

CASE STUDY OF MARINE 6 (WHARVES) MANAGEMENT AREA

BRIEF DESCRIPTION OF ALTERNATIVE DISPUTE RESOLUTION PROCESS:

- A series of negotiations and mediations which lead to a settlement with referees to the proposed Regional Coastal Plan for Northland thereby introducing a whole new chapter to the Plan by consent order

SUMMARY OF SITUATION:

Northland Regional Council issued its decision on submissions made in respect of the proposed plan in September 1998. Respondents lodged their replies with the Court in the following weeks. The Council considered the references it received and decided to group referees with similar interests into working groups. The five primary referees who were interested in small commercial wharves – away from the ports – were grouped together with 274 participants. In all, 10 parties were represented.

One of the referees, Moana Pacific Fisheries Ltd., was invited to formulate a new part to the Port Zone which would satisfy its concerns at the absence of provision for small wharves. This document was circulated to all parties in October 2001 and was used as the focus for discussion from February 2002 until settlement by consent order of a completely new chapter to the plan on 8 November 2002.

PROCESS USED IN SETTLING DISPUTE

The process included a series of two workshops during which the parties discussed the draft document tabled by one referee and sent out ahead of the meetings to all participants. From an initial 13 participants the second meeting reduced down to a core of 8 regular participants. There was an impasse after two meetings and one of the referees sought mediation from the Environment Court.

The Court appointed one of its commissioners as a mediator. The initial mediation resulted in some further movement in setting down a timetable for on-going negotiations to follow.

Participants started working together again to modify a draft chapter addressing the issues, objectives, policies, and rules, each in turn. It was not until the 4th workshop that the data show projections were used. Participants were losing track of the wording changes as not all the changes were able to be recorded on the whiteboard. Without such a record, participants tended to go back over the issues which had been agreed.

There was a period of approximately six weeks between the two mediations. There were five workshop meetings in all, two before the first mediation and three after it. At the second mediation, general agreement was reached with the exception of two points. The remaining two points were worked through by email correspondence and eventually a memorandum of consent (see example) and the consent order (see example) was drafted and signed.

OUTCOME

An agreement that part of the proposed Regional Coastal Plan would be reworded and a whole new chapter would be included to cover small commercial wharves. This chapter was within the scope of the submissions and did not need to be notified as a variation.

FACTORS CONTRIBUTING TO SUCCESSFUL CONCLUSION THROUGH ADR

- ✓ Council grouping referees of similar interests and inviting them into a workshop series
- ✓ First hand understanding of each parties position
- ✓ Use of a single text as a starting point for discussion
- ✓ Use of data projection facilities so that the text of the new chapter and changes to the text could be viewed and discussed by all parties at the meetings
- ✓ Mediation helped the momentum for the negotiations by setting a timetable for discussion and keeping the participants working towards the date of the second mediation

CONTACT FOR FURTHER INFORMATION

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