

## Appendix 1.01 Evaluation of Rezoning Submissions Kapiro Conservation Trust S442.170

Submission No/Point No.	Site Address	Decision Requested	Submitter Reasons	Nature of pre-hearing correspondence or submitter pre-circulated evidence (if any)	Rezoning Criteria	Officer's Comment	Costs and Benefits of accepting rezoning request
<p>Kapiro Conservation Trust S442.170</p> <p><b>Submissions who did not opt in but have the same request:</b></p> <p>Pacific Eco-Logic S451.026 <i>6 Further Submissions</i></p> <p>Living Waters – Bay of Islands S303.001 <i>4 Further Submissions</i></p>	<ul style="list-style-type: none"> <li>- Pipiroa wetland on the Russell Peninsula</li> <li>- Wairoro Park QE11 covenant on the Russell Peninsula,</li> <li>- Tangatapu wetlands and hillside FNDC covenant at the start of the walkway to Whangamumu from 717 Rawhiti Road</li> </ul>	<p>Amend the zoning to apply the more appropriately protective Natural Open Space Zone to land areas with existing ecological, legal or covenant protections, including:</p> <p>Ecological restoration projects such as:</p> <ul style="list-style-type: none"> <li>• Pipiroa Wetland on the Russell Peninsula,</li> <li>• Wairoro Park QEII covenant on the Russell Peninsula (currently zoned Rural Lifestyle),</li> <li>• Tangatapu wetlands and adjoining hillside covered by a FNDC covenant at the Whangamumu walkway entrance from 717 Rawhiti Road (currently zoned Rural Production).</li> </ul> <p>Land permanently protected by legal mechanisms such as:</p> <ul style="list-style-type: none"> <li>• QEII Open Space Covenants (e.g., Wairoro Park),</li> <li>• Reserves Act Covenants (e.g., Tangatapu Wetland),</li> <li>• FNDC covenant encumbrances (e.g., Omata Estate, currently zoned Rural Production).</li> </ul> <p>Unformed legal roads containing indigenous vegetation and located adjacent to the Coastal Marine Area or rivers and lakes, to better give effect to the natural character protection and restoration duties in section 6(a) of the RMA and NZCPS Policies 11, 13, and 14.</p> <p>Coastal properties adjoining or within the Coastal Marine Area at Ōpua, where the current zoning may not appropriately reflect the area's environmental sensitivity.</p>	<p>Some zoning does not provide adequate environmental protection or incentives for the management of reserves or permanently covenanted land. For example, certain ecological restoration areas are inappropriately zoned, such as Rural Living or Rural Production, which do not reflect their conservation function.</p> <p>In some cases, the zoning shown in the online mapping tools is either misaligned with the natural values present or entirely absent. One contributing factor appears to be the application of a protocol whereby only a single zone is applied per property or allotment. This results in ecological areas under permanent conservation covenants—such as QEII Open Space Covenants or covenants under the Reserves Act—being inappropriately zoned based on the balance of the property's land use.</p> <p>A further issue relates to unformed legal roads that were reserved from sale as part of the Queen's Chain, which are not zoned at all. This is the case even where these areas are subject to ecological restoration requirements under formal Management Agreements, such as those with Living Waters-BOI and the Far North District Council (FNDC). The rationale appears to be that these roads lack surveyed allotment numbers; however, they do each have a unique FNDC parcel identifier. For example, ULR #5230964, on the boundary of northwestern Waikare Inlet, is subject to a Management Agreement with Living Waters-BOI, and FNDC Reserves Act covenant #5152163 applies to land at Tangatapu, adjoining the Whangamumu Walkway.</p> <p>An additional mapping anomaly was observed in Opua, where the boundary between the Coastal Marine Area (administered by the Regional Council) and the adjoining terrestrial land has been misinterpreted. For instance, #7</p>	<p><b>Pre-hearing meetings</b></p> <p>Not applicable</p> <p><b>Pre-circulated evidence</b></p> <p>Not applicable</p>	<p><b>Strategic direction</b></p>	<p>Does not conflict with strategic direction.</p>	<p><b>Costs</b> – The Natural Open Space Zone is not generally appropriate for private land and applying it may result in constraints on land use, with potential implications for property rights and development opportunities.</p> <p>Split zoning is also not considered good zoning practice.</p> <p>Landowners have not requested the rezoning, nor have they been consulted through the Schedule 1 process, raising procedural fairness concerns.</p> <p>Rating implications, while important to landowners, are not a relevant planning matter and could lead to unrealistic expectations if used as a justification for rezoning.</p> <p><b>Benefits</b> –</p> <p>Could improve public understanding of the land's conservation purpose.</p> <p>Zoning could reinforce the ecological character and discourage inappropriate land uses, even if largely symbolic where covenants already apply.</p> <p><b>Risks of acting or not acting</b></p> <p>Risks of acting: Rezoning land without landowner involvement is potentially risky. Rezoning is also not necessary where these areas are already protected by QEII covenants. Misapplication of the Natural Open Space Zone to private land may also result in unintended regulatory burdens.</p> <p>Risks of not acting: If zoning remains misaligned with the ecological status of the land, there may be a perception of inconsistency or a missed opportunity to signal the significance of these areas in the</p>
					<p><b>Alignment with zone outcomes</b></p>	<p>Generally, the Natural Open Space Zone is not appropriate for private land as it does not meet the relevant criteria.</p> <p>Land owners have not requested the rezoning or been involved in the Schedule 1 process.</p> <p>Restoration and protection is provided for by Hearing 4 provisions, covenants already protect the values of these sites, rating matters are not relevant to the District Plan.</p> <p>In regard to unformed legal roads not being zoned. This is addressed in the 'how the plan works' section of the PDP "<i>All public roads, including state highways, railways and rivers are zoned, although they are not coloured on the planning maps to avoid confusion. The zoning of the road, rail corridor and rivers will be the same zone as that of the adjoining land (as shown on the District Plan maps). Where the zoning of the land that adjoins one side of the road, railway or river is different to that of the land that adjoins the other side, then the zoning of the adjoining land shall apply up to the centreline of the road, railway or river.</i>"</p> <p>In relation to the point about the boundary between the CMA and the adjoining terrestrial land. In most circumstances, spatial layers in a district plan that extend seaward of MHWS will not have legal effect (because district councils do not generally have jurisdiction for the coastal marine area i.e. seaward of MHWS). However, under s 89 of the Resource Management Act 1991 (RMA), such provisions may fall to be considered by the district council under the district plan for certain activities within the coastal marine area i.e. subdivision of land wholly or partly within the coastal marine area and proposed activities on reclaimed land.</p>	

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			Beechey Street—located beside the FNDC toilet block at the Opuā ferry ramp—is zoned Rural Production, despite being occupied by residential rental units built largely on poles above open water.		<div><div>This provides a reasonable argument against seeking to adopt a blanket approach of amending the PDP by moving all spatial layers that encroach into the coastal marine area landward, to align with MHWS. This is further supported by uncertainties as to the true location of MHWS and the potential for MHWS to shift over time.</div><div>The Rural Production zoning currently applied to Lot 1 DP 59479, Beechey Street, Opuā appears to be a GIS mapping anomaly and is not appropriate given the sites location. It is recommended that the zoning be removed and land above the MHWS be rezoned with a Mixed Use Zone, which would more accurately reflect the surrounding context and neighbouring sites.</div></div>	District Plan. However, this risk is largely mitigated where protections are already secured through legal instruments such as QEII covenants.
				Higher order direction	Does not conflict with higher order direction.	
				Reasons for the request	Zoning does not provide adequate environmental protection and incentives for reserves or permanently covenanted land (e.g., some ecological restoration projects are inappropriately zoned (e.g., rural living or production)).	
				Assessment of site suitability and potential effects of rezoning	Site suitability assessment is not required for this type of zoning. Potential effects of rezoning include	
				Infrastructure (three waters) servicing	N/A	
				Transport infrastructure	N/A	
				Consultation and further submissions	1 Further Submission	
				Other relevant matters	Zoned Rural Production Coastal Environment Coastal Flood Zone 1, 2 & 3 River Flood Hazard Zone 10- & 100-Year ARI Event	
				Section 32AA evaluation	N/A	
<b>Recommendation</b>						
Retain notified zoning. Reject original submission and further submissions in support and accept further submissions in opposition.						
Accept in part S303.001 and rezone land above the MHWS of Lot 1 DP 59479 Beechey Street, Opuā to Mixed Use, accepting further submissions in part.						