



## **SECTION 42A REPORT**

### **Report to the Hearings Panel – Late Submissions**

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Date: 19 December 2023



## Introduction

This report is prepared to provide to the Hearings Panel Chair a schedule of late submissions, the dates on which they were received, a brief summary of the relief sought and a recommendation, with reasons, as to whether or not the Hearing Panel Chair should accept each of the late submissions. This report considers late submissions that were received by the Far North District Council (“Council”) to the Far North Proposed District Plan (“the Plan”). The Plan was publicly notified on Wednesday the 27 of July 2022. The process was open for 60 working days and the closing date for lodging submissions was Friday the 21 of October 2022. There were 580 submissions received on the Plan.

The submissions were publicly notified for further submission on Monday the 7 of August 2023. The process was open for 20 working days and closed on Monday the 4 of September 2023.

This report has been prepared under section 42A of the Resource Management Act 1991 (“RMA”), to assist the Hearings Panel to decide whether it should waive the failure to comply with the time limits as provided for under sections 37 and 37A of the RMA. This report includes recommendations from the planner who prepared this report and identifies the late submissions that are recommended to be accepted. The recommendations contained in this report are not decisions of the Hearings Panel Chair. Where the Hearings Panel Chair decides to waive the failure of submissions to comply with the time limit and accept the submissions, the content of those submissions (in particular, the decisions requested) will be considered in subsequent Section 42A hearing reports.

## 1. Statutory Framework

This section of the report sets out the statutory framework within which the council must consider whether to allow late submissions. The starting point is Clause 1 of Schedule 1 of the RMA which states that where any time limit is set in this Schedule, a local authority may extend it under Section 37 of the RMA. Sections 37 and 37A deal with the power and requirements of a waiver and extension of time limits. Section 37(1)(a) states:

*A consent authority or local authority may, in any particular case, -*

- a) extend a time period specified in this Act or in regulations, whether or not the time period has expired; or*
- b) waive a failure to comply with a requirement under this Act, regulations, or a plan for the time or method of service of documents.*

Section 37A then sets out the requirements for waivers and extensions as follows:

- (1) A consent authority or local authority must not extend a time limit or waive compliance with a time limit, a method of service, or the service of a document in accordance with section 37 unless it has taken into account –*
  - (a) the interests of any person who, in its opinion, may be directly affected by the extension or waiver; and*
  - (b) the interests of the community in achieving adequate assessment of the effects of a proposal, policy statement, or plan; and*
  - (c) its duty under section 21 to avoid unreasonable delay.*



- (2) *A time period may be extended under section 37 for –*
- (a) *a time not exceeding twice the maximum time period specified in this Act; or*
  - (b) *a time exceeding twice the maximum time period specified in this Act if the applicant or requiring authority requests or agrees...*
- (6) *A consent authority or a local authority must ensure that every person who, in its opinion, is directly affected by the extension of a time limit or the waiver of compliance with a time limit, a method of service, or the service of a document is notified of the extension or waiver.*

It is noted that there is no maximum time period specified in the RMA for submissions and therefore section 37A(2) does not apply. Rather, the Act specifies that the closing date for submissions on a proposed plan shall be at least 40 working days after public notification (refer Clause 5(3) of Schedule 1 of the RMA).

## Consideration of late submissions

Twenty-seven **original submissions** were received after Friday the 21 of October 2022. These are categorised as follows:

**Category A-** This category contains original submissions received within 1 week of the closing date of Friday the 21 of October 2022, but before the Summary of Decisions Requested (SDR) was released on the 7 of August 2023. These were included in the SDR. There are **9** submissions in this category.

**Category B –** This category contains original submissions received more than 1 week past the closing date, but before the SDR was released on the 7 of August 2023. These were included in the SDR. There are **13** submissions in this category.

**Category C –** This category contains original submissions received more than 1 week past closing date, but before the SDR was released on the 7 of August 2023, however they were missed / omitted from the SDR. There are **2** submissions in this category.

**Category D –** This category contains very late original submissions which were received after the SDR was released on the 7 of August 2023 and were not included in original SDR. There are **3** submissions in this category.

Sixteen **further submissions** were received after Monday the 4 of September 2023. These are categorised as follows:

**Category E -** This category contains late further submissions received within 1 week of the closing date of Monday the 4 of September 2023. There are **8** further submissions in this category.

**Category F -** This category contains late further submissions received later than 1 week after the closing date of Monday the 4 of September 2023. There are **8** further submissions in this category.

The Hearings Panel Chair has requested Council compile a schedule of these late submissions, the dates on which they were received, a brief summary of the relief sought and a recommendation as



to whether or not the Hearing Panel should accept each of the late submissions. The details of each of the late submissions in accordance with the Hearings Panel directions are outlined in the table below.

The nature and content of the late submissions vary; many are site specific and relate to one particular property, while others address District-wide matters.



Category A Submissions - received within 1 week of the closing date of Friday the 21 of October 2022 (9 submissions)				
Submitter Number	Submitter Name	Date Received by Council	Summary of Submission	Recommendation
S561	Kainga Ora Homes and Communities	21/10/22 (after 5.00)	<p>Various district wide and site-specific submission points: 124 submission points covering a range of provisions including:</p> <ul style="list-style-type: none"> <li>• Planning maps – Kāinga Ora properties</li> <li>• Definitions</li> <li>• Tangata Whenua</li> <li>• Strategic Direction</li> <li>• Energy, Infrastructure and Transport</li> <li>• Hazards and Risks</li> <li>• Subdivision</li> <li>• District wide matters</li> <li>• Zones</li> </ul>	Accept as a submission and allow the matters raised to be addressed through the hearing process.
S559	Te Rūnanga o Ngāti Rēhia	21/10/22 (after 5.00)	<p>Various district wide submission points: 52 submission points covering a range of provisions including:</p> <ul style="list-style-type: none"> <li>• Strategic Direction</li> <li>• Tangata Whenua</li> <li>• Climate change</li> <li>• Natural Hazards</li> <li>• Zones</li> <li>• Housing</li> <li>• Public Access</li> <li>• Sites and Areas of Significance to Māori</li> <li>• Kauri Cliffs Special Purpose Zone</li> <li>• Definitions</li> </ul>	Accept as a submission and allow the matters raised to be addressed through the hearing process.



Submitter Number	Submitter Name	Date Received by Council	Summary of Submission	Recommendation
S558	John Neison	21/10/2022	Site specific: Amend zoning of Lot 1001 DP 532487 (Tubbs Farm, Kapiro Road) to Horticulture or rural Production Zones.	Accept as a submission and allow the matters raised to be addressed through the hearing process.
S560	Jane Johnston	21/10/2022	District wide: Adjust required parking provisions in Part 2 – District Wide Matters – Transport Section Reduce area covered by the proposed Mixed-Use Zone in Part 3 – Area Specific Matters. Provide for high density residential zone in Part 3 – Area Specific Matters – Residential Section Provide for a specific purpose tourist resort zone - Part 3 – Area Specific Matters – Mixed-Use Zone Part 3 - Area Specific Matters – Specific-Purpose Zones	Accept as a submission and allow the matters raised to be addressed through the hearing process.
S563	Anna Clarke	21/10/2022	District wide: Light – amend overview to include comment that poorly designed night time lighting can have adverse effects on safety and the significant natural and cultural heritage value of clear night sky observation. Council to adopt lighting standards and guidelines in line with international best practice.	Accept as a submission and allow the matters raised to be addressed through the hearing process.
S564	Jeff Christiansen	21/10/2022	Site specific: Amend zoning of Lot 1001 DP 532487 (Tubbs Farm, Kapiro Road) to Horticulture or Rural Production Zones.	Accept as a submission and allow the matters raised to be addressed through the hearing process.



Submitter Number	Submitter Name	Date Received by Council	Summary of Submission	Recommendation
S566	Karen Wilkinson	23/10/2022	District wide: Delete any objective, policy or rule that limits dog ownership in the district, and also dog ownership on land within Significant Natural Areas.	Accept as a submission and allow the matters raised to be addressed through the hearing process.
S568	Scrumptious Fruit Trust	26/10/2022	Various district wide submission points: Amend Ecosystems and Indigenous biodiversity objectives and policies.	Accept as a submission and allow the matters raised to be addressed through the hearing process.
S562	RS Eng Ltd	03/11/2022	Limited spatial extent: Amend zoning of settlements that are in the coastal environment to 'coastal settlement'.	Accept as a submission and allow the matters raised to be addressed through the hearing process.

Category B Submissions - received more than 1 week past the closing date, but before the Summary of Decisions Requested (SDR) was released on the 7 of August 2023, and included within the original SDR (13 submissions)				
Submitter Number	Submitter Name	Date Received by Council	Summary of Submission	Recommendation
S569	Rodney and Cherie Gates	04/11/2022	District wide, including: Reconsider lot sizes where land is not highly productive. Only allow multi-unit development in areas where all infrastructure has been upgraded and maintained. Questions mechanisms protecting SNAs. Seeks option of creating esplanade strips.	Accept as a submission and allow the matters raised to be addressed through the hearing process
S565	The Paihia Property Owners Group	08/11/2022	District wide and site-specific, including: Amend Paihia Heritage Areas A and B, revert to operative provisions. Amend objectives, policies, rules and standards in Coastal Environment relating to urban areas. Retain Mixed Use and General Residential zones in Paihia and apply overlays based on evidence/assessment.	Accept as a submission and allow the matters raised to be addressed through the hearing process
S571	Te Runanga O Te Rarawa	17/11/2022	District wide, including: Map the areas of interest for each of the iwi/hapū management plans. Insert a definition for iwi/hapū environmental management plans.	Accept as a submission and allow the matters raised to be addressed through the hearing process
S570	Heritage New Zealand Pouhere Taonga	25/11/2022	District wide, including: Amend specific heritage rules/standard to improve consistency and clarity.	Accept as a submission and allow the matters raised to be addressed through the hearing process



Submitter Number	Submitter Name	Date Received by Council	Summary of Submission	Recommendation
S579	Ahipara Takiwā	07/03/2023	<p>Site-specific, including:</p> <p>Amend schedule of notable trees to include pohutukawa tree at Moringai, at 233 Foreshore Road, Ahipara.</p> <p>Amend schedule of Sites and areas of significance to Māori, to include:</p> <ul style="list-style-type: none"> <li>• Moringai at 233 Foreshore, Ahipara</li> <li>• the waterfall at the top of the subdivision (to be identified as a significant waterway on to Te Oneroa a Tōhē)</li> <li>• the whenua located at 1 Wharo Way, Ahipara</li> </ul>	Accept as a submission and allow the matters raised to be addressed through the hearing process
S567	Andre Galvin	13/03/2023	<p>Site-specific, including:</p> <p>Lot 1 DP 53506 (Puketona Road, Haruru Falls) - delete Rural Production zoning rezone Settlement, amend high natural character and SNA boundaries, partially delete Rural Production zoning rezone Residential</p>	Accept as a submission and allow the matters raised to be addressed through the hearing process
S574	Ecochic Properties Limited	17/06/2023	<p>Site-specific, including delete 'High Natural Character' overlay on 48 Taupo Bay Road</p>	Accept as a submission and allow the matters raised to be addressed through the hearing process
S575	Kuia, kaumātua and whānau of Moringai Whānau	26/06/2023	<p>Site-specific, including amend the status of 1 and 3 Wharo Place, Ahipara, to historic reserve</p>	Accept as a submission and allow the matters raised to be addressed through the hearing process

Submitter Number	Submitter Name	Date Received by Council	Summary of Submission	Recommendation
S577	Moringai Whānau	27/06/2023	Site-specific, including: Amend Sites and areas of significance to Māori to include the Whenua - Moringai/Moringaehe (Lot 1 Deposited Plan 381292). Recognise Moringai/Moringaehe (Lot 1 Deposited Plan 381292) should be an historic reserve.	Accept as a submission and allow the matters raised to be addressed through the hearing process
S578	Roma Marae	27/06/2023	Site-specific, including amend Sites and areas of significance to Māori to include the whenua located at 1 Wharo Way, Ahipara.	Accept as a submission and allow the matters raised to be addressed through the hearing process
S576	Ahipara Takiwā	27/06/2023	Site-specific, including: Amend schedule of notable trees to include pohutukawa tree at Moringai, at 233 Foreshore Road, Ahipara. Amend schedule of Sites and areas of significance to Māori, to include: <ul style="list-style-type: none"> <li>• Moringai at 233 Foreshore, Ahipara</li> <li>• the waterfall at the top of the subdivision (to be identified as a significant waterway on to Te Oneroa a Tōhē)</li> </ul>	Accept as a submission and allow the matters raised to be addressed through the hearing process
S580	Haami Piripi	29/06/2023	Site-specific, including amend schedule of notable trees to include pohutukawa tree at Morangai, Ahipara	Accept as a submission and allow the matters raised to be addressed through the hearing process



<b>Submitter Number</b>	<b>Submitter Name</b>	<b>Date Received by Council</b>	<b>Summary of Submission</b>	<b>Recommendation</b>
S585	Lucklaw Farm Ltd	01/11/2022	Amendment to submission S550 relating to the Vehicles on Beaches By-Law.	Accept as a submission and allow the matters raised to be addressed through the hearing process



Category C Submissions - received more than 1 week past closing date, but before the Summary of Decisions Requested (SDR) was notified on the 7 of August 2023, and missed/omitted from the original SDR (2 submissions)				
Submitter Number	Submitter Name	Date Received by Council	Summary of Submission	Recommendation
S581	Arawai Limited	31/03/2023	Site specific: Requesting deletion of SASM Site MS05-38 from the site legally described as Okokori B IX Rangaunu SD, located at Aurere, Tokerau Beach.	Accept as a submission and allow the matters raised to be addressed through the hearing process <sup>1</sup>
S582	Gabriele Pfaender	30/04/2023	Site specific: Requesting amendment of zoning for property at 97 Okahu Road to General Residential.	Accept as a submission and allow the matters raised to be addressed through the hearing process



Category D Submissions - received after the Summary of Decisions Requested (SDR) was released and were not included within original SDR (3 submissions)					
Submitter Number	Submitter Name	Date Received by Council	Summary of Submission	Reasons for late submission	Recommendation
S583	Rick Ruiterman	18/08/2023	Site specific: Requesting rezoning of Lot 1 DP 39846 from Mixed Use Zone to Residential Zone.	Submitter only recently purchased the property and previous to this the submitter did not consider himself as an affected party.	Reject submission due to extreme lateness. The submitter has made a further submission (on time) providing scope for matters of interest (FS141).
S584	Gray Philips	26/08/2023	District wide including: <ul style="list-style-type: none"> <li>• Subdivision rules for Rural Production Zone</li> <li>• Land use rules for Rural Production Zone</li> <li>• Earthworks rules.</li> </ul>	Overseas seeking medical treatment during submission period so unable to make an original submission at the time.	Reject a submission due to extreme lateness. The submission raises matters similar to matters raised in other submissions.
TBC as not yet entered in the submission data base	D L & H Mullane	11/12/2023	Site specific: Re-zoning of Section 1 SO 51796 from Natural Open Space Zone to Rural Production Zone.	Submitter only recently because aware of erroneous zoning proposed through subdivision process and wishes for this to be rectified for current / future owners.	Reject as a submission due to extreme lateness. Council intends to notify a plan variation mid-2024 to correct errors with Open Space zoning, which will include this property.





<b>Category E - Further Submissions received within 1 week of the closing date of Monday the 4 of September 2023 (8 further submissions)</b>				
<b>Submitter Number</b>	<b>Submitter Name</b>	<b>Date Received by Council</b>	<b>Summary of Submission</b>	<b>Recommendation</b>
FS547	Heron Point Limited	05/09/2023	District wide - 120 further submission points on the following plan provisions: <ul style="list-style-type: none"> <li>• General / Process</li> <li>• General / Plan Content / Miscellaneous</li> <li>• Indigenous Biodiversity</li> <li>• Natural Hazards</li> <li>• Coastal Environment</li> <li>• Objectives, policies, rules, standards</li> <li>• Natural Features and Landscapes</li> <li>• Subdivision</li> <li>• General Residential Zone</li> <li>• Mixed Use Zone</li> </ul>	Accept as a further submission and allow the matters raised to be addressed through the hearing process
FS550	Lloyd Anderson	07/09/2023	Site specific - 37 further submission points relating to Lot 1001 DP 532487 on the following plan provisions: <ul style="list-style-type: none"> <li>• Rural Lifestyle Zone</li> <li>• Highly Productive Land</li> <li>• General/Plan Content/ Miscellaneous</li> <li>• Rules/policies</li> <li>• Open Space Zone</li> <li>• Natural Open Space Zone</li> <li>• Subdivision</li> </ul>	Accept as a further submission and allow the matters raised to be addressed through the hearing process



Submitter Number	Submitter Name	Date Received by Council	Summary of Submission	Recommendation
FS548	Northland Federated Farmers of New Zealand Inc	05/09/2023	District wide - 171 further submission points on the following plan provisions: <ul style="list-style-type: none"> <li>• Subdivision</li> <li>• Definitions</li> <li>• Indigenous Biodiversity</li> <li>• Natural Features and Landscapes</li> <li>• Rural Production Zone</li> <li>• Strategic Direction</li> <li>• Infrastructure</li> <li>• Heritage Areas</li> <li>• Renewable Energy Generation</li> <li>• Coastal Environment</li> <li>• Earthworks</li> <li>• General/Plan Content/Miscellaneous</li> <li>• Schedule 4 – Significant Natural Areas</li> <li>• Natural Character</li> <li>• Historic Heritage</li> <li>• Rural Living Zone</li> <li>• Noise</li> <li>• Rural Residential Zone</li> <li>• Overview</li> <li>• Objectives, policies, rules, standards</li> </ul>	Accept as a further submission and allow the matters raised to be addressed through the hearing process





Submitter Number	Submitter Name	Date Received by Council	Summary of Submission	Recommendation
FS549	Vanessa Anderson	07/09/2023	Site specific - 37 further submission points relating to Lot 1001 DP 532487 on the following plan provisions: <ul style="list-style-type: none"> <li>• Rural Lifestyle Zone</li> <li>• Highly Productive Land</li> <li>• General/Plan Content/Miscellaneous</li> <li>• Rules/policies</li> <li>• Open Space Zone</li> <li>• Natural Open Space Zone</li> <li>• Subdivision</li> </ul>	Accept as a further submission and allow the matters raised to be addressed through the hearing process
FS570	Vision Kerikeri 3	09/09/2023	District wide - 999 further submission points on the following plan provisions: <ul style="list-style-type: none"> <li>• General/Process</li> <li>• General/Plan Content/Miscellaneous</li> <li>• Indigenous Biodiversity</li> <li>• Natural Hazards</li> <li>• Coastal Environment</li> <li>• Objectives, policies, rules, standards</li> <li>• Natural Features and Landscapes</li> <li>• Subdivision</li> <li>• General Residential Zone</li> <li>• Mixed Use Zone</li> <li>• Hazards</li> <li>• Natural Open Spaces</li> </ul>	Accept as a further submission and allow the matters raised to be addressed through the hearing process

			<ul style="list-style-type: none"> <li>• Horticulture Zone</li> <li>• Overview</li> <li>• Rural Production Zone</li> <li>• Schedules</li> <li>• Definitions</li> </ul> <p>Plus more</p>	
FS80	GE Free Northland	09/09/2023	<p>District wide - 8 further submission points on the following plan provisions:</p> <ul style="list-style-type: none"> <li>• GMO</li> <li>• General/Plan Content/Miscellaneous</li> <li>• Overview</li> <li>• Cross boundary matters</li> <li>• Rules</li> </ul>	Accept as a further submission and allow the matters raised to be addressed through the hearing process
FS159	Shawnee Cook Lawrence	09/09/2023	<p>District wide - 2 further submission points on the following plan provisions:</p> <ul style="list-style-type: none"> <li>• Tangata whenua</li> <li>• Sites and areas of significance to Māori</li> </ul>	Accept as a further submission and allow the matters raised to be addressed through the hearing process
FS207	Dingwall Family Trust	05/09/2023	<p>District wide - 1 further submission points on the following plan provisions:</p> <ul style="list-style-type: none"> <li>• General/process</li> </ul>	Accept as a further submission and allow the matters raised to be addressed through the hearing process



**Category F - Further Submissions received later than 1 week after closing date of Monday the 4<sup>th</sup> of September 2023 (8 further submissions)**

<b>Submitter Number</b>	<b>Submitter Name</b>	<b>Date Received by Council</b>	<b>Summary of Submission</b>	<b>Recommendation</b>
FS571	Ara Poutama Aotearoa the Department of Corrections	03/11/2023	Site specific – 2 further submissions relating to Light Industrial Zone	Accept as a further submission and allow the matters raised to be addressed through the hearing process
FS376	Bentzen Farms Limited	25/09/2023	District wide – 5 further submission points related to Coastal Environment	Accept as a further submission and allow the matters raised to be addressed through the hearing process
FS564	Dempsey Family Trust	13/9/2023	District wide – 26 further submissions related to Subdivision.	Accept as a further submission and allow the matters raised to be addressed through the hearing process
FS180	Kim Taylor	23/11/2023	District wide – 5 further submissions related to the following: <ul style="list-style-type: none"> <li>• General / Plan Content / Miscellaneous</li> <li>• District Plan Framework</li> <li>• Coastal Environment</li> </ul>	Accept as a further submission and allow the matters raised to be addressed through the hearing process
FS306	Mary Stanner	01/11/2023	District wide – 11 further submissions related to the following: <ul style="list-style-type: none"> <li>• General/Plan Content/ Miscellaneous</li> <li>• Rural Production Zone</li> <li>• Objectives/Policies/ Rules</li> </ul>	Accept as a further submission and allow the matters raised to be addressed through the hearing process



Submitter Number	Submitter Name	Date Received by Council	Summary of Submission	Recommendation
FS219	Matthew & Jenny Arthur	01/11/2023	District wide – 1 further submission related to the Horticulture Zone.	Accept as a further submission and allow the matters raised to be addressed through the hearing process
FS377	Setar Thirty Six Limited	25/09/2023	District wide – 5 further submissions related to the Coastal Environment.	Accept as a further submission and allow the matters raised to be addressed through the hearing process
FS383	The Shooting Box Limited	25/09/2023	District wide – 4 further submissions related to the following: <ul style="list-style-type: none"> <li>• Coastal Environment.</li> <li>• Rules</li> <li>• Subdivision</li> </ul>	Accept as a further submission and allow the matters raised to be addressed through the hearing process



## 4 Recommendations and Reasons

Council has only recently appointed the Chair and started to form the hearing panel. This has resulted in an unusual period of time to still make a late submission, especially in relation to original submissions. This has created a somewhat unusual situation, and mixed messaging hence the recommendation to accepted late original submissions made prior to the notification of the SDR.

Additionally, these submissions raise matters that are within scope of the Plan. It is considered that there is no prejudice to any person directly affected by the Hearings Panel Chair accepting these late submissions. It is appropriate that those matters be tested through the Schedule 1 process along with all other matters raised in these submissions. The remaining three extremely late original submissions were received in August and December 2023, after the Summary of Decisions requested was notified and call for further submissions completed. It is recommended that, these extremely late submissions are rejected due to extreme lateness.

Accordingly, taking into account the matters set out in Section 37A(1) of the RMA, it is recommended that the Hearings Panel accept twenty-four of the original submissions (Category A, B and C), and accept all sixteen of the further submissions (Category E and F) so that the issues raised can be considered in the hearings.