

**Before the Far North District Council
Proposed District Plan Hearings Panel**

SUBMISSION Nos : S51.001, S51.002 and S92.002

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

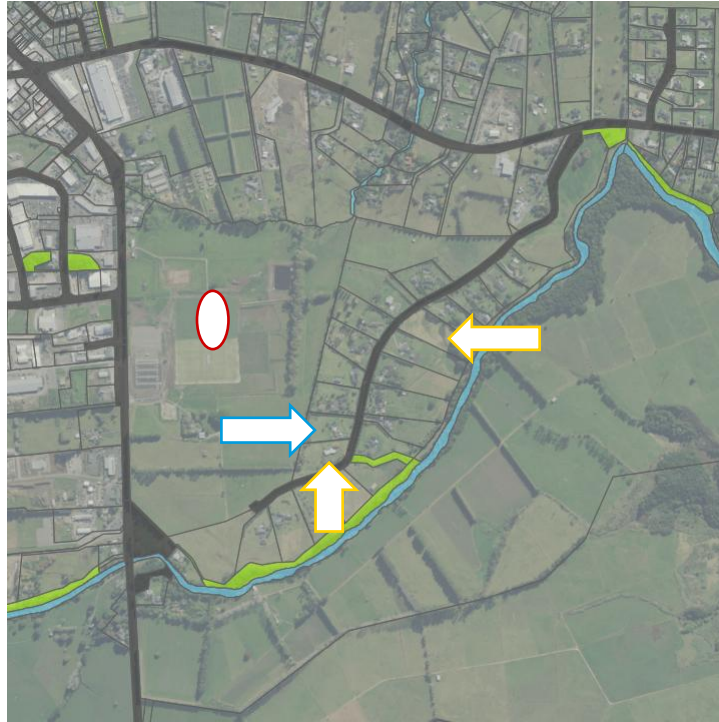
In the matter of a **Proposed District Plan** for the Far North District Council
under Schedule 1 of the RMA

Statement of planning evidence of Jeffery Victor Kemp in
support of the Submissions lodged as S 51.00, S 51.002 and
S92.002.

Dated: 10th June 2025

INTRODUCTION:

1. My full name is Jeffery Victor Kemp. I was the co-owner and an original former Director/Consultant Planner of Bay of Islands Planning Limited, a planning consultancy operating in Northland, which I sold in April 2022. I sold my practice to Sanson and Associates Limited who subsequently renamed the practice to Bay of Islands Planning [2022] Limited.
2. I act in a consultancy role, as Principal Planner, to the new owners since the sale of my business. The new owners are aware of my submissions to the Proposed District Plan and my views and opinions are not attributed to the new company.
3. I have lodged Submissions on behalf of myself and my wife Robyn, seeking to amend the zoning of our property and those adjoining along Waitotara Drive, Kerikeri [Submission 51.002] from **Rural Production Zone** to **Rural Residential Zone** and supporting the **Sport and Active Recreation Zone** adjoining our property [Submission 51.001].
4. I am also presenting evidence on behalf of my adjoining property owner Mr Ernie Cottle. Mr Cottles submission being No S92.002 seeks the same relief as that contained in Submission 51.002.
5. For the assistance of the Hearing Panel the map below shows the properties owned by my wife and I [Blue arrow] and those owned by Mr Cottle [Yellow arrows] –



6. The evidence I produce is within my scope of expertise save as described in the heading **Code of Conduct**. At the time in preparing and lodging this evidence I was awaiting advice from the Northland Regional Council relating to flooding which had not been received. As such my evidence may well raise more questions than answers particularly in relation to flooding. Similarly my evidence is based upon the draft Spatial Plan as we will be away when the final document is released.
7. In preparing this evidence I have reviewed:
 - (a) The draft Waipapa Kerikeri Spatial Plan [Spatial Plan] ;
 - (b) Other PDP submissions/ further submissions relating to the Waipapa area ;
 - (c) Existing resource approvals issues by the Far North District Council and the Northland Regional Council relating to extensive flood mitigation measures undertaken along Waitotara Drive ;
 - (d) And had the benefit of communications with the Reporting Planners.
8. My evidence is also presented in recognition the Section 42A Report [the Report] has not been issued. As such my opinions and conclusions may very well change once this Report is released.

9. The structure of my evidence is as follows:

- (a) Summary of evidence.
- (b) Code of conduct.
- (c) Qualifications and experience.
- (d) Description of the Submission as lodged.
- (e) Background to the Submissions
- (f) Section 32 Analysis
- (g) Conclusion.

SUMMARY OF EVIDENCE

- 10. The creation of the **Sport and Active Recreation Zone** over the land described as Lot 18 DP 316057 being the land owned by the Far North District Council [the Council] is supported. I have shown this as a **Red** elliptical shape in the aerial picture under Paragraph 5.
- 11. This **Sport and Active Recreation Zone** attains two key results.
- 12. Firstly, it reinforces the implementation of the approved resource consent issued to the Council which enables a range of recreation pursuits.
- 13. And secondly, ratifies Councils purpose and intent in purchasing the land for recreational activities. The land holding allows for several recreational activities, some of which are now established, as well as long term recreational activities.
- 14. The proposed **Rural Production Zone** over those lots in Waitotara Drive is an enigma. The proposed zone does not reflect the actual existence of the properties along the road when viewed in a wider context and has been based upon historic information as it relates to flooding. Extensive mitigation measures have been undertaken that remove the potential for a 1:100 year flood event over the properties and no cognizance of this has been undertaken. The properties should be attributed the **Rural Residential Zone**.

CODE OF CONDUCT

15. I have read and am familiar with the Environment Court's Code of Conduct for Expert Witnesses, contained in Part 9 of the Environment Court Practice Note 2023, and agree to comply with it.
16. My qualifications as an expert are set out below. I confirm that the issues addressed in this statement of evidence are within my area of expertise save those described in the **Note** [below] which relate to engineering matters. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express. I understand it is my duty to assist the Hearing Panel impartially on relevant matters within my area of expertise and that I am not an advocate for any party.
17. That being said I have been previously challenged by Councils legal advisors as to the credibility of my opinions and views I may express. In that regard I was a submitter opposing a Council resource consent application that adjoined our property. The challenge of this nature was of no consequence to my professionalism and highlighted the integrity of the matters I had raised which caused concern for the applicant.
18. One could make the same observation in these proceedings however at the end of the day it is for the Hearing Panel to assess the integrity of my evidence.
19. **Note** – Part of my evidence includes engineering considerations for which I acknowledge I am not an engineer. However based upon my experience and observations , I consider I am capable of making comments that will assist the Hearing Panel in their determinations. Indeed, I am reminded that a “good guess is better than a bad calculation”.

QUALIFICATIONS AND EXPERIENCE

20. I do not hold any degree or master's qualifications in planning. I do however hold the qualification of the **New Zealand Certificate of Town Planning** issued by the New Zealand Technical Institute [as known at that time] , attaining this qualification in 1979. I am a past **Full Member of the New Zealand Planning Institute** [1989 – 2022] and a past

Accredited Independent Hearings Commissioner issued [2003] by the Ministry for the Environment, surrendering my Accreditation in 2022. The relinquishing of these affiliations tying into the sale of my practice.

21. I also held Membership of the New Zealand Society of Local Government Managers, gained in 1993.
22. I have been engaged in the planning profession since 1973 which embodied employment over 25 years within local government Councils in both New Zealand and Australia [Western Australia and New South Wales]. Over the last 29 years I had been operating my own planning practice for 26 years having sold this practice in 2022, and since this time acting in a consultancy role to the new owners.
23. I have had the benefit within my career to pursue planning and management roles involving rural, urban and city and coastal environments both in terms of a regulatory function and consultancy role.
24. The last role in a regulatory capacity was Manager Environmental Services at the Far North District Council [1991 – 1996] and as a consultant, since 1996, involving the provision of advice and assistance to corporate and private individuals with the preparation of resource consent applications, including subdivision and land use consents and relevant regional council consents. This also included policy work on district plans and plan changes including submissions and planning evidence.
25. My relevant experience includes:
 - (a) Processing and assessing planning applications and resource consents within local Councils and preparation and processing of zone changes and Environmental Plans in Australia and New Zealand.
 - (b) Preparing and lodging resource consents within all local Councils in the Northland Region as well as consents to the Regional Council. These consents were for both subdivision and land use and covered a wide range of activities including quarries, marina and water takes and discharge.

- (c) Preparing, lodging and submitting submissions and further submissions to Far North and Whangarei District – District Plans and Plan Changes and the Northland Regional Council Policy Statement and Plans. The preparation and presentation of planning evidence at the Council and Environment Court on these documents.
- (d) Preparing and presenting planning evidence at the High Court including Judicial Review proceedings.
- (e) The examination, compilation and presentation of information to the Ombudsman and responding to information requests to assist the Ombudsman ; and
- (f) Accreditation under the MfE Making Good Decisions Programme for Independent Commissioners, now retired.

DESCRIPTION OF SUBMISSIONS

- 26. The Submissions contain two elements.
- 27. **Submission S51.001** supports and seeks to retain the **Sport and Active Recreation Zone** over land owned by the Council, which adjoins our property. I understand there are no Submissions / Further Submissions which seek to remove or change this proposed zoning. The proposed zone sustains Councils purpose to use this land for recreational purposes.
- 28. That being said, I will not address Submission S51.001 any further but do reserve the opportunity to respond upon receiving the Section 42A Report or questions of the Hearings Panel.
- 29. The second submissions, **Submission S51.002** and **S92.002**, seeks to change the zoning of all lots along Waitotara Drive from **Rural Production Zone** to the **Rural Residential Zone**.
- 30. Acknowledging the status of Submission S51.001 my evidence will centre on the rezoning request contained in Submissions S51.002 and S92.002. I note Housing New Zealand lodged a **Further Submission** opposing the two rezoning requests. I make comments on this Further Submission with the heading **Section 32 Analysis**.

31. The land the subject of these Submissions sits within the Kerikeri Waipapa Spatial Plan [the Spatial Plan] . At the time in preparing this evidence it was not known what Councils decision would be in relation to this Spatial Plan. I would therefore note additional evidence may be required once the approved Spatial Plan is released.

BACKGROUND TO THESE SUBMISSIONS

Waitotara Drive Environment

32. As outlined in the Submissions, the proposed zoning of Waitotara Drive is in my opinion assessed as creating a discord to the surrounding zoning pattern. The lots within Waitotara Drive may well be seen as an enigma however they have all been created under resource consents which took the land out of rural activities into rural residential purposes.
33. Waitotara Drive properties were all part of one original pastoral land holding. This included the land now owned by Council. The properties within Waitotara Drive were created under two resource consent approvals which took into account the objectives and policies of the Operative District Plan [ODP] . In addition, the approvals accommodated potential flooding which was mitigated through appropriate minimum building floor levels. The subdivision did not assess soils, as while this was a determinative at that time, the soils in Waitotara Drive were not defined as highly productive land.
34. Waitotara Drive contains 25 properties which range in size from just over 4.0 ha to just under 1.0 ha. Sixteen of these properties have established residential activities. Waitotara Drive has the same speed limit as other residential areas in Kerikeri and Waipapa, being 40kph. There is no reticulated potable water or wastewater system. Stormwater management is limited to open roadside swale drains, pipe connections under the road and open storm water drains. Fibre is available.
35. I assume the Hearings Panel has visited Waitotara Drive and you would have recognized what significantly differentiates Waitotara Drive to other areas of Kerikeri and Waipapa. That is, the presence of the Magnolia Trees along the full length of the road. These trees were planted as a condition of the resource consent approvals and shelter the visual presence of development along Waitotara Drive between the properties and when viewed from Waipapa Road. Indeed, some people did not

realise there is residential development down the road due to the alignment and connection onto Waipapa Road.

36. Robby and I, along with our family moved to Kerikeri in 1991 at which time I took up employment with the Far North District Council. We rented a property on State Highway 10 adjoining the Redwoods commercial hub and subsequently bought that property the following year and in 2000 we bought a property in Totara Place, Riverview. We sold the Totara Place property and bought 114 Waitotara Drive in January 2019.
37. Mr Cottle bought his property at 120 Waitotara Drive in April 2014 and has since bought Lot 6 in December 2024.

Soils

38. The soils in Waitotara Drive are classified as 3w. The land is also defined as “*fy*” in the soil maps contained within the Waipapa Suite, such soils described as *Waipapa Clay* which is “*imperfectly to very poor drained*”. This is why the land has a high-water table.
39. The underlying subdivision approvals did not need to consider the soil classification of the land as now required by the current NPS Highly Productive Land.
40. However, the Operative District Plan, at the time of the subdivision approval did include the consideration of highly versatile soils but this did not include 3w. Highly versatile soils as defined in the Operative District Plan were limited to - Classes 1c1, 2e1, 2w1, 2w2, 2s1, 3e1, 3e5, 3s1, 3s2 and 3s4. In addition, there were no requirements to assess any statutory matters within planning documents in the preserve of the Northland Regional Council.
41. Notwithstanding this critique of the soils, it is my understanding in terms of this hearing process, the Hearing Panel is only receiving evidence based upon the current status of the applicable planning documents. That being said, the NPS Highly Productive Land would not allow any subdivision by reason the soils sit within the classification of Class 1, 2 or 3.
42. The government has stated soils within Class 3 will be removed from the NPS however such a change in this classification will not be given effect until after the promulgation of the new Act - a date yet to be established.

That being said perhaps a pragmatic approach should be entertained to look at the long-term view.

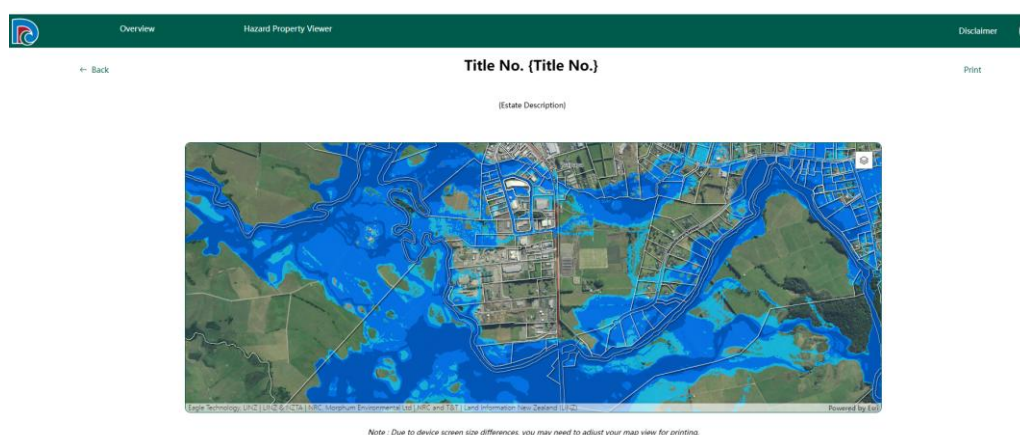
What is flooding

43. With the opportunity of living in Kerikeri I have experienced and witnessed a number of high rainfall events which has resulted in some extensive flooding across various areas around Kerikeri and Waipapa.
44. The most significant I have witnessed is the event on 29th March 2007 which almost took out the, now removed, one lane bridge at the Stone Store Basin. This rain event had a big impact upon the Waipapa commercial / industrial area with storm water flowing across State Highway 10 along the alignment of Kahikatearoa Lane. The flood waters flowing through to Waitotara Drive and crossing the carriageway in some parts.
45. That being said what is flooding ? Perhaps an obvious answer exists however in terms of Waitotara Drive this has been identified as receiving events up to a 1:100 year frequency. Such events resulting in the flow of stormwater across properties, where that stormwater is derived from beyond the property boundary.
46. Indeed, I am reminded of Owen McShane's [now deceased] classic comment – *Don't worry about the water coming through the front door, always worry about it coming in the backdoor*. Candid as it may seem this was not about climate change and rising sea water coming through houses rather the deluge Matata residents received from an inland extensive rainfall event.
47. Contextually the locality of Waipapa is contained within a large open flat landscape. Driving northwards along State Highway 10, from Waimate North Road, the land on either side of the highway has no discerning change in elevation. This presence of being within a flat plateau continues through to the centre of the Waipapa commercial area and dissipates northwards beyond the Waipapa Road round about.
48. Similarly, this feeling of being within a large flat plateau is endured along Waipapa Road from State Highway 10 towards the town centre up to the rugby grounds.

49. Waitotara Drive is part of this wider “level” area extending from the back of Waipapa through to Rainbow Falls and areas on the opposite side of Waipapa Road including Puriri Lane and Pathways Lane. It is across this large level area that the published flood maps resonate a potential to flood.
50. Some properties along Waitotara Drive do have the presence of wet areas [ponding] during high rain fall events but not as to create flooding from one property to the other. That is the properties do pond, but this ponding does not create a storm water flood flow from one property to the other. This is not out of the ordinary as our property in Totara Place would pond under high rainfall events. A common sight around the area as the soil becomes saturated and has nowhere to go !
51. The storm water management system serving Waitotara Drive is the presence of open swales along the road itself and the connection of these open swales to several piped culverts that lead to the Kerikeri River. Along the western boundary of those sites adjoining the sports complex there is an open storm water drain. This open drain discharges into the Kerikeri River and Whirihiritoa Stream, however recent works associated with the sports complex has resulted in more storm water leading into the Whirihiritoa catchment.
52. As noted previously I witnessed the flooding in 2007 which flowed through the commercial area of Waipapa across State Highway 10 into the land now owned by the Council. This was an extreme event [1:150 year] at the time without any flooding mitigation measures being implemented.
53. We experienced, at our property in Waitotara Drive, the July 2020 - 1:500 year event which caused water to pond on our land but not flowing beyond the property boundary.
54. However, due to the blocked culvert under Waitotara Drive that leads to the open drain adjoining 119, which I endeavoured to unblock at the time, caused ponding on Mr Cottles land and a flow of storm water across his property along the open drain alignment. However, this does not now occur due to the implementation of the flood mitigation measures.

Information to date shows 1 : 100 year events

55. The only available information relating to potential flooding along Waitotara Drive is that which is shown in the Northland Regional Council [NRC] Hazard Maps and the Councils Maps site.
56. The NRC Hazard Maps resonate a consistent theme that properties along Waitotara Drive are subject to 1:100 year flood events. Unfortunately, I cannot decipher the date these hazard maps were registered.
57. The following is a snip from the NRC Hazard Maps –



58. The NRC data based has been reinforced by the Councils release of the draft Spatial Plan which state Waitotara Drive is subject to 1:100 year flood events. The flow on effect [sorry for the pun] is that Waitotara Drive cannot be considered for potential residential development.
59. My examination of flood mitigation works undertaken and the supporting information lodged with the Northland Regional Council's resource consents takes me to a different result by reason of the information base used to date. That is Waitotara Drive is now sitting outside 1;100 year events due to the mitigation measures that have been installed.
60. I outline my conclusion in the following paragraphs.
61. I have enlightened the reporting planner as to the applicable consents and works undertaken along Waitotara Drive to mitigate the effects of flooding on the properties. These works were implemented within the past 3 years however there has been no recognition or updating of the flood hazard mapping.

62. The consents sought by the Northland Regional Council had a dual purpose. Firstly to increase the stormwater capacity within Whirihiritoa Stream adjoining the commercial and industrial area of Waipapa and secondly to mitigate effects of high rain fall events on the properties along Waitotara Drive. I have attached a copy of these applications.
63. The supporting information within the resource consent applications stated the following –

Stopbanks are proposed to be constructed in different strategic sections of the left bank of the Kerikeri River so as to reduce overflow of that bank. These stopbanks are located on several properties on Waitotara Drive. It is also proposed to top up existing stopbanks on a property on Waipapa Road (Culinary Institute site).

The stopbank work has been designed previously and the NRC has previously obtained resource consent for the work, but that consent has been forfeited. The stopbanks are designed to significantly decrease the risk of the river overtopping the left bank and flooding over land and into the Waipapa catchment.

6.0 ASSESSMENT OF ENVIRONMENTAL EFFECTS

Positive effects

The positive effects of the completed works will be the mitigation of flood risk for a substantial area in and around Waipapa. Stream flow along Whirihiritoa Stream will be improved to reduce flood depths in the areas immediately adjacent to the proposed culvert. The works are proposed to reduce the encroachment of flood waters on lots adjacent to Whirihiritoa Stream. The proposed stopbanks at Waitotara Drive will decrease the risk of the river overtopping its left bank.

2.1.3 Background Waitotara Drive Stopbanks:

A significant storm event creates overland flow both from the right bank and left bank of Kerikeri River. The overland flow from right bank drains towards Rainbow Falls and the overland flow from left bank floods parts of the land near Waitotara Drive. Stopbanks are proposed to be constructed in different strategic sections of the left bank of the river so as to reduce overflow of the left bank of the river.

5 Proposed Design – Kerikeri River Stop Banks

5.1 Design Philosophy

The purpose and the objectives of the proposed scheme is to reduce the overall extent of Kerikeri River's 1:100-year Average Return (ARI) flood plain via the redirection of flood flows through the proposed spillway.

Detailed drawings are appended as 'Appendix A - Construction Drawings'.

6.2.2 Kerikeri River Stopbanks (Assessment by Others)

The proposed stopbanks constructed on the left bank of the Kerikeri River, significantly decreases the risk of the river overtopping the left bank and flooding over land and into the Waipapa Catchment.

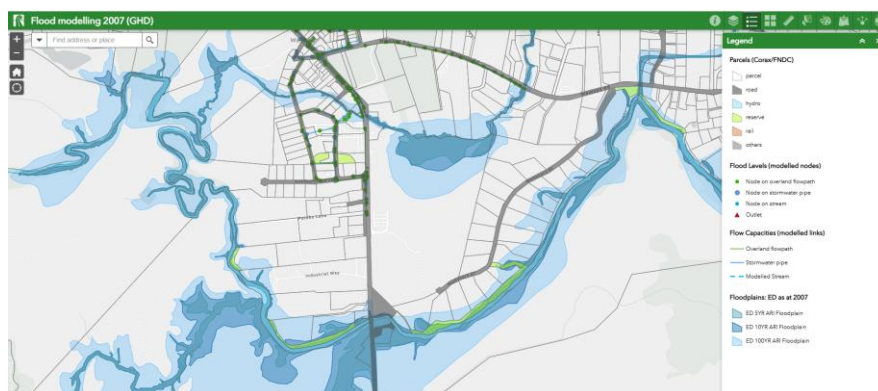
The changes to the extent of the floodplain reduce flood risks in a 1:100-year ARI event for 41 buildings within the study area and some 90 properties. The majority of the benefits are provided to properties along Waipapa Road and Waitotara Drive. The design provides flood protection to these properties to the current level of 1:10 year ARI event that would otherwise be considered a 1:100-year ARI event. While this provides the direct benefit of reducing the intensity of floods across these properties, secondary benefits associated with the scheme could potentially facilitate increased potential for future development within the area.

The scheme does not increase the number of properties within the extent of the floodplain, but will slightly increase flood levels where flooding does already occur. The lower catchment downstream of the first stopbank will experience some minor increases in flood levels for limited durations; however, no new structures will be subject to flooding in a 1:100-year event.

6.3.2 Kerikeri River Stopbanks

Overall, the effects of earthworks are considered no more than minor. The flood risk is to be less than in the existing condition and provide considerable improvement. The effects on ecology are considered to be no more than minor source.

64. In addition to the NRC applications the resource consent approval for the sports complex embodied a raft of storm water mitigation measures.
65. The implementation of the sports complex consent to date has resulted in the redirection of storm water flow paths from an open drain which previously feed into the Waitotara Drive system viz the Kerikeri River, now flowing through to the Whirihiritoa Stream [the Stream] . The sports complex has also incorporated a large storm water detention pond which feeds into the Stream. These works have resulted in a significant reduction of storm water feeding into the storm water system that serves Waitotara Drive.
66. Based upon this supporting information and the actual implementation of the flood mitigation works I consider the mitigation works have taken Waitotara Drive out of the 1:100 year flood event threshold.
67. With regard to the Councils Hazard Mapping Data this presents the following information which is perhaps unhelpful to say the least –

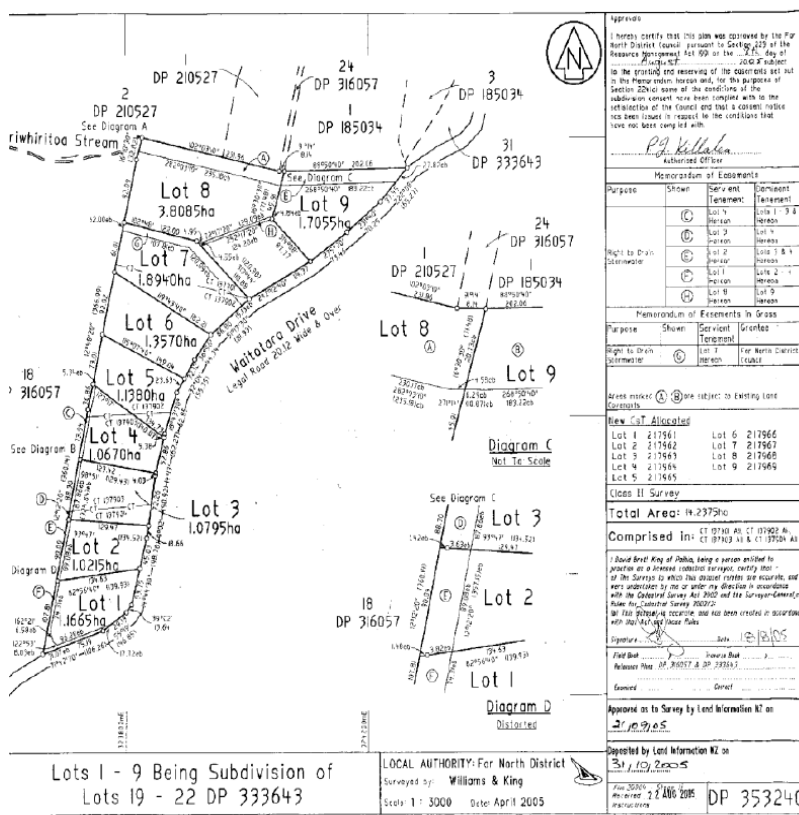


68. This data in the public forum is contrary to the NRC Hazard Mapping data. Whilst it is recorded as GHD 2007 Information it can easily misinform a party relating to potential flooding of their land. However in my opinion it now reflects the flood mitigation measures which have been installed but I am unable to attain confirmation of this.
69. Indeed, as I stated in the preamble to my evidence, there are perhaps more questions than answers particularly given the significant discord between the Northland Regional Council data and that of the Council.

Lack of Council drainage maintenance

70. I acknowledge this is not a hearing about Councils performance in maintaining their drainage systems however the reality is there is a direct corelation between a lack of maintenance and the potential for flooding. This is same corelation that the roof gutters on a house will overflow if the gutters are not cleaned. The debris builds up and then rains falls over the roof eaves.
71. The inability for storm water to flow from Waitotara Drive properties has caused the ponding of storm water on these properties due a lack of maintenance of the drainage system.
72. My communications to Council over a period of some 2 years to clear the open drain adjoining 119 Waitotara Drive [which has now been undertaken] combined with the installation of the stop banks and flood gates now accommodates storm water flows within the open drains adjoining our land and that to the south. This includes the land of Mr Cottle.
73. Compounding the clear flow of storm water along and from the Waitotara Drive carriageway is the lack of culvert clearance opposite 104 Waitotara Drive and the overgrown / non maintained dedicated storm

water drain located between lots 7 and 8 shown below. This is a registered easement vested within the Council.



74. The picture below shows the current physical state of the easement –



75. Indeed the lack of maintenance of the drain opposite 104 Waitotara Drive results in the storm water ponding the road swales and then overtopping across the carriageway just in a typical couple days of rain!

New flood mitigation installed but no attributed results

76. As noted, I have provided details of the resource consent applications to the reporting planner on the flood mitigation measures which have been undertaken. These mitigation measures have in my opinion taken Waitotara Drive out of the risk of a 1:100 year flood event. This is reinforced in the resource consent applications lodged in support of the mitigation works.
77. As an expert it is for me to present evidence to the Hearing Panel to demonstrate my opinion. However, I am hopeful the information I have requested from the Northland Regional Council will update their modelling on Waitotara Drive based upon the mitigation works that have been installed. Unfortunately the status quo remains and reflects the same scenario with Council releasing the draft Spatial Plan. The draft Spatial Plan does not consider any mitigation works that have been implemented, rather it has relied upon historical data.
78. Given this scenario and as we are operating in a “reverse evidence” process, perhaps the reporting planner is better resourced to secure such information from the Northland Regional Council. This comment is not made in jest as I consider it would have been a waste of ratepayer’s money to undertake the mitigation works and not realised the benefits it would attain. The specific designs applied, the location and height of the stop banks and capacity of the flood gates had to be established within an overall storm water management strategy. The resource consent application certainly stated the properties would not be subject to a 1:100 year event !
79. Notwithstanding the above I can confirm the mitigation measures have resulted in significant benefits to ameliorate “flooding” of properties along Waitotara Drive, combined with the flood protection works associated with the new sports fields.
80. Since the acquisition of our property in 2019 we have not seen the open storm water drain along our back boundary overflowing its banks and flowing into our property. It did come close to this point but not

eventuated. I have also seen storm water flow through the adjoining property along the open drain alignment owned by Mr Cottle however the mitigation works have not resulted in these storm water flows.

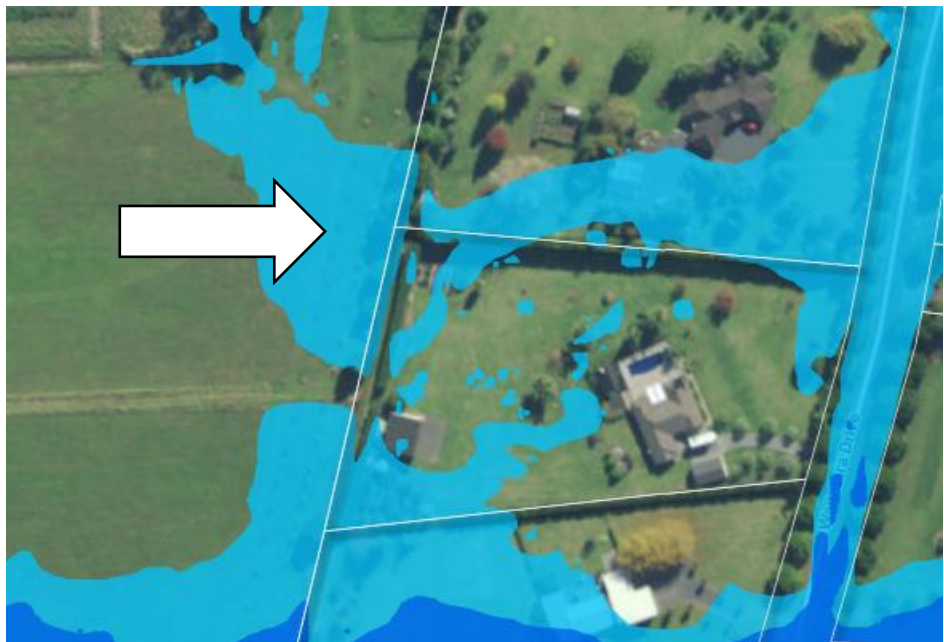
81. The open drain at the rear of our land is depicted below.



82. This picture shows the open drain looking south which leads down to the new flood mitigation works adjoining 119 Waitotara Drive. The open drain runs parallel with what was the farming race, with the two gates to the right, being the race leading from the milking shed. This milking shed is opposite Keri Auto Repairs which frontage to State Highway 10.
83. The picture below shows the race crossing containing a plastic culvert pipe of some 450mm diameter. Unfortunately, this pipe is located at the bottom of the drain and only through the hydraulic pressure of storm water raising and building up against the crossing supports does the water flow through. The water will set there for many weeks before it is absorbed into the ground.



84. This pressure of stormwater backing up is reflected in the Northland Regional Council Hazard Maps shown below –



85. The white arrow shows the backing up of stormwater as the pipe under the former stock race is too small and too low to allow the stormwater to flow. One must ponder why an engineer did not come onsite and look at what was creating the ponding of stormwater in the first place !
86. We have also lowered the height of the former race to allow the water to flow across. Prior to this the stormwater would back up as it could not flow through the small pipe [450 mm diameter] and during the 2020

event almost came over the drain bank. Again, the flood mitigation measures have stopped this occurring.

87. Since the major cleaning of the open drain adjoining 119 Waitotara Drive and installation of the stop banks and flood gates the open drain at the rear now has better water retention and flow with the water level being well below the top of the drain top. Our neighbour at 104 has recently had storm water ponding on their land due to the piped culvert opposite 104 not being maintained by Council.
88. In addition, the new sports fields have redirected the flow of storm water through to Whiriwritoha Stream that in part was previously flowing through the open drains that service Waitotara Drive.

The costs to Council in allowing the rezoning.

89. I understand that Council is seeking to drive any new residential development under the Spatial Plan into existing urban areas within the curtilage of the Kerikeri town centre and the Waipapa community area. The result is to introduce 95% of new residential development within these areas. The derivative of such a quest appears to be driven by infrastructural and intergenerational fiscal cohorts.
90. Whilst I have not made any comments on the Spatial Plan my real concern as it relates to the Kerikeri township is that such an approach exacerbates the access and infrastructure problems which currently exist.
91. So, with respect to Waitotara Drive what is the consequence of allowing subdivision to occur and how would this impact on Councils fiscal regime? Allowing the change in zoning is not an open ability to subdivide.
92. Subdivision is permissive and there are still checks and balances in place such as on-site wastewater disposal and minimum floor level considerations. In addition, if the zoning does change it does not mean all the landowners want to subdivide.
93. Indeed, at the time of the original subdivision approvals to create the lots within Waitotara Drive, even based upon what could be described as “rudimentary” engineering information relating to flood modelling it is evident, even at that time, building within Waitotara Drive properties

could be accommodated through minimum floor level recommendations. This is still applicable and is reflected in the new commercial premises being built opposite the Thai restaurant.

94. In my opinion the change in zoning does not place additional costs upon Council by reason there is no reticulated wastewater and water supply system in place. The ability to subdivide in itself will create an additional revenue stream for Council through rates.
95. I acknowledge the creation of additional lots may require the resurfacing of Waitotara Drive, however with a speed limit of 40 kph limit many years of non-maintenance will be required as slower speeds reduce the rate at which the road surface will deteriorate. Indeed, Council spends more money on sweeping the road and spaying the edges !

SECTION 32 ANALYSIS

96. In compiling this evidence, I am mindful of the Panels Minute No 14 seeking rezoning requests to be accompanied by the appropriate Section 32 Analysis. In this regard, I consider this rezoning request is discrete and distinguishable to other “ large scale” rezoning requests.
97. I do note the Minute made the following comment –

We are also conscious of our obligations under section 32 of the RMA to examine the proposals for their appropriateness in achieving the purpose of the RMA and for their benefits, risks and effects on the community, the economy, and the environment. We consider that this is primarily the responsibility of submitters requesting the rezoning and not the Council.

98. In this regard I consider the body of my evidence captures most of the core elements of a Section 32 analysis without a purist disclosure of each and every element. However, for completeness I would address the “*general guidance criteria*” which is a helpful checklist in determining this request.

Strategic direction

The overarching directions in relation to the proposed Rural Production Zone is not undermined through this rezoning request. The properties within Waitotara Drive are in no manner or form functioning in a manner that promotes primary production. The properties have no effect upon

the efficiency or effectiveness of enabling primary production or economic and social wellbeing and prosperity of the district.

My evidence notes that the properties are captured by the current definition of highly productive land. That being said the key factor in my opinion is would subdivision of the properties be inappropriate and negate the ability for production potential in the future.

The requested zone change and the use of the land under this new zone would not be inappropriate. The properties are in what can be described as one of the lowest Class 3 thresholds and primary production other than for pastoral use is not attainable. It is perhaps optimistic to realise a situation where these properties are contributing to production for generations to come save those property owners who are living on the land.

Alignment with zone outcomes

Whilst this is a rezoning request I consider this needs to reviewed in regard to the zone as proposed – Rural Production and that which is sought in the Submission.

As previously described the Rural Production Zone is a misnomer for the properties which sit along Waitotara Drive. There is no true alignment with the Rural Production Zone and the context of the properties along Waitotara Drive.

Conversely the Rural Residential Zone is the appropriate fit. The properties are used for predominantly rural residential activities and some do include small scale farming in terms of horse and dry stock grazing. These activities are compatible with the rural character and amenity of the locality.

Waitotara Drive has direct access to the Waipapa settlement being an 8 minute walk or 2 minute drive. This is comparable with other land along Waipapa Road which is proposed Rural Residential Zone.

My review of the Objectives and Policies concludes the proposed zoning is consistent with other land being zoned Rural Residential and what is sought in the submission is not incompatible.

Higher order direction

My evidence has shown the properties are currently captured within the definitions of the NPS Highly Productive Land. Again at what I would describe the lowest level – Class 3. This is proposed to be removed from the NPS. The reality is that the land has at best suitable for grazing when held as a pastoral unit. However the high water table has a significant effect on even this activity.

In a similar context the Northland Regional Council planning document ensure the avoidance of development in flood prone land. To that end as outlined previously the Northland Regional Council has implemented flood mitigation works which have mitigated the 1:100 year flood event along Waitotara Drive.

Reason for the request

In my opinion the Rural production Zone has been applied as a carry over from the Operative District Plan and the historical flood history data. Save these two aspects there is no distinction between those properties which adjoin Waitotara Drive that have been zoned Rural Residential. The zoning request is seeking to treat like for like and to ensure there is a consistent approach and application of zones across the district.

Assessment of site suitability and potential effects of rezoning

The body of my evidence has addressed these factors. The two key factors relating to the classification of the soils and the potential for flooding. I consider both of these factors have been considered and accommodated within the rezoning request.

My review of the request has no effects upon any natural environment or historic feature and would not create any incompatibility between the sites or adjoining sites , including reverse sensitivity.

Infrastructure [three waters] servicing

My evidence noted there are no Council services with Waitotara Drive except open swales and culverts to manage storm water. Whilst these systems are in place they are not all being maintained. With maintenance it will again improve the management of stormwater with Waitotara Drive.

Transport infrastructure

The only Council service being used by the properties is the sealed carriageway of Waitotara Drive. As stated, the speed along Waitotara Drive is 40kph which means Council has extended the road life of the seal. Slower vehicle speeds reduce both tyre and road surface wear.

Consultation and further submissions

Our neighbour Ernie Cottle seeks the rezoning of the land along with Doug Percy who has land towards Waipapa Road. In addition, Mr Cottle also owns Lot 6 on Waitotara Drive which adjoins the Kerikeri River.

I note that Housing New Zealand [HNZ] lodged a Further Submission opposing the rezoning request. They also lodged Further Submissions against Mr Percy . I find this Further Submission interesting to say the least.

HNZ's Further Submission “ *opposes in part* ” the rezoning request , by Reason of -

Kāinga Ora is interested in the proposed change from rural production to an urban zone. Kāinga Ora wishes to see further details to the proposed change and how the proposed change will fit with the district's planned and future growth. Kāinga Ora is interested in understanding the balance of enabling urban development while maintaining productive rural environments.

And in terms of the - **Decision [s] sought. [allow or disallow]** as described in their Appendix A – Further Submission Table they seek the Original Submitter to – *Clarify relief sought.*

In my opinion I ponder at what further details are required. The zone requested is embodied into the Proposed District Plan and as noted within my evidence the Spatial Plan has ignored a key factor which kept the properties along Waitotara Drive out of a more intense rural residential environment.

However I am at a loss as to how this rezoning request can be assessed as establishing an “urban zone” in a rural area when the zone sought - Rural Residential, is set within the Rural Zones under the Proposed District Plan. Furthermore there is no productive rural activities on the Waitotara Drive properties.

Overall I consider the Further Submission has no merit.

Section 32AA evaluation

For the purposes of this rezoning request, I am of the opinion sufficient information has been presented to sustain the rezoning request. The request is discrete and applies to land which is distinguishable from true rural production land.

CONCLUSION

99. Picking up on the Panels Minute I conclude the rezoning request is *appropriate in achieving the purpose of the RMA and there are benefits, with known risks being mitigated and no adverse effects on the community, the economy, and the environment.*
100. My overall conclusion is the Act would be better served in allowing the rezoning to proceed. Accepting the submission would result in an Operative District Plan which truly reflects “on the ground realities” without compromising or undermining the wider district environments.

DATED this 10th day of June 2025



Jeffery Victor Kemp