

TACDL Submission on PDP

To: Far North District Council (**FNDC**)

Full Name: Te Aupōuri Commercial Development Ltd (**TACDL**)

Re: Submission on Proposed Far North District Plan (**PDP**) – Te Aupōuri Commercial Development Ltd

Mobile: 027 286 2298

Address for Service: Mariameno Kapa-Kingi, ceo@teaupouri.iwi.nz & Makarena Dalton, makarenad@barker.co.nz / David Badham, davidb@barker.co.nz

Date: 21 October 2022

Submission Information:

This is a submission on the Proposed Far North District Plan (**PDP**).

TACDL could not gain an advantage in trade competition through this submission.

The specific provisions of the Plan Changes that TACDL submission relates to are attached.

TACDL opposes/supports/seek amendment TACDL to the specific provisions as listed in the attached document. The reasons are provided in the attached document.

The decisions that TACDL wishes Far North District Council (**FNDC**) to make to ensure the issues raised by TACDL are dealt with are also contained in the attached document.

TACDL wishes to be heard in support of this submission / does not wish to be heard in support of this submission TACDL.

If others make a similar submission, TACDL will consider presenting a joint case with them at a Hearing.



Makarena Dalton on behalf of Mariameno Kapa-Kingi

Te Aupōuri Commercial Development Ltd

1.0 Introduction

Te Aupōuri Commercial Developments Ltd (**TACDL**) welcomes the opportunity to provide feedback on the Far North District Council (**FNDC**), proposed District Plan (**PDP**), as released on 27 July 2021.

Te Aupōuri iwi's collective affairs are looked after by Te Rūnanga Nui o Te Aupōuri (**TRNoTA**) and its subsidiaries. TACDL is the commercial investment company of TRNoTA and is responsible for protecting and growing commercial assets in the interests of its members.

The PDP is of particular interest to TACDL, as mana whenua and kaitiaki of Te Tai Tokerau ki te Raki, landowners, and developers. TACDL owns over 3000ha of land in Te Tai Tokerau ki te Raki, located primarily in the rural environment. TACDL's property portfolio includes a range of primary production operations on lands returned as part of the Treaty Settlement at the following sites (refer to **Figures 1 – 4**):

- 5891 Far North Road, Ngataki (NA75B/196, Section 6-7 Block IV Houhora West Survey District);
- 63 Trig Road, Houhora (NA85A/299, Section 40 Block X Houhora East Survey District);
- 5600 Far North Road, Ngataki (719741, Section 2, 4-5 Survey Office Plan 65969 and Section 33 Survey Office Plan 61229 and Section 34 Block I Houhora East Survey District); and
- 174 Lamb Road, Houhora (NA80D/748, Section 1-9 Survey Office Plan 65943).

The submission covers matters addressed by the PDP which TACDL have an interest in, particularly in regard to their landholdings, all of which have been zoned Rural Production Zone. **Attachment 1** includes specific points of submission and relief sought.



Figure 1: 5891 Far North Road, Ngataki



Figure 2: 63 Trig Road, Houhora



Figure 3: 5600 Far North Road, Ngataki

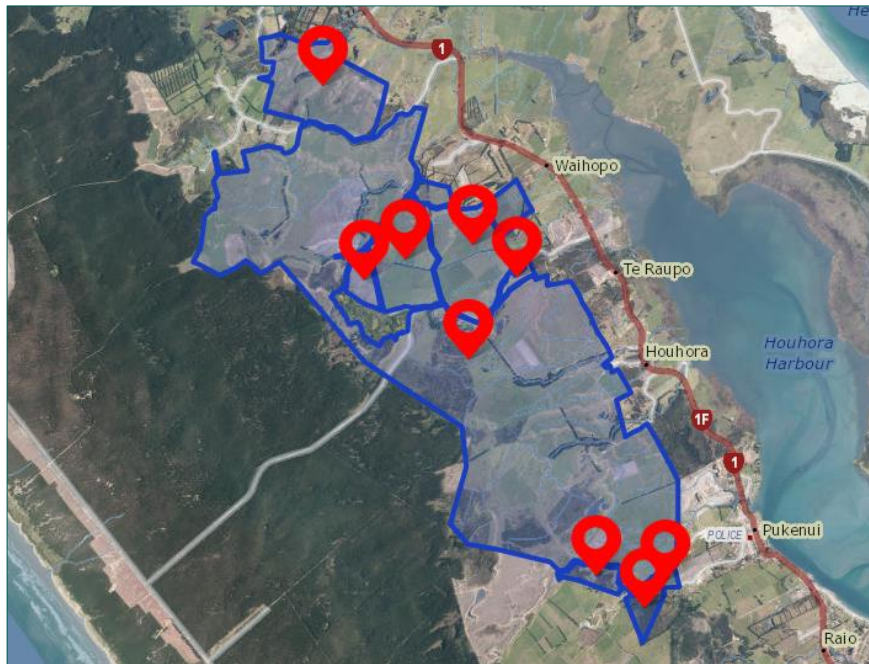


Figure 4: 174 Lamb Road, Houhora

of overarching strategic objectives, Māori Purpose Zone and Treaty Settlement Overlay.

2.0 Conclusion

In conclusion, TACDL seeks the following relief:

- (a) That TACDL's submission is addressed through decisions on the PDP and that the specific amendments sought in **Attachment 1** are made; and
- (b) Any further necessary consequential amendments required to achieve (a) above.

TACDL looks forward to working collaboratively with FNDC to address the above relief and is happy to meet with FNDC policy staff or consultants to work through these matters.

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Attachment 1: Specific Submission Points on PDP

Sub #	Feedback Topic	Support/Oppose/Seek Amendment	Comments / Reasons	Relief Sought
Part 1 – Introduction and General Provisions – How the Plan Works				
1	How the Plan Works	General	TACDL support a well drafted and integrated plan. How the Plan Works is the location that outlines the context and provides the direction to plan users on how to read and interpret the PDP. It is noted, that the TSL provisions are intended to apply in addition to the underlying zone provisions, providing enable for particular activities and standards. However, the note that has been applied is the generic note that means the most restrictive provision that applies to the site prevails. In the context of the TSL and RPROZ, this means that the underlying zone rules will always prevail, and require resource consent when a conflict arises between the two sets of provisions. In TACDL’s view, this ultimately renders the chapter and its utility to enable use and development on this land unusable. While the policy direction will provide a consenting pathway, the rules of the overlay cannot be utilised. While it is understood that other district-wide provisions are relevant,	Amend How the Plan Works to provide clear direction that the TSL Overlay and provisions prevail over the underlying zone provisions where an activity or standard is provided.

S339.001

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Sub #	Feedback Topic	Support/Oppose/Seek Amendment	Comments / Reasons	Relief Sought
			the relation between the TSL and the underlying zone is unclear.	
2				

Part 1 – Introduction and General Provisions – Interpretation - Definitions

3	Definitions	Seek amendment	The PDP includes activity-based rules which manage the establishment and operation of activities within zones and sites. TACDL note that no definition nesting tables are used in the Draft PDP. TACDL consider that it is worthwhile to include nesting tables to provide certainty for plan users as to what activities are captured in the rules. The introduction and explanation of nesting tables would need to be included within the Definitions Chapter.	TACDL seek that FNDC incorporate nesting tables into the definitions chapter.
4	Definitions – Papakāinga	Support, seek amendment	TACDL supports the inclusive intention of this definition, however, it is concerned that the broadness and reference to undefined terms make it unclear and may make it challenging to determine whether it is a permitted activity or not. Undefined terms include: <ul style="list-style-type: none"> • Social activity; • Cultural activity; and 	Amend the term Papakāinga to remove vague terminology as follows: <p><i>“means an activity undertaken to support traditional Māori cultural living for tangata whenua residing in the Far North District on:</i></p> <ol style="list-style-type: none"> 1. <i>Māori land;</i> 2. <i>Treaty Settlement Land;</i>

S339.002

S339.003

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			<ul style="list-style-type: none"> Economic activity. <p>This issue may be resolved by nesting tables, however, TACDL seek that FNDC refine the definition for “papakāinga” to ensure clear and consistent application and interpretation of the activity and definition.</p>	<p>3. Land which is the subject of proceedings before the Māori land court to convert the land to Māori land; or</p> <p>4. General land owned by Māori where it can be demonstrated that there is an ancestral link identified.</p> <p><i>Papakāinga may include (but is not limited to) residential, social, Māori cultural, economic commercial, conservation and recreation activities, marae, wāhi tapu and urupā</i></p>
5	Definitions	Seek amendment	Further to the changes sought to the definition of “Papakāinga” in submission point 2, TACDL seeks to incorporate a new definition for “Māori Cultural Activities” to assist with interpretation of the Papakāinga rules provided throughout the PDP.	<p>Include a new definition for Māori Cultural Activity as follows:</p> <p><u>“means activities undertaken by or associated with whanau, hapū or iwi that are in accordance with tikanga, including ceremonial, ritual, transferring marking areas or boundaries, or recreational activities.”</u></p>
Part 1 – Introduction and General Provisions – Tangata Whenua				
6	TW-01 – TW-05	Support	TACDL supports the intentions of the objectives proposed in the Tangata Whenua Chapter.	Retain as notified.
7	TW-P1	Support	TACDL support the intentions of this policy.	Retain as notified.

S339.004

S339.005 to S339.009

S339.010

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8	TW-P2	Support, seek amendment	TACDL support the intentions of this policy as it specifically provides for opportunities for tangata whenua to participate in the management of resources where it relates to ancestral lands, water, sites, wāhi tapu and other taonga. However, in TACDL's view, this policy can be strengthened by providing for the transfer and/or delegation of functions and powers in accordance with Sections 33 of the RMA.	Amend as follows: <i>“Ensure that tangata whenua are provided with opportunities to actively participate in resource management processes which involve ancestral lands, water, sites, wāhi tapu and other taonga, including through:</i> <i>a. recognition of the holistic nature of the Māori worldview;</i> <i>b. the exercise of kaitiakitanga;</i> <i>c. the acknowledgement of matauranga Māori;</i> <i>d. regard to Iwi/Hapū environmental management plans; and</i> <i>e. <u>Mana Whakahono-ā-Rohe arrangements;</u></i> <i>f. <u>the transfer of powers to iwi, hapū and whānau; and</u></i> <i>g. any other agreements.</i>
9	TW-P3 – TW-P6	Support	TACDL support the intentions of this policy.	Retain as notified.
Part 2 – District Wide Matters – Strategic Direction				
10	Strategic Direction	Seek amendment	The Strategic Direction chapters do not contain policy which give effect to proposed	Amend the Strategic Direction Chapter to:

S339.011

S339.012 to S339.015

S339.016

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Sub #	Feedback Topic	Support/Oppose/Seek Amendment	Comments / Reasons	Relief Sought
			the future to achieve their overarching aspirations for whenua, whanau and the taiao (land, people, and the environment).	
25	TSL-P2	Support with amendments	TACDL support the intention of this policy, however, do not consider it necessary to restrict the scale of commercial activities that may take place on these sites. The innate nature of the Treaty Settlement process limits the available land and assets that can be returned to iwi to those owned by the Crown. The available landholdings to return to iwi are typically rural farm or forestry holdings, and while these are still commercial assets, they're typically not enabled for commercial activities by district plans. For this reason, TACDL seek greater flexibility for the enablement of commercial activities within the TSL.	Amend TSL-P2 as follows: <i>“Enable a range of activities on Treaty Settlement Land including marae, papakāinga, customary use, cultural and small-scale commercial activities where the adverse effects can be avoided, remedied or mitigated.”</i>
26	TSL-P3	Seek amendments	For the same reasons detailed in submission point 25, TACDL seek maximum flexibility to develop TSL land in order to provide for the economic and social wellbeing of its members. Further, the bulk and location standards of either the underlying zone or the TSL provide sufficient separation distance,	Amend TSL-P3 as follows: <i>“Provide for <u>the occupation, use and development</u> on Treaty Settlement Land where it is demonstrated that:</i> <i>a. it is compatible with surrounding activities;</i>

S339.036

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			bulk, scale and size to manage onsite amenity of the surrounding sites.	<p>a. it will not compromise the occupation, development and use of Treaty Settlement Land;</p> <p>b. it will not compromise the underlying zone, adjacent land or other zones to be efficiently or effectively used for their intended purpose;</p> <p>c. any values identified through cultural redress are maintained;</p> <p>d. it maintains the character and amenity of surrounding area;</p> <p>e. it provides for community wellbeing, health and safety;</p> <p>f. it can be serviced by onsite infrastructure or reticulated infrastructure where this is available; and</p> <p>g. any adverse effects can be avoided, remedied or mitigated.</p>
27	TSL-R2	Oppose	TACDL considers that stormwater management is adequately managed by TSL-S5 and TSL-S6.	Delete TSL-R2.
28	TSL-R3	Seek amendments	TACDL has aspirations to develop a range of housing options to meet the diverse needs of Te Aupōuri uri (members). The supply of housing is of great importance to TACDL and ensuring the district plan provides the greatest flexibility is required. Section 6 (e)	Delete TSL-R3-PER-2.

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			requires Council's to recognise and provide for the relationship of Māori to lands, water and sites as a matter of national importance. Enablement of residential activities, including residential care, enables uri of Te Aupōuri to live and maintain their relationship to their lands and sites. PER-2 limits the number of residential units to a maximum of six per site irrespective of the carrying capacity of that land. In the case of TACDL, this would limit their significant landholding of over 3,000ha to 18 residential units as a permitted activity due to the record of title configuration. Further, the Section 32 does not provide analysis to justify these thresholds, for this reason, TACDL seek PER-2 to be deleted.	
29	TSL-R4	Support, amendments seek	Subject to the amendment of the definition of papakāinga as sought in submission 4 and 5, TACDL generally supports these provisions. However, as no analysis has been provided in the section 32 report, TACDL do not understand or support the thresholds proposed in PER-1. In TACDL's view, these provisions do not acknowledge the carrying capacity of land and arbitrarily limit the number of residential units to 10 irrespective	Amend TSL-R5 as follows: <ul style="list-style-type: none"> Delete PER-1; Amend TSL-R4-PER-2 to increase the GBA to align with the permitted impermeable surface coverage provided by TSL-S2.

S339.040

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			<p>of the land area available. In the case of TACDL, they have three landholdings that range in size between 500ha and 1,500ha which can have sufficient area to easily absorb 10 residential units. Further, it is unclear why PER-1 limits rather than enables the maximum number of residential units that could be achieved via (a) or (b). Finally, as proposed these provisions are even more restrictive than those provided by the ODP, which is considered to better recognise the carrying capacity of land with respect to on-site servicing requirements. For these reasons, TACDL seek amendments to these provisions.</p> <p>Furthermore, the 250m² GBA imposed in PER-2 for commercial activities inadequately provides for the development aspirations of TACDL and considers greater flexibility for the size of commercial activities is required. It is considered that this should be managed through the scale of activities which is already provided for by TSL-S2.</p>	
30	TSL-R6	Support	TACDL supports the enablement of Marae activities in the TSL as permitted activities.	Retain as notified.

S339.041

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31	TSL-R7 – R10	Support	TACDL supports the enablement of these activities as permitted activities in the TSL.	Retain as notified.	S339.042
32	TSL-R11	Support with amendments	TACDL supports the provision of education facilities in the TSL. However, TACDL are concerned that these provisions do not allow for the establishment of kōhanga reo or kura as a permitted activity. While TACDL does not currently have development plans to establish any educational facilities, access to Te Ao Māori education is of the utmost importance to TACDL. As there is no section 32 analysis to support these thresholds, TACDL seek that they are amended to provide allow for kōhanga reo or kura as permitted activities. It is noted that these provisions do not apply to kōhanga reo, however, they are not provided for elsewhere in the chapter.	Amend TSL-R11 to provide for Kōhanga Reo and Kura as a permitted activity.	S339.043
33	TSL-R12	Seek amendments	For the same reasons as outlined in submission point 24 and 26, TACDL seek increased commercial activity thresholds to align with their development aspirations to ensure that the PDP provides for the economic and social wellbeing of Te Aupōuri uri.	Amend TSL-R12 to increase the GBA to align with the permitted impermeable surface coverage provided by TSL-R2.	S339.044
34	TSL-R13	Seek amendments	TACDL support the provision of rural tourism activities, particularly in light of their	Delete TSL-R13-PER-1.	S339.045

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			substantial landholdings conveniently located within 30 minutes of the east and west coasts of Te Hiku. Rural Tourism activities can include a range of natural experiences that have little or no GFA but take place over large extents of land, i.e., zip lining, where built form is unintrusive or is of small scale. For these reasons, TACDL seek that the GBA thresholds for Rural Tourism activities be deleted.	
35	TSL-S6	Seek amendments	<p>TACDL have aspirations to establish papakāinga housing to provide much needed housing supply for whānau, pakeke and kaumatua. TACDL seeks provisions that provide adequate design flexibility to meet the needs of Te Aupōuri uri different household structures. While TACDL recognises the need to ensure safe and efficient on-site servicing, they have concerns with the approach for the following reasons:</p> <ul style="list-style-type: none"> • Requiring a minimum exclusive use area is considered unnecessary, as there are already provisions in place to ensure there is sufficient area for onsite wastewater disposal in accordance with FNDC’s Engineering Standards; 	<p>Amend TSL-S6 as follows:</p> <ul style="list-style-type: none"> • Delete TSL-S6(1); and • Delete TSL-S6(2).

S339.046

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Sub #	Feedback Topic	Support/Oppose/Seek Amendment	Comments / Reasons	Relief Sought
			<ul style="list-style-type: none"> • Requiring consent where exclusive use cannot be achieved would mean that any papakāinga housing developments that proposed a package treatment plant would require resource consent from both territorial and regional authorities. This is considered to be an unnecessary duplication and result in costly consenting processes; • TSL-S6-1(c)(i-iii) are considered to be an unnecessary duplication of regulation. The Building Act and Proposed Regional Plan for Northland already include provisions that manage the design requirements of wastewater disposal systems that do not need to be repeated here; and • It is unclear why these provisions include minimum requirements for water supply. There are no provisions elsewhere in the PDP that require minimum potable supply. This is considered to be unnecessary and would be designed to respond to the needs of a particular household. 	
Part 3 – Area-Specific Matters				
Rural Production Zone				
36	PROIZ-R3 Residential Activity	Seek amendment	The RPROZ limits residential development to one unit per 40ha of site area, up to a maximum of 6 per site and requires a	Amend PROZ-R3-PER-1 to allow for at a minimum, one residential unit per 20ha. S339.047

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			discretionary activity resource consent for non-compliance with either of these standards. This is considered to be an overly restrictive rule framework. The section 32 has some brief commentary regarding the 40ha size limit at it relates to subdivision and considers this to be a response to manage fragmentation effects. TACDL note that this density control has been proposed to align with the controlled activity subdivision threshold (which is discussed separately), however, aside from this there is little evaluation within the section 32 of the appropriateness of threshold. Further, it is noted that the Whangārei District Plan and Kaipara’s Exposure Draft Plan each have rule frameworks that would provide for two residential units per 40ha. It is considered that these provisions should be amended to align with adjacent Councils to provide a more consistent region wide approach to the management of RPROZ land.	
37	RPROZ-R7	Support	TACDL supports the intention of this rule.	Retain as notified.
38	RPROZ-R8	Support	TACDL supports the intention of this rule.	Retain as notified.
39	RPROZ-R11	Seek amendment	TACDL supports rural produce manufacturing activities as this aligns with TACDL’s	Amend RPROZ-R11-PER-1 to increase the GFA thresholds.

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			development aspirations to provide economic and employment opportunities to improve the wellbeing of their people. In the absence of section 32 analysis of these provisions, TACDL seek increased thresholds to enable greater flexibility.	
40	RPROZ-R15	Seek amendment	There is an error in the rule title. Otherwise, they are supportive of the intention of this rule.	Amend the rule title of RPROZ-R15 to delete the repeated 'and'.
41	RPROZ-R20	Support, seek amendments	TACDL are supportive of the provision of papakāinga housing in the RPROZ.	Retain as notified.
Part 3 – Area-Specific Matters – Special Purpose Zones – Māori Purpose Zone				
42	Māori Purpose Zone Chapter	Support	TACDL are generally supportive of the intentions of this of this chapter, particular the recognition of whenua Māori as a unique and limited resource requiring its own management approach to address section 6 (e), 7(a) and section 8 of the RMA.	Seek amendments that: <ul style="list-style-type: none"> • Enable the occupation, use and development of whenua Māori; • Provide for the relationship of Māori to the lands, water, sites, taonga and wāhi tapu; • Ensures tangata whenua can occupy, use and develop their land in accordance with tikanga and mātauranga Māori.
Part 4 – Appendices and Schedules – SCHED3				
43	SCHED3 – Sites and areas of significance to Māori	Support, Seek amendment	TACDL are supportive of the protection of sites and areas of significance to Māori throughout the Far North. However, it is of concern that the SCHED3 has not been	Seek flexibility to incorporate new sites into SCHED3.

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			updated with new sites as part of this process. There are many sites and areas of significance to Te Aupōuri, however, they are concerned with the sensitive nature of these sacred places and whether it is appropriate to have these incorporated into the PDP. Te Aupōuri Iwi, hapū and whanau are the kaitiaki of these places and are unsure whether there is appropriate provision for their role as kaitiaki, and sufficient incorporation mātauranga and tikanga Māori.	
Mapping				
44	TSL Overlay	Seek amendment	<p>TACDL note that their site of interest as shown in Figure 1 has not been mapped with TSL. TACDL seek that the TSL be applied to this site of interest for the following reasons:</p> <ul style="list-style-type: none"> • The land is owned and managed by TACDL and there is no intention for this land to be sold or disposed of; and • This land was purchased by Te Aupōuri utilising their financial redress as part of their Treaty Settlement therefore meeting the criteria for its identification. 	That FNDC identify 5891 held in Record of Title NA75B/196 as TSL (refer to Figure 1 of the submission).

S339.055