



PROPOSED FAR NORTH DISTRICT PLAN

MINUTE 2 OF THE INDEPENDENT HEARINGS PANEL

Late Submissions 9 February 2024

INTRODUCTION

1. In accordance with s34A(1) of the Resource Management Act 1991 (“RMA”) the Council, has appointed a Hearings Panel of Commissioners comprising five independent-members:
 - Mr Robert Scott (Hearings Panel Chairperson).
 - Mr William (Bill) Smith (Hearings Panel Deputy Chairperson).
 - Mr Alan Watson.
 - Mr Peter Kensington.
 - Mrs Siani Walker (commissioner with tikanga Māori expertise).
2. Each hearings panel may also include up to two elected representatives (comprising elected councillors) who have achieved commissioner certification under the Ministry for the Environment “Making Good Decisions” Programme.
3. This minute considers and makes a finding on late submissions and further submissions that were received by the Far North District Council (“Council”) to the Far North Proposed District Plan (“the Plan”).
4. The Plan was publicly notified on Wednesday the 27 July 2022. The submission period was open for 60 working days and the closing date for lodging primary submissions was Friday the 21 October 2022. There were 580 primary submissions received on the Plan.
5. The primary submissions were publicly notified for further submissions on Monday the 7 of August 2023. The further submission period was open for 20 working days and closed on Monday the 4 of September 2023.

THE STATUTORY PROCESS

6. Clause 1 of Schedule 1 of the RMA states that where any time limit is set in this Schedule, a local authority may extend it under section 37 of the RMA. Sections 37 and 37A deal with the power and requirements of a waiver and extension of time limits. Section 37 states:

- (1) *A consent authority or local authority may, in any particular case, -*
 - a) *extend a time period specified in this Act or in regulations, whether or not the time period has expired; or*
 - b) *waive a failure to comply with a requirement under this Act, regulations, or a plan for the time or method of service of documents.*

7. Section 37A sets out the requirements for waivers and extensions as follows:

- (1) *A consent authority or local authority must not extend a time limit or waive compliance with a time limit, a method of service, or the service of a document in accordance with section 37 unless it has taken into account –*
 - a) *the interests of any person who, in its opinion, may be directly affected by the extension or waiver; and*
 - b) *the interests of the community in achieving adequate assessment of the effects of a proposal, policy statement, or plan; and*
 - c) *its duty under section 21 to avoid unreasonable delay.*
- (2) *A time period may be extended under section 37 for -*
 - a) *a time not exceeding twice the maximum time period specified in this Act; or*
 - b) *a time exceeding twice the maximum time period specified in this Act if the applicant or requiring authority requests or agrees.*
- (3) *A consent authority or a local authority must ensure that every person who, in its opinion, is directly affected by the extension of a time limit or the waiver of compliance with a time limit, a method of service, or the service of a document is notified of the extension."*

8. This minute deals with late submissions and further submissions received. The consideration of late submissions relates to a waiver of compliance with a time limit, as opposed to the extension of a time limit. There is no maximum time period specified in the RMA for submissions, rather the RMA specifies that the closing date for submissions on a proposed plan shall be at least 40 working days after public notification. As such, the restriction in section 37A(2) does not apply.

9. The Commissioners are conscious that the district plan review process is a process that encourages public participation to allow the community to have input into the provisions that will apply to the management of natural and physical resources in the Far North. The Commissioners are also aware that many submitters may be unfamiliar with a district plan review process and the time limits associated with making submissions. The Commissioners, therefore, are of the view that in the interests of public participation, some leniency can be afforded to the adherence with strict time limits.

10. That said, there has been a considerable period of time between the close of primary submissions and the notification of further submissions and there have been a number of late primary submissions and further submissions during this time. We are also aware that prior to the appointment of the Commissioners there has been conflicting

advice from Council officers to members of the public on the ability to lodge late submissions. On that basis, we are also cognisant of the need to avoid further and unnecessary delays in making a determination on this matter of late submissions.

COUNCIL REPORTING

11. To assist the Commissioners, we requested and have been provided with a report prepared by a Council officer under section 42A of the Resource Management Act 1991 (“**s42A report**”). That report, dated 19 December 2023, is available on the Council website.
12. The s42A report categorised and summarised the primary and further submissions into six categories as follows:

*Twenty-seven **original [primary] submissions** were received after Friday the 21 of October 2022. These are categorised as follows:*

***Category A**- This category contains original submissions received within 1 week of the closing date of Friday the 21 of October 2022, but before the Summary of Decisions Requested (“SDR”) was released on the 7 of August 2023. These were included in the SDR. There are **9** submissions in this category.*

***Category B** – This category contains original submissions received more than 1 week past the closing date, but before the SDR was released on the 7 of August 2023. These were included in the SDR. There are **13** submissions in this category.*

***Category C** – This category contains original submissions received more than 1 week past closing date, but before the SDR was released on the 7 of August 2023, however they were missed / omitted from the SDR. There are **2** submissions in this category.*

***Category D** – This category contains very late original submissions which were received after the SDR was released on the 7 of August 2023 and were not included in original SDR. There are **3** submissions in this category.*

*Sixteen **further submissions** were received after Monday the 4 of September 2023. These are categorised as follows:*

***Category E** - This category contains late further submissions received within 1 week of the closing date of Monday the 4 of September 2023. There are **8** further submissions in this category.*

***Category F** - This category contains late further submissions received later than 1 week after the closing date of Monday the 4 of September 2023. There are **8** further submissions in this category.*

FINDINGS ON LATE SUBMISSIONS

13. We have found this report to be helpful to our consideration of the matters that we must have regard to in making our determination on these submissions and further submissions. The Commissioners have reviewed all the late submissions and the relevant matters under section 37 and 37A of the RMA and we make the following findings based on the categorisation of the s42A report.

Category A primary submissions

14. Category A includes the following submissions/submitters:

S561 Kainga Ora Homes and Communities

S559 Te Rūnanga o Ngāti Rēhia

S558 John Neison

S560 Jane Johnston

S563 Anna Clarke

S564 Jeff Christiansen

S566 Karen Wilkinson

S568 Scrumptious Fruit Trust

S562 RS Eng Ltd

15. These submissions were received within 1 week of the closing date of Friday 21 October 2022, but before the summary of decisions requested was released on 7 August 2023. Accordingly, they were included in the notified summary of decisions requested and were able to be viewed by those submitters considering making further submissions. We find the lateness of up to one week to be acceptable in the circumstances. We are also satisfied that the inclusion of these late submissions in the summary of decisions requested would not have unduly prejudiced any other submitter seeking to lodge further submissions. We acknowledge that FS348 from Alex Cox opposes the submissions in Category A and Category B (with the exception of S585 from Lucklaw Farm Ltd) because they have been received late; however, for the reasons set out above, we have accepted those submissions

Finding

The late submissions in Category A are accepted.

Category B primary submissions

16. Category B contains original submissions received more than 1 week past the closing date, but before the summary of decisions requested was released on 7 August 2023. Category B includes the following submitters/submissions:

S569 Rodney and Cherie Gates

S565 The Paihia Property Owners Group

S571 Te Runanga O Te Rarawa

S570 Heritage New Zealand Pouhere Taonga

S579 Ahipara Takiwā

S567 Andre Galvin

S574 Ecochic Properties Limited

S575 Kuia, kaumātua and whānau of Moringai Whānau

S577 Moringai Whānau

S578 Roma Marae

S576 Ahipara Takiwā

S580 Haami Piripi

S585 Lucklaw Farm Ltd

17. For the same reasons as set out for the Category A submissions, we find that the lateness of the Category B submissions to be acceptable in the circumstances and these submissions were included in the summary of decisions requested.

Finding

The late submissions in Category B are accepted.

Category C primary submissions

18. Category C contains original submissions received more than 1 week past closing date, but before the summary of decisions requested was released on the 7 August 2023. However, they were missed/omitted from the summary of decisions requested. Category C contains the following submitters/submissions:

S581 Arawai Limited

S582 Gabriele Pfaender

19. Again, we are satisfied that the lateness of these submissions is acceptable in the circumstances. However, we are aware that these were excluded from the summary of decisions requested. While we note that both of these submissions relate to site specific properties, we are conscious that other submitters may still have been prejudiced with regard to making further submissions. We are also conscious of the omission not being the fault of these submitters. On that basis, we find that these submissions be accepted but shall be subject to an errata notification to allow for further submissions from any other submitter. We will issue a further minute regarding the notification of errata matters in due course.

Finding

The late submissions in Category C are accepted.

Category D primary submissions

20. Category D includes the following submitters / submissions:

S583 Rick Ruiterman

S584 Gray Philips

S586 DL & H Mullane

21. These submissions were lodged substantially late (i.e. at least several months late). Submitter S583 has advised that the submission was lodged late as the property has been recently purchased. We do not consider this to be a valid reason for a submission lodged almost one year after the close of submissions. However, we note that this submitter has lodged a further submission (FS141) which has raised matters similar to

the late submission that are also considered to be within scope. For this reason, we determine that the late submission S583 be rejected.

22. Submitter S584 is also late by almost one year and the submitter has stated that he/she was overseas seeking medical treatment. While we would accept that reason for a period of one or two months since the close of submissions, the substantial lateness of the submission is not justified in this circumstance. We note that the matters raised in the submission are somewhat generic and have been raised by a number of other submitters. For these reasons, we determine that submission S584 be rejected.
23. The submission by D L & H Mullane was received over one year following the close of submissions. The submitters have stated that the submission was lodged because they became aware of an erroneous zoning following a subdivision process. We understand that the Council has acknowledged this issue and is proposing a plan variation to rectify the matter. We find that the lateness of the submission is not acceptable and determined that the submission be rejected, but understand that the issue raised by the submitter will be addressed by a variation to be notified by the Council at a later date.

Finding

The late submissions in Category D are rejected.

Category E further submissions

24. Category E contains late further submissions received within 1 week of the closing date of Monday the 4 of September 2023. Category E includes the following further submitters / submissions:

FS547	Heron Point Limited
FS550	Lloyd Anderson
FS548	Northland Federated Farmers of New Zealand Inc
FS549	Vanessa Anderson
FS570	Vision Kerikeri 3
FS80	GE Free Northland
FS159	Shawnee Cook Lawrence
FS207	Dingwall Family Trust

25. For the reasons set out for the Category A-C submissions, we find that further submissions received within one week of the closing of further submissions are acceptable and would not unduly prejudice the interests of any other submitters.

Finding

The late further submissions in Category E are accepted.

Category F further submissions

26. Category F contains late further submissions received later than 1 week after the closing date of Monday the 4 of September 2023. Category F includes the following further submitters/submissions:

FS571	Ara Poutama Aotearoa the Department of Corrections
FS376	Bentzen Farms Limited
FS564	Dempsey Family Trust
FS180	Kim Taylor
FS306	Mary Stanner
FS219	Matthew & Jenny Arthur
FS377	Setar Thirty Six Limited
FS383	The Shooting Box Limited

27. We note that further submissions FS376, FS564, FS377 and FS383 have been received less than one month following the close of further submissions and for that reason we are inclined to accept them. However, further submissions FS571, FS180, FS219, and FS306 are considerably late and beyond the acceptable discretion we are prepared to grant in this circumstance. We also note that that we have received an objection to the acceptance of FS571 by Ara Poutama Aotearoa the Department of Corrections from the primary submitter Ngawha Generation (S432) stating that it would be unduly prejudiced if the Commissioners determine to accept it. We agree, noting also, as above, the considerable lateness of the further submission, and we have rejected submission FS571 and the other three late further submissions FS180, FS219 and FS306, accordingly.

Finding

That further submissions, FS376, FS564, FS377 and FS383 be accepted.

That further submissions FS219, FS571, FS180 and FS306 be rejected.

FINAL DETERMINATION

28. For the reasons set out in this minute we accept the following late primary and further submissions:

S561	Kainga Ora Homes and Communities
S559	Te Rūnanga o Ngāti Rēhia
S558	John Neison
S560	Jane Johnston
S563	Anna Clarke
S564	Jeff Christiansen
S566	Karen Wilkinson
S568	Scrumptious Fruit Trust
S562	RS Eng Ltd
S569	Rodney and Cherie Gates
S565	The Paihia Property Owners Group

S571	Te Runanga O Te Rarawa
S570	Heritage New Zealand Pouhere Taonga
S579	Ahipara Takiwā
S567	Andre Galvin
S574	Ecochic Properties Limited
S575	Kuia, kaumātua and whānau of Moringai Whānau
S577	Moringai Whānau
S578	Roma Marae
S576	Ahipara Takiwā
S580	Haami Piripi
S585	Lucklaw Farm Ltd
S581	Arawai Limited*
S582	Gabriele Pfaender*
FS547	Heron Point Limited
FS550	Lloyd Anderson
FS548	Northland Federated Farmers of New Zealand Inc
FS549	Vanessa Anderson
FS570	Vision Kerikeri 3
FS80	GE Free Northland
FS159	Shawnee Cook Lawrence
FS207	Dingwall Family Trust
FS376	Bentzen Farms Limited
FS564	Dempsey Family Trust
FS377	Setar Thirty Six Limited
FS383	The Shooting Box Limited

* Subject to further errata notification

29. For the reasons set out in this minute we reject the following late primary and further submissions:

S583	Rick Ruiterman
S584	Gray Philips
TBC	DL & H Mullane
FS219	Matthew & Jenny Arthur
FS180	Kim Taylor
FS306	Mary Stanner

30. Any questions regarding the matters included in this minute should be directed to Tammy Wooster: Manager - Integrated Planning: Tammy.Wooster@fndc.govt.nz or 0800 920 029.

A handwritten signature in black ink, appearing to read 'R. Scott', with a large, stylized loop above the text.

Robert Scott

Hearings Panel Chairperson

9 February 2024