

**BEFORE HEARINGS COMMISSIONERS APPOINTED
BY THE FAR NORTH DISTRICT COUNCIL**

IN THE MATTER	of the Resource Management Act 1991
AND	
IN THE MATTER	of the hearing of submissions on the Proposed Far North District Plan
SUBMITTERS	Tapuaetahi Incorporation; IDF Developments Limited; and Waitoto Developments Limited
HEARING TOPIC:	Hearing 4 – Natural Environment Values & Coastal Environment

STATEMENT OF PLANNING EVIDENCE OF STEVEN REMANA SANSON

22 July 2024

INTRODUCTION

1. My name is Steven Remana Sanson. I am a Director / Consultant Planner at Sanson and Associates Limited and Bay of Islands Planning [2022] Limited.
2. I have been engaged by the Tapuaetahi Incorporation, IDF Developments & Waitoto Developments [**Submitters**] to provide evidence in support of their original and further submissions to the Proposed Far North District Plan [**PDP**].
3. I note that while the Environment Court Code of Conduct does not apply to a Council hearing, I am familiar with the principles of the code and have followed these in preparing this evidence.

QUALIFICATIONS AND EXPERIENCE

4. I hold the qualification of Bachelor of Planning [Hons] from The University of Auckland, graduating in 2013 and I am an Intermediate Member of the New Zealand Planning Institute.
5. I have over 10 years' experience and have previously held planning positions in the Far North District. In my current role I regularly advise and assist corporate and private individuals with the preparation of resource consent applications including subdivision and land use consents and relevant regional council consents. I have also processed resource consent applications for councils, prepared submissions on district plan changes, and processed plan changes.

SCOPE OF EVIDENCE

6. Hearing 4 addresses submission points relating to the PDP – Natural Environment Values & Coastal Environment. The s42A reports splits these matters into four reports in line with the structure of the PDP.
 - a) Ecosystems and Indigenous Biodiversity
 - b) Natural Character
 - c) Natural features and Landscapes
 - d) Coastal Environment
7. The submissions and further submissions of relevance are:
 - Tapuaetahi Incorporation
 - Submission 407 [Point 407.001 and 407.006] & Further Submission FS449.030
 - IDF Developments Limited
 - Submission 253 [Points 253.004 - 253.007]
 - Waitoto Developments Limited

- Submission 263 [Points 263.032 – 263.037] & Further Submission 398 [Point 398.007].
8. I have been asked by the Submitters to provide expert planning evidence in relation to matters arising from their submissions and further submissions on the Coastal Environment chapter.
 9. My evidence relates to the Coastal Environment provisions as they relate to various landholdings as outlined in the original submissions.
 10. In preparing this evidence, I have reviewed the Section 42A report Coastal Environment and have adhered to the instructions of hearing Minute 1 to:

‘take a lead from the s42A Report in terms of content of evidence, specifically that evidence highlights areas of agreement and disagreement with the s42A Report, outlines any changes in Plan wording proposed (along with the rationale for these changes) together with an assessment pursuant to S32AA of the RMA.’
 11. In preparing this evidence, I have also considered the evidence of the Tapuaetahi Incorporation provided in **Annexure 1**. This outlines the context in which they operate and provides useful detail about their future aspirations.

PDP FRAMEWORK

12. The delineation of the Coastal Environment in the PDP is the result of the work undertaken by the Northland Regional Council for the Regional Policy Statement. The mapping and provisions associated with the Coastal Environment replace the coastal zones in the operative Far North District Plan [**ODP**].
13. In contrast to the ODP the coastal environment is an overlay that sits on top of the underlying zone placing additional controls on land use and subdivision to preserve and protect its natural character.

THE SUBMISSIONS

14. The submissions as outlined in [para 7] above seek the following relief:
 - Tapuaetahi Incorporation
 - To amend CE-S3[3] to allow an increased rate of 2,500m² for earthworks and indigenous vegetation clearance.

- To amend CE-S4 to include an exemption for the Setback to MHWS to allow for a legal road, reserve or allotment between the property and the coastal marine area¹.
 - IDF Developments Limited
 - To amend CE-S4 to include an exemption for the Setback to MHWS to allow for a crown grant road, road, or reserve that separates a site from the MHWS.
 - To amend CE-R4 to remove the restrictions preventing farming within high or outstanding natural character areas.
 - To amend CE-S1 by deleting the maximum height of 5m, and replacing with a 6m limit, and the reference to “the nearest ridgeline, headland or peninsula”.
 - To amend CE-S3 by deleting the 400m² limitation for earthworks and indigenous vegetation and the 1m cut / fill depth.
 - Waitoto Development Limited
 - To amend CE-R1 to CER-R3 & CER-S1 to CE-S3 by exempting / deleting the rule insofar as it relates to the Orongo Bay Special Purpose Zone.
15. The Tapuaetahi Incorporation Further Submission provides scope to consider CE-O2 and, by reason of the changes proposed by the s42A Report writer, CE-P7 and the relevant Coastal Environment provisions.
16. The Waitoto Development Limited Further Submission provides additional scope to consider the removal of the Coastal Environment from all urban zones [as well as the Orongo Bay Zone].

EVALUATION OF SECTION 42A REPORT

CE-P7 – Māori Purpose Zone and Treaty Settlement Overlay Land

17. Section 5.2.4 of the s42A Report addresses Key Issue 4: Coastal Environment Objectives. I agree with the recommendations of the s42A report writer with respect to requiring amendments to CE-P7 as a result of the primary submission.
18. Section 5.2.8 of the s42A Report addresses Key Issue 8: Other policies – CE-P4 to CE-P10. In relation to the Tapuaetahi Incorporation further submission, CE-P7 is of direct relevance.

¹ Note: I consider that Tapuaetahi has scope to comment on this provision noting the recommendation within [para 495] of the s42A Report that all MHWS setback standard be located in the Coastal Environment chapter.

19. The proposed changes to CE-P7 are considered to be appropriate for the reasons recommended in the s42A Report, however I raise the following concerns with the cascade of rules that follow .
20. The recommended wording for CE-P7 does not differentiate between urban, rural, or coastal land. The policy refers to 'Māori Purpose zoned land and Treaty Settlement Land in the coastal environment'.
21. I acknowledge that there have been exemptions for urban areas within the Coastal Environment as recommended for certain townships.
22. I understand that 81% of all Māori land is in the Rural Production Zone and 18% is in the General Coastal Zone. I also understand that ~1% of all Māori land has an urban zoning².
23. Therefore, the proposed methods to enable Māori land and treaty settlement land are targeted at the 1% of the urban zoning and not the 99% of the remaining land. In my view this is not enabling.
24. When I look at the corresponding methods, I note CON-1 which cascades from PER-1 and PER-2. For Māori land, CON-1 is unlikely to be in the majority because the requirement of that rule reverts back to an approved building platform considered and assessed at the time of subdivision.
25. In my opinion, the majority of cases in relation to Māori land would not meet the requirement of CON-1. This would make an activity Restricted Discretionary.
26. With CE-P7 seeking to 'enable' use and development, it is my opinion that the Controlled Activity provision should be provided for.
27. In addition, I note the CON-1 requires an assessment of all of the matters within CE-P10. A Restricted Discretionary Activity also requires an assessment of CE-P10. This provides little differentiation between the two activity status'. In that sense, the matters of control appear to be wide in scope for activities where the adverse effects are arguably known.
28. To ameliorate the perceived issues, I offer amended wording to CE-R1 below. In my view the changes:
 - Better enable use and development on Māori land and Treaty Settlement Land; and
 - Better distinguishes the matters of control and matters of restricted discretion.

² Tangata Whenua s32 [FNDC] Appendix 3 – Summary of Māori Land in the Far North District.

29. The wording [or words to the effect] are as follows [note the changes rely on the recommendations in the s42A report as being accepted. Additions are underlined, deletions are ~~struck through~~]:

CE-R1	New buildings or structures, and extensions or alterations to existing buildings or structures	
Coastal Environment	<p>Activity status: Permitted</p> <p>Where:</p> <p>PER-1</p> <p>If a new building or structure is located in the General Residential Zone, Mixed Use Zone, Light Industrial Zone, Russell / Kororareka Special Purpose Zone, Māori Purpose Zone – Urban, Oronga Bay Zone, Hospital Zone, or Kauri Cliff SPZ - Golf Living Sub-Zone it:</p> <ol style="list-style-type: none"> 1. is no greater than 300m²; 2. is located outside high or outstanding natural character areas; and 3. complies with: <ol style="list-style-type: none"> a. CE-S1 Maximum height; b. CE-S2 Colour and materials; and c. CE-S4 Setbacks from MHWS. <p>PER-1(1) does not apply to: the Mixed-Use Zone, Light Industrial Zone, Māori Purpose Zone – Urban, and Hospital Zone within the following settlements: Coopers Beach, Mangonui, Opua, Paihia and Waitangi, Rawene, and Russell / Kororareka.</p> <p>PER-2</p> <p>If a new building or structure is not located within any of the zones referred to in PER-1 it:</p> <ol style="list-style-type: none"> a. is not used for a residential activity. b. is no greater than: 	<p>Activity status where compliance not achieved with PER-1 and PER2:</p> <p>Controlled</p> <p>CON-1</p> <ol style="list-style-type: none"> a. The building is a residential unit on a defined building platform, where the defined building platform has been identified through a professional landscape assessment and approved as part of an existing subdivision consent. <u>or</u> b. <u>The building is a residential unit on Māori Purpose zone or Treaty Settlement land.</u> <p>The matters of control are:</p> <ol style="list-style-type: none"> a. the matters in CE-P10: <u>the location, scale and design of any proposed development;</u> b. <u>the ability of the environment to absorb change;</u> c. <u>the need for and location of earthworks or indigenous vegetation clearance and proposed mitigation measures;</u> d. <u>any historical, spiritual or cultural association held by tangata whenua, with regard to the matters set out in Policy TW-P6;</u> e. <u>the effects on the characteristics, qualities and values of the coastal environment, including natural character and natural landscape values, the quality and extent of indigenous biodiversity and any positive effects;</u> <p>Activity status where compliance not achieved with CON-1, PER-3 and PER-4 (outside an outstanding natural character area and a high natural character area):</p> <p>Restricted Discretionary</p>

	<ul style="list-style-type: none"> a. 25m2 within an outstanding natural character area; b. 50m2 within a high natural character area; and c. 100m2 in all other areas of the coastal environment; and d. complies with: <ul style="list-style-type: none"> a. CE-S1 Maximum height; b. CE-S2 Colour and materials; and c. CE-S4 Setbacks from MHWS. 	<p>The matters of discretion are:</p> <ul style="list-style-type: none"> a. the matters in CE-P10; and b. positive effects. <p>Activity status where compliance not achieved with CON-1, PER-3 or PER-4:</p> <ul style="list-style-type: none"> a. Discretionary (in a high natural character area); or b. Non-complying (in an outstanding natural character area).
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CE-R1 – New buildings or structures, and extensions or alterations to existing buildings or structures

30. Section 5.2.10 of the s42A Report addresses Key Issue 10: CE-R1. Waitoto Developments Limited submitted on this matter. The Orongo Bay Zone has been included in exemptions which allow for a nuanced approach for development. I concur with this approach and the recommended changes in the s42A Report.

CE-R2 – Repair or Maintenance

31. Section 5.2.13 of the s42A Report addresses Key Issue 13: CE-R2 – Repair and maintenance. Waitoto Developments Limited submitted on this matter. I concur with the removal of this provision and placing it within CE-R3.

CE-R3 – Earthworks or indigenous vegetation clearance

32. Section 5.2.14 of the s42A Report addresses Key Issue 14: CE-R3 – Earthworks or indigenous vegetation clearance. Waitoto Developments Limited submitted on this matter. The s42A Report at [para 407] rejects the request to exclude the Orongo Bay Special Zone from CE-R3.

33. In order to provide a response on this it is important to contextualise the Orongo Bay Zone. OBZ-R14 requires that prior to any subdivision, use, or development on any site within the zone, Council will require a Comprehensive Development Plan to be submitted. Within that rule there are information requirements that attend directly to earthworks, there are also assessment criteria which directly link back to Coastal Environment matters.

34. For the reasons above, it is considered that the Orongo Bay Zone already provides for the matters sought within the earthworks or indigenous vegetation clearance provisions. Accordingly, I offer amended wording to CE-R3 below which exempts the zone from the rule.

35. The wording [or words to the effect] are as follows [note the changes rely on the recommendations in the s42A report as being accepted. Additions are underlined, deletions are ~~struck through~~]:

CE-R3	Earthworks and indigenous vegetation clearance
Coastal Environment	<p>Activity status: Permitted</p> <p>Where:</p> <p>PER-1</p> <p>The earthworks or indigenous vegetation clearance is:</p> <ol style="list-style-type: none"> 1. required for the operation, repair or maintenance of existing lawfully established <ol style="list-style-type: none"> a. fences; b. network utilities; c. tracks, driveways, roads and access ways; d. formed carparks; e. board walks; f. boat ramps; 2. required to provide for safe and reasonable clearance for existing overhead power lines; 3. to address an immediate risk to the health and safety of the public or damage to property. 4. clearance for biosecurity reasons to control pests; 5. for the sustainable non-commercial harvest of plant material for rongoā Māori; 6. to create or maintain a 20m setback from a building used for a vulnerable activity (excluding accessory buildings) to the edge of the indigenous vegetation area; 7. for the construction of a new fence where the purpose of the new fence is to exclude stock and/or pests from the area of indigenous vegetation provided that the clearance does not exceed 3.5m in width; or⁴¹ 8. for any upgrade of existing network utilities: <ol style="list-style-type: none"> a. outside high natural character and outstanding natural character areas; and b. permitted by rule CE-R1 PER-4 <p>PER-2</p> <p>The earthworks or indigenous vegetation clearance is not provided for within CE-R3 PER-1 but it complies with standard CE-S3 Earthworks or indigenous vegetation clearance.</p> <p><u>This rule does not apply to: the Orongo Bay zone</u></p>

CE-R4 – Farming

36. Section 5.2.15 of the s42A Report addresses Key Issue 15: CE-R4 Farming. The s42A Report relies on the report prepared by M Absolum, in particular section 4.1. IDF Developments Ltd submitted on this provision.

37. The s42A Report considers in [para 418] that CE-R4 does not relate to existing farming activities within the Coastal Environment [subject to existing use rights] and that new farming activities or a change in scale and nature of farming activity is also permitted.
38. I concur with this approach, however it does not appear that this clarity or intent is reflected in the recommended rule. In fact, the only change proposed is in relation to the activity status of the rule. To better reflect the intent and understanding of the s42A Report Writer, I offer amended wording below in the relevant section.
39. The wording [or words to the effect] are as follows [note the changes rely on the recommendations in the s42A report as being accepted. Additions are underlined, deletions are ~~struck through~~]:

CE-R4	Farming	
Coastal Environment	Activity status: Permitted Where: PER-1 The Legally established farming activities is located outside high or outstanding natural character areas; PER-2 <u>Any new</u> farming activity is located outside high or outstanding natural character areas;	Activity status where compliance is not achieved with PER-1 or PER-2: Discretionary (inside a high natural character area) Non-complying (inside an outstanding natural character area)

CE-S1 – Standard CE-S1 and general comments

40. Section 5.2.11 of the s42A Report addresses Key Issue 11: Standard CE-S1 and general comments. IDF Developments Limited submitted on this matter.
41. For the reasons provided in the s42A report I concur with the removal of the reference to “the nearest ridgeline, headland or peninsula” within the rule.
42. Waitoto Developments also submitted on this standard. For the reasons provided in [para 29] of my evidence above I concur with the recommended changes in terms of this provision which exempts compliance for the Orongo Bay Zone.

CE-S2 – Colour and materials

43. Section 5.2.12 of the s42A Report addresses Key Issue 12: CE-S2 – Colour and materials. Waitoto Developments Limited submitted on this matter.
44. Waitoto Developments Limited seek to be exempted from this rule. I concur with this approach because OBZ-R14, as discussed above in [para 32], already covers this matter

appropriately, in particular the references within OBZ-R14[1] which refers to appearance, design and use of material and scale of all buildings, as well as numerous assessment criteria within that rule.

45. I offer amended wording to address this matter. The wording [or words to the effect] are as follows [note the changes rely on the recommendations in the s42A report as being accepted. Additions are underlined, deletions are ~~struck through~~]:

CE-S2	Colours and materials
Coastal Environment	<p>The exterior surfaces of new buildings shall:</p> <ol style="list-style-type: none"> 1. be constructed of natural materials and/or finished to achieve a reflectance value no greater than 30%; and 2. if the exterior surface is painted, have a exterior finish within Groups A, B or C as defined within the BS5252 standard colour palette. <p>This standard does not apply to: the <u>Orongo Bay zone</u>, Kohukohu, Mangonui, Paihia, Rawene and Russell / Kororāreka Heritage Area Overlays</p>

CE-S3 – Earthworks or indigenous vegetation clearance

46. Section 5.2.14 of the s42A Report addresses Key Issue 14: CE-R3 Earthworks or indigenous vegetation clearance. The s42A Report largely relies on the report prepared by M Absolum, in particular section 3.3.
47. The Tapuaetahi Incorporation submission sought changes to increase CE-S3 to better reflect farming arrangements on their land in terms of earthworks.
48. I have no landscape evidence to rely upon in terms of this provision and the recommended changes. I note the following relevant change proposed by M Absolum and the s42A Report Writer:
- An increase to 100m² for earthworks on a per year basis [outside areas identified as high or outstanding natural character].
49. I note the rationale for this change as being:
- Something in between the approach of the Whangarei District Council and that originally notified threshold; and
 - Able to allow for the recovery of land from the scarring created by earthworks in the harsher coastal environment.
50. Linking back to CE-P7, and in relation to the submission, there appears to be little enablement occurring in the context of promoting the economic wellbeing of tangata whenua in relation to CE-S3 [or earthworks and indigenous vegetation clearance generally].

51. In the absence of landscape evidence to justify a change in thresholds, a change to CE-R3 can enable the activity through a Controlled Activity standard for earthworks and vegetation clearance. In my opinion providing for a Controlled Activity standard is how CE-P7 would be met.
52. I note that while M Absolum provides differentiation outside areas identified as high or outstanding natural character in her report to recommend the 100m² threshold, CE-R3 does not. I offer proposed wording in CE-R3 to enable the intent of CE-P7 to be met through the provision of earthworks and indigenous vegetation clearance as a Controlled Activity.
53. IDF Developments Limited also submitted on this provision. They sought the removal of the earthworks and indigenous vegetation clearance provisions. While I do not agree that a wholesale deletion of these controls is appropriate in the coastal environment, I believe there should be a differentiation between the coastal environment generally and those areas identified as being high and outstanding natural character as M Absolum has identified within her report. The recommended changes to CE-R3 only differentiate areas inside and outside outstanding natural character areas. In my opinion, does not align with CE-P6.
54. CE-P6 seeks to enable farming activities. As outlined in the submission, farming and earthworks go ‘hand in hand’. In my opinion to ‘enable’ an activity, the activity status’ must do exactly that.
55. Following the logic above for other key issue topics, a Controlled Activity status for earthworks associated with farming is appropriate.
56. Accordingly, I offer proposed wording in this respect to enable the intent of CE-P6 and CE-P7 to be met.
57. The wording [or words to the effect] are as follows [note the changes rely on the recommendations in the s42A report as being accepted. Additions are underlined, deletions are ~~struck through~~]:

CE-R3	Earthworks or indigenous vegetation clearance
Coastal Environment	<p><u>Activity status where compliance not achieved with PER-1 and PER-2 (outside a high or outstanding natural character area):</u></p> <p><u>Controlled</u></p> <p><u>The matters of control are:</u></p> <p><u>a. the temporary or permanent nature of any adverse effects, including any cumulative effects;</u></p> <p><u>b. the ability of the environment to absorb change;</u></p> <p><u>c. the need for and location of earthworks or indigenous vegetation clearance and proposed mitigation measures</u></p> <p><u>d. any historical, spiritual or cultural association held by tangata whenua, with regard to</u></p>

	<p><u>the matters set out in Policy TW-P6;</u></p> <p><u>e. any positive contribution the development has on the characteristics and qualities, including restoration and enhancement;</u></p> <p><u>f. 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</u></p> <p>Activity status where compliance not achieved with PER-1 and PER-2 (outside inside an outstanding a high natural character area):</p> <p>Restricted Discretionary</p> <p>The matters of discretion are:</p> <p>a. the matters in CE-P10</p> <p>Activity status where compliance not achieved with PER-1 and PER-2 (inside an outstanding natural character area):</p> <p>Non-complying</p>
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58. Waitoto Developments Limited also submitted on this provision. They sought to exempt the Orongo Bay Special Zone from needing to comply with this provision. For the reasons provided for in [paras 31-34] above it is considered appropriate to exempt the Orongo Bay zone.

CE-S4 – Setbacks from MHWS

59. Section 5.2.20 of the s42A Report addresses Key Issue 20: MHWS setback rules.
60. Tapuaetahi Incorporation & IDF Developments Limited sought that the rule include an exemption for a legally formed and maintained road, reserve, or allotment between the property and the coastal marine area.
61. The s42A Report writer accepts part of the submission and has recommended changes to CE-S4 to allow for a legally formed and maintained road. I concur with this addition.
62. However, I agree with the submissions that the exemption should extend to additional circumstances which provide a buffer.
63. For example, as currently written sites with an adjoining esplanade strip would need to consider the setback requirements, but in terms of effects this appears no different than those fronting a legally formed and maintained road.
64. Similarly, other allotments [unformed roads, crown grant, and other forms of marginal strips / general land strips], may also dissect the CMA / MHWS from a site.
65. This proposed approach appears to align with the analysis found in [para 487] of the s42A Report which supports a 26m setback as it provides, in addition to a range of things, ‘an esplanade reserve/ strip, plus additional land for access to the CMA’.

66. So when these areas are already provided, instead of being penalised, they should be exempt. Accordingly, I offer proposed wording below to incorporate the changes sought.
67. The wording [or words to the effect] are as follows [note the changes rely on the recommendations in the s42A report as being accepted. Additions are underlined, deletions are ~~struck through~~]:

CE-S4	Setbacks from MHWS	
Coastal Environment	<p>New buildings and structures and or extension or alteration to an existing building or structure must be setback at least:</p> <p>a. 30m from MHWS in the Rural Production, Rural Lifestyle, Rural Residential, Horticulture and Horticulture Processing Facilities zones; or</p> <p>b. 26m in all other zones.</p> <p>This standard does not apply: where there is a legally formed and maintained road, <u>unformed road, crown grant and other forms of marginal strips / general land strips or allotments</u> between the property and MHWS.</p>	<p>Where the standard is not met, matters of discretion are restricted to:</p> <p>a. the natural character of the coastal environment;</p> <p>b. screening, planting and landscaping on the site;</p> <p>c. the design and siting of the building or structure with respect to dominance on adjoining public space;</p> <p>d. natural hazard mitigation and site constraints;</p> <p>e. the effectiveness of the proposed method for controlling stormwater; and</p> <p>f. the impacts on existing and planned roads, public walkways, reserves and esplanades</p>

SECTION 32AA EVALUATION

Effectiveness and Efficiency

68. The proposed changes will appropriately enable the recommended changes in the s42A Report, informed through the report prepared by M Absolum. ‘Enabling’ activities within the policy framework as opposed to ‘providing for’ activities seek different outcomes in terms of methods.
69. The proposed changes within my evidence effectively provide a differentiation between those activities enabled within the provisions of the coastal environment. The proposed changes are efficient in requiring matters of control commensurate with the potential effects generated from the activity.
70. I consider that my recommended amendments will be more effective and efficient in achieving the recommended changes to the provisions within the s42A Report and are appropriate in terms of section 32AA.

Costs/Benefits

71. The costs are limited to accepting the wording [or similar] and including them in the relevant part of the PDP.
72. Applying appropriate controls for activities enabled in the coastal environment will add certainty to land owners, reduce constraints on development and consenting costs, in the context of protecting the level of natural character present in this location within the coastal environment.

Risk of Acting or not Acting

73. The risk of not acting is that the Coastal Environment chapter does not 'enable' the activities identified through the policy framework and provide and appropriate exemptions.

CONCLUSION

74. In conclusion, I am of the opinion that the amendments sought by the Submitters are appropriate and will assist in improving the consistency, usability and interpretation of the PDP.

APPENDICES

1. Annexure 1 – Tapuaetahi Incorporation.