

APPENDIX B: RELEVANT RESOURCE MANAGEMENT ACT 1991 PROVISIONS

The provisions of the Resource Management Act 1991 that are relevant to the Private Plan Change Request by the Wainui Bay Spat Catching Group are set out below.

Section 5

5 Purpose

- (1) The purpose of this Act is to promote the sustainable management of natural and physical resources.
- (2) In this Act, **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 well-being 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.

Section 6

6 Matters of national importance

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:
- (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:
- (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:
- (d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:
- (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:
- (f) the protection of historic heritage from inappropriate subdivision, use, and development:
- (g) the protection of protected customary rights.

Section 7

7 Other matters

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

- (a) kaitiakitanga:
- (aa) the ethic of stewardship:
- (b) the efficient use and development of natural and physical resources:
- (ba) the efficiency of the end use of energy:
- (c) the maintenance and enhancement of amenity values:
- (d) intrinsic values of ecosystems:
- (e) *[Repealed]*
- (f) maintenance and enhancement of the quality of the environment:
- (g) any finite characteristics of natural and physical resources:
- (h) the protection of the habitat of trout and salmon:
- (i) the effects of climate change:
- (j) the benefits to be derived from the use and development of renewable energy.

Section 8

8 Treaty of Waitangi

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

Section 32

32 Requirements for preparing and publishing evaluation reports

- (1) An evaluation report required under this Act must—
 - (a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and
 - (b) examine whether the provisions in the proposal 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; and
 - (c) contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.
- (2) An assessment under subsection (1)(b)(ii) must—

- (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.
- (3) If the proposal (an **amending proposal**) will amend a standard, statement, regulation, plan, or change that is already proposed or that already exists (an **existing proposal**), the examination under subsection (1)(b) must relate to—
- (a) the provisions and objectives of the amending proposal; and
 - (b) the objectives of the existing proposal to the extent that those objectives—
 - (i) are relevant to the objectives of the amending proposal; and
 - (ii) would remain if the amending proposal were to take effect.
- (4) If the proposal will impose a greater prohibition or restriction on an activity to which a national environmental standard applies than the existing prohibitions or restrictions in that standard, the evaluation report must examine whether the prohibition or restriction is justified in the circumstances of each region or district in which the prohibition or restriction would have effect.
- (5) The person who must have particular regard to the evaluation report must make the report available for public inspection—
- (a) as soon as practicable after the proposal is made (in the case of a standard or regulation); or
 - (b) at the same time as the proposal is publicly notified.
- (6) In this section,—
- objectives** means,—
- (a) for a proposal that contains or states objectives, those objectives;
 - (b) for all other proposals, the purpose of the proposal
- proposal** means a proposed standard, statement, regulation, plan, or change for which an evaluation report must be prepared under this Act
- provisions** means,—
- (a) for a proposed plan or change, the policies, rules, or other methods that implement, or give effect to, the objectives of the proposed plan or change;
 - (b) for all other proposals, the policies or provisions of the proposal that implement, or give effect to, the objectives of the proposal.

Section 87A

87A Classes of activities

- (1) If an activity is described in this Act, regulations (including any national environmental standard), a plan, or a proposed plan as a permitted activity, a resource consent is not required for the activity if it complies with the requirements, conditions, and permissions, if any, specified in the Act, regulations, plan, or proposed plan.

(2) If an activity is described in this Act, regulations (including any national environmental standard), a plan, or a proposed plan as a controlled activity, a resource consent is required for the activity and—

(a) the consent authority must grant a resource consent except if—

(i) section 106 applies; or

(ii) section 55(2) of the Marine and Coastal Area (Takutai Moana) Act 2011 applies; and

(b) the consent authority's power to impose conditions on the resource consent is restricted to the matters over which control is reserved (whether in its plan or proposed plan, a national environmental standard, or otherwise); and

(c) the activity must comply with the requirements, conditions, and permissions, if any, specified in the Act, regulations, plan, or proposed plan.

(3) If an activity is described in this Act, regulations (including any national environmental standard), a plan, or a proposed plan as a restricted discretionary activity, a resource consent is required for the activity and—

(a) the consent authority's power to decline a consent, or to grant a consent and to impose conditions on the consent, is restricted to the matters over which discretion is restricted (whether in its plan or proposed plan, a national environmental standard, or otherwise); and

(b) if granted, the activity must comply with the requirements, conditions, and permissions, if any, specified in the Act, regulations, plan, or proposed plan.

(4) If an activity is described in this Act, regulations (including any national environmental standard), a plan, or a proposed plan as a discretionary activity, a resource consent is required for the activity and—

(a) the consent authority may decline the consent or grant the consent with or without conditions; and

(b) if granted, the activity must comply with the requirements, conditions, and permissions, if any, specified in the Act, regulations, plan, or proposed plan.

(5) If an activity is described in this Act, regulations (including a national environmental standard), a plan, or a proposed plan as a non-complying activity, a resource consent is required for the activity and the consent authority may—

(a) decline the consent; or

(b) grant the consent, with or without conditions, but only if the consent authority is satisfied that the requirements of section 104D are met and the activity must comply with the requirements, conditions, and permissions, if any, specified in the Act, regulations, plan, or proposed plan.

(6) If an activity is described in this Act, regulations (including a national environmental standard), or a plan as a prohibited activity,—

(a) no application for a resource consent may be made for the activity; and

(b) the consent authority must not grant a consent for it.

(7) However, subsection (6) does not apply to a concurrent application lodged under subpart 4 of Part 7A.

Clauses 21 and 22, Part 2 of Schedule 1

21 Requests

- (1) Any person may request a change to a district plan or a regional plan (including a regional coastal plan).
- (2) Any person may request the preparation of a regional plan, other than a regional coastal plan.
- (3) Any Minister of the Crown or any territorial authority in the region may request a change to a policy statement.
- (4) Where a local authority proposes to prepare or change its policy statement or plan, the provisions of this Part shall not apply and the procedure set out in Part 1 shall apply.

22 Form of request

- (1) A request made under clause 21 shall be made to the appropriate local authority in writing and shall explain the purpose of, and reasons for, the proposed plan or change to a policy statement or plan and contain an evaluation report prepared in accordance with section 32 for the proposed plan or change.
- (2) Where environmental effects are anticipated, the request shall describe those effects, taking into account clauses 6 and 7 of Schedule 4, in such detail as corresponds with the scale and significance of the actual or potential environmental effects anticipated from the implementation of the change, policy statement, or plan.

Clauses 6 and 7, Schedule 4

6 Information required in assessment of environmental effects

- (1) An assessment of the activity's effects on the environment must include the following information:
 - (a) if it is likely that the activity will result in any significant adverse effect on the environment, a description of any possible alternative locations or methods for undertaking the activity;
 - (b) an assessment of the actual or potential effect on the environment of the activity;
 - (c) if the activity includes the use of hazardous substances and installations, an assessment of any risks to the environment that are likely to arise from such use;
 - (d) if the activity includes the discharge of any contaminant, a description of—
 - (i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and
 - (ii) any possible alternative methods of discharge, including discharge into any other receiving environment;
 - (e) a description of the mitigation measures (including safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce the actual or potential effect;
 - (f) identification of the persons affected by the activity, any consultation undertaken, and any response to the views of any person consulted;

- (g) if the scale and significance of the activity's effects are such that monitoring is required, a description of how and by whom the effects will be monitored if the activity is approved:
 - (h) if the activity will, or is likely to, have adverse effects that are more than minor on the exercise of a protected customary right, a description of possible alternative locations or methods for the exercise of the activity (unless written approval for the activity is given by the protected customary rights group).
- (2) A requirement to include information in the assessment of environmental effects is subject to the provisions of any policy statement or plan.
- (3) To avoid doubt, subclause (1)(f) obliges an applicant to report as to the persons identified as being affected by the proposal, but does not—
- (a) oblige the applicant to consult any person; or
 - (b) create any ground for expecting that the applicant will consult any person.

7 Matters that must be addressed by assessment of environmental effects

- (1) An assessment of the activity's effects on the environment must address the following matters:
- (a) any effect on those in the neighbourhood and, where relevant, the wider community, including any social, economic, or cultural effects:
 - (b) any physical effect on the locality, including any landscape and visual effects:
 - (c) any effect on ecosystems, including effects on plants or animals and any physical disturbance of habitats in the vicinity:
 - (d) any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations:
 - (e) any discharge of contaminants into the environment, including any unreasonable emission of noise, and options for the treatment and disposal of contaminants:
 - (f) any risk to the neighbourhood, the wider community, or the environment through natural hazards or the use of hazardous substances or hazardous installations.
- (2) The requirement to address a matter in the assessment of environmental effects is subject to the provisions of any policy statement or plan.