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The Group Manager – Planning and Policy
Far North District Council
Private Bag 752
Kaikohe

25 October 2024

Attention: Roger Ackers

By email: Roger.Ackers@fndc.govt.nz

Dear Mr Ackers

Fixing Coastal issues – Proposed Far North District Plan

1. This letter is written on behalf of Lucklaw Farm Ltd, a submitter to the Proposed District Plan (**PDP**) (submissions number 551, 585).
2. The Council has recently notified variation 1 to the PDP. Variation 1 includes ‘fixes’ in relation to various errors and omissions in the proposed PDP.
3. The purpose of this letter is to identify further additional errors and omissions in the PDP (i.e. additional to those in variation 1), and to:
 - a. request that Council promotes a further variation to the PDP to restrict the use of vehicles on beaches and adjacent public land, give effect to policy 20 of the New Zealand Coastal Policy Statement (NZCPS); and
 - b. bring to your attention apparent errors or discrepancies in the coastal mapping.
4. Council is requested to fix these errors and omissions in advance of decision-making on the PDP.

Vehicles on beaches and adjacent public land

5. The PDP omits to regulate or restrict the use of vehicles on beaches and adjacent public land, even where that land is identified as being of outstanding landscape or natural character.
6. Within the Far North District, beaches are roads for the purposes of the Land Transport Act 1998. A road includes a beach for the purposes of the definition of a “road” under the Land Transport Act.
7. No Council bylaw exists controlling the use of vehicles on beaches (with the sole exception of Coopers Beach as prohibited by Schedule 6 to the Far North District Council Road Use Bylaw 2022).
8. The Northland Regional Plan controls vehicles on beaches identified in the regional maps as a vehicle exclusion zone, as adopted in the Regional Plan for Northland (Appeals

Fixing Coastal issues – Proposed Far North District Plan

version at C.1.5.1). However, a major shortcoming of the rule in the Northland Regional Plan is that the rules only apply in relation to the foreshore and seabed up to the line of mean high-water springs (MHWS).

9. This has the result that the 'dry' part of the beach i.e. that part not covered and uncovered by the tide, and any adjacent dune system is not controlled or regulated by the regional VEZ rule.¹
10. It follows that if Policy 20 of the NZCPS (and related policies – policy 13 - preservation of natural character, and policy 15 – natural features and natural landscapes) are to be given effect to – then there is a need for a district level rule, and in the absence of any effective regional rule, and the absence of any bylaw control on beaches which FNDC administers as "road" as a road controlling authority under the Land Transport Act.
11. These issues were the subject of a hearing before the hearings panel appointed by FNDC at a hearing of submissions to the coastal environment hearing topic for Lucklaw Farm Ltd (for submission S585 and 551). A copy of the legal submissions filed for the submitter are **attached** to this letter. The submitter also filed evidence from ecologist Dr Taylor and Lucklaw director, John Sturgess.
12. Suggested drafting for Lucklaw was presented at the hearing of submissions which would effectively 'mirror' the Regional Council's VEZ rule, but apply above MHWS in the circumstances of the District.
13. During the hearing, the issue was ventilated by Panel members as to whether it was fair to allow the Lucklaw submission imposing a district wide restriction on vehicles on beaches, when (potentially) other submitters may not have appreciated the significance of the issue. Of course, the Lucklaw submission is raised as part of the First Schedule process, which provides for public participation.
14. However, the opportunity exists for Council at any stage to promote a variation to the PDP to control vehicles on beaches, which control is currently lacking above MHWS, in a way that is not consistent with Council's duties to give effect to Policies 13, 15, and 20 NZCPS.

Errors and discrepancies in coastal mapping

15. In the coastal environment area, the land mapped in the PDP as Outstanding Natural Character (ONC) does not match or mirror the mapping of equivalent ONC areas in the Regional Policy Statement (RPS). In particular, the mapping in the PDP does not extend sufficiently seaward, for reasons that are not explicable. It is inferred that this is a mapping error which should be rectified.
16. The consequence of the coastal mapping in the PDP not aligning with the RPS, is that the PDP mapping then fails to "give effect to" the RPS, as required by the mandatory terms of section 75(3)(c) RMA.

¹ The regional rule was formalized by consent order approved by the Environment Court on 28 June 2023 in *Bay of Islands Maritime Park Incorporated v Northland Regional Council* [2023] NZEnvC 133.

Fixing Coastal issues – Proposed Far North District Plan

17. The errors affect the mapping in the PDP for Puwheke Beach (which is of primary interest to Lucklaw Farm Ltd as submitter), but would also appear to affect other coastal locations, as identified below, but without having undertaken a comprehensive review of other beach locations in the Far North District.
18. Variation 1 seeks to remedy various mapping or GIS issues which have arisen in the transfer of GIS datasets held by the Regional Council when creating the GIS based maps for the PDP.
19. However, Variation 1 does not address the errors and discrepancies in the coastal mapping as raised in submissions by Lucklaw Farm Ltd.
20. If Council accepts that there are discrepancies in the coastal mapping as identified, then the issue arises as to the appropriate way in which to rectify those discrepancies, whether by allowing the Lucklaw submission, or by invoking the minor correction procedure in clause 16(2) of the First Schedule to the RMA, or by further variation if beyond the scope of the minor correction procedure.
21. The analysis which follows identifies the errors and discrepancies by reference to the relevant planning/GIS maps.

FNDC PDP Overlays – for Puwheke Beach

22. The PDP zoning for land of submitter Lucklaw Farm Ltd is Rural Production Zone, with the marginal strip managed by the Department of Conservation and zoned Natural Open Space Zone. The land is subject to numerous overlays, mapped in the PDP.
23. Relevantly, the PDP maps 5 overlays in relation to Puwheke Beach, namely:
 - a. Coastal environment (“CE”)
 - b. Outstanding Natural Landscape (“ONL”)
 - c. Outstanding Natural Features (“ONF”)
 - d. High Natural Character (“HNC”)
 - e. Outstanding Natural Character (“ONC”)
24. The ONL, ONF, HNC, and ONC overlays are shown in the map below:

Fixing Coastal issues – Proposed Far North District Plan



Outstanding Natural Landscape



Outstanding Natural Feature



High Natural Character



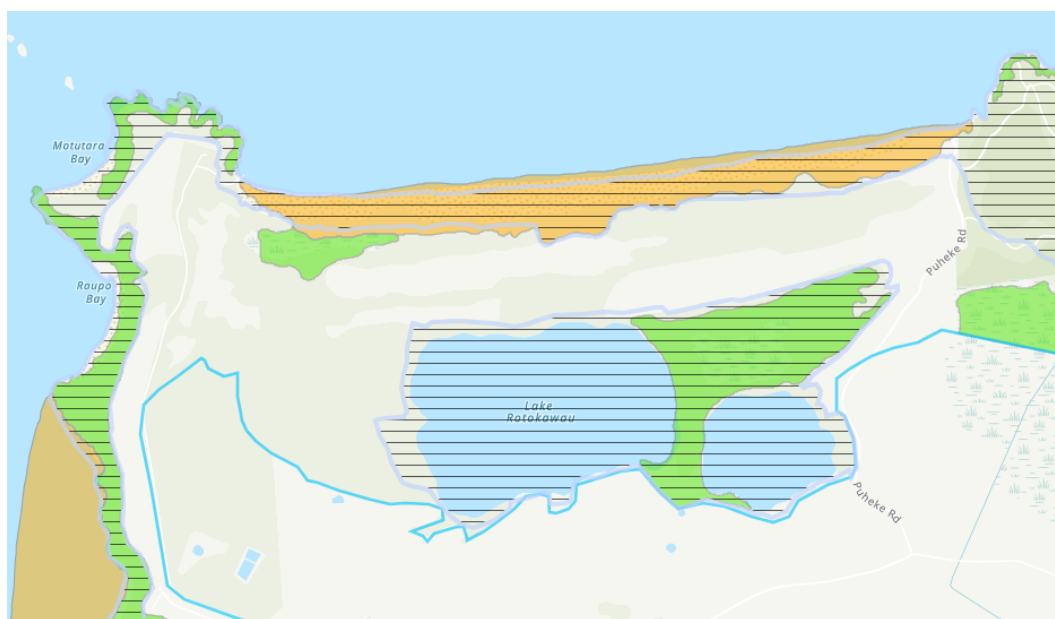
Outstanding Natural Character



25. The overlays appear to be unchanged in recently notified Variation 1.
26. Under the PDP, the beach area (seaward of the coastal dune system) at Puwheke Beach contains an area of Outstanding Natural Landscape (as identified by the green dots), and the marginal strip (administered by DoC) is identified as having Outstanding Natural Character (ONC44 – as shown in the green cross-hatching).

Fixing Coastal issues – Proposed Far North District Plan*Regional Policy Statement Overlays – Puwheke Beach*

27. The RPS contains its own mapping of ONL, ONF, HNC, and ONC features, per the map of Puwheke Beach below:



▼ ☒ Outstanding Natural Landscapes



▼ ☒ Outstanding Natural Features



▼ ☒ Coastal Environment



▼ ☒ Natural Character



High Natural Character

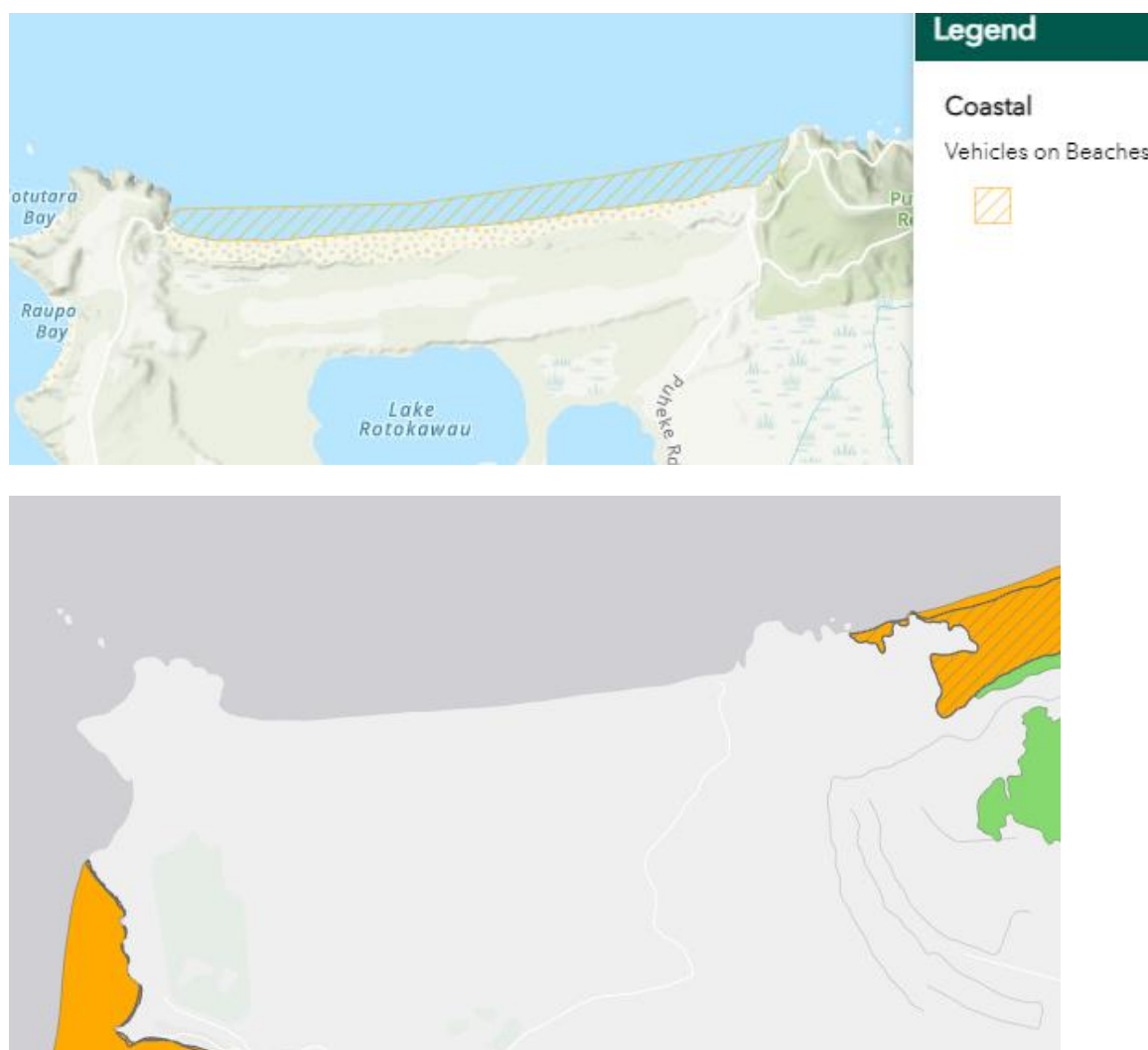


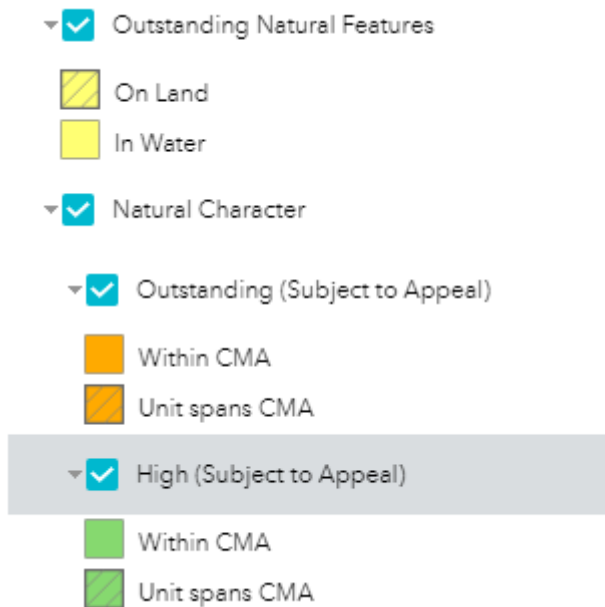
Outstanding Natural Character

28. Under the RPS Puwheke Beach and the marginal strip are of Outstanding Natural Character and are Outstanding Natural Landscapes.

Fixing Coastal issues – Proposed Far North District Plan*Northland Regional Plan Overlays – Puwheke Beach*

29. The Northland Regional Plan – Appeals Version contains the following mapping of areas of Outstanding Natural Character and High Natural Character, with identification of Puwheke Beach as a Vehicle Exclusion Zone (VEZ):



Fixing Coastal issues – Proposed Far North District Plan*Overlay Mapping Issue*

30. There is an apparent discrepancy between the PDP ONC overlay, and the RPS ONC overlay, in circumstances where the district plan must give effect to any regional policy statement, pursuant to s 75(3)(c) RMA, (and not be inconsistent with the regional plan under s 75(4)(b) RMA).
31. The jurisdiction and area of the Far North District extends to mean low water springs, according to the Local Government Boundary Alteration Notice 2011.²
32. Comparing the PDP mapping with the RPS mapping, it can be seen that Puwheke Beach and marginal strip are mapped as an ONC in the RPS, but in the PDP only the marginal strip is mapped as an ONC.
33. ONC 44 in the PDP should extend seaward of the marginal strip at Puwheke Beach to reflect the mapping of the RPS.

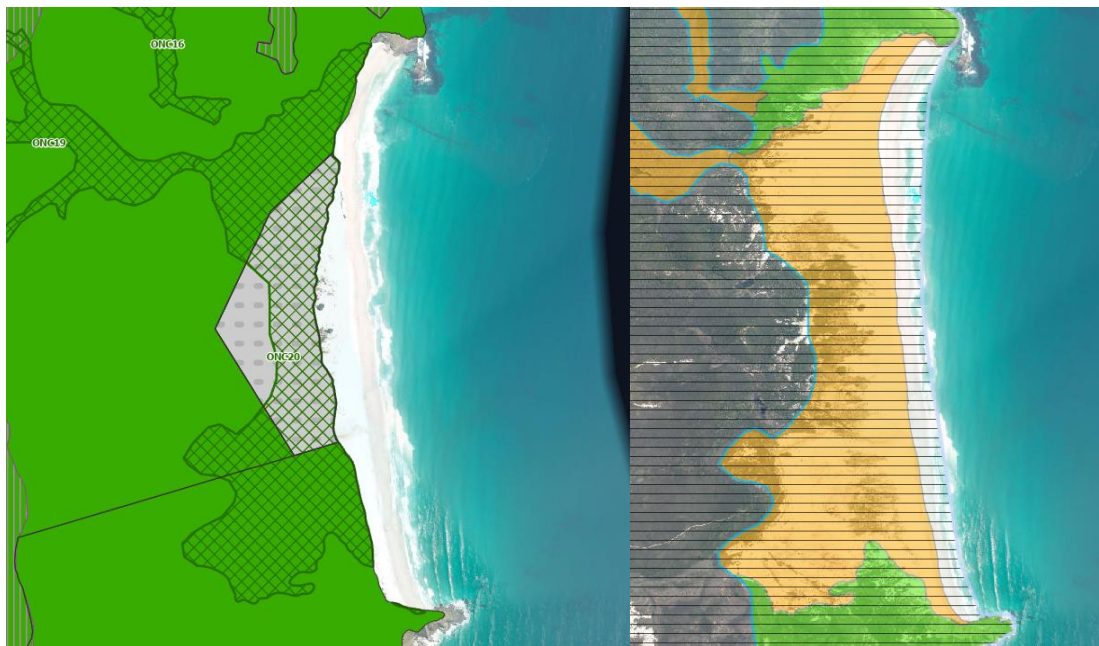
Discrepancy in mapping extends to other coastal locations

34. The mapping discrepancy for Puwheke Beach is not isolated to that beach. The same issue (PDP ONC areas not mapped to the same extent as RPS ONC areas) is found in multiple other coastal locations.
35. For the purpose of this letter, I have not carried out a comprehensive search – however it is readily apparent that the mapping discrepancy extends to other coastal locations in the Far North.

² <https://gazette.govt.nz/notice/id/2011-go3371>

Fixing Coastal issues – Proposed Far North District Plan

36. For example, comparing the PDP mapping (left) of ONCs (green cross-hatching) with the RPS mapping (right) of ONCs (orange shading) –
37. Takiwhetu:



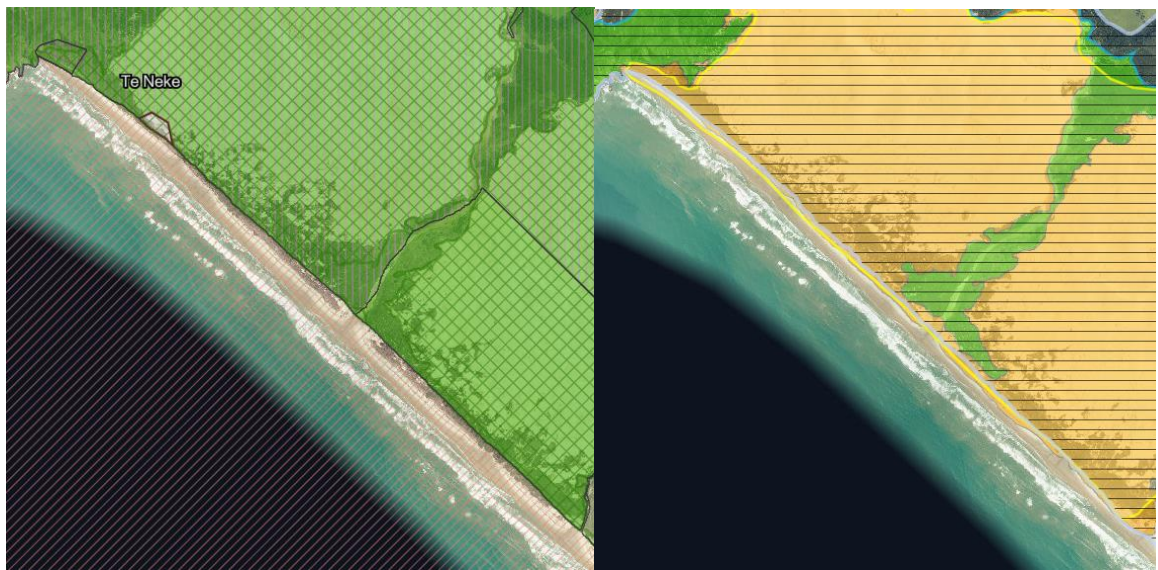
38. For the PDP mapping (left image) the identified ONC (green cross-hatching) appears to extend seaward to a midpoint in the coastal dune system – whereas the RPS mapping for ONC extends further seaward, and includes both the dune system and the area down what appears to be mean high water springs (or thereabouts).
39. Takapaukura / Tom Bowling Bay:



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40. The ONC area for the PDP (green cross-hatch) in the left image extends to the dune system but not further seaward at the northern section of the beach, whereas the RPS mapping of ONC (orange shading) appears to include the beach down to about mean high water springs.

41. Ninety Mile Beach:



42. The ONC area for the PDP (green cross-hatch) in the left image appears to extend to part of the dune system, but not further seaward at, whereas the RPS mapping (right image) of ONC (orange shading) appears to include the dune system and the beach down to about mean high water springs.

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43. Otaipango / Henderson Bay:



44. The ONC area for the PDP (green cross-hatch) in the left image extends to the dune system but not further seaward, whereas the RPS mapping (right image) of ONC (orange shading) appears to include the beach down to about mean high water springs.

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45. Great Exhibition Bay:



46. The error or discrepancy appears to be more noticeable and apparent around the middle of the left image, i.e. the RPS (orange) ONC mapping (right image) extends further seaward than the mapping on the left image (PDP).

Errors and discrepancies appear to be acknowledged in staff report for coastal environment hearing

47. The report by the landscape expert Melean Absolum Ltd, which is attached as Appendix 3 to the S42A Coastal Environment Report,³ states (at page 33) the following in relation to the submission of Lucklaw Farm Ltd.

These submitters suggest there inaccuracies between HNC areas shown in the PDP maps and those shown in the RPS around Puwheke Beach. The submission includes maps from the RPS, the Regional Plan and the PDP.

I have included overleaf maps from both the PDP and the RPS. I agree that there is a difference between the maps in that ONC44 does not extent seaward in the PDP as far as it does in the RPS. I note that the CE in the PDP maps extends as far as the HNC in the RPS map, so **the difference would not**

³ https://www.fndc.govt.nz/data/assets/pdf_file/0011/30134/Natural-Character-S42A-Appendix-3-appendices.pdf

Fixing Coastal issues – Proposed Far North District Plan

appear to be a matter of the extent of FNDC jurisdiction. I therefore cannot explain the difference.

(emphasis supplied)

48. Similarly, the planning s42A report for the coastal environment hearing appears to acknowledge that there are discrepancies (at [526], [527], page 124), but suggests that the onus should be on the landowner to demonstrate that the maps are not accurate, stating:

[526] I do consider that it is necessary, practicable or appropriate for Council to undertake detailed ground truthing of all ONC and HNC areas as requested by Lucklaw Farm Limited. The inclusion of ONC and HNC overlays in the PDP gives effect to the RPS and the methodology for this mapping is detailed through the Northland Regional Mapping process. I acknowledge that the RPS provides for more detailed assessment/refinement of the RPS maps through the following provisions [...]

[527] However, my interpretation of these provisions and understanding of the intent of the RPS is that there is no expectation that territorial authorities undertake detailed ground truthing of all ONC and HNC areas mapped through the RPS. Rather, the intent is to allow for more site-specific assessments to be undertaken in accordance with the RPS criteria when this is demonstrated to be appropriate on a case-by-case basis. In my view, the onus should be on the landowner to demonstrate that the ONC or HNC maps are not accurate rather than expecting Council to verify the RPS maps which have been subject to a public Schedule 1 RMA process.

49. As above, it is illustrated that the PDP mapping does not align with the RPS mapping in the coastal environment for reasons which are not explicable to Council's landscape expert Melean Absolum.

Absence of effective coordination with any other agencies means damage is occurring to threatened habitats

50. In the Far North, the absence of regional control on vehicle use above MHWS, the absence of any district bylaw or district rule, in the operative plan, or the PDP, means that there is no effective control being exercised by any government agency, including DOC, over the area of the beach MHWS and adjacent coastal dunes.
51. The issue of uncontrolled use of vehicles in the coastal environment in the Far North has attracted regional and national publicity in recent years, with the media highlighting damage occurring to the habitats of threatened animals, birds and plants.⁴

⁴ for example: *Drivers urged to keep off dunes, wāhi tapu*, Northern Advocate, 25 April 2019: <https://www.nzherald.co.nz/northern-advocate/news/drivers-urged-to-keep-off-dunes-wahi-tapu/5W2CQRI2T2CGW4ELZP26GRQZFY/>

Fixing Coastal issues – Proposed Far North District Plan*Response requested*

52. The issues identified are obvious errors or omissions in the proposed district plan.
53. Council is respectfully invited to consider this request and advise, within 20 working days:
- a. whether FNDC agrees to promoting a further variation to the PDP, to provide for a comprehensive rule restricting the use of vehicles on beaches in the District; and
 - b. advise whether the discrepancies identified in coastal mapping (above) could be the subject of a further variation or some other process, to correct the identified errors and discrepancies in the coastal mapping.
54. Either the writer or John Sturgess would be happy to discuss matters raised with Council informally.
55. My client reserves its position and remedies if there is no prompt and effective action to remedy the above identified omissions and errors in the PDP.

Yours faithfully



Stuart Ryan
Barrister

Enclosure: Synopsis of submissions proposed Far North PDP, (coastal environment)-Lucklaw Farm Ltd

Cc: Minister for Conservation

Cc: Director-General of Conservation-Northland

Far North occupation highlights wider problem of hoons on dunes, iwi ranger says RNZ, 24 October 2023:
<https://www.nzherald.co.nz/northern-advocate/news/far-north-occupation-highlights-wider-problem-of-hoons-on-dunes-iwi-ranger-says/EXQ77VTOOREMRCI2LV64SRQBK4/>

Puwheke volunteers safeguard dunes from hoons, campers; Northern Age, 23 July 2020:
<https://www.nzherald.co.nz/northland-age/news/puwheke-volunteers-safeguard-dunes-from-hoons-campers/MDARLACHKP6BHW5RZN74PCY6AA/>

Stuart Ryan

From: Roger Ackers <Roger.Ackers@fndc.govt.nz>
Sent: Friday, 8 August 2025 4:02 pm
To: John Sturgess
Cc: Meirene Hardy-Birch; vob@nrc.govt.nz; Stuart Ryan
Subject: RE: FYI - Vehicle in Breach of FNDC Road Use Bylaw - Reported to Police

Kia ora John,

Council is looking to undertake a process of engaging with communities at identified priority beaches in the next 6 months, which includes beaches on the Karikari Peninsula (including Puwheke Beach), to identify issues and appropriate responses. The outcomes from this process would then inform an amendment to the Bylaw.

Note that the timing on the above will be dependent on priorities as set by Council. Further must of Puwheke Beach is Crown land and it is therefore the Department of Conservation responsibility to regulate.

Ngā mihi,
Roger



Roger Ackers

Group Manager - Planning and Policy

M 64212896532 | P 6494015275 | Roger.Ackers@fndc.govt.nz

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fndc.govt.nz



From: John Sturgess <john@lucklaw.co.nz>
Sent: Friday, 8 August 2025 12:10 pm
To: Roger Ackers <Roger.Ackers@fndc.govt.nz>
Cc: Meirene Hardy-Birch <mhardy-birch@doc.govt.nz>; vob@nrc.govt.nz; Stuart Ryan <stuart@stuartryan.co.nz>
Subject: Re: FYI - Vehicle in Breach of FNDC Road Use Bylaw - Reported to Police

CAUTION: This email originated from outside Far North District Council.

Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hello Roger,

Please find attached a fire related 105 Police report that occurred on Puwheke Beach last weekend (Attached as A to E).

A black ute was used to bring the fire materials onto the beach via Puheke Road access

The Police suggested that this was matter for the FNDC to attend to this matter.

Please advise if the FNDC need further information.

On 30 Jul 2025, at 12:31 PM, Roger Ackers <Roger.Ackers@fndc.govt.nz> wrote:

Kia ora John

Thank you for your emails,

They appear to indicate that the access to Puwheke beach is either across private land, which is a matter for the police, and/or below MHWS, which is the jurisdiction of the NRC as noted by your lawyer in evidence to the PDP:

https://www.fndc.govt.nz/data/assets/pdf_file/0009/31320/Hearing-4-Legal-Submission-Lucklaw-Farm-Ltd.pdf

I note your submission is still in front of the hearings panel for their consideration. Decisions on submissions are due before May 2026. Until a rule is made under FNDC's jurisdiction we have no ability to take any action regarding beach access. I would suggest that you continue to refer your concerns to both the Police and NRC as relevant.

Ngā mihi,
Roger



Roger Ackers

Group Manager - Planning and Policy

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Stuart Ryan

From: Stuart Ryan
Sent: Friday, 8 August 2025 5:51 pm
To: Roger Ackers; John Sturgess
Cc: Meirene Hardy-Birch; vob@nrc.govt.nz
Subject: RE: FYI - Vehicle in Breach of FNDC Road Use Bylaw - Reported to Police
Attachments: Local Government Boundary Alteration Notice 2011 - 2011-go3371 - New Zealand Ga.pdf

Dear Roger,

I have been asked to respond for Lucklaw and John and Andrea Sturgess. Thank you for the indication that FNDC proposes to engage with communities with a view to a review of the bylaws for vehicles on beaches.

On behalf of my client, this development is welcomed, particularly if it leads to active signage display and enforcement (in collaboration with NRC, local communities and adjacent landowners).

However, as all agencies involved (FNDC, NRC and DOC) will be aware from communications from Mr Sturgess, any control (whether by bylaw or RMA control or howsoever) should in my client's respectful submission be extended to control the use of vehicles over both the 'wet' and 'dry' bits of the beach, and which fall within the jurisdiction of FNDC, noting:

- The district of Far North District Council has an '*extended seaward boundary*' which extends the boundary of the district to low mean-water springs, per schedule 1 of the Local Government Boundary Alteration Notice 2011 by Gazette notice, attached.
- The boundaries of the District of the Far North include the adjacent sand dunes that are land of the Crown.
- If there is a regulatory 'gap' between any potential bylaw control by FNDC under the Local Government Legislation and RMA control (the existing VEZ control in the Northland Regional Plan does not extend beyond mean high water springs) then in my client's submission (S585) to the Far North District Plan, FNDC has a duty to 'close' that regulatory gap arising from the mandatory obligation to '*give effect to*' policy 20 NZCPS in section 75(3)(a) RMA.

Regards

Stuart Ryan | Barrister

Level 11, 59 High Street, Auckland, New Zealand
Phone: +64 9 357 0599
Mobile: +64 21 2860 230
<http://stuartryan.co.nz/>

From: Roger Ackers <Roger.Ackers@fndc.govt.nz>
Sent: Friday, 8 August 2025 4:02 pm
To: John Sturgess <john@lucklaw.co.nz>
Cc: Meirene Hardy-Birch <mhardy-birch@doc.govt.nz>; vob@nrc.govt.nz; Stuart Ryan <stuart@stuartryan.co.nz>
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Kia ora John,

Council is looking to undertake a process of engaging with communities at identified priority beaches in the next 6 months, which includes beaches on the Karikari Peninsula (including Puwheke Beach),

to identify issues and appropriate responses. The outcomes from this process would then inform an amendment to the Bylaw.

Note that the timing on the above will be dependent on priorities as set by Council. Further must of Puwheke Beach is Crown land and it is therefore the Department of Conservation responsibility to regulate.

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 **Roger Ackers**
Group Manager - Planning and Policy
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From: John Sturgess <john@lucklaw.co.nz>
Sent: Friday, 8 August 2025 12:10 pm
To: Roger Ackers <Roger.Ackers@fndc.govt.nz>
Cc: Meirene Hardy-Birch <mhardy-birch@doc.govt.nz>; vob@nrc.govt.nz; Stuart Ryan <stuart@stuartryan.co.nz>
Subject: Re: FYI - Vehicle in Breach of FNDC Road Use Bylaw - Reported to Police

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A black ute was used to bring the fire materials onto the beach via Puheke Road access
The Police suggested that this was matter for the FNDC to attend to this matter.
Please advise if the FNDC need further information.

The burn't out drum is still sitting on the beach waiting for an Authority to remove it..

I've also attached some early correspondence to the FNDC about such sort of Public Disorder.
It is noted that the level of such disorder at Puwheke Beach has increased considerably since the FNDC published the Mr Wyeth's Puwheke Beach submission as it's own.

Kind regards,
John Sturgess

On 30 Jul 2025, at 12:31 PM, Roger Ackers <Roger.Ackers@fndc.govt.nz> wrote:

Kia ora John

Thank you for your emails,

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Group Manager - Planning and Policy

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24 January 2025

Dear Mr Ryan

Coastal issues in Relation to the Proposed Far North District Plan

Thank you for your letter dated 25 October 2024 on behalf of Lucklaw Farm Limited, a submitter on the proposed Far North District Plan (**PDP**).

Your letter raises issues in relation to:

- Vehicles on beaches and adjacent public land; and
- Errors and discrepancies in coastal mapping.

These two issues are addressed under separate headings below.

Vehicles on beaches and adjacent public land

Your letter requests that the Council promote a variation to the PDP to restrict the use of vehicles on beaches and adjacent public land, to give effect to policy 20 of the New Zealand Coastal Policy Statement (**NZCPS**).

As noted in your letter, Coopers Beach is the only scheduled area where vehicles are prohibited under the Road Use Bylaw 2022. This position was confirmed following a programme of community consultation regarding the use of vehicles on beaches throughout the district, in 2021 and 2022.

However, your client's issues relate to the PDP rather than the Council's bylaws. In particular, your letter notes that the Northland Regional Plan does not control or regulate the use of vehicles above mean high water springs – an area which falls within the jurisdiction of the district plan rather than the regional plan – and you suggest that a district-level rule is required to give effect to policy 20 of the NZCPS.

It is acknowledged that this issue must be considered on its merits under the Resource Management Act 1991 (**RMA**). However, as you note in your letter, the precise issues raised by your client were heard between 5 to 8 August 2024 by a Hearings Panel appointed by the Council. In a written reply following the hearing, the s 42A report writer indicated that further advice would be provided to the Hearings Panel in response to the issues raised in relation to the use of vehicles on beaches. That material is currently being prepared and will be available on the Council's website.

In the circumstances, it is inappropriate to interfere with an issue that is live before the Hearings Panel. The Hearings Panel has not yet made a recommendation, and the decision-making process should not be pre-empted by a variation.

Potential errors and discrepancies in coastal mapping

Your letter identifies potential discrepancies between the areas mapped as having outstanding natural character in the Northland Regional Policy Statement (**RPS**) and the PDP. In particular, you say that the mapping in the PDP does not extend sufficiently seaward. As a consequence, you say that the mapping in the PDP fails to give effect to the RPS as required by s 75(3)(c) of the RMA. The concerns relate to Puweke Beach and you have also identified other examples elsewhere in the district.

Council officers have undertaken a preliminary investigation of these issues and confirm that a recommendation will be made to Hearings Panel to extend the outstanding natural character overlay at Puwheke Beach to the indicative line of mean high water springs, being the extent of the district council's jurisdiction under the RMA.

In relation to other potential mapping discrepancies, the Council intends to undertake a broader review of the PDP and will consider options to rectify discrepancies that are identified through that process.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'RAS', is positioned above the printed name and title.

Roger Ackers
General Manager – Planning and Policy