

**FAR NORTH DISTRICT COUNCIL
TE KAUNIHERA O TE HIKU O TE IKA**

PROPOSED FAR NORTH DISTRICT PLAN HEARINGS PANEL

UNDER THE

Resource Management Act 1991

ON BEHALF OF

Mr Lewis Thomas Grant, Mr Jake Ryan Lockwood, Mr Luke Stephen Lockwood and Mr Stephen Graham Lockwood

Lockwood Family

Legal Submissions

18 August 2025

Hearing 15B: Rezoning Requests for new Special Purpose Zones

Monday 1 - Thursday 4 September 2025



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Summary

- 1 After extensive engagement with the Far North District Council (the **Council**) concerning the proposed zoning of Motukiekie Island, the Lockwood Family have requested that it be included within the Rural Production zone in the Council's Proposed District Plan (**Proposed Plan**) and be subject to specific Motukiekie Island Precinct provisions that provide for ongoing conservation efforts, the continued residential use of Motukiekie Island and some strictly limited additional building development.
- 2 The Section 42A Report also recommends application of the Rural Production zone and incorporation of the Motukiekie Island Precinct provisions into the Proposed Plan as this "will deliver a number of benefits compared to alternative options, including better recognising current and anticipated activities on the Island and providing a targeted set of provisions that achieve the conservation and residential development outcomes sought for Motukiekie Island".¹ The Lockwood Family support the recommendations in the Section 42A Report, for the reasons set out below.

Unique circumstances of Motukiekie Island and the Lockwood Family

- 3 Motukiekie Island has been privately owned since 1869. Prior to the purchase by the Lockwood Family in 2000 the Island was leased to DOC by the previous owners for a period of 26 years.
- 4 Since 2000 the Lockwood Family have retained Motukiekie Island as a sanctuary for family accommodation, recreational purposes and for ongoing conservation efforts to restore the Island to its original condition with native flora and fauna.
- 5 The Lockwood Family have initiated and continued significant conservation work on the Island over the last 15 years to achieve the goal of restoring the natural environment.
- 6 This work has been at their own substantial cost and effort and includes the extensive planting of over 10,000 native plants and trees, trapping of pests and the removal of exotic tree species including over 2,000 wilding pines.

Conservation Efforts on Motukiekie Island

- 7 The Lockwood Family have a vision to restore Motukiekie Island consistent with conservation values and the unique characteristics of the Island. Prior to the 1960s, under prior ownership, most of the Island was cleared of vegetation and grazed by sheep and various exotic plant species, including gorse and wilding pines, also claimed a foothold.
- 8 This was still largely the state of the Island when it was purchased by the Lockwood Family in 2000. Since then they have, at substantial cost, undertaken significant efforts to clear predators, remove exotic plant species and reestablish native vegetation through planting and regeneration efforts.
- 9 The Lockwood Family are dedicated to converting the entire Island from the previous farm /grass land and exotic pine forest into native bush. At this point nearly all open areas have been planted with natives and are regenerating, further planting of natives is continuing in previously established areas.

¹ Section 42A Report (Hearing 15B: Rezoning Submissions) dated 4 August 2025 (**Section 42A Report**) at paragraph 192.

- 10 Traps have been established and maintained across the Island for many years to catch rats, stoats and other predators. The Department of Conservation also performs a regular survey of Motukiekie Island with conservation dogs looking for predator sign. The Island is now predator-free.
- 11 There are also ongoing efforts to continue removing exotic species including wilding pines and other weed trees and plants.
- 12 The Lockwood Family are a Project Island Song partner contributing to the dream of restoring the Bay of Islands as an archipelago of sanctuaries for native bird life. The main issue in encouraging native bird populations on the Island has been the lack of any natural fresh water sources. To combat this the Lockwood Family have installed a bore to pull fresh water and built artificial streams drawing from this resource as well as installing bird feeders and rainwater collectors for native birds. The bore water facilities also provide water for the irrigation of native plants and trees to help them establish and grow.
- 13 The results have been a stunning regeneration of both native flora and fauna on Motukiekie Island over the past 20+ years of ownership by the Lockwood Family.
- 14 There are now a wide range of native plants and trees on the Island that have been supplemented or re-established through planting including: pohutukawa, puriri, nikau, kauri, kowhai, kawakawa, titoki, kohuhu, karo, ti kouka (cabbage tree), kiekie (the indigenous climbing vine the Island is named after) and totara.
- 15 A range of native bird species can also now be found all across the Island including kakariki, banded rail, bellbirds, grey warbler, tui and piwakawaka.

Vision for Motukiekie Island

- 16 Motukiekie Island is a significant feature of the Bay of Islands. The Lockwood Family are the proud owners and custodians of this special place and their intention is to eradicate almost all non-native plants and restore the Island as predator-free native bush with significant annual plantings and ongoing pest, predator and weed control.
- 17 The Lockwood Family have undertaken this work for over 20 years and want to be able to continue those efforts into the future to maintain conservation values and preserve and enhance the unique nature of the Island while also using it for residential purposes and preserving the ability for limited future development to accommodate their growing extended family.

Status Quo Zoning under the Proposed Plan

- 18 Counsel for the Lockwood Family respectfully submit that the Natural Open Space zone that is currently proposed to apply to Motukiekie Island under the Proposed Plan appears to be inappropriate and unlawful given the past, current and proposed future uses of the land.
- 19 The Proposed Plan states that the Natural Open Space zone *“generally applies to public land that is administered by government agencies and includes a variety of parks and historic reserves. In most cases these areas have a high degree of biodiversity requiring active management.”* This is not an apt description of the status of and activities on Motukiekie Island and has not been since 2000 (when it was purchased and the lease of the Island to DOC by the previous owners ceased). Since 2000 the Island has been privately owned and occupied and used primarily for private residential accommodation as well as benefitting from the ongoing conservation efforts detailed above.

- 20 The Natural Open Space zone does not provide for residential activity as a permitted activity (or otherwise) and therefore its activity status would be discretionary – requiring the Lockwood family to seek Council consent for any additional activities on the Island. There would also be strict limitations on new buildings, earthworks and vegetation clearance. In fact, the combination of the Natural Open Space zone and the various applicable overlays would so heavily restrict the use and potential future development of Motukiekie Island that the Lockwood Family submit there would be no “reasonable use” available to them under the Proposed Plan.
- 21 In contrast, other privately owned and managed areas on islands within the Bay of Islands, for example parts of Moturoa and Motuarohia Islands, have the Rural Production zone applied. It is only areas of those islands that are owned and/or managed as conservation land which are instead zoned Natural Open Space.
- 22 Given the history of Motukiekie Island and the DOC lease, counsel respectfully submits that the Council considered that the Natural Open Space zone was appropriate in the past and may have made a mistake of fact in simply “rolling over” the previous treatment of Motukiekie Island in the Proposed Plan without considering updating the zoning and other provisions to reflect the new status of the land, activities and ownership.
- 23 The Section 42A Report itself notes:²
- However, it appears that the zoning was carried over from the ODP [Operative District Plan] where it was zoned Conservation which then became NOSZ in the PDP. This may have occurred because the Island was leased to the Department of Conservation for 26 years by the previous owners before the current owners purchased it in 2000. Whereas the other privately owned parts of Islands which are zoned Rural production in the PDP were zoned General Coastal in the ODP.

Most Appropriate Provisions

- 24 As acknowledged in the Section 42A Report there are “limited zoning options available” and there is no “perfect fit” available under the Proposed Plan to apply to the current and future use of Motukiekie Island³ but the Lockwood Family respectfully support the provisions recommended by the Section 42A Report as the most appropriate.
- 25 The Lockwood Family initially made submissions in support of a special purpose zone to apply to Motukiekie Island, either a modification of the existing Moturoa Special Purpose Zone (to become the Moturoa and Motukiekie Special Purpose Zone) or a bespoke Motukiekie Special Purpose Zone.
- 26 The Lockwood Family have been through extensive engagement with Council officers in relation to Motukiekie Island as detailed in the Section 42A Report.⁴ There have been no other submissions concerning Motukiekie Island. The Lockwood Family and Council officers have explored all possible options to achieve the most appropriate provisions for Motukiekie Island and the best possible balance consistent with the Resource Management Act 1991 (the **Act**). This has resulted in extensive modification to the initial proposal of the Lockwood Family in response to feedback from Council officers and detailed consideration of the applicable policies and frameworks.

² Section 42A Report at paragraph 169.

³ Section 42A Report at paragraphs 181 and 182.

⁴ Section 42A Report at paragraphs 144 – 151.

- 27 Feedback from Council officers has encouraged the Lockwood Family to identify the most appropriate method to provide for the reasonable use the Island, including for residential and conservation activities while working within the standardised national planning framework to achieve the best possible alignment of the proposed policies with district-wide policy frameworks.
- 28 As a result, the Lockwood Family have modified their relief to seek inclusion of the Island within the Rural Production Zone (consistent with other privately owned land on nearby islands) along with incorporation of a set of precinct provisions which include a description of the planning background of Motukiekie, objectives and policies specific to the Island, activity rules that define an appropriate (but narrow) set of permitted activities and that apply discretionary activity status to new buildings within one of four building areas identified on the Island.
- 29 These proposed precinct provisions for Motukiekie Island have been informed by extensive detailed ecological, landscape and archaeological assessments and include very carefully drafted design provisions and building guidelines. They have been tailored to provide for limited and modest future use and development of Motukiekie Island and to ensure that the potential effects of that use and development are comprehensively constrained.
- 30 The Lockwood Family has engaged Mike Farrow – Landscape Architect who has assessed both landscape and ecological values in and around each of the building areas.⁵ Mr Farrow has prepared a set of design principles and guidelines for future development that are included within the precinct provisions. Mr Farrow concludes in his evidence that:⁶

Recommended Principles and related Building Guidelines contain measures to minimise impacts upon indigenous vegetation during development and ongoing management, with a view to conserving the ecological and natural characteristics of Motukiekie. Accordingly, any ecological effects arising from future building and development of Building Areas 2-4 that complies with the proposed Building Guidelines are assessed as being very limited and less than minor.

- 31 This work has also been complemented by an Archaeological and Historic Heritage Assessment prepared by Jonathan Carpenter which concludes:⁷

The archaeological significance of the archaeological sites in terms of the Heritage New Zealand Act is only low to moderate, largely due to their poor condition, the limited range of features present and concomitant information potential, the ubiquity of the site types represented in the local and regional context, and the lack of amenity value. On the other hand the sites are likely to be of high intrinsic value to Mana Whenua.

Similarly the sites are not significant in terms of Resource Management Act criteria. The historic, knowledge, social and Mana Whenua values may be moderate to high given the history of the island and cultural connections, but the physical, technological, aesthetic and context values are only low to moderate. The sites may have some local significance on grounds of Māori values and connections to historic events and personalities, but are not regionally or nationally significant.

⁵ Second Supplementary Statement of Michael Ian Farrow (Landscape Architect) dated 7 July 2025. See also Mr Farrow's primary statement of evidence dated 12 May 2025 and his first supplementary statement dated 15 May 2025.

⁶ Second Supplementary Statement of Michael Ian Farrow (Landscape Architect) dated 7 July 2025, at paragraph 24.

⁷ Archaeological and Historic Heritage Assessment Motukiekie Bay of Islands dated 4 July 2025 on page 56.

The proposed zoning and provisions presented by the Lockwood Family are suitable for managing the potential archaeological and heritage effects of future development of Motukiekie.

- 32 The appropriateness of the proposed zoning is supported by the Council officer's recommendations in the Section 42A Report:⁸

Overall, I consider that the most appropriate approach is to amend the underlying zoning to RPROZ. While the Island is not used for traditional rural production activities, this zone is consistent with other privately owned Islands or parts of Islands within the Bay of Islands, and in particular provides for residential activities in a manner that the NOSZ does not. Given the limited zoning options available within the planning standards and PDP, this is considered the most appropriate underlying zoning.

- 33 The precinct provisions allow for the ongoing conservation activities and limited development opportunities sought by the Lockwood Family and address limitations of the Rural Production zone compared to the current use of the Island. These are proposed in the form of a set of precinct provisions, incorporating an overview statement, objectives and policies, activity rules and standards. The recommendations in the Section 42A Report state in relation to additional specific provisions :⁹

I also consider that a bespoke spatial layer (Option 4 or 5) in addition to RPROZ is also the most appropriate, effective and efficient way to achieve the outcomes sought at Motukiekie Island and address the limitations associated with the RPROZ. In terms of whether a "precinct" or "development area" is most appropriate for Motukiekie Island, in my view, **neither is a perfect fit for the Island** based on the descriptions provided in the National Planning Standards. **However, on balance, I consider that a precinct is the most appropriate spatial layer Motukiekie Island** for the reasons outlined above.

- 34 The precinct provisions allow for limited land use activities as a permitted activity, including residential activity. However, apart from minor building additions, any new building within one of the building areas on the precinct plan is classified as a discretionary activity.
- 35 The three identified additional building areas shown on the precinct plan cover a very small portion of Motukiekie Island.¹⁰
- 36 The precinct provisions include a standard that specifies "special information requirements" that must be addressed on any future application for a new building on Motukiekie Island – as follows:
- (a) Ecological effects of vegetation removal and establishment;
 - (b) Archaeological values and effects on those values;
 - (c) Cultural values and effects on those values (via consultation with mana whenua);
 - (d) Landscape and visual effects of proposed buildings and land use activities on the Coastal Environment, Natural character and Landscape values;
 - (e) Geotechnical site suitability;
 - (f) Effects of earthworks and landform modification;

⁸ Section 42A Report at paragraph 181.

⁹ Section 42A Report at paragraph 182, emphasis added.

¹⁰ Labelled as Building Areas 2 – 4 on the Precinct Plan.

- (g) The location, height, form and massing of any proposed building and its position relative to the building areas identified on the Motukiekie Precinct Plan;
 - (h) Site servicing (site access, electrical supply, water supply, stormwater management, wastewater treatment and effluent disposal);
 - (i) Building materials and finishes;
 - (j) Consistency with the Motukiekie Island Building Guidelines; and
 - (k) All of the matters in policy PRECX-P5, which include natural character of the coastal environment, location, scale and design, the need for and location of earthworks or vegetation clearance.
- 37 The significance of the coastal character, natural values and environmental quality of Motukiekie is recognised by the precinct provisions, which include a set of building guidelines that will assist in ensuring that the future design, reporting on and assessment of any future building proposal minimises vegetation clearance, earthwork, visual and landscape effects while supporting the conservation and enhancement of the landscape and ecological values of the Island.
- 38 The effects of the proposed Motukiekie Island Precinct Plan are summarised in the evidence of James Hook:¹¹
- there are three objectives and five policies specific to the precinct, which provide a basis for the rules and standards that follow and that are complementary to the objectives and policies of the RPZ, Coastal Environment and Natural features and landscapes chapters respectively.
- There are seven activity rules specific to the precinct, providing for five permitted activities (extensions or alterations to existing buildings or structures (up to 20% of GFA, residential activity, conservation activity, visitor accommodation, helicopter movements) and one discretionary activity (new buildings and structures and extensions or alterations to existing buildings or structures by more than 20% GFA).
- There are two precinct standards that specify minimum requirement for stormwater and effluent disposal, and a set of specific information requirements for the precinct (that apply to any application made for a new building or structure as a discretionary activity).

Statutory Evaluation

- 39 The Lockwood Family support the recommendations of the Section 42A Report that the Rural Production zoning and precinct provisions achieve a balance between the purpose of the Act and their current and anticipated use of Motukiekie Island including ongoing conservation activities, residential use and limited development. As stated in the reporting officer's conclusions on the s 32AA evaluation:¹²
- I concur with the S.32AA evaluation provided in Mr Hook's supplementary evidence (paragraph 60-64). In particular, I consider that the proposed underlying RPROZ and MIP will deliver a number of benefits compared to alternative options, including better recognising current and anticipated activities on the Island and providing a targeted set of provisions that achieve the conservation and residential development outcomes sought for Motukiekie Island. The further amendments to the MIP provisions that I am recommending are intended to improve workability, ensure the provisions are better aligned with other relevant PDP provisions, and ensure all relevant effects can be appropriately assessed and managed. I therefore consider that these recommended amendments are an appropriate, efficient and effective way to

¹¹ Supplementary Statement of Evidence of James Ronald Hook (Planner), dated 30 June 2025, at paragraphs 28 - 30.

¹² Section 42A Report at paragraph 192.

achieve the relevant PDP objectives in accordance with section 32AA of the RMA.

- 40 The section 32AA evaluation criteria as applied to these provisions are detailed at greater length in the evidence of James Hook.¹³
- 41 As observed by the Environment Court in *Golf (2012) Ltd v Thames-Coromandel District Council*.¹⁴
- the fundamental question is not answered by resort to such a principle of illegality at the threshold but rather by an evaluation in terms of s 32 of the RMA of whether the proposed plan provisions promote the purpose of the RMA and are the most appropriate provisions taking into account all relevant considerations.
- 42 The expert evidence filed on behalf of the Lockwood Family and the reporting officer's recommendations as set out in the Section 42A Report are both in agreement that the recommended Rural Production zoning and Motukiekie Island Precinct provisions are the "most appropriate provisions" for Motukiekie Island.
- 43 The Lockwood Family therefore support the recommendations of the Section 42A Report which are consistent with the purpose, framework and schema of the Act and are the most appropriate provisions for the Island given its unique context.

DATED 18 August 2025



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¹³ Supplementary Statement of Evidence of James Ronald Hook (Planner), dated 30 June 2025 at paragraphs 60 – 64.

¹⁴ *Golf (2012) Ltd v Thames-Coromandel District Council* [2019] NZEnvC 112, [2021] NZRMA 137 at