



**PROPOSED FAR NORTH DISTRICT PLAN
RECOMMENDATIONS OF THE INDEPENDENT HEARINGS
PANEL**

**RECOMMENDATION REPORT 12
Hearing 12: Historic and Cultural Values**

March 2026

Recommendation Report 12

Recommendation Report 12 is to be read in conjunction with the **Preamble Report** and **Recommendation Reports 1, 11, 15A, 15B and 17**.

Recommendation Report 12 contains the Panel's recommendation on Part 2 – District-Wide Matters - Historic and cultural values: Heritage Area Overlays; Notable Trees; Historic Heritage; Sites and Areas of Significance to Māori; Part 3 – Area-Specific Matters - Special Purpose Zones - Kororāreka Russell Township Zone; and Part 4 – Appendices and Schedules – Schedule of Notable Trees; Schedule of Historic Sites, Buildings and Objects; and Schedule of Sites and Areas of Significance to Māori.

Recommendation Report 12 may contain consequential amendments resulting from recommendations from other recommendation reports.

Recommendation Report 12 also contains the following appendices:

Appendix 1: Schedule of Hearing Attendances

Appendix 2: Hearings Panel Recommended Amendments to the PDP – tracked from notified version (provisions not subsequently renumbered) Amendments to the following:

Appendix 2.1 Notable Trees Chapter

Appendix 2.2 Heritage Area Overlay Chapter

Appendix 2.3 Historic Heritage Chapter

Appendix 2.4 Kororāreka Russell Township Zone

Appendix 2.5 Sites and Areas of Significance to Māori Chapter

Appendix 3: Hearings Panel Recommended Amendments to the following Schedules:

Appendix 3.1 SCHED1 Schedule of Notable Trees

Appendix 3.2 SCHED2 Schedule of Historic Sites, Buildings and Objects

Appendix 3.3 SCHED3 Schedule of Sites and Areas of Significance to Māori

Appendix 3.4 New Appendix - APP-7 Heritage colour palette and BS5252 standard colour palette

Appendix 4: Hearings Panel Recommended Amendments to Planning Maps

Appendix 5: Summary table of recommendations on each submission point

Appendix 5.1 Recommended Decisions on Submissions - Notable Trees

Appendix 5.2 Recommended Decisions on Submissions Historic Heritage

Appendix 5.3 Recommended Decisions on Submissions Kororāreka Russell Township Zone

Appendix 5.4 Recommended Decisions on Submissions Sites and areas of significance to Māori

The Independent Hearings Panel for this hearing comprised Robert Scott – Independent panel member and Chairperson; Siani Walker – Independent panel member; Peter Kensington – Independent panel member; and Hilda Halkyard-Harawira – Council member.

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RECOMMENDATION REPORT 12

1. Introduction

1.1 Report Structure

This is **Recommendation Report 12** prepared by the Independent Hearings Panel appointed to hear and make recommendations with respect to submissions and further submissions lodged on the Proposed Far North District Plan (**PDP**).

This recommendation report makes findings and recommendations relating to submissions on the objectives, policies and rules in the following chapters or sections of the PDP.

PDP Part	PDP Sub-Part	PDP Chapter or Provisions
Part 2 – District-Wide Matters	Historic and Cultural Values	Heritage Area Overlays
		Historic Heritage
		Notable Trees
		Site and Areas of Significance to Māori
Part 3 – Area Specific Matters	Special Purpose Zones	Kororāreka Russell Township zone
Part 4	Appendices and Schedules	SCHED 1 - Schedule of Notable Trees
		SCHED 2 - Schedule of historic sites, buildings and objects
		SCHED 3 - Schedule of sites and areas of significance to Māori

1.2 Section 32AA of the RMA

The requirements in clause 10 of the First Schedule of the Act and s32AA RMA are relevant to our considerations of the PDP provisions and the submissions received on those provisions. These are outlined in full in the **Preamble Report**.

We have not produced a separate evaluation report under s32AA. Where we have adopted the recommendations of the Council’s hearing report authors, we have adopted their reasoning, unless expressly stated otherwise. This includes the s32AA assessments within or attached to the relevant hearing reports, provided within evidence for Submitters, and/or within the Council’s right of reply reports. Those reports and the evidence are part of the public record and are available on the Council website.

Where our recommendation differs from the hearing report authors’ recommendations, we have incorporated our own s32AA evaluation into the body of our report as part of our reasons for recommended amendments, as opposed to including this in a separate table or appendix.

As per section 4.2 of the **Preamble Report** where we generally agree with the Council recommendations relating to the relief sought by those submitters who did not wish to speak at the hearing, we have concluded that these matters are not in contention. In that regard, we have focussed our discussion in this recommendation report on those submitters who presented evidence to us.

1.3 Consequential Amendments

This recommendation report contains consequential amendments, including to or from other plan chapters. These are discussed further in this report.

1.4 Terminology – Historical or Historic?

We noted the PDP (within the ‘Part 2’ subtitles for the topics being considered in this recommendation report) and the Council’s hearing report and right of reply recommendations, include terminology using the word “historical”, rather than the word “historic”, which is a more commonly referenced term. For example, the RMA references “historic heritage” as a matter of national importance (under s6(f)). We questioned the Council officers on this matter at the commencement of the hearing and we were informed that the National Planning Standards recommend using the word “historical”.

We recommend that it is more appropriate and technically correct for the subtitles in Part 2 of the PDP to be amended and use the word “**historic**” rather than “historical”.

2. Procedural Issues

2.1 Minute 24: Protection of Sensitive Information – Hearing 12

The Panel received a request from Te Aupōuri Commercial Development Limited (submitter S339, Te Aupōuri) pertaining to their sites and areas of significance and the cultural information in their evidence be kept confidential and not to be shared beyond the Panel and Council staff unless otherwise agreed by Te Aupōuri.

The Hearings Panel agreed to the request to keep the culturally sensitive information of Te Aupōuri private. Only a redacted version of their evidence would be made public (i.e. published on the Council’s hearing website), and anyone present at the hearing must not share the sensitive details.

Minute 24 from the Panel, dated 26 May 2025, provided instructions to the PDP Hearing 12 process, as enabled under s42 of the RMA, regarding the protection of sensitive information, specifically sections 42(1) and 42(2) as set out below:

42 Protection of sensitive information

- (1) *A local authority may, on its own motion or on the application of any party to any proceedings or class of proceedings, make an order described in subsection (2) where it is satisfied that the order is necessary—*
 - (a) *to avoid serious offence to tikanga Maori or to avoid the disclosure of the location of waahi tapu; or*

- (b) *to avoid the disclosure of a trade secret or unreasonable prejudice to the commercial position of the person who supplied, or is the subject of, the information,—*

and, in the circumstances of the particular case, the importance of avoiding such offence, disclosure, or prejudice outweighs the public interest in making that information available.

- (2) *A local authority may make an order for the purpose of subsection (1)—*
 - (a) *that the whole or part of any hearing or class of hearing at which the information is likely to be referred to, shall be held with the public excluded (which order shall, for the purposes of subsections (3) to (5) of section 48 of the Local Government Official Information and Meetings Act 1987, be deemed to be a resolution passed under that section):*
 - (b) *prohibiting or restricting the publication or communication of any information supplied to it, or obtained by it, in the course of any proceedings, whether or not the information may be material to any proposal, application, or requirement.*

2.2 Interim Guidance: Minute 30 – Heritage Area Overlay

The Panel issued interim guidance via Minute 30, dated 28 August 2025, relating to proposed Rule HA-R5 (Earthworks) in the Heritage Overlay chapter.

In issuing this guidance the Panel were aware of considerable public interest in this recommended provision (both in evidence presented at the hearing and in the public arena following the hearing).

The interim guidance was intended to clarify what the Panel would recommend to the Council at the conclusion of hearings in March 2026 in relation to this particular rule.

In the Council’s hearing report and in response to a submission by Heritage New Zealand (S409.028), the reporting planner, relying on the advice of its expert heritage specialist, recommended the inclusion of a new permitted activity condition (PER-1) in Rule HA-R5 restricting the disturbance of sub-soils below 500mm in all Heritage Area Overlay areas. At the hearing, the Council’s heritage specialist explained that the rationale for that approach was based on the assumption that previously undiscovered or undisturbed archaeological sites were likely to be experienced at depths greater than 500mm.

Where this rule applied to rural areas, the Panel received a lot of evidence in opposition from farmers, based on its likely interference with day-to-day farming practice (i.e. land disturbance associated with fencing, creating and maintaining farm tracks, or burying dead stock, for example). In an urban context, the Panel received evidence in opposition from landowners and occupiers concerned that the proposed rule would interfere with home maintenance operations, such as building decks, swimming pools, retaining walls, boundary fencing and additions to dwellings involving foundations.

In the right of reply, the Council’s reporting officer acknowledged the issues, particularly as they relate to farming practice, and recommended some exceptions in both the rural and urban contexts of the rule.

Having considered the final Council recommended drafting of the rule, the Panel was concerned that to make the rule workable, there would need to be a significant number of exceptions for earthworks activities in both rural and urban contexts. So much so, that the sheer number of exceptions would make the rule ineffective. While the Panel acknowledged the innovative approach recommended by the reporting officer and heritage expert with regard to undiscovered archaeological sites in the areas subject to the Heritage Area Overlay, the Panel ultimately recommends that the 500 mm depth rule would need too many exceptions for it to be efficient and effective in terms of section 32 of the Resource Management Act 1991.

On this basis, the Panel's interim guidance in Minute 30 was that we would recommend to the Council that rule HA-R5 (PER-1), as proposed in the Council's right of reply, is amended by deleting clause 3 from PER-1, being that part of the rule relating to the disturbance of sub-soils below a depth of 500mm in all areas subject to the Heritage Area Overlay. We confirm the guidance from Minute 30 in this recommendation report.

2.3 Proposed Plan Variation 1

Proposed Plan Variation 1 to the PDP makes various amendments to correct minor errors, amend provisions that are having unintended consequences, remove ambiguity, and to improve clarity and workability of the provisions.

2.4 Sites and Areas of Significance to Māori

At the hearing on 27 and 28 May 2025, for the topic 'Sites and Areas of Significance to Māori' (**SASM**), the Council's reporting officer pointed out a problem to the Panel members with *SASM, Appendix 1B: Officers Recommended Amendments to Schedule 3: Schedule of Sites and Areas of Significance to Māori*.

In the Council's right of reply, under the 'Procedural Matters' heading, the reporting officer advised that, when Appendix 1B was publicly notified, it was missing a clause of text that had been approved on 23 August 2024 (a clause 16 amendment). The missing clause is as follows:

Where the column headed "Requesting party" lists a party, which may be an Iwi authority, hapū or landowner, this is not intending to identify who has mana whenua of the site and area of cultural significance.

This missing clause has since been added to the online version of the PDP, under Part 4, Appendices and Schedules, SCHED3 – Schedule of sites and areas of significance to Māori, correcting the oversight and this is also included in **Appendix 3.3**.

2.5 Waitangi Limited (S503) - Formal Withdrawal of Submission Points

The Panel received a memorandum of counsel dated 17 April 2025 on behalf of the submission from Waitangi Limited. The memo sought for the submitter to be excused from Hearing 12 and for the relief sought in the submission to be reallocated to Hearing 15B. As such, based on this request, we record that the submission points S503.26, S503.28 and S503.29 have not been considered as part of our deliberations on this hearing topic.

2.6 National Planning Instruments

As discussed in sections 3.2 and 3.3 of the **Preamble Report**, where any national policy or environmental standard was notified prior to the hearing, these provisions have been incorporated in the hearing report and addressed at the hearing and in our evaluations and recommendations. With regard to the ten national policy statements and environmental standards that came into effect on 15 January 2026 (i.e. after all hearings had been completed), we have determined (following legal advice) that the Council can only give effect to those documents through a Schedule 1 variation or plan change process. See also Minutes 40-42 which address this matter.

3. Topic 1: Notable Trees

3.1 Relevant Provisions

The relevant provisions we address for this topic relate to:

- Definitions
- Notable Trees: Overview
- Notable Trees: Objective (NT-O1)
- Notable Trees: Policies (NT-P1 – NT-P6)
- Notable Trees: Rules (NT-R1 – NT-R9)
- Notable Trees: Standards (NT-S1 – NT-S2)
- Schedule 1 – Schedule of Notable Trees

3.2 Overview of Submissions Received

A total of 20 original submissions and 21 further submissions were received on the Notable Trees topic.

As set out in the Council’s hearing report the main submissions on the Notable Trees topic came from:

- Network utility providers – Top Energy Limited (S483), Transpower New Zealand (S454) and Telco Companies (S282);
- Government organisations – NZTA (S356) and MOE (S331);
- Local Companies – Northland Planning and Development Limited 2020 (S502);
- Key interest groups – Waitangi Limited (S503), Kapiro Conservation Trust (S442), Pacific Eco-Logic (S451), Federated Farmers (S421), Russell Protection Society (INC) (S179), Hammi Piripi ONZM (S580), Ahipara Takiwā (S576 & S579), Te Rūnanga O Ngai Takoto Trust (S390), Te Rūnanga O Whaingaroa (S486), Te Rūnanga Ā Iwi O Ngaphui (S498) & Te Hiku Iwi Development Trust (S399); and
- Individuals, such as David Truscott (S476), Rowen Ralls (S80), James Frater (S154 & S175) and Walter Hicks (S588).

3.3 Key Issues

The key issues identified and addressed in the hearing report, the hearing addendum report, in evidence at the hearing, and in the Council’s right of reply, were structured around each of the notified provisions where submissions were seeking specific changes to the provisions. Rather than follow this same structure, we have set out our assessment, evaluation and recommendations within the broad structure of the provisions, as is set out at section 3.1 above.

We note that many of the submission requests had been addressed through the Council’s hearing report, in response to our questions at the hearing, and in the Council’s right of reply. We agree with the officer’s right of reply and adopt those recommendations not in contention.

As such, there remain very few issues in contention that require us to make recommendations on. We did however seek clarification from the reporting officer to confirm the reporting recommendations relating to the Schedule of Notable Trees.

It was confirmed to us that there was an error in the Council’s right of reply report relating to the trees listed under the proposed schedule at reference numbers 18 and 71. The recommended listing of these trees in the Council’s right of reply version of the schedule indicated that these trees were to be removed from the schedule, by strikethrough text – as illustrated below:

18, 18a, 18b, 18c & 18d	Te AhuAhu Rd, Waimate North (Grove Cottage Grounds)	Castanea sativa (Chestnut) Magnolia grandiflora (Evergreen Magnolia) Cedrus libani (Cedar of Lebanon) Pinus radiata (Pine) 2 x Araucaria heterophylla (Norfolk Pines)	177 165 159 147 153	Lot 5 DP 320866
71	Kingston House, Hone Heke Rd, Kerikeri	Styraciflua (Liquid Amber) 3 x Quercus palustris (Pin Oaks)	144 192	Lot 1 DP163401, Blk XI Kerikeri SD

It was confirmed to us by the Council staff, following the adjournment of the hearing, that the above listings should be retained, rather than removed.

We therefore recommend that the Notable Tree listings for reference numbers 18 and 71 in the schedule be retained. The recommended changes to the Schedule of Notable Trees (SCHED1) are annexed as **Appendix 3.1** to this recommendation report.

3.4 Key Issue 1 – Definitions and Overview

3.4.1 Matters Raised in Submissions

In response to submissions from the Telco Companies¹, the Council’s hearing report recommended an amendment to the definition of ‘Rootzone Area’, which was based on specialist advice from the Council’s consultant arborist, Mr Redfern.

¹ Telco Companies are: Chorus New Zealand Limited; Spark New Zealand Trading Limited; Spark TowerCo Limited; and Vodafone New Zealand Limited

We note that there was no challenge to this proposed amendment through the evidence before us. Similarly, the Council’s addendum hearing report, which recommended a definition for the term ‘*Emergency Tree Works*’, was unchallenged.

While a submission point from Federated Farmers was made, no amendments to the notified version of the Overview was recommended in the Council’s hearing reports.

3.4.2 Hearings Panel Evaluation

In terms of the proposed changes to the definitions, given there are no matters in contention before us, we are not required to make an evaluation and we agree that the recommendations set out in the Council’s right of reply will be appropriate.

3.4.3 Hearings Panel Recommendations

1. We recommend that the submission from the Telco Companies (S282.001) be accepted and the submission from Federated Farmers (S421.130) be rejected. We also recommend that the following changes be adopted by the Council:
 - a) amendments to the definition of ‘*Rootzone Area*’ and the addition of a definition of ‘*Emergency Tree Works*’, as set out at **Appendix 2.1 of Recommendation Report 17**.

We also recommend no changes to the proposed wording of the Overview as we agree with the version set out at **Appendix 2.1** of this recommendation report.

3.5 Key Issue 2 – Objective (NT-O1)

3.5.1 Matters Raised in Submissions

A submission point from NZTA supported retention of Objective NT-O1, while Top Energy requested amendments to the objective to provide for infrastructure. Planning evidence to support the Top Energy submission was provided by Mr Badham and Ms McGrath², primarily suggesting the need for a clearer link between the objective and Policy NT-P4.

3.5.2 Hearings Panel Evaluation

We agree with the Council’s right of reply response to the Top Energy submission and evidence which recommends not to accept this proposed change. This is because the Notable Trees chapter of the PDP is focussed on the protection of a relatively small number of specific important trees within the district, with these trees having a high degree of heritage value. As such, the provisions of this chapter should rightfully be focussed on protection as a priority. We also note that other provisions within the PDP are more enabling of infrastructure, such that there is no need to provide additional specific reference to infrastructure within this particular chapter.

We agree with the Council’s right of reply, that the link to Policy NT-P4 is via both Objective NT-O1 and also the relevant objectives within the Infrastructure chapter of the PDP and, where any conflict between these provisions exist when considering an issue, a planning evaluation will need to be made based on the specifics of a particular situation.

² Only Ms McGrath presented at the hearing, with Mr Sooknandan (technical) and Ms Collins (corporate).

We note that there are only a relatively limited number of Notable Trees (relative to the size of the District) scheduled within the PDP, such that the potential for conflicts between infrastructure and scheduled trees will therefore likely be relatively limited.

We also acknowledge through the evidence presented to us that Top Energy has internal procedures in place to ensure that expert arboricultural advice is sought where conflict between infrastructure and trees occurs – with such advice likely to favour protection where a Notable Tree is involved.

3.5.3 Hearings Panel Recommendations

For the reasons set out above, we recommend that the submission from NZTA (S356.054) be accepted and the submission from Top Energy (S483.128) be rejected. We also recommend no changes to Objective NT-O1 as we agree with the version set out at **Appendix 2.1**.

3.6 Key Issue 3 – Policies (NT-P1 – NT-P6)

3.6.1 Matters Raised in Submissions

The Council’s hearing report and the Council’s right of reply recommendations outlined the various suggested changes to the notified version of the policies within the Notable Trees chapter, made in response to various submission points. Appendix 1.1 of the Council’s right of reply sets out these various changes, including two changes recommended under clause 16 of the RMA.

The evidence provided on behalf of Top Energy by Mr Badham and Ms McGrath in relation to these policies continues a similar theme to that discussed above for the objective. In addition to supporting some of the proposed provisions, this evidence for Top Energy also sought a number of changes, one of which (amendment to Policy NT-P4) was agreed in the Council’s right of reply. However, for similar reasons to those set out above for consideration of the chapter objective, the Council’s right of reply did not support the remaining suggestions of Top Energy’s experts relating to these policies. The reasons for this recommendation include the fact that Notable Trees hold special significance and heritage value within the district and require a higher level of protection than the many other existing trees within the district that are not listed in the schedule.

For example, given the importance of these trees, the Council’s right of reply continued to support the inclusion of a policy directive (NT-P2) that required suitably qualified and experienced arborists (clarified by Mr Redfern as being an individual holding a ‘Level 4’ expert arboricultural certification) to undertake any required pruning and trimming of branches on notable trees.

3.6.2 Hearings Panel Evaluation

For the reasons set out above when considering the objective of this chapter, we agree with the Council’s right of reply response to the Top Energy submission and evidence seeking amendments to the policies. This is because the Notable Trees chapter of the PDP is focussed on the protection of specific important trees within the district, with these trees having a high degree of heritage value. As such, the provisions of this chapter should rightfully be focussed on protection of specific trees. We also note that other provisions

within the PDP are more enabling of infrastructure, such that there is no need to provide additional specific reference in this chapter.

3.6.3 Hearings Panel Recommendations

1. For the reasons set out above, we recommend that the submissions from:
 - a) Te Hiku Iwi Development Trust (S399.054 and 055) be accepted in part;
 - b) Top Energy Limited (S483.129, 130 and 132) be rejected; (S483.133) be accepted in part; and (S483.131) be accepted;
 - c) Transpower New Zealand Ltd (S454.079) be accepted in part and (S454.080 and 081) accepted;
 - d) MOE (S331.040) be accepted;
 - e) Te Rūnanga Ā Iwi O Ngapuhi (S498.065), Te Rūnanga o Whaingaroa (S486.078) and Te Runanga o Ngai Takoto Trust (S390.064) be accepted in part; and
 - f) NZTA (S356.055) be accepted in part.

We also recommend no further changes to Policies NT-P1 – NT-P6, other than those set out at Appendix 1.1 of the Council’s right of reply, as per the version annexed to this recommendation report as **Appendix 2.1**.

3.7 Key Issue 4 – Rules (NT-R1 – NT-R6) and Standards (NT-S1 – NT-S2)

3.7.1 Matters Raised in Submissions

The Council’s hearing report recommendation (including the addendum reporting relating to the consideration of ‘*emergency tree works*’) and Council’s right of reply outline the various suggested changes to the notified version of the rules and standards within the Notable Trees chapter, made in response to various submission points. Appendix 1.1 of the Council’s right of reply sets out the recommended changes, including to the timing requirement for information to be provided to the Council (5-days rather than 14-days) at NT-R2 PER-4, NT-R3-PER-3, NT-R4-PER-3 and NT-R6-PER-6, as recommended in response to the submission from Top Energy.

Again, the evidence provided on behalf of Top Energy by Mr Badham and Ms McGrath in relation to these rules and standards continues a similar theme to that discussed above, including challenging the need for Level 4 Qualified Arborists to undertake tree work.

In addition, the Top Energy evidence suggested that the PER-2 and PER-3 clauses under Rule NT-R4 (pruning of a notable tree close to existing electricity lines) were unnecessary and onerous when considering that such works are already required (under clause PER-1) to be undertaken in accordance with Electricity (Hazards from Trees) Regulations 2003.

3.7.2 Hearings Panel Evaluation

Again, for the reasons set out in our findings above when considering the objective of this chapter, we agree with the Council’s right of reply response to the Top Energy submission and evidence. This is because the Notable Trees chapter of the PDP is focussed on the protection of specific important trees within the district, with these trees having a high degree of heritage value. It is rightfully appropriate, in the context of ensuring ongoing

protection of notable trees, for appropriately qualified and experienced arborists to undertake such pruning work. We also agree with the Council recommendation to amend the notification timeframe, from 14-days to 5-days, prior to works commencing, as this represents a more efficient outcome.

3.7.3 Hearings Panel Recommendations

1. For the reasons set out above, we recommend that the submissions from:
 - a) Top Energy Limited (S483.134) be accepted and (S483.135, 137, 138, 139 and 190) be accepted in part;
 - b) Waitangi Limited (S503.029) be rejected;
 - c) Northland Planning and Development 2020 Limited (S502.045) be rejected;
 - d) Federated Farmers (S421.131) be rejected; and
 - e) Walter Hicks (S588.015) be accepted.

The Hearings Panel also recommend no further changes to Rules NT-R1 – NT-R6 and Standards NT-S1 – NT-S2, other than as has been set out at Appendix 1.1 of the Council’s right of reply, as per the version annexed to this recommendation report as **Appendix 2.1**.

3.8 Key Issue 6 – Schedule of Notable Trees

3.8.1 Matters Raised in Submissions

We note that the issues raised by Mr Truscott at the hearing, relating to the retention of the reference to Notable Tree 137 at the Masonic Hotel in Rāwene, were verbally addressed at the hearing and further addressed in the Council’s right of reply including agreement to retain this listing.

Similarly, the submission by Mr Frater concerning trees listed in the schedule at Te Hue Cove and at Opunga Cove, which sought their retention in the schedule, was confirmed at the hearing and confirmed in the Council’s right of reply.

The submission from Pacific Eco Logic sought inclusion of additional (but undefined) trees in the schedule, in relation to currently unprotected mature Pohutukawa, Puriri and Kowhai trees that are located within the coastal environment. The Council’s right of reply has not been able to take this matter further given the lack of detail provided by the submitter.

3.8.2 Hearings Panel Evaluation

In addition to the above, noting that we agree with the reporting officer’s post-hearing advice to us with regard to correcting the error in the schedule’s reference at 18 and 71, we also agree that the Council’s right of reply version of the schedule addressed various inconsistencies that had been identified in the schedule following preparation of the original Council hearing report. The Council’s right of reply version of the Notable trees schedule sets out and highlights these various corrections.

3.8.3 Hearings Panel Recommendations

1. For the reasons set out above, we recommend that the submissions from:

- a) Ahipara Takiwā (S576.001 and S579.001) and Haami Piripi ONZM (S580.001) be accepted;
- b) Rowena Ralls (S80.001) be accepted;
- c) James Frater (S154.001 and S175.001) be accepted;
- d) Russell Protection Society Incorporated (S179.085) be accepted;
- e) Pacific Eco-Logic (S451.019) and Kapiro Conservation Trust (S442.163) be rejected;
- f) Pacific Eco-Logic (S451.022) and Kapiro Conservation Trust (S442.166) be accepted in part; and
- g) David Truscott (S476.001) be rejected.

The Hearings Panel agree with the Council’s hearing report that the proposed version of the Schedule of Notable Trees, as attached to the Council’s right of reply (at Appendix 1.3) is appropriate and fit for purpose, other than where we recommend correcting the error referenced at 18 and 71, which has been acknowledged by the Council, as per the version annexed to this recommendation report as **Appendix 3.1** and as set out below:

<u>18,</u>	<u>Te AhuAhu Rd, Waimate North (Grove Cottage Grounds)</u>	<u>Castanea sativa (Chestnut)</u>	<u>177</u>	<u>Lot 5 DP 320866</u>
<u>18a,</u>			<u>165</u>	
<u>18b,</u>		<u>Magnolia grandiflora (Evergreen Magnolia)</u>	<u>159</u>	
<u>18c &</u>		<u>Cedrus libani (Cedar of Lebanon)</u>	<u>147</u>	
<u>18d</u>		<u>Pinus radiata(Pine)</u>	<u>153</u>	
		<u>2 x Araucaria heterophylla (Norfolk Pines)</u>		

<u>71</u>	<u>Kingston House, Hone Heke Rd, Kerikeri</u>	<u>Styraciflua (Liquid Amber)</u>	<u>144</u>	<u>Lot 1 DP163401, Blk XI Kerikeri SD</u>
		<u>3 x Quercus palustris (Pin Oaks)</u>	<u>192</u>	

The Hearings Panel recommend that the planning maps be updated to reflect the recommended additions and deletions within SCHED1 (Schedule of Notable Trees). The Hearings Panel also recommends that the numbering references within the schedule and on the maps should be updated with refreshed sequential numbering overall.

4. Topic 2 – Heritage Area Overlays and Historic Heritage

4.1 Relevant Provisions

The relevant provisions we address for this topic relate to:

- Heritage Area Overlays: Overview
- Heritage Area Overlays: Objective (HA-O1)
- Heritage Area Overlays: Policies (HA-P1 – HA-P16)
- Heritage Area Overlays: Rules (HA-R1 – HA-R13)
- Heritage Area Overlays: Standards (HA-S1 – HA-S3)
- Historic Heritage: Overlay
- Historic Heritage: Objectives (HH-O1 – HH-O3)
- Historic Heritage: Policies (HH-P1 – HH-P15)
- Historic Heritage: Rules (HH-R1 – HH-R10)
- Schedule 2 – Schedule of historic sites, buildings and objects (SCHED2)
- Planning maps.

4.2 Overview of Submissions Received

A total of 236 original submission points and 680 further submission points were received on the Heritage Area Overlays and Historic Heritage topic.

As set out in the Council’s hearing report the main submissions on the Heritage Area Overlays and Historic Heritage topic came from:

- HNZPT (S409);
- Iwi and hapu groups such as Ngati Rangi ki Ngawha Hapu (S304);
- Non-governmental organisations, such as Waitangi Limited (S501), Russell Protection Society (S179) and Federated Farmers (S421); and
- Other individual submitters, such as John Andrew Riddell (S431) and Trent Simpkin (S23).

4.3 Key Issues

The Council’s hearing report recommended refinements to the spatial extent of several Heritage Area Overlays (including addition and removal of land), amendments to better align the Heritage Area Overlay and Historic Heritage provisions and restructuring and redrafting some rules in these provisions to remove duplication, confusion and inefficiency. Some of these matters were resolved prior and were not in contention at the hearing. However, other overlay extents and various provisions were challenged.

The key issues identified that we have addressed following the hearing, and based on the Council's hearing report, right of reply and from submitter evidence, are set out below:

- Key Issue 1: Heritage Area Overlay mapping (spatial extents not in contention)
- Key Issue 2: Heritage Area Overlay – overview, objectives, policies, rules and standards; and consideration of challenges to proposed spatial extents; and
- Key Issue 3: Historic Heritage provisions – overview, objectives, policies, rules and schedule (including in relation to dry stone walls and infrastructure).

Our assessment, evaluation and recommendations follow the above structure, noting that the Heritage Area Overlays and Historic Heritage provisions work together to manage historic heritage values (both related to specific sites and features as well as broader areas) in an integrated way. The difference being that the Historic Heritage chapter includes additional provisions that manage broader geographic locations where there are significant clusters of historic heritage features. These features may include the built form of a settlement, elements of the surrounding landscape and/or archaeological values, as well as items that have been included in the SCHED2 schedule.

We acknowledge the submission and evidence presented by Ms Cook-Munro from Northland Federated Farmers of New Zealand Incorporated on this topic, which we note mostly supports and accepts the Council reporting recommendations. The only area that remained in contention for this submitter was in relation to a suggestion to include an additional statement in the Overview of the Heritage Area Overlay provisions to recognise that farming activity is an important existing activity that takes place within these areas.

We note that a key issue with the proposed Heritage Area Overlay provisions is how these relate to and are to be administered alongside the relevant underlying zone provisions.

4.4 Key Issue 1: Heritage Area Overlay Mapping (Spatial Extents not in Contention)

The PDP included Heritage Area Overlays of the same or similar spatial extents to those which are in the Operative District Plan. These existing heritage area overlays extents were generally not in contention through the hearing process.

In addition, the submission from HNZPT sought the inclusion of some eighteen new Heritage Areas, acknowledging that post-submission discussions were held between this submitter and the Council's report writers and specialists. The Council's hearing report recommended that these new areas should not be included in the PDP because the landowners impacted by these requests had not had a fair and adequate opportunity (through the schedule 1 process) to submit and become involved in the process.

We agree with this recommendation and note that HNZPT did not pursue this aspect of their submission further at the hearing – other than for the specific areas covered at Key Issue 2 below.

4.4.1 Matters Raised in Submissions

The submission from HNZPT and others sought the retention and/or adjustment of the following proposed Heritage Area Overlays that have been recommended in the PDP:

- Kohukohu Heritage Area Overlay

- Rangihoua Heritage Area Overlay
- Kerikeri Heritage Area Overlay
- Kororāreka Russell Heritage Area Overlay
- Mangōnui and Rangitoto Peninsula Heritage Area Overlay
- Paihia Heritage Area Overlay
- Pouerua Heritage Area Overlay
- Rāwene Heritage Area Overlay
- Te Waimate Heritage Area Overlay.

The Council's hearing report recommended accepting in part these submission points and either retaining or amending the majority of the above Heritage Area Overlay extents, as set out below.

- Kohukohu Heritage Area Overlay – retain as notified
- Rangihoua Heritage Area Overlay – retain as notified
- Kerikeri Heritage Area Overlay - amend boundary as per the submission of Emily and Richard Fladgate (refer map at **Appendix 4** to this recommendation report)
- Kororāreka Russell Heritage Area Overlay
- Mangōnui and Rangitoto Peninsula Heritage Area Overlay
- Paihia Heritage Area Overlay - Amend to include the Waitangi Islands within Part B (refer map at **Appendix 4** to this recommendation report)
- Pouerua Heritage Area Overlay
- Rāwene Heritage Area Overlay – retain as notified
- Te Waimate Heritage Area Overlay.

These recommendations were not challenged at the hearing by submitters and were not in contention, other than for the Mangōnui and Rangitoto Peninsula, Paihia, Pouerua, Rāwene and Te Waimate Heritage Area Overlays, which we discuss further below at Key Issue 2.

4.4.2 Hearings Panel Evaluation

Given there were no issues in contention relating to the spatial extent of the above Heritage Area Overlays, other than for the Mangōnui and Rangitoto Peninsula, Paihia, Pouerua, Rāwene and Te Waimate Heritage Area Overlays (as discussed below), we were not required to make a recommendation on the spatial extent of these areas. The extent of mapping changes for the following overlays is illustrated at **Appendix 4** to this report.

- Kerikeri Heritage Area Overlay (refer first map in the appendix)
- Paihia Heritage Area Overlay (refer second map in the appendix)

4.4.3 Hearings Panel Recommendations

1. The Hearings Panel recommend that the submissions from:
 - a) HNZPT (S409.036 and 046) be accepted in part;
 - b) HNZPT (S409.001, 016, 034 and 037) be accepted in part;
 - c) HNZPT (S409.038) be accepted in part;
 - d) HNZPT (S409.045 and 049) be rejected; and
 - e) Emily and Richard Fladgate (S12.001) be accepted.

The Hearings Panel recommend that the spatial extents of the Heritage Area Overlays within the PDP, for the Kohukohu, Rangihoua, Kerikeri and Kororāreka Russell Heritage Area Overlays, be retained or amended as per the evaluation at section 4.4.2 within the Council’s hearing report.

4.5 Key Issue 2: Heritage Area Overlay – Overview, Objectives, Policies, Rules and Standards; and Consideration of Challenges to Spatial Extents

The following matters required our consideration as a result of issues that remained unresolved between the Council reporting and the evidence and submissions presented to us at the hearing on behalf of submitters. These being in relation to the Heritage Area Overlay provisions (overview, objectives, policies, rules and standards) and spatial extents. We have addressed these as sub-issues under the following headings in our discussion:

- Non-statutory layers (Heritage Alert layer and ArchGIS layer)
- Pouerua Heritage Area Overlay
- Paihia Heritage Area Overlay
- Mangōnui and Rangitoto Heritage Area Overlay
- Kororāreka Russell Heritage Area Overlay
- Spatial extent of other Heritage Area overlays
- Infrastructure
- Earthworks
- Other matters

For all other matters that were not in contention at the hearing, relating to the overview, objectives, policies, rules, standards and spatial extents of Heritage Area overlays, we adopt the recommendations set out in the Council’s hearing report for this topic. These are set out in **Appendix 2.2** to this recommendation report.

4.5.1 Matters Raised in Submissions, Hearings Panel Evaluations and Recommendations

Non-statutory Heritage Alert and ArchGIS layers

Planning and expert evidence was provided from Mr Bracey and Mr Edwards in support of the HNZPT submission, suggesting to us that the PDP should use non-statutory heritage

alert layers (and/or include the ArchSite archaeological database as a mapping layer) to raise awareness of heritage values in certain locations. It was the opinion of these witnesses that a non-statutory heritage alert layer would raise awareness of these values, without imposing a consenting burden on landowners. These areas included, for example, the Oruru Valley and the Kawakawa and Kaeo Townships. The Council's right of reply considered the pros and cons of including such information in the PDP but ultimately recommended to us that a non-statutory alert layer not be included.

We have carefully considered this suggestion and note that the Council's reporting of the potential benefits and disadvantages has provided us with a helpful framework for our recommendations. We ultimately agree with the conclusions of the Council officers and recommend that an alert layer (even as a non-statutory information layer) as suggested by HNZPT should not be included as part of this hearing process. Such a suggestion should more correctly have community "buy-in", before being included, for this type of process to be successful. We found that HNZPT didn't provide this district plan review process with enough detail early on to give landowners the opportunity to be part of the PDP.

We acknowledge that the HNZPT evidence from Messrs Edwards and Bracey opined that there is heritage of significance in the District that is unknown but likely and that "*it would be wrong under the RMA to do nothing*" and an alert layer would be a light touch in the right direction (and would assist with NZHPT authority process). The witnesses pointed us to an example, in Gisborne, where such a system is working well. They also advised that it was quite a high bar to get a new listing in the Plan through the schedule 1 process (in terms of costs and time) and that it would be more efficient to reference these sites now.

We acknowledge that the suggestion is a good idea that could be worth pursuing at a later point in time, but we were also conscious that this type of information must be specific and accurately mapped in order to give people an opportunity to participate in the process of including such information in the district plan. Such a process must be robust and inclusively prepared to provide for natural justice considerations.

We understand that the Council is underway with archaeological investigations for the Oruru Valley to provide for such an outcome and we encourage this to continue and for similar processes to occur in other areas of the district.

1. For the above reasons, we therefore recommend no change is required in response to the submission from HNZPT (S409.049) and that this submission point be rejected.

Pouerua Heritage Area Overlay Spatial Extent

As set out in the Council's right of reply, Mr Alec Jack and Mr Kerry Ludbrook appeared at Hearing 12 strongly opposing the proposed spatial extent of the Pouerua Heritage Area Overlay and requesting that this revert back to be the same as the Operative District Plan boundary for the Pouerua Heritage Precinct. Mr Jack also called the owners of Greenfields Farm Limited (Mr Sam Chapman-Smith and Ms Fiona Chapman-Smith) as witnesses to speak to the negative impacts of the Heritage Area Overlay on their ability to continue farming their property. He also called Mr Pita Tipene as a cultural expert witness.

Essentially, these submitters and witnesses sought that the Pouerua Heritage Area spatial extent be redrawn to match the operative precinct extent. We understand that there was a lot of feeling in the community to support this stance. We also note that no engagement

on the proposed extent of new heritage area was undertaken by the Council – which we see was recommended at paragraph 249 of the section 32 reporting on this topic. We also heard (both from Māori and non-Māori groups) that the overlay must retain its Māori heritage focus, with little support in the community to expand and protect European heritage. Mr and Mrs Ludbrook informed us that they supported the Heritage Area Overlay in principle, but not the spatial extent proposed. They told us that they love the land and they don't want to destroy archaeological sites.

At the hearing, the HNZPT representatives listened to the evidence presented on this matter and ultimately accepted the above submissions and evidence by indicating to us that they were comfortable in agreeing with these submitters and for the Pouerua Heritage area to be reduced to match the earlier precinct. Mr John Brown for the Council also acknowledged the situation and changed his earlier advice in response.

We therefore appreciate that there is unanimous support for the outcome sought in the Jack and Ludbrook submissions and we congratulate the parties for the way in which they collaborated during the hearing process to resolve the issues. That left us with little in the way of undisputed issues to consider and we agree with the Council's right of reply that the proposed Pouerua Heritage Area Overlay extent in the PDP should be amended to match the Operative District Plan boundary for the Pouerua Heritage Precinct. This mapping amendment is identified in **Appendix 4** to this report (refer third map in the appendix).

2. For the above reasons, we therefore recommend that the submissions from:
 - (a) HNZPT (S409.039 and S409.040); Warren Bliss (S62.001); Alec Jack (S277.002 and S277.024); Kerry Ludbrook (S220.001); and Shirley Dryden (S326.001), to the extent to which they relate to our recommendation, be accepted in part.

Paihia Heritage Area Overlay

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”.

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). Therefore, it is our recommendation to keep the extent of the Heritage Area Overlay for Paihia to be the same as within the notified PDP extent and remove the proposed new earthworks rule for all Heritage Area B (including in rural locations).

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.

Therefore, we recommend changes to the spatial extent of the Paihia Heritage Area Overlay (to revert back to the notified extent) and to the earthworks rule (as discussed later in this report). However, we agree with including the proposed colour controls, as these were not in contention, plus keeping in place the accidental discovery protocol. Note: we have not included an additional map in **Appendix 4** showing the amendment to the Paihia Heritage Area Overlay extent, because we recommend this extent be as per the notified PDP (other than the additions recommended above at section 4.4.3 of this report).

3. For the above reasons, we therefore recommend that the submissions from:
 - (a) HNZPT (S409.035 and S409.038); Murdoch Phillips (S171.001); The Paihia Property Owners Group (S565.001, S330.001 and S330.002); Bayswater Inn Ltd (S29.007); Bell Family Trust (S450.001); and Don Mandeno (S532.001) , to the extent to which they relate to our recommendation, be accepted in part.

Mangōnui and Rangitoto Heritage Area overlay spatial extent

Mr Palmer provided us with detailed information to support the submission from him and Ms Hu opposing the notified extent of the Rangitoto Heritage Area Overlay (Part B) on the basis that it is unjustified and based on flawed technical evidence. He was not seeking that the overlay be removed in its entirety, but that it be reduced in extent.

Mr Palmer provided us with extensive supporting information and gave a well-prepared presentation disputing the expert evidence of Mr Brown. We note that he did not object to having some heritage area on the peninsula, but rather he objected to the currently proposed extent. He recommended that the Heritage Area Overlay should be limited to land directly associated with or proximal to listed heritage resources (on the eastern side of the harbour). He also opined that the earthworks rule/standard is an over-reach.

The Council's right of reply sets out a summary of the key reasons provided to support this submission point and acknowledges some of the concerns raised by Mr Palmer. The Council's right of reply recommends (as illustrated within the first map at Appendix 5) a reduction in the extent of the overlay for the Rangitoto Heritage Area.

We agree with the position reached by the Council officers on this matter and note that the inclusion of a heritage area overlay does not represent a 'double-counting' of values. Section 6 of the RMA specifically requires the identification of historic heritage, with this being in addition to other values, including outstanding natural landscapes and natural character. The Council's right of reply (paragraph 51) sets out a good discussion on this matter. This mapping amendment is identified in **Appendix 4** to this report (refer fourth map in the appendix).

4. For the above reasons, we therefore recommend that the submissions from:

- (a) HNZPT (S409.047 and 048); James Conner (S13.002); Hinemoa Conner (S14.002); Te Hiku Community Board (S257.011); Leah Frieling (S358.011); Sean Frieling (S357.011); Michael Foy (S472.011); Ian Diarmid Palmer and Zejia Hu (S249.001); and RHL and LM Ferguson Family Trust (S513.001), to the extent to which they relate to our recommendation, be accepted in part.

Kororāreka Heritage Area Overlay

Mr Riddell's submission and evidence to us spoke to the interrelationship between the Heritage Area Overlay for Kororāreka and the provisions of the Kororāreka Russell Township zone provisions (which we discuss later in this report). The Council's right of reply combines these two matters. However, while we acknowledge the overlapping nature of the provisions, we firstly deal with the overlay issues here and then consider the zone issues later in this report.

In his evidence, Mr Riddell had concerns about the treatment of Part D of the Kororāreka Russell Heritage Area Overlay. These concerns are well summarised in the Council's right of reply (paragraphs 60-61) and include two recommended changes to rule HA-R4. The Council's right of reply also sets out a comprehensive consideration of this matter (paragraphs 74-77) noting the overlap with relevant Kororāreka Russell Township zone provisions, including KRT-S5, which we discuss further later in our report.

We acknowledge, as has the Council's reporting officer, that Mr Brown retains his advice that the notified provisions for the overlay should remain on the basis that these assist with the protection of historic heritage. However, we agree with the reporting officer and Mr Riddell that, in this instance, the combination of overlay and zone rules and standards (based on the proposed revised spatial extent of the overlay, as recommended in the Council's hearing report – at Appendix 2) will achieve an appropriate outcome and new buildings and structures in the Kororāreka Russell Heritage Area Overlay (Part D) be provided with a permitted pathway under HA-R4. The Council's right of reply of the provisions also includes recommended changes to the matters of discretion under rule HA-R4 and we agree with these recommendations. The associated mapping amendment for this overlay is identified in **Appendix 4** to this report (refer fifth map in the appendix).

5. For the above reasons, we therefore recommend that the submissions from:

- (a) HNZPT (S409.034 and S409.037), relating to the spatial extent of the Kororāreka Russell Heritage Area Overlay, be accepted in part.

Spatial Extent of Other Heritage Area Overlays

Mr Bracey (for HNZPT) suggested that the Rāwene Hospital and Cemetery Area warrant inclusion in the Rāwene Heritage Area Overlay (as a new Part C area). He opined that the heritage value lies not in the buildings themselves, but in the site's long-standing use as a base for free public health services. He clarified at the hearing that HNZPT is not seeking to restrict the operation or future development of the hospital or cemetery but rather to recognise the historic significance of the site in the context of healthcare.

The Council's right of reply did not support this suggestion, primarily given the underlying special purpose Hospital zone that applies to this location, would complicate future resource consenting considerations for the primary hospital related development and activities. We agree with this observation and consider that the primary purpose of this site is as a hospital and it must be able to operate without the added constraint of a heritage overlay. We also understand that there are no specific sites and/or areas of significance in this location that would warrant inclusion as a heritage area overlay.

Mr Hookway tabled an email regarding the proposed extent of the Te Waimate Heritage Area Overlay as it applied to his property at 211 Waikuku Road. The Council's hearing report and the Council's right of reply have confirmed that the Te Waimate Heritage Area Overlay does not apply to this property and the mapping has been confirmed. This mapping amendment is identified in **Appendix 4** to this report (refer sixth map in the appendix).

6. For the above reasons, we recommend that the relevant aspects of the submissions from:
 - (a) HNZPT (S409.041 and S409.042), which relate to the spatial extent of the Rāwene and Te Waimate Heritage Area Overlays, be accepted in part – noting that no changes or required amendments need to be made to the proposed provisions in response, other than the mapping changes identified in **Appendix 4**.

Infrastructure (Top Energy)

The submission from Top Energy was supported at the hearing by planning evidence from Ms McGrath (jointly prepared with Mr Badham) and a helpful presentation. The matters in this evidence which required our consideration related to the following rules within the Heritage Area chapter of the PDP, relating to earthworks and infrastructure.

HA-R5 – Earthworks

Top Energy requested an additional permitted activity standard associated with new underground network utilities which are setback a minimum of 20m from a scheduled Heritage Resource and which comply with standard HA-S3 (Accidental Discovery Protocol); and for an amendment to the currently proposed permitted activity standard relating to all other earthworks which do not result in disturbance of sub-soils below a depth of 500mm. Two explanatory notes were also recommended in the Top Energy submission and evidence to support these recommended amendments.

The Top Energy presentation summarised the reasons for these amendments as:

- Undergrounding of cables should be encouraged in these sensitive environments because overhead cables are more likely to detract from heritage values.
- PER-1 requires compliance with the Accidental Discovery Protocol.
- Matters of discretion are largely focussed on assessing adverse effects on the heritage values of Heritage Area Overlays or any adjacent scheduled Heritage Resources.
- Given the lack of permanent visual or character impact from earthworks for new underground infrastructure, and the minimum setback requirement for earthworks from scheduled Heritage Resources, it is appropriate to exclude this activity from this resource consent requirement.

For reasons set out in the Council’s right of reply, the reporting officer for this topic did not agree with the suggestion from Top Energy to specifically exempt infrastructure activities from the 500mm depth control. We agree with these reasons and do not accept this submission point from Top Energy. While we understand the desire for underground infrastructure where possible, the values associated with Heritage Areas are too important not to require at least some form of assessment prior to earthworks.

HA-R6 and HA-R10 – Infrastructure

The submission from Top Energy sought further amendments to Rules HA-R6 and HA-R10 in addition to those proposed in the Council’s hearing report. These amendments included the removal of the words “all zones” from the headers of the rules and various changes to the rules themselves, including an increase in the 1m alignment limit for maintenance and upgrade requirements to 3m. The Council’s right of reply disagreed with these requests for reasons set out in that report.

We disagree with the Council’s reporting officer on this issue and prefer the evidence of Top Energy, noting that this is particularly an issue of relevance in the rural environment. However, we do not agree that the setback limit should be extended to 3m and we prefer to limit this to 2m.

We recommend that Rules HA-R6 and HA-R10 be amended as follows:

HA-R6	Infrastructure <u>not located within a site containing a scheduled Heritage Resource and renewable electricity generation infrastructure</u>	
All zones Heritage Area Overlays: Kerikeri Part B — Kororāreka Russell - Part D Mangōnui and	Activity status: Permitted Where: - PER-1 The activity is not located within a site containing a scheduled Heritage Resource	Activity status where compliance not achieved: Not applicable

<p>Rangitoto Peninsula — Part B</p> <p>Paihia — Part B</p> <p>Pouerua</p> <p>Rāwene Part B</p> <p>Te Waimate</p>		
<p><u>All zones</u></p> <p><u>Heritage Area Overlays:</u></p> <p><u>Kerikeri — Part A</u></p> <p><u>Kohukohu</u></p> <p><u>Kororāreka Russell — Part A — The Strand, Part B — Wellington Street and Part C — Christ Church</u></p> <p><u>Mangōnui and Rangitoto Peninsula — Part A</u></p> <p><u>Paihia — Part A</u></p> <p><u>Rangihoua</u></p> <p><u>Rāwene — Part A</u></p>	<p><u>Activity status: Permitted</u></p> <p><u>Where:</u></p> <p><u>PER-1</u></p> <p>The infrastructure is:</p> <ol style="list-style-type: none"> 1. <u>Located underground;</u> 2. <u>Maintenance, repair or upgrading of any existing above ground infrastructure that is located within 42m either side of the original location or where the alignment is wholly located within the road reserve;</u> 3. <u>Connections to buildings or structures for network utilities; or</u> 4. <u>New above ground infrastructure that is wholly located within the road reserve.</u> 	<p>Activity status where compliance with PER-1 is not achieved: Restricted Discretionary</p> <p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> a. whether the proposed infrastructure will adversely affect the heritage values of the Heritage Area Overlay; b. whether the proposed infrastructure will adversely affect the heritage values of any nearby adjacent Scheduled Heritage Resource; c. whether there is a practicable reason why the infrastructure needs to be located within the Heritage Area Overlay or an a site that contains a Scheduled Heritage Resource; d. any assessments or advice from a suitably qualified and experienced heritage or cultural expert; e. the colour of all exterior surfaces and their appropriateness within the Heritage Area Overlay; f. any landscaping or fencing to maintain heritage boundary treatments and curtilage; g. the location and relationship of the infrastructure in relation to adjoining sites and the road;

		<p>h. <u>any assessments or advice from a suitably qualified and experienced heritage or cultural expert (where provided); and</u></p> <p>i. any consultation with Heritage New Zealand Pouhere Taonga, Department of Conservation and tangata whenua <u>(where provided).</u></p>
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HA-R10	Infrastructure within a site containing a scheduled Heritage Resource and renewable electricity generation infrastructure	
<p>All zones—</p> <p>All Heritage Area Overlays:</p> <p>Kerikeri — Part A</p> <p>-</p> <p>Kohukohu</p> <p>-</p> <p>Kororāreka Russell — Part A — The Strand, Part B — Wellington Street and Part C — Christ Church</p> <p>-</p> <p>Mangōnui and Rangitoto Peninsula — Part A</p> <p>-</p> <p>Paihia — Part A</p> <p>-</p> <p>Pouerua</p> <p>-</p> <p>Rangihoua</p> <p>-</p> <p>Rāwene — Part A</p> <p>-</p> <p>Te Waimate</p>	<p>Activity status: <u>Restricted Discretionary</u></p> <p><u>This rule shall not apply to:</u></p> <ol style="list-style-type: none"> 1. <u>infrastructure located underground;</u> 2. <u>maintenance, repair or upgrading of any existing above ground infrastructure that is located within 42m either side of the original location; or</u> 2. <u>connections to buildings or structures for network utilities.</u> <p><u>Matters of discretion are restricted to:</u></p> <ol style="list-style-type: none"> a. <u>the operational and functional needs of the infrastructure to be located within the site containing the scheduled Heritage Resource;</u> b. <u>whether a scheduled Heritage Resource will be adversely affected by the proposed works;</u> c. <u>location, scale, design of the proposed works;</u> d. <u>any adverse effects on any archaeological site;</u> e. <u>any landscaping or fencing to maintain heritage boundary treatments and curtilage;</u> f. <u>the location and relationship of the infrastructure in relation to adjoining sites and the road;</u> g. <u>any assessments or advice from a suitably qualified and experienced heritage or cultural expert (where provided); and</u> h. <u>any consultation with Heritage New Zealand Pouhere Taonga, Department of Conservation and tangata whenua (where provided).</u> 	<p>Activity status where compliance not achieved:</p> <p>Not applicable</p>

7. For the above reasons, we recommend that the submissions from:
- a) Top Energy (S483.120-27 and S483.189) be accepted in part.

Earthworks

A number of submissions challenged the earthworks component of Rule HA-R5 within the Heritage Area chapter of the PDP and in particular the list of exceptions proposed under PER-1(3). As per the interim guidance we provided in Minute 30 and the discussion above relating to the spatial extent of the Paihia Heritage Area Overlay, we do not agree with the recommended amendments suggested in the Council's right of reply.

We recommend that the PER-1 aspect of Rule HA-R5 be amended as follows:

HA-R5	Earthworks	
<p>All zones</p> <p>All Heritage Area Overlays:</p> <p>Kerikeri — Part B</p> <p>- Mangōnui and Rangitoto Peninsula — Part B</p> <p>Paihia — Part B</p> <p>- Puerua</p> <p>- Rāwene — Part B</p> <p>- Te Waimate</p> <p>- Kororāreka Russell — Part B</p>	<p>Activity status: Permitted</p> <p>Where:</p> <p>PER-1</p> <p>The earthworks:</p> <ol style="list-style-type: none"> are setback a minimum of 20m from a scheduled Heritage Resource; and comply with standard HA-S3 Accidental Discovery Protocol; do not result in disturbance of sub-soils below a depth of 500mm comply with the relevant permitted activity rules within the Earthworks chapter; and are not within 20m of a scheduled Heritage Resource. <p>Note 1: When applying PER-1(1), the 20m distance must be measured from the edge of the footprint of any building, site or structure as described in Schedule 2 – Schedule of historic sites, buildings and objects.</p> <p>Note 2: The Heritage New Zealand Pouhere Taonga Act 2014 requires all applicants to obtain an authority from Heritage New Zealand Pouhere Taonga before any archaeological site is modified or destroyed. This is the case regardless of whether the land on which the site is located is designated, or whether the activity is permitted under the District Plan or a resource or building consent has been granted.</p>	<p>Activity status where compliance with PER-1 is not achieved: Restricted Discretionary</p> <p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> whether the proposed earthworks will adversely affect the heritage values of the Heritage Area Overlay; whether the proposed earthworks will adversely affect the heritage values of any nearby adjacent scheduled Heritage Resource; any adverse effects on any archaeological site; any assessments or advice from a suitably qualified and experienced heritage or cultural expert; any methods of site rehabilitation; whether or not EW-S3 Accidental Discovery Protocol has been met; and any assessments or advice from a suitably qualified and experienced heritage or cultural expert (where provided); and any consultation with Heritage New Zealand Pouhere Taonga, Department of Conservation and tangata whenua (where provided).
All zones	PER-2	

<ul style="list-style-type: none"> - Heritage Area overlay: - Kerikeri — Part A - Kororāreka Russell — Part A The Strand - 	<p>The earthworks:-</p> <ul style="list-style-type: none"> 1. do not exceed 2m³ in volume over an area of 5m²; 2. are not within 20m of a scheduled Heritage Resource; and 3. complies with standard HA-S3 Accidental Discovery Protocol. 	<p>Activity status where compliance not achieved with PER-2 or PER-3: Discretionary</p> <ul style="list-style-type: none"> - -
<ul style="list-style-type: none"> - All zones - Heritage Area overlays: - Kohukohu - Kororāreka Russell Heritage overlay — Parts B Wellington Street and C Christ Church - Mangōnui and Rangitoto Peninsula — Part A - Paihia — Part A - Rāwene — Part A - Rangihoua - - 	<p>PER-3</p> <p>The earthworks:</p> <ul style="list-style-type: none"> 1. do not exceed 200m³; 2. are not within 20m of a scheduled Heritage Resource; and 3. complies with HA-S3 Accidental Discovery Protocol. 	

8. For the above reasons, we therefore recommend that the submissions from:

- a) Russell Protection Society Inc (S179.109); Alec Jack (S277.011); HNZPT (S409.032); Federated Farmers (S421.102); Top Energy Limited (S483.121) and Foodstuffs (S363.039), to the extent to which they relate to our recommendation on this particular matter, be accepted in part.

Other Matters

The Council’s right of reply provided a discussion responding to various other matters raised in evidence and discussed at the hearing, including:

- Acknowledgment of farming in the Heritage Area chapter overview;
- Colour controls;
- Foodstuffs concerns;
- Cost of engagement;
- Impact of scheduled heritage resource rules for larger sites; and
- Artificial crop protection structures.

We confirm our agreement with the analysis provided by the reporting officer in relation to the above matters, as set out in the Council's right of reply. This includes the correction of a minor error in the wording of rule HH-R1 as a consequential change resulting from recommended changes to other provisions in this chapter. We also accept the recommended changes to Rules HA-R2 and HA-R4 which will assist when considering the impact of scheduled Heritage Resource rules for larger sites (HA-S1). We also accept the recommended changes to Standard HA-S2 relating to heritage colours; along with the new appendix (APP-7) that sets out a specified "*Heritage colour palette and BS5252 standard colour palette*". We have included a copy of this document at **Appendix 3.4** to this report.

We also agree with the Council's right of reply which recommends adding in a new rule (HA-RX) relating to the screening of artificial crop protection structures in heritage areas with screen planting. While we have found differently for similar provisions in rural zones where there are no heritage features or overlay, we agree with the Council's reporting officer that these structures should not be occurring in identified heritage areas without any form of screen planting.

We also note that the Council's right of reply recommended the addition of a new policy specific to Rāwene as such a policy appeared to be missing from the Heritage Area provisions. While we have not specifically considered the issue of scope, we recommend that this additional policy is included, as did the Council's right of reply, as the inclusion does not introduce any new material that would prejudice any party and the inclusion simply corrects an omission of this policy during plan drafting.

Finally, the Council's right of reply set out a discussion, in response to our questioning, as to what obligation the Council had, when drafting the PDP, to consider both pre-European Māori heritage and European / colonial heritage under the Heritage New Zealand Pouhere Taonga Act. The Council's right of reply contained a very helpful response and discussion on this matter and confirmed that the approach taken by the Council in drafting the PDP did not raise any legal issues. We agree with the Council's right of reply that the RMA and the HNZPTA are complementary pieces of legislation and work in parallel in the protection of historic heritage and archaeology.

9. For the above reasons, we recommend that the submissions from:

- a) Federated Farmers (S421.089-097); HNZPT (S570.002 and 004); Trent Simpkin (S23.001); and Alec Jack (S277.015); Foodstuffs (S363.038-040); and Heather Adams and Duncan Ross (S545.004), to the extent to which they relate to our recommendation on this matter, be accepted in part.

4.6 Key Issue 3: Historic Heritage Provisions – Overview, Objectives, Policies, Rules and Schedule (including in relation to dry stone walls and infrastructure)

4.6.1 Matters Raised in Submissions

Dry stone walls – the submission from HNZPT sought to include new provisions (including changes to the overview and a new objective and policy) within the PDP that provided for a blanket protection of drystone walls across the District where these type of structures were not individually scheduled. While the Council’s hearing report acknowledged that dry stone walls, as features, have heritage value, the inclusion of blanket protection for dry stone walls within the PDP was not recommended through this current plan review.

Infrastructure – the submission from Top Energy sought to amend the Historic Heritage provisions to enable the provision of infrastructure. These suggestions were considered by the Council’s hearing report, with recommendations to accept some and reject other aspects of these submission points.

Overview, objectives and policies – the submissions from HNZPT, Federated Farmers and others sought various amendments to the overview, objectives and policies of the Historic Heritage provisions. Again, the Council’s hearing report recommended accepting some of these submission point suggestions and rejecting others.

Rules – various submissions, including from HNZPT, sought to amend some of the notified rules within the Historic Heritage chapter of the PDP. Again, the Council’s hearing report recommended accepting some of these suggestions, including in relation to achieving a consistency of reference within the rules to compliance with Heritage colours.

Schedule – submissions from HNZPT, Northland Planning and Development 2020 Limited sought the addition of four new listings into SCHED2 Schedule of historic sites, buildings and objects; while Malcolm Tindal sought corrections to the notified version of SCHED2 Schedule of historic sites, buildings and objects. After analysis of these suggestions, the Council’s hearing report recommended amendments to Sites 100 and 176 in the schedule; along with the addition of four sites (or separation into four separate listing in the schedule) on Waitangi Estate for Hobsons Memorial, the Treaty House, the Flag pole and the Whare Runanga.

4.6.2 Hearings Panel Evaluation

There were no issues in contention relating to the majority of the Historic Heritage provisions. However, evidence was presented to us at the hearing regarding the following matters.

Dry stone walls – Mr Bracey and Mr Edwards presented evidence on behalf of HNZPT to support the suggestion of including a blanket protection of stone walls throughout the District. HNZPT suggested that the PDP could include similar protection provisions to that which is contained within the Whangarei District Plan, where there are many examples of dry stone walls located in areas where there has been evidence of volcanic activity.

We recognise that dry stone walls are important as heritage features within the rural landscape of the Far North District and that these structures have heritage value (as recognised by Mr Brown in his memo to us that accompanied the Council’s right of reply). Notwithstanding their merits, we consider that it is too difficult to provide general

protection of these features at this point in time at such a late stage in the PDP process, without this topic being considered through a full schedule 1 process.

We also heard evidence that it may be difficult to distinguish between a stone wall that may have been recently constructed using natural stone on a property and one that has heritage significance. We therefore do not agree with the HNZPT evidence and prefer the reasoning within the Council's recommendation reporting to us – with no changes to the PDP recommended.

Infrastructure (specifically relating to rule HH-R6) – Ms McGrath provided planning evidence on behalf of Top Energy seeking further amendments (to those recommended in the Council's hearing report) to better align rule HH-R6 with revised rules HA-R6 and HA-R10. These amendments include changing the proposed activity status from discretionary to restricted discretionary, with matters of discretion focussed on heritage effects and the operational needs of infrastructure. In addition, the submission requested that underground infrastructure, infrastructure within 3m of its original alignment, and new infrastructure within road reserves be excluded from the rule.

The Council's right of reply agreed that exemptions can be added to HH-R6 for underground infrastructure setback 20m from a scheduled Heritage Resource and that the activity status can be amended from discretionary to restricted discretionary; however, increasing the 1m location flexibility to 3m was not supported. We agree with the Council's right of reply analysis on this matter but our recommendation is that the metric be changed from 1m to 2m to provide for some flexibility.

Matters not in contention

For all other matters that were not in contention at the hearing, relating to the overview, objectives, policies, rules, standards of the Historic heritage chapter and spatial extents of items listed in the schedule, we adopt the recommendations set out in the Council's hearing report for this topic.

4.6.3 Hearings Panel Recommendations

The Hearings Panel recommend that:

- a) The PDP be amended as per the recommendations within the Council's hearing report for the Historic Heritage Area provisions; and for the metric within Rule HH-R6 to be amended from 1m to 2m; all as identified in **Appendix 2.3**.
- b) The Schedule 2 (SCHED2) – Schedule of historic sites, buildings and objects be amended to correct details for Site 176.
- c) That four new sites be added to Schedule 2 (SCHED2) – Schedule of historic sites, buildings and objects, relating to Hobsons Memorial, the Treaty House, the Flag pole and the Whare Runanga, as identified in **Appendix 3.2** and **Appendix 4**.

Accordingly, we recommend that submissions and further submissions are accepted, accepted in part or rejected as identified in **Appendix 5.2**.

5. Topic 3: Kororāreka Russell Township Zone

5.1 Relevant Provisions

The relevant provisions we address for this topic relate to:

- Kororāreka Russell Township zone: Overview
- Kororāreka Russell Township zone: Objectives (KRT-O1 – KRT-O5)
- Kororāreka Russell Township zone: Policies (KRT-P1 – KRT-P6)
- Kororāreka Russell Township zone: Rules (KRT-R1 – KRT-R20)
- Kororāreka Russell Township zone: Standards (KRT-S1 – KRT-S9)

We note that these provisions are located in Part 3 (Area Specific Matters) of the PDP as a special purpose zone chapter. We also note that the Kororāreka Russell Heritage Overlay applies to part of the land that is zoned Kororāreka Russell Township – with submissions on the overlay being considered separately within this recommendation report.

5.2 Procedural matter – Proposed Plan Variation 1

As set out in the Council’s hearing report (at section 4.3.2), while Variation 1 to the PDP does not propose to amend any of the Kororāreka Russell Township zone provisions, we note that it does propose to rezone four properties (at the top of Gould Street) from General Residential to Kororāreka Russell Township.

This is not a matter for us to determine as part of this recommendation report and this has been addressed in the recommendation report for Hearing 15C (Urban). We note however, that Council officers have recognised the General Residential zoning as notified was an error and have recommended rezoning to Kororāreka Russell Township.

5.3 Overview of Submissions Received

A total of 98 original submission points and 141 further submission points were received on the Kororāreka Russell Township zone topic. As set out in the Council’s hearing report the main submissions on the Kororāreka Russell Township zone topic came from:

- Russell Protection Society (S179);
- John Andrew Riddell (S431); and
- HNZPT (S409).

5.4 Key Issues

The key issues identified in the Council’s hearing report were very limited and included consideration of general submissions and submissions seeking amendments to the provisions, including the overview, objectives, policies, rules and standards.

The Council’s hearing report recommended the retention of most provisions as well as various minor amendments in response to submissions received – with these

recommendations set out at Appendix 1 to the Council’s hearing report – relating to the following matters:

- a) Improved recognition in the Overview and Objectives of the significant indigenous biodiversity in the Kororāreka Russell Township zone chapter in a manner that does not conflict with the Ecosystems and Indigenous Biodiversity chapter.
- b) Removal of wording in KRT-P1 that conflicts with the Coastal Environment and Natural Character chapter policy direction.
- c) Altering KRT-P2 to clarify that connecting to reticulated telecommunications, electricity and potable water networks are ‘encouraged’ rather than ‘required’ for subdivisions.
- d) Clarification that consideration of development infrastructure constraints should include consideration of wastewater capacity in KRTP6.
- e) Inclusion of the key elements of ODP Policy 10.9.4.8 and Section 11.21 (Kororāreka Russell design guidelines) in KRT-P1 and KRT-P6 respectively.
- f) Significant refinement of KRT-P6 to remove duplication of numbering and better align matters not specific to Kororāreka Russell with the content and structure of other ‘consideration’ policies in other zones.
- g) Alignment and/or deletion of several rules/standards to align with recommendations on equivalent rules in other zones e.g. KRT-R1, KRTR2, KRT-R5, KRT-R8 and KRT-S4.
- h) Clarification of the intent of KRT-S5 with respect to measuring building and structure coverage using the ground floor only.
- i) Numerous corrections to address drafting errors.

The only submitter that appeared before us to provide evidence (planning and lay) in support of their submission on the Kororāreka Russell Township zone was Mr Riddell.

As such, our assessment, evaluation and recommendations for this topic simply focus on consideration of the matters raised by this submitter and the Council’s right of reply. For all other matters set out above, we adopt the reasons and recommendations set out within the Council’s hearing report and the Council’s right of reply for the Kororāreka Russell Township zone provisions.

We do however, note one consequential amendment relating to the deletion of policy KRT-P2 regarding subdivision and servicing. This policy is a duplication of a subdivision and servicing policy in the Subdivision chapter. The Subdivision chapter policies will apply to all subdivision so such a policy does not need to be repeated in the Kororāreka Russell Township zone.

The recommended Kororāreka Russell Township zone provisions are provided in **Appendix 2.4** to this recommendation report.

5.5 Key Issue 1: Matters Raised in the Submission and Evidence by Mr Riddell

5.5.1 Discussion

In his pre-circulated statement of evidence for this topic, Mr Riddell provided us with a useful background on previous planning for Kororāreka. He challenged the proposed PDP provisions which relate to building scale, preferring the related operative provisions. He also raised infrastructural issues (wastewater capacity) for Kororāreka, as well as suggesting that the Kororāreka/Russell Design Guidelines should be included in the PDP.

It was also Mr Riddell's evidence that amendments were required to the Kororāreka Russell Heritage Area Overlay, which we consider under that topic in this report. His evidence highlighted a potential issue with the need to consider both the zone and overlay provisions when considering administration of the provisions for Kororāreka/Russell.

Mr Riddell provided clear evidence and discussion at the hearing regarding potential issues with standard KRT-S5, including a helpful reference back to the relevant operative provisions relating to building scale and recommendations for amending the proposed provisions to better align with the intent of the operative provisions. He also suggested how the design guidelines (being a 2007 Salmond Reed Architects document) could be weaved into KRT-P6 to ensure these can be considered at resource consent stage.

The Council's right of reply engaged with the suggestions from Mr Riddell on the matters relating to building scale and design guidelines, with recommendations (as set out at Appendix 3 to the Council's right of reply) for additional changes to KRT-R1, KRT-S1 and KRT-S5.

5.5.2 Hearings Panel Evaluation

We acknowledge Mr Riddell's extensive experience, background and working knowledge of the operative provisions as they apply to Kororāreka/Russell. We also appreciate that the Council's hearing report originally recommended accepting a number of the suggestions offered by Mr Riddell in his submission. We also commend the Council's reporting officer for engaging with Mr Riddell's further evidence on the remaining unresolved issues which stemmed from his original submission suggestions.

Noting that the Council's right of reply considered Mr Riddell's evidence in the context of both the zone and overlay provisions together, which we agree was an appropriate action to take, when stepping back and considering the Kororāreka Russell Township zone provisions, our evaluation is that the concerns raised by Mr Riddell were addressed by the further changes recommended to the Kororāreka Russell Township zone in the Council's right of reply. We therefore agree with these findings.

We agree with the further analysis provided in the Council's right of reply (at paragraphs 63-64) and with the recommended amendments to KRT-S5 (as set out at paragraph 65) relating to the building scale issue. Keeping building bulk and location controls within the zone (rather than across both the zone and overlay) will assist with plan administration, as suggested by the reasoning in the Council's right of reply. We also agree with the analysis in the Council's right of reply (at paragraphs 66-73) relating to the design guidelines issue, including that the guidelines need not be referenced in the PDP but that the plan provisions should clearly respond to the relevant issues to be addressed – including through policy KRT-P6 for example. We agree with the reasoning set out in the report for the

recommended changes in response to Mr Riddell’s concerns. Finally, we agree with the Council’s right of reply’s consideration (as set out at paragraphs 78-82) of the infrastructure constraints highlighted by Mr Riddell.

We do however, have one consequential amendment relating to the deletion of policy KRT-P2 regarding subdivision and servicing. This policy is a duplication of a subdivision and servicing policy in the Subdivision chapter. The Subdivision chapter polices will apply to all subdivision so such a policy does not need to be repeated in the Kororāreka Russell Township zone.

5.5.3 Hearings Panel Recommendations

The Hearing Panel recommend amendments to the Kororāreka Russell Township zone as identified in **Appendix 2.4**.

In addition, for the above reasons, we recommend that the previously unresolved submission points from John Andrew Riddell (S431) within the Council’s hearing report be accepted and accepted in part.

6. Topic 4: Sites and Areas of Significance to Māori

6.1 Relevant Provisions

The relevant provisions we address for this topic relate to:

- Overview
- Objectives (SASM-01 – SASM-05)
- Policies (SASM-P1 – SASM-P9)
- Rules: (SASM-R1 – SASM-R7)
- Schedule 3 – Schedule of sites and areas of significance to Māori
- Part 1 General Provisions Tangata whenua: Policies (TW-P1, TW-P2 and TW-P3)

6.2 Background

As set out in the Tangata Whenua Section 32 report and the PDP Overview statement, Māori communities in the Far North have enduring ancestral, spiritual, and cultural relationships with Papatūānuku, where land, water, and whakapapa form the foundation of identity and wellbeing. The District holds one of the richest concentrations of Māori heritage in Aotearoa, with continuous settlement for nearly 1,000 years reflected in extensive sites and cultural landscapes that remain taonga for whānau, hapū and iwi. These sites include urupā, pā, wāhi tapu, maunga, awa, roto, repo, tauranga waka, marae and places of worship, which carry deep historical, cultural, and spiritual meaning and anchoring tangata whenua to their tūpuna and to significant events across generations. Recognising and identifying these places in the District Plan, including culturally significant landscapes such as Te Oneroa a Tōhē, helps ensure subdivision and development avoids or minimises disturbance and supports kaitiaki responsibilities, noting that many sites remain unmapped and must still be protected under law even when unrecorded.

This context underpins the need for clear objectives, policies, and rules to recognise, protect and appropriately manage these significant sites and cultural landscapes in the District Plan.

6.3 Overview of Submissions Received

A total of 33 original submissions (73 individual submission points) and 242 further submissions (1820 individual submission points) were received on the Sites and Areas of Significance to Māori topic.

As set out in the Council's hearing report the main submissions on the Sites and Areas of Significance to Māori topic came from:

- Iwi Authorities and Post Settlement Governance Entities (PSGE) such as Te Rūnanga o Whaingaroa (S486), Te Rūnanga Ā Iwi O Ngāpuhi (S498), Te Rūnanga o Ngai Takato Trust (S390) and Te Hiku Iwi Development Trust (S399);
- Hapū and marae such as Te Rūnanga o Ngāti Rēhia (S559), Roma Marae (S578), Haititaimarangai Marae Kaitiaki Trust (S394) and Ahipara Takiwā (S576 and S579);
- Whānau and individual submitters such as Michelle Patricia Nilsson-Webby Family Trust (S5), Kuia, Kaumātua and whānau of Moringai Whānau (S575), Moringai Whānau (S577) Merata Kawharu Taituha, Renata Tane, Albie Apiata, Billie Taituha and Hirini Tane (S389), Jon-Peter Nilsson Trust and Anne-Marie Linder Nilsson (S1) and Nicole Butler (S305);
- Key interest groups such as Opononi Area School (S452 and S388), Northland Federated Farmers of New Zealand (S421), Summit Forests New Zealand Limited (S148), Horticulture NZ (S159), Northland Planning and Development 2020 Limited (S502), Creative Northland (S300), Waitangi Limited (S503), PF Olsen Limited (S91), Waiaua Bay Farm Limited (S463), Arawai Limited (S581) and J L Hayes and Sons Ltd (S557);
- Government agencies such as Waka Kotahi NZ Transport Agency (S356), Ministry of Education Te Tāhuhu o Te Mātauranga (S331), Northland Regional Council (S359) and Heritage New Zealand Pouhere Taonga (S409); and
- Infrastructure providers such as Top Energy Limited (S483), Transpower New Zealand Ltd (S454) and Telco Companies (S282).

6.4 Key Issues

Having read the Council's hearing report, the evidence submitted to us and presented at the hearing, and the Council's right of reply to evidence presented, we acknowledge that a number of matters raised in submissions were no longer in contention and therefore we have focussed our evaluation on those matters still in contention.

We acknowledge that submissions sought amendments to the proposed provisions in the overview, objectives, policies and rules within the chapter; the content of the schedule; the wording of certain definitions; as well as some submissions that sought adjustments to the mapped spatial extent of some sites and areas of significance.

These submission points have largely been addressed through the Council's reporting, noting that not all submission points were agreed by the reporting officer in their recommendation reporting to us. Other than as set out below for the remaining key issues, we did not receive any evidence that sought specific further changes to these provisions. We therefore accept and adopt the recommendations on these 'uncontested' submission points (as set out in the Council's hearing report and the Council's right of reply) and attached to this recommendation report as **Appendix 2.5**.

We also agree with the addition of Piakoa, Tākou Bay (List no. 9832) to the Schedule of Sites and Areas of Significance to Māori. Noting that this was also recommended in Council's hearing report.

We also acknowledge the appearance of Mr Hayes at the hearing to speak to the submission from JL Hayes and Sons Limited. We heard that this submitter supports the inclusion of MS06-20 (Totara North, Whangaroa) in the schedule of sites and areas of significance to Māori. We also heard concerns over how sites such as this are to be maintained and managed once they have been scheduled. Discussion with this submitter at the hearing, which included input from Council officers, canvassed these issues but ultimately confirmed that these were not a matter that the PDP itself can resolve. These being more around administration of the provisions and/or any relevant resource consent conditions, where compliance, monitoring and enforcement tools should assist.

The remaining key issues in contention for the Panel to determine, as identified in the Council's right of reply and from the evidence presented to us, are set out below:

- Key Issue 1: Schedule 3: Schedule of Sites and Areas of Significance to Māori – 41 specific sites in SCHED3.
- Key Issue 2: Schedule 3 and Planning Maps: MS05-38 Awapoko Reserve, Aurere (Part Okokori Block).
- Key Issue 3: Moringai / Moringaehē, Ahipara (Lot 1 DP 381292).
- Key Issue 4: Infrastructure – amendments to objectives, policies and rules.
- Key Issue 5: Part 1 General Provisions Tangata Whenua - TW-P1, TW-P2, TW-P3.

We follow this logical structure in our assessment, evaluation, and recommendations.

6.5 Key Issue 1: Schedule 3: Schedule of Sites and Areas of Significance to Māori – 41 specific sites in SCHED3

6.5.1 Matters Raised in Submissions

Submitters (S409.015 Heritage NZ, S498.084 Rūnanga ā Iwi o Ngāpuhi, S486.096 Rūnanga o Whaingaroa and S390.083 Rūnanga o Ngai Takoto Trust) support to retain Schedule 3 (SCHED3) and to retain the existing Sites and Areas of Significance to Māori (SASM). The Council's hearing report acknowledged and recommended accepting these submissions.

Further submitters noted gaps in SCHED3 as notified: Haititaimarangai Marae Trust (HMT-S394.060, S394.061) supports in part to retain SCHED3 and also sought an amendment to the SCHED3 Preamble to clarify the schedule does not represent a complete list of SASM and some sites cannot be publicly identified for cultural reasons. HMT also identified

several publicly known culturally significant places being Waimango and its catchment, Karikari Moana, Puheke maunga, Puheke and Parakerake beaches, and the Haititaimarangai Marae reserve, as sites to be added to SCHED3. The Council's hearing report advised applying rules to sites not included in the plan would not meet the requirements for rules under the RMA, and any addition of sites to SCHED3 is to occur through a formal plan change process. Accordingly, the Council's hearing report recommends the submission be accepted in part.

Te Aupōuri (S339.057) support to retain SCHED3 but raised concerns that new sites have not been added through the PDP process. They seek greater flexibility to incorporate additional sites. The Council's hearing report notes that adding sites must follow the formal plan change process to maintain procedural integrity and cannot be done through a flexible mechanism. As a result, the Council's hearing report recommended the submission to be accepted in part.

Before the hearing, Te Aupōuri asked that the detailed information pertaining to their SASM attached to their evidence be kept confidential and not shared publicly or beyond the Panel and Council staff without their approval. The Panel determined a confidentiality order was necessary to protect tikanga Māori and the locations of wāhi tapu and issued on 26 May 2025, Minute 24 Protection of sensitive information Hearing 12.

At the hearing the Te Aupōuri representatives included Te Aupōuri Chief Executive Officer, Tipene Kapa-Kingi, Consultant Planner, Ms Makarena Dalton, and the Chairman from Pārengarenga Inc, Pereniki Conrad. Ms Dalton's evidence confirmed Te Aupōuri first sought flexibility to add new sites to SCHED3 and the Council's hearing report advised a formal plan change (using a Schedule 1 process under the RMA) was required to do this. They reviewed SCHED3 and found many Te Aupōuri key sites were already scheduled and now sought revised relief for amendments to SCHED3 to better recognise their relationship to these places, correct site names, and update mapping. Te Aupōuri cultural experts Mr Kapa-Kingi and Mr Conrad considered SCHED3 was inaccurate and misleading and did not recognise Te Aupōuri authority or relationships to key sites, reiterating outdated or incorrect schedules cannot ensure appropriate protection from development. The cultural experts review identified 41 sites in SCHED3 and their assessment confirmed each site was within the rohe of Te Aupōuri where they held sole or shared mana whenua authority and captured the significance of each site in accordance with the RPS Policy 4.5.3 Assessing, identifying, and recording historic heritage.

Following hearing discussions, the Panel requested a concise written clarification from Te Aupōuri outlining the name errors, Requesting party corrections, and mapping updates identified during the oral evidence. Ms Dalton produced supplementary evidence (dated 11 June 2025) which outlined amendments and map corrections for the 41 sites in SCHED3.

In the Council's right of reply, the report acknowledged Te Aupōuri provided strong evidence of their connection to 41 sites in SCHED3. However, these sites also have existing Requesting parties and landowners with recognised interests, and no information had been received from Te Aupōuri to justify removal of other Requesting parties. Council cannot determine whether other iwi or entities should be displaced and given the potential for overlapping interests and the need for a fair and inclusive process, the Council's hearing report recommends a full RMA Schedule 1 review as the more appropriate way to assess the 41 sites, rather than making amendments through the current hearing process. The

Council's hearing report also acknowledged any spelling and typographical errors raised in the evidence of Te Aupōuri can be updated as clause 16 amendments. The Council's hearing report recognises that MS01-23 Dog Island (Motu Whāngai Kuri) is difficult to identify on current planning maps, and staff are working to improve its visibility while ensuring any change meets the National Planning Standards. Accordingly, the Council's hearing report recommends the submission be accepted in part.

6.5.2 Hearings Panel Evaluation

The Council's hearing report accepts retaining SCHED3 and existing SASM and acknowledges that the schedule is not exhaustive and agrees to implement typographical corrections and mapping visibility improvements where these do not alter rights or relationships. We agree with these findings and accept the recommendations on these matters.

The Council's hearing report does not support adding new sites or making substantive amendments to the 41 sites through this hearing, noting such changes could affect other recognised interests and must instead follow a full RMA Schedule 1 process. We agree in part and accept that adding new sites appropriately sits within an RMA Schedule 1 process. The Council's hearing report notes that aspects of the evidence from Te Aupōuri went beyond the scope of their original submission. As Ngāti Kuri, the existing SCHED3 Requesting party, did not lodge a submission on the PDP and therefore has a formal opportunity to respond, which raises fairness concerns and supports the recommendation that any changes proceed through a full RMA Schedule 1 process. We are also mindful that further delay risks perpetuating harm to Te Aupōuri mana, and there is value, as an interim measure, in ensuring at least partial recognition of their relationship to the scheduled sites.

We note that the cultural evidence of Te Aupōuri was presented to the hearing on a confidential basis given its culturally sensitive nature and the Panel issued a confidentiality order to ensure this information is protected. This material will be held by Council as a confidential "silent file" and will not be shared publicly or beyond authorised Council staff without the approval of Te Aupōuri. This approach upholds tikanga, protects wāhi tapu and other taonga from inappropriate disclosure, and maintains the integrity of cultural information while still allowing the hearing to consider it in decision-making.

We do not agree that all updates to the 41 scheduled sites should be deferred, as accuracy and proper reflection of mana whenua relationships are critical. However, we do not support the broader amendments sought by Te Aupōuri, including:

- (a) correct six site names/descriptions identified as errors;
- (b) updates to Requesting party sites where Te Aupōuri consider they hold sole or primary authority, supported in part by Parengarenga Incorporation;
- (c) mapping changes involving new sites or revised boundaries including:
 - (i) adding Lake Kahika as a new scheduled site,
 - (ii) refining mapping for Lake Morehurehu,
 - (iii) confirming and updating mapping for Motu Whāngai Kuri (Dog Island), and

- (iv) aligning Te Tomo a Tāwhana (Twin Pa) with their Treaty settlement parcel boundaries.

While the planning evidence of Te Aupōuri seeks these amendments to improve accuracy and align with Treaty settlement redress, these matters require a full and inclusive RMA Schedule 1 process to ensure fairness where overlapping mana whenua relationships exist.

Given the strength of the cultural evidence from Te Aupōuri, we agree that Te Aupōuri should be included as a Requesting party for all the 41 sites, as this appropriately acknowledges their recognised interests and establishes an accurate engagement pathway. We also agree that the name/description errors (item (a) above) can be corrected as typographical corrections under clause 16 amendments. Beyond this we do not accept further amendments at this stage due to the need for an equitable and procedurally sound review.

Accordingly, we find the submitters relief is supported in part, and we do not fully support the Council's hearing report recommendation to reject in part the submitters requested updates. Our recommended changes to SCHED3 are set out in **Appendix 3.3**.

6.5.3 Hearings Panel Recommendations

1. In addition to the recommendations on submission points set out within the Council's hearing report and right of reply, and with which we agree, for the above reasons, to acknowledge in part the submission relief of Te Aupōuri, we also recommend that the submission from:

- (a) Te Aupōuri (S339.057) be accepted in part.

We also recommend that SCHED3 be updated as identified in **Appendix 3.3**, in addition to the clause 16 amendments that council has already made.

The reasons are described above in our evaluation, and in brief updating the requesting party details to include Te Aupōuri is warranted to accurately recognise their relationship to the 41 sites and to ensure an appropriate engagement pathway.

6.6 Key Issue 2: Schedule 3 and Planning Maps: MS05-38 Awapoko Reserve, 4554 State Highway 10, Aurere. (Part Okokori Block)

6.6.1 Matters Raised in Submissions

The submission from Arawai Limited (S581.001) sought the deletion of scheduled site MS05-38 Awapoko Reserve, located at Aurere, Tokerau Beach, on the basis that the site had been incorrectly mapped. The Council's hearing report considered insufficient evidence was provided to justify the deletion of the site MS05-38 from SCHED3 and recommended to reject the submission.

Evidence from Arawai Limited Planner, Mr Sanson showed the mapping extent of MS05-38 had been carried over from the former Mangonui County Council District Scheme planning maps into the Operative Far North District Plan maps and had never been corrected.

Mr Sanson's evidence presented historical records including the 1954 Māori Land Court partition order and Mangonui District Scheme maps to confirm the mapping extent of site

MS05-38 applied only to Part Okokori Block (now 'Okokori A Block') where the wāhi tapu is located. Despite this, Mr Sanson states that the 2009 Operative District Plan maps incorrectly extended the mapping extent of MS05-38 into the Okokori B Block.

The 'Okokori A Block' comprises of 20.6131 hectares and runs along the foreshore of Aureere beach and curves around into the entrance of the Awapoko river (see **Figure 1**). Okokori B Block is 115.8 hectares and includes the 2.1ha Māori reservation area (Te Awapoko Waka Wānanga Reserve). This block adjoins the west boundary of the Okokori A block, and the south boundary has full frontage on the Awapoko river (see **Figure 1**).



Figure 1: Outline of approx. areas for Okokori A and Okokori B blocks including the Māori reservation.

We were advised that the Māori reservation area was established in 2012 and Sir Hekenukumai Busby purchased the Okokori B Block in 1966 and later gifted most of the land to the Hekenukumai Ngā Iwi Trust (the **Trust**). Arawai Limited operates the Kupe Waka Centre on the reservation area under a 2019 management agreement and also leases additional land of approximately 5ha for its operations and this area falls within the incorrectly mapped site MS05-38. In 2021, Arawai Limited prepared an application for a new waka facility and upgrades which was declined for reasons including the MS05-38 site which resulted in delays and additional costs for the Waka Centre project.

While the Council's hearing report found there was insufficient evidence to support deletion of MS05-38 from SCHED3, the Council's right of reply reviewed the planning evidence and agreed that the site had been wrongly applied to Okokori B block. The Council's right of reply recommends the submission request to remove the extent of mapping of MS05-38, as it has been applied to the property legally described as Okokori B, be accepted (see **Figure 2**).

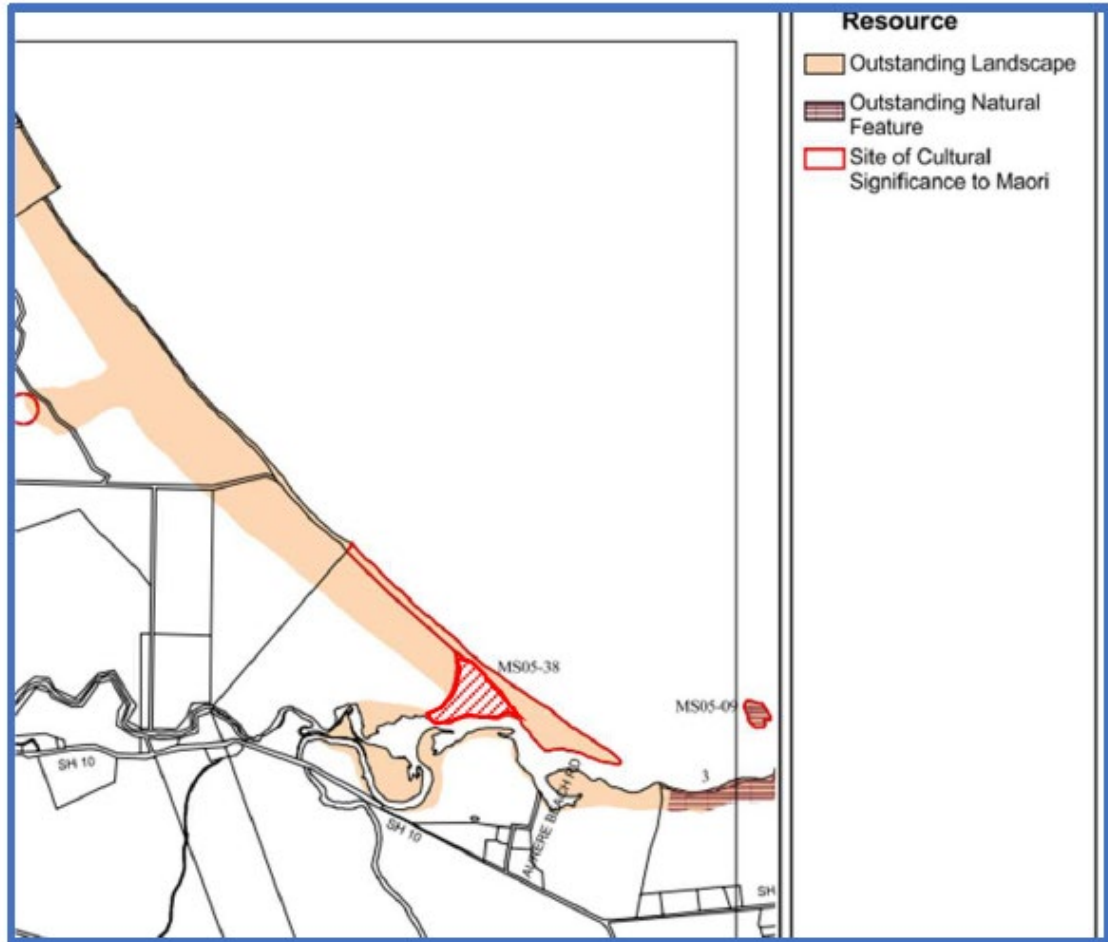


Figure 2: Okokori B block shown as hatched area. **Source:** Right of Reply report, pg9.

6.6.2 Hearings Panel Evaluation

We support the Council’s hearing report recommendation to amend the mapped extent of Site MS05-38 so that it applies only to ‘Okokori A Block’. The evidence presented by Mr Sanson clearly demonstrates that the original scheduling was intended for Part Okokori Block (now Okokori A Block), where the wāhi tapu is located. Historical records and district scheme references consistently confirm this and the extension of the site boundary into ‘Okokori B Block’ appears to have resulted from a longstanding mapping error carried through into subsequent planning maps.

The assessment in the Council’s hearing report appropriately recognises the error and provides a balanced and accurate evaluation of the evidence. We agree that removing MS05-38 from Okokori B Block is the correct and practical response, ensuring the District Plan accurately reflects the cultural and historical intent of the original scheduling while maintaining the integrity of Sites and areas of significance to Māori.

Accordingly, we accept the Council’s hearing report recommendation to retain the MS05-38 site in SCHED3 for SASM. We accept the Council’s hearing report recommendation to amend the site MS05-38 mapped extent to only apply to the ‘Okokori A’ Block, and to remove the mapped extent of MS05-38 from ‘Okokori B’ Block.

6.6.3 Hearings Panel Recommendations

1. For the above reasons, it is recommended that the submission point from:
 - (a) Arawai Limited (S581.001) is accepted.

It is also recommended that the following amendments are made to the scheduled SASM site MS05-38, as outlined in the evaluation above and as set out at **Appendix 3.3** of this recommendation report, to acknowledge the submission relief from Arawai Limited.

SCHED3 – Schedule 3: Schedule of Sites and Areas of Significance to Māori

Place #	Location	Name/Description	Requesting party	Legal Description
MS05-38	Awapoko Reserve	Okokori/Kaimaua Recreation Reserve & waahi tapu	Māori Owners	Pt Okokori Blk Okokori A block (Awapoko Reserve)

Planning Map correction

As described in the evaluation above and with reference to **Figure 2**, the planning map is required to be updated to remove the MS05-38 mapping extent from the Okokori B block. This is also identified in **Appendix 4**.

For the reasons outlined above, and in brief, correcting the mapping error ensures the plan accurately reflects the intended and scheduled SASM site MS05-38.

6.7 Key Issue 3: Moringai / Moringaehē, 1 Wharo Way, Ahipara (Lot 1 DP 381292)

6.7.1 Matters Raised in Submissions

Multiple submitters including Ahipara Takiwa (S576.002, S579.002), Moringai Whānau (S577.001), Kuia, kaumātua and whānau of Moringai Whānau (S575.002), and Roma Marae (S578.001), supported retention of existing SCHED3 Sites and Areas of Significance to Māori, and sought the formal inclusion of ‘Moringai’ as a new SASM site. Moringai was described as a pā site with terraces, a waterfall and significant stream, with recognition sought for its historic and cultural value. Some submitters also sought classification of ‘Moringai’ and the adjoining land at 3 Wharo Way, as a Local Purpose (Historic) Reserve (see **Figure 3**), or the return of the whenua to hapū, citing historic alienation of Māori land.



Figure 3: Outline of areas for Moringai/Moringaeha and adjoining Council reserve.

The Council’s hearing report confirmed that the land parcels at 1 and 3 Wharo Way, Ahipara (Lot 1 and 23 DP381292 respectively) were gazetted as Local Purpose (Historic) Reserve under a Council resolution 2023/88, effective July 2024. However, the wider scheduling of the Moringa waterfall and stream was not supported due to insufficient locational details, lack of landowner engagement, and inconsistency with RPS Policy 4.5.3 Assessing, identifying and recording historic heritage.

Submissions highlighted the cultural significance of Moringai (also known as Moringaeha or Ahiparapara), to the hapū of Ahipara, including the ancestral Pōhutukawa tree (rākau tūpuna) as a symbol of identity, connection and resilience, and the importance of restoring and protecting the site.

Following the hearing, the Panel sought clarification on the status of 1 Wharo Way given its Historic Reserve designation, the correct site name, and the Requesting party. The Council’s hearing report accepted in principle the recognition of 1 Wharo Way as a SASM. Subsequent correspondence from a hapū member confirmed the following:

- (a) Site name: Moringaeha
- (b) Requesting party: Moringaeha Management Committee
- (c) Schedule in SCHED3 SASM: recommend that the site Moringaeha at 1 Wharo Way, Ahipara (Lot 1 DP381292) be included in SCHED3 on an interim basis, pending final confirmation from the wider whānau, hapū and marae of Ahipara.

As no further confirmation has been received, the site Moringaeha will be included in SCHED3 as recommended.

6.7.2 Hearings Panel Evaluation

We agree with the Council’s hearing report recommendation to reject the submission seeking to schedule the Moringaihe waterfall and stream as insufficient locational detail, limited site information, and lack of landowner engagement mean the proposal does not meet the criteria of the RPS policy 4.5.3 for inclusion in SCHED3. Further assessment and consultation would be needed before considering any future scheduling of these features associated with Moringaehe.

We agree with the Council’s hearing report recommendation to include Moringaehe located at 1 Wharo Way, Ahipara with a legal description of Lot 1 DP381292, in the PDP SCHED3 for Sites and Areas of Significance to Māori. The site has confirmed cultural, historical and ancestral significance to Ahipara hapū, and formal scheduling provides appropriate recognition and protection consistent with the gazetted status as a Local Purpose (Historic) Reserve. Inclusion in Schedule 3 complements the co-management approach with Ngā Hapū o Ahipara and ensures the sites values are clearly identified and safeguarded through the District Plan framework.

6.7.3 Hearings Panel Recommendations

1. For the reasons set out above, we recommend that the submission points from:
 - (a) Ahipara Takiwa (S576.002 and S579.002); Moringai Whānau (S577.001); Kuia, kaumātua and whānau of Moringai Whānau (S575.002); and Roma Marae (S578.001) be accepted in part.

We also recommend the following amendments to SCHED3 Sites and Areas of Significance to Māori, as set out at **Appendix 3.3** of this recommendation report, which acknowledge the relief sought from the submitters to include the site Moringaehe in SCHED3.

SCHED3 – Schedule 3: Schedule of Sites and Areas of Significance to Māori

Place #	Location	Name/Description	Requesting party	Legal Description
MS-NEW	Ahipara	Moringaehe - Local Purpose (Historic) Reserve.	Moringaehe Management Committee	Lot 1 DP381292

For the reasons outlined in the evaluation above, and in brief, the inclusion of Moringaehe at 1 Wharo Way, into SCHED3 is supported due to its confirmed cultural, historical and ancestral significance to Ahipara hapū and its gazetted status as a Local Purpose (Historic) Reserve, which together warrant formal planning recognition and protection.

6.8 Key Issue 4: Infrastructure – Amendments to Objectives, Policies and Rules

6.8.1 Matters Raised in Submissions

Several submissions from Top Energy Ltd (S483.140 to S483.144) and Transpower (S454.082) sought amendments to allow new and existing infrastructure to be located within Sites and Areas of Significance to Māori (**SASM**) where operational need is demonstrated and effects can be managed. Top Energy requested new objectives, policies, and rules to provide for operation, maintenance, repair and upgrades. Transpower sought

a policy recognising infrastructure location requirements. These submissions were supported by further submitters and opposed by others.

The Council's hearing report initially recommended to reject these requests on the basis that new provisions for infrastructure belong in the District-Wide Infrastructure chapter rather than the SASM chapter.

At the hearing, evidence from Ms McGrath clarified that the PDP contains no explicit provisions for infrastructure within SASM, and that the Infrastructure chapter does not apply to activities located inside SASM overlays. Ms McGrath proposed SASM specific provisions, including enabling existing infrastructure and recognising the operational need for upgrades. Supplementary evidence from Ms Collins (4 June 2025) outlined Top Energy's operational protocols for protecting sensitive environments, supporting the request for clearer provisions. The Council's right of reply, acknowledged that these matters were not addressed in the original infrastructure S42A report.

Amendments are now proposed to the Infrastructure chapter, specifically the 'Overview' and 'Advice Note 2', to clarify that Infrastructure within SASM is managed by the Infrastructure chapter in conjunction with other District-Wide chapters. These updates confirm that stricter SASM protections apply where relevant.

Infrastructure Chapter Amendments (Extracts)

- *Overview* – clarifies that infrastructure is also subject to other District-Wide chapters, including SASM, Historic Heritage, Biodiversity, Natural Character, Natural Features and Landscapes, and the Coastal Environment.
- *Advice Note 2* – directs plan users to check other District Wide chapters, which may contain more stringent rules applying to infrastructure activities.

These clarifications provide the framework for assessing the appropriateness of additional SASM provisions for infrastructure.

New Infrastructure within SASM

The Council's right of reply considered new infrastructure should not be enabled within SASM. These areas comprise approximately 1.3% of the district, represent highly sensitive cultural sites, and require robust protection. The Infrastructure chapter already signals that more restrictive rules apply in SASM, and avoiding new infrastructure in these locations is the most effective way to prevent adverse cultural effects. For these reasons, the report recommended that no new objectives, policies, or rules be added to enable new infrastructure within SASM.

Existing Infrastructure within SASM

Existing infrastructure located within SASM must continue to function safely. Given that 53 of 380 scheduled SASM already contain Top Energy assets, it is appropriate to provide for their operation, maintenance, repair and upgrading, provided cultural effects are avoided or minimised. The Council's right of reply recommended to accept in part, the submission of Top Energy, with the addition of new enabling provisions in the SASM chapter as outlined below:

SASM-O6

The safe and efficient use, operation, maintenance, repair and upgrading of existing infrastructure within scheduled sites and areas of significance to Māori, is provided for.

SASM-P10

Provide for the use, operation, maintenance, repair and upgrading of existing infrastructure within scheduled sites and areas of significance to Māori in a manner that avoids, remedies or mitigates adverse effects on the cultural values of these sites and areas.

SASM-R1	New buildings or structures, relocated buildings or extensions or alterations to an^o existing buildings or structures, earthworks or indigenous vegetation clearance	
<i>Scheduled sites and areas of significance to Māori</i>	<i>Activity status: Permitted Where: PER-1 The activity is undertaken by the requesting party listed in Schedule 3. PER-2 Any indigenous vegetation clearance is for customary purposes. PER-3 The activity is undertaken by a network utility provider for the operation, maintenance, repair, or upgrading of existing above ground infrastructure where this is: no greater than the height of the existing structure; no greater than 20% of the GFA of the existing lawfully established building of structure; and not replacing a pole with a pole.</i>	<i>Activity status where compliance not achieved with PER 1 or PER 2: Restricted Discretionary Matters of discretion are restricted to:</i>

Clarification of SASM-R1 PER-3

In responding to Panel queries on the PER-3 wording, the reporting officer clarified that subclauses (i) to (iii) were added to clearly define the scope of permitted upgrades and ensure cultural values are protected. Although this wording expands on the submitters proposed text it remains within scope as it relates only to existing infrastructure. These refinements were developed with the authors of the Infrastructure and Coastal Environment chapters to ensure consistency with similar PDP rules (such as CE-R1, PER-4) and to provide clearer implementation guidance.

An error was identified in subclause (iii), which the reporting officer confirmed should read:

“(iii) not replacing a pole with a Pi pole”.

This correction ensures the rule functions as intended and aligns with the Panel concerns.

6.8.2 Hearings Panel Evaluation

We agree with the reporting officer that amendments to the policy and rule framework are appropriate to provide for the operation, maintenance, repair, and upgrading of existing infrastructure within SASM.

The recommended new policy SASM-P10 and rule refinements to SASM-R1 offer a practical and effects based pathway for managing existing infrastructure, while ensuring cultural values remain protected. The rule amendments, including subclauses (i) to (iii), are technically consistent with CE-R1 PER-4 and remain within the scope of Top Energy’s submission. The correction to subclause (iii) where “(iii) not replacing a pole with a Pi pole”, appropriately resolves the drafting error identified by the Panel.

However, we do not support the reporting officer’s proposed wording for the new objective SASM-O6 to provide for existing infrastructure within SASM as drafted above. The wording does not clearly express the dual purpose required, to enable the functional role of existing infrastructure and recognising and protecting cultural values of the SASM.

We propose to revise the new proposed objective as follows:

SASM-O6 (revised)

The ~~cultural values of safe and efficient use, operation, maintenance, repair and upgrading of existing infrastructure within~~ scheduled ~~s~~Sites and ~~a~~Areas of ~~s~~Significance to Māori ~~are protected, is provided for while existing infrastructure continues to operate and be maintained, repaired and upgraded.~~

It is our finding this objective ensures a clear balance between protecting the cultural values of SASM and enabling essential existing infrastructure to function. It reflects statutory duties to safeguard Māori cultural heritage and gives effect to Te Tiriti principle of active protection. By requiring adverse effects to be avoided, remedied or mitigated, it provides a consistent effects based approach that prevents incremental loss of cultural values, supports meaningful mana whenua involvement, and ensures infrastructure works proceed in a culturally appropriate and responsible manner.

Accordingly, we do not support the recommended wording for SASM-O6 as drafted by the Council officer and instead recommend adopting the revised SASM-O6 objective wording set out above.

6.8.3 Hearings Panel Recommendations

1. For the reasons set out above, we recommend that the submission points from:

- (a) Top Energy Ltd (S483.140-144) and Transpower (S454.082) be accepted in part.

We also recommend the following amendments to SASM-O6, SASM-P10 and SASM-R1, as set out at **Appendix 2.5**, to acknowledge the submission relief requested by Top Energy and Transpower:

SASM-O6

The cultural values of scheduled Sites and Areas of Significance to Māori are protected, while existing infrastructure continues to operate and be maintained, repaired and upgraded.

SASM-P10

Provide for the use, operation, maintenance, repair and upgrading of existing infrastructure within scheduled Sites and Areas of Significance to Māori in a manner that avoids, remedies or mitigates adverse effects on the cultural values of these sites and areas.

SASM-R1	<u>New buildings or structures, relocated buildings or extensions or alterations to an⁹ existing buildings or structures, earthworks or indigenous vegetation clearance</u>	
Scheduled sites and areas of significance to Māori	<p>Activity status: Permitted Where: PER-1 <i>The activity is undertaken by the requesting party listed in Schedule 3.</i></p> <p>PER-2 <i>Any indigenous vegetation clearance is for customary purposes.</i></p> <p>PER-3 <i>The activity is undertaken by a network utility provider for the operation, maintenance, repair, or upgrading of existing above ground infrastructure where this is:</i> <i>(i) no greater than the height of the existing structure;</i> <i>(ii) no greater than 20% of the GFA of the existing lawfully established building of structure; and</i> <i>(iii) not replacing a pole with a Pi pole.</i></p>	<p>Activity status where compliance not achieved with PER 1 or PER 2: Restricted Discretionary Matters of discretion are restricted to:</p>

For the reasons described in the evaluation above relating to the revised SASM-O6 objective and the amendments to rule SASM-R1 PER-3, we recommend these be adopted because these amendments ensure clear, consistent implementation of the PDP and more

effective management of adverse effects for the use, operation, maintenance, repair and upgrade of existing infrastructure located within SASM.

6.9 Key Issue 5: Part 1 General Provisions Tangata Whenua TW-P1, TW-P2 and TW-P3

6.9.1 Matters Raised in Submissions

Submissions received on the SASM objectives and policies broadly supported the intent of the chapter but sought targeted refinements to better recognise tangata whenua values, participation, and Treaty principles, particularly under section 6(e) of the RMA (NZTA S356.059; HMKT S394.024; and Taituha, Tane and Apiata S389.012). As a result, the hearing report recommends limited amendments to SASM-O2 and SASM-P2 to strengthen recognition of tangata whenua, culture, traditions, relationships and mātauranga māori, while retaining key terminology for internal consistency and aligning related provisions such as SASM-O1. These amendments are supported by a significant number of further submitters and are intended to clarify and strengthen policy direction rather than change the overall intent. Where changes to the SASM chapter objectives and policies have occurred, the hearing report identifies and recommends corresponding amendments to the Tangata Whenua chapter in Part 1, specifically TW-P1, TW-P2, and TW-P3, to ensure internal consistency across the PDP, give coherent effect to Te Tiriti principles, and reinforce the strategic role of the Tangata Whenua chapter as the foundation for managing Sites and Areas of Significance to Māori.

6.9.2 Hearings Panel Evaluation

On the review of the hearing report and submissions, we concur with the hearing report recommendations, as they appropriately address submission matters, strengthen alignment with section 6(e) of the RMA and Te Tiriti principles, and improve consistency across the PDP. The aligned amendments to the SASM (SASM-P6 and SASM-P10) and the Tangata Whenua policies in Part 1 (TW-P1, TW-P2, and TW-P3), provide clear, coherent policy direction for the recognition and protection of Sites and Areas of Significance to Māori.

6.9.3 Hearings Panel Recommendations

1. For the reasons in the evaluation above in relation to proposed amendments to the SASM objectives and policies, we recommend that the submission points from:
 - (a) NZTA (S356.059); HMKT (S394.024); and Taituha, Tane and Apiata (S389.012) be accepted in part.

We also recommend consequential amendments to policies TW-P1, P2 and P3 in the Tangata Whenua chapter in Part 1. These amendments have been set out in the Tangata Whenua chapter provisions in **Appendix 2.3 of Recommendation Report 1**.

7. Conclusion

For the reasons set out in this recommendation report, we recommend the adoption of a set of changes to the PDP provisions relating to: Notable Trees; Heritage Areas overlay and Historic heritage; Kororāreka Russell Township zone; and Sites and areas of significance to Māori.

Our recommended amendments are shown in **Appendices 2.1 – 2.5; 3.1 – 3.4**. Our recommended mapping amendments are identified in **Appendix 4**.

In evaluating and determining our findings we have had regard to the submissions received, the Council’s hearing reports (including the Council’s right of reply) and the evidence tabled and presented to us. We have also incorporated our own s32AA evaluation into the body of our report as part of our reasons for recommended amendments.

Overall, we find that these changes will ensure the PDP better achieves the statutory requirements, national and regional policy directions, and be easier to implement and understand.