

**BEFORE THE HEARINGS PANEL OF COMMISSIONERS
FOR THE FAR NORTH DISTRICT COUNCIL**

IN THE MATTER	of the Proposed District Plan
AND	
IN THE MATTER	of submissions and further submissions under clauses 6 and 8 of Schedule 1 of the Resource Management Act 1991
SUBMITTER	Neil Construction Limited (Submitter no. 349; Further Submitter no. 445)
HEARING	15C: Rezoning General

STATEMENT OF EVIDENCE OF PHILIP MICHAEL BROWN (PLANNING)

DATED 9 JUNE 2025

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STATEMENT OF EVIDENCE OF PHILIP MICHAEL BROWN

Introduction

- 1 My name is Philip Michael Brown. I am a Director of Campbell Brown Planning Limited, a firm of planning consultants.
- 2 I hold the qualification of Bachelor of Town Planning from the University of Auckland. I am a full member of the New Zealand Planning Institute.
- 3 I have over 30 years of experience in planning and resource management. My experience has included work in both the public and private sectors and has encompassed a full range of resource management matters including district plan development and the preparation and assessment of resource consent applications.
- 4 I have previously held the position of Group Manager: Planning & Community Services with the former Waitakere City Council. In that role, I managed a section of the Council that had responsibility for initiating and processing district plan changes, processing complex or significant resource consent applications, processing notices of requirement for designations, developing structure plans, and providing guidance and technical support to the Council's Hearings Committee and Planning Committee.
- 5 I have appeared as a witness at council hearings and before the Environment Court on numerous occasions, relating to both district plan changes and resource consent matters. I have been appointed to the Auckland Council's pool of independent hearings commissioners and undertake functions in that capacity on a regular basis.
- 6 Of relevance to this matter is my extensive experience in relation to district plan preparation, including all aspects of statutory plan development and review. I have been involved in the preparation of numerous plan changes, both council-initiated and private, as well as full reviews of district plans. In 2015, I was engaged by Auckland Council in the role of lead planner for several of the Proposed Auckland Unitary Plan topics. I have also been engaged by the Ministry for the Environment to present a series of

workshops on the implementation of section 32 and section 32AA of the Resource Management Act 1991 (**RMA**).

Code of Conduct for Expert Witnesses

- 7 I have read and am familiar with the Environment Court's Code of Conduct for Expert Witnesses. I agree to comply with the Code of Conduct. My qualifications as an expert are set out above. Other than where I state I am relying on the advice of another person I confirm the matters addressed in this statement of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

Evidence

- 8 This statement of evidence is given in respect of the submission and further submission of Neil Construction Limited (**NCL**) on the Proposed District Plan (**PDP**) and covers the following matters:
- (a) The site subject to the rezoning request, and relevant background
 - (b) The relief sought in the submission
 - (c) The reasons for the rezoning request
 - (d) The Panel's evaluation criteria for rezoning requests; and
 - (e) Section 32AA RMA evaluation.
- 9 In preparing this evidence I have read, and am familiar with, the statement of evidence of James Rigg, Commercial Manager and Development Manager for NCL.

The Site and Background

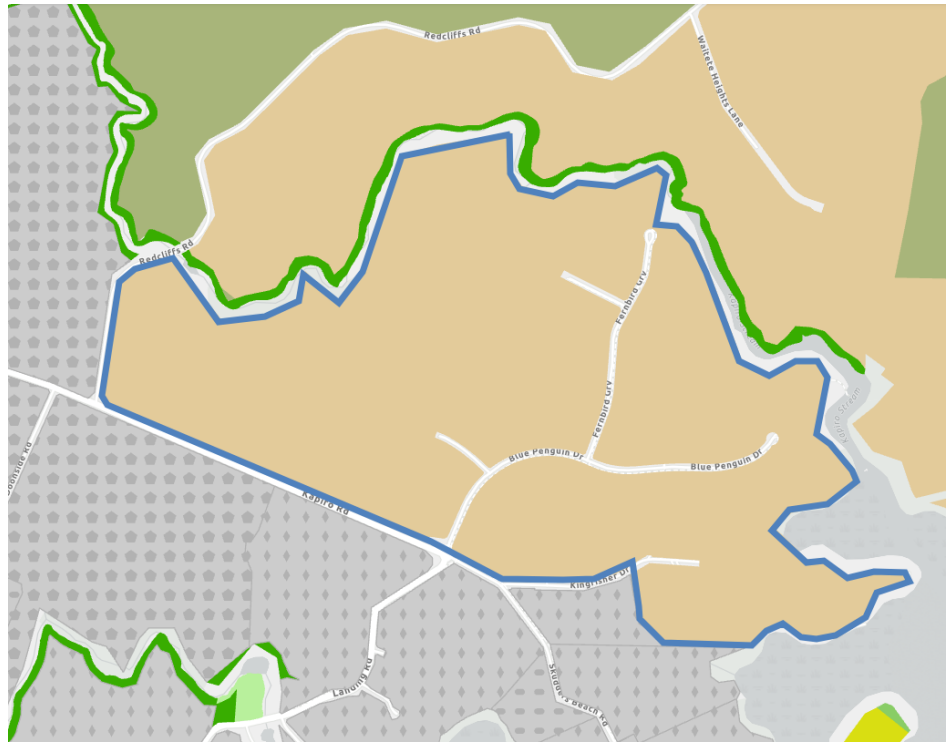
- 10 NCL's submission relates to an area of approximately 156 ha between the Rangitane River, the Kerikeri Inlet, Redcliffs Road, and Kapiro Road, in Kerikeri (**Submission Land**). The Kerikeri township lies approximately 4 km to the south of the Submission Land. The Submission Land comprises:

- (a) Approximately 68.2490 hectares owned by NCL (**Site**)
 - (b) Existing residential development at Blue Penguin Drive and Fernbird Grove, developed by NCL, and comprising approximately 58.0518 ha; and
 - (c) Existing residential development at Kingfisher Drive comprising approximately 20 ha.
- 11 The Site is the remaining undeveloped part of the former Tubbs Farm. NCL has been progressively developing the former Tubbs Farm for residential purposes for more than a decade. An initial approval to subdivide the entire property was granted in 2010. Subsequent resource consents have enabled the existing two stages, comprising 55 residential lots on the eastern part of the former farm. Those stages are now largely built out.
- 12 An application to subdivide the Site, was granted by a decision of the Environment Court dated 16 May 2025.¹ That subdivision consent (**Consent**) provides for 115 residential lots, together with new roads and reserves, spread across four stages. The minimum residential lot size within the subdivision is 3,000m².

Relief Sought

- 13 NCL's submission seeks that the PDP be amended so that the Submission Land be reidentified from Rural Lifestyle Zone to Rural Residential Zone.
- 14 The area affected by the relief sought in the submission is shown spatially in the plan below, with the request applying to all the land within the blue outline:

¹ Neil Construction Limited v Far North District Council [2025] NZEnvC 156



The Reasons for the Rezoning Request

15 I support NCL's request to zone the Submission Land as Rural Residential Zone (**RRZ**) rather than Rural Lifestyle Zone (**RLZ**) for several reasons. In summary:

- (a) The purpose of the RRZ more closely aligns with the enabled (consented) and lawfully established actual use of the Site
- (b) The RLZ has the potential to enable activities that are incompatible with those that are enabled on the Site
- (c) The development standards of the RLZ may not align with enabled development on the Site
- (d) The RRZ would provide for a more coherent zoning pattern in this instance than the RLZ; and
- (e) The Site has natural and defensible boundaries that would avoid undue pressure for future expansion of the RRZ in this location.

16 I address these matters below.

- 17 The PDP describes the purpose of the RRZ as being: *“to provide an opportunity for people to enjoy a spacious, peri-urban living environment located close to a settlement.”* The zone overview also notes that: *“The Rural Residential zone is located on the fringe of the district's settlements and provides a transition to the surrounding Rural Production and/or Rural Lifestyle and Horticulture zones.”* The overview notes that the character of the zone will remain predominantly residential.
- 18 The Consent will result in a character of development on the Site that is predominantly residential. In addition, the Submission Land is located close to the Kerikeri settlement and situated so that it provides a transition to the adjacent RLZ and Horticulture Zone that are proposed under the PDP. In my opinion, these characteristics are entirely consistent with the stated role and purpose of the RRZ.
- 19 By contrast, the role of the RLZ: *“is to provide an area specifically for rural lifestyle living.”* The RLZ zone overview states that the zone: *“enables people to undertake primary production activities, or primarily undertake a residential activity.”* While residential uses are still enabled in the RLZ, they are provided for alongside primary production activities. In terms of its purpose, I consider that the RLZ is a less comfortable fit for the Submission Land than the RRZ.
- 20 That purpose is reflected in the range of activities that can be undertaken in the RLZ. While many activities are provided for in both the RLZ and the RRZ, there are some notable differences. For example, the RLZ provides for plantation forestry as a permitted activity, whereas this use is not provided for at all in the RRZ.
- 21 Plantation forestry may well be an appropriate activity on a 4 ha site, but it is likely to be subject to reverse sensitivity effects if established on sites of around 3,000 m². Forestry is also unlikely to coincide with the expectations that future residents might have of an appropriate use within the residential subdivision of the Site enabled by the Consent, and by existing residents of the established development around Blue Penguin Drive, Fernbird Grove, and Kingfisher Drive.

- 22 As I have stated, the Consent for the Site enables subdivision down to a minimum lot size of 3,000 m², with the average size of all residential lots being 3,789 m². The existing development around Blue Penguin Drive, Fernbird Grove, and Kingfisher Drive ranges in size from 3.6320 ha to 2,311 m².
- 23 In the RRZ, the PDP permits residential activity where the site area per residential unit is at least 4,000 m². Beyond that, residential activity at a density of not less than 2,000 m² is a discretionary activity. Subdivision in the RRZ is a controlled activity where the minimum allotment size is 4,000 m² and a discretionary activity where allotments are a minimum of 2,000 m² in area but less than 4,000 m². These density and subdivision thresholds align well with the nature of development authorised on the Site by the Consent.
- 24 By contrast, the RLZ provides for residential use as a permitted activity provided that the site area per residential unit is at least 2 ha. Density that exceeds that threshold is a discretionary activity. In terms of subdivision, minimum lot sizes of not less than 4 ha are a controlled activity, with smaller lots down to a minimum of 2 ha being provided for as a discretionary activity.
- 25 These RLZ thresholds are far removed from the density and minimum lot sizes that will occur on the Site. While I acknowledge that there is a recommendation from Ms Pearson to align the subdivision standards with the residential density standards in the RLZ, at this stage that cannot be relied upon or preferred over the PDP as notified. In any event, I consider that even a 2 ha minimum lot size would remain at odds with the development approved for the Site.
- 26 I have also compared the other development standards in the RLZ with their equivalent provisions in the RRZ. Many of them are similar between the two zones, or any differences are immaterial. However, there are some notable distinctions.
- 27 The RLZ has a minimum building setback from boundaries of 10 m, although sites less than 5,000 m² have a 3 m setback on all boundaries other than those that adjoin a road. In the case of the development enabled on the Site, that would mean that the 31 sites exceeding 5,000 m² would have 10 m

setbacks applying to all boundaries and the remaining 84 sites would have a 10 m setback for any road boundary and 3 m setbacks on all other boundaries. If the Site is reidentified as RRZ, all lots would have 3 m setbacks applied to front, side and rear boundaries.

- 28 In the context of the Consent, I would expect the RLZ setback standards to result in numerous resource consent applications over time for infringements of the 10 m setback applying to road boundaries and all boundaries for the 31 sites over 5,000 m². The size and shape of the lots would mean that infringement of 10 m setbacks may not be avoidable to the extent possible on a 4 ha minimum lot size in the RLZ.
- 29 I accept that it will not always be appropriate to apply a zone based on the land use that is existing or enabled on a site. For example, there may be the odd smaller rural site surrounded by the Rural Production Zone. In such circumstances I would still expect the site to be identified as Rural Production Zone despite it being an anomaly in terms of site size as, in my opinion, there should be some coherence to zoning patterns.
- 30 In the case of the Submission Land, I am satisfied that its identification as RRZ would assist in the creation of a coherent and logical pattern of zoning. To the south, the Submission Land is immediately adjacent to an area of RRZ and would form a logical extension of that zone. To the west and north respectively, the Submission Land is adjacent to land within the Horticulture Zone and RLZ, both of which are less intensive rural zones. That transition from greater to lower density aligns with the outcome anticipated by the RRZ overview.
- 31 This orderly and measured transition contrasts with the PDP's allocation of RLZ to the Submission Land, which would create an abrupt change in permitted density at Kapiro Road despite the land having similar physical characteristics on either side of that road. In this respect, I note that RLZ would effectively represent a 'down zoning' of the Submission Land relative to the Operative District Plan. In my experience, this is a relatively unusual outcome when a plan is reviewed and in this case is not justified by any

special characteristic or sensitivity of the Submission Land – as evidenced by the Consent and existing development.

- 32 A related zoning consideration is the ability to manage pressure for incremental expansion of a more enabling zone such as the RRZ over time. A frequently used technique in such circumstances is to align zone boundaries with natural and/or defensible physical boundaries.
- 33 In my experience, the least effective zone boundary is a cadastral boundary, with some further degree of resilience provided where the zone terminates at a road. I consider that the most effective zone boundary is provided by a natural barrier, such as a coastline or river. In this case, the Submission Land's boundary with RLZ to the north is provided by the Rangitane River and associated reserve land, and the change in level created by an escarpment. In my opinion, this provides the best possible defence against any future sporadic expansion of the RRZ.

The Panel's evaluation criteria

- 34 I have carefully considered the requested rezoning in the context of the Panel's evaluation criteria. My assessment against the criteria is set out in **Appendix A**.

Section 32AA evaluation

- 35 Section 32AA of the RMA requires that a further evaluation must be undertaken for any changes to a proposed plan that are proposed since the original s 32 evaluation was completed. The further evaluation must be undertaken in accordance with s 32(1)-(4) and to a level of detail that corresponds to the scale and significance of the change.
- 36 Section 32(1)-(4) require consideration of a proposal's efficiency, effectiveness, costs and benefits, relative to other reasonably practicable options, and must also consider the risks of acting or not acting.
- 37 In this instance, I have identified two reasonably practicable options, being the zoning proposed under the PDP as notified (RLZ) and the zoning sought by NCL (RRZ). There is no status quo option, as that would involve retaining

the operative district plan zone and that is not realistic in the context of a full district plan review. A 'do nothing' option in this case is equivalent to the RLZ option, as that is the zone proposed by the PDP as notified.

- 38 Dealing first with efficiency, I consider that the RRZ would be a more efficient option for the land than the RLZ. This is primarily because the RLZ is misaligned with the approved and existing land use on the Submission Land. In respect of the Site, I would expect the RLZ setback provisions to generate a greater number of resource consent applications than the equivalent RRZ standards. That would not be an efficient outcome, particularly as the Site circumstances suggest that applications would be routinely granted. The result would be significant cost and uncertainty for landowners, or potentially inefficient use of residential lots with buildings setback an unnecessary distance from boundaries.
- 39 The permitted activity status of plantation forestry in the RLZ creates potential for the provisions to be ineffective in maintaining rural residential amenity and character on the Submission Land. I consider that forestry operations in close quarters to residential activities would not be appropriate and may create both reverse sensitivity effects on the forestry activity and adverse effects on the residential activities such as noise, shading and health and safety effects.
- 40 In my opinion, there would be costs arising from such incompatible land uses, including economic costs for the forestry operator and social and economic costs for the neighbouring property owners. While I acknowledge that the chances of an owner within the Submission Land establishing plantation forestry may be slim, it speaks to the misalignment of the RLZ with the land use that is enabled.
- 41 In respect of subdivision standards, neither the RRZ nor the RLZ would permit further subdivision of the Site. No lots are large enough for subdivision as a controlled activity, with the default status being fully discretionary. While some lots within the existing development at Blue Penguin Drive, Fernbird Grove and Kingfisher Drive might be able to subdivide, I do not consider that to be an inherently negative outcome. That density would be no different to

lot sizes enabled within the RRZ immediately to the south of that land and would of course be subject to assessment under the PDP.

- 42 Overall, it is my opinion that identification of the Submission Land as RRZ is more efficient and effective, and has less costs and more benefits, than maintaining the RLZ proposed under the PDP.

Conclusion

- 43 For the reasons set out in this statement of evidence, I consider that the land identified in NCL's submission should be rezoned as RRZ.

Philip Michael Brown
9 June 2025

APPENDIX A ASSESSMENT AGAINST PANEL’S REZONING REQUEST EVALUATION CRITERIA

Criteria	Matters to be addressed	Comments
Strategic direction	<ul style="list-style-type: none"> How the rezoning request is consistent with the PDP strategic direction (refer Hearing 1) 	The PDP strategic direction is encapsulated across a suite of strategic objectives, covering social, cultural, environmental and economic prosperity, urban form and development, infrastructure and electricity resources, and the rural environment. Rezoning the land from RLZ to RRZ does not engage directly with these objectives, given that they are high-level. I consider that the zoning outcome is neutral in relation to the strategic direction.
Alignment with zone outcomes	<ul style="list-style-type: none"> When rezoning request relates to existing PDP zone, an assessment of how the proposal is aligned with the objectives, policies and intended outcomes for the zone 	This aspect is addressed in my evidence, where I conclude that the nature of land use undertaken on the Submission Land aligns more closely with the outcomes anticipated under the RRZ than the RLZ.
Higher order direction	<ul style="list-style-type: none"> How the request “gives effect to” higher order documents in accordance with section 75(3) of the RMA? Consideration of all relevant national policy statements, the national planning standards, and the Northland Regional Policy Statement. 	<p>I have reviewed the Regional Policy Statement for Northland (May 2016). The RPS addresses region-wide strategic issues, and the zoning of the Submission Land does not raise issues that are sufficiently prominent to be directly impacted by region-wide policy. I consider that the RPS offers no focused direction that assists with determining the appropriate zoning for the Submission Land.</p> <p>Likewise, there is no useful guidance provided in this case by the national policy statements. While some of the Submission Land is subject to coastal influence, subdivision has already occurred in this location and is well established. As such, the New Zealand Coastal Policy Statement will be of minimal assistance for the land as a whole. The National Policy</p>

		Statement on Urban Development will not apply as the Submission Land is not 'urban'. The National Policy Statement for Highly Productive Land will also not apply as the land is not zoned general rural or rural production. While the National Policy Statement for Freshwater Management is relevant, the wetlands on the Site are already protected through the Consent and therefore this document does not assist with identification of an appropriate zone.
Reasons for the request	<ul style="list-style-type: none"> The reasons for the rezoning request, including an assessment of why the notified zoning is not appropriate for the subject land. 	This matter is addressed in my evidence, where I point out the nature of existing or approved land use and the misalignment that would arise between those activities and the RLZ.
Assessment of site suitability and potential effects of rezoning	<ul style="list-style-type: none"> Assessment of the suitability of the land for rezoning, including an assessment of: <ul style="list-style-type: none"> The risks from natural hazards (refer Part 2 – District Wide Matters and the Northland Regional Policy Statement) Effects on any natural environment values, historic heritage, coastal environment, or other PDP overlay (refer Part 2 – District Wide Matters) Effects on surrounding sites, including compatibility of the rezoning with surrounding land-uses and potential reverse sensitivity effects. 	<p>Natural hazard risks and effects on the natural environment have been addressed comprehensively through the existing subdivision consents that apply to the Submission Land.</p> <p>Applying the RRZ to the Submission Land would create no appreciable adverse effects on surrounding sites, particularly given that much of the land to the south is itself within the RRZ. Reverse sensitivity effects arising for land to the west, in the Horticulture Zone, were addressed by the Environment Court when considering the Consent. The Court did not identify this as a significant effect. In any event, I note that any reverse sensitivity effects would be similar under either the RRZ or the RLZ, and effects of horticulture (such as spray drift) are required to be managed at source in this location.</p>
Infrastructure (three waters) servicing	<ul style="list-style-type: none"> How the rezoning request (including subdivision and development potential enabled by the request) will be supported by adequate infrastructure servicing. This assessment should set out, as applicable: 	All the Submission Land is either developed or is consented to be developed, and as such infrastructure provision has been considered and addressed through these consenting processes and deemed to be sufficient. I note that the subdivisions are not 'urban', and there is therefore no

	<ul style="list-style-type: none"> - Any proposed connections to existing infrastructure systems. - Any outcomes of discussions with infrastructure providers and any assumptions about infrastructure servicing/sequencing or capacity, including demands from other plan-enabled development. - Any on-site provision of infrastructure. <p>Note: if the rezoning request would result in any substantive demand on Council's infrastructure or alternative bulk infrastructure solutions, we encourage submitters to engage with Council's Infrastructure representative/consultant via the PDP generic email address.</p>	<p>expectation of provision of reticulated services other than power and telecommunications. Water supply and wastewater disposal are provided on each site. Stormwater disposal has been enabled for each lot through the subdivision design.</p>
Transport infrastructure	<ul style="list-style-type: none"> • How the rezoning request will be supported by existing or proposed transport infrastructure, including how new or upgraded transport infrastructure is required. <p>Note: if the rezoning request includes any access to a State Highway, engagement with Waka Kotahi is strongly encouraged, and the outcomes of this engagement should be recorded in evidence.</p>	<p>All the Submission Land is either developed or is consented to be developed, and as such transport infrastructure provision has been considered and addressed through these consenting processes and deemed to be sufficient.</p>
Consultation and further submissions	<ul style="list-style-type: none"> • Any consultation undertaken with key stakeholders or tangata whenua in relation to the rezoning request. • A list of any further submissions on the rezoning request and a response to those further submissions 	<p>While there has been no specific consultation with tangata whenua or other stakeholders in relation to the PDP submission to amend the zoning of the Submission Land to RRZ, NCL has engaged with tangata whenua and interest groups through the recent Consent for the Site and through the earlier consent processes.</p>

		<p>The following further submitters oppose NCL's primary submission to amend the zoning of the Submission Land:</p> <ul style="list-style-type: none"> - Vision Kerikeri - Kapiro Conservation Trust - Vanessa Anderson - Lloyd Anderson <p>There are no further submitters explicitly supporting the requested rezoning.</p> <p>For the reasons expressed in my evidence, I disagree with the relief sought by these further submitters.</p>
Section 32AA evaluation	<ul style="list-style-type: none"> • How the rezoning request is a more appropriate, effective and efficient way to achieve the PDP objectives (compared to the notified zoning) in accordance with section 32AA of the RMA 	<p>This matter is addressed in my evidence.</p>