

SECTION 42A REPORT

Hearing 15A: Rezoning Requests – Open Space Zones

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Appendix 1: Evaluation of Submissions

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Appendix 3: Maps

List of Abbreviations

Table 1: Abbreviations

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



1 Executive summary

1. The Far North Proposed District Plan ("PDP") was publicly notified in July 2022. This report provides recommendations on submissions on the zoning of land related to existing Special Purpose –Open Space Zones.
2. This Section 42A Report should be read in conjunction with the Rezoning Submissions - Overview Report.
3. The rezoning submissions addressed in this report are summarised as follows:
 - a) Rezoning for ecological restoration projects to natural open space to provide for better protection and reduced rates.
 - b) Concerns about zoning misalignments affecting ecological restoration and areas conservation covenants
 - c) Identification of mapping and zoning efforts in the PDP
 - d) Support for amendments in Plan Variation 1 to correct these errors and apply appropriate zoning.
4. Section 5.2 of this Report groups and evaluates the rezoning submissions using the following subcategories:
 - a) Open Space Rezoning Requests
 - b) Open Space Rezoning errors and corrections
5. 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. Rezoning submissions have been evaluated in this report using criteria consistent with the direction of the Hearing Panel provided in Minute 14: Rezoning Criteria and Process and Section 32AA of the Resource Management Act ("RMA"). This report is intended to both assist the Hearings Panel to make decisions on the submissions and further submissions on the PDP and also provide submitters with an opportunity to see how their submissions have been evaluated, and to see the recommendations made by officers prior to the hearing.
6. The key changes recommended in this report relate to the rezoning of land and retaining Plan Variation 1 related amendments.

2 Introduction

2.1 Authors and qualifications

7. My full name is Chloe Mackay, and I am a Policy Planner at Far North District Council.

8. I hold the qualifications of a Bachelor of Architectural Studies from the University of Auckland in 2023.
9. I have 1 years' experience in planning and resource management, including submission research, consultation and assisting in the preparation of s42A reports. Additionally, I have 1.5 years of experience as an architectural designer, applying technical expertise to architectural drafting.

3 Scope/Purpose of Report

10. This report should be read in conjunction with the Rezoning Submissions - Overview Report. The Overview Report provides:
 - a) Overview information on the statutory context within which the rezoning submissions must be considered (including changes to the relevant regulatory framework) which officers have considered when making recommendations on the submissions received.
 - b) An overview of the process that officers have followed when evaluating rezoning submissions, including the criteria and process set out in Hearing Panel Minute 14.
11. This Report has been prepared in accordance with Section 42A of the Resource Management Act to:
 - a) assist the Hearings Panel in making their decisions on the submissions and further submissions on the Proposed District Plan; 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.
12. This report responds to rezoning submissions for the Open Space Zones.

3.1 Expert Advice

13. In preparing this report, no expert advice was sought or required.

3.2 Code of Conduct

14. 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 have relied on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to us that might alter or detract from the opinions that I express in this report.
15. I am authorised to give this evidence on the Council's behalf to the Proposed District Plan hearings commissioners ("Hearings Panel").
16. Wherever possible, I have provided a recommendation to assist the Hearings Panel.

4 Procedural matters

17. Evidence was received from Submitter S21 and S185 for Hearing 15A. Though submission S185.001 is related to the Natural Open Space zone, it is directly relevant to the Waitangi Estate which is being considered for a new Special Purpose Zone at Hearing 15B. Therefore, I recommended that this submission point is deferred to Hearing 15B and considered with other Waitangi Estate submissions. Mr Hood raises other matters in evidence that relate to submission points beyond the scope of submissions being considered in Hearing 15A, including submissions S21.001-002 which are scheduled to be heard in Hearing 15C. Mr Hood's evidence on these matters will be considered as part of the respective hearings.

4.1 Section 32AA evaluation

18. This report group, consider and provide reasons for the recommended decisions on similar matters raised in submissions. Where changes to zoning are recommended, these have been evaluated in accordance with Section 32AA of the RMA.
19. The s32AA further evaluation for recommendations consider:
 - a) The reasonably practicable options for achieving the PDP objectives.
 - b) The environmental, social, economic and cultural benefits and costs of the zoning or requested zone changes.
 - c) The efficiency and effectiveness of the zoning or requested zone change and whether it would achieve the objectives.
 - d) The risk of acting or not acting where there is uncertain or insufficient information about the requested zone change.
 - e) Summarises the reasons for the recommendation.
20. 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. Recommendations on editorial, minor and consequential changes are not re-evaluated.

5 Consideration of submissions received

5.1 Overview of submissions received.

21. A total of 5 original submissions and 11 further submissions were received on the Hearing 15A: Open Space Zone, regarding rezoning requests, errors and corrections.

5.2 Officer Recommendations

22. **Appendix 1** provides a table which evaluates the rezoning submissions and provides recommendations to the hearing panel. Our summary

evaluation and recommendations on submissions are provided in the relevant subsections below.

23. A full list of submissions and further submissions on re-zoning for Open Space zones for Hearing 15A is contained in **Appendix 2 – Officer’s Recommended Decisions on Submissions to this report.**
24. Additional information can also be obtained from the Summary of Submissions (by Chapter or by Submitter) Submissions database Far North District Council (fndc.govt.nz) the associated Section 32 report on this chapter section-32-overview.pdf (fndc.govt.nz) the overlays and maps on the ePlan Map - Far North Proposed District Plan (isoplan.co.nz).

5.2.1 Open Space Rezoning Requests

Overview

Submission point	Notified PDP Zoning	Officer Recommendation(s)
S442.170 & S451.026	Not specified	<ul style="list-style-type: none"> Retain zoning as notified in the PDP
S303.001	Rural Production	<ul style="list-style-type: none"> Rezoning land above MHWS of Lot 1 DP 59479 Beechy Street Opuia to Mixed Use

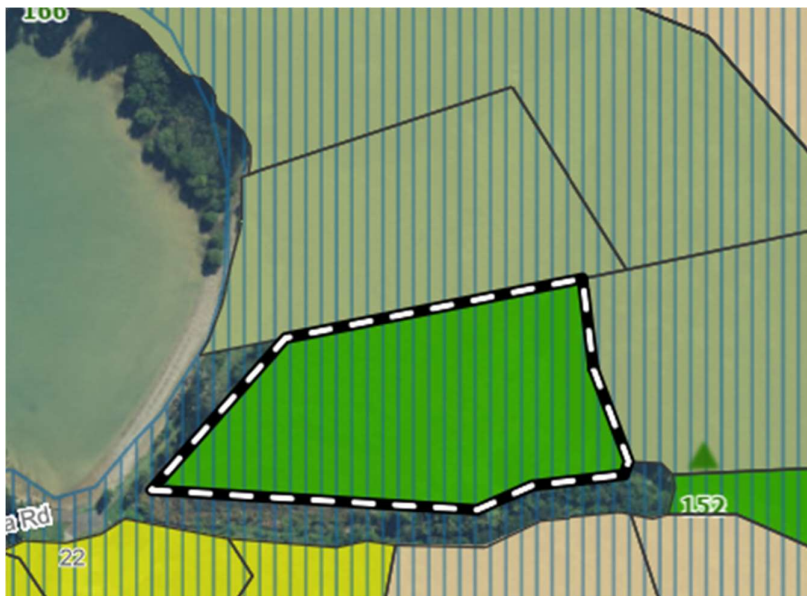
Matters raised in submissions

25. Kapiro Conservation Trust (S442.170) and Pacific Eco-Logic (S451.026) state that some zoning does not provide adequate environmental protection and incentives for reserves or permanently covenanted land (e.g., some ecological restoration projects are inappropriately zoned (e.g., rural living or production). The submitters request rezoning for ecological restoration projects to natural open space to provide for better protection and reduced rates. Examples of these areas are:
 - a. Pipiroa wetland on the Russell Peninsula
 - b. Wairoro Park QE11 covenant on the Russell Peninsula
 - c. Tangatapu wetlands
 - d. The hillside with an FNDC covenant at the start of the walkway to Whangamumu from 717 Rawhiti Road
26. Living Waters – Bay of Islands (S303.001) submits that some zoning in the online maps fails to protect natural values, including areas under permanent conservation covenants and unformed legal roads with ecological restoration obligations. These areas are either inadequately zoned or not zoned at all due to mapping protocols. Specific examples include covenanted land (e.g., Wairoro Park, Tangatapu wetland, Omata Estate) and zoning anomalies near the Coastal Marine Area (e.g., Beechey

Street, Opua). The submitter seeks that these areas be rezoned to Natural Open Space to better reflect their conservation status and align with RMA s.6(a) and NZCPS Policies 11, 13, and 14.

Analysis

27. The Natural Open Space Zone has been applied in the PDP in line with the zone's purpose, which is primarily to recognise and manage publicly owned land or land otherwise managed for long-term conservation purposes through public processes. For example, Reserve Management Plans, Conservation Management Plans and Conservation Management Strategies. In most cases, private land, regardless of whether it is subject to a covenant (which may or may not be subject to change or comprehensive coverage of protections), does not meet the criteria for this zone. Moreover, affected landowners have not requested this rezoning, therefore it is not appropriate to rezone in my opinion.
28. There are also a range of planning and legal tools available to help protect natural values; however, their effectiveness can vary significantly depending on how they are applied. Zoning, for example, does not inherently guarantee the protection of the values it is intended to safeguard. While overlays, such as ONL's and ONF's, may identify areas of sensitivity, importance or natural value, meaningful protection is often achieved through district wide rules, such as those relating to landscape and biodiversity as addressed in Hearing 4. Finally, restoration and enhancement activities have been generally enabled across much of the plan thereby removing barriers to this undertaking.
29. Certain environments, such as wetlands are also protected separately by The National Policy Statement for Freshwater Management, the National Environmental Standard for Freshwater and the Northland Regional Plan.
30. The Reserves Act can also provide a level of protection. For example, I note that half the Pipiroa Wetland is a reserve administered by FNDC. However, the remainder is privately owned, see images below
31. In addition, while QEII covenants may offer another layer of protection, the extent and nature of that protection can vary between covenants. For example. some covenants may be established primarily to preserve heritage landscapes and may continue to permit land uses like grazing. While grazing might be acceptable in come contexts, it may not be appropriate for achieving biodiversity related values. In my opinion, QEII covenants cannot be relied upon in all instances.
32. It is important to also clarify that District Plan zoning does not have a direct relationship with property valuation under the Rating Act. Land value assessments typically consider the practical utility of land and may already reflect restrictions on land use.



Pipiroa wetland, half NOSZ as under FNDC ownership

33. Living Waters – Bay of Islands raises concern that unformed legal roads are not zoned in the Proposed District Plan (PDP). This is clarified in the 'How the Plan Works' section, which states that all public roads (including unformed legal roads) are zoned by default, adopting the zoning of adjoining land up to the centreline. These areas are deliberately not coloured on planning maps to avoid visual confusion. Therefore, the issue

identified by the submitter appears to result from a misunderstanding of how zoning is applied to legal roads under the PDP framework.

34. Living Waters – Bay of Islands also raises concern about the zoning of land adjoining or partially within the CMA, particularly at Opuia. While it is acknowledged that there may be spatial discrepancies in certain locations, district councils generally lack jurisdiction over the CMA (i.e. seaward of MHWS), in accordance with s.59 and s.30 of the RMA. Although s.89 of the RMA allows for district plan rules to apply to specific activities in the CMA (e.g. subdivision or activities on reclaimed land), spatial layers extending seaward of MHWS generally have no legal effect unless tied to specific jurisdictional triggers.
35. Given this context and the dynamic nature of the MHWS boundary, a blanket shift of all mapped overlays landward to avoid encroaching into the CMA is not recommended.
36. In regard to Lot 1 DP 59479 Beechey Street, although zoning maps show the site as fully covered, Councils jurisdiction does not extend below the MHWS. Therefore, I recommend that the Rural Production zoning currently applied to Lot 1 DP 59479, Beechey Street, Opuia, be removed and land above the MHWS is rezoned to Mixed Use, however the land above the MHWS is unclear at this time. The existing zoning does appear to be an obvious GIS mapping error, and it is not suitable given the sites location and Mixed Use zoning would better reflect and integrate with the surrounding context and neighbouring sites.

Recommendation

37. For the above reasons, I recommend that submissions S442.170, S451.026 are rejected and the specified land is not recommended to be rezoned.
38. I recommend that submission S303.001 is accepted in part and land above MHWS of Lot 1 DP 59479 Beechey Street, Opuia is rezoned to Mixed Use (Refer to Map - Figure 1).

Section 32AA evaluation

39. The recommended amendment is to correct identified mapping errors; therefore, no further assessment is required.

5.2.2 Open Space Rezoning errors and corrections

Overview

Submission point	Notified PDP Zoning	Officer Recommendation(s)
S368.099 & S368.100	Natural Open Space Zone	<ul style="list-style-type: none"> Rezone land parcel 4861315 to Natural Open Space

Submission point	Notified PDP Zoning	Officer Recommendation(s)
S368.001	Natural Heritage Environment within the Kauri Cliffs Zone	<ul style="list-style-type: none"> Rezone the 'Natural Heritage Environment' within the Kauri Cliffs Zone to Natural Open Space Zone
S588.012	Natural Open Space Zone	<ul style="list-style-type: none"> Plan Variation 1 amendments are retained

Matters raised in submissions

40. FNDC (S368.099 and S368.100) identified an error in mapping whereby the operative Conservation zoning has not carried through into the PDP as Natural Open Space Zone. One site Council is aware of is parcel 4861315 (Mataka Station) which they request the zoning is amended from Rural Production to Natural Open Space. Potentially there are other similar zoning errors and further changes to the PDP should be made if the same issue arises.
41. FNDC (S368.001) identifies the 'Natural Heritage Environment' subzone has been incorrectly applied within the Kauri Cliffs Zone. The submitter requests the 'Natural Heritage Environment' subzone needs to be removed and replaced with the 'Natural Open Space' zone in accordance with the section 32 for the Kauri Cliffs Zone.
42. Walter (Wally) Hicks (S588.012) retain corrections to Natural Open Space Zone errors as notified in Plan Variation 1 as it corrects errors/oversights.

Analysis

43. I support the request by the Far North District Council (FNDC) to rezone parcel 4861315 (Mataka Station) from Rural Production to Natural Open Space. As outlined in Appendix 1, this corrects a clear GIS mapping error which aligns with the matters in the rezoning criteria and is therefore considered a necessary amendment.
44. In relation to other similar errors, the submission is too broad, and specific sites have not been identified. It should be noted a comprehensive GIS review was undertaken as part of Plan Variation 1 to identify and correct zoning inaccuracies. This review identified 26 properties that were incorrectly zoned. In some instances, land was zoned as Natural Open Space despite being in private ownership and lacking the characteristics typically associated with Open Space zoning. In contrast, some properties, such as reserves or land with specific public use status, warranted zoning as Natural Open Space (similar to this Mataka example). Other reserve areas were found to have an inappropriate Open Space zoning and was recommended for rezoning to better reflect their actual use or ownership. Each site was assessed individually, and zoning adjustments were proposed based on the specific context of each property.

45. I also agree with the request made by FNDC to rezone the 'Natural Heritage Environment' subzone within the Kauri Cliffs zone to Natural Open Space zone. As outlined in Appendix 1, this corrects a clear GIS mapping error which reflects the original zoning intent and aligns with the matters in the rezoning criteria.
46. In relation to plan variation 1 corrections to Natural Open Space Zone errors, all submissions are in support therefore no further analysis is required.

Recommendation

47. For the above reasons, I recommend that submissions S368.099 and S368.100 is accepted and the land parcel 4861315 (Mataka Station) is zoned Natural Open Space (Refer to Map - Figure 2).
48. For the above reasons, I recommend that the submission S368.001 is accepted and the 'Natural Heritage Environment' subzone within the Kauri Cliffs zone is rezoned to Natural Open Space Zone (Refer to Map - Figure 3).
49. For the above reasons, I recommend that the submission S588.012 is accepted and the notified Plan Variation 1 Natural Open Space Zone related amendments are retained.

Section 32AA evaluation

50. The recommended amendments are minor and correct identified mapping errors; therefore, no further assessment is required.

6 Conclusion

51. This report has provided an assessment of submissions received in relation to rezoning requests relevant to Hearing 15A. The primary amendments that I have recommended are:
 - a) Rezoning land parcel 4861315 to Natural Open Space;
 - b) Rezoning the 'Natural Heritage Environment' subzone within the Kauri Cliffs Zone is rezoned to Natural Open Space Zone;
 - c) The removal of Rural Production zoning from Lot 1 DP 59479 Beechy Street, Opua and rezoning land above MHWS to Mixed Use.
 - d) Retaining Plan Variation 1 Natural Open Space Zone related amendments.
52. Section 5.2 considers and provides recommendations on the decisions requested in submissions. I consider that the submissions relating to rezoning requests in Hearing 15A should be accepted, accepted in part,

or rejected, as set out in Appendix 1 and 2 and my recommendations of this report.

53. I consider that the amendments recommended to zoning of the PDP will be efficient and effective in achieving the purpose of the RMA, the relevant objectives of the PDP and other relevant statutory documents, for the reasons set out in the Section 32AA evaluations undertaken.

Recommended by: Chloe Mackay, Policy Planner, Far North District Council.

A handwritten signature in blue ink, appearing to be "Chloe Mackay".

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

Date: 28.07.2025