

**Before the Independent Hearings Commissioners**

Under the Resource Management Act 1991 (**RMA**)

In the matter of the Proposed Far North District Plan

And in the matter of Hearing 15A - Rezoning General, Kauri Cliffs & Carrington Estate

Between

**Carrington Resort Jade LP and Carrington Farms Jade LP**

**Submitter 351 / Further Submitter 401**

and

**Far North District Council**

**Local Authority**

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Legal submissions on behalf of Carrington Resort Jade LP and  
Carrington Farms Jade LP for Hearing 15A of the Far North  
Proposed District Plan - Carrington Estate Zone

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## MAY IT PLEASE THE PANEL

### Introduction

1. Carrington Resort Jade LP and Carrington Farms Jade LP (together, **Carrington**) lodged a submission and further submission on the Proposed Far North District Plan (**PDP**) in respect of the Carrington Estate Zone (**CEZ**).
2. On 27 July 2022, Far North District Council (**Council**) notified the PDP which proposed to retain the CEZ from the operative Far North District Plan (**ODP**) with some amendments.
3. On 21 October 2022, Carrington filed a submission on the notified PDP, generally supporting retention of the CEZ as notified and seeking some specific amendments in relief. Specifically, Carrington:
  - (a) supported the CEZ as notified;
  - (b) supported the General Residential and Mixed Use Zones applying to landholdings outside the CEZ;
  - (c) sought application of the General Residential Zone, a Mineral Extraction Overlay, and Light Industrial Zone over landholdings outside the CEZ: and
  - (d) sought some additional amendments within the CEZ including:
    - (i) allowing primary production activities, which the section 42A recommends accepting in part by introducing a new Rule (Rule CAR-RX) for farming as a permitted activity and amending Rule CAR-14 to exclude farming from the non-complying primary production activity;
    - (ii) including a new rule to carry over Rule 18.6.6.1.7 in the Transport chapter providing for access, parking, and loading within the CEZ to be undertaken in accordance with the Carrington Estate Development Plan and Schedule, or providing an exemption within the Transport chapter for the CEZ, which the section 42A recommends rejecting; and

- (iii) including a new rule to carry over Rule 18.6.6.1.11 in the Earthworks and Vegetation Chapter to include reference to the Carrington Estate Development Plan and Schedule, or providing an exemption within the earthworks and vegetation clearance rules for the CEZ, which the section 42A recommends rejecting.
- 4. Carrington has now filed planning evidence in reply to the section 42A report, broadly supporting the recommendations but maintaining its position that the relevant rules relating to roading and parking, and earthworks and vegetation clearance be carried over from the ODP into the PDP CEZ.
- 5. Additionally, planning evidence has been filed by Submitter 394, Haititaimarangai Marae Kaitiaki Trust (**the Trust**) seeking relief contrary to the relief sought by Carrington and raises additional points or relief. Carrington does not support the Trust's position, and it is submitted that the relief sought would be contrary to and undermine the purpose of the CEZ.
- 6. These legal submissions will:
  - (a) Provide a brief overview of Carrington and the Carrington Estate;
  - (b) Set out at a high level the relevant statutory and planning framework for the PDP and CEZ;
  - (c) Support the rationale for retaining the CEZ as a Special Purpose Zone, its compliance with higher order planning documents, and support and the Council's process as undertaken under Schedule 1;
  - (d) Briefly comment on the interaction with the Carrington resource consents and irrelevance of the extant High Court proceedings; and
  - (e) Make brief concluding comments.
- 7. Planning evidence in reply to the section 42A report has been filed by Mr Sanson on behalf of Carrington. Mr Sanson's evidence provides background to Carrington Estate, reviews the changes to the CEZ proposed by the section 42A report, and addresses additional changes sought by Carrington.

## Overview of Carrington and Carrington Estate

8. Carrington owns land at Whatuwhiwi, Karikari Peninsula, known as **Carrington Estate**. Carrington Estate comprises the Carrington Resort, Carrington Winery, and the Carrington Country Club.
9. Carrington Estate has been developed in accordance with the following resource consents granted by Far North District Council (Council) in 1991 (together, **Resource Consents**):
  - (a) land use consent RC 1990480 to establish, operate, and maintain a vineyard and winery;
  - (b) land use consent RC 1990481 to establish, operate, and maintain a country club and associated facilities; and
  - (c) related subdivision consent RC 1990481/A.
10. Activities relating to Carrington Estate as authorised by the Resource Consents were first integrated into the operative Far North District Plan (**ODP**) in 2003, as the Carrington Estate Special Area.<sup>1</sup> Special Areas were recognised in the ODP as being locations where detailed site assessment and development had been completed either through a resource consent, development plan, structure plan, or master plan to confirm outcomes for the area.<sup>2</sup> This was provided for in a specific chapter called the Special Purpose - Carrington Estate zone (**CEZ**). This is currently provided for in Chapter 18 – Special Areas of the ODP, which provides for numerous special areas taking a similar approach of providing a bespoke planning framework for typically unique, large scale developments.
11. As outlined in the Council's section 32 report, the approach to the CEZ for the PDP is largely consistent with the CEZ management framework in the ODP with some amendments to give effect to the National Planning Standards and achieve consistency with the rest of the PDP.<sup>3</sup>

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<sup>1</sup> Section 32 report at 2.2.

<sup>2</sup> Section 32 report at 2.1.

<sup>3</sup> Section 32 report at 2.2.

12. The Council's approach to the CEZ has been undertaken in accordance with Schedule 1 of the RMA, assessing the appropriateness of the zone under section 32 and section 42A, and recommending retention of the CEZ with amendments for clarity and consistency.

### **Statutory and planning framework relevant to the PDP and CEZ**

#### *Resource Management Act 1991*

13. The PDP has been prepared and notified in accordance with the requirements of section 75 and Schedule 1 of the RMA.
14. Schedule 1 of the RMA provides the process for a proposed plan. In summary, this requires:
  - (a) Preparing an evaluation report under section 32;<sup>4</sup>
  - (b) Undertaking consultation and publicly notifying the proposed plan for submissions and further submissions;<sup>5</sup>
  - (c) Preparing a section 42A report and supporting technical evidence;<sup>6</sup>
  - (d) Holding a hearing on submissions and further submissions;<sup>7</sup> and
  - (e) Making<sup>8</sup> and notifying<sup>9</sup> a decision on the provisions and matters raised in submissions.
15. Section 75 of the RMA provides that a district plan must:
  - (a) State the objectives for the district, the policies to implement the objectives, and the rules to implement the policies.<sup>10</sup>

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<sup>4</sup> Resource Management Act 1991, Schedule 1, clause 5(1)(a).

<sup>5</sup> Resource Management Act 1991, Schedule 1, clauses 3, 5(1)(b), 6, 7, 8.

<sup>6</sup> Resource Management Act 1991, section 42A.

<sup>7</sup> Resource Management Act 1991, Schedule 1, clause 8C.

<sup>8</sup> Resource Management Act 1991, Schedule 1, clause 10.

<sup>9</sup> Resource Management Act 1991, Schedule 1, clause 11.

<sup>10</sup> Resource Management Act 1991, section 75(1).

- (b) Give effect to higher order planning documents, including any national policy statement, the New Zealand coastal policy statement, a national planning standard, and any regional policy statement.<sup>11</sup>
- 16. Section 32 of the RMA requires councils to prepare an evaluation report (a section 32 report) to assess whether the proposed objectives are appropriate to achieve the purpose of the RMA, and whether the provision of the chapter are appropriate to achieve the objectives.<sup>12</sup>
- 17. Section 32AA requires additional evaluation of the proposed provisions in response to submissions received or for any changes made to the proposed provisions since the section 32 report was completed.<sup>13</sup>

#### *National Planning Standards 2019*

- 18. The National Planning Standards 2019 (**NPS**) provide nationally consistent standards for the format, structure, and content of district plans to improve the efficiency and effectiveness of the planning system.<sup>14</sup> As noted above, section 75 of the RMA requires that district plans give effect to national planning standards.
- 19. Section 8.3 sets out the requirements for a Special Purpose Zone, which provides that these must only be created when the proposed land use activities or anticipated outcomes of the additional zone meet all of the following criteria:
  - (a) are significant to the district, region or country;
  - (b) are impractical to be managed through another zone;
  - (c) are impractical to be managed through a combination of spatial layers.

#### *National Policy Statements*

- 20. Section 75 of the RMA also requires that a district plan give effect to national policy statements. Relevant to comments made in the section 42A report,

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<sup>11</sup> Resource Management Act 1991, section 75(3).

<sup>12</sup> Resource Management Act 1991, section 32(1).

<sup>13</sup> Resource Management Act 1991, section 32AA(1).

<sup>14</sup> National Planning Standards 2019, section 1.

this includes the National Policy Statement for Urban Development 2020 (**NPS-UD**).

21. As addressed in the section 42A report in relation to specific relief sought by Carrington, clause 3.38(1) provides that if a district plan contains provisions that have the effect of requiring a minimum number of car parks to be provided for a particular development, land use, or activity, the district plan must be changed to remove that control other than for accessible car parks.

**The CEZ has appropriately followed the Schedule 1 process, satisfies the NPS requirements for a Special Purpose zone and is consistent with higher order planning documents**

*The Council has appropriately assessed whether the CEZ is consistent with the NPS direction on Special Purpose zones*

22. The evidence of the Trust raises the question of whether the CEZ satisfies the requirements of Section 8.3 of the NPS.<sup>15</sup>
23. It is submitted that the Council has appropriately considered the requirements of section 8.3 in both the section 32 assessment and section 42A assessment of the CEZ. Carrington supports the Council's assessment, which is that:
  - (a) Carrington Estate has been provided for as a Special Area in the ODP through the CEZ with specific provisions in accordance with the approved Carrington Estate Development Plan and Schedule.<sup>16</sup>
  - (b) It is impractical to manage the development by way of spatial layer or through another zone in the PDP.<sup>17</sup>
24. A Special Purpose Zone is appropriate for Carrington as a unique large-scale development that does not fit neatly within generic zonings given the scale and type of activities enabled by the planning framework, and the location of Carrington Estate.

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<sup>15</sup> Statement of Planning Evidence of Phillip Percy at [62].

<sup>16</sup> Section 32 report at 3.2.1 and section 42A report at [21].

<sup>17</sup> Section 32 report at 3.2.1 and section 42A report at [21].

25. It is appropriate that Carrington Estate has bespoke provisions contained in a cohesive and clear planning framework incorporating specific development controls for activities that have been assessed as appropriate for the zone. This provides certainty and clarity not only for Carrington, but for other plan users, as to what can be undertaken in the zone.
26. It is submitted that the CEZ both satisfies the requirements of Clause 8.3 of the NPS and is appropriate for the Carrington Estate. Further, Carrington supports the Council's assessment and rationale for retaining the CEZ.
27. Additionally, the above rationale is relevant also in the context of the Trust's submission seeking deletion of references to the Carrington Estate Development Plan and Schedule. It is submitted that the Development Plan and Schedule is the specific document which provides certainty on the anticipated outcomes for the Carrington Estate. As identified by the Council, this is central to the purpose of the CEZ and will guide land use and development within the zone.<sup>18</sup>
28. A similar approach has been taken for other special areas currently recognised in the ODP. For example, the Moturoa Island zone similarly provides a planning framework in the ODP for a specific development premised on the Moturoa Island Development Plan appended to the ODP. This is also proposed to be retained in the PDP.

*Including the additional rules sought by Carrington relating to access, parking and loading requirements and earthworks and vegetation removal activities would still result in the CEZ giving effect to the NPS-UD and NPS*

29. In the section 42A report, the Council has recommended rejecting Carrington's relief sought regarding retaining rules providing for access, parking and loading requirements, and earthworks and vegetation clearance, in accordance with the Carrington Estate Development Plan and Schedule within the relevant district-wide chapters. The Council's reasons for these recommendations are:
  - (a) The minimum carparking requirements and corresponding table of the Carrington Estate Development Plan and Schedule will not give effect

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<sup>18</sup> Section 42A report at [55].



to clause 3.38 of the NPS-UD requiring the removal of minimum car parking requirements;<sup>19</sup>

- (b) It is inappropriate to exempt earthworks and vegetation clearance activities from more stringent district-wide provisions and would not give effect to the NPS;<sup>20</sup> and
  - (c) These activities are provided for through general provisions of the relevant district-wide chapters of Transport for carparking activities, and Ecosystem and Indigenous Biodiversity and Earthworks chapters for earthworks and vegetation removal activities.<sup>21</sup>
30. As addressed by Mr Sanson, applying generic district wide rules that would restrict the ability to undertake the development authorised by the Development Plan and Schedule contradicts the purpose of the CEZ.<sup>22</sup> It is also contrary to the rationale for a Special Area and special purpose zone, being that a site-specific assessment has identified intended outcomes, where these outcomes include specific roading access, carparking locations, and earthworks and vegetation clearance activities.
31. In respect of parking provisions, it is accepted that the NPS-UD is clear that minimum carparking requirements must be removed. It is submitted that deletion of the parking provisions in Table 1 of the Carrington Estate Development Plan and Schedule as recommended by the section 42A report is appropriate to achieve consistency with the NPS-UD.<sup>23</sup> However, it is submitted that a specific rule to reflect the intention of existing Rule 18.6.6.1.7 should still be included in the Transport chapter of the PDP to provide certainty about how access, parking and loading shall be laid out and provided for within the Carrington Estate.
32. In respect of earthworks and vegetation clearance, applying more stringent district-wide earthworks and vegetation removal rules may have an adverse consequence of frustrating the implementation of enabled activities, and causing unnecessary delay and cost. The ODP provided for these

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<sup>19</sup> Section 42A report at [85] and [86].

<sup>20</sup> Section 42A report at [87].

<sup>21</sup> Section 42A report at [85] and [87].

<sup>22</sup> Statement of Evidence of Steven Remana Sanson at [24].

<sup>23</sup> Section 42A report at [86] and [89(a)].

earthworks and vegetation clearance activities and there is no basis to justify a different position in the PDP.

33. As Mr Sanson also identifies, not including these specific rules in the CEZ would be inconsistent with the primary objective for the CEZ, being CAR-O1 providing that development should be undertaken *in general accordance with the approved Carrington Estate Development Plan and Schedule*.<sup>24</sup>
34. Therefore, it is submitted that:
  - (a) Retention of rules 18.6.6.1.7 and 18.6.6.1.11 from the ODP into the relevant chapters of the PDP are appropriate to ensure CAR-O1 can be achieved to enable the zone to be developed in accordance with the approved Carrington Estate Development Plan and Schedule;
  - (b) By including a rule to address access, parking and loading to reflect current rule 18.6.6.1.7, it is accepted that deletion of the parking provisions in Table 1 of the Carrington Estate Development Plan and Schedule as recommended in the section 42A report is appropriate to give effect to the NPS-UD as required by section 75(3) of the RMA; and
  - (c) Including rules to reflect current rule 18.6.6.1.11 in the Indigenous Biodiversity and Earthworks Chapters to provide for earthworks and vegetation removal activities in accordance with the Carrington Estate Development Plan and Schedule is appropriate (notwithstanding the NPS) on the basis that the rule is bespoke and specific to the Carrington and is necessary to enable development to be carried out as envisaged by the CEZ.

*The process of proposing and assessing the provisions of the CEZ is otherwise appropriate and consistent with the Schedule 1 process*

35. The Council has followed due process in assessing the proposed provisions of the CEZ and making its recommendations on submissions and amendments.

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<sup>24</sup> Statement of Evidence of Steven Remana Sanson at [26].

36. Except for the Council's recommendations on specific relief sought as addressed above, Carrington otherwise supports the Council's assessment of the CEZ and supports the recommendations in the section 42A report.

**The CEZ does not duplicate the Resource Consents and the High Court appeal on the status of the Resource Consents is irrelevant to the Panel's decision on the CEZ**

*Duplication of the Resource Consents in the CEZ*

37. The Trust has asserted in planning evidence that the CEZ unnecessarily duplicates the Resource Consents which remain in effect.<sup>25</sup>
38. It is submitted that the status of the Resource Consents is irrelevant to this hearing of submissions on proposed provisions of the CEZ. While the CEZ is based on the Resource Consents, these were subsequently incorporated into the ODP framework in 2003. Consequently, the CEZ now stands as a separate planning framework distinct from the Resource Consents.
39. As addressed above, the Council has followed the appropriate process in preparing the PDP and in assessing and evaluating the provisions of the CEZ.

*High Court appeal*

40. As identified in the section 42A report<sup>26</sup>, the Council has acknowledged that the status of the Resource Consents remains the subject of separate Court proceedings. This is by way of an appeal by the Trust to the High Court on a decision of the Environment Court declining to declare that the Resource Consents have lapsed.<sup>27</sup>
41. In reply evidence, the Trust also briefly identifies that the resource consents are the subject of separate legal proceedings which have not concluded.<sup>28</sup>
42. It is submitted that the status of the Resource Consents is irrelevant to this proceeding, being a hearing on proposed provisions of the CEZ. As

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<sup>25</sup> Statement of Planning Evidence of Phillip Percy at [60] at [78].

<sup>26</sup> Section 42A report at [28] – [30].

<sup>27</sup> *Haititaimarangai Marae Kaitiaki Trust v Far North District Council* [2025] NZEnvC 134.

<sup>28</sup> Statement of Planning Evidence of Phillip Percy at [26].

submitted above, the CEZ is a separate planning framework, and the legal status of the Resource Consents is a distinct matter from the PDP. The Hearing Panel does not need to consider the status of the Resource Consents in making their decision on the CEZ.

### **Conclusion**

43. In conclusion, it is submitted that:

- (a) The CEZ has been appropriately assessed by the Council and Carrington remains broadly supportive of the recommendations of the section 42A report, with two exceptions;
- (b) Including rules to reflect ODP rules 18.6.6.1.7 and 18.6.6.1.11 in the PDP version of the CEZ is appropriate to ensure Objective CAR-O1 can be achieved and will still give effect to higher order planning documents;
- (c) In including a rule to reflect ODP rule 18.6.6.1.7 to provide for access, parking, and loading, the section 42A recommendation to delete the parking provisions in Table 1 of the Carrington Estate Development Plan and Schedule is appropriate to give effect to the NPS-UD;
- (d) The CEZ satisfies the requirements of a special purpose zone as required by the NPS and the Council's assessment is supported;
- (e) The CEZ does not inappropriately duplicate the Resource Consents as it stands as a separate planning framework; and
- (f) The separate High Court appeal challenging the status of the Resource Consents is not relevant to this proceeding.

**DATED** at Auckland this 22<sup>nd</sup> day of August 2025




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**Olivia Pahulu**

Counsel for Carrington Resort Jade LP  
and Carrington Farms Jade LP  
(Submitter 351)