

## Form 5 – Submission on the Proposed Far North District Plan

To Far North District Council

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1. I confirm that I could not gain an advantage in trade competition through this submission.
  
2. The specific provisions of the proposal that my submission relates to are:
  - a) Rural Residential Zone as it specifically relates to Section 1 SO 65376 and Lot 9 DP 554104, and to the wider area of the same Zone enclosed within Okahu and Pukepoto Roads, Kaitaia.
  - b) The 'Treaty Settlement Land' overlay as it affects Section 1 SO 65376.
  - c) The Subdivision Chapter and more particularly the subdivision rules SUB-R3 and Rules SUB-S1 – SUB-S7
  - d) Transport Chapter as it relates to subdivision rules.
  - e) Earthworks Chapter as to relates to subdivision rules.
  - f) Reference to Far North District Council Engineering Standards April 2022 in rules in the Transport and Subdivision Chapters.
  
3. My submission is as follows:
  - a) The provisions identified above as they relate to the proposed Rural Residential Zoning of the specified properties and the wider area of the same Zone enclosed within Okahu and Pukepoto Roads, Kaitaia, is supported.
  - b) The Treaty Settlement Land overlay identified on Section 1 SO 65376 should not apply as the land was sold by local hapu who received the land as part of a Treaty

settlement to the current owner over 12 months ago. The land is therefore no longer subject to any claim or currently owed by hapu/iwi as part of any Treaty settlement.

c) The Subdivision Chapter as it relates to minimum lot sizes and requirements for development in the Rural Residential Zone are generally supported, subject to the following:

- Rule SUB-R8 refers to 'Subdivision of a site containing land susceptible to land instability'. The definition of land instability in the Plan is very detailed and onerous and relies on information that will not be contained in the District Plan (ie. NZ Geology Web Map). All subdivisions are required to be assessed against Section 106 of the RMA which includes consideration of any significant risk of natural hazards. There does not appear to be a need to address land instability via a rule where it is addressed directly by statute. Alternatively, Rule SUB-R2 could include a requirement to define a suitable building site on each vacant lot by way of engineering report or certification to confirm stability. S178.003
- Rules SUB-S2 – S8 do not appear to have an activity status expressed where any application will comply with the various Rules. It is assumed any subdivision should be either permitted or controlled where it complies with any one of the rules, and restricted discretionary where it does not comply. An activity status should be referenced for each rule. S178.004
- Rule SUB-S6 includes reference to provision of telecommunications via fibre or copper connection. A requirement for a telecommunication service should no longer be required for any subdivision where technology now allows for various telecommunication providers to offer new technology allowing for wireless connection in any location. Any rule requiring telecommunication services for subdivision should be removed. S178.005
- Rule SUB-S7 refers to 'Easements for any purpose'. This should not be a rule but rather a matter that control is reserved over or discretion is restricted to for any subdivision. S178.006
- There is no rule in the Subdivision Chapter that clearly identifies requirements as they relate to traffic or access (see d) below). S178.007

d) The Transport Chapter contained in the Plan requires amendments suggested as follows:

- None of the Rules in the Chapter include any direct reference to requirements for subdivision. It is therefore not clear which (if any) rules require consideration S178.008

as part of any subdivision application. A separate section for Transport rules that require consideration as part of any subdivision consent may be required and suitable cross referencing between the Transport and Subdivision Chapters included.

- Rule TRAN-R2 Per-2 refers to compliance with SNZ PAS 4509:2008 New Zealand Fire Fighting Water Supplies Code of Practice. It is noted that the Code of Practice is referenced in other Chapters of the Plan (see Natural Hazards). It is not considered appropriate to refer to compliance with the Code of Practice in any rule – it should be a reference document. If the intention is to require a fire fighting water supply and vehicular access requirements then that should be specifically stated in terms of (say) a minimum volume per dwelling and minimum access requirement as a rule/s. S178.009
  - Rules TRAN-S1 – S5 do not appear to have an activity status expressed where any application will comply with the various Rules. It is assumed any subdivision should be either permitted or controlled where it complies with any one of the rules, and restricted discretionary where it does not comply. An activity status should be referenced for each rule. S178.010
  - Rule TRAN-S5 relates to 'Requirements for Streetlighting'. The provision of streetlighting for any new road of road extension should not be a rule but rather a matter that control is reserved over or discretion is restricted to for any subdivision or land use activity. S178.011
- e) The Earthworks Chapter contained in the Plan requires amendments suggested as follows:
- Rules EW-S1 – EW-S9 do not appear to have an activity status expressed where any application will comply with the various Rules. It is assumed any activity should be permitted where it complies with any one of the rules, and restricted discretionary where it does not comply. An activity status should be referenced for each rule. S178.012
  - None of the rules prescribe any specific requirement for earthworks associated with any subdivision activity. There should be some link between the Subdivision Chapter, where earthworks are usually required in some form and can be assessed as part of any subdivision application, and the Earthworks Chapter. S178.013
  - Rules EW-R13, EW-S4 and EW-S5 relate to erosion and sediment control. The District Council has no role in administering erosion and sediment control S178.014

matters where these are specifically addressed in the Proposed Regional Plan for Northland under Rule C.8.3.1. Inclusion of these rules in the District Plan duplicates controls already in place and administered by the Regional Council. The rules should be removed.

- Rule EW-S6 Setback is ambiguous and unenforceable where earthworks as defined could include very minor works (including such things as forming a vehicular access) that generate no adverse effects but still require consent. The rule should be removed. S178.015
  - Rule EW-S7 Land Stability is ambiguous and unenforceable where the definition of land instability is very detailed and onerous and relies on information that will not be contained in the District Plan (ie. NZ Geology Web Map). In addition, it is not clear how earthworks could be determined as resulting in any instability of land at or beyond any boundary and therefore infringe the rule. The common law of ‘the right of support for the land in its natural state’ should apply rather than attempting regulate land stability through the District Plan. The rule should be removed. S178.016
  - Rule EW-S9 Flood and coastal hazards is specifically addressed in the Proposed Regional Plan for Northland under Rule C.8.3.1. Inclusion of these rules in the District Plan duplicates controls already in place and administered by the Regional Council. The rule should be removed. S178.017
- f) The Far North District Council Engineering Standards April 2022 (‘ES 2022’) are referenced in rules in both the Subdivision and Transport Chapters. The ES 2022 is not written in a manner that can be interpreted as a rule. By way of example, Rules SUB-S4 and SUB-S5 require compliance with the ES 2022 as a (presumably) permitted or controlled performance standard. In reviewing relevant sections of the ES 2022, there is no clear indication as to what standard must be complied with and the contents are not written in a way that can be interpreted as a rule to confirm compliance (or not).

Whangarei District Council took a similar path following adoption of its engineering standards document in 2010 and directly referred to it in rules in the District Plan. It has since been removed from all rules and the Plan amended to refer to specific ‘standalone’ performance standards. It is suggested that the ES 2022 should not be referred to in any rule in the Plan, but should be referred to as a matter of control S178.018

or discretion where appropriate (as it has been under other rules in the Subdivision Chapter).

4. I seek the following decision from the FNDC:
  - a) That the Rural Residential Zone as it applies to Section 1 SO 65376 and Lot 9 DP S178.001 554104, and to the wider area enclosed within Okahu and Pukepoto Roads, Kaitaia is confirmed.
  - b) That the 'Treaty Settlement Land' overlay as it affects Section 1 SO 65376 is S178.002 removed.
  - c) That amendments are made to the Subdivision, Transport, and Earthworks Chapter provisions to address the concerns expressed in this submission.
  - d) That any consequential changes to Plan provisions (such as amendments to objectives and policies) as a result of this submission be made.
  
5. I do wish to be heard in support of this submission. Where others make a similar submission or submissions, I will consider presenting a joint case with them at a hearing.

Submission signed by A Hartstone, Set Consulting Limited, authorised to sign on behalf of Reuben Wright.



A Hartstone

19 October 2022