

**Before the Independent Hearings Panel
Far North District Council**

Under: the Resource Management Act 1991

In the matter of: Submissions and further submissions in relation to the proposed Far North District Plan

And: Submission 551, 585

And: **Lucklaw Farm Limited**

**Statement of Evidence of John Sturgess for Lucklaw Farm Ltd
(submission 551, 585)**

Dated: 2 August 2024

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Introduction

1. My full name is John Gilbert Sturgess.
2. I am a director of Lucklaw Farm Limited (“**Lucklaw**”), who owns the property behind Puwheke Beach on the Karikari Peninsula in the Far North (“the **farm**”). My wife (Andrea Sturgess) and I are the shareholders of Lucklaw.

Purpose / scope of evidence

3. The purpose of this submission is to support the submission by Lucklaw (S585) which requests a comprehensive rule in the district plan which controls the use of vehicles on beaches by vehicles. This Statement also covers the relevant parts of the associated S551 submission (551.002 to 551.006).
4. Andrea and I are concerned about the rapidly increasing numbers of vehicles operating above the Mean High Water Level (MHWL) at Puwheke Beach. Our farm house is located on a headland at the western end of the beach and has a view of the 3 km long beach and adjoining farm areas. At night the vehicle lights from the vehicles and camp fires are also quite visible on the other close by beaches.
5. These vehicle increase concerns have been raised over a number of years with the Authorities. We have supplied the Authorities with their requested reports and photographic photographic evidence of the offenders and the resulting damage that was caused.
6. The Northland Regional Council (NRC) has acted to address the Vehicles on Beaches problem in part by introducing Vehicle Exclusion Zones (VEZ), which included Puwheke Beach.
7. The Department of Conservation (DOC) has also acted in part by introducing Freedom Camping bans, which included Puwheke Beach.
8. The Far North District Council (FNDC), while it has been acknowledged that there is a problem, has not acted to date to control vehicle use on Puwheke Beach.

Lucklaw Farm

9. Lucklaw purchased the Puwheke farming block's in early 2016, although my wife and I have a far longer association with the Karikari Peninsular area.
10. The farm is running increasingly on a lower productivity and profitability basis as a result of the increasing burden being placed by the Authorities with regard to water quality and conservation of the farm land and the increasing rates which are now up around \$35,000 per annum.

Puwheke Beach

11. On the western side of Puwheke Hill is the beach referred to as Puwheke (or Puheke) Beach and on the eastern side of the Hill is Karikari Beach.
12. Puwheke Beach is accessed through Puheke Road which passes along the south-eastern side of Lake Rotokawau's marginal strip. A topographical map of the area is shown below:



13. The farm houses are the black dots on the headland at the western end of Puwheke beach. The farm house gate entrance is located at Rangiputa. A private road that comes of Puheke Road allows access to the centre block of the farm. The main 4WD track that has been formed by the public through the Puwheke Beach dunes is shown as a black dotted line.

Effects of vehicle access on beach and dunes.

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14. The primary visible effect is from direct contact of the vehicle tyres with the flora and fauna. This has opened up wide area's of no vegetation especially in the central wetlands area and the seaward side of the western end dunefields.
 15. The lack of vegetation cover results in sand being blown onto the farms smothering our pasture and the wetlands that are located behind the dunes.
 16. The farm had historically been responsible for the management of the marginal strip. The immediate previous owner had undertaken extensive planting of native trees over both beach and lake and marginal strip areas. The back of the eastern dunes was planted out with Pohutukawa and Flax. These are now being smothered by the sand.

Effects on endangered birdlife

17. Andrea and I have observed a decline in successful dotterel nesting during our time at Puwheke Beach. In November 2022 when Boffa Miskell were carrying out a an ecological survey of the ecological values at Puwheke beach and dune are study they also observed a nest that had been nearly run over. ¹
18. Boffa Miskell concluded that Puwheke Beach has very high ecological values and that Puwheke Beach should be added to the list of beaches excluded to uncontrolled vehicle use in Northland.

Ecology report – Dr Gareth Taylor

19. I refer to the statement of evidence of Dr Gareth Taylor, ecologist, who notes the presence of important threatened and at-risk species at Puwheke Beach.
20. Dr Taylor notes that the addition of the Vehicle Exclusion Zone by Northland Regional Council will concentrate vehicle use landward side of MHWS.

¹ Bundle of documents, document 1.

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21. Dr Taylor's evidence describes the adverse effects caused by vehicles on beaches on vegetation and by disturbing shorebirds, particularly in key life stages such as nesting.
 22. Dr Taylor concludes that to retain the very high ecological value of Far North beaches such as Puwheke Beach, that further management of vehicles on the beach and dunes is required.
 23. Included in the bundle of documents accompanying this statement of evidence is a copy of the key correspondence with government agencies.²

Increase Vehicle use over and since the Covid travel restriction period

24. Vehicle use at Puwheke Beach noticeably increased during and since the Covid lockdown periods. Some beaches were 'closed' to recreational activities during the COVID period of lockdown which lead to displacement of people and vehicles to Puwheke. Eventually the Northland Regional Council and/or the Department of Conservation carried out works to erected a barrier to prevent vehicle access to Puwheke beach.
25. After lockdown the FNDC insisted that this barrier be removed and DOC rearranged the barrier, to 'channel' vehicles onto the beach. This action led to a rapid increase in the number of vehicle crossing the Puwheke marginal strip as the public perception was that this channelled marginal strip vehicle crossing was now a permitted activity and had the blessing of all the Authorities. The beach has become a hub for both commercial and recreational vehicles to park and conduct activities. The drivers of these vehicles have colonised multiple new vehicle access points and parking places into the Crown and the Lucklaw Farm owned dune systems.³

Need for RMA's rules restricting vehicles on beaches in the Far North

26. Lucklaw was a late joining party to an Environment Court proceeding in relation to the Northland Regional Council Proposed Regional Plan. The outcome of that proceeding, *Bay of Islands Maritime Park Incorporated v Northland Regional Council* [2023] NZEnvC 133⁴, was a consent order

² Bundle of documents, documents 6 – 12.

³ A copy of the DoC contract for this 'minor works' was subsequently obtained by Lucklaw Farm via the OIA process, refer bundle of documents, document 13.

⁴ Bundle of documents, document 18.

establishing a Vehicle Exclusion Zone (**VEZ**) across beaches including Puwheke Beach, prohibiting the use of vehicles on beach (with limited exceptions)⁵.

27. However, the limitation of the VEZ rules and the regional plan is that it only applies to the strip from mean high-water springs to generally around 50 metres seaward of mean high-water springs. This is acknowledged in the Court's consent order:⁶

"The management of the full beach area, including dunes and adjoining areas, requires broader inter-agency management, including operational management (e.g., signage). The Council is willing to work with other regulators in that space to achieve integrated management and ensure that the full beach area is managed effectively."

28. The farm's ecological advisors and ourselves are concerned about the flow on adverse effects caused by vehicles, not just to the top part of the beach but also the mobile dunes and the geological systems at Puwheke Beach, eg;

- a. Disturbance of the peaceful enjoyment of the beach environment, for example disturbance to walking.
- b. Damage to historic heritage and sites of significance to New Zealanders. There are numerous sites of archaeological significance at Puwheke Beach. Attached in the bundle of documents are maps showing the recorded sites, and also a report from ASL Archaeology Solutions Ltd detailing some of the recorded sites that relate to Lucklaw Farm consents that it holds for operations in the dune areas.⁷
- c. Heritage New Zealand has been notified of further sites and we understand is awaiting funding to start investigations.

⁵ Northland Regional Council – Proposed Regional Plan (Appeals version), rule C.1.5.1, refer bundle of documents, document 23.

⁶ *Bay of Islands Maritime Park Incorporated v Northland Regional Council* [2023] NZEnvC 133 at [34].

⁷ Bundle of documents, documents 3 - 5.

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29. I attach in the bundle of documents to this statement photos showing birdlife at Puwheke Beach and vehicle usage that I observed in the first half of 2023.

Road Use Bylaw 2022

30. In 2022, as part of the district bylaw review process under the Land Transport Act (LTA) and the Local Government ACT (LGA), there was a process for feedback in 2021 to the use of vehicles on beaches in the Far North District. I made both written and oral submission's to that bylaw review in March 2022, as did approximately 80 others.
31. During the consultation process for the bylaw, a Facebook post by FNDC incorrectly implied that the bylaw would prohibit vehicle usage on all beaches in Far North District. A news article regarding the confusion created by the Facebook post is attached in the bundle of documents to this statement. .⁸
32. In the FNDC staff analysis of submissions and recommendations report⁹ a large number of submissions (60) were deemed to be outside of the scope of the bylaw review as these had arisen after the incorrect Facebook post.
33. Later, Far North District Council adopted a new Road Use Bylaw for the district which purported to cover vehicle use on all beaches in the Far North. This came into force on 19 May 2022.
34. In their 2022 Road Use Bylaw 2022 a Beach is defined the foreshore being any area covered and uncovered by the ebb and flow of the tide, and any adjacent area which can reasonably be considered part of the beach environment including areas of sand, pebbles, shingle, dunes or coastal vegetation, but does not include any private property or land administered by the Department of Conservation.
35. The FNDC Bylaw at present only relates to vehicles not being able to drive on Coopers Beach. I understand that the FNDC administer all the Beach portion's of that piece of Crown Land, which makes the listing of this beach in the Bylaw schedules possible.

⁸ Bundle of documents, document 16.

⁹ Bundle of documents, document 17.

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36. The FNDC also administer under the LGA the portions of Puwheke Beach between MHWS and MLWS but they do not control the adjacent area's of DOC and private land. Thus their ability to add Puwheke Beach and the adjacent Karikari Bay beaches to the scheduled beaches in the bylaw is not possible.
37. I understand that the FNDC Road Controlling Authority (RCA) are contracted by DOC to be their RCA. The issue of who pays for these roads that are constructed by the FNDC on DOC administered land is the local ratepayers, including Lucklaw Farm.

Outcome sought on Overlays / Mapping Submission (551)

38. The submission S551.001 is a zoning submission not related to the Coastal Environment (CE) overlay and thus is not an outcome sought at this Hearing.
39. For the S551 subpoints (S551.002 to S551.06) Lucklaw Farm is seeking that the overlays for the FNDC Proposed District Plan (PDP) to be mapped in a way which gives effect to the higher order planning instruments namely, the Northland Regional Policy Statement, and that any necessary changes or consequential amendments to objectives, policies and provisions are incorporated into the FNDC PDP.

S551.002 and S551.003

40. The outcome sought is to have the PDP mapping match the NRC Regional Policy Statement mapping, which is currently not aligned.
41. The position of the FNDC appears to be: ¹⁰

My understanding is that the PDP map of ONC 44 has been trimmed to align with the existing vegetation whereas extend the coastal environment overlay mapping extends to MHWS. In my view, the boundary of ONC 44 should align with the boundary of the coastal environment overlay consistent with the RPS. I note that this appears to be a wider mapping

¹⁰ Coastal Environment s 42A staff report at 129.

issue in terms of how some of these overlays align with the coastal environment overlay and MHWS.

42. Lucklaw Farm do not support this reasoning as the vegetation cover on the undamaged areas of the beach still coincides within about 20m of MHWS. The mapping inconsistency looks to relate to the mapped Ngai Takato Settlement Act boundary.

S551.003

43. Lucklaw Farm supports the FNDC finding that the ONC and HNC mapping in the Beach area needs reviewing.

S551.004

44. Lucklaw Farm Limited (S551.004) has concerns with the accuracy and spatial extent of the ONC and HNC areas mapped within the PDP, specifically those identified within the “subject site” and the adjoining Puwheke Beach. To address this concern, Lucklaw Farm Limited requests that ground-truthing is undertaken to ensure the PDP maps accurately reflect the features onsite recognising Policy 4.5.2 and Method 4.5.4 (2) in the RPS.
45. The FNDC appears to have initially rejected this request.
46. Lucklaw Farm has therefore submitted several Farm ground-truthing reports as part of its Expert submissions to this Hearing that cover the ONC/HNC Beach areas.
47. Lucklaw Farm is prepared to carry out further Beach area specific ground truthing of the provided that it first receives approvals from the relevant controlling Authorities.

S551.005

48. Lucklaw Farm requested that the FNDC provide further information including methodology, technical reports and s32 evaluation evidence to support the ONC and HNC mapping in the PDP, specifically the mapping in relation to “ONC44” which does not extend onto the foreshore despite the RPS mapping showing more extensive ONC overlay on Puwheke

Beach. Lucklaw Farm reserved the right to provide further comment upon receipt of this further information.

49. The report writer for the FNDC have rejected this request.
50. The Panel are requested to review the reasonableness of this request as Lucklaw Farm are the only specific party effected by the damage that is occurring in the Puwheke Beach dunes.

S551.006

51. The ONC area “OC44” should be mapped in accordance with the mapping shown in the RPS
52. The report writer for the FNDC appears to accept this basis.
53. Lucklaw Farm requests that the Panel determines that given this revised FNDC position that the remedy to implement the requested VEZ rule be endorsed so that the ongoing vehicle damage can be quickly adverted under the powers of the RMA.

S551.007

54. Amend FN160, and its conditions, in order to address adverse effects to the environment from the operation of the Rangiputa wastewater ponds.
55. The operation of these ponds affects the quality of the freshwater that Lucklaw Farms releases into the Coastal Environment. The Panel are requested to allow this issue to be presented on in the later Zoning Hearing

FS373.007

56. This further submission relates to the potential consequences of new fencing rules in ONL areas. Lucklaw Farm boundaries adjoin Crown owned marginal strips and FNDC RCA areas. The management of these areas is best to be on an integrated landowner/authority basis as the fencing activity itself can create significant landscape and character damage both during construction and subsequently in the maintenance operations required to keep the fence lines intact. The implementation of a VEZ rule in the FNDC PDP will allow time to further ground truth these boundary areas and see if

agreement on a way forward can be achieved without the need for costly court orders to be obtained.

Outcome sought – Vehicles on Beaches / Coastal Environment

57. At the time of lodging submissions to the district plan review, the submission for Lucklaw referred to comparable rules (by way of example) in the Bay of Plenty Regional Coastal Environment Plan. These rules were attached to the back of Lucklaw's submission (submission 585).
58. After the date of closing of submissions to the Proposed Far North District Plan, the Environment Court approved on 28 June 2023 the Vehicle Exclusion Zone ("VEZ") provisions in the Northland Regional Coastal Plan. Those rules are now operative and furthermore have now been approved by the Minister of Conservation (13 October 2023).
59. I understand the VEZ rules were originally based on rules from the Bay of Plenty region, but these have been modified and made suitable for Northland.
60. As noted above, the NRC VEZ rules are limited to controlling vehicle use on the foreshore or seabed i.e. only extend to the 'wet' bit of the coastal environment including area covered and uncovered by the tide.
61. The Lucklaw submission seeks to extend the VEZ rules and apply them to the Far North District beach area and adjacent dune area of responsibility under the RMA.
62. In the Puwheke context, the dunes include land within the marginal strip which is located within the Coastal Environment overlay.
63. If rules are extended in this way in the district plan, there would be both a regional VEZ rule, and a district rule covering the area of the marginal strip (which includes the dunes) and the beach down to and including the low water springs.
64. Lucklaw Farm Ltd supports the addition of a comprehensive rule in the district plan based on Rule C.1.5.1 of the Northland Regional Plan but amended to:
 - a. apply to the entire FNDC beach and dune area, and

- b. cover the area of adjacent public land (compare Policy 20 NZCPS) included within the Coastal Environment overlay.
 - c. to apply to the circumstances of the district, in order to preserve the natural character and biodiversity of beaches in the Far North.
65. Suggested drafting is attached as a **Schedule 1** to the legal submissions in support of this submission.

Dated: 2 August 2024

John Sturgess / Lucklaw Farm Ltd