

Form 7

Notice of appeal to Environment Court against decision
on proposed policy statement or plan

Clause 14(1) of First Schedule, Resource Management Act 1991

To the Registrar
Environment Court
Auckland

I, Zejia Hu appeal against a decision of the Far North District Council ('FNDC') on its
Proposed District Plan ('PDP').

I made a submission on the PDP¹.

I received notice of the decision on my submission on June 30th, 2026 by way of a Public
Notice posted on FNDC's website. The decision was made by the FNDC.²

The decision that I am appealing is:

FNDC's decision to reject my submission S242 that asked for changes to the PDP
that would ensure I would be allowed to construct a dwelling on my vacant allotment.

The reasons for my appeal are in summary as described below and as further detailed in
Attachment C 'Detailed Submission':

FNDC's Decision Version PDP ('DVPDP') rules NFL-R1 and NFL-R2 would make
any construction of a dwelling including associated earthworks anywhere on my
Allotment 'Lot 4 DP 573386' (and for other Allotments in similar circumstances) a
Non-Complying activity. Associated DVPDP objectives and policies as well as S.42A
report statements make clear that consent for such an activity would be denied. This
is contrary to the intent of S.85 of the RMA and associated case law as it would
render the entire Allotment '*incapable of reasonable use*'.

I seek the following relief:

Either remove the ONL Overlay from the non-Conservation Covenanted portion of
Lot 4 DP 573386 or include a rule that would mean constructing a dwelling and
associated ancillary activities on that Allotment (and other Allotments in similar
circumstances) would be Restricted Discretionary activities.

¹ FNDC refers to my submission as S242

² Notice was received by way of a Public Notice posted by the FNDC headed 'Decisions on Submissions Far North
Proposed District Plan' which referenced its Decision Version of the Proposed District Plan.

I attach the following documents to this notice:

- Attachment A: copy of my relevant submission (S242)
- Attachment B: copy of the relevant decision in the form of FNDC's Public Notice
- Attachment C: 'Detailed Submission'.

This Notice of Appeal including the above listed attachments will be served on:

Far North District Council (via email to pdp@fndc.govt.nz)

Address: 5 Memorial Avenue, Kaikohe 0405

Postal Address: Private Bag 752, Kaikohe 0440

Signature Zejia Hu:



Date: August 12th, 2026

Address for service of appellant: 150 Peninsula Pde, RD1, Mangonui 0494

Telephone: +64 21 024 77 985

Email: ipal9718@bigpond.net.au

Contact Person: Ian Palmer (husband of Zejia Hu)



Remember
submissions
close at 5pm,
Friday 21
October 2022

Proposed District Plan submission form

Clause 6 of Schedule 1, Resource Management Act 1991

Feel free to add more pages to your submission to provide a fuller response.

Form 5: Submission on Proposed Far North District Plan

TO: Far North District Council

This is a submission on the Proposed District Plan for the Far North District.

1. Submitter details:

Full Name:	Zejia Hu		
Company / Organisation Name: (if applicable)			
Contact person (if different):	Ian Diarmid Palmer (husband of Zejia Hu)		
Full Postal Address:	PO Box 273, Mangonui 0442		
Phone contact:	Mobile: 02102477985	Home:	Work:
Email (please print):			

2. (Please select one of the two options below)

- ☒ I **could not** gain an advantage in trade competition through this submission
☐ I **could** gain an advantage in trade competition through this submission

If you could gain an advantage in trade competition through this submission, please complete point 3 below

3. ☒ I **am** directly affected by an effect of the subject matter of the submission that:
 (A) Adversely affects the environment; and
 (B) Does not relate to trade competition or the effect of trade competition
- ☐ I **am not** directly affected by an effect of the subject matter of the submission that:
 (A) Adversely affects the environment; and
 (B) Does not relate to trade competition or the effect of trade competition

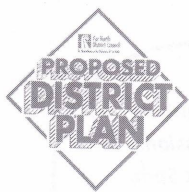
Note: if you are a person who could gain advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991

The specific provisions of the Plan that my submission relates to are:

(please provide details including the reference number of the specific provision you are submitting on)

The policies and rules in the 'Natural features and landscapes' chapter of the PDP as they impact on my Site (Rating Unit=79C Peninsula Parade, 0494 Hihi (Lot 1, DP 322506)).

Confirm your position: ☐ Support ☐ Support In-part ☐ Oppose
(please tick relevant box)



My submission is:

(Include details and reasons for your position)

In Summary: The rules in the PDP contravene S.85 of the RMA in that taken together they render my Site incapable of reasonable use and place an unfair and unreasonable burden on me.

Explanation and Supporting Evidence:

I am the owner of only one Site in the District, being the Site located at 79C Peninsula Parade, Hihi 0494 (Lot 1 DP 322506) which is proposed to be zoned Rural Production. (Per another submission I am objecting to that zoning and are proposing the Site be zoned Rural Lifestyle. However, that submission is independent of this submission).

My Site currently does not have a Residential Unit (aka 'dwelling') on it. In the Rate Information Database (RID) the block is appropriately categorised as 'Lifestyle-Vacant'.

All of my Site is covered by Coastal Environment (CE) and Heritage Area (HA) overlays. (Per another submission I am objecting to the HA overlay, however, that submission is independent of this submission). Other overlays cover parts of the Site including Outstanding Natural Landscape (ONL) and High Natural Character (HNC) as illustrated on the e-Plan map screenshot (Attachment-1)

Much of the area of my Site is bush covered, and that area is not developable space (e.g. for constructing a dwelling) because:

- a. the steepness of that area making development largely impractical,
- b. all of that area is subject to ONL overlay (in addition to the Site wide overlays) with the corresponding strict PDP rules limiting activities
- c. most of that area is covered by HNC overlay
- d. I am at the advantaged stage of the process of subjecting the bush area (including essentially all of the HNC overlaid area plus additional area) to a Conservation Covenant (CC). The proposed area to be covenanted is marked "A" and enclosed by a dotted line on Attachment-2 (being a plan prepared for the purpose of the CC application). A FNDC contracted environmental specialist has inspected the area and provided a report to the FNDC supporting my request to have such area be so covenanted.
- e. the area is also overlaid by SNA FN042 "Butlers Point Forest".

There are only two areas of the Site that are potentially practically developable (e.g. for constructing a dwelling and all the usual associated utilities and appendages that would be expected of a dwelling on such a Site). These are as shown Attachment 2:

- a. A thin, partly flattish, non-bush area at the NW end of the Site:
However, the developable space at that NW end is already occupied by a newly constructed large farm machinery and workshop shed (costing well in excess of \$100k) constructed under the authority of RC 2300099. Usable space at the NW end is further constrained by the presence of a RoW roadway (per RC 3000076) and on account of this part of the Site sharing boundaries with two legal Roads.
- b. A larger flattish area at the SE end of the Site:
Given the above, the only remaining practically developable area is the pastured land at the SE end of the Site.



In terms of available potential building sites, this area is also somewhat constrained by proximity to boundaries, including a legal Road, the presence of another RoW Easement (created by instrument 8145101.2) and the proposed 'vehicle and boat turning area' per RC Application 2220796 (submitted before the PDP was notified).

The only remaining practically developable land therefore is the relatively flat pastured area marked 'ZZ' on Attachment-2. This area is however proposed to be entirely overlaid by the ONL overlay.

The applicable rules in the PDP for my only available developable land, particularly the combination of the ONL+CE overlays, mean I would not have the right to construct a dwelling and undertake activities customarily associated with such on my Site.

The rule NFL-R1, would, given the circumstances described above, mean the construction of a dwelling on my Site would be categorised as 'Non-Complying', as would, almost certainly, the minimum reasonably required earthworks associated with constructing any reasonably dimensioned dwelling, due to rule NFL-R3 and the extreme limitations associated with standard NFL-S3.

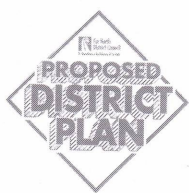
Also, ironically, despite the Site being proposed to be zoned Rural Production, NFL-R6 results in all farming activity on my Site being categorised as 'Non-Complying'!

As a consequence of the matters outlined above, it is demonstrably the case that without amendment, the PDP as Notified would have the effect of making my Site incapable of reasonable use and would place an unfair and unreasonable burden on me (per RMA S.85 3B).

In terms of the definition of 'reasonable use' in S. 85, I assert that permitting me to have the right to build a dwelling and all customary associated constructions and other associated activities on my Site would not adversely affect the environment or any person significantly.

The Northland Regional Landscape Assessment Workshop report for the ONL that covers my Site (Ref ONL 17, ONL Number 2847) does not specifically reference the pastured areas of my Site that are the areas where I am objecting to the impact of the ONL overlay (in conjunction with other overlays and other PDP rules). With regard to the eastern side of the harbour, the assessment largely focusses on the bush covered coastal fringe, which is precisely the area I am proposing be subject to a CC.

There are already a number of dwellings and other structures in this area visible from the other side of the Mangonui Harbour that the FNDC has either given consent to, or allowed to be constructed without consent. These existing and in progress constructions and associated earthworks are clearly visible from the Rangikapiti Historic Reserve and from various vantage points on the harbour itself. It would be intolerable for me not to be permitted to build in this area where Council has tolerated unconsented (non-Permitted) building and earthworks activity for many years.



Given the nature of the location and price of the land in this area, it is reasonable to assume any reasonable minded owner wishing to construct a dwelling on my Site would ensure it was architecturally designed in keeping with the aesthetic values of the surrounds, with appropriate softening of the visual affects by native tree plantings etc (and compliance with relevant standards and rules in the PDP beyond the standards and rules that directly relate to this objection). It would not be a public 'eye sore' and therefore I should have the right to undertake such constructions and associated activities as Permitted activities, or at worst as a Controlled activities.

I seek the following decision from the Council:

(Give precise details. If seeking amendments, how would you like to see the provision amended?)

Modify the area of the overlays and/or modify the PDP rules such that:

a. constructing a dwelling and undertaking other customary associated activities, and

b. undertaking Farming activities

on the non-bush covered areas of my Site would be classed as Permitted or Controlled activities, thereby avoiding my site being rendered incapable of reasonable use and avoiding placing an unfair and unreasonable burden on me.

S242.001 &

S242.002

☒ I wish to be heard in support of my submission

☐ I do not wish to be heard in support of my submission

(Please tick relevant box)

If others make a similar submission, I will consider presenting a joint case with them at a hearing

☒ Yes

☐ No

Do you wish to present your submission via Microsoft Teams?

☐ Yes

☒ No

Signature of submitter:

(or person authorised to sign on behalf of submitter)

Date:

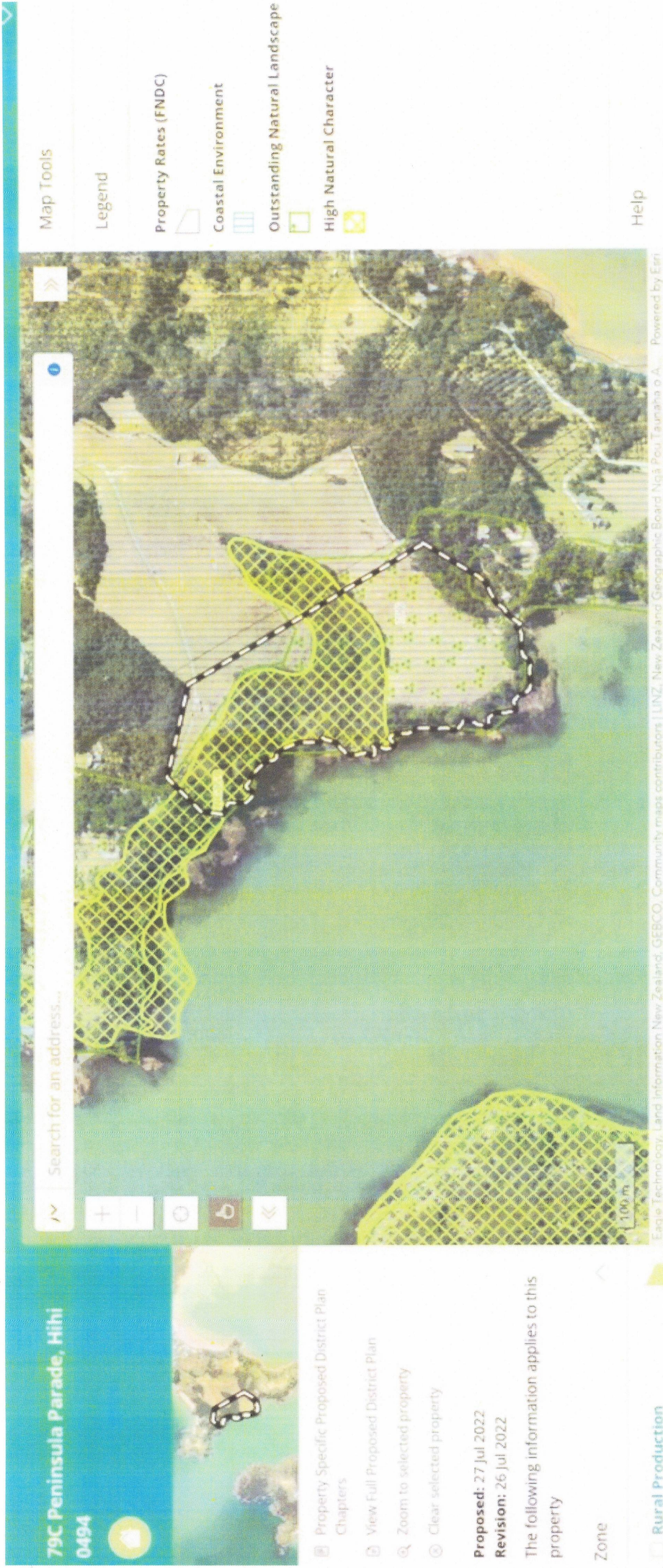
20.10.2022

(A signature is not required if you are making your submission by electronic means)

Important information:

Submission 242

Attachment - I



30/06/2026

Public Notice

Decisions on Submissions

Far North Proposed District Plan

Te Kaitiaki
o Te Hiku o Te Ika
Far North District Council

**Proposed
District
Plan**
Decisions
version



Pursuant to Clauses 10 and 11 of Schedule 1 of the Resource Management Act 1991 (RMA), Far North District Council advises that decisions on submissions and further submissions to the Proposed District Plan have been released.

The decisions include amendments to a range of plan provisions and planning maps in response to submissions received.

From 30 June 2026, a copy of the **Decision Version of the Proposed District Plan**, along with the **Panel Recommendation Reports, Council's Decision**, and guidance material, can be viewed online at pdp.fndc.govt.nz

From 30 June 2026, hard copies of the Decision Version of the Proposed District Plan can also be inspected at the below Council service centres:

- Kaikohe, Head Office, 5 Memorial Drive
- Kaitiāia, Te Ahu, Corner Matthews Avenue and South Road
- Kerikeri, Procter Library, 6 Cobham Road

Visit the following libraries to view the relevant information online:

- Kaeo Library, 30 Leigh Street, Old Post Office Building
- Kaikohe Library, Marino Place
- Kaitiāia Library, Te Ahu, Corner Matthews Avenue & South Road
- Kawakawa Library, 56 Gillies Street
- Paihia Library, 6 Williams Road
- Procter Library (Kerikeri), 6 Cobham Road

Right of Appeal

Under Clause 14 of Schedule 1 of the RMA, submitters may lodge an appeal with the Environment Court within **30 working days** of receiving this notice, by **12 August 2026**.

Details on how to make an appeal are available at pdp.fndc.govt.nz

Dated 30 June 2026

Kate Ivicheva

Group Manager – Planning and Policy

For more information go to
pdp.fndc.govt.nz, email pdp@fndc.govt.nz
or phone 0800 920 029 and ask for the
District Plan Team

Attachment C

Detailed Submission

Background

When I filed my submission (S242) regarding FNDC's Notified PDP in October 2022, I was the sole owner recorded on the title (RT 89829) for Lot 1 DP 322506, which was vacant; i.e. no dwelling¹ existed on it. That Allotment was encumbered by Notified PDP overlays, as shown in Figure 1 below.

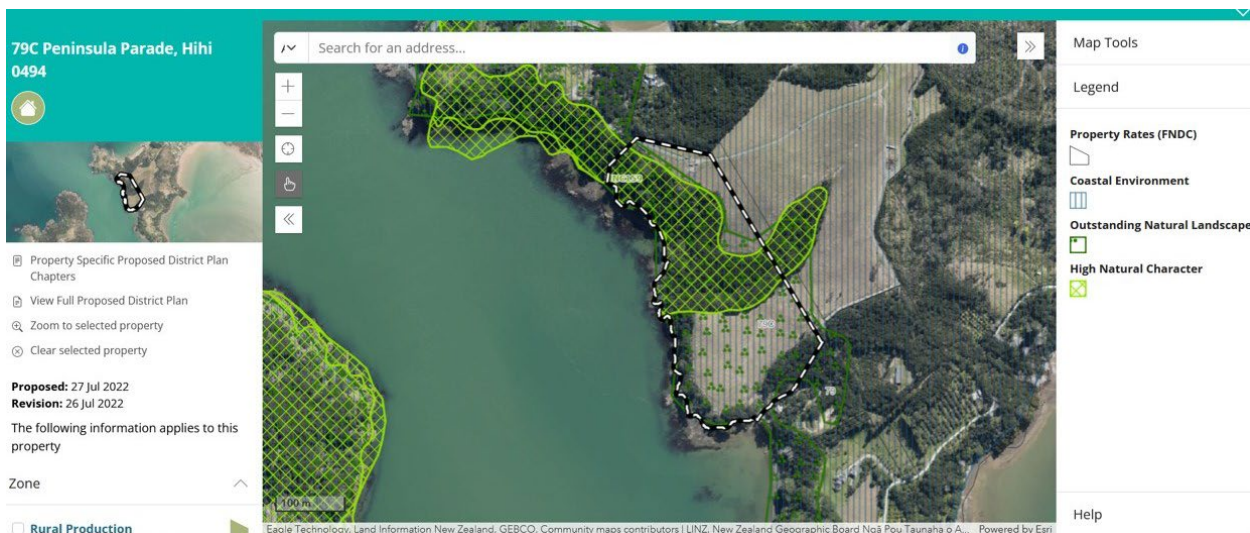


Figure 1, Lot 1 DP 322506 in October 2022 as impacted by Notified PDP CE, HNC & ONL Overlays (also encumbered by an HA Overlay not shown)

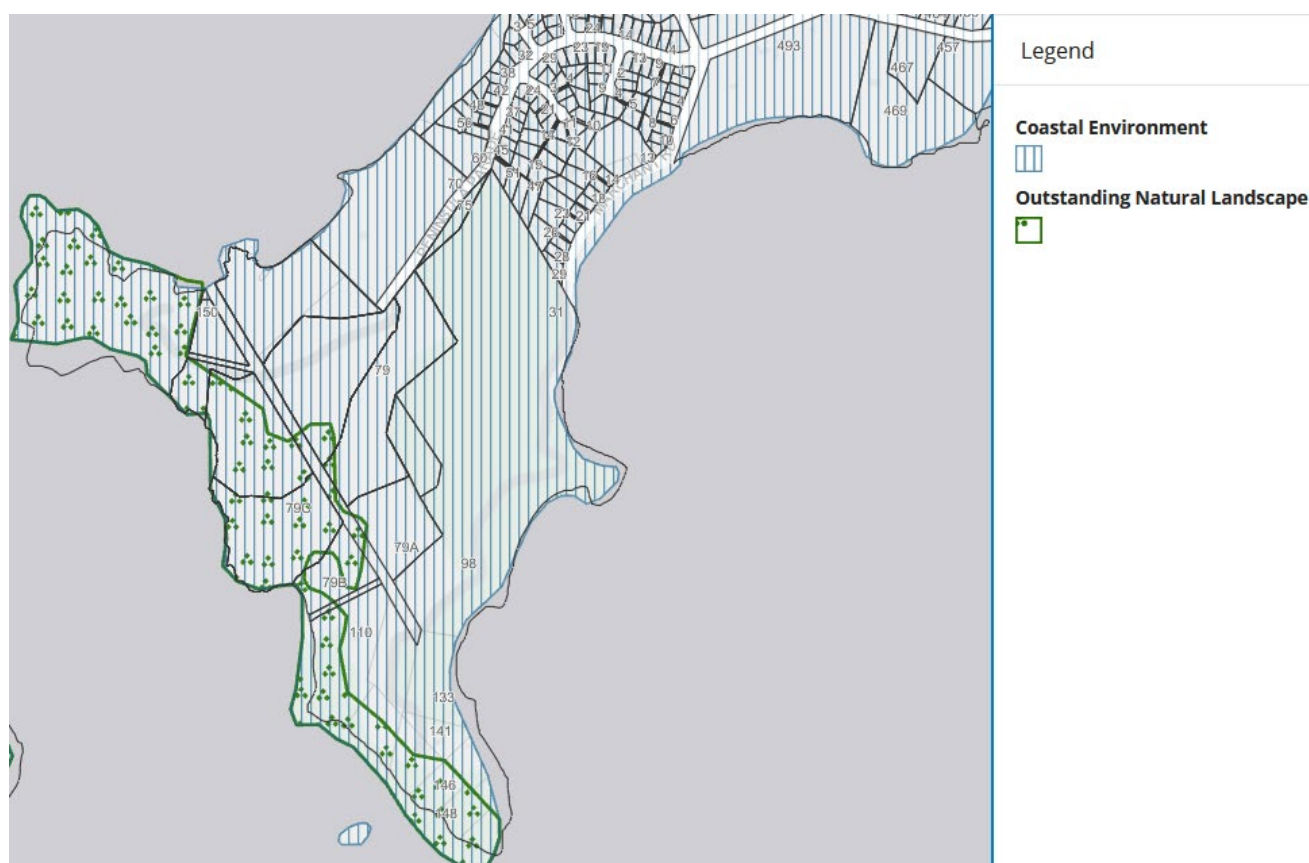
The only practical area on which a dwelling or other substantive improvements could be constructed on Lot 1 DP322506 was covered by both Coastal Environment (CE) and Outstanding Natural Landscape (ONL) overlays. Consequently, any substantive improvement activities, including building a dwelling with its necessary associated earthworks, would be a Non-Complying activity per the Notified PDP rules NFL-R1 and NFL-R3. This implied that consent would not likely be granted to construct a dwelling on my Allotment which I argued was contrary to the intent of S.85 of the RMA as it would make my Allotment *'incapable of reasonable use'*.

In January 2022 the FNDC had granted Resource Consent (2160461-RMAVAR/A) for a subdivision of land owned by my husband (Ian Diarmid Palmer) and myself that

¹ In this document the word 'dwelling' should be read to be equivalent to the term 'Residential Unit' as defined in the DVPDP.

included the above referenced Allotment. This resulted in DP 573386 being deposited on May 16th, 2024 and new RTs being issued on that same day which replaced RT 89829 and three other RTs. Consequently, both my husband and I are now recorded as the joint owners of several Allotments including Lot 4 DP 573386. That is the Allotment that is now the subject of this appeal.

In the DVPDP Lot 4 DP 573386 is entirely within the CE area and it is also practically all within an ONL overlay area, as shown in Figure 2 below (where the Allotment is labelled '79C').



*Figure 2, Rangitoto Peninsula showing areas of CE and ONL Overlays per DVPDP
(Lot 4 DP 573386 is labelled '79C')*

The particular ONL that covers Lot 4 DP 573386 is ONL17 (also referenced as ONL No. 2847) 'Mangōnui Harbour headlands'² as listed in Schedule 4 of the DVPDP. The full 'Northland Regional Landscape Assessment Worksheet' for this ONL ('ONL17 Worksheet') is included below as Annexure 1.

² <https://www.nrc.govt.nz/media/mcag2l2r/mangonuiharbourheadlands.pdf>

Primary Relief Request and Associated Appeal Area

Lot 4 and the other Allotments that derived from DP 573386 are shown on Figure 3 below.

Consistent with my original submission requests and the above described Deposit Plan, the primary relief measure that this appeal requests, is that the part of Lot 4 DP 573386 outlined in red on Figure 3 ('Appeal Area') be removed from the DVPDP's ONL17 overlay.

The Appeal Area is legally defined as the part of Lot 4 DP 573386 that is not, as of the date of lodgement of this appeal, subject to any conservation covenant (noting the green shaded areas high-lighted in Figure 3 are the areas that are subject to conservation covenants under the Reserves Act 1977).

The Appeal Area is more precisely defined by reference to DP 573386 from which it can be determined that the Appeal Area is 2.3326 Ha.



Figure 3, Appeal Area marked on the approved scheme plan for DP 573386

The vast majority of the Appeal Area is a featureless pastured stock paddock. The paddock is fenced to contain sheep and cows, including to exclude the stock from accessing the conservation covenanted areas.

A small portion of the Appeal Area is occupied by a right-of-way that provides access to the Mangonui Harbour to certain neighbouring titles.

Justifications for Removing the Appeal Area from the ONL17 Overlay

I, and my husband on my behalf, have set out justifications and evidence in support of the requests that this appeal relates to in four separate documents submitted to FNDC to date:

- May 2021: Our submission in response to the Draft PDP that FNDC released for comment in April 2021 ('Draft PDP Submission'³),
- October 2022: My Original Submission S242⁴ responding to the June 2022 formerly Notified PDP,
- July 2024: My Natural Environment Hearing Evidence⁵, and
- August 2024: Natural Environment Hearing Presentation⁶.

Most of our previously submitted reasoning and evidence remains relevant to the current appeal and so I ask that the arguments and evidence provided in those previously submitted documents should be given due consideration to in these appeal proceedings. However, I also note that our four previously submitted documents concerning this matter predated:

- FNDC's Hearing-4 S.42A RoR Rpt⁷, and
- Hearing Panel's Hearing-4 Report.⁸

I understand that the content of those two more recent documents led to FNDC's decision that I am appealing against. Therefore, this document provides my first response to what was presented in those documents.

³ Document headed: "Submission Regarding FNDC's Draft District Plan" emailed on 7 May 2021 by Ian Palmer to submissions@fndc.govt.nz, Item #3, pp5-7

⁴ Original Submission S242, lodged October 20th, 2022

⁵ Document titled: "FNDC Proposed District Plan Hearing 4: Natural Environment Values & Coastal Environment, Lay-Evidence Re Submission S-242" dated July 20th, 2024 (hereinafter 'My Natural Environment Hearing Evidence'), digital copy available per:

https://www.fndc.govt.nz/_data/assets/pdf_file/0021/30909/Hearing-4-Submitter-evidence-Zejia-Hu-S242-Z-Hu-evidence.pdf

⁶ https://www.fndc.govt.nz/_data/assets/pdf_file/0012/31431/Hearing-4-Submitter-Zejia-Hu--Speaker-Ian-Palmer-Thursday.pdf presented at Hearing-4 on August 8th, 2024 (hereinafter 'Natural Environment Hearing Presentation')

⁷ Report titled: 'SECTION 42A REPORT, Officer's written right of reply 23 August 2024, Hearing 4 – Coastal Environment, Natural Features and Landscapes, Natural Character', (hereinafter 'Hearing-4 S.42A RoR Rpt')

⁸ Report titled 'PROPOSED FAR NORTH DISTRICT PLAN, RECOMMENDATIONS OF THE INDEPENDENT HEARINGS PANEL RECOMMENDATION REPORT 4, Hearing 4: Natural Character, Natural Features and Landscapes, Coastal Environment and Ecosystems and Indigenous Biodiversity', March 2026, (hereinafter 'Hearing Panel's Hearing-4 Report')

The Hearing-4 S.42A RoR Rpt's response to our reasoning and evidence in support of our submission per our previously submitted four documents as listed above, consisted of a single sentence that read:

*"In regard to Mr Palmer's concerns (on behalf of Zeja Hu), in my opinion, NFL-R1 and NFL-R3 (including changes recommended in the s42A report and subsequent changes recommended in this report) are an appropriate response to managing the effects of development and subdivision to meet the relevant PDP objectives and policies, and the direction of the RPS and NZCPS."*⁹

The Hearing Panel's Hearing-4 Report's response to our submission also consisted of a single sentence that read:

*"We agree[sic] with Mr Palmer's concerns (on behalf of Zeja Hu (S424)[sic]) regarding rules NFL-R1 and NFL-R3 because these rules are an appropriate response to managing the adverse effects of development and subdivision in ONL and ONF. This is particularly relevant in the coastal environment, in order to meet the relevant objectives and policies of the PDP as a whole and the direction of the RPS and NZCPS."*¹⁰

[We presume the Hearing Panel intended the words "do not" to have been included before the word "agree" in the above quoted sentence, and I assume the Hearing Panel intended to refer to "S242" rather than "S424"].

These responses failed to address the specifics of any of our reasoning and evidence in support of our submission per our above four listed previously submitted documents. The 'changes' to the Notified PDP that are captured in the DVPDP that FNDC's reporting officer referred to in the Hearing-4 S.42A RoR Rpt per the above quoted passage, in no way acceded to what I had requested in my S242 submission, notwithstanding FNDC classifies my submission points as 'Accept in part'¹¹.

Having regard to the above background, I present below my justifications for removing the ONL17 Overlay from the Appeal Area. Subsequently, I set out as my alternate relief proposal an exception to the rules that I am objecting to.

⁹ Hearing-4 S.42A RoR Rpt' ibid, para 185 p51

¹⁰ Hearing Panel's Hearing-4 Report' ibid, p33

¹¹ Document titled: 'Hearings Panel Recommendation – Recommendation Report 4, Appendix 4.2 – Recommended Decisions on Submissions - Natural Features and Landscapes 31/03/2026, p369 & 371

Justification #1:

In Summary: Imposing the combination of CE and ONL overlays on the Appeal Area (and on other Allotments in similar circumstances) in association with DVPDP rules NFL-R1 and NFL-R2 is *contra vires* as it offends against the principal enacted by s.85 of the RMA as it renders such an Allotment incapable of reasonable use.

Supporting Information:

S.85 of the RMA is headed: “Environment Court may give directions in respect of land subject to controls” and S.85 (2) states in relevant part:

“any person having an interest in land to which any provision or proposed provision of a plan or proposed plan applies, and who considers that the provision or proposed provision would render that interest in land incapable of reasonable use, may challenge that provision or proposed provision on those grounds- (a) in a submission made under Schedule 1 in respect of a proposed plan ...”.

Subsequent clauses of S.85 relevantly include:

“The Environment Court, if it is satisfied that the grounds set out in subsection (3B) are met, may ... in the case of a proposed plan ... direct the local authority to modify, delete, or replace the provision in the Proposed plan (3B) The grounds are that the provision ... of a ... proposed plan-

(a) makes any land incapable of reasonable use; and

(b) places an unfair and unreasonable burden on any person who has an interest in the land.”

I contend that not being allowed to construct a dwelling anywhere within a particular vacant Allotment on account of a territorial authority’s district plan rules is clearly within the scope of what Parliament intended to mean by the ‘3B’ grounds specified in S.85.

It is indisputable that:

1. Per the DVPDP the entire area of Lot 4 DP 573386 is covered by the CE Overlay and all but a tiny insignificant part is covered by the ONL Overlay,
2. For areas covered by CE and ONL overlays, DVPDP Rule NFL-R1 deems any new building or structure or relocated building (including a building intended as a dwelling) to be a Non-Complying activity,
3. For areas covered by CE and ONL overlays, DVPDP Rule NFL-R2 deems any realistically required earthworks ancillary to the construction of a dwelling a Non-Complying activity.

Given the above, the only opportunity for me to be allowed a dwelling on Lot 4 DP 573386 would be if a Resource Consent application to FNDC for such was granted despite the associated activities being Non-Complying. The question then is how likely would it be for FNDC to approve such a Non-Complying activity? The answer to this

question requires both a consideration of the RMA provisions relating to consenting Non-Complying activities and the DVPDP's relevant objectives, policies and requirements for activities on land covered by both CE and ONL.

RMA provisions re consenting Non-Complying activities:

RMA S.87A (5) in conjunction with S.104D stipulates, inter alia, that a consent authority may only grant consent to a Non-Complying activity if the consent authority is satisfied that the activity fully complies with all the requirements, conditions, permissions, objectives and policies of an operative District Plan and/or a PDP and the effects on the environment are no more than minor.

DVPDP's relevant objectives, policies and requirements for activities on land covered by both CE and ONL Overlays

The DVPDP's relevant objectives, policies and requirements for CE+ONL land include [with emphasis added]:

Strategic Direction SD-NE-O5:

"The natural character of the coastal environment and outstanding natural features and landscapes are managed to ensure their long-term protection for future generations, including their restoration."

Objective NFL-01:

"ONF and ONL are protected from inappropriate land use and development."

Policy NFL-P2:

"Avoid adverse effects of land use and subdivision on the characteristics, qualities and values that make ONL and ONF within the coastal environment outstanding."

Policy NFL-P7:

"Consider the following matters where relevant when assessing and managing the effects of land use and subdivision on the characteristics, qualities and values that make ONL and ONF outstanding:

- a. *the presence or absence of buildings, structures or infrastructure;*
- ..
- o. *the visual effect of the building, structure or activity on in relation to ridgelines, headlands or peninsula within ONL or ONF;"*

The Natural Features and Landscapes S.42A Rpt¹² describes NFL-P2 as a “*bottom line*” in its intention to “*avoid adverse effects on ONL and ONF in the coastal environment*”¹³. This absolutism is reinforced where it is stated [with emphasis added]:

*“The policy direction inside the coastal environment is to avoid all adverse effects on ONL and ONF. This is a considerably stricter requirement than to avoid significant adverse effects. If an activity does not comply with the permitted activity threshold, there is a reasonable likelihood it will not be able to avoid adverse effects (and be inconsistent with the policy direction).”*¹⁴

These statements establish that it is FNDC’s intent to prohibit any activity that would have any adverse effects whatsoever on CE+ONL land.

Constructing a new dwelling in the Appeal Area, with its attendant earthworks (eg for foundations, driveways, retaining walls etc) knowing it is on a peninsula that is highly visible from parts of Mangonui Township and Mill Bay, would be impossible without it being perceived as having some adverse visual amenity effects given the way the relevant policies and objectives have been framed. The associated S.42A clarification re the intended absolutist attitude that is to be applied in such circumstances by the consenting authority, makes clear that an RC application for such an activity would be denied. This reasonable expectation of RC denial for allowing a dwelling on my vacant Allotment triggers the *contra vires* intent of S.85; ie it renders that land incapable of reasonable use and places an unfair and unreasonable burden on me and my husband, or any subsequent owners or occupiers of that land.

¹² Report titled ‘SECTION 42A REPORT Natural Features and Landscapes’, hereinafter ‘Nat Features and Landscapes S.42A Rpt’)

¹³ Nat Features and Landscapes S.42A Rpt *ibid*, para 255, p57

¹⁴ Nat Features and Landscapes S.42A Rpt *ibid*, para 256, p58

Justification #2:

In Summary: Being allowed to have at least one dwelling on an Allotment does not represent inappropriate development.

Supporting Information:

Provisions in the DVPDP's 'Natural Features and Landscapes' chapter are empowered by the RMA's:

S.6(a) which requires the recognition and provision for: *"the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development"*, and

S.6(b): which requires the recognition and provision for: *"the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development"*.

I recognise that not all conceivable developments would be appropriate for the Appeal Area having regard to S.6(a) and S.6(b); for example I would expect that if the Environment Court (EC) was required to adjudicate it would deem a large motel complex would represent inappropriate development for this particular coastal landscape. However, the way the rules NFL-R1 and NFL-R2 are drafted in the DVPDP, even a modest architecturally designed low-relief dwelling on the Appeal Area is deemed inappropriate by being designated Non-Complying. I contend that Parliament did not intend that these RMA provisions be used to deny a person who acquires a vacant Allotment such as Lot 4 DP 573386 the right to have any ability to live on his/her Allotment, but that is what the DVPDP rules that I am objecting to do.

As can be seen in Figure 4 below, several dwellings and other buildings on neighbouring properties are located in close proximity to the ONL17 boundary and their locations appear to have influenced the ONL17 boundary lines. FNDC's relevant property files reveal that some of these buildings and associated earthworks have been established without the requisite Resource and Building consents. It would be grossly unfair for me not to be allowed to construct a dwelling in the same area that Council has turned a blind eye to such unconsented development activities for many years.



Figure 4, Part of ONL17 centred on the Appeal Area showing adjacent buildings

Justification #3:

In Summary: My featureless cow paddock is not an Outstanding Natural Landscape.

Supporting Information:

The 2014 photographs of ONL17 'Mangonui Harbour Headlands' included in the ONL 17 Worksheet (Annexure-1), plus the recent photograph of the area on the following page, illustrate what are the outstanding visual features of the eastern side of the Mangonui Harbour. They are:

- the native vegetated embankments featuring old growth Pohutukawa and Puriri trees,
- a creek valley featuring regenerating native forest,
- the Rangitoto Historic Reserve featuring the Rangitoto Pa with mature and regenerating native forested flanks and its terraced top (where its terracing are now visible as a result of recent removal of invasive vegetation undertaken by FNDC at the behest of my husband).

Much of this visually outstanding land is land my husband and I own and which we have protected by way of conservation covenants under the Reserves Act, as supported by FNDC. We actively manage that land wrt to pest animal and invasive plant control, as we do, to some extent, on the Rangitoto Historic Reserve in conjunction with our local hapu, Ngati Ruaiti.

In contrast, the Appeal Area is a featureless grassed cow paddock above and adjacent to the above referenced visually outstanding features. If we were to stop grazing the Appeal Area and actively managing it and the surrounding bush covered areas wrt pest animals and invasive non-native vegetation, they will revert to a weed-infested hillside, as much of the opposite side of the harbour currently is; where the vegetation is dominated by wilding wattle trees and a wide assemblage of the other locally common invasive plant species. If no one is allowed to build a dwelling on the Appeal Area, this is the likely outcome as we age and our entire property becomes too much for us to maintain as a farming operation.

By facilitating an additional dwelling on the Appeal Area, it will allow another couple or family to reside on the land thus facilitating further active management of not only the Appeal Area, but also the adjoining native bush covered areas that are particularly vulnerable to degradation from pest animals and invasive vegetation.

The operative Regional Policy Statement (RPS) includes profound observations and support for 'Active Management' that are directly applicable to these circumstances, where it states:

"Appropriate subdivision, use and development can be the most effective means to achieve on-going management and improvement of these resources and can provide opportunities to address ongoing impacts / risks and result in net positive

effects that may not otherwise occur. Landowners and community groups are generally best placed to undertake Active Management because:

- Councils have limited resources and do not have the capacity for the day-to-day on-site management that is often required, particularly for managing pest plants and animals;*
- While rules may go some way to maintaining special areas, maintenance enhancement cannot be compelled by rules and relies on motivated people;*
- Landowners have the ability to make decisions on how to use their land;*
- Landowners, iwi, hapū and communities are better placed to use local knowledge, networks and resources; and*
- Communities and iwi, hapū have a better idea of what they want and / or need regarding the matters listed.”¹⁵*

The ONL17 Worksheet makes no mention of pastured land in describing the ‘Aesthetic Values’ of this ONL, but instead focusses on the native bush covered coastal fringe and the two reserves that contain Māori Pās (Rangikapiti and Rangitoto).



Mangonui Harbour Eastern shoreline looking SSE from the Rangitoto Pa.

(Photograph taken August 11th, 2026)

¹⁵ NRC Regional Policy Statement at S.315, pp50-51

Alternate Relief

If for whatever reason the EC determines it is not appropriate to remove the ONL17 Overlay from the Appeal Area, I seek the following alternate relief:

Where an entire vacant Allotment (ie an Allotment on which there is no Residential Unit) is within both the Coastal Environment (CE) and an Outstanding Natural Landscape overlay (ONL) area, or where the only parts of a vacant Allotment not within the CE and an ONL are too small or are otherwise unsuitable to locate a Residential Unit, then the establishment of a Building on that Allotment that is either a Residential Unit, Minor Residential Unit or Accessory Building, and all Earthworks, Infrastructure provisions and other ancillary activities reasonably required to establish such a Building on such an Allotment are to be classed as Restricted Discretionary activities, where matters of discretion would be limited to:

- **the visual dominance of the proposed Building and associated Accessways and Infrastructure with reference to the Building height, materials and exterior reflectivity, and**
- **the suitability of the defined platform for the proposed Building in terms of mitigating the dominance of the proposed Building and associated Accessways and Infrastructure, and**
- **any mitigation measures proposed including landscape treatment and screening.**

[Capitalised terms in the above text have the meanings given to them in Definitions section of the DVPDP.]

This relief would bring the DVPDP broadly into line with the Whangarei District Council's Operative District Plan which includes a rule which, in relevant part, states:

*“ Activity status: Restricted Discretionary Where The building is a residential unit within ... the Coastal Environment ... and the entire property title is included within the Outstanding Natural Landscape and does not include an existing dwelling.”*¹⁶

¹⁶ Whangarei District Council Operative District Plan, rule NFL-ONL-R3 'Buildings and Major Structures', subrule No. 3. 'Activity status: Restricted Discretionary', item a. ii. and matters of Discretion items 1, 2, & 3.; see: <https://eplan.wdc.govt.nz/plan/?chapter=natural-features-and-landscapes#natural-features-and-landscapes>

Annexure 1

Northland Regional Landscape Assessment Worksheet

‘MANGONUI HARBOUR HEADLANDS’

(referred to as ‘ONL17’ in the DVPDP)

Northland Regional Landscape Assessment Worksheet

	Unit name – MANGONUI HARBOUR HEADLANDS
DESCRIPTION AND CHARACTERISATION	
Component	Comment
Land Types (refer to list overleaf) Bays and headlands Coastal cliffs / escarpment Reefs and islands	Contains a number of physical forms, from the cliffs of Butler Point, outer Rangikapiti Head, fringing reefs and related rocks, knoll occupied by main pa, broader headland/peninsula form.
Geology (including geopreservation sites)	Hillslopes and coastal cliffs of Tangihua Complex igneous rock units. NZ Geopres Inventory: Manganui Miocene coconut beds on western edge of Rangikapiti Head (ie end of Coopers Beach).
Soil Types	Awapuku clay loam.
Ecology (including protected vegetation / features, PNAP Level 1 and 2 sites)	Manuka-kanuka shrubland on western head, with pohutukawa frequent on coastal margin. Proportion of wattle and Chinese privet. One of the few areas of coastal vegetation in the Ecological District. Butler Point coast predominantly pohutukawa treeland, manuka-kanuka shrubland and bracken-mamaku shrubland. Discontinuous canopy and a number of exotic spp. Also notable as coastal vegetation.
Archaeological sites	Butler Point coastline has two pa sites identified. Lighthouse on Rangikapiti Headland. An intensity of recorded archaeological sites strung along the Osprey Head – Butler Point coastline/flank. Just two sites on the Rangikapiti Headland, plus pa site as mentioned below.
Heritage Landscapes	Rangikapiti Pa a prominent landmark that commands a wide area of coast. Acknowledged by Historic Reserve status.
Landscape characterisation (including the identification of any specific characteristics)	
A strongly defined harbour entrance that is an important part of Manganui's character, both in terms of views north east down the inner harbour shore, where it forms a powerful backdrop, and for vessels entering the harbour from Doubtless Bay. Whilst not symmetrical, the eastern and western entry flanks are balanced and complementary, with a cover of vegetation – most of it indigenous – and parallels in landform providing a relationship between the two. The shoreline and intertidal zone of this unit is modestly complex, with small fringing reefs and minor headlands adding to diversity. Outer portions of the unit's coast are evidently subject to periodic wave action, as demonstrated by the zone of eroded and unvegetated rock for some metres above MHWS. Rangikapiti pa is one of the most graphic pa forms on the coast and commonly accessed by visitors. It holds a commanding strategic position over the outer harbour, harbour mouth and wider Doubtless Bay.	

EVALUATION

Criteria	Rank	Comment
Natural Science Factors		
Representativeness Natural landscapes are clearly characteristic of the area, district or region. The key components of the landscape will be present in a way that defines the character of the place and distills its character and	4	A key pair of landforms in terms of Manganui's character and identity, and defining the mouth of the harbour. Rangikapiti also terminates the eastern end of Coopers Beach and is a

essence. Endemic associations.		landmark in the wider Doubtless Bay.
Rarity Natural features are unique or rare in the region or nationally, and few comparable examples exist.	3	Uncommon vegetation type in ecological district, but not on a wider Northland scale.
Aesthetic Values		
Coherence The patterns of land cover and land use are largely in harmony with the underlying natural pattern of the landform of the area and there are no significant discordant elements of land cover or land use.	4	A common coastal / intertidal margin and coastal flank and repeated patterns of indigenous vegetation cover (although these are less contiguous on the Butler Point side of the unit).
Diversity & Complexity The elements contributing to overall landscape character are diverse and complex (particularly in ecological terms) without creating disharmony.	4	The relationship between the two landforms bridging across the harbour mouth, the interaction of the sea in various wave states and tidal / water clarity conditions, subtle vegetation associations and cultural dimensions to both elements combine to give this unit a high level of diversity and complexity.
Vividness Natural features and landscape are widely recognized across the community and beyond the local area and remain clearly in the memory; striking landscapes are symbolic of an area due to their recognisable and memorable qualities.	5	A very distinctive landscape entity and one that is intrinsically linked to Mangonui's character and sense of place. The pa site, in particular, has a wider role in the area's identity which relates to Coopers Beach and beyond. Highly memorable and vivid.
Naturalness How affected by human activity is the landscape? Does human activity intrude on the landscape? Eg. • Presence of buildings and associated built development. • Presence of infrastructure services. • Extent of indigenous forest cover. • Homogeneity of exotic vegetation. • Presence / extent of modified agricultural land use. • Strength of natural processes / ecological patterns. • Unmodified and legible physical relief and landform. • Presence of water.	3	Whilst the unit does not contain buildings per se, it is closely linked to nearby structures, particularly on the Butler's Point side of the ONL. The proximity of the main Mangonui, Mill Bay and Cooper's Beach areas of settlement all impact upon the sense of naturalness experienced within the unit. The reserve at the pa is developed with an access drive, carpark and formed walkway. These are relatively low-key facilities, but do bring a measure of development to the site. Vegetation is predominantly natural, but contains a proportion of exotic invasive species on the pa side and fragmentation on the other side of the harbour mouth.
Intactness Natural systems are intact and aesthetically coherent and do not display significant visual signs of human modification, intervention or manipulation, visually intact and highly aesthetic natural landscapes.	3	Somewhat impacted upon by nearby development and other factors as identified in the preceding segment.
Experiential Values		
Expressiveness The 'legibility' of the landscape. Natural features clearly demonstrate the natural processes that formed them.	5	An integral relationship between these portions of landscape and the body of water that they enframe. The erosive power of the current and wave action is expressed on both shorelines. Similarly the division between hard and soft materials is explicit.
Sensory qualities (These are landscape phenomena as directly perceived and experienced by humans, such as the view of a scenic landscape, or the distinctive smell and sound of the foreshore).	4	

Transient Values The consistent and repeated occurrence of transient features that contributes to the character, qualities and values of the landscape; landscapes are widely recognised for their transient features and the contribution that these make to the landscape.	3	Influenced particularly by sea states and water clarity. Light has a bearing on the “presence” and ambience of Rangikapiti Headland and pa site in particular.
Remoteness / Wildness Does the landscape display a wilderness character, remote from and untouched by human presence? Eg. • Sense of remoteness • Accessibility • Distance from built development	3	Both areas are in close proximity to settlement and the pa site and adjacent coast are accessible by tracks. Butler Point flank is privately owned, but immediately adjacent to houses and the wharf and township directly across the narrow channel.
Shared and recognised values Natural features and landscape are widely known and valued by the immediate and wider community for their contribution to a sense of place leading to a strong community association with, or high public esteem for the place.	5	An essential part of Mangonui’s character and immediate setting. Whilst perhaps not consciously registered, this landscape is responsible for defining the harbour mouth and providing a northern coastal backdrop to the village.
Spiritual, cultural and historical associations Natural features and landscapes can be clearly and widely known and influenced by their connection to the spiritual, cultural and historical valued in the place and includes associative meanings and associative activities valued by the community. Associative meanings are spiritual, cultural or social associations with particular landscape elements, features, or areas, whilst associative activities are patterns of social activity that occur in particular parts of a landscape, for example, popular walking routes or fishing spots.	5	Rangikapiti pa a dominant landmark and likely to have significant values to Ngati Kahu. Many wahi tapu. The harbour mouth landscape is a very important part of Manganui’s identity and it is probable that it has strong cultural meanings as part of that sense of place and the shelter that it provides from the more exposed sea conditions beyond. Consultation was initiated during the mapping process, but has not led to any feedback within the required period.

Rank scale between 1 (low) and 5 (high)

Land Types
Coastal cliffs / escarpment
Low escarpment
Bays and headlands
Beach
Dune complex
Reefs and islands
Estuarine / inlet
Open harbour
Coastal plain
Rolling hills
Steep hills; moderate to high relief
Ranges; high relief
Strongly rolling land
Low rolling land
Valley floors and flats
Plains
Volcanic cones
River mouth
Wetland
Watercourses
Lakes and water bodies

Photographs of unit





