national policy statements and, in the case of the operative District Plan, from the Regional Policy Statement for Northland.
- 22 In my opinion, it is good practice to use these provisions in the proposed District Plan as a checklist for comprehensiveness and to minimise the inefficiencies of trying to say the same thing with different words and of re-litigating policy guidance already accepted by the Environment Court as necessary and appropriate.
- 23 A qualification to this is the need to account for changes in overarching resource management guidance since, for operative District Plan provisions, 14 September 2009; and for operative Regional Policy

⁵ If there are changes to resource management law or to overarching resource management documents that have effect during the hearing of submissions to the proposed District Plan, no doubt extra hearings will be scheduled to allow all the parties to identify what changes if any are needed to the proposed District Plan and/or to their evidence and submissions.

Statement provisions, May 2016. This includes accounting for changes as a result of the issuing of a second New Zealand Coastal Policy Statement in 2010, and the 023 issuing of the National Policy Statement for Indigenous Biodiversity.

- 24 I am of the view that comprehensive and detailed objectives and policies are good practice in terms of providing an element of certainty to the public on what to expect during the life of the plan, and to provide robust guidance to decision makers.
- 25 I note that there is a high degree of continuation with the proposed District Plan in terms of zoning of areas and in terms of rules applying. This is a further reason for having a close look at the existing objectives and policies, compared to those in the proposed District Plan.

Submission S431.027

Coastal Environment Officer's Report section 5.2.4, paragraphs 100(c) and 109(b)

- 26 This submission seeks the insertion of operative District Plan objective 10.3.6 from the operative District Plan
- To minimise adverse effects from activities in the coastal environment that cross the coastal marine area boundary.
- 27 The officer's report opines that this objective is not necessary and suggests it is better addressed in the coastal environment policies.
- 28 The officer's recommended changes to policy CE-P10 adding considerations regarding the potential effects of land use and subdivision on the coastal marine area and the extent to which land use and subdivision complements activities in the coastal marine area.
- 29 I do not consider that these changes are sufficient in terms of giving effect to policy 4, Integration, of the New Zealand Coastal Policy Statement. This is a policy explicitly designed to provide for the integrated management of natural and physical resources in the coastal environment. The policy requires coordinated management or control of activities within the coastal environment, with the coastal marine area boundary being specifically identified. Part (c) of this policy

requires particular consideration of five matters, including subdivision, use and development and its effects where associated use or development crosses the line of mean high water springs.

- 30 In my opinion a further objective the same as operative District Plan objective 10.3.6 should be inserted as sought.

Submission S431.033

This submission is not explicitly referred to in the Coastal Environment Officer's Report, but see paragraphs 130, 149 and 151 of the Report

- 31 This submission seeks that policy 4.6.1 from the Regional Policy Statement is reproduced in the proposed District Plan.
- 32 Policy 4.6.1 of the Regional Policy Statement sets out how effects on natural character, landscapes and natural features are to be managed. It is in three parts managing effects within the coastal environment, managing effects outside the coastal environment, and an expanded consideration of the nature of effects, including minor or transitory effects.
- 33 The important directives regarding effects within the coastal environment are, from policy 4.6.1(1):
- (1) In the coastal environment:
 - a) Avoid adverse effects of subdivision use, and development on the characteristics and qualities which make up the outstanding values of areas of outstanding natural character, outstanding natural features and outstanding natural landscapes.
 - b) Where (a) does not apply, avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of subdivision, use and development on natural character, natural features and natural landscapes. Methods which may achieve this include:
 - (i) Ensuring the location, intensity, scale and form of subdivision and built development is appropriate having regard to natural elements, landforms and processes, including vegetation patterns, ridgelines, headlands, peninsulas, dune systems, reefs and freshwater bodies and their margins; and
 - (ii) In areas of high natural character, minimising to the extent practicable indigenous vegetation clearance

and modification (including earthworks / disturbance, structures, discharges and extraction of water) to natural wetlands, the beds of lakes, rivers and the coastal marine area and their margins; and

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

34 In my opinion, the Officer's recommended amendments to CE-P2 and CE-P3 essentially repeat 4.6.1(a) and (b).

35 However I consider that 4.6.1(b)(ii) is not adequately encapsulated in the coastal environment policies and should be added as an additional policy. This would affect rules for forestry and mineral extraction in high natural character coastal environment areas.

36 Giving effect to 4.6.1(iii) is considered later in this evidence, in relation of submissions on and in relation to policies on sprawling or sporadic development in the coastal environment.

37 The third part of policy 4.6.1 is

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

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

- 38 These are matters which could best be placed in policy CE-P10:⁶
- b. the temporary or permanent nature of any adverse effects, including any cumulative effects, and recognising that a minor or transitory effect may not be an adverse effect but that there may be more than minor cumulative adverse effects from minor or transitory adverse effects;
 - m. any positive contribution the development has on the characteristics, values and qualities, including restoration and enhancement that enhance those characteristics, values and qualities;
 - xx effects that are dynamic, diverse or seasonal

Submission 432.034

Coastal Environment Officer's Report paragraph 123

- 39 This submission seeks the insertion of policy 5.1.2 of the Regional Policy Statement into the proposed District Plan.
- 40 This policy is

Enable people and communities to provide for their wellbeing through appropriate subdivision, use, and development that:

- (a) Consolidates urban development within or adjacent to existing coastal settlements and avoids sprawling or sporadic patterns of development;
- (b) Ensures sufficient development setbacks from the coastal marine area to;
 - (i) maintain and enhance public access, open space, and amenity values; and
 - (ii) allow for natural functioning of coastal processes and ecosystems;
- (c) Takes into account the values of adjoining or adjacent land and established activities (both within the coastal marine area and on land);
- (d) Ensures adequate infrastructure services will be provided for the development; and
- (e) Avoids adverse effects on access to, use and enjoyment of surfbreaks of national significance for surfing.

Note: in determining the appropriateness of subdivision, use and development, all policies and methods in the Regional Policy Statement must be considered, particularly policies relating to natural character, features and landscapes, heritage, natural

⁶ In this statement, I double underline and italicise my recommended additions. My recommended deletions are ~~italicised and struck through~~.

hazards, indigenous ecosystems and fresh and coastal water quality.

- 41 Most of this policy is, in my opinion, adequately addressed in the Staff amended version of the coastal environment chapter.
- 42 However, clauses (b), (c) and (d) of the policy would be better given effect to, in my opinion, with the following amendments to policies CE-P5 and CE-P10.⁷

CE-P5 Enable land use and subdivision in urban ~~areas~~ zones within the coastal environment by recognising that a change in character may be acceptable in some existing urban areas to provide for the social, economic and cultural well-being of people and communities where *while taking into account the values of adjoining or adjacent land and established activities (both within the coastal marine area and on land)*

- a. ~~there is adequacy and capacity of available or programmed development infrastructure; and~~
- b. ~~the use is consistent with, and does not compromise the characteristics and qualities.~~

CE-P10 a. the presence or absence of buildings and structures ~~or~~ and the adequacy of infrastructure

CE-P10 k. the opportunity to enhance public access, open spaces and recreation

CE-P10 ka. allowing for natural functioning of coastal processes and ecosystems

- 43 I return to policy 5.1.2 when I consider submissions 431.028.⁸

Submission S431.035

Coastal Environment Officer's Report paragraphs 123 and 130

- 44 This is the first of four submissions seeking the insertion of identified coastal policies from the operative District Plan. This submission seeks the insertion of policy 10.4.1

10.4.1 That the Council only allows appropriate subdivision, use and development in the coastal environment. Appropriate subdivision, use and development is that where the activity generally:

⁷ The list of considerations in CE-P10 is largely repeated in NFL-P8 and NATC-P6. Where a change is made to any of the considerations common to these three policies, then consideration should be given to the extent to which a consequential amendment is required in the other two policies to ensure consistency with the proposed District Plan.

⁸ See paragraphs 127 to 133.

- (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.

45 In my opinion, the considerations set out in this policy re adequately covered by the coastal environment chapter as amended in the Officer report. It is not necessary to take this submission further.

Submission S431.036

Coastal Environment Officer's Report paragraphs 123 and 130

46 This submission refers to policy 10.4.7 of the operative District Plan:

10.4.7 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.

- 47 Mr Lee discusses the issue of a specific policy on land based activities associated with maritime facilities at paragraph 131 of his report.
- 48 The difference is that the Regional Council submission seeking a specific policy on this matter is about enabling land-based activities, whereas the policy in the operative District Plan is about ensuring the adequacy of services provided on land for maritime facilities.
- 49 In my opinion, the combination of policies CE-P2 to CE-P5 coupled with clauses a and o of PE-10 (all as modified in the Officer's report and in my evidence), adequately covers the resource management issue in policy 10.4.7 so long as PE-10(o) is further amended as follows
- o. the extent to which the land use and subdivision complements is necessary for activities and facilities in the coastal marine area.

Submission 431.037

Coastal Environment Officer's Report paragraph 30

- 50 This submission seeks the insertion of policy 10.4.12 of the operative District Plan
- 10.4.12 That the adverse effects of development on the natural character and amenity values of the coastal environment will be minimised through:
- (a) the siting of buildings relative to the skyline, ridges, headlands and natural features;
 - (b) the number of buildings and intensity of development;
 - (c) the colour and reflectivity of buildings;
 - (d) the landscaping (including planting) of the site;
 - (e) the location and design of vehicle access, manoeuvring and parking areas.
- 51 There does not appear to be any discussion of this submission in Mr Lee's report.

52 This policy is consistent with, and expands on, policy 4.6.1.(1)(b)(i)⁹ of the Regional Policy Statement for Northland.

53 Most elements of this policy are touched on in CE-P10 and in recommended amendments to policy NFL-P8.

54 However in my opinion some further amendments to the considerations in CE-P10 are appropriate to highlight the issues set out in operative District Plan policy 10.4.12

CE-P10(c) the location, intensity, scale and design of any proposed development

CE-P10(d) the visual effect of the building, structure or activity on nearby ridgelines, headlands, skylines and natural features

CE-P10(f) the need for, extent, and location of earthworks (including for vehicle access and parking) or indigenous vegetation clearance and proposed mitigation measures

55 These expanded considerations, in my opinion, provide further assistance to developers and decision makers as to ways in which sustainable use and development can occur.

Submission S431.038

Coastal Environment Officer's Report paragraph 130

56 This submission seeks the insertion of policy 10.6.4.3 from the operative District Plan.

57 This is a policy that sets out subdivision and development design guidelines in detail, covering clustering and location of structures, reducing visual impact, providing public access to the foreshore and esplanade areas, recognising and providing for the relationship of Māori with their culture and traditions and taonga, indigenous biodiversity enhancement and rehabilitation, and protecting historic heritage.

58 In my opinion, with the other changes I recommend to the coastal environment chapter, it is not necessary to include this policy. The policy could inform the development of any guidelines on appropriate

⁹ Quoted at paragraph 33 of this statement

development in the coastal environment that the District Council may wish to develop in the future.

Submissions S431.090, 091 and 092

Indigenous Biodiversity Officer's Report paragraph 133a, 143, 149, 155 to 158

- 59 These submissions seek the replacement of policies IB-P1, IB-P2 and IB-P3 with policy 4.4.1 of the Regional Policy Statement for Northland. This policy sets out how indigenous biodiversity is to be managed, and gives effect to policy 11 of the New Zealand Coastal Policy Statement. Policy 4.4.1 pre-dates the National Policy Statement for Indigenous Biodiversity.
- 60 Recommendations are made in the Indigenous Biodiversity Officer's Report for changes to policies IB-P2, IB-P3 and IB-P4 which better reflect, in my opinion, the policy directives in policy 4.4.1 of the Regional Policy Statement.
- 61 I do have a remaining concern about policy IB-P4 applying to *significant* adverse effects. Policy 3.10(3) of the National Policy Statement for Indigenous Biodiversity does not limit the use of the effects management hierarchy to when there are significant adverse effects. Clause (h)ii of policy IB-P10 is the consideration of how far to apply the effects mitigation hierarchy when there are more than minor adverse effects.
- 62 Further, policy 4.4.1(5) limits the biodiversity offsetting and the biodiversity compensation steps of the hierarchy to indigenous biodiversity outside the coastal environment.
- 63 I recommend accepting the Officer's recommended amendments to policies IB-P2, IB-P3 and IB-P5, subject to the word 'significant' from policy IB-P5.

Submission S431.094

Indigenous Biodiversity Officer's Report paragraph 129(d)

- 64 This submission seeks the insertion of operative District Plan policy 12.2.4.1 into the proposed District Plan. The policy is one setting out

some biodiversity-related matters which should be given attention to in order to protect significant indigenous vegetation and habitats.

- 65 I have reviewed the matters listed in operative District Plan policy 12.2.4.1 against the matters listed in policy IB-P10 and consider that the following matters from policy 12.2.4.1 would be appropriately added to clause (h) IB-P10:

the extent to which the variety and range of indigenous species is maintained

The extent to which ecological integrity is maintained

Submission S431.095

Indigenous Biodiversity Officer's Report paragraph 129(d)

- 66 This submission seeks the insertion of operative District Plan policy 12.2.4.3 to the proposed District Plan. Policy 12.2.4.3 sets out considerations to manage adverse effects of activities in significant indigenous vegetation and habitats.

- 67 This is another policy that should be assessed against proposed District Plan policy IB-P10. From my review of these two policies I am of the view that the potential for edge effects, and considering the intensity of development are matters which could usefully be added to IB-P10:

da edge effects

- i the location, scale, *intensity* and design of any proposed development.

Submission S431.096

Indigenous Biodiversity Officer's Report paragraph 129(d)

- 68 This submission seeks the insertion of operative District Plan policy 12.2.4.5. This policy is about the contribution of indigenous biodiversity to the overall biodiversity and amenity of the district.

- 69 In my opinion this policy need not be added given the proposed clause q to policy IB-P10.

Submissions S431.097 and S431.098

Indigenous Biodiversity Officer's Report paragraph 129(d),
paragraphs 215 to 221

- 70 These submissions seek the insertion of operative District Plan policies 12.2.4.10 and 12.2.4.11 into the proposed District Plan.
- 71 These policies are reproduced at paragraph 216 in the Indigenous Biodiversity Officer's Report.
- 72 These operative District Plan policies are directive in terms of prohibiting the keeping of dogs, cats and other pest species into kiwi, dotterel and brown teal areas. Particular reference is made in policy 12.2.4.11 to areas identified as known high density kiwi habitat. t
- 73 During my time working as a planner for the Department of Conservation I co-ordinated the development of several iterations of the kiwi habitat maps which identified high density kiwi areas and kiwi present areas, and in seeking to ensure resource consents issued in high density kiwi areas included consent conditions prohibiting the keeping of cats and dogs.^{10 11} In kiwi present areas, resource consents usually include an advice note about kiwi being present and the need to control cats and dogs at all times. Such conditions were, in my experience, confirmed, and at times even, set by the Environment Court. In my opinion such conditions contributed to increased population of North Island brown kiwi in the Far North. Similar consent conditions are also imposed with subdivisions and more intense use of land in high density kiwi areas in the Whangārei and Kaipara Districts.
- 74 In my opinion it is important to the successor policy in the proposed District Plan – policy IB-P9 – is strongly directive if there is to be consistency with policies IB-P2(a)(i) and IB-P3(a)(i), and if policies 15 and 3.20(3) of the National Policy Statement for Indigenous Biodiversity are to be given effect to.
- 75 Therefore I recommend further amendments to policy IB-P9

¹⁰ Dogs, particularly, are recognised as the major factor in the premature death of kiwi.

¹¹ Two qualifications to conditions prohibiting dogs in high density kiwi areas were an allowance for the keeping of farm working dogs and a grandfathering provision for any existing dogs on a property when it is subdivided. These are usually subject to micro-chipping, kiwi aversion training and dog under control at all times requirements.

IB-P9 Require landowners to manage pets and pests species within their property through consent conditions, including ~~dogs, cats, possums, rats and mustelids~~, ~~where necessary~~ to avoid risks to Threatened and At-Risk indigenous fauna ~~threatened indigenous species~~, including avoiding the introduction of ~~pets~~ dogs and cats and pest species into ~~kiwi present or~~ high-density kiwi areas.

Submission S431.099

Indigenous Biodiversity Officer's Report paragraph 129(d)

- 76 This submission seeks that operative District Plan policy 12.2.4.12 – 'That habitat restoration be promoted' – be included in the proposed District Plan.
- 77 I am satisfied that this policy matter is now covered by the first policy IB-PX, IN-P6, IB-P8 and IB-P10(q), all as set out in the Indigenous Biodiversity Officer's Report.

Submission S431.100

Indigenous Biodiversity Officer's Report paragraph 129(d)

- 78 This submission seeks the insertion of operative District Plan policy 12.2.4.13 to the proposed District Plan. This is a policy that sets out, in fairly general terms, why riparian vegetation and habitats should be maintained and their restoration encouraged.
- 79 I have reviewed the policy guidance applicable to riparian areas given in the Indigenous Biodiversity, Natural Character and Coastal Environment chapters and consider that there is a gap in terms of recognising and protecting the particular biodiversity values of the riparian margins of lakes and rivers.
- 80 I note that policy 13(2) of the New Zealand Coastal Policy Statement, which sets out component matters of natural character, includes 'ecological matters'.
- 81 To address this gap, I recommend a further matter be added to policy NATC-P6

effects on biodiversity values of the riparian areas, including linkages with other habitats and ecosystems

Submission S431.162

Natural Features and Landscape Officer's Report paragraphs 121 and 125 row 2 of table

- 82 The submission seeks the inclusion of operative District Plan policy 12.1.4.4, on visibility from public places, in the proposed District Plan.
- 83 The Officer's assessment and recommendation is set out at paragraph 125, row 2 of the table.
- 84 I agree with the recommendation to add a further matter to policy NFL-P8.
- 85 In my opinion, this matter – the visibility of impacts viewed from public places – is a relevant consideration for more than natural features and landscapes. It should should also be included in Coastal Environment policy CE-P10.

Submission S431.163

Natural Features and Landscape Officer's Report paragraphs 121 and 125 row 3 of table

- 86 The submission seeks the inclusion of operative District Plan policy 12.1.4.6 on scientific and amenity values associated with outstanding natural features. Many outstanding natural features are so identified because of their scientific (geological) value. In my opinion, this should be recognised in amendments to the matters listed in policy NFL-P8:
- j. the characteristics ~~and~~ qualities and values of the landscape or feature
 - l the natural landform and processes, including geological processes, of the location

Submission S431.165

Natural Features and Landscape Officer's Report paragraphs 121 and 125 row 5 of table

- 87 The submission seeks the inclusion of operative District Plan policy 12.1.4.10 in the proposed District Plan. This policy is effectively the operative District Plan equivalent of policy NFL-P8.
- 88 This operative District Plan policy, however, identifies the following matters that are not in policies NFL-P2, NFL-P3 or NFL-P8,

- consideration of the rarity of the landscape or feature
- the contribution of natural patterns, composition and extensive cover of indigenous vegetation to landscape values
- the importance of the activity in enabling people and communities to provide for their social, economic and cultural well-being
- important views as seen from public vantage points on a public road, public reserve, the foreshore and the coastal marine area.

89 In my opinion these additional matters should be added to policy NFL-P8.

'provide for' v 'enable' in policies

Submissions S431.029, and S430¹²

Submission S431.159

S431.029 Coastal Environment Officer's Report paragraphs 163

S431.030 Coastal Environment Officer's Report paragraph 163

S431.159 Natural Character Officer's Report paragraphs 169 and 172

90 Policies CE-P5, CE-P6 and NATC-P3 are all policies that seek to 'enable' identified types of use and development.

91 The submissions seek that, for each of those policies, the intent should be to provide for that use and development, not enable it.

92 The recommendations in the Coastal Environment and the Natural Character reports is to reject this change.

93 Policy CE-P5 seeks to enable land use and subdivision where there is adequate infrastructure and characteristics and qualities (of the urban area?) are not compromised. It follows on from the 'consolidation' intent in policy CE-P4.

94 It is also consistent with objective 6 and policy 6(1)(b), (c) and (f) of the New Zealand Coastal Policy Statement; policies 4.6.1(1)(b)(iii) and

¹² These submissions are in two parts – 'provide for' v 'enable' and seeking clarification over 'characteristics and qualities'. The later matter is discussed later in this statement – see paragraphs 116 to 119.

5.1.2 of the Regional Policy Statement and objective CE-O3 (with the recommended amendments).

- 95 I consider that policy CE-P5 should remain as an 'enable' policy.
- 96 Policy CE-P6 The element of proactive action and facilitation implicit in the term 'enable' is consistent with the urban consolidation directives.
- 97 However there is no such proactive policy directive in relevant national policy statements or in the Regional Policy Statement relation to existing farming activities – which is the main purpose of policy CE-P6.
- 98 In my opinion, it is an appropriate reflection of overarching resource management direction for policy CE-P6 to be a passive 'provide for' policy, not an active 'enable' policy.
- 99 Therefore I recommend that the start of policy CE-P6 be amended to:
- CE-P6 Provide for ~~Enable~~ farming activities within the coastal environment by ~~where~~:
- 100 Policy NATC-P3 This policy sets out circumstances where indigenous vegetation removal and/or earthworks may occur.
- 101 It is currently an 'enable' policy which implies an element of prior approval and encouragement for the removal of indigenous vegetation and disturbance of ecosystems and habitats by earthworks in riparian areas. Riparian areas are recognised as being of particular importance for indigenous biodiversity and for water quality.
- 102 The over-arching policy context is a strong directive on the protection of indigenous biodiversity via section 6(c) of the Act, policy 11 of the New Zealand Coastal Policy Statement, policy 4.4.1 of the Regional Policy Statement for Northland, and objective 2.1 and policies 7 and 8 of the National Policy Statement for Indigenous Biodiversity.
- 103 I acknowledge that there are circumstances where it could be appropriate to remove indigenous vegetation or undertake earthworks, and that a policy identifying such circumstances would be appropriate to include in a district plan.
- 104 Policy 9 of the National Policy Statement for Indigenous Biodiversity covers this with a 'provide for' policy:

Certain established activities are provided for within and outside SNAs

- 105 A policy which enables indigenous vegetation removal is inconsistent with that strong policy directive.
- 106 In my opinion, this is best achieved with a 'provide for' policy, not an 'enable' policy for the reasons set out above.
- 107 I recommend that the start of policy NATC-P3 be amended to:

NATC-P3 Provide for ~~Enable~~ indigenous vegetation removal and/or earthworks within wetland, lake and river margins where it is the minimum necessary for:

- 108 I also note the recommendation at paragraph 172 in the Natural Character Report that policy NATC-P4 be amended from a 'Provide for' to an 'Enable' policy. There is no submission seeking this change – clause 16 of Schedule 1 of the Act is being relied on. However clause 16(2) only applies “where such an alteration is of minor effect”. This must not be the case where a policy is changed from a 'provide for' to an 'enable' policy as that is clearly a more than minor change in policy emphasis.

Intrinsic values

Submission 431.168

NATC-O1 submission not addressed in report

NFL-O1 submission not addressed in report

IB-O1 Indigenous Biodiversity Officer's Report paragraphs 72 and 78

CE-O1 Coastal Environment Officer's Report paragraphs 106 and 109

- 109 This submission applies to all objectives and policies where there is a reference to protection for current and future generations. The submission seeks that the words 'and intrinsic and natural values' be added to the end of such objectives and policies.
- 110 There are four objectives being considered in Hearing 4 to which this submission applies.

- 111 Although the term 'protection for current and future generations' was included in objectives NATC-O1, NFL-O1 and CE-O1 as notified, the respective reporting officer assessments of all the submissions on these specific objectives have results in recommended changes to those objectives to essentially repeat words from section 6 of the Act.
- 112 The references to 'current and future generations' are recommended to be deleted from these objectives. This makes the 'intrinsic and natural values' submission unnecessary in relation to these three objectives.
- 113 This leaves objective IB-01. Objective IB-O1 qualifies the directive in 6(c) of the Act by limiting the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna to being for current and future generations.
- 114 It would, in my opinion, be more accurate to widen the identified purpose of the protection of these areas of significant indigenous vegetation and significant habitats of indigenous fauna to widen the purpose of the protection to beyond just anthropic reasons.
- 115 This can be achieved by adding a reference to intrinsic and natural values, so that the objective would become:

IB-01 Areas of significant indigenous vegetation and significant habitats of indigenous fauna (~~Significant Natural Areas~~) are identified protected for current and future generations and intrinsic and natural values.

'Characteristics and qualities'

Submissions 431.029, .030, and .031

Coastal Environment Officer's Report paragraphs 163, 172, 192

- 116 These submissions seek clarification on what characteristics and qualities notified policies CE-P5, CE-P6 and CE-P7 are referring to.
- 117 Mr Lee's recommended amendments to these policies transfer the references to 'characteristics and qualities' to a new clause to policy CE-10:

CE-10(n) the effects on the characteristics, qualities and values of the coastal environment, including natural character and

natural landscape values and the quality and extent of indigenous biodiversity.

- 118 In my opinion, this recommended change satisfies the submissions.
- 119 Looking at the other references to 'characteristics and qualities' in the Natural Features and Landscapes and Natural Character chapters, I note that 'and values' has been added to the end of 'characteristics and qualities'. However, 'and values' this has not been added to clause NFL-P8(j). This appears to be an oversight.

Cumulative effects

Submissions S431.032, S431.161 and S431.150

Coastal Environment Officer's Report paragraphs 180 and 217(e)
 Natural Features and Landscapes Officer's Report paragraphs 121 and 125
 Natural Character Officer's Report submissions not addressed
 Indigenous Biodiversity Officer's Report submissions not addressed

- 120 These submissions seek the inclusion of a reference to cumulative effects in all relevant policies on managing land use and subdivision (S431.150) and specifically in policy CE-P10 (S431.032). Submission S431.161 seeks the insertion of of operative District Plan policy 12.1.4.3 – a policy on cumulative effects on outstanding natural landscapes – in the proposed District Plan.
- 121 Cumulative effects have proven to be particularly difficult to deal with within the resource management regime. Often, in my experience, cumulative effects are not considered to any extent when making decisions on consent applications or when setting provisions and limits in plans.
- 122 In theory, a best practice way of managing cumulative effects is through a combination of setting limits on permitted activity use and development and giving greater weight to policies when making decisions on resource consent applications then is the case. However, there is a tendency, in my opinion, to largely ignore policies when an applicant asserts that adverse effects are no more than minor.

123 Although it is correct, as stated in the Natural Features and Landscape Report,

Resource consent applications are required to assess effects, and cumulative effects are included in the definition of 'effects' (paragraph 125, line 1 in table)

I consider that, because it tends to be overlooked, it is important that an explicit reference to cumulative effects is included in policy as a standing reminder to consider such effects.

124 Mr Lee recommends, as a response to submission 431.032 and other submissions, that the words 'including any cumulative effects' be added to clause (b) of 'assessment criteria' policy CE-P10.

125 I consider this to be a satisfactory solution, so long as a similar addition is made to clause (b) of policy NFL-P8, and clause (b) of policy NATC-P6. Clause (b) of IB-P10 already includes reference to cumulative effects.

126 If the above amendments are made it is not necessary to take submission S431.161 seeking the insertion of of operative District Plan policy 12.1.4.3 – on cumulative effects on outstanding natural landscapes – in the proposed District Plan any further.

Sprawling or sporadic development in the coastal environment

Submission S431.028

Coastal Environment Officer's Report paragraphs 161 and 185

127 This submission seeks an amendment to clause (b) of policy CE-P4 so that the clause applies to sprawling or sporadic development within the rural coastal environment.

128 In the Coastal Environment Report the argument is made that clause (b) should not be changed because a concern about sprawl and sporadic development equally applies within coastal urban areas as it does in rural coastal areas. It also claims that policy 6(c) of the New Zealand Coastal Policy Statement is not limited to sporadic

development in rural coastal areas. The recommendation is to make no change to clause (b) of the policy CE-P4.

- 129 I disagree with that assessment and recommendation.
- 130 First I note that policy CE-P4 has two clauses, the first of which is specifically about consolidating land use and subdivision around existing urban centres and settlements. The second clause, logically, is about land use and subdivision outside those areas identified for consolidation in clause (a). Any potential for sprawl or sporadic development within and around existing coastal urban areas is encompassed and negated by the clause (a) action of 'consolidating'.
- 131 Second, policy 6(c) of the New Zealand Coastal Policy Statement is concerned with sprawling and sporadic development outside of existing coastal settlements and urban areas. It states
- 6(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;
- 132 Third, policy 5.1.2(a) from the Regional Policy Statement similarly distinguishes between consolidation of urban development within and around existing coastal settlements, and avoiding sprawling and sporadic development elsewhere.
- 133 In my opinion clause (b) of policy CE-P4 should be amended as sought in the submission:
- (b) avoiding sprawling or sporadic patterns of development in the rural coastal environment

Significant indigenous biodiversity

Submissions 431.093 and 431.102

S431.093 Indigenous Biodiversity Officer's Report paragraphs 129(b) and 62 to 67

S431.102 Indigenous Biodiversity Officer's Report paragraphs 169 and 177 to 179

- 134 Submission 431.093 seeks policy recognition that not all significant natural areas will be mapped and that unmapped areas that meet the

criteria for significance should, as far as practicable, have the same level of protection as mapped areas.

- 135 A recommendation made in the Indigenous Biodiversity Officer's Report is that all references to 'significant natural areas' should be removed and a general reference to 'areas of significant indigenous vegetation and significant habitats of indigenous fauna' relied on instead.
- 136 On the face of it this indirectly addresses submission 431.093 because policy protection is no longer tied to mapped sites.
- 137 There still needs to be a consistent, agreed set of criteria for identifying 'significance'.¹³ Policy IB-P1 as notified stipulates the criteria to use to identify 'areas of significant indigenous vegetation and significant habitats of indigenous fauna in clause (a) of that policy.
- 138 However the recommendation in the Indigenous Biodiversity Report includes deletion of that policy, including clause (a). This introduces uncertainty on when sub-clause ii of policy IB-P2(a), sub-clause ii of policy IB-P3, policy IB-P5, policy IB-PX(a), the second policy IB-PX, and policy IB-P10(h) will be implemented.
- 139 To remove that uncertainty, I recommend that the following parts of notified policy IB-P1 be amended and retained:
- IB-P1 Identify ~~Significant Natural Areas~~ areas of significant indigenous vegetation and significant habitats of indigenous fauna by using the ecological significance criteria in Appendix 5 of the RPA or in any more recent National Policy Statement on indigenous biodiversity.
- 140 Submission 431.102 This submission seeks the inclusion in clause a of policy IB-P5 of restrictions on primary production related explicitly to necessity for protection and enhancement of indigenous biodiversity.
- 141 Having read paragraph 179 in the Indigenous Biodiversity Report, I now accept that this submission need not be taken any further.

¹³ I note that my submission refers to, and relies on, criteria for significance which were set out in the proposed District Plan as notified. It is within the bounds of that submission to discuss the potential deletion of those criteria.

C. RULES

Coastal Environment rules and urban environments

Submissions S431.039, S431.040, S431.043, and S431.089

S431.039 Coastal Environment Officer's Report paragraphs 329 to 333

S431.040 Coastal Environment Officer's Report paragraph 369

S431.043 Coastal Environment Officer's Report paragraphs 329 to 333

S431.089 Coastal Environment Officer's Report paragraphs 455 and 460

142 These submissions seek that certain of the coastal environment rules and/or standards do not apply within urban areas:

- S431.039 – PER-4, rule CE-R1 (requirement to comply with standards CE-S1 Maximum height and CE-S2 Colours and materials)
- S431.040 – rule CE-R3, earthworks or indigenous vegetation clearance
- S431.043 – standard CE-S1, height
- S431.089 – rule SUB-R20 subdivision of site within coastal environment

143 S431.039 and S431.043 The concern is that, for urban areas in the coastal environment, the effect of requiring compliance with standards CE-S1, maximum height, and CE-S2, colours, is that the maximum height in the underlying zone is over-ridden and a control on colours is introduced.

144 The internal inconsistency of such an approach is apparent when the maximum height and the colour controls are considered for the Kororāreka Russell Township Zone, all of which is (justifiably) within the coastal environment. This zone provides a maximum permitted activity height of 7.2 metres.¹⁴ Outside the heritage areas, no colour standard applies. These long-standing bespoke provisions for

¹⁴ Standard KRT-S1

Kororāreka Russell are then over-ridden by more restrictive height and colour provisions which apply over all the coastal environment.

- 145 The over-arching resource management guidance for buildings and structures in the coastal environment is very clear – in broad summary consolidate development in urban areas, control effects on natural character outside urban areas.
- 146 The coastal environment controls on height and colour are, in my opinion, aimed at addressing potential adverse effects of buildings outside urban areas.
- 147 Within urban areas the maximum height controls can be more generous, albeit still needing to reflect specific characteristics of different urban settlements, including where heritage areas or natural hazard areas are present in an urban area. The urban zone specific provisions are the place to set height and colour standards.
- 148 Similarly, it is to be expected generally in urban areas that there can be a mix of colours and reflectivities of buildings and structures. This is in contrast to outside urban areas where buildings with more discordant colours and high reflectivities can quickly reduce existing natural character. The general coastal environment height and colour controls are the appropriate controls in these non-urban coastal areas.
- 149 I agree with the recommendations in the Coastal Environment report to amend standard CE-S1 so it does not apply to the zones set out in clauses ii¹⁵ and iii of the standard.
- 150 However, in my opinion, these exceptions have some important omissions which should be corrected. The first is that clause ii, providing an exemption from standard CE-S1 does not apply to the Mixed Use zone at Kororāreka Russell.
- 151 The second is that General Residential zoned areas in the coastal environment is not included. I do note that the Far North District Council considers that it necessary to undertake further analysis of each of the areas of General Residential zone within the coastal environment to determine whether the 5 m or the 8 metre permitted

¹⁵ I note the mis-spelling of Orongo in recommended clause ii of standard CE-S1.

activity height should apply. I see no reason why this work should be deferred to some later plan change. Rather the District Council should undertake that assessment now, and present evidence setting out which height limit should apply in which area General Residential zone.

- 152 S431.040 This submission seeks to limit the coastal environment rule CE-R3 on earthworks and indigenous vegetation clearance within the coastal environment so that it does not apply within urban areas.
- 153 There is a similar issue where a coastal environment rule overrides the particular rule applying in the urban zones in the coastal environment.
- 154 For earthworks urban zones generally have a maximum permitted activity volume of 200 cubic metres and a maximum area of 2,500 square metres.¹⁶ The coastal environment earthworks standards are recommended with a different earthworks area limit of 100 square metres within a calendar year outside areas of outstanding or high natural character.¹⁷
- 155 Once again the coastal environment earthworks area controls override the limit set for the Kororāreka Russell Township zone, a zone entirely within the coastal environment.
- 156 This difference is something that should be revisited when submissions to the Earthworks Chapter are heard.
- 157 The Coastal Environment and Indigenous Biodiversity Reports between them recommend relatively significant changes to the indigenous vegetation clearance provisions compared to what was notified.
- 158 Under the operative District Plan there are two permitted activity rules that apply in urban areas. There is no control on indigenous vegetation clearance on an urban environment site, and a maximum of 500 square metres on a site otherwise.

¹⁶ Standard EW-S1, this is the same permitted activity volume as applies in the operative District Plan.

¹⁷ Standard CE-S4

- 159 The 'urban environment' site exception comes from section 76 of Act¹⁸ with 'urban environment allotment' allotment defined in clause 4C of this section. The definition of 'urban environment' is not met for urban lots at Kororāreka Russell because of the general absence of a reticulated water supply. Other General Residential zoned land which is also in the coastal environment will also not meet the definition either because of the absence of a reticulated sewerage system or a reticulated water supply or both.¹⁹
- 160 In my experience the operative rule standard of maximum cleared area on an urban allotment before a resource consent is required is an unsatisfactory approach as many urban sections already have more than 500 square metres of cleared area, meaning (strictly) that a resource consent would be required to remove any single piece of indigenous vegetation.
- 161 Therefore, I agree with the approach set out in CE-S3(2) and IB-R3(2) which sets maximum areas of indigenous vegetation that can be cleared as a permitted activity.
- 162 The maximum annual permitted activity clearance of indigenous vegetation in the coastal environment is 50 square metres. In the Indigenous Biodiversity rule the maximum annual permitted activity clearance is 100 square metres for urban areas. The stricter standard applying with the coastal environment overlay reflects, in my opinion, the stricter biodiversity provisions in the New Zealand Coastal Policy Statement.
- 163 Submission S431.089 This submission concerns rule SUB-R20, a rule making any subdivision of a site²⁰ within the coastal environment is a

¹⁸ Although note that section 76(4A) is a rule relating to both indigenous and exotic trees, not indigenous vegetation. Vegetation is more than just trees.

¹⁹ A note to the indigenous biodiversity rules states
4. This chapter does not apply to indigenous vegetation clearance in urban environment allotments.
This is not reflected in the rules – the relevant rules IB-R1 and IB-R3 applies to “All Zones”. A solution would be to revise IB-R3 PER-1(2)(ii) to read
All other zones – 100 m² except for urban environment allotments where this rule does not apply

²⁰ Excluding Outstanding Natural Character Areas which are the subject of rule SUB-21.

discretionary activity. The submission seeks that this rule not apply to urban areas in the coastal environment.

164 Mr Lee offers the following reasoning in support of retaining rule SUB-R20 unchanged:

The rules provide a more stringent activity status for subdivision than in the underlying zone, recognising the greater potential for adverse effects on the coastal environment resulting from subdivision (particularly the associated land-use activities that subdivision typically enables). (from paragraph 459 of the Coastal Environment Officer's Report)

165 I generally agree with this reasoning.

166 A more stringent activity status for subdivision in the coastal environment than the underlying zone follows from addressing section 6(a) the Act, of the Act within the limiting confines of national planning standards that largely preclude coastal environment specific zones.

167 I say 'largely preclude coastal environment specific zones' because there is one specific coastal environment specific urban zone – the Kororāreka Russell Township Zone. This already has subdivision standards set that are appropriate and that, among other things, reflects the coastal location.

168 Further more stringent activity status for subdivision in urban parts of the coastal environment is at odds with the clear policy direction to consolidate settlement in a round existing urban settlements.

169 In my opinion, this means that SUB-R20 should not apply to Kororāreka Russell Township Zone.

170 There are other zones where SUB-R20 may produce an unintended result. For example the areas zoned Mixed Use that are also within the coastal environment. Or the areas of General Residential that are also within the coastal environment.²¹

²¹ Noting that specific General Coastal areas in the coastal environment are yet to be identified following further study by the District Council.

- 171 I conclude that SUB-R20 should apply to all zones except General Residential, Mixed Use, Light Industrial, Kororāreka Russell Township Zone,²² Māori Purpose Zone -Urban, and Hospital Zone.

Submission by Robert Adams

Submission S150.001

S150.001 Coastal Environment Officer's Report paragraph 50 and 68

- 172 Submission 150.001 by Robert Adams seeks to amend coastal environment overlay provisions so these do not apply to urban areas and houses on rear lots at Long Beach in the Rural Lifestyle Zone.
- 173 Mr Adams owns one of those Rural Lifestyle zoned houses on the rear lots at Long Beach.
- 174 There is very steep land rising behind Long Beach which largely confines housing along the middle and eastern end of the beach to two rows of housing along the flatter toe of the ridge.²³
- 175 There is no difference in the appearance and scale of this residential development at Long Beach that would indicate that the row of houses closest to the beach is in one zone and the row of houses immediately behind are in another zone.
- 176 The second row of properties are on long thin lots between the flat land at the beach and the top of the ridge behind. The different zoning of this land was in place in at least the second review Bay of Islands District Scheme. My understanding is that the planning concern is that there are stability issues and (there were) on-site disposal issues with these lots that precluded a full urban residential zone. The steepness of lots other than flatter land at the toe of the slope also makes more intense development difficult and at a greater risk of adverse natural character and visual impacts. It is appropriate for these reasons that subdivision and more intense development should be limited on these

²² I note this zone is incorrectly identified as "Russell/Kororareka Special Purpose Zone' in rule CE-R1.

²³ At the western end of Long Beach housing spreads over the saddle connecting Long Beach to the rest of Kororāreka.

sites. In that regard I support the Rural Lifestyle zoning of this land and the coastal environment overlay.

- 177 However, given the clear association of the existing development of these lots with immediately adjoining development of land zoned Kororāreka Russell Township I consider that it is appropriate for
- PER-1 of rule CE-R1 (new buildings or structures) to apply to the Rural Living zoned lots at Long Beach,
 - standard CE-S1, height, to not apply to Rural Living zoned lots at Long Beach, and
 - standard CE-S2, colours and materials, to not apply to Rural Living zoned lots at Long Beach.

Setback from mean high water spring

Submissions S431.023 and S431.138

Coastal Environment Officer's Report paragraphs 481 and 494

- 178 Submission S431.138 seeks that the activity status for buildings or structures setback less than 20 metres from the coastal marine area or from rivers or lakes be a non-complying activity status.
- 179 Submission S431.138 applies S431.138 seeks the same for the specific instance of the Kororāreka Russell Township zone.
- 180 The concern is that this first 20 metres inland from the line of mean high water spring is the area that could potentially become esplanade reserve or strip in the future. Locating buildings or structures within this 20 metres can compromise any future esplanade reserve or strip.
- 181 Other reasons for discouraging buildings or structures within 20 metres of the coastal marine area and along rivers and lakes is the higher indigenous biodiversity values and the public access and recreation benefits of such riparian areas.
- 182 Currently the proposed District Plan provides for any structures or buildings within the (26 or 30 metre) setback from mean high water

spring as a restricted discretionary activity, with 6 matters of discretion identified.

- 183 These matters do not include, or provide for, in full the purposes for an esplanade reserve set out in section 229 of the Act

229 Purposes of esplanade reserves and esplanade strips

An esplanade reserve or an esplanade strip has 1 or more of the following purposes:

- (a) to contribute to the protection of conservation values by, in particular,—
 - (i) maintaining or enhancing the natural functioning of the adjacent sea, river, or lake; or
 - (ii) maintaining or enhancing water quality; or
 - (iii) maintaining or enhancing aquatic habitats; or
 - (iv) protecting the natural values associated with the esplanade reserve or esplanade strip; or
 - (v) mitigating natural hazards; or
- (b) to enable public access to or along any sea, river, or lake; or
- (c) to enable public recreational use of the esplanade reserve or esplanade strip and adjacent sea, river, or lake, where the use is compatible with conservation values.

- 184 Policy 5.1.2(b) of the Regional Policy Statement essentially repeats these purposes.

- 185 Given standard CE-S4 is a restricted discretionary activity rule, and given the desirability of a strong signal that buildings and structures should be avoided within 20 metres of mean high water spring for the reasons set out above, I recommend that standard CE-S4 be amended so that any new building or structure or extension or alteration to an existing building or structure is setback 20 metres or less from mean high water spring is a discretionary activity.

CE-S4 Activity status where the standard is not met and the setback is more than 20 metres from MHWS, restricted discretionary with matters of discretion are restricted to ...
Activity status where the setback is 20 metres or less from MHWS discretionary activity

- 186 A much less satisfactory alternative would be to add a further matter of discretion to the standard

achieving the purposes of esplanade reserves or strips

- 187 Finally, I note that submission S431.138 is seeking the same non-complying activity status for buildings and structures within the 20 metre setback from rivers and lakes. This means the submission applies to rule NATC-R1. The submission is not discussed in the Natural Character Report.
- 188 Rule NATC-R1 differs from standard CE-S4 because it is limited to the activities listed in PER-2 to that report, many of which, by their nature, must occur within 20 metres of the river or lake.
- 189 Given that, for rule NATC-R1, I recommend an amendment to PER-3 of that rule, to the activity status of PER-3, is not complied with, and to the matters of discretion:

PER-3 The building or structure on wetland, lake and river margins is no greater than 300m² of which no more than 50m² of building or structure is located within 20 metres of the wetland, lake or river

Activity status where compliance not achieved with PER-2, ~~PER-3~~ and PER- 4: Restricted Discretionary

Matters of discretion are restricted to: ...

d. the purposes of esplanade reserves or strips

Activity status where compliance not achieved with PER-3: Discretionary

*Rule IB-R1*Submissions S431.104, S431.105, S431.107

S431.104 Indigenous Biodiversity Officer's Report paragraphs 263 and 275

S431.105 Indigenous Biodiversity Officer's Report paragraphs 267, 271 row 6 in table, and 277 row 6 in table

S431.106 Indigenous Biodiversity Officer's Report paragraphs 267 and 277 row 7 in table

- 190 S431.104 This submission seeks that the list of permitted clearances of indigenous vegetation listed in PER-1 in rule IB-R1 commences with the words

The pruning, trimming or clearance is the minimum necessary and is for one of the following

- 191 I agree with the assessment and commentary in the Indigenous Biodiversity Report on this submission, and with the recommendation to amend the commencement to PER-1 as set out in the rule in Appendix 1.1 of the Indigenous Biodiversity Report.
- 192 S431.105 This submission seeks that clause 6 of rule IB-R1 PER-1 – which provides for permitted activity clearance of indigenous vegetation around buildings – only apply to lawfully established existing buildings. The clause allows the permitted activity clearance for 20 metres around the building.
- 193 The assessment in the Indigenous Biodiversity Report is that no change should be made to the clause. The expressed concern is that the purpose of clause – to allow clearance around a building to reduce wildfire risk – would not be achieved with new buildings if it only applied to existing buildings.
- 194 I agree the proposed District Plan needs to address wildfire buffer around new buildings as well as existing buildings.
- 195 Rules NH-R5 and NH-R6 provide for buildings used for a vulnerable activity as a permitted activity where the (new) building (including extensions and alterations) is 'set back at least 20 metres from the dripline of any contiguous scrub or shrubland, woodlot or forestry'.
- 196 Locating any such building closer to the dripline would require a discretionary consent under rule NH-R5 or a restricted discretionary consent under rule NH-R6. I would expect that any consent would either allow clearance to create and maintain a 20 metre buffer or allow the building subject to the creation and maintenance of a lesser distance or refuse consent for the building in the applied for position.²⁴
- 197 Clause 6 of rule IB-R1 PER-1 and these two wildfire hazard rules need to work together. This can be achieved, in my opinion, if clause 6 was revised to provide for clearing around existing authorised buildings and rules NH-R5 and NH-R6 relied on to ensure new buildings and extensions are either located more than 20 metres from the edge of

²⁴ Refusing consent for a building within 20 metres of the dripline of shrubland, etc., still leaves the option of locating the building more than 20 metres away as a permitted activity.

indigenous vegetation or have a specific consent to clear around the building.

6. To create or maintain a 20m setback from a existing lawfully established building used for a vulnerable activity (excluding accessory buildings) to the edge of the indigenous vegetation area.

198 Where any existing or new building is located or constructed more than 20 metres away from an area of indigenous vegetation, clause 10 of IB-R1 PER-1 would allow a 20 metre buffer to be maintained as a permitted activity.

199 S431.106 This submission seeks that the permitted activity allowance for clearance of up to 1,000 square metres of indigenous vegetation for a single residential unit on an existing lot²⁵ is qualified so it does not apply where the clearance is of significant indigenous vegetation or significant indigenous habitat.²⁶

200 The Indigenous Biodiversity Reporting Officer states, in relation this submission

I consider that it is appropriate to allow for vegetation clearance for a residential unit on an existing title as permitted activity rather than controlled activity as requested by some submitters. I note that this intent is broadly aligned with the NPS-IB exemption relating to single residential dwellings on existing lots²⁴. In this respect, I consider that it is appropriate to retain the focus on a “single residential unit and essential on-site infrastructure and access” rather than an “approved building platform” as requested by some submitters. I also consider that a limit of 1,000m² is appropriate as a permitted activity standard (rather than 2,000m² as requested by some submitters) as this would accommodate a large house, garage and access. Where more than 1,000m² of clearance is required (for example for a long accessway), then indigenous vegetation clearance thresholds in the other rules will apply which is appropriate in my view. (paragraph 277 row 7, Indigenous Biodiversity Officer's Report)

²⁵ IB-R1 PER-1(7)

²⁶ The submission actually refers to not being within a Significant Natural Area. The recommendation in the Indigenous Biodiversity Report is to delete references to Significant Natural Areas, and using the reference 'areas of significant indigenous vegetation and significant habitats of indigenous fauna' instead – see for example the recommended amendments to IB-O1, IB-O3 and IB-P2.

201 In my opinion, it is incorrect to assert that the 1,000 square metre permitted activity clearance for a single residential unit broadly aligns with the National Policy Statement for Indigenous Biodiversity.

202 This National Policy Statement, in providing for a single residential unit on an existing lot, includes qualifications to that construction which, in my opinion, precludes providing for it as a permitted activity:

3.11(2) Clause 3.10(2) does not apply, and any adverse effects on an SNA of a new use or development must be managed in accordance with clause 3.10(3) and (4), if:

- (a) the new use or development is associated with a single residential dwelling on an allotment created before the commencement date; and
- (b) there is no practicable location within the allotment where a single residential dwelling and essential associated on-site infrastructure can be constructed in a manner that avoids the adverse effects specified in clause 3.10(2).

203 Clauses 3.10(2) and (3) require any adverse effects on indigenous vegetation or indigenous habitat that meets the criteria for Significant Natural Areas to be managed using the effects management criteria. An applicant must demonstrate how each step of the effects management hierarchy will be applied.

204 Clearly the requirements on an applicant for a single residential unit on an existing lot to demonstrate there is no practicable location that avoids effects on significant indigenous biodiversity and to apply the effects management hierarchy precludes providing for this as a permitted activity where it involves clearance of areas of significant indigenous vegetation or significant habitat of indigenous fauna.²⁷

205 It is therefore necessary to qualify provision IB-R1 PER-1(7) to ensure that the National Policy Statement on Indigenous Biodiversity is given effect to:

- 7. To allow for the construction of a single residential unit on an existing title and essential associated on-site

²⁷ At paragraph 139 of this statement I recommend an amended policy IB-P1 which establishes the criteria to determine if an area of indigenous vegetation or a habitat of indigenous fauna is significant or not.

infrastructure and access and it does not exceed 1,000m²
and there is no clearance of areas of significant indigenous
vegetation or significant habitats of indigenous fauna.

- 206 Where this is not met a discretionary activity consent would be required under rule IB-R3, indigenous vegetation clearance and any associated land disturbance.



John Andrew Riddell