

# SECTION 32 REPORT

## Public Access

May 2022

### Table of Contents

|          |  |           |
|----------|--|-----------|
| <b>1</b> | <b>Executive Summary .....</b>                           | <b>1</b>  |
| <b>2</b> | <b>Introduction and Purpose .....</b>                    | <b>3</b>  |
| 2.1      | Purpose of report .....                                  | 3         |
| 2.2      | Overview of topic.....                                   | 3         |
| <b>3</b> | <b>Statutory and Policy Context .....</b>                | <b>4</b>  |
| 3.1      | Resource Management Act 1991 .....                       | 4         |
| 3.2      | Higher order planning instruments .....                  | 5         |
| 3.2.1    | National Planning Standards.....                         | 5         |
| 3.2.2    | National Policy Statements.....                          | 5         |
| 3.2.3    | National Environmental Standards.....                    | 6         |
| 3.2.4    | Regional Policy Statement for Northland .....            | 6         |
| 3.3      | Regional Plan for Northland .....                        | 6         |
| 3.4      | Iwi and Hapū Environmental Management Plans .....        | 7         |
| 3.5      | Other Legislation and Policy Documents .....             | 7         |
| <b>4</b> | <b>Current state and resource management issues.....</b> | <b>9</b>  |
| 4.1      | Context .....  | 9         |
| 4.2      | Operative District Plan Approach .....                   | 9         |
| 4.2.1    | Summary of current management approach .....             | 9         |
| 4.3      | Key issues identified through consultation.....          | 11        |
| 4.3.1    | Summary of issue raised through consultation .....       | 11        |
| 4.3.2    | Summary of advice from iwi authorities.....              | 11        |
| 4.4      | Summary of Resource Management Issues.....               | 12        |
| <b>5</b> | <b>Proposed District Plan Provisions.....</b>            | <b>13</b> |
| 5.1      | Strategic Objectives .....                               | 13        |
| 5.2      | Proposed Management Approach.....                        | 13        |
| 5.3      | Summary of proposed objectives and provisions.....       | 13        |
| 5.3.1    | Summary of objectives .....                              | 14        |
| 5.3.2    | Summary of provisions .....                              | 14        |
| 5.3.3    | Responding to advice from iwi authorities.....           | 15        |

|          |   |           |
|----------|---|-----------|
| <b>6</b> | <b>Approach to Evaluation .....</b>                             | <b>16</b> |
| 6.1      | Introduction .....  | 16        |
| 6.2      | Evaluation of Scale and Significance .....                      | 16        |
| 6.3      | Summary of scale and significance assessment .....              | 17        |
| <b>7</b> | <b>Evaluation of Objectives .....</b>                           | <b>18</b> |
| 7.1      | Evaluation of existing objectives .....                         | 18        |
| 7.2      | Evaluation of proposed objectives .....                         | 19        |
| <b>8</b> | <b>Evaluation of Provisions to Achieve the Objectives .....</b> | <b>20</b> |
| 8.1      | Introduction .....  | 20        |
| 8.2      | Quantification of benefits and costs .....                      | 20        |
| 8.3      | Evaluation of options .....                                     | 21        |
| 8.3.1    | Option 1: Status quo .....                                      | 21        |
| 8.3.2    | Option 2: Public Access chapter - Proposed approach .....       | 22        |
| <b>9</b> | <b>Summary .....</b>  | <b>25</b> |

# 1 Executive Summary

The Far North District (**District**) has an extensive coastline, eight harbours, estuaries, rivers, lakes and wetlands with high recreation and amenity values.

Public access to the margins of rivers, lakes and the coastline is highly sought after. In particular, tangata whenua have an interest in gaining access, via traditional paths, to food-gathering areas. Also, there is considerable demand for residential properties with beach frontage and/or sea views, especially along the eastern coastline. As a result, subdivision offers many opportunities to acquire riparian margins and to secure public access where appropriate. This includes the opportunity to have unformed legal road vested as esplanade reserve. However, it is not always appropriate to facilitate public access because of conservation, amenity, landscape, heritage, cultural and spiritual values, or topography or safety reasons. In such cases, public acquisition of the riparian margins may be justified in order to protect and preserve those special values.

Provision of public access to these coastal and riparian margins helps retain and improve public and customary access while assisting to improve amenity, recreation, hazard management and ecological values. Public access is currently controlled predominately in Section 12.7 of the Operative District Plan (**ODP**). Far North District Council (**Council**) requires esplanade reserves where new sites are created adjacent to lakes, rivers or the coastal marine area.

The proposed management approach in the Proposed Far North District Plan (**PDP**) for public access includes a standalone 'Public Access' chapter. It contains proposed provisions which are largely rolled over from the ODP management approach.

The overall proposed management approach includes:

- A dedicated 'Public Access' chapter, in accordance with the National Planning Standards, for public and customary access to and along the coastal marine area and waterbodies.
- Objectives and policies to protect, maintain and enhance public and customary access to the coast and waterbodies for current and future generations which do not increase the risk of or exacerbate natural hazards, or compromise the natural character, indigenous biodiversity, historic heritage, cultural or landscape values.
- Rules and standards within the 'Subdivision' chapter, requiring the creation of an esplanade reserve with a minimum width of 20m (in accordance with section 230 of the RMA), where subdivision involves the creation of one or more allotments less than 4ha adjacent to:
  - The line of MHWS;
  - The bank of a river whose bed has an average width of 3m or more; and
  - A lake that is larger than 8 ha in size.
- Any subdivision complying with this standard (and all other relevant standards) requires a controlled activity consent. Any non-compliance with this standard requires resource consent as a discretionary activity.

The proposed approach is largely a rollover of the ODP provisions, consolidated into a 'Public Access' chapter to align with the National Planning Standards. It also includes the following key changes from the ODP:

- Simplified language for consistency with the drafting of the PDP; and
- Modifications to align with the current legislative and policy environment, including:
  - giving effect to the Regional Policy Statement for Northland (**RPS**) which requires that public access to and along the coastal marine area, lakes and rivers is "maintained or improved";

- voluntary creation of esplanades reserves for land activities is encouraged for relevant sites in the PDP.
- Removal of identified 'Esplanade Priority Areas' from the Planning Maps in the PDP and requirements for creation of esplanade reserves where lots greater than 4ha in area are created.
- Increased reliance on methods outside the District Plan to provide strategic public access links (e.g. designations, acquisition of land, negotiated agreements with landowners, and retaining unformed legal roads).

## **2 Introduction and Purpose**

### **2.1 Purpose of report**

This report provides an evaluation undertaken by the Council in preparation of district plan provisions for the 'Public Access' chapter in the PDP. This assessment is required under section 32 of the RMA.

Section 32 of the RMA requires Councils to examine whether the proposed objectives are the most appropriate to achieve the purpose of the RMA and whether the provisions (i.e. policies, rules and standards) are the most appropriate way to achieve the objectives. This assessment must identify and assess environmental, economic, social, and cultural effects, benefits and costs anticipated from the implementation of the provisions. Section 32 evaluations represent an on-going process in RMA plan development and a further evaluation under section 32AA of the RMA is expected throughout the review process in response to submissions received following notification of the PDP.

This report sets out the issues for the 'Public Access' chapter, and it provides an overview of the statutory and policy context, and any specific consultation. The report also includes a review of the ODP and evaluation of alternatives to determine the most appropriate way(s) to achieve the purpose of the RMA in relation to public access.

### **2.2 Overview of topic**

Lakes, rivers, wetlands and coastline matters are predominately provided for in Section 12.7 in the ODP, including public access matters. Provisions relating to public access are also provided in Chapter 10 Coastal Environment, Chapter 13 Subdivision, and Chapter 14 Financial Contributions in the ODP.

The proposed approach is largely a rollover of the ODP provisions, consolidated into a 'Public Access' chapter to align with the National Planning Standards, with simplified language for consistency with the drafting of the PDP, and modifications to align with the current policy environment, including giving effect to the RPS.

Public access to coastal and riparian margins is also relevant to other District-Wide Matters of the PDP, including natural character, coastal environment and subdivision. These topics have been evaluated within separate section 32 reports.

## 3 Statutory and Policy Context

### 3.1 Resource Management Act 1991

The **Section 32 Overview Report** for the PDP provides a summary of the relevant statutory requirements in the RMA relevant to the PDP. This section provides a summary of the matters in Part 2 of the RMA (purpose and principles) of direct relevance to this topic.

Section 74(1) of the RMA states that district plans must be prepared in accordance with the provisions of Part 2. The purpose of the RMA is the sustainable management of natural and physical resources which is defined in section 5(2) of the RMA as:

*“...sustainable management means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing, and for their health and safety while –*

- (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.”*

To achieve the purpose of the RMA, all those exercising functions and powers under the RMA are required to:

- Recognise and provide for the matters of national importance identified in Section 6.
- Have particular regard to a range of other matters in Section 7.
- Take into account the principles of the Treaty of Waitangi as Section 8 of the RMA.

The following section 6 matters are directly relevant to the 'Public Access' chapter:

- (d) The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:
- (e) The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:

Section 6(d) is of primary relevance and specifically identifies the need to maintain and enhance public access to and along waterbodies and the coastal marine area. Section 6(e) identifies the importance of the relationship Māori and the traditions they have with water.

The following section 7 matters are directly relevant to the 'Public Access' chapter

- (a) Kaitiakitanga:
- (b) The efficient use and development of natural and physical resources:
- (c) The maintenance and enhancement of amenity values:
- (f) Maintenance and enhancement of the quality of the environment:

Section 8 of the RMA requires that all persons exercising functions and powers under it take into account the principles of the Treaty of Waitangi. These have been considered in the preparation of the 'Public Access' chapter.

The Section 32 evaluation report has taken into account the following sections of the RMA relating to esplanade reserves: section 77 and sections 229 – 237H.

An esplanade reserve can be taken as a condition of land use consent under 108(9) as a financial contribution.

## 3.2 Higher order planning instruments

Section 75(3) of the RMA requires district plans to give effect to higher order planning instruments – National Policy Statement (**NPS**), National Planning Standards (**Planning Standards**), and the relevant Regional Policy Statement (**RPS**). The **Section 32 Overview Report** provides a more detailed summary of the relevant RMA higher order planning instruments relevant to the PDP. The sections below provide an overview of provisions in higher order planning instruments directly relevant to the 'Public Access' chapter.

### 3.2.1 National Planning Standards

Section 75(3)(ba) of the RMA requires that district plans give effect to the Planning Standards. The Planning Standards were gazetted in April 2019 and their purpose is to assist in achieving the purpose of the RMA and improve consistency in the structure, format and content of RMA plans. The following direction in the Planning Standards is of direct relevance to the 'Public Access' chapter.

In accordance with Mandatory Direction 7.22, if provisions to maintain and enhance public access to and along the coastal marine area, lakes, and rivers are addressed they must be located in a public access chapter.

### 3.2.2 National Policy Statements

Section 75(3)(a) of the RMA requires that district plans give effect to any National Policy Statement (**NPS**).

The New Zealand Coastal Policy Statement 2010 (**NZCPS**) contains relevant objectives and policies for public access to coastal environments. Policies 18, 19 and 20 of the NZCPS provide direction on open space, walking access and vehicle access in relation to the coastal environment. The policies recognise the important role of esplanade reserves contributing to open space needs and meeting public expectations of having practical, free and safe walking access to and along the coast. Also, the policies seek to control vehicle access to the coast where there are potential adverse effects on the environment, amenity and cultural aspects of the beaches, foreshore and adjacent public land.

The National Policy Statement for Freshwater Management 2020 (**NPSFM**) contains relevant objectives and policies to ensure that natural and physical resources are managed in a way that prioritises:

- (a) First, the health and well-being of water bodies and freshwater ecosystems
- (b) Second, the health needs of people (such as drinking water)
- (c) Third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

The implementation of the NPSFM and managing freshwater to give effect to Te Mana o Te Wai is primarily the responsibility of the regional council, however section 3.5(4) requires that every territorial authority includes objectives, policies, and methods in its district plan to promote positive effects, and avoid, remedy, or mitigate adverse effects (including cumulative effects), of urban development on the health and well-being of water bodies, freshwater ecosystems, and receiving environments. These matters are relevant to public access to waterbodies as public access can have adverse effects on the health and well-being of waterbodies.

Council notes that the Northland Regional Council has also not yet amended the RPS to give effect to the NPSFM.

### 3.2.3 National Environmental Standards

Section 44 of the RMA requires local authorities to recognise national environmental standards (**NES**) by ensuring plan rules do not conflict or duplicate with provisions in a NES. The National Environmental Standard for Freshwater (**NESF**) states in Regulation 5 that the regulations in the Standard do not deal with the functions of territorial authorities under section 31 of the RMA. As such, there are no national environmental standards considered directly relevant to the consideration of the proposed 'Public Access' chapter.

### 3.2.4 Regional Policy Statement for Northland

Section 75(3)(c) of the RMA requires district plans to 'give effect' to any regional policy statement. The RPS was made operative on 14 June 2018. The table below outlines the provisions in the RPS that are directly relevant to the 'Public Access' chapter.

| RPS                   |   |
|-----------------------|---|
| <b>Objective 3.13</b> | Natural hazard risk                     |
| <b>Objective 3.15</b> | Active Management                       |
| <b>Policy 4.7.1</b>   | Promote active management               |
| <b>Policy 4.7.2</b>   | Support landowner and community efforts |
| <b>Policy 5.1.2</b>   | Development in the coastal environment  |
| <b>Policy 7.1.1</b>   | General risk management approach        |

The RPS covers the management of natural and physical resources across the Northland Region. The provisions within the RPS give guidance at a higher planning level in terms of the significant regional issues.

In summary, in relation to public access, the RPS directs that District Councils:

- Maintain or improve public access to the coast.
- Recognise positive effects of activities that contribute to active management, including improvement of public access to and along the coastal marine area or margins of rivers or lakes, except where it would compromise the conservation of historic heritage, significant indigenous vegetation and/or significant habitats of indigenous fauna.
- Enable people and communities to provide for their wellbeing while ensuring sufficient development setbacks from the coastal marine area to maintain and enhance public access, open space and amenity values.
- Maintain and improve public access to and along the coastal marine area, lakes and rivers.

In summary, the PDP approach gives effect to the relevant objectives and policies of the RPS through provisions that seek to maintain or improve public and customary access to the coastline and waterbodies.

## 3.3 Regional Plan for Northland

Section 75(4)(b) of the RMA states that any district plan must not be inconsistent with a regional plan for any matter stated in section 30(1) of the RMA. The operative Northland Regional Plans and proposed Northland Regional Plan are summarised in the **Section 32 Overview Report**. The table below provides an overview of Regional Plan provisions directly relevant to the 'Public Access' chapter.

| Proposed Regional Plan |  |
|------------------------|--|
| <b>Objective E.1.1</b> | Catchment-specific values                      |
| <b>Objective F.1.8</b> | Use and development in the coastal marine area |



|                         |  |
|-------------------------|--|
| <b>Objective F.1.10</b> | Natural hazard risk                                    |
| <b>Objective F.1.11</b> | Improving Northland's natural and physical resources   |
| <b>Policy D.4.26</b>    | Benefits of freshwater structures, dams and diversions |

The Proposed Regional Plan combines the operative Regional Plans (coastal, air quality, water and soil) into one plan. The relevant objectives and policies have been taken into consideration in the drafting of the 'Public Access' chapter.

### 3.4 Iwi and Hapū Environmental Management Plans

When preparing and changing district plans, section 74(2A) of the RMA requires Council to take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the District. At present there are 14 iwi planning documents accepted by Council which are set out and summarised in the **Section 32 Overview Report**.

The key issues in these plans that have been taken into account in the preparation of the provisions for the 'Public Access' chapter are as follows:

- Public and customary access must be secured for current and future generations to provide certainty to everyone. Currently, there is reduced access to water bodies and the coast for tangata whenua as kaitiaki.
- Concerns over current Crown policy, including the Foreshore and Seabed Act, in relation to public access to waterbodies and the coastline particularly where the coast is adjacent to land in Māori title.
- Public access by walking or vehicles can lead to destruction and damage of the environment, including sites of significance/wāhi tapu.
- Public access can cause breaches in private property rights by the public, particularly on Māori land.

The policy framework within the 'Public Access' chapter requires the creation of esplanade reserves where it provides for the protection of or access to cultural sites of significance to tangata whenua. It also allows for a reduction in esplanade reserves where it is demonstrated that providing access would be detrimental to sites of significance to tangata whenua.

### 3.5 Other Legislation and Policy Documents

When preparing or changing a district plan, section 74(2)(b)(i) of the RMA requires Council to have regard to management plans and strategies prepared under other Acts to the extent that it has a bearing on resource management issues of the District. The **Section 32 Overview Report** provides a more detailed overview of strategies and plans prepared under legislation that are relevant to the PDP. The Council has had regard to the following relevant regulations, plans and strategies when preparing the 'Public Access' chapter provisions:

- Park and Reserves Policy (2017) for Council, which guides the public on decision making matters relating to the control and management of parks and reserves, and ensures cultural, social and physical wellbeing for the District. The policy applies to all parks and reserves that are owned by the Council, or where the administration, control or management of the park or reserve is vested in the Council. The draft Parks and Reserves Policy 2022 seeks that Council acquire or engage developers to vest land or funds to provide connectivity including to and between waterways in accordance with section 6(d) of the RMA.

- The Reserves Act 1977: An esplanade reserve under the purposes of section 77 and 229 of the RMA, is required under section 230 of the RMA to be set aside as a local purpose reserve for esplanade purposes under the Reserves Act 1977. The purpose of the Reserves Act is for preservation and management of these areas for benefit and enjoyment, to ensure access for the public to and along the sea, lakeshores and riverbanks.
- The Walking Access Act (2008) influences public access seeking to enhance and extend walking access around the country. The New Zealand Walking Access Commission implements the Walking Access Act. The Commission maps walking access routes, provides information to the public, has developed a code of responsible conduct, assists with dispute resolution and negotiates new walking access.
- Marine and Coastal Area (Takutai Moana) Act (2011) recognises the rights of free public access over and through the common marine and coastal area, and that the right of coastal navigation is recognised and protected.
- Foreshore and Seabed Act (2004) provides for general rights of access and ongoing customary rights of the public foreshore, includes the beds of rivers part of the coastal marine area.

Council is currently developing a reserves bylaw and open spaces strategy.

## 4 Current state and resource management issues

This section provides an overview of the relevant context for the current approach to manage public access through the ODP, and key issues raised through consultation. It concludes with a summary of the key resource management issues for public access to be addressed through the PDP.

### 4.1 Context

Public access to the margins of rivers, lakes and the coastline in the Far North District is highly sought after. In particular, tangata whenua have an interest in gaining access, via traditional paths, to food-gathering areas. Also, there is considerable demand for residential properties with beach frontage and/or sea views, especially along the eastern coastline. As a result, subdivision offers many opportunities to acquire riparian margins and to secure public access where appropriate. This includes the opportunity to have unformed legal road vested as esplanade reserve. However, it is not always appropriate to facilitate public access because of conservation, amenity, landscape, heritage, cultural and spiritual values, or topography or safety reasons. In such cases, public acquisition of the riparian margins may be justified in order to protect and preserve those special values.

The ODP seeks to secure public access (including access by Māori to places of special value such as waahi tapu, tauranga waka, mahinga kai, mahinga mataitai, mahinga waimoana and taonga raranga) to and along the coastal marine area, lakes and rivers where it is compatible with the matters set out in Objective 12.7.3.3 (set out below).

### 4.2 Operative District Plan Approach

#### 4.2.1 Summary of current management approach

Public access to wetlands, lakes, rivers and the coastline are contained within Section 12.7 'Lakes, Rivers, Wetlands and the Coastline' of the ODP. This section not only addresses the public access to wetlands, lakes and river and the coastline margins, but also includes provisions for the coastline, natural character and activities on the surface of water. The provisions within Section 12.7 generally seek to address land use and subdivision activities adjoining or on lakes, rivers, wetlands or the coastline.

The following summarises the current management approach:

- Objective 12.7.3.3 seeks to:

*Secure public access (including access by Māori to places of special value such as waahi tapu, tauranga waka, mahinga kai, mahinga mataitai, mahinga waimoana and taonga raranga) to and along the coastal marine area, lakes and rivers, consistent with Chapter 14 - Financial Contributions, to the extent that this is compatible with:*

- a. The maintenance of the life-supporting capacity of the waterbody, water quality, aquatic habitats, and*
- b. The protection of natural character, amenity, cultural heritage, landscape and spiritual values; and*
- c. The protection of public health and safety; and*
- d. The maintenance and security of authorised activities (but acknowledging that loss of privacy or fear of trespass are not valid reasons for precluding access).*

*In some circumstances public acquisition of riparian margins may be required and managed for purposes other than public access, for example to protect significant habitats, waahi tapu or historic sites, or for public recreation purposes.*

- Policy 12.7.4.6 reads:

*That public access to and along lakes, rivers and the coastline be provided as a consequence of development or as a result of Council (see Method 10.5.19) or public initiatives except where it is necessary to restrict access or to place limits on the type of access, so as to:*

- Protect areas of significant indigenous vegetation and/or significant habitats of indigenous fauna or*
  - Protect cultural values, including Māori culture and traditions; or*
  - Protect public health and safety; to the extent that is consistent with policies in Chapter 14.*
- Policy 12.7.4.8 reads:  
*That the Council acquire esplanade reserves, esplanade strips and access strips in accordance with Chapter 14 - Financial Contributions and Method 10.5.10 of the Plan<sup>1</sup>*
  - The rules and standards determine setback distances for buildings and impermeable surfaces from lakes, rivers and the coastal marine area.
  - Rule 14.6.1(a) in the Financial Contributions chapter outlines that an esplanade reserve is required for the following circumstances:
    - Where lots less than 4ha in area are created along the edge of the coastal marine area, or along the bank of any river with a bed having an average width of 3m or more, or along the margin of any lake (whose bed has an area of 8ha or more).
    - Where lots greater than 4ha in area are created along the edge of the coastal marine area, or along the bank of any river with a bed having an average width of 3m or more, or along the margin of any lake (whose bed has an area of 8ha or more) (section 237F of the RMA)
    - Where a land use resource consent is required, and the Council considers that an esplanade reserve is necessary as per section 229 of the RMA.
    - Council shall give priority to riparian areas identified as an Esplanade Priority Area (these areas have only been identified in the Kerikeri area, including along the boundaries of Kerikeri River and Puketotara Stream), or where they meet the criteria under Policy 14.4.9.
  - Financial contributions are preferred over esplanade reserves where public access is not required at all times, fragmentation of ownership that cause management difficulties, costs for surveying and other matters are excessive, and where the edge of the water body involved is actively eroding or accreting in accordance with Rule 14.6.1(b).
  - In accordance with Rule 14.6.1(c), Council may seek an access strip where public access should be provided to any esplanade area, and the provision of an access strip is a practical and appropriate means of enabling public access.

The Council has reviewed the current ODP approach, which has been informed by technical advice, internal workshops and feedback from the community and stakeholder feedback.

The limitations with the current ODP approach have been identified through this process, those that have been identified include:

- The resource management issues, objectives and policies in the ODP (which the objectives and policies are addressing) are not expressed concisely and clearly. Improvements could be

---

<sup>1</sup> Priorities will be set for capital expenditure from the Council's reserve accounts for improving access to existing esplanade reserves and unformed Crown roads and for the management and enhancement of the natural character of land administered by the Council in the coastal environment.

made to simplify the language and clarify the intent.

- There is repetition of provisions in the ODP.
- There is conflict between the need to preserve and protect the natural character of the coastal environment and provide for appropriate access and development.
- The ODP structure is inconsistent with the National Planning Standards.
- There is a conflict between the need to preserve and protect the natural character of the coastal environment and provide for appropriate access and development. A continued pattern of settlement near the coast has placed additional pressure on coastal resources and amenity.

### 4.3 Key issues identified through consultation

The **Section 32 Overview Report** provides a detailed overview of the consultation and engagement Council has undertaken with tangata whenua, stakeholders and communities throughout the District to inform the development of the PDP and the key issues identified through this consultation and engagement. This section provides an overview of key issues raised through consultation in relation to the 'Public Access' chapter and a summary of advice received from iwi authorities.

#### 4.3.1 Summary of issue raised through consultation

There was a low level of interest in the 'Public Access' chapter from the community through consultation and engagement of the PDP. Some feedback confused transport infrastructure matters with the 'Public Access' Chapter. The only direct responses relevant to the public access topic were from Vision Kerikeri.

Vision Kerikeri recommends that the PDP should require esplanade reserves when subdivision creates lots of 4ha or more to be in accordance with section 230(5) of the RMA and either the owner agrees to voluntarily offer the land, or a third-party funds the compensation of the land, or the land is included in the contributions. The group considers 'Esplanade Priority Areas', including identifying existing esplanades on GIS maps, should remain a part of the District Plan as these assist with prioritising and creating future esplanades.

In response to the above:

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

#### 4.3.2 Summary of advice from iwi authorities

Section 32(4A)(a) of the RMA requires that evaluation reports include a summary of advice on a proposed plan received from iwi authorities. The **Section 32 Overview Report** provides an overview of the process to engage with tangata whenua and iwi authorities in the development of the PDP and key issues raised through that process. One piece of feedback was received in relation to public and customary access to and along the coastal marine area and waterbodies. The feedback is summarised as follows:

- Ngāti Kuta sought guidance as to what circumstances esplanade reserves should be required on land zoned Māori Purpose, and suggests Policy PA-P2 should be amended to provide more

guidance on this matter.

- Te Runanga o Te Rarawa supports objective PA-P3 but considers the wording is too ambiguous as to how a site becomes recognised by Council as a site of cultural significance and suggests that reference to iwi/hapu management plans would assist with interpretation.
- Kahukuraariki, Matauri X, Ngati Kuri, Ngai Takoto, Whaingaroa, Ngati Kuta, Te Aupori suggest that the PDP should consider land-locked land, and whether subdivision should look to facilitate access to some land-locked Māori landholdings.
- Te Runanga O Ngāti Rēhia sought specific reference to:
  - mahinga kai purposes and fisheries in Policy PA-P2 (for circumstances where esplanade reserves, strips or access strips should be required),
  - circumstances where public access is detrimental to land in Māori title, mahinga kai and hapū fisheries in Policy PA-P3 (when a waiver or reduction of esplanade reserve strip or access strip is appropriate).
  - Where applicable transfer of esplanade strips to hapū should be supported, or at least investigated, to support Objective TW-O4.

Section 3.4 above provided a summary of the key concerns and issues raised in hapū and iwi environmental management plans.

Section 5 of this report outlines how the proposed management approach responds to this advice in accordance with section 32(4A)(b) of the RMA.

#### **4.4 Summary of Resource Management Issues**

The topic itself has not been identified as a significant resource management issue (**SRMI**) in the development of the PDP. However, SRMI of 'coastal protection' is considered to be of relevance to the public and customary access of the coastal marine area and waterbodies.

Based on the analysis of relevant context, current management approach, and feedback from consultation, the key resource management issues for public access to be addressed through the PDP are:

- Providing for the maintenance and enhancement of public access to and along the coastal environment and waterbodies, and
- Avoiding, remedying or mitigating adverse effects that may arise from public access to and along the coastal environment and waterbodies (e.g. exacerbating natural hazards or compromising the natural character, indigenous biodiversity, historic heritage, cultural or landscape values of the coast or waterbodies).

## 5 Proposed District Plan Provisions

The proposed provisions are set out in the 'Public Access' chapter of the PDP. These provisions should be referred to in conjunction with this evaluation report.

### 5.1 Strategic Objectives

The PDP includes a strategic direction section which seeks to demonstrate the PDP's commitment and articulation with tangata whenua, and alignment with the Far North 2100 Plan. The strategic direction also seeks to integrate environment considerations and matters of particular national and regional significance and importance, and enable a wide range of business activities and management of urban growth.

The strategic objectives of direct relevance to the 'Public Access' chapter are:

#### Social prosperity:

- **Objective 1:** Community wellbeing is heightened by a sense of place.
- **Objective 2:** Development of initiatives that will support the wellbeing of tangata whenua in partnership with iwi and hapū.
- **Objective 4:** Promotion of communities and places that will meet the needs for not only the present population, but future generations which are adaptive to climate change.

#### Environmental prosperity:

- **Objective 2:** Collaborative relationships with iwi and hapū in order to support tangata whenua to carry out their obligation and responsibility as kaitiaki.

### 5.2 Proposed Management Approach

This section provides a summary of the proposed management approach for the 'Public Access' chapter, focusing on the key changes from the ODP. The **Section 32 Overview Report** outlines and evaluates general differences between the PDP provisions and the ODP. The PDP gives effect to the National Planning Standards and moves away from an effects-based plan towards more activities-based planning approach.

The proposed approach is largely a rollover of the ODP provisions, consolidated into a 'Public Access' chapter to align with the National Planning Standards. It also includes the following key changes from the ODP:

- Simplified language for consistency with the drafting of the PDP;
- Modifications to align with the current legislative and policy environment, including:
  - Giving effect to the RPS which requires that public access to and along the coastal marine area, lakes and rivers is “maintained or improved”; and
- Removal of financial contributions from the Proposed District Plan which means esplanade reserves cannot be taken as a financial contribution by way of a condition on a land use consent. However, voluntary creation of esplanade reserves for land activities is encouraged for relevant sites in the PDP.
- No requirements for creation of esplanade reserves where lots greater than 4ha in area along the edge of waterbodies and the coastal marine area is proposed in the PDP.
- Removal of identified 'Esplanade Priority Areas' from the Planning Maps in the PDP.

The sections below provide a high-level summary of the objectives, policies, and rules for the 'Public Access' chapter.

### 5.3 Summary of proposed objectives and provisions

This section provides a summary of the proposed objectives and provisions which are the focus of the section 32 evaluation in section 7 and 8 of this report.

### 5.3.1 Summary of objectives

The proposed management approach for the public access topic includes objectives that seek to protect, maintain and enhance public and customary access to and along the coastal marine area and waterbodies for future generations which does not exacerbate natural hazards or compromise the natural character, indigenous biodiversity, historic heritage, cultural or landscape values.

### 5.3.2 Summary of provisions

For the purposes of section 32 evaluations, 'provisions' are the *"policies, rules, or other methods that implement, or give effect to, the objectives of the proposed plan or change"*.

The proposed management approach for the public access topic includes policies that seek to:

- Protect, maintain and enhance public and customary access by managing subdivision in a manner which is consistent with values of the surrounding environment, provide for esplanade reserves to secure land for public access.
- Require the creation of esplanade reserves when considering an application for subdivision where it maintains environmental and landscape values, enables public access and recreation, assists mitigating natural hazards, and protects or provides access to historic heritage or cultural sites of significance to tangata whenua, and where it is identified as a priority area.
- Reduce the required width of esplanade reserves where appropriate existing access can be demonstrated while considering climate change, environmental deterioration, essential structures and infrastructure, historic heritage places or sites of significance to Māori, and restrictions to ensure public health and safety.
- Provide for appropriate public access to and along the coastal marine area at the time of subdivision where the development is adjoining the coastal marine area, an existing esplanade reserve or an esplanade strip, or has potential to contribute to connectivity or contiguous access.
- Encourage the voluntary creation of esplanade reserves for land use activities where it:
  - Maintains or enhances existing ecological and/or natural values
  - Maintains or enhances the landscape values
  - Enables public access
  - Enables public recreation
  - Assists in the mitigation of risks associated with natural hazards
  - Provides for the protection or access to historic heritage or sites and areas of significance

The only rules and standards to provide for public access are contained within the 'Subdivision' chapter, summarised below:

- Standard requiring creation of an esplanade reserve with a minimum width of 20m (in accordance with section 230 of the RMA), where subdivision involves creation of one or more allotments less than 4ha adjacent to:
  - The line of MHWS;
  - The bank of a river whose bed has an average width of 3m or more; and
  - A lake that is larger than 8 ha in size.
- Any subdivision complying with this standard (and all other relevant standards) requires a controlled activity consent. Any non-compliance with this standard requires resource consent as a discretionary activity. Through the resource consent process, the applicant can provide an esplanade strip to provide public access.



### 5.3.3 Responding to advice from iwi authorities

Section 32(4A) of the RMA requires evaluation reports to summarise advice received from iwi authorities on a proposed plan and the response to that advice, including any provisions that are intended to give effect to the advice. Section 4.3.2 of this report provides a summary of advice received from iwi authorities on the 'Public Access' chapter.

- *Ngāti Kuta sought guidance or clarity as to what circumstances Council would require the creation of esplanade strips and reserves for subdivision on Māori land governed by the Te Ture Whenua Māori land Act 1993.*

It is understood that Te Ture Whenua Māori Act 1993 exempts hapū partitions and combined partitions from the subdivision provisions of the RMA, and these are administered by the Māori Land Court. However, full partitions are subject to the subdivision provisions of the RMA. The public access provisions would apply to any subdivision creating an allotment less than 4 ha on Māori land meeting the requirements in SUB-S9.

- *Te Runanga o Te Rarawa supports objective PA-P3 but considers the wording is too ambiguous as to how a site becomes recognised by Council as a cultural site of cultural significance and suggests that reference to iwi/hapu management plans would assist with interpretation.*

Policy PA-P3 has been amended to refer to "site or area of significance to Māori" which is defined in the PDP.

- *Kahukuraariki, Matauri X, Ngati Kuri, Ngai Takoto, Whaingaroa, Ngati Kuta and Te Aupori suggests that the PDP should consider land-locked land, and whether subdivision should look to facilitate access to some land-locked Māori landholdings.*

The 'Public Access' chapter is focussed on providing public access to waterbodies and the coast rather than private landholdings. The 'Subdivision' chapter contains provisions to ensure that subdivision is accessible, connected and integrated with the surrounding environment.

- *Te Runanga O Ngāti Rēhia sought specific reference to:*

- *Mahinga kai purposes and fisheries in Policy PA-P2 (for circumstances where esplanade reserves, strips or access strips should be required). The policy has been amended as follows: (f) "provides for the protection or access to historic heritage or sites or areas of significance to Māori, including for the purposes of mahinga kai and fisheries"*

- *Circumstances where public access is detrimental to land in Māori title, mahinga kai and hapū fisheries in Policy PA-P3 (when a waiver or reduction of esplanade reserve strip or access strip is appropriate).*

The policy has been amended as follows: (c) "providing access will be detrimental to any historic heritage place or site or area of significance to Māori, including for the purpose of mahinga kai and fisheries".

## 6 Approach to Evaluation

### 6.1 Introduction

The overarching purpose of section 32 of the RMA is to ensure all proposed statements, standards, regulations, plans or changes are robust, evidence-based and are the most appropriate, efficient and effective means to achieve the purpose of the RMA. At a broad level, section 32 requires evaluation reports to:

- Examine whether the objectives in the proposal are the most appropriate to achieve the purpose of the RMA.
- Examine whether the provisions are the most appropriate way to achieve the objectives through identifying reasonably practicable options and assessing the efficiency and effectiveness of the provisions, including an assessment of environmental, economic, social and cultural economic benefits and costs.

These steps are important to ensure transparent and robust decision-making and to ensure stakeholders and decision-makers can understand the rationale for the proposal. There are also requirements in section 32(4A) of the RMA to summarise advice received from iwi authorities on the proposal and the response to that advice through the provisions.

### 6.2 Evaluation of Scale and Significance

Section 32(1)(c) of the RMA requires that evaluation reports contain a level of detail that corresponds with the scale and significance of the environmental, economic, social and cultural effects that are anticipated from the implementation of this proposal. This step is important as it determines the level of detail required in the evaluation of objectives and provisions so that it is focused on key changes from the status quo.

The scale and significance of the environmental, economic, social and cultural effects of the provisions for the public access topic are evaluated in the table below.

| Criteria  | Comment  | Assessment |
|---|--|------------|
| Raises any principles of the Treaty of Waitangi | The principles of partnership, participation and protection have been taken into consideration in the drafting of the PDP provisions. The provisions recognise the importance of public and customary access to tangata whenua, as well as the importance of ensuring that public access does not compromise cultural values and sites of significance to Māori.       | Low        |
| Degree of change from the Operative Plan        | Provisions for public and customary access are contained in the PDP in the District-wide matters section, to reflect the National Planning Standards. Rules and standards are located in the 'Subdivision' chapter and are limited to the requirement for esplanade reserves where lots less than 4ha in area are created. Esplanade Priority Areas have been removed. | Low        |
| Effects on matters of                           | Public access is a matter of national importance. The provisions in the 'Public Access' chapter give   | Medium     |

| Criteria  | Comment   | Assessment |
|---|---|------------|
| national importance   | effect to the objectives and policies in the relevant higher order documents (NZCPS, NPS-FM, RPS)   |            |
| Scale of effects – geographically (local, district wide, regional, national).   | The provisions are largely a rollover of the ODP approach. The scale of effects in the PDP are not likely to be any greater than those in the ODP.  | Low        |
| Scale of people affected – current and future generations (how many will be affected – single landowners, multiple landowners, neighbourhoods, the public generally, future generations?).                          | The scale of people affected by the PDP will generally be limited to current and future landowners adjoining: <ul style="list-style-type: none"> <li>• the line of MHWS</li> <li>• the bank of a river whose bed has an average width of 3m or more</li> <li>• adjoining a lake greater than 8 ha</li> </ul> who choose to subdivide their property to create allotment(s) less than 4 ha and therefore require the creation of esplanade reserves. | Low        |
| Scale of effects on those with specific interests, e.g., Tangata Whenua   | The scale of effects from the PDP on tangata whenua remains similarly low. The objectives and policies continue to provide for customary access.  | Low        |
| Degree of policy risk – does it involve effects that have been considered implicitly or explicitly by higher order documents? Does it involve effects addressed by other standards/commonly accepted best practice? | Overall, the PDP approach aligns with the National Planning Standards, NZCPS and RPS. The PDP is concise and clear to understand addressing public and customary access to and along the coastal marine area and waterbodies, and similar to the approach taken in other second generation district plans. Therefore, the approach is considered to pose low policy risk.   | Low        |

### 6.3 Summary of scale and significance assessment

Overall, the scale and significance of the effects from the proposal is assessed as being low. Consequently, a low level of detail is appropriate for the evaluation of the objectives and provisions for the 'Public Access' chapter in accordance with section 32(1)(c) of the RMA. This evaluation focuses on key changes in the proposed management approach from the ODP - minor changes to provisions for clarification and to reflect new national and regional policy direction are not included in the evaluation in section 7 and 8 below.

## 7 Evaluation of Objectives

Section 32(1)(a) of the RMA requires that the evaluation report examine the extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA. The assessment of the appropriateness of the objectives for the 'Public Access' chapter is against four criteria to test different aspects of 'appropriateness' as outlined below.

| Criteria       | Assessment   |
|----------------|--|
| Relevance      | <ul style="list-style-type: none"> <li>Is the objective directly related to a resource management issue?</li> <li>Is the objective focused on achieving the purpose of the RMA?</li> </ul> |
| Usefulness     | <ul style="list-style-type: none"> <li>Will the objective help Council carry out its RMA functions?</li> <li>Does the objective provide clear direction to decision-makers?</li> </ul>     |
| Reasonableness | <ul style="list-style-type: none"> <li>Can the objective be achieved without imposing unjustified high costs on Council, tangata whenua, stakeholders and the wider community?</li> </ul>  |
| Achievability  | <ul style="list-style-type: none"> <li>Can the objective be achieved by those responsible for implementation?</li> </ul>   |

Section 32 of the RMA encourages a holistic approach to assessing objectives rather than necessarily looking each objective individually. This recognises that the objectives of a proposal generally work interdependently to achieve the purpose of the RMA. The ODP has multiple objectives and have been grouped in the evaluation below. The PDP proposes only one objective for the 'Public Access' chapter.

### 7.1 Evaluation of existing objectives

|   |   |
|---|---|
| <p><b>Objective:</b></p> <p><b>12.7.3.3</b> To secure public access (including access by Māori to places of special value such as waahi tapu, tauranga waka, mahinga kai, mahinga mataitai, mahinga waimoana and taonga raranga) to and along the coastal marine area, lakes and rivers, consistent with Chapter 14 - Financial Contributions, to the extent that this is compatible with:</p> <ul style="list-style-type: none"> <li>(a) the maintenance of the life-supporting capacity of the waterbody, water quality, aquatic habitats; and</li> <li>(b) the protection of natural character, amenity, cultural heritage, landscape and spiritual values; and</li> <li>(c) the protection of public health and safety; and</li> <li>(d) the maintenance and security of authorised activities (but acknowledging that loss of privacy or fear of trespass are not valid reasons for precluding access)</li> </ul> <p>In some circumstances public acquisition of riparian margins may be required and managed for purposes other than public access, for example to protect significant habitats, waahi tapu or historic sites, or for public recreation purposes.</p> |   |
| <b>Relevance</b>  | This objective is relevant in that it seeks to secure public access to and along the coastal marine area, lakes and rivers, but in way which is compatible with other matters. However, the language used potentially does not give effect to the RPS which requires that public access to and along the coastal marine area, lakes and rivers is maintained or improved. |
| <b>Usefulness</b>   | The objectives and policies provide direction for securing public access but is not expressed concisely and clearly. Improvements could be made to simplify the language and clarify the intent.  |
| <b>Reasonableness</b>   | Costs associated with implementation will be generated by the requirement to apply for consent (on any future developer) and monitoring (on Council). The proposed objectives do not result in any unjustifiable costs given the national importance of public access of wetland, lake and river margins.   |
| <b>Achievability</b>  | The objective is considered to be achievable.   |

**Overall evaluation**

The intent of this objective is appropriate albeit it is not expressed concisely and clearly. Improvements could be made to simplify the language and clarify the intent.

## 7.2 Evaluation of proposed objectives

**Objective(s):**

**PA-O1** Public and customary access to and along the coastal marine area and waterbodies is protected, maintained and enhanced for current and future generations.

**PA-O2** Public and customary access to and along the coastal marine area and waterbodies assists with the management of natural hazards, preservation of natural character, indigenous biodiversity, historic heritage, cultural and landscape values.

|                       |  |
|-----------------------|--|
| <b>Relevance</b>      | These objectives are relevant because they simply explain the outcome sought, clarify the intent.  |
| <b>Usefulness</b>     | The objectives provide clear direction in terms of the intended purpose and outcomes sought of the chapter and will give effect to the RPS which requires that public access to and along the coastal marine area, lakes and rivers is maintained or improved. |
| <b>Reasonableness</b> | Costs associated with implementation will be generated by the requirement to apply for consent (on any future developer) and monitoring (on Council). The proposed objective does not result in any un-justifiable costs.                                      |
| <b>Achievability</b>  | The objective and associated standards are achievable.   |

**Overall evaluation**

The objectives address the resource management issues relevant to the protection, maintenance and enhancement of provision of public and customary access to the coastal marine area, lakes and rivers. The proposed objectives clearly and simply explain the outcomes anticipated, in a way that is consistent with the plan structure required by the Planning Standards and achieves improved alignment with the RPS, which requires that public access to and along the coastal marine area, lakes and rivers is “maintained” or “improved”.

## 8 Evaluation of Provisions to Achieve the Objectives

### 8.1 Introduction

Section 32(1)(b) of the RMA requires the evaluation report to examine whether the provisions are the most appropriate way to achieve the objectives by:

- (i) identifying other reasonably practicable options for achieving the objectives; and*
- (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
- (iii) summarising the reasons for deciding on the provisions.*

When assessing the efficiency and effectiveness of the provisions in achieving the objectives, section 32(2) of the RMA requires that the assessment:

- a. identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—*
  - i. economic growth that are anticipated to be provided or reduced; and*
  - ii. employment that are anticipated to be provided or reduced; and*
- b. if practicable, quantify the benefits and costs referred to in paragraph (a); and*
- c. assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*

This section provides an assessment of reasonably practicable options and associated provisions (policies, rules and standards) for achieving the objectives in accordance with these requirements. This assessment of options is focused on the key changes from the status quo as outlined in the 'proposed management approach' in 5.2 of this report.

Each option is assessed in terms of the benefits, costs, and effectiveness and efficiency of the provisions, along with the risks of not acting or acting when information is uncertain or insufficient. For the purposes of this assessment:

- **effectiveness** assesses how successful the provisions are likely to be in achieving the objectives and addressing the identified issues
- **efficiency** measures whether the provisions will be likely to achieve the objectives at the least cost or highest net benefit to society.

The sections below provide an assessment of options (and associated provisions) for achieving the objectives in accordance with sections 32(1)(b) and 32(2) of the RMA.

### 8.2 Quantification of benefits and costs

Section 32(2)(b) of the RMA requires that, where practicable, the benefits and costs (environmental, economic, social and cultural) of a proposal are quantified. The requirement to quantify benefits and costs if practicable recognises it is often difficult and, in some cases, inappropriate to quantify certain costs and benefits through section 32 evaluations, particularly those relating to non-market values.

As discussed in 6.2, the scale and significance of the effects of proposed changes for the 'Public Access' chapter are assessed as being low. Therefore, exact quantification of the benefits and costs of the different options to achieve the objectives is not considered to be necessary or practicable for this topic. Rather this evaluation focuses on providing a qualitative assessment of the environmental, economic, social and cultural benefits and costs anticipated from the provisions with some indicative quantitative benefits and costs provided where practicable.

## 8.3 Evaluation of options

### 8.3.1 Option 1: Status quo

**Option 1:** The status quo, where public and customary access matters are covered in Section 12.7 of the ODP which also includes provisions that control the coastal environment, the natural character of wetland, lake and river margins, and activities on the surface of water. Chapter 14 Financial Contributions outlines the requirements for provision of an esplanade reserve or strip, or a financial contribution following a subdivision along these margins and coastal environment, and matters where Council may seek an access strip.

| Benefits  | Costs   | Risk of acting / not acting  |
|---|---|--|
| <ul style="list-style-type: none"> <li>• The public and practitioners are familiar with the provisions in the ODP applied to public and customary access to the coastal marine area and waterbodies</li> <li>• Enables the efficient use of land, because esplanade reserves are only taken in circumstances where they meet relevant criteria.</li> <li>• Esplanade priority areas assist to identify the desired location for new and expanded esplanade reserves.</li> </ul> | <ul style="list-style-type: none"> <li>• The PDP is instructed through the National Planning Standards to control public access, activities on the surface of water and the coastal environment within separate chapters in the PDP.</li> <li>• Continuation of the ODP approach would be inconsistent with the National Planning Standards and duplication of provisions.</li> <li>• The wording of ODP provisions is outdated in that it does not align with the requirements of the RPS and lacks specify and clarity which can result in inconsistent outcomes and/or high implementation/interpretation costs.</li> <li>• The chapter would control other matters or topics that overlap with provisions for lakes, rivers, wetland and the coastline while employing an effects-based planning approach (which is no longer considered “best practice”).</li> <li>• Council’s ability to purchase land in ‘Esplanade Priority Areas’ through development contributions is limited.</li> <li>• Lack of certainty regarding the appropriateness and location of currently identified esplanade priority areas.</li> </ul> | <ul style="list-style-type: none"> <li>• The risk of acting on this approach is that the Plan would be inconsistent with the National Planning Standards and the limitations associated with the current approach (identified in Section 4.2) would continue.</li> </ul> |

|   |   |
|---|---|
| <p><b>Effectiveness</b></p> <ul style="list-style-type: none"> <li>Retaining the existing approach could effectively achieve the outcomes sought for public access. However, it would not achieve alignment with the Planning Standards and the recent direction identified in the RPS.</li> <li>In addition, the ODP approach:</li> <li>contains repetition of provisions and the provisions lack specificity.</li> </ul>  | <p><b>Efficiency</b></p> <ul style="list-style-type: none"> <li>Option 1 is not considered to be the most efficient approach. The PDP is required have individual chapters for public access and consolidating multiple topics into single chapters has the potential for confusion and duplication.</li> </ul> |
| <p><b>Overall evaluation</b></p> <p>On balance, this option is not considered to be the most appropriate option to achieve the objectives because:</p> <ul style="list-style-type: none"> <li>It is not the most efficient way to achieve the desired outcomes for the public access to and along the coastal marine area, lakes and rivers.</li> <li>Grouping topics that are required to be addressed in individual chapters in the PDP would cause confusion.</li> <li>It is not in accordance with the National Planning Standards for a separate public access chapter</li> <li>The provisions could be expressed more clearly which would aid with interpretation.</li> </ul> |   |

### 8.3.2 Option 2: Public Access chapter - Proposed approach

**Option 2:** Apply a public access chapter managing public access to and along the coastal marine area and waterbodies, with simplified language. Rely on rules and standards in the subdivision chapter to require esplanade reserves in accordance with s230 of the RMA, at the time of subdivision.

Rely on methods outside the District Plan to provide strategic public access links. (e.g. designations, acquisition of land, negotiated agreements with landowners, retaining unformed legal roads)

| <b>Benefits</b>   | <b>Costs</b>   | <b>Risk of acting / not acting</b>  |
|---|--|---|
| <ul style="list-style-type: none"> <li>Public access addressed in separate chapter in accordance with the directions in the National Planning Standards.</li> <li>Simplified approach for managing public and customary access to the coastal marine area and waterbodies aids with plan interpretation (and associated reduced time and costs).</li> <li>Enables the efficient use of land, because esplanade reserves are only taken in circumstances where they meet relevant criteria.</li> <li>Requires esplanade reserves where lots less than 4ha are created, providing opportunities for maintained and</li> </ul> | <ul style="list-style-type: none"> <li>No requirements for esplanades reserves where lots greater than 4ha are created for land use activities, which potentially misses opportunities for improved access to waterbodies and the coast.</li> <li>Increased reliance on methods outside the District Plan to provide strategic public access links (e.g. designations, acquisition of land, negotiated agreements with landowners, retaining unformed legal roads)</li> <li>Missed opportunities to join the gaps (long term) in the public access network could result</li> </ul> | <ul style="list-style-type: none"> <li>There is low risk associated with Option 2, the PDP 'Public Access' chapter provisions provide for a consistent implementation of the management approach aligning with the National Planning Standards. The provisions are aligned with legislation, and statutory plans and policy documents, and the approach taken in other similar second generation district plans.</li> </ul> |



|   |  |  |
|---|--|--|
| <p>improved access to waterbodies and the coast.</p> <ul style="list-style-type: none"> <li>The PDP supports the voluntary creation of esplanade reserves for land use activities.</li> </ul>   | <p>in poor outcomes for the community.</p>   |  |
| <p><b><u>Effectiveness</u></b></p> <ul style="list-style-type: none"> <li>The provisions are effective as they require the creation of esplanade reserves for subdivision creating lots less than 4ha to protect, maintain and enhance public and customary access while giving effect to section 6(d) of the RMA as a matter of national importance and the RPS. They are consistent with the legislative context and higher order documents and do not result in unnecessary costs to landowners or developers.</li> </ul>  | <p><b><u>Efficiency</u></b></p> <ul style="list-style-type: none"> <li>The proposed option is an efficient method of achieving the PDP public access objectives. The removal of esplanade priority areas from the PDP allows Council to efficiently rely on the requirements for esplanade reserves in the 'Subdivision' chapter, in conjunction with other methods outside of the District Plan.</li> </ul> |  |
| <p><b><u>Overall evaluation</u></b></p> <p>On balance this option is considered to be the most appropriate option to achieve the objectives because:</p> <ul style="list-style-type: none"> <li>The proposed provisions are concise and clear which aids with plan interpretation and leads to more consistent outcomes.</li> <li>The proposed provisions comply with the National Planning Standards and electronic format of the PDP.</li> <li>The approach gives effect to higher order documents including national and regional policy statements and is consistent with the legislative context.</li> </ul> |  |  |

### Option 3: Strategic Public Access approach - Alternative approach

| <p><b>Option 3:</b> More “strategic” and “targeted” approach to providing public access by identifying “public access corridors” for strategic walkways/cycleways and provisions to protect this land for future public access.</p>  |  |   |
|--|--|---|
| Benefits   | Costs  | Risk of acting / not acting   |
| <ul style="list-style-type: none"> <li>• Greater certainty regarding the significance of public access corridors to and along rivers, lakes and coastal environments.</li> <li>• Improved connection for public access corridors and shared pathway networks.</li> <li>• Potentially higher environmental quality, community wellbeing,</li> <li>• Greater control of development adjacent to the coast and waterbodies.</li> <li>• Public access addressed in separate chapter in accordance with the directions in the National Planning Standards.</li> </ul> | <ul style="list-style-type: none"> <li>• Economic and property value implications for affected landowners.</li> <li>• Less certainty for landowners and reduced ability to use their land efficiently.</li> <li>• High costs associated with resource consent applications for development on land containing a public access corridor (and associated time, and uncertainty).</li> <li>•</li> </ul> | <ul style="list-style-type: none"> <li>• There is limited information or certainty to act on this approach. Council does not have a finalised Open Space or Public Access Strategy which identifies the strategic priorities or locations for future public access.</li> <li>• The risk of acting on this approach is high because any land use restrictions would have high costs for landowners.</li> </ul> |
| <p><b>Effectiveness</b></p> <ul style="list-style-type: none"> <li>• The proposed rules and standards are less effective than other approaches because they impact on the ability for landowners to efficiently use their land, with more restrictions placed on future development. The approach would be effective in minimising inappropriate subdivision, use and development, and protecting land for future public but there is currently limited information to act on this approach.</li> </ul>  |  | <p><b>Efficiency</b></p> <ul style="list-style-type: none"> <li>• The rules would provide clarity for plan users about the location of “public access corridors” but the approach would not be efficient as the costs of resource consents and land use restrictions would outweigh the benefits, and there is limited information to act on this approach.</li> </ul>  |
| <p><b>Overall evaluation</b></p> <p>On balance this option is considered to be the least appropriate option to achieve the objectives because:</p> <ul style="list-style-type: none"> <li>• The proposed provisions will create more uncertainty concerning economic and property value implications for affected landowners</li> <li>• There is less flexibility for the use of land for affected landowners.</li> <li>• There is limited information to act on this approach.</li> </ul>   |  |   |

## 9 Summary

An evaluation of the proposed objectives and provisions for the 'Public Access' chapter has been carried out in accordance with section 32 of the RMA. This evaluation has concluded that the objectives are the most appropriate way to achieve the purpose of the RMA and the provisions are the most appropriate way to achieve the objectives for the following reasons:

- The public access objectives achieve the purpose of the RMA, are consistent with recent legislative changes and give effect to the relevant higher order documents (NZCPS, NPSFM, RPS).
- The public access provisions combined with alternative methods outside the District Plan will protect, maintain and enhance public and customary access to and along the coastal marine area and waterbodies, with appropriate rules and standards in the 'Subdivision' chapter
- The objectives and policies are expressed concisely and clearly, which clarifies their intent, and reduces repetition with provisions in other chapters of the PDP.

Overall, it is considered that the proposed provisions are the most appropriate given that the benefits outweigh the costs, and there are considerable efficiencies to be gained from adopting the preferred provisions.