

**Before the Environment Court
At Auckland**

**I Mua I Te Koti Taiao
Tamaki Makaura Rohe**

Env- 2026-AKL –

Under The Resource Management Act 1991 (RMA)

In the matter of an appeal under clause 14(1) of Schedule 1 of the RMA

And in the of the Proposed Far North District Plan
Matter

Between **Ricky Faesen Kloet**
Appellant

And **Far North District Council**
Respondent

Notice of Appeal

Dated: 19 August 2026

Presented for filing by:

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Notice of Appeal

To: The Registrar
Environment Court
Auckland

Introduction

1. Ricky Faesen Kloet (**Appellant**) appeals against part of the decision (**Decision**) of the Far North District Council (**Respondent**) in respect of the Proposed Far North District Plan (**PDP**).
2. The Appellant is the owner of a property abutting Cook's Cove at Motuarohia Island in the Bay of Islands
3. The Appellant made a submission ((No S495) on the PDP.
4. The appellant is not a trade competitor for the purposes of section 308D of the RMA.
5. The respondent notified the Decision, and the decision was received by the Appellant, on 30 June 2026.
6. As the final day for filing appeals was 12 August 2026 leave of the court is sought as outlined in the attached letter to the Registrar.

Appeal

7. The Appellant appeals the parts of the Decision that relate to the following parts of the PDP:
 - (a) Part 2 – District-Wide Matters – Natural Environmental Values – Natural Features and Landscapes.
 - (b) Part 2 – District-Wide Matters – Coastal Environment
 - (c) Part 3 – Area specific matters – Zones – Rural Production Zone

Reasons

8. The reasons for the appeal are that:
 - (a) The appellant's property is zoned Rural Production Zone (**RPZ**) under the PDP and is in the coastal environment (**CE**). It is also subject to the Outstanding Natural Landscape (**ONL**) and High Natural Character (**HNC**) mapping overlays over the entirety of the property.

- (b) While much of the island is managed by the Department of Conservation (**DOC**) there are several privately owned properties on the southern parts of the island, including that of the Appellant., While the island contains stands of native bush these stands are somewhat discontinuous, particularly over the privately owned sites around Cooks Cove on the southern shore.
- (c) As such the part on the island within which the site is located has all the characteristics of that of a developed and modified human landscape containing buildings and other domestic infrastructure. When considered in its entirety the island does not exhibit the landscape qualities that could reasonably be described as having high natural character or comprise an outstanding natural landscape.
- (d) While a small proportion of the Appellant's property is clothed in native bush, a substantial part contains extensive landscaped grounds located adjacent to the coast and is occupied by a dwelling and other associated ancillary buildings situated nearby. As such the site within which these buildings and the surrounding grounds are situated has all the characteristics of a developed and modified human landscape containing, as it does, buildings and other domestic infrastructure.
- (e) When considered in this context the appellant considers that this part of the site does not exhibit the landscape qualities that justify its inclusion within the ONL and HNC overlays.
- (f) The appellant in its submissions on the PDP sought from that the site be excised from the ONL and HNC and, as a corollary, the provisions of the coastal overlay and the RPD allow for the reasonable further development of the site without being subject to a disproportionate consenting burden.
- (g) The appellant considers, in particular, that in the context of the site as described above it is inconsistent and unnecessarily restrictive for the site to be subject to the limitations over height, area and colours of buildings contained in the plan provisions for the parts of ONLs within the Coastal Environment or that activities located within an ONL classified and non-complying.
- (h) The Appellant also considers that it is unnecessarily restrictive to require buildings within the Rural Production Zone to be set back 30 metres from

MHWS.

- (i) In the absence of the relief sought by the Appellant to address the concerns of this appeal, the PDP will:
 - (a) Be inconsistent with the sustainable management purpose of Part 2 of the RMA.
 - (b) Fail to give effect to the relevant provisions of the applicable national and regional planning instruments, including the New Zealand Coastal Policy statement, the National Policy Statement on Indigenous Biodiversity, and the Northland Regional Policy Statement.
 - (c) Be contrary to the statutory tests for district plan making under the RMA including S 32 of the RMA
 - (d) Result in significant adverse effects on the environment and the appellant including creating a disproportionate regulatory and consenting burden to the continued use of the site for the benefit of the applicant and his family.

Relief sought

- 9. The Appellant seeks that the appeal be allowed and that the planning maps and Rule CE-R1 of the Proposed Far North District Plan be amended to give effect more fully to Submission S497.009 as follows.

Primary relief

- 1. The PDP planning maps be amended to remove the ONL and HNC over that part of the Appellant's property as illustrated in **Annexure B**.
- 2. Amend Rule CE-R1 to remove the provisions imposing limitations on the area of new buildings within the Coastal Environment, including by:
 - a. deleting PER-1(1), being the requirement that a new building or structure be no greater than 300m²; and
 - b. deleting PER-2(b), including the limitations of:
 - 25m² within Outstanding Natural Character;
 - 50m² within High Natural Character; and
 - 110m² within all other parts of the Coastal Environment.

3. Make such consequential amendments to Rule CE-R1, associated standards, activity status provisions, assessment matters and other provisions of the Proposed District Plan as are necessary to give effect to that relief.

Alternative relief

3. If the Court determines that controls on the area of new buildings remain necessary within areas of High Natural Character or Outstanding Natural Character, amend Rule CE-R1 so that:
 - a. no maximum building-area limitation applies solely by reason of land being located within the Coastal Environment where that land is not also identified as High Natural Character or Outstanding Natural Character;
 - b. the 110m² limitation presently applying to other parts of the Coastal Environment is deleted;
 - c. any building-area controls retained within High Natural Character or Outstanding Natural Character are appropriately calibrated to the particular natural-character values requiring protection and are no more restrictive than necessary to achieve the relevant objectives and policies of the Proposed District Plan and higher-order planning instruments; and
 - d. appropriate permitted, controlled or restricted discretionary activity pathways are provided where necessary to enable reasonable use and development while managing identified adverse effects.

Further or consequential relief

4. Such further, alternative or consequential relief as may be necessary or appropriate to:
 - a. give effect to Submission S495.009;
 - b. ensure that Rule CE-R1 provides an effects-based and proportionate framework for managing buildings within the Coastal Environment;
 - c. avoid unnecessary or arbitrary restrictions on otherwise appropriate use and development;

d. ensure appropriate differentiation between the Coastal Environment generally and areas specifically identified as having High Natural Character or Outstanding Natural Character; and

e. achieve consistency between Rule CE-R1 and the objectives, policies and other provisions of the Proposed District Plan.

Documents

10. The Appellant attaches the following documents to this notice of appeal:

- (a) A copy of the appellant's original submission on the PDP (**Annexure A**).
- (b) An excerpt of the PD planning maps illustrating the change sought by this appeal (**Annexure B**).
- (c) A copy of the relevant parts of the decision (**Annexure C**).
- (d) A list of names and addresses of persons to be served with a copy of this notice of appeal (**Annexure D**).

Dated 19 August 2026

Ricky Faesen Kloet by his duly authorised agents Green Group Ltd



C.O Burn

Address for Service

Green Group Ltd

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Remuera

Auckland 1541

Attention: Owen Burn

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ANNEXURE A: Excerpt from Planning Maps

ANNEXURE B: Copy of Appellants submission

ANNEXURE C: Copy of the relevant parts of the Decision

ANNEXURE D: Names and addresses of persons to be served with a copy of this notice

Far North Proposed District Plan

Attachment to notice of appeal

Ricky Faesen Kloet
S495.009

Decision under appeal

Provision: **CE-R1**

Council decision: **Accept in part**

Official decision schedule: Recommendation Report 4, Appendix 4.3, source page 237 of 415 (PDF index 236).

Scope of attachment

This attachment assembles the parts of the Council-adopted Hearing Panel material directly relevant to the identified submission point: the decision entry and associated further submissions, the Panel's governing reasons for the Coastal Environment rules, and the recommended CE-R1 text through which the partial acceptance was implemented.

Document status

This is a faithfully sourced, appeal-ready extract. It is not a certified copy or facsimile of the complete Council documents. Full source links and source-page references are included.

1. Decision schedule - S495.009

Recommendation Report 4, Appendix 4.3, source page 237 of 415.

Point	Submitter	Provision	Position	Reasons	Decision requested	Decision
S495.009	Ricky Faesen Kloet	CE-R1	Oppose	The proposed standards applying within the coastal environment overlay would limit reasonable development to an extent that is unnecessarily onerous and inconsistent with the purpose of the Act.	Amend CE-R1 to remove provisions restricting the area of new buildings (inferred).	Accept in part
FS376.2	Bentzen Farm Limited	Further submission	Support	Subject to appropriate colour and reflectivity standards, new buildings, including residential units, should be permitted within the coastal environment overlay.	Allow	Accept in part
FS410.009	Craig Heatley	Further submission	Support	The property is also affected by HNC and ONL overlays; the further submitter says the site is a developed and modified landscape including two houses, domestic infrastructure and discontinuous bush.	Allow the original submission.	Accept in part
FS368.128	Tokerau Beach Trust	Further submission	Support	Supports deletion of limitations on the area of new buildings in the coastal environment overlay.	Amend	Accept in part
FS377.2	Setar Thirty Six Limited	Further submission	Support	Subject to appropriate colour and reflectivity standards, new buildings, including residential units, should be permitted within the coastal environment overlay.	Allow	Accept in part

Verification: the official schedule identifies S495.009, Ricky Faesen Kloet, CE-R1, and records the recommendation as **Accept in part**.

2. Hearing Panel reasons

Recommendation Report 4 - Key Issue 9: Rules (source report pages 64-66; PDF indices 70-72)

The Panel stated that it considered the coastal-environment submissions and supporting evidence, largely agreed with the reporting officer, and adopted the hearing report recommendations as updated by the right of reply. It noted that amendments to the Coastal Environment rules are detailed in Appendix 2.5.

For Coastal Environment rule submissions not discussed individually, the Panel adopted the discussion and recommendations in the hearing report.

The Panel's recommendation was:

"For the reasons outlined above, the Hearings Panel recommends that rules CE-R1 to CE-R9 are amended as shown in Appendix 2.5; and that submissions and further submissions on these matters are accepted, accepted in part and rejected as set out in Appendix 4.3."

Effect on this submission point

The partial acceptance of S495.009 is implemented through amended CE-R1. The requested wholesale deletion of building-area controls was not granted; instead, the rule differentiates permitted floor-area limits and consent pathways by zone and natural-character overlay.

3. Recommended CE-R1 - relevant material

Recommendation Report 4, Appendix 2.5, source pages 3-4 of 8 (PDF indices 2-3). The official document is tracked; the material below is consolidated for readability.

CE-R1 - New buildings or structures, relocated buildings, and extensions or alterations to existing buildings or structures

PER-1: In specified urban and special-purpose zones, a new or relocated building must generally be no greater than 300 m², be outside high or outstanding natural character areas, and comply with CE-S1, CE-S2 and CE-S4. The 300 m² limit does not apply to specified zones in listed settlements.

PER-2: In other zones, a new or relocated building must not be used for a residential activity; must be no greater than 25 m² in an outstanding natural character area, 50 m² in a high natural character area, or 110 m² in all other areas of the coastal environment; and must comply with CE-S1, CE-S2 and CE-S4.

PER-3: An extension or alteration to a lawfully established building or structure must be no greater than 20% of its existing gross floor area and comply with CE-S1.

Consent pathways: CE-R1 contains controlled pathways for specified approved building platforms and Maori Purpose or Treaty Settlement circumstances. Restricted-discretionary, discretionary or non-complying status applies depending on the pathway not met and whether the site is in a high or outstanding natural character area.

4. Official source record

Decision schedule:

https://www.fndc.govt.nz/__data/assets/pdf_file/0032/55598/RR4-Appendix-4.3-Recommended-Decisions-on-Submissions-Coastal-Environment.pdf

Panel reasons:

https://www.fndc.govt.nz/__data/assets/pdf_file/0030/55587/Recommendation-Report-4.pdf

Tracked Coastal Environment chapter:

https://www.fndc.govt.nz/__data/assets/pdf_file/0027/55593/RR4-Appendix-2.5-Coastal-Environment-Chapter.pdf

Prepared 18 August 2026 (Pacific/Auckland).

20 August 2026

The Registrar
Environment Court of New Zealand
Auckland Registry

Tēnā koe

**PROPOSED FAR NORTH DISTRICT PLAN – APPLICATION FOR WAIVER OF TIME
FOR LODGING APPEAL**

We act for **[Mark John Wyborn / Ricky Faesen Kloet]**, submitters on the Proposed Far North District Plan (“PDP”).

The Far North District Council publicly notified its decisions on submissions on the PDP on 30 June 2026. The period for lodging an appeal against those decisions expired on 12 August 2026.

We respectfully seek a waiver pursuant to **s 281 of the Resource Management Act 1991** to enable the accompanying appeal to be lodged approximately three working days out of time.

The delay arose as a consequence of an error at our end as to the calculation of the appeal period. We had understood that the appeal period expired on 18 August 2026 and had been preparing the appeal on that basis. On becoming aware that the appeal period had in fact expired on 12 August 2026, we have acted promptly to prepare and lodge the appeal and this application.

We acknowledge that responsibility for correctly identifying the appeal period rests with the appellant and its advisers. We do not seek to suggest otherwise. We respectfully submit, however, that the error has resulted in a very short delay and that the circumstances favour the exercise of the Court's discretion to waive the time requirement.

In particular:

- the delay is only approximately three working days;
- the appeal arises from decisions on a publicly notified district plan and concerns matters of public planning regulation rather than the implementation of a private resource consent;

- the appellant participated in the statutory process by making a submission and the subject matter of the appeal is within the scope of the relief sought in that submission;
- the appeal does not seek to introduce issues which have not previously formed part of the PDP process;
- given the very short period of delay, no party's position can reasonably have altered in reliance upon the expiry of the appeal period;
- all persons required to be served with the appeal will be served promptly and will retain their usual opportunities to participate in the appeal proceedings; and
- in those circumstances, we do not consider that granting the waiver would cause **undue prejudice** to the Council, any submitter or further submitter, or any other person.

We also understand that a number of appeals against the PDP decisions have already been lodged and that the proceedings remain at a very early stage. Allowing this appeal to proceed would therefore not disrupt any substantive hearing, mediation or case-management process already underway.

Conversely, refusing the waiver because of a delay of approximately three working days would permanently prevent the appellant from having the merits of its appeal considered, notwithstanding its participation in the statutory submission and hearing process.

We accordingly respectfully submit that the balance of prejudice strongly favours granting the waiver and that it is appropriate in the interests of justice and the efficient administration of the PDP appeal process for the appeal to be accepted for filing.

The appellant therefore respectfully requests that the Court:

1. pursuant to s 281 of the Resource Management Act 1991, waive the requirement that the appeal be lodged within the prescribed appeal period;
2. accept the accompanying Notice of Appeal for filing; and
3. make such further or consequential directions as the Court considers appropriate.

We would of course provide any further information or formal application documentation the Court may require.

Yours faithfully

A blue ink signature of C.O. Burn, consisting of a stylized 'C' and 'B' with a horizontal line extending to the right.

C.O Burn

Green Group Limited



For and on behalf of **[Mark John Wyborn / Ricky Faesen Kloet]**