

Planning and coastal hazard litigation for Kāpiti Coast District Council

1 September 2022

From 2016 to 2018, we acted for Kāpiti Coast District Council (KCDC) on declaratory proceedings arising from the coastal hazard management provisions of their Proposed District Plan (PDP) and have continued to advise KCDC since then on related issues.

That case is regarded as leading litigation and case law on coastal climate change issues under the RMA. Partner Paul Beverley led this work, supported by other members of our Wellington team.

The PDP contained demarcated 'erosion hazard' zones based on 50 year and 100 year projections of the shoreline, with restrictions on building and subdivision. Thousands of properties in those demarcated zones were affected by the provisions, leading to contentious litigation and KCDC's subsequent withdrawal of the PDP's coastal hazard management provisions.

Following the withdrawal of those provisions, declaratory proceedings were brought by two residents' groups. We acted for KCDC on those declaratory proceedings with successful results in both the Environment Court and High Court.

We also acted for KCDC on seven appeals relating to the remainder of the PDP from 2018 - 2020, with our role including attendance at Environment Court mediations and negotiations with other parties. We collaborated with council representatives and expert consultants (including ecologists, flood experts and planners) to successfully resolve all seven appeals without the need for Environment Court hearings.

There has now been a collaborative stakeholder group established and we continue to advise the council on the next steps in the coastal planning process.

Following on from that work, we recently peer reviewed Hawke's Bay Regional Council's Clifton to Tangoio Coastal Hazards Strategy 2120 (which is a significant strategy for that region).

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