

Before the Far North District Council Hearings Committee

In the Matter of the Resource Management Act 1991 (**Act**)

And

In the Matter of the Proposed Far North District Plan.

**Evidence of Brett Lewis Hood on behalf of Doug's Opuia Boatyard (Submitter
numbers S21 and S185)**

Dated 1 May 2025

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1. Introduction

- 1.1 My name is Brett Lewis Hood. I am a planning consultant working for Reyburn and Bryant in Whangarei. I hold a Bachelor of Social Science (Geography) from the University of Waikato and a Master of Philosophy (Resources and Environmental Planning) from Massey University. I am a full member of the New Zealand Planning Institute (MNZPI).
- 1.2 I have 27 years of experience as a planning consultant in the Northland region. My role has typically been to lead project teams through various resource consent, notice of requirement, and plan change processes, and to provide environmental and strategic planning advice for these projects.
- 1.3 Most of my work has been in the Northland Region, and so I am very familiar with the history, content, and structure of the Far North District Plan and the higher-level planning documents.

2. Code of conduct

- 2.1 I have read and agree to abide by the Environment Court's Code of Conduct for Expert Witnesses (2023). This evidence is within my area of expertise. I have not omitted to consider any material facts known to me that might alter or detract from the opinions expressed.

3. Scope of evidence

- 3.1 This evidence is focussed on the zoning applied to the local purpose esplanade reserve located adjacent to Doug's Opua Boat Yard ("DOBY") and land owned by the Waitangi National Trust Board ("WNTB") at Waitangi, and the Open Space Zones in general.

4. Original DOBY submissions

Submission 021#

- 4.1 Key matters raised in the submission that remain of concern to the submitter are:
- (1) Applying zones to land located in the CMA, including the area of CMA in front of DOBY located at 1 Richardson Street, Opua.
- (2) The zone applied to the Local Purpose (Esplanade) Reserve adjoining DOBY.

Submission 185#

4.2 Key matters raised in the submission that remain of concern to the submitter are:

(1) The zoning of land at the Waitangi Treaty Grounds.

5. Concerns relating to inconsistent zoning of esplanade reserves

Assigning District Plan zones to the CMA

5.1 Firstly, it is trite law that district plan zones cannot extend into the CMA. However, there are numerous examples on the PDP maps where areas of CMA have been erroneously mapped as if they were land within the jurisdiction of the District Council. The area of CMA in front of DOBY¹, the area of CMA south of the Opua Marina², and the over water Boathouse Apartments immediately next to the Opua car ferry³ are just three examples (see **Exhibit 1**), but there are many more.

5.2 In my view, the Council must conduct a thorough audit of the maps to ensure that no areas of the CMA are assigned District Plan zones.

Inconsistent zoning of esplanade reserves across the district

5.3 The zones applied to Local Purpose (Esplanade) reserves across the district are inexplicably inconsistent, varying between the 'Natural Open Space Zone', 'Open Space Zone', and 'Rural Production Zone'.

5.4 I note that Section 5.4 of the Section 32 report for the Open Space and Recreation Zones explains that:

- *Those properties that were previously zoned Conversation zone in the Operative plan have now had a name change to Natural Open Space Zone. This largely (sic) eaplanade (sic) reserves and DOC owned land. This zone will be continually added to as esplanades are created as part of Subdivision.*
- *Those properties that were previously zoned Recreational Activities Zone have had the Open Space Zone applied.*

¹ Natural Open Space Zone

² Light industrial Zone

³ Rural Production Zone

- 5.5 However, there are esplanade reserves (like those at Rawhiti) that are currently zoned 'Conservation Zone' in the Operative District Plan (see Map 30) and yet they are proposed to be zoned 'Rural Production Zone' in the PRP, and the esplanade reserve on the northern side of the river at Haruru is zoned 'Rural Production' in the Operative District Plan and yet it is proposed to be zoned 'Open Space Zone' despite the esplanade reserve on the southern side of the river proposed to be rezoned 'Natural Open Space Zone'. These are just two examples of multiple errors and anomalies in the zones that have been applied to esplanade reserves in the PRP, but there are many others (see **Exhibit 2** to this evidence).
- 5.6 Applying the 'Rural Production Zone' to reserves of any kind is incongruous with the zone description (see below).

The Rural Production zone is the largest zone in the district and accounts for approximately 65% of all [land](#). The Rural Production zone is a dynamic [environment](#), influenced by changing [farming](#) and forestry practices and by a wide range of productive activities. The purpose of this zone is to provide for [primary production](#) activities including non-commercial quarrying, [farming](#), [intensive indoor primary production](#), plantation forestry activities, and horticulture. The Rural Production zone also provides for other activities that support [primary production](#) and have a [functional need](#) to be located in a rural environment, such as processing of timber, horticulture, apiculture and dairy products. There is also a need to accommodate recreational and tourism activities that may occur in the rural environment, subject to them being complementary to the function, character and [amenity values](#) of the surrounding [environment](#). This zone includes [land](#) subject to the [Coastal Environment](#) Overlay, which has provisions to protect the natural character of the [coastal environment](#).

- 5.7 In my view, the Council must conduct a thorough audit of the PDP maps to ensure that the zoning applied to esplanade reserves across the district is consistent and logical.

6. General concern relating to Open Space zones

- 6.1 There are two open space zones in the PDP being:

- (1) Natural Open Space Zone.
- (2) Open Space Zone.

- 6.2 Each of the zones are described in the plan as follows:

Natural Open Space Zone

The Natural Open Space zone generally applies to public [land](#) that is administered by government agencies and includes a variety of parks and historic reserves. In most cases these areas have a high degree of

biodiversity requiring active management.

These are spaces the community values and some are open to the public for limited use where people can relax and enjoy passive recreation and [customary activities](#). Some of these areas are used for cultural activities and are rich in [historic heritage](#) and cultural values. Some Natural Open Space [land](#) may be subject to treaty settlement claims and may be returned to [tangata whenua](#). If this occurs [Council](#) will initiate a plan change to amend the zoning.

The zone anticipates a low level of development to retain the natural values within these areas and where development occurs, it is limited to such things as Department of Conservation huts, kauri dieback cleaning stations and walking tracks.

Open Space Zone

The Far North District has a range of open spaces including large parks areas and smaller neighbourhood parks. These spaces are primarily used for recreation and provide opportunities for relaxation and socialising. Some of these open spaces are located near the coast, [lakes](#), [rivers](#) and streams and play a key role in both providing ecological protection as well as access to and along these areas. These public open spaces generally have limited built features and are less developed than areas zoned for active sport and recreation. They may have natural, ecological, cultural and [historic heritage](#) values and form an important part of the district's walking and cycling network.

[Buildings](#) or [structures](#) are limited to those that support the enjoyment of the open space for informal recreation and modest community activities.

6.3 The Natural Open Space zone description states that “Some Natural Open Space [land](#) may be subject to treaty settlement claims and may be returned to [tangata whenua](#). If this occurs [Council](#) will initiate a plan change to amend the zoning”. There are two issues with this being:

(1) It is unclear why the description for ‘Natural Open Space’ land refers to it being subject to potential treaty claims when the description for ‘Open Space’ land (or any other zones in the District Plan) does not. There is no relationship between the zone applied to land in a District Plan prepared under the RMA, 1991 and the potential for treaty claims under the Treaty of Waitangi Act, 1975; and

(2) Section 6(4A) of the Treaty of Waitangi Act, 1975 states that:

(4A) Subject to [sections 8A to 8I](#), the Tribunal shall not recommend under subsection (3),—

- (a) the return to Maori ownership of any private land; or
- (b) the acquisition by the Crown of any private land.

The Act defines private land as:

private land means any land, or interest in land, held by a person other than—

- (a) the Crown; or
- (b) a Crown entity within the meaning of the [Public Finance Act 1989](#)

Most Local Purpose (Esplanade) Reserves, including the reserve in front of DOBY, are vested in the FNDC. The FNDC is not a crown entity as defined in the Public Finance Act, 1989, and accordingly the land cannot be returned to tangata whenua as per Section 6(4A) of the Treaty of Waitangi Act, 1975 in any event.

- 6.4 Section 5.3.3 of the Section 32 report for Open Space and Recreation Zones may provide some insight into the reference to treaty claims in the ‘Natural Open Space Zone’ description where it states that:

In relation to the Open Space and Recreation zones, Te Runanga O Ngāti Rēhia provided the following feedback:

- *Comment that treaty settlement land should be excluded from the policies and rules in relation to natural open space. Treaty settlement land has been identified and it will be controlled by the treaty settlement land overlay. If a piece of land has a treaty settlement overlay the underlying zone provisions apply to the treaty settlement land unless otherwise specified in the treaty settlement overlay provisions which are more enabling.*⁴

- 6.5 I note that similar comments were made by Kahukuraariki, Matauri X, Ngati Kuri, Ngai Takoto, Whaingaroa, Ngati Kuta, Te Aupori in respect to ‘Rural Production Zone’ land that is also located in the ‘Treaty Settlement Overlay Area’⁵ and yet there is no mention of ‘Rural Production Zone’ potentially being returned to tangata whenua in the description for the zone.

- 6.6 The reference to potential treaty claims in the ‘Natural Open Space Zone’ description appears to be a reaction to the *Te Runanga O Ngāti Rēhia* comment which I think was a reference to existing ‘Treaty Settlement Overlay Area’ land where the underlying zone is ‘Natural Open Space’. While there is some ‘Natural Open Space Zone’ land zoned that

⁴ https://www.fndc.govt.nz/_data/assets/pdf_file/0017/18062/Section-32-Open-Space-and-Recreation-Zones.pdf (Page 16)

⁵ https://www.fndc.govt.nz/_data/assets/pdf_file/0017/18071/Section-32-Rural-Environment.pdf (Page 36)

is subject to the 'Treaty Settlement Overlay Area' the vast majority is not.

- 6.7 In my view the reference to potential treaty claims in the 'Natural Open Space Zone' description only breeds confusion, particularly given the inconsistent zoning applied to Local Purpose (Esplanade) Reserves across the district. In my view it serves no practical purpose and should be removed.

7. What is the correct zone for the Local Purpose (Esplanade) Reserve in front of DOBY?

- 7.1 The FNDC does not appear to have followed a robust process in determining the appropriate zone for Local Purpose (Esplanade) Reserves, seemingly relying on roll overs from zones in the Operative District Plan⁶ – and even then, there are multiple errors. Erroneously rolling over zones from the Operative District Plan without any cognisance of the new zone descriptions has inevitably resulted in anomalies.
- 7.2 The zone descriptions for the 'Open Space Zone' and the 'Natural Open Space Zone' are identified in Section 6.2 of this evidence. They are unhelpfully similar. However, the main difference is the reference to the Natural Open Space Zone' having a *"high degree of biodiversity requiring active management"*, being *"open to the public for limited use"*, and having *"a low level of development to retain the natural values within these areas and where development occurs, it is limited to such things as Department of Conservation huts, kauri dieback cleaning stations and walking tracks"*. In my view this description is more appropriate for reserves such as the Waipoua State Forest than an esplanade reserve, and indeed this is the zone that has been applied to that forest. Conversely, the description for the 'Open Space Zone' states that *"Some of these open spaces are located near the coast, lakes, rivers and streams and play a key role in both providing ecological protection as well as access to and along these areas" and "they may have natural, ecological, cultural and historic heritage values and form an important part of the district's walking and cycling network"*.
- 7.3 Based on the respective zone descriptions, in my view the 'Open Space Zone' is a better fit for the district's Local Purpose (Esplanade) Reserves, and certainly for the reserve in front of DOBY, which contains a slipway and associated easements, and the Opua to Paihia walkway.

⁶ See Section 5.4 of this evidence.

8. Concerns relating to the zoning of the Waitangi Treaty Grounds

- 8.1 The Waitangi Treaty Grounds are part of a large 411.4460ha property owned by the Waitangi National Trust Board.⁷ They also own the land containing the Waitangi Golf Course.⁸
- 8.2 The treaty grounds currently have a somewhat inexplicable split zoning of 'General Coastal Zone' and 'Conservation Zone' in the Operative District Plan, while the golf course has a split zoning of 'General Coastal Zone' and 'Recreational Activities Zone'. The treaty grounds are (again inexplicably) proposed to be rezoned entirely 'Rural Production Zone', while the golf course is proposed to have a split zoning of 'Sport and Active Recreation Zone' and 'Rural Production Zone' (nine holes in one zone and nine holes in the other). These zoning proposals make no sense, especially given the descriptions for each zone in the PDP relative to the existing activities. They are also inconsistent with the "roll-over" rationale in the Section 32 report for Open Space and Recreation Zones.
- 8.3 In my view it is clear that the treaty grounds should be zoned 'Open Space Zone', and the golf course should be zoned 'Sport and Active Recreation Zone'.

9. Relief sought

- 9.1 The following relief is sought:

- (1) Removal PDP zonings from the CMA.
- (2) Remove the reference to treaty claims from the 'Natural Open Space Zone' zone description.
- (3) Review all Local Purpose Esplanade Reserves in the district and zone them 'Open Space Zone', with particular reference to the local purpose esplanade reserve adjacent to DOBY.
- (4) Ensure that no esplanade reserves are zoned 'Rural Production Zone'.
- (5) Rezone the Waitangi Treaty Grounds 'Open Space Zone'.

⁷ Lot 1 DP 326610

⁸ Lots 2 and 3 DP 326610

(6) Rezone all of the Waitangi Golf Course 'Sport and Active Recreation Zone'.

A handwritten signature in black ink, appearing to read 'Brett Hood', with a large loop at the end of the signature.

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Brett Hood (Planner)

17 May 2025