

Attention: Alicia Taihia
District Plan Team

Kerikeri Service Centre
13 NOV 2024
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13 November 2024

Robert Scott
Far North Proposed District Plan
Hearings Panel Chairperson

REF: DRAFT MINUTE 14 OF THE INDEPENDENT HEARING PANEL

My name is Doug Schmuck and I have raised among other matters, submissions S21.001 & .002 and S185.001 concerning rezoning for Panel consideration.

In review of the panel's draft minute 14 and its subsequent reversal of PDP protocol regarding "Submitter's responsibility" of proof; in compliance to environmental standards under the authority of section 32 of the RMA '91; I believe, with respect, that the Panel should take the following points into further consideration.

1. That regardless of what other Council Planning Teams have done in this regard, the FNDC does not escape the authority of other statutes that are affected by and/or in conjunction with sections 30 & 31 of the RMA '91; (attached as "A" & "B").
2. That as I understand the PDP, it is activity based where requested rezoning changes are already likely conjoined with the parameters of section 32 through previously notified processes pursuant to the RMA and therefore stand on their merits without any required substantive reconsideration by the panel and/or indeed the FNDC.
3. That recommendations by the Panel should not sway that far in opposite directions with the statutory directions of the Central Government where PDP zoning is in any form espoused in process before the judiciary for which the FNDC is not a party.
4. That historical "Cross Boundary" matters between the Regional Council and FNDC should be set aside as unique to that "Activity" in relationship to any proposed zoning that has not taken that fact into account.
5. That any proposed zoning not within the authoritative boundaries of the FNDC, should as a matter of course, be expunged from PDP, so that submitters are not on account of this discretionary assertion, be required to justify ancillary argument with any planning notion by which they were originally established in the PDP.

I therefore suggest the contrary assumption to the Panel's assertion, that the Panel exercise a form of careful due diligence when presented with a submission that in any way strikes one or more of the above planning points; and that the Panel amend their minute 14 draft to clarify those discretions accordingly.

Kind regards

Doug Schmuck

For: Doug's Opua Boatyard



"A"

New Zealand Legislation

Resource Management Act 1991

If you need more information about this Act, please contact the administering agency: **Ministry for the Environment**

- Warning: Some amendments have not yet been incorporated

Functions, powers, and duties of local authorities

30 Functions of regional councils under this Act

- (1) Every regional council shall have the following functions for the purpose of giving effect to this Act in its region:
 - (a) the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the natural and physical resources of the region:
 - (b) the preparation of objectives and policies in relation to any actual or potential effects of the use, development, or protection of land which are of regional significance:
 - (ba) the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in relation to housing and business land to meet the expected demands of the region:
 - (c) the control of the use of land for the purpose of—
 - (i) soil conservation:
 - (ii) the maintenance and enhancement of the quality of water in water bodies and coastal water:
 - (iii) the maintenance of the quantity of water in water bodies and coastal water:
 - (iii)a) the maintenance and enhancement of ecosystems in water bodies and coastal water:
 - (iv) the avoidance or mitigation of natural hazards:
 - (v) *[Repealed]*
 - (ca) the investigation of land for the purposes of identifying and monitoring contaminated land:
 - (d) in respect of any coastal marine area in the region, the control (in conjunction with the Minister of Conservation) of—
 - (i) land and associated natural and physical resources:
 - (ii) the occupation of space in, and the extraction of sand, shingle, shell, or other natural material from, the coastal marine area, to the extent that it is within the common marine and coastal area:
 - (iii) the taking, use, damming, and diversion of water:
 - (iv) discharges of contaminants into or onto land, air, or water and discharges of water into water:
 - (iva) the dumping and incineration of waste or other matter and the dumping of ships, aircraft, and offshore installations:
 - (v) any actual or potential effects of the use, development, or protection of land, including the avoidance or mitigation of natural hazards:
 - (vi) the emission of noise and the mitigation of the effects of noise:
 - (vii) activities in relation to the surface of water:
- (e)

the control of the taking, use, damming, and diversion of water, and the control of the quantity, level, and flow of water in any water body, including—

- (i) the setting of any maximum or minimum levels or flows of water:
 - (ii) the control of the range, or rate of change, of levels or flows of water:
 - (iii) the control of the taking or use of geothermal energy:
- (f) the control of discharges of contaminants into or onto land, air, or water and discharges of water into water:
- (fa) if appropriate, the establishment of rules in a regional plan to allocate any of the following:
- (i) the taking or use of water (other than open coastal water):
 - (ii) the taking or use of heat or energy from water (other than open coastal water):
 - (iii) the taking or use of heat or energy from the material surrounding geothermal water:
 - (iv) the capacity of air or water to assimilate a discharge of a contaminant:
- (fb) if appropriate, and in conjunction with the Minister of Conservation,—
- (i) the establishment of rules in a regional coastal plan to allocate the taking or use of heat or energy from open coastal water:
 - (ii) the establishment of a rule in a regional coastal plan to allocate space in a coastal marine area under Part 7A:
- (g) in relation to any bed of a water body, the control of the introduction or planting of any plant in, on, or under that land, for the purpose of—
- (i) soil conservation:
 - (ii) the maintenance and enhancement of the quality of water in that water body:
 - (iii) the maintenance of the quantity of water in that water body:
 - (iv) the avoidance or mitigation of natural hazards:
- (ga) the establishment, implementation, and review of objectives, policies, and methods for maintaining indigenous biological diversity:
- (gb) the strategic integration of infrastructure with land use through objectives, policies, and methods:
- (h) any other functions specified in this Act.
- (2) A regional council and the Minister of Conservation must not perform the functions specified in subsection (1)(d)(i), (ii), and (vii) to control the taking, allocation or enhancement of fisheries resources for the purpose of managing fishing or fisheries resources controlled under the Fisheries Act 1996.
- (3) However, a regional council and the Minister of Conservation may perform the functions specified in subsection (1)(d) to control aquaculture activities for the purpose of avoiding, remedying, or mitigating the effects of aquaculture activities on fishing and fisheries resources.
- (4) A rule to allocate a natural resource established by a regional council in a plan under subsection (1)(fa) or (fb) may allocate the resource in any way, subject to the following:
- (a) the rule may not, during the term of an existing resource consent, allocate the amount of a resource that has already been allocated to the consent; and
 - (b) nothing in paragraph (a) affects section 68(7); and
 - (c) the rule may allocate the resource in anticipation of the expiry of existing consents; and
 - (d) in allocating the resource in anticipation of the expiry of existing consents, the rule may—
 - (i) allocate all of the resource used for an activity to the same type of activity; or
 - (ii) allocate some of the resource used for an activity to the same type of activity and the rest of the resource to any other type of activity or no type of activity; and
 - (e) the rule may allocate the resource among competing types of activities; and
 - (f) the rule may allocate water, or heat or energy from water, as long as the allocation does not affect the activities authorised by section 14(3)(b) to (e).
- (5) In this section and section 31,—

business land means land that is zoned for business use in an urban environment, including, for example, land in the following zones:

- (a) business and business parks:
- (b) centres, to the extent that this zone allows business uses:
- (c) commercial:
- (d) industrial:
- (e) mixed use, to the extent that this zone allows business uses:
- (f) retail

development capacity, in relation to housing and business land in urban areas, means the capacity of land for urban development, based on—

- (a) the zoning, objectives, policies, rules, and overlays that apply to the land under the relevant proposed and operative regional policy statements, regional plans, and district plans; and
- (b) the capacity required to meet—
 - (i) the expected short and medium term requirements; and
 - (ii) the long term requirements; and
- (c) the provision of adequate development infrastructure to support the development of the land

development infrastructure means the network infrastructure for—

- (a) water supply, wastewater, and storm water; and
- (b) to the extent that it is controlled by local authorities, land transport as defined in section 5(1) of the Land Transport Management Act 2003.

Section 30 heading: amended, on 20 August 1998, by section 9 of the Resource Management Amendment Act 1994 (1994 No 105).

Section 30(1)(ba): inserted, on 19 April 2017, by section 12(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 30(1)(c)(iia): inserted, on 1 August 2003, by section 9(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 30(1)(c)(v): repealed, on 19 April 2017, by section 12(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 30(1)(ca): inserted, on 10 August 2005, by section 11(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 30(1)(d)(ii): replaced, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 30(1)(d)(iva): inserted, on 20 August 1998, by section 9 of the Resource Management Amendment Act 1994 (1994 No 105).

Section 30(1)(d)(v): amended, on 19 April 2017, by section 12(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 30(1)(fa): inserted, on 10 August 2005, by section 11(2) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 30(1)(fb): inserted, on 10 August 2005, by section 11(2) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 30(1)(ga): inserted, on 1 August 2003, by section 9(2) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 30(1)(gb): inserted, on 10 August 2005, by section 11(3) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 30(2): replaced, on 1 October 2011, by section 9 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 30(3): replaced, on 1 October 2011, by section 9 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 30(4): inserted, on 10 August 2005, by section 11(4) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 30(5): inserted, on 19 April 2017, by section 12(4) of the Resource Legislation Amendment Act 2017 (2017 No 15).



"B"

New Zealand Legislation

Resource Management Act 1991

If you need more information about this Act, please contact the administering agency: **Ministry for the Environment**

- Warning: Some amendments have not yet been incorporated

31 Functions of territorial authorities under this Act

- (1) Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:
- (a) the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district:
 - (aa) the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in respect of housing and business land to meet the expected demands of the district:
 - (b) the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of—
 - (i) the avoidance or mitigation of natural hazards; and
 - (ii) *[Repealed]*
 - (iia) the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land:
 - (iii) the maintenance of indigenous biological diversity:
 - (c) *[Repealed]*
 - (d) the control of the emission of noise and the mitigation of the effects of noise:
 - (e) the control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes:
 - (f) any other functions specified in this Act.

- (2) The methods used to carry out any functions under subsection (1) may include the control of subdivision.

Section 31 heading: amended, on 7 July 1993, by section 22 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 31(1)(aa): inserted, on 19 April 2017, by section 13(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 31(1)(b): replaced, on 1 August 2003, by section 10(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 31(1)(b)(ii): repealed, on 19 April 2017, by section 13(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 31(1)(b)(iia): inserted, on 10 August 2005, by section 12 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 31(1)(c): repealed, on 1 August 2003, by section 10(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 31(2): inserted, on 1 August 2003, by section 10(2) of the Resource Management Amendment Act 2003 (2003 No 23).