

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

of the Proposed Waikato District Plan (Stage
1) – Hearing 18 – Rural Zone

**STATEMENT OF EVIDENCE OF JOHN ANDREW RIDDELL FOR THE DIRECTOR-GENERAL
OF CONSERVATION**

8 SEPTEMBER 2020

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Conservation**

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1. INTRODUCTION

1.1 My name is John Andrew Riddell.

1.2 I hold the qualification of Bachelor of Resource and Environmental Planning with First Class Honours. I am a member of the New Zealand Planning Institute.

Experience

1.3 I am currently self-employed, operating under the company name CEP Services Matauwhi Limited.

1.4 I have been practising as a resource management planner on a part-time basis since 1989 and a full-time basis since 1993. Until November 1998 I was self-employed, although I did work for Nugent Consultants Limited on a part time basis from 1993 until 1996. Between November 1998 and June 2013 I was employed by the Department of Conservation (the **Department**).

1.5 A significant portion of my resource management work has involved assessing draft and proposed regional policy statements and regional and district plans, preparing submissions and giving evidence on policy statement and plan content, participating in mediation on appeals over proposed policy statements and plans, and giving evidence to the Environment Court on provisions of policy statements and plans.

1.6 In the last five years I have given advice and/or evidence and/or participated in mediation and expert conferencing on the following proposed policy statements and plans:

- (a) Auckland Unitary Plan;
- (b) proposed Thames-Coromandel District Plan;
- (c) Bay of Plenty Coastal Environment Plan;
- (d) draft Gisborne Water and Soil Plan;
- (e) Northland Regional Policy Statement;
- (f) Whangarei District Plan Changes;

- (g) draft Far North District Plan; and
- (h) Regional Coastal Plan – Kermadec and Subantarctic Islands.

1.7 A comprehensive list of the policy statements and plans I have been involved in (comments, submissions, evidence, mediation, and/or appeals) since 1998 is given in the footnote.¹

1.8 In addition to this policy statement and plan work I have experience in preparing, assessing, submitting and giving evidence on resource consents.² This includes evidence to the Environment Court on applications for coastal subdivision, tidal power generation, the taking of groundwater, and mangrove removal. I have processed resource consent applications for Far North District Council.

Involvement in preparation of the Director-General's submission on the proposed Plan

1.9 I have been asked by the Director-General of Conservation (the **Director-General**) to provide evidence in regard to the Director-General's submissions and further submissions on the proposed Waikato District Plan (the **Proposed Plan**).

1.10 I was engaged on this matter in early September 2019. I was not involved in the preparation of the Director-General's submission and further submission on the Proposed Plan.

Code of Conduct

1.11 I have read and agree to comply with the Code of Conduct for Expert Witnesses produced by the Environment Court (2014). My qualifications and

¹ I have prepared reports on financial contributions that were part of the preparation of the Far North District Plan and the Waitakere City District Plan. I have provided evidence on, and/or provided planning advice for appeal negotiations and mediation on: the Auckland City District Plan - Isthmus section, Far North District Plan, Bay of Islands District Scheme (which included a coastal plan component), Whangarei District Plan (including several plan changes), Kaipara District Plan, Kaikoura District Plan, Northland Regional Policy Statements (there have been two), Regional Water and Soil Plan for Northland, Regional Coastal Plan for Northland and plan changes to that plan, the draft Gisborne Water and Soil Plan, the Auckland Unitary Plan, the proposed Thames-Coromandel District Plan, the Regional Coastal Plan – Kermadec and Subantarctic Islands, and the Bay of Plenty Coastal Environment Plan. I was one of co-authors of the *Sustainable Development Plan for Kororipo-Kerikeri Basin*, October 2005. This was a management plan prepared under the Reserves Act for the combined reserve land at Kororipo-Kerikeri Basin administered by the Department of Conservation and the Far North District Council.

² Applications that I have prepared include applications for a mangrove boardwalk, discharges from fish processing facilities, indigenous vegetation clearance, earthworks, boat ramp, jetties, boat slip, buildings in the coastal marine area, houses in flood hazard areas, aerial pest control (1080 and brodifacoum), medical centre, restaurant, huts on public conservation land, and several houses and other structures.

experience as an expert are set out above. Other than those matters identified within my evidence as being from other experts, I confirm that the issues addressed in this brief of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

2. APPROACH TAKEN IN EVIDENCE

2.1 This evidence covers the following matters under consideration in Hearing 18 - Rural:

- (a) amending policy 5.3.5 and permitted activity rule P1 in 22.2.3.1 to provide for earthworks for ecosystem, protection, rehabilitation or restoration works;
- (b) policy 5.3.13 on waste management facilities in special areas;
- (c) amending earthworks rules 22.2.3.1 P2 and RD1 to remove standards or matters of discretion that are part of the functions of the Waikato Regional Council; and
- (d) amending policy 5.2.3 and the Conservation Lot subdivision rule.

2.2 I have read the rural hearing report required by section 42A of the Act on these matters.³

2.3 In this statement, I use the numbering from the Proposed Plan, unless noted otherwise.

3. EARTHWORKS FOR ECOSYSTEM PROTECTION, REHABILITATION OR RESTORATION WORKS

Further submissions FS1293.27 and FS1293.28 by the Director-General of Conservation in support of submissions 433.3 and 433.31 by Auckland Waikato Fish and Game Council, paragraphs 243 to 245 and 267 of Hearing 18 report by J Cleese.

3.1 The submissions by the Auckland Waikato Fish and Game Council seek:

- (a) amendments to policy 5.3.5 to recognise earthworks for ecosystem protection, rehabilitation or restoration works and for wetland enhancement work; and

³ In this evidence I refer to that report as the Hearing 18 report.

- (b) an extension to permitted activity earthworks rule 22.2.3.1 to provide for earthworks for ecosystem protection, restoration or enhancement.
- 3.2 The Director-General supports these submissions, including because the Waikato District has a significant proportion of indigenous wetlands in the Waikato region, and because the Department of Conservation undertakes a variety of protection works that would benefit from the proposed rule change.
- 3.3 The Hearing 18 report recommendation in relation to policy 5.3.5 is to accept the submission in part by adding a statement in the policy that earthworks to facilitate 'conservation activity' is to be enabled, given the Proposed Plan already includes a definition of 'conservation activity'.
- 3.4 The Hearing 18 report recommendation with respect to rule 22.2.3.1 P1 is to provide for earthworks ancillary to 'conservation activities' as a permitted activity in the Rural zone.
- 3.5 The submissions only apply to earthworks in the Rural Zone and do not extend to amending permitted activity Rule 22.2.3.3 on earthworks within Significant Natural Areas.⁴
- 3.6 I also note that policy 11.1 of the Waikato Regional Policy Statement (**Regional Policy Statement**) encourages ecosystem restoration and enhancement:

Policy 11.1 Maintain or enhance indigenous biodiversity

Promote positive indigenous biodiversity outcomes to maintain the full range of ecosystem types and the maintain or enhance their spatial extent as necessary to achieve healthy ecological functioning of ecosystems, with a particular focus on: ...

- c) the re-creation and restoration of habitats and connectivity between habitats; ...

Policy 5.3.5

- 3.7 Policy 5.3.5 is currently a policy on earthworks that supports rural activities.
- 3.8 Some policy guidance on ecosystem protection, restoration or enhancement is given in chapter 3 of the Proposed Plan, and includes:

3.1.1 Objective – Biodiversity and ecosystems

⁴ This is also noted in the Hearing 18 report at paragraph 267.

- (a) Indigenous biodiversity values and the life-supporting capacity of indigenous ecosystems are maintained or enhanced.

3.1.2 Policies

- (a) Enable activities that maintain or enhance indigenous biodiversity including
 - (i) planting using indigenous species suitable to the habitat;
 - (ii) the removal or management of pest plant and animal species;
 - (iii) biosecurity works.

3.2.7 Policy – Managing Significant Natural Areas

- (a) Promote the management of Significant Natural Areas in a way that protects their long-term ecological functioning and indigenous biodiversity values, through such means as:
 - (iv) maintaining and restoring natural wetland cover

3.9 In my opinion, to the extent that earthworks are necessary to maintain or enhance indigenous biodiversity, particularly in terms of ecosystem protection, rehabilitation or restoration works and wetland enhancement, it is consistent with the Regional Policy Statement and with natural environment objectives and policies in the Proposed Plan to include a policy statement of the type sought for policy 5.3.5

3.10 However, I consider that there are two changes needed to the wording is sought in the submission. First, it should be clarified that it is indigenous ecosystems that are the subject of this policy amendment, and maintenance and enhancement of indigenous biodiversity that is promoted by the Regional Policy Statement, and is enabled by relevant natural environment policies of the Proposed Plan.

3.11 This is achieved by following the Hearing 18 report recommendation to add a reference to 'conservation activities' to the policy. I do have concerns about a proposed definition of 'conservation activities' which I discuss below.

3.12 Second, I consider that the policy layout requires that this is added as a separate clause, as 'conservation activities' is strictly not 'rural activities'.

3.13 With these changes, policy 5.3.5 would be:

5.3.5 Policy -Earthworks activities

- (a) Provide for earthworks where they support rural activities including:
 - (i) Ancillary rural earthworks and farm quarries;
 - (ii) The importation of fill material to a site;
 - (iii) Use of cleanfill where it assists the rehabilitation of quarries.
- (ab) Provide for earthworks for conservation activities.
- (b) Manage the effects of earthworks to ensure that:
 - (i) Erosion and sediment loss is avoided or mitigated;
 - (ii) The ground is geotechnically sound and remains safe and stable for the duration of the intended land use;
 - (iii) Changes to natural water flows and established drainage paths are avoided or mitigated;
 - (iv) Adjoining properties and public services are protected.⁵

3.14 I did consider whether clause (ab) is better located in section 3.1 of the Proposed Plan but concluded that as the associated rule change is only for the Rural Zone, it would be better to amend the relevant Rural policy.

Definition of 'conservation activities'

3.15 The Hearing Report recommends the insertion of a definition for 'conservation activities':

Means activities associated with indigenous habitat, wetlands and wildlife management and restoration that fundamentally benefit indigenous biodiversity or raise public awareness of indigenous biodiversity values. This includes stock exclusion, research and monitoring, the establishment, maintenance or upgrading of public walking or cycle tracks, interpretive and directional signs, accessory buildings including those for tourism, interpretation or education purposes and the provision of access for plant or animal pest management.

3.16 I have several concerns with this definition. The first is that the definition does not clearly focus on protection, restoration and rehabilitation of indigenous habitats.

⁵ The recommendation is to make amendments to clause (b). I agree with those recommended amendments. I have not shown those changes here.

- 3.17 Second, the inclusion of the reference to accessory buildings in the definition broadens the definition significantly more than is desirable, in my opinion.
- 3.18 Third, the definition extends beyond what is considered to be conservation to include tourism, in itself a very broad activity.
- 3.19 The following amended definition of 'conservation activities' addresses the concerns I outline above:

Means activities associated with indigenous habitat, ~~wetlands and wildlife management~~ protection, and restoration and rehabilitation that fundamentally benefit indigenous biodiversity or raise public awareness of indigenous biodiversity values. This includes stock exclusion, research and monitoring, the establishment, maintenance or upgrading of public walking or cycle tracks, interpretive and directional signs, ~~accessory buildings including those for tourism, interpretation or education purposes~~ and the provision of access for plant or animal pest management.

Earthworks rule 22.2.3.1 P1

- 3.20 Providing for earthworks for 'conservation activities' as a permitted activity is, in my opinion, appropriate if the amendment is made to policy 5.3.5.
- 3.21 The recommended amendment to rule 22.2.3.1 P1 is to add a further clause (b) providing for earthworks ancillary to a conservation activity subject to erosion and sediment controls.
- 3.22 The recommended wording for this addition to the rule could, in my opinion, be re-phrased to make it clearer, as follows:

Rule 22.2.3.1 P1

- (b) Earthworks ancillary to a conservation activity ~~must meet~~ subject to the following conditions:
- (i) Sediment resulting from the earthworks is retained on the site ~~through the implementation and maintenance of erosion and sediment controls.~~

- 3.23 I do have some concern that there is no maximum earthworks volume, area or other limits applying to such ancillary earthworks.
- 3.24 I would expect that, where such conservation activities occur within mapped Significant Natural Areas, the permitted activity Significant Natural Area

earthworks rule 22.2.3.3 P1 would apply, as a mechanism to ensure adverse effects on indigenous biodiversity values are, by preference, avoided.

3.25 Under this rule indigenous ecosystem protection, restoration or rehabilitation earthworks would require a restricted discretionary activity consent.

3.26 Policy 3.2.7 of the Proposed Plan would support including earthworks for indigenous ecosystem protection, restoration or restoration and for indigenous wetland restoration or enhancement in the permitted activity earthworks rule for Significant Natural Areas.

3.27 However, I consider that there would need to be strict limits on the volume and area of earthworks ancillary to conservation activities within Significant Natural Areas, given the protective policy direction that applies in such areas.

4. POLICY 5.3.13

Submission 585.6 by Director-General of Conservation; paragraph 390 of Hearing 18 report by J Cleave.

4.1 Policy 5.3.13 is a policy on waste management activities in the rural environment.

4.2 Part (a) of the policy is about rehabilitation of quarry sites. Part (b) introduces a test for the location of waste management facilities of compatibility with the surrounding rural environment.

4.3 Clause (c) is the subject of the Director-General's submission and states:

5.3.13 Policy – Waste management facilities

(c) Waste management facilities within the following areas are undertaken in a manner that protects the natural values of:

- (i) An Outstanding Natural Landscape;
- (ii) An Outstanding Natural Feature;
- (iii) An Outstanding Natural Character Area;
- (iv) A High Natural Character Area.

- 4.4 The Director-General is seeking the deletion of this clause.
- 4.5 The Hearing 18 report recommends amending the policy so that it states that waste management facilities should avoid locating in the identified special areas.
- 4.6 Waste management facilities are defined as:
- Waste management facility
- Means a facility which provides waste management storage, disposal services or waste remediation and materials recovery services, in relation to solid waste. Waste management facilities include: landfills, cleanfills, commercial composting operations, recovery operations, transfer stations, recycling centres and resource recovery centres.
- 4.7 In the Rural Zone waste management facilities in an Outstanding Natural feature, Outstanding Natural Landscape, High Natural Character area or Outstanding Natural Character Area are provided for as a non-complying activity.⁶
- 4.8 In my opinion, given the non-complying activity status for waste management facilities in outstanding and high value areas, and given the 'waste management facility' definition would apply to small scale as well as large facilities, it is appropriate to include specific policy guidance on such facilities locating within such areas.
- 4.9 However, I consider that a “protects the natural values” policy directive introduces a conflict with the 'avoid adverse effects” directive that applies to the outstanding value areas, including when the non-complying activity gateway tests are being considered.
- 4.10 Therefore, I agree with the recommended amendment of policy 5.3.13 in the Hearing 18 report:

5.3.13 Policy – Waste management facilities

(c) ~~Avoid~~ ~~waste management facilities within the following areas are undertaken in a manner that protects the natural values of:~~

- (i) An Outstanding Natural Landscape;
- (ii) An Outstanding Natural Feature;

⁶ Rule 22.1.5(1)NC3.

- (iii) An Outstanding Natural Character Area;
- (iv) A High Natural Character Area.

5. EARTHWORKS AND REGIONAL COUNCIL FUNCTIONS

Further submissions FS1293.29 and FS1293.30 by the Director-General in support of Submissions 433/50 and 433/51 by Fish and Game, paragraphs 286 to 289 of the Hearing 18 report by J Cleese.

- 5.1 These submissions seek the deletion of standards applying to Rural Zone earthworks permitted activity and restricted discretionary rules.
- 5.2 The standards relate to sediment control and natural water flows, water bodies or established drainage paths.
- 5.3 The Director-General supports these two submissions on the grounds that the standards that are sought to be deleted are regional council functions, not district council ones.
- 5.4 The staff report is to accept the submissions in part, and to delete clause (vii) of rule 22.2.3.1 P2. This clause concerns diverting or changing the nature of natural water flows, water bodies or established drainage paths.
- 5.5 I agree with the recommendations on this given at paragraph 291 in the Hearing 18 report.

6. POLICY 5.2.3 – PROTECTION OF INDIGENOUS BIODIVERSITY

Further submission FS1293.53 by the Director-General in support of Submission 746.1 by The Surveying Company, paragraphs 96 to 99 of Hearing 18 report by J Cleese.

- 6.1 The submission seeks the amendment of part (b) of policy 5.2.3. Part (b) of the policy is about directing lifestyle subdivision away from high class soils and from areas where indigenous biodiversity is being protected. The submission seeks that the policy includes areas of indigenous biodiversity that are being enhanced or restored, in addition to areas that are protected.
- 6.2 The Director-General supports the submission.
- 6.3 The Hearing 18 report recommendation is to delete clause (b) of the policy because policy 5.2.3 is primarily a policy on avoiding the fragmentation of productive rural land, particularly where high class soils are located. Clause (b)

is not seen as a good fit for that policy direction. Policy 5.3.8 is suggested as adequately covering the issue that is the subject of clause (b) of policy 5.2.3.

- 6.4 A replacement of policy 5.3.8 is recommended in the Hearing 18 report by K Overwater, at paragraph 84 of that report.
- 6.5 This replacement policy provides, among other things, for limited subdivision where significant natural areas are protected.
- 6.6 Subject to the possibility of policy 5.3.8 being amended to reflect the final version of the Conservation Lot subdivision rule, I agree with the recommendation to delete clause (b) of policy 5.2.3.

7. CONSERVATION LOT SUBDIVISION

Further submission 1293.55 by the Director-General in support of Submission 746.111 by The Surveying Company; paragraphs 419 and 420 of Hearing 18 report by K Overwater.

- 7.1 The submission by The Surveying Company that is supported by the Director-General, seeks that the Conservation Lot subdivision rule 22.4.1.6 RD1 be extended to include areas to be enhanced and/or restored.
- 7.2 The rule currently applies to mapped Significant Natural Areas.
- 7.3 The Hearing 18 report does not recommend making such an amendment to the restricted discretionary Conservation Lot rule.
- 7.4 A new discretionary activity rule is recommended providing for subdivision where revegetation or enhancement planting of a mapped Significant Natural Area is proposed, where that revegetation or enhancement planting is to enhance the Significant Natural Area so that it could then meet minimum Significant Natural Area requirements that are recommended for the restricted discretionary Conservation Lot subdivision rule.
- 7.5 My concern with the submission by The Surveying Company is that there is a lack of precision with the further provision for a conservation lot subdivision that the submission seeks.
- 7.6 The Hearing 18 report recommendation to provide a further discretionary activity rule providing for additional lots where a Significant Natural Area is

subject to revegetation or enhancement planting addresses my concern about the imprecision of The Surveying Company's submission.

A handwritten signature in blue ink, appearing to read 'A. Riddell', is centered on the page.

Andrew Riddell

7 September 2020