



## **SECTION 42A REPORT**

Officer's written right of reply 12 December 2025

### **Hearing 17 – Tangata Whenua Matters**

#### **(Rezoning – Māori Purpose Zone, Treaty Settlement Land Overlay, Areas of Interest Mapping and Tapuaetahi)**

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#### **Appendix 1: Joint Witness Statement (Tapuaetahi Precinct)**

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## **1 Introduction**

### **1.1 Background**

1. My full name is Theresa Annetta Burkhardt. I am the writer of the original Section 42A Report for Hearing 17 on the Proposed District Plan: Tangata Whenua Matters Rezoning - Māori Purpose Zone, Treaty Settlement Land Overlay, Areas of Interest Mapping and Tapuaetahi.
2. In the interests of succinctness, I do not repeat the information contained in Section 2.1 of the Section 42A report and request that the Hearings Panel ("the Panel") take this as read.

## **2 Purpose of Report**

3. The purpose of this report is primarily to respond to the evidence of the submitters and provide my right of reply to the Panel.

## **3 Consideration of evidence recieved**

4. The submitters who presented evidence at the hearing are as follows:
  - a) Tapuaetahi Incorporation (Tapuaetahi) – Steven Sanson (Director/Consultant Planner at Sanson and Associates Ltd and Bay of Islands Planning (2022) Ltd); Mariaio Hohaia (Executive Manager, Tapuaetahi Incorporation) and Kipa Munro (Chairperson, Tapuaetahi Incorporation).
  - b) Waitomo Papakāinga Development Society (Waitomo) – Brett Hood (Consultant Planner, Reyburn and Bryant, Whangarei); Katie Murray (Kaiarahi, Waitomo).
5. **Appendix 1 – Joint Witness Statement (Tapuaetahi Precinct)** contains the conferencing statement in relation to Hearing 17: Tangata Whenua Matters as directed by the Hearing Panel in Minute 38.
6. **Appendix 2 – Recommended Decisions on Submissions**, provides an overview of the updated Recommended Decisions on Submissions.
7. For all other submissions not addressed in this report, I maintain my position set out in my original s42A Report.

### 3.1 Issue 1: Tapuaetahi Precinct

#### Overview

Relevant Document	Relevant Section
Section 42A Report	Section 2.2.4 Tapuaetahi From paragraph 120: <i>To achieve the outcomes sought my interim recommendation is that it would be appropriate to identify the area of the site where papakainga development is proposed as the "Tapuaetahi Papakainga Development Area" ...</i>
Evidence and hearing statements	Tapuaetahi Incorporation - Mr Sanson (Planning), Mr Hohaia (Tapuaetahi), Mr Munro (lay evidence). Mr Sanson requested alternative relief for Submission S407 to apply a Precinct to part of the land at Tapuaetahi which was agreed by Council staff.

#### Matters raised in evidence

8. Following Hearing 17, the Hearing Panel issued Minute 38 which directed timeframes for expert conferencing in relation to a Tapuaetahi Precinct, requested by Tapuaetahi Incorporation. Therefore, this right of reply only deals with the outstanding matters from conferencing.
9. As per Minute 38 Mr Sanson provided a proposed Tapuaetahi Precinct map and provisions with a supporting section 32AA evaluation.
10. Expert conferencing took place between Mr Sanson and Mr McPhee, representing Tapuaetahi and Ms Cannon and Ms Burkhardt, representing Council, on Thursday the 27<sup>th</sup> of November 2025. The Joint Witness Statement is included

#### Analysis

11. In my view, the outstanding issue in relation to the subdivision policy and rules within the Precinct chapter, is an issue of scope, as I consider the original submission does not provide scope to consider amendments to Subdivision policies and rules.
12. However, as discussed in the Joint Witness Statement, if the Hearing Panel found the original submission does provide scope for a new subdivision rule, then Council officers could support this outcome.

#### Recommendation

13. For the reasons above, I recommend a new Tapuaetahi Precinct is included in the PDP under the MPZ heading with the provisions set out in **Appendix 1** of this reply.

## Section 32AA Evaluation

14. I note that Mr Sanson provided a section 32AA evaluation for the Tapuaetahi Precinct in his evidence as per the requirements of Minute 38.
15. In summary, I concur with Mr Sanson in that the Tapuaetahi Precinct will have the following benefits:

### *Effectiveness and efficiency*

- a) It recognises the established character and uses while providing for the development that has been envisaged by Tapuaetahi over a number of years.
- b) It avoids spot-zoning and retains the underlying Māori Purpose Zone while targeting only the specific rules that are problematic.

### *Costs/Benefits*

- c) It benefits the landowners as it is tailored to the sites' unique history and character and provides a clear pathway for development. In addition there are minimal costs and risks.

### *Risk of acting or not acting*

- d) There is no risk in accepting the recommended amendments to include this new Precinct.

### *Decision about most appropriate option*

- e) The recommended amendments are more appropriate in achieving the purpose of the RMA and the PDP objectives than the notified version of the PDP and the section 42A report recommendations.

## 3.2 Issue 2: Waitomo

### Overview

Relevant Document	Relevant Section
Section 42A Report – Rezoning, Requests Specific Property Rezoned from Rural Production to Māori Purpose Zone - Rural	Rezoning Māori Purpose Zone From paragraph 69: <i>Submission S418.001 seeks to amend the zoning of the property located at 684 Kaitaia-Awaroa Road, Pukepoto, legally described as Lot 1 DP 434436 from Rural Production Zone to Māori Purpose Zone.</i>
Evidence in chief [Brett Hood]	From paragraph Section 4 in relation to “The purpose of the Māori Purpose Zone” and the definition of “Māori Land” in the PDP
Evidence in chief [Brett Hood]	From Section 5 in relation to “The Definition of Papakāinga” in the PDP.

## **Matters raised in evidence**

16. In seeking the rezoning of the property located at 684 Kaitaia-Awaroa Road, Pukepoto, from Rural Production Zone (RPZ) to Māori Purpose Zone (MPZ), Mr Hood provides no detailed evidence regarding the proposed development on the site.
17. Mr Hood raises the issue in evidence of the inconsistency of the definition of Māori land in the PDP and the National Planning Standards description of the MPZ.
18. Mr Hood considers that Council's intended application of the MPZ to Māori customary land and Māori freehold land is inconsistent with the PDP definition of Māori land and that the MPZ could be applied to General land owned by Māori.
19. The PDP definition of Māori Land is inconsistent with the Council's intended application of the Māori Purpose Zone, which is that the zone applies to Māori customary land and Māori freehold land.
20. Mr Hood also raises the issue of the definition of Papakāinga in the PDP as it would disenfranchise Māori organisations like Waitomo.

## **Analysis**

21. While I am supportive of the aspirations of Waitomo as expressed in their original submission to ... *realise the social, cultural and economic aspirations for the whenua*<sup>1</sup>, I am not supportive of the outcome sought by Waitomo to rezone the property located at 684 Kaitaia-Awaroa Road, Pukepoto, from RPZ to MPZ for the following reasons:
  - a. The rezoning of this site could undermine the integrity of the current framework for the MPZ. The overall framework for MPZ has been applied to Māori land (being Māori customary land and Māori freehold land). The Waitomo site is General land, albeit in the ownership of a Māori organisation. Evidence provided in the hearing indicated there is no intention to change the land tenure status due to the potential implications regarding the ability to access finance.
  - b. The rezoning of this site could undermine the MPZ objectives and policies which are specific to Māori land under TTWMA and not General land, albeit owned by Māori.
  - c. I consider that the objectives and policies of the MPZ would no longer be fit for purpose and consequential amendments would be required if this property was rezoned from RPZ to MPZ.

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<sup>1</sup> [Microsoft Word - Far North Proposed District Plan - Waitomo Papakainga Submission - FINAL.docx](#)

22. The rezoning of this site would have district wide implications. For example, there are eight other rezoning submissions considered in the Hearing 17 - Tangata Whenua Matters (Rezoning – Māori Purpose Zone, Treaty Settlement Land Overlay, Areas of Interest Mapping and Tapuaetahi) section 42A report, which requested rezoning from RPZ to MPZ that similarly are general land. A recommendation to reject was also made for these eight submissions.
23. It could also provide a precedent for all General land owned by Māori, which while difficult to quantify in the district, could be a large amount of land, to have the same applied.
  - d. I have considered other potential options for the site such as a Development Area or a Precinct, but insufficient information has been provided to consider these.
24. Notwithstanding the above, I consider that issues raised in evidence can be addressed.
25. I consider Council has erred in adopting section 129 of the Te Ture Whenua Māori Act 1993/Māori Land Act 1993 (TTWMA/MLA 1993), as the PDP definition of Māori land. The definition of Māori land in the PDP is as follows:  
*MAORI LAND means land defined in section 129 of the Te Ture Whenua Maori Act 1993 as:*
  - a. *land that is held by Māori in accordance with tikanga Maori shall have the status of Māori customary land;*
  - b. *land, the beneficial ownership of which has been determined by the Māori Land Court by freehold order, shall have the status of Māori freehold land;*
  - c. *land (other than Māori freehold land) that has been alienated from the Crown for a subsisting estate in fee simple shall, while that estate is beneficially owned by a Maori or by a group of persons of whom a majority are Māori, have the status of General land owned by Maori;*
  - d. *land (other than Māori freehold land and General land owned by Māori) that has been alienated from the Crown for a subsisting estate in fee simple shall have the status of General land;*
  - e. *land (other than Māori customary land and Crown land reserved for Māori) that has not been alienated from the Crown for a subsisting estate in fee simple shall have the status of Crown land;*
  - f. *land (other than Māori customary land) that has not been alienated from the Crown for a subsisting estate in fee simple but is set aside or reserved for the use or benefit of Māori shall have the status of Crown land reserved for Māori.*<sup>2</sup>
26. The purpose of section 129 in TTWMA/MLA 1993 is to define the status of all land in New Zealand, and the list includes types of land which may have no connection, such as General Land. While the section also includes General land owned by Māori, being land (other than Māori freehold land), that is beneficially owned by a Māori or by a group of persons of whom a majority are Māori, it is not the intention to include this land in the MPZ.

<sup>2</sup> [Te Ture Whenua Maori Act 1993 No 4 \(as at 23 December 2023\), Public Act 129 All land to have particular status for purposes of Act – New Zealand Legislation](#)

27. Council's clear intention at the time of notification of the PDP was for the MPZ to apply to Māori customary land and Māori freehold land. This is supported by MPZ-P1 which refers to ancestral Māori land administered under TTWMA. This is also reflected in the MPZ Overview, albeit with an additional reference to General land owned by Māori.
28. I consider for improved clarity, alignment with TTWMA/MLA 1993, and the intention of the MPZ, the more appropriate definition of Māori land to be the one provided in the TTWMA/MLA 1993, section 4 Interpretation as follows:

***Maori land*** means *Maori customary land and Maori freehold land*<sup>3</sup>

29. As such I consider that the definition of Māori land should be amended under clause 16(2). In addition to this and to provide further clarity I consider that a consequential amendment under clause 16(2) to the MPZ Overview would also be beneficial. These clause 16(2) amendments have been included in the Memorandum – Corrections to Far North Proposed District Plan Pursuant to Clause 16(2), first Schedule, Resource Management Act 1991, dated 02 December 2025.
30. Regarding the National Planning Standards description, not definition as referred to in evidence, of the MPZ (see below):

**Table 13: Zone names and descriptions**<sup>4</sup>

<i>Special purpose zones</i>	
<i>Zone name</i>	<i>Description</i>
<i>Māori purpose zone</i>	<i>Areas used predominantly for a range of activities that specifically meet Māori cultural needs including but not limited to residential and commercial activities.</i>

31. I consider that this description does not preclude a definition of Māori land which applies to the MPZ and which reflects what is intended in the PDP.
32. Regarding the issue of the definition of Papakāinga in the PDP, the definition is as follows:

***PAPAKĀINGA*** means an activity undertaken to support traditional Māori cultural living for tangata whenua residing in the Far North District on:

- Māori land;*
- Treaty Settlement Land;*
- Land which is the subject of proceedings before the Māori land court to convert the land to Māori land; or*
- General land owned by Māori where it can be demonstrated that there is an ancestral link identified.*

*Papakāinga may include (but is not limited to) residential, social, cultural, economic, conservation and recreation activities, marae, wāhi tapu and urupā.*

<sup>3</sup> [Te Ture Whenua Maori Act 1993 No 4 \(as at 23 December 2023\), Public Act 4 Interpretation – New Zealand Legislation](#)

<sup>4</sup> [national-planning-standards-november-2019-updated-2022.pdf](#)

33. In my opinion, the site would be entitled to undertake a Papakāinga development on the site, in accordance with the relevant provisions of the RPROZ, and/or any National Environmental Standard proposed for Papakāinga. Council will consider the preparation of a Practice Note to assist with the consistent interpretation of the definition of Papakāinga.
34. It is also considered that the introduction of the new National Environmental Standards for Papakāinga, which is imminent and enabling will provide additional clarity regarding the Papakāinga definition.

### **Recommendation**

35. For the reasons above I recommend that the requested rezoning of the property located at 684 Kaitaia-Awaroa Road, Pukepoto, from Rural Production Zone (RPZ) to Māori Purpose Zone (MPZ), be rejected.

### **Section 32AA Evaluation**

36. As I am not recommending the rezoning of the located at 684 Kaitaia-Awaroa Road, Pukepoto, from Rural Production Zone (RPZ) to Māori Purpose Zone (MPZ), no section 32AA evaluation is required.