

Form 7

Notice of appeal to Environment Court against decision
on proposed policy statement or plan

Clause 14(1) of First Schedule, Resource Management Act 1991

To the Registrar
Environment Court
Auckland

I, Don Mandeno on behalf of the Paihia Property Owners Group ('PPOG') appeal against a decision of the Far North District Council ('FNDC') on its Proposed District Plan ('PDP').

This filing is an amendment to the filing I made on behalf of the PPOG on August 11th, 2026 and entirely replaces that filing to better address certain formalities of the filing without amending the substance of the appeal.

The PPOG made a submission on the PDP¹.

I received notice of the decision on PPOG's submission on 30 June 2026. The decision was made by the FNDC.²

The decision that I am appealing is:

PPOG's submission point that this appeal relates to was a request to: **'Amend the proposed Paihia Heritage Areas A and B and their provisions and revert back to the Paihia Mission Heritage Area and associated provisions'**.³

FNDC's decision was to accept the Hearing Panel's recommendation to retain all of the Paihia Heritage Area as specified in the Notified PDP and to expand the Part B area by the addition of islands offshore Paihia known as the Waitangi Island Group, as shown in Attachment 2.

The specific aspect of the decision PPOG is appealing is the Heritage Area being applied to the onshore portion of the Part B Paihia Heritage Area (referred to herein as 'PHA-B' and the properties within it as the 'Appeal Properties').

The corollary to this appeal point is that PPOG does not appeal the inclusion of either of the two Part A areas of the Paihia Heritage Area (referred to herein as 'PHA-A') or the inclusion of the offshore island group component of the Paihia Heritage Area

¹ FNDC refers to PPOG's submission as submission S565

² Notice was received by way of a Public Notice posted by the FNDC headed 'Decisions on Submissions Far North Proposed District Plan' which referenced it's Decision Version of the Proposed District Plan.

³ As FNDC summarised submission point S565.001 in its summary of submissions document:
<https://perceptionplanning.knack.com/spoken-fndc-district-plan#publicview-submissionpoints/>

(referred to herein as 'PHA-Islands') all as delineated in the Decisions Version PDP ('DVPDP').

The reasons for the appeal are, in summary, as listed below and as detailed more fully in the attached document titled 'Detailed Submisison':

1. **The area of the Appeal Properties (PHA-B) contains no Heritage Resources or any other known items of notable cultural or heritage significance, and consequently it is devoid of historic heritage values warranting management for the purposes of S.6(f) of the RMA.**
2. **The relevant S.32 analysis did not present an adequate justification for applying a HA overlay to the Appeal Properties, including because it failed to identify the problem that the HA overlay policies and rules are intended to cure.**
3. **FNDC relied on purported 'Heritage Experts' whose UK qualifications and professional experience made them unsuitable for what they were tasked to do.**
4. **FNDC rejected its Heritage Expert's advice as to essential assessment work and consultation needed to reliably identify and delineate areas that would justify HA overlay status in a formally Notified PDP.**
5. **Including the area of the Appeal Properties in a HA on account of purported landscape values and Māori cultural values amounts to *contra vires* Double Counting.**
6. **The Appeal Properties are subject to a sufficiency of restrictive planning rules designed to avoid inappropriate development independent of the HA chapter, so as to make superfluous the additional rules applying to the Appeal Properties that derive specifically from the HA Chapter.**
7. **Mixing protection of European colonial-era built-heritage and Māori heritage in a single HA with a single set of objectives, policies and rules (eg rules stipulating the use of European colonial paint colours) is non-sensical & potentially offensive to Māori.**
8. **There is no support in the general community or from local Iwi and hapu for the PHA-B.**
9. **FNDC's reliance on an argument that the DVPDP rules that apply to HA Part B areas, including the PHA-B, are few in number and not onerous, ignores the negative implications for property owners of having an HA overlay designation on their properties that go beyond the direct implications of the specific DVPDP HA Chapter rules.**
10. **The Hearings' Panel was very supportive of the arguments against the PHA-B as presented in submissions and Hearing evidence by PPOG and others, but incongruously it recommended rejecting PPOG's request to exclude the PHA-B from the PHA.**

PPOG seeks the following relief:

That the Paihia Heritage Area consist only of the two Part A areas (PHA-A) and the offshore island components of the Part B areas (PHA-Islands) as those areas are delineated in the DVPDP.

I attach the following documents to this notice:

- Attachment 1: copy of PPOG's relevant submission (that FNDC refer to as S565)
- Attachment 2: Hearing Panel Recommendation Report 12 Appendix 4 – Hearings Panel Recommended Mapping Amendments – p2
- Attachment 3: PPOG's Detailed Submission
- Attachment 4: listed of parties this filing will be served on

Signature of Don Mandeno on behalf of the Paihia Property Owners Group:



Date: August 19th, 2026

Address for service of appellant: 22 Marsden Rd, Paihia, 0200

Telephone: +64 27 407 7262

Email: ipal9718@bigpond.net.au

Contact Person: Ian Palmer

Note to appellant

Appeals other than in relation to freshwater planning instruments

You may appeal only if—

- you referred in your submission or further submission to the provision or matter that is the subject of your appeal; and
- in the case of a decision relating to a proposed policy statement or plan (as opposed to a variation or change), your appeal does not seek withdrawal of the proposed policy statement or plan as a whole.

The Environment Court, when hearing an appeal relating to a matter included in a document under section 55(2B) of the Act, may consider only the question of law raised.

Appeals in relation to freshwater planning instruments

You may appeal only if—

- you addressed in your submission or further submission the provision or matter that is the subject of your appeal; and
- the relevant regional council rejected a recommendation of the freshwater hearings panel and decided an alternative solution which resulted in—
 - (a) the provision or matter being included in the freshwater planning instrument; or

- (b) the provision or matter being excluded from the freshwater planning instrument.

If a regional council decides to reject a recommendation of the freshwater hearings panel that is outside the scope of submissions, you may appeal to the Environment Court in respect of that decision or the alternative solution proposed by the council if you made a submission.

Notes for all appeals

Your right to appeal may be limited by the trade competition provisions in Part 11A of the Act.

You must lodge the original and 1 copy of this notice with the Environment Court within 30 working days of being served with notice of the decision to be appealed. The notice must be signed by you or on your behalf. You must pay the filing fee required by regulation 35.

You must serve a copy of this notice on the local authority that made the decision and on the Minister of Conservation (if the appeal is on a regional coastal plan), within 30 working days of being served with a notice of the decision.

You must also serve a copy of this notice on every person who made a submission to which the appeal relates within 5 working days after the notice is lodged with the Environment Court.

Within 10 working days after lodging this notice, you must give written notice to the Registrar of the Environment Court of the name, address, and date of service for each person served with this notice.

However, you may apply to the Environment Court under section 281 of the Act for a waiver of the above timing or service requirements (*see* form 38).

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Act.

You may apply to the Environment Court under section 281 of the Act for a waiver of the above timing or service requirements (*see* form 38).

**How to obtain copies of documents relating to appeal*

The copy of this notice served on you does not have attached a copy of the appellant's submission and (or or) the decision (or part of the decision) appealed. These documents may be obtained, on request, from the appellant.

*Delete if these documents are attached to copies of the notice of appeal served on other persons.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

Schedule 1 form 7: replaced, on 3 September 2020, by regulation 7(3) of the Resource Management (Forms, Fees, and Procedure) Amendment Regulations 2020 (LI 2020/180).

Address: 2 Cochrane Drive, Kerikeri
127 Commerce Street, Kaitaia
Phone: 09 407 5253
Email: office@bayplan.co.nz



To: District Plan Team – Attention: Greg Wilson
 Strategic Planning & Policy
 5 Memorial Avenue
 Private Bag 752
 Kaikohe 0440.
 Email: greg.wilson@fnhc.govt.nz

RE: Submission on the Proposed Far North District Plan 2022

1. **Details of persons making submission**

The Paihia Property Owners Group (referred collectively as the **'Submitters'**).

C/- Bay of Islands Planning (2022) Limited
 Attention: Steven Sanson
 PO Box 318
 PAIHIA 0247

2. **General Statement**

The Submitters are directly affected by the Proposed Far North District Plan (**'PDP'**). They reject various matters within the PDP as presented.

The Submitters cannot gain an advantage in trade competition through this submission. They are directly impacted by the PDP. The effects are not related to trade competition.

3. **Background & Context**

Background

The Submitters above all have established properties within the Paihia Township and have a series of concerns with the PDP contents.

Whilst many of the Submitters have properties within the Paihia Township, this submission relates to the PDP as it applies to the Paihia township generally, as well as their specific sites. This list is provided in **Appendix 1**.

PDP Approach for Paihia

The PDP seeks to rationalise the existing commercial zoning under the Operative District Plan into a Mixed Use Zone which covers many foreshore properties as well as areas with existing commercial and residential development.

The Mixed Use Zone is then overlain by a number of items such as:

- The Coastal Environment;
- Paihia Heritage Areas A and B; and
- Building Height Controls.

The provisions of the Mixed Use Zone are generally enabling allowing for a mixture of residential and commercial development to be undertaken to create a mixed use environment – one that generally already exists within the Paihia Township.

However, the associated provisions associated with the Coastal Environment and Paihia Heritage Areas seem to work against the

enabling provisions of the Mixed Use Zone and create layers of additional regulation that is to be conformed with.

An overview of the Paihia Township, and the relevant zones and overlays that apply are shown in **Figure 1** below.

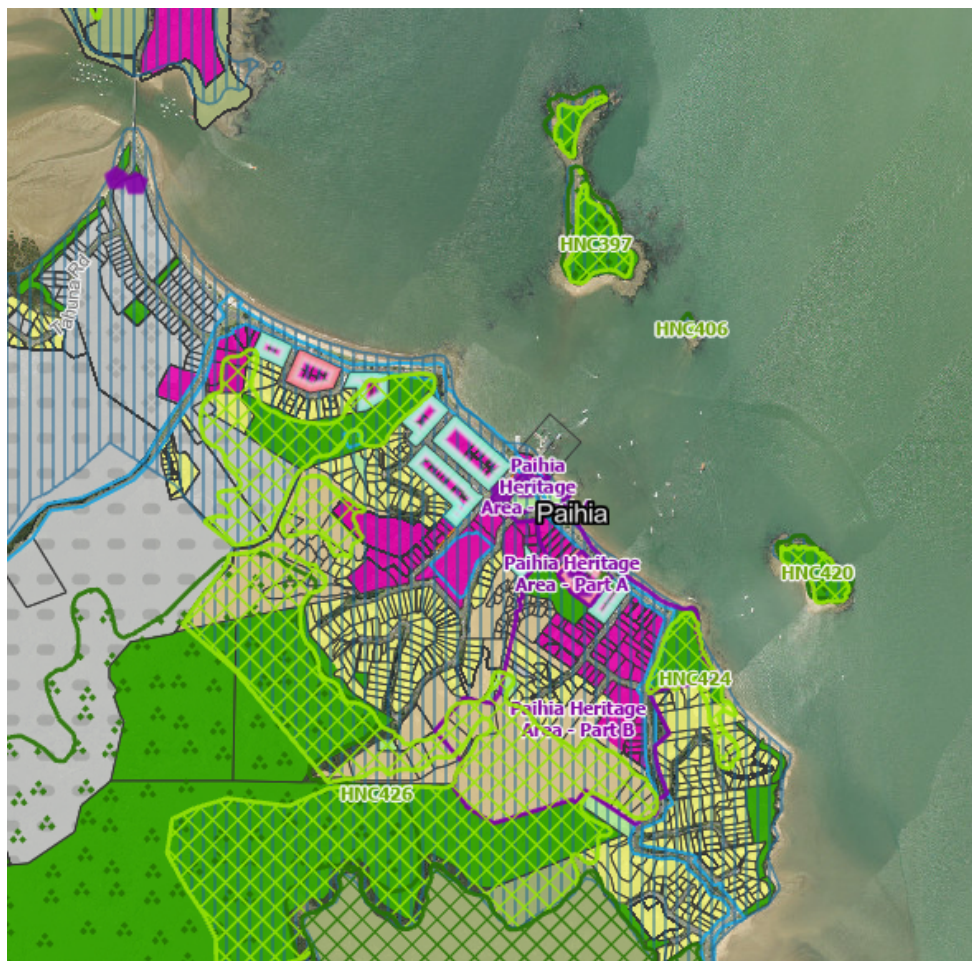


Figure 1 - Paihia Township Zoning & Overlays (Source: Prover)

4. **The specific provisions of the Proposed Far North District Plan that this submission relates to are:**

- The proposed Paihia Heritage Areas A and B and its provisions;
- The Coastal Environment and its provisions; and
- The Mixed Use Zone and its provisions.

5. **The Landowners seek the following amendments/relief:**

This submission requests that the PDP:

- Removes the proposed Paihia Heritage Areas A and B and their provisions and reversion back to the Paihia Mission Heritage Area and associated provisions. **S565.001**
- Promotes more enabling and appropriate provisions associated with the Coastal Environment as they relate to urban areas such as Paihia; and **S565.002 to S565.005**
- Retains the underlying urban zones as they apply to the Paihia township, with minimal overlays and restrictions. **S565.006 and S565.007**

6. **The reasons for making the submission on the Proposed District Plan are as follows:**

Paihia Heritage Areas A and B

The PDP approach associated with the Paihia Heritage Areas A and B is not supported.

The analysis that underpins the PDP approach is broad in nature and has not been undertaken on a site by site basis to verify and confirm

that each site has the values considered worthy of identification and protection.

If Council is to impose the blanket identification of the areas, there must be more appropriate site by site analysis and assessment undertaken to confirm the heritage values sought to be protected.

Whilst the policy intent associated with the New Zealand Coastal Policy Statement and Regional Policy Statement are clear, the rationale and evidential basis for the proposed mapping is not considered to be appropriate at a District level, where values on a site by site basis should be known, assessed and confirmed to be true.

In this respect the Council's s32 report associated with Heritage is fundamentally lacking and the Submitters reject the PDP approach in its current format.

Whilst there are heritage resources that do require protection, these resources are well known and have formed part of the community for some time. Development has been undertaken in accordance with the Operative District Plan in relation to the Paihia Mission Heritage Area which went through a lengthy plan change process and considered the area and surrounds in far greater detail than the PDP.

Council's s32 report suggests that there is no technical evidence to support the existing spatial extent for the Paihia Mission Heritage Area. This is disagreed with and if this was to be true, the entire plan change process would have had no merit. The Paihia Mission Heritage Area mapping and provisions should be retained as provided in the Operative District Plan.

Overall, there is no confidence in the approach undertaken, and the PDP is not considered to be the most appropriate approach or option undertaken to meet the purpose of the RMA 1991.

Coastal Environment & Urban Growth

The report provided by Melean Absolum Limited, that supports the Coastal Environment s32 Report prepared by Council, only suggests potential rules for the Coastal Environment within an urban area. There is no detailed evidence provided within either report to support these 'suggestions'.

The PDP includes to rules such as a 5m height limit, 300m² building / floor area coverage, and 400m² indigenous vegetation and earthworks limits within an urban area. There is limited rationale as to why and how these provisions were selected.

Whilst the New Zealand Coastal Policy Statement and Regional Policy Statement is clear, the PDP approach does not appropriately justify the provisions.

For example, it is not clear why 5m was selected, or why this height limit is appropriate. No specific locality assessments have been undertaken specifically to suggest that this is appropriate in a highly modified urban environment such as Paihia.

To add further, the imposition of a 5m height limit works directly against the provisions and intent of the Mixed Use Zone. For example, the Mixed Use Zone requires housing or residential

activities to be located on the first floor (and above), with a commercial activity to be located on the ground floor.

The requirements work in tandem to create a situation where Council will effectively minimise residential potential for the Paihia township, in an area which sorely needs a mixture of housing densities, options and typologies as a sought after urban and coastal area.

With a 5m height limit, there is no potential for above ground floor housing by the simple reason that stud and roof heights effectively limit this use. When considered alongside minimum floor level requirements, this only further limits development potential within the township. Accordingly, the provisions confuse and work against their respective intent, objectives, and aims.

Overall, there is no confidence in the approach undertaken, and the PDP is not considered to be the most appropriate approach or option undertaken to meet the purpose of the RMA 1991.

Urban Zones

The Submitters generally support the enabling intent of many of the urban zones proposed by the PDP. However, when considered alongside the myriad of other controls, believe that the PDP unnecessarily constrains and confuses their intent, aims and objectives.

As outlined above, should additional provisions and overlays be warranted, these must be appropriately considered and selected

based on a higher degree of evidence and assessment as they relate specifically to Paihia.

Concluding Comment

The RMA 1991 seeks to enable people to provide for their economic, social, cultural and well-being while ensuring natural and physical resources remain available for future generations, and adverse effects are appropriately avoided, remedied or mitigated.

The additional overlays and restrictions are undoing the positive elements that the Mixed Use Zone seeks to achieve.

The PDP as it relates to the specific submission points is not considered to meet the purpose of the RMA 1991.

These matters may be fleshed out further in the evidence that may be called in support of the Submitters position at a hearing.

7. **The Landowners wish that the Far North District Council address the above matters by:**

- Removing the proposed Paihia Heritage Areas A and B and their provisions and reversion back to the Paihia Mission Heritage Area and associated provisions.
- Promoting more enabling and appropriate provisions associated with the Coastal Environment as they relate to urban areas such as Paihia; and
- Retaining the underlying urban zones as they apply to the Paihia township, with minimal overlays and restrictions.

8. Our clients wish to be **heard** in relation this submission.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'SS' or 'S.S.', written in a cursive style.

Steven Sanson

Director | Consultant Planner

On behalf of the Submitters

Dated this 21st Day of October 2022

Attachment 1: List of Submitters

Ed & Inge	Amsler	6 Bedggood Close, Paihia 0200 46-48 Marsden Road Paihia
Busby Manor Resort	Body Corporate	34 Marsden Road
Don	Mandeno	22 Marsden Rd
Chester	Rendell	40 Marsden Road
David	Guy	22a Eastcliffe Road, Auckland 0620
Peter & Wendy	Sharland / Hitesman	76 Seaview Rd
Garth & Anne	Craig & Corbett	49 Kings Road
Cheree & Michael	Byrne	9 Island View Close
Margaret	Millin	Section At 7 Island View Close. Building Soon.
Jamie	Wilson	10 Island View Close
Justin & Tania	Chapman	8 Island View Close, Paihia
Neil	Anderson	5 Island View Close
Richard	Biffin	23 Totara Heights Way
Nicki	Kempthorne	8 Marsden Road, Paihia
Bruce	Rogers	19 Kings Road, Paihia
Roger	Mccracken	47 Kings Road
Kathryn	Bavister	20 Macmurray Road
Craig	Pippen	20 Macmurray Road
Gavin	Dreaver	36 Kings Road, Paihia 0200
Ross	Harold	34 Kings Road
Stephen And Hine	Beattie	52 Kings Road
Leon	Vickers	138 Wills Road, Bell Block, New Plymouth 4312

Mark & Vivienne	Javins	44 Marsden Road,
Amanda	Mcclelland	30 Marsden Road Paihia Northland 0200
Vaughan	Norton-Taylor	50 Marsden Rd Paihia
Ross	Chin	157 Hobson Street, Auckland
Margaret	Thomas	51 Kings Road Paihia
Jimmy	Singh	12 Drumquin Rise
Joshua	Riley	3 Island View Close
Christopher	Byrne	4 Island View Close
Klaus	Striegel	13 Totara Hights Way
Stephen	Guy	12a Dundonald Street
Busby Manor Resort	Body Corporate	35 Marsden Road
Busby Manor	Resort	34 Marsden Road
Gail	Leabourng	26 Marsden Road, Paihia
Michael	Chamtaloupe	40 Kings Road, Paihia
Bells Paihia		2 Kings Road, Paihia
Marlin Court Motel		Seaview Road, Paihia
Paihia Pacific Resort		Seaview Road, Paihia
Peppertree Lodge		Kings Road, Paihia
Casa Bella Motel		Macmurray Road, Paihia
Ala Moana Motel	Karen Clark	Masden Road, Paihia

From: [Steve](#)
To: [Proposed District Plan](#); paihiaowners@gmail.com
Cc: [Proposed District Plan](#); [Liz Searle](#)
Subject: Re: Submission on the Proposed District Plan
Date: Tuesday, 8 November 2022 9:50:11 am
Attachments: [image006.png](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)
[image011.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[Attachment 1 Paihia Residents.pdf](#)

CAUTION: This email originated from outside Far North District Council.

Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi Liz,

As discussed. Want to keep the original but the attachment included an administrative error (double ups on names and some names left incomplete).

Steve



Steve Sanson

Director | Consultant Planner

Bay of Islands Planning

(2022) Ltd

☎ [09 407 5253](tel:094075253) | [021 160 6035](tel:0211606035)
✉ steve@bayplan.co.nz
🌐 <https://www.bayplan.co.nz>
📍 2 Cochrane Drive, Kerikeri, 0295

From: Proposed District Plan <pdp@fndc.govt.nz>

Date: Tuesday, 25 October 2022 at 11:35 AM

To: Steve <Steve@bayplan.co.nz>, paihiaowners@gmail.com <paihiaowners@gmail.com>

Cc: Proposed District Plan <pdp@fndc.govt.nz>

Subject: RE: Submission on the Proposed District Plan

Good morning Steve

The Far North District Council acknowledges receipt of your submission on the Proposed District Plan.

A copy of your submission is attached to this email. Following the submission period, all submissions and decisions requested will be summarised and made available on the council's website, followed by a further submissions process, hearings and decisions. At this stage, hearings are likely to be held from mid-2023. When hearings are being scheduled, you will be contacted directly if you have indicated that you wish to be heard. For more information and next steps please visit: <https://pdp.fndc.govt.nz>.

If you require any further information, please feel free to contact the District Planning Team on email pdp@fndc.govt.nz or 0800 920 029.

Kind Regards,
District Planning Team
Far North District Council



Andrew McPhee
Senior Policy Planner

Strategic Planning & Policy, Far North District Council | **24-hour Contact Centre** 0800 920 029
DDI +6494070452 | **M** +64272654715 | Andrew.McPhee@fndc.govt.nz

[Website](#) | [Facebook](#) | [LinkedIn](#) | [Careers](#)

From: Steve <Steve@bayplan.co.nz>

Sent: Friday, 21 October 2022 3:25 pm

To: Proposed District Plan <pdp@fndc.govt.nz>; paihiaowners@gmail.com

Subject: Submission on the Proposed District Plan

CAUTION: This email originated from outside Far North District Council.

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Hello,

Please see a submission on the proposed district plan.

Regards,



Steve Sanson
Director | Consultant Planner
Bay of Islands Planning
(2022) Ltd

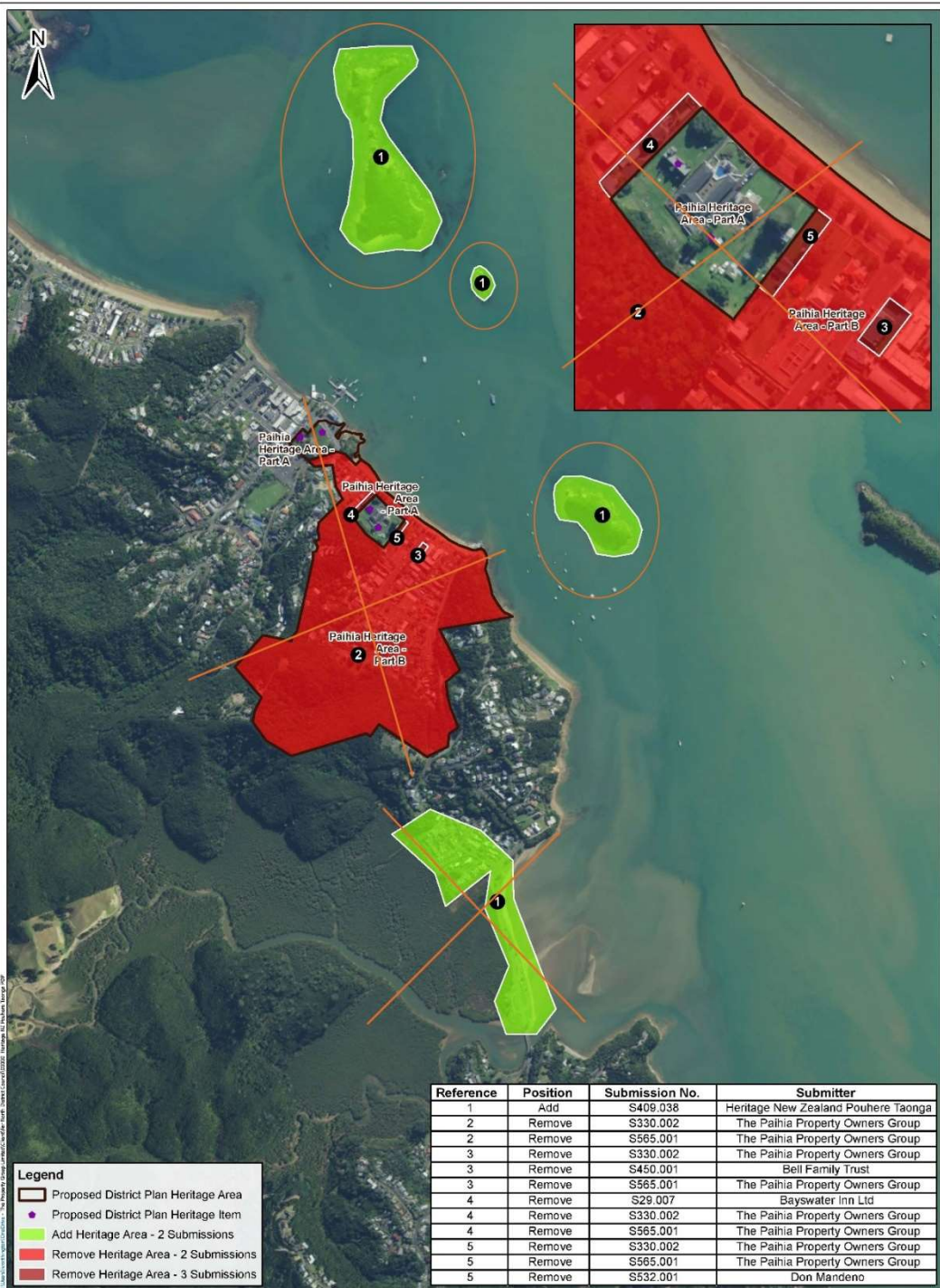
☎ [09 407 5253](tel:094075253) | [021 160 6035](tel:0211606035)
✉ steve@bayplan.co.nz
🌐 <https://www.bayplan.co.nz>
📍 2 Cochrane Drive, Kerikeri, 0295

Get it done online at your convenience, visit our website - www.fndc.govt.nz

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Far North District Council | Te Kaunihera o Tai Tokerau Ki Te Raki
Ph. 09 401 5200 | Fax. 09 401 2137 | Email. ask.us@fndc.govt.nz
Address. Memorial Avenue, Private Bag 752, Kaikohe 0440, New Zealand

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Heritage Area Overlays - Mapping Amendments																																																						
Identifier	Overlay Name	Planning Map (Panel Recommendation)	Description of change																																																			
Hearing 12	Paihia Heritage Area Overlay	<table><tr><th>Reference</th><th>Position</th><th>Submission No.</th><th>Submitter</th></tr><tr><td>1</td><td>Add</td><td>S409.038</td><td>Heritage New Zealand Pouhere Taonga</td></tr><tr><td>2</td><td>Remove</td><td>S330.002</td><td>The Paihia Property Owners Group</td></tr><tr><td>2</td><td>Remove</td><td>S565.001</td><td>The Paihia Property Owners Group</td></tr><tr><td>3</td><td>Remove</td><td>S330.002</td><td>The Paihia Property Owners Group</td></tr><tr><td>3</td><td>Remove</td><td>S450.001</td><td>Beil Family Trust</td></tr><tr><td>3</td><td>Remove</td><td>S565.001</td><td>The Paihia Property Owners Group</td></tr><tr><td>4</td><td>Remove</td><td>S29.007</td><td>The Paihia Property Owners Group</td></tr><tr><td>4</td><td>Remove</td><td>S330.002</td><td>Bayswater Inn Ltd</td></tr><tr><td>4</td><td>Remove</td><td>S565.001</td><td>The Paihia Property Owners Group</td></tr><tr><td>5</td><td>Remove</td><td>S330.002</td><td>The Paihia Property Owners Group</td></tr><tr><td>5</td><td>Remove</td><td>S565.001</td><td>The Paihia Property Owners Group</td></tr><tr><td>5</td><td>Remove</td><td>S532.001</td><td>Don Mandeno</td></tr></table>  HERITAGE LINZ Data Services Consent is based on information from LINZ Data Services and is not a guarantee of accuracy. It is not a legal document and should not be relied upon for legal purposes. The map is for information only and does not constitute a legal document. The map is for information only and does not constitute a legal document. Heritage Submissions - Paihia Submission Numbers: S29, S330, S409, S450, S532, S565  FAR NORTH DISTRICT COUNCIL Add areas shown in green (circled in orange) to the overlay Part B. Disregard areas shown in green and red (with orange crosses) i.e. do not add or remove these areas. Refer Recommendation Report 12 at section 4.4.3 recommendation 1(c).	Reference	Position	Submission No.	Submitter	1	Add	S409.038	Heritage New Zealand Pouhere Taonga	2	Remove	S330.002	The Paihia Property Owners Group	2	Remove	S565.001	The Paihia Property Owners Group	3	Remove	S330.002	The Paihia Property Owners Group	3	Remove	S450.001	Beil Family Trust	3	Remove	S565.001	The Paihia Property Owners Group	4	Remove	S29.007	The Paihia Property Owners Group	4	Remove	S330.002	Bayswater Inn Ltd	4	Remove	S565.001	The Paihia Property Owners Group	5	Remove	S330.002	The Paihia Property Owners Group	5	Remove	S565.001	The Paihia Property Owners Group	5	Remove	S532.001	Don Mandeno
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5	Remove	S532.001	Don Mandeno																																																			

Attachment 3

Detailed submission

Background:

A) Previous District Plan Review – 2000-2015

In the year 2000 the Paihia Heritage Precinct Support Society (PHPSS) made a submission in response to FNDC's previous District Plan Review seeking a heritage precinct to apply to all of the land fronting Paihia's Marsden Road between School Road and King's Road, as well as the Mary Williams House and Gardens site and the Village Green.¹ FNDC's decision to reject that submission was appealed by the PHPSS to the Environment Court (EC) which led to a mediated resolution and resulting EC issued Consent Order in 2006². The 2006 Consent Order required FNDC to create the 'Paihia Mission Heritage Area' (PMHA) over twelve Marsden Road properties; being all the properties between and including 36 Marsden Rd and 3 Kings Rd (that has frontage on Marsden Rd) and including the 'Herald' commemorative plaque site that fronts Marsden Rd between No.s 1 & 3 Kings Rd.

The 2006 Consent Order also recorded that:

*"The respondent (Council) has resolved to commence a plan change process by 31 July 2006 to look at the provision for historic heritage in Paihia more generally, giving consideration to all of the land between School Road and Kings Road, except for 40 Marsden Road. ..."*³

FNDC's commitment to this narrowly focussed plan change (that became known as 'Plan Change 12' or 'PC12') led to very thorough research into the historic heritage of the Paihia township area, and consideration as to what did and didn't warrant protection in that area. This research progressed in several phases spanning the 14 years from 2000 through 2014; the latter period related to Environment Court⁴ (EC) and High Court⁵ (HC) challenges. Many expert reports and filings were generated as a result of this prolonged period of research and the contested assessment as to what district plan provisions would best satisfy the objectives of the RMA. The relevant reports and filings that PPOG is aware of include the following:⁶

¹ 'OPENING SUBMISSIONS FOR FAR NORTH DISTRICT COUNCIL' (re 2013 Guyco EC Appeal), 4 November 2013, (hereinafter 'Guyco FNDC Opening') at para 12

² Consent Order issued by the Environment Court at Auckland, dated 16th January 2006, (hereinafter '2006 Consent Order')

³ 2006 Consent Order *ibid*, Point No. 2.

⁴ [2014] NZEnvC 129, Guyco Holdings Limited & others and Paihia Heritage Precinct Support Society vs the Far North District Council, (hereinafter '2013 Guyco EC Appeal and '2014 Guyco EC Judgement')

⁵ [2014] NZHC 3328, TW Reed & Dalling Investments and PHPSS vs FNDC, (hereinafter '2014 HC Judgment')

⁶ Items i. through vi. as referenced in the 'Statement of Evidence of Gregory Hector Wilson on behalf of FNDC, dated July 2013 in relation to the 2013 Guyco EC Appeal.

- i. "Assessment of Heritage Management Issues in Paihia: Issues and Options Paper" dated April 2008 prepared by Barnes & Associates Limited;
- ii. The New Zealand Historic Places Trust report titled "Paihia Heritage Precinct Proposals - Response Document", February 2009;
- iii. Far North District Council, Preliminary Consultation Summary Report following a 2009 questionnaire process;
- iv. "Paihia Mission Heritage Area - Evaluation of Alternative Planning Controls", dated September 2011 prepared by Brown NZ Limited;
- v. PC12 Section 32 Report and Planners Report (dated 2012)
- vi. PC12 Independent Commissioner's Report (dated December 2012)
- vii. Statement of Evidence of Bryan Dudley Gilling (historian, academic and lawyer) dated 5 August 2013 [re the 2013 Guyco EC Appeal];
- viii. Statement of Evidence of Simon Stanley Milne (Professor of Tourism) dated 12 August 2013 [re the 2013 Guyco EC Appeal];
- ix. Statement of Evidence of Dennis John Scott (Landscape Architect and Planning and Design Consultant) dated August 2013 [re the 2013 Guyco EC Appeal];
- x. Statement of Evidence of Stephen Kenneth Brown (qualified town planner and landscape architect) dated 12 July 2013 [re the 2013 Guyco EC Appeal];
- xi. Statement of Brian Willam Putt (qualified town planner) dated August 2013 [re the 2013 Guyco EC Appeal];
- xii. Statement of Wendy Elizabeth Davies (landscape architect & heritage consultant & descendent of Henry Williams) dated 2 August 2013 [re the 2013 Guyco EC Appeal];
- xiii. Evidence of Kirsty Evelyn McGill, (great great granddaughter of Henry Williams), dated 14 August 2013 [re the 2013 Guyco EC Appeal].

The PC12 process also involved substantive stakeholder consultation in multiple phases prior to FNDC preparing a s.32 report leading to the drafting and subsequent formal notification of the PC12 plan change on 28th June 2012.⁷

The consultation involved all the key stakeholder groups, including:

- affected landowners,
- the property owners' representative group, the Marsden Road Property Owners' Association,
- the Paihia Heritage Precinct Support Society,
- the New Zealand Historic Places Trust,

⁷ As stated in 'Opening Submissions from FNDC' dated 4 November 2013 [in relation to the 2013 Guyco EC Appeal] (hereinafter 'FNDC's Guyco Opening') at para 58.

- the Paihia Haven of History Charitable Trust, and
- tangata whenua ⁸.

FNDC's opening address in the 2013 Guyco EC Appeal devotes a whole section to describe the comprehensiveness of the stakeholder consultation and concludes by asserting that:

*".... the consultation process embarked on and completed over some six years was thorough, measured and objective. It was entirely appropriate given the importance of the outcomes to all of the parties involved."*⁹

A Hearing was held in relation to the notified PC12 in late 2012 before Commissioner Childs, who released his recommendations in December 2012.¹⁰ FNDC made its decisions on PC12 in accordance with Commissioner Child's recommendations leading to the Decisions Version PC12 being notified in February 2013.

The Decisions Version PC12 proposed that the PMHA be retained as the area prescribed by the 2006 Consent Order – herein referred to as 'PMHA-2013' and as illustrated in Figure 1 below. The Decisions Version PC12 included some reduced development restrictions as compared to those imposed by the 2006 Consent Order.



Figure 1, Paihia Mission Heritage Area (PMHA) per 2006 Consent Order and Decisions Version PC12, February 2013 ('PMHA-2013')

⁸ FNDC's Guyco Opening at para 19 referencing the FNDC report titled 'Far North District Council, Preliminary Consultation Summary Report' pp64-83 & tab2 pp6-7

⁹ FNDC's Guyco Opening ibid at paras 19-24

¹⁰ As stated in FNDC's Guyco Opening ibid at para 58

In March 2013 FNDC's PC12 decisions were appealed to the EC by two parties leading to a three-day hearing in Paihia in November 2013 and resulting in an EC judgment dated 13th, June 2014¹¹ (hereinafter referred to as the '2013 Guyco EC Appeal' and the '2014 Guyco EC Judgement'): The two initial appellants being:

- parties led by Guyco Holdings Limited representing owners of some of the properties within the PMHA-2013 area, arguing for the removal of the PMHA altogether and for other related lessening of development restrictions for their properties, and
- the PHPSS arguing that the tighter development restrictions per the 2006 Consent Order should be adopted and opposing all of Guyco et al's appeal points.

Three other s.274 parties joined the 2013 Guyco EC Appeal; being two groups broadly siding with PHPSS, and Mr Don Mandeno who owns the property at 22 Marsden Rd, siding with Guyco. (Mr Mandeno subsequently was a party to PPOG's 2022 PDP submission (S565) that this current appeal relates to. Mr Mandeno also made his own PDP original submission (S532) and gave evidence at the PDP Heritage Hearing on May 27th, 2025 as to why he considered his particular property should not be encumbered by a HA Overlay.)

The 2013 Guyco EC Appeal concluded with the Court finding that the only properties that warranted being subject to management for the purposes of s.6(f) of the RMA by way of inclusion in a HA were those that actually contained a Scheduled Heritage Resource (ie those located at 28 and 36 Marsden Rd) and the properties directly proximal to them other than 40 Marsden Rd¹². The EC also found that the Herald plaque site was not sufficiently significant, and was adequately protected by other means, not to need to be a part of a HA. The EC therefore ruled in a decision dated 13th, June 2014, inter alia, that:

*"The PMHA Overlay to be deleted from Numbers 16, 18, 20 and 22 Marsden Road, Number 3 Kings Road, and the site of the plaque commemorating the launching of the supply ship "Herald"."*¹³

40 Marsden Rd (on which is sited a bar/restaurant commercial premises) while being proximal to 36 Marsden Rd (that contains St Paul's Church & historic graveyard as well as the Henry Williams Memorial) had already been excluded from PMHA-2013 by the 2006 Consent Order which set bespoke development conditions for that particular property.

The owners of properties at 24 & 30 Marsden Rd, that had failed to have the PMHA removed from their particular properties, appealed the 2014 Guyco EC Judgment in the

¹¹ [2014] NZEnvC 129, Guyco Holdings Limited & others and Paihia Heritage Precinct Support Society vs the Far North District Council, (hereinafter 'Guyco EC Judgement')

¹² Guyco EC Judgement ibid at paras 87 & 88

¹³ Guyco, EC Judgement ibid at A. ii) on p2.

High Court (HC). The PHPSS joined the HC case as a s.301 party in support of FNDC as respondent.¹⁴ The HC ruled against that appeal on December 18th, 2014. Consequently, the FNDC resolved to adopt PC12 as modified by the 2014 Guyco EC Judgement with an effective date of June 4th, 2015; ie with the PMHA as shown in Figure 2 below¹⁵.

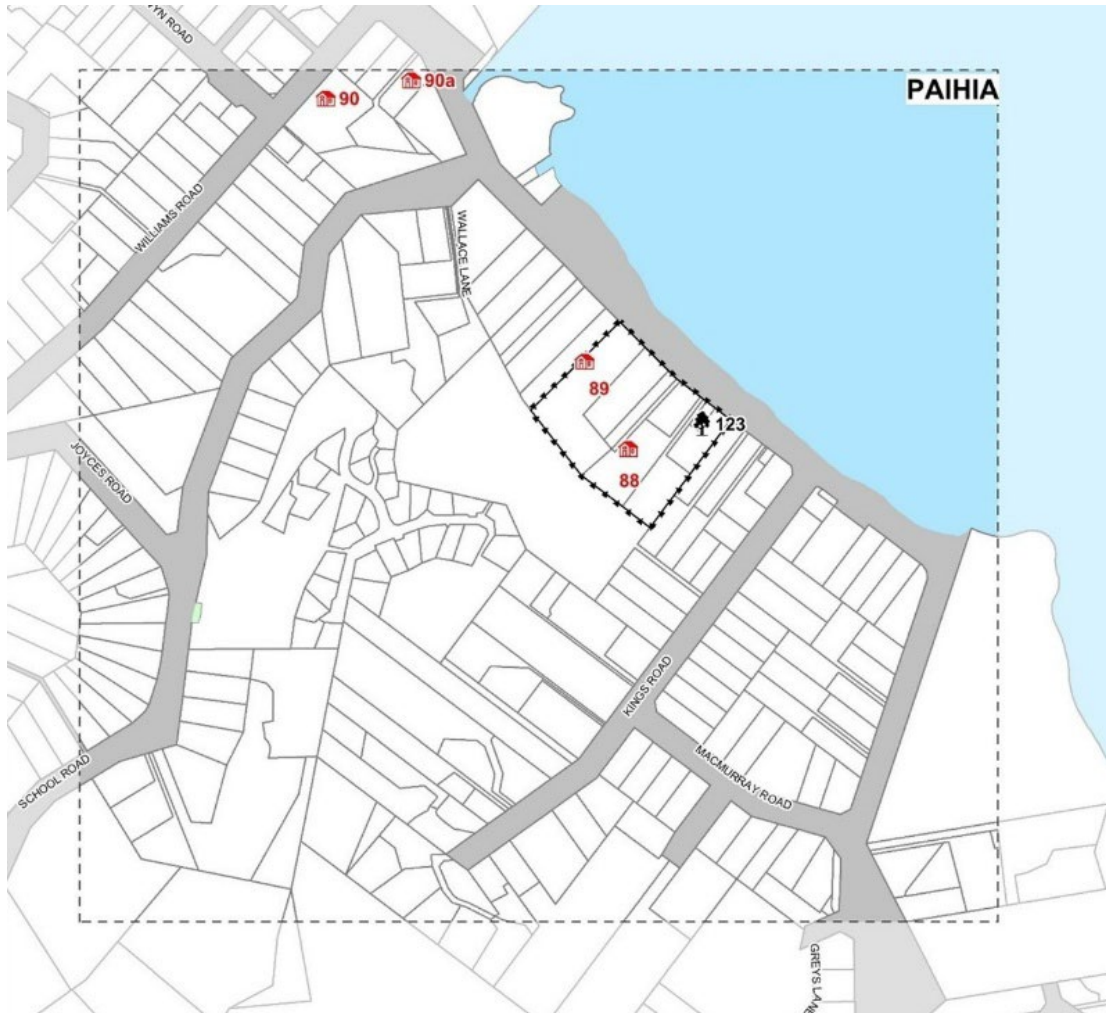


Figure 2, Paihia Mission Heritage Area per FNDC's Operative District Plan ('PMHA')

Consequently, as of today the PMHA, per the ODP, is the only fully operative heritage area or heritage precinct for the Paihia area as a whole. It is actually the only Heritage Area in the ODP, while the ODP features nine Heritage Precincts in areas other than Paihia. The distinction that was made being that the Paihia area didn't have the number and concentration of heritage resources of significance to warrant the greater degree of protections afforded Heritage Precincts in the ODP. The conclusion that Paihia didn't warrant Heritage Precinct status was in accordance with advice FNDC had received from The New Zealand Historic Places Trust ('HPT') who advised that:

¹⁴ [2014] NZHC 3328, TW Reed & Dalling Investments and PHPSS vs FNDC, (hereinafter 'Reed HC Judgment')

¹⁵ FNDC Public Notice posted pursuant to a resolution passed by FNDC at a Council meeting held on April 23rd, 2015 stating that Plan Change 12 would become operative on 4 June 2015.

"there appears to be none of the early nineteenth Century structures surviving on which to found a heritage precinct".¹⁶

The same report concluded that:

"there are not enough remaining historic buildings and other remnants to require the creation or retention of a Heritage Precinct"¹⁷

As the expert Town Planner witness for Guyco in the 2013 Guyco EC Appeal, Mr Brian Putt, noted in his statement of Evidence [with emphasis added]:

".... the historic sites, buildings and objects of Paihia are already scheduled and protected. Part 12.5A Heritage Precincts, introduces a technique into the Plan where nine precincts have been identified as having clusters of historic buildings that in association with their immediate environment have special amenity and character in addition to the heritage values. These are the precincts spread across the early settled part of the Bay of Islands but do not include Paihia. Paihia enters the Plan at Part 12.5B as now revised through Plan Change 12 as a heritage area being identified in the district as having several resources of historic importance.

It is noteworthy that at Part 12.5.2 Outcomes Expected, sub-section 12.5.2.5 does not include Paihia as a place recognised and to be retained for its heritage values."¹⁸

FNDC itself also has conceded that Paihia is distinguished from other areas of the district that are more deserving of heritage related protections, as FNDC's Senior Policy Planner, Mr Greg Wilson noted in his evidence in the 2013 Guyco EC Appeal:

"In my opinion, District Plan recognition of special attributes and values of this locality as a "Heritage Area" is appropriate. This is a lesser order of recognition than that provided in the plan for Heritage Precincts. Chapter 5A of the District Plan sets out the provisions for Heritage Precincts

'Heritage Precincts have been identified as having clusters of historic buildings, that, in association with the immediate environment,- have special amenity and charcter in addition to their heritage values. (12.5A Heritage Precincts - Context)'

The Paihia Mission Heritage Area does not possess the density of intact heritage resources that are evident elsewhere in the District and that are afforded protection through the District Plan provisions in "Chapter 5A Heritage Precincts"

¹⁶ The New Zealand Historic Places Trust report titled "Paihia Heritage Precinct Proposals - Response Document", February 2009, (hereinafter 'HPT's 2009 Report') at para 10.

¹⁷ HPT's 2009 Report *ibid*, as stated in Stephen Brown's Statement of Evidence dated 12 July 2013 (in relation to the 2013 Guyco EC Appeal) at para 31.

¹⁸ Statement of Brian Willam Putt (qualified town planner) dated August 2013 [re the 2013 Guyco EC Appeal] at paras 4.19 - 4.20;

and the degree of control under Proposed PC12 is moderated to respond to the key attributes that require protection.”¹⁹

The PMHA in the ODP encompasses just six properties; being properties addressed as 24, 26, 28, 30, 34 & 36 Marsden Rd. As annotated in Figure 2, there are just two scheduled Heritage Resources and one Scheduled Notable Tree within the PMHA, these being:

1. at 36 Marsden Rd: Church of St Paul & Henry Williams Memorial (corresponding to DVPDP Heritage Resource item #89 and Heritage List items #3824 and #3836), and
2. at 28 Marsden Rd: The ruins of William Williams’ House & Colenso Printing Workshop (corresponding to DVPDP Heritage Resource item #88 and Heritage List items #403 & #404), and
3. at 24 Marsden Rd: a Norfolk Pine tree (corresponding to DVPDP Notable Tree #123).

¹⁹ Statement of Evidence of Gregory Hector Wilson on behalf of the FNDC [re the 2013 Guyco EC Appeal], dated July 2013, at para 121

B) Current District Plan Review – 2016-2026

FNDC initiated the current district plan review in 2016 as required by s.79 of the RMA.

In relation to heritage matters, FNDC conceded it had no inhouse expertise²⁰ and so in 2019 it engaged Plan.Heritage Limited, owned and operated by Mr John Brown and his partner Ms Adina Brown (hereinafter ‘the Browns’) as purported heritage experts to:

“... undertake a review of ‘Historic Heritage Areas’ in the District, comprising the Heritage Precincts, Heritage Areas and the Waimate North Special Zone.”²¹

The product of this review was two reports authored by the Browns, both dated June 2020. The second of the two reports, which was labelled '*Rapid Assessment Reports*'²² included the proposal for a much-expanded Paihia heritage area as compared to the PMHA in the ODP, per Figure 3 below. The text of the Rapid Assessment Reports also proposed including the Waitangi Island group located offshore Paihia, although that recommendation wasn't reflected in the Browns' associated map of their proposed Paihia heritage area.



Figure 3, Paihia Heritage Area as proposed by Plan.Heritage Limited (i.e. by the Browns)

²⁰ Statement by FNDC's then CEO Shaun Clarke ONZM in its internal "Weekender " publication dated 17 September 2021

²¹ As stated in the Plan.Heritage report titled: "FAR NORTH DISTRICT PLAN REVIEW, HISTORIC HERITAGE, STAGE ONE BACKGROUND RESEARCH" dated June 2020, p4

²² Plan.Heritage report titled: “FAR NORTH DISTRICT PLAN REVIEW, HISTORIC HERITAGE, STAGE TWO RAPID ASSESSMENT REPORTS”, dated June 2020 – herein after referred to as the ‘Rapid Assessment Reports’

In April 2021 the FNDC published a Draft PDP which proposed a heritage area for Paihia per Figure 4 below; i.e. exactly as proposed by the Browns per the map presented in their Rapid Assessment Reports, representing a huge expansion on the PMHA per the ODP.

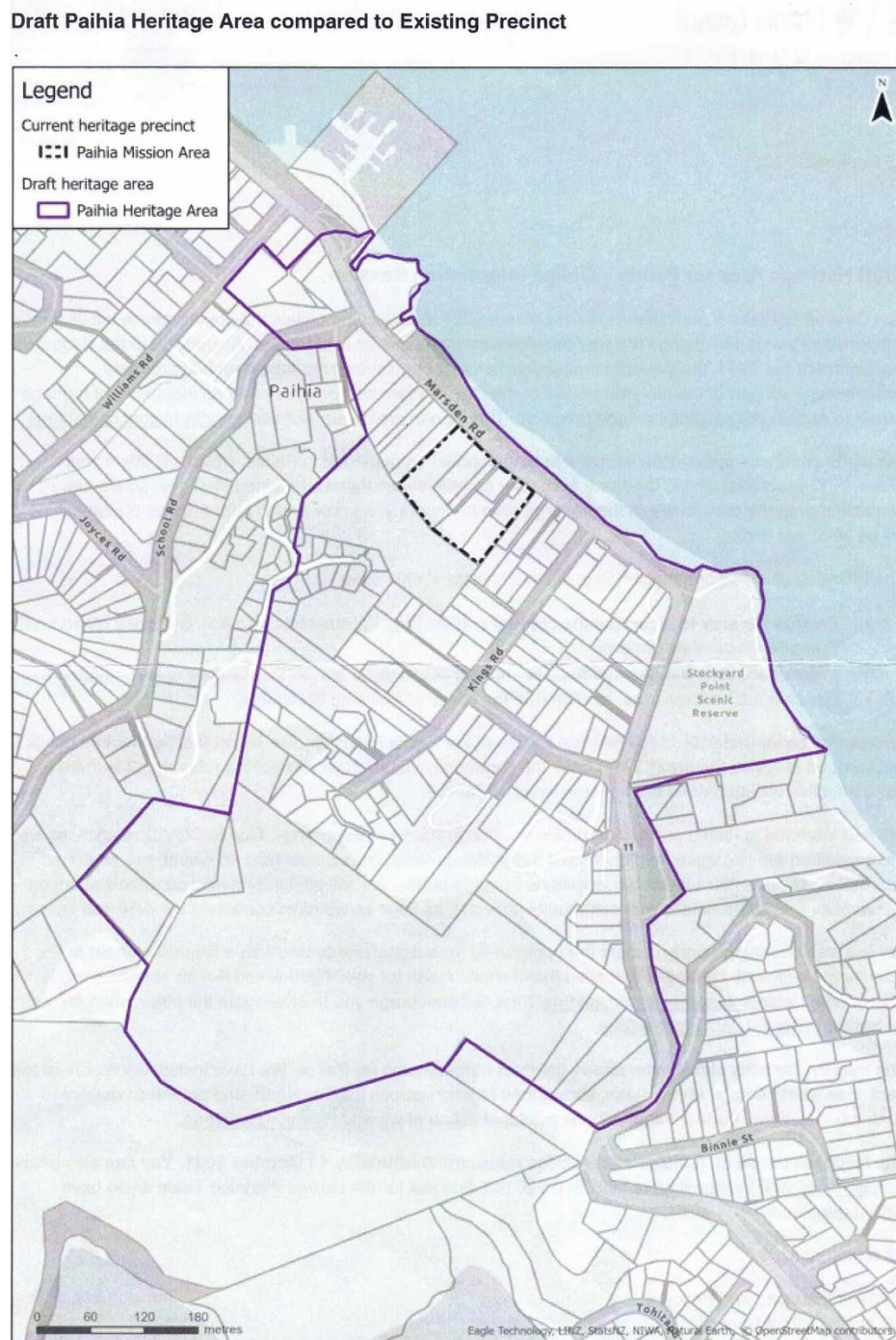


Figure 4, Paihia Heritage Area as proposed in FNDC's 2021 Draft PDP

(Note FNDC's erroneous labelling "Current Heritage Precinct" where in fact the ODP includes the Paihia Mission Heritage Area (PMHA) but no Paihia Heritage Precinct)

FNDC formerly Notified its PDP in June 2022. As a result of community feed-back on the Draft PDP that evidenced community concern about restrictive planning rules proposed for the new expansive heritage areas, the Notified PDP differentiated Part A and Part B areas for various of the heritage areas, including for Paihia, where there are to be less restrictive rules for the B areas. However, the areal extent of the total heritage area intended for Paihia ('PHA') in the Notified PDP was identical to the Draft PDP per the Browns' proposal.

One of the two PHA Part A ('PHA-A') areas mimics the PMHA per the ODP. The other PHA-A area captures largely reserve land further north including the Flagstaff Hill Recreation Reserve (aka 'Maiki' Hill), the former Carlton House site, Williams House (built by Henry William's grandson in 1920) and the Mary Williams Garden. Including this second PHA-A area largely adopts one of PHPSS's original proposals that FNDC had rejected two decades earlier.

This present appeal does not relate to the two PHA-A areas, that in total encompass 11 properties²³ or the offshore island components of the Part B areas ('PHA-Islands'). The PPOG considers that those areas should be the extent of the PHA. This appeal only concerns the onshore Part B area ('PHA-B') that is an area of 38.85 Ha encompassing 204 properties including 179 rateable properties²⁴.

FNDC formerly Notified its Decisions Version PDP ('DVPDP') on June 30th, 2026. Other than some very minor adjustments, and notwithstanding submissions opposing the areal extent, the area of PHA in the DVPDP is as proposed by the Browns in their June 2020 'Rapid Assessment Reports', as shown in Figure 5 below.

²³ This number of properties within the PHA-A areas is as stated in an email sent on May 14th, 2025 by FNDC's Alicia-Kate Taihia in answer to a question put to her by Don Mandeno.

²⁴ *ibid*. However it is noted that while FNDC stated that there are 204 properties within the PHA-B per the above quoted May 14th 2025 email, the s.32 report on p31 states there are 148 properties. PPOG does not know which if either statement is correct or what definition of 'properties' has been assumed in either statement.

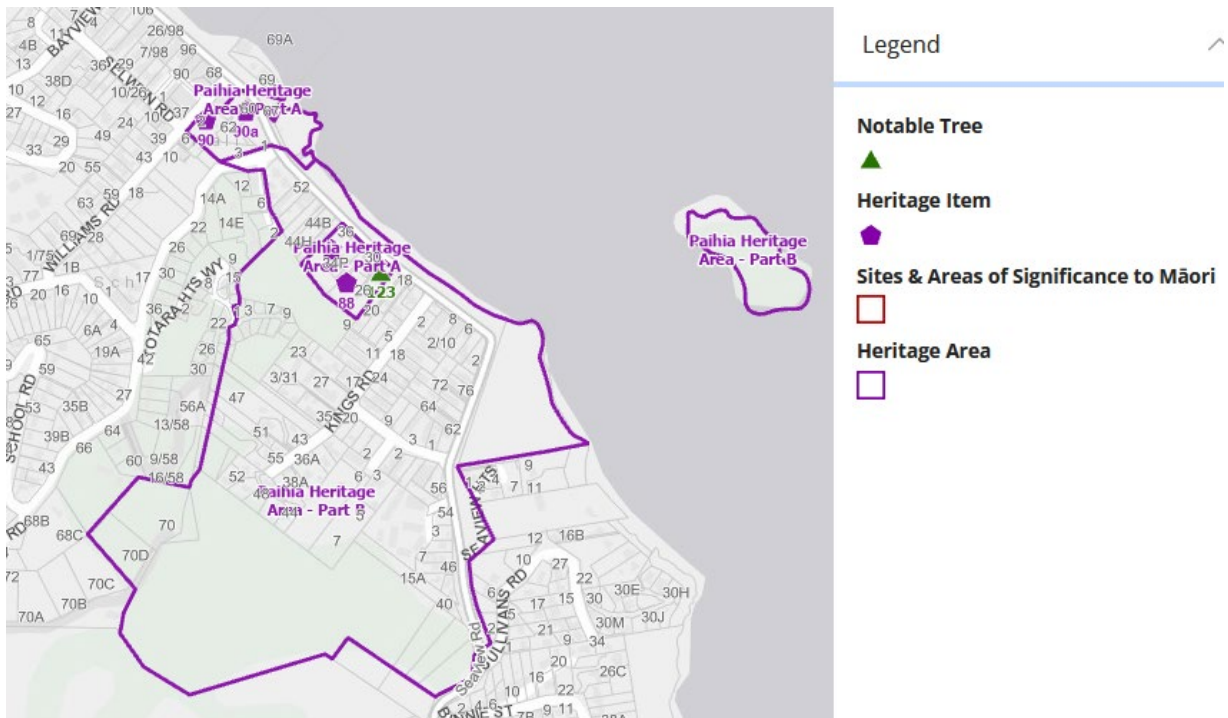


Figure 5, Paihia Heritage Area per FNDC's Decisions Version PDP ("PHA") (three small Waitangi Group islands that are included as Part B to the NE are not shown in this figure)

Reasons for Appeal

PPOG highlights ten reasons why the PHA in the DVPDP should not include the PHA-B area. These reasons are discussed in turn below.

- 1) In Summary: The area of the Appeal Properties (PHA-B) contains no Heritage Resources or any other known items of notable cultural or heritage significance, and consequently it is devoid of historic heritage values warranting management for the purposes of s.6(f) of the RMA.**

Supporting Information:

PPOG identifies a maximum of 21 known items that might be regarded as cultural or heritage items within the total PHA area, as tabulated in Table 1, overpage. This list combines all relevant items listed in:

- Schedules 1, 2 & 3 of the DVPDP²⁵, and
- the national 'Heritage List'²⁶, and
- NZAA ArchSite database.²⁷

As FNDC pointed out in the 2013 Guyco EC Appeal, not every item that is identified from such lists of items rise to the level of significance to require protection under s.6(f) of the RMA. As Ms Baguley, Counsel for FNDC, stated in reference to the definition of Historic Heritage per s.2 of the RMA:

*"Not every historic site, structure, place or surrounding will meet the threshold test of being 'historic heritage'. It is only those sites, structures, places, surroundings "which contribute to an understanding and appreciation of New Zealand's history and cultures"."*²⁸

²⁵ Schedule 1 of the DVPDP being the list of Notable Trees, Schedule 2 being the list of Historic Sites, Buildings and Objects, and Schedule 3 being the list of Sites and Areas of Significance to Māori.

²⁶ 'Heritage List' meaning the 'New Zealand Heritage List/Rārangī Kōrero' as defined in the Heritage New Zealand Pouhere Taonga Act, 2014 (herein 'HNZPT Act')

²⁷ NZAA ArchSite: The New Zealand Archaeological Association Site Recording Scheme online database; <http://www.archsite.org.nz>

²⁸ FNDC Guyco Opening *ibid*, at para 36

Note This table is intended to be printed A-3 size to facilitate ledgibility

Note This table is intended to be printed A-3 size to facilitate legibility																			
Table 1. Pahlia Heritage Area - Cultural & Heritage Items Identified by Pahlia Property Owners Group.																			
POO No.	Which Pahlia Heritage Area	Releasable? (Y/N)	DVPDP Scheduled Resource or Non-Release Item #	HKZPT Release List item No.	NZAA Archaeological Site (ArchSite) No.	Site Name	ArchSite 'Site Type' designation	ArchSite 'Ethnicity' designation	ArchSite 'Site Periods' designations	ArchSite 'Condition Value' designation	Comments	Street Address	Parcel Legal Description	Record of Title	Owner	DVPDP Zone	Gazetted Designation	Significant Cultural & Heritage Item? (y/n)	
1	PHA-A (PHMA)	N	89	3824 & 3836	Q05/1475	St Paul's Cemetery	Religious	Combination	Contact 1789-1840, Contact 1840-1900, Modern 1900-	Fair	Lot includes St Paul's Church & Henry Williams Memorial tree planted circa 1880 by Elizabeth Colenso (née Fairburn). Don Mandeno who owns the neighbouring property at 22 Mauden Rd is also included in Williams' title deed by Henry Williams grandfather in 1920 & Mary Williams in 1930. Also includes Colenso printing workshop ruins	36 Mauden Rd	Lot 8 Block I DP 1217	NA397/50	Anglican Church	Mixed Use	n/a	Y	
2		N	123	No corresponding ArchSite listing		Norfolk Pine						24 Mauden Rd	Lot 3 DP 38287 SD	NA653/69	Crown (vested in FNOC?)	Mixed Use	Williams Historic Reserve	Y	
3		Y	88	403 & 404	Q05/1078	William Williams House ruins	Historic-Domestic	Non-Māori	Contact 1789-1840	Good (?)			28 Mauden Rd	Lot 5 DP 38287	NA1116/139	Pahlia Heaps of History Charitable Trust -	Mixed Use	n/a	Y
4	PHA-A	N	7602		Q05/783	Flagstaff Hill	Midden/oven	Māori	Indigenous pre-1769	No recent info	On Flagstaff Hill Recreation Reserve	67 Mauden Rd	Section 5 Block IV Kawakawa SD	No Title	Crown (vested in FNOC?)	Open Space	Pahlia Domain	N	
5		N	7602		Q05/814	n/a	Pit/Empire	Māori	Indigenous pre-1769	No recent info	Located on the Flagstaff / Maiki Hill 10m above sea level	67 Mauden Rd	Section 5 Block IV Kawakawa SD	No Title	Crown (vested in FNOC?)	Open Space	Pahlia Domain	N	
6		N	90	3838 & 3830 & 7278	Q05/1294	Carlton House	Historic-Domestic	Combination	Colonial 1840-1900	Fair	Carlton House Williams' title deed by Henry Williams grandfather in 1920 & Mary Williams in 1930.	2 Williams Rd	Lot 1 DP 57340	NA12C/305	Crown (vested in FNOC?)	Open Space	Williams House and Gardens Historic Reserve	Y	
7		N	90A		No corresponding ArchSite listing		Village Green					1 School Rd & 60-64 Mauden Rd	Lot 2-5 DP 37340, Lot 1 & 3 DP 3830 & NA343/255	NA12S/258, 307, 308 & NA343/255	Crown (vested in FNOC?)	Open Space	Pahlia Village Green	Y	
8	PHA-B (lands)	N		7560	Q05/4	Motunake (Island)	Pa	Māori	Not stated, presume Indigenous pre-1769	No recent info	One of two Pa on the semi-detached pair of Motunake islands which are part of the group of "Waikangai Islands" offshore Pahlia	n/a	Section 8 Block IV Kawakawa SD	No Title	Crown (vested in FNOC?)	Natural Open Space	Motunake Historic Reserve	Y	
9		N		7560	Q05/12	Motunake (Island)	Pa	Māori	Not stated, presume Indigenous pre-1769	No recent info	One of two Pa on the semi-detached pair of Motunake islands which are part of the group of "Waikangai Islands" offshore Pahlia	n/a	Section 8 Block IV Kawakawa SD	No Title	Crown (vested in FNOC?)	Natural Open Space	Motunake Historic Reserve	Y	
10		N		7561	Q05/1355	Motu o Rangū (Island) aka Moturahi Island	Pa	Māori	not stated, presume Indigenous pre-1769	No recent info	Motu o Rangū (Motunake Island) is in the grouping of islands known as Waikangai Islands offshore Pahlia	n/a	Section 32 Block I Russell SD	No Title	Crown (vested in FNOC?)	Natural Open Space	Bay of Islands Maritime and Historic Park	Y	
11		N		7600	No corresponding ArchSite listing		Kuia Rongurui (Islet) (aka Taylor Island)					Kuia Rongurui (Taylor Island) is in the grouping of islands known as Waikangai Islands offshore Pahlia	n/a	Kuia Rongurui Island Block	483338	Presum Māori Trustees	Māori Purpose - Rural	Māori Reservation for the purposes of a Landing Place, Fishing Ground, and Recreation Ground	Y
12	PHA-B	N		Q05/1510		Heard Ship Building Site	Historic - land parcel	Combination	Contact 1789-1840 Colonial 1840-1900	Below Surface	Speculative based on findings from 8 test pits dug in 2013	Front of 3 Kings Rd	Lot 1 DP 37470?	NA82/282	The Waikangai National Trust Board	Mixed Use	n/a	Y	
13		N		Q05/870		n/a		Māori	Indigenous pre-1769	Fair	Site Features described as "Foundations, House floor slab", location uncertain	Seaview Rd	Lot 1 DP 11101	NA147/298 (leased in 1884 & vested in 2010)	Crown (vested in FNOC?)	Natural Open Space	Bay of Islands Maritime and Historic Park	N	
14		N		Q05/989		n/a		[not recorded]	[not recorded]	No recent info	Site Features described as "Foundations, House floor slab", location uncertain	9 Kings Rd (down Row)	Lot 10 DP 38287	NA653/69	Crown (vested in FNOC?)	Natural Open Space	Pahlia Scenic Reserve	N	
15		N		Q05/1476		n/a		Combination	Indigenous pre-1769, Contact 1789-1840	Fair	Survey Comment: Two or more pits along the ridge/pit at approx 30m alt. In council reserve. May be related to early mesosony period when they placed four canyons on the hill."	9 Kings Rd (down Row)	Lot 10 DP 38287	NA653/69	Crown (vested in FNOC?)	Mixed Use	Pahlia Scenic Reserve	N	
16		N		Q05/1477		n/a		Combination	Indigenous pre-1769, Contact 1789-1840	Fair	Summary Comment: "Middens is ending out onto the beach. The area is approximately 10x10m. Other features may be present in the regrowth vegetation".	9 Kings Rd (down Row)	Lot 10 DP 38287	NA653/69	Crown (vested in FNOC?)	Mixed Use	Pahlia Scenic Reserve	N	
17		N		Q05/1554		Q05/1554	n/a	Artificial/rid	Non-Māori	Modern 1900-()	Fair	Wooden Culvert discovered in road reserve adjacent 13 Kings Rd	13 Kings Rd	LINZ Parcel ID: 5226236	No Title (Crown Land vested in FNOC)	Crown (vested in FNOC?)	r/a	Road Reserve	N
18		Y		Q05/889		Q05/889	Tē Kōlea Pa	Pa	Māori	Indigenous pre-1769	No recent info	A hearsay account of a possible Pa site on top of which Bedgood house was built in 1903. Coordinates listed appear incorrect.	6 Bedgood Close?	Lot 2 DP 119719	NA68D/600	Edward Adolf Ammerl & Ingelborg Ursula Marie Ammerl	Gravel Residential	n/a	N
19		N?		Q05/1338		Q05/1338	n/a	Midden/oven	Māori	Indigenous pre-1769	No recent info	A hearsay account of a shallow midden. Coordinates listed appear incorrect.	58 Seaview Rd (Scenic Hotel Bay of Islands premises)	Part/Lot 30 DP 1780	191738	Heads Investments Limited	Mixed Use	n/a	N
20		Y		Q05/1584		Q05/1584	n/a	Solo - Garden	Māori	Contact 1789-1840	Below Surface	possible old garden soil associated with pre-1824 Māori settlement on Pahlia Beach flat	1 Kings Rd	Lot 2 DP 25981	NA736/262	Leon Catherine Vickers	Mixed Use	n/a	N
21		Y (some)		Q05/1596		Q05/1596	PahliaWW2 Army Camp	Military (non-Māori)	Non-Māori	Modern 1900- (1941-44)	Destroyed	Temporary structures used to station troops in WW2	Multiple	Multiple	Multiple	Multiple	Multiple	n/a	N
Total No. of Significant Cultural & Heritage Items:															10				

The PPOG acknowledges that ten of the identified 21 items as listed in Table 1 above can be regarded as Significant Cultural & Heritage Items; i.e. items that do rise to the level of significance to deserve protection per s.6(f); these being items which are elements of one or more of the following:

- i) Scheduled Heritage Resources²⁹, or
- ii) Scheduled Sites or Areas of Significance to Māori³⁰, or
- iii) Scheduled Notable Trees³¹, or
- iv) Heritage List items, or
- v) Archaeological sites or items that are of national or regional significance.

Firstly, it should be noted that there is no Scheduled Sites or Areas of Significance to Māori within the entire PHA. Secondly it is noteworthy that New Zealand Historic Places Trust, the predecessor of HNZPT, stated in its 2009 report regarding Paihia: *“The built heritage within the heritage area is minimal.”*³²

Of the ten Significant Cultural & Heritage Items, nine are located within one or other of the two PHA-A areas or are associated with the PHA-Islands; i.e. all the areas that PPOG supports being part of the PHA. Only one of the ten Significant Cultural & Heritage Items is within the PHA-B area, that being the ‘Herald’ memorial plaque site. However that site is fully protected in any event on account of it being owned by the Waitangi National Trust Board and by the HNZPT Act, and also by way of various provisions of the DVPDP independent of the HA Overlay chapter. For those reasons the EC in 2006 required the Herald plaque site to be removed from the PMHA and it wasn’t reinstated via the PC12 process including per the 2014 Guyco EC Judgement and subsequent HC appeal.

There are nine other PPOG identified items that might be regarded as cultural or heritage items within PHA-B, but which can’t reasonably be regarded as Significant Cultural or Heritage Items and hence don’t warrant management per s.6(f). These nine items are all relatively minor and/or unverified NZAA listed sites or artefacts. They don’t correspond to any DVPDP Scheduled items or to any Heritage List items.

It is nevertheless important to look closely at these nine NZAA listed sites within PHA-B as their presence in the ArchSite listing is referenced in the relevant FNDC s.32 report to justify extending the heritage area beyond the PHA-A areas; i.e. to

²⁹ As ‘Scheduled Heritage Resources’ is defined in the DVPDP Definitions Chapter on p23 and as listed in Schedule 2

³⁰ As ‘Site and Area of Significance to Māori’ is defined in the DVPDP Definitions Chapter on p24 and as listed in Schedule 3

³¹ ‘Notable Tree’ as such are listed in DVPDP Schedule 1

³² NZ Historic Places Trust, Paihia Heritage Precinct proposals response document, para 7 (as cited in Guyco EC Judgement at para 22)

justify imposing a HA Overlay on the Appeal Properties as proposed by the Browns in their 2020 *Rapid Assessment Reports*.³³

As detailed in Table 1, it transpires that five of the nine sites are protected from damage or inappropriate development independent of them being within a HA by being located within reserves owned by the Crown; most of which are understood to be vested with the FNDC.

There are therefore only four identified items that might be regarded as cultural or heritage items located on the 179 privately owned rateable properties within the PHA-B area; corresponding to the following ArchSite listings:

- Q05/1338: Located at least in part within the built-up area occupied by the 'Scenic Hotel Bay of Islands' premises at 58 Seaview Rd. The relevant description of the site states:

"Four areas of shell (midden?) were exposed and modified on low ridge extending east into the small valley at the east end of Paihia Beach according to hotel caretaker (G. Smith). The information supplied was not specific but the shell areas were not described as large.";

This description characterises the 'site' as no more than hearsay historic observations of something which is no longer evident, and which is, in any event, not regionally significant.

- Q05/1584: Located at 1 Kings Rd (corner of Kings & Marsden Rds) owned by Leon & Catherine Vickers. Summarised in ArchSite as:

"possible old garden soil associated with pre-1824 Maori settlement on Paihia Beach flat".

This characterises the site as less than of substantial cultural or heritage significance.

- Q05/1596: Defines an area that encompasses the majority of the Marsden Rd / Paihia foreshore area that was used for defensive purposes in WW2 involving construction of a number of temporary structures. These structures were all removed by, or soon after, the end of WW2, and there is nothing left that could usefully be protected by a HA Overlay.³⁴
- Q05/889: An ArchSite entry for a purported Pa site referred to as "Te Koke"³⁵. The ArchSite coordinates listed coincide with a built-up area centred on 38

³³ 'SECTION 32 REPORT, Historical Heritage & Heritage Area Overlay', May 2022 (hereinafter 's.32 Heritage Report'), p49: "Significant number of archaeological and heritage sites have been recorded within the Paihia Overlay following the ODP, the spatial extent of the ODP [i.e. the PMHA] does not include all relevant sites."

³⁴ Personnel correspondence with Ian Palmer from Dr Bill Guthrie who was the principal historical researcher whose work led to this and other associated regional ArchSite entries related to WW2 operations and constructions

³⁵ Archsite entry Q05/589 gives "Te koke" as the 'Site Name'. This may be a misspelling of 'Te Koki' who was the principal rangatira of the Te Uri-o-Ngongo hapū of Ngāpuhi who encouraged the Church Missionary Society (CMS) to base itself at Paihia in the 1820s.

Kings Rd, as shown in Figure 6 below. This is sloping land well down from the local hilltop that is at 70 School Rd to the SW; i.e. an unlikely site for a Māori Pa.



Figure 6, Location of Q05/889 'Te Koke Pa' per NZAA Archsite

In contradiction to the recorded site coordinates, the site record states that the speculated Pa was “*beneath Fred Bedgoods[sic] house*”³⁶. This places the house, and hence the purported Pa site, in what is now the Bedggood Close locality; i.e. neither at the location per the recorded coordinates or on the hilltop at 70 School Rd.

The relevant ArchSite description of the site, provided by a G.E. Nevin of the Northern Harbour Board records:

“On small hillock in centre rear of Paihia Bay, behind the church. Fred Bedgood [sic] told me his father came from Waimate North, and built the house in 1904. He was told it was on Te Koke's pa (Koke being the northern Maori name for Owl). No artifacts, midden or structures had been found - well gardened.”

³⁶ “Bedgood” is an obvious misspelling of Bedggood. A ‘Bedggood House’ built in 1903-04 was at one time listed by the Historic Places Trust with a ‘D’ classification according to a 1991 article published by the Northern News; see : <https://fndclibraries.recollect.co.nz/nodes/view/3314>

The house described by Fred Bedggood, which was used in part as Paihia's first post and telegraph office, was relocated in circa 1991 to a site in Waipapa.³⁷

PPOG's formal enquiry to HNZPT regarding this purported Pa³⁸ had not been responded to by the filing date of this submission, but informally HNZPT's Northland Regional Manager, Mr Bill Edwards indicated no knowledge of any such "Te Koke Pa".

The NZAA ArchSite description of 'Te Koke's Pa' represents no more than vague second-hand hearsay about something for which no actual physical or documentary corroborating evidence exists; i.e. 'Te Koke' might fairly be described as a 'phantom Pa'.

FNDC's purported heritage experts (the Browns) nevertheless appear to have speculated that this ArchSite entry evidences the existence of a Maori Pa site on one or other of the hilltops above its ArchSite listed coordinates. On the strength of that speculation the Browns fixed the southern boundary of PHA-B accordingly, as evidenced by their statement in the section of their 'Rapid Assessment Reports' that justified their proposed HA boundaries:

"These assessments have led to recommendations for boundary adjustments within all of the Historic Heritage Areas The following high-level recommendations are identified for Paihia The forested high ground to the Southwest of MacMurray Road is included as an area of archaeological potential associated with the recorded location of Te Koke's Pa. this may be revised with future investigation.".³⁹ [emphasis added].

Until PPOG's own investigation as documented herein, no such 'future investigation' that the Brown's intimated in 2020 was needed, had been undertaken by FNDC or by its consultants or by HNZPT, or by any other qualified professional.

So, the southern boundary of the PHA-B has been set by FNDC in its DVPDP to encompass high-ground associated with a phantom Pa site. This is an entirely inappropriate basis to delimit the boundary of a HA Overlay and thereby impose s.6(f) management on all of the properties on and below that high ground.

FNDC's defense of the PHA-B relies on the existence of the above-described NZAA listed sites, which in turn they argue indicates a high potential for more sites to be uncovered.⁴⁰ However, as shown above, the known sites are not verifiable

³⁷ Per Northern News article *ibid*

³⁸ July 20th 2026 email from Ian Palmer to Mr Bill Edwards, HNZPT's Northland Regional Manager

³⁹ Rapid Assessment Reports *ibid*; pp4-5

⁴⁰ For example: Plan.Heritage authored report "HERITAGE AREA OVERLAYS: TECHNICAL REVIEW OF SUBMISSIONS (TO SUPPORT SECTION 42A REPORT)", p22 "*The provisions for Paihia Part B ... mainly seek to control new development in terms of the archaeological risk from development earthworks, new buildings near scheduled heritage places...*", and on p24: "*Spatially, the HA Overlays have in part been established due to the presence of recorded archaeological sites, and therefore there is an express recognition that, in these locations, there may be more potential to impact on subsurface archaeological features.*" and in FNDC's Reporting officer's report "SECTION 42A REPORT Officer's written right of reply 26 June 2025 Hearing

Significant Cultural or Heritage Items. It may be reasonable to speculate that more similar, or even more significant, sites associated with pre-colonial Maori occupation may well have existed in the area at one time. However, it needs to be appreciated that the area concerned was occupied by, and ‘worked over’, for three decades by the Church Missionary Society (CMS) after their arrival in 1823, and by the buildout of the Paihia township that has progressed ever since the land was subdivided and sold by the CMS in the 1890s. So, any such pre-colonial Maori archaeological sites that may have once existed are now highly likely to have been destroyed or highly modified by subsequent land use such that there now remains nothing deserving of s.6(f) protection.

Further, s.6(f) of the RMA is not intended to apply restrictive development controls on land based on speculation that some heritage resources could exist when there is no tangible evidence that there is any actual heritage resources present deserving of such protection. There are other more relevant and appropriate legal protections for heritage items that may be discovered in the future, but these do not entail imposition of heritage area overlays as part of a district plan. All Archaeological Sites⁴¹, whether currently known or unknown, are protected under the HNZPT Act as well as by the Accidental Discovery Protocol included in the DVPDP in chapters other than the HA Overlay chapter (i.e. per rules HH-R4 & EW-R1).

The 2013 Guyco Environment Court Case as Legal Precedent:

The 2013 Guyco EC Appeal and resulting 2014 judgement, which was confirmed after an unsuccessful 2014 HC appeal, clearly shows the EC & HC would not agree to include any other properties in a HA Overlay that were further distant from Heritage Resources than the properties that it required be deleted from PMHA-2013. It is difficult to imagine a court ruling that would be a more relevant legal precedent in determining the current appeal than the 2014 Guyco EC Judgement, given that:

- the relevant law has not changed since 2014, and
- the facts as to what heritage resources and values do and don’t exist in the area concerned have not changed since 2014, and
- all of the other properties within PHA-B are further distant from any Scheduled Heritage Resource than the six PMHA-2013 deleted properties, and
- as discussed above, the extended PHA-B area does not contain, and is not proximal to, any known or verifiable Significant Cultural or Heritage Items.

12 – Historic Heritage and Kororāreka Russell Township Zone”, p13: *“Mr Brown’s memo sets out his rationale for retaining the spatial extent of Paihia HA Overlay Part B as notified, which is primarily based on his analysis of historical mapping and recorded archaeological sites, which indicate high potential for more sites to be uncovered.”*

⁴¹ As ‘Archaeological Site’ is defined in the Heritage New Zealand Pouhere Taonga Act, 2014 (‘HNZPT Act’),

PPOG does not contest FNDC's right, and in fact it's obligation per s.79 of the RMA, to re-look at the question of what historic heritage in the Paihia area was deserving of s.6(f) management by way of a HA Overlay as part of its latest district plan review. However, after reviewing the substantial array of research reports and expert evidence produced in connection with PC12 and the associated Court cases (as listed under Background above) what sticks out more clearly than Rangitoto in the Haruaki Gulf is that FNDC's previous review of Paihia heritage was vastly more thorough and competent than this latest review. Similarly, the consultation with key stakeholders was far more fulsome and timely.

In stark contrast to that early research and consultation, FNDC's district wide 2019/20 review by its purported Heritage Experts, the Browns, was so superficial as to be regarded as not fit for purpose. None of the reports and filings associated with the previous review as listed under Background above were cited in the Browns June 2020 reports.

It may fairly be argued that each new s.79 district plan review should be a 'clean sheet' exercise as to what is appropriate as to policies and rules for an updated district plan. However, what is entirely unsatisfactory in any new review of the relevant issues is giving no consideration to previous studies, consultations and associated expert reports. In this case a massively large heritage area has been included in the DVPDP in seeming ignorance of the vastly more thorough and better informed prior work that concluded only a diminutive heritage area was warranted for Paihia.

To be fair to the Browns, their June 2020 reports weren't intended by them to be the definitive analysis on which new district plan overlays and rules would be based; it was only their preliminary assessment to focus what they intended to be the more appropriately in-depth review. But FNDC chose not to commission the in-depth review that the Browns clearly were recommending and anticipating per their June 2020 reports.

As one would therefore expect, the proposals that derived from this current district plan review, as transformed into rules and HA Overlay mapping in the DVPDP, are far less defensible than that which resulted from the earlier more thorough work as represented in the ODP which featured the PMHA that encompasses just six properties.

FNDC chooses to ignore that earlier thorough eight plus years of investigative and consultative work in preference to the preliminary investigations by less competent purported heritage experts to justify rejecting the EC and HC's conclusions that were reached after fiercely fought court proceedings. Not content to reinstate the six particular properties that the EC found in 2014 do not justify s.6(f) HA Overlay 'protection', FNDC seeks to similarly encumber a further 198 properties, including

176 ratable properties⁴² that are even further removed from any identifiable items of significant heritage value.

Absent a contrary ruling of a higher Court, the EC are bound to honor the precedent it set in the 2014 Guyco EC Judgement, and hence to grant the current appeal *in toto*.

⁴² Property numbers as per FNDC's Alicia-Kate Taihia May 14th 2025 email to Don Mandeno.

- 2) **In Summary:** The relevant s.32 analysis did not present an adequate justification for applying a HA Overlay to the Appeal Properties, including because it failed to identify the problem that the HA Overlay policies and rules are intended to cure.

Supporting Information:

The MfE has published detailed guidelines on how a s.32 analysis should be structured and what it should address.⁴³ It emphasises as the critical first and primary step the identification of the problem. This is discussed on 16 separate pages of the MfE guidance document, including a whole chapter titled 'Define the Problem'.⁴⁴ For example, MfE states:

*"The problem statement should identify what the key issue is, and in what way it isn't being addressed well at present."*⁴⁵

In the context of this appeal, the s.32 analysis failed to identify any specific problem, such as inappropriate development occurring or reasonably expected to occur in the area of the Appeal Properties in the absence of a HA Overlay and its attendant rules. Had the analysis considered the '*identify the problem*' requirement of s.32, it would have quickly become apparent that there is no problem needing new policies and rules to cure, and hence there is no legitimate justification for imposing a HA Overlay over the Appeal Properties. In coming to this conclusion, the analysis should have had regard for the plethora of planning rules that would apply to the Appeal Properties in the absence of a HA Overlay on account of the myriad of other policies and rules in all of the other (non-HA Overlay) PDP chapters; particular having regard to the specific zoning and other overlays that are applied to the Appeal Properties – as discussed further in Reason 6 below.

FNDC's s.32 analysis approach appears to regard the 'problem' as the absence of rules, which justifies imposing rules. But this amounts to mere circumlocution and is far removed from the concept of problem identification discussed at length in the MfE guidance document.

Beyond presenting background information, FNDC's s.32 analysis concentrated on comparing the pros and cons of four different conceptual ways to structure heritage protection and capture it in a district plan document; i.e. it compared four options it described as follows⁴⁶:

- Option 1: Operative Plan Approach,
- Option 2: Statutory provisions and non-statutory district plan map approach,

⁴³ Ministry for the Environment. 2017. "A guide to section 32 of the Resource Management Act: Incorporating changes as a result of the Resource Legislation Amendment Act 2017". Wellington: Ministry for the Environment (hereinafter 'MfE s.32 Guidance')

⁴⁴ MfE s.32 Guidance on p5, p6, p18, p20, p25, p26, Chapter 4.2 'Define the Problem' pp27-29, p34, p36, p38, p46, p51 & p53.

⁴⁵ Ibid p5.

⁴⁶ 's.32 Heritage Report' ibid, pp36-45

- Option 3: Proposed Approach, and
- Option 4: Do nothing - non-statutory approach.

From its comparison of these options, FNDC concluded the Proposed Approach was the best option. But the issue at the heart of this appeal is not the conceptual approach and how it should be structured and represented in the PDP document. PPOG has no issue with FNDC's rejection of the 'do nothing' and the two other conceptual approaches.

The key question relevant to this appeal that FNDC's s.32 report skims over, is:

What area justifies s.6(f) protection by way of HA Overlay imposition, and what would be appropriate HA specific policies and rules to put a stop to inappropriate development having regard to the particular heritage values of the area so identified?

The s.32 analysis simply assumes the purported heritage experts, the Browns, have undertaken the analysis to answer this question and reached valid conclusions as documented in their 'Rapid Assessment Reports'. Given the shortcomings of that report, this was a particularly flawed approach to a s.32 analysis that purports to justify imposing the PHA-B overlay on the Appeal Properties.

3) In Summary: FNDC relied on purported ‘Heritage Experts’ whose UK qualifications and professional experience made them unsuitable for what they were tasked to do.

Supporting Information:

The capability and competence of the consultants that FNDC has relied on for heritage advice in relation to the PDP is an important matter in assessing this appeal as the areal extent of the PHA-B area that PPOG is objecting to was entirely based on work undertaken and reported on by those consultants.

FNDC stated:

“Council does not have an inhouse heritage expert, therefore consulting firm Plan Heritage was engaged ...⁴⁷”

The Heritage s.32 Report states:

“The Plan Heritage assessment reports were completed in June 2020 and have informed the section 32 evaluation.”⁴⁸

It is understood the engagement of Plan.Heritage Limited was initiated by FNDC in mid-2019.

Plan.Heritage Limited was a NZ registered company owned and operated by husband-and-wife team, Adina Maree and John Edward Brown (herein ‘the Browns’). It was incorporated in August 2015 and placed into voluntary liquidation by the Browns in July 2025, with its creditors owed \$229k, including \$171k of unpaid tax owed to the IRD.⁴⁹ The Browns departed New Zealand and returned to the UK soon after they initiated the liquidation of their NZ consulting company, and it is understood they have no intention of returning to NZ to undertake any further consulting work.⁵⁰ The liquidation process of Plan.Heritage Limited is still proceeding.

While the Browns both had relevant academic qualifications, their training and most of their professional experience was gained in the UK⁵¹. It is understood they arrived in NZ and began offering consulting services in late 2015 soon after incorporating their NZ GST registered consulting company Plan.Heritage Limited.

Given the cultural and archaeological history of NZ is vastly different to UK from which the Browns’ qualifications and experience derived, PPOG assert that the

⁴⁷ In a 2021 (but undated) FNDC Briefing Note titled “Heritage Areas”, 2nd bullet point under the heading ‘Background’

⁴⁸ s.32 Heritage Report *ibid*, p15

⁴⁹ NZ Companies Office re PLAN.HERITAGE LIMITED (5789887) In Liquidation, document labelled “Six Monthly Liquidators Report”, dated 09 Feb 2026

⁵⁰ Per August 13th 2025 email from John Brown to Ian Palmer

⁵¹ Plan.Heritage website: <https://www.planheritage.co.nz/about-us.html>

Browns had inadequate NZ derived qualifications and experience for the role that FNDC engaged them to undertake.

The Browns' lack of relevant experience and NZ specific competency, especially in respect to NZ archaeological science, was demonstrated by the now infamous '*500mm Rule*' imbroglio. Specifically, in April 2025 (long after PDP submissions had closed) John Brown recommended to FNDC's PDP Heritage subject Reporting Officer that the PDP should adopt what became known as the *500mm Rule* for earthworks for all HAs.⁵² The *500mm Rule* would make earthworks of any magnitude in a HA generally a Permitted Activity if it would only disturb the soil to a depth of 500mm, but would require a Resource Consent if the activity would disturb the earth deeper than 500mm. The supposed logic being any significant undiscovered archaeological features were likely to be buried to a depth below 500mm.

The *500mm Rule* proposal was clearly Out of Scope⁵³ because:

- it represented a major conceptual change to what would otherwise apply as earthworks rules for HAs per the Notified PDP, and
- it was not proposed, and nothing like it was proposed, in any original or further submission, and
- it was proposed long after PDP submissions had closed.

The 'Out of Scope' character of the *500mm Rule* proposal would have been appreciated by any adequately experienced and competent expert participating in an RMA Schedule 1 process. However, FNDC's Reporting Officer in her s.42A report supported adoption of the *500mm Rule* entirely on the strength of John Brown's recommendation and in reliance on FNDC's designation of the Browns as the heritage experts for all PDP purposes.⁵⁴

⁵² Plan.Heritage's 'TECHNICAL REVIEW OF SUBMISSIONS' report *ibid*, p24 where it states: "*I therefore recommend that the HA Overlay earthworks rule is modified to manage depth as a permitted activity rather than use area or volume controls. In this instance, a depth of 500mm is suggested, as this accounts for turf cutting and topsoil, which is often already highly disturbed, in any case.*"

⁵³ As 'Out of Scope' has been established in case law; i.e. per NZHC [2017] 138 Albany North Landowners v Auckland at [115] quoting from NZHC [1994] 67 'Countdown Properties (Northlands) Ltd v Dunedin City Council': "*goes beyond what is reasonably and fairly raised in submissions on the proposed plan*".

⁵⁴ s.42 Report *ibid*, paras 273-275 (p70):

"I rely on the advice from Mr Brown in the Plan.Heritage report that there is no clear heritage-based reason why the different HA Overlays in the PDP should be subject to different earthworks controls, particularly different area and volume controls. Mr Brown discusses how the key control that will best protect any undiscovered heritage items under the ground is a depth control on excavation as opposed to a volume or area control. I rely on the advice of Mr Brown in the Plan.Heritage report thatthe only three permitted conditions that are necessary for earthworks in all HA Overlays are that the earthworks: a..., b... and c. Do not result in the disturbance of sub-soils below a depth of 500mm. I accept Mr Brown's advice in the Plan.Heritage report that applying these three PER conditions to all earthworks across all HA Overlays will protect most potentially undiscovered heritage items while still allowing most everyday earthworks to be permitted, provided they only involve shallow excavation."

Following the Heritage Hearing in late May 2025, FNDC's Reporting Officer in her s.42A 'Right-of-Reply' report doubled down on support for the *500mm Rule*, partly on the strength of encouragement to do so from comments made by the Hearings' Panel's Chair at the end of the Hearing.⁵⁵

At a public meeting held in Paihia on July 26th, 2025, HNZPT's Northland Regional Manager, Mr Bill Edwards, denounced the Browns' proposed *500mm Rule* as being contrary to New Zealand archaeological science. This science being, as any NZ qualified and competent archaeologist would know, human derived features in NZ typically exist shallower than 500mm on account of the relatively recent arrival of humans in NZ, in contrast to humans being present and working the land in the UK for hundreds of thousands of years. (The only exception in NZ being in relation to flood plains where thick sediment can accumulate quickly, but that clearly is not the environment associated with the PHA-B topography).

Following this and other post-Hearing public criticism of the *500mm Rule*, the Hearing's Panel announced as 'interim guidance' in late August 2025 that they would not recommend FNDC adopt the *500mm Rule*.⁵⁶ The final Hearings' Panel's recommendations report reaffirmed that interim guidance.

FNDC consequently did not adopt its heritage experts' proposed *500mm Rule* in the DVPDP. So, the earthworks rules for HAs specified in the DVPDP are as per the 2022 Notified PDP; i.e. there are no earthworks rules specific to HA Part B overlays that don't equally apply to areas not subject to such an overlay. This makes a mockery of the key stated justification for such overlays in the PDP which was supposedly the need to protect undiscovered subsurface archaeological features.

⁵⁵ SECTION 42A REPORT Officer's written right of reply 26 June 2025 Hearing 12 – Historic Heritage and Kororāreka Russell Township Zone, para 119(p33): "*I take the direction from Chairman Scott that, in principle, the Hearing Panel support the concept of using a depth control as a trigger for needing earthworks consent in the HA Overlay chapter*"

⁵⁶ PROPOSED FAR NORTH DISTRICT PLAN, MINUTE 30, Interim Guidance of the Independent Hearings Panel, Heritage Area Overlays. 28 August 2025

4. In Summary: FNDC rejected its Heritage Expert's advice as to essential assessment work and consultation needed to reliably identify and delineate areas that would justify HA Overlay status in a formally Notified PDP.

Supporting Information:

The work undertaken by the Browns for the FNDC as documented in their two June 2020 dated reports was intended to be preliminary and not used as the definitive basis for establishing policies and rules in a Notified District Plan. The reports include many comments that support this contention, including in the second of the pair of reports which was tellingly labelled "*Rapid Assessment Reports*":

- *"For each Historic Heritage Area the following is presented• High level management/ risk information, which requires further ground truthing and stakeholder engagement."*⁵⁷, and
- in the Chapter headed: "METHODS FOR FURTHER ASSESSMENT": *"The evaluations in this report are based on high-level research and a single site visit, so further assessment is required. In particular, there has been no stakeholder engagement to date. The following are preliminary recommendations in terms of developing the methodology, fieldwork and stakeholder engagement to finalise the evaluations."*⁵⁸
[This statement was followed by three pages detailing what further work was recommended], and
- under the heading "RECOMMENDATIONS": *"Further work is required to define 'sub-areas' • This will include review of design guidance for those areas; • Historic Heritage Management Plans should be prepared which detail management responses and specific policies for heritage areas and sub areas"*.⁵⁹

FNDC however declined to undertake any of this further work that its purported heritage experts stated was required before they could provide recommendations that were anything more than inadequately informed preliminary views. Instead, FNDC has based its DVPDP HA Overlay chapter on inadequate preliminary views provided to it by inadequately competent heritage experts.

The fact that the PHA in the June 2026 notified DVPDP is essentially identical to the area defined in the Browns' June 2020 Rapid Assessment Reports shows that FNDC had effectively decided on applying a HA Overlay to the Appeal Properties before consulting:

- the property owners concerned, or
- the relevant Community Board, or

⁵⁷ Rapid Assessment Reports *ibid*; P4

⁵⁸ *ibid* p248

⁵⁹ *ibid* p252

- Heritage New Zealand Pouhere Taonga (HNZPT), or
- any representatives of Iwi or Hapu who claim manawhenua status over the land concerned.

Consequently, rather than progressing the rule making process in the order that the MfE s.32 guideline recommends; i.e.:

- i) identify the issue
- ii) consult stakeholders
- iii) undertake formal s.32 analysis
- iv) decide best option to address the issue
- v) if new rules are justified to address an issue, identify which areas need to be subject to such new rules.

FNDC conducted the process re the Appeal Properties in essentially the reverse order as compared to this accepted s.32 good practice.

The inadequacy of the timeliness and effectiveness of FNDC's community and stakeholder consultation in relation to the PHA is demonstrated by the following examples:

1. FNDC stated that it had: *"shared a draft of the [Plan.Heritage Limited] Heritage Assessment Report with HNZPT in March 2020"*⁶⁰. This was not true.⁶¹ HNZPT revealed in response to an OIA request that it never received the document that FNDC purported to have sent them.⁶² After HNZPT had finally been made privy to the Browns reports, their response was highly critical of what was proposed in them and the work that the proposals had been based on.⁶³
2. Neither the community nor HNZPT were made privy to the Browns' June 2020 finalised reports until September 2021, six months after FNDC had published its Draft PDP with its Heritage Area chapter based on those Browns reports, and four months after the initial deadline (of end May

⁶⁰ Statement by FNDC's then CEO Shaun Clarke ONZM in its internal "Weekender" publication dated 17 September 2021

⁶¹ September 21st 2021 email from HNZPT's Northland Manager Bill Edwards to Ian Palmer stating: *"I have not seen the full reports or written draft reports by the consultants apart from the Oruru valley report. I did engage early with FNDC and spoke by phone to their consultants about what should be in the reports, but I have not seen the drafts or completed reports. If they sent me a draft as they state I have not read or seen it. Please do ask formally for all correspondence as it would be useful to clear the matter up."*

⁶² HNZPT response dated 21 October 2021 to an OIA request by Ian Palmer submitted 23 September 2021 which stated in part: *"... we are not able to release documents that FNDC state they sent to HNZPT for comment in March 2020 as the Northland office have no such documents. As you will see in the release documents, FNDC state they will send the documents via drop box in an email dated 20 March 2020. For some reason, the Northland office staff do not appear to have received that email."*

⁶³ 12 page letter dated October 26th 2021 headed: "FEEDBACK OF HERITAGE NEW ZEALAND POUHERE TAONGA ON THE DRAFT HERITAGE AREAS IN THE FAR NORTH" addressed to Greg Wilson cc Tammy Wooster & Theresa Burkhardt per letsplantogether@fndc.govt.nz, signed by Bill Edwards, HNZPT's Area Manager Northland

2021) that FNDC had set for feed-back on the Draft PDP. Following community pressure and a LGOIMA request⁶⁴ for the release of the Browns reports, they were finally made public in mid-September 2021. The public's demand for further consultation on heritage aspects was then acceded to by FNDC agreeing to a further 4-week period for feedback on heritage aspects of the Draft PDP.

3. As late as June 2025, the Chair of the Bay of Islands and Whangaroa Community Board, Ms Belinda Ward, was unaware that FNDC was proposing a greatly expanded heritage area for Paihia and she had also been unaware of the public PDP Heritage Hearing that had been held the previous month⁶⁵.
4. PPOG members and others who did attend the Heritage Hearing held late May 2025 were surprised by the minimal attendance at that 'public' meeting leading to concerns that the wider Paihia community was ignorant as to what was being proposed in relation to Heritage Areas in general, and the PHA-B in particular, and so organised a public meeting in Paihia that was held on July 26th, 2025, to raise awareness. A flyer (as annexed hereto as Annexure 1) was hand delivered to Paihia households which drew a crowd of upwards of 75, mostly Appeal Property residents. It was evident from the dialogue at that meeting that very few, if any, of the attendees were aware that their properties would be subject to a heritage area overlay or were cognisant of any of the associated Notified PDP provisions, let alone the Out of Scope *500mm Rule* proposal that FNDC's s.42A Reporting Officer had promoted at the Heritage Hearing and which the independent Hearing Panel's Chair had indicated his support for.

⁶⁴ Local Government Official Information and Meetings Act request submitted to FNDC by Ian Palmer on April 19th, 2021, for information including (as part of request a) i)) "..... the report authored by Plan Heritage Ltd", which request was refused by FNDC per its response dated June 19th, 2021 in which FNDC stated in respect of the report: "This information is 'deliberative material' that Council is still actively considering".

⁶⁵ 30 June2025 email from Belinda Ward to FNDC's Tammy Wooster stating: "can you please tell me whether all the property owners in the proposed Heritage area were notified of the intent of the Heritage area overlay & when this happened? I am receiving inquires & was not aware of the recent hearing or process myself."

5) In Summary: Including the area of the Appeal Properties in a HA on account of purported landscape values and Māori cultural values amounts to *contra vires* Double Counting.

Supporting Information:

FNDC has made clear that the HAs in the DVPDP, and in particular the PHA, were delineated in large part to protect the landscape aesthetic values of the areas concerned and to protect and honour Māori interests and values associated with the areas. For example:

- i. The Heritage s.32 report states [with emphasis added]:

“The Heritage Area Overlays predominantly encompass larger areas of land than the heritage precincts and areas identified in the ODP. It is considered that the extension of the areas will protect the historic heritage, values and landscapes from inappropriate use, development and subdivision.”⁶⁶

and specifically in relation to justifying the PHA area [with emphasis added]:

“The sites of Māori origin along the foreshore and within scenic reserves, and the important historic sites located near the Horotutu Creek, which is itself an important historical landscape feature.

The archaeological potential for sites within the former low-lying field systems, from numerous historical images and currently recorded archaeological sites.

The forested high ground to the Southwest of MacMurray Road is included as an area of archaeological potential associated with the recorded location of Te Koke’s Pa. this may be revised with future investigation.”⁶⁷

- ii. the Heritage s.42A Report states [with emphasis added]:

“... there are two types of HA Overlays – those that are predominantly covering established urban areas where protecting the heritage values of the built environment is the priority, and those where preserving a heritage landscape (that includes a mix of built features but also open pastoral landscapes) is the key objective.”⁶⁸

- iii. the DVPDP HA Overlay chapter states [with emphasis added]:

“Heritage Area Overlays also contain cultural landscapes, and clusters of Sites and Areas of Significance to Māori.”⁶⁹

⁶⁶ s.32 Heritage Report *ibid*, Chapter 1 “Executive Summary”, p5

⁶⁷ s.32 Heritage Report *ibid*, 9.3 “Paihia Heritage Area Overlay” under a heading: “Features/Matters to be Protected”, p49

⁶⁸ Heritage s.42a Report *ibid* at para 308, p77

⁶⁹ DVPDP Heritage Area Overlay chapter under the “Overview” heading on p1.

- iv. the DVPDP HA Overlay chapter states specifically wrt to PHA-B [with emphasis added]:

“Covers the Sites of Significance to Māori along the foreshore and within scenic reserves, and the important historic sites located near the Horotutu Creek, which is itself an important historical landscape feature.”⁷⁰

(Notwithstanding that the DVPDP contains no scheduled ‘Sites or Areas of Significance to Māori’ anywhere within the PHA.)

- v. the DVPDP Policy HA-P10 that relates specifically to PHA includes [with emphasis added]:

“ ... protect the heritage values by recognising and providing for: b. the topography, foreshore and scenic reserves located on higher ground and on headlands at either end of Paihia Beach which contribute to the heritage landscape” ;

However, the Environment Court (EC) and the High Court (HC) have repeatedly warned territorial authorities not to attempt to use the authority given to them under s.6(f)⁷¹ of the RMA (re historic heritage) to regulate matters that are provided for under s.6(a)⁷² (preservation of the natural character of the coastal environment) and s.6(b)⁷³ (protecting outstanding natural features and landscapes) and s.6(e)⁷⁴ (Māori issues). It represents what the Courts have described as ‘double counting’, which their dicta make clear is not legal under the RMA.

In the 2014 HC case in which FNDC was respondent⁷⁵ the judgement endorsed earlier EC dicta against ‘double counting’, including where judge Moore J. stated [with emphasis added]:

“The Environment Court has urged caution not to “double count” when considering a heritage landscape, in other words to ensure that the consideration of outstanding natural features and landscapes is quarantined from the considerations and assessment of historic heritage and its protection. This principle was discussed in Maniototo Environmental Society Inc where the Environment Court observed:

⁷⁰ DVPDP Heritage Area Overlay chapter, under the headings and subheadings “Overview“, “Paihia Heritage Area Overlay”, “Part B” on p3

⁷¹ RMA 6(f): “the protection of historic heritage from inappropriate subdivision, use, and development”

⁷² RMA 6(a): “the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development”

⁷³ RMA 6(b): “the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development”

⁷⁴ RMA 6(e): “the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga”

⁷⁵ NZHC [2014] 3328 _TW Reed Appeal & Dalling Investments vs FNDC in which the appellants were appealing the EC decision

*‘[W]e consider this [‘historic landscape’] usage may be dangerous under the RMA where the word “landscape” is used only in section 6(b). Further, the concept of a landscape includes heritage values, so there is a danger of double-counting as well as of confusion if the word “landscape” is used generally in respect of section 6(f) of the Act.’*⁷⁶

In the same case Moore J. also endorsed the EC’s prior warning against double counting historic heritage and Māori issues, in stating:

“The question of double counting has also been discussed in relation to s.6(e) which requires the Environment Court to recognise and provide for the relationship of Māori and their culture and traditions, being matters of national importance. This was discussed by the Environment Court in Clevedon Cares Inc which determined that the Wairoa Valley was a cultural heritage landscape but noted that:

*‘It is also important to recognise the need to avoid the double counting of Maori issues which are specifically provided for in Sections 6(e), 7(a) and 8 of the Act.’*⁷⁷

FNDC prevailed in the above referenced HC case, but only because the HC found ‘double counting’ of the type that it made clear it would not have tolerated did not arise in the particular circumstances associated with that case at that time (in 2013/14). Those particular circumstances being that the HC case related only to the PMHA, which is a compact area surrounding particular Heritage Resources, for which it was a stretch for the appellants to argue that it had been established for its landscape values rather than its heritage values. This contrasts starkly with the PHA-B, which is a wide area not proximal to, or containing any, Significant Heritage or Cultural Items, but rather is an area that has been included in the PHA on account of it:

- a) being the backdrop landscape to the PHA-A areas that do contain Significant Heritage or Cultural Items, and
- b) containing speculated undiscovered archaeological evidence of pre-colonial Māori occupation.

The DVPDP therefore has clearly trespassed into the *contra vires* domain of ‘double-counting’ in greatly expanding on the ODP’s PMHA to include the PHA-B area in the PHA on account of its landscape and Māori values.

The ‘Double-Counting’ legal position was further confirmed and clarified by the Government post the above referenced 2014 HC case by the publication of the 2019 National Planning Standards⁷⁸ (‘NPS’) which includes the following mandatory directions to territorial authorities with regard all district plans [with emphasis added]:

⁷⁶ Ibid, at para [95]

⁷⁷ Ibid at para [97]

⁷⁸ Ministry for the Environment. November 2019. National Planning Standards. Wellington: Ministry for the Environment (as updated February 2022).

“17. If the following matters are addressed, they must be located in the Sites and areas of significance to Māori chapter:

- a. descriptions of the sites and areas (eg, wāhi tapu, wāhi tūpuna, statutory acknowledgement, customary rights, historic site, cultural landscapes, taonga and other culturally important sites and areas) when there is agreement by Māori to include this information*
- b. provisions to manage sites and areas of significance to Māori “⁷⁹*

and:

“21. If the following matters are addressed, they must be located in the Natural features and landscapes chapter:

- a. identification of features and landscapes that are outstanding, significant or otherwise valued*
- b. provisions to protect and manage outstanding natural features and landscapes*
- c. provisions to manage other valued features and landscapes. “⁸⁰*

If there were aspects of the landscape encompassed by the PHA-B that were so significant to warrant management in accordance with s.(b) of the RMA, thus requiring protection by particular planning rules in the PDP, then that matter needed to have been addressed in the DVPDP’s ‘Natural Features and Landscapes’ chapter; eg by imposing an Outstanding Natural Landscape overlay on it.

Similarly, if there were known or reasonably postulated evidence of Māori pre-colonial occupation of the PHA-B area that was so significant to warrant management in accordance with s.6(e), s.7(a) or s.8(b) of the RMA, and thus requiring protection by particular planning rules in the PDP, then that matter needed to have been addressed in the DVPDP’s ‘Sites and areas of significance to Māori’ chapter; eg by scheduling the particular sites and features in the DVPDP’s Schedule 3.

⁷⁹ Ibid p33 in Chapter 7 “District-wide Matters Standard” under the Heading: “Mandatory directions” and the subheading: “ Historical and cultural values”

⁸⁰ Ibid p34 under the sub-heading: “Natural environment values”

- 6) In Summary: The Appeal Properties are subject to a sufficiency of restrictive planning rules designed to avoid inappropriate development independent of the HA Overlay chapter, so as to make superfluous the additional rules applying to the Appeal Properties that derive specifically from the HA Overlay Chapter.**

Supporting Information:

The PPOG are not appealing against the vast majority of the planning controls that the Appeal Properties and the associated PHA-B area are subject to under the DVPDP. These controls are found in the rules in multiple chapters of the DVPDP other than the HA Overlay chapter. The applicable rules arise in large part from the underlying zoning of the PHA-B area and the multiplicity of other DVPDP Overlays and Specific Controls that apply to that area.

By way of example, Mr Mandeno's property at 22 Marsden Rd is zoned 'Mixed Use' and is subject to the following special controls and overlays:

- 1) Paihia Heritage Area - Part B
- 2) Height Limit: Area B
- 3) Coastal Environment
- 4) Coastal Erosion (Zone 2: 100 Year Scenario)
- 5) Coastal Erosion (Zone 3: 100 Year + Rapid Sea Level Rise Scenario)
- 6) Coastal Flood (Zone 2: 100 Year Scenario)
- 7) Coastal Flood (Zone 3: 100 Year + Rapid Sea Level Rise Scenario)

Ironically the only additional rule that applies to any of the Appeal Properties that derives specifically from the HA Overlays chapter is a rule prescribing heritage colours; i.e. if an existing building is to be repainted in a colour different to its existing colour, or if a new building is to be constructed in the PHA-B, it must be painted in a colonial European heritage colour.⁸¹

The only other rule potentially applying to the PHA-B area that derives from the HA Overlay Chapter relates to building and earthworks activities within 20m of a Scheduled Heritage Resource.⁸² But, none of the Appeal Properties other than 40 Marsden Rd are within 20m of a Scheduled Heritage Resource. In any event these 20m rules would still apply to the Appeal Properties in the absence of the PHA-B, as the very same rules are repeated in the Historic Heritage Chapter for all areas not subject to an HA Overlay.⁸³

⁸¹ Per rule HA-R1, HA-R2 & HA-R4 which all reference HA-S2 "Heritage Colours"

⁸² Per Rule HA-R2, HA-R4, HA-R5 which all reference HA-S1 "Setback from a scheduled Heritage Resource"

⁸³ Per Rules HH-R3 & HH-R4.

- 7) **In Summary: Mixing protection of European colonial-era built-heritage and Māori heritage in a single HA with a single set of objectives, policies and rules (eg rules stipulating the use of European colonial paint colours) is non-sensical & potentially offensive to Māori.**

Supporting Information:

We note FNDC gave as partial justification for replacing the PMHA in the ODP with the much expanded PHA in the PDP was:

“One of the reasons for these changes is to acknowledge and manage heritage that tells the story of both early Māori and European settlement.”⁸⁴

PPOG does not dispute that both colonial period European built heritage and pre contact Māori heritage are deserving of protection, including, where appropriate, by restrictive rules in a district plan. Māori heritage deserving of protection clearly includes Scheduled Sites or Areas of Significance to Māori as well as significant archaeologically evidenced features such as Pa sites, that may or may not be scheduled. However, combining the two disparate types of Historic Heritage in a single HA is highly problematic, particularly in this region having regard to the discordant relationship between tangata whenua and the colonial settlers and government authorities in Tai Tokerau in the 19th and early 20th centuries⁸⁵.

Combining the two disparate types of Historic Heritage leads to ambiguities as to what heritage values are intended to be preserved and what cultural kōrero is intended to be honoured. For example, is building a colonial style dwelling in European colonial colours within a HA defined as such in large part on account of its Māori pre-colonial heritage values to be supported by the consenting authority, or is it to be opposed as an affront to tangata whenua?

FNDC’s purported heritage experts, the Browns, recommended a partial solution to the dilemma created by their proposals that combined the two disparate types of Historic Heritage in one HA, in that they recommended:

“... that sub-areas [be] identified within Historic Heritage Areas to improve plan provisions ... This would look at different ‘character areas’ in more detail which might require slightly different management. Such variations may be the expression of different phases of development or of different patterns of ownership, or they may reflect the operation of different ‘themes’ from the past.”⁸⁶

However, this was one of the many recommendations of its purported heritage experts that FNDC rejected and refused to action.

In any event, the inclusion of the PHA-B and its associated rules in the DVPDP does little or nothing to achieve FNDC’s stated objective of telling the story of early Māori and European settlement in the Far North.

⁸⁴ FNDC brochure “Heritage in the Far North”, Sept 2021

⁸⁵ As for example documented in the Waitangi Tribunal’s 1997 published ‘Muriwhenua Land Report’.

⁸⁶ Rapid Assessment Reports *ibid*, p249

8) In Summary: There is no support in the general community or from local Iwi and hapu for the PHA-B.

Supporting Information:

FNDC's Heritage Reporting Officer made one very insightful statement in her closing address at the public Hearing⁸⁷ when she observed:

*"the importance of bringing your communities and your Iwi and Hapu along on the journey when you are introducing provisions that manage historic heritage and that these provisions need buy-in ... They don't work if you've alienated the very community that you are asking to be kaitiaki of these places"*⁸⁸

PPOG fully concurs with that view, as did the Hearings' Panel as they echoed the same sentiment in their Heritage Recommendations Report:

*"... we note that generally, when introducing new heritage areas, there needs to be a degree of community support for such an outcome, including an agreed acknowledgment of the values that are within the area and which need to be protected".*⁸⁹

and

*"At the hearing, we heard from the Council officers acknowledging the importance of bringing communities, iwi/hapu/whanau along on the journey..." and that it "... doesn't work for kaitiaki of whenua if you alienate the very people that need to be on board".*⁹⁰

PPOG asserts, and all available evidence demonstrates, that community buy-in is precisely what FNDC has not achieved in regards its attempted imposition of the PHA-B.

The only party in favour of the PHA-B (other than FNDC itself) is HNZPT. However, HNZPT is an autonomous Crown entity which promotes a particular special interest - as is its legitimate *raison d'être*. But it is not a community led organisation, and in this case it's position flies in the face the Paihia community's wishes. In any event, the rationale HNZPT presents for retaining the PHA-B is invalid for the reasons discussed below.

Community disquiet concerning the PHA-B has been expressed for the last five years in a multitude of ways. It began soon after FNDC first revealed its intention to encompass much of the Paihia township in an HA in its PDP when, in March 2021, it

⁸⁷ FNDC PDP Hearing-12 'Historic and Cultural Values', May 27-18 2025, Tahuaroa Function Centre, Tau Henare Drive, Waitangi, Bay of Islands

⁸⁸ Hearing-12 final session video recording: <https://www.youtube.com/watch?v=Kmp5egbvHog> at minute 14-minute 15

⁸⁹ PROPOSED FAR NORTH DISTRICT PLAN, RECOMMENDATIONS OF THE INDEPENDENT HEARINGS PANEL RECOMMENDATION REPORT 12, Hearing 12: Historic and Cultural Values, March 2026, (hereinafter 'Hearings' Panel Heritage Report'), p17

⁹⁰ Hearings' Panel Heritage Report *ibid* , p18

released its Draft PDP and invited submissions on it. The PPOG was formed soon after that and as a direct result of widespread community alarm that FNDC was proposing to encompass such a large sway of the Paihia township in a HA.

Community concerns were expressed in a number of ways including via submissions on the Draft PDP, formal submissions on the Notified PDP, Hearings evidence and addresses, and post hearing community petitioning in various forms. Specific examples of the expression of the community's attitude is summarised below.

A. Draft PDP submissions

PPOG are aware of at least eight submissions that were provided to FNDC opposing the PHA per the Draft PDP by mostly PPOG members between April and October 2021, including substantive submissions by Don Mandeno, Inge Amsler and Terry Harrison.⁹¹

Due to strong negative community reaction to the Draft PDP HA Overlay Chapter, FNDC undertook a 'Targeted Engagement' for the topic in September – October 2021. FNDC summarised the feedback they received in relation to that targeted consultation process:

*"Of the feedback received, there were 124 responses to the online survey with 13 in support, 33 that sought amendments, and 76 opposed. Additionally, 99 free form responses were also received with the majority in opposition or seeking amendments to the Heritage Area approach as presented in the Draft Plan."*⁹²

FNDC's Heritage s.32 report also documents considerable negative feedback from Iwi and hapu, particularly complaining about both the inadequacy and lateness of the consultation with them.

In relation to the specific issue of the areal extent of the HAs as defined by FNDC's purported heritage experts FNDC stated:

*"... the majority of the feedback considered the Draft Plan spatial extent [of the HAs] to be too broad and encompassing, and in some instances incorrect. ... however in the absence of sufficient assessment from heritage experts, the PDP mapping remains consistent with the recommendations of Plan.Heritage."*⁹³

This evidences FNDC's refusal to respond to community sentiment and hence its retention of HA areas in the Notified PDP as per the Draft PDP.

In regards the PHA specifically, FNDC reported that:

⁹¹ April 21st 2021 email from Don Mandeno to FNDC's Tammy Wooster, October 23rd email from Don Mandeno FNDC's submissions email address and many others, October 25th 2021 email from Inge Amsler to 'Lets Plan Together' email address, also cc'd to a large list including FNDC senior managers. October 26th, email from Terry Harrison to 'Lets Plan Together' email address

⁹² s.32 Heritage Report *ibid*, p17

⁹³ s.32 Heritage Report *ibid*, p18

“the majority of feedback received on Paihia sought amendment or opposed the draft Heritage Area. With many referring to the previous heritage area plan review process and subsequent Environment Court order.”⁹⁴

While the Heritage s.32 Report did report some support for the PHA, that was only in relation to areas and items covered by the PHA-A or PHA-Islands, which PPOG also supports being covered by a HA. There was no support for the PHA-B, other than by HNZPT.

B. Notified PDP Original Submissions

FNDC acknowledges it received five formal Original Submissions opposing the PHA, but also claimed that the following three original submissions supported the PHA⁹⁵:

- i. John Andrew Riddell⁹⁶ (S431),
- ii. Federated Farmers⁹⁷ (S421), and
- iii. HNZPT⁹⁸ (S409).

PPOG refutes that either of the first two supported the retention of the PHA-B in any respect.

In relation to John Andrew Riddell (who gave his address as being in Russell) his 14-page submission (S431) spanned many chapters of the PDP and resulted in 199 submission points being noted. In relation to the HA Overlay Chapter he stated:

“In general the heritage area provisions in the operative Plan comprehensively address the protection of historic heritage and character and there are no sound resource management reasons why the provisions cannot be carried over into the proposed Plan largely without alteration.”⁹⁹

His only mention of the PHA was his request that FNDC:

“Identify the large water setback as an historic heritage characteristic in the Overview statement for the Paihia Heritage Area Overlay.”¹⁰⁰ to which FNDC’s

⁹⁴ s.32 Heritage Report *ibid*, p19

⁹⁵ July 16th, 2025 email from FNDC’s Tammy Wooster (Manager - Integrated Planning) to Don Mandeno which in relevant part stated: *“The Paihia Heritage Area Overlay attracted eight primary submissions, with five opposing the PDP approach to managing historic heritage values in Paihia and requesting that the operative Paihia Mission Heritage Area spatial extent and rule framework be retained (being Bayswater Inn Ltd, the Paihia Property Owners Group, Don Mandeno, Murdoch Phillips and Bell Family Trust). The other three submissions supported the Paihia Heritage Area Overlay in part but request minor amendments to either better acknowledge the historic heritage values (Heritage New Zealand Pouhere Taonga (HNZPT) and John Andrew Riddell) or to recognise farming activities (Federated Farmers).”*

⁹⁶ Submission by John Andrew Riddell, dated 21 October 2022 and referenced as ‘S431’ by FNDC

⁹⁷ Submission by Colin Hannah Northland Federated Farmers of New Zealand’s Northland Provincial President, dated 21 October 2022, and referenced as ‘S421’ by FNDC

⁹⁸ Submission by Heritage New Zealand Pouhere Taonga (“HNZPT”) signed by Bill Edwards pp for Sherry Reynolds Director Northern, dated 17 October 2022 and referenced as ‘S409’ by FNDC

⁹⁹ Submission by John Andrew Riddell *ibid*, para 28 on p7

¹⁰⁰ *ibid*, para 31 (g) on p8 and which FNDC refer to as original submission point S431.054

Reporting Officer responded: *“I am unclear what John Andrew Riddell means by a ‘large water setback’ being a historic heritage characteristic.”* and recommended no changes to the PDP as notified.¹⁰¹

In relation to Federated Farmers, its 48-page submission (S421) spanned most chapters of the PDP and resulted 227 submission points being noted. In relation to the HA Overlay Chapter it stated:

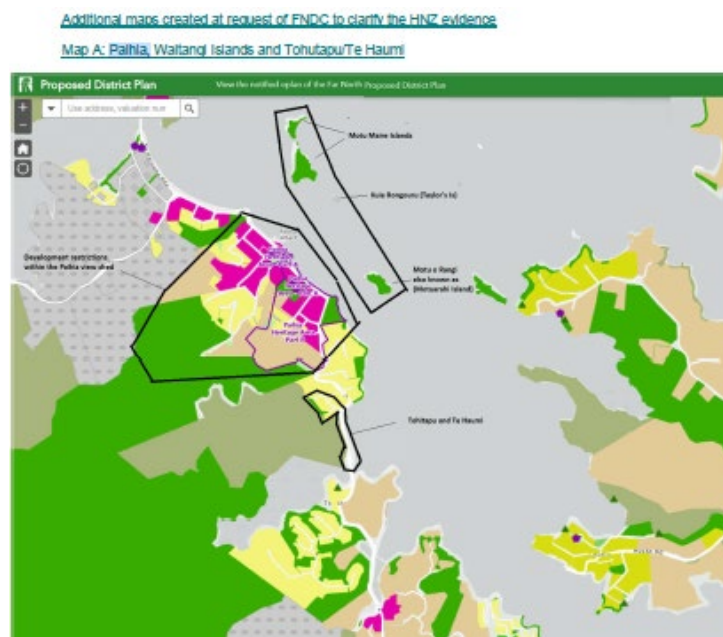
*“We have concerns that the heritage area overlays proposed go beyond what is provided for in the Act.”*¹⁰²

Federated Farmers made a number of requests to reduce the impact of the PDP’s HA Overlay chapter provisions that all focussed on farming operations. Nowhere in their submission is any reference made to Paihia or the PHA.

In relation to HNZPTs submission (S409), their only requests that run counter to PPOG’s current appeal were where they requested:

- *“There needs to be development restrictions on the entire ridge (behind the Church) that overlooks the Bay. This is a prominent ridge that contains Pa, archaeology and other artifacts. It is the backdrop for the town and provides a visual escapement from the bay encapsulating the town. [emphasis added]*
- *An additional sub area is recommended for the area south of the river Te Haumai to include the settlement of Tohitapu as also suggested by Plan Heritage Limited {Page 51 of 259}.”*

In December 2024 (well after the deadline for submitting further submissions) HNZPT submitted the map below to FNDC showing the area they wanted as the PHA, in line with their above original submission points.



¹⁰¹ s.42A Report ibid para 167 on p46

¹⁰² Federated Farmers submission ibid, part of submission point 35 on p18

HNZPT's request would have amounted to a three-fold increase in the area of the PHA. It was rejected by FNDC's s.42A Reporting Officer and by the Hearings' Panel and consequently by FNDC per the DVPDP – except wrt the PHA-Islands, the inclusion of which PPOG supports. PPOG concurs with the reasons given for FNDC not accepting HNZPT's requests to further expand the PHA.

In so far as HNZPT's above submission points might be taken to be reasons to retain the PHA-B area in the PHA, PPOG makes the following two points:

1. In relation to HNZPT's statement "*contains Pa, archaeology and other artifacts.*", PPOG notes that per Reason #1 above we have shown the lack of credible evidence for the existence of a Pa site within the PHA-B area, and we have also shown the relatively minor nature of the other archaeologically identified and NZAA listed sites and articles within PHA-B. There may well have been various Māori Pas in the general area, possibly even on the ridges above Paihia that HNZPT refer to, but this could also be said of many areas of Tai Tokerau where FNDC does not propose any management by way of HA Overlay.
2. In relation to HNZPT's references to a '*backdrop*' and '*visual escapement*' as justifications for a PHA that extends well back from the actual Heritage Resources and Heritage List items (that are all within the PHA-A and PHA-Island areas of the PHA), PPOG asserts that this would amount to *contra vires* Double Counting as explained in Reason #5 above. HNZPT are in effect arguing to extend the PHA to include a 'heritage landscape' as a backdrop to the real Historic Heritage items, which is precisely what the EC and HC have determined is not legally justifiable.

C. Notified Plan Further Submissions

The only further submissions that directly opposed PPOG's original submission were:

- i. Alec Cox¹⁰³ (FS348), and
- ii. HNZPT¹⁰⁴ (FS51)

In regards Mr Cox, he objected to PPOG's submission S565 and 21 others on the grounds that they were submitted after the prescribed deadline.

The Hearings' Panel issued a Minute in February 2024 that 'found' that most of the submissions that Mr Cox proposed be rejected, including PPOG's S565, did not deserve to be rejected ¹⁰⁵. Further, PPOG notes that it made another original

¹⁰³ Further submission by Alec Brian Cox dated September 4th 2023 which FNDC reference as FS348

¹⁰⁴ Online Further submission by HNZPT lodged September 3rd, 2023 which FNDC reference as FS51

¹⁰⁵ PROPOSED FAR NORTH DISTRICT PLAN, MINUTE 2 OF THE INDEPENDENT HEARINGS PANEL
Late Submissions, 9 February 2024

submission(S330) that was submitted by the deadline. S565 was submitted a few days later only to correct some minor errors in the list of PPOG member names attached to the S330 submission, but otherwise S565 is identical to the 'on-time' submission S330.

In regards HNZPT's Further Submission (FS51), it ran to 79 pages and included 228 submission points including their submission point FS51.226 that requested PPOG's Original Submission point S565.001(the subject of this appeal) be rejected by FNDC. However, HNZPT gave no more than a generic rationale for their opposition to S565.001 by referencing their original submission S409. FNDC's Reporting Officer recommended accepting HNZPTs FS51.226 submission point, but incongruously referenced a section of her s.42A report that was unrelated to the S565.001 or the PHA¹⁰⁶.

D. Hearing Evidence Presented

Other than HNZPT, no original or further submitters presented evidence at the Hearing in late May 2025 directly supporting the PHA-B or opposing PPOG's submission to delete it.

E. Post Hearing Feedback

As mentioned in Reasons #3 & #4 above, a community meeting was held in Paihia on Saturday July 26th, 2025 to allow community members to hear about, and express their views regarding the PHA; especially in regards the '500mm Rule' that PPOG members had only learned about at the Heritage Hearing two months prior. The meeting was organised by PPOG member Don Mandeno, the owner of 22 Marsden Rd, and Ian Palmer who was supporting the PPOG and who helped form the successor organisation to it (Far North Community Group Incorporated society – 'FNCGI'). Estimates differ as to the meeting attendance; but range up from 75.

The meeting was addressed by Mr Mandeno, Mr Palmer and Mr Bill Edwards, HNZPT's Northland Manager.

Two senior FNDC managers responsible for the PDP process, Mr Roger Ackers, Group Manager for Planning and Policy, and Ms Tammy Wooster, Integrated Planning Manager, attended the meeting and responded to some comments and questions from the community attendees; but the community's concerns were not placated, as evidenced by a community resolution being passed on the strength of 56 signatories that objected to the FNDC's PDP approach regarding HAs and the PHA-B in particular.¹⁰⁷

¹⁰⁶ 'Appendix 2 – Officer's Recommended Decisions on Submissions (Historic Heritage), entry for FS51.226 (p21) lists under the heading: "Relevant section of S42A Report" s. 5.3.1.5 'Key Issue 5: Mangōnui and Rangitoto Peninsula Heritage Area Overlay" which is unrelated to submission point in question

¹⁰⁷ Community Resolution as emailed by Don Mandeno to FNDC's Roger Ackers on July 28th 2025.

F. Iwi and Hapu input regarding the PHA

PPOG submits that it was entirely inappropriate for the HAs including PHA, that was justified in large part to protect purported Māori heritage and cultural values, to have been fixed on by FNDC's purported heritage experts, the Browns, without first consulting Māori tangata whenua as to what areas they considered should be subject to that form of management. In general, as was seen in the furore over FNDC's proposal for SNAs in the Draft PDP, Māori oppose FNDC usurping their kaitiaki for Māori heritage and whenua by imposing restrictive district plan overlays and rules. So had the relevant Iwi and Hapu been consulted at the outset (eg during the Browns only two-day visit to the Far North in September 2019) it is likely that the Browns, and FNDC as their client, would have discovered a lack of support from Iwi and Hapu for the imposition of such broad HAs that proposed combining European colonial built heritage with supposed archaeological remnants evidencing Māori pre-colonial land use.

FNDC will no doubt argue that it met its legal obligations to consult Iwi Authorities and other Iwi and Hapu organisations per s.4A of Schedule 1 of the RMA. However, FNDC's consultation with Iwi and Hapu on the PDP was only initiated in May 2021, 2 months after the Draft PDP was published and almost a year after the Browns reports which had settled on the HA areas which feature in the PDP had been finalised¹⁰⁸.

FNDC and its consultants never asked any Iwi or Hapu representatives directly did they support including the PHA-B area in a HA, and no Iwi or Hapu representative ever communicated to FNDC or its consultants that they did support PHA-B area being in a HA.

This approach to consultation with Iwi and Hapu, and in particular its sequencing in the whole PDP development process, falls short of what FNDC described in its s.32 analysis as one of the key expectations of Iwi and Hapu, being:

"Including hapū and iwi groups in consultation of development plans and to recognise them as the kaitiaki of the heritage areas in their rohe (tribal territory)"¹⁰⁹

The s.32 Heritage Report documents much dissatisfaction by Iwi and Hapu as to how FNDC had treated Māori heritage and cultural issues in the Draft PDP and the associated poor and late consultation with them. However no substantive changes were made to the HA Overlays Chapter in the Notified PDP or in the DVPDP as compared to the Draft PDP in response to Iwi and Hapu feed-back.

¹⁰⁸ s.32 Heritage Report ibid, Section 6.3 "Consultation with Iwi Authorities", p37: "In May 2021 letters were sent to the 11 mandated iwi authorities for the purposes of the RMA, 8 hapū who have hapū environmental management plans lodged with council, and who are not mandated iwi authorities and 3 Māori Land Incorporations and 1 Ahu Whenua Trust"

¹⁰⁹ s.32 Heritage Report ibid, section 3.4 "Iwi and Hapū Environmental Management Plans", p13

- 9) **In Summary:** FNDC's reliance on an argument that the DVPDP rules that apply to HA Part B areas, including the PHA-B, are few in number and not onerous, ignores the negative implications for property owners of having an HA Overlay designation on their properties that go beyond the direct implications of the specific DVPDP HA Overlay Chapter rules.

Supporting Information:

As highlighted in Reason 6 above, the HA Overlay Chapter rules imposed on the Appeal Properties on account of them being within PHA-B are so inconsequential as to be reason in itself not to have the PHA extend to PHA-B area. No doubt FNDC will seek to run the converse argument that the insubstantial nature of the rules is reason to dismiss this appeal. However, PPOG has not brought this appeal due to a concern about the specific HA Overlay chapter rules that apply to the Appeal Properties. Rather, the concern relates primarily to the implications of imposing a HA Overlay on any property that derives other than from the specifics of the HA Overlay chapter rules.

The success or failure of this appeal should not rest on any critique of the motivations of PPOG in bringing the appeal; it should rest on the merits, in law and in equity, of the inclusion of the Appeal Properties in a HA Overlay of a district plan. However, there is one aspect of the PPOG's motivations for this appeal that is relevant, as follows:

A potential real estate purchaser can reasonably be expected to be concerned when discovering a property of interest is subject to a HA Overlay. It is generally seen in the community as a 'red flag' relating to fear (well-founded or not) that such an overlay designation impinges on property rights restricting the owner's freedom to use and modify the property. People also become concerned that such an overlay designation will make resource consenting and building permitting more time-consuming, expensive and problematic, irrespective of the actual rules specific to the overlay – which typically such a potential purchaser won't delve into. The net result is a reduction in value of the property and greater difficulty in selling it.

Such fears are in fact likely to be well founded wrt to Resource Consent (RC) applications pertaining to the Appeal Properties. PPOG members have direct experience of FNDC's responses to RC applications when there is any suggestion of archaeological features being present or Māori interests in the whenua (such as when the property is within an HA). FNDC's RC officer can be expected to respond to any such RC application by stating:

"An assessment has been undertaken and it has been determined that further information is required to process the application. The additional information, requested under Section 92(1) of the Resource Management

Act 1991, will help us to better understand the effects of the proposed activity on people and the environment.”¹¹⁰

The further information requested is likely to be such so as to require the applicant consult with Iwi or Hapu organisations, HNZPT and a private archaeologist to obtain an archaeological assessment of the site.

Such a s.92(1) request for additional information stops the 21-day clock for a decision to be made on the RC application for an indefinite period.

FNDC emphasised in responses to concerns about the requirement for such consultation that it would be entirely voluntary in accordance with the RMA. This they reinforced by adding the caveating words “*if provided*” in the DVPDP in relation to such consultation for the purposes of FNDC’s assessment of RC applications. However, this is entirely disingenuous on FNDC’s behalf. As FNDC well knows, s.95C of the RMA ensures the consequences for not complying with a s.92(1) request for further information is so severe on the applicant that it is in effect compulsory.

s.95C states in relevant part:

“A consent authority must publicly notify an application for a resource consent if the consent authority requests further information on the application under section 92(1), but the applicant—

- (a) does not provide the information before the deadline concerned; or*
- (b) refuses to provide the information”*

Public Notification triggers a lengthy process involving advertising the RC application and inviting all and sundry to make submissions on it. It also immediately triggers the requirement to pay FNDC a \$8,599 fee, plus a \$10,000 deposit for a hearing.¹¹¹ (A hearing is required if anyone making a submission on a publicly notified RC application requests such). These and other well-known implications of having a RC application progressed as a Publicly Notified application, are so onerous that the applicant’s only reasonable choice is to ‘voluntarily’ provide the further information requested.

Approaching Iwi and Hapu organisations to obtain their views on RC applications is also problematic in that such groups are likely to be claimants in unresolved Waitangi Tribunal claims that relate to the land in question; i.e. claims that the Crown alienated the land contrary to the principles of Te Tiriti. It is to be expected and understandable that such groups will oppose, or at least not support, any RC application that looks to benefit the current legal owners of the land when they contend that the land was unjustly alienated from their tupuna. Consequently, the obligation to consult Iwi and Hapu risks conflating RMA processes with legitimate

¹¹⁰ This generic text was as used for example in FNDC’s letter dated 15 September 2020 in relation to Resource Consent Application No: 2300099-RMALUC

¹¹¹ FNDC Document title: “NGĀ UTU FEES AND CHARGES 2026/27”, p13

historic land related grievances when such grievances are more appropriately confined to the Waitangi Tribunal forum. Therefore, such consultation risks provoking community disharmony that an RMA process has no way of resolving and more likely will inflame.

The above-described negative implications on owners of the Appeal Properties that derive other than directly from the actual HA Overlay chapter rules are not balanced by any wider community benefit for having the PHA-B in the DVPDP, especially when the actual rules are largely inconsequential.

- 10) In Summary: The Hearings' Panel was very supportive of the arguments against the PHA-B as presented in submissions and Hearing evidence by PPOG and others, but incongruously it recommended rejecting PPOG's request to exclude the PHA-B from the PHA.**

Supporting Information:

FNDC resolved at an extraordinary Council meeting on June 11th, 2026 to except all the recommendations of the Hearings' Panel regarding responses to PDP submissions, other than two recommendations unrelated to this appeal.

The Hearing's Panel documented its views on the PHA in its relevant recommendations report as follows:

"As signalled in our Minute 30, we heard very strongly from submitters (including the Paihia Property Owners Group, Mr Rendell and Mr Mandeno) that the proposed spatial extent and the related implications of the Paihia Heritage Area Overlay was not supported.

Submitters informed us of previous determinations of the Environment Court on this matter and that there had been inadequate community engagement to justify the proposed provisions. Submitters also opined that there is likely to be very little chance of finding undiscovered items of archaeological significance within the highly urbanised area of the proposed Paihia Heritage Area Overlay.

We heard that submitters were particularly concerned over the proposed earthworks rules associated with the overlay, but that they understood and appreciated the proposed requirements for building colours to be in keeping with the heritage character of the area.

The Council's right of reply acknowledged these concerns but recommended no changes to the proposed extent of the Paihia Heritage Area Overlay, primarily relying on the expert advice from Mr Brown.

When considering this matter, we note that generally, when introducing new heritage areas, there needs to be a degree of community support for such an outcome, including an agreed acknowledgment of the values that are within the area and which need to be protected. We have sympathy for the issues being raised by the local community in this location and suggest that the proposed spatial extent of the overlay should have been more properly included at the draft plan stage, not in response to submissions. We find that, in this instance, the Council has taken the scope of the submission from HNZPT too far, without proper justification and engagement with the local community.

At the hearing, we heard from the Council officers acknowledging the "importance of bringing communities, iwi/hapu/whanau along on the journey..." and that it "... doesn't work for kaitiaki of whenua if you alienate the very people that need to be on board".¹¹²

¹¹² Hearings' Panel Heritage Report ibid, pp17-18

Again, we understand that there may be merit in the idea of expanding the spatial extent of this heritage area, given the heritage significance of this place.

However, we have ultimately agreed with the robust discussion from the local community and tangata whenua (hapu). This included appearances at the hearing from Ms Amsler (speaking on behalf of the Paihia Property Owners Group – a group of 54 properties in the proposed heritage area), Mr Rendell (40 Marsden Road, Paihia) and Mr Mandeno (22 Marsden Road, Paihia).

We acknowledge that the community has not had sufficient opportunity to effectively engage on the proposed provisions and, from the submissions and evidence received at the hearing, we heard the clear community concern.”

The Hearings' Panel's recommendation to retain the PHA-B as per the Notified PDP is irreconcilable with the above endorsement of the arguments not to retain it. PPOG can only assume the Hearings' Panel became confused as to what the various parties had proposed as the appropriate areal extent of the PHA. Given FNDC's resolve to accept essentially all of the Hearings' Panel's recommendations without question, the incongruous Hearings' Panel recommendation and subsequent FNDC decision to retain the PHA-B in its DVPDP represents a miscarriage of justice.

PPOG's appeal to delete the PHA-B from the PDP is consistent with what the Hearings' Panel's commentary implied that it considered appropriate; hence it is necessary to rectify the miscarriage of justice.

Concluding Remarks

FNDC's catch phrase when it initiated this current district plan review ten years ago was "*Let's Plan Together*"¹¹³. Along the way they emphasised their purported keenness to obtain and respond to community feedback¹¹⁴. They nevertheless refused to meet with Don Mandeno, PPOG member, and others in August 2025 to discuss the Paihia community's concerns with elements of the PHA proposal.¹¹⁵

PPOG considers that the DVPDP evidences an attitude of contempt for the Paihia community who overwhelmingly and repeatedly told FNDC why the PHA-B was an ill-conceived concoction of their English heritage experts. It is not warranted and is not wanted by the community that FNDC is supposed to serve. Hopefully an impartial assessment of the relevant facts as presented in this document will conclude that in this instance the Council doesn't know what is best for its community; the community knows best.

¹¹³ As recalled by Mayor John Carter in FNDC's 16 June 2022 announcement of the notification of the PDP.

¹¹⁴ FNDC brochure "Heritage in the Far North", Sept 2021, stating in part: "We want to check in with affected communities now that we have reviewed the feedback. We want to know if the changes are supported or learn how we can address the concerns raised. Do you think the extent of the areas, and the related rules, will protect the Far North's heritage areas? • Are there other methods for achieving the same outcome? • Are we protecting the right things? We must protect heritage, but we're not locked into doing it in a particular way if the community can demonstrate there are better means of achieving the outcomes required under the RMA. We want to understand and consider community preferences before we notify the Proposed District Plan, after which communities can make formal submissions"

¹¹⁵ August 15th 2025 email from Roger Ackers, Group Manager - Planning and Policy to Ian Palmer

Annexure 1

NOTICE OF PUBLIC MEETING

Regarding

Far North District Council's 'Heritage Area' Proposals

Did you know that 179 Paihia properties will be subject to a 'Heritage Area' (HA) overlay under Far North District Council's Proposed District Plan (PDP). **Is your property one of the affected properties (see map on reverse)?**

Did you know that the HA rules will restrict what owners are allowed to do and require them to obtain a Resource Consent (RC) for minor activities such as digging a drain line or constructing a shed that involves any "*disturbance of sub-soils below a depth of 500mm*" or repainting any structure in a new colour that's not a Heritage colour?

Do you know what it costs in time and money to go through a RC application process including preparing an environmental impact assessment and procuring reports from heritage experts and archaeologists?

Did you know that in considering any such RC application for an affected property, the matters that FNDC staff would be required to take account of include: "*any assessments or advice from a suitably qualified and experienced heritage or cultural expert*" and "*any consultation with Heritage New Zealand Pouhere Taonga, Department of Conservation and tangata whenua.*"?

Did you know that in considering such a RC application, FNDC staff will be able to halt the process on the basis that they need more information including the consultation and expert reports referred to above?

Did you know that a failure to comply with a request for such information would automatically trigger the RC application becoming fully notified (i.e. publicly advertised, inviting anyone or any organisation to object to what the landowner proposes to do on their property)?

Did you know that the hearing to review 'Historic & Cultural Values' aspects of the PDP, including the extent of, and rules for, the Paihia HA was held in Waitangi on May 27th & 28th this year? Were you invited?

Did you know that the current Government's policy to abolish the RMA and return more rights to landowners will not stop FNDC's intention to go through with its PDP process under the RMA?

If you didn't know any of the above, or if knowing it concerns you, come to the public meeting where these and related concerns regarding the lack of transparency with FNDC's PDP process will be aired.

The meeting is to be held at 3 PM on July 26th, in the Paihia War Memorial Hall, Williams Rd, Paihia.

- FNDC have been invited to explain what they are doing and why
- The meeting will be independently chaired
- For further information from FNDC email: pdp@fndc.govt.nz

Meeting Initiator: D. Mandeno, Paihia Ratepayer

Attachment 4 – list of names and addresses of persons to be served with a copy of this notice (As amended 21 August 2026)

Submitter Name	Submitter Number	Submitter No.	Contact Person	Contact company	Submitter postal address	Email
Far North District Council	n/a		James Witham, Rebecca Rowsell, Sophie Painter, Tim Fischer		Private Bag 752, Kaikohe 0440	james.witham@fndc.govt.nz , Rebecca.Rowsell@fndc.govt.nz , sophie.painter@fndc.govt.nz , tim.fischer@fndc.govt.nz
Bayswater Inn Ltd	S29	29	Mr. Chester Rendell		PO Box 303 Paihia 0247	chester@therendells.co.nz
Murdoch Phillips	S171	171	Murdoch Phillips		15/98 Marsden Road Paihia 0200	docky@xtra.co.nz
Ed and Inge Amsler	S341	341	Inge Amsler		6 Bedgood Close, Paihia 0200	chateipaihia@outlook.com
Heritage New Zealand Pouhere Taonga	S409, S570 & FS51	409	Bill Edwards – Northland Area Manager & Stuart Bracey – Northern Region Planner	Heritage New Zealand Pouhere Taonga	Private Box 105 291 Auckland City 1143	SBracey@heritage.org.nz & BEwards@heritage.org.nz
Northland Federated Farmers of New Zealand	S421	421	Jo-Anne Cook Munro	Federated Farmers of New Zealand	Federated Farmers of New Zealand PO Box 715 Wellington 6140	jcookmunro@fedfarm.org.nz
John Andrew Riddell	S431	431	John Andrew Riddell		36 Matauwhi Road Russell 0202	andrew@cepsservices.nz
Bell Family Trust	S450	450	Edith Bell		2 Kings Road Paihia 0200	bells.paihia@gmail.com
Don Mandeno	S532	532	Don Mandeno		278 Pungaere Road Waipapa Kerikeri 0295	donman@xtra.co.nz