



SECTION 42A REPORT

Officer's written right of reply – 31 October 2025

Hearing 15B – New Zoning Requests

1	Introduction	2
2	Purpose of report.....	2
3	Consideration of evidence received	2
3.1	Issue 1: Corrections Special Purpose Zone	3
3.2	Issue 2: Matakā Station Precinct.....	4
3.3	Issue 3: The Landing Precinct	10
3.4	Issue 4: Tupou Special Purpose Zone	15
3.5	Issue 5: Far North Holding Limited Mixed-Use Rezoning Requests.....	19

Appendix 1.1: Officer's Right of Reply Recommended Amendments to Corrections Special Purpose Zone Chapter

Appendix 1.2: Officer's Right of Reply Recommended Amendments to Matakā Station Precinct

Appendix 1.3: Officer's Right of Reply Recommended Amendments to The Landing Precinct

Appendix 1.4: Officer's Right of Reply Recommendations for a Tupou Precinct

Appendix 1.5: Officer's Right of Reply Recommendations for consequential amendments to the Mixed Use Zone for the Opuā Marine Business Park



1 Introduction

1. My name is Jerome Wyeth and I am the author of the Section 42A Report: Rezoning Requests for New Special Purpose Zones (**Section 42A Report**) for the Proposed Far North District Plan (**PDP**), which was considered at Hearing 15B held on 1-2 September 2025. I am also the author for the Section 42A Report: Opuā Precinct and Mixed-Use Zoning Rezoning that was considered at Hearing 15B. However, this report does not address outstanding issues relating to the Bay of Islands Marina Precinct as this has been subject to expert conferencing with the outcomes addressed through a separate Joint Witness Statement.
2. In the interests of succinctness, I do not repeat the information contained in Section 2.1 of the section 42A reports referred to above and request that the Hearings Panel take this as read.

2 Purpose of report

3. The purpose of this right of reply report is to respond to the evidence and statements of submitters and further submitters that was pre-circulated and presented at Hearing 15B in relation to the rezoning requests for new special purpose zones and precincts. It also addresses the evidence and statements of submitters and further submitters relating to requests from Far North Holdings Limited (**FNHL**) to rezone three of its landholdings at Opuā to Mixed Use Zone (**MUZ**).

3 Consideration of evidence received

4. Submitters and further submitters provided evidence and hearing statements in relation to the following rezoning requests that were considered at Hearing 15B:
 - a. **Corrections Special Purpose Zone** - Department of Corrections (**Corrections**) (S158) provided rebuttal evidence from Mr Grace (planning). Mr Grace attended Hearing 15B with Ms Millar.
 - b. **Matakā Station Precinct** - Matakā Residents' Association Incorporated (S230) provided rebuttal evidence from Mr Hall (planning). Mr Hall attended the Hearing 15B along with Mr Williams, who provided a summary statement of his corporate evidence, and Ms Beresford who provided legal submissions.
 - c. **Opuā Mixed-Use Zone Requests**: FNHL (S320) provided rebuttal evidence from Mr Sanson (planning) who attended Hearing 15B along with Mr Nock who provided corporate evidence. Ms Bright (FS162) provided lay evidence on these MUZ requests from FNHL which was primarily focused on the request to rezone the "Opuā Park Business Park" site. Ms Bright's lay evidence was supported by witness statements from Ms Matthews, Ms Burbank and Ms Kinghan.



- d. **The Landing Precinct** – MLP LLC (S183) provided rebuttal evidence from Mr Lala (planning), Mr Lister (landscape) and Mr Cheshire (architecture). These experts attended Hearing 15B along with Mr Jones who provided an overview of The Landing and Ms Buxeda who provided legal submissions.
 - e. **Tupou Special Purpose Zone** - Green Inc Ltd (S164) provided evidence in chief from Mr McPhee (planning) and from Mr Craig (ecology). Mr McPhee and Mr Craig both attended Hearing 15B.
5. Vision Kerikeri (FS569) and Kapiro Conservation Trust (FS566) also attended Hearing 15B with Mr Kenton, Mid-North Coordinator for Kiwi Coast, providing a statement at the hearing. This statement broadly related to conservation efforts the Purerua Peninsular and the protection of kiwi.
6. The above evidence and statements provided at Hearing 15B raise a range of issues both in support of the recommendations in the relevant Section 42A Report and outstanding issues where further amendments are requested. As such, this right of reply only addresses outstanding issues where I consider additional analysis and recommendations are required. I have grouped the outstanding issues from the above submitters as follows:
- a. Issue 1: Corrections Special Purpose Zone (**SPZ**)
 - b. Issue 2: Matakā Station Precinct (**MSP**)
 - c. Issue 3: The Landing Precinct (**TLP**)
 - d. Issue 4: Tupou Special Purpose Zone (now Tupou Precinct).
 - e. Issue 5: Far North Holding Limited Mixed-Use Rezoning Requests.
7. For all other submissions not addressed in this right of reply, I maintain my position set out in the relevant Section 42A Report.

3.1 Issue 1: Corrections Special Purpose Zone

Overview

Relevant Document	Relevant Section
Section 42A Report – New Special Purpose Zones	Section 3.2.1
Evidence	Mr Grace, rebuttal evidence (planning)

Matters raised in evidence

8. Mr Grace broadly supports the recommendations in the Section 42A Report, including the recommended set of provisions for the Corrections SPZ.



9. However, Mr Grace highlights one outstanding issue in relation to CORZ-R5 (supported residential care activity). Mr Grace requests an amendment to this new rule to provide a "cascading" approach whereby up to 10 units is a permitted activity, between 11 and 20 units is a restricted discretionary activity, and more than 20 units is a discretionary activity. Mr Grace notes that the relevant rules and standards (CORZ-R1, CORZ-S1, CORZ-S2, CORZ-S3, CORZ-S4) would still apply to ensure that any potential adverse effects of supported residential care are appropriately managed, regardless of the number of units proposed.
10. Mr Grace also proposes a set of matters of discretion for the proposed restricted discretionary activity rule to guide the assessment of environmental effects when resource consent is required. The specific amendments to CORZ-R5 requested by Mr Grace are set out in Appendix 1 of his rebuttal evidence.

Analysis

11. As outlined in Hearing 15B, I am supportive of the requested amendments to CORZ-R5 outlined above as I consider that this will appropriately enable complementary activities within the Corrections SPZ while ensuring any adverse effects can be appropriately managed. The amendments requested by Mr Grace also incorporate my earlier feedback on how to structure the rule to be more aligned with the standard PDP drafting approach and to include a specific reference to reverse sensitivity effects within the matters of discretion. On that basis, I recommend that CORZ-R5 is amended as requested by Mr Grace.

Recommendation

12. For the above reasons, I recommend that CORZ-R5 is amended to provide an additional restricted discretionary activity pathway for supported residential care.

Section 32AA evaluation

13. My recommended amendments to CORZ-R5 are a relatively minor amendment to provide an additional restricted discretionary consenting pathway for supported residential care as a complementary activity within the Corrections SPZ. I therefore consider that this amendment is an appropriate, efficient and effective way to achieve the relevant PDP objectives in accordance with section 32AA of the RMA.

3.2 Issue 2: Matakā Station Precinct

Overview

Relevant Document	Relevant Section
Section 42A Report – Rezoning Requests New Special Purpose Zones	Section 3.2.2



Relevant Document	Relevant Section
Evidence and hearing statements with outstanding issues	Mr Hall (planning)

Matters raised in evidence

14. The planning evidence of Mr Hall on behalf of Matakā Residents Association identifies outstanding issues with the Section 42A Report recommendations for the MSP, noting that these are relatively minor with no major points of disagreement.

Location of house sites on Precinct Plan 1

15. Mr Hall generally supports the drafting and intent of the recommended amendments to Advice Note 2 and CON-1 in PRECX-R1 relating to Precinct Plan 1 in the MSP provisions. However, Mr Hall considers that is not appropriate to describe the MSP Precinct Plan 1 as "indicative" as certain information on Precinct Plan 1 is very precise (e.g., cadastral boundaries, the boundaries of the MSP). Rather, Mr Hall notes that it is the nature of the notation used for the house sites on Precinct Plan 1 are "indicative" as these do not represent the spatial extent of the house sites.
16. To address this issue, Mr Hall requests further amendments to the two advice notes to delete the reference to Precinct Plan 1 "being indicative" and instead focus on the need to also refer the consent notices which apply to the relevant titles when interpreting Precinct Plan 1 for the MSP.

PRECX-O4

17. Mr Hall does not agree with the recommended amendment to PRECX-O4 in the Section 42A Report – Rezoning Requests New Special Purpose Zones to include direction to "*protect*" landscape and natural character values within the objective. Mr Hall considers that the obligations to "*preserve and protect the natural character of the coastal environment...*" and "*protect the ONL from inappropriate land use and development*" are already adequately addressed in CE-O1 and NFL-O1 in the PDP, which will apply in addition to the objectives of the MSP. Mr Hall considers that the directive in PRECX-O4 for development "*to be integrated with*" with natural character and landscape values provides more specificity in the context of future residential development at Matakā Station.

Matters of control and discretion

18. Mr Hall generally agrees with the additional wording recommended to the matters of control in PRECX-R1 and the matters of discretion in PRECX-S1 by Ms Absolum and in the Section 42A Report. However, Mr Hall requests the following amendments:



- a. The reference to "natural landscapes" is replaced with "Outstanding Natural Landscapes" or "ONL" to be more specific on the landscape values to consider
- b. Remove reference to "whether" as the start of the relevant matters as this does not add any value in his view.

PRECX-R4 - Earthworks and Indigenous Vegetation Clearance

19. Mr Hall does not agree with the Section 42A Report – Rezoning Requests New Special Zones recommendation to not include proposed PRECX-R4 in the MSP provisions and requests that PRECX-R4 is retained as originally requested in his evidence in chief. Mr Hall requests this rule is reinstated on this basis that it cannot be assumed that the recommended amendments to the equivalent rules through Hearing 4 will be accepted. Further, Mr Hall notes that there are two key differences in PRECX-R4 being requested compared to the recommended rules in Hearing 4:
 - a. A discretionary activity (rather than non-complying) status where compliance with the standards is not achieved. Mr Hall considers that the discretionary activity status is appropriate in the MSP, as this allows for a full assessment of the suitability of such applications, rather than a starting presumption that it is not appropriate under a non-complying activity status.
 - b. The permitted pathway for the maintenance or reinstatement of pasture through the removal of regenerating manuka or kanuka, tree ferns or scattered rushed would apply to where this vegetation is less than 10-years old (rather than 5-years old). Mr Hall considers that allowing for clearance of indigenous vegetation up to 10-years is consistent with that provided for in IB-R1 in the Ecosystems and Indigenous Biodiversity Chapter of the PDP.

Explaining the relationship between the MSP and other PDP chapters

20. Mr Hall considers that it is preferable to retain a reference in the overview section of the PDP to the specific provisions from the Coastal Environment and Natural Features and Landscapes chapters that do not apply in the MSP (in addition to the corresponding advice notes in the rules section).
21. In response to the Section 42A Report – New Special Purpose Zones, Mr Hall agrees that it is preferable for the relationship between the MSP and other PDP chapters to be dealt with within the MSP chapter itself, rather than by way of consequential cross references to numerous PDP zone and overlay rules. However, Mr Hall considers that there is a need for a general statement in the PDP to clarify the relationship between the precincts and other PDP zoner and district-wide chapters, given that this is a new spatial layer that has been recommended to be introduced into the PDP through the hearings. This is a matter I discussed and agreed with Mr Hall prior to the lodgement of his rebuttal evidence.



22. Mr Hall considers that such a statement could logically in Part 1 "Introduction and General Provisions" with his suggested wording as follows:

"Where a Precinct applies, the objectives, policies, rules and standards of the underlying zone and any overlay apply in addition to the provisions of the Precinct, except where it is specifically stated in the Precinct that the provisions of the Precinct prevail."

Other matters

23. In addition, Mr Hall highlights the following issues in his evidence:

- a. A grammatical error that needs to be corrected in the overview section for the MSP as follows "...30-lot residential houses, plus farm and workers residences..."
- b. The original drafting of PRECX-R1 specified that non-compliance with PRECX-R1 CON-1 requires a full discretionary activity consent and non-compliance with PRECX-R1 CON-2 is a restricted discretionary activity, but this is not reflected in the MSP provisions attached to the Section 42A Report. Mr Hall notes that this seems to be an unintentional drafting error and requests that this is corrected.
- c. In response to uncertainty raised by Ms Absolum in her memo, Mr Hall clarifies that Lots 33 and 34 are tied to lots 25 and 26 respectively and therefore houses cannot be anticipated on these lots as a permitted, controlled or restricted discretionary activity under the MSP provisions.
- d. Mr Hall agrees with my recommendation in the Section 42A Report to delete PRECX-S4 (Setback to Mean High Water Springs) from the MSP provisions.

Analysis

24. As discussed at the hearing, I am broadly supportive of the additional amendments requested by Mr Hall on the basis these are intended to add clarity and not change the underlying intent of the MSP provisions recommended in the Section 42A Report – Rezoning Requests New Special Purpose Zones. The outstanding issues in the rebuttal evidence of Mr Hall that require further comment in my view relate to:

- a. The request to reinstate PRECX-R4
- b. Whether the relevant matters of discretion should refer to "Outstanding Natural Landscape" and "ONL" or "natural landscapes" more generally
- c. Amendments to the wording of PRECX-O4



- d. Amendments to the MSP overview and Part 1 of the PDP to clarify the relationship between precincts and other PDP chapters.

PRECX-R4

25. In relation to PRECX-R4, I retain the view that this is unnecessary in the MSP and the underlying Coastal Environment and Natural Features and Landscape rules and standards for earthworks and indigenous vegetation clearance should apply where this is not associated with the house sites or common areas (i.e. the anticipated development within the MSP).
26. In my view, aligning the permitted threshold for indigenous vegetation less than 10 years old with IB-R1 in the Ecosystems and Indigenous Biodiversity Chapter is also not appropriate as those rules are focused on managing effects on ecological values whereas the Coastal Environment and Natural Features and Landscape rules and standards for earthworks and indigenous vegetation clearance are focused on managing effects on natural character and landscape values.

Matters of control and discretion referring to "ONL" v "natural landscapes"

27. In terms of referring to "ONL" v "natural landscapes", I note the majority of house sites in the MSP are located within the ONL overlay and the house sites outside the ONL overlay (e.g. 2, 23, 21) are located some distance back from the coast and appear to be setback (lower) than the main ridgeline which provides the landward extent of the coastal environment (i.e. they are unlikely to be visible from public viewing points in the coastal environment). On that basis, I consider that a more specific reference to ONL in the matters of control and discretion is appropriate and any adverse effects on other landscape values can be appropriately considered and managed through the underlying RPROZ provisions (e.g. RPROZ-O4).

PRECX-O4

28. As discussed at the hearing, on reflection I agree with Mr Hall that a reference to "protect" in PRECX-O4 is not necessary as this is adequately addressed in CE-O1 and NFL-O1 in the PDP. In my view, "integrates with" and "maintains" is appropriate direction in PRECX-O4 as that is the outcome that should be achieved for residential development in MSP in relation to ONL and natural character values. I therefore recommend that PRECX-O4 is amended accordingly.

Clarifying the relationship between precincts and other PDP chapters

29. As discussed at Hearing 15B, the use of a "precinct" as a spatial layer from the National Planning Standards has arisen through hearings on the PDP. This was first recommended for the Horticulture Precinct (to replace the notified Horticulture Zone) in Hearing 9 with five¹ precincts now being

¹ Mataka Station, The Landing, Motukiekie Island, Tupou and Bay of Islands Marina.



recommended through Hearing 15B (as alternatives to the special purpose zones originally requested by submitters). It is therefore important to ensure consistency in how precincts are included and drafted in the PDP and to ensure the relationship with other PDP chapters (zones and district-wide provisions) is clear to all plan users.

30. To achieve this, I recommend that:

- a. The relationship between the precinct and other PDP chapters is clarified within the relevant precinct chapter primarily in the overview section but also in the advice notes where there are modifications to the district-wide provisions in Part 2 of the PDP. This approach will avoid unnecessary cross referencing and a large number of specific exemptions to rules and standards in other PDP chapters which is likely to be confusing to plan users. Accordingly, I recommend that it is adopted consistently for all precinct chapters.
- b. New text is added to Part 1 of the PDP under both "District Plan Framework" and "relationship between spatial layers" to recognise the role of precincts. I recommend that this states *"Precincts are a spatial layer used in the District Plan to modify certain provisions in the underlying zone and, in some cases, overlay provisions. Where a Precinct applies, the objectives, policies, rules and standards of the underlying zone and any overlay apply in addition to the provisions of the Precinct, except where it is specifically stated in the Precinct overview and advice notes (as applicable) that the provisions of the Precinct prevail and/or specific zone or overlay provisions do not apply."*

31. I have discussed these recommendations with the relevant reporting officers from Hearing 9 and Hearing 15B who agree. Finally, I note that the numbering of all the recommended precincts will need to be updated and finalised if accepted by the Hearing Panel in accordance with the National Planning Standards. Specifically, Format Standard 10.25 which states *"Precincts must be identified with 'PREC', followed by a sequential number, a space, an en-dash, a space, the precinct's unique name, a space, and 'precinct'".*

Recommendation

32. For the reasons above, I recommend that the provisions in the MSP as amended as set out in Appendix 1.2 to address minor drafting issues and improve clarity.

Section 32AA evaluation

33. The amendments that I am recommending to the provisions in the MSP above are primarily minor amendments to improve workability and clarify intent. Accordingly, I consider that these amendments are appropriate, effective and efficient way to achieve the relevant PDP objectives in accordance with section 32AA of the RMA.



3.3 Issue 3: The Landing Precinct

Overview

Relevant Document	Relevant Section
Section 42A Report – Rezoning Requests New Special Purpose Zones	Section 3.2.3
Evidence and hearing statements with outstanding issues	Mr Lala (planning), Mr Lister (landscape), Mr Chesire (architecture), Mr Jones (corporate)

Matters raised in evidence

34. Mr Lala broadly supports the recommendations in the Section 42A Report Rezoning Requests New Special Purpose Zones in relation to The Landing Precinct (**TLP**), except for the identified outstanding issues in his evidence. This includes support for The Landing to be a precinct (rather than “The Landing Development Area” as requested in his evidence in chief).

Policies TLP-P1(5) and 6 – “acknowledge and respect”

35. Mr Lala does not support the Section 42A Report recommendation to replace the wording “*acknowledge and respect*” with “*protect and enhance*” in TLP-P1(5) and (6). Mr Lala considers that the terminology originally requested in his evidence is the most appropriate as TLP-P1 relates to residential development within the TLP and therefore cannot be expected to “*protect and enhance*” the natural character and landscapes of the locality of the residential development. Further, Mr Lala considers that the matters of control and discretion and the Architectural and Design Guidelines for TLP are specifically aimed at ensuring that residential development is carefully designed and embedded into the landscape.

Amendments to lot numbering and residential dwelling locations

36. In response to queries from Ms Absolum regarding the clarity of the proposed TLP Precinct Plan 1, Mr Lala notes that this has been reviewed, updated and clarified. This includes updating the numbering of residential lots and subsequent changes to TLP Plan 1 and several of the precinct provisions that refer to lot numbers. Mr Lala advises that the total number of residential lots within the TLP is now 45 (not 46).
37. Mr Lala also notes that the majority of the residential lots on TLP Plan 1 include a red dot which identified the approved building location for future residential developments as well as GPS coordinates of the approved building locations. Residential development that complies with the proposed TLP provisions and building location rule is proposed to be a controlled activity and residential development without an identified building location is proposed to be restricted discretionary activity. However, this approach



has been revised in response to questions from the Hearing Panel about the feasibility of identifying building locations on all of the lots in the TLP.

38. Mr Lala also proposes a 60% residential development footprint standard be included in the TLP provisions. Mr Lala notes that this standard has been taken from the existing resource consent condition and is currently used for development at The Landing. A memorandum from Mr Chesire was also provided at Hearing 15B to illustrate how this standard would work in practice. The Hearing Panel also asked whether it would be valuable to include the diagram in the PDP to assist with interpretation of the standard in the future.

Landscape design guidelines and maximum building height

39. Mr Lala notes that discussions between the landscape experts resulted in clarification that the landscape assessment and associated landscape guidelines in the approved resource consents identified several lots where it was recommended that houses be single-storey or designed in a way that "hugs" the landform. To ensure these requirements are considered as part of TLP, Mr Lala proposes to include the landscape guidelines from the approved resource consents within the Architectural and Landscape Design Guidelines.
40. Mr Lala also proposes to reflect the single-storey recommendations within proposed standards TLP-S1.2 and TLP-S1.3. The proposed wording from Mr Lala is that the building or structure on the affected lots (2, 3, 4 etc.) shall be *"limited to a single level or greater than a single level where it is designed to hug the landform, subject to a maximum height of 9 metres above ground level"*.

Further information provided by MLP LLC following the hearing

41. During Hearing 15B, a range of questions were raised by the Hearing Panel which resulted in MLP LLC agreeing to provide further information and clarification. The additional information was provided by MLP LLC on 18 September 2025 and is summarised in the table below.

Information requested at hearing	Response from MLP LLC
Provide house site location and associated landscape assessments for lots 10-14, 17, 25.	Provided in the updated TLP provisions, the Architectural and Landscape Design Guidelines, and TLP Plan 1.
Confirm lot size on lots 26-45.	Provided in the updated TLP provisions and TLP Plan 1.
Simplification of planning maps, including established planting and planting to be established.	TLP Plan 1 has been simplified and landscaping has been provided in the updated provisions and TLP Plan 2 along



Information requested at hearing	Response from MLP LLC
	with new standard TLP-S3 relating the landscaping.
Analysis of single-story vs 9m height limits to show where 9m high buildings might be in the coastal environment and ONL overlays.	Assessment of sites undertaken in landscape assessment from Mr Lister. Heights are addressed by requiring the maximum building height standard (TLP-S2.2) to meet the relevant provisions of the Architectural and Landscape Design Guidelines. The single-story dwellings are set out in the guidelines.
Include 60% diagram provided in evidence within the TLP provisions.	Provided in the updated provisions and new TLP Plan 3.
Inclusion of cultural recognition/discovery protocols in the TLP.	Provided in the updated TLP provisions – Objective TLP-O1 and Policy TLP-P3.

Analysis

Updated TLP provisions

42. I am supportive of some of the updated TLP provisions provided by MLP LLC on 18 September 2025. This includes:
- Amendments to TLP-O1 and TLP-P3 to provide specific direction on managing effects on historic heritage and cultural values
 - The inclusion of TLP Plan 2 to show the areas that have been vegetated and those areas that are to be vegetated when the residential lots are developed
 - The inclusion of TLP Plan 3 to assist in the interpretation of TLP-S1 in terms of buildings being no more than 60% from the GPS coordinates
 - The inclusion of the “landscape guidelines” within the overall “Landing Precinct Architectural and Landscape Design Guidelines”. Specifically, these landscape guidelines provide more specific guidelines for each lot including to *“Restrict house to single storey or design in a way that hugs the landform”* for certain sites.
43. However, there are also some changes to the TLP provisions that are unclear and which, in my view, require further comment and amendment. Additionally, I note that the updated provisions provided by MLP LLC provided on 18 September include a range of other changes which were not requested from the Hearing Panel or explained in the supporting documents



referred to above. I also received no response from Mr Lala to some outstanding questions on the rationale for the changes in the updated provisions referred to above.

44. Accordingly, I make the following comments and recommendations to the updated TLP provisions:

- a. TLP-P1 – on reflection I accept that the direction to “*protect and enhance*” natural character and landscape values in clauses (5) and (6) is already addressed by other PDP provisions. However, I am still of the view that “*acknowledges and respects*” is vague in terms of the action sought from decision-makers. In this respect, I consider that “*integrates and maintains*” is more appropriate as this is broadly aligned with TLP-O1 and the recommendations to the corresponding objective in the MSP outlined above. I therefore recommend that TLP-R1(5) and (6) is recommended accordingly. I have also recommended amendments to TLP-P1 based on the updated provisions provided by MLP LLC where I consider these add more specificity or clarity (e.g. more specific references to TLP Plan 1 and TLP Plan 2).
- b. TLP-R2 in the updated provisions provided by MLP LLC is a new rule for subdivision of any residential lot in accordance with TLP Plan 1 as a controlled activity. The rationale for this new rule is not explained in the additional information provided by MLP LLC. I therefore do not support its inclusion in the TLP.
- c. TLP-S1 in the updated provisions provided by MLP LLC is a new standard that states that the total number of residential lots is restricted to a maximum of 45. However, this standard is only referred to in TLP-R1 which is a rule for buildings and structures not subdivision, so the intended implementation of this rule is also unclear. I therefore do not support its inclusion in the TLP.
- d. Condition (2) in TLP-S2 in the updated provisions provided by MLP LLC has been amended to remove any reference to single-storey buildings and instead refer to “*subject to meeting the relevant provisions of the Architectural and Landscape Design Guidelines*”. In my view, it is preferable to retain specific reference to the requirements in the landscape guidelines for buildings on specified lots to be single-story or “hug the landform” and I recommend that this wording is retained (shown as TLP-S1 in my recommended amendments to the TLP provisions in Appendix 1.3).
- e. TLP-S4 in the updated provisions provided by MLP LLC sets out requirements for revegetation and planting in accordance with the TLP Plan 2 in conjunction with the construction of residential dwellings within the TLP and I support the intent of this new standard. However, this standard is not referenced in any rule so



would have no practical value. I therefore recommend that this new standard (TLP-S3 in my recommended amendments to the TLP provisions Appendix 1.3) is included in TLP-R1 as a standard that must be complied with as part of the controlled activity consent process for residential units on identified building locations.

45. In terms of the other “unexplained” changes to the TLP provisions from by MLP LLC, I have incorporated certain amendments in the recommended amendments to the TLP provisions in Appendix 1.3 where I consider that these improve clarity, add further specificity, or improve consistency. This includes, for example, amendments to the overview to clarify the purpose of the TLP, amendments to TLP-P1 to provide more specificity as discussed above, and amendments to TLP-R1 to refer to the relevant standards when compliance not achieved with CON-2. However, I have not incorporated the changes from MLP LLC where I consider that these are unclear and unjustified in the context of the outstanding issues discussed at Hearing 15B (including the new subdivision rule and standard referred to above).

TLP Plan 1 and TLP Plan 2

46. I consider that the revised TLP Plan 1 is a substantial improvement compared to earlier iterations which responds to earlier feedback and requests from Ms Absolum and the Hearing Panel at Hearing 15B.
47. A key change in TLP Plan 1 in response to questions from the Hearing Panel is to include a house site location for the lots where this was not specified in the TLP Plan 1 presented at Hearing 15B (lots 10-14, 17, 25), which is supported by a landscape assessment by Mr Lister. Ms Absolum has reviewed the house site locations and evidence of Mr Lister and concludes that the landscape guidelines are appropriate for future residential development, such that consent as a controlled activity consenting pathway for dwellings on the new identified building locations is acceptable for these seven lots. I therefore support the inclusion of these house site locations on TLP Plan 1, associated controlled activity pathway (subject to compliance with the relevant conditions). I also support the incorporation of the landscape guidelines into the wider The Landing Precinct Architectural and Landscape Design Guidelines as outlined above.

Recommendation

48. For the reasons above, I recommend that the provisions in the TLP are amended as set out in Appendix 1.3 to:
- a. Provide more specific direction on managing effects on historic heritage and cultural values (TLP-O1, TLP-P3)
 - b. Include more specific direction on how to provide for residential development within the TLP (TLP-P1)
 - c. Include a new revegetation/planning standard (TLP-S3)



- d. Incorporate other minor amendments to the TLP provisions improve clarity and provide more certainty
- e. Incorporate an updated TLP Plan 1 (residential lot plan) and a new TLP Plan 2 (revegetation/planting plan) and TLP Plan 3 (60% Residential Development Footprint Methodology)
- f. Include the landscape guidelines into the wider The Landing Precinct Architectural and Landscape Design Guidelines.

Section 32AA evaluation

49. The amendments that I am recommending to the TLP provisions and associated plans and guidelines are intended to address issues that have been identified in the Section 42 Report and discussed at Hearing 15B. Overall, these amendments will provide more certainty and clarity on the key outcomes sought within the TLP and how residential development is to be provided for and managed within the identified GPS building locations. Accordingly, I consider that these amendments are an appropriate, effective and efficient way to achieve the relevant PDP objectives in accordance with section 32AA of the RMA.

3.4 Issue 4: Tupou Special Purpose Zone

Overview

Relevant Document	Relevant Section
Section 42A Report – Rezoning Requests New Special Purpose Zones	Section 3.2.6
Evidence and hearing statements with outstanding issues	Green Inc - Mr McPhee (planning), Mr Craig (ecology)

Matters raised in evidence

50. The evidence of Mr McPhee outlines the rational and proposed provisions for a Tupou Special Purpose Zone (**TUPZ**) which he acknowledges was lacking in the Green Inc original submission. Mr McPhee considers that a TUPZ is necessary as the RPROZ and Ecosystems and Indigenous Biodiversity Chapters in the PDP are *"ill-equipped to enable and incentivise this unique, proactive restoration model"*. Mr McPhee states in this evidence that a TUPZ will provide an enabling regulatory pathway for eco-tourism and eco-education activities, which are intended to generate the necessary revenue to support the long-term conservation efforts of the landowner.
51. Overall, Mr McPhee states in his evidence that a TUPZ is an essential bespoke framework in the PDP to provide the regulatory certainty required for long-term success of the project to deliver conservation activities while providing a clear pathway for the eco-tourism and eco-education. This evidence also concludes that the TUPZ meets the criteria in the National



Planning Standards for including additional special purpose zones in district plans.

52. In terms of the rational for the TUPZ provisions, Mr McPhee identifies the following PDP provisions as being unduly constraining on the outcomes sought for Tupou:
- a. RPROZ-R4, RPROZ-R6, and RPROZ-R22 which would require resource consent for eco-tourism and eco-education facilities.
 - b. Indigenous vegetation removal (IB-R1) as this does not provide a permitted activity pathway for indigenous vegetation clearance associated with eco-tourism and eco-education facilities.
 - c. Indigenous vegetation removal within an SNA (IB-R3). Green Inc is concerned that planted indigenous vegetation with Tupou would meet the criteria for significant natural area in the future and therefore any indigenous vegetation removal would be subject to a rigorous/restrictive consenting process despite the wider indigenous biodiversity benefits being achieved at Tupou.
 - d. Earthworks, indigenous vegetation clearance, buildings and structures within "wetland, lakes and river margins" (NATC- R1 and NATC-S2) and with the specified setbacks to Mean High Water Springs (CE-S4).

Analysis

53. As discussed at Hearing 15B, I am supportive of the outcomes sought by Green Inc but am not convinced that a specific SPZ is necessary to achieve those outcomes. I also am of the view that the TUPZ does not meet the criteria in the National Planning Standards for additional special purpose zones in district plans as the activities/outcomes sought can be managed through the underlying RPROZ combined with other spatial layers (including a more targeted set of provisions through a precinct or potentially a specific control layer) or potentially some targeted rules within the RPROZ and Ecosystems and Indigenous Biodiversity Chapters in the PDP.
54. Accordingly, following Hearing 15B, I undertook further engagement and correspondence with Mr McPhee to identify the most appropriate planning solution for Tupou. Through this correspondence, we initially reached broad agreement on some fundamental planning matters to inform the most appropriate planning solution and set of provisions for Tupou:
- a. **A bespoke set of (targeted) provisions is necessary (or at least more effective) to achieve the vision for Tupou:** while the outcomes at Tupou could potentially be achieved through relying on the relevant RPROZ and Ecosystems and Indigenous Biodiversity Chapters in the PDP, this would lack certainty for the landowner and Council processing planners, and provide no direction on the overall



vision for Tupou. It would also make it difficult and potentially confusing to recognise the interconnected nature of the restoration activities undertaken within the Site to achieve a net gain in indigenous biodiversity and the ecotourism and eco-education activities which provide a revenue stream to support those conservation efforts. However, we also agreed that a much more targeted set of bespoke provisions for Tupou will suffice (compared to the provisions originally requested for TUPZ) with the RPROZ provisions generally being relied on except in specific and specified circumstances.

- b. **The key potential regulatory barriers are indigenous vegetation clearance for ecotourism and eco-education:** therefore, a targeted and appropriate regulatory solution is required. More specifically, the agreed solution was to provide a restricted discretionary pathway for indigenous vegetation clearance associated with ecotourism and eco-education activities where the indigenous vegetation has been deliberately planted through the revegetation programme being carried out by the landowner. A restricted discretionary activity consent process will enable this to be accurately assessed, will ensure indigenous vegetation clearance is limited to what is necessary for the ecotourism and eco-education, and will reduce the risk of any unintended outcomes.
 - c. **Ecological concepts and management plan requirements should be retained:** it was agreed that the management plan requirements should be retained as useful mechanisms to achieve and demonstrate the positive conservation outcomes being achieved by the landowner. However, it was agreed that the reference to the Biodiversity Value Index can be removed as is not sufficiently certain in an RMA context, particularly as a permitted activity condition.
 - d. **Overlay provisions will still apply:** it was agreed that parts of the site have importance natural character values therefore the provisions in the Coastal Environment and Natural Character Chapters of the PDP should apply without modification (including the Coastal Environment rules and standards relating to buildings and structures, indigenous vegetation clearance and earthworks).
55. It was then agreed with Mr McPhee that a new "Tupou Precinct" is the most appropriate spatial layer to achieve the outcomes sought and the provisions should be amended to reflect the key changes above. In my view, the key changes outlined above effectively address the concerns I raised with the proposed TUPZ through the Section 42A Report and at Hearing 15B.
56. Accordingly, I recommend that a Tupou Precinct is included in the PDP under the RPROZ heading consistent with other precincts being recommended through Hearing 15B. The recommended provisions for the Tupou Precinct are attached to this reply as **Appendix 1.4**. As noted above, I have



discussed these provisions with Mr McPhee through a number of iterations and meetings and can confirm that there are no outstanding issues with the provisions between us.

Recommendation

57. For the reasons above, I recommend a new Tupou Precinct is included in the PDP under the RPROZ heading with the provisions set out in **Appendix 1.4** of this reply.

Section 32AA evaluation

58. I note that Mr McPhee provided a section 32AA evaluation for the TUPZ in his evidence in chief and has also provided a section 32AA evaluation to assess the changes from the originally proposed TUPZ to the more targeted Tupou Precinct attached as **Appendix 1.4** which I have incorporated into this evaluation.
59. In summary, I agree with Mr McPhee that the Tupou Precinct will have the following benefits:
- a. **Environmental and ecological** - The primary benefit is the large-scale native reforestation and pest control. This will lead to a measurable increase in indigenous biodiversity, improved ecosystem health, and better freshwater quality by reducing erosion and nutrient runoff on steep slopes.
 - b. **Economic** - The Tupou Precinct will help create a high-value ecological asset from land with low agricultural profitability. This will help provide a sustainable revenue stream from eco-tourism and eco-education, which in turn funds the ongoing restoration, including two full-time staff for planting and pest control.
 - c. **Social/Cultural** - The Tupou Precinct will help foster a culture of stewardship (kaitiakitanga) and provide educational opportunities that raise community and visitor awareness about conservation.
60. I also consider that the recommended amendments to the provisions for the Tupou Precinct will be more effective and efficient, in particular:
- a. The change to a Tupou Precinct (compared to SPZ) is more efficient from a plan-drafting perspective as it avoids duplicating rules and aligns with the PDP structure. The Precinct's core objectives are retained, and the "prevail" clauses in the overview section ensure the RPROZ does not undermine the Precinct's specific purpose.
 - b. The change to provide two corresponding restricted discretionary activity rules for ecotourism and associated indigenous vegetation clearance is more efficient through bundling two consent processes into one. While the activity status for the building moves from permitted to restricted discretionary, this is arguably more effective



for achieving the objectives. It allows Council to assess the specific design and location of a building at the same time as it assesses the management plan and indigenous vegetation clearance, ensuring the two are integrated.

- c. The new restricted discretionary approach for indigenous vegetation clearance is more effective at managing risk and providing Council oversight. The "deliberately planted" test is a more robust consenting approach which achieves the project's goal (allowing clearance of regenerating bush for development) while ring-fencing any pre-existing, remnant native bush, which remains fully protected by the (more restrictive) Ecosystems and Indigenous Biodiversity and Coastal Environment chapters. I consider that this a more targeted and environmentally robust outcome.

61. Overall, I consider that the Tupou Precinct and amended provisions provide a more effective and balanced planning solution to achieve the biodiversity and ecotourism outcomes sought for Tupou. In my view, this is more effective and efficient way to achieve the purpose of the RMA and is therefore the most appropriate option in accordance with section 32AA of the RMA.

3.5 Issue 5: Far North Holding Limited Mixed-Use Rezoning Requests

Overview

Relevant Document	Relevant Section
Section 42A Report - Opuia Precinct and Mixed-Use Zone Rezoning	Section 3.2
Evidence and hearing statements with outstanding issues	FNHL - Mr Sanson (planning), Mr Nock (corporate) Ms Bright (lay evidence), and supporting witness statements from Ms Matthews, Ms Burbank and Ms Kinghan

Matters raised in evidence

62. Following Hearing 15B, the Hearing Panel issued Minute 34 which directed expert conferencing in relation to the Bay of Islands Marina Precinct (**BOIMP**) requested by Far North Holding Limited (**FNHL**). Therefore, this right of reply only deals with the outstanding issues in the requests from FNHL for MUZ for the "Opuia Marine Business Park" (as described by FNHL)².

² There are no outstanding issues in relation to the "Colenzo Triangle" and "Opuia Commercial Estate" which I recommended be retained MUZ or rezoned MUZ in the Section 42A Report.



63. This reply also deals with outstanding issues in relation to the request from FNHL for an exemption to the MHWS setback standard (CE-S4) in the Coastal Environment Chapter.

MUZ Rezoning Requests – FNHL evidence

64. In relation to the Opuia Marine Business Park, Mr Sanson addresses the outstanding ecological, infrastructure, transport and landscape issues identified in the Section 42A Report as follows:

- a. **Ecology** - Mr Sanson concurs with the finding in the Section 42A that FNHL has the necessary approvals to undertake works on this site in relation to the existing wetlands and considers that lapse dates and future processes are not relevant.
- b. **Infrastructure** - Mr Sanson agrees with the original intent of the MUZ to be completely serviced with "development infrastructure"³ and that this is consistent the provisions for the MUZ considered and recommended in Hearing 14 (Urban zones). However, Mr Sanson proposes minor amendments to the overview section of the MUZ to recognise that Council does not, and cannot, provide development infrastructure to every site zoned MUZ in all circumstances.
- c. **Transport** - in relation to the concerns from Mr Collins regarding the proposed access from the Opuia Marine Business Park to the State Highway, Mr Sanson is of the view that the correct procedure to consider and address this issue is to rely on the provisions within the Transport Chapter of the PDP. Mr Sanson considers that this approach is appropriate as it will ensure that the New Zealand Transport Agency will be involved and will promote the requirements necessary for their approval at the time of development.
- d. **Landscaping** – Mr Sanson proposes a revised concept for landscaping at the Opuia Marine Business Park to respond to a number of concerns raised by Ms Absolum from a landscape perspective, including the loss of rural character. This revised concept has been informed by an updated memo from Mr Cocker on landscape issues and includes a 30m building setback and a 15m wide landscape buffer along the road frontage which is intended to help integrate the development into its setting. To provide for this revised concept, Mr Sanson proposes a range of amendments to the relevant MUZ provisions and new landscaping standards for the Opuia Marine Business Park within the MUZ provisions as follows:
 - i. Amendments to MUZ-S1 (maximum height) to include two height limits of 12m and 8m at 'Area A' and 'Area B'.

³ As defined in the PDP and National Policy Statement for Urban Development 2020.

- ii. Amendment to MUZ-S3 (setback) to require a 30m setback for buildings to the road boundary.
 - iii. Exemptions to MUZ-S8 and MUZ-S9 to instead apply a specific "landscaping, revegetation and fencing" for the Opuia Marine Business Park (new MUZ-S12).
 - iv. A new standard MUZ-S11 (colour and materials) standard which is based on the equivalent standards in the Coastal Environment and Natural Features and Landscape Chapters.
 - v. A new standard MUZ-S13 (site amenity and design) covering lighting, signage and urban design considerations.
65. Mr Sanson also proposes that the relevant plan for the Opuia Marine Business Park (Appendix 2B in the memo from r Cocker) be incorporated into the PDP as an appendix for reference purposes. This "Proposed Marine Park mitigation concept" plan is provided below.



Opuia Marine Business Park - Ms Bright (FS162)

66. Ms Bright provided lay evidence for Hearing 15B which was supported by witness statements from Ms Matthews, Ms Burbank and Ms Kinghan. The key concern from Ms Bright is the request to rezone the Opuia Marine Business Park to MUZ, although Ms Bright also raises wider concerns with the submissions from FNHL relating to their landholdings in Opuia.
67. The lay evidence from Ms Bright includes a thorough assessment against the rezoning criteria in Minute 14 from the Hearing Panel. This assessment



concludes that the MUZ request will result in a number of adverse effects (ecology, natural character, transport etc.) and would “*enable inappropriate industry in a fragile environment, conflicting with the PDP’s strategic growth directions, and generate significant adverse ecological, amenity, infrastructure, and climate-related effects*”⁴. Ms Bright therefore requests that the MUZ request is declined and that FNDC instead explore opportunities for wetland restoration, enhancement, and recognition of the site as an ecological reserve.

68. The witness statements from Ms Matthews, Ms Burbank and Ms Kinghan raise similar issues about the inappropriateness of rezoning this wetland area for commercial use. The statements also raise broader issues relating to a lack of engagement from FNHL, that there is no need to rezone the area for commercial purposes, infrastructure servicing, noise, lighting and transport effects.

Requested exemption to the MHWS setback

69. Mr Sanson does not agree with the Section 42A Report recommendation to reject the requested exemption from FNHL to the MHWS setback standard in the Coastal Environment Chapter (CE-S4) for the BOIMP. This recommendation was informed by a memo from Ms Andrews raising concerns that buildings within the 26m setback from MHWS have the potential for a range of adverse effects of ecology and should therefore be assessed through a resource consent process.
70. In response, Mr Sanson provides an aerial image depicting the effects of a 30-metre MHWS setback to illustrate how this would limit development within the Marina and/or result in unintended consequences, such as FNHL promoting car-parking along this coastal margin. Mr Sanson considers that the exemption in CE-S4 is appropriate in relation to the Marina for the following reasons:
- a. The Marina has an existing public boardwalk along its coastal extent to provide public access, which is akin to a road but not legally considered one⁵.
 - b. The imposition of a 26m blanket exclusion is incongruent with quality urban design (e.g. could result in the area being set aside for carparking which is not efficient or the best use of this land).
 - c. The Marina is a highly modified, hard engineered, reclaimed port environment, not a natural beach.

⁴ Page 5 of evidence.

⁵ Mr Sanson also makes reference to the recommendations in Hearing 4 to provide an exemption to the MHWS setback when there is a legally formed road between the property and MHWS, which is based on a similar exemption in the ODP.



- d. The matters listed by Ms Andrews as being potential ecological effects within the MHWS are very broad and not specific to the Marina environment.

71. For these reasons, Mr Sanson reiterates his request to exempt the Marina (or the requested BOIMP) from CE-S4.

Analysis

72. In my view, the two key outstanding issues in the evidence and statements summarised above are:

- a. Rezoning the Opuia Marine Business Park site from Rural Lifestyle Zone to MUZ
- b. Exempting the Marina (or BOIMP) from CE-S4 (MHWS setback).

Rezoning the Opuia Marine Business Park to MUZ

73. I agree with Mr Sanson that the main outstanding issues to address in relation to the Opuia Marine Business Park are ecology, infrastructure, transport and landscape as follows:

- a. **Ecology** – Firstly, I acknowledge the concerns of Ms Bright and her supporting witnesses about the loss of wetlands within the Site to urban development. However, as acknowledged in my Section 42A Report, FNHL has existing resource consents from NRC granted that were granted in 2019 which authorise bulk earthworks at the site and I understand the consent conditions include offsetting conditions to remediate the drained and filled wetland and requirements for an “Ecological Restoration Plan”. Accordingly, from an ecological perspective, the ecological effects associated with the earthworks and the draining and filling on the wetland have already been assessed through the existing NRC consents and associated conditions and this forms part of the existing environment.
- b. In my view, it is important from rezoning decisions to consider the existing consented environment. However, should these consents lapse, then any future development within this site affecting the wetlands will require an assessment against the natural inland wetland provisions in National Policy Statement for Freshwater Management 2020 and National Environmental Standards for Freshwater 2020 be required which may result in a different outcome.
- c. **Infrastructure** – I agree with Mr Sanson that it may not be possible for each MUZ to be fully serviced with development infrastructure in all circumstances. However, in my view, this does not warrant specific amendments to the MUZ overview to state that the MUZ is intended for areas serviced by appropriate development



infrastructure or "*on-site infrastructure*". This could also create the risk of indicating that MUZ is appropriate for sites that can provide on-site infrastructure which is not the intent of the PDP. I understand that Mr Sanson now agrees that this amendment to the overview section of the MUZ is not required.

- d. **Transport** – I have sought advice from Mr Collins on outstanding traffic matters in relation to the Opuia Marine Business Park. Mr Collins still raises a concern that the existing crossing is only for the existing land-use, which is a low trip generator, the location does not provide sufficient sight distance, and it is not safe for more intensive traffic movements. However, Mr Collins is comfortable that the provisions in the Transport Chapter in the PDP can adequately address this issue to ensure that safe and efficient access onto SH11 can be provided.
- e. **Landscape** – at Hearing 15B, Ms Absolum provided a memo addressing the revised landscape proposal from FNHL for the Opuia Marine Business Park and the memo from Mr Cocker. Ms Absolum identifies a number of differences between the two memos from Mr Cocker but is comfortable with the revised proposal for a 30m building setback to the road combined with a 15m wetland/landscape planting area will address the identified landscape issues. More specifically, Ms Absolum states in her memo that "*Although new buildings will potentially be 10m closer to the road than shown in the earlier plan, the depth of planting along road frontage, together with the building height restrictions shown in the revised Figure 3, will ensure development is integrated into its landscape setting*". Ms Absolum does however identify some issues and uncertainties with the new landscape standards.

74. I have subsequently discussed the proposed MUZ standards for the Opuia Marine Business Park with Ms Absolum. In summary, while I support the intent of the proposed standards, some further amendments and clarifications are required as follows:

- a. **MUZ-S12** – condition 3 states "*Native revegetation planting using locally appropriate species is required along the western, south-western, and southern edges of the development area*". However, it is unclear from this wording where the planting is required, and the stated directions do not align with Figure 2B in Mr Cocker's evidence. Therefore, in my view, it would be clearer and more certain to include the plan in the PDP (as requested by Mr Sanson) and amend the condition to read "*Native revegetation planting using locally appropriate species must be established and maintained in the areas shown in Appendix x – Opuia Marine Park Business Park*".
- b. **MUZ-S13** – Ms Absolum recommends that this standard is restructured so that condition 3 (as the more important, overarching



condition) is first. Ms Absolum also recommends that a new condition is added as condition 2 based on her earlier advice as follows: *"the layout of the proposed built development will ensure that rear yards are not visible from Paihia Road."* I support these recommendations and recommend that the proposed MUZ-S13 from FNHL is amended accordingly.

75. Overall, I am satisfied that the outstanding issues with the Opuia Marine Business Park identified in my Section 42A Report have been adequately addressed, noting the regulatory situation may become quite different if the existing NRC consents authorising the earthworks and modifications of the wetlands lapse. I therefore recommend that the Opuia Marine Business Park is rezoned MUZ with additional landscaping standards included in the MUZ Chapter as shown in **Appendix 1.5**.

Exemption to MHWS setback (CE-S4)

76. On further reflection, I consider that it is appropriate to exempt the Marina (or more specifically the BOIMP I am now recommending) from the MHWS setbacks in CE-S4, which is the same in practical terms as reinstating the Marina Exemption Area from the ODP for Opuia Marina. My reason for this revised position is that I consider the updated provisions for the BOIMP recommended through expert conferencing will provide a robust consenting framework for future development of the BOIMP, including along the coastal edge. I also agree with some of the reasons for this exemption cited by Mr Sanson, including the potential for perverse urban design outcomes where carparking is increased along the coastal edge and the Marina being a highly modified coastal environment. I therefore recommend that the BOIMP (as recommended through expert conferencing following Hearing 15B) is exempt from CE-S4.

Recommendation

77. For the reasons above, I recommend:

- a. The Opuia Marine Business Park is rezoned MUZ with additional landscaping standards included in the MUZ Chapter as shown in **Appendix 1.5** along with the landscape plan discussed above.
- b. CE-S4 is amended to provide an exemption for the BOIMA (as recommended through expert conferencing).

Section 32AA evaluation

78. The amendments that I am recommending rezone Opuia Marine Business Park to MUZ have been informed by expert advice with additional standards recommended to ensure that the landscape and visual effects of the rezoning will be appropriately managed. The amendments to CE-S4 I am recommending reinstate the existing exemption in the ODP and aim to align with the BOIMA recommended through expert conferencing to provide a robust consenting framework for future development of the BOIMP,



including along the coastal edge. Accordingly, I consider that these amendments are appropriate, effective and efficient way to achieve the relevant PDP objectives in accordance with section 32AA of the RMA.