

To: Mayor and Councillors

From: Strategic Planning Projects Manager

Date: Tuesday, 9 May 2017

File reference: Document: #2209699
Appendix A: #2209710 Final draft of Bill and explanatory notes.

Portfolio holder: Mayor

Meeting date: Wednesday, 17 May 2017

Subject: **Proposal for Local Bill – Control of Mangroves**

Recommendation:

THAT the report be received, and

THAT The Hauraki District Council confirms its support to co-sponsor the Local Bill – Control of Mangroves: and

That the Thames Coromandel District Council be advised accordingly.

Purpose

Council has previously supported in principle its support to co-sponsor a Local Bill that would allow the Thames Coromandel (TCDC) and Hauraki District Council's (HDC) to introduce controls on the expansion of mangroves in specified areas of their Districts.

A final draft version of the proposed Local Bill has now been received along with its explanatory notes which are attached as appendix A. The Council is requested to consider confirming its support for the draft Bill in order that the Local Bill process can proceed.

Background

Council, at its meeting of 29 March 2017, considered a report that sought Council's support for a Local Bill that would allow TCDC and HDC to develop Mangrove Management Plans that would allow the control of the expansion of mangroves in specified areas of their Districts. The Council resolved:

- That the Hauraki District Council support in principle the co-sponsoring of a Local Bill that will define the process and procedure for territorial authorities to control mangroves within their Districts; and
- That the Thames Coromandel District be advised accordingly.

Based on the support in principle the draft Local Bill includes HDC. The final version of the Local Bill has been received along with its explanatory notes which are attached as appendix A and the Council is requested to consider confirming its support for the Bill.

The Member of Parliament for Coromandel has agreed to sponsor the Bill to Parliament.

Issues and options

The general scientific view on New Zealand mangroves is that there is only one species (*Avicenna marina* var. *australasica*), that they indigenous and are intolerant of severe frost this limiting their distribution to northern New Zealand.

There is clear evidence that the spread of mangroves is increasing, particularly in northern harbours and there is likely to be an expansion in their spread further south as a result of climate change. There is also clear international and national evidence that the spread of mangroves is has a direct causal relationship with activities on the land based portion of harbour catchments and estuaries and the contribution of these to increased sediment load in harbours – thus creating ideal mangrove habitat.

The control of mangroves has been a particularly contentious and vexatious matter for the TCDC since the first two consent application for the removal of mangroves – the first being the removal of mature mangroves in Patiki Bay (Whangamata Harbour) and mangrove seedlings in Moanaanuanu Harbour in 2003.

Subsequent consent applications have gone to WRC and then the Environment Court and the costs for consenting for even control of a small area of mangroves have become prohibitive for community groups.

As result of the difficulty in obtaining resource consents for mangrove control/removal and the costs associated in obtaining these consents TCDC and the WRC have become aware of many instances where mature mangroves and mangrove seedlings have been removed without appropriate approvals and it is difficult to take enforcement actions these removals are often undertaken with subterfuge.

The Local Bill provides each Council the discretionary power to develop mangrove management plans for specified parts of their area subject to the provisions contained in the Bill. All mangrove management plans would be subject to the Special Consultative process before their adoption.

HDC and Mangroves

While mangroves have not been a particularly contentious issue for HDC there are issues developing with the spread of mangroves in HDC; particularly in the lower boundary in the Firth of Thames – Miranda to Kopu.

There is no question that mangroves are spreading north into the Firth and also spreading up the Waihou and Piako rivers and up the drainage canals. At present the mangroves in canals are controlled as part of Councils land drainage maintenance programme. Future WRC policy development however may make permission for these maintenance works more difficult.

The explanatory notes to the proposed Bill refer to the RAMSAR site and the potential spread of mangroves causing issues with the feeding (and roosting) areas of the many migratory shorebirds. This is not causing any major issue at the moment as the Miranda Naturalists Trust has a 35 year from WRC to remove seedling and juvenile mangroves from the small area involved at present.

However, the rate of mangrove expansion is increasing and the Trust may need the ability to control mangroves over a larger area than presently consented which would be more easily addressed under the provisions of the Local Bill and there could well be further issues arise for the Council in the future that could be addressed by the provisions of the Local Bill if it is enacted.

Significance and Engagement Assessment

This decision does not trigger the Significance and Engagement Policy Assessment Tool and therefore is not considered significant under the Significance and Engagement Policy 2014.

In terms of engagement the Local Bill will be the subject of a public submissions process (should it get that far).

Budget Implications

There are no budget implications for the Council. TCDC has undertaken to meet all costs.

Recommendation

Since the consideration of the Local Bill by Council in March the key change to the draft Local Bill has been that mangrove management plans are now discretionary (rather than compulsory). Given Council's earlier support I am recommending that Council now confirm its support for this Local Bill.

Mark Buttimore
Strategic Planning Projects Manager

Appendix A

Thames-Coromandel District Council and Hauraki District Council Mangrove Management Bill

Local Bill

Explanatory note

General policy statement

The spread of mangroves in the coastal area of the districts of the two councils is increasingly becoming a concern for local communities.

Aerial photography from the 1940s shows minimal mangrove incursions into the districts' harbours and the Firth of Thames with white sandy beaches being the norm.

The lower Firth of Thames is an internationally significant tidal wetland protected by the Ramsar Convention and is an important wintering ground attracting thousands of Arctic nesting shorebirds such as the Bar-tailed Godwit and Lesser or Red Knot. The seaward advance of mangroves since the 1940s has considerably reduced the feeding habitat available to the birds.

Evident community concern about the impacts of mangroves dates from the early 2000s with, notably, the concerted effort since 2005 by the Whangamata community to address the spread of mangroves and restoration of harbour amenity.

To date, that process has consumed over a decade and in excess of \$1,500,000.

Mechanisms allowing a transfer of authority under the Resource Management Act 1991 from regional to district councils do not adequately address the timing and resourcing concerns.

The district councils desire to see limited resources more effectively and efficiently utilised in the provision of core infrastructure and services, such as waste water treatment plants and catchment sediment management schemes to further protect estuarine environments.

The process undertaken so far under the Resource Management Act 1991 has been costly, time-consuming and has not delivered outcomes.

A stream-lined, cost-effective, efficient and community-based process is required to ensure that the councils are mandated to implement a plan that reduces mangrove growth to acceptable levels to improve access, recreation, amenity and/or ecosystem values.

The bill empowers each council to prepare a draft mangrove management plan in relation to the coastal area of its district to achieve and maintain acceptable levels of mangrove vegetation in order to restore, protect or enhance the amenity values and/or ecosystems of the coastal area.

The draft plan is approved through the special consultative procedure under section 83 of the Local Government Act 2002.

The bill provides that the councils, if they agree, may prepare a mangrove management plan collaboratively, including by adopting a single integrated plan for both districts.

The bill empowers each council to implement an approved mangrove management plan.

Clause by clause analysis

Clause 1 is the title clause.

Clause 2 provides that the Act comes into force on the day after the date on which it receives the Royal Assent.

Clause 3 defines the terms used in the Bill. Most do not require explanation. The definition of coastal area (being the area in which a mangrove management plan may operate) is linked to the definition of coastal marine area in Section 2(1) of the Resource Management Act 1991. This definition in turn covers not only the foreshore and seabed but adjacent parts of rivers that flow into the sea.

Clause 4 sets out the purposes of the Act which are to remove mangrove vegetation from the coastal area and restore, protect and enhance amenity values and/or ecosystems of the coastal areas.

Clause 5 empowers each council to implement a mangrove management plan if it decides to do so. Any plan must achieve the purposes of the Act and must include the following:

- a description of specific areas where mangrove management activities are to take place:
- a description of the objectives of the plan, including a description of appropriate levels of mangrove vegetation; and
- a description of methods to be used:
- a statement of rules and restrictions applying to mangrove management activities:
- an identification of the amenity values and ecosystems to be restored or protected:
- review mechanisms.

Clause 6 provides for the method by which a mangrove management plan of a council is to become operative. The process is to be overseen by a committee including at least one mana whenua representative. The committee prepares a first draft of the mangrove management plan which is then adopted through the special consultative procedure of the Local Government Act 2002. This includes public notification and the opportunity for interested persons to express their views, and have them considered. The clause also enables the two councils to prepare their plans collaboratively, including, if they agree, to prepare a single integrated plan.

Clause 7 empowers the councils to carry out mangrove management activities in accordance with the operative plan. In doing so, a council is not required to comply with any other enactment that would otherwise regulate or apply to mangrove management activities.

Scott Simpson

Thames-Coromandel District Council and Hauraki District Council Mangrove Management Bill

Local Bill

Contents

		Page
	Preamble	
1	Title	5
2	Commencement	5
3	Interpretation	5
4	Purposes of Act	5
5	Purpose and content of mangrove management plan	6
6	Adoption and review of mangrove management plan	6
7	Powers of councils	7

The Parliament of New Zealand enacts as follows:

Title

This Act is the Thames-Coromandel District Council and Hauraki District Council Mangrove Management Act **2017**.

Commencement

This Act comes into force on the day after the date on which it receives the Royal Assent.

Interpretation

In this Act, unless the context otherwise requires, -
council means-

- (a) the Thames-Coromandel District Council; and
- (b) the Hauraki District Council

coastal area means the coastal marine area within the district of each council, other than land in private ownership

coastal marine area has the meaning given in section 2(1) of the Resource Management Act 1991

mangrove management activity –

- (a) means the removal, prevention, monitoring, detection, control, destruction or disposal of mangrove vegetation; and
- (b) includes the following:
 - (i) hand removal of mangrove vegetation:
 - (ii) mechanised removal of mangrove vegetation:
 - (iii) whole tree removal:
 - (iv) maintenance dredging

mangrove management plan means the plan that has become operative under section 6(9)

mangrove vegetation means any seed, seedling, plant or remains of mangrove plants that exists in the coastal area

Purposes of Act

The purposes of this Act are –

- (1) to facilitate the removal of mangrove vegetation in the coastal area of each council to appropriate levels; and
- (2) to restore, protect and enhance the amenity values and/or ecosystems of the coastal area from which mangrove vegetation is removed.

Purpose and content of mangrove management plan

- (1) Each council may adopt a mangrove management plan in relation to the coastal area of its district.
- (2) The purpose of the mangrove management plan is to achieve and maintain appropriate levels of mangrove vegetation in the coastal area of the council district in accordance with the purpose of this Act.

- (3) The mangrove management plan must achieve the purposes of this Act.
- (4) The mangrove management plan –
 - (a) must include each of the following:
 - (i) the identification of areas within the coastal area, by reference to maps, in which mangrove management activities are to take place:
 - (ii) a statement of the objectives of the plan, including a description of appropriate levels of mangrove vegetation in the identified areas:
 - (iii) a description of the methods to be used in achieving the objectives of the plan:
 - (iv) a statement of rules and restrictions applying to the undertaking of mangrove management activities:
 - (v) an identification of the amenity values and/or ecosystems of the identified areas for the purposes of section 4(2):
 - (vi) a description of mechanisms the council intends to use to assess the effectiveness of the mangrove management activities in achieving the objective of the plan; and
 - (b) may include any other matter the council considers desirable or necessary to give effect to the purposes of this Act.

Adoption and review of mangrove management plan

- (1) This section applies if a council decides to adopt a mangrove management plan in relation to the coastal area of its district.
- (2) Each council shall establish a committee of the council to prepare, adopt and implement the mangrove management plan.
- (3) The committee must include at least one iwi representative.
- (4) The committee must prepare a first draft of the mangrove management plan.
- (5) The council must use the special consultative procedure under section 83 of the Local Government Act 2002 in adopting the mangrove management plan, as if references in that section to “a statement of proposal” were references to the draft mangrove management plan.
- (6) The council must commence the special consultative procedure within 6 months of completion of the draft of the mangrove management plan by the committee.
- (7) Within 3 months of completion of the special consultative procedure, the council must prepare the final mangrove management plan and make it publicly available in the same manner it made the draft mangrove management plan publicly available as part of the special consultative procedure.
- (8) The council must have regard to the views expressed during the special consultative procedure in preparing the final mangrove management plan, to the extent the views are relevant to the purposes of this Act.

- (9) The mangrove management plan becomes operative on the day it is made publicly available.
- (10) Each council may review its mangrove management plan at any time by conducting the process set out in sections 6 (1) to (9).
- (11) The councils may prepare, adopt and review mangrove management plans collaboratively.
- (12) Without limitation, the councils may:
 - (a) prepare a single integrated mangrove management plan covering both districts; and
 - (b) establish a joint committee under clauses 30 and 30A of schedule 7 of the Local Government act 2002 to prepare the integrated management plan; and
 - (c) adopt a joint special consultative procedure covering both districts.

Powers of the councils

- (1) Each council has the power to carry out, and to contract for the carrying out of, mangrove management activities in accordance with the mangrove management plan.
- (2) In exercising the powers conferred by section 7(1), a council is not required to comply with any other enactment that would otherwise regulate or apply to mangrove management activities.
- (3) Each council must comply with the rules and reporting requirements in the mangrove management plan.