

## Appendix 2 – Officers Recommended Amendments to Treaty Settlement Land Overlay Chapter

Note the below provisions represent the Section 42A Report Writing Officer's recommended amendments to the provisions of the Proposed District Plan, in response to submissions (with underline used for new text and ~~strikethrough~~ for deleted text). Recommendations made through the Reporting Officer's right of reply are shown in red underline for new text and ~~red-strikethrough~~ for deleted text.

### Overview

The Far North District has six Iwi Authorities (Te Roroa, Ngāti Kuri, Te Aupōuri, Ngāi Takoto, Te Rarawa and Ngāti Kahurangi Whangaroa) who have reached treaty settlement with the Crown and for whom legislation has been enacted. The largest Iwi Authority, Ngāpuhi is yet to settle.

The land included in this overlay has been returned through the settlement process either as cultural or ~~economic~~ commercial redress. Land tenure is predominantly general title and is governed by a post-settlement governance entity which differs from Māori Purpose zoned land which is administered under Te Ture Whenua Māori Act 1993.

As part of the settlement process, iwi authorities may have the first right of refusal on further land if it was specified in their settlement. Should further land need to be incorporated into this overlay, Council will initiate the plan change process to apply the Treaty Settlement Land overlay to the returned land. The underlying zone provisions apply to Treaty Settlement Land unless otherwise specified in these overlay provisions.

If ~~economic~~ commercial redress land is sold post settlement then the overlay provisions and framework will no longer apply.

The Treaty Settlement Land overlay recognises the importance of Treaty Settlement claims and the cultural and commercial redress lands that are returned to Iwi Authorities as kaitiaki and custodians on behalf of tangata whenua.

The majority of Treaty Settlement land is located in the Rural Production and Natural Open Space Zones. The Treaty Settlement Land Overlay is intended to enable use and development of the land to support Māori in providing for their social, economic, cultural and environmental wellbeing. As such, the overlay anticipates the development of activities such as papakāinga, marae, community facilities, commercial activities and other cultural activities that support the economic, social, environmental and cultural wellbeing of tangata whenua.

The Council has responsibilities under Te Tiriti / the Treaty, the Act and the Northland Regional Policy Statement to provide for the use and development of Treaty Settlement Land.

Objectives	
TSL-O1	The viability of Treaty Settlement Land is ensured for future generations.
TSL-O2	Treaty Settlement Land <del>returned as commercial redress supports</del> <u>enables a range of</u> social, cultural, <u>environmental</u> <sup>1</sup> and economic development.

<sup>1</sup> TACD Ltd (S339.035), TRONT Trust (S390.067), TRAION (S498.068) & TROW (S486.081)

<b>TSL-O3</b>	Treaty Settlement Land <del>returned as cultural redress</del> provides for the on-going relationship tangata <u>tangata</u> <sup>2</sup> whenua has with their land.
<b>TSL-O4</b>	Use and development on Treaty Settlement Land reflects the sustainable <del>carrying</del> <u>servicing</u> <sup>3</sup> capacity of the land and surrounding environment.
<b>Policies</b>	
<b>TSL-P1</b>	<del>Provide for</del> <u>Enable</u> the <u>occupation</u> , use and development of Treaty Settlement Land.
<b>TSL-P2</b>	Enable a range of activities on Treaty Settlement Land including marae, papakāinga, customary use, cultural, and <del>small-scale</del> <sup>4</sup> <u>small scale and other</u> commercial activities where the adverse effects can be avoided, remedied or mitigated
<b>TSL-P3</b>	Provide for <u>occupation, use and</u> development on Treaty Settlement Land where it is demonstrated that: <ul style="list-style-type: none"> <li>a. it is compatible with surrounding activities;</li> <li>b. it will not compromise the occupation, development and use of Treaty Settlement Land;</li> <li>c. it will not compromise the underlying zone, adjacent land or other zones to be efficiently or effectively used for their intended purpose;</li> <li>d. any values identified through cultural redress are maintained;</li> <li>e. it maintains the character and amenity of surrounding area;</li> <li>f. it provides for community wellbeing, health and safety;</li> <li>g. it can be serviced by onsite infrastructure or reticulated infrastructure where this is available; and</li> <li>h. any adverse effects can be avoided, remedied or mitigated.</li> </ul>
<b>TSL-P4</b>	<del>Manage land use and subdivision to address the effects of the activity requiring resource consent, including (but not limited to) consideration of</del> Consider the following matters where relevant <u>when assessing and managing the effects on the Treaty settlement land overlay to the application</u> : <sup>5</sup> <ul style="list-style-type: none"> <li>a. consistency with the scale, density, design and character of the environment and purpose of the zone;</li> <li>b. the location, scale and design of buildings or structures;</li> <li>c. the positive effects resulting from the economic, social, <u>environmental</u><sup>6</sup> and cultural wellbeing provided by the proposed activity;</li> <li>d. managing reverse sensitivity effects on adjacent land uses, including: <ul style="list-style-type: none"> <li>a. any setbacks, fencing, screening or landscaping required to address potential conflicts with adjacent land uses;</li> <li>b. the ability of surrounding properties to undertake primary production activities in a rural environment;</li> </ul> </li> <li>e. the adequacy and capacity of available or programmed development infrastructure to accommodate the proposed activity; or the capacity of the site to cater for on-site infrastructure associated with the proposed activity;</li> <li>f. the adequacy of roading infrastructure to service the proposed activity;</li> <li>g. managing natural hazards;</li> <li>h. any loss of highly productive land;</li> </ul>

<sup>2</sup> FNDC (S368.038)

<sup>3</sup> TRAION (S498.069), TRONT Trust (S390.068) & TROW (S486.082)

<sup>4</sup> TACD Ltd (339.039)

<sup>5</sup> Clause 16 update

<sup>6</sup> Consequential amendment

	<p>i. adverse effects on areas with historic heritage and cultural values, natural features and landscapes, natural character or indigenous biodiversity values; and</p> <p>j. any historical, spiritual, or cultural association held by tangata whenua, with regard to the matters set out in Policy TW-P6.</p>
<b>Rules</b>	

**Notes:**

1. There may be rules in other District-Wide Matters that apply to a proposed activity, in addition to the rules in this chapter. These other rules may be more stringent than the rules in this chapter. Ensure that the other relevant District-Wide Matters chapters are also referred to, in addition to this chapter, to determine whether resource consent is required under other rules in the District Plan. Refer to **Note 2 above**, and the<sup>7</sup> *how the plan works* chapter to determine the activity status of a proposed activity where resource consent is required under multiple rules.
2. The following provisions apply to land identified by the Treaty Settlement land overlay. Applicants may need to provide documentation in the form of final deeds of settlement, associated settlement legislation and confirmation that the land is still held with the post-settlement governance entity.
3. The provisions of the underlying zone apply to Treaty Settlement Land unless otherwise specified in this section. The rules provide that where the activity for the relevant zone provides for the same activity, or where there is conflict between a rule or standard in the underlying zone chapter, the less restrictive rule applies.

<b>TSL-R1</b>	<b>New buildings or structures, relocated buildings and or<sup>8</sup> extensions or alterations to an existing building or structure</b>	
<b>Treaty Settlement Land overlay</b>	<p><b>Activity status: Permitted</b></p> <p><b>Where:</b> <b>PER-1</b> The new building or structure, <u>relocated buildings</u>, or extension or alteration to an existing building or structure, will accommodate a permitted activity, <u>controlled or restricted discretionary activity</u>.<sup>9</sup></p> <p><b>PER-2</b> The new building or structure, or extension or alteration to an existing building or structure, complies with standards: TSL-S1 Maximum height; TSL-S2 Height in relation to boundary; TSL-S3 Setbacks (excluding from MHWS or wetland, lake and river margins); <del>TSL-S4 Setback from MHWS<sup>10</sup></del>; TSL-S5 Building or structure coverage; and TSL-S6 On-site servicing.<sup>11</sup></p>	<p><b>Activity status where compliance not achieved with PER-2: Restricted Discretionary</b></p> <p><b>Matters of discretion are restricted to:</b></p> <p>a. the matters of discretion of any infringed standard.</p> <p><b>Activity status where compliance not achieved with PER-1: Discretionary</b></p>
<b>TSL-R2</b>	<b>Impermeable surfaces</b>	

<sup>7</sup> FNDC (S368.039) and Summit (S148.041)

<sup>8</sup> Clause 16 amendment

<sup>9</sup> Clause 16 amendment

<sup>10</sup> John Andrew Riddell (S431.120)

<sup>11</sup> Clause 16 amendment

Treaty Settlement Land overlay	<p><b>Activity status: Permitted</b></p> <p><b>Where:</b></p> <p><b>PER-1:</b> The impermeable surface coverage of any site is no more than 35%.</p> <p><b>Except that:</b> On sites less than 5000m<sup>2</sup> containing marae, the impermeable surface coverage is no more than 50%.</p>	<p><b>Activity status where compliance not achieved with PER-1: Restricted Discretionary</b></p> <p><b>Matters of discretion are restricted to:</b></p> <ul style="list-style-type: none"> <li>a. the extent to which landscaping or vegetation may reduce adverse effects of run-off;</li> <li>b. the effectiveness of the proposed method for controlling stormwater on site;</li> <li>c. the availability of land for disposal of effluent and stormwater on site without adverse effects on adjoining waterbodies (including groundwater and aquifers) or on adjoining sites <u>or downstream sites</u>; <sup>12</sup></li> <li>d. whether low impact design methods and green spaces can be used;</li> <li>e. any cumulative effects on total catchment impermeability; and</li> <li>f. natural hazard mitigation and site constraints.</li> </ul>
TSL-R3	<b>Residential activity (except for papakāinga)</b>	
Treaty Settlement Land overlay	<p><b>Activity status: Permitted</b></p> <p><b>Where:</b></p> <p><b>PER-1</b> On sites less than 1200m<sup>2</sup>, the site area per standalone residential unit or multi-unit development is at least 600m<sup>2</sup>.</p> <p><b>PER-2</b> The number of residential units on any site does not exceed six.</p> <p><b>Note: PER-1 and PER-2 do not apply to:</b></p> <ul style="list-style-type: none"> <li>• a single residential unit located on any site less than the minimum site area.</li> <li>• papakāinga provided for in Rule TSL-P4.</li> </ul>	<p><b>Activity status where compliance not achieved with PER-1 or PER-2: Discretionary</b></p>
TSL-R4	<b>Papakāinga</b>	
Treaty Settlement	<p><b>Activity status: Permitted</b></p> <p><b>Where:</b></p>	<p><b>Activity status where compliance not achieved with PER-1 or PER-2: Restricted Discretionary</b></p>

<sup>12</sup> S481.001

<b>Land overlay</b>	<p><b>PER-1</b> The number of residential units does not exceed the greater of:</p> <ul style="list-style-type: none"> <li>a. 10 residential units per site; or</li> <li>b. one residential unit per 40ha of site area.</li> </ul> <p><b>PER-2</b> Any commercial activity associated with the papakāinga does not exceed a GBA of 250m<sup>2</sup>.</p>	<p><b>Matters of discretion are restricted to:</b></p> <ul style="list-style-type: none"> <li>a. The matters set out in policy TSL-P4.</li> </ul>
<b>TSL-R5</b>	<b>Visitor accommodation</b>	
<b>Treaty Settlement Land overlay</b>	<p><b>Activity status: Permitted</b></p> <p><b>Where:</b></p> <p><b>PER-1</b> The occupancy does not exceed <del>six</del> <u>ten</u> guests per night.</p> <p><b>Note:</b> PER-1 does not apply to marae provided for under TSL-R6.</p>	<b>Activity status where compliance not achieved: Discretionary</b>
<b>TSL-R6</b>	<b>Marae</b>	
<b>Treaty Settlement Land overlay</b>	<b>Activity status: Permitted</b>	<b>Activity status where compliance not achieved: Not applicable</b>
<b>TSL-R7</b>	<b>Community facility</b>	
<b>Treaty Settlement Land overlay</b>	<b>Activity status: Permitted</b>	<b>Activity status where compliance not achieved: Not applicable</b>
<b>TSL-R8</b>	<b>Customary activity</b>	
<b>Treaty Settlement Land overlay</b>	<b>Activity status: Permitted</b>	<b>Activity status where compliance not achieved: Not Applicable</b>
<b>TSL-R9</b>	<b>Ururū</b>	
<b>Treaty Settlement Land overlay</b>	<b>Activity status: Permitted</b>	<b>Activity Status where compliance not achieved: Not applicable</b>
<b>TSL-R10</b>	<b>Conservation activity</b>	
<b>Treaty Settlement Land overlay</b>	<b>Activity status: Permitted</b>	<b>Activity status where compliance not achieved: Not applicable</b>

<b>TSL-R11</b>	<b>Educational facility</b>	
<b>Treaty Settlement Land overlay</b>	<b>Activity status: Permitted</b>  <b>Where:</b>  <b>PER-1</b> The educational facility is within a residential unit or accessory building.  <b>PER-2</b> The number of persons attending at any one time does not exceed four, excluding those who reside on site.  <u><b>Note: These standards PER-1 and PER-2 do not apply to: Kōhanga reo, Kura Kaupapa, Whare Wānanga activities<sup>13</sup>.</b></u>	<b>Activity status where compliance not achieved with PER-1 or PER-2: Discretionary</b>
<b>TSL-R12</b>	<b>Commercial activity</b>	
<b>Treaty Settlement Land overlay</b>	<b>Activity status: Permitted</b>  <b>Where:</b>  <b>PER-1</b> The commercial activity does not exceed a <b>GBA GFA</b> of 250m <sup>2</sup> .	<b>Activity status where compliance not achieved with PER-1: Discretionary</b>
<b>TSL-R13</b>	<b>Rural tourism activity</b>	
<b>Treaty Settlement Land overlay</b>	<b>Activity status: Permitted</b>  <b>Where:</b>  <b>PER-1</b> The rural tourism activity does not exceed a <b>GBA GFA</b> of 250m <sup>2</sup> .	<b>Activity status where compliance not achieved with PER-1: Discretionary</b>
<b>TSL-R14</b>	<b><del>Activities not otherwise listed in this chapter<sup>14</sup></del></b>	
<b>Treaty Settlement Land overlay</b>	<b><del>Activity status: Discretionary</del></b> -	<b><del>Activity status where compliance not achieved: Not applicable</del></b>
<b>TSL-R15</b>	<b>Offensive trade</b>	
<b>Treaty Settlement Land overlay</b>	<b>Activity status: Non-complying</b>	<b>Activity status where compliance not achieved: Not applicable</b>
<b>Standards</b>		
<b>TSL-S1</b>	<b>Maximum height</b>	

<sup>13</sup> S486.087, S339.046, S390.073 and S498.074

<sup>14</sup> Horticulture NZ (S159.094)

<b>Treaty Settlement Land overlay</b>	<p>The maximum height of the building or structure, or extension or alteration to an existing building or structure, is 12m above ground level.</p> <p><b>This standard does not apply to:</b></p> <ul style="list-style-type: none"> <li>i. pou haki provided that they do not exceed the height limit by more than 1m;</li> <li>ii. solar and water heating components provided these do not exceed the height by more than 0.5m on any elevation;</li> <li>iii. chimney structures not exceeding 1.2m in width and 1m in height on any elevation;</li> <li>iv. satellite dishes and aerials that do not exceed 1m in height and/or diameter on any elevation; and</li> <li>v. architectural features (e.g. koruru, finials, spires) that do not exceed 1m in height on any elevation.</li> </ul>	<p><b>Where the standard is not met, matters of discretion are restricted to:</b></p> <ul style="list-style-type: none"> <li>a. the character and amenity of the surrounding built environment;</li> <li>b. dominance in relation to the road and adjoining sites;</li> <li>c. loss of privacy to adjoining sites, including potential loss in relation to vacant sites;</li> <li>d. shading and loss of access to sunlight for adjoining sites;</li> <li>e. landscaping; and</li> <li>f. natural hazard mitigation and site constraints.</li> </ul>
<b>TSL-S2</b>	<b>Height in relation to boundary</b>	
<b>Treaty Settlement Land overlay</b>	<p>The building or structure, or extension or alteration to an existing building or structure, must be contained within a building envelope defined by recession planes measured inwards from the respective boundary:</p> <ul style="list-style-type: none"> <li>1. 55 degrees at 2m above ground level at the northern boundary of the site.</li> <li>2. 45 degrees at 2m above ground level at the eastern and western boundaries of the site.</li> <li>3. 35 degrees at 2m above ground level at the southern boundary of the site.</li> </ul> <p><b>This standard does not apply to:</b></p> <ul style="list-style-type: none"> <li>i. pou haki provided that they do not exceed the height limit by more than 1m;</li> <li>ii. solar and water heating components provided these do not exceed the height by more than 0.5m on any elevation;</li> <li>iii. chimney structures not exceeding 1.2m in width and 1m in height on any elevation;</li> <li>iv. satellite dishes and aerials that do not exceed 1m in height and/or diameter on any elevation;</li> <li>v. architectural features (e.g. koruru, finials, spires) that do not exceed 1m in height on any elevation;</li> <li>vi. a building or structure exceeding this standard for a maximum distance of 10m along any one boundary other than a road boundary, provided that the maximum height of any building or structure where it exceeds the standard is 2.7m.</li> </ul>	<p><b>Where the standard is not met, matters of discretion are restricted to:</b></p> <ul style="list-style-type: none"> <li>a. loss of privacy to adjoining sites, including potential loss in relation to vacant sites;</li> <li>b. shading and loss of access to sunlight to adjoining sites, including buildings and outdoor areas; and</li> <li>c. natural hazard mitigation and site constraints.</li> </ul>
<b>TSL-S3</b>	<b>Setback (excluding from MHWS or wetland, lake and river margin)</b>	



<b>Treaty Settlement Land overlay</b>	<p>The building or structure, or extension or alteration to an existing building or structure, must be set back at least 10m from all site boundaries, except:</p> <ul style="list-style-type: none"> <li>i. where a boundary adjoins an unsealed road, habitable buildings must be setback at least 30m from the road;</li> <li>ii. where a site is less than 5,000 m<sup>2</sup>, buildings must be setback at least 3 m from boundaries that do not adjoin a road or a site within the Rural Production Zone.</li> <li>iii. that no setback is required for a maximum of 10m along any one boundary, other than a road boundary.</li> </ul> <p><b>This standard does not apply to:</b></p> <ul style="list-style-type: none"> <li>i. urupā;</li> <li>ii. fences or walls no more than 2m in height above ground level; and</li> <li>iii. uncovered decks less than 0.5m in height above ground level.</li> </ul>	<p><b>Matters of discretion are restricted to:</b></p> <ul style="list-style-type: none"> <li>a. the character and amenity of the surrounding area;</li> <li>b. screening, planting and landscaping on the site;</li> <li>c. the design and siting of the building or structure with respect to privacy and shading;</li> <li>d. natural hazard mitigation and site constraints;</li> <li>e. the effectiveness of the proposed method for controlling stormwater;</li> <li>f. the safety and efficiency of the current or future access, egress on site and the roading network; and</li> <li>g. the impacts on existing and future esplanade reserves, esplanade strips and public walkways.</li> </ul>
<b>TSL-S4</b>	<b>Setback from MHWS<sup>15</sup></b>	
<b>Treaty Settlement Land overlay</b>	<p>The building or structure, or extension or alteration to an existing building or structure, must be set back at least 26m from MHWS.</p> <p>-</p> <p>-</p> <p>-</p>	<p><b>Where the standard is not met, matters of discretion are restricted to:</b></p> <ul style="list-style-type: none"> <li>a. the natural character of the coastal environment;</li> <li>b. screening, planting and landscaping on the site;</li> <li>c. the design and siting of the building or structure with respect to dominance on adjoining public space;</li> <li>d. natural hazard mitigation and site constraints;</li> <li>e. the effectiveness of the proposed method for controlling stormwater; and</li> <li>f. the impacts on existing and planned roads, public walkways, reserves and esplanades.</li> </ul>
<b>TSL-S5</b>	<b>Building or structure coverage</b>	
<b>Treaty Settlement Land Overlay</b>	<p>The combined building or structure coverage of the site is no more than 50%.</p>	<p><b>Where the standard is not met, matters of discretion are restricted to:</b></p> <ul style="list-style-type: none"> <li>a. the character and amenity of the surrounding area;</li> </ul>

<sup>15</sup> Consequential amendment resulting from Coastal Environment section 42A report under clause 10(2)(b), Schedule 1, RMA.



		<ul style="list-style-type: none"> <li>b. any landscaping, planting and screening to mitigate any adverse effects;</li> <li>c. the extent to which private open space can be provided for future uses;</li> <li>d. the extent to which the siting, setback and design mitigate visual dominance on adjacent sites and surrounding environment; and</li> <li>e. natural hazard mitigation and site constraints.</li> </ul>
<b>TSL-S6</b>	<b>On-site services <u>Servicing</u><sup>16</sup></b>	
<b>Treaty Settlement Land overlay</b>	<p><b>Wastewater</b></p> <p>1. Where a connection to Council's reticulated wastewater systems is not available:</p> <ul style="list-style-type: none"> <li><del>a. any residential unit has a minimum exclusive use area of 2,000m<sup>2</sup> for on-site wastewater treatment and disposal.</del></li> <li>b. all wastewater treatment and disposal systems must be contained within the site. <del>that the system serves, and be connected to a septic tank or soakage field or an approved alternative means to dispose of sewage in a sanitary manner in accordance with Far North District Council Engineering Standards April 2022.</del></li> <li>c. <del>where sewage is to be disposed to ground, the receiving area must not be:</del> <ul style="list-style-type: none"> <li>i. <del>land susceptible to instability; or</del></li> <li>ii. <del>an area identified in the District Plan as subject to inundation; or</del></li> <li>iii. <del>used for the disposal of stormwater.</del></li> </ul> </li> <li>a. <del>A site suitability report for on-site wastewater disposal, prepared by a suitably qualified and experienced person, to demonstrate compliance with the above standards, shall be submitted to Council for approval at time of building consent.</del></li> </ul> <p><b>Water</b></p> <p>2. Where a connection to Council's reticulated water systems is not available, all residential units shall have access to potable (drinkable) water. <del>from a community water scheme or private water bore or shall be able to store 45,000 litres of potable water from another source.</del></p>	<p><b>Where the standard is not met, matters of discretion are restricted to:</b></p> <ul style="list-style-type: none"> <li>a. the ability to ensure an adequate supply of potable water for the uses of the site or activity;</li> <li>b. the security of any proposed potable water supply from contamination;</li> <li>c. the adequacy of storage volume of water for domestic and fire-fighting purposes; and</li> <li>d. the ability to ensure the avoidance of soil contamination or any other adverse effects from the discharge of any wastewater or stormwater.</li> <li>e. <u>the suitability of an alternative wastewater disposal system</u></li> <li>f. <u>the extent to which stormwater runoff from the site may adversely affect adjoining or downstream sites.</u></li> </ul>

<sup>16</sup> TACD Ltd (S339.049)

	<p><b>Stormwater</b></p> <p>4. Where a connection to Council's reticulated stormwater system is not available then stormwater must be disposed of <u>within the site</u>. in accordance with <del>Far North District Engineering Standards 2022</del>.</p> <p><b><u>An engineering / site suitability report is required to determine compliance with these standards</u></b></p>	
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