



Proposed District Plan submission form

Clause 6 of Schedule 1, Resource Management Act 1991

Feel free to add more pages to your submission to provide a fuller response.

Form 5: Submission on Proposed Far North District Plan

TO: Far North District Council

This is a submission on the Proposed District Plan for the Far North District.

Full Name:	Alec Brian Cox		
Company / Organisation Name: (if applicable)			
Contact person (if different):			
Full Postal Address:	51B Hall Road, Kerikeri 0230		
Phone contact:	Mobile: 022 6954007	Home:	Work:
Email (please print):	ab.ws.cox@xtra.co.nz		

1. Submitter details:

2. (Please select one of the two options below)

I **could not** gain an advantage in trade competition through this submission

I **could** gain an advantage in trade competition through this submission

If you could gain an advantage in trade competition through this submission, please complete point 3 below

I **am** directly affected by an effect of the subject matter of the submission that:

(A) Adversely affects the environment; and

(B) Does not relate to trade competition or the effect of trade competition

I **am not** directly affected by an effect of the subject matter of the submission that:

(A) Adversely affects the environment; and

(B) Does not relate to trade competition or the effect of trade competition

Note: if you are a person who could gain advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991

The specific provisions of the Plan that my submission relates to are:

(please provide details including the reference number of the specific provision you are submitting on)

Multiple items referenced in submission – see Submission to Draft District Plan by Alec Cox.pdf



Confirm your position: Support Support In-part Oppose
(please tick relevant box)

My submission is:

(Include details and reasons for your position)

Submission to Draft District Plan by Alec Cox.pdf

I seek the following decision from the Council:

(Give precise details. If seeking amendments, how would you like to see the provision amended?)

Submission to Draft District Plan by Alec Cox.pdf

I **wish** to be heard in support of my submission

I **do not wish** to be heard in support of my submission

(Please tick relevant box)

If others make a similar submission, I will consider presenting a joint case with them at a hearing

Yes No

Do you wish to present your submission via Microsoft Teams?

Yes No

Signature of submitter:

(or person authorised to sign on behalf of submitter)

Date:

(A signature is not required if you are making your submission by electronic means)

Important information:

1. The Council must receive this submission before the closing date and time for submissions (5pm 21 October 2022)
2. Please note that submissions, including your name and contact details are treated as public documents and will be made available on council's website. Your submission will only be used for the purpose of the District Plan Review.
3. Submitters who indicate they wish to speak at the hearing will be emailed a copy of the planning officers report (please ensure you include an email address on this submission form).



Send your submission to:

Post to: Proposed District Plan
Strategic Planning and Policy, Far North District Council
Far North District Council,
Private Bag 752
KAIKOHE 0400

Email to: pdp@fndc.govt.nz

Or you can also deliver this submission form to any Far North District Council service centre or library, from 8am – 5pm Monday to Friday.

Submissions close 5pm, 21 October 2022

Please refer to pdp.fndc.govt.nz for further information and updates.

Please note that original documents will not be returned. Please retain copies for your file.

Note to person making submission

Please note that your submission (or part of your submission) may be struck out if the authority is satisfied that at least one of the following applies to the submission (or part of the submission):

- It is frivolous or vexatious
- It discloses no reasonable or relevant case
- It would be an abuse of the hearing process to allow the submission (or the part) to be taken further
- It contains offensive language
- It is supported only by material that purports to be independent expert evidence but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.

SUBMISSION NUMBER
(Council use only)

--

Submission to Draft District Plan

1. The Plan is not Fit for Purpose.

“The District Plan controls the way land is used, developed and subdivided and is a requirement under the Resource Management Act 1991 (RMA). The purpose of the RMA is to promote the sustainable management of natural and physical resources.”

The above statement provides the target against which the draft Plan must be assessed as Fit for Purpose. At a superficial view one may form the impression that the draft District Plan provides objectives, policies and rules to control the way land is used, developed and subdivided. However to anyone familiar with the RMA process, the plan will fail to meet these targets. Thus the draft Plan must be considered as not being Fit for Purpose.

The main reason for this failure stems directly from the RMA criteria that only Prohibited activities are not allowed. Any other classification will be argued for by a developer and may be granted, possibly with conditions.

Supporting information and argument in Appendix 1.

Decision Sought.

The current draft be withdrawn, reviewed and redesigned so that all rules which contain limits provide for the activity to be Prohibited if the final limit is breached.

S170.001

2. Subdivision and Land Use Change.

The Rules in the Subdivision section seek to impose minimum standards on developments. In recent times there have been a number of developments in the form of gated communities where the number of allotments exceeds the number allowed for a private accessway, where roads remain as part of the allotments. In the alternative approach of a Land Use Change, used for Retirement Villages, the subdivision rules are not enforced as there are no new allotments. In these two situations, the unit size is increased by a share of the common ground, thus permitting a more intensive development before reaching the limits. To provide an equitable situation common ground should be excluded from the net allotment size.

Supporting information and argument in Appendix 2.

Decision Sought.

To replace limits based on allotment size with net allotment size.

S170.002

To include in the Definitions net allotment size as allotment size excluding any common/shared areas.

S170.003

To apply the subdivision rules to Land Use Changes which create multiple units.

S170.004

3 District wide or Area Specific.

The Plan framework considers matters as being either District-wide or relating to specific identified areas with common features. Unfortunately the detail below these headings fails to follow that idea. Some District wide items like Subdivision are broken down into zone specific rulings which should be in the area section. Conversely provisions for Māori customary purposes which fit the overlay structure are classed as an area matter, fragmenting natural area groups purely on the basis of ownership structure. A number of Special Purpose zones are only separated as they have existing resource consents.

Supporting information and argument in Appendix 3.

Decision Sought.

To transfer or rewrite Rules which are zone dependant from District-wide sections to the relevant zones. **S170.005**

To remove from the Plan those zones which relate to areas defined by existing resource consents and reclassify according to the underlying activity. **S170.006**

To convert the Māori Purpose Zone to an overlay with rules to permit Māori customary purposes and reclassify according to the underlying activity. **S170.007**

4. The Document - Clarifications and Other Errors.

The Proposed Plan put out for submissions should be in a finished form as a legal document for the future, subject only to changes made as a result of submissions. The current document falls so far short of that standard that it is difficult to know where to start with the issues.

- Amendment required for clarity.
- Duplications.
- Typing errors, some of which render the section meaningless.
- Failure to follow standard numbering layout.
- Inconsistencies.
- Omission of key data such as SNAs.
- Mapped zones are not in agreement with zone definitions.
- Section 32 Reports require revision to realistic figures.

Supporting information and argument in Appendix 4.

Decision Sought.

The presentation of a document without issues such as those detailed. **S170.008**

Appendix 1 - Fit for Purpose.

In order to assess if the draft Plan is Fit for Purpose, one must look beyond the words of the Plan into the way it operates under the RMA. While the Purpose of the District Plan is stated in the document, this is controlled by the Objectives, Policies and Rules for each identified activity. Only the Rules provide any control.

What is an Activity?

It is important to understand that an *activity* in relation to the RMA and thus the District Plan is dependant upon the definition in the document. Normally it will be a combination of both event and location rather than just the event as the normal use of the word activity might suggest. This means that by using the combination of event and location it is possible for an activity to be classified in different ways. Consider the Mineral extraction activity which has a Discretionary activity classification for Noise in the Rural Production zone and is considered as a Discretionary activity in the Māori Purpose zone and Non-Complying in 9 zones. For the remaining zones it will fall under the catch-all rule *Activities not otherwise listed in this chapter*, or similar phrase, which is usually shown as Discretionary. In addition there is a Mineral Extraction overlay with it's own set of more detailed rules for areas where it is to be Permitted.

What are the RMA Classifications?

The draft Plan contains a section, Classes of Activities which includes a table showing if a resource consent is required and what Council can consider. This table clearly shows that unless an activity is Prohibited, then a resource consent may be granted. Thus this is the only classification which can be guaranteed to stop a developer presenting a case for consent. Given the past history of resource consent applications being granted under the Discretionary or Non-complying rules, one may consider these classifications as mainly just resulting in increased costs to the developer and little restriction to the activity.

The Resource Consent Process.

A permitted activity does not need a resource consent, but where a consent is required an application will be submitted, explaining what is required and the various rules that are to be breached, with an assessment of the adverse effects of the proposed breaches. Where such breaches are considered as minor, then one may expect consent to be granted.

What must be considered is the application will contain expert evaluations of the adverse effects, normally showing them to be less than minor. Even where the application has been notified and submitters have challenged such conclusions, the paid experts opinions will be favoured.

Tiering Rules.

Most Rules in the draft Plan are set out in the format of an activity with some conditions to be met with an activity status. Provided all of the conditions are met, that is the status for the activity. If compliance with the conditions is not achieved, then a lower tier of classification will be applied. In a few cases of not achieved, there are further conditions and a third classification for not

achieved with those conditions. Consider the effect if this third tier was applied more generally with not achieved classification being Prohibited. Then the Rules would have some impact.

Example 1 - Limitations of District Plan unless Prohibited.

The existing District Plan contains some very similar rules to the Proposed Plan.

Under Subdivision:

(v) RESIDENTIAL ZONE

Controlled Activity Status (Refer also to 13.7.3)	Restricted Discretionary Activity Status (Refer also to 13.8)	Discretionary Activity Status (Refer also to 13.9)
The minimum lot sizes are 3,000m ² (unsewered) and 600m ² (sewered).		The minimum lot sizes are 2,000m ² (unsewered) and 300m ² (sewered).

13.7.2.2 ALLOTMENT DIMENSIONS

Any allotment created in terms of these rules must be able to accommodate a square building envelope of the minimum dimensions specified below; which does not encroach into the permitted activity boundary setbacks for the relevant zones:

Zone	Minimum Dimension
Residential, Coastal Residential, Russell Township	14m x 14m

15.1.6C.1.1 PRIVATE ACCESSWAY IN ALL ZONES

- (c) A private accessway may serve a maximum of 8 household equivalents.
- (d) Where a subdivision serves 9 or more sites, access shall be by public road.

In recent years the following developments have been allowed within the sewerred area of Kerikeri, under the Discretionary provisions.

Example 1.1

A 3,261 property was allowed to create 10 allotments by providing each with a 1/10 th share of the 920 m2 access-way. 3 of these allotments are less than the minimum 300 m2 even with their share of the access-way. Without the share of access-way, only 1 allotment exceeded 300 m2.

Example 1.2

A 1,629 property was allowed to create 5 allotments, each with a 1/5th share of the 276 m2 access way. Including a share of the access-way permitted a claim that they met the 300 m2. Without the access-way, only 1 property exceeds 300 m2.

Example 1.3

An allotment of 2,151 m2 has been permitted to subdivide into 10 allotments. This was based on the claim that each residential unit has an average net site area of 215 m2 when excluding the access-way would provide an average of 150 m2. Just half the specified minimum and impossible to provide the required building envelope.

As can be seen, the existing rules minimums can not stop applications which breach those rules being granted, only Prohibited can do that.

Example 2 -Expert Evidence.

As evidence of the reliability of expert evidence, the following extracts are taken from Stage 1 and Stage 2 applications for a single large development of a retirement village at Hall Road, Kerikeri. A key point of contention by submitters was the traffic impact, particularly on the junction of Hall Road and Kerikeri Road.

Extract from Stage 1 Application.

5.1.6 SIDRA analysis shows that the existing service level for the two legs of Kerikeri Road are both graded "A", while the Hall Road leg is graded "C". The same analysis with an additional 28 retirement villas shows no change in the level of service either on Kerikeri Road or Hall Road. The SIDRA analysis shows no change to the level of service either on Kerikeri Road or Hall Road as a result of the additional 28 retirement units.

Conditions on Kerikeri Road are described as AUStroads Level of Service A. This is the highest level of service defined by AUStroads,

The level of service on the side road, Hall Road, is Level of Service C, which is within the acceptable range.

The SIDRA analysis shows that the network has adequate capacity to accommodate the additional traffic generated by the Stage., development. It is considered from the above analysis that effects from the development on Kerikeri Road and surrounds are no more than minor.

Extract from Stage 2 Application.

Traffic Modelling Analysis.

Table 8-5: Sidra Results per Approach

8.4.5	Peak Hour	Approach (worst movement)	Measure of Effectiveness	Year		
				2020 Base	2025 Base	2025 Base plus Full Development
AM, on road (8-9am)		Hall Rd east	LOS	F	F	F
			Delay	53.3	442	867
		Kerikeri Rd south	LOS	B	C	C
			Delay	10.1	17.6	18.1
		Kerikeri Rd north	LOS	A	A	A
AM of Proposal (9-10am)			Delay	4.7	4.7	4.7
		Hall Rd east	LOS	B	D	D
			Delay	14.9	25.6	27.6
		Kerikeri Rd south	LOS	A	A	A
			Delay	6.3	7.3	7.4
		Kerikeri Rd north	LOS	A	A	A
			Delay	4.6	4.6	4.6

Intersection Assessment and Consideration of Mitigation

Typically, LOS A to C are considered acceptable. LOS D may be acceptable for private property access but is not generally acceptable for through traffic on public roads. Levels of Service E and F are unacceptable without further mitigation of this reduced performance.

It is noted in this regard that the intersection only performs at a reduced LOS in the morning peak hour when the primary traffic flows through the intersection are Kerikeri Road traffic. This is a conservative approach, given that the Proposal's peak is not expected to coincide with this time nor will the Proposal generate the full extent of its peak hour trips during that period (but rather in the

mid-morning and afternoon peak periods when residents and visitors will move to and from the site).

The LOS of all the approaches is acceptable at all the other peak periods. Given the only period of time which the intersection will operate at this unacceptable LOS is in the morning peak hour, it is evident that from a traffic engineering perspective, the Proposal does not create traffic effects that would require mitigation (e.g. upgrade works to the intersection). Overall the intersection performance is acceptable with the exception of a limited period during the morning peak hour, which as previously stated is due to the extent of the existing traffic on Kerikeri Road.

The developer made two separate applications for the project. At the initial stage it was claimed that traffic on Hall Road was acceptable and would remain acceptable after that stage was developed.

But in the second application it is claimed that the Hall Road traffic at that stage has failed, so cannot fall any further. This “expert” evidence was accepted by the commissioners as they were limited by needing to treat the application in isolation.

While it may be suggested that had FNDC required a full application at the beginning, the developer’s claim of no impact would not have been acceptable, the real issue is the expert evidence.

An expert can be found to select evidence in support of most contentions and this is unlikely to meet any challenge from Council staff or Commissioners as the above illustrates.

Appendix 2 - Subdivision or Land Use Change.

The proposed District Plan has a section devoted to subdivision of land to form new legal titles. Within that section are rules which set out conditions requiring compliance with certain standards listed in SUB-S1 to 8.

Consider what happens when a site is subdivided.

The application may be for a simple separation on one new allotment from an existing site and the conditions must apply to both the new allotment and the residue of the existing site. But what happens if multiple new allotments are being created, with no residual site. Then there must be some form of access, usually a new roadway which will vest in council. There may be a requirement for some land to be made into general reserves or esplanade reserves. Only the remainder is available for new allotments to meet the minimum allotment size contained in SUB-S1.

Consider a land use change to add more units to an existing site.

There is just the same requirement of some form of access, but now it can be of a lower standard and width than is required for a council road. There will be no reserves as there is no subdivision. Thus more land is available to meet minimum unit sizes. But there is one more twist to this situation. Whether we are discussing a cross-lease or unit title, each unit has a share of the common land which counts towards the minimum sizes. Thus more units may be built.

Retirement Villages and Gated communities.

Retirement villages are a larger version of the land use example. Being a commercial enterprises they will seek to maximise the number of units available on their site so will base their calculations of minimums on the original area, including all of their proposed private roads and shared areas.

A similar situation exists with Gated communities but here they seek subdivision in order to obtain individual titles but include a share of common land in their allotment calculations.

The Issue

In order to provide for consistent minimum size units, irrespective of the type of development, it is necessary to create a definition which puts all units on the same basis. This can be achieved with a net allotment size which excludes any common or shared areas, together with a requirement that the same rules be applied to Land Use Changes as Subdivisions.

Appendix 3- District wide or Area Specific.

The Plan framework is divided into those matters with a District-wide perspective or those areas with compatible activities that can be located together as zones. While this has been well implemented for some activities, there are a number of issues which require attention if the Plan is intended to be a workable document.

Subdivision.

Subdivision has been classified as a District wide matter which is valid for the Objectives and some Policies. Other Policies are written as applying to only some zones and should either be rewritten for general application or transferred to the appropriate zone Policies.

For example SUB-P8 and SUB-P9 rules should apply for all zones while SUB-5 could be considered for rewriting to District wide or transfer to each of the specified zones.

When one looks at the Rules, there are major issues which arise from the breakdown to zones. For example, SUB-R1 applies as a controlled activity to *All zones (except Open Space zones, Motorua Island zone, and Airport zone)*. This rule could just be left as applicable to all zones with the Non-complying section transferred to the relevant zone rules. Similarly with SUB-R3. This is in line with the concept noted before the rules that there may be more restrictive rules in the area specific sections.

Sub-R6 applies to a specific zone so should be a rule in that zone.

With regard to SUB-R1, SUB-R3 which contain references to standard SUB-S1, a simple change would be to refer to the standard for the zone and place the appropriate information for the standard in each zone.

Open space and recreation zones.

A Zone is intended to apply to an area with common requirements. Those Zones classified as Open space and recreation zones are frequently applied to individual properties. This means that the rules must be constructed with care to ensure that any effects on adjacent zones are taken into account.

Special Purpose Zones.

The first issue here is why Horticulture and Horticulture Processing Facilities are classed as Special Purpose and not Rural.

The next issue is the inclusion as Zones with their own set of rules for what are in practice individual properties operating under an existing resource consent or management plan. Surely the correct treatment would be to classify these according to their surrounding zone. Should they wish to amend their existing consent then they would be subject to the current rules. This applies to Carrington Estate, Kauri Cliffs, Moturoa Island, Ngawha Innovation and Enterprise Park, Orongo Bay and Quail Ridge zones.

The Airport and Hospital Zones both require special rules to protect their operation but this may easily be achieved by reclassification as Overlays and including the rules there.

Kororāreka Russell Township should be part of the Heritage area overlays, with the remainder as the normal underlying activity.

Māori Purpose zone.

The only zone left is the Māori Purpose zone which requires a more extensive discussion.

A complication with the current approach is the fact that, particularly in the urban situation, the concept of zone as an area does not apply. Further for many purposes there can be no need to apply different rules based on ownership unless being used for a customary purpose.

Consider the following approach. Convert this zone to an overlay with a set of rules permitting the social, cultural and economic aspirations of tangata whenua and enable a range of activities to be undertaken, such as marae, papakāinga, and economic activities which reflect Māori customs and values. Then apply the appropriate zone to the allotments.

This would provide for integration of the allotments within their underlying zone while still providing for customary exemptions. It would also avoid the current anomalies such as allotment in the General Residential zone having a maximum building height of 8m while the adjacent Māori Urban allotment can put up a residence 11m high, as below.



Appendix 4 - The Document - Clarifications and Other Errors.

There are so many issues with the document that it is difficult to know where to start. What is given below is representative of the issues I have seen.

4.1 Referencing.

In order to facilitate their correction I have listed each issue. This gives rise to the first problem.

The document is presented as a series of chapters on each topic numbered as page x of y, with no overall page numbering.

In order to provide a reference to issue it is therefore necessary to first identify the chapter, then page of chapter and possibly section of that page. In referencing objectives, policies and rules one can use the codes contained in the document.

Neither of the above enable quick location of the item, so I have used the page number given on my pdf reader using the downloaded document, entered as Px. This may differ by a small but consistent number from other versions, for example where the Foreword page is not included.

In the examples that follow, extracts from the document are displayed in italics. Highlighting is my addition to direct you to the issue.

4.2 Amendment required for clarity.

P9 Format of chapters.

Many of the sections in the Proposed Plan have Policies, Rules or standards which contain a list of items to be taken into consideration. This appears to be the place to include a note to the effect that where a number of conditions are listed, they must all be satisfied. This would permit the removal of *and* from the penultimate entry in list and avoid any ambiguity.

P16 Definition – Building.

Under the current definition, all caravans would be classified as buildings since they cannot be moved under their own power. A possible solution would be to amend the definition to exclude any vehicle licenced to travel on the road.

This would leave permanently sited caravans in the definition and add converted motor homes or buses no longer roadworthy to the definition while excluding caravans that are used on the road.

P18 Definition – Development Infrastructure.

While the definition has been taken from NPS, there is a potential issue following the proposed 3 Waters legislation as the control would pass from the bodies included in the definition.

P36 Definition – Wetland, Lake and River Margins.

Where a river is smaller than 3m average width means 10m of a river.

The penultimate sentence is meaningless and requires correction.

P57 I-R7 *New overhead lines and associated poles, telecommunication and attached antennas, or towers* and **P61 I-R15** *New overhead lines and associated poles, telecommunication poles and attached antennas, or towers* would appear to relate to the same activity. The only difference being a second *poles* which should be corrected to one version.

However I-R7 applies to Rural Production zone, Rural Lifestyle zone and Māori Purpose zone while I-R15 applies to All zones other than the Rural Production zone, Māori Purpose zone.

This means that in the Rural Lifestyle zone the activity is Permitted subject to specific limits while it is also Restricted Discretionary with different limits under I-R15.

One must also ask why I-R15 *e. any adverse effects on public health and/or safety* is not considered necessary in the Rural Production zone and Māori Purpose zone.

P60 I-R14.

The Permitted activities list conditions PER-1 to 5 and 7 to 9, no PER-6. However Activity status when compliance not achieved includes PER-6.

Either the Permitted conditions require a PER-6 inserted, which will not have been consulted on, or PER-7 to 9 need renumbering and the PER-9 removed from compliance not achieved

P85 Trans-Table 8 *Minimum sight distances for vehicle crossings.*

Given the increasing use of 30km/hr speed limits, why is the not a line for this speed?

P88 NH-P1.

Given that Council considers the risk of a tsunami to be sufficient to provide a warning system, why has this not been included under this section?

P102 Rāwene Heritage Area Overlay.

The above overlay is described on this page and included on the Overlay maps but there are no Policy statements on **P104** from which Rules can be formulated.

P105 to P112 HA-R1 HA-R3 HA-R11 HA-R12 HA-R13.

The above rules cover all Heritage Area so why not reference by All Heritage areas rather than list all of the areas. This would also make the other policies covering only some areas stand out.

P113 HA-R14.

The Rule list items PRO-1 to 6 and 8, no PRO-7. Either Rule PRO-7 is required to be inserted, which will not have been consulted on, or PRO-8 needs renumbering to PRO-7.

P124 NT-P5.

Avoid the destruction or removal of a notable tree or trees unless:

- a. there is an imminent threat to the safety of people and property; or
- b. it is necessary to maintain infrastructure and pruning or relocation of the tree is not possible;
- c. the use and enjoyment of a property and surrounds is significantly compromised or diminished;
- d. it is dead, or is in terminal decline; and
- e. it has been assessed by a suitably qualified and experienced arborist as being suitable for destruction or removal.

Condition a. ends with ; *or* and condition d. Ends with ; *and*. The current presentation leaves one uncertain of the status of the other conditions. In all other cases the lists read as if all conditions must be satisfied. If it is intended that conditions b,c,d are alternatives with any one to be satisfied then there should be ; *or* at the end of condition b and c. It would also be clearer if e was separated or modified to show it applied to all of the above conditions.

P139 NATC-S2 Earthworks or indigenous vegetation clearance.

Item 1. *not exceed a total area of 400m for 10 years from the notification of the District Plan, unless a control in 5. below applies;*

Reference to control in 5 below but there is no 5 below

P148 SUB-R1 Boundary adjustments.

The first group with Activity status: Controlled applies to *All zones (except Open Space zones, Motorua Island zone, and Airport zone)* while the second group with Activity status: Non-complying applies to *Natural Open Space zone Open Space zone Sport and Active Recreation zone Motorua Island zone Airport zone.*

Thus Sport and Active Recreation zone and Airport zone are in both groups which is not possible.

P161 SUB-S5 Wastewater disposal.

2. *Where connection is not available, all allotments shall be provided with a means of disposing of wastewater within the site area of the allotment; and*

3. *All wastewater disposal shall be in accordance with Far North District Council Engineering Standards April 2022.*

This would appear to exclude a subdivision with a private centralised treatment plant where separate titles are to be issued for each allotment.

P170-P171 CE-R10-13.

These rules all contain activity status where compliance not achieved as Restricted Discretionary with matters of discretion restricted to the matters outlined in Rule CE-R17 and/or CE-R19. However those two rules do not contain any applicable matters. It would appear that the reference may be to CE-R14 and CE-R16. Correction is required.

P187 LIGHT-S1.

The maximum level of light spill is given as an amount (in both the horizontal and vertical planes) appears twice.

As stated this could mean that the limit has to be exceeded in each of the planes or that it represents a total in the two planes. But surely the intention is that it should not be exceeded in either plane which would be achieved by replacing both with either.

P192 NOISE-R8 PER-1.

Bird scaring devices must only be used between 7.00am and 7.00pm on any calendar year;

Taken literally, use between 7.00am on 1 January to 7.00pm on 31 December. It would appear the intended replacement is day.

P192 NOISE-R8 PER-3

The audible bird scaring device complies with standard:

NOISE-S1 Maximum Noise Levels.

This standard does not apply to: bird scaring devices that generate a noise level less than 55 dB LAE within the notional boundary of any noise sensitive activity not owned by the operator of the device.

At the maximum 65 dB allowed in PER-2 it is impossible to meet the NOISE-S1 standard and if the bird scaring device complies with Noise-S1 then it will also meet the 55 dB level for the relevant times and zones. Revision is required to avoid self-contradicting rule.

P218 TA-O2.

Temporary activities can take place while managing on-site and off-site adverse effects on:

- a. the purpose, character and amenity values of the **zone**, and*
- b. the safety and efficiency of the transport network.*

The restriction to the zone implies that no consideration to any off-site adverse effects on properties in adjacent zones. TA-P4 a and c only provide for partial consideration and there are no rules which include this impact. As such activities often occur on isolated Open Space properties this limit is unreasonable. For example Kerikeri Domain is a frequent venue for temporary activities.

P220 TA-R7.

*Activity status where compliance not achieved with RDIS-1, RDIS-2, RDIS-3, RDIS-4 or **RDIS-5**: Discretionary*

The activity status does not contain RDIS-5 so either the Restricted Discretionary conditions require a RDIS-5 inserted, which will not have been consulted on, RDIS-5 removed from compliance not achieved.

P222 TSL-P4.

Condition d has sub-clauses numbered a. and b. These should be i and ii.

P274 RSZ-R5 PER-5.

*The activity does not involve an offensive trade and **P276 RSZ-R15 Offensive trade** appear to duplicate the activity.*

P275 RSZ-R8.

There is no PER-3 so PER-4 requires renumbering in 2 places

P332 HZ-R12 and HZ-R13.

These rules are Discretionary so the conditions should be DIS-x not PER-x. 12 changes required.

P361-P366.

Many of the rules have zone shown as *Māori Purpose zone – Urban* and *Māori Purpose zone – Rural*, with identical rules for both sub-zones. Where this is the case then use *Māori Purpose zone* as in MPZ-R20. This applies to MPZ-R1, R6-R15, R17-R19 and R21-R25 requiring 19 corrections.

P361 MPZ-R2.

Both sub-zones condition numbered as PER-1. For consistency with other rules *Māori Purpose zone – Rural* PER-1 should be renumbered to PER-2 and PER-2 added to compliance not achieved section.

P374 NIEP-P7.

Manage land use and subdivision to address the effects of the activity requiring resource consent, including (but not limited to) consideration of the following matters where relevant to the application:

Replace brackets with commas to read as “...including, but not limited to, consideration...”

P376 NIEP-R5.

This rule has two zones, each with 3 rules. Both sets have been numbered PER-1 to 3. The second set should be renumbered as PER-4 to 6 with appropriate adjustments to compliance not achieved.

Telecommunications

Various rules contain requirements for subdivision to provide reticulated services to the boundary but these are applied in an inconsistent manner.

P161 Sub-S6 has:

Telecommunications:

- i. Fibre where it is available; or*
- ii. Copper where fibre is not available;*

P234 GPZ-P2 has similar clauses

P265 RRZ-P4 adds *iii. copper where the area is identified for future fibre deployment.*

P280 MUZ-P2 follows RRZ-P4

P288 LIZ-P2 follows RRZ-P4

P295 HIZ-P2 follows RRZ-P4

P351 KRT-P2 follows SUB-S6 but see note below.

With regard to the additional clause iii, copper is already required under ii so should this read “copper and fibre”?

When that has been resolved, there is a need to bring all the above Policies to the same requirements.

Note: KRT-P2 requires renumbering as current lines b and c should be indented as i and ii. Then d-f renumbered as c-e.

4.3 Duplications.

P14 The definition of Accessory Building is repeated.

ACCESSIBLE PARKING SPACE	means a parking space designed and reserved for the exclusive use of people whose mobility is restricted and who have a mobility permit issued. It also means 'mobility park/parking' and 'disabled/disability park/parking' as referred to in various external standards and guidance documents.
ACCESSORY BUILDING	means a detached building, the use of which is ancillary to the use of any building, buildings or activity that is or could be lawfully established on the same site, but does not include any minor residential unit.
ACCESSORY BUILDING	means a detached building, the use of which is ancillary to the use of any building, buildings or activity that is or could be lawfully established on the same site, but does not include any minor residential unit.
ACCESSWAY	means that part of an allotment that can be or has been formed or otherwise constructed for use by vehicles to provide the legal and/or physical access from the road to buildings or required parking, loading or standing spaces.

P239 Rural industry in both GRZ-R18 and GRZ-R19.

GRZ-R18	Primary production and rural industry	
General Residential zone	Activity status: Non-complying	Activity status where compliance not achieved: Not applicable
GRZ-R19	Rural industry	
General Residential zone	Activity status: Non-complying	Activity status where compliance not achieved: Not applicable
GRZ-R20	Hospital	

P283 Healthcare activity in both MUZ-R6 and MUZ-R11

MUZ-R6	Healthcare activity	
Mixed Use zone	Activity status: Permitted	Activity status where compliance not achieved: Not applicable
MUZ-R11	Healthcare activity	
Mixed Use zone	Activity status: Permitted	Activity status where compliance not achieved: Not applicable

Correction will also require renumbering of subsequent rules

4.4 Typing errors.

It is clear that proof-reading has not been carried out. Instead it would seem reliance has been given to a spell checking application. In some cases the error is easily identified and correctable but in others it is impossible to decide what was the intended meaning.

P9 ware should be are

Part 3 - Area Specific Matters

This part is divided into three; Zones (including Special Purpose Zones) Development Areas and Designations.

*Zones (including Special Purpose Zones) – spatial identification and grouping of areas with common qualities, characteristics and defined environmental outcomes. The zone sets out an overall framework for land use management. All land in the district has a zone on the planning maps and has associated policies and methods including rules which are aimed at addressing zone based activities and effects. The zones generally seek to enable compatible activities that **ware** similar or effects to be located in appropriate areas together, while managing those that are incompatible. Area specific zone chapters do not contain rules and standards that apply generally across the district.*

P16 say should be day.

*CHILD CARE SERVICE means a facility for the care and/or education of children under the age of seven during the **say**, and includes but is not limited to:*

P204 SIGN-R6 PER-3 should be PER-1.

Activity status: Permitted

Where:

PER-3

The sign complies with standards:

SIGN-S1 Maximum area;

SIGN-S2 Maximum height;

SIGN-S3 Maximum number;

SIGN-S4 Traffic safety; and

SIGN-S5 Sign design and content.

PER-2

The sign is not for third party advertising.

P213 SIGN-Table1 Second *minimum* should be maximum.

Regulatory speed limit of adjoining road	Main message	Main message	Secondary message
Km/hr	Minimum lettering height	Minimum lettering height	Minimum lettering height

P393 QR-R7 CON-2 *lease* should be least.

*CON-2 Prior to the occupation of Stage 2 serviced apartments and bed care units, Rainbow Falls Road shall be widened to a 7m width plus the provision for a footpath on at **lease** one side of the road complies with standard QR-S7 Off site road improvements*

P394 QR-R8 Con-2 *lease* should be least.

As in previous item.

4.5 Failure to follow standard numbering layout.

The document attempts to follow a standard layout for numbering of parts. In some cases it would appear that a section has been pasted in from another document without revision to the standard layout.

P54 I-P13 Inconsistent second level numbering.

I-P13	<p>Manage the adverse effects of infrastructure on the environment by:</p> <ol style="list-style-type: none"> a. avoiding, remedying or mitigating the adverse effects of substantial upgrades to, or the development of new infrastructure, including effects on: <ol style="list-style-type: none"> i. natural and physical resources; ii. amenity values; iii. sensitive activities; iv. the safe and efficient operation of other infrastructure; v. the health, well-being and safety of people and communities. b. avoiding radio, electric and magnetic emissions that do not meet the recognised standards or guidelines; c. requiring the undergrounding of network utilities in Urban zones and the Settlement zone where it: <ol style="list-style-type: none"> a. is technically feasible; b. is justified by the extent of adverse visual effects; and c. provides for the safety of the community.
--------------	---

Levels under c should be i. to iii. not a to c.

P91 Standard format requires NH-R3 PER-1 and NH-R4 PER-1 in NH-R2.

NH-R2	Extensions and alterations to existing buildings or structures	
1 in 100 Year River Flood hazard areas	<p>Activity status: Permitted</p> <p>Where:</p> <p>PER-1 There is no increase to the GFA of the building or footprint of the structure that results in the building or structure exceeding the limits for new buildings or structures in NH-R3- PER 1 and new buildings or structures ancillary to farming activities in NH-R4 PER 1.</p> <p>PER-2 No part of the building or structure is enclosed in a manner that alters or diverts an overland flow path or reduces flood plain storage.</p>	<p>Activity status where compliance with PER-1 or PER-2 not achieved: Restricted Discretionary (refer Rule NH-R7 for buildings and Rule NH-R9 for structures other than buildings)</p>

P94 Standard format requires Restricted Discretionary conditions to be labelled RDIS-x not PER-x.

P104 HA-P14 and HA-P15.

HA-P14	The archaic value of the landforms and objects of historic significance at Rangihoua, and their context is retained by: <ol style="list-style-type: none"> a. limiting the location, type, scale and nature of buildings or structures, including any additions or alterations.
HA-P15	The significant land features Rangihoua Pā, Te Pahi's Entrepot, Oihi and Te Puna and their connections are protected by: <ol style="list-style-type: none"> a. the control of scale, form, colour and location of buildings or structures, including additions or alterations.

As there is only one item there is no requirement for : *new line a*. Just write as a sentence.

The archaic value of the landforms and objects of historic significance at Rangihoua, and their context is retained by limiting the location, type, scale and nature of buildings or structures, including any additions or alterations.

The significant land features Rangihoua Pā, Te Pahi’s Entrepot, Oihi and Te Puna and their connections are protected by the control of scale, form, colour and location of buildings or structures, including additions or alterations.

P112 HA-R13 *Demolition of a scheduled Heritage Resource not otherwise listed in rule HA-R13.*

The reference should be to HA-R14. Currently the circular reference is meaningless.

P113 HA-R14.

PRO-4 The justification on the first line should be removed.

P119 HH-R2.

PER-2 The justification on the first line should be removed.

P148 SUB-R1.

SUB-R1	Boundary adjustments	
All zones (except Open Space zones, Motorua Island zone, and Airport zone)	<p>Activity status: Controlled</p> <p>Where:</p> <p>CON-1</p> <p>1. The boundary adjustment complies with standards:</p> <p>SUB-1 Minimum allotment sizes for controlled activities, except where an existing allotment size is already non-compliant, the degree of non-compliance shall not be increased;</p> <p>SUB-S2 Requirements for building platforms for each allotment;</p> <p>SUB-S3 Water supply;</p> <p>SUB-S4 Stormwater management;</p> <p>SUB-S5 Wastewater disposal;</p> <p>SUB-S6 Telecommunications and power supply;</p> <p>and</p> <p>SUB-S7 Easements for any purpose;</p> <p>CON-2</p> <p>1. the boundary adjustment does not alter:</p> <p>i. the ability of existing activities to continue to be permitted under the rules and standards in this District Plan;</p> <p>ii. the degree of non compliance with zone or district wide standards;</p> <p>iii. the number and location of any access; and</p> <p>iv. the number of certificates of title.</p> <p>CON-3</p> <p>1. The boundary adjustment complies with standard:</p> <p>SUB -S8 Esplanades</p>	<p>Activity status where compliance not achieved with CON-1:</p> <p>Restricted Discretionary</p> <p>Matters of discretion are restricted to:</p> <p>a. matters of any infringed standard; and</p> <p>b. any relevant matters of control.</p> <p>Activity status where compliance not achieved with CON-2 and CON-3:</p> <p>Discretionary</p>

CON-1 SUB-1 should be CON-S1 to correctly identify the standard.

The whole SUB section needs renumbering to standard as there is no requirement for the number 1, where only one condition exists. This will also impact on the lower levels on numbering where i. Will be replaced with 1 etc. There are 26 numbering corrections required over SUB-R1 to SUB-R6.

P186 LIGHT-O1 numbering should be a to c not a) to c).

LIGHT-O1	Artificial outdoor lighting is designed and located to: a) minimise adverse effects; b) be compatible with the characteristics and qualities of the surrounding environment; and c) protect the amenity values of light sensitive areas.
-----------------	---

P238 GRZ-R10 Standard format requires RDIS-1 not RD1 in two places.

GRZ-R10	Retirement village	
General Residential zone	Activity status: Restricted discretionary Where RD-1	Activity status where compliance not achieved with RD-1: Discretionary

P243 RPROZ-P6 Standard format requires i. And ii. Not 1. and 2.

RPROZ-P6	Avoid subdivision that: a. results in the loss of highly productive land for use by farming activities; b. fragments land into parcel sizes that are no longer able to support farming activities, taking into account: 1. the type of farming proposed; and 2. whether smaller land parcels can support more productive forms of farming due to the presence of highly productive land.
-----------------	--

P273 RSZ-R1 PER-2 Standard format requires RSZ-S1. 7 changes.

PER-2	The new building or structure, or extension or alteration to an existing building or structure complies with standards: RSZ S1 Maximum height; RSZ S2 Height in relation to boundary; RSZ S3 Setback (excluding from MHWS or wetland, lake and river margins); RSZ S4 Setback from MHWS RSZ S5 Outdoor living space RSZ S6 Outdoor Storage RSZ S7 Landscaping and screening
--------------	--

P351 KRT-P1 Remove a. From fist line and renumber.

KRT-P1	a. Enable land use and subdivision in the Kororāreka Russell Township zone where: b. landscaping and areas of open space are maintained around buildings on the site; c. it is consistent with scale, character and design anticipated in the surrounding residential environment; d. there is appropriate infrastructure to support residential and non-residential development; e. heritage resources are protected; and f. values of coastal environment and High Natural Character are recognised and protected.
---------------	---

P352 KRT-R6 requires renumbering. Current sequence is a to g followed by a to q should be a to x.

P378-9 NEIP-R9 and **NEIP-R10** have restricted discretion as RDA-x which should be RDIS-x. 6 corrections required.

P385 OBZ-R14 has restricted discretion as RD-1 which should be RDIS-1 in 2 places.

P394-5 OBZ-R11 and **OBZ-R12** restricted discretion as RD-x which should be RDIS-x in 8 places.

Activity status where compliance not achieved

There is no entry for this column for the following items:

P 149 SUB-R2

P 396 QR-R13 to QR-R22

P170 CE-R11 has 3 PER requirements but only compliance no achieved for the first 2 PER

4.6 Inconsistent approach

Rules

Each of the rules in the document is given a number and a descriptive title. Often the activity being described is common across a number of zones. But the same cannot be said for the title used. Frequently the variation is use of singular and plural or a change in the order of words.

Then there is no consistency in the order in which common rules will be listed between zones, other than the catch-all *Activities not otherwise listed in this chapter* which is the last Discretionary item. Or did I mean to refer to *Activities not otherwise listed within this chapter* or was it *Activities otherwise not listed in this chapter*.

The table below contains some of the inconsistencies.

Activities not otherwise listed in this chapter	Helicopter landing area
Activities not otherwise listed within this chapter	Helicopter landing areas
Activities otherwise not listed in this chapter	
Camping ground	Hospital
Camping grounds	Hospital activity
	Hospital and Hospital related activity
Change in use to accommodate vulnerable activities within existing buildings	Impermeable surface coverage
Changes in use to accommodate vulnerable activity within existing buildings	Impermeable surfaces
Land fill	Light industrial activity
Landfill	Light industry
Cleanfill area or landfill, including managed fill	Maintenance of existing tracks
Land fill, managed fill or clean fill	Maintenance of tracks
Commercial activities not otherwise provided as permitted or discretionary	New buildings, and extension or alterations that increase the GFA of existing buildings

Commercial activity not otherwise listed as permitted or discretionary	New buildings, and extensions or alterations that increase the GFA of existing buildings
Commercial activities not otherwise provided for as a permitted, restricted discretionary or discretionary activity	New overhead lines and associated poles, telecommunication and attached antennas, or towers
Commercial activity not provided for as a permitted, restricted discretionary or discretionary activity	New overhead lines and associated poles, telecommunication poles and attached antennas, or tower
Commercial activity	Papakāinga
Commercial service activity	Papakāinga Housing
Community correction facility	Plantation forestry activity and plantation forestry activity
Community corrections activity	Plantation forestry and and plantation forestry activity
	Plantation forestry and plantation forestry activity
Demolition of a building or structure	Primary production
Demolition of buildings or structures	Primary production activity
Education facility	Recreation activity
Educational facility	Recreational activity
Emergency service facility	Retirement village
Emergency services facility	Retirement villages
Expansion of existing mineral extraction activity	Sport and recreation activity
Extension to existing mineral extraction activity	Sport and recreation facility
Farming	
Farming activity	Strengthening or fire protection of scheduled Heritage Resource
	Strengthening or fire protection of scheduled Heritage Resource building
Heavy industrial activity	Supported residential care
Heavy industry	Supported residential care activity

Within the rules, there are lists that relate to common conditions, but no effort has been made to consolidate them into logical order and groups.

The same issue can be found within Standards.

Example

Consider the following Earthworks Rules EW-R1 to R3 and EW-R5 to R11. These all include the following:

- Apply to All Zones.
- Activity is permitted where Per-x requires compliance with EW-S1-2, EW-S4 and EW-S6 9.
- EW-S1 does not apply to Moturoa Island or Orongo Bay Zones.
- Non compliance with that PER results in Residential Discretionary subject to the infringed standard.

Rules 6 and 8 each contain an additional PER-1 specific to their activity, otherwise they are similar to EW-R11 shown below.

EW-R11 Earthworks for conservation activity		
All zones	Activity status: Permitted Where: PER-1 The earthworks complies with standards: EW-S1 Maximum earthworks thresholds; EW-S2 Maximum depth and slope; EW-S4 Site reinstatement; EW-S6 Setbacks; EW-S7 Land stability; EW-S8 Nature of filling material; and EW-S9 Flood and coastal hazards. EW-S1 does not apply to Motoura Island or Orongo Bay zones	Activity status where compliance not achieved with PER-1: Restricted discretionary Matters of discretion are restricted to: a. the matters of discretion of any infringed standard.
EW-R12 Earthworks and the discovery of suspected sensitive material		
All zones	Activity status: Permitted Where: PER-1 The earthworks complies with standard EW-S3 - Accidental Discovery Protocol.	Activity status where compliance not achieved: Discretionary
EW-R13 Earthworks and erosion and sediment control		
All zones	Activity status: Permitted Where: PER-1 The earthworks complies with standard EW-S5 Erosion and sediment control.	Activity status where compliance not achieved with PER-1: Restricted discretionary Matters of discretion are restricted to: a. the matters of discretion of any infringed standard.

Then we have EW-R13 to cover EW-S5 in identical format. EW-R12 covering EW-S3 differs slightly in that the compliance not achieved is Discretionary.

Consider what happens if we renumber so that EW-S3 moves to the end of the sequence and so the same for EW-R4. We then have EW-R1-11 that can have the simple statement PER-1 The earthworks complies with standards EW-S1 to EW-S8 instead of the long lists. EW-R6 and R8 will have PER-2 from the current PER-1.

If we now look at the standards we see a very similar problem. Some 20 conditions of which 12 are the same for 8 of the 9 standards. Rearranging as above would greatly simplify the document for the user. It would also avoid the current situation where some typing errors have occurred. It would greatly simplify the document for the user if a consistent approach was taken.

Coastal Hazards

Much effort has gone into the identification and rule setting for Coastal Hazards based on expectations of storm events and sea level rise. Given that Council supports the installation of tsunami warning sirens in a number of locations why is there no planning to mitigate the impact of

such an event? Given that the procedure in the event of a tsunami alert is to evacuate to high ground, one might expect the Plan to contain some consideration of same egress to be a condition of subdivision or land use. This would require consideration of the state of roads and distance to high ground relative to the peak population.

4.7 Mapped zones are not in agreement with zone definitions.

Urban means an area of land zoned either:

- a. General Residential*
- b. Kororāreka Russell Township*
- c. Mixed Use*
- d. Light Industrial*

that currently has adequacy and capacity of available development infrastructure or is signalled to receive at a minimum reticulated wastewater infrastructure, in the Long Term Plan or the 30 Year Infrastructure Strategy.

Many of Councils sewerage schemes service properties outside of these groups. One may overlook Māori Purpose Urban as this should be considered as part of the surrounding zone. But there are serviced areas, such as Dudley Crescent in Cable Bay, where there are 30 serviced sections with average land area of 777 m² classed as Rural Lifestyle with a zone requirement of at least 2 ha.

In Whangaroa the opposite situation exists. The General Residential zone contains over 80 properties while the sewerage scheme services 17 properties. There is no provision in the Long-Term Plan 2021-31 for any capital works for expansion in this area.

There are a number of islands which are not shown with any Coastal Environment such as the Cavalli Islands.

KRT Zone has properties shown as General Residential and Maori Purposes Urban in the middle of the zone boundary with no KRTZ designation. This permits the development of out of character properties with no consideration of the impact on the heritage area if the mapping is correct, There are also some Open Space and Sports and Recreational properties without the KRTZ Designation.

4.8 Section 32 Reports

Clearly the District Plan is all about what is to happen in the future. Part of that process must consideration of the scale and location of population growth and then show that the Plan can accommodate this growth. This can be found in the Section 32 Reports.

While there will always be different views of future population growth, the assessment of the capability of the Plan to accommodate the growth should not be an issue. Unfortunately it appears that the S32 process has been treated as a box-ticking exercise rather than a realistic evaluation.

Section 32 Overview section 5.1.6 Sufficient development capacity in respect of housing to meet the expected demands of the district contains the statement:

The reports demonstrate that in all instances that there is sufficient plan enabled development capacity within each of these study areas to meet the expected demand of the District in the short, medium and long term under both medium and high growth scenarios.

More detail can be found in Appendix 7 and I would refer you to appendix 7e for Kerikeri where various data and maps can be found. First look with care at the wording in section 7 Constraints, particularly the last paragraph.

Appendix 7e Analysis.

Mixed Use Zone.

Table 6 show how many parcels could have a new residence. As this area is serviced for wastewater, subdivision is allowed down to 250 m². The zone rules permit a residential unit above each shop unit. Under these rules the report calculates that each parcel under 500 m² could have a residential unit, while larger parcels could be subdivided to include upper storey residential units. It then calculated the potential number of such units and arrives at a figure of 1,386 *probable parcels*.

But what would this mean?

- All existing shops on smaller parcels to have a second storey added. In fact this would almost certainly require a rebuild as they were not designed to support two stories.
- All larger parcels to be completely filled with two storey units of 250 m². This includes:
 - 2 supermarkets and their car parks.
 - At least 4 motels.
 - 2 Service stations.
 - Kerikeri Retirement village.
 - Several churches.
 - Hobson Road carpark.

In any reasonable view, this is not going to happen.

General Residential and Rural Residential Zones.

A similar methodology is followed to produce *probable parcels* based on following Controlled or Discretionary rules. So again complete infill to the zone rules.

There are also other issues with the methodology.

Use of Parcels.

The tables have been created using parcels instead of titles. Then the total area has been used to calculate a number of *probable parcels*.

- This ignores the fact that these parcels are not necessary contiguous.
- The right to subdivide is based on title and ownership so calculation should be based on individual titles not global areas.

Population Growth Percentages Section 4 Comments Table 1

The percentage change between 2002 and 2021 varies across the four Kerikeri SA2 areas and collectively represent around 3.4% growth per year.

For context, the last 5 years 2017-2021 represents approximately 2.3% growth per year across the four SA2 areas.

The figure of 3.4% would appear to be the % change 2002-2021 of 68.9% divided by 20. It is unbelievable that such two fundamental errors be made. Firstly the period is only 19 years, not 20. More seriously, growth per year is a compound calculation which yields 2.8% per year.

The next paragraph repeats the same errors to arrive at 2.3% for the last period of 4 years. The correct figure is again 2.8% over the district.

With such fundamental errors one must question what validity future projections have, especially as the years chosen prevent any direct comparison with Stats NZ public information.