

SECTION 42A REPORT ORONGO BAY

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Appendix 1: Recommended amendments to Orongo Bay chapter

Appendix 2: Recommended decisions on submissions to Orongo Bay chapter

List of Abbreviations

Submitters

Submitter Number	Abbreviation	Full Name of Submitter
S368	FNDC	Far North District Council
S512	FENZ	Fire and Emergency New Zealand
S482	Heavy Haulage Assoc Inc	House Movers Section of New Zealand Heavy Haulage Association Inc

Others

Abbreviation	Full Term
FNDC	Far North District Council
NPS	National Policy Statement
PDP	Proposed District Plan
RMA	Resource Management Act

1 Executive summary

1. The Far North PDP was publicly notified in July 2022. The Orongo Bay Chapter is located in Part 3: Area Specific Matters and is one of the 12 chapters within the Special Purpose Zones section of the PDP.
2. 10 original submissions (with 51 individual submission points) and 9 further submissions (with 15 individual submission points) were received on the Orongo Bay topic. 37 original submission points indicated general support for the provisions to be retained as notified, 6 submission points indicated support in part, with changes requested, whilst 3 submission points opposed the provisions.
3. The submissions can largely be categorised into several key themes:
 - a) Specific recognition of the National Grid
 - b) Storage of Second Hand Buildings
 - c) Specific recognition of Emergency Services
 - d) Relocatable buildings as a permitted activity
 - e) Stormwater provisions
 - f) Building and Structure coverage provisions
 - g) General support for notified provisions
4. This report has been prepared in accordance with Section 42A of the Resource Management Act ("RMA") and outlines recommendations in response to the issues raised in submissions. This report is intended to assist the Hearings Panel to make recommended decisions on the submissions and further submissions on the PDP to provide submitters with an opportunity to see how their submissions have been evaluated, and to explain the recommendations made by officers prior to the hearing.
5. The key changes recommended in this report relate to:
 - a) Inclusion of a new permitted activity rule for emergency service facilities.
 - b) Delete the maximum footprint of single buildings or structures standard.
 - c) Amendment to the description of the new buildings and structures rule to clarify relocated buildings are included.

2 Introduction

2.1 Author and qualifications

6. My full name is Kenton Robert Owen Baxter, and I am a Policy Planner in the District Planning Team at Far North District Council.
7. I hold the qualification of a Master of Planning and a Bachelor of Environmental Management and Planning obtained from Lincoln University.
8. I am an intermediate member of the New Zealand Planning Institute.
9. I have five years' experience in planning and resource management including policy development, formation of plan changes and associated s.32 assessments; s.42a report preparation and associated evidence; and the preparing of resource consent applications. This experience has been gained from working for both local government and in the private sector.

2.2 Code of Conduct

10. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
11. I am authorised to give this evidence on the Council's behalf to the PDP hearings commissioners ("Hearings Panel").

3 Scope/Purpose of Report

12. This report has been prepared in accordance with Section 42A of the Resource Management Act to:
 - a) assist the Hearings Panel in making their recommended decisions on the submissions and further submissions on the PDP; and
 - b) provide submitters with an opportunity to see how their submissions have been evaluated and the recommendations being made by officers, prior to the hearing.
13. This report responds to submissions on Orongo Bay.
14. When submissions pertain to matters covered in other chapters, the report addresses them in connection with the Orongo Bay chapter. It does not address specific details of these matters if they are more appropriately addressed in another chapter.
15. I am aware Waitoto Developments Ltd has raised some wider concerns with the Coastal Environment overlay effectively negating the purpose of the Orongo Bay Special Purpose Zone and this will be considered by reporting officer for the Coastal Environment topic.

16. Submissions on Engineering Standards are being considered at Hearing 8. As a result, this Report does not consider submissions on the Orongo Bay Zone provisions where the submissions relate to the Engineering Standards.
17. The submissions on Standard 4 (Setback from MHWS) are being considered in the Coastal Environment topic. Reporting officers for the PDP have collectively discussed and agreed that:
 - a) It is more efficient to consider and respond to submissions on setbacks from MHWS as part of the Coastal Environment topic;
 - b) It is more efficient for controls on buildings in relation to MWHS to be addressed through consistent rules and standards in the Coastal Environment topic; and
 - c) Setbacks from MHWS should be deleted from the zone chapters to avoid duplication.
18. This report remains unchanged as there are no setbacks from MHWS standard in the Orongo Bay chapter.
19. I am not aware of any requests for new zones, which apply to land that is currently zoned Orongo Bay in the PDP.
20. Wherever possible, I have provided a recommendation to assist the Hearings Panel.
21. Separate from, and in addition to the recommendations in this Section 42A report, Council has made a number of amendments to the PDP, including this chapter, in accordance with c16(2) of the RMA. These are minor corrections arising from drafting errors to ensure consistent formatting of rules and standards. This includes inserting semi colons between each standard, followed by "and" after the second to last standard (where all of the standards must be met to comply) or "or" (when only one of the standards must be met to comply). These changes are neutral in effect and do not alter the intent of the rules or standards, they simply ensure consistent formatting. The c16 corrections are reflected in Appendix 1 to this Report (Officer's Recommended Provisions in response to Submissions).

4 Statutory Requirements

4.1 Statutory documents

22. I note that the Orongo Bay Section 32 report provides a detailed record of the relevant statutory considerations applicable to the Orongo Bay chapter.
23. I also note that the s42A report for Hearing 1 (Strategic Direction), sets out the relationship between the sections of the RMA and "higher order documents" i.e. relevant iwi management plans, other relevant plans and strategies.

24. It is not necessary to repeat the detail of the relevant RMA sections and full suite of higher order documents here. Consequently, no further assessment of these documents has been undertaken for the purposes of this report.
25. However, it is important to highlight the higher order documents which have been subject to change since notification of the Proposed Plan, which are relevant to the Orongo Bay Chapter.

4.1.1 Resource Management Act

26. The Government elected in October 2023, has repealed both the Spatial Planning Act 2023 and Natural and Built Environment Act 2023 on the 22 of December 2023 and has reinstated the RMA as Zealand’s primary resource management policy and plan making legislation. The Government has indicated that the RMA will ultimately be replaced, with work on replacement legislation to begin in 2024. The government has indicated that this replacement legislation will be introduced to parliament this term of government (i.e. before the next central government election in 2026). However, at the time of writing, details of the new legislation and exact timing are unknown. The RMA continues to be in effect until new replacement legislation is passed.

4.1.2 National Policy Statements

4.1.2.1 National Policy Statements Gazetted since Notification of the PDP

27. There are no new NPSs or changes to operative NPSs that are of particular relevance to the submissions received on the Orongo Bay chapter. The relevant NPSs were addressed as part of the Statutory Context within the Orongo Bay Section 32 Report.

4.1.2.2 National Policy Statements – Announced Future Changes

28. In October 2023 there was a change in government and several announcements have been made regarding work being done to amend or replace various National Policy Statements (summarised in Table 1 below). The below NPS are not anticipated to be of general relevance to the submissions received on the Orongo Bay topic but have been included for completeness.

Table 1 Summary of announced future changes to National Policy Direction (as indicated by current Government, as at March 2024)

National Statement	Policy	Summary of announced future changes	Indicative Timing
National Policy Statement for Freshwater Management (NPS-FM)		<ul style="list-style-type: none"> Changes to hierarchy of obligations in Te Mana o Te Wai provisions Amendments to NPS-FM, which will include a robust and full consultation process with all stakeholders including iwi and the public 	<p>End of 2024</p> <p>2024 - 2026</p>

National Statement	Policy	Summary of announced future changes	Indicative Timing
National Policy Statement on Indigenous Biodiversity (NPS-IB)		<ul style="list-style-type: none"> • Amendments to the NPS-IB • Work to stop/cease implementation of new Significant Natural Areas 	2025 - 2026
National Policy Statement for Urban Development (NPS-UD)		<ul style="list-style-type: none"> • Amendments to NPS-UD, including requirements for Tier 1 and 2 Council to 'live zone' enough land for 30 years of housing growth, and making it easier for mixed use zoning around transport nodes. 	By end of 2024
National Policy Statement for Renewable Electricity Generation (NPS-REG)		<ul style="list-style-type: none"> • Amendments to NPS-REG, to allow renewable energy production to be doubled 	By end of 2024
National Policy Statement for Electricity Transmission (NPS-ET)		<ul style="list-style-type: none"> • Amendments to NPS-ET, but at this stage direction and amendments are unclear. 	By end of 2024
National Policy Statement for Highly Productive Land (NPS-HPL)		<ul style="list-style-type: none"> • Amendments to the NPS-HPL in light of needing to enable housing growth and remove consenting barriers. Possible amendments to the definition of 'Highly Productive Land' to enable more flexibility 	2024 - 2025
Proposed National Policy Statement for Natural Hazards (NPS-NH)		<ul style="list-style-type: none"> • No update on progress has been provided by current government. 	Unknown

4.1 Council's Response to Current Statutory Context

29. The evaluation of submissions and recommendations in this report are based on the current statutory context (that is, giving effect to the current National Policy Statements). I note that the proposed amendments and replacement National Policy Statements do not have legal effect until they are adopted by Government and formally gazetted.

30. Sections 55(2A) to (2D) of the RMA sets out the process for changing District Plans to give effect to National Policy Statements. A council must amend its District Plan to include specific objectives and policies or to give effect to specific objectives and policies in a National Policy Statement if it so directs. Where a direction is made under Section 55(2), Councils must directly insert any objectives and policies without using the Schedule 1 process, and must publicly notify the changes within five working days of making them. Any further changes required must be done through the RMA schedule 1 process (such as changing rules to give effect to a National Policy Statement).

31. Where there is no direction in the National Policy Statement under Section 55(2), the Council must amend its District Plan to give effect to the National Policy Statement using the RMA schedule 1 process. The amendments must

be made as soon as practicable, unless the National Policy Statement specifies a timeframe. For example, changes can be made by way of a Council recommendation and decision in response to submissions, if the submissions provide sufficient 'scope' to incorporate changes to give effect to the National Policy Statements.

32. I have been mindful of this when making my recommendations and believe the changes I have recommended are either within scope of the powers prescribed under Section 55 of the RMA or within the scope of relief sought in submissions.

4.1.1 National Planning Standards

33. The National Planning Standards determine the sections that should be included in a District Plan, including the Strategic Direction chapters, and how the District Plan should be ordered. The Orongo Bay provisions proposed and recommended in this report follow the National Planning Standards.

4.1.2 Treaty Settlements

34. There have been no further Deeds of Settlement signed to settle historic Treaty of Waitangi Claims against the Crown, in the Far North District, since the notification of the PDP.

4.1.3 Iwi Management Plans – Update

35. Ngā Tikanga mo te Taiao o Ngāti Hine' the Ngāti Hine Environmental Management Plan was in draft form at the time of the notification of the PDP. This was updated, finalised and lodged with the Council in 2022, after notification of the PDP in July 2022. In respect of the Orongo Bay chapter, the Ngāti Hine Environmental Management Plan provides the following direction in summary:

- a) Water and Land (Wai me te Whenua): Ngāti Hine aims to protect water as a sacred resource, enhance its mauri (life force), and manage it in an integrated manner alongside soil and air. They seek to manage, monitor, and enhance mātaimai sites, develop water quality standards, maintain healthy riparian margins, and manage biosecurity risks. They also aim to protect areas of customary value and implement robust protection systems.
- b) Indigenous Biodiversity (Koiora Taketake): Ngāti Hine seeks to restore, enhance, and manage indigenous flora and fauna, protect ecosystems, and prevent the spread of invasive species. They aim to fully protect sacred trees and certain indigenous trees, require permission for bio-prospecting, and implement measures to protect biodiversity.
- c) Air (Hau): Ngāti Hine aims to protect and enhance the mauri of air, promote innovative management practices, and reduce the discharge

of contaminants. They require adherence to air quality laws and standards, especially regarding particulate matter.

36. I consider that there is limited scope to have regard to the updated iwi management plan given the content of the submissions on the Orongo Bay chapter. The submissions do not seek or enable a change to the PDP in relation to these matters outlined above.

37. The Ahipara Takiwā Environmental Management Plan was updated in 2023, after notification of the PDP in July 2022. In respect of the Quail Ridge Chapter, the environmental management plan does not provide any specific direction as the Orongo Bay zone sits outside the implicated rohe.

4.2 Section 32AA evaluation

38. This report uses 'key issues' to group, consider and provide reasons for the recommended decisions on similar matters raised in submissions. Where changes to the provisions of the PDP are recommended, these have been evaluated in accordance with Section 32AA of the RMA.

39. The s32AA further evaluation for each key issue considers:

- a) Whether the amended objectives are the best way to achieve the purpose of the RMA.
- b) The reasonably practicable options for achieving those objectives.
- c) The environmental, social, economic and cultural benefits and costs of the amended provisions.
- d) The efficiency and effectiveness of the provisions for achieving the objectives.
- e) The risk of acting or not acting where there is uncertain or insufficient information about the provisions.

40. The s32AA further evaluation contains a level of detail that corresponds to the scale and significance of the anticipated effects of the changes that have been made.

4.3 Procedural matters

41. Due to the clarity of submissions, no correspondence or meetings with submitters needed to be undertaken and there are no procedural matters to consider for this hearing.

5 Consideration of submissions received

5.1 Overview of submissions received

42. A total of 10 original submissions and 9 further submissions were received on the Orongo Bay topic.

43. The main submissions on the Orongo Bay chapter came from:

- a) Transpower New Zealand Ltd ("Transpower" / S454) seeking an amendment to ensure critical infrastructure, such as transmission facilities is provided for within the Orongo Bay Special Purpose zone.
- b) Russell Protection Society ("Russell Protection Society" / S179) support many of the objectives as notified and also seek an additional rule to make the storage of second-hand buildings something other than a permitted activity.
- c) FENZ (S512) who generally support the provisions but seek that emergency service facilities are permitted and exempt from certain requirements. They also seek a new standard or matter of discretion that incorporates emergency response transport/access and adequate water supply for firefighting as a consideration. They also seek amendments to the comprehensive development plan rule to include additional reference to emergency service requirements.
- d) Waitoto Development Limited ("Waitoto Development" / S263) supports the application of the Orongo Bay zone over the landholdings identified as Lot 20 DP 437503. The submitter also supports most of the rules and standards except for the standard relating to building or structure coverage. The submitter seeks that this standard is deleted.
- e) Heavy Haulage Assoc Inc (S482) seek to make relocated buildings a permitted activity.
- f) FNDC (S368) seek an amendment to include reference to the updated 2022 engineering standards in relation to the impermeable surface coverage rule.
- g) Puketotara Lodge Ltd ("Puketotara Lodge" / S481) Seeks to add additional assessment criteria to the impermeable surface coverage rule.
- h) Trent Simpkin ("Trent Simpkin" / S283) seeks to amend the impermeable surface coverage rule to make it permitted subject to criteria and/or increase the maximum impermeable surface coverage. They also seek to amend building or structure coverage rule to make it permitted subject to criteria being met.
- i) John Andrew Riddell ("John Riddell" / S431) supports the height in relation to boundary standard.

44. The key issues identified in this report are set out below:

- a) Key Issue 1: Specific recognition of the National Grid
- b) Key Issue 2: Storage of Second Hand Buildings
- c) Key Issue 3: Relocatable buildings as a permitted activity
- d) Key Issue 4: Specific recognition of Emergency Services

- e) Key Issue 5: Stormwater provisions
- f) Key Issue 6: Building and Structure coverage provisions
- g) Key Issue 7: General support for notified provisions

45. Section 5.2 constitutes the main body of the report and considers and provides recommendations on the decisions requested in submissions. Due to the number and nature of submissions received and the repetition of issues, as noted above, it is not efficient to respond to each individual submission point raised in the submissions. Instead, this part of the report groups similar submission points together under key issues. This approach provides a concise response to, and recommended decision on, submission points.

5.2 Officer Recommendations

- 46. A copy of the recommended plan provisions for the Orongo Bay chapter is provided in **Appendix 1 – Recommended provisions** to this report.
- 47. A full list of submissions and further submissions on the Orongo Bay chapter is contained in **Appendix 2 – Recommended Decisions on Submissions** to this report.
- 48. Additional information can also be obtained from the Summary of Submissions (by Chapter or by Submitter) [Summary of submissions volumes](#), the associated Section 32 report on this chapter [S.32 - Orongo Bay](#), the overlays and maps on the [FNDC-ePlan](#).

5.2.1 Key Issue 1: Specific recognition of the National Grid

Overview

Provision(s)	Officer Recommendation(s)
New Objectives, Policies and Rules	<ul style="list-style-type: none"> • Reject - Retain as notified

Analysis of Submissions on Key Issue 1

Matters raised in submissions

- 49. Transpower (S454.139) requests provisions within the Orongo Bay Special Purpose zone to ensure critical infrastructure, such as transmission facilities are provided for.

Analysis

- 50. Since making their submission, Transpower has contacted Council to advise that they no longer wish to pursue the submission points seeking changes to the zone chapters to recognise transmission facilities, including submission S454.139. Transpower understands that the Infrastructure Chapter of the PDP provides the provisions for Infrastructure (and for protection of Infrastructure) on a district-wide basis, therefore no changes to the zone provisions are necessary.

Recommendation

51. For the above reasons, I recommend submission S454.139 is rejected and the approach to deal with it in the Infrastructure Chapter is appropriate.

5.2.2 Key Issue 2: Storage of Second-Hand Buildings

Overview

Provision(s)	Officer Recommendation(s)
New Rule or Standard	Reject – Retain as notified.

Analysis of Submissions on Key Issue 2

Matters raised in submissions

52. The Russell Protection Society (S179.067) seek to insert a new rule that excludes storage of Second-Hand Building as a permitted activity. The submitter considers that the storage of second-hand houses in the Orongo Bay zone detracts from the visual amenity of the area, which the notified provisions aim to protect. The submitter considers the notified rules and standards do not provide clarity for the storage of second hand houses.

Analysis

53. The Orongo Bay chapter in the notified PDP does not specifically mention the storage of second-hand homes or relocated buildings. Upon further review it is conceivable that the notified permitted storage facility rule OBZ-R5 could apply to the storage of relocatable buildings. As it could be argued that relocatable buildings are being 'stored' and the building is the possession as referenced in the PDP notified definition of 'storage facility'. Also, the notified permitted trades workshop/repair centres rule OBZ-R8 could also be applied to the storage of relocated buildings. For example, a trade person storing and repairing a relocated building to be on sold could comply with this rule. It is noted that the storage of second hand buildings already may already occur on part of the zone which can be observed on Google Streetview. It is not clear if this activity is legally established.
54. Regardless of whether this activity is permitted, rule OBZ-R14 a requires a comprehensive development plan prior to any subdivision, use, or development on any site within the Orongo Bay zone as a Restricted Discretionary Activity. The matters of discretion within this rule cover a broad range of issues, including the degree to which the proposal restores and enhances the natural character of the coastal environment, as per matter of discretion (f). Additionally, the landscape, visual, and amenity characteristics of the site and adjacent areas must be maintained, protected, or enhanced, as per matter of discretion (g). The appropriateness of the location of building envelopes, building design, and appearance is assessed as per matter of discretion (n).
55. These specific matters of discretion would address the submitters' concerns in terms of amenity effects. Therefore, this rule gives the Council sufficient scope to assess these matters regarding any proposed activities within the Orongo Bay zone.

56. In response to the submission requesting an additional rule that excludes the storage of relocated buildings as a permitted activity, I do not agree that such a rule is necessary for the Orongo Bay Zone. Given the effects associated with any proposed activities involving the storage of relocated buildings can be appropriately assessed within the OBZ-R14 rule, it does not warrant amendments to existing rules or a specific rule that refers to this activity.

Recommendation

57. For the above reasons, I recommend submission S179.067 from The Russell Protection Society is rejected and the rules are retained as notified.

Section 32AA evaluation

58. No change to the provisions is recommended at this stage. On this basis, no evaluation under Section 32AA is required.

5.2.3 Key Issue 3: Relocatable buildings as a permitted activity

Overview

Provision(s)	Officer Recommendation(s)
Rules	Amend wording to clarify rule OBZ-R1 includes relocated buildings.

Analysis of Submissions on Key Issue 4

Matters raised in submissions

59. Heavy Haulage Assoc Inc (S482.020) request a new permitted activity rule for relocatable buildings, subject to standards. The requested standards for the permitted activity rule includes providing a pre-inspection report. Where the permitted activity standard is not met, relocated buildings become a restricted discretionary activity. The submitter’s reasons for this request are because they consider that the definition of "building" does not clearly include relocated buildings and the existence of a separate definition of relocated buildings in the PDP appears to create a distinction between "buildings" and "relocated buildings". The submitter considers that it is not clear that the permitted activity status applied in most zones to "new buildings and structures" also applies to the relocation of buildings. The submitter considers that the controls on constructed buildings and relocated buildings should be identical, as the effects are essentially the same. The submitter considers that this is in accordance with the RMA as expressed in the Environment Court decision of *New Zealand Heavy Haulage Association Inc v The Central Otago District Council* (Environment Court, C45/2004, Thompson EJ presiding).

Analysis

60. In response to the submission from Heavy Haulage Assoc Inc requesting a new permitted activity rule for relocatable buildings, I disagree that such a rule is necessary for the Orongo Bay zone. Rule OBZ-R1 as notified in the PDP is a permitted activity rule which refers to “*New buildings or structures, and extensions or alterations to existing buildings or structures*”.

61. It is my view that “new buildings or structures” includes relocatable buildings even if they are not new in terms of the date they were built. The key point is that the building is “new” to the site it is relocated to or constructed on. An older relocated dwelling can be new in the context of its location in the Orongo Bay zone when it is relocated to the zone or moved from one part of the zone to another. This is supported by the definition of the word “new” from Oxford Languages which is as follows:

1. *Produced, introduced, or discovered recently or now for the first time; not existing before.*
2. *already existing but seen, experienced, or acquired recently or now for the first time.*

62. The definition of “building” within the notified PDP, which is a National Planning Standards definition, also supports this interpretation as the definition refers to a moveable physical construction. The full definition of “building” in the PDP is as follows:

means a temporary or permanent movable or immovable physical construction that is:

- a. *partially or fully roofed; and*
- b. *fixed or located on or in land;*

but excludes any motorised vehicle or other mode of transport that could be moved under its own power.

63. On this basis, I do not consider that a specific rule for relocated buildings is required in Orongo Bay Special Purpose Zone as these are already provided for under Rule OBZ-R1 which treats new and relocated buildings the same. This is appropriate in my view as I agree with Heavy Haulage Assoc Inc that there is no real difference in effects of a construction of a new building and relocation of a second-hand building. Despite my assessment above, I believe the existing rule OBZ-R1 can provide additional clarity by amending the description to include specific reference to relocated buildings.

Recommendation

64. For the above reasons, I recommend submission S482.020 from Heavy Haulage Assoc Inc is accepted in part, and the rule description in rule OBZ-R1 is amended to include the words ‘, *and relocated buildings*’ as follows: *New buildings or structures, relocated buildings, and extensions or alterations to existing buildings or structures.*

65. As a consequential amendment I also recommend the precursor wording for PER-1 is amended to read: *The new building or structure, relocated building or extension or alteration to an existing building or structure, and repairs and maintenance to buildings or structures comply with standards:*

Section 32AA evaluation

66. The recommended amendment is appropriate, efficient and effective because it clarifies the intent of the PDP (to permit relocated buildings and new buildings, subject to standards to manage potential environmental effects), reduces ambiguity and provides clarity which reduces costs associated with plan interpretation and implementation.

5.2.4 Key Issue 4: Specific recognition of Emergency Services

Overview

Provision(s)	Officer Recommendation(s)
Rules	Retain as notified except add a new permitted rule for Emergency Service facilities.

Analysis of Submissions on Key Issue 3

Matters raised in submissions

67. FENZ (S512.070) requests a new permitted activity rule for emergency service facilities, and for these activities to be exempt from standards relating to setback distances and vehicle crossings. FENZ note that fire stations are currently located in a range of zones in the Far North District and that the PDP currently only includes rules for emergency service facilities in some zones with different activity status. FENZ considers that emergency service facilities should be provided for as permitted activities across all zones in the PDP to ensure new fire stations can be efficiently developed as appropriate. This is a plan-wide request from FENZ with multiple submission points on the PDP seeking the same relief.

68. FENZ (S512.117) requests a new standard and/or matter of discretion across all zones on infrastructure servicing (including for emergency response transport/access and adequate water supply for firefighting). FENZ acknowledge that some PDP zones include provisions relating appropriate infrastructure servicing and that NH-R5 requires adequate firefighting water supply for vulnerable activities. However, FENZ consider that an additional standard on infrastructure servicing for emergency response/firefighting water supply within all individual zone chapters may be beneficial.

69. FENZ (S512.046) seek to amend Rule OBZ-R14 to include reference to emergency response access and firefighting water supply. The requested amendments are as follows:

"...3. internal access ways, carparking, vehicle circulation and storage areas; including how emergency response access has been provided for;

4. location of all infrastructure and services including stormwater and effluent collection, treatment and disposal; and access to adequate firefighting water supply;..."

70. FENZ considers that providing this information to the Council will lead to improved outcomes. They request that emergency responder access and firefighting water supply information be explicitly requested to reduce risks to life and property. Additionally, Fire and Emergency supports the use of

discretion regarding fire hazards and believes that the additional information requested would enhance the assessment of this matter.

71. FENZ (S512.091) request that an advice note is inserted into the setback standard OBZ-S3 that refers to the Building Code in relation to firefighting requirements, as follows:

"Building setback requirements are further controlled by the Building Code. This includes the provision for firefighter access to buildings and egress from buildings. Plan users should refer to the applicable controls within the Building Code to ensure compliance can be achieved at the building consent stage. Issuance of a resource consent does not imply that waivers of Building Code requirements will be considered/granted"

72. Waitoto Development (S263.027) seeks to retain the standard OBZ-S3 as notified in the PDP. Because they consider that the standard replicates the operative district plan management structure.

Analysis

73. In terms of the Orongo Bay chapter in the notified PDP, policy OBZ-P5 refers to ensuring the provision of appropriate potable and firefighting water supply is provided as part of any development in the Orongo Bay zone. There is no other reference to emergency services. In relation to the submission from FENZ seeking a permitted activity rule for emergency service facilities in the Orongo Bay Special Purpose Zone, I note that the PDP:

- a. Defines an emergency service facility as "means fire stations, ambulance stations, police stations and associated ancillary facilities". The relief sought from FENZ is therefore broader than solely the development of fire stations which is the key focus of their submission point.
 - b. Enables emergency service facilities to be established as a permitted activity in certain zones (including the Light Industrial and Mixed-Use Zones with no conditions and the Rural Production Zone subject to the condition that the GFA does not exceed 150m²) while requiring resource consent for these facilities in other zones where there is greater potential for adverse effects on the surrounding environment (e.g. a discretionary activity in the Residential Zone).
 - c. In terms of land in the vicinity of the Orongo Bay Zone, most of the nearby Russell Township is within historic overlays. In overlay Part A – The Strand which includes all the Mixed-use zoned land in Russell, a new building would require a restricted discretionary resource consent under HA-R8. There is Rural Production Zoned land located within 0.3km of the Orongo Bay zone where a small emergency service facility can be established as a permitted activity.
74. Under the notified Orongo Bay Zone rules, an emergency service facility would require resource consent as a discretionary activity under OBZ-R15

(activities not otherwise listed in this chapter). In my opinion, this activity status is not the most appropriate. OBZ-O1 for the Orongo Bay Special Purpose zone is to enable service-oriented industrial and mixed-use development on suitable land, which is limited on the Russell Peninsula. Given this policy direction my recommendation is that emergency service facilities should be a permitted activity.

75. In addition, although OBZ-O1 provides a high level direction as to the types of activities that are anticipated within this zone, the policies as notified do not include an enabling policy that identifies the appropriate land use activities in this zone. In contrast OPZ-P8 as notified identifies that the disposal of solid waste in the Orongo Bay zone is prohibited. I recommend a new policy is included to address this gap. The recommended policy is as follows:

Enable industrial and mixed-use activities including:

- a. Garden centres*
- b. Trade suppliers*
- c. Storage facilities*
- d. Vehicle and boat display and sales*
- e. Small scale manufacturing*
- f. Tradesmen's workshop/repair centres*
- g. Convenience store (excluding supermarket)*
- h. Community facilities*
- i. Emergency Service facilities*

76. In regard to the requested exemptions for setback and vehicle crossing standards for emergency service facilities, as requested by FENZ, I do not believe this is appropriate. Emergency service buildings will have sufficient opportunity to be established with a permitted setback from the boundary and to establish a compliant vehicle crossing. The submitter has not provided enough information within their submission to justify why these exemptions are appropriate for emergency service facilities. Accordingly, I recommend this part of the submission point is rejected and the overall submission point from FENZ is accepted in part.

77. In terms of the submission from FENZ requesting a new standard for infrastructure servicing for emergency response transport/access and water supply for firefighting, I consider that this relief is already adequately, and most efficiently, addressed through the following district-wide provisions in the PDP:

- a. Rule NH-R5 and NH-R6 (Wildfire) in the natural hazard chapter, which includes specific requirement for new buildings and alterations to

existing buildings used for a vulnerable activity to have water supply for firefighting purposes that complies with SNZ PAS 4509:2008 New Zealand Fire Fighting Water Supplies Code of Practice.

- b. Rule TRAN-R2 (vehicle crossing and access, including private accessways) in the Transport chapter which includes a permitted activity standard for vehicle crossing and access for fire appliances to comply with SNZ PAS 4509:2008 New Zealand Fire Fighting Water Supplies Code of Practice.
78. I do not agree that rule OBZ-R14 should be amended to include additional references to emergency response access and adequate firefighting water supply. This is because these matters are addressed in rule NH-R5 and NH-R6 (Wildfire) and TRAN-R2 as outlined above. The additional reference to these matters would create unnecessary duplication and therefore I do not consider it necessary. The District Plan focusses its regulatory approach for emergency response access on vulnerable activities, in my view it is not efficient or effective to apply this approach to all activities.
79. In terms of OBZ-S3 regarding setbacks, Waitoto Development supports the standard as notified which I agree with. FENZ request an advice note should be added to this standard. I acknowledge that it is important for plan users to be aware of and refer to the applicable controls within the Building Code to ensure compliance can be achieved at the building consent stage. However, I am not aware of any specific examples of resource consents that have been issued for building setback infringements, that lead to non-compliance with building code requirements for firefighting access to buildings and egress from buildings.
80. I do not support the requested change to the plan because:
- a. there are a number of different pieces of legislation and standards outside of the District Plan that apply to a range of activities, that the District Plan does not include advice notes for all of these different pieces of legislation. To do so would be inefficient and cumbersome;
 - b. the plan format, which complies with the National Planning Standards, seeks to avoid the use of advice notes within rules or standards wherever possible;
 - c. there are other, more efficient methods to advise applicants of the Building Code requirements during resource consent preparation (for example, pre-application advice).

Recommendation

81. For the above reasons I recommend that:
- a. Submission points S512.117, S512.046 and S512.091 are rejected.
 - b. Submission point S512.070 is accepted in part and submission point S263.027 is accepted by adding a new policy and rule to the Orongo Bay Zone as follows:

OBZ-PX

Enable industrial and mixed-use activities including:

- a. Garden centres*
- b. Trade suppliers*
- c. Storage facilities*
- d. Vehicle and boat display and sales*
- e. Small scale manufacturing*
- f. Tradesmen's workshop/repair centres*
- g. Convenience store (excluding supermarket)*
- h. Community facilities*
- i. Emergency Service facilities*

OBZ-RX Emergency service facility

Activity status: Permitted

Where:

PER-1

The new building or structure, or extension or alteration to an existing building or structure, and repairs and maintenance to buildings comply with standards:

OBZ-S1 Maximum height;

OBZ-S2 Height in relation to boundary;

OBZ-S3 Setback from boundaries;

OBZ-S4 Building or structure coverage; and

OBZ-S5 Landscaping.

Section 32AA evaluation

82. A section 32AA evaluation for the recommendation to include an additional permitted activity for emergency service facilities in the Orongo Bay zone. Along with adding an additional policy that sets out the enabled activities in the Orongo Bay zone is provided below:

Effectiveness and efficiency

83. The recommended new rule is more appropriate in achieving the objectives of the Orongo Bay zone and providing opportunities for emergency service facilities to be established with minimum restrictions within the Russell area. This also better reflects the purpose of the RMA than the notified version of the PDP.
84. The recommended additional policy addresses a gap in the policy framework in terms of setting out the enabled activities within the Orongo Bay zone. This also better reflects the purpose of the RMA than the notified version of the PDP.

Costs/Benefits

85. The recommended new rule will enable emergency service facilities to establish within the Russell area without restrictions associated with other parts of Russell. The recommended provision strikes an appropriate balance between the efficient use of land, provision for emergency services and the management of effects within an appropriate zone.
86. The change ensures that adequate consideration is given to emergency service facilities.
87. The Orongo Bay zone is considered appropriate for emergency service facilities given its objective for service-oriented industrial and mixed-use activities.
88. The recommended policy addresses a gap in the policy framework as it provides direction on the types of activities enabled within the Orongo Bay zone.

Risk of acting or not acting

89. There is low risk in accepting the recommended rule as emergency services facilities are considered to achieve the objectives of the Orongo Bay zone. There is also low risk in accepting the recommended policy. There is sufficient information to act on the submission for the recommended rule.

Recommendation about most appropriate option

90. For the above reasons, the recommended additional rule and policy is considered to be more appropriate in achieving the purpose of the RMA than the notified version of the PDP.

5.2.5 Key Issue 5: Stormwater provisions

Overview

Provision(s)	Officer Recommendation(s)
Rule OBZ-R2	Do not amend rule.

Analysis of Submissions on Key Issue 5

Matters raised in submissions

91. Puketotara Lodge (S481.019) request amendment to the matters of discretion in relation to the impermeable surfaces rule OBZ-R2. The submitter considers that this will ensure that the PDP adequately controls effects from stormwater discharge, particularly between sites or adjacent sites. The submitter seeks amendments to the wording as follows:

Matters of discretion are restricted to:

- c. *the availability of land for disposal of effluent and stormwater on the site without adverse effects on adjoining adjacent waterbodies (including groundwater and aquifers) or on adjoining adjacent sites; and*
92. Puketotara Lodge (S481.019) also seek additional matters of discretion to be added to the impervious surface coverage rules in all zones, which is

Rule OBZ-R2 in the Orongo Bay Zone. The submitter considers that this is necessary to effectively control stormwater discharge effects, especially between or adjacent to sites. They note that while the ODP has stormwater management rules and discretion for impermeable surface area, the PDP lacks a specific "stormwater management" rule. To address this perceived gap, Puketotara Lodge requests the following additional matters of discretion for impermeable surface coverage rules in all zones:

- *Avoiding nuisance or damage to adjacent or downstream properties;*
- *The extent to which the diversion and discharge maintains pre-development stormwater run-off flows and volumes;*
- *The extent to which the diversion and discharge mimics natural run-off patterns*

93. Trent Simpkin (S283.027) requests that rule OBZ-R2 is amended to increase the impermeable surface coverage maximum to be based on the size of lots. The submitter also seeks to amend OBZ-R2 to add a new condition (PER-2) which would state that if a TP10 report is provided by an engineer the activity is permitted. The submitter considers that the impermeable surfaces rule is frequently not complied with in home design due to low thresholds, necessitating many homes to still seek resource consent. The submitter notes that all activities breaching impermeable surface rules require a TP10/Stormwater report and therefore considers that if this is provided it should not need to go through the resource consent process.

94. Waitoto Development (S263.004) support OBZ-R2 as notified because the submitter considers this rule replicates the ODP management structure.

Analysis

95. The notified OBZ-R2 permitted activity rule requires that impermeable surface coverage of any site (excluding areas identified for esplanade reserve, riparian, wetland, and landscape planting on the Orongo Bay Outline Concept Plan) must not exceed 80%. This percentage was deemed appropriate at the time of the creation of this special zone due to the nature and scale of commercial buildings, as well as associated car parking and access requirements. Rule OBZ-R2 also permits the disposal of collected stormwater from buildings and impervious surfaces provided that it is within an existing consented urban stormwater management plan or discharge consent from the Northland Regional Council. All stormwater discharges must also meet the standards of the Regional Plan for Northland. If these matters are not complied with, resource consent is required as a restricted discretionary activity. The notified matters of discretion in Rule OBZ-R2 are as follows:

- a. *the extent to which landscaping or vegetation may reduce adverse effects of run-off;*
- b. *the effectiveness of the proposed method for controlling stormwater on site;*

- c. the availability of land for disposal of effluent and stormwater on the site without adverse effects on adjoining waterbodies (including groundwater and aquifers) or on adjoining sites; and*
- d. whether low impact design methods and use of green spaces can be used;*
- e. any cumulative effects on total catchment impermeability;*
- f. natural hazard mitigation and site constraints; and*
- g. extent of potential adverse effects on cultural, spiritual, heritage and/or amenity values of any affected waterbodies.*

96. In response to the request to amend the matters of discretion in relation to the impermeable surfaces rule OBZ-R2, which involves changing the word 'adjoining' to 'adjacent,' I do not agree that this amendment is appropriate. The word 'adjoining' means direct contact or connection, whereas 'adjacent' means next to or near something else without necessarily being in direct contact. Therefore, the submitters' amended wording increases the spatial scope of the matters of discretion, requiring a more detailed assessment of waterbodies and sites beyond those that directly adjoin the affected property. I do not think this is appropriate in this context and would be too onerous for applicants applying for a resource consent in relation to OBZ-R2. Additionally, effects on properties and waterbodies beyond those directly adjoining are likely to be minimal if stormwater effects on directly adjoining properties and water bodies are managed appropriately.

97. In response to the request from Puketotara Lodge to add additional matters of discretion to OBZ-R2, my opinion is that the requested matter to avoid nuisance or damage to adjacent or downstream properties is effectively covered by matter of discretion b and c. The other two requested matters of discretion are in my opinion either unnecessarily specific or potentially problematic to assess (e.g. maintaining pre-development stormwater flows, mimicking natural run-off patterns). Overall, I consider that the notified matters of discretion provide sufficient scope to assess a range of stormwater aspects where appropriate to do so and effectively manage stormwater in the manner sought by Puketotara Lodge. In making this recommendation, I note that impervious surface rules and stormwater management are wider issues for the PDP that will be considered by other reporting officers for the zone topics.

98. In response to the request by Trent Simpkin to amend the impermeable surface coverage maximum to be based on the size of the lots, given the Orongo Bay zone provides for commercial purposes, I consider the maximum impermeable surfaces of 80% (excluding areas identified for esplanade reserve, riparian, wetland and landscape planting on the Orongo Bay Outline Concept Plan) to be an appropriate permitted impermeable surfaces maximum. The other matter sought by this submitter is to make impermeable surface breaches a permitted activity if a TP10 report is provided. I disagree this is approach for the Orongo Bay zone as the 80%

permitted maximum was considered adequate at the time the Orongo Bay zone was created and I consider that it is still appropriate. While a TP10 report may address stormwater management components associated with additional impermeable surfaces, if it is required as a permitted activity standard, there is not opportunity for the report to be reviewed by a Council engineer, or for any outcomes of the report to be implemented and monitored through consent conditions. Also, additional matters associated with impermeable surfaces, such as visual and amenity effects, may not be adequately addressed by a TP10 report. Based on these considerations, I consider that a requirement for resource consent is appropriate, where permitted activity standards for impermeable surface coverage are breached.

99. In response to the submission seeking to retain OBZ-R2 as notified, I disagree this is appropriate for the reasons outlined above. My recommend amendments to OBZ-R2 are outlined below.

Recommendation

100. For the above reasons, I recommend that:

- a. Submission points S283.027 and S481.019 are rejected and submission point S263.004 is accepted.

Section 32AA evaluation

101. No change to the provisions is recommended at this stage. On this basis, no evaluation under Section 32AA is required.

5.2.6 Key Issue 6: Building and Structure coverage provisions

Overview

Provision(s)	Officer Recommendation(s)
Standard OBZ-S4	Delete the maximum footprint for single buildings or structures standard.

Analysis of Submissions on Key Issue 6

Matters raised in submissions

102. Waitoto Development (S263.029) request that OBZ-S4, which relates to building or structure coverage, is deleted. The submitter considers that this is necessary because the notified PDP is largely replicating the existing provisions from the operative District Plan, however this additional standard has been added. The submitter does not believe this rule is appropriate given the original development plans for the site took into account the scale and intensity of development provided for by the ODP.

103. Trent Simpkin (S283.038) seeks to amend the maximum building or structure coverage to be larger or offer an alternative pathway for this standard, by inserting a PER-2 which says if a building is above the maximum, it is permitted if a visual assessment and landscape plan is provided as part of the building consent.

104. Submitters generally do not support this standard as notified.

Analysis

105. The notified PDP OBZ-S4 building or structure coverage standard states that the footprint of a single building or structure is no more than 300m². This standard was not in the ODP but was introduced into the notified PDP. OBZ-S4, along with the other standards, is intended to manage the bulk and scale of buildings and structures to ensure that the potential effects of the built form within the zone do not adversely affect the amenity values and character of the surrounding locality, as per the Orongo Bay section 32 report.

106. In response to the submission requesting the deletion of standard OBZ-S4, I agree with this request. As previously discussed, the purpose of the building and structure coverage standard is to manage the effects of buildings and structures on the amenity values and character of the surrounding locality. However, the Orongo Bay zone is almost entirely within the Coastal Environment overlay; therefore, I consider that the amenity values and the coastal character of the area can be considered and managed appropriately by this overlay. The Coastal Environment overlay as notified includes building coverage, maximum height (although this does not apply to the Orongo Bay zone), colours and materials, and earthworks or indigenous vegetation clearance. There is also a maximum height standard in the notified Orongo Bay zone. I have discussed this with the Coastal Environment topic author, and they agree with this approach and are considering a number of submissions on these matters in the Coastal Environment s.42A report.

107. Regardless of the Coastal Environment overlay, rule OBZ-R14 requires a comprehensive development plan prior to any subdivision, use, or development on any site within the Orongo Bay zone as a Restricted Discretionary Activity. The matters of discretion within this rule cover a broad range of issues, including the degree to which the proposal restores and enhances the natural character of the coastal environment, as per matter of discretion (f). Additionally, the landscape, visual, and amenity characteristics of the site and adjacent areas must be maintained, protected, or enhanced, as per matter of discretion (g). The appropriateness of the location of building envelopes, building design, and appearance is assessed as per matter of discretion (n). These specific matters of discretion address effects to be managed by OBZ-S4 in relation to the scale and bulk of any proposed buildings. Therefore, the recommendation to remove OBZ-S4 is appropriate.

108. Trent Simpkin also sought an increase in the maximum building and structure coverage. They also proposed an amendment to include an additional clause within the rule so that if a visual assessment and landscape plan is provided as part of the building consent it is a permitted activity. As noted above, I recommend that this standard is removed on the basis that the matter is appropriately addressed by the Coastal Environment overlay. However, if the Panel decides to retain OBZ-S4 my recommendation is that while a visual assessment and landscape plan may address visual amenity effects, if it is a permitted activity the report cannot

be adequately reviewed by Council planners and other technical experts and there is no ability to question aspects of the report. Therefore, I do not agree with this request as the resource consent application process enables the information provided by the applicant to be scrutinised effectively which is important to achieving good outcomes. Similar to my earlier response to TP10, as a permitted activity standard there is no opportunity for the assessment report or landscape plan to be reviewed by a Council officer, or for any outcomes of the report to be implemented and monitored through consent conditions.

Recommendation

109. For the above reasons, I recommend submission S263.029 is accepted and submission S283.038 is accepted in part. I recommend that OBZ-S4 be deleted, as follows:

~~OBZ-S4~~

~~Building or structure coverage~~

~~The footprint of a single building or structure is no more than 300m².~~

Section 32AA evaluation

110. A section 32AA evaluation for the recommendation to delete OBZ-S4 is provided below:

Effectiveness and efficiency

111. The recommended amendments are more appropriate in achieving the purpose of the RMA and recognise the functional and operational needs of the Orongo Bay zone, compared to the notified version of the PDP.

Costs/Benefits

112. The provisions strike an appropriate balance between the efficient use of land, provision for commercial activities and the management of effects.

113. The change ensures that amenity values can be adequately provided for without duplication of building coverage rules in the Orongo Bay zone and the Coastal Environment overlay.

Risk of acting or not acting

114. The risk of accepting the recommended amendments is low as there is sufficient information to act on the submissions.

Recommendation about most appropriate option

115. For the above reasons, the recommended amendments are considered to be more appropriate in achieving the purpose of the RMA than the notified version of the PDP.

5.2.7 Key Issue 7: General support for notified provisions

Overview

Provision(s)	Officer Recommendation(s)
Objectives, policies, rules, standards and Orongo Bay zone Map. (where not otherwise mentioned in this report)	Retain as notified

Analysis of Submissions on Key Issue 7

Matters raised in submissions

116. The Russell Protection Society (S179.057, S197.058, S179.059, S179.060, S179.061, S179.062, S179.063, S179.064, S179.065, S179.066) have provided general support for the notified objectives and policies of the Orongo Bay zone. Their view is that particular regard be given to protecting visual amenity, and they consider the Orongo Bay site rather obtrusive at the entry to historic Russell.

117. Waitoto Development (S263.003, S263.005, S263.006, S263.007, S263.008, S263.009, S263.010, S263.011, S263.012, S263.013, S263.014, S263.015, S263.016, S263.017, S263.018, S263.019, S263.020, S263.021, S263.022, S263.023, S263.024, S263.025, S263.026, S263.028, S263.001) have provided general support for most of the notified rules and standards of the Orongo Bay zone except for OBZ-S4 which was previously addressed in Key Issue 8. They also support retaining the Orongo Bay Special Purpose Zone over the landholdings identified as Lot 20 DP 437503 as it effectively replicates the ODP zone. The reasons they support these rules and standards is because they replicate the ODP management structure.

118. John Riddell (S431.198) supports standard OBZ-S2 and seeks to retain the notified PDP approach to vary the required height to boundary depending on the orientation of the relevant boundary.

Analysis

119. In response to these submission points, I agree that the specified notified objectives, policies, rules, standards and zoning should be retained. Given a section 32 report has been provided for the Orongo Bay zone no further analysis is considered necessary.

Recommendation

120. For the above reasons, I recommend that the objectives, policies, rules, standards and zoning are retained as notified and that these submission points are accepted.

Section 32AA evaluation

121. No change to the provisions is recommended at this stage. On this basis, no evaluation under Section 32AA is required.

6 Conclusion

122. This report has provided an assessment of submissions received in relation to the Orongo Bay chapter. The primary amendments that I have recommended relate to:

- Inclusion of a new permitted activity rule for emergency service facilities.
- Delete the maximum footprint of single buildings or structures standard.
- Amendment to the description of the new buildings and structures rule to clarify relocated buildings are included.

123. Section 5.3 considers and provides recommendations on the decisions requested in submissions. I consider that the submissions on the Orongo Bay chapter should be accepted, accepted in part, rejected or rejected in part, as set out in my recommendations of this report.

124. I recommend that provisions for the Orongo Bay chapter matters be amended as set out in the Orongo Bay chapter of the Officer Recommendation version of the ePlan and in Appendix 1 below for the reasons set out in this report.

125. I consider that the amended provisions will be efficient and effective in achieving the purpose of the RMA (especially for changes to objectives), the relevant objectives of this plan and other relevant statutory documents, for the reasons set out in the Section 32AA evaluations undertaken.

Recommended by: Kenton Baxter – Policy Planner, Far North District Council.

A handwritten signature in blue ink, appearing to read 'Kenton Baxter', is positioned above the 'Approved by' text.

Approved by: James R Witham – Team Leader District Plan, Far North District Council.

Date: 20 May 2024