

SECTION 42A REPORT

Ngawha Innovation and Enterprise Park Special Purpose Zone

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Appendix 1: Recommended amendments to Ngawha Innovation and Enterprise Park Special Purpose Zone chapter

Appendix 2: Recommended decisions on submissions to Ngawha Innovation and Enterprise Park Special Purpose Zone chapter

Table 1: List of Submitters and Abbreviations of Submitters' Names

Submitter Number	Abbreviation	Full Name of Submitter
S375	FNHL	Far North Holdings Limited
S512	FENZ	Fire and Emergency New Zealand
S482	Heavy Haulage Assoc Inc	House Movers Section of New Zealand Heavy Haulage Association Inc
S454	Transpower	Transpower New Zealand Limited

Table 2: Other Abbreviations

Abbreviation	Full Term
NIEP SPZ	Ngawha Ngawha Innovation and Enterprise Park Special Purpose Zone
FNDC	Far North District Council
GBA	Gross Business Area
GFA	Gross Floor Area
NPS	National Policy Statement
PDP	Far North Proposed District Plan
RMA	Resource Management Act 1991
RPS	Northland Regional Policy Statement 2016

1 Executive summary

1. The Far North Proposed District Plan (PDP) was publicly notified in July 2022. The Ngawha Innovation and Enterprise Park Special Purpose Zone (NIEP SPZ) is located in the Special Purpose Zone section in Part 3 (Area-Specific Matters) of the PDP.
2. There are 31 original submissions and 13 further submissions on the NIEP SPZ. Most of these submissions support the provisions either in full or in part, but there are four original submissions that oppose the NIEP SPZ provisions. There are also some general submissions on the NIEP SPZ (e.g. provision for emergency facilities, impermeable surfaces) that raise broader plan-wide issues.
3. The submissions on the NIEP SPZ are primarily from Far North Holdings Limited (FNHL) who own the land subject to the NIEP SPZ, along with several other submitters. The key themes in submissions on the NIEP SPZ are:
 - a. Enable a broader range of education, training and employment opportunities in the NIEP SPZ.
 - b. Amend the provisions to allow more flexibility for development within the NIEP SPZ.
 - c. Ensure development within the NIEP-SPZ involves appropriate levels of engagement with tangata whenua.
4. This report has been prepared in accordance with section 42A of the Resource Management Act 1991 (RMA) and provides recommendations in response to the issues raised and relief sought in submissions. This report is intended to assist the Hearings Panel to make recommendations for decisions on the submissions and further submissions on the NIEP SPZ chapter in the PDP and to provide submitters with an opportunity to see how their submissions have been evaluated and responded to prior to the hearing.
5. The key amendments recommended in this report relate to:
 - a. One minor amendment to NIEP-O1, all other objectives remain unchanged.
 - b. Several amendments to the policies, primarily to achieve consistent wording throughout the chapter, better align terms with the National Planning Standards and to provide a more direct link with the Tangata Whenua chapter consistent with other PDP zone chapters.
 - c. Merging the two rules relating to buildings and structures into a single rule (NIEP-R1 and R8) to ensure all buildings and structures are assessed consistently with respect to the NIEP Design Guidelines and the NIEP standards.

- d. Several amendments to various rules, primarily to better align with the policy direction, remove duplication of rules, better align terms with the National Planning Standards and address some practical concerns and issues raised by FNHL.
- e. An amendment to NIEP-S4 to insert missing matters of discretion relating to stormwater management.

2 Introduction

2.1 Author and qualifications

- 6. My full name is Jerome Wyeth. I am a Technical Director – Planning at SLR Consulting based in Whangarei.
- 7. I hold the qualifications of Bachelor of Science (Geography) and Masters of Science (Geography), with First Class Honours. I am a Full member of the New Zealand Planning Institute.
- 8. I have over 20 years of experience in resource management and planning with roles in central government, local government and the private sector. My primary area of work is policy planning for local and central government. I have worked on a number of district and regional plans at various stages of the RMA Schedule 1 process and have prepared planning evidence for local authority and Environment Court hearings on a range of resource management issues.
- 9. I have been closely involved in the development and implementation of numerous national direction instruments under the RMA (national policy statements and national environmental standards), from the policy scoping stage through to policy decisions and drafting, the preparation of section 32 evaluation reports and implementation guidance. This includes close involvement in RMA national direction instruments relating to highly productive land, climate change, renewable electricity generation and transmission, indigenous biodiversity and plantation forestry.
- 10. I have been working with the Far North District Council (FNDC) on the PDP since 2021. My involvement in the PDP initially involved refining certain chapters in response to submissions on the draft district plan and preparing the associated section 32 evaluation reports. I was then involved in leading others PDP topics and undertaking a consistency/quality assurance review of the plan prior to notification working closely with the FNDC team. Since mid-2023, I have been working with the FNDC PDP team analysing submissions and I am the reporting officer for a number of PDP topics.
- 11. In 2021, SLR Consulting (then 4Sight Consulting) was engaged by FNDC to help prepare the NIEP SPZ chapter, building on a draft set of provisions and section 32 evaluation report provided by FNHL as part their feedback on the draft district plan. I had some involvement in this work including undertaking a site visit of the proposed zone with representatives from FNHL. I am therefore familiar with the site, the rationale for the NIEP SPZ, and the general intent of the NIEP SPZ provisions.

2.2 Code of Conduct

12. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
13. I am authorised to give this evidence on the Council's behalf to the Proposed District Plan hearings commissioners ("Hearings Panel").

3 Scope/Purpose of Report

14. This report has been prepared in accordance with section 42A of the RMA to:
 - a. Assist the Hearings Panel in making their decisions on the submissions and further submissions on the PDP; and
 - b. Provide submitters with an opportunity to see how their submissions have been evaluated and the recommendations being made by reporting officers, prior to the hearing.
15. This report responds to submissions on the NIEP SPZ in the PDP.

Consequential amendments

16. The PDP will provide consistent, District-Wide setbacks from MHWS in the Coastal Environment chapter, and consistent setbacks from rivers, lakes and wetlands in the Natural Character chapter. All submissions relating to setbacks from MHWS are being considered in the Coastal Environment topic, as discussed and agreed to by the reporting officers. This is not applicable to the NIEP SPZ as no MHWS setbacks were included in the notified version of the chapter. However, for consistency with other zone chapters, a consequential amendment is required to Advice Note 2 above the Rules table for integration and consistency with recommendations in the Coastal Environment and Natural Character topics as follows:

"This zone chapter does not contain rules relating to setbacks to waterbodies and MHWS for buildings or structures or setbacks to waterbodies and MHWS for earthworks and indigenous vegetation clearance. The Natural Character chapter contains rules for activities within wetland, lake and river margins and the Coastal Environment chapter contains rules for activities within the coastal environment. The Natural Character chapter and the Coastal Environment chapter should be referred to in addition to this zone chapter."

3.2 Clause 16 amendments

17. Separate to the Section 42A report recommendations in response to submissions, Council is making a number of Clause 16(2) amendments to the PDP to achieve consistent formatting of rules and standards, including inserting semi colons between each standard, followed by "and" after the second to last standard (where all of the standards must be met to comply)

or “or” after the second to last standard (when only one of the standards must be met to comply). These changes are neutral and do not alter the effect of the rules or standards, they simply clarify the intent. The Clause 16 corrections are reflected in Appendix 1 to this Report (Officer’s Recommended Provisions in response to Submissions).

4 Statutory Requirements

4.1 Statutory documents

18. I note that the section 32 evaluation report for the NIEP SPZ provides a summary of the relevant statutory considerations applicable to this topic.
19. As such, it is not necessary to repeat the detail of the relevant RMA sections and full suite of higher order documents here as this is summarised in the section 32 evaluation report. However, it is important to highlight the higher order documents which have been subject to change since notification of the PDP where these are relevant to the NIEP SPZ.

4.1.1 Resource Management Act reform

20. The current Government elected in October 2023 has indicated that the RMA will be replaced, with work on replacement legislation to begin in 2024. The Government has indicated that this replacement legislation will be introduced to parliament in mid-2025. However, at the time of writing, details of the new legislation and exact timing are unknown. The RMA continues to be in effect until any potential new replacement legislation is passed.

4.1.2 National Policy Statements

4.1.2.1 National Policy Statements Gazetted since Notification of the PDP

21. The PDP was prepared to give effect to the NPSs that were in effect at the time of notification (27 July 2022). This section provides a summary of the NPS, relevant to the NIEP SPZ that have been gazetted since notification of the PDP. As District Plans must be “prepared in accordance with”¹ and “give effect to”² a National Policy Statement, the implications of the relevant NPS on the PDP must be considered.
22. The National Policy Statement for Indigenous Biodiversity (NPS-IB) came into effect on 4 August 2023, after the PDP was notified for public submissions. The objective of the NPS-IB is to maintain indigenous biodiversity so there is at least no overall loss in indigenous biodiversity from the commencement date of the NPS-IB. The objective is supported by 17 policies. These include Policy 1 and Policy 2 relating to the principles of the Treaty of Waitangi and the exercise of kaitiakitanga by tangata whenua in their rohe. Part 3 of the NPS-IB sets out what must be done to give effect to the NPS-IB objective and policies. I note that the NPS-IB will be primarily given effect to through the Ecosystems and Indigenous Biodiversity chapter which will be considered in Hearing 4 (Natural Environment Values and

¹ Section 74(1)(a) of the RMA.

² Section 75(3)(a) of the RMA.

Coastal Environment). The NIEP SPZ also includes provisions to ensure indigenous biodiversity within the zone is protected and enhanced (in particular NIEP-O2 and NIEP-P5).

23. The National Policy Statement for Highly Productive Land (NPS-HPL) took effect on 17 October 2022. The NPS-HPL has a single objective: Highly productive land is protected for use in land-based primary production, both now and for future generations. The objective is supported by nine policies and a set of implementation requirements setting out what local authorities must do to give effect to the objective and policies of the NPS-HPL, including restrictions on the urban rezoning, rural lifestyle rezoning, subdivision and inappropriate development on highly productive land. I note that the NPS-HPL will be primarily given effect to through the suite of Rural Zones in the PDP and the Subdivision chapter which are being considered in Hearing 9 and 17 respectively. I also note that the NIEP SPZ is excluded from the transitional definition of highly productive land under Clause 3.5(7)(b)(ii) of the NPS-HPL as the land was subject to a notified plan change to rezone to urban³ when the NPS-HPL came into effect.

4.1.2.2 National Policy Statements – Announced Future Changes

24. In October 2023, there was a change in government and several announcements have been made regarding future amendments to, or replacement of, seven National Policy Statements (affecting the National Policy Statements for Freshwater Management, Indigenous Biodiversity, Urban Development, Renewable Electricity Generation, Electricity Transmission and Highly Productive Land and Natural Hazards). None of the potential changes to NPS are of particular relevance to the NIEP SPZ.
25. The evaluation of submissions and recommendations in this report are based on the current statutory context under the RMA (that is, giving effect to NPS currently in force). I note that the proposed amendments and replacement NPS listed above do not have legal effect until they are adopted by Government and formally gazetted.

4.1.3 National Environmental Standards

26. As noted in the section 32 report for the NIEP SPZ, the National Environmental Standards for Freshwater 2020 (NES-F) are directly relevant to the NIEP SPZ as the zone contains ecological wetlands and ecological riparian areas as identified in the '*Ngawha Innovation and Enterprise Park Design Guidelines*'. The NES-F sets out standards for the management of activities where these may impact on freshwater values. Regional councils have the functions for implementing the NES-F. However, it is important that district plan rules do not conflict with or duplicate the rules and standards in the NES-F. I also note that the NES-F applies in addition to the land-use controls in the PDP and regional resource consents will need to be obtained from Northland Regional Council when required under the NES-F.

³ The definition of urban zones in Clause 1.3 of the NPS-HPL includes special purpose zones (excluding Māori Purpose Zone).

27. There are no other national environmental standards that are considered to be directly relevant to the evaluation of submissions on the NES-F.

4.1.4 National Planning Standards

28. District plans must give effect to the National Planning Standards. The National Planning Standards determine the chapters and sections that must be included in a District Plan, including how the District Plan should be ordered. The NIEP SPZ has been prepared in accordance with these structural and formatting requirements in the National Planning Standards being located in the Special Purpose Zone chapter in the PDP.
29. The National Planning Standards also set out requirements for the inclusion of special purpose zones in district plans⁴. This zone framework standard outlines eight standard special purpose zones and states that additional special purpose zones can only be included in district plans when the land use activities or outcomes anticipated from the zone meets all of the following three criteria:
- a. *Are significant to the district, region or country; and*
 - b. *Are impractical to be managed through another zone; and*
 - c. *Are impractical to be managed through a combination of spatial layers.*
30. The section 32 evaluation report assesses the NIEP SPZ against these matters and concludes that "*NIEP SPZ therefore satisfies all three criteria in the Planning Standards for additional special purpose zones. The activities and outcomes provided for the SPZ are significant to the District and Region, are impractical to be managed through another zone, and there is no combination of spatial layers over the Rural Production zone that would practically provide for the range of activities to be enabled whilst appropriately managing adverse effects on the values of the wider site and surrounding environment. The site is unique in its character and intent, and it is unlikely this would be replicated anywhere else in the district.*"⁵

4.1.5 Treaty Settlements

31. There have been no further Deeds of Settlement signed to settle historic Treaty of Waitangi Claims against the Crown, in the Far North District, since the notification of the PDP.

4.1.6 Iwi Management Plans – Update

32. Section 74 of the RMA requires that a local authority must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority.

⁴ Zone Framework Standard 8.3.

⁵ NIEP SPZ section 32 report, pg. 6.

33. When the PDP was notified in July 2022, Council had 14 hapū/iwi management planning documents which had been formally lodged with Council, as listed in the PDP section 32 overview report⁶. Council took these management plans, including the broader outcomes sought, into account in developing the PDP. Of the 14 hapū/iwi management planning documents, only two have been revised since notification of the PDP –
- a. Ngā Tikanga mo te Taiao o Ngāti Hine' the Ngāti Hine Environmental Management Plan
 - b. Ahipara Takiwā Environmental Management Plan

Ngā Tikanga mo te Taiao o Ngāti Hine' the Ngāti Hine Environmental Management Plan

34. The management plans considered included the Ngā Tikanga mo te Taiao o Ngāti Hine' the Ngāti Hine Environmental Management Plan, third edition 2018. A revised fourth edition of the Ngāti Hine Environmental Management Plan was in draft form when the PDP was notified in July 2022. The fourth edition was subsequently updated, finalised and lodged with Council later that year after notification of the PDP.
35. The current 2022 Environmental Management Plan recognises Ngāti Hine's role and responsibilities as kaitiaki to achieve positive environmental outcomes and an environment that is healthy and well.
36. While the effects of the NIEP SPZ on Ngāti Hine's values is not specifically referred to or addressed in the Environmental Management Plan, the current 2022 version does identify issues and policies relating to population growth (section 3.8), including policy 3 as follows:

Ngāti Hine supports planning initiatives which will ensure that development of urban centres is in a manner and at a rate which ensures adequate infrastructure is in place before development occurs.

37. The PDP introduces the new NIEP SPZ to provide a location for businesses associated with primary production innovation, research and development that is fit for purpose from an infrastructure perspective and will help provide both economic and social benefits for the local Kaikohe and Ngawha communities.

Ahipara Takiwā Environmental Management Plan

38. The management plans considered also included the Ahipara Takiwā Environmental Management Plan. This management plan was revised in 2023, after notification of the PDP.
39. The current 2023 Environmental Management Plan identifies four underpinning values, including Te Ohanga/Social (refer to section 2.5). In particular, "*Social investment is required to improve the outcomes for our people*".

⁶ [section-32-overview.pdf \(fndc.govt.nz\)](#)

40. While the effects of the NIEP SPZ on Ahipara Takiwā's values is not specifically referred to or addressed in the Environmental Management Plan, the current 2023 version identifies issues relating to population growth and movement, including a policy in section 4.2 as follows:

Ngā Hapū o Ahipara supports planning initiatives which will ensure that development of residential areas is in a manner and at a rate which ensures adequate infrastructure is in place before development occurs. Ongoing meaningful discussion and consultation with Ngā Marae o Ahipara from any groups, entities throughout any processed f development is a requirement Ngā Hapū o Ahipara has.

41. The PDP introduces the new NIEP SPZ to provide a location for businesses associated with primary production innovation, research and development that is fit for purpose from an infrastructure perspective and will help provide both economic and social benefits for the local Kaikohe and Ngawha communities.
42. At the time of writing, Council anticipates that the Patukeha Iwi/Hapu Management Plan will be finalized in June 2024. The Hearings Panel will be required to take this into consideration in their recommendations to council.
43. In summary, of the 14 hapū/iwi management planning documents considered in the drafting of the PDP, only two have been revised since notification of the PDP. None of the updates identified to the Ngāti Hine or Ahipara Takiwā Environmental Management Plans are directly relevant to the consideration of submissions on the NIEP SPZ chapter.
44. I note that a cultural impact assessment report was prepared on behalf of Ngāti Rangī in relation to the NIEP SPZ, which highlighted the need to embrace appropriate design within the NIEP SPZ and in association with Ngāti Rangī. I understand from the section 32 evaluation report for the NIEP SPZ that the subsequent development of the '*Ngawha Innovation and Enterprise Park Design Guidelines*' by FNHL was informed by this cultural impact assessment.

4.2 Section 32AA evaluation

45. This report used 'key issues' to group, consider and provide reasons for the recommended decisions on similar matters raised in submissions. Where applicable, the recommended decisions have been evaluated in accordance with section 32AA of the RMA (requirements for undertaking and publishing further evaluations).
46. Where applicable, the section 32AA further evaluation for each key issue considers:
- a. Whether the amended objectives are the most appropriate way to achieve the purpose of the RMA.
 - b. The reasonably practicable options for achieving those objectives.

- c. The efficiency and effectiveness of the amended provisions to achieve the objectives, including the environmental, social, economic and cultural benefits and costs of the amended provisions.
47. The section 32AA further evaluations in this report contain a level of detail that corresponds to the scale and significance of the anticipated effects of the recommended amendments. Recommended amendments that are editorial, minor and consequential changes to improve the effectiveness of provisions without changing the policy intent have not been re-evaluated in accordance with section 32AA of the RMA.

4.3 Procedural matters

48. No meetings with submitters were undertaken for this topic therefore there are no procedural matters to consider for this hearing.

5 Consideration of submissions received

5.1 Overview of submissions received

49. A total of 31 original submissions and 13 further submissions were received on the NIEP SPZ. The main submissions on the NIEP SPZ are from FNHL (submitter 375) who own the land subject to the NIEP SPZ. FNHL made the original request for a NIEP SPZ to be included in the PDP through their feedback on the draft district plan. The other submissions on the NIEP SPZ are from submitters who have made several general submissions on the PDP and submitters with concerns about the adverse effects of development within the NIEP SPZ and a lack of engagement with tangata whenua.
50. The key issues identified in this report are:
- a. Key Issue 1: NIEP SPZ objectives
 - b. Key Issue 2: NIEP SPZ policies
 - c. Key Issue 3: General submissions
 - d. Key Issue 4: Engagement with tangata whenua
 - e. Key Issue 5: Rules for buildings and structures
 - f. Key Issue 6: NIEP SPZ rules
 - g. Key Issue 7: NIEP SPZ standards.

5.2 Officer Recommendations

51. A copy of the recommended amendments to the NIEP SPZ provisions is provided in **Appendix 1 – Recommended provisions** to this report.
52. A full list of submissions and further submissions on the NIEP SPZ chapter is contained in **Appendix 2 – Recommended Decisions on Submissions** to this report.

5.2.1 Key Issue 1: NIEP SPZ objectives

Overview

Provision(s)	Officer Recommendation(s)
NIEP-O1	Retain with minor amendments.
NIEP-O2, O3 and O4	Retain as notified.

Analysis of Submissions on Key Issue 1: NIEP SPZ objectives

Matters raised in submissions

53. There are four objectives in the NIEP SPZ that broadly focus on achieving four broad outcomes, being:
- Enabling compatible activities relating to primary production and directly related education and training opportunities.
 - Protecting and enhancing natural environment and cultural values.
 - Ensuring land-use and development is supported by appropriate infrastructure.
 - Providing significant economic and social benefits to support the well-being of Kaikohe, Ngawha and the wider district.
54. There are two submissions on NIEP-O1. Ministry of Education (S331.112) supports NIEP-O1 and requests that it be retained as notified. FNHL (S375.001) seek specific amendments NIEP-O1 to enable a broader range of activities by adding the following words to the objective "*...education support such as childcare facilities, employment and business development initiatives offered within the Park*". FNHL's view is that "*...the less impediment to enabling people to reach their potential - the better and this needs to be reflected within the intent of the zone.*" The amendments sought to NIEP-O1 (and other provisions below) by FNHL are therefore intended to make the provisions more enabling to support a wide range of employment, training and educational opportunities within the NIEP SPZ.
55. There is one original submission on NIEP-O2 from BOI Watchdogs that is addressed under Issue 3 (General Submissions) below. No submissions were received on NIEP-O3 and NIEP-O4.

Analysis

56. The key issue to consider in relation to the NIEP SPZ objectives is the request from FNHL to amend Objective NIEP-O1 to include a wider range of activities, which would have flow-on implications to the supporting policies and rules. Specifically, FNHL requests that the objective be expanded to include "*education support such as childcare facilities, employment and business development opportunities within the Park*".

57. In considering this request, I note the statement in the section 32 evaluation report that the aim of the NIEP SPZ is to:

Provide for a cascade of activities which seek to support the zone intent by enabling a range of primary production activities, rural industry, further processing, and innovation within the primary sector. Ancillary activities including retail, tertiary education and office activities are also provided for on a limited scale to manage potential out of centre effects on Kaikohe and reverse sensitivity effects within the zone.

Ensure activities that do not support the zone intent or will detract from Kaikohe and/or Ngawha are avoided.⁷

58. The evaluation of NIEP-O1 (and NIEP-O4) in the section 32 evaluation report further states:

The objectives also create opportunity for further primary production innovation through the establishment of a hub of interrelated primary production activities, with value 'added', research and education opportunities. In turn, this has the potential to incentivise further investment in primary production activities and resources within the District to contribute to social and economic wellbeing.

Providing for a range of primary production activities, and further innovation and educational activities in a location which is easily accessible and can be adequately serviced by infrastructure will support social and economic well-being. The objectives also seek to ensure that development within the zone does not detract, and instead seeks to contribute to the socio-economic development of the two nearby local communities, Kaikohe and Ngawha.

These two objectives seek to ensure development within the zone is directly related to primary production activities so as to not detract from other zone intents.⁸

59. The key point from this commentary is that the primary purpose of the NIEP SPZ is to provide for primary production activities and directly related processing and innovation activities. The NIEP SPZ is also intended to provide for some ancillary activities at a scale that does not detract from other zones and create out of centre effects on Kaikohe. The key risk in enabling a broad range of "education, employment and business development opportunities" in the NIEP SPZ, as requested by FNHL, is that this detracts from the primary purpose of the zone and could potentially create adverse effects on Kaikohe and Ngawha by diverting appropriate land use activities away from those centres.

60. For example, in my opinion, childcare facilities and schools do not need to be located in the NIEP SPZ and are more appropriately located in either Ngawha or Kaikohe. Further, I consider that the requested amendment to provide for 'education, employment and business development

⁷ Section 32 evaluation report for NIEP SPZ, pg. 1.

⁸ Ibid, pg. 25 and 26.

opportunities is very broad and would potentially enable any employer or type of business to establish in the NIEP, regardless of whether it is compatible with the overall intent of the zone. I therefore do not support the amendments to Objective NIEP-O1 requested by FNHL.

61. However, I do consider that more flexibility for “*directly related employment opportunities*” is appropriate and consistent with the intent of the NIEP SPZ and I consider this minor amendment would also support the achievement of NIEP-O4 (i.e. to provide economic and social benefits to the District). I therefore recommend a minor amendment to the end of Objective NIEP-O1 as follows:“*and directly related employment, education and training opportunities*”.

Recommendation

62. For the above reasons, I recommend that submissions from the Ministry of Education and FNHL on NIEP-O1 are accepted in part and that the objective is amended as follows:

“The NIEP zone enables compatible development and activities that provide for primary production innovation, including manufacturing, further processing of raw materials, research and fostering technological advancements, and directly related employment, education and training opportunities.”

Section 32AA evaluation

63. The recommended amendment primarily clarifies the intent and scope of NIEP-O1 and is consistent with the purpose of the NIEP SPZ. On this basis, I consider that no evaluation for this recommended amendment under section 32AA of the RMA is required.

5.2.2 Key Issue 2: NIEP SPZ Policies

Overview

Provision(s)	Officer Recommendation(s)
NIEP-P1, P2, P3 and P6	Retain with minor amendment.
NIEP-P7	Retain as notified (noting I recommend a minor amendment to NIEP-P7 under Issue 4 below).

Analysis of Submissions on Key Issue 2: NIEP SPZ policies

Matters raised in submissions

64. There are seven policies in the NIEP SPZ that broadly seek to enable and restrict different types of land-use and development (P1-P3), ensure development is undertaken in accordance with the NIEP Design Guidelines (P4), and protect and enhance certain natural environment values (P5). The NIEP SPZ policies also seek to ensure that there is adequate

infrastructure to support development in the zone (P6), and effectively manage the effects of land use and development requiring resource consent through consideration of a number of specific matters as relevant (P7).

65. There is one submission point on NIEP-P1 from FNHL (S375.002), which supports the policy in part but seeks to expand out the list of activities enabled in the zone to include education and employment opportunities more broadly. FNHL consider that this requested amendment to NIEP-P1(d) is needed to appropriately provide for the range of education and employment opportunities intended for the NIEP. FNHL also request amendments to NIEP-P1(e) to specifically reference the manufacturing of primary production "and its by-products and waste streams" into a range of products.
66. There is one submission point on NIEP-P2 from the Ministry of Education (S331.113) which supports the policy in part but requests a minor amendment to refer to "educational facilities" (rather than educational activities). The Ministry of Education considers that this amendment will enable the policy to be more aligned with the National Planning Standards, which include a definition of educational facility.
67. FNHL (S375.003) supports NIEP-P3 in part but requests several amendments to better enable a wider range of activities in the NIEP. The requested amendments to NIEP-P3 from FNHL include amendments to:
 - a. Clause b) to refer to waste streams rather than waste materials.
 - b. Clause e) to enable accommodation for visiting staff and on-site employees.
 - c. Clause g) to expand the list of activities referred to so it is not limited to educational facilities directly related to primary production. More specifically, FNHL requests that this clause also includes trade and manufacturing education programmes, education services not currently provided for in Kaikohe, or education services that are extensions to existing providers.
68. FNHL (S375.004) supports NIEP-P6 in part, but requests amendments to enable onsite wastewater infrastructure to be provided as an alternative to connecting to the reticulated system. FNHL submit that, while the intent is to generally use the consented and available existing wastewater infrastructure within the NIEP-SPZ, there may be instances where onsite wastewater treatment and disposal is more appropriate (e.g. remoteness of a new facility on a development platform within the zone).
69. FNHL (S375.005) supports NIEP-P7 in part but states that some minor updates are required to the NIEP Design Guidelines to improve clarity and ensure these guidelines can be implemented effectively through the zone rules. Those changes noted by FNHL include the colouring of some development platforms, labelling of the horticultural area, and the separation of certain development areas. The submission from FNHL indicates that they can provide an updated plan with these changes.

70. No submissions were received on NIEP-P4 or NIEP-P5.

Analysis

71. In terms of the requested amendment to NIEP-P1 from FNHL, I am comfortable with the additional reference to education and employment activities in clause (d) as the chapeau of the policy makes it clear these activities need to be directly related to primary production and be an appropriate scale, nature and design for the NIEP zone. This also aligns with my recommended amendment to NIEP-O1 discussed above. I also support the requested amendment to clause e) from FNHL to refer to *"manufacturing of primary production and its by-products or waste streams into a range of products"* as this is consistent with the intent of the zone to enable activities related to primary production and their by-products. I therefore recommend that this submission point from FNHL on NIEP-P1 is accepted.
72. In terms of the submission point from Ministry for Education requesting that the term "education activities" is replaced with "educational facilities" in NIEP-P2, I note that the National Planning Standards define educational facility as follows:
- "means land or buildings used for teaching or training by child care services, schools, or tertiary education services, including any ancillary activities"*.
73. While I support alignment with the National Planning Standards where appropriate, this definition is clearly broader than the intended scope of education activities provided for within the NIEP. In particular, it includes schools and childcare facilities which are, in my view, more appropriately located in nearby Ngawha or Kaikohe. For this reason, I consider that it is appropriate to use the term "educational facilities" within the NIEP SPZ provisions so that this is consistent with the National Planning Standards, but that this is accompanied by a 'carve out' in the relevant provisions to make it clear this does not capture childcare services and schools. This would mean the reference to educational facility clearly captures tertiary education, pathway to employment activities etc. while excluding those educational facilities not intended within the NIEP SPZ. As such, I recommend that this submission point from Ministry for Education is accepted.
74. In terms of the requested amendment to Policy NIEP-P3 from FNHL, I note that this policy is a list of activities to be avoided in the NIEP SPZ whereas the intent of the FNHL submission appears to be to expand the list of activities that are appropriate in the NIEP. FNHL may clarify this through evidence or at the hearing. Either way I do not support the requested amendments to clauses e) and g) in Policy NIEP-P3 from FNHL as I consider that the range of educational and accommodation activities that are appropriate for the zone are adequately provided for by NIEP-P1 and P2. I also do not consider that there is demonstrated need to provide for employee accommodation on site where there are numerous opportunities for residential activities nearby. However, I support the requested amendment from FNHL to clause b) as this wording is consistent with my

recommended amendment to NIEP-P1. Overall, I recommend that this submission point from FNHL is accepted in part.

75. I accept the submission point from FNHL that requiring a connection to the reticulated wastewater system may not always be the most appropriate option within the NIEP SPZ and some more flexibility for on-site wastewater infrastructure is appropriate. I therefore recommend that the request from FNHL to delete the words "except wastewater" from NIEP-P6 is accepted.
76. The submission from FNHL on Policy NIEP-P7 does not request any specific amendments to the policy but instead refers to the need to update the NIEP Plan within the NIEP Design Guidelines and that "*A plan reflective of these changes sought can be prepared*". I generally support the changes to the NIEP Plan outlined in this submission point but cannot confirm until an updated NIEP Plan is provided by FNHL which they have an opportunity to do through submitter evidence or tabling the updated NIEP plan at the hearing. Accordingly, I do not recommend any amendments in response to this submission point at this time.

Recommendation

77. For the above reasons, I recommend that the submission from FNHL on NIEP-P1 is accepted and that the policy is amended as follows:

"Provide for activities directly related to primary production where these are of an appropriate scale, nature and design for the NIEP zone, including:

- a. farming activities;*
- b. conservation activities;*
- c. rural industry;*
- d. primary production innovation, ~~tertiary~~ education, employment and 'research and development' activities; and*
- e. manufacturing of primary production raw materials into a range of products, including by-product waste materials and its by-products or waste streams into a range of products."*

78. I recommend that the submission from Ministry of Education on NIEP-P2 is accepted in part and that the policy is amended as follows:

"Enable the establishment of retail, office and educational facilities activities (including temporary course related accommodation for students and trainees but excluding childcare services and schools) where these are ancillary to permitted or existing primary production activities and are consistent with the outcomes sought for the NIEP zone."

79. I recommend that the submission from FNHL on NIEP-P3 is accepted in part and that the policy is amended as follows:

"Avoid land use and development that would compromise the function of the NIEP zone or detract from the function and well-being of Kaikohe and Ngawha, including but not limited to avoiding:

a. ...

b. industrial activities (excluding activities which incorporate manufacturing and processes relating to primary production including by-product waste materials streams);

c. ..."

80. I recommend that the submission from FNHL on NIEP-P6 is accepted and that the policy is amended as follows:

"Ensure adequate infrastructure is provided to service development and activities within the zone, through connections to the NIEP reticulated infrastructure or by suitable onsite infrastructure (except wastewater)."

81. Finally, I recommend that the submission from FNHL on NIEP-P7 is rejected at this time but invite the submitter to provide an updated NIEP Plan for consideration through the submitter evidence and hearing process.

Section 32AA evaluation

82. The recommended amendments primarily clarify the intent of NIEP-P1, NIEP-P2, NIEP-P3 and NIEP-P7 and are consistent with the wording of the NIEP objectives. The amendments are not a significant departure from the notified wording of these policies and do not materially change the policy intent. On this basis, in my view no evaluation for these recommended amendment under Section 32AA is required.

5.2.3 Key Issue 3: General submissions

Overview

83. Note that the analysis in this section has been made in conjunction with other section 42A report authors that are also addressing the same or similar submissions to help ensure consistent recommendations on general submissions and integration of PDP provisions.

Provision(s)	Officer Recommendation(s)
NEIP-R1	Minor amendment to refer to relocated buildings
NIEP-S4	Amend to include new matters of discretion relating to stormwater management.

Analysis of Submissions on Key Issue 3: General submissions

Matters raised in submissions

84. There are several general submissions received on the NIEP SPZ that raise wider plan-wide issues and/or relate to multiple zones/provisions in the PDP.

85. The first general submission from Transpower New Zealand Ltd (S454.138) requests an amendment to the NIEP SPZ to ensure that critical infrastructure, such as transmission lines, is provided for. This submission point from Transpower states that transmission lines may need to traverse any zone in the Far North District due to their linear nature and requirement to connect to new electricity generation and therefore this infrastructure should be provided for in each zone.
86. BOI Watchdogs (S354.025) requests amendments to the objective and policy framework of the NIEP SPZ to ensure it doesn't restrict ownership of pets. This submission point has been allocated to NIEP-O2 in the summary of decisions requested but is more of a general submission point raising concerns about potential restrictions on pet ownership through the PDP. There are three further submissions on this original submission point from Vision Kerikeri 3 (FS570.1034), Kapiro Conservation Trust 2 (FS566.1048), and Vision Kerikeri 2 (FS569.1070) that request that the original submission from BOI Watchdog is disallowed to the extent it is inconsistent with their original submissions.
87. FENZ (S512.069) requests a new permitted activity rule for emergency service facilities and for these activities to be exempt from standards relating to setback distances and vehicle crossings. FENZ note that fire stations are currently located in a range of zones in the Far North District and that the PDP only includes rules for emergency service facilities in some zones with different activity status. FENZ considers that emergency service facilities should be enabled as a permitted activity across all zones in the PDP to ensure new fire stations can be efficiently developed as appropriate. This is a plan-wide request from FENZ with multiple submission points from FENZ on the PDP zone chapters seeking the same relief.
88. There are three original submissions allocated to NIEP-R1 that raise wider plan-wide issues as follows:
- a. FENZ (S512.116) requests a new standard and/or matter of discretion across all zones relating to infrastructure servicing (including for emergency response transport/access and adequate water supply for firefighting). FENZ acknowledge that some PDP zones include provisions relating to providing appropriate infrastructure servicing and that NH-R5 in the Natural Hazard chapter requires adequate firefighting water supply for 'vulnerable activities'. However, FENZ consider that an additional standard on infrastructure servicing for emergency response/firefighting water supply within all individual zone chapters may be beneficial.
 - b. Heavy Haulage Assoc Inc (S482.019) requests amendments to NIEP-R1 to provide for relocated buildings as a permitted activity subject to compliance with specific performance standards and a restricted discretionary status when the standards are not complied with. Heavy Haulage Assoc Inc consider that the definition for "building" in the PDP does not clearly include relocated buildings and that the separate definition of "relocated buildings" in the PDP appears to create a distinction between these two types of buildings. On this

basis, Heavy Haulage Assoc Inc considers that it is unclear whether the permitted activity rules in most zones for "*new buildings and structures...*" also apply to the relocation of buildings. Heavy Haulage Assoc Inc considers that district plan provisions controlling newly constructed buildings and relocated buildings should be the same as the effects are essentially the same, noting this was the conclusion of the Environment Court in *New Zealand Heavy Haulage Association Inc v The Central Otago District Council* [C45/2004].

- c. Puketotara Lodge (S481.018) seeks to ensure that the PDP adequately controls effects from stormwater discharge, particularly between sites and adjacent sites⁹. To achieve this relief, Puketotara Lodge requests that three additional matters of discretion relating to stormwater management are added to the relevant impermeable surface rule in all zones. Puketotara Lodge note that there is no specific "stormwater management" rule in the PDP like there is in the Operative District Plan. To address this perceived gap, Puketotara Lodge requests the following additional matters of discretion for impermeable surface coverage rules in all zones:
- i. *Avoiding nuisance or damage to adjacent or downstream properties;*
 - ii. *The extent to which the diversion and discharge maintains pre-development stormwater run-off flows and volumes;*
 - iii. *The extent to which the diversion and discharge mimics natural run-off patterns.*

89. The submission of Trent Simpkin (S283.026) on NIEP-S4 (impermeable surface coverage) also raises wider plan-wide issues relating to stormwater management. Trent Simpkin requests that the impermeable surface coverage thresholds are increased to be realistic based on the size of lots allowed for the zone and/or a new permitted activity standard is added to the PDP which enables the activity to be permitted when a TP10¹⁰ report is provided by an engineer. Trent Simpkin considers that the impermeable surface coverage standards within the PDP are too restrictive and will require landowners and developers to obtain resource consent unnecessarily, particularly when the stormwater design already complied with TP10. Trent Simpkin considers that there is no need for Council to review stormwater design where an engineer confirms that this complies with TP10. This original submission from Trent Simpkin is opposed in the further submissions from Vision Kerikeri 3 (FS570.840), Kapiro Conservative Trust 2 (FS566.854) and Vision Kerikeri 2 (FS569.876) to the extent that this is inconsistent with their original submission.

⁹ This submission point has been allocated to NIEP-R1 in the summary of decisions requested but is more relates to NIEP-S4 (which is referenced under PER-4 in NIEP-R1).

¹⁰ It is understood that the submitter is referring to Auckland Council's Technical Publication 10 "*Stormwater Treatment Devices Design Guideline Manual*" which is widely used across New Zealand by local authorities and engineers. This has now been superseded by Auckland Council's '*Stormwater Management Devices in the Auckland Region (GD01)*'.

90. FENZ (S512.090) requests an advice note on NIEP-S3 (setbacks to external boundaries) to advise plan users that there may be further control of building setbacks and firefighting access through the Building Code. The wording requested by FENZ for this advice note is as follows:

“Building setback requirements are further controlled by the Building Code. This includes the provision for firefighter access to buildings and egress from buildings. Plan users should refer to the applicable controls within the Building Code to ensure compliance can be achieved at the building consent stage. Issuance of a resource consent does not imply that waivers of Building Code requirements will be considered/granted”.

Analysis

91. Since making its submission, Transpower has contacted Council to advise that it no longer intends to pursue its submission points requesting amendments to zone chapters to recognise critical infrastructure such as transmission lines, including submission point 454.138. Transpower understands that the Infrastructure chapter in the PDP provides the provisions for infrastructure on a District-Wide basis and is therefore seeking to pursue its primary relief through specific provisions for the National Grid in the Infrastructure chapter. As such, no amendments to the NIEP SPZ provisions are necessary to provide for the original relief sought by Transpower and I recommend that this submission point is rejected.
92. In terms of the submission from BOI Watchdog, in my opinion, the NIEP SPZ objective and policy framework will not unduly restrict pet ownership as there are no specific provisions in the chapter relating to pet ownership. I also expect domestic pet ownership will not be an issue in the NIEP SPZ given the purpose of the zone is to support primary production innovation and directly related activities, rather than enable residential activities where pet ownership is a more relevant issue. Accordingly, I do not recommend any amendments to the NIEP SPZ provisions in response to this submission point from BOI Watchdog and recommend it is rejected.
93. In terms of the submission from FENZ seeking a permitted activity rule for emergency service facilities in the NIEP-SPZ, I note that the PDP:
- a. Defines an emergency service facility as *“means fire stations, ambulance stations, police stations and associated ancillary facilities”*. The relief sought from FENZ is therefore broader than the development of fire stations and could enable police and ambulance stations to be located in a wider range of locations.
 - b. Enables emergency service facilities to be established as a permitted activity in certain zones (including the Light Industrial and Mixed-Use Zones with no conditions and in the Rural Production Zone where the GFA does not exceed 150m²) while requiring resource consent for these facilities on other zones where there is greater potential for adverse effects on traffic and the amenity of the surrounding environment (e.g. a discretionary activity in the Residential Zone).

94. Under the notified NIEP SPZ rules, an emergency service facility would require resource consent as a non-complying activity under NIEP-R12 (activities not otherwise listed in this chapter). In my opinion, this is appropriate as the NIEP SPZ is intended to provide for a range of activities relating to primary production and emergency service facilities are neither anticipated in the zone or consistent with its primary purpose. Further, the NIEP SPZ is surrounded by Rural Production zoning where a small emergency service facility can be established as a permitted activity. Emergency service facilities can also be established as a permitted activity within the Mixed-Use Zone in Kaikohe approximately 2.5km away from the NIEP SPZ. Kaikohe is a more appropriate location for an emergency service facility, in my opinion, as this would be in closer proximity to a larger population of people that may need emergency services. Accordingly, I recommend that this submission point from FENZ is rejected.
95. In terms of the submission from FENZ requesting a new standard for infrastructure servicing for emergency response transport/access and water supply for firefighting, I consider that this relief is already adequately, and most efficiently, addressed through the following district-wide provisions in the PDP:
- a. Rules NH-R5 and NH-R6 (Wildfire) in the natural hazard chapter, which include a specific requirement for new buildings and alterations to existing buildings used for a 'vulnerable activity'¹¹ to have water supply for firefighting purposes that complies with SNZ PAS 4509:2008 New Zealand Fire Fighting Water Supplies Code of Practice.
 - b. Rule TRAN-R2 (vehicle crossing and access, including private accessways) in the Transport chapter, which includes a permitted activity standard that requires vehicle crossings and access for fire appliances to comply with SNZ PAS 4509:2008 New Zealand Fire Fighting Water Supplies Code of Practice.
96. Accordingly, I recommend no amendments to the NIEP SPZ chapter in response to this submission point from FENZ as I consider the relief sought is adequately addressed by these district-wide provisions.
97. In response to the submission from Heavy Haulage Assoc Inc requesting a new permitted activity rule for relocatable buildings, I disagree that such a rule is necessary for the NIEP-SPZ. NIEP-R1¹² as notified in the PDP is a permitted activity rule which refers to "*New buildings or structures, and extensions or alterations to existing buildings or structures*".
98. In my view, "new buildings or structures" includes relocatable buildings even if they are not new in terms of the date they were built. The key point is that the building is "new" to the site it is relocated to or constructed on. An

¹¹ Defined in the PDP as "*means residential activities, care facilities (including day care centres), retirement villages, visitor accommodation, marae and medical facilities with overnight stay facilities.*"

¹² Note that I am recommended the consolidation of the two rules (NIEP-R1 and NIEP-R8) and relating buildings under Key Issue 5 below, but the general intent of the rules is retained.

older relocated dwelling can be new in the context of its location on a site in the NIEP SPZ, when it is relocated to a new site, or moved from one part of the site to another. This is supported by the definition of the word "new" from Oxford Languages which is as follows:

1. Produced, introduced, or discovered recently or now for the first time; not existing before.

2. already existing but seen, experienced, or acquired recently or now for the first time.

99. The definition of "building" in the PDP, which is a National Planning Standards definition, also supports this interpretation as the definition refers to a moveable physical construction. The full definition of "building in the PDP" is as follows:

means a temporary or permanent movable or immovable physical construction that is:

a. partially or fully roofed; and

b. fixed or located on or in land;

but excludes any motorised vehicle or other mode of transport that could be moved under its own power.

100. On this basis, I do not consider that a specific rule for relocated buildings is required in the NIEP SPZ as these are already provided for under NIEP-R1 which treats new and relocated buildings the same. This is appropriate in my view as I agree with Heavy Haulage Assoc Inc that there is no real difference in effects of a construction of a new building and relocation of a second-hand building. Despite my assessment above, I believe the existing rule NIEP-R1 can provide additional clarity by amending the description to include specific reference to relocated buildings.
101. In terms of the Puketotara Lodge submission seeking additional matters of discretion relating to stormwater management for all impermeable surface rules, I note that relevant standard in the NIEP SPZ is NIEP-S4 (impermeable surface coverage), which is only referenced as a relevant standard in NIEP-R1 (accessory buildings or structures) in the notified NIEP-SPZ provisions¹³. This impermeable surface coverage standard is somewhat different other zones in that it limits building and impermeable surface coverage to specified development platforms identified in the NIEP Design Guidelines as well as setting a maximum impermeable surface coverage limit across the NIEP SPZ of 12.5%.
102. NIEP-R1 states that non-compliance with this standard is a restricted discretionary activity and the matters of discretion include "*the matters of discretion in any infringed standards*". However, there are no matters of discretion in NIEP-S4 like there are for all other standards. This is inconsistent with other PDP zone chapters and an unintended gap in my view. I therefore recommend that matters of discretion are added to NIEP-S4 that are aligned with the corresponding matters of discretion in the

¹³ However, I recommend that this also apply to new buildings and structures under a single building rule (see Issue 5 below).

Rural Production Zone chapter (RPROZ-R2) while also taking into account the matters of discretion sought by Puketotara Lodge. In response to this submission, I recommend a minor amendment to matter c) below to refer to adverse effects on "adjoining sites or downstream sites" as I agree with Puketotara Lodge that adverse stormwater effects can occur further downstream than the immediately adjoining properties. The matters of discretion I recommend for NIEP-S4 are as follows:

- a. the extent to which landscaping or vegetation may reduce adverse effects of run-off,
- b. the effectiveness of the proposed method for controlling stormwater on site;
- c. the availability of land for disposal of effluent and stormwater on the site without adverse effects on adjoining waterbodies (including groundwater and aquifers) or on adjoining sites or downstream sites;
- d. whether low impact design methods and use of green spaces can be used;
- e. any cumulative effects on total catchment impermeability; and
- f. natural hazard mitigation and site constraints.

103. I do not agree with the other additional matters sought by Puketotara Lodge as I consider that these are adequately addressed by the above matters, particularly suggested matter c), now amended to refer to broader downstream effects. I also consider that the last two matters of discretion sought by Puketotara Lodge are potentially problematic to assess (e.g. maintaining pre-development stormwater flows, mimicking natural run-off patterns) and likely unachievable in the context of the NIEP-SPZ where new buildings and developments anticipated in the zone will inevitably increase stormwater runoff flows and volumes. In my view, it is more important to focus on matters such as those covered in d) and e) to ensure all low impact design options are explored and that the overall catchment can accommodate the additional stormwater. This also ensures some consistency in wording across the relevant zone rules and standards relating to impervious impermeable surface coverage. I therefore recommend this submission point is accepted in part. In making this recommendation, I note that impermeable surface rules and stormwater management will be considered across multiple PDP topics during the course of the hearings. I anticipate that other reporting officers for the zone topics may recommend slightly different responses that that are tailored to the specific stormwater issues facing each zone.

104. In terms of the submission from Trent Simpkin raising general concerns with the PDP rules relating to impermeable surface coverage, this submission provides no indication on what a "realistic" or appropriate threshold is for the NIEP SPZ. As discussed above, NIEP-S4 (impermeable surface coverage) as notified in the PDP limits the combined building and impermeable surface coverage to being located within the development platforms identified in the NIEP Design Guidelines and capped at a

maximum of 12.5% across the zone. This is an appropriate threshold in my view which is relatively consistent with the adjoining Rural Production Zone (15%). I therefore recommend that this standard is retained as notified and that Trent Simpkin's submission on NIEP-S4 is rejected.

105. I also do not support the relief requested by Trent Simpkin to provide an exemption to the impermeable surface coverage standard where an engineering report is provided confirming compliance with TP10. This would give considerable discretion to engineers, enabling them to effectively approve stormwater management design and devices without any Council oversight. It would also remove Council's ability to consider alternatives to stormwater management mitigation and/or consider impacts on downstream properties, noting that managing off-site effects resulting from infringements of the standard is an important function of Council. I also note that TP10 has been superseded by Auckland Council's *'Stormwater Management Devices in the Auckland Region (GD01)*. Accordingly, I recommend that this submission point from Trent Simpkin is rejected.
106. While I acknowledge the submission point from FENZ that there may be further setbacks required through the Building Code and other legislation, I do not consider that it is necessary or appropriate to add the requested advice note to NIEP-S3. This is because there is a range of other legislation and controls that sit outside the District Plan and referring to all these additional requirements through advice notes in the District Plan would be inefficient, confusing and cumbersome. For this reason, the PDP deliberately sought to limit the use of advice notes to the 2-3 advice notes that were notified in the PDP above the rule tables. These advice notes are included to direct plan users to other parts of the PDP or occasionally direct plan users to NES rules, so they perform an important navigation function for RMA related provisions (as opposed to controls and requirements in other legislation). Accordingly, I recommend that this submission point from FENZ is rejected.

Recommendation

107. For the above reasons, I recommend submission that the submission point from Heavy Haulage Assoc Inc is accepted in part, and the rule description in NIEP-R1 (new NIEP-R7)¹⁴ is amended to include the words "relocated buildings" as follows: "*New buildings or structures, relocated buildings, and extensions or alterations to existing buildings or structures.*"
108. For the above reasons, I recommend that the submission from Puketotara Lodge on NIEP-S4 is accepted in part and that the standard is amended by adding in the following matters of discretion:
- a. *the extent to which landscaping or vegetation may reduce adverse effects of run-off,*

¹⁴ As noted above, I am recommending that the two rules relating to buildings (NIEP-R1 and NIEP-R8) under Key Issue 5 below.

- b. the effectiveness of the proposed method for controlling stormwater on site;
- c. the availability of land for disposal of effluent and stormwater on the site without adverse effects on adjoining waterbodies (including groundwater and aquifers) or on adjoining sites or downstream sites;
- d. whether low impact design methods and use of green spaces can be used;
- e. any cumulative effects on total catchment impermeability; and
- f. natural hazard mitigation and site constraints.

109. For the above reasons, I recommend that the submissions from Transpower, BOI Watchdog, and Trent Simpkin relating to plan/zone wide issues are rejected with respect to the NIEP SPZ.

Section 32AA evaluation

110. I recommend that NIEP-S4 is amended by adding in matters of discretion relating to stormwater management that appear to be missing from the standard, particularly when compared with equivalent standards in other zones (e.g. RPROZ-R2). The intent of the standard has not been altered and the content of the proposed matters of discretion is similar to equivalent standards in other zones that have already been assessed under section 32 of the RMA as being appropriate. On this basis, in my opinion, no evaluation for this recommended amendment to NIEP-S4 is required under section 32AA of the RMA.

5.2.4 Key Issue 4: Engagement with tangata whenua

Overview

Provision(s)	Officer Recommendation(s)
NIEP-P7	Retain with minor amendment

Analysis of Submissions on Key Issue 4: Engagement with tangata whenua

Matters raised in submissions

- 111. There are three original submissions on the NIEP SPZ raising similar issues and requesting similar relief focusing on engagement with tangata whenua via nominated hapū representatives and monitoring the effects of development within the NIEP SPZ on neighbouring properties.
- 112. The first submission point from Ngāti Rangi ki Ngawha (S515.005) requests that the NIEP SPZ rules are amended to include independent monitoring, which includes mana whenua involvement via representatives that have been mandated and nominated by hapū. Ngāti Rangi ki Ngawha raises concerns that previous development and activities in the NIEP SPZ have resulted in adverse effects on neighbouring properties (dust, noise,

privacy, health and safety, water quality etc.). Based on this previous experience, the submitter considers that those effects need to be better monitored and that neighbours need to be informed of future development in the NIEP SPZ.

113. Ngāti Rangi ki Ngawha (S515.011) and Ngāti Rangi ki Ngawha Hapū (S304.006) request amendments to the rules to ensure consultation and compliance with reference and regard to the Ngāti Rangi Hapū Cultural Impact Assessment report. The submitter requests that hapū mandated environmental management and monitoring representatives are consulted to ensure effective tangata whenua relationships and partnerships. The further submission from FNHL (FS114.14) opposes this submission point, stating that they continue to work with Ngāti Rangi for development proposals within the NIEP SPZ. FNHL also states in their further submission that they are currently drafting a memorandum of understanding with the Ngāti Rangi NIEP governance team and FNHL consider that this is the most appropriate means to address the expectations from all parties.
114. Roxanne Drader (S307.001) requests similar relief to Ngāti Rangi ki Ngawha to amend the NIEP rules to include independent monitoring which includes mana whenua involvement via representatives that have been mandated and nominated by hapū hui. Roxanne Drader also makes several other requests, including regular monitoring of spraying and effects on off-site water quality on neighboring properties, sealed access to the site with speed restrictions, and incorporation of hapū objectives. The basis of these requests seems to be similar concerns with development within the NIEP SPZ and effects on neighboring properties (dust, noise, privacy, health and safety, water quality etc.), plus a lack of engagement with tangata whenua. The further submission from FNHL (FS114.19) supports this original submission in part, but notes that the relief sought cannot be achieved through the PDP. FNHL also agrees that it is important that effects from development within the site are accurately assessed and monitored, and notes that this has, and will continue to be done, through both expert assessments and Northland Regional Council monitoring requirements.

Analysis

115. It is clear from the submissions above that there is some concern from local hapū about the development occurring within the NIEP SPZ, the adverse effects this is having on neighbouring properties and the wider environment, and the lack of meaningful engagement with tangata whenua via hapū.
116. With respect to engagement with tangata whenua, it is important to look at the PDP as a whole, rather than chapter by chapter. The PDP includes a specific Tangata Whenua chapter in Part 1, which sets out a range of objectives and policies relating to tangata whenua interests and values including direction to provide tangata whenua with opportunities to participate as kaitiaki in resource management processes. Of particular relevance is TW-P6 which sets out a range of matters to consider when assessing applications for land use and subdivision that may result in adverse effects on the relationship of tangata whenua with their ancestral lands, water, sites, wāhi tapu and other taonga. I understand that the

intent of the PDP is to consolidate the direction relating tangata whenua values in the Tangata Whenua chapter¹⁵ to help avoid unnecessary duplication of these provisions across every chapter of the PDP and ensure a consistent approach is taken to recognise and provide for tangata whenua interests and values.

117. I consider that several of the issues raised by Ngāti Rangi ki Ngawha, Ngāti Rangi ki Ngawha Hapu and Roxanne Drader with respect to lack of engagement with tangata whenua and providing for effective tangata whenua relationships and partnerships are already adequately, and most appropriately, covered in the Tangata Whenua chapter. This is supported by the direction in NIEP-O2 to ensure cultural values within the NIEP SPZ are protected and enhanced and the reference in NIEP-P7 to consider cultural values when assessing any activity requiring resource consent. However, I note that NIEP-P7 (being the policy that sets out matters to be considered when assessing land use and subdivision consents) does not cross reference to TW-P6, which is inconsistent with other PDP zone chapters. The intent of the PDP was to ensure that TW-P6 is consistently referenced across all zone chapters as a 'hook' to ensure tangata whenua values and engagement with the relevant iwi, hapū or marae is considered within each zone where relevant. As such, I recommend that NIEP-P7 is amended to cross-reference Policy TW-P6, which is consistent with other zone chapters as follows:

p. any historical, spiritual, or cultural association held by tangata whenua, with regard to the matters set out in Policy TW-P6.

118. With respect to monitoring, I do not consider that this is a matter to be dealt with through district plan provisions. While resource consents issued under the PDP can be monitored and monitoring conditions can be imposed on resource consents, in my view it is not necessary or appropriate for a district plan to specify who should perform that monitoring function and how.
119. In my view, the more appropriate process for monitoring requirements in relation to the NIEP SPZ to be discussed and agreed is through discussions between FNHL and the Ngāti Rangi. In this respect, I note that FNHL has stated in their further submission that a memorandum of understanding is being developed with the Ngāti Rangi NIEP governance team. I consider that it would be helpful if FNHL can elaborate on this further at the hearing, including confirmation as to whether this memorandum of understanding is likely to contain any details about monitoring agreements and/or consideration of the Ngāti Rangi Hapu Cultural Impact Assessment report.

Recommendation

120. For the above reasons, I recommend that the submissions from Ngāti Rangi ki Ngawha, Ngāti Rangi ki Ngawha Hapu and Roxanne Drader are accepted

¹⁵ Also of particular relevance is the sites and areas of significance to Māori chapter which sets out specific direction to protect these sites and areas, and the Māori Purpose Zone and Treaty Settlement Overlay chapters which set out specific provisions relating to Māori land and Treaty Settlement Land respectively.

in part, insofar as my recommended addition to NIEP-P7 below addresses some of their concerns:

p. Any historical, spiritual, or cultural association held by tangata whenua, with regard to the matters set out in Policy TW-P6.

Section 32AA evaluation

121. My recommended amendment to NIEP-P7 is to add in an additional reference to TW-P7 to ensure tangata whenua interests and values are considered consistent with the policy direction in the Tangata Whenua. This does not materially change the PDP policy direction but rather improves the link between the NIEP SPZ and Tangata Whenua chapter consistent with policies in other zone chapters that have already been assessed as appropriate under section 32 of the RMA. On this basis, in my view, no evaluation for this recommended amendment to NIEP-P7 is required under section 32AA of the RMA.

5.2.5 Key Issue 5: Rules for buildings and structures

Overview

Provision(s)	Officer Recommendation(s)
NIEP-R1 and NIEP-R8	Consolidate both rules into one.

Analysis of Submissions on Key Issue 4: Rules for buildings and structures

Matters raised in submissions

122. There are two rules relating to buildings and structures within the NIEP-SPZ:
- a. NIEP-R1 - new accessory buildings or structures, and extensions and alternations to existing accessory buildings and structures.
 - b. NIEP-R8 - new buildings or structures, and extensions or alterations to existing buildings or structures.
123. There are four submissions on NIEP-R1, with the first three submission points addressed under Issue 3 (general submissions) above. Additionally, FNHL (S375.006) requests amendments to PER-1 of NIEP-R1 to increase the permitted area for accessory buildings and structures from 10% to:
- a. No more than 50% of the total development area for platforms 1-18; and
 - b. No more than 20% of the total development area for platforms 19-36.

124. FNHL considers that the requested changes reflect the greater intensity generally allowed within platforms 1-18, where detailed landscape assessments have been completed and a more intense built form has been accepted as appropriate based on the infrastructure installed and funded by central government. FNHL also states that development platforms 19-36 are envisaged for further glasshouse or horticultural structures that have a higher site coverage, albeit there would need to be an accompanying detailed landscape assessment when these types of activities are proposed.
125. FNHL (S375.012) supports NIEP-R8 (new buildings and structures not provided for under NIEP-R1) in part, but notes that there may be instances where onsite wastewater treatment and disposal is preferable to using the existing wastewater infrastructure. To address this relief, FNHL requests that the words "except wastewater" are deleted from CON-2 in NIEP-R8 so that the on-site provision of wastewater infrastructure for new buildings and structures is enabled as a controlled activity.
126. FENZ (S512.045) request an amendment to matter of control e) in NIEP-R8 to specifically reference firefighting water supply "(as per the SNZ PAS 4509:2008 New Zealand Fire Service Water Supplies Code of Practice)". FENZ also notes a typo in matter of control e), which should read "adequately" rather than "adequality". The further submission of FNHL (FS114.11) opposes this request on the basis that this Code of Practice is currently referenced in Council's engineering standards and that is the most appropriate location for this standard.

Analysis

127. The first request from FNHL is to amend PER1.2 of NIEP-R1 to increase the permitted threshold for accessory buildings and structures from 10% of the development area to 50% (platforms 1-18) and 20% (platforms 19-36). This is a substantial increase in potential permitted coverage of accessory buildings and structures within each development platform, in my view, with limited justification provided by the FNHL submission as to whether the potential adverse effects associated by such an increase have been properly assessed, particularly as NIEP-R1 is a permitted activity rule. Although a landscape assessment may consider higher built coverage to be appropriate within the NIEP SPZ, there are other potential adverse effects to consider, including dominance and shading of adjacent sites and stormwater runoff. It is also unclear to me as to why this level of coverage was not originally sought by FNHL when the NIEP-SPZ provisions were being developed prior to notification of the PDP and why such a significant increase in permitted coverage for accessory buildings is needed now.
128. The issues raised in the FNHL submission in relation to the threshold size for accessory buildings in NIEP-R1 have also raised additional issues in relation to the interplay with NIEP-R8, which relates to new buildings. The relationship between these two rules needs to be resolved in my view.
129. I assume that a 10% built coverage of development platform standard was included in NIEP-R1 because is a permitted activity rule. This contrasts with the approach taken under NIEP-R8 for new buildings and structures, which

is a controlled activity rule with no equivalent built coverage threshold. I have also identified the following issues in relation to NIEP-R1 and NIEP-R8:

- a. NIEP-R1 applying to accessory buildings requires compliance with the standards NIEP-S1 to NIEP-S7 under PER-4, whereas the same standards do not apply to new buildings under NIEP-R8. This appears to be a drafting error in my view as it is clear from the section 32 evaluation report and earlier drafts of the NIEP-SPZ that these general standards were intended to apply to buildings generally, not just accessory buildings.
- b. It is unclear in my view how an "accessory building" would be assessed in the context of the NIEP-SPZ. An accessory building is defined in the PDP (and National Planning Standards) as "*means a detached building, the use of which is ancillary to the use of any building, buildings or activity that is or could be lawfully established on the same site but does not include any minor residential unit*". Arguably, this could apply to any new building as it could be considered ancillary to established operations within the wider NIEP site. Using NIEP-R1 and defining all new buildings as being "accessory" to existing operations would then provide a more permissive pathway compared to NIEP-R8, which applies to new buildings that are not accessory to an existing use within the NIEP site.

130. I have reviewed the section 32 evaluation report and background documents and cannot find any clear rationale to support a separate rule for accessory buildings. It would appear this is intended to capture the ancillary activities anticipated on site (as per NIEP-P2). However, those ancillary activities, such as retail, office and educational facilities, have their own specific rules that control the size of the ancillary activity and number of those ancillary activities within the NIEP SPZ.
131. Therefore, I consider the most efficient and effective way to respond to the drafting issues above and the submission points from FNHL on NIEP-R1 and R8 is to merge these into a single rule. This rule would apply to all buildings and structures, regardless of whether they are new to the site, extensions to existing buildings, or whether they are accessory buildings. I consider that this is more effective, both from a drafting and effects-based perspective, as the effects of buildings controlled under NIEP-R1 and NIEP-R8 will likely be the same, regardless of whether the building is ancillary to another use within the NIEP site. I also consider it appropriate to apply the seven NIEP SPZ standards to all buildings and structures in the zone, not just to accessory buildings and structures (which is the case under the PDP as notified), which was the original intent as noted above.
132. In considering how to most effectively merge NIEP-R1 and R8, I recommend making all buildings and structures a controlled activity in the NIEP SPZ but removing the 10% building coverage limitation. In my view, this strikes an appropriate balance between being enabling and flexible when larger scale buildings and structures are proposed but ensuring that adverse effects can be managed through the resource consent process. I

note that having a single controlled activity rule for all buildings and structures is consistent with the draft NIEP SPZ provisions received from FNHL as part of their feedback on the draft district plan and the intent articulated through the section 32 evaluation report to manage the effects of buildings within the NIEP SPZ through compliance with the NIEP design guidelines and NIEP SPZ standards.

133. In terms of the submission from FNHL requesting deletion of the reference to "except wastewater" from CON-2 of NIEP-R8, I agree that these words do not need to be included for the reasons set out in relation to NIEP-P6 under in Key Issue 2 above.
134. In terms of the submission from FENZ (S512.045) requesting that matter of control e) in NIEP-R8 specifically reference firefighting water supply "as per the SNZ PAS 4509:2008 New Zealand Fire Service Water Supplies Code of Practice)", I do not consider that this is necessary as water supply for firefighting for wildfire risk is addressed in the natural hazards chapter as noted above under Issue 3 (general submissions). Accordingly, I recommend that this submission point from FENZ is rejected.

Recommendation

135. For the above reasons, I recommend that the submissions from FNHL on NIEP-R1 and NIEP-R8 be accepted in part insofar as a new consolidated controlled activity rule for all buildings and structures in the NIEP SPZ addresses key aspects of their relief sought. My recommended amendments to consolidate NIEP-R1 and NIEP-R8 are provided below. These amendments are achieved by deleting NIEP-R1 and amending the notified wording of NIEP-R8 (renumbered to NIEP-R7 as a result of my recommendation to delete NIEP-R1). I also recommend that the activity status when CON-1, CON-2 or CON-3 are not complied is discretionary rather than non-complying as this is more aligned with NIEP-R1 and more appropriate in my view given the nature of the infringed standard.

NIEP-R78	New buildings or structures, and extensions or alterations to existing buildings and structures	
NIEP Zone	Activity status: Controlled Where: CON-1 New buildings or structures, and extensions or alterations to existing buildings and structures not otherwise provided for by NIEP-R1 New accessory buildings or structures, and extensions or alterations to existing accessory buildings and structures are <u>The building or structure is located and designed in accordance with the development platform areas shown in the 'Ngawha Innovation</u>	Activity status where compliance not achieved with CON-1 and , CON-2 or CON-3: <u>Discretionary</u> Activity status where compliance not achieved with CON-4: Restricted Discretionary Matters of discretion are restricted to:

	<p><i>and Enterprise Park Design Guidelines'</i>, dated March 2022.</p> <p>CON-2</p> <p><u>Artificial crop protection and support structures:</u></p> <ol style="list-style-type: none"> 1. <u>are located at least 3m from all boundaries; and</u> 2. <u>do not exceed 6m in height.</u> <p>CON-3</p> <p>The development platform and buildings are connected to the NIEP internal reticulated 3 waters systems or sufficient onsite provision within the development platform can be demonstrated by a suitably qualified person.</p> <p>CON-4</p> <p><u>The building or structure complies with standards:</u> <u>NIEP-S1 Building or structure design appearance;</u> <u>NIEP-S2 Maximum height;</u> <u>NIEP-S3 Setback (excluding from wetland, lake and river margins);</u> <u>NIEP-S4 Impermeable surface coverage;</u> <u>NIEP-S5 Landscaping;</u> <u>NIEP-S6 Stormwater, wastewater and water supply; and</u> <u>NIEP-S7 Traffic movements</u></p> <p>Matters of control are limited to:</p> <ol style="list-style-type: none"> a. the extent to which the <u>building or structure and development</u> is consistent with the 'Ngawha Innovation and Enterprise Park Design Guidelines', dated March 2022; b. the materials used, including consideration of colour, finishing, reflectivity, and permeability; 	<ol style="list-style-type: none"> a. the matters of discretion of any infringed standard.
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	<p>c. the effect of buildings, structures and signage design (including facades and roofs) on the character and amenity of the zone and surrounding rural environment;</p> <p>d. the siting and separation of buildings;</p> <p>e. provisions of infrastructure services and the ability of stormwater, water and wastewater to be managed adequately; and</p> <p>f. access and onsite manoeuvrability.</p>	
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Section 32AA evaluation

136. I consider that my recommendation to merge NIEP-R1 and NIEP-R8 together is the most efficient and effective way to address the inconsistency between how accessory buildings and other buildings are managed within the NIEP SPZ. Having a single rule that applies to all buildings and structures, regardless of whether they are new to the site, extensions to existing buildings, or whether they are accessory buildings is appropriate in my opinion the effects will likely be the same or similar, regardless of whether the building is ancillary to another use within the NIEP site. A single, streamlined rule removes unnecessary duplication and reduces the likelihood of interpretation issues arising from both rules being read alongside each other. This is likely to be more efficient and effective in achieving the NIEP SPZ objectives. Applying a controlled activity status to all buildings will also help ensure that the built environment outcomes are consistent with the outcomes anticipated in the NIEP objectives, particularly NIEP-O2.
137. There will be some potential costs associated with smaller, accessory buildings requiring resource consent compared to being permitted under the notified version of the NIEP SPZ. However, I consider that the efficiency benefits of a single rule for all buildings (particularly when most buildings will be new within the NIEP SPZ) plus the benefits of consistently being able to control the built form within the NIEP SPZ will outweigh these potential costs. Overall, I consider that the recommended amendments to merge NIEP-R1 and NIEP-R8 are more appropriate, effective and efficient to achieve the relevant objectives compared to the notified provisions in accordance with section 32AA of the RMA.

5.2.6 Key Issue 6: NIEP Rules

Overview

Provision(s)	Officer Recommendation(s)
NIEP-R2, NIEP-R3, NIEP-R11 and NIEP-R12	Retain with no amendments (aside from consequential renumbering)
NIEP-R4, NIEP-R5, NIEP-R7, NIEP-R10	Retain with minor amendments
NIEP-R6	Retain and consolidate with NIEP-R9
NIEP-R9	Delete and consolidate with NIEP-R6

Analysis of Submissions on Key Issue 6: NIEP SPZ Rules

Matters raised in submissions

138. There are 12 rules in the NIEP SPZ that broadly seek to both enable and restrict a range of activities in the zone, with more stringent resource consent requirements for activities that are not intended to locate in the NIEP.
139. FNHL (S375.007) supports NIEP-R4 (primary production retail) in part but considers that the limit of 100m² GBA (Gross Business Area) for the retail area is too restrictive, particularly as the definition of GBA captures all aspects of the retail activity such as storage. FNHL considers that a percentage of the total site area is a more appropriate scaling mechanism for setting a GBA limit, compared to a blanket m² threshold that applies across the NIEP SPZ. To provide for this relief, FNHL request that the 100m² limit for primary production retail is replaced with "*has a maximum GBA of 20%*". FNHL also requests that the rule be amended to simply be "retail" as opposed to "primary production retail" as there may be some processing undertaken in the NIEP that could fall outside of the "primary production" definition.
140. FNHL (S375.008) supports NIEP-R5 (rural industry) in part but considers that the limitation under PER-1 above should only apply to platform areas 19-36 rather than those which are "unlabelled" and front onto Wallis Road. To address this relief, FNHL request amendments to PER-1 so that the GFA standard of no more than 2,000m² only applies to development platforms 19-36. FNHL also have significant concerns with PER-3, which requires that all manufacturing, altering, repairing, dismantling or processing of any materials or articles is carried out within a building. FNHL consider that this condition is contrary to operational requirements and is unnecessary given the relatively insular nature of the NIEP SPZ. Accordingly, FNHL request that PER-3 is deleted from NIEP-R5.
141. Additionally, FNHL (S375.009) have concerns with PER-2 in NIEP-R5, which states that there should only be one rural industry operation per development platform. FNHL consider that there may be circumstances where more than one small-scale industry operation may want to establish on a single development building platform (e.g. smaller research operator), and it is more appropriate to focus on the actual use of the development platform rather than number of operators in each. FNHL therefore requests that the reference to "does not exceed one" is deleted from PER-2 in NIEP-R5.

142. FNHL (3S75.010) supports NIEP-R6 (office and tertiary education) in part but considers that the scope of training enabled under the rule needs to be broadened to reflect the consented activities on site and to reflect a key purpose of the NIEP to offer education and training on-site. To address this relief, FNHL requests that PER-1 and PER-2 are amended to also refer to "*...trades and pathway to employment programmes*".
143. FNHL considers that there needs to be provision in NIEP-R6 for co-location of more than one education provider within the approved development platforms and requests amendments to PER-3 and PER-4 to provide for this relief. FNHL also consider that there is no clear rationale for the GFA restriction of 300m² for educational facilities and states that there are existing educational facilities within the NIEP that are well above this size. Accordingly, FNHL requests that the GFA restriction for educational facilities is deleted from PER-5 in NIEP-R6.
144. FNHL (S375.011) supports NIEP-R7 (primary production research and development activity) in part but considers that the zone should be able to offer wide-ranging research and development opportunities, and this should not be limited to those directly related to primary production. FNHL state that research and development into the efficient use of waste and by-products is just as important as primary production research and development activities from an environmental perspective. To provide for this relief, FNHLs request an amendment to PER-1 in NIEP-R7 to add the words "*manufacturing of primary production and its by-products/waste streams, trades, and employment programmes*".
145. FNHL (S375.013) supports NIEP-R9 (tertiary education facility) in part but requests similar relief to the objectives and policies discussed above to enable a wider scope of education services and trades training. Specifically, FNHL request that restricted discretionary activity standard RDA-1 is replaced with the following wording "*education facility provides education services, including trade training, alternative education and secondary education pathways to employment and education that primarily relates to the manufacturing and production of primary products*".
146. FNHL (S375.014) supports NIEP-R10 (café and takeaway food outlets) in part but considers that the 50m² GFA standard in RDA-1 is too limiting, particularly as people using the café will often desire a space to sit down. To address this concern, FNHL request that this restricted discretionary standard is increased to 150m² GFA for the for the kitchen, preparation area, storage and waste area plus an additional customer area not exceeding 200m². This would result in a maximum GFA per premise of 350m².
147. FNHL (S375.015) supports NIEP-R11 (residential accommodation ancillary to education facility) in part but considers that people may sometimes need to reside on-site for work purposes (e.g. for security or where experts need to be on-site for training). To address this relief, FNHL request the title of rule NIEP-R11 is amended to read "*Residential accommodation ancillary to educational facility – accommodation*".

Analysis

148. My understanding is that the submission from FNHL on NIEP-R4 (primary production retail) is seeking to increase the GBA threshold from 100m² to 20% of the development platform but this is not entirely clear from the submission. I note that this request could significantly increase the permitted GBA threshold for primary production retail within the NIEP SPZ. A 20% develop platform threshold could permit primary production retail activity with a GBA around 900m² to 3,000m² depending on size of the development platform. Such a significant increase is inappropriate in my view and is not sufficiently justified in the submission from FNHL. It is also not consistent with the intent of the NIEP to enable small scale retail directly related to primary production (as articulated in the section 32 evaluation report referenced under Issue 1 above). I therefore recommend this part of the submission point from FNHL is rejected.
149. In terms of the request to amend the title of the rule to simply refer to "retail", in my view it is important to ensure the activity is directly related to primary production. From a drafting perspective, I consider that this would be more effectively achieved through a permitted activity condition stating that the retail activity is directly related to primary production rather than in the title and this is the approach taken in NIEP-R6 and NIEP-R7. This would address the relief sought by FNHL in part as it would mean the retail activity needs to be directly related to primary production without necessary falling within the definition of primary production. I therefore recommend this part of the submission point from FNHL is accepted in part. I also recommend as a consequential amendment that the activity status for non-compliance with PER-1, PER-3 and PER-4 is amended from restricted discretionary to discretionary as it appears to be an error. The restricted discretionary matters refer to 'the matters of discretion of any infringed standard', which is not applicable in the case of PER-1, PER-3 or PER-4. I also consider that a discretionary activity status is more appropriate with respect to infringements of these permitted standards.
150. Similarly, FNHL seeks to make NIEP-R5 (rural industry) more enabling outside the Innovation and Enterprise Precinct by removing the 2,000m² threshold for "unlabelled" building platforms with no clear rationale provided in their submission. I assume the "unlabelled" building platforms are the existing areas of development on Wallis Road which are already developed and would exceed the 2,000m² threshold. I agree it does not make sense to apply the threshold to these developed platforms and therefore recommend that this part of their submission point is accepted. I also agree that PER-3 is unnecessary and potentially onerous given the largely insular nature of the NIEP SPZ and I recommend this permitted activity standard is removed, both within and outside the Innovation and Enterprise Precinct. I also agree that PER-2 is unnecessary within the Innovation and Enterprise Precinct as it is the size of the buildings(s) that is most important rather than the number of operators. I recommend that this permitted activity standard is deleted from NIEP-R5 within the Innovation and Enterprise Precinct.
151. I agree that PER-1 and PER-2 in Rule NIEP-R6 are potentially too limiting and broadly agree with the relief sought by FNHL to amend these standards

to also refer to trades and pathways to employment programmes. I also agree that the reference to tertiary education activity can be replaced with educational facilities in PER-1, PER-2 and PER-3, which is consistent with my recommended amendment to NIEP-P2 outlined above under Issue 2. As with NIEP-P2, I also recommend an amendment to make it clear that the reference "educational facility" excludes childcare services and schools. However, in my opinion, FNHL has not provided sufficient reasoning to support the request to delete PER-4 (related to the number of office or education activities per development platform area) or PER-5 (setting a maximum GFA of 300m²) and replace them with an advice note about co-location of activities, other than to say some existing facilities are larger. Accordingly, I recommend that this part of the submission point from FNHL is rejected, except that I recommend that PER-4 and PER-5 be amended to remove the word "tertiary" to be consistent with the other permitted activity conditions.

152. I also note that there is some duplication and conflict between NIEP-R6 and NIEP-R9 with respect to educational facilities. NIEP-R6 provides a permitted activity pathway for an educational facility directly related to primary production whereas the same facility is a restricted discretionary activity under NIEP-R9 with a similar condition applying to both. There appears to be no logical reason for this duplication in my view and this is likely to result in interpretation issues. I therefore recommend consolidating these two rules into a single educational facility rule that provides more specificity as to the types of educational facilities that are anticipated, including being directly related to primary production. I consider that this would address the FNHL submission points on NIEP-R6 and NIEP-R9 in part.
153. I agree with FNHL that scope of NIEP-R7 (primary production research and development activity) is potentially too limiting and that this should extend to research and development activities relating to the by-products/waste streams of primary production as that is consistent with the intent of the NIEP SPZ. I therefore recommend that PER-1 of NIEP-R7 is amended to refer to research and development directly related to primary production "*...or the manufacturing of primary production and its by-products/waste streams*" and this submission point from FNHL is accepted.
154. In terms of the requested amendments to NIEP-R9 (tertiary education facility) from FNHL to reference a wider scope of education services and trades training, I have already addressed this relief in relation to NIEP-R6. As noted above, I do not consider that a separate restricted discretionary rule for tertiary educational facilities is necessary and that NIEP-R6 can adequately cover all educational facilities anticipated in the zone. I therefore recommend this submission point from FNHL is accepted in part.
155. I accept the concern of FNHL that the GFA 50m² standard in NIEP-R10 for a café or takeaway food outlet is potentially too limiting, but I consider it important to retain the intent of this rule to limit the size and number of cafés and takeaway food outlets within the NIEP SPZ. The purpose of having a café or takeaway outlet should be to service the activities occurring within the NIEP SPZ, not for the premise to be a destination

activity in its own right. I consider that a modest increase in GFA would strike the correct balance between allowing a café or takeaway outlet to establish with limited seating for customers but not allowing a larger café or takeaway food outlet that is more appropriately located in Kaikohe or Ngawha in my opinion. I therefore recommend an increase to a GBA of 100m² (in total) rather than the 350m² sought by FNHL.

156. It is unclear to me why the relief sought by FNHL to add the word 'accommodation' a second time into the title of NIEP-R11 (residential accommodation ancillary to educational facility) is required or what benefit this would serve as 'accommodation' is already in the title of the rule. As noted above, I also do not consider that it is necessary or appropriate to provide on-site accommodation for employees in NIEP-SPZ. Accordingly, I recommend this submission point from FNHL is rejected.

Recommendation

157. I recommend that the submission from FNHL on NIEP-R4 be accepted in part and that the rule be amended as follows:

~~NIEP-4 Primary production +Retail~~

...

PER-1

The retail activity directly supports primary production activities.

PER-2

The retail area for any development platform area shown in the 'Ngawha Innovation and Enterprise Park Design Guidelines', dated March 2022, has a maximum GBA of 100m² and is set back at least 30m from any zone boundary.

PER-32

Retail sales are limited to the sale of raw materials produced and/or further processed within the development platform.

PER-43

The number of ~~primary production~~ retail operations per development platform area shown in the 'Ngawha Innovation and Enterprise Park Design Guidelines', dated March 2022, does not exceed one.

Activity status where compliance not achieved with PER-1, PER-32 or PER-43: Restricted Discretionary

~~Matters of discretion are restricted to:~~

a.—The matters of discretion of any infringed standard.

*Activity status where compliance not achieved with ~~PER-1~~ PER-2:
Non-complying*

158. I recommend that the submission from FNHL on NIEP-R5 be accepted in part and that the rule be amended to delete PER-3 both inside and outside the Innovation and Enterprise Precinct and to delete PER-2 for development inside the Innovation and Enterprise Precinct – refer to marked up chapter in Appendix 1 for the full drafting.
159. I recommend that the submission from FNHL on NIEP-R6 be accepted in part and that the rule be amended as follows:

NIEP-R6 Office and tertiary educational facility activity

PER-1

The office directly supports primary production activities, trades and pathways-to-employment programmes.

PER-2

The ~~tertiary educational facility activity~~ directly supports primary production activities, trades and pathways-to-employment programmes but excludes childcare services and schools.

PER-3

The office or tertiary educational facility activity is ancillary to a lawfully established activity on the same development platform area shown in the 'Ngawha Innovation and Enterprise Park Design Guidelines', dated March 2022, but excludes childcare services and schools.

PER-4

The number of office or tertiary educational facilities per development platform area shown in the 'Ngawha Innovation and Enterprise Park Design Guidelines', dated March 2022, does not exceed one.

PER-5

The GFA of the office or tertiary educational facility does not exceed 300m².

160. I recommend that the submission from FNHL on NIEP-R7 be accepted and that the rule be amended as follows:

NIEP-R7 ~~Primary production~~ Research and development activity

PER-1

The research and development activity directly relates to primary production or the manufacturing of primary production and its by-products/waste streams.

161. I recommend that the submission from FNHL seeking amendments to NIEP-R9 is accepted in part insofar as it is consolidated with NIEP-R6.

162. I recommend that the submission from FNHL on NIEP-R10 be accepted in part and that the rule be amended as follows:

RDA-1

The café and takeaway food outlet does not exceed a GFA of 5100m².

163. For the above reasons, I recommend that the submissions from FNHL on NIEP-R4 and NIEP-R11 are rejected.

164. I also recommend that the submission from FENZ on NIEP-R8 is rejected for the same reasons as set out in Issue 3 (general submissions).

Section 32AA evaluation

165. My recommendation to amend a range of NIEP SPZ rules is to, collectively, better provide for a range of activities that are consistent with the outcomes anticipated for the NIEP SPZ. I consider that my recommended amendments to the NIEP SPZ rules outlined above broadly consistent with the intent of the NIEP SPZ, as assessed in the original section 32 evaluation report. The amendments recommended are largely to clarify interpretation of provisions, remove or amend elements of the rules that are likely to be problematic for activities from an operational perspective and ensure that the range of activities more effectively achieve the zone objectives, particularly NIEP-O1.

166. I consider that there are economic, cultural and social benefits associated with enabling rules that support a range of activities consistent with the NIEP SPZ objectives. I do not consider that there are any additional costs resulting from the recommended amendments beyond those already identified in the original section 32 evaluation report for the NIEP SPZ. Overall, I consider that the recommended amendments to the rules outlined are more appropriate, effective and efficient to achieve the relevant objectives compared to the notified provisions in accordance with section 32AA of the RMA.

5.2.7 Key Issue 7: NIEP Standards

Overview

Provision(s)	Officer Recommendation(s)
NIEP-S1, NIEP-S2, NIEP-S3, NIEP-S5, NIEP-S6 and NIEP-S7	Retain with no amendments
NIEP-S4	Retain with minor amendments as per Issue 3 above

Analysis of Submissions on Key Issue 7: NIEP Standards

Matters raised in submissions

167. There are seven standards in the NIEP SPZ that broadly seek to manage the scale, location and design of land use and development to ensure this is appropriate for the zone, to manage adverse effects on the surrounding environment and ensure there is appropriate provision of infrastructure. There are no submission points on NIEP-S1, NIEP-S2, NIEP-S5, or NIEP-S6. There is one general submission point on NIEP-S3 and one on NIEP-S4, both of which are addressed under Issue 3 (General Submissions) above.
168. The only outstanding submission on the standards is from FNHL (S375.016) who supports NIEP-S7 (traffic movements) in part but requests that this is replaced with alternative wording "*to remove confusion around the rule and its components*".
169. The submission from FNHL does not fully explain the requested amendments to NIEP-S7 but my reading is that the key requested change is to split clause 1 into two separate clauses that introduce a specific threshold to trigger the need for a traffic management plan. FNHL suggests that exceeding 80% of the traffic movement thresholds set out in clauses 2 and 3 of NIEP-S7 should be the trigger for needing a traffic management plan, as opposed to it being a blanket requirement. Other requested amendments to NIEP-S7 from FNHL include:
- a. A narrowing of the scope of what a traffic management plan should cover – the PDP stated it should outline "*traffic generation and movements from the activity and how access, parking, onsite manoeuvrability, and traffic generation will be appropriately managed*". The wording proposed by FNHL would reduce the scope of a traffic management plan to focusing on "*traffic generation and movements from the activity*".
 - b. The use of an annual traffic movement survey of the NIEP zone and Wallis Rd entrance to determine if the 80% threshold has been exceeded.
 - c. Removal of the reference to specific legal descriptions of properties that are allowed to be accessed by heavy vehicles prior to the sealing of Wallis Rd. This has the effect of broadening the clause to allow all heavy vehicles to use the road, not just those associated with existing activities on the specified lots.

Analysis

170. I understand the purpose of NIEP-S7 to be twofold – setting out the requirement for a traffic management plan to be prepared when new buildings or structures are proposed within the NIEP SPZ and setting limits on the maximum number of traffic movements to and from the NIEP SPZ, both before and after the Wallis St/State Highway 12 upgrade.
171. In terms of the requested amendments to this standard, I do not consider that FNHL have provided sufficient justification and, in my opinion, the requested amendments go much further than "removing confusion" as stated in the FNHL submission. In particular, the introduction of an 80% threshold as a trigger for when a traffic management plan is required is

a new component of the standard and the FNHL submission does not provide any context or justification for its inclusion.

172. I have also undertaken a high-level review of the technical traffic report¹⁶ provided to support the NIEP SPZ and cannot see any justification to support this 80% threshold or the other amendments requested by FNHL. On this basis, I do not recommend any amendments to NIEP-S7 in response to the submission of FNHL. This may be an area that FNHL wishes to address through further technical evidence at the hearing.

Recommendation

173. For the above reasons, I recommend that the submission from FNHL on NIEP-S7 is rejected.

Section 32AA evaluation

174. As no amendments to NIEP-S7 are being recommended, no evaluation for this recommended amendment under section 32AA is required.

6 Conclusion

175. This report has provided an assessment of submissions received in relation to the NIEP SPZ provisions. The primary amendments that I have recommended relate to:
- a. One minor amendment to NIEP-O1, all other objectives remain unchanged.
 - b. Several amendments to the policies, primarily to achieve consistent wording throughout the chapter, better align terms with the National Planning Standards, and to provide a more direct link with the Tangata Whenua chapter consistent with other PDP zone chapters.
 - c. Merging the two rules relating to buildings and structure into a single rule (NIEP-R1 and R8) to ensure all buildings and structures are assessed consistently with respect to the NIEP Design Guidelines and the NIEP SPZ standards.
 - d. Several amendments to various rules, primarily to better align with the policy direction, remove duplication of rules, better align terms with the National Planning Standards, and address some practical issues and concerns raised by FNHL.
 - e. An amendment to NIEP-S4 to insert missing matters of discretion relating to stormwater management.
176. Section 5.2 considers and provides recommendations on the decisions requested in submissions. I consider that the submissions on the Ngawha Innovation and Enterprise Park Special Purpose Zone should be accepted,

¹⁶ Refer: [15 November 2011 \(fnhc.govt.nz\)](http://fnhc.govt.nz)

accepted in part, or rejected, as set out in my recommendations within the main body of this report and in Appendix 2.

177. I recommend that provisions for the Ngawha Innovation and Enterprise Park Special Purpose Zone be amended as set out in Appendix 1 for the reasons set out in this report.
178. I consider that the amended provisions will be efficient and effective in achieving the purpose of the RMA, the relevant objectives of this plan and other relevant statutory documents, for the reasons set out in this report and the section 32AA evaluations undertaken.

Recommended by: Jerome Wyeth – Technical Director, SLR Consulting.

A handwritten signature in blue ink, appearing to be 'J. Wyeth', is written over a faint, light blue circular stamp or watermark.

Approved by: James R Witham – Team Leader District Plan, Far North District Council.

Date: 16 May 2024